



To: Honorable Mayor and City Council Members

From: John F. McDonough, City Manager

By: Nancy J. Leathers, AICP, Director, Community Development Department

A handwritten signature in black ink, appearing to be "N. Leathers", is written over the name in the "By:" line.

Date: October 5, 2010 for Submission on October 19, 2010 Mayor and City Council Meeting

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

Community Development Department 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:

Do not 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:

No financial impact.

Concurrent Review:

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

September 29, 2010

VIA ELECTRONIC and US MAIL

Ms. Nancy Leathers
Director of Community Development
City of Sandy Springs
Morgan Fall Office Park
7840 Roswell Road, Suite 500
Sandy Springs, Georgia 30350

**Re: Atlanta Grand Bohemian Hotel
Land Disturbance Permit #200700031 ("LDP") issued to The Kessler
Enterprise, Inc., as assigned to Kessler Grand Bohemian Atlanta, LLC
("KGBA")**

Dear Nancy:

KGBA is requesting an extension of time for commencement of construction under the LDP because of the current lending freeze on construction financing currently occurring in the credit markets. As we have stated before, the size of the construction loan involved for this project, several banks will need to participate in the loan. Participating construction loans are still not available in the market place.

KGBA continues to diligently pursue placement of construction financing for the project.

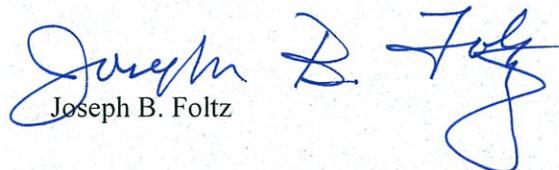
We understand this request will have to be brought before the Mayor and Council at their next scheduled meeting. Kindly advise if there is anything further we can provide in order to help the Council and Mayor make a favorable decision on this request.

Thank you for your consideration in this matter.

Best regards.

Sincerely,

FOLTZ MARTIN, LLC


Joseph B. Foltz

JBF/lfm

cc: Mr. Day B. Dantzler, via email
889030.1



PO Box 120 • Columbus, GA 31902

October 11, 2010

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,

A handwritten signature in blue ink, appearing to read 'J. Mark Snead, Jr.'.

J. Mark Snead, Jr.
Vice President
CB&T Commercial Real Estate



355 North Orange Avenue
Orlando, Florida 32801

October 12, 2010

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

RE: Kessler Grand Bohemian Atlanta, LLC / Grand Bohemian Hotel Atlanta

Dear Mr. Kessler:

Thank you for your construction loan and permanent loan requests with regard to the aforementioned project. We appreciate our current business relationship and your request. Unfortunately due to the current economic conditions and the related constraints placed upon our and many other lending institutions; we must respectively decline your request for construction loan financing and permanent loan financing for the aforementioned property and project at this time.

We hope you can appreciate our current decision. However, we certainly believe this project to have merits and it remains our hope to revisit the possibility of financing this project for you in the future.

We certainly appreciate our business relationship with you and I thank you for your business. Please phone me at (407) 283-6009 (direct) should you have any questions or need any further clarification with regard to our decision.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler P. Kurau'. The signature is fluid and cursive, with a large loop at the end.

Tyler P. Kurau
Central Florida Regional Executive

CC: Mr. Brian Py