




MEMORANDUM

Date: February 8, 2024

To: Honorable Mayor and Commissioners

Via: Albert P. Childress
City Manager 

From: Katie P. Halloran
Director, Planning Department

Subject: **23-5162 - Text Amendment of the Land Development Regulations** – An Ordinance of the City of Key West, Florida amending Chapter 122 of the Land Development Regulations, Article III entitled “Conditional Uses”, Section 122-63 “Review; enforcement” to allow administrative procedure over the voluntary revocation of Conditional Use permits; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Introduction

At the October 19, 2023, Planning Board hearing, the Planning Board unanimously approved a resolution to recommend a code amendment to the Land Development Regulations to allow for voluntary dissolution of Conditional Use Permits (Planning Board Resolution No. 2023-22). The Planning Department respectfully recommends that the City Commission approve the proposed text amendment on first reading. The amendment would allow a private property owner to abandon/forfeit an approved Conditional Use Permit through an administrative process and avoid the expense and delay of bringing the request to the Planning Board.

Background

The City Attorney’s Office requested that the Planning Department draft an amendment to the City Land Development Regulations to simplify and streamline the process to voluntarily abandon/forfeit a Conditional Use Permit. Specifically, the City Attorney recommended that the Planning Department draft an amendment to the City Code to allow a property owner to administratively forfeit/abandon a Conditional Use Permit by application to the Director of Planning and Chief Licensing Official. This process includes the provision of a signed and notarized affidavit to the Director of Planning and Chief Licensing Official along with any additional accompanying information. This code amendment is a result of a recent instance

in which a property owner requested to forfeit a Conditional Use Permit for a bar/lounge and was required to return to Planning Board given the Code does not currently provide for an administrative process to dissolve CUPs.

On December 12th, 2023, the Planning Board approved the following proposed amendment to the Land Development Regulations and was passed to Second Reading by the City Commission on January 11th 2024.

Request / Proposed Amendment:

Sec. 122-63. – Review; enforcement.

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(g) Dissolution. A property owner may voluntarily abandon or forfeit a Conditional Use Permit. In order to effectuate the abandonment/forfeiture of the Conditional Use Permit, the property owner must submit a notarized statement confirming the abandonment/forfeiture of the Conditional Use to the Director of Planning and the Chief Licensing Official. Thereafter, the use shall be considered abandoned by the City and there shall be no right to nonconformity. The property owner shall also be required to file a change of use application in conjunction with the request to abandon/forfeit the Conditional Use Permit in accordance with all applicable City standards.

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The proposed Code amendment was reviewed by Planning Department staff and found compliant with applicable Code Section 90-520 (6).

NOTE: On December 27, 2023, the Code Enforcement Department Director requested that the Chief Licensing Official be removed from the proposed Code amendment.

On December 28th, 2023, the City Attorney requested that planning staff remove 'Chief Licensing Official' from the proposed amendment text. Note, however, Planning Board approved the amendment with 'Chief Licensing Official' in the proposed amendment text.

Procurement

This action will not result in City expenditures and would result in savings with respect to a reduction in administrative time required to dissolve unwanted Conditional Use Permits. Approval would also save private property owners the time and expense of bringing CUP surrender requests to the Planning Board.

Recommendation

The City Manager's Office, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the Mayor and Commission approve the proposed ordinance to amend the Land Development Regulations on second reading, with updated language to exclude mention of the Chief Licensing Official. The Planning Department and Planning Board also recommend to the City Commission that the request to amend the Land Development Regulations be **APPROVED**.