

Gasparilla Island Conservation

District Act of

1980 and Amendments

CHAPTER 80-473

House Bill No. 1514

An act relating to Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key, and Loomis Island, located in Charlotte County and Lee County; making legislative findings of fact that said islands are fragile barrier islands of particular natural beauty containing abundant plant, marine, animal and bird life; providing for the creation of the Gasparilla Island Conservation District; establishing the district boundaries as the above named islands, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds; restricting the density of dwelling units to not more than 5 per acre; restricting the commercial, industrial or multi-family use of land to those lands zoned for such uses prior to the effective date of this act; providing height limitations on all buildings and structures erected within the district; prohibiting exterior advertising signs; providing an exception for certain on-site signs; providing that this act shall not repeal applicable local government comprehensive land use plans, state and local zoning, air and water pollution and conservation and sign regulations; providing an exemption; providing that this act shall prevail where it is more restrictive than such regulations; providing that any real property owner in the district may enforce the provisions of this act by legal proceeding; providing that this act shall be recorded in the public records of Lee and Charlotte Counties; providing for a referendum; providing an effective date.

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

Section 1. Findings of fact. - The Legislature of the State of Florida hereby finds that Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key and Loomis Island, lying within Charlotte County and Lee County, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds, are fragile barrier islands as defined in the Presidential Directive on barrier islands dated May 23, 1977, and are areas of particular natural beauty containing abundant plant, marine, animal and bird life. The conservation of the natural beauty, plant, marine, animal and bird life of the islands is in the best interest of the residents and property owners of the islands and the citizens of Lee and Charlotte Counties and the State of Florida. The manner and extent to which development of the islands is permitted to occur will have a substantial effect on the ecology and natural beauty of the islands. In order to preserve and conserve the fragile ecosystems and natural characteristics of the islands, it is necessary to restrict by this act land uses and the height and density of structures and to prevent the proliferation of exterior advertising signs on the island. The purpose of this act is to permit limited development of the islands while preserving the natural beauty and plant, marine, animal and bird life.

Section 2. Short title. - This act shall be known and cited as the Gasparilla Island Conservation District Act.

Section 3. District creation and boundaries. - There is hereby created a special conservation district, for the uses and purposes set forth herein, known as the Gasparilla Island Conservation District. The boundaries of the district are determined as follows: all of Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key, and Loomis Island, situated in Lee County and Charlotte County, including all adjacent submerged lands, tidal lands, overflow lands, and tidal ponds.

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

- (1) No building or other structure shall be erected or altered within the district so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.
- (2) The density of any development which includes dwelling units, whether or not it includes commercial rental dwelling units, shall not exceed 5 dwelling units per acre. In computing such density, only land above mean sea level, contiguous and under single ownership may be utilized. Parcels which are bisected by a publicly dedicated road, including state and county roads, shall not be considered contiguous for the purpose of computing density hereunder.
- (3) A single family dwelling may be constructed on lands zoned for such use, including lots which were platted and recorded prior to the effective date of this act or lands rezoned for single family use after the effective date of this act. Notwithstanding, the use of nonconforming lots shall be governed by local zoning regulations.
- (4) No land within the district shall be used for commercial, industrial or multi-family purposes except land that was zoned for such uses prior to the effective date of this act. Nothing contained in this Act shall preclude maintenance of fuel supply facilities at existing ports or off-loading facilities.
- (5) No exterior advertising sign shall be erected or displayed within the district except on-site signs which relate in subject matter to the premises on which they are located. Exterior advertising signs which are banners, beacons, neon, rotating, flashing or animated are prohibited.
- (6) This section shall not render legally existing structures and/or signs unlawful.

Section 5. Rules of construction.

(1) This act shall not be construed as limiting the application of or repealing any local comprehensive land use plan or law or rule dealing with the subject of zoning, conservation, or air and water pollution standards or advertising (signs); but if any of the standards specified by this act are more restrictive than those specified in such other plan, law or rule, the standards specified by this act shall prevail.

(2) That southern portion of Gasparilla Island consisting of approximately 42 acres and used generally as a port operation, more specifically described as a tract or parcel of land lying in Sections 23 and 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows:

Beginning at the intersection of the approximate Mean High Tide Line of Charlotte Harbor with the

south line of the north half (N 1/2) of the south half (S 1/2) of Government Lot 3 said Section 26, being also the south line of lands owned by Florida Power & Light Company as described in deed recorded in Deed Book 273 at page 236 of the public records of said Lee County, Florida, run S 89° 21' W along said south line to the southwest corner of said lands described in said deed; thence run N 00° 39' W, perpendicular to said south line, for 513.46 feet to an intersection with the south line of a County Road as described in County Commission Minute Book 8 at page 298; thence run S 89° 43' 20" E along said south line and an easterly prolongation thereof for 587.88 feet to the southwest corner of lands described in deed recorded in Official Record Book 1346 at page 1236 of said public records; thence run N 00° 16' 40" E along the west line of said lands for 165 feet to the south line of lands of the Seaboard Coast Line Railroad (formerly Charlotte Harbor & Northern Railway) as described in deed recorded in Deed Book 129 at page 346 of said public records; thence run N 89° 43' 20" W along said south line for 1450 feet more or less to the approximate Mean High Tide Line of the Gulf of Mexico; thence run northerly along said Line for 350 feet more or less to an intersection with a line bearing N 89° 58' W and passing through Monument "B" as described in said Railroad deed; thence run S 89° 58' E along said line, being a northerly line of said lands described in said deed, for 510 feet more or less to said Monument "B"; thence run N 00° 08' W along a west line of said lands for 1200 feet to Monument "A", as described in said deed; thence run N 89° 52' E along a north line of said lands for 597.4 feet; thence run N 46° 29' E for 145.35 feet to an intersection with a line 50 feet westerly from and parallel with the centerline of the main track of said Railroad; thence run northerly along said parallel line for 8122.5 feet to the north line of said Section 23, being the south line of First Street as shown on the Revised Plat of Boca Grande recorded in Plat Book 7 at pages 1 and 1 A of said public records; thence run easterly along said south line of First Street for 103 feet to an intersection with a line 50 feet easterly from and parallel with said centerline of said main track; then southerly along said parallel line for 5545 feet; thence easterly for 30 feet to an intersection with a line 80 feet easterly from and parallel with said centerline; thence southerly along said parallel line for 2677.5 feet to an intersection with a line bearing N 89° 52' E and passing through said Monument "A"; thence run N 89° 52' E along said line, being also a north line of said Railroad lands, for 285 feet more or less to the approximate Mean High Tide Line of Charlotte Harbor; thence run southerly along said Line for 2250 feet more or less to the Point of Beginning. TOGETHER WITH the existing right-of-way for the Seaboard Coast Line Railroad (formerly Charlotte Harbor & Northern Railway) running northerly from the hereinabove described south line of First Street to the north shore of said Gasparilla Island in Charlotte County, Florida, shall be exempt from the provisions of this act until July 1, 1981.

(3) If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 6. Any owner of real property within the district may enjoin the violation of this act and/or enforce the provisions of this act by instituting civil proceedings filed in a court of competent jurisdiction. In order to enforce the provisions of this act and/or to enjoin a violation of same, a real property owner need not allege or prove that the violation of this act will adversely affect the property rights of said real property owner to any greater extent or different degree than said violation will affect any other real property owner within the district. A real property owner who is successful in his/her efforts to enforce this act through civil proceedings shall be awarded a reasonable attorney's fee and court costs which shall be assessed as a judgment against the person or persons determined by the court to have violated this act. No action by any county commission shall be required as a condition precedent to enforcement of this act pursuant to this section.

Section 7. Recording of the act. - The Secretary of State shall cause a certified copy of this act to be recorded

with the Clerk of the Circuit Court of Lee County and the Clerk of the Circuit Court of Charlotte County, in the Official Records of each county within 30 days following approval of this act by vote of the electors. The cost of recording shall be paid out of the general funds of the county wherein the act is recorded.

Section 8. Notice of intention to seek enactment of this act by the Florida Legislature has been published as required by s. 11.02, Florida Statutes, and s. 10, Art. III of the Florida Constitution. An affidavit of proof of such publication, together with a true copy of such notice, was duly attached to this act when the bill therefore was introduced in the Legislature. Such notice and affidavit are sufficient in form and substance; they have accompanied the bill throughout the Legislature; and they shall be filed and preserved with the bill in the Department of State.

Section 9. This' act, except for sections 7, 8 and this section which shall take effect upon becoming a law, shall take effect upon approval by a majority vote of the qualified persons voting in a referendum election which shall be called and held by the Boards of County Commissioners of Lee County and Charlotte County in the proposed Gasparilla Island Conservation District on the date of the next general election (on or about November 4, 1980). Any person who is an elector of Lee County or Charlotte County and is a resident of the proposed district is eligible to vote in such referendum election; however, no person shall be eligible to vote more than one ballot. The supervisors of elections of each county jointly shall prepare a list containing the names of persons who are eligible to vote in such referendum election. There shall be at least 30 days' notice of the election as provided by s. 100.342, Florida Statutes. The procedures prescribed by general law for absentee ballots shall control. The election required by this section shall be paid for by the Board of County Commissioners of Lee County and the Board of County Commissioners of Charlotte County, and the expenditure of funds for this purpose is a proper county expense.

Became a law without the Governor's approval.

Filed in Office Secretary of State July 7, 1980.