

## 931 West Beach Blvd Water Access – CUP

Staff Report: Andy Bauer

Committee of the Whole Meeting Date: October 5, 2020

Application #: ZA20-000046

Applicant: Chad Watkins, WAS

Property Location: 931 West Beach Blvd

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STAFF RECOMMENDATION:

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### SUMMARY OF REQUEST

The applicant seeks approval of a Conditional Use Permit (CUP) to allow a water access located at 931 West Beach Boulevard to serve a future 43-unit cottage development (West Lagoon Cottages) located across the street at 944 West Beach Boulevard.

### EXISTING CONDITIONS

Currently the area proposed for the 5 feet water access is a 10ft. landscape buffer between Crystal Shores West Condominium and Westwinds Condominium.

### SURROUNDING CONTEXT

The proposed water access occupies the western 5 feet of the Crystal Shores West Condominium property. To the east of the water access is Crystal Shores West, to the west is Westwinds Condominium, to the south is the Gulf of Mexico, and to the north across West Beach Boulevard is vacant property that is proposed to be the cottage subdivision that utilizes the water access.

### ZONING

The proposed water access is zoned BT-4 High Density Tourist Business District. Article §6-9, *Water Access*, of the Zoning Ordinance stipulates new water access provided through similar zoned properties may be approved through the Conditional Use Permit (CUP) process. The proposed cottage subdivision that will utilize the water access is zoned BT-3, and the property providing the water access is zoned BT-4. These are similar zoning classifications.

### BACKGROUND

- 2005 - The City of Gulf Shores first adopted water access regulations via Ordinance 1393. This amendment inserted language into the Zoning Ordinance allowing beach or water access by a CUP process in residential districts.
- 2006 - The City amended the water access regulations with Ordinance 1403 further restricting the regulations on beach and lagoon access. The amendment was drafted after it had come to the attention of the City that beach/lagoon access through existing developed single family and duplex areas creates issues with the neighboring properties. These regulations are still in effect.
- April 2006 – A perpetual, exclusive 5ft. easement was recorded from Crystal Shores West, LLC to West Beach Properties, LLC, for pedestrian access over, across and through the western 5 feet of Crystal Shores West property.
- August 27, 2020 – The City of Gulf Shores Planning Commission recommended approval of the CUP application with the following conditions:

1. Any and all landscaping that is removed shall be replanted with a similar species and inspected by the City prior to a Certificate of Completion is issued for the water access walkway by the Building Department.
2. The water access is contingent upon Planning Commission approval of the 43-lot cottage subdivision (ZA20-000058.)
3. The water access shall only be utilized by the approved 43-lot cottage subdivision. Any other development of the site which increases density shall render the water access approval null and void.
4. The developer of the proposed Cottage Subdivision and Crystal Shores West Property Owners Association shall work together to incorporate all of the concerns/issues with the water access discussed at the Planning Commission meeting prior to approval of the CUP.

## **PROPOSED WATER ACCESS**

The applicant seeks Conditional Use Permit approval for a 5ft. water access along the westernmost property of Crystal Shores West Condominium. The location of the proposed access aligns with the pedestrian easement that was recorded in 2006. The water access will serve a future 43-lot cottage subdivision (West Lagoon Cottages), which is to be located north of the water access at 944 West Beach Boulevard. The Site Plan for West Lagoon Cottages is scheduled for the October 20, 2020 Planning Commission meeting. The applicant's narrative indicates the BT-3 zoning of the property allows  $\pm 120$  units, and by developing the property as cottage subdivision the density is greatly reduced. The plans indicate a 5ft. wide boardwalk extending from West Beach Boulevard southward to the beach. The walkway will be gated with a keypad lock to restrict access to owners/guests of the cottage subdivision and 20 gallon, pole mounted, trash receptacles are provided along the board walk for trash.

## **ANALYSIS**

The proposed water access will be placed in an existing 10ft. landscape strip along Crystal Shores West's western property line. The minimum required landscape buffer is 5 feet, therefore the existing 10 feet can accommodate both the required landscaping and water access. This area is landscaped with ligustrum plants and yaupon holly trees. The applicant's narrative states the existing trees and shrubs will be pruned or replaced to accommodate the 5ft boardwalk.

The reason water accesses are only allowed by CUP on similar-zoned properties is for the protection of the adjacent property owners.

Subsequent to and as required by Planning Commission approval, the applicant has worked with the Crystal Shores West Condominium Owners Association to incorporate all their concerns about the water access into the Protective Covenants for West Lagoon Cottages. The protective covenants indicate the West Lagoon Cottages will maintain liability coverage in an amount of \$1 million on the water access and will hold harmless and indemnify the Crystal Shores West Condominium Owners Association. The covenants also include the following requirements:

- 6' powder coated fence on both sides of the water access with a coded locking entry gate;
- Sea turtle lighting;
- Regular maintenance of the water access, including cleaning, daily trash pickup and removal, and timely repairs to the structure;
- Relocation of any of the existing utilities in the Beach Boulevard right-of-way out of the approach to the water access easement;
- Signage indicating that only owners, guests and renters of West Lagoon Cottages are allowed to use the water access and signage on the access warning against trespass on private beach property.

City staff also had a conversation with the developer of Westwinds Condominium which is located to the west of the proposed water access. The developer only asked general questions about the proposed access.

## RECOMMENDATION

Staff recommends the City Council approve the water access with the following conditions.

1. Any and all landscaping that is removed shall be replanted with a similar species and inspected by the City prior to a Certificate of Completion is issued for the water access walkway by the Building Department.
2. The water access is contingent upon Planning Commission approval of the 43-lot cottage subdivision (ZA20-000058.)
3. The water access shall only be utilized by the approved 43-lot cottage subdivision. Any other development of the site which increases density shall render the water access approval null and void.
4. Prior to the issuance of a Building Permit, the Water Access site plan shall be revised to incorporate the design and all other requirements placed on the Water Access by the West Lagoon Cottages Protective Covenants.

## 931 West Beach Blvd Water Access – Location Map

