

2nd AMENDMENT

ENROLLED 38-1224-86

A bill to be entitled

An act relating to Gasparilla Island, including Boca Grande Isles and the Gasparilla Golf Course Island, Three Sisters Island, Hogan's Key, and Loomis Island, located in Charlotte County and Lee County; amending Section 4 of Chapter 80-473, Laws of Florida, as amended; defining the term nonconforming use; defining the criteria for traditional use; allowing the right to rebuild or repair nonconforming existing structures under certain circumstances; providing time limitation for issuance of permits for rebuilding or repair of such structures; establishing the Gasparilla Inn Historic Resort Area; providing boundaries; providing for traditional use within the area; providing density and height standards; providing exemptions to the act within the area boundaries; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 4 of chapter 80-473, Laws of Florida, as amended by chapter 83-385, Laws of Florida, is amended, and subsection (10) is added to said section, to read:

Section 4. Restrictions on density, height, land uses and advertisement.

(7) No local governmental body or agency shall have the authority to grant variances or exceptions to the height, density or sign requirements, or to any other provisions or requirement of this act. Notwithstanding the provisions of this section, the Lee County Board of County Commissioners or the Charlotte County Board of County Commissioners, in their respective counties, may grant the right to repair, renovate, or rebuild any nonconforming existing dwelling unit or structure occupied for use as of the effective date of chapter 80-473, Laws of Florida, upon a finding of the Board of County Commissioners in the respective county that the traditional use of such structures has served the public and community benefit. However, no such reconstruction, rebuilding, or renovation of such nonconforming structure shall be allowed to a density or building height or use greater than that authorized under the provisions of this act or the present nonconformity, whichever is greater. As used in this subsection:

(a) "Nonconforming building or structure" is a building or structure, the size, dimension, or location of which was in existence prior to the effective date of chapter 80-473, Laws of Florida, but which fails, by reason of the adoption of this act and existing county building and zoning regulations, to conform to the present requirements of zoning regulations.

(b) "Traditional use" may include, but is not limited to the longevity of use, contribution of the use to the community and historic integrity of the community, and uniqueness of the use in context with the adjoining land uses.

(c) When the nonconforming use of a structure is discontinued or abandoned for 12 consecutive months after being damaged or destroyed and no permits for reconstruction, renovation, or repair have been applied for within that period, the Board of County Commissioners may not grant permission for use of the structure except in conformance with the provisions of this act and applicable county codes, regulations, or ordinances.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(a) Creation and boundaries. - There is hereby created, because of its special and irreplaceable historic significance and community importance, the Gasparilla Inn Historic resort Area. The territory of the area consists of the following described parcels of land:

1. A parcel of land lying easterly of Boca Grande Bayou in Government Lot 1 and in the east half (E-1/2) of the southeast quarter (SE-1/4), Section 14, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

From the southeast corner of the intersection of Palm Avenue and Seventh Street as shown on Revised Plat of Boca Grande recorded in Plat Book 7 at page 1, Lee County Records run N 89°23' 55" E along the south line of said Seventh Street as shown on said plat and an easterly prolongation thereof for 1250 feet; thence run S 30° 36' 05" E for 100 feet to the Point of Beginning; From said Point of Beginning run N 30° 36' 05" W for 800 feet; thence run S 59° 23' 55" W for 220 feet more or less to the waters of Boca Grande Bayou; thence run southeasterly along said waters for 850 feet more or less to an intersection with the line bearing S 59° 23' 55" W and passing through the Point of Beginning; thence run N 59° 23' 55" E along said line for 140 feet more or less to the Point of Beginning. Containing 3.2 acres more or less.

Bearings hereinabove mentioned are based on assuming the south line of Seventh Street to bear N 89° 23' 55" E.

Beginning at the northwest corner of the intersection of Gilchrist Avenue (120 feet wide) and Fourth Street (60 feet wide) as shown on Revised Plat of Boca Grande recorded in Plat Book 7 at page 1, Lee County Records run northerly along the westerly line of said Gilchrist Avenue and a northerly prolongation thereof for 510 feet to the north line of Fifth Street as shown on said plat; thence run easterly along said north line for 374.01 feet to the westerly line of Gasparilla Road (60 feet wide) as shown on said plat; thence run northerly along said

- (2) A parcel of land lying in Government Lots 3 and 4, Section 14, township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

westerly line for 599.04 feet to the south line of Seventh Street (50 feet wide) as shown on said plat; thence run westerly along said south line and a westerly prolongation thereof for 608 feet more or less to the Mean High Water Line of the Gulf of Mexico; thence run southerly along said Line for 1110 feet more or less to an intersection with a westerly prolongation of the north line of said Fourth Street; thence run easterly along said prolongation and said north line for 350 feet more or less to the Point of Beginning.

EXCEPTING THEREFROM that part of Fifth Street (110 feet wide) as shown on said Revised Plat of Boca Grande lying within the herein above described parcel.

Containing 12.4 acres more or less net of said Fifth Street right-of-way.

3. A parcel of land lying in Government Lots 1, 3 and 4 and in the east half (E-1/2) of the southeast quarter (SE-1/4), Section 14, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida which tract or parcel is described as follows:

Beginning at the northeast corner of the intersection of East Avenue (40.2 feet wide) and Fifth Street (60 feet wide) as shown on Revised Plat of Boca Grande recorded in Plat Book 7 at page 1, Lee County Records run easterly along the north line of said Fifth Street and an easterly prolongation thereof for 1340 feet more or less to the waters of Boca Grande Bayou; thence run northwesterly along said waters for 640 feet more or less to an intersection with the south line of Seventh Street (50 feet wide) as shown on said plat thence run westerly along said south line for 340 feet more or less to an intersection with the southerly prolongation of the east line of Lots 23 and 26, Block 57 said Revised Plat of Boca Grande; thence run northerly along said prolongation and said east line for 248 feet more or less to said waters of Boca Grande Bayou on

the south line of Eighth Street (491.55 feet wide) as shown on said plat; thence run westerly along said south line and the north line of said Block 57 for 575 feet more or less to the northwest corner of the east half (E- 1/2) of Lot 4 said Block 57; thence run southerly along the west line of said east half (E-1/2) of Lot 4 for 124 feet more or less to the southwest corner of said east half (E- 1/2); thence run easterly for 25 feet

more or less to the northwest corner of Lot 3 said Block 57; thence run southerly along the west line of said Lot 3 and a southerly prolongation thereof for 174 feet more or less to said south line of Seventh Street; thence run westerly along said south line for 310 feet more or less to an intersection with the east line of said East Avenue as shown on said plat; thence run southerly along said east line for 599 feet more or less to the Point of Beginning.

EXCEPTING THEREFROM those parts of the rights-of-way for Palm Avenue (58.27 feet wide) and Seventh Street as shown on said Revised Plat of Boca Grande lying within the hereinabove described parcel. Containing 19.7 acres more or less net of said road rights-of-way.

(b) Standards for construction. - The historic resort area is found to have traditional uses which are of a public benefit for the operation and maintenance of a resort inn complex and all amenities and facilities associated with such uses, including, but not limited to, tennis courts, swimming pools, recreational complex, golf shop, employee housing, and such auxiliary buildings and facilities as necessary for the operation and maintenance of such a complex, and shall be able to maintain such use, notwithstanding the other restrictions of this act as to residential density, except as provided in this subsection.

(c) Restrictions. - The residential density restrictions of this act do not apply within the boundaries of the historic resort area if such residential density does not exceed 80 resort room accommodations, 109 employee dwelling units, and 56 other residential dwelling units. All other land uses, building standards or restrictions, or activities within the historic resort area are governed by the provisions of this act and by the Lee County Comprehensive Plan where not in conflict with this act. However, the Lee County Board of County Commissioners, in application of its zoning, parking, setback, and other land use ordinances, rules or regulations, shall take into consideration the special and historic significance and traditional land uses of the historic resort and the areas location on a sensitive barrier island.

Section 2. This act shall take effect upon becoming a law.

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