



# City of Destin

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June 22, 2001

Order No. 01-21

**Final Development Order:**

**“SHAKEY’S FROZEN CUSTARD”:  
A MINOR DEVELOPMENT  
(SP-01-04)**

Based upon the City's approval of this Development Order, on June 15, 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:** Choctaw Engineering, Inc., on behalf of Wayne K. Chernicky as Trustee of The Wayne K. Chernicky Trust.

**Location:** The proposed project is located at 1065 U.S. Highway 98 East.

**Request:** Approval of a Minor Development identified as “Shakey’s Frozen Custard.” The proposed project consists of a drive-thru and take out only restaurant (ice-cream parlor) with no proposed seating indoors or outdoors. The combined area of the structure is 1,059 square feet.

**Parcel Size:** The subject property contains 0.678 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: 0.04 Floor Area Ratio

**Application Date:** February 5, 2001

**TRC Date:** February 21, 2001

**Approved Site Plan Date:** June 15, 2001

**DETERMINATIONS:**

1. All the findings and requirements of the Technical Review Committee Report dated June 15, 2001, are incorporated herein.

**CONDITIONS OF APPROVAL FOR THE "SHAKEY'S FROZEN CUSTARD": A MINOR DEVELOPMENT (SP-01-04):**

1. 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 June 15, 2001 (no later than June 15, 2002), and must be completed as shown on plans approved by the Technical Review Committee (stamp dated June 15, 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 "Shakey's Frozen Custard" will be protected for five (5) years through June 15, 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. **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.
5. **Prior to the issuance of a Clearing Permit**, a clearing plan must be submitted and approved by the Community Development Department.
6. **Prior to the issuance of a Certificate of Occupancy**, all required parking and related landscaping shall be installed, inspected, and approved by the Engineering and Community Development Departments.
7. **Prior to the issuance of a Certificate of Occupancy**, all applicable impact fees must be paid.
8. **Prior to the issuance of a Certificate of Occupancy**, all documents pertaining to the cross-access and drainage easement must be recorded.
9. If groundwater is observed standing in the stormwater structures, the stormwater management plan will be void and a revised stormwater plan must be resubmitted for review and approval.
10. No patron seating (inside or outside) will be installed and if seating is ever requested or provided by the applicant/owner, the city would view this as a change of use and require a modification of the Development Order to include the necessary parking.

## TECHNICAL REVIEW COMMITTEE REPORT

### “SHAKEY’S FROZEN CUSTARD”: A MINOR DEVELOPMENT (SP-01-04)

TRC Report: June 15, 2001

#### ISSUE:

**Applicant:** Choctaw Engineering, Inc., on behalf of Wayne K. Chernicky.  
**Location:** The proposed project is located at 1065 U.S. Highway 98 East.  
**Request:** Approval of a Minor Development identified as “Shakey’s Frozen Custard.” The proposed project consists of a drive-thru and take out only restaurant (ice-cream parlor) with no proposed seating indoors or outdoors. The combined area of the structure is 1,059 square feet.  
**Parcel Size:** The subject property contains 0.678 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: 0.04 Floor Area Ratio  
**Application Date:** February 5, 2001  
**TRC Date:** February 21, 2001  
**Approved Site Plan Date:** June 15, 2001

#### DISCUSSION/FINDINGS:

Choctaw Engineering, Inc., on behalf of Wayne K. Chernicky, is requesting approval of a Minor Development identified as “Shakey’s Frozen Custard.” The proposed project consists of a drive-thru and take out only restaurant (ice-cream parlor) with no proposed seating indoors or outdoors. The combined area of the structure is 1,059 square feet. The proposed project is located at 1065 Mountain Drive. The subject property contains 0.678 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 surrounding properties are as follows:

	<u>FLU</u>	<u>Zoning</u>	<u>Existing Use</u>
North:	Commercial	Business Tourism	Multi-family dwellings
South:	Commercial	Business Tourism	Commercial
East:	Commercial	Business Tourism	Commercial
West:	Commercial	Business Tourism	Commercial

The project, as required by the Comprehensive Plan and the Land Development Code, has undergone a compatibility review and meets the minimum requirements.

The U.S. Highway 98 corridor is an area that encompasses a variety of commercial land uses within the City of Destin. The parcels surrounding this project reflect much of the same commercial land uses. The development directly to the south, east, and west include similar fast-food restaurant land uses. The development across U.S. Highway 98 East is entirely resort condominium and hotel uses. Directly north of the proposed development is a multi-family dwelling.

The majority of the surrounding structures are very similar or larger in regards to the height, bulk, intensity, and scale of the proposed structure. The impacts of the land use type, as it would apply to the land uses along the U.S. Highway 98 East corridor, and those developments directly adjacent to this project would be minimal. This is due to the fact that the proposed development use is very similar to the present and future intent for this area of the City of Destin.

**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 proposed structure as seen from the west elevation is twenty-three (23) feet, six (6) inches, more or less.

**FLOOR AREA RATIO:**

The project has a 0.04 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 14 PM Peak Hour directional trips on Segment "B" of U. S. Highway 98. Segment "B" currently has 221 PM Peak Hour directional trips available. There will be 207 PM Peak Hour directional trips remaining for Segment "B." 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	184.65' including 10' FP
Side (western):	None	5' CB	31.24' including 5' CB
Side (eastern):	None	5' CB	58.31' including 5' CB
Back (northern):	None	5' CB	35.22' 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.

**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 at the February 21, 2001 TRC meeting.

**DESTIN FIRE CONTROL DISTRICT:**

Destin Fire Control District approved the project in a letter dated June 7, 2001.

**GULF POWER:**

Gulf Power approved the project in a letter dated February 21, 2001.

**OKALOOSA GAS:**

Okaloosa Gas approved the project in a letter dated February 21, 2001.

**SPRINT:**

Sprint approved the project in a letter dated February 19, 2001.

**NEWSOUTH COMMUNICATIONS:**

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

**WATER/SEWER PROVIDER:**

Destin Water Users, Inc., approved the project in a letter dated June 4, 2001.

**UTILITIES:**

All utilities are required to be underground.

**STORMWATER:**

The City Engineer approved with conditions the stormwater plan in a memo dated June 6, 2001.

**INGRESS/EGRESS:**

Access to the property is provided by one existing twenty-eight (28) foot wide two-way drive onto U.S. Highway 98 East. There is an additional twenty-four (24) foot wide two-way drive and a twenty-four (24) foot wide one-way drive that are enter and exit onto the existing cross-access easement.

**SIDEWALKS:**

N/A

**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:**

29,480.11 sq. ft. of property x 18% = 5,306.4 sq. ft. required  
Site plan provides 21.1% = 6,230.7 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 (1 trees x 4 credits per tree): 4  
Credits for Existing Trees (20" or 24" diameter) on Site (2 trees x 5 credits per tree): 10  
**Total Reforestation Credits for Existing, Protected, or Preserved Trees:** 14

Reforestation Trees (1 per every .10 of an acre: 0.68 x 10 = 7) Required on Site: 7

Total Reforestation Credits (14 - 6 = 8 (8 remaining credits or 0 required trees): 0  
**Total Reforestation Trees Required on Site:** 0

Total Reforestation Trees (1 per every .10 of an acre minus credits) Required on Site: 0  
Replacement Trees (removal of trees over 12" d.b.h.) Required on Site: 0  
Perimeter Trees (1 per 25') Required on Site: 1  
Parking Lot Trees (1 per end row and landscape island) Required on Site: 3  
Vegetative Buffer Trees, if applicable, (1 per 25') Required on Site: 0  
**TOTAL TREES REQUIRED:** 4  
**TOTAL TREES PROVIDED (Includes existing trees):** 7

A 5' Common Boundary Buffer is required along the northern and eastern property lines, a 10' Front Perimeter Landscape Area is required along the southern and western property lines. 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. 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.**



**PARKING:**

The project meets or exceeds the parking requirements as follows:

NOTE: Through a coordinated effort between the applicant, staff, and the land use attorney, it has been determined that the land use category for parking, which is most applicable to the proposed development, is the "Convenience Stores" category.

*Per code:*

Convenience Stores: 1 space for every 150 square feet of gross floor area.

*Per site plan:*

Convenience Stores: 1,059 square feet / 150 = 7 spaces

**TOTAL REQUIRED: 7 spaces (includes 1 handicap parking space)**

**TOTAL PROVIDED: 34 spaces (includes 1 handicap parking space, 5 extra for this development, and the existing 22 spaces, which includes 1 handicap, Waffle House utilizes)**

**LOADING SPACE (ZONE):**

*Per code:*

Service: 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:*

Service: 1 loading space is required (10 feet wide and 25 feet long with 15 foot vertical clearance) for 1,059 sq. ft. of gross floor area.

**TOTAL REQUIRED: 1 loading space**

**TOTAL PROVIDED: 1 loading space (The loading space is located designated within the by-pass lane next to the drive-thru.)**

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

1. A Florida Department of Environmental Protection general notice permit (for stormwater) has been issued for this site and is on file.

**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. = \$246.04" 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

$$(1,059 \text{ sq. ft.}) \times (\$246.04) = \$260,556.36 / 1,000 = \underline{\$260.56}$$

Subtotal Police Impact Fees to be paid for "Shakey's Frozen Custard": \$260.56

**Road:** The road impact fees were calculated using the "Restaurant: drive-thru. (per 1,000 sq. ft.) = \$7,490.00" fee amount.

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

$$(1,059 \text{ sq. ft.}) \times (\$7,490.00) = \$7,931,910 / 1,000 = \underline{\$7,931.91}$$

Subtotal Road Impact Fees to be paid for "Shakey's Frozen Custard": \$7,931.91

Parks: (not applicable)	=	\$0.00
Public Library: (not applicable)	=	\$0.00
Police Protection:	=	\$260.56
<u>Roads:</u>	=	<u>\$7,931.91</u>
<b>TOTAL:</b>		<b><u>\$8,192.47</u></b>

**OTHER FEES:**

The fees listed below are based on the most recent information available and are required to be paid by the applicant as part of the cost recovery associated with the proposed project:

City Compatibility Expert:	Not utilized	Planning Commission Advertising:	Not applicable
City Traffic Consultant:	\$321.91 (paid)	City Council Advertising:	Not applicable
City Surveyor:	Not utilized		

**COMMENTS:**

**Public Input:**

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

**Per Community Development Department:**

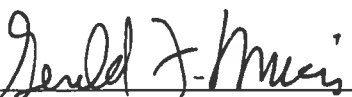
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3. **Prior to the issuance of a Certificate of Occupancy**, all required parking and related landscaping shall be installed, inspected, and approved by the Engineering and Community Development Departments.
4. **Prior to the issuance of a Certificate of Occupancy**, all applicable impact fees must be paid.
5. **Prior to the issuance of a Certificate of Occupancy**, all documents pertaining to the cross-access and drainage easement must be recorded.

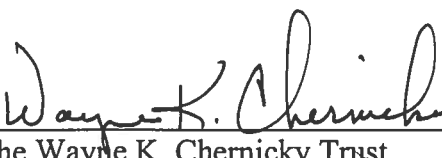
**Per Engineering Department:**

1. If groundwater is observed standing in the stormwater structures, the stormwater management plan will be void and a revised stormwater plan must be resubmitted for review and approval.
2. No patron seating (inside or outside) will be installed and if seating is ever requested or provided by the applicant/owner, the city would view this as a change of use and require a modification of the Development Order to include the necessary parking.

**UNRESOLVED ISSUES:**

None.

  
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Gerald F. Mucci, Date  
Community Development Director

  
\_\_\_\_\_  
The Wayne K. Chernicky Trust, Date  
Owner  
Wayne K. Chernicky as Trustee