ORDINANCE NUMBER 2005-66

AN ORDINANCE OF FRANKLIN COUNTY, FLORIDA, PROVIDING FOR INTERIM DEVELOPMENT CONTROLS AFFECTING CERTAIN DEVELOPMENT APPLICATIONS FOR HOTEL/MOTEL DEVELOPMENTS IN FRANKLIN COUNTY, FLORIDA; PROVIDING FOR EXCEPTIONS; PROVIDING FOR PROCEDURES TO SEEK EXCEPTIONS; PROVIDING FOR EXPIRATION AND EXTENSIONS OF SUCH INTERIM DEVELOPMENT CONTROLS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 19, 2005, August 2, 2005 and August 30, 2005, September 20, 2005 and October 18, 2005 at public meetings, Franklin County discussed imposing additional development standards to the April 2005 ordinance defining hotels/motels in Franklin County, Florida; and

WHEREAS, on August 2, 2005, Franklin County approved 192 hotel/motel units, and

WHEREAS, subsequent to August 2, 2005, the Planning and Zoning Board of Franklin County, ("P&Z"), at the direction of the Franklin County Board of County Commissioners, (the "Board") held further discussions in order to formulate a plan, and made a recommendation, for additional development standards of hotel/motel development; and

WHEREAS, the Board desires to continue the planning process and ultimately implement any necessary amendments to the hotel/motel which will further the Board's planning and development goals for Franklin County; and

WHEREAS, Franklin County Administration staff has continued the planning process for hotel/motels and has begun to review and develop proposed revisions to the land development regulations in the County Code and to review the need for any amendments to the Comprehensive Plan in order to accomplish the policies and plans of the Board for hotels/motels; and

WHEREAS, the Board has a responsibility and desire to ensure that growth and development within Franklin County occurs in as orderly a manner as possible; and

WHEREAS, the Board directed Franklin County staff and the Franklin County Attorney's office to draft and develop interim development controls for hotels/motels in order to protect the planning process and consider the development of appropriate Comprehensive Plan amendments and land development regulations; and

WHEREAS, the Board finds that it is essential to protect and preserve the public health, welfare and safety of the County and is citizenry, that it is in the County's best interests, and that it is consistent with the Comprehensive Plan for the County to adopt interim development controls in Franklin County for hotels/motels in order to protect the ultimate plan and policies to be developed, to ensure that growth and change during the period of planning and development of any Comprehensive Plan amendments and land development regulations do not foreclose options available to Franklin County for directing that rational development and growth in Franklin County occurs, to prevent non-conforming uses and developments from abrogating any Comprehensive Plan provisions and land development regulations ultimately adopted to govern development in Franklin County, and to allow for ample time for public discussion of planning for hotels/motels in Franklin County and any Comprehensive Plan amendments and land development regulations proposed prior to and during their preparation, adoption and implementation; and

WHEREAS, specific authority for the Board to adopt this ordinance includes, but is not limited to, Article VIII, Florida Constitution of 1968, Section 125.01(h), Section 125.01(t) and Section 125.01(w), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Franklin County, Florida, that:

Section 1. Findings. The Board adopts the foregoing findings.

Section 2. Purpose.

A. The purpose of this Ordinance is to enable Franklin County sufficient time to review, study, hold public workshops, public meetings and public hearings, and prepare and consider adopting an amendment or amendments to the Comprehensive Plan and County Code, including the land development regulations in the County Code, related to permitted uses, special exceptions, prohibited uses, and any related uses, and to any design or development standards or aesthetic standards governing any development of hotels/motels in Franklin County. It is not the purpose of this Ordinance to permanently deny development orders and permits.

B. It is the further purpose of this Ordinance to fulfill Franklin County's constitutional charge and statutory obligations to protect and preserve the public health, welfare and safety of the citizens of Franklin County, and in particular to protect the public health, welfare and safety of the citizens and the value, use and enjoyment of real property in Franklin County during the interim period described in this Ordinance, and thus defer official governmental action until Franklin County has properly reviewed, studied, held public workshops, public meetings, and public hearings and adopted amendments, if any, to the Comprehensive Plan and County Code, as necessary.

Section 3. Definitions.

*Franklin County* means all the unincorporated real property located in Franklin County, Florida.

*Application for development permit* means any application for an amendment to the Comprehensive Plan, an amendment to the Franklin County zoning atlas, a zoning permit, a preliminary or final site plan approval or both, a special exception permit, a variance, a subdivision approval, a building permit, a plat vacation, a street vacation, or any other action of Franklin County through the Board or any administrative personnel of Franklin County or any board or committee of Franklin County having the effect of

permitting the use or development of land.

*Board* means the Board of County Commissioners of Franklin County, Florida.

*County Code* means the Code of Laws and Ordinances of Franklin County, Florida.

*Development* has the meaning given it in Section 380.04, Florida Statutes.

*Development order* means any order granting, denying, or granting with conditions an application for development permit.

*Development permit* includes any amendment to the Comprehensive Plan, amendment to the Franklin County zoning atlas, zoning permit, preliminary or final site plan approval or both, special exception, variance, subdivision approval, building permit, plat vacation, street vacation, or other official action of Franklin County having the effect of permitting the use or development of land. The term *development permit* shall not include an occupational license or permits for minor repairs and maintenance.

Section 4. Imposition of Interim Development Controls. In recognition of the expressions of the findings of the Board and the purposes of this Ordinance as set forth herein, for a period of three hundred sixty-five (365) days from the effective date of this Ordinance, no development permit, development order, or approval of an application for a development permit may be issued or rendered for any hotel/motel by any department, board, commission, agency, official, or employee of Franklin County, except as provided in Section 5 of this Ordinance.

Section 5. Exceptions. The imposition of the interim development controls contained in Section 4 of this Ordinance is not intended to affect, nor does it affect, the approvals previously given for the following hotel/motel developments proposed in Franklin County:

| | | | |
|---|---|---|---|
| a. | Sands North: | 37 units | 1.19 acres |
| b. | The Landings at Two Mile: | 40 units | (7.57 acres |
| c. | Two Mile Landings: | 40 units | combined) |
| d. | R.J. Mathews: | 21 units | .65 acre |
| e. | Pat Kinser: | 12 units | .81 acre |
| f. | Pelican Watch | 12 units | .918 acre |
| g. | Carrabelle Beach North: | 30 units | .76 acre |
| h. | Summer Camp | 50 units | 16.10 acres |
| i. | Corner Stone Project | 180 units | 11.48 acres |
| | | 422 units | |

Section 6. Process for Exceptions.

The Board may authorize further exceptions to the interim development controls imposed by Section 4 of this Ordinance when it finds, based upon substantial competent evidence presented to it, that the use or development proposed by an application for development permit would not violate the intent and purposes of this Ordinance, that deferral of action on an application for development permit or the deferral of the issuance of a development order for the duration of the interim development controls would not further the intent and purposes of this Ordinance or the Comprehensive Plan, and that the use or development proposed by an application for development permit meets all the criteria contained in this Section 6.

A request for an exception from the interim development controls imposed by Section 4 of this Ordinance shall be filed with the County Administrator or designee, by the owner of the property which is the subject of the request, or the developer of such property with the written consent of the property owner, and shall include all of the following:

(1) a fee of $300.00 to cover processing and advertising costs;

(2) a completed application for development permit for the type of development proposed by the applicant;

(3) if the completion of the proposed development would normally involve more than one application for development permit and the applicant is seeking exception from the interim development controls imposed by this ordinance for all the applications for development permit for the proposed development, the applicant shall submit a statement indicating that it is seeking one exception for all such applications for development permit, and shall submit the complete application for development permit required under subsection B.(2) above for the first development permit that normally would be required for the proposed development, accompanied by applications for all additional development permits being sought for the proposed project, which additional applications shall be as complete as possible;

(4) a recitation of the specific facts that are alleged to support the claim that the proposed exception and the specific development requested in the application for development permit does not violate the intent and purposes of this Ordinance or the Comprehensive Plan; and

(5) any of such other information as the County Administrator shall prescribe as necessary for the Board to be fully informed with respect to the request for exception and accompanying application for development permit.

C. A public hearing on any request for an exception shall be held by the Board at the first regular meeting of the Board that occurs after the expiration of the period for publication of notice of the request for an exception.

D. Notice of the filing of a request for an exception, and the date, time, and place of the hearing thereon shall be published once at least 10 days prior to the hearing in a newspaper of general circulation within limits of Franklin County, Florida.

E. In reviewing an application for an exception, the Board shall consider the following criteria for each application for development permit involved in the application for an exception:

(1) The extent to which the applicant has, prior to Tuesday, October 18, 2005, received Franklin County permits or approvals for the development proposed by the application for development permit.

(2) The extent to which the applicant has, prior to Tuesday, October 18, 2005, made a substantial expenditure of money or resources in reliance upon permits or other approvals of Franklin County directly associated with physical improvements on the land, such as grading, installation of utility infrastructure or any other public improvements.

(3) Whether the applicant, prior to Tuesday, October 18, 2005, has contractual commitments in reliance upon permits or other approvals of Franklin County to complete a structure(s).

(4) Whether the applicant, prior to Tuesday, October 18, 2005, has in reliance upon permits or other approvals of Franklin County incurred substantial financial obligations to a lending institution which, despite a thorough review of alternative solutions, the applicant cannot meet unless development proceeds.

(5) Whether the interim development controls will expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable investment backed expectation on the property.

(6) The history of the property and any development on the property.

(7) The present nature, size and use of the property.

(8) Whether the use or uses for the property proposed in the applicant's application for development permit are compatible with the uses

proposed for the property and the intent and purposes of the Board's planning and development goals for Franklin County.

(9) Whether the development proposed in the application for development permit is compatible with design standards, development standards, aesthetic standards, and the intent and purposes of the Franklin County Board of County Commissioners.

(10) Whether the uses and development proposed in the application for development permit are consistent with the Comprehensive Plan.

(11) Whether the uses or development proposed in the application for development permit would be detrimental to or endanger the public health, safety, or general welfare.

F. At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Board shall act upon the request either to approve, deny, or approve in part and deny in part the request made by the applicant.

Section 7. Repealing Clause. This ordinance shall stand repealed as of 12:01 o'clock a.m. on the 366th day after the effective date of this ordinance or upon the adoption of an amendment to Franklin County Ordinance Number 05-23, defining hotels and motels, whichever occurs first, unless sooner repealed; provided, however, that nothing herein shall prevent the readoption or ratification of this ordinance in the same or similar form. During the effective period of this ordinance, all other Franklin County ordinances and resolutions, or portions thereof, in conflict with this ordinance are declared to be suspended to the extent of such conflict.

Section 8. Severability. If any subsection, sentence, clause, phrase, or portion of these Sections of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not effect the validity of the remainder

of this Ordinance and shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 9. Effective Date. This Ordinance shall take effect upon its filing in the Office of the Secretary of State, State of Florida.

Section 10. Notice. The Clerk of the Circuit Court of Franklin County, Florida, is hereby directed to provide a certified copy of this Ordinance to the Franklin County Property Appraiser and Franklin County Tax Collector.

PASSED AND DULY ADOPTED this 18th day of October, 2005.

BOARD OF COUNTY COMMISSIONERS
OF FRANKLIN COUNTY, FLORIDA

By: _____
Cheryl Sanders, Chair

BOARD OF COUNTY COMMISSIONERS
SEAL
FRANKLIN COUNTY, FLORIDA

ATTEST:
Marcia Johnson, Clerk of
Circuit Court and Ex-Officio
Clerk to the Board of County
Commissioners

By: Marcia M. Johnson
Marcia Johnson, Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Thomas M. Shuler
Thomas M.Shuler, County Attorney