

1. Regular Meeting 2025-02; February 5, 2025



MEMORANDUM

DATE: March 5, 2025

RE: Regular Meeting 2025-02; February 5, 2025

ATTACHMENTS:

1. P&Z/LPA Minutes - Regular Meeting 2025-02; February 5, 2025

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2025-02

Held on Wednesday, February 05, 2025, 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, City Hall, Palm Bay, Florida. The minutes are not a verbatim transcript but a brief summary of the discussions and actions taken at this meeting.

Chair Randall Olszewski called the meeting to order at approximately 6:00 p.m.

Mr. Rainer Warner led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIR:	Randall Olszewski	Present
VICE CHAIR:	Robert Good	Present
MEMBER:	Leeta Jordan	Absent (Excused)
MEMBER:	David Karaffa	Present
MEMBER:	Jeffrey McLeod	Present
MEMBER:	Rainer Warner	Present
MEMBER:	VACANT	
NON-VOTING MEMBER:	VACANT (School Board Appointee)	

The absence of Ms. Jordan was excused.

CITY STAFF: Present were Ms. Lisa Frazier, AICP, Growth Management Director; Ms. Althea Jefferson, Assistant Growth Management Director; Ms. Deborah Flynn, Senior Planner; Ms. Christina Hall, Planner; Ms. Chandra Powell, Recording Secretary; Mr. Michael Rodriguez, Chief Deputy City Attorney

ADOPTION OF MINUTES:

1. Regular Meeting 2025-01; January 8, 2025

Motion by Mr. Karaffa, **Seconded** by Mr. Warner to approve the minutes as presented.

Result: Carried 5 to 0

Aye: Olszewski, Good, Karaffa, McLeod, Warner

Nay: None

Abstain: None

ANNOUNCEMENTS:

1. Mr. Olszewski announced that the Foundation Recycle submittals (Cases CP24-00011, CPZ24-00007, and CU24-00008) would not be heard during the meeting. Notices would be re-sent with new meeting dates. Board action was not required as the cases had not been advertised.
2. Mr. Olszewski announced that there was an applicant request to continue New Business Item 3, Case CU25-00002 - Brevard Nursing Academy, to the March 5, 2025 Planning and Zoning Board Meeting. Board action was required to continue the case.

Motion by Mr. Karaffa, **Seconded** by Mr. Good to continue Case CU25-00002 to the March 5, 2025 Planning and Zoning Board Meeting.

Result: Carried 5 to 0

Aye: Olszewski, Good, Karaffa, McLeod, Warner

Nay: None

Abstain: None

At the applicant's request, Case CU25-00002 was anticipated to be heard by the City Council on March 6, 2025.

3. Mr. Olszewski 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 the City Council.
4. Ms. Frazier reminded the board that all Planning and Zoning Board terms would expire on February 28, 2025, and provided the applicable dates for the City Council appointments and the at-large elections.

5. Mr. Rodriguez asked the board to disclose any ex parte communications regarding the quasi-judicial cases on the agenda. No ex parte communications were disclosed by the board.

NEW BUSINESS:

1. ****V24-00008 - Marchly and Francoise Jean - A Variance to allow a proposed home addition to encroach 3.47 feet into the north 25-foot rear setback, as established by Section 173.022 of the Palm Bay Code of Ordinances. Lot 14, Block 654, Port Malabar Unit 13, Section 36, Township 28, Range 36, Brevard County, Florida, containing approximately .23 acres. Located north of and adjacent to Bougainvillea Street NW, in the vicinity east of Mayport Avenue NW, specifically at 299 Bougainvillea Street NW**

Ms. Hall presented the staff report for Case V24-00008. Staff recommended Case V24-00008 for denial.

Mr. Warner asked if the septic system had something to do with the need for the proposed variance. Ms. Hall stated that the septic system had no encroachment issues.

Mr. Karaffa asked if the variance was to permit a 21.5-foot setback instead of a 25-foot setback. Ms. Hall indicated that this was correct.

Mr. McLeod inquired whether there were any errors on the approved plan. Ms. Hall stated that there were no errors on the plan to her knowledge.

Mr. Good asked if the home was already built. Ms. Hall confirmed that the home and addition currently existed.

Mr. Marchly Jean (applicant) apologized for the encroachment. He stated that he had hired someone he knew who was a builder to do the addition and did not find out about the encroachment until the final survey.

Mr. McLeod asked whether the contractor for the addition was licensed. Mr. Jean stated that since he knew the contractor, he had not inquired about a license.

Mr. Warner asked about the permit for the addition. Mr. Jean stated that he pulled the permit.

Mr. Karaffa wanted to know if the City had mentioned any problems or deviations from the plan during their inspections. Mr. Jean stated that the error was discovered during the final survey.

Mr. Warner asked about the purpose of the building addition. Mr. Jean explained that the addition was needed to accommodate his large family and extended family by adding two bedrooms.

Mr. Olszewski commented that the applicant had declared on the permit his responsibility for the oversight of construction. A licensed contractor would not have had a problem declaring themselves as the contractor. The board, however, could only hold accountable the applicant as declared on the permit. He remarked that it was difficult to grant a variance when the hardship occurred subject to the applicant's declaration of being the overseer.

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

Mr. Good commented that the few feet that was being requested by the applicant was not a big issue; there was still rear access; and it would be costly to correct a home that was already built.

Motion by Mr. Good, **Seconded** by Mr. Karaffa to submit Case V24-00008 to the City Council for approval.

Mr. McLeod was troubled that a permit was pulled with specifications, but the addition was constructed almost four feet beyond. Continuing to grant variances that did not abide by submitted plans led to lawlessness. Mr. Warner and Mr. Olszewski agreed that there was a lack of accountability.

Mr. Karaffa stated that the home backed up to a canal, so there was sufficient space for access. The encroachment appeared to be unintentional and owing to the applicant's inexperience. He believed the board should consider the circumstances.

Mr. Olszewski wanted to know if the size of the addition was originally planned to be larger. Ms. Hall stated that the home was intended to be built at the setback. Ms. Frazier pointed out that the structure was 100 square feet larger.

A vote was called on the **Motion** by Mr. Good, **Seconded** by Mr. Karaffa to submit Case V24-00008 to the City Council for approval.

Result: Failed 3 to 2

Aye: Good, Karaffa

Nay: Olszewski, McLeod, Warner

Abstain: None

2. *****V24-00010 - Santiago De Jesus Sermenon Torres (Jesus Quintero, Quintero's Construction LLC, Rep.) - A Variance to allow a proposed single-family residence to encroach 14.5 feet into the east 25-foot rear setback, as established by Section 173.022 of the Palm Bay Code of Ordinances. Lot 1, Block 927, Port Malabar Unit 18, Section 16, Township 29, Range 37, Brevard County, Florida; containing approximately .24 acres. Located at the southeast corner of Waneta Street SE and Westlund Avenue SE, specifically at 1621 Westlund Avenue SE**

Ms. Hall presented the staff report for Case V24-00010. Staff recommended Case V24-00010 for denial.

Mr. Karaffa noted that the east neighboring property was developed. He wanted clarification as to whether it was the home or porch that would encroach the setback. Ms. Hall acknowledged the neighboring home to the east. She clarified that both the home and porch would be encroaching the setback.

Mr. McLeod asked if the septic and well location recommended by the Environmental Health Department was consistent with other homes in the area. Ms. Hall explained that the Environmental Health Department's consideration was to ensure that no lot would be rendered unbuildable, and zoning was not taken into account. The neighboring property had a well in the front yard, so staff believed the applicant's only option to meet distance requirements would be a rear location for the septic.

Mr. Warner inquired whether the large size of the proposed four-bedroom home had caused an issue with placement of the septic system. Ms. Hall stated that the design of the home met Environmental Health Department regulations but did not meet zoning setback requirements.

Mr. Jesus Quintero, Quintero's Construction LLC (representative for the applicant), stated that various layouts had been tried to accommodate the 2,020 square-foot home under living area, but septic guidelines could not be met.

Mr. Good remarked on how the neighborhood was fairly developed and suggested a two-story or three-bedroom home for the property. Mr. Quintero indicated that a different home design would be up to the applicant.

Mr. Warner asked if another type of septic system could be used. Mr. Quintero stated that the septic system was approved by the Environmental Health Department.

Mr. Olszewski commented that since the proposed home would be 3,000 square feet under truss with the two-car garage, the home might not be the right fit for the property.

Mr. Karaffa suggested a hardship variance to shift the home to the left and shorten the driveway by 14 feet.

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

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke against the request. He stated that a 58-percent variance waiver on land mass was substantial, and that home placement and hinderances should be considered before land was purchased.

Ms. Teresa Gray (resident at Waneta Street SE) spoke against the request. She stated that the variance would violate her property rights and lower her property value. The proposed home would be the only house built facing northwest; the land would be overcrowded; and the rear access for utility vehicles would be impeded.

She was concerned about the fire hazard of having a home too close to her property and about the rainwater runoff.

Mr. Steve White (resident at Tibbets Street SE) spoke against the request. He stated that the septic tank location was in the right-of-way for the power line, so that utility vehicles would have to use his property to access the pole for the applicant. The lot was too small for a home that would be twice the size of existing homes in the area and also encroached upon the right-of-way.

Mr. Jeff Denmon (resident at Waneta Street SE) spoke against the request. He stated that the applicant did not have a hardship to require a variance. He suggested a two-story home for the site.

The floor was closed for public comments.

Mr. Good commented on the existing neighborhood that was established over 30 years and was made up of smaller homes. He stated how a 14.5-foot variance was substantial. Mr. Karaffa agreed as the variance would bring the applicant closer to an existing neighbor.

Motion by Mr. Karaffa, **Seconded** by Mr. Good to submit Case V24-00010 to the City Council for denial.

Mr. McLeod commented that possible contamination of groundwater and well water was an issue based on the placement of the septic system, and that contractors should be held accountable when their plans do not fit guidelines. Mr. Warner added that accessing power lines over drainfields and septic tanks during a weather emergency was also a safety issue. Mr. Olszewski reminded the board that the septic system was not under consideration as the Environmental Health Department guidelines had been met.

A vote was called on the **Motion** by Mr. Karaffa, **Seconded** by Mr. Good to submit Case V24-00010 to the City Council for denial.

Result: Carried 5 to 0

Aye: Olszewski, Good, Karaffa, McLeod, Warner

Nay: None

Abstain: None

3. ****CU25-00002 - Brevard Nursing Academy - Treeland Property Owner, LLC, Eric M. Levitt, Manager (Kelly Delmonico, Land Development Strategies, Rep.) - A Conditional Use to allow a proposed educational institution in an LI, Light Industrial and Warehousing District, in accordance with Section 173.021 of the Palm Bay Code of Ordinances. Lot 5, Block 3042, Port Malabar Unit 56, Section 9, Township 29, Range 37, Brevard County, Florida, containing approximately 3.7 acres. Located south of and adjacent to Treeland Boulevard SE, specifically at 1470 Treeland Boulevard SE**

Case CU25-00002 was discussed under Announcements, Item 2.

4. **CP24-00010 - Ashton Park - Banack Family Limited Partnership; Wilton R. Banack; Lynn M. Banak (Jake Wise, P.E., Construction Engineering Group, LLC, Rep.) - A Large-Scale Comprehensive Plan Future Land Use Map Amendment from NC, Neighborhood Commercial (Brevard County) and RES-1, Residential 1 Unit Per Acre (Brevard County) to UMU, Urban Mixed-Use. Tax Parcels 501, 502, 503, 504, and 751 of Section 13, Township 30, Range 37, Brevard County, Florida, containing approximately 133 acres. Located south of and adjacent to Micco Road SE, in the vicinity east of Interstate 95**

Ms. Flynn presented the staff report for Case CP24-00010. Staff recommended Case CP24-00010 for approval and transmittal to the Florida Department of Commerce.

Ms. Frazier stated that the subject site was annexed into the City, but the Brevard County land use was never changed. A City land use was required to allow development of the site.

Mr. Olszewski inquired why the land use change was being requested at this point when there was no construction occurring. Ms. Frazier explained that approximately 1,500 acres to the west was proposed for a mixed-use development design that would include the subject site.

Mr. Good remarked on how the County designation allowed for one single-family residential unit per acre, but the proposed City designation would permit a density of up to 40 units per acre. Ms. Flynn stated that the project would likely be much less than the 40-unit maximum density allowed.

Mr. Karaffa was concerned that the Brevard County School Board had not projected there to be enough school capacity to accommodate the development. Ms. Frazier clarified that a school was proposed for the 1,500-acre development to the west.

Mr. Jake Wise, P.E., Construction Engineering Group, LLC (representative the applicant) submitted a handout to the board regarding the project. Ms. Frazier stressed to the board that the handout had not been seen by staff and that the site plan presented was an unofficial rendering.

Mr. Wise described how the 133-acre site would be part of the west 1,567-acre master plan of which 1,434 acres were already assigned an UMU, Urban Mixed-Use land use. He stated that a self-imposed delay had allowed the subject parcel to be added to the project for closer proximity to Interchange 95 and higher visibility for a true downtown area. A fire station, police station, and school site were part of the master development. The Brevard County School Board was interested in using the 30-acre school site for their first kindergarten through 8th grade school. The development was also working with two other projects planned for the area, Lotis and Emerald Lakes, to extend the St. Johns Heritage Parkway to the northeast corner of the site. He said that the development would include interconnectivity with the St. Sebastian River Preserve State Park to the south and the Brevard County EELS Preservation to the north with horseback riding, hiking, and other activities. Several public parks and trails, and the commercial town center would create a walkable hub. The project would have to come back before the board for additional approvals. He stated that the residential density for the overall development would be much less than 40 units per acre, and a charter school was under consideration to the north.

Mr. Good questioned why more commercial land was not planned for the 133-acre site. Mr. Wise explained that Emerald Lakes was permitted for 2.3 million square feet of commercial and industrial acreage and would be the main commercial hub of the region. Lotis had about 100,000 square feet of commercial acreage. He stated how difficult it was going to be to make the remote 150 acres of the overall development financially and commercially viable.

Mr. Olszewski reminded the board that the site plan was for illustrative purposes only.

Mr. Olszewski wanted to know how such a rural location could work for an urban project, and he questioned why the land use was not changed with the initial master property. Mr. Wise explained that the development fit the definition of an Urban Mixed-Use designation, and that the property was not originally part of the overall project. The site had recently come under contract. Ms. Frazier gave a brief history of the past surrounding special planning area and separate annexations.

The floor was opened for public comments, and there was one correspondence in the file in opposition to the request.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke against the request. He stated that the project's timeframe had been going on for years but the connection for the St. Johns Heritage Parkway to Micco Road was still unknown. Residents would have to cross four lanes of traffic to access the resources to the north. He questioned the advantage of running the Parkway parallel to the development without connection to the Interstate, and he stated that residents should not be allowed until all infrastructure was completed. Leaving the zoning unchanged until the traffic was addressed could be a solution.

Ms. Pat Dalpra (resident at Georges Avenue NE) spoke against the request. She stated that the land should not be rezoned until the infrastructure was in place. Traffic jams would occur unless road issues were addressed.

In response to the comments from the audience, Mr. Wise stated that the subject site was annexed into the City years ago and that nothing could occur at the site until a City land use designation was assigned. The project could not proceed without the developer driven and funded extension of the St. Johns Heritage Parkway and utilities. He stated that Certificates of Occupancy would not be issued for residences until the Parkway and utility extensions were completed. The entire region was being master planned with the Sunterra and Rolling Meadows developments located within Brevard County.

The floor was closed for public comments.

Mr. Karaffa stated that the illustrated rendering clarified that the school acreage was not part of the subject land use change but would be before the board at a later stage.

Mr. Good stated that the density of the site was very high and agreed that development should be slowed until services were addressed.

Mr. Warner noted that the previously approved town center area was being expanded to the subject site. Mr. Wise indicated that this was correct. The expansion gave better accessibility to the Parkway, visibility to the Interchange, and created a true downtown destination.

Motion by Mr. Karaffa, **Seconded** by Mr. McLeod to submit Case CP24-00010 to the City Council for approval and transmittal to the Florida Department of Commerce.

Mr. Warner inquired further into how the project could not proceed without the extension of the St. Johns Heritage Parkway. Mr. Wise confirmed that the project was not viable without the Parkway corridor.

A vote was called on the **Motion** by Mr. Karaffa, **Seconded** by Mr. McLeod to submit Case CP24-00010 to the City Council for approval and transmittal to the Florida Department of Commerce.

Result: Carried 4 to 1

Aye: Olszewski, Karaffa, McLeod, Warner

Nay: Good

Abstain: None

Ms. Frazier stated that if the City Council approved the case for transmittal to the Florida Department of Commerce, the state would review and return the submittal within 30 days for City Council final adoption.

OTHER BUSINESS:

1. There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 7:52 p.m.

Randall Olszewski, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

**Quasi-Judicial Proceeding