



## *City Council Staff Report*

**Meeting Date: December 6, 2021**

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**TO:** Marco Island City Council

**FROM:** Daniel J. Smith, AICP – Director of Community Affairs

**DATE:** November 15, 2021

**RE:** Boat Dock Extension: 21-000177, 986 Sundrop Court, Marco Island  
Request to extend a dock to Forty-Two-feet as shown on the plans

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### **PROJECT DESCRIPTION**

Mr. Zach Lombardo submitted a request, on behalf of 986 Sundrop, LLC, to extend a boat dock ten (10) feet beyond the allowed thirty (30) feet for a total of forty-two (42) feet at 986 Sundrop Court, Marco Island, pursuant to City of Marco Island Code Section 54-115, “Sec. 54-115. - Boat dock extensions, protrusion or encroachment into the riparian setback.” Attached are the application, responses to the criteria, and plans for review and consideration.

On September 3, 2021, the City of Marco Island Planning Board considered the request, and held a public hearing. The Planning Board denied the request at that meeting. Following the Planning Board’s action, Mr. Lombardo filed an appeal, on behalf of 986 Sundrop, LLC of the denial pursuant to City of Marco Island Code Section 38-41 that provides for any aggrieved party to appeal any final decision of the Planning Board to the City Council. The petition and supporting documentation submitted by Mr. Lombardo is provided to the City Council in their packet.

In addition to the documentation submitted by Mr. Lombardo, Mitchell McBride, Esq., representing Gary and Lorrain McBride, owners of 980 Sundrop Court submitted a brief in support of the Planning Board’s action. Mr. McBride’s submittal is also included in the City Council packet.

### **PLANNING BOARD SUMMARY AND ACTION**

The Planning Board considered this request and held a public hearing at their September 3, 2021 meeting. After Staff presented the request, the Planning Board discussed hurricane procedures for removing the boat, beam size of the boat, use of code in reviewing the request, maximum height for a boat, the size and type of boat and the number of crew for the boat, and the City’s Strategic Plan. There was a brief slide presentation presented by Vice-Chair Honig which included a diagram of general height requirements of homes; air draft of the boat, and an illustrative example of a similar boat regarding air draft; a plot plan showing the boat and adjacent neighbors; and a picture with an example of a boat in comparable size moored at the property. Discussion continued about a few particulars of the City’s code.

Zach Lombardo, Esq., representing the applicant, made a presentation on behalf of the applicant. Mr. Lombardo responded to information presented and statements made during the initial Planning Board discussion and

provided legal cases supporting the request. During the presentation, Planning Board members engaged in discussion with Mr. Lombardo concerning the need for the dock extension, and the comparison of the applicant's boat with other existing boats of similar size docked in Marco Island.

After Mr. Lombardo's presentation concluded, the Planning Board questioned Mr. Lombardo, the applicant, and the engineer about residential use and not commercial use for this boat, if a state lease permit has been issued, if there will be someone on site to respond to any alarms for the boat, the exact protrusion of the request, riparian rights, construction of the dock, and draft needed for the boat. Mr. Lombardo clarified that the requested extension to be as shown, which is 42 feet due to the new seawall being placed in front of the existing seawall.

Public comment included callers, Mr. Bissell speaking against the proposed boat dock extension, Mr. Mitch McBride speaking against the proposed boat dock extension, Ms. Thangavelu speaking against the boat dock extension, and Ms. Tara Thangavelu speaking against the boat dock extension. In-person public comments included Mr. Neil Synder representing the Glass' and the Bowman's, speaking against the boat dock extension, Ms. Bowman speaking against the boat dock extension, and Mr. William Aetoe (pronounced A-E-Toe - SPELLING?) speaking against the boat dock extensions.

Discussion continued about the compatibility with the existing character, dredging at this location, safety issues accessing the boat, and questioned how much weight should be given to the actual boat and not the extension.

After discussion, a motion was made by Member Rivera to approve the 42-foot Boat Dock Extension for 986 Sundrop and seconded by Member Fahringer. The vote was 3 yes and 4 no. The motion did not carry, and the request was denied.

#### **APPLICANT:**

Mr. Zachary W. Lombardo, Esq.  
Woodward, Pires & Lombardo, P.A.  
3200 Tamiami Trail N., Suite 200  
Naples, FL 34103

#### **OWNERS:**

986 Sundrop, LLC  
985 Sundrop Court  
Marco Island, FL 34145

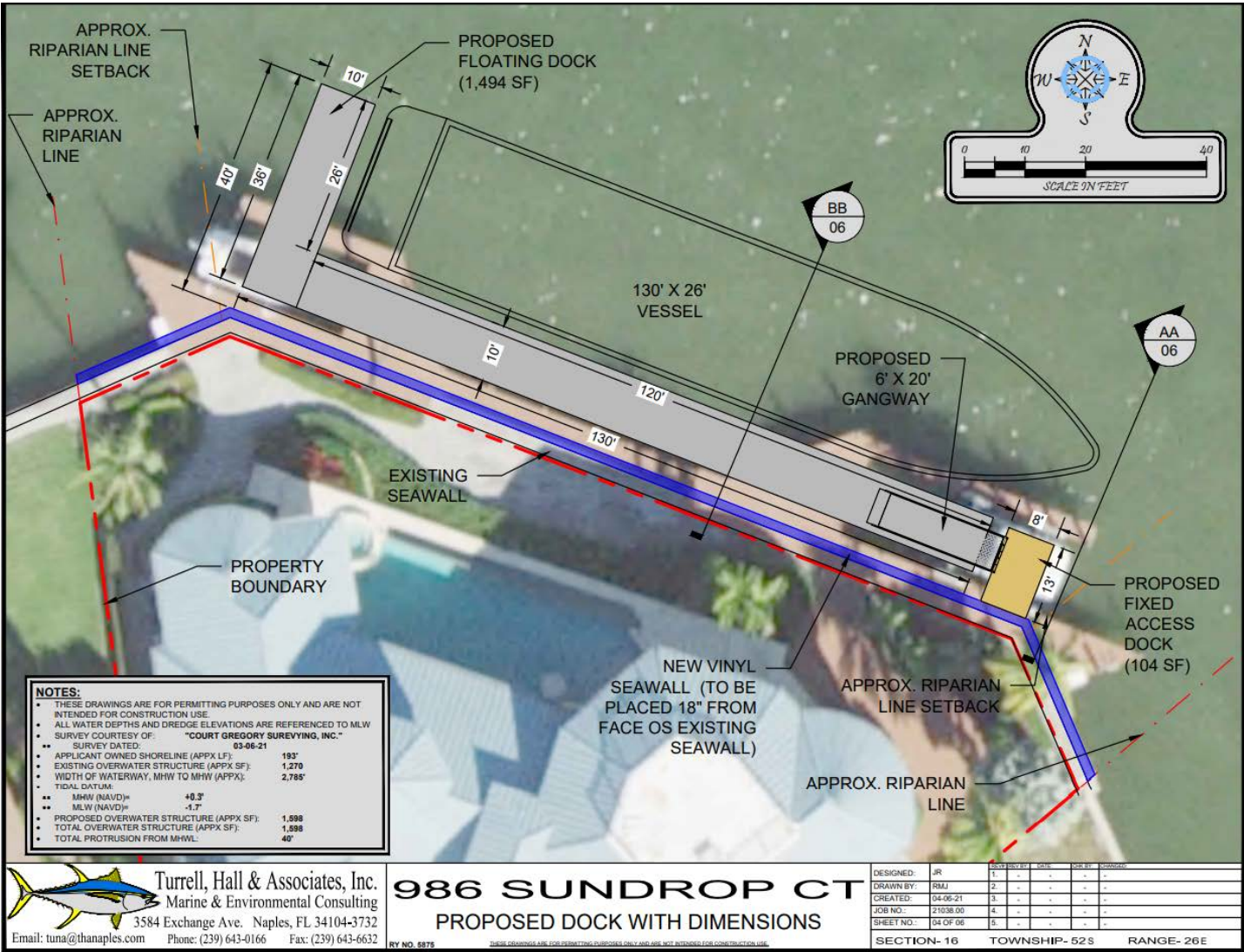
#### **PROJECT ADDRESS AND LEGAL DESCRIPTION:**

985 Sundrop Court  
Marco Island, FL 34145  
Marco Beach, Unit 4, Block 127, Lot 14  
Property ID: 56942480004

**ZONING AND AERIAL MAPS:**



**PROPOSED DOCK PLAN**





## **STAFF ANALYSIS:**

Staff has received two objections from the neighbors on both sides of the subject property. The written objections are included with the staff report. The main point of objection is that the proposed vessel will obstruct their views of the channel, and in particular one neighbor's view of the Judge S.S. Jolley Bridge. When considering this request, City staff reviews the criteria as contained in the City code, which includes the impact on neighbors' views. The proposed objection stems from the size of the vessel itself and not the dock extension. Keeping in mind that a dock and vessel can be located along any point of this portion of the seawall, certain locations could potentially obstruct particular views of adjacent neighbors without a requested dock extension. We are not unsympathetic to the neighbors' concerns, but our charge is to review the request consistent with the requirements of the City's codes and the City's Comprehensive Plan.

In reviewing the City's current 2009 Comprehensive Plan, we find the proposed request is not inconsistent with the City's Comprehensive Plan. Docks are an allowed accessory use to single family and the City's codes provide for a dock extension request with certain criteria outlined.

Below is the criteria, Sec. 54-115(f). 1-10, used to review for a boat dock protrusion:

**1. Whether or not the proposed docking facility meets the other standards set forth in this article?**

The proposed dock exceeds the setback requirements as set forth in this article.

**2. Whether or not the water depth where the proposed vessel(s) is to be located is sufficient (as a general guide, four feet mean low water is deemed to be sufficient) to allow for safe mooring of the vessel, thereby necessitating the extension requested?**

There is sufficient water depth with or without the additional 10-foot protrusion.

**3. Whether or not there are special conditions related to the subject property or waterway which justify the proposed dimensions and location of the proposed boat docking facility?**

The lot is at the end of a cul-de-sac abutting the open water of the Marco River. It is not a traditionally shaped lot with four lot lines. The lot contains six separate lot lines, with the rear lot line having 3 separate lot lines: an angled 27-foot length, a straight 139 foot length, and another angled 27 feet length. In addition, the location of the lot along the Marco River is more conducive to the protrusion into the adjacent water than other lots on Marco Island.

**4. Whether or not the proposed boat docking facility and moored vessel(s) protrude greater than 25 percent of the width of the navigable waterway, and whether or not a minimum of 50 percent of the waterway width between boat docking facilities and moored vessel(s) on the opposite side of the waterway is maintained in order to ensure reasonable waterway width for navigation?**

The proposed boat docking facility and moored vessel will not protrude greater than 25% of the width of the navigable waterway and more than a minimum of 50% of the waterway width is open for navigation.

**5. Whether or not the proposed boat docking facility is of the minimum dimensions necessary in order to adequately secure the moored vessel while providing reasonable access to the boat for routine maintenance without the use of excessive deck area?**

While Staff is not versed in the maintenance of vessels, the applicant has indicated that dimensions are the minimum necessary to adequately moor the vessel.

**6. Whether or not the proposed boat docking facility is of minimal dimensions and located to minimize the impact of view to the channel by surrounding property owners?**

The City has received objections from two neighbors saying their views will be impacted. They are on each side of the subject property. Based upon staff's review, the neighbors will maintain views of the Marco River. However, certain views important to the neighbors could be partially obstructed.

**7. Whether or not the proposed vessel(s) is in excess of 50 percent of the length of the water frontage on the subject property such that the extension of the boat docking facility may adversely impact the view to the channel by surrounding property owners?**

The total waterfrontage is 193 feet, and the proposed dock will span 139 feet, well in excess of 50% of the water frontage. As stated above, views of the Marco River will be maintained. However, certain views important to the neighbors could be partially obstructed.

**8. Whether or not the proposed location and design of the boat docking facility and moored vessel(s) in combination such that it may infringe upon the use of neighboring properties, including any existing boat docking facilities?**

The proposed location, design and extra 10 feet of dock does not appear to infringe upon the use of neighboring properties. The neighboring properties are currently single family. One has a dock and the other has room for a dock should they so choose to construct one.

**9. Whether or not the seagrasses are located within 200 feet of the proposed boat docking facility?**

There are no seagrass beds within 200 feet.

**10. Whether or not the proposed dock subject to the manatee protection requirements set forth in section 54-117 of the City's Boat Docking Facilities Code?**

This proposal is not subject to the manatee protection requirements since this is not a multi-slip dock with 10 or more slips nor is it a marina.

**STAFF RECOMMENDATION AND FINDINGS:**

Staff recommends the City Council approve this request with the following findings:

1. The proposed dock exceeds the setback requirements as set forth in this article.
2. The lot is at the end of a cul-de-sac abutting the open water of the Marco River. It is not a traditionally shape lot with four lot lines. It contains six separate lot lines, with the rear lot line having 3 separate lot lines: an angled 27-foot length, a straight 139 foot length, and another angled 27 feet length. In addition, the location of the lot is more conducive to the protrusion into the adjacent water than other lots on Marco Island.
3. The proposed boat docking facility and moored vessel will not protrude greater than 25% of the width of the navigable waterway and more than a minimum of 50% of the waterway width is open for navigation.
4. The applicant has indicated that dimensions are the minimum necessary to adequately moor the vessel.

5. Views of the Marco River will be maintained. However, certain views important to the neighbors could be partially obstructed.
6. The proposed location, design and extra 10 feet of dock does not appear to infringe upon the use of neighboring properties. The neighboring properties are currently single family. One has a dock and the other has room for a dock should they so choose to construct one.
7. There are no seagrass beds within 200 feet.
8. This proposal is not subject to the manatee protection requirements since this is not a multi-slip dock with 10 or more slips nor is it a marina.

Daniel J. Smith, AICP

Director of Community Affairs