

**CITY OF PALM BAY, FLORIDA**  
**PLANNING AND ZONING BOARD/**  
**LOCAL PLANNING AGENCY**  
**REGULAR MEETING 2021-06**

Held on Wednesday, May 5, 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. Donald Boerema 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	Present
<b>MEMBER:</b>	Khalilah Maragh	Absent (Excused)
<b>MEMBER:</b>	Rainer Warner	Present
<b>NON-VOTING MEMBER:</b>	David Karaffa	Present
	(School Board Appointee)	

Ms. Maragh's absence was excused.

**CITY STAFF:** Present were Mr. Laurence Bradley, Growth Management Director; Mr. Patrick Murphy, Assistant Growth Management Director; 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 2021-05; April 7, 2021.**

Motion to approve the minutes as presented.

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

**Aye:** Weinberg, Jordan, Boerema, Boothroyd, Hill, 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.
2. Mr. Weinberg announced that Item 1, Case V-9-2021 (Rene Derosin) under Old Business; Item 6, Case CU-18-2021 (Brad Kenyon, Kenyon Palm Bay LLC) under New Business; and Item 11, Case T-19-2021 (Paul Paluzzi, Emerald Investment Holdings, LLC) under New Business were continued to the June 2, 2021 Planning and Zoning Board meeting. Board action was not required to continue the cases.

#### **OLD/UNFINISHED BUSINESS:**

1. **\*\*V-9-2021 - Rene Derosin - CONTINUED TO 6/2/2021 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 approximately .31 acres. (Southwest corner of Haverford Lane NE and Holiday Park Boulevard NE, specifically at 200 Haverford Lane NE)**

Case V-9-2021 was discussed under Announcements, Item 2.

#### **NEW BUSINESS:**

1. **CP-4-2021 – Advantis on the Bay - Jeffrey Unnerstall, Manager, Eztopeliz, LLC (Bruce Moia, P.E. and Michele Zahn, Reps.) - A large-scale Comprehensive Plan Future Land Use Map amendment from MU, Mixed Use to BMU, Bayfront Mixed Use. Tracts AA, BB, and CC, Replat of Part of Port Malabar Unit 1, Section 25, Township 28, Range 37, Brevard County, Florida, containing**

**approximately 10.3 acres. (Northwest corner of Dixie Highway NE and Port Malabar Boulevard NE)**

Mr. Murphy presented the staff report for Case CP-4-2021. Staff recommended Case CP-4-2021 for approval, subject to the staff conditions, and for transmission to the Department of Economic Opportunity, pursuant to Chapter 163, Florida Statutes.

Mr. Bruce Moia, P.E., president of MBV Engineering, Inc., stated that as a member of the development community, he was in full support of Item 12 under New Business, Case T-8-2021 (City of Palm Bay, Growth Management Department), to amend the BMU, Bayfront Mixed Use District.

Mr. Moia (representative for the applicant) stated that a Winn Dixie Shopping Center built in 1971 was once located on the subject site. The land use and zoning change in 2007 to build 161 residential units and 61,000 square-feet for commercial use had not been feasible and was never constructed. The property currently sat as a vacant eyesore. He stated that the subject proposal was the first step in bringing a viable project to the site. A conditional use and site plan for an actual project would be submitted for board and City Council review once the proposed land use and zoning amendments were in place. The proposed BMU amendment and the future mixed-use project would be exciting catalysts for the Bayfront District. He stated that he was in full agreement with the recommendations in the staff report.

The floor was opened for public comments.

Ms. Mary Fritz (resident at Cable Lane NE) was concerned with how the project would impact her property.

In response to public comments, Mr. Moia informed the board that during the conditional use application process, a Citizen Participation Plan (CPP) meeting would be required to present to the community the project and its site plan and renderings.

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

Motion to submit Case CP-4-2021 to City Council for approval, subject to the staff conditions, and for transmission to the Department of Economic Opportunity, pursuant to Chapter 163, Florida Statutes.

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

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

City Council will hear Case CP-4-2021 on June 10, 2021.

2. **\*\*CPZ-4-2021 – Advantis on the Bay - Jeffrey Unnerstall, Manager, Eztopeliz, LLC (Bruce Moia, P.E. and Michele Zahn, Reps.) - A zoning amendment from a PCRD, Planned Community Redevelopment District to a BMU, Bayfront Mixed Use District. Tracts AA, BB, and CC, Replat of Part of Port Malabar Unit 1, Section 25, Township 28, Range 37, Brevard County, Florida, containing approximately 10.3 acres. (Northwest corner of Dixie Highway NE and Port Malabar Boulevard NE)**

Mr. Murphy presented the staff report for Case CPZ-4-2021. Staff recommended Case CPZ-4-2021 for approval, to be consistent and compatible with the Future Land Use designation of Case CP-4-2021.

Mr. Boerema inquired whether the 70-foot building height currently allowed at the subject site was compatible with the surrounding area and if there were other 70-foot-high buildings in the area. Mr. Murphy stated that both the Venetian Bay Condominiums and the Riverview Senior Resort located off Dixie Highway NE had 70-foot-high buildings and were within the general area of the subject site.

Mr. Bruce Moia, P.E., president of MBV Engineering, Inc. (representative for the applicant) stated that he was in agreement with all staff recommendations and that the zoning change would eliminate many undesired uses currently allowed at the location. He assured the board that the project planned for the site would not reach 70-feet in height and would be less of an impact on the neighborhood surroundings than the existing vacant and treeless parking lot.

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 CPZ-4-2021 to City Council for approval as recommended by staff.

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

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

City Council will hear Case CPZ-4-2021 on June 10, 2021.

3. **\*\*V-15-2021 - Timothy and Karen Durnin - A variance to allow a proposed detached garage to encroach 10 feet into the 25-foot side building setback as established by Section 185.034(F)(7) (c) of the Palm Bay Code of Ordinances. Lots 2 and 3, Block 740, Port Malabar Unit 16, Section 17, Township 29, Range 37, Brevard County, Florida, containing approximately .47 acres. (South of and east of the intersection of Wabash Road SE and Targee Street SE, specifically 1015 Wabash Road SE)**

Mr. Taylor presented the staff report for Case V-15-2021. 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.

Mr. Boothroyd inquired whether the applicant had originally applied for a permit to build a garage, or just to pour the slab. Mr. Taylor indicated that the intent was unclear; however, the building permit stated that anything built on the slab must be approved and comply with required setbacks.

Ms. Karen Durnin (applicant) stated that a permit was issued for the detached garage on January 19, 2021. She could have relocated the garage, but the poured concrete had improvements for drainage.

Mr. Weinberg asked how the garage would be accessed. Ms. Durnin explained how the garage would have a driveway at both ends for street access.

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-15-2021 to City Council for approval.

Motion by Ms. Jordan, seconded by Mr. Boerema.

In support of the request, Ms. Jordan noted that the issued permit indicated that the concrete slab was for a metal building. Mr. Weinberg added that staff had not identified any detrimental effect of the variance on the area.

Motion carried with members voting as follows:

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

City Council will hear Case V-15-2021 on June 10, 2021.

4. **\*\*V-16-2021 - Tania and Alvaro Gonzalez - A variance to allow a proposed screened patio to encroach 5 feet into the 25-foot rear building setback as established by Section 185.034(F)(7) (d) of the Palm Bay Code of Ordinances. Lot 13, Block 2289, Port Malabar Unit 44, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately .23 acres. (East of and adjacent to Dallam Avenue NW, in the vicinity between Lacombe Street NW and Kamsack Street NW, specifically at 1239 Dallam Ave NW)**

Mr. Taylor presented the staff report for Case V-16-2021. 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. Tania Gonzalez (applicant) explained how her concrete patio floor had been poured when she was informed that the 12-foot-deep screened patio she desired would require a variance. The 7.6-foot-deep patio that would be allowed without the variance would be difficult to accommodate her family member who was confined to a wheelchair. She stated that her yard was big enough for the larger patio.

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-16-2021 to City Council for approval.

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

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

City Council will hear Case V-16-2021 on June 10, 2021.

5. **\*\*CU-17-2021 - Martin Kravet, Palm Bay Shopping Center at Babcock – Palm Bay Partners LLC (Jake Wise, P.E., Rep.) - A conditional use to allow for proposed retail sales on a parcel of land greater than 10 acres. Tax Parcel 503, Section 22, Township 28, Range 37, Brevard County, Florida, containing approximately 12.32 acres. (East of and adjacent to Babcock Street NE, in the vicinity south of Palm Bay Road NE, specifically at 4711 Babcock Street NE)**

Mr. Murphy presented the staff report for Case CU-17-2021. Staff recommended Case CU-17-2021 for approval, subject to the recommendations contained in the staff report and compliance with all City Codes and other governmental regulations.

Mr. David Tom with Construction Engineering Group (representative for the applicant) stated that the subject plaza had existed for decades. He described how the 135,000 square feet of commercial buildings would be reduced by approximately 56,533 square feet; onsite drainage would be added for additional stormwater treatment; all existing buildings would be demolished for the new construction; and the property owner was in agreement with all staff comments. He noted that the three attendees at the Citizen Participation Plan (CPP) meeting were pleased about the proposed demolition. Traffic counts for the project had been received, and the reduced number of buildings for the new plaza would decrease the daily traffic trips by almost 3,000 trips per day. All architectural standards would be met.

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 CU-17-2021 to City Council for approval, subject to the staff recommendations contained in the staff report.

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

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

General discussion ensued among staff and the board regarding the future project.

City Council will hear Case CU-17-2021 on June 10, 2021.

6. **\*\*CU-18-2021 - Palm Bay Marina – Kenyon Palm Bay, LLC (Brad Kenyon) - CONTINUED TO 6/2/2021 P&Z - A conditional use to allow proposed retail automotive fuel sales in an HC, Highway Commercial District. Tax Parcel 11.04, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 1.76 acres. (West of and adjacent to Dixie Highway NE, in the vicinity between Pospisil Avenue NE and Deer Run Drive NE, specifically at 4350 Dixie Highway NE)**

Case CU-18-2021 was discussed under Announcements, Item 2.

7. **\*\*FS-1-2021 - Country Club Lakes Estates 4 - Palm Bay Greens, LLC (Mario Oliveira, Rep.) – Final Plat approval of a proposed 68-lot single-family subdivision called Country Club Lakes Estates Phase 4. Tax Parcels 508 and 758, Section 28, Township 28, Range 37, Brevard County, Florida, containing approximately 32.31 acres. (In the vicinity of the southeast corner of Riviera Drive NE and Country Club Drive NE)**

Mr. Murphy presented the staff report for Case FS-1-2021. Staff recommended Case FS-1-2021 for approval, subject to the conditions contained the staff report.

Mr. Jack Spira of Spira, Beadle & McGarrell PA (representative for the applicant) stated how the preliminary approval of the subject request had occurred in 2020. He



stated that he was in agreement with all staff comments. He noted how the developer for the project had made a concerted effort to preserve the specimen trees on the property and had omitted various lots from the development to preserve the trees. A park area would also be continued throughout the subdivision.

The floor was opened for public comments.

Ms. Maria Waller (resident at Seymour Road NE) was concerned with how the project would impact her property.

In response to public comments, Mr. Spira indicated to the board the buffering drainage tract that would be located behind Ms. Waller's property.

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

Motion to submit Case FS-1-2021 to City Council for approval, subject to the conditions contained in the staff report.

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

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

City Council will hear Case CU-17-2021 on June 10, 2021.

8. **CP-5-2021 - Richard Pribell – A small-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Single-Family Residential Use. Tax Parcel 755, Section 26, Township 28, Range 37, Brevard County, Florida, containing approximately .3 acres. (North of and adjacent to Port Malabar Boulevard NE, in the vicinity between Clearmont Street NE and Sadnet Circle NE, specifically at 1803 Port Malabar Boulevard NE)**

Mr. Taylor presented the staff report for Case CP-5-2021. Staff recommended Case CP-5-2021 for approval, subject to the staff comments.

Mr. Richard Pribell (applicant) stated how he considered the subject property to be blighted. He planned to refurbish the existing home and lot by adding new windows, landscaping, an irrigation system, and grass. The upgrade would enhance the view of the property from Port Malabar Boulevard.

The floor was opened for public comments.

Ms. Rosita Cotton (resident at Sadnet Circle NE) indicated that she was in favor of the request.

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

Motion to submit Case CP-5-2021 to City Council for approval, subject to the staff report comments.

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

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

City Council will hear Case CP-5-2021 on June 10, 2021.

9. **\*\*CPZ-5-2021 - Richard Pribell - A zoning amendment from an IU, Institutional Use District to an RS-2, Single-Family Residential District - Tax Parcel 755, Section 26, Township 28, Range 37, Brevard County, Florida, containing approximately .3 acres. (North of and adjacent to Port Malabar Boulevard NE, in the vicinity between Clearmont Street NE and Sadnet Circle NE, specifically at 1803 Port Malabar Boulevard NE)**

Mr. Taylor presented the staff report for Case CPZ-5-2021. Staff recommended Case CPZ-5-2021 for approval, based upon the analysis contained in the staff report.

Mr. Richard Pribell (applicant) stated that his comments for Case CP-5-2021 also pertained to the subject 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 to submit Case CPZ-5-2021 to City Council for approval, based upon the analysis contained in the staff report.

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

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

City Council will hear Case CPZ-5-2021 on June 10, 2021.

10. **CP-7-2021 - MRJV, LLC (Chris Duff, Rep.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Utilities Use and Recreation and Open Space Use to Single-Family Residential Use. Tracts G and H, Port Malabar Unit 18, Section 21, Township 29, Range 37, Brevard County, Florida, containing approximately 2.83 acres. (West of Tripoli Road SW and Walsh Avenue SW, in the vicinity south of Tiffiny Avenue SE)**

Mr. Murphy presented the staff report for Case CP-7-2021. Staff recommended Case CP-7-2021 for approval, subject to the staff comments.

Mr. Boerema inquired about the subject proposal and multiple-family development. Mr. Murphy stated that the applicant was requesting a single-family development of one home for each tract. The properties were already zoned RS-2, Single-Family Residential. The subject request would make the land use and the zoning designations consistent and would allow for the single-family homes.

Ms. Ashley Walford (representative for the applicant) stated that the two properties were purchased with the intent to potentially build homes that would fit within the neighborhood and community. She stated that the City currently had a requisite amount of park designated land; the proposed land use change should not impact the supply and variety of affordable housing in the City; utilities and solid waste standards would not be adversely affected, nor would the public school system. She

acknowledged the need to work with staff on a drainage plan for potential construction.

Mr. Weinberg asked for confirmation that one home would be built on Tract H and one home would be built on Tract G. Ms. Walford stated that this was correct.

The floor was opened for public comments.

Mr. Steven Haugen (resident at Tripoli Road SE) commented on the request. He clarified that the surrounding area was on well and septic and noted how there had been a bald eagle's nest nearby on Tiffany Avenue. He indicated that he was not opposed to one home on each of the properties.

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

Motion to submit Case CP-7-2021 to City Council for approval, subject to the staff comments.

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

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

City Council will hear Case CP-7-2021 on June 10, 2021.

11. **T-19-2021 - Paul Paluzzi, Emerald Investment Holdings, LLC (Jake Wise, P.E., Rep.) - CONTINUED TO 6/2/2021 P&Z - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 179: Streets and Other Rights-of-Way, Right-of-Way and Easement Use, to establish provisions for Golf Cart communities.**

Case T-19-2021 was discussed under Announcements, Item 2.

12. **T-8-2021 - City of Palm Bay (Growth Management Department) - A textual amendment to the Code of Ordinances, Title XVII, Land Development**

**Code, Chapter 185: Zoning Code, Section 185.058, to modify provisions of the BMU, Bayfront Mixed Use District.**

Mr. Bradley presented the staff report for Case T-8-2021. Staff recommended Case T-8-2021 for approval as written, to enhance development within the BMU District.

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-8-2021 to City Council for approval as written.

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

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

City Council will hear Case T-8-2021 on June 10, 2021.

**OTHER BUSINESS:**

There was no other business discussed.

**ADJOURNMENT:**

The meeting was adjourned at approximately 8:33 p.m.

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Philip Weinberg, CHAIRPERSON

Attest:

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Chandra Powell, SECRETARY

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