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VIA EMAIL ONLY: (planningboard@cityofmarcoisland.com)

Marco Island Planning Board
Building Services Division
50 Bald Eagle Drive
Marco Island, FL 34145

RE: ***Objection to Boat Dock Extension Petition for 986 Sundrop Ct., Marco Island, Florida, 34145, Folio No. 56942480004- Reference No. BD 000177***

Dear Planning Board Members Swartz, Bailey, Vergo, Honig, Fahringer, Rivera and Hogan:

This office has the privilege of representing neighbors Brett and Nicole Glass (“the Glasses”) as well as William “Skip” and Stephanie Bowman (“the Bowmans”). Our representation is regarding the Boat Dock Extension Petition for 986 Sundrop Ct., Marco Island, FL 34145, Folio No. 56942480004-Reference No. BD 000177 (“Petition”). Accordingly, please direct all future communications to this office. Our clients’ position on this issue must be read in conjunction the historical goals to, **“maintain Marco Island as a visually attractive, small town community with a strong sense of place.”** Please see portions of comprehensive and strategic plans attached hereto as Exhibit A. It bears mentioning that neither the Glasses nor the Bowmans received notice of the hearing despite being adversely impacted.

The Glasses are the owners of 1295 Orange Court, Marco Island, FL 34145 (“Glass Property”). As background, the Glasses purchased their Property and paid a significant premium for their wide water view as a tip lot as well as the unobstructed view of the Marco River and the S.S. Jolly Bridge.

The Bowmans are the owners of 1289 Orange Court, Marco Island, FL 34145. The Bowmans purchased their property (“the Bowman Property”) and like the Glasses, the Bowmans have an eastern facing view of the Marco River as well as a partial view down river of the Marco River toward the S.S. Jolly Bridge. The Bowmans similarly paid a significant premium for their views of the Marco River.

The owners of 986 Sundrop Ct., Marco Island, FL 34145 (“Sundrop Property”) filed the Petition seeking an exemption of the dimensional standards for a boat dock as set forth in Section 54-111. The total water frontage for the Sundrop property is 193 feet subjecting it to the dimension requirements set forth in Section 54-111 (a) (1): Protrusion limitations for boat docking facilities on lots on a waterway which is 100 feet or greater in width the combination of a boat docking facility and moored vessel shall not protrude more than 20 feet into the waterway. The Sundrop Property owners propose to construct a boat dock with a 40 foot protrusion.

The purpose of the proposed boat dock extension is so the Sundrop Property owners can dock their mega yacht, which is 130 feet long and over 50 feet in height¹, in a convenient place so the captain can look after it while in port. The Glasses and the Bowmans object to the granting of the Petition for the reasons discussed below.

The Sundrop Property Waterway Location Does Not Warrant Special Consideration pursuant to City of Marco Island Ordinance Section 54-100.

Section 54-100 provides in part:

“It is recognized that specific waterway locations warrant special consideration **due to severe access and navigational challenges**, and community character and aesthetic impacts.” (emphasis added)

Per the Sundrop Property owners’ response to Question 3 of the Petition, the “special conditions” they are citing to warrant special consideration for an exemption is the property in question is not located on a canal but on the Marco River. What the property owners ignore is that the mega yacht will cause navigability challenges and safety concerns to recreational uses of the waterways adjacent to the 986 Sundrop Court property.

By way of example, kayaking is a popular local recreational activity that has an average kayak of 10' and a user with vision line of approximately 2' above the water. With a vessel that is 130 feet long and over 50 feet high, residents enjoying activities such as kayaking, paddle boarding, jet skiing, operation of much smaller boats, even swimmers, will have obstructed views in and around the mega yacht. It would be the equivalent of vehicles accessing roadways at stop signs with overgrown bushes or shrubs blocking the view of traffic in the roadway. As such, from a safety and public policy standpoint, the application for the BDE should be denied. See attached hereto as Exhibit B, a fairly well scaled comparison of boats and activities around the mega yacht.

Further the specific waterway location of the Sundrop Property does not warrant special consideration for an exemption to the dimension requirements due to “community character and aesthetics impact”. If anything, the proposed boat dock severely damages the character and aesthetics of the community in that the proposed mooring vessel is a mega yacht that will encumber the view of the Marco River and the S.S. Jolly Bridge.

Also from a public policy standpoint and contrary to maintaining the “community character and aesthetics impact” concern, the mega yacht at issue will be over 50 feet in height above the waterline. To put it in perspective, no home on Marco Island can be constructed more than 35 feet (3 ½ stories) from the base flood elevation

¹As we do not have a picture of the proposed vessel nor its exact length and height measurements, we can only take the average height of a 130' vessel.

to the mean roof line.² That is to say, at over five stories, the mega yacht would tower over the tallest permissible single family home on Marco Island. See the City of Marco Island Maximum Height as contained in the Single Family Zoning Regulations attached hereto as Exhibit C.

In addition to the towering height and approximate length of 1/3 of a football field, the proposed dock extension has a negative impact on the “community character and aesthetics impact” as it has a negative impact on the views the Marco River of the land owners on the lots on and adjacent to 986 Sundrop Court. The Please see attached hereto as Exhibit D which contains the Glasses objections to the BDE and accompanying photographs as well as Exhibit E which contains the Bowmans objections to the BDE and within their objections, their views of that will be obstructed by the mega yacht.

For the reasons stated above, we disagree with the analysis of the staff of the planning board in recommending the approval of the Petition. Provision 3 of the staff analysis on page 4 finds that the “special condition” justifying the proposed exemption from the standard dimension requirements for a boat dock was simply the location of the Sundrop Property on the Marco River. There was no finding or discussion or any evidence related to navigability and safety, nor the public policy behind the safe use and navigation of our waterways.

There are navigational challenges, as well as the impact on the community character and aesthetic view. This is contrary to his stated charge of “reviewing the request against the City’s codes and Comprehensive Plan.” Moreover, Section 54-115 (b) (1) places the burden on the Sundrop Property owners to demonstrate the waterway location of the Sundrop Property warrants special consideration and provide justification for that special consideration. As such, the Sundrop Property owners have failed to meet their burden of proof and their Petition should be denied.

The Dimensions of the Proposed Boat Dock Violates the Intent and Purpose of Section 54-100.

Per Section 50-100 of the Marco Island Code, “it is the intent and purpose of this Ordinance to provide for the adequate securing of moored vessels and to provide safe access by users for routine maintenance and use **while minimizing the impact** on the navigability of the waterway, native marine habitat, manatees, and **the use and view of the waterway by surrounding property owners.**” In addition, the proposed dimensions of the boat dock are in excess of 50% of the length of the water frontage of the Sundrop Property and will clearly adversely impact the views of the surrounding property owners.

²And still exceeding the additional height allowance from the mean roof height and the ridge.

In the Petition before the Board, the Sundrop Property owners state in response to question 6, that the proposed dock “will improve the current view for the surrounding properties.” Further, in response to question 7, the Sundrop Property owners admit that “proposed moored vessel will be greater than 50% of the length of the waterfront, but will not increase the impact or negatively impact the view of the waterway by the surrounding property owners.” While it is true that the proposed moored vessel will be greater than 50% of the length of the waterfront, it omits the truth that it will be 90% of the length of the waterfront.

As previously stated, the Sundrop Property owners intend on mooring a 130 foot long, 50 foot high mega yacht. There is no question that this vessel will negatively impact the use and enjoyment of the current view of our clients and the adjoining property owners in contradiction of the intent and purpose of the ordinance governing boat dock dimension requirements.

We disagree with the staff comments on page 3 of his analysis that refuses to take into account the effect the proposed vessel to be moored at the proposed expended boat dock will have on the adjoining property owners’ views. Provision 8 of his analysis specifically includes “the proposed location and design of the boat docking facility and moored vessel in combination such that it may infringe upon the use of the neighboring properties.” In addition, Section 54-101 codifies the importance of the “use and view of the waterway by the surrounding property owners.”

The Proposed Boat Dock Will Diminish Mr. Glass’ Property Value.

As stated previously, Mr. Glass paid a significant premium for the water view on the tip as well as the unobstructed view of the Marco Island Bridge. Should the Sundrop Property Owners’ Petition be granted, his property would no longer have the unobstructed water views that he currently enjoys and his property value will be diminished as a result.

The Scale of the Proposed Mooring Vessel Will Not Relate to the Surrounding Structures.

The mega yacht is not only 130 feet long but it also 50 feet high. The current maximum height for a single family home in Marco Island is 35 feet high. The mega yacht will be 15 feet higher than the surrounding single family homes. In addition, to encumbering the view, the scale relationship of the mega yacht will not relate to the surrounding structures.

Finally, the owners of 986 Sundrop Court have mooring alternatives to this BDE. There are mooring spaces for a vessel of this size that are only moments away. These include the Marina at the Marco Island Yacht Club as well as Rose Marina. There are similarly ample alternatives in near-by Naples.

Conclusion

In conclusion, my clients respectfully request the Board deny the Petition. The Sundrop Property owners failed to meet their burden pursuant to Section 54-115 (b) (1) to demonstrate the waterway location of the Sundrop Property warrants special consideration and provide justification for that special consideration. The waterway location of the Sundrop Property on the Marco River is not subject to any severe access and/or navigational challenges. Therefore, any proposed boat docks should be subject to the dimension requirements a set forth in Section 54-111 (a) (1).

Further, the proposed dimensions of the boat dock contradict the intent and purpose of Section 50-100 of the Marco Island Code, by adversely impacting the use and view of the waterway by my clients and other surrounding property owners. In addition, the proposed dimensions of the boat dock are not only in excess of 50% of the length of the water frontage of the Sundrop Property at 90%, it will clearly adversely impact the views and property value of the surrounding property owners. The proposed boat dock and mooring vessel would adversely impact the community character and aesthetic impact of the community.

Very truly yours,



Neil E. Snyder

Enclosures

cc: Clients

Mary Holden: mholden@cityofmarcoisland.com

Daniel Smith: dsmith@cityofmarcoisland.com

David Tolces, Esq.,: dtolces@wsh-law.com

EXHIBIT A

City of Marco Island Comprehensive Plan Amendment Expedited State Review Process
as submitted to the State of Florida on July 26, 2021

I. Future Land Use Element

Goal 1 Livable Small Town Community

Protect and Enhance the City of Marco Island as a highly livable community with an excellent quality of life, which encompasses its tropical beaches, resorts and recreational amenities, abundant natural resources and sensitive coastal environments, and **small town charm**

Goal 2 Community Character

Maintain Marco Island as **a visually attractive, small town community with a strong identifiable sense of place.**

Objective 2.1

The City will implement Land Development Code regulations that specify enhanced landscaping, signage and architectural standards consistent with **the goal of maintaining the City's small town coastal identity.**

Policy 2.2.1

Compatibility is defined as the characteristics of different land uses or activities or design which allow them to be located near or adjacent to each other in harmony. **Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as" in terms of density/intensity, architecture/building form or use. Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.**

Goal 3 Control Growth and Development/Redevelopment

OBJECTIVES

1. Protect the Island “small-town” character
2. Have successful local businesses
3. Protect the Island from overdevelopment
4. Have well-designed, well-maintained roads, sidewalks, and trails
5. Develop and update the Comprehensive Plan, Land Development Code, and infrastructure master plans

MEANS TO RESIDENTS

1. Opportunities to live in a beautiful community
2. Protection of property values
3. Predictable and managed growth
4. Reduce traffic congestion, improve internal mobility on the Island
5. Have viable, usable mobility alternatives beyond the automobile

Marco Island Vision 2034

MARCO ISLAND VISION 2034

MARCO ISLAND 2034

is a GREAT RESIDENTIAL COMMUNITY ⁽¹⁾

with

SMALL TOWN CHARM! ⁽²⁾

MARCO ISLAND 2034

is distinguished by our BEAUTY, ⁽³⁾ our

WORLD-CLASS BEACH and NATURAL ENVIRONMENT ⁽⁴⁾

and our

WATERWAYS. ⁽⁵⁾

In 2034, our residents enjoy our

CONVENIENT COASTAL LIVING ⁽⁶⁾

and take

PRIDE IN OUR MARCO ISLAND COMMUNITY. ⁽⁷⁾

I. FUTURE LAND USE ELEMENT

GOAL: TO ENHANCE MARCO ISLAND'S QUALITY OF LIFE, ENVIRONMENTAL QUALITY, AND TROPICAL SMALL TOWN AND RESORT CHARACTER BY MANAGING GROWTH AND ASSURING A STABLE RESIDENTIAL COMMUNITY WITH SUFFICIENT BUSINESSES TO SERVE THE NEEDS OF RESIDENTS AND VISITORS.

Objective 1.1: New, revised, or redeveloped uses of land shall be consistent with the designations shown on the Future Land Use Map (FLUM) presented in Exhibit 2.1. The Future Land Use Map and companion Future Land Use designations are hereby adopted as amended (2008) and shall be binding on all development orders approved by the City of Marco Island. The Future Land Use Map is a visual representation of land use designations that are planned to reasonably occur within the prescribed short and long range planning periods, between 2008 and 2013, and between 2013 and 2018, respectively.

Policy 1.1.1: The Marco Island Future Land Use Map (FLUM) incorporates the following Land Use designations, residential densities, and density incentive programs as allocated on Table 2.1.

Measurement: Incorporation of the above enumerated land use designations and densities on the adopted Future Land Use Map (FLUM).

Policy 1.1.2: The maximum intensity of allowable commercial development in any land use category shall be governed by height limitations, setbacks, parking standards, and other bulk regulations. The intensity of commercial projects, as well as the range of permitted uses, increases with the underlying zoning classification from C-1 (lightest) to C-5 (heaviest). Current maximum zoning heights range from thirty-five (35) feet to seventy-five (75) feet* depending on the zoning district. [*See Policy 1.1.2.4].

Measurement: Issuance of development orders for new projects consistent with the densities prescribed on the Future Land Use Map.

Policy 1.1.2.1: In recognition of the potential for new hotel, motel and/or timeshare development in commercial land use districts, a hotel density allocation of twenty-six (26) units per acre shall be incorporated into the total residential density of Future Land Use policy 1.1.1 and assigned as follows:

Village Commercial - Five (5) acres @ 26 units/acre = 130 potential future hotel/motel/timeshare units;

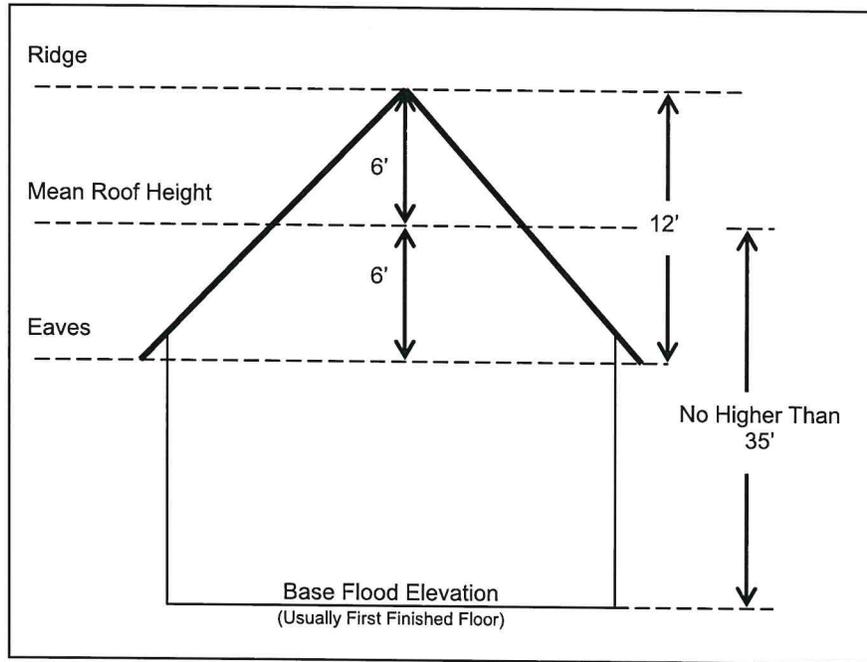
EXHIBIT B



EXHIBIT C

Maximum height:

- *Principal structures:* 35 feet as measured from required base flood elevation to the mean height level between eaves and ridge of a gable, hip or gambrel roof. See diagram below.



- *Accessory structures:* 20 feet as measured from existing ground elevation on average of the subject parcel except for attached screen enclosures which may equal the maximum height permitted for the principal structure.
- *Exceptions to Maximum Height:* The height limitations do not apply to spires, belfries, cupolas, flagpoles, antennas, communications towers, water tanks, fire towers when operated by a branch of government, ventilators, chimneys, feed storage structures, silos, windmills, airport control towers, or other appurtenances usually required to be placed above the roof level. Human occupancy, even casual use, is prohibited except for routine maintenance.

EXHIBIT D

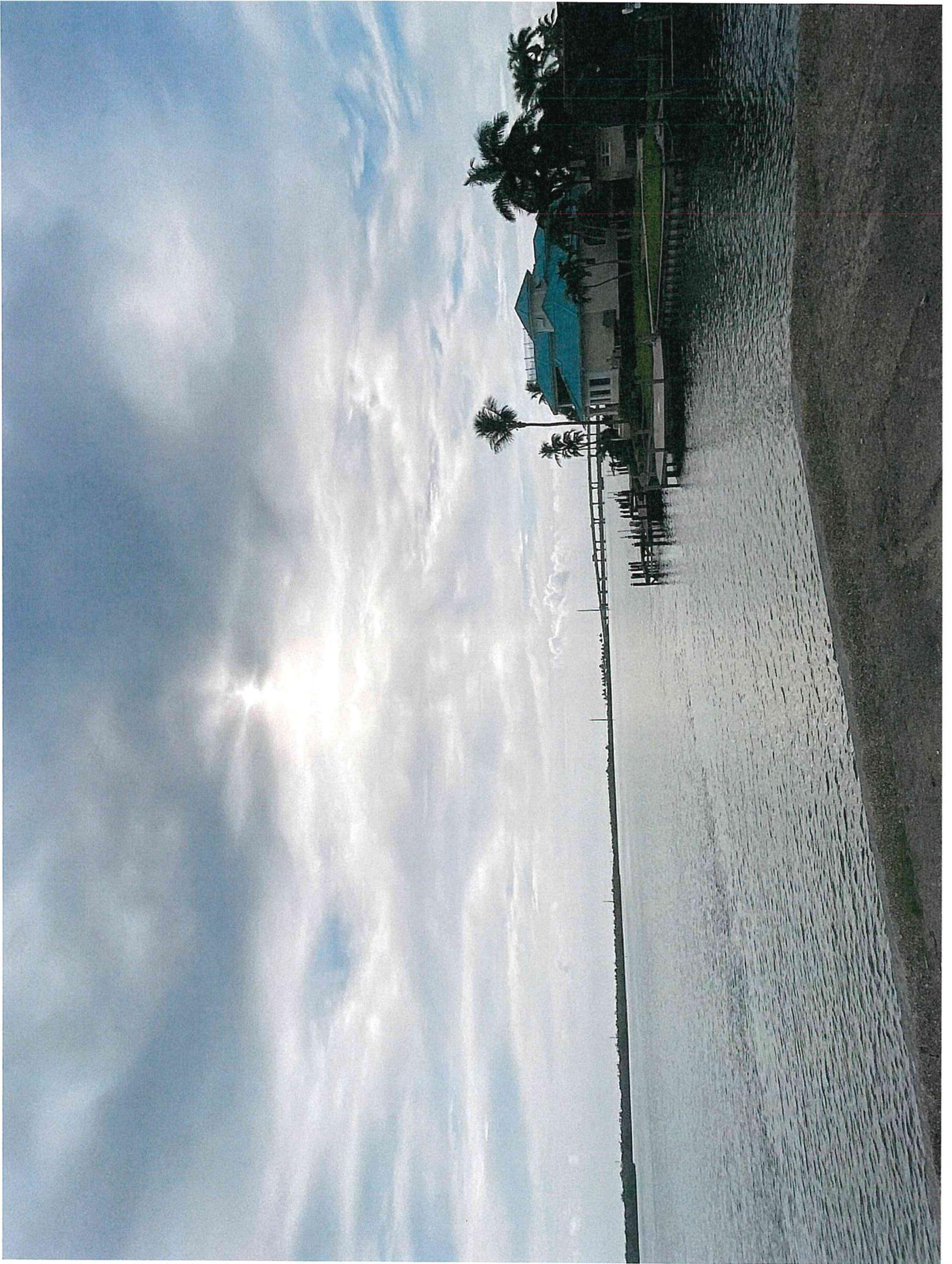
The Glass' Objections

Please also note I previously sent you documents from Collier that show the proposed yacht and its proximity to the view from my kitchen, dining room. The dock, if approved, would obstruct my view of the bridge and restrict the view from my kitchen and dining room by approximately 1/3rd and the view from our outdoor area by approx. 20%. I have been advised by both my builder and my real estate agent that it likely would negatively impact the value of my home, which is at a premium price because of the water view on the tip lot as well as the unobstructed view of the bridge, as it exists currently.

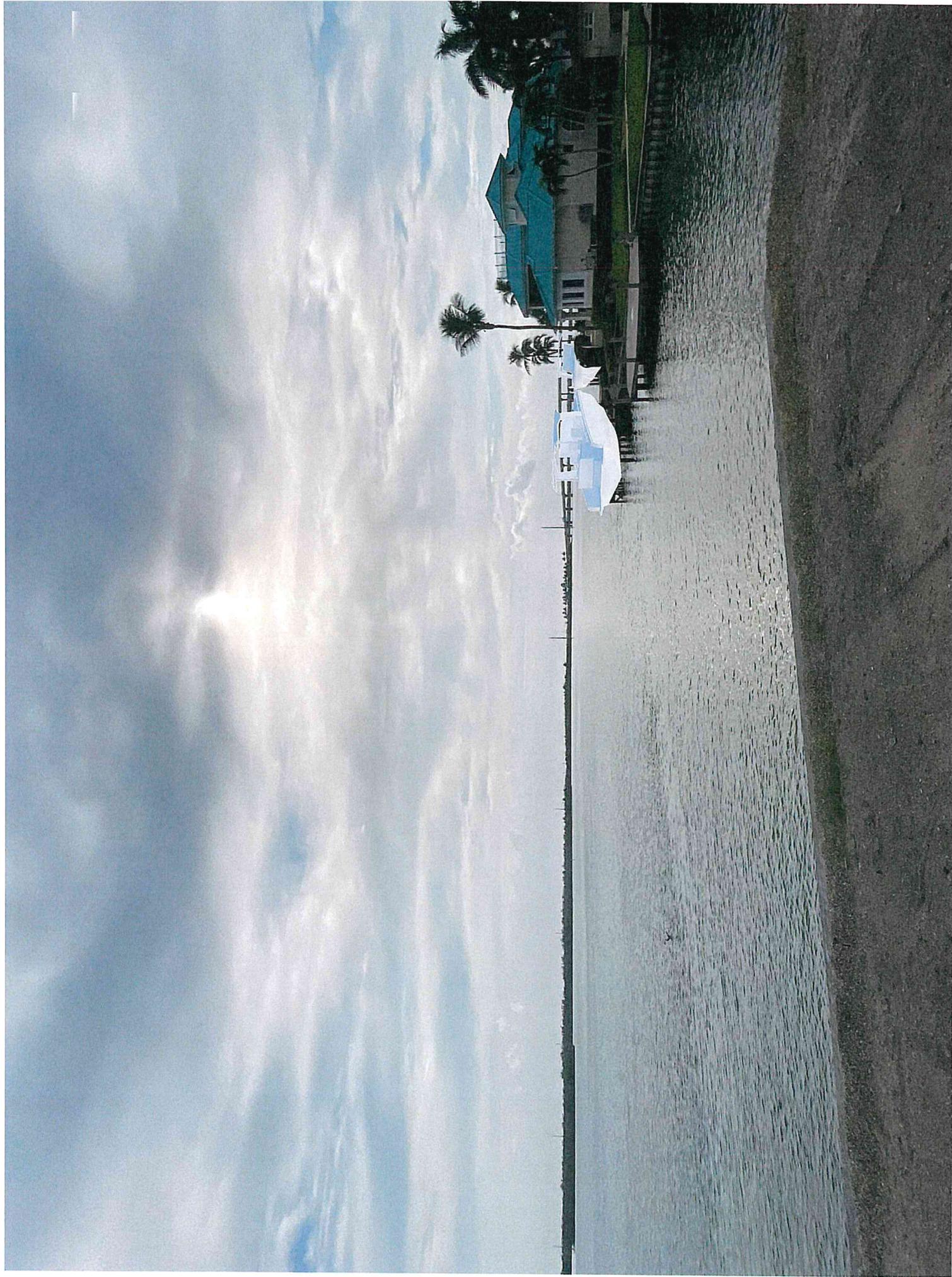
Marco has both a marina as well as a Yacht Club expansion that could have been used to park this boat without affecting residential properties, their homeowners and the values of their homes.

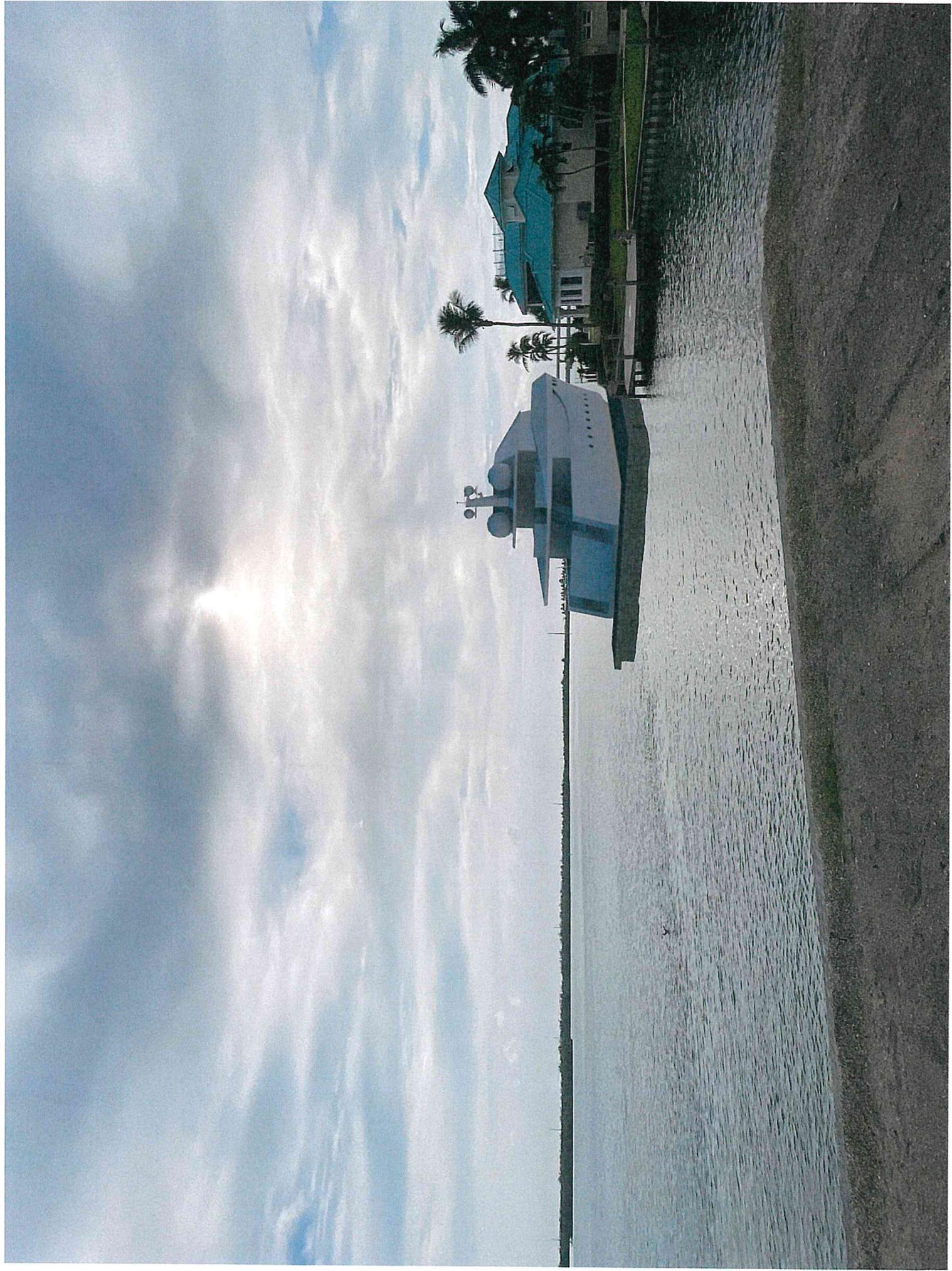
I believe these renderings minimize the impact on view from 1295 Orange Court. I believe the ship will be taller and wider than the renderings, and because the dock will be a floating dock, it will rise up further during high tide. Note the 2nd and 3rd rendering show a large percentage of the Marco Bridge view obstructed, a key reason our lot was priced at \$2M for less than 1/3 of an acre.

I also believe the precedent will be large to the island and not in accordance with intent for homeowners to have guidelines that keep from turning tip lots into Marina's for the large Yacht owners. As Brian states in his correspondence, this is a \$20M boat... pretty easy to buy a home and use it to store a boat, which is fine if it meets the local regulations but not good for blanket granting of exceptions that establish precedent, in my opinion. Please see additional correspondence copied immediately below:













GLASS - 1295 ORANGE CT. - MARCO IS	
SCALE: 1"=30'	APPROVED BY:
DATE: 07/15/2021	DRAWN BY: KD
	REV:
	COLLIER SEAWALL & DOCK, LLC
	DRAWING NUMBER:
	PROPOSED DESIGN

SHEET NO.
EX 1

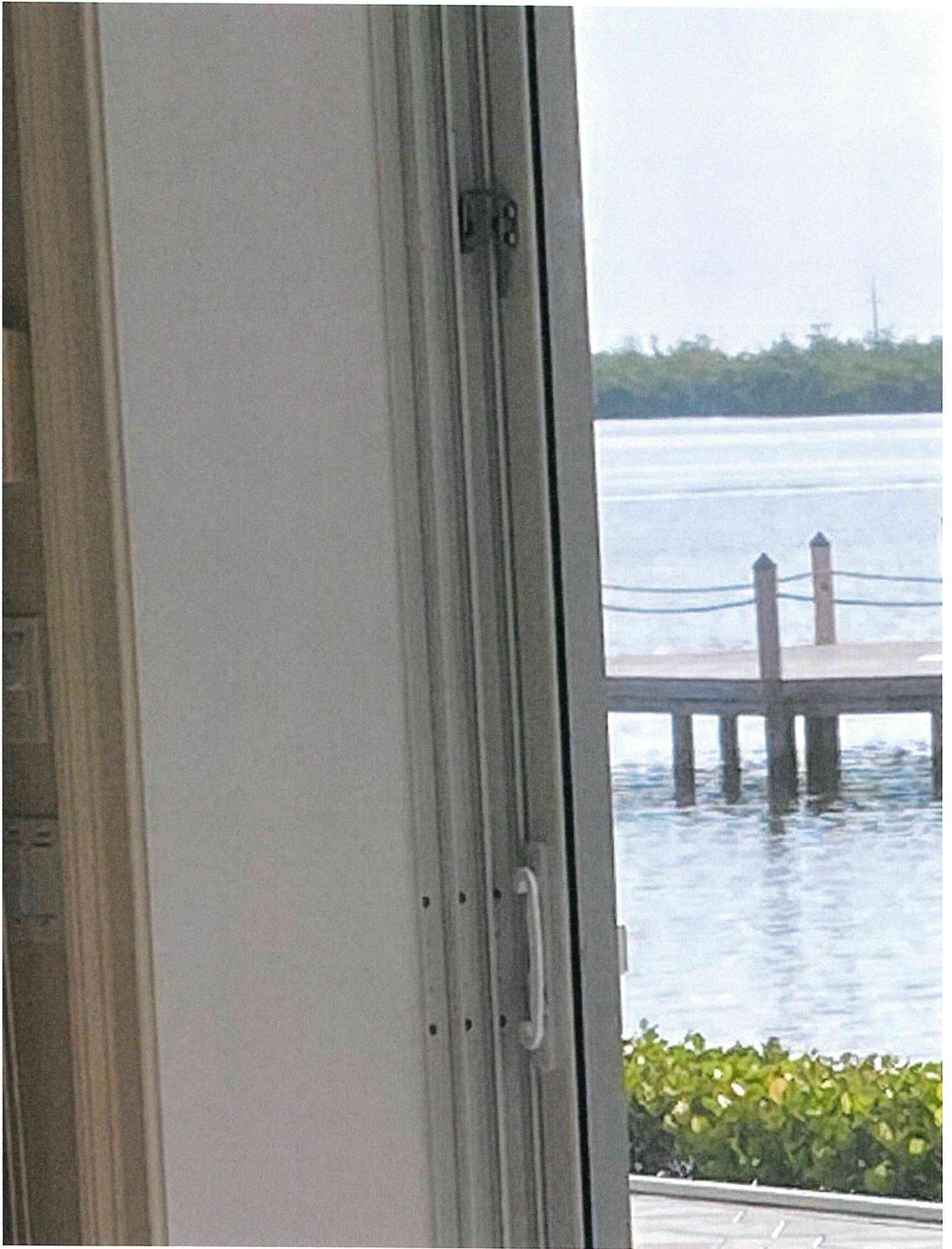
Collier
SEAWALL
& DOCK
LLC

EXHIBIT E

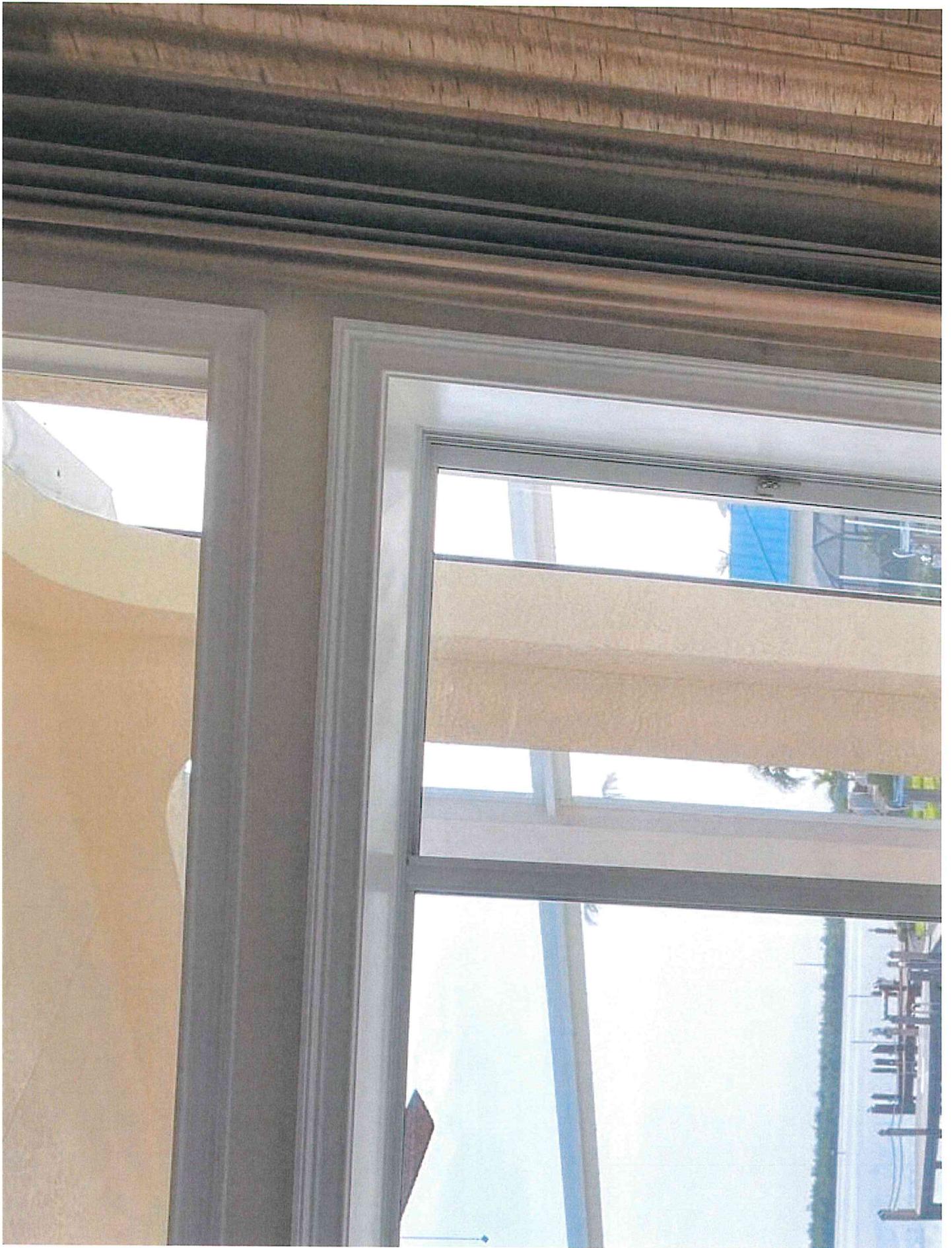
The Bowmans' Objections

First, we object because our decision to purchase our property was based to some degree upon the rules and regulations in place to protect our property value. We asked many questions to be sure that our view would be protected from building projects that are scheduled near us. Just disregarding those regulations not only fails to protect my property value and views, it also compromised the ability of realtors to provide sound interpretations of the rules and regulations to their clients.

Our main objection is that the oversize yacht and dock will substantially block our view of the Marco River. Pictures are attached.







Further to all of the issues that have been highlighted, the actual Boat Docking Facility Extension Petition filed by the owner's legal representation clearly states that the property is a single family dwelling. However, we have heard that the yacht owner's crew will be living in the residence which would be in violation of the definition of a single family dwelling.

In addition to our objections that were detailed yesterday, we have one additional objection to the boat dock extension for 986 Sundrop Court. Although the planning committee thinks that it is acceptable for my views to be obstructed, the actual result could be much worse.

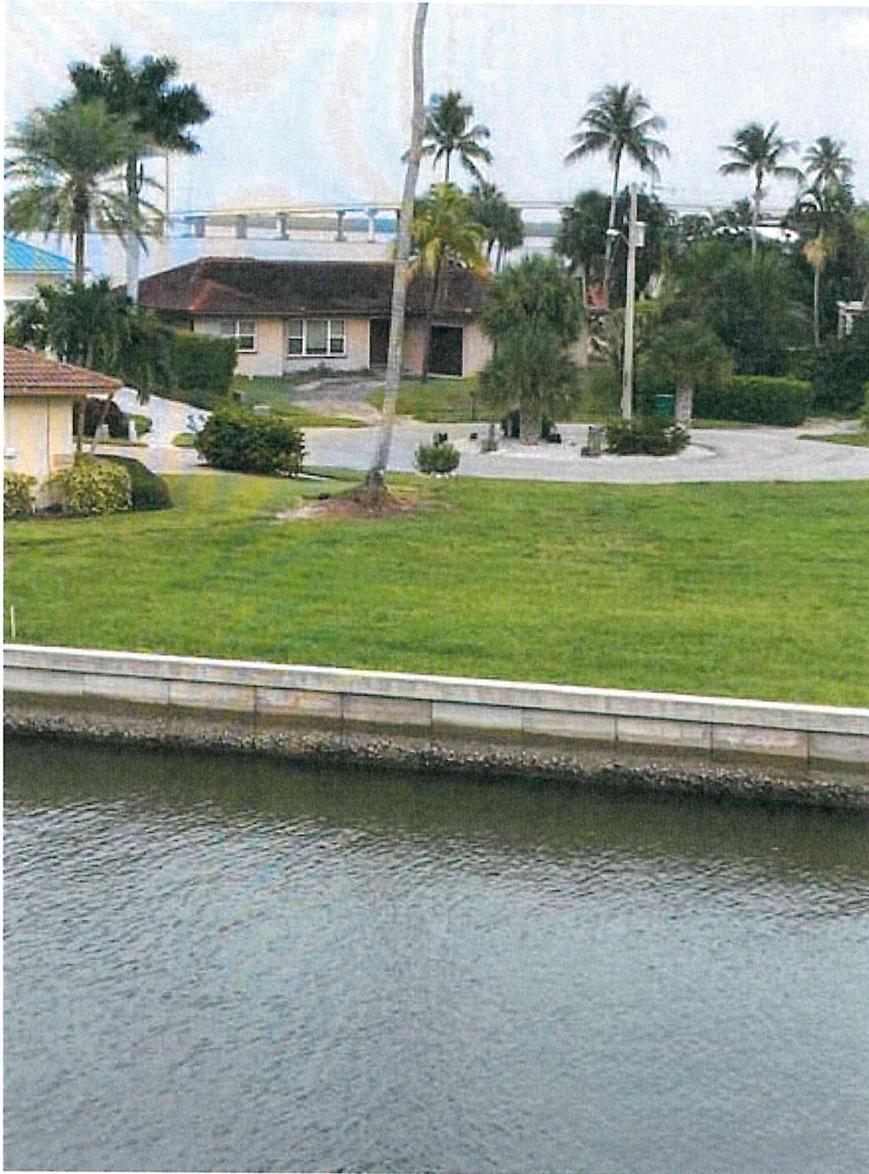
As you know a house is being built at the end of Orange Court by Brett and Nicole Glass. Mr. and Mr. Glass will build a home and dock there, and this will take some of our current view. We are fine with this and are excited to have them as neighbors. We realized this was going to happen as we purchased this home. They are building within the limits of the statutes of the island, unless they too petition for exceptions based upon the precedent that could be potentially set upon approval of boat dock extension for 986 Sundrop Court. The view below off of the end of my balcony is where Glass' dock will be built, as planned.



Yesterday, I went to the upstairs bedroom balcony to show my daughter the bridge connecting Marco Island to the Naples Bridge. Upon standing there a few seconds, her reaction was "That's sad. It won't be too many years until you won't be able to see that either."

I had not considered this possibility, but she is absolutely correct. My view of the bridge is above a smaller, older home that will most certainly be pushed over and replaced with a larger home sometime in the future. And that is fine, because the people who do that will (hopefully) abide by the statutes provided by the island.

Below is my current view of the bridge which will eventually be blocked by a bigger home within the statutes.



We are rule abiding, peaceful people. We have no difficulty accepting change within the ground rules that have been set forth. However, it is unconscionable that a planning committee can make assumptions about the effect of the approval of the request without considering long term effects to the property holders of the island, and I feel pretty confident that no one came and stood on my lanai to actually consider the degree that they are impeding the views.



This is my view from my upstairs balcony currently.

As you can tell, the combination of legitimate change in addition to the proposed mega yacht and expansive dock takes the vast majority of the view. As stated earlier we understand and accept change within the statutes of the island.

The point is that there is room for legitimate growth as the statutes are written. When excessive exceptions are granted, the whole master plan is thrown out the window. Again, we respectfully ask that this exception not be granted.