

CITY OF PALM BAY, FLORIDA

**PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
SPECIAL MEETING 2019-09**

Held on Wednesday, July 10, 2019, 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.

Ms. Leeta Jordan led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRPERSON:	Philip Weinberg	Present	
VICE CHAIRPERSON:	Leeta Jordan	Present	
MEMBER:	Donald Boerema	Present	
MEMBER:	Nancy Domonousky	Absent	(Excused)
MEMBER:	Donny Felix	Present	(Late)
MEMBER:	Khalilah Maragh	Present	
MEMBER:	Rainer Warner	Present	
NON-VOTING MEMBER:	Vacant (School Board Appointee)		

CITY STAFF: Present were Mr. Patrick Murphy, Assistant Growth Management Director; Mr. Christopher Balter, Planner II; Ms. Chandra Powell, Recording Secretary; Mr. James Stokes, Board Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting No. 2019-07; June 5, 2019. Motion by Ms. Maragh, seconded by Mr. Warner to approve the minutes as presented. The motion carried with members voting unanimously.

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-13-2019 – MICHAEL AND DEANA ROULEAU

Mr. Balter presented the staff report for Case V-13-2019. The applicant had requested a variance to allow a proposed carport to encroach 3-feet into the 10-foot rear-yard accessory structure setback as established by Section 185.118(A)(4) of the Palm Bay Code of Ordinances. The board and City Council had to determine, based on the facts presented, the degree of minimal relief to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Mr. Felix arrived during staff's presentation of the staff report.

Mr. Weinberg inquired whether both the subject carport and its concrete footer would extend into the setback. Mr. Michael Rouleau (applicant) explained that the below-grade footer for the carport would encroach the setback.

Mr. Warner and Ms. Maragh asked about decreasing the size or number of solar panels planned for the structure to reduce the size of the carport. Mr. Rouleau explained why a reduction in the number or size of the solar panels would not be economically feasible, and a narrower structure would block ingress and egress to his adjacent shed.

Ms. Jordan asked if solar panels were planned for the existing concrete building on the site. Mr. Rouleau indicated that solar panels would not be placed on the existing building as the building was too small to offset projected electrical expenses.

The floor was opened for public comments.

Mr. Louis Giannine (resident at Lisa Road NE) spoke in favor of the request.

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

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case V-13-2019 to City Council for approval of a variance to allow a proposed carport to encroach 3-feet into the 10-foot rear-yard accessory structure setback as established by Section 185.118(A)(4) of the Palm Bay Code of Ordinances. The motion carried with members voting as follows:

Mr. Weinberg	Aye
Ms. Jordan	Aye
Mr. Boerema	Aye
Mr. Felix	Abstained
Ms. Domonousky	Aye
Ms. Maragh	Aye
Mr. Warner	Aye

Mr. Felix abstained from the vote as he was not present for the entire case.

2. **CP-8-2019 – KALEEL T. BAKSH**

Mr. Murphy presented the staff report for Case CP-8-2019. The applicant had requested a small scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. Staff recommended Case CP-8-2019 for approval, pursuant to Chapter 163, Florida Statutes.

Mr. Kaleel Baksh (applicant) commented on how he liked the proposed neighborhood and wanted to build a home on the subject property.

The floor was opened for public comments.

Ms. Florence Ruppert (resident at Georgia Avenue NE) spoke against the request. Her parents originally purchased her lot because of the park property. The wildlife on the site included scrub jays and gopher tortoises. She was also concerned about the impact the home would have on her septic system, drainage, and the Indian River Lagoon.

Ms. Carla Moffit (resident and owner of land at Georgia Avenue NE) spoke against the request. She purchased her lot because of the park property, and she did not want the proposed project to worsen her excessive drainage problem. She commented on her enjoyment of the various wildlife at the subject site.

Ms. Tracy Wales (resident at Kent Street NE) spoke against the request. Her property was purchased with the belief that no one could build on the park site. She remarked on the existing drainage issues in the area and noted policies of the Comprehensive Plan that prohibited a proposed use from aggravating substantial drainage problems on surrounding properties or the habitat of listed species such as the gopher tortoises on the property. She suggested that a site evaluation be completed before development was allowed to occur.

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

Motion by Ms. Maragh, seconded by Ms. Jordan to submit Case CP-8-2019 to City Council for approval.

Mr. Warner commented that the placement of the proposed home on the site could resolve some of the concerns from the residents.

The motion and second were withdrawn, and the floor was reopened for public comments.

Mr. Baksh indicated a desire to build his home on the north side of the property at Greyfield Street NE.

The floor was re-closed for public comments.

Ms. Maragh wanted to confirm that drainage issues were typically addressed when a building permit was pulled. Mr. Murphy stated that this was correct and because of the size of the property, the Public Works Department would review historical drainage and the offsite flow the property would create. City and applicable St. Johns River Water Management District codes would have to be met to obtain a building permit.

Mr. Boerema inquired whether the subject site was ever park land. Mr. Murphy explained that the Recreation and Open Space land use was assigned by General Development Corporation; however, the property had a single-family residential zoning district designation that allowed for a park. He noted that a park was never built on the site, and the property was privately sold by General Development Corporation.

Motion by Mr. Warner, seconded by Ms. Maragh to submit Case CP-8-2019 to City Council for approval of a small scale Comprehensive Plan Future Land Use Map amendment from Recreation and Open Space Use to Single Family Residential Use. The motion carried with members voting unanimously.

3. ♣V-14-2019 – JAKE WISE, PE

Mr. Murphy presented the staff report for Case V-14-2019. The applicant had requested a variance to allow a proposed gymnasium at Odyssey Charter School to exceed the 25-foot maximum height requirement by 9 feet as established by Section 185.042(F)(6) of the Palm Bay Code of Ordinances. The board and City Council had to determine, based on the facts presented, the degree of minimal relief to meet the needs of the variance request, as required by Section 169.009 of the City of Palm Bay Code of Ordinances.

Mr. Warner inquired about the height of the gymnasiums at Heritage High School and at the Ted Whitlock Community Center. Mr. Murphy noted that both gyms surpassed 25-feet in height; however, the gyms were built in zoning districts that had height restrictions that exceeded 25-feet.

Mr. Jake Wise (applicant and civil engineer for the project) informed the board that the original site plan for a prior school on the property had included a gymnasium. The current proposal was to allow for a centralized gym away from existing residents to the east and west. He noted that the school itself exceeded 25-feet in height, so the subject request would be compatible with the existing school campus. He submitted a rendering of the proposed gym and explained that the proposed ceiling height was needed to play sports like basketball and volleyball.

Mr. Warner questioned whether the gym height for Pineapple Cove High School in development by the applicant exceeded 25-feet. Mr. Wise confirmed that the gym at Pineapple Cove High School exceeded 25-feet in height.

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 by Ms. Jordan, seconded by Ms. Maragh to submit Case V-14-2019 to City Council for approval of a variance to allow a proposed gymnasium at Odyssey Charter School to exceed the 25-foot maximum height requirement by 9 feet as established by Section 185.042(F)(6) of the Palm Bay Code of Ordinances. The motion carried with members voting unanimously.

4. **CP-10-2019 – JAKE WISE, PE**

Mr. Balter presented the staff report for Case CP-10-2019. The applicant had requested a large scale Comprehensive Plan Future Land Use Map amendment from Industrial Use and Commercial Use to Bayfront Mixed Use. Staff recommended Case CP-10-2019 for approval, subject to the staff comments contained in the staff report.

Mr. Warner inquired whether there was a required percentage between the residential and commercial land proposed for the subject property. Mr. Balter explained that the BMU district allowed for a mix of uses. The zoning case for the project would govern the densities.

Ms. Maragh inquired whether consideration was given to police and fire impact. Mr. Balter explained that those impacts were addressed by a Police, Fire, and Parks impact fee.

Mr. Jake Wise (applicant and civil engineer for the project) stated that the subject property had sat undeveloped and in bad condition for many years. A first-class facility with a vista view of the water would house a growing business community in the vicinity. There were no site plans at this time since market studies were still being considered.

Ms. Brenda Yates with Yates and Company (planner for the project) stated that she concurred with the staff report and requirements for the traffic study; the phase one environmental study; and the 100-foot setback for the residential structures on Rowena Drive NE. The traffic study would determine the right-in/right-out driveway connection for Robert J. Conlan Boulevard NE and the driveway connections on Dixie Highway NE. The applicant's goal was to create a multi-functional riverfront overview property consistent with the mixed uses allowed within the Bayfront district. She explained that the residential property was part of the commercial entity to be maintained by the developer. The 100-foot setback from residential land was the same requirement for chemical facilities in heavy industrial districts by conditional use.

Mr. Warner commented that the subject change would make the property part of the Bayfront district. Ms. Yates indicated that this was correct.

Mr. Boerema stated his concerns with the access proposed off Robert J. Conlan Boulevard because of the existing congestion, hill, and blind turn. Mr. Wise remarked that he was working with staff to push the existing driveway farther north for safety, and a right-in/right-out driveway would be installed to meet Florida Department of Transportation standards. The main access, however, would be on Dixie Highway NE. The traffic study would be key to the success of the project.

The floor was opened for public comments.

Mr. Jack Spira with Spira, Beadle & McGarrell PA (attorney representing Far Research, Inc.) spoke against the request. His client was located adjacent to the subject site on over 25 acres where hazardous chemicals and materials were handled in compliance with the Federal Environmental Protection Agency. In 1983, the company had specifically selected the rear location in the heavy industrial district to minimize any potential impact that would result from a discharge of extremely dangerous chemicals. He did not believe the subject request was compatible with the surrounding land uses as required by Florida Statute, or that a multiple-family development should be used to transition between industrial and commercial uses. It would also be unfair for tenants of the development to later discover their close proximity to odors and hazardous substances that jeopardized their health, safety, and welfare.

Ms. Cecelia Bonifay with Akerman LLP (land use attorney representing Far Industries and Properties) spoke against the request. She believed there was a lack of due diligence with a submittal that had no concept plan, site plan, traffic or environmental studies. Her client had relied on the City's Comprehensive Plan to protect the surrounding area from the hazardous nature of their business, and a 100-foot buffer would not be effective against an airborne discharge. She noted that the Comprehensive Plan required land use regulations to provide provisions to prevent encroachment of non-industrial uses into areas reserved for industrial development to protect the public. Placing residents next to the industrial property would be inconsistent and incompatible.

Ms. Carmen Rasnick with Akerman LLP (urban planner representing Far Industries and Properties) spoke against the request. She stated that the proposed request was not appropriate for the subject site and was incompatible with the Code of Ordinances since residential land was not a permitted use for heavy industrial property. A progression from light industrial use to commercial use would more appropriately buffer the area.

Mr. John Sessa (owner of acreage at Kingswood Drive NE) spoke in favor of the request. However, he had investment properties in the area and was concerned about the rats, the homeless, and drainage within the area. He commented on how the gully at the end of Kingswood Drive became impassable during sustained rains.

In response to comments from the audience, Mr. Wise noted that there were single-family and multiple-family developments already in proximity to Far Research, and expectations were that Far Research would continue to protect all. He explained that the land use and rezoning requests were initial steps to move the project forward and necessary for a traffic study. Market studies, geotechnical studies, phase I and II environmental studies had been done, and City Council had recently approved a similar multiple-family project to the north. He was willing to work with area residents regarding the wildlife, rats, and issues with the homeless. He re-emphasized that the stringent St. Johns River Water Management District standards and City standards would have to be met for stormwater treatment.

Ms. Maragh inquired whether Mr. Sessa had received complaints from his tenants about Far Research. Mr. Sessa stated that there had not been any odors from the site or complaints in the last 20 years, and Far Research was well maintained.

Mr. Felix questioned whether Far Research had similar concerns when Northshore apartments to the north was under review. Mr. Balter stated that Far Research did not indicate any opposition to the proposal for the Northshore apartments.

The floor was closed for public comments.

Mr. Warner stated that properties within the Bayfront district should have a BMU land use.

Motion by Mr. Warner, seconded by Ms. Maragh to submit Case CP-10-2019 to City Council for approval of a large scale Comprehensive Plan Future Land Use Map amendment from Industrial Use and Commercial Use to Bayfront Mixed Use, subject to the staff comments contained in the staff report.

Mr. Weinberg concurred with Warner's comment regarding the BMU district and added that the subject proposal would be more in keeping with City Council's vision for Robert J. Conlan Boulevard than industrial use on water view property.

A vote was called on the motion by Mr. Warner, seconded by Ms. Maragh to submit Case CP-10-2019 to City Council for approval of a large scale Comprehensive Plan Future Land Use Map amendment from Industrial Use and Commercial Use to Bayfront Mixed Use, subject to the staff comments contained in the staff report. The motion carried with members voting unanimously.

City Council approval of the large scale amendment will require a transmittal of the proposal to the Florida Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes.

5. ♣CPZ-10-2019 – JAKE WISE, PE

Mr. Balter presented the staff report for Case CPZ-10-2019. The applicant had requested a zoning amendment from an HC, Highway Commercial District and an HI, Heavy Industrial District to a BMU, Bayfront Mixed Use District. Staff recommended Case CPZ-10-2019 for approval, subject to the staff comments contained in the staff report.

Mr. Jake Wise (applicant and civil engineer for the project) commented that the zoning discussion for the project had occurred under the land use request. The property had been within the Bayfront Community Redevelopment District for 20 years, so the proposed request was ideal for the site.

The floor was opened for public comments.

Mr. Jack Spira with Spira, Beadle & McGarrell PA (attorney representing Far Research, Inc.) spoke against the request. He asked that his comments made during the land use request be reiterated for the subject case.

Ms. Cecelia Bonifay with Akerman LLP (land use attorney representing Far Industries and Properties) spoke against the request. She stated that the City's vision should match the land uses and zoning districts that were relied upon by businesses. Far Research was diligent in making sure their facility was safe but allowing the requested change would subject the public to a huge risk.

Mr. Rick Boskind (owner of property at Rowena Drive NE) spoke against the request. He was concerned about foot and vehicular congestion and nefarious activity that could occur. Residents at the site might complain about the loud trucks and heavy equipment at his business. The change could also devalue his property since potential buyers might not want to pay as much for property that abutted BMU. He was concerned about the impact on his utilities and insurance and stated that someone should be looking out for the existing business owners. The proposal could also impact the possibility of future railroad access.

In response to comments from the audience, Mr. Wise stated that the development would not have any impact on Mr. Boskind's access or utilities, and truck noise from Rowena Drive and Kingswood Drive was much lower than noise from Dixie Highway NE and the railroad. He commented that residents were already in the vicinity when Far Research came into the area, so the company must have believed they could keep residents safe.

Mr. Boerema questioned having commercial uses at the back of the lot. Mr. Wise clarified that commercial uses would be at the front of the property, and the back of the lot would focus on the view and water for the multiple-family development.

Ms. Maragh wanted to know what Far Research was concerned about since residents had been in the vicinity before the company's arrival. Ms. Bonifay responded that the nature of hazardous materials at the facility could have changed over the years. Far Research always had a safe operation, but they were concerned about allowing residential property to locate adjacent to their site at potential risk to the public given the volatile nature of their business where a spill or discharge could become airborne. The City would be taking on the risk of allowing the proposed development to occur.

Mr. Wise commented on the property's existing zoning and impacts from the possible uses. Any development at the site, current residential properties, and nearby commercial and industrial businesses would be affected if there was an airborne hazardous discharge from Far Research.

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

Mr. Stokes advised the board that they were not liable for any chemical discharge that might occur at Far Research. The liability for any intentional or negligent discharge of chemicals would lie with Far Research. He assured the board that they would not face any liability for their decision regarding the request.

Motion by Ms. Jordan, seconded by Ms. Maragh to submit Case CPZ-10-2019 to City Council for approval of a zoning amendment from an HC, Highway Commercial District and an HI, Heavy Industrial District to a BMU, Bayfront Mixed Use District. The motion carried with members voting unanimously.

6. ♣FS-2-2019 – BILDA EXECUTIVE PARK (BRUCE MOIA, REP.)

Mr. Murphy presented the staff report for Case FS-2-2019. The applicant had requested a Final Plat approval of a proposed 10.00-acre commercial development called Bilda Executive Park. Staff recommended Case FS-2-2019 for approval, subject to the staff comments contained in the staff report.

Mr. David Bassford, P.E. with MBV Engineering, Inc. (representative for the applicant) was present to answer questions.

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 project at the subject site appeared to be nearly done. Mr. Basford stated that except for the retail and commercial portion of the development, both hotels would soon be completed.

Motion by Ms. Maragh, seconded by Ms. Jordan to submit Case FS-2-2019 to City Council for a Final Plat approval of a proposed 10.00-acre commercial development called Bilda Executive Park, subject to the staff comments contained in the staff report. The motion carried with members voting unanimously.

7. ♣FD-16-2019 – SCOTT M. GLAUBITZ

Mr. Balter presented the staff report for Case FD-16-2019. The applicant had requested a Final Development Plan approval for a proposed Parkway Mixed Use District (PMU) to allow for a 620-unit mixed-use development called St. Johns Preserve. Staff recommended Case FD-16-2019 for approval, subject to the staff comments contained in the staff report.

Mr. Warner asked if the subject development would be part of the expansion for St. Johns Heritage Parkway SE and four-laning of Malabar Road SE. Mr. Balter explained that Brevard County was responsible for widening the specific section of Malabar Road, and that the required traffic impact study would mitigate warranted impacts of the development. The project, however, should not trip any levels of service to warrant improvements for St. Johns Heritage Parkway. Mr. Murphy added that the project would only be required to fund their fair share of widening Malabar Road.

The floor was opened for public comments.

Mr. Ken Ludwa with BSE Engineering, Inc. (representative for the applicant) stated that the subject proposal was virtually the same as approved a year ago. The resubmittal was required to allow a change in the planned phases for the development based on a new economical utility agreement to extend utilities through the site, and the project would now commence at the south end. He stated that the access agreement had been approved by the Brevard County School Board.

Mr. Warner inquired if the new phasing would begin with commercial or residential development. Mr. Ludwa stated that the first phase would be residential.

Ms. Maragh wanted to know when the commercial phase would begin. Mr. Mike Evans (developer of the property) explained that he owned the residential portion of the site, and he believed the commercial owner was waiting for the homes to be built.

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 by Mr. Felix, seconded by Ms. Maragh to submit Case FD-16-2019 to City Council for a Final Development Plan approval for a proposed Parkway Mixed Use District (PMU) to allow for a 620-unit mixed-use development called St. Johns Preserve, subject to the staff comments contained in the staff report. The motion carried with members voting unanimously.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 9:14 p.m.

Philip Weinberg, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

♣Quasi-Judicial Proceeding.