

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: November 15, 2019

MEETING DATE: December 2, 2019

SUBJECT: Ordinance 2019-16, Amending Chapter 158, Zoning Code

Recommended Action

Forward Ordinance 2019-16 to the January 6, 2020, Regular Meeting for second reading and public hearing.

Background

As part of the recent adoption of the updated Zoning Code (on April 1, 2019), the Town Commission, Planning & Zoning (P&Z) Board and staff identified a number of items that were deemed to be more substantive future issues that would be addressed separately from the overall Zoning Code update effort. At their March 19, 2019 Town Commission Regular Workshop, the Commission provided direction to staff to prioritize these items into five separate groupings or batches of amendments.

Staff accelerated the phase one batch of amendments from the original timeline for consideration by Town Commission prior to the summer recess. The first batch of Zoning Code amendments originally consisted of five items: 1) Pickleball Court Accessory Use Standards, to consider adding separate location and setback requirements for pickleball courts; 2) Docks/Structures Over Water, to consider the addition of provisions addressing docks within canals that may encroach into the maximum 30 percent width of navigable waterway and potential provisions requiring docks to be staggered in location, where possible, when built directly across from a neighboring dock; 3) Parking Standards for Multi-Use Projects; 4) Parking Waivers and Parking Flexibility; and 5) Side Yard Setbacks, addressing additional dimensional standards for structures built on residentially zoned properties comprised of two or more lots.

At their June 3, 2019 Regular Meeting, where the first batch of Zoning Code amendments was considered, the Town Commission provided consensus direction to have a subsequent workshop discussion on the first two items: Pickleball Court Accessory Use Standards and Docks/Structures Over Water.

These items were considered at the Town Commission's 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 identified as a minor update to be included as part of the recent update of the Zoning Code. The initial 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 this use should be treated differently than tennis courts. This having primarily to do with associated sound levels created during this recreational activity that may be substantially different from the game of tennis.

As a separate item, that was included as part of the first batch of Zoning Code amendments, the staff recommendation initially was 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, bekyball or other additional new games that may be created).

In the Commission's consideration at its October 15, 2019 Regular Workshop 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 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 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 is 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 less (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.).

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 language into Section 158.099(A)(4)(a). (Note: Due to ADA formatting constraints, this language is provided in the memorandum to the Town Commission, available in the Town Clerk's Office.)

At their October 15, 2019 Regular Workshop the Commission provided consensus to have this additional language incorporated into Town Code.

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).

Recommendations

Forward Ordinance 2019-16 to the January 6, 2020 Regular Meeting for second reading and public hearing.

Attachments

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

End of Agenda Item