

CITY of DESTIN

4200 Indian Bayou Trail • Destin, Florida 32541



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December 18, 2009

Order No. 10-02

Final Amended Development Order:

“HARBORWALK – VILLAGE, 3rd AMENDMENT” A TIER 2 MINOR DEVIATION TO A PREVIOUSLY APPROVED MAJOR DEVELOPMENT (SP-06-02)

Based upon the City's approval and issuance of this Development Order, on November 5, 2009, this document will serve as your Final Amended Development Order, and includes all of the provisions and conditions in the attached Technical Review Committee Report.

PROJECT DESCRIPTION:

East Pass Investors, Inc., and HarborWalk, LLC, on behalf of Pelican Point Harbor, Inc., Kelly Boat Services, LLC., and Amos, Erhart and Melvin Trustees/Coleman L. Kelly Testamentary Trust is requesting approval of a Tier 2 Minor Deviation to a previously approved Major Development identified as “HarborWalk – Village.” The proposed development amendment is a modification to the Phase 2 portion of the overall master plan development. The following details the sequence of this Master Planned Development to this point:

- Final Development Order No. 02-55: A mixed-use development consisting of 199,999 sq. ft. of commercial shopping center and a 170-unit condominium.
- Final Amended Development Order (1st Amendment) No. 04-13: The proposed modifications requiring council consideration relate to the following: 1) An increase of 122 dwelling units on site. The increase is a result of adding 48 units to the approved 170-unit condominium buildings and providing an additional 74 units distributed throughout the development site, for a total of 292 units. 2) An increase in height of “Building D” from three stories to four stories. Additional modifications to the development involve revised ingress/egress points, improved interior accessibility and circulation, design modification to the main tower to create two separate towers within the required height envelope, and an additional permissible third story for “Buildings A, F, G, H, I, J, K, and L”, which will house the added 74 dwelling units previously described. Note: For clarification, the developer has the right to distribute the additional 122 dwelling units throughout the development site so as to not increase the building height and/or footprint envelopes beyond the approved limits or increase the number of units beyond 292.
- Final Amended Development Order (2nd Amendment) – Withdrawn by applicant.
- Amended Development Order (3rd Amendment) - **Tier 3 Proposal Phase 2** of the development proposes the following: 1) Addition of 237 multi-family short-term dwelling units (Building “K”); 2) Addition of 235,001 square feet of commercial space, which includes 175 condotel units (Building “I”) (219 sleeping rooms), 20,001 square feet of retail space, and 25,000 square feet of office space. Other modifications include a redesigned main entrance feature, a “Grande Plaza” open space/park zone, alterations to Buildings “F”, “G”, “H”, “J”, “L” and “M”, and pedestrian and vehicular connectivity. The maximum number of stories and height proposed is 15 stories, 157 feet. For the overall master plan development, which is inclusive of the previous vested plan (as being constructed) and the proposed changes to the portion of the overall plan

identified as Phase 2, the applicant is representing to the City Council their findings for Tier 3 compliance with Article 7, Section 7.09.03 (See "HarborWalk – Village Tier III Findings of Fact," dated January 27, 2008). More specifically, the applicant shall prove the overall site is technically compliant and able to achieve additional height of 57 feet beyond 100 feet, additional density of 147 units, and no additional intensity by qualifying for the Tier 3 standards of Section 7.09.03.G and the public benefits if approved by the City Council. **(Tier 3 Proposal DENIED March 6, 2008 by City Council)**

- Amended Development Order (3rd Amendment Resubmittal) – **Tier 2 Proposal Phase 2** of the development proposes the following: 1) Addition of 90 multi-family short-term dwelling units; 2) Addition of 382,090 square feet of non-residential space, which includes 251 hotel or condotel units (CTLA-Commercial Transient Living Accomodations) (502 sleeping rooms) and 25,001 square feet of retail space. Any changes to the Phase 1 approval shall be subject to all land development codes, impact fees and conditions as approved in Final Development Order No. 02-55 and 1st Amendment No. 04-13. Applicant reserves the right to build all unused density and intensity approved in Development Order No. 02-55 and 1st Amendment No. 04-13 and all request improvements. The maximum number of stories and height proposed is 9 stories, 100 feet within the "restricted zone".

DETERMINATIONS:

1. All the findings of the Technical Review Committee report dated November 5, 2009, are incorporated herein.

CONDITIONS OF APPROVAL:

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

Construction of infrastructure has commenced as approved under the original final development order. This amendment to the original final development order does not alter the timeframes required to maintain construction activity on the site to ensure concurrency is maintained and so that the development order does not become null and void.

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)

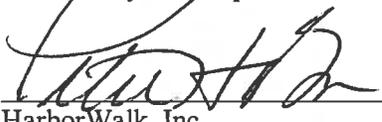
2. If the applicant fully complies with the requirements of Condition No. 1 above, the concurrency capacity allocation status for "**HarborWalk Village – 3rd Amendment**" will be protected. **However, the protected concurrency status will be lost and the application for development order approval must be re-initiated if:**
 - A. **Construction 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.**

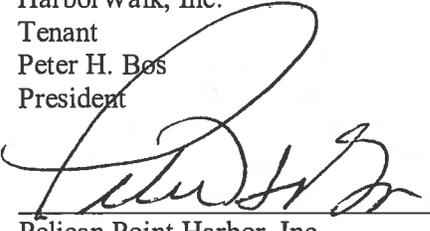
3. The applicant must obtain City of Destin permits for the following activities on and off site (These may require appropriate bonding):
 - A. Disturbance of the City's right-of-way (Note: Applicant must obtain the proper ROW permit(s) from the Public Services Department prior to issuance of building 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. All comments, notes and conditions of the Technical Review Committee members as stated within the attached TRC Report dated November 5, 2009.

SIGNATURE BLOCKS:

 12/18/09
 _____ Date
 Kenrick S. Gallander, AICP
 Community Development Director

 2/5/10
 _____ Date
 HarborWalk, Inc.
 Tenant
 Peter H. Bos
 President

 2/5/10
 _____ Date
 Pelican Point Harbor, Inc.
 Tenant
 Peter H. Bos
 President

*Kelly Boat Services, LLC
 Owner
 Paul Sims,
 President

*Coleman L. Kelly Testamentary Trust
 Amos & Erhart & Melvin Kelly Trust
 Owner
 Jarrett G. Melvin and Kent E. Amos
 Trustees

*The identified property owners have signed a "Unity of Development Agreement (HarborWalk)" as acknowledged with the original Final Development Order No. 02-55.

TECHNICAL REVIEW COMMITTEE REPORT
“HARBORWALK – VILLAGE, 3rd AMENDMENT”
A TIER 2 MINOR DEVIATION TO A PREVIOUSLY APPROVED
MAJOR DEVELOPMENT
(SP-06-02)

TRC Report: November 5, 2009

ISSUE:

Applicant: East Pass Investors, Inc., on behalf of Pelican Point Harbor, Inc., Kelly Boat Services, LLC., and Amos, Erhart and Melvin Trustees/Coleman L. Kelly Testamentary Trust.

Request: The proposed development amendment is a modification to the Phase 2 portion of the overall master plan development. The following outlines the specific components of the modification within Phase 2.

- Phase 2 of the development proposes the following: 1) Addition of 90 multi-family short-term dwelling units; 2) Addition of 882,090 (9 acres x 2.25) square feet of non-residential space, which includes 251 hotel or condotel units (CTLA-Commercial Transient Living Accomodations) (502 sleeping rooms) and 25,001 square feet of retail space which density and intensity shall be distributed within the 9 acres of Phase 2. The maximum number of stories and height proposed is 9 stories, 100 feet. The remainder of Phase 1 as approved in Development Order 02-55 and modified in 1st Amendment 04.13 shall be developed in accordance with the applicable ordinances in affect at the time of their approval.

Location: The proposed development is located north of the Destin Harbor, south of Harbor Boulevard (U.S. Highway 98 East), and just east of the Destin “Marler” Bridge, more specifically known as Property Appraiser’s parcel I.D. numbers 00-2S-22-0630-0000-090A, 00-2S-22-0630-0000-0900, 00-2S-22-0630-0000-1000, 00-2S-22-0630-0000-10A0, and 00-2S-22-0630-0000-113A.

Parcel Size: The total site area is 14.7 acres (640,332 sq. ft.), more or less. The Phase 2 area is 9.00 acres (366,733 sq. ft.), more or less.

Future Land Use: South Harbor Mixed Use (SHMU)

Zoning District: South Harbor Mixed Use (SHMU)

Density: Previous Development Order (Total Site): Up to 19.9 dwelling units per acre
292 units approved for total site / 14.7 acres = 19.9 d.u./acre
Proposed Tier 2 (Total Site): Up to 26 dwelling units per acre
382 units proposed overall for total site / 14.7 = 25.9 d.u./acre

NOTE: The applicant is proposing to add 90 units to the existing 292 units previously approved on the site. These additional 90 units maximize the overall allowable density (26 units per acre) for the total site since the applicant has met Tier 2 requirements.

Intensity – Floor Area Ration (FAR):

Previous Development Order (Total Site): 1.07 FAR

Allowed Tier 2 FAR: Up to 1.75 FAR (with Tier 2 approval) and; Up to .50 FAR bonus for above grade parking structure(s) for a total FAR of 2.25 (provided the development has a parking deck of .50 FAR or greater)

The Phase 2 site has 9 acres or 392,040 which shall allow a maximum of 882,090 square feet, broken down as follows: This maximum shall include a bonus parking deck of 196,020 square feet (.50 FAR) and commercial (retail, hotel and additional parking deck) of 686,070 square (1.75 FAR).

The Proposed Tier 2 development shall not exceed the above.

NOTE: The previous FAR calculation of 1.07, under the existing approval, was calculated using the square footage of all structures. The FAR calculation methodology used under existing regulations does not include the gross floor area of the structures or portions of structures containing dwelling units.

| | |
|--|--|
| Application Date: | October 28, 2005 |
| TRC Date: | November 16, 2005 |
| Approved TRC (Tier 3) Site Plan Date: | February 1, 2008 |
| City Council Date (Tier 3): | February 11, 2008, and March 6, 2008 (DENIED with approval of Tier 2 confirmed with TRC re-review required to ensure compliance.) |
| Approved TRC (Tier 2) Site Plan Date: | November 5, 2009 |

DISCUSSION/FINDINGS:

East Pass Investors, Inc., on behalf of Pelican Point Harbor, Inc., Kelly Boat Services, LLC., and Amos, Erhart and Melvin Trustees/Coleman L. Kelly Testamentary Trust is requesting approval of a Tier 2 Minor Deviation to a previously approved Major Development identified as “HarborWalk – Village.” The proposed development amendment is a modification to the Phase 2 portion of the overall master plan development. The following details the sequence of this Master Planned Development to this point:

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

COMPREHENSIVE PLAN/ZONING:

The property currently has a Future Land Use designation of South Harbor Mixed Use (SHMU) (Previously Mixed Use) and a Zoning designation of South Harbor Mixed Use (SHMU) (Previously Business Tourism). The “HarborWalk – Village” mixed use development is consistent with the SHMU Future Land Use designation of the Comprehensive Plan and is a permitted principal use in the SHMU Zoning District.

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.*” These standards are only applicable to density and intensity which is greater than what has been previously granted in Development Order No. 02-55 and as modified in 1st Amendment No. 04-13.

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

Design criteria (Building footprint, Building mass, façade, and elevations, Roofline design, Roofscape design, and Other architectural features:

Refer to the “HarborWalk – Village Tier II Findings of Fact,” dated October 2008 and Revised April 2009, for details on the project’s design criteria.

Open space:

Tiered Land Use System developments proposed in the SHMU 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 30 percent can be reduced to not less than 18 percent for Tier 2 proposals by adhering to requirements of the “Open Space Incentive Program.” The applicant is proposing a minimum of 18% open space based on the incentive program (See Plan Sheet 2 of 15). The proposed amount of open space, as defined in the Land Development Code, for this development is as follows:

Total sq. ft. of provided open space / sq. ft. of subject parcel/development area = % open space

115,260 sq. ft. / 640,332 sq. ft. (Overall Development Area) = 18% open space provided

Setbacks & Buffers:

The following setbacks shall apply to developments proposed in the SHMU zoning district fronting on Harbor Boulevard.

| PROPERTY LINE | REQUIRED SETBACK (Phase II) | PROVIDED (Phase II) |
|---------------|--|---|
| North (front) | <ul style="list-style-type: none"> • Min 15 ft. to max 25 ft. for any portion of a building having a height below 40 ft. • Min 35 ft. for any portion of a building having a height above 40 ft. NOTE: Setbacks shall be measured from the “frontage road” within the property that runs parallel to Harbor Boulevard. | <ul style="list-style-type: none"> • 15 ft to 25 ft. NOTE: A “Restricted Zone” is provided on the site plan to identify the restrictions set forth by the setbacks and where the building, once finally located within the zone, will be placed. |
| West (side) | <ul style="list-style-type: none"> • Not applicable. In accordance with prior final development order. | <ul style="list-style-type: none"> • Not applicable. Existing structures compliant with previous development order. |
| East (side) | <ul style="list-style-type: none"> • Min 0 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 = 25ft. min for 100 foot structure. | <ul style="list-style-type: none"> • 32 ft. NOTE: A “Restricted Zone” is provided on the site plan to identify the restrictions set forth by the setbacks and where the building, once finally located within the zone, will be placed, unless lesser distance if east building is reduced in height |
| South (rear) | <ul style="list-style-type: none"> • 0 ft. | <ul style="list-style-type: none"> • Varies |

The proposed amended development meets all of the required setbacks for a Tier 2 development located in the SHMU zoning district.

Buffers: A 6 foot wide buffer between the edge of street pavement/curbing and the sidewalk shall be in accordance with the MMTD regulations and finalized Harbor CRA Harbor Boulevard Implementation Plan design.

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 for the specific building or sub-phase being built 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 (1 tree x 5 credits per tree): | 5 |
| Total Reforestation Credits for Existing, Protected, or Preserved Trees: | 5 |
| Reforestation Trees (1 per every .10 of an acre: 9 x 10 = 90) Required on Site: | 90 |
| Total Reforestation Credits: | 5 |
| Total Reforestation Trees Required on Site: | 85 |
| Total Reforestation Trees (1 per every .10 of an acre minus credits) Required on Site: | 85 |
| Replacement Trees (removal of trees over 12" d.b.h.) Required on Site: | 0 |
| Parking Lot Trees (1 per end row and landscape island) Required on Site: | 13 |
| Vegetative Buffer Trees, if applicable, Required on Site: | N/A |
| Trees Required on Site per LDC Section 12.04.04: | 98 |
| 20 percent increase for Tier 2 Development (0.20 x 98 trees = 20) | 20 |
| TOTAL TREES REQUIRED: | 118 |
| TOTAL TREES PROVIDED : | 297 |
| TOTAL TREES (Sabal Palm Reduction – 99/2 = 49.5, 297-49.5 = 248) PROVIDED: | 248 |

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.

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 provides an extensive pedestrian component, which incorporates a significant plaza area/open space mall, observation deck, pedestrian walkways, a portion of the Harbor Boardwalk, and pedestrian amenities along Harbor Boulevard. Throughout the plan, the applicant will provide benches, waste containers, planters, pedestrian lighting, fountains, bicycle racks, etc. in conformance with the adopted Multimodal Transportation District (MMTD) regulations and adopted Harbor CRA 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 applicant is proposing an on-site transit stop located just east of “Building M.” (See Sheet 2 and 5 of 15). The proposed transit stop shall be in conformance with current transit stop standards as defined within Article 7, Section 7.09.03.G.2.a.iv of the Land Development Code and/or the adopted Multimodal Transportation District regulations (8.09.03.A.8).

Pedestrian and/or vehicular access:

The applicant has provided pedestrian and vehicular access throughout the property. For a north/south dedicated public access, a proposed 5’ wide dedicated public pedestrian corridor “B” easement is abutting the east property line and terminating at the proposed dedicated public east/west pedestrian corridor easement. The east/west dedicated public pedestrian corridor easement begins at the far west end of the property and meanders east along the southern portion of the development following what the applicant has deemed the “Harbor Walk – Pedestrian Way.” See approved site plans indicating the locations of the easements on the property. In conjunction with the “Pedestrian Way”, the applicant is also constructing their portion of the Harbor Boardwalk further south of the “Pedestrian Way”, which shall be 15 feet minimum with an average width of 25 feet. In combination with the portion of the Harbor Boardwalk and the “HarborWalk – Pedestrian Way”, a significant pedestrian corridor is provided. See the approved site plans identifying the green space, “Harbor Boardwalk & HarborWalk – Pedestrian Way”, and other pedestrian circulation/connectivity on the property.

Condition: Prior to issuance of any Certificate of Occupancy as part of the phase 2 area, all components and design of the Harbor Boardwalk east of the existing “Lucky Snapper” structure shall be constructed in compliance with the yet to be adopted Harbor Boardwalk CRA plans, standards and specification. It is the request of the applicant to the CRA Board that the Harbor CRA plans for the Harbor Boardwalk, standards and specifications shall include an alternate that matches the existing Phase 1 HarborWalk Village components and design of the Harbor Boardwalk. The applicant also requests the Harbor CRA plans for the Harbor Boardwalk shall also allow the existing concrete fish cleaning areas to remain, subject to agreed cosmetic improvements to the concrete portion, as an alternative walking surface. It is understood that the initial construction of the Harbor Boardwalk shall have elements that are temporary, allowing for modification that shall adhere to the approved Harbor CRA plans during Phase 2 build out. Alternatively; the Harbor Boardwalk area east of the Lucky Snapper bridge may be completed as approved in the existing Development Order for Phase I to match that area west of the Lucky Snapper bridge which has already been constructed. Should the CRA Board deem the materials and specifications are not compatible with the, yet to be selected, materials and specifications for the Harbor Boardwalk and the applicant does not construct the Harbor Boardwalk east of the existing “Lucky Snapper” structure in compliance with the CRA adopted materials and specifications, limited or no CRA funds or funding mechanisms shall be used to assist in the construction.

CONCURRENCY MANAGEMENT:

Concurrency requirements have been met:

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

TRANSPORTATION ANALYSIS:

According to the transportation/traffic concurrency review conducted by the City's Transportation Manager, currently represented by Renaissance Planning Group (RPG), Inc., and approved on May 14, 2009, the proposed development will not degrade the level of service of those major transportation modes and facilities in the City of Destin and complies with the goals, objectives, and policies of the multimodal transportation district as found in the City's Comprehensive Plan: 2010.

As a requirements of the City's multimodal transportation district, as adopted in Comprehensive Plan: 2010, the City's Transportation Manager, currently represented by Renaissance Planning Group (RPG), Inc., has reviewed and approved the applicant's traffic impact analysis dated April 14, 2009.

SUBDIVISION OR PUD - PLAT:

Not applicable.

WHITE SANDS ZONE:

The project property is located in White Sand Zone I.

PHASING:

The proposed development remains a multi phased master development. The project also is under a sub-phase plan, which is in place to help direct construction based on economic and logistical factors.

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.

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:

Underground utilities/service (existing and proposed) are required within the property and from the right-of-way onto the property.

COX COMMUNICATIONS:

Cox Communications approved the project in a letter dated November 3, 2005.

DESTIN FIRE CONTROL DISTRICT:

The Destin Fire Control District approved the project in a letter dated May 5, 2009.

GULF POWER:

Gulf Power approved the project in a letter dated October 3, 2005.

OKALOOSA GAS:

Okaloosa Gas approved the project in a letter dated November 16, 2005.

EMBARQ:

Sprint approved the project in a letter dated November 14, 2005.

WATER/SEWER PROVIDER:

Destin Water Users, Inc. approved the project in a letter dated May 18, 2009, with 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.

PUBLIC SERVICES DEPARTMENT:

The City of Destin Public Services Department approved the project with conditions in a memo dated August 27, 2009.

STORMWATER MANAGEMENT:

The stormwater management plan was found acceptable and approved with conditions on May 27, 2009.

INGRESS/EGRESS:

The main entrance has been revised to include dual ingress lanes and a dedicated right egress and a straight/left egress lane. The plan also provides a cross access connection with the parcel to the east via the frontage road.

PARKING:

The overall site is currently required to provide 1,586 parking spaces based on the uses and the requirements applicable to the existing development order. The added land uses attributable to this amendment and their associated parking requirements are based on the multimodal transportation district regulations adopted on January 20, 2009.

Per MMTD Ordinance:

Multi-family attached dwelling (Short-term): 90, 2-3 bedroom units x 2 spaces per unit = 180 spaces
Bicycle Parking – 180 x 0.10 = 18 bicycle spaces

SubTotal: 180 spaces and 18 bicycle spaces

Hotel/CTLA: 251 keyed units (2 sleeping rooms within each keyed unit = 502 sleeping rooms)
251 x 1 space per 1st sleeping room = 251 spaces
251 x 0.50 spaces per additional sleeping room = 125.5 spaces
1 space per 20 units (251 keyed units) for staff = 12.6 spaces
Bicycle Parking – 389 x 0.05 = 19 bicycle spaces

SubTotal: 389 spaces and 19 bicycle spaces

Conference Area: 1 space per 45 sq. ft. of area (15,000 sq. ft.) / 45 = 333 spaces
SubTotal: 333 spaces

Retail: 1 space per 300 sq. ft. (25,001) / 300 = 83 spaces
Bicycle Parking – 83 x 0.10 = 8 bicycle spaces

SubTotal: 83 spaces and 8 bicycle spaces

Marina: Fare carrying vessels – 33 x 5 = 165 spaces
Bicycle Parking – 165 x 0.1 = 16.5 bicycle spaces
Sightseeing vessels – 600 seats total / 4 seats = 150 spaces
Bicycle Parking – 150 x 0.1 = 15 bicycle spaces
Pontoon Boats – 18 (10 seats) 180 seats total / 4 seats = 45 spaces
Bicycle Parking – 45 x 0.1 = 4.5 bicycle spaces
Personal Watercraft (Waverunner/Jetskis) – 34 / 4 = 8.5 spaces
Bicycle Parking – 8.5 x 0.1 = 0.85 bicycle spaces
Private vessels – 2 vessels = 2 spaces

SubTotal: 371* spaces and 37 bicycle space

***371 spaces include the 275 spaces required for the existing marina.**

TOTAL Phase 2 Max Required: 1,356 vehicle spaces and 82 bicycle spaces
TOTAL Project Max Required: 1,356 + Existing Spaces of 1,311 (less 275 existing marina spaces)
= 2,667 vehicle spaces and 82 bicycle spaces

TOTAL Phase 2 Required (20% reduction): 1,085 vehicle spaces and 82 bicycle spaces
TOTAL Project Required (20% reduction) 1,085 vehicle spaces + Existing Spaces of 1,311 (less 275 existing marina spaces) = 2,396 vehicle spaces and 82 bicycle spaces

TOTAL Required with MMTD reduction and approved Internal Capture and Shared Parking Analysis: 1,629 vehicle spaces and 82 bicycle 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. All proposed dumpsters 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, post a sign on the gates requesting that these gates remain closed.

SIDEWALKS:

An existing 5' wide sidewalk extending west from the main entrance to the "Marler Bridge" has been constructed per the original approved development order plan. The applicant has indicated on the plans that a 10' wide sidewalk extending east from the main entrance will be constructed. This sidewalk and the adjacent pedestrian features shall be in compliance with the Harbor CRA Harbor Boulevard Implementation Plan as adopted by the Harbor CRA Board and the Multimodal Transportation District regulations.

IMPACT FEES:

The application for a Tier 3, Major Deviation to a previously approved Major Development was made on October 28, 2005. Final impact fee amounts will be determinant upon the number of units and gross floor area receiving a certificate of occupancy (C.O.) or certificate of completion (C.C.) based on the fee schedule in place on October 28, 2005. The amounts identified below are estimated based on the data provided with the approved amended final development order. Final impact fee amounts will also be determinant whether exemption or credits are applicable and reevaluated at the time a C.O. or C.C. is requested. Any claims for exemption or credits must be made no later than the time a C.O. or C.C. is requested. Refer to the applicable fee schedule in affect on October 27, 2005 of the Destin Land Development Code for specifics regarding impact fees.

The land uses identified below are from the "Fee Schedule" tables found in the relevant fee schedules for the applicable phase of development of the Land Development Code and are those deemed most closely related to the land uses proposed in this development. The fee payer has the option of paying the fees identified below for the identified land use or they shall prepare and submit to the City Manager an independent fee calculation study for the land development activity for which a C.O. or C.C. is sought. The determination made by the City Manager may be appealed to the City Council by filing a written request with the City Manager within 10 days of the City Manager's determination.

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

Resort Residential Unit (Short-term Units): $\$113.03 \times 90 \text{ units} = \$10,172.70$
Hotel/Motel: $\$50.46 \text{ per keyed unit} \times 251 \text{ keyed unit} = \$12,665.46$

Total Parks Impact Fees to be paid: **\\$22,838.16**

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

Resort Residential (Short-term Units): $\$76.19 \times 90 \text{ units} = \$6,857.10$

Total Public Library Impact Fees to be paid: **\\$6,857.10**

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

Resort Residential w/in 98 Corridor (Short-term Units): $\$14.64 \times 90 \text{ units} = \$1,317.60$
Hotel/Motel w/in 98 Corridor (Hotel Units): $\$13.07 \times 251 \text{ keyed units} = \$3,280.57$
Retail w/in 98 Corridor: $\$47.59 \text{ per } 1,000 \text{ Square Feet}$
Impact Fee for Retail = $25,001 \text{ S.F./}1,000 \text{ S.F.} \times \$47.59 \text{ per } 1,000 \text{ S.F.} = \$1,189.80$

Total Police Impact Fees to be paid: **\\$5,787.97**

Transportation: The transportation impact fees were calculated using the following rates and fees.

Multi-family (Short-term Units): $\$577.00 \text{ per dwelling unit}$
Impact Fee for Multi-family = $90 \text{ d.u.} \times \$577.00 \text{ per d.u.} = \$51,930.00$
Hotel/Motel: $\$1,365.00 \text{ per room (keyed units)}$
Impact Fee for Hotel = $251 \text{ (502 rooms) keyed units} \times \$1,365.00 = \$342,615.00$
Retail 100,000 Square Feet (Overall Site Retail): $\$9,400 \text{ per } 1,000 \text{ Square Feet}$
Impact Fee for Retail = $25,001 \text{ S.F./}1,000 \text{ S.F.} \times \$9,400 \text{ per } 1,000 \text{ S.F.} = \$235,009.40$

Total Transportation Impact Fees to be paid: **\\$629,554.40**

Totals:

| | | |
|--------------------|---|-----------------------------|
| Parks: | = | <u>\\$22,838.16</u> |
| Public Library: | = | <u>\\$6,857.10</u> |
| Police Protection: | = | <u>\\$5,787.97</u> |
| Roads: | = | <u>\\$629,554.40</u> |
| TOTAL: | = | <u>\\$665,037.63</u> |

OTHER FEES:

The fees listed below are subject to change and are based on the most recent information available November 12, 2009. The fees must be paid by the applicant as part of the cost recovery associated with the proposed project:

| | |
|------------------------------------|---------------|
| City Traffic Consultant: | \$0.00 |
| City Surveyor: | N/A |
| Re-Review Fees (Community Dev.) | \$0.00 |
| Re-Review Fees (Engineering) | \$0.00 |
| Administrative Costs: | \$0.00 |
| City Council Advertising: | N/A |
| TOTAL (November 20, 2009) = | \$0.00 |

STATE/FEDERAL PERMITS REQUIRED BEFORE ISSUANCE OF BUILDING PERMIT

FDEP stormwater and NPDES approvals shall be forwarded to the city engineer's office for stamp received and then forwarded to the Community Development Department.

COMMENTS/NOTES/CONDITIONS:

Public Input:

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

Per Community Development Department:

1. All comments, notes, and conditions, as applicable, from Final Development Order No. 02-55 and Final Amended Development Order No. 04-13 shall remain in effect.
2. **Condition:** Prior to issuance of any Certificate of Occupancy as part of this phase area, a 6 foot wide buffer between the edge of street pavement/curbing and the sidewalk shall be designed, approved, and constructed in accordance with the MMTD regulations and finalized Harbor CRA Harbor Boulevard Implementation Plan design.
3. **Condition:** Prior to issuance of any Certificate of Occupancy as part of the phase 2 area, all components and design of the Harbor Boardwalk east of the existing "Lucky Snapper" structure shall be constructed in compliance with the yet to be adopted Harbor Boardwalk CRA plans, standards and specification. It is the request of the applicant to the CRA Board that the Harbor CRA plans for the Harbor Boardwalk, standards and specifications shall include an alternate that matches the existing Phase 1 HarborWalk Village components and design of the Harbor Boardwalk. The applicant also requests the Harbor CRA plans for the Harbor Boardwalk shall also allow the existing concrete fish cleaning areas to remain, subject to agreed cosmetic improvements to the concrete portion, as an alternative walking surface. It is understood that the initial construction of the Harbor Boardwalk shall have elements that are temporary, allowing for modification that shall adhere to the approved Harbor CRA plans during Phase 2 build out. Alternatively; the Harbor Boardwalk area east of the Lucky Snapper bridge may be completed as approved in the existing Development Order for Phase I to match that area west of the Lucky Snapper bridge which has already been constructed. Should the CRA Board deem the materials and specifications are not compatible with the, yet to be selected, materials and specifications for the Harbor Boardwalk and the applicant does not construct the Harbor Boardwalk east of the existing "Lucky Snapper" structure in compliance with the CRA adopted materials an .

specifications, limited or no CRA funds or funding mechanisms shall be used to assist in the construction.

4. **Condition:** Prior to issuance of any Certificate of Occupancy as part of the phase 2 area, the Harbor Boulevard improvements east of the main entrance to HarborWalk Village shall be designed and constructed in compliance with the adopted Harbor CRA plans, standards and specifications. It is the request of the applicant to the CRA Board that the Harbor CRA plans for the Harbor Boulevard improvements, standards and specifications shall include an alternate that matches the existing Phase 1 HarborWalk Village design along Harbor Boulevard.
5. **Condition: Prior to the issuance of any Certificate of Occupancy as part of this phase area,** the transit stop shall be properly designed, approved and constructed in accordance with the MMTD requirements.
6. **Condition: Prior to the issuance of final Certificate of Occupancy as part of this phase area,** the developer shall erect and maintain a historical or informational display board for every 150 linear feet or fraction thereof of Harbor Boardwalk. Historical or information display boards shall be constructed per the standards and specifications approved by the CRA Board.
7. **Prior to the 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.*
8. **Prior to the issuance of any Certificate of Completion/Occupancy,** the landscaping and any outdoor lighting, if installed, must be inspected and approved by the Community Development Department. The lighting plan 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 issuance of any Certificate of Occupancy for any area or building containing hotel or condo hotel units,** provide appropriate documentation indicating from the State of Florida compliance as a “Commercial Transient Living Accommodation.”
10. **Condition:** Complete design of the site plan, proposed structures and buildings have yet to be finalized at this review stage of the development Phase area. The applicant has provided artist renderings and computer aided renderings to provide staff a general understanding of the architectural design. **Prior to issuance of any building permit for buildings over and above the density and intensity as approved in Development Order No. 02-55, as amended in the 1st Amended Development Order No. 04-13** all structures and building design, when finalized by the applicant, shall be submitted to the City for review to ensure compliance with all MMTD regulations, specifically, Article 8, Section 8.09.03.A.1, (Setbacks, Building orientation, Facades, and Transparency).

11. **Condition:** The property owner shall continue to attempt to coordinate with the adjacent land owner to the east to discuss any proposed redevelopment, the need for, and to finalize a shared ingress/egress, cross access, and all necessary easements. The shared egress/ingress drive will allow the elimination of the right out exit. All changes shall be subject to FDOT approval. Applicant shall make a reasonable effort to provide continuous public pedestrian and vehicular easement/right-of-way to the waterfront as design and illustrated on Connelly Wicker plans, sheet 2 of 15.
12. **Condition:** All non-construction related dumpsters, trashcans and recycling bins shall be placed in solid waste collection areas and shall be shielded from the view of adjacent properties. *Ref. LDC Section 7.09.02(B)(3).*
13. **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 unless properly and completely screened. 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.
14. **Condition: Prior to installation,** all outdoor lighting 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.
15. **Note:** 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.
16. **Note:** Each handicap accessible parking space must be prominently outlined with blue paint, and must be posted with a permanent above-grade sign bearing the international symbol of accessibility and containing the caption "PARKING BY DISABLED PERMIT ONLY." Such sign shall also indicate the penalty for illegal use of the space, which shall be a minimum fine of \$250.
17. **Note:** Curb ramps complying with Section 11-4.7 of the Florida Accessibility Code shall be provided wherever an accessible route crosses a curb.
18. **Note:** 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).*

19. **Condition:** There will be no direct discharges of stormwater runoff to the Harbor before retention and treatment for both Phase I and Phase II of this project, with the exception of the existing pedestrian way along the Harbor which shall remain as is. Certificates of Occupancy will be contingent on final inspection and certification by the City of Destin that the installed Stormwater Management System meets these criteria.
20. **Condition:** Prior to obtaining a Certificate of Occupancy, the Stormwater Operation/Maintenance Plan (SWOMP) shall be acknowledged and signed by the Owner.
21. **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 and then forwarded to the Community Development Department.
22. **Note:** 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.
23. **Note:** 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.
24. **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.
25. **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.
26. **Note:** Please abide by the general guidelines set forth in the FDEP's "Florida Development Manual: A Guide to Sound Land and Water Management."

Per Public Services Department

1. **Condition:** Prior to obtaining any City permits, obtain a City of Destin Right-of-Way Construction Permit from the Public Services Department.
2. **Condition:** Prior to obtaining a City of Destin Right-of-Way Construction Permit, obtain a FDOT Connection & drainage permits and submit copy to the Public Services Director.
3. **Condition:** Set up pre-application meeting with FDOT & Public Services Director to review proposed right-of-way modifications. **There was not enough right-of-way information provided to properly review the amendment. More comments and/or conditions may be forthcoming pending resubmittal.**

4. **Condition:** All improvements required by the City are required to be shown on the plans and are dependent on FDOT approval. Provide FDOT approval to the City prior to any ROW work.
5. **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.
6. **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.
7. **Condition:** Intersection Alternate "A" at Stahlman Ave & Harbor Blvd will not be acceptable with the City.
8. **Condition:** Provide a landscaping & irrigation plan for the modified medians to the extent and in the areas modified.
9. **Condition:** Provide power and outlets for the new medians within the ROW to the extent and in the areas modified.
10. **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. Authorization may be given on a case by case basis, if the contractor can prove that it is necessary for public AND job site safety. Each case may require additional permitting. **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.**
11. **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 repaired prior to obtaining any Certificate of Occupancy (C.O.).
12. **Condition:** During construction crane booms shall not swing out over the ROW or adjacent private properties on either side of the project. These areas are open to the public and not part of the construction site. Authorization may be given if the contractor can prove that it is necessary for public safety. The City can not authorize encroachments over adjacent private properties, the developer must obtain the affected property owner's consent.
13. **Condition:** Prior to obtaining any city permit, provide a material lay down area and construction parking **ON SITE**; show on the engineering plans and/or may provide facilities off site and off of the ROW.
14. **Condition:** Sidewalk area crossing the drive access shall meet ADA flatness & slope requirements.
15. **Condition:** All exterior lighting must meet appropriate codes.



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

agranata@cityofdestin.com

December 8, 2010

Via: U.S. Mail

Legendary, Inc.
Attn: Mr. Howard Long
4100 Legendary Drive
Suite 200
Destin, Florida 32541

Subject: HarborWalk Village, 3rd Amendment – Final Development Order No. 10-02 Extension Request

Dear Mr. Long:

This letter is in response to your correspondence received in my office on November 17, 2010. As required, your request for an extension to Final Development Order No. 10-02 was received at least 30 days prior to the expiration date of December 18, 2010. Based on meeting this criterion and by adhering to the criteria of the extension as stated in Article 2, Section 2.21.01.B and C (See attached), the 12-month deadline to obtain a building permit and commence construction is conditionally granted.

I recommend consulting with your engineer of record 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.

Page 2 of 2
December 8, 2010
SP-10-02 HarborWalk Village, 3rd Amendment

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-06-02

- 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

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-837-4242 | Fax: 850-650-0693 | www.cityofdestin.com

October 26, 2011

Mr. Peter Bos
Legendary, Inc.
4100 Legendary Drive, Suite 200
Destin, Florida 32541

**Subject: HarborWalk Village, 3rd Amendment – Final Development Order No. 10-02
“Special Economic Condition” Extension Request**

Dear Mr. Bos:

This letter is in response to your email dated October 17, 2011, requesting an extension to the above referenced final development order.

An initial request for a development order extension was provided to the City on November 17, 2010, which was granted and thus extended the development order another year to December 18, 2011. Under staff's interpretation based on legal guidance of Section 46 (1) of Ch. 2010-147 Laws of Florida, and the fact development order No. 10-02 was legally extended in 2010 prior to the deadline of December 31, 2010, this development order is extended to the fullest extent possible to December 18, 2013. This determination enables the holder of the final development order to delay commencement or continuance of construction, if necessary, until December 18, 2013.

Should you have any further questions or concerns, please do not hesitate to contact me or the Planning Division.

Sincerely,

Kenrick S. Gallander, AICP
Community Development Director

KSG/

cc: DO Book, Project File: SP-06-02, Building File & Letter Log







Community Development Planning Division

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

October 2, 2012

Mr. Peter H. Bos
4100 Legendary Drive
Suite 200
Destin, Florida 32541

SUBJECT: HarborWalk Village – Final Development Order No. 10-02 “Special Economic Condition” Extension Request – 100 Harbor Boulevard

Dear Mr. Bos:

This letter is in response to your letter dated September 14, 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 December 18, 2015. This determination enables the holder of the final development order to delay commencement or continuance of construction, if necessary, until December 18, 2015.

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: 2010 DO Book
Project File: SP-06-02
Building File: 100 Harbor Blvd.
Letter Log



