

**REGULAR MEETING
DESTIN CITY COUNCIL
DECEMBER 17, 2018
ANNEX COUNCIL CHAMBERS
6:00 PM**

*****Core Value of the Month - Teamwork*****

CALL TO ORDER

INVOCATION (Pastor Jess McCurnin of Coastline Calvary Chapel)

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL *(Matters not specifically listed on the agenda may be added and acted upon with a super-majority vote of the Council members present and eligible to vote on the matter)*

1. APPROVAL OF MINUTES

- A. Approval of minutes of October 22, 2018 city council workshop
- B. Approval of minutes of September 17, 2018 regular city council meeting

2. PROCLAMATIONS / RECOGNITIONS / **SPECIAL PRESENTATIONS / ANNOUNCEMENTS (No public comments)

- A. Employee of the Year 2018, City of Destin
- B. Proclamation Mrs. Claus -Cindy Posey
- C. 2018 Destin Christmas Parade Awards Presentation
- D. Destin Fire Control District - Proposed change to Clement Taylor Park

3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS AND ANY OTHER MATTERS NOT ON THE AGENDA (All agenda items other than those under Number 5)

(Note: Individual speakers will be limited to 3 minutes. At the discretion of the Mayor, this 3 minute allowance may be adjusted depending on the level of business coming before the City Council)

4. CITY MANAGER REPORTS

- A. Crosstown connector direction
- B. Attorney for condemnation of property
- C. Sterling Shores Association - Update on Public Beach Access
- D. Destin Fishing Fleet, Inc.'s Claim under the Bert J. Harris, Jr., Private Property Rights Protection Act
- E. Public Beach Initiative

5. PUBLIC HEARINGS

- A. SRG Properties, Inc. Simple Deviation to Restaurant Row Redevelopment (SP #9864)

- B. First reading of Ordinance 18-29-CC - Amendments to Short-Term Rental Ordinance
- C. First reading of Ordinance 18-30-LC - Commercial events in residential areas
- D. Second reading of Ordinance 18-26-LC - Amending Article 2 of the Land Development Code to amending the application categories for vested rights determinations
- E. Second Reading of Ordinance 18-28-CC - Amendment to Harbor and Waterways Ordinance

6. *CONSENT AGENDA (No public comments)

- A. Resolution 18-45 - Amendment to the Atkins North America, Inc Contract for the Crosstown Connector

7. COMMENTS/PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY (No public comments)

- A. Councilmember Braden
- B. Councilmember Ramswell
 - 1. Utility Art
- C. Councilmember Dixon
 - 1. Curve on Airport Road
- D. Councilmember Overdier
 - 1. New Year's Eve Discussion
- E. Councilmember Marler
 - 1. Right-turn lane to the Emerald Grande from the Marler Bridge
- F. Councilmember Destin
- G. Councilmember Morgan
- H. Mayor Gary Jarvis
- I. Land Use Attorney
 - 1. Summary of Monthly Activities of the TRC, for December 2018.
(*Section 2.26.04(E), Land Development Code; Pursuant to Ordinance No. 18-06-LC*).
- J. City Attorney
 - 1. City Manager Contract
 - 2. Executive Session announcement

John S. Donovan, David H. Sherry, and Rebecca R. Sherry, *Petitioners* vs. City of Destin, Florida and Florida Department of Environmental Protection, *Respondent*, OGC Case No. 18-1463, File No. 0288799-003-JC

8. ADJOURN

All items listed under Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and may be considered separately.

****To be placed on the Agenda under scheduled presentations, citizens must contact the City Manager or City Clerk's office one (1) week prior to the scheduled City Council Meeting by completing a Speakers Request Form and providing any accompanying documentation as requested in the form's instructions.**

***** Any invocation that is offered before the official start of the City Council meeting shall be the voluntary offering of a private person, to and for the benefit of the City Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council, or the City staff, and the City is not allowed by law to endorse the religious beliefs or views of this, or any other speaker. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered. A person may exit the City Council Chambers and return upon completion of the opening invocation if a person does not wish to participate in or witness the opening invocation.**

If a person decides to appeal any decision made by the Council with respect to any matter considered at this meeting, he/she may need a record of the proceedings, and for such purpose, he/she may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. FS 286.0105.

Persons with disabilities who require assistance to participate in City meetings are requested to notify the City Clerk's Office at (850) 837-4242 in advance. Hearing Impaired: TTY: 711. Assistance also available through Human Resources, Title VI Coordinator, at (850) 837-4242.

Personas con discapacidades que necesitan asistencia o personas que necesitan ayuda con un idioma para participar en las reuniones de la ciudad, deberán notificar la oficina de la Secretaria Municipal al (850) 837-4242 antes de la reunión. Discapacidad auditiva: TTY: 711 (Solicitar Espanol CA). La ayuda tambien está disponible por Recursos Humanos, Coordinador del Título VI, al (850) 837-4242.

Note: Persons who wish to provide public comments on agenda items are requested to fill out a blue speaker card and submit it to the City Clerk at the start of the meeting.

Persons who wish to provide public comments on any other matters not on the agenda are requested to fill out a yellow speaker card and submit it to the City Clerk at the start of the meeting.

All regularly scheduled city council meetings will be streamed live via the city's YouTube channel, www.youtube.com/CityofDestin. Past council meetings can also be viewed here.

Please visit our agenda center on the city website at www.cityofdestin.com/agendas

**MINUTES
SPECIAL WORKSHOP
DESTIN CITY COUNCIL
OCTOBER 22, 2018
CITY HALL ANNEX
COUNCIL CHAMBERS
5:30 PM**

The Council for the City of Destin met in special workshop session with the following members present:

Destin City Council

Mayor Gary Jarvis
Councilmember Parker Destin
Councilmember Cyron Marler
Councilmember Rodney Braden

Councilmember Prebble Ramswell
Councilmember Skip Overdier
Councilmember Chatham Morgan

Destin City Staff

Interim City Manager Lance Johnson
Interim Community Dev. Director Steve Schmidt
Interim Public Services Director Tim Pietenpol

City Clerk Rey Bailey
Land Use Attorney Kimberly Kopp
City Attorney Jeff Burns

CALL TO ORDER

Mayor Gary Jarvis called the meeting to order at 5:30 PM.

CITY COUNCIL DISCUSSION TOPICS:

A) Transportation and Parking Master Plan

Mr. Greg Darden, Director of Business Development for Structured Parking Solutions, LLC, explained that the City of Destin previously sought proposals for a Public-Private Partnership for the development of a multi-level parking garage on City-owned properties in the Harbor District. The solicitation requested proposals from development teams which have proven experience in public-private developments and can deliver the highest quality and economically feasible project. His firm submitted a proposal and was selected by the City's Bid Committee for this project. They then went before the City Council to validate the selection process. At that meeting, they were requested by the Council to conduct additional due diligence and then come up with action plan moving forward. They presented a Memorandum of Understanding to the City Engineer for approval by the City Council; but, that memorandum was subsequently tabled by the Council. They are currently not under any kind of official agreement with the City; however, they continue to meet with stakeholders. He continued that the proposed Memorandum of Understanding outlines a two-step process. Phase one includes continuing to do due diligence, public involvement and master planning. His firm and Volkert would team up and bring back parking and transportation master plan for the small portion of US Hwy 98, basically north and south of the harbor district. They would also develop a preliminary budget for the approved master plan. Phase two would be the implementation of the items approved by the Council.

Mr. Darden also explained that the City owns two pieces of property. His firm responded to a Request for Proposal (RFP) that the City put out seeking a parking and transportation holistic team that could look at parking and traffic issues with a very specific segment of town; basically from the Destin Bridge to the end of the harbor district. They were asked to look at the City's two pieces of property to see if they could be beneficial to solving the parking problem for that area. They then provided very exhaustive information. They did preliminary designs for two different parking structures; one on the west side and another on the east side. He continued that everything they did and part of their response package was made without guidance from staff because it was not legal for them to meet with staff as a submitting team. He added they provided as much information to show their qualifications and capabilities.

Councilmember Ramswell inquired as to the source of funding for this project.

According to the Interim City Manager, the County has pledged \$1.6 million over the next three years to fund the Beach to Benning portion. Once they get to Benning Drive, it would move on to Azalea Drive which is already completed. It would then get them down to Stahlman Avenue where they would need to figure out how to continue going south from that point.

Mr. Darden added that with regards to the funding for the hypothetical parking improvements, and hypothetical improvements to address traffic on US Hwy 98, they have met with a number of governmental as well as individual stakeholders and had the makings for a funding mechanism that would not necessarily require huge dollars from the City. He continued that phase one of their Memorandum of Understanding would include the master plan and funding source; adding that their team would put together several different options for traffic and parking solutions that have been vetted through the community.

The Mayor asked if they would take into account a couple of different traffic options to finish the crosstown connector as it relates to parking.

Mr. Darden stated that this Council had already given staff approval to negotiate a piece of property. Once they move forward from Phase 1, they would address a number of options to include Mountain Drive and how it ties back in to US Hwy 98.

The Mayor asked how it would affect their parking facilities if they do not do anything more with the crosstown connector other than stopping at Azalea.

Mr. Darden stated that the two City-owned parcels are unique because they have access to multiple streets; which would enable them to direct entrance and exit traffic from mass parking facilities or garages either to US Hwy 98 and/or to alternate streets in the most favorable means.

Councilmember Destin remarked there have been a lot of unresolved issues. It seemed most of this project was designed over the last 15 years without much input from the Council. He continued there are a lot of people in Destin that are not interested in seeing a lot of big parking infrastructure that would disproportionately benefit some of the direct stakeholders. The Emerald Grande, for instance, still has a plan for phase 2 for their facility. He would not want to approve anything that would pave the way

for them to execute that plan. He also stated he does not see how this plan could improve their parking problems. They would only be forcing a lot of the traffic into residential neighborhoods.

Mr. Darden stated they have looked at the density capability of the two City-owned parcels and determined that they do not actually meet the demand requirements for parking based on the independent study conducted by the City about a year ago. Their goal is not to necessarily create more parking for more use, but just to meet the initial demand. He continued they are cognizant of the residential neighborhoods to the north; and that they agree they do not have to burden residential districts with undue traffic. He also stated that Mountain Drive is an interesting corridor. It is somewhat under-utilized with more of a commercial atmosphere. Part of their plan was to look into Mountain Drive and bring back information to the Council. He further stated they have tried to meet with as many stakeholders as possible and are continuing to do so. They have also met with representatives from the Emerald Grande who have given their permission to inform this Council that they are willing to participate financially in any traffic improvements being recommended.

Councilmember Destin stated that lack of parking availability and lack of financing are part of the reasons Emerald Grande has not proceeded to the second phase; adding he would not want to give them the ability to proceed by approving this project.

Councilmember Marler noted he is employed by Emerald Grande and that he is urging the members of this Council to discuss this issue with them to erase some of the misconception about their motives. He also stated they have spent \$2.8 million on the boardwalk for nothing if they are not willing to help improve the infrastructure of the Harbor CRA. He continued that the main purpose for creating the boardwalk was to be able to compete with the businesses to the east and bring businesses back to the harbor and improve their economy.

Councilmember Braden stated that he was never in favor of the crosstown connector. About 70 percent of traffic on US Hwy 98 is thru-traffic and he does not like the idea of diverting traffic into residential neighborhoods. He also stated that the Emerald Grande has a big parking problem; but they also own a piece of land just to the east of them which they could use to build a parking garage and solve their own parking problem. He added that the City already own a parking facility that is not being fully utilized.

Councilmember Ramswell asked how many parking spaces is the Emerald Grande deficient.

Councilmember Destin noted that before the code changed several years ago, parking was based on one parking space per 100 square foot. Based on a newspaper article that he read, the size of Emerald Grande is about 200,000 square feet; which equates to 2,000 parking spaces. He continued that in the same article, an Emerald Grande representative was quoted as saying they have 861 parking spaces. He opined that the multi-modal transportation district and all the changes that were created that granted the development order to Emerald Grande were appalling. The Emerald Grande has no intention of putting all of the required parking on their parcel during the second phase of their project because it would negatively affect their bottom line.

Councilmember Destin also stated he would support building parking garages. They could probably put one on Sibert Avenue; but he would recommend no more than 3 stories so it does not

become a big eyesore. He also noted they have an under-utilized parking lot on Marler Street, and so a parking garage may not work there. He further stated he would not support a public-private partnership at this point. He is quite apprehensive about moving the traffic configurations to Mountain Drive or Sibert Avenue; adding they could probably build the nice infrastructures but there is really no plan to re-route traffic back to US Hwy 98 quickly, safely and efficiently.

Councilmember Ramswell stated she does not agree that they need two parking garages, mainly because of their under-utilized parking facility. They also need to consider how many people they could realistically pack into this City. She also asked to see a list of the stakeholders and private property owners that met with Structured Parking Solutions as well as the feedback they provided. She also mentioned that a business owner in particular purchased a parcel across the street from the business for a million dollars to be used for parking for their employees.

Mr. Darden explained they had initial meetings with a number of stakeholders to gain their input before creating the Memorandum of Understanding; and that they plan to meet with many more stakeholders. He would provide a list of the groups to the Council. He also stated that with regards to the City's under-utilized parking lots, there is a "golden rule" with regards to parking; that is, "People are cheap first, then lazy second." If there is substantially cheaper parking near their destination, most people will go there before they pay a higher price. If all the parking is about the same cost, they would park as close as possible to their destination. He pointed out that when the businesses started charging for parking this last summer, the people realized the City's parking lot were cheaper and started utilizing them. He added that if the entire system is managed properly, the people will use the parking facilities on the north side of US Hwy 98 which should alleviate the traffic problem. They need a traffic management plan which is part of phase one of the Memorandum of Understanding they plan to bring back.

Councilmember Ramswell stated that based on that statement, there seemed to have a demand for closer and cheaper parking.

Mr. Darden noted that one of the concepts they plan to explore is dedicating the north side parking more towards business employees and using transportation to move them conveniently and safely to the south side in pre-determined routes. This should open up more parking on the south side for people trying to get to the businesses on the boardwalk.

Councilmember Marler commented that a person is more likely to park in a parking lot or a parking garage if they could simply use their credit or debit card to pay for parking; rather than having to download an app on their phone in order to park.

Councilmember Morgan stated he would support building parking garages if they could find the appropriate funding source. He would not agree to utilize the City's taxpayers' dollars to pay for them. He also would not agree to a public-private partnership as he does not believe in government subsidizing private businesses' failure to responsively plan for their businesses. He added that the Tourist Development Council is the appropriate entity to fund these parking garages.

Councilmember Overdier agrees that the Tourist Development Council is a better source of funding rather than a public-private partnership. He also stated that the crosstown connector would only

serve the City well if it can alleviate the flow of traffic by re-routing it back safely to US Hwy 98; otherwise, it is not the solution that they expect.

Councilmember Marler noted that the easement agreements between the harbor businesses and the City designated the Marler Street Parking Lot as part of the agreement for the City to provide extra parking. He added it is pertinent to the fact there is promised parking to those business that provided easement to the City.

The Mayor remarked that it is clear the City decided to build a boardwalk and promised additional parking to those businesses that provided easement along the harbor and has fulfilled some of it. He also stated that the harbor is what separates Destin from the others in the Panhandle. It is one of the reason people come to vacation in Destin; and so the intent of the previous Council may have been to highlight the harbor. He further stated that whether or not they like the idea of a crosstown connector, it is already in existence and a lot of people are using the back roads every single day to escape US Hwy 98 traffic. They need to recognize the problems and try to find the best way to solve them. They have professionals that could assist them with traffic management and ways to improve the flow of traffic back on to US Hwy 98 and they should take advantage of this opportunity.

Councilmember Braden stated that even though many local residents use the back roads, it would make matters worse if they try to divert 50,000 other vehicles on to these roads.

Councilmember Destin stated that they keep spending money on land acquisition to connect Legion Drive and Azalea Avenue and across the Old Destin Campground, when they should be thinking about acquiring land at the intersection of Calhoun Street and US Hwy 98 for meaningful turning lanes. He also stated they need to address the fact they would be re-routing traffic back to Stahlman Avenue whose chief dysfunction is the pedestrian traffic. They should also take into account that the What-a-Burger Restaurant and a gas station are in the way of a fully functioning Stahlman Avenue interchange.

Councilmember Marler asked staff to provide some information with regards to the process involved in building parking garages; in case AJ's Restaurant, which purchased a property across the street for their employee parking, decides to build its own parking garage. The same goes with Emerald Grande if they decide to purchase some property for its own parking garage.

The Mayor announced he would allow public comments at this time.

Ms. Marcie Bell, a Destin resident, stated she previously attended the Brooks Bridge design presentation. She stated that it was a federally funded project; but a crosstown connector that is currently being discussed was part of that project even back in 2006. She recommends redesigning the Destin Bridge to improve the flow of traffic and communicating with FDOT, or inviting their representatives to attend one of the Council meetings to discuss this subject.

Councilmember Overdier stated that as the Council's representative to the Transportation Planning Organization (TPO), he will bring this issue up as a discussion point at the next TPO meeting.

Mr. Claude Perry, a Destin resident and businessman, suggest they take a long term view, a higher view and a broader view of the situation. He noted that Structured Parking Solutions, LLC was the only firm that responded to the RFP the City put out; and that they have already put in a lot of hours into this project without being officially hired by the City. He urged the City not to procrastinate and hire this group or another professional group to assist and guide them into some of these issues being discussed.

Mr. Guy Tadlock, a Destin resident, stated that he is not against public-private partnership; however, they should be very cautious if they decide to proceed with that arrangement. He continued that they have a parking problem all over the harbor, and so they need to go back and check with each business on the harbor and determine the number of parking spaces they are currently deficient. This is one way to determine the exact amount of parking they need. He also urged the Council to do their due diligence and hire a very good traffic or parking consultant to determine the best course of action.

Ms. Leigh Moore, representing Howard Group, suggests the City involves FDOT a lot more on this issue. She suggests inviting representatives from FDOT to participate in this type of discussion. She also stated that according to FDOT, they want to hear from elected officials and citizens from areas where they have facilities, especially in areas where they have facilities on the horizon for projects. She noted that the 3R project on US Hwy 98 is coming up very soon for construction as well as a total redesign of Harbor Blvd with phase one scheduled a few years from now.

According to Mr. Darden, the City Engineer had already put them in contact with FDOT; and that FDOT seemed to have a strong interest in supporting these endeavors. They actually wanted to see some back-up data to show that an investment by FDOT could have a lasting and sustainable impact. He also stated that the City Engineer has discussed the 3R project with FDOT; and that there is an amendment in place for FDOT to consider making some adjustment to the 3R project. The amendment concerns an additional turn lane coming east off the Destin Bridge and near to the red traffic light in front of Emerald Grande. There was a proposal to extend the turn lane to allow more vehicle stacking before they approach the Emerald Grande.

According to the Interim City Manager, they have reached out to FDOT about this issue during the past week, and that it is still under consideration.

Ms. Patti Brown, a Destin resident, pointed out that Commons Drive has already become a nightmare and expanding these roads would result to more traffic going into residential neighborhoods. She stated that they cannot expand Destin any more. They can build as many parking garages they want but they just have too many people in Destin. They have already maximized the space available for roads. They have to consider other avenues to bring down the volume of traffic in Destin.

The Mayor recommends putting on the next agenda the Memorandum of Understanding for Structured Parking Solutions for the City Council to consider.

Councilmember Destin stated that even though a Memorandum of Understanding is not a contract that binds the City and Structured Parking Solutions, LLC for decades, he wants to be able to understand what it really means to be partners with this firm.

Mr. Darden stated they had a presentation they were prepared to give at the last meeting when this item was pulled. They plan to give that same presentation at the next meeting and then open it up for discussion.

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 7:20 PM.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
SEPTEMBER 17, 2018
CITY HALL ANNEX COUNCIL CHAMBERS
6:00 PM**

The Council of the City of Destin met in regular session with the following members and staff present:

Destin City Council

Mayor Gary Jarvis	Councilmember Tuffy Dixon
Councilmember Chatham Morgan	Councilmember Rodney Braden
Councilmember Parker Destin	Councilmember Prebble Ramswell
Councilmember Cyron Marler	Councilmember Skip Overdier

Destin City Staff

Interim City Manager Lance Johnson	City Clerk Rey Bailey
Acting Parks & Recreation Director Lisa Firth	HR Manager Karen Jankowski
Acting Community Dev Director Steve Schmidt	Finance Director Bragg Farmer
Public Information Manager Doug Rainer	Library Director Wen Livingston
City Engineer David Campbell	IT Manager Webb Warren
City Land Use Attorney Kimberly Kopp	City Attorney Jeffrey Burns

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Nathan Sell of United Methodist Church provided the invocation; which was then followed by the Pledge of Allegiance.

SPECIAL PUBLIC HEARINGS FOR FISCAL YEAR 2019 MILLAGE RATE AND BUDGET:

- A) Second reading of Ordinance 18-18-CN Adopting Fiscal Year 2019 Millage Rate

The City Attorney read Ordinance 18-18-CN by title, and then presented it to the City Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN OF OKALOOSA COUNTY,
FLORIDA, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR
THE CITY OF DESTIN FOR FISCAL YEAR 2019; AND PROVIDING FOR AN
EFFECTIVE DATE.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance. Hearing none, the Mayor closed the public hearing and sent the matter over to the City Council for their discussion and consideration.

Motion by Councilmember Braden, seconded by Councilmember Ramswell, to adopt Ordinance 18-18-CN on second reading adopting the FY 2019 millage rate of 1.6150 mills which is more than the rollback rate of 1.5520 mills passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

B) Second reading of Ordinance 18-19-CN Adopting Fiscal Year 2019 Budget

The City Attorney read Ordinance 18-19-CN by title, and then presented it to the City Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN MAKING APPROPRIATIONS FOR CERTAIN EXPENDITURES, EXPENSES, CAPITAL IMPROVEMENTS AND CERTAIN INDEBTEDNESS OF THE CITY OF DESTIN, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019; AND PROVIDING FOR AN EFFECTIVE DATE.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance. Hearing none, the Mayor closed the public hearing and sent the matter over to the City Council for their discussion and consideration.

Councilmember Overdier moved to adopt Ordinance 18-19-CN on second reading to provide for a balanced budget for FY 2019; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

AGENDA APPROVAL

The Mayor announced that agenda item 7J (1) *Gulf Power Franchise Discussion and Further Consideration of Options*, will be heard after the presentation portion of the agenda.

Councilmember Destin moved to approve the agenda as amended; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

1. APPROVAL OF MINUTES

A) Approval of minutes of September 5, 2018 regular city council meeting

Motion by Councilmember Ramswell, seconded by Councilmember Overdier, to approve the minutes of September 5, 2018 regular city council meeting passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

B) Approval of September 5, 2018 council executive session

Councilmember Destin announced he would abstain from voting on this item as he was not a participant at the executive session that was held on September 5, 2018.

Motion by Councilmember Ramswell, seconded by Councilmember Overdier, to approve the minutes of September 5, 2018 council executive session passed 6-0 (Council members Morgan, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”; Councilmember Destin abstained from voting).

2. PROCLAMATIONS / RECOGNITIONS / SPECIAL PRESENTATIONS / ANNOUNCEMENTS

- A) Presentation of the 30% plans for the Norriego Point Recreation Improvements
Mr. Pearce Barrett, Florida Department of Environmental Protection

Mr. Pearce Barrett of the Florida Department of Environmental Protection (FDEP) provided the following updates on the third phase of the Norriego Point Stabilization and Recreation Improvements project:

- The vegetation portion or stabilization of the dunes is expected to be completed by the end of September 2018
- The project is in a 30 percent design phase. A presentation was made to the City’s Parks and Recreation Committee in August 2018
- During Phase 1 of the project:
 - ❖ 36,000 tons of rocks placed on Norriego Point
 - ❖ 136,000 cubic yards of sand dredged
 - ❖ Created approximately 7 additional acres
 - ❖ 825 linear feet of sheet piling placed along the shoreline
 - ❖ Created an additional 600 feet of new shoreline; excluding the two new embayment that were created
- The project was submitted and approved by the trustees and BP before the final settlement; including:
 - ❖ Stabilization of the shoreline
 - ❖ Park structure which includes:
 - A picnic pavilion being revised to be a handicapped accessible viewing structure
 - Restroom facility
 - New shower structure
 - Drinking fountain
 - Educational signage along the multi-use trail (boardwalk facility)
 - New bike racks
 - Additional vehicle parking in the entrance road into the project
 - A new access road into the project
 - Additional dune crossover structure
 - ❖ Above structures make it a NRDA project. Take any of the above components away and the project no longer qualifies as a NRDA project
- The project is at the 30 percent design stage
 - ❖ At this point, the components of the project do not change
 - ❖ Orientation of some of the areas of the project can be changed to some extent

- ❖ Size of the restrooms can change
- ❖ Providing area for ATV storage for Parks and Recreation being addressed
- ❖ Okaloosa County to have access for their beach being addressed
 - County provides cleanup activities and beach dressing

Mr. Barrett explained the detailed components of the 30% design of the park as shown on the screen. He then addressed some of the questions that were brought up during the Parks and Recreation Committee meeting.

- *Will the new project blend in with existing sidewalks and roadways?*
 - ❖ Response: Yes. They will make all effort to ensure a smooth transition
- *Could the existing dumpster located at the end of the City ROW, which is unsightly, be removed or relocated, and possibly use that area for additional parking?*
 - ❖ Response: It is being considered
- *Will there be crosswalks or access between the private property on the inlet side and the property on the harbor side?*
 - ❖ Response: Yes. There would be crosswalks placed in that area which would be coordinated through with developer of the property and the City
- *Will they leave the existing showers located at the end of the existing ROW?*
 - ❖ Response: It would depend whether the City wishes to leave those showers in addition to the new showers to be placed near the new restrooms
- *Will golf carts be considered in the parking plan?*
 - ❖ Response: Yes
- *Are bike racks considered in the design?*
 - ❖ Respond: Yes. As many as necessary. They will also be addressed in the 60% design
- *Is fencing a component of the project?*
 - ❖ Respond: The project does not currently include fencing as a component. They are not proposing fencing on the project as condo developments usually put their own fencing

Councilmember Marler suggests they consider other composites to replace the Trex surface due to the heat and lack of shades in that area.

According to Mr. Barrett, there are different composites on the market and they typically bid projects to other types of composites; adding that the current design shows a cement type surface for the boardwalk instead of Trex because it is a hot surface. He also added they may use traditional lumber for the crossover structure.

Councilmember Ramswell asked if the road that crosses through the private parcel extends from where the City's current road ends to the northern boundary of the private parcel.

Mr. Barrett stated it was his understanding the City was deeded 100 foot of right-of-way which extends from the City's existing right-of-way to Norriego Point.

The City Engineer David Campbell explained that the City was deeded the hundred foot right-of-way, as part of the private development to the south. It is 100 feet wide and 800 feet long and it begins from the paved parking lot. He added that the property owner was going to construct the roadway with a cul-de-sac as well as the parking, sidewalks, and lighting as part of the development order.

Councilmember Ramswell asked if the road has already been funded by the developer.

According to Mr. Barrett, the road has not been funded; however, according to the project description, the road is to be built by the private property owner as part of the owner's development order. He added that it would be a reimbursement at this point since they are moving forward with the project.

Councilmember Ramswell expressed some concern over the City making an advance payment for something that should have already been funded.

Mr. Barrett stated they plan to meet with the developer to make sure they are going to honor their portion of the development; adding they would either write a check to the City to finance the road or build it in a timely manner to coincide with the project.

Councilmember Ramswell asked if the City would be over-budget if they have to build this section of the roadway.

Mr. Barrett noted there is not enough money in the NRDA funding to pay for this section of the roadway. It is intended to be funded by the private property owner.

Councilmember Ramswell suggests FDEP or City staff meets with the developer sooner rather than later to discuss funding for this road.

Councilmember Dixon questioned the need for a retention pond.

Mr. Barrett explained it is required by the permitting authority. There need to be some sort of storm water attenuation.

Next item discussed was agenda item 7J (1) Gulf Power Franchise Discussion and Further Consideration of Option

3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS AND ANY OTHER MATTERS NOT ON THE AGENDA

Mr. Dewey Destin, a Destin resident, stated that as a member of the Council 32 years ago, they dealt with the very first Gulf Power franchise agreement. They understood they needed some kind of leverage to protect the citizens of Destin; and so they included the City's right to purchase the electric utility as well as to buy power wholesale from Gulf Power and sell it back at retail to the

citizens. They could exercise these rights in the event rates became too high, or if they were not getting the service they thought the citizens of Destin deserved. He also remarked that the present Council is doing the right thing in exercising their right to purchase; adding they should preserve this leverage or they would find themselves at the mercy of Gulf Power. He urged the Council not to get intimidated by robocalls, which started again and with a lot of false information being circulated.

Ms. Leigh Moore, representing Howard Group, noted that Gulf Power has sold out for \$5 billion and now trying to take away the opportunity for the citizens of Destin to improve critically needed infrastructure by “watering down” the purchase option and purchase agreement. She thanked the Council for protecting the rights of the City of Destin and its assets.

Ms. Casey Waterhouse, a Destin resident, stated that she practices law and services people throughout Okaloosa County. She stated that she negotiates for a leaving and truly believes leverage is of utmost importance. She also believes the Council is doing the right thing in using the only leverage they have against Gulf Power for the best interest of the community.

Mr. Felix Foret, a Destin resident, stated that the Council’s decision affects everyone financially in a very meaningful way and so it should be put on a referendum for the citizens of Destin to vote. He asked what the motivation was behind the Council’s action and whether they have some projections that could indicate how much this decision would save the citizens of Destin.

Mr. Darryl Shelton, a Destin resident, stated that the Council is making the right decision by exercising their right to purchase. There is no downside in moving forward. He continued there have been some misunderstandings as to what this decision could mean for the City of Destin. They would not be using general revenue bonds to purchase the utility; and so it would not bankrupt the City of Destin.

Mr. Guy Tadlock, a Destin resident, stated that he agreed with Mr. Dewey Destin’s earlier comments regarding the franchise agreement with Gulf Power; adding that companies like Gulf Power are modern day monopolists. They have total control of their destiny with little risk on their part. He continued that the City of Destin has 15,000 meters; and that they fall under the term “Golden Nugget” because they are a highly profitable community. He also stated there is a lot of misinformation being circulated and so it would be to the City’s benefit to put out as much factual information as possible.

Mr. Danny Tignor, a Destin resident, noted that he worked for Alabama Power and Southern Company for 36 years as a mechanical engineer. He stated that Southern Company provides dependable service to its customers; but, there is one thing it holds most sacred, which is their bottom line profit. It would be willing to sacrifice almost anything to keep money coming in. He continued that the Council is making a good decision in exercising their right to purchase because it would be foolish to let a profitable business such as electric utility get away.

Ms. Jean Carter, a Destin resident, asked what it would cost the City and what kind of profit they could expect to gain by purchasing their own utility company. She also stated that she is in favor of putting this issue directly to the people for a vote. She also stated that Gulf Power has good

relationships with neighboring power companies which would normally provide some assistance in case the City is hit by a hurricane; otherwise, they could go for months without power.

Mr. Steven Menchel, a Destin resident, stated that exercising its right to purchase the electric utility does not lock the City into any specific course of action; and that they also left the door open for further negotiations with Gulf Power. He also noted that he recently received several robocalls providing an inaccurate synopsis regarding the action that was taken by the Destin City Council and urging him to attend the Council meeting and attempt to reverse the Council's decision. The telephone from which the robocalls originated was a LAN line in Tallahassee registered to an unidentified individual, and the source of funding was not provided. He filed an official complaint with the Department of Agriculture regarding the robocalls.

Ms. Diana VanOeveren, a Destin resident, urged the Council to extend the current franchise agreement with Gulf Power for one or two years, until such time NextEra's purchase of Gulf Power is complete; adding this could change some of the problems they are currently facing.

Mr. Mike Chesser, Destin Fishing Fleet attorney, stated that several years ago, there was a lawsuit filed by B.I., Inc. against the City of Destin to declare its right to the easement they claim exists on City property. He asked the court for permission to intervene in that action, and that the court granted that request. He continued there have been some efforts to settle that lawsuit made privately by individuals from the City and the plaintiff in that action. He tried very hard to include himself into that discussion as granted by the court to no avail. He also noted that at 5:05 p.m. on September 5, 2018, after the B.I., Inc.'s attorney and the City met at 5:00 p.m., he received a copy of a multi-page proposed settlement agreement being considered by the City which he did not have time to review at the time. The settlement agreement was considered in an executive session, which is a private session. The Council then came back and convened a public meeting and approved the settlement agreement without any further discussions about the contents of that agreement. He argues that this issue should have been discussed and considered publicly.

The Land Use Attorney contends that she personally provided Mr. Chesser a copy of the proposed settlement agreement two weeks before the executive session; and that she had spoken about it with Mr. Chesser a couple of times on the phone. She also added that copies of the document, which is a public record, were also provided to other individuals who requested it. She also explained that the executive session is appropriate for the City Council to discuss pending litigation; and that the transcript of that session would be made available to the public at the conclusion of the litigation.

Councilmember Braden stated that the Council did not agree in private during the executive session. The vote was made in a public setting.

Mr. Chesser argues that under the Bert J. Harris Act, this particular issue should have never been discussed in private.

Councilmember Dixon expressed that the action this Council has taken was completely legal.

At this point, the Mayor stopped all discussions about this particular issue, stressing that this is not the time and place to have a back and forth argument about it.

Mr. Steven Menchel, a Destin resident, complimented the City staff for a fine job installing the raised pavement markers along Scenic 98, which is a tremendous safety device.

Mr. John Madden, a Destin resident, noted that at the last meeting, an individual made a presentation to the Council regarding pedestrian safety management solutions on Scenic Hwy 98. He stated that he represents the residents at Pompano Street, and that they have a lot of problems with the action taken by the Council to spend about \$5,000 to purchase and post 27 beach access signs on Scenic Hwy 98. He continued that having that many signs is unnecessary; and that all the traffic is being directed to Pompano Street. He asked that Council's action be put on hold, and to schedule another meeting to discuss this subject and allow the affected parties to render their opinions.

Councilmember Destin suggests Mr. Madden goes before the Public Works/Safety Committee and expressed his grievances before that committee and perhaps they could come up with something more amenable to all parties involved.

The Interim City Manager asked if it would be necessary to rescind the motion the Council previously adopted regarding this subject at this time.

The Mayor suggests the Council entertain any motion following the public comments.

Mr. Madden also stated that the biggest need regarding the Gulf Power franchise issue is education.

Mr. Colon Terrell, a Destin resident, stated he is a volunteer ambassador for the Pickle Ball Association. He stated they are in dire need for pickle ball facilities in Destin and they are asking Council's approval to use the footprint at Buck Destin Park for 4 dedicated pickle ball courts instead of shared courts in that facility. He stated that during the Snow Birds season they sometimes have over a hundred people show up at the Destin Life Center and another 60 people show up at the Destin Community Center to play pickle ball. He added that pickle ball has been the fastest growing sport in the world for 5 years in a row.

Councilmember Ramswell noted that the Council voted to approve turning one of the tennis courts in Destin into pickle ball courts, and developing brand new pickle ball location in Destin at their previous budget meeting.

Mr. Scott Fischer, a Destin resident and previous Destin Mayor, stated that this Council made one of the toughest decisions they will ever make in deciding to exercise their rights to purchase Gulf Power's electric utility. They made that decision because they care about the City of Destin. He continued that a lot of research went into this decision. This Council has been reviewing this issue for a couple of years. They hired a research company that appraised the Destin asset at \$70 million. He stated that asking the citizens to vote on this issue would be asking the people who have been receiving slanderous materials in the mail the last several years to decide. Thousands of these citizens have never attended a Council meeting and not aware of the details

regarding this subject. He continued that this is the type of decisions elected officials need to make in a representative form of government. He also noted that statistics show that Destin pays 32 percent more for its power than many of the cities in Central Florida.

Mr. Bill Reddington, a Destin resident, expressed concern over the possible condition the City will find itself into if they run their own power company and a major storm hits the City. He continued that a City-owned entity may not have access to out-of-state power companies who would normally provide support in an emergency situation. He also noted that based on the robocalls he has been getting, it would cost every citizen of the City over \$13,000 to make the switch; and that if they go with the \$70 million dollar appraised value of the purchase, it would still cost each citizen over \$4,000 to do so. He added that Destin does not have the infrastructure needed to run its own power company. He also added that the citizens of Destin should be allowed to vote on this issue.

At this time, the Mayor allowed the Council the opportunity to discuss the Gulf Power franchise issue.

Councilmember Destin explained that the City of Destin signed a franchise agreement with Gulf Power over 30 years ago. Under the current arrangement, the City collects approximately \$1.7 million in franchise fees annually. The agreement included a provision that after 1996, and at any time thereafter to the year 2016, the City could purchase the electrical system. The purpose for this provision was to avoid a massive monopoly by the electric company. He continued that there is also an arbitration provision, which is a procedure that allows the City to meet with Gulf Power in front of a panel of judges to determine the value of the system. He stated that the City Council authorized him to negotiate a new franchise agreement with Gulf Power; which he has been doing so for the past 6 months. He suggested doing a similar franchise agreement they have had for the past 30 years with Gulf Power; however, Gulf Power declined to do because they wanted to eliminate the purchase provision from the agreement. He did not agree with eliminating the purchase provision from the agreement because it is the only guarantee Gulf Power will treat the City of Destin fairly in the future. He continued there have been some in-depth negotiations over the past several weeks. They were going to settle for a 15-year franchise agreement with a purchase provision the City would be allowed to exercise at year 5 and at any point until year 15. However, Gulf Power made a last minute amendment to that proposed agreement to where the City would only have one opportunity to exercise the purchase provision at year 5, and then another opportunity to do so at year 15. The actual purchase provision was also limited in scope. Gulf Power would not allow the City to actually purchase the asset with the substations (electrical distribution systems) included, which are a critical part in the operations of the power system. If they decide to purchase the system, they would have to obtain brand new substations they cannot afford, place them on land they do not have, and in a network that is already built out. For these and other reasons, they believe Gulf Power has no negotiated in good faith; and so on September 13th, the City exercised its right to purchase the system. It is a legal operation that preserves the City's right indefinitely to potentially purchase the system if they so desire at some future point. They are also continuing to negotiate, at a parallel path, for a new franchise agreement with Gulf Power.

Councilmember Marler contended that based on the language in the purchased resolution that they passed, the City has effectively purchased Gulf Power's assets.

Councilmember Destin disagreed, stating it is not an accurate assessment.

Councilmember Marler stated he still believes this issue should have been voted upon by the citizens of Destin.

Councilmember Ramswell noted that the main points of the robocalls were purchasing the electrical system would cost Destin taxpayers \$200 million; their power bills and property and sales tax will increase tremendously; the reliability in service will drop; and hurricane response will suffer. She asked Mr. Schef Wright, the special counsel to the City, to address these issues.

Mr. Wright stated that the arbitration process has not started. This process would involve the appointment of the arbitration panel, and then the arbitration process itself. The purchase price will be determined at the conclusion of the arbitration process. He continued that Mr. Fischer has suggested it could cost as much as \$200 million depending on how it pursues out as a result of the estimated buy out price of Gulf Power by NextEra Energy. The research company the City hired appraised the value of the sale at \$71 million, including all start-up costs. The arbitration panel might determine the fair market value to be somewhere between \$71 million and \$200 million. The debt service will be rolled into the rates. The estimates prepared by the research company, depending on their accuracy, indicated that the City could charge Gulf Power's rates, payoff all the debt service, replace the franchise fees and all other estimated costs, and still incur about \$6.8 million a year in cash over and above the debt service payment. He added they would not be using general revenue bonds to purchase the utility. It would be electric revenue system debt and so no additional costs would come out of people's pocket. He also added that based on the professional estimates by the research company, there is no reason to assume the electric rates would increase. They could even reduce rates and have additional funds to devote to the undergrounding of utilities.

Councilmember Ramswell asked what could happen if they purchase the utility and then sell it to a third party.

According to Mr. Wright, if the City purchases the utility and then sells it, the process is complete. No further action is required.

Councilmember Ramswell asked Mr. Wright to address the concern that property and sales tax will increase tremendously.

Mr. Wright noted there is no correlation between property and sales tax and electric revenues.

Councilmember Ramswell inquired as to the concern regarding a decrease in reliability of service.

Mr. Wright replied there is no reason to think this assumption is true; adding there are 33 municipal utilities in Florida and 24 of them report distribution reliability data. He also added there is no reason to believe the quality of service will decline.

Councilmember Ramswell asked Mr. Wright to address the concern that hurricane response will suffer if the City runs its own utility.

Mr. Wright noted that municipal utilities in Florida are participants in municipal agreement that everybody participates in and help in storm activity.

Councilmember Ramswell stated that in terms of the argument about putting this issue out to a vote by the citizens, it was her understanding from the City Attorney's previous explanations that this is a procurement issue and the City Council decides on procurement matters such as contracts.

According to the Land Use Attorney, there is nothing in the City Charter that permits a referendum to interfere with contract negotiations.

Councilmember Ramswell suggests the City publishes a list of frequently asked questions (FAQ) on the City's website to give the citizens a clear understanding of this matter.

Councilmember Overdier asked whether exercising their right to purchase allows further negotiations with Gulf Power for a new franchise agreement, or it was to negotiate ns with Gulf Power to purchase the system only.

According to Mr. Wright, the Council has directed the City's attorneys to proceed towards the arbitration process. In terms of continuing negotiations towards a new franchise agreement with Gulf Power, the resolution Council adopted did not direct negotiations to continue, but there is no reason further negotiations cannot continue.

Councilmember Morgan remarked he cannot support a franchise agreement that takes away their right to purchase, which is their only leverage for future negotiations with Gulf Power. He is not willing to give up the City's rights and the City's future generations' rights to negotiate with their electric franchise.

The Mayor stated that the language in the adopted resolution seems to indicate that the City is committed to purchasing the electric utility.

Mr. Wright stated that it is a bifurcated process. If the price is not acceptable to the Council, they do not have to proceed with the purchase of the utility.

According to the Land Use Attorney, immediately after voting on the resolution exercising their right to purchase, the Council gave specific direction that the City Attorney, Councilmember Destin and Mr. Wright continue negotiating with Gulf Power for a new franchise agreement.

Councilmember Destin explained that the resolution has to contain very specific legal language that they intend to purchase the utility; otherwise, Gulf Power could argue in the court of law that the City has not fully executed their right to purchase. However, the Council has the right to change their mind if they do not find the price to be acceptable.

Mr. Wright explained that the Council has unequivocally exercised its right to purchase, and they have directed the City's attorneys to move toward the arbitration process; adding that continuing to negotiate for a new franchise agreement with Gulf Power is a separate and apart from this process.

Councilmember Marler inquired as to the consequences of Gulf Power not wanting to continue negotiation for a new franchise agreement.

Mr. Wright replied that they would have to proceed toward the arbitration process.

4. CITY MANAGER REPORTS

A) Sibert Avenue Parcel, additional parking opportunity

Deputy City Manager Steve Schmidt stated they have been contacted by the owner of 108 Sibert Avenue for consideration of purchase of the property. The approximately half-acre property is bounded on the northwest by City right-of-way (Sibert Avenue), on the southwest by property of the City (the currently existing Zerbe parking lot), on the southeast by property of the City (the Community Center) and on the northwest by property of the City (a half acre parcel next to the cemetery). The City has an appraised value of \$250,000 for the property. Another appraisal that was provided earlier by the seller's representative has a value of \$425,000 for the property. The property is currently listed on the market for \$400,000.

Councilmember Destin moved to direct the Interim City Manager, Deputy City Manager, and City Attorney to preliminarily approach the owner of Sibert Avenue parcel for possible acquisition of the property; seconded by Councilmember Morgan.

Councilmember Dixon opined that this property is worth no more than \$250,000.

Councilmember Braden stated he would support paying \$250,000 but not \$400,000 for this piece of property.

Councilmember Destin stated they can discuss this issue again once they receive the owner's expected price for the property.

The Interim City Manager will investigate and bring back an estimated amount for the property at the next Council meeting.

Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

B) Interlocal Agreement for Waterfront Access Maintenance and Capital Improvements

According to the Interim City Manager, the Tourist Development Department (TDD) provides funding for the general maintenance and capital improvements at the City-owned and maintained beach access points and the City boardwalk; and that this interlocal agreement confirms their obligation for Fiscal Year 2019.

Motion by Councilmember Ramswell, seconded by Councilmember Overdier, to approve the interlocal agreement for waterfront access maintenance and capital improvements between the City of Destin and the County TDD passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

C) Adoption of a new Investment Policy Resolution 18-27

The Finance Director explained that the City's current policy which the Council passed several years ago is not in complete compliance with the current State of Florida investment strategies. He continued it was recommended by the City auditor that the City writes and adopts an investment policy that brings the City Investment Policy in alignment with the State of Florida policy.

Motion by Councilmember Morgan, seconded by Councilmember Ramswell, to adopt the Investment Policy Resolution 18-27 passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

D) Feasibility of OCSO deputy assisting code enforcement during peak season.

The Human Resources Manager stated that at the last meeting it was suggested by a member of the Council the possibility of hiring an off-duty Okaloosa County Sheriff's deputy to assist the City's code enforcement officers during peak season as needed. She continued that staff is asking Council to consider funding this initiative under contract services instead of a Sheriff's contract amendment to give staff the flexibility of bringing back more options such as hiring an off-duty officer or other individuals with some experience in security. The Council could also decide if they want to hire this individual either year-round or during peak season only.

Councilmember Dixon stated that he made the suggestion because he feels they are more likely to gain compliance in problem areas by the mere presence of a law enforcement officer rather than just code enforcement officers. It would also be more beneficial in areas with serious parking issues such as Holiday Isle and Crystal Beach. He added if the City fails to gain compliance, they could then turn the matter over to the Sheriff's deputy to deal with it in a slightly different level.

Councilmember Ramswell suggests they have a future discussion regarding the possibility of taking code enforcement out from under the Community Development Department's purview and making it a standalone department.

Councilmember Marler asked staff to also look into the possibility of utilizing Sheriff's posse to augment code enforcement.

The Land Use Attorney suggests they provide the Sheriff's Office a scope of work so they know what to expect and can make a decision.

Councilmember Ramswell moved to direct the Interim City Manager to provide a scope of work to the Sheriff's Office; seconded by Councilmember Marler. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

E) Announcements/General Updates

The Human Resources Manager provided the following updates regarding the search for a full-time City Manager.

- Received 45 applicants
- Mr. Buzz Eddy of FCCMA has copies of all application and resumes
- Deadline for the applications is September 23rd
- Awaiting Council's direction moving forward

Councilmember Dixon asked that Council be provided copies of all the applications to give them a chance to pare them down if they so desire.

Councilmember Destin asked that the Council also be provided a copy of the qualifications rubric and the methodology the HR Manager and Mr. Eddy would probably apply in their effort to come up with a short list of candidates.

The Human Resources Manager provided the following updates regarding the search for a new Community Development Director:

- There are currently 16 candidates for the position
- The City's interview panel has narrowed the list to four
- Formal in-person interviews is scheduled in two days
- Seeking direction from the Council if they would like staff to schedule a "Meet and Greet" session with the top candidates

Councilmember Ramswell asked if the Interim City Manager has been involved in the process of narrowing down the candidates.

The Interim City Manager stated he would be involved with interviewing the final four candidates that will take place later this week.

Councilmember Braden asked who were on the interview panel.

The HR Manager replied that during the first round, the panel composed of the HR Manager, Building Official, the Deputy City Manager and the City Engineer. The Interim City Manager would be involved in the second round interviewing the top 4 candidates.

Councilmember Ramswell would like the Interim City Manager to be more involved in the process of narrowing down a large field of candidates and interviewing a short list of candidates since he has the ultimate hiring authority.

The Interim City Manager stated he would discuss this issue with the HR Manager after this meeting. His understanding was the candidates would be narrowed down to a number less than 15 and then he would be involved from that point forward.

Councilmember Destin noted that the City Charter gives the Council approval authority for the hiring of department heads. He also stated that he endorses the idea of scheduling a "Meet and Greet" session to give the Council the chance to meet the top candidates face to face.

Councilmember Overdier asked what would happen if the Interim City Manager selects and brings forward a candidate and members of the Council come up with their own choice of a suitable candidate.

Councilmember Destin suggests that after meeting with the candidates, each Council member meets with the City Manager and gives their individual opinion about the candidate of their choice. The Interim City Manager then takes all the opinion under consideration and tries to come up with the best candidate to bring forward to the Council. At that point, the Council's action will dictate the next course of action.

Councilmember Marler stated that the Council has the final decision on hiring department heads; however, it should be based upon the City Manager's recommendation because this is a part of his administrative duties. He added that members of the Council could meet individually with the City Manager to give their opinion, but he would not want the Council to get involved in a micro-managing situation.

Next, the Interim City Manager made the following announcements:

- Funding for resurfacing of Buck Destin tennis and pickle ball court was pulled, but there is money available for the project and that this item is under the Consent Agenda
- Tetra Tech, Inc. proposal for the cost for revising the plan for the Royal Melvin Heritage Park has been provided to the Council via email. This item will be placed on the next meeting agenda to seek firm direction from the Council on how to proceed

The City Engineer provided the following updates on the Crosstown Connector:

- The TDD agreed to fund construction of the crosstown connector. The amount of \$4.8 million is due to the City on October 1, 2020
- FDOT's 5-year work plan contains right-of-way acquisition funds for \$2.7 million in the years 2021 and 2022
- City needs to acquire the rights-of-way before construction can begin
- Staff will bring back a resolution at the next Council meeting for Council's approval for an advance funding agreement with FDOT

The City Engineer provided the following updates on the Structured Parking Solution's efforts.

- Conducting information gathering meetings w/ stakeholders in the harbor district and w/ the general public
- Will bring back a Memorandum of Understanding (MOU) at the next Council meeting
- Council's decision on the MOU will determine when to schedule a Transportation Workshop

5. PUBLIC HEARINGS

6. CONSENT AGENDA

- A) Resolution 1832 Request FDOT for temporary closing of US Hwy 98 for the December 8, 2018 Destin Christmas Parade.
- B) Tyler Content Management Software for Munis Financial System
- C) Citizenserve Software Annual Licensing and Support
- D) Buck Destin Tennis Court Resurfacings/Fencing

Motion by Councilmember Destin, seconded by Councilmember Marler, to approve Consent Agenda items #6A thru #6D, as printed above, passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

7. COMMENTS/PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY

- A) Councilmember Braden
- B) Councilmember Ramswell

Councilmember Ramswell suggested the idea of lengthening the Sunpass lane on the Mid-Bay Bridge by opening it up further back and positioning cones accordingly on turnover days.

Councilmember Destin suggests they invite the Executive Director of the Mid-Bay Bridge to attend a Council meeting to discuss this and other recommendations with him.

- C) Councilmember Dixon

Councilmember Dixon asked staff to take the necessary actions to remove derelict vessels on Joe’s Bayou and Marler Bayou.

- D) Councilmember Overdier
- E) Councilmember Marler

Councilmember Marler asked staff to place on the next agenda discussion of the City Charter relative to the process of hiring and firing of the City Manager and City Attorney.

- F) Councilmember Destin
- G) Councilmember Morgan
- H) Mayor Gary Jarvis

The Mayor noted that according to the City Charter, the hiring and firing of a City Manager requires a super majority vote of the Council.

Councilmember Destin asserted that firing a City Manager only requires a simple majority vote of the Council.

I) Land Use Attorney

1) Amendment to Vested Rights Ordinance; Announcement of Pending Ordinance Doctrine

It was the consensus of the City Council to invoke the pending ordinance doctrine to allow the City Council to add a fourth category to the recently adopted Vested Rights Ordinance dealing with minor developments.

J) City Attorney

1) Gulf Power Franchise Discussion and Further Consideration of Options

According to the Land Use Attorney, Gulf Power and the Florida Public Service Commission have been notified that the City of Destin has elected to exercise its right to purchase the Gulf Power electric utility.

Following this item, the Council moved on to agenda item #3 for public comments.

Having no further business at this time, the meeting was adjourned at 9:20 PM.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Special Presentation

TO: City Council

THRU: Lance Johnson, Interim City Manager

FROM: Karen Jankowski, HR Manager

DATE: December 5, 2018

SUBJECT: Employee of the Year 2018, City of Destin

I. BACKGROUND: The 2018 Employee of the Year award has become a tradition and is in its 28th year.

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:

1. EOY 2018 - Comments for Mayor

Mayor Gary Jarvis
December 17, 2018 City Council Presentation

Employee of the Year Award

Each year an Employee of the Year is nominated by and selected by co-workers to celebrate qualities that inspire us to achieve the City's mission:

“We are an organization that strives to provide a healthy, safe quality of life, balancing the needs of our residents with the expectations of our visitors, and providing open, clear, accurate communication.”

The 2018 Employee of the Year award has become a tradition and is in its 28th year.

It is a pleasure to honor Jack Kiehn of the Public Services department the as the 2018 Employee of the Year.

Jack please come forward.

Jack began working for the City, in the Public Services Department October of 2002 as a Maintenance Technician. In December of 2013 Jack was promoted to Equipment Operator. He is responsible for ...

Operating all city heavy equipment including: Backhoes, front end loaders, tractors/bush-hogs, chipper trucks, sweepers, and dump trucks to maintain city right-of-ways, parks, and other facilities to just name a few.

Co-workers identified these core values with our 2018 Employee of the Year:

- Transparency
- Teamwork
- Integrity
- Professionalism
- Stewardship

It is in those dedicated tasks that have brought him to this point.

Jack these are but a few things written about you:

- Respectful of everyone; is respected within his department,
 - Look to him for his advise and leadership,
 - Team player; always willing to take on a task.
- “Jack of all trades” 😊

- Analyzes every situation; arrives at best solution; while listening and considering all opinions,
- Professionally and promptly understands our role in providing services to our citizens.

Jack Kiehn on behalf of our Citizens, elected officials and staff please accept:

This cash certificate; and,
This etched plaque commemorating your
achievements, and

You will also have a reserved parking space at Public Services for the next year.

Congratulations Jack.

//APPLAUSE//

//Comments from the Employee of the Year//

PROCLAMATION HONORING CINDY POSEY (MRS. CLAUS) FOR HER YEARS OF
SERVICE TO THE CITY OF DESTIN

Whereas, Cindy Posey has more than 30 years of service to the City of Destin, and

Whereas, Cindy Posey has served as Mrs. Claus since the first Christmas parade in 1984,
and

Whereas, Cindy Posey has served as Mrs. Claus during the Annual Christmas Tree Lighting
ceremony at the Destin Community Center, and

Whereas, Cindy Posey brings joy each Christmas to boys and girls of all ages, and

Whereas, Cindy Posey generously donates toys to all children during the Annual Christmas
Parade

Now, Therefore, I, Gary Jarvis, Mayor of the City of
Destin, Florida, do hereby thank
Mrs. Claus, aka Cindy Posey for all of her years of service.

Dated this 17th day of December 2018 Mayor Gary Jarvis and
Mayor Gary Jarvis

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU:

FROM:

DATE: December 11, 2018

SUBJECT: 2018 Destin Christmas Parade Awards Presentation

I. BACKGROUND: The City of Destin Annual Christmas Parade brings Christmas joy the 2nd Saturday in December @ 10:00 am. Mayor and City Council present the winners with a plaque at the first Council meeting following the parade.

II. DISCUSSION:

A. Link to Strategic Goals / Objectives: Enhancing the quality of life for residents and visitors of Destin.

B. Effect on Budget (EOB): 7 plaques at \$43.00 each (Sponsorship for trophy@ \$100.00 Each covers cost of plaques).

C. Level of Service (LOS): The Destin Christmas Parade attracts thousands of spectators and participants annually. The City continues in its effort to provide quality programs that enhance quality of life for residents, businesses and visitors.

III. CONCLUSION: Attachment: List of Winners

IV. RECOMMENDED MOTION:

Attachments:

1. 2018 Christmas Parade Winners

2018 Winners of the
34th Annual Destin Christmas Parade
“Christmas at the Beach”

Noel Award/Band Award : Sponsor Destin Rotary
McGuire's Pipe Band

Elf Award/Children Service : Sponsor Jim Liufau State Farm
U.S. Gold Gymnastics

Santa's Helper Award/Children Commercial : Sponsor Al's Seafood and
Oyster Bar
All Star Twirlers

Civic Club/Civic Award : Sponsor Emerald Coast Knights of Columbus
Destin Dolphin Cheerleaders

Chamber Award / Commercial – Sponsor Chamber of Commerce
Big Kahuna's

Angel Award/Religious Award : Sponsor Mike Cheney, Allstate
Destin Methodist

Crowd Pleaser: Sponsor City Of Destin
Emerald Coast Parrot Head Club
And
FWB Mardi Gras Club Queen Susan



CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Special Presentation

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: Destin Fire Control District - Proposed change to Clement Taylor Park

I. BACKGROUND: Proposed change to park.

II. DISCUSSION:

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

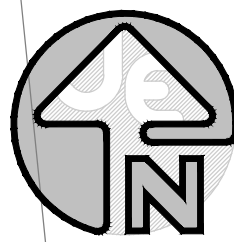
III. CONCLUSION:

IV. RECOMMENDED MOTION:

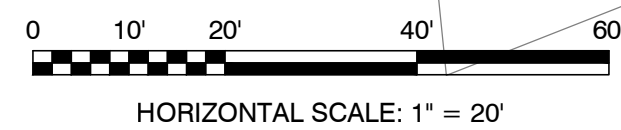
Attachments:

1. DFCD-
ClementTaylorParkDraftProposal17-
70 Design2-SITE PLAN

File: D:\Box Sync\Projects\2017\17-70 Clement Taylor Park\Drawings\Figure 17-70 Design2.dwg - Last Saved: 12/12/2018 7:36 AM by MSJ

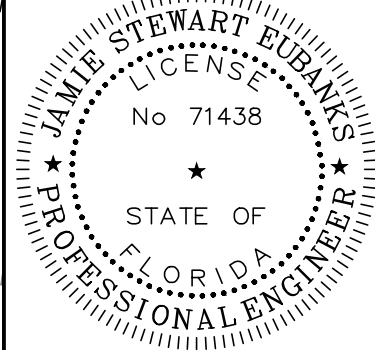


1. DRIVEWAY AND CALHOUN AVE RIGHT-OF-WAY IMPROVEMENTS PER PLANS PROVIDED BY CITY AS PART OF SEPARATE IMPROVEMENTS. VERIFY ALL FINAL CLAHOUN AVE AND RIGHT-OF-WAY IMPROVEMENTS PRIOR TO COMMENCEMENT OF CONSTRUCTION.



1234 AIRPORT ROAD, SUITE 126
DESTIN, FLORIDA 32541
PHONE 850.837.2448
FAX 850.837.2450

C.O.A. NO. 9927 - L.B. NO. 8081
JEICMIL.COM



JAMIE S. EUBANKS, P.E.
FL. REGISTRATION NO. 71438

[illegible]

SITE PLAN

NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE

BAR IS ONE INCH ON ORIGINAL
0  1"
IF NOT ONE INCH ON THIS SHEET
ADJUST SCALES ACCORDINGLY

DRAWING NUMBER 3 OF 5
SHEET NUMBER C03

BRUCE B. HUMPHREY

Practice Areas: Eminent Domain, Property Rights, and Land Use

Education: Florida State University, B.S.- Real Estate, 1986
Stetson University - College of Law, J.D. December 1998

Experience: Partner – Birchfield & Humphrey, P.A. 2004 - Present
Senior Attorney - Lewis, Longman & Walker, P.A. 2003 - 2004
Partner - Brigham Moore, LLP 2002 - 2003
Attorney - Brigham, Moore, Gaylord, Schuster, Merlin & Tobin, LLP 1999 - 2002
Admitted to Florida Bar on April 22, 1999
AV Pre-eminent rated by Martindale-Hubbell

I formed Birchfield & Humphrey, P.A., with W. O. Birchfield, formerly of-counsel with Lewis, Longman & Walker, P.A., in August 2004 to represent private property owners and condemning authorities in all phases of condemnation practice from pre-litigation planning and negotiation to post-trial appellate proceedings, and in inverse condemnation cases. Representative clients range from large land owners, multi-national corporations, such as the St. Joe Company and Gate Petroleum, to single family homeowners; and condemning authorities such as the Jacksonville Transportation Authority, Clay County, and Central Florida Electric Coop.

I practice throughout Florida in cases involving electrical and gas transmission lines, road widening, bridge construction, schools, stormwater treatment facilities, utility lines, redevelopment areas, and interchanges.

Other practice areas include representation of property owners in all phases of property tax appeals as well as property owners and affected owners in land use amendments and zoning changes. My practice also includes mediation of FDOT – District 2 eminent domain cases, as well as other types of real property conflicts.

Prior to attending law school, I worked as a commercial real estate appraiser for Clayton, Roper, and Marshall, Inc. in Orlando, and continue to appraise a variety of commercial properties for Humphrey and Associates, Inc. I analyze and appraise existing and proposed DRI's, golf courses, apartment complexes, shopping centers, hotels, and office buildings throughout Florida and the eastern United States.

**Professional
Activities:**

Member - Florida Bar
Member - Jacksonville Bar Association (JBA)
Member- JBA Environmental & Real Property Law Committee
Member - Appraisal Institute (MAI – April 1993)
Certified Circuit Court Mediator - Florida
State Certified General Real Estate Appraiser - Florida

Publications: Co-Author: Unsyndicated Partial Interest Discounting, Appraisal Journal, July 1997.

Address: 1031 LaSalle Street Phone: 904/396-6625
Jacksonville, FL 32207 Fax: 904/396-6624
bhumphrey@birchfieldhumphrey.com

LAUREN E. HOWELL

Practice Areas: Eminent Domain, Property Rights, and Land Use

Education: University of Florida, B.A. – Criminology (Minor, Business Administration) 2001
University of Florida, Levin College of Law - J.D. May 2005

Experience: Partner – Birchfield & Humphrey, P.A. 2018 - Present
Assistant General Counsel – FDOT District Two 2013 - 2018
Special Magistrate for Code Enforcement – City of Live Oak 2012 - Present
Attorney – Howle Law Firm, P.A. 2008 - 2013
Assistant State Attorney – Fourth Judicial Circuit 2005 - 2008
Admitted to Florida Bar on October 3, 2005

I joined Birchfield & Humphrey, P.A., to represent private property owners and condemning authorities in all phases of condemnation practice from pre-litigation planning and negotiation to post-trial appellate proceedings, and in inverse condemnation cases.

Born and raised in North Florida, I received both my B.A. and J.D. from the University of Florida. While in law school, I studied International Law at Leiden University in the Netherlands and clerked for Administrative Law Judges for the Environmental Protection Agency in Washington, D.C. Upon graduation, I served as an Assistant State Attorney for the Fourth Judicial Circuit where I developed a passion for litigation and the courtroom. I entered private practice in 2008 representing clients in cases concerning environmental and land use issues, administrative matters, general civil litigation and criminal defense.

I have spent the past five years as an Assistant General Counsel Senior Attorney at the Florida Department of Transportation, heavily litigating Eminent Domain matters. I have significant experience in all aspects of eminent domain litigation including pre-suit negotiations, motion practice, mediation, trial, and appellate considerations. In addition to my litigation practice, I have served as a Special Magistrate for a small North Florida town since 2012.

I was a Faculty Speaker at the 2016 Eminent Domain Institute/CLE International Eminent Domain Conference and was invited to conduct a mock mediation at the Winter 2017 International Right of Way Ch. 26 Conference in Tampa, FL.

**Professional
Activities:**

Member – Florida Bar
Member – U.S. District Court, Middle District of Florida
Member – Florida Bar Eminent Domain Committee
Member – Jacksonville Bar Association (JBA)
Member – JBA Environmental & Real Property Law Committee
Member – Florida Association of Women Lawyers

Address: 1031 LaSalle Street
Jacksonville, FL 32207
lhowell@birchfieldhumphrey.com

Phone: 904/396-6625
Fax: 904/396-6624

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018**TYPE OF AGENDA ITEM:** Action Item

TO: City Council**THRU:** Kimberly Kopp, Land Use Attorney**FROM:** Lance Johnson, Interim City Manager**DATE:** December 12, 2018**SUBJECT:** Sterling Shores Association - Update on Public Beach Access

I. BACKGROUND: 1. Per the direction of the City Council, the City Land Use Attorney sent correspondence to the general counsel for the Sterling Shores Owners' Association ("Association") demanding that the Association restore public access to the beach and immediately cease and desist from unlawfully blocking such public access. The City requested a written response within ten days, confirming the Association's assurances to comply with same.

2. In response, John Stratton, Esq., of Becker & Poliakoff (Counsel for the Association) requested that the City provide the Association with additional time to respond, due to the Thanksgiving holiday and to allow the Association time to review the City's demand. The City and Mr. Stratton agreed to an extension of time until December 7, 2018.

3. On December 7, 2018, Dana Matthews, Esq., of Matthews & Jones, sent email correspondence to the City Land Use Attorney indicating that Mr. Matthews had just been retained in this matter by the Association, and further indicating that he would respond on behalf of the Association during the week of December 10th.

4. As of the date of this agenda item (12/12/2018), the Association has not provided a response to the City.

5. An update will be provided to the City Council on 12/17/2018. At that time, the City Attorney and City Land Use Attorney may request authorization to take further legal action in this matter, depending on the response received from the Association in the interim, if any.

II. DISCUSSION:

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:

1. Nov 13 Correspondence to SSOA
2. Attachments to Nov. 13
Correspondence



ROMANO KOPP LAW, P.A.

P.O. Box 622562
Oviedo, Florida 32762-2562
Phone: (407) 430-7070
Email: kkopp@romanokopplaw.com
www.romanokopplaw.com

November 13, 2018

BY CERTIFIED MAIL

Sterling Shores Owners' Association, Inc.
Becker & Poliakoff, P.A.
348 Miracle Strip Parkway, Suite 7
Fort Walton Beach, FL 32548

Re: Sterling Shores Public Beach Access

Dear Counsel for Sterling Shores Owners' Association:

This purpose of this letter is to address the continued blocking and privatizing of the public's use of the beach access boardwalk by Sterling Shores. This is an attempt by my client, the City of Destin (the "City") to resolve this matter without the need for judicial intervention and to give your client the opportunity to restore public access to the beach. Through previous correspondence from Mr. William S. Howell (prior counsel to the Sterling Shores Owners' Association), the Association has maintained that the beach access boardwalk was not ever intended to be public property. It is the City's unequivocal position that the beach access boardwalk has always been intended for use as a public right-of-way, granting public access to the beach. Though the City does not intend to prolong the debate on whether it is public or private, it is prudent to direct you to the public documents listed below that clearly state the intended use of the boardwalk.

The final Development Order No. 99-25 ("D.O.") for the Restaurant Row Redevelopment project owned by Sterling Shores Partnership and Restaurant Row Partnership clearly shows that the intent of construction of the boardwalk was to allow public access to the beach. Parking Subsection D of the D.O., which addresses Public Parking Spaces, states that, "[T]hese spaces are provided in satisfaction of the public benefit component of the proposed mixed use PUD for the City of Destin. These spaces will significantly increase the number of available free public parking spaces for this section of the gulf beach within 500 feet of a public beach accessway." Additionally, the City Council conditions listed in the D.O. state that the public beach access on the west side of the pool area would be extended to 8 feet wide, and further, requires that a beach/dune walkover be constructed by the applicants within the 8-foot wide public beach access.

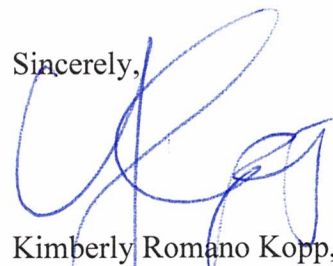
We also direct you to item number 2 under "Other Structures/Activities" in the Department of Environmental Protection Permit Number OK-270, entered on September 15, 2000, which permits the construction of a wooden 6-foot Public Boardwalk and two wooden Beach Club Boardwalks. Special Permit Conditions number 2.5 states that, "The wooden Public Boardwalk and Beach Club Boardwalk structures shall not extend further seaward than the old (1976) control line. Side Platforms shall be cantilevered rather than post-supported, a maximum of 2 feet on each side of the boardwalks." Special Permit Conditions number 8 also references the Public Boardwalk. It is clear under this Permit that the intent of the boardwalk was to provide public access to the beach. Additionally, the site plan attached to the Department of Environmental Protection's Request for Public Comment clearly shows a public boardwalk.

Accordingly, the City demands that your client immediately **CEASE AND DESIST THE UNLAWFUL BLOCKING OF THE CITY'S PUBLIC BEACH ACCESS** and provide us with prompt written assurance within ten (10) days that your client will cease and desist from further blocking of the City's public beach access by promptly taking the following actions to affirmatively restore the bargained for and intended public beach access:

1. Remove the landscaping and restore the beach access walkway on the west side of the beach club to substantially the same condition as it existed prior to its removal in the spring of 2018.
2. Remove any "private access" or directional "public beach access" signs as were existing in 2017.
3. Remove any "Private Beach Access" signs, posts, rope and/or chains which inhibit the public use of the dry sand south of the beach club.

If your client does not agree to comply with this cease and desist demand within the stated time period, the City will seek judicial intervention and will pursue all available legal remedies. However, the City prefers to reach a prompt and amicable resolution of this issue without resorting to litigation. I look forward to your prompt response.

Sincerely,



Kimberly Romano Kopp, Esq.
City Land Use Attorney
City of Destin

cc: Lance Johnson
Steve Schmidt
Kyle Bauman
Steve Bauman



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

April 10, 2000

TO WHOM IT MAY CONCERN

Request for Public Comment

File Number: OK-270

Applicant: Cobb Investment Company, Inc.

You are hereby notified that the Department of Environmental Protection is considering the referenced application for a coastal construction control line permit, pursuant to Section 161.053, Florida Statutes, for the installation of pool and other structures. A copy of the plans is enclosed.

The proposed project is located approximately 18 feet east to 360 feet east of the Department of Environmental Protection's reference monument R-31, in Okaloosa County, and is within the local jurisdiction of the City of Destin. Project address: 1751 Scenic Highway 98F, Destin.

This public comment notice is being distributed in order to assist the Department of Environmental Protection in developing facts on which to base a decision on the permit application. For accuracy and completeness all comments should be submitted in writing with supporting data, evidence, or rationale to furnish a clear understanding of the basis for the comments. The decision as to whether a permit will be issued will be based on an evaluation of: (1) The design adequacy of the proposed construction. (2) The expected impact of the proposed construction to the beach/dune system. (3) The expected impact of the proposed construction to adjacent properties. (4) The expected impact of the proposed construction on lateral public beach access. (5) Appropriate siting of the proposed construction with respect to local setback, zoning restrictions, and maximum usage of upland portions of the property. (6) The expected impact of the proposed construction on nesting sea turtles and hatchlings and their habitat.

Comments should be submitted within fourteen (14) calendar days after the date of this notice to Bobby Cromer, Engineer, the Florida Department of Environmental Protection, Office of Beaches and Coastal Systems, 3900 Commonwealth Boulevard, Mail Station 310, Tallahassee, Florida 32399. Plans for the proposed work may be seen at the office of the Office of Beaches and Coastal Systems at 5050 West Tennessee Street, Building B, Tallahassee, Florida.

BC/kbe
Enclosure

RECEIVED

APR 11 2000

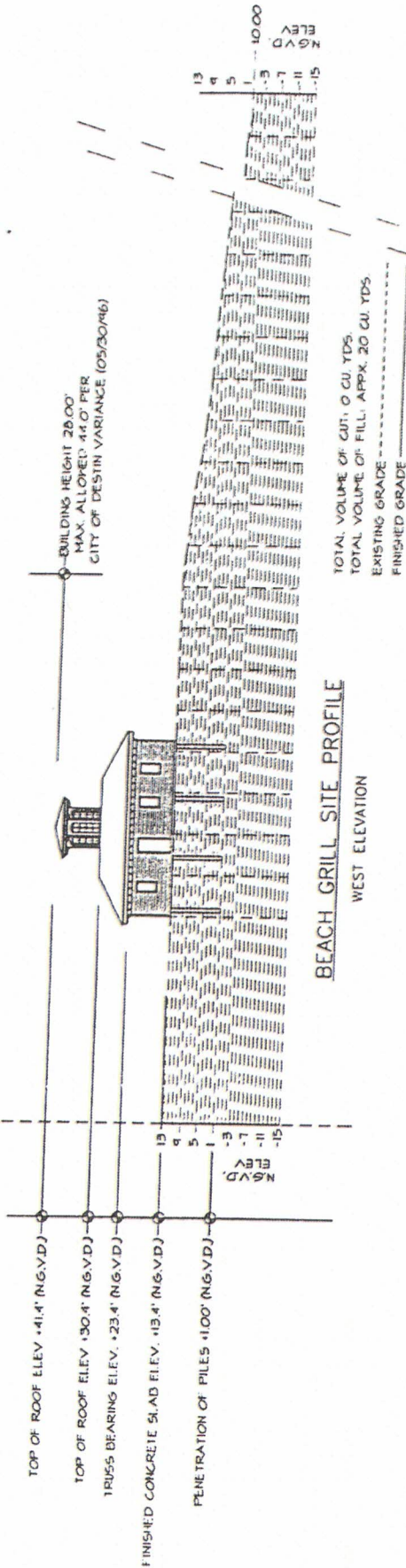
PLANNING & ZONING

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper.

THESE DESIGN PLANS AND SPECIFICATIONS ARE IN ACCORDANCE WITH THE STANDARDS ESTABLISHED IN SECTION 62B-33.007, FLORIDA ADMIN. CODE.

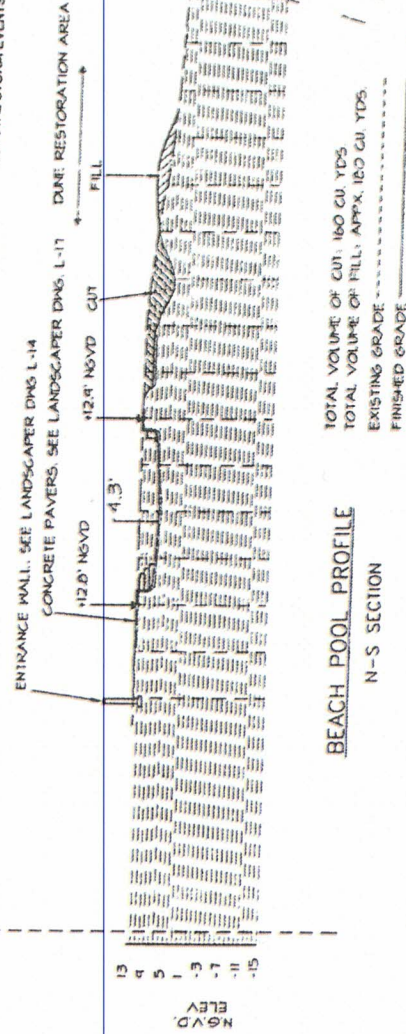
DEPARTMENT OF ENVIRONMENTAL PROTECTION
COASTAL CONSTRUCTION CONTROL LINE (C.C.C.L.)
AS RECORDED ON DECEMBER 19, 1991,
OKALOOSA COUNTY, FLORIDA



DEPARTMENT OF ENVIRONMENTAL PROTECTION
COASTAL CONSTRUCTION CONTROL LINE (C.C.C.L.)
AS RECORDED ON DECEMBER 19, 1991,
OKALOOSA COUNTY, FLORIDA

NOTE:

- 1) THE POOL IS ANCHORED TO REDUCE THE RISK OF DAMAGE TO THE EXISTING DWELLING DURING COASTAL STORM EVENTS AS REQUIRED UNDER RULE 62B-33.007(3)(F), FLORIDA ADMINISTRATIVE CODE.
- 2) THE POOL WILL NOT INCREASE THE RISK OF DAMAGE TO THE DWELLING DURING COASTAL STORM EVENTS.



RECEIVED

MAR 15 2000

OFFICE OF BEACHES
& COASTAL SYSTEMS

Florida Coastal Development Consulting, Inc.
3500B Emerald Coast Parkway, Suite 203
Destin, Florida 32541
PHONE: (850) 650-0023 / FAX: (850) 650-0044
ONG-IN SHIN, P.E.

STERLING SHORES
GRILL - LOCKERS - POOL - PARKING
PARCELS C-10 SILVER BEACH SUBDIVISION SCENIC UNIT 4B
DESTIN - OKALOOSA CO. - FL.
SURVEY DATE: 12/29/99

SCALE: 1"=40'
DATE: 02/15/2000
FILE # OK-270

NOTE: THIS AUTHORIZATION
IS DIFFERENT FROM THE
ORIGINAL REQUEST. SEE
SPECIAL PERMIT CONDITIONS.



STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Office of Beaches and Coastal Systems
3900 Commonwealth Blvd. - Mail Station 300
Tallahassee, Florida 32399-3000
(850) 488-3180

PERMIT NUMBER: OK-270

PERMITTEE

Destin Development Company, Inc.
c/o Ong-In Shin, P. E.
35008 Emerald Coast Parkway, Suite 203
Destin, Florida 32541

PERMIT FOR CONSTRUCTION OR OTHER ACTIVITIES
PURSUANT TO SECTION 161.053, FLORIDA STATUTES

FINAL ORDER

FINDINGS OF FACT: An application for authorization to conduct the activities seaward of the coastal construction control line which are indicated in the project description, was filed by the applicant/permittee named herein on September 27, 1999, and was determined to be complete pursuant to rule on June 19, 2000. The proposed project is to be located landward of the 30-year erosion projection and the existing line of construction established by major structures in the immediate area.

CONCLUSIONS OF LAW: After considering the merits of the proposal and any written objections from affected persons, the Department finds that upon compliance with the permit conditions, the activities indicated in the project description are of such a nature that they will result in no significant adverse impacts to the beach/dune areas or to adjacent properties; that the work is not expected to adversely impact nesting sea turtles, their hatchlings, or their habitat; that the work is expendable in nature and/or is appropriately designed in accordance with Rule 62B-33.007, Florida Administrative Code; and that it is an activity or type of construction which the designee of the Director of the Office of Beaches and Coastal Systems has authority to approve or deny pursuant to Deputy Secretary Directive "Delegation of Authority", effective July 1, 1999. The direct and cumulative impacts to the beach and dune system that will be caused by both the seaward location of the proposed construction represent the maximum such impacts that are acceptable to the Department. Therefore, future construction on the site seaward of the coastal construction control line shall not extend further seaward of the proposed structures approved pursuant to this permit. Based on the foregoing considerations, the designee approves the application; authorizes construction and/or activities at the location indicated below in strict accordance with the project description, the approved plans (if any) and the Standard Permit Conditions which are attached and are by this reference incorporated herein, and any additional conditions shown below, pursuant to Subsection 161.053(5), Florida Statutes.

EXPIRATION DATE: September 15, 2003

LOCATION: Between approximately 18 feet east and 360 feet east of the Department of Environmental Protection's reference monument R-31, in Okaloosa County. Project address: Parcels C, D, and F of Parcel I of Sterling Shores, Scenic Highway 98, (County Road Number 2378), Destin.

PERMITTEE: Destin Development Company, Inc.
PERMIT NUMBER: OK-270
PAGE 2

PROJECT DESCRIPTION:

Beachside Grill and Restrooms

1. Location relative to control line: A maximum of 92 feet seaward.
2. Exterior dimensions: 42.7 feet shore-normal by 41.3 feet shore-parallel.
3. Type of foundation: Pressure treated wood piles. **Refer to Special Permit Conditions 2.1 and 2.2.**
4. Penetration of piles: **Refer to Special Permit Condition 2.3.**
5. Floor elevation: +13.4 feet (NGVD), or higher.

Swimming Pool

1. Location relative to control line: A maximum of 104.6 feet seaward with a 5-foot to 12-foot wide decking extending up to 107 feet seaward.
2. Exterior dimensions: 30.6 feet shore-normal by 38 feet shore-parallel.
3. Type of foundation: 6-inch thick reinforced concrete shell on grade.
4. Deck elevation of swimming pool: +12.9 feet (NGVD).
5. Bottom elevation of swimming pool: +8.6 feet (NGVD).
6. Maximum depth of swimming pool: 4.3 feet.
7. Height of pool deck above existing grade: 0 feet.
8. Total volume of excavation: **Refer to Special Permit Condition 2.4.**

Excavation/Fill

1. Total volume of excavation: Volume of net excavation: None; excavated material to be placed as fill on the project site. **Refer to Special Permit Condition 2.4.**
2. Location of excavation: At pool only. **Refer to Special Permit Condition 2.4.**
3. Maximum depth of excavation: To elevation 8.1 feet (NGVD); 5 feet below existing grade.
4. Volume of fill to be placed: **Refer to Special Permit Conditions 2.4 and 7.**
5. Location of fill to be placed: **Refer to Special Permit Condition 2.4.**

PERMITTEE: Destin Development Company, Inc.

PERMIT NUMBER: OK-270

PAGE 3

Other Structures/Activities

1. Irregularly-shaped 6-foot to 12-foot wide concrete paver walkways surrounding the swimming pool and beachside grill, a maximum of 137 feet seaward of the control line.
2. A wooden 6-foot wide Public Boardwalk and two wooden Beach Club Boardwalks. Refer to Special Permit Conditions 2.5, 2.10, and 8.
3. A 188-foot shore-parallel landscape fence approximately 55 feet seaward of the control line at the east end and 40 feet seaward of the control line at the west end with 14-foot shore-normal seaward extensions at each end located a maximum of 69 feet seaward of the control line. Refer to Special Permit Condition 2.6.
4. A gazebo of dimensions 16 feet shore-normal by 16 feet shore-parallel located a maximum of 64 feet seaward of the control line. Refer to Special Permit Condition 2.7.
5. An outdoor brick paver plaza landward of the existing restaurant, within Parcel D, of dimensions 25 feet shore-normal by 25 feet shore-parallel located a maximum of 103.53 feet seaward of the control line. Refer to Special Permit Condition 2.8.
6. Arbors over the paver deck on each side of the pool, and a trellis over the paver walkway leading to the gazebo that is within Parcel C.
7. A dune restoration area seaward of the control line. Refer to Special Permit Conditions 2.9 and 7.
8. Remove existing retaining wall. Refer to Special Permit Condition 6.
9. Stormwater retention area. Refer to Special Permit Condition 2.4.
10. Landscaping activities. Refer to Special Permit Condition 2.11.

SPECIAL PERMIT CONDITIONS:

1. No work shall be conducted under this permit until the permittee has received a written notice to proceed from the Department.
2. Prior to issuance of the notice to proceed, the permittee shall submit two copies of detailed final construction plans and specifications for all authorized structures or excavation, including all appurtenant structures and utilities. These documents shall be signed and sealed by the design engineer or architect (as appropriate), who must be registered in the State of Florida, and shall bear the certifications specified in Rule 62B-33.007(3)(b), 62B-33.007(3)(l), and 62B-33.007(3)(n), Florida Administrative Code. These plans and specifications shall be subject to approval from the staff of the Office of Beaches and Coastal Systems, and shall include or reflect the following:

2.1. Piles a minimum of 10-inch square or 12-inch diameter, or greater.

- 2.2. *Detailed construction plans for beachside grill including a section through slab and piles.*
- 2.3. Pile tip elevation of -12.0 feet (NGVD), or deeper.
- 2.4. *Revised grading and drainage plan showing the quantity and location relative to the control line for all cut and fill, depicting no excavation seaward of the swimming pool, and indicating no stormwater or swimming pool drainage directed seaward or onto adjacent property.*
- 2.5. *The wooden Public Boardwalk and Beach Club Boardwalk structures shall not extend further seaward than the old (1976) control line. Side platforms shall be cantilevered rather than post-supported, a maximum of 2 feet on each side of the boardwalks.*
- 2.6. Construction details for landscape fence.
- 2.7. Construction details for gazebo.
- 2.8. Construction details of plaza structures landward of existing restaurant.
- 2.9. Dune restoration plan and details.
- 2.10. *Construction detail of boardwalk structures.*
- 2.11. *Revised landscaping plan indicating vegetation with only native salt resistant species.*
3. The permittee shall provide written evidence that a public notice of the Department's action has been published for one day in the largest newspaper of general circulation in the county where the proposed project is located. A certification from the newspaper showing compliance shall be provided to the staff. Prior to publishing the required public notice, the permittee shall contact the staff and obtain the specific language that must appear in the advertisement. The public notice must be published within 10 days of the date of issuance of this permit.
4. Construction activity authorized by this permit shall not commence until after the time period provided in the public notice for the public to exercise any rights they may have under Chapter 120, Florida Statutes, has expired, or if a hearing is requested, disposition of the hearing request has been made.
5. Prior to commencement of construction activity authorized by this permit, a preconstruction conference shall be held at the site among the contractor, the owner or authorized agent, and a staff representative of the Office of Beaches and Coastal Systems to establish an understanding among the parties as to the items specified in the special and standard conditions of the permit. The proposed locations of the structures shall be staked out for the conference.
6. All rubble and debris resulting from this construction shall be removed to a location landward of the coastal construction control line.

PERMITTEE: Destin Development Company, Inc.
PERMIT NUMBER: OK-270
PAGE 5

7. The fill material shall be obtained from a source landward of the control line and shall consist of sand which is similar to that already on the site in both grain size and coloration. This fill material shall be free of construction debris, rocks, or other foreign matter. A sample of the sand shall be provided to the staff representative during the preconstruction conference.
8. The deck of the Public Boardwalk and Beach Club boardwalk structures shall maintain an elevation above the existing dune vegetation canopy. The width of the Beach Club Boardwalk structures shall not exceed 4 feet. The piles for the boardwalk structures shall not be greater than 4-inch by 4-inch posts and shall not be encased in concrete. The optimum siting of the boardwalk structures shall be determined by the staff representative during the preconstruction conference to provide maximum protection to the existing dune topography and vegetation located on the site.
9. All permanent exterior lighting shall be installed and maintained as depicted in the approved lighting schematic. No additional exterior lighting is authorized.

CAVEAT:

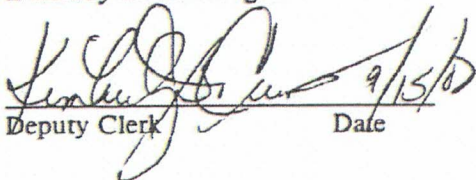
Due to potential adverse impacts to the beach and dune system that may result from additional development on the property, the seaward extent of the permitted structures shall not be increased, nor will any additional major structures be permitted which would exceed the limits established by the permitted construction seaward of the coastal construction control line.

Approved plans are incorporated into this permit by reference.

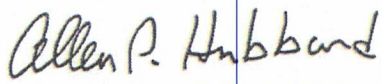
Done and ordered this 15th day of September 2000, in Tallahassee, Florida.

Attachment: Standard Permit Conditions

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to S120.52
Florida Statutes, with the designated
Department Clerk, receipt of which
is hereby acknowledged.


Deputy Clerk Date

State of Florida
Department of Environmental Protection


Allen P. Hubbard, P.E. Administrator
Office of Beaches and Coastal Systems



June 8, 1999

ORDER #99-25

Final Development Order:

**"RESTAURANT ROW REDEVELOPMENT-
A MIXED USE PLANNED UNIT DEVELOPMENT":
A MAJOR DEVELOPMENT
(SP #98-64)**

Based upon the City Council's approval of this Development Order, on April 26, 1999, this document will serve as the Final Development Order, to include all of the provisions of the attached Technical Review Committee Report and with the following conditions as specified by the City Council:

BACKGROUND / ISSUE:

- Applicant:** Hall & Runnels, as agent
- Owner:** Sterling Shores Partnership and Restaurant Row Partnership - Owners.
- Property Location:** Southwest corner of Restaurant Row and Emerald Coast Parkway south to the Mean High Water line of the Gulf of Mexico.
- Request:** Approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch and Gratzi restaurants, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.
- Parcel Size:** 15.28 acres, more or less (not including ROW easement areas along Old Highway 98, Emerald Coast Parkway and Restaurant Row).
- Future Land Use:** MU (Mixed Use)
- Zoning District:** BT (Business Tourism)

Density: Allowed: 30 lodging units per acre
 Project: 15.28 acres x 30 = 458 lodging units
 Phase I-385 lodging units; Phase II- 10 lodging units
 Total site proposes 395 lodging units, which is 63 lodging units less than maximum allowed.

Intensity: FAR for commercial lots will be less than 1.07

Timing on Phasing: Phase I - Begin as soon as possible after regulatory approval. Construction is proposed to be completed in 18 months after initiation.
 Phase II - Begin within 6 months of completion of Phase I. Construction is proposed to be completed in 12 months after initiation.

Total Completion: The applicant has stated that all development and redevelopment activity will be completed within five years.

Application Date: December 6, 1998

TRC Date: December 22, 1998

Approved Site Plan Date: February 16, 1999 (with comments), and April 20, 1999 (per comments)

Planning Commission Date: February 18, 1999

City Council Date: March 8, 1999, April 12, 1999, and April 26, 1999

DETERMINATIONS:

1. On February 18, 1999, the Planning Commission recommended the City Council to approve the proposed project as presented by staff. The motion passed by a 3-2 vote. Mr. Link and Ms. Drown voted against the motion; and Mr. Clauson and Mr. Breithaupt were not present.
2. A hearing was held by the Destin City Council on April 26, 1999, whom approved the development with conditions; and
3. All the findings of the Technical Review Committee (TRC) report dated February 16, 1999, as amended on April 23, 1999, are incorporated herein.

CONDITIONS OF APPROVAL FOR "RESTAURANT ROW REDEVELOPMENT-A MIXED USE PLANNED UNIT DEVELOPMENT": A MAJOR DEVELOPMENT (SP #98-64) :

Pursuant to the City of Destin Land Development Regulations, the City of Destin Code of Ordinances, and the City Council:

1. Construction must commence within twelve (12) months of approval of the Final Development Order on May 24, 1999 (no later than May 24, 2004) and must be completed as shown on plans approved with conditions by the City Council (stamp dated 4-26-99).

WARNING: If the applicant/owner has not obtained a construction permit(s) within 365 days of issuance of the final development order, the final development order is void and the application for plan approval must be re-initiated.

2. If "Restaurant Row Redevelopment – Mixed Use PUD" fully complies with the requirements of Condition Number 1 above, the concurrency status "Restaurant Row Redevelopment – Mixed Use PUD" is protected (for five years) through May 24, 2004. **The protected concurrency status, however, will be lost if:**
 - A. **Construction activity ceases for a period exceeding one (1) year at any time during the term of this Final Development Order; or**
 - B. **Construction permit(s) are not obtained in accordance with Section 2.09.00 of the Land Development Code to maintain concurrency.**
3. "Restaurant Row Redevelopment – Mixed Use PUD" must obtain City of Destin permits for the following activities on and off site (These may require appropriate bonding):
 - a. disturbance to the city's rights of way.
 - b. pavement cuts.
 - c. construction of any kind.
 - d. clearing and grubbing.
 - e. paving, grading, drainage, sidewalks.
 - f. signage.
 - g. installation of utilities.
 - h. construction trailers.
4. **City Council conditional approval for Phase II**, is for square footage, use, concurrency, and general location only. A formal Major Development site plan review will be required prior to permits being issued for any development or construction within this phase.
5. **Before the issuance of a building permit**, a clearing plan must be presented to, and approved by the Community Development Director prior to issuance of a clearing permit. This must include the names and addresses of the surrounding property owners within 300' of the project.
6. **Before the issuance of a building permit**, a copy of the FDEP permit must be submitted to the City Engineer for acceptance.
7. **Before the issuance of a building permit**, the plat must be recorded and copies provided to the City.
8. **Before the issuance of a certificate of occupancy**, the existing billboard shall be removed.
9. **Before the issuance of a certificate of occupancy for the 160 unit condominium**, the streetscape improvements shall be provided from Emerald Coast Parkway to Restaurant Row along both sides of Scenic Hwy 98.
10. **Before the issuance of a certificate of occupancy for the 160 unit condominium and before construction of the roadway improvements**, a cross-section of the speed humps shall be submitted to the City Engineer for approval.

11. **Before the issuance of a certificate of occupancy**, the applicant's landscaper shall coordinate with the City Engineer for location of exfiltration to ensure plant types and root systems will not damage exfiltration.
12. **As a condition by the City Engineer**, Phase 1-B stormwater retention appears low; revisit calculations.
13. **As a condition by the City Engineer**, all re-review fees must be received prior to building permit issuance.
14. **Before the issuance of a certificate of occupancy**, the landscape material shall be inspected by the Community Development Department to ensure compliance with the Development Order.
15. **Before the issuance of a certificate of occupancy**, any damages to the existing and/or required five (5) foot sidewalk, adjacent to the right-of-way lines of Emerald Coast Parkway, Restaurant Row, or Scenic Hwy 98 must be "bonded, replaced, or installed".
16. Requirements identified by the Technical Review Committee:

**TECHNICAL REVIEW COMMITTEE REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

**RESTAURANT ROW REDEVELOPMENT
A MIXED USE PLANNED UNIT DEVELOPMENT
A MAJOR DEVELOPMENT**

December 22, 1998, Amended February 16, 1999 and April 23, 1999

ISSUE

Applicant: Hall & Runnels, as agent
Owner: Sterling Shores Partnership and Restaurant Row Partnership - Owners.
Property Location: Southwest corner of Restaurant Row and Emerald Coast Parkway south to the Mean High Water line of the Gulf of Mexico.
Request: Approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch and Gratzl restaurants, and development of a unified streetscape and pedestrian/bicycle access network along Old

Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.

Parcel Size: 15.28 acres, more or less (not including ROW easement areas along Old Highway 98, Emerald Coast Parkway and Restaurant Row).

Future Land Use: MU (Mixed Use)

Zoning District: BT (Business Tourism)

Density: Allowed: 30 lodging units per acre
 Project: 15.28 acres x 30 = 458 lodging units
 Phase I-385 lodging units; Phase II- 10 lodging units
 Total site proposes 395 lodging units, which is 63 lodging units less than maximum allowed.

Intensity: FAR for commercial lots will be less than 1.07

Timing on Phasing: Phase I - Begin as soon as possible after regulatory approval. Construction is proposed to be completed in 18 months of initiation.
 Phase II - Begin within 6 months of completion of Phase I. Construction is proposed to be completed in 12 months of initiation.

Total Completion: The applicant has stated that all development and redevelopment activity will be completed within five years.

Application Date: December 6, 1998

TRC Date: December 22, 1998

Approved Site Plan Date: February 16, 1999 (with comments), and April 20, 1999 (per comments)

Planning Commission Date: February 18, 1999

City Council Date: March 8, 1999, April 12, 1999, and April 26, 1999

DISCUSSION:

Hall & Runnels, as agent for Sterling Shores Partnership and Restaurant Row Partnership, owner, submitted an application requesting approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch and Gratz restaurant, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.

The project is classified as a Major Development per the Land Development Code, Article 2, Sections 2.05.01. A.1,2,3,6,8,9,10,&11.

Staff has determined that the proposed request is compatible with the surrounding area (see the compatibility analysis below). The proposed site will also reduce the total trips generated by four (4) PM Peak Hour trips from current permitted traffic impact to Segments "B" and "C" of Highway 98 (from the existing development). The report has been reviewed and approved for traffic concurrency purposes by the City's traffic consultant on January 21, 1998.

The proposed request is consistent with the Comprehensive Plan, Land Development Code, including Compatibility Review (Comprehensive Plan and Land Development Code), Concurrency Management review, and Level of Service review.

ZONING/COMPREHENSIVE PLAN

The property within the PUD boundaries is designated as MU (Mixed Use) on the City of Destin Future Land Use Map and BT (Business Tourism) on the City of Destin Zoning Map. As a Mixed Use PUD, the proposed use is expressly authorized under the Land Development Code.

The approval of a Mixed Use Planned Unit Development will promote compact urban development and not encourage urban sprawl. The proposed project complies with the City's Land Use Requirements and Comprehensive Plan.

COMPATIBILITY

The uses surrounding this project are the following:

North:	BT and BG Zoning, Existing Commercial Land Uses including; Landry's Seafood Restaurant, Shark Tooth Grill
South:	Gulf of Mexico
East:	BT Zoning and MU Land Use. Existing Residential/Resort Land Uses: Silver Shells Resort, Public Beach Access, Public Parking Areas, Multi-family gulf front development (Oceanside Townhomes, Halls Duplex)
West:	BT Zoning, MU Land Use. Hampton Inn Motel, Destin Gulfgate Condominium.

Compatibility means the way individual uses and activities fit together. Compatibility, in other words, means harmony of the pieces. The Destin Comprehensive Plan and Land Development Code use the same compatibility definition as found in the Florida Administrative Code's Rule 9J-5.

The purpose and intent of the City's compatibility review is to: 1) preserve the character of stable mostly homogeneous residential neighborhoods which will require the maximum application of compatibility controls; and 2) avoid compatibility conflicts within other developed and developing areas of the City. (City of Destin Comprehensive Plan, Policy 7.A.4.6.p.)

Areas which are substantially built-out may absorb a wider variety of land use types, densities, or intensities. In addition, areas which exhibit a greater heterogeneity may absorb a greater mix of uses without compatibility conflicts. Height alone does not determine whether a project is compatible – how a project fits or transitions between the pieces to create a whole is also a key factor.

Staff has not only reviewed the compatibility analysis presented by the applicant, but has also reviewed the analyses prepared by the City's compatibility expert for the "Silver Shells" project. In both instances, acceptable "planning practices and principles" were used to determine compatibility. Both analyses characterize the area as one of variation – a mix of townhouses, shops, restaurants, motels, and medium to high-rise development. Both also note that the area consists of building lots of irregular shapes and sizes, all containing a mix of uses. This variation characterizes an unstable area – a heterogeneous pattern.

It is clear that the area contains a variation of uses and has remained unstable. A result of instability is the opportunity for land assembly. The applicant has assembled several parcels and, through demolition and redevelopment, will provide a consolidated development project.

It is staff's opinion, that the project's compatibility, as presented in this document, the previous compatibility report presented as part of the City's Silver Shells staff analysis, and the applicant's compatibility analysis, allows us to conclude that the project is compatible.

DENSITY

The residential component of this PUD is a condominium that requires its classification as a "lodging" use under the provisions of Policy 7.A.4.6 of the Future Land Use Element, of the City of Destin Comprehensive Plan. Specifically, Subsection (h) defines lodging use and specifies up to a maximum of 30 lodging units per acre in the MU category.

The allowable gross acreage within the PUD boundary, for purposes of determining maximum density, is 15.28 acres. Accordingly, the maximum number of lodging units allowable within the PUD boundary is $15.28 \times 30 = 458$ lodging units.

Phase I - 385 lodging units; Phase II - 10 lodging units, which is 63 lodging units less than maximum allowed.

The proposed master plan for the redevelopment project includes a total of 395 lodging units. Therefore, the proposed density is $395/458$ or **86% of allowable maximum residential density for the site.**

FLOOR AREA RATIO (FAR)

Maximum Base FAR allowed is 1.07. The proposed FAR for the entire PUD area is 0.60.

Calculations: $15.28 \text{ acres} \times 43,560 \text{ SF} = 665,596 \text{ total SF for project area.}$

Gross SF for Condominium = 362,781 SF

Gross SF for Commercial = 39,202 SF

Total developed SF = 401,983 SF

$401,983 / 665,596 = 0.603 \text{ FAR}$

Accordingly, the proposed FAR is $.60/1.07$ or 56% of maximum allowable FAR for the project site.

USE MIX/RATIO

This PUD will-integrate three (3) types of land uses: residential, retail, and restaurant. The Comprehensive Plan and Land Development Code suggest that the mix of uses within the PUD should be in the range of 70% residential and 30% commercial. The following use mix is established for the overall project:

- The base number for the determination of the use ratio is the number of buildable acres within the PUD (690,090 s.f.) minus the 18% required for open space landscape (119,807 s.f.) = 545,789 s.f.
- The commercial component of the ratio has a total commercial area of 215,622 s.f. - 18%(38,812 s.f.) = 176,810 s.f. Therefore, 176,810 divided by 545,789 = 32.4%
- The residential component of the ratio has a total residential area of 449,975 s.f. - 18%(80,995 s.f.) = 368,980 s.f. Therefore, 368,980 divided by 545,789 = 67.6%
- **The overall use mix ratio is 32.4% commercial and 67.6% residential.**

HEIGHT

The BT Zoning District has no specified height limitation.

1. **Residential Condominium Building** - Building height details for this building are covered in the Airport Protection Section of this narrative.
2. **Beach Club Amenity** - This new structure will be elevated with a base floor elevation at 12 feet and a maximum root top height of 25 feet AGL.
3. **Back Porch** - The existing building elevation will not be changed in redevelopment plan.
4. **Gratzi** - The existing building elevation will not be changed in redevelopment plan.
5. **Phase II: Mixed Use Building** - This new structure will be three (3) stories with a maximum height of 50 feet AGL.

RIGHT-OF-WAY DEDICATION

No new rights-of-way are proposed for this project. However, the project does propose to improve existing shell and sand right-of-way along Scenic Highway 98 for public parking space, sidewalk/bike paths and streetscaping as designated on the PUD Master Site Plan. Although the applicant proposed to upgrade the streetscape adjacent to the project boundaries; staff recommends that the streetscape be extended, by the applicant, to cover from Emerald Coast Parkway to Restaurant Row (both sides of Scenic Hwy 98).

CONCURRENCY MANAGEMENT

Concurrency requirements met:

Potable Water	<u> X </u>	Roadways	<u> X </u>	Solid Waste	<u> X </u>
Recreation	<u> X </u>	Sewer	<u> X </u>	Drainage	<u> X </u>

TRAFFIC ANALYSIS

The PUD boundary encloses several existing permitted commercial uses. Some will be discontinued and some will become part of the PUD approval. The PUD will utilize only existing approved and vested traffic capacity for uses already located within the PUD boundary to serve the redeveloped use mix.

The existing vested traffic impact of the permitted uses within the PUD boundary is indicated on Tables 1 and 2 of the traffic impact analysis prepared by Hall Planning and Engineering. The total amount of traffic impact to the same roadway segments, by the project after redevelopment, is shown on Tables 3 and 4 of the same report.

The traffic analysis, dated December 4, 1998, was reviewed and approved by the City's traffic consultant. Furthermore, the City's traffic consultant determined that the redevelopment will reduce traffic by four (4) PM/PK hour trips that affect Segment "B" & "C" after capturing the trips that were previously reserved for this project. The report has been reviewed and approved for concurrency purposes by the City's traffic consultant on January 21, 1998. (see attached memorandum).

On April 21, 1999, the applicant submitted an amended traffic analysis, removing the previously included restaurant east of "Junes Dune" restaurant. The analysis was faxed to the City's traffic consultant the same day. Due to the fact that the analysis is removing a use and sq.ft. from the site, there is no negative impact, rather if any, there will be an increase on the number of trips being placed back on the Segment(s).

SUBDIVISION OR PUD - PLAT

A condominium plat will be submitted prior to the final issuance of a construction permit for the condominium components in each Phase of the PUD master plan. A commercial subdivision plat is required and part of this review for approval along with the PUD development order.

AIRPORT PROTECTION

An FAA "NO HAZARD DETERMINATION" will be required for the residential condominium component of the PUD. An application has been submitted to the FAA for review.

The proposed project is located within the Airport Horizontal Zone, Conical Zone and Approach Zone as delineated in Subsections 7.15.01A(2), (3) and (4) respectively. The proposed building height is 127 feet AMSL. It is located 4092.5 linear feet from the runway end of the runway at the Destin - Fort Walton Beach Airport. The elevation at the end of that runway is 21.06 feet AMSL.

Accordingly, the following height restriction criteria are met by the project:

1. Horizontal Zone - Height limitation at project site is 150 feet AMSL + 21.06 feet elevation at airport height = 176.06 feet AMSL plus 14 feet (the difference between runway elevation and the lower elevation at the project site) = 20.06 AMSL.

2. Conical Zone - This zone includes a circular area around the airport with a uniform 177 foot height limitation. This project is within that area so the resulting height limitation is equivalent to the one for the Horizontal Zone.
3. Approach Zone - Height limitation at project site is 21.06 feet + (4092/34 X 1 foot elevation =120.4) + 14 feet = 155.46 feet AMSL.

Construction of the residential condo component will require the temporary use of a crane. If the crane height must exceed 200 feet above ground level at any point, applicant will obtain a temporary variance for encroachment and file a completed FAA form 7460 with the City of Destin before the crane will be permitted to operate at that height.

SETBACKS

Note: The PUD has right-of-way on three (3) of its boundaries (North, East, and South); therefore has three fronts, and one side (west).

A. PHASE I

1. RESIDENTIAL CONDOMINIUM

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: North	10'	171.58'	10' FPLA
Front: South	10'	198.75'	10' FPLA
Front: East	10'	28.66'	10' FPLA
Side: West	26'	50'	5' common boundary

2. BACK PORCH

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front	10'	17.4'	10' FPLA
Side: East	5'	11'	5' common boundary
Side: West	5'	10'	5' common boundary
Rear	100'	100'+	Gulf Buffer

3. GRATZI

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: East	10'	19.75'	10' FPLA
Front: South	10'	14'	10' FPLA
Side: West	5'	168'	5' common boundary
Side: North	5'	482'	5' common boundary

4. BEACH CLUB AMENITY

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front	10'	10'	10' FPLA
Side: East	5'	5'	5' common boundary
Side: West	5'	5'	5' common boundary
Rear	100'	100'+	Gulf Buffer

B. PHASE II

MIXED USE CONDOMINIUM BUILDING

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: North	10	40	10' FPLA
Front: East	10	40	10' FPLA
Side: South	5	30	5' common boundary
Side: West	5	30	5' common boundary

NOTE: The 5' common boundary, 10' vegetative buffer, 10' front perimeter landscape boundary, and reforestation requirements must meet Code.

WHITE SANDS ZONE

This project lies within White Sands Zones #1 and #2 pursuant to the City of Destin White Sands Ordinance (Number 029-1). All fill material and material moved or altered must meet the White Sand Zone Ordinance.

SIGNS

The signage for the residential condominium will be located on both Emerald Coast Parkway and Old Highway 98, as shown on the Site Geometry Plan (Sheet C-3). These signs will be monument style signs as shown on Sheet L-8. The signage for each of the existing restaurants to be retained, will remain the same. **The project involves the demolition and removal of one existing billboard size off-premises advertising sign, now located on the west central portion of the site.**

Note: The Community Development Director is requiring the existing billboard to be removed prior to the issuance of a Certificate of Occupancy, as a condition of this Development Order approval.

WATER/SEWER

Destin Water User's Inc. approved the project in a letter dated December 22, 1998.

FIRE DEPARTMENT REVIEW

The Fire Department approved the project in a letter dated December 22, 1998.

OKALOOSA GAS

Okaloosa Gas approved the project at the December 22, 1998, TRC meeting.

UNIVERSAL COM

Universal Com approved the project at the December 22, 1998, TRC meeting.

SPRINT

Sprint approved the project at the December 22, 1998, TRC meeting.

UTILITIES

Underground utilities are required. The redevelopment of existing commercial areas will include the demolition of all existing above ground power lines and poles and replacement with unified underground utility conduit meeting Gulf Power and DWU minimum specifications.

STORMWATER

Stormwater Management and Drainage Plan for the PUD prepared by Gustin, Cothorn and Tucker indicates that all required retention, management and treatment standards required by the City and/or FDEP will be met. Copies of final FDEP stormwater management permits for the proposed development will be provided prior to issuance of a building permit for Phase I.

The City Engineer has provided comments in a memorandum dated February 3, 1999, with five (5) comments. This memo is on file with the Community Development Department. The applicant will be required to meet all conditions of the City Engineer.

INGRESS/EGRESS

The entire PUD will access Restaurant Row at only three (3) locations; and Old Highway 98 at three (3) locations. The following are narrative descriptions of each access point shown on the PUD Master Plan Site.

1. Restaurant Row North Entrance – Two-lane, 20 foot wide entrance drive, one lane inbound and one lane outbound. (Phase II)
2. Restaurant Row Main Entrance – Two-lane, divided, 45 foot wide entrance drive into condominium internal main gate and parking areas and into parking bay for restaurant parking areas. One separate lane each for inbound and outbound.
3. Restaurant Row South Entrance - Two-lane 20 foot wide entrance drive into restaurant parking areas, one lane inbound and one lane outbound.
4. Old Highway 98 East Entrance - Two-lane 20 foot wide entrance into restaurant parking areas north of 98, one lane inbound and one lane outbound.
5. Old Highway 98 West Entrance - Two-lane 20 foot wide entrance into parking areas north of 98, one lane inbound and one lane outbound.

SIDEWALKS

The PUD Master Site Plan includes an external sidewalk network on the northern and eastern perimeter of the PUD boundary, along Emerald Coast Parkway and Restaurant Row, respectively.

In addition, an internal sidewalk\bike path network is provided to connect adjacent uses, as shown on the PUD Master Site Plan.

The project will provide over 1,600 feet of sidewalk and bike paths within the right-of-way of Old Highway 98 from the intersection with Emerald Coast Parkway to the intersection with Restaurant Row. The project will also provide 2,195 feet of sidewalk along the southern right-of-way of Emerald Coast Parkway from the northwest corner of the site to the western boundary of Restaurant Row.

REFUSE COLLECTION

BFI, Inc., will handle solid waste pickup and disposal for the project as the City's contract commercial and residential franchisee. Separate screened dumpster bays will be developed for each restaurant and two internal dumpsters with roll out tracks will be utilized at each end of the residential condominium building.

LANDSCAPE

The project meets and exceeds the landscaping requirements provided in Section 7.10.02 of the Code. The following is a description of the landscaped open space areas provided within the PUD boundaries as shown on the PUD Master Site Plan:

1. **Condominium Parcel** - 317593 total s.f. X .18 = 57,168 s.f. minimum required. 159,077 s.f. provided.
2. **Gratzi** - 162,557 total s.f. X .18 = 29,260 s.f. minimum. 46,998 s.f. provided.
3. **Beach Club** - 43,458 total s.f. X .18 = 7,822 s.f. minimum. **8182 s.f. landscaped and 28,068 s.f. open space in dry sand area of beach.**
4. **Back Porch** - 44,988 s.f. total X .18 = 8,097 s.f. minimum. **4,500 landscaped and 27,564 open space in dry sand area of beach.**
5. **Phase II- Mixed Use Condominium** - 97,256 s.f. total X .18= 17,506 s.f. minimum. **55,580 s.f. provided.**

The total required landscape open space for the project within the PUD boundaries is 124,215 s.f. **The total landscape open space provided in the PUD Master Site Plan is 329,969 s.f.**

B. TREES REQUIRED/PROVIDED

1. **Perimeter:** One tree for each 25 feet of lot frontage.
Emerald Coast Parkway - 1100 l.f. of frontage X.25 = 44 /49
Restaurant Row - 1100 l.f. of frontage X.25 = 44/66
Old Highway 98 - 750 l.f. of frontage X.25 = 30/57
Total perimeter trees Required = 118
Total perimeter trees provided = 172

2. Reforestation: One tree for each 1/10 acre of developed area within the PUD boundary.

15.28 acres total within the PUD boundary X 10 = 153 trees

Total reforestation trees provided = 432

3. Parking Lots: One tree required at the end of each parking row X 83 ends = 83

One tree on every parking island X 19 islands = 19

Total Parking Lot Tree Requirement = 102

Total parking lot trees provided = 102

4. Vegetative Landscape Buffers: One vegetative buffer is required between the Phase II restaurant and the adjacent residential use to the east. The project will include a fence meeting the requirements of Code along with a total of 5 trees located on twenty five-foot centers from the northern boundary of the parcel south to the old CCCL boundary.

Total Buffer Tree Requirement = 5

Total buffer trees provided = 5

5. Streetscape Trees: The project includes at least 86 trees which will be planted in the public right of way of Old Highway 98 in connection with the public access parking areas and seating area which are provided by the applicant. These trees are provided in excess of what would be required if developer were not providing the additional public benefit of the street-side parking and streetscape.

Streetscape Trees Provided = 86

6. **Total Required Trees**

TOTAL TREES REQUIRED = 373

TOTAL TREES PROVIDED = 792 or 212% more than the required minimum

Replacement of protected trees: should any of the protected or preserve trees be removed or destroyed by any means, other than those located within the footprint of a building or within the road rights-of-ways, **shall be replaced by a rate of one tree for each inch over 11".**

PARKING

A. PARKING SPACES. Per 8.05.03(L) of the Code, the following minimum number of off-street parking spaces are required for the separate components of the PUD:

1. **Residential Condominium:** 1.75 spaces per dwelling unit per subsection (1)a.(4) X 160 lodging units = 280 minimum required spaces.

Total spaces required = 280

Total spaces provided = 274 as agreed by Community Development Director.

2. Commercial Uses:

- a. Gratz:** 1 space for every 75 s.f. gross floor area per Subsection (1)a.(29) X 9932 s.f.
= 132 spaces minimum.
- b. Back Porch:** 1 space for every 75 s.f. gross floor area per Subsection (1)a.(29) X 14270
s.f. = 190 spaces minimum.

Total spaces required for commercial Uses in Phases I and II = 322 spaces

Total spaces provided for commercial uses in Phase I = 296 spaces, because of the mix of uses, and an opportunity for parking needs to occur at different times, the Community Development Director concurs with a reduction in the number of parking spaces.

3. Phase II Mixed Use Condominium:

- a. Residential component -** 1.75 spaces per dwelling unit per subsection (1)a.(4) X 10
lodging units = 17.5 minimum required spaces.
- b. Commercial Component -** 1 space for every 200 feet of gross floor area per subsection
(1)a.(26) and (30) of the Code X 15,000 Square feet = 75 minimum required spaces.

Total spaces required for Phase II = 84 spaces

Total spaces provided for Phase II = 67 spaces because of the mix of uses, and an opportunity for parking needs to occur at different times, the Community Development Director concurs with a reduction in the number of parking spaces.

B. LOADING SPACES

- 1. High Rise Residential -** Subsection 8.05.06(B)1. requires 1 loading space per 100,000 s.f. of gross floor area. This component of the PUD contains 273,000 SF gross floor area. $273000/100,000=3$ spaces.

Total spaces required = 3 Total spaces provided = 3

- 2. Restaurants -** Subsection 8.05.06(B)4. requires 1 loading space per initial 10,000 s.f. of gross floor area and 1 for every additional 20,000 s.f. Gratz and Back Porch have a combined gross square footage of 24,202 SF.

Total spaces required = 2 Total spaces provided = 2

C. HANDICAPPED SPACES

The PUD Master Site Plan includes a total of 21 handicapped spaces as required by the Code and indicated on the PUD Master Site Plan (Sheet C-2).

D. PUBLIC PARKING SPACES

The PUD Master Site Plan provides 61 improved parking spaces for use of the general public for access to the palisades and the gulf beach through the Restaurant Row public beach access. These spaces are provided along both the north and south edges of Old Highway 98.

These spaces are provided in satisfaction of the public benefit component of the proposed mixed use PUD for the City of Destin. These spaces will significantly increase the number of available free public parking spaces for this section of the gulf beach within 500 feet of a public beach accessway.

STATE/FEDERAL PERMITS REQUIRED BEFORE ISSUANCE OF BUILDING PERMIT

1. A DEP Stormwater Permit is required and must be submitted prior to the issuance of a building permit.

COMMENTS

There have been no comments of support or opposition filed with Staff regarding this project.

CONDITIONS:

Per Community Development:

1. Prior to the issuance of a Certificate of Occupancy, the billboard must be removed.
2. Approval of Phase II is for sq.ft., use, concurrency, and general location only. A formal site plan review will be required prior to permits for this phase.
3. Streetscape shall be provided from Emerald Coast Parkway to Restaurant Row along both sides of Scenic Hwy 98.
4. The plat must be amended to reflect the amended site plan.
5. Prior to the issuance of a building permit, the City Surveyor must approve the plat.

Engineering Department:

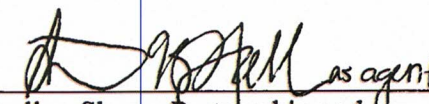
1. Provide cross section of speed humps. Some areas of exfiltration system will conflict with landscapers choice of plantings.
2. Coordinate with landscaper location of exfiltration; ensure root system will not damage exfiltration.
3. Phase 1-B stormwater retention appears low; revisit calculations.
4. Major re-review fees were not received for this review. All re-review fees must be received prior to building permit issuance.
5. Submit copy of FDEP permit.

City Council Conditions:

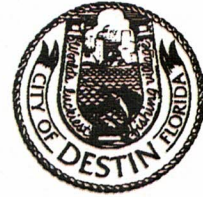
1. Applicant must provide a parking agreement, approved by the City Attorney, which stipulates that parking behind Gratz's is open to the public and that no cars will be towed, that parking areas will not be gated without City Council approval.
2. The public beach access on the west side of pool area be extended to 8 feet wide.
3. A beach/dune walkover be constructed by the applicants within the 8 feet wide public beach access.
4. The applicant will coordinate use of the development; e.g., lodging units, restaurants, retail, and office, with future public transportation.


Robert P. Franke, AICP
Community Development Director

6/8/99
Date

 as agent
Sterling Shores Partnership and
Restaurant Row Partnership - Owners,

6/9/99
Date



September 17, 1999

ORDER #99-25-A

(CORRECTED) Final Development Order:

**"RESTAURANT ROW REDEVELOPMENT-
A MIXED USE PLANNED UNIT DEVELOPMENT":
A MAJOR DEVELOPMENT
(SP #98-64)**

Based upon the City Council's approval of this Development Order, on April 26, 1999, this document will serve as the Final Development Order, to include all of the provisions of the attached Technical Review Committee Report and with the following conditions as specified by the City Council:

BACKGROUND / ISSUE:

Applicant: Hall & Runnels, as agent
Owner: Sterling Shores Partnership and Restaurant Row Partnership - Owners.
Property Location: Southwest corner of Restaurant Row and Emerald Coast Parkway south to the Mean High Water line of the Gulf of Mexico.
Request: Approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The redevelopment consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch and Gratz restaurant, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.
Parcel Size: 15.28 acres, more or less (not including ROW easement areas along Old Highway 98, Emerald Coast Parkway and Restaurant Row).
Future Land Use: MU (Mixed Use)
Zoning District: BT (Business Tourism)

Density: Allowed: 30 lodging units per acre
 Project: 15.28 acres x 30 = 458 lodging units
 Phase I-385 lodging units; Phase II- 10 lodging units
 Total site proposes 395 lodging units, which is 63 lodging units less than maximum allowed.

Intensity: FAR for commercial lots will be less than 1.07

Timing on Phasing: Phase I - Begin as soon as possible after regulatory approval. Construction is proposed to be completed in 18 months after initiation.
 Phase II - Begin within 6 months of completion of Phase I. Construction is proposed to be completed in 12 months after initiation.

Total Completion: The applicant has stated that all development and redevelopment activity will be completed within five years.

Application Date: December 6, 1998

TRC Date: December 22, 1998

Approved Site Plan Date: February 16, 1999 (with comments), and April 20, 1999 (per comments)

Planning Commission Date: February 18, 1999

City Council Date: March 8, 1999, April 12, 1999, and April 26, 1999

DETERMINATIONS:

1. On February 18, 1999, the Planning Commission recommended the City Council to approve the proposed project as presented by staff. The motion passed by a 3-2 vote. Mr. Link and Ms. Drown voted against the motion; and Mr. Clauson and Mr. Breithaupt were not present.
2. A hearing was held by the Destin City Council on April 26, 1999, whom approved the development with conditions; and
3. All the findings of the Technical Review Committee (TRC) report dated February 16, 1999, as amended on April 23, 1999, are incorporated herein.
4. **This corrected D.O. only changed a typographical error within the TRC section of this Development Order and added a condition prior to issuance of a building permit, based on the typographical error. No other changes or amendments are made or approved by this "corrected final development order"**

CONDITIONS OF APPROVAL FOR "RESTAURANT ROW REDEVELOPMENT-A MIXED USE PLANNED UNIT DEVELOPMENT": A MAJOR DEVELOPMENT (SP #98-64) :

Pursuant to the City of Destin Land Development Regulations, the City of Destin Code of Ordinances, and the City Council:

1. Construction must commence within twelve (12) months of approval of the Final Development Order on May 24, 1999 (no later than May 24, 2004) and must be completed as shown on plans approved with conditions by the City Council (stamp dated 4-26-99).

WARNING: If the applicant/owner has not obtained a construction permit(s) within 365 days of issuance of the final development order, the final development order is void and the application for plan approval must be re-initiated.

2. If "Restaurant Row Redevelopment – Mixed Use PUD" fully complies with the requirements of Condition Number 1 above, the concurrency status "Restaurant Row Redevelopment – Mixed Use PUD" is protected (for five years) through May 24, 2004. **The protected concurrency status, however, will be lost if:**
 - A. **Construction activity ceases for a period exceeding one (1) year at any time during the term of this Final Development Order; or**
 - B. **Construction permit(s) are not obtained in accordance with Section 2.09.00 of the Land Development Code to maintain concurrency.**
3. "Restaurant Row Redevelopment – Mixed Use PUD" must obtain City of Destin permits for the following activities on and off site (These may require appropriate bonding):
 - a. disturbance to the city's rights of way.
 - b. pavement cuts.
 - c. construction of any kind.
 - d. clearing and grubbing.
 - e. paving, grading, drainage, sidewalks.
 - f. signage.
 - g. installation of utilities.
 - h. construction trailers.
4. **City Council conditional approval for Phase II, is for square footage, use, concurrency, and general location only. A formal Major Development site plan review will be required prior to permits being issued for any development or construction within this phase.**
5. **Before the issuance of a building permit, a clearing plan must be presented to, and approved by the Community Development Director prior to issuance of a clearing permit. This must include the names and addresses of the surrounding property owners within 300' of the project.**
6. **Before the issuance of a building permit, a copy of the FDEP permit must be submitted to the City Engineer for acceptance.**
7. **Before the issuance of a building permit, the plat must be recorded and copies provided to the City.**
8. **Before the issuance of a building permit, an FAA "No Hazard Determination" is required for the residential condominium component of the PUD.**
9. **Before the issuance of a certificate of occupancy, the existing billboard shall be removed.**

10. **Before the issuance of a certificate of occupancy for the 160 unit condominium, the streetscape improvements shall be provided from Emerald Coast Parkway to Restaurant Row along both sides of Scenic Hwy 98.**
11. **Before the issuance of a certificate of occupancy for the 160 unit condominium and before construction of the roadway improvements, a cross-section of the speed humps shall be submitted to the City Engineer for approval.**
12. **Before the issuance of a certificate of occupancy, the applicant's landscaper shall coordinate with the City Engineer for location of exfiltration to ensure plant types and root systems will not damage exfiltration.**
13. **As a condition by the City Engineer, Phase 1-B stormwater retention appears low; revisit calculations.**
14. **As a condition by the City Engineer, all re-review fees must be received prior to building permit issuance.**
15. **Before the issuance of a certificate of occupancy, the landscape material shall be inspected by the Community Development Department to ensure compliance with the Development Order.**
16. **Before the issuance of a certificate of occupancy, any damages to the existing and/or required five (5) foot sidewalk, adjacent to the right-of-way lines of Emerald Coast Parkway, Restaurant Row, or Scenic Hwy 98 must be "bonded, replaced, or installed".**
17. **Requirements identified by the Technical Review Committee:**

**TECHNICAL REVIEW COMMITTEE REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

**RESTAURANT ROW REDEVELOPMENT
A MIXED USE PLANNED UNIT DEVELOPMENT
A MAJOR DEVELOPMENT**

December 22, 1998, Amended February 16, 1999 and April 23, 1999

ISSUE

Applicant: Hall & Runnels, as agent
Owner: Sterling Shores Partnership and Restaurant Row Partnership - Owners.
Property Location: Southwest corner of Restaurant Row and Emerald Coast Parkway south to the Mean High Water line of the Gulf of Mexico.
Request: Approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-

development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch and Gratz restaurant, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.

Parcel Size: 15.28 acres, more or less (not including ROW easement areas along Old Highway 98, Emerald Coast Parkway and Restaurant Row).

Future Land Use: MU (Mixed Use)

Zoning District: BT (Business Tourism)

Density: Allowed: 30 lodging units per acre
Project: 15.28 acres x 30 = 458 lodging units
Phase I-385 lodging units; Phase II- 10 lodging units
Total site proposes 395 lodging units, which is 63 lodging units less than maximum allowed.

Intensity: FAR for commercial lots will be less than 1.07

Timing on Phasing: Phase I - Begin as soon as possible after regulatory approval. Construction is proposed to be completed in 18 months of initiation.
Phase II - Begin within 6 months of completion of Phase I. Construction is proposed to be completed in 12 months of initiation.

Total Completion: The applicant has stated that all development and redevelopment activity will be completed within five years.

Application Date: December 6, 1998

TRC Date: December 22, 1998

Approved Site Plan Date: February 16, 1999 (with comments), and April 20, 1999 (per comments)

Planning Commission Date: February 18, 1999

City Council Date: March 8, 1999, April 12, 1999, and April 26, 1999

DISCUSSION:

Hall & Runnels, as agent for Sterling Shores Partnership and Restaurant Row Partnership, owner, submitted an application requesting approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch

and Gratz restaurants, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.

The project is classified as a Major Development per the Land Development Code, Article 2, Sections 2.05.01. A.1,2,3,6,8,9,10,&11.

Staff has determined that the proposed request is compatible with the surrounding area (see the compatibility analysis below). The proposed site will also reduce the total trips generated by four (4) PM Peak Hour trips from current permitted traffic impact to Segments "B" and "C" of Highway 98 (from the existing development). The report has been reviewed and approved for traffic concurrency purposes by the City's traffic consultant on January 21, 1998.

The proposed request is consistent with the Comprehensive Plan, Land Development Code, including Compatibility Review (Comprehensive Plan and Land Development Code), Concurrency Management review, and Level of Service review.

ZONING/COMPREHENSIVE PLAN

The property within the PUD boundaries is designated as MU (Mixed Use) on the City of Destin Future Land Use Map and BT (Business Tourism) on the City of Destin Zoning Map. As a Mixed Use PUD, the proposed use is expressly authorized under the Land Development Code.

The approval of a Mixed Use Planned Unit Development will promote compact urban development and not encourage urban sprawl. The proposed project complies with the City's Land Use Requirements and Comprehensive Plan.

COMPATIBILITY

The uses surrounding this project are the following:

North:	BT and BG Zoning, Existing Commercial Land Uses including; Landry's Seafood Restaurant, Shark Tooth Grill
South:	Gulf of Mexico
East:	BT Zoning and MU Land Use. Existing Residential/Resort Land Uses: Silver Shells Resort, Public Beach Access, Public Parking Areas, Multi-family gulf front development (Oceanside Townhomes, Halls Duplex)
West:	BT Zoning, MU Land Use. Hampton Inn Motel, Destin Gulfgate Condominium.

Compatibility means the way individual uses and activities fit together. Compatibility, in other words, means harmony of the pieces. The Destin Comprehensive Plan and Land Development Code use the same compatibility definition as found in the Florida Administrative Code's Rule 9J-5.

The purpose and intent of the City's compatibility review is to: 1) preserve the character of stable mostly homogeneous residential neighborhoods which will require the maximum application of compatibility controls; and 2) avoid compatibility conflicts within other developed and developing areas of the City. (City of Destin Comprehensive Plan, Policy 7.A.4.6.p.)

Areas which are substantially built-out may absorb a wider variety of land use types, densities, or intensities. In addition, areas which exhibit a greater heterogeneity may absorb a greater mix of uses without compatibility conflicts. Height alone does not determine whether a project is compatible – how a project fits or transitions between the pieces to create a whole is also a key factor.

Staff has not only reviewed the compatibility analysis presented by the applicant, but has also reviewed the analyses prepared by the City's compatibility expert for the "Silver Shells" project. In both instances, acceptable "planning practices and principles" were used to determine compatibility. Both analyses characterize the area as one of variation – a mix of townhouses, shops, restaurants, motels, and medium to high-rise development. Both also note that the area consists of building lots of irregular shapes and sizes, all containing a mix of uses. This variation characterizes an unstable area – a heterogeneous pattern.

It is clear that the area contains a variation of uses and has remained unstable. A result of instability is the opportunity for land assembly. The applicant has assembled several parcels and, through demolition and redevelopment, will provide a consolidated development project.

It is staff's opinion, that the project's compatibility, as presented in this document, the previous compatibility report presented as part of the City's Silver Shells staff analysis, and the applicant's compatibility analysis, allows us to conclude that the project is compatible.

DENSITY

The residential component of this PUD is a condominium that requires its classification as a "lodging" use under the provisions of Policy 7.A.4.6 of the Future Land Use Element, of the City of Destin Comprehensive Plan. Specifically, Subsection (h) defines lodging use and specifies up to a maximum of 30 lodging units per acre in the MU category.

The allowable gross acreage within the PUD boundary, for purposes of determining maximum density, is 15.28 acres. Accordingly, the maximum number of lodging units allowable within the PUD boundary is $15.28 \times 30 = 458$ lodging units.

Phase I - 385 lodging units; Phase II - 10 lodging units, which is 63 lodging units less than maximum allowed.

The proposed master plan for the redevelopment project includes a total of 395 lodging units. Therefore, the proposed density is $395/458$ or **86% of allowable maximum residential density for the site.**

FLOOR AREA RATIO (FAR)

Maximum Base FAR allowed is 1.07. The proposed FAR for the entire PUD area is 0.60.

Calculations: 15.28 acres x 43,560 SF = 665,596 total SF for project area.

Gross SF for Condominium = 362,781 SF

Gross SF for Commercial = 39,202 SF

Total developed SF = 401,983 SF

$401,983 / 665,596 = 0.603$ FAR

Accordingly, the proposed FAR is .60/1.07 or 56% of maximum allowable FAR for the project site.

USE MIX/RATIO

This PUD will integrate three (3) types of land uses: residential, retail, and restaurant. The Comprehensive Plan and Land Development Code suggest that the mix of uses within the PUD should be in the range of 70% residential and 30% commercial. The following use mix is established for the overall project:

- The base number for the determination of the use ratio is the number of buildable acres within the PUD (690,090 s.f.) minus the 18% required for open space landscape (119,807 s.f.) = 545,789 s.f.
- The commercial component of the ratio has a total commercial area of 215,622 s.f. - 18%(38,812 s.f.) = 176,810 s.f. Therefore, 176,810 divided by 545,789 = 32.4%
- The residential component of the ratio has a total residential area of 449,975 s.f. - 18%(80,995 s.f.) = 368,980 s.f. Therefore, 368,980 divided by 545,789 = 67.6%
- **The overall use mix ratio is 32.4% commercial and 67.6% residential.**

HEIGHT

The BT Zoning District has no specified height limitation.

1. **Residential Condominium Building** - Building height details for this building are covered in the Airport Protection Section of this narrative.
2. **Beach Club Amenity** - This new structure will be elevated with a base floor elevation at 12 feet and a maximum root top height of 25 feet AGL.
3. **Back Porch** - The existing building elevation will not be changed in redevelopment plan.
4. **Gratzi** - The existing building elevation will not be changed in redevelopment plan.
5. **Phase II: Mixed Use Building** - This new structure will be three (3) stories with a maximum height of 50 feet AGL.

RIGHT-OF-WAY DEDICATION

No new rights-of-way are proposed for this project. However, the project does propose to improve existing shell and sand right-of-way along Scenic Highway 98 for public parking space, sidewalk/bike paths and streetscaping as designated on the PUD Master Site Plan. Although the applicant proposed to upgrade the streetscape adjacent to the project boundaries; staff recommends that the streetscape be extended, by the applicant, to cover from Emerald Coast Parkway to Restaurant Row (both sides of Scenic Hwy 98).

CONCURRENCY MANAGEMENT

Concurrency requirements met:

Potable Water	<u> X </u>	Roadways	<u> X </u>	Solid Waste	<u> X </u>
Recreation	<u> X </u>	Sewer	<u> X </u>	Drainage	<u> X </u>

TRAFFIC ANALYSIS

The PUD boundary encloses several existing permitted commercial uses. Some will be discontinued and some will become part of the PUD approval. The PUD will utilize only existing approved and vested traffic capacity for uses already located within the PUD boundary to serve the redeveloped use mix.

The existing vested traffic impact of the permitted uses within the PUD boundary is indicated on Tables 1 and 2 of the traffic impact analysis prepared by Hall Planning and Engineering. The total amount of traffic impact to the same roadway segments, by the project after redevelopment, is shown on Tables 3 and 4 of the same report.

The traffic analysis, dated December 4, 1998, was reviewed and approved by the City's traffic consultant. Furthermore, the City's traffic consultant determined that the redevelopment will reduce traffic by four (4) PM/PK hour trips that affect Segment "B" & "C" after capturing the trips that were previously reserved for this project. The report has been reviewed and approved for concurrency purposes by the City's traffic consultant on January 21, 1998. (see attached memorandum).

On April 21, 1999, the applicant submitted an amended traffic analysis, removing the previously included restaurant east of "Junes Dune" restaurant. The analysis was faxed to the City's traffic consultant the same day. Due to the fact that the analysis is removing a use and sq.ft. from the site, there is no negative impact, rather if any, there will be an increase on the number of trips being placed back on the Segment(s).

SUBDIVISION OR PUD - PLAT

A condominium plat will be submitted prior to the final issuance of a construction permit for the condominium components in each Phase of the PUD master plan. A commercial subdivision plat is required and part of this review for approval along with the PUD development order.

AIRPORT PROTECTION

An FAA "NO HAZARD DETERMINATION" will be required for the residential condominium component of the PUD, **at the proposed height**. An application has been submitted to the FAA for review.

The proposed project is located within the Airport Horizontal Zone, Conical Zone and Approach Zone as delineated in Subsections 7.15.01A(2), (3) and (4) respectively. The proposed building height is **121 above ground level and 137 feet AMSL**. It is located 4092.5 linear feet from the runway end of the runway at the Destin - Fort Walton Beach Airport. The elevation at the end of that runway is 21.06 feet AMSL.

Accordingly, the following height restriction criteria are met by the project:

1. Horizontal Zone - Height limitation at project site is 150 feet AMSL + 21.06 feet elevation at airport height = **171.06 feet AMSL minus 16 feet** (the difference between runway elevation and the lower elevation at the project site) = **155.06 AMSL**.
2. Conical Zone - This zone includes a circular area around the airport with a uniform 177 foot height limitation. This project is within that area so the resulting height limitation is **higher than** the one for the Horizontal Zone.
3. Approach Zone - Height limitation at project site is 21.06 feet + $(4092/34 \times 1 \text{ foot elevation} = 120.4) = \mathbf{141.46 \text{ feet AMSL}}$. **This project is within that area so the resulting height limitation is higher than the one for the Horizontal Zone.**

Construction of the residential condo component will require the temporary use of a crane. If the crane height must exceed 200 feet above ground level at any point, applicant will obtain a temporary variance for encroachment and file a completed FAA form 7460 with the City of Destin before the crane will be permitted to operate at that height.

SETBACKS

Note: The PUD has right-of-way on three (3) of its boundaries (North, East, and South); therefore has three fronts, and one side (west).

A. PHASE I

1. RESIDENTIAL CONDOMINIUM

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: North	10'	171.58'	10' FPLA
Front: South	10'	198.75'	10' FPLA
Front: East	10'	28.66'	10' FPLA
Side: West	26'	50'	5' common boundary

2. BACK PORCH

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front	10'	17.4'	10' FPLA
Side: East	5'	11'	5' common boundary
Side: West	5'	10'	5' common boundary
Rear	100'	100'+	Gulf Buffer

3. GRATZI

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: East	10'	19.75'	10' FPLA
Front: South	10'	14'	10' FPLA
Side: West	5'	168'	5' common boundary
Side: North	5'	482'	5' common boundary

4. BEACH CLUB AMENITY

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front	10'	10'	10' FPLA
Side: East	5'	5'	5' common boundary
Side: West	5'	5'	5' common boundary
Rear	100'	100'+	Gulf Buffer

B. PHASE II

MIXED USE CONDOMINIUM BUILDING

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: North	10	40	10' FPLA
Front: East	10	40	10' FPLA
Side: South	5	30	5' common boundary
Side: West	5	30	5' common boundary

NOTE: The 5' common boundary, 10' vegetative buffer, 10' front perimeter landscape boundary, and reforestation requirements must meet Code.

WHITE SANDS ZONE

This project lies within White Sands Zones #1 and #2 pursuant to the City of Destin White Sands Ordinance (Number 029-1). All fill material and material moved or altered must meet the White Sand Zone Ordinance.

SIGNS

The signage for the residential condominium will be located on both Emerald Coast Parkway and Old Highway 98, as shown on the Site Geometry Plan (Sheet C-3). These signs will be monument style signs as shown on Sheet L-8. The signage for each of the existing restaurants to be retained, will remain the same. **The project involves the demolition and removal of one existing billboard size off-premises advertising sign, now located on the west central portion of the site.**

Note: The Community Development Director is requiring the existing billboard to be removed prior to the issuance of a Certificate of Occupancy, as a condition of this Development Order approval.

WATER/SEWER

Destin Water User's Inc. approved the project in a letter dated December 22, 1998.

FIRE DEPARTMENT REVIEW

The Fire Department approved the project in a letter dated December 22, 1998.

OKALOOSA GAS

Okaloosa Gas approved the project at the December 22, 1998, TRC meeting.

UNIVERSAL COM

Universal Com approved the project at the December 22, 1998, TRC meeting.

SPRINT

Sprint approved the project at the December 22, 1998, TRC meeting.

UTILITIES

Underground utilities are required. The redevelopment of existing commercial areas will include the demolition of all existing above ground power lines and poles and replacement with unified underground utility conduit meeting Gulf Power and DWU minimum specifications.

STORMWATER

Stormwater Management and Drainage Plan for the PUD prepared by Gustin, Cothorn and Tucker indicates that all required retention, management and treatment standards required by the City and/or FDEP will be met. Copies of final FDEP stormwater management permits for the proposed development will be provided prior to issuance of a building permit for Phase I.

The City Engineer has provided comments in a memorandum dated February 3, 1999, with five (5) comments. This memo is on file with the Community Development Department. The applicant will be required to meet all conditions of the City Engineer.

INGRESS/EGRESS

The entire PUD will access Restaurant Row at only three (3) locations; and Old Highway 98 at three (3) locations. The following are narrative descriptions of each access point shown on the PUD Master Plan Site.

1. Restaurant Row North Entrance – Two-lane, 20 foot wide entrance drive, one lane inbound and one lane outbound. (Phase II)
2. Restaurant Row Main Entrance – Two-lane, divided, 45 foot wide entrance drive into condominium internal main gate and parking areas and into parking bay for restaurant parking areas. One separate lane each for inbound and outbound.
3. Restaurant Row South Entrance - Two-lane 20 foot wide entrance drive into restaurant parking areas, one lane inbound and one lane outbound.
4. Old Highway 98 East Entrance - Two-lane 20 foot wide entrance into restaurant parking areas north of 98, one lane inbound and one lane outbound.
5. Old Highway 98 West Entrance - Two-lane 20 foot wide entrance into parking areas north of 98, one lane inbound and one lane outbound.

SIDEWALKS

The PUD Master Site Plan includes an external sidewalk network on the northern and eastern perimeter of the PUD boundary, along Emerald Coast Parkway and Restaurant Row, respectively. In addition, an internal sidewalk/bike path network is provided to connect adjacent uses, as shown on the PUD Master Site Plan.

The project will provide over 1,600 feet of sidewalk and bike paths within the right-of-way of Old Highway 98 from the intersection with Emerald Coast Parkway to the intersection with Restaurant Row. The project will also provide 2,195 feet of sidewalk along the southern right-of-way of Emerald Coast Parkway from the northwest corner of the site to the western boundary of Restaurant Row.

REFUSE COLLECTION

BFI, Inc., will handle solid waste pickup and disposal for the project as the City's contract commercial and residential franchisee. Separate screened dumpster bays will be developed for each restaurant and two internal dumpsters with roll out tracks will be utilized at each end of the residential condominium building.

LANDSCAPE

The project meets and exceeds the landscaping requirements provided in Section 7.10.02 of the Code. The following is a description of the landscaped open space areas provided within the PUD boundaries as shown on the PUD Master Site Plan:

1. **Condominium Parcel** - 317593 total s.f. X .18 = 57,168 s.f. minimum required. 159,077 s.f. provided.
2. **Gratzi** - 162,557 total s.f. X .18 = 29,260 s.f. minimum. 46,998 s.f. provided.

3. **Beach Club** - 43,458 total s.f. X .18 = 7,822 s.f. minimum. **8182 s.f. landscaped and 28,068 s.f. open space in dry sand area of beach.**
4. **Back Porch** - 44,988 s.f. total X .18 = 8,097 s.f. minimum. **4,500 landscaped and 27,564 open space in dry sand area of beach.**
5. **Phase II- Mixed Use Condominium** - 97,256 s.f. total X .18= 17,506 s.f. minimum. **55,580 s.f. provided.**

The total required landscape open space for the project within the PUD boundaries is 124,215 s.f.
The total landscape open space provided in the PUD Master Site Plan is 329,969 s.f.

B. TREES REQUIRED/PROVIDED

1. **Perimeter:** One tree for each 25 feet of lot frontage.
 Emerald Coast Parkway - 1100 l.f. of frontage X.25 = 44 /49
 Restaurant Row - 1100 l.f. of frontage X.25 = 44/66
 Old Highway 98 - 750 l.f. of frontage X.25 = 30/57
 Total perimeter trees Required = 118
Total perimeter trees provided = 172
2. **Reforestation:** One tree for each 1/10 acre of developed area within the PUD boundary.
 15.28 acres total within the PUD boundary X 10 = 153 trees
Total reforestation trees provided = 432
3. **Parking Lots:** One tree required at the end of each parking row X 83 ends = 83
 One tree on every parking island X 19 islands = 19

Total Parking Lot Tree Requirement = 102
Total parking lot trees provided = 102

4. **Vegetative Landscape Buffers:** One vegetative buffer is required between the Phase II restaurant and the adjacent residential use to the east. The project will include a fence meeting the requirements of Code along with a total of 5 trees located on twenty five-foot centers from the northern boundary of the parcel south to the old CCCL boundary.

Total Buffer Tree Requirement = 5
Total buffer trees provided = 5

5. **Streetscape Trees:** The project includes at least 86 trees which will be planted in the public right of way of Old Highway 98 in connection with the public access parking areas and seating area which are provided by the applicant. These trees are provided in excess of what would be required if developer were not providing the additional public benefit of the street-side parking and streetscape.

Streetscape Trees Provided = 86

6. Total Required Trees

<u>TOTAL TREES REQUIRED</u>	<u>= 373</u>	
<u>TOTAL TREES PROVIDED</u>	<u>= 792</u>	or 212% more than the required minimum

Replacement of protected trees: should any of the protected or preserve trees be removed or destroyed by any means, other than those located within the footprint of a building or within the road rights-of-ways, **shall be replaced by a rate of one tree for each inch over 11"**.

PARKING

A. PARKING SPACES. Per 8.05.03(L) of the Code, the following minimum number of off-street parking spaces are required for the separate components of the PUD:

- 1. Residential Condominium:** 1.75 spaces per dwelling unit per subsection (1)a.(4) X 160 lodging units = 280 minimum required spaces.

Total spaces required = 280

Total spaces provided = 274 as agreed by Community Development Director.

2. Commercial Uses:

- a. Gratz:** 1 space for every 75 s.f. gross floor area per Subsection (1)a.(29) X 9932 s.f.
= 132 spaces minimum.
- b. Back Porch:** 1 space for every 75 s.f. gross floor area per Subsection (1)a.(29) X 14270 s.f. = 190 spaces minimum.

Total spaces required for commercial Uses in Phases I and II = 322 spaces

Total spaces provided for commercial uses in Phase I = 296 spaces, because of the mix of uses, and an opportunity for parking needs to occur at different times, the Community Development Director concurs with a reduction in the number of parking spaces.

3. Phase II Mixed Use Condominium:

- a. Residential component -** 1.75 spaces per dwelling unit per subsection (1)a.(4) X 10 lodging units = 17.5 minimum required spaces.
- b. Commercial Component -** 1 space for every 200 feet of gross floor area per subsection (1)a.(26) and (30) of the Code X 15,000 Square feet = 75 minimum required spaces.

Total spaces required for Phase II = 84 spaces

Total spaces provided for Phase II = 67 spaces because of the mix of uses, and an opportunity for parking needs to occur at different times, the Community Development Director concurs with a reduction in the number of parking spaces.

B. LOADING SPACES

1. **High Rise Residential** - Subsection 8.05.06(B)1. requires 1 loading space per 100,000 s.f. of gross floor area. This component of the PUD contains 273,000 SF gross floor area. $273000/100,000=3$ spaces.

Total spaces required = 3 Total spaces provided = 3

2. **Restaurants** - Subsection 8.05.06(B)4. requires 1 loading space per initial 10,000 s.f. of gross floor area and 1 for every additional 20,000 s.f. Gratz and Back Porch have a combined gross square footage of 24,202 SF.

Total spaces required = 2 Total spaces provided = 2

C. HANDICAPPED SPACES

The PUD Master Site Plan includes a total of 21 handicapped spaces as required by the Code and indicated on the PUD Master Site Plan (Sheet C-2).

D. PUBLIC PARKING SPACES

The PUD Master Site Plan provides 61 improved parking spaces for use of the general public for access to the palisades and the gulf beach through the Restaurant Row public beach access. These spaces are provided along both the north and south edges of Old Highway 98.

These spaces are provided in satisfaction of the public benefit component of the proposed mixed use PUD for the City of Destin. These spaces will significantly increase the number of available free public parking spaces for this section of the gulf beach within 500 feet of a public beach accessway.

STATE/FEDERAL PERMITS REQUIRED BEFORE ISSUANCE OF BUILDING PERMIT

1. A DEP Stormwater Permit is required and must be submitted prior to the issuance of a building permit.

COMMENTS

There have been no comments of support or opposition filed with Staff regarding this project.

CONDITIONS:

Per Community Development:

1. Prior to the issuance of a Certificate of Occupancy, the billboard must be removed.
2. Approval of Phase II is for sq.ft., use, concurrency, and general location only. A formal site plan review will be required prior to permits for this phase.
3. Streetscape shall be provided from Emerald Coast Parkway to Restaurant Row along both sides of Scenic Hwy 98.
4. The plat must be amended to reflect the amended site plan.

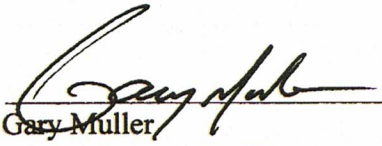
5. Prior to the issuance of a building permit, the City Surveyor must approve the plat.

Engineering Department:

1. Provide cross section of speed humps. Some areas of exfiltration system will conflict with landscapers choice of plantings.
2. Coordinate with landscaper location of exfiltration; ensure root system will not damage exfiltration.
3. Phase 1-B stormwater retention appears low; revisit calculations.
4. Major re-review fees were not received for this review. All re-review fees must be received prior to building permit issuance.
5. Submit copy of FDEP permit.

City Council Conditions:

1. Applicant must provide a parking agreement, approved by the City Attorney, which stipulates that; 1) the parking area to the north and west of Gratzi's will not be gated, and 2) no "non-patron" towing policy will be imposed by the owner on that same lot, without prior City Council approval.
2. The public beach access on the west side of pool area be extended to 8 feet wide.
3. A beach/dune walkover be constructed by the applicants within the 8 feet wide public beach access.
4. The applicant will coordinate use of the development; e.g., lodging units, restaurants, retail, and office, with future public transportation.


Gary Muller
Acting Community Development Director

9-30-99
Date


Sterling Shores Partnership and
Restaurant Row Partnership - Owners,

AGENT 9/30/99
Date

MINUTES
DESTIN CITY COUNCIL
SPECIAL MEETING
MONDAY, APRIL 26, 1999
6:00 P.M.
DESTIN CITY HALL COUNCIL CHAMBERS

1.0 CALL TO ORDER

Mayor Ken Beaird called the special meeting of the Destin City Council to order, Monday, April 26, 1999 at approximately 6:00 p.m. in the Destin City Hall Council Chambers.

Present:

Mayor Pro Tem Dewey Destin	Mayor Ken Beaird
Councilman Jim Foreman	Councilman Craig Barker
Councilman Jerry Najarian	Councilman Brant Kelly
Councilwoman Sharon Slivko	Councilman Tom Rice

Staff Present:

Larry Rubenstein, City Manager	Lee Garrett, City Clerk
Bob Franke, Community Development Dir.	Gary Muller, City Planner
Joe Bodi, Engineering Assistant	Jurate Burns, Librarian
David Theriaque, Land Use Attorney	Jerry Miller, City Attorney

2.0 INVOCATION AND PLEDGE OF ALLEGIANCE

Prior to giving the Invocation, Mayor Beaird requested a moment of silent prayer in remembrance for everyone affected by the shootings in Littleton. The Invocation was followed by the Pledge of Allegiance.

3.0 QUASI-JUDICIAL HEARINGS

Prior to the Quasi-Judicial Hearings, the matter of Destin joining the Okaloosa County Library Co-op was revisited. Most Councilmembers felt they understood the concerns of the citizens and wanted what is fair for these citizens.

Councilman Destin made a motion to reconsider the vote on the library co-op issue, second Councilman Rice. He discussed the reasons as to why he was reconsidering his vote; that they were mostly based on his talks with members of the Library Board, who advised him that, if given another chance would change their vote.

Councilwoman Slivko, Councilman Griffin and Councilman Barker all expressed concerns as to the fairness to Destin citizens and whether we were getting the best deal for the community, while the others felt we should give the Co-op a try.

A roll call vote of 5-2 on the motion to reconsider was taken with Councilmembers Destin, Foreman, Griffin, Kelly, and Rice voting yes. Councilmembers Barker and Slivko voted no.

Councilman Foreman made a motion to join the Library Co-op, second Councilman Rice. A roll call vote of 4-3 for approval was taken with Councilmembers Destin, Foreman, Kelly, and Rice voting yes. Councilmembers Barker, Griffin and Slivko voted no.

- 3.1 Consideration of Restaurant Row Redevelopment, a Major Development, a Mixed Use Planned Unit Development (PUD) / Hall & Rummels, Agent for Sterling Shores Partnership & Restaurant Row Partnership, owners (Continued from April 12, 1999 Council Meeting)

Mayor Beard requested all those wishing to give testimony come forward for the swearing-in process. The following participants were sworn-in by Attorney Miller: Kenny Jackson, Allen Tucker, Fred Goodrow, Wesley Poole, Ben Chandler, Bob Franke, and Gary Muller.

Attorney Steve Hall made the presentation for this re-development project, requesting a packet of information as the Applicant's Composite, Exhibit 1. This data consisted of most of the elements of the application, including approvals from the Florida Department of Environmental Protection (FDEP) and the Federal Aviation Administration (FAA), and a summary of the correspondence between the City of Destin and Applicant, through the course of review.

Hearing no objections, the Mayor, entered these documents as Exhibit 1.

The development team for the project was present and introduced: General Henry Cobb, Buddy Rummels, Vic Anderson, John McNeil, Allen Tucker, Fred Goodrow, Ben Chandler, and Hoyt Fincher.

Mr. Hall spoke concerning the demolition that would be necessary for the re-development. Existing drainage problems would be corrected. Additionally, overhead electrical service would be relocated to underground. Goals of the Vision 2000 would be met for the area, and a traffic signal would be installed on Emerald Coast Parkway at Restaurant Row to improve traffic safety.

Because Mr. Hall's presentation including reference to items found in the City's Report, Agenda item #3.1, it was requested by Counsel that the following items be entered into the record as Exhibit A: Staff's Request for Agenda Item, Report and Recommendation from the Community Development Department, dated April 23, 1999, which included the Technical Review Committee Report dated December 22, 1998 and amended February 16, 1999 and April 23, 1999 and attachments -- Memo from City Engineer, dated March 23, 1999, memo from City Engineer, dated February 3, 1999, letter from FDEP, dated March 24, 1999, Letter from FDEP, dated March 24, 1999, Letter from FAA, dated February 24, 1999, letter from Hartman and Associates, dated April 2, 1999, letter from Hamilton Smith & Associates, dated January 21, 1999, Applicant's Finding of Fact for the proposed PUD, Vicinity Map, Plat, Site Plan, Architectural, Civil and Landscape Plans and a Photo Series.

Hearing no objections, the Mayor then entered these items into the permanent record as Exhibit A.

Phase I of the re-development, the present project, will encompass the demolition of the present infrastructure and the construction of the parking lot areas and a condominium building. Phase II, a future phase, will be a mixed-use condo designed to be retail/commercial on the bottom, with residential units on top.

Attorney Hall pointed out that the project meets traffic concurrency, developers will donate a perpetual, public beach access easement to the City, will underground the utilities, will remove the existing billboard, will provide more landscaping than is required (including Staff's

conditions). He said that while they will provide a pro-rata share for the new traffic signal, it is felt the amount of this "share" be deducted from their Transportation Impact Fees. There will be less public parking spaces than normally are required.

Kenny Jackson asked for the specific location of the donated beach access, and spoke against losing some of our existing public parking spaces. He also asked if Mr. Hall was aware that a beach access now existed west of the Back Porch Restaurant.

Wesley Poole addressed the need for corridor management and using stormwater as a future resource.

Bob Franke, in presenting the Staff's report, said that in order for a Major Development to be able to bear the PUD classification there were certain public benefits that must be provided by the developer and Staff believes that public benefit far outweighs the benefits that the applicant will enjoy. Public beach access is one issue that was paramount. He mentioned other benefits such as a Highway 98 Street-scape, sidewalks, more landscaping, underground utilities, removal of a billboard, installation of speed-humps, a share in the costs relating to a traffic signal, no additional curb-cuts, and eliminating some of the non-conformities of the properties as they exist now.

The Applicant is seeking the relocation of on-site parking from the Back Porch Restaurant to across the street - behind Gratz's, reduction in the number of parking spaces (49 spaces less), and a larger entry/exit drive into the main project.

Mr. Franke told the Council that because of the joint-use of the parking spaces by the establishments on site, and the additional open space and landscaping, these Staff concurs with these request. The project does meet, or exceed, all other requirements. Therefore, it is Staff's recommendation that project be approved as presented, with the following conditions: (1) Developer provide cross-section of speed-humps to be approved by the City; (2) coordinate with landscaper location of exfiltration (ensure root system will not damage exfiltration); (3) that Phase 1-B of the stormwater retention be revisited and recalculated; (3) all re-review fees must be received prior to the issuance of a building permit; (5) a copy of the FDEP Permit must be submitted to the City; and (6) Applicant be required to provide a pro-rata share of the signalization to be located at the intersection of Emerald Coast Parkway and Restaurant Row. Mr. Franke estimated the cost of this traffic signal to cost approximately \$125 - \$150,000, which would possibly need to be shared by three properties.

For the record, the Applicant agreed to these conditions, with Staff's agreement that any share of the traffic signal costs would be deducted from their Transportation Impact Fees.

The Mayor asked for additional questions or comments from the audience, and hearing none, invited comments from the Council.

While most of the Council agreed this project has many good qualities, a few specific questions or concerns were raised.

Councilman Barker questioned the palisade area, adjacent to the Back Porch. Since this area is almost exclusively used for parking now and will, upon completion of the project be the pool and bathhouse area, where will patrons and employees park, and will the bathhouse be public? Mr. Franke remarked that the beauty of a PUD is that it allows off-site parking. The parking will now be located behind Gratz's. The bathhouse will not be public, but the dedicated

five-foot easement will allow public access and free movement along the beach from the waterline to the sea-wall.

Councilman Destin was also concerned with parking. Presently beach-goers may park along Restaurant Row or on Scenic Highway 98 during the day. At night, these spaces are often utilized by the patrons of the restaurants. He would like to see a 9-5 Agreement, which would allow the beach-goers to use some of the parking spaces designated for this project.

Councilman Foreman's questions concerned sidewalks and/or bikeways along Emerald Coast Parkway. Mr. Franke replied that the Developer will post a bond, until such time that FDOT will allow the sidewalk construction along the stretch of Emerald Parkway.

Councilman Griffin asked for clarification of the public beach access location and where fences would be located. Attorney Hall supplied answers and information, advising that only the entrance into the condominium would be gated, and there would be one fence along the seaward side of pool.

Councilwoman Slivko noticed that the billboard, which is slated to be removed, will have to be removed as it is presently located where the building will be, and billboards in Destin may not be relocated. She remembered all the flooding in the area after Hurricane George, especially around the Hampton Inn and inquired about the City Engineer's inspection. She was told by Mr. Franke that the project should help many of the drainage problems in the area. He also advised that Staff is now working with the Hampton Inn toward resolving some of their on-site stormwater problems. Mr. Hall also related that the City Engineer had required the Developer to do on-site test borings, because of this concern. There was also some discussion concerning "under utilized property," and how this figures into the traffic calculations and number of trips computed.

Councilman Kelly believed the aesthetics of the area would be greatly improved by this project; however, he too, wondered if the public benefits listed were not more of a benefit to the Developer -- by increasing their property value -- than to the general public. He also did not feel the pro rata share of the traffic signal should be deducted from the Transportation Impact Fees. Mr. Kelly agreed with the need for a cross-access agreement, and queried the beach access east of the Back Porch.

Councilman Rice applauded the Developer's efforts concerning the landscaping and parking. He, too, wanted some language inserted that would assure mutual use to the northern parking lot, excluding the spaces nearest the condominium, during the daylight hours. He also wondered if the beach access on the east side of the Back Porch could be utilized and more defined.

Mayor Beaird talked about parking along Restaurant Row. He also suggested the public beach access be widened from five feet to eight feet. He sought additional information on the type of trees to be used on the project, and voiced his concern with the calculation of the number of trips, determined by this project.

Councilman Kelly said he would like for the beach access (east side of Back porch) to be identified and added to the list of conditions.

Mr. Hall commented that he had spoken with the owners of the Back Porch and found that at present the restaurant equipment is located in the small space between their restaurant and

boardwalk next to June's Dunes. Physically, there is not enough space for a new walk-over at this location. He did, however, say that the Developers would agree to widening their dedicated easement from five feet to eight feet.

Councilman Barker called attention to the lighting plan which was submitted and ascertained that the FAA permit would be reviewed by the City prior to the issuance of a building permit. Councilman Barker made a motion that Council approve the project known as "Restaurant Row Redevelopment," as presented by Staff and documented in the Technical Review Committee Report, with the conditions identified within the TRC Report dated February 16, 1999, and amended on April 23, 1999, and with the additional conditions that the Applicant agrees to coordinate with any future public transportation, similar to the Silver Shells Agreement; that the public parking areas be delineate as public -- at the expense of the Applicant (small signs); that the beach access be widened from five to eight feet; and, the street-scape be extended to both sides of Scenic Highway 98, second Councilman Foreman.

Councilman Griffin requested the motion to also include the condition that the walkover be constructed at the Developer's expense (on the western end).

Councilman Barker agreed to the request and asked that it be incorporated into his motion as another condition. Councilman Foreman also agreed to the change.

Councilman Rice requested the motion to include language that addressed the parking, not immediately adjacent to the condominium (Phase I-B on drawing C-2), would be semi-public parking, not a gated nor tow-away parking zone.

Councilmen Barker and Foreman agreed to this request as another condition of the original motion.

These terms and conditions were acceptable by Mr. Hall and the Developers.

Other questions and comments were concerning parking in front of the townhomes, speed-humps, safety aspects of the building design, shared parking and tow-away zones, and the dedication of the dry-sand area for public use.

A roll call vote of 6-0 for approval was taken with Councilmembers Barker, Foreman, Griffin, Kelly, Rice, and Sirko voting yes. Councilman Destin abstained since some of the restaurants located within this property are customers of his seafood business.

There were some concerning the tree ordinance and the size and types of trees to be used in development and their survival rate and watering method.

3.2 Consideration of Silver Beach Condominium, a Major Development / Choctaw Engineering, Agent for Resort Development of Naples Cay, Inc., Tom Beemel, owner (Continued from April 12, 1999 Council Meeting)

It had been suggested that this project be tabled until such time as a compatibility analysis could be completed. However, the Director of Community Development reported that Staff had met with Mr. Beemel and reached an agreement on the compatibility issue. He, therefore, suggested that the issue be at Council's earliest convenience, stating that the necessary report could be completed within one week.

Councilman Barker made a motion to continue this project until May 4, 1999 at 7:00 p.m., second Councilman Kelly. A 6-0 roll call vote for approval was taken with

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU: Lance Johnson, Interim City Manager

FROM: Kimberly Kopp, Land Use Attorney

DATE: December 6, 2018

SUBJECT: Destin Fishing Fleet, Inc.'s Claim under the Bert J. Harris, Jr., Private Property Rights Protection Act

I. BACKGROUND: On September 4, 2018, the City of Destin received correspondence from the law firm of Hopping Green & Sams, attorney for Destin Fishing Fleet, Inc. ("DFF"). This correspondence was immediately forwarded to the City Council by the City Manager and City Land Use Attorney.

Via this correspondence, DFF alleges that the City has inordinately burdened DFF's property by passing "a series of recent Comprehensive Plan Amendments". DFF has demanded payment in the amount of \$14,590,000.00 (plus attorney fees and costs), and has alleged that this amount represents the diminution in value of DFF's property as a result of the City's Comprehensive Plan Amendments. The DFF submitted an appraisal, which is included with this agenda item. The appraisal also offers an alternate amount representing the alleged diminution in value of DFF's property, in the amount of \$5,290,000. See the attachments to this agenda item for a detailed explanation and copy of the appraisal submitted by DFF.

DFF has indicated in its correspondence to the City that it would consider a settlement agreement "reinstating all development rights as they existed under the 2010 Comprehensive Plan."

II. DISCUSSION: The City has made the statutorily required notifications. The next step in the process for the City Council is to determine whether to make a settlement offer to the DFF within the 150 days following receipt of the DFF's presuit notice. The City has until February 1, 2019 to make this determination, unless otherwise agreed by both parties.

In this regard, that statute provides as follows:

During ... the 150-day-notice period, unless extended by agreement of the parties, the governmental entity shall make a written settlement offer to effectuate:

1. An adjustment of land development or permit standards or other provisions controlling the development or use of land.
2. Increases or modifications in the density, intensity, or use of areas of development.
3. The transfer of developmental rights.
4. Land swaps or exchanges.
5. Mitigation, including payments in lieu of onsite mitigation.
6. Location on the least sensitive portion of the property.
7. Conditioning the amount of development or use permitted.
8. A requirement that issues be addressed on a more comprehensive basis than a single proposed use or development.
9. Issuance of the development order, a variance, special exception, or other extraordinary relief.
10. Purchase of the real property, or an interest therein, by an appropriate governmental entity or payment of compensation.
11. No changes to the action of the governmental entity.

If the property owner accepts a settlement offer, either before or after filing an action, the governmental entity may implement the settlement offer by appropriate development agreement; by issuing a variance, special exception, or other extraordinary relief; or by other appropriate method, subject to statutory requirements.

Notably, if the City makes a bona fide settlement offer, which is declined by the DFF, and subsequently prevails in the lawsuit, the City is entitled to reasonable attorneys fees and costs under the statute. Likewise, if the City fails to make a bona fide settlement offer and the DFF prevails in the lawsuit, the DFF is entitled to reasonable attorneys fees and costs under the statute.

Additionally, if a settlement offer is not accepted by the DFF during the 150 day period, the statute provides that the City issue a written "statement of allowable uses to which the subject property may be put." Issuance of this statement or failure to issue such statement within 150 days is the last prerequisite prior to the DFF being authorized under the statute to file suit.

- A. **Link to Strategic Goals / Objectives:**
- B. **Effect on Budget (EOB):**
- C. **Level of Service (LOS):**

III. CONCLUSION: Staff and legal's recommendation is that the City obtain a bona fide, valid appraisal of the subject property from a state-certified real estate appraiser and bring the appraisal back to the City Council for consideration in evaluating settlement at a meeting scheduled in January, 2019.

IV. RECOMMENDED MOTION: I move to direct the City Manager, City Attorney, and Land Use Attorney to obtain a bona fide, valid appraisal of the subject property from a state-certified real estate appraiser and to bring the appraisal back to the City Council for consideration in evaluating settlement.

Attachments:

1. BH Claim and Appraisal_Destin
Fishing Fleet

Hopping Green & Sams

Attorneys and Counselors

Writer's Direct Dial No.: (850) 425-2207

September 4, 2018

Via Hand Delivery and Email

Mayor Gary Jarvis
City of Destin
4200 Indian Bayou Trail
Destin, FL 32541
gjarvis@cityofdestin.com

Re: Destin Fishing Fleet, Inc.'s claim under the Bert J. Harris, Jr., Private Property Rights Protection Act, section 70.001, Fla. Stat.

Dear Mayor Jarvis:

This law firm has the pleasure of representing Destin Fishing Fleet, Inc. (DFF) which owns 3.23 acres of property in the City of Destin. The legal description of that property is:

Lot 7F and the East ½ of Lot 7G, Moreno Point Military Reservation, Okaloosa County, Florida.

On behalf of DFF, we submit this letter as notice to the City that a series of recent Comprehensive Plan Amendments have inordinately burdened DFF's property. DFF hereby submits this letter as a claim under the Bert J. Harris, Jr., Private Property Rights Protection Act, Section 70.001, F.S. ("Harris Act") against the City for Fourteen Million Five Hundred Ninety Thousand Dollars (\$14,590,000.00), which represent the diminution in value of DFF's property as a result of the City's Comprehensive Plan Amendments. A bona fide, valid appraisal which supports this claim and demonstrates the loss in fair market value is attached to this letter.

DFF hereby demands payment in the amount of Fourteen Million Five Hundred Ninety Thousand Dollars (\$14,590,000.00) plus attorney fees and costs. Alternatively, DFF would entertain a settlement agreement reinstating all of its development rights as they existed under the 2010 Comprehensive Plan.

DFF is mindful and respectful of the fact that the City of Destin wants to address the need for parking in the Harbor CRA District. In fact, DFF has always provided more than enough parking for its own use and believes all landowners should do so as well. DFF is proud of its history of working with the City and prides itself on being a good community partner and corporate citizen.

We await your response to this claim and welcome the opportunity to discuss these matters with the City. If an acceptable resolution is not secured within the statutory waiting period under the Harris Act, DFF will file suit and pursue this claim (along with other potential claims) through formal litigation.

DFF Harris Act Claim
Sept. 4, 2018
Page 2

Please note that DFF reserves all other rights to seek remedies for those actions of the City that give rise to this claim. Thus, the presentation of this claim does not in any way rescind or modify any other legal challenges, appeals, or objections that DFF has with respect to the City's actions.

DFF looks forward to continuing to work through the above issues with the City. Please direct all responses and correspondence regarding this claim to the undersigned.

Sincerely,

HOPPING GREEN & SAMS, P.A.

A handwritten signature in blue ink, appearing to read 'D. Kent Safriet', with a long horizontal flourish extending to the right.

D. Kent Safriet
Gary K. Hunter, Jr.
Attorneys for DFF

Enclosure

cc: Interim City Manager, Lance Johnson
City Clerk, Rey Bailey, rbailey@cityofdestin.com

AN APPRAISAL REPORT OF
Destin Fishing Fleet Marina
Containing 3.23± Gross Acres of Waterfront Land
Located at 210 Harbor Boulevard
Destin, Okaloosa County, Florida 32541

AT THE REQUEST OF
Mr. D. Kent Safriet
Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301

RETROSPECTIVELY, AS OF

May 10, 2018

AND

May 11, 2018

PREPARED BY
CANTRELL RAY REAL ESTATE, LLC
9822 Tapestry Park Circle
Suite 201
Jacksonville, Florida 32246
(904) 356-2054

CRRE APPRAISAL NO. 5557

PREPARED ON
September 3, 2018

TABLE OF CONTENTS

CERTIFICATE OF APPRAISAL	1
SUMMARY OF SALIENT FACTS AND CONCLUSIONS	2
SCOPE OF THE APPRAISAL.....	3
IDENTIFICATION OF THE APPRAISAL PROBLEM	3
SCOPE OF WORK NECESSARY	6
SCOPE OF WORK PERFORMED	7
DEFINITION OF TERMS.....	8
MARKET VALUE	8
EXISTING USE.....	8
PROPERTY RIGHTS APPRAISED	8
DATES OF VALUE ESTIMATE	8
RETROSPECTIVE VALUE	8
ASSUMPTIONS AND LIMITING CONDITIONS.....	9
SPECIAL ASSUMPTION AND LIMITING CONDITIONS.....	10
IDENTIFICATION OF THE SUBJECT PROPERTY	11
SITE DESCRIPTION	12
SUBJECT PHOTOGRAPHS.....	18
HIGHEST AND BEST USE ANALYSIS.....	20
HIGHEST AND BEST USE AS-IF VACANT	20
HIGHEST AND BEST USE AS IMPROVED.....	22
APPRAISAL METHODOLOGY	23
SALES COMPARISON APPROACH.....	23
DWELLING UNIT SALES.....	24
CONCLUSION OF VALUE – DWELLING UNITS	32
SCENARIO 1.....	32
SCENARIO 2.....	32
SCENARIO 3.....	32
HOTEL SALES	33
CONCLUSION OF VALUE - HOTEL.....	38
SCENARIO 1.....	38
SCENARIO 2.....	38
SCENARIO 3.....	38
VALUE CONCLUSIONS	39
SCENARIO 1 – MAY 10, 2018	39
SCENARIO 2 – MAY 10, 2018	39
SCENARIO 3 – MAY 11, 2018	39
MEASURE OF TOTAL LOSS IN MARKET VALUE	39
ADDENDA	41
PROFESSIONAL QUALIFICATIONS: MATTHEW P. RAY, MAI	42
PROFESSIONAL QUALIFICATIONS: RIKKE L. MIHOS	43

CERTIFICATE OF APPRAISAL

The undersigned do hereby certify that, to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. We have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
5. We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
6. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
7. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
8. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with
 - a. The Uniform Standards of Professional Appraisal Practice and
 - b. The requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
9. Matthew P. Ray, MAI, has made a personal inspection of the property that is the subject of this report.
10. No one, other than those below, has provided significant real property assistance to the persons signing this certification.
11. As of the date of this report, Matthew P. Ray, MAI has completed the continuing education program for Designated Members of the Appraisal Institute.
12. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
13. The appraiser is competent to complete this report in accordance with the competency provision in the USPAP.



Matthew P. Ray, MAI
State-certified general real estate appraiser
RZ 2663



Rikke L. Mihos
State-Certified General Real Estate Appraiser
RZ4011

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

PROPERTY OWNERS	Destin Fishing Fleet, Inc.
SUBJECT LOCATION	210 Harbor Boulevard, Destin, Okaloosa County, Florida 32541
DATES OF VALUE ESTIMATE	Retrospectively, as of May 10, 2018 and May 11, 2018
LAND AREA	3.23 Acres
IMPROVEMENTS	1,456± Square Foot Office, 9,653± Square Foot Restaurant, Wood Dock, Boat Slips, Asphalt Paved Parking, etc.
LAND USE	South Harbor Mixed Use (SHMU)
ZONING	South Harbor Mixed Use (SHMU)
HIGHEST AND BEST USE	
Prior to 2015 Ordinance	Development of 112 Short-Term Dwelling Units, 62 Long-Term Dwelling Units, and 300 Hotel Rooms
Prior to 2017 Ordinance	Development of 350 Hotel Rooms
After Adoption of 2017 Ordinance	Development of 74 Short-Term Dwelling Units and 75 Hotel Rooms
APPRAISAL OBJECTIVE	First, to estimate the market value of the subject property as it is legally permissible to develop the property, prior to the 2015 Ordinance, retrospectively as of May 10, 2018, second, to estimate the market value of the subject property prior to the 2017 Ordinance, retrospectively as of May 10, 2018, and third, to estimate the market value of the subject property after adoption of the 2017 Ordinance, retrospectively, as of May 11, 2018

MEASURE OF LOSS IN VALUE

SCENARIO 1	\$ 19,800,000
SCENARIO 3	\$ 5,210,000
LOSS IN VALUE	\$ 14,590,000

OR

SCENARIO 2 - HOTEL	\$ 10,500,000
SCENARIO 3	\$ 5,210,000
LOSS IN VALUE	\$ 5,290,000

SCOPE OF THE APPRAISAL

Identification of the Appraisal Problem

PROPERTY AND OWNERSHIP

The subject property consists 3.23± gross acres, improved with a 1,456± square foot office, 9,653± square foot restaurant, wood dock, boat slips, asphalt paved parking, etc. The property is located along the northern shore of the Destin Harbor at 210 Harbor Boulevard, Destin, Okaloosa County, Florida.

The subject property is located within the Harbor Community Redevelopment Area (CRA). According to the Evaluation and Appraisal Report that provided the basis for the 2010 Plan, “(t)he Harbor Community Redevelopment Area, established in 2003, plans for nearly \$70 million worth of public improvements. One of the improvements calls for redevelopment of the Harbor Front area to improve and preserve public access to the harbor. The boundaries for this redevelopment effort are generally the harbor, on the south; Pine Street and Azalea Drive, on the north; Choctawhatchee Bay, on the west; and Beach Drive, on the east.”

Since the establishment of the CRA in 2003, the subject property has been impacted over three different changes to the Destin Comprehensive Plan. The first change is that which applied to the property under the provisions of the 2010 Plan. The second change is that which applied under the provisions of the 2015 amendments, implemented by Destin City Ordinance 15-17. The third change is that which applied under the provisions of the 2017 amendments, implemented by Destin City Ordinance 17-22, which became effective on May 11, 2018. The development potential for the subject property under the provisions of each rendition has been summarized by Morris Depew, and is summarized as follows.

COMPREHENSIVE PLAN AMENDMENTS

2010 Plan

Under the 2010 Plan, the subject property was located in the South Harbor Mixed Use (SHMU) area. The plan stated, “(t)he ‘SHMU’ area is intended to accommodate a festive mixed-use market place. The City should encourage tourist commercial development designed to preserve waterfront views, preserve water dependent activity, foster a pedestrian-oriented environment, and promote convenient public access to the planned Harbor boardwalk and charter fishing opportunities for the public. A major intent of the Comprehensive Plan is to preserve the ‘SHMU’ area as a world-class fishing Village open to the public.”

Under the 2010 Plan provisions, the subject property, after qualifying for the Tier 3 bonuses, could have developed up to 112 short-term dwelling units, 62 long-term dwelling units, and 339,114 square feet of non-residential uses, including hotel/motel rooms, transient living, retail, service, restaurant, office and similar activities. If an above ground parking garage had been added to the development program, the non-residential uses could have been increased to 406,937.5 square feet. This amount of floor area could have accommodated at least 300 hotel rooms and associated support commercial, along with facilities to service the fishing fleet. Building height would have been a maximum of 160-feet, or 15 stories, and could have accommodated all of the uses as described.

2015 Plan

In 2015, Destin Ordinance 15-17-PC amended the comprehensive plan eliminating a number of the provisions that permitted bonus density and intensity for the subject property. Density was no longer calculated at units per acre under the amended provisions, but rather as a strict floor area ratio. The subject property would have qualified for a total of 406,937.5 square feet of floor area, with the potential for an increase to 474,760.4 square feet if a high quality, pedestrian-oriented frontage on US Highway 98 was included as part of the project design. Based upon an average unit size of 2,000± square feet, with floor area for common areas and amenities added to the project along with 3,000 square feet of commercial uses as required by the comprehensive plan, Morris Depew estimates that 120± dwelling units could have been developed on the subject property under the provisions of the comprehensive plan under the 2015 amendments. Alternatively, an estimated 350 hotel rooms with supporting commercial, office, and fishing fleet could have been developed.

2017 Plan

On May 11, 2018, the 2017 amendments, implemented by Destin City Ordinance 17-22, became effective. Based upon the density and intensity restrictions, the subject property could have qualified for 28 single-family dwelling units. Alternatively, if a mixed-use development of multi-family residential and non-residential uses were considered, on the basis of density and intensity calculations, the subject property could have been developed with 74 dwelling units and 203,486.8 square feet of non-residential uses. Again, Morris Depew estimates that only 100± hotel rooms could be developed on the site with the added floor area restriction. Additionally, the height of the structures on the subject property were limited by the 2017 amendments, restricting multi-family residential uses to 50-feet, or 4 stories, with non-residential uses limited to 75-feet, or 6 stories. Assuming that the taller of the two height restrictions would be applicable to a mixed-use development of multi-family residential and hotel uses, it appears that at least four (4) buildings with 25,000± square foot envelopes would be required to obtain the 74 dwelling units and a limited amount of non-residential use, estimated by Morris Depew at 100,000± square feet or 75± hotel units with supporting services.

EFFECTS OF CHANGES TO COMPREHENSIVE PLAN

The changes in the Destin comprehensive plan have affected the developability of the subject property. Under the 2010 plan, the maximum development potential for the site included 112 short-term dwelling units, 62 long-term dwelling units, 300 hotel rooms, a parking garage, support commercial, office use, and support areas for the fishing fleet. Under the 2015 plan, development potential of the subject property was reduced to allow either 120± units or a 350± room hotel with support commercial. Both options would have allowed continued fishing fleet support. Under the 2017 plan, which became effective on May 11, 2018, development potential of the subject property was further reduced to allow only 74± dwelling units and 75± hotel rooms with associated support commercial. As was the case with the 2010 and the 2015 amendments, fishing fleet support could be continued on the subject property as part of the non-residential component of the development.

Therefore, considering the foregoing, the appraisal problem is to measure the difference in the market value of the subject property under three scenarios.

SCENARIO 1: WITH THE 2010 LEGALLY PERMISSIBLE USES AS OF MAY 10, 2018

Under Scenario 1, we will value the property as it is legally permissible to be developed with 112 short-term dwelling units, 62 long-term dwelling units, and 300 hotel rooms, retrospectively, as of May 10, 2018.

SCENARIO 2: WITH THE 2015 LEGALLY PERMISSIBLE USES AS OF MAY 10, 2018

Under Scenario 2, we will value the property as it is legally permissible to be developed with 120 long-term dwelling units or 350 hotel rooms, retrospectively, as of May 10, 2018.

SCENARIO 3: WITH THE 2017 LEGALLY PERMISSIBLE USES AS OF MAY 11, 2018

Under Scenario 3, we will value the property as it is legally permissible to be developed with 74 short-term dwelling units and 75 hotel rooms, retrospectively, as of the date of the adoption of the 2017 amendments, May 11, 2018. Essentially, as of May 11, 2018, the changes to the developability of the property are considered herein to be permanent.

The differences between Scenario 1, Scenario 2, and Scenario 3 will measure the loss in market value of the subject property caused by the Comprehensive Plan Amendments which are considered to be permanent denials of development of the property to its highest and best use.

The value estimates are based upon the premises set forth, and is subject to the Assumptions and Limiting Conditions defined herein. It is our understanding that the appraisal will be used by our client, Mr. D. Kent Safriet, Hopping Green & Sams, P.A., as counsel to the property owner, to help estimate value, which will serve as a basis for decisions regarding the subject property in a suit filed under the Bert J. Harris Act. The use of the report, however, does not influence or impact the analyses and conclusions of the appraisal. The value estimates were based upon the premises set forth and subject to the Assumptions and Limiting Conditions contained herein.

Scope of Work Necessary

The scope of work necessary includes identification of the specific characteristics of the subject property, research of the characteristics of the market area, existing land use and zoning regulations, identification of the highest and best use of the subject property as-if vacant and as improved, and use of valuation techniques appropriate for the subject property.

While the subject property is currently improved with a 1,456± square foot office, 9,653± square foot restaurant, wood dock, boat slips, asphalt paved parking, etc., the highest and best use of the subject property, as described herein, is for demolition of the improvements for the development with the uses allowed under the three scenarios. Therefore, in estimating the market value of the subject property, only the underlying land is considered. As such, the Cost Approach is omitted. Properties similar to the subject property are not typically leased on a long-term basis and therefore, the Income Approach is omitted. To appraise the subject property, it is necessary to use the Sales Comparison Approach. Limiting the scope of work to the Sales Comparison Approach will produce a credible value conclusion.

In the Sales Comparison Approach, the appraiser develops an opinion of value by analyzing the sale of similar properties and compares the properties with the subject property. A major premise of the Sales Comparison Approach is that the market value of a property is indicated by the prices of comparable, competitive properties. To apply the Sales Comparison Approach, it is necessary for the appraiser to:

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints;
2. Select relevant units of comparison, (price per unit, price per square foot, etc.), and develop a comparative analysis for each unit;
3. Look for differences between the comparable sale properties and the subject property using the elements of comparison, adjusting the price of each sale to reflect how it differs from the subject property if necessary; and
4. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

Scope of Work Performed

In applying the Sales Comparison Approach, the appraisers:

- Inspected the subject property;
- Researched the market area and market conditions;
- Identified the highest and best use of the subject property as-if vacant, and as improved;
- Researched the market for information on sales transactions, involving properties in the same or similar market area as the subject property;
- Selected as the unit of comparison the price paid per dwelling unit and price paid per hotel room;
- Developed a comparative analysis identifying differences between the comparable sales and the subject property, adjusting the sales where necessary;
- Estimated the market value of the subject property as it is legally permissible to develop the property, prior to the 2015 Ordinance, retrospectively, as of May 10, 2018, via the Sales Comparison Approach;
- Estimated the market value of the subject property prior to the 2017 Ordinance, retrospectively, as of May 10, 2018, via the Sales Comparison Approach;
- Estimated the market value of the subject property after adoption of the 2017 Ordinance, retrospectively, as of May 11, 2018, via the Sales Comparison Approach; and
- Estimated the difference in market value of the subject property as if it were able to be developed to its highest and best use both prior to the 2015 and 2017 Comprehensive Plan Amendments retrospectively, as of May 10, 2018, compared to the market value of the property after the adoption of the 2017 Comprehensive Plan Amendments, retrospectively, as of May 11, 2018, to estimate the measure of loss in market value.

DEFINITION OF TERMS

MARKET VALUE

Market value in this report is defined by the Appraisal Institute in The Appraisal of Real Estate, (14th edition), as:

The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. (p. 58)

EXISTING USE

Existing use in this report is defined in Florida State §70.001 (3)(b) as:

1. An actual, present use or activity on the real property, including periods of inactivity which are normally associated with, or are incidental to, the nature or type of use; or
2. Activity or such reasonably foreseeable, non-speculative land uses which are suitable for the subject real property and compatible with adjacent land uses and which have created an existing fair market value in the property greater than the fair market value of the actual present use or activity on the real property.

PROPERTY RIGHTS APPRAISED

The subject property is valued as if owned in fee simple. Ownership of a title in fee establishes the interest in real property known as the fee simple estate, defined by the Appraisal Institute in The Appraisal of Real Estate, (14th edition) as:

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. (p. 5)

DATES OF VALUE ESTIMATE

The date of value under Scenarios 1 and 2 is the day prior to the adoption of the 2017 amendments, or May 10, 2018. The date of value under Scenario 3 is the effective date of the 2017 amendments, or May 11, 2018.

RETROSPECTIVE VALUE

Retrospective value is an opinion of value as of a specific historic date. A retrospective value opinion is most frequently sought in connection with appraisals for estate tax, condemnation, inheritance tax, or similar purposes.

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report has been made with the following Assumptions and Limiting Conditions:

1. This Appraisal Report is intended to comply with reporting requirements set forth under Standard Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for an Appraisal Report. As such, it might not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.
2. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
3. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
4. Responsible ownership and competent property management are assumed.
5. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
6. All engineering is assumed correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property and may not be relied upon for any other purpose.
7. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
8. It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws, unless noncompliance is stated, defined and considered in the appraisal report.
9. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless nonconformity has been stated, defined, and considered in the appraisal report.
10. It is assumed that all required licenses, certificates of occupancy, consents or other legislative or administrative authority from any local, state or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
11. It is assumed that the use of the land and improvements lies within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise noted in the report.
12. The distribution, if any, of the total value between land and improvements applies only to the use stated in this report. The separate allocations for land and buildings must not be used in conjunction with any other use or appraisal and are invalid if so used.
13. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed

without the written consent of the appraiser and, in that event, only with properly written qualifications and only in its entirety.

14. The appraiser herein, by reason of this appraisal, is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question, unless arrangements have been previously made.
15. Neither all, nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news, sales or another media without the prior written consent and approval of the appraiser.
16. Survey exception: Any statement of facts an accurate survey might show.
17. Unless otherwise stated in this report, the existence of hazardous substances, including without limitation, asbestos, polychlorinated biphenyls, petroleum leakage or agricultural chemicals, which may or may not be present on the property, other environmental conditions, was not called to the attention of nor did the appraiser become aware of such during the appraiser's inspection. The appraiser has no knowledge of the existence of such materials on or in the property unless otherwise stated. The appraiser, however, is not qualified to test such substances or conditions. If the presence of such substances, such as asbestos, urea formaldehyde, foam insulation, or other hazardous substances or environmental conditions, may affect the value of the property, the value estimated is predicated on the assumption that there are no such conditions on or in the property or in such proximity thereto that it would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them.
18. Any value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division of interest has been set forth in the report.
19. The forecasts, projections, or operating estimates contained herein are based upon current market conditions and anticipated short-term supply and demand factors and is, therefore, subject to changes in future conditions.
20. The value estimate applies only to the date specified in the report. Value is affected by related and unrelated economic conditions, both local and national. Unforeseen changes in economic conditions can impact the future value of subject property.
21. The appraiser is not qualified to identify areas that may be legally defined as jurisdictional wetlands. The appraiser assumes no liability for identification of any possible jurisdictional wetland areas on the site.

SPECIAL ASSUMPTION AND LIMITING CONDITIONS

22. The appraiser relied upon the public records of Okaloosa County, along with a physical inspection of the property and information provided by the property owner, to estimate and describe the subject site and characteristics of the property. This information is assumed to be correct.
23. The appraiser relied upon an analysis of the density and intensity of the subject property under different adoptions of the comprehensive plan amendments, prepared by David W. Depew, PhD, AICP, LEED® AP, Principal, Morris-Depew Associates, Inc. This information is assumed to be correct.

IDENTIFICATION OF THE SUBJECT PROPERTY

The subject property consists 3.23± gross acres, improved with a 1,456± square foot marina office, 9,653± square foot restaurant, wood dock, boat slips, asphalt paved parking, etc. The property is along the northern shore of the Destin Harbor at 210 Harbor Boulevard, Destin, Okaloosa County, Florida. The property is identified by the Okaloosa County Property Appraiser as real estate parcel number 00-2S-22-0630-0000-07F0.



SALES HISTORY OF SUBJECT PROPERTY

A title abstract has not been provided to the appraisers and a title search is not within the scope of this assignment. Our research indicates that no transfer of ownership has occurred within the past three years.

SITE DESCRIPTION

The site description is a detailed listing of the factual data, which affects the site and is organized in three major groups: physical characteristics, legal/governmental factors and locational attributes. An analysis of the factual data and its relationship to the neighborhood characteristics that create, enhance or detract from the utility or marketability of the site is provided in the Highest and Best Use section of this report. Portions of the following site description are based upon several sources which include the physical inspection of the subject property and information provided by the client and information contained within the public records of Okaloosa County.

PHYSICAL CHARACTERISTICS

Land Area and Shape

The subject site is rectangular and consists of 3.23± gross acres. The subject site is located along the south side of Harbor Boulevard (State Road 30) and the north shore of Destin Harbor. The subject site has approximately 282 feet of frontage along Harbor Boulevard (State Road 30) and 282 feet of waterfrontage along Destin Harbor. The subject site is approximately 375 feet in depth. The site boundaries are outlined in red on the aerial below.



Ingress and Egress

Vehicular ingress and egress to the subject site is provided by a curb cut along Harbor Boulevard (State Road 30). Harbor Boulevard (State Road 30) is a four-lane primary thoroughfare providing access to Okaloosa Island to the west and Miramar Beach to the east. Maritime access is available to the southern boundary of the site from Destin Harbor. Access is considered to be good and similar to other uses in the area.

Topography and Drainage

We were not provided with a topography map specific to the subject property. Drainage appeared to be reasonably adequate and functioning at the time of our inspection, with the northern portion of the site at street grade and the southern portion of the property sloping south to Destin Harbour. Storm water is managed off-site. As indicated in the Assumptions and Limiting Conditions section of this report, there are no known wetlands on the subject property.

Soil and Subsoil Conditions

A soil engineering report was not provided to the appraiser. As explained in the Assumptions and Limiting Conditions, no responsibility is assumed for hidden or unapparent conditions that would make the property more or less valuable. Generally, the soils appear to have adequate bearing capacities as indicated by the structural integrity of the buildings located on and around the subject property.

Utilities and Public Services

All public utilities are available to the subject site. These utilities include water, sewer, electricity and telephone services.

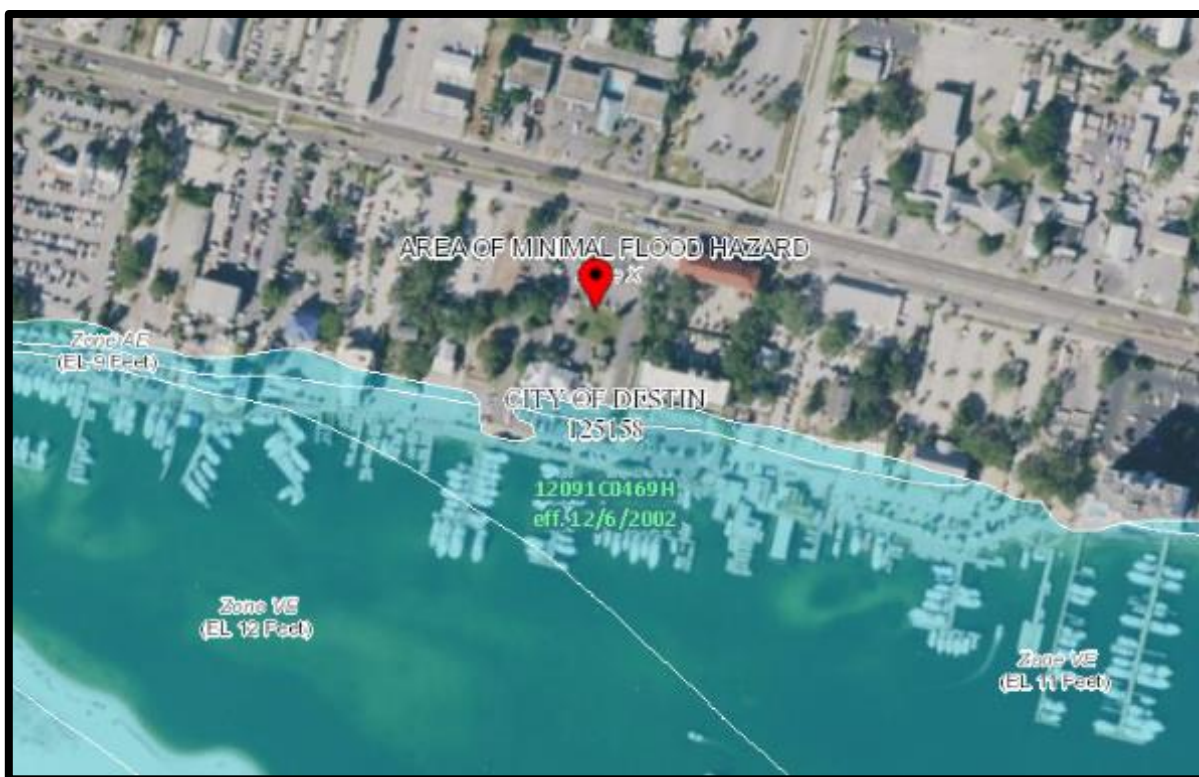
LEGAL AND GOVERNMENTAL FACTORS

Easements, Restrictions, and Covenants

A review of the subject property did not reveal any known easements, restrictions, or covenants that would negatively affect the normal development of the subject site.

Flood Hazard

An examination of the Federal Emergency Management Agency's Flood Insurance Rate Maps indicates that the subject site can be found on Community Panel No. 12091C0469H, effective December 6, 2002. The majority of the subject property is located in Zone X, areas of minimal flood hazard. A portion of the site along the Destin Harbor is located in Zone VE, areas subject to a 1% annual flood chance with additional hazards due to storm-induced velocity wave action.



Environmental Concerns

During the course of this assignment, we did not become aware of any toxic substances (or similar environmental problems) that would affect the value of the subject. As stated in the Assumptions and Limiting conditions section of this report, the appraisers are not qualified to test for environmental hazards. During our inspection, we observed no unusual conditions such as hazardous waste containers or other potential sources of ground pollution at the subject site.

Land Use/Zoning

The subject property is located within the Harbor Community Redevelopment Area (CRA). According to the Evaluation and Appraisal Report that provided the basis for the 2010 Plan, “(t)he Harbor Community Redevelopment Area, established in 2003, plans for nearly \$70 million worth of public improvements. One of the improvements calls for redevelopment of the Harbor Front area to improve and preserve public access to the harbor. The boundaries for this redevelopment effort are generally the harbor, on the south; Pine Street and Azalea Drive, on the north; Choctawhatchee Bay, on the west; and Beach Drive, on the east.”

Since the establishment of the CRA in 2003, the subject property has been impacted over three different changes to the Destin Comprehensive Plan. The first change is that which applied to the property under the provisions of the 2010 Plan. The second is that which applied under the provisions of the 2015 amendments, implemented by Destin City Ordinance 15-17. The third condition is that which applied under the provisions of the 2017 amendments, implemented by Destin City Ordinance 17-22. The development potential for the subject property under the provisions of each rendition has been summarized by Morris Depew, and is summarized as follows.

2010 Plan

Under the 2010 Plan, the subject property was located in the South Harbor Mixed Use (SHMU) area. The plan stated, “(t)he ‘SHMU’ area is intended to accommodate a festive mixed-use market place. The City should encourage tourist commercial development designed to preserve waterfront views, preserve water dependent activity, foster a pedestrian-oriented environment, and promote convenient public access to the planned Harbor boardwalk and charter fishing opportunities for the public. A major intent of the Comprehensive Plan is to preserve the ‘SHMU’ area as a world-class fishing Village open to the public.”

Under the 2010 Plan provisions, the subject property, after qualifying for the Tier 3 bonuses, could have developed up to 112 short-term dwelling units, 62 long-term dwelling units, and 339,114 square feet of non-residential uses, including hotel/motel rooms, transient living, retail, service, restaurant, office and similar activities. If an above ground parking garage had been added to the development program, the non-residential uses could have been increased to 406,937.5 square feet. This amount of floor area could have accommodated at least 300 hotel rooms and associated support commercial, along with facilities to service the fishing fleet. Building height would have been a maximum of 160-feet, or 15 stories, and could have accommodated all of the uses as described.

2015 Plan

In 2015, Destin Ordinance 15-17-PC amended the comprehensive plan eliminating a number of the provisions that permitted bonus density and intensity for the subject property. Density was no longer calculated at units per acre under the amended provisions, but rather as a strict floor area ratio. The subject property would have qualified for a total of 406,937.5 square feet of floor area, with the potential for an increase to 474,760.4 square feet if a high quality, pedestrian-oriented frontage on US Highway 98 was included as part of the project design. Based upon an average unit size of 2,000± square feet, with floor area for common areas and amenities added to the project along with 3,000 square feet of commercial uses as required by the comprehensive plan, Morris Depew estimates that 120± dwelling units could have been developed on the subject

property under the provisions of the comprehensive plan under the 2015 amendments. Alternatively, an estimated 350 hotel rooms with support commercial, office, and fishing fleet support could have been developed.

2017 Plan

On May 11, 2018, the 2017 amendments, implemented by Destin City Ordinance 17-22, became effective. Based upon the density and intensity restrictions, the subject property could have qualified for 28 single-family dwelling units. Alternatively, if a mixed-use development of multi-family residential and non-residential uses were considered, on the basis of density and intensity calculations, the subject property could have been developed with 74 dwelling units and 203,486.8 square feet of non-residential uses. Again, Morris Depew estimates that only 100± hotel rooms could be developed on the site with the added floor area restriction. Additionally, the height of the structures on the subject property were limited by the 2017 amendments, restricting multi-family residential uses to 50-feet, or 4 stories, with non-residential uses limited to 75-feet, or 6 stories. Assuming that the taller of the two height restrictions would be applicable to a mixed-use development of multi-family residential and hotel uses, it appears that at least four (4) buildings with 25,000± square feet envelopes would be required to obtain the 74 dwelling units and a limited amount of non-residential use, estimated by Morris Depew at 100,000± square feet or 75± hotel units with supporting services.

The following chart summarizes the uses permitted over time.

	2010	2015	2017
Short Term Dwelling Units	112	120	74
Long Term Dwelling Units	62		
Hotel Rooms	300		75
OR			
Hotel Rooms		350	

LOCATIONAL ATTRIBUTES

Geographic Orientation

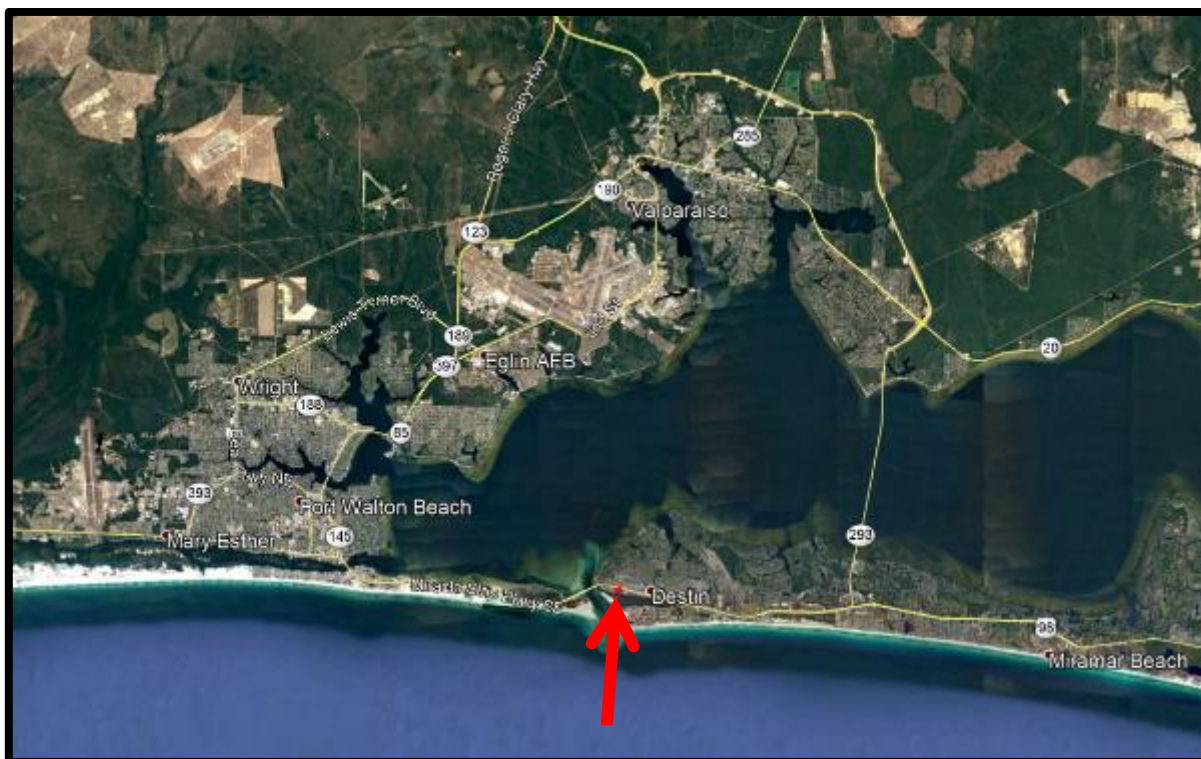
The subject property is located along the north side of Destin Harbor in Destin, Okaloosa County, Florida. Destin is located in northwest Florida, in an area known as the Florida Panhandle, and along the Gulf of Mexico. The subject property is located east of Fort Walton Beach, south of Niceville and west of Miramar Beach.

Adjacent Land Uses

The uses within the immediate subject neighborhood include similar marina properties with commercial uses located along the north side of Harbor Boulevard (State Road 30). Adjacent west of the subject property is land owned by the City of Destin and Dewey Destin's Harborside restaurant, along with a marina and boat rental and tour companies. Adjacent east of the subject property is a multi-tenant retail building and residential condominium building, along with a marina and various boat rental and tourist-related operations.

SUMMARY

The subject property is located along the north side of Destin Harbor in Destin, Okaloosa County, Florida. The subject property is located along Harbor Boulevard (State Road 30), the primary thoroughfare in the subject's market area, and has good access to both commercial areas and established residential infill. As such, there is limited waterfront land which is available for development. The site's size, shape, zoning and location permit multiple allowable uses which benefit the site.



SUBJECT PHOTOGRAPHS



HIGHEST AND BEST USE ANALYSIS

Highest and Best Use, as used in this report, is defined in The Appraisal of Real Estate, (14th edition), as follows:

The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. (p. 332)

Market forces create market value, so an analysis of market forces that have a bearing on Highest and Best Use is critical to the valuation process. When the purpose of an appraisal is to develop an opinion of market value, Highest and Best Use analysis identifies the most profitable use to which the property can be put. The Highest and Best Use of a specific parcel of land is not determined through subjective analysis by the appraiser; rather, the competitive forces with the market where the property is located shape Highest and Best Use.

Highest and Best Use must be reasonable, probable, and proximate (i.e., likely to occur soon, if not immediately). It is not speculative or conjectural. It may or may not be the present use of the site. Highest and Best Use can change over time as external market forces change. These changes include competition, effective demand, public tastes, and standard land use requirements (e.g., zoning). In addition, the character of a property may change, thereby changing its Highest and Best Use.

HIGHEST AND BEST USE AS-IF VACANT

Legally Permissible Uses

The first test of highest and best use for the subject property is dictated by the legal and governmental restrictions imposed on the land. Under Scenario 1, it was legally permissible to develop the property with 112 short-term dwelling units, 62 long-term dwelling units, and 300 hotel rooms. Under Scenario 2, it was legally permissible to develop the property with 120 dwelling units or 350 hotel rooms. Under Scenario 3, which became effective on May 11, 2018, it is legally permissible to develop the property with 74 dwelling units and 75 hotel rooms.

Physically Possible Uses

The second test of highest and best use is dictated by its physical attributes. The scope of the property is limited by the ground coverage within its boundaries and the shape of the tract of land. The subject site is rectangular and consists of 3.23± gross acres. The subject site is located along the south side of Harbor Boulevard (State Road 30) and the north shore of Destin Harbor. The subject site has approximately 282 feet of frontage along Harbor Boulevard (State Road 30) and 282 feet of waterfrontage along Destin Harbor. The site has good access to both Harbor Boulevard (State Road 30) and Destin Harbor. The size and shape of the site creates a functional site. Based on the size of other buildings in the market area, the subject site meets the size requirements for a mixed-use development. There are no known physical site characteristics that would significantly restrict the development of any land uses that comfortably fit on the site. As such, it is physically possible to develop the property with the uses allowed under the three scenarios described herein.

Financially Feasible Uses

The third test of highest and best use for the subject property is financial feasibility. In order for the legally permissible and physically possible uses to be considered financially feasible, they must produce net revenue sufficient to satisfy the required rate of return on invested capital.

After considering uses for the subject site, which are physically possible and legally permissible, we must consider the influence of the surrounding neighborhood land uses and the recent growth and current demand within the subject's neighborhood. The primary determinant for financial feasibility is whether a specific use is likely to produce an income, or a return, equal to or greater than the amount needed to satisfy operating expenses, financial obligations and capital amortization. All uses that are expected to produce a positive return are regarded as financially feasible.

We have surveyed the neighborhood to determine what types of land uses and improvements are present in the area. The subject property is located along the north side of Destin Harbor in Destin, Okaloosa County, Florida. Destin is located in northwest Florida, in an area known as the Florida Panhandle, and along the Gulf of Mexico. The uses within the immediate subject neighborhood include similar marina properties with commercial uses located along the north side of Harbor Boulevard (State Road 30). Adjacent west of the subject property is land owned by the City of Destin and Dewey Destin's Harborside restaurant, along with a marina and boat rental and tour companies. Adjacent east of the subject property is a multi-tenant retail building and residential condominium building, along with a marina and various boat rental and tour companies. Given the location of the subject property, along a primary thoroughfare and the Destin Harbor, along with its size, shape and zoning, it is financially feasible for the subject property to be developed with a mixed-use development which compliments the adjacent and nearby maritime-oriented uses. As such, it is physically possible and financially feasible to develop the property with the uses allowed under the three scenarios described herein.

However, as described herein, under Scenario 2, the property was able to be developed with 120 dwelling units or 350 hotel rooms. The value conclusion under the potential for development with dwelling units equates to \$5,400,000. The value conclusion under the potential for development with hotel rooms equates to \$10,500,000. Therefore, the highest financially feasible use of the subject, under Scenario 2, is for development with 350 hotel rooms under Scenario 2

Maximally Productive Use

The fourth test of highest and best use for the subject property is its maximally productive use. The maximally productive use of the subject site as-if vacant is the use which creates the highest return to the land in the long run, and therefore creates the greatest overall land value. The primary concerns of a prospective developer of the subject site as-if vacant are size, shape, zoning and/or probability of rezoning, possible synergy with surrounding land uses, and expected economic return. Given the location of the subject property, along a primary thoroughfare and the Destin Harbor, along with its size, shape and zoning, the maximally productive use for the subject site as-if vacant is identified as a mixed-use development which compliments the adjacent and nearby maritime-oriented uses. As such, the highest and best use of the property, as-if vacant, is to develop the property with the uses allowed under the three scenarios described herein.

HIGHEST AND BEST USE AS IMPROVED

The subject property is minimally improved with a small office, restaurant, and other site improvements. The great majority of the site is paved asphalt. The land-to-building ratio is 12.66:1. Given the demand in the market area, along with similar waterfront developments, and the physical characteristics of the site, the improvements do not contribute to the highest and best use of the property. Therefore, the highest and best use of the property, as improved, is for demolition of the improvements for the development with the uses allowed under the three scenarios described herein

APPRAISAL METHODOLOGY

The appraisal methodology under Scenario 1 is to value the property as it is legally permissible to be developed with 112 short-term dwelling units, 62 long-term dwelling units (174 dwelling units), and 300 hotel rooms.

The appraisal methodology under Scenario 2 is to value the property as it is legally permissible to be developed with 120 dwelling units or 350 hotel rooms.

The appraisal methodology under Scenario 3 is to value the property as it is legally permissible to be developed with 74 dwelling units and 75 hotel rooms.

Each scenario includes the ability to develop a marina.

To value the property under each Scenario, it is necessary to use the Sales Comparison Approach.

SALES COMPARISON APPROACH

The Sales Comparison Approach involves the process of gathering information from properties which have recently sold and, with an analysis of that data, an indication of the subject's fair market value is estimated through direct comparisons.

In the application of the Sales Comparison Approach, the Principle of Substitution implies that a prudent person would not pay more to buy a property than it would cost him to buy a comparable substitute property. This analysis can produce a good indication of value when there is an active market and where the physical and economic aspects of the comparable properties are highly similar to the subject property.

The value of improved properties by the Sales Comparison Approach requires a systematic five-step procedure:

- | | |
|------------------|---|
| Research | - the market for information on comparable properties; |
| Verify | - that the data is accurate and representative of arm's-length transactions; |
| Determine | - relative price units of comparison; |
| Compare | - the subject with the comparables and either adjust the comparable prices for those differences that influence value or bracket the subject property based upon the subject's relative comparability when compared to the comparables; |
| Reconcile | - the multiple value indications into a single value or range of values. |

A search for recent sales of comparable properties was made. Some of the sources for information included public records, local real estate agents, site inspections, buyers, sellers, etc. Only those sales that were found were considered a reasonable substitute to the subject property were used in the valuation analysis.

Because like units must be compared, each sale price should be stated in appropriate units of comparison. We have placed our emphasis upon the sales price paid per acre of land area. Information collected about each comparable sale will be found on the following pages, along with maps that illustrates their locations.

DWELLING UNIT SALES

Dwelling Unit Land Sale No. 1



Property Identification

Record ID 9782
Property Type Residential, Townhomes
Property Name Soundside Lofts
Address Bonita Avenue, Fort Walton Beach, Okaloosa County, Florida 32548
Location Located along the northern side of Bonita Avenue, the west side of Bluefish Drive and the east side of Santa Rosa Sound
Tax ID Multiple

Sale Data

Grantor Florida Trust Management Services, LLC
Grantee Soundside Lofts at West Destin, LLC
Sale Date November 07, 2017
Deed Book/Page 3325/1883
Property Rights Fee Simple
Sale Price \$794,800

Land Data

Zoning B-2, Apartment, Hotel Courts and Hotel Areas
Topography Level
Utilities Available
Shape Irregular

Land Size Information

Gross Land Size 1.950 Acres or 84,942 SF
Planned Units 20

Indicators

Sale Price/Planned Unit **\$39,740**

Remarks

The property is planned for a 20-unit townhome development known as Soundside Lofts. Amenities within the community include a pool and dog park and each unit contains a garage and boat slip.

Dwelling Unit Land Sale No. 2



Property Identification

Record ID 9832
Property Type Vacant Commercial
Address Beach Drive, Panama City, Bay County, Florida 32401
Location Located along the southwest side of Beach Drive and the northern shore of Saint Andrew Bay, just north of the Panama City Marina
Tax ID 19501-000-000 & 19508-000-000

Sale Data

Grantor XBay, LLC
Grantee Beach Drive PC Holdings, LLC
Sale Date March 07, 2017
Deed Book/Page 3880/1818
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$1,250,000

Land Data

Zoning DTD, Downtown District
Topography Waterfront/Raw Land
Utilities Available
Shape Rectangular

Land Size Information

Gross Land Size 1.422 Acres or 61,942 SF
Allowable Units 42

Indicators

Sale Price/Allowable Unit \$29,762

Remarks

While there is no known proposed use for the property, the maximum density within the DTD zoning district is 30 units per acre, or 42 units total.

Dwelling Unit Land Sale No. 3



Property Identification

Record ID 9833
Property Type Vacant Commercial
Address 430 West 5th Street, Panama City, Bay County, Florida 32401
Location Located along the south side of West 5th Street, the southwest side of West Beach Drive and along the northern shore of Saint Andrew Bay, just north of the Panama City Marina
Tax ID 19511-000-000

Sale Data

Grantor SE Property Holdings, LLC
Grantee Beach Drive PC Properties, LLC
Sale Date September 27, 2016
Deed Book/Page 3837/122
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$3,075,000

Land Data

Zoning DTD, Downtown District
Topography Waterfront
Utilities Available
Shape Irregular

Land Size Information

Gross Land Size 5.211 Acres or 226,991 SF
Useable Land Size 5.071 Acres or 220,893 SF, 100.00%
Conservation Easement 0.140 Acres or 6,098 SF, 2.76%
Allowable Units 152

Indicators

Sale Price/Allowable Unit \$20,230

Remarks

While there is no known proposed use for the property, the maximum density within the DTD zoning district is 30 units per acre, or 152 units total.

Dwelling Unit Land Sale No. 4



Property Identification

Record ID 9836
Property Type Residential, Condominium
Property Name Henderson Lofts
Address 100 Matthew Boulevard, Destin, Okaloosa County, Florida 32541
Location Located in the northwest corner of Matthew Boulevard and Scenic Highway 98
Tax ID Multiple

Sale Data

Grantor Dunavant Gulf, LLC
Grantee Henderson Lofts Development, LLC
Sale Date September 02, 2016
Deed Book/Page 3265/1177
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$2,800,000

Land Data

Zoning CBR, Crystal Beach Resort
Topography Level
Utilities Available
Shape Irregular

Land Size Information

Gross Land Size 0.840 Acres or 36,590 SF
Actual Units 54

Indicators

Sale Price/Actual Unit \$51,852

Remarks

The property was purchased for the development of a four-story, 54-unit condominium building, known as Henderson Lofts.

Dwelling Unit Land Sale No. 5



Property Identification

Record ID 9789
Property Type Vacant Commercial
Address 101 Calhoun Avenue, Destin, Okaloosa County, Florida 32541
Tax ID 00-2S-22-0630-0000-11A3

Sale Data

Grantor Barbara S. Dekle, Trustee of the Barbara S. Dekle Revocable Trust
Grantee Calhoun Waterfront Development, LLC
Sale Date April 03, 2013
Deed Book/Page 3088/3620
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$2,000,000

Land Data

Zoning CMU, Calhoun Mixed Use
Topography Level
Utilities Available
Shape Nearly Rectangular

Land Size Information

Gross Land Size 3.290 Acres or 143,312 SF
Allowable Units 39

Indicators

Sale Price/Allowable Unit \$51,282

Remarks

While the property was purchased for use as a park, the maximum density within the CMU Tier 1 zoning district is 12 units per acre, or 39 units total.

Land Sale No. 6



Property Identification

Record ID 9838
Property Type Residential, Townhomes
Property Name Brownstones in Kelly Plantation
Address 4359 Bahia Lane, Destin, Okaloosa County, Florida 32541
Tax ID 00-2s-22-0000-0001-0670

Sale Data

Grantor Trillion Group, LLC
Grantee KPH3, LLC
Sale Date November 16, 2012
Deed Book/Page 3065/2081
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$750,000

Land Data

Zoning MU-2, Mixed Use
Topography Level
Utilities Available
Shape Irregular

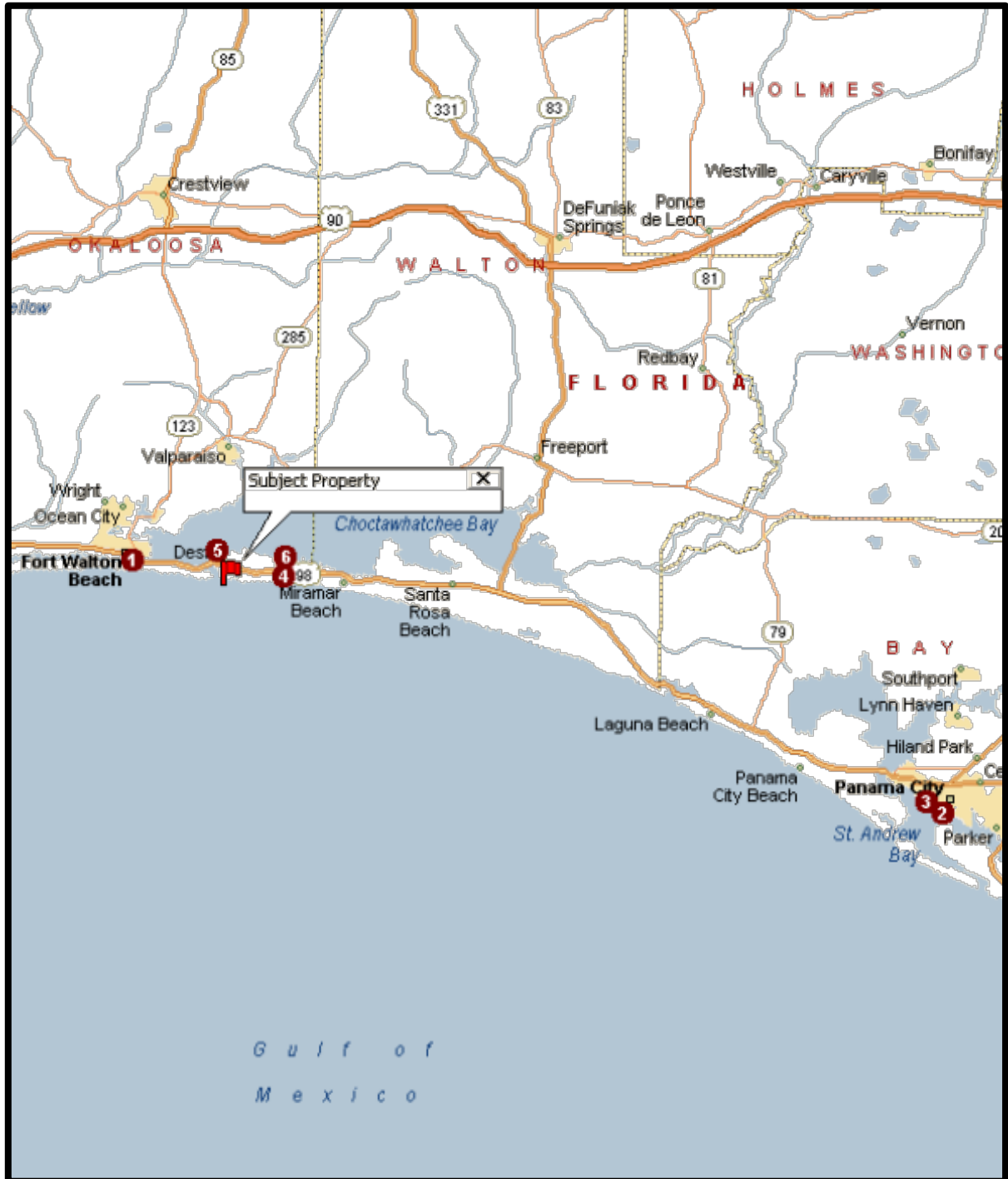
Land Size Information

Gross Land Size 3.920 Acres or 170,755 SF
Useable Land Size 1.600 Acres or 69,696 SF, 40.82%
Easement Land Size 2.320 Acres or 101,059 SF, 59.18%
Actual Units 23

Indicators

Sale Price/Actual Unit \$32,609

DWELLING UNIT LAND SALE MAP



ANALYSIS OF COMPARABLE LAND SALES – DWELLING UNITS

No.	Location	Sale Date	Sale Price	Units	\$/Unit
1	Bonita Avenue	Nov-17	\$ 794,800	20	\$ 39,740
2	Beach Drive	Mar-17	\$ 1,250,000	42	\$ 29,762
3	430 West 5th Street	Sep-16	\$ 3,075,000	152	\$ 20,230
4	100 Matthew Boulevard	Sep-16	\$ 2,800,000	54	\$ 51,852
5	101 Calhoun Avenue	Apr-13	\$ 2,000,000	39	\$ 51,282
6	4359 Bahia Lane	Nov-12	\$ 750,000	23	\$ 32,609
S	<i>210 Harbor Boulevard</i>				

Six sales of properties located in a similar location as the subject property were selected for analysis. These sales represent property purchased for the same or similar possible uses as the highest and best use of the subject property. All of the sales were results of arm's-length negotiations between buyer and seller and were consummated on cash terms or its equivalent. We have therefore not thought it necessary to adjust any of the transactions for conditions of sale or financing. We have analyzed the characteristics of the comparable sales and compared them to the subject property. Because of the recent sale dates of the comparable properties, no adjustments for market conditions are warranted.

Property Characteristics

General Location

The subject property is located along the north side of Destin Harbor in Destin, Okaloosa County, Florida. Comparable Sale 1 is located in Fort Walton Beach, just west of Destin. The overall Fort Walton Beach market area and neighborhood characteristics are considered to be inferior to the subject property; therefore, an upward adjustment is warranted. Comparable Sales 2 and 3 are located in Downtown Panama City. The overall Panama City market area and neighborhood characteristics are considered to be inferior to the subject property; therefore, upward adjustments are warranted. Comparable Sales 4 and 5 are located within Destin and are considered to have a similar location as the subject property; therefore, no adjustments are warranted. While Comparable Sale 6 is located in Destin, the immediate market area is primarily residential and is considered to be inferior to the subject property; therefore, an upward adjustment is warranted.

Waterfront/View

The subject property is located along the northern side of the Destin Harbor with waterfront views. While Comparable Sale 1 is located along the Santa Rosa Sound, the waterfront views are considered to be inferior to the subject property; therefore, an upward adjustment is warranted. Comparable Sales 2 and 3 are located along Saint Andrew Bay and are considered to have similar waterfront views as the subject property; therefore, no adjustments are warranted. Comparable Sales 4 and 6 are located within interior lots and are considered to be highly inferior to the subject property; therefore, upward adjustments are warranted. Comparable Sale 5 is located just north of Destin Harbor, along the North Channel, and is considered to have a similar waterfront view as the subject property; therefore, no adjustment is warranted. Comparable Sale

A chart summarizing these adjustments follows.

COMPARABLE SALES ADJUSTMENT GRID							
	SUBJECT	SALE 1	SALE 2	SALE 3	SALE 4	SALE 5	SALE 6
Date of Sale		Nov-17	Mar-17	Sep-16	Sep-16	Apr-13	Nov-12
Location	210 Harbor Boulevard	Bonita Avenue	Beach Drive	430 West 5th Street	100 Matthew Boulevard	101 Calhoun Avenue	4359 Bahia Lane
SALE PRICE		\$794,800	\$1,250,000	\$3,075,000	\$2,800,000	\$2,000,000	\$750,000
UNITS		20	42	152	54	39	23
PRICE/UNIT		\$39,740	\$29,762	\$20,230	\$51,852	\$51,282	\$32,609
LOCATION Adjustment	Destin	Inferior 10%	Inferior 35%	Inferior 35%	Similar 0%	Similar 0%	Inferior 10%
WATERFRONT Adjustment	Destin Harbor	Inferior 10%	Similar 0%	Similar 0%	Inferior 25%	Similar 0%	Inferior 25%
Total Adjustment		20%	35%	35%	25%	0%	35%
Amount of Adjustments		\$7,948	\$10,417	\$7,081	\$12,963	\$0	\$11,413
UNIT VALUES		\$47,688	\$40,179	\$27,311	\$64,815	\$51,282	\$44,022

CONCLUSION OF VALUE – DWELLING UNITS

The subject property was studied and analyzed with all of the available data believed to influence its market value. We have utilized the price per unit to indicate the value of the subject site. The six land sales have been analyzed and compared to the subject property.

Consideration was given to the sales for general location and waterfront/view. The adjusted unit values range between \$27,331 and \$64,815 per unit, with a mean of \$45,883 per unit.

Scenario 1

Given the comparable sales analyzed herein, along with the unique characteristics and desirable location of the subject property, along with the variety of dwelling units able to be purchased and the amenity feature of a marina for home owners, we conclude a unit value for the subject property, under Scenario 1, to be \$50,000 per unit.

Scenario 2

Given the comparable sales analyzed herein, along with the unique characteristics and desirable location of the subject property, but considering the limited use of the property as dwelling units only, we conclude a unit value for the subject property, under Scenario 2, to be \$45,000 per unit.

Scenario 3

Given the comparable sales analyzed herein, along with the characteristics and location of the subject property, but considering the limited use of the property with only 74 dwelling units and 75 hotel rooms, we conclude a unit value for the subject property, under Scenario 3, to be \$40,000 per unit.

HOTEL SALES

Hotel Land Sale No. 1



Property Identification

Record ID 9827
Property Type Hotel/Motel
Property Name Hampton Inn & Suites
Address 15505 Front Beach Road, Panama City Beach, Bay County, Florida 32413
Tax ID 33788-000-000

Sale Data

Grantor PCB, LLC
Grantee Crimson Tide1, LLC
Sale Date February 17, 2016
Deed Book/Page 3774/1308
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$6,464,500

Land Data

Zoning CH, Commercial High Intensity
Topography Oceanfront
Utilities Available
Shape Rectangular

Land Size Information

Gross Land Size 1.526 Acres or 66,473 SF
Rooms 182
Actual Building SF 120,081

Indicators

Sale Price/Room \$35,519

Remarks

The property was improved with a 183-room Hampton Inn & Suites hotel circa 2017.

Hotel Land Sale No. 2



Property Identification

Record ID 9828
Property Type Hotel/Motel
Address 23006 Front Beach Road, Panama City Beach, Bay County, Florida 32413
Tax ID 36076-024-000

Sale Data

Grantor Josephine S. Dean & Jack Seay
Grantee Carrilon Beach Group, LLC
Sale Date January 29, 2016
Deed Book/Page 3769/792
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$550,000

Land Data

Zoning C-3, General Commercial
Topography Raw Land
Utilities Available
Shape Nearly Rectangular

Land Size Information

Gross Land Size 0.915 Acres or 39,857 SF
Planned Units 25

Indicators

Sale Price/Planned Unit \$22,000

Remarks

The property is approved for the development of a 25-room hotel.

Hotel Land Sale No. 3



Property Identification

Record ID 9818
Property Type Hotel/Motel
Property Name Home2 Suites by Hilton
Address 14060 Emerald Coast Parkway, Destin, Okaloosa County, Florida 32541
Tax ID 00-2S-22-2860-0000-00B0

Sale Data

Grantor SPA Destin II, LLC
Grantee CM Destin, LLC
Sale Date February 23, 2015
Deed Book/Page 3187/13
Property Rights Fee Simple
Conditions of Sale Arm's Length
Sale Price \$3,000,000

Land Data

Zoning GRMU, Gulf Resort Mixed Use
Topography Level
Utilities Available
Shape Irregular

Land Size Information

Gross Land Size 2.230 Acres or 97,139 SF
Rooms 112
Actual Building SF 67,061

Indicators

Sale Price/Room \$26,786

Remarks

The property was improved with a 112-room Home2 Suites by Hilton hotel circa 2016.

HOTEL LAND SALE MAP



ANALYSIS OF COMPARABLE LAND SALES - HOTEL

No.	Location	Sale Date	Sale Price	Rooms	\$/Room
1	15505 Front Beach Road	Feb-16	\$ 6,464,500	182	\$ 35,519
2	23006 Front Beach Road	Feb-16	\$ 550,000	25	\$ 22,000
3	14060 Emerald Coast Pkwy	Feb-15	\$ 3,000,000	112	\$ 26,786
S	<i>210 Harbor Boulevard</i>				

Three sales of properties located in a similar location as the subject property were selected for analysis. These sales represent property purchased for the same or similar possible uses as the highest and best use of the subject property. All of the sales were results of arm's-length negotiations between buyer and seller and were consummated on cash terms or its equivalent. We have therefore not thought it necessary to adjust any of the transactions for conditions of sale or financing. We have analyzed the characteristics of the comparable sales and compared them to the subject property. Because of the recent sale dates of the comparable properties, no adjustments for market conditions are warranted.

Property Characteristics

General Location

The subject property is located along the north side of Destin Harbor in Destin, Okaloosa County, Florida. Comparable Sale 1 is located along Front Beach Road in Panama City Beach. The overall Panama City Beach market area and neighborhood characteristics are considered to be inferior to the subject property; therefore, an upward adjustment is warranted. Comparable Sale 2 is located along Front Beach Road in an area known as Sunnyside within Panama City Beach. The overall Sunnyside market area and neighborhood characteristics are considered to be inferior to the subject property; therefore, an upward adjustment is warranted. Comparable Sale 3 is located east of the subject property, within Destin, and is considered to have a similar location as the subject property; therefore, no adjustment is warranted.

Waterfront View

The subject property is located along the northern side of the Destin Harbor with waterfront views. Comparable Sale 1 is located along the Gulf of Mexico and has similar waterfront views as the subject property; therefore, no adjustment is warranted. Comparable Sales 2 and 3 are located within interior lots and are considered to be inferior to the subject property; therefore, upward adjustments are warranted.

A chart summarizing these adjustments follows.

COMPARABLE SALES ADJUSTMENT GRID				
	SUBJECT	SALE 1	SALE 2	SALE 3
Date of Sale		Feb-16	Feb-16	Feb-15
Location	210 Harbor Boulevard	15505 Front Beach Road	23006 Front Beach Road	14060 Emerald Coast Pkwy
SALE PRICE		\$6,464,500	\$550,000	\$3,000,000
ROOMS		182	25	112
PRICE/ROOM		\$35,519	\$22,000	\$26,786
LOCATION Adjustment	Destin	Inferior 5%	Inferior 25%	Similar 0%
WATERFRONT Adjustment	Yes	Yes 0%	No 35%	No 35%
Total Adjustment		5%	60%	35%
Amount of Adjustments		\$1,776	\$13,200	\$9,375
UNIT VALUES		\$37,295	\$35,200	\$36,161

CONCLUSION OF VALUE - HOTEL

The subject property was studied and analyzed with all of the available data believed to influence its market value. We have utilized the price per room to indicate the value of the subject site. The three land sales have been analyzed and compared to the subject property.

Consideration was given to the sales for general location and waterfront/view. The adjusted unit values range between \$35,200 and \$37,295 per room, with a mean of \$36,219 per room.

Scenario 1

Given the comparable sales analyzed herein, along with the unique characteristics and desirable location of the subject property, along with the compatible and full use of the site, we conclude a unit value for the subject property, under Scenario 1, to be \$37,000 per unit.

Scenario 2

Given the comparable sales analyzed herein, along with the location of the subject property, but considering the limited use of the property as a hotel only, we conclude a unit value for the subject property, under Scenario 2, to be \$30,000 per unit.

Scenario 3

Given the comparable sales analyzed herein, along with the characteristics and location of the subject property, but considering the limited use of the property with only 74 dwelling units and 75 hotel rooms, we conclude a unit value for the subject property, under Scenario, to be \$35,000 per unit.

VALUE CONCLUSIONS

SCENARIO 1 – MAY 10, 2018

SCENARIO 1

112 Short Term Units	x	\$ 50,000 /Unit	=	\$ 5,600,000
62 Long Term Units	x	\$ 50,000 /Unit	=	\$ 3,100,000
300 Hotel Rooms	x	\$ 37,000 /Unit	=	\$ 11,100,000
TOTAL				\$ 19,800,000

SCENARIO 2 – MAY 10, 2018

Under Scenario 2, the property was able to be developed with 120 dwelling units or 350 hotel rooms. The value conclusion under the potential for development with dwelling units equates to \$5,400,000. The value conclusion under the potential for development with hotel rooms equates to \$10,500,000. Therefore, the highest and best use is for development with 350 hotel rooms under Scenario 2.

SCENARIO 2

350 Hotel Rooms	x	\$ 30,000 /Unit	=	\$ 10,500,000
-----------------	---	-----------------	---	----------------------

SCENARIO 3 – MAY 11, 2018

SCENARIO 3

74 Dwelling Units	x	\$ 40,000 /Unit	=	\$ 2,960,000
75 Hotel Rooms	x	\$ 30,000 /Unit	=	\$ 2,250,000
TOTAL				\$ 5,210,000

MEASURE OF TOTAL LOSS IN MARKET VALUE

SCENARIO 1	\$ 19,800,000
SCENARIO 3	\$ 5,210,000
LOSS IN VALUE	\$ 14,590,000

OR

SCENARIO 2 - HOTEL	\$ 10,500,000
SCENARIO 3	\$ 5,210,000
LOSS IN VALUE	\$ 5,290,000

REASONABLE EXPOSURE TIME

According to Statement on Appraisal Standards No. 6 of the Uniform Standards of Professional Appraisal Practice of The Appraisal Foundation, exposure time is defined as:

The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective opinion based on an analysis of past events assuming a competitive open market.

Thus, a reasonable exposure time is not synonymous with a marketing time estimate, as it is assumed to have occurred prior to the date of valuation. Inherent in the market value estimate is not that it will sell within the estimated marketing time, but that it would have sold assuming prudent marketing within some reasonable exposure time prior to the valuation date. In this instance, we have concluded that the reasonable exposure time occurring prior to the date of valuation that would have resulted in a contract of sale at the market value estimate would have been approximately 12-24 months.

ADDENDA

PROFESSIONAL QUALIFICATIONS: MATTHEW P. RAY, MAI

PROFESSIONAL DESIGNATIONS

MAI – Member, Appraisal Institute

Florida State Certified General Real Estate Appraiser – License No. RZ 2663

Georgia Certified General Real Estate Appraiser – License No. 328454

Virginia State Certified General Appraiser – License No. 016557

Member of NAIOP

EDUCATION

Florida State University

Bachelor of Science, Real Estate, 1999

PROFESSIONAL EXPERIENCE

Focuses primarily on appraisal, consulting, development and property management of commercial real estate in Florida, Georgia, and Virginia. Appraisal experience includes valuation for eminent domain, Bert Harris Act claims and civil litigation, as well as estate planning, tax appeals and mortgage collateral for financial institutions. Has been qualified as an expert witness in the Circuit Court of Duval and U.S. Bankruptcy Court, Middle District of Florida. Testimony experience includes civil litigation, environmental contamination, eminent domain, bankruptcy and ad valorem tax protest.

APPRAISAL EXPERIENCE

- | | |
|--------------------------------------|--------------------------------------|
| • Vacant Commercial | • Office/Warehouse |
| • Vacant Residential | • Distribution/Warehouse |
| • Vacant Industrial | • Office/Warehouse Condominium |
| • Vacant Agricultural | • Bank |
| • Vacant Multi-Family | • Auto/Service Station |
| • Vacant Subdivision | • Subdivision |
| • Street-Side Commercial/Retail | • Equestrian Community |
| • Free-Standing Commercial/Retail | • Automotive Dealership |
| • Free-Standing Industrial/Warehouse | • Surface Parking Lot/Parking Garage |
| • Free-Standing Office | • Medical Office |
| • Free-Standing Restaurant | • Special Purpose Properties |
| • Gasoline Station/Convenience | • Aggregate Mine/Reclaimed Land |
| • Hotel/Motel | • Phosphate Mine/Reclaimed Land |
| • Multi-Family/Apartment | • Permanent and Temporary Easements |
| • Funeral Home | • Property Tax Assessment |
| • Marina | • Corridor Valuation |
| • Restaurant | • Development Rights |
| • High-Rise Office | • Partial Interests |
| • Land Suitable for Development | • Conservation Easements |

APPRAISAL INSTITUTE COURSEWORK

Course – Valuation of Conservation Easements

Course – Advanced Applications

Course – Report Writing and Valuation Analysis

Course – Advanced Sales Comparison and Cost Approach

Course – Highest and Best Use and Market Analysis

Course – Advanced Income Capitalization Approach

Course – Business Practices and Ethics

Course – Basic Income Capitalization Approach

Course – National Uniform Standards of Professional Appraisal Practice

PROFESSIONAL QUALIFICATIONS: RIKKE L. MIHOS

PROFESSIONAL CERTIFICATIONS

Florida State-Certified General Real Estate Appraiser - License No. RZ4011

EDUCATION

University of North Florida
Bachelor of Business Administration, Business Management, 2014

PROFESSIONAL EXPERIENCE

Assisted in the appraisal of commercial properties throughout Florida, Georgia, North Carolina, and Virginia. Appraisal experience includes valuation for eminent domain, estate planning, and mortgage collateral for financial institutions.

APPRAISAL EXPERIENCE

- | | |
|---------------------------------------|--------------------------------------|
| • Vacant Commercial | • Multifamily Residential/Apartments |
| • Vacant Residential | • Hotel/Motel |
| • Vacant Industrial | • Bank |
| • Vacant Agricultural | • Self-Storage Facilities |
| • Vacant Multi-Family | • Medical Office |
| • Vacant Subdivision | • Mixed-Use Properties |
| • Street-Side Commercial/Retail | • Equestrian Community |
| • Free-Standing Commercial/Retail | • Proposed Construction |
| • Free-Standing Industrial/Warehouse | • Funeral Home |
| • Free-Standing Office | • Subdivision |
| • Restaurant | • Religious Facility |
| • Multi-Tenant Shopping Centers | • Special Purpose Properties |
| • Gasoline Station/Convenience Stores | • Conservation Easements |
| • Auto/Service Station | • Permanent and Temporary Easements |
| • Waterfront Industrial/Port Property | • Land Suitable for Development |
| • Office/Warehouse | • Marina |
| • Office/Warehouse Condominium | • High-Rise Office |
| • Distribution/Warehouse | • Partial Interests |

APPRAISAL COURSES COMPLETED

- National Uniform Standards of Professional Appraisal Practice
- Florida Appraisal Laws & Regulations
- General Appraiser Market Analysis & Highest and Best Use Analysis
- Residential Appraiser Market Analysis & Highest and Best Use Analysis
- General Appraiser Sales Comparison Approach
- General Appraiser Income Approach
- Statistics, Modeling and Finance
- General Appraiser Site Valuation & Cost Approach
- General Report Writing & Case Studies
- Residential Report Writing & Case Studies
- Managing Appraiser Liability
- Appraisal of Industrial Incubators
- Appraisal of Owner-Occupied Commercial Properties
- Basic Appraisal Principles & Procedures

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Public Hearing

TO: City Council

THRU: Kimberly Kopp, Land Use Attorney
Lance Johnson, Interim City Manager

FROM: Steve Schmidt, Deputy City Manager

DATE: November 27, 2018

SUBJECT: SRG Properties, Inc. Simple Deviation to Restaurant Row Redevelopment (SP #9864)

I. BACKGROUND: The applicant is requesting clarifying language in a recorded parking agreement with the City to authorize the applicant to prohibit overnight parking and signage for same, and to authorize towing for enforcement.

Development Order #99-25-A provides for certain "City Council Conditions", including but not limited to the following:

"Applicant must provide a parking agreement, approved by the City Attorney, which stipulates that; (1) the parking area to the north and west of Gratz's will not be gated and (2) no "non-patron" towing policy will be imposed by the owner on that same lot, without prior City Council approval."

This item was before Council and was previously continued to the December 17, 2018 regular meeting.

II. DISCUSSION: The parking lot owned by the applicant, located north of the Back Porch restaurant, just east and contiguous to the Sterling Shores Condominium, and just west of the Restaurant Row right-of-way is constrained by City-imposed restrictions against installing "No Overnight Parking" signs and towing, in part because at least a portion of the lot is required to allow public parking. The owners are now dealing with as much as week-long parking of boats, trailers and vehicles utilizing the parking area as a long-term parking lot, perhaps while those parkers stay in a short-term rental location without adequate parking.

The applicant has submitted a proposed "Amended and Restated parking

Agreement" (included as "Attachment "1") which proposes to allow the owner to prohibit overnight parking, post signage to that effect, and to allow towing of vehicles parked in violation of the posted signage to be towed "in accordance with the requirements of Section 715.07 FS."

- A. **Link to Strategic Goals / Objectives:** 3.A.1 ...explore city parking regulations and requirements...
- B. **Effect on Budget (EOB):** None.
- C. **Level of Service (LOS):** No change.

III. CONCLUSION: Long-term overnight parking of boats, trailers and vehicles by non-patrons is frustrating to the owners and tenants of the businesses utilizing the parking lot for their customers. It also does not serve the purposes for which the city originally imposed the restriction which prohibits a "'non-patron' towing policy," arguably for the use of visitors to the various public beach accesses in the area. Those visitors are not the ones typically utilizing the Restaurant Row Partners' lot for overnight parking.

IV. RECOMMENDED MOTION: "I move that Council accept the proposed changes contained in the Amended and Restated Parking Agreement with Restaurant Row Redevelopment, and authorize the Mayor to execute the amended agreement of behalf of the City."

Attachments:

1. Cover Letter
2. Application - signed
3. Amended and Restated Parking Agreement 9-18 - redline
4. Development Order #99-25-A
5. Rest Row Plat
6. Original Deed and Changes of Ownership Names



Steven K. Hall
Davage J. Runnels, III

4399 Commons Dr E Ste 300
Destin, FL 32541
www.hrlaw-destin.com
Ph: (850) 337-4600
Fx: (850) 337-4747

September 24, 2018

City of Destin
Planning Division
4100 Indian Bayou Trail
Destin, FL 32541

RE: Simple Deviation to Restaurant Row Redevelopment DO (SP#98-64)

Dear Sirs,

Enclosed please find the following documents in relation to SRG Properties, Inc. Application:

1. Simple Deviation Application;
2. Amended and Restated Parking Agreement;
3. Original Development Order (99-25-A);
4. Restaurant Row Plat; and
5. Original Deed and Changes of Ownership Names.

Also enclosed is a check for \$1,000.00 for the Application Fee.

If you have any questions, please don't hesitate to contact our office.

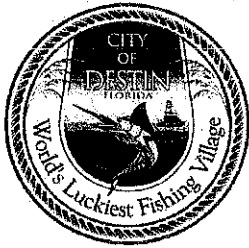
Thank you for your consideration of this application.

Very kind regards,



Steven K. Hall
For the Firm

Encls



City of Destin

Community Development Department

Planning Division

City of Destin Annex

4100 Indian Bayou Trail

Destin, Florida 32541

Phone (850) 837-4242 • Fax (850) 460-2171

email to: planning@cityofdestin.com

SIMPLE DEVIATION APPLICATION

To a Previously Approved Development

_____ - _____ - SP
(project number assigned by planning staff)

Name & Project Number of the Previously Approved Development to which this deviation will apply:
Restaurant Row Redevelopment (SP#98-64)

I. APPLICANT INFORMATION:

A. Owner(s): **SRG Properties, Inc.**

Mailing Address: **P.O. Box 99, Destin, FL 32541**

Business Phone: **850-837-1637**

Cell: _____

Email: **jcomer@srgcorp.net**

B. Authorized Agent (if applicable): **Steve Hall, Hall & Runnels, PA**

Mailing Address: **4399 Commons Drive E. #300, Destin, FL 32541**

Business Phone: **850-337-4600**

Cell: _____

Email: **steve@hrlaw-destin.com**

C. Engineer: _____

Mailing Address: _____

Business Phone: _____ Cell: _____

Email: _____

II. PROPERTY INFORMATION:

Street Address: **1771 Scenic Hwy 98, Destin, FL 32541**

Parcel ID (s): **00-2S-22-2860-0000-00E0**

Lot: E Block: Plat Book: 19 Page Number: 21

Subdivision: **Restaurant Row Commercial S/D**

III. PROJECT INFORMATION:

Zoning District(s) of the Property:

BT

Future Land Use Map Designation(s) of the Property:

MU

Description of Proposed Deviation:

Owner is proposing to clarify language of conditions in a recorded parking agreement with the City related to the conditions of the original development order for the operation of its parking lot within the boundaries of the PUD.

IV. SUBMITTAL REQUIREMENTS

☐ A. Completed application - The applicant must fill out all applicable areas of the application and submit to the Community Development Department Planning Division at the City of Destin Annex, 4100 Indian Bayou Trail, Destin.

☐ B. Application Fee: \$1,000.00 – Simple Deviation

Application fee includes First Submittal Reviews only. Subsequent Submittal Reviews and all mailing costs will be invoiced to the Applicant; invoices must be paid prior to submittal of additional Submittal Review Packages.

Accepted Payments are Cash, Check, Debit, Discover, MasterCard or Visa. Checks shall be made payable to the City of Destin and submitted to the Planning Division, City Hall Annex, 4100 Indian Bayou Trail, Destin, Florida 32541

☐ C. Proof of Ownership - A copy of the last recorded deed of the property. Owner on deed must correspond to "Current Owner" identified on page 1.

☐ D. Agent Affidavit - Applicable only if the applicant is other than the property owner

☐ E. Required Drawings - to include, but not limited to the following:

- ☐ 1) Cover Sheet
- ☐ 2) Boundary Survey (no older than 1 year)
- ☐ 3) Site Plan
- ☐ 4) Drainage Plan
- ☐ 5) Utility Plan
- ☐ 6) Landscape Plan
- ☐ 7) Any other documentation relevant to project review

V. SUBMITTAL PACKAGE QUANTITIES:

☐ A. **THREE (3) COMPLETE** paper packages, including **ALL** items in section IV. above.

☐ B. **ONE (1) COMPLETE** electronic package of PDF files on a portable storage device.

(CD, DVD, USB Flash Drive or Dropbox link)

NOTE: This application must be filled out completely and must be signed by the owner or his designated agent. If the applicant is different than the owner of the subject property, then an agent affidavit is required from the owner of the property. The agent affidavit must be completely filled out and submitted with this application. If the property has multiple owners, then all owners or their designated agents must sign this application.

I HAVE READ THE INFORMATION IN THIS APPLICATION AND HAVE FILLED IN ALL ANSWERS CORRECTLY TO THE BEST OF MY ABILITY.

APPLICANT:

SIGNATURE:

John W. L.

DATE: 7/21/18

PRINTED NAME:

John Comer

**AGENT AFFIDAVIT
SPECIAL POWER OF ATTORNEY**

KNOWN ALL MEN BY THESE PRESENTS, THAT I, _____

am presently the owner and/or leaseholder at _____

and desiring to execute a Special Power of Attorney, have made, constituted and appointed, and by these presents

do make, constitute and appoint _____

whose address is _____, County of _____, State of _____,

my Attorney-in-Fact to act as follows, GIVING AND GRANTING unto said attorney full power to act as my

agent in any and all matters pertaining to: _____.

FURTHER, I do authorize the aforesaid Attorney-in-Fact to perform all necessary acts in the execution of the aforesaid authorization with the same validity as I could effect if personally present. Any act or thing lawfully done hereunder by the said attorney shall be binding on myself and my heirs, legal and personal representative, and assigns.

PROVIDED; however, that any and all transactions conducted hereunder for me or for my account shall be transacted in my name, and that all endorsements and instruments executed by the said attorney for the purpose of carrying out the foregoing powers shall contain my name, followed by that of my said attorney and the designation "Attorney-in-Fact."

OWNER

Signature

Printed Name

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,

by _____.
(name of person acknowledging)

Signature of Notary

Printed Name of Notary or Seal

Personally known _____ OR Produced Identification _____

Type of Identification Produced _____

Amended and Restated Parking Agreement

WHEREAS, the City of Destin (~~the "City"~~) approved a final development order (~~the "DO"~~) for the Restaurant Row Redevelopment Planned Unit Development on April 26, 1999 and both the City and Restaurant Row Partnership, as Permittee, executed the corrected written development order to implement the approval by Sept. 17, 1999; and

WHEREAS, specific condition 1 of the City Council conditions of the DO required that a parking agreement be developed which restricted certain activities by the owner of a portion of the property within the PUD boundary; and

WHEREAS, the City Council approved a major amendment to the DO on June 26, 2000 which amended the submittal requirement time frame for the permittee's submission of a parking agreement containing the same limiting conditions as specified in the original DO; and

~~WHEREAS, the City and the Owner agree that it is necessary and prudent to execute and record this Agreement in order to allow for the development of the uses allowed under the DO.~~

WHEREAS, the current owner of the subject parking area, SRG Properties, Inc. ("Owner") and the City have agreed that an additional condition addressing overnight, non-automobile or derelict vehicle parking on Owner's parcel will address an unintended problem created by increasing non-patron related abuse of Owner's parking area and a related interpretation that this parcel is a "non-tow" zone.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. The above-captioned recitals are true and correct.
2. ~~Southern Restaurant Group~~ SRG Properties, Inc., a Delaware corporation (~~Owner~~), as successor owner to Restaurant Row Partnership on the subject property, hereby agrees with the City to burden condition its use of the real property described in Exhibit A attached and incorporated here (the ~~"Property"~~) in accordance with the following ~~listed restrictive~~ conditions:
 - a. For as long as the paved parking area to the north and west of ~~Gratzi restaurant~~ the existing commercial building (as shown in the reduced site plan attached and incorporated here as Exhibit B) exists, Owner agrees that the entrance driveways connecting the subject parking area directly to Restaurant Row and Scenic Highway 98 shall not be gated.
 - b. For as long as the paved parking area to the north and west of ~~Gratzi restaurant~~ the existing commercial building (as shown in the reduced site plan attached and incorporated here as Exhibit B) exists, Owner agrees

that no general "non-patron" towing policy will be imposed on the subject parking area.

c. The Owner is authorized to prohibit overnight parking by anyone on the Property, may post signage to that effect on the Property and utilize commercial towing services to remove vehicles parked in violation of the prohibition in accordance with the requirements of Section 715.07, Florida Statutes.

d. If the City elects to implement any form of paid parking system which requires user payment for any parking spaces in the right of way of Restaurant Row and/or Scenic Hwy 98 within 1000 feet of the PUD boundary, the Owner may elect to terminate this agreement and the City agrees to execute and record any documents necessary to effect the termination.

3. This agreement shall be recorded in the Public Records of Okaloosa County, Florida and shall be binding on and run with the land as a restrictive covenant in perpetuity, binding all subsequent owners and/or holders of any interest in said property.

~~4. The City does hereby agree that all local development permits which need to be approved for the development of the Property shall be issued by the City in conformity with the requirements set forth in this Agreement.~~

5.4. The term of this Agreement shall be perpetual, subject to the conditions provided here and that- it may be amended by mutual consent of the City and Owner, or its successors.

6.5. Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

7.6. Any notices or reports required by this ~~Development~~ Agreement shall be sent to the following:

As to City:	City of Destin Community Development Department Destin City Hall Two Trees Road Destin, FL 32541
As to Owner:	Hall & Runnels, PA 36468 Emerald Coast Parkway <u>4399 Commons Drive East</u> Suite 2101 <u>300</u> Destin, FL 32541

8.7. This ~~Development~~ Amended and Restated Parking Agreement was approved by the City Attorney for the City of Destin on ~~July 26, 2000~~ _____, 2018.

SIGNATURES ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Agreement as of the date set forth below.

WITNESSES:

SRG PROPERTIES, INC.
A Delaware Corporation

witness #1 signature

print witness #1 name

witness #2 signature

print witness #2 name

By: _____

Its: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of June, 2018,
by _____ as _____ of SRG Properties, Inc., a
_____ corporation, on behalf of the corporation, who: (Notary must check
applicable box)

- ☐ is personally known to me.
☐ produced a current _____ (state) driver's license as identification.
☐ produced _____ as identification.

Notary Public

print Notary Name

My Commission Expires: _____

(notary seal)

IN WITNESS WHEREOF, the parties hereto, through their duly authorized Representatives, have executed this Agreement as of the date set forth below.

WITNESSES:

CITY OF DESTIN,
A Florida municipal corporation

witness #1 signature

By: _____

print witness #1 name

Its Mayor

witness #2 signature

ATTEST:

print witness #2 name

By: City Clerk

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of June, 2018,
by _____ as Mayor of the City of Destin, a Florida municipal corporation, on
behalf of the corporation, who: (Notary must check applicable box)

- ☐ is personally known to me.
☐ produced a current _____ (state) driver's license as identification.
☐ produced _____ as identification.

Notary Public

print Notary Name
My Commission Expires: _____

(notary seal)



4200 Two Trees Road, Destin, Florida 32541 (850) 837-4242 FAX (850) 837-3267

September 17, 1999

ORDER #99-25-A

(CORRECTED) Final Development Order:

**"RESTAURANT ROW REDEVELOPMENT-
A MIXED USE PLANNED UNIT DEVELOPMENT":
A MAJOR DEVELOPMENT
(SP #98-64)**

Based upon the City Council's approval of this Development Order, on April 26, 1999, this document will serve as the Final Development Order, to include all of the provisions of the attached Technical Review Committee Report and with the following conditions as specified by the City Council:

BACKGROUND / ISSUE:

Applicant: Hall & Runnels, as agent
Owner: Sterling Shores Partnership and Restaurant Row Partnership - Owners.
Property Location: Southwest corner of Restaurant Row and Emerald Coast Parkway south to the Mean High Water line of the Gulf of Mexico.
Request: Approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch and Gratzl restaurants, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.
Parcel Size: 15.28 acres, more or less (not including ROW easement areas along Old Highway 98, Emerald Coast Parkway and Restaurant Row).
Future Land Use: MU (Mixed Use)
Zoning District: BT (Business Tourism)

Density: Allowed: 30 lodging units per acre
 Project: 15.28 acres x 30 = 458 lodging units
 Phase I-385 lodging units; Phase II- 10 lodging units
 Total site proposes 395 lodging units, which is 63 lodging units less than maximum allowed.

Intensity: FAR for commercial lots will be less than 1.07

Timing on Phasing: Phase I - Begin as soon as possible after regulatory approval. Construction is proposed to be completed in 18 months after initiation.
 Phase II - Begin within 6 months of completion of Phase I. Construction is proposed to be completed in 12 months after initiation.

Total Completion: The applicant has stated that all development and redevelopment activity will be completed within five years.

Application Date: December 6, 1998

TRC Date: December 22, 1998

Approved Site Plan Date: February 16, 1999 (with comments), and April 20, 1999 (per comments)

Planning Commission Date: February 18, 1999

City Council Date: March 8, 1999, April 12, 1999, and April 26, 1999

DETERMINATIONS:

1. On February 18, 1999, the Planning Commission recommended the City Council to approve the proposed project as presented by staff. The motion passed by a 3-2 vote. Mr. Link and Ms. Drown voted against the motion; and Mr. Clauson and Mr. Breithaupt were not present.
2. A hearing was held by the Destin City Council on April 26, 1999, whom approved the development with conditions; and
3. All the findings of the Technical Review Committee (TRC) report dated February 16, 1999, as amended on April 23, 1999, are incorporated herein.
4. This corrected D.O. only changed a typographical error within the TRC section of this Development Order and added a condition prior to issuance of a building permit, based on the typographical error. No other changes or amendments are made or approved by this "corrected final development order"

CONDITIONS OF APPROVAL FOR "RESTAURANT ROW REDEVELOPMENT- A MIXED USE PLANNED UNIT DEVELOPMENT": A MAJOR DEVELOPMENT (SP #98-64) :

Pursuant to the City of Destin Land Development Regulations, the City of Destin Code of Ordinances, and the City Council:

1. Construction must commence within twelve (12) months of approval of the Final Development Order on May 24, 1999 (no later than May 24, 2004) and must be completed as shown on plans approved with conditions by the City Council (stamp dated 4-26-99).

WARNING: If the applicant/owner has not obtained a construction permit(s) within 365 days of issuance of the final development order, the final development order is void and the application for plan approval must be re-initiated.

2. If "Restaurant Row Redevelopment – Mixed Use PUD" fully complies with the requirements of Condition Number 1 above, the concurrency status "Restaurant Row Redevelopment – Mixed Use PUD" is protected (for five years) through May 24, 2004. **The protected concurrency status, however, will be lost if:**
 - A. **Construction activity ceases for a period exceeding one (1) year at any time during the term of this Final Development Order; or**
 - B. **Construction permit(s) are not obtained in accordance with Section 2.09.00 of the Land Development Code to maintain concurrency.**
3. "Restaurant Row Redevelopment – Mixed Use PUD" must obtain City of Destin permits for the following activities on and off site (These may require appropriate bonding):
 - a. disturbance to the city's rights of way.
 - b. pavement cuts.
 - c. construction of any kind.
 - d. clearing and grubbing.
 - e. paving, grading, drainage, sidewalks.
 - f. signage.
 - g. installation of utilities.
 - h. construction trailers.
4. **City Council conditional approval for Phase II, is for square footage, use, concurrency, and general location only. A formal Major Development site plan review will be required prior to permits being issued for any development or construction within this phase.**
5. **Before the issuance of a building permit, a clearing plan must be presented to, and approved by the Community Development Director prior to issuance of a clearing permit. This must include the names and addresses of the surrounding property owners within 300' of the project.**
6. **Before the issuance of a building permit, a copy of the FDEP permit must be submitted to the City Engineer for acceptance.**
7. **Before the issuance of a building permit, the plat must be recorded and copies provided to the City.**
8. **Before the issuance of a building permit, an FAA "No Hazard Determination" is required for the residential condominium component of the PUD.**
9. **Before the issuance of a certificate of occupancy, the existing billboard shall be removed.**

10. Before the issuance of a certificate of occupancy for the 160 unit condominium, the streetscape improvements shall be provided from Emerald Coast Parkway to Restaurant Row along both sides of Scenic Hwy 98.
11. Before the issuance of a certificate of occupancy for the 160 unit condominium and before construction of the roadway improvements, a cross-section of the speed humps shall be submitted to the City Engineer for approval.
12. Before the issuance of a certificate of occupancy, the applicant's landscaper shall coordinate with the City Engineer for location of exfiltration to ensure plant types and root systems will not damage exfiltration.
13. As a condition by the City Engineer, Phase 1-B stormwater retention appears low; revisit calculations.
14. As a condition by the City Engineer, all re-review fees must be received prior to building permit issuance.
15. Before the issuance of a certificate of occupancy, the landscape material shall be inspected by the Community Development Department to ensure compliance with the Development Order.
16. Before the issuance of a certificate of occupancy, any damages to the existing and/or required five (5) foot sidewalk, adjacent to the right-of-way lines of Emerald Coast Parkway, Restaurant Row, or Scenic Hwy 98 must be "bonded, replaced, or installed".
17. Requirements identified by the Technical Review Committee:

**TECHNICAL REVIEW COMMITTEE REPORT
COMMUNITY DEVELOPMENT DEPARTMENT**

**RESTAURANT ROW REDEVELOPMENT
A MIXED USE PLANNED UNIT DEVELOPMENT
A MAJOR DEVELOPMENT**

December 22, 1998, Amended February 16, 1999 and April 23, 1999

ISSUE

Applicant: Hall & Runnels, as agent
Owner: Sterling Shores Partnership and Restaurant Row Partnership - Owners.
Property Location: Southwest corner of Restaurant Row and Emerald Coast Parkway south to the Mean High Water line of the Gulf of Mexico.
Request: Approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-

development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch and Gratzl restaurants, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.

Parcel Size: 15.28 acres, more or less (not including ROW easement areas along Old Highway 98, Emerald Coast Parkway and Restaurant Row).

Future Land Use: MU (Mixed Use)

Zoning District: BT (Business Tourism)

Density: Allowed: 30 lodging units per acre
 Project: 15.28 acres x 30 = 458 lodging units
 Phase I-385 lodging units; Phase II- 10 lodging units
 Total site proposes 395 lodging units, which is 63 lodging units less than maximum allowed.

Intensity: FAR for commercial lots will be less than 1.07

Timing on Phasing: Phase I - Begin as soon as possible after regulatory approval. Construction is proposed to be completed in 18 months of initiation.
 Phase II - Begin within 6 months of completion of Phase I. Construction is proposed to be completed in 12 months of initiation.

Total Completion: The applicant has stated that all development and redevelopment activity will be completed within five years.

Application Date: December 6, 1998

TRC Date: December 22, 1998

Approved Site Plan Date: February 16, 1999 (with comments), and April 20, 1999 (per comments)

Planning Commission Date: February 18, 1999

City Council Date: March 8, 1999, April 12, 1999, and April 26, 1999

DISCUSSION:

Hall & Rummels, as agent for Sterling Shores Partnership and Restaurant Row Partnership, owner, submitted an application requesting approval of a Major Development identified as "Restaurant Row Redevelopment, Mixed Use Planned Unit Development". The Planned Unit Development consists of redeveloping approximately 15.28 acres, which includes 33,500 s.f. of existing commercial development. The re-development consists of: 1) Demolition of approximately 12,000 square foot of existing retail uses and 7,500 square foot of existing restaurant use, along with related pervious and impervious parking areas; 2) Development of Phase I consisting of 160 condominium units (containing 385 lodging units) in one (1) eleven (11) story building. Phase I also includes the beach club accessory building and pool, the consolidation of parking areas currently used by Back Porch

and Gratz restaurant, and development of a unified streetscape and pedestrian/bicycle access network along Old Highway 98; 3) Phase II consists of one (1) three (3) story mixed use condominium building, which will include 10 residential units and 15,000 square feet of retail and office uses in "live over work" format with the retail/office uses occupying the first two stories and residential units on the third story.

The project is classified as a Major Development per the Land Development Code, Article 2, Sections 2.05.01. A.1,2,3,6,8,9,10,&11.

Staff has determined that the proposed request is compatible with the surrounding area (see the compatibility analysis below). The proposed site will also reduce the total trips generated by four (4) PM Peak Hour trips from current permitted traffic impact to Segments "B" and "C" of Highway 98 (from the existing development). The report has been reviewed and approved for traffic concurrency purposes by the City's traffic consultant on January 21, 1998.

The proposed request is consistent with the Comprehensive Plan, Land Development Code, including Compatibility Review (Comprehensive Plan and Land Development Code), Concurrency Management review, and Level of Service review.

ZONING/COMPREHENSIVE PLAN

The property within the PUD boundaries is designated as MU (Mixed Use) on the City of Destin Future Land Use Map and BT (Business Tourism) on the City of Destin Zoning Map. As a Mixed Use PUD, the proposed use is expressly authorized under the Land Development Code.

The approval of a Mixed Use Planned Unit Development will promote compact urban development and not encourage urban sprawl. The proposed project complies with the City's Land Use Requirements and Comprehensive Plan.

COMPATIBILITY

The uses surrounding this project are the following:

North:	BT and BG Zoning, Existing Commercial Land Uses including; Landry's Seafood Restaurant, Shark Tooth Grill
South:	Gulf of Mexico
East:	BT Zoning and MU Land Use. Existing Residential/Resort Land Uses: Silver Shells Resort, Public Beach Access, Public Parking Areas, Multi-family gulf front development (Oceanside Townhomes, Halls Duplex)
West:	BT Zoning, MU Land Use. Hampton Inn Motel, Destin Gulfgate Condominium.

Compatibility means the way individual uses and activities fit together. Compatibility, in other words, means harmony of the pieces. The Destin Comprehensive Plan and Land Development Code use the same compatibility definition as found in the Florida Administrative Code's Rule 9J-5.

The purpose and intent of the City's compatibility review is to: 1) preserve the character of stable mostly homogeneous residential neighborhoods which will require the maximum application of compatibility controls; and 2) avoid compatibility conflicts within other developed and developing areas of the City. (City of Destin Comprehensive Plan, Policy 7.A.4.6.p.)

Areas which are substantially built-out may absorb a wider variety of land use types, densities, or intensities. In addition, areas which exhibit a greater heterogeneity may absorb a greater mix of uses without compatibility conflicts. Height alone does not determine whether a project is compatible – how a project fits or transitions between the pieces to create a whole is also a key factor.

Staff has not only reviewed the compatibility analysis presented by the applicant, but has also reviewed the analyses prepared by the City's compatibility expert for the "Silver Shells" project. In both instances, acceptable "planning practices and principles" were used to determine compatibility. Both analyses characterize the area as one of variation – a mix of townhouses, shops, restaurants, motels, and medium to high-rise development. Both also note that the area consists of building lots of irregular shapes and sizes, all containing a mix of uses. This variation characterizes an unstable area – a heterogeneous pattern.

It is clear that the area contains a variation of uses and has remained unstable. A result of instability is the opportunity for land assembly. The applicant has assembled several parcels and, through demolition and redevelopment, will provide a consolidated development project.

It is staff's opinion, that the project's compatibility, as presented in this document, the previous compatibility report presented as part of the City's Silver Shells staff analysis, and the applicant's compatibility analysis, allows us to conclude that the project is compatible.

DENSITY

The residential component of this PUD is a condominium that requires its classification as a "lodging" use under the provisions of Policy 7.A.4.6 of the Future Land Use Element, of the City of Destin Comprehensive Plan. Specifically, Subsection (h) defines lodging use and specifies up to a maximum of 30 lodging units per acre in the MU category.

The allowable gross acreage within the PUD boundary, for purposes of determining maximum density, is 15.28 acres. Accordingly, the maximum number of lodging units allowable within the PUD boundary is $15.28 \times 30 = 458$ lodging units.

Phase I - 385 lodging units; Phase II - 10 lodging units, which is 63 lodging units less than maximum allowed.

The proposed master plan for the redevelopment project includes a total of 395 lodging units. Therefore, the proposed density is $395/458$ or 86% of allowable maximum residential density for the site.

FLOOR AREA RATIO (FAR)

Maximum Base FAR allowed is 1.07. The proposed FAR for the entire PUD area is 0.60.

Calculations: 15.28 acres x 43,560 SF = 665,596 total SF for project area.

Gross SF for Condominium = 362,781 SF

Gross SF for Commercial = 39,202 SF

Total developed SF = 401,983 SF

$401,983 / 665,596 = 0.603 \text{ FAR}$

Accordingly, the proposed FAR is .60/1.07 or 56% of maximum allowable FAR for the project site.

USE MIX/RATIO

This PUD will integrate three (3) types of land uses: residential, retail, and restaurant. The Comprehensive Plan and Land Development Code suggest that the mix of uses within the PUD should be in the range of 70% residential and 30% commercial. The following use mix is established for the overall project:

- The base number for the determination of the use ratio is the number of buildable acres within the PUD (690,090 s.f.) minus the 18% required for open space landscape (119,807 s.f.) = 545,789 s.f.
- The commercial component of the ratio has a total commercial area of 215,622 s.f. - 18%(38,812 s.f.) = 176,810 s.f. Therefore, 176,810 divided by 545,789 = 32.4%
- The residential component of the ratio has a total residential area of 449,975 s.f. - 18%(80,995 s.f.) = 368,980 s.f. Therefore, 368,980 divided by 545,789 = 67.6%
- The overall use mix ratio is 32.4% commercial and 67.6% residential.

HEIGHT

The BT Zoning District has no specified height limitation.

1. **Residential Condominium Building** - Building height details for this building are covered in the Airport Protection Section of this narrative.
2. **Beach Club Amenity** - This new structure will be elevated with a base floor elevation at 12 feet and a maximum root top height of 25 feet AGL.
3. **Back Porch** - The existing building elevation will not be changed in redevelopment plan.
4. **Gratzi** - The existing building elevation will not be changed in redevelopment plan.
5. **Phase II: Mixed Use Building** - This new structure will be three (3) stories with a maximum height of 50 feet AGL.

RIGHT-OF-WAY DEDICATION

No new rights-of-way are proposed for this project. However, the project does propose to improve existing shell and sand right-of-way along Scenic Highway 98 for public parking space, sidewalk/bike paths and streetscaping as designated on the PUD Master Site Plan. Although the applicant proposed to upgrade the streetscape adjacent to the project boundaries, staff recommends that the streetscape be extended, by the applicant, to cover from Emerald Coast Parkway to Restaurant Row (both sides of Scenic Hwy 98).

CONCURRENCY MANAGEMENT

Concurrency requirements met:

Potable Water	<u> X </u>	Roadways	<u> X </u>	Solid Waste	<u> X </u>
Recreation	<u> X </u>	Sewer	<u> X </u>	Drainage	<u> X </u>

TRAFFIC ANALYSIS

The PUD boundary encloses several existing permitted commercial uses. Some will be discontinued and some will become part of the PUD approval. The PUD will utilize only existing approved and vested traffic capacity for uses already located within the PUD boundary to serve the redeveloped use mix.

The existing vested traffic impact of the permitted uses within the PUD boundary is indicated on Tables 1 and 2 of the traffic impact analysis prepared by Hall Planning and Engineering. The total amount of traffic impact to the same roadway segments, by the project after redevelopment, is shown on Tables 3 and 4 of the same report.

The traffic analysis, dated December 4, 1998, was reviewed and approved by the City's traffic consultant. Furthermore, the City's traffic consultant determined that the redevelopment will reduce traffic by four (4) PM/PK hour trips that affect Segment "B" & "C" after capturing the trips that were previously reserved for this project. The report has been reviewed and approved for concurrency purposes by the City's traffic consultant on January 21, 1998. (see attached memorandum).

On April 21, 1999, the applicant submitted an amended traffic analysis, removing the previously included restaurant east of "Junes Dune" restaurant. The analysis was faxed to the City's traffic consultant the same day. Due to the fact that the analysis is removing a use and sq.ft. from the site, there is no negative impact, rather if any, there will be an increase on the number of trips being placed back on the Segment(s).

SUBDIVISION OR PUD - PLAT

A condominium plat will be submitted prior to the final issuance of a construction permit for the condominium components in each Phase of the PUD master plan. A commercial subdivision plat is required and part of this review for approval along with the PUD development order.

AIRPORT PROTECTION

An FAA "NO HAZARD DETERMINATION" will be required for the residential condominium component of the PUD, at the proposed height. An application has been submitted to the FAA for review.

The proposed project is located within the Airport Horizontal Zone, Conical Zone and Approach Zone as delineated in Subsections 7.15.01A(2), (3) and (4) respectively. The proposed building height is 121 above ground level and 137 feet AMSL. It is located 4092.5 linear feet from the runway end of the runway at the Destin - Fort Walton Beach Airport. The elevation at the end of that runway is 21.06 feet AMSL.

Accordingly, the following height restriction criteria are met by the project:

1. Horizontal Zone - Height limitation at project site is 150 feet AMSL + 21.06 feet elevation at airport height = 171.06 feet AMSL minus 16 feet (the difference between runway elevation and the lower elevation at the project site) = 155.06 AMSL.
2. Conical Zone - This zone includes a circular area around the airport with a uniform 177 foot height limitation. This project is within that area so the resulting height limitation is **higher than** the one for the Horizontal Zone.
3. Approach Zone - Height limitation at project site is 21.06 feet + $(4092/34 \times 1 \text{ foot elevation}) = 120.4 = 141.46$ feet AMSL. This project is within that area so the resulting height limitation is **higher than** the one for the Horizontal Zone.

Construction of the residential condo component will require the temporary use of a crane. If the crane height must exceed 200 feet above ground level at any point, applicant will obtain a temporary variance for encroachment and file a completed FAA form 7460 with the City of Destin before the crane will be permitted to operate at that height.

SETBACKS

Note: The PUD has right-of-way on three (3) of its boundaries (North, East, and South); therefore has three fronts, and one side (west).

A. PHASE I

1. RESIDENTIAL CONDOMINIUM

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: North	10'	171.58'	10' FPLA
Front: South	10'	198.75'	10' FPLA
Front: East	10'	28.66'	10' FPLA
Side: West	26'	50'	5' common boundary

2. BACK PORCH

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front	10'	17.4'	10' FPLA
Side: East	5'	11'	5' common boundary
Side: West	5'	10'	5' common boundary
Rear	100'	100'+	Gulf Buffer

3. GRATZI

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: East	10'	19.75'	10' FPLA
Front: South	10'	14'	10' FPLA
Side: West	5'	168'	5' common boundary
Side: North	5'	482'	5' common boundary

4. BEACH CLUB AMENITY

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front	10'	10'	10' FPLA
Side: East	5'	5'	5' common boundary
Side: West	5'	5'	5' common boundary
Rear	100'	100'+	Gulf Buffer

B. PHASE II**MIXED USE CONDOMINIUM BUILDING**

	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
Front: North	10	40	10' FPLA
Front: East	10	40	10' FPLA
Side: South	5	30	5' common boundary
Side: West	5	30	5' common boundary

NOTE: The 5' common boundary, 10' vegetative buffer, 10' front perimeter landscape boundary, and reforestation requirements must meet Code.

WHITE SANDS ZONE

This project lies within White Sands Zones #1 and #2 pursuant to the City of Destin White Sands Ordinance (Number 029-1). All fill material and material moved or altered must meet the White Sand Zone Ordinance.

SIGNS

The signage for the residential condominium will be located on both Emerald Coast Parkway and Old Highway 98, as shown on the Site Geometry Plan (Sheet C-3). These signs will be monument style signs as shown on Sheet L-8. The signage for each of the existing restaurants to be retained, will remain the same. The project involves the demolition and removal of one existing billboard size off-premises advertising sign, now located on the west central portion of the site.

Note: The Community Development Director is requiring the existing billboard to be removed prior to the issuance of a Certificate of Occupancy, as a condition of this Development Order approval.

WATER/SEWER

Destin Water User's Inc. approved the project in a letter dated December 22, 1998.

FIRE DEPARTMENT REVIEW

The Fire Department approved the project in a letter dated December 22, 1998.

OKALOOSA GAS

Okaloosa Gas approved the project at the December 22, 1998, TRC meeting.

UNIVERSAL COM

Universal Com approved the project at the December 22, 1998, TRC meeting.

SPRINT

Sprint approved the project at the December 22, 1998, TRC meeting.

UTILITIES

Underground utilities are required. The redevelopment of existing commercial areas will include the demolition of all existing above ground power lines and poles and replacement with unified underground utility conduit meeting Gulf Power and DWU minimum specifications.

STORMWATER

Stormwater Management and Drainage Plan for the PUD prepared by Gustin, Cothorn and Tucker indicates that all required retention, management and treatment standards required by the City and/or FDEP will be met. Copies of final FDEP stormwater management permits for the proposed development will be provided prior to issuance of a building permit for Phase I.

The City Engineer has provided comments in a memorandum dated February 3, 1999, with five (5) comments. This memo is on file with the Community Development Department. The applicant will be required to meet all conditions of the City Engineer.

INGRESS/EGRESS

The entire PUD will access Restaurant Row at only three (3) locations; and Old Highway 98 at three (3) locations. The following are narrative descriptions of each access point shown on the PUD Master Plan Site.

1. Restaurant Row North Entrance - Two-lane, 20 foot wide entrance drive, one lane inbound and one lane outbound. (Phase II)
2. Restaurant Row Main Entrance - Two-lane, divided, 45 foot wide entrance drive into condominium internal main gate and parking areas and into parking bay for restaurant parking areas. One separate lane each for inbound and outbound.
3. Restaurant Row South Entrance - Two-lane 20 foot wide entrance drive into restaurant parking areas, one lane inbound and one lane outbound.
4. Old Highway 98 East Entrance - Two-lane 20 foot wide entrance into restaurant parking areas north of 98, one lane inbound and one lane outbound.
5. Old Highway 98 West Entrance - Two-lane 20 foot wide entrance into parking areas north of 98, one lane inbound and one lane outbound.

SIDEWALKS

The PUD Master Site Plan includes an external sidewalk network on the northern and eastern perimeter of the PUD boundary, along Emerald Coast Parkway and Restaurant Row, respectively. In addition, an internal sidewalk/bike path network is provided to connect adjacent uses, as shown on the PUD Master Site Plan.

The project will provide over 1,600 feet of sidewalk and bike paths within the right-of-way of Old Highway 98 from the intersection with Emerald Coast Parkway to the intersection with Restaurant Row. The project will also provide 2,195 feet of sidewalk along the southern right-of-way of Emerald Coast Parkway from the northwest corner of the site to the western boundary of Restaurant Row.

REFUSE COLLECTION

BFI, Inc., will handle solid waste pickup and disposal for the project as the City's contract commercial and residential franchisee. Separate screened dumpster bays will be developed for each restaurant and two internal dumpsters with roll out tracks will be utilized at each end of the residential condominium building.

LANDSCAPE

The project meets and exceeds the landscaping requirements provided in Section 7.10.02 of the Code. The following is a description of the landscaped open space areas provided within the PUD boundaries as shown on the PUD Master Site Plan:

1. Condominium Parcel - 317593 total s.f. X .18 = 57,168 s.f. minimum required. 159,077 s.f. provided.
2. Gratzi - 162,557 total s.f. X .18 = 29,260 s.f. minimum. 46,998 s.f. provided.

3. **Beach Club** - 43,458 total s.f. X .18 = 7,822 s.f. minimum. **8182 s.f. landscaped and 28,068 s.f. open space in dry sand area of beach.**
4. **Back Porch** - 44,988 s.f. total X .18 = 8,097 s.f. minimum. **4,500 landscaped and 27,564 open space in dry sand area of beach.**
5. **Phase II- Mixed Use Condominium** - 97,256 s.f. total X .18= 17,506 s.f. minimum. **55,580 s.f. provided.**

The total required landscape open space for the project within the PUD boundaries is 124,215 s.f.
The total landscape open space provided in the PUD Master Site Plan is 329,969 s.f.

B. TREES REQUIRED/PROVIDED

1. **Perimeter:** One tree for each 25 feet of lot frontage.
 Emerald Coast Parkway - 1100 l.f. of frontage X.25 = 44 /49
 Restaurant Row - 1100 l.f. of frontage X.25 = 44/66
 Old Highway 98 - 750 l.f. of frontage X.25 = 30/57
 Total perimeter trees Required = 118
 Total perimeter trees provided = 172
2. **Reforestation:** One tree for each 1/10 acre of developed area within the PUD boundary.
 15.28 acres total within the PUD boundary X 10 = 153 trees
 Total reforestation trees provided = 432
3. **Parking Lots:** One tree required at the end of each parking row X 83 ends = 83
 One tree on every parking island X 19 islands = 19
 Total Parking Lot Tree Requirement = 102
 Total parking lot trees provided = 102
4. **Vegetative Landscape Buffers:** One vegetative buffer is required between the Phase II restaurant and the adjacent residential use to the east. The project will include a fence meeting the requirements of Code along with a total of 5 trees located on twenty five-foot centers from the northern boundary of the parcel south to the old CCCL boundary.
 Total Buffer Tree Requirement = 5
 Total buffer trees provided = 5
5. **Streetscape Trees:** The project includes at least 86 trees which will be planted in the public right of way of Old Highway 98 in connection with the public access parking areas and seating area which are provided by the applicant. These trees are provided in excess of what would be required if developer were not providing the additional public benefit of the street-side parking and streetscape.
 Streetscape Trees Provided = 86

6. Total Required Trees

<u>TOTAL TREES REQUIRED</u>	<u>= 373</u>	
<u>TOTAL TREES PROVIDED</u>	<u>= 792</u>	or 212% more than the required minimum

Replacement of protected trees: should any of the protected or preserve trees be removed or destroyed by any means, other than those located within the footprint of a building or within the road rights-of-ways, shall be replaced by a rate of one tree for each inch over 11".

PARKING

A. PARKING SPACES. Per 8.05.03(L) of the Code, the following minimum number of off-street parking spaces are required for the separate components of the PUD:

1. **Residential Condominium:** 1.75 spaces per dwelling unit per subsection (1)a.(4) X 160 lodging units = 280 minimum required spaces.

Total spaces required = 280

Total spaces provided = 274 as agreed by Community Development Director.

2. Commercial Uses:

- a. **Gratzi:** 1 space for every 75 s.f. gross floor area per Subsection (1)a.(29) X 9932 s.f.
= 132 spaces minimum.
- b. **Back Porch:** 1 space for every 75 s.f. gross floor area per Subsection (1)a.(29) X 14270 s.f. = 190 spaces minimum.

Total spaces required for commercial Uses in Phases I and II = 322 spaces

Total spaces provided for commercial uses in Phase I = 296 spaces, because of the mix of uses, and an opportunity for parking needs to occur at different times, the Community Development Director concurs with a reduction in the number of parking spaces.

3. Phase II Mixed Use Condominium:

- a. **Residential component -** 1.75 spaces per dwelling unit per subsection (1)a.(4) X 10 lodging units = 17.5 minimum required spaces.
- b. **Commercial Component -** 1 space for every 200 feet of gross floor area per subsection (1)a.(26) and (30) of the Code X 15,000 Square feet = 75 minimum required spaces.

Total spaces required for Phase II = 84 spaces

Total spaces provided for Phase II = 67 spaces because of the mix of uses, and an opportunity for parking needs to occur at different times, the Community Development Director concurs with a reduction in the number of parking spaces.

B. LOADING SPACES

1. **High Rise Residential** - Subsection 8.05.06(B)1. requires 1 loading space per 100,000 s.f. of gross floor area. This component of the PUD contains 273,000 SF gross floor area. $273000/100,000 = 3$ spaces.

Total spaces required = 3 Total spaces provided = 3

2. **Restaurants** - Subsection 8.05.06(B)4. requires 1 loading space per initial 10,000 s.f. of gross floor area and 1 for every additional 20,000 s.f. Gratzl and Back Porch have a combined gross square footage of 24,202 SF.

Total spaces required = 2 Total spaces provided = 2

C. HANDICAPPED SPACES

The PUD Master Site Plan includes a total of 21 handicapped spaces as required by the Code and indicated on the PUD Master Site Plan (Sheet C-2).

D. PUBLIC PARKING SPACES

The PUD Master Site Plan provides 61 improved parking spaces for use of the general public for access to the palisades and the gulf beach through the Restaurant Row public beach access. These spaces are provided along both the north and south edges of Old Highway 98.

These spaces are provided in satisfaction of the public benefit component of the proposed mixed use PUD for the City of Destin. These spaces will significantly increase the number of available free public parking spaces for this section of the gulf beach within 500 feet of a public beach accessway.

STATE/FEDERAL PERMITS REQUIRED BEFORE ISSUANCE OF BUILDING PERMIT

1. A DEP Stormwater Permit is required and must be submitted prior to the issuance of a building permit.

COMMENTS

There have been no comments of support or opposition filed with Staff regarding this project.

CONDITIONS:

Per Community Development:

1. Prior to the issuance of a Certificate of Occupancy, the billboard must be removed.
2. Approval of Phase II is for sq.ft., use, concurrency, and general location only. A formal site plan review will be required prior to permits for this phase.
3. Streetscape shall be provided from Emerald Coast Parkway to Restaurant Row along both sides of Scenic Hwy 98.
4. The plat must be amended to reflect the amended site plan.

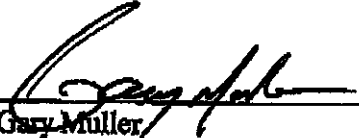
5. Prior to the issuance of a building permit, the City Surveyor must approve the plat.

Engineering Department:

1. Provide cross section of speed humps. Some areas of exfiltration system will conflict with landscapers choice of plantings.
2. Coordinate with landscaper location of exfiltration; ensure root system will not damage exfiltration.
3. Phase 1-B stormwater retention appears low; revisit calculations.
4. Major re-review fees were not received for this review. All re-review fees must be received prior to building permit issuance.
5. Submit copy of FDEP permit.

City Council Conditions:

1. Applicant must provide a parking agreement, approved by the City Attorney, which stipulates that; 1) the parking area to the north and west of Gratz's will not be gated, and 2) no "non-patron" towing policy will be imposed by the owner on that same lot, without prior City Council approval.
2. The public beach access on the west side of pool area be extended to 8 feet wide.
3. A beach/dune walkover be constructed by the applicants within the 8 feet wide public beach access.
4. The applicant will coordinate use of the development; e.g., lodging units, restaurants, retail, and office, with future public transportation.

 9-30-99

Gary Muller, Date
Acting Community Development Director

 AGENT 9/30/99

Sterling Shores Partnership and Date
Restaurant Row Partnership - Owners,

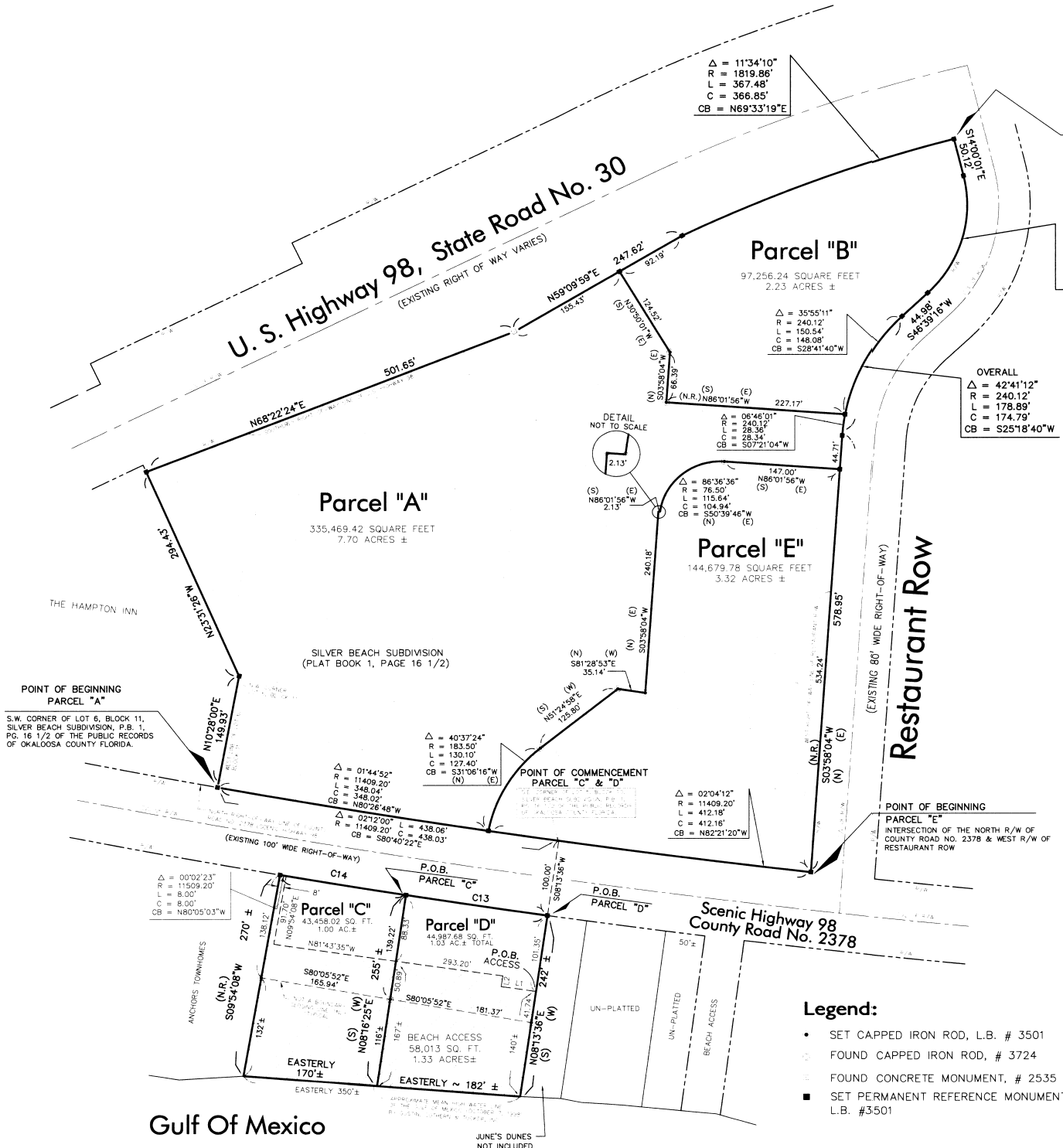
19-22

Restaurant Row Redevelopment
PB 19-22

RESTAURANT ROW REDEVELOPMENT

A Commercial Subdivision

Being A Re-Plat Of A Portion Of Blocks 9 Through 12 And Adjacent Streets Thereto Of Silver Beach Subdivision As Recorded In Plat Book 1
At Page 16 1/2 Of The Public Records Of Okaloosa County, Florida, Also Being A Portion Of And Situated In Un-Sectionalized Township 2 South,
Range 22 West, City Of Destin, Okaloosa County, Florida



POINT OF BEGINNING PARCEL "B"
INTERSECTION OF THE SOUTHERLY R/W OF
U.S. HIGHWAY 98 & WEST R/W OF
RESTAURANT ROW

Δ = 60°39'17"
R = 159.88'
L = 169.26'
C = 161.46'
CB = S16°19'37"W

OVERALL
Δ = 42°41'12"
R = 240.12'
L = 178.89'
C = 174.79'
CB = S25°18'40"W

Δ = 11°34'10"
R = 1819.86'
L = 367.48'
C = 366.85'
CB = N69°33'19"E

Δ = 35°55'11"
R = 240.12'
L = 150.54'
C = 148.08'
CB = S28°41'40"W

Δ = 06°48'01"
R = 240.12'
L = 28.36'
C = 18.34'
CB = S07°21'04"W

Δ = 86°36'36"
R = 76.50'
L = 115.64'
C = 104.94'
CB = S50°39'46"W

Δ = 02°04'12"
R = 11409.20'
L = 412.18'
C = 412.18'
CB = N82°21'20"W

Δ = 01°44'52"
R = 11409.20'
L = 348.04'
C = 348.04'
CB = N80°26'48"W

Δ = 02°12'00"
R = 11409.20'
L = 438.06'
C = 438.03'
CB = S80°40'22"E

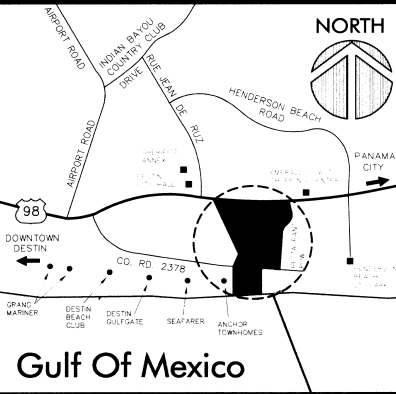
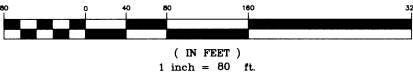
Δ = 00°02'23"
R = 11509.20'
L = 8.00'
C = 8.00'
CB = N80°05'03"W

Legend:

- SET CAPPED IRON ROD, L.B. # 3501
- FOUND CAPPED IRON ROD, # 3724
- FOUND CONCRETE MONUMENT, # 2535
- SET PERMANENT REFERENCE MONUMENT (P.R.M.)
L.B. #3501



GRAPHIC SCALE



VICINITY MAP

NOT TO SCALE

PROJECT LOCATION

Abbreviations:

NO. = NUMBER
R.O.E. = RANGE
SEC. = SECTION
P.O.B. = POINT OF BEGINNING
P.S.M. = PROFESSIONAL SURVEYOR & MAPPER
& AND
P.I. = POINT OF INTERSECTION
R/W = RIGHT-OF-WAY
E.O.P. = EDGE OF PAVEMENT
C/L = CENTERLINE
L.B. = LAND SURVEYING BUSINESS
= NUMBER
± = MORE OR LESS
(TYP.) = TYPICAL
EXIST. OR EX. = EXISTING
CONC. = CONCRETE
G.C.T. = GUSTIN, COTHERN, & TUCKER, INC.
(°) = DEGREES
(') = MINUTES OR FEET
(") = SECONDS
Δ = DELTA OR CENTRAL ANGLE
(R) = RADIAL
R = RADIUS
L = LENGTH OF ARC
C = CHORD
CB = CHORD BEARING
FT. = FEET
SUBD. = SUBDIVISION
P.L. = PROPERTY LINE
P.R.M. = PERMANENT REFERENCE MONUMENT

Curve Table

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	11409.20'	348.04'	348.02'	N80°26'48"W	01°44'52"
C2	183.50'	130.10'	127.40'	S31°06'16"W	40°37'24"
C3	138.50'	85.49'	93.61'	S01°52'14"E	38°10'05"
C4	240.12'	150.54'	148.08'	S28°41'40"W	35°55'11"
C5	240.12'	28.36'	28.34'	S07°21'04"W	06°46'01"
C6	11409.20'	412.18'	412.16'	N82°21'20"W	02°04'12"
C7 OVERALL	11409.20'	760.22'	760.08'	N81°28'54"W	03°49'04"
C8	11509.20'	161.99'	161.99'	S80°28'03"E	00°48'23"
C9	1879.86'	367.48'	366.85'	N69°33'19"E	11°34'10"
C10	11409.20'	438.06'	438.03'	S80°40'22"E	02°12'00"
C11	11509.20'	181.18'	181.18'	N81°19'18"W	00°54'07"
C12	11509.20'	100.88'	100.88'	N82°16'22"W	00°30'08"
C13	11509.20'	181.18'	181.18'	N81°19'18"W	00°54'07"
C14	11509.20'	161.99'	161.99'	N80°28'03"W	00°48'23"

Line Table

LINE	DIRECTION	DISTANCE
L1	N81°43'35"W	44.62'
L2	N08°16'25"E	14.30'
L3	N81°43'35"W	136.64'

General Notes:

- BEARINGS SHOWN HEREON ARE REFERENCED TO THE STATE PLANE COORDINATE SYSTEM, FLORIDA NORTH, NORTH AMERICAN DATUM, 1983.
- THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS DRAWING THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
- UNDERGROUND ENCROACHMENTS, IF ANY, NOT LOCATED.
- ALL LINES EXTENDING FROM CURVED LINES AS SHOWN HEREON ARE RADIAL UNLESS OTHERWISE SHOWN AS (N.R.) NON-RADIAL.
- C1 DENOTES CURVE NUMBER 1, CORRESPONDING CURVE DATUM AS SHOWN IN THE CURVE TABLE AND DISTANCES SHOWN ALONG CURVED LINES ARE ARC LENGTHS.
- L1 DENOTES LINE NUMBER 1 AND CORRESPONDING LINE DATUM AS SHOWN IN THE LINE TABLE.
- CAPTIONS WHICH APPEAR OUTSIDE THE PLATTED SUBDIVISION ARE FOR CONVENIENCE ONLY. NO CONVEYANCE OR PROMISE TO CONVEY ANY LANDS OR ANY INTEREST IN LANDS OUTSIDE THE SUBDIVISION IS INTENDED OR IMPLIED.
- THIS PLAT HAS BEEN PREPARED FROM A PREVIOUS BOUNDARY SURVEY OF THE SUBJECT PROPERTY PREPARED BY THIS FIRM AND MEETS THE MINIMUM TECHNICAL STANDARDS FOR SURVEYS AS DEFINED IN CHAPTER 6107-6 OF THE FLORIDA STATUTES.
- THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

Date Prepared:
JULY 6, 2000

Prepared By



Gustin, Cothern & Tucker, Inc.
Civil Engineering/Land Surveying
L.B. #3501

121 Hart Street Niceville, FL 32578 (850) 678-5141

Restaurant Row Redevelopment

SHEET **2** OF **2**

PLAT BOOK **11** PAGE **23**

10.30
1630.50

This Document Prepared By:
W. Christopher Hart
Clark, Partington, Hart, Larry,
Bond, Stackhouse & Stone
151 Regions Way
Building 6, Suite A
Destin, Florida 32541

**** OFFICIAL RECORDS ****
BK 2204 PG 4535

FILE # 1691654 RCD: Apr 06 1999 @ 02:00PM
Newman C. Brackin, Clerk, Okaloosa Cnty Fl

CPH FILE # _____
Parcel ID Number: _____

STATUTORY WARRANTY DEED
(§ 689.02, F.S.)

KNOW ALL MEN BY THESE PRESENTS, THAT **RESTAURANT ROW, a Florida general partnership**, whose address is 1241 Airport Road, Destin, Florida 32541, **Grantor**, for and in consideration of Ten Dollars and other good and valuable consideration, the receipt whereof is hereby acknowledged, does bargain, sell, convey and grant unto, **COBB INVESTMENT COMPANY, INC.**, a Delaware corporation, whose address is 1241 Airport Road, Destin, Florida 32541, Grantee's successors and assigns, forever, the real property in Okaloosa County, Florida, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Subject to taxes for the current and subsequent years; zoning ordinances, development orders and other restrictions and prohibitions imposed by applicable governmental authorities; and conditions, easements, and restrictions of record, if any, which are not hereby reimposed.

Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

"Grantor" and "Grantee" are used for singular or plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto executed this instrument on the 30th day of March, 1999.

Signed, sealed and delivered
in the presence of:

RESTAURANT ROW, a Florida general partnership

James G. Campbell
Print/Type Name of Witness

By: Henry H. Cobb, Jr.
HENRY H. COBB, JR., General Partner

Kimberly M. Biggs
Print/Type Name of Witness

Deed Doc Stamps \$16,800.00 D.C. S. Dumasant

STATE OF LOUISIANA
PARISH _____ OF ORLEANS

The foregoing instrument was acknowledged before me by **Henry H. Cobb, Jr.**, as General Partner of **Restaurant Row, a Florida general partnership**, on behalf of the partnership. He is personally known to me ~~or has produced a~~ _____ as identification, this 30th day of March, 1999.

(NOTARIAL SEAL)

Jeffrey E. Combes
JEFFREY E. COMBES
(Print/Type Name)
NOTARY PUBLIC
Commission Number: AT
My Commission Expires: AT DEATH

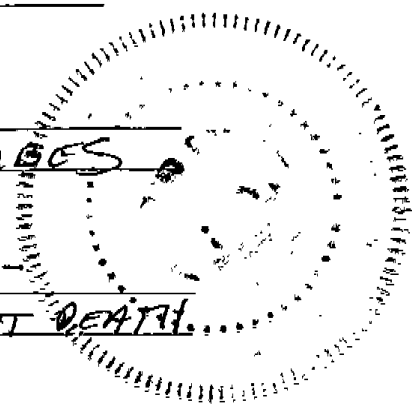


Exhibit A

PARCEL 3: (Cafe Grazie - 1771 Scenic Highway 98 East, Destin, FL

That portion of Lot 5, less and except the East 20 feet thereof, and Lot 6, Block 9 and the South ½ of a 20 foot alley lying North of the aforesaid Lots 5 and 6, East of the East right of way line of Seventh Street (40' R/W), according to the plat of Silver Beach Subdivision, as recorded in Plat Book 1, at Page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

Lots 7, 8, and 9, Block 9, less and except the East 70.00 feet thereof, Silver Beach Subdivision, as recorded in Plat Book 1, at Page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

All that part of the North ½ of a 20.00 foot alley lying South of Lot 7, Block 9, West of the East 70.00 feet of the aforesaid Lot 7 and East of the East right of way line of Seventh Street (40' R/W), according to the Plat of Silver Beach Subdivision, as recorded in Plat Book 1, at Page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

Lots 7, 8, 9, 22, 23, and 24, Block 10, Silver Beach Subdivision, as recorded in Plat Book 1, at Page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

All that part of the North ½ of a 20.00 alley lying South of Lots 7 and 24, Block 10, East of the East right of way line of Sixth Street (40' R/W) and West of the West right of way line of Seventh Street (40' R/W), according to the plat of Silver Beach Subdivision, as recorded in Plat Book 1, at Page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

That part of the East ½ of Sixth Street (40' R/W) lying South of the Westerly projection of the South line of Lot 9, Block 10 and lying North of the Westerly projection of the South line of the North ½ of a 20 foot alley, according to the plat of Silver Beach Subdivision, as recorded in Plat Book 1, at page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

That part of Sixth Street (40' R/W) lying East of Lot 22, Block 11 and West of Lot 9, Block 10, according to the plat of Silver Beach Subdivision, as recorded in Plat Book 1, Page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

Lot 22, Block 11, Silver Beach Subdivision, as recorded in Plat Book 1, at page 16 ½ of the Public Records of Okaloosa County, Florida.

And also:

A portion of Seventh Street, Silver Beach Subdivision as recorded in Plat Book 1, at page 16 ½ of the Public Records of Okaloosa County, Florida, being more particularly described as follows:

That portion of Seventh Street in the aforesaid subdivision, lying North of State Road 30, (U.S. 98, 100' R/W), South of the Easterly projection of the North line of the South ½ of a 20 foot alley in Block 10 of the aforesaid subdivision, East of Lot 1, Block 10, and West of Lot 6, Block 9, of the aforesaid Silver Beach Subdivision, Okaloosa County, Florida.

And also:

All that part of Seventh Street (40' R/W) lying between and contiguous to Blocks 9 and 10, lying South of the Easterly projection of the South line of Lot 21, Block 10 and lying North of the Easterly projection of the South line of the North ½ of a 20 foot alley, according to the plat of Silver Beach Subdivision, as recorded in Plat Book 1, at page 16 ½ of the Public Records of Okaloosa County, Florida.



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

Detail by Entity Name

Foreign Profit Corporation
SRG PROPERTIES, INC.

Cross Reference Name

SOUTHERN RESTAURANT GROUP, INC.

Filing Information

Document Number	843393
FEI/EIN Number	59-1913351
Date Filed	06/07/1979
State	DE
Status	ACTIVE
Last Event	NAME CHANGE
AMENDMENT	
Event Date Filed	03/05/2009
Event Effective Date	NONE

Principal Address

1771 SCENIC HIGHWAY 98 EAST
2ND FLOOR - NORTH ENTRANCE
DESTIN, FL 32541

Changed: 04/26/2008

Mailing Address

P.O. BOX 99
DESTIN, FL 32540

Changed: 05/15/1998

Registered Agent Name & Address

COMER, JOHN H
1771 SCENIC HIGHWAY 98 EAST
2ND FLOOR - NORTH ENTRANCE
DESTIN, FL 32541

Name Changed: 04/27/2005

Address Changed: 04/26/2008

Officer/Director Detail

Name & Address

Title VP

COMER, JOHN H
1771 SCENIC HIGHWAY 98 EAST - FLOOR 2
DESTIN, FL 32541

Title DIR

STEPHENSON, CATHERINE C
1771 SCENIC HIGHWAY 98 EAST - FLOOR 2
DESTIN, FL 32541

DESTIN, FL 32541

Title President, CEO, Dir.

COBB, HENRY H., III
1771 SCENIC HIGHWAY 98 EAST - FLOOR 2
DESTIN, FL 32541

Title Secretary, Dir.

REYHER, MARGARET C
1771 SCENIC HIGHWAY 98 EAST - FLOOR 2
DESTIN, FL 32541

Title Treasurer, CFO, Asst. Secretary

COWGILL, MARY LOU
2441 BUENA VISTA STREET
PENSACOLA, FL 32503

Annual Reports

Report Year	Filed Date
2016	04/14/2016
2017	04/19/2017
2018	03/02/2018

Document Images

03/02/2018 -- ANNUAL REPORT	View image in PDF format
04/19/2017 -- ANNUAL REPORT	View image in PDF format
04/14/2016 -- ANNUAL REPORT	View image in PDF format
04/22/2015 -- ANNUAL REPORT	View image in PDF format
03/26/2014 -- ANNUAL REPORT	View image in PDF format
01/11/2013 -- ANNUAL REPORT	View image in PDF format
04/10/2012 -- ANNUAL REPORT	View image in PDF format
02/17/2011 -- ANNUAL REPORT	View image in PDF format
03/30/2010 -- ANNUAL REPORT	View image in PDF format
04/23/2009 -- ANNUAL REPORT	View image in PDF format
03/05/2009 -- Name Change	View image in PDF format
04/26/2008 -- ANNUAL REPORT	View image in PDF format
04/30/2007 -- ANNUAL REPORT	View image in PDF format
04/11/2006 -- ANNUAL REPORT	View image in PDF format
04/27/2005 -- ANNUAL REPORT	View image in PDF format
04/12/2004 -- ANNUAL REPORT	View image in PDF format
02/17/2003 -- ANNUAL REPORT	View image in PDF format
01/30/2002 -- ANNUAL REPORT	View image in PDF format
06/27/2001 -- ANNUAL REPORT	View image in PDF format
05/25/2001 -- Dropping DBA	View image in PDF format
05/30/2000 -- ANNUAL REPORT	View image in PDF format
12/16/1999 -- Name Change	View image in PDF format
03/22/1999 -- ANNUAL REPORT	View image in PDF format
05/15/1998 -- ANNUAL REPORT	View image in PDF format
04/17/1998 -- Merger	View image in PDF format
05/15/1997 -- ANNUAL REPORT	View image in PDF format
05/01/1996 -- ANNUAL REPORT	View image in PDF format
05/01/1995 -- ANNUAL REPORT	View image in PDF format

843393

Florida Department of State
Division of Corporations
Public Access System

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H09000051628 3)))



H090000516283ABC+

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations
Fax Number : (850)617-6380

From:

Account Name : C T CORPORATION SYSTEM
Account Number : FCA000000023
Phone : (850)222-1092
Fax Number : (850)878-5368SECRETARY OF STATE
TALLAHASSEE, FLORIDA

09 MAR -5 PM 2:52

FILED

RECEIVED

2009 MAR -5 AM 8:00

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

COR AMND/RESTATE/CORRECT OR O/D RESIGN

SOUTHERN RESTAURANT GROUP, INC.

Certificate of Status	0
Certified Copy	0
Page Count	03
Estimated Charge	\$35.00

Electronic Filing Menu

Corporate Filing Menu

Help

FILED
09 MAR -5 PM 2:52
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

PROFIT CORPORATION
APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO
APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA
(Pursuant to s. 607.1504, F.S.)

SECTION I
(1-3 MUST BE COMPLETED)

843393

(Document number of corporation (if known))

1. Southern Restaurant Group, Inc.
(Name of corporation as it appears on the records of the Department of State)
2. Delaware (Incorporated under laws of) 3. June 7, 1979
(Date authorized to do business in Florida)

SECTION II
(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? March 2, 2009
5. SRG Properties, Inc.
(Name of corporation after the amendment, adding suffix "corporation," "company," or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation)
- n/a
(If new name is unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)
6. If the amendment changes the period of duration, indicate new period of duration.
- n/a
(New duration)
7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.
- n/a
(New jurisdiction)
8. Attached is a certificate or document of similar import, evidencing the amendment, authenticated not more than 90 days prior to delivery of the application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the laws of which it is incorporated.
- John H. Comer
(Signature of a director, president or other officer - if in the hands of a receiver or other court appointed fiduciary, by that fiduciary)
- John H. Comer (Typed or printed name of person signing) President and CEO (Title of person signing)

Delaware

PAGE 1

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "SOUTHERN RESTAURANT GROUP, INC.", FILED A CERTIFICATE OF AMENDMENT, CHANGING ITS NAME TO "SRG PROPERTIES, INC.", THE SECOND DAY OF MARCH, A.D. 2009, AT 11:43 O'CLOCK A.M.

0870129 8320

090233505

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7164910

DATE: 03-03-09

843393

Document Number Only

CT Corporation System
660 East Jefferson Street
Tallahassee, FL 32301
Tel 850 222 1092
Fax 850 222 7615
Attn: Jeff Netherton

FILED
99 DEC 16 PM 2:10
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

900003072899--3
-12/16/99--01070--010
*****35.00 *****35.00

CORPORATION(S) NAME

Cobb Investment Company, Inc.

Changing to: Southern Restaurant Group, Inc. d/b/a Destin Development Company

☐ Profit	☒ Amendment	☐ Merger
☐ Nonprofit		
☐ Foreign	☐ Dissolution/Withdrawal	☐ Mark
	☐ Reinstatement	
☐ Limited Partnership	☐ Annual Report	☐ Other
☐ LLC	☐ Name Registration	☐ Change of RA
	☐ Fictitious Name	☐ UCC
☐ Certified Copy	☐ Photocopies	☐ CUS
☐ Call When Ready	☐ Call If Problem	☐ After 4:30
☒ Walk In	☐ Will Wait	☒ Pick Up
☐ Mail Out		

Name _____ 12/16/99
Availability _____
Document _____
Examiner _____
Updater _____
Verifier _____
Acknowledgement _____
W.P. Verifier _____

DBA

N.C.

C. COULLETTE DEC 17 1999

RECEIVED
99 DEC 16 PM 1:35
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

PROFIT CORPORATION
APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO
APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA
(Pursuant to s. 607.1504, F.S.)

SECTION I
(1-3 MUST BE COMPLETED)

1. Cobb Investment Company, Inc.
Name of corporation as it appears on the records of the Department of State.
2. Delaware 3. June 7, 1979
Incorporated under laws of Date authorized to do business in Florida

SECTION II
(4-7 COMPLETE ONLY THE APPLICABLE CHANGE\$)

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? October 12, 1999

5. Southern Restaurant Group, Inc.
Name of corporation after the amendment, adding suffix "corporation" "company" or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation.

6. If the amendment changes the period of duration, indicate new period of duration.

N/A

New Duration

7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.

N/A

New Jurisdiction

Thomas E. Kranz
Signature

November 18, 1999
Date

Thomas E. Kranz
Typed or printed name

Vice President
Title

FILED
99 DEC 16 PM 2:10
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**UNANIMOUS CONSENT ACTION OF THE
BOARD OF DIRECTORS OF
SOUTHERN RESTAURANT GROUP, INC.
(FORMERLY COBB INVESTMENT COMPANY, INC.)**

The undersigned, who are all of the members of the board of directors of Southern Restaurant Group, Inc. (formerly Cobb Investment Company, Inc.), a Delaware corporation (the "Corporation"), do hereby consent to taking these actions without a meeting, hereby adopt the following resolutions as the action of the board of directors of said corporation in lieu of a meeting, and direct that this written consent be filed with the minutes of the proceedings of the Corporation:

WHEREAS, the Corporation recently filed an amendment to the Corporation's Certificate of Incorporation with the State of Delaware which changed its corporate name from "Cobb Investment Company, Inc." to "Southern Restaurant Group, Inc." (the "Name Change"); and

WHEREAS, because of the Name Change, the Corporation is required to file applications to amend its Certificate of Authority in all states where the Corporation is qualified to do business; and

WHEREAS, the name "Southern Restaurant Group, Inc." is unavailable for use in the State of Florida, one of the states where the Corporation is qualified to do business; and

WHEREAS, the directors of the Corporation desire to cause the Corporation to adopt the name "Destin Development Company" for use in doing business in the State of Florida.

BE IT THEREFORE RESOLVED, that the Corporation, organized and existing under the laws of the State of Delaware, hereby adopts the name "Destin Development Company" for use in the State of Florida.

FURTHER RESOLVED, that each of the duly elected officers of the Corporation be and the same hereby are authorized and directed to do any and all such things and to execute, deliver and file all such writings, documents, and instruments as shall be necessary or appropriate to implement and carry out the above and foregoing resolution. The signature of one or more of said officers on any such instrument shall be conclusive proof of the appropriateness of said instrument and of the authority of the officer or officers to execute the same.

Executed by the undersigned on the 12th day of October, 1999, the Secretary being directed to place this Consent Action in the corporate minute book.

BOARD OF DIRECTORS:

Henry H. Cobb, Jr.
Henry H. Cobb, Jr.

Edward H. O'Gwynn, Jr.

Margaret C. Reyher

Catherine C. Stephenson

H. Hammond Cobb, III

Nicholas J. Sarra, III
Nicholas J. Sarra, III

Alice W. Cobb

Jack P. Stephenson, Jr.

Thomas E. Kranz
Thomas E. Kranz

Executed by the undersigned on the _____ day of _____, 1999, the
Secretary being directed to place this Consent Action in the corporate minute book.

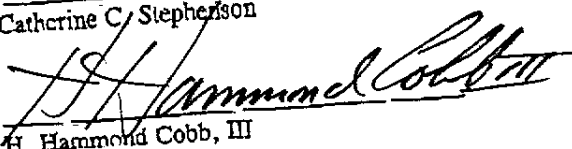
BOARD OF DIRECTORS:

Henry H. Cobb, Jr.

Edward H. O'Gwynn, Jr.

Margaret C. Royher

Catherine C. Stephenson


H. Hammond Cobb, III

Nicholas J. Sarra, III

Alice W. Cobb

Jack P. Stephenson, Jr.

Thomas E. Kranz

Executed by the undersigned on the _____ day of _____, 1999, the Secretary being directed to place this Consent Action in the corporate minute book.

BOARD OF DIRECTORS:

Henry H. Cobb, Jr.

Edward H. O'Gwynn, Jr.

Margaret C. Reyher
Margaret C. Reyher

Catherine C. Stephenson
Catherine C. Stephenson

H. Hammond Cobb, III

Nicholas J. Sarra, III

Alice W. Cobb
Alice W. Cobb

Jack P. Stephenson, Jr.
Jack P. Stephenson, Jr.

Thomas E. Kranz

Executed by the undersigned on the _____ day of _____, 1999, the Secretary being directed to place this Consent Action in the corporate minute book.

BOARD OF DIRECTORS:

Henry H. Cobb, Jr.

Edward H. O'Gwynn, Jr.

Margaret C. Reyher

Catherine C. Stephenson

H. Hammond Cobb, III

Nicholas J. Sarra, III

Alice W. Cobb

Jack P. Stephenson, Jr.

Thomas E. Kranz

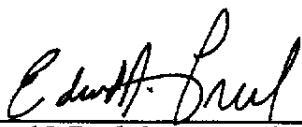
State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "COBB INVESTMENT COMPANY, INC.", CHANGING ITS NAME FROM "COBB INVESTMENT COMPANY, INC." TO "SOUTHERN RESTAURANT GROUP, INC.", FILED IN THIS OFFICE ON THE TWELFTH DAY OF OCTOBER, A.D. 1999, AT 10 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.




Edward J. Freel, Secretary of State

0870129 8100

991428549

AUTHENTICATION: 0019428

DATE: 10-12-99

**CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION OF
COBB INVESTMENT COMPANY, INC.**

Cobb Investment Company, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), and having its registered office in the State of Delaware in the county of New Castle, 1209 Orange Street, Wilmington, Delaware, does hereby certify as follows:

(i) that the following resolution is a true and correct copy of the resolution adopted by the Board of Directors of the Corporation proposing an amendment to the Certificate of Incorporation of the Corporation and declaring its advisability in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware:

RESOLVED, by the Board of Directors of the Corporation that the Certificate of Incorporation of the Corporation be amended to change the name of the Corporation to "Southern Restaurant Group, Inc." by deleting the heading and Article I in their entirety and substituting in lieu thereof the following:

Certificate of Incorporation
of
Southern Restaurant Group, Inc.

Article I
Name

The name of the corporation is:
Southern Restaurant Group, Inc.

RESOLVED FURTHER, that the Board of Directors declares it desirable and hereby recommends to the stockholders of the Corporation that the Certificate of Incorporation be amended as aforesaid and directs that the aforesaid amendment be submitted to the stockholders of the Corporation for their action; and

RESOLVED FURTHER, that upon approval of said amendment by the stockholders of the Corporation the president of the Corporation be, and he hereby

is, authorized and directed to execute and file a Certificate of Amendment to the Certificate of Incorporation of the Corporation in the State of Delaware, at such time as deemed appropriate by the president, and to execute and to file all further documents and to do all further acts or things within or without the State of Delaware as he may deem necessary or desirable to effectuate the above amendment.

(ii) that pursuant to resolution of its Board of Directors, a meeting of the stockholders of the Corporation was duly called and held, upon notice in accordance with Section 222 of the General Corporation law of the state of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment; and

(iii) that said amendment has been duly adopted in accordance with applicable provisions of Sections 242 and 222 of the General Corporation Law of the State of Delaware.

(iv) that said amendment shall become effective on the date of filing this Certificate of Amendment with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Certificate to be signed by Henry H. Cobb, Jr., its President, this 6th day of OCTOBER, 1999.

COBB INVESTMENT COMPANY, INC.

By: Henry H. Cobb, Jr.
Henry H. Cobb, Jr.
Its President

STATE OF FLORIDA)
OKALOOSA COUNTY)

Before me, a notary public in and for said county, in said state, personally appeared Henry H. Cobb, Jr., on this date, who being first duly sworn, did depose, acknowledge and say as follows: (i) that affiant is President of Cobb Investment Company, Inc., a Delaware corporation, named in the foregoing Certificate of Amendment, (ii) that he, as such officer, is authorized and empowered to make this sworn verification and to cause the Certificate of Amendment to be executed, acknowledged and filed for record on behalf of the corporation, and (iii) that he, as such officer of said corporation, is familiar with the contents of the foregoing Certificate of Amendment as the act and deed of said corporation, and the matters set forth therein are true.

Given under my hand and official seal, this the 16th day of OCTOBER, 1999.

Jill M. Baughman
Notary Public
My Commission Expires July 20, 2000
[Notary Seal]



CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018**TYPE OF AGENDA ITEM:** Ordinance

TO: City Council

THRU: Kimberly Kopp, Land Use Attorney

FROM: Louis Zunguze, Community Development Director

DATE: December 10, 2018

SUBJECT: First reading of Ordinance 18-29-CC - Amendments to Short-Term Rental Ordinance

I. BACKGROUND: The City Council approved the Short-Term Rental Task Force on October 2, 2017, in order to provide recommendations to the City Council on issues related to the presence of short-term rentals in established residential neighborhoods. The Task Force was made up of short-term rental stakeholders as well as City residents, and met regularly prior to making recommendations to the City Council on how to regulate short-term rentals in the City. Upon receiving the recommendations of the Task Force, the City Council held workshops to consider and discuss such recommendations.

Under-regulated short-term rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, diminished public safety, excessive use and impact on public services and public works, and extreme size and/or greater occupancy in residential structures. According to U.S. Census data available online, between 2013-2017, the City of Destin has had an average household size of 2.26 persons. On the other hand, occupancy of short-term rentals is much higher and creates a great disparity in occupancy in residential neighborhoods.

Ordinance 18-29-CC is intended to ensure compatibility in existing residential neighborhoods, and safety for residents, tourists, and tenants alike. Section 509.032, Florida Statutes authorizes local governments to regulate short-term rentals. Ordinance 18-29-CC does not prohibit short-term rentals, nor does it regulate the frequency or duration of short-term rentals.

On December 3, 2018, the City Council directed staff to advertise an ordinance regulating maximum occupancy of short-term rentals for first reading on December 17, 2018. Further, the City Council directed that two versions of the ordinance be brought forward for consideration on first reading, with one version regulating occupancy by number of

bedrooms, and the other regulating occupancy limits by square footage. In either case, occupancy levels are to be based on on-site capacity.

II. DISCUSSION: Per directive of the City Council, attached are two versions of Ordinance 18-29-CC. Each version of the ordinance is identical to the other except that the Exhibit A version of the ordinance regulates maximum overnight occupancy by the number of bedrooms in the short-term rental, while the Exhibit B version of the ordinance regulates occupancy by the square footage of the short-term rental.

In both cases, the ordinance prohibits overnight occupancy of more than 24 persons per short-term rental. However, Exhibit A also provides for an option of two persons per bedroom, plus an additional two persons (or 24 people, whichever is less). On the other hand, Exhibit B provides for an option of one person per 250 square feet (or 24 people, whichever is less).

In order to balance the rights and interests of private property owners and residents, Ordinance 18-29-CC contains provisions related to a grandfathering process, which would grandfather occupancy for a five-year period for successful applicants, in order to allow the private property owner to obtain its reasonable investment expectations. Further, Ordinance 18-29-CC contains an exemption for prospective tenants with pre-existing agreements as of the effective date of Ordinance 18-29-CC.

Examples of a couple of Bert Harris settlement agreements that were entered into in the City of Anna Maria, which enacted a similar ordinance regulating occupancy of short-term rentals, have been included with this agenda item. Notably, the City of Anna Maria enacted a much lower occupancy limit (a maximum of 8 occupants) than the overall limit of 24 that is currently being proposed for the City of Destin.

A. Link to Strategic Goals / Objectives:

OBJECTIVE 1-1.2: RESIDENTIAL QUALITY. Sufficient land area shall be designated for residential development and required community facilities to adequately meet the housing needs of the present and expected future population. Also refer to the housing element of this plan. Residential development shall be planned and designed to create and perpetuate stable residential neighborhoods and implement Policies set forth below.

Policy 1-1.2.1: Protect Residential Areas. The LDC shall implement design standards to protect existing stable single-family residential areas and projected future single-family residential areas from adverse impacts by new development due to location, massing, intensity, scale, and height. These areas include all residential future land use designations and historically residential neighborhoods in mixed use designations delineated on the Future Land Use Map 1-1.

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: In conclusion, the City Council has several options before it with respect to Ordinance 18-29-CC.

1. The City Council may select the Exhibit A version of Ordinance No. 18-29-CC, which utilizes the bedroom calculation to regulate occupancy, and direct staff to advertise it for 2nd reading on January 7, 2019.
2. The City Council may select the Exhibit B version of Ordinance No. 18-29-CC, which utilizes the square footage calculation to regulate occupancy, and direct staff to advertise it for 2nd reading on January 7, 2019.
3. The City Council may direct staff and the City land use attorney to further amend Ordinance No. 18-29-CC.
4. The City Council may direct staff not to move either version of Ordinance No. 18-29-CC forward for second reading.

IV. RECOMMENDED MOTION: I move that staff advertise the(Exhibit A OR Exhibit B) version of Ordinance 18-29-CC for second reading on January 7, 2019.

or

I move that staff further amend Ordinance 18-29-CC by_____.

or

I move to deny Ordinance 18-29-2018 on first reading and direct staff not to advertise it for 2nd reading.

Attachments:

1. Exhibit A 2 Per BR Plus Two STRs
12_17_2018
2. Exhibit B Square Footage STRs
12_17_2018
3. Exhibit C Example Bert Harris
Settlement_Occupancy
4. Exhibit D Example Bert Harris
Settlement Occupancy

ORDINANCE NO. 18-29-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO OCCUPANCY LIMITS FOR SHORT-TERM RENTALS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF CODE OF ORDINANCES ARTICLE VI - REGISTRATION OF SHORT- TERM RENTALS; AMENDING SECTION 13-108, LOCAL RESPONSIBLE PARTY REQUIRED; AMENDING SECTION 13-114, POSTING OF SIGNAGE; CREATING SECTION 13-117, OCCUPANY LIMITS; CREATING SECTION 13-118, EXEMPTION FOR PRE-EXISTING AGREEMENTS; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is Article I, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Pan II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council approved the Short-term Rental Task Force on October 2, 2017 in order to provide recommendations to the City Council on issues related to the presence of short-term rentals in established residential neighborhoods; and

WHEREAS, residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families; and

WHEREAS, in contrast to residents, transient occupants of short-term rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation; and

WHEREAS, certain short-term rentals are presently located within the single-family residential zoning districts of the City of Destin; and

WHEREAS, the presence of under-regulated short-term rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, diminished public safety, excessive use and impact on public services and public works, and extreme size and/or greater occupancy of structures; and

WHEREAS, short-term rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents; and

WHEREAS, a residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of short-term rentals; and

WHEREAS, according to U.S. Census data, the City of Destin has an average household size of 2.26 persons between 2013-2017; and

WHEREAS, short-term rentals situated in single-family residential neighborhoods can and do create a great disparity in occupancy; and

WHEREAS, there has been an increase in both the number of residential structures being used for short-term rental purposes in the City and the same such units are occupied as opposed to being vacant or unrented; and

WHEREAS, the City has seen an increase in disproportionate impacts related to the size of the structure including excessive occupancy and lack of proper facilities; and

WHEREAS, in Section 509.032, Florida Statutes, the State Legislature has granted authority to local government to regulate short-term rental units; and

WHEREAS, this Ordinance does not prohibit, nor intend to prohibit, short-term rentals, nor does it regulate the frequency or duration of such rentals; and

WHEREAS, the City Council has deemed it in the best interest of its citizens and residents to adopt additional regulations for short-term rental units; and

WHEREAS, the City Council has studied this issue, reviewed regulations adopted by other jurisdictions, sponsored focus groups to obtain input from the public and stakeholders, received public comment at numerous work sessions and meetings prior to adopting this ordinance; and

WHEREAS, the City Council has deemed it necessary to amend the existing Code of Ordinances to provide for the addition of maximum occupancy limits for Short-Term Rentals; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted Comprehensive Plan and is in the best interest of the City and its citizens; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in section three (3) of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Code of Ordinances that have been skipped and remain unchanged.

SECTION 3. AMENDMENT OF CODE OF ORDINANCES CHAPTER 13: Chapter 13 of the Code of Ordinances is hereby amended as follows:

* * *

ARTICLE VI. - REGISTRATION OF SHORT-TERM RENTALS

* * *

Sec. 13-108 Local Responsible Party Required

Whenever any property is required to be registered under this article, the owner shall appoint a person to serve as the local responsible party for service of notices as are specified herein, and notices given to the responsible party shall be sufficient to satisfy any requirement of notice to the owner. The owner shall notify the city manager or his designee in writing of the appointment within five (5) days of being required to make such appointment, and shall thereafter notify the city manager or his designee of any change of the local responsible party within fifteen (15) days of such change.

The designation of a local responsible party does not relieve the owner of the responsibility to comply with all state and local statutes and ordinances. Further, a local responsible party who accepts the designation to act on behalf of a property owner is held to the same standard as the property owner with respect to compliance with all statutes and ordinances and may be cited for non-compliance with any code, rule or ordinance applicable to the property.

Further, it is hereby made the affirmative duty of the local responsible party to:

- (1) Inform all seasonal residents prior to occupancy of the single family dwelling unit of applicable City of Destin ordinances concerning noise, vehicle parking, garbage and common area usage:
- (2) Maintain all properties under their control in compliance with the occupancy limits, as specified in the City of Destin Code of Ordinances:
- (3) See Ensure that the provisions of this article are complied with and promptly address any violations of this article or any violations of law, which may come to the attention of the responsible party:

- (4) Post a sign outside the residence that clearly identifies the management company responsible for the property and the phone number of the local ~~R~~responsible ~~P~~party that is located within 30 miles of the residence, in accordance with sections 107 and 114 of this Code. The name and address of the ~~R~~responsible ~~P~~party shall be listed on the annual registration form. The ~~R~~responsible ~~P~~party shall immediately notify the City if the ~~R~~responsible ~~P~~party changes during the year. The ~~R~~responsible ~~P~~party shall be available with authority to address and correct violations with the rental of the single family dwelling unit twenty-four hours a day, seven days a week. No guest may stay in the residence until the sign is erected with the necessary information.
- (5) Be familiar with the City's short term rental regulations and provide acknowledgement that the applicant will comply with the City's regulations for short-term rentals at the time of registration.
- (6) Be situated close enough to the single family dwelling unit to be able to and have the capacity to service emergency calls within one (1) hour of notification, including but not limited to evicting tenants.
- (7) Maintain the entire property of the single-family dwelling unit free of garbage and litter. Provide however, that this section shall not prohibit the storage of garbage and litter in authorized private receptacles for collection.

* * *

Sec. 13-114. - Posting of signage.

Prior to the owner of the single-family dwelling unit allowing another person to occupy the single-family dwelling unit as a seasonal resident, owner shall post a sign on the property meeting the following requirements:

- (a) The sign must be prominently placed on the property of the single family dwelling unit so that the required content of the sign shall be legible as viewed from the public right-of-way; however, signage shall not be placed in the public right-of-way;
- (b) Such sign shall be twenty-four (24) by forty-eight (48) ~~not larger than eighteen (18) inches by twelve (12) inches and not smaller than sixteen (16) inches by ten (10) inches~~ in size;
- (c) The sign must clearly indicate the name, and twenty-four (24) hours a day, seven (7) days a week emergency contact phone number of the local responsible party for said single-family dwelling unit. If the responsible party phone number and the rental contact phone number are different, the sign shall clearly indicate both phone numbers;
- (d) The sign must clearly indicate the occupancy limit and maximum available parking;
- ~~(d)~~ (e) The sign must be continuously on the property of the single-family dwelling unit during any period a local business tax or registration has not expired.

(f) A current City of Destin annual decal must be displayed in the top right hand corner of the sign. The City will provide the property owner with such annual decal at the time of annual registration of the short-term rental.

* * *

Sec. 13-117. – Maximum occupancy based on site capacity/Grandfathering.

(a) The maximum overnight occupancy of a short-term rental shall be stated in the short-term rental registration form, and shall be limited to the lesser occupancy of the following two options:

i. Two (2) persons for each bedroom, plus two (2) additional persons. The number of bedrooms shall be based upon the Property Appraiser's residential profile of the property, and other documents of record, as needed. In no case shall the maximum total occupancy for any dwelling unit exceed the occupancy limits permitted by the Florida Fire Prevention Code or Florida Building Code.

or

ii. A total of twenty-four (24) persons per short-term rental. In the event that there is more than one building or dwelling on one platted lot, the maximum occupancy shall be capped at twenty-four (24) occupants per lot or structure, whichever is less.

(b) Before the hours of 7 AM or after 10 PM, the occupancy load of the unit may not exceed the maximum allowed number of overnight tenants.

(c) Reasonable verification must be given to the designated local responsible party in accordance with Section 13-108 of this article within 36 hours of rental guest arrival to confirm compliance with the maximum overnight occupancy requirement. The maximum number of allowable occupants and parking shall be posted on signage in front of the rental property in accordance with Section 13-114 of this article.

(d) All marketing and/or advertising for short-term rental units must contain (i) information concerning the occupancy limit of the short-term rental unit, and (ii) the maximum parking available on the property. Advertising for more than the allowable occupancy or allowable parking is prima facie evidence of a violation of the City Code. Further, failure to include such occupancy limits and maximum parking availability is prima facie evidence of a violation of the City Code.

(e) Minimum Provisions for Short-Term Rental Agreements: Short Term Rentals shall be rented, leased or occupied pursuant to a written rental agreement which contains, at a minimum, the following information:

i. Maximum occupancy of the short-term rental that is consistent with the short-term rental registration.

- ii. The maximum number of vehicles that will be allowed to park at the short-term rental. Such number of vehicles shall not exceed the number of legal parking spaces that the short-term rental owner can show are available to the short-term rental.
 - iii. A statement that all occupants must promptly evacuate from the short-term rental upon posting of any evacuation order issued by state or local authorities.
 - iv. As a courtesy, a copy of a document to be supplied by the City which includes excerpts from the City of Destin's ordinance provisions of general application relevant to short-term rentals to include regulations related to solid waste and trash, prohibited parking, and the City's noise ordinance. Failure of the City to provide this courtesy document does not relieve any short-term rental owner or other person of their obligation to comply with any City ordinance.
- (f) Notwithstanding the above, the owner (or authorized agent) of a short-term rental that was used as a short-term rental as of the effective date of this ordinance (January 7, 2019), may apply for the status of grandfathered for a period of five (5) years, as to occupancy limitations, and may cap its occupancy based upon the criteria and procedures set forth herein. Short-term rentals that have an occupancy of twenty-four (24) or less, and that otherwise comply with the occupancy restrictions set forth in Section 13-117(a) above, will not require grandfathering to maintain that occupancy.
- i. The short-term rental owner, or agent, as applicable ("Grandfathering Applicant") shall complete a Grandfathering Application as prescribed by the City, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of:
 - 1. The use as a short-term rental was existing and legally established as of January 7, 2019.
 - 2. The number of bedrooms in the short-term rental was existing and legally established as of January 7 2019. The number of bedrooms shall be based upon the Property Appraiser's residential profile of the property, and other documents of record, as needed.
 - 3. The short-term rental must be registered with the City and must be in compliance with all applicable City of Destin codes and ordinances.
 - ii. The Grandfathering Application and supporting proof shall be submitted to the City for review by the City staff in consultation with the City Land Use Attorney, and such staff shall make a written determination as to the maximum occupancy of such short-term rental.
 - iii. If the City staff fails to confirm the requested occupancy level, the City of Destin shall notify the Grandfather Applicant of that fact, and the

occupancy level that can be approved, in writing. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfathering Applicant before the City Council to provide the Grandfathering Applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested. A determination by the City Council after such evidentiary hearing shall be final. If no hearing is requested during that time period, the occupancy level shall be set at the level determined by the City staff upon initial review.

1. Written notice of the date, time, place and purpose of the hearing shall be mailed by the city clerk to all owners of property located within one hundred and fifty (150) feet of the boundaries of the property for which the grandfathered rights are sought, according to the latest certified tax roll. Such notice shall be mailed not later than fifteen (15) days prior to the date of the scheduled hearing. Additionally, notice will be published in a local newspaper of general circulation at least ten (10) days prior to the public hearing.
 2. The City Council shall render a decision to either issue or deny the Grandfathering Application.
 3. The decision shall be mailed to the Grandfathering Applicant and shall include findings of fact and conclusions of law, and shall state specifically the maximum occupancy that is grandfathered for a five (5) year period.
- iv. An application for grandfathering shall be submitted, if at all, by no later than the time of registration of the short-term rental, but not later than July 7, 2019. If the City extends the date that registration is required, the deadline for the application for grandfathering shall also be extended to the same extended date. If a short-term rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such short-term rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.
- v. If it is reasonably determined by the City staff that any information supplied to the City of Destin in support of an application for grandfathering was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the City Council by resolution. If there is such a determination by City staff, the City of Destin shall notify the Grandfathering Applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfathering Applicant before the City Council to provide the Grandfathering Applicant an opportunity to provide evidence and/or testimony to show that the information supplied in support of the application for grandfathering was not intentionally false or fraudulent. The determination by the City Council after such evidentiary hearing shall be final. If no hearing is

requested during that time period, the initial determination by the City staff shall be final.

- vi. If a short-term rental is not registered for a period in excess of twelve (12) months, any grandfathering determination shall be deemed abandoned, and shall no longer be applicable to that short-term rental.
- vii. If a grandfathered use ceases for a period of six (6) months, then the grandfathering shall be considered to have lapsed and the short-term vacation rental will be subject to all occupancy requirements as set forth herein.
- viii. An applicant may only submit one Grandfathering Application per short-term rental.
- ix. An appeal of a city council decision on a Grandfathering Application shall be by petition for certiorari review to the circuit court of Okaloosa County, based solely on the record of the hearing before the city council. The applicant is responsible for providing a verbatim transcript of the record of that hearing. Such an appeal must be filed within thirty (30) days after the City renders its decision.

* * *

Sec. 13-118. – Exemption for Pre-Existing Agreements.

Notwithstanding any other provision of this ordinance, rental agreements with prospective occupants for short-term rental units that were pre-existing as of the enactment of this Ordinance 18-29-CC, (hereinafter “Pre-existing Agreements”) are exempt from the provisions of this ordinance for a period of one (1) year. All bookings made subsequent to the enactment of this ordinance are subject to the provisions of this ordinance. All advertising must be compliant within one hundred twenty (120) days of the effective date of this ordinance.

If a short-term rental unit is cited for a violation of this Chapter, (that would not be a violation if it were not for this Section), when the short-term rental unit is occupied under the terms of a Pre-existing Agreement, the short-term rental owner may defend such violation based on the fact that the short-term rental unit was exempt from this Section due to it being occupied pursuant to a Pre-existing Agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the short-term rental owner or otherwise determined by the fact finder:

1. Copy of deposit or payment information evidencing that the agreement was a Pre-existing Agreement.
2. Copy of e-mail or other communication evidencing a binding Pre-existing Agreement.
3. Information from the occupant confirming that there was a binding agreement in a time frame to make the agreement as Pre-existing Agreement under this Section.

If it is reasonably determined by the City staff, and confirmed by the City Council, that any information supplied to the City of Destin in support of an application for exemption, or

in support of a defense based upon Pre-existing Agreement, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the City Council by resolution.

SECTION 4. INCORPORATION INTO CODE OF ORDINANCES. This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin. City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS ____ DAY OF _____, 2019.

By: Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only:

Kimberly Romano Kopp, Land Use Attorney

ORDINANCE NO. 18-29-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO OCCUPANCY LIMITS FOR SHORT-TERM RENTALS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF CODE OF ORDINANCES ARTICLE VI - REGISTRATION OF SHORT- TERM RENTALS; AMENDING SECTION 13-108, LOCAL RESPONSIBLE PARTY REQUIRED; AMENDING SECTION 13-114, POSTING OF SIGNAGE; CREATING SECTION 13-117, OCCUPANY LIMITS; CREATING SECTION 13-118, EXEMPTION FOR PRE-EXISTING AGREEMENTS; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is Article I, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Pan II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council approved the Short-term Rental Task Force on October 2, 2017 in order to provide recommendations to the City Council on issues related to the presence of short-term rentals in established residential neighborhoods; and

WHEREAS, residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families; and

WHEREAS, in contrast to residents, transient occupants of short-term rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation; and

WHEREAS, certain short-term rentals are presently located within the single-family residential zoning districts of the City of Destin; and

WHEREAS, the presence of under-regulated short-term rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, diminished public safety, excessive use and impact on public services and public works, and extreme size and/or greater occupancy of structures; and

WHEREAS, short-term rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents; and

WHEREAS, a residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of short-term rentals; and

WHEREAS, according to U.S. Census data, the City of Destin has an average household size of 2.26 persons between 2013-2017; and

WHEREAS, short-term rentals situated in single-family residential neighborhoods can and do create a great disparity in occupancy; and

WHEREAS, there has been an increase in both the number of residential structures being used for short-term rental purposes in the City and the same such units are occupied as opposed to being vacant or unrented; and

WHEREAS, the City has seen an increase in disproportionate impacts related to the size of the structure including excessive occupancy and lack of proper facilities; and

WHEREAS, in Section 509.032, Florida Statutes, the State Legislature has granted authority to local government to regulate short-term rental units; and

WHEREAS, this Ordinance does not prohibit, nor intend to prohibit, short-term rentals, nor does it regulate the frequency or duration of such rentals; and

WHEREAS, the City Council has deemed it in the best interest of its citizens and residents to adopt additional regulations for short-term rental units; and

WHEREAS, the City Council has studied this issue, reviewed regulations adopted by other jurisdictions, sponsored focus groups to obtain input from the public and stakeholders, received public comment at numerous work sessions and meetings prior to adopting this ordinance; and

WHEREAS, the City Council has deemed it necessary to amend the existing Code of Ordinances to provide for the addition of maximum occupancy limits for Short-Term Rentals; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted Comprehensive Plan and is in the best interest of the City and its citizens; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in section three (3) of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Code of Ordinances that have been skipped and remain unchanged.

SECTION 3. AMENDMENT OF CODE OF ORDINANCES CHAPTER 13: Chapter 13 of the Code of Ordinances is hereby amended as follows:

* * *

ARTICLE VI. - REGISTRATION OF SHORT-TERM RENTALS

* * *

Sec. 13-108 Local Responsible Party Required

Whenever any property is required to be registered under this article, the owner shall appoint a person to serve as the local responsible party for service of notices as are specified herein, and notices given to the responsible party shall be sufficient to satisfy any requirement of notice to the owner. The owner shall notify the city manager or his designee in writing of the appointment within five (5) days of being required to make such appointment, and shall thereafter notify the city manager or his designee of any change of the local responsible party within fifteen (15) days of such change.

The designation of a local responsible party does not relieve the owner of the responsibility to comply with all state and local statutes and ordinances. Further, a local responsible party who accepts the designation to act on behalf of a property owner is held to the same standard as the property owner with respect to compliance with all statutes and ordinances and may be cited for non-compliance with any code, rule or ordinance applicable to the property.

Further, it is hereby made the affirmative duty of the local responsible party to:

- (1) Inform all seasonal residents prior to occupancy of the single family dwelling unit of applicable City of Destin ordinances concerning noise, vehicle parking, garbage and common area usage:
- (2) Maintain all properties under their control in compliance with the occupancy limits, as specified in the City of Destin Code of Ordinances:
- (3) See Ensure that the provisions of this article are complied with and promptly address any violations of this article or any violations of law, which may come to the attention of the responsible party:

- (4) Post a sign outside the residence that clearly identifies the management company responsible for the property and the phone number of the local ~~R~~responsible ~~P~~party that is located within 30 miles of the residence, in accordance with sections 107 and 114 of this Code. The name and address of the ~~R~~responsible ~~P~~party shall be listed on the annual registration form. The ~~R~~responsible ~~P~~party shall immediately notify the City if the ~~R~~responsible ~~P~~party changes during the year. The ~~R~~responsible ~~P~~party shall be available with authority to address and correct violations with the rental of the single family dwelling unit twenty-four hours a day, seven days a week. No guest may stay in the residence until the sign is erected with the necessary information.
- (5) Be familiar with the City's short term rental regulations and provide acknowledgement that the applicant will comply with the City's regulations for short-term rentals at the time of registration.
- (6) Be situated close enough to the single family dwelling unit to be able to and have the capacity to service emergency calls within one (1) hour of notification, including but not limited to evicting tenants.
- (7) Maintain the entire property of the single-family dwelling unit free of garbage and litter. Provide however, that this section shall not prohibit the storage of garbage and litter in authorized private receptacles for collection.

* * *

Sec. 13-114. - Posting of signage.

Prior to the owner of the single-family dwelling unit allowing another person to occupy the single-family dwelling unit as a seasonal resident, owner shall post a sign on the property meeting the following requirements:

- (a) The sign must be prominently placed on the property of the single family dwelling unit so that the required content of the sign shall be legible as viewed from the public right-of-way; however, signage shall not be placed in the public right-of-way;
- (b) Such sign shall be twenty-four (24) by forty-eight (48) ~~not larger than eighteen (18) inches by twelve (12) inches and not smaller than sixteen (16) inches by ten (10) inches~~ in size;
- (c) The sign must clearly indicate the name, and twenty-four (24) hours a day, seven (7) days a week emergency contact phone number of the local responsible party for said single-family dwelling unit. If the responsible party phone number and the rental contact phone number are different, the sign shall clearly indicate both phone numbers;
- (d) The sign must clearly indicate the occupancy limit and maximum available parking;
- ~~(d)~~ (e) The sign must be continuously on the property of the single-family dwelling unit during any period a local business tax or registration has not expired.

(f) A current City of Destin annual decal must be displayed in the top right hand corner of the sign. The City will provide the property owner with such annual decal at the time of annual registration of the short-term rental.

* * *

Sec. 13-117. – Maximum occupancy based on site capacity/Grandfathering.

(a) The maximum overnight occupancy of a short-term rental shall be stated in the short-term rental registration form, and shall be limited to the lesser occupancy of the following two options:

i. One person per 250 square feet;

or

ii. A total of twenty-four (24) persons per short-term rental. In the event that there is more than one building or dwelling on one platted lot, the maximum occupancy shall be capped at twenty-four (24) occupants per lot or structure, whichever is less.

(b) Before the hours of 7 AM or after 10 PM, the occupancy load of the unit may not exceed the maximum allowed number of overnight tenants.

(c) Reasonable verification must be given to the designated local responsible party in accordance with Section 13-108 of this article within 36 hours of rental guest arrival to confirm compliance with the maximum overnight occupancy requirement. The maximum number of allowable occupants and parking shall be posted on signage in front of the rental property in accordance with Section 13-114 of this article.

(d) All marketing and/or advertising for short-term rental units must contain (i) information concerning the occupancy limit of the short-term rental unit, and (ii) the maximum parking available on the property. Advertising for more than the allowable occupancy or allowable parking is prima facie evidence of a violation of the City Code. Further, failure to include such occupancy limits and maximum parking availability is prima facie evidence of a violation of the City Code.

(e) Minimum Provisions for Short-Term Rental Agreements: Short Term Rentals shall be rented, leased or occupied pursuant to a written rental agreement which contains, at a minimum, the following information:

i. Maximum occupancy of the short-term rental that is consistent with the short-term rental registration.

ii. The maximum number of vehicles that will be allowed to park at the short-term rental. Such number of vehicles shall not exceed the number of legal parking spaces that the short-term rental owner can show are available to the short-term rental.

iii. A statement that all occupants must promptly evacuate from the short-term rental upon posting of any evacuation order issued by state or local

authorities.

- iv. As a courtesy, a copy of a document to be supplied by the City which includes excerpts from the City of Destin's ordinance provisions of general application relevant to short-term rentals to include regulations related to solid waste and trash, prohibited parking, and the City's noise ordinance. Failure of the City to provide this courtesy document does not relieve any short-term rental owner or other person of their obligation to comply with any City ordinance.

(a) Notwithstanding the above, the owner (or authorized agent) of a short-term rental that was used as a short-term rental as of the effective date of this ordinance (January 7, 2019), may apply for the status of grandfathered for a period of five (5) years, as to occupancy limitations, and may cap its occupancy based upon the criteria and procedures set forth herein. Short-term rentals that have an occupancy of twenty-four (24) or less, and that otherwise comply with the occupancy restrictions set forth in Section 13-117(a) above, will not require grandfathering to maintain that occupancy.

- i. The short-term rental owner, or agent, as applicable ("Grandfathering Applicant") shall complete a Grandfathering Application as prescribed by the City, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of:
 - 1. The use as a short-term rental was existing and legally established as of January 7, 2019.
 - 2. That the square footage in the short-term rental was existing and legally established as of January 7 2019.
 - 3. The short-term rental must be registered with the City and must be in compliance with all applicable City of Destin codes and ordinances.
- ii. The Grandfathering Application and supporting proof shall be submitted to the City for review by the City staff in consultation with the City Land Use Attorney, and such staff shall make a written determination as to the maximum occupancy of such short-term rental.
- iii. If the City staff fails to confirm the requested occupancy level, the City of Destin shall notify the Grandfather Applicant of that fact, and the occupancy level that can be approved, in writing. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfathering Applicant before the City Council to provide the Grandfathering Applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested. A determination by the City Council after such evidentiary hearing shall be final. If no hearing is requested during that time period, the occupancy level shall be set at the level determined by the City staff upon initial review.

1. Written notice of the date, time, place and purpose of the hearing shall be mailed by the city clerk to all owners of property located within one hundred and fifty (150) feet of the boundaries of the property for which the grandfathered rights are sought, according to the latest certified tax roll. Such notice shall be mailed not later than fifteen (15) days prior to the date of the scheduled hearing. Additionally, notice will be published in a local newspaper of general circulation at least ten (10) days prior to the public hearing.
2. The City Council shall render a decision to either issue or deny the Grandfathering Application.
3. The decision shall be mailed to the Grandfathering Applicant and shall include findings of fact and conclusions of law, and shall state specifically the maximum occupancy that is grandfathered for a five (5) year period.
- iv. An application for grandfathering shall be submitted, if at all, by no later than the time of registration of the short-term rental, but not later than July 7, 2019. If the City extends the date that registration is required, the deadline for the application for grandfathering shall also be extended to the same extended date. If a short-term rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such short-term rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.
- v. If it is reasonably determined by the City staff that any information supplied to the City of Destin in support of an application for grandfathering was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the City Council by resolution. If there is such a determination by City staff, the City of Destin shall notify the Grandfathering Applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfathering Applicant before the City Council to provide the Grandfathering Applicant an opportunity to provide evidence and/or testimony to show that the information supplied in support of the application for grandfathering was not intentionally false or fraudulent. The determination by the City Council after such evidentiary hearing shall be final. If no hearing is requested during that time period, the initial determination by the City staff shall be final.
- vi. If a short-term rental is not registered for a period in excess of twelve (12) months, any grandfathering determination shall be deemed abandoned, and shall no longer be applicable to that short-term rental.
- vii. If a grandfathered use ceases for a period of six (6) months, then the grandfathering shall be considered to have lapsed and the short-term vacation rental will be subject to all occupancy requirements as set forth

herein.

- viii. An applicant may only submit one Grandfathering Application per short-term rental.
- ix. An appeal of a city council decision on a Grandfathering Application shall be by petition for certiorari review to the circuit court of Okaloosa County, based solely on the record of the hearing before the city council. The applicant is responsible for providing a verbatim transcript of the record of that hearing. Such an appeal must be filed within thirty (30) days after the City renders its decision.

* * *

Sec. 13-118. – Exemption for Pre-Existing Agreements.

Notwithstanding any other provision of this ordinance, rental agreements with prospective occupants for short-term rental units that were pre-existing as of the enactment of this Ordinance 18-29-CC, (hereinafter “Pre-existing Agreements”) are exempt from the provisions of this ordinance for a period of one (1) year. All bookings made subsequent to the enactment of this ordinance are subject to the provisions of this ordinance. All advertising must be compliant within one hundred twenty (120) days of the effective date of this ordinance.

If a short-term rental unit is cited for a violation of this Chapter, (that would not be a violation if it were not for this Section), when the short-term rental unit is occupied under the terms of a Pre-existing Agreement, the short-term rental owner may defend such violation based on the fact that the short-term rental unit was exempt from this Section due to it being occupied pursuant to a Pre-existing Agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the short-term rental owner or otherwise determined by the fact finder:

1. Copy of deposit or payment information evidencing that the agreement was a Pre-existing Agreement.
2. Copy of e-mail or other communication evidencing a binding Pre-existing Agreement.
3. Information from the occupant confirming that there was a binding agreement in a time frame to make the agreement as Pre-existing Agreement under this Section.

If it is reasonably determined by the City staff, and confirmed by the City Council, that any information supplied to the City of Destin in support of an application for exemption, or in support of a defense based upon Pre-existing Agreement, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the City Council by resolution.

SECTION 4. INCORPORATION INTO CODE OF ORDINANCES. This ordinance shall be incorporated into the City of Destin’s Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to

effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin. City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS ____ DAY OF _____, 2019.

By: Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only:

Kimberly Romano Kopp, Land Use Attorney

**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Gretchen R. H. Vose, Esq.
Vose Law Firm LLP
324 W. Morse Blvd.
Winter Park, FL 32789

Recorded with
Manatee County Florida Clerk
Access Official Records at
www.ManateeClerk.com

For Recording Purposes Only

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this 22 day of February, 2017, ("Effective Date") by and between Randolph E. Brown and Nancy F. Brown ("Owner") and the City of Anna Maria ("City"), collectively referred to as the "Parties."

RECITALS

WHEREAS, on November 19, 2015, the City enacted Ordinance 15-807, the Vacation Rental Ordinance ("Ordinance"), which limited occupancy in Vacation Rentals, as that term is defined in the Ordinance; and

WHEREAS, Owner owns the real property and improvements located at 104 Pine Avenue, Anna Maria, Florida, as more particularly described in the attached Exhibit "A" (the "Property"); and

WHEREAS, on May 23, 2016, Owner filed a claim with the City, pursuant to the provisions of §70.001, Florida Statutes, the Bert J. Harris, Jr., Private Property Rights Protection Act (the "Harris Act"), alleging that the Property had been inordinately burdened by the adoption of the Ordinance, (the "Claim"); and

WHEREAS, the Harris Act provides for the City to have the ability to enter into a settlement agreement which would have the effect of a modification or variance to the application of a regulation or ordinance as it would otherwise apply to the subject real property, provided the relief granted protects the public interest served by the regulations at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property; and

WHEREAS, the City has determined that the modifications to the effect of the Ordinance effected by this Agreement protect the public interest served by the Ordinance and are the appropriate relief necessary to prevent the regulatory effect of the Ordinance from inordinately burdening the Property; and

WHEREAS, the Parties now desire to settle and finally resolve all disputes between and among them concerning the Claim.

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Occupancy Allowable Under Ordinance.** Owner is hereby granted a variance from the provisions of the Ordinance so that the Owner shall have the right to apply under the Ordinance for a maximum occupancy of fourteen (14) guests and the City shall grant such occupancy. This right shall continue in perpetuity, regardless of any future changes in ownership, provided that this right shall expire permanently if the Property were to be voluntarily remodeled or voluntarily rebuilt in such a manner as to decrease the number of bedrooms that existed at the date of the Claim.
3. **Development in Accordance with Code.** Notwithstanding any provisions contained herein, the Owner shall at any time have the right and option to remodel, develop, or use the Property in accordance with the applicable ordinances of the City of Anna Maria in effect at the time of application therefor, and this variance shall not be construed as making the Property in any way non-conforming.
4. **Entire Agreement.** The Parties acknowledge that this Agreement constitutes the entire agreement between them regarding the settlement of their dispute and any prior statements, whether oral or written, are merged herein. This Agreement may not be modified or amended without a written instrument signed by the party against whom enforcement is sought.
5. **Duration of Agreement.** This Agreement shall be perpetual and deemed to run with the land, and shall be binding upon and the benefits shall inure to the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.
6. **Authority.** The signatories to this Agreement are expressly authorized to resolve their dispute as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.
7. **Governing Law.** The law of the State of Florida shall apply to this Agreement. Any dispute regarding this Agreement shall be litigated exclusively in the courts of Manatee County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

OWNER:

Julie Wyman
Signature of Witness #1
Witness as to Randolph Brown.

Randolph E. Brown
Randolph E. Brown

Julie Wyman
Print or type name

Danielle Hill
Signature of Witness #2
Witness as to Randolph Brown
Danielle Hill
Print or type name

Nancy F. Brown
Nancy F. Brown

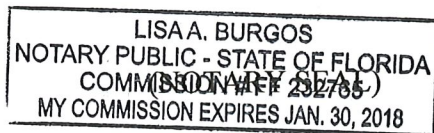
STATE OF Florida
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 22 day of February, 2017, by Randolph E. Brown and Nancy F. Brown, who are personally known to me or who have produced PDL as identification and who did not (did) take an oath.

Notary for Randolph E. Brown

Lisa Burgos

Signature of Notary



Lisa Burgos
Print or type name

CITY OF ANNA MARIA

By:

Dan Murphy, Mayor

Date: _____

Sharon L. Grecula

Signature of Witness # 1

Sharon L. Grecula

Print or type name

[Signature]

Signature of Witness #2

GREGORY MEDEROS

Print or type name

STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 24th day of February, 2017, by Randolph E. Brown and Nancy F. Brown, who are personally known to me or who have produced _____ as identification and who did not (did) take an oath.

OWNER:

Randolph E. Brown

[Signature]

Nancy E. Brown

Sharon L. Grecula

Signature of Notary

Sharon L. Grecula

Print or type name



CITY OF ANNA MARIA

By: [Signature]

Dan Murphy, Mayor

Date: 04.10.17

ATTEST:

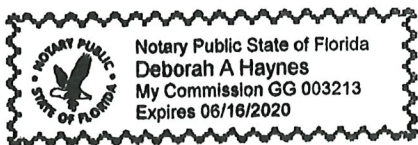
LeAnne Addy
LeAnne Addy, City Clerk

Date: 4/10/17

STATE OF FLORIDA

COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 10 day of April, 2016, by Dan Murphy, and LeAnne Addy, who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Anna Maria.



(NOTARY SEAL)

Deborah A. Haynes
Signature of Notary

Deborah A. Haynes
Print or type name

Approved as to form and legality for use and reliance
by the City of Anna Maria, Florida

Gretchen R. H. "Becky" Vose
Gretchen R. H. "Becky" Vose

Exhibit "A"

Legal Description of Property

Lots 5, 6, 7, 15 and 16, Block 35, First Addition to Anna Maria Beach Subdivision, according to the map or plat thereof recorded in plat book 1, page 237, as recorded in the Public Records of Manatee County, Florida; together with that portion of the vacated alley between Lot 7 and Lots 15 and 16 of said Block 35

Angelina "Angel" Colonnese

Clerk of the Circuit Court

Manatee County

P.O. Box 25400
Bradenton, FL 34206

Official Records Receipt Recording

Recorded By: jtinkham
Cashiered By: PSCOTT

Receipt#: 900037416

Payee Name: COUNTER CUSTOMER

Receipt Date: 12/21/2016

Escrow Balance:
Escrow Customer:

Instrument(s): 201641069593-BK2653/PG336-AGREEMENT

Details

INDEXING NAMES	\$0.00
PRMTF \$1/\$.50	\$3.00
PRMTF BCC \$2	\$10.00
PRMTF CLERK \$1.90	\$9.50
PRMTF FACC \$.10	\$0.50
RECORDING FEE \$5/\$4	\$21.00

Receipt Total: \$44.00

Amount Tendered: \$44.00

Overage: \$0.00

MFC \$44.00 17321565

**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Gretchen R. H. Vose, Esq.
Vose Law Firm LLP
324 W. Morse Blvd.
Winter Park, FL 32789

Recorded with
Manatee County Florida Clerk
Access Official Records at
www.ManateeClerk.com

For Recording Purposes Only

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this 15 day of November, 2016, ("Effective Date") by and between John Hinton and Carol Hinton (collectively "Owner") and the City of Anna Maria ("City"), collectively referred to as the "Parties."

RECITALS

WHEREAS, on November 19, 2015, the City enacted Ordinance 15-807, the Vacation Rental Ordinance ("Ordinance"), which limited occupancy in Vacation Rentals, as that term is defined in the Ordinance; and

WHEREAS, Owner owns the real property and improvements located at 749 Jacaranda Road, Anna Maria, Florida, as more particularly described in the attached Exhibit "A" (the "Property"); and

WHEREAS, on May 23, 2016, Owner filed a claim with the City, pursuant to the provisions of §70.001, Florida Statutes, the Bert J. Harris, Jr., Private Property Rights Protection Act (the "Harris Act"), alleging that the Property had been inordinately burdened by the adoption of the Ordinance, (the "Claim"); and

WHEREAS, the Harris Act provides for the City to have the ability to enter into a settlement agreement which would have the effect of a modification or variance to the application of a regulation or ordinance as it would otherwise apply to the subject real property, provided the relief granted protects the public interest served by the regulations at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property; and

WHEREAS, the City has determined that the modifications to the effect of the Ordinance effected by this Agreement protect the public interest served by the Ordinance and are the appropriate relief necessary to prevent the regulatory effect of the Ordinance from inordinately burdening the Property; and

WHEREAS, the Parties now desire to settle and finally resolve all disputes between and among them concerning the Claim.

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Occupancy Allowable Under Ordinance.** Owner is hereby granted a variance from the provisions of the Ordinance so that the Owner shall have the right to apply under the Ordinance for a maximum occupancy of twelve (12) persons, and the City shall grant such occupancy. This right shall continue in perpetuity, regardless of any future changes in ownership, provided that this right shall expire permanently if the Property were to be voluntarily remodeled or voluntarily rebuilt in such a manner as to decrease the number of bedrooms that existed at the date of the Claim.
3. **Development in Accordance with Code.** Notwithstanding any provisions contained herein, the Owner shall at any time have the right and option to remodel, develop, or use the Property in accordance with the applicable ordinances of the City of Anna Maria in effect at the time of application therefor, and this variance shall not be construed as making the Property in any way non-conforming.
4. **Entire Agreement.** The Parties acknowledge that this Agreement constitutes the entire agreement between them regarding the settlement of their dispute and any prior statements, whether oral or written, are merged herein. This Agreement may not be modified or amended without a written instrument signed by the party against whom enforcement is sought.
5. **Duration of Agreement.** This Agreement shall be perpetual and deemed to run with the land, and shall be binding upon and the benefits shall inure to the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.
6. **Authority.** The signatories to this Agreement are expressly authorized to resolve their dispute as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.
7. **Governing Law.** The law of the State of Florida shall apply to this Agreement. Any dispute regarding this Agreement shall be litigated exclusively in the courts of Manatee County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

Tamala Swafford

Signature of Witness # 1

Tamala Swafford

Print or type name

Christina Fagan

Signature of Witness #2

CHRISTINA FAGAN

Print or type name

STATE OF Florida
COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 15th day of November 2016, by John Hinton and Carol Hinton, who are personally known to me or who have produced passports as identification and who did not (did) take an oath.

OWNER:

[Signature]

John Hinton

[Signature]

Carol Hinton

Christina Fagan

Signature of Notary

CHRISTINA FAGAN

Print or type name

(NOTARY SEAL)



CITY OF ANNA MARIA

By:

[Signature]

Dan Murphy, Mayor

Date:

12.19.16

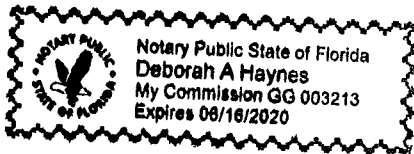
ATTEST:

LeAnne Addy
LeAnne Addy, City Clerk

Date: 12-20-16

STATE OF FLORIDA
COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 20th day of December 2016, by Dan Murphy, and LeAnne Addy, who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Anna Maria.



(NOTARY SEAL)

Deborah A. Haynes
Signature of Notary

Deborah A. Haynes
Print or type name

Approved as to form and legality for use and reliance
by the City of Anna Maria, Florida

Gretchen R. H. "Becky" Vose
Gretchen R. H. "Becky" Vose

Exhibit "A"

Legal Description of Property

**Lot 2, Block 17, Shore Acres Second Addition as per plat thereof recorded in Plat Book 7 Page
29, Public Records of Manatee County, Florida**

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Ordinance

TO: City Council

THRU: Kimberly Kopp, Land Use Attorney
Lance Johnson, Interim City Manager

FROM: Louis Zunguze, Community Development Director

DATE: 12/12/2018

SUBJECT: First reading of Ordinance 18-30-LC - Commercial events in residential areas

I. BACKGROUND: Currently, section 7.12.04 of the Land Development Code prohibits buildings, structures and land from being used except in conformity with zoning district regulations. While the City's residential zoning districts currently prohibit nonresidential activities, and therefore, the Code already prohibits commercial special events from being held in residential areas, the City Council has directed staff to clarify the Code on these points due to the increase in commercial activities in residential districts within the City and in order to clarify existing City codes.

II. DISCUSSION:

Ordinance 18-30-LC is now before the City Council for consideration on first reading. The proposed Ordinance 18-30-LC provides that advertising or marketing for a commercial special event in a residential zoning district is prima facie evidence of illegal commercial activity in a residential zoning district, and is a violation of Chapter 7 of the Land Development Code. It further provides that such code violations are subject to enforcement pursuant to Chapter 14 of the City Code of Ordinances and to enforcement by any other means available to the City at law or in equity.

A one year amortization clause is included to cover events for which property owners may already be under contract.

Additionally, the proposed ordinance, in current form, provides for the following new definitions:

Commercial special events: Any wedding or wedding reception, bachelor party, family reunion, class reunion, company banquet, retreat and/or picnic, or other similar event or celebration for which a property owner or occupant of the property obtains a profit, event fee, or other commercial gain. Commercial special events are commercial uses, as defined herein.

1. The holding of two or more weddings or wedding receptions at the premises within any given twelve (12) month period is prima facie evidence that the event is a commercial special event.
2. The holding of two or more company banquets, retreats, and/or picnics at the premises within any given twelve (12) month period is prima facie evidence that such events are commercial special events.

Commercial special event venue: Any building, structure or land that is used or occupied for one or more commercial special events per year. The advertising of a building, structure or land for commercial special events is prima facie evidence that the building, structure or land is a commercial special event venue.

Commercial uses: Activities within land areas, which are predominantly connected with the sale, rental and distribution of products, or performance of services. Evidence that a property owner or authorized occupant of a property owner has obtained a profit, monetary compensation, event fee, or other commercial gain by the property's owner's (or property owner's authorized occupant's) use of the building, structure or land is prima facie evidence that this definition has been met and the use of the building, structure or land is a commercial use. Home occupations permitted pursuant to section 9.06.06 of this code are specifically excluded from this definition.

The ordinance will also specifically prohibit commercial special event venues in residential areas via inclusion in Table 7-2, which contains permitted and prohibited uses for each zoning district.

- A. **Link to Strategic Goals / Objectives:**
- B. **Effect on Budget (EOB):**
- C. **Level of Service (LOS):**

III. CONCLUSION: While the City's residential zoning districts currently prohibit nonresidential activities, and therefore, the Code already prohibits commercial special events from being held in residential areas, the City Council has directed staff to clarify the Code on these points due to the increase in commercial

activities in residential districts within the City and in order to clarify existing City codes. Based on this direction, staff and legal have prepared Ordinance 18-30-LC, which is now before Council on first reading.

IV. RECOMMENDED MOTION: I move to approve Ordinance 18-30-LC on first reading and direct staff to advertise Ordinance 18-30-LC for review by the LPA.

or

I move to deny Ordinance 18-30-LC on first reading.

Attachments:

1. Commercial Events Ordinance
12_17_2018

ORDINANCE NO. 18-30-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO COMMERCIAL ACTIVITY IN RESIDENTIAL AREAS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; CREATING DEFINITIONS FOR COMMERCIAL USES, COMMERCIAL SPECIAL EVENTS, AND COMMERCIAL SPECIAL EVENT VENUES; PROVIDING FOR AMENDMENTS TO ARTICLES 3, 7, AND 9 OF THE LAND DEVELOPMENT CODE; AMENDING TABLE 7-2, TABLE OF ALLOWABLE USES IN ZONING DISTRICTS TO PROHIBIT COMMERCIAL SPECIAL EVENT VENUES IN ALL RESIDENTIAL DISTRICTS; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is Article I, Section I .01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Pan II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the conducting of commercial activity in residential areas has become a topic of concern within the City of Destin; and

WHEREAS, the City Council desires to obtain compliance with existing City codes by clarifying the existing code with respect to specified commercial activities; and

WHEREAS, Section 7.12.04(A) of the City's Land Development Code prohibits the use or occupation of buildings, structures, or land except in conformance with all of the regulations of the zoning district within which it is located; and

WHEREAS, each of the residential zoning districts within the City specifically prohibit commercial activities; and

WHEREAS, the presence of commercial activities within established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash and diminished public safety; and

WHEREAS, the provisions of this Ordinance will serve to further address the concerns of the City and its residents related to illegal commercial activities in residential zoning districts, to preserve the quality of life in all City neighborhoods, and to provide clarification to residents of the City's intent in enforcement of its existing ordinances; and

WHEREAS, the City Council has deemed it in the best interest of its citizens and residents to adopt additional regulations for short-term rental units; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted Comprehensive Plan and is in the best interest of the City and its citizens; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in sections three (3), four (4) and five (5) of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Land Development Code that have been skipped and remain unchanged.

SECTION 3. AMENDMENT OF LAND DEVELOPMENT CODE ARTICLE 3: Article 3 of the Land Development Code is hereby amended as follows:

* * *

Article 3. DEFINITIONS.

* * *

3.00.01. DEFINITIONS.

For the purpose of this Code, the following terms, phrases, words and their derivations shall have the meaning contained herein, except where the context clearly requires otherwise.

* * *

Commercial special events: Any wedding or wedding reception, spring break party, bachelor party, family reunion, class reunion, company banquet, company retreat and/or company picnic, or other similar event or celebration for which a property owner or occupant of the property obtains a profit, monetary compensation, event fee, or other commercial gain. Commercial special events are commercial uses, as defined herein.

- a. The holding of two or more weddings or wedding receptions at the premises within any given twelve (12) month period is prima facie evidence that the events are commercial special events.
- b. The holding of two or more company banquets, retreats, and/or picnic at the premises within any given twelve (12) month period is prima facie evidence that such events are commercial special events.

Commercial special event venue: Any building, structure or land that is used or occupied for one or more commercial special events within a year. The advertising of a building, structure or land for commercial special events is prima facie evidence that the building, structure or land is a commercial special event venue.

Commercial uses: Activities within land areas, which are predominantly connected with the sale, rental and distribution of products, or performance of services. Evidence that a property owner or authorized occupant of a property owner has obtained a profit, monetary compensation, event fee, or other commercial gain by the property's owner's (or property owner's authorized occupant's) use of the building, structure or land is prima facie evidence that this definition has been met and the use of the building, structure or land is a commercial use. Home occupations permitted pursuant to section 9.06.06

of this code are specifically excluded from this definition.

* * *

SECTION 4. AMENDMENT OF LAND DEVELOPMENT CODE ARTICLE 7: Article 7 of the Land Development Code is hereby amended as follows:

* * *

Article 7 - LAND USE, TYPE, DENSITY, INTENSITY, ZONING AND REGULATORY CONTROLS

* * *

7.12.04. Compliance with Zoning District Regulations. The regulations set forth in this section within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- A. No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

* * *

N. The evidentiary standard and provisions shall apply in all residential zoning districts, including the following zoning districts: Bay Estates (BE); Low Density Residential-Village (LDR-V); Low Density Residential – Holiday Isle (LDR-HI); Low Density Residential – Harbor (LDR-H); Medium Density Residential – Village (MDR-V); Medium Density Residential- Holiday Isle (MDR-HI); High Density Residential (HDR); Crystal Beach Neighborhood (CBN); Residential, Office and Institutional – General Development (ROI -GD); Residential, Office and Institutional – Tourist Development (ROI-TD); Residential, Office and Institutional-Village Residential (ROI-VR); and Residential, Office and Institutional – Crystal Beach Residential (ROI-CBR).

1. Any advertising or marketing for a commercial special event in a residential zoning district is prima facie evidence of illegal commercial activity in a residential zoning district, and is a violation of Chapter 7 of the Land Development Code. Such code violations are subject to enforcement pursuant to Chapter 14 of the City Code of Ordinances and to enforcement by any other means available to the City at law or in equity.
2. Notwithstanding any other provision of this ordinance, contracts that were pre-existing as of the enactment of this Ordinance 18-30-LC, (hereinafter “Pre-existing Contracts”) are exempt from the provisions of this ordinance for a period of one (1) year. All bookings made subsequent to the enactment of this ordinance are subject to the provisions of this ordinance. All advertising must be compliant within one hundred twenty (120) days of the effective date of this ordinance.

Any defense under this subsection shall be determined based upon the following information, and upon any additional information supplied by the property owner or otherwise determined by the fact finder:

- i. Copy of deposit or payment information evidencing that the agreement

- was a Pre-existing Contract.
- ii. Copy of e-mail or other communication evidencing a binding Pre-existing Contract.
 - iii. Information from the property owner confirming that there was a binding agreement in a time frame to make the agreement as Pre-existing Contract under this section.

If it is reasonably determined by the City staff, and confirmed by the City's Special Magistrate that any information supplied to the City of Destin in support of an application for exemption, or in support of a defense based upon Pre-existing Contract, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the City Council by resolution.

* * *

(Here, Table 7-2 will be inserted amended to prohibit commercial special event venues in all residential zoning districts)

* * *

SECTION 5. AMENDMENT OF LAND DEVELOPMENT CODE ARTICLE 9: Article 9 of the Land Development Code is hereby amended as follows:

Article 9. HOUSING.

* * *

9.06.06. Home Occupations -Standards.

* * *

C. Prohibited home occupations.

The following uses are specifically prohibited in residential zones and are not, by definition, permitted home occupations:

- (1) Beauty/barber shops.
- (2) Appliance and motor repair.
- (3) Automotive/vehicle repairs/paint and body work.
- (4) Florist.
- (5) Veterinary clinic.
- (6) Radio/television repair.
- (7) Work involving hazardous materials.
- (8) Restaurants, bars, lounges or bottle clubs.
- (9) Fortunetellers or similar occupations.
- (10) Wholesale sales.
- (11) Retail sales.
- (12) Commercial special event venues.
- (13) Any other occupation which does not meet the standards set forth herein.

* * *

SECTION 6. INCORPORATION INTO LAND DEVELOPMENT CODE. This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 7. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin. City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 8. SEVERABILITY. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 9. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS ____ DAY OF _____, 2019 .

By: Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only:

Kimberly Romano Kopp, Land Use Attorney

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018**TYPE OF AGENDA ITEM:** Action Item

TO: City Council

THRU: Kimberly Kopp, Land Use Attorney
Louis Zunguze, Community Development Director

FROM: Lance Johnson, Interim City Manager

DATE: December 12, 2018

SUBJECT: Second reading of Ordinance 18-26-LC - Amending Article 2 of the Land Development Code to amending the application categories for vested rights determinations

I. BACKGROUND: The City Council and the City's Local Planning Agency have previously undertaken the necessary studies and have adopted a Comprehensive Plan to guide and control growth in the city. Policy 1-2.1.5 of the City's adopted Comprehensive Plan provides that existing land uses that were lawfully conforming uses prior to the effective date of the Comprehensive Plan continue as lawful uses. Additionally, Policy 1-2.1.5 requires that implementing regulations and administrative remedies be set forth in the City's Land Development Code for vested rights issues. Therefore, on September 3, 2018, the City Council adopted implementing land development regulations consistent with the adopted Comprehensive Plan in accordance with the Community Planning Act. Subsequently, the City Council directed staff to add an additional category for potential vested rights determinations provided there is a de minimis impact. The proposed ordinance is staff's attempt to capture the intent of the City Council in balancing the welfare and quality of life of its citizens and tourist population, and of all the public, with the rights of private property owners.

Ordinance 18-26-LC was passed on first reading on December 3, 2018.

II. DISCUSSION:

The proposed ordinance creates a fourth limited category for vested rights determinations. In summary, the proposed criteria and requirements for eligibility include:

1. The development application must have been submitted prior to June 8, 2018, which is the effective date of the current Comprehensive Plan. Further, the application must not have received a final decision regarding approval or denial.
2. The application must be a minor development.

3. The proposed structure must be less than 4,000 square feet.

The property owner would have six months from the date of the ordinance to apply for a Category Four vested rights determination, and all other provisions of the ordinance adopted by the City Council on September 3, 2018 would be applicable to this category.

A. Link to Strategic Goals / Objectives: Policy 1-2.1.5 of the City's adopted Comprehensive Plan provides that existing land uses that were lawfully conforming uses prior to the effective date of the Comprehensive Plan continue as lawful uses. Additionally, Policy 1-2.1.5 requires that implementing regulations and administrative remedies be set forth in the City's Land Development Code for vested rights issues.

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION: I move to approve Ordinance 18-26-LC on second reading.

Attachments:

1. Dec 3 Vested Rights Ordinance

ORDINANCE NO. 18-xx-LC

**AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA
AMENDING ARTICLE 2 OF THE LAND DEVELOPMENT CODE
TO AMENDING THE APPLICATION CATEGORIES FOR
VESTED RIGHTS DETERMINATIONS; PROVIDING FOR
AUTHORITY; PROVIDING FOR INCORPORATION INTO THE
LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING
PROVISIONS; PROVIDING FOR SEVERABILITY; AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provide municipalities the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, pursuant to the requirements of section 163.3164, et seq., Florida Statutes, the Community Planning Act, (hereinafter “Community Planning Act”) the City of Destin has adopted and has in effect a Comprehensive Plan; and

WHEREAS, the City Council and the City’s Local Planning Agency have previously undertaken the necessary studies and have adopted a Comprehensive Plan to guide and control growth in the city; and

WHEREAS, Policy 1-2.1.5 of the City’s adopted Comprehensive Plan provides that existing land uses that were lawfully conforming uses prior to the effective date of the Comprehensive Plan continue as lawful uses; and

WHEREAS, Policy 1-2.1.5 of the City’s adopted Comprehensive Plan requires that implementing regulations and administrative remedies be set forth in the City’s Land Development Code for vested rights issues;

WHEREAS, on September 3, 2018, the City Council adopted implementing land development regulations consistent with the adopted Comprehensive Plan in accordance with the Community Planning Act; and

WHEREAS, the City Council of the City of Destin desires to add an additional category for potential vested rights determinations provided there is a de minimis impact ; and

WHEREAS, the City Council desires to balance the welfare and quality of life of its citizens and tourist population, and of all the public, with the rights of private property owners; and

WHEREAS, the City Council of the City of Destin, Florida hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of the City of Destin, Florida; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby incorporated herein by this reference.

Article . 2 Administration.

* * *

Section 2.26.02. Eligibility to Apply for a Vested Rights Determination

A. This process is only available to property owners who personally, or through their predecessors in title, can provide written proof that prior to June 8, 2018, they applied to the City of Destin to build something on the property that was never built on a specific parcel of property, and that they are able to meet one of the ~~three~~ four categories of applications set forth below in section 2.26.03.

B. The scope of any such request for a Vested Right shall be limited to what was applied for in the original application filed with the City prior to June 8, 2018, and shall be further limited to any written input or opinions provided by staff at the time of the denial or approval. Any application relied upon by the Applicant, along with any input or opinions from staff, must be attached to any Application submitted under this Chapter.

C. One may not apply if they are seeking a determination as to anything that was subject to an unexpired development order, which was pending as of June 8, 2018, and any building heights, density, and or intensity requirements in the unexpired development order shall continue to be legal after the date of the adoption of the Comprehensive Plan, and shall expire on the expiration date contained within the development order.

D. An Applicant may only submit one application for a Vested Rights Determination per parcel, which will require the Applicant to indicate which category the Applicant is applying under. The Categories are mutually exclusive, and Applicants shall only select one category for their application. If an Applicant selects more than one category, then the Application shall be summarily denied if not corrected within three (3) months of the effective date of this Chapter.

Section 2.26.03. Application Categories.

A property owner may make application to the City Council for a Vested Rights Determination if they fall within one of the ~~three~~ four categories listed below.

* * *

D. Category Four

i. The Applicant duly applied for a Development Order prior to June 8, 2018, and did not receive a final decision for approval or denial prior to June 8, 2018. A formal written application and payment of appropriate applicable fees must have been received by the City prior to June 8, 2018.

ii. Category Four applications for vested rights determinations are subject to the following limitations:

a. The application is for a minor development; and

b. The gross floor area of the proposed structure is less than 4,000 square feet; and

iii. This category of Applicant shall be required to submit an application for a vested rights determination by (insert date that is 6 months after effective date of this Ordinance).

Section 3. Incorporation into the Land Development Code.

This ordinance shall be incorporated into the Land Development Code, and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

Section 4. Conflicting Provisions.

All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior inconsistent ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date.

This ordinance shall become effective adoption by the City Council and signature by the Mayor.

ADOPTED THIS ____ DAY OF _____, 2018.

By: _____
Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only.

Kimberly Romano Kopp, Esq.

First Reading: _____

Second Reading: _____

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Public Hearing

TO: City Council

THRU: Jeff Burns, City Attorney
Lance Johnson, Interim City Manager

FROM: Steve Schmidt, Deputy City Manager

DATE: November 28, 2018

SUBJECT: Second Reading of Ordinance 18-28-CC - Amendment to Harbor and Waterways Ordinance

I. BACKGROUND: At its regular February 6, 2017 meeting, City Council voted to approve ordinance 17-01-CC on 2nd reading, an ordinance which prevents anchoring of floating structures in the waters of the City. At its regular April 17, 2017 meeting, City Council voted to approve ordinance 17-09-CC on 2nd reading, an ordinance which modified ordinance 17-01-CC. The Sheriff's office has raised additional questions about a provision in Section 5-2 of the ordinance, and staff has worked with the City Attorney to clarify the language.

II. DISCUSSION: Attached (Exhibit "A") is Ordinance No. 18-28-CC, which contains relatively minor amendments to Ordinance 17-09-CC. The proposed amendment to the approved ordinance clarifies the prohibition for anchoring to make it clear the ordinance only prohibits anchoring of bottomland in the City of Destin to live-aboard vessels and floating structures.

A. Link to Strategic Goals / Objectives: 2A: Improve public use of waterways and harbor.

B. Effect on Budget (EOB): None anticipated.

C. Level of Service (LOS): None anticipated.

III. CONCLUSION: This minor amendment to the prior ordinance has been crafted by the city attorney and resolves any ambiguity that the ordinance might pertain to mooring of vessels in the harbor being a violation and further clarifying that the prohibition only pertains to live-aboard vessels and floating structures.

IV. RECOMMENDED MOTION: I move to approve Ordinance 18-28-CC on second reading

Attachments:

1. 18-28-CC - Amendment of Ord. 17-09-CC Harbor and Waterways
2. legal approval Harbor Waterways Ord

Ordinance No: 18-28-CC

AN ORDINANCE OF THE CITY OF DESTIN RELATING TO CITY WATERWAYS; PROVIDING FOR ADDITIONAL FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF SECTION 5-2 OBSTRUCTING CHANNELS; UNLAWFUL ANCHORING, MOORING OR DOCKING; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Destin City Council has approved ordinance no. 17-01-CC on Second Reading at its regular meeting February 6, 2017, and amended it by approving ordinance No. 17-09-CC on Second Reading at its regular meeting April 17, 2017, amending Code of Ordinances Chapter 5, Boats, Harbors and Waterways; and

WHEREAS, The City of Destin City Council wishes to further amend Code of Ordinances Chapter 5, Article I. In General to clarify unlawful anchoring.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN AS FOLLOWS:

NOTE: *Language in Sections 3 through 16 of this ordinance that is ~~struck through~~ is language proposed to be deleted, underlined language is language proposed to be added, language that is not ~~struck through~~ or underlined is not to be changed, and * * * represents sections of the Code of Ordinances that have been skipped and remain unchanged.*

SECTION 1. FINDINGS. The above stated findings are hereby adopted.

* * *

SECTION 2. AMENDMENT OF CODE OF ORDINANCES SECTION 5-2. OBSTRUCTING CHANNELS, UNLAWFUL ANCHORING, MOORING OR DOCKING. Code of Ordinances Section 5-2. *Obstructing channels; unlawful anchoring, mooring or docking*, is hereby created as follows:

Sec. 5-2. Obstructing channels; unlawful anchoring, mooring or docking.

It shall be unlawful: (1) for any vessel within the City to tie up to any navigational aid within the City; except in an emergency; or (2) to anchor or moor any live-aboard vessel or ~~vessel not in navigation~~ floating structure over ~~City-owned~~ bottomland located within the City of Destin, or to anchor, moor or dock without permission within the marked boundaries of any mooring field.

* * *

SECTION 6. SEVERABILITY. If any section, phrase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS ____ DAY OF DECEMBER, 2018.

BY: _____
Gary Jarvis, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney.

Rey Bailey, City Clerk

Jeff Burns, City Attorney

First Reading: _____

Second Reading: _____

Lance Johnson

From: Jeff Burns <jlburns@asglegal.com>
Sent: Wednesday, November 28, 2018 11:20 AM
To: Steven Schmidt
Cc: Lance Johnson; Kyle Bauman
Subject: Re: Harbor and Waterways Ordinance

Looks good to me.

On Nov 28, 2018, at 8:28 AM, Steven Schmidt <sschmidt@cityofdestin.com> wrote:

Not seeing any response to the attachments, and approaching the deadline for inclusion in the agenda, I'm going to assume it was acceptable and load it. I've revised the attached with the full Ordinance number.

Best regards,

Steve

From: Steven Schmidt
Sent: Monday, November 26, 2018 9:53 AM
To: 'Jeff Burns' <jlburns@asglegal.com>; Lance Johnson <ljohnson@cityofdestin.com>
Cc: Kyle Bauman <kbauman@asglegal.com>
Subject: RE: Harbor and Waterways Ordinance

Please review the attachments and let me know if you have any recommended revisions.

Best regards,

Steve

Steven R. Schmidt
City of Destin
sschmidt@cityofdestin.com

From: Jeff Burns <jlburns@asglegal.com>
Sent: Sunday, November 18, 2018 10:18 PM
To: Steven Schmidt <sschmidt@cityofdestin.com>; Lance Johnson <ljohnson@cityofdestin.com>
Cc: Kyle Bauman <kbauman@asglegal.com>
Subject: Harbor and Waterways Ordinance

Steve or Lance,

Can you send me the last version in Word, of the Harbor and Waterways Ordinance. From my records Steve made some changes by pdf in 2017 that I approved of. If we are being asked to draft the update version, then it will be much quicker to make changes to the last word doc.

Thanks!

Jeffrey L. Burns, Esq.*
Attorney At Law

*Licensed to practice law in Florida and Alabama

Anchors Smith Grimsley, PLC
909 Mar Walt Drive, Suite 1014, Fort Walton Beach, Florida 32547
Main Number: (850) 863-4064 | Fax Number: (850) 664-5728

[Website](#) | [Email](#) | [Vcard](#)

<image001.png>

CONFIDENTIALITY NOTICE: THIS ELECTRONIC TRANSMISSION CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS TRANSMISSION IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE NOTIFIED THAT ANY DISSEMINATION OR COPYING OF THIS TRANSMISSION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY E-MAIL AND DESTROY THE ORIGINAL TRANSMISSION.

“Please Note: Florida has a very broad public records law. Most written communications to or from the City of Destin officials are public records available to the public and media upon request. Your e-mail address and communications may therefore be subject to public disclosure.”

<18-28-CC - Amendment of Ord. 17-09-CC Harbor and Waterways.doc>

<18-12-03 Ord.18.28.CC-Amendment to Harbor and Waterways ordinance 17.09.CC (1st reading).docx>

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018**TYPE OF AGENDA ITEM:** Resolution**TO:** City Council**THRU:****FROM:****DATE:****SUBJECT:** Resolution 18-45 - Amendment to the Atkins North America, Inc Contract for the Crosstown Connector**I. BACKGROUND:**

The Beach Drive to Benning Drive road project is the last unconnected leg of the City's Crosstown Connector, an east-west corridor intended to relieve traffic congestion on U.S. Highway 98. Atkins of North America (Atkins) is under contract with the City to perform the Project Development and Environmental Study (PD&E) as well as the road construction plans and right-of-way maps. The project is currently 85% complete. There are several properties located within the project area that still need to be acquired. The current contract expires December 31, 2018.

II. DISCUSSION:

The City staff requested Atkins North America, Inc. assist in acquiring the several properties in accordance with the National Environmental Policy Act (NEPA). This process involves three steps; Appraisal, Acquisition and Relocation.

A. Link to Strategic Goals / Objectives:

1. 2.B. Cross-Town Connector (US 98 Alternative) Direction, Funding ROW Acquisition.

B. Effect on Budget (EOB): No effect on budget**C. Level of Service (LOS):**

1. There will be an increase in the level of service for the for the City of Destin transportation system.

III. CONCLUSION:

Because the City needs assistance in acquiring the property according to the National Environmental Policy Act to insure we are eligible for federal funding, staff recommends the current contract with Atkins be extended to December 31, 2020.

IV. RECOMMENDED MOTION:

I move that the City Council pass resolution 18-45 that authorizes the City Manager execute a contract amendment with Atkins of North America extending the existing contract to December 31, 2020.

Attachments:

1. Amendment No. 3
2. Resolution 18-45 Amendment 3 to
Adkins North America, Inc Contract

AMENDMENT NO. 3 TO

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES BETWEEN CITY
OF DESTIN AND ATKINS NORTH AMERICA, INC**

THIS AMENDMENT is made and entered into this _____ day of December, 2018, by and between the **CITY OF DESTIN** (hereinafter referred to as “CITY”) and **ATKINS NORTH AMERICA, INC.** (hereinafter referred to as “CONSULTANT”), to extend and amend the professional engineering services agreement dated February 28, 2017 for professional consulting engineering services amendment 2; and

NOW, THEREFORE, the **CITY** and the **CONSULTANT** further amend the agreement as follows:

1) Schedule:

- a. The agreement establishes a new tentative completion date of December 31, 2020.

IN WITNESS WHEREOF, the City and Consultant, through their duly authorized representative, execute this Amendment

CITY OF DESTIN

ATKINS NORTH AMERICA, INC

Lance Johnson

Interim City Manager

Jeff C. Helms

Vice President

Attest to Signature:

Rey Bailey

City Clerk

SEAL

RESOLUTION 18-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE ATKINS NORTH AMERICA, INC. CONTRACT FOR THE CROSSTOWN CONNECTOR PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, The Beach Drive to Benning Drive road project is the last unconnected leg of the City's Crosstown Connector, an east-west corridor intended to relieve traffic congestion on U.S. Highway 98; and

WHEREAS, the City of Destin has Atkins North America, Inc. under contract to perform a PD&E Study and engineering plans for the Crosstown Connector Project; and

WHEREAS, several properties are located within the project area and will have to be acquired by the City to construct the project; and

WHEREAS, the City requested Atkins North America, Inc. assist in acquiring the several properties in accordance with the National Environmental Policy Act; and

WHEREAS, in order to limit the amount of properties to be acquired, the City desires to reconfigure the design of the Benning Drive intersection from a round-a-bout to a four-way stop intersection; and

WHEREAS, the existing contract expires December 31, 2018

NOW, THEREFORE, BE IT RESOLVED, by the Destin City Council that the terms of said Contract Amendment are in the best interest of the City of Destin and the Destin City Council designates and confirms Lance Johnson, Interim City Manager to execute and deliver the Contract Amendment and any related documents necessary to consummate this agreement.

PASSED AND DULY ADOPTED THIS ____ DAY OF DECEMBER, 2018

By:

Gary Jarvis, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

City Attorney

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: 1. Utility Art

I. BACKGROUND:

II. DISCUSSION:

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:

None

Rey Bailey

From: Steven Menchel <flamenchel@yahoo.com>
Sent: Friday, December 14, 2018 9:11 AM
To: Rey Bailey; Tuffy Dixon
Subject: FROM Steven Menchel - Info for agenda packet

Rey,

Please include this email with agenda packet.

Thanks,

Steven Menchel

----- Forwarded Message -----

From: "Castells, Dustin" <Dustin.Castells@dot.state.fl.us>
To: Steven Menchel <flamenchel@yahoo.com>
Cc: Joe Bodi <jbodi@cityofdestin.com>; Tuffy Dixon <tdixon@cityofdestin.com>; "Lewis, Michael" <Michael.Lewis@dot.state.fl.us>; "Johnson, Carter" <Carter.Johnson@dot.state.fl.us>
Sent: Thursday, October 4, 2018 8:53 AM
Subject: RE: FROM Steven Menchel - Follow up on phone call today (421993-2)

Good Morning Mr. Menchel,

As requested during our phone conversation and this e-mail, I have discussed the City's request to install guardrail as safety measure on Airport Road.

It is my understanding there is concern that by installing guardrail, the City could impact the safety funds that have been allocated for improvements on Airport Road. This is not the case. If the City is planning to cover all the costs associated with the installation of the guardrail, then the Department has no concerns. If the City decides to move forward with the installation of guardrail, we do recommend that the installation be completed in accordance with the latest Florida Greenbook Standards.

Regarding the guardrail price of \$18-19 per linear foot, this is based on bids that we receive at the Department and does not include the end anchor assembly that will be needed on each end (approximately \$2,000 apiece). For such a small project (I believe you said 300 LF), you can expect inflated prices. I would questimate that this work will cost around \$10,000-\$15,000. That is not an official estimate, but hopefully get you in the ball park.

If you have additional questions, please let us know. Thank you.

Dustin Castells
Florida Department of Transportation

District 3 Local Programs Administrator
1074 Highway 90 East
Chipley, Florida 32428
Phone (850) 330-1227

e-mail dustin.castells@dot.state.fl.us

Click here for: [Local Programs](#) | [LAP Manual](#) | [LAPIT Login](#) | [LAP Forms](#) | [File Transfer](#)

From: Steven Menchel [mailto:flamenchel@yahoo.com]

Sent: Tuesday, October 02, 2018 6:32 PM

To: Castells, Dustin <Dustin.Castells@dot.state.fl.us>; Joe Bodi <jbodi@cityofdestin.com>; Tuffy Dixon <tdixon@cityofdestin.com>

Subject: FROM Steven Menchel - Follow up on phone call today

EXTERNAL SENDER: Use caution with links and attachments.

Joe Bodi, FYI – I spoke to Mr. Castells earlier today and per our conversation I told him I would follow up with an email.

Mr. Dustin Castells,

As a follow up to our conversation today the following is provided.

First, I want to thank you for taking the time to explain the process and provide me with the information that you did.

As I stated, I am the Chairman of the City Of Destin Public Works/Public Safety Committee (PW/PS) and we (the committee) have been discussing Airport Road and the associated issues for several years.

Joe Bodi is our staff liaison who attends our meetings and he has briefed us on the Airport Road project.

The PW/PS Committee were also provided and discussed (numerous times) the Road Safety Audit [Airport Road From Main Street to SR 30 (US98) Destin, Okaloosa County FL, dated September 2016. The PW/PS tracking number for the Airport Road project is **16-09**.

*On September 11th at our PW/PS monthly meeting we were also provided copies of the Local Program Agreement. NOTE – At the time of the meeting the Agreement we received was not dated – but based on our conversation today you advised me that the agreement was signed/approved on **SEPTEMBER 17th**.*

*You also advised me that the City has **30 days** to preform the required task associated with the agreement (ie – advertise, RFP, RFQ) and return to you for approval.*

NOTE – The two above paragraphs – are in no way the PW/PS responsibility – I was just listing it to keep the required process straight in my mind.

NOTE - I spoke to Councilmember Dixon today about this and I am copying him as well.

With all that said – as we discussed, at our last PW/PS meeting on the 11th Council member Dixon attended and he is very engaged in the Airport Road issue(s).

Council member Dixon asked Mr. Bodi if the City could install guard rails in a limited portion of Airport Road **and not have that adversary impact Airport Road LAP (421993-2)?**

Mr. Bodi sent you the email (below) and your response is also listed below.

SO – with all that said – our next PW/PS meeting is on the 9th of October and the PW/PS Committee would like to vote and send to the City Council for approval – to install – at the City's expense guard rails at the curve on Airport Road.

DUSTIN - Per our conversation toady – if you would obtain that approval and let me know we will move forward with this.

By the way – I spoke to Joe earlier and he said the cost of the rail would be around \$125 – based on the numbers you provided isn't that a little high?

I appreciate all of your assistance – if you need to reach me my number is 504-610-7764.

Respectfully,

Steven Menchel

From: Castells, Dustin [<mailto:Dustin.Castells@dot.state.fl.us>]

Sent: Thursday, September 27, 2018 10:32 AM

To: Joe Bodi

Cc: David Campbell

Subject: RE: Airport Road LAP (421993-2)

Hey Joe,

In short, I don't think that making temporary safety improvements would impact funding. With that said, we would want to understand what type of improvements the City is recommending.

Dustin Castells

Florida Department of Transportation

District 3 Local Programs Administrator

1074 Highway 90 East

Chipley, Florida 32428

Phone (850) 330-1227

e-mail dustin.castells@dot.state.fl.us

Click here for: [Local Programs](#) | [LAP Manual](#) | [LAPIT Login](#) | [LAP Forms](#) | [File Transfer](#)

From: Joe Bodi [<mailto:jbodi@cityofdestin.com>]

Sent: Thursday, September 27, 2018 8:47 AM

To: Castells, Dustin <Dustin.Castells@dot.state.fl.us>

Cc: David Campbell <dcampbell@cityofdestin.com>

Subject: Airport Road LAP

Good Morning Dustin

I was asked to get a determination from FDOT about the City coming in and scarifying the roadway or installing temporary safety measures until construction in FY2020, at the City's expense, would jeopardize LAP project funding?

Joe D. Bodi

City of Destin

Public Services Dept.

4200 Indian Bayou Trail

Destin, Fl. 32541

850.837.4242

Rey Bailey

From: Steven Menchel <flamenchel@yahoo.com>
Sent: Friday, December 14, 2018 10:23 AM
To: Rey Bailey
Subject: Guard rail photos





Steven Menchel

Sent from my iPhone, so please pardon any errors.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: Councilmember Overdier

I. BACKGROUND:

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:
None

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: 1. New Year's Eve Discussion

I. BACKGROUND: Historically the Council has elected to close city facilities on New Year's Eve when it falls on a Monday. Closing city facilities requires a majority vote of the Council.

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:
- B. Effect on Budget (EOB):
- C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:
None

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: Land Use Attorney

I. BACKGROUND:

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:
None

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU: Lance Johnson, Interim City Manager

FROM: Kimberly Kopp, Land Use Attorney
Louis Zunguze, Community Development Director

DATE: December 10, 2018

SUBJECT: 1. Summary of Monthly Activities of the TRC, for December 2018.
(Section 2.26.04(E), Land Development Code; Pursuant to Ordinance No. 18-06-LC).

I. BACKGROUND: On November 5, 2018, the City Council passed Ordinance 18-06-LC, which provides in relevant part, that:

"At the second City Council meeting each month, the City Land Use Attorney shall provide a brief monthly update, under City Land Use Attorney's designated portion of the Agenda, summarizing the activities of the TRC."

II. DISCUSSION: The Community Development Director and his staff are currently working on finalizing the department's policies and procedures related to the TRC meetings to be held pursuant to the newly enacted ordinance.

Beginning in January 2019, TRC meetings will take place in the City Hall Boardroom at 11:00 am on the THIRD TUESDAY OF THE MONTH. Notices of such meetings will be posted in City Hall and on the City's website.

A brief summary of TRC meetings will be provided to the City Council by the Land Use Attorney each month at the 2nd Council meeting of the month.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:

1. TRC memo_12.12.18



**Community
Development
Planning Division**

Phone: 279-3213

Fax: 650-0693

MEMORANDUM

DECEMBER 12, 2018

TO: Technical Review Committee (TRC) Members
THRU: Louis Zunguze, Community Development Director
FROM: Lauren Witt, Planner
SUBJECT: Establishment of TRC Process

As required by Ordinance 18-06-LC, a Technical Review Committee (TRC) has been established including the following members: City Land Use Attorney, Planning Division, Public Services Department, Parks and Recreation Department, Building Official, Code Compliance, Destin Fire Control, Destin Water Users, Okaloosa Gas District, Gulf Power, and Waste Management with optional attendance from Okaloosa Sheriff's Department. The third Tuesday of each month, there will be a TRC Meeting where all TRC members or designees and applicants are present. All comments will be received and sent to the applicants prior to the monthly meeting.

The TRC is responsible for reviewing all development order applications through the following process:

1. Within 10 days of application submittal, a planner will perform a completeness review and send a letter indicating,
 - a. The application was deemed "complete" and provide a TRC Meeting date, or
 - b. The application was not complete, and provide a list of deficiencies
 - i. The applicant must provide an amended application package within 30 calendar days or it is considered withdrawn
2. Planning Division will distribute complete application packages received within the month to TRC members via e-mail (Dropbox link).
3. TRC Members will perform a review of all applications and send comments to Planning Division within 30 days of receipt of application packages
4. Internal TRC Meeting takes place with all TRC members in attendance to discuss all applications and requirements
5. Official TRC Meeting Agenda will be emailed to TRC Members and Applicants seven (7) working days prior to TRC Meeting
 - a. Agenda will include time slots for each project with a cap of 5 applicants per TRC meeting.
6. TRC Comments are sent to Applicants three (3) working days prior to TRC Meeting
7. TRC Meeting takes place on the 3rd Tuesday of each month at 11:00 in the City Hall Boardroom.
 - a. City Clerk's Office will be in attendance to record minutes.

The first TRC meeting will take place in the City Hall Boardroom at **11:00 on February 19th, 2019**. Application packages will be sent out no later than **January 11th** for review. The internal TRC meeting will take place in the Annex Conference Room at **11:00 on February 7th**. Comments are due back to the Planning Division no later than **February 12th**.

Please contact the Planning Division with any questions at 279-3213.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2018

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: 1. City Manager Contract

I. BACKGROUND:

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:

- 1. City Manager Contract -- Lance Johnson -- Final

CITY MANAGER EMPLOYMENT AGREEMENT FOR THE
CITY OF DESTIN, FLORIDA

This City Manager Employment Agreement for the City of Destin, Florida (the “Agreement”) is entered into this ___ day of December, 2018, between the City of Destin, Florida, a Florida municipal corporation (the “City”), the City of Destin City Council (the “City Council” or the “Council”), and Lance Johnson (“Johnson” or “City Manager”) to provide for the employment of Johnson as City Manager of the City, and to set forth the terms and conditions of his employment and the mutual obligations, rights, and duties of each party. Any previous employment agreement(s) entered into by and between the parties shall be considered null and void upon signature approval by all parties of this Agreement.

RECITALS

WHEREAS, “[t]here shall be a city manager who shall...serve at the pleasure of the city council.” Article IV, Section 4.01, Destin City Charter; and

WHEREAS, “[t]he city manager shall be appointed by the council subject to a 70 percent vote of approval by the council.” Article IV, Section 4.02, Destin City Charter; and

WHEREAS, “[t]he compensation for city manager shall be fixed by the council.” Article IV, Section 4.03, Destin City Charter; and

WHEREAS, “[a]ny vacancy in the office of city manager shall be filled by the city council.” Article IV, Section 4.04, Destin City Charter; and

WHEREAS, upon the resignation of the prior City Manager, the City and City Council employed Johnson as the Interim City Manager; and

WHEREAS, the City and City Council have conducted an extensive hiring search in order to hire a new, full-time City Manager; and

WHEREAS, the City Council has affirmatively determined that employing Johnson as the City’s full-time City Manager serves a legitimate public purpose and is in the best interest of the City; and

WHEREAS, Johnson has indicated a willingness to accept the duties, obligations and responsibilities and render service to the City as its City Manager, pursuant to the terms and conditions set forth in this Agreement; and

WHEREAS, on December 3, 2018, at a regular City Council meeting, the City Council instructed the City Attorney to negotiate an Agreement with Johnson and include this Agreement as an item on the December 17, 2018, Agenda;

WHEREAS, this Agreement and all its terms are subject to and conditional upon approval of the City Council by a vote of at least 70% of the Council; and

Now, therefore, in consideration of the mutual promises as set forth in this Agreement, the sufficiency of which is hereby acknowledged by all parties, the City, City Council, and Johnson agree as follows:

Section 1. Duties

A. The City Council hereby employs Johnson as City Manager of the City, to perform the functions and duties as specified in the City Charter, and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign beginning upon the City Manager's first day of work at the City which will be December 17, 2018.

B. The City Manager shall not take any action that contradicts the position or direction that the City Council takes upon a majority vote, nor shall the City Manager disregard the consensus of the City Council.

C. The City Manager recognizes that the City government exists first and foremost to serve the citizens of Destin, and that the members of the City Council are the duly elected representatives of the citizens of Destin. Accordingly, and as the City's executive of the City government's administrative component, the City Manager owes a duty of loyalty to the City Council.

D. The City Manager shall report to the City Council and shall perform his duties as City Manager under the direction of the City Council, and he shall answer to the City Council. Except for those items expressly addressed in the City of Destin Charter, Code of Ordinances, and state law, individual City Councilmembers cannot mandate the City Manager to perform any task.

E. The City Manager shall not act outside the duties assigned to him by the City Council, the City of Destin City Charter, the Code of Ordinances, and other applicable laws.

F. If the City Manager objects to direction assigned to him by the City Council, then the City Manager shall immediately communicate his objections to the City Council at the public meeting at which such direction is given. If the City Manager does not communicate his objection openly at the public meeting and the City Council does not alter its direction, then the City Manager has a duty and obligation to faithfully perform as directed.

G. The City Manager must ensure that all directions of the City Council are fulfilled and simply assigning these directions to the City's staff does not fulfill this duty. If City Council directions are assigned to the City's staff, then the City Manager has a duty and obligation to ensure that the City's staff has complied with and completed the City Council's directions.

H. The City Manager shall entrust all the City's legal work to the City Attorney, City Land Use Attorney, and any other attorneys approved of by a vote of the City Council. The City Manager shall not hire any attorneys to perform any work for the City without obtaining approval by a majority vote of the City Council. This process shall be utilized even if the City Manager elects to pay for any attorney out of the City Manager's discretionary fund.

I. The City Manager shall, as soon as reasonably practicable, provide to the City Council any information about a potential or current department head that could negatively affect the City's public image, or whom has committed an action that could cause the City to be sued.

J. The City Manager shall make reasonable efforts to apprise the City Council of any major employment changes to City staff. Major employment changes include any reassignment, transfers, or redefining of any appointed Department Heads or the Deputy City Manager.

K. If the City Manager desires to fill the position of Deputy City Manager, then the City Manager shall present his nominee to the City Council at a duly noticed regular or special City Council meeting and the nominee shall fill the position of Deputy City Manager only upon a majority vote of the City Council.

L. The City Manager owes a duty to both the City and the City Council over the International City/County Management Association ("ICMA"), the Florida City and County Management Association ("FCCMA"), and the Florida League of Cities ("FLC"). While each organization is important, all three organizations are voluntary organizations that promulgate rules and regulations that are merely suggestive and not legally binding.

M. If the City Manager is temporarily unable to perform his duties for any reason, then he shall designate an Acting City Manager, and the Deputy City Manager shall receive priority for the designation of Acting City Manager.

N. The City Manager shall perform all his duties within a reasonable period of time. City Manager shall make every effort to perform his duties within the timeframes and deadlines set by the City Council, or imposed by law, applicable policy, or rule.

Section 2. Termination by the City Council

A. Pursuant to Article IV, Section 4.01, Destin City Charter, City Manager serves the role of City Manager at the pleasure of the City Council. By executing this Agreement, Johnson stipulates that any duties prescribed herein are in conformity with the Destin City Charter, and that this Agreement is an accurate interpretation of his obligation to serve at the pleasure of the City Council.

B. City Manager is an at-will employee and the City Council may terminate this Agreement and the City Manager's employment at any time, with or without notice, for any reason or for no reason whatsoever.

Should the City Council terminate the services of the City Manager "without cause," then within ten (10) business days following the termination, the City shall pay the City Manager any accrued and unpaid salary and benefits earned including vacation time. Within forty-five (45) calendar days of termination "without cause," the City shall pay the City Manager a lump sum severance pay equal to twenty (20) weeks salary as full and complete payment and satisfaction of any claims of the City Manager of whatsoever nature deriving out of this Agreement or otherwise. Severance pay shall not be construed as compensation for services performed and severance payment will not include retirement contribution, automobile allowance, or life, medical, dental, vision, and disability insurance premiums.

C. In the event the City Manager is terminated for just cause, the City shall have no obligation to pay the amounts outlined in Section 2, Paragraph B of this agreement. For purposes of this agreement just cause is defined in Section 215.425 Florida Statutes, in addition to any of the following:

- 1) Misfeasance, malfeasance and/or nonfeasance in performance of his City duties and responsibilities.
- 2) Conviction of a misdemeanor or felony crime, whether or not adjudication is withheld.
- 3) Neglect of duty, including the inability or unwillingness to properly discharge the responsibilities of office.
- 4) Violation of any substantive City policy, rule, or regulation, which would subject any other City employee to termination.
- 5) The commission of any fraudulent act against the interest of the City.
- 6) The commission of any act which involves moral turpitude, or which causes the City disrepute.
- 7) Violation of the International City/County Management Association Code of Ethics; or, failure to perform any of the duties of the City Manager as set forth in the City Charter.
- 8) Any other act of a similar nature of the same or greater seriousness.

D. If the City Manager is terminated by the City Council for any reason, then the City Manager is not automatically entitled to any other employment position with the City. However, Johnson shall not be precluded from seeking and being employed by the City pursuant to the terms of this Agreement.

Section 3. Termination by the City Manager

A. The City Manager may terminate this Agreement at any time by delivering to the Mayor and all Members of the City Council a written notice of termination not later than sixty (60) days prior to the effective date of the termination. If the City Manager voluntarily resigns pursuant to this Section, the City shall pay to City Manager all accrued compensation due to City Manager

as a result of his employment with the City and any accrued vacation and sick leave time. The City shall have no further financial obligation to the City Manager pursuant to this Agreement. The City Manager may not take vacation leave after he has provided written notice of termination to the City.

B. If the City Manager terminates this Agreement for any reason, then the City Manager is not automatically entitled to any other employment position with the City. However, Johnson shall not be precluded from seeking and being employed by the City pursuant to the terms of this Agreement.

Section 4. Salary

A. The City agrees to pay the City Manager for his services under this Agreement an annual base salary of \$123,821.10 payable in installments at the same time as other City employees are paid.

B. The City may increase said base salary and/or other benefits of the City Manager in such amounts and to such an extent as the City Council may determine in its absolute discretion to be desirable on the basis of an annual performance evaluation of the City Manager. Such evaluation shall be in such form, as the Council deems appropriate and shall be made each year in accordance with procedures established by City Council for the duration of this Agreement. Nothing in this paragraph shall require the City to increase the base salary or other benefits of the City Manager. Failure to conduct an annual evaluation shall not constitute a material breach of this Agreement and shall not entitle City Manager to any increase in base salary or other benefits.

Section 5. Other Benefits. In addition to the salary set forth in Section 4, the City shall provide City Manager with the following benefits:

A. A car allowance of \$400.00 per month.

B. 18 vacation days per year accruing at the rate of 5.54 hours per pay period as established by standard City personnel policies with any unused vacation days accruing in accordance with the same. In addition to the vacation days described above, City Manager is entitled to a one-time bonus of three paid vacation days by satisfying Section 4(G) of the Interim City Manager Employment Agreement for the City of Destin, Florida, executed by the City, City Council and Johnson on August 23, 2018. These three paid vacation days shall accrue beginning in the year 2019 and not in the year 2018. Pursuant to the terms of the Interim City Manager Employment Agreement, the City Manager shall be allowed to carry over all unused vacation days from 2018 to 2019. City Manager shall be allowed to carry over thirty (30) days of unused vacation days from the year 2019 to the year 2020. City Manager shall be allowed to carry over twenty-five (25) days of unused vacation days from the year 2020 to the year 2021. Thereafter, for each subsequent year, the maximum amount of annual vacation leave which can be carried over from one calendar year to the next is twenty (20) days or as established by standard City personnel policies, as amended from time to time. City Manager recognizes that his role is special and integral to the City and he shall use his vacation days in a manner that will not interfere with the functioning of the City.

C. City Manager shall accrue sick leave consistent with the City's sick leave policy in effect on the effective date of this Agreement and as the sick leave policy may be amended from time to time.

D. The City agrees to pay 100% of the premium for health, dental, vision, and hospital indemnity insurance for the City Manager, his spouse, and his dependents. Disability insurance coverage and premiums for such shall be in an amount equal to that provided all other general non-bargaining unit employees of the City, the death benefit for life insurance coverage for the City Manager shall be equal to the City Manager's annual salary.

E. If requested, a City issued cell phone and data plan for unlimited use as defined by the City's accepted service plan.

F. The City shall pay City manager's professional dues for membership in the ICMA, and the Florida City and County Management Association. The City shall pay other dues and subscriptions on behalf of City Manager as are approved in the City's annual budget (on a line item basis) or as authorized separately by the City Council.

G. Reasonable and customary travel and subsistence expenses for the City Manager's travel and attendance at the ICMA annual conference, Florida City/County Managers' Association annual conference and the Florida League of Cities' annual conference. The City shall pay for City Manager's attendance at other seminars, conferences, continuing education courses and committee meetings as are approved in the City's annual budget (on a line item basis) or as authorized by the City Council.

H. The City recognizes that there will be instances in which the City Manager will be required to take an employee or community member to a meal in connection with his duties. Should such an occasion arise, the City Manager is authorized to utilize his discretionary funds for such purpose.

Section 6. Hours of Work

The City of Destin, Florida requires the full-time service of its City Manager. City Manager acknowledges that sudden emergencies sometimes arise and City Manager shall make reasonable efforts to ensure he is on-call in case of a sudden emergency and/or that he has designated an Acting City Manager capable of managing the City in times of sudden emergencies. City Manager will dedicate no less than an average of forty (40) hours per week in the performance of his duties. City Manager agrees to remain in the exclusive employ of the City during the term of his employment and shall not become employed by any other employer during this period, unless City Manager receives the express approval by the City Council by a majority vote at a duly noticed public meeting.

Section 7. Holidays

The City Manager is entitled to the same paid holidays as the general City staff. City Manager shall appoint an Acting City Manager in the event he will be unable to remain reasonably available during holidays. City Manager acknowledges that sudden emergencies sometimes arise and City Manager shall make reasonable efforts to ensure he is on-call in case of sudden emergency.

Section 8. Retirement.

The City agrees to pay the City Manager on an annual basis a retirement benefit in an amount equal to fifteen percent (15%) of his salary. The first 10% will go into the City's thrift plan and the remaining 5% will go into an approved qualified deferred retirement program (such as the International City/County Management Association Retirement Corporation), selected by the City Manager. The City's contribution shall not exceed the monetary limit established by federal statute and/or regulation. Such payments shall be payable in installments at the same time as retirement benefits are paid for other employees of the City. It is stipulated that Johnson has already met all vesting requirements.

Section 9. Residence

The City Manager shall maintain residence within the corporate limits of the City throughout the term of this Agreement.

Section 10. Bonding

The City shall pay the full cost of any fidelity or other bonds required of the City Manager under any policy, regulation, ordinance or law.

Section 11. Agendas for City Council Meetings.

Under Florida law, there is no legal requirement to formulate an agenda, however, it is a Council policy to strive to generate them for each meeting. Thus, the City Council has the authority to ultimately set the agenda for their council meetings, and per the Charter, any individual member of the Council are permitted to contact the Clerk to place an item on the agenda. There is no administrative authority that supersedes that of the City Council regarding the formulation of the Agendas. The City Manager shall not unilaterally remove, or refuse to place items on the agenda if the items are directed by any Councilmember to be placed on the agenda. Once an item is placed on an agenda by the Council, then only a vote of the Council can remove the item from the agenda. Once an item is placed on an agenda by an individual member of the Council, then only that individual member, or a vote of the Council can remove the item from the agenda. No single member of the Council, or the Mayor, has the right to remove items placed on the agenda by anyone else.

Should a City Councilmember request that City Manager add an Agenda item, City Manager shall promptly relay such a request to the City Clerk and request the City Clerk to add the requested Agenda item to the Agenda as soon as reasonably practicable.

Section 12. Criticisms, Complaints, and Suggestions

The City Council, individually or collectively, shall refer in a timely manner, either in private, or at public meetings, all substantive criticisms, complaints, and suggestions relating to the City's administrative functions to the City Manager. At the request of the Council member, the City Manager shall investigate any such criticisms, complaints, and suggestions and shall report back to the Council member within a reasonable period of time not to exceed one (1) month, the results of any investigation or study.

Section 13. Emergencies

During times of emergency (including, but not limited to, tropical cyclones, tropical depressions, tropical storms, and hurricanes), City Manager shall remain on call and available seven (7) days a week for the duration of any declared state of emergency, and shall only be relieved of this additional duty upon confirmation that both the state of emergency is lifted, and any curfew imposed by law enforcement or the National Guard is lifted. Additionally, so long as it does not pose a safety threat and is permissible by emergency personnel and/or the established Incident Command and Control system, City Manager shall make all reasonable efforts to ensure that all members of the City Council are provided the necessary credentials to return, and operate within the City immediately after any storm passes through the area.

Section 14. Indemnification

The Indemnification Provision contained in Paragraph 12 of the Interim City Manager Employment Agreement for the City of Destin, Florida shall extend and indemnify any action that was begun or taken by City Manager during his tenure as Interim City Manager.

Section 15. Attorney's Fees

If any litigation or arbitration is commenced between the parties concerning any provision of this Agreement or the rights and duties of any person in relation thereto, the party prevailing in such litigation or arbitration will be entitled, in addition to such other relief as may be granted, to reasonable attorney's fees and expenses incurred in connection therewith.

Section 16. JURY TRIAL WAIVER

THE PARTIES FURTHER AGREE THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT WOULD INVOLVE COMPLICATED AND DIFFICULT FACTUAL AND LEGAL ISSUES. THEREFORE, ANY ACTION BROUGHT BY ONE PARTY, ALONE OR IN COMBINATION WITH OTHERS AGAINST THE OTHER PARTY, WHETHER ARISING OUT OF THIS AGREEMENT OR OTHERWISE, SHALL BE DETERMINED BY A JUDGE SITTING WITHOUT A

JURY AND THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO TRIAL BY JURY THAT THEY MAY HAVE IN REGARD TO THIS AGREEMENT AND ANY COURSE OF DEALING BETWEEN THEM.

Section 17. Other Terms and Conditions

A. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

B. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

C. This Agreement shall be binding upon and inure to the benefit of the heirs at law or personal representative of the City Manager.

D. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties, and shall not be changed or amended verbally or by the parties' course of conduct.

E. Florida law shall govern this Agreement and any litigation, which may arise from this Agreement.

F. Upon City Manager's death, the City's obligations under this Agreement shall terminate except for:

- 1) Transfer of ownership of retirement funds, if any, to his designated beneficiaries;
- 2) Payment of accrued leave balances in accordance with this Agreement;
- 3) Payment of all outstanding hospitalization, medical and dental bills in accordance with City's insurance policies or plans; and
- 4) Payment of all life insurance benefits in accordance with the City's insurance policies or plans.

G. The exclusive jurisdiction and venue for any litigation or arbitration of any and all claims, controversies, disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be exclusively in Okaloosa County, Florida and nowhere else.

H. Nothing in this Agreement is intended to nor shall be construed to waive the City's rights and immunities under the Florida Constitution, Common law, or Florida Statutes § 768.28, as amended from time to time.

I. The parties acknowledge that City Manager was represented by legal counsel in the drafting of this Agreement and each party has shared equally in the drafting and preparation of this Agreement and, accordingly, no Court, Arbitrator, or Administrative Hearing Officer construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

J. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

K. This Agreement constitutes the final understanding and agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior or contemporaneous negotiations, promises, covenants, agreements, or representations.

IN WITNESS WHEREOF, the City Council has caused this Agreement to be signed and executed on its behalf by either the Mayor, or Mayor Pro-Tem; and Mr. Johnson has signed and executed this Agreement, effective on the date last executed.

**EMPLOYEE/
INTERIM CITY MANAGER**

**Lance Johnson, ICMA-CM
City Manager**

Dated: _____

**CITY COUNCIL
CITY OF DESTIN**

**Gary Jarvis, Mayor, or
Prebble Ramswell, Mayor Pro Tem**

Dated: _____

APPROVED AS TO FORM:

**Kyle S. Bauman, Esq.
City Attorney**

Dated: _____

ATTEST:

**Rey Bailey,
City Clerk**

Dated: _____



2060 Delta Way | P.O. Box 1110 | Tallahassee, Florida 32302-1110
Telephone: (850) 521-0700 | Fax: (850) 521-0720
www.ohfc.com

FIRM PROFILE

The law firm of Oertel, Fernandez, Bryant & Atkinson, P.A., has been representing public and private clients on administrative, environmental, land use, water resource, and utility law issues for more than 30 years. The firm's nine attorneys have more than 150 years of combined experience representing clients with matters involving local, state and federal agencies, including, when necessary, representation in administrative and judicial proceedings.

Our federal experience includes permitting matters relating to the Clean Water Act, Clean Air Act, Endangered Species Act (ESA), Rivers and Harbors Act, General Bridge Act, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Superfund Amendments and Reauthorization Act, and the Solid Waste Disposal Act, including the Resource Conservation and Recovery Act (RCRA) and the corrective action provisions of the Hazardous and Solid Waste Amendments (HSWA).

Our state experience includes environmental resource permitting, water quality regulation, water and wastewater permitting, NPDES permitting, consumptive use permitting, water supply planning and concurrency, growth management, air permitting, submerged lands, mining, utilities siting, beaches, shores and coastal permitting, contaminated site remediation, and related real property transactions. The firm's practice in these areas, encompassing those governed by the.

The firm also has extensive experience in matters relating to local government law, Florida Sunshine and public records law (Ch. 119, Fla. Stat.), taxation issues, comprehensive land use planning, land development codes and regulations, zoning, inverse condemnation proceedings including Bert Harris Act claims, mangrove trimming and preservation, and easements and rights of way.

The firm regularly represents local governments, utilities, industry associations, and private businesses and individuals before federal, state, and local regulatory agencies, including the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, the U.S. Coast Guard, Florida Department of Environmental Protection, St. Johns River Water Management District, South Florida Water Management District, Southwest Florida Water Management District, Suwannee River Water Management District, Northwest Florida Water Management District, Florida Division of Administrative Hearings, Florida Public Service Commission, Florida Fish and Wildlife Conservation Commission, the Governor and Cabinet sitting in its various capacities as the Board of Trustees of the Internal Improvement Trust Fund, Administration Commission, and the Florida Land and Water Adjudicatory Commission, Hillsborough Environmental Protection Commission, Miami-Dade County Environmental Resources Management (DERM), and numerous local government bodies.

Through the diligent representation of its clients and vast experience in the areas of governmental, regulatory, environmental, and land use law, the firm has been awarded an "AV" rating from Martindale-Hubbell, and the firm or its lawyers have been honored with designations in Super Lawyers, Legal Elite, Chambers and Partners, U.S. News and World Report, and Certification by the Florida Bar in State and Federal Government and Administrative Practice.

ATTORNEY PROFILES

Kenneth G. Oertel founded the firm in 1978. He is a 1966 graduate of New York University School of Law, and has an undergraduate degree in biology, also from New York University. His experience includes several years as Assistant U.S. Attorney in the Southern District of Florida, General Counsel for the Florida Board of Trustees of the Internal Improvement Trust Fund, General Counsel for the Department of Professional Regulation, and first Director of the Florida Division of Administrative Hearings. He is the author of a book on the Administrative Procedure Act: *Florida Administrative Practice Forms*. Much of his practice is in the areas of local government representation, regulatory, administrative, growth management, land use and environmental law. Mr. Oertel is rated “AV” by Martindale-Hubbell.

Segundo J. Fernandez. Prior to joining the firm in 1983, Mr. Fernandez served as Assistant General Counsel with the Florida Department of Environmental Regulation from 1977 to 1980, and as Deputy General Counsel from 1980 to 1983. In both capacities, he served primarily as the litigation attorney, but was also extensively involved with rulemaking, licensing, enforcement, and appellate practice. During his tenure as Deputy General Counsel, he was also the attorney assigned by the agency to handle the Department's legislative matters. He holds a B.S. in Biology from the University of Miami, a J.D. from Samford University, Cumberland School of Law, and an LL.M. in Ocean and Coastal Law (area of concentration: environmental and land use law) from the University of Miami. Since entering private practice, a substantial portion of his practice has involved representation of cities, counties and water supply entities. Representative clients include Osceola County, the City of Daytona Beach, the City of Lakeland, Destin Water Users, South Walton Utilities, the Tohopekaliga Water Authority, and the East Volusia County Regional Water Authority. Mr. Fernandez also previously served as special counsel to the South West Florida Water Management District. He has also represented clients in private industry, including member companies of FPPAEA, Inc. land developers, marina developers, chemical manufacturers and mining concerns in areas of air and water pollution, water resources, infrastructure permitting, and solid and hazardous waste matters, wetlands permitting, endangered species reviews, submerged land leasing and ownership, and marina permitting. Mr. Fernandez is rated “AV” by Martindale-Hubbell, and is listed as both a “Florida Super Lawyer” and member of Florida Trend’s “Legal Elite” in environmental law. He is also featured as a leading lawyer in environmental law by Chambers USA. He is a frequent lecturer at the Florida Chamber of Commerce’s Environmental Course, the Florida Association of County Attorneys Conference and the Florida Association of Municipal Attorneys Conference.

M. Christopher Bryant has been with the firm for over 30 years. He has authored published articles and lectured in the field of administrative law. He regularly represents clients in litigation before the Florida Division of Administrative Hearings, state agency hearing officers, and Florida circuit courts and district courts of appeal. His areas of practice include professional licensing, health care, competitive bidding, environmental and land use law, administrative law, public financing of affordable housing, and appellate practice. Mr. Bryant received his law degree from Florida State University College of Law. He holds an “AV” rating from Martindale-Hubbell.

Timothy P. Atkinson joined the firm in 1993. He attended Florida State University and the Florida State University College of Law, from which he graduated with honors. Mr. Atkinson is Florida Board Certified in State and Federal Government and Administrative Practice. He concentrates his practice in environmental, land use, regulatory, and administrative law, contracts, construction litigation, and professional licensing. A substantial portion of his practice has been before local, state and federal regulatory agencies in matters concerning environmental permits, consumptive use permits, TMDLs, air quality, solid and hazardous waste management, mitigation banking, wetlands, submerged lands, and coastal construction, as well as land use issues including site plans, special use permits, special districts, land development regulations, comprehensive plans, and developments of regional impact. Mr. Atkinson is a frequent lecturer at the Florida Chamber of Commerce's Environmental Permitting Short Courses. Mr. Atkinson is rated "AV" by Martindale-Hubbell.

C. Anthony Cleveland is of counsel with the firm. He concentrates his practice in environmental, health care certificate of need litigation, and administrative litigation, as well as representation of employers in labor and employment matters. Mr. Cleveland is a member of the Florida Bar, the District of Columbia Bar, the Northern, Middle, and Southern U.S. District Courts for Florida, and the Federal Fifth and Eleventh Circuit Courts of Appeal. He is a former Assistant General Counsel with the Florida Department of Environmental Regulation and General Counsel of the Florida Education Association/United. A substantial portion of his practice deals with county utilities, and federal and state hazardous waste, hazardous materials, and petroleum contamination matters. Mr. Cleveland has worked extensively with local government in permitting, agency enforcement, and ordinance drafting matters, including wastewater treatment facility permitting, deep injection well permitting, solid waste matters, hazardous waste facility operation and closure permitting, as well as appellate litigation. Mr. Cleveland has represented individuals, corporations, and local governments regulated by the Florida Department of Environmental Protection and the United States Environmental Protection Agency. He also reviews and comments on draft foreign environmental laws as part of the American Bar Association Central and Eastern European Law Initiative. He has lectured in the area of environmental matters. Mr. Cleveland received his law degree from the Florida State University College of Law, where he served as a notes and comments editor of the *Florida State University Law Review*.

Timothy J. Perry joined the firm in October 2006. Mr. Perry was formerly with McWhirter, Reeves & Davidson, P.A., where his practice focused on energy law and utilities regulation. Mr. Perry has substantial experience representing clients in the areas of administrative law, regulatory law, environmental law, energy law, water law, utility law, land use law, construction law, corporate law, real estate law, telecommunications law, appellate law and general civil and administrative litigation. A substantial portion of his practice has been spent litigating administrative cases before the Division of Administrative Hearings and the Florida Public Service Commission; and representing clients in matters involving the Florida Department of Environmental Protection, the state's water management districts and the Florida Public Service Commission. Mr. Perry is a 1998 graduate of the University of Alabama, and he received his law degree from the Florida State University College of Law in 2001. He is co-author of the *Florida Bar Environmental and Land Use Law Treatise* chapter on consumptive use permitting. Mr. Perry is licensed to practice law in Florida and Alabama. He is the President of the Florida Association of Environmental Professionals, Tallahassee Area Association of Environmental Professionals and is a Board Member of the National Association of Environmental Professionals.

Angela K. Farford joined the firm as an associate attorney in 2009. Ms. Farford's experience includes representing applicants for consumptive use permits and environmental resource permits before the Division of Administrative Hearings; defending governmental agencies in circuit court against claims for inverse condemnation and claims under the Bert Harris Act; and representing utility companies in a challenge to the EPA's Numeric Nutrient Criteria rules. Ms. Farford focuses her practice in the areas of environmental, land use, and administrative law. Ms. Farford holds a B.A from the University of North Florida, a J.D., with a certificate in environmental law, from the Florida Coastal School of Law, and is currently pursuing an LL.M. in Transportation & Logistics Law from the Florida Coastal School of Law.

Sidney C. Bigham III joined the firm in 2016. He attended Tulane University receiving undergraduate degrees in Philosophy (Law, Morality & Society Track) and English (Creative Writing Track) in 2006. After receiving his JD from the University of Florida in 2009, he practiced commercial litigation in Tallahassee with a focus on creditors' rights and bankruptcy law. In 2014 Mr. Bigham joined the Florida Department of Environmental Protection's Office of General Counsel where he worked in the Defense Section, the Enforcement Section and the Litigation Section, litigating significant cases involving environmental resource permits, wastewater permits and enforcement matters. His practice with the firm focuses on environmental law, federal, state and local governmental regulations, land use and zoning law, administrative law, appeals, and general civil litigation. Mr. Bigham is a member of the Board of Directors of the Tallahassee Bar Association and was named by Florida Trend magazine as one of Florida's legal elite in 2012, 2014, 2015 and 2016.

ATTORNEY RÉSUMÉS

KENNETH G. OERTEL

Areas of Experience

- Governmental and Administrative Law
- Environmental and Land Use Law
- Complex Civil and Administrative Litigation
- Takings Law

Practice Areas

- Representation of counties, cities, and water supply entities in water resource development, permitting, and regulation before FDEP and the various Water Management Districts.
- Land use practice includes representation of local governments, private industry, land developers, agricultural operations, chemical manufacturers and mining concerns in areas of air and water pollution, water resources, infrastructure permitting, and solid and hazardous waste matters.
- Environmental practice representing clients at the federal, state and local levels in virtually all areas of environmental law. Represents clients from both the public and private sectors including environmental counseling, permitting and litigation under the Clean Water Act, the Clean Air Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation and Liability Act, as well as under state and local environmental programs.
- Administrative law practice includes matters on state, local and federal levels. Representation encompasses regulatory matters including rulemaking, permitting, negotiations, administrative litigation, compliance and enforcement proceedings.

Education

- Post Graduate Studies in Ocean Law, University of Miami School of Law
- New York University
Juris Doctor, 1966.
- New York University, B.A., 1963.

Court Memberships

- 1970, New York, Florida and U.S. District Court, Southern District of Florida; 1972, U.S. Court of Appeals, Fifth Circuit; 1974, U.S. District Court, Northern District of Florida, U.S. Court of Claims

Agency Experience

- U.S. Department of Justice, 1967-1972. General Counsel, State of Florida Board of Trustees, Internal Improvement Trust Fund, 1972-1974. Director, State of Florida, Division of Administrative Hearings, 1974-1978. General Counsel, Florida Department of Professional Regulation, 1979.

Legal Publications

- Author, “Hearings Under Florida’s New Administrative Procedure Act,” *The Florida Bar Journal*, 1975.
- *Florida Administrative Practice Forms*, Harrison & Co., 1978.
- “Beach, Shore and Coastal Zone Regulation,” *Florida Environmental & Land Use Law*, Vol. II, Ch. 14 (1993; 1996 Supp.)

Reported Cases

- *Hasselback v. Florida Dept. of Environmental Protection*, 54 So.3d 637 (Fla. 1st DCA 2011).
- *A. Duda and Sons, Inc. v. St. Johns River Water Management Dist.*, 17 So.3d 738 (Fla. 5th DCA 2009).
- *Charlotte County Park of Commerce, LLC v. Charlotte County*, 927 So.2d 236 (Fla. 2d DCA 2006).
- *St. Joe Corp. v. McIver*, 875 So.2d 375 (Fla. 2004).
- *Charlotte County v. Vetter*, 863 So.2d 465 (Fla. 2d DCA 2004).
- *Lost Tree Village Corp. v. City of Vero Beach*, 838 So.2d 561 (Fla. 4th DCA 2002).
- *Anderson Columbia Co., Inc. v. Board of Trustees of Internal Imp. Trust Fund of State of Fla.*, 748 So.2d 1061 (Fla. 1st DCA 1999).
- *Sartori v. Department of Revenue*, 714 So.2d 1136 (Fla. 5th DCA 1998).
- *Reiff v. Northeast Florida State Hosp.*, 710 So.2d 1030 (Fla.1st DCA 1998).
- *Lee County v. Zemel*, 675 So.2d 1378 (Fla. 2d DCA 1996).
- *Collier Development Corp. v. State, Dept. of Environmental Protection*, 685 So.2d 1328 (Fla. 2d DCA 1996).
- *Martuccio v. Department of Professional Regulation, Bd. of Optometry*, 622 So.2d 607 (Fla. 1st DCA 1993).
- *State, Dept. of Community Affairs v. Division of Administrative Hearings, Lee County, et al.*, 588 So.2d 272 (Fla. 1st DCA 1991).
- *State, Bd. of Optometry v. Florida Soc. of Ophthalmology*, 538 So.2d 878 (Fla. 1st DCA 1988).
- *Florida Society of Ophthalmology v. State, Dept. of Professional Regulation*, 532 So.2d 1278 (Fla. 1st DCA 1988).
- *Richardson v. Wilson*, 490 So.2d 1039 (Fla. 1st DCA 1986).
- *Balsam v. Department of Health and Rehabilitative Services*, 486 So.2d 1341 (Fla 1st DCA 1986).
- *Grove Isle, Ltd. v. State Dept. of Environmental Regulation*, 454 So.2d 571 (Fla. 1st DCA 1984).
- *Capeletti Bros., Inc. v. State, Dept. of Transp.*, 362 So.2d 346 (Fla. 1st DCA 1978).

SEGUNDO J. FERNANDEZ

Areas of Experience

- Governmental and Administrative Law
- Environmental Law; Water Resource Development, Permitting, and Regulation
- Executive and Legislative Lobbying
- Appellate Practice
- Comprehensive Planning and Land Development

Practice Areas

- Representation of cities, counties, and water supply entities in water resource development, permitting, and regulation before FDEP and the various Water Management Districts, development of water supply plans, the permitting of consumptive use permits for water production facilities, and the relationship between water use permitting and land development regulation by state, regional and local governments.
- Land use practice includes representation of private industry, land developers, chemical manufacturers and mining concerns in areas of air and water pollution, water resources, infrastructure permitting, and solid and hazardous waste matters. Representing client projects in hearings and other local matters before local, state and federal administrative bodies; outside counsel to a number of local governments on similar issues.
- Environmental practice representing clients at the federal, state and local levels in virtually all areas of environmental law. Represents clients from both the public and private sectors including environmental counseling, permitting and litigation under the CWA, CAA, RCRA, CERCLA, as well as under state and local environmental programs.
- Administrative law practice at state, local and federal levels. Representation in regulatory matters including rulemaking, permitting, negotiations, administrative litigation, compliance proceedings and enforcement proceedings.

Education

- University of Miami, B.S. in Biology, 1973
- Cumberland Law School of Samford University, J.D. *cum laude*, 1976
- University of Miami, LL.M. in Ocean and Coastal Law, 1977
- Florida State University, M.A. in Art History, 2009
- Florida State University, Ph.D. candidate in Art History (ABD), present

Court Memberships

- State of Florida; U.S. District Court, Northern District of Florida; U.S. District Court, Middle District of Florida; U.S. District Court, Southern District of Florida; U.S. Court of Appeals, Eleventh Circuit; U.S. Supreme Court

Agency Experience

- Deputy General Counsel with the Florida Department of Environmental Regulation from 1980 to 1983.
- Assistant General Counsel with the Florida Department of Environmental Regulation from 1977 to 1980

Professional, Trade and Civic Activity (present and former)

- The Florida Bar - Environmental and Land Use, and Administrative Law Sections
- Trinity Catholic School, School Board Chair
- Florida State University College of Visual Arts, Theatre and Dance, Executive Committee Member, Dean's Advisory Board
- Reclaimed Water Working Group, Participant (2009-2012)
- Member, Tallahassee Kiwanis Club; Chair, Historic Tallahassee Preservation Board; Tallahassee Trust for Historic Preservation, Inc., Board member and President; Board of Directors, Tallahassee Symphony Orchestra, Past President; Board of Directors, Goodwood Museum and Gardens, Past President
- Florida State University Moot Court Team Panel Judge (2009-2012)
- Florida State University, Friends of Art History.
- Member, Florida Association of Environmental Professionals

Publications

- *Municipality's Growth Restriction Plan Found to be an Unconstitutional Burden Upon the Right to Travel*, 5 CUMBERLAND LAW REVIEW 543 (1975).
- *Choice of Law Considerations in Alabama*, 7 CUMBERLAND LAW REVIEW 89 (1976).
- *Stormwater Revisited: Department of Environmental Regulation New Rule for Regulation of Stormwater Discharges*, 56 FLORIDA BAR JOURNAL 479 (1982).
- Co-Author, *Key Haven and Its Progeny: Uncertain Choices for Constitutional Challenges to Administrative Action*, 58 FLORIDA BAR JOURNAL 381 (June 1984).
- Co-Author, Chapter 4, *Environmental Regulation and Litigation in Florida*, "State and Federal Regulation of Construction Activities in the Waters and Wetlands of Florida", The Florida Bar Continuing Legal Education Publications (1988, 1991).
- Author and Lecturer, *Environmental Permitting Courses*, Florida Chamber of Commerce (1995-2010), including Session Chair on "Who Controls Water Use," and "Linking Growth with Water Availability."
- Author and Lecturer, "Who Controls Water Use," Florida Chamber of Commerce. (2006-present)
- Author and Lecturer, "DCA Perspectives on Water Supply Planning," *Linking Growth with Water Supply Availability*, Florida Chamber of Commerce Environmental Short Court (February 2011).
- Lecturer, "Numeric Nutrient Water Quality Standards," Florida Municipal Attorney's Association. (2010)
- Florida Municipal Attorney's Association Annual Seminar (2009-2011).

Reported Cases

- *Legal Environmental Assistance Foundation v. Department of Environmental Protection*, 702 So.2d 1352 (Fla. 1st DCA 1997)
- *State, Dept. of Community Affairs v. Division of Administrative Hearings and Lee County*, 588 So.2d 272 (Fla. 1st DCA 1991)
- *South Florida Water Management Dist. v. City of St. Cloud*, 550 So.2d 551 (Fla. 5th DCA 1989)
- *State, Bd. of Optometry v. Florida Soc. of Ophthalmology*, 538 So.2d 878 (Fla. 1st DCA 1988)

- *Fairfield Communities v. Florida Land and Water Adjudicatory Com'n, Friends of Fort George, Inc., Florida Audubon Society and Florida Wildlife Federation*, 522 So.2d 1012 (Fla. 1st DCA 1988)
- *Board of Optometry, Dept. of Professional Regulation v. Florida Medical Assn, Inc., Florida Society of Ophthalmology, et. al.*, 463 So.2d 1213 (Fla. 1st DCA 1985).
- *Hail Community Association, Inc. v. Florida Rock Industries, Inc. and Fla. Dep't of Environmental Protection*, (DOAH Case No. 95-5531, FDEP Final Order 12/16/1996); *aff'd, Hail Community Association, Inc. v. Florida Rock Industries, Inc. and Fla. Dep't of Environmental Protection*, 1998 WL 866164 (Fla. 1st DCA 1998).
- *Osceola County v. St. Johns River Water Management District and South Brevard Water Authority, et. al.*, (DOAH Case Nos. 91-1779, 91-1780, and 91-1781; FDEP Final Order 6/12/1992).

M. CHRISTOPHER BRYANT

Areas of Experience

- Governmental and Administrative Law
- Procurement Law
- Environmental and Land Use Law
- Public Financing of Affordable Housing Law
- Health Care and Professional Licensing Law
- Civil and Administrative Litigation
- Appellate Practice

Practice Areas

- Governmental and Administrative law practice includes regulatory matters including rulemaking, permitting, negotiations, administrative litigation, compliance and enforcement proceedings.
- Procurement law practice includes representing clients in the state agency competitive procurements before the contracting agency, the Division of Administrative Hearings, and related state circuit court proceedings.
- Public Financing of Affordable Housing Law practice includes the representation of for-profit and non-profit clients before the Florida Housing Finance Corporation, a public corporation performing the function of a state agency, in competing for state and federal loans, tax credits, and bond allocations to assist in financing the development of affordable rental housing, and in complying with the funding program terms.
- Health Care Licensing Law practice representing health care entities and health service providers in matters related to facility licensing, regulatory compliance, rulemaking, and administrative litigation.
- Extensive experience assisting clients with appeals to state courts.

Education

- Florida State University, College of Law
Juris Doctor, 1984.
- Florida State University, B.S., 1980.

Court Memberships

- State of Florida

Publications

- Co-Author: "Proceedings In Which There Are No Disputed Issues of Material Fact," with Preston McLane, *Florida Administrative Practice*, 9th Edition, 2011, and draft 10th Edition, 2014.
- Co-Author: "McDonald Revisited: Development of the Deference Doctrine in Florida Administrative Law," Vol. 66, No. 11, *Florida Bar Journal* 70, Dec. 1992.

Professional, Trade and Civic Activity

- Board of Directors, Envision Credit Union
- The Florida Bar (Member, Sections on: Appellate Practice and Advocacy; Administrative Law)

Reported Cases

- *RLI Live Oak, LLC v. South Florida Water Management District*, 99 So.3d 560 (Fla. 5th DCA 2012).
- *Piper v. Department of Business and Professional, Elec. Contractors' Licensing Bd.*, 50 So.3d 109 (Fla. 1st DCA 2010).
- *A. Duda and Sons, Inc. v. St. Johns River Water Management Dist.*, 22 So.3d 622 (Fla. 5th DCA 2009).
- *A. Duda and Sons, Inc. v. St. Johns River Water Management Dist.*, 17 So.3d 738 (Fla. 5th DCA 2009).
- *Florida Com'n on Ethics v. MacNamara*, 833 So.2d 299 (Fla. 1st DCA 2002).
- *Mariner Properties Development, Inc. v. Board of Trustees of Internal Improvement Trust Fund*, 743 So.2d 1121 (Fla. 1st DCA 1999).
- *Phillips v. Department of Business and Professional Regulation, Div. of Real Estate*, 737 So.2d 553 (Fla. 1st DCA 1998).
- *Sartori v. Department of Revenue*, 714 So.2d 1136 (Fla. 5th DCA 1998).
- *Reiff v. Northeast Florida State Hosp.*, 710 So.2d 1030 (Fla. 1st DCA 1998).
- *Santa Rosa County v. Administration Com'n, Div. of Administrative Hearings*, 661 So.2d 1190 (Fla. 1995)
- *Brevard Groves v. Florida Cities Water*, 626 So.2d 321 (Fla. 1st DCA 1993).
- *State, Bd. of Trustees of Internal Imp. Trust Fund v. Lost Tree Village Corp.*, 600 So.2d 1240 (Fla. 1st DCA 1992).
- *University Psychiatric Center, Inc. v. Department of Health and Rehabilitative Services*, 597 So.2d 400 (Fla. 1st DCA 1992).
- *Mercedes Lighting and Elec. Supply, Inc. v. State, Dept. of General Services*, 560 So.2d 272 (Fla. 1st DCA 1990).
- *State, Bd. of Optometry v. Florida Soc. of Ophthalmology*, 538 So.2d 878 (Fla. 1st DCA 1988)
- *Florida Society of Ophthalmology v. State, Dept. of Professional Regulation*, 532 So.2d 1278 (Fla. 1st DCA 1988).
- *Methodist Regional Hosp. System, Inc. v. State, Dept. of Health and Rehabilitative Services*, 497 So.2d 272 (Fla. 1st DCA 1986).
- *St. Francis Parkside Lodge of Tampa Bay v. Department of Health and Rehabilitative Services*, 486 So.2d 32 (Fla. 1st DCA 1986).
- *Good Samaritan Hosp. v. Dept. Of Health*, 485 So.2d 871 (Fla. 4th DCA 1986).
- *Iturralde v. Department of Professional Regulation*, 484 So.2d 1315 (Fla. 1st DCA 1986).
- *Atlantic Intern. Inv. Corp. v. State*, 478 So.2d 805 (Fla. 1985)

TIMOTHY P. ATKINSON

Areas of Experience

- Florida Board Certified in State and Federal Government and Administrative Practice
- Environmental Law
- Comprehensive Planning and Land Development Regulation
- Executive and Legislative Lobbying
- Professional Licensure
- Appellate Practice

Practice Areas

- Experienced with consumptive use permitting, wetlands, surface water, ground water, TMDLs, air quality, solid and hazardous waste, storage tanks, submerged lands, and coastal construction issues.
- Experienced in environmental, land use, regulatory and administrative law, including appeals and executive and legislative lobbying.
- Representation of landowner, agricultural, industrial, business, and developer clients in state and local land use regulatory programs, including, site plans, special use and special exception permits, special districts, land development regulations, comprehensive plans, developments of regional impact, takings, and Bert Harris claims.
- Environmental experience includes environmental counseling, enforcement, permitting and litigation under the Clean Water Act, the Clean Air Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation and Liability Act, as well as state and local environmental programs.
- Corporate formation, contracts, licensing, and dispute resolution.

Education

- Florida State University College of Law
Juris Doctor *cum laude*, May 1993
- Florida State University, B.A., May 1990.

Court Memberships

- State of Florida; U.S. District Court, Northern District of Florida; U.S. District Court., Middle District of Florida; U.S. District Court, Southern District of Florida; U.S. Court of Federal Claims; U.S. Court of Appeals for the Federal Circuit; U.S. Court of Appeals, Eleventh Circuit; U.S. Supreme Court

Professional, Trade and Civic Activity

- The Florida Bar - Environmental and Land Use, Appellate, and Administrative Law Sections
- Member of Tallahassee Bar Association
- Member, Florida Section Air & Waste Management Association
- President, Capital City Kiwanis Club (2005-2006); Club *Kiwanian of the Year* (2002-2003)
- President, Classical Guitar Society of Tallahassee
- Author and Lecturer, *Environmental Permitting Courses*, Florida Chamber of Commerce.

Reported Cases

- *Agency for Health Care Administration v. Planned Parenthood*, 207 So. 3d 1032 (Fla. 1st DCA 2017)
- *Conservation Alliance of St. Lucie County, Inc. v. Florida Department of Environmental Protection*, 144 So. 3d 622 (Fla. 4th DCA 2014)
- *Piper v. Department of Business and Professional, Elec. Contractors' Licensing Bd.*, 50 So.3d 109 (Fla. 1st DCA 2010)
- *B&S Utilities, Inc. v. Baskerville-Donovan, Inc.*, 988 So.2d 17 (Fla. 1st DCA 2008).
- *Stroemel v. Columbia County*, 930, So.2d 742 (Fla. 1st DCA 2006).
- *Yeoman v. Construction Industry Licensing Board*, 917 So.2d 199 (Fla. 1st DCA 2005).
- *Anderson Columbia Co., Inc. v. Board of Trustees of Internal Imp. Trust Fund of State of Fla.*, 748 So.2d 1061 (Fla. 1st DCA 1999).
- *In re Advisory Opinion to the Attorney General – Save Our Everglades*, 636 So.2d 1336 (Fla. 1994).

C. ANTHONY CLEVELAND
(OF COUNSEL)

Areas of Experience

- Environmental law
- Environmental Issues in Connection with Contaminated Sites and Property Transactions
- Public Utility Permitting and Regulation
- Administrative and Governmental law
- Appellate Practice

Practice Areas

- Experienced in complex environmental law issues including Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) matters, site assessment and rehabilitation, federal and state solid waste, hazardous waste, hazardous materials, and petroleum contamination matters, including contaminated site remediation and related real property transaction matters.
- Public utility permitting and regulatory matters.
- Extensive work with local government in permitting, agency enforcement, and ordinance drafting matters.
- Has reviewed and commented on draft foreign environmental laws as part of the American Bar Association Central and Eastern European Law Initiative. He has lectured in the area of environmental matters.

Court Memberships

- State of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the 11th Circuit
- District of Columbia

Previous Experience

- Previous legal counsel for the Florida Public Employees Relations Commission
- Former General Counsel of the Florida Education Association/United
- Leinback & Cleveland, administrative and labor law practice
- Laramore, Getzoff & Cleveland, administrative and labor law practice
- Assistant General Counsel for the Florida Department of Environmental Regulation.

Education

- The Florida State University, B.A.
- The Florida State University College of Law, J.D., where he served as a notes and comments editor of the *Florida State University Law Review*.

TIMOTHY J. PERRY

Areas of Experience

- Administrative, Regulatory and Governmental Law
- Environmental Law
- Utility, Energy, and Telecommunications Law
- Land Use Law and Real Estate Law
- Takings Law
- Administrative and Civil Litigation
- Appellate Practice

Practice Areas

- Represent local government, industrial, agricultural, commercial and individual clients with a particular emphasis on permitting, administrative litigation, civil litigation, and rulemaking proceedings involving the Florida Department of Environmental Protection, the state's water management districts, and the Florida Public Service Commission.
- Represent clients with air, water, wastewater, solid waste, state lands, coastal construction, consumptive use, environmental resource permitting, energy and utility law matters.
- Handle rulemaking proceedings on behalf of local governments and industrial clients, including rulemaking proceedings related to major consumptive use permitting issues.
- Counsel for an industrial client in the development of biofuel plant with a third party.
- Draft appellate briefs in appeals from administrative and civil litigation.
- Monitor and advise clients on environmental and energy related legislation pending before the Florida Legislature.
- Draft leases, easements, deeds, licenses, deed restrictions and other legal instruments.
- General corporate representation, real estate, administrative law, and litigation.

Education

- Florida State University College of Law,
Juris Doctor, May 2001
- University of Alabama, B.A., May 1998

Court Memberships

- State of Florida
- State of Alabama
- U.S. Court of Federal Claims
- United States District Court, Middle District of Florida

Professional, Trade and Civic Activity

- The Florida Bar (Administrative Law Section, Environmental and Land Use Law Section, Government Law Section, and Real Property Section);
- Alabama State Bar
- Board Member, National Association of Environmental Professionals (2018)
- President, Florida Association of Environmental Professionals (2018)
- Vice President, Florida Association of Environmental Professionals (2017)

- Treasurer, Florida Association of Environmental Professionals (2016)
- President, Tallahassee Area Association of Environmental Professionals (2016 - Present)
- Treasurer, Tallahassee Area Association of Environmental Professionals (2013 - 2016)
- Florida Rising Stars 2009, Administrative Law, SuperLawyers.com

Presentations

- “Florida Wetland Jurisdiction,” Florida Chamber of Commerce Environmental Permitting Summer School (2017);
- “Overview of Public Procurement Law,” Florida Association of Environmental Professionals State Conference (2016);
- “Florida Wetland Jurisdiction,” Florida Chamber of Commerce Environmental Permitting Summer School (2016);
- “Serving as an Expert Witness in Environmental Cases,” Florida Association of Environmental Professionals State Conference (2015);
- “Attorney and Consultant Ethics in Environmental Practice,” Florida Association of Environmental Professionals State Conference (2015);
- “Florida Wetland Jurisdiction,” Florida Chamber of Commerce Environmental Permitting Summer School (2015);
- “Survey of Florida Environmental Law,” Florida Association of Environmental Professionals - Tallahassee Chapter (2015),
- “Finding Water in a Wet State: The Central Florida Water Initiative Experience,” The Florida Bar Environmental and Land Use Law Section (2015);
- “Update on Water Use Issues from Around Florida,” The Florida Bar Environmental and Land Use Law Section (2014);
- “Constitutional Limitations on Zoning Actions: Practical Guide to Zoning and Land Use Law,” NBI (2013);
- “Recent Trends in Water Use Permitting,” Florida Association of Environmental Professionals State Conference (2013);
- “Water Law: Key Issues for the Local Government Lawyer,” Florida Association of County Attorneys (2012); 2012 Legislative Update, Air and Waste Management Association - Tallahassee Chapter (2012);
- “Litigating Claims under the Federal Clean Air Act” (2011).
- “The Nuts and Bolts of the Clean Water Act” (2010);
- “Special Zoning Issues, Practical Guide to Zoning and Land Use Law” (2008);

Legal Publications

- “Florida’s New Water Legislation,” American Bar Association Water Resources Committee Newsletter, Volume 18, Number 2 (2016)
- “Consumptive Use Permitting,” with Preston McLane, *Florida Bar Environmental and Land Use Law Treatise*, (2012).

Reported Cases

- *Amanda Pope v. Grace et al.*, 151 So. 3d 523, 524 (Fla. 1st DCA 2014)
- *Hasselback v. FDEP*, 90 So. 3d 277 (Fla. 1st DCA 2012)
- *Hasselback v. FDEP*, 54 So.3d 637 (Fla. 1st DCA 2011).
- *Florida Industrial Power Users Group v. Jaber*, 833 So.2d 750 (Fla. 2002)

ANGELA FARFORD

Areas of Experience

- Governmental and Administrative Law
- Environmental Law
- Administrative Litigation

Practice Areas

- Complex civil litigation, focusing on the areas of administrative law, land use and environmental law.
- Advise clients concerning business transactions, claim liability, advisability of prosecuting or defending lawsuits, or legal rights and obligations.
- Agency rulemaking; statutory construction; and the Administrative Procedure Act.
- Local, state and federal regulations; public and other legal records; state and federal permitting; and representing my clients in state and federal court, legal proceedings and/or before state or federal agencies.
- Experienced in defending local governments against inverse condemnation and Bert Harris Act claims.
- Experienced in litigating challenges to the EPA's rules.
- Experience representing local government clients in Division of Administrative Hearings cases involving the denial of an Environmental Resource Permit from the South Florida Water Management District; Comprehensive Plan compliance; and consumptive use permit disputes.

Education

- University of North Florida, B.A., August 2005
- Florida Coastal School of Law
Juris Doctor, with a Certificate in Environmental Law, December 2008,
- Florida Coastal School of Law
LL.M. in Transportation & Logistics Law, anticipated in 2017

Court Memberships

- State of Florida
- U.S. District Court, Northern District of Florida

Professional, Trade and Civic Activity

- The Florida Bar, Active Member; Environmental Law Community Action Team, Member 2007-2008; Jacksonville Young Lawyer's Society, Member since May 2010
- Phi Theta Kappa National Honor Society, Member 1999-2002
- Big Brother Big Sister of Northeast Florida, Big Sister Fall 2011
- Certified Legal Intern for the State Attorney's Office of the Second Judicial Circuit

SIDNEY C. BIGHAM, III

Areas of Experience

- Federal, State and Local Government Permits, Licenses and Regulations
- Administrative Litigation
- Civil Litigation
- Appeals
- Environmental Law
- Water Law
- Land Use Law
- Coastal Law
- Creditor/Debtor Relationships
- Bankruptcy
- Real Estate Law
- Construction Law
- Corporate Law
- Takings Law
- First Amendment Law

Education

- University of Florida, J.D., 2009
- Tulane University, B.A., 2006 (Philosophy), B.A., 2006 (English), Founders' Scholar

Court Memberships

- The Florida Bar (Environmental and Land Use Law Section, Government Lawyer Section, and Administrative Law Section)
- United States District Courts, Northern, Middle and Southern District of Florida,
- United States Bankruptcy Courts, Northern, Middle and Southern District of Florida.
- United States Eleventh Circuit Court

Professional Recognition

- Florida Rising Stars 2009, Administrative Law, SuperLawyers.com
- Florida Trend Magazine, Legal Elite, 2012 and 2014-2016

Presentations and Publications

- Evidentiary Issues in Florida Administrative Proceedings presentation for the Florida Bar Environmental and Land Use Law Section Pat Dore Conference, October, 2016
- "Burden Shifting in Third Party Challenges to Environmental and Regulatory Authorizations" article for Florida Administrative Law News, Vol. XXXVII, No. 2, January 2016
- "Expert Testimony in Florida Administrative Proceedings" presentation for the Florida Bar Environmental and Land Use Law Section CLE, October 2015

Activities

- The Florida Bar (Administrative Law Section and Environmental and Land Use Law Section)
- Member, Board of Directors of the Tallahassee Bar Association, 2013-Present
- Member, Board of Directors of the Legal Aid Foundation of Tallahassee, 2012-2016 (President, 2013-2014)
- Member, Board of Directors of the Goodwood Museum and Gardens, Inc., 2013-2016
- Leadership Tallahassee, Class 31, 2014

REPRESENTATIVE GOVERNMENTAL CLIENTS

The following is a list of public entities that OFBA has represented:

<u>Client</u>	<u>Legal Issues (and dates of representation)</u>
Baker County	Land use planning, transportation capacity issues; DOT level of service to enhance transportation flexibility and economic development
Bay County	Consumptive use permitting
Charlotte County	Comprehensive planning, growth management, DCA issues
Desoto County	Comprehensive plan issues
Escambia County	Hazardous waste and DRI issues; inverse condemnation issues relating to proposed landfill (May 2006 – 2008); Numeric Nutrient Criteria litigation
Franklin County	Inverse condemnation issues
Glades County	Comprehensive plan issues, power plant siting
Hendry County	Power plant siting challenge brought by FPL's proposed generating plant
Hernando County	Hazardous waste and air pollution issues
Lee County	Comprehensive planning, land use, growth management, inverse condemnation and Bert Harris Act issues
Madison County	Contamination, hazardous waste, and CERCLA issues
Martin County	Environmental Resource Permitting and NEPA Issues
Okaloosa County	Numeric Nutrient Criteria litigation

Osceola County	Water resource planning, consumptive water use issues, landfill siting, solid waste, land use, and growth management issues; legislative representation, creation of special districts; public meetings and public records issues
Pinellas County	Water use permitting; wastewater regulatory compliance issues, injection wells
Santa Rosa County	Land use and growth management issues
St. Lucie County	Environmental Resource Permitting and NEPA Issues
City of Daytona Beach	Water resource development, alternative water supply planning, consumptive use permitting; legislative representation; DOAH litigation
City of Fort Pierce	Butler Act, submerged land issues, permitting issues
City of Lakeland	Water resource development, water supply planning, consumptive use permitting, DOAH litigation
City of Naples	Various environmental, land use, growth management, and federal and state grant issues
City of Panama City	Numeric Nutrient Criteria litigation
City of Port St. Lucie	Taxation dispute with St. Lucie County
City of St. Cloud	Water resource development, and labor negotiations and litigation
City of Vero Beach	Environmental issues
Town of Grand Ridge	Wastewater facility permitting, sprayfield permitting, DOAH litigation
Town of Hillsboro Beach	Beaches and coastal issues
Town of Indian River Shores	Defense of inverse condemnation suits

Village of Bal Harbour	Superfund, landfill closure, monitoring issues
Collier Mosquito Control District	Environmental issues
Destin Water Users, Inc.	Environmental permitting, injection wells, defense of attempted exercise of eminent domain; water use permitting and regulatory compliance; Numeric Nutrient Criteria litigation
East Volusia Regional Water Authority	Water resource development, general counsel; legislative representation
Emerald Coast Utilities Authority	Numeric Nutrient Criteria litigation
Fort Pierce Utility Authority	Environmental permitting and permit challenge of deep injection well project
South Walton Utility Co., Inc.	Water resource development; Numeric Nutrient Criteria litigation
Tohopekalliga Water Authority	Water resource development; administrative litigation; legislative representation
Florida League of Cities	Legislative representation on water use issues including water management district regulation of reclaimed water; Numeric Nutrient Criteria litigation

REPRESENTATIVE PRIVATE CLIENTS

The following is a list of private entities that OFBA has represented over the past ten years:

a. Manufacturing and Industry (includes Air; Water; Wastewater; Groundwater; Solid, Industrial and Hazardous Waste; and Wetlands Issues)

Allied New Technologies, Inc.
Anderson Columbia Co., Inc.
Blackhawk Quarry Company of Florida, Inc.
Buckeye Technologies, Inc.
CEMEX
Champion International Corporation
Florida Pulp & Paper Association Environmental Affairs, Inc.
Florida Fruit & Vegetable Association
Florida Rock Industries
Florida Coast Paper Company
Georgia-Pacific Corporation
International Recovery Corporation
Jefferson Smurfit Corporation
Load King Manufacturing Company
Rinker Materials Corporation
Seminole Refining Corporation
St. Joe Corporation
Stone Container Corporation
Suwannee American Cement Co.
Vulcan Materials Company
W. R. Grace & Co.
Southern Wood Piedmont Company
The Brandon Company
The Mosaic Company
U.S. Foundry & Manufacturing Corporation
Icopal a/s
Resource Recovery of America

b. Land Use/Land Development

Bonita Grande (mining and land use)
BG Mine, LLC
BTS Associates Ltd.
Charlotte County Park of Commerce
City of Naples
Coral Ridge Properties
Crystal Beach Partners, L.C.
DeSoto County
Florida Design Communities, Inc.
Hendry County
Merritt Island Marina

Miromar Lakes, LLC
Monroe Harbor Marina
Orlando International Airport
Parker Daniels, Inc.
RGC (USA) Mineral Sands, Inc. (Clay County heavy mineral sands mining)
South Seas Plantation/Mariner Properties
St. Charles Club
WCI Communities, L.P.
Willowbrook Farms
Zellwood Drainage and Water Control District

c. Groundwater Contamination/Hazardous Waste/Pesticides Matters

Alamo Rental Car
All-Florida Electric Corporation
Bay County School Board
Collier Mosquito Control District
Flagler County School Board
Florida Fruit and Vegetable Association
International Petroleum Corporation
International Recovery Corporation
National Car Rental System
Petroleum Products Corporation
Seminole Kraft Corporation
Stiles Construction Company
Stone Container Corporation
The Pantry, Inc.
W. R. Grace

d. Lobbying and Legislative Work

American Promotional Events, Inc.
American Tank Testers
American Importers, Inc.
Associated Industries of Florida
Florida Association of Private Mitigation Banks, Inc.
Florida Fruit and Vegetable Association
Florida Society of Ophthalmology
Florida East Coast Industries
Florida Agricultural Aviation Association
Florida Fertilizer and Agrichemical Association
Florida Alligator Farmers Association
St. Joe Corporation
Sunshine State Pyrotechnics Association
The Village of Key West Resort
The Mariner Group, Inc.
Trophy Xcellerator
U.S. Homes Corporation
Zellwood Drainage and Water Control District



OERTEL,
FERNANDEZ,
BRYANT &
ATKINSON, P.A.