

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2020-09

Held on Wednesday, August 5, 2020, 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:	Donny Felix	Absent	(Excused)
MEMBER:	Richard Hill	Present	
MEMBER:	Khalilah Maragh	Absent	(Excused)
MEMBER:	Rainer Warner	Present	
NON-VOTING MEMBER:	David Karaffa	Present	
	(School Board Appointee)		

Mr. Felix and Ms. Maragh had excused absences.

Mr. Weinberg welcomed Mr. David Karaffa to the board, newly appointed School Board liaison.

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

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2020-08; July 1, 2020. Mr. Weinberg indicated that under Case CP-4-2020, page 9, third paragraph, owner merits should be own merits. Motion by Ms. Jordan, seconded by Mr. Hill to approve the minutes as amended. 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.

OLD BUSINESS:

1. **♣FD-10-2020 – CHAPARRAL SUBDIVISION PHASE II (JAKE WISE, P.E., REP.)
(REQUEST TO CONTINUE)**

Mr. Weinberg announced that the applicant for Case FD-10-2020 had requested a continuance (third) to the September 2, 2020 Planning and Zoning Board meeting. Board action was required to continue the request.

Motion by Mr. Warner, seconded by Mr. Hill to continue Case FD-10-2020 to the September 2, 2020 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

NEW BUSINESS:

1. **♣V-17-2020 – TROY HOLDINGS, LLC (MICHAEL W. HOFFMAN, P.E., REP.)**

Mr. Balter presented the staff report for Case V-17-2020. The applicant had requested a variance to allow a proposed structure to encroach 13 feet 4 inches into the 30-foot rear building setback and 24 feet into the 30-foot rear parking setback, and to allow a 21-foot reduction in the minimum distance requirement between Malabar Road SE and the driveway proposed at Deauville Street SE. The board had to determine, based on the facts presented, the degree of minimal relief, if any, to

meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Mr. Michael Hoffman of Advanced Engineering Consultants, LLC (representative for the applicant) stated that a MedFast Urgent Care facility was planned for the subject site. His client wanted Malabar Road for frontage with driveway access off of Deauville Street. The 113-foot deep lot could not theoretically meet the 120-foot separation requirement between the driveway and Malabar Road. The variance would permit a 99-foot separation. The 21-foot reduction should not cause a hardship or an endangerment to traffic flow as there were similar situations with driveways significantly closer than 99 feet from Malabar Road. He did not believe the rear encroachments would cause a major impact since the side yard and parking setbacks at the south property border would have been 10 feet if the building frontage was on Deauville Street. He pointed out that the existing RC, Restricted Commercial District had a minimum lot size requirement of 1,500 square feet, but the subject property was only 1,400 square feet in size.

Mr. Boerema asked about the parking lot location. Mr. Hoffman clarified that the parking area would be to the east of the proposed building.

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

Motion by Ms. Jordan, seconded by Mr. Hill to submit Case V-17-2020 to City Council for approval of a variance to allow a proposed structure to encroach 13 feet 4 inches into the 30-foot rear building setback and 24 feet into the 30-foot rear parking setback, and to allow a 21-foot reduction in the minimum distance requirement between Malabar Road SE and the driveway proposed at Deauville Street SE.

Mr. Warner inquired whether the applicant owned the property to the south. Mr. Hoffman stated that the property to the south was not owned by the applicant.

Mr. Weinberg stated that he had no problem supporting the request since the lot was substandard in size and Deauville Street was not a heavily trafficked road.

A vote was called on the motion by Ms. Jordan, seconded by Mr. Hill to submit Case V-17-2020 to City Council for approval of a variance to allow a proposed structure to encroach 13 feet 4 inches into the 30-foot rear building setback and 24 feet into the 30-foot rear parking setback, and to allow a 21-foot reduction in the minimum distance requirement between Malabar Road SE and the driveway proposed at Deauville Street SE. The motion carried with members voting unanimously.

2. ♣V-18-2020 – PHIL AND PATRICIA HATCHER

Mr. Balter presented the staff report for Case V-18-2020. The applicant had requested a variance to allow a proposed pool and screen enclosure to encroach 18.5 feet into the 25-foot mean high water line setback from the Indian River and 1.5 feet into the 6-foot side accessory structure setback, and to allow an existing air conditioning unit to encroach 3 feet into the 25-foot mean high water line setback from the Indian River. The board had to determine, based on the facts presented, the degree of minimal relief, if any, to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Mr. Philip Hatcher (applicant) stated that he wanted to build a swimming pool with a screen room enclosure on the subject site, which was not facilitated by the setbacks and small size of the property. He commented that the home was rebuilt as a single-story residence after being destroyed by Hurricane Irma, and he was also asking to cover the air conditioning unit location consistent with its inspection two years ago during Certificate of Occupancy.

Mr. Warner asked how long the applicant had resided at the property. Mr. Hatcher stated that he had lived at the site for approximately seven years but was displaced for a year and a half during its reconstruction following the hurricane.

Ms. Jordan questioned whether the Indian River could be impacted by flooding because of the variance. Mr. Balter explained that the 25-foot mean high water line setback was a City setback, and that the pool would have to be built above the floodplain to obtain a floodplain permit and certificate.

The floor was opened and closed for public comments; there were no comments from the audience, and a virtual comment was received from Mr. Thomas Spikes

(resident at Worth Court SE) in support of the request. There was no correspondence in the file.

Motion by Mr. Boerema, seconded by Mr. Warner to submit Case V-18-2020 to City Council for approval of a variance to allow a proposed pool and screen enclosure to encroach 18.5 feet into the 25-foot mean high water line setback from the Indian River and 1.5 feet into the 6-foot side accessory structure setback, and to allow an existing air conditioning unit to encroach 3 feet into the 25-foot mean high water line setback from the Indian River. The motion carried with members voting unanimously.

3. **♣FD-19-2020 – EMERALD LAKES WEST PHASE II – EMERALD INVESTMENT HOLDINGS, LLC (JAKE WISE, P.E., REP.)**

Mr. Murphy presented the staff report for Case FD-19-2020. The applicant had requested approval of a Final Development Plan for a RAC, Regional Activity Center to allow a proposed mixed-use development called Emerald Lakes West Phase II. Staff recommended Case FD-19-2020 for approval, subject to the items contained in the staff report.

Mr. Murphy noted that the traffic study that the applicant would provide would be tailored for access management. Staff would also work with the applicant to re-address maximum residential building heights.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project and representative for the applicant) stated that the project had begun 15 years ago, and that the subject proposal was for the western portion of the site. He stated that a 50-foot right-of-way buffer had been donated to Brevard County for maintenance along the Sotille Canal. The County had agreed to allow the buffer to be used as a wildlife corridor and passive recreation for residents. An exhibit of the right-of-way would be provided to staff prior to the City Council hearing.

Ms. Brenda Yates of Yates & Company, LLC (project manager) clarified that all streets and facilities within the development would be maintained by the development's Community Development District (CDD) and Homeowners Association (HOA). She said that additional information would be provided on the

proposed building heights. The intent was to compact the development for preservation utilizing building heights with the added benefit of residential scenic views of the lakes, wetlands, and wildlife corridors.

Mr. Warner complimented the development and asked if there were any hurricane or storm concerns regarding the third-floor overlooks. Ms. Yates indicated that there were no height concerns as the buildings would be designed to Florida building standards. The development offered the opportunity to enjoy nature and preservation areas.

Mr. Warner inquired whether the future phases of the development were projected to have private roads. Ms. Yates confirmed that all the roads would be private. She gave an overview of the project's layout that included a downtown village center with Crystal Lagoon in the entertainment district; residential neighborhoods; an education district from elementary through senior high school; and nature trails, wildlife corridors, and preserves. The project would be interconnected and maintained by the CDD.

Mr. Hill asked about the expected timeframe for development. Ms. Yates stated that development should commence by the end of the year. The focus was on the Crystal Lagoon which would become an entertainment draw for the entire County.

Mr. Karaffa inquired whether a certain number of residential units had to be sold or occupied before the proposed schools could be built. Ms. Yates stated that the schools would be private or charter schools and not Brevard County public schools.

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. Hill, seconded by Ms. Jordan to submit Case FD-19-2020 to City Council for approval of a Final Development Plan for a RAC, Regional Activity Center to allow a proposed mixed-use development called Emerald Lakes West Phase II, subject to the items contained in the staff report.

Mr. Weinberg stated that the project would be great for Palm Bay and remarked on how all the infrastructure would be built and maintained by the CDD and not the City.

A vote was called on the motion by Mr. Hill, seconded by Ms. Jordan to submit Case FD-19-2020 to City Council for approval of a Final Development Plan for a RAC, Regional Activity Center to allow a proposed mixed-use development called Emerald Lakes West Phase II, subject to the items contained in the staff report. The motion carried with members voting unanimously.

4. **T-20-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

Mr. Bradley presented the staff report for Case T-20-2020. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, Section 170.005 Adopted, to exempt accessory structures to a single-family residence that meet certain criteria from the requirement of obtaining a building permit. Staff recommended that if Case T-20-2020 was approved, a zoning review would remain part of the requirement.

Mr. Bradley noted that the final reading of the code amendment could not occur until after the Florida Building Commission had reviewed and approved the change as an Administrative Amendment to Chapter 1 of the Florida Building Code.

Ms. Jordan questioned whether other cities were eliminating similar building permits. Mr. Bradley stated that the City of Orlando and Walton County had been approved by the Florida Building Commission to eliminate permitting for certain structures with variations in sizes.

Mr. Warner asked if the amendment would address color schematics for the accessory units. Mr. Bradley stated that the amendment did not address aesthetics or design features.

Mr. Boerema commented that a 20-foot by 20-foot building was an excessively large structure that should at least require electricity. He suggested consideration of smaller sized structures. Mr. Bradley confirmed that there were municipalities that allowed structures at 120 square feet without permits. He stated that per the City Building Official, any electrical or plumbing would require a permit regardless of size.

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

Mr. Weinberg stated that it would be dangerous to allow accessory structures to be built without any quality controls for structures or installations, and it could pose a danger to neighboring properties during storms.

Motion by Mr. Hill, seconded by Mr. Boerema to submit Case T-20-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, Section 170.005 Adopted, to exempt accessory structures to a single-family residence that meet certain criteria from the requirement of obtaining a building permit. The motion failed with members voting as follows:

Mr. Weinberg	Nay
Ms. Jordan	Nay
Mr. Boerema	Nay
Mr. Hill	Aye
Mr. Warner	Nay

OTHER BUSINESS:

1. **PETITION TO ESTABLISH A TEMPORARY MORATORIUM FOR CONDITIONAL USES PROPOSED WITHIN THE NC, NEIGHBORHOOD COMMERCIAL DISTRICT**

Mr. Bradley announced that staff was requesting a continuance for the temporary moratorium to permit further review. Board action was required to continue the request to the September 2, 2020 Planning and Zoning Board meeting.

Motion by Ms. Jordan, seconded by Mr. Warner to continue the Petition to Establish a Temporary Moratorium for Conditional Uses Proposed within the NC, Neighborhood Commercial District to the September 2, 2020 Planning and Zoning Board meeting at 7:00 p.m. The motion carried with members voting unanimously.

2. AMENDMENT TO THE PLANNING AND ZONING BOARD BY-LAWS

Mr. Bradley presented the proposed amendment to the Planning and Zoning Board By-Laws, Title VI Meetings, to establish guidelines for audiovisual presentations by the public. Staff had prepared the guidelines based on current City Council audiovisual procedures. Board action was required to adopt the amendment to the by-laws.

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 a recommendation to City Council to adopt the proposed amendment to the Planning and Zoning Board By-Laws, Title VI Meetings. The motion carried with members voting unanimously.

The by-laws will be considered by City Council on August 20, 2020.

3. Mr. Murphy introduced Mr. Grayson Taylor to the board as the newest planner in the Land Development Division.

ADJOURNMENT:

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

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.