

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2020-14

Held on Wednesday, December 2, 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.

Ms. Kay Maragh 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	Present	
MEMBER:	Richard Hill	Present	
MEMBER:	Khalilah Maragh	Present	
MEMBER:	Rainer Warner	Absent	(Excused)
NON-VOTING MEMBER:	David Karaffa	Present	
	(School Board Appointee)		

Note: Pursuant to Special Planning and Zoning Meeting 2021-02, Adoption of Minutes, the following correction was made to Roll Call to remove Mr. Donny Felix from attendance:

CHAIRPERSON:	Philip Weinberg	Present	
VICE CHAIRPERSON:	Leeta Jordan	Present	
MEMBER:	Donald Boerema	Present	
MEMBER:	Richard Hill	Present	
MEMBER:	Khalilah Maragh	Present	
MEMBER:	Rainer Warner	Absent	(Excused)

MEMBER: Vacant

NON-VOTING MEMBER: David Karaffa Present
(School Board Appointee)

Mr. Warner'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; Ms. Jennifer Cockcroft, Deputy City Attorney; Mr. Valentino Perez, Building Official.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2020-13; November 4, 2020. Motion by Ms. Maragh, seconded by Mr. Hill 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.
2. Mr. Weinberg announced that Cases CP-10-2020 and CPZ-10-2020 (SKA Properties, LLC - Dean Mead Attorneys at Law, Rep.) were administratively continued to the January 6, 2021 Planning and Zoning Board meeting. No board action was required to continue the cases.

The board concurred to consider New Business agenda items at this time.

NEW BUSINESS:

1. ****CU-29-2020 – M. DAVID MOALLEM
(MATT CASON, CONCEPT DEVELOPMENT INC., REP.)**

Mr. Balter presented the staff report for Case CU-29-2020. The applicant had requested a conditional use to increase the maximum building square footage from

5,000 square feet to a proposed 10,700 square feet in an NC, Neighborhood Commercial District. The Planning and Zoning Board must determine if the request meets the criteria of Section 185.087 of the Palm Bay Code of Ordinances.

Mr. Jack Spira, Esquire of Spira, Beadle & McGarrell, PA (representative for Concept Development, Inc.) stated that the subject site was correctly zoned for the proposed use of the property, but the requested increase in building size required a conditional use. He indicated that Ms. Holly White (project engineer with Concept Development, Inc.) was present and had agreed to abide by the staff recommendations.

The floor was opened for public comments.

Ms. Margaret Hardison (resident at Sexton Road SW) spoke against the request. Her home abutted the subject site. She questioned the convenience of having an additional Dollar General Store when another Dollar General was approximately seven minutes away. The store would increase traffic, accidents, and the difficulty

of accessing De Groodt Road SW from Sexton Road. She was concerned about her property value and her well-being because of the traffic and different types of customers that would patronize the store.

In response to the public comments, Mr. Spira stated that a traffic study would be prepared for the site and a buffer would be provided to meet code requirements. He emphasized that the size of the store was market driven, and that the property was already zoned commercial.

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

Ms. Maragh asked if a Citizen Participation Plan (CPP) meeting was held for the request. Mr. Spira indicated that the CPP meeting was attended by two residents.

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case CU-29-2020 to City Council for approval of a conditional use to increase the maximum building square footage from 5,000 square feet to a proposed 10,700 square feet in an NC, Neighborhood Commercial District.

Mr. Weinberg stated that he would not support the request. De Groodt Road was a heavily travelled street, and a 10,000 square-foot store at the subject location would be excessive and cause traffic and other problems for the surrounding residential neighborhood.

A vote was called on the motion by Ms. Jordan, seconded by Ms. Maragh to submit Case CU-29-2020 to City Council for approval of a conditional use to increase the maximum building square footage from 5,000 square feet to a proposed 10,700 square feet in an NC, Neighborhood Commercial District. The motion failed with members voting as follows:

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

2. ****FS-2-2020 – SABAL PALM SQUARE - 2501 LLC (BRUCE MOIA, P.E., REP.)
(REQUEST TO CONTINUE TO JANUARY 6, 2021)**

Mr. Weinberg announced the request to continue Case FS-2-2020 to the January 6, 2021 Planning and Zoning Board meeting. Board action was required to continue the case.

Motion by Ms. Jordan, seconded by Mr. Hill to continue Case FS-2-2020 to the January 6, 2021 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

3. **CP-10-2020 – SKA PROPERTIES, LLC**
(DEAN MEAD ATTORNEYS AT LAW, REP.)

Case CP-10-2020 was discussed under Announcements, Item 2.

4. ****CPZ-10-2020 – SKA PROPERTIES, LLC**
(DEAN MEAD ATTORNEYS AT LAW, REP.)

Case CPZ-10-2020 was discussed under Announcements, Item 2.

5. ****FD-36-2020 – GARDENS AT WATERSTONE PHASE I –**
WATERSTONE FARMS, LLC / PB&J GARDEN INVESTMENT,
LLC (JAKE WISE, P.E. AND ROCHELLE LAWANDALES,
FAICP, REPS.)

Mr. Balter presented the staff report for Case FD-36-2020. The applicant had requested Final Development Plan approval of a PUD, Planned Unit Development to allow a proposed 154 single-family residential development called Gardens at Waterstone Phase I. Staff recommended Case FD-36-2020 for approval, subject to the staff comments contained in the staff report.

Mr. Balter stated that the traffic warrant study mentioned in the technical comments of the staff report had been submitted by the applicant to the Public Works Director.

Ms. Rochelle Lawandales, FAICP, with Waterstone Development Company (representative for the applicant) stated that there was a great deal of interest in the region, and more developments would be coming before the board. She noted that the minimum square footage for the subject proposal would be 1,200 square feet as outlined in the deed restrictions. The traffic study for Mara Loma Boulevard SE had been submitted, and many of the technical comments had been addressed or were in the process of being met. She stated that the subject proposal was in full concert with staff recommendations.

The floor was opened for public comments.

Mr. Luciano Flores (resident at Hubbard Court SE) spoke against the request. He was concerned about construction traffic damaging Mara Loma Boulevard. A percentage of homeowner association fees were used to maintain the road, so he wanted to know who would be responsible for damages.

In response to the public comments, Ms. Lawandales explained that Mara Loma Boulevard was a City street and that homeowner association maintenance fees were used to maintain its landscaping and borders. The project would be licensed and bonded, and damages during construction would be the contractor's responsibility. Mr. Murphy confirmed that the City had accepted ownership and maintenance of Mara Loma Boulevard SE in 2006.

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

Motion by Mr. Boerema, seconded by Mr. Hill to submit Case FD-36-2020 to City Council for Final Development Plan approval of a PUD, Planned Unit Development to allow a proposed 154 single-family residential development called Gardens at Waterstone Phase I, subject to the staff comments contained in the staff report. The motion carried with members voting unanimously.

6. ****CU-37-2020 – BABCOCK LLC (ROBERT V. SCHWERER, ESQ. AND
HASSAN KAMAL, P.E., REPS.)
(REQUEST TO CONTINUE TO JANUARY 6, 2021)**

Mr. Weinberg announced the request to continue Case CU-37-2020 to the January 6, 2021 Planning and Zoning Board meeting. Board action was required to continue the case.

Motion by Mr. Boerema, seconded by Ms. Maragh to continue Case CU-37-2020 to the January 6, 2021 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

7. **Z-38-2020 – SAMUEL GUINTO AND MICHELLE D. GUINTO

Mr. Murphy presented the staff report for Case Z-38-2020. The applicant had requested a zoning change from an IU, Institutional Use District to an RS-2, Single Family Residential District. Staff recommended Case Z-38-2020 for approval.

Mr. Samuel Guinto (applicant) stated that he recently purchased the subject property and planned to build a single-family home on the site.

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. Hill to submit Case Z-38-2020 to City Council for approval of a zoning change from an IU, Institutional Use District to an RS-2, Single Family Residential District. The motion carried with members voting unanimously.

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

OLD BUSINESS:

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

Mr. Bradley presented the staff report for Case T-20-2020 by synthesizing the changes to the request since the board's review on August 5, 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 associated with a single-family residence, that meet certain criteria, from the requirement of obtaining a building permit and to adopt the 7th Edition of the Florida Building Code. Staff recommended that if Case T-20-2020 was approved, a zoning review would remain part of the requirement. The amendment was at the request of Councilman Jeff Bailey.

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.

Mr. Boerema questioned why a poured concrete base was not preferred. Mr. Perez explained that concrete slabs could not be exempted from plan reviews.

Ms. Maragh asked about the recommendation to require zoning reviews. Mr. Bradley elaborated on how Land Development Division staff would continue to review the placement of accessory structures in compliance with zoning regulations and to check whether the structures were on septic systems. Zoning reviews would not include building permits or inspections since accessory structures would be pre-certified to State of Florida standards.

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 reread the benefits listed in the staff report for continuing to have the Building Department issue permits for accessory structures. He could not support the subject request and felt that the minimum cost of a permit ensured the safety and integrity of installed structures. Improper structures could pose a danger to neighborhoods during hazardous weather.

Motion by Mr. Hill, seconded by Ms. Jordan 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 associated with a single-family residence, that meet certain criteria, from the requirement of obtaining a building permit and to adopt the 7th Edition of the Florida Building Code.

Ms. Maragh inquired about the types of uses that would be allowed in a 120 square-foot building. Mr. Bradley stated that the subject proposal allowed for sheds, chicken coops, and other small uninhabitable accessory structures without utilities. The structures would have to meet pre-certified construction standards before being placed on a property, but there would be no inspections. Ms. Maragh questioned the relevance of the required standards if no follow-up inspections would occur. Mr. Bradley explained how pre-certified structures already met wind load and construction integrity standards. Mr. Perez added that the subject proposal was for pre-manufactured certified structures, which prevented site builds. He noted how sheds under 400 square feet were currently exempt from licensing requirements by

State statute. He commented on how pre-manufactured structures were typically purchased from dealers, and that their installers ensured that the proper anchors and specifications were utilized.

Ms. Maragh asked if there had been a problem with providing the inspections. Mr. Perez stated that the inspections were not a burden; however, many municipalities were now exempting smaller accessory structures from requiring permits. Brevard County provided exemptions for structures up to 100 square feet. He stated his support of the subject proposal and commented on how homeowners usually monitored installations to ensure their accessory structures were properly installed.

Mr. Weinberg restated his opposition to the proposal as there were many homeowners who would not ensure their structures were properly installed or anchored. The inspection fee was minimal compared to the damage a flying structure could cause to other properties. He stated his awareness of property rights but believed it was a responsibility of government to protect the right to be safe.

Ms. Jordan asked about other cities that offered similar exemptions. Mr. Bradley noted that Brevard County, the City of Cocoa, Indian River County, and other local municipalities offered exemptions for small accessory structures. Mr. Weinberg remarked that there were also municipalities that did not offer the exemption. Mr. Perez indicated how the International Building Code exempted structures up to 200 square feet from having to acquire a permit.

A vote was called on the motion by Mr. Hill, seconded by Ms. Jordan 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 associated with a single-family residence, that meet certain criteria, from the requirement of obtaining a building permit and to adopt the 7th Edition of the Florida Building Code. The motion carried with members voting as follows:

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

City Council will hear Case T-20-2020 on December 17, 2020.

2. T-33-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT – REQUESTED BY COUNCILMAN JEFF BAILEY)

Mr. Bradley presented the staff report for Case T-33-2020. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.052 RC, Restricted Commercial District, to modify front yard building parking setbacks, and to reduce the minimum side corner building setback. The proposed changes would encourage development along Malabar Road, a major commercial corridor, while still providing protections for residential properties located both in the RC district and the adjoining residential zoning districts. Staff recommended Case T-33-2020 for approval. The amendment was at the request of Councilman Jeff Bailey.

Mr. Boerema inquired into how the subject amendment's reduction of Malabar Road frontage would affect future road widening plans, especially if a building was constructed at the reduced 25-foot side corner setback. The commercial development of RC lots would necessitate lane widenings. Mr. Bradley stated that there could potentially be an impact on the west road widening of Malabar Road, and specific property conditions and options, such as takings, would have to be considered. The intention of the proposal was to encourage commercial development. He did not believe the north side of Malabar Road required additional land for the west road widening, and Malabar Road east of Minton Road had already been widened where the RC properties existed.

Ms. Maragh questioned whether there was an issue that required RC commercial activity. Mr. Bradley stated that some RC property owners had concerns regarding their ability to develop the sites and wanted criteria in line with other zoning districts, like the CC, Community Commercial District. Mr. Weinberg asked how the proposed

change from a 15-foot setback to a 10-foot setback compared to the CC district's front yard parking areas that faced arterial roads. Mr. Bradley stated that the same setback was allowed by the CC district. The proposed amendment would also make the RC district consistent with the GC, General Commercial and NC, Neighborhood Commercial Districts.

Mr. Balter informed the board of the City's Right-of-Way Acquisition team, and that most of the land acquisition for the Malabar Road widening had already taken place within the City. The City would enter into an agreement with property owners during the administrative review process of projects if additional right-of-way was needed. Mr. Murphy added that all identified properties for the west Malabar Road widening were on the southside of Malabar Road. The only RC property west of Minton Road was on the north side of the road. Existing right-of-way and the center medians on Malabar Road could be used if additional widening was required east of Minton Road. It would be years before there would be enough traffic trips to generate an additional east Malabar Road widening.

Motion by Ms. Maragh, seconded by Mr. Hill to submit Case T-33-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.052 RC, Restricted Commercial District, to modify front yard building parking setbacks, and to reduce the minimum side corner building setback. The motion carried with members voting unanimously.

City Council will hear Case T-33-2020 on December 17, 2020.

3. T-34-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT – REQUESTED BY DEPUTY MAYOR KENNY JOHNSON)

Mr. Balter presented the staff report for Case T-34-2020. The applicant had requested a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006 Definitions and 185.042 NC, Neighborhood Commercial District, to modify provisions for the NC district. Staff recommended Case T-34-2020 for approval. The amendment was at the request of Deputy Mayor Kenny Johnson.

Mr. Weinberg commented that the proposed amendment would require small-box stores like Dollar General to offer fresh fruits, vegetables, and meats. Mr. Balter stated that this was correct, and that the ordinance also included a one-mile distance requirement to avoid the saturation of Dollar General Stores.

Ms. Maragh stated that the fresh fruit, vegetable, and meat requirement seemed unreasonable for small businesses. She asked about the quantity of fresh items a business would be required to carry. Mr. Balter stated that ten percent of gross floor area must be set aside for fresh fruits, vegetables, and meats for a new business to operate in an NC district.

Mr. Weinberg envisioned neighborhood markets in the NC district.

There was no public present in the audience for public comments and there was no correspondence in the file.

Motion by Mr. Hill, seconded by Mr. Boerema to submit Case T-34-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006 Definitions and 185.042 NC, Neighborhood Commercial District, to modify provisions for the NC district. The motion carried with members voting as follows:

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

City Council will hear Case T-34-2020 on December 17, 2020.

NEW BUSINESS:

1. ****CU-29-2020 – M. DAVID MOALLEM
(MATT CASON, CONCEPT DEVELOPMENT INC., REP.)**

Case CU-29-2020 was discussed following Announcements, New Business Item 1.

2. ****FS-2-2020 – SABAL PALM SQUARE - 2501 LLC (BRUCE MOIA, P.E., REP.)**
(REQUEST TO CONTINUE TO JANUARY 6, 2021)

Case FS-2-2020 was discussed following Announcements, New Business Item 2.

3. **CP-10-2020 – SKA PROPERTIES, LLC**
(DEAN MEAD ATTORNEYS AT LAW, REP.)

Case CP-10-2020 was discussed under Announcements, Item 2.

4. ****CPZ-10-2020 – SKA PROPERTIES, LLC**
(DEAN MEAD ATTORNEYS AT LAW, REP.)

Case CPZ-10-2020 was discussed under Announcements, Item 2.

5. ****FD-36-2020 – GARDENS AT WATERSTONE PHASE I –**
WATERSTONE FARMS, LLC / PB&J GARDEN INVESTMENT,
LLC (JAKE WISE, P.E. AND ROCHELLE LAWANDALES,
FAICP, REPS.)

Case FD-36-2020 was discussed following Announcements, New Business Item 5.

6. ****CU-37-2020 – BABCOCK LLC (ROBERT V. SCHWERER, ESQ. AND**
HASSAN KAMAL, P.E., REPS.)
(REQUEST TO CONTINUE TO JANUARY 6, 2021)

Case CU-37-2020 was discussed following Announcements, New Business Item 6.

7. ****Z-38-2020 – SAMUEL GUINTO AND MICHELLE D. GUINTO**

Case Z-38-2020 was discussed following Announcements, New Business Item 7.

OTHER BUSINESS:

1. Well wishes were expressed for Christmas and the New Year.

ADJOURNMENT:

The meeting was adjourned at approximately 8:06 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

****Quasi-Judicial Proceeding**