



# City of Destin

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December 21, 2001

Order No. 01-46

**Final Development Order:**

**“BRUSTER’S ICE CREAM SHOP”:  
A MINOR DEVELOPMENT  
(SP-01-43)**

Based upon the City's approval of this Development Order, on December 18, 2001, this document will serve as your Final Development Order, and includes all of the provisions and conditions in the attached Technical Review Committee Report.

**BACKGROUND / ISSUE:**

**Applicant:** Southern Engineering Group, P.A., on behalf of Richard Jordan.  
**Location:** The proposed project will be located on lot K and L of the Second Revision of Calhouns Subdivision to Town of Destin, Florida, more specifically known as parcel I.D. No. 00-2S-22-0310-000K-0000.  
**Request:** Approval of a Minor Development identified as “Bruster’s Ice Cream Shop.” The proposed project consists of 1,148 square foot walk-up style ice cream restaurant with no drive-thru.  
**Parcel Size:** The subject property contains 0.576 acres, more or less.  
**Future Land Use:** Commercial (C)  
**Zoning District:** Business Tourism (BT)  
**Density:** Not applicable  
**Intensity:** Allowed: 1.07 Floor Area Ratio  
Proposed: 0.046 Floor Area Ratio  
**Application Date:** November 5, 2001  
**TRC Date:** November 21, 2001  
**Approved Site Plan Date:** December 18, 2001

**DETERMINATIONS:**

1. All the findings and requirements of the Technical Review Committee Report dated December 18, 2001, are incorporated herein.

**CONDITIONS OF APPROVAL FOR THE “BRUSTER’S ICE CREAM SHOP”: A MINOR DEVELOPMENT (SP-01-43):**

- A. Pursuant to the City of Destin Land Development Code and the City of Destin Code of Ordinances:

Construction must commence within twelve (12) months of approval of the Final Development Order on December 18, 2001 (no later than December 18, 2002), and must be completed as shown on plans approved by the Technical Review Committee (stamp dated December 18, 2001).

**WARNING: If the applicant/owner has not obtained a construction permit(s) within 365 days of issuance of the final development order, the final development order will become void and the application for plan approval must be re-initiated.**

**NOTE: An applicant/owner who desires to extend the twelve (12) month deadline must submit a request to the Community Development Department, no less than sixty (60) days prior to the expiration of the twelve (12) month deadline to obtain a construction permit. The applicant /owner should review Article 2, Section 2.15.00, of the Destin Land Development Code for further explanation of the Development Order extension process.**

2. If the applicant fully complies with the requirements of Condition Number 1 above, the concurrency status for "Bruster's Ice Cream Shop" will be protected for five (5) years through December 18, 2006. The protected concurrency status, however, will be lost if:
  - A. Construction activity ceases for a period exceeding one (1) year at any time during the term of this Final Development Order, or
  - B. Construction permit(s) are not obtained in accordance with Section 2.09.00 of the Land Development Code to maintain concurrency.
3. The applicant must obtain City of Destin permits for the following activities on and off site (These may require appropriate bonding):
  - A. Disturbance of the City's right-of-way.
  - B. Pavement cuts.
  - C. Construction of any kind.
  - D. Clearing, grubbing, or demolition.
  - E. Paving, grading, drainage, sidewalks.
  - F. Signage.
  - G. Installation of utilities.
  - H. Construction trailers.
4. **Condition:** All conditions of the "Compatibility Analysis: Bruster's Ice Cream Shop: A Minor Development SP-01-43," provided on page 5 of 13, must be met.
5. **Condition:** If groundwater is observed standing in stormwater structures, the stormwater management plan shall be void and require a revised stormwater plan to be reviewed and approved.
6. **Prior to the issuance of any City Permit,** all outstanding costs associated with this project that are owed to the City must be paid in full.
7. **Prior to the issuance of any City Permit,** a copy of the FDEP stormwater and FDOT connection approvals shall be forwarded to the City Engineer's office.
8. **Prior to the issuance of a Clearing/Grading Permit,** a clearing/grading plan must be submitted and approved by the Community Development Department and the City Engineer.
9. **Prior to the issuance of a Certificate of Occupancy,** all required parking and landscaping shall be installed, inspected, and approved by the Engineering and Community Development Departments.
10. **Prior to the issuance of a Certificate of Occupancy,** all applicable impact fees must be paid.

11. **Prior to the issuance of a Certificate of Occupancy, the Stormwater Maintenance Plan shall be acknowledged and signed by the owner. This plan shall include, but not be limited to the following: This system will require periodic maintenance for continued proper operation. This will include, as a minimum: a) removal of silt and debris from surface infiltration areas and catch basins and b) maintenance of vegetative cover in surface infiltration areas. Owner shall regrade swale/retention areas as required to maintain approved design cross-section(s), line(s), and grade(s).**

## TECHNICAL REVIEW COMMITTEE REPORT

### “BRUSTER’S ICE CREAM SHOP”: A MINOR DEVELOPMENT (SP-01-43)

TRC Report: December 18, 2001

#### ISSUE:

**Applicant:** Southern Engineering Group, P.A., on behalf of Richard Jordan.  
**Location:** The proposed project will be located on lot K and L of the Second Revision of Calhouns Subdivision to Town of Destin, Florida, more specifically known as parcel I.D. No. 00-2S-22-0310-000K-0000.  
**Request:** Approval of a Minor Development identified as “Bruster’s Ice Cream Shop.” The proposed project consists of 1,148 square foot walk-up style ice cream restaurant with no drive-thru.  
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Proposed: 0.046 Floor Area Ratio  
**Application Date:** November 5, 2001  
**TRC Date:** November 21, 2001  
**Approved Site Plan Date:** December 18, 2001

#### DISCUSSION/FINDINGS:

Southern Engineering Group, P.A., on behalf of Richard Jordan, is requesting approval of a Minor Development identified as “Bruster’s Ice Cream Shop.” The proposed project consists of 1,148 square foot walk-up style ice cream restaurant with no drive-thru. The proposed project will be located on lot K and L of the Second Revision of Calhouns Subdivision to Town of Destin, Florida, more specifically known as parcel I.D. No. 00-2S-22-0310-000K-0000. The subject property contains 0.576 acres, more or less.

#### COMPREHENSIVE PLAN/ZONING:

The property has a Future Land Use Map Designation of Commercial (C) and a Zoning Designation of Business Tourism (BT). The proposed use is consistent with these land use regulations.

#### COMPATIBILITY:

The project, as required by the Comprehensive Plan and the Land Development Code, has undergone a compatibility review. Refer below for the “Compatibility Analysis: Bruster’s Ice Cream Shop SP-01-43” for the complete analysis, dated December 13, 2001, which finds the proposed project compatible with the surrounding area, provided the applicant complies with the recommendations/conditions as provided in the Compatibility Analysis. As of the date of this report, the applicant has satisfied all the recommendations/conditions identified within the analysis.

**COMPATIBILITY ANALYSIS: BRUSTER'S ICE CREAM SHOP,  
A MINOR DEVELOPMENT: SP-01-43**

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**PURPOSE OF THIS REPORT:**

The Bruster's Ice Cream Shop includes a proposed one-story building (988 sq. ft.) and adjacent cooler to the rear of the shop (160 sq. ft.) located on a 0.58 acre site situated on the north side of US Highway 98, mid-way between Melvin Street and Benning Drive. The focus of this report addresses the compatibility of the proposed development with the surrounding area.

The report: 1) identifies the compatibility requirements of the City of Destin that are contained in the City's Land Development Code (LDC, §7.09) and Comprehensive Plan; 2) analyzes how the proposed development complies with those requirements; and 3) provides an opinion regarding the compatibility of the proposed development. Aside from addressing the compatibility issue, this report does not address issues regarding the consistency of the proposed improvements with any other provisions of the City Comprehensive Plan or the LDC.

**DEFINITION OF "COMPATIBILITY" AND REQUISITE CONSIDERATIONS:**

In land use planning, "*compatibility*" means the extent to which a use(s) or development is capable of existing in harmony with other uses situated in its immediate vicinity. In the City's LDC as well as in Rule 9J-5, FAC, *compatibility* is defined as "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition." The City's Comprehensive Plan also includes this definition but elaborates more broad-based concerns that are consistent with accepted planning principles and practices.

The Code requirements regulating compatibility are "*intended to ensure functional and attractive development by requiring that all future development be consistent with accepted planning practices and principles as well as natural area limitations*" [LDC, §7.09.01].

The Comprehensive Plan and Land Development Code further require that compatibility be measured based on the characteristics of proposed development and its impact on the immediate or surrounding area and especially homogeneous residential neighborhoods. Characteristics for consideration include:

- Type of land use, zoning district, and land use category;
- Building location, dimensions, height, and floor area ratio;
- Location and extent of parking, access drives, and service areas;
- Traffic generation, hours of operation, noise level, and outdoor lighting;
- Alteration of light and air; and
- Setbacks and buffers.

**PROJECT DESCRIPTION:**

The Bruster’s Ice Cream Shop includes a proposed one-story building (988 sq. ft.) and adjacent cooler to the rear of the shop (160 sq. ft.) located on a 0.58 acre site situated on the north side of US Highway 98, mid-way between Melvin Street and Benning Drive.

**DESCRIPTION OF SURROUNDING AREA:**

The adjacent land uses, zoning, and Comprehensive Plan designations are denoted in the table below:

LOCATION RELATIVE TO SUBJECT SITE	FUTURE LAND USE	ZONING	EXISTING LAND USE
North	Commercial	BT	Auto services and parts, equipment leasing, mobile homes, and vacant land
South	Commercial	BT	Harbor Docks and Gilligan’s restaurants
East	Commercial	BT	Guglielmo's and Hog's Breath restaurants
West	Commercial	BT	Vacant commercial building, restaurant, glass art, and body shop

**ANALYSIS OF COMPATIBILITY:**

A. **Type of Land Use, Zoning District, and Land Use Category.** The following table sets forth the existing City land use policies adopted for the subject property:

SUBJECT SITE	FUTURE LAND USE	ZONING	EXISTING LAND USE	PROPOSED LAND USE
Bruster’s Ice Cream Shop	Commercial	BT	Vacant Lot	Ice Cream Shop

B. **Building Location, Dimensions, Height, and Floor Area Ratio.**

The proposed one-story building meets adopted building setback criteria, minimum lot size, height, and floor area requirements of the Land Development Code. The intensity of the proposed development (1,148 sq. ft. of floor area ÷ 25,074 sq. ft. of land area = 0.046 FAR) is consistent with the Comprehensive Plan and Land Development Code and is harmonious with abutting land uses and the land use pattern in the immediate vicinity.

C. **Location and Extent of Parking, Access Drives, and Service Areas.**

1. **Location and Extent of Parking.** This analysis does not address the design of parking and internal circulation.
2. **Access Drives.** Access to the site is provided from US Highway 98. Internal circulation is not addressed as part of this review. However, the City Engineer has reviewed this issue.
3. **Service Areas.** The site plan provides an appropriately designed and screened dumpster site and concrete pad.

**D. Traffic Generation, Hours of Operation, Noise Levels, and Outdoor Lighting.**

1. **Traffic Generation.** This analysis does not address traffic generation or the impact of additional traffic on the roadway system.
2. **Noise Levels.** No adverse impacts have been identified related to noise.
3. **Outdoor Lighting.** The plan includes no outdoor lighting. Prior to installing any outdoor lighting, the applicant must first submit plans for such outdoor lighting to the City for review and approval. The plans must provide specifications for the proposed outdoor lighting, including photometrics. Any future lighting must be shielded downward and away from adjacent properties in order to avoid spill-over and illumination onto adjacent properties, public streets and highways, and the night sky. The source of all illumination should not be visible from off-site.

**E. Alteration of Light and Air.**

The plan does not appear to generate any other adverse impacts to light and air.

**F. Setbacks and Buffers.**

The setback and buffers are consistent with the Land Development Code and no adverse impacts have been identified.

**OPINION:**

The site plan for the Bruster's Ice Cream Shop as submitted complies with City of Destin Comprehensive Plan Policy 7.A.4.6 (p) and the Land Development Code, §7.09 compatibility analysis criteria. However, the plan includes no outdoor lighting. Prior to installing any outdoor lighting, the applicant must first submit plans for such outdoor lighting to the City for review and approval. The plans must provide specifications for the proposed outdoor lighting, including photometrics. Any future lighting must be shielded downward and away from adjacent properties in order to avoid spill-over and illumination onto adjacent properties, public streets and highways, and the night sky. The source of all illumination should not be visible from off-site.

Any additional revisions to the site plan must be reviewed and approved by the appropriate Technical Review Committee members and may be subject to a compatibility analysis if required pursuant to provisions of the Comprehensive Plan [Policy 7.A.4.6 (p)] and Land Development Code [LDC, §7.09].

**DENSITY:**

Not applicable.

**HEIGHT:**

The BT Zoning District does not have a maximum building height. Building height in this district is determined by a compatibility analysis. The proposed height of the walk-up restaurant is fifteen (15) feet.

**FLOOR AREA RATIO:**

The project has a 0.046 Floor Area Ratio, which is less than the maximum of 1.07 allowed.

**RIGHT-OF-WAY DEDICATION:**

There is no right-of-way dedication involved with this project.

**CONCURRENCY MANAGEMENT:**

Concurrency requirements have been met:

Potable Water:  X  Roadways:  X  Solid Waste:  X   
Recreation:  X  Sewer:  X  Drainage:  X

**TRAFFIC ANALYSIS:**

According to the traffic review conducted by the City's traffic consultant, the proposed development will generate 28 PM Peak Hour directional trips on Segment "A" of U. S. Highway 98. Segment "A" currently has 381 PM Peak Hour directional trips available. There will be 353 PM Peak Hour directional trips remaining for Segment "A." Therefore, traffic concurrency is satisfied for this project, as confirmed by the City's traffic consultant.

**SUBDIVISION OR PUD - PLAT:**

Not applicable.

**AIRPORT PROTECTION:**

The subject site is located within the airport protection area.

NOTE: If construction necessitates the use of a crane, or other obstruction, which exceeds Federal Aviation Administration FAR 77 Standards (normally 200 feet above ground level), the applicant must request a variance from FAA for temporary encroachment into this restrictive area and a copy of completed FAA Form 7460, must be placed on file with the City of Destin prior to the crane, or other obstruction, penetrating the restricted airspace.

**SETBACKS:**

	<u>Required</u>	<u>Buffers</u>	<u>Provided</u>
Front (southern):	10'	10' FP	30' including 10' FP
Side (western):	None	5' CB	15' including 5' CB
Side (eastern):	None	5' CB	59.10' including 5' CB
Back (northern):	None	5' CB	173.5' including 5' CB
Between Bldgs:	10'	N/A	N/A

Note: 10' FP = 10' Front Perimeter Landscape Area, 5' CB = 5' Common Boundary Buffer, and 10' VB = 10' Vegetative Buffer. A 5' Common Boundary Buffer is required along the eastern, western, and northern property lines. A 10' Front Perimeter Landscape Area is required along the southern property line. There is a ten (10) foot distance separation between structures required by the Land Development Code.

**WHITE SANDS ZONE:**

The proposed project is located within White Sand Zone 2. All materials for construction purposes brought on site shall be in compliance with Ordinance No. 029.2.

**SIGNS:**

No signs have been proposed and approved with this project. All future signs must comply with the sign code section of the Destin Land Development Code in effect at the time a sign application is submitted.



**COX COMMUNICATIONS:**

Cox Communications approved the project in a letter dated November 19, 2001.

**DESTIN FIRE CONTROL DISTRICT:**

Destin Fire Control District approved the project in a letter dated November 21, 2001.

**GULF POWER:**

Gulf Power approved the project in a letter dated November 13, 2001.

**OKALOOSA GAS:**

Okaloosa Gas approved the project in a letter dated November 27, 2001.

**SPRINT:**

Sprint approved the project in a letter dated November 14, 2001.

**NEWSOUTH COMMUNICATIONS:**

NewSouth Communications approved the project in a letter dated November 21, 2001.

**WATER/SEWER PROVIDER:**

Destin Water Users, Inc., approved the project in a letter dated December 18, 2001.

**UTILITIES:**

All utilities are required to be underground.

**STORMWATER:**

The City Engineer approved with conditions the stormwater plan in a letter dated December 17, 2001.

**INGRESS/EGRESS:**

Access to the property is provided by a sixteen (16) foot right-in only and a sixteen (16) foot right-out only driveway onto U.S. Highway 98 East.

**SIDEWALKS:**

An existing sidewalk is in place. If any portion of the sidewalk adjacent to the property is damaged that portion must be replaced from section to section.

**REFUSE COLLECTION:**

Refuse collection is provided by an enclosed dumpster as stated on the approved site plan.

**LANDSCAPE:**

The project meets or exceeds the landscape requirements of the Destin Land Development Code as indicated on the approved plans and as follows:

**Open Space Requirements:**

25,074 sq. ft. of property x 18% = 4,513.32 sq. ft. required  
Site plan provides 42.8% = 10,728 sq. ft. provided

**Tree Requirements:**

Credits for Existing Trees (2" to 6" diameter) on Site (0 trees x 2 credits per tree): 0  
Credits for Existing Trees (7" to 12" diameter) on Site (0 trees x 3 credits per tree): 0  
Credits for Existing Trees (13" to 19" diameter) on Site (0 trees x 4 credits per tree): 0  
Credits for Existing Trees (20" or 24" diameter) on Site (0 trees x 5 credits per tree): 0  
**Total Reforestation Credits for Existing, Protected, or Preserved Trees:** 0

Reforestation Trees (1 per every .10 of an acre: 0.576 x 10 = 5.76) Required on Site: 6

Total Reforestation Credits (0 - 6 = -6 (0 remaining credits or 6 required trees): 6

**Total Reforestation Trees Required on Site:** 6

Total Reforestation Trees (1 per every .10 of an acre minus credits) Required on Site: 6

Replacement Trees (removal of trees over 12" d.b.h.) Required on Site: 0

Perimeter Trees (1 per 25') Required on Site: 4

Parking Lot Trees (1 per end row and landscape island) Required on Site: 7

Vegetative Buffer Trees, per compatibility, Required on Site: 0

**TOTAL TREES REQUIRED:** 17

**TOTAL TREES PROVIDED (Includes existing trees):** 18

A 5' Common Boundary Buffer is required along the eastern, western, and northern property lines, a 10' Front Perimeter Landscape Area is required along the southern property line. The required five (5) foot Common Boundary Buffer must have a minimum of fifty (50) percent opacity for that area between the finished grade level at the common boundary line and six (6) feet above said level and horizontally along the length of all common boundaries within three (3) years of planting. All required trees must be a minimum of six (6) feet high at time of planting and reach a crown of twenty (20) feet at maturity, except for those planted along the southern vegetative buffer area per the compatibility analysis (see the attached compatibility analysis). If the twenty (20) foot crown requirement is not met, additional trees shall be added and grouped together to meet the twenty (20) foot crown. If shrubs are used in the required buffer areas, they must be a minimum of twelve (12) inches in height when measured immediately after planting. **WARNING: A Certificate of Occupancy will not be issued until the required landscape material has been inspected and approved by the Community Development Department.**

**PHASING:**

This project is proposed to be constructed in one (1) phase.

**PARKING:**

The project meets or exceeds the parking requirements as follows:

Per code:

Restaurant: 1 space for every 75 square feet of gross floor area.

Per site plan:

Restaurant: 1,148 square feet / 75= 15.3 spaces

**TOTAL REQUIRED: 16 spaces (includes 2 handicap parking space)**

**TOTAL PROVIDED: 33 spaces (includes 2 handicap parking space)**

**LOADING SPACE (ZONE):**

Per code:

Restaurant: 1 loading space is required (10 feet wide and 25 feet long with 15 foot vertical clearance) for the first 10,000 sq. ft. of gross floor area.

Per site plan:

Restaurant: 1 loading space is required (10 feet wide and 25 feet long with 15 foot vertical clearance) for 5,545.25 sq. ft. of gross floor area.

**TOTAL REQUIRED: 1 loading space**

**TOTAL PROVIDED: 1 loading space**

**STATE/FEDERAL PERMITS REQUIRED BEFORE ISSUANCE OF BUILDING PERMIT:**

1. A Florida Department of Environmental Protection general notice permit (for stormwater).
2. A Florida Department of Transportation driveway connection permit.

**IMPACT FEES:**

The owner/applicant must pay the following impact fees prior to the issuance of a Certificate of Occupancy:

**Parks:** Not applicable.

**Public Library:** Not applicable.

**Police Protection:** The police protection impact fees were calculated using the "Eating/Drinking per 1,000 sq. ft." = \$47.59 fee amounts under the "Non-residential – U.S. 98 Corridor" category.

(sq. ft. of building) x (Eating/Drinking per 1,000 sq. ft. fee amount) = (figure) / (per 1,000 sq. ft.) = Impact Fee

$(1,148 \text{ sq. ft.}) \times (\$246.04) = \$282,453.92 / 1,000 = \underline{\underline{\$282.45}}$

Total Police Impact Fees to be paid for "Bruster's Ice Cream Shop": \$282.45

**Road:** The road impact fees were calculated using the "Restaurant: High Turnover (per 1,000 sq. ft.)" = \$2,228.00" fee amount.

(sq. ft. of building) x (Restaurant: High Turnover (per 1,000 sq. ft.) fee amount) = (figure) / (per 1,000 sq. ft.) = Impact Fee

$$(1,148 \text{ sq. ft.}) \times (\$2,228.00) = \$2,557,744.00 / 1,000 = \underline{\$2,557.74}$$

Total Road Impact Fees to be paid for "Bruster's Ice Cream Shop" \$2,557.74

Parks: (not applicable)	=	\$0.00
Public Library: (not applicable)	=	\$0.00
Police Protection:	=	\$282.45
Roads:	=	<u>\$2,557.74</u>
<b>TOTAL:</b>		<b><u>\$2,840.19</u></b>

**OTHER FEES:**

Please see attached "Bruster's Ice Cream Shop" invoices CD-01-209 and CD-01-210 for the outstanding balances.

**COMMENTS:**

**Public Input:**

There have been no comments of support or opposition filed with Staff regarding this project.

**Per Community Development Department:**

1. **Condition:** All conditions of the "Compatibility Analysis: Bruster's Ice Cream Shop: A Minor Development SP-01-43," provided on page 5 of 13, must be met.
2. **Prior to the issuance of any City Permit,** all outstanding costs associated with this project that are owed to the City must be paid in full.
3. **Prior to the issuance of a Clearing/Grading Permit,** a clearing/grading plan must be submitted and approved by the Community Development Department and the City Engineer.
4. **Prior to the issuance of a Certificate of Occupancy,** all required parking and landscaping shall be installed, inspected, and approved by the Engineering and Community Development Departments.
5. **Prior to the issuance of a Certificate of Occupancy,** all applicable impact fees must be paid.


**Per Engineering Department:**

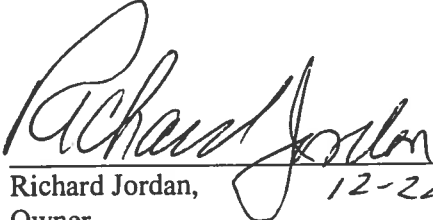
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**UNRESOLVED ISSUES:**

None.

  
\_\_\_\_\_  
Gerald F. Mucci,                      12-26-01                      Date  
Community Development Director

  
\_\_\_\_\_  
Richard Jordan,                      12-22-01                      Date  
Owner