

CITY OF PALM BAY, FLORIDA

PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2023-06

Held on Wednesday, June 7, 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.

Mr. Donald Boerema 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	Absent (Excused)
MEMBER:	Jeffrey McLeod	Present
MEMBER:	Randall Olszewski	Absent (Excused)
MEMBER:	Rainer Warner	Absent (Excused)
NON-VOTING MEMBER:	David Karaffa (School Board Appointee)	Absent

CITY STAFF: Present were Ms. Joan Junkala-Brown, Acting Growth Management Director; Mr. Jesse Anderson, Ph.D., Assistant Growth Management Director; Ms. Alexandra Bernard, Principal Planner; Mr. Stephen White, Senior Planner; Ms. Tania Ramos, Senior Planner; Ms. Chandra Powell, Recording Secretary; Mr. Rodney Edwards, Deputy City Attorney.

The absences were excused for Mr. Good, Mr. Olszewski, and Mr. Warner.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2023-05; May 3, 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, McLeod.

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.

NEW BUSINESS:

1. ****CU23-00005 – Heritage Corners - Ascot Palm Bay Holdings, LLC (Ana Saunders P.E., BSE Consultants, Inc., Rep.) - 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. A Portion of Block 501, Section 21, Township 28, Range 36, Brevard County, Florida, containing approximately 2.16 acres. Located at the intersection of St. Johns Heritage Parkway and Emerson Drive NW**

Ms. Ramos presented the staff report for Case CU23-00005. Case CU23-00005 met the minimum requirements for approval of a conditional use, subject to the staff comments contained in the staff report and completion of the lot split process prior to site plan approval.

Mr. Boerema asked if the required lot split had to occur prior to the board taking action on the request. Ms. Ramos stated that the applicant was already in the process of creating the new lot split. The new lot would soon receive its own tax account number, and staff was fine with proceeding.

Ms. Jordan indicated that there was no correspondence in the file.

Ms. Ana Saunders P.E., BSE Consultants, Inc. (representative for the applicant), stated that signalization design plans were currently underway for the St. Johns

Heritage Parkway NW and Emerson Drive NW intersection, and that the signalization would be completed prior to the construction of the subject proposal. There were no issues with the comments and conditions in the staff report. She noted that the subject fuel service station would potentially be one of two fuel stations allowed at the intersection per City code.

Mr. Boerema asked if the site would be accessed off Emerson Drive. Ms. Saunders stated that the location would have an access off Emerson Drive and off the Parkway.

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

Motion to submit Case CU23-00005 to City Council for approval subject to staff comments.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

2. ****CU23-00002 – Dollar General - David Moallem Trust; Pirzadeh, Siroos; Pirzadeh, Mahnaz (Holly Irish, Vector Civil Engineering, Reps.) - A Conditional Use to allow for a Dollar General/Retail Store with a gross floor area over 5,000 square feet in an NC, Neighborhood Commercial District. A Portion of Block O, Subdivision GI, Section 02, Township 29, Range 36, Brevard County, Florida, containing approximately 1.75 acres. Generally located south of and adjacent to Jupiter Boulevard SW and west of and adjacent to Garvey Road SW**

Mr. White presented the staff report for Case CU23-00002. Case CU23-00002 met the minimum requirements for approval of a conditional use, subject to the staff comments contained in the staff report being addressed during the site plan review, and the completion of the required lot split at site plan review.

Mr. McLeod inquired about the minimum amount of parking spaces that had not been met. Mr. White stated that the issue would be addressed at the site plan review phase.

Mr. Jack Spira, Esq., Spira Beadle & McGarrell PA (attorney for Concept Development, Inc.), stated that the proposed use was allowed in the NC, Neighborhood Commercial District by right; however, a conditional use was required as the project exceeded 5,000 square-feet. He noted that the Citizen Participation Plan (CPP) meeting was sparsely attended.

Ms. Holly Irish, Vector Civil Engineering (representative for the applicant), reiterated that the parking issue would be addressed during the site plan permitting process. She commented on how the project would extend a water main 325 feet down Garvey Road from the north side of Jupiter Boulevard, and the existing force main would be extended 350 feet down Garvey Road from the south side of Jupiter Boulevard. She stated that all staff comments would be met, as well as the request by adjacent residents during the CPP meeting to erect the required fence along the buffer line with landscaping on the residential side of the fence. The fence would be addressed with staff during the site plan permitting process.

Mr. McLeod asked if the site plan would be updated to address the new fence location. Ms. Irish confirmed that the site plan would be updated with staff's approval.

The floor was opened for public comments.

Ms. Jessica Newbern (resident at Weaver Road SW) spoke against the request. It was her suggestion to place the required fence along the buffer line with exterior landscaping. She commented that there were already three Dollar General Stores within two miles of the subject site, and that she would prefer a store that helped the community.

Mr. John Letzkus (owner of property at Weaver Road SW) spoke against the request. He supported the modification planned for the fence, but as a former law enforcement officer, he stated that the Dollar General Stores were known to attract thefts and the homeless.

Mr. Richard Newbern (resident at Weaver Road SW) spoke against the request. He stated that there were 18,000 Dollar General Stores in the United States, so he questioned the need for another Dollar General. He remarked on how a stakeholder in the company had a connection that profited China.

In response to the comments from the audience, Mr. Spira stated that the amount of Dollar General Stores was market driven, and he reminded the board that the commercially zoned site currently allowed by right a smaller-sized Dollar General Store or some other store. The applicant had agreed to make the fence adjustments requested by the residents, and the area would also benefit from the water and sewer extensions. He was not aware of any homeless problems with Dollar Generals, and company ownership related to China profits was not relevant to the subject request.

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

Mr. Weinberg commented that the board and City Council must make decisions based on legalities and not whether they were fans or not of projects such as Dollar General Stores. The store would be set well back from Jupiter Boulevard so that traffic would not be a safety concern for school children, and the site would be primarily separated from the residential areas to the west and to the south by the retention ponds and setbacks. Dollar General would not build at a location they did not feel would be successful.

Motion to submit Case CU23-00002 to City Council for approval subject to staff comments.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

- 3. CP23-00004 – Steamboat Landing - Steamboat Landing, LLC and Gateway Medical Property, LLC (Curtis J. McKinney, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from High Density**

Residential and Urban Mixed Use to Urban Mixed Use. Lot 1, Block A, Hiawatha Gardens, Section 13, Township 28, Range 37, along with Lot K, Plat of Tillman, Section 24, Township 28, Range 37, and Lots 1 – 8 and 29 – 38, Block 2, Plat of Tillman, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 4.12 acres. Located east of and adjacent to Dixie Highway NE, in the vicinity of Kirkland Road NE and Bay Boulevard NE

Ms. Ramos presented the staff report for Case CP23-00004. Case CP23-00004 met the minimum requirements of a Comprehensive Plan Future Land Use amendment request and was recommended by staff for approval.

Mr. James Mayes, managing member of Steamboat Landing, LLC and a member of Gateway Medical Property, LLC (applicants), stated that the subject proposal would allow for a higher density development, condominiums, age-55-plus condominiums, and an additional mix of uses. He commented on how the surrounding neighborhood would benefit from some of the required site plan enhancements.

Mr. Boerema asked about the height of the proposed condominiums as he wanted to ensure the Fire Department would not have a problem with the height. Mr. Mayes explained that there were no formal plans at this time, but the maximum building height restriction for the property was currently 70 feet. Mr. Anderson stated that this was correct, and that fire apparatus would be a consideration during the site plan review process.

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

Ms. Susan B. Connolly (resident at Castaway Cove Condominiums) spoke against the request. She remarked on how residents of the proposed memory care facility would have mobility, mental, and medical challenges that would keep them indoors. Their limitations on activity would be in contrast to the subject location near the Indian River Lagoon and Castaways Point Park that promoted outdoor and recreational activity. She recommended that if the project was approved, the City's Low Impact Development guidelines be used for all aspects and phases of the proposal. She felt that the site acreage was too small to permit the phased development of a memory care facility, condominiums, and tiki lounge bar. She

cautioned the board to consider how their decisions for the subject proposal would present a foundation for the six future developments that were also being planned for the area.

Mr. Victor Farvet (resident at Castaway Cove Condominiums) spoke against the request. He stated that the developer should be required to provide land footage to improve road access onto Dixie Highway; a turnaround lane on Dixie Highway for safety; and a traffic light. The three-story tiki bar and seven-story condominiums would cause a parking issue.

Ms. Ann Atherton (resident at Castaway Cove Condominiums) spoke against the request. She stated that there was not infrastructure to support the project based on the single-lane dirt road. Exiting Castaway Cove onto Dixie Highway was already a danger. She commented on how the developer should ensure all reasonable environmental issues were addressed to save the Indian River Lagoon.

Ms. Louise Fortun (resident at Castaway Cove Condominiums) spoke against the request. She stated that she was concerned about the birds that roost in the area.

Mr. Timothy Schofield (resident at Castaway Cove Condominiums) spoke against the request. He stated that there was already a traffic problem in the area with difficulty making left turns onto Dixie Highway.

Ms. Mary Jane Russell (resident at Fairfax Avenue NE) spoke against the request. She stated how she visited Castaway Point Park every evening. The park was a beautiful place to view manatees, sunsets, and sunrises and should be considered before a decision was made about the subject request.

Mr. David Jellison (member of the Castaway Shores Condominiums Board of Directors) spoke against the request. He commented on how the project bordered Castaway Shores to the south and east, and that the Bay Boulevard property in the proposal was a constant problem that affected the quality of life of Castaway Shores residents. The elderly residents were afraid to venture out at night because of the sexual activity, loud music, profanity, homeless camps, and drug use at the Bay Boulevard site. He said that the property owner had not responded to requests to fix

the holes in the fences or to erect No Trespass signs. The garbage and debris and illegal activity were unbearable.

In response to comments from the audience, Mr. Mayes explained that the subject property already had an approved site plan for a memory care facility, but a decision had not been made to keep the memory care use. Development of the property would substantially add to the tax base and over \$100,000 in impact fees had been contributed for road development. He stated that he was fully aware of the permitting process to maintain proper environmental standards for the Indian River Lagoon, and that current environmental permits for the project would be re-obtained if necessary. He noted that the subject property was privately owned and was not a park. However, a component of the development would enhance the adjacent park and the entire area.

Mr. Curtis J. McKinney, McKinney Construction Group Inc., Melbourne Development (representative for the applicant), explained that vagrants continued to cause problems at the property, but all fence, sign, and site complaints had been corrected with the Code Compliance Division. He was prepared to move forward with construction in January of 2024 once all approvals were obtained. The demographics of Palm Bay and the surrounding area had changed over the years, and the \$56 million proposal would be part of the catalyst to bring something good into the Bayfront district. He noted how there was a market trend toward independent living facilities, which could include memory care and supported medical amenities.

The floor was closed for public comments.

Motion to submit Case CP23-00004 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

4. ****CPZ23-00003 – Steamboat Landing - Steamboat Landing, LLC and Gateway Medical Property, LLC (Curtis J. McKinney, Rep.) - A Zoning Amendment from BMUV, Bayfront Mixed Use Village District and RM-20, Multiple-Family**

Residential District to BMU, Bayfront Mixed Use District. Lot 1, Block A, Hiawatha Gardens, Section 13, Township 28, Range 37, along with Lot K, Plat of Tillman, Section 24, Township 28, Range 37, and Lots 1 – 8 and 29 – 38, Block 2, Plat of Tillman, Section 24, Township 28, Range 37, Brevard County, Florida, containing approximately 4.12 acres. Located east of and adjacent to Dixie Highway NE, in the vicinity of Kirkland Road NE and Bay Boulevard NE

Ms. Ramos presented the staff report for Case CPZ23-00003. Case CPZ23-00003 met the minimum requirements of a Zoning Amendment request and was recommended by staff for approval.

Mr. Curtis J. McKinney, McKinney Construction Group Inc., Melbourne Development (representative for the applicant), stated that he wanted to do good by the community and for Palm Bay as he was a local and had a long-time vested interest in Palm Bay.

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

Mr. Victor Farvet (resident at Castaway Cove Condominiums) spoke against the request. His concern was that nothing had been provided to show sidewalks, roadway expansion for safety, or lights. He realized that development was coming to the Bayfront district; however, development should be done right, and concerns should be addressed now and not after they become a problem in the future.

Ms. Ann Atherton (resident at Castaway Cove Condominiums) spoke against the request. She agreed that development was coming to the Bayfront district but infrastructure should be in place, and there was no room to expand the existing single-lane dirt road.

Mr. David Jellison (member of the Castaway Shores Condominiums Board of Directors) spoke against the request. He stated that the property owner would have to file a blanket No Trespass with the Palm Bay Police Department for the vagrants. He felt that the applicant was not showing concern for the neighbors that were being impacted by the project.

Ms. Susan B. Connolly (resident at Castaway Cove Condominiums) spoke against the request. She commented that the developer should think of the future and of ways that development, residents, the environment, and wildlife could co-exist. She stated that the site should remain a place where people could come to enjoy the birds, the view, water, and the fish.

In response to the comments from the audience, Mr. McKinney stated that a blanket No Trespass letter had been filed. He explained that the infrastructure for the development would be available for viewing when drawings for the project were prepared. Development property had been provided to build a proper, enlarged asphalt road; however, the dirt road was located beyond the subject site. He had worked with the Florida Department of Transportation regarding lights and turn lanes. The project would continue to allow for the viewing of wildlife and the water. New docks, viewing platforms, fencing, and sidewalks for public use were being offered to enhance the community.

The floor was closed for public comments.

Motion by Mr. Weinberg to submit Case CPZ23-00003 to City Council for approval.

Mr. Weinberg commented on how condominiums could currently be built on the property; the project would eliminate the illegal activity and homeless encampments; impact fees would be used to fund infrastructure improvements; and all environmental laws would have to be met.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

- 5. CP23-00005 – Garden Center Expansion - Vision 43 LLC (Holly Tanner, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Low Density Residential to Commercial Use. Block 66, Section 23, Township 28, Range 37, Brevard County, Florida, containing approximately 0.38 acres. Located east of and adjacent to Magnolia Street NE, in the vicinity of Palm Bay Road NE**

Ms. Bernard presented the staff report for Case CP23-00005. Case CP23-00005 met the minimum requirements of a Small-Scale Comprehensive Plan Future Land Use amendment request and was recommended by staff for approval.

Ms. Holly Tanner, L.H. Tanner Construction (representative for the applicant), explained that Vision 43 LLC was a garden center with a location on Palm Bay Road NE that had grown over the last couple of years and now desired to expand their business. She used a PowerPoint to describe the existing business and the beautification that the applicant wanted to extend north onto the adjacent subject property. The garden center had enhanced and brought value into the area.

Mr. Weinberg asked if only the garden area and not the building was being expanded. Ms. Tanner indicated 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 CP23-00005 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

6. ****CPZ23-00004 – Garden Center Expansion - Vision 43 LLC (Holly Tanner, Rep.) - A Zoning Amendment from an RS-3, Single Family Residential District to an HC, Highway Commercial District. Block 66, Section 23, Township 28, Range 37, Brevard County, Florida, containing approximately 0.38 acres. Located east of and adjacent to Magnolia Street NE, in the vicinity of Palm Bay Road NE**

Ms. Bernard presented the staff report for Case CPZ23-00004. Case CPZ23-00004 met the minimum requirements of a Zoning Amendment request and was recommended by staff for approval.

Ms. Holly Tanner, L.H. Tanner Construction (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.

Motion to submit Case CPZ23-00004 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

7. **T23-00010 – Car Wash In GC District - Chelsea Anderson - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.054, GC – General Commercial District; to amend the conditional uses to allow for car washes by conditional use in the General Commercial zoning district**

Ms. Bernard presented the staff report for Case T23-00010. Case T23-00010 met the minimum requirements of a Textual Amendment request and was recommended by staff for approval.

Ms. Chelsea Anderson (agent representative for Royal Wash PSL, LLC) stated that car washes were already allowable by conditional use in HC, Highway Commercial and CC, Community Commercial Districts. If the subject request to allow car washes in GC, General Commercial Districts by conditional use was approved, an application would be submitted to the board next month for a site-specific GC location.

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 T23-00010 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

8. **T23-00012 - Conditional Uses - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Conditional Uses to incorporate a new section 185.089 conditional uses; conditions governing applications and repealing section 185.202 conditional uses; Conditions governing applications; procedures**

Ms. Bernard presented the staff report for Case T23-00012. Case T23-00012 met the minimum requirements of a Textual Amendment request and was recommended by staff for approval.

Mr. McLeod wanted to know how the amendment would benefit the City and future applicants. Ms. Bernard explained that the amendment provided further guidelines on how conditional uses should be regulated. Mr. Anderson added that conditional uses presently commenced when a development plan approval occurred. Permits, however, were not typically issued in a year, so the period for the conditional use to commence was being changed from one year to two years and extensions would be permitted.

Ms. Jordan noted a repetition in the proposal. Ms. Bernard indicated the code sections under consideration.

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 T23-00012 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

9. **T23-00004 – Planning and Zoning Board Factors of Analysis - City of Palm Bay (Growth Management Department) - A textual amendment to Section 185.201 of the City of Palm Bay’s Land Development Code to modify the procedure for amendment applications**

Mr. Anderson presented the staff report for Case T23-00004. Case T23-00004 was recommended by staff 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.

Motion to submit Case T23-00004 to City Council for approval.

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

Aye: Jordan, Weinberg, Boerema, McLeod.

OTHER BUSINESS:

There was no other business discussed.

ADJOURNMENT:

The meeting was adjourned at approximately 7:30 p.m.

Leeta Jordan, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

**Quasi-Judicial Proceeding