

## ORDINANCE 21-09

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, REZONING REAL PROPERTY; MAKING FINDINGS; ADOPTING ORDINANCE RECITALS; AMENDING THE OFFICIAL ZONING ATLAS AND REZONING THE PROPERTY LOCATED AT 1362 SAN MARCO ROAD, CONSISTING OF .21 +/- ACRES FROM "COMMERCIAL PROFESSIONAL (C-1) AND COMMERCIAL PROFESSIONAL TRANSITIONAL (C-1/T) DISTRICT" TO "RESIDENTIAL SINGLE-FAMILY DWELLING (RSF-4) DISTRICT; PROVIDING THAT APPROVAL DOES NOT CREATE A VESTED RIGHT; PROVIDING FOR FAILURE TO COMPLY WITH THIS ORDINANCE; PROVIDING FOR INTERPRETATION, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 30-62 of the Land Development Code ("LDC") provides for review and approval of changes to the official zoning map; and

**WHEREAS**, the Owner/Developer, has submitted an application for rezoning of the property located at 1362 San Marco Road, and legally described as Lot 9, Block 109, Marco Beach Unit Three, Property Identification Number 56878680004 (the "Subject Property"), consisting of .21 +/- acres From "Commercial Professional (C-1) and Commercial Professional Transitional (C-1/T) District" to "Residential Single-Family Dwelling (RSF-4) District ; and

**WHEREAS**, the rezoning application has been reviewed pursuant to the standards set forth at Section 30-62 of the LDC; and

**WHEREAS**, the rezoning application is consistent with Objective 1.1 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

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 Map 2A. The Future Land Use Map series, including Map 1, Map 2, and Map 2A, and companion Future Land Use designations are hereby adopted as amended (2008) and revised (2017) and shall be binding on all development orders approved by the City of Marco Island. The Future Land Use Map series, including Maps 1, Map 2, and Map 2A, 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, and in the case of Map 2A, for the current and future periods.

**WHEREAS**, the rezoning application is consistent with Policy 1.1.1 of the Future Land Use Element of the Marco Island Comprehensive Plan states that:

Policy 1.1.1: The Marco Island Future Land Use Map (FLUM) series, including Maps 1, 2, and 2A, attached to this plan, incorporates the following Land Use designations, residential densities, and density incentive programs as allocated on Table 2.1. The current future land use designations are as designated on Map 2A.

**WHEREAS**, the rezoning application does not create an isolated district since the subject property abuts property currently zoned as RSF-4;

**WHEREAS**, the rezoning application is appropriate since this property was originally zoned RSF-4;

**WHEREAS**, the rezoning application will not adversely affect the neighborhood conditions since the adjacent neighborhood is primarily RSF-4;

**WHEREAS**, the rezoning application will not reduce light and air to adjacent areas since it will be single family, limited by the dimensional standards in our Land Development Code;

**WHEREAS**, the rezoning application will not adversely affect the adjacent property values as it will be the same zoning as most of the adjacent properties;

**WHEREAS**, the rezoning application will not be a deterrent to the development of adjacent properties;

**WHEREAS**, the rezoning application will not grant a special privilege to this property;

**WHEREAS**, the rezoning application is not out of scale with the needs of the neighborhood or city;

**WHEREAS**, the rezoning application will not require any higher degree of site alterations than other sites to construct a single-family house; and

**WHEREAS**, the rezoning application will have no negative impact on the level of service.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:**

**Section 1.** Approval of Rezoning of Subject Property. The City Council hereby approves the rezoning of the property located at 1362 San Marco Road, and legally

described as Lot 9, Block 109, Marco Beach Unit Three, Property Identification Number 56878680004, consisting of .21 +/- Acres From "Commercial Professional (C-1) and Commercial Professional Transitional (C-1/T) District" to "Residential Single-Family Dwelling (RSF-4) District, subject to the condition that the utility easement in the rear of the property, containing a sewer line, may not be vacated. The City Manager, or said Manager's designee, is hereby directed to amend the Official Zoning Atlas to reflect this rezoning of the Subject Property.

**Section 2.** Approval Does Not Create A Vested Right. That issuance of this approval by the City does not in any way create any right on the part of the Owner/Developer to obtain a permit from a state or federal agency and does not create any liability on the part of the City for issuance of the approval if the Owner/Developer fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in the violation of state or federal law. All applicable state and federal permits must be obtained before commencement of the Development. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

**Section 3.** Failure to Comply with Ordinance. That failure to adhere to the approval terms and conditions contained in this Ordinance shall be considered a violation of this Ordinance and the City Code, and persons found violating this Ordinance shall be subject to the penalties prescribed by the City Code, including but not limited to the revocation of any of the approval(s) granted in this Ordinance and any other approvals conditioned on this approval. The Owner/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before it may commence construction or operation, and that the foregoing approval in this Ordinance may be revoked by the City at any time upon a determination that the Owner/Developer is in non-compliance with the City Code.

**Section 4.** Effective Date. This Ordinance shall take effect upon adoption on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 7<sup>th</sup> day of September 2021.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

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

By: \_\_\_\_\_  
Jared Grifoni, Chair

Approved as to form and legal sufficiency:

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Alan L. Gabriel, City Attorney