



Planning Board Staff Report

Meeting Date: August 1, 2025

TO: Marco Island City Council

FROM: Daniel J. Smith, A.I.C.P., Director of Community Affairs

DATE: August 1, 2025

RE: A change to Section 30-62 – Amendment procedures, Sub-Section(f)(s), Public Notice Procedures, replacing Certified Mail as a requirement for public notice to First Class Mail in the Land Development Code (LDC).

DESCRIPTION:

The applicant, the City of Marco Island, is requesting a text change to remove Certified Mail as a public notice requirement for Variances, Conditional Uses, and Neighborhood Information Meetings (NIM), to First Class Mail. This change was requested by the City Council and was one of the recommendations in the Ad Hoc Business Development Committee Report.

Florida law does not require notification via Certified Mail, nor is it a requirement of the City's Comprehensive Plan. The Comprehensive Plan only requires opportunities for public input.

ANALYSIS

Pursuant to the Ad Hoc Business Development Committee's findings, Certified Mail creates a hardship for an applicant seeking a change to the LDC, a Variance, Conditional Use, or advertising for a Neighborhood Information Meeting (NIM) because of the cost. Historically, First Class Mail, Certified Mail, and the newspaper were the government's only tools for land-use public hearing notifications. Today, with the universal access to the internet on computers, cellphones, and other electronic devices, as well as access to the city's websites and social media, the need for delivery of notice via certified mail has decreased.

Staff has no concern with the proposed change. This change still provides for the delivery of notices, which is consistent with the City's Comprehensive Plan. Specifically, Objective 1.1 of the Future Land Use Element, Policy 1.1.4 provides as follows:

The City will encourage where appropriate, meaningful opportunities for public participation in the land development approval process for privately initiated development

and redevelopment, and actively seek the input of its citizenry in implementing the Comprehensive Plan and LDC.

The changes recommended are as follows.

Sec. 30-62. Amendment procedures.

(2) *Courtesy mailed notices.*

- a. If required by this LDC, courtesy notices shall be provided in addition to any legally required notice by state law. These notices are provided as a courtesy to certain persons that may be affected by a development permit application for the purpose of notifying those persons of the application and their ability to review submitted information and participate in public hearings or neighborhood information meetings. The failure of a property owner to receive a courtesy notice shall not be deemed as a failure to furnish or receive legally required written notice pursuant to this LDC. The failure of the applicant to send a courtesy notice shall be deemed as a failure to furnish legally required written notice pursuant to this LDC.
- b. The cost of providing the courtesy notice as required by this LDC shall be the sole responsibility of the development permit applicant or said applicant's designated agent. Failure to comply with the provisions of this section in a timely manner may result in a postponement of the scheduled hearing until the notice is complete, or imposition by the department that a re-notice by the applicant must be accomplished at the applicant's sole expense.
- c. A courtesy notice shall be mailed to all real property owners of real property any part of which is located within 300 feet of the real property subject to a development permit application. The 300-foot radius shall be measured in a straight line in all directions from the outermost boundary of the real property subject to a development permit application to any real property any part of which is within the 300-foot radius. Real property owners to whom a courtesy notice shall be given by mail shall be the real property owners of record as shown in the records of the county property appraiser at the time of mailing of the notice. The failure of a property owner to receive a courtesy notice shall not be deemed as a failure to receive legally required written notice pursuant to this LDC subsection. The mailed notice shall be sent by first class ~~certified~~ mail, ~~return receipt requested, postage prepaid~~, by the applicant. Notice need not be given to the trustees of the internal improvement fund as the owners of submerged bottoms of real property. When mailing receipts ~~or returned certified mail receipt cards are received~~, they shall be promptly filed with the city.
- d. If any part of the "common elements", as defined in F.S. § 718.103, of a condominium or any part of the "common areas," as defined in F.S. § 719.103, of a cooperative building, is within the required notice limits, notice shall be sent to the condominium or cooperative association as well as each unit owner in the subject building. If real property within an adjacent governmental jurisdiction is within the notice limits, notice shall be required to be given to each owner of a parcel of land within the adjacent jurisdiction.
- e. The courtesy notice shall be deposited in and postmarked by the U.S. mail at least 15 days prior to the scheduled public hearing or neighborhood information meeting, being noticed. The courtesy notice shall be mailed ~~postage prepaid~~, first class, ~~certified U.S. mail~~, ~~return receipt requested, by the applicant~~. Copies of all mailing receipts shall be promptly filed with the city clerk. ~~Return receipt cards shall be addressed to the city clerk at city hall.~~

STAFF RECOMMENDATION:

Staff recommend that the Planning Board forward a recommendation for approval of the proposed ordinance to the City Council, which contains the proposed amendments outlined in the staff report, to replace Certified Mail with First Class mail, with the following findings:

1. The amendment is consistent with the Comprehensive Plan, and in particular, Future Land Use Element Objective 1.1, Policy 1.1.4.

Daniel J. Smith, AICP
Director of Community Affairs