

1. Adoption of Minutes - Regular Meeting 2024-05; May 1, 2024

CITY OF PALM BAY, FLORIDA
PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2024-05

Held on Wednesday, May 01, 2024, 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. Robert Good led the Pledge of Allegiance to the Flag.

ROLL CALL:

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

CITY STAFF: Present were Ms. Lisa Frazier, AICP, Growth Management Director; Ms. Althea Jefferson, AICP, Assistant Growth Management Director; Ms. Tania Ramos, Principal Planner; Ms. Kimberly Haigler, Senior Planner; Ms. Chandra Powell, Recording Secretary; Mr. Michael Rodriguez, Chief Deputy City Attorney

The absences were excused for Mr. Jaffe and Mr. McLeod.

ADOPTION OF MINUTES:

1. P&Z/LPA Minutes - Regular Meeting 2024-04, April 3, 2024

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

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

ANNOUNCEMENTS:

1. 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.

OLD/UNFINISHED BUSINESS:

1. ****PS23-00009 - REQUEST TO CONTINUE TO 07/03 P&Z - Palm Bay Pointe East - Suresh Gupta, Kimaya, LLC (Jake Wise, P.E., Construction Engineering Group, LLC, Rep.) - A Preliminary Subdivision Plan to allow for a proposed 14-lot commercial subdivision to be known as Palm Bay Pointe East. Portions of Lots 12 through 21, Cape Kennedy Groves Unit 9, Section 10, Township 30, Range 37 along with portions of Tracts 500, 501, and 752, Section 3, Township 30, Range 37, Brevard County, Florida, containing approximately 42.95 acres. Located east of and adjacent to Babcock Street SE, north and south of St. Johns Heritage Parkway SE**

A request by the applicant to continue Case PS23-00009 to the July 3, 2024 Planning and Zoning Board Meeting to allow for a traffic study. Board action was required to continue the case.

Motion by Mr. Good, **Seconded** by Ms. Jordan to continue Case PS23-00009 to the July 3, 2024 Planning and Zoning Board Meeting.

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

Case PS23-00009 will be heard by the City Council on July 18, 2024.

2. ****PS23-00011 - REQUEST TO CONTINUE TO 07/03 P&Z - Palm Bay Pointe West - Vishaal Gupta, Kimaya, LLC (Jake Wise, P.E., Construction Engineering Group, LLC, Rep.) - A Preliminary Subdivision Plan to allow for a mixed-use**

subdivision containing 668 multiple-family residential units and 16 commercial parcels to be known as Palm Bay Pointe West. Tax Parcels 1, 500, 4, 750, 751, and 5, along with Tracts SM-2 and OS1 of Waterstone Plat One P.U.D., all in Sections 3 and 4, Township 30, Range 37, Brevard County, Florida, containing approximately 84.75 acres. Located west of and adjacent to Babcock Street SE, north and south of St. Johns Heritage Parkway SE

A request by the applicant to continue Case PS23-00011 to the July 3, 2024 Planning and Zoning Board Meeting to allow for a traffic study. Board action was required to continue the case.

Motion by Mr. Warner, **Seconded** by Mr. Good to continue Case PS23-00011 to the July 3, 2024 Planning and Zoning Board Meeting.

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

Case PS23-00011 will be heard by the City Council on July 18, 2024.

NEW BUSINESS:

1. ****V24-00002 – The Palms Apartments – Everly Mae Real Estate Fund, LLC, Desi Humphries, Manager (Brent Howells, Build REI, LLC / J. Wesley Mills, P.E., Mills, Short & Associates, Reps.) - A Variance to allow a 12-foot separation instead of the required 30 feet between two multiple-family residential buildings located on the same property, as established by Section 185.038(F)(7)(e) of the Palm Bay Code of Ordinances. Lots 1 through 4 and Lot 22, Block 1983, Port Malabar Unit 40, Section 03, Township 29, Range 37, Brevard County, Florida, containing approximately 3.22 acres. Located at the southeast corner of Agora Circle SE and Thor Avenue SE**

Ms. Ramos presented the staff report for Case V24-00002. Staff recommended Case V24-00002 for approval.

Mr. Rodriguez asked the board to disclose any ex parte communications regarding the case. There were no ex parte communications disclosed.

Mr. Warner questioned the impact the variance would have on Florida Power and Light's ability to access the easement for the power lines. Ms. Ramos stated that the Florida Power and Light (FPL) easement would remain. The City surveyor was fine with having the proposed parking beneath, and the separation requirement between the building and power lines would be met.

Mr. Boerema inquired whether FPL had been contacted about moving the power lines. Ms. Ramos stated that the applicant had discussed options with FPL, and correspondence regarding the discussion was in the file.

Mr. Olszewski asked staff to expound on the Fire Department's review regarding the proximity of the buildings. Ms. Ramos stated that the Fire Department and Building Department had indicated that there were several factors, such as the construction material of the wall, that would be considered during the permitting stage. The subject proposal was a viable option at this time for site planning.

Mr. J. Wesley Mills, P.E., Mills, Short & Associates (project engineer of record and representative for the applicant) stated that FPL would not move the power lines, so the subject request was the best option. He stated that the buildings and the requested 12-foot separation must still be in full compliance with the Florida Building Code for fire rating.

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

Mr. Bill Battin (resident at Ocean Spray Street SW) stated that the 30-foot separation requirement could be met by reducing the size of the proposed buildings by nine feet, or by only constructing one building. He calculated how there would be just four parking spaces for guests, and there were no garages for parking or storage.

Mr. Robert Stise (resident at Windbrook Drive SE) spoke against the request. His concerns were regarding electrical allowed in the middle of the project, the lack in parking accommodations, and the poor emergency response time for the area. He wanted to know the type of materials planned for the buildings.

In response to the comments from the audience, Mr. Mills stated that the buildings would be constructed out of block and would meet fire and building codes. Institute of Traffic Engineers (ITE) parking requirements would also be met. He commented on how the project would bring an affordable housing component into the community.

The floor was closed for public comments.

Mr. Boerema inquired whether the area beneath the power lines could be utilized for additional parking. He agreed with the suggestion of reducing the size of the buildings, or firewalls could be required. Mr. Mills explained that parking was already planned beneath the power lines and the walls between the two adjoining buildings would be fire rated per the National Fire Protection Association (NFPA) and the Florida Building Code.

Mr. Warner questioned the need for two buildings as opposed to a single apartment building. Mr. Mills stated that combining the buildings would lose density and would result in a less enhanced project.

Mr. Good remarked that the separation requirement existed for safety reasons. He believed a single, larger building was not desired by the applicant as it would instigate additional fire requirements.

Mr. Olszewski noted that the uniqueness of the site was based on a previous decision to merge the properties; however, he could not support the hazard of the requested variance just to cram more people closer to a power line.

Mr. Warner commented on the issue being a matter of safety.

Motion by Mr. Warner, **Seconded** by Mr. Boerema to submit Case V24-00002 to the City Council for denial.

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

2. ****CU24-00002 – Life Changer’s Outreach Regiment, Inc., Sherilyn Fletcher, President (K-J Lewis / Michael Dujovne, Esq., Volk Law Offices, P.A., Reps.) - A Conditional Use to allow a proposed private school in an RS-2, Single-Family Residential District, in accordance with Section 185.034(D)(1) of the Palm Bay Code of Ordinances. Tract E, Port Malabar Unit 4, Section 25, Township 28, Range 37, Brevard County, Florida, containing approximately 3 acres. Located at the southeast corner of Port Malabar Boulevard NE and Bianca Drive NE, specifically at 2100 Port Malabar Boulevard NE**

Ms. Ramos presented the staff report for Case CU24-00002. Staff recommended Case CU24-00002 for approval, subject to the staff comments contained in the staff report.

Mr. Rodriguez asked the board to disclose any ex parte communications regarding the case. There were no ex parte communications disclosed.

Mr. K-J Lewis, director of operations for Life Changer's Outreach Regiment, Inc. (representative for the applicant) emphasized the importance of good schools. The private school had existed for ten years and had made an impact on the community. He stated that the subject request would grant the school more time to meet a final site plan comment.

The floor was opened for public comments, and there was one item of correspondence in the file in opposition to a U-Haul truck that remained in proximity to a residence.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke against the request. He stated how private schools in RS-2, Single-Family Residential Districts were not allowed to negatively impact a community. A reduction in the speed limit through the school zone and U-turns to head west onto Port Malabar Boulevard NE would back up traffic. Allowing vehicles to park on the grass would be preferential treatment as it was no longer allowed in residential districts, and there was no space in the neighborhood for vehicle stacking.

In response to the comments from the audience, Mr. Lewis informed the board that the school had a 50-student capacity. The school specialized in small classroom instruction and there was no desire to go beyond. He described how students were dropped off and picked up by parents or the school shuttle. He noted that a traffic study had been done and there were no stacking issues. The parking loop was double-laned, school dismissals were staggered, and any U-turns occurred farther down from the site.

The floor was closed for public comments.

Mr. Good asked whether Bianca Drive NE could be utilized by the school. Mr. Lewis stated that a crosswalk on Bianca Drive was used by some of the students, but there was no vehicle access.

Mr. Warner wanted to know how the site was presently used, and if the school primarily served the surrounding neighborhood. He commented on how the school capacity would become a problem if the student count increased beyond 50. Mr. Lewis stated that the school owned the church currently on the property, and the church and school would both function on the site. He stated that the school had students from in and outside the area, and there were no plans to increase capacity at this time.

Mr. Olszewski inquired about the grade levels and number of classrooms in the school. Mr. Lewis stated that the school had nine classrooms, and the grade levels were kindergarten through twelfth grade.

Motion by Ms. Jordan, **Seconded** by Mr. Good to submit Case CU24-00002 to the City Council for approval.

Mr. Good commented that his children attended a charter school, and there was a need in the community for the schools.

Mr. Warner noted that staff comments were not included in the motion.

The motion and second were withdrawn by Ms. Jordan and Mr. Good.

Motion by Ms. Jordan, **Seconded** by Mr. Good to submit Case CU24-00002 to the City Council for approval, subject to the staff comments contained in the staff report.

Mr. Boerema asked if the U-Haul parking issue mentioned in the correspondence would be resolved. Mr. Lewis stated that he had not been aware of the truck issue but agreed to move the U-Haul truck to another side of the property.

A vote was called on the **Motion** by Ms. Jordan, **Seconded** by Mr. Good to submit Case CU24-00002 to the City Council for approval, subject to the staff comments contained in the staff report.

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

Case CU24-00002 will be heard by the City Council on May 2, 2024.

3. ****FS24-00001 – Riverwood at Everlands Phase 3 – DRP FL 6, LLC, Brian Clauson, DW General Partner, LLC (BSE Consultants, Inc., Rep.) - A Final Subdivision Plat to allow for a proposed 64-lot single-family residential subdivision to be known as Riverwood at Everlands Phase 3. Portions of Tax Parcel 256, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 23.81 acres. Located in the vicinity east of St. Johns Heritage Parkway NW, north of Emerson Drive NW**

Ms. Haigler presented the staff report for Case FS24-00001. Staff recommended Case FS24-00001 for approval.

Mr. Rodriguez asked the board to disclose any ex parte communications regarding the case. There were no ex parte communications disclosed.

Ms. Ana Saunders, P.E., BSE Consultants, Inc. (representative for the applicant) explained that a public road right-of-way on Tract Z would provide access to adjacent commercial and multiple-family parcels, but the landscaping, irrigation, and monument sign would be maintained by the applicant through a right-of-way use agreement. She said that a turn lane into the community was being installed, and that the project was part of an overall 398-unit development.

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

Mr. Bill Battin (Ocean Spray Street SW) inquired whether a traffic light would be installed off St. Johns Heritage Parkway NW, and he wanted to know if the development would access the south commercial site from St. Johns Heritage Parkway or by an interior connection.

In response to the comments from the audience, Ms. Saunders stated that based on the traffic studies and analysis, traffic signals were not planned for either St. Johns Heritage Parkway or Emerson Drive NW. Turn lanes, however, were actively being constructed. She commented on an agreement that would permit internal access to the commercial site from Castleberry Lane NW, and construction plans would be revised to show the driveway access through the project's median.

The floor was closed for public comments.

Mr. Olszewski asked about the nature of the commercial property, if the main entrance into the development would be off St. Johns Heritage Parkway, and if there

would be a main hub for the mailboxes. Ms. Saunders remarked on the possibility of a self-storage facility at the commercial site, and that the two entrances for the development would be off St. Johns Heritage Parkway and off Emerson Drive. She indicated the centralized mail facility location planned near the community center for the development.

Mr. Warner asked about the size of the commercial property. Ms. Saunders stated that the commercial property was approximately 2 acres.

Motion by Ms. Jordan, **Seconded** by Mr. Boerema to submit Case FS24-00001 to the City Council for approval, subject to the technical staff comments contained in the staff report.

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

4. ****FS24-00002 – Riverwood at Everlands Phase 4 – DRP FL 6, LLC, Brian Clauson, DW General Partner, LLC (BSE Consultants, Inc., Rep.) - A Final Subdivision Plat to allow for a proposed 96-lot single-family residential subdivision to be known as Riverwood at Everlands Phase 4. Portions of Tax Parcel 256, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 34 acres. Located in the vicinity east of St. Johns Heritage Parkway NW, north of Emerson Drive NW**

Ms. Haigler presented the staff report for Case FS24-00002. Staff recommended Case FS24-00002 for approval.

Mr. Rodriguez asked the board to disclose any ex parte communications regarding the case. There were no ex parte communications disclosed.

Ms. Ana Saunders, P.E., BSE Consultants, Inc. (representative for the applicant) stated that there were no issues with staff comments, and that a revised final plat had be submitted to staff.

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

Mr. Warner commented that the amount of commercial land planned for the area seemed small but adequate for the subdivision.

Motion by Ms. Jordan, **Seconded** by Mr. Good to submit Case FS24-00002 to the City Council for approval, subject to the technical staff comments contained in the staff report.

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

5. **MOR24-00001 - Moratorium Self-Storage Facilities – City of Palm Bay (Growth Management Department) - A petition to establish a temporary moratorium to prohibit the acceptance, processing, or consideration of applications for a permit or development order to allow self-storage facilities; adopting findings of fact; providing for a severability clause; providing for an effective date**

Ms. Frazier presented the staff report for Case MOR24-00001. Case MOR24-00001 met the basic requirements of a Moratorium request.

Mr. Boerema inquired about the time span of the moratorium. Ms. Fraizer stated that a temporary six-month moratorium was proposed. The City was in the process of updating the Land Development Code, which would touch on conditional use criteria and possibly items in the commercial districts such as self-storage units and car washes. The update would be completed by the end of the fiscal year and was perhaps why the six-month timeframe was suggested. Mr. Rodriguez added that the moratorium would be for six months unless rescinded sooner.

Ms. Jordan asked if the moratorium would automatically renew if the Land Development Code was not completed in six months. Ms. Frazier explained that the moratorium was not tied to the update of the Land Development Code, and that extending the moratorium would be up to the City Council. As previously mentioned, the moratorium could be rescinded prior to six months. Mr. Rodriguez agreed that an extension of the moratorium would have to go back to the City Council as a new ordinance.

Mr. Warner inquired whether some of the guidelines for self-storage units would be changed with the Land Development Code update. Ms. Frazier indicated that this could potentially occur.

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

Mr. Bill Battin (resident at Ocean Spray Street SW) questioned the staff report regarding what a moratorium on commercial self-storage had to do with residential development. He suggested that a moratorium might be necessary on residential growth instead of the subject proposal that stopped business. Self-storage companies were coming into the City because it was profitable and met a need. They also increased business tax revenue.

Ms. Shaon Harrell (representative for KEW, LLC) inquired whether the RV boat storage facility currently in development on Eldron Boulevard SE would be impacted by the moratorium.

In response to the comments from the audience, Ms. Frazier stated that the moratorium would only suspend development orders and permits associated with the approval of new applications or applications that had not been advertised for conditional use. The six storage facilities that were currently under review would continue. She explained that the residential reference in the staff report was to contrast how only nine percent of the City consisted of commercial and industrial land use.

The floor was closed for public comments.

Mr. Boerema commented that the moratorium would not take effect until City Council action. Ms. Frazier stated that this was correct. The first reading of the ordinance would occur at the May 2, 2024 City Council meeting.

Motion by Ms. Jordan, **Seconded** by Mr. Boerema to submit Case MOR24-00001 to the City Council for approval.

Result: Carried 5 to 0

Aye: Olszewski, Good, Boerema, Jordan, Warner

Nay: None

Abstain: None

Case MOR24-00001 will be heard by the City Council on May 2, 2024.

6. **MOR24-00002 - Moratorium Car Washes Facilities – City of Palm Bay (Growth Management Department) - A petition to establish a temporary moratorium to prohibit the acceptance, processing, or consideration of applications for a permit or development order for stand-alone automated and self-service car washes; adopting findings of fact; providing for a severability clause; providing for an effective date**

Ms. Frazier presented the staff report for Case MOR24-00002. Case MOR24-00002 met the basic requirements of a Moratorium request.

Mr. Boerema asked about the number of car washes currently under review. Ms. Frazier stated that there was only one car wash currently submitted for review.

Mr. Warner inquired whether the guidelines for car washes would be changed with the Land Development Code update. Ms. Frazier indicated that this was correct.

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

Mr. Bill Battin (resident at Ocean Spray Street SW) wanted to know if the purpose of the moratorium was to limit business, or specific businesses, from coming into Palm Bay. He commented on how certain businesses might not generate high employment but still met a need in the City and added to the tax base revenue. He believed the moratorium could potentially scare away business.

The floor was closed for public comments.

Motion by Mr. Boerema, **Seconded** by Mr. Warner to submit Case MOR24-00002 to the City Council for approval.

Mr. Olszewski stated his opposition to the request. He questioned the necessity and the actual impact of the proposal. The perception would be that the City wanted to prevent car washes, and there was not many car washes in the City. He believed that commercial entities, and car washes through the conditional use process, should be allowed to develop.

Mr. Good supported the request. He remarked on the number of car washes on the major roadways that caused traffic problems. The moratorium would allow ingress/egress requirements for car washes to be studied.

Ms. Jordan concurred with Mr. Olszewski in opposition to the moratorium.

Mr. Warner stated his support of the request. The City was growing fast and needed to take the time to prepare hardcore guidelines to have good, thriving businesses in the commercial districts.

A vote was called on the **Motion** by Mr. Boerema, **Seconded** by Mr. Warner to submit Case MOR24-00002 to the City Council for approval.

Result: Carried 3 to 2

Aye: Good, Boerema, Warner

Nay: Olszewski, Jordan

Abstain: None

Case MOR24-00002 will be heard by the City Council on May 2, 2024.

OTHER BUSINESS:

1. There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 7:18 p.m.

Randall Olszewski, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

**Quasi-Judicial Proceeding