



CITY of DESTIN

4200 Two Trees Road • Destin, Florida 32541



www.cityofdestin.com

September 14, 2007

Order No. 07-18

Final Development Order:

“1900 NINETY EIGHT” A MINOR (TIER 2) DEVELOPMENT (SP-06-14)

Based upon the City's approval and issuance of this Development Order, on September 14, 2007, this document will serve as your Final Development Order, and includes all of the provisions and conditions in the attached Technical Review Committee Report.

BACKGROUND / ISSUE:

Applicant: Emerald Coast Associates, Inc., on behalf of Smith & Rookis Developments, LLC and Ocean Impresa, LLC, is requesting approval of “1900 Ninety Eight,” a Minor (Tier 2) Development.

Request: The proposed development consists of a 12-story building with 16 short-term residential units with a total of 54,540 square feet.

Location: The proposed development is located at a parcel of land in unsectionalized Township 2 South, Range 22 West, in Destin of Okaloosa County, Florida (S.E. corner of Restaurant ROW and Scenic Highway 98), more specifically identified with the following Tax Parcel I.D. Numbers: 00-2S-22-1915-0000-0010, 00-2S-22-1915-0000-0020, 00-2S-22-1915-0000-0030, 00-2S-22-1915-0000-0040, 00-2S-22-1915-0000-0050 and 00-2S-22-2300-000C-0030.

Parcel Size: The current site area is .67 acres, more or less.

Future Land Use: Gulf Resort Mixed Use (GRMU)

Zoning District: Gulf Resort Mixed Use (GRMU)

Density: Allowed (for a Tier 2 Development): 25.00 units per acre
Proposed: 23.79 units per acre

Intensity: Allowed: N/A
Proposed: N/A

Application Date: March 29, 2006

TRC Date: April 19, 2006

Approved Site Plan Date: August 20, 2007

DETERMINATIONS:

1. All the findings of the Technical Review Committee report dated August 20, 2007 are incorporated herein.

CONDITIONS OF APPROVAL FOR "1900 NINETY EIGHT" A MINOR (TIER 2) DEVELOPMENT (SP-06-14):

1. Pursuant to the City of Destin Land Development Code:

Construction of infrastructure must commence within one (1) year of approval date (date from which the Final Development Order is issued by the Community Development Department) of the Final Development Order on September 14, 2007 (no later than September 14, 2008), and must be completed as shown on plans approved by the Technical Review Committee.

WARNING: If the applicant/owner has not obtained a building permit(s) for either the construction of infrastructure or construction of the entire project and that construction has not commenced within one (1) year of issuance of the final development order, the final development order will become null and void and the application for development order approval must be re-initiated. (Article 2, Section 2.21.00)

NOTE: Construction of infrastructure shall be defined as site work, grading, or other construction activity (not including clearing and grubbing or demolition of existing structures) related to installation of roadways, access drives, parking lots, underground utilities, stormwater or drainage facilities, or building foundations. (Article 2, Section 2.21.00)

NOTE: An applicant/owner who desires to extend the twelve (12) month (1 year) deadline for either the construction of infrastructure or construction of the entire project must submit a written request to the Community Development Department, no less than thirty (30) days prior to the expiration of the twelve (12) month deadline to obtain a building permit and commence construction of infrastructure or construction of the entire project. The applicant may receive only one extension, and such extension shall not exceed one year. The applicant /owner should review Article 2, Section 2.21.00, of the Destin Land Development Code for further explanation of the Development Order extension process.

2. If the applicant fully complies with the requirements of Condition No. 1 above, the concurrency capacity allocation status for "1900 Ninety Eight" will be protected. **However, the protected concurrency status will be lost and the application for development order approval must be re-initiated if:**
 - A. **Construction permit(s) in association with construction of infrastructure or construction of the entire project are not obtained in accordance with Article 2, Section 2.10.00 of the Land Development Code to maintain concurrency, or**
 - B. **Construction activity ceases for a period of one (1) year after a building permit for construction of infrastructure or construction of the entire project has been issued so that concurrency is not maintained under Article 6 of the Destin Land Development Code.**

3. The applicant must obtain City of Destin permits for the following activities on and off site (These may require appropriate bonding):
 - A. Disturbance of the City's right-of-way (Note: Applicant must obtain the proper ROW permit(s) from the Engineering Department prior to issuance of building permits, unless otherwise exempted by the City Engineer.)
 - B. Pavement cuts.
 - C. Construction of any kind.
 - D. Clearing, grubbing, or demolition.
 - E. Paving, grading, drainage, sidewalks.
 - F. Signage.
 - G. Installation of utilities.
 - H. Construction trailers.
4. **Conditions Per Community Development Department:** Refer to pages 17 thru 19 of the attached TRC Report dated August 20, 2007.
5. **Conditions Per Engineering Department:** Refer to pages 19 thru 21 of the attached TRC report dated August 20, 2007.
6. **Conditions Per Destin Water Users, Inc.:** Refer to page 21 of the attached TRC Report dated August 20, 2007.

TECHNICAL REVIEW COMMITTEE REPORT

"1900 NINETY EIGHT" A MINOR (TIER 2) DEVELOPMENT (SP-06-14)

TRC Report: August 20, 2007

ISSUE:

Applicant: Emerald Coast Associates, Inc., on behalf of Smith & Rookis Developments, LLC and Ocean Impressa, LLC, is requesting approval of "1900 Ninety Eight," a Minor (Tier 2) Development.

Request: The proposed development consists of a 12-story building with 16 short-term residential units with a total of 54,540 square feet.

Location: The proposed development is located at a parcel of land in unsectionalized Township 2 South, Range 22 West, in Destin of Okaloosa County, Florida (S.E. corner of Restaurant ROW and Scenic Highway 98), more specifically identified with the following Tax Parcel I.D. Numbers: 00-2S-22-1915-0000-0010, 00-2S-22-1915-0000-0020, 00-2S-22-1915-0000-0030, 00-2S-22-1915-0000-0040, 00-2S-22-1915-0000-0050 and 00-2S-22-2300-000C-0030.

Parcel Size: The current site area is .67 acres, more or less.

Future Land Use: Gulf Resort Mixed Use (GRMU)

Zoning District: Gulf Resort Mixed Use (GRMU)

Density: Allowed (for a Tier 2 Development): 25.00 units per acre
Proposed: 23.79 units per acre

Intensity: Allowed: N/A
Proposed: N/A

Application Date: March 29, 2006

TRC Date: April 19, 2006

Approved Site Plan Date: August 20, 2007

DISCUSSION/FINDINGS:

Emerald Coast Associates, Inc., on behalf of Smith & Rookis Developments, LLC and Ocean Impressa, LLC, is requesting approval of "1900 Ninety Eight," a Minor (Tier 2) Development. The proposed development consists of a 12-story mixed use building with 16 short-term residential units. The proposed development is located at a parcel of land in unsectionalized Township 2 South, Range 22 West, in Destin of Okaloosa County, Florida (S.E. corner of Restaurant ROW and Scenic Highway 98), more specifically identified with the following Tax Parcel I.D. Numbers: 00-2S-22-1915-0000-0010, 00-2S-22-1915-0000-0020, 00-2S-22-1915-0000-0030, 00-2S-22-1915-0000-0040, 00-2S-22-1915-0000-0050 and 00-2S-22-2300-000C-0030. The current site area is .67 acres, more or less.

The proposed request is consistent with the Comprehensive Plan and Land Development Code, which includes a technical and Concurrency Management review.

The Technical Review Committee (TRC) reviewed and approved the project with specific conditions as stated below.

COMPREHENSIVE PLAN/ZONING:

The property currently has a Future Land Use designation of Gulf Resort Mixed Use (GRMU) and a Zoning designation of Gulf Resort Mixed Use (GRMU). The proposed use is consistent with the Gulf Resort Mixed Use (GRMU) Future Land Use designation and is a permitted principal use within the Gulf Resort Mixed Use (GRMU) Zoning Districts.

LAND USE TRANSITION & SPECIAL DESIGN CRITERIA:

Comprehensive Plan: 2010 Policy 1-2.1.7 requires that *“All property designated for nonresidential use on the FLUM shall be developed and designed to ensure a smooth land use transition between the said nonresidentially designated property and any directly abutting low rise residential property, either existing or identified on the FLUM.”* The LDC requirements regulating “special design criteria” are *“...to establish design criteria to preserve, protect, and enhance the economic vitality and character of the City of Destin.”* This section also states, *“These standards and regulations are intended to promote and protect the desired character of the City, including promoting multimodal transportation opportunities, and that ensure compatibility with surrounding development.”* [LDC, §7.09.00].

Criteria for consideration to ensure smooth land use transition and special design include:

- Surrounding development
- Mechanical equipment
- Outdoor storage and display
- Solid waste collection areas
- Parking, loading, or accessway areas

Surrounding development:

The proposed development consists of a 12-story building with 16 short-term residential units. The following is a description of the surrounding area:

LOCATION RELATIVE TO SUBJECT SITE	FUTURE LAND USE	ZONING	EXISTING LAND USE
North	Gulf Resort Mixed Use (GRMU)	Gulf Resort Mixed Use (GRMU)	North: Restaurant and Multi-family residential
South	Gulf of Mexico	Gulf of Mexico	South: Gulf of Mexico
East	Gulf Resort Mixed Use (GRMU)	Gulf Resort Mixed Use (GRMU)	East: City of Destin Beach Access
West	Gulf Resort Mixed Use (GRMU)	Gulf Resort Mixed Use (GRMU)	West: Multi-family residential

As described herein, the surrounding uses include municipal beach access, restaurant and residential condominiums. The intensity and density of development is below the maximum intensity provided for in the Land Development Code and density provided in the Comprehensive Plan.

Mechanical equipment:

Condition: Outdoor mechanical equipment, such as heating, air conditioning, and ventilation systems, must be placed on the roof, in the rear or to the side of the building, or otherwise visually screened. In no case shall mechanical equipment be located between the principal structure and the front property line facing a right-of-way. All mechanical equipment located on the roof shall not be visible from adjacent properties or rights-of-way from heights equal to or

less than the equipment. All mechanical equipment located in the rear or to the side of the building shall be enclosed by opaque fence, wall or hedge a minimum of six (6) feet in height or to the highest point of the equipment, whichever is lower. For air conditioning or other equipment requiring airflow, a lattice screen of at least 50 percent opacity shall be sufficient to meet this requirement.

Outdoor storage and display:

Not applicable.

Solid waste collection areas:

All non-construction related dumpsters, trashcans, and recycling bins are to be placed in solid waste collection areas or inside a building. Solid waste collection areas are to be set back a minimum of ten feet from any property line that abuts single-family, duplex or townhome uses and setback a minimum of five feet from any property line which abuts a non-residential or mixed use.

Condition: All solid waste collection areas shall be enclosed by a 100 percent opaque fence, wall, or hedge that is a minimum of six feet in height. All enclosures shall have gates that are 100 percent opaque. These gates shall remain closed at all times except for when waste management services are collecting refuse from the site. If necessary, please post a sign on the gates requesting that these gates remain closed.

Parking, loading, or accessway areas (abutting residential uses):

The proposed development does not abut single-family, duplex or townhome uses. Therefore, parking, loading, accessways or service and utility areas are not required to be located ten (10) feet from the property line.

The site plan for “1900 Ninety Eight” complies with the City of Destin Comprehensive Plan Policy 1-2.1.7 and the Land Development Code §7.09.00.

Any additional revisions to the site plan must be reviewed and approved by the appropriate Technical Review Committee members and may be subject to further analysis if required pursuant to provisions of the Comprehensive Plan [Policy 1-2.1.7] and Land Development Code [LDC, §7.09].

MASSING (WIDTH AND DEPTH) AND HEIGHT:

The proposed development consists of a 12-story building with 16 short-term residential units. The proposed building measures 99.0 feet wide by 70.0 feet deep. The proposed building is 12 stories with a proposed building height of 140 feet measured to the cornice line.

DENSITY (UNITS PER ACRE):

The density calculation methodology results in a proposed density 23.79 units per acre. This proposed density is below the maximum allowable density for a Tier 2 development of 25.00 units per acre, and is calculated as follows:

Proposed Density = Total number of units proposed / acres of the subject parcel

Proposed Density = 16 units / .6725 acres = 23.79 units per acre

INTENSITY:

Not applicable

TIER 2 SUPPLEMENTAL DESIGN STANDARDS:

Comprehensive Plan: 2010 Policy 1-2.1.8 states that *“Height, intensity, and density bonus provisions are provided in the HDR, CMU, SHMU, NHMU, TCMU, GRMU, HIMU, and CBR Land Use Designations. These provisions shall be initiated to stimulate reinvestment in high standards of design through implementation of a tiered regulatory system that grants incentives for actions that are consistent with design criteria that cannot otherwise be mandated. The outcome shall result in high quality, innovative development that enhances site and building design, achieves land use compatibility, promotes non-motorized mobility, and provides the opportunity for achieving extraordinary public benefit.”*

Section 7.09.03 of the Land Development Code contains supplemental design standards that shall be met in order to qualify for Tier 2 height, intensity, and density bonuses. These supplemental standards include:

- Design criteria
- Open space
- Setbacks
- Landscaping
- Pedestrian amenities
- Design initiatives that accommodate transit needs
- Pedestrian and/or vehicular access

See attached “Findings of Fact” received August 7, 2007 for details on the project’s supplemental design standards listed above.

Open space:

Tier 2 development proposed in the GRMU future land use designation shall provide an additional five percent open space in addition to the required minimum of 25 percent for a total of 30 percent. The proposed amount of open space for this development exceeds 30 percent and is calculated as follows:

Total sq. ft. of provided open space / sq. ft. of subject parcel = Percentage of open space

16,932 sq. ft. / 29,296 sq. ft. = 57.8 percent open space provided

Setbacks:

The following setbacks shall apply to developments proposed in the GRMU future land use designation that does not front Harbor Boulevard/Emerald Coast Parkway and fronts the Gulf of Mexico:

PROPERTY LINE	REQUIRED SETBACK	PROVIDED
North (front)	<ul style="list-style-type: none"> • Min 0 ft. to max 10 ft. for any portion of a building having a height below 40 ft. • Min 20 ft. for any portion of a building having a height above 40 ft. 	• 0 ft.
West (side)	<ul style="list-style-type: none"> • Min 10 ft. for any portion of a building having a height of 35 ft. or less • Min 15 ft. for any portion of a building having a height above 35 ft. but below 50 ft. • Additional 2 ft. setback for each 10 ft. or fraction thereof exceeding 50 ft. in height 	• 10 ft. to height of 8.66 ft., 27.5 ft. to height of 109.5 ft. and 60 ft. to height of 124.5
East (side)	<ul style="list-style-type: none"> • Min 10 ft. for any portion of a building having a height of 35 ft. or less • Min 15 ft. for any portion of a building having a height above 35 ft. but below 50 ft. • Additional 2 ft. setback for each 10 ft. or fraction thereof exceeding 50 ft. in height 	• 10 ft. to height of 8.66 ft., 27.5 ft. to height of 109.5 ft. and 60 ft. to height of 124.5
South (rear)	• Established by the Florida Department of Environmental Protection (FDEP)	• Controlled by FDEP

The proposed development meets all of the required setbacks for a Tier 2 development located in the GRMU Future Land Use district.

In addition, the following buffers are required: a five-foot common boundary buffer along the eastern and western property line.

Landscaping:

All Tier 2 developments shall meet the following landscaping requirements.

Tree Requirements:

All required trees shall be a minimum of twelve (12) feet in height and have a three and one-half (3½) caliper at the time of planting. For those properties lying south of Harbor Boulevard and Emerald Coast Parkway palm trees cannot comprise more than 80 percent of the total number of all required trees. The number of required trees shall be increased by 20 percent above the minimum requirements for trees set forth in LDC Section 12.04.04. Trees having an average mature spread of crown less than 20 feet shall be arranged in groupings so as to create the equivalent of a 20-foot crown spread.

WARNING: A Certificate of Occupancy will not be issued until the required landscape material per the approved landscape plan has been inspected and approved by the Community Development Department.

The tree requirements for this development have been calculated as follows:

Credits for Existing Trees (2" to 6" diameter) on Site (0 trees x 2 credits per tree):	0
Credits for Existing Trees (7" to 12" diameter) on Site (0 trees x 3 credits per tree):	0
Credits for Existing Trees (13" to 19" diameter) on Site (0 trees x 4 credits per tree):	0
Credits for Existing Trees (20" or 24" diameter) on Site (0 trees x 5 credits per tree):	0
Total Reforestation Credits for Existing, Protected, or Preserved Trees:	0
Reforestation Trees (1 per every .10 of an acre: .67 x 10 = 7) Required on Site:	7
Total Reforestation Credits:	0
Total Reforestation Trees Required on Site:	7
Total Reforestation Trees (1 per every .10 of an acre minus credits) Required on Site:	7

Replacement Trees (removal of trees over 12" d.b.h.) Required on Site:	0
Perimeter Trees (1 per 25') Required on Site:	0
Parking Lot Trees (1 per end row and landscape island) Required on Site:	4
Vegetative Buffer Trees, if applicable, (1 per 25') Required on Site:	0
Conditional Compatibility Vegetation	0
Trees Required on Site per LDC Section 12.04.04:	<u>11</u>
20 percent increase for Tier 2 Development (0.20 x 11 trees = 2.2 or 3)	3
TOTAL TREES REQUIRED:	<u>14</u>
TOTAL TREES PROVIDED:	<u>18</u>
	(Sandy Oaks 6
	Cabbage Palms 24)

Shrub requirements:

All shrubs shall be sized in accordance to the following specifications: one-third shall be a minimum of 36 inches in height at the time of planting; one-third shall be a minimum of 18 inches in height at the time of planting; and one-third shall be ground cover plantings of a one gallon size. The number of required shrubs shall be increased by 20 percent above the minimum requirements for shrubs set forth in LDC Section 12.04.04.

Landscaping south of the coastal construction control line (CCCL):

All landscaping south of the CCCL is in accordance with the Florida Department of Environmental Protection (FDEP) requirements. A FDEP permit will be required prior to issuance of any permit.

Pedestrian amenities:

All Tier 2 developments “shall provide gathering/sitting areas that at a minimum include the following decorative pedestrian amenities: benches, waste containers, planters, and pedestrian lighting fixtures. Other types of pedestrian amenities may be incorporated and include: decorative water fountains, sculptures, drinking fountains, phone booths and bicycle racks.” [LDC, §7.09.03].

The proposed development will provide decorative pedestrian amenities including, but not limited to: benches, waste containers, planters, pedestrian lighting fixtures, bicycle racks, and a decorative stone paver gathering area as depicted on the approved site and landscape plans.

Design initiatives that accommodate transit needs:

“All developments located within a one-quarter mile radius of a transit stop shall contribute to the success of the transit system through contributions toward amenities and the creation of a safe and inviting pedestrian and transit atmosphere at all transit stop locations...” “Provision of additional transit infrastructure elements (e.g., transit shelter, street furniture, transit signs, contribution towards the transit operating fund, etc.) may be used as a multi-modal transportation mitigation measure for developments.” [LDC, §7.09.03].

The proposed development is not located within a quarter mile of a transit stop.

Pedestrian and/or vehicular access:

Not applicable.

CONCURRENCY MANAGEMENT:

Concurrency requirements have been met:

Solid Waste: **X**
Potable Water: **X**
Sanitary Sewer: **X**
Traffic: **X**
Stormwater Management: **X**

TRAFFIC ANALYSIS:

According to the traffic review conducted by the City's Transportation Consultant, and approved on July 5, 2007 the proposed development will not degrade the level of service of those major transportation facilities in the City of Destin (urban collectors and arterials).

Traffic concurrency is satisfied for this project, as confirmed by the City's Transportation Manager after reviewing the applicant's traffic concurrency analysis.

SUBDIVISION OR PUD - PLAT:

Not applicable.

AIRPORT PROTECTION:

The proposed project is located within the Airport Horizontal Zone, Conical Zone and Approach Zone as delineated in Subsections 7.15.01.A(2), (3) and (4) respectively. The proposed building height is approximately 129.3 feet above ground level to the top of the roof with a finished floor elevation of approximately 15.0 feet Above Mean Sea Level or a total height of 144.3 feet above Mean Sea Level.

Accordingly, the following height restriction criteria are met by the project based on the site plans and information provided to City Staff:

1. Horizontal Zone: No structure or obstruction will be permitted in the horizontal zone that has a height greater than 150 above the airport height (Airport elevation is 21.06 feet Above Mean Sea Level AMSL). Height limitation at project site is 150 feet AMSL + 21.06 feet elevation at airport height = 171.06 feet AMSL minus 1.06 feet (the difference between runway elevation and the lower elevation at the project site) = 170 feet AMSL. The highest proposed height is below the maximum allowed.
2. Conical Zone: This zone includes an area extending outward from the periphery on the horizontal zone for a distance of 4,000 feet. Height is limited to 171.06 feet (150 feet plus 21.06 feet airport elevation) in the inner boundary with permitted height increasing one foot vertically for every 20 feet of horizontal distance measure outward from the inner boundary to a height of 350 feet above the airport height at the outer boundary. The highest proposed height is below the maximum allowed.

3. Approach Zone: Height limitation at project site is 21.06 feet + (4,875 feet/34 X 1 foot elevation =143.38) = 164.44 feet AMSL. The highest proposed height is below the maximum allowed.

This project is in close proximity to the Destin Airport. The subject site is located within an airport protection area, more specifically the Airport Noise Zone "C" as described in the LDC, Article 7, Section 7.15.00. As a result of the subject site located within this Airport Noise Zone, it is a condition that the owner provides a "disclosure statement" for the properties to be sold and provide increased construction standards (Sound Level Requirements – SLR) for the structures. **Provide the following language within the approved and recorded Condominium Documents:**

"This note is to aid in notifying prospective purchasers of property identified hereon of any noise-impacted areas. The property as identified hereon is located within the Destin-Ft. Walton Beach Airport's *Noise Zone C*. A disclosure statement shall be completed and filed with the property deed for all residential property located in noise zone C."

Construction plans need to be certified and noted that they are compliant with SLR-25 reduction standards per the City's Land Development Code. **Provide the following note on all construction plans:**

"The buildings or structures as identified herein meet and/or exceed the City of Destin's Sound Level Reduction (SLR) requirements (See City of Destin Land Development Code, Article 7, Section 7.15.00 *Airport Zoning Regulations* and more specifically Division 1 and 3 of Okaloosa County Ordinance 82-19) through a combination of building design, choice of building materials and execution of construction details in accordance with architectural and acoustical principals."

NOTE: If construction necessitates the use of a crane, or other obstruction, which exceeds Federal Aviation Administration FAR 77 Standards (normally 200 feet above ground level), the applicant must request a variance from the FAA for temporary encroachment into this restrictive area and a copy of a completed FAA Form 7460, must be placed on file with the City of Destin prior to the crane, or other obstruction, penetrating the restricted airspace.

WHITE SANDS ZONE:

The proposed project is located within White Sands Zone I. All fill material will have to comply with the White Sands Ordinance for this area.

SIGNS:

No overall sign approval is part of this application. All future signs must comply with the applicable section of the Destin Land Development Code in effect at the time a sign application is submitted.

UTILITIES:

All proposed and existing utilities are required to be placed underground.

COX COMMUNICATIONS:

Cox Communications approved the project in a letter dated April 18, 2006.

DESTIN FIRE CONTROL DISTRICT:

The Destin Fire Control District approved the project in a letter dated April 19, 2006.

GULF POWER:

Gulf Power approved the project in a letter dated April 4, 2006.

OKALOOSA GAS:

Okaloosa Gas approved the project in a letter dated April 19, 2006.

EMBARQ:

Embarq Corporation approved the project in a letter dated April 4, 2006.

WATER/SEWER PROVIDER:

Destin Water Users, Inc. approved the project in a letter dated November 28, 2006, and had the following conditions:

1. **Condition:** All revisions to the water and/or sewer utilities of any previously approved project must be re-approved by Destin Water Users, Inc. in writing at least 24 hours prior to implementation.
2. **Condition:** Field verified and scaled "as-built" plans including all utility infrastructures must be submitted to the City of Destin and forwarded to Destin Water Users, Inc. for final inspection by Destin Water Users, Inc. A written approval shall then be submitted to the City of Destin prior to issuance of Certificate of Occupancy by the City of Destin if there are no outstanding issues.

ENGINEERING:

The City of Destin Engineering Department approved the project in a memo dated July 6, 2007, and had the following conditions:

1. **Condition:** Prior to obtaining any City permits, obtain a City of Destin Right-of-Way Construction Permit from the City Engineering Department.
2. **Condition:** Refer to LDC Article 8.03.06. *Clear visibility triangle.* In order to provide a clear view of intersecting streets to motorists, there shall be a triangular area of clear visibility formed by two intersecting streets. The following standards shall be met:
 - a. Nothing shall be erected, placed, parked, planted or allowed to grow in such a manner as to materially impede vision between a height of two feet and ten feet above the grade, measured at the centerline of the intersection, except those signs or devices approved pursuant to section 16.01.00 of this Code. Note: The applicant is reminded that building setbacks must be observed so as to preserve clear visibility at intersections.
 - b. The clear visibility triangle shall be formed by connecting a point on each street centerline with such point to be located at a distance determined by the building setback requirements associated with the property and the zoning district within which the property is located. That is, the visibility distances shall be those established by the setback requirements within the City's zoning ordinance. Note: The visibility triangle shall be in accordance with the "Technical Construction Standards Manual," included in this Code, and the Florida Department of Transportation Standards Index.

3. **Condition:** Refer to LDC Article 8.01.00.B.2. Screening vegetation shall not be placed within five feet and maintain a minimum foliage clearance of three feet of any utility structure(s) including but not limited to water meters, valves, electrical/communication panels or poles, and shall not be placed around any water hydrant that could be used for fire protection.
4. **Condition:** Refer to LDC Article 8.01.00.C. Sidewalks, recreational trails, and bicycle ways shall be permissible in ROW's:
 - a. Landscaping located on abutting properties to sidewalks, recreational trails, and bicycle ways shall not create a safety hazard, and shall be trimmed or pruned to allow full width plus one foot on each side of the sidewalks, recreational trails, and bicycle ways, and the minimum vertical height of ten feet above grade, is clear.
 - b. Trees or shrubs shall not be planted within five feet from all streets or sidewalks, recreational trails, and bicycle ways.
5. **Condition:** Contractor shall not be allowed to utilize ANY public right-of-ways for any loading/unloading, staging or storage of construction materials, equipment or vehicles or unauthorized construction. **Failure to comply with this requirement may void your city right-of-way construction permit until the violation is corrected. All fees shall apply for repermitting.**
6. **Condition:** Construction material & equipment shall not be allowed on either of the public beach accesses. **Failure to comply with this requirement may void your city right-of-way construction permit until the violation is corrected. All fees shall apply for repermitting.**
7. **Condition:** Driveways design does not allow adequate spacing for a gate. **No gates will be considered.**
8. **Condition:** All striping within the right-of-way shall be thermoplastic. Old striping shall be obliterated by grinding – painting shall not be allowed.
9. **Condition:** The sidewalk across the driveway shall comply with the maximum 50:1 cross slope ADA requirement.
10. **Condition:** Provide all lighting fixture details that are located within the ROW for review. All lighting and Gathering areas shall require a recorded Maintenance & hold Harmless Agreement.
11. **Condition:** Provide a Maintenance & Hold Harmless Agreement for pavers within the ROW. Once, approved, the agreement shall be recorded.
12. **Condition:** During construction, crane booms shall not swing out over the ROW or the beach accesses on either side of the project. These area are open to the public and not part of the construction site.
13. **Condition:** Provide FDEP Coastal permit approval.
14. **Condition:** Provide a 24 hour contact person's phone number, that person shall have demonstrated ability in maintenance of erosion control measures.
15. **Condition:** Areas not being worked for 30 days or more shall be vegetated.

16. **Condition:** All bare ground, stripped vegetation during the clearing/ grading process, shall be covered to the maximum extent practicable.
17. **Condition:** All beach side lighting shall be shielded and "turtle friendly" type per FDEP and U.S. Fish & Wildlife requirements.
18. **Condition:** Non-surfaced temporary construction driveway entrances, access roads and parking areas used by construction traffic shall be stabilized to minimize erosion and prevent tracking mud or soil from the site.
19. **Condition:** Stabilized construction entrance(s) shall be installed as the first stop of clearing and grading.
20. **Condition:** Additional techniques to reduce soil tracking off of a site and onto a roadway such as wheel washing stations may be required.
21. **Condition:** Dust control is required on all areas of development or redevelopment activities.
22. **Condition:** A copy of all Federal, State and city permits (as applicable) shall be posted in a clearly visible location on the project site.
23. **Condition:** Prior to C.O., all temporary construction driveway entrances shall be removed and the right-of-way re-graded, restored and re-vegetated to original or better condition.
24. **Condition:** Any off-site catch basins curb inlets or swale that required protection shall be cleaned.
25. **Condition:** Import of any fill must be inspected for White Sand Zone I compliance by the City's Environmental Officer, David Bazylak 850-837-4242, prior to placing on site.

STORMWATER:

The City approved the stormwater management plan on May 30, 2007, and had the following stormwater related condition:

1. **Condition:** Prior to obtaining a Certificate of Occupancy, the Stormwater Operation/Maintenance Plan (SWOMP) shall be acknowledged and signed by the Owner.
2. **Condition:** Prior to obtaining any City permit, a copy of the FDEP stormwater and a NPDES Stormwater Construction Generic Permit (if applicable) approval shall be forwarded to the City Engineer's office.
3. **Condition:** Prior to obtaining any City permit, an original signed and sealed Stormwater Concurrence Evaluation Certificate shall be completed by the Engineer of Record.
4. **Condition:** If groundwater is observed standing in the storm structures, the SWMP shall be considered in non-compliance and a revised stormwater plan shall be resubmitted for review and approval.
5. **Condition:** Please abide by the general guidelines set forth in the FDEP's "Florida Development Manual: A Guide to Sound Land and Water Management," particularly those guidelines set forth for the construction and maintenance of exfiltration trenches.

6. **Condition:** All perforated piping and exfiltration beds shall be inspected and approved by the Engineer of Record and the City of Destin prior to backfilling. Prior to inspection by the City, the Engineer of Record shall submit an inspection report that certifies the compliance of the perforated pipe and exfiltration beds.

INGRESS/EGRESS:

There are two proposed ingress/egress accessways attributed to this development. These accessways adjoins Scenic Highway 98. The accessway is a two-way accessway measuring approximately 22 feet in width.

PARKING:

The project meets or exceeds the parking requirements of the Destin Land Development Code as indicated on the approved plans.

Per code:

Multi-family Dwelling, 5 stories or more: 2.00 spaces per dwelling unit.

Per site plan:

Multi-family Dwelling: 16 dwelling units x 2 spaces per dwelling unit = 32 parking spaces required

Total Parking Required: 32 spaces

Parking Provided: 32 spaces including 2 handicap spaces

LOADING SPACE (ZONE):

The project meets or exceeds the loading space requirements of the Land Development Code.

REFUSE COLLECTION:

Refuse collection is to be provided by dumpster service. The proposed dumpster must be screened by a gated opaque enclosure at least six feet tall. The gates shall remain closed at all times except for when waste management services are collecting refuse from the site. If necessary, please post a sign on the gates requesting that these gates remain closed.

SIDEWALKS:

A 5-foot wide sidewalk is required along Scenic Highway 98.

IMPACT FEES:

The following impact fee amounts may be subject to change. Final impact fee amounts will be determinant upon the gross floor area and/or number of units of the development at the time a Certificate of Occupancy is requested. Final impact fee amounts will also be determined if any exemptions or credits are applicable and reevaluated at the time a Certificate of Occupancy is requested. **Any claims for exemption or credits must be made no later than the time a Certificate of Occupancy is requested. Refer to Article 19 of the Destin Land Development Code for specifics regarding impact fees.** The owner/applicant must pay the final impact fee amounts prior to the issuance of a Certificate of Occupancy:

Parks: The parks impact fees were calculated using the following rates and fees.

Resort Residential (applied as Resort Residential per the Fee Schedule for Parks):

Impact Fee Rate = \$113.03 per unit

Number of Dwelling Units = 16 units

Impact Fee for Resort Residential Unit = 16 units x \$113.03 per unit = **\$1,808.48**

Total Parks Impact Fees to be paid for "1900 Ninety Eight": **\$1,808.48**

Public Library: The public library impact fees were calculated using the following rates and fees.

Resort Residential (applied as Resort Residential per the Fee Schedule for Public Library):

Impact Fee Rate = \$76.19 per unit

Number of Dwelling Units = 16 units

Impact Fee for Resort Residential Unit = 16 unit x \$76.19 per unit = **\$1,219.04**

Total Public Library Impact Fees to be paid for "1900 Ninety Eight": **\$1,219.04**

Police Protection: The police protection impact fees were calculated using the following rates and fees.

Resort Residential (applied as U.S. 98 Corridor Resort Residential per the Fee Schedule for Police Protection):

Impact Fee Rate = \$14.64 per unit

Number of Dwelling Units = 16 units

Impact Fee for Resort Residential Unit = 16 unit x \$76.19 per unit = **\$234.24**

Total Police Protection Impact Fees to be paid for "1900 Ninety Eight": **\$234.24**

Roads: The roads impact fees were calculated using the following rates and fees:

Multi-family Residential (applied as Multi-family Dwelling Unit per the Fee Schedule for Roads):

Impact Fee Rate = \$577.00 per dwelling unit

New Multi-family Residential Dwelling Units = 16 dwelling units

Impact Fee for Multi-family Residential = 16 d.u. x \$577.00 per d.u. = **\$9,232.00**

Total Roads Impact Fees to be paid for "1900 Ninety Eight": **\$9,232.00**

Parks:	=	<i>\$1,808.48</i>
Public Library:	=	<i>\$1,219.04</i>
Police Protection:	=	<i>\$ 234.24</i>
Roads:	=	<i>\$9,232.00</i>
TOTAL IMPACT FEES:	=	<u>\$12,493.76</u>

OTHER FEES:

The fees listed below are subject to change and are based on the most recent information available (August 20, 2007). The fees must be paid by the applicant as part of the cost recovery associated with the proposed project:

City Compatibility Consultant:	N/A
City Surveyor:	N/A
City Traffic Consultant:	Paid
City Stormwater Review Consultant:	N/A
Re-Review Fees (Community Dev.)	Paid
Re-Review Fees (Engineering)	Paid
Administrative Costs:	Paid
TOTAL (as of 8/31/07) =	Paid

COMMENTS/CONDITIONS:

Public Input:

No public comments have been presented to staff at the time of this report.

Per Community Development Department:

1. **Prior to the issuance of any City permit**, all outstanding costs associated with this project that are owed to the City must be paid in full.
2. **Prior to the issuance of any City permit**, please forward a copy of your approved FAA Permit to the City of Destin Community Development Office.
3. **Prior to the issuance of any City permit**, a copy of the FDEP stormwater and a NPDES Stormwater Construction Generic Permit (if applicable) approval shall be forwarded to the City Engineer's office.
4. **Prior to the issuance of a Certificate of Occupancy**, all applicable impact fees must be paid.
5. **Prior to the issuance of a Certificate of Occupancy**, the Stormwater Operation/Maintenance Plan (SWOMP) shall be acknowledged and signed by the Owner.
6. **Prior to the issuance of a Certificate of Occupancy**, assigned address numbers for principal buildings shall be displayed and clearly visible and legible, preferably reflective, from the street or private way on which the building fronts. *Ref. LDC Section 7.18.04.*
7. **Prior to the issuance of a Certificate of Occupancy**, all required parking and related landscaping shall be installed, inspected, and approved by the Community Development Department.
8. **Prior to the issuance of a Certificate of Occupancy**, the landscaping and outdoor lighting, if installed, must be inspected and approved by the Community Development Department. The lighting plan which shall be submitted prior to the issuance of any city permit, must provide specifications for the proposed outdoor lighting, including photometrics. All lighting must be shielded downward and away from adjacent properties in order to avoid spill-over and illumination into the night sky.
9. **Condition:** The subject site is located within an airport protection area, more specifically the Airport Noise Zone "C" as described in the LDC, Article 7, Section 7.15.00. As a result of the subject site located within this Airport Noise Zone, it is a condition that the owner provides a "disclosure statement" for the properties to be sold and provide increased construction standards (Sound Level Requirements – SLR) for the structures. **Provide the following language within the approved and recorded Condominium Documents:**

“This note is to aid in notifying prospective purchasers of property identified hereon of any noise-impacted areas. The property as identified hereon is located within the Destin-Ft. Walton Beach Airport’s *Noise Zone C*. A disclosure statement shall be completed and filed with the property deed for all residential property located in noise zone C.”

10. **Condition:** Construction plans need to be certified and noted that they are compliant with SLR-25 reduction standards per the City’s Land Development Code. **Provide the following note on all construction plans:**

“The buildings or structures as identified herein meet and/or exceed the City of Destin’s Sound Level Reduction (SLR) requirements (See City of Destin Land Development Code, Article 7, Section 7.15.00 *Airport Zoning Regulations* and more specifically Division 1 and 3 of Okaloosa County Ordinance 82-19) through a combination of building design, choice of building materials and execution of construction details in accordance with architectural and acoustical principals.”

11. **Condition:** Trees or shrubs shall not be planted within five feet from all streets or sidewalks as measured from the center of the trunk to the edge of the sidewalk in the public right-of-way. *Ref. LDC Section 8.01.00.C.2.*
12. **Condition:** Provide gathering/sitting areas that at a minimum include the following decorative pedestrian amenities: benches, waste containers, planters, and pedestrian lighting fixtures. Other types of pedestrian amenities may be incorporated and include: decorative water fountains, sculptures, drinking fountains, phone booths and bicycle racks. *Ref. LDC Section 7.09.03.F.5.*
13. **Condition:** Each accessible parking space must be prominently outlined with blue paint to be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign bearing the international symbol of accessibility, meeting the requirement of color and design approved by the Department of Transportation, containing the caption “PARKING BY DISABLED PERMIT ONLY,” and indicating the penalty for illegal use of the space, which shall be a minimum fine of \$250.
14. **Condition:** A visual screen of vegetation running the entire length of the western and eastern property lines shall be installed within a five-foot side yard landscaped strip. Such vegetation shall provide a minimum of 50 percent opacity for that area between the finished grade level at the common boundary line and six feet above said level and horizontally along the length of all common boundaries within three years of planting. *Ref. LDC Section 12.04.04.B.1.b.*
15. **Condition:** All solid waste collection areas shall be enclosed by a 100 percent opaque fence, wall, or hedge that is a minimum of six feet in height. All enclosures shall have gates that are 100 percent opaque. These gates shall remain closed at all times except for when waste management services are collecting refuse from the site. If necessary, please post a sign on the gates requesting that these gates remain closed. *Ref. LDC Section 7.09.02.B.3.*
16. **Condition:** The slab for all structures shall be constructed a minimum of 12 inches above the crown of the nearest street, except where topography will provide adequate drainage as certified by a professional engineer registered in the State of Florida. *Ref. LDC Section 10.03.02.A.5.*
17. **Condition:** Outdoor mechanical equipment, such as heating, air conditioning, and ventilation systems, must be placed on the roof, in the rear or to the side of the building, or otherwise visually screened. In no case shall mechanical equipment be located between the principal structure and the front property line or any property line facing a right-of-way. All mechanical equipment located on the roof shall not be visible from adjacent properties or rights-of-way from heights equal to or less

than the equipment. All mechanical equipment located in the rear or to the side of the building shall be enclosed by opaque fence, wall or hedge a minimum of six (6) feet in height or to the highest point of the equipment, whichever is lower. For air conditioning or other equipment requiring airflow, a lattice screen of at least 50 percent opacity shall be sufficient to meet this requirement.

18. **Condition:** All existing and proposed utility lines located on the subject property shall be installed underground. *Ref. LDC Section 20.12.00.*
19. **Condition:** If groundwater is observed standing in the storm structures, the SWMP shall be considered in non-compliance and a revised stormwater plan shall be resubmitted for review and approval.
20. **Condition:** Please abide by the general guidelines set forth in the FDEP's "Florida Development Manual: A Guide to Sound Land and Water Management," particularly those guidelines set forth for the construction and maintenance of exfiltration trenches.
21. **Condition:** All perforated piping and exfiltration beds shall be inspected and approved by the Engineer of Record and the City of Destin prior to backfilling. Prior to inspection by the City, the Engineer of Record shall submit an inspection report that certifies the compliance of the perforated pipe and exfiltration beds.
22. **Condition:** Any additional revisions to the Site Improvement Plans, Landscape Plans or Architectural Plans will require an amendment to the development order.

Per City of Destin Engineering Department:

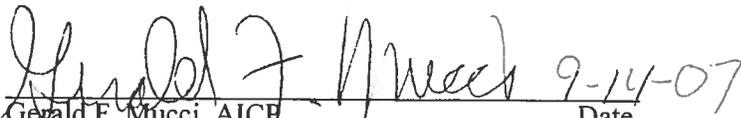
26. **Condition:** Prior to obtaining any City permits, obtain a City of Destin Right-of-Way Construction Permit from the City Engineering Department.
27. **Condition:** Refer to LDC Article 8.03.06. *Clear visibility triangle.* In order to provide a clear view of intersecting streets to motorists, there shall be a triangular area of clear visibility formed by two intersecting streets. The following standards shall be met:
 - a. Nothing shall be erected, placed, parked, planted or allowed to grow in such a manner as to materially impede vision between a height of two feet and ten feet above the grade, measured at the centerline of the intersection, except those signs or devices approved pursuant to section 16.01.00 of this Code. Note: The applicant is reminded that building setbacks must be observed so as to preserve clear visibility at intersections.
 - b. The clear visibility triangle shall be formed by connecting a point on each street centerline with such point to be located at a distance determined by the building setback requirements associated with the property and the zoning district within which the property is located. That is, the visibility distances shall be those established by the setback requirements within the City's zoning ordinance. Note: The visibility triangle shall be in accordance with the "Technical Construction Standards Manual," included in this Code, and the Florida Department of Transportation Standards Index.
28. **Condition:** Refer to LDC Article 8.01.00.B.2. Screening vegetation shall not be placed within five feet and maintain a minimum foliage clearance of three feet of any utility structure(s) including but not limited to water meters, valves, electrical/communication panels or poles, and shall not be placed around any water hydrant that could be used for fire protection.

29. **Condition:** Refer to LDC Article 8.01.00.C. Sidewalks, recreational trails, and bicycle ways shall be permissible in ROW's:
 - a. Landscaping located on abutting properties to sidewalks, recreational trails, and bicycle ways shall not create a safety hazard, and shall be trimmed or pruned to allow full width plus one foot on each side of the sidewalks, recreational trails, and bicycle ways, and the minimum vertical height of ten feet above grade, is clear.
 - b. Trees or shrubs shall not be planted within five feet from all streets or sidewalks, recreational trails, and bicycle ways.
30. **Condition:** Contractor shall not be allowed to utilize ANY public right-of-ways for any loading/unloading, staging or storage of construction materials, equipment or vehicles or unauthorized construction. **Failure to comply with this requirement may void your city right-of-way construction permit until the violation is corrected. All fees shall apply for repermitting.**
31. **Condition:** Construction material & equipment shall not be allowed on either of the public beach accesses. **Failure to comply with this requirement may void your city right-of-way construction permit until the violation is corrected. All fees shall apply for repermitting.**
32. **Condition:** Driveways design does not allow adequate spacing for a gate. **No gates will be considered.**
33. **Condition:** All striping within the right-of-way shall be thermoplastic. Old striping shall be obliterated by grinding – painting shall not be allowed.
34. **Condition:** The sidewalk across the driveway shall comply with the maximum 50:1 cross slope ADA requirement.
35. **Condition:** Provide all lighting fixture details that are located within the ROW for review. All lighting and Gathering areas shall require a recorded Maintenance & hold Harmless Agreement.
36. **Condition:** Provide a Maintenance & Hold harmless Agreement for pavers within the ROW. Once, approved, the agreement shall be recorded.
37. **Condition:** During construction, crane booms shall not swing out over the ROW or the beach accesses on either side of the project. These area are open to the public and not part of the construction site.
38. **Condition:** Provide FDEP Coastal permit approval.
39. **Condition:** Provide a 24 hour contact person's phone number, that person shall have demonstrated ability in maintenance of erosion control measures.
40. **Condition:** Areas not being worked for 30 days or more shall be vegetated.
41. **Condition:** All bare ground, stripped vegetation during the clearing/ grading process, shall be covered to the maximum extent practicable.
42. **Condition:** All beach side lighting shall be shielded and "turtle friendly" type per FDEP and U.S. Fish & Wildlife requirements.

43. **Condition:** Non-surfaced temporary construction driveway entrances, access roads and parking areas used by construction traffic shall be stabilized to minimize erosion and prevent tracking mud or soil from the site.
44. **Condition:** Stabilized construction entrance(s) shall be installed as the first stop of clearing and grading.
45. **Condition:** Additional techniques to reduce soil tracking off of a site and onto a roadway such as wheel washing stations may be required.
46. **Condition:** Dust control is required on all areas of development or redevelopment activities.
47. **Condition:** A copy of all Federal, State and city permits (as applicable) shall be posted in a clearly visible location on the project site.
48. **Condition:** Prior to C.O., all temporary construction driveway entrances shall be removed and the right-of-way re-graded, restored and re-vegetated to original or better condition.
49. **Condition:** Any off-site catch basins curb inlets or swale that required protection shall be cleaned.
50. **Condition:** Import of any fill must be inspected for White Sand Zone I compliance by the City's Environmental Officer, David Bazylak 850-837-4242, prior to placing on site.

Per Destin Water Users, Inc.:

51. **Condition:** All revisions to the water and/or sewer utilities of any previously approved project must be re-approved by Destin Water Users, Inc. in writing at least 24 hours prior to implementation.
52. **Condition:** Field verified and scaled "as-built" plans including all utility infrastructures must be submitted to the City of Destin and forwarded to Destin Water Users, Inc. for final inspection by Destin Water Users, Inc. A written approval shall then be submitted to the City of Destin prior to issuance of Certificate of Occupancy by the City of Destin if there are no outstanding issues.


 Gerald F. Mucci, AICP 9-14-07
 Community Development Director Date


 Smith & Rookis Investments, LLC & 10.1.07
 Ocean Impressa, LLC Date
 Richard J. Rookis
 Owner





CITY of DESTIN

4200 Two Trees Road • Destin, Florida 32541



www.cityofdestin.com

March 10, 2009

Smith & Rookis Developments, LLC &
Ocean Impressa, LLC
Attn.: Mr. Richard J. Rookis
7 Town Center Loop, Suite C-14
Santa Rosa Beach, Florida 32459

Subject: "1900 Ninety Eight: A Minor (Tier 2) Development" – Expiration of Final Development Order No. 07-18

Dear Mr. Rookis:

This letter is to inform you that according to our records the Final Development Order No. 07-18 has expired. Article 2, section 2.21.00 of the Land Development Code (LDC) requires "...a building permit must be issued for either the construction of infrastructure or construction of the entire project and construction must commence within said one year period after which the permitted development activity may be completed provided the conditions of this section continue to be satisfied." The LDC further states "If a building permit is not issued within one year from the date of issuance of the final development order or a building permit is issued and construction has not commenced within one year from the date of issuance of the final development order, then the development order becomes null and void." The final development order for the above-mentioned project was issued on September 14, 2007. However, a building permit for either the construction of infrastructure or construction of the entire project was never issued. Therefore, the City considers this Development Order null and void.

If you feel this determination has been made in error, then you will need to either: a) provide documentation prove that work was performed in accordance with said permit, the date said work started and was completed or b) complete an administrative appeal application, submit a \$500.00 application fee, submit a \$500.00 escrow fee (for cost recovery for outside consultants and administrative, advertising, mailing expenses) and file said application with the Community Development Department within 30 calendar days of date of this determination. The appeal process is described in Article 2, Section 2.22.00 of the Land Development Code (see attachment).

If you have any further questions or concerns, please do not hesitate to call for assistance.

Sincerely,

R. Ashley Grana
Planning Manager

RAG/

PLANNING DIVISION

Phone: (850) 837-4242 ext. 3175 Fax: (850) 650-0693 Email: agrana@cityofdestin.com

Attachments: LDC section 2.21.00
LDC section 2.22.00

cc: City Manager, Greg Kisela
City Land Use Attorney, Scott Shirley
Community Development Director, Ken Gallander
Code Enforcement Manager, David Bazylak
File: 1900 Scenic Highway 98 (Building Division)
File: 2007 DO Log Book
File: SP-06-14
File: Letter Log

PLANNING DIVISION

Phone: (850) 837-4242 ext. 3175 Fax: (850) 650-0693 Email: agrana@cityofdestin.com

- b. Cashiers check;
 - c. Money order; or
 - d. Cash.
3. The amount of payment shall be 120 percent of the total construction cost for the required improvements ("future improvement payment).
 4. In addition to the future improvement payment, developer shall pay an administrative fee.
- D. *Future improvement payment* shall be made prior to the to issuance of a development order for commercial projects or a building permit for residential projects.
- E. *Future improvement payment.* At such time that the improvements can be made to the public right-of-way, easement, or City owned property, the City shall construct such improvements and use the future improvement payment to pay for the costs of the improvements. After completion of the improvements, any unused portion of the future improvement payment shall be returned to developer. If the future improvement payment is not sufficient to pay for the improvements, developer shall pay any shortfall to the City.
- (Ord. No. 04-23-LC, § 3, 8-16-04; Ord. No. 07-32-LC, § 5, 5-7-07)

2.21.00. Final development order and extension of the commencement of construction deadline.

A final development order is valid for a period of one year from the date of issuance. However, a building permit must be issued for either the construction of infrastructure or construction of the entire project and construction must commence within said one year period after which the permitted development activity may be completed provided the conditions of this section continue to be satisfied. If a building permit is not issued within one year from the date of issuance of the final development order or a building permit is issued and construction has not commenced within one year from the date of issuance of the final development order, then the development order

becomes null and void. "construction of infrastructure" shall be defined as site work, grading, or other construction activity (not including land clearing and grubbing or demolition of existing structures) related to installation of roadways, access drives, parking lots, underground utilities, stormwater or drainage facilities, or building foundations. If construction activity ceases for a period of one year after a building permit for construction of the infrastructure or construction of the entire project has been issued, the development order will be considered null and void. No extensions to this deadline shall be allowed, except as set forth in section 2.21.01.

2.21.01. Criteria for a request to extend the 12-month deadline to obtain a building permit and commence construction.

- A. An applicant who desires to extend the 12-month deadline shall submit a written request to the community development department, no less than 30 days, prior to the expiration of the 12-month deadline to obtain a building permit and commence construction.
- B. An applicant may receive only one extension, and such extension shall not exceed one year.
- C. As a condition of approval for such an extension, the applicant's project shall meet any and all applicable code requirements that were adopted subsequent to the approval of the final development order for which an extension is being requested. The applicant will have to file an application, to amend to the previously approved development order, with the City prior to the issuance of any City permit for the subject property.

2.21.02. Determination regarding request for extension. All applications for extensions, as identified in section 2.21.01, shall be reviewed by the community development director with input from the appropriate technical review committee members for approval, approval with conditions, or disapproval.

2.21.03. Establishing an application fee. The City reserves the right to establish, by resolution,

an application fee, for processing and reviewing requests for extensions of time authorized by section 2.21.01.

(Ord. No. 04-23-LC, § 3, 8-16-04)

2.22.00. Appeals.

When it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official or the local planning agency in the enforcement of any requirement of this Code, the Code of Ordinances or Land Development Code, now existing or to be promulgated in the future by the City, the issue in dispute shall be taken before the board of adjustment. Such issue may include, but it not limited to, a finding of concurrency deficiency or refusal on the part of the City to issue a final development order.

2.22.01. Any appeal by any citizen must be filed in writing with the City Manager, or designee, within 30 calendar days of rendition of the decision in question, and the reasons for such appeal shall be set forth therein. The City Manager, or designee, shall arrange for an appeal hearing before the board of adjustment and notify the appellant in writing of the date, time and place of the hearing.

2.22.02. The appellant shall have the burden of affirmatively demonstrating that the decision in question was in error. The administrative official(s) involved, or chairman of the planning commission, shall have the opportunity to present information and argument to support their decision.

2.22.03. The board of adjustment shall base its decision on the requirements of the City's comprehensive plan and this code. The board shall make its decision based upon its usual voting procedures, the decision shall be issued in writing stating the reasoning involved, and it shall be rendered within 60 days of the close of the hearing. No further administrative appeal is available beyond this stage, though the appellant retains the right of appeal through the judicial system as provided by law.

(Ord. No. 04-23-LC, § 3, 8-16-04)

2.23.00. Reserved.

Editor's note—Ord. No. 04-26-LC, § 3, adopted Sept. 8, 2004, repealed § 2.23.00, which pertained to deviations to a final development order. See also the Land Development Code Comparative Table.

2.24.00. Development agreements.

A. *Definitions.* For the purpose of this section, the definitions set forth in F.S. § 163.3221, are hereby adopted by reference and shall apply and control all development agreements entered into by the City of Destin.

B. *Development agreement requirements.*

1. All development agreements shall, at a minimum, include the following:
 - a. A legal description of the land subject to the agreement.
 - b. A statement identifying the legal and equitable interest of all persons having any interest in the property described in a. above. The statement of ownership interests of any joint ventures, partnerships or corporations shall reveal all principals or directors and officers, as appropriate. Such statements shall be certified by a title company or an attorney-at-law licensed to practice in the State of Florida.
 - c. The duration of the agreement, which shall meet the terms set forth in subsection C. of this section.
 - d. The development uses permitted on the land, including population densities, and building intensities and height.
 - e. The land use designation under the City's comprehensive plan for all property included within the terms of the proposed agreement.
 - f. The current zoning classification of the property.
 - g. A description of public facilities that will service the development, including who shall provide and maintain such facilities.



CITY of DESTIN

4200 Indian Bayou Trail • Destin, Florida 32541



www.cityofdestin.com

October 29, 2009

Mr. Steven K. Hall
Hall & Runnels, P.A.
4399 Commons Drive East, Suite 300
Destin, Florida 32541

**Subject: Extension Notice for D.O. No. 07-18 - 1900 Ninety Eight:
A Minor (Tier 2) Development**

Dear Mr. Hall:

Staff has reviewed your letter dated June 29, 2008 in which you request that the City acknowledge that the above-mentioned development order has been extended pursuant to Florida State Senate Bill 360. As you may know, DO No. 07-18 for 1900 Ninety Eight previously expired by operation of LDC Section 2.21.00, *Final development order and extension of the commencement of construction deadline* (deadline for receiving approval of a building permit and commencing construction was September 14, 2008) and LDC Section 2.21.01, *Criteria for a request to extend the 12-month deadline to obtain a building permit and commence construction* (deadline to request a 12 month extension was August 15, 2009.) (Exhibit "A"). By letter dated March 10, 2009, the City confirmed to your client that the development order had expired (Exhibit "B").

Section 14(1) of Senate Bill 360 provides:

Section 14. (1) Except as provided in subsection (4), and in recognition of 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373, Florida Statutes, that has an expiration date of September 1, 2008, through January 1, 2012, is extended and renewed for a period of 2 years following its date of expiration. This extension includes any local government-issued development order or building permit. The 2-year extension also applies to build out dates including any build out date extension previously granted under s. 380.06(19) (c), Florida Statutes. This section shall not be construed to prohibit conversion from the construction phase to the operation phase upon completion of construction. (2) The commencement and completion dates for any required mitigation associated with a phased construction project shall be extended such that mitigation takes place in the same timeframe relative to the phase as originally permitted. (3) The holder of a valid permit or other

COMMUNITY DEVELOPMENT DEPARTMENT

Phone: (850) 837-4242 ext. 3126 Fax: (850) 650-0693 Email: kgallander@cityofdestin.com

October 29, 2009

Extension Notice for D.O. No. 07-18 - 1900 Ninety Eight: A Minor (Tier 2) Development

authorization that is eligible for the 2-year extension shall notify the authorizing agency in writing no later than December 31, 2009, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

Concerning the apparent retroactive effect of the above stated statutory extension, on July 6, 2009, staff reported as follows to the City Council:

Over the last two weeks, there has been some discussion regarding whether Section 14(1) of Senate Bill 360 in essence revives permits which may have already expired, both at the state and local level. Since the legislation creates a time window for expired permits beginning on September 1, 2008, it would appear to breathe new life into permits which may have expired between that date and the present. DCA Secretary Tom Pelham has issued a statement interpreting the Bill as extending local government issued DRI development orders and related building permits which have expiration date of September 1, 2008 through January 1, 2012. The DCA statement is limited to DRI development orders because DCA jurisdiction does not extend to other types of local government issued development orders. However, the City Land Use Attorney has opined that the DCA's interpretation of the statute is correct and the same reasoning should also apply to local development orders issued by the City. Thus, City of Destin issued development orders, and related building permits, which have also received a FDEP or WMD permit, and which have an expiration date between September 1, 2008 and January 1, 2012 are subject to the two year statutory extension.

Thus, although the permit had already expired pursuant to City code prior to the state legislation going into effect, under the new statute the development order issued by the City would be extended by two years. In addition, since the above staff report was issued, the intent of the statute has been debated extensively by attorneys for state and local governments and affected parties and the consensus that has emerged is that the statute does not also require that a local permittee also have a permit issued by FDEP or a WMD in order for the extension to apply.

Accordingly, it is hereby acknowledged that Section 14(1) of Senate Bill 360 has extended the expiration date for the above referenced development order to September 14, 2010. Notwithstanding this, it is our understanding that there is at least one legal action challenging the validity of Senate Bill 360. If such a challenge is successful, the extension under the State statute might be invalidated. In such a circumstance your client would no longer have a valid development order and would be required to reapply to the City for a new development order in order to pursue the project.

COMMUNITY DEVELOPMENT DEPARTMENT

Phone: (850) 837-4242 ext. 3126 Fax: (850) 650-0693 Email: kgallander@cityofdestin.com

Page 3 of 3

October 29, 2009

Extension Notice for D.O. No. 07-18 - 1900 Ninety Eight: A Minor (Tier 2) Development

If you feel this determination has been made in error, then you will need to complete an administrative appeal application, submit a \$500.00 application fee, submit a \$500.00 escrow fee (for cost recovery for outside consultants and administrative, advertising, mailing expenses) and file said application with the Community Development Department within 30 calendar days of date of this determination. The appeal process is described in Article 2, Section 2.22.00 of the Land Development Code (Exhibit "C").

If you have any further questions or concerns, please do not hesitate to call for assistance.

Sincerely,



Kenrick S. Gallander, AICP
Community Development Director

KSG/mss

Exhibits: A. LDC section 2.21.00 and 2.21.01
B. Letter dated March 10, 2009
C. LDC section 2.22.00

cc: City Manager, Greg Kisela
City Land Use Attorney, Scott Shirley
Planning Manager, R. Ashley Grana
Code Enforcement Manager, David Bazylak
File: 1900 Scenic Highway 98 (Building Division)
File: 2007 DO Log Book
File: SP-06-14
File: Letter Log

COMMUNITY DEVELOPMENT DEPARTMENT

Phone: (850) 837-4242 ext. 3126 Fax: (850) 650-0693 Email: kgallander@cityofdestin.com

- b. Cashiers check;
 - c. Money order; or
 - d. Cash.
3. The amount of payment shall be 120 percent of the total construction cost for the required improvements ("future improvement payment).
 4. In addition to the future improvement payment, developer shall pay an administrative fee.

D. *Future improvement payment* shall be made prior to the to issuance of a development order for commercial projects or a building permit for residential projects.

E. *Future improvement payment*. At such time that the improvements can be made to the public right-of-way, easement, or City owned property, the City shall construct such improvements and use the future improvement payment to pay for the costs of the improvements. After completion of the improvements, any unused portion of the future improvement payment shall be returned to developer. If the future improvement payment is not sufficient to pay for the improvements, developer shall pay any shortfall to the City.

(Ord. No. 04-23-LC, § 3, 8-16-04; Ord. No. 07-32-LC, § 5, 5-7-07)

2.21.00. Final development order and extension of the commencement of construction deadline.

A final development order is valid for a period of one year from the date of issuance. However, a building permit must be issued for either the construction of infrastructure or construction of the entire project and construction must commence within said one year period after which the permitted development activity may be completed provided the conditions of this section continue to be satisfied. If a building permit is not issued within one year from the date of issuance of the final development order or a building permit is issued and construction has not commenced within one year from the date of issuance of the final development order, then the development order

becomes null and void. "construction of infrastructure" shall be defined as site work, grading, or other construction activity (not including land clearing and grubbing or demolition of existing structures) related to installation of roadways, access drives, parking lots, underground utilities, stormwater or drainage facilities, or building foundations. If construction activity ceases for a period of one year after a building permit for construction of the infrastructure or construction of the entire project has been issued, the development order will be considered null and void. No extensions to this deadline shall be allowed, except as set forth in section 2.21.01.

2.21.01. Criteria for a request to extend the 12-month deadline to obtain a building permit and commence construction.

A. An applicant who desires to extend the 12-month deadline shall submit a written request to the community development department, no less than 30 days, prior to the expiration of the 12-month deadline to obtain a building permit and commence construction.

B. An applicant may receive only one extension, and such extension shall not exceed one year.

C. As a condition of approval for such an extension, the applicant's project shall meet any and all applicable code requirements that were adopted subsequent to the approval of the final development order for which an extension is being requested. The applicant will have to file an application, to amend to the previously approved development order, with the City prior to the issuance of any City permit for the subject property.

2.21.02. Determination regarding request for extension. All applications for extensions, as identified in section 2.21.01, shall be reviewed by the community development director with input from the appropriate technical review committee members for approval, approval with conditions, or disapproval.

2.21.03. Establishing an application fee. The City reserves the right to establish, by resolution



Community Development Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-337-3123 | Fax: 850-650-0693 | www.cityofdestin.com

September 15, 2011

Mr. Steve Hall
Hall & Runnels, P.A.
4399 Commons Drive East, Suite 300
Destin, Florida 32541-8439

**Subject: Final Development Order No. 07-18, 1900 Ninety Eight, 1900 Scenic Highway 98
Special Economic Condition Extension Request**

Dear Mr. Hall:

This letter is in response to your letter of September 7, 2011 requesting a "special economic condition" extension to the above referenced development order. By a 2009 act of the Florida Legislature and the subsequent adoption of Ordinance 09-17-LC, all previously approved active final development orders were automatically granted a two (2) year extension if the extension was requested in writing. The extensions expire on December 31, 2011. During the 2011 legislative session, the "special economic condition" provisions were extended another two (2) years by House Bill 7207.

Your written request for the additional "special economic condition" extension for Final Development Order No. 07-18 was received prior to the December 31, 2011 expiration of the current extension. Based on meeting this criterion and by adhering to the criteria of the extension as stated in Article 2, Section 2.21.01.D, the extension is granted until **December 31, 2013**. This extension vests the final development order and enables the holder of the orders to delay commencement or continuance of construction, if necessary, until December 31, 2013.

Should you have any further questions or concerns, please do not hesitate to call.

Sincerely,

R. Ashley Grana
Interim Community Development Director

RAG/hw

cc: Project File: SP-06-14, Building File & Letter Log



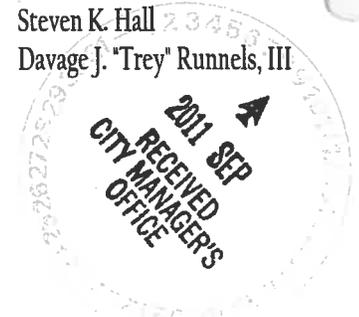


Hall & Runnels, P.A.

Attorneys at Law

Steven K. Hall 23453
Davage J. "Trey" Runnels, III 97222

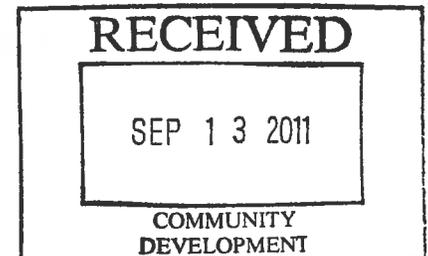
September 7, 2011



Mr. Ken Gallander
Community Development Director
City of Destin
4100 Two Trees Road
Destin, FL 32541

By U.S. Mail Certified Return Receipt Requested

SUBJECT: Extension Notice
1900 Ninety Eight – DO Number: 07-18



Good Afternoon Ken,

I am writing in my capacity as legal counsel for Smith & Rookis Investments, LLC and Ocean Imprensa, LLC as permittees for the referenced DO. As you may recall, the City has recognized one extension of the expiration date of this DO in relation to the permit extension provisions of Section 14 of Chapter 2009-96 and Section 47 of Chapter 2010-147, Laws of Florida.

Please consider this written notice of one additional permit extension pursuant to the extension provisions approved during the 2011 Regular Session as a part of Section 73 of Chapter 2011-139, Laws of Florida (Formerly HB 7207). The terms of the law are again clear and express in relation to "any local government issued development order" and the subject order is a City development order. As I understand the extended expiration date already established for DO-07-18 was September 14, 2010, this DO qualifies for the automatic extension provisions established in the latest bill because the expiration is later than September 1, 2008 and prior to January 1, 2012 and one statutory two year extension has already been granted by the City. Accordingly, the extended expiration date will now be September 14, 2012.

I recall that it was the City's policy in relation to the 2008 extension to acknowledge these extension requests in writing? If so, I look forward to receiving your confirmation in this regard.

As always, with best regards,

Steve Hall



Community Development Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-337-3123 | Fax: 850-650-0693 | www.cityofdestin.com

November 20, 2012

Hall & Runnels, P.A.
Attn.: Mr. Steven K. Hall
4399 Commons Drive East, Suite 300
Destin, Florida 32541

SUBJECT: 1900 Ninety Eight – Final Development Order No. 07-18 “Special Economic Condition” Extension Request – 1900 Scenic Highway 98

Dear Mr. Hall:

This letter is in response to your letter dated November 12, 2012, requesting a “special economic condition” extension to the above referenced development order. Based on the legal guidance set forth in Section 24 (1) of Ch. 2012-205 Laws of Florida this development order is extended to the fullest extent possible to September 14, 2013. This extension date was determined by adding the maximum extension allowed under Section 24 (1) of Ch. 2012-205 Laws of Florida (four years) to the two years allowed by the City of Destin’s Land Development Code for a total of six years from the date the Development Order was issued. This determination enables the holder of the final development order to delay commencement or continuance of construction, if necessary, until September 14, 2013.

Should you have any further questions or concerns, please do not hesitate to contact me either via e-mail (agrana@cityofdestin.com) or phone (850-582-4525).

Sincerely,

R. Ashley Grana
Planning Division Manager

RAG/

cc: **2007 DO Book**
Project File: SP-06-14
Building File: 1900 Scenic Highway 98
Letter Log



