

**CITY OF PALM BAY, FLORIDA**  
**PLANNING AND ZONING BOARD/**  
**LOCAL PLANNING AGENCY**  
**REGULAR MEETING 2021-05**

Held on Wednesday, April 7, 2021, 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. Rainer Warner 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>	James Boothroyd	Present
<b>MEMBER:</b>	Richard Hill	Absent (Excused)
<b>MEMBER:</b>	Khalilah Maragh	Present
<b>MEMBER:</b>	Rainer Warner	Present
<b>NON-VOTING MEMBER:</b>	David Karaffa	Present
	(School Board Appointee)	

Mr. Hill's absence was excused.

**CITY STAFF:** Present were Mr. Laurence Bradley, Growth Management Director; Mr. Christopher Balter, Senior Planner; Mr. Grayson Taylor, 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 2021-04; March 3, 2021.**

Motion to approve the minutes as presented.

Motion by Mr. Maragh, seconded by Mr. Warner. Motion carried with members voting as follows:

**Aye:** Weinberg, Jordan, Boerema, Boothroyd, Maragh, Warner.

#### **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.

#### **NEW BUSINESS:**

1. **\*\*V-9-2021 - Rene Derosin - CONTINUED TO 5/5/2021 P&Z - A variance to allow a proposed screen enclosure with a solid roof to encroach 8 feet into the 25-foot rear yard setback as established by Section 185.034(F)(7)(d) of the Palm Bay Code of Ordinances. Lot 8, Block 298, Port Malabar Unit 8, Section 32, Township 28, Range 37, Brevard County, Florida, containing .31 acres, more or less. (Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane NE)**

Mr. Weinberg announced that Case V-9-2021 had been continued to the May 5, 2021 Planning and Zoning Board meeting. The continuance would allow the applicant to meet the Public Hearing Notices requirement. No board action was required to continue the case.

2. **\*\*V-10-2021 - Mary B. Vargas (Douglas C. Michels, Rep.) - A variance to allow a proposed screen room enclosure to encroach 6 feet and an existing swimming pool to encroach 8 feet into the 8-foot side accessory structure setback as established by Section 185.118(A)(4) of the Palm Bay Code of Ordinances. Lots 7 and 12, Block 1224, Port Malabar Unit 24, Section 32, Township 29, Range 37, Brevard County, FL containing .47 acres, more or less. (East of and adjacent to Telesca Road SE and west of and adjacent to Cogan Drive SE, specifically at 3107 Telesca Road SE)**

Mr. Taylor presented the staff report for Case V-10-2021. 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. Maragh asked if the required vacating of easement for the swimming pool would be applied automatically. Mr. Grayson stated that a vacating request would need to go through a public hearing process before City Council.

Mr. Doug Michels with Michels Screening, Inc. (representative for the applicant) explained that setbacks for pool enclosures had changed since 2005 when the pool was installed. The variance would allow the property owner to have her pool enclosure.

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 to submit Case V-10-2021 to City Council for approval.

Motion by Ms. Jordan, seconded by Mr. Boerema. Motion carried with members voting as follows:

**Aye:** Weinberg, Jordan, Boerema, Boothroyd, Maragh, Warner.

3. **\*\*FD-11-2021 - Cypress Bay West Phase I - Waterstone Farms, LLC (Brian Davidson and Jake Wise, P.E., Reps.) – A Final Development Plan to allow for a 229-lot single-family development called Cypress Bay West Phase I PUD. Part of Tax Parcel 500, Section 4, Township 30, Range 37, Brevard County, Florida, containing 77.52 acres, more or less. (In the vicinity south of Mara Loma Boulevard SE)**

Mr. Balter presented the staff report for Case FD-11-2021. Staff recommended Case FD-11-2021 for approval, subject to the staff comments contained in the staff report.

Mr. Jake Wise, P.E. with Construction Engineering Group (representative for the applicant) gave an overview of the project. The development began in 2004 and was later delayed by a downturn in the market. He said that the internal roads would be built to City standards and privately maintained; water and wastewater would be extended; and maintenance concerns by area residents regarding the extension of Mara Loma Boulevard SE had been addressed through a maintenance agreement. A traffic signal was under design to be permitted through Brevard County for Mara Loma Boulevard and Babcock Street SE. The subject site had no environmental issues or endangered species, and approval was obtained for Brevard County School Board concurrency. The site was well buffered from the existing residential developments with large ponds and open green space. He noted that the recreation for Phase I had been changed to be more passive because of recent plans to process Phase II sooner with larger recreation amenities. The development was compatible with the overall master plan for the Waterstone PUD.

Ms. Maragh asked if the applicant was in agreement with staff recommendations, including the road name change to Mara Loma Boulevard for consistency. Mr. Wise stated his agreement with all staff recommendations, and that he would attempt to address the road name with Brevard County, as desired by the area residents and at City Council's direction to work with the residents.

Mr. Boerema asked about the plans for a smaller recreation area. Mr. Wise explained that the recreation acreage would remain the same but provide passive recreation since Phase II would include a clubhouse and swimming pool.

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 to submit Case FD-11-2021 to City Council for approval, subject to the staff comments contained in the report.

Motion by Ms. Maragh, seconded by Mr. Boothroyd. Motion carried with members voting as follows:

**Aye:** Weinberg, Jordan, Boerema, Boothroyd, Maragh, Warner.

4. **\*\*FD-12-2021 - Chaparral Phase III - Chaparral Properties, LLC (Jake Wise, P.E., Rep.) – A Final Development Plan to allow for a 165-lot single-family development called Chaparral Phase III PUD. Part of Tax Parcel 1, Section 4, Township 29, Range 36, Brevard County, Florida, containing 68.82 acres, more or less. (South of Malabar Road SW and west of Brentwood Lakes Subdivision)**

Mr. Balter presented the staff report for Case FD-12-2021. Staff recommended Case FD-12-2021 for approval, subject to the staff comments contained in the staff report.

Mr. Boerema was not in favor of the smaller sized lots. He wanted to know if there were other subdivisions in the City with 40-foot-wide lots. Mr. Balter stated that there were other developments in the City with 40-foot-wide lots, and that there appeared to be a market for homeowners who preferred to provide care for less property. Palm Bay also had plenty of the standard 80-foot wide by 125-foot-deep lots.

Mr. Boothroyd was concerned about drainage on smaller sized lots, and he commented on the need for a traffic signal to alleviate Malabar Road congestion. Mr. Balter stated that requirements for both City stormwater and the St. Johns River Water Management District would have to be met. All ponds in the overall development were interconnected and would not be allowed to discharge more than discharged historically. Staff had also required a relook at traffic signalization and whether the signalization would be warranted sooner based on new data.

Mr. Rainer wanted to confirm that the technical comments in the staff report were part of the staff comments. Mr. Balter indicated that this was correct.

Mr. Jake Wise, P.E. with Construction Engineering Group (representative for the applicant) gave an overview of the subject development, which began in 2005. All project improvements would be funded through the Chaparral Community Development District (CDD). The 40-foot and 50-foot-wide lots would meet a demand for smaller lots; strict Melbourne Tillman Water Control District guidelines would be met for allowable drainage discharge; and the 2019 Traffic Study would be updated. Larger 135-foot-deep lots and fencing would be located on the western boundary to accommodate residents of Malabar Lakes West. The finished floor elevations in both subdivisions were compatible, and the lots abutting Malabar Lakes West would have front drainage. Brevard County School Board concurrency had

been obtained, and the subject development was compatible with the overall master plan for Chaparral PUD. He commented on how there would be pocket parks in each pod of the PUD and a linear trail system throughout. The subject phase, however, would include a large recreation common area.

Mr. Warner inquired about the minimum square footage of the homes planned for the small lots. Mr. Wise stated that the minimum living area for a home would be 1,437 square feet.

The floor was opened for public comments.

Ms. Brenda Chrieki (officer of Malabar Lakes West Homeowners Association) spoke against the request. She remarked on how the small lots planned for the development would lower the property value of the much larger lots in Malabar Lakes West. Residents of Malabar Lakes West continued to have concerns regarding construction dirt piles and dust blown into their pools and filters. She asked that the required 8-foot-high wall be erected prior to further construction to lessen the development's impact. She was opposed to more traffic, the additional school traffic, additional stop lights, noise, and the reduction in wildlife. She felt that Phase III should not move forward until the properties in Phases I and II were sold.

Mr. Jim Flynn (610 Hurley Boulevard SW) spoke against the request. He stated that a traffic signal at the Malabar Road and St. Johns Heritage Parkway intersection was warranted right now.

In response to comments from the audience, Mr. Wise explained that the issues that Malabar Lakes West had with the subject site's drainage, piles of fill, and debris had been addressed with Phase I. He agreed that installing the required 8-foot-high fence at this time was a reasonable request that would be met. He commented on how the traffic problems at the intersection of Malabar Road and St. Johns Heritage Parkway would be resolved by the traffic signals, once identified in an updated traffic study and warrant analysis.

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

Motion to submit Case FD-12-2021 to City Council for approval, subject to the staff and technical comments contained in the report, with the condition that an 8-foot-high fence or wall be erected prior to the completion of Phase I.

Motion by Ms. Maragh, seconded by Mr. Boothroyd. Motion carried with members voting as follows:

**Aye:** Weinberg, Jordan, Boerema, Boothroyd, Maragh, Warner.

5. **\*\*PD-13-2021 - Richmond Cove - Joseph Cleo/Josiah King, Inc./RFK Residential Development Properties, LLC (Richard Fadil and Bruce Moia, P.E., Reps.) – A Preliminary Development Plan to allow for a 149-lot single-family development called Richmond Cove PUD. Tracts C and C.02 of Port Malabar Unit 32 with Tax Parcel 251, Section 13, Township 29, Range 36, Brevard County, Florida, containing 60.22 acres, more or less. (West of and adjacent to Gaynor Drive SW, in the vicinity north of Ocean Spray Street SW)**

Mr. Balter presented the staff report for Case PD-13-2021. Staff recommended Case PD-13-2021 for approval, subject to the staff comments contained in the report.

Mr. Bruce Moia, P.E. of MBV Engineering, Inc. (representative for the applicant) stated that the proposed PUD was similar to the newly constructed development to the south, and that the smaller lots in the subject development would allow over 43 percent of the site to be used for common and passive open space and wetland preservation. The density for the development was 2.47 units per acre, which was less than the surrounding area.

Mr. Boerema inquired whether the 50-foot-wide lots allowed for five lots per acre. Mr. Moia explained that the existing Single Family Residential land use would remain; however, the requested PUD would have a density of 2.47 lots per acre.

Mr. Weinberg stated his concern regarding the effect the traffic would have on Gaynor Drive SW. The traffic impact statement that was submitted did not take into account the Bayridge development to the south, and how most of the traffic from both developments would use the local residential streets to reach De Groodt Boulevard SW to the north. Mr. Moia explained that the traffic impact statement was

an informal analysis, and that the required traffic study would be more extensive. Most vehicles in the area would likely use the major roads. Mr. Weinberg remarked that there were no main roads to reach De Groodt Boulevard to the east or Garvey Road to the west.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke against the request. He stated that 80 percent of the residents on the three properties in the subject area resided on RR, Rural Residential land with livestock or agriculture. The proposed development with 50-foot-wide lots would be incompatible with the existing RR properties. He wanted all construction vehicles and materials contained on the subject site and not on his street. He noted the RR property surrounded by the development that a resident had purchased three years ago and would now be surrounded by small lots instead of the assumed acreages. He presented photos to the board to demonstrate the overgrown vegetation and narrowness of Gaynor Drive, and the construction vehicles parked on the side streets. The speeding construction vehicles were a problem in the area. He compared the existing one unit per acre allowed by the RR district with the minimum units per acre for an RS-2, Single Family Residential District and the requested PUD. He noted that the plans for the development did not indicate the required swimming pool for a PUD. He wanted to know who would be paying the back taxes on the property, and stated how property purchased, owned, held, and sold as RR should be developed as RR.

Mr. Daniel Smith (resident at Ocean Spray Street SW) had comments regarding the request. He resided at the RR property south of the subject site and was concerned with how the drainage from the development would affect his acreages. Easements and land had been given to the City from his property in the past for drainage, which included the two easements for the subject site that served as the main drainage from Gaynor Drive west. He stated that the 149 concrete slabs and homes planned for the property would affect drainage. He also remarked on how the development to the south had increased the traffic in the area by tenfold, and that according to the City, Gaynor Drive was never designed to be a through road. He commented that the drainage and traffic concerns should be addressed now before they became problems in the future.



Ms. Ann-Marie Fraser (property owner at Oceanside Street SW) had comments regarding the request. She remarked on the development and growth of the City over the years. She did not believe the traffic trip generation analysis for an hour between 4:00 p.m. and 6:00 p.m. was a true definition of the traffic trips for Gaynor Drive and Garvey Road. She commented on the number of residential developments currently under construction or review by the City and explained that continually approving residential developments without a balance of additional commercial and industrial projects was a disservice to the City. She noted that the subject area had no sidewalks or a grocery store within proximity.

Mr. Mark Fahl (resident at Gaynor Road SW) spoke against the request. He stated that he purchased his RR property three years ago enclosed by the RR land under consideration and completed his home last year, which would now be impacted by small lots and a lift station. He was also concerned about his pond being used by the residents in the development.

Ms. Gloria Thomas (resident at Westunder Street SE) spoke against the request. She inquired about the pool for the area. She wanted the street repaired, and sidewalks and lights installed for safety and a better community.

In response to the public comments, Mr. Moia stated that there were RS-2 properties to the north, east, and south of the site and only a small enclave of RR properties. The area was predominantly RS-2. He remarked that construction was cumbersome, but site superintendents and the City would hopefully ensure that the existing neighborhood was not unduly impacted. He commented that the RR property that was surrounded by the development would be buffered as much as possible by green space with lakes and wetlands on its north side and a City drainage easement and wetland to the south. The lift station would be approximately 400 feet away from the home but could be placed farther away. He commented that Gaynor Drive was a public road with the capacity to handle the anticipated traffic, and any necessary improvements would be done based on the traffic analysis. Smaller lots were the trend as evidenced by the available standard sized lots to the east. Any delinquent taxes would be paid during lot sales. He noted that the other adjacent RR homeowner off Ocean Spray Street would be buffered by an open space lot and the 20-foot buffer along the south property line. Since the development

abutted the Melbourne Tillman Water Control District on the north and west boundaries, the drainage for the neighboring properties would likely improve. He was not aware of Gaynor Road being designed for anything but a through street. The 20-foot-wide road was narrow but not unusual. He explained that the evening peak hours in the traffic analysis was based on guidelines by the International Transportation of Engineers. He stated that the development would not include sidewalks as there were no sidewalks in the area to connect to.

Ms. Maragh asked if a swimming pool was included in the development. Mr. Moia indicated that the swimming pool requirement would be met.

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

Mr. Weinberg stated that he had concerns about the project and there were several items that needed to be addressed with staff, but he would support the preliminary proposal at this time. Homes on smaller lots was the future.

Ms. Maragh stated that she would not support the project. Although smaller lots were market driven, there were still quite a few homebuyers that desired large parcels of land for homes in Palm Bay.

Mr. Warner was concerned with how the residents of the development would evacuate during an emergency. He believed the property should remain RR and he was concerned with the functional wetlands becoming a future drainage issue. He could not support the request.

Motion to submit Case PD-13-2021 to City Council for approval, subject to the comments contained in the staff report.

Motion by Mr. Boerema, seconded by Mr. Boothroyd. Motion failed with members voting as follows:

**Aye:** Weinberg, Boothroyd.

**Nay:** Jordan, Boerema, Maragh, Warner.

6. **T-14-2021 - City of Palm (Growth Management Department) - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 178: Signs, to establish provisions for Wayfinding Signs and to modify the language for Wall Signs.**

Mr. Bradley presented the staff report for Case T-14-2021. Staff recommended Case T-14-2021 for approval as written.

Mr. Weinberg commented on there being no limitations on the number of businesses advertised, shape, size, colors, or type for the wayfinding signs, which seemed vague. Mr. Bradley stated that according to decisions by the Supreme Court, the City could only regulate time, place, and manner, and not the sign content.

Mr. Boothroyd inquired whether the amendment would address advertisement signs that were placed on properties where the businesses were not located. Mr. Bradley stated that the offsite businesses would be required to obtain written consent from the property owners to place the wayfinding signs on the properties.

Ms. Maragh asked about limitations on the allowance of multiple businesses per sign. Mr. Weinberg and Mr. Bradley noted that the overall size of wayfinding signs at 36 square feet would limit the number of businesses on a sign.

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 to submit Case T-14-2021 to City Council for approval.

Motion by Ms. Jordan, seconded by Ms. Maragh. Motion carried with members voting as follows:

**Aye:** Weinberg, Jordan, Boerema, Boothroyd, Maragh, Warner.

**OTHER BUSINESS:**

There was no other business discussed.

**ADJOURNMENT:**

The meeting was adjourned at approximately 9:04 p.m.

---

Philip Weinberg, CHAIRPERSON

Attest:

---

Chandra Powell, SECRETARY

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