



Legislation Text

File #: ID#18-5526, Version: 1

SUBJECT/RECOMMENDATION:

Approve the proposed first amendment to an existing Development Agreement between NESC, LLC (the property owner) and the City of Clearwater for property located at 443 East Shore Drive, which includes a revision to the number of overnight accommodation units, revision of the notice addresses for the developer, revision of Exhibit B to provide new conceptual site plans and elevations; adopt Resolution 19-01 and authorize the appropriate officials to execute same. (HDA2012-03001A)

SUMMARY:

Site Location and History:

The 1.26-acre subject property is located at the northeast corner of East Shore Drive and Papaya Street. The site is zoned Tourist (T) District with an underlying Future Land Use Plan (FLUP) category of Resort Facilities High (RFH) and is located within the Marina District of *Beach by Design*.

On June 19, 2012, the Community Development Board approved a project consisting of 134 overnight accommodation units, a 6,500 square foot restaurant, a 50-slip marina, and 15-foot wide boardwalk along the seawall of the property. Subsequently, at its meeting of July 27, 2012, the City Council entered into a Development Agreement with the developer of this project, and as part of this Agreement the Council assigned 71 units from the Hotel Density Reserve to the project to achieve 134 overnight accommodation units.

Development Proposal:

Since the city council meeting of December 6, 2018, the applicant has revised the Development Agreement to provide for a limitation on amplified music as requested by Council.

The proposal includes an increase in the number of overnight accommodation units within the project from 134 to 139 via two separate Transfers of Development Rights of two and three units each. The additional rooms are to be accommodated within previously approved "cabana units," which were not considered to be rooms for overnight stay, and as such there is no expansion of the building needed to accommodate these new rooms. The development already includes sufficient off-street parking to meet the requirement of the additional rooms. The changes to the Development Agreement are listed below.

- The 7th recital is deleted and replaced to provide for an updated room count;
- Section 4.1 is deleted and replaced to provide for an updated room count and density;
- Section 6.1.8 is added to provide a limitation on amplified music at the hotel after 11:00 p.m. on Sunday through Thursday, and after 12:00 midnight on Friday and Saturday;
- Section 13: the addresses for the Developer are deleted and replaced with updated information; and,
- Exhibit "B" is deleted and replaced with updated site and building places reflecting the updated room count.

Consistency with the Community Development Code (CDC):

At its meeting of June 19, 2012, the Community Development Board found the development proposal to be consistent with the applicable provisions of the CDC. No aspect of those provisions is being modified as part of this proposal.

Consistency with *Beach by Design*:

At its meeting of June 19, 2012, the Community Development Board found the development proposal to be

consistent with the applicable provisions of *Beach by Design*. No aspect of those provisions is being modified as part of this proposal.

Hotel Density Reserve:

The project was previously reviewed for compliance with those criteria established within *Beach by Design* concerning the allocation of hotel rooms from the Reserve and the project was found to be consistent with those criteria, including that the development comply with the Metropolitan Planning Organization's (MPO) countywide approach to the application of traffic concurrency management for transportation facilities.

Standards for Development Agreements:

The proposal is in compliance with the standards for development agreements, is consistent with the Comprehensive Plan and furthers the vision of beach redevelopment set forth in *Beach by Design*. The proposed first amended and restated amendment to the existing Development Agreement will be in effect for a period not to exceed ten years, meets the criteria for the allocation of rooms from the Hotel Density Reserve under *Beach by Design* and includes the following main provisions:

- Provides for no change in the number of units (71 units) allocated from the Hotel Density Reserve (previously approved as part of DVA2012-03008/Resolution No. 12-07);
- Revises Exhibit B which includes new conceptual site plans, architectural drawings, elevations and perspectives;
- Requires the developer to obtain building permits within one year of approval of the amended and restated Development Agreement and certificates of occupancy in accordance with CDC Section 4-407;
- Requires the return of any hotel unit obtained from the Hotel Density Reserve that is not constructed;
- For units allocated from the Hotel Density Reserve, prohibits the conversion of any hotel unit to a residential use and requires the recording of a covenant restricting use of such hotel units to overnight accommodation usage; and,
- Requires a legally enforceable mandatory evacuation/closure covenant that the hotel will be closed as soon as practicable after a hurricane watch that includes Clearwater Beach is posted by the National Hurricane Center.

Changes to Development Agreements:

Pursuant to CDC Section 4-606.I., a Development Agreement may be amended by mutual consent of the parties, provided the notice and public hearing requirements of CDC Section 4-206 are followed. Revisions to conceptual site plans and/or architectural elevations attached as exhibits to this Development Agreement shall be governed by the provisions of CDC Section 4-406. Minor revisions to such plans may be approved by the Community Development Coordinator. Other revisions not specified as minor shall require an amendment to this Development Agreement.

The Planning and Development Department is recommending approval of this First Amendment to the Development Agreement.