

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2021-09

Held on Wednesday, August 4, 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. David Karaffa led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRPERSON:	Philip Weinberg	Present	
VICE CHAIRPERSON:	Leeta Jordan	Present	
MEMBER:	Donald Boerema	Present	
MEMBER:	James Boothroyd	Present	
MEMBER:	Richard Hill	Present	
MEMBER:	Khalilah Maragh	Absent	(Excused)
MEMBER:	Rainer Warner	Absent	(Excused)
NON-VOTING MEMBER:	David Karaffa	Present	
	(School Board Appointee)		

The absence of Ms. Maragh and Mr. Warner were excused.

CITY STAFF: Present were Mr. Patrick Murphy, Acting 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 2021-07 June 2, 2021.**

Motion to approve the minutes as presented.

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

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

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 recognized Mr. Hill's one year of service on the Planning and Zoning Board and presented him with his anniversary pin.
3. Mr. Weinberg announced that under Old Business, Items 1 and 2, CP-8-2021 and PD-20-2021, were withdrawn by the applicant (Anthony Ware, DSG LLC and Gregory Solis, Gus & Sons LLC). Based on Florida House Bill 59, the cases under New Business rescheduled to a Planning and Zoning Board date to be determined were Items 7 and 8, CP-9-2021 and PD-21-2021 (Greg Pettibon, Lennar Homes LLC - Scott Glaubitz, P.E., P.L.S., Rep.); Items 9 and 10, CP-10-2021 and CPZ-10-2021 (Michael Sole, Florida Power & Light - Jake Wise, P.E., Rep.); and Items 11 and 12, CP-11-2021 and CPZ-11-2021 (Andrew Steele, NSD Palm Bay IV LLC - Ana Saunders, P.E. and Miguel Reynaldos, Reps.). Board action was not required to withdraw or reschedule the cases.

OLD/UNFINISHED BUSINESS:

1. **CP-8-2021 - WITHDRAWN - Las Palmas PUD - Anthony Ware, DSG LLC and Gregory Solis, Gus & Sons LLC (Bruce Moia, P.E. and Richard Fadil, Reps.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Public/Semi-Public Use to Single-Family Residential Use. Tax Parcel 2 and a portion of Tax Parcel 3, Section 18, Township 29, Range 37, Brevard County, Florida, containing approximately 12.90 acres. (In the vicinity between Ruffin Circle SE and Buffing Circle SE)**

Case CP-8-2021 was discussed under Announcements, Item 3.

2. ****PD-20-2021 - WITHDRAWN - Las Palmas PUD - Anthony Ware, DSG LLC and Gregory Solis, Gus & Sons LLC (Bruce Moia, P.E. and Richard Fadil, Reps.) – A Preliminary Development Plan to allow for a 47-lot single-family development called Las Palmas PUD. Tax Parcel 2 and a portion of Tax Parcel 3, Section 18, Township 29, Range 37, Brevard County, Florida, containing approximately 12.90 acres. (In the vicinity between Ruffin Circle SE and Buffing Circle SE)**

Case PD-20-2021 was discussed under Announcements, Item 3.

3. **T-23-2021 - Finished Floor Elevations - City of Palm Bay (Growth Management Department) - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 174: Floodplain and Stormwater Management, Section 174.073 Single-Family Residential Construction, to modify the provisions and criteria for finished floor elevations**

Mr. Murphy presented the staff report for Case T-23-2021. Staff recommended Case T-23-2021 for approval as written.

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-23-2021 to City Council for approval.

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

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

City Council will hear Case T-23-2021 on August 19, 2021.

4. ****V-25-2021 - James and Nola Musgrove - A variance to grant a proposed detached metal garage relief from the requirement that no accessory structure shall exceed the size of the principal structure's living area, and to increase the maximum allowable size of the metal structure from 300 square feet to 1,200 square feet in an RS-2, Single-Family Residential District, as established by Section 185.118(C) and (G) of the Palm Bay Code of Ordinances. Lots 4 and**

30, Block 1906, Port Malabar Unit 26, Section 34, Township 28, Range 36, Brevard County, Florida, containing approximately .46 acres. (Between High Road NW and Hilliard Road NW, specifically at 278 High Road NW)

Mr. Taylor presented the staff report for Case V-25-2021. 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. Jordan asked whether the proposed structure would require a building permit and fencing. Mr. Grayson stated that the structure would require a building permit, but a fence was not a requirement for accessory structures.

Mr. James Musgrove (applicant) stated that the proposed structure would be 204 square feet above code allowance, and he did not consider the request to be drastic. The structure would be used to store his two boats and three vehicles.

The floor was opened and closed for public comments; there were no comments from the audience, and there was one item of correspondence in the file in opposition to the request.

Mr. Boothroyd noted that the site was a double lot. Mr. Weinberg clarified that the lots were back-to-back.

Motion to submit Case V-25-2021 to City Council for approval.

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

Mr. Weinberg stated that he could not support the variance. The lots were back-to-back and not side-to-side, so the detached garage and driveway would face Hilliard Road as if it were a single-family home. The structure would be larger than the applicant's 967 square-foot of living area under air and inappropriate for the single-family neighborhood.

Mr. Boerema asked if the exterior stucco and color of the structure would have to match the home. Mr. Grayson stated that this was correct. The exterior paint, texture or coating of the garage would be required to match the house.

A vote was called on the motion to submit Case V-25-2021 to City Council for approval.

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

Aye: Jordan, Boothroyd, Hill.

Nay: Weinberg, Boerema.

City Council will hear Case V-25-2021 on August 19, 2021.

5. ****V-27-2021 - Thomas A. and Michelle M. Capritta – A variance to allow a proposed garage addition and concrete slab to encroach 6 feet into the 25-foot front yard setback as established by Section 185.033(F)(7)(a) of the Palm Bay Code of Ordinances. Lot 41, Block C, Turkey Creek Subdivision, Section 26, Township 28, Range 37, Brevard County, Florida, containing approximately .41 acres. (South of and adjacent to Mandarin Drive NE, in the vicinity east of Clearmont Street NE, specifically at 921 Mandarin Drive NE)**

Mr. Taylor presented the staff report for Case V-27-2021. 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. Thomas Capritta (applicant) stated that the additional six feet was needed to construct a garage addition that would be used to store the classic automobiles and boats he restored. The garage would be a twelve-foot extension of the home with the same seven-inch cedar plank exterior.

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-27-2021 to City Council for approval.

Mr. Weinberg stated that he had no problem with the subject request as the garage addition would have a side entry on a curved driveway and would not face the street.

A vote was called on the motion to submit Case V-27-2021 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, Hill.

City Council will hear Case V-27-2021 on August 19, 2021.

6. ****CU-26-2021 - Christian Development Center (Christopher Adams) - A conditional use to amend an existing ordinance in order to allow a proposed private school to operate from church facilities in an RR, Rural Residential District. Tax Parcel 510, Section 19, Township 28, Range 37, Brevard County, Florida, containing approximately 3.00 acres. (West of and adjacent to Nail Street NE, in the vicinity north of Emerson Drive NE, specifically at 343 Nail Street NE)**

Mr. Taylor presented the staff report for Case CU-26-2021. Staff recommended Case CU-26-2021 for approval with conditions.

Mr. Boerema questioned whether the applicant had agreed to the staff recommendations.

Mr. Boothroyd asked if the sidewalk recommendation was because the City expected the school to be attended by neighborhood children. Mr. Taylor stated that safety was the consideration for the sidewalk so that children could get safely from Emerson Drive to the church. It was also typical of some parents to drop students off near the schools.

Mr. Christopher Adams (applicant) stated that he was the pastor of Christian Development Center Church. He explained that the subject school would be operated by an experienced Christian school that was based in Apopka, Florida and rented church facilities throughout the state for their schools. His wife, Ms. Abbey Adams, would be the principal for the school planned at his church.

Ms. Adams explained that the school would be a renter and completely separate from the Christian Development Center Church. She agreed to the recommended sidewalks.

Mr. Adams wanted to know the distance of the sidewalks to be installed. Mr. Murphy stated that the Public Works Department had recommended a sidewalk extension along Nail Street from the church driveway to Emerson Drive without any gaps. A right-of-way use permit would have to be obtained from the Public Works Department. Mr. Weinberg noted that the permit should also include the recommended crosswalk across Nail Street.

Mr. Weinberg asked about the 30 students estimated for the school and how an increase in the student count could be an impact on safety and traffic. Ms. Adams stated that the school would begin with approximately 20 to 30 students, but the church could accommodate a maximum of 80 students. Mr. Murphy explained that the school had to meet the parking demands of one space per ten students and per school administrator, which would regulate the school capacity.

The floor was opened for public comments.

Mr. Bill Pezzillo (resident at Prospect Circle NE) spoke in favor of the request. However, he suggested that the school erect a fence for the safety of the students.

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

Motion to submit Case CU-26-2021 to City Council for approval, subject to the staff report.

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

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

City Council will hear Case CU-26-2021 on August 19, 2021.

7. **CP-9-2021 - RESCHEDULED TO P&Z DATE TBD - Medley at Everlands – Greg Pettibon, Lennar Homes LLC (Scott Glaubitz, P.E., P.L.S., Rep.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single-Family Residential Use. Part of Tax Parcel 1, Section 21, Township 28, Range 36 and Part of Tax Parcel 3, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 96.66 acres. (Northeast corner of Pace Drive NW and St. Johns Heritage Parkway NW)**

Case CP-9-2021 was discussed under Announcements, Item 3.

8. ****PD-21-2021 - RESCHEDULED TO P&Z DATE TBD - Medley at Everlands – Greg Pettibon, Lennar Homes LLC (Scott Glaubitz, P.E., P.L.S., Rep.) - A Preliminary Development Plan for a PUD to allow a development with a mixture of townhomes and single-family lots called Medley at Everlands. Part of Tax Parcel 1, Section 21, Township 28, Range 36 and Part of Tax Parcel 3, Section 28, Township 28, Range 36, Brevard County, Florida, containing approximately 96.66 acres. (Northeast corner of Pace Drive NW and St. Johns Heritage Parkway NW)**

Case PD-21-2021 was discussed under Announcements, Item 3.

9. **CP-10-2021 - RESCHEDULED TO P&Z DATE TBD - FP&L IBIS Solar Energy Center - Michael Sole, Florida Power & Light (Jake Wise, P.E., Rep.) - A large-scale Comprehensive Plan Future Land Use Map amendment from Agricultural (Brevard County), R1:2.5 (Brevard County), and Centerlane Use (City) to Utilities Use. Tax Parcel 250 of Section 29, Township 30, Range 37, Tax Parcels 1 and 3 of Section 30, Township 30, Range 37, and Tax Parcel 1 of Section 31, Township 30, Range 37, Brevard County, Florida, containing approximately 3,266.49 acres. (Two miles east of Babcock Street, in the vicinity north of the Indian River County line)**

Case CP-10-2021 was discussed under Announcements, Item 3.

10. ****CPZ-10-2021 - RESCHEDULED TO P&Z DATE TBD - FP&L IBIS Solar Energy Center - Michael Sole, Florida Power & Light (Jake Wise, P.E., Rep.) - A zoning**

amendment from General Use (Brevard County) to a GU, General Use Holding District. Tax Parcel 250 of Section 29, Township 30, Range 37, Tax Parcels 1 and 3 of Section 30, Township 30, Range 37, and Tax Parcel 1 of Section 31, Township 30, Range 37, Brevard County, Florida, containing approximately 3,266.49 acres. (Two miles east of Babcock Street, in the vicinity north of the Indian River County line)

Case CPZ-10-2021 was discussed under Announcements, Item 3.

11. **CP-11-2021 - RESCHEDULED TO P&Z DATE TBD - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A small-scale Comprehensive Plan Future Land Use Map amendment from Industrial Use to Bayfront Mixed Use. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. (Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE)**

Case CP-11-2021 was discussed under Announcements, Item 3.

12. ****CPZ-11-2021 - RESCHEDULED TO P&Z DATE TBD - Eastshore - Andrew Steel, NSD Palm Bay IV, LLC (Ana Saunders, P.E. and Miguel Reynaldos, Reps.) - A zoning amendment from an LI, Light Industrial and Warehousing District to a BMU, Bayfront Mixed Use District. Tax Parcels 250 and 254, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 7.11 acres. (Northwest corner of Robert J. Conlan Boulevard NE and Commerce Park Drive NE)**

Case CPZ-11-2021 was discussed under Announcements, Item 3.

13. **T-28-2021 - GC Indoor Recreation - 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 185.054, to modify provisions within the GC, General Commercial District to allow for indoor recreation**

Mr. Murphy presented the staff report for Case T-28-2021. Staff recommended Case T-28-2021 for approval as written.

Mr. Boothroyd asked about the types of businesses seeking to locate within the GC districts. Mr. Murphy stated that dance studios; karate dojos; and workout facilities that were not necessarily personal service establishments, but would generate more traffic, would be allowed to locate within GC districts.

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-28-2021 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.

City Council will hear Case T-28-2021 on August 19, 2021.

NEW BUSINESS:

1. ****V-29-2021 - Barbara Gamerl (James Gamerl, Rep.) - A variance to allow a proposed steel building to encroach 8 feet into the 25-foot side corner setback as established by Section 185.034(F)(7)(c) of the Palm Bay Code of Ordinances. Lot 14, Block 2470, Port Malabar Unit 48, Section 24, Township 28, Range 36, Brevard County, Florida, containing approximately .31 acres. (Northwest corner of Vater Avenue NW and Krefeld Road NW, specifically at 1301 Vater Avenue NW)**

Mr. Balter presented the staff report for Case V-29-2021. 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. James Gamerl (applicant) stated that his 21-foot recreational vehicle was vandalized in May and sustained several hundred dollars in damage. The proposed

17-foot by 24-foot garage would protect his RV from the weather and future vandals. He said that the structure would face the existing curved driveway and blend nicely with his home and the neighborhood.

Mr. Boothroyd wanted to know the type of construction proposed for the garage. Mr. Gamerl stated that a metal structure was proposed.

Mr. Boerema remarked on the difficulty in maneuvering a 21-foot-long RV into a 17-foot-wide garage. Mr. Gamerl explained that a 10-foot approach to the driveway would allow the RV to be maneuvered into the garage.

Ms. Jordan questioned why a five-foot gap would exist between the home and the garage. Mr. Gamerl stated that the City code required five feet from the existing structure.

The floor was opened for public comments.

Mr. Fredrick Smith (resident at Vater Avenue NW) spoke against the request. He stated that a metal structure next to the older home would not look good and would overpower the house. He believed the proposed structure would bring down his property value. He was not aware of any problems with vandalism or break-ins in the neighborhood.

Ms. Trish Shaw (resident at Vater Avenue NW) spoke against the request. She stated that the proposed structure would be an eyesore.

Ms. Heather Humes (resident at Vater Avenue NW) spoke against the request. The metal garage would not fit with the well-kept neighborhood. She wanted the structure to match with the applicant's home.

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

Mr. Balter stated that the applicant had confirmed with staff that the proposed structure would be painted to match the home; therefore, a variance was not required from that section of the code.

Ms. Jordan wanted to know the class and width of the applicant's RV. She asked if the garage could be reduced further to accommodate the RV. Mr. Gamerl stated that the RV was Class B and 9-feet wide. The garage was the smallest size possible to allow enough access around the structure to open the sliding doors on each side.

Mr. Boothroyd noted that the subject structure would be allowed by code if it did not encroach the side setback.

Motion to submit Case V-29-2021 to City Council for approval.

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

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

Case CP-12-2021, New Business Item 3 was heard at this time.

3. **CP-12-2021 - City of Palm Bay (Growth Management Department) - Property Rights Element - An amendment to the Palm Bay Comprehensive Plan to create the Property Rights Element**

Mr. Murphy presented the staff report for Case CP-12-2021. Staff recommended Case CP-12-2021 for approval and to transmit the request to the Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes.

Mr. Murphy explained that the proposed Property Rights Element was required via Florida House Bill 59. The City had land use and associated applications on hold that could not be processed until the Property Element was adopted.

Mr. Boothroyd wanted to know the purpose of the amendment. Mr. Murphy stated that the Property Rights Element would be an additional Comprehensive Plan element by which an application amendment would be judged. The City would have to evaluate whether property rights of an applicant had been violated.

Mr. Weinberg commented that property rights were already a matter of law under real property rights. Ms. Cockcroft added that the matter was currently a big discussion topic within the legal community.

There was no public present in the audience for public comments.

Motion to submit Case CP-12-2021 to City Council for approval.

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

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

City Council will hear Case CP-12-2021 on August 19, 2021.

The board resumed consideration of items in the order that was set by the agenda.

2. ****FD-30-2021 - Cypress Bay West Phase II - Benjamin E. Jefferies, Waterstone Holdings, LLC and Waterstone Farms, LLC / Chris Tyree, Forestar (USA) Real Estate Group (Jake Wise, P.E. and Rochelle W. Lawandales, FAICP, Reps.) - A Final Development Plan to allow a proposed PUD for a 570-unit residential development called Cypress Bay West Phase II. Part of Tax Parcels 500, 5, and 1 of Section 4, Township 30, Range 37, and Part of Tract 750 of San Sebastian Farms, Section 5, Township 30, Range 37, Brevard County, Florida, containing approximately 185.74 acres (West of and adjacent to Babcock Street, in the vicinity south of Mara Loma Boulevard SE)**

Mr. Weinberg announced that Case FD-30-2021 had been administratively continued to the September 1, 2021 Planning and Board meeting. City Council would hear the request on September 16, 2021.

3. **CP-12-2021 - City of Palm Bay (Growth Management Department) - Property Rights Element - An amendment to the Palm Bay Comprehensive Plan to create the Property Rights Element**

Case CP-12-2021 was discussed following Item 1 under New Business.

OTHER BUSINESS:

1. Mr. Murphy announced that based on the expected overflow of cases in November due to House Bill 59, staff was tentatively scheduling a special Planning and Zoning Board meeting on November 15, 2021.

ADJOURNMENT:

The meeting was adjourned at approximately 8:04 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

****Quasi-Judicial Proceeding**