

ORDINANCE NO. 9167-18

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, VACATING A PORTION OF GULFVIEW BOULEVARD RIGHT-OF-WAY LYING IN THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 29 SOUTH, RANGE 15 EAST, PINELLAS COUNTY, FLORIDA SUBJECT TO SPECIAL CONDITIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Gulfview Lodging, LLP (“Developer” or “Owner”) and the City of Clearwater (“City”) entered into that certain Hotel Density Reserve Development Agreement dated July 28, 2017 (“Development Agreement”) and in accordance therewith, a proposed number of density units were granted to Developer contingent upon the proposed vacation of 2,195.09 square feet of South Gulfview Boulevard right-of-way (“Right-of-way”) within the Beach Walk District; and

WHEREAS, on October 17, 2017 the City of Clearwater Community Development Board (“CDB”) reviewed and approved the Developer’s application for Flexible Development and the Development Agreement subject to various conditions including the vacation of the Right-of-way; and

WHEREAS, the City subsequently issued related Development Order – Case FLD2017-07012 dated February 8, 2018, wherein it is contemplated that the Clearwater City Council would need to approve a right-of-way vacation ordinance, vacating said Right-of-way; and

WHEREAS, the CDB’s approval was subsequently appealed through the legal process by a third-party and as of the date of this ordinance, remains pending (the “Litigation”); and

WHEREAS, pursuant to the Clearwater Community Development Code (“CDC”), Section 4-502(B), the filing of the appeal stays the CDB approval pending final determination of the case; and

WHEREAS, condition 1, (below) of the vacation of the Right-of-way as contemplated hereunder shall be stayed at any and all times of pending appeal or legal action, despite, and not impacting, the effective date of this ordinance; and

WHEREAS, the Owner in fee title of real property abutting the Right-of-way described and depicted in Exhibit "A" attached hereto, has now formally requested that the City vacate said Right-of-way; and

WHEREAS, the City Council of the City of Clearwater, Florida finds that said right-of-way is not necessary for municipal use and it is deemed to be in the best interest of the City and the general public that the same be vacated; and

WHEREAS, should the final legal determination of the Litigation or any other issue whatsoever cause the termination or abandonment of the project which is subject of the Development Agreement and Development Order (the "Project"), the vacation of the Right-of-way shall not become effective; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF CLEARWATER, FLORIDA:

Section 1. The following:

A right-of-way described as follows:

See Exhibit "A"

is hereby vacated, closed and released, and the City of Clearwater releases all of its right, title and interest thereto, contingent upon, and subject to, the following conditions precedent:

1. Vertical construction of the Project shall commence within two (2) years of the effective date of this ordinance (the "Commencement Period"); provided however, the Commencement Period shall be tolled for each day that either the Development Order, the Development Agreement, or this Ordinance is subject to litigation (including any appeal periods), any petitions for writ of certiorari (including any appeal periods), administrative challenges (including any appeal periods), or local challenges (including any appeal periods).
2. All public and private utilities shall be relocated without interrupting service by Gulfview Lodging, LLP at its own expense and to the approval and acceptance of the utility owners and with all out of service utilities removed prior to the completion of the project.
3. This vacation ordinance shall be rendered null and void and the vacation of the Right-of-way not effective if any of the preceding conditions are not met, or, if for any reason whatsoever, including the outcome of the Litigation, the Project is abandoned, terminated or otherwise not constructed.

Section 2. The City Clerk shall record this ordinance in the Public Records of Pinellas County, Florida, following adoption.

Section 3. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL
READING AND ADOPTED

George N. Cretekos
Mayor

Approved as to form:

Attest:

Laura Lipowski Mahony
Assistant City Attorney

Rosemarie Call
City Clerk