



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: July 2, 2019

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Ordinance 19-03 - Proposed Changes for Lot Splits

Background: At the June 4, 2019 Council Meeting, the City Council read Ordinance 19-03 for the first time and discussed the changes to the ordinance which would prohibit lot splits that resulted in substandard lots. It also prohibits the variance process to be used to approve a substandard lots resulting from a lot split. Public comments were in support of this change at the first reading. At the June 18 Council Meeting, the City Staff presented a diagram to define the definitions of lot width and lot depth. There were no additional comments at the meeting or received by staff.

Staff Recommendation: Adopt Ordinance 19-03

Suggested Motion: I move that we adopt Ordinance #19-03.

Alternatives: Do not adopt the ordinance and provide further direction to the staff.

Fiscal Impact: New fee of \$300 deposit per lot split application.

Attachments: Ordinance 19-03

ORDINANCE NO. 19-03

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, RELATED TO LOT SPLITS AND LOT AGGREGATION; AMENDING SECTIONS 50-32, 50-33, 50-37, 54-2, AND 54-171 OF THE CITY LAND DEVELOPMENT CODE; PROHIBITING VARIANCES FOR LOT SPLITS RESULTING IN NON-CONFORMING LOTS; PROVIDING DEFINITIONS; PROVIDING FOR APPLICATION FEES; PROVIDING FOR TREATMENT OF APPLICATIONS RECEIVED PRIOR TO ENACTMENT OF ORDINANCE; PROVIDING FOR ADOPTION OF DIAGRAMS ILLUSTRATING HOW TO MEASURE LOT DIMENSIONS; AMENDING AND CLARIFYING THE AGGREGATION REQUIREMENTS FOR SUBSTANDARD LOTS OF RECORD; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Belle Isle hereby finds that it is in the best interests of the public welfare, health, and safety that the City's Land Development be amended as provided herein.

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amendment, Section 50-32. Section 50-32 of the City Code is hereby amended as follows (words that are ~~stricken-out~~ are deletions; words that are underlined are additions; provisions not referenced are not being modified):

Sec. 50-32. - Definitions.

The following terms, phrases, words, and their derivations shall have the meaning given in this section. Words used in the present tense include the future tense; words in the plural tense include the singular tense and vice versa. The word "shall" is considered mandatory, and the word "may" is considered permissive.

Director means a city employee designated by the city manager to process the preliminary application and plat reviews pursuant to the provision of this article.

Gross residential acre means an acre of land zoned and/or used for residential purposes, including but not limited to land which provides access or contributes to the amenities of residents of the subdivision such as streets, parks, and usable open spaces. Land devoted to nonresidential uses other than those listed above, including but not limited to environmentally sensitive lands, shall not be included as part of gross residential acreage.

Lot Depth means the distance measured along a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line, or to the most distant point on the lot located on any other lot line if there is no rear lot line. In the event that the rear property line, or if there is no rear lot line then the most distant point on the lot located on any other line, is located fully or partially below the normal high water line of an abutting body of water, then lot depth shall be measured along a straight line drawn from the front property line and parallel to the side lot line(s) to the point on the normal high water line located closest to the front property line.

Lot split means the division of a lot or parcel that is not located within the boundaries of a planned unit development into no more than two parcels or lots and shall include any change in boundary lines between two parcels or lots.

Lot Width means the distance between the side lot lines, along a line drawn parallel to the front lot line at a distance from the front lot line equal to the minimum front yard setback.

Net residential acre means an acre of land zoned and/or used for residential purposes and which does not include areas such as streets, parks, environmentally sensitive lands, and usable open spaces. Land devoted to nonresidential uses shall not be included as part of net residential acreage.

Tract mean any land in a subdivision which is designated as, but not limited to, recreation areas, water detention facilities, landscape buffers or conservation areas, and not meant for use as a residential or commercial lot.

SECTION 3. City Code Amendment, Subsection 50-33(6). Subsection 50-33(6)b. of the City Code is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not referenced are not being modified):

(6) *Lot split.*

a. *Submission requirements.* The applicant shall submit a survey and legal description both certified by a registered state surveyor of the property as it is to be divided, payment as set forth in this Land Development Code or as otherwise prescribed by the City Council or City Manager, and proof of ownership acceptable to the city.

b. *Requirements.* With the prior approval of the city council, any lot or parcel not located within a planned unit development may be divided by lot split so long as the two resulting lots or parcels meet in every respect the Land Development Code's requirements for newly created lots or parcels. No lot or parcel nor any portion of any lot or parcel which has been created by a lot split shall be further divided by lot split. No variance will be given for any lot split that results in a lot or parcel that does not conform in every respect to the Land Development Code's requirements for newly created lots or parcels. For example, no variance will be given for any lot split that results in a substandard lot.

c. *Notice.* A notice of no further lot split shall be fully executed by the owner of the property submitted for lot split which notice must be approved by the city and such notice shall be recorded in the public records of the county prior to the issuance of any building permit for lots or parcels created by lot split. The form of the notice shall be in recordable form and in substance substantially in accordance be with the following: "The property described on the attached Exhibit 1 was the subject of a lot split within the City of Belle Isle, Florida, and no further division of all or any portion of the property described on the attached Exhibit 1 by the lot split procedure in the City of Belle Isle shall be allowed. Further subdivision by other methods may or may not be allowed."

SECTION 4. City Code Amendment, Subsection 50-37(a). Subsection 50-37(a) of the City Code is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not referenced are not being modified):

(a) *Variances*. The council may grant a variance from the terms of these regulations when such variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship, provided that such variance does not result in any lot or parcel that does not conform in every respect to the Land Development Code's requirements for newly created lots or parcels. For example, no variance will be given for any lot split that results in a substandard lot or lots. Such variance shall not be granted if it has the effect of nullifying the intent and purpose of these regulations. Furthermore, such variance shall not be granted by council unless and until:

(1) A written application for a variance is submitted showing:

a. That special conditions and circumstances exist which are peculiar to the land, structures, or required subdivision improvements involved and which are not applicable to other lands, structures or required subdivision improvements.

b. That literal interpretation of the provisions of these regulations would deprive the applicant of a right commonly enjoyed by other properties with similar conditions.

c. That the special conditions and circumstances do not result from the actions of the applicant.

d. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by these regulation to other lands, structures or required subdivision improvements under similar conditions. No preexisting conditions on neighboring lands which are contrary to these regulations shall be considered grounds for issuance of a variance.

(2) The council shall make findings that the requirements of this subsection have been met.

(3) A public hearing of the proposed variance shall be held. The public hearing may be held prior to or simultaneously with the public hearing for approval of the preliminary plat.

(4) The council shall further make a finding that the reasons set forth in the application justify the granting of the variance that would make possible the reasonable use of the land builds, or other improvements.

(5) In granting any variance the council may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted shall be deemed a violation of these regulations.

SECTION 5. City Code Amendment, Subsection 54-2(a). Subsection 54-2(a) of the City Code is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not referenced are not being modified):

(a) When two or more adjoining vacant lots with continuous frontage ~~were~~are under single ownership on or after October 7, 1957, and one or more of such adjoining lots have a width or lot area less than is required by the dwelling district in which they are located, such substandard lot or lots shall be aggregated so as to create one or more lots, each of which shall conform to the minimum width and area requirements in effect at the time of aggregation ~~of~~ for the district in which they are located, and the substandard lot or lots so aggregated shall be considered one tract.

SECTION 6. City Code Amendment, Subsection 54-171. Section 54-171 of the City Code is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not referenced are not being modified):

Sec. 54-171. - Deposit.

(a) Each applicant for a formal subdivision, nonresidential site plan and/or a planned development shall submit a \$5,000.00 deposit payable to the city by money order or cashier's check drawn on a financial institution authorized to do business in the county at the time of submission. Each applicant for an informal subdivision shall submit a \$1,000.00 deposit payable to the city by money order or cashier's check drawn on a financial institution authorized to do business in the county at the time of submission. Each proposed subdivision, nonresidential site plan, and/or planned development, hereinafter shall be individually and collectively referred to as "project." No review of any project by the city or the city's employees, agents, contractors or consultants, shall commence until: (i) the deposit has been received by the city, and (ii) a written authorization for the city to proceed with review and a written agreement to pay all costs, expenses and fees have been executed and delivered by the property owner and/or applicant to the city.

(b) Costs, expenses, and fees incurred by the city may be deducted from the deposit as provided in section 54-173. The amount of the deposit remaining after costs, expenses and fees due the city have been deducted, If any, shall be returned to the applicant within 30 days of withdrawal of the project or within 30 days of final approval of the subdivision plat or lot split or within 30 days of a certificate of occupancy being issued for a nonresidential site development or planned development, as applicable.

(c) An applicant for a lot split under Section 50-33(6) shall submit a non-refundable fee of \$300.00, and the City shall not review, process, or act upon a lot split application until such fee is received.

SECTION 7. Pending Applications. All complete lot split applications received by the City prior to the effective date of this Ordinance shall be governed by the City Code provisions in effect at the time of receipt of such application.

SECTION 8. Diagrams. The City Council, City Manager, and/or the City Manager's designee shall have the authority to adopt diagrams illustrating how to measure lot width, lot depth, and other matters related to lot dimensions. The relevant City Code provisions shall be interpreted in accordance with such diagrams.

SECTION 9. Codification. This Ordinance shall be incorporated into the Belle Isle Land Development Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like

errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 10. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 11. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 12. Effective date. This ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2019

SECOND READING: _____, 2019

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Karl Shuck	_____	_____	_____
Mike Sims	_____	_____	_____
Harvey Readey	_____	_____	_____
Jim Partin	_____	_____	_____
Sue Nielsen	_____	_____	_____

ADOPTED this ____ day of _____, 2019, by the City Council of the City of Belle Isle, Florida.

CITY OF BELLE ISLE

Nicholas Fouraker, Mayor

ATTEST:

Yolanda Quiceno, City Clerk