

ORDINANCE 19-12

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE; AMENDING SECTION 30-10, OF THE CODE OF ORDINANCES BY ADDING A DEFINITION FOR "NEIGHBORHOOD INFORMATION MEETING"; AMENDING SECTION 30-673 OF THE CODE OF ORDINANCES; REVISING THE SITE DEVELOPMENT PLAN AND SITE IMPROVEMENT PLAN SUBMITTAL REQUIREMENTS; PROVIDING FOR A NEIGHBORHOOD INFORMATIONAL MEETING (NIM) WITH REGARD TO SITE IMPROVEMENT PLANS, SITE DEVELOPMENT; PROVIDING FOR INCLUSION IN THE CITY CODE; PROVIDING FOR SEVERABILITY / INTERPRETATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 30-62(c)(3)d. of the Land Development Code, the Planning Board finds that the need and justification for this Ordinance is to provide a better source of information to the general public for potentially controversial, complicated, or large projects wherein the general public can be given an opportunity to learn about a project before public hearings commence; and

WHEREAS, the Planning Board further finds that this Ordinance will improve public participation in the development review process; and

WHEREAS, Section 163.3174(4)(c), Florida Statutes, provides:

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.

(emphasis added); and

WHEREAS, Section 163.3194(2) and (3)(a), Florida Statutes, provides:

(2) After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development regulation commission created pursuant to local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(emphasis added); and

WHEREAS, the Planning Board, in its capacity as the Local Planning Agency, and pursuant to Section 30-62(c)(3)d. of the Land Development Code, has reviewed the City's Comprehensive Plan, and finds that this proposed Ordinance is generally consistent with the Comprehensive Plan and recommends approval by the City Council; and

WHEREAS, City Council finds that some provisions of Section 30-673 should be revised to provide for a neighborhood information meeting at the site plan stage of development permitting.

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

SECTION 1. Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct, and reflective of the legislative intent underlying this Ordinance.

SECTION 2. City Code Amended. That Section 30-10 of the Land Development Code of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

Sec. 30-10. - Definitions.

* * *

(c) *Definitions enumerated.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Navigable waterway means any salt or brackish body of water, whether natural or manmade, which is tidal in nature, and is wide enough, deep enough, or free enough from obstructions to be traveled on by vessels and is connected to another navigable waterway. A navigable waterway does not include any portion of a cut-in boat slip created on a privately owned residential property; provided that said cut-in slip will comply with all federal and state requirements and permits, including, but not limited to the requirements and permits of the state department of environmental protection and the U.S. Army Corps of Engineers.

Neighborhood information meeting (NIM) means a meeting open to the public and provided by the applicant for a development permit, land development regulation, or comprehensive plan amendment, which provides detailed information of the applicant's proposal and provides a forum for the provision of answers to questions about the application posed by the general public.

Newspaper of general circulation means a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices, or a newspaper that is given away primarily to distribute advertising. To be a newspaper of general circulation as required by F.S. § 50.031, the newspaper shall have been in existence for one year and shall have been entered as periodicals matter at a post office in the county where published, or in a newspaper which is a direct successor of a newspaper which together have been so published.

* * *

SECTION 3. City Code Amended. That Section 30-673 of the Land Development Code of the Code of Ordinances, City of Marco Island, Florida, is hereby amended to read as follows:

Sec. 30-673. - Site development plan, site development plan amendments, and site improvement plan submittal requirements.

The Planning Board shall review and make a recommendation to the city council who shall review and make the final decision on all site development plans, site development plan amendments, and site improvement plans in accordance with the following standards and/or submittal requirements:

- (1) Documentation shall be provided to evidence ownership and control of the property and the development, as well as information regarding easements and related encumbrances. Documents will substantiate the use and permanent maintenance of common open space, common facilities, conservation/preservation areas, and other

similar common lands in order to ensure the preservation of such lands and facilities, so as not to create future liability unto the city.

(2) Development compliance with all appropriate zoning regulations and the comprehensive plan. Ingress and egress to the proposed development and its proposed improvements shall include provisions and designs for vehicular and pedestrian safety, separation of vehicular traffic from pedestrian and other traffic, traffic flow and control, traffic calming devices, provision of private and/or public utilities and refuse collection, and access in case of fire, catastrophe or other emergency. Moreover, ingress and egress to development projects and along city roadways shall be in conformance with the current county or city access management ordinance and practices and criteria promulgated by the state department of transportation.

(3) The location and relationship of parking and loading facilities shall complement and optimize traffic conditions on city streets. Internal traffic patterns within the proposed development shall include provisions for vehicular and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, screening and landscaping.

(4) Adequacy of proposed or required recreational facilities and open spaces considering the size, location, and development of these areas with regard to effect on adjacent and nearby properties as well as uses within the proposed development, and the relationship to community-wide open spaces and recreation facilities.

(5) Adequacy of proposed landscape screens and buffers considering preservation of the development's internal land uses as well as compatibility with adjacent land uses.

(6) Water management master plan or stormwater provisions and designs on the property, considering adverse impacts on adjacent and nearby properties and the consequences of such water management master plan or stormwater discharges on overall city drainage capacities within and external to private and public drainage easements and alley and road right-of-way. Water management areas shall be required to be maintained in perpetuity by the property owner or assigned legal entity(ies) according to the approved plans. Water management areas not maintained shall be corrected according to approved plans within 30 days. The engineer of record, prior to final acceptance of constructed improvements by the city, shall provide documentation from the stormwater maintenance entity clearly evidencing that said entity has been provided information on how the stormwater system(s) functions and indicating responsibility for maintenance of the system(s).

(7) Signage proposed for the project shall be in conformity with the sign code and a unified sign permit application shall be included with the submittal packet for the site development or site improvement plan.

(8) Architectural design of the building(s) for all commercial and multi-family developments shall meet applicable city codes and regulations.

(9) Such other standards as may be imposed by this article, the comprehensive plan or other applicable regulations for the particular use or activity proposed.

(10) Neighborhood Information Meeting (NIM).

(A) When a site development plan, site plan amendment, or site improvement plan involves a mixed use project, a variance, or deviations from the LDC, the director shall require a NIM at the applicant's expense which will usually be held at least thirty (30) days prior to the first public hearing on application. The applicant is to provide to the director within not more than fifteen (15) days after the holding of the NIM an audio recording and a summary transcript of the NIM to the City as part of the application.

(B) Advertisement for the NIM shall be noticed in a newspaper of general circulation at least fifteen (15) days prior to the NIM as provided in section 30-62(f)(3)a. Courtesy notices are also required. The mailed notice shall be sent fifteen (15) days prior to the NIM mailed to all real property owners of real property any part of which is located within 300 feet of the real property subject to a development permit application in the manner set forth in section 30-62(f)(2). A copy of any notice required by this paragraph (10) shall be kept available for public inspection during regular business hours of the office of clerk to city council once said notice is filed with the clerk.

SECTION 4. Codification. It is the intention of the City Council that the amendments to the City of Marco Island Code of Ordinances made by this Ordinance shall constitute a revised Section 30-673 of the City of Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered and re-lettered as necessary, and that the word "Ordinance" may be changed to "Section", "Article" or other appropriate word, by the codifier.

SECTION 5. 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 of this Ordinance, and this Ordinance shall be read and 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.

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SECTION 6. Effective Date. This Ordinance shall become effective upon its adoption.


ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND on this 15th day of April 2019.

ATTEST:



Laura M. Litzari, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:



Alan L. Gabriel, City Attorney