

CITY OF PALM BAY, FLORIDA

PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2023-12

Held on Wednesday, December 6, 2023, 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.

Chairperson Leeta Jordan called the meeting to order at approximately 6:00 p.m.

Vice Chairperson Philip Weinberg led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRPERSON:	Leeta Jordan	Present
VICE CHAIRPERSON:	Philip Weinberg	Present
MEMBER:	Donald Boerema	Present
MEMBER:	Robert Good	Present
MEMBER:	Jeffrey McLeod	Absent (Excused)
MEMBER:	Randall Olszewski	Present
MEMBER:	Rainer Warner	Present
NON-VOTING MEMBER:	David Karaffa (School Board Appointee)	Absent

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

Mr. McLeod's absence was excused.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2023-10; October 4, 2023.

Motion to approve the minutes as presented.

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

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

ANNOUNCEMENTS:

1. Ms. Jordan 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. ****CU23-00003 – Emerson Plaza - Sunrise Plaza Enterprise, Inc., Nazim Ali, President, (Richard Franzblau, Esq., Rep.) - A Conditional Use to allow retail automotive gas/fuel sales in an NC, Neighborhood Commercial District, in accordance with Section 185.042(D)(1) of the Palm Bay Code of Ordinances. A portion of Tract I, Port Malabar Unit 44, Section 22, Township 28, Range 36, Brevard County, Florida, containing approximately 3 acres. Located at the southwest corner of Glencove Avenue NW and Emerson Drive NW**

Ms. Ramos presented the staff report for Case CU23-00003. Case CU23-00003 met the minimum requirements for approval of a conditional use.

Mr. Richard Franzblau, Esq. (representative for the applicant), stated that the project would comply with the required 25-foot rear yard setback.

Mr. Olszewski asked if there would be companion services like a carwash or an oil change service; if electronic charging stations were planned; and if there would be sidewalk connections. Mr. Franzblau stated that no companion services were planned, but there would be retail and electronic charging stations. He said that there would be a sidewalk connection to the existing Emerson Drive NW and Glencove Avenue NW sidewalks.

The floor was opened for public comments.

Ms. Liza Santini (resident at Kaslow Circle NW) spoke against the request. She believed Discovery Elementary School students would use the gas station for illegal activity and property values would decline. There would be gas pollution, and trucks in the area at all hours would make it unsafe to walk in the neighborhood.

Ms. Helen Mullis (resident at Kaslo Circle NW) spoke in favor of the request. She stated that the gas station would not necessarily bring illegal activity into the area. The west side of the City was expanding rapidly and would need gas stations as well as other commercial services. She said that the developer was reputable and had produced beautiful and well-maintained projects. A barrier would separate the gas station from area homes, and the school crossing guard would continue to assist the school children.

In response to the comments from the audience, Mr. Asif Khan, Land Marks, LLC (general contractor for the project), concurred that school crossing guards would assist school children and any illegal activity would be handled by law enforcement. The site would be beautifully developed, well lit with 24-hour camera surveillance, and fenced.

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

Mr. Weinberg noted that the property was already zoned Community Commercial, and the conditional use was only needed to pump gas.

Motion to submit Case CU23-00003 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

City Council will hear Case CU23-00003 on December 7, 2023.

NEW BUSINESS:

1. ****CU23-00014 - Gettin Crabby - AZAD Business Corp, Azror Ashrapov (Kevin Arbour, Boston & Bailey Corp, Rep.) - A Conditional Use to allow alcohol service at a proposed dining establishment in a BMUV, Bayfront Mixed Use Village District, in accordance with Section 185.053(D)(2) of the Palm Bay Code of Ordinances. Part of Lot 10, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 0.3 acres. Located east of and adjacent to Dixie Highway NE, in the vicinity south of the intersection of Dixie Highway NE and Anglers Drive NE, specifically at 4391 Dixie Highway NE**

Ms. Haigler presented the staff report for Case CU23-00014. Staff recommended Case CU23-00014 for approval, subject to the staff comments contained in the staff report.

Mr. Olszewski asked if the requested mixed-use zoning district was the updated mixed-use village designation for the corridor. Ms. Haigler confirmed that this was correct.

Mr. Kevin Arbour, Boston & Bailey Corp (representative for the request), stated that the plan was to open a restaurant similar to Ozzie's Restaurant that was previously occupied the site. He looked forward to operating a family-friendly restaurant with some low-key entertainment.

Mr. Warner inquired whether a full bar would be offered. Mr. Arbour confirmed that this was correct.

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

Motion to submit Case CU23-00014 to City Council for approval, subject to the staff comments contained in the staff report.

Mr. Warner stated that the restaurant would be a welcome addition to the Bayfront area.

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

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

City Council will hear Case CU23-00014 on December 7, 2023.

2. ****CU23-00016 - Gettin Crabby - AZAD Business Corp, Azror Ashrapov (Kevin Arbour, Boston & Bailey Corp, Rep.) - A Conditional Use to allow outdoor seating at a proposed dining establishment in a BMUV, Bayfront Mixed Use Village District, in accordance with Section 185.053(D)(3) of the Palm Bay Code of Ordinances. Part of Lot 10, Hopsons Subdivision, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 0.3 acres. Located east of and adjacent to Dixie Highway NE, in the vicinity south of the intersection of Dixie Highway NE and Anglers Drive NE, specifically at 4391 Dixie Highway NE**

Ms. Haigler presented the staff report for Case CU23-00016. Staff recommended Case CU23-00016 for approval, subject to the staff comments contained in the staff report.

Mr. Kevin Arbour, Boston & Bailey Corp (representative for the request), stated that his comments were the same as presented for Case CU23-00014.

Mr. Olszewski asked if the request would add more outdoor seating than approved for the former Ozzie's Restaurant. Mr. Arbour stated that the outdoor seating would not change.

Mr. Warner asked about plans for future expansion. Mr. Arbour stated that there were no plans for expansion at this time.

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

Motion to submit Case CU23-00016 to City Council for approval, subject to the staff comments contained in the staff report.

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

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

City Council will hear Case CU23-00016 on December 7, 2023.

3. **CP23-00017 - Diaz Property - Diaz Treasures, LLC, Ubaldo Diaz, Manager (Tony Masone / Jake Wise, P.E., Construction Engineering Group, Reps.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Residential 1 Unit Per Acre (Brevard County) to Commercial. Tax Parcel 2, Section 5, Township 29, Range 36, Brevard County, Florida, containing approximately 6.00 acres. Located south of and adjacent to W. Malabar Road, in the vicinity south of St. Johns Heritage Parkway NW, and west of Melbourne Tillman Drainage District Canal 7**

Ms. Ramos presented the staff report for Case CP23-00017. Staff recommended Case CP23-00017 for approval.

Mr. Olszewski wanted to know how soon development would commence. He stated that traffic signal and intersection upgrades should first be in place.

Mr. Weinberg asked about the annexation of the subject site. Mr. Rodriguez informed the board that the annexation had occurred at the last City Council meeting.

Mr. Jake Wise, P.E., Construction Engineering Group (representative for the applicant), stated that development of the subject site would include the south expansion of St. Johns Heritage Parkway, which was allowed to occur because of a land swap with the City. He remarked on the Babcock Street SE and St. Johns Heritage Parkway SE traffic signal that would be relocated to the subject intersection. The land use request met the criteria for an amendment, and development was anticipated to begin in six to nine months. He noted that the traffic signal should be installed beforehand and other intersection improvements would be

worked on. A Project Development and Environment (PD&E) Study was being done for Malabar Road and for St. Johns Heritage Parkway to the north.

Mr. Olszewski reiterated his concern with the unfolding of the commercial project without the intersection improvements in place, which he believed were needed before the widening of Malabar Road. He wanted to know if the subject parcel would have development before the south parkway extension occurred with access. Mr. Wise responded by expounding on the traffic enhancements planned for the area and remarked on how the gas station proposed for the subject corner would not be a destination but a complement that benefited the existing passer-by traffic. The traffic improvements were anticipated to be in place before the gas station opened, and there was no end user at this time. He commented that the development of the subject site before the St. Johns Heritage Parkway south extension occurred was possible; however, another development was involved with the extension.

Mr. Weinberg inquired whether the City had already agreed to the 2.77-acre land swap to widen Malabar Road and St. Johns Heritage Parkway. Mr. Wise confirmed that there was an agreement which also included approximately 50 feet of land at the north end of the property.

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. Weinberg commented that the gas station planned for the site would serve the neighborhood and would not draw traffic into the area.

Motion to submit Case CP23-00017 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good.

Mr. Warner stated his appreciation of the information provided regarding the plans for the corridors, which would help the board make informed decisions about the area.

A vote was called on the motion to submit Case CP23-00017 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Warner.

Nay: Olszewski.

4. ****CPZ23-00009 - Diaz Property - Diaz Treasures, LLC, Ubaldo Diaz, Manager (Tony Masone / Jake Wise, P.E., Construction Engineering Group, Reps.) - A Zoning Amendment from AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District. Tax Parcel 2, Section 5, Township 29, Range 36, Brevard County, Florida, containing approximately 6.00 acres. Located south of and adjacent to W. Malabar Road, in the vicinity south of St. Johns Heritage Parkway NW, and west of Melbourne Tillman Drainage District Canal 7**

Ms. Ramos presented the staff report for Case CPZ23-00009. Staff recommended Case CP23-00009 for approval.

Mr. Warner wanted to confirm that the subject site had already been annexed into the City. Ms. Ramos indicated that this was correct.

Mr. Jake Wise, P.E., Construction Engineering Group (representative for the applicant), stated that the subject request met the criteria for the zoning amendment.

Mr. Olszewski questioned how the subject site was determined to be a passer-by business site. The land was at a dead end from the east and the north with nowhere for the growing traffic to move. He was apprehensive about traffic navigating through the dead-end area. Mr. Wise explained that the nature of Community Commercial property and its uses was to serve the general local public that were already driving within the area. Community Commercial sites were not typically a destination for traffic outside the area. Plans for the site were at an early stage, so a site plan, traffic study, and other conditions would later be required. There were currently intersection improvements in Brevard County permitting.

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. Weinberg remarked that the subject site had been annexed into the City, and that the Community Commercial zoning designation made sense.

Motion to submit Case CPZ23-00009 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Warner.

Nay: Olszewski.

5. ****CU23-00012 - Diaz Property Gas Station - Diaz Treasures, LLC, Ubaldo Diaz, Manager (Tony Masone / Jake Wise, P.E., Construction Engineering Group, Reps.) - A Conditional Use to allow retail automotive gas/fuel sales in a CC, Community Commercial District, in accordance with Section 185.043(D)(3) of the Palm Bay Code of Ordinances. Tax Parcel 2, Section 5, Township 29, Range 36, Brevard County, Florida, containing approximately 6.00 acres. Located south of and adjacent to W. Malabar Road, in the vicinity south of St. Johns Heritage Parkway NW, and west of Melbourne Tillman Drainage District Canal 7**

Ms. Ramos presented the staff report for Case CU23-00012. Case CU23-00012 met the minimum requirements for approval of a conditional use.

Mr. Olszewski questioned whether the proposed gas station would occupy the entire 6 acres, and if the conditional use request was for the overall site. Ms. Ramos stated that the concept plan for the site included a 5,135 square-foot gas station, 2,330 square-foot restaurant, and a 2,500 square-foot coffee shop; however, the conditional use was only to allow for gas/fuel sales. She surmised that the applicant's intention was to keep the property undivided and lease the units.

Mr. Jake Wise, P.E., Construction Engineering Group (representative for the applicant), stated that the applicant had agreed to provide the City with portions of

the site for right-of-way and an easement for stormwater from the future St. Johns Heritage Parkway extension. The site had addressed, or would address during the site plan approval process, the criteria to allow the conditional use. There was not an end user for the project at this time to proceed to the site plan approval process. He did not believe the entire site would be used for the gas station, but the subject request gave flexibility. He reminded the board that the passer-by type uses indicated on the submitted plan were conceptual at this point.

Mr. Warner wanted to know how the subject site would tie into the St. Johns Heritage Parkway. Mr. Wise informed the board that the northwest corner of the intersection would be a Publix with outparcels and complementary uses. Shared driveways and driveway relocations were also anticipated.

Mr. Boerema asked if there would be fueling of large diesel trucks at the subject location. Mr. Wise stated that this was not anticipated. Mr. Boerema noted that there would be a lot of large trucks in the area because of construction.

Mr. Olszewski wanted to know how close the subject site was to protected wetlands, specifically the 3 Forks site. Mr. Wise stated that wetland studies had not been done, and the small wetland at 3 Forks was quite a distance away and would not share any hydraulics. St. Johns River Water Management District land abutted the subject site, so the agency could have knowledge of possible wetlands.

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 CU23-00012 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Warner.

Nay: Olszewski.

City Council will hear Case CU23-00012 on January 4, 2024.

6. **CP23-00019 - City Owned Parcel - City of Palm Bay, Suzanne Sherman, City Manager (Tania Ramos, Senior Planner, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Residential 1 Unit Per Acre (Brevard County) to Commercial. Tax Parcel 3, Section 5, Township 29, Range 36, Brevard County, Florida, containing approximately 13.05 acres. Located south of and adjacent to W. Malabar Road, in the vicinity southwest of St. Johns Heritage Parkway NW, and west of Melbourne Tillman Drainage District Canal 7**

Ms. Ramos presented the staff report for Case CP23-00019. Staff recommended Case CP23-00019 for approval.

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. Weinberg stated that more commercial land made sense due to all the residential development that was planned or being processed in the area.

Motion to submit Case CP23-00019 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

7. ****CPZ23-00011 - City Owned Parcel - City of Palm Bay, Suzanne Sherman, City Manager (Tania Ramos, Senior Planner, Rep.) - A Zoning Amendment from AU, Agricultural Residential (Brevard County) to a CC, Community Commercial District. Tax Parcel 3, Section 5, Township 29, Range 36, Brevard County, Florida, containing approximately 13.05 acres. Located south of and adjacent to W. Malabar Road, in the vicinity southwest of St. Johns Heritage Parkway NW, and west of Melbourne Tillman Drainage District Canal 7**

Ms. Ramos presented the staff report for Case CPZ23-00011. Staff recommended Case CPZ23-00011 for approval.

Mr. Warner inquired whether schools were permitted in Community Commercial zoning districts. Ms. Ramos was not sure if schools were allowed.

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 CPZ23-00011 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

8. ****Z23-00013 - Michael B. Crews, Sr. and Rebecca B. Crews - (Joseph Crews, Rep.) - A Zoning Change from an RS-2, Single-Family Residential District and an SRE, Suburban Residential Estate District to an RR, Rural Residential District. Tax Parcel 2 along with Tract C of Port Malabar Unit 13, Section 36, Township 28, Range 36, Brevard County, Florida, containing approximately 10.58 acres. Located south of and adjacent to Alcantarra Street NW, specifically at 242 Alcantarra Street NW**

Ms. Haigler presented the staff report for Case Z23-00013. Staff recommended Case Z23-00013 for approval.

Mr. Olszewski asked if the subject request would bring the subject parcels, which were now in the same ownership, under the same zoning for the same nursery activity. Ms. Haigler stated that this was correct and explained that the plant nursery had been in operation for many years. The Port Malabar Subdivision had occurred around the nursery.

Mr. Joseph Crews (representative for the applicant) stated that the plant nursery had been in business for almost 29 years. The adjacent properties were purchased, cleaned up, and now gave the business a better sight line.

Mr. Olszewski asked about further plans to improve the drainage situation in the area subsequent to the land clearing. Mr. Crews stated that there was a lift station at the end of the property with no working drainage beneath. Attempts were being

made to extend the front drainage for better drainage flow. Mr. Olszewski inquired whether the applicant would be agreeable to moving some of their product from the fence line to allow for drainage improvements. Mr. Crews stated that he was in discussions with the Public Works Department about trenching.

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. Weinberg noted that the ten acres had been an illegal non-conforming use for many years, and that the adjacent .58 acres was recently purchased. Rezoning the entire site under the requested zoning district made sense.

Motion to submit Case Z23-00013 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Olszewski. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

9. ****Z23-00014 - Glenham Subdivision - SKA Properties, LLC (Richard Price, Price Family Homes, Inc. / Richard J. Kern, P.E., RK Engineering & Associates Inc., Reps.) - A Zoning Change from an RS-1, Single-Family Residential District to an RS-2, Single-Family Residential District. Tax Parcel 761, Section 23, Township 28, Range 37, Brevard County, Florida, containing approximately 15.53 acres. Located west of and adjacent to Glenham Drive NE, in the vicinity west of Palmdale Circle NE**

Ms. Ramos presented the staff report for Case Z23-00014. Staff recommended Case Z23-00014 for approval.

Mr. Richard J. Kern, P.E., RK Engineering & Associates Inc. (representative for the applicant), stated that Price Family Homes was a local Palm Bay builder of custom homes. The zoning change would permit 75-foot-wide lots instead of the current 80-foot-wide lots.

Mr. Good wanted to know how many more homes could be built with the zoning change. Mr. Kern stated that three more homes could be built.

The floor was opened for public comments, and there were three items of correspondence in the file in opposition to the request.

Mr. Gary Rabine (resident at Sunswept Road NE) spoke against the request. He stated that 75-foot-wide lots were small compared to his 90-foot-wide lot. He commented that the school traffic on the two-lane road already made it difficult for residents to get in and out of the area.

Ms. Karen Ludeman (resident at Sunswept Road NE) spoke against the request. The proposal would reduce the 1600 square foot minimum home size at present to 1400 square feet. She said that Glenham Drive NE was a two-lane road with no traffic lights or turn lanes and had existing traffic problems. The rezoning would have a negative effect on the existing home values.

Mr. Wentworth Carey (resident at Hamlin Street NE) spoke against the request. He was concerned that the homes would be on septic systems and impact the creek. He reiterated the safety concerns for school children because of the high amount of traffic in the area, and he wanted to know what would be done to improve the problem.

Ms. Eileen Sepp (resident at Freil Road NE) spoke against the request. She was opposed to any increase in residential development at this time as the City could not accommodate new development or expansion until utilities were under control. Mandatory City water and sewer was recently passed by the City.

Mr. William Summers (resident at Glenham Drive NE) spoke against the request. The traffic in the area was dangerous, especially to the school children, and stop signs were needed at the intersections to make the roads in the area safer.

Ms. Pat Dalpra (resident at Georges Avenue NE) spoke against the request. Additional construction should not occur until infrastructure was addressed. The northeast end of the City was crammed with traffic, poor sidewalks or none at all, and flooding.

In response to the comments from the audience, Mr. Kern stated that 43 homes were proposed for the site, the expected minimum home size would be 1800 square feet, and the project would be on City sewer.

Mr. Olszewski asked about the subdivision that Price Family Homes had built located behind Fire Station 1 off Port Malabar Boulevard. Mr. Kern stated that there were approximately 50 homes in that subdivision that was constructed about four years ago and recently completed a year ago.

Mr. Olszewski asked if the proposed development would be marketed as a luxury subdivision. Mr. Bill Price, Price Family Homes, Inc. (applicant) stated that the project would consist of good quality homes for local families, and homes could be customized. He clarified that he had built two subdivisions in Palm Bay. The subdivision behind the Fire Station actually consisted of 15 homes, and the subdivision located near Malabar Road, west of Hurley Boulevard SW, consisted of 50 homes.

The floor was closed for public comments, and there were three items of correspondence in the file in opposition to the request.

Mr. Weinberg stated that 40 homes could currently be built at the subject site, and three more homes would not make much more of a difference. The subdivision would also be on sewer.

Motion to submit Case Z23-00014 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

10. ****FS23-00010 - Riverwood at Everlands Phase 1 - DRP FL 6, LLC, Brian Clauson, DW General Partner, LLC (B.S.E. Consultants, Inc., Rep.) - A Final Plat to allow for a proposed 124 single-family residential lot development to be called Riverwood at Everlands Phase 1. A Part of Tax Parcel 1, Sections 20 and 21, Township 28, Range 36, Brevard County, Florida, containing**

approximately 52.77 acres. Located east of and adjacent to St. Johns Heritage Parkway NW, in the vicinity north of Emerson Drive NW

Ms. Haigler presented the staff report for Case FS23-00010. Staff recommended Case FS23-00010 for approval subject to the technical review conditions contained in the staff report.

Mr. Olszewski asked if the development would have an age restriction. Ms. Haigler indicated that the subdivision would not be age restricted.

Ms. Ana Saunders, P.E., B.S.E. Consultants, Inc. (representative for the applicant), informed the board that the age-restricted community was Timbers at Everlands located south of Emerson Drive NW and north of Pace Drive NW.

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. Weinberg noted that the request was for a final plat.

Motion to submit Case FS23-00010 to City Council for approval, subject to the technical review conditions contained in the staff report.

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

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

11. ****PS23-00012 - Gardens at Waterstone Phase 3 - KB Home Orlando, LLC, Steve McConn (Jake Wise, P.E., CEG Engineering Group, LLC., Rep.) - A Subdivision Plan to allow for a proposed 199 single-family residential unit development to be called Gardens at Waterstone Phase 3. Block 1 of San Sebastian Farms, Section 5, Township 30, Range 37, Brevard County, Florida, containing approximately 47.92 acres. Located west of Gardens at Waterstone Phase 2 in the vicinity west of Mara Loma Boulevard SE**

Ms. Ramos presented the staff report for Case PS23-00012. Staff recommended Case PS23-00012 for approval. The technical conditions contained in the staff report had been addressed.

Mr. Jake Wise, P.E., Construction Engineering Group (representative for the applicant), stated that the site was part of the overall Waterstone Master Plan. The subject phase had received previous approval of a preliminary development plan and plat under another owner. KB Home had since purchased Phases 2 and 3, which did not have diversity in lot sizes. The subject request modified Phase 3 to include 40-foot-wide lots with no other changes. He stated that the site was fully compliant with all land use and zoning requirements, and the technical comments in the staff report had been responded to.

Mr. Boerema stated that he was not in favor of 40-foot-wide lots and inquired about potential buyers. Mr. Wise stated that buyers would include professionals, retirees, young families, and first-time homebuyers that were looking for low or common yard maintenance.

Mr. Weinberg asked if the subdivision would be a gated community with privately maintained roads. Mr. Wise confirmed that this was correct.

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 PS23-00012 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

12. ****FS23-00012 - Gardens at Waterstone Phase 3A - KB Home Orlando, LLC, Steve McConn (Jake Wise, P.E., CEG Engineering Group, LLC., Rep.) - A Final Subdivision Plat to allow for a proposed 84 single-family residential unit development to be called Gardens at Waterstone Phase 3A. Block 1 of San Sebastian Farms, Section 5, Township 30, Range 37, Brevard County, Florida,**

containing approximately 47.92 acres. Located west of Gardens at Waterstone Phase 2 in the vicinity west of Mara Loma Boulevard SE

Ms. Ramos presented the staff report for Case FS23-00012. Staff recommended Case FS23-00012 for approval subject to the technical review conditions contained in the staff report.

Mr. Jake Wise, P.E., Construction Engineering Group (representative for the applicant), stated that Phase 3A was a subphase of Phase 3. The project was a gated community that was already master planned for stormwater, utilities, traffic, and privately maintained roads. All land use and zoning requirements had been met, and all technical comments in the staff report were responded to.

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. Weinberg noted that the request was for a final plat.

Motion to submit Case FS23-00012 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Good. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

13. **CP23-00018 - La Isla II - Treeland Apartments, LLC, Robert Cambo (B.S.E. Consultants, Inc. / Stuart Buchanan, Alliance Commercial Real Estate, Reps.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Public/Semi-Public Use and Recreation & Open Space Use to High-Density Residential Use. Tax Parcel 252 along with Tract G4-6 of Port Malabar Unit 56, Section 9, Township 29, Range 37, Brevard County, Florida, containing approximately 7.02 acres. Located at the southeast corner of San Filippo Drive SE and Treeland Boulevard SE**

Ms. Frazier presented the staff report for Case CP23-00018. Staff recommended Case CP23-00018 for approval.

Mr. Good wanted clarification regarding the two land uses on the seven-acre site. Ms. Frazier explained that the property was once two separate sites with different land use designations. Most of the property had a Public/Semi-Public Use designation. The subject request would make the site compatible with the surrounding area.

Mr. Stuart Buchanan, Alliance Commercial Real Estate (representative for the applicant) indicated how the adjacent alley property was sold to the applicant by the Eastern Florida State College Foundation to avoid being responsible for an alleyway that encroached into the middle of an apartment complex. There were also two enclaves owned by the college that would not be part of the project. He noted that the apartment complex previously built across the street by the applicant had 100-percent occupancy within 30 days. The tenants included nurses, teachers, postal workers, a police officer, and college students. Students to reside in the proposed apartments would be able to walk across the parking lot to the college. The project would provide more affordable housing, had quick access to a collector roadway, and existing utilities.

Mr. Good asked if the proposed apartments would be similar to the apartments built across the street, and he wanted to know the number of units that were planned. Mr. Buchanan stated that the apartment complex would be the same as the apartments across the street but would be built with four stories, 140-units, balconies, a gym, pool, barbecue pits, and free charging stations for vehicles. Mr. Good noted that there was also a natural buffer between the two apartment complexes.

Mr. Olszewski wanted to know how much of a concern was the commute for the San Filippo Drive SE and Malabar Road SE corridor based on 100-percent occupancy of the new apartments. Mr. Buchanan commented on how the City Council had actually reduced the transportation impact fees for the existing apartment complex since the students were not driving on the local roads to attend the college. The new apartments would access Treeland Boulevard SE, anticipating future signalization at the intersection. Mr. Olszewski was pleased that the project was being built with the future in mind.

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. Weinberg stated that the proposed location was ideal for the project.

Motion to submit Case CP23-00018 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Olszewski. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

14. ****CPZ23-00010 - La Isla II - Treeland Apartments, LLC, Robert Cambo (B.S.E. Consultants, Inc. / Stuart Buchanan, Alliance Commercial Real Estate, Reps.) - A Zoning Amendment from an RM-10, Single-, Two-, Multiple-Family Residential District to an RM-20, Multiple-Family Residential District. Tax Parcel 252 along with Tract G4-6 of Port Malabar Unit 56, Section 9, Township 29, Range 37, Brevard County, Florida, containing approximately 7.02 acres. Located at the southeast corner of San Filippo Drive SE and Treeland Boulevard SE**

Ms. Frazier presented the staff report for Case CPZ23-00010. Staff recommended Case CPZ23-00010 for approval.

Mr. Stuart Buchanan, Alliance Commercial Real Estate (representative for the applicant) stated that the zoning change would be compatible with the surrounding multifamily zoning 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 CPZ23-00010 to City Council for approval.

Motion by Mr. Weinberg, seconded by Mr. Olszewski. Motion carried with members voting as follows:

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

15. **T23-00028 – PUD Timeline - 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 185.066(A)(3) to modify the timelines related to preliminary development plan submittals**

Ms. Frazier presented the staff report for Case T23-00028. Staff recommended Case T23-00028 for approval.

Mr. Warner inquired whether the proposed amendment would allow staff further time to research and provide more historical data for cases. Ms. Frazier stated that staff could certainly provide the board with more historical data, and the amendment would provide for additional time.

Mr. Olszewski wanted to know what opportunities existed that would allow the Land Development Division to fiscally offset some of the processing traffic. Ms. Frazier remarked on recent application fee expansions, plans to streamline processes, plans to piggyback on City-wide planning consultants set for City Council approval, and the requirement of more details from current engineering consultants. She stated that application revenues were generally in place to offset legal advertisements and meeting notices.

Mr. Weinberg commented that the amendment would adopt application timelines per Florida Statutes, but there was no mention of what those timelines were. Ms. Frazier stated that it was unusual to memorialize timeframes in the code, and she explained that Florida Statutes allowed 30 days to review applications. Actual reviews might not take the full 30 days, but the amendment would give staff breathing room to provide a better product.

Mr. Weinberg and Mr. Olszewski inquired about the amount of time staff would gain. Ms. Frazier explained that staff currently had approximately 45 days to complete several reviews and submit applications to the board. However, Florida Statutes allowed a standard 30 days for staff to submit comments back to the applicant.

Ms. Jordan asked if staff was requesting more time than allowed by state statute. Ms. Frazier stated that the request was to alleviate the unrealistic timelines and strict dates of return currently in the code so that staff could do good reviews for

development plans and plats. The state permitted 30 days of review per round of comments to the applicant with two rounds prior to a staff meeting with the applicant to resolve remaining issues. The intent of the subject request was to allow staff to follow state rules.

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

Mr. Stuart Buchanan (Alliance Commercial Real Estate) spoke in favor of the request. He stated that raising fees would allow for outsourcing of plan reviews to free staff time for other responsibilities.

Ms. Ana Saunders, P.E. (B.S.E. Consultants, Inc.) voiced a concern that if a maximum 30 days was allowed for reviews, the full 30 days would always be utilized. She noted that staff had adjusted review and processing times several times, and she questioned whether the requested change was necessary since the reviews would soon be outsourced. She indicated how relying on set dates was beneficial to applicants for scheduling purposes.

Mr. Good asked when the Request For Proposal (RFP) for the consultant would occur. Ms. Frazier clarified that the RFP would occur in the new year and would be City-wide for all departments to take advantage of continuing service contracts.

The floor was closed for public comments.

Motion to submit Case T23-0028 to City Council for approval with the condition that the approvals required under Florida Statutes 166.033 not be exceeded.

Motion by Mr. Weinberg.

Mr. Olszewski asked if the condition on the motion was redundant as the proposal was per Florida Statutes. Mr. Weinberg indicated that the condition emphasized compliance.

Mr. Good questioned the need for the amendment since the matter would be alleviated in a few months with the use of third parties. Mr. Olszewski concurred and commented that the existing timelines appeared to be an overstep of local government. He found it difficult, however, to support longer review times.

Mr. Rodriguez advised the board that the redundancy of the condition on the motion could lead to future problems with legal interpretation. The recommendation to City Council should clearly state that the stipulation was a board condition.

Mr. Weinberg indicated how developers complained about the City's lack of timeliness in processing applications, and since there were no penalties built into the Florida statute timeline, he wanted to include his condition that the statute could not be exceeded. Ms. Frazier explained that the development community was given 30 days to respond to deficiencies, and staff should be allowed the same amount of time to adequately review projects. She said it was typically the development community that caused delays in the review process. She reiterated that the RFP for continuing services contracts City-wide was not specific to the Land Development Division.

Mr. Rodriguez stated that Florida Statute 166.033 was not a statute with punitive measures for penalties. The statute allowed for three rounds of reviews and responses between staff and applicants. The remedy was that projects would then be forced to proceed to public hearing with any open issues. He advised against the unnecessary condition on the motion which could potentially lead to causes of actions against the City by the development community.

Mr. Weinberg believed the proposed amendment was too vague with the removal of the current verbiage, but he withdrew his motion.

Mr. Olszewski wanted to know if there were consequences currently for violating the 45-day processing period and could the development community use the current ordinance against the City. Mr. Rodriguez stated that in theory, the requirements of Florida Statutes 166 would govern. He expounded further on the matter.

Mr. Olszewski stated that the current ordinance was inappropriate for our form of government.

Motion to submit Case T23-00028 to City Council for approval.

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

Aye: Jordan, Boerema, Good, Olszewski, Warner.

Nay: Weinberg.

16. **T23-00029 – Plat Timeline - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, Sections 184.07 and 184.08(D) to modify the timelines for review and scheduling of preliminary plat and final plat applications for final action by City Council**

Ms. Frazier presented the staff report for Case T23-00029. Staff recommended Case T23-00029 for approval.

Mr. Warner asked if the proposed amendment would give applicants enough time to withdraw projects if desired. Ms. Frazier stated that the proposal would not affect withdrawals of submittals. The subject request would give staff the same amount of respect as applicants to provide complete and accurate development reviews. Mr. Warner was pleased that the additional time would allow staff to provide more in-depth reviews.

Ms. Olszewski asked if the amendment would allow staff to establish a standard of excellence with processing staff reports for a better product. Ms. Frazier concurred in as much as reasonably possible.

Mr. Olszewski wanted to know the number of current employees in the Land Development Division and when at full staff. Ms. Frazier stated that the division currently had a staff of 10 out of 15, which was still inadequate. She shared a report on the large volume of activities the division currently handled.

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. Olszewski commented on the merits of following state statutes.

Motion to submit Case T23-00029 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, Good, Olszewski, Warner.

OTHER BUSINESS:

1. Mr. Olszewski complimented Ms. Jordan and her fellow Volunteer Cops for all their efforts in the City.
2. Ms. Jordan thanked the board for their participation this past year.

ADJOURNMENT:

The meeting was adjourned at approximately 8:58 p.m.

Leeta Jordan, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

**Quasi-Judicial Proceeding