Regular Workshop – April 21, 2014
Agenda Item 13

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| Agenda Item: | Ordinance 2014-14 Amending Chapter 158, Site Plan Approval Authority |
| Presenter: | Planning, Zoning & Building Director |
| Summary: | Final site plan approval authority was granted to the Planning and Zoning Board in 1999 by Ordinance 99-15 and was returned to the Town Commission in 2008 by Ordinance 2008-18. At the March 3, 2014 Town Commission Regular Meeting, the Commission requested staff to draft an ordinance to provide for changes to Chapter 158, Zoning Code, that would give the final approval authority of site plan requests to the Planning and Zoning Board.<br><br>Staff has drafted proposed Ordinance 2014-14, moving final site plan approval authority from the Town Commission back to the Planning and Zoning Board for site plans that meet all zoning and land development regulations. However, any site plans that require departures or special exceptions will continue to require approval by the Town Commission. |
| Attachments: | 4-15-14 Memo, PZB Director to Manager;<br>4-15-2014 Memo, P&Z Board Chair to Town Commission;<br>PowerPoint Presentation;<br>4-7-14 Staff Report, Director to P&Z Board;<br>Draft Minutes from the 4-15-2014 P&Z Board Meeting;<br>Proposed Ordinance 2014-14. |
| Recommended Action: | Pending discussion, provide direction to Manager. |

# MEMORANDUM

**DATE:** April 15, 2014

**TO:** Dave Bullock, Town Manager

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

**SUBJECT :** Proposed Ordinance 2014-14, Site Plan Approval Authority

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At their March 3, 2014 Town Commission Regular Meeting, the Commission requested staff to draft changes to Chapter 158, Zoning Code, that would give the final approval authority of site plan requests to the Planning and Zoning Board. Currently, that authority lies with the Town Commission as the result of a Code change in 2008.

Final site plan approval authority was granted to the Planning and Zoning Board in 1999 by Ordinance 99-15 and was returned to the Town Commission in 2008 by Ordinance 2008-18. Staff has drafted proposed Ordinance 2014-14, moving final site plan approval authority from the Town Commission back to the Planning and Zoning Board for site plans that meet all zoning and land development regulations. However, any site plans that require departures or special exceptions will continue to require approval by the Town Commission.

The Planning and Zoning Board held a public hearing and considered the proposed ordinance at their meeting on April 15, 2014. The Planning and Zoning Board made a recommendation to the Town Commission to approve the ordinance.

At this time, the Town Commission is asked to review the proposed ordinance and, if desired, place it on the May 5, 2014 Regular Meeting agenda for first reading and public hearing.

ATTACHMENTS

- Ordinance 2014-14
- Staff Memo to PZB, 04-07-14
- PZB Minutes, 04-15-14
- Memo, PZB Chair to TC

# MEMORANDUM

**DATE:** April 15, 2014

**TO:** Honorable Mayor and Town Commission

**THROUGH:** Dave Bullock, Town Manager

**FROM:** BJ Bishop, Chair
Planning and Zoning Board

**SUBJECT:** ORDINANCE 2014-14, SITE PLAN APPROVAL AUTHORITY

During the public hearing held on April 15, 2014, the Planning and Zoning Board recommended APPROVAL of Ordinance 2014-14, amending Chapter 158, Zoning Code, transferring approval authority of final site plans that meet all applicable zoning and land use regulations from the Town Commission to the Planning and Zoning Board. The specific motion from the April 15, 2014, meeting of the P&Z Board are as follows:

**MR. HIXON MOVED TO RECOMMEND APPROBAL OF ORDINANCE 2014-14. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: HIXON, AYE: GARNER, AYE; AITKEN, AYE; BISHOP, AYE; DALY, AYE; SCHNEIER, AYE; SYMANSKI, AYE; WILD, AYE.**

Enclosed, for your review and consideration, please find the following support documentation:

1. Staff Memo, dated 4-15-14, Director to Town Manager;
2. Staff Report, dated 4-7-14, Director to P&Z Board;
3. PowerPoint presentation;
4. Draft minutes from the 4-15-14 regular P&Z Board meeting on this issue; and
5. Proposed Ordinance 2014-14.

If you should have any questions, or desire any additional information, please do not hesitate to contact me.

BJB/adr

TOWN OF LONGBOAT KEY

# Ordinance 2014-14
# Site Plan Approval Authority

Town Commission Regular Workshop

April 21, 2014

# Final Site Plan Approval Authority

At their March 3, 2014, Town Commission Regular Meeting, the Town Commission requested staff to move forward changes to Chapter 158, Zoning Code, that would give the final approval authority of site plan requests to the Planning and Zoning Board, if the site plan meets all applicable zoning and land development regulations. Currently, that authority lies with the Town Commission as the result of a code change in 2008.

# History

- Final site plan approval authority was granted to the P&Z Board in 1999 by Ord. 99-15 and was returned to the Town Commission in 2008 by Ord. 2008-18.
- Staff drafted proposed Ord. 2014-14, moving final site plan approval authority from the Town Commission back to the P&Z Board for site plans that meet all zoning and land development regulations.
- P&Z Board held a public hearing and recommended approval of Ord. 2014-14 at their meeting on April, 15, 2014.
- Any site plans that require departures or special exceptions will continue to require approval by the Town Commission.

# Recommendation

Planning and Zoning Board recommends approval of Ordinance 2014-14, that transfers the authority for final site plan approval for all site plans meeting all applicable zoning and land development regulations from the Town Commission to the Planning and Zoning Board.

# MEMORANDUM

**DATE:** April 7, 2014

**TO:** Planning and Zoning Board

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

**SUBJECT :** Proposed Zoning Code Amendment - Site Plan Approval Authority

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At their March 3, 2014, Town Commission Regular Meeting, the Town Commission requested staff to draft an ordinance to move forward changes to Chapter 158, Zoning Code, that would give the final approval authority of site plan requests to the Planning and Zoning Board. Currently, that authority lies with the Town Commission as the result of a code change in 2008.

Final site plan authority was granted to the Planning and Zoning Board in 1999 by Ordinance 99-15 and was returned to the Town Commission in 2008 by Ordinance 2008-18. Staff has drafted proposed Ordinance 2014-14, moving final site plan approval authority from the Town Commission back to the Planning and Zoning Board for site plans that meet all zoning and land development regulations. However, any site plans that require departures or special exceptions will continue to require approval by the Town Commission.

At this time, the Planning and Zoning Board may review, consider and provide a recommendation to the Town Commission.

AR/ss

ATTACHMENTS

Ordinance 2014-14 Site Plan Approval Authority

**PLANNING AND ZONING BOARD MEETING**
**APRIL 15, 2014 – 9:00 AM**

AGENDA ITEM 2
DRAFT ORDINANCE 2014-14 AMENDING CHAPTER 158
SITE PLAN REVIEW AUTHORITY

Chairman Bishop provided a history of the site plan review authority.

Planning, Zoning, and Building Director Alaina Ray explained proposed Ordinance 2014-14 would move the site plan approval authority from the Town Commission back to the P&Z Board for site plans that meet all zoning and land development regulations. However, any site plan that required departures or special exceptions would continue to require Town Commission approval.

**Member Hixon moved to forward to the Town Commission proposed Ordinance 2014-14 that transfers the authority for final site plan approval for all site plans meeting all applicable zoning and land development regulation from the Town Commission to the P&Z Board. The motion was seconded by Member Garner.**

Discussion was held on the following topics/issues:

- allowing departure approval at the Planning & Zoning Board level
- hold a joint meeting with the Town Commission
- if Special Exceptions would be approved by the Town Commission level.

Attorney and Ocean Property Representative John Patterson commented on Town Commission authority for Outline Development Plans and Planned Unit Developments.

**Following discussion the motion carried by a 6-0 roll call vote, as follows: Hixon, aye; Garner, aye; Aitken, aye; Bishop, aye; Daly, aye; Schneier, aye; Symanski, aye; Wild, aye.**

# ORDINANCE 2014-14

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 158: ZONING CODE, AMENDING DIVISION 2, SITE DEVELOPMENT PLANS, SECTION 158.099, SUBDIVISION PROCEDURE, AND SECTION 158.102, PERFORMANCE STANDARDS FOR SITE AND DEVELOPMENT PLANS TO PROVIDE A PROCESS AND PROCEDURE FOR THE PLANNING AND ZONING BOARD TO BE THE FINAL AUTHORITY FOR SITE PLAN REVIEW, APPROVAL, OR DENIAL; 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 ("Code") establishes comprehensive controls for the development of land in the Town based on the Comprehensive Plan; and

**WHEREAS**, the Town of Longboat Key adopted Ordinance 2008-18 transferring the final authority for site plans from the Planning and Zoning Board to the Town Commission; and

**WHEREAS**, the Town of Longboat Key is desirous of amending that process to restore the Planning and Zoning Board as the final authority for site and development plan review; and

**WHEREAS,** the Planning and Zoning Board finds that the subject 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,* Subsection 158.099, Submission procedure is amended to read as follows:

(C) Upon receipt of the application from the planning and zoning official, the planning and zoning board shall review the site plan ~~and make recommendations to the town commission together with its~~ and make findings with respect to the proposed development as set forth in Section 158.102. The board shall either ~~recommend~~ approve the application as submitted, ~~recommend~~ approve the application with changes or special

conditions, or ~~not recommend~~ disapprove the application. For purposes of this section, the planning and zoning board shall receive a site plan application from the planning and zoning official at the board's next regular meeting where a quorum is present following the planning and zoning official's submittal of the application to the board. Appeals of the planning and zoning board's decision shall be in accordance with Section 158.031.

~~(D) The town commission shall within a reasonable period of time after receipt of the recommendations from the planning and zoning board, hold a public hearing on the site plan application and either approve it as submitted, approve it with changes or special conditions, or disapprove it. The action taken by the town commission shall be in resolution form and shall include the town's findings with respect to the proposed development as set forth in Section 158.102. The town commission may unilaterally extend the time for final action where the town commission determines additional time is necessary to properly and completely review the site plan application; provided, however, that final action must be taken within a reasonable period of time. For purposes of this section, the town commission shall be deemed to have received the site plan application from the planning and zoning board at the commission's next regular meeting where a quorum is present, following submittal of the board's action of the application to the commission and satisfaction of the required public notice.~~

(~~E~~D) The applicant may elect to revise the site plan submission at any time in the review process prior to the public hearing before the planning and zoning board. The applicant shall submit a letter of intent to revise to the planning and zoning official who, upon receipt of the letter, will halt the normal review processing. Within a reasonable period of time after receiving the revised documents, the town's planning and zoning official will review the revisions and forward his comments and weighted options to the planning and zoning board.

~~(1) If the revision is received before the planning and zoning board has held a public hearing on the original submission, the comments and weighted options of the planning and zoning official may be forwarded to that board. If the revision is received after the planning and zoning board has held a public hearing on the original submission, and the revision, as determined by the town's planning and zoning official, is a substantial departure from the application reviewed by the planning and zoning board at the public hearing, the revised submission will be renoticed for public hearing before the planning and zoning board. If the matter is renoticed, time calculations under this subsection shall be stayed pending that review.~~

(~~F~~E) Upon the granting of approval, either as submitted or with changes or special conditions, the town shall, upon receipt of a complete building permit application, issue a building permit for a portion of all of the proposed development after finding that the building permit application is in compliance with chapter 157 and all other town, county, state, and federal requirements which may include the establishment of bonding, or other performance requirements as determined by the town. An approved site plan becomes null and void if:

(1) The applicant shall abandon the plan or the section thereof that has been finally approved, and shall so notify the town; or

(2) Within 24 months of the date of approval of an application for site plan review, a complete application for building permit has not been submitted to the town and a building permit issued; or

(3) A final certificate of occupancy for all phases of the project has not been issued within three years from the date set for receipt of a complete application for building permit for the final building or development phase of the project.

The town may extend the period of approval only if special conditions and circumstances exist which do not result from the voluntary actions of the applicant, his representatives or agents, which have caused an unforeseeable delay in the ability of the applicant to submit a complete application for a building permit and/or obtain a final certificate of occupancy for all phases of the project. Economic conditions or financing problems shall not, absent other relevant considerations, form the basis for an extension of the period of approval. The town commission, however, may extend the period of approval if it determines that no material benefit would be derived to the town by requesting the applicant to resubmit an application for site plan approval, in accordance with division 2 of this chapter.

(~~G~~F) Any changes or amendments to an approved site plan shall require a resubmission in accordance with the provisions of this chapter.

SECTION 3. Chapter 158: *Zoning Code*, Subsection 158.102, Performance Standards for Site and Development Plans is amended to read as follows:

(E)(5) *Improvements to roadways and/or traffic-control devices.* Transportation improvements such as intersection improvements; additional turning, acceleration or deceleration lanes; modified land delineations; new or improved traffic-control devices; or other such improvements may be required in order to maintain the required level of service. In such case, the applicant for a development permit may be required to fund and/or install the necessary improvements or provide a legal assurance, such as a performance bond or other surety approved by the town attorney, prior to the receipt of a building permit. Where the traffic impact does not generate traffic volume that substantiates the total improvement needs, the ~~town commission~~ planning and zoning board shall determine an equitable participation in the required improvement. The participation by the applicant may, at the discretion of the planning and zoning board, consist of a pro rata dollar share of improvement costs.

(G)(2) The water regime has been permanently altered artificially or naturally in a manner to preclude its associated watershed areas from functioning as wetlands and cannot function as part of the stormwater management system for the site. Applicants for site plan review shall have an opportunity to demonstrate that any wetland designations within the confines of their property no longer functions as wetlands, including its function as part of the stormwater management system, as defined above. The urban forester, the soil conservationist, as well as representatives of the Florida Department of Environmental Protection, the Southwest Florida Water Management District, and the U.S. Army Corps of Engineers, shall be made a part of the site plan review process to assist in identifying and delineating wetlands. The applicant may request a waiver of the provisions of this section for docks or relatively small isolated marginal wetlands for which the developer shall provide viable compensatory preserve areas which mitigate against a loss of viable wetland systems. Subject to the provisions of this section, no development shall be

permitted in wetlands. However, where land is held under unity of title (common ownership) and such properties include both uplands and wetlands, density credit may be granted for wetland acreage with approval of the ~~town commission~~ planning and zoning board subject to provisions to be established in the land development code. However, in calculating credit for density in wetland areas, landward of the mean high-water line, in no case shall density credits exceed half the gross density assigned to the wetland area pursuant to the comprehensive plan land use map. No credit for density shall be given for wetland areas seaward of the mean high-water line. Furthermore, the net residential density in the upland area shall not exceed 1.5 times the gross density assigned to the site.

(L) *Supplemental controls for multifamily residential or tourism uses.* In reviewing the proposed site plan for ten or more multifamily or tourism units, the town shall be guided by the following controls. The supplemental control relating to the maximum length of buildings, as provided for in ~~subsection~~ paragraph (3) of this ~~section~~ subsection, shall be taken as a mandatory requirement which cannot be waived by the ~~town commission~~ planning and zoning board. The remaining controls in this section shall be taken as mandatory requirements, except that the ~~town commission~~ planning and zoning board may waive one or more of these requirements where it ~~determines~~ deems a hardship exists or such waiver is necessary to ensure a more strict adherence to those performance standards set forth herein, which are deemed most critical, notwithstanding any other provisions of this ordinance to the contrary. ~~Notwithstanding any provision of this section to the contrary, for properties located in a planned unit development, the town commission may consider and grant a departure, under the standards for a requested departure as outlined in subsection 158.067(D) (3) (g), for one or more of the supplemental controls of this subsection 158.102(L), including subsection (3) for the maximum length of buildings.~~

In any development order approving a site plan, the ~~town commission~~ planning and zoning board shall make specific findings of facts constituting a hardship, if a hardship is found to exist, and shall make specific findings of any facts constituting the basis for a waiver of these supplemental controls and shall specifically state the performance standards as set forth herein which are deemed most critical and are being more strictly adhered to by granting the waiver.

The provisions of section 158.029 shall apply in determining whether a waiver shall be granted upon a finding that a hardship exists, except that the ~~town commission~~ planning and zoning board, rather than the zoning board of adjustment, shall determine whether a hardship exists or not. The facts forming the basis for the grant of a waiver under the provisions of this section shall be specifically set forth in the development order.

SECTION 4. If any section, subsection, sentence, clause, or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 5. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 6. This Ordinance shall take effect upon second reading and public hearing in accordance with Law and the Charter of the Town of Longboat Key.

Passed on first reading and public hearing the _____ day of _____, 2014.

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

_____
James L. Brown, Mayor

ATTEST:

_____
Trish Granger, Town Clerk

**End of Agenda Item**