

**MOTION TO AMEND ORDINANCE NO. 7925-08 ON SECOND READING**

On page 4, amend Exhibit A to change maximum density from 175 units to 150 units as follows:

A maximum of 100 hotel rooms may be allocated from the Reserve to any development with a lot size less than 2.5 acres. Those developments with a lot size greater than or equal to 2.5 acres may use the Reserve to achieve a density of 90 hotel rooms per acre. However, in no instance shall the density of a parcel of land exceed 150 ~~175~~ units per acre regardless of whether it has received benefit of transfers of development rights in addition to the Reserve, or not;



---

Pamela K. Akin  
City Attorney  
July 17, 2008

**ORDINANCE NO. 7925-08**

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA MAKING AMENDMENTS TO BEACH BY DESIGN: A PRELIMINARY DESIGN FOR CLEARWATER BEACH AND DESIGN GUIDELINES; BY ESTABLISHING EDITORIAL CONSISTENCY WITH REGARD TO THE NAME OF THE EXISTING 600-UNIT DENSITY POOL AS THE "DESTINATION RESORT DENSITY POOL"; AMENDING SECTION V. CATALYTIC PROJECTS; SUBSECTION B. COMMUNITY REDEVELOPMENT DISTRICT DESIGNATION, ORGANIZING THE EXISTING TEXT OF THIS SUBSECTION INTO A NEW SUBSECTION B. 1. ENTITLED "DESTINATION RESORT DENSITY POOL"; CREATING A NEW SUBSECTION B. 2. ENTITLED "HOTEL DENSITY RESERVE," ESTABLISHING A HOTEL DENSITY RESERVE AND PROVIDING CRITERIA FOR ALLOCATING THE RESERVE; AMENDING SECTION VII. DESIGN GUIDELINES; SUBSECTION A. DENSITY, CLARIFYING DENSITY LIMITS OF 50 UNITS PER ACRE MAY ONLY BE EXCEEDED THROUGH THE DESTINATION RESORT DENSITY POOL OR HOTEL DENSITY RESERVE; AND MAKING MINOR EDITORIAL CHANGES; PROVIDING THAT SAID PROVISIONS SUPPLEMENT THE CLEARWATER COMMUNITY DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; 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 the City desires to support the tourism industry; and

WHEREAS, increases in overnight accommodation density do not result in permanent populations increases; and

WHEREAS, the City of Clearwater desires to achieve economic parity between the overnight accommodation and the attached dwelling uses; and

WHEREAS, the City of Clearwater desires to restore those mid-priced overnight accommodation units that were lost to redevelopment on Clearwater Beach; and

WHEREAS, there is a maximum number of vehicular trips that can be accommodated on the existing transportation network, and the City of Clearwater desires to remain within the established Level of Service (LOS) standards for that transportation network; and

WHEREAS, the proposed amendments to *Beach by Design* have 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, now therefore,

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

Section 1. Amendments 1 – 2 to *Beach by Design: A Preliminary Design for Clearwater Beach and Design Guidelines* attached hereto as Exhibit "A" are hereby adopted.

Section 2. This ordinance shall become effective when the Department of Community Affairs (DCA) issues a final order determining the adopted amendment to be in compliance, or the Administration Commission issues a final order determining the adopted amendments to be in compliance, in accordance with Section 163.3184, 163.3187, or 163.3189, F.S., as amended.

Section 3. The City Manager or designee shall forward said plan to any agency required by law or rule to review or approve same; and

Section 4. 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 5. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

April 17, 2008

PASSED ON SECOND AND FINAL READING AND ADOPTED

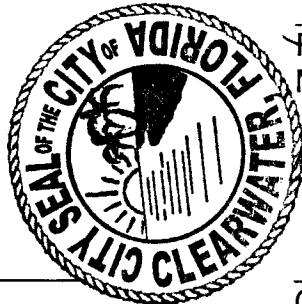
July 17, 2008

*Frank Hibbard*

Frank Hibbard  
Mayor-Councilmember

Approved as to form:

*Leslie K. Dougall Sides*  
Leslie K. Dougall Sides  
Assistant City Attorney



Attest:

*Cynthia E. Goudeau*  
Cynthia E. Goudeau  
City Clerk

**EXHIBIT A**  
**ATTACHMENT TO ORDINANCE 7925-08**

**AMENDMENT 1 – BEACH BY DESIGN: A PRELIMINARY DESIGN FOR CLEARWATER BEACH AND DESIGN GUIDELINES, SECTION V. CATALYTIC PROJECTS**

*Amend Subsection B. Community Redevelopment District Designation starting from page 48 as follows:*

\* \* \* \* \*

1. Destination Resort Density Pool

The situation on Clearwater Beach is complicated by a number of additional factors. The existing regulatory regime limits density on the Beach to 40 hotel units per acre. In order to justify the cost of demolishing income producing improvements (no matter how modest), new resort development would require a significant increase in density above 40 hotel units per acre. Depending on the discount rate and the current economic performance of the existing product, the gross cost of acquisition and demolition of existing units ranges from 2 to 4 times the per room cost which a quality resort hotel developer could afford to pay. Finally, much of the obsolescence of Clearwater Beach is attributable to the lack of resort facilities with a full range of on-site amenities. Several of the better hotels on Sand Key and Clearwater Beach operate as “destination resorts,” however, even those resorts lack many of the amenities that are available at better hotels in other markets with which Clearwater Beach competes.

\* \* \* \* \*

In order to stimulate the desired catalytic resort projects, Beach by Design establishes a limited pool Destination Resort Density Pool of 600 additional hotel rooms which would be available for use at one or more sites within designated priority redevelopment areas for a period of ten (10) years. This period would run from the date that the Community Redevelopment District is approved by the County and accepted by the State. In the event that the units were not allocated pursuant to Beach by Design within ten (10) years, the pool of units would cease to exist.

Although Beach by Design creates a pool of additional destination resort hotel rooms which are not currently authorized under the existing planning and regulatory regime, Beach by Design foresees that the additional units will not in fact have any adverse impact on Clearwater Beach, the City of Clearwater, Pinellas County, the Tampa Bay Region or the State of Florida. That is so because the way in which the units would be made available ensures that the nominal externalities of additional barrier island development will be eliminated or mitigated. For example, the reason d’etre of a destination resort is to have guests travel to the resort and spend most of their time (and money) at the resort. This fact is reflected in the Institute of Traffic Engineer’s 6th Edition of the Trip Generation Manual which shows that destination resorts generate somewhere between 50% and 12% of the number of trips generated by traditional

motels and hotels. Experience from around the State of Florida – from Sanibel to Miami to Boca Raton to the Florida Keys -- demonstrates that guests at destination resorts generate a fraction of the number of daily trips which are projected by the Institute of Traffic Engineers for the occupants of an ordinary hotel room. Equally important, the availability of on-site amenities means that when guests leave the resort, their trips are highly discretionary and unlikely to occur during peak travel periods.

A critical concern under Florida law involves increased residential densities on the State's barrier islands. Although the primary concern relates to hurricane evacuation, environmental issues are also implicated in undeveloped areas. Historically, Florida planning and zoning has treated hotel units as a type of residential dwelling, even though hotels are commercial operations and hotel guests do not generate school children or regularly require social and health services. As a result, an increase in hotel units on a barrier island, as a matter of law, constituted an increase in residential intensities – directly, where hotel units are defined as a residential use, or indirectly, as in the case of the Pinellas County Planning Rules and the City's land development regulations where hotel and residential units are interchangeable subject only a density ratio. For the purposes of the ~~additional hotel units pool~~ Destination Resort Density Pool, Beach by Design provides that such units are not interchangeable with residential units and that hotel rooms will be limited to tenancies of 30 days or less. In addition, Beach by Design provides that any hotel room which is allocated from the ~~additional hotel room pool~~ Destination Resort Density Pool will be subject to a legally enforceable deed restriction that the hotel which contains an additional hotel room will be closed as soon as practicable after the National Hurricane Center posts a hurricane watch for an area which includes Clearwater Beach. As a result, no occupants of destination resorts would remain to be evacuated when and if a hurricane warning is posted. Recent experience reveals that most hotel reservations are cancelled when a hurricane watch is posted and that most hotel operators close as soon as possible because of the cost of maintaining staff and operations with only a few stalwart guests. In contrast, residents are likely to wait until the last minute or until they are ordered to evacuate. For Clearwater Beach, resort hotel units are an obvious advantage over residential units, that is, 0 persons required to evacuate from one acre of land improved with a destination resort hotel when a hurricane warning is posted, as opposed to 69 persons from one acre of land developed at current residential densities.

\* \* \* \* \*

The allocation of units from the ~~pool~~ Destination Resort Density Pool to a particular project would be strictly controlled and would require that the proposed resort be of a character that it will serve as a catalyst for the revitalization of Clearwater Beach. In order to be eligible for additional resort hotel units, a project would have to have the following characteristics:

\* \* \* \* \*

The allocation of additional hotel rooms from the ~~pool~~ Destination Resort Density Pool would be made by approval by the City Commission. The land areas which are eligible for additional hotel rooms from the ~~additional hotel room pool~~ Destination Resort Density Pool are highlighted on the adjacent aerial photograph.

\* \* \* \* \*

## 2. Hotel Density Reserve (2007 Update)

Since 2002, Clearwater Beach has suffered a loss of numerous mid-size, mid-priced hotel rooms to what had been a thriving condominium market until 2006/07. The loss of these rooms has become a significant issue for both Clearwater Beach and the City as a whole.

A study prepared by Dr. Owen Beitsch in October 2006, analyzed the market and noted the existence of a great economic disparity between hotels and condominiums. The disparity was so large during this time that hotels required roughly five to seven rooms per condominium unit just to compete with potential condominium development in terms of economic viability. Based upon the existing density for condominiums of 30 units per acre, hotels would require a density of between 150 and 210 rooms per acre to be an economically viable alternative to condominiums. The current regulatory structure permits 50 hotel rooms per acre.

The loss of hotel rooms and the formation of an economic disparity between hotels and condominiums were not limited to Clearwater Beach alone. The PPC also recognized the issue as having impacts countywide and proposed an amendment to the "Rules Concerning the Administration of the Countywide Future Land Use Plan" (Countywide Plan Rules) that would enable municipalities the opportunity to adopt alternative density and intensity standards for hotels in certain future land use categories. Following extensive discussions and modifications, the Countywide Planning Authority (CPA) eventually approved the alternative density proposal on October 16, 2007, via Pinellas County Ordinance No. 07-50. The allowable densities/intensities, however, did not achieve true economic parity and encouraged resorts and not the mid-size, mid-priced hotels that Clearwater Beach has lost.

While the Destination Resort Density Pool created by *Beach by Design* has been successful in incentivizing resorts such as the Sand Pearl, the Aqualea and the Kiran Grande, the City needs to attract other types of hotels in order to provide a variety of tourist facilities and remain competitive in the tourist market. Since the Pinellas Planning Council's Countywide Future Land Use Map designates Clearwater Beach as a Community Redevelopment District, the City has the option to have density provisions that are different than those set forth in *The Rules Concerning the Administration of the Countywide Future Land Use Plan*. The City has opted to pursue density increases that would gain economic parity in hopes of facilitating new mid-size, mid-priced hotels.

The City hired DKS & Associates to conduct a traffic analysis in order to determine what density could be achieved on Clearwater Beach while maintaining the established Level of Service (LOS) for transportation concurrency. The study determined that the densities needed to achieve true economic parity would degrade the LOS for the transportation network below that allowed by the Clearwater Comprehensive Plan. Therefore, additional scenarios were undertaken and it was subsequently determined that Clearwater Beach could support an additional 1,385 hotel rooms or an across-the-board density of 90 hotel rooms per acre. However, since this density fell short creating the economic parity desired, the City determined that it could better meet its goal of facilitating the mid-size, mid-priced hotel by capturing this

development potential into a reserve and allocating those reserved hotel rooms on a parcel-by-parcel basis. This approach would also allow the typical 120-room mid-size, mid-price hotel to be constructed on smaller properties.

Hotel industry sources have indicated that 120 is a practical minimum for the number of hotel rooms that would be required in order to create a successful and profitable mid-size, mid-priced hotel. For Clearwater Beach that would mean an assembly of roughly 2.4 acres under the current regulatory structure. Given the urban nature of Clearwater Beach as well as the extent to which the existing parcels of land are configured or “broken-up”, the assemblage of a parcel of land large enough to generate 120 rooms at the current base density or under the CPA approved alternatives, is very unlikely. On average, between three and five separate parcels would need to be acquired to amass just one acre of land, and at least ten parcels would need to be acquired to amass three acres of land, and in most scenarios some segment of those ten parcels would be separated from the balance by a right-of-way; thereby making the development of a hotel difficult at best.

In order to overcome the constraints upon hotel development on Clearwater Beach due to the economic disparity with condominium development, as well as to facilitate the restoration of those lost mid-size, mid-priced hotels, Beach by Design establishes a Hotel Density Reserve (Reserve) of 1,385 hotel rooms.

The allocation of hotel rooms from the Reserve shall be made through the approval of a development agreement with the City of Clearwater with said allocation being strictly controlled. In order to be eligible to draw units from the Hotel Density Reserve, a development would have to incorporate, meet, and/or abide by each of the following:

- ❖ Those properties and/or developments that have acquired density from the Destination Resort Density Pool are not eligible to have rooms allocated from the Reserve;
- ❖ Those properties and/or developments that have had density transferred off to another property and/or development(s) through an approved Transfer of Development Rights (TDR) application by the City after December 31, 2007, are not eligible to have rooms allocated from the Reserve;
- ❖ A maximum of 100 hotel rooms may be allocated from the Reserve to any development with a lot size less than 2.5 acres. Those developments with a lot size greater than or equal to 2.5 acres may use the Reserve to achieve a density of 90 hotel rooms per acre. However, in no instance shall the density of a parcel of land exceed 150 units per acre regardless of whether it has received benefit of transfers of development rights in addition to the Reserve, or not;
- ❖ Accessory uses inconsistent with amenities typical of a mid-priced hotel shall require compliance with the base FAR requirements of the Resort Facilities High (RFH) Future Land Use category;
- ❖ No hotel room allocated from the Reserve may be converted to a residential use (i.e. attached dwelling);

- ❖ The maximum building heights of the various character districts cannot be increased to accommodate hotel rooms allocated from the Reserve;
- ❖ When both the allocation of hotel rooms from the Reserve and the transfer of development rights (TDR) are utilized as part of a development, only hotel rooms brought in to the project through the TDR process are eligible to be constructed above the otherwise maximum building height, but only provided that all TDR criteria are met;
- ❖ A legally enforceable mandatory evacuation/closure covenant that the overnight accommodation use will be closed as soon as practicable after a hurricane watch that includes Clearwater Beach is posted by the National Hurricane Center;
- ❖ Access to overnight accommodation units must be provided through a lobby and internal corridors;
- ❖ All hotel rooms obtained from the Reserve that are not constructed shall be returned to the Reserve;
- ❖ The development shall comply with the Metropolitan Planning Organization's (MPO) countywide approach to the application of concurrency management for transportation facilities, and the transportation analysis conducted for the development shall include the following:
  - Recognition of standard data sources as established by the MPO;
  - Identification of level of service (LOS) standards for state and county roads as established by the MPO;
  - Utilization of proportional fair-share requirements consistent with Florida Statutes and the MPO model ordinance;
  - Utilization of the MPO Traffic Impact Study Methodology; and
  - Recognition of the MPO designation of "Constrained Facilities" as set forth in the most current MPO Annual Level of Service Report.
- ❖ A reservation system shall be required as an integral part of the hotel use and there shall be a lobby/front desk area that must be operated as a typical lobby/front desk area for a hotel would be operated; and
- ❖ The books and records pertaining to use of each hotel room shall be open for inspection by authorized representatives of the City, upon reasonable notice, in order to confirm compliance with these regulations as allowed by general law.

**AMENDMENT 2 – BEACH BY DESIGN: A PRELIMINARY DESIGN FOR CLEARWATER BEACH AND DESIGN GUIDELINES, SECTION VII. DESIGN GUIDELINES**

*Amend Subsection A. Density on page 64 as follows:*



\* \* \* \* \*

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 allocation of units from the Destination Resort Density Pool, the allocation of units from the Hotel Density Reserve, and the use of TDRs from other properties located within the Clearwater Beach Community Redevelopment District in compliance with the following provisions:

\* \* \* \* \*

Beach by Design also supports the allocation of additional density for resort development through the ~~density pool~~ Destination Resort Density Pool established in Section V.B.1 of this plan, as well as the allocation of additional density for mid-price hotels through the Hotel Density Reserve established in Section V.B.2 of this plan. The maximum permitted floor area ratio for nonresident development is limited to 1.0 pursuant to the Pinellas County Planning Council intensity standards.

\* \* \* \* \*

*Amend Subsection B. Height on page 65 as follows:*

\* \* \* \* \*

1. additional density is allocated to the development either by transferred development rights or via the Destination Resort Density Pool ~~with bonus hotel units~~ pursuant to the CRD designation;

\* \* \* \* \*