

October 4, 2023 Board of Adjustment Hearing

WEDNESDAY, OCTOBER 4, 2023

5:30 PM

- 1. CALL TO ORDER**
- 2. ROLL CALL/PLEDGE OF ALLEGIANCE**
- 3. 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)
- 4. APPROVAL OF MINUTES**
 - A. Minutes August 2, 2023**
- 5. OLD BUSINESS**
- 6. NEW BUSINESS**
 - A. BOA-001187-2023 – Tru Hilton Sign Variance Request**
 - B. BOA-001199-2023 – American Legion Sign Variance Request**
- 7. PUBLIC COMMENTS**
- 8. NEXT MEETING DATE: November 1, 2023**

If a person decides to appeal any decision made by the City Council, committee, board, panel, or agency with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she will may need to ensure that a record of the verbatim record of the proceedings is made, which record includes the testimony and evidence upon the appeal is to be based. "Persons with disabilities who require assistance to participate in this meeting are requested to notify the City Clerk's Office 850.837.4242 at least 48 hours in advance".

**BOARD OF ADJUSTMENT
DESTIN CITY HALL BOARDROOM
WEDNESDAY, AUGUST 2, 2023
5:30 P.M.**

1. CALL TO ORDER:

Chairman Weidenhamer called the Board of Adjustment Meeting to order at 5:30 p.m., on Wednesday, August 2, 2023, at Destin City Hall Boardroom.

2. ROLL CALL & PLEDGE OF ALLEGIANCE:

Present:

Tom Weidenhamer
Daniella Piper
David Emerson
James Moomaw

Absent:

Robert Pinard
Joshua Brister

Staff Present:

Kim Montgomery Deputy City Clerk
Steven O'Connor, Principal Planner
Christopher Willis, Planner
Kyle Bauman City Attorney

3. APPROVAL OF AGENDA:

Chairman Weidenhamer asked if there was a consensus on the approval of the agenda as presented. With all agreeing, he announced the agenda is approved.

4. APPROVAL OF MINUTES:

➤ **June 7, 2023**

Motion to approve the minutes of the June 7, 2023, meeting was made by Board member Emerson, with Board member Piper providing the second, the motion passed 4-0.

5. NEW BUSINESS:

➤ **BOA-001125-2023 – Henderson Beach Villas Dumpster Pad Variance Request**

Mr. O'Connor explained the applicant is seeking a Variance from 7.09.02-B3, which relates to the setback requirements for Solid Waste collection areas in the Land Development Code. As well as LDC Section 12.04.04-B, which is the requirements for landscape buffering in the right-of-way (ROW) and LDC Section 8.01.00-B3, which prohibits dumpsters and collection operations in the ROW. He also explained that currently, their solid waste dumpster for the units has portions on their private property and portions within the ROW, which exceeds the approval from the property's original Development Order. He covered the required criteria set forth in the LDC, to meet the Variance requirements and explained in staff's analysis of those, the request does not meet the requirements of a Variance therefore, staff does not recommend the Board granting the Variance.

The City Attorney informed the applicant, Mr. Ken Wampler that he has the right to provide the board his view and also verified for the record that he agrees to waive reading of the notice into the record as well as the application. Mr. Wampler stipulated that he does agree to

waiving the reading of the application and notice into the record. He then explained the reasoning for moving the dumpster from its original location was because it was originally situated within 5-feet of the entrance to unit #1 and was a health and safety hazard for the renters staying in the unit. He also spoke of meeting with staff last year to try to determine a reasonable location for the dumpster and how they have moved it to three different locations in an effort to attempt the best location for everyone including Waste Management (WM). He agreed that the dumpster is in the ROW by 8-feet however, looking down Scenic Hwy. 98 majority of dumpsters are also in the ROW, with some within 5-feet of the road and what they are requesting would make theirs 20-feet from the road. He spoke of meeting with and working on a solution with WM and it was determined that the current location of the paver pad and dumpster is the best solution he and WM came up with. Additionally, he spoke of a meeting he had with the planning staff last year and when he left the meeting, it was his understanding that where they moved the dumpster in its current location, was agreeable with staff.

Chairman Weidenhamer pointed out that per the development order, the property has two parking spaces per unit and with a total of 25 and feels that one could of those parking spaces could be used for the dumpster. He also stated that if they would have pulled a permit for pad, the city would have informed him that it could not be placed in the ROW.

Mr. Wampler reiterated the meeting he referred to earlier that he had with staff, and how when he left, he had the understanding that the city staff was agreeable and they would be able to keep it where they had moved it, with it being eight feet within the ROW.

Board member Piper asked Mr. Wampler if he had any of his notes from that staff meeting. Mr. Wampler, being unable to provide any of those notes, stated that they are not doing anything different than what is already out along the ROW. Board member Piper sympathized with Mr. Wampler but added that in essence, the city is trying to make sure that Crystal Beach stays the beach community and is why the codes are put in place.

Mr. O'Connor added that the dumpster locations are now required to be within the property and is a part of the code and Development Order for the project. Staff feels that the solution is for it to be in one of the parking spaces.

In looking at the site plan of the property, Board member Emerson stated that to him, he feels that the dumpster should be moved into space #1 so that it would be entirely within the space of the property and would be an easier way for WM to access the property and dumpster.

Motion by Board member Emerson, seconded by Board member Piper, the members voted 4-0 to not approve the BOA-001125-2023 – Henderson Beach Villas Dumpster Pad Variance request.

The City Attorney informed the applicant that in accordance with Section 2.25.11 of the Land Development Code, he has the right to appeal the decision within 30-days of when the final order will be rendered to the Circuit Court.

6. OTHER BUSINESS: None

7. ADJOURNMENT:

There being no further business the meeting was adjourned at 6:15 p.m.

Adopted and approved this _____ day of _____ 2023.

Tom Weidenhamer, Chairman

Kim Montgomery, Deputy City Clerk

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: October 4, 2023
BOARD/COMMITTEE: Board of Adjustment
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 6.A.

TO: Board of Adjustment

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, City Attorney

FROM: Steve O'Connor, Principal Planner
Chris Willis, Planner

DATE: September 27, 2023

SUBJECT: BOA-001187-2023 – Tru Hilton Sign Variance Request

I. BACKGROUND:
REQUEST:

This is an application for approval of a Variance Request regarding a proposed sign at 150 Henderson Beach Rd (Parcel ID: 00-2S-22-0000-0001-A13J). The Applicant is requesting relief from ***LDC Section 16.04.00.A.3***, which relates to the setbacks for ground signs. The proposed sign does not meet setback requirements for ground signs.

Applicant: Mark Mocilan

Location: 150 Henderson Beach Rd, Destin, FL 32541

Size of Property: 2.56 acres

Current Zoning: Gulf Resort Mixed Use (GRMU)

Future Land Use Map Classification: Gulf Resort Mixed Use (GRMU)

Comprehensive Plan Compliance: N/A

Legal Notice: The legal notice for the proposed variance request was published in the Northwest Florida Daily News with publication dates of September 22, 2023, and September 29, 2023.

Request: The Applicant is requesting relief from ***LDC Section 16.04.00.A.3***, which relates to the setbacks for ground signs. The proposed sign does not meet setback requirements for ground signs. The Applicant requests relief from the minimum ten-foot (10') setback for ground signs.

II. DISCUSSION:

The Applicant is requesting to place the proposed sign $\pm 3'10''$ from the front property line. The setback requirements for ground signs are ten feet (10') from the property line.

FINDINGS:

According to *LDC Section 2.25.03(C)*, to authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

Applicant Response: The Applicant is requesting a 6'2" Variance from West Property line. The south Property line would be 16' from edge of sign. Special conditions exist because the City Water Dept required a pumping station at the original proposed location. City also required additional space for the pumping station for access and service of pumping station. City of Destin installed palm trees, park bench and garbage can. This limited the available location to current proposed spot, which does require a variance. Without variance sign would be in the Parking lot.

Staff Findings: The Applicant has identified that the "City Water Department" installed a pumping station where the sign was originally approved. The subject sign permit is SIGN-010091-2022, which was issued on December 27, 2022. However, the City of Destin does not have a water department, so the Applicant is actually referring to Destin Water Users. Additionally, the Applicant states that the City of Destin required pedestrian amenities near the approved sign location. The Applicant claims there are limited options because of the pumping station and pedestrian amenities that prevent placing the requested sign in an advantageous position for visibility that complies with the required setback of 10'. The Development Order and the sign permit accounted for the inclusion of both the pumping station and pedestrian amenities and neither are "Special Conditions" that are unique to the land.

B. That special conditions and circumstances do not result from the actions of the Applicant.

Applicant Response: Special conditions and circumstances listed above are from actions of the City of Destin and not the Applicant.

Staff Findings: The Applicant themselves are not directly responsible for the placement of the pumping station and pedestrian amenities in its current location as the site was developed by others but they were involved in the establishment of the Development Order and approvals thereof. Nonetheless, the pumping station and pedestrian amenities are not special conditions or circumstances unique to the land as identified in Paragraph 'A'.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings or structures in the same zoning district.

Applicant Response: Granting the variance will not confer any special privilege. We feel that denial of the variance will hinder owner's right to have entrance signage that all other hotels in the district have. In fact, the proposed signage is smaller than other hotels in the area.

Staff Findings: The Applicant has pointed out that hotels in the surrounding area have entrance signs. However, the Applicant has not stated why the proposed sign does not, nor cannot, meet the required setback requirement of 10' elsewhere on the property. If granted, this would give the Applicant special privileges that would not be given to other properties applying for sign permits in the same zoning district.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance, and would it result in unnecessary and undue hardship on the Applicant.

Applicant Response: As mentioned all other hotels in the area/zoning district enjoy proper signage needed for everyday commerce/business. Denying the variance would create undue hardship because there are no other possible locations for placement. Sign is required by corporate franchise.

Staff Findings: The Applicant stated all other hotels in the zoning district enjoy proper signage. The other hotels either meet the LDC signage requirements or were granted a variance. Regardless, each variance is reviewed on a case by case basis, and as such previously granted variances cannot be utilized as justification or a criterion for granting other variances. Further, the application the LDC section does not deprive the applicant of rights to display a sign, it only limits the location, and this same regulation is applied evenly across the city.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: If Variance is granted, it would still leave the signage on the owner's property and is the minimum variance needed. All other possible locations have been exhausted. This site is the only reasonable location available for this sign.

Staff Findings: As Staff has identified in criteria C, the granting of this variance would confer special privileges and, therefore, is not the minimum variance. The Applicant has not provided evidence explaining precisely why a sign must go in this location versus other options such as a building sign or other location on the property.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: Granting this variance will not be injurious to anyone in the area. In fact, Sign Variance is needed for commercial and tourist traffic to have safe way finding in their traveling down Henderson Beach Road. Sign must be visible for traffic in time to react for turning into property safely. This is especially vital because of the vehicle turning off of Hwy. 98, ample time is needed for safe navigation.

Staff Findings: Setbacks are a character-defining design element for neighborhoods and zoning districts. The intent and purpose of Gulf Resort Mixed Use (GRMU), per the City of Destin Land Development Code (LDC) and Comprehensive Plan, is to adhere to performance standards, which include ***LDC Section 16.04.00.A.3***, relating to the setbacks for ground signs. The granting of this variance will not be in harmony with the general intent and purpose of the GRMU zoning district or Article 16 of the LDC. Further, the structure is approximately 1) 40' tall/4 stories and 2) more than 440ft from the intersection of HWY 98, providing drivers and passengers ample time and distance to view the building sign and slow down to observe the location of the structure and entrance.

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

III. CONCLUSION:

The Applicant is seeking approval of a variance to the setbacks to place the proposed sign $\pm$ three feet and ten inches (3'10") from the front property line. The setback requirements for ground signs are ten feet (10') from the property line.

Per ***Land Development Code (LDC), Section 2.25.03(C)***, to authorize a variance request, the Board of Adjustment must find that all six (6) of the aforementioned criteria must be satisfied. After hearing all the testimony regarding the proposed variance request, the Board of Adjustment must determine whether to approve or deny the variance request.

The Board will need to determine whether the provisions of **LDC 2.25.03.C** have been met.

IV. RECOMMENDED MOTION:

I move to recommend the Board of Adjustment approve Variance Request BOA-001187-2023.

or

I move to recommend the Board of Adjustment approve with modifications Variance Request BOA-001187-2023.

or

I move to recommend the Board of Adjustment deny Variance Request BOA-001187-

2023.

Attachments:

1. A. Letter of Request
2. B. Site Plan with approved location
3. C. Detail of approved location
4. D. Detail of proposed location

VARIANCE REQUESTED FOR TRU HILTON DESTIN -150 HENDERSON BEACH ROAD-

To Whom it may concern,

We are requesting a 6'2" Variance from West Property line. The south Property line would be 16' from edge of sign. Special conditions exist because the City Water Dept required a pumping station at the original proposed location. City also required additional space for the pumping station for access and service of pumping station. City of Destin installed palm trees, park bench and garbage can. This limited the available location to current proposed spot, which does require a variance. Without variance sign would be in the Parking lot.

Special conditions and circumstances listed above are from actions of the City of Destin and not the applicant.

Granting the variance will not confer any special privilege. We feel that denial of the variance will hinder owner's right to have Entrance signage that all other hotel in the district have. In fact proposed signage is smaller than other hotels in the area.

As mentioned all other Hotels in the area/zoning district enjoy proper signage needed for everyday commerce/business. Denying the variance would create undue hardship because there are no other possible locations for placement. Sign is required by corporate franchise.

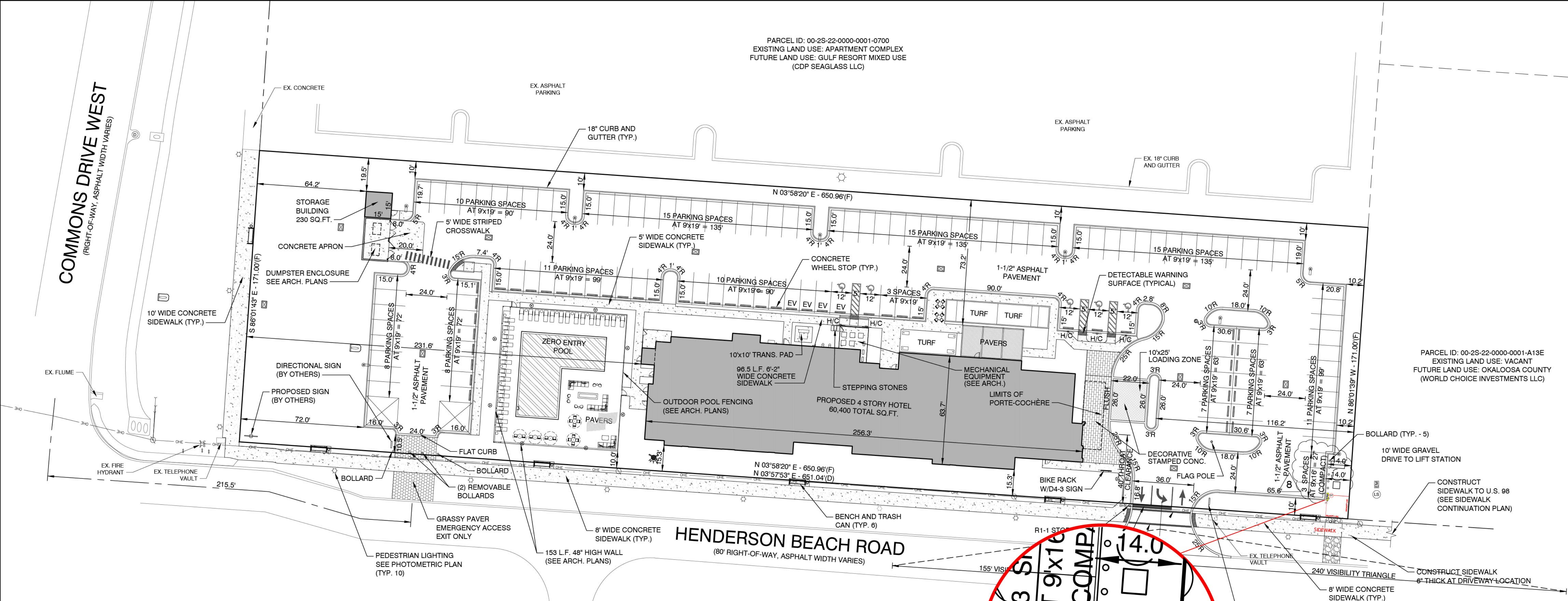
If Variance is granted it would still leave the signage on owners property and is the minimum variance needed. All other possible locations have been exhausted. This site is the only reasonable location available for this sign.

Granting this variance will not be injurious to anyone in the area. In fact, Sign Variance is needed for commercial and tourist traffic to have safe way finding in their traveling down Henderson Beach Road. Sign must be visible for traffic in time to react for turning into property safely. This is especially vital because of the vehicle turning off of Hwy. 98, ample time is needed for safe navigation.

Thank you very much for your consideration and time spent on this matter.

-Mark Mocilan
Mocilan and Son Signs and Electrical

PARCEL ID: 00-2S-22-0000-0001-0700
EXISTING LAND USE: APARTMENT COMPLEX
FUTURE LAND USE: GULF RESORT MIXED USE
(CDP SEAGLASS LLC)



PARCEL ID: 00-2S-22-0000-0001-A13E
EXISTING LAND USE: VACANT
FUTURE LAND USE: OKALOOSA COUNTY
(WORLD CHOICE INVESTMENTS LLC)

CONSTRUCT
SIDEWALK TO U.S. 98
(SEE SIDEWALK
CONTINUATION PLAN)

CONSTRUCT SIDEWALK
6" THICK AT DRIVEWAY LOCATION

DIRECTIONAL SIGN
(BY OTHERS)

SITE DATA TABLE

PARCEL ID: 00-2S-22-0000-0001-A13J
LAND USE: VACANT (CURRENT)
GULF RESORT MIXED USE (FUTURE)

FLOOD ZONE: X *

ZONING: GULF RESORT MIXED USE

BUILDING SETBACKS:

REQUIRED: FRONT = 10-20 FEET	PROVIDED: FRONT = 15.3 FEET (W)
SIDE = 10 FEET	SIDE = 64.2 FEET (N), 116.2 FEET (S)
REAR = 10 FEET	REAR = 19.5 FEET (E)

BUILDING INFORMATION:

BUILDING HEIGHT ALLOWED: 65 FEET / 5 STORY
BUILDING HEIGHT PROPOSED: 40 FEET (4 STORY)
GROSS FLOOR AREA: 60,400 SQ.FT. (117 ROOMS) + 230 SQ.FT. (STORAGE) = 60,630 SQ.FT.

TOTAL SITE AREA: 111,078 SQ.FT. OR 2.55 AC.

MAX. FLOOR AREA RATIO: 1.30

FLOOR ARE RATIO PROPOSED: 0.55

IMPERVIOUS AREA ALLOWED: 77,754.6 SQ.FT. OR 70%

IMPERVIOUS AREA PROPOSED: 77,728.6 SQ.FT. OR 70%

OPEN SPACE PROVIDED: 33,349.4 SQ.FT. OR 30%

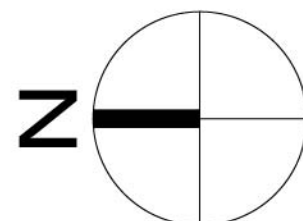
PARKING SPACES REQUIRED: 1 SPACE PER ROOM (115)
+ 1.5 SPACE PER ROOM (2)
+ 1 SPACE PER 20 ROOMS (EMPLOYEE) = 124

PARKING SPACES PROVIDED: 128 (INCLUDES 5 HANDICAP AND 3 COMPACT SPACES)

BICYCLE PARKING REQUIRED: 5% OF 125 = 7

BICYCLE PARKING PROVIDED: 7

* THIS PARCEL APPEARS TO LIE IN FLOOD ZONE X AS DETERMINED BY SCALE FROM FEMA FLOOD
INSURANCE RATE MAP COMMUNITY PANEL NUMBER 12091CO498 H, DATED 12/06/2002.



0 15' 30' 60' 90'
HORIZONTAL SCALE: 1" = 30'

CONSTRUCTION SCREENING NOTE

CONTRACTOR SHALL BE REQUIRED TO COMPLY WITH CONSTRUCTION SCREENING ORDINANCE SECTION 6-51 OF DESTIN CODE OF ORDINANCES. SCREENING MATERIAL SHALL BE AN OPAQUE MATERIAL CAPABLE OF ALLOWING AIR TO PASS BUT SEMI-PERVIOUS TO DUST AND DIRT. NO MATERIAL OVER 1/8 INCH SHALL PASS THROUGH THE MESH. SCREENING SHALL BE SECURELY AFFIXED TO THE CONSTRUCTION FENCE. FENCE SCREENING SHALL HAVE A MINIMUM HEIGHT OF 5 FEET AND MAXIMUM HEIGHT OF 8 FEET. MATERIAL SHALL BE MAINTAINED IN GOOD CONDITIONS AND TAUT THROUGHOUT THE ALLOTTED PERMIT TIME. SCREENING MUST BE KEPT SECURE FROM ANY WIND ACTION. IN CASES WHERE THE FINISHED GRADE OF THE SITE IS HIGHER BY MORE THAN 1 FOOT OR MORE THAN THE GRADE OF THE ADJOINING PROPERTIES, FENCE SHALL BE PLACED AT THE FINISHED GRADE AND NOT EXISTING GRADE. REFER TO ORDINANCE FOR SPECIFIC LANGUAGE.

CITY OF DESTIN CONSTRUCTION SCREENING CRITERIA

THE SCREEN MATERIAL SHALL BE MADE OF AN OPAQUE MATERIAL CAPABLE OF ALLOWING AIR TO PASS BUT SEMI-PERVIOUS TO DUST AND DIRT. THE SCREENING SHALL BE OF A FINENESS SUCH THAT NO MATERIAL OVER ONE-EIGHTH (1/8) INCH IN SIZE SHALL PASS THROUGH THE MESH. SUCH SCREENING SHALL BE SECURELY AFFIXED TO THE CONSTRUCTION FENCE. FENCE SCREENING SHALL HAVE A MINIMUM HEIGHT OF FIVE (5) FEET AND A MAXIMUM HEIGHT OF EIGHT (8) FEET. THE SCREENING MATERIAL SHALL BE MAINTAINED IN GOOD CONDITION AND TAUT THROUGHOUT THE ALLOTTED PERMIT TIME. THE SCREENING MUST BE KEPT SECURE FROM ANY WIND ACTION. IN CASES WHERE THE FINISHED GRADE OF THE DEVELOPMENT SITE IS HIGHER BY MORE THAN ONE (1) FOOT OR MORE THAN THE GRADE OF THE ADJOINING PROPERTIES, SAID FENCE SCREENING SHALL BE PLACED AT THE FINISHED GRADE AND NOT THE EXISTING GRADE.

CITY OF DESTIN DUST & VIBRATION NOTES

CITY OF DESTIN DUST CONTROL REQUIREMENTS

1. GRADING OPERATIONS WILL NOT BE CONDUCTED WHEN WINDS EXCEED 30 MILES PER HOUR.
2. WATER WILL BE APPLIED WITH HOSE OR WATER TRUCK, AS NECESSARY, DURING EXCAVATION ACTIVITIES.
3. CONTRACTOR SHALL ENSURE THAT ANY OPEN-BODIED TRUCKS, TRAILERS OR OTHER VEHICLES TRANSPORTING PARTICULATE MATTER SHALL BE COVERED OR WETTED TO MINIMIZE DUST GENERATION DURING TRANSPORT.
4. STOCKPILED MATERIAL SHALL BE COVERED OR WETTED, AS REQUIRED, TO MINIMIZE DUST GENERATION DURING HIGH WIND CONDITIONS.
5. CONTRACTOR SHALL MINIMIZE THE HEIGHTS INVOLVED IN TRANSFER PROCESSES INVOLVING FREE FALL OF SOIL OR OTHER PARTICULATE MATTER TO MINIMIZE DUST EMISSIONS.
6. WATER WILL E APPLIED BY HOSE OR WATER TRUCK, AS NECESSARY, TO UNPAVED SURFACES, INCLUDING ADJACENT RIGHT-OF-WAYS, OR ANY OTHER SURFACE THAT COULD CREATE AIRBORNE DUST.
7. GROUND COVER WILL BE PLACED FOR ALL OPEN AREAS IMMEDIATELY AFTER CONSTRUCTION ACTIVITIES HAVE BEEN COMPLETED.
8. DESIGNATED ROUTES WITHIN THE JOB SITE THAT WILL BE USED BY VEHICLES TRANSPORTING SOIL OR OTHER MATERIALS TO AND FROM THE SITE SHALL BE CLEARLY INDICATED.
9. CONTRACTOR SHALL PROVIDE BRUSHES, BROOMS, WATER, OR PRESSURE WASHERS, AS REQUIRED, TO REMOVE SOIL, SAND, DIRT AND ANY OTHER PARTICULATE MATTER FROM VEHICLE TIRES AND UNDERCARRIAGES PRIOR TO LEAVING THE SITE IN ORDER TO PREVENT THE TRACKING OUT OF SAID SOIL, SAND, DIRT AND ANY OTHER PARTICULATE MATTER ONTO THE ADJACENT RIGHT-OF-WAYS.
10. MAXIMUM SPEED OF CONSTRUCTION EQUIPMENT OR MATERIAL DELIVERIES SHALL BE 20 MILES PER HOUR.
11. ANY SOIL, SAND AND OTHER MATERIAL DEPOSITED OR EMITTED ONTO ANY RIGHT-OF-WAYS NEAR THE SITE SHALL BE REMOVED WITHIN 48 HOURS.
12. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THAT ANY DUST CONTROL SYSTEMS AND/OR DEVICES, INCLUDING BUT NOT LIMITED TO WATER APPLICATION SYSTEMS, FILTER REPLACEMENT, OR DAILY REMOVAL OF EXCESS DUST FROM CONTAINMENT AREAS ARE IN PROPER WORKING CONDITIONS PER MANUFACTURERS REQUIREMENTS OR STANDARD INDUSTRY PRACTICE.
13. MONITORING OF DUST EMISSIONS SHALL BE DONE TO ENSURE COMPLIANCE WITH RELEVANT REGULATORY REQUIREMENTS.
14. CONTRACTOR SHALL MAINTAIN A DAILY DUST CONTROL CHECKLIST AND SHALL PROVIDE TO THE CITY UPON REQUEST TO DOCUMENT COMPLIANCE WITH THESE REQUIREMENTS, AND MAINTAIN AT THE JOB SITE AT ALL TIMES.

CITY OF DESTIN VIBRATION IMPACT REQUIREMENTS

1. ANY ACTIVITY INCLUDING, BUT NOT LIMITED TO: PILE DRIVING, EARTHWORK COMPACTION, CONCRETE AND ASPHALT BREAKING WILL NOT TRANSMIT VIBRATIONS TO SENSITIVE RECEPTORS AT OR ABOVE THE FEDERAL TRANSIT ADMINISTRATION (FTA) APPROXIMATE VIBRATION DAMAGE THRESHOLD OF 95 VIBRATION DECIBELS (VDB)
2. FOR ANY ACTIVITY EXCEEDING 80 VDB THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING THE CITY OF DESTIN WITH A VIBRATION MINIMIZATION AND MITIGATION PLAN TO REDUCE IMPACTS TO THE SURROUNDING AREAS.

PAVEMENT STRIPING NOTE

ALL PAVEMENT STRIPING WITHIN PUBLIC RIGHT-OF-WAY SHALL BE THERMOPLASTIC STRIPING IN ACCORDANCE WITH THE MATERIALS, EQUIPMENT, APPLICATIONS, AND APPROVAL/CERTIFICATIONS LISTED IN SECTION 711 OF THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, JULY 2017 OR LATEST AVAILABLE EDITION. ALL STRIPING WITHIN RIGHT-OF-WAY SHALL BE THERMOPLASTIC STRIPING.

BUILDING DIVISION NOTES

1. PROPER PERMITTING MUST BE APPLIED FOR AND APPROVED PRIOR TO ANY WORK BEING PERFORMED ON THE SUBJECT PROPERTY.
2. TWO (2) FULL SETS OF SIGNED AND SEALED CONSTRUCTION PLANS AND ONE (1) CD, SPECIFICATIONS, AND RELATED DOCUMENTS (SITE PLAN) AS REQUIRED BY THE FLORIDA BUILDING CODE CHAPTER 1 MUST BE SUBMITTED TO AND BE REVIEWED BY THE BUILDING DIVISION PRIOR TO ISSUANCE OF A PERMIT.
3. PLANS SHALL BE BASED ON THE FOLLOWING CODES (AS APPLICABLE) AND NOTED ON THE CONSTRUCTION DRAWINGS INFORMATIONAL PAGE: 2020 FLORIDA BUILDING CODE, 2020 FLORIDA FIRE PREVENTION CODE, AND 2017 NATIONAL ELECTRICAL CODE. THE FOLLOWING MINIMUM INFORMATION WILL BE REQUIRED AS APPLICABLE: CONSTRUCTION TYPE, OCCUPANCY CLASSIFICATION, OCCUPANCY LOAD, MEAN ROOF HEIGHT AND PITCH, BUILDING AREA, AREA MODIFICATION, FIRE PROTECTION - SPRINKLERED OR NON-SPRINKLED, ULTIMATE WIND SPEED - RISK CATEGORY - WIND EXPOSURE, INTERNAL PRESSURE COEFFICIENT, DESIGN LOAD BEARING VALUE OF SOILS. (FOR A COMPLETE LIST OF MINIMUM PLAN REVIEW CRITERIA SEE 107.3.4 FBC.)
4. DESTIN FIRE CONTROL DISTRICT APPROVAL LETTER BASED ON FINAL CONSTRUCTION DOCUMENTS PRIOR TO ISSUANCE OR A PERMIT.

FIRE DISTRICT NOTES

1. ALL FIRE DISTRICT REVIEWS WILL BE IN ACCORDANCE WITH THE 7TH EDITION (2020), FLORIDA FIRE PREVENTION CODE, APPROPRIATE FLORIDA STATUTES, FLORIDA ADMINISTRATIVE CODES, AND LOCAL ORDINANCES. SUBMITTALS SHALL COMPLY WITH FLA STATUTE 61G15-32. ALL SUBMITTALS SHALL REFERENCE THE APPROPRIATE CODE EDITIONS.
2. THE FIRE PROTECTION SYSTEM SHALL BE DESIGNED BY A FLORIDA REGISTERED PROFESSIONAL ENGINEER. ALL SUBMITTALS SHALL BE SEALED, SIGNED, AND DATED BY THE ENGINEER OF RECORD. THE ENGINEER OF RECORD SHALL INCLUDE HYDRAULIC CALCULATIONS FOR THE FIRE SPRINKLER SYSTEM. (F.A.C. 61G15-32)
3. THE FIRE ALARM SYSTEM SHALL BE DESIGNED BY A FLORIDA REGISTERED PROFESSIONAL ENGINEER. ALL SUBMITTALS SHALL BE SEALED, SIGNED, AND DATED BY THE ENGINEER OF RECORD. (F.A.C. 61G15-32)
4. A WATER SUPPLY FOR FIRE PROTECTION, EITHER TEMPORARY OR PERMANENT AND ACCEPTABLE TO THE AUTHORITY HAVING JURISDICTION, SHALL BE MADE AVAILABLE PRIOR TO DELIVERY OF COMBUSTIBLE MATERIALS. (NFPA 1: 16.1.4 & 18.3)
5. FIRE DEPARTMENT ACCESS TO AND ON THE SITE SHALL BE MAINTAINED AT ALL TIMES. (2012 NFPA 1 CH.18.2.3)
6. THE UNDERGROUND FIRE SERVICE LINE, FROM THE POINT OF SERVICE TO 12" ABOVE THE FINISHED FLOOR, SHALL BE INSTALLED BY A CONTRACTOR LICENSED TO INSTALL THE DEDICATED PORTION OF THE FIRE SERVICE LINE. THE DESIGNATED POINT OF SERVICE SHALL BE APPROVED BY DESTIN FIRE DISTRICT. ONE (1) SET OF DRAWINGS OF THE PLANNED UNDERGROUND AND MATERIAL DATA SHEETS MUST BE SUBMITTED TO THIS OFFICE FOR REVIEW AND APPROVAL PRIOR TO STARTING INSTALLATION. (FL. STATUTE 633.334; NFPA NFPA13 CH.10)
7. A RAPID ENTRY BOX (KNOX BOX) IS REQUIRED. CONTACT DESTIN FIRE DISTRICT PRIOR TO ORDERING.
8. FIRE FIGHTER SAFETY SYMBOLS ARE REQUIRED. (FS 633.027)
9. THE FIRE DISTRICT REQUIRES A COMPLETE ELECTRONIC PACKAGE OF PDF FILES ON A CD OR USB FLASH DRIVE. SUBMITTAL MUST INCLUDE ENGINEERED DRAWINGS OF THE FIRE SPRINKLER AND FIRE ALARM SYSTEMS.
10. FIRE SAFETY PUBLIC SAFETY FACILITIES FEES (IMPACT FEES) AND PLAN REVIEW FEES WILL BE ASSESSED WHEN BUILDING PLANS ARE SUBMITTED. ALL FEES MUST BE PAID UPON COMPLETION OF REVIEW.

*THESE NOTES SUMMARIZED FROM DESTIN FIRE DISTRICT MEMORANDUM DATED OCTOBER 13, 2016.

SIDEWALK/PAVERS NOTE

REFER TO ARCHITECTURAL PLANS FOR FINISH AND PAVER SPECIFICATIONS.

DIMENSION NOTE

DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.

SIGNAGE NOTE

"CONSTRUCTION ZONE AHEAD" SIGNAGE TO BE PLACED AT BOTH ENDS OF CONSTRUCTION ZONE, WITHIN VIEW OF TRAFFIC, AND REMAIN IN PLACE FOR THE DURATION OF CONSTRUCTION ACTIVITY.

OFFICE OF PUBLIC SERVICES NOTES

1. PRIOR TO OBTAINING ANY CITY OF DESTIN PERMITS, DEVELOPER/CONTRACTOR SHALL OBTAIN AN FDEP NPDES PERMIT AND SUBMIT A COPY TO THE PUBLIC SERVICES DIRECTOR.
2. THE DEVELOPER/OWNER, ENGINEER OF RECORD, AND CONTRACTOR SHALL MAKE THEMSELVES FAMILIAR WITH THE CODES LAOCATED IN CHAPTER 8 (TRANSPORTATION) OF THE CITY OF DESTIN LAND DEVELOPMENT CODE, AND COMPLY WITH THE CODES PRIOR TO OBTAINING A CERTIFICATE OF OCCUPANCY.
3. THE DEVELOPER/OWNER, ENGINEER OF RECORD, AND CONTRACTOR SHALL MAKE THEMSELVES FAMILIAR WITH THE CODES LAOCATED IN CHAPTER 11.09.00 (ILLICIT DISCHARGE) OF THE CITY OF DESTIN LAND DEVELOPMENT CODE, AND COMPLY WITH THE CODES PRIOR TO OBTAINING A CERTIFICATE OF OCCUPANCY

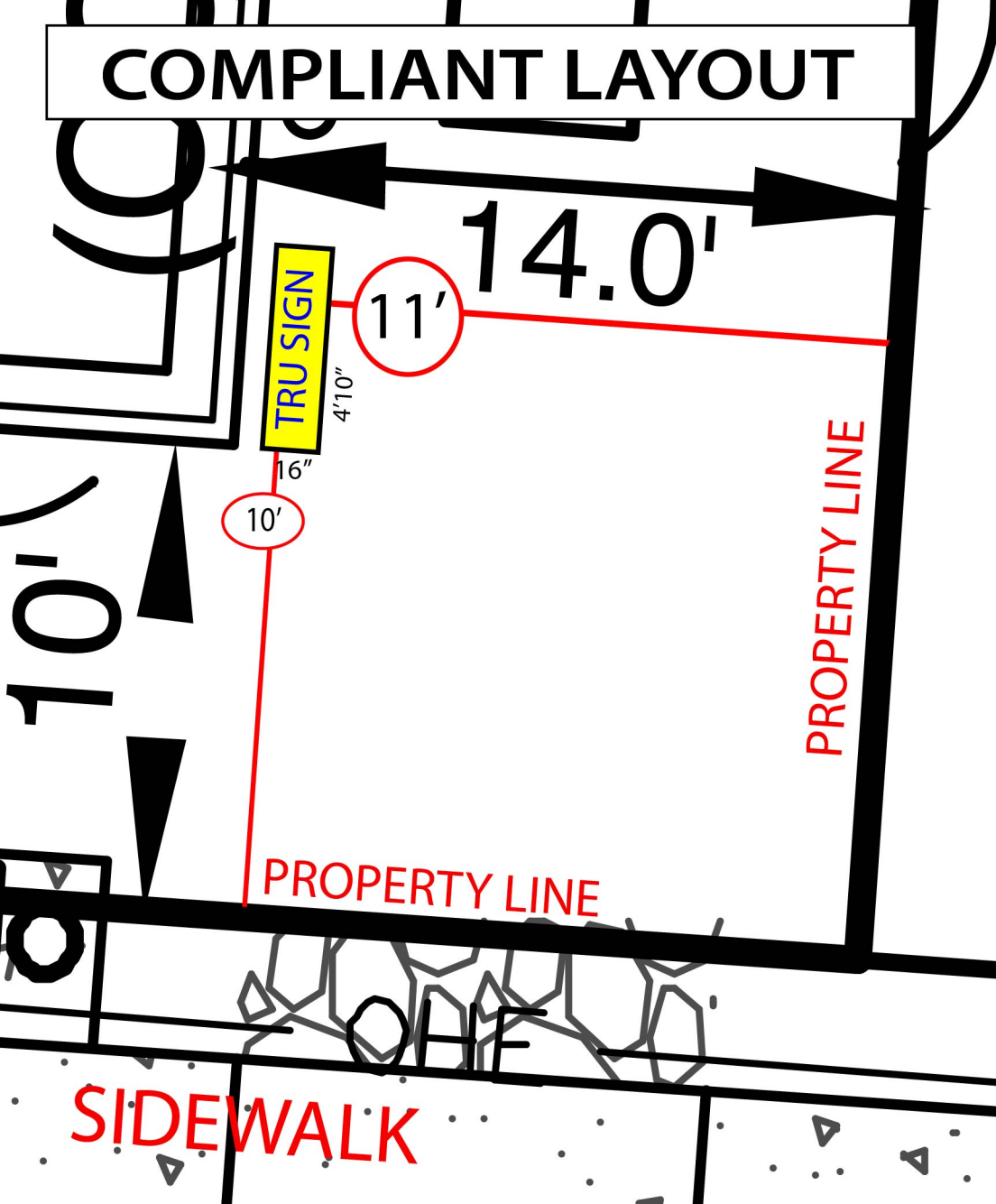
CITY OF DESTIN CONSTRUCTION SCREENING CRITERIA

THE SCREEN MATERIAL SHALL BE MADE OF AN OPAQUE MATERIAL CAPABLE OF ALLOWING AIR TO PASS BUT SEMI-PERVIOUS TO DUST AND DIRT. THE SCREENING SHALL BE OF A FINENESS SUCH THAT NO MATERIAL OVER ONE-EIGHTH (1/8) INCH IN SIZE SHALL PASS THROUGH THE MESH. SUCH SCREENING SHALL BE SECURELY AFFIXED TO THE CONSTRUCTION FENCE. FENCE SCREENING SHALL HAVE A MINIMUM HEIGHT OF FIVE (5) FEET AND A MAXIMUM HEIGHT OF EIGHT (8) FEET. THE SCREENING MATERIAL SHALL BE MAINTAINED IN GOOD CONDITION AND TAUT THROUGHOUT THE ALLOTTED PERMIT TIME. THE SCREENING MUST BE KEPT SECURE FROM ANY WIND ACTION. IN CASES WHERE THE FINISHED GRADE OF THE DEVELOPMENT SITE IS HIGHER BY MORE THAN ONE (1) FOOT OR MORE THAN THE GRADE OF THE ADJOINING PROPERTIES, SAID FENCE SCREENING SHALL BE PLACED AT THE FINISHED GRADE AND NOT THE EXISTING GRADE.

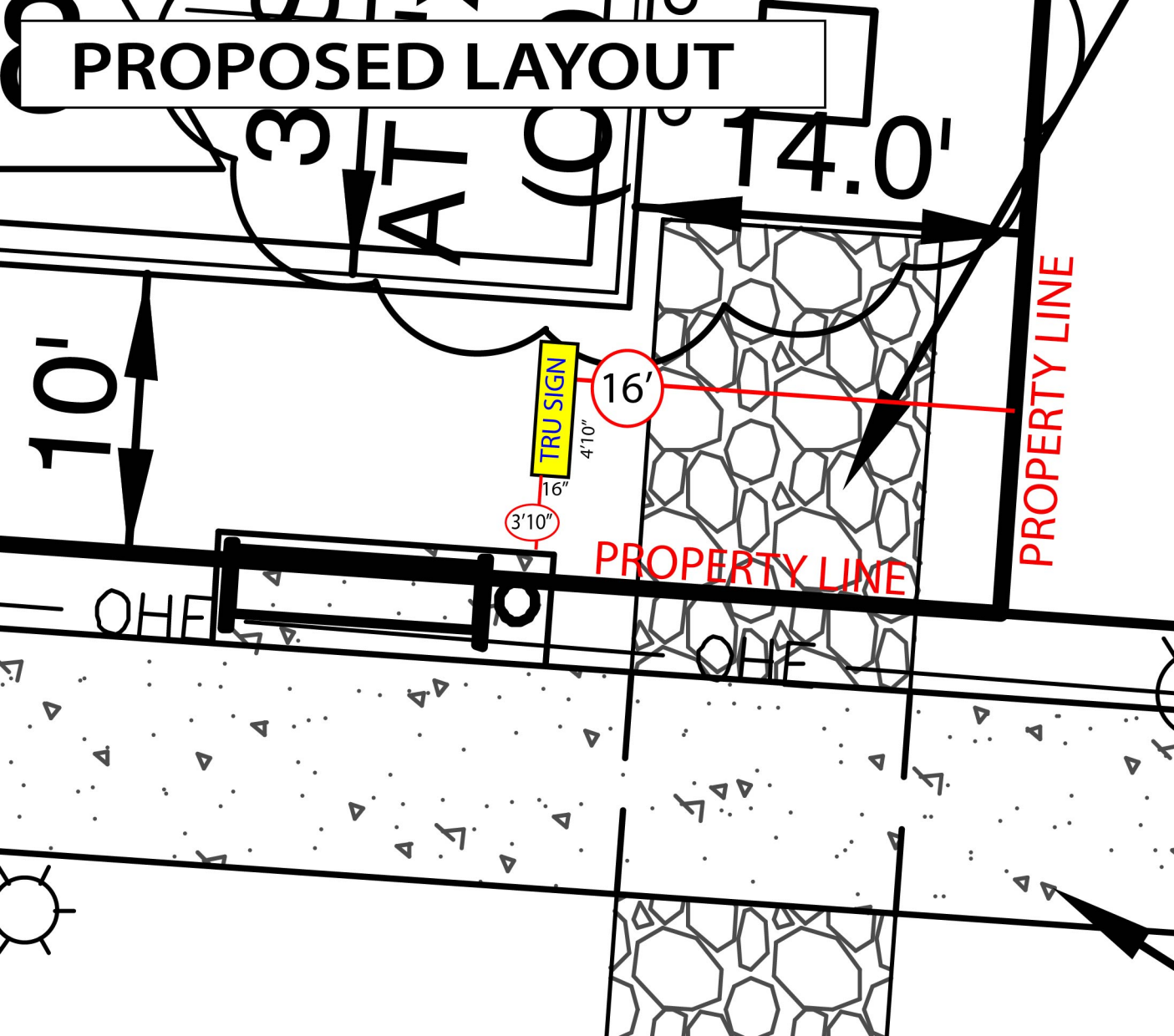
CITY OF DESTIN EMERGENCY CONTACT REQUIREMENTS

1. DEVELOPMENT SHALL PROVIDE A POSTED SIGN NOTIFYING THE PUBLIC OF THE NAME, AND 24 HOURS A DAY, 7 DAYS A WEEK EMERGENCY CONTACT PHONE NUMBER OF THE PARTY RESPONSIBLE FOR DEVELOPMENT SITE.
2. SIGN SHALL BE NO LARGER THAN 18"x24" AND NO SMALLER THAN 10"x16".
3. SIGN SHALL BE PROMINENTLY PLACED ON SITE, NO FURTHER THAN 5 FEET FROM ADJACENT RIGHT-OF-WAY, AND SHALL BE LEGIBLE WHEN VIEWED FROM RIGHT-OF-WAY.
4. SIGN SHALL BE PLACED AT EXPENSE OF OWNER, PRIOR TO COMMENCEMENT OF CONSTRUCTION.
5. OWNER SHALL PROVIDE CITY WITH A PHOTO OF SIGN AND POSTING OF PROPERTY AFFIDAVIT WITHIN 7 DAYS OF SIGN BEING POSTED.
6. SIGN SHALL BE REMOVED WITHIN 5 DAYS AFTER ISSUANCE OF CERTIFICATE OF OCCUPANCY OR CERTIFICATE OF COMPLETION FOR THE PROJECT.

COMPLIANT LAYOUT



PROPOSED LAYOUT



CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: October 4, 2023
BOARD/COMMITTEE: Board of Adjustment
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 6.B.

TO: Board of Adjustment

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, City Attorney

FROM: Steve O'Connor, Principal Planner
Chris Willis, Planner

DATE: September 27, 2023

SUBJECT: BOA-001199-2023 – American Legion Sign Variance Request

I. BACKGROUND: This is an application for approval of a Variance Request regarding a proposed sign at 311 Main Street (Parcel ID: 00-2S-22-1350-001A-0040). The applicant is requesting relief from ***LDC Section 16.04.00.A.3***, which relates to the setbacks for ground signs. The proposed sign does not meet setback requirements for ground signs.

Applicant: Mark Mocilan

Location: 311 Main Street, Destin, FL 32541

Size of Property: 0.64 acres

Current Zoning: Residential, Office, and Institutional – Village Residential (ROI-VR)

Future Land Use Map Classification: Residential, Office, and Institutional (ROI)

Comprehensive Plan Compliance: N/A

Legal Notice: The legal notice for the proposed variance request was published in the Northwest Florida Daily News with publication dates of September 22, 2023, and September 29, 2023.

Request: The applicant is requesting relief from ***LDC Section 16.04.00.A.3***, which relates to the setbacks for ground signs. The proposed sign does not meet setback requirements for ground signs. The Applicant requests relief from the minimum ten-foot (10') setback for ground signs.

II. DISCUSSION: The applicant is requesting to place the proposed sign $\pm 3'$ from the front property line. The setback requirements for ground signs are ten feet (10') from the

property line.

FINDINGS:

According to *LDC Section 2.25.03(C)*, to authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

Applicant Response: We are requesting a 7' variance which means the proposed signage would be 3' from the east property line. There are special conditions and circumstances due to the fact that property has very limited options for sign locations. The best locations for new sign has historic Tank, Memorial, and an American Flag. This location does require a variance. The old sign location encroaches east and north residential property line.

Staff Findings: The Applicant identified the historic tank as the special circumstances existing on site, and though the tank is a unique fixture of the property it is not a characteristic specific to the land or property. The tank in and of itself could be considered an existing monument of historical significance, which prevents placement of the requested sign in an advantageous position for visibility that complies with the required setback of 10'.

B. That special conditions and circumstances do not result from the actions of the Applicant.

Applicant Response: Special conditions are not the result of actions of Applicant. The memorial tank has been in place for generations and can not be moved.

Staff Findings: As previously mentioned, the tank can be considered a unique historical monument. However, the placement of the tank was a direct result of the property owner at one point in time and therefore is a direct result of the applicant's action.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings or structures in the same zoning district.

Applicant Response: All other organizations in the area are afforded a nice sign that displays their brand and is visible to the public. The American Legion is requesting a sign to display their patriotism and community-based events. Old signs are dilapidated and falling apart, not to mention barely visible to the public. Since being built, there are new technologies that have been implemented in the community.

Staff Findings: The applicant has pointed out that organizations in the surrounding

area have upgraded their signs. The condition and quality of signs located on surrounding properties are not a criterion when evaluating special privileges, nor a criterion for granting a variance.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance, and would it result in unnecessary and undue hardship on the Applicant.

Applicant Response: Denying the variance would create unnecessary hardship on the applicant. Other properties and organizations enjoy new technology and updated signage that is visible to the public and is representative of all the community outreach they provide.

Staff Findings: The utilization of signage or other technologies on other properties is not a criterion for approval. The signage referred to is likely compliant with the LDC or has been granted a variance based on the evidence provided for that property. Regardless, each variance is reviewed on a case by case basis, and as such, previously granted variances cannot be utilized as justification or a criterion for granting other variances. Further, the LDC section does not deprive the applicant of rights to display a sign, it only limits the location, and this same regulation is applied evenly across the city.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: Variance requested is the minimum needed for proper display of sign due to the layout of property, parking lot and memorials.

Staff Findings: As Staff has identified in criteria C, the granting of this variance would confer special privileges and, therefore, is not the minimum variance. The Applicant has not provided evidence explaining precisely why a sign must go in this location versus other options such as a building sign or other location on the property.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: Granting variance is in harmony to beautify the community and update historical landmark. Using the old signage and location would be detrimental to the American Legion and the community.

Staff Findings: Setbacks are a character-defining design element for neighborhoods and zoning districts. The intent and purpose of Residential, Office, and Institutional – Village Residential (ROI-VR), per the City of Destin Land Development Code (LDC) and Comprehensive Plan, is to adhere to performance standards which includes ***LDC Section 16.04.00.A.3***, which relates to the setbacks for ground signs. The granting of this variance will not be in harmony with the general intent and purpose of the ROI-VR zoning district or Article 16 of the LDC.

- A. Link to Strategic Goals / Objectives: n/a
- B. Effect on Budget (EOB): n/a
- C. Level of Service (LOS): n/a
- D. Legislative Sponsor:

III. CONCLUSION: The applicant is seeking approval of a variance to the setbacks to place the proposed sign $\pm$ three feet (3') from the front property line. The setback requirements for ground signs are ten feet (10') from the property line.

Per *Land Development Code (LDC), Section 2.25.03(C)*, to authorize a variance request, the Board of Adjustment must find that all six (6) of the aforementioned criteria must be satisfied. After hearing all the testimony regarding the proposed variance request, the Board of Adjustment must determine whether to approve or deny the variance request.

The Board will need to determine whether the provisions of LDC 2.25.03.C have been met.

IV. RECOMMENDED MOTION:

I move to recommend the Board of Adjustment approve Variance Request BOA-001199-2023

OR

I move to recommend the Board of Adjustment approve with modifications Variance Request BOA-001199-2023

OR

I move to recommend the Board of Adjustment deny Variance Request BOA-001199-2023.

Attachments:

1. 1. Site Plan
2. 2. Letter of Request
3. 3. Agent Affidavit
4. 4. Warranty Deed



311 Main St. Destin, FL 32541

SCALE (1/10) 1'=.1"

VARIANCE REQUESTED FOR DESTIN AMERICAN LEGION -311 MAIN STREET, DESTIN FL-

To Whom it may concern,

We are requesting a 7' variance which means the proposed signage would be 3' from the east property line. There are special conditions and circumstances due to the fact property has very limited options for sign locations. The best locations for new sign has historic Tank, Memorial, and an American Flag. This location does require a variance. The old sign location encroaches east and north residential property line.

Special conditions is not the result from actions of Applicant. The memorial tank has been in place for generations and can not be moved.

All other organizations in the area are afforded a nice sign that displays their brand and is visible to the public. American Legion is requesting a sign to display their patriotism and community based events. Destin American Legion has agreed to let city use message center for community messages/ events just like the community garden behind American Legion building. This allows the community to be involved. Old sign is dilapidated and falling apart, not to mention barely visible to the public. Since being built there are new technologies that have been implemented in the community that hold up better under strong. New signage will be up to date with 2023 codes. The proposed sign will be partially over the tank airspace and will provide maximum viewing.

Denying the variance would create unnecessary hardship on the applicant. Other properties and organizations enjoy new technology and updated signage that is visible to the public and is representative of all the community outreach they provide.

Variance requested is the minimum needed for proper display of sign due to the layout of property, parking lot and memorials present.

Granting the variance is in harmony to beautify the community and update historical landmark. Using the old signage and location would be detrimental to the American Legion and the community. Many Destin citizens have rallied together to raise money for this beautiful new sign.

Thank you very much for your time and consideration.

-Mark Mocilan
Mocilan and Son Signs and Electrical

**AGENT AFFIDAVIT
SPECIAL POWER OF ATTORNEY**

KNOWN ALL MEN BY THESE PRESENTS, THAT I, Corlene M. Ziegler am
presently the ~~owner and/or leaseholder~~ ^{Commander} at 311 Main Street Destin, and desiring
to execute a Special Power of Attorney, have made, constituted and appointed, and by these presents do
make, constitute and appoint MARK MORILAN
whose address is 734 Legion Dr #28, County of OKALOOSA, State of FLORIDA
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: New Signe American Legion 296

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 caring out the foregoing powers shall contain my name, followed by that of my said attorney
and the designation "Attorney-in-Fact."

Commander
OWNER
Corlene M. Ziegler
Signature
Corlene M. Ziegler
Printed Name

STATE OF FL

COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me by means of physical presence___ or online

notarization, this 17 day of July, 2022, by

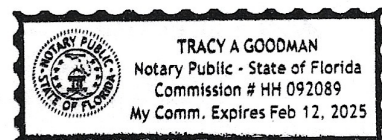
(name of person acknowledging)
Corlene M. Ziegler

[Signature]
Signature of Notary

Tracy A Goodman
Printed Name AND Seal of Notary

Personally known OR Produced Identification ✓

Type of Identification Produced FL Drive License



FILED

APR 26 AM 10:13

CECIL L. ANCHORS
CLERK CIRCUIT COURT
OKALOOSA COUNTY, FLORIDA

BOOK 194 PG 387

OFFICIAL RECORDS

Warranty Deed
FROM CORPORATION

KELLY HOMES, INC.

To

DAVIS#SIKES POST NO. 296

STATE OF FLORIDA	# 101387
OKALOOSA COUNTY	
I hereby certify that this instrument was filed for record this <u>26</u> day of <u>April</u> A.D. 19 <u>61</u>	
at <u>11:58</u> A.M. and duly recorded in Book <u>194</u>	
of <u>387</u> on page <u>386</u> and record verified.	
CECIL L. ANCHORS, CLERK CIRCUIT COURT	
BY <u>Forrestal</u>	DEPUTY CLERK
FEE \$ <u> </u>	

NOTICE OF RESTRICTION ON TRANSFER OF REAL PROPERTY

THIS RESTRICTION IS GRANTED this 10 day of FEB, 200 2, by
(name of Post as listed on warranty deed) DAVIS SIKES POST 296 American Legion
Post No. 296 in the CITY - DESTIN, OKALA County of Florida, whose legal description of said property is
LOTS 4, 5, 6, 7 BLOCK 1A KELLY HOMES SUBDIVISION
LOTS 8, 24, 25 AND NORTH 50 FEET OF LOT 26 BLOCK 1A KELLY HOMES SUBDIVISION
and whose mailing address is P.O. BOX 218 DESTIN, FL 32540
(the "Post"), to and in favor of The American Legion Department of Florida, Inc., whose address is P.O. Box
547936, Orlando, Florida 32854 (the "Department").

Recitals:

- i. The American Legion, a national wartime veterans organization, was chartered by Act of Congress in 1919;
- ii. The Department is a constituent part of and subordinate to The American Legion;
- iii. The Post is a constituent part of and subordinate to the Department; and
- iv. Article X, section 21 of the Constitution of the Department mandates that "No Post of the Department of Florida shall sell or otherwise dispose of any real property (real estate) without first obtaining the written consent of the Department Commander acknowledging receipt of written notice to The American Legion, Department of Florida NOT LESS than thirty (30) days prior to such sale or disposal, that all members of that Post have been given written notice, sent via U.S. Mail, of the proposed sale or other disposition. Each Post shall provide The American Legion, Department of Florida, written acknowledgment of the foregoing, duly executed by the Post Commander and Adjutant, and in a form suitable to the Department. The Department Adjutant shall cause this written acknowledgment to be recorded through the County Recorder's Office in the county wherein the Post is located.

NOW THEREFORE, in consideration of the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Notice. If the Post at any time hereafter receives from any third party any offer to purchase any real property then owned by the Post, which the Post is willing to accept, or if the Post at any time hereafter proposes to sell or convey to any third party any real property then owned by the Post, the Post shall give to the Department notification and/or a copy of such offer.
2. Conditions Precedent. A certificate of transfer from the Department Commander acknowledging receipt of both written notice to the Department pursuant to Section 1, above, and written notice to all members in good standing of the Post, shall be a condition precedent to the valid conveyance of any real property belonging to the Post, and any conveyance made without compliance with this condition shall be void and of no force or effect.

Dated: 2-10-02, 200 2 American Legion Post No. 296 :

By: Fred E. Sanders
Post Commander's signature

Fred E. Sanders Ray Baur
Printed Name Witness

By: Jerilyn Stearns
Post Adjutant's signature

Jerilyn Stearns Ray Baur
Printed Name Witness

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Dated: 2-10-02, 200 2 American Legion Post No. 296 :

By: Fred E. Sanders
Post Commander's signature

Fred E. Sanders
Printed Name

Ray Baurge
Witness

By: Jerry Strangle
Post Adjutant's signature

Jerry Strangle
Printed Name

Ray Baurge
Witness

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By: Fred E. Sanders
Post Commander's signature

Fred E. Sanders Ray Bourque
Printed Name Witness

By: Jerilyn Stancle
Post Adjutant's signature

Jerilyn Stancle Ray Bourque
Printed Name Witness

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Fred E. Sanders Ray Baur
Printed Name Witness

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NOW THEREFORE, in consideration of the premises, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Notice. If the Post at any time hereafter receives from any third party any offer to purchase any real property then owned by the Post, which the Post is willing to accept, or if the Post at any time hereafter proposes to sell or convey to any third party any real property then owned by the Post, the Post shall give to the Department notification and/or a copy of such offer.
2. Conditions Precedent. A certificate of transfer from the Department Commander acknowledging receipt of both written notice to the Department pursuant to Section 1, above, and written notice to all members in good standing of the Post, shall be a condition precedent to the valid conveyance of any real property belonging to the Post, and any conveyance made without compliance with this condition shall be void and of no force or effect.

Dated: 2-10-02, 200 2 American Legion Post No. 296 :

By: Fred E. Sanders
Post Commander's signature

Fred E. Sanders
Printed Name

Ray Bourque
Witness

By: Jill Stancle
Post Adjutant's signature

Jerilyn Stancle
Printed Name

Ray Bourque
Witness

This instrument prepared by Mattie Kelly Sims, President, Kelly Homes, Inc., P.O. Box 107, Destin, Florida 32541

BOOK 788 PAGE 318

OFFICIAL RECORDS

This Warranty Deed Made and executed the 24th day of February A.D. 1975, by

KELLY HOMES, INC.

a corporation existing under the laws of Florida and having its principal place of business at 14000 Strip Parkway, Destin, Florida, 32541, hereinafter called the grantor, to

THE AMERICAN LEGION DAVIS SIKES POST 296, Inc., a non-profit organization, whose postoffice address is

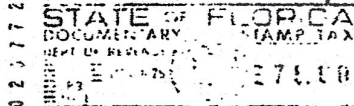
hereinafter called the grantee:

(Witness and hereby the terms "grantor" and "grantee" include all the parties to this instrument and their heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Okaloosa County, Florida, viz:

Lots 8, 24, 25 and the North 50 feet of Lot 26, Block 1-A, Kelly Homes Subdivision, according to the plat thereof recorded in Plat Book 3, Page 32, of the Public Records of Okaloosa County, Florida.

Reserving unto the Grantors all gas, oil and other mineral rights, but Grantors shall have no right of ingress and egress nor right to disturb the surface of the soil.

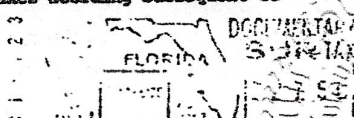
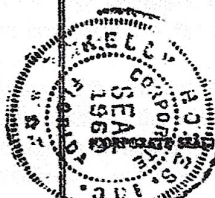


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10650

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1974.



In Witness Whereof the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST: Secretary

KELLY HOMES, INC.

Signed, sealed and delivered in our presence:

Lynna Willis
Joe Bailey

Mattie Kelly Sims
President

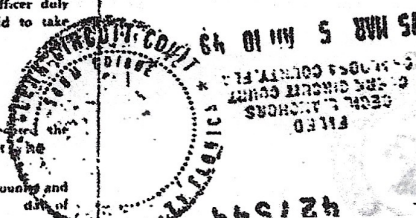
STATE OF FLORIDA
COUNTY OF OKALOOSA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared

Mattie Kelly Sims

to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 24th day of



CERTIFIED A TRUE AND CORRECT COPY
CLERK OF CIRCUIT COURT
NEWMAN C. BRACKEN
Tris Joell
1-22-02

OFFICIAL RECORDS

This Warranty Deed Made and executed the 28th day of February A. D. 1961 by

KELLY HOMES, INC.

a corporation existing under the laws of Florida
business at Destin, Florida
hereinafter called the grantor, to

and having its principal place of

Davis-Sikes Post No. 296, American Legion Department of Florida,
Inc.
whose postoffice address is

Destin, Florida
hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$1,000 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Okaloosa County, Florida, viz:

Lots, 4, 5, 6, & 7, Block I-A, of KELLY HOMES SUBDIVISION in Destin, Florida better described in the public records of Okaloosa County, Crestview, Florida, in Plat Book 3, Page 32.

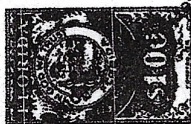
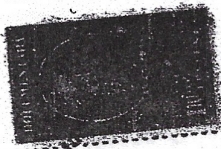
RESERVATION: Grantors reserve all gas, oil and other mineral rights and specifically agree not to enter upon or disturb the land.

RESTRICTION: Construction on said property shall be subject to the grantor, but in no way will this restriction hinder remodeling or improvements to existing construction. *PR*

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any-wise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that it is lawfully seized of said land in fee simple; that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes after 1960.



In Witness Whereof

the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers hereunto duly authorized, the day and year first above written.

ATTES

Mattie M. Kelly
Secretary

KELLY HOMES, INC.

Signed, sealed and delivered in the presence of:

Billie Pittman

Virginia L. Kelly

STATE OF FLORIDA
COUNTY OF OKALOOSA

By *L. Bernarr Kelly*
President

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared

L. Bernarr Kelly and Mattie M. Kelly
President and Secretary-Treasurer respectively of the corporation named as grantor well known to me, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily using authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. Witness my hand and official seal in the County and State last aforesaid this 28th day of February A. D. 1961.



CERTIFIED A TRUE
AND CORRECT COPY
CLERK OKALOOSA COUNTY
NEWBORN C. BRADSHAW

Wm. Sadler

1-22-02