

CITY OF PALM BAY, FLORIDA

PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY REGULAR MEETING 2019-15

Held on Wednesday, December 4, 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.

Mr. Donald Boerema led the Pledge of Allegiance to the Flag.

ROLL CALL:

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

Mr. Weinberg excused Mr. Felix's absence.

CITY STAFF: Present were Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Christopher Balter, Planner II; Ms. Chandra Powell, Recording Secretary; Mr. James Stokes, Board Attorney.

~~Mr.~~ Announcements occurred at this time.

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

Correction:
See
Special
Meeting
2020-01
01-08-20

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2019-14; November 6, 2019. Motion by Ms. Maragh, seconded by Mr. Warner to approve the minutes as presented. The motion carried with members voting unanimously.

ANNOUNCEMENTS:

Announcements occurred prior to Adoption of Minutes.

NEW BUSINESS:

**1. ♠FD-19-2019 – COURTYARDS AT WATERSTONE
(ROCHELLE LAWANDALES AND JAKE WISE, REPS.)**

Mr. Balter presented the staff report for Case FD-19-2019. The applicant had requested approval of a Final Development Plan for a proposed Planned Unit Development (PUD) to allow a 201-lot single-family residential development called Courtyards at Waterstone. Staff recommended Case FD-19-2019 for approval, subject to the items contained in the staff report.

Ms. Rochelle Lawandales, FAICP with Waterstone Development Company (project planner and representative for the applicant) stated that the preliminary plan for the development was approved last month. Various studies had been provided; school concurrency, traffic concurrency, and environmental requirements had been met; and a conceptual stormwater permit had been issued. Final Development Plan approval would move the project forward to acquire final engineering plans and permits.

The floor was opened for public comments.

Mr. Greg Plagman (resident at Hyperion Way SE) spoke against the request. He was concerned about the connector road onto Mara Loma Boulevard SE. He suggested locating the entrance nearer to the school entrance to save money, to avoid destroying the existing roadway median, and to reduce the amount of entrances in proximity. He commented that Mara Loma Boulevard would be much busier in the future.

In response to comments from the audience, Ms. Lawandales stated that the subject pod of development had been anticipated since the early stages of the project. The entrance had not moved, and the proposed minimal median cut would be evaluated and permitted through the site plan process in conformance with proper standards and construction methods.

Mr. Boerema asked if there would be only the one entrance into the development. Ms. Lawandales indicated that this was correct.

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

Motion by Mr. Boerema, seconded by Ms. Maragh to submit Case FD-19-2019 to City Council for approval of a Final Development Plan for a proposed Planned Unit Development (PUD) to allow a 201-lot single-family residential development called Courtyards at Waterstone, subject to the items contained in the staff report. The motion carried with members voting unanimously.

City Council will hear Case FD-19-2019 on December 19, 2019.

2. CP-14-2019 – RIVERVIEW SENIOR RESORT PHASE 2 (STEVEN CIANCIO)

Mr. Murphy presented the staff report for Case CP-14-2019. The applicant had requested a small-scale Comprehensive Plan Future Land Use Map amendment from Single-Family Residential Use to Multiple-Family Residential Use. Staff recommended Case CP-14-2019 for approval.

Mr. Steven Ciano (applicant) explained that the land use change for a proposed parking lot project was approved a few months ago, but the subject section of land had inadvertently been omitted from the request. The land was approximately three parking spaces in size.

Ms. Maragh wanted to know if the project had remained the same since the initial proposal. Mr. Ciano confirmed that no changes had occurred.

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-14-2019 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Single-Family Residential Use to Multiple-Family Residential Use. The motion carried with members voting unanimously.

3. ♠CPZ-14-2019 – RIVERVIEW SENIOR RESORT PHASE 2 (STEVEN CIANCIO)

Mr. Murphy presented the staff report for Case CPZ-14-2019. The applicant had requested a zoning amendment from an RS-3, Single-Family Residential District to an RM-20, Multiple-Family Residential District. Staff recommended Case CPZ-14-2019 for approval to be consistent and compatible with the Future Land Use designation of Case CP-14-2019.

Mr. Steven Ciano (applicant) stated that he was looking forward to expanding his assisted living facility in the future. The facility filled a void in the south end of Brevard County.

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. Jordan to submit Case CPZ-14-2019 to City Council for approval of a zoning amendment from an RS-3, Single-Family Residential District to an RM-20, Multiple-Family Residential District. The motion carried with members voting unanimously.

4. ♠FD-28-2019 – PALM VISTA EVERLANDS (SCOTT GLAUBITZ, PE, PLS, REP.)

Mr. Balter presented the staff report for Case FD-28-2019. The applicant had requested approval of a Final Development Plan for a Planned Unit Development (PUD) to allow a proposed 162-lot, single-family residential development called Palm Vista Everlands. Staff recommended Case FD-28-2019 for approval, subject to the items contained in the staff report.

Mr. Warner asked about the number of phases planned for the development. Mr. Balter stated that the development had two phases.

Mr. Kenneth Ludwa with BSE Consultants, Inc. (project engineer and representative for the applicant) stated that there was virtually no change from the Preliminary Development Plan approved a year ago. Construction plans and permitting applications had been submitted to the City and other agencies.

Ms. Maragh asked whether a Citizen Participation Plan (CPP) meeting had been held. Mr. Ludwa commented that a CPP meeting was held during the Preliminary Development Plan review.

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 FD-28-2019 to City Council for approval of a Final Development Plan for a Planned Unit Development (PUD) to allow a proposed 162-lot, single-family residential development called Palm Vista Everlands, subject to the items contained in the staff report. The motion carried with members voting unanimously.

5. ♣Z-29-2019 – M. DAVID MOALLEM (PHILIP NOHRR, REP.)

Mr. Balter presented the staff report for Case Z-29-2019. The applicant had requested a change in zoning from an RS-2, Single-Family Residential District to an IU, Institutional Use District. The board must determine if the request, based upon the submitted material and presentation made by the applicant, met the general requirements of the Code of Ordinances, as identified in the staff report.

Ms. Maragh wanted to know how much space on the subject site would be used for the proposed tower. Mr. Balter explained that the project was not at the stage for construction drawings.

Mr. Philip Nohrr, Esq. with GrayRobinson, P.A. (representative for the applicant) stated that the proposed request was to rezone the subject property to an IU district. He confirmed that a communications tower was planned for the site, and he noted how towers were a permitted use under the property's existing Utilities land use. A future tower request, however, would be handled administratively and would have to meet the criteria of Chapter 186, Communication Towers and Facilities. He informed the board that the code did not prohibit a tower from locating next to residences.

Mr. Boerema asked for clarification regarding the purpose of the request. Mr. Stokes advised the board that the rezoning should be the sole issue under discussion. Consideration should be given to the criteria to rezone the site and not to a potential use. The use was a separate matter to be addressed at some other time.

Mr. Warner inquired about Chapters 185 and 186. Mr. Balter explained that Chapter 185 specifically addressed the proposed rezoning request and how Chapter 186 dealt with communication towers, which was not under review. He explained that General Development Corporation was the original property owner of the tract. The property's land use was always Utilities, and a deep water well or sewer substation had been slated for the site.

The floor was opened for public comments.

Mr. David Moallem (owner of the subject property) spoke in favor of the request. The subject tract had been in his ownership for approximately 20 years and could not be used unless the zoning and land use matched. He was open to having the land use changed to Residential Use or to the requested Utilities Use. He remarked on how additional cell towers were needed to accommodate 5G technology; the Federal Communications Commission (FCC) found no evidence of cell towers causing health problems; and high-priced homes were being built in communities with cell towers. He requested a resolution that would allow the site to be built upon as he was being penalized in taxes.

Ms. Nancy Carter (resident at Gaghagen Street SE) spoke against the request. The specific intent of the property for a cell tower was known, so the cell tower usage should be reviewed and an FCC assessment completed before the land use change was allowed. She commented that the tower would be surrounded by homes, and she provided the board with a handout regarding the dangers of 5G radiation as a health and environmental hazard.

Mr. Weinberg reiterated that the cell tower was out of the purview of the board since the subject request was about the compatibility of the proposed rezoning to the existing land use.

Mr. Arthur McConnell (resident at Floyd Street SE) spoke against the request. A tower would devalue his home and he would prefer a residential land use for the site.

Mr. Ryan Blakenship (resident at Floyd Street SE) spoke against the request. He moved into his home three months ago and would have likely purchased elsewhere if he had known that his porch and bedroom view would be of a tower.

Ms. Chanice Abrain (resident at Gaghagen Street SE) spoke against the request. She stated that her sick child's doctor had advised her to relocate due to the tower.

Mr. Austin Kormendy (resident at Gaghagen Street SE) spoke against the request. He was concerned about the impact any utility would have on his child and the families in the area. Roads were currently unacceptable, and a tower would further devalue properties. Residential homes on the site would be preferable.

Mr. John Bricker (resident at Floyd Street SE) spoke against the request. He was in favor of residential homes or a park for the property.

Mr. Michael Gordon (resident at Gaghagen Street SE) spoke against the request. He believed the subject location was desired for 5G to benefit the high-income residents of Bayside Lakes. A tower could be located on properties to the north which would not disrupt or harm residents. Flooded roads were already a problem for the area.

Ms. Sherry Grace (resident at Floyd Street SE) spoke against the request. The tower would impact her property value, backyard view, and health.

Ms. Jacqueline Bricker (resident at Floyd Street SE) spoke against the request. She stated that the property owner was a realtor who understood the zoning and land use situation when he purchased the property. She was concerned about the safety of children, the visual eyesore, and a drop in property values.

Mr. James McNicol with B+T Group (wireless engineering, construction, and technical services firm for the applicant) stated that the Federal Telecommunications Act of 1986 dictated that local boards could not consider health effects in consideration of cell towers. He commented that there was no definitive proof regarding the impact towers had on real estate.

Ms. Sophia Edwards (resident at Gaghagen Street SE) spoke against the request. She stated that the property owner was a realtor who did not reside in the area. She was opposed to a cell tower on the property and was concerned that the tower would not be camouflaged.

In response to comments from the audience, Mr. Nohrr stated that the tower would be camouflaged as required by code, and the government had made the determination that towers could not be denied based on health effects.

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

Mr. Weinberg reminded the board that the zoning matter was the only issue under consideration based on whether the request met rezoning requirements to approve.

Motion by Ms. Jordan, seconded by Mr. Boerema to submit Case Z-29-2019 to City Council for approval of a change in zoning from an RS-2, Single-Family Residential District to an IU, Institutional Use District. The motion carried with members voting unanimously.

The meeting resumed following a brief recess.

6. ♠FD-30-2019 – ODYSSEY CHARTER SCHOOL, INC. (JAKE WISE, PE, REP.)

Mr. Murphy presented the staff report for Case FD-30-2019. The applicant had requested approval of a Final Development Plan (FDP) for a Planned Unit Development (PUD) to allow for a proposed development on 3.84 acres called Odyssey Charter School Parking and Playfield Expansion. The board shall determine if the request met the intent of the PUD zoning ordinance, and if the northward expansion of the school property would further the goals of protecting the health, safety, and welfare of the inhabitants of the City, as provided in Chapter 185: Zoning Code, Section 185.005. Should the board decide to approve the FDP, staff recommended that the six conditions contained in the staff report be made a part of the approving ordinance.

Ms. Maragh asked for clarification regarding the need to amend the Declaration of Covenants, Conditions and Restrictions for the Bayside Lakes Commercial Center if the parking area and sidewalks were allowed in the easement. Mr. Murphy explained that a 100-foot preservation easement on the north side of Tract I-4 had been recorded with the subdivision to protect abutting residents. The deed restrictions would need to be amended by the property owners association to permit any changes to the easement. Mr. Weinberg questioned how far the development would encroach into the preservation easement. Mr. Murphy noted that the parking lot would encroach approximately 30 feet and the sidewalks would encroach 5 to 10 feet.

Mr. Jake Wise, PE with Construction Engineering Group (civil engineer and representative for the project) noted that a productive Citizen Participation Plan (CPP) meeting had been held. He explained that the subject proposal had originated because of a nearby automobile fatality of a student and the need for seven more classrooms. Based on the school's charter, this would be the final expansion. He described how the project would support safety and alleviate traffic gridlock with new pedestrian, stacking, and parking areas; code-gated parking for faculty; and two additional timed pick-up and drop-off points. Trees removed from the site would be replaced per code and within the easement buffers. Suggestions by residents would be incorporated to include tree preservation, gated security, high-quality opaque fencing with fast-growing trees for residential buffering, and sidewalks along Kansas Road SE and Shrine Circle SE. He wanted the ability to accommodate the request from residents to add future lighting for the parking area and playfield for safety. Lower light poles, downward-shielded lighting, and a photometric light study would ensure zero-foot candles at the property line. The school had always been a part of the Bayside Lakes Master Plan, and he commented on how the portion of sidewalk at the north side of the school along with the northern edge of the loop were permitted to encroach the preservation area. He agreed with all staff recommendations with exception to prohibiting any lighting for the parking lot and playfield.

Ms. Maragh questioned why staff did not want lighting for the proposed parking lot and playfield. Mr. Murphy explained that staff wanted the subject proposal to be less intrusive to the residential neighbors by keeping light spillage within Bayside Lakes. The four adjacent residentially zoned parcels were not part of Bayside Lakes. However, because of the small size of the property, staff could only capitulate if light poles were no more than ten feet high. Mr. Wise agreed to the pole height restriction for the parking lot.

Ms. Maragh asked if the Bayside Lakes community had a problem with the preservation encroachments. Mr. Wise stated that the school and Bayside Lakes had met, and the encroachments had been approved.

Mr. Boerema asked about lighting for the playfield. Mr. Wise stated that the school wanted lighting for the parking area and playfield in the future when funding allowed.

Mr. Murphy remarked that staff would need to review the revised deed restrictions for the subdivision prior to recordation. Mr. Wise agreed to provide staff with the deed restrictions.

The floor was opened for public comments.

Mr. Robert Taylor (resident at Raleigh Road SE) spoke against the request. The existing traffic congestion would increase and the potential for more victims. An alteration of traffic flow was needed.

Mr. Hemchandra Jadunandan (resident at Raleigh Road SE) spoke in favor of lighting for the property. The lighting would be needed for safety since someone could scale a fence. He stated that the traffic pattern was not set correctly. The traffic loop was a concern, and a streamlined way in and out of the area was needed.

Mr. Carl Morrison (resident at Shrine Circle SE) spoke against the request. He had privacy concerns regarding the playfield and concerns about traffic encroaching onto Shrine Circle.

Mr. Murphy noted that the improvements proposed on the north expansion would help with the traffic flow problems on Eldron Boulevard SE. Improvements on the south portion of the site were accessory to the school and allowed by right.

Mr. Tony Jones (resident at Shrine Circle SE) was concerned that an issue with the budget would eliminate items promised to the neighbors, such as the high-quality fence that would help with his problem with transients.

In response to comments from the audience, Mr. Wise stated that the playfield and faculty parking area were the sole improvements under consideration. Traffic would be steered to Raleigh Road SE and kept off of Kansas Road SE and Shrine Circle. He stated that a cut off time for lights in the faculty parking lot could be considered. He said that the loop was determined to be the best option to retrofit the existing site; budget was only an issue for site lighting; the suggested residential improvements would be done; and the traffic on Eldron Boulevard would improve.

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

Mr. Weinberg was in favor of the gated parking lot with light poles limited to ten feet in height, and with no lighting for the playfield. Ms. Jordan supported a cut off time for the parking lot lighting and for the playfield that would need lighting for night activities.

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case FD-30-2019 to City Council for approval of a Final Development Plan (FDP) for a Planned Unit Development (PUD) to allow for a proposed development on 3.84 acres called Odyssey Charter School Parking and Playfield Expansion, subject to the staff recommendations and conditions contained in the staff report with the exception of item four that prohibited lighting in the parking area and playfield; and subject to the condition that the faculty parking lot be gated; the light poles in the faculty parking lot be limited to ten feet in height with a time restriction on the lighting; and that the playfield be allowed to have lighting with a time restriction.

Mr. Murphy remarked that a specific timeframe was needed for the lighting restriction. Mr. Wise stated that he was willing to meet with the adjacent neighbors prior to the City Council hearing to provide staff with a time restriction on the lights.

Motion amended by Ms. Jordan, seconded by Ms. Maragh to submit Case FD-30-2019 to City Council for approval of a Final Development Plan (FDP) for a Planned Unit Development (PUD) to allow for a proposed development on 3.84 acres called Odyssey Charter School Parking and Playfield Expansion, subject to the staff recommendations and conditions contained in the staff report with the exception of item four that prohibited lighting in the parking lot and playfield; and subject to the condition that the faculty parking lot be gated; the light poles in the faculty parking lot be limited to ten feet in height; that lighting be allowed for the playfield; and that the applicant and adjacent property owners would meet to determine the time restriction for lighting in the faculty parking lot and the playfield. The motion carried with members voting unanimously.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 9:05 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

♣ Quasi-Judicial Proceeding.

☐ Indicates item was considered out of sequence.