
NOTICE OF PUBLIC MEETING
February 27, 2018- 6:30 PM

CITY OF BELLE ISLE
PLANNING AND ZONING BOARD REGULAR SESSION

1. Call to Order, Confirmation of Quorum and Pledge to the Flag
- [2.](#) Approval of P&Z Board meeting minutes for November 28, 2017
- [3.](#) Approval of P&Z Board meeting minutes for January 23, 2018
- [4.](#) Approval of P&Z Board workshop minutes for February 1, 2018
- [5.](#) PUBLIC HEARING CASE #2017-08-025 (CONTINUED FROM SEPTEMBER 26, 2017 & JANUARY 23, 2018) - PURSUANT TO BELLE ISLE CODE SEC. 48-33, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO BUILD A 730 SQUARE FOOT ROOF STRUCTURE OVER AN EXISTING RESIDENTIAL DOCK, WITH A LARGER AREA THAN WHAT IS NORMALLY PERMITTED BASED ON THE LINEAR SHORE LINE FRONTAGE FOR THE LOT, SUBMITTED BY APPLICANT SUMMERTIME DECK AND DOCK, LOCATED AT 7210 SEMINOLE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL NUMBER 29-23- 30-4389-04-050.
- [6.](#) The Board shall consider and recommend to City Council an Ordinance of the City of Belle Isle, Florida; amending the Belle Isle Development Code, Chapter 48 Article II concerning dock regulations, including but not limited to permitting, criteria, exceptions, requirements, maintenance, repair, variances, application procedures, definitions, nonconforming docks, number, location, and related matters; providing findings by the City Council; providing for conflicts, severability, codification, and an effective date.
7. Other Business
8. Adjourn

Should any person decide to appeal any decision made regarding any matter considered at this meeting such person may need to ensure that a verbatim record of the proceedings is made to include testimony and evidence upon which the appeal is to be based, Persons with disabilities needing assistance to participate in these proceedings should contact the City Clerk at 407-851-7730 at least 24 hours in advance of the meeting.

City of Belle Isle
Planning & Zoning Board Regular Session Minutes
November 28, 2017 – 6:30pm

Kurt Ardaman City Attorney	David Woods Vice Chairman District 1	Chris Shenefelt District 2	Steve Jervis District 3	Gregg Templin District 4	Rainey Lane District 5	Russell Cheezum District 6	Nicholas Fouraker Chairman District 7
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On Tuesday, November 28, 2017 the Belle Isle Planning & Zoning Board met in a regular session at 6:30pm in the Belle Isle City Hall Council Chambers. Present was Chairman Fouraker, Vice Chairman Woods, Board member Cheezum, Board member Lane, Board member Templin, Board member Jervis and Board member Shenefelt, City Manager Bob Francis, Attorney Richard Geller and City Clerk Yolanda Quiceno. Absent were: na.

CALL TO ORDER

Chairman Fouraker called the meeting to order at 6:30pm and opened with the Pledge of Allegiance.

Chairman Fouraker asked for Board approval to rearrange the order of the agenda items. He requested Board approval to rearrange the agenda items as follows,

- Public Hearing Case #2017-10-013
- Public Hearing Case #2017-11-007
- Public Hearing Case #2017-07- 023

Board member Templin motioned to rearrange the agenda items as requested.
Board member Cheezum seconded the motion, which passed unanimously 7:0.

APPROVAL OF MINUTES

- Approval of Planning & Zoning minutes for August 22, 2017.
- Approval of Planning & Zoning minutes for September 26, 2017.

Vice Chairman Woods addressed a few scrivener's errors and requested for approval with the corrections as noted.

Board member Jervis motioned to approve the minutes as corrected.
Board member Lane seconded the motion, which passed 7:0.

1. **Public Hearing Case #2017-10-013** - Pursuant to Belle Isle Code Sec. 50-102 (b) (16) and Sec. 42-64, the Board shall consider and take action on a requested variance to place a fence in the front yard of a residential property, submitted by applicant John W. Holloway located at 6201 Matchett Road, Belle Isle, FL 32809 also known as Parcel #24-23- 29-3400- 00-162.

David Terry representing the applicant with offices at 120 Minnehaha Circle Maitland, FL said staff has made the recommendation to approve the variance. The peculiarities of this property are that it is a very long piece of land. The improvements on the property are all set well back from the road. Mr. Holloway's distance from his home to the road is 600ft. He shared Mr. Holloway's concerns about trespassers on his property and the safety of his family. The applicant would like the ability of placing a fence on the northern part of the property to indicate that it is private and provide additional security.

Vice Chairman Woods said from the southern line up to the very north end there are no intervening fences and chain link fences are known for not looking very nice over a period of time. It seems a little anomalous to place a chain link fence in the mix of high end homes. Mr. Terry stated that the applicant is trying to reduce

the impact of the fence visibility by not adding a solid wall but still creating separation. The proposed material is vinyl coated galvanized wire and will look nicer.

Mr. Woods further asked if the applicant has any written support in favor of the fence from the neighbors to the north. Mr. Terry said no, part of the issue is generated by the occupants of that property.

April Fisher, City Planner based the recommendation for approval on the criteria established in Sec 50-102(b)(16)(3) and the required criteria in Sec 42-64(1) with the support of the issues of safety and privacy on the property. City Manager Francis said this area, in our City, is an area that shows great estates in our City and one of the reasons why fences have not been installed. He asked the applicant if he has any other issues of animals or dogs entering his property and if an electric fence was considered as an option.

John Holloway residing at 6201 Matchett Road shared his concerns with the neighbor's dog and child running through his property. For her safety, he has suggested an electric fence to the neighbor and nothing has been done. The trespass has occurred on numerous occasions and a privacy fence seems to be the best solution to keep them safe from his pets. It will also address the concern of the continued use of the newly purchased City property [on E Wallace Street] overflowing into his private residence.

Chairman Fouraker asked if the City has an alternative solution other than the fence. Mr. Francis stated that Mr. Holloway can call in the nuisance to the Belle Isle Police Department who may assist to resolve the problem. He further added that he has had the Chief of Police research the calls to service and there are only five reports made and are not close to the Mr. Holloways property.

Chairman Fouraker opened for public comment.

- Gary Meloon residing at 6101 Matchett Road spoke in opposition of approval of the fence.
- Cecil Glass residing at 6115 Matchett Road spoke in opposition of approval of the fence.
- Jason Lemoine residing at 6135 Matchett Road spoke in opposition of approval of the fence.
- Carol Crawford residing at 6320 Matchett Road spoke in favor of the variance and said it should be a wrought iron fence and be respectful of the decorative nature of the neighborhood.
- David Terry said with regards to the materials the chain link was proposed to have the least minimal intrusion and can be changed to a more decorative fence if it is the pleasure of the Board. The main issue is to keep small children and animals safe from being hurt from his dogs on the property.

There being no further comments, Chairman Fouraker closed public comment and opened for Board discussion.

Chairman Fouraker asked if the applicant would be willing to seek a compromise solution with his neighbor and withdraw his application for a variance and meet as a community to resolve this issue. Mr. Holloway respectfully withdrew his request to allow the opportunity for an open discussion in a more private forum with his neighbors.

2. **Public Hearing Case #2017-11-007** - Pursuant to Belle Isle Code Sec. 50-102 (b) (16) and Sec. 42-64, the Board shall consider and take action on a requested variance to place a wall with gate in the front yard of a residential property, submitted by applicant Dina Janicke located at 2221 Hoffner Avenue, Belle Isle, FL 32809 also known as Parcel #18-23- 30-5120- 00-320.

Dina Janicke property owner of 2221 Hoffner Avenue spoke of the variance and said it is based on the safety, security and privacy for her family. Her front yard is used as her back yard and her home sits at the bend on Hoffner Avenue. The traffic is hard to control and there have been many documented accidents throughout the years. The wall helps protect her family from oncoming traffic. Her neighbors have given her written

support for the aesthetics of the wall and the gate. She was not aware of the permit process and apologized for the oversight in building the wall.

Vice Chairman Woods stated that the traffic count on Hoffner Avenue is approx 18,000 cars per day and understands the need for the wall. He asked if the applicant has been charged with after-the-fact fees for building without a permit. April Fisher said yes, the applicant has been charged the after-the-fact fees.

April Fisher stated based on the applicant's identification of the security and safety for her children and pets she is recommending approval of the variance.

Chairman Fouraker opened for public comment. There being none he closed public comment for Board discussion.

Vice Chairman Woods moved, the criteria of Code Section 50-102(b)(16) and Sec. 42-64 of the Belle Isle Land Development Code having been met to approve this request for a variance to place a wall with gate in the front yard of a residential property, submitted by applicant Dina Janicke located at 2221 Hoffner Avenue, Belle Isle, FL 32809 also known as Parcel #18-23- 30-5120- 00-320.

Board member Lane seconded the motion, which passed unanimously 7:0.

Chairman Fouraker called for a 15 minute break.

3. **Public Hearing Case #2017-07- 023** - Proposed Development Site Plan. Pursuant to Belle Isle Code Sec. 54-79 (f) (4), the Board shall review and take action on the proposed site plan, submitted by Thirumala Property's, LLC c/o American Civil Engineering, Co. for a proposed commercial development at 2635 McCoy Road, Belle Isle FL 32809, also known as Parcel #30-23- 30-0000- 00-005. (continued from the August 22, 2017 meeting)

Randall Smith, Attorney, spoke on behalf of the applicant, with offices at 5333 Versailles Drive, Maitland, FL said he and the applicant has met with the City Attorney and has addressed each of the concerns raised at the August 22nd meeting. In regards to the staff memo dated November 16th, 2017, it does not present any major issues and the applicant can comply with findings as conditions of approval. He addressed the dual zoning and said they have redesigned the facility based on the findings by City staff of the 150 ft from the sub boundary to the Trentwood Blvd lots. In addition, they have submitted a significant reduction of the parking spaces and the current plans should comply with the City findings.

With regards to the access easement, there is a recorded document from 1980 that made provisions for the adjacent property owner to have access to McCoy Road through that easement. He is not going to dispute the City Attorney's conclusion however; he does believe it is a sufficient recorded document.

John Herbert, Engineer with American Civil Engineering Company spoke on the parking, transportation analysis and retention drainage concerns. He referenced the staff report and the additional information requested by the Board and noted that their responses and the design are in conformance with the Land Development Code of the City of Belle Isle. He would like to reserve the right to answer any questions/issues on the design elements with the Board and the public. Chairman Fouraker stated due to the time frame he would like to address the questions on a case by case basis before opening an open dialogue. Mr. Herbert stated he would then prefer to go through each question and responses on the November 16, 2017 staff report in order to be heard on all the issues.

Vice Chairman Woods said he did a cursory review of the plans and have found no less than 16 errors and mistakes on the submittal and begs the question on how many have yet to be found. **After review of some of**

the errors and corrections, Board member Jervis motioned to continue the meeting to a later date to allow the applicant time to correct the plans for approval.

Attorney Geller stated that the Board can open for public comment before the passing of a motion to second.

The Board discussed the option of scheduling a workshop to allow the applicant and the public to dedicate time to discuss some of the issues important all parties. Board consensus was to schedule a workshop at a later date.

Bob Harrell residing at 2800 Trentwood Blvd said he has some ideas to provide for consideration before approval of the proposed plan. He proposed leaving the residential portion alone and placing an eight foot masonry wall on the edge of the commercial property.

Mike Sims residing at 2606 Trentwood said in preparation of the workshop he would like to present some ideas for consideration. He made the Board aware of a recent traffic study that was completed and included the areas of McCoy, Via Flora, Flowertree and Trentwood. The results include a level of service grade of F for the intersection of McCoy and Via Flora. Mr. Francis said the City commissioned the traffic study for another project and adding additional trips can create massive backups during the morning and in the evening. He stated if this project moves forward the applicant will be required, upon the conditions of approval, to initiate a traffic study with FDOT to review the problems and provide solutions they would be incurred with the additional added traffic.

Mr. Sims said he has obtained a petition with over 30 signatures that were against this proposal. For the record, and in addition to the petition, there were approximately 15 residents present who were opposed to this project. Mr. Sims spoke on Section 54-75 Sub Part B and Section 54-32 of the zoning codes that are not silent on the permissible uses. He further asked that the applicant provide written documentation on a continuing duty to maintain the retention pond. In conclusion, he asked for the Board to deny to proposal based upon all the reasons discussed, it does not provide an adequate buffer and is not consistent with the surrounding area.

Greg Gent residing at 2924 Nela Avenue asked, if there is a workshop, will public comment be allowed. He further added that the Board should consider a noise study before approval.

Andrew Thompson residing at 4058 Isle Vista Avenue asked if the Board can consider a lighting plan for the residential areas and the impact the removal of the trees would cause.

There being no further public comment, Chairman Fouraker closed public comment for Board discussion.

Vice Chairman Woods gave a Power Point presentation that reflects some of the public's sentiment of the proposed project.

Board member Jervis motioned to have the City Manager organize a workshop to be continued to a later date to allow the applicant time to correct the plans for approval.

Board member Rainey seconded the motion which passed unanimously.

OTHER BUSINESS

Vice Chairman Woods brought to light a prevalent issue on Hoffner that most homeowners on Hoffner would like to have a wall in their front yards. There are approximately 17,000 vehicles a day going through Hoffner with a 4-lane extension to the east of Conway. He would like the Board to considered codification of a Hoffner overlay which allows fences and walls on the properties along Hoffner. April Fisher stated that it can be added to a future agenda for discussion and recommended requesting the City Manager to bring the idea forward to Council for consensus.

ADJOURNED

There being no further business Chairman Fouraker called for a motion to adjourn, unanimously approved at 9:07pm.

Yolanda Quiceno

City Clerk, CMC

DRAFT

City of Belle Isle
Planning & Zoning Board Regular Session Minutes
January 23, 2018 – 6:30pm

Dan Langley City Attorney	David Woods Vice Chairman District 1	Chris Shenefelt District 2	Steve Jervis District 3	Gregg Templin District 4	Rainey Lane District 5	Russell Cheezum District 6	Nicholas Fouraker Chairman District 7
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On Tuesday, January 23, 2018 the Belle Isle Planning & Zoning Board met in a regular session at 6:30pm in the Belle Isle City Hall Council Chambers. Present was Chairman Fouraker, Vice Chairman Woods, Board member Cheezum, Board member Lane, and Board member Templin. Absent were: Board member Jervis and Board member Shenefelt.

Also present was City Manager Bob Francis, Attorney Dan Langley, City Planner April Fisher and City Clerk Yolanda Quiceno.

CALL TO ORDER

Chairman Fouraker called the meeting to order at 6:35pm and opened with the Pledge of Allegiance.

Chairman Fouraker asked for Board approval to rearrange the order of the agenda items. He requested Board approval to rearrange the agenda items as follows,

- 1) Public Hearing Case #2018-01-004
- 2) Public Hearing Case #2017-18-025
- 3) Appointment of Chairman (per Sec 42-32(c1)
- 4) Appointment of Vice Chair (per Sec 42-32(c1)

**Board member Cheezum motioned to rearrange the agenda items as requested.
Board member Templin seconded the motion, which passed unanimously.**

APPROVAL OF MINUTES

There were no minutes presented for approval.

PUBLIC HEARING CASE #2018-01-004 - PURSUANT TO BELLE ISLE CODE SEC. 50-102 (B) (7) AND SEC. 50-102 (B) (16), THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO PLACE A FENCE EXCEEDING FOUR FEET IN HEIGHT WITHIN 35 FEET OF THE 86.9 CONTOUR LINE OR THE NORMAL HIGH WATER ELEVATION OF LAKE CONWAY, SUBMITTED BY APPLICANT STEVE AND CARA READ, LOCATED AT 6401 GIBSON DRIVE, BELLE ISLE, FL 32809 ALSO KNOWN AS PARCEL NUMBER 24-23-29-0600-01-060. THE APPLICANT IS REQUESTING APPROVAL OF A SIX-FOOT HIGH FENCE.

For the record, April Fisher, City Planner clarified that the 86.9 Contour Line was included in the title language because the current Belle Isle code has not been revised to reflect the current normal high water level elevation.

Cara Read property owner of 6401 Gibson Drive addressed the Board and stated that the grandfathered 6' wood fence to the water was destroyed during Hurricane Irma. Replacement of the 6' fence going down to the water is currently not allowed by code. This fence will allow her family privacy since it abuts to Delia Beach and it will also provide safety for the park visitors from her dogs. Mrs. Read said she spoke

with her neighbor who did not show any opposition. In addition, she stated that she has not received any other opposition from any other surrounding resident.

City Manager Bob Francis said the City is in support of the fence because Delia Beach is going to be renovated and will become more of a neighborhood draw. It will be a good opportunity for placement of the fence for their privacy and the public's enjoyment.

Chairman Fouraker opened for public comment. There being none he closed public comment and opened for Board discussion.

Vice Chairman Woods moved, the criteria of Code Sec. 50-102 (B) (7) and Sec. 50-102 (B) (16) of the Belle Isle Land Development Code having been met to approve this request for a variance TO PLACE A FENCE EXCEEDING FOUR FEET AND NOT EXCEEDING SIX FEET IN HEIGHT WITHIN 35 FEET OF THE 86.9 CONTOUR LINE OR THE NORMAL HIGH WATER ELEVATION OF LAKE CONWAY on the property described as 6401 Gibson Drive, Belle Isle, FL 32809 also known as Parcel Number 24-23-29-0600-01-060, Orange County, FL.

Board member Lane seconded the motion which passed unanimously 5:0.

Chairman Fouraker stated that the applicant should wait 15 days for any potential appeals before starting any work.

PUBLIC HEARING CASE #2017-08-025 (CONTINUED FROM SEPTEMBER 26, 2017) - PURSUANT TO BELLE ISLE CODE SEC. 48-33, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO BUILD A 730 SQUARE FOOT ROOF STRUCTURE OVER AN EXISTING RESIDENTIAL DOCK, WITH A LARGER AREA THAN WHAT IS NORMALLY PERMITTED BASED ON THE LINEAR SHORE LINE FRONTAGE FOR THE LOT, SUBMITTED BY APPLICANT SUMMERTIME DECK AND DOCK, LOCATED AT 7210 SEMINOLE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL NUMBER 29-23- 30-4389-04-050.

Troy Buswell property owner of 7210 Seminole Drive said the property was purchased in late 2016. He has been working with the neighbors, who have been in opposition, to try and work out a compromise without additional expense and a total re-configuration of the current plans. He is requesting Board approval for a continuance.

Chairman Fouraker opened for public comment.

Attorney Langley stated from a legal stand point the public hearing should not be opened and continued to a date certain. Chairman Fouraker said the request that is before us is potentially going to change based on the dialogue that is happening privately. The applicant is asking to continue the meeting and if you had a comment today it will be moot because what they submitted today may not be the same as what is submitted in the future.

Debra Donham residing at 6904 Seminole Drive shared her concerns with a current issue she is having with her neighbor and asked that the applicants compromise with their neighbors.

There being no further comments Chairman Fouraker closed public comment and opened for Board discussion.

Board member Templin motioned to continue this public hearing case to the February 27th Planning & Zoning Board meeting.

Board member Cheezum seconded the motion which passed unanimously 5:0.

OTHER BUSINESS

City Manager Francis reported that he and the City Planner met with Paul Rock, his father law and the Engineer regarding the 2635 McCoy property. He stated that the applicant had a couple of scenarios they would like the Board to review before they submit for another public hearing. Mr. Francis said the applicant asked if the Board would approve a workshop within the next two weeks. He further added that the residents that would be affected would be noticed and the property will be posted.

Attorney Langley recommended that the Board not come to any conclusions at the workshop; it is more of an informational gathering opportunity.

After discussion, the Board consensus was to schedule a workshop for Thursday, February 1, 2018 from 6:30-8:00pm, will allow for public comment and to have the City Manager and City Planner lead the workshop.

Appointment of Chairman (per Sec 42-32(c1))

Appointment of Vice Chair (per Sec 42-32(c1))

Chairman Fouraker opened discussion for appointment of a chairman and vice chair.

**Board member Templin moved to appoint Nicholas Fouraker for Chairman.
Board member Lane seconded the motion which was passed unanimously.**

**Board member Fouraker moved to appoint David Woods for Vice-Chairman
Board member Templin seconded the motion which was passed unanimously.**

For the record, Chairman Fouraker announced that Board member Shenefelt and Board member Jervis could not attend due to their work schedule.

ADJOURNED

There being no further business Chairman Fouraker called for a motion to adjourn, unanimously approved at 7:15pm.

Yolanda Quiceno
City Clerk, CMC

City of Belle Isle
Planning & Zoning Board Workshop Session Minutes
February 1, 2018 – 6:30pm

Kurt Ardaman City Attorney	David Woods Vice Chairman District 1	Chris Shenefelt District 2	Steve Jervis District 3	Gregg Templin District 4	Rainey Lane District 5	Russell Cheezum District 6	Nicholas Fouraker Chairman District 7
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On Thursday, February 1, 2018 the Belle Isle Planning & Zoning Board met in a workshop session at 6:30pm in the Belle Isle City Hall Council Chambers. Present was Chairman Fouraker, Vice Chairman Woods, Board member Lane, and Board member Templin. Absent were: Board member Jervis, Board member Cheezum and City Manager Bob Francis. Also present was City Planner April Fisher and City Clerk Yolanda Quiceno.

CALL TO ORDER

Chairman Fouraker called the meeting to order at 6:30pm and opened for discussion of development alternatives proposed by the applicant for 2635 McCoy Road.

April Fisher gave an overview of the meeting process regarding the proposed alternatives of 2635 McCoy Road. The purpose is for the Board to dialogue with the developer applicant on proposed alternatives for developing the site. Attendees do not have to sign in and no decision will be made tonight and any formal action will be held at a later public hearing that will be noticed. She gave an overview of the start and end time and asked that the applicant take the first twenty minutes to go over their proposed scenarios, then Board discussion and community input. The meeting began at 6:30pm and has a designated end time of 8:00pm.

Paul Rock speaking on behalf of the applicant Thirumala Property's, LLC c/o American Civil Engineering, Co. gave a power point presentation on the two scenarios for 2635 McCoy Road. Mr. Rock spoke on the currently proposed Park and Fly and the outcome of the September 2017 residents meeting. He stated that one of the main issues raised by the residents was the removal of the tree landscape and the lost of occupying wildlife. Mr. Rock then presented a proposed Hotel & Suites Development as a second alternative.

He proposed a Country Inn and Suites, 5-story hotel. He stated that his family have been business owners in Belle Isle for 10+ years and know how to run hotel. The proposed hotel will be a family hotel and the developer will be taking into account the tree line buffer which is very important to the Trentwood residents. He provided a picture based on scale and location of the tree canopy.

Mr. Rock proposed the following;

- Proposal a 5-story Country Inn and Suites hotel. The hotel will never grow in height but the existing trees will. Currently the existing billboard is 60' and higher than the proposed hotel and cannot be seen from the homes on Trentwood;
- Donation of the 75' area to the City as a tax right off or work towards a fair market value sale to convert it into a forever protected conversation;
- Request a special purpose Planned Development zoning to have enough parking on the property;
- Initiate a survey to preserve the 75' buffer of trees from the current 150' due to retention needs;
- Propose water retention flow to Trimble Park and link to/through State retention area; and
- Create a trail/park on the other side of the wall (75' area) which will be a municipal protected area as proposed by the City.

Board member Templin asked for clarification on the lined area on Slide 13. Mr. Rock said that area represents the reclaimed 50' from the 150' as a setback for the required open space if the hotel was to be approved.

Vice Chairman Woods said the retention area is relatively small. Mr. Rock stated that the area is smaller than previously proposed because they have proposed to flow retention to the lake through Trimble Park. The retention on site is the minimum that is required for water quality standards and the rest of it would be handled offsite to the City Park. Bobby Lance said the only problem is that there is State retention between the property and the City Park. Discussion ensued on the proposed scenario. Mr. Rock stated if it is not possible because of the State property they will be willing to contact the State for approval.

Vice Chairman Woods asked if the area grade of the east end low enough to add retention. Mr. Rock said the design of the future site will be for a family restaurant. He will try to keep it as natural as possible. The worst case scenario is that they will find a creative way to accommodate the retention pond on the east end.

John Holloway, Planner, spoke on the contingency plan, marked Item A providing a 75' natural buffer with a elongated dry retention pond that will hold the entire runoff for the development. Chairman Fouraker asked if the applicant thought of infiltration on and off site and not have to go through Trimble Park. Mr. Rock said if the dry retention was on site they will be utilizing more of the lined area shown on the map. Discussion ensued on the outfall, continuation and retention pond.

Bobby Lance said he is not sure how the applicant will be able to obtain an outfall into the lake without asking the State for approval. Vice Chair Woods stated that it is clear that the proposed retention going through Trimble Park may have to be approved by the State before moving forward.

April Fisher said the applicant will have to ask for a Planned Development rezoning to avoid the split plan issue. The rezoning will be tied to a concept plan and then a development plan regardless of that northern portion being conveyed to the City. Even if they kept it they would have to stay with the approved plan in perpetuity unless they bring back a change for approval.

Chairman Fouraker said the other concern that will need to be addressed, by the City, is the long term maintenance plan of the donated area. If it does not get gifted to the City there should be some pro rata share in an escrow account based on CPI for long term maintenance. Discussion further ensued on 5-star hotels and other high end hotels that would be feasible for the area.

Chairman Fouraker opened for public comment.

The residents shared the following concerns,

- Repair the current barb wire fence on the State retention pond which is in disrepair and high in weeds.
- The City needs to set the rules and follow the code. A 5-story hotel is not in allowed by code and not wanted by the residents.
- The 150' residential zone should not be cleared of its trees to place a commercial retention pond.
- Concerned of the safety a walkway behind her house will cause.
- The residents prefer to see houses on the property or nothing.
- Concerned about the maintenance and flooding.

- The proposed trail will not be feasible because the City illegally placed a gateway and walkway which crossed over State property without permission.
- The traffic issue is not resolved and they would like to request a traffic study to determine impact of a new development.
- Bobby Lance stated that he recently found that there is some possible State funding for a park. He will be meeting with Bob Harrell and the City Manager to discuss purchasing the property with matching State funding. The City is in the process of creating a new classification as Open Space that will allow this area to remain as is.

There being no further public comment Chairman Fouraker closed public comment and opened for Board discussion and closure.

Vice Chairman Woods said the code requires that a commercial property build a buffer between the commercial and residential property. However, it never anticipated that a property would have two zoning areas. He feels that there should be a buffer wall at the 150' mark and that the commercial property should be designed so that its infrastructure is occupying the commercial property only.

Board consensus was to have the applicant,

- Provide an updated tree survey showing an overlay from the 150" line and the 75' line;
- Obtain State and Trentwood Association's approval to allow retention on the property going through Trimble Park; and
- Provide a traffic study to determine impact of a new development.

The Board further added that,

- The City will need to obtain Attorney's opinion on using the residential portion for commercial stormwater use; and
- The City should present visual representation for the creation of a park/trail on the 75' area and a suitable retention plan.

ADJOURNED

There being no further business Chairman Fouraker called for a motion to adjourn, unanimously approved at 8:00pm.

Yolanda Quiceno City Clerk, CMC

NOTICE OF PUBLIC MEETING

FEBRUARY 27, 2018 – 6:30PM

CITY OF BELLE ISLE PLANNING AND ZONING BOARD REGULAR SESSION

ITEM 6

MEMORANDUM

TO: Planning and Zoning Board

DATE: January 23, 2018

PUBLIC HEARING CASE #2017-08-025 (CONTINUED FROM SEPTEMBER 26, 2017) - PURSUANT TO BELLE ISLE CODE SEC. 48-33, THE BOARD SHALL CONSIDER AND TAKE ACTION ON A REQUESTED VARIANCE TO BUILD A 730 SQUARE FOOT ROOF STRUCTURE OVER AN EXISTING RESIDENTIAL DOCK, WITH A LARGER AREA THAN WHAT IS NORMALLY PERMITTED BASED ON THE LINEAR SHORE LINE FRONTAGE FOR THE LOT, SUBMITTED BY APPLICANT SUMMERTIME DECK AND DOCK, LOCATED AT 7210 SEMINOLE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL NUMBER 29-23- 30-4389-04-050.

Background:

1. On August 24, 2017, Summertime Deck and Dock, on behalf of the homeowner, submitted the application and required paperwork. A Notice of Public Hearing legal advertisement was placed in the Saturday, September 16, 2017 Orlando Sentinel. Letters to the abutting property owners within 300 feet of the subject property were mailed on Wednesday, September 13, 2017.
2. On September 26, 2017 the P&Z Board motioned to move Case No. 2017-08-025 to a following Planning and Zoning meeting. On January 6, 2018, Summertime Deck and Dock, on behalf of the homeowner, submitted a revised application and required paperwork as discussed at the September 26, 2017 meeting. Letters to the abutting property owners within 300 feet of the subject property were mailed on Friday, January 12, 2018. A Notice of Public Hearing legal advertisement was placed in the Saturday, January 13, 2018 Orlando Sentinel.
3. In the January 23, 2018 meeting the Board motioned to continue this public hearing case to the February 27th Planning & Zoning Board meeting. Letters to the abutting property owners within 300 feet of the subject property were mailed on Friday, February 16, 2018. A Notice of Public Hearing legal advertisement was placed in the Saturday, February 17, 2018 Orlando Sentinel.

The Board may adopt all, some, or none of these determinations as part of their findings-of-fact. The Board may also add any additional findings-of-fact that are presented at the public hearing.

The Board will need to determine if the criteria set forth of the Land Development Code have been met, and approve, approve with conditions, or deny this request.

SAMPLE MOTION TO APPROVE:

"I move, the criteria of Code Section **SEC. 48-33** of the Belle Isle Land Development Code having been met to approve this request for a variance **TO BUILD A 730 SQUARE FOOT ROOF STRUCTURE OVER AN EXISTING RESIDENTIAL DOCK, WITH A LARGER AREA THAN WHAT IS NORMALLY PERMITTED BASED ON THE LINEAR SHORE LINE FRONTAGE FOR THE LOT**, submitted by applicant **SUMMERTIME DECK AND DOCK, LOCATED AT 7210 SEMINOLE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL NUMBER 29-23- 30-4389-04-050.**

SAMPLE MOTION TO DENY:

"I move, the justifying criteria of the Belle Isle Land Development Code, Section 50-102(b) and Sec. 42-64, having NOT been met; [use only if NONE of the justifying criteria have been met] the requirements of section 42-64(1) Subsections: [state only the subsections below that are not satisfied] having NOT been met; [may be used in addition to above or alone] to deny this request for **TO BUILD A 730 SQUARE FOOT ROOF STRUCTURE OVER AN EXISTING RESIDENTIAL DOCK, WITH A LARGER AREA THAN WHAT IS NORMALLY PERMITTED BASED ON THE LINEAR SHORE LINE FRONTAGE FOR THE LOT**, submitted by applicant **SUMMERTIME DECK AND DOCK, LOCATED AT 7210 SEMINOLE DRIVE, BELLE ISLE, FL 32812 ALSO KNOWN AS PARCEL NUMBER 29-23- 30-4389-04-050.**

Should any person decide to appeal any decision made regarding any matter considered at this meeting such person may need to ensure that a verbatim record of the proceedings is made to include testimony and evidence upon which the appeal is to be based. Persons with disabilities needing assistance to participate in these proceedings should contact the City Clerk at 407-851-7730 at least 24 hours in advance of the meeting.

NOTICE OF PUBLIC MEETING

FEBRUARY 27, 2018 – 6:30PM

CITY OF BELLE ISLE

PLANNING AND ZONING BOARD REGULAR SESSION

SUBSECTION (D), literal enforcement of the provisions of the zoning ordinances would result in unnecessary hardship and that said hardship is created by special conditions and circumstances peculiar to the land, structure or building involved, including but not limited to dimensions, topography or soil conditions.

SUBSECTION (E), personal hardship is not being considered as grounds for a variance since the variance will continue to affect the character of the neighborhood after title to the property has passed and that the special conditions and circumstances were not created in order to circumvent the Code or for the purpose of obtaining a variance.

SUBSECTION (F), the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

SUBSECTION (G), the granting of the variance will be in harmony with the general purpose and intent of the Code, will not be injurious to the neighborhood, will not be detrimental to the public welfare, and will not be contrary to the public interest.

ITEM 7

The Board shall consider and recommend to City Council an Ordinance of the City of Belle Isle, Florida; amending the Belle Isle Development Code, Chapter 48 Article II concerning dock regulations, including but not limited to permitting, criteria, exceptions, requirements, maintenance, repair, variances, application procedures, definitions, nonconforming docks, number, location, and related matters; providing findings by the City Council; providing for conflicts, severability, codification, and an effective date.

ITEM 8 - OTHER BUSINESS

ITEM 9 - ADJOURN

Should any person decide to appeal any decision made regarding any matter considered at this meeting such person may need to ensure that a verbatim record of the proceedings is made to include testimony and evidence upon which the appeal is to be based. Persons with disabilities needing assistance to participate in these proceedings should contact the City Clerk at 407-851-7730 at least 24 hours in advance of the meeting.



CITY OF BELLE ISLE, FL

1600 NELA AVENUE, BELLE ISLE, FL 32809 * TEL 407-851-7730

MEMORANDUM

From the Desk of Bob Francis, City Manager

To: Planning and Zoning Board
Date: February 7, 2018
Re: Boat Dock Ordinance Revision

In February 2017, the Council adopted Ordinance 17-02 for the regulation, construction and repair of docks. Since its adoption, there has been difficulty in administering this ordinance due to places where it conflicts with itself. There have also been complaints by constituents that the ordinance is not easy to follow and is confusing. The City Manager requested the City Council to look at these areas that conflict and consider some revisions to the ordinance. The City Council approved changes at the February 6 Council meeting and now directed that the ordinance be sent to the P&Z Board for their review and comment. The Council will consider any comments prior to adopting the ordinance.

The convenience, the revisions are highlighted and summarized here.

Page 2: Adds the definition of "Personal Watercraft" replacing "jetski" or "jet ski"

Page 4: Adds a time frame to how old a survey may be as part of the application.

Page 5: Changes the property line setback from 5 feet to 10 feet. If a property owner wants 5 feet, then they can apply for a variance.

Page 7: States that power curtains, power boat covers, etc. are not considered enclosures under this ordinance.

Page 8: Change the dimensions of storage lockers from 65 cubic feet to 30 inches in height above the deck; 36 inches in width; 9 feet in length. This prevents a 65 c.f. structure to be a tall structure.

Page 9: Adds that docks that are have active permits or enforcement actions on them at the time of the passage of this ordinance will not be grandfathered in.

ORDINANCE No.: 17-19

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE LAND DEVELOPMENT CODE, CHAPTER 48 ARTICLE II CONCERNING DOCK REGULATIONS, INCLUDING BUT NOT LIMITED TO PERMITTING, CRITERIA, EXCEPTIONS, REQUIREMENTS, MAINTENANCE, REPAIR, VARIANCES, APPLICATION PROCEDURES, DEFINITIONS, NONCONFORMING DOCKS, NUMBER, LOCATION, AND RELATED MATTERS; PROVIDING FINDINGS BY THE CITY COUNCIL; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Citizens of the City of Belle Isle have expressed concern to the City Council about the scope and extent of regulation of docks within the City; and

WHEREAS, on March 21, 2017, the City Council adopted Ordinance No. 17-02 amending Chapter 48, Article II the City Land Development Code with respect to dock regulations; and

WHEREAS, the City Council has determined that further amendment to Chapter 48, Article II of the City Land Development Code is necessary in order to further improve and clarify the City's dock regulations and to respond to the concerns of citizens of Belle Isle; and

WHEREAS, the City of Belle Isle Planning and Zoning Board serves as local planning agency for the City; and

WHEREAS, the Planning and Zoning Board, acting in its capacity as the City's Local Planning Agency, has duly considered and recommended approval to the City Council of the revisions to the dock regulations effected by this Ordinance at a public meeting on _____; and

WHEREAS, the City Council has found and determined that the adoption of this Ordinance is in the interests of the public health, safety and welfare, will aid in the harmonious, orderly and progressive development of the City, and serves a valid public purpose.

BE IT ORDAINED by the City Council of Belle Isle, Florida:

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. Amendment of Land Development Code. Chapter 48, Article II of the City Land Development Code is hereby repealed in its entirety and replaced with the following:

ARTICLE II. - DOCKS

Sec. 48-30. – Definitions

The following words, terms and phrases, when used in this article, will have the following meanings unless the context clearly indicates a different meaning:

Access walkway means that portion of the dock that commences on the upland parcel and extends to and terminates at the junction with the terminal platform.

Boats means all rowboats, sailboats, canoes, kayaks, skiffs, rafts, dugouts, dredges, personal watercraft, and other vehicles of transportation for use on water, including inboard and outboard motorboats, unless otherwise indicated; and any and all objects tied to or connected therewith while being propelled through the water.

Boathouse means a roofed structure constructed over or adjacent to water to provide a covered mooring or storage place for watercraft.

Boathouse lot means a lot that is waterfront and was platted as a "B" lot to a primary "A" lot under the same parcel identification number and serves as a lake access lot for the parcel with the primary "A" lot having a principal structure.

Dock means any permanently fixed or floating structure, slip, platform (whether covered or uncovered) extending from the upland into the water, capable of use for boat or vessel mooring and other water-dependent recreational activities. The term "dock" also includes the area used to dock or moor a boat, personal watercraft, watercraft or vessels, and any device or structure detached from the land that is used for or is capable of use as a swimming or recreational platform, boat lift and/or for other water-dependent recreational activities, or as a platform for non-boating use. This term does not include any boat, personal watercraft or vessel that is temporarily docked, moored, or anchored for less than 2 hours in any one day.

Maintenance means the act of keeping the dock in a safe and useable condition consistent with original design specifications.

Mooring area means the portion of a docking facility used for the mooring of watercraft.

Normal High Water Contour (NHWC) means the horizontal location of the theoretical shoreline when the lake level is at the Normal High Water Elevation as defined herein. This is more specifically the horizontal location of the surface ground elevation points which match the Normal High Water Elevation as defined herein.

Normal High Water Elevation (NHWE) means the water surface elevation of Lake Conway and its directly connected water bodies as defined by Orange County. As of December 2016 the NHWE was 85.45, NAVD 88.

NHWE Shoreline means the edge of a body of water at the normal high water elevation (NHWE).

Personal watercraft (Florida Statutes 327.39) means a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and

which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Principal structure means the building or structure in which the principal use of the parcel or lot is conducted. A dock shall not be the principal structure on a parcel or lot.

Principal use means a use of the upland parcel for residential, commercial or governmental purposes. At a minimum, a principal use shall be established by the issuance of a building permit for a principal structure.

Private dock means a dock, which may be used by only those persons living on the upland parcel and their usual and customary guests.

Projected property line means a continuation of, and extension to, the upland property line. In cases of privately owned bottomland, that is, non-sovereignty submerged lands underlying a water body, the projected property line is the actual property line.

Public dock means a dock which is subject to public access. Docks associated with governmental and non-governmental institutions, and private organizations are included in the definition of public dock.

Repair means to restore to the permitted design specifications of a dock structure, including the replacement of the entire dock or portions of the dock.

Semi-private dock means a dock, which may be used by a group of residents living in a subdivision or multifamily development and their usual and customary guests.

Slip or boat-slip means a space designed for the mooring or storage of a single watercraft.

Terminal platform means that portion of a dock beginning at the waterward end of the access walkway. The terminal platform shall be designed for the mooring and launching of boats, or other water-dependent activities.

Sec. 48-31. - Application process.

(a) *Permit and review.* Any person desiring to construct a new dock, repair an existing non-conforming dock or add to an existing dock, regardless of whether it is made of wood or another material, within the city shall first apply for a permit to the city. The City shall determine for a pre-existing dock, whether a permit for repair is necessary under sec. 48-34 below. The city shall review the application for completeness and sufficiency as to whether all data, documentation, and materials required herein are provided and shall contact the applicant if the application fails to meet any of the requirements set forth in this section. After an application has been deemed complete and sufficient by the City, the City shall perform a site review of the proposed dock location.

(1) *City's administrative review fees.* Application fees shall be in accordance with the city fee schedule. The administrative review fee does not include the City of Belle Isle building permit's processing fee.

(2) *Application.* The applicant shall submit a completed city dock application, a survey and five sets of plans showing the proposed dock. These forms shall be available in the city hall office.

(3) The survey of the property, performed within the last three (3) years, shall be a boundary survey signed and sealed by a surveyor holding a current license with the State of Florida and certifying to the applicant and the City accuracy of the information list below. If the Applicant submits a survey over three (3) years old, the applicant shall submit an affidavit stating there is no change to land.

- (i) Lot lines or boundaries of the upland area;
- (ii) Location of the edge of water;
- (iii) Location of any wetlands vegetation both upland or aquatic;
- (iv) Any fences, docks, bulkheads, seawalls, ramps, buildings, paths or walkways or any structure on the upland and lake area;
- (v) The NHWC line across the property;
- (vi) Elevation 79.5 (NAVD 1988) of the lake bottom closest to the upland subject of the application established by Orange County.
- (vii) Elevation 80.0 (NAVD 1988) contour of the lake bottom closest to the upland subject of the application.

(4) The plans shall include a scale drawing(s) signed and sealed by a professional licensed professional engineer or architect and accompanied by five (5) copies that provide accurate information as to each of the following elements:

- (i) An arrow indicating the northerly direction and an indication of the scale to which the drawing was prepared. All drawings must be drawn utilizing an industry standard engineering scale;
- (ii) The dimensions of the property, and the length and location of the proposed dock, or dock addition, as measured from the shoreline to the point most waterward of the shoreline, and identify the licensed contractor who will be installing or constructing the improvements;

- (iii) The exact distance between the existing shoreline, at the point where the dock is to be constructed, and two permanent objects (e.g., house, tree) to be used as reference points;
- (iv) The exact distance of setbacks from adjacent property lines and projected property lines to the nearest portion of the proposed dock, and an approximation of the distance from the closest dock on each side of the property;
- (v) The floor and roof elevation of the proposed dock, boathouse or other structure connected to the dock;
- (vi) The depth of the water at the end of the proposed terminal platform;
- (vii) Location of any water lines, electrical outlets or sources, hose bibs;
- (viii) All items of the survey in (3) above; and
- (ix) Location of lifts, hoists, mooring pilings and mooring areas of any boat.

(5) *Building permit.* Following the approval by the city of a dock application, the applicant is also required to obtain a building permit from the City of Belle Isle building department prior to commencing construction. In the event electricity is run to the dock, the proper electrical permit must also be obtained from the City of Belle Isle building department.

(6) Each dock length will be measured perpendicularly from the NHWC to the most waterward point on the dock. A distance from two fixed objects or structures on each lot shall be referenced on the dock permit application plans.

(b) *Commencement and completion of construction.* All construction must be commenced, or completed, or both, within the guidelines established by the City of Belle Isle building department. The applicant is responsible for all fees associated with the procurement of the necessary permits.

(c) The approved permit is valid for one year from the date of the application.

Sec. 48-32. - Design criteria.

(a) Dock applications shall be reviewed under the following design criteria:

(1) *Setbacks.* Private docks shall have a minimum side setback of ten (10) feet from the projected property lines of all abutting shoreline properties. Public and Semi-private docks shall have a minimum side setback of twenty-five (25) feet from the projected property lines of all abutting shoreline properties. For purposes of setback, the terminal platform includes any moored boats. Any deviation from the minimum side setback will require a variance.

(2) *Length.* The lakeward end of the terminal platform shall be allowed to project to the greater of:

(i) Where the lake bottom has an elevation of 79.5 (NAVD 88);

(ii) 15 feet lakeward of the point where the lake bottom has an elevation of 80 (NAVD 88); or

(iii) 40' from the NHWC shoreline.

(3) *Total area.* The dock collectively may not exceed the square footage of ten times the linear shoreline frontage for the first 75 feet of shoreline and then five times the linear shoreline frontage for each foot in excess of 75 feet thereafter, and the total of each when combined shall not to exceed a maximum of 1,000 square feet. The minimum dock area for any dock shall be 400 feet or ten times the shore linear frontage, whichever is more. The area for the docking and mooring of boats, personal watercraft, watercrafts and other appurtenances is included in the dock area calculation

(4) *Height.* Except for floating docks, the minimum height of dock decks shall place them one foot above the NHWE of Lake Conway. The maximum height, which is to be measured from the top of the structure, shall be 14 feet above the NHWE of Lake Conway.

(5) *Access Walkway.* Access walkways shall be a minimum of four and a maximum of five feet in width. The area for a walkway shall be included as part of the total area for the dock.

(6) *Number and location of docks:*

(i) No dock shall be allowed to extend greater than 15 feet lakeward of an existing dock within 300 feet of the proposed location for the dock or dock addition.

(ii) No dock construction permit shall be issued on a lot or combination of lots that does not have a principal building first located thereon.

(iii) Only one dock per principal building that is located on a lot or combination of lots shall be allowed on any such lot or combination of lots.

(iv) Dock(s) that are privately owned or attached to private property shall only be permitted on lots or combinations of lots zoned or used for residential purposes, and no docks shall be permitted on any lot or combination of lots used for agricultural, commercial, professional-office and/or industrial purposes. If the permit is for a combination of lots, the dock shall be built on the lot where the principal building is located.

(v) Dock(s) that are semi-private or owned by a homeowners association (HOA) or governmental agency shall be adjacent to and attached to upland property that is semi-private or owned by the HOA or public agency. These docks shall be exempt from the

provisions of subsection 6(i) and (ii) of this section so long as the HOA, public agency, or other relevant owner owns the attached upland property and is the applicant. Only one dock per parcel may be located on the property. The term "parcel" as used in this subsection (v) shall mean all contiguous property owned by a HOA or by a public entity.

vi) All dock(s) shall be permanently affixed to the lake bottom, and shall be subject to the provisions of this article.

vii) A floating structure, unless it is associated with a permanent dock, shall be considered a separate dock subject to all provisions of this article.

viii) A floating structure shall be considered to be associated with a dock, if it is installed within the boat slip area, is attached to the dock, or is immediately adjacent to a side of the dock. In no case shall any floating structure extend the permitted length of a dock or extend into the side yard setback, or violate other relevant restrictions.

ix) Notwithstanding any other regulation to the contrary, no dock shall extend across more than 50% of the linear shoreline. The linear shoreline frontage shall be measured in a straight line between the two outermost property corners at the NHWC.

(b) *Dock or Boathouse on canal lot:*

(1) Boathouses and docks on canal lots are subject to this article and the additional requirements of this subsection (b), notwithstanding that the lots along the canals interconnecting with Lake Conway within the city were platted and accepted by the city under the premise that these lots would serve as lake access for the residents of the associated parcel.

(2) Docks on canals are limited to the edge of the canal, and only if the proposed dock does not impede or restrict the boat traffic in the canal.

(3) The length, size and location of a Dock on a canal are further limited to no more than a width of 10 feet along the canal frontage if boat traffic in the canal is not impeded or restricted by the proposed Dock.

(c) *Restrictions.* All docks are subject to the additional restrictions below:

(1) No dock or work for or on a dock shall be within areas which constitute easements for ingress or egress, or for drainage held by individuals or the general public.

(2) No flat roofs. Minimum roof pitch (slope) is 2:12; Maximum roof pitch (slope) is 5:12.

(3) No structure having enclosed sidewalls shall be permitted on any dock. The term "enclosed" shall include, by way of example but not by limitation, plastic, canvas and other screening enclosures, chain link and lattice fencing, or any form of paneling. For the purposes of this section, a power curtain canvas, boat lift canopy skirt, retractable canopy curtain, or

any other similar product made for the protection of a boat will not be considered as a dock enclosure.

(4) Under no circumstances shall a dock be used, permitted or occupied as living quarters, or as a bunk house, enclosed recreational use, or for any other non-water related use.

(5) Storage lockers shall not exceed 30 inches in height above the deck; 36 inches in width; 9 feet in length. Storage lockers on a dock shall not be used to store boat maintenance and/or repair equipment and materials, fuel, fueling equipment, and hazardous materials or hazardous wastes. Storage lockers are prohibited on semi-private or publicly owned docks.

(6) Any permit to place, locate, extend, expand, use or otherwise construct a dock, whether along Lake Conway or any canal or any other water body within the City, is subject to and shall not be construed as inconsistent with any law or regulation of the State of Florida or the United States. In addition, in granting or denying any application under this article the City may consider whether the proposed construction or activities would create unreasonable interference with the riparian or littoral rights of one or more nearby property owners, or the general public, as determined by the City in its discretion. As used in this subsection (6), “unreasonable interference” shall include but not be limited to situations in which a proposed structure or activity would impede access to, ingress to, or egress from the relevant body of water by boaters, swimmers, and others with a right to utilize the water body; encroaches upon, intersects, or otherwise interferes with commonly traveled boat routes or established watercraft channels; creates an unusual configuration of the shoreline that restricts boating access within navigable sections of the waterway; unreasonably impairs the view of the water body from one or more other waterfront properties; or otherwise unreasonably impairs or encroaches upon a riparian or littoral right held by one or more property owners or the general public under the law. Notwithstanding the foregoing, the City does not represent or guarantee that a dock or other permitted activity under this article will not affect a riparian or littoral right held by a property owner or the public, which rights are by law subject to local government regulations such as those contained in this article, and the City disclaims to the extent consistent with the law any liability for claims related to such.

Sec. 48-33. – Dock Variances.

(a) In the event the applicant wishes to construct, expand, extend, or repair a dock, or conduct any other activity not meeting one or more of the criteria or requirements described in section 48-32, a variance application must be made for hearing by the Belle Isle Planning and Zoning Board. Application fees shall be in accordance with the city fee schedule.

(b) The board shall not approve an application for a variance unless and until each of the following criteria have been met:

(1) The dock shall not create conditions hazardous to navigation nor any safety hazards;

(2) The location and placement of the dock shall be compatible with other docks in the area, and the shoreline contour of the lake;

(3) The current level of the lake shall not be a factor in deciding whether to approve or deny a variance

(4) The application does not confer a special benefit to the landowner over and above the adjoining landowners and does not interfere with the rights of the adjoining property owner to enjoy reasonable use of their property; and

(5) The requirements of subsection 42-64(1) Variances except for subsection 42-64(1)d (hardship).

Sec. 48-34. - Dock maintenance and repair and minor modifications.

(a) *Dock maintenance and repair, responsibility of property owner.* The owner of property on which a dock is located is responsible for maintaining a dock in safe and useable condition. Every dock and associated structures shall remain adequately supported, not create debris or obstructions, and shall be maintained in sound condition and good repair, so as to prevent negative impact on adjacent properties or waterway use and recreation.

(b) *Maintenance and repair of docks.* When maintenance and repair of docks involves the repair or replacement of pilings or other portions of the dock at or below the water surface, or of any roofed structure, the permit holder shall submit an application for a permit pursuant to section 48-31 of this article. Maintenance or repair of the deck surface of a dock that does not involve activity at or below the water surface, or of any roofed structure, is allowed without notice or permit, except that all such maintenance and repair activities must maintain the original design and original footprint of the dock and structures located on such dock or associated therewith.

(c) *Nonconforming "grandfathered" docks.* A dock that was duly permitted and authorized by the County when under County jurisdiction, or by the City under a previous version of the City's dock regulations, which dock does not conform with the City's current dock regulations under this article, shall be considered a "grandfathered" dock and shall be an authorized non-conforming use, with the exception of those docks that are have active permits or enforcement actions on them at the time of the passage of this ordinance. However, when a grandfathered dock is damaged or requires any maintenance or repairs, the costs of which equal or exceed 75 percent of the assessed value of the dock, such maintenance or repair shall not be permitted unless the dock is brought into compliance with the current regulations under this article and any other relevant City regulation.

(d) *Minor modifications to permitted docks.* Minor modifications to all existing docks must be approved by the city. The applicant must submit a request for the proposed deviation change or modification to the original site plan to the city manager for consideration. Additional information may be requested from the applicant in order to complete the review. Minor modifications must comply with the provisions of this article. Any modification that may require

a variance or waiver of any provision of this article shall not be considered a minor modification. Any modification that increases the size of the terminal platform shall not be considered a minor modification. The city manager may require notification of abutting shoreline property owners of the application for minor modification. City approval or disapproval shall include a statement regarding requirement or no requirement for a permit.

(e) When repair of an existing dock is subject to a new permit by the City, an applicant shall provide to the City the prior dock permit and survey whether issued by Orange County or the City. The City shall determine whether or not the proposed repair necessitates a permit under this section. The applicant shall have the burden of proof to show the dock preceded any dock regulation of Orange County or the City or provide the prior permit and survey for the dock.

Sec. 48-35. - Violations; penalties; enforcement.

(a) It shall be unlawful for any person to violate any provision of this article, or any provision of any resolution enacted pursuant to the authority of this article. Any person who violates this chapter, or any provision of any resolution enacted pursuant to the authority of this article, may be prosecuted in accordance with Chapter 14 of the Belle Isle code.

(b) In addition to the enforcement and penalty provisions provided in Chapter 14, the city may avail itself of any other legal or equitable remedy available to it, including without limitation, injunctive relief or revocation of any permit involved.

(c) Any person violating this article shall be liable for all costs incurred by the city in connection with enforcing this article or any provision of any resolution enacted pursuant to this article, including without limitation, attorneys' fees and investigative and court costs.

(d) If the code enforcement officer determines that construction is occurring without prior approval or not in accordance with these regulations, the code enforcement officer shall promptly issue a written notice of violation to the applicant and/or designated contractor. The notice of violation shall include a description of the site where the violation has occurred, cite the provisions of these regulations, general or special laws which have been violated, and set forth the remedial action required by the city. Such remedial action may include submittal of revised drawings, reapplication for a permit, double the permit fee, removal of dock, and administrative and civil penalties.

SECTION 4. Codification. This Ordinance shall be incorporated into the Land Development Code of the City of Belle Isle, Florida. 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 or the Land Development Code may be freely made.

SECTION 5. 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 6. 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 7. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2018

SECOND READING: _____, 2018

ADOPTED this ____ day of _____, 2018, by the City Council of the City of Belle Isle, Florida.

CITY COUNCIL
CITY OF BELLE ISLE

Lydia Pisano, Mayor

ATTEST:

Yolanda Quiceno, City Clerk