TIDEWATER BEACH AND GOLF RESORT DEVELOPMENT ORDER

WALTON COUNTY ORDINANCE NO. 86-9

AN ORDINANCE OF WALTON COUNTY, FLORIDA, RENDERING A DEVELOPMENT ORDER PURSUANT TO CHAPTER 380, FLORIDA STATUTES, ON AN APPLICATION FOR DEVELOPMENT APPROVAL FILED BY DEAL PROPERTIES, INC., DEVELOPER FOR TIDEWATER BEACH & GOLF RESORT, A DEVELOPMENT OF REGIONAL IMPACT; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR CONDITIONS OF DEVELOPMENT AND ENFORCEMENT THEREOF; PROVIDING AN EFFECTIVE DATE HEREOF.

WHEREAS, on January 18, 1985, the authorized representative for Deal Properties, Inc. and the West Florida Regional Planning Council held a preapplication conference to review any preliminary matters concerning the application for development approval (ADA); and

WHEREAS, on December 24, 1985, Deal Properties, Inc., entered into a predevelopment agreement with Okaloosa County, Walton County, and the Florida Department of Community Affairs, whereby the Developer agreed to prepare and file an Application for Development Approval and whereby the Developer was permitted to commence certain development activities; and

WHEREAS, on June 28, 1985, the authorized representative for Deal Properties, Inc. filed an Application for Development Approval with Walton County, Okaloosa County, the West Florida Regional Planning Council, and the Florida Department of Community Affairs for a Development of Regional Impact (DRI) known as Tidewater Beach & Golf Resort, said filing being in compliance with the requirements of Chapter 380, Florida Statutes; and

WHEREAS, on November 1, 1985, Deal Properties, Inc. filed an Addendum in response to the Sufficiency Review of the West Florida Regional Planning Council in compliance with the requirements of Chapter 380; and

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WHEREAS, the Walton County Commission, on September 11, 1984, approved a development order for 420 dwelling units on the 16 acre portion of the development lying to the north of New U.S. Highway 98; and

WHEREAS, on January 23, 1986, the West Florida Regional Planning Council notified Walton and Okaloosa Counties that a public hearing date should be set regarding Tidewater Beach & Golf Resort Application for Development Approval; and

WHEREAS, the West Florida Regional Planning Council held a public meeting on April 21, 1986, to consider its staff review and report of the project and approve recommendations to the Walton County and Okaloosa County Commissions; and

WHEREAS, the Walton County Commission held a public hearing on April 29, 1986, in accordance with Chapter 380, Florida Statutes, to consider the report and recommendations of the West Florida Regional Planning Council, the Application for Development Approval for a Development of Regional Impact referred to above and the comments on the record made to the Board of County Commissioners at said hearing; and

WHEREAS, the Board of Commissioners of Walton County has jurisdiction pursuant to Section 380.06, Florida Statutes, and is authorized and empowered to consider applications for developments of regional impact; and

WHEREAS, the procedural requirements of Chapter 380, including the requirements for public notice, have been satisfied and all interested parties and members of the public were afforded the opportunity to participate in the public meeting wherein the Application for Development Approval for Tidewater Beach & Golf Resort was considered by the Board of County Commissioners:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, FLORIDA:

Section 1: That this ordinance shall constitute the development order of the Board of Commissioners of Walton County

issued in response to the Application for Development Approval (ADA) filed by Deal Properties, Inc. for Tidewater Beach & Golf Resort, a Development of Regional Impact (DRI). The scope of the development permitted pursuant to this order includes the operations and construction described in the ADA and the supporting documents which by reference are made a part hereof.

Section 2: That the Board of Commissioners of Walton County having received the above referenced documents, and having received all related comments, testimony and evidence submitted by each party, including the Developer, the West Florida Regional Planning Council and members of the general public, find that there is substantial competent evidence to support the following findings of fact:

A. That the real property which is the subject of the ADA is described in Exhibit A attached hereto and made a part hereof by reference.

B. That Deal Properties, Inc. (Developer) submitted to Walton and Okaloosa Counties an ADA and Addendum (Exhibits B and C); that the West Florida Regional Planning Council submitted an Assessment Report dated April, 1986 (Exhibit D-1) to the Counties; that the Developer submitted a report entitled Additional Comments and Reports Submitted to the West Florida Regional Planning Council at the Executive Committee meeting of Monday, April 21, 1986 (Exhibit D-2); that the Notice of the public hearing by the Okaloosa County Commission was published in The Playground Daily News on February 18, April 8 and April 22, 1986 (Exhibit E-1) and by the Walton County Commission in The DeFuniak Springs Herald on February 20 and April 17, 1986 (Exhibit E-2); and

C. That the Developer proposes to construct a four phase residential resort facility on 433 acres of land in Okaloosa and Walton Counties consisting of the following land use and development:

PROJECTED LAND USE

	Phase I 1985-87	Phase II 1988-89	Phase III 1990-91	Phase IV 1992-93	Total Acres
Walton County					
Residential	13.40	13.0	12.3	8.0	46.70
Commercial	0.0	0.0	0.0	0.0	0.0
Club/Facil	11.20	0.0	0.0	0.0	11.20
Open Space*	120.11	0.0	0.0	0.0	120.11
Sub-Total	144.71	13.0	12.3	8.0	178.01
Okaloosa County					
Residential	18.68	10.0	12.4	14.3	55.38
Commercial	19.20	0.0	0.0	0.0	19.20
Club/Facil	20.10	0.0	0.0	0.0	20.10
Open Space	142.50	0.0	0.0	0.0	142.50
Sub-Total	200.48	10.0	12.4	14.3	237.18
TOTAL	345.19	40.82	24.7	22.3	433.01

*Includes golf course, wetlands, uplands, and lakes/stormwater management system.

PROJECT [redacted] VELOPMENT

	Phase I 1985-87	Phase II 1988-89	Phase III 1990-91	Phase IV 1992-93	Total Units
WALTON COUNTY					
Hotel*	108				108
Type Y**					(528)
1-bedroom	52	52	44		148
2-bedroom	51	61	58	40	210
3-bedroom	37	47	46	40	170
Recreation Club	X				
Restaurants @					
Hotel	X				
Tennis Club	X				
Reception Ctr	X				
Golf Course	X				
Total Walton	248	160	148	80	636
OKALOOSA COUNTY					
Hotel		500			500
Type X**					(100)
3-bedroom	20	20	10		50
4-bedroom	20	20	10		50
Type Y**					(50)
2-bedroom				25	25
3-bedroom				25	25
Type Z**					(720)
1-bedroom	108	108	108	108	432
2-bedroom	36	36	36	36	144
3-bedroom	36	36	36	36	144
Restaurants @					
Hotel		X			
Golf Club	X				
Golf Crs & Club	X				
Tennis Club	X				
Commercial	125,000 s.f.				
Utilities	X				
Maintenance Ctr	X				
Total Okaloosa	220	720	200	230	1,370
Total D.U.	468	880	348	310	2,006

*Applicant has option to substitute 70 condo units for 108 hotel units planned for parcel W-2.

**Potential Unit Types:

Type X = Single family lots, patio homes, townhomes

Type Y = Patio homes, townhouse, townhouses over flats

Type Z = Townhouses, towns over flats, flats 3-12 stories

***420 units in Walton County were approved by the Development Order of September 11, 1984, for the 16 acres south of New U.S. 98.

Development of water related recreation facilities along the shoreline of Choctawhatchee Bay will be limited to the following:

1. Provision for the rental of open cockpit powerboats not to exceed twenty feet in length;

2. Provision of rental jet skis;

3. Provision of rental sailboats of open cockpit design and wind surfers not to exceed twenty feet in length;

4. Construction of a dock not to exceed an over the water area of 7,000 square feet which will not provide any facilities for in the water mooring of powerboats;

5. The placement of no more than 10,000 cubic yards of clean, compatible white sands to create a swimming beach along the shoreline;

6. The placement of a boat ramp solely for the launching of the rental water craft described above.

7. Shoreline stabilization or alteration plans shall be subject to written approval of DER and DCA prior to construction.

D. That the proposed development is not located within an area of critical state concern as designated pursuant to Section 380.05, Florida Statutes.

E. That the development is consistent with all local land development regulations and the local comprehensive plan and the report recommendations of the West Florida Regional Planning Council and that the development does not interfere with the achievement and objectives of any state land development plan.

F. That the West Florida Regional Planning Council recommended approval of the proposed development as identified in the ADA and Addendum subject to certain conditions.

G. That a comprehensive review of the impact generated by the development has been conducted by the West Florida Regional Planning Council and the County.

H. That the development will not unfavorably impact the environment and natural and historical resources of the region, and more specifically:

1. That the property was thoroughly investigated to determine the possible presence of rare, threatened or endangered species or species of special concern, specifically large-leaved jointweed (Polygonella Macrophylla), the indigo snake, gopher tortoise and pine snake.

2. That the lack of indigo and pine snake observations on the property is due to the generally poor conditions of the site caused by a lack of requisite burning and resultant succession of vegetation communities that are poor food sources for organisms which are the food sources for these snakes.

3. That 28 large-leaved jointweed plants were found on the property and the prospects for transplantation of the plant are very good at the site due to the presence of dry sandy soils and planned preservation buffers and due to proven success in transplantation at other locations.

4. That Condition H of this order adequately provides for the protection and enhancement of rare, threatened or endangered species of special concern.

I. That the development will have a positive and favorable impact upon the economy of the County and the region through the creation of construction and permanent employment and the expansion of the tourist economy.

J. That the development will not unduly burden potable water, sewer, solid waste disposal, fire protection, police protection, education and energy service systems of the County and region.

K. That the development will favorably affect the ability of people to find adequate housing reasonably accessible to their places of employment by adding up to 1,398 dwelling units to the local housing market.

L. That those segments of U.S. 98 extending eastward from (a) the eastern end of the new four lane by-pass to the Sandestin traffic signal, (b) the Sandestin traffic signal to Mack Bayou Road and (c) Mack Bayou Road to County Road 30A will be subject to traffic growth and development on non-project lands as identified in the Walton County Comprehensive Plan adopted in September, 1980, to a degree that will cause them to perform as urban roadways.

M. That the development will affect transportation facilities within the region as follows:

1. The development will generate a need for the installation of acceleration, deceleration and turning lanes, and potentially, traffic signals at the entrances into U.S. Highway 98.

2. The development will generate traffic which will contribute to a reduction of the level of service of U.S. 98 between the Sandestin signal and Mack Bayou Road by completion of Phase IV of the proposed development.

3. That Condition I of this development order will adequately provide the roadway improvements necessary to alleviate the roadway impacts defined in 1. and 2. above.

Section 3. That the Walton County Board of County Commissioners having made the above findings of fact reaches the following conclusions of law:

A. The development:

1. will not have an unfavorable impact on the environment and natural and historical resources of the region;

2. will have a favorable impact on the economy of the region;

3. will efficiently use water, sewer, solid waste or other necessary public facilities;

4. will efficiently use public transportation facilities and adequately address transportation impacts reasonably attributable to the development; and

5. will favorably affect the ability of people to find adequate housing reasonably accessible to their places of employment.

6. is consistent with all local land development regulations and the local comprehensive plan and the report recommendations of the West Florida Regional Planning Council.

7. does not interfere with the achievement and objectives of any state land development plan.

B. Consideration of Tidewater Beach & Golf Resort ADA has been duly conducted pursuant to the applicable laws and regulations and, based upon the record, the Developer is authorized to conduct the development as described in the ADA subject to the conditions set forth herein.

C. Review by the West Florida Regional Planning Council, Okaloosa County, Walton County, and other participating agencies and interested citizens reveals that project impacts are adequately addressed pursuant to the requirements of Section 380.06, Florida Statutes.

Section 4. That, having made the above findings of fact and conclusions of law, it is ordered that the ADA is hereby approved subject to the following conditions:

A. Within six (6) months from the date of the Final development order for the project, the Developer shall submit a written hurricane evacuation plan in coordination with and obtain approval in writing from the West Florida Regional Planning Council, Okaloosa and Walton County Civil Defense Directors, and the Department of Community Affairs Division of Emergency Management. These agencies shall review the plan within 45 days of receipt. The plan shall include, at a minimum, items committed to by the Developer in the commitment section of the West Florida Regional Planning Council assessment of April 1986 and shall incorporate final recommendations of the Tri-State Hurricane Study when available.

B. The Developer shall require all contractors working on the project to secure any stockpiled materials that could become airborne during a hurricane.

C. Provisions shall be included in the condominium or homeowner documents which establish insurance or contingency funds for repairs to on-site sewer and water lines and structures such as parking lots, swimming pools, boardwalks, golf courses and other common recreation areas which are not insured by the National Flood Insurance Program.

D. The Developer shall prepare and submit to each homeowner or condominium owner association a design and maintenance manual for all internal structural and physical operations, procedures, and systems of the common areas which are not the responsibility of the Developer.

E. All construction shall be consistent with the Northwest Florida Coast Resource Management Plan dated April 16, 1985, specifically in recommendations addressed in the ADA, Addendum and subsequent information pertaining to buffer zones, stormwater retention and structural requirements.

F. The Developer shall include copies of all permit applications and permits received for project development in the annual status report specified in Section 9 below.

G. Stormwater runoff quality shall be maintained at predevelopment levels and monitored pursuant to Department of Environmental Regulation requirements.

H. The Developer shall establish a program addressing rare, threatened or endangered species or species of special concern as follows:

1. The Developer shall establish a program to facilitate the preservation, protection and relocation of endangered or threatened animals on the site, specifically the indigo snake. The pine snake and gopher tortoise are not listed as endangered or threatened by the Florida Game and Fresh Water

Fish Commission (FGFWFC), but rather as "species of special concern". The Developer nevertheless agrees to include the pine snake and gopher tortoise in this program. The program shall consist of the following elements: (a) in consultation with the FGFWFC and the U.S. Fish and Wildlife Service, the Developer shall locate an acceptable alternative habitat for these species such as Eglin Air Force Base or the Blackwater River State Forest in Okaloosa, Walton, or Santa Rosa Counties; (b) prior to site clearing activities, the Developer shall engage a professional biologist to survey the property and capture and relocate any such species to the receiving site under permits obtained from FGFWFC and USFWS; (c) land clearing, surveying and other construction personnel shall be required by the Developer to cooperate fully in protecting any snakes or tortoises found on the property throughout each phase and subphase of construction; and (d) thorough records of all surveys and of all finds including numbers, species, approximate size and relocation sites shall be fully documented and provided in the annual report.

2. The Developer shall establish a program to facilitate the protection and enhancement of the plant Polygonella macrophylla found on the site. With the guidance of a professional biologist, the Developer shall define areas on the master plan that are planned vegetated buffers and which currently contain Polygonella macrophylla. These areas shall be protected and managed so as to promote the long-term viability of the plants. Within these areas or additional areas adjacent to golf course fairways, the Developer shall establish nursery areas suitable for the growth of this species. Plants of the species found within development parcels and in widely scattered locations on the site shall be transplanted to these nursery areas. The project's ground maintenance staff shall be trained in the maintenance of these nursery areas in order to promote preservation of habitat conditions that are suitable for the long term

enhancement of the species. The Developer shall make these nursery areas available for the relocation of Polygonella macrophylla from other sites in the immediate vicinity to the extent space is available. The nursery areas shall also be accessible to Florida Game and Fresh Water Fish Commission and U.S. Fish and Wildlife Service personnel for purposes of undertaking research on the habitat and growing characteristics of these and other species with similar habitat requirements. The annual report shall include information indicating how this provision is being implemented, including the size and location of nursery areas, number of plants preserved and maintenance methodologies.

I. The Developer shall address transportation as follows:

1. The Developer shall be responsible for installing all acceleration, deceleration and turning lanes required for the entrances of the project into U.S. Highway 98. After FDOT signal warrants are met, the Developer shall pay for the installation of appropriate traffic signals at the project's entrances to U.S. Highway 98.

2. The Developer shall pay $213,850 (8.75% of $2,444,000 which constitutes the cost of widening to four lanes that segment of U.S. 98 between the Sandestin main gate and Mack Bayou Road) prior to issuance of any certificates of occupancy for Phase IV units. Should traffic volumes not reach levels anticipated by the ADA, in lieu of payment of $213,850, the Developer shall be entitled to pay an amount based on the ratio of actual project traffic to total traffic on the subject segment of U.S. 98.

3. Multi-use trails shall be developed in the project to provide an available alternative to auto usage.

4. If a local bicycle system is developed, the Developer shall contribute to the installation of bicycle paths

along the U.S. Highway 98 frontage. Secure bike racks shall be provided at recreation and commercial areas to encourage bicycle circulation.

5. In the event that the County implements an impact fee ordinance for transportation purposes, these transportation impact fees shall replace and supercede the specific impact assessments of I(2) above. If the above assessments have been levied prior to implementation of said ordinances, any such contribution made shall be credited against future impact fee assessments.

J. The master plan for the proposed development is consistent with the zoning ordinance of the County and said master plan shall comprise the uses permitted under the zoning ordinance. This development shall be subject to all site plan and engineering plan review procedures of the County.

K. If the total combined gross square footage of project restaurant space and of retail space associated with the two hotels exceeds 50,000 square feet of gross floor area, this shall constitute a substantial deviation subject to further DRI review. The 125,000 gross square feet of commercial development proposed for the 19-acre parcel in Okaloosa County shall not count toward this combined square footage total.

L. The on-site stormwater retention requirement for each of the drainage areas of the project, as described in the ADA, shall be, as a minimum, the total retention of the first one inch of runoff (not rainfall). Prior to the issuance of any building or construction permits for each phase, the Developer shall provide documentation from the Florida Department of Environmental Regulation, or the Northwest Florida Water Management District if stormwater permitting has been delegated to that agency, that demonstrates that this minimum retention

standard will be accomplished for the drainage areas impacted by the issuance of the permits.

M. No building construction, land excavation, filling, or land clearing of any kind shall be permitted within twenty-five feet landward of the mean high tide of Choctawhatchee Bay, with the exception of boat docks, walkways, beach fill and shoreline stabilization as described in Section 2, paragraph C above.

N. Prior to the issuance of any building or construction permits for any phase, the Developer shall demonstrate and provide written assurance to DCA from the appropriate local government or private entity that adequate permitted solid waste disposal capacity exists to serve the operating needs of that phase along with all other commitments.

O. No offsite generated sewage waste or effluent shall be disposed of on site without the prior written approval of DER and DCA.

Section 5: That the definitions contained in Chapter 380, Florida Statutes, shall control the interpretation and construction of any terms of this development order.

Section 6: That the development order shall remain in effect for a period of twelve years (based on project buildout in 1993) or until the development is complete and all certificates of occupancy are issued by the County, whichever occurs first, provided that upon application by the Developer, the Walton County Commission may extend the duration of the development order; and provided that Walton County shall not down-zone or reduce the intensity of development during the effective period of the development order unless substantial changes in conditions underlying development approval can be demonstrated, the development order was based on substantially inaccurate information provided by the Developer, or the change is clearly established by local government to be essential to the public health, safety, or welfare.

Section 7: That this development order shall be binding upon the Developer, its heirs, assigns or successors in interest.

Section 8: That monitoring the compliance with this development order shall be the responsibility of the assigned official of Walton County which shall monitor each phase of the development through applications for building permits and building code compliance.

Section 9: That pursuant to Section 380.06(18), Florida Statutes, the Developer shall provide an annual report relating its activities to the assigned official of Walton County, the West Florida Regional Planning Council, and the Florida Department of Community Affairs on the anniversary date of the final development order. The annual report form shall be provided by the West Florida Regional Planning Council and shall contain information as specified by the Florida Department of Community Affairs.

Section 10: That the development order issued by the Board of County Commissioners of Walton County on September 11, 1984, for that 16 acre portion of the Tidewater development located south of New U.S. 98 shall remain in effect until this Order becomes final and all appeals have been exhausted or waived, at which time the terms and conditions of this Order shall supercede the Order dated September 11, 1984.

Section 11: That the County Clerk is directed to send copies of this development order within five days of the effective date of this ordinance to the Developer, the Florida Department of Community Affairs, and the West Florida Regional Planning Council.

Section 12: That this ordinance shall take effect immediately upon approval by the County Commission and signature by the Chairman, and upon transmittal to the parties specified in Section 11, above.

PASSED AND ADOPTED by the Board of County Commissioners of Walton County, Florida, on April 29, 1986.

BOARD OF COUNTY COMMISSIONERS
WALTON COUNTY, FLORIDA

ATTEST:

Martha Walden

By: W. F. Miles
,Chairman
WALTON COUNTY COMMISSON