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**CITY COUNCIL AGENDA ITEM**

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**TO:** Mayor & City Council

**DATE:** August 29, 2013

**FROM:** John McDonough, City Manager

**AGENDA ITEM:** Consideration of the Extension of the Atlanta Grand Bohemian Hotel Land Disturbance Permit under Chapter 103, Article 6, Section 103-27(b)(4) Development Regulations Ordinance of the Code of the City of Sandy Springs

**MEETING DATE:** For Submission onto the September 3, 2013, City Council Regular Meeting Agenda

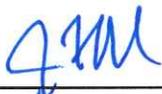
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*BACKGROUND INFORMATION: (Attach additional pages if necessary)*

See attached:

Memorandum  
Letter of Application

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APPROVAL BY CITY MANAGER:  APPROVED

PLACED ON AGENDA FOR: 9/3/2013

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES (  ) NO

CITY ATTORNEY APPROVAL: 

REMARKS:



To: John McDonough, City Manager

From: Angela Parker, Director of Community Development 

Date: August 26, 2013 for Submission onto the September 3, 2013 City Council Regular Meeting Agenda

Subject: Consideration of the Extension of the Atlanta Grand Bohemian Hotel Land Disturbance Permit under Chapter 103, Article 6, Section 103-27(b)(4) Development Regulations Ordinance of the Code of the City of Sandy Springs

***Department of Community Development Recommendation:***

**APPROVAL** of the extension of the Atlanta Grand Bohemian Hotel Land Disturbance Permit for a period of 180 days due to inability to secure financing for the project.

***Background:***

On August 18, 2009, the Mayor and City Council amended Chapter 103, Article 6, Section 103-27(b)(4) Development Regulations Ordinance of the Code of the City of Sandy Springs to allow for extensions to Land Disturbance Permits by the Council should a project show justifiable cause as defined in the ordinance.

***Discussion:***

An extension of a Land Disturbance Permit is justifiable if an inability to obtain financing, despite documentation of the property owner's efforts during the three (3) months prior to the applicant seeking an extension and continuing until one (1) week prior to consideration of the extension request to the City Council. Documentation shall consist of two (2) official denials signed by officers of two (2) different lending institutions who have final jurisdiction over such financial transactions.

***Alternatives:***

The Council could choose not to approve the extension of the Atlanta Grand Bohemian Hotel Land Disturbance Permit, requiring the project to be permitted again under current codes and ordinances.

***Financial Impact:***

None.

***Concurrent Review:***

Wendell Willard, City Attorney  
Cecil McLendon, Assistant City Attorney

***Attachment:***

Letter of Application for Extension and Determination of Justifiable Cause.

# FOLTZ MARTIN LLC

A T T O R N E Y S   A T   L A W

5 PIEDMONT CENTER SUITE 750 ATLANTA GA 30305-1541  
TELEPHONE 404-231-9397 / FACSIMILE 404-237-1659

August 22, 2013

**VIA EMAIL TO:**

Patrice S. Dickerson, AICP  
Manager of Planning and Zoning  
Department of Community Development  
City of Sandy Springs  
7840 Roswell Road, Building 500  
Sandy Springs, Georgia 30350

**Re: Sandy Springs Grand Bohemian Hotel  
Land Disturbance Permit #200700031 ("LDP") issued to The Kessler  
Enterprise, Inc.**

Dear Patrice:

The Kessler Enterprise is requesting an extension of time for commencement of construction under the LDP because of the continuing difficulty in obtaining hotel construction financing currently occurring in the credit markets. As we have stated before, the size of the construction loan involved for this project would require several banks to participate in the loan. Participating construction loans are still not available in the market place. (We have attached letters of denial from two construction mortgage lenders.)

The Kessler Enterprise continues to diligently pursue placement of construction financing for the project.

We understand this request will have to be brought before the Mayor and Council at a scheduled meeting. We would ask that this be heard at the September 3, 2013, meeting.

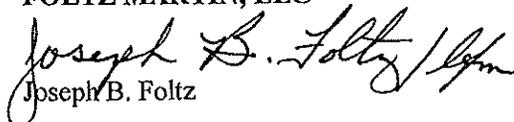
Kindly advise if there is anything further we can provide in order to help the Council and Mayor make a favorable decision on this request.

Thank you for your consideration in this matter.

Best regards.

Sincerely,

FOLTZ MARTIN, LLC

  
Joseph B. Foltz

JBF/lfm

cc: Mr. Day B. Dantzer, via email

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PO Box 120 • Columbus, GA 31902

August 24, 2013

Mr. Richard C. Kessler  
President  
Kessler Grand Bohemian Atlanta, LLC  
4901 Vineland Rd.  
Suite 650  
Orlando, FL 32811

Re: Kessler Grand Bohemian Atlanta, LLC  
Grand Bohemian Hotel – Atlanta  
Construction Loan Financing

Dear Mr. Kessler:

We have reviewed your request relative to construction loan financing on the above referenced project. Given the current financial market conditions and restricted lending parameters in the banking industry and our institution, we are unable to provide financing at this time. When the lending environment returns to a more normal operational position, we would like to revisit this project.

Thank you for presenting this opportunity to us and we hope to be able to entertain your request at a later date.

Very truly yours,

J. Mark Snead, Jr.  
Vice President  
Corporate Banking  
CB&T- A division of Synovus Bank

August 21, 2013

Mr. Richard C. Kessler, President  
Kessler Grand Bohemian Atlanta, LLC  
4901 Vineland Rd., Suite 650  
Orlando, FL 32811

Re: Kessler Grand Bohemian Atlanta, LLC  
Construction Loan Financing for  
Grand Bohemian Hotel – Atlanta

Dear Mr. Kessler:

We have reviewed your request for construction loan financing on the above referenced Grand Bohemian Hotel – Atlanta project. Due to current market conditions for this particular request, we are unfortunately unable to provide financing at this time. We would like to revisit this project at a future date when market conditions are more economically feasible.

Sincerely,



Michael Duncan  
Senior Vice President  
Real Estate Banking Group