



## Legislation Text

File #: ID#21-9993, Version: 1

### SUBJECT/RECOMMENDATION:

Approve the proposed second amendment to an existing Development Agreement between the City of Clearwater and 411ES, LLC, which provides for certain changes to the conceptual site plan and elevations and increases the overall number of hotel units and height proposed for the subject site; adopt Resolution 21-26 and authorize the appropriate officials to execute same. (HDA2019-03001B; 400/405/408/409/411 East Shore Drive).

### SUMMARY:

No changes have been made to the proposed second amendment to an existing Development Agreement, as amended, presented at the November 18, 2021, City Council meeting.

The applicant is requesting a second amendment to the Development Agreement with the following main changes:

- An increase in the overall number of hotel units from 74 to 91.
- An increase in height from 65 feet to 80 feet.
- An overall decrease in the number of slips from 55 to 50 slips; a decrease in number of publicly accessible slips from 22 to eight and an increase in the number of commercial dock slips from 35 to 42 slips.
- An increase in parking from 100 spaces to a minimum of 113 spaces.

The current proposal is to demolish all structures on the 1.115-acre site and build a single, eight-floor hotel with 91 hotel rooms (81.64 units per acre) and a marina and marina facility with up to eight-slips. The applicant desires the ability and flexibility to be able to sell, rent or lease any or all of the eight noted slips to the general public, which would constitute a marina and marina facility, or, conversely, use any or all the slips as strictly accessory to the hotels which would render any such slip a commercial dock. The remaining 42 slips shown will be accessory to the hotel and considered a commercial dock. A maximum of 50 slips are proposed.

The following uses are defined in the Community Development Code (CDC) Article 8, which would be applicable to this application:

1. A commercial dock is any dock, pier, or wharf, including boatlifts, that is used in connection with a hotel, motel, or restaurant where the slips are not rented, leased, or sold. The CDC provides specific criteria applicable to commercial docks in Section 3-603.C.3.
2. A marina is any structure constructed on pilings over open water or supported by flotation on the water which provides three or more boat slips for the purpose of sale or lease.
3. A marina facility is a use of land involved in the operation of a marina including structures and activities

normally integral to the operation of a marina, such as servicing, fueling, pumping-out, chartering, launching, and dry-storage of boats and boating equipment. The CDC provides specific criteria applicable to marinas and marina facilities in Sections 2-803.G and 3-603.A through J.

The applicant has committed that any personal watercrafts (PWCs) stored at this facility will only be made available to guests of the hotel as an accessory use to the hotel and not to the general public. In addition, the applicant will maintain and oversee the use of all slips whether rented, sold, or leased and will specifically prohibit the establishment of any commercial uses or enterprises.

The 91 proposed units include 55 units otherwise permitted by the Resort Facilities High future land use category, eight units previously allocated from the Hotel Density Reserve through *Beach by Design* (HDA2019-03001) and a total of 28 transferred hotel units. Eleven units have previously been approved for use with the approval of TDR2020-05001 and were also included in the total room count of the original Development Agreement (HDA2019-03001, as amended). The applicant intends to submit a Level II Flexible Development application requesting approval for the use of an additional 17 transferred hotel units. It is important to note applications FLD2020-05012 and TDR2020-05001 will need to be amended.

The primary changes to the Development Agreement approved as HDA2019-03001 (as amended) are limited to the following components:

- Recitals: Updated to reflect the specifics of the requested amendment and to reflect pertinent prior events and approvals including the approvals of HDA2019-03001A, FLD2020-05012 and TDR2020-05001.
- Section 4.1: Updated to reflect the increase in total units from 74 to 91, the overall number of units to be derived from a transfer of development rights (28 hotel units) and a decrease in the number of publicly accessible slips from 22 to eight.
- Section 4.2: Updated to reflect an increase in the total number of provided parking spaces from 100 to a minimum of 113.
- Section 4.4: Updated to reflect the increase in height from 65 feet to 80 feet.
- Exhibit B: Updated with the revised conceptual site plan and elevations.

No other changes are proposed to the agreement. Specifically, no changes are made to any restriction placed on the property regarding operations of the marina and marina facility component, the prohibition on full kitchens and limitations on amplified music. The agreement also continues to include specific language for the inclusion of the public boardwalk and public access walkway.

### **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.

### **Summary and Recommendation**

The proposal appears to be generally consistent with applicable components of the Community Development Code and *Beach by Design* and staff is supportive of the request.