

**CITY OF PALM BAY, FLORIDA**  
**PLANNING AND ZONING BOARD/m**  
**LOCAL PLANNING AGENCY**  
**REGULAR MEETING 2020-13**

Held on Wednesday, November 4, 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. Richard Hill led the Pledge of Allegiance to the Flag.

**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	Present
<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)	

**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.

**ADOPTION OF MINUTES:**

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2020-12; October 7, 2020. Motion by Ms. Maragh, seconded by Mr. Felix 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. James Stokes informed the board of his resignation as the board attorney due to work obligations, and he expressed his pleasure in serving the board. Ms. Jennifer Cockcroft was welcomed as the new counsel for the board.

## **OLD BUSINESS:**

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

***(REQUEST TO CONTINUE TO DECEMBER 2, 2020)***

Mr. Weinberg announced there was a request (second) to continue Case T-20-2020 to the December 2, 2020 Planning and Zoning Board meeting. Board action was required to continue the case.

Motion by Mr. Warner, seconded by Ms. Maragh to continue Case T-20-2020 to the December 2, 2020 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

City Council will hear the request on December 17, 2020.

## **NEW BUSINESS:**

1. **\*\*V-26-2020 – PALLADIO DEVELOPMENT, LLC (KATJA JONES, REP.)**

Mr. Murphy presented the staff report for Case V-26-2020. The applicant had requested a variance to allow a proposed home to exceed the allowable finish floor elevation by a maximum of 2.2 feet, as established by Section 174.073(A)(3) of the Palm Bay Code of Ordinances. 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.

Ms. Katja Jones (representative for the applicant) stated that the intent of the subject request was to build a single-family home on the subject site, and that the proposed home was currently under contract.

The floor was opened for public comments.

Mr. Stomber (resident at Aladdin Street NE) spoke against the request. He stated that his home was built in 2019 to meet the floor elevation requirement of 5 feet above the center of the road. Allowing the proposed home to be constructed 2.2 feet higher would cause erosion to his property and negate his 4-foot high privacy fence. The two lots had no difference in size or elevation.

The floor was closed for public comments; there was three correspondence in the file in opposition to the request that included correspondence from Mr. Stomber.

Ms. Maragh inquired whether the requested increase in elevation would affect neighboring properties. Mr. Murphy stated that there was approximately 37 feet of land and a side lot line ditch between Mr. Stomber's property line and the east side of the proposed home. Any flow would enter the ditch well before reaching Mr. Stomber's property and would transfer north into the Melbourne-Tillman Water Control District Canal behind the lots. He explained how the subject property needed the proposed adjustment to compensate for the adjacent home on the west side that was built six feet above the crown of the road.

Ms. Maragh asked whether the subject home would become unbuildable without the variance. Mr. Murphy stated that construction options available for the home, such as a stem wall or stilts, would be excessive compared to other homes in the area.

Ms. Jordan questioned how the home to the west was permitted to build so high. Mr. Murphy explained that the code currently protected existing homes from new homes, and that the home to the west was built first at the higher elevation.

Mr. Weinberg stated that he would support the subject proposal which would allow the home to be built at 30 inches above the finish floor elevation since the home to the west was 31 inches above finish floor elevation.

Motion by Ms. Maragh, seconded by Mr. Felix to submit Case V-26-2020 to City Council for approval of a variance to allow a proposed home to exceed the allowable finish floor elevation by a maximum of 2.2 feet, as established by Section 174.073(A)(3) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

2. **\*\*V-28-2020 – DALE HERSCHER**

Mr. Balter presented the staff report for Case V-28-2020. The applicant had requested a variance to allow a proposed covered carport to encroach 6.5 feet into the 8-foot side interior setback as established by Section 185.033(F)(7)(b) of the Palm Bay Code of Ordinances. 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. Dale Herscher (applicant) stated that a covered carport was being requested to protect his disabled wife when accessing their home and vehicle. The carport would be built to code by a contractor.

Mr. Boerema asked if a slab was present. Mr. Herscher confirmed that there was an existing slab.

Mr. Weinberg asked for confirmation that the carport would not extend beyond the existing slab. Mr. Herscher indicated that this was correct.

The floor was closed for public comments; there was one correspondence in the file in opposition to the request.

Motion by Mr. Hill, seconded by Ms. Jordan to submit Case V-28-2020 to City Council for approval of a variance to allow a proposed covered carport to encroach 6.5 feet into the 8-foot side interior setback as established by Section 185.033(F)(7)(b) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

3. **\*\*CU-30-2020 – DSG, LLC AND GUS & SON, LLC (JAKE WISE, P.E., REP.)**

Mr. Murphy presented the staff report for Case CU-30-2020. The applicant had requested a conditional use to allow an assisted living facility called Hampton Manor of Palm Bay in an IU, Institutional Use District. The board had to determine if the request met the criteria of Section 185.087 of the Palm Bay Code of Ordinances. If approved, staff recommended conditions on the request.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project and representative for the applicant) explained that the current zoning and land use for the subject property allowed for an assisted living facility by conditional use. The 60-unit, single-family development previously approved for the 20-acre site would have generated more traffic and required the wooded property to be clear cut. The proposal to construct a 94-unit assisted living facility on the southern 7.6 acres of the site would have a much lower impact. The site was designed to be a good neighbor and to retain as much buffering as possible. Tree preservation was a concern discussed at the Citizen Participation Plan (CPP) meeting. Trees and buffering would serve as protection between the facility and the adjacent neighborhood. He explained that most residents of the facility would be under memory care and unable to drive, so traffic would be minimal. He described how the proposed building location would be distanced from current single-family homes and well buffered by existing preservation and the increased setbacks. The layout of the dry stormwater retention system, small wet pond, and 8-foot high fence would save trees. Onsite drainage would not impact the neighborhood, and a photometric study for lighting would be provided to ensure zero-foot candles. The project's extension of utilities to the site for water and wastewater would benefit the community. He stated that he was in agreement with the staff conditions.

Mr. Warner asked about the projects previously approved for the site and if including the emergency access lane as a condition of the project would be a problem. Mr. Wise explained how the subject proposal would replace the previous proposals. He clarified that an emergency access lane would only be required if there was a future addition to the subject request.

Mr. Hill asked whether any mitigation was planned for the removal of the large specimen trees. Mr. Wise confirmed that the large specimen trees would be mitigated and commented on how most of the large oak trees were on the north end of the property.

Ms. Maragh inquired whether the fence would be extended north to the project entrance as requested by staff. Mr. Wise confirmed that this was correct.

The floor was opened for public comments.

Ms. Nancy Glover (resident at Ruffin Circle SE) spoke against the request. She wanted to know what was planned for the north section of the property, and if the proposed fence would be erected around the entire site or just the subject development. Mr. Murphy stated that the remaining balance of the site would be left undisturbed or would be required to come back before the board and City Council with a development plan for that portion of the site.

Ms. Lisa Behuniak (resident at Buffing Circle SE) spoke against the request. She was concerned with how the wildlife on the subject site would be addressed. There had been sightings of tortoises, white-tailed and red-tailed hawks, and a Florida panther.

Mr. John Cayford (resident at Buffing Circle SE) spoke against the request. He wanted the land to be persevered for future generations. He stated how he had picked up garbage and maintained the trails on the property for 27 years, and that there were 200-year-old oak trees on the site. He believed the City would be better served by preservation and conservation of the land as a natural extension of Oakwood Park to the north.

Mr. William Roberts (resident at Operetta Avenue SE) spoke against the request. He did not want a two-story facility to abut his backyard.

Ms. Pamela Frazer (resident at Ruffin Circle SE) spoke against the request. She was concerned about her property value.

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

In response to comments from the audience, Mr. Wise indicated the portion of the site that was currently under review and reiterated that the balance of the property would remain undisturbed. He agreed to extend the 8-foot high fence to Pilgrim Lane SE. An environmental study was done for protected species, and the gopher tortoises on the site would be relocated per State guidelines. The City was unable to accommodate the balance of the subject site for a preservation addition to Oakwood Park. He clarified that the facility would be a beautifully maintained 25-foot high, single-story building. The developer had constructed immaculate assisted living facilities that typically increased surrounding property values.

Mr. Boerema inquired whether east to west fencing would be erected on the north side of the property. He was concerned about the residents of the facility becoming lost in the wooded area. Mr. Wise indicated the proposed placement of the fencing and noted that each resident of the facility would be individually monitored.

Motion by Mr. Boerema, seconded by Mr. Hill to submit Case CU-30-2020 to City Council for approval of a conditional use to allow an assisted living facility called Hampton Manor of Palm Bay in an IU, Institutional Use District, subject to staff conditions. The motion carried with members voting unanimously.

4. **\*\*CU-31-2020 – WJJ LAND HOLDINGS, LLC (JACOB BYNUM)**

Mr. Murphy presented the staff report for Case CU-31-2020. The applicant had requested a conditional use to allow for proposed automotive fuel dispensary in an LI, Light Industrial and Warehousing District. The board had to determine if the request met the criteria of Section 185.087 of the Palm Bay Code of Ordinances.

Mr. Jacob Bynum (applicant) stated that a concrete pumping business was proposed for the site, and that the requested automotive fuel dispensary would be double walled with a cinderblock wall as a third containment.

Mr. Warner inquired whether the tank could be removed in the future if the business was to shut down. Mr. Bynum stated that the aboveground tank could be removed.

Mr. Boerema questioned whether diesel or gasoline fuel would be utilized, and if there would be an apparatus for spillage while trucks refueled. Mr. Bynum indicated that diesel fuel would be used, and that the third containment area and the professional pumps would control spillage.

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, second by Mr. Hill to submit Case CU-31-2020 to City Council for approval of a conditional use to allow for proposed automotive fuel dispensary in an LI, Light Industrial and Warehousing District. The motion carried with members voting unanimously.

5. **\*\*PD-32-2020 – GARDENS AT WATERSTONE PHASE I –  
WATERSTONE DEVELOPMENT, LLC (JAKE WISE, P.E. AND  
ROCHELLE LAWANDALES, FAICP, REPS.)**

Mr. Balter presented the staff report for Case PD-32-2020. The applicant had requested Preliminary Development Plan approval for a PUD, Planned Unit Development to allow a proposed 154 single-family residential development called Gardens at Waterstone Phase I. Staff recommended Case PD-32-2020 for approval, subject to the staff comments contained in the staff report.

Mr. Balter indicated that construction drawings were no longer a condition for the project.

Ms. Rochelle Lawandales, FAICP with Waterstone Development, LLC (co-representative for the applicant) stated that the proposed single-family development would be an extension of Mara Loma Boulevard SE and was currently under contract with development company Forte Macaulay. Preliminary permits had been obtained from the St. Johns River Water Management District; environmental reports and traffic reports had been submitted; and staff conditions had been met for the preliminary subdivision plat, boundary and title opinion, deed restrictions, and construction drawings. An application for the Final Development Plan was submitted. She said that a Citizen Participation Plan (CPP) meeting was held; the



project would have its own recreation area; and future phases of the development would occur organically.

Mr. Boerema was concerned about the proposed 40-foot wide lots with the existing homes in the area. He asked if the concern was discussed at the CPP meeting. Ms. Lawandales noted that the original approval for the area was for 38-foot wide lots, and the Heron Bay development to the east had predominantly 50-foot wide lots. Lot sizes were not a concern discussed at the CPP meeting.

Ms. Maragh asked if the applicant was in agreement with the staff recommendations. Ms. Lawandales indicated her agreement with all staff comments and reiterated how three of the staff conditions had been met and addressed in the Final Development Plan submittal.

Mr. Jake Wise, P.E. of Construction Engineering Group, Inc. (civil engineer for the project and co-representative for the applicant) stated that the 40-foot wide lots of Phase I would offer a diversity in lot product as the Cypress Bay development under construction to the east had 50-foot wide lots. The two next phases of the subject development would offer more lot sizes. He commented on how helpful the CPP meetings had become, and how the residents in the area were anxious for commercial development.

Ms. Maragh inquired about when the commercial development would occur. Mr. Wise stated that commercial development was based on rooftops and would occur once the subject development and Cypress Bay to the east were constructed. Ms. Lawandales added that each residential project brought the area nearer to supporting commercial development.

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 Ms. Jordan to submit Case PD-32-2020 to City Council for Preliminary 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. T-33-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT – REQUESTED BY COUNCILMAN JEFF BAILEY)**  
***(REQUEST TO CONTINUE TO DECEMBER 2, 2020)***

Mr. Weinberg stated that Councilman Jeff Bailey had requested a continuance of Case T-33-2020 to the December 2, 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-33-2020 to the December 2, 2020 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

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

**7. T-34-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT – REQUESTED BY DEPUTY MAYOR KENNY JOHNSON)**  
***(REQUEST TO CONTINUE TO DECEMBER 2, 2020)***

Mr. Weinberg stated that Deputy Mayor Kenny Johnson had requested a continuance of Case T-34-2020 to the December 2, 2020 Planning and Zoning Board meeting. Board action was required to continue the case.

Motion by Mr. Felix, seconded by Ms. Maragh to continue Case T-34-2020 to the December 2, 2020 Planning and Zoning Board meeting. The motion carried with members voting unanimously.

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

**8. T-35-2020 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)**

Mr. Bradley presented the staff report for Case T-35-2020. The applicant had requested a textual amendment to the Code of Ordinances, Title III: Administration, to transfer the Federal Emergency Management Agency Community Rating System (FEMA CRS) program from Chapter 37, Growth Management Department to Chapter 40, Building Department; and to amend Title XVII, Land Development Code, Chapter 174: Floodplain Management, to adopt the revised flood insurance study and flood insurance rate maps, incorporate requirements for coastal high hazard

areas, providing for applicability, severability, and an effective date of January 29, 2021. Staff recommended Case T-35-2020 for approval with an effective date of January 29, 2021.

The board had no comments regarding the request.

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 Mr. Boerema to submit Case T-35-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title III: Administration, to transfer the Federal Emergency Management Agency Community Rating System (FEMA CRS) program from Chapter 37, Growth Management Department to Chapter 40, Building Department; and to amend Title XVII, Land Development Code, Chapter 174: Floodplain Management, to adopt the revised flood insurance study and flood insurance rate maps, incorporate requirements for coastal high hazard areas, providing for applicability, severability, and an effective date of January 29, 2021. The motion carried with members voting unanimously.

#### **OTHER BUSINESS:**

1. The board congratulated Mr. Donny Felix on his election to the City Council.

#### **ADJOURNMENT:**

The meeting was adjourned at approximately 8:23 p.m.

---

Philip Weinberg, CHAIRPERSON

Attest:

---

Chandra Powell, SECRETARY

\*\*Quasi-Judicial Proceeding.