

CITY OF PALM BAY, FLORIDA

SPECIAL COUNCIL MEETING 2021-14

Held on Thursday, the 10th day of June 2021, at 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 Office of the City Clerk, City Hall, Palm Bay, Florida.

The meeting was called to order at the hour of 6:01 P.M.

ROLL CALL:

MAYOR:	Robert Medina	Present
DEPUTY MAYOR:	Kenny Johnson	Present
COUNCILMEMBER:	Jeff Bailey	Present
COUNCILMEMBER:	Randy Foster	Present
COUNCILMEMBER:	Donny Felix	Present
CITY MANAGER:	Suzanne Sherman	Present
CITY ATTORNEY:	Patricia Smith	Present
DEPUTY CITY CLERK:	Terri Lefler	Present

CITY STAFF: Present was Laurence Bradley, Growth Management Director; Frank Watanabe, City Engineer.

PUBLIC HEARING(S):

Due to the late arrival of representatives for some of the public hearings, Council concurred to modify the order of the hearings.

6. Ordinance 2021-45, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations' by modifying provisions of the BMU - Bayfront Mixed Use District (Case T-8-2021, City of Palm Bay), first reading.

The Planning and Zoning Board recommended that the request be approved.

The City Attorney read the ordinance in caption only. The public hearing was opened. Mr. Bradley presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve Ordinance 2021-45. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

3. Ordinance 2021-42, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located north of and adjacent to Port Malabar Boulevard, in the vicinity between Clearmont Street and Sadnet Circle, from Public/Semi-Public Use to Single-Family Residential Use (0.30 acres)(Case CP-5-2021, Richard Pribell), only one reading required.

The Planning and Zoning Board recommended that the request be approved, subject to the comments contained in the Staff Report.

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to adopt Ordinance 2021-42. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

4. Ordinance 2021-43, rezoning property located north of and adjacent to Port Malabar Boulevard, in the vicinity between Clearmont Street and Sadnet Circle, from IU (Institutional Use District) to RS-2 (Single-Family Residential District) (0.30 acres) (Case CPZ-5-2021, Richard Pribell), first reading. (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved.

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Bailey, to approve Ordinance 2021-43. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

5. Ordinance 2021-44, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located west of Tripoli Road and Walsh Avenue, in the vicinity south of Tiffiny Avenue, from Utilities Use and Recreation and Open Space Use to Single-Family Residential Use (2.83 acres) (Case CP-7-2021, MRJV, LLC), only one reading required.

The Planning and Zoning Board recommended that the request be approved, subject to the comments contained in the Staff Report.

The City Attorney read the ordinance in caption only. The public hearing was opened. Ashley Walford, representative for the applicant, presented the request to Council.

Bill Battin, resident, asked how many homes could potentially be put on this property. Mr. Bradley stated that pursuant to the zoning of RS-2 (Single Family Residential District) and the acreage, the maximum would be sixteen (16) lots.

Mr. Bailey asked about drainage access. Mr. Bradley said that frontage would have to be created for each lot, at least twenty-five (25) feet per lot.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Ordinance 2021-44. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

9. Request by Timothy and Karen Durnin for a variance to allow a proposed detached garage to encroach ten (10) feet into the 25-foot side building setback as established by Section 185.034(F)(7)(c), Palm Bay Code of Ordinances (0.47 acres) (V-15-2021). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved, subject to the conditions contained in the Staff Report.

The public hearing was opened. The applicant presented the request to Council.

Bill Battin, resident, did not agree with the request not already meeting the criteria. Mr. Bradley said the concrete slab was poured prior to the permit being obtained. Ms. Sherman advised that the permit for the slab was received in 2020 and it was unclear why a permit was issued that was inconsistent with the Code.

Mr. Bailey asked if the two lots had to be married together. Mr. Bradley confirmed same and said it would have to be recorded in the Brevard County Clerk of Courts. Ms. Sherman checked the County website and advised that approval had been received for marrying the lots.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the request.

Mr. Bailey asked for the history and a copy of the permit issued in 2020.

Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

10. Request by Tania and Alvaro Gonzalez for a variance to allow a proposed screened patio to encroach five (5) feet into the 25-foot rear building setback as established by Section 185.034(F)(7)(d), Palm Bay Code of Ordinances (0.23 acres) (V-16-2021). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved.

The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

1. Ordinance 2021-40, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the northwest corner of Dixie Highway and Port Malabar Boulevard, from Mixed Use to Bayfront Mixed Use (10.3 acres)(Case CP-4-2021, Eztopoliz, LLC), first reading.

The Planning and Zoning Board recommended that the request be approved, subject to the conditions contained in the Staff Report.

The City Attorney read the ordinance in caption only. The public hearing was opened. Bruce Moia, representative for the applicant, presented the request to Council.

Deputy Mayor Johnson said that per the Staff Report, this amendment would significantly increase the allowable residential density while allowing for a much smaller commercial development than previously required. He questioned the decrease in the commercial development. Mr. Moia said it would go from the one hundred percent (100%) commercial requirement in Highway Commercial zoning to the fifteen percent (15%) Bayfront Mixed Use zoning.

Mayor Medina asked if it would be residential from the second floor and above, and all commercial on the first floor. Mr. Moia said it would not be commercial for every building but would be commercial to support the accompanying residential component. Mr. Foster asked if the residential units would be apartments or condominiums. Mr. Moia answered

that it would most likely be apartments. Mayor Medina commented that residents in the area wanted a grocery store. He felt that corridor should really enhance the commercial portion. Mr. Moia answered questions posed by councilmembers.

Mr. Felix asked if the applicant would consider townhomes versus apartments. He wanted to see diverse housing which he felt was lacking in the city. Mr. Moia said everything was market-driven and apartments were in high demand in that area.

Deputy Mayor Johnson asked if staff had any concerns with the reduction in commercial for the site. Mr. Bradley advised that the textual amendment approved for first reading tonight for BMU (Ordinance 2021-45) would set the maximum of eighty-five percent (85%) residential use, with a minimum fifteen percent (15%) for non-residential uses. Currently, there were no minimum commercial requirements in BMU. Mr. Bradley explained that the fifteen percent (15%) was based on either the Floor Area Ratio or the gross floor area of the first floor of all principal use buildings. There was further discussion on how the textual amendment related to this request. Mr. Bailey said this may make him reconsider how he voted on the textual amendment.

Bill Battin, resident, said there was no commercial land along U.S. Highway 1 and commented on other aspects of the project. He asked if Council would really want another Checkers in the area since that was the minimum requirement.

Randall Olszewski, resident, said that area was densely populated, and the residents would benefit from commercial development. He said that Council needed to strongly consider the land uses along the U.S. Highway 1 corridor as it was the most prime real estate to generate revenue for the city. An apartment complex was not necessary at that location and more residential was not needed to support the commercial uses.

Mr. Moia said he was not aware of any shopping centers along U.S. Highway 1 in Brevard County. He said the criteria for shopping centers had changed and was very strict. He felt that if you put in the density, it would attract growth. Mayor Medina said a shopping center was located in Port St. John and had been there for a few years.

The public hearing was closed.

Motion by Mr. Foster, seconded by Mr. Felix, to approve Ordinance 2021-40.

Mr. Foster said that the property had been an eyesore for years and felt this was an opportunity to bring some commercial to the area. Mr. Felix said that corridor was very

important for commercial development. He was concerned with future developers using the premise of bringing in more residential to support commercial. He felt it would cause problems in the future if approved now. Deputy Mayor Johnson did not want to give away prime real estate to residential. Mr. Bailey felt the BMU ordinance should be tweaked to state what Council wanted in commercial growth. He said the main question was if Council wanted this much more residential.

Mayor Medina did not agree to this being partially residential when it used to be all commercial. Mr. Foster said it was a vacant lot that was just sitting there and said it should be approved. He said the residential did not support the past shopping center that was there years ago. This was an opportunity to bring commercial to that area along with the residential. He said that millennials were living in apartments, not houses. He felt that Harris Corporation employees would possibly move into these apartments and the City would receive more tax revenue from apartments than homes.

Motion failed with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Johnson	Nay
Councilman Bailey	Nay
Councilman Foster	Yea
Councilman Felix	Nay

2. Ordinance 2021-41, rezoning property located at the northwest corner of Dixie Highway and Port Malabar Boulevard, from PCRD (Planned Community Redevelopment District) to BMU (Bayfront Mixed Use District) (10.3 acres) (Case CPZ-4-2021, Eztopoliz, LLC), first reading. (Quasi-Judicial Proceeding)

Due to the denial of Item 1, this item was rendered moot.

7. Resolution 2021-22, granting a conditional use for commercial development of a parcel of land of ten (10) or more acres of area in CC (Community Commercial District) zoning, on property located east of and adjacent to Babcock Street, in the vicinity south of Palm Bay Road (12.32 acres) (Case CU-17-2021, Palm Bay Partners, LLC). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved, subject to the recommendations contained in the Staff Report.

The City Attorney read the resolution in caption only. The public hearing was opened. Alyssa Colby, CEG Engineering and representative for the applicant, presented the request to Council.

Residents spoke in favor of the request.

Mr. Bailey asked about the traffic study and signal design. He did not want another traffic signal if it was not warranted. Mr. Felix asked that additional street lighting be considered as well. Mr. Watanabe clarified that the roadway was under the jurisdiction of the Florida Department of Transportation (FDOT) and due to the number of accidents in that area, FDOT was interested in installing an additional traffic signal. He added that as part of installing traffic signals, streetlights would also be addressed.

The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to adopt Resolution 2021-22. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

8. Request by Palm Bay Greens, LLC, for Final Subdivision approval of a proposed single-family subdivision to be known as 'Country Club Lakes Estates Phase 4', which property is located in the vicinity east of Seymour Road, between Riviera Drive and Meadowbrook Road, in RS-1 (Single-Family Residential District) zoning (32.31 acres) (Case FS-1-2021). (Quasi-Judicial Proceeding)

The Planning and Zoning Board recommended that the request be approved, subject to the conditions contained in the Staff Report.

The public hearing was opened. Attorney Jack Spira, representative for the applicant, presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Johnson, seconded by Mr. Felix, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Johnson, Yea; Councilman Bailey, Yea; Councilman Foster, Yea; Councilman Felix, Yea.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 7:52 p.m.

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Robert Medina, MAYOR

ATTEST:

Terri J. Lefler, DEPUTY CITY CLERK