



***Planning Board Staff Report***

**Meeting Date: August 7, 2020**

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**TO:** Marco Island Planning Board

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

**DATE:** July 24, 2020

**RE:** Variance Petition 20-000103 and 20-000102, Additional info

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Please find attached information provided late on Thursday, after the Staff report was completed and being reviewed by our City Attorney. We received it too late to incorporate into our Staff report but wanted to make sure the Planning Board had time to review the information.



City of Marco Island  
Community Affairs Department  
50 Bald Eagle Drive  
Marco Island, FL 34145  
Phone: 239-389-5000 or FAX: 239-393-0266

PF-22

## **VARIANCE PETITION**

Petition number: **V**-\_\_\_\_\_ Date Received: \_\_\_\_\_

Planner: \_\_\_\_\_

### **ABOVE TO BE COMPLETED BY STAFF**

Property Owner(s): James & Kristen Schmunk

Owner's Address: 1152 Edington Place Marco Island, FL 34145

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Agent's Name: Jeff Rogers - Turrell, Hall & Associates, Inc.

Agent's Address: 3584 Exchange Ave Naples, FL 34104

Telephone: 239-643-0166 Fax: 239-643-6632

### **Site Information**

Address: 1152 Edington Place Property ID #: 64610120002

Subdivision: Old Marco Village Block: 1 Lot(s): 9

Is this a corner lot?: No Is this a waterfront lot?: Yes

### **Setbacks Required:**

Front: \_\_\_\_\_ ft Rear: \_\_\_\_\_ ft Side: 12 ft Side: 12 ft

### **Setbacks provided:**

Front: \_\_\_\_\_ ft Rear: \_\_\_\_\_ ft Side: 0 ft Side: 12 ft

### **Zoning and Land Use**

Property	Zoning	Land Use
Subject	<u>RSF-4</u>	<u>Residential Single-family</u>
N	<u>RSF-4</u>	<u>Residential Single-family</u>
S	<u>RSF-4</u>	<u>Residential Single-family</u>
E	_____	<u>Edington Place</u>
W	_____	<u>Collier Bay</u>

**3. What extenuating circumstances exist related to the proposed structure encroachment?**

Extenuating circumstances driving this request include the conditions of the waterway at the project site, the location of the property on that waterway, the neighboring dock and vessel to the north, as well as the applicants vessel. This variance request will provide safer mooring for the vessels, will maximize the ingress/egress to the proposed boat slips and to the existing neighboring dock, and will minimize the impact to the views of the neighbors and to navigation within this busy waterway.

**NATURE OF PETITION**

Please note that staff and the Marco Island Planning Board shall be guided in their recommendation to City Council acting as the Board of Zoning Appeals, and that City Council shall be guided in its determination to approve or deny a variance petition by the below listed criteria. Please provide a *narrative* response to the listed criteria and/or questions. Attach additional pages if necessary.

**1. Are there special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure or building involved?**

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**2. Are there special conditions and circumstances which do not result from the action of the applicant such as pre-existing conditions relative to the property which is the subject of the variance request?**

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**3. Will a literal interpretation of the provisions of this zoning code work unnecessary and undue hardship or create practical difficulties on the applicant?**

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**8. Will granting the variance be consistent with the growth management plan?**

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## **DOCK FACILITY VARIANCE APPLICATION SUBMITTAL CHECKLIST**

*Required public hearing(s) will not be scheduled until the dock facility variance application package has been deemed by staff to be complete.*

- ☒ Pre-application notes/minutes if required (Call 389-5013 to schedule a pre-application meeting)
- ☒ Completed application
- ☒ Completed Owner/Agent affidavit, signed and notarized
- ☒ Site plan, drawn to scale, illustrating all of the following:
  - ☒ Location map
  - ☐ Lot dimensions and land contour of subject property
  - ☒ Riparian line(s)
  - ☒ Required dock setbacks
  - ☒ Configuration and dimensions of decking, boatlifts, boat mooring areas of the (a) existing, (b) proposed, and (c) adjacent boat docking facilities.
  - ☒ Water depth survey, completed by a professional Florida engineer, licensed marine contractor, registered surveyor, or other person deemed to be qualified by the Community Development Director or his designee, using the format attached to the application form.
- ☐ Permit number and Certificate of Completion date for the original construction of existing boat docking facility, if applicable
- ☐ Resolution number and date of previous boat dock extension requests, if applicable
- ☒ Application fee (checks should be made payable to "City of Marco Island") in the amount of \$2,000.

**PUBLIC NOTICE REQUIREMENT:** In addition to the fees required herein, all costs of newspaper notices and required notices for public petitions shall be paid in full prior to a scheduled public hearing. If such payment is not received prior to a scheduled public hearing, the petition will be continued and rescheduled. Any additional cost associated with a rescheduled item shall also be paid in full prior to the public hearing. Advertising for public hearings shall be prepared by staff and submitted to the newspapers as required in the Marco Island Land Development Code (LDC). If an application is filed for which a fee is not listed herein, staff shall assess the fee based upon actual time spent reviewing the petition.

**Marco Island Code of Ordinances Section 30-8(a). Amended 10/17/2005**

As the authorized agent/applicant for this petition, I attest that all of the information indicated on this checklist is included in this submittal package. I understand that failure to include all necessary submittal information may result in the delay of processing this petition.

I understand that, in addition to approval of this dock variance, a building permit is required prior to commencement of construction. I also understand that if the City of Marco Island City Council approves this dock variance, an affected property owner may file an appeal within 14 days of the hearing. If I proceed with construction during this time, I do so at my own risk.

\_\_\_\_\_  
Signature of Petitioner or Agent

\_\_\_\_\_  
Date

### Nature of Petition

1. Are there special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure, or building involved?

Yes. The property is located on the entrance waterway into Collier Bay which is the only access to almost a third of the island's waterways. All of the canals and waterways from San Marco Road north and Bald Eagle Drive west flow in and out of this access channel. The boat traffic and currents at this site are more relevant to docks along this waterway than anywhere else on the island. The dock placement and orientation to traffic and current are important design considerations. The design also has to take into account existing or potential structures which have been or could be built on adjacent properties.

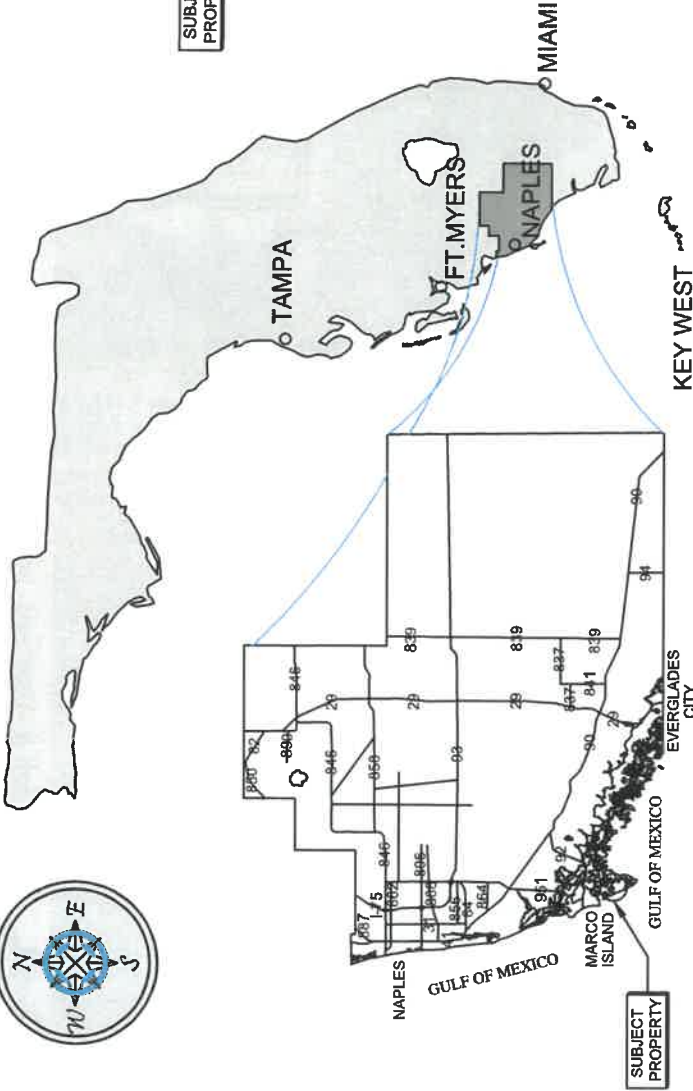
2. Are there special conditions and circumstances which do not result from the action of the applicant such as pre-existing conditions relative to the property which is the subject of the variance request?

Yes. The current which passes through this waterway can make mooring a vessel difficult. Mooring parallel to the current rather than perpendicular is easier and safer. The amount of vessel traffic which passes through this waterway also makes limiting protrusion better for navigation through the waterway as well as safer for the vessel. This drove the design for the dock to be a shore (and current) parallel mooring rather than a perpendicular or angled mooring, both of which would have required protrusion / extension variances. The location of the adjacent dock to the north and the vessel moored at that dock also drove the decision to try and place the dock as far south as possible to maximize the ingress and egress of that neighboring dock as well as this proposed dock.

3. Will a literal interpretation of the provisions of this LDC works an unnecessary and undue hardship on the applicant or creates a practical difficulty on the applicant?

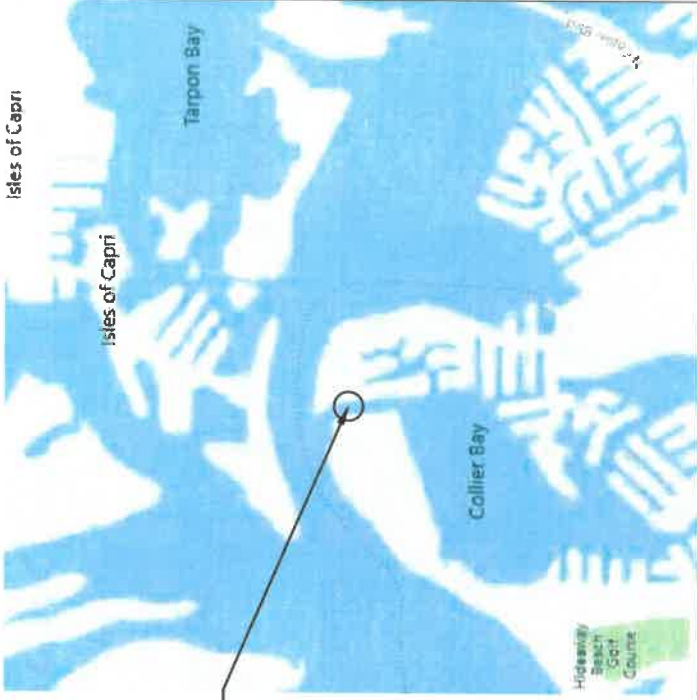
Yes. The provisions of the LDC will create a practical difficulty on the applicant. The LDC requires a setback of 15% of the width of the property or 12 feet for this 80 foot wide lot. That would allow 56 feet of mooring area between the setbacks if done without the variance and place the vessel between 12 to 18 feet from the riparian line. However, the neighboring vessel to the north is approximately 47 feet long and located about 33 feet from riparian line separating the properties. This would only allow for between 45 to 51 feet between the vessels. The industry recommended backing/maneuvering distance is 1.5 times the length of the vessel. A 40 foot vessel should preferably have 60 feet of backing area especially in high wind or current areas. A literal interpretation of the Code would allow for the mooring of the vessel but would not provide the safe ingress or egress access for the mooring of this vessel or for the neighboring vessel.

# STATE OF FLORIDA



## COLLIER COUNTY

## VICINITY MAP



## COUNTY AERIAL

**SITE ADDRESS:**  
 <> 1152 EDINGTON PL  
 MARCO ISLAND, FL 34145

**NOTES:**  
 <> THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY  
 AND ARE NOT INTENDED FOR CONSTRUCTION USE.

<> LATITUDE: N 25.971280  
 <> LONGITUDE: W -81.731359

**Turrell, Hall & Associates, Inc.**  
 Marine & Environmental Consulting  
 3584 Exchange Ave. Naples, FL 34104-3732  
 Email: tuna@thanaples.com Phone: (239) 643-0166 Fax: (239) 643-6632

# SCHMUNK DOCK LOCATION

DESIGNED:	JR	1. RAL	07-28-20	JR	PAGES 3-4
DRAWN BY:	UT	2.	-	-	-
CREATED:	06-12-19	3.	-	-	-
JOB NO.:	19076	4.	-	-	-
SHEET NO.:	01 OF 07	5.	-	-	-
SECTION- 5	TOWNSHIP- 52 S	RANGE- 26 E			





**NOTES:**

- THESE DRAWINGS ARE FOR PERMITTING PURPOSES ONLY AND ARE NOT INTENDED FOR CONSTRUCTION USE.
- ALL DATUM SHOWN HEREON IS REFERENCED TO MLW
- SURVEY COURTESY OF: "SURVEY SOLUTIONS"
- SURVEY DATED: 09-27-2017
- 1152 EDINGTON PL
- APPLICANT OWNED SHORELINE (APX LF): 80'
- EXISTING OVERWATER STRUCTURE (APX SF): 0
- PROPOSED OVERWATER STRUCTURE (APX SF): 1131
- WIDTH OF WATERWAY, MHW TO MHW (APX): 200
- TOTAL PROTRUSION FROM MHWL: 35'
- TIDAL DATUM: MHW (NAVD)= +0.42'
- MLW (NAVD)= -1.63'

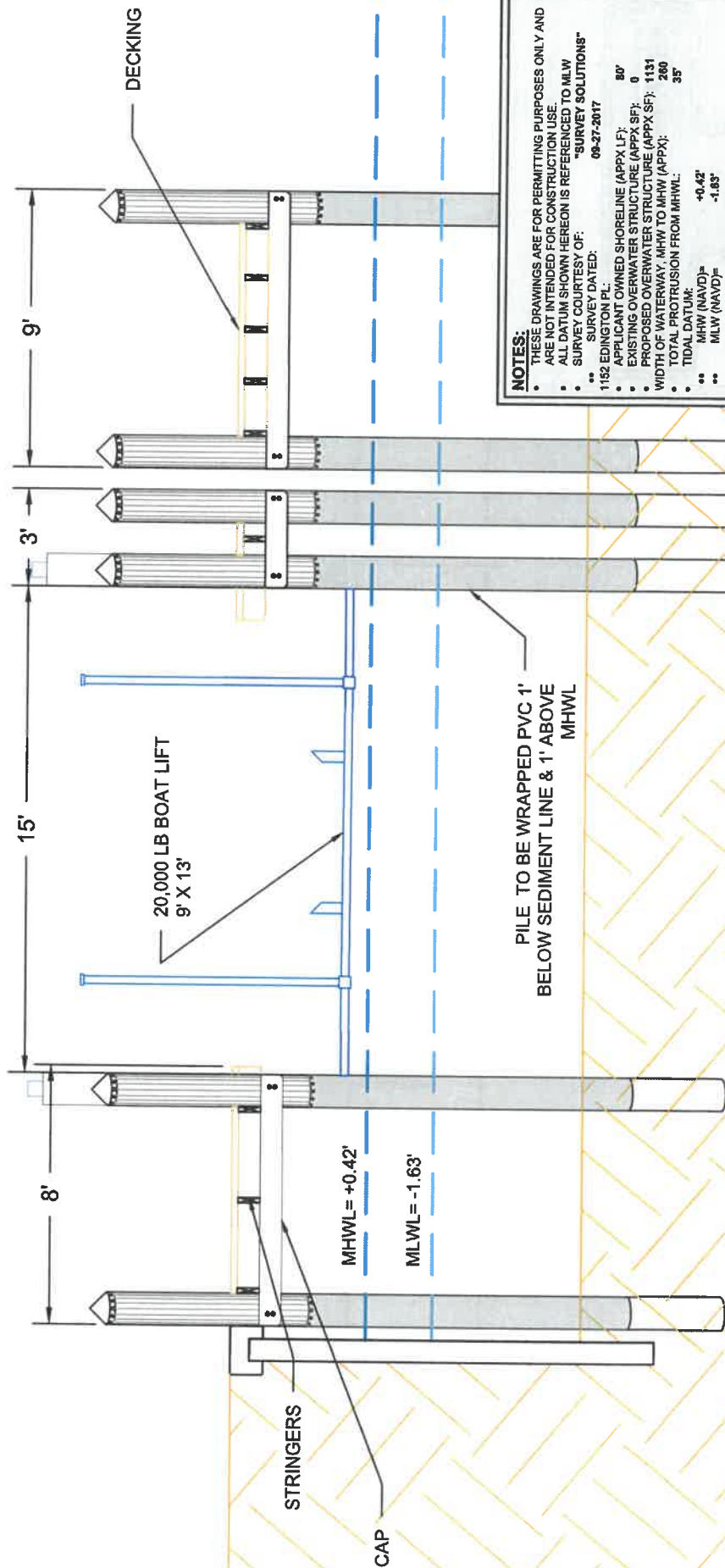
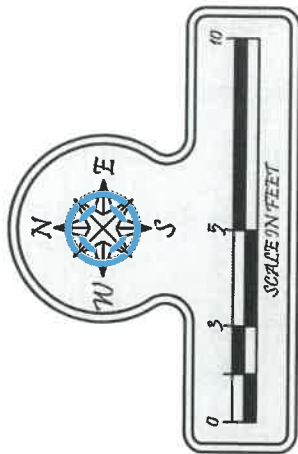
# SCHMUNK DOCK

## PROPOSED DOCK

**Turrell, Hall & Associates, Inc.**  
 Marine & Environmental Consulting  
 3584 Exchange Ave. Naples, FL 34104-3732  
 Email: tuna@thanaples.com Phone: (239) 643-0166 Fax: (239) 643-6632

DESIGNED:	JR	DATE:	08/27/2020
DRAWN BY:	UT	DATE:	07-30-20
CREATED:		DATE:	06-12-19
JOB NO.:		DATE:	19076
SHEET NO.:		DATE:	03 OF 07
SECTION-5		TOWNSHIP- 52 S	RANGE- 26 E





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- SURVEY DATED: 08-27-2017
- 1152 EDINGTON PL.
- APPLICANT OWNED SHORELINE (APPROX. LF): 80'
- EXISTING OVERWATER STRUCTURE (APPROX. SF): 0
- PROPOSED OVERWATER STRUCTURE (APPROX. SF): 1131
- WIDTH OF WATERWAY MHW TO MHW (APPROX.): 260
- TOTAL PROTRUSION FROM MHWL: 35'
- TIDAL DATUM: MHW (NAVD) = +0.42'
- MHW (NAVD) = -1.63'
- MLW (NAVD) = -1.83'

# SCHMUNK DOCK

## AA SECTION

**Turrell, Hall & Associates, Inc.**  
Marine & Environmental Consulting  
3584 Exchange Ave. Naples, FL 34104-3732  
Email: [tuna@thanaples.com](mailto:tuna@thanaples.com) Phone: (239) 643-0166 Fax: (239) 643-6632

DESIGNED:	JR	DATE:	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.	21.	22.	23.	24.	25.	26.	27.	28.	29.	30.	31.	32.	33.	34.	35.	36.	37.	38.	39.	40.	41.	42.	43.	44.	45.	46.	47.	48.	49.	50.	51.	52.	53.	54.	55.	56.	57.	58.	59.	60.	61.	62.	63.	64.	65.	66.	67.	68.	69.	70.	71.	72.	73.	74.	75.	76.	77.	78.	79.	80.	81.	82.	83.	84.	85.	86.	87.	88.	89.	90.	91.	92.	93.	94.	95.	96.	97.	98.	99.	100.	101.	102.	103.	104.	105.	106.	107.	108.	109.	110.	111.	112.	113.	114.	115.	116.	117.	118.	119.	120.	121.	122.	123.	124.	125.	126.	127.	128.	129.	130.	131.	132.	133.	134.	135.	136.	137.	138.	139.	140.	141.	142.	143.	144.	145.	146.	147.	148.	149.	150.	151.	152.	153.	154.	155.	156.	157.	158.	159.	160.	161.	162.	163.	164.	165.	166.	167.	168.	169.	170.	171.	172.	173.	174.	175.	176.	177.	178.	179.	180.	181.	182.	183.	184.	185.	186.	187.	188.	189.	190.	191.	192.	193.	194.	195.	196.	197.	198.	199.	200.	201.	202.	203.	204.	205.	206.	207.	208.	209.	210.	211.	212.	213.	214.	215.	216.	217.	218.	219.	220.	221.	222.	223.	224.	225.	226.	227.	228.	229.	230.	231.	232.	233.	234.	235.	236.	237.	238.	239.	240.	241.	242.	243.	244.	245.	246.	247.	248.	249.	250.	251.	252.	253.	254.	255.	256.	257.	258.	259.	260.	261.	262.	263.	264.	265.	266.	267.	268.	269.	270.	271.	272.	273.	274.	275.	276.	277.	278.	279.	280.	281.	282.	283.	284.	285.	286.	287.	288.	289.	290.	291.	292.	293.	294.	295.	296.	297.	298.	299.	300.	301.	302.	303.	304.	305.	306.	307.	308.	309.	310.	311.	312.	313.	314.	315.	316.	317.	318.	319.	320.	321.	322.	323.	324.	325.	326.	327.	328.	329.	330.	331.	332.	333.	334.	335.	336.	337.	338.	339.	340.	341.	342.	343.	344.	345.	346.	347.	348.	349.	350.	351.	352.	353.	354.	355.	356.	357.	358.	359.	360.	361.	362.	363.	364.	365.	366.	367.	368.	369.	370.	371.	372.	373.	374.	375.	376.	377.	378.	379.	380.	381.	382.	383.	384.	385.	386.	387.	388.	389.	390.	391.	392.	393.	394.	395.	396.	397.	398.	399.	400.	401.	402.	403.	404.	405.	406.	407.	408.	409.	410.	411.	412.	413.	414.	415.	416.	417.	418.	419.	420.	421.	422.	423.	424.	425.	426.	427.	428.	429.	430.	431.	432.	433.	434.	435.	436.	437.	438.	439.	440.	441.	442.	443.	444.	445.	446.	447.	448.	449.	450.	451.	452.	453.	454.	455.	456.	457.	458.	459.	460.	461.	462.	463.	464.	465.	466.	467.	468.	469.	470.	471.	472.	473.	474.	475.	476.	477.	478.	479.	480.	481.	482.	483.	484.	485.	486.	487.	488.	489.	490.	491.	492.	493.	494.	495.	496.	497.	498.	499.	500.	501.	502.	503.	504.	505.	506.	507.	508.	509.	510.	511.	512.	513.	514.	515.	516.	517.	518.	519.	520.	521.	522.	523.	524.	525.	526.	527.	528.	529.	530.	531.	532.	533.	534.	535.	536.	537.	538.	539.	540.	541.	542.	543.	544.	545.	546.	547.	548.	549.	550.	551.	552.	553.	554.	555.	556.	557.	558.	559.	560.	561.	562.	563.	564.	565.	566.	567.	568.	569.	570.	571.	572.	573.	574.	575.	576.	577.	578.	579.	580.	581.	582.	583.	584.	585.	586.	587.	588.	589.	590.	591.	592.	593.	594.	595.	596.	597.	598.	599.	600.	601.	602.	603.	604.	605.	606.	607.	608.	609.	610.	611.	612.	613.	614.	615.	616.	617.	618.	619.	620.	621.	622.	623.	624.	625.	626.	627.	628.	629.	630.	631.	632.	633.	634.	635.	636.	637.	638.	639.	640.	641.	642.	643.	644.	645.	646.	647.	648.	649.	650.	651.	652.	653.	654.	655.	656.	657.	658.	659.	660.	661.	662.	663.	664.	665.	666.	667.	668.	669.	670.	671.	672.	673.	674.	675.	676.	677.	678.	679.	680.	681.	682.	683.	684.	685.	686.	687.	688.	689.	690.	691.	692.	693.	694.	695.	696.	697.	698.	699.	700.	701.	702.	703.	704.	705.	706.	707.	708.	709.	710.	711.	712.	713.	714.	715.	716.	717.	718.	719.	720.	721.	722.	723.	724.	725.	726.	727.	728.	729.	730.	731.	732.	733.	734.	735.	736.	737.	738.	739.	740.	741.	742.	743.	744.	745.	746.	747.	748.	749.	750.	751.	752.	753.	754.	755.	756.	757.	758.	759.	760.	761.	762.	763.	764.	765.	766.	767.	768.	769.	770.	771.	772.	773.	774.	775.	776.	777.	778.	779.	780.	781.	782.	783.	784.	785.	786.	787.	788.	789.	790.	791.	792.	793.	794.	795.	796.	797.	798.	799.	800.	801.	802.	803.	804.	805.	806.	807.	808.	809.	810.	811.	812.	813.	814.	815.	816.	817.	818.	819.	820.	821.	822.	823.	824.	825.	826.	827.	828.	829.	830.	831.	832.	833.	834.	835.	836.	837.	838.	839.	840.	841.	842.	843.	844.	845.	846.	847.	848.	849.	850.	851.	852.	853.	854.	855.	856.	857.	858.	859.	860.	861.	862.	863.	864.	865.	866.	867.	868.	869.	870.	871.	872.	873.	874.	875.	876.	877.	878.	879.	880.	881.	882.	883.	884.	885.	886.	887.	888.	889.	890.	891.	892.	893.	894.	895.	896.	897.	898.	899.	900.	901.	902.	903.	904.	905.	906.	907.	908.	909.	910.	911.	912.	913.	914.	915.	916.	917.	918.	919.	920.	921.	922.	923.	924.	925.	926.	927.	928.	929.	930.	931.	932.	933.	934.	935.	936.	937.	938.	939.	940.	941.	942.	943.	944.	945.	946.	947.	948.	949.	950.	951.	952.	953.	954.	955.	956.	957.	958.	959.	960.	961.	962.	963.	964.	965.	966.	967.	968.	969.	970.	971.	972.	973.	974.	975.	976.	977.	978.	979.	980.	981.	982.	983.	984.	985.	986.	987.	988.	989.	990.	991.	992.	993.	994.	995.	996.	997.	998.	999.	1000.	1001.	1002.	1003.	1004.	1005.	1006.	1007.	1008.	1009.	1010.	1011.	1012.	1013.	1014.	1015.	1016.	1017.	1018.	1019.	1020.	1021.	1022.	1023.	1024.	1025.	1026.	1027.	1028.	1029.	1030.	1031.	1032.	1033.	1034.	1035.	1036.	1037.	1038.	1039.	1040.	1041.	1042.	1043.	1044.	1045.	1046.	1047.	1048.	1049.	1050.	1051.	1052.	1053.	1054.	1055.	1056.	1057.	1058.	1059.	1060.	1061.	1062.	1063.	1064.	1065.	1066.	1067.	1068.	1069.	1070.	1071.	1072.	1073.	1074.	1075.	1076.	1077.	1078.	1079.	1080.	1081.	1082.	1083.	1084.	1085.	1086.	1087.	1088.	1089.	1090.	1091.	1092.	1093.	1094.	1095.	1096.	1097.	1098.	1099.	1100.	1101.	1102.	1103.	1104.	1105.	1106.	1107.	1108.	1109.	1110.	1111.	1112.	1113.	1114.	1115.	1116.	1117.	1118.	1119.	1120.	1121.	1122.	1123.	1124.	1125.	1126.	1127.	1128.	1129.	1130.	1131.	1132.	1133.	1134.	1135.	1136.	1137.	1138.	1139.	1140.	1141.	1142.	1143.	1144.	1145.	1146.	1147.	1148.	1149.	1150.	1151.	1152.	1153.	1154.	1155.	1156.	1157.	1158.	1159.	1160.	1161.	1162.	1163.	1164.	1165.	1166.	1167.	1168.	1169.	1170.	1171.	1172.	1173.	1174.	1175.	1176.	1177.	1178.	1179.	1180.	1181.	1182.	1183.	1184.	1185.	1186.	1187.	1188.	1189.	1190.	1191.	1192.	1193.	1194.	1195.	1196.	1197.	1198.	1199.	1200.	1201.	1202.	1203.	1204.	1205.	1206.	1207.	1208.	1209.	1210.	1211.	1212.	1213.	1214.	1215.	1216.	1217.	1218.	1219.	1220.	1221.	1222.	1223.	1224.	1225.	1226.	1227.	1228.	1229.	1230.	1231.	1232.	1233.	1234.	1235.	1236.	1237.	1238.	1239.	1240.	1241.	1242.	1243.	1244.	1245.	1246.	1247.	1248.	1249.	1250.	1251.	1252.	1253.	1254.	1255.	1256.	1257.	1258.	1259.	1260.	1261.	1262.	1263.	1264.	1265.	1266.	1267.	1268.	1269.	1270.	1271.	1272.	1273.	1274.	1275.	1276.	1277.	1278.	1279.	1280.	1281.	1282.	1283.	1284.	1285.	1286.	1287.	1288.	1289.	1290.	1291.	1292.	1293.	1294.	1295.	1296.	1297.	1298.	1299.	1300.	1301.	1302.	1303.	1304.	1305.	1306.	1307.	1308.	1309.	1310.	1311.	1312.	1313.	1314.	1315.	1316.	1317.	1318.	1319.	1320.	1321.	1322.	1323.	1324.	1325.	1326.	1327.	1328.	1329.	1330.	1331.	1332.	1333.	1334.	1335.	1336.	1337.	1338.	1339.	1340.	1341.	1342.	1343.	1344.	1345.	1346.	1347.	1348.	1349.	1350.	1351.	1352.	1353.	1354.	1355.	1356.	1357.	1358.	1359.	1360.	1361.	1362.	1363.	1364.	1365.	1366.	1367.	1368.	1369.	1370.	1371.	1372.	1373.	1374.	1375.	1376.	1377.	1378.	1379.	1380.	1381.	1382.	1383.	1384.	1385.	1386.	1387.	1388.	1389.	1390.	1391.	1392.	1393.	1394.	1395.	1396.	1397.	1398.	1399.	1400.	1401.	1402.	1403.	1404.	1405.	1406.	1407.	1408.	1409.	1410.	1411.	1412.	1413.	1414.	1415.	1416.	1417.	1418.	1419.	1420.	1421.	1422.	1423.	1424.	1425.	1426.	1427.	1428.	1429.	1430.	1431.	1432.	1433.	1434.	1435.	1436.	1437.	1438.	1439.	1440.	1441.	1442.	1443.	1444.	1445.	1446.	1447.	1448.	1449.	1450.	1451.	1452.	1453.	1454.	1455.	1456.	1457.	1458.	1459.	1460.	1461.	1462.	1463.	1464.	1465.	1466.	1467.	1468.	1469.	1470.	1471.	1472.	1473.	1474.	1475.	1476.	1477.	1478.	1479.	1480.	1481.	1482.	1483.	1484.	1485.	1486.	1487.	1488.	1489.	1490.	1491.	1492.	1493.	1494.	1495.	1496.	14
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TYPICAL DIVE TRANSECT

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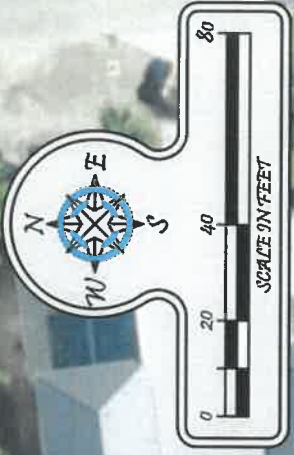
20'

200'

NO SEAGRASSES WERE  
OBSERVED GROWING  
WITHIN 200 FT OF THE  
PROPOSED PROJECT

SITE ADDRESS:  
1152 EDINGTON PL  
MARCO ISLAND, FL 34145

SITE ADDRESS:  
1148 EDINGTON PL  
MARCO ISLAND, FL 34145



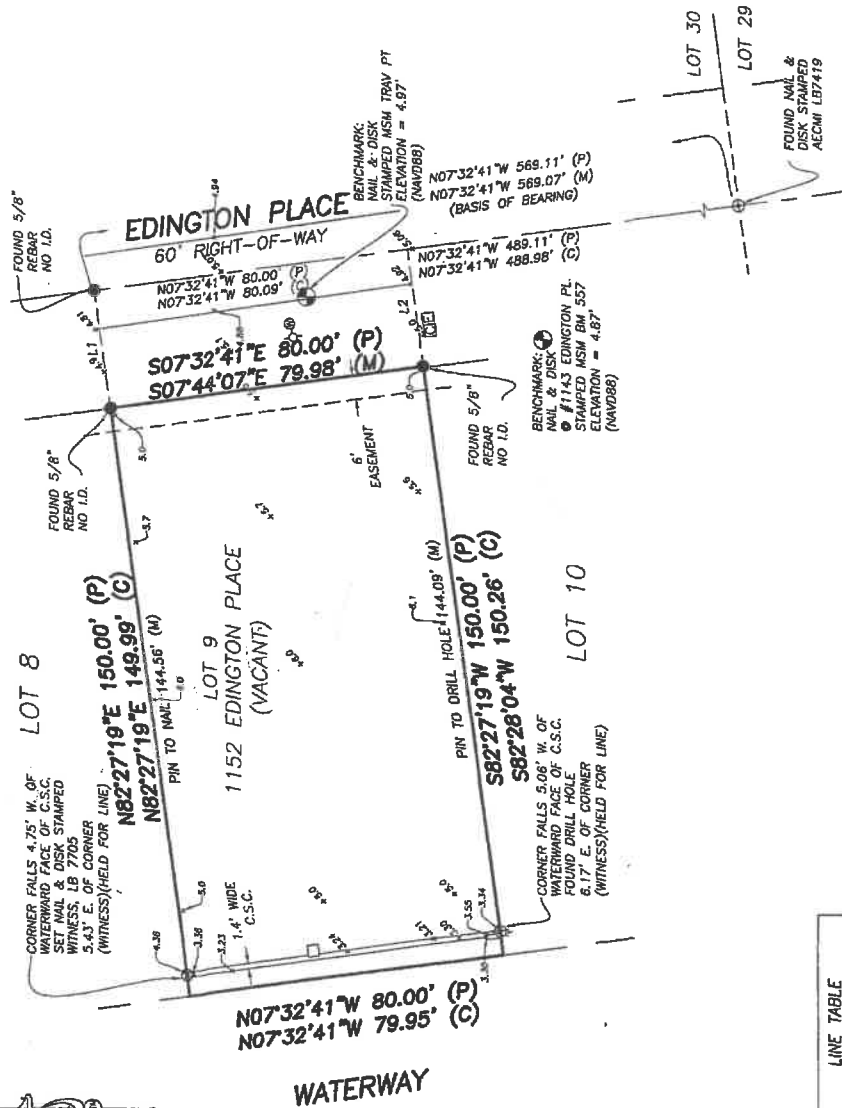
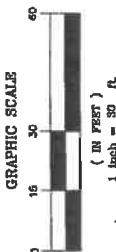
# SCHMUNK DOCK

## SUBMERGED RESOURCE SURVEY

**Turrell, Hall & Associates, Inc.**  
Marine & Environmental Consulting  
3584 Exchange Ave. Naples, FL 34104-3732  
Phone: (239) 643-0166 Fax: (239) 643-4632  
Email: [tuna@thanaples.com](mailto:tuna@thanaples.com)

DESIGNED:	JR	DATE	SCALE	DATE	SCALE
DRAWN BY:	RAJ				
CREATED:	07-28-20				
JOB NO.:	19076				
SHEET NO.:	07 OF 07				
SECTION - 5					
TOWNSHIP - 52 S					
RANGE - 26 E					

# ALL ELEVATIONS ARE IN NAVD88



LINE	BEARING	DISTANCE
L1(P)	N82°27'19"E	30.00'
L1(M)	N82°14'41"E	30.01'
L2(P)	N82°27'19"E	30.00'
L2(C)	N82°27'19"E	29.74'

SYMBOL	LEGEND
□	CABLE BOX
■	ELECTRIC BOX
⊗	WATER VALVE
⊙	FIRE HYDRANT

LEGAL DESCRIPTION  
(Per O.R. 3466, Pp. 2191):

Lot 9, Block 1, OLD MARCO VILLAGE, according to the Plat thereof, recorded in Plat Book 6, Pages 3, of the Public Records of Collier County, Florida

## NOTES:

- Last day of field work is June 22, 2018 (date of survey).
- Bearings shown herein are based on the centerline of Edington Place, Old Marco Village, according to the Plat thereof, as recorded in the Public Records of Collier County, Florida being N07°32'41"W.
- No easement search or abstracting was done by the surveyor and note should be taken that this property is subject to any facts that may be revealed with a full and accurate title search. Unless otherwise indicated all easements shown herein are based on plot.
- The intended use of this survey is to serve as an analysis tool for permitting purposes.
- Only above ground, visible and apparent improvements were located. Irrigation equipment was not taken into account on this survey.
- Foundations and overhangs are not taken into account on this survey.
- No environmental study, audit, or determinations were made in this survey. Any environmental conditions that may be depicted on this survey are the result of simple observation and not the result of a scientific analysis.
- No other persons or entities other than those listed as exclusive users may rely on this survey.
- All dimensions are in feet and decimals thereof, unless otherwise noted.
- Subject to easements, reservations and restrictions of record.
- Rear lot dimensions shown are to the property line. Building has reflect distances to the finish surface of the structure and may not be representative of foundations or primary walls.
- According to the City of Marco Map Viewer as posted on CityofMarco.com this property is zoned RSF-4.

Zoning and setback information is provided for informational purposes only and are subject to variances and other conditions not provided to the surveyor consult city codes or with MCA. All standard setback criteria are subject to interpretation.

Due to the dynamic nature of the seavalls and their tendency to lean either landward or seaward, the distance between the seavall and the property line is not constant. The distance between front monumentation and rear monumentation is shown for reference only. Distances depicted as calculated reflect the intended depth of the lot.

Property contains 0.28 acres, (or 12,005 sq. ft.), more or less.

Property falls in Flood Zone "AE" base flood elevation "9" according to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Number 12021C0826H, Community Number 120426, Panel 0826, Suffix H, Dated May 16, 2012.

For the Exclusive Use of:  
McDonald, White, LLC

Digitally signed by John Pacatelli  
Date: 2018.07.12 10:13:31 -0400

ABBREVIATIONS  
(M) MEASURED  
(P) PLAT  
(C) CALCULATED  
(D.E.) DRAINAGE EASEMENT  
(U.E.) UTILITY EASEMENT  
(C.S.C.) CONCRETE SEAWALL CAP  
(P.R.) OFFICIAL RECORDS BOOK  
(P.I.) POINT OF INTERSECTION  
(P.I.) POINT OF INTERSECTION

SURFACE LEGEND  
ASPHALT  
CONCRETE  
WOOD DOCK



## BOUNDARY & TOPOGRAPHIC SURVEY

Lot 9, Block 1,  
Old Marco Village,  
Marco Island, Florida

CLEAR:	Jamie Schumak	PROJECT NUMBER:	N/A
HORIZONTAL SCALE:	1" = 30'	DATE:	07/2018
CHEF:	BOOK/PHASE	DRAWN BY:	18-366
T.O.	164.70	R.Y.	2-2271

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**CITY OF MARCO ISLAND**

**ORDINANCE NO. 20-xxx**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO COMPREHENSIVE PLANNING; MAKING FINDINGS; AMENDING SECTION 38-1, CITY OF MARCO ISLAND CODE OF ORDINANCES, RELATING TO ADOPTION OF THE COMPREHENSIVE PLAN; CREATING SECTIONS 38-2, 38-3, AND 38-4, CITY OF MARCO ISLAND CODE OF ORDINANCES; PROVIDING FOR A SHORT TITLE, DEFINITIONS, PURPOSE AND INTENT; CREATING SECTION 38-5 SETTING FORTH THE LEGAL STATUS OF THE ADOPTED PLAN AND PLAN AMENDMENTS; PROVIDING SECTIONS 38-6, 38-7, AND 38-8, SETTING FORTH AN APPLICATION METHODOLOGY, GENERAL REVIEW REQUIREMENTS, AND PROVIDING FOR CITY STAFF REVIEW; CREATING SECTIONS 38-9, 38-10, 38-11, AND 38-12, PROVIDING FOR A NEIGHBORHOOD INFORMATION MEETING, LOCAL PLANNING AGENCY/PLANNING BOARD HEARING AND REVIEW, AND CITY COUNCIL HEARING AND REVIEW; PROVIDING NOTICE REQUIREMENTS; PROVIDING FOR TRANSMITTAL OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS TO STATE AND OTHER AGENCIES; PROVIDING FOR PUBLIC REVIEW AND COMMENT; PROVIDING FOR SEVERABILITY/ INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, this Ordinance is consistent with the Florida's Community Planning Act, s. 163.3161, *et seq.*, Florida Statutes, and in particular s. 163.3181(1), Florida Statutes, which encourages local governments "to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property."; and

WHEREAS, the review requirements for amendment of the Comprehensive Plan as provided for in this Ordinance require an examination of affected property compatibility and coordination with underlying topographic, soil, flooding probability, and existing infrastructure services for compliance with this policy, thereby promoting the requirements of Future Land Use Element Policy 1.2.1; and



41 WHEREAS, the review requirements for amendment of the comprehensive plan as  
42 provided for in this Ordinance require an examination of potential development plans for  
43 residential subdividing so that the density requirements in the Comprehensive Plan are  
44 complied with, and by so doing Future Land Use Element Policy 1.2.4 is promoted; and  
45

46  
47 WHEREAS, the review requirements for amendment of the Comprehensive Plan as  
48 provided for in this Ordinance require a thorough review of hurricane evacuation plans,  
49 routes, or shelter facilities, and by so doing Future Land Use Element Policy 1.3.1 is  
50 promoted; and  
51

52 WHEREAS, the review requirements for amendment of the Comprehensive Plan as  
53 provided for in this Ordinance require an examination of any proposed change which will  
54 affect population densities, housing, or employment patterns for coordination with the  
55 transportation system, and by so doing Transportation Element Objective 1.2 is promoted;  
56 and  
57

58 WHEREAS, the review requirements for amendment of the Comprehensive Plan as  
59 provided for in this Ordinance require referral of proposed large scale amendments, or small  
60 scale amendments that have been re-classified for review as large scale amendments to  
61 the Florida Fish and Wildlife Conservation Commission for examination and comment with  
62 regard to endangered or threatened species, or species of special concern, and by so doing  
63 Conservation and Coastal Management Element Policy 1.7.1 is promoted; and  
64

65 WHEREAS, the Planning Board, sitting as the City's Local Planning Agency, has  
66 determined that his Ordinance is consistent with the Comprehensive Plan and in particular  
67 Future Land Use Element Policies 1.2.1, 1.2.4, and 1.3.1, Transportation Element Objective  
68 1.2, and Conservation and Coastal Management Element Policy 1.7.1; and  
69

70 WHEREAS, the Planning Board, sitting as the City's Local Planning Agency, has  
71 determined that the need and justification for this Ordinance is to provide a clear and uniform  
72 method of processing, noticing, and hearing comprehensive plan amendments, which is  
73 both consistent with Florida law and provides broad avenues for public participation; and  
74

75 WHEREAS, the Planning Board, sitting as the Local Planning Agency, has found  
76 that, as a result of the foregoing, this Ordinance will promote the public health, safety,  
77 aesthetics, and welfare of the community; and  
78

79 WHEREAS, the City Council adopts the findings of the Planning Board, also sitting  
80 as the City's Local Planning Agency.  
81

82 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO  
83 ISLAND, FLORIDA:  
84

85 **SECTION 1. Recitals.** Each and all of the foregoing recitals be and the same are  
86 hereby incorporated into this Ordinance as if specifically set forth herein.  
87

88 **SECTION 2. Amendment and Adoption.** That section 38-1 of the Code of  
89 Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:  
90

91 **Sec. 38-1. - Comprehensive plan adopted.**  
92

93 The Marco Island Comprehensive Plan, attached to Ordinance No. 01-02, was is  
94 hereby adopted on January 22, 2001 by reference. The adopted Marco Island  
95 Comprehensive Plan consists shall consist of Part I (Goals, Objectives, and Policies) which  
96 includes various maps and the future land use map ("FLUM"). Part II (Data and Analysis)  
97 was approved shall be recognized and approved as a non-adopted companion and support  
98 document of the city's comprehensive plan, but Part II was not adopted as a part of the  
99 Comprehensive Plan. A list of individual amendments to the comprehensive plan and their  
100 scope is set forth in the comprehensive plan. The Marco Island Comprehensive Plan has  
101 been amended by Ordinance No. 03-04 (adopted April 7, 2003); Ordinance No. 03-07  
102 (adopted April 7, 2003); Ordinance No. 03-09 (adopted June 16, 2003); Ordinance No.  
103 04-04 (adopted March 15, 2004); Ordinance No. 08-03 (adopted March 3, 2008);  
104 Ordinance No. 08-16 (adopted December 1, 2008); Ordinance No. 08-17 (adopted  
105 December 1, 2008); Ordinance No. 09-06 (adopted July 20, 2009); Ordinance No. 09-16  
106 (adopted December 7, 2009); Ordinance No. 10-17 (adopted December 6, 2010);  
107 Ordinance No. 14-02 (adopted March 17, 2014); and Ordinance No. 18-01 (adopted  
108 January 8, 2018).  
109

110 **SECTION 3. Amendment and Adoption.** That the Code of Ordinances, City of  
111 Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-2, which  
112 section reads as follows:  
113

114 **Sec. 38-2. - Short title.**  
115

116 This chapter may be commonly referred to as the "Marco Island Comprehensive Planning  
117 Code".  
118

119 **SECTION 4. Amendment and Adoption.** That the Code of Ordinances, City of  
120 Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-3, which  
121 section reads as follows:  
122



123 **Sec. 38-3. - Definitions.**

124  
125 As used in this part, and unless the context clearly indicates to the contrary, the following  
126 terms shall be defined as set forth below:

127  
128 Administration Commission means Governor and the Cabinet.

129  
130 Capital improvement means physical assets constructed or purchased to provide, improve,  
131 or replace a public facility and which are typically large scale and high in cost. The cost of  
132 a capital improvement is generally nonrecurring and may require multiyear financing.  
133 Physical assets that have been identified as existing or projected needs in the individual  
134 comprehensive plan elements shall be considered capital improvements.

135  
136 Compatibility means a condition in which land uses or conditions can coexist in relative  
137 proximity to each other in a stable fashion over time such that no use or condition is unduly  
138 negatively impacted directly or indirectly by another use or condition.

139  
140 Comprehensive plan means and refers to the city comprehensive plan designated in section  
141 38-1, code of ordinances of the city of Marco Island, Florida.

142  
143 Density means an objective measurement of the number of residential units allowed per unit  
144 of land.

145  
146 Developer means any person, including a governmental agency, undertaking any  
147 development as defined in the act.

148  
149 Development has the same meaning as in ss. 163.3164 or 380.04, F.S.

150  
151 Director is defined as set forth in section 38-10 of the code of ordinances.

152  
153 Goal means the long-term end toward which programs or activities are ultimately directed.

154  
155 Intensity means an objective measurement of the extent to which land may be developed or  
156 used, including the consumption or use of the space above, on, or below ground; the  
157 measurement of the use of or demand on natural resources; or the measurement of the use  
158 of or demand on facilities and services.

159  
160 Internal consistency means that the goals, objectives, and policies of the comprehensive  
161 plan are not in conflict with one another. They should be coordinated, related, and  
162 consistent. "Internal consistency" does not require that all goals, objectives, and policies of  
163 a comprehensive plan take action in the direction of realizing each and every other goal.

objective, and policy of the plan. In addition, to be internally consistent with the comprehensive plan, an amendment to the comprehensive plan relating to the land uses, densities or intensities, capacity or size, timing, and other aspects of development of specific property must be compatible with the type and densities or intensities of use permitted by the comprehensive plan on contiguous property.

Land means the earth, water, and air, above, below, or on the surface of the land, and includes any improvements or structures customarily regarded as land.

Land development regulations is defined as set forth in section 38-30-10 of the code of ordinances.

Land use means the development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under the comprehensive plan or element or portion thereof, land development regulations, or the land development code, as the context may indicate.

Large scale amendment shall mean and refer to an amendment to the comprehensive plan other than a small scale amendment to the comprehensive plan.

Level of service means an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

LDC is defined as set forth in section 38 30-10 of the code of ordinances.

Local government means Collier County or any municipality.

Local planning agency means and refers to the planning board designated in section 38-40(1), code of ordinances of the city of Marco Island, Florida.

Newspaper of general circulation is defined as set forth in section 38 30-10 of the code of ordinances.

Objective means a part of the comprehensive plan designated as such that is a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

Parcel of land means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or

developer as land to be used, or developed as, a unit or which has been used or developed as a unit.

Person is defined as set forth in section 38 30-10 of the code of ordinances.

Policy means the way in which programs and activities are conducted to achieve an identified goal.

Public facilities is defined as set forth in section 38 30-10 of the code of ordinances.

Small scale amendment shall mean and refer to any proposal to amend the comprehensive plan that is commonly referred to as a "small scale amendment." A small scale amendment is an amendment that involves a use of ten (10) acres or less; and the proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity; provided, however, that text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section.

State land planning agency means and refers to the State of Florida department, division, or bureau designated in the act as the state agency that reviews comprehensive plans and amendments thereto.

**SECTION 5. Amendment and Adoption.** That the Code of Ordinances, City of Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-4, which section reads as follows:

**Sec. 38-4. - Purpose and intent.**

The city council hereby declares that the purpose and intent of this chapter is to provide for the city a comprehensive plan which will guide future growth and development; encourage the most appropriate use of land, water, and other resources; promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land, avoid undue concentration of population; provide adequate and energy-efficient transportation, water, sewage, drainage, fire protection, law enforcement, schools, parks, recreation facilities, housing, and other services, public facilities and resources; and conserve and protect natural resources within and outside the city to the extent specified in the comprehensive plan or in an interlocal agreement with Collier County, while protecting private property rights by the adoption of this chapter and cooperation between the planning and development activities of the city, Collier County,

244 other local governments, regional agencies such as the regional planning council or water  
245 management district, state government, and private property owners.

246  
247 **SECTION 6. Amendment and Adoption.** That the Code of Ordinances, City of  
248 Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-5, which  
249 section reads as follows:  
250

251 **Sec. 38-5. - Legal status of comprehensive plan.**  
252

253 (a) *Generally.* To the extent consistent with the act, the comprehensive plan shall  
254 be interpreted as setting forth general guidelines and principles for the growth and  
255 development of the city. Findings, goals, policies, and objectives within the comprehensive  
256 plan are internally consistent, and any reading of the comprehensive plan to suggest an  
257 internal inconsistency shall be construed in such a manner so as to maintain the internal  
258 consistency of the comprehensive plan.

259  
260 (b) *Conflicts with other regulations.* The comprehensive plan is cumulative and  
261 supplemental to existing city regulations for the development of land. Where the  
262 comprehensive plan conflicts with existing land development regulations, the  
263 comprehensive plan shall supersede existing land development regulations to the effect of  
264 the conflict until such existing land development regulations are amended to be consistent  
265 with the comprehensive plan. The city council shall be the final determiner as to consistency.  
266

267 **SECTION 7. Amendment and Adoption.** That the Code of Ordinances, City of  
268 Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-6, which  
269 section reads as follows:  
270

271 **Sec. 38-6. - Comprehensive plan amendment application.**  
272

273 (a) *Application by city.* A proposal to amend the comprehensive plan may be  
274 initiated by the city council, or the city manager, by filing a written proposal with the director  
275 as set forth herein. The written proposal shall be classified as an "application" as that term  
276 is used in this chapter. Applications filed pursuant to this subsection (a) shall be classified  
277 as administrative applications of the city and shall be required to submit an application as  
278 set forth in subsections (c) and (d), but shall be exempt from the requirements of subsection  
279 (d)(15) hereof relating to application fees.

280  
281 (b) *Application by a real property owner, or governmental agency.* Every  
282 applicant, including but not limited to a fee simple owner of real property of the specific parcel  
283 of land directly and specifically affected by the proposed application, shall be required to file  
284 an application pursuant to the requirements of subsections (c) and (d) hereof. Every

application that relates to the land use or specific development of a parcel(s) of land must be submitted and executed by the aforesaid real property owner (or said property owners authorized agent) or by the city.

(c) *Application form.* A complete written application for an amendment to the comprehensive plan shall be submitted to the director. Until all informational items required on the application form are provided, the application shall not be considered to be complete for review and consideration. All items required to be submitted by this section which are not answered on the application form but which may be appended or attached to the application form or which may be on separate sheets of paper shall be deemed to be a part of the application form as if specifically included therein. All applicants shall be required to execute the petition in the presence of a notary public and by oath or affirmation swear to the truth of the statements in the application or that to the best of said applicant's knowledge and belief the statements in the application are true and correct as set forth in section 38-13(c) of this code. Applications submitted by a corporation shall be executed by an authorized vice-president or superior corporate officer. Applications submitted by a partnership shall be executed by an authorized general partner. Applications submitted by a limited liability company shall be executed by an authorized member or manager, and said member or manager may be required by the city to execute an affidavit attesting to the legal authority to execute the application. Applications submitted by a trust shall be executed by an authorized trustee(s), and said trustee(s) may be required by the city to execute an affidavit attesting to the legal authority of the trustee to execute the application. So that members of the town council or board members hearing applications submitted by a trust can determine whether they have a voting conflict of interest, all trusts shall identify the names and addresses of all trustees and trust beneficiaries, as well as their respective percentage interest in the trust. Applications submitted by the city shall be executed by the city manager.

(d) Applications shall be made upon a form to be designed by the director, which form shall include:

(1) The name, address, e-mail address, and telephone number of the applicant;

(2) The name, address, e-mail address, and telephone number of the current property owner, if the application relates to a specific parcel of property;

(3) The name, address, e-mail address, and telephone number of any agent who will or might represent the applicant in any city review proceeding regarding the application;

(4) A legal description, boundary survey, Collier County property appraiser's parcel number, and street address if available, if the application relates to specific parcel(s) of real property. The boundary survey and legal description shall be

prepared by a professional land surveyor and mapper who is registered to engage in the practice of mapping and land surveying by the State of Florida. The boundary survey and legal description shall be prepared in accordance with at least the minimum technical standards for land surveying promulgated from time to time by the State of Florida, Board of Professional Land Surveyors and Mappers, or its successor. The survey shall be certified to and for reliance by the city, executed by the surveyor and mapper and under surveyor's seal;

(5) A general description of the proposed amendment to the comprehensive plan, explaining why the amendment is necessary or appropriate;

(6) An analysis of the fiscal impact of the proposed amendment on the city's finances, if any;

(7) An analysis of the impact of the amendment on the environment and natural and historical resources, if any;

(8) An analysis of the degree of internal consistency of the proposed amendment with the city's existing comprehensive plan with supporting data and analysis;

(9) An analysis of the impact upon the city's ability to provide adequate public facilities and maintain the existing level of service for public facilities as identified in the comprehensive plan, if the amendment is granted;

(10) An analysis of whether an amendment involving a change to the future land use map is compatible with underlying topographic, soil, flooding probability, and existing infrastructure to ensure the development envisioned in the proposed change can be accommodated without adverse impacts or severe limitations due to topographic, soil, or infrastructure services. See Future Land Use Element Policy 1.2.1;

(11) An analysis of whether a change to the future land use map or the future land use element goals, objectives, or policies will result in a net increase in density that does not conform to or could exceed the prescribed limitations within the comprehensive plan. See Future Land Use Element Policy 1.2.4;

(12) An analysis of whether a change to the future land use map or the future land use element goals, objectives, or policies will result in a negative impact upon hurricane evacuation plans, routes, or shelter facilities. See Future Land Use Element Policy 1.3.1;

(13) An examination of the transportation system to determine whether the comprehensive plan amendment which changes the future land use map or the future land use element goals, objectives, or policies to ensure population densities, housing and employment patterns, and land uses, are consistent with the capabilities and capacities of the transportation network. See Transportation Element Objective 1.2;

(14) An examination of any parcel of land subject to a future land use map change to ascertain whether any plant or wildlife species listed as endangered, threatened, or of special concern, may be impacted. See Conservation and Coastal Management Element Policy 1.7.1; and

(15) Payment of all appropriate processing fees and charges, as set from time to time by resolution of the city council. Processing fees shall be partial compensation



for the cost of review by the city administration and administrative expenses. All applicants shall pay all costs necessary for the giving of any public notice or re-advertising of hearings as the director or city clerk determines to be necessary. All applicants may be required to pay the cost of city external review consultants, such as attorneys, engineers, surveyor and mappers, and other professionals.

**SECTION 8. Amendment and Adoption.** That the Code of Ordinances, City of Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-7, which section reads as follows:

**Sec. 38-7. - General review regulations.**

(a) Amendments by applicant to proposed application. Amendments to a pending application may be presented by the applicant at any time up to 35 days prior to the first hearing before the planning board but the applicant is advised that such amendment may require re-examination by the director and re-advertising of legal notice by the city, all at the cost of the applicant.

(b) Pursuant to ss. 163.3184(2) and 163.3187(4), F.S., the internal consistency of the comprehensive plan must be maintained by all proposed comprehensive plan amendments.

**SECTION 9. Amendment and Adoption.** That the Code of Ordinances, City of Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-8, which section reads as follows:

**Sec. 38-8. - Administrative review.**

(a) Pre-hearing review. Applicants, other than the city, shall meet with the city administrative staff prior to submitting a formal application to discuss the application. The review shall be considered to be for informational purposes only and not part of the formal amendment procedure.

(b) After submission of an application to the director, the director will examine the application for sufficiency and, if necessary, request that the applicant to supply additional information or clarify ambiguities in the application. Upon receipt of additional or clarifying information from the applicant, if any is requested, or upon completion of the sufficiency review of the application, if no additional or clarifying information is requested, the director shall declare the application as sufficient for consideration by the city staff and the local planning agency/planning board. Following a determination that the application is sufficient for consideration, the director shall review the application and shall make a recommendation to the local planning agency/planning board. The director is encouraged to consult with

other city departments and independent consultants, and thereafter, the director may recommend that the application be denied, approved, or approved with modifications. The director shall formulate a recommendation based upon the following factors, if applicable:

(1) Whether the proposed amendment will have a favorable or unfavorable effect on the city's budget, or the economy of the city or the region;

(2) Whether the proposed amendment will diminish the level of service of public facilities;

(3) Whether there will have a favorable or unfavorable impact on the environment or the natural or historical resources of the city or the region as a result of the proposed amendment;

(4) Whether the city is able to provide adequate service from public facilities to the affected property, if the amendment is granted, and whether the amendment will promote the cost/effective use of or unduly burden public facilities;

(6) Whether the amendment is incompatible with surrounding neighborhoods and land uses;

(7) Whether approval of the amendment will cause the comprehensive plan to be internally inconsistent;

(8) Whether the amendment will have a favorable or adverse effect on the ability of people to find adequate housing reasonably accessible to their places of employment;

(9) Whether the proposed amendment will promote or adversely affect the public health, safety, welfare, economic order, or aesthetics of the region or the city;

(10) Whether an amendment involving a change to the future land use map is compatible with underlying topographic, soil, flooding probability, and existing infrastructure, to ensure the development envisioned in the proposed change can be accommodated without adverse impacts or severe limitations due to topographic, soil, flooding, or infrastructure services. See Future Land Use Element Policy 1.2.1;

(11) Whether a change to the future land use map or the future land use element goals, objectives, or policies will result in a net increase in density that does not conform to or could exceed the prescribed limitations within the comprehensive plan. See Future Land Use Element Policy 1.2.4;

(12) Whether a change to the future land use map or the future land use element goals, objectives, or policies will result in a negative impact upon hurricane evacuation plans, routes, or shelter facilities. See Future Land Use Element Policy 1.3.1;

(13) Whether a comprehensive plan amendment which changes the future land use map or the future land use element goals, objectives, or policies will ensure that population densities, housing and employment patterns, and land uses are consistent with the capabilities and capacities of the transportation network. See Transportation Element Objective 1.2;

(14) Whether a future land use map change will affect any plant or wildlife species listed as endangered, threatened, or of special concern. See Conservation and Coastal Management Element Policy 1.7.1; and

(15) Such other planning and development concerns that the director may identify.

**SECTION 10. Amendment and Adoption.** That the Code of Ordinances, City of Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-9, which section reads as follows:

**Sec. 38-9. – Neighborhood Information Meeting (“NIM”).**

(a) Upon receipt of an application, if the director or the city manager determines that the application will attract a large amount of public attention or will significantly affect neighborhood(s) within the city, the city manager or the director may direct the applicant to hold a neighborhood information meeting (“NIM”). Alternatively, before submitting an application or before the local planning agency/planning board hearing on the application, the applicant may voluntarily hold a neighborhood information meeting. The results of the neighborhood information meeting, questions asked and answered, shall be presented in writing to the director within not more than ten (10) days after the date of the neighborhood information meeting. A neighborhood information meeting is not an official meeting of the city. It is an opportunity for a comprehensive plan amendment applicant and citizens to resolve concerns about a proposed amendment and to dispel rumors and misinformation.

(b) **Notice.** Notice of a neighborhood information meeting shall be given pursuant to section 30-62(c)(2)c. and d. and (f)(2) and (3)a. of the LDC. The caption for the newspaper and courtesy notice shall have a caption “NOTICE OF NEIGHBOR INFORMATION MEETING REGARDING PROPOSAL TO AMEND THE CITY’S COMPREHENSIVE PLAN”, which shall be at the top of the notice page, conspicuously placed, in bold type and shall have a description of the application in layman's English language terms of the subject of the meeting, including the type(s) of approval requested, as well as a legal description, or street address (if any), of any specific parcels of land subject to the application. The NIM shall be held as described in section 30-62(c)(2)c. and d. and (f)(2) and (3)a. of the LDC.

**SECTION 11. Amendment and Adoption.** That the Code of Ordinances, City of Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-10, which section reads as follows:

**Sec. 38-10. - Local planning agency/planning board review.**

488       (a) Public hearing. In accordance with ss. 163.3174 and 163.3184 or 163.3187,  
489 the local planning agency/planning shall hold at least one advertised public hearing on a  
490 proposed plan amendment to review said amendment and provide a recommendation to city  
491 council. The consideration by the local planning agency/planning board shall be considered  
492 to be a legislative function.

493  
494       (b) Notice. For any site specific comprehensive plan amendments, notice shall  
495 be given by a courtesy notice, newspaper advertisement, and posted notice on the property  
496 subject to the proposed application, all pursuant to section 30-62(f)(1), (2), and (3) of the  
497 LDC for planning board hearings. For any non-site specific comprehensive plan  
498 amendments, notice shall be given by newspaper advertisement as provided by section 30-  
499 62(3)a. of the LDC.

500  
501       (c) Conduct of local planning agency/planning board hearing. The local planning  
502 agency/planning board shall encourage and accept oral and written comments from the  
503 applicant or the applicant's agent or attorney, the director, the city administration, other  
504 governmental entities, and the general public. Letters or other written communications  
505 received by the city regarding a pending application, any data and analysis regarding the  
506 plan amendment, and the director's report, shall be considered by the local planning  
507 agency/planning board and are automatically made a part of the record. All local planning  
508 agency/planning board hearings and proceedings with regard to comprehensive plan  
509 amendments shall be conducted as provided in sections 30-62(c)(2)d., (e), and (f) and 38-  
510 12 of this code. Following the public hearing, the local planning agency/planning board shall  
511 make a recommendation to the city council with regard to the application, which may be to  
512 deny, approve, or approve with modification the plan amendment application, together with  
513 the basis of the recommendation.

514  
515       **SECTION 12. Amendment and Adoption.** That the Code of Ordinances, City of  
516 Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-11, which  
517 section reads as follows:

518  
519       **Sec. 38-11. - City council review.**

520  
521       (a) Public hearing.  
522       (1) In accordance with ss. 163.3184 or 163.3187, the city council shall hold  
523 advertised public hearings as follows on a proposed plan amendment to review said  
524 amendment. The consideration by the city council shall be considered to be a legislative  
525 function. All city council hearings and proceedings with regard to comprehensive plan  
526 amendments shall be conducted as provided in sections 30-62(d), (e), and (f)(1), (2), and  
527 (3)b. and 38-12 of this code.

528           (2) Concurrent zoning. The city may consider simultaneously with the  
529 comprehensive plan amendment an application for zoning changes, a conditional use, a  
530 variance, and a site development plan or site improvement plan approval, that would be  
531 appropriate to properly implement any proposed plan amendment transmitted pursuant to  
532 this section. Approval of the aforesaid zoning change, conditional use, variance, and site  
533 development plan or site improvement plan approvals are all contingent upon the  
534 comprehensive plan or plan amendment transmitted becoming effective.

535  
536           (b) Small scale amendment review.

537           (1) The city council shall review small scale amendments in accordance  
538 with s. 163.3187, F.S. A publicly noticed public hearing, as described in sub-section (b)(3)  
539 shall be held at the time of second reading of the ordinance to adopt the plan amendment.  
540 It shall be held on a weekday after 5 p.m.

541           (2) Notice of city council public hearings.

542           a. Notice of the public hearing shall be placed in a newspaper of  
543 general circulation, at least five (5) days prior to the date of the city council public hearing  
544 regarding an application for a plan amendment. Said notice may be placed in the area of  
545 the newspaper of general circulation where legal advertisements appear. If the small scale  
546 amendment is initiated by other than the city council, the planning board/local planning  
547 agency, or the city manager, the advertisement shall meet the requirements of the section  
548 30-62(f)(3)b.1. of this code. If the small scale amendment is initiated by the city council, the  
549 planning board/local planning agency, or the city manager, the advertisement shall meet the  
550 requirements of the section 30-62(f)(3)b.2. of this code.

551  
552           b. Notice shall also be posted on the property subject to the  
553 comprehensive plan amendment and shall be given by courtesy mail. Said notices shall be  
554 accomplished and contain each of the applicable items set forth in sub-section 30-62(f)(1)  
555 and (2) of this code. A copy of any courtesy mailed notice required by this sub-paragraph  
556 shall be kept available for public inspection during regular business hours in the office of  
557 the city clerk once said notice is filed with the city clerk.

558  
559           (3) The question at the public hearing shall be whether to approve, deny,  
560 or otherwise modify and adopt the proposed small scale amendment. The affirmative vote  
561 of not less than a majority of the members of the governing body present at the hearing shall  
562 be required to adopt a plan amendment. The adoption of a comprehensive plan or plan  
563 amendment shall be by ordinance. Upon final action by the city council, the applicant shall  
564 be advised in writing within 30 calendar days of the final decision. Any approval of a  
565 comprehensive plan amendment shall not become effective until a final determination is  
566 made by the State of Florida. Upon approval of the proposed small scale amendment, said  
567 small scale amendment shall be forwarded to the state land planning agency within ten (10)  
568 city working days.

569  
570 (c) Large scale amendments.

571 (1) The city council shall review large scale amendments in accordance  
572 with s. 163.3184, F.S. Publicly noticed public hearing(s), as described in sub-section (c)(2)  
573 shall be held to adopt the ordinance and plan amendment. It shall be held on a weekday  
574 after 5 p.m. The process of consideration of the comprehensive plan amendment shall be  
575 considered to be a legislative function. Enactment of the proposed plan amendment shall  
576 occur after two public hearings, an initial or transmittal public hearing and a second public  
577 hearing, known as an adoption public hearing.

578 (2) Notice of city council public hearings.

579 a. Public hearing advertisement. Amendment public hearings shall  
580 be advertised and held pursuant to s. 166.041(3)(c)2, F.S. The first public hearing shall be  
581 held at the initial or transmittal stage. It shall be held on a weekday at least seven (7) days  
582 after the day that the first advertisement is published in a newspaper of general circulation.  
583 The second public hearing shall be held at the adoption stage. It shall be held on a weekday  
584 at least five (5) days after the day that the second advertisement is published in a newspaper  
585 of general circulation. For amendments which change the actual land use designation of  
586 permitted, conditional, or prohibited uses for specific parcel(s) of land, the advertisement  
587 shall contain a geographic location map which clearly indicates the area covered by the  
588 proposed ordinance. The map shall include major street names as a means of identification  
589 of the general area. In addition to being published in the newspaper, the map must be part  
590 of the online notice required pursuant to s. 50.0211, F.S.

591 b. Notice relating to a change of land use affecting an individual  
592 parcel of land or group of parcels initiated by other than the city council, planning board/local  
593 planning agency, or the city manager, shall also be noticed by posting on the property  
594 subject to the comprehensive plan amendment of signage and shall be given by courtesy  
595 mail. Said notices shall be accomplished and contain each of the applicable items set forth  
596 in sub-section 30-62(f)(1) and (2) of this code. A copy of any courtesy mailed notice  
597 required by this sub-paragraph shall be kept available for public inspection during regular  
598 business hours in the office of the city clerk once said notice is filed with the city clerk.

599 (3) For amendments subject to this sub-section (c), the city council shall  
600 hold at least two public hearings in accordance with s. 163.3184, F.S.

601 a. At the initial or transmittal public hearing, the primary questions  
602 before the city council will be: (1) whether the enacting ordinance and the proposed plan  
603 amendment is in proper form and needs to be amended; and (2) whether to approve the  
604 proposed amendment for transmittal to the state land planning agency and other reviewing  
605 agencies. The city council shall consider any findings or recommendations by the director  
606 or the local planning agency/planning board and shall conduct a public hearing. The report  
607 of the director and the local planning agency/planning board, letters or other written  
608 communications received by the city, the director's report, any data and analysis with regard  
609 to the plan amendment, and any written comments entered into the record during the board



public hearing, all regarding any pending application for amendment of the comprehensive plan, shall automatically be made a part of the record during the city council public hearing.

b. *Transmittal of amendment to state.* After completion of the initial public hearing, the city council may: approve transmittal of the application and the record to the state land planning agency and other reviewing agencies; approve transmittal of the application with modification and the record to the state land planning agency and the reviewing agencies, or deny the an application.

1. If an application is denied, the applicant shall be advised in writing within 30 calendar days of the decision to deny the application. In such case, no further action need be taken by the city.

2. If an application is approved or approved with modification the director shall within ten (10) city working days forward the amendment with supporting data and analysis to the state land planning agency and other reviewing agencies for review and comment.

c. *Second public hearing by city council.*

1. The second public hearing on a large scale amendment(s), shall occur within not more than 180 days after the receipt of reviewing agency comments. If the hearing is not held within said time period, the amendment(s) shall be deemed to have been withdrawn.

2. The primary question at the public hearing shall be whether to approve, deny, or otherwise modify and adopt the proposed plan amendment. In making its determination, the city council shall consider public comments, the comments of the reviewing agencies, the report and recommendation of the director, city manager, and the local planning agency/planning board. In no event shall the city council approve an amendment that permits a land use more intense or dense than the proposal forwarded to the reviewing agencies. For the purposes of the foregoing sentence, industrial or commercial uses shall be viewed as being more intense than any residential land use density.

3. Within ten (10) city working days after the second public hearing and adoption of the amendment, the director shall forward a copy of the adopted amendment, together with supporting data and analysis, to the state land planning agency and any other reviewing agency or local government that provided timely comments after the first (transmittal) public hearing on the amendment. The transmittal package must contain: (i) a full, executed copy of the adoption ordinance(s); in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If

651 timely challenged, an amendment does not become effective until the state land planning  
652 agency or the Administration Commission enters a final order determining the adopted  
653 amendment is "in compliance" with the act, as set forth in s. 163.3184(1), F.S.  
654

655 (d) *Capital improvements update.* The annual update to the capital improvements  
656 element does not have to be reviewed pursuant to this section. Capital improvements  
657 updates shall be reviewed by the planning board review and considered for adoption by the  
658 city council pursuant to s. 166.041(3)(a), F.S.  
659

660 **SECTION 13. Amendment and Adoption.** That the Code of Ordinances, City of  
661 Marco Island, Florida, is hereby amended by adding a section, to be numbered 38-12, which  
662 section reads as follows:  
663

664 **Sec. 38-12. - Conduct of city council and planning board hearings relating to**  
665 **comprehensive plan amendments.**  
666

667 (a) *Continuance and Deferrals.*  
668

669 (1) The city council, or the local planning agency/planning board, may  
670 continue or defer a scheduled public hearing to a date and time certain without further  
671 notice; provided, that the date and time of the continuance or deferral is announced at the  
672 originally scheduled hearing; provided, however, that notice in compliance with Florida's  
673 Government-in-the-Sunshine Law, s. 286.011, Florida Statutes, must be given prior to the  
674 continued public hearing date.

675 (2) If a quorum physically present at the advertised public hearing location  
676 is not obtained at the time of the advertised public hearing, the city manager or the director  
677 (or said director's designee) may publicly announce the continuance of the public hearing  
678 without further notice; provided, that the location, date and time of the continuance or  
679 deferral is announced at the originally scheduled hearing. In addition, notice in compliance  
680 with Florida's Government-in-the-Sunshine Law, s. 286.011, Florida Statutes, must be  
681 given prior to the continued public hearing date.

682 (b) *Rescheduled meeting dates.* Prior to an advertised public hearing, if the city  
683 manager, or the director, determines that a quorum physically present at the meeting site  
684 will not be obtained, the city manager, the director, or the director's designee, may direct  
685 that the meeting be continued until a specific date and time certain. Prior to the continued  
686 meeting, notice must be posted in a conspicuous location at the entrance to the meeting  
687 room where the meeting was scheduled to take place of the location, date and time to which  
688 the meeting was continued, and prior to the meeting, notice must be conspicuously posted  
689 on the city's internet web-site and on the doorway to the originally planned meeting location.  
690 Notice of the rescheduled meeting must also be given in compliance with Florida's

Government-in-the-Sunshine Law, s. 286.011, Florida Statutes, prior to the continued or rescheduled public hearing date.

(c) *Reliance on information presented by applicant.* The city and its departments, boards, and agencies, shall have the right to rely on the accuracy of statements, documents, and all other information presented to them by the applicant, or the applicant's agent or consultants, in review of an application for a plan amendment approval issued pursuant to this Code. The applicant shall execute an application form for the comprehensive plan amendment must include the following statement: Under penalties of perjury, I declare that I have read the foregoing application and all attachments thereto, and that the facts stated in it, are true to the best of my knowledge," followed by the signature of the applicant making the declaration. The written declaration shall be in conspicuous, bold type and printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration. Also in conspicuous, bold type about the signature line, the applicant shall be advised that "as provided in s. 92.525(3), Florida Statutes, a person who knowingly makes a false declaration is guilty of the crime of perjury by false written declaration, a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, Florida Statutes."

(d) *Documents submitted at any public hearing.* The public is hereby advised that any document, paper, letter, map, book, tape, photograph, film, sound recording, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, submitted at or before a public hearing as a part of said public hearing or with relation to a comprehensive plan amendment application, is hereby declared to be a public record pursuant to chapter 119, Florida Statutes, and is automatically made a part of the record of the public hearing at which it was submitted. The original public record may not be returned to the person submitting the document, and all public hearing participants are hereby so advised.

#### **SECTION 14. Severability/Interpretation.**

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) In interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks ( \* \* ) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks

and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

**SECTION 15. Effective Date.** This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this \_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF MARCO ISLAND FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Erik Brecknitz, Chairman

By: \_\_\_\_\_  
Laura M. Litzan, City Clerk

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
Alan L. Gabriel, City Attorney