



Legislation Details (With Text)

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Type: Action Item **Status:** Passed
File created: 9/17/2020 **In control:** Planning & Development
On agenda: 10/1/2020 **Final action:** 10/1/2020
Title: Approve the proposed first amendment to an existing Development Agreement between the City of Clearwater and East Shore International Enterprises, LLC and 411ES, LLC which provides a one-year extension for site plan approval; adopt Resolution 20-41, and authorize the appropriate officials to execute same. (HDA2019-03001; 400/405/408/409/411 East Shore Drive).

Sponsors:

Indexes:

Code sections:

Attachments: 1. 01_extension_request.pdf, 2. 02_First_Amendment_to_HDA.pdf, 3. 03_Exhibit_1_signed_agreement.pdf, 4. 04_Exhibit B_Plans_Elevations.pdf, 5. 05_Res_20-41.pdf

Date	Ver.	Action By	Action	Result
10/1/2020	1	City Council		
9/28/2020	1	Council Work Session		

SUBJECT/RECOMMENDATION:

Approve the proposed first amendment to an existing Development Agreement between the City of Clearwater and East Shore International Enterprises, LLC and 411ES, LLC which provides a one-year extension for site plan approval; adopt Resolution 20-41, and authorize the appropriate officials to execute same. (HDA2019-03001; 400/405/408/409/411 East Shore Drive).

Development Proposal:

No changes have been made to the proposed first amendment to an existing Development Agreement presented at the September 17, 2020 City Council meeting.

Brian J. Aungst, representative of 411ES LLC (property owner), is requesting a one-year time extension for site plan approval of the approved Hotel Development Agreement (HDA2019-03001) for the referenced project located at 400/405/408/409/411 East Shore Drive.

On July 18, 2019, the City Council approved a Development Agreement along with a concept plan and elevations as part of application HDA2019-03001. Consistent with applicable Florida Statutes and the City's Community Development Code the agreement was transmitted to the Florida Department of Economic Opportunity on August 1, 2019 rendering the effective date August 31, 2019.

Pursuant to Section 6.1.3.3 of the agreement, "The Developer shall obtain appropriate site plan approval pursuant to a Level One or Level Two development application within one (1) year from the effective date of this Agreement..."

Based on the City's Level II Flexible Development application schedule the latest Community Development Board Meeting at which site plan approval could have been granted prior to the expiration of the Agreement (August 31, 2020) was August 20, 2020. This would have required the submittal of a complete application on

or before the application deadline of noon June 1, 2020.

The applicant provides that they were unable to submit a complete application by the above noted application deadline date of noon June 1, 2020. It should be noted that the August CDB meeting was cancelled. It should also be noted that the applicant does have a complete Flexible Development application (FLD2020-05012) which was reviewed at the Development Review Committee meeting of September 3, 2020.

The granting of the one-year time extension request will amend Section 6.1.3.2 as follows:

6.1.3.2 The Developer shall obtain appropriate site plan approval pursuant to a Level One or Level Two development application within ~~one (1) year~~ two (2) years from the effective date of this Agreement in accordance with the provisions of the Code and shall then obtain appropriate permits and certificates of occupancy in accordance with the provisions of the Code. Nothing herein shall restrict Developer from seeking an extension of site plan approval or other development orders pursuant to the Code or state law. In the event that work is not commenced pursuant to issued permits, or certificates of occupancy are not timely issued, the City may deny future development approvals and/or certificates of occupancy for the Project and may terminate this Agreement in accordance with Section 10.

No changes to the approved conceptual site plan or elevations are proposed. The approved development agreement provides for the demolition of all structures on the 1.115-acre site and building a single, six-floor hotel with 74 hotel rooms (66.367 units per acre) and a 57-slip marina facility with 22 slips available to the public and 35 slips available only to guests of the hotel. The 74 proposed units include 55 units otherwise permitted by the Resort Facilities High Future Land Use classification, an additional eight units from the Hotel Density Reserve through *Beach by Design* and an additional 11 units which the applicant intends to transfer to the site through a Level Two Transfer of Development Rights application. The building will be 65 feet in height (from Base Flood Elevation) to roof as otherwise permitted utilizing the Height Bonus Schedule for the Marina District of *Beach by Design* for property totaling one acre or more on both sides of East Shore Drive and the provision of a publicly accessible Boardwalk. The proposal includes a tropical modern architecture, which is consistent with and complements the tropical vernacular envisioned in *Beach by Design*.

Changes to Development Agreements:

Pursuant to Section 4-606.I., CDC, a Development Agreement may be amended by mutual consent of the parties, provided the notice and public hearing requirements of Section 4-206 are followed. The amendment to the approved agreement is solely to extend the time frame by which time site plan approval must be obtained by one year to August 31, 2021.