

M E M O R A N D U M

TO: Planning and Zoning Board

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

FROM: Maika Arnold, AICP, Senior Planner
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DATE: May 10, 2019

SUBJECT: Ordinance 2019-05, Zoning Amendments Batch #1, Following Adoption of Revised and Updated Zoning Code

Background

As part of the recent adoption of the updated Zoning Code (on April 1, 2019), the Planning & Zoning (P&Z) Board, Town Commission and staff identified 17 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.

Two of those 17 issues were not included in the priority listing and were identified as “pending” and “ongoing.” The pending item has been considered separately (Ordinance 2019-03, scheduled for Second Reading and Public Hearing on June 3, 2019) by the Town Commission and addresses potential changes to Town Code Chapters 71, Traffic Rules and Chapter 74, Parking Schedules generally regarding public right-of-way parking provisions in the Longbeach Village area and use of on-street parking by private valet operators. The second item, addresses user/readability improvements throughout the Zoning Code, which is an ongoing staff effort. The attached table, Zoning Code Future Work: List of Priorities, describes each issue, required steps and estimated timeline to bring amendments forward.

Staff has accelerated the phase one amendments from the original timeline for consideration by Town Commission prior to summer schedule. This first phase of Zoning Code amendments consists of: 1) Pickle Ball Court Accessory Use Standards, to consider adding separate location and setback requirements for Pickle Ball Courts; 2) Docks/Structures Over Water, to consider the addition of provisions addressing docks within canals that may encroach into the maximum 30% width of the navigable waterway and potential provisions to include 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) Potential for Parking Alternatives, such as Shuttle Service; and 5) Side Yard Setbacks, addressing potential additional dimensional standards for structures built on residentially zoned properties comprised of two or more lots. Descriptions of the amendments are provided below.

Consideration of Separate Accessory Use Standards for Pickle ball

As part of the recent revision of the Zoning Code public hearings, an item was identified to consider adding separate accessory use standards for the recreational activity of Pickle Ball as potentially being distinct from the accessory use standards for tennis courts (Sec. 158.095; the Accessory Uses section of the Zoning Code). This section of the Zoning Code outlines various accessory uses that are allowed, in addition to permitted uses in a zone district. These uses include such accessory uses as swimming pools, recreational facilities, and tennis courts. As part

of the Zoning Code update, Staff had initially recommended to include specifically, and naming the accessory use of pickle ball, with the same standards and requirements already found in the accessory use of tennis courts due to the increasing popularity of the sport. Tennis courts are a permitted accessory use, with locational criteria. Tennis courts are not permitted to be located within the required yard setback areas, but by Special Exception may be located up to 20 feet from a street and residential property, and up to 10 feet from commercial, hotel and motel uses. Additional standards are included for fencing, lighting, and maximum coverage on the lot. 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 tennis.

Pickle ball is presently being played as a recreational activity through-out the Town. There are several existing tennis court venues in the Town, both within private communities and at condominium complexes, as well as at public parks. Many of the tennis courts at these venues are also regularly used to play pickle ball as well. Slight adjustments to an existing tennis court easily allows these courts to be used for both tennis and pickle ball. No review from the Town is required to utilize existing tennis courts for pickle ball use. In addition, applications for new development projects that provide accessory tennis courts, could later utilize those courts for pickle ball use, also without any required review by the Town.

Regarding sound from athletic activities such as pickle ball, the Town does have sound regulations to preserve the peace and quiet for its inhabitants, and to foster their comfort and enjoyment of the attractions of the Town. Noteworthy, however, the sound regulations for the Town exempts the sound produced by recreational activities at publicly available venues. The exemption language in the sound regulations reads as follows: "activities in the fields, grounds or facilities of any sporting venue to which the public or community has access". This exemption does not apply to private grounds, or facilities, so enforcement of the sound regulations for pickle ball recreation would be only be applicable to private sporting venues being operated in the Town.

In conducting research of pickle ball courts, staff contacted several of the Town's peer communities for comparison purposes regarding potential regulations for the use of pickle ball. Upon contacting these comparable beach and regional communities, staff found no requirements for the use of pickle ball within any of these peer jurisdictions. Staff is also of the opinion that potential differences in noise levels between pickle ball and tennis are such that additional setback standards would likely have little difference in mitigation of sound. Given that pickle ball or any other recreational activity that individuals may engage in on tennis courts are not prohibited, the potential value of having separate standards for the sport of pickle ball is likely to be limited.

Staff recommendation: For new pickle ball courts, utilize the same standards for accessory use as those for tennis courts.

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% 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; prohibiting mooring of vessels at the end of a dock that extends to the maximum 30% projection into a canal.

The primary issues or 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 the canal navigable waterway. To encourage the furtherance of unobstructed navigable waterways, more specific language is recommended to be added to the code. Staff is recommending adding language to provide that where new docks, boat lifts, pilings, or pile mounted davits are proposed, these structures should not be located directly across canals from existing structures over water. In this way, permitting for new structures will 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.

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.

With regard to providing provisions addressing the mooring of vessels, 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 Longboat Key Town Police the ability to enforce the mooring of vessels in Town canals and waterways that may impacting navigation.

Staff proposes to incorporate the following language into Section 158.099:

To the extent possible a new dock, boat lift, piling, or pile mounted davit shall not be located directly across from existing structures over water in a manner that creates a navigational hazard or interference with another vessel.

Parking Standards for Multi-Use Projects and Parking Flexibility

During the Zoning Code rewrite process, Staff identified a number of policies and code sections to revisit and revise. Off-street parking was placed in the first phase of text amendments, as it has been an issue that the Town has recently dealt with in the redevelopment of properties. The Zoning Code currently provides an exception to required parking for multiple uses in a single building. Section 158.100 (G)(1) states, "Multiple uses in a single building or development that cannot meet the criteria of the schedule of off-street parking in this Section shall provide a minimum of 90 percent of the total off-street parking that would be required for each separate use." Staff has found this exception to be problematic for redevelopment, as there have been complaints of insufficient parking for many commercial properties due to limited space and high demand. Staff conducted an analysis of other Zoning Codes from similar jurisdictions in Florida (Naples, Sanibel Island, Marco Island, Town of Jupiter and the City of St. Pete Beach) and found

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% of the maximum projection into the waterway must provide an as-built survey upon completion of the permitted work. This as-built survey will provide demonstrate compliance with this section of the Town Code, and provide assurance that the navigable area of the canal is free from obstruction.

that this provision is not common for other Zoning Codes to provide an exception to required parking without justification. Staff recommends removing this exception from the code, which will require multiple uses within a single building or development to provide the entirety of the required parking.

There may be instances in which the Planning and Zoning Board finds justification to approve flexible parking standards for a development. The Zoning Code allows developments to utilize parking flexibility if an applicant can demonstrate that they are providing alternative parking methods, such as valet or shared parking. The Code limits the use of parking flexibility to commercially zoned properties. Staff is of the opinion that the T-3 and T-6 districts should be included in the type of properties that can request approval of parking flexibility, because developments in those zoning districts similarly have the ability to provide for flexible parking options, such as valet and shared parking. The addition of T-3 and T-6 zoning districts in the parking flexibility standards does not guarantee that they will receive approval, as the Planning and Zoning Board has the authority to approve the flexibility through Site Development Plan.

Staff proposes to incorporate the following, underlined, language into Section 158.100 (O):

(O) Parking flexibility. The parking flexibility provisions in this Subsection are limited to properties located in OI, Office/Institutional, C-1, Limited Commercial, C-2 General Commercial, C-3, Highway-Oriented Commercial, M-1, Marine Commercial Service, T-3, Low-Medium Density Tourist Resort Commercial District, or T-6, High-Density Tourist Resort Commercial District. Off-street parking requirements may be met through additional and alternative measures provided in this Subsection. These measures shall be requested during Site Development Plan review, and if approved shall be made conditional in accordance with Subsection (N) (1).

Parking Waivers

In addition to parking flexibility, Section 158.100 (P) of the Zoning Code also provides another option to request approval of alternative parking options: Parking Waivers. The Planning and Zoning Board has the authority to grant parking waivers for varying percentages of required parking, if an applicant can provide evidence to support that the property can handle the alternative parking method. There are parking waivers for commercial uses patronized by pedestrians, bicycle spaces, commercial uses abutting the water, and on-street parking adjacent to commercial uses. Staff has received inquiries regarding parking waivers for alternative modes of transportation or parking methods. In comparing various Zoning Codes from Naples, Sanibel Island, Marco Island, Town of Jupiter and the City of St. Pete Beach, Staff has found that there are methods to allow for alternative modes. The Town's Comprehensive Plan also encourages using alternative modes of travel to reduce traffic. Policy 1.2.1 of the Mobility Element states, "Ensure new development and redevelopment provides a mixture of complimentary land uses and designs that promote internal trip capture, all alternative modes of travel (pedestrian, bicycle, local and regional transit, trolley, etc.) and explore transportation demand management strategies such as park and ride facilities on the mainland; in an effort to reduce vehicular trips onto the island and within the Town."

Staff proposes to incorporate the following language into Section 158.100 (P):

"The Planning and Zoning Board may grant a Parking Waiver, not to exceed ten percent of the required parking spaces, for alternative transportation options. Alternative transportation options that may be considered by the Town include, but are not limited to, the following:

- a) Private and public carpools and vans;
- b) Subscription bus service;
- c) Ride sharing;
- d) Park and Ride program; and
- e) Shuttle Service.”

The proposed language would allow an applicant to propose alternative transportation options, potentially in furtherance of the Comprehensive Plan’s Mobility Policy. The Planning and Zoning Board has the authority to revoke parking waivers if the applicant fails to comply with the approved transportation alternatives.

Setbacks

At the March 4, 2019, Town Commission Regular Meeting Workshop, Staff was directed to consider additional setback regulations when a property owner combines two lots. The Town Commission expressed some concern over larger homes built on combined lots, which could potentially affect the character in a neighborhood. The Zoning Code currently has several provisions that protect neighboring properties: daylight plane, density, height, and lot coverage. These regulations ensure that neighboring properties are protected from over-shadowing, building massing, and stormwater runoff. Staff is of the opinion that the existing regulations are sufficient to protect neighboring properties in the event that a lot is combined. Furthermore, because there are such a wide variety of unknown circumstances for development, it is difficult to create an overall blanket standard. A property owner may choose to combine two lots but build a small home. In addition, there are many small lots within the Town that could be developed to their maximum intensity and that may be larger than homes that could be developed on larger or combined lots. Staff is of the opinion that the wide variety of potential development scenarios does not necessarily mean that larger lots would necessarily produce larger homes. Standards addressing height, bulk and daylight plane may be more appropriate to consider if the Town believes that out of scale development is or may be occurring. No change is therefore recommended.

Staff Recommendation

Forward Ordinance 2019-05, with a recommendation of approval, to the June 3, 2019, Town Commission Regular Meeting for first reading and public hearing.

Attachments

Ordinance 2019-05

Future Policy Issues, Zoning Code Amendments Grouping Table, Per March 19, 2019
Commission Direction