

M E M O R A N D U M

DATE: December 14, 2016

TO: David Bullock, Town Manager

FROM: Alaina Ray, AICP
Director – Planning, Zoning and Building Department

SUBJECT: Ordinance 2016-34, Amending Chapter 157, Subdivisions, Section 157.03, Definitions and Section 157.32, Lot Line Adjustments

Chapter 157 of the Town's Land Development Code regulates the subdivision of land within the Town. Florida Statutes Chapter 177 regulates the subdivision of lands within local jurisdictional boundaries. Currently, the Town's existing Subdivision regulations conflict with Florida Statutes in two instances.

First, Section 157.03, Definitions, of the Town's Land Development Code conflicts with Section 177.071 of Florida Statutes. Florida Law defines a "subdivision" as: "...the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land;"

Town Code Section 157.03(B), however, defines a subdivision as: "all divisions of a tract or parcel of land into two or more lots for the purposes of building development or recording a plat thereof in the public records of Manatee or Sarasota Counties."

Also, Florida Statutes 177.071 states that plats are for the recording of subdivisions, which by State Law is the division of land into three or more lots, parcels, tracts, etc.

Staff recommends that the definition of "subdivision" in Town Code be revised to conform to the definition contained within Florida Statutes 177.071.

Second, Town Code Section 157.32 allows approval of lot line adjustments to be performed administratively when the revision results in two conforming lots, as stated below:

157.32 Lot Line Adjustments. Notwithstanding anything within this Chapter to the contrary, the Planning, Zoning, and Building Director may administratively approve lot line modifications between two existing lots of record when the lot line modifications result in two conforming lots. The plat that reflects the lot line modifications shall be in substantial compliance with the requirements of this Chapter and Florida law except that the Planning, Zoning, and Building Director shall execute the plat instead of the Mayor and no public hearing shall be required.

Section 157.32 specifically states that the lot line adjustment shall be made via a plat and that the plat shall be approved by the Planning, Zoning and Building Director, rather than the governing body (Town Commission). However, pursuant to Florida Statutes 177.071, the governing body of a jurisdiction has sole authority to approve subdivision plats and this authority cannot be delegated to another body or administrative personnel.

The commonly accepted method in most jurisdictions for processing minor lot line adjustments, lot consolidations, or lot splits is an administrative staff-level approval utilizing a survey and affidavit that is then filed with the appropriate County Clerk. This method is acceptable under Florida Statutes, when it results in the creation of less than three (3) lots and is recorded through a method other than a plat. Based on research into the adoption of Section 157.32 through Ordinance 2008-25 on December 1, 2008, it appears the intent was to adopt a similar administrative approval process. However, specifying the use of a plat in Section 157.32 is in conflict with Florida Statutes regarding approval of plats.

Pursuant to Florida Law, the reconfiguration of lots must be approved if it meets the applicable subdivision and zoning regulations. Administrative approval of minor lot line adjustments, lot consolidations, and lot splits, when any division of land results in the creation of less than three (3) lots, is consistent with Florida Statutes and common jurisdictional practices.

Staff is currently reviewing pending applications from property owners who have requested minor lot reconfigurations that would qualify for administrative approval under proposed Ordinance 2016-34. For example, one property owner owns three (3) abutting lots and has requested to consolidate the lots into two (2) lots that would conform to all subdivision and zoning regulations. This property owner has secured a prospective purchaser for one of the reconfigured lots, but cannot complete the sale until the new lot configuration has been approved by the Town and recorded by the County Clerk. Under the Town's current subdivision regulations, the process for this lot consolidation could take up to four (4) months to complete due to public hearing requirements, and is also contrary to applicable State Law. In contrast, an administrative approval process would take approximately two (2) weeks.

As discussed above, there are active applications for minor lot reconfigurations that involve time-sensitive issues related to the sale of private property that could benefit from an expedited approval process that complies with applicable State Law. As such, Staff brought Ordinance 2016-34 to the Town Commission's November 14, 2016, Regular Workshop, with the intent to potentially avoid the delay of an additional month in adopting revised regulations. The Town Commission consented to allow the November 14, 2016, Workshop to serve as the required Workshop for Ordinance 2016-34. The Planning and Zoning Board considered Ordinance 2016-34 at their November 15, 2016, Regular Meeting and forwarded a recommendation of approval to the Town Commission.

The Town Commission held first reading of Ordinance 2016-34 on December 5, 2016.

Recommended action: Pending first reading and discussion, forward Ordinance 2016-34 to the February 6, 2017 Regular Meeting for second reading, public hearing, and discussion.

MEMORANDUM

DATE: November 18, 2016

TO: Honorable Mayor and Town Commission

THROUGH: Dave Bullock, Town Manager

FROM: Jim Brown, Chair
Planning and Zoning Board

SUBJECT: Proposed Ordinance 2016-34, Amending Chapter 157,
Subdivisions, Section 157.03, Definitions and Section 157.32, Lot
Line Adjustments

During the public hearing held on November 15, 2016, the Planning and Zoning Board recommended APPROVAL of Ordinance 2016-34. The specific motion from the November 15, 2016, meeting of the P&Z Board is as follows:

MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-34 AS WRITTEN. MR. SYMANSKI SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.

Enclosed, for your review and consideration, please find the following support documentation:

1. Ordinance 2016-34;
2. Staff Report, dated 10-28-2016, PZB Director to P&Z Board;
3. PowerPoint presentation; and
4. Draft minutes from the 11-15-2016 regular P&Z Board meeting on this issue.

If you should have any questions, or desire any additional information, please do not hesitate to contact me.

JB/dmc



Ordinance 2016-34 Subdivision Regulations

Town Commission Regular Meeting
January 9, 2017



SUBDIVISION REGULATIONS

- Regulations governing the subdivision of land are controlled by:
 - Chapter 177 of the Florida Statutes
 - Chapter 157 of the Town's Land Development Code
- The Town's Subdivision regulations conflict with Florida Statutes in the following instances:
 - Definition of "subdivision"
 - Use of a Plat to approve minor lot modifications that result in the division of land into less than three (3) lots
 - Authority to approve Plats



SECTION 157.03: DEFINITIONS

- **Florida Statutes 177.01(18):** “Subdivision” means the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land;
- **Town Code Section 157.03(B):** "Subdivision." Includes all divisions of a tract or parcel of land into ~~two~~ three (3) or more lots or parcels for the purposes of building development or recording a plat thereof in the public records of Manatee or Sarasota Counties. (~~Strikethrough text is the existing Town Code/Underline~~ text is the recommended revision)
- Conforms the Town’s definition of “subdivision” with the definition contained in Florida Statutes 177.071



SECTION 157.32: LOT LINE ADJUSTMENTS

- Section 157.32 adopted in 2008
- Allowed administrative (Staff-level) approval of lot line adjustments
- Specified adjustments would be recorded by **Plat**
- Section 157.32 conflicts with Florida Statutes 177.071 in two ways:
 - Florida Statutes states that Plats can only be approved by the governing body (Town Commission)
 - Florida Statutes states that plats are for recording subdivisions (the division of land into three or more lots)



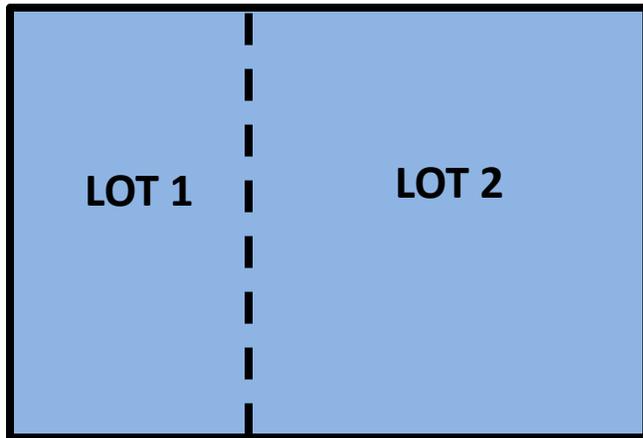
PROPOSED REVISIONS to 157.32

- Allow administrative (Staff) approval of boundary adjustments, lot consolidation, and lot splits of abutting parcels when the result is the division of land into less than three (3) lots
- All resulting lots must be conforming to Code
- Method of approval and recording is by survey and affidavit from all owners, not Plat
- Complies with Florida Statutes 177.071

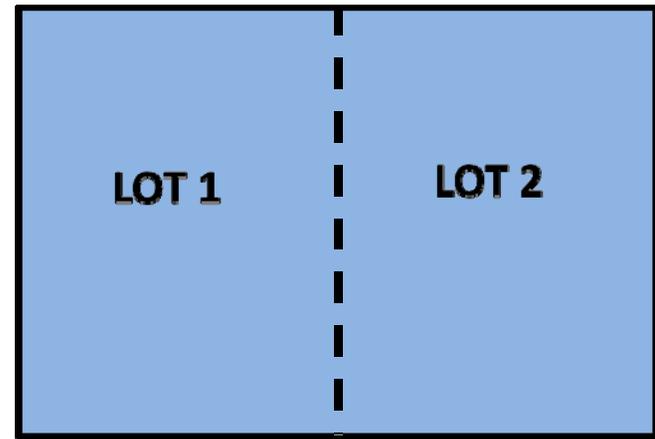


EXAMPLE: LOT LINE ADJUSTMENT

BEFORE



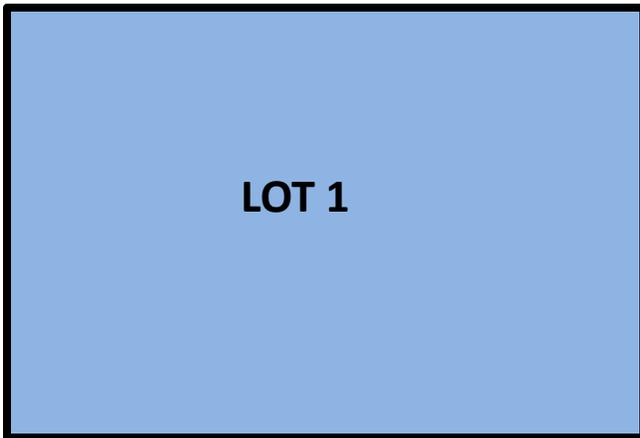
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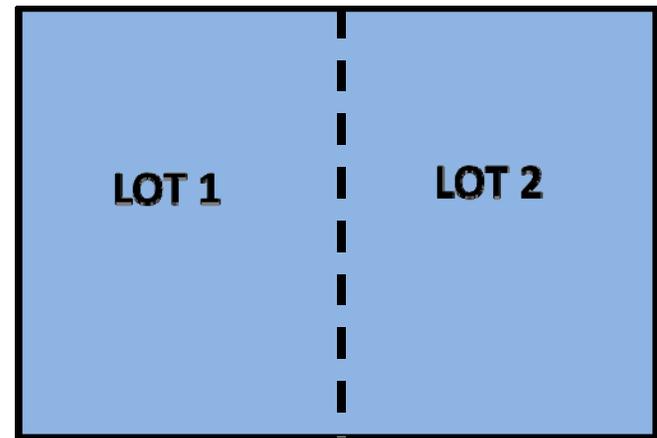


EXAMPLE: LOT SPLIT

BEFORE



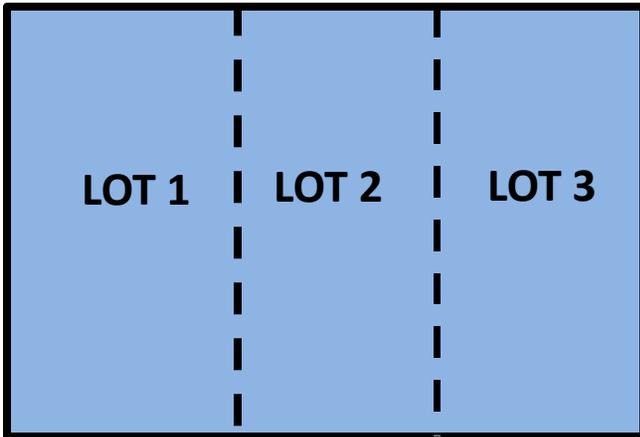
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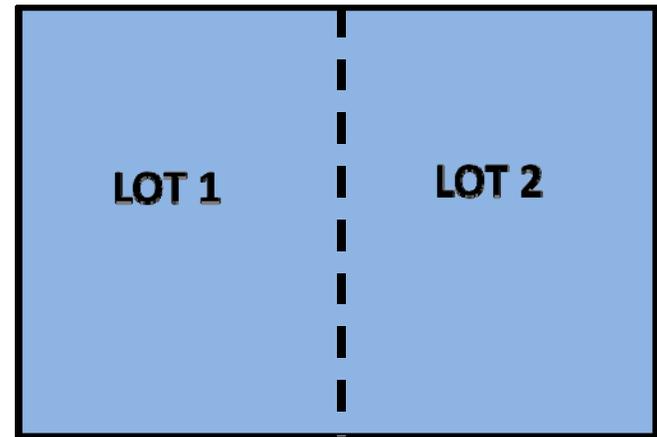


EXAMPLE: LOT CONSOLIDATION

BEFORE



AFTER





Ordinance 2016-34 History

- November 14, 2016: The Town Commission considered the item at their Regular Workshop.
- November 15, 2016: The Planning and Zoning Board recommended approval of Ordinance 2016-34.
- December 5, 2016: The Town Commission held first reading.

ORDINANCE 2016-34

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 157, SUBDIVISION REGULATIONS; AMENDING SECTION 157.03, DEFINITIONS; AMENDING SECTION 157.32, LOT LINE ADJUSTMENTS, REPLACING REFERENCE TO “LOT LINE ADJUSTMENTS” WITH “BOUNDARY ADJUSTMENT, LOT SPLIT, OR LOT CONSOLIDATION;” REMOVING REFERENCE TO “PLAT;” PROVIDING CLARIFICATION FOR APPLICABILITY; PROVIDING FOR AN ADMINISTRATIVE APPROVAL PROCESS OF APPLICATIONS; PROVIDING FOR RECORDING IN PUBLIC RECORDS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 177 of the Florida Statutes establishes regulations controlling the subdivision and platting of lands within local jurisdictions; and

WHEREAS, Section 177.071 of the Florida Statutes defines a subdivision as the division of land into three (3) or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and resubdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided; and

WHEREAS, the definition of subdivision in the Town’s Land Development Code differs from the definition found in Chapter 177 of the Florida Statutes; and

WHEREAS, Section 177.071 of the Florida Statutes, also provides that before a plat is offered for recording, it must be approved by the appropriate governing body, and evidence of such approval must be placed on the plat; and

WHEREAS, on December 1, 2008, the Town Commission adopted Ordinance 2008-25, which provided for an administrative approval process for lot line modifications between two existing lots that result in two (2) conforming lots; and

WHEREAS, Ordinance 2008-25 specified that the Planning, Zoning and Building Director would have authority to administratively approve such lot line modifications through a plat approval process, rather than the Town Commission; and

WHEREAS, the Town Commission is the governing body with authority to approve plats and cannot delegate that authority to another body or administrative personnel; and

WHEREAS, certain minor lot modifications are permissible through an administrative process when the modifications result in two (2) or fewer lots, since such modifications do not constitute a subdivision under applicable State Law; and

WHEREAS, the appropriate method for processing these minor lot modifications is by recording of a survey and affidavit, rather than by subdivision plat approval; and

WHEREAS, the Town wishes to amend Section 157.03, Definitions, and Section 157.32, Lot Line Adjustments, to comply with applicable Florida law and provide an appropriate process for administrative approval of certain minor lot modifications for abutting lots, when the modifications result in two (2) or fewer conforming lots; and

WHEREAS, after due public notice, the Town Commission held a workshop on November 14, 2016, and considered the proposed revisions; and

WHEREAS, at a duly noticed public hearing on November 15, 2016, the Planning and Zoning Board recommended that the Town Commission approve Ordinance 2016-34; and

WHEREAS, on December 5, 2016, the Town Commission conducted a first reading on the proposed Subdivision Code amendments and considered the recommendations of the Planning and Zoning Board; and

WHEREAS, on January 9, 2017, the Town Commission conducted a duly noticed second reading and public hearing on the proposed Subdivision Code amendments and the Town Commission approved the amendments; and

WHEREAS, this amendment to the subdivision regulations of the Code for the Town of Longboat Key, Florida, as provided herein, is consistent with the Town's Comprehensive Plan and applicable State Law.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The Whereas clauses above are ratified and approved as true and correct.

SECTION 2. Chapter 157, Subdivision Regulations, Section 157.03, Definitions, is hereby amended as follows:

157.03 Definitions.

"*Subdivision.*" Includes all divisions of a tract or parcel of land into ~~two~~ three (3) or more lots or parcels for the purposes of building development or recording a plat thereof in the public records of Manatee or Sarasota Counties. Included is any subdivision of land involving the dedication of a new street, alley, or any other public right-of-way or a change in existing streets, ~~or alleys~~, or any other public rights-of-way, or any division of land that results in three (3) or more lots or parcels. However, public acquisition of land for streets, alleys, public rights-of-way, or highway purposes shall not be deemed a subdivision.

"Subdivision" includes resubdivision of an existing plat and when appropriate to the context shall relate to the process of subdividing.

SECTION 3. Chapter 157, Subdivision Regulations, Section 157.32, Lot Line Adjustments, is hereby amended as follows:

157.32 Lot Line Boundary Adjustments, Lot Split, or Lot Consolidation.

~~Notwithstanding anything within this chapter to the contrary, the planning, zoning and building director may administratively approve lot line modifications between two existing lots of record when the lot line modifications result in two conforming lots. The plat that reflects the lot line modifications shall be in substantial compliance with the requirements of this chapter and Florida law except that the planning, zoning and building director shall execute the plat instead of the mayor and no public hearing shall be required.~~

The intent of this section is to provide an administrative process by which abutting lots may make minor boundary adjustments, for the division of one (1) existing lot into a maximum of two (2) legally conforming lots, and for consolidation of multiple existing abutting lots into a maximum of two (2) legally conforming lots.

Abutting lots or portions thereof may be consolidated in accordance with this Section so long as doing so will not result in the creation of a new or increased nonconformity. Nothing herein shall be construed to require that adjacent lots be consolidated pursuant to this Section in order to be developed in common.

(A) Approval. The Town Manager or his/her designee may administratively approve boundary adjustments, the division of one (1) existing lot into a maximum of two (2) legally conforming lots, and the consolidation of multiple existing abutting lots into a maximum of two (2) legally conforming lots, when the following conditions are satisfied:

1. Each created or consolidated parcel meets the zoning standards of the property's zoning classification without the necessity of a variance, and in cases of an existing nonconforming lot of record, the adjustment shall not increase the nonconformity of the lot;
2. Each parcel has a net buildable acreage equal to the minimum lot size requirement of the applicable zoning classification;
3. Parcels have the required road frontage;
4. The addition of impervious area will not impact the stormwater system of the area;
5. Easements and access for public services and utilities are provided, if necessary;
6. There are no variances, easements, or other restrictions which would prevent the boundary adjustment, lot split, or lot consolidation.

(B) Submittal Requirements. The applicant(s) shall be required to submit the following documentation, along with the appropriate fees, to the Planning, Zoning & Building

Department for review:

1. A completed application provided by the Town of Longboat Key;
2. Executed joinder and consent to the proposed boundary adjustment, lot split, or lot consolidation from all owners of the lot(s) and mortgage holders, if applicable;
3. Written authorization from all affected abutting property owners;
4. Two signed and sealed boundary surveys showing the parcel(s) or lot(s) to be reconfigured, prepared by a Florida Registered Professional Land Surveyor and shall include the following information:
 - a) Existing legal descriptions, boundary survey, dimensions of the lot(s) and/or parcel(s) to be reconfigured. All existing easements and rights-of-way must be indicated.
 - b) For the new lot(s) and/or parcel(s), legal descriptions and proposed dimensions of the lot and/or parcel.
 - c) The boundary survey shall indicate that its purpose is for a Boundary Adjustment, Lot Split, or Lot Consolidation.
 - d) The boundary survey shall be drawn at a legible scale and shall be bold enough to remain clearly legible after reduction. Additional detail may be required by the Planning, Zoning & Building Department.
 1. A written statement of buildings, if any, to be demolished;
 2. Any other information as requested by staff.

(C) Recording. Upon administrative approval, a copy of the boundary adjustment application and associated documents, along with the signed and sealed survey, will be recorded by the Town, at the applicant's expense, in the Public Records of the County in which the property is located.

(D) Nothing herein shall constitute the platting or replatting of a subdivision. Any boundary adjustment, lot split, or lot consolidation resulting in the division of land into three (3) or more lots must comply with the subdivision plat process established in this Chapter. Notwithstanding the foregoing, all lots utilizing the administrative approval process described herein must be in compliance with all provisions of this code related to the development of land.

SECTION 4. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 5. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 6. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading and public hearing the 5th day of December, 2016.

Adopted on the second reading and public hearing the ____ day of _____, 2017.

ATTEST:

Terry A. Gans, Mayor

Trish Granger, Town Clerk

MEMORANDUM

DATE: October 28, 2016

TO: Planning and Zoning Board

FROM: Alaina Ray, AICP
Director – Planning, Zoning and Building Department

SUBJECT: Proposed Ordinance 2016-34, Amending Chapter 157, Subdivisions, Section 157.03, Definitions and Section 157.32, Lot Line Adjustments

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Staff recommends that the definition of "subdivision" in Town Code be revised to conform to the definition contained within Florida Statutes 177.071.

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Section 157.32 specifically states that the lot line adjustment shall be made via a plat and that the plat shall be approved by the Planning, Zoning and Building Director, rather than the governing body (Town Commission). However, pursuant to Florida Statutes 177.071, the governing body of a jurisdiction has sole authority to approve subdivision

plats and this authority cannot be delegated to another body or administrative personnel.

The commonly accepted method in most jurisdictions for processing minor lot line adjustments, lot consolidations, or lot splits is an administrative staff-level approval utilizing a survey and affidavit that is then filed with the appropriate County Clerk. This method is acceptable under Florida Statutes, when it results in the creation of less than three (3) lots and is recorded through a method other than a plat. Based on research into the adoption of Section 157.32 through Ordinance 2008-25 on December 1, 2008, it appears the intent was to adopt a similar administrative approval process. However, specifying the use of a plat in Section 157.32 is in conflict with Florida Statutes regarding approval of plats.

Pursuant to Florida Law, the reconfiguration of lots must be approved if it meets the applicable subdivision and zoning regulations. Administrative approval of minor lot line adjustments, lot consolidations, and lot splits, when any division of land results in the creation of less than three (3) lots, is consistent with Florida Statutes and common jurisdictional practices.

Staff is currently reviewing pending applications from property owners who have requested minor lot reconfigurations that would qualify for administrative approval under proposed Ordinance 2016-34. For example, one property owner owns three (3) abutting lots and has requested to consolidate the lots into two (2) lots that would conform to all subdivision and zoning regulations. This property owner has secured a prospective purchaser for one of the reconfigured lots, but cannot complete the sale until the new lot configuration has been approved by the Town and recorded by the County Clerk. Under the Town's current subdivision regulations, the process for this lot consolidation could take up to four (4) months to complete due to public hearing requirements, and is also contrary to applicable State Law. In contrast, an administrative approval process would take approximately two (2) weeks.

Recommended Action: Hold Public Hearing on proposed Ordinance 2016-34 and provide recommendation to the Town Commission.

Agenda Item 7

Ordinance 2016-34 – Amending Chapter 157, Section 157.32, Lot Line Adjustments

Pursuant to published notice, the public hearing was opened.

Alaina Ray, Planning, Zoning & Building Director, review the proposed ordinance commenting:

- staff had recently discovered an issue with the Town's subdivision regulations
- subdivisions were governed by Chapter 177 of the Florida Statutes and Chapter 157 of the Town's Land Development Code
- the Town Code requirements conflicted with the state statutes
- staff was recommending that the definition in the Town Code be changed to three lots to be in conformance with state law
- staff was also recommending a revision to Section 157.32, Lot Line Adjustments – when it was adopted in 2008, it was in conflict with state law
- under Florida law if someone has a lot and wishes to split into two lots or more, if those lots were conforming, the Town was obligated to approve it

Discussion ensued on density and whether a referendum would be needed. They would not need a referendum, because their density was not being increased.

Ms. Ray informed the P&Z Board staff had brought this proposed ordinance to the Town Commission Workshop on November 14, 2016, because there was an owner waiting for the revision, and pending the Board's review and decision, the ordinance will be forwarded to the Town Commission Regular meeting on December 5, 2016, for a public hearing.

No one else wished to be heard, and the hearing was closed.

MS. BISHOP MOVED THE P&Z BOARD RECOMMEND APPROVAL OF ORDINANCE 2016-34 AS WRITTEN. MR. SYMANSKI SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: BISHOP, AYE; BROWN, AYE; GARNER, AYE; HAYCOCK, AYE; SCHNEIER, AYE; SYMANSKI, AYE.



End of Agenda Item