

CITY OF PALM BAY, FLORIDA

**PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2019-06**

Held on Wednesday, May 1, 2019, in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Land Development Division, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Mr. Philip Weinberg called the meeting to order at approximately 7:00 p.m.

Ms. Khalilah Maragh led the Pledge of Allegiance to the Flag.

ROLL CALL:

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|---------------------------|------------------------------------|------------------|
| CHAIRPERSON: | Philip Weinberg | Present |
| VICE CHAIRPERSON: | Leeta Jordan | Absent (Excused) |
| MEMBER: | Nancy Domonousky | Present |
| MEMBER: | Donny Felix | Present |
| MEMBER: | Khalilah Maragh | Present |
| MEMBER: | Kevin Reed | Absent |
| MEMBER: | Rainer Warner | Present |
| NON-VOTING MEMBER: | Vacant (School Board Appointee) | |

CITY STAFF: Present were Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Christopher Balter, Planner II; Ms. Chandra Powell, Recording Secretary; Mr. Christopher Little, Utilities Director; Mr. Rodney Edwards, Assistant City Attorney.

ELECTION OF COMMUNITY DEVELOPMENT ADVISORY BOARD MEMBER:

Election of Community Development Advisory Board member was discussed prior to Old Business.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2019-05; April 3, 2019. Motion by Ms. Maragh, seconded by Mr. Warner to approve the minutes as presented. The motion carried with members voting unanimously.

ANNOUNCEMENTS:

1. Mr. Weinberg addressed the audience on the meeting procedures and explained that the Planning and Zoning Board/Local Planning Agency consists of volunteers who act as an advisory board to City Council.

■ The board held the Election of the Community Development Advisory Board member at this time.

ELECTION OF COMMUNITY DEVELOPMENT ADVISORY BOARD MEMBER:

Motion by Mr. Warner, seconded by Ms. Domonousky to elect Ms. Maragh as the Planning and Zoning Board member to serve on the Community Development Advisory Board. The motion carried with members voting unanimously.

For the benefit of the audience, Mr. Weinberg announced that Case CU-10-2019 had been continued to the June 5, 2019 Planning and Zoning Board meeting and Case CU-11-2019 was withdrawn. No board action was required for the continuance or withdrawal.

The board resumed consideration of items in the order that was set by the agenda.

OLD BUSINESS:

1. ♠FD-8-2019 – WILLIAM H. BENSON

Mr. Balter presented the staff report for Case FD-8-2019. The applicant had requested final development plan approval for a proposed Planned Unit Development (PUD) to allow a 77-lot, single-family residential development called Gulfport Key. Staff recommended Case FD-8-2019 for approval, subject to the staff comments contained in the staff report.

Mr. Bruce Moia, president of MBV Engineering, Inc. (project engineer for the applicant), stated that staff's analysis of the subject proposal was thorough; however, he wanted relief from the sidewalk requirement along the frontage of the property on public streets. The requirement was not mentioned during the pre-application meeting with the reviewing City departments nor during the review and approval of the preliminary development plan by the board and City Council. Internal sidewalks were proposed for the development, but exterior sidewalks were not applicable without sidewalks to connect to; insufficient right-of-way on Gulfport Road SE; and impeded drainage and swales on the roadway.

The floor was opened and closed for public comments; there were no comments from the audience. There was one correspondence in the file in opposition to the request.

Mr. Balter asked that if the board was to grant relief from the sidewalk requirement, the relief should just be for the external sidewalks.

Motion by Ms. Domonousky, seconded by Mr. Felix to submit Case FD-8-2019 to City Council for final development plan approval of a proposed Planned Unit Development (PUD) to allow a 77-lot, single-family residential development called Gulfport Key, subject to the staff comments contained in the staff report, provided that the requirement to provide sidewalks along the frontage of the property on public streets was removed and that internal sidewalk requirements were met.

Mr. Warner questioned why the external sidewalk requirement was placed on the final development plan, and Ms. Domonousky wanted clarification on the proposed location of the external sidewalks. Mr. Balter indicated where the proposed external sidewalks would be located, and Mr. Murphy explained that the Public Works Department wanted the external sidewalks installed to connect with adjacent sidewalks that Public Works would construct in the future. Public Works had no plans to install sidewalks in the area in the near future.

Ms. Maragh questioned what would happen if the project was not granted relief from the external sidewalk requirement. Mr. Balter explained that the required external sidewalks would be installed at some point in the future by Public Works.

Mr. Weinberg noted that the external sidewalk requirement was not in the original development approval, and the City had no immediate plans to install sidewalks in the area. Mr. Felix concurred and remarked on fairness to the developer.

A vote was called on the motion by Ms. Domonousky, seconded by Mr. Felix to submit Case FD-8-2019 to City Council for final development plan approval of a proposed Planned Unit Development (PUD) to allow a 77-lot, single-family residential development called Gulfport Key, subject to the staff comments contained in the staff report, provided that the requirement to provide sidewalks along the frontage of the property on public streets was removed and that internal sidewalk requirements were met. The motion carried with members voting unanimously.

NEW BUSINESS:

**1. ♣CU-10-2019 – RAYMOND FISCHER
(CONTINUED)**

Case CU-10-2019 was discussed prior to Old Business.

**2. ♣CU-11-2019 – WAYNE’S AGGREGATE AND MATERIALS, LLC
(DAVID AGEE, REP.)
(WITHDRAWN)**

Case CU-11-2019 was discussed prior to Old Business.

3. CP-5-2019 – MIGDALY MARTINEZ

Mr. Murphy presented the staff report for Case CP-5-2019. The applicant had requested a small scale Comprehensive Plan Future Land Use Map amendment from Commercial Use to Multiple Family Residential Use. Staff recommended Case CP-5-2019 for approval, pursuant to Chapter 163, Florida Statutes.

Mr. Warner inquired whether the subject site was affiliated with the Bayfront Community Redevelopment District. Mr. Murphy stated that the commercial property was located within the Bayfront district and was last operated as a bed-and-breakfast establishment. The applicant planned to use the site as their residence.

Mr. Weinberg clarified that the subject request was a change to Multiple Family Residential Use. Mr. Murphy noted that this was correct.

Ms. Migdaly Martinez (applicant) was present. Mr. Jose Martinez (representative for the applicant) stated that the need for the land use and zoning amendments was discovered during the remodel of the home on the property. His desire was to relocate from the City of St. Cloud and reside at the property.

Mr. Warner inquired further about the existing home and if additional structures were planned for the site. Mr. Martinez stated that the existing home was being remodeled to accommodate his family of five. There were no plans for additional structures, but one of his children might want to build a home on the property in the future.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Ms. Maragh questioned why the multiple-family designation was being sought instead of residential. Mr. Murphy explained that Multiple Family Use allowed for single-family residential development.

Motion by Ms. Maragh, seconded by Ms. Domonousky to submit Case CP-5-2019 to City Council for approval of a small scale Comprehensive Plan Future Land Use Map amendment from Commercial Use to Multiple Family Residential Use as recommended by staff, pursuant to Chapter 163, Florida Statutes. The motion carried with members voting unanimously.

4. ♠CPZ-5-2019 – MIGDALY MARTINEZ

Mr. Murphy presented the staff report for Case CPZ-5-2019. The applicant had requested a zoning amendment from an HC, Highway Commercial District to an RM-15, Single-, Two-, Multiple-Family Residential District. Staff recommended Case CPZ-5-2019 for approval to be consistent and compatible with the Future Land Use designation of Case CP-5-2019.

Mr. Warner questioned why the existing home was on commercial property. Mr. Murphy explained that the subject home was formerly operated as a commercial bed-and-breakfast establishment.

Ms. Migdaly Martinez (applicant) was present. Mr. Jose Martinez (representative for the applicant) indicated his intention to remodel and reside in the existing home.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Motion by Ms. Maragh, seconded by Mr. Warner to submit Case CPZ-5-2019 to City Council for approval of a zoning amendment from an HC, Highway Commercial District to an RM-15, Single-, Two-, Multiple-Family Residential District. The motion carried with members voting unanimously.

5. ♣FS-1-2019 – NORTMAN PALM BAY, LLC (ZACHARY KOMNINOS, E.I., REP.)

Mr. Murphy presented the staff report for Case FS-1-2019. The applicant had requested final plat approval of a proposed 17.50-acre commercial development called Palm Bay Place. Staff recommended Case FS-1-2019 for approval, subject to the staff comments contained in the staff report.

Ms. Maragh asked for clarification on why the original subdivision proposal for the site was turned down. Mr. Murphy clarified that the original proposal had been approved, and that a drop in the economy and permitting delays had caused the developer to stop the project.

Mr. Kyle Shasteen, E.I. with Bowman Consulting Group (representative for the applicant) reiterated how the subdivision was approved in 2008, and that the applicant was now ready to move forward. He asked the board to grant relief from the 25-foot landscape buffer requirement at the eastern boundary as the land abutted the Florida Department of Transportation (FDOT) retention pond and not residential homes.

Ms. Maragh questioned if permitting issues were again anticipated. Mr. Shasteen indicated that there should be no permitting issues as the FDOT retention pond was installed and the right-of-way take had already occurred.

Mr. Warner inquired whether the subdivision had been modified since 2008. Mr. Shasteen explained that there were currently no plans for the subdivision. The conditional use application to be heard by the board was the only proposal at this time for the property. Ms. Domonousky noted that the final plat approval would allow the applicant to sell the lots. Mr. Shasteen remarked that this was correct.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Motion by Ms. Domonousky, seconded by Ms. Maragh to submit Case FS-1-2019 to City Council for final plat approval of a proposed 17.50-acre commercial development called Palm Bay Place, subject to the staff comments contained in the staff report, with a condition to eliminate the 25-foot landscape buffer requirement at the eastern boundary abutting the Florida Department of Transportation (FDOT) retention pond.

Mr. Warner asked for clarification regarding the required buffer. Mr. Murphy explained that the residential buffer requirement was not an issue since the eastern boundary abutted the FDOT retention pond.

A vote was called on the motion by Ms. Domonousky, seconded by Ms. Maragh to submit Case FS-1-2019 to City Council for final plat approval of a proposed 17.50-acre commercial development called Palm Bay Place, subject to the staff comments contained in the staff report, with a condition to eliminate the 25-foot landscape buffer requirement at the eastern boundary abutting the Florida Department of Transportation (FDOT) retention pond. The motion carried with members voting unanimously.

6. ♠CU-12-2019 – NORTMAN PALM BAY, LLC (ZACHARY KOMNINOS, E.I., REP.)

Mr. Murphy presented the staff report for Case CU-12-2019. The applicant had requested a conditional use to allow a proposed automated car wash in a CC, Community Commercial District. The board and City Council must determine if the request meets the criteria of Section 185.07 of the Palm Bay Code of Ordinances.

Mr. Kyle Shasteen, E.I. with Bowman Consulting Group (representative for the applicant) stated his agreement with the staff report. He commented on how utilities and access were available for the site, stormwater was planned, and the car wash was compatible with the surrounding commercial properties.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Motion by Ms. Maragh, seconded by Mr. Felix to submit Case CU-12-2019 to City Council for approval of a conditional use to allow a proposed automated car wash in a CC, Community Commercial District, subject to staff's recommendations. The motion carried with members voting as follows:

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| Mr. Weinberg | Aye |
| Ms. Domonousky | Aye |
| Mr. Felix | Aye |
| Ms. Maragh | Aye |
| Mr. Warner | Nay |

7. ♣V-9-2019 – CITY OF PALM BAY (UTILITIES DEPARTMENT)

Mr. Balter presented the staff report for Case V-9-2019. The applicant had requested a variance to modify the existing North Regional Water Reclamation Facility (NRWRF) by allowing a proposed Nutrient Removal Facility to encroach 9 feet into the 20-foot side interior setback, as established by Section 185.045(F)(7)(b) of the Palm Bay Code of Ordinances. The board and City Council had to determine, based on the facts presented, the degree of minimal relief to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

The floor was opened for public comments.

Ms. Angel Fickenwirth (resident at White Sands Court NE) spoke against the request. She was concerned that the preservation land and wildlife on the property would be disturbed, and property values would decline because of potential flooding and water reclamation smells.

The floor was closed for public comments, and there was no correspondence in the file.

Mr. Murphy explained that the proposed facility was a treatment tank that would be placed between two existing treatment tanks on the Utilities Department site and not on the conservation property. The encroachment would occur at the northwest section of the property adjacent to a private staging construction area on industrial land and not near the residential property located further west. There would be no impact on the Sandy Pines development

Mr. Daniel Burden, Ph.D., P.E. with Wade Trim, Inc. (representative for the applicant) stated that he served as the project manager for the NRWRF Nutrient Removal project. The existing 60-foot diameter tank located at the northwest perimeter of the subject site would be demolished and replaced with two larger basins to provide additional treatment to improve water quality in the reuse water produced. The proposed structure would encroach 9 feet into the 20-foot side interior setback.

Motion by Ms. Domonousky, seconded by Ms. Maragh to submit Case V-9-2019 to City Council for approval of a variance to modify the existing North Regional Water Reclamation Facility (NRWRF) by allowing a proposed Nutrient Removal Facility to encroach 9 feet into the 20-foot side interior setback, as established by Section 185.045(F)(7)(b) of the Palm Bay Code of Ordinances, subject to staff comments.

Mr. Weinberg asked if the facility was being funded by the Lagoon tax. Utilities Director, Mr. Christopher Little, confirmed that the intent was to have the facility funded in full by the Save Our Indian River Lagoon program.

A vote was called on the motion by Ms. Domonousky, seconded by Ms. Maragh to submit Case V-9-2019 to City Council for approval of a variance to modify the existing North Regional Water Reclamation Facility (NRWRF) by allowing a proposed Nutrient Removal Facility to encroach 9 feet into the 20-foot side interior setback, as established by Section 185.045(F)(7)(b) of the Palm Bay Code of Ordinances, subject to staff comments. The motion carried with members voting unanimously.

8. CP-6-2019 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Mr. Murphy presented the staff report for Case CP-6-2019. The applicant had requested an amendment to the Comprehensive Plan Future Land Use Element to remove Policy FLU-3.2A requiring Land Development Regulations to provide for commercial development over three acres in size to be developed as Planned Commercial Development (PCD). Staff recommended Case CP-6-2019 for approval and transmittal to the Florida Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes.

The floor was opened and closed for public comments; there were no comments from the audience, and there was no correspondence in the file.

Motion by Mr. Warner, seconded by Ms. Maragh to submit Case CP-6-2019 to City Council for approval, and to transmit the request to the Florida Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes, for an amendment to the Comprehensive Plan Future Land Use Element to remove Policy FLU-3.2A requiring Land Development Regulations to provide for commercial development over three acres in size to be developed as Planned Commercial Development (PCD). The motion carried with members voting unanimously.

City Council will hear Case CP-6-2019 on May 2, 2019.

OTHER BUSINESS:

Due to the Fourth of July holiday, the board discussed rescheduling the July 3, 2019 Planning and Zoning Board meeting to avoid a possible lack of a quorum. The regular meeting would be held if a quorum was possible.

ADJOURNMENT:

The meeting was adjourned at approximately 8:02 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.

☐ Indicates item was considered out of sequence.