

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JAMES ANDERSON, JOSEPH KODY,
and JOHN MILLER,

Petitioners,

DOAH Case No.: 13-003401-GM

v.

ALJ Bram Canter

CITY OF ST. PETE BEACH,

Respondent.

_____ /

COMPLIANCE AGREEMENT

THIS COMPLIANCE AGREEMENT is entered into by and between Petitioners, James Anderson, Joseph Kody, and John Miller (collectively "Petitioners"), and Respondent, City of St. Pete Beach ("City"), as a complete and final settlement of all claims raised in the above-styled proceeding.

RECITALS

WHEREAS, the State of Florida, Department of Economic Opportunity (hereinafter DEO or Department, is the state land planning agency and has the authority to administer and enforce the Community Planning Act, Chapter 163, Part II, Florida Statutes; and

WHEREAS, the City of St. Pete Beach (hereinafter City or Local Government) is a local government with the duty to adopt comprehensive plan amendments that are "in compliance" to guide the future growth of the City; and

WHEREAS, on or about July 3, 2013, the DEO notified the City that it completed its review of the proposed amendments, pursuant to 163.3184(2) and (3), Fla.Stat, and "identified no comments related to important state resources and facilities within the



[DEO's] authorized scope of review that will be adversely impacted by the amendment if adopted, and;

WHEREAS, on August 13, 2013, at a duly noticed public hearing, the City adopted certain plan amendments pursuant to Ordinance 2013-13 and the expedited review process under section 163.3184(3), and;

WHEREAS, on September 1, 2013, pursuant to Florida Statutes §§ 120.569, 120.57, 163.3184(5) and 163.3184(7), and Florida Administrative Code 28-106.201, Petitioners timely filed their Petition for formal Administrative Hearing and Demand for Mediation at DOAH, and an Amended Petition on October 24, 2013, and;

WHEREAS, the Amended Petition challenges whether the plan amendments are “in compliance” as defined in Florida Statutes § 163.3184(1)(b); whether the amendments are based upon relevant and appropriate data and analysis as required by Florida Statutes § 163.3177(1)-(6); whether the amendments contain all components required by Florida Statutes § 163.3177(6); whether the amendments are internally inconsistent or inconsistent with other elements of the City’s comprehensive plan in violation of Florida Statutes § 163.3177(2); and whether the amendments are consistent with the Coastal Management provisions of Florida Statutes § 163.3178, and;

WHEREAS, the parties wish to avoid the expense, delay, and uncertainty of lengthy litigation and to resolve this proceeding under the terms set forth herein, and agree it is in their respective mutual best interest to do so;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein below set forth, and in consideration of the benefits to accrue to each of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby represent and agree as follows:

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GENERAL PROVISIONS

1. Definitions. As used in this Agreement, the following words and phrases shall have the following meanings:

a. Act: the Community Planning Act, as codified in Part II, Chapter 163, Florida Statutes.

b. Agreement: This Compliance Agreement, which is being entered into by Petitioners and the City pursuant to Section 163.3184(6), Florida Statutes.

c. Comprehensive Plan Amendment or Plan Amendment: The comprehensive plan amendment adopted by St. Pete Beach on August 13, 2013 by Ordinance No. 2013-13 (DEO No. 13-1ESR).

d. DOAH: The Florida Division of Administrative Hearings.

e. In compliance or into compliance: The meaning set forth in section 163.3184(1)(b).

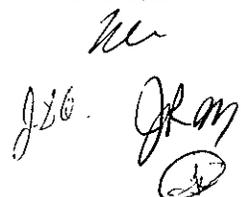
f. Amended Petition: The petition for administrative hearing and relief filed by the Petitioners identified as the Amended Petition for Formal Administrative Hearing.

g. Remedial Action: Exhibit B incorporated into this Agreement.

h. Remedial Plan Amendment: An amendment to the plan which the local government must adopt as part of the agreed upon Remedial Action.

2. Entire Agreement. This is the entire agreement between the parties and no verbal or written assurance or promise is effective or binding unless included in this document.

3. Approval by Governing Body. This Agreement has been approved by the City's governing body at a public hearing advertised at least 10 days prior to the hearing in a newspaper of general circulation in the manner prescribed for advertisements in Section

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163.3184(6)(c), Florida Statutes. This Agreement has been executed by the appropriate officer as provided in the City's charter or other regulations.

4. Changes in Law. Nothing in this Agreement shall be construed to relieve either party from adhering to the law, and in the event of a change in any statute or administrative regulation inconsistent with this Agreement, the statute or regulation shall take precedence.

5. Other Persons Unaffected. Nothing in this Agreement shall be deemed to affect the rights of any other person under the law.

6. Effective Date. This Agreement shall become effective upon the last date of signing by the Petitioners or the City.

7. Purpose of this Agreement; Not Establishing Precedent. The parties enter into this Agreement in a spirit of cooperation for the purpose of avoiding costly, lengthy and unnecessary litigation and in recognition of the desire for the speedy and reasonable resolution of disputes arising out of or related to the Plan Amendment. The acceptance of proposals for purposes of this Agreement is part of a negotiated Agreement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances or by any other local government.

8. Scope of Agreement. The terms of this Agreement, including the required Remedial Action, were negotiated in public and agreed to by the parties for the purpose of fully resolving all issues between the parties which were or could have been raised in this proceeding to the Plan. This Agreement is not intended to affect or resolve any other claims between the parties, including but not limited to claims in the civil suit styled *Anderson v. City of St. Pete Beach*, Sixth Circuit Case No. 11-001319-CI.

9. Filing and Continuance. This Agreement shall be filed with DOAH after execution by the parties. Upon the filing of this Agreement, the administrative proceeding in this

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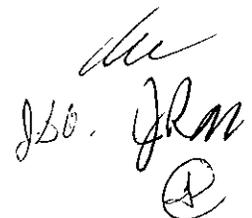
matter shall be stayed by the hearing officer in accordance with Section 163.3184(6)(b), Florida Statutes.

10. Description of Remedial Actions; Legal Effect of Agreement. Exhibit A to this Agreement is a copy of the Amended Petition, which identifies the provisions alleged not in compliance. Exhibit B contains the agreed-upon Remedial Action. This Agreement constitutes a  Petitioners stipulation that if the Remedial Action is accomplished, the Plan Amendment will be in compliance.

11. Remedial Action. The City agrees to complete all Remedial Action within the time provided in this Agreement.

12. Adoption or Approval of Remedial Plan Amendments. Within 60 days after execution of this Agreement, the City shall consider for adoption the Remedial Plan Amendments described in Exhibit B. This may be done at a single adoption hearing, subject to applicable additional requirements in the City's Charter. If the Remedial Plan Amendments are not adopted, without modification, for any reason, the Plan Amendment shall be deemed withdrawn by the City and of no force and effect. Upon adoption of remedial plan amendments, the Plan Amendment and remedial plan amendments shall become effective, pursuant to section 163.3184, Fla. Stat.

13. Challenge of Remedial Plan Amendments. If an affected person or the state land planning agency timely file a challenge to the Remedial Plan Amendments, the parties agree that the City will defend the challenge to the Remedial Plan Amendments before DOAH at the City's expense or withdraw the Plan Amendment and Remedial Plan Amendments completely. The City may not make changes to the Remedial Plan Amendments without the consent of Petitioners.

 JLB. JRM
Ⓢ

14. Attorney Fees and Costs. The City will reimburse Petitioners \$35,000.00 for Petitioners' attorneys' fees and costs they have incurred in connection with this proceeding. Payment shall be made payable to the trust account of Weber Crabb Wein, P.A. This payment shall be made either 5 working days after: a) notice of filing of a petition to challenge the remedial plan amendments, or b) dismissal of the DOAH proceeding.

15. Enforcement. Should Petitioners be required to seek enforcement of the provisions of this Agreement, the prevailing party shall be entitled to attorney fees and costs associated with said enforcement action.

16. Governmental Discretion Unaffected. This Agreement is not intended to bind the City in the exercise of governmental discretion which is exercisable in accordance with law only upon the giving of appropriate public notice and required public hearings.

17. Multiple Originals. This Agreement may be executed by the parties in counterpart originals (facsimile or e-mailed copies shall be considered as originals) with the same force and effect as if fully and simultaneously executed in a single original document.

18. Construction of Agreement. All parties to this Agreement are deemed to have participated in its drafting. In the event of any ambiguity in the terms of this Agreement, the parties agree that such ambiguity shall be construed without regard to which of the parties drafted the provision in question.

19. Captions. The captions inserted in this Agreement are for the purpose of convenience only and shall not be utilized to construe or interpret any provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on their own behalf or through their duly authorized official.

[Signature pages to follow]

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CITY OF ST. PETE BEACH

By: *Maria Lowe*
Maria Lowe, Mayor

24 February 2015
Date

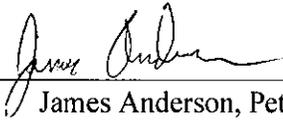
Approved as to form and legality:

Andrew Dickman

Andrew Dickman, City Attorney

2/24/15
Date

JAMES ANDERSON

By: 
James Anderson, Petitioner

2/11/2015
Date

Approved as to form and legality:


Kenneth Weiss, Esq.
Counsel for Petitioners

2/11/15
Date

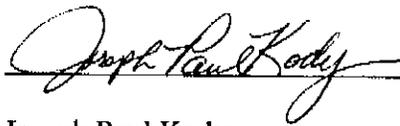

Timothy Weber, Esq.
Counsel for Petitioners

2/11/15
Date



February 11, 2015

I, Joseph Paul Kody, authorize John Miller to sign the Settlement Agreement with the City of St. Pete Beach relating to DOAH Case No. 13-003401GM on my behalf.



Joseph Paul Kody
620 West Maple Street
Arlington Heights, IL
60005



JOSEPH KODY

By: *John R Miller*
for Joe Kody
Joseph Kody, Petitioner

2/11/15
Date

Approved as to form and legality:

Keece
Kenneth Weiss, Esq.
Counsel for Petitioners

2/11/15
Date

[Signature]
Timothy Weber, Esq.
Counsel for Petitioners

2/11/15
Date

JOHN MILLER

By: John R Miller
John Miller, Petitioner

2/11/15
Date

Approved as to form and legality:

Kenneth Weiss
Kenneth Weiss, Esq.
Counsel for Petitioners

2/11/15
Date

Timothy Weber
Timothy Weber, Esq.
Counsel for Petitioners

2/11/15
Date

EXHIBIT "A"
Amended Petition

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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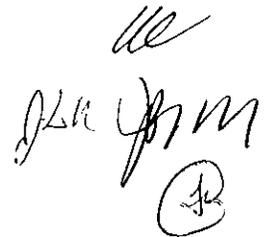
ALJ Bram Canter

AMENDED PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioners, JAMES ANDERSON, JOSEPH KODY, and JOHN MILLER (collectively "Petitioners"), by and through their undersigned counsel and pursuant to Florida Statutes §§ 120.569, 120.57, 163.3184(5) and 163.3184(7), and Florida Administrative Code 28-106.201, hereby petition the Division of Administrative Hearings, State of Florida, and the Administration Commission, to determine that the City of St. Pete Beach's ("City") Ordinance 2013-13 ("Ordinance"), adopting amendments to the City's Comprehensive Plan, is "not in compliance" within the meaning of Florida Statutes § 163.3184(1)(b), and as grounds would show:

STANDING

Petitioners, JAMES ANDERSON, JOSEPH KODY, and JOHN MILLER, are property owners within the City of St. Pete Beach and have been at all times relevant to this proceeding. Petitioners presented comments and objections to the City Commission during the period of time beginning with the transmittal and ending with the adoption of the Ordinance by the City. Petitioners are "affected persons" as defined in Florida



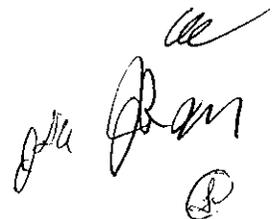
Statutes § 163.3184(1)(a). A copy of the Ordinance is attached as Exhibit "A" to this Amended Petition.

KODY and MILLER reside at the Silver Sands Condominium which is directly adjacent to the Large Resort District created by the Ordinance and in close proximity to other redevelopment areas designated in the Ordinance. Development under the comprehensive plan, as amended by the Ordinance, would negatively and adversely impact Petitioners' use and enjoyment of their property, as well as its value; would negatively and adversely impact Petitioners' ability to evacuate in the event of a hurricane; and would negatively and adversely impact Petitioners by creating additional tax burdens, increased crime in the area near Petitioners' properties, and impacts on the natural and historic resources of the City currently enjoyed by Petitioners. Petitioners' substantial interests will be adversely affected by this proceeding. Petitioners would be "adversely affected," as defined in Florida Statutes § 120.68, by final agency action allowing these amendments to go into effect.

REPRESENTATION AND NOTICE

Petitioners are represented in this matter by Timothy W. Weber, Esq., Weber, Crabb & Wein, P.A., 5999 Central Ave., Suite 203, St. Petersburg, Florida 33710, (727) 828-9919, timothy.weber@webercrabb.com; Kenneth L. Weiss, Esq., 11085 9th Street East, Treasure Island, FL 33706-1111, (727) 367-8829, kweiss1@tampabay.rr.com. For purposes of this proceeding, Petitioners' addresses shall be that of undersigned counsel.

Petitioners received notice of the Ordinance either when they attended the adoption hearing conducted by the City of St. Beach City Commission on August 13,



2013 or shortly thereafter. The original petition was filed within thirty days of the date of adoption of the Ordinance.

AGENCY AFFECTED

The Department of Economic Opportunity, while not a party to this proceeding, conducted a review of the Ordinance under Florida Statutes § 163.3184. The Department's address is 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399.

The Administration Commission will have jurisdiction to enter a final order finding the plan amendments adopted by the Ordinance "not in compliance." The Commission's address is c/o Office of the Governor, The Capitol, Tallahassee, Florida 32399.

DISPUTED ISSUES OF MATERIAL FACT

Whether the Ordinance is "in compliance" as defined in Florida Statutes § 163.3184(1)(b).

Whether the Ordinance is based upon relevant and appropriate data and analysis as required by Florida Statutes § 163.3177(1)-(6).

Whether the Ordinance contains all components required by Florida Statutes § 163.3177(6).

Whether the Ordinance is internally inconsistent or inconsistent with other elements of the City's comprehensive plan in violation of Florida Statutes § 163.3177(2).

Whether the Ordinance is consistent with the Coastal Management provisions of Florida Statutes § 163.3178.

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Whether the Ordinance protects human life against the effects of natural disaster and protects human life in areas subject to destruction by natural disaster as required by Florida Statutes §§ 163.3177(6)(g)7. and 163.3178(1).

Whether the Ordinance limits public expenditures that subsidize development in the Coastal High Hazard Area or areas subject to destruction by natural disaster as required by Florida Statutes §§ 163.3177(6)(g)6. and 163.3178(1).

THE FACTS

1. The City of St. Pete Beach is a municipality located on a barrier island in Pinellas County, Florida.
2. It is comprised of 1,286.10 acres, nearly all of which is located in a Coastal High Hazard Area.
3. The City is essentially a "built out" community. Existing construction was completed under land development regulations limiting maximum allowable building heights throughout the City at 50 feet.
4. The City has one primary traffic artery, Gulf Blvd., which runs along the coastline for the length of the City and provides access to the 2 existing bridges which provide evacuation routes off the island.
5. The entire City is extremely vulnerable to sea-level rise, flooding, and natural disasters, including hurricanes.
6. The City and Pinellas County have historically had poor evacuation clearance times and inadequate hurricane shelter availability. Given its status as a barrier island, the City faces significant challenges in the protection of human life and property in the event of a natural disaster.

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JBO. *JRM*
(J)

Background and Procedural History

7. In 1998, the City substantially rewrote its comprehensive plan.

8. In 1999, the Department of Community Affairs, State of Florida (DCA), issued a Notice of Intent to find the plan "not in compliance" based on several deficiencies in the City's plan.

9. The DCA and the City ultimately entered into a Settlement Agreement to remediate the non-compliance in which the City agreed to address (1) identified deficiencies in plans and policies to protect public and private property, and human lives, from the effects of natural disasters; (2) the protection of coastal and marine resources from the adverse effects of development since increased densities were authorized in areas designated as mixed-use areas; and (3) the City's failure to adequately describe how the City will avoid improvements that encourage or subsidize increased development in coastal high hazard areas while also providing for timely and efficient access to its services and attractions.

10. In 2004, despite the state-imposed limitations in the 1998 plan, the City attempted to adopt plan amendments which would encourage hotel redevelopment by providing increased building heights and densities to resort properties along the Gulf of Mexico.

11. In 2006, while the 2004 plan amendment was being subjected to a compliance challenge, the citizens of St. Pete Beach repealed the 2004 plan amendment, largely in opposition to the increased building heights. The 2004 amendments never went into effect.

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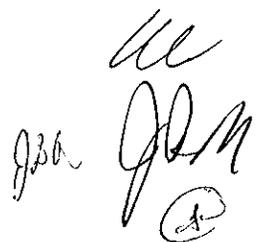
12. At the same time, the citizens adopted by initiative certain amendments to the City's charter which would require, among other things, voter approval of comprehensive plan amendments and voter approval of land use regulations increasing allowable building heights. See *Citizens for Responsible Growth v. City of St. Pete Beach*, 940 So.2d 1144 (Fla. 2d DCA 2006), for an explanation of the charter amendments.

13. In 2007, Save Our Little Village, Inc. (SOLV), a political action committee funded by the City's resort owners, proposed by initiative a comprehensive plan amendment which would create a Large Resort District in the City, transfer vast amounts of transient lodging density to the resort properties along .9 of a mile of Gulf Boulevard and the beach in the Large Resort District, increase allowable building heights from 50 feet to as much as 146 feet in the Large Resort District, and provide density bonuses and impact fee waivers and credits to encourage redevelopment of the resort properties at vastly increased heights and densities.

14. The City initially refused to place the SOLV initiative on the ballot, citing inconsistency between the initiative process and the procedural requirements of the Growth Management Act, Part II of Chapter 163, Florida Statutes (hereinafter "GMA").

15. SOLV filed a mandamus action against the City to force the City to submit the SOLV plan to voters. See *SOLV v. Commissioner Linda Chaney, et al.*, Case No. 08-002408-CI-8, in the Sixth Judicial Circuit in and for Pinellas County, Florida.

16. One citizen, William Pyle, a resident of the Silver Sands Condominium, intervened in the mandamus action and sought to have the petition dismissed.

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17. During the pendency of the mandamus action, SOLV gained control of the City commission as a result of an intervening election.

18. Accordingly, after the Circuit Court announced that the SOLV plan could be submitted to voters but must also comply with the GMA as argued by Pyle (and previously the City), SOLV and the newly elected commission entered into a Settlement Agreement and voluntarily dismissed the suit in order to avoid the Circuit Court's entry of a final judgment requiring compliance with the procedural aspects of the GMA as a condition precedent to adoption of the SOLV plan.

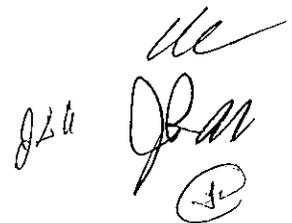
19. On June 3, 2008, the City submitted Ordinance 2008-10 to the voters for approval. Ordinance 2008-10 provided that, upon voter approval, the City would transmit Ordinance 2008-15, along with the SOLV plan, to the DCA and reviewing agencies in accordance with s. 163.32465.

20. After the election, the City declared that Ordinance 2008-10 was approved by the voters. It thereafter transmitted Ordinance 2008-15, along with the SOLV plan, to the DCA.

21. Pyle filed a compliance challenge to Ordinance 2008-15 with the Division of Administrative Hearings, State of Florida (DOAH). See *Pyle v. City of St. Pete Beach*, DOAH Case No. 08-4772-GM.

22. Ordinance 2008-15 was found in compliance by DOAH. *Id.*

23. Pyle also filed an action in the Circuit Court seeking to declare Ordinance 2008-10 void on the grounds that the voter approval was invalid because SOLV and the City misled voters in the ballot titles and summaries in the June 3, 2008 election. See

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Pyle v. Finnerty, Case No. 08-008129-CI-8 and 08-00864-CI-08, in the Sixth Judicial Circuit in and for Pinellas County, Florida.

24. Another resident of Silver Sands, Bruce Kadoura, filed an action in the Circuit Court seeking to have Ordinance 2008-15 declared void for, among other things, failure of the City to comply with the voter approval requirements of the City's Charter in transmitting and adopting the SOLV plan amendment. See *Kadoura v. Huhn, et al.*, 08-12498-CI-19.

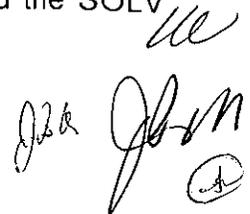
25. In the *Pyle* case, the Circuit Court declared the June 3, 2008 election invalid on the grounds that the ballot titles and summaries employed by SOLV and the City "hid the ball" and misled voters concerning the true purpose and effect of the plan amendments, i.e. by failing to disclose the tripling height and density. The Circuit Court described the SOLV plan amendment as a "massive overhaul of land use requirements from top to bottom and side to side." The Circuit Court declared Ordinance 2008-10 invalid.

26. In the *Kadoura* case, the Circuit Court declared Ordinance 2008-15 void *ab initio* for failure of SOLV and the City to comply with the voter approval requirements of the City's Charter.¹

27. After losing the *Pyle* and *Kadoura* cases, the City filed appeals to the Second District Court of Appeal, State of Florida.

28. During the pendency of SOLV's and the City's appeals, the City lobbied for a special law to allow the City to readopt the SOLV plan without having to submit it to the state land planning agency or reviewing agencies. Its efforts were rewarded with the

¹ Despite the City's numerous public claims that the voters have approved the SOLV Plan, two final judgments against the City have concluded otherwise.



Legislature's passage of § 163.32466, Florida Statutes, which purported to allow the City to readopt the SOLV Plan without following GMA procedures.

29. In reliance on § 163.32466, the City adopted Ordinance 2011-19, which largely incorporates the SOLV Plan, and then dismissed the *Pyle* and *Kadoura* appeals.

30. Thereafter, James Anderson, Petitioner herein, filed an action in the Circuit Court challenging the validity of § 163.32466, Florida Statutes, on the grounds that it was an invalid special law adopted in violation of the Florida Constitution. Anderson also challenged Ordinance 2011-19 on various grounds, including that it depended for its validity on § 163.32466 and was never submitted to the state land planning agency or reviewing agencies as required by law.

31. The Circuit Court, despite finding that s. 163.32466 only applied to the City of St. Pete Beach and only applied to a single ordinance (2008-15), denied Anderson's special law claim. The Circuit Court denied all other relief sought by Anderson. Anderson appealed to the Second District Court of Appeal, State of Florida, which appeal is pending and scheduled for oral argument in November of 2013.

32. During the pendency of the Anderson appeal, the City transmitted the Ordinance to the state land planning agency and reviewing agencies.

33. It then adopted the Ordinance.

34. Petitioners filed their petition with DOAH challenging the Ordinance and also filed their Motion for Stay or Abatement Pending Outcome of Pending Appeal.

35. At a hearing on Petitioners' Motion for Stay or Abatement Pending Outcome of Pending Appeal, the City successfully maintained that the validity of the Ordinance was not dependent on the validity of Ordinance 2011-19, now being

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challenged on appeal to the Second District Court of Appeal, because the Ordinance was intended by the City to be reviewed for compliance as if Ordinance 2011-19 had never been adopted.

36. According to the City, the Ordinance was a corrective measure designed to eliminate the uncertainty surrounding Ordinance 2011-19 by adopting a plan amendment which was in no way dependent on Ordinance 2011-19.

37. The City, having successfully maintained this position, is directly estopped from now taking a contrary position.

38. Notably, however, contrary to its representations to DOAH, the City submitted the Ordinance to the state land planning agency and other reviewing agencies as if Ordinance 2011-19 was in effect. The City coupled this submission with an underline and strikethrough suggesting that little or no change was being made to the City's comprehensive plan. The City did not transmit any supporting data and analysis with the plan and failed to include a FLUM depicting the current future land use designation when it made changes to the future land use designations of each parcel affected by the amendment. By these actions, the City again deliberately bypassed scrutiny of its plan amendment by the state land planning agency and reviewing agencies.

39. Pursuant to § 163.3184(3)(c)2., Florida Statutes, the City was required to transmit any supporting data and analysis to the state land planning agency, and other agencies commenting on the plan, within ten (10) working days after the second public hearing on the plan.

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40. Pursuant to s. 163.3184(3)(c)3., Florida Statutes, the City was required to provide the Department with an underline and strikethrough of text revisions in the plan.

41. Furthermore, the City was required to include a future land use map (FLUM) depicting the current future land use designation when it made changes to each parcel's designation.

42. The City did not comply with any of these mandatory provisions.

Lack of Supporting Data and Analysis

43. As a more particular explication of the Ordinance's lack of supporting data and analysis, the Ordinance is not supported by adequate and relevant data and analysis:

- a. Projecting the permanent and seasonal population of the area as required by § 163.3177(6)(a);
- b. Addressing the availability of water supplies, public facilities and services as required by Florida Statutes § 163.3177(6)(a);
- c. Identifying any capital expenditure which would be required as a result of the Ordinance;
- d. Demonstrating that hurricane evacuation clearance times will be maintained or reduced;
- e. Addressing existing deficits in public shelter facilities in Pinellas County;
- f. Addressing existing Levels of Service on transportation facilities in each District considering that the City has very limited evacuation routes;
- g. Demonstrating that the City has coordinated with the County Emergency Management Department and the regional authorities to address hurricane evacuation issues, ensure that hurricane evacuation clearance times are maintained or reduced and lives are protected, given that hurricane evacuation routes are very limited and will likely be flooded during a storm;
- h. Addressing flooding and drainage issues in the Large Resort District; *llw*

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(H)

- i. Describing and supporting the ratio of hotel units to residential units utilized as the basis for significantly increasing temporary lodging units in the Large Resort District;
 - j. Identifying non-conforming uses in each District as a result of the plan amendment;
 - k. Describing and supporting the Density Bonuses and Density Pools, including from where the density will come and how, and in what quantities, it will be reallocated;
 - l. Addressing flooding and drainage issues in the Large Resort District in light of substantially increased densities and intensities of development proposed for the District;
 - m. Providing a compatibility analysis of changes to each parcel and each District with neighboring land uses, including changes in permitted height standards;
 - n. Ensuring the protection of natural and historic resources;
 - o. Providing guidelines for the implementation of mixed-use development including the types of uses allowed, the percentage distribution among the mix of uses, or other standards, and the density and intensity of each use;
 - p. Demonstrate that the land uses allowed in each District under the Ordinance will be supported by sufficient water, sewer, stormwater and solid waste facilities. The lack of such facilities is also inconsistent with Florida Statutes § 163.3178(2);
 - q. Supporting the necessity of providing density bonuses for the construction of affordable housing in the City;
 - r. Analyzing the environmental, socioeconomic, and fiscal impact of development and redevelopment proposed in the future land use plan, with required infrastructure to support this development or redevelopment, on the natural and historical resources of the coast.
44. The plan also fails to include an analysis of FLUM amendments.

Failure to Include All Required Components

45. The Ordinance is not in compliance as it fails to include all required components, including:

- a. The Ordinance does not include a proposed FLUM;

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- b. A description of the development potential under the current FLUM and the maximum amount of development allowed under the proposed amendment;
- c. Maps clearly identifying the current FLUM designation, Existing Land Use and Proposed FLUM designation for each parcel included in the amendment;
- d. Procedures for monitoring, evaluating, or appraising its implementation;
- e. Meaningful guidelines for the content of land development regulations;
- f. Meaningful guidelines for the implementation of mixed-use development including the types of uses allowed, the percentage distribution among the mix of uses, or other standards.
- g. Availability of water supplies, public facilities and services;

Consistency

46. Florida Statutes s. 163.3177(2) provides:

Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent. Where data is relevant to several elements, consistent data shall be used, including population estimates and projections unless alternative data can be justified for a plan amendment through new supporting data and analysis. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements, and each such map must be contained within the comprehensive plan.

47. The Ordinance is internally inconsistent in several respects, including:

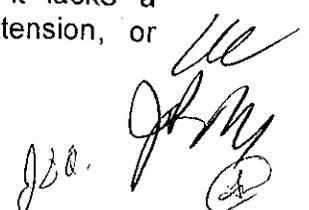
- a. The revised FLUE policy 4.1.1 defines the CHHA in a manner inconsistent with Map 4; it also references Rule 9-J5, which has been repealed;
- b. The Ordinance states in several places that the City will do something at a time that has already passed;

48. The Ordinance is inconsistent with other provisions of the City's

Comprehensive Plan, including:

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- a. The proposed revision to the goals, objectives and policies of the FLUE is inconsistent with the current FLUM as no proposed FLUM is included in the amendment;
- b. Revised FLUE policy 4.1.1 is inconsistent with Objective 2.1 of the Coastal and Conservation Element to the extent it permits exceptions for public expenditures which encourage or subsidize development or redevelopment that are not permitted in the Coastal and Conservation Element.
- c. Revised FLUE Policies 4.1.2 and 4.1.4 requiring the City to adopt Levels of Service for both evacuation times to shelter and out-of-county is inconsistent with Coastal and Conservation Element Objective 2.3 and Policy 2.3.3.
- d. Map 4 is inconsistent with the Coastal and Conservation Element's definition of the CHHA;
- e. The Ordinance is inconsistent with the Capital Improvements Element ("CIE") because the CIE provides for no infrastructure costs required by the Ordinance.
- f. The Ordinance permits impervious surface ratios up to 90% which is inconsistent with Infrastructure Element Policy 2.2.3 which limits impervious surface area ratios to no more than 70%;
- g. The Ordinance is inconsistent with CIE Objective 1.1 because it fails to estimate the capital improvements required to correct existing deficiencies to accommodate the desired future growth encouraged by the Ordinance;
- h. The Ordinance is inconsistent with CIE Policy 1.4.1 which requires that the City shall expend funds in the CHHA only for existing development or new development that is consistent with the FLUM;
- i. The Ordinance is inconsistent with the Coastal and Conservation Policy 2.2.2 which requires the City to maintain allowable densities in the CHHA;
- j. The Ordinance is inconsistent with the Coastal and Conservation Policy 2.1.1 because it supports the financing of sewer and water line extensions or expansions within the CHHA;
- k. The Ordinance is inconsistent with CIE Objective 1.4 which limits expenditures that subsidize development in the CHHA;
- l. The Ordinance is inconsistent with the CIE because it lacks a component that outlines principles for construction, extension, or

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increase in capacity of public facilities, as well as a component that outlines principles for correcting existing public facility deficiencies, which are necessary to implement the Ordinance.

49. The Ordinance is also inconsistent with state law, including:
- a. The Definition of "Development" in the Community Redevelopment District is inconsistent with the definition of "Development" under state law.
 - b. The Ordinance does not describe changes in densities and intensities of development allowed for each parcel and each District under the current FLUM and the changes allowed by the Ordinance;
 - c. The Ordinance does not identify the maximum development potential of each parcel and each District under the existing FLUM and the Ordinance.
 - d. The Ordinance does not limit public expenditures which subsidize development or redevelopment in the CHHA.

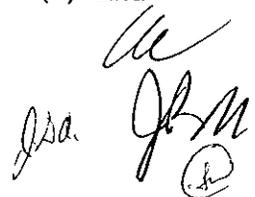
Allowance of Incompatible Development

50. The Ordinance proposes redevelopment which is incompatible with surrounding uses, principally due to vastly increased densities, intensities, and building heights.

Clustering of Density Within CHHA

51. The Ordinance dangerously clusters a three-fold increase in density on a few select coastal properties, i.e. the SOLV hotels, in contrast to the existing plan which spreads the density over the entire city, a far greater area. This fails to protect human life.

52. The Ordinance is inconsistent with the Coastal Management provisions of Florida Statutes § 163.3178, Florida Statutes. By placing intense uses in particularly vulnerable portions of the coastal high hazard area, the Ordinance will allow activities that will not protect human life as required by Florida Statutes §§ 163.3178(1) and

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163.3178(2). The land uses allowed under the Ordinance will not ensure that the adopted level of service for out-of-county hurricane evacuation is maintained or reduced consistent with the goals, objectives and policies in the Coastal and Conservation Elements and the provisions of Florida Statutes § 163.3178(8).

STATUTES AND RULES WARRANTING RELIEF

Florida Statutes §§ 120.569, 120.57, 163.3177 and 163.3178.

RELIEF SOUGHT

Petitioner requests that the Division of Administrative Hearings conduct a formal administrative proceeding; that the Division enter a Recommended Order to the Administration Commission that the Ordinance is not "in compliance;" and that the Administration Commission enter a Final Order deeming the Ordinance not "in compliance" and specifying appropriate sanctions and remedial actions.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of the foregoing has been provided to counsel for the City of St. Pete Beach by e-mail this 24th day of October, 2013:

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Attorneys for Petitioners



EXHIBIT "B"
Remedial Action

EXHIBIT B – REMEDIAL ACTION

DOAH Case No.: 13-003401-GM

SUPPORT DOCUMENTS:

The City shall expeditiously complete the following studies:

- 1) **Density Analysis** – Identify and compare the number of units available under the 1998 and 2013 Comprehensive Plans for the Community Redevelopment District and the number existing at the present time to determine the available number of units for development. The analysis will be used to evaluate Comprehensive Plan amendments, development orders, and infrastructure needs.
- 2) **Sanitary Sewer Analysis** – Conduct and analyze the Inflow and Infiltration Study (I & I Study) to be performed in fulfillment of the Compliance Agreement with the State Department of Environmental Protection; and based on the results thereof, establish a plan to implement the recommended actions of the study. The City shall also study its system capacity to support permitted new development.
- 3) **Stormwater Facilities Analysis** – Identify the completed and scheduled components of the Stormwater Master Plan and include the recommended schedule to implement the plan in the Capital Improvement Schedule.
- 4) **Impact Fee Analysis** – Review and update the City’s impact fee schedule to implement the plan in the Capital Improvement Schedule.
- 5) **Concurrency Management System** – Based on the foregoing analysis of infrastructure capacity and needs, identify and make adjustments to the required Level of Service (LOS).
- 6) **Capital Improvement Schedule** – Update and revise the City’s Capital Improvement Schedule (CIS) on an annual basis as part of its capital budgeting process.

The City shall notify Petitioners and/or their counsels upon completion of forgoing studies and promptly provide the studies to Petitioners in electronic format (unless electronic format is impracticable).

REMEDIAL ACTION:

Notwithstanding anything to the contrary in the Plan Amendment or Remedial Plan Amendments, until such studies are complete, the City shall not issue any development order for a building exceeding eighty (80) feet in height in the Community Redevelopment District. Thereafter, no development order shall be issued which permits development in the Community Redevelopment District in excess of the number of available units supported by the Density Analysis unless and until an amendment to the Community Redevelopment District is approved pursuant to the requirements for comprehensive plan amendments, consistent with the data and analysis required in support thereof.

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REMEDIAL PLAN AMENDMENTS:

The City will adopt the following remedial amendments to the plan:

CITIZEN INPUT ON REDEVELOPMENT

Amend paragraph 5 of Sec. I (10), as follows:

~~If these plans and regulations are first approved by the voters of St. Pete Beach, and subsequently, the Ch. 163 Plan is approved by the County, (The City and its residents will benefit from a Redevelopment Trust Fund established pursuant to F.S. 163.387 as may be authorized by Pinellas County and a Community Improvements Fund that will to provide capital infrastructure, public improvements and amenities that will improve the safety, services to, and beauty of our the City.~~

FUTURE LAND USE ELEMENT

Policy 1.1.10

~~The City shall offer incentives for the location and construction of affordable, Green, on-site workforce living accommodations in conjunction with large-scale temporary lodging uses.~~

Policy 2.1.9

~~All temporary lodging units shall be prohibited from seeking homestead exemption and home occupational licensing~~ No temporary lodging unit shall be occupied as a residential dwelling unit. Temporary lodging uses within the Community Redevelopment District shall not be occupied for more than thirty (30) consecutive days by the same temporary lodging unit guest or more than thirty days cumulatively on an annual basis for a resort condominium unit owner. In other words, the thirty days is measured beginning on the first day of any occupancy until 365 days from that date. The City of St. Pete Beach may require affidavits of compliance with this policy from each temporary lodging use and/or unit owner. Seller of temporary lodging unit shall be responsible for advising the purchaser of this requirement. In addition, any seller of a resort condominium project or temporary lodging unit shall be required to record a covenant in the public records of Pinellas County agreeing to said restriction prior to conveyance.

Policy 2.2.2

The site plan review provisions, as contained in the LDC shall, at a minimum, address the following:

- Allowance for a creative approach for development or redevelopment;
- A requirement that more open space, if practical, be provided than that called for by the strict application of the minimum requirements of the land development regulations;
- A harmonious development of the site with consideration given to the surrounding areas and community facilities, while providing for safe and efficient traffic circulation; and
- The establishment of procedures for the granting of increased structure height not to exceed 50 feet in all areas of the City excluding the Community Redevelopment District which establishes specific height standards by use within each character district; in exchange for increased open space and decreased amounts of impervious surfaces; and
- ~~The repeal of variance p~~Procedures that would allow increased height or density above the maximum established in each character district located within the Special Area Designation

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Community Redevelopment District shall be prohibited, ~~subject to voter referendum approval, if required by the City Charter;~~ and

- Other provisions as deemed appropriate by the City in keeping with the intent of the comprehensive plan and land development regulations.
- Land survey completed within the last twelve (12) months.

Policy 2.9.1

As administered by the land development regulations, the City of St. Pete Beach shall not ensure that all development and redevelopment taking place within its municipal boundaries does not issue any development order (excluding future land use or zoning map amendments) or building permit for any project that results in a reduction of the level of service requirements established and adopted in this comprehensive plan.

Policy 2.9.6

Consistent with this Comprehensive Plan, as amended, all building permits for future development and redevelopment activities new construction, additions, or certificates of occupancy for a change in use shall be issued only if public facilities necessary to meet the level of service standards adopted pursuant to this comprehensive plan are available concurrent with the impacts of the development.

Policy 3.1.2

The land development regulations shall ensure that all development along the coastline is in accordance with the Coastal Construction Control Line as established by the State of Florida, ~~City of St. Pete Beach,~~ or other appropriate governmental agencies.

Policy 3.1.3

~~The City of St. Pete Beach will re-evaluate its Coastal Construction Control Line from time to time in order to measure its effectiveness.~~

Policy 3.3.3

The City shall permit no new developments where the facilities and services are not available or planned to be available in accordance with the Concurrency Management System ~~adopted in~~ as set forth under Division 29 of the City of St. Pete Beach Land Development Code 1992 as Chapter 102, St. Pete Beach Code of Ordinances, as amended.

Policy 4.1.1

~~The City shall not support or finance new local transportation corridors which lie within the Coastal High Hazard Area, although existing corridors may be maintained or improved as necessary to protect the health, safety and welfare of existing residents.~~ Publicly funded infrastructure inside the coastal high hazard area shall be limited to the following:

- *The expenditure for the maintenance, repair or replacement of existing facilities; or*
- *The expenditure for restoration or enhancement of natural resources or public access; or*
- *The expenditure needed to address an existing deficiency identified in this the capital improvements element of this plan; or*

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- *The expenditure for retrofitting of storm water management facilities for water quality enhancement of storm water runoff; or*
- *The expenditure for the development or improvement of public roads and bridges identified in the Transportation Plan Element of this plan; or*
- *The expenditure for a public facility ~~of overriding public interest~~ necessary to ensure public health, safety, and welfare.*

Policy 5.1.2

The City shall adopt and implement land development regulations that contain specific and detailed provisions required to implement this comprehensive plan, as amended, which, at a minimum shall:

- Regulate the subdivision of land;
- Protect the limited amount of marine wetlands, including sea grass and turtle nesting grounds remaining in the community, and those lands designated as Preservation on the Future Land Use Map;
- Regulate signs;
- Ensure that all future development is consistent with Federal Emergency Management Agency and National Flood Insurance Program regulations;
- Ensure that all future development is consistent with any coastal construction control regulations as may be adopted and/or amended by the State of Florida, ~~Pinellas County, or the City of St. Pete Beach;~~
- Ensure the compatibility of adjacent land uses by requiring adequate and appropriate buffering between potentially incompatible uses, temporary lodging uses and existing residential uses in particular when located in separate but adjoining character districts or plan categories;
- Ensure that development permits are issued only when it has been documented that such development is consistent with the level of service standards for the affected public facilities adopted by this comprehensive plan;
- Provide for improved drainage and storm water management by requiring compliance with the minimum criteria established by the Southwest Florida Water Management District, the City of St. Pete Beach Drainage Ordinance, the regulations of other appropriate governmental agencies and the Pinellas County Master Drainage Plan;
- Provide requirements for the provision of open space safe and convenient on-site traffic flow and parking requirements and encourage share access driveways, internal connectivity between compatible adjacent parcels to reduce curb cuts to reduce vehicular conflict with pedestrians and bicycles;
- Encourage the use of Waterwise Florida Landscapes and drought-tolerant vegetation, reclaimed water and rain sensor irrigation systems in the landscaping ~~of multifamily and commercial developments~~ in all development projects;
- Provide regulations requiring the control of erosion and storm water or pollutant runoff from construction sites;
- Encourage land development which highlights scenic amenities and ensures public access to the waterfront;


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- Adopt Green building and site design standards ~~and encourage new construction and major renovation to utilize Green standards through incentive programs;~~
- Provide regulations and design standards that require internal and external pedestrian and bicycle pathway linkages to create a safe alternative mobility network throughout the City; and
- Provide regulations that promote mass transit use.

Special Designation - Community Redevelopment District (CRD)

A. Definitions

- 13) **Future Land Use Element** - is one element out of eight elements that comprise the City's Comprehensive Plan. It establishes the goals, objectives and policies for the use of land to manage future growth and redevelopment in accordance with the City's vision for its future. The Future Land Use Element establishes both the Future Land Use Plan and the Future Land Use Map.
- a. The Future Land Use Plan defines and describes the land use plan categories, establishes the goals, objectives and policies, designates primary and secondary uses permitted in each land use plan category, and establishes density and intensity standards. In addition in this plan amendment, height and density standards are established that shall not be exceeded, ~~except by voter referendum approval, if required by the City Charter.~~
 - b. The Future Land Use Map is a graphic depiction of the location and boundaries of each of the land use designations including the Community Redevelopment District (CRD) and each character district within the CRD.
- 17) **Land Development Code (LDC)** - means ordinances and regulations enacted by the City of St. Pete Beach City Commission ~~or by voter referendum as required by City Charter~~ that regulates any aspect of development.

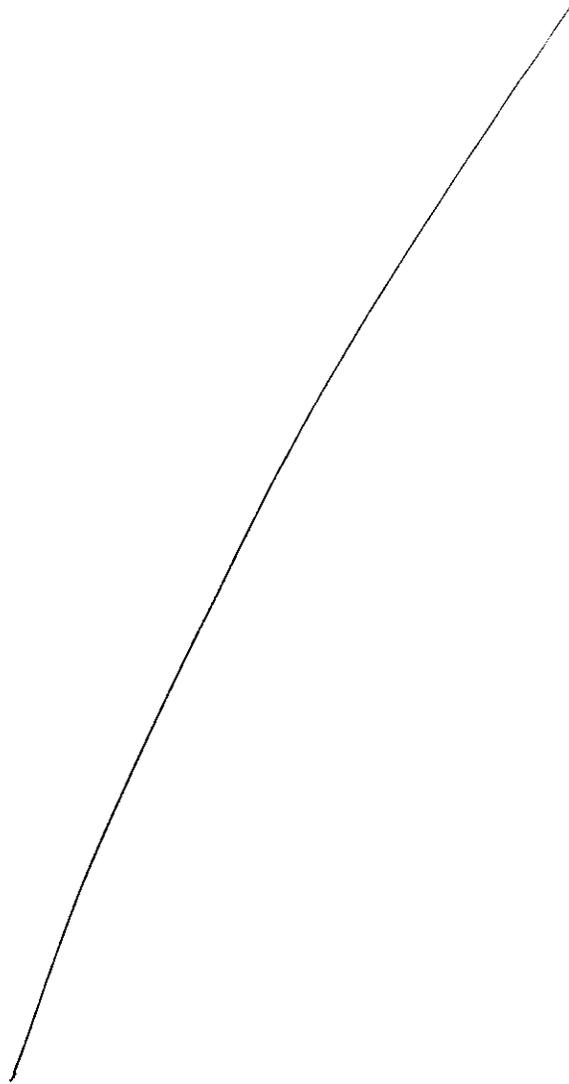
B. Community Redevelopment District

FOOTNOTE(S):

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~~The Affordable Housing Density Bonus as established herein allows only 50% of the potential increased density that was approved in the 2005 Plan. In 2005, the maximum density bonus approved was ten (10) temporary lodging units per acre. It was the decision of the City, County and DCA in 2005 that any density bonus that may be utilized in the Large Resort District is speculative and as a result of countervailing public policies to promote and encourage affordable housing as well as the redevelopment of temporary lodging uses that support tourism as the #1 economy in Pinellas County and the State, the potential number of affordable housing bonus units was not calculated against the overall density cap for the Community Redevelopment District. Consistent with the policy for affordable housing density bonus calculation approved in 2005, the potential five (5) temporary lodging units per acre potentially available, subject to certain requirements and restrictions, as part of a voluntary affordable housing mitigation program in addition to the mandatory general mitigation program requirements, will not be calculated against the overall density cap for the Community Redevelopment District.~~

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General Provisions and Maps

2. Downtown Redevelopment District.

- a. The overall Gulf Boulevard Redevelopment District boundary is shown on ~~Map 10 and on~~ Map 2, the following character districts within this Redevelopment District are shown:
- b. The overall Downtown Redevelopment District boundary is shown on ~~Map 11 and on~~ Map 3, the following character districts within this Redevelopment District are shown:

Objective 1.1

Promote a sustainable community by requiring the use of Green standards and practices for all development and redevelopment within the Community Redevelopment District by establishing minimum Green building and site design standards; ~~and establishing incentive programs such as expedited site plan review and building permitting, and credits against impact fees in exchange for utilizing Green design standards and practices~~ that benefit the quality and sustainability of the environment and:

- Conserve water and other natural resources.
- Reduce energy consumption.
- Improve air quality by reducing Greenhouse gas emissions.
- Reduce impacts on infrastructure by participating in ride sharing and shuttle service programs.
- Reduce urban heat by reducing paved surfaces, reduce the need for parking by participating in shared parking plans, employer ride-share and shuttle service programs.
- Reduce urban heat and encourage pedestrian mobility by planting additional shade trees.
- Reduce waste through efficient design and recycling programs.
- Promote a walkable environment by providing on-site pedestrian pathways that link to adjacent properties and off-site sidewalks to reduce traffic impacts and Greenhouse gas emissions.
- Provide trolley stops or improve existing trolley stops as a comfortable, safe, convenient and attractive experience that encourages mass transit use.

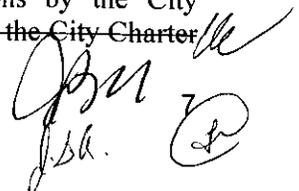
Policy 1.1.4

~~The City shall adopt and implement an incentive program that may include expedited site plan review, expedited building permit review and processing, and credits against impact fees or building permit fees that rationally relate to the environmental benefits being achieved such as lower water and energy consumption, reduced Greenhouse gas emissions, and reduced traffic impacts through the implementation of mitigation measures described in Policies 1.1.5, 1.1.6 and 1.1.7 below.~~

Community Redevelopment District general redevelopment guidelines, standards and initiatives

(a) Designation of Densities and Intensities in General.

4. Require the adoption and implementation of land development regulations by the City Commission ~~or the registered voters of St. Pete Beach, as may be required by the City Charter~~



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~~and Code of Ordinances, for each character district that shall be consistent with and allow the implementation of an economically feasible strategy that promotes comprehensive redevelopment of consistent quality for the Community Redevelopment District as a whole and within each designated character district; and~~

~~(c) Affordable Housing Mitigation Programs & Density Bonus^{1, 4}~~

- ~~1. Existing Conditions. Pinellas County, as in many areas of the State of Florida, is experiencing an affordable housing crisis. A scarcity of land, increasing land values and rising insurance and property taxes are creating a substantial impediment to providing affordable housing options for City and County residents who provide needed services to our community. Meaningful affordable housing solutions will require public/private partnerships and innovative strategies. At the time of this proposed amendment, several affordable housing mitigation strategies are being explored by the County and local municipal governments within the County. It is the express intent of St. Pete Beach to participate in any such adopted affordable mitigation strategies as agreed to by the City and County in cooperation with existing affordable housing programs in The City of St. Petersburg and Pinellas County to create affordable housing units within reasonable proximity to the City of St. Pete Beach.~~
- ~~2. Interpretation and Construction. This affordable housing provision is intended to enable the implementation of any and all affordable housing strategies mandated by any lawful means by the State, County or City, as may be established and amended from time to time. The City shall work in partnership with the County and neighboring jurisdictions to establish an affordable housing mitigation program. This provision shall be construed to be consistent with any future implementing land development regulations that provide affordable housing mitigation strategies.~~
- ~~3. General Affordable Housing Mitigation Program Implementation, Limitations and Restrictions. The City shall establish an affordable housing general mitigation program that includes impact fees or alternative mitigation options that shall be imposed on net development, with credit provided for any existing units or floor area which is removed during the redevelopment process. Alternative mitigation options in lieu of mitigation fees may include eligible, qualified and approved: a) construction of on-site workforce living accommodations; b) credits for off-site construction of affordable housing; c) credits for land purchases or donations that are legally restricted and used for affordable housing only; d) credits for participation in employer-assisted housing programs; or e) such other affordable housing mitigation strategies that may be established by the City in partnership with the County and neighboring jurisdictions. This general mitigation program shall be imposed on a City-wide basis. Jurisdictions, agencies and programs that will receive the revenues generated will be determined through negotiation with appropriate authorities.~~
- ~~4. Implementation. The City shall amend its LDC to establish or amend an existing affordable housing and mitigation program, as appropriate, to be consistent with this plan amendment. The LDC shall be amended as soon as reasonably possible, but no later than thirty (30) days after receiving all final County, State, agency and City Commission approvals of this amendment to the Comprehensive Plan, after approval by a voter referendum. This affordable housing mitigation program shall be established in partnership with the County and neighboring jurisdictions and shall comply with all governing County and State laws in effect at that time.~~
- ~~5. Large Resort Affordable Housing Mitigation Program & Density Bonus. In consideration of the legitimate State, County and City public interest to encourage and promote both affordable housing mitigation strategies as well as tourism which is the number one industry in both the State and County and the City's only industry, temporary lodging unit density bonuses~~

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~~in exchange for affordable housing mitigation exceeding that established by the General Affordable Housing Mitigation Program shall be established for the Large Resort District. The City Commission shall amend its LDC and provide for a Large Resort Affordable Housing Mitigation program as soon as reasonably possible in accordance with the following restrictions and limitations:~~

- ~~a. **Density Bonus Limitations.** A density bonus in exchange for affordable housing mitigation may only be allowed in conjunction with a defined Large-scale temporary lodging use development.~~
- ~~b. **Density Bonus Restrictions.** A maximum temporary lodging unit density bonus shall be permitted up to, but shall not exceed an additional five (5) bonus units per acre and an additional 0.2 floor area ratio to accommodate the additional temporary lodging units for a defined Large-scale temporary lodging development. Five bonus units shall be allowed for every affordable unit constructed.~~
- ~~c. **Mitigation Exemption.** Temporary lodging units built as part of the affordable housing density bonus and on-site workforce living accommodations provided in compliance with the General or Large Resort Affordable Housing Mitigation programs, as applicable, shall not be subject to the affordable housing mitigation fees or other program requirements.~~
- ~~d. **Prohibitions and Restrictions.** All on-site workforce living accommodations shall be:
 - ~~(i) Prohibited from being advertised for, or otherwise used for guest temporary lodging or home-occupational licensing purposes;~~
 - ~~(ii) Exclusively used for providing on-site workforce living accommodations for employees eligible for low income or very low income status as defined by the County and City; and~~
 - ~~(iii) Prohibited from being advertised for or otherwise sold as a residential dwelling unit that does not qualify as an on-site affordable housing unit occupied exclusively by an employee(s) of the temporary lodging facility.~~~~
- ~~e. **Covenant Required.** A legally enforceable restrictive covenant, in form and content acceptable to the City, shall be required as a condition of site plan approval and recorded in the public records of Pinellas County upon issuance of a building permit setting forth the restrictions provided in subsection (c)5 above. In addition, such on-site workforce living accommodation units shall be subject to all procedures and requirements of the hurricane closure and evacuation plan for the temporary lodging facility.~~

~~(dc) **Height Standards, Restrictions and Limitations.** Height standards, restrictions and limitations are:~~

- ~~6. Established in each character district to with the express intent of complying with the Section 3.18 of the City Charter, as amended on Nov. 7, 2006, that requires voter referendum approval for any increases to height allowed by the City's LDC. to It is the express intent of this amendment to the Future Land Use Element of the Comprehensive Plan designating a Special Area Community Redevelopment District designation, to establish such height standards not as a recommendation, but rather as a set a mandatory maximum height for each type of use within each character district within the Community Redevelopment District that shall be adopted by Ordinance of the City Commission amending its LDC. These height standards are mandatory only for the purposes of establishing maximum permissible heights in both the Comprehensive Plan and the LDC and shall not be construed as requiring that a developer build~~

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the maximum height allowed, only that they may build up to, but not exceed, the maximum height for each use as established in each character district.

~~b. The height standards established for each use within each character district within the Community Redevelopment District have generally been determined to be the minimum necessary to implement an effective redevelopment strategy as contemplated herein for each character district and for the Community Redevelopment District as a whole.~~

~~e. It is expressly intended, and shall be construed that any increases to the maximum height in each character district shall be governed by the referendum procedures established in Section 3.18 of the City Charter, as adopted on November 11, 2009, as well as the procedures established in Florida Statutes for amendments to the adopted comprehensive plan.~~

~~7. Any increases to the maximum allowable height, including by variance, established for each use in each character district within the entire Community Redevelopment District shall be prohibited unless approved by voter referendum, if required by the City Charter.~~

87. Variances to increase the maximum height allowed for any use or structure shall be prohibited.

(gf) Infrastructure Systems & Facilities Characteristics and Standards.

2. Concurrency Management System and Transportation Management Plan Requirements:

a. **Concurrency Statement.** All new development or redevelopment that increases density or intensity on a site shall be required to prepare and submit a Concurrency Management Statement to the City, at its sole expense, to determine the sufficiency of capacity and any potential adverse impacts or degradation of the levels of service below acceptable levels established by the City or County, as applicable, on existing or future infrastructure systems and facilities except transportation. At a minimum, Concurrency Management Statement(s) shall be submitted for the following:

(i) Potable water;

(ii) Sanitary sewer;

(iii) Solid waste;

(iiii) Transportation facilities;

(v) Stormwater

(vi) Parks and recreation facilities (for residential development only); and

(vii) Educational facilities (for residential development only).

b. **Infrastructure Study.** An infrastructure study ~~may~~ shall be required on each of the above-listed systems or facilities to determine the extent of any degradation of the infrastructure below the adopted levels of service ~~caused by increases in density or intensity of use on the development site unless determined to be unnecessary by the City's Technical Review Committee based on an evaluation of potential impact relative to the nature, size, type and location of the proposed development project or land use amendment application.~~ Mitigation fees and/or physical or operational improvements determined to be reasonably required and in proportion to the impacts caused by the increased density and density

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intensity of new development, in consideration of the long-term concurrency management plan of the local government who owns and operates the facility or system, shall be a condition of site plan approval stipulated as conditions of approval as part of the development order. The Technical Review Committee shall document its findings pertaining to its review.

c.

d. Transportation Management Plan.

~~(xiii) Construction or monetary contributions towards a Gulf Beach Boardwalk, should the City pursue a beach boardwalk or trail.~~

- (j) **Community Involvement.** A minimum of one (1) community meeting shall be held at least thirty (30) days prior to submitting an application for administrative approval of a development or redevelopment site plan proposed to be built within the Community Redevelopment District. Single family homes, duplexes and projects less than ½ acre in size, may, but shall not be required, to host a community meeting. The purpose of the community meeting shall be to present the development project site plan to interested City residents and business owners, answer questions and solicit comments. All attendees shall be given at least three minutes to comment or ask questions on the subject matter under consideration. The public shall be allowed to take notes and video record the community meeting. A sign-in sheet and comment cards shall be provided to all attendees and a copy shall be provided to the City Clerk within three (3) days of the meeting. At least one City Staff person from the Community Development Services Department shall attend the community meeting. The City shall consider the written comments submitted by attendees during its administrative site plan review process, and may implement such public comment as appropriate that are consistent with and not contrary to law and local land development regulations, and are in the best interests of the public health, safety and welfare of the community.

Densities Reserved for the Community Redevelopment District

- (b) **Residential Unit Reserves ("RU Reserve").** RU Reserves are established for the following three designated character districts ~~for a minimum of five (5) years~~ in accordance with each district's specific redevelopment plan:

~~4. Implementation of RU Reserves in Three Character Districts.~~

- ~~a. Five-Year Waiting Period.~~ RU Reserves shall not be implemented through the City's Future Land Use Plan and LDC prior to five years after final adoption of this plan and map amendment to:

- ~~(i) Allow the City adequate time to assess whether or not the incentive provided by this redevelopment plan is sufficient in the short term to effectuate redevelopment without implementing all available residential density immediately upon approval of this amendment.~~
- ~~(ii) Avoid the potential for overdevelopment in the short term while simultaneously allowing future Commissions to re-evaluate economic conditions beyond five years.~~

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~~and decide if additional incentives are needed to encourage redevelopment in each specific character district.~~

~~(iii) Provide future Commissions the necessary planning tools when and if warranted, to further the stated goals, objectives and policies of the Community Redevelopment Plan.~~

b. **FLUE Implementation.** ~~After the expiration of this five-year waiting period,~~ ~~the~~ maximum permitted residential density for land designated in Future Land Use Plan and Map is as follows:

(i) Commercial Corridor Gulf Boulevard District and the Commercial Corridor Blind Pass Road District shall be fifteen (15) residential units per acre without further need to amend this Future Land Use Plan and Map.

(ii) Downtown Core Residential District shall be twelve (12) residential units per acre without further need to amend this Future Land Use Plan and Map.

c. **LDC Implementation.** ~~After that initial mandatory five-year reserve period,~~ ~~future~~ City Commissions may increase the residential density permitted in each of the three character districts as established immediately above by amending the land development regulations, but only if such increase is determined necessary by a future City Commission based upon available data and analysis.

(c) **General Residential Unit "RU" Density Pool Reserve.**

~~2. Ten-Year Waiting Period.~~ The residential dwelling units contained in this General RU Density Reserve shall not be implemented through the City's Future Land Use Plan prior to ten years after final adoption of this amendment.

32. **FLUE Implementation.** After the expiration of this Ten-year waiting period, 195 residential dwelling units shall automatically become available as a residential density reserve for any property located within the boundaries of the Community Redevelopment District that permits residential use without further need to amend this Future Land Use Plan and Map.

43. **LDC Implementation.** After that initial mandatory Ten-year reserve period, ~~future~~ City Commissions may implement the residential density pool through the LDC with proper allocation procedures and absolute density limitations to ensure that the cumulative total of allocations does not exceed the available reserve density.

Other Standards for the Community Redevelopment District (CRD)

Shall include the following:

(a) **Countywide Amendment CRP Approval.** The utilization of this Comprehensive Plan Future Land Use Element land use plan category and corresponding Future Land Use Map change to provide for a Community Redevelopment District shall require the subject area to be formally designated as a community or neighborhood redevelopment area and a special area plan ~~initially approved by a voter referendum as prescribed by City Charter.~~ Thereafter, the process for the Countywide Future Land Use Plan amendment to employ or alter this land use plan category shall require recommendation by the Pinellas Planning Council and approval by the Countywide Planning Authority for the special area plan and any substantive amendments thereto. Minor plan changes that are not considered substantive shall not constitute an amendment to the Future Land Use Plan, and shall be submitted to the Pinellas Planning Council and the Countywide Planning Authority for receipt and acceptance.

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Where such comprehensive plan amendment is prepared pursuant to Chapter 163, Part III, F.S. or ~~governing laws in effect at the time of voter referendum approval~~, all applicable provisions of that process will be complied with prior to or simultaneous with the review of the Community Redevelopment Plan under the Countywide Rules.

(c) In order to ensure compatibility with adjoining existing uses, to fully evaluate impact on the City's infrastructure, and to ensure the entire development project meets City standards, the City shall amend its Land Development Code to require conditional use approval subject to quasi-judicial public hearings before the Planning Board and City Commission, for any temporary lodging use in the Community Redevelopment District proposed to have a building height greater than fifty (50) feet or a density greater than 30 temporary lodging units per acre as may be allowed by this plan and the City's Land Development Code. This review process shall include, but not be limited to, considerations of:

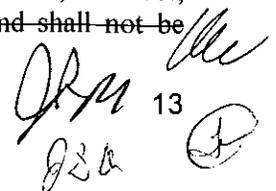
- Utility infrastructure, including sanitary sewer, reclaimed water, potable water electric, fire, law enforcement, and natural gas services, and data transmission and telecommunications services;
- Transportation infrastructure, including ingress and egress from public rights-of-way, traffic control devices and signalization, internal vehicle circulation of the site, design and function of parking areas, loading and unloading areas, pedestrian transit infrastructure and amenities, and public sidewalks and roadways;
- Hydrological features and storm water management infrastructure;
- Aesthetic and architectural features of the development, including site layout, physical dimensions of structures such as height and massing, design and appearance of building facades, exterior building materials, advertising and directional signage and the provision and maintenance of Gulf and Bay views and vistas;
- Site landscaping, open space provision and impervious surface limitations;
- Operational and functional requirements of facilities, including hours of operation, provision of required services or amenities, lighting requirements, noise abatement requirements, residency limitations and facilities maintenance;
- Fire suppression and facility security;
- Emergency management and hurricane evacuation provisions.
- The amount of separation provided between the proposed temporary lodging use and any existing buildings on adjoining properties and resulting impact on sunlight and views; and
- The proximity of any adjacent residential building to the Florida Coastal Construction Control Line and the degree to which the proposed temporary lodging use and/or any accessory use or structure maintains an open view of the waterfront from neighboring properties.

C. Gulf Boulevard Redevelopment District

FOOTNOTE(S):

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Providing on-site affordable housing or worker living accommodations shall neither be calculated as part of any density permitted nor shall it entitle the landowner or developer to any density bonuses; however, such accommodations shall be eligible for affordable housing mitigation fee credits and shall not be

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~~subject to any General or Large Resort Affordable Housing Mitigation requirements adopted by the City or County. In addition, any such workforce living accommodations shall also be subject to the same legally enforceable closure and evacuation plan required for all temporary lodging uses pursuant to the LDC.~~

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General Provisions

(b) Purpose and Intent; Redevelopment Incentives & Deterrents.

- 3. Prohibit exclusive residential use projects exceeding current height and density restrictions contained within the City's LDC.

Objective 1.3

~~A variety of incentives shall be available to encourage commercial and temporary lodging development in the Gulf Boulevard Redevelopment District, with particular emphasis on redeveloping temporary lodging uses on the west side of Gulf Boulevard along the Gulf beaches; and redeveloping appropriate commercial and residential uses on the east side of Gulf Boulevard.~~

Policy 14:

~~All new development projects shall contribute their pro-rata share to the Community Improvements Fund, as may be required at the time of building permit approval or before~~

Large Resort District (LR)

Policy 5:

All large-scale development and redevelopment projects approved under Scenario 2 ~~as defined under Permitted Uses & Standards for this Large Resort character district category~~ ~~may~~ ^{may} ~~shall~~ be required to provide an easement to the City for a beach boardwalk or trail unimproved public access landward of the mean high water line Gulf ward of the Florida Coastal Construction Control Line in the event the City pursues the development of a beach boardwalk or trail and the location is necessary to provide a continuous, uninterrupted pedestrian beach system along the Gulf of Mexico prior to any building permit being issued.

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Permitted Uses & Standards

- (a) **Primary uses** - Temporary lodging uses - hotel, motel, resort condominium; medium density multi-family residential.
- (b) **Secondary uses** - Commercial and office; provided, however, any commercial and/or office use on property located within one-hundred and fifty (150) feet of the westerly right-of-way line of Gulf Boulevard may be under separate ownership from the primary use when approved by the City as part of an overall site plan incorporating the primary and secondary uses as an integrated project.
- (c) **Density/Intensity and Height Standards** - Density and intensity shall be calculated on the basis of those portions of the site which are landward of the Florida Coastal Construction Control Line and shall be permitted as follows:
 - A. **Scenario 1:** Existing development, and all development that does not qualify as Large-scale development under subsection B. Scenario 2 below:
 - 1. **Density** - shall not exceed the following:
 - a. 50 temporary lodging units per acre; or
 - b. 15 residential dwelling units per acre; and

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- c. Variances to exceed the maximum density above as established in this Future Land Use Plan shall be prohibited.
2. **Intensity Standards for Temporary Lodging Use** - shall include indoor amenities and shall exclude structured parking, ~~any on-site affordable housing or worker living accommodations²~~ and outdoor amenities including but not limited to tennis courts, pools, and the like. The floor area ratio for Scenario 1 shall not exceed the following:
- a. 1.8 floor area ratio; and
 - b. Shall not include additional floor area for freestanding non-residential facilities; and
 - c. Variances to exceed the maximum floor area ratio above as established in this Future Land Use Plan shall be prohibited.
3. ~~**Height** shall not exceed, but shall be permitted up to the following, subject to height limitations contained in the City's LDC:~~
- a. ~~One hundred (100) feet above base flood elevation, inclusive of structured parking, for any building that exclusively contains only temporary lodging uses; or~~
 - b. ~~Fifty (50) feet above base flood elevation for any building containing temporary lodging and residential dwelling units; or~~
 - c. ~~Fifty (50) feet above base flood elevation for any building containing residential dwelling units only; and~~
 - d. ~~Variances to increase the height above shall be prohibited unless approved by voter referendum, if required by the City Charter.~~

B. **Scenario 2 Large-scale Development:** shall mean development of a parcel that is at least three gross acres in size or greater ~~and provided that new construction exceeds sixty-seven percent (67%) of the combined aggregate floor area of new and existing principal buildings and accessory structures that constitute the entire site plan on the buildable site.~~

- 1. **Density** - shall not exceed the following:
 - a. 75 temporary lodging units per acre ~~excluding any affordable housing density bonus;~~ or
 - b. 15 residential units per acre; or
 - c. A combination of residential and temporary lodging units which shall be prorated on an acreage basis allocated to each use, provided that a minimum of 200 temporary lodging units are provided; and
 - d. Variances to exceed the maximum density above as established in this Future Land Use Plan shall be prohibited.
- 2. **Intensity Standards for Temporary Lodging Use** - shall include indoor amenities and shall exclude ~~on-site affordable housing or workforce living accommodations;~~ structured parking and outdoor amenities including but not limited to tennis courts, pools and the like. The maximum floor area ratio for Scenario 2 shall not exceed the following:
 - a. 2.6 floor area ratio; and
 - b. As a bonus, street level retail and restaurant uses facing Gulf Boulevard that are accessible by pedestrians along Gulf Boulevard and serve the general public, may be constructed but shall not exceed an additional floor area ratio of 0.15 of the building site; and

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- c. The preceding intensities may include the normal ancillary residential for on-site security, maintenance and management, and normal ancillary non-residential guest facilities; and
 - d. Variances to exceed the maximum floor area ratio above as established in this Future Land Use Plan shall be prohibited.
3. ~~Height shall not exceed, but shall be permitted up to the following, subject to any height limitations contained in the City's LDC:~~
- a. ~~One hundred forty six (146) feet above base flood elevation, inclusive of structured parking, for any building exclusively contains only temporary lodging uses as part of a Large-scale Development project on a parcel that is more than 200 feet in width; or~~
 - b. ~~Fifty (50) feet above base flood elevation, inclusive of structured parking, for any building containing multi-family residential units combined with temporary lodging units; or~~
 - e. ~~Fifty (50) feet above base flood elevation, for any buildings containing residential dwelling units only; and~~
 - d. ~~Any increases to, including variances to increase, the maximum height for each type of use set forth above for this Large Resort character district shall be prohibited unless approved by voter referendum, if required by the City Charter.~~

(d) Height Standards – The maximum building height for each use within the Large Resort (LR) District shall not exceed:

- A. Residential use only, any temporary lodging use mixed with residential in same building. Building height shall not exceed 50 feet.
- B. Any temporary lodging or commercial use building located within 200 feet of a property occupied by an existing residential use located outside the Community Redevelopment District. Building height shall not exceed 50 feet or the height of the adjacent residential building located outside the Large Resort District, whichever is greater.
- C. Temporary lodging use only. Building height shall not exceed 116 feet not including any decorative features or rooftop amenities extending twelve feet or less in height above the roof line.
- D. Any variance to increase the maximum height for each type of use set forth above for this Large Resort character district shall be prohibited.
- E. Building height for the above uses shall be measured in accordance with the “height” definition as set forth under the definition section of the Special Designation – Community Redevelopment District in this plan.

(e) Setback Standards – Any new building construction or building addition within the Large Resort (LR) District shall comply with the following setbacks:

- A. Front Yard. The minimum front yard setback for buildings 50 feet in height or lower shall be 25 feet. The minimum front yard setback for that portion of a building rising above 50 feet in

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height shall be equal to the height of the building unless a lesser setback is approved by the City through the conditional use process to provide for increased compatibility with adjoining properties.

- B. Side Yards. The minimum side yard setback shall equal 10 percent of the lot width for each side of the subject property, or 30 feet on one side, ^Q whichever is less, not to exceed 60 feet combined for both side setbacks. Provided, however, when the subject property is adjacent to an existing residential use located outside the Large Resort District, the minimum side yard setback shall equal twenty (20) percent of the lot width of the subject property or 60 feet, whichever is less, provided that in no event shall the setback be less than 30 feet, for that side yard abutting the existing residential use. The City Commission may increase the minimum side yard setback for that portion of a proposed building rising above 50 feet in height when determined to be in the public interest upon evaluating a conditional use permit request.
- C. Rear Yard. For non-waterfront parcels, the minimum rear yard setback shall be 20 feet. For waterfront parcels, the minimum rear yard setback shall be the Florida Coastal Construction Control Line, provided, however, when the subject property is adjacent to an existing residential use located outside the Large Resort District, the minimum rear yard setback shall be increased as follows:
1. 50 feet landward of the Florida Coastal Construction Control Line or in alignment with the existing rear yard setback of the adjacent residential use, whichever is less, for buildings 50 feet in height or lower.
 2. 50 feet landward of the Florida Coastal Construction Control Line plus an additional one-half foot of rear yard setback for every one-foot in building height for that portion of the building above 50 feet.

(f) Required Buffering – New construction of a temporary lodging or commercial use that exceeds 50 feet in building height or adjoins an existing residential property located outside the Large Resort District shall provide a minimum 30 foot wide landscape buffer along the entire length of a required side yard with the specific landscape plan to be reviewed and approved as part of the conditional use permitting process. The landscape buffer may contain any required public access to the beach, but no accessory uses. New construction of a temporary lodging or commercial use adjoining an existing residential property located outside the Large Resort District shall include the same buffer for rear yard along the adjoining residential property line, if applicable. The City Commission may reduce the width of the required buffer by up to 50 percent based upon its design and compatibility review of the project and any superior alternatives presented unless it adjoins an existing residential use located outside the Large Resort District, in which case there shall be no reduction to the required buffer width.

Boutique Hotel/Condo District (B-HC)

Policy 3:

All development and redevelopment projects may be required to provide an easement to the City for a ~~beach boardwalk or trail~~ unimproved public access landward of the mean high water line Gulf ward of the Florida Coastal Construction Control Line in the event the City pursues the development of a beach boardwalk or trail and the location is necessary to provide a continuous, uninterrupted pedestrian beach system.

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Permitted Uses and Standards

(c) **Density/Intensity and Height Standards**

2. **Temporary Lodging Unit Density Pool ("TLU Density Pool")**

(e) Height shall not exceed, but shall be permitted up to the following, subject to height limitations contained in the LDC:

- 4. Any increases to, including variances to increase, each of the maximum heights set forth above for this Boutique Hotel/Condo Resort character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

(c) **Density/Intensity and Height Standards.**

4. **Height**

- e. Any increases to, including variances to increase, the maximum height for each type of use set forth above for this Activity Center character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

Goals, Objectives and Policies for the Downtown Redevelopment District

Town Center Core District (TC-1)

Permitted Uses and Standards

4. **Height**

- c. Any increases to, including variances to increase, the maximum height for each use set forth above for this Town Center Core character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

Town Center Corey Circle District (TC-2)

Permitted Uses and Standards

4. **Height**

- d. Any increases to, including variances to increase, the maximum height for each type of use set forth above for this Town Center Corey Circle character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

Town Center Coquina West District (TC-2)

Permitted Uses and Standards

4. **Height**

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- d. Any increases to, including variances to increase, the maximum height for each type of use set forth above for this Town Center Coquina West character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

Downtown Core Residential District (DCR)

Permitted Uses and Standards

- 2. **Height**
 - b. Any increases to, including variances to increase, the maximum height set forth above for this Downtown Core Residential character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

Upham Beach Village District (UBV)

Permitted Uses and Standards

- 4. **Height**
 - c. Any increases to, including variances to increase, the maximum height for each type of use set forth above for this Upham Beach Village character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

Commercial Corridor Blind Pass Road District (CC-1)

Permitted Uses and Standards

- 3. **Height**
 - c. Any increases to, including variances to increase, the maximum height for each type of use set forth above for this Commercial Corridor Blind Pass Road character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

Commercial Corridor Gulf Boulevard District (CC-2)

Permitted Uses and Standards

- 3. **Height**
 - c. Any increases to, including variances to increase, the maximum height for each type of use set forth above for this Commercial Corridor Gulf Boulevard character district shall be prohibited ~~unless approved by voter referendum, if required by the City Charter.~~

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