

Commissioner Frangella: Next up 2019-9-ORD Paul J. Hogan, PE, Councilman-At-Large, Div. B for An ordinance to amend the Code of Ordinances for the Parish of St. Charles, Appendix C, Subdivision Regulations of 1981, Section II. Subdivision procedure. by adding I. Private Resubdivision.

Ms. Stein: the department commented on a draft of this ordinance in early September. By September 16th the Councilman at Large had requested that we forward the ordinance to the Planning Commission. We reviewed the ordinance again and we found that the result would be a new subdivision procedure, completely new, it would add Private Subdivisions, Resubdivision, in fact, in addition to the 3 current subdivision types which are administrative that you generally don't see, minor and major resubdivisions. Each of those 3 existing types of subdivisions is very clearly defined in the Code of Ordinances and the process that they follow is very clear to us. The geometric standards and design standards for subdivisions also apply to all those subdivisions of land. We find that the proposed new type of subdivision is not defined very well and the way it's described in the code, it would be described in the code would be followed by a mix of procedural and design requirements that are a little bit confusing, they don't lay into the code the way we would like them to. So we think the potential outcomes of the new ordinance would create conflicts between the subdivision procedures and confusion about private streets, access drives, easements, the types of things we talked about with the resubdivision we had tonight so we don't recommend approval.

Commissioner Frangella: Councilman Hogan you want to come up?

Good evening Commissioners, Paul Hogan, 222 Down the Bayou Road, Des Allemands. There is a version that I put in front of yall tonight that I would like for yall to make a motion to take up the revised version with 2 minor changes, it renames it from a private resubdivision to a private major resubdivision and it adds a statement in paragraph 2 at the end where it says that the procedural design requirements of major subdivisions and provisions contained within this section – that's to clarify and provide some guidance with respect to what Marny just stated about not being sure exactly how these subdivisions goes. So I would like for yall to make a motion to take up this version and we'll discuss this one.

Commissioner Dunn: So this version

Commissioner Richard: We have to have a motion to talk about it.

Councilman Hogan: Or we can talk about it without it.

Commissioner Richard: We have to follow the rules to talk about it

Commissioner Granier: So let's proceed. Excuse me, procedurally we have to bring this one up to be considered.

Commissioner Richard: Right

Commissioner Frangella: Correct

Councilman Hogan: If you want to take up the revised version, you can take up the revised version is what I'm asking. If not, we'll go through the discussion where I'll recommend yall make changes to the version that you have in accordance to what I handed out to you. So either way yall want to go about it, it will be the same result in the end.

Commissioner Granier: Alright I make a motion that we take up the revised version

Commissioner Frangella: I guess my only question was would this have to have been reposted in order for it or no?

Ms. Stein: That's a good question I don't think so, the only version that we have is in the agenda, we didn't have anybody call to ask for a copy of it that I'm aware of, so what we

advertised I think is substantially the same aside from what he put up in the top, "the major", in the introduction, that's probably how we advertised it. So I don't think I'd be able to comment on what the change does because it's just a lot of text.

Commissioner Frangella: Alright thank you I just wanted to make sure that we didn't have to repost it. So we got a motion and a second.

Commissioner Richard: Second

Commissioner Frangella: Call for the vote to accept the revised version.

Commissioner Granier: So is this enough time for the department to review and to make a determination, I'm back along with what Carmine (Commissioner Frangella) is asking.

Mr. Matherne: If I may

Commissioner Frangella: Yes.

Mr. Matherne: The department is not going to change its recommendation on the fly. If you want to choose to discuss the new version, which I would suggest you do, but we're not going to change our recommendation, you have it.

Councilman Hogan: At the end following the discussion, there may be some changes that yall suggest about things that are needed, we're going to come up with a revised version after. Let's have the discussion, they said their position is not going to change and yall probably at the end are going to say this needs a little more work and then at that time yall just do what yall need to do and we'll revise it and tweak it and we'll give them time to look at another revised version and we go from there.

Commissioner Granier: So my motion stands to consider the revision.

Commissioner Richard: That's what we're voting on now.

Commissioner Granier: Yes

YEAS: Gordon, Granier, Richard, Dunn, Frangella

NAYS: Petit

ABSENT: Galliano

Commissioner Frangella: That passes with Randy Petit saying nay.

Councilman Hogan: Thank yall. So once again this is a proposed amendment to the Subdivision Regulations of St. Charles Parish. A subdivision was recently constructed where it ended up being a private subdivision. Currently the code has no provisions for private subdivisions so what this is, is an attempt to put provisions in the code to allow for the private subdivisions. What this does with the change that was made tonight that yall accepted in the revised version, identifies this as a private major resubdivision and what the intent is, is when these subdivisions are built, they're built to the major subdivision requirements, they have to meet all the same exact criteria as the major subdivision because it technically is. The only difference is the land and the road that's on the land does not get dedicated to the parish, everything else has to meet the same requirements. So that's what's covered in paragraph 2 which says all improvements on the private street shall be developed in accordance with all provisions under Section 2, Subdivision Procedures, excuse me, I read the part that was scratched, let me start over. All improvements including private streets shall be developed in accordance with procedural and design requirements of major subdivisions and the provisions contained within this section. So what that says is you have to meet all the requirements of a major subdivision. Paragraph 1, what paragraph 1 does it pertains to the posting of a sign. When you do create a private subdivision, there's a part where the public street ends and the private street begins. All

public services with regards to repairing streets, with regards to garbage service going down the street, with regards to school busses, stuff like that, when you get to the part where the street turns private, that's the cutoff point for public services providing those services down that street. All private street people have to take their garbage cans and bring them up to where the public street ends, all the kids down the private streets need to come up to the public street in order to catch the school bus and so on just like with the new development that was recently passed. But without having a sign there anybody that's driving down that street, if they don't put up a gate especially, doesn't know that the street went from public to private. So there needs to be something there to identify to the Public Works Department that you can't go fix streets beyond this point, to school busses that you can't drive beyond this point, to garbage trucks, you can't go beyond this point, so that's what #1 does. Number 3 states that the property that the road is on has to be given a lot designation. When you do a major subdivision currently the road area does not get a lot designation it's just identified as a street. So as with the subdivision that was just recently done, the land that the road is on has to be given a lot designation, so this simply requires that it be given a lot designation and also states that the property owners are responsible for that street that any maintenance that needs to be done is at the property owner's expenses. It also states that at some point in time some property owners may say we really don't want to keep this street private anymore or we rather have the school busses come to our houses, we'd rather have garbage trucks come to our houses, it's more of a pain in the butt, we don't like repairing our street. So it provides a mean for the street to be dedicated to the parish at some point down the road. So going back to part 2, you're making it be a requirement that it's built in accordance with the major subdivision requirements means that the street will be inspected at the time that it's built. So if ever in the future that they do want to dedicate it to the parish, the street will have been built and inspected in accordance with the parish requirements. At the time of dedicating the streets would have to be in good repair, if there is any cracked panels, broken asphalt, everything would need to be repaired before the parish would turn around and accept it. From that point on then it would be for the parish to maintain. Number 4 pertains to gates. It states that the gates are allowed and what is required when the gate is placed. You know you have to give the gate code, you'd have to have an electronic gate code. That information would have to be given to emergency services, to the police dept., 9-1-1 and all of that in case there is ever an emergency and somebody needs to get in there or if a waterline bust within the subdivision, Waterworks has to be able to get in there to repair the line. What #5 does is states that a statement needs to be put onto the subdivision plat where everybody that buys one of the lots understands that if a gate is put across the road and that gate is slowing down a fire truck from getting in there and a house burns down completely or an ambulance comes to the gate and it can't get in there and somebody ends up having an emergency that's worse because of a time delay to get through the gate that the parish is not responsible or liable for that delay, that falls upon the, that's just part of having a private subdivision. Number 6 states that when the private development is dedicated all of the utilities than run within that private development are dedicated to the parish, the water, the sewer, the drainage and all of that. There are some times where there drain lines are across the street or the sewer line crosses the street, if anything fails in there that the parish needs to go in there and maintain and repair those particular items and a portion of the street needs to be removed in order to fix it, the parish just puts rocks back in it and gets it to where people can pass but the repair of the street itself falls upon the owners of the street. So that's generally what this is, like I said it's here for discussion. Like I said we need to come up with some means to provide a mechanism for this being that it currently doesn't exist especially in light of a recent subdivision being approved as a private, major resubdivision and I ask for yall comment, support.

Commissioner Frangella: My first comment is when you first talk about the property belonging on there, I mean if I'm reading this correctly the subdivision plat shows access to River Road which will be provided by the other lots by 40 ft. access servitude so that means it does belong to each individual lot but that's a servitude that's giving up that they have to allow all the vehicles to pass, so that's already there. Some of the other ones you're talking about distance to the roadway, you're failing to mention how far this has to be off to allow traffic to where you're not impeding and rear ending somebody because there's a line waiting to turn into this gate to open up and the other part is what happens today if there's a wreck and it impedes the

fire truck from getting to any residence. So a tree falls over, whatever, it's not the parish's fault if there is a restriction from somebody getting there. I just think there's a lot of, most of this is already covered. That's just my opinion.

Councilman Hogan: Can you repeat the first part you talked about?

Commissioner Frangella: So what was written and what we talked about today says the subdivision plat shows access to River Road which will be provided to the other lots...

Councilman Hogan: That has nothing to do with this, I don't know what that's about.

Commissioner Frangella: Well you were talking about a roadway and it needs to be part of the other lots. According to this all it is, is a servitude that goes through all of the lots.

Mr. Matherne: Mr. Chairman I don't think he was referring to the family plot subdivision that you guys just approved today. I think he was referring to a major, private subdivision that you guys worked with that at the end they didn't dedicate the road.

Commissioner Frangella: I just got a little bit confused because he referred to the one that we did tonight.

Mr. Matherne: Not the one tonight.

Councilman Hogan: This is for a major subdivision. See right now when you do a major subdivision you identify a particular street, a street name, so in a subdivision you may have Lot 1A, Lot 1B, Lot 1C, in a major subdivision you define a particular piece of property it has metes and bounds as a street name and then that street my turn into a different street so you'd put a little dotted line to show that at this point the street name changes to another street name but the way that the codes are written it says every lot within a subdivision has to have a lot designation, not just a name. So if you're making a private subdivision that street right of way that would normally have a name associated with it just needs to be given a lot designation in order to comply with the requirements of preliminary plat and final plat.

Commissioner Frangella: So I guess I'm even more confused now because if you give it a lot designation, who owns that lot and now they have to pay taxes on that

Councilman Hogan: That's why it's a private street just like with the subdivision that was just approved through yall with preliminary plat and came to the Council and got approved. The property owners own that street right of way, the parish doesn't own it, so it's the same thing.

Commissioner Granier: Which subdivision are you referring to?

Councilman Hogan: Oak Alley Plantation. This is to account for that type of development where it's a private street beyond a particular point everything is dedicated to the parish. We maintain everything else but the street and the land that's under the street remains with the developer and whether they set up an HOA where everybody pitches in every year to maintain the road and all of that, that's for the developer or the homeowners association to take care of that, the parish has nothing to do with it just like within that development. The parish has nothing to do with the road and nothing to do with the land under the road, other than having a servitude on it for the utilities.

Commissioner Richard: Number 6 I got a, just #6, I'll talk about #6. I have a house in an HOA where we're responsible for the street. Every time the county comes in and does work and everything if they destroy the street, they fix the street back, it's not our responsibility. So I think we should fix the street an everything back to the standard of what it is instead of just putting rock and letting them put the pavement because like I said I do have a house in an HOA and we are responsible for the street but when the county comes in they'll destroy the street and they'll blacktop it back with a patch and everything and put it back to the standard of what

it was. I think that would be the fair thing to do if we go in there and tear the street up and everything and not to leave it all destroyed and put it back the way it was.

Councilman Hogan: And that's what this discussion is about you know. I have no objection to that, we just have to start with something.

Commissioner Richard: That's the only one I have a problem with is #6.

Councilman Hogan: So parish would repair any damage to the street caused by them having to repair any

Commissioner Richard: Because it puts a big burden on the HOA when they have to do the special assessment and all.

Councilman Hogan: Absolutely.

Commissioner Richard: And it's not really their fault, it's a service that we maintain. So it think that would be something to drop off.

Commissioner Petit: Quick question on Item #2. They're saying the requirements for private major resubdivision or resubdivisions would need to meet the same requirements of all major subdivisions so would this require anyone that's building a private subdivision to put sidewalks in and comply with all of that?

Councilman Hogan: Right

Commissioner Petit: Despite it being private?

Councilman Hogan: Correct.

Commissioner Petit: So the public couldn't use the sidewalks but the sidewalks would be required to be put in.

Councilman Hogan: That's correct. In the event in the future that it gets dedicated to the parish it has to meet the requirements of a major subdivision. So everything needs to be put in place. Probably over time somebody is going to say we've had enough of this, we don't like repairing our roads and when they come back and decide to dedicate it to the parish, we need to make sure that it meets all of the requirements including the sidewalks.

Commissioner Granier: couldn't you put that on the final inspection before it was taken over, the requirement to meet it?

Councilman Hogan: You would really need to let it

Commissioner Granier: If it was a private subdivision, obviously the folks that are developing it has the means to do whatever they want to do because it's their property, why would you allow them to do what they wanted to if it was going to be a private subdivision and then they want the parish to take it over and you have requirements before you take it over?

Councilman Hogan: Because it's much easier to put a sidewalk in as you're doing your development, you know you got lot fill, you got drainage issues, you got a lot of stuff that comes into play and it's easier to put it in there under requirements of the sidewalk rather than come in there later where you now got to work around trees and bushes, it would be a nightmare to do it that way. That's why you really need to follow the exact same guidelines.

Commissioner Granier: it may never be turned over to the parish

Councilman Hogan: That's correct

Commissioner Granier: So that's what I'm saying you'd put it on the back end instead of the front end.

Mr. Matherne: If I can interject, sidewalks are really a non-issue. In our code they are with your building construction, so if it's subsurface drainage when you build a house we're going to make you put the sidewalk in. It's in another piece of the code.

Commissioner Richard: Don't say it's never going to happen because the HOA I'm talking about they want to give the street back to the county so they want to dissolve the HOA after 30 years because everybody moved out who started the HOA so they want to give it back to the county and the only reason the county is taking the street back is because it was built to the standards to start off with and that's the only reason they're taking the street back. So I'm just giving scenarios.

Commissioner Granier: I understand

Commissioner Richard: I'm sure when the people built the subdivision they said I'm never going to leave I'll be here until the day I die and 30 years later everybody that started the subdivision is gone and everybody else that's in there doesn't want to have, like me, I don't want to have an HOA anymore. I'm glad to donate it but it had to meet the standard.

Commissioner Granier: I understand, I'm just playing devil's advocate here, I'm good. Our private subdivisions are not HOA's they're family's, right? Because look at the ones that's been recent. I'm saying if I got 7 lots in my private subdivision

Commissioner Richard: But that's a different scenario he's not talking about something like that

Commissioner Granier: It is a private subdivision, that's what he's referring to, the Oak Alley

Commissioner Richard: But that was not designed as family subdivision

Commissioner Granier: It certainly was

Councilman Hogan: No it wasn't it was designed as a major subdivision, it was approved by you as a major subdivision, they started building it as a major subdivision

Commissioner Richard: We didn't approve it as a family like we just did this afternoon

Ms. Stein: can I just say this is exactly the type of confusion that we'll have administering this particular ordinance in light of what we approved tonight which was a family subdivision, it's largely a private subdivision, it will be a private street, does that mean we have to enforce this standard and force it to be to the parish's standards for the DeGruy family? I don't know.

Commissioner Richard: That's what I was going to ask too, that was one of my questions I was going to ask, does that have to fall in the ordinance with this subdivision what you're trying to pass now? That's a family deal with family lots and everything and that's open land so did that change from open land to R-1, you see what I'm saying so.

Councilman Hogan: and that's what part of the discussion here is as far as trying to figure out if there is anything that needs to be tweaked or added to account for in situations like that.

Commissioner Richard: That subdivision back there is C-3, we didn't change it, it was kept at C-3.

Commissioner Granier: Correct

Commissioner Richard: So it's not open land, it's another whole scenario, so that was kept C-3, it didn't change the code, the zoning

Commissioner Granier: Correct, that was a special use

Commissioner Richard: That was a waiver

Commissioner Granier: This wouldn't cover that anyway

Ms. Stein: Again, all hard questions to answer, all the staff have marked up a copy of the ordinance that we got and this is what we reviewed in September. If you guys could do something similar, it wouldn't have to be like that but if these comments could come back to us, like mark it up, like question marks or words that you would prefer or whatever send it back, we're happy to work with the Councilman to try to get this to something that we understand exactly what's going to happen and how we have to apply it to every subdivision and how it affects something as simple as what we approved tonight that would be great.

Commissioner Richard: That was my concern what we approved tonight when I was looking at this, now do they have to do all of this.

Councilman Hogan: The point where we want to get is, you know, if another developer comes in here and he says I want to do the exact same thing that Oak Alley did, can you tell me the procedure to make that happen?

Commissioner Granier: I understand

Councilman Hogan: The way that it happened in that case is you come to the Planning and Zoning Department, you request a preliminary plat, you get it approved, you come to the Commission you get construction plans approved, you go start building your subdivision, then you come back later and say I want to keep my street and I want to keep the land under it, then the Commission approves it, it goes to the Council, the Council approves it and then he gets a private gated community, but there's nothing in the codes to say that's how we do it. So we need to put some provisions in there to say this is how you do so when the next developer comes he has something to follow because right now there is nothing.

Commissioner Frangella: I guess I have a question, I want to be clear on this. What constitutes major over subdivision? Is it the size or the amount of houses?

Ms. Stein: A major subdivision can be either or both. It can be anything that is more than 5 lots. It can be anything that requires any type of infrastructure improvement and then the process is apply for preliminary plat, that's where we look at the layout of the lots and the streets and we say this complies or doesn't comply, forward it for waivers or don't if it doesn't need it. Then the developer has the confidence they need to go invest in the engineering for the streets and the water and the sewer, all that. They go out, they get those on plans, they come back for your approval after all those plans are approved by Waterworks, Department of Public Works and the Contract Monitor, then they come back for a final plat. Well actually they don't come back to you, they go to the Parish Council and say we built it, everybody reviewed it, everybody watched us built it, it's to parish standards, will the parish please take dedication of it, that's a major subdivision. So it's either if it needs the infrastructure or the number of lots or both.

Councilman Hogan: The question here is when it needs a street improvement and you want to keep the street and keep it private, how do you make that happen? The codes have no provision for that, just trying to come up with some concept to put that provision in place if a developer really wants to do that type of development has something to follow and gives the department some guidance on how to make that happen because right now they have no guidance.

Commissioner Frangella: So per say if I have one lot but I have to put infrastructure in then it would count?

Ms. Stein: There may be other provisions for that type of development. Sometimes there are provisions for lots that are existing on undeveloped streets and we've got a few of those, those don't generally come to you and then you know when people can extend the parish utilities or whatever to their lot in other ways there are provisions for that and then also community sewer isn't always required there are provisions for individual sewer treatment so that saves a lot of people some time and effort.

Commissioner Petit: Do we know how this is handled in other parishes that have large private gated subdivisions?

Ms. Stein: We can do the research, I'd say we would be looking at St. Tammany Parish.

Commissioner Petit: Or areas like Houston that have huge private subdivisions right?

Ms. Stein: May be I mean we can look at it. I don't know it that would be super applicable for us, I'd look to St. Tammany first.

Councilman Hogan: The thing is, the code to do that in other parishes require a big revamping of our code to make it fit. I'm trying to put something in place that relatively is trying to make it as simple as we can but fit within the outline and frame of our existing code without trying to have to redo the whole.

Commissioner Frangella: But I think if we just get something that they've already been through, a lot of the heartache and things like that, we'd want to cover.

Councilman Hogan: Absolutely.

Commissioner Richard: It's going to happen eventually, somebody is going to come in and want to build a 50 acres, 50 lot gated community.

Commissioner Granier: I'm thinking about it now. So do these still have the recreation requirements that this would refer to the code to require?

Councilman Hogan: Yes you would have to dedicate land or money. If a subdivision comes up like this and you'd want to take the money being that if you put a gate across it and people can't get in there well give us the money and we'll use it elsewhere in the community.

Commissioner Granier: I just wanted to make sure that it still applies.

Councilman Hogan: Everything applies.

Commissioner Frangella: If they did that and gave money inside the gate we have to upkeep it?

Ms. Stein: That's always the question. Like Jason is saying these come back to the public eventually after they turn over the first time and do they come back as a burden or do they come back as a great subdivision that's now gate free? That's the question.

Councilman Hogan: And I put in here that if they're ever gated that the gate either has to be taken down or fixed in the open position where it can never be closed, just like at Fashion Phase 1, you go there and you see a nice, pretty gate that look like it would function, I actually developed that subdivision with my uncle, we wanted it to have the look like it was a gated community but the gates are welded in the open position and that would be the same thing. In the future if this subdivision is built with a gate it has to be opened and secured where it could never be closed at the time that the street is dedicated to the parish.

Commissioner Frangella: So I guess we're where we would make a motion to postpone?

Councilman Hogan: Postpone indefinitely

Commissioner Frangella: and bring it back now that we have a better understanding of it.

Commissioner Petit: I move to postpone.

Commissioner Richard: Second

Commissioner Frangella: Call for a vote.

YEAS: Gordon, Petit, Granier, Richard, Dunn, Frangella

NAYS: None

ABSENT: Galliano

Commissioner Frangella: That passes.
