



**WELLINGTON  
PLANNING & ZONING DIVISION  
STAFF REPORT**

**I. PETITION DESCRIPTION:**

Petition Number: 16-96 (2016-003ZTA) – Ordinance No. 2016-20  
Project Name: Building Height Exclusions Zoning Text Amendment  
Applicant/Petitioner: Village Staff  
Project Manager: Cory Lyn Cramer, AICP

**II. REQUEST AND BACKGROUND:**

Staff is seeking approval of a zoning text amendment to Section 6.5.8.B and Section 6.10.6 –Table B of the Land Development Regulations (LDRs), related to the building height limitations.

The request is staff initiated and is in response to a pending appeal of a formal interpretation of the LDRs. The background of the pending appeal is important in understanding the reason staff has prepared the proposed amendments. In March, 2015, staff met with the agent representing a property owner proposing to build a two story residence over a first story garage in the Equestrian Preserve Area (EPA), specifically within Subarea C. The residence was designed to resemble a barn and silo. The silo was designed to function as a stairwell leading to a third story observation window/area. The silo feature was proposed to be 51'-5" in height. The maximum height allowed pursuant to the LDRs is 35'. The mean building height, based on the type of roof, is calculated to determine if the maximum building height is in compliance. The mean building height of the silo was calculated at 37'-9". This is greater than the 35' limitation and therefore exceeds the maximum building height allowed. The proposed building feature is unique in design, however was required to be modified to comply with the LDRs and to obtain building permitted.

After this meeting, the building plans were modified so the structure did not exceed the maximum building height and permits were issued. On subsequent dates, a request for a zoning confirmation and then a formal interpretation of the code were submitted because the property owner desired to move forward with the original design and did not feel the

interpretation of the code was correct. A formal interpretation of the code was requested by the agent so that the agent was eligible to appeal the interpretation to the Planning, Zoning and Adjustment Board (PZAB). Staff issued a formal interpretation on March 10, 2016 and the appeal to PZAB was scheduled for the April 2016 meeting. The item was postponed at the request of the owner so that staff and the owner's attorney could revisit the LDR section related to building height and possibly find an alternative that would allow for the silo to be built and comply with the code.

While staff believes the interpretation of the LDRs related to building height is correct, we acknowledge that in many cases opportunities to incorporate a decorative feature or focal point, whether defined as habitable or non-habitable, may be limited based on current requirements. After review of Section 6.5.8, specifically the exclusions section, and 6.10.6 staff recognized that the LDRs could be amended to allow this type of request and not compromise the intent of the code. Mitigation standards could be added that would address any visual impacts from the property lines. In fact, similar, if not the same, mitigation standards are already part of the code for buildings proposed on properties with other land use designations. These standards include limiting the percentage a structure may exceed the maximum building height requirement, limiting the area that is allowed to be dedicated for the exclusion in proportion to the size of the building and requiring additional setbacks from the property line proportionate to the height of the decorative feature.

Finally, staff is proposing to include governmental buildings or structures as exempt from the maximum building height requirement if approved by Village Council.

The proposed amendments will accomplish several things. It will provide additional opportunity for residents Village-wide to incorporate a focal point feature into the design of their home. It will allow this same opportunity for residents within the EPA to incorporate this type feature into the design of their barns, since barns are principal structures in the EOZD. The amendment will provide an exemption for government buildings but will require Village Council approval. Finally, it may eliminate the need for the pending appeal of the code and allow the property owner to construct the proposed residence in accordance with the original plans.

### **III. CURRENT ZONING TEXT:**

#### **Section 6.5.8B: Exclusions from height limits.**

1. Church spires, ornamental belfries, towers and spires, stage towers or scenery lofts appurtenant to civic or cultural buildings, chimneys, mechanical equipment, mechanical equipment rooms, and parapet screening mechanical equipment need not be included in measuring the height of a building or structure if they:
  - a. Do not exceed in gross area, at maximum horizontal section, thirty (30) percent of the roof area, and
  - b. Do not exceed by twenty-five (25) percent the maximum building height allowed in the district.
2. Freestanding flagpoles; provided, however, that freestanding flagpoles may not exceed twenty (20) feet in residential districts and thirty-five (35) feet in non-residential districts.

3. Water towers.
4. Wireless communications towers and facilities, including accessory radio towers, amateur radio/TV antennas, and commercial communication towers and antennas may be erected subject to the limitations in Ordinance 98-8 and Section 6.6.1.K and Section 6.6.1.L of the LDR.

**Section 6.10.6 – Table B  
Development Standards for Principal and Accessory Uses**

Development Standard	Minimum Dimension or Standard
Minimum Lot Width	300 feet, or as otherwise provided in a current, valid development order.
Minimum Lot Depth	300 feet, or as otherwise provided in a current, valid development order.
Maximum Floor Area Ratio	20%, or as otherwise provided in a current, valid development order or as otherwise provided in the Future Land Use Element of the Comprehensive Plan.
Maximum Building Height	35 feet.
Maximum Lot Coverage	20%, or as otherwise provided in a current, valid development order.

**IV. PROPOSED CHANGES** (Add the following language):

**Section 6.5.8.B:**

5. Government buildings or structures shall be exempt from the maximum height limitation and shall obtain prior approval from Village Council.
6. Towers, copulas, ornamental belfries or other focal point elements that are part of a principal structure in a residential district shall be permitted if they:
  - a. Do not exceed twenty-five (25) percent of the maximum building height allowed within the residential district; and
  - b. Do not exceed ten (10) percent of the ground level floor area or roof area, whichever is less, of the principal structure; and
  - c. An additional one-foot perimeter property setback above the minimum setback for each one (1) foot in building height or fraction thereof above thirty-five (35) feet shall be required.

**Section 6.10.6 – Table B:  
Development Standards for Principal and Accessory Uses**

Development Standard	Minimum Dimension or Standard
Minimum Lot Width	300 feet, or as otherwise provided in a current, valid development order.
Minimum Lot Depth	300 feet, or as otherwise provided in a current, valid development order.
Maximum Floor Area Ratio	20%, or as otherwise provided in a current, valid development order or as otherwise provided in the Future Land Use Element of the Comprehensive Plan.
Maximum Building Height *	35 feet.
Maximum Lot Coverage	20%, or as otherwise provided in a current, valid development order.

\*Note: Structural focal points may be exempt from the height limitations for principal structures within the EOZD as provided in section 6.8.5.B of the LDRs.

**VI. STAFF RECOMMENDATION:**

Staff recommends approval of Ordinance No. 2016-20 to amend section 6.5.8.B and 6.10.6 – Table B of the Land Development Regulations related to the maximum building height.

**VII. Boards, Committees and Council:**

**Equestrian Preserve Committee:** August 3, 2016

**Planning Zoning and Adjustment Board:** August 10, 2016

**Council:** August 23, 2016