



## Legislation Details (With Text)

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**On agenda:** 12/6/2021    **Final action:** 12/6/2021  
**Title:** Appeal of Planning Board Decision (APBG-21-000256) - Boat Dock Extension Request (BD-21-000177) to Extend a Dock to Forty-Two-feet as shown on the plans for the property located at 986 Sundrop Court, Marco Island, FL 34145

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Marco Island Quasi, 2. Marco Island Quasi Judicial Proceedings (FNL - 10-28-21), 3. Material submitted for Sept. 3, 2021 PB and updated staff report, 4. Staff Report, 5. Planning Board Resolution 21-46 Denial 986 Sundrop, 6. Planning Board 9-3-21 Minutes, 7. Application, Exhibits A-C, Attachments 1-2, 8. Letter of Objection - 980 Sundrop Court, 9. Addendum to Letter of Objections Signed with Exhibit A, 10. Letter of Objection - 983 Sundrop Court, 11. Letter of Objection E-mailed to Planning Board, 12. Objection to Boat Dock Extension Application, 13. Re: Public Notice to Adjacent Neighbors 15 days Prior to 9-3-21 - Mailing Return - NOT for Granicus, 14. Reply to Staff, 15. Applicant Appeal of Planning Board Denial for BD, 16. Applicant Appeal 11-19-21 Submittal, 17. Notice of Appeal, 18. Response in Opposition to McBride's Motion in Limine v2, 19. Signed Affidavit with Exhibits, 20. Objections and Support for Appeal of the Denial of BD, 21. Dr. Rajani Thangavelu-Notice of opposition, 22. McBride Opposition and Notice, 23. McBride Appellees motion in limine, 24. Espy Notices, 25. Glass-Bowman Notice of Affected Persons and appeal, 26. FW\_ 986 Sundrop Court appeal -- OPPOSITION REASONING, 27. FW\_ SUPERYACHT, 28. FW\_ SUPPORT Petition BD-21-000177\_ 986 Sundrop Ct Marco Island, 29. Petition BD-21-00177 966 Sundrop Court Marco Island\_ FL PPEAL OF RESOLUTION 21-46 DENYING PETITION, 30. Petition-BD-21-000177\_ 986\_ Sundrop\_ Court, 31. RE DOCK APPEAL\_ Notice of Appeal to City Council and Appeal of Planning, 32. RE\_ 986 Sundrop Court appeal -- OPPOSITION REASONING, 33. sundrop ct, 34. Support Petition BD-21-000177\_ 986 Sundrop Court\_ Marco Island\_ FL, 35. Support Petition BD-21-000177\_ 986 Sundrop Court\_ Marco Island\_ FL\_ Appeal of Resolution 21-46 Denying Petition BD-21-000177, 36. SUPPORT Petition BD-21-000177\_ 986 Sundrop Ct Marco Island

Date	Ver.	Action By	Action	Result
12/6/2021	1	City Council	Approved	Pass

Agenda Item: 3	Prepared By: Daniel J. Smith, AICP, Director
Business: Appeal of Planning Board Decision	Department: Growth Management

**Subject:**

Appeal of Planning Board Decision (APBG-21-000256) - Boat Dock Extension Request (BD-21-000177) to Extend a Dock to Forty-Two-feet as shown on the plans for the property located at 986 Sundrop Court, Marco Island, FL 34145

**BACKGROUND:**

**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 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.

#### **FUNDING SOURCE / FISCAL IMPACT:**

Applicant has paid \$2,500.00 in applicable fees.

#### **RECOMMENDATION:**

#### **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.

#### **POTENTIAL MOTION:**

As deemed appropriate.