

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: December 19, 2019
MEETING DATE: January 6, 2020
SUBJECT: Ordinance 2019-16, Amending Chapter 158, Zoning Code

Recommended Action

Adopt Ordinance 2019-16.

Background

The Town Commission held a first reading and public hearing of Ordinance 2019-16 at their December 2, 2019 Regular Meeting and forwarded it to the January 6, 2020 Regular Meeting for second reading and public hearing. Ordinance 2019-16 follows Town Commission direction on two Zoning Code items that were considered at their October 15, 2019, Regular Workshop Meeting. At that meeting, the Town Commission provided consensus direction to bring back these two items for public hearing with a recommendation to consider: 1) the language the P&Z Board recommended to the Tennis Court Accessory Use Standards, to incorporate pickleball and additional racquet sports as additional named accessory uses; and 2) to consider the initial staff recommended language regarding the offsetting of Docks/Structures Over Water, as further described below.

Addition of Pickleball and Racquet Sports to the Accessory Use Standards for Tennis

This item was initially identified as a minor update to be included as part of the recent update of the Zoning Code. The preliminary consideration regarded adding the label "Pickleball" to the Tennis Court Accessory Use provisions, with the same standards and requirements already associated with the accessory use of tennis courts, due to the increasing popularity of the sport. Tennis courts are a permitted accessory use, with locational criteria (Sec. 158.095; the Accessory Uses Section of the Zoning Code).

However, based upon input during the Zoning Code update public hearings, the Town Commission recommended this item be removed as an amendment and that further research be conducted regarding whether pickleball should be treated differently than how tennis courts are regulated. This having primarily to do with associated sound levels created during this recreational activity that may be substantially different from the game of tennis.

This was then included as part of the first batch of Zoning Code amendments with a staff recommendation for new pickleball courts to utilize the same standards for accessory use as those for tennis courts. The P&Z Board, at its May 21, 2019, public hearing, broadened the recommendation (7-0) so that the Accessory Use provisions for tennis courts be modified to be applicable to all recreational activities involving racquets or paddles. The intent was to provide standards that would be applicable to various burgeoning new games that may be developed that are similar in nature to tennis (e.g. pickleball, "beckyball" or other additional new games that may be created).

In the Commission's consideration at their June 3, 2019 Regular Meeting, it was recommended to further discuss the topic at a Regular Workshop meeting. The Commission held a discussion at its October 15, 2019 Regular Workshop and there were a number of factors that resulted in its recommendation not to further consider separate and different development standards for pickleball.

Among those factors, pickleball is presently being played as a recreational activity throughout the Town at existing tennis court venues. Slight adjustments to an existing tennis court easily allows these courts to be used for both tennis and pickleball. No review from the Town is required to utilize existing tennis courts for pickleball use. In addition, there would be no way for the Town to determine if applications for new development projects, that provide accessory tennis courts, could later utilize those courts for pickleball or other recreational uses, also without any required review by the Town. Furthermore, there are no regulatory impediments to using tennis courts for pickleball or any other recreational activity that individuals may engage in. The bottom-line of the Commission's discussion was that the potential value of having separate standards for the sport of pickleball is likely to be limited and even more so, as there are very few new courts being developed in the Town.

Staff is of the opinion that because Accessory Use standards for locating private tennis courts, somewhat closer to adjoining neighbors requires special exception approval, there is the ability to consider sound mitigation or other measures that may be appropriate in situations where a court is proposed close to a neighboring property.

Note: Due to ADA formatting constraints, the proposed language, pursuant to the P&Z Board recommendation, is provided in the memorandum to the Town Commission, available in the Town Clerk's Office.

Docks/Structures over Water

At the March 4, 2019 Town Commission Regular Meeting, staff was directed to consider the addition of provisions addressing navigability and impacts from docks within canals that may encroach into the maximum 30 percent width of the navigable waterway. Potential provisions identified included: requiring docks to be staggered in location, where possible, when built directly across from a neighboring dock; and, prohibiting mooring of vessels at the end of a dock that extends to the maximum 30 percent projection into a canal.

The primary concerns raised had to do with the potential obstruction of navigable waterways by boat docks and lift structures constructed along the canals and waterways of the Town, especially those where these structures are located on both sides of narrower canal navigable waterways. To encourage the furtherance of unobstructed navigable waterways, more specific language was recommended to be added to the Code. Staff had initially recommended adding language to provide that where new docks, boat lifts, pilings, or pile mounted davits are proposed, such structures should not be located directly across canals from other existing structures over water, where possible. In this way, permitting for new structures would be required to be constructed with consideration of existing structures already located in the waterway, reducing the likelihood of creating a future navigational hazard or interference with navigating vessels. If it was not possible to avoid construction directly across from existing structures the Code language recognized a property owner's riparian rights to construct such structures, within Code requirements.

Section 158.099, Structures Over Water, of the Zoning Code outlines the requirements for the permitting and construction of pilings, boat lifts, pile mounted davits, boat docks and their

accessory structures. This Section provides that these structures may only project into an abutting canal, lagoon, bayou or pass a maximum of 30 feet, measured for the mean high-water line, or 30 percent of the width of the navigable waterway, whichever is less¹.

Staff had also looked into whether provisions addressing the mooring of vessels adjacent to these structures was needed. Staff is of the opinion that Town Code regulations do not need to be modified, as Florida Statute addresses this potential issue and is subject to enforcement by Town Police. Florida Statutes, 327.44 (2) states in part: “*A person may not anchor, moor, or allow to be anchored or moored, except in case of emergency, or operate a vessel or carry on any prohibited activity in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interference with another vessel*”. This Statute goes on to provide that any law enforcement agency or officer is authorized and empowered to relocate, remove, or cause to be relocated or removed a vessel that is in violation of this law. This law empowers the Town of Longboat Key Police the ability to enforce the mooring of vessels in Town canals and waterways that may impacting navigation.

Staff had initially proposed to incorporate the following language into Section 158.099(A)(4)(a). (Note: Due to ADA formatting constraints, the proposed language, pursuant to the P&Z Board recommendation, is provided in the memorandum to the Town Commission, available in the Town Clerk’s Office.)

In the Commission’s consideration at their June 3, 2019 Regular Meeting, it was recommended to further discuss the topic at a Regular Workshop meeting. The Commission held a discussion at its October 15, 2019 Regular Workshop and provided consensus to have this additional language incorporated into the Town Code.

At the Commission’s first public hearing on December 2, 2019, the Commission forwarded the language above for second reading and public hearing. However, there was some concern expressed by the Vice-Mayor that the proposed language, recognizing both riparian rights and that there may be instances where staggering of these structures may not be achievable, could be read as too irresolute and that, by comparison, language in Florida Statutes, regarding the prohibition on moored vessels impacting navigability, was more imperative.

For the Commission’s consideration, staff has provided an alternative to the proposed language to attempt to be clearer of the intention to require the staggering of structures over water that may affect navigability, except when not feasible. (Note: Due to ADA formatting constraints, the alternative language is provided in the memorandum to the Town Commission, available in the Town Clerk’s Office.)

If the Commission prefers the alternative language, the Ordinance can be changed at the Public Hearing.

The Planning and Zoning Board held a public hearing on the items addressed in Ordinance 2019-16 on May 21, 2019 and recommended approval (7-0) of their concepts.

¹ Note: To ensure the accuracy of the construction of these structures over water, on April 1, 2019, as part of the Zoning Code update, the Town Commission approved a requirement that permit applications for structures over water that are within 25 percent of the maximum projection into the waterway must provide an as-built survey upon completion of the permitted work. This as-built survey will demonstrate compliance with this section of the Town Code, and provide assurance that the navigable area of the canal is free from obstruction.

Recommendations

Adopt Ordinance 2019-16.

Attachments

- A. Ordinance 2019-16 (Available in Town Clerk's Office)
- B. PowerPoint Presentation (Available in Town Clerk's Office)

End of Agenda Item