

M E M O R A N D U M

To: Tom Harmer, Town Manager

From: Allen Parsons, Director, Planning, Zoning and Building Department

Report date: September 1, 2020

Meeting date: September 14, 2020

Subject: Ordinance 2020-07, Amending Chapter 158.098(D), Daylight Plane and Single-Family Residential Structure Buffering Requirements

Recommended Action

Forward Ordinance 2020-07 to the October 5, 2020 Town Commission Regular Meeting for second reading and public hearing.

Background

At their April 15, 2019 Goals & Objectives Workshop Meeting, the Town Commission (Commission) heard community concerns citing examples of newer single-family homes that had been constructed that were out of scale and character with nearby older existing homes. Concerns included that many of the new single-family homes being constructed in existing neighborhoods, built prior to requirements to elevate structures to meet Federal Emergency Management Agency (FEMA) and Town flood requirements, would loom over adjacent yards of single-story homes that were built on grade.

The Commission requested a workshop meeting discussion on the Town's Daylight Plane standards and other options for further addressing compatibility when new single-family homes are built with contrasting heights relative to existing nearby homes.

The Commission held a discussion on this topic at their October 15, 2019 Regular Workshop Meeting and addressed a number of subjects including:

- Federal Emergency Management Agency (FEMA) requirements;
- Options to consider lowering maximum height of homes;
- Creation of nonconforming structures, if regulations are modified;
- Options to modify the way Daylight Plane may be measured and regulated;
- Daylight Plane waivers that have been granted; and
- Engaging architectural expertise on Daylight Plane requirements.

Following discussion, there was consensus to authorize the Planning & Zoning (P&Z) Board to have further discussions and make recommendations relating to

the height of single-family structures and Daylight Plane requirements. The P&Z Board initially held two workshop discussions on this topic. This was followed by a discussion with the P&Z Board Chair, the Planning, Zoning & Building Department Director and the Town Commission on the P&Z Board's preliminary recommendations at the February 18, 2020 Town Commission Regular Workshop. The P&Z Board discussed the Town Commission's February 18, 2020 feedback at their February 19, 2020 meeting and provided direction to staff to develop aspects addressed in Ordinance 2020-07. The P&Z Board subsequently held a public hearing on Ordinance 2020-07 at their May 26, 2020 Regular Meeting and recommended approval (6-0).

Summaries of these meetings and the P&Z Board's recommendation on Ordinance 2020-07 are provided below.

At their December 17, 2019 Regular Meeting, the P&Z Board discussed numerous factors that govern how the Town of Longboat Key (Town) regulates building heights. Those factors, along with market demands, influence the development and introduce issues of compatibility of new single-family residential structures that are often noticeably taller than surrounding homes.

The P&Z Board identified the following topics for more detailed consideration:

- **Enhanced privacy standards**, including screening and design features.
- **Criteria to address scale and massing of homes**, including the potential for required articulation and mitigating measures.
- **Options to modify existing Daylight Plane requirements**, including measuring from existing grade, instead of from a structure's Minimum Habitable Elevation, and/or applying a single Daylight Plane angle requirement, regardless of lot width.
- **Use of an "Overlay" Zoning District** that could apply differing (e.g. reduced) height requirements in area, or neighborhood specific, contexts. Properties West of Gulf of Mexico Drive were initially discussed, as they have increased minimum habitable floor elevation heights due to their proximity to the Gulf of Mexico.

At their January 23, 2020 Regular Meeting discussion, the P&Z Board thoroughly reviewed and discussed criteria to address scale and massing of homes and use of an overlay district. The Board did not support further development of those issues. The P&Z Board narrowed its recommendations to the following two topic areas: enhanced privacy guidelines/standards and modifications to the Town's Daylight Plane requirements, which are further described below:

Privacy Related Guidelines or Standards: The P&Z Board considered whether to add building review guidelines or standards that contribute to factors of compatibility, including the size, shape, form of the houses, their architecture, and the relationship of each house to the street and nearby homes. Options provided by staff addressing scale and massing were not recommended for further consideration.

The P&Z Board did reach consensus to further develop standards to address ground level impacts with additional screening and buffering (i.e. vegetative and/or fence/wall). Existing Zoning Code requirements (found in Sec. 158.103, Screening Regulations) mandate some screening requirements where a nonresidential use abuts a residential district or where a multi-family district or use abuts a single-family district. The Zoning Code does not include buffering requirements in cases where new, larger-scale single-family structures may be abutting existing lower-scale single-family structures.

Modification of Existing Daylight Plane Requirements: The P&Z Board initially sought further information on the potential to modify existing Daylight Plane¹ requirements. After deliberation, which included a recommendation that was not acted on to eliminate the Daylight Plane requirements, the P&Z Board recommended that the Daylight Plane measurement begin from a property's established grade, instead of from the minimum habitable floor elevation. A single Daylight Plane angle requirement of 75° degrees, regardless of a property's width was also recommended.

The P&Z Board's recommendations, described and illustrated below, would generally have the effect of being more permissive than existing requirements. The P&Z Board's deliberations reflected that the competing goals of elevating structures for resiliency over time, and maintaining an existing at-grade single-story character can be viewed as conflicting. The consensus recommendation reflected a desire to encourage redevelopment, with such homes generally being required to be elevated to meet floodplain requirements, and a recognition that the scale of houses may therefore increase.

Two illustrations of the recommended Daylight Plane requirements, applied to new single-family home designs, on two different lot sizes (100 ft. wide and 60 ft. wide, respectively), are provided below. In the first example, the house is required to be elevated 7 ft. 6 in. above the established grade in order to meet FEMA and Town floodplain elevation requirements. The green dashed line shows the current Daylight Plane requirement, for a 100 ft. wide lot (currently a 50° degree angle is required for this size lot), applied from the Design Flood Elevation (minimum FEMA habitable floor elevation, plus 1 ft. of "freeboard"). The red dashed line shows the proposed requirement of a 75° degree Daylight Plane angle, measured from established grade.

¹ The Zoning Code defines daylight plane as "*The angle in degrees for single-family homes measured from side lot line boundaries projecting upward toward the center of the parcel beginning at minimum habitable floor elevation as established by law.*" The required angle for daylight plane is dependent upon the width of a lot. For example, if a property is 100 feet wide, the required daylight plane angle is 50 degrees. The angle lessens as the width of the property becomes greater (Note: 50° to 65° degrees is the maximum lower and upper limit, respectively).

Daylight Plane Beginning Point of Measurement

Existing Code Requirement 50° (100' width lot)

Recommended Requirement 75° from Grade



In the second example below, the house is required to be elevated approximately 6 ft. above its surrounding established grade in order to meet FEMA and Town floodplain elevation requirements. The green dashed line shows the Daylight Plane requirement, for a 60 ft. wide lot (with a current 62° degree angle required), applied from the Design Flood Elevation. The red line shows the proposed requirement of a 75° degree Daylight Plane angle, measured from established grade.

Daylight Plane Beginning Point of Measurement

Existing Code Requirement 62° (60 ft. wide lot)

Recommended Requirement 75° from Grade



Prior to directing the Planning staff to prepare Zoning Code language and/or amendments to the Zoning Code, the P&Z Board, by consensus, wanted to seek feedback from the Commission on the recommendations noted above. The P&Z Board Chair Bishop and the Planning, Zoning & Building Department Director presented these recommendations to the Town Commission at their February 18, 2020 Regular Workshop Meeting.

Feedback to the P&Z Board, from the Town Commission meeting, included suggestions to reconsider the use of an overlay Zoning District concept and the expression of concern with the P&Z Board's recommendation regarding increasing the Daylight Plane requirement to a single 75° degree angle, thereby allowing for the potential for more building mass than presently allowed.

One Commissioner suggested a concept for the P&Z Board to consider regarding potential changes to Daylight Plane requirements. The concept would have kept the sliding scale with the current daylight plane angles, based on lot width. It was suggested to add a new Daylight Plane requirement, which would be added to the existing requirement. The concept would then apply two Daylight Plane angle requirements to any proposed construction. The first test would have been that any proposal that failed to meet the applicable Daylight Plane angle requirement from the Design Flood Elevation (the current requirement) would be prohibited. The second test would have introduced a new Daylight Plane requirement, measured from the established grade elevation, that would include requirements to incorporate mitigating design features if a structure was within the applicable new Daylight Plane angle, to mitigate for mass. Options such as including second story setbacks and roofline variations or other measures were suggested to be included. This proposed second test, from established grade, would have only been applicable to structures that meet the existing requirements for Daylight Plane.

This feedback, from Commissioners February 18, 2020 Regular Workshop discussion, was shared with the P&Z Board at its February 19, 2020 Regular Meeting by P&Z Board Chair Bishop and the Planning, Zoning & Building Department Director. The P&Z Board did not recommend proceeding with further consideration or development of an overlay Zoning District. The consensus recommendation was for staff to prepare an ordinance which included the P&Z Board's prior recommendations addressing the concept of providing requirements for screening privacy for single-family homes and maintaining the P&Z Board's proposed revisions to the Daylight Plane requirements of a single 75° degree angle to be measured from established grade.

The P&Z Board held a public hearing on May 26, 2020 on Ordinance 2020-07 (Attachment A). The proposed Ordinance incorporates changes to the height and Daylight Plane provisions of Zoning Code Section 158.098(D) through a newly added subsection (F). The proposed changes would eliminate the Daylight Plane Table (Exhibit A) that provides a sliding scale of reduced daylight plane angles associated with larger lot sizes and replaces it with the P&Z Board's recommended single measurement of a 75° degree angle, measured from established grade. There is an associated change to the Daylight Plane definition

in Sec. 158.144 to reflect that Daylight Plane would be “*measured from established grade at the side lot line boundaries*” rather than from the current minimum habitable floor elevation.

In addition, Ordinance 2020-07 includes new building permit review criteria (copied below), which would apply to new single-family home construction, or additions, that are developed immediately adjacent to the sideyard(s) of established at-grade single-family residences that were constructed prior to 1975. The significance of the 1975 date is that homes constructed prior to that date were not required to be elevated to meet FEMA Flood Zone requirements.

The proposed criteria would require a demonstration that “sight line views” (which is also proposed as a new definition), from a newly constructed structure, utilize methods to preserve the privacy of the immediately adjacent at-grade property(ies). Methods are deliberately general in nature and include options of building design, construction materials, landscaping or other means, which would be left to a designer/builder to demonstrate and implement. The proposed language is provided below:

Sec. 158.098(E) Single-family residences, and any redevelopment of a nonconforming residential use in a single-family residential Zoning District, or any addition to an existing single-family residence, is located immediately adjacent to the side yard of an existing at-grade single-family residence (constructed prior to 1975), shall demonstrate the following to the satisfaction of the Planning & Zoning Official on the building permit application:

(1) Sight line views, from the newly constructed structure, to the immediately adjacent existing at-grade single-family property(ies) shall be controlled in a manner that preserves the privacy of the immediately adjacent at-grade property(ies) and shall consist of one or more of the following to minimize views into the side yard(s):

- i. Building design;*
- ii. Construction materials;*
- iii. Trees, shrubs or other landscaping;*
- iv. Screening by other means;*

Note: This provision shall not apply in the case where an immediately adjacent existing at-grade single-family residence has an active building permit for demolition.

In addition, while addressing the Daylight Plane provisions, the P&Z Board took the opportunity to modify one of the allowed exceptions to the Daylight Plane requirements (Sec. 158.098(F)). There are exceptions for chimneys, roof overhangs, dormer windows, television and dish antennas, sides of properties that abut nonresidential zoned properties, and homes within Planned Unit Developments. The P&Z Board recommended that the chimney exception be limited to chimneys that are less than four feet in width. This change has been incorporated into Ordinance 2020-07.

Ordinance 2020-07 was placed on the June 30, 2020 Regular Meeting for first reading and public hearing but due to time constraints, was tabled for first reading and public hearing to occur at the September 14, 2020 Regular Meeting.

Staff Recommendation

Forward Ordinance 2020-07 to the October 5, 2020 Town Commission Regular Meeting for second reading and public hearing.

Attachments

- A. Ordinance 2020-07 (Available in the Town Clerk's Office)
- B. P&Z Board Memos and Meeting Minutes, December 17, 2019, January 23, 2020, February 19, 2020, May 26, 2020 including Town Commission Meeting Minutes February 18, 2020 (Available in the Town Clerk's Office)
- C. P&Z Board Meeting Minutes, May 26, 2020 (Available in the Town Clerk's Office)
- D. Public Correspondence Received (Available in the Town Clerk's Office)
- E. PowerPoint Presentation (Available in the Town Clerk's Office)

End of Agenda Item