



CITY of DESTIN

4200 Indian Bayou Trail • Destin, Florida 32541



www.cityofdestin.com

December 31, 2009

Order No. 10-03

Final Development Order:

“HARBOR DOCKS OFFICE BUILDING” A MINOR DEVELOPMENT (SP-10-03)

Based upon the City's approval and issuance of this Development Order, on December 31, 2009, this document will serve as your Final Development Order, and includes all of the provisions and conditions in the attached Technical Review Committee Report.

PROJECT DESCRIPTION:

Core Engineering & Consulting, Inc., on behalf of Charles Morgan III, LLC, is requesting approval of an office building development consisting of a single office building and parking lot. The proposed project will be located at 542 Harbor Boulevard also identified by the Okaloosa County Property Appraiser as Parcel No. 00-2S-22-0630-0000-0320. The total site area is 0.313 acres.

DETERMINATIONS:

1. All the findings of the Technical Review Committee report dated December 31, 2009 are incorporated herein.

CONDITIONS OF APPROVAL:

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 **December 31, 2009** (no later than **December 31, 2010**), 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 **“Harbor Docks Office Building”** 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 Public Services Department prior to issuance of building permits, unless otherwise exempted by the Public Services Director).
 - 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 9 & 10 of the following TRC Report dated December 31, 2009.
5. **Conditions Per Public Services Department:** Refer to pages 10 of the following TRC Report dated December 31, 2009.
6. **Conditions Per Utility Companies:** Refer to page 10 of the following TRC Report dated December 31, 2009.

TECHNICAL REVIEW COMMITTEE REPORT

**“HARBOR DOCKS OFFICE BUILDING”
A MINOR DEVELOPMENT
(SP-10-03)**

TRC Report: December 31, 2009

ISSUE:

- Applicant:** Core Engineering & Consulting, Inc., on behalf of Charles Morgan III, LLC, is requesting approval of a Minor Development identified as “Harbor Docks Office Building.”
- Request:** The proposed project is an office building development consisting of a single office building and parking lot.
- Location:** The proposed project is located at 542 Harbor Boulevard and more specifically known as Property Appraiser’s Parcel ID No. 00-2S-22-0630-0000-0320.
- Parcel Size:** The total site area is 0.313 acres, more or less.
- Future Land Use:** South Harbor Mixed Use (SHMU)
- Zoning District:** South Harbor Mixed Use (SHMU)
- Density:** Not applicable for non-residential development in the SHMU Future Land Use Map designation
- Intensity:** Allowed: 0.60 FAR (Tier 1)
Proposed: 0.105 FAR
- Application Date:** November 13, 2009
- TRC Date:** December 16, 2009
- Approved Site Plan Date:** December 31, 2009

DISCUSSION/FINDINGS:

The proposed request as presented and described is consistent with Comprehensive Plan: 2010 and Land Development Code, which include a Concurrency Management review, and a Level of Service review. This project is located within the Harbor Community Redevelopment Areas and the Old Destin sub-area of the Multimodal Transportation District.

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

COMPREHENSIVE PLAN/ZONING:

This application was reviewed pursuant to the City of Destin’s Comprehensive Plan: 2010 and Land Development Code (LDC). The property currently has a Future Land Use designation of South Harbor Mixed Use (SHMU) and a Zoning district of South Harbor Mixed Use (SHMU). The proposed general office land use is consistent with the intent of the SHMU Future Land Use designation as an acceptable land use pursuant to Comprehensive Plan: 2010. The SHMU zoning district specifically allows for the described use as a permitted use.

CONCURRENCY MANAGEMENT:

Staff has received approved Concurrency Evaluation Certificates (CEC) for the following areas:

Traffic: Renaissance Planning Group, Inc., signed the CEC on December 31, 2009.

Solid Waste: Okaloosa County Solid Waste Department signed the CEC on December 21, 2009.

Potable Water: Destin Water Users, Inc. signed the CEC on December 15, 2009.

Sanitary Sewer: Destin Water Users, Inc. signed the CEC on December 15, 2009.

Stormwater Management: The City's Stormwater Manager signed the CEC on December 31, 2009

TRANSPORTATION ANALYSIS:

The City's Transportation Consultant, Renaissance Planning Group, Inc., reviewed the applicant's transportation concurrency analysis and found that the proposed project does not degrade the level of service of those major transportation facilities in the City of Destin (urban collectors and arterials). Therefore, transportation concurrency has been satisfied for this project. This project must comply with the Multimodal Transportation District (MMTD) Concurrency Evaluation Certificate (CEC) dated December 31, 2009.

AIRPORT PROTECTION:

As proposed, this project is not affected by nor affects the Destin – Ft. Walton Beach Airport. The applicant has indicated on the development order application that the proposed project is not within the Airport Expansion Area. 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.

DENSITY:

Not applicable for non-residential land use development in the SHMU Future Land Use Map designation

FLOOR AREA RATIO:

Allowed: 0.6 (Tier 1)

Proposed: 0.105

The project is compliant in regards to not exceeding the maximum Floor Area Ratio allowed within the South Harbor Mixed Use (SHMU) FLUM category.

HEIGHT:

The South Harbor Mixed Use (SHMU) Zoning District is the applicable zoning district to help determine height limitations for this development in conjunction with the Tier 1 standards.

SETBACKS:

The proposed building meets and exceeds all of the required setbacks and buffers for the South Harbor Mixed Use (SHMU) zoning district: (Note: Distances provided are from the proposed facility to the nearest property lines)

<u>Setbacks</u>	<u>Required</u>	<u>Provided</u>	<u>Buffers</u>
*Front:	16' – 26'	74.50'	FPLA - N/A
Rear:	15'	40.3' - 52.5'	
Side:	0'	9.4' – 10.3'	CBLA – N/A
Between Bldgs.:	10'	N/A	

*Front setback may exceed 26' based on achieving required points for MMTD concurrency

FPLA = Front Perimeter Landscaped Area, CBLA = Common Boundary Landscaped Area,

WHITE SANDS ZONE:

The subject property is located in White Sand Zone I. All fill material for this project must comply with the provisions of Land Development Code Section 11.07.00. *Sand and water protection.*

PHASING:

The proposed development will not be a phased development.

ADDRESSING:

The following conditions shall apply:

- Prior to the issuance of a Certificate of Occupancy**, assigned address number for the principal building 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.*

SIGNS:

A request for sign approval is not part of this application.

- Note:** Signage, if installed, must be approved by the Community Development Department. All signage shall require the issuance of a city permit. All signage shall comply with the applicable section of the Destin Land Development Code and the Florida Building Code in effect at the time a sign application is submitted.

UTILITIES:

In accordance with Land Development Code section 20.12.00 *Underground utilities*, all existing and proposed above-ground utility lines, located on the subject property regardless of who the utilities serve, are required to be placed underground.

COASTAL MANAGEMENT AND CONSERVATION:

The proposed project is not located within a Special Flood Hazard Area (SFHA).

Tree Requirements:

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):	6
Credits for Existing Trees (13" to 19" diameter) on Site (0 trees x 4 credits per tree):	8
Credits for Existing Trees (20" to 24" diameter) on Site (0 trees x 5 credits per tree):	5
Total Reforestation Credits for saving Existing, Protected, or Preserved Trees:	<u>19</u>
Reforestation Trees Required on Site: (1 per every .10 of an acre 0.313 x 10 = 3)	<u>3</u>
Total Reforestation Trees Required on Site: (1 per every .10 of an acre minus credits)	<u>0</u>

Note: Per the Land Development Code, credit shall be received on the reforestation requirement of this section by preserving existing trees. Trees required for reforestation are in addition to other required trees within Article 12, Section 12.04.04.C.

Total Reforestation Trees Required on Site:	0
Front Perimeter Trees (1 per 25') Required on Site:	0
Parking Lot Trees (1 per end row and landscape island) Required on Site:	2
Vegetative Buffer Trees, if applicable, (1 per 25') Required on Site:	
Replacement Trees (removal of trees 12" d.b.h. or greater) Required on Site:	<u>0</u>
TOTAL TREES REQUIRED:	2
TOTAL TREES PROVIDED:	3

Unless otherwise noted, all required trees must be a minimum of ten (10) feet high at time of planting and reach a crown of twenty (20) feet at maturity. If the twenty (20) foot crown requirement is not met, additional trees shall be added and grouped together to meet the twenty (20) foot crown. If shrubs are used in the required buffer areas, they must be a minimum of twelve (12) inches in height when measured immediately after planting. **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.**

IMPACT FEES:

The following impact fee amounts may be subject to change. Final impact fee amounts will be determinant upon the gross floor area of the overall development land use and whether exemption 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:

This is a redevelopment replacing a 476 sq. ft. retail and 3,196 sq. ft. office building with a 1,440 sq. ft. office building. The Land Development Code requires that the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. There is no net positive increase with the new use therefore resulting in **NO IMPACT FEES.**

OTHER FEES:

The fees listed below are subject to change and are based on the most recent information available (December 31, 2009). The fees must be paid by the applicant as part of the cost recovery associated with the proposed project:

City Traffic Consultant:	\$341.04. (pd.)
City Surveyor:	N/A
Re-Review Fees (Community Dev.):	\$250.00 (pd.)
Re-Review Fees (Public Services):	\$0.00 (pd.)
Administrative Costs:	\$127.81 (pd.)
City Council Advertising:	N/A
TOTAL (as of 12/31/09)	Paid in Full

STATE/FEDERAL PERMITS REQUIRED BEFORE ISSUANCE OF BUILDING PERMIT:

A copy of the NFWFMD Stormwater Permit shall be forwarded to the Public Services Department to be stamped received and then forwarded to the Community Development Department.

PUBLIC INPUT:

One member of the public attended the TRC meeting on December 16, 2009 and asked to see the building elevation drawings to determine the building height. The member of the public had no objection to the single story building. No other public comments have been presented to staff at the time of this report.

Per Community Development Department:

1. **Condition:** Prior to issuance of a building permit, the **architectural construction plans** must show the building height referenced to the average adjacent grade.
2. **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 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. *Ref. LDC Section 7.09.02(B)(1).*
3. **Condition:** Prior to the issuance of the Final Development Order, all outstanding costs associated with this project and are owed to the City must be paid in full.
4. **Condition:** Prior to the issuance of a Certificate of Occupancy, all applicable impact fees must be paid.

5. **Condition:** 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.
6. **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. Please indicate this requirement on sheet 4 of 11 of the Site Construction Plans and state that the project will expect dumpster service. *Ref. LDC Section 7.09.02(B)(3).*
7. **Condition:** Signage, if installed, must be approved by the Community Development Department. All signage shall require the issuance of city permit. All signage shall meet the requirements set forth in Article 16 of the City's Land Development Code.
8. **Condition:** Outdoor lighting, if installed, must be inspected and approved by the Community Development Department. The lighting plan 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:** Prior to 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.*
10. **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).*
11. **Condition:** All new development projects that include erecting a new building and/or structure shall be required to place all existing and proposed utility lines located on the subject property, regardless of who the utilities serve, underground. *Ref. LDC Section 20.12.00.*
12. **Condition:** Prior to obtaining a Certificate of Occupancy, the November 11, 2009 Stormwater Management Plan needs to be revised to show the impervious surface area as 5,865.89 S.F.
13. **Note:** The Engineer of Record is cautioned to review the construction documents as submitted to assure thorough information is provided to allow proper construction. All stormwater management facilities shall be required to be constructed per the Codes of the City of Destin.
14. **Condition:** Prior to obtaining a Certificate of Occupancy, the Stormwater Operation/Maintenance Plan (SWOMP) shall be acknowledged and signed by the Owner.

15. **Condition:** Prior to obtaining a Certificate of Occupancy, the project must comply with conditions of the NFWMD stormwater permit.

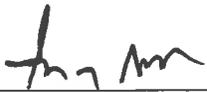
Per Public Services Department: Per Engineering Department:

1. **Condition:** Refer to LDC Article 8, Transportation – The developer/owner, engineer of record and the contractor shall make themselves familiar with these codes and comply with the codes prior to obtaining a Certificate of Occupancy.
2. **Condition:** Refer to LDC Article 11.09.00., Illicit Discharge – The developer/owner, engineer of record and the contractor shall make themselves familiar with these codes and comply with the codes prior to obtaining a Certificate of Occupancy.
3. **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. Voided permits must be reapplied for and application fees shall be assessed.
4. **Condition:** Prior to obtaining any city permit, provide a debris & soil hauling plan (truck route) through the City. Any road damage that is determined to be caused by this project operation shall be required to be repaired prior to obtaining any Certificate of Occupancy (C.O.).

Per Destin Water Users, Inc.:

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.

SIGNATURE BLOCK:



Greg Kisela
City Manager

12/31/09

Date



Charles Morgan III, LLC

1-7-10

Date



CITY of DESTIN

4200 Indian Bayou Trail • Destin, Florida 32541
OFFICE OF PLANNING DIVISION
Voice 850.837.4242 Fax 850.650.0693



www.cityofdestin.com
agranat@cityofdestin.com

December 8, 2010

Via: U.S. Mail

Core Engineering & Consulting, Inc.
Attn: Mr. Ed Stanford
3997 Commons Drive West
Suite F
Destin, Florida 32541

Subject: Harbor Docks Office Bldg. – Final Development Order No. 10-03 Extension Request

Dear Mr. Stanford:

This letter is in response to your correspondence received in my office on December 7, 2010 concerning a request to extend the 12 month requirement to obtain a building permit and commence construction. Your request for an extension to Final Development Order No. 10-03 has been approved. However, the owner must adhere to the criteria for the extension as stated in Article 2, Section 2.21.01.B and C (See attached).

I recommend that you consult with the owner as to the affects of the extension request due the requirements of Article 2, Section 2.21.01.C. Changes to the code may benefit or could result in site design changes that you may feel are detrimental to your currently approved plan. I would advise you and your engineer of record to periodically contact the City Clerk's Office to obtain any newly adopted ordinances and review them to determine the effects on the property. I understand the constraints you are facing. However, I would advise you to seriously consider moving forward with your project sooner rather than later so as to not be affected by any subsequent code requirements adopted after the issuance of your final development order.

I suggest you meet with my staff to discuss your existing plan, any changes required, and the review process involved several weeks prior to your application for any city permit to ensure compliance with Article 2, Section 2.21.00. Please don't hesitate to call me if you have any further questions or concerns.

If you feel any of these determinations or decisions have been made in error, you have the right to appeal the decision to the City's Board of Adjustment. The Administrative Appeal application is available at Destin City Hall in the Community Development Department and must be received completed within 30 calendar days from the date of this letter. The appeal process is typically a two or three month process.

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SP-10-03 Harbor Docks Office Building

Please don't hesitate to call me if you have any further questions or concerns.

Sincerely,



R. Ashley Grana
Planning Manager

RAG/

Attachments:

Article 2, Section 2.21.01.B and C

cc: Greg Kisela, City Manager
Ken Gallander, Community Development Director
Larry Ballard, Building Official
File: Letter Log
File: 2010 DO Log Book
File: SP-10-03

- 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.
- D. Special economic condition extension. An applicant who desires to extend a previously approved active final development order shall submit a written request to the community development department, no later than December 31, 2009, which extension shall be deemed automatically granted. The extension shall commence from the date of the formal written request and shall terminate on December

31, 2011. Nothing herein shall be deemed to affect any other extension otherwise allowed by either this code or general law.

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; Ord. No. 09-17-LC, § 3, 10-19-09)

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.



Community Development Planning Division

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

August 27, 2012

Via: U.S. Mail

Mr. Charles Morgan
542 Harbor Boulevard
Destin, FL 32541

**SUBJECT: "Harbor Docks Office Building: A Minor Development"
Expiration of Final Development Order No. 10-03**

Dear Mr. Morgan:

This letter is to inform you that according to our records Final Development Order No. 10-03 has expired. Condition No. 1 of the Development Order and 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 signed on January 2, 2010. A request for a one-year extension to the requirement to "...obtain a building permit and commence construction" was approved on December 8, 2010. This extended the requirement to "...obtain a building permit and commence construction" to January 2, 2011. In reviewing its records, staff found that a building permit was issued on January 12, 2010 and then the Contractor for the project withdrew the application for a building permit for the project. No other permits were issued by the City for this project prior to January 2, 2011. *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 \$571.65 application fee and file said application with the Planning Division within 30 calendar days of date of this determination. It is important to note that you will also be responsible for cost recovery for outside consultants (if applicable) and administrative, advertising, mailing expenses. The appeal process is described in Article 2, Section 2.22.00 of the Land Development Code (refer to attachment).

If you and/or your client wish to initiate the development order application process again, please contact my office to schedule a pre-application meeting to review the proposal. If you have any further questions or concerns, please do not hesitate to contact my office for assistance.



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August 27, 2012
DO-10-03 Harbor Docks Office Building

If you have any questions or concerns, related to this issue, please don't hesitate to call or e-mail me.

Sincerely,



R. Ashley Grana
Planning Manager

RAG/

Attachments: LDC section 2.21.00
LDC section 2.22.00

cc: Community Development Director, Ken Gallander
City Land Use Attorney, Scott Shirley
Code Enforcement Manager, David Bazylak
File: 542 Harbor Boulevard (Building Division)
File: 2010 DO Log Book
File: SP-10-03
File: Letter Log

- 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 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.
- D. Special economic condition extension. An applicant who desires to extend a previously approved active final development order shall submit a written request to the community development department, no later than December 31, 2009, which extension shall be deemed automatically granted. The extension shall commence from the date of the formal written request and shall terminate on December

31, 2011. Nothing herein shall be deemed to affect any other extension otherwise allowed by either this code or general law.

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; Ord. No. 09-17-LC, § 3, 10-19-09)

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.