

ORDINANCE NO. 7546-06

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA MAKING AMENDMENTS TO BEACH BY DESIGN: A PRELIMINARY DESIGN FOR CLEARWATER BEACH AND DESIGN GUIDELINES; BY AMENDING SECTION II. FUTURE LAND USE, SUBSECTION A. THE "OLD FLORIDA" DISTRICT BY REVISING THE USES, BUILDING HEIGHTS, STEPBACKS, SETBACKS, LANDSCAPING AND PARKING ACCESS ALLOWED IN THE DISTRICT; BY AMENDING SECTION II. FUTURE LAND USE, SUBSECTION C. MARINA RESIDENTIAL DISTRICT BY DELETING THE REFERENCE TO A LIVE/WORK PRODUCT; BY AMENDING SECTIONS V.B AND VII.A BY CLARIFYING TRANSFER OF DEVELOPMENT RIGHT PROVISIONS; BY INCREASING ALLOWABLE RESORT/OVERNIGHT ACCOMMODATIONS DENSITY FROM 40 TO 50 UNITS PER ACRE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the economic vitality of Clearwater Beach is a major contributor to the economic health of the City overall; and

WHEREAS, the public infrastructure and private improvements of Clearwater Beach are a critical part contributing to the economic vitality of the Beach; and

WHEREAS, substantial improvements and upgrades to both the public infrastructure and private improvements are necessary to improve the tourist appeal and citizen enjoyment of the Beach; and

WHEREAS, the City of Clearwater has invested significant time and resources in studying the Old Florida District of Clearwater Beach; and

WHEREAS, *Beach by Design*, the special area plan governing Clearwater Beach, contains specific development standards and design guidelines for areas of Clearwater Beach that need to be improved and/or redeveloped; and

WHEREAS, *Beach by Design* was not clear with regard to the "preferred uses" and was not reflective of the existing uses located in the Old Florida District of Clearwater Beach, and

WHEREAS, *Beach by Design* limited overnight accommodations greater than the Comprehensive Plan and the City of Clearwater desires to incentivize new overnight accommodation development; and

WHEREAS, Transfer of Development Rights (TDR) need further clarification in *Beach by Design*; and

WHEREAS, the City of Clearwater has the authority pursuant to Rules Governing the Administration of the Countywide Future Land Use Plan, as amended, Section 2.3.3.8.4, to adopt and enforce a specific plan for redevelopment in accordance with the Community Redevelopment District plan category, and said Section requires that a special area plan therefore be approved by the local government; and

WHEREAS, the proposed amendment to *Beach by Design* has been submitted to the Community Development Board acting as the Local Planning Authority (LPA) for the City of Clearwater; and

WHEREAS, the Local Planning Agency (LPA) for the City of Clearwater held a duly noticed public hearing and found that amendments to *Beach by Design* are consistent with the Clearwater Comprehensive Plan; and

WHEREAS, *Beach by Design* was originally adopted on February 15, 2001 and subsequently amended on December 13, 2001, now therefore,

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

Section 1. Beach by Design: A Preliminary Design for Clearwater Beach and Design Guidelines, Section II. Future Land Use, Subsection A. The "Old Florida" District, is amended as follows:

A. The "Old Florida" District

The Old Florida District, which is the area between Acacia the rear lot lines of property on the north side of Somerset Street and Rockaway Street, is an area of transition between resort uses in Central Beach to the low intensity residential neighborhoods to the north of Acacia Street. Existing uses are generally the same as the balance of the Beach. However, the scale and intensity of the area, with relatively few exceptions, is substantially less than comparable areas to the south. The mix of uses primarily includes residential, recreational, overnight accommodations and institutional uses. Given the area's location and historical development patterns, this area should continue to be a transitional District. To that end, Beach by Design supports the development of new overnight accommodations and attached dwellings throughout the District with limited retail/commercial and mixed use development fronting Mandalay Avenue between Bay Esplanade and Somerset Street. Additionally waterfront restaurants are encouraged to remain and/or locate on property fronting the Gulf of Mexico. Beach by Design also supports the continued use and expansion of the various institutional and public uses found throughout the District.

To ensure that the scale and character of development in Old Florida provides the desired transition between the adjacent tourist and residential areas, enhanced site design performance is a priority. Beach by Design contemplates greater setbacks and/or building setbacks and enhanced landscaping for buildings exceeding 35 feet in

height. The following requirements shall apply to development in the Old Florida District and shall supersede any conflicting statements in Section VII. Design Guidelines and the Community Development Code:

1. Maximum Building Heights.

- a. Buildings located on the north side of Somerset Street shall be permitted a maximum building height of 35 feet;
- b. Buildings located on the south side of Somerset Street and within 60 feet of the southerly right-of-way line of Somerset Street shall be permitted a maximum building height of 50 feet; and
- c. Property throughout the remainder of the Old Florida District shall be permitted a maximum building height of 65 feet for attached dwellings and 75 feet for overnight accommodations.
- d. Properties legally approved and/or constructed as of the date of adoption of this ordinance which exceed the allowable heights established in the provisions above, shall be considered legally conforming unless voluntarily redeveloped or in the case of a development order only, expiration of the valid development order. A development order may be extended pursuant to Community Development Code Section 4-407.

2. Minimum Required Setbacks.

- a. A 15 foot front setback shall be required for all properties throughout the District, except for properties fronting on Mandalay Avenue, which may have a zero (0) foot front setback for 80% of the property line; and
- b. A ten (10) foot side and rear setback shall be required for all properties throughout the District, except for properties fronting on Mandalay Avenue, which may have a zero (0) foot side setback and a ten (10) foot rear setback.

3. Required Building Stepbacks or Alternative Increased Setbacks for Buildings Exceeding 35 Feet in Height.

- a. Building stepback means a horizontal shifting of the building massing towards the center of the building.

- b. Any development exceeding 35 feet in height shall be required to incorporate a building stepback on at least one side of the building (at a point of 35 feet) or an increased setback on at least one side of the building in compliance with the ratios provided in Section A.3.f. Additional stepbacks and/or setbacks may be required to provide additional separation between buildings and/or to enhance view corridors.
- c. All properties (except those fronting on Mandalay Avenue) which front on a right-of-way that runs east and west, shall provide a building stepback on the front side of the building, or an increased front setback in compliance with the ratios provided in Section A.3.f. Additional stepbacks and/or setbacks may be required to provide additional separation between buildings and/or to enhance view corridors.
- d. All properties (except for properties fronting on Mandalay Avenue) which front on a right-of-way that runs north and south, shall provide a building stepback on the side of the building or an increased side setback in compliance with the ratios provided in Section A.3.f. Additional stepbacks and/or setbacks may be required to provide additional separation between buildings and/or to enhance view corridors.
- e. Properties fronting on Mandalay Avenue must provide a building stepback on the front side of the building or an increased front setback in compliance with the ratios provided in Section A.3.f. Additional stepbacks and/or setbacks may be required to provide additional separation between buildings and/or to enhance view corridors.
- f. Stepback/Setback Ratios
- (1) For properties fronting on streets that have a right-of-way width less than 46 feet, the stepback/setback/height ratio is one (1) foot for every two (2) feet in building height above 35 feet;
 - (2) For properties fronting on streets that have a right-of-way width between 46 and 66 feet, the stepback or setback/height ratio is one (1) foot for every two and one-half (2.5) feet in building height above 35 feet; and
 - (3) For properties fronting on streets that have a right-of-way width of greater than 66 feet, the stepback or setback/height ratio is one (1) foot for every three (3) feet in building height above 35 feet.

4. Flexibility of Setbacks/Stepbacks for Buildings in Excess of 35 Feet in Height.

a. Setbacks

- (1) Except for properties fronting on Mandalay Avenue, a maximum reduction of five (5) feet from any required setback may be possible if the decreased setback results in an improved site plan, landscaping areas in excess of the minimum required and/or improved design and appearance; and
- (2) To ensure that unimpaired access to mechanical features of a building is maintained, a minimum five (5) foot unobstructed access must be provided along the entire side setback of properties, except those for those properties fronting on Mandalay Avenue where a zero (0) foot setback is permissible; and
- (3) Setbacks can be decreased at a rate of one (1) foot in required setback per two (2) feet in additional required stepback, if desired.

b. Stepbacks

- (1) A maximum reduction of five (5) feet from any required building stepback may be possible if the decreased building stepback results in an improved site plan, landscaping areas in excess of the minimum required and/or improved design and appearance.
- (2) Building stepbacks can be decreased at a rate of two (2) feet in stepback per one (1) foot in additional required setback, if desired.

5. Flexibility of Setbacks for Buildings 35 Feet and Below in Height.

- a. A maximum reduction of ten (10) feet from any required front ~~or rear~~ setback and a maximum reduction of five (5) feet from any side setback may be possible if the decreased setback results in an improved site plan, landscaping areas in excess of the minimum required and/or improved design and appearance; and
- b. A maximum reduction of five (5) feet from any required rear setback for buildings and a maximum reduction of ten (10) feet from any required rear setback for accessory at-grade structures may be possible if the decreased setback results in an improved site plan, landscaping areas in excess of the minimum required and/or improved design and appearance; and

- c. In all cases, a minimum five (5) foot unobstructed access must be provided along the side setback of properties, except for those properties fronting Mandalay Avenue where a zero (0) foot setback is permissible.

6. Landscape Buffers

- a. A ten (10) foot landscape buffer is required along the street frontage of all properties, except for that portion of a property fronting on Mandalay Avenue, and except for properties 35 feet and below in height that may be granted flexibility in the required setback, in which case the entire setback shall be landscaped; and
- b. For that portion of a property fronting on Mandalay Avenue, a zero (0) foot setback may be permissible for 80% of the property frontage. The remaining 20% property frontage is required to have a landscaped area for a minimum of five (5) feet in depth. The 20% may be located in several different locations on the property frontage, rather than placed in only one location on the property frontage.

7. Parking/Vehicular Access

Lack of parking in the Old Florida District may hinder revitalization efforts. A shared parking strategy may be pursued in order to assist in redevelopment efforts.

For those properties fronting on Mandalay Avenue, off-street parking access is required from a side street or alley and not from Mandalay Avenue.

The mix of uses in the District favors residential more than other parts of Clearwater Beach and retail uses are primarily neighborhood serving uses. Given the area's location and existing conditions, Beach by Design contemplates the renovation and revitalization of existing improvements with limited new construction where renovation is not practical. New single family dwellings and townhouses are the preferred form of development. Densities in the area should be generally limited to the density of existing improvements and building height should be low to mid-rise in accordance with the Community Development Code. Lack of parking in this area may hinder revitalization of existing improvements particularly on Bay Esplanade. A shared parking strategy should be pursued in order to assist revitalizations efforts.

Section 2. Beach by Design: A Preliminary Design for Clearwater Beach and Design Guidelines, Section II. Future Land Use, Subsection C. "Marina Residential" District, is amended as follows:

In the event that lot consolidation under one owner does not occur, Beach by Design contemplates the City working with the District property owners to issue a request for proposal to redevelop the District in the consolidated manner identified above. If this approach does not generate the desired consolidation and redevelopment, Beach by Design calls for the City to initiate a City Marina DRI in order to facilitate development of a marina based neighborhood subject to property owner support. If lot consolidation does not occur within the District, the maximum permitted height of development east of East Shore will be restricted to two (2) stories above parking and between Poinsettia and East Shore could extend to four (4) stories above parking. ~~An additional story could be gained in this area if the property was developed as a live/work product.~~

Section 3. Beach by Design: A Preliminary Design for Clearwater Beach and Design Guidelines, Section V. Catalytic Projects, Subsection B. Community Redevelopment District Designation, is amended as follows:

Beach by Design recommends that the Comprehensive Plan of the City of Clearwater be amended to designate central Clearwater Beach (from the rear lot lines of property on the north side of Somerset Acacia Street to the Sand Key Bridge, excluding Devon Avenue and Bayside Drive) as a Community Redevelopment District and that this Chapter of Beach by Design be incorporated into the Comprehensive Plan and submitted for approval to the Pinellas County Planning Council (PPC) and the Pinellas County Commissioners sitting as the Countywide Planning Authority. In addition, Beach by Design recommends that the use of Transfer of Development Rights (TDRs) under the provisions of the Design Guidelines contained in Section VIII of this Plan and the City's land development regulations be encouraged within the Community Redevelopment District to achieve the objectives of Beach by Design and the PPC Designation.

Section 4. Beach by Design: A Preliminary Design for Clearwater Beach and Design Guidelines, Section VII. Design Guidelines, Subsection A. Density, is amended as follows:

A. Density

~~The gross density of residential development shall not exceed 30 dwelling units per acre, unless additional density is transferred from other locations on Clearwater Beach. Ordinarily, resort density will be limited to 40 units per acre. However, additional density can be added to a resort either by transferred development rights or if by way of the provisions of the community redevelopment district (CRD) designation. Nonresidential density is limited by Pinellas County Planning Council intensity standards.~~

The maximum permitted density of residential development shall be 30 dwelling units per acre. Through the use of transfer of development rights (TDRs) from other property located within the Clearwater Beach Community Redevelopment District, the maximum permitted density for residential development may be increased by not more than 20 percent.

Historically the maximum permitted density for overnight accommodation uses has been 40 units per acre. In order to assist in the redevelopment of Clearwater Beach, the maximum permitted density in Beach by Design shall be 50 units per acre.* It also allows this maximum density of 50 units per acre to be exceeded through the use of TDRs from other properties located within the Clearwater Beach Community Redevelopment District in compliance with the following provisions:

1. The amount of TDRs used for resorts/overnight accommodation projects shall not be limited provided such projects can demonstrate compliance with the provisions of this Plan, the Community Development Code and concurrency requirements.
2. Any TDRs gained from the additional 10 overnight accommodation units per acre authorized by this section of Beach by Design shall only be used for overnight accommodation uses. The conversion of such density to another use is prohibited.

Beach by Design also supports the allocation of additional density for resort development through the density pool established in Section V.B. of this Plan. The maximum permitted floor area ratio for nonresidential development is limited to 1.0 pursuant to the Pinellas County Planning Council intensity standards.

**When Beach by Design was originally adopted, the allowable density for resorts/overnight accommodations was 40 units per acre. That density was increased to 50 units per acre through Ordinance No. 7546-06. References to 40 units per acre are still evident in Section V.B. Community Redevelopment District Designation and have not been changed because that was the density in place when the original analysis was conducted.*

Section 5. Beach by Design, as amended, contains specific development standards and design guidelines for areas of Clearwater Beach that are in addition to and supplement the Community Development Code; and

Section 6. The City Manager or designee shall forward said plan to any agency required by law or rule to review or approve same; and

Section 7. It is the intention of the City Council that this ordinance and plan and every provision thereof, shall be considered severable; and the invalidity of any section or provision of this ordinance shall not affect the validity of any other provision of this ordinance and plan; and

Section 8. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

March 16, 2006

PASSED ON SECOND AND FINAL
READING AND ADOPTED

April 6, 2006

Frank V. Hibbard

Frank V. Hibbard
Mayor

Approved as to form:

Leslie K. Dougall-Sides

Leslie Dougall-Sides
Assistant City Attorney

Attest:

Mary J. Scaria, Deputy Clerk

for Cynthia E. Goudeau
City Clerk