

Addendum A

PORT MARIGNY REVIEW PROCEDURE

Attachment to Development Agreement

By and Among The City of Mandeville, Louisiana

Port Marigny, LLC and Pittman Assets, LLC

I. Purpose

The Review Procedure established in this -Addendum A is included in and made part of the Development Agreement for Port Marigny Development executed by the City of Mandeville, Louisiana (hereinafter, "City"), Port Marigny, LLC and Pittman Assets, LLC (hereinafter, Port Marigny LLC and Pittman Assets, LLC, their successors and assigns to the extent of each's interest in Port Marigny Development shall be referred to as "Developer"). The purpose of this Addendum A is to establish and document the procedure Developer must follow in order to obtain a Special Use Permit for certain Land Uses in the Port Marigny Development. The Land Uses that require a Special Permit are specifically identified in Table 1 of -the Development Agreement. Certain Land Uses need not be submitted to the Review Procedure established herein, but may instead proceed directly to the Subdivision and Public Improvements Application and Procedures ("Subdivision Review") established in Article 12 of the City's Comprehensive Land Use Regulations Ordinance ("CLURO"). The Land Uses approved to proceed directly to Subdivision Review are also specifically identified in the Table 1 of the Development Agreement.

II. Applicability and Jurisdiction

The City Zoning Commission shall be responsible for review, evaluation and action on all site plans submitted as required for Special Use Permits in the Port Marigny Development.

III. Use Requiring Site Plan Review

All Land Uses identified in Table 1 of the Development Agreement as Land Uses requiring Special Use Permits shall follow the procedure in this Addendum A. Land Uses requiring Special Use Permits shall automatically be forwarded by the Planning Director to the Zoning Commission for review at the first meeting following the required public notice as specified herein.

IV. Application

Applications for Special Use Permit approval under this Review Procedure shall be filed with the Planning Director and shall include the following unless materials is determined to be unnecessary by the Planning Director.

1. Completed application form provided to applicant by the Planning Director.
2. Name, signature, and address of the owner and applicant, if agent of owner, on the application clearly stating the requested action.
3. Legal description or boundary survey of proposed development site within Port Marigny Development with bearing and distances of the property.
4. If the applicant is not the legal owner of the property, a sworn statement of the owner that the applicant is the authorized agent of the owner.
5. The municipal address or lot, square and subdivision, and the name and mailing address of the owner of each lot abutting or opposite the subject property.
6. A brief description of the proposed use and its relationship to the Port Marigny Development and Master Plan, including information pertinent to the review criteria and findings provisions of this Addendum.
7. A site plan and the number of copies required by the Zoning Commission's Rules of Procedure a minimum of 8.5 x 11 inches and a maximum of 24 x 36 inches, drawn to scale and sufficiently dimensioned as required to show the following:
 - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
 - b. The location and dimensions of boundary lines, easements, and required yards and setback of all existing and proposed buildings and land development improvements.
 - c. The location, height, and intended use of existing and proposed buildings on the site, and the approximate location and dimension of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, utility or service areas, fencing and screening, and lighting.
 - d. The location and dimensions of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, utility or services areas, fencing and screening and lighting.
 - e. The center line of existing water course, drainage features and location and size of existing and proposed streets and alleys, the 100-year floodplain, and any areas of periodic inundation.
 - f. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements.
 - g. A conceptual drainage plan showing existing and proposed topography and grading and proposed subsurface drainage structures and retention and water quality enhancement facilities.
 - h. The approximate location and size of proposed signs, if known, subject to regulations of Article 10 Sign Code.

- i. A conceptual landscape plan showing the location and size of the existing and proposed landscaped areas and the number and location of Class A & B trees proposed or required to be preserved.

V. Public Notice for Special Use Permits

Not fewer than five (5) days before the work session or twenty (20) days before a hearing at which the Zoning Commission will vote on a Special Use Permit, the Planning Director shall:

1. Post the site as required for zoning amendments including the following information:
 - a. A brief description of the nature of the application.
 - b. A statement of how and where information regarding the application may be obtained.
2. Provide notice regarding the application including the same information to be published in the official journal of the City at least seven (7) days prior to the meeting of the Zoning Commission.

VI. Special Use Permit Action and Appeal

1. Not more than thirty (30) days after official acceptance of a complete application by the Planning Director, the Zoning Commission shall consider the application for a Special Use Permit at a regularly scheduled or special meeting and approve, ~~approve~~ with modifications, or disapprove said application. Within ten (10) days of the decision of the Zoning Commission, the Planning Director shall prepare a report to the Building Inspector and the applicant regarding the approval, approval with modifications, or disapproval of the Special Use Permit and site plans by the Zoning Commission.
2. In deciding on an application for a Special Use Permit hereunder, the Zoning Commission shall consider the following:
 - a. The City Ordinance approving Port Marigny Development (Ordinance No. 15-17 – the “Ordinance”);
 - b. The City’s Comprehensive Plan adopted by the City Council in 2007;
 - c. The City’s Comprehensive Land Use Regulations Ordinance (CLURO);
 - d. The Development Agreement to which this Addendum A is attached;
 - e. The guiding principles and details of the Master Plan for the development of Port Marigny Developed approved by the City Council in the Ordinance;
 - f. The ~~conceptual~~ Conceptual Lot Sketch for the layout of lots and parcels in Port Marigny Development which was sanctioned by the Ordinance, with the understanding that the details of lot and parcel layouts for Land Uses requiring a Special Use Permit under the Development Agreement, including the location of parking spaces, utilities, ingress, egress, lot configuration and the like (but not the number of units within a Land Use or New AM Peak Hour Trips generated by each unit within the Port Marigny Development, both of which determinations

were made and agreed upon in the Development Agreement) are to be considered during this Review Procedure and in Subdivision Review; and

- g. The Port Marigny Covenants, Conditions and Regulations (“CC&R’s) for the governance and implementation of the Port Marigny Master Plan filed of record, as same may be supplemented as required for the Special Use Permit application under review.

The substantive provisions of the documents referred to above in subparagraphs a through g, inclusive, shall hereinafter be referred to collectively as the “Port Marigny Criteria”.

- 3. In applying the Port Marigny Criteria, the provisions of the Ordinance and Development Agreement shall be first considered with any conflicts between them resolved as therein set forth. Any conflict not resolved by reference to the Ordinance and the Development Agreement shall be resolved by reference to the City’s Comprehensive Land Use Plan adopted in 2007, the guiding principles and details of the Master Plan and Lot Sketch and the CLURO, with the more specific provision controlling the decision. If an issue is presented that has not been specifically addressed in any of the other documents comprising the Port Marigny Criteria, the provisions of the CLURO shall control.
- 4. In applying the Port Marigny Criteria, the Zoning Commission shall attempt to harmonize the provisions of the Port Marigny Criteria in order to achieve the intended objective of creating a high quality Traditional Neighborhood Development with a hotel and marina as outlined in Goal 12 of the City’s Comprehensive ~~land~~-Land Plan of 2007 and in the Master Plan and Guiding Principles prepared by Architects Southwest. In so doing, each specific provision of the Port Marigny Criteria is to be given its intended effect. In the event that there is a conflict between or among specific provisions, resolution of the conflict shall be in the same manner as a conflict in the law is resolved, with the most specific provision controlling.

Any person or persons, or any officer, department, board, bureau, or any other agency of the community jointly or severally aggrieved by any decision of the Zoning Commission may present to the 22nd Judicial District Court for the Parish of St. Tammany, Louisiana, within thirty (30) days after filing of the decision in the office of the Board, a writ of certiorari asking for such relief and under such rules and regulations as are provided for such matters in appropriate legislation of the State. Any person or persons, other than a City department, board, bureau, or any other City Agency applying for judicial review whose suit is determined to be without merit by the 22nd Judicial District Court and is dismissed without substantial relief having been afforded the applicant, does so for the purpose of delaying the commencement of a project that has received a Special Use Permit pursuant to the procedure established hereunder as may be determined by the court shall be answerable liable for delay damages for delay and all other proximate damages suffered by Developer. If the person appealing a decision of the Zoning Commission is a shell company, a person with no assets or is in impecunious circumstances; or is a nominee with no assets or in an impecunious circumstance, the The District Court may, after a preliminary hearing, require such person or persons to post a bond to cover the damages and costs of delaying the commencement of the Port Marigny

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Development, or any phase thereof, ~~should the suit filed by the applicant be deemed by the Court to be meritless or if substantial relief is not granted by the Court on his/her appeal.~~ The District Court shall consider *de novo* all matters appealed to it hereunder.

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VII. Review and Evaluation

1. Site plans for the Land Uses subject to the Review Procedure shall be reviewed and evaluated for consistency with the Port Marigny Criteria and the provisions of Article VIII hereof.
2. In the event that a proposed site plan does not satisfy the Port Marigny Criteria, modifications to the site plan by the applicant that would result in increased compatibility or would mitigate unfavorable impacts or would cause the site plan to conform to applicable requirements may be considered.
3. The Zoning Commission may require modification of a site plan as a condition for approval. Any such suggested modification shall be consistent with the objectives of the Port Marigny Criteria.

VIII. Findings for Special Use Permit Approvals

The Zoning Commission shall make the following findings before approving a Special Use Permit:

1. That the proposed plan is consistent with the Comprehensive Plan, the Ordinance, and the Development Agreement.
2. That the Special Use Permit application and site plan comply with the Port Marigny Criteria, and the underlying Special Use criteria included in Article 8, Section 8.5.5 and Section 8.2.3.7 of the CLURO for Traditional Neighborhood Developments and Special Marina developments, respectively, as modified by the Development Agreement.
3. That any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable impacts and protect the public health, safety and welfare as follows:
 - a. That the proposed Land Use and site development, together with any modifications applicable thereto, will be compatible with prior findings and recommendations of the Planning Commission.
 - b. The site development provides for the safe and convenient circulation of pedestrians, motorists, and bicyclists and adequately addresses the volume and traffic and other transportation impacts of the proposed development as quantified in the Development Agreement.
 - c. Proposed parking is designed to minimize negative impacts on surrounding property and provide safe and convenient access to the site.
 - d. The proposed design and use of the development adequately protects people and property from the negative impacts of erosion, flood or water damage, fire, odors, noise and glare anticipated to be generated by the proposed development.

IX. Effective Date

The decision of the Zoning Commission shall take effect immediately, unless appealed.

X. Lapse of Approval for Site Plans for Special Use Permits

1. Unless a longer time shall be specifically established as a condition of approval, a Special Use Permit approval shall lapse and become void two (2) years following the date on which such approval became effective, unless prior to the expiration of two (2) years, tentative (conceptual) subdivision approval has been granted for the phase of Port Marigny for which the Special Use Permit has been granted. This time period shall be extended if an appeal of a decision by the Zoning Commission has been taken to the 22nd Judicial District Court and the ability of Developer to proceed with the development has been stayed in law or fact.
2. A Site Plan approval for a Special Use Permit that is subject to lapse may be renewed by the Zoning Commission for an additional period of one (1) year, provided that prior to the expiration date, a written request for renewal is filed with the Planning Director.

XI. Amendments to Special Use Permit Approvals

The procedural requirements for Special Use Permit Approval as specified in this Addendum shall apply to an application for modification, expansion, or other change in approved Site Plan, provided that minor revisions or modifications may be approved by the Planning Director if he/she determines that the circumstances or conditions applicable at the time of original approval remain valid, and that changes would not affect the findings prescribed in this Section. The Planning Director shall report to the Zoning Commission on a quarterly basis the number and kinds of modifications being approved.

XII. Suspension and Revocation

1. Upon violation of any applicable provision of these regulations, or, if granted subject to conditions, upon failure to comply with conditions, a Special Use Permit approval shall be suspended upon notification by the Planning Director to the owner of a use or property subject to the Special Use Permit.
2. An appeal by Developer of a decision by the Planning Director to suspend the Special Use Permit shall be directly to the Zoning Commission.
3. An appeal by Developer from a decision by the Zoning Commission shall be made directly to the 22nd Judicial District Court. The Court shall decide the matter *de novo*.

XIII. New Applications

Following the denial or revocation of a Special Use Permit by the Zoning Commission no application for Special Use Permit for the same or substantially the same Special Use on the same or substantially the same site shall be filed within one year from the date of denial or revocation.

XIV. Approval to Run with the Land

The approved Special Use Permit shall be signed by the ~~approving official~~ Chairman of the Zoning Commission and recorded with the Clerk of Court ~~of the Parish in the conveyance records of St. Tammany Parish.~~ ~~A~~ The Special Use Permit approved ~~at~~ pursuant to the Review Procedure established ~~herein~~ ~~se provisions~~ shall run with the land and shall continue to be valid until such time as the Land Use for which the Special Use Permit was granted is proposed to be changed for any reason or upon lapse of time as provided in Section XII hereof. ~~upon a change of ownership of the site or structure which was the subject of the application, subject to the lapse of approval provisions regarding lapse of approval provided herein.~~ Cost of recordation shall be borne by the applicant.

XX. Amendment of Review Procedure

The Review Procedure established herein may not be amended except by the mutual consent of the City, Port Marigny, LLC and Pittman Assets, LLC. The Development Agreement may only be amended as therein provided.

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