

**CITY OF PALM BAY, FLORIDA**  
**PLANNING AND ZONING BOARD/**  
**LOCAL PLANNING AGENCY**  
**REGULAR MEETING 2020-12**

Held on Wednesday, October 7, 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.

Pursuant to Section 286.011, Florida Statutes, and Executive Order 20-69, this public meeting included media technology communications (teleconference/video conference).

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.

Adoption of Minutes occurred at this time.

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2020-10; September 2, 2020. Motion by Ms. Maragh, seconded by Ms. Jordan to approve the minutes as presented. The motion carried with members voting unanimously.

The board resumed consideration of items in the order shown on the agenda.

**ROLL CALL:**

<b>CHAIRPERSON:</b>	Philip Weinberg	Present	
<b>VICE CHAIRPERSON:</b>	Leeta Jordan	Present	
<b>MEMBER:</b>	Donald Boerema	Present	
<b>MEMBER:</b>	Donny Felix	Absent	(Excused)
<b>MEMBER:</b>	Richard Hill	Present	
<b>MEMBER:</b>	Khalilah Maragh	Present	
<b>MEMBER:</b>	Rainer Warner	Present	
<b>NON-VOTING MEMBER:</b>	David Karaffa	Present	
	(School Board Appointee)		

Mr. Felix's absence was excused.

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

**ADOPTION OF MINUTES:**

Adoption of Minutes occurred prior to the Roll Call.

**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. **T-20-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT – REQUESTED BY COUNCILMAN JEFF BAILEY)**

***(REQUEST TO CONTINUE TO NOVEMBER 4, 2020)***

Mr. Weinberg announced the request to continue Case T-20-2020 to the November 4, 2020 Planning and Zoning Board meeting. Board action was required to continue the case.

Motion by Ms. Jordan, seconded by Mr. Warner to continue Case T-20-2020 to the November 4, 2020 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

City Council will hear the request on November 19, 2020.

**NEW BUSINESS:**

1. **\*\*CU-23-2020 – REPUBLIC SERVICES OF FLORIDA, LP  
(JAKE WISE, P.E., REP.)**

Mr. Murphy presented the staff report for Case CU-23-2020. The applicant had requested a conditional use to allow a proposed automotive fuel dispensary in an LI, Light Industrial and Warehousing District. Staff concluded that the Planning and Zoning Board and City Council had to determine if the request met the criteria of Section 185.087 of the Palm Bay Code of Ordinances.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project and representative for the applicant) stated that Republic Services, a solid waste collection company, currently utilized the subject site as an allowable use of the property. The subject request was to place a fuel tank on the premises. Truck traffic was a concern discussed at the Citizen Participation Plan (CPP) meeting, which would be lessened by the agreed upon 8-foot high opaque fence to better buffer the residential area. The tank, however, could not be moved to the location proposed by staff because of how the refueling operation occurred in the evenings. An alternate tank location to address concerns would be provided prior to the City Council hearing. The proposed fuel tank would keep the fleet of large solid waste trucks from refueling at local gas stations.

Ms. Maragh wanted to know the concerns from the area residents regarding the fuel tank. Mr. Wise confirmed that there were safety concerns from the residents regarding the tank, especially with the recent explosion at the FAR Chemical plant to the east. He remarked on the safety devices and precautions that would be in place and introduced Mr. Wendall Stroderd (Tank Wizards, Inc.) as an expert witness on the matter.

Ms. Maragh asked about the implications of having a tank above the ground instead of belowground. Mr. Stroderd explained that aboveground tank failures were rare but were detected sooner, and that tanks were primarily placed underground for real estate. He described the safety features and processes in place for the proposed aboveground, double-walled steel tank. Preventive measures would include constant monitoring and monthly checks of overfill and leak detection systems, and

an annual third-party certification. A notification from the leak monitor system would occur well before a failure within the secondary tank. He also clarified that the proposed fuel tank was not the same as a gasoline tank since diesel was considered combustible and would not ignite on its own.

Mr. Warner questioned why the fuel tank location was a problem.

Mr. Boerema inquired whether any gasoline would be dispensed at the site. Mr. Stroderd stated that only diesel fuel would be dispensed.

Mr. Weinberg noted that the tank would also require approval from the Brevard County Natural Resources Management Department.

In reply to Mr. Warner, Mr. Wise remarked that specific setback and buffer criteria had been met or exceeded for the site, and that any relocated tank placement would continue to meet or exceed code criteria. A revised tank location would be determined prior to the City Council hearing.

Ms. Maragh asked if there were other options if the request was denied. Mr. Wise was not aware of other options.

The floor was opened for public comments.

Ms. Connie McClary (president of the Powell Subdivision Neighborhood Watch Association) spoke against the request. She stated that the waste collection company had snuck into the neighborhood and should have located within the Kirby Industrial Park if a fuel tank was desired. The company had 180 days to get out of their property lease. She commented on how a lit match or vehicle collision would still cause a diesel fuel tank to explode. Property values were going to drop, and trucks would cause road damage.

Ms. Camille Hadley (Little Growers, Inc. at Washington Street NE) spoke against the request. She stated that Little Growers was a community garden impacted by flooding, Glover Oil, FAR Chemical, the railroad, and now Republic Services who had arrived without the neighborhood's knowledge. There would be a health impact on the lungs and an environmental impact on the local water shed and the Indian River Lagoon. The City was only 38 percent developed, yet the facility was allowed

within a poor and fully developed neighborhood of color. She expounded on how the City had made promises to ensure that Republic Services followed Environmental Protection Agency (EPA) standards. The City, however, had exhibited an inefficient track record in the enforcement of regulations with FAR Chemical based on several violations, the recent explosion, and minor punitive damages for the loss of a life and air quality in the 2008 explosion. Allowing the fuel tank would give Republic Services permission to remain at the property, which the community would not support.

Ms. Margaret DeHart (resident at Pelham Street NE) spoke against the request. She stated that the community was blind-sided by the City and private lease agreements to allow Republic Services at the subject site. The community had fought a similar refueling request at the adjacent property in 2017. She questioned why the proposed fuel tank could not be placed on City-owned property since the garbage cans, recycle bins, and roll-up dumpsters were already being stored on City land for Republic Services. City-owned property was a better solution to the 58 dump trucks that would disrupt her community with noise, traffic, and road damage.

Ms. Shirley Broomfield (resident at Mayport Avenue NW) spoke against the request. She commented on how Republic Services had located within the middle of a residential neighborhood, and that their operation appeared to be more Heavy Industrial in use than Light Industrial. The facility was less than 500 feet from the rear of a home. The wetland behind the subject property was near the proposed tank location, and FAR Chemical abutted the wetland. She remarked on an alternative solution indicated by Republic Services at a neighborhood meeting that someone could come in to fuel the trucks onsite if the subject request was denied.

Ms. Alice Marie Johnson (resident at Northview Street NE) spoke against the request. She appealed to the board as fellow neighbors to have compassion on the community. She was grateful that the explosion at FAR Chemical had not been worse. Her concerns were about the air and noise pollution the proposed fuel tank would cause, and how rats, roaches, and wildlife would become a problem. She said that the decisions being made for the neighborhood should be about human life and not about the dollar.

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

In response to comments from the audience, Mr. Wise stated that he understood and respected the neighborhood concerns, and that Republic Services was working with the City and area residents on some of the issues. He reiterated safety precautions for the fuel tank, and how buffer requirements would be met or exceeded. Solid waste management was an allowable use for the site, and the property was chosen because of needed components for the operation. Bollards would protect the fuel tank from vehicles, and the wetland would not be impacted. He reiterated how diesel fuel was not flammable but combustible. He stated his agreement with staff's recommendation for an 8-foot high opaque fence, better buffers, and relocation of the fuel tank onsite.

Mr. Hill inquired whether there would be any provisions for underground catchment of spillage runoff while the tank was being refilled. Mr. Stroder explained the design of the catch basin and dispenser function that would eliminate spillage.

Motion by Ms. Jordan, seconded by Mr. Hill to submit Case CU-23-2020 to City Council for approval of a conditional use to allow for proposed automotive fuel dispensary in an LI, Light Industrial and Warehousing District, subject to the 8-foot high opaque fence and buffering agreed upon, and staff's approval of the fuel tank location. The motion carried with members voting as follows:

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

2. **\*\*PD-24-2020 – CHAPARRAL OVERALL PUD -  
CHAPARRAL PROPERTIES, LLC (JAKE WISE, P.E., REP.)**

Mr. Murphy presented the staff report for Case PD-24-2020. The applicant had requested Preliminary Development Plan approval for a PUD, Planned Unit Development to allow a proposed development of 602 single-family residential units and 75 townhomes called Chaparral Overall PUD. Case PD-24-2020 was recommended for approval, subject to the staff comments contained in the staff report.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project and representative for the applicant) explained how construction of the 29 acres of Chaparral Phase I was almost complete and the 13 acres of Phase II were in the permitting process. The subject request was for the 204-acre master plan that was in addition to Phases I and II. He noted that recreational amenities were still being designed. The new Chaparral plan included a lake addition and a significant increase to the west buffer for the Malabar Lakes West community. Home elevations for properties abutting Malabar Lakes West would be similar, lot sizes for the abutting lots had been increased to 135 feet, a 6-foot high pvc fence would be erected along the west boundary, and a proposed traffic signal would alleviate traffic concerns. He said that a land use change would be required in the future for the townhomes planned at the southeast corner of the development, away from Malabar Lakes West. He explained how utility infrastructure improvements were already in place or under construction. All roads, sidewalks, and utilities for the gated community would be built to City standards and privately maintained by the Chaparral Community Development District (CDD). A master stormwater permit had been issued by the St. Johns River Water Management District, and the Brevard County School Board had determined School Concurrence. He stated his agreement with all staff comments.

Ms. Maragh complemented the land preservation that was part of the project.

The floor was opened for public comments.

Ms. Brenda Chrieki (an officer of the Malabar Lakes West Homeowners Association) spoke against the request. She stated that Chaparral was ruining Malabar Lakes West. The continual irrigation problems with constant flooding from the huge valley left between the developments needed to be fixed before any homes were built. She was under the impression that no further phases would be considered until Phases I and II had progressed, but there appeared to be a sudden push for development. A 6-foot high fence would not be sufficient, and grass was needed to keep dirt from blowing onto her deck and pool, and the expense of replacing pool filters. As requested in the past, she wanted the homes that would abut Malabar Lakes West to be restricted to one story for privacy around the pools and backyards. She believed that the 23 proposed homes to abut the nine existing homes in her community was too many. The proposed development would drastically change the character of the area with more traffic, an additional traffic signal, noise, the loss of a beautiful view, and diminished wildlife. She suggested a wall to replace the proposed 6-foot high fence.

In reply to the comments from Ms. Chrieki, Mr. Wise committed to a temporary swale during construction to alleviate erosion problems affecting Malabar Lakes West. He explained that Lennar Homes had recently become the new builder for Chaparral and was moving forward. He remarked that many of the abutting homes in Malabar Lakes West were two-story, so he would not commit to a stipulation for a single-story restriction, which was why an additional 25-foot buffer was agreed to. He commented that lot sizes were driven by the market. The proposed traffic signal would be coordinated with the traffic signal to the east at the Brentwood Lakes development.

Mr. Warner wanted to know when the 75 townhomes would be built and about the future phases of the development. Mr. Wise stated that the townhomes would be built during one of the last phases, and that the actual number of phases would depend on the market.

Mr. Boerema questioned why Phase III was being done prior to the completion of Phases I and II. Mr. Wise restated that the phases would be market driven.

Mr. Hill noted for clarification that the completion of Phases I and II was in reference to underground utilities and infrastructure. Mr. Wise confirmed that this was correct.



Mr. Weinberg commented that a Project Development and Environment Study (PD&E) was being done for Malabar Road.

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 PD-24-2020 to City Council for approval of a Preliminary Development Plan for a PUD, Planned Unit Development to allow a proposed development of 602 single-family residential units and 75 townhomes called Chaparral Overall PUD, subject to the staff comments contained in the staff report. The motion carried with members voting unanimously.

Case PD-24-2020 would be heard by City Council on October 15, 2020.

3. **CP-9-2020 – AD 1 URBAN STRATEGY PALM BAY RETAIL, LLC  
(BRUCE MOIA, P.E., REP.)**

Mr. Balter presented the staff report for Case CP-9-2020. The applicant had requested a small-scale Comprehensive Plan Future Land Use Map amendment from Commercial Use to Multi-Family Residential Use. Staff recommended Case CP-9-2020 for denial.

Mr. Balter noted that the School Capacity Determination Letter had been received from the Brevard County School Board indicating that the public elementary and middle schools had insufficient capacity. Schools outside the area would have to be considered to meet capacity.

Mr. Bruce Moia, P.E., president of MBV Engineering, Inc. (representative for the applicant) explained how the subject commercial property had sat vacant for 40 years before the two existing hotels were pursued with a vision to secure more commercial development for the project. The market was unsuccessful for commercial retail; however, Parasol was bought to build a 55-plus adult, active-living apartment community with attractive amenities. The upscale project would be a \$16-million investment instead of generating a \$3-million commercial investment. He believed the requested Multi-Family Residential Use was compatible with the surrounding Commercial Use. The project would produce less traffic, bring more

taxable income, and provide a quality market-rate rental option for the senior household market. He stated that if approved, the complex would be built.

Ms. Jordan asked about the original plans for the site. Mr. Moia stated that for three years, 12,500 square feet of multi-tenant retail and a restaurant was unsuccessfully marketed for the property. The project would still have a commercial component for a restaurant and 13,000 square feet of multi-tenant retail.

Mr. Boerema inquired whether tenants could be younger than 55. Mr. Moia confirmed that this was correct.

Mr. Warner asked for confirmation on the type of multiple-family use being proposed. Mr. Moia confirmed that an upscale, five-story apartment building was planned for the site.

Ms. Maragh asked if the first-floor amenities would be solely for the tenants. Mr. Moia stated that this was correct.

Mr. Balter stated that staff was not opposed to the project as a whole but with the subject location since there was a substantial amount of property available with the proper zoning and land use.

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

Motion by Ms. Jordan, seconded by Mr. Hill to submit Case CP-9-2020 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Commercial Use to Multi-Family Residential Use.

Ms. Jordan commented on how the subject proposal was being driven by the market, and that it would be good to have a project that benefited the community. She would prefer for the apartment building to be restricted to a 55-plus senior complex.

Mr. Warner complimented the subject proposal but commented on the effort it had taken to create the commercial property, and that based on the Comprehensive Plan, the site should remain commercial. Ms. Maragh added that the City needed diverse housing, but commercial properties in the City were limited and other opportunities could be explored.

Mr. Hill agreed with Ms. Jordan that the proposal was a good project for the subject site, and he noted that larger metro areas had mixed uses. He would also prefer the apartment complex to be a 55-plus only community.

Motion amended by Ms. Jordan, seconded by Mr. Hill to submit Case CP-9-2020 to City Council for approval of a small-scale Comprehensive Plan Future Land Use Map amendment from Commercial Use to Multi-Family Residential Use, subject to the stipulation that the proposed apartment complex be restricted to a 55-plus senior complex. The motion failed with members voting as follows:

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

4. **\*\*CPZ-9-2020 – AD 1 URBAN STRATEGY PALM BAY RETAIL, LLC  
(BRUCE MOIA, P.E., REP.)**

Mr. Weinberg announced that Case CP-9-2020, the associate land use request for Case CPZ-9-2020, had been denied by the board. Board action was required for Case CPZ-9-2020.

Motion by Mr. Warner, seconded by Ms. Maragh to submit Case CPZ-9-2020 to City Council for denial of a zoning amendment from a CC, Community Commercial District to an RM-20, Multiple-Family Residential District. The motion carried with members voting as follows:

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

**5. T-25-2020 – CITY OF PALM BAY (UTILITIES DEPARTMENT)**

Mr. Bradley presented the staff report for Case T-25-2020. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 171: Fair Share Impact Fees, Section 171.50 Water and Wastewater Impact Fees, to adopt proposed water and sewer impact fee adjustments and to establish January 1, 2021 as the date of implementation. Staff recommended Case T-25-2020 for approval, based on the Analysis contained in the staff report.

Ms. Maragh asked for further clarification regarding the amendment.

Mr. Little stated that City Council wanted developers to pay their fair share of impact fees for growth and expansion. He introduced Mr. Jeff Dykstra (managing consultant with Stantec Financial Services) to synopsise the Water and Wastewater Capital Charges Study. Mr. Dykstra gave a brief PowerPoint overview on how the current capital charges were generally aligned with costs, a recommendation to decrease water charges and increase sewer charges, and a recommendation to evaluate costs every three to five years. City Council had previously approved the user rate and impact fee charges.

Mr. Boerema asked if the costs were for new customers. Mr. Dykstra indicated 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 Mr. Boerema, seconded by Mr. Hill to submit Case T-25-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 171: Fair Share Impact Fees, Section 171.50 Water and Wastewater Impact Fees, to adopt proposed water and sewer impact fee adjustments and to establish January 1, 2021 as the date of implementation, based on the Analysis contained in the staff report. The motion carried with members voting unanimously.

**OTHER BUSINESS:**

1. There was no other business discussed.

**ADJOURNMENT:**

The meeting was adjourned at approximately 8:58 p.m.

---

Philip Weinberg, CHAIRPERSON

Attest:

---

Chandra Powell, SECRETARY

**\*\*Quasi-Judicial Proceeding.**