MEMORANDUM

Date: February 25, 2013

TO: Dave Bullock, Town Manager

FROM: Robin D. Meyer, AICP, Director, Planning, Zoning and Building

SUBJECT: Ordinance 2013-07, Amending Section 158.180 of the Land Development Code Relating to the Distribution of Tourism Units

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At the February 4, 2013 Regular Meeting, the Town Commission held first reading and public hearing on Ordinance 2013-07 and upon forwarded the Ordinance to the March 4, 2013 Regular Meeting for second reading and public hearing. The amendments to Section 158.180 provide that the allocation to tourist-zoned properties can use the Site Plan review process instead of the ODP process.

This special eligibility would now be limited to T-6-zoned properties, which have previously been designated as the highest-density tourism properties in the town. There are ten T-6 properties in the Town, including the Hilton and the Colony. Non-T-6 properties wishing to build some of the 250 additional tourism units would still use the ODP process. This draft provides new standards for the Town Commission to use in evaluating such applications.

Ordinance 2013-07 is placed on the March 4, 2013 Regular Meeting for second reading and public hearing. If you have any questions please feel free to contact me.

ORDINANCE 2013-07

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA, BY AMENDING THE ZONING CODE, DIVISION 3, COMMERCIAL REVITALIZATION, CHAPTER 158.180, *DISTRIBUTION OF 250 TOURISM UNITS*; TO PROVIDE FOR APPROVAL BY SITE PLAN REVIEW FOR PROPERTIES WITHIN TOURIST RESORT COMMERCIAL DISTRICTS, PROVIDING CRITERIA FOR EVALUATION OF A SITE PLAN APPLICATION, REMOVING THE INITIAL APPLICATION REVIEW PERIOD, MAINTAINING THE OUTLINE DEVELOPMENT PLAN REVIEW PROCESS FOR ALL OTHER PROPERTIES SEEKING ADDITIONAL TOURISM UNITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the voters of Longboat Key authorized the allocation of 250 additional tourism units within the town through a referendum held on March 18, 2008; and

WHEREAS, the Town's Zoning Code was subsequently amended to provide criteria and procedures to allocate the 250 tourism units to landowners desiring to construct them in a manner and location that would benefit the public interest of Longboat Key and be compatible with and not detrimental to the character of the area; and

WHEREAS, further amendments to section 158.180 of the Town's Zoning Code are required to update the criteria and procedures regarding the eligibility for and allocation of the 250 tourism units authorized by the referendum; and

WHEREAS, at a duly noticed public hearing on January 15, 2013, the Planning and Zoning Board found the subject Zoning Code amendments to be consistent with the Town's Comprehensive Plan and recommended that the Town Commission approve the Zoning Code amendments; and

WHEREAS, the Town Commission of the Town of Longboat Key, at duly noticed public hearings on February 4, 2013, and on March 4, 2013, considered the proposed Zoning Code amendments as recommended by the Planning and Zoning Board; and

WHEREAS, the Town has received and considered comments from the public; and

WHEREAS, the Town Commission of the Town of Longboat Key, after review of the recommendations of the Planning and Zoning Board, comments made at public hearings, and careful consideration of the issues, finds that the proposed Zoning Code amendments are consistent with the Comprehensive Plan and are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 158, Section 158.180, *Distribution of 250 tourism units*, is hereby amended as follows:

158.180 Distribution of 250 tourism units.

(A) Purpose. It is the intent of this section to govern the eligibility for and allocation of the 250 tourism units authorized by referendum election held on March 18, 2008. Approval, approval with conditions, or disapproval shall be by vote after public hearing before the town commission, pursuant to the provisions of this section.

It is further the intention of this section that the quality and location of such units shall benefit the public interest of Longboat Key, while being compatible with and not detrimental to the character of the area. The terms "tourism unit" and "tourism use" as used in this section shall be defined by section 158.006 Definitions, as amended, in this Zoning Code.

(B) Eligible properties. ~~Groups of eligibility.~~ The following properties are eligible to apply for additional tourism units based upon applicable conditions as described under this section:

~~(1) Tourism developments.~~

~~(a) Tourism zoned or residentially zoned properties with an existing legal tourism use.~~

~~(b) Two or more contiguous tourism developments or tourism zoned properties may merge to create one larger development lot as defined in section 158.006.~~

(1) T-3 and T-6 zoned properties may be eligible for additional tourism units. Two or more contiguous T-3 or T-6 properties may be merged to create one larger development lot.

(2) Residentially zoned properties with an existing legal tourism use may be eligible for additional tourism units. Two or more contiguous nonconforming tourism used properties may be merged to create one larger development lot.

(3) OI, C-1, C-2, C-3, and M-1 zoned property with a conforming principal use may be eligible for additional tourism units.

(a) For commercial and office zoned property, the tourism use shall not exceed that allowed for an accessory use, as defined.

(b) For M-1 zoned property, a marina must be its principal use, and no more than 33 percent of the buildable land area shall be allowed for total floor area of the tourism use. The total allowable floor area shall include the square footage of common use areas and open terraces, but not garages and nonhabitable basement spaces.

~~(2) Commercial, office and marina zoned property with a conforming principal use may be eligible for tourism units.~~

~~(a) For commercial and office zoned property, the tourism use shall not exceed that allowed for an accessory use, as defined.~~

~~(b) For marina zoned property, marina must be its principal use, and no more than 33 percent of the buildable land area shall be allowed for total floor~~

~~area of the tourism use. The total allowable floor area shall include the square footage of common use areas and open terraces, but not garages and nonhabitable basement spaces.~~

(4) ~~(3)~~ Additional tourism units under this section ~~are allowed in residential districts as provided in subsection (B)(1) only and~~ are not permitted in OS-A, OS-P, OS-C, MUC-1, MUC-2, and MUC-3 zoning districts.

(5) ~~(4)~~ Properties with existing PUD overlays may be eligible for additional tourism units based upon the underlying zoning district. All property owners within the PUD overlay must join in an ODP amendment application in order for the application to be processed by the Town. ~~The existing PUD overlay shall become null and void upon approval of the ODP amendment application. All property owners within the PUD shall join in the ODP amendment application in order for the application to be processed by the town.~~

(C) Alternate review processes. Distribution of additional tourism units to T-6 zoned properties may be approved through the site plan approval process provided the proposal meets the requirements of subsection (D) below. All other eligible applications for additional tourism units shall use the outline development plan (ODP) process that includes a binding concept plan as defined by 158.006 or a final site plan as described 158.095; these proposals must meet the requirements of subsection (E) below.

(D) Standards for T-6 properties. T-6-zoned properties may seek final site plan approval that includes additional tourism units without filing an ODP application provided the site plan meets the requirements of this code, as adjusted by the following standards:

(1) Must comply with the maximum building height and lot coverage for properties not filing an ODP application.

(2) In meeting the 50% open space requirement in section 158.069 and 158.102(F)(2), up to 20% of the required open space may be permeable paving.

(3) May not fall below 75% of the required distances set forth in section 158.102(L)(2) for side setbacks and for separation between buildings, except the latter distance may be reduced by 50% for one and two story buildings (the minimum distances required by section 158.102(L)(2) can be multiplied by 0.75 or by 0.50 as applicable).

(4) May not exceed double the maximum floor area ratio normally allowed in the T-6 zoning district (0.64 would be allowed instead of 0.32, see section 158.102(C)).

(5) May not fall below half the minimum living space ratio normally required in the T-6 zoning district (0.75 would be allowed instead of 1.50, see section 158.102(C)).

(6) May not fall below half the minimum open space ratio normally required in the T-6 zoning district (1.10 would be allowed instead of 2.20, see section 158.102(C)).

(7) Parking:

(a) The parking flexibility provisions of section 158.128(N) and the parking waivers allowable under section 158.128(O) may be requested and approved as part of the final site plan approval.

(b) The minimum front setback for parking spaces in section 158.128(H)(2) may be cut in half provided the remaining setback is landscaped to visually screen parked automobiles.

(c) Parking spaces that are limited to valet parking may be 8.5 feet wide and 18 feet long instead of the 10- by 20-foot spaces required for self-parking stalls (see section 158.128(A)(1)).

(d) Landscaped parking islands may be 5 feet wide by 18 feet long instead of the 10- by 20-foot islands required by section 158.128(I)(4).

(8) In order to grant final site plan approval or approval with conditions, the town commission must find by competent substantial evidence that the project incorporating the additional tourism units:

(a) meets these and other applicable standards;

(b) is in the best interest of the town and its citizens; and

(c) does not adversely impact or affect the public interest.

(E) Standards for all other eligible applications. All other eligible applications for additional tourism units must be part of an ODP application that follows the procedures and meets the standards in this code. In determining whether additional tourism units will be allocated, the town commission will evaluate the quality of each application using the following criteria. An ideal application would meet all eight "best" criteria.

(1) *BUILDING HEIGHT:*

(a) *BETTER:* Taller buildings are located away from the edges of parcels to minimize adverse impacts on adjoining land.

(b) *BEST:* Buildings are similar in height to existing buildings that will remain on the site and to buildings on adjoining parcels.

(2) *OFF-STREET PARKING:*

(a) *BETTER:* The impacts of off-street parking are minimized through the use of understructure parking or the construction of freestanding parking garages that are shielded from public view by liner buildings that contain habitable uses.

(b) *BEST:* The impacts of off-street parking are minimized through valet parking, shared parking lots for peak parking loads, convenient public transit, and/or high-quality bicycle and pedestrian facilities.

(3) *OPEN SPACES:*

(a) *BETTER:* Open spaces meet current requirements with minimal departures.

(b) *BEST:* Open spaces are sited and designed to provide maximum visual appeal to surrounding properties; landscaping blocks undesirable views of parking and service facilities.

(4) *RECREATION:*

(a) *BETTER:* The development will provide generous on-site recreational opportunities, or proximity and connection to ample off-site recreational opportunities such as boat dockage, tennis courts, golf courses, or nature trails.

(b) *BEST:* The development will provide guests with direct legal access to the beach or bay.

(5) *STORMWATER:*

(a) *BETTER:* Stormwater runoff is appropriately detained and treated in above-ground basins that serve additional active functions.

(b) *BEST:* Stormwater runoff is appropriately detained and treated in subsurface facilities.

(6) *SUFFICIENCY OF LAND AREA:*

(a) *BETTER:* The site accommodates the scale of the proposed project and minimizes adverse impacts to adjacent parcels and surrounding area through sensitive siting, building design, and landscaping.

(b) *BEST:* The site is of sufficient size to accommodate the scale of the proposed project while avoiding adverse impacts to adjacent parcels and surrounding area.

(7) *WATER SETBACKS:*

(a) *BETTER:* The required gulf and pass waterfront yards are met without departures.

(b) *BEST:* The required gulf and pass waterfront yards are exceeded.

(8) *ZONING COMPLIANCE:*

(a) *BETTER:* Meets current zoning constraints with minimal departures.

(b) *BEST:* Meets current zoning constraints without departures.

~~(C) Review. The standards of the underlying zoning district in which the subject property is located shall remain in effect. In order to grant approval or approval with conditions, the town must find by competent substantial evidence that the project is in the best interest of the health, safety and welfare of the town and its citizens and does not adversely impact or affect the public interest. Projects shall be reviewed, evaluated, ranked, approved, approved with conditions, or disapproved in accordance with the following criteria, as well as the criteria set forth in section (D) below. The criteria listed below are in prioritized order with the most important listed first. Projects that require a departure from the standards of the zoning code, or do not meet zoning constraints, must demonstrate by clear and convincing evidence that the projects are so beneficial to the town as to warrant the granting of the requested departure or allowing the zoning constraints to be exceeded. In reviewing a proposed project, the town shall consider:~~

~~(1) *Existing developments*. Whether the project:~~

~~(a) Meets current zoning constraints and would not need departures.~~

~~(b) Meets current zoning constraints and would need departures for the additional units.~~

~~(c) Does not meet current zoning constraints and would not need further departures.~~

~~(d) Does not meet current zoning constraints and would need further departures.~~

~~(2) *Sufficiency of the land area*. The site on which the project is to be located must be of sufficient size to accommodate the mass and scale of the proposed project, as well as to protect against adverse impacts to the adjacent parcels and surrounding area. Two or more contiguous existing tourism developments or tourism zoned properties that are merged shall be considered one lot for this consideration, in which case the underlying zoning district of each respective lot shall govern.~~

~~(3) *Number of units*.~~

~~(a) Proposed projects that appropriately utilize a greater number of available tourism units.~~

~~(b) Proposed projects that appropriately result in a greater total number of tourism units.~~

~~(4) *Open space*. Whether the proposed project preserves a larger percentage of open space than required by this Zoning Code.~~

(5) *Off-street parking.* Whether the impacts of off-street parking is minimized through the maximization of understructure parking, the utilization of parking waivers, and the strict application of the minimum parking calculations as per section 158.128 of this Code.

(6) *Setbacks.* Whether the proposed project maintains or surpasses the required gulf and pass waterfront yards.

(7) *Building height.* With no order of preference, the proposed structures':

(a) Distance from structures on adjacent properties.

(b) Distance from setback lines.

(c) Distance from rights-of-way.

(d) Relationship to the height of other onsite structures.

(e) Relationship to the height of off-site structures.

(8) *Traffic circulation and impacts.*

(9) *Minimization of potable water* usage (e.g., utilization of alternative water sources).

(10) *Minimization of stormwater runoff.*

(D) Site considerations and compatibility review criteria. Projects shall be reviewed according to the criteria listed below which are in prioritized order with the most important listed first:

(1) *Character compatibility.* Projects shall be compatible with and not detrimental to the character, including the use, of the area taking into consideration the adjacent property's potential development under the zoning code.

(2) *Consolidation of properties.* The potential positive impacts that are likely to occur from the consolidation of smaller development sites resulting in a larger development site.

(3) *Quality of development.*

(a) The proposed architecture enhances both the site and the surroundings.

(b) The proposed landscaping and tree preservation and plantings.

(c) The proposed on-site amenities and recreational opportunities serving the development.

(4) *Quality of life.*

(a) Proximity and connection to beach or bay access.

(b) Proximity and connection to existing commercial.

(c) Proximity and connection to existing offsite recreational opportunities.

(d) Pedestrian walkability and bicycle accessibility.

(E) Initial application review period. Since the town cannot anticipate whether requests for the utilization of the tourism units will exceed the 250 units available, upon the adoption of the ordinance enacting this section, a minimum initial 60-day application period shall be implemented to allow for the submission of all completed applications. At any time prior to a recommendation to the town commission on these initial applications, the planning and zoning board may, by majority vote, extend the initial 60-day application period as well as the review period if the board finds that to do so is necessary and proper to insure the orderly and fair evaluation of projects seeking to utilize some or all of the tourism units to be allocated hereunder. Upon expiration of the initial application period, the planning zoning and building director, or designee, shall review, rank and prioritize all applications, and

~~forward the applications, together with recommendations, to the planning and zoning board.~~

~~(1) These applications shall be considered as a group before the planning and zoning board. The planning and zoning board shall provide recommendations to the town commission as to which, if any, projects meet the criteria for approval. If the total number of tourism units requested for projects that meet the criteria as determined by the planning and zoning board exceeds 250 units, then the planning and zoning board shall rank those projects from highest to lowest as part of its recommendation to the town commission.~~

~~(2) These applications forwarded by the planning and zoning board shall be considered as a group by the town commission. The town commission shall determine which projects, if any, meet the criteria of this section. If the total number of tourism units in projects that meet the criteria for approval exceeds 250, then the town commission shall rank those projects from highest to lowest. Projects shall be approved and units shall be committed by the town in accordance with this section starting with the project ranked highest.~~

~~(3) If after the allocation of tourism units to the ranked project(s), there are units remaining but the next ranked project requires more units than are available, then the next ranked project shall be given the opportunity during the allocation determination of the town commission to make a minor modification to the number of units requested in order to comply with the number of units available. There shall be a finding that the proposed minor modification does not adversely impact the rankings of the pending applications in order for the units to be allocated.~~

~~(4) If the next ranked project is unable to make acceptable minor modifications as described above, then the applicant(s)of the remaining ranked projects shall be given the opportunity to amend their application(s) and the remaining project(s) shall be ranked based on the criteria contained within subsections (C) and (D). Amended application(s) shall be submitted within 60 days from the initial allocation determination of the town commission. The projects approved and allocated units may proceed through the remaining approval processes.~~

~~(5) Ranked projects, for which the requested number of units cannot be committed, shall be kept under consideration until the site plan application period as described in subsection (G) for the committed units has lapsed. If there are available units as a result of subsection (G), these project(s) will be considered for the ranking, allocation, and assignment of any unused units along with any other applications that may be submitted and reviewed during the interim utilizing the process and procedure for ranking and allocation outlined above.~~

~~(F) After the initial application review period. If there are units that remain available for distribution, all applications will be reviewed as they are completed in accordance with the provisions of this Code and the criteria and standards set forth above. The town shall provide no guarantees or assurances of approval and no development permits or land uses based on the utilization of the 250 tourism units shall be granted until the review and determination of the initial applications is completed by the town.~~

(F) ~~(G)~~ Approval process. ~~Application and review process. Applications for eligibility and distribution of the 250 additional tourism units shall follow the procedures for and be approved, approved with conditions, or denied as an outline development plan (ODP) that shall include a binding concept plan. The necessary units to implement the binding concept plan shall be committed by the town upon the plan's approval, contingent upon the requirements of this Code.~~ The additional tourism units requested in the final site plan or binding concept plan shall be committed by the Town upon the plan's approval, subject to the conditions below:

(1) When additional tourism units have been approved through ~~Upon~~ approval of an ODP and binding concept plan, the applicant shall have no more than six months for the Town to receive a complete application for final site plan approval. Failure to submit a complete application within six months, or submitting a complete site plan application within six months that is denied after all appeals are exhausted, shall result in the loss of the tourism units committed to the project, and the units shall become available for other proposed developments within the Town.

(2) Final site plan approval for the construction of additional tourism units shall expire 24 months after the date of approval if a complete application for building permit has not been submitted to the Town and a building permit issued for the construction of all buildings that include tourism units. Allocated tourism units associated with an expired final site plan or an expired building permit shall become available for other proposed developments within the Town.

(3) ~~(1)~~ Concurrent review and approval of an ODP and final site plan is allowed; the final site plan replaces the requirement for a binding concept plan.

(4) ~~(2)~~ Concurrent review and approval of applications for involuntary or voluntary rebuild, in accordance with sections 158.139 and 158.140, and applications for up to 250 tourism units, under this section, is allowed and shall be by ODP application in conjunction with a final site plan. The final site plan replaces the requirement for a binding concept plan.

~~(a) However, in such case the ODP and final site plan review applications must also be reviewed and approved concurrently.~~

~~(b) The final site plan shall replace the need for a binding concept plan as described in subsection (F).~~

~~(H) Site plan expiration. The final site plan for the construction of additional tourism units shall expire 24 months after the date of approval if a complete application for building permit has not been submitted to the town and a building permit issued. Allocated tourism units associated with an expired site plan shall become available for other proposed developments within the town.~~

~~(I) As a condition of approval, the applicant agrees to voluntarily forgo any underlying residential use of the subject property without a future amendment to the ODP.~~

~~(J) Committed tourism units that are not approved as part of the final site plan shall become available for other proposed developments within the town.~~

~~(K) Tourism units that are approved by final site plan, but not approved as part of construction plans, shall require a site plan amendment through public hearing.~~

~~Units not constructed shall be removed from the allowable density of the subject parcel and become available for other proposed developments within the town. Units constructed but subsequently removed shall revert to the town for future allocation.~~

~~(L) Conflicting Code provisions. Should the provisions eligibility and distribution of the 250 additional tourism units under this section for and the provisions of sections 158.065 through 158.103 conflict, the provisions for eligibility and distribution of the 250 additional tourism units shall prevail.~~

SECTION 3. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 4. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 5. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading and public hearing the 4th day of February, 2013.

Adopted on the second reading and public hearing the _____ day of _____, 2013.

_____
James L. Brown, Mayor

ATTEST:

_____
Trish Granger, Town Clerk

End of Agenda Item