

1 THE FOLLOWING ORDINANCE WAS MOVED FOR INTRODUCTION BY
2 COUNCIL MEMBER _____; SECONDED FOR INTRODUCTION
3 BY COUNCIL MEMBER _____; MOVED FOR ADOPTION BY
4 COUNCIL MEMBER _____; AND SECONDED FOR ADOPTION
5 BY COUNCIL MEMBER _____.

6
7 **ORDINANCE NO. 15-17**

8 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
9 MANDEVILLE WITH RESPECT TO ARPENT LOTS 14, 15, 16, 17,
10 18, 20, 21, A PORTION OF ARPENT LOT 19, (NOT INCLUDING
11 THE SUBDIVIDED LOTS DESIGNATED AS LOTS 1-14,
12 INCLUSIVE, FORMING THE SOUTHWEST CORNER OF KLEBER
13 STREET AND MONROE STREET), PARCELS A AND B, AND A
14 PORTION OF KLEBER STREET, LOCATED IN SECTIONS 46 & 47-
15 T8S-R11E, CITY OF MANDEVILLE, ST. TAMMANY PARISH,
16 LOUISIANA, MORE PARTICULARLY DESCRIBED ON THE PLAT
17 AND SURVEY PREPARED BY KELLY J. MCHUGH &
18 ASSOCIATES, INC., CIVIL ENGINEERS & LAND SURVEYORS,
19 DATED 12/03/13, REVISED THROUGH JUNE 30, 2015, DWG. NO.
20 13-136-BS, CONTAINING 76.648 ACRES (THE "PRESTRESSED
21 CONCRETE SITE"); AMENDING THE OFFICIAL ZONING MAP
22 AND COMPREHENSIVE LAND USE REGULATION ORDINANCE
23 (CLURO) OF THE CITY TO CLASSIFY THE FORMER
24 PRESTRESSED CONCRETE SITE AS A PLANNED COMBINED
25 USE DISTRICT ("PCUD"); APPROVING THE ~~SITE PLAN,~~
26 MASTER PLAN AND GUIDING PRINCIPLES PREPARED BY
27 ARCHITECTS SOUTHWEST, INC., DATED JUNE 25, 2015,
28 ENTITLED "PORT MARIGNY TND" (COLLECTIVELY THE
29 "MASTER PLAN") WHICH SERVES AS THE CONCEPTUAL PLAN
30 FOR THE PORT MARIGNY PLANNED COMBINED USE
31 DISTRICT; APPROVING^[RMS1] THE DEVELOPMENT
32 AGREEMENT; REQUIRING THAT THE MASTER PLAN AND ITS
33 PROVISIONS, TOGETHER WITH THE RESTRICTIVE
34 COVENANTS, BE COVENANTS RUNNING WITH THE LAND;
35 APPROVING THE DEVELOPMENT OF THE PCUD IN
36 ACCORDANCE WITH THE MASTER PLAN AND ACCOMPANYING

1 ***SUBMITTALS; REVOKING CERTAIN CONSTRUCTION,***
2 ***DRAINAGE AND SEWERAGE SERVITUDE(S) AND GRANTING A***
3 ***SERVITUDE OF PASSAGE AND FOR UTILITIES; ~~GRANTING~~***
4 ***~~VARIANCES AS NEEDED TO GIVE FULL EFFECT TO THE~~***
5 ***~~MASTER PLAN~~; ESTABLISHING PROCEDURES FOR***
6 ***ADMINISTERING THE MASTER PLAN; AND PROVIDING FOR***
7 ***OTHER MATTERS IN CONNECTION THEREWITH.***

8 **RECITALS:**

9
10 **WHEREAS**, the Prestressed Concrete Site, as more particularly described on the
11 survey prepared by Kelly J. McHugh & Associates, Inc., Civil Engineers & Land
12 Surveyors, dated 12/03/13, revised through June 30, 2015, Dwg. No. 13-136-BS, ,
13 attached hereto as Exhibit “A” (the “Boundary Survey”), was used as an industrial
14 site to produce concrete components for the construction of the Causeway Bridge
15 and other bridges all over the south until the plant closed in early 1983; and
16

17 **WHEREAS**, Pittman Assets, LLC, is the present owner of the Prestressed
18 Concrete Site (“Owner”), which was originally purchased by its members in July
19 1984; and
20

21 **WHEREAS**, the Prestressed Concrete Site still contains concrete, wood and steel
22 pilings imbedded in the ground to great depths , as well as the remnants of
23 concrete structures and debris that were produced and left on the site by the
24 former owners and operators (“Present Site Conditions”); and
25

26 **WHEREAS**, prior to the adoption of the CLURO, the Prestressed Concrete Site
27 was rezoned from an industrial classification to that of a “Planned District” (see
28 City of Mandeville - Zoning Map, dated November 12, 2013); and
29

30 **WHEREAS**, the Owner of the Prestressed Concrete Site has requested that the
31 property be reclassified as a “Planned Combined Use District” in order to
32 conform to current nomenclature and land use regulations proscribed by the
33 CLURO; and
34

35 **WHEREAS**, the Prestressed Concrete Site has been identified in the City of
36 Mandeville Comprehensive Plan, dated 2007 (“Comprehensive Plan”), as

1 “vacant” property (see Map 11 - Existing Land Use) and has in fact been vacant
2 for many years, except for its use as a temporary storage site for debris following
3 Hurricane Katrina and for the storage of building materials and equipment during
4 various public street and drainage projects; and
5

6 **WHEREAS**, the Comprehensive Plan identifies the Prestressed Concrete Site for
7 future use as a “Planned/Marina District” (see Comprehensive Plan – Map 2); and
8

9 **WHEREAS**, the Comprehensive Plan establishes as a goal of the City the
10 development of the Prestressed Concrete Site as a “vibrant, walkable, mixed-use,
11 waterfront development that provides strong fiscal benefits for the City” (see
12 Comprehensive Plan - Goal 12, page 36); and
13

14 **WHEREAS**, in order to accomplish Goal 12, the Comprehensive Plan
15 incorporates certain policy considerations for the development of the Prestressed
16 Concrete Site, including:

- 17 A. Coordinate with the Owner of the Prestressed Concrete Site to mitigate
18 traffic from the mixed uses within the site without introducing unacceptable
19 levels of congestion into Old Mandeville;
- 20 B. Provide primary access through Mariners Village and Monroe Street
- 21 C. Limit the height of structures along the waterfront to 60 feet and step heights
22 down to 35 feet along the edges of the property;
- 23 D. Encourage street level activity;
- 24 E. Afford public access along the waterfront;
- 25 F. Retain key vistas of the Lake within the development;
- 26 G. Facilitate bike and pedestrian circulation;
- 27 H. Allow low to medium density residential uses along Monroe Street;
- 28 I. Require that the property comply with new urbanist design standards and
29 incorporate local architectural elements; and
- 30 J. Promote the redevelopment of Mariner’s Village in conjunction with the
31 development of the Prestressed Concrete Site; and
32

33 **WHEREAS**, Section 8.5 of the CLURO, entitled “Traditional Neighborhood
34 District”, codifies new urbanism design standards as referenced in the policy
35 considerations for achieving Goal 12 mentioned above; and
36

1 **WHEREAS**, Section 8.2 of the CLURO, entitled “Special Uses Criteria”, more
2 specifically, Subsection 8.2.3.7, entitled “Special Marina Use Criteria” provide
3 for the development and use of a development site as a marina; and
4

5 **WHEREAS**, the City owns a strip of land, approximately 50 feet in width, that
6 runs from Monroe Street to the Lake, lying between the eastern property line of
7 Mariner’s Village and the western boundary line of the Prestressed Concrete Site
8 which presently serves as a primary drainage canal for the City drainage system
9 (the “Drainage Canal”); and
10

11 **WHEREAS**, the Drainage Canal was acquired by the City from Brown and Root,
12 Inc. contemporaneously with the revocation of a portion of Kleber Street, by act
13 dated August 7, 1967, recorded with the Clerk of Court as Instrument # 246757
14 on August 10, 1967; and
15

16 **WHEREAS**, in order for Port Marigny to access Mariner’s Boulevard, as set
17 forth in the Comprehensive Plan, a predial servitude for passage and for utilities is
18 needed at one or more locations across the Drainage Canal; and
19

20 **WHEREAS**, the Master Plan submitted by the Owner, which regulates the
21 development of the Prestressed Concrete Site, includes new urbanist design
22 principles which are in substantial accord with the requirements of the Traditional
23 Neighborhood District and the Special Marina Use Criteria; and
24

25 **WHEREAS**, the Owner has requested that the City approve the development of ~~–~~
26 the Prestressed Concrete Site as a Planned Combined Use District in accordance
27 with the Master Plan to be known as “Port Marigny”; and
28

29 **WHEREAS**, under Article 7, Section 7.5.15.2 of the CLURO, all uses permitted
30 in a Planned Combined Use District are conditional uses which must be approved
31 in accordance with the procedure for obtaining conditional use permits and
32 Planned District Zoning.; and
33

34 **WHEREAS**, the procedure for obtaining conditional use permits and Planned
35 Districts is set forth in Article 4 of the CLURO and is amended herein pursuant to

1 the Development Agreement for the Port Marigny Planned Combined Use
2 District; and

3
4 **WHEREAS**, in conformity with procedure established in Article 4 of the
5 CLURO, the duly authorized representative of the Owner, namely Port Marigny,
6 L.L.C., has submitted an application for approval of the use of the Prestressed
7 Concrete Site in accordance with the Master Plan ~~on a form entitled “City of~~
8 ~~Mandeville Conditional Use Application”~~ and provided pursuant to said
9 application the Boundary Survey, ~~the Site Plan~~, the Master Plan, a Topographic
10 Survey, a ~~proposed conceptual~~ Fill and Drainage Plan, a traffic study, a
11 Development Agreement, and other information and documents required by the
12 City to be submitted in connection with the Owner’s application for conceptual
13 plan for the planned combined use district~~a Conditional Use~~; and

14
15 **WHEREAS**, in connection with the application, the Owner has represented that
16 the Master Plan was developed by Architects Southwest, Inc. and approved by the
17 Owner to substantially comply in all material respects with the new urbanist
18 design standards and principles contained in Section 8.5 of the CLURO ~~and the~~
19 ~~Special Marina Use Criteria contained in Subsection 8.2.3.7~~; and

20
21 **WHEREAS**, the Master Plan substantially fulfills, in all material respects, the
22 policy considerations set out under Goal 12 of the Comprehensive Plan for the
23 development of the Prestressed Concrete Site, excepting those matters for which a
24 variance or special consideration is specifically requested herein, and other
25 matters over which the Owner has no control; and

26
27 WHEREAS, the City has made additional specific requirements for ~~Conditional~~
28 Use and Planned Combined Use District approval of Port Marigny as set forth in a
29 contract between and among the City, Port Marigny and Pittman Assets setting
30 forth certain parameters for the development of Port Marigny as authorized under
31 the provisions of LSA-R.S. 33:4708.21; and

32
33 **WHEREAS**, the City Planner has advised the City Council that the application
34 for ~~Conditional Use and~~ Planned District submitted in connection with the
35 application by Port Marigny, LLC substantially complies with the procedure and
36 requirements set forth in Article 4 of the CLURO; and

1
2 **WHEREAS**, the City of Mandeville Planning Commission, after giving proper notice, -
3 conducted public hearings on the application of Owner for Conditional Use and Planned
4 District approval on July 23, 2015, August 18, 2015; September 1, 2015, September 29,
5 2015, October 14, 2015, October 29, 2015, November 10, 2015 and December 17, 2015
6 and reported its findings and recommendations to the City Council; and
7

8 **WHEREAS**, all applicable procedural requirements for the adoption of this Ordinance
9 have been met;
10

11 **NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of
12 Mandeville, acting as the governing authority thereof, as follows:
13

14 **Section 1.** *Classification of the Prestressed Concrete Site.* That the Official Zoning Map
15 and CLURO be and they are hereby amended to classify Arpent Lots 14, 15, 16, 17, 18,
16 20, 21 and a portion of Arpent Lot 19 (not including the subdivided lots designated as
17 lots 1-14, inclusive, forming the southwest corner of Kleber Street and Monroe Street),
18 Parcels A and B, and the revoked portion of Kleber Street, -located in Sections 46 & 47-
19 T8S-R11E, City of Mandeville, St. Tammany Parish, Louisiana, more particularly
20 described on the Boundary Survey prepared by Kelly J. McHugh & Associates, Inc.,
21 Civil Engineers & Land Surveyors, dated 12/03/13, revised through June 30, 2015, Dwg.
22 No. 13-136- BS, containing 76.648 acres, attached hereto as Exhibit “A” and in the
23 *process verbal* -attached hereto as Exhibit “B, as a “Planned Combined Use District”,
24 subject to the land use regulations contained in the CLURO. (Hereinafter, the property
25 described in this Section 1 shall be referred to as the “Port Marigny PCUD”.)
26

27 **Section 2.** *Approval of ~~Conditional-Certain~~ Uses.* That the uses identified on the ~~Site-~~
28 ~~Plan, and in the~~ Master Plan and Guiding Principles, prepared by Architects Southwest,
29 Inc., dated June 25, 2015, [update] entitled “Port Marigny TND”, including the
30 regulations and restrictions set forth therein, which were submitted in connection with the
31 application of Owner for a ~~Conditional-Use and~~ Planned District permit, as same were
32 supplemented and amended during the course of the public hearings conducted by the
33 Planning Commission, be and the same are hereby approved as uses, regulations and
34 restrictions applicable to and within the Port Marigny PCUD, subject to such other terms
35 and conditions as may be set forth in this Ordinance. (Hereinafter, the uses, regulations
36 and restrictions approved in this Section 2 shall be referred to as the “Port Marigny Use

Regulations and Covenants”). Specifically, by approving the Master Plan for the Port Marigny PCUD, the City agrees that the categories of land uses and the number of units allowed in connection with the Port Marigny PCUD are as follows:

<u>Land Use</u>	<u>Units</u>
<u>Marina Boat Slips</u>	<u>117</u>
<u>Residential Uses:</u>	
<u>Single Family Detached, including the following Building Types: Cottage Houses, Neighborhood Houses, and Large Neighborhood Houses</u>	<u>162</u>
<u>Apartments, including the following Building Types: Mixed Use and Attached Residential</u>	<u>204</u>
<u>Mansion Condominiums (1 Building at 4 Units per Building)</u>	<u>4</u>
<u>Townhouses</u>	<u>52</u>
<u>Sub-total:</u>	<u>422</u>
<u>Commercial Uses:</u>	
<u>Hotel</u>	<u>120 rooms</u>
<u>High Turnover Restaurant (As defined in the ITE but excluding restaurants with drive-through service)</u>	<u>4,000 sf</u>
<u>Quality Restaurant (As defined in the ITE)</u>	<u>7,000 sf</u>
<u>Other Retail/Commercial, including the space below Apartments in Mixed Use buildings</u>	<u>60,000 sf</u>
<u>[Update the following acreages to reflect final plan]</u>	
<u>Civic Uses</u>	<u>1.7 Acres per Master Plan</u>
<u>Parks and Open Spaces</u>	
<u>Green Open Space</u>	<u>10.1 Acres per Master Plan</u>
<u>Water Opens Space</u>	<u>5.9 Acres per Master Plan</u>
<u>Wetlands to Preserve</u>	<u>1.1 Acres per Master Plan</u>

Each of the Building Types listed above (except Parks and Open Spaces) reflects the maximum number of residential units or square footage, and is listed in the Urban Regulation Instructions included in the Master Plan and are more particularly defined in the list of Definitions shown in the Master Plan. The Definitions in the CLURO shall control in the event of a conflict with the definitions in the Master Plan, except that the definitions of “Alley Zone” and “Porch” as shown in the Master Plan shall have application in all proceedings for approval of the Subdivision and in connection with the issuance of construction/building permits for structures erected in the Subdivision. The arrangement of lots and uses as are depicted in the Master Plan may be modified during

1 the subdivision and conditional use approval processes, and shall be subject to the use
2 regulations proscribed in the CLURO, including, but not limited to instance traffic and
3 parking considerations.

4
5 **Section 3.** *Approval of Development Concept.* That the development of Port Marigny
6 PUCDPCUD in accordance with the Port Marigny Use Regulations and
7 CovenantsCovenants, and the preliminary Tentative Plan of Subdivision, dated July 30,
8 2015, prepared by Kelly J. McHugh & Associates, Civil Engineers & Land Surveyors,
9 submitted September 29, 2015 (Exhibit 11) as a supplement to the original application,
10 as modified on December , 2015 and subsequently modified through the Master Plan
11 approval process to accommodate the realignment of proposed street, be and the same is-
12 are hereby approved-

13
14 **Section 4.** *Subsequent Approvals Required.* ~~The issuance of permits for the construction~~
15 ~~of Port Marigny is reserved until such time as Port Marigny, or a phase thereof, is~~
16 ~~approved as a subdivision in accordance with the provisions of Article 11 of the CLURO,~~
17 ~~entitled "Subdivisions and Public Improvements Regulations of the City of Mandeville"~~
18 ~~and upon fulfillment of all of the terms and conditions of the Development Agreement.~~
19 All Land Uses designated Mansion Condo, Cottage House, Townhouse, Neighborhood
20 House and Large Neighborhood House on the Lot Type Plan on page 24 of the Master
21 Plan, are permitted uses requiring subdivision review and approval by the City Planning
22 & Zoning Commission in accordance with Division III of the CLURO without further
23 proceedings before the City Council. All other Land Uses, including attached residential
24 units allowed as attached residential and mixed-use on the Density Plan on page 23 of the
25 Master Plan commercial, mixed-use and marina development shall be subject to
26 subdivision review and approval in accordance with Division III of the CLURO, as well
27 as conditional use permit review and approval in accordance with the provisions of this
28 agreement. Marina development shall comply with the special Marina Use Criteria of
29 Section 8.2.3.7 Special Use Criteria except that no residential occupancy of boats or other
30 residential uses shall be established within areas designated for marina use and no on-site
31 provisions shall be made for dry boat storage or major boat repairs shall be authorized.

32
33 Conditional use permit review and approval, where required shall comply with the
34 following provisions:

1 (a) Purpose. The purpose of this procedure is to provide for review and discretionary
2 approval of uses or development sites typically having unusual site development
3 features or unique operating characteristics requiring special consideration so that
4 they may be located, designed, and operated compatibly with uses on surrounding
5 properties and within the City at large. The conditional use permit procedure is
6 intended to encourage broad public review and evaluation of site development
7 features and operating characteristics, and to ensure adequate mitigation of
8 potentially unfavorable impacts.

9 (b) Jurisdiction. The Planning Director shall be responsible for administration of the
10 conditional use permit procedure, and the Planning Commission and City Council
11 shall be responsible for review, evaluation, and action on all applications for a
12 conditional use permit.

13 (c) Application. Applications for conditional use permit approvals shall be filed with
14 the Planning Director. The application shall include the following:

- 15 1 Name and address of the owner and applicant and sworn affidavit of
16 ownership.
- 17 2 Address, legal description and boundary survey of the property, including
18 any existing structures.
- 19 3 If the applicant is not the legal owner of the property, a sworn statement
20 by the owner that the applicant is the authorized agent of the owner of the
21 property.
- 22 4 A statement describing the nature and operating characteristics of the
23 proposed use, including any data pertinent to the findings required for
24 approval of the application. For uses involving public assembly, or uses
25 potentially generating high volumes of vehicular traffic, the Planning
26 Director may require specific information relative to the anticipated peak
27 loads and peak use periods, or substantiating the adequacy of proposed
28 parking, loading, and circulation facilities.
- 29 5 A site plan and the number of copies required by the Zoning
30 Commission's Rules of Procedure a minimum of 8.5" x 11" inches and a
31 maximum of 24" x 36" inches, drawn to scale and sufficiently
32 dimensioned as required to show the following:

- 1 a. The date, scale, north point, title, name of owner, and name of person
2 preparing the site plan.
- 3 b. The location and dimensions of boundary lines, with distances and
4 bearings, easements, and required yards and setbacks, water courses,
5 drainage features and location and size of existing and proposed
6 streets and alleys, 100-year floodplains, as well as areas of periodic
7 inundation.
- 8 c. The location, height, bulk, percent of impervious site surface, general
9 appearance, and intended use of existing and proposed buildings on
10 the site, and the approximate location of existing buildings and their
11 existing uses on abutting sites within fifty (50) feet.
- 12 d. The location and dimensions of existing and proposed site
13 improvements including parking and loading areas, pedestrian and
14 vehicular access, landscaped areas, utility or service areas, fencing
15 and screening, signs, and lighting.
- 16 e. The center line of existing water course, drainage features and
17 location and size of existing and proposed streets and alleys, the 100-
18 year floodplain, and any areas of periodic inundation.
- 19 f. A conceptual landscape plan showing the location and size of the
20 existing and proposed landscaped areas and the number and location
21 of Class A and B trees proposed or required to be preserved.
- 22 g. The number of existing and proposed off-street parking and loading
23 spaces, and a calculation of applicable minimum requirements.
- 24 h. A conceptual drainage plan showing existing and proposed
25 topography and grading and proposed subsurface drainage structures
26 and retention and water quality enhancement facilities.
- 27 i. The relationship of the site and the proposed use to surrounding uses,
28 including pedestrian and vehicular circulation, current use of nearby
29 parcels, and any proposed off-site improvements to be made.
- 30 j. The number of dwelling units, lot areas and density of dwelling units
31 of any residential areas and the lot sizes and locations of any other
32 uses within the Planned Development.

1 k. The locations and the non-residential floor area of all non-residential
2 and mixed-use buildings

3 l. Areas proposed to be conveyed, dedicated or reserved for parks,
4 parkways, playgrounds, school sites, public buildings and similar
5 public and semipublic uses.

6 m. A plan for the location of all public utilities.

7 n. A copy of all agreements, provisions or covenants which are
8 proposed to govern the use, maintenance and continued protection of
9 the development and any of its common open space.

10 o. A representation of the general use and character of land adjacent to
11 the proposed development area within two hundred (200) feet.

12 p. A landscape plan along the boundary of a Planned Development to a
13 depth of one hundred (100) horizontal feet. However, exact building
14 locations need not be dimensioned on the site plan for a Planned
15 Development so long as all areas within which buildings may be
16 constructed or maintained are specifically delineated by building
17 setback lines.

18 (d) Fees for Conditional Use Permit Requests – The fees for conditional use
19 permit application shall be \$400 plus \$10 for every acre in excess of 10 acres
20 within each application.

21 (e) Report of the Planning Director. The Planning Director shall review the
22 application or proposal and shall prepare a report thereon which shall be filed
23 with the Planning Commission and available to the applicant at least five (5)
24 days prior to the public hearing.

25 (f) Public Hearing and Notice. The Planning Commission shall hold a public
26 hearing on each application for a conditional use permit. Public notice shall be
27 given as required for zoning amendments. At the public hearing, the
28 Commission shall review the application and shall receive pertinent evidence
29 concerning the proposed use and the proposed conditions under which it would
30 be operated or maintained, with respect to the findings prescribed herein.

31 (g) Action by the Planning Commission. The Planning Commission shall act on
32 the application not more than twenty (20) days following the closing of the
33 public hearing on a conditional use permit application. The Commission may

1 recommend to grant a conditional use permit as applied for or in a modified
2 form or subject to conditions, or may recommend denial of the application to
3 the City Council. The Commission shall notify the applicant of its
4 recommendation by mail.

5 (h) **Review and Evaluation Criteria.** The Planning Director, the Planning
6 Commission and the City Council shall review and evaluate and make the
7 following findings before granting a Conditional Use Permit or Planned District
8 zoning using the following criteria:

- 9 1. Uses specified in this Development Agreement and arranged in
10 conformance with the Urban Regulating Standards of the Master Plan
11 shall be considered internally and externally compatible and consistent
12 with the Comprehensive Plan and CLURO;
- 13 2. Densities, intensities and maximum numbers of units of uses that comply
14 with the provisions of this Development Agreement and the urban
15 Regulating Standards of the Master Plan shall be considered consistent
16 with the Comprehensive Plan and CLURO;
- 17 3. Setbacks and heights of buildings that are located and arranged in
18 substantial conformance with the Urban Regulating Standards of the
19 Master Plan shall be considered to comply with the standards of the
20 CLURO and to be consistent with the Comprehensive Plan.
- 21 4. Comparison with applicable regulations and standards established by the
22 Comprehensive Land Use Regulations applicable to the proposed use and
23 site.
- 24 5. Compatibility with existing or permitted uses on abutting sites, in terms of
25 parking open spaces, landscaping, site development, and access and
26 circulation features.
- 27 6. Modifications to the site plan which would result in increased
28 compatibility, or would mitigate potentially unfavorable impacts, or would
29 be necessary to conform to applicable regulations and standards and to
30 protect the public health, safety, morals, and general welfare.
- 31 7. Safety and convenience of vehicular and pedestrian circulation in the
32 vicinity, including traffic reasonably expected to be generated by the

1 proposed use and other uses reasonable and anticipated in the area
2 considering existing zoning and land uses in the area.

3 8. Protection of persons and property from erosion, flood or water damage,
4 fire, noise, glare, and similar hazards or impacts.

5 9. Location, lighting, and type of signs; and relation of signs to traffic control
6 and adverse effect on adjacent properties.

7 10. Adequacy and convenience of proposed parking and loading facilities and
8 protection of adjacent property from glare of site lighting.

9 11. Conformity with the objectives of these regulations and the purposes of
10 the zone in which the site is located.

11 12. Compatibility of the proposed use and site development, together with any
12 modifications applicable thereto, with existing or permitted uses in the
13 vicinity.

14 13. That any conditions applicable to approval are the minimum necessary to
15 minimize potentially unfavorable impacts on nearby uses and to ensure
16 compatibility of the proposed use with existing or permitted uses in the
17 same district and the surrounding area.

18 14. That the proposed use, together with the conditions applicable thereto, will
19 not be detrimental to the public health, safety, or welfare, or community
20 aesthetics, or materially injurious to properties or improvements in the
21 vicinity.

22 (i) **Conditions of Approval.** The Planning Commission may recommend and the
23 City Council may establish conditions of approval. Conditions may include, but
24 shall not be limited to, requirements for open spaces, buffers, fences, walls, and
25 screening; requirements for installation and maintenance of landscaping and
26 erosion control measures; requirements for street improvements and
27 dedications, regulation of vehicular ingress and egress, and traffic circulation;
28 regulation of signs; regulation of hours or other characteristics of operation;
29 requirements for maintenance of landscaping and other improvements;
30 establishment of development schedules or time limits for performance or
31 completion; and such other conditions as the Commission or City Council may
32 deem necessary to insure compatibility with surrounding uses to preserve the

1 public health, safety, and welfare, and to enable the Commission to make the
2 findings required by the preceding Section.

3 (j) **Planning Commission Recommendations to the City Council.** The
4 recommendations of the Planning Commission shall be forwarded to the City
5 Council within 10 days after the date on which action is announced.

6 (k) **Enactment by Ordinance.** The decision of the Planning Commission on an
7 application for a conditional use permit shall be forwarded to the City Council
8 as a recommendation to grant or deny after the Planning Commission holds a
9 public hearing thereon. The City Council shall hold a public hearing on said
10 application. Notice of the public hearings before the Planning Commission and
11 City Council shall be given in the same manner as the notice required for zoning
12 amendments. In the event the decision of the Planning Commission on the
13 application for a conditional use permit is adverse thereto, such ordinance
14 approving the conditional use permit shall not be passed except by an
15 affirmative vote of a four-fifths (4/5) majority of the members of the City
16 Council.

17 (l) **Lapse of Conditional Use Permit.**

18 1. For the purposes of this subsection, a conditional use permit shall be
19 deemed to have been granted upon the final affirmative action on the
20 matter by the City Council, notwithstanding the fact that the effectiveness
21 of the Conditional Use Permit for any other purposes may have been
22 stayed due to the necessity of meeting conditions lawfully placed on the
23 granting of the Conditional Use Permit.

24 2. Except as otherwise stated in these regulations, authority to issue
25 construction or occupancy permits pursuant to an approved conditional
26 use permit shall expire two years following City Council approval unless
27 during the two-year period, a construction permit is obtained. If a
28 construction permit is obtained, the conditional use permit shall continue
29 in force and effect until (1) two year following the issuance of such
30 construction permit, or (2) two years following the issuance of a certificate
31 of occupancy, whichever is later, providing that construction is not
32 stopped for a period of six months or more. If construction is stopped, the
33 conditional use permit shall expire (1) at the end of such six-month period,

1 or (2) two years following the issuance of such construction permit,
2 whichever is later.

3 3. Where more than one building permit is covered by a conditional use
4 permit and when the certificate of occupancy has been obtained on the last
5 building as set forth above (or when the time has been extended as set
6 forth below), the developer shall have an additional two years during
7 which to secure a second construction permit and so on until the project is
8 completed. Otherwise, the conditional use permit shall expire as set forth
9 in these regulations.

10 4. Construction permits obtained more than five years following the
11 conditional use approval date shall comply with the rules, regulations and
12 ordinances that have become effective since the approval date of the
13 conditional use permit. For the purposes of this subsection, a conditional
14 use permit shall be deemed approved upon the affirmative action of the
15 City Council, notwithstanding the necessity of meeting conditions
16 lawfully placed on the Conditional Use Permit approval.

17 5. The City Council may, upon application of the developer, grant a one-year
18 extension to any two-year time period during which a construction permit
19 or certificate of occupancy may be issued when one or more of the
20 following conditions have been met:

21 a. Construction permits have been issued, materials have been acquired
22 and the foundation of at least one building has been placed on the site.

23 b. Where no construction is required, an occupancy permit has been
24 issued and actual operation of the use has begun.

25 c. The developer has made application to the City Council stating
26 reasons, prior to the expiration date of the Conditional Use Permit.

27 6. The Building Official shall report to the City Council the actual
28 development accomplished as it relates to the approved conditional use
29 permit. The Council, before acting, shall hold a public hearing on the
30 application.

31 7. After the authority for the issuance of construction permits or certificates
32 of occupancy has expired by default pursuant to an approved conditional
33 use permit, no construction permit or certificate of occupancy shall be

1 issued except under a conditional use permit approved upon a new
2 application.

3 m. **Modification of Conditional Use Permit.** An application for modification,
4 expansion, or other change in a conditional use permit approved shall be in
5 accordance with the procedures this Agreement, provided that minor revisions
6 or modifications may be approved by the Planning Director upon determination
7 that the circumstances or conditions applicable at the time of original approval
8 remain valid, and that changes would not affect the findings prescribed in the
9 Development Agreement.

10 n. **Suspension and Revocation.** Upon violation of any applicable provision of this
11 Section, or, if granted subject to conditions, upon failure to comply with
12 conditions, a conditional use permit may be suspended upon notification by the
13 City Clerk to the owner of the use or property subject to a conditional use
14 permit. The City Council shall hold a public hearing within forty (40) days of
15 such notification, and upon a finding that the regulation, general provision, or
16 condition may be necessary to ensure compliance with the regulation, general
17 provision, or condition. The decision of the Council to revoke a conditional use
18 permit shall be effective immediately.

19 o. **Approval to Run with the Land.** The ordinance approving the Conditional
20 Use and the plans approved in conjunction with the ordinance shall be recorded
21 with the Clerk of Court in the Parish courthouse. A conditional use permit
22 granted pursuant to these provisions shall run with the land and shall continue to
23 be valid upon a change of ownership of the site or structure which was the
24 subject of the Conditional Use Permit application subject to the provisions
25 regarding expiration of approval. Cost for recordation shall be born by the
26 applicant.

27
28 **Section 45.** *Ratification of Street Revocation and Revocation of Sewerage Line Servitude.*

29 By Ordinance enacted by the Town Council of the Town of Mandeville on August 8,
30 1967 and signed by then Mayor Paul Cordes that same date, a portion of Kleber Street as
31 depicted on the Boundary Survey, commencing at a point 730 feet from its intersection
32 with the southern right of way line of Monroe Street to its southern terminus near Lake
33 Pontchartrain, was revoked, reserving to the City a 20 foot servitude for a sewerage line
34 which was never constructed, has never been used, and is no longer needed for public

1 purposes. Accordingly, the revocation of Kleber Street commencing at a point 730 feet
2 from its intersection with the southern right of way line of Monroe Street to its southern
3 terminus near Lake Pontchartrain, as shown on the Boundary Survey, be and the same is
4 hereby ratified and affirmed; and, the sewerage line servitude that had been reserved to
5 the City of Mandeville, pursuant to the August 8, 1967 Ordinance over that revoked
6 portion of Kleber Street, as hereinbefore recited and as shown on the Boundary Survey, is
7 declared no longer needed for public purposes, and it is hereby revoked. The form of the
8 Act of Ratification of Revocation and Revocation of Sewer Servitude, attached hereto as
9 Exhibit “C”, [RMS2] is hereby authorized and approved.

10
11 **Section 56.** *Revocation of Temporary Construction Servitude.* By Act entitled “Grant and
12 Dedication of Temporary Construction Servitude”, dated October 2, 1990, recorded at
13 COB 1440, folio 106, CIN 764376 of the official records of St. Tammany Parish,
14 Louisiana, the Owner’s ancestor in title granted a temporary construction servitude over a
15 twenty foot strip of land located ten feet on either side of a center line running from
16 Kleber Street westerly to the City’s 50 foot drainage canal, all as more particularly
17 described in said Act, and as shown on the March, 1990 map by Dyer & Moody #32-163-
18 110-51 referenced in said Act, for the construction of subsurface drainage improvements,
19 which temporary construction servitude was never used and which subsurface drainage
20 improvements were never constructed. Accordingly, the temporary construction servitude
21 granted to the City over that portion of the Prestressed Concrete Site more particularly
22 described in the Act and shown on the Boundary Survey, and any and all servitudes,
23 rights and obligations granted or contained in said Act, are declared no longer needed for
24 public purposes, and it is hereby revoked. The form of the Act of Revocation of
25 Temporary Construction Servitude, attached hereto as Exhibit “D”, [RMS3] is hereby
26 authorized and approved.

27
28 **Section 67.** *Approval of Fill and Grading Plan.* Present Site Conditions are unusual and
29 create practical difficulties and a hardship for the Owner to implement the development
30 of the Prestressed Concrete Site, such that strict application of the City’s rules and
31 regulations with respect to the placement and grading of fill on the ~~Prestressed Concrete~~
32 ~~Site~~ Port Marigny PCUD are hereby ~~waived and~~ modified to the extent required to permit
33 fill and grading of the Prestressed Concrete Site in accordance with the ~~Fill and~~
34 ~~conceptual~~ Grading Plan (Cut + Fill) prepared by Kelly J. McHugh, dated ~~June~~
35 ~~30~~ September 25, 2015, Dwg. No. 13-136 ~~-FPGP~~, attached hereto as Exhibit “E-1”. Prior

1 to grading the site, the Developer shall submit and the City Engineer shall approve a
2 detailed grading plan.

3
4 **Section 78.** *Grant of Servitude for Passage and Utilities.* City acknowledges that the
5 Comprehensive Plan contemplates primary access to and from Port Marigny will be
6 through the existing Mariners Boulevard and Monroe Street; and that, in order for the
7 Port Marigny street system and public utilities to connect with Mariners Boulevard
8 permission from the City to cross the Drainage Canal and construct improvements is
9 needed. Accordingly, a non-exclusive servitude for passage and for the construction of
10 utilities be the same is hereby granted to Owner over and across the Drainage Canal at the
11 location shown on the Site-Master Plan and at such other locations for vehicular, bicycle
12 and pedestrian traffic, and utilities, all as more specifically set forth in the act entitled
13 "Act Granting Non-Exclusive Servitude of Passage and for Utilities", a copy of which is
14 attached hereto and made part hereof as Exhibit "F". [RMS4]

15
16 **Section 89.** *Rules, Restrictions and Covenants for Governance of Port Marigny.* The
17 rules, restrictions and covenants for the governance of the Port Marigny development,
18 which are in addition to the Port Marigny Use Regulations and Covenants, shall be
19 substantially in accordance with the attached Exhibit "G", [RMS5], as modified by the
20 Revised CC&Rs with compendium of Definitions, submitted September 29, 2015 as
21 Exhibit "G-1", but subject to further modification as Port Marigny applies for and
22 proceeds through the City's subdivision approval process (the "Restrictive Covenants")
23 and conditional use permit process as applicable.

24
25 **Section 910.** *Use of Leased Property.*

26 The State of Louisiana, first through the Department, of Natural Resources (1986) and later
27 through the Division of Administration (1992), granted the City of Mandeville the non-
28 exclusive right to use a portion of State owned land (the "State Leased Property"). The
29 City's non-exclusive rights with respect to the use of the State Leased Property are more
30 particularly set forth in the act of lease between the City and State, which is recorded in the
31 official records of St. Tammany Parish, Louisiana, at COB 1516, folio 832, CIN 826372,
32 attached hereto as Exhibit "H" (the "State Lease").

33
34 The State Leased Property is generally located south of the Prestressed Concrete Site, and
35 includes "Sunset Point". A portion of the State Leased Property, namely Parcels A and B
36 described on the Boundary Survey, is adjacent to the property owned by Pittman Assets,

1 whose title to the property was recognized by the State of Louisiana ~~was acquired by the~~
2 ~~Owner's ancestor in title from the State of Louisiana pursuant to an~~ by act entitled
3 "Boundary Agreement and Recognition of Title", dated December 15, 1998, recorded in
4 the official records of St. Tammany Parish, Louisiana, as Instrument No. 1159770, and ~~an~~
5 by act entitled "*Proces Verbal* of Agreement of Settlement", dated December 15, 1998,
6 recorded as Instrument No. 1159774 in the official records of St. Tammany Parish,
7 Louisiana.

8
9 ~~The~~ Since the commencement of the State Lease, the City has not used or improved that
10 portion of the State Leased Property that is owned by Pittman Assets described on the
11 Boundary Survey as Parcels A and B. However, Owner's proposed use of Parcels A and
12 B, as described in the Port Marigny Use Regulations and Covenants, are hereby determined
13 to be consistent with, and in furtherance of, the uses of such property envisioned by the
14 City, as set forth in the City's Comprehensive Plan.

15
16 Accordingly, the City hereby consents to modifying and amending the State Lease in two
17 particulars: (a) to change the purpose of the State Lease from construction of a landfill on
18 State lands (but not water bottoms) to construction of and use of State lands (but not water
19 bottoms) as a public park; and (b) to ~~the~~ revise the description of the State Leased Land as
20 described in the State Lease, subject to concurrence and approval by the State, to eliminate
21 Parcels A and B (as shown on the Boundary Survey), while reserving the City's use rights
22 with respect to the remaining ~~State Leased Property~~ State owned land subject to the State
23 Lease, as amended and modified, all subject to concurrence and approval by the State. The
24 State land that will remain subject to the State Lease with the City shall include, ~~including~~
25 the isolated parcel lying south of and contiguous to Parcel B (herein designated as the "Park
26 Area") and Sunset Point. Owner has offered and agreed to afford public access to the Park
27 Area through the Port Marigny street system, to improve the Park Area in conformity with
28 the Master Plan, and to maintain the Park Area, in accordance with the terms and conditions
29 of a Cooperative Endeavor Agreement.

30
31 **BE IT FURTHER ORDAINED**, that the City consents to the following: (a)
32 amending the State Lease, more particularly to change the purpose for the State Lease
33 and to modify the description of the State Leased Land to ~~eliminate that~~ that portion of the
34 property described in the State Lease that is owned ~~property acquired by the Owner's~~
35 ~~ancestor in title~~ by Pittman Assets pursuant to the Boundary Agreement and Recognition
36 of Title, substantially in accordance with the terms and conditions of the "Amendment to

1 Lease “, a copy of which is attached hereto and made part hereof as Exhibit “I”; [RMS6](b)
2 executing a Cooperative Endeavor Agreement with Port Marigny, LLC, subject to
3 approval by the State, for the use, development and maintenance of the Park Area in
4 substantially the form of the attached Exhibit “J”; [RMS7](c) including in the Cooperative
5 Endeavor Agreement a covenant prohibiting the construction of any improvements on
6 Sunset Point above the height of the buildings and structures presently constructed on
7 Sunset Point or on other State Leased Property, in any way unreasonably obstructing the
8 vistas of/from Port Marigny PCUD, and constructing or installing any improvements or
9 devices, other than aids in navigation, in the main navigational channel and other
10 channels serving as access to Port Marigny from Lake Pontchartrain.

11
12 Section [RMS8] 101. Approval of Development Agreement. In order to assure the orderly
13 development of Port Marigny and to assure that the City’s infrastructure is adequate to
14 accommodate the uses in Port Marigny set forth in the approved Master Plan and
15 documents supplemental thereto, as such uses are planned accordance with the City’s
16 conditional use permit and subdivision procedures and constructed in accordance with the
17 City’s permitting processes, the City, Pittman Assets and Port Marigny have agreed to
18 enter into a development agreement as permitted by LSA-R.S. 33:4780.21 et seq.
19 contemporaneously with the adoption of this Ordinance.

20
21 BE IT FURTHER ORDAINED, that pursuant to the provisions of LSA-R.S.
22 33:4780.29 a development agreement in the form and substance of the Development
23 Agreement, attached hereto as Exhibit “K”, is hereby approved. Said Development
24 Agreement may only be amended or cancelled in accordance with the provisions of LSA-
25 R.S. 33:4780.30.

26
27 Section 142. Authority to Execute and Sign Agreements, Recording of Same.

28
29 **BE IT FURTHER ORDAINED**, that the Mayor be and he is hereby authorized,
30 empowered and directed for and on behalf of the City to execute the aforescribed Act
31 of Ratification of Revocation and Revocation of Sewer Servitude (Exhibit “C”), the Act
32 of Revocation of Temporary Construction Servitude (Exhibit “D”), the Grant of
33 Servitude for Passage and Utilities (Exhibit “F”), Amendment to Lease (Exhibits “I”),
34 ~~and~~ the Cooperative Endeavor Agreement (Exhibit “J”), and the Development Agreement
35 (Exhibit “K”), together with any other documents, containing such other terms and

1 conditions, necessary or required, to give effect to the matters addressed in this
2 Ordinance.

3
4 **BE IT FURTHER ORDAINED**, that the Clerk of Council be and she is hereby
5 authorized, empowered and directed to record this Ordinance, the Boundary Survey and
6 *proces verbal* of the Port Marigny property, the Port Marigny Site Plan and Master Plan,
7 the Port Marigny Restrictive Covenants (when finalized), the Act of Ratification of
8 Revocation and Revocation of Sewer Servitude, the Act of Revocation of Temporary
9 Construction Servitude, the Grant of Servitude of Passage and Utilities, the Amendment
10 to Lease, ~~and~~ the Cooperative Endeavor Agreement, and the Development Agreement, in
11 the conveyance records of the Clerk of Court for St. Tammany Parish, Louisiana, as
12 covenants running with the land comprising the Port Marigny PCUD, to be modified,
13 expanded or changed only in accordance with the procedure proscribed in Section
14 4.3.3.13 and Section 8.3.1.3.c. of the CLURO.

15
16 The ordinance having been submitted to a vote, the vote thereon was as follows:

17 AYES:

18 NAY:

19 ABSTENTIONS:

20 ABSENT:

21 and the Ordinance was declared adopted this __ day of _____, 2015.

22
23
24 _____
25
26 Clerk of Council

Mayor Pro-Tem

27
28 **SUBMITTAL TO MAYOR**

29 The foregoing Ordinance was **SUBMITTED** by me to the Mayor of the City
30 of Mandeville this __ day of _____, 2015 at 9:00 o'clock a.m.

31
32 _____
CLERK OF COUNCIL

33
34 **APPROVAL OF ORDINANCE**

35 The foregoing Ordinance is by me hereby **APPROVED**, this __ day of _____,
36 2015 at __ o'clock __.m.

37 _____

1 **DONALD J. VILLERE, MAYOR**

2 **VETO OF ORDINANCE**

3 The foregoing Ordinance is by me hereby **VETOED**, this ____ day of
4 _____, 2015, at ____ o'clock __.m.

5 _____
6 **DONALD J. VILLERE, MAYOR**
7

8
9 **RECEIPT FROM MAYOR**

10 The foregoing Ordinance was **RECEIVED** by me from the Mayor of the City of
11 Mandeville this ____ day of _____, 2015 at ____ o'clock __.m.

12 _____
13 **CLERK OF COUNCIL**
14

15
16 **CERTIFICATE**

17
18 **I, THE UNDERSIGNED** Clerk of the City Council of the City of Mandeville do
19 hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the
20 City Council of the City of Mandeville at a duly noticed, called and convened meeting of
21 said City Council held on the __ day of _____, 2015 at which a quorum was present and
22 voting. I do further certify that said Ordinance has not thereafter been altered, amended,
23 rescinded, or repealed.

24 **WITNESS MY HAND** and the seal of the City of Mandeville this __ day of
25 _____,
26 2015.
27

28 _____
29 **CLERK OF COUNCIL**
30
31
32
33
34
35