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Staff Analysis and Recommendation

To: Honorable Chair and Members of the Local Planning Agency
From: Susana Alonso, AICP, Principal Planner
Subject: Infinity pools in waterfront properties.
Date: April 7, 2020

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ENCROACHMENTS BEYOND THE TIE-LINE FOR WATERFRONT SINGLE-FAMILY AND TWO-FAMILY BUILDINGS; AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE", AT ARTICLE VI, "SUPPLEMENTARY REGULATIONS", AT SECTION 13-1605, "WATERFRONT PROPERTIES"; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

A. BACKGROUND

At the March 3, 2020, Planning Board meeting, a New Business item was introduced directing staff to explore a recommendation to the Town Council to allow an encroachment waterward of the tie-line or top of slope for the catch-basin of infinity edge pools in waterfront properties. The request was initiated after two recent variances were granted for a pool and an infinity pool, and the board became aware that the Land Development Code (the "LDC") does not provide for said encroachments.

This report and attached ordinance reflect Planning Board's direction to staff to provide the Town Council with a recommendation to amend the LDC and allow catch basins of infinity pools to encroach beyond the top of slope and, or tie line on waterfront properties.

B. PROPOSED CHANGES

Sec. 13-1605. Waterfront properties. – Add definitions for *catch basin* and *infinity edge pool* and language allowing catch basins to encroach beyond the top of slope up to four (4) feet.

C. EVALUATION

An infinity pool creates a visual effect of a waterfall over one of its edges. In order to achieve the effect, the infinity edge is built lower than the water level, allowing the water to overflow into a catch basin located below; from there, water is pumped back into the upper pool to create a continuous overflow.

In the last few years, infinity edge pools, also known as endless pools, have become very popular. While in flat South Florida not every property can easily install an infinity pool, as they require slopes and terrain differentials, waterfront properties are naturally suited for them, and stand to take the most advantage of their visual appeal. However, as it stands today, the Town LDC effectively prohibits them by not including the catch basins in the list of structures that are allowed waterward of the top of slope. The current Town code allows very limited elements to encroach beyond the tie-line or top of slope in waterfront single-family and two-family properties. Allowable encroachments include, docks, limited landscaping, small open-sided gazebos (150 sf maximum), steps and decks (225 sf maximum and 18 inches over adjacent grade) and boat ramps. Swimming pools must end at the tie-line, and only the associated deck is allowed to encroach beyond the tie line, provided it is included in the maximum 225 sf allowed.

There are compelling reasons to limit these encroachments: maintaining the banks of lakes clear of obstructions preserves everyone's vistas, allows access to the water for maintenance, limits storm water run-off into the lakes, etc.; however, it is the opinion of Staff that the catch basins of infinity edge pools constitute a structure that could well be among those allowed. Furthermore, infinity pools are so well suited for waterfront properties, that in cases where the planning board has granted variances for pool encroachments beyond the top-of-slope, an infinity edge is often required as a condition in order to mask the inevitable wall that results from the slope differential.

Infinity pools work particularly well wherever a sloped property abuts a body of water, such as a lake, because the infinity edge seems to blend in with the waterbody, thus the name *endless pool*.

D. STAFF RECOMMENDATION

Based on the analysis provided and other factors contained in this report, Staff recommends approval of the ordinance allowing catch basins to encroach beyond the top of slope up to four (4) feet.

E. ANALYSIS

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be

considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. The amendment allows for a structure very similar in nature to other structures already provided for as encroachments beyond the top of slope. In this light, the proposed ordinance conforms with the Town’s LDC’s. A review of the LDC’s found no conflicts.

Finding: Complies.

3. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.

Analysis See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation of this report. infinity edge pools have existed for a few years but are becoming more and more popular. The LDC does not currently mention or provide for this type of pool.

Finding: Complies.

4. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. The proposed ordinance does not change the main permitted use of the property, and it creates no new conflicts with either adjoining properties or adjacent water bodies. Since the catch basins are similar in nature and construction as other currently allowable structures waterward of the top of slope, the proposal is consistent and compatible with existing development and land uses.

Finding: Complies.

5. Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation,

water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

- 6. Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

- 7. Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Criteria 1, 2, and 4, of this report. Staff believes the opposite is true. The accommodation of new methods of construction and building trends is important for the protection of property values in the area. The current ordinance provides for a method of construction that has been widely used already, and that improves views of pools from the water.

Finding: Complies.

- 8. Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study and Criteria 1, 2, and 4, of this report. The proposed ordinance would be consistent of existing land use patterns.

Finding: Complies.

- 9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study and Criteria 1, 2, and 4, of this report. The proposed ordinance would be in the public interest by allowing a method of pool construction that improves the views from the water.

Finding: Complies.

- 10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

Analysis: See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed ordinance amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.

ATTACHMENT A

