

RESOLUTION NO. 2016-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MEXICO BEACH CONFIRMING A PAST VOTE TO REZONE APPROXIMATELY 88.6 ACRES OF LAND THAT IS CURRENTLY IDENTIFIED WITH PARCEL NUMBER 04135-000-000 TO PUD CONCEPT, WITH THE REZONING AND ANY CHANGE TO THE CITY'S OFFICIAL ZONE MAP TO BE RATIFIED BY ORDINANCE AT THE TIME, IF EVER, THAT THE CITY HAS APPROVED A COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT THAT WOULD MAKE THE PUD CONCEPT PLAN FULLY CONSISTENT WITH THE COMPREHENSIVE PLAN; REPEALING ORDINANCES IN CONFLICT TO THE EXTENT OF THAT CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WITNESSETH:

WHEREAS, in 1999 Corry Coastal Properties, Inc. ("Corry"), through its engineer Baskerville Donovan, Inc., applied to the City of Mexico Beach, Florida (the "City") to rezone approximately 88.6 acres of land, which is currently identified as Parcel Number 04135-000-000, to Planned Unit Development (the "Property"); and

WHEREAS, limited records regarding this matter have been located, but records of certain application materials and correspondence are available as well as the minutes of the City Council's December 14, 1999 regular meeting during which the Council considered the rezoning request; and

WHEREAS, during the December 14, 1999 regular meeting the Council voted unanimously to approve the Property as a PUD, with the meeting minutes more specifically stating:

Mr. Klien of Baskerville Donovan presented the council with a concept plan for the Corry 100 Unit Development. Mr. Klein asked for the approval of the Planned Unit Development. The property is currently unzoned and would like the area zoned as a Planned Unit Development. Mr. Ashcroft made a motion to approve the Corry property as a PUD. Mr. Jones seconded the motion. All were in favor.

; and

WHEREAS, few other records have been located regarding this matter and no records of notices and Planning and Zoning Board activities have been located; and

WHEREAS, zoning changes are accomplished through the adoption of an ordinance; and

WHEREAS, the City Council did not consider or adopt an ordinance concurrently or following the December 14, 1999 regular meeting or make other efforts to change the Official Zoning Map regarding the Property; and

WHEREAS, the Property has been designated Residential Low Density on the Comprehensive Plan Future Land Use Map since prior to the 1999 rezoning application and at all times thereafter and no application to amend the Future Land Use Map has been made; and

WHEREAS, the Planned Unit Development Master Plan for the Property includes commercial uses, townhomes, and other features that could not be allowed unless the Future Land Use Map designation is amended for some or all of the Property; and

WHEREAS, the parties agree that the Future Land Use Map requirements were considered during the December 14, 1999 meeting and were intended by the parties to be fulfilled prior to the development of the Property; and

WHEREAS, by letter dated June 24, 2004 and addressed to the then City Administrator, Baskerville Donovan referred to the prior rezoning of the Property to Planned Unit Development, described additional professional services intended to be conducted regarding the Property, and requested to reserve water and sewer taps; and

WHEREAS, there do not appear to be subsequent City records regarding the development of the Property or other land use matters until 2016 when Corry began corresponding with the City to confirm the zoning of the Property; and

WHEREAS, Corry has requested that the City confirm that the Property is zoned PUD Concept governed by the plan entitled "A Master Plan for the Corry Property, Mexico Beach, Florida" (attached and incorporated herein as Exhibit "A") and the other application materials submitted by Corry in 1999 (collectively, the "PUD Concept Plan"), as well as the City's Comprehensive Plan and Land Development Regulations; and

WHEREAS, Corry acknowledges and agrees that development of the Property consistent with the PUD Concept Plan would require amending the Comprehensive Plan Future Land Use Map, approval by the City of a Final Development Plan and an associated rezoning the Property to PUD, and approval of one or more development orders; and

WHEREAS, the parties agree that the rezoning to PUD Concept was not intended to be effective unless and until the Comprehensive Plan Future Land Use Map has been amended sufficiently to make the PUD Concept Plan fully consistent with the Comprehensive Plan; and

WHEREAS, the parties understand that the 1999 process of acting on a rezoning request without previously or concurrently amending the Comprehensive Plan Future Land Use Map for consistency with the new zoning is not the normal process and does not set precedent for any future land use or zoning matters in the City, but best effectuates the parties intent in 1999 and will resolve this PUD Concept matter and potential disputes between the parties regarding it.

NOW THEREFORE, be it resolved by the City of Mexico Beach, Florida:

Section 1. The foregoing recitals are incorporated as if set forth fully herein.

Section 2. The December 14, 1999 Council action on Corry's rezoning request to rezone the Property from Residential Low Density to PUD Concept is hereby confirmed, with the rezoning and any change to the City's Official Zone Map to be ratified by ordinance at the time, if ever, that the City has approved a Comprehensive Plan Future Land Use Map amendment, pursuant to the City's standard procedures, that would make the PUD Concept Plan fully consistent with the Comprehensive Plan.

Section 3. Corry and Corry Family, LLC, collectively the current owners of the Property, are required to submit a complete application to amend the Comprehensive Plan Future Land Use Map, pursuant to the City's standard procedures, that would make the PUD Concept Plan fully consistent with the Comprehensive Plan within 365 days following the approval of this resolution. If the Corry entities or their successor fail to make such a submittal or such application is denied in due course, this Resolution and any right by any party, known and unknown, to claim PUD Concept status for the Property shall expire. Such expiration shall be tolled during the pendency of an appeal of the decision of the City on such application.

Section 4. All Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of the conflict.

Section 5. If any section, subsection, sentence, clause, phrase of this Resolution, or any particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining sections, subsections, sentences, clauses, or phrases under application shall not be affected thereby.

Section 6. This Resolution shall become effective immediately upon its passage and the rezoning shall become effective, if ever, at the time of the adoption of one or more ordinances satisfying the requirements of Section 2 of this Resolution.

Passed, approved and adopted as of this twenty-fifth day of October, 2016.

CITY OF MEXICO BEACH, FLORIDA



Tom Bailey, Mayor

ATTEST:



Adrian Welle, City Clerk