

M E M O R A N D U M

TO: Tom Harmer, Town Manager

FROM: Allen Parsons, AICP
Director, Planning, Zoning and Building Department

REPORT DATE: February 7, 2022

MEETING DATE: March 7, 2022

SUBJECT: Extension of Special Exception and Site Development Plan Order 2022-06: Grant's Gardens, 524 Gulf Bay Road

Recommended Action

Approve Special Exception and Site Development Plan Extension Order 2022-06.

Background

A time expiration extension request has been filed for Grant's Gardens Special Exception and Site Development Plan Orders by the owners. Special Exception Order 2020-01 and Site Development Plan Order 2020-02 were approved by the Planning & Zoning Board on May 26, 2020. The approvals authorized the landscaping and lawn services use on the property and authorized the construction of a new structure and overall redevelopment of the property. These Applications were filed, in part, by the owners to correct a Code Enforcement violation arising out of the use of a landscaping and lawn services business operating on the property, without Special Exception approval, which is required.

Per Town Code, the Special Exception and Site Development Plan Orders are set to expire on May 26, 2022. Morris Engineering, on behalf of the owner, has submitted a letter (see attached) outlining the reasons for the requested extensions, and is requesting a six (6) month extension of the approved Special Exception and Site Development Plan Orders, which would extend these Orders until November 26, 2022.

Section 158.029 of the Town Code provides that the Town Commission, "may extend a Site Development Plan period of approval only if special conditions and circumstances exist which do not result from the voluntary actions of the Applicant, representative or agents, which have caused an unforeseeable delay in the ability of the Applicant to submit a complete application for a Building Permit 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". Section 158.029 of the Town Code also states the Town Commission may extend the approval period if it determines that no material benefit would be derived to the Town by requesting the Applicant to resubmit an application for Site Development Plan approval.

Section 158.019 of the Town Code similarly provides for the granting of an extension of a Special Exception approval if the requestor can show that commencement of the use is being actively pursued by evidence of an application for a Building Permit, preliminary plat, or Site Development Plan, or other evidence satisfactory to the Town Commission.

The owners had applied for a building permit, but subsequently ceased actively pursuing completion of the permit. Based on the letter provided, the owners' request is primarily based upon impacts associated with the COVID-19 pandemic. The owners contend that they were hindered in their efforts to pursue building approvals, which they indicated caused unforeseeable delays to complete their intended redevelopment. The owners are not seeking any further modifications to the previously approved Development Orders, and all conditions of approval contained therein would remain valid.

The owners have communicated with staff that an extension will allow time to develop an amended Site Development Plan application, which they indicate will address screening issues from the street frontage and result in overall improvements to the existing site conditions without building a new structure as originally approved.

Staff has no basis to conclude that the owners' assertions are not relevant. Staff is of the opinion that a six-month extension is limited in scope and that there would be no material benefit to having the applicant resubmit a new application for Site Development Plan approval, if the applicant can commence construction within this limited additional timeframe or seek a Site Development Plan amendment.

Staff is mindful of the initial Code Enforcement action that was related to the seeking of a Special Exception approval and the associated redevelopment and overall improvement of the site. Staff has not received any additional complaints or negative feedback regarding the use on the subject property. Staff is therefore of the opinion that allowing an additional six months to initiate construction or seek to revise the Site Development Plan would not likely cause additional harms by continuing the existing use.

Staff Recommendation

Approve Special Exception and Site Development Plan Extension Order 2022-06.

Attachments

- A. Special Exception and Site Development Plan Extension Order 2022-06 (Available in Town Clerk's Office).
- B. Extension Request Letter from Morris Engineering dated January 25, 2022 (Available in Town Clerk's Office).

End of Agenda Item