

M E M O R A N D U M

DATE: January 14, 2014

TO: Planning and Zoning Board

FROM: Alaina Ray, AICP, Director
Planning, Zoning and Building Department

SUBJECT: Ordinance 2014-07 Special Exception Expirations

Background

Section 158.126(B) of the Town of Longboat Key Zoning Code specifies that Special Exception uses expire 12 months after the uses are granted, if those uses have not commenced by that time. Special Exceptions have often been granted for uses which did not require construction activities; for example, outdoor dining when commencement of the use entailed moving tables and chairs to an existing outdoor area. In these instances, commencement of the use was easily accomplished within the 12-month period. However, when Site Plan approval and/or construction activities are necessary in order to accommodate uses granted by a Special Exception, 12 months may not be sufficient time to navigate the Site Plan approval process, obtain building permits, and complete construction.

Analysis

Section 158.126 does provide a mechanism for the Town Commission to grant an extension to Special Exception uses. The maximum extension currently allowed by Code is an additional six (6) months. In cases where construction is required, an applicant could still face an expiration of the Special Exception before the granted uses commenced, with no provision available in the Code to seek an additional extension. This could leave a property owner in the difficult position of having expended considerable funds on construction to accommodate a use that becomes invalid prior to construction being finalized. The only option would be to then apply for a new Special Exception.

In an effort to provide adequate time for Special Exception uses to commence when Site Plan approval, building permitting, and construction processes are required, staff identified multiple options, including:

1. Revise Section 158.126(B) to allow more time before Special Exception uses expire. As an example, Site Plan approvals expire 24 months after approval is granted, if a building permit has not been granted by that time.
2. Revise Section 158.126 to allow a Special Exception to remain valid if an applicant is actively pursuing Site Plan approval, building permits, or is under construction to accommodate the uses granted by the Special Exception.
3. Add language to provide a mechanism for additional extensions.

During the Town Commission Regular Workshop on November 13, 2013, Staff presented this issue as a discussion item to the Town Commission. Staff was directed to draft language that would lengthen the expiration timeframe from 12 to 24 months and to remove language restricting the Town Commission's extension authority to six (6) months.

Conclusion

Staff recommends the Planning and Zoning Board consider the proposed ordinance and recommend approval to the Town Commission.

ORDINANCE 2014-07

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 158, ZONING CODE, 158.126: SPECIAL EXCEPTION USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 158, *Zoning Code* of the Town of Longboat Key Code of Ordinances establishes comprehensive controls for the development of land in the Town based on the Comprehensive Plan; and

WHEREAS, Section 158.126, Special exception uses, regulates uses that may be permitted within the Town based on findings of fact by the Planning and Zoning Board; and

WHEREAS, Section 158.126, Special exception uses, specifies that any special exception use shall expire 12 months from the date of grant, unless appealed and extended by the Town Commission, if by that date the use for which the special exception was granted has not been commenced; and

WHEREAS, special exception uses that require new construction and/or renovation of existing structures in order to be accommodated may be unable to commence prior to the stated expiration date; and

WHEREAS, the Planning and Zoning Board finds that the subject Town Code amendment will improve the development process, preserve community standards and protect property values in the Town and recommends approval of the proposed amendments; and

WHEREAS, the Town Commission, after careful consideration of the issues, finds that the proposed amendments 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, *Zoning Code* is amended to read as follows:

Subsection 158.126, Special Exception Uses

(B) Expiration. Any special exception shall expire ~~42~~ 24 months from the date of grant, unless appealed and extended by action of the town commission, if by that date the use for which the special exception was granted has not been commenced. An appeal for extension shall show that commencement of the use is being actively pursued by evidence of an application for a building permit, preliminary plat, or site and development plan, or other evidence satisfactory to the town commission; ~~said extension shall not exceed six months.~~

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 and proposed amendments shall take effect upon second reading in accordance with law and the charter of the Town of Longboat Key.

Passed on the first reading the ____ day of _____, 2014.

Adopted on the second reading and public hearing the _____ day of _____, 2014.

James L. Brown, Mayor

ATTEST:

Trish Granger, Town Clerk



**Ordinance 2014-07
Special Exceptions
Expiration**

**Planning & Zoning Board
January 21, 2014**



SECTION 158.126(B)

- Section 158.126(B) of the Town of Longboat Key Zoning Code specifies that Special Exception uses expire 12 months after the uses are granted, if those uses have not commenced by that time.
- This expiration provision could present difficulty for property owners when construction needs to occur to accommodate the Special Exception uses.



Examples

- Special Exception for outdoor dining when commencement of the use entails moving tables and chairs to an **existing** outdoor area. In these instances, commencement of the use is easily accomplished within the 12-month period.
- Special Exception for outdoor dining for a building that has **yet to be constructed or renovated** (new/remodeled restaurant). Twelve months may not be sufficient time to navigate the Site Plan approval process, obtain building permits, and complete construction.



Extension Provision

- Section 158.126 provides a mechanism for the Town Commission to grant an extension to Special Exception uses.
 - The maximum extension currently allowed by Code is an additional six (6) months.
 - In cases where construction is required, an applicant could still face an expiration of the Special Exception before the granted uses commenced, with no provision available in the Code to seek an additional extension.



Proposed Revision

Subsection 158.126, Special Exception Uses

(B) Expiration. Any special exception shall expire ~~12~~ 24 months from the date of grant, unless appealed and extended by action of the town commission, if by that date the use for which the special exception was granted has not been commenced. An appeal for extension shall show that commencement of the use is being actively pursued by evidence of an application for a building permit, preliminary plat, or site and development plan, or other evidence satisfactory to the town commission; ~~said extension shall not exceed six months.~~