

CITY OF PALM BAY, FLORIDA

PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
REGULAR MEETING 2023-08

Held on Wednesday, August 2, 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. Robert Good 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 (Excused)

Mr. McLeod's absence was excused.

CITY STAFF: Present were 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. Kimberly Haigler, GIS Planner; Ms. Chandra Powell, Recording Secretary; Ms. Patricia Smith, City Attorney.

ADOPTION OF MINUTES:

1. Regular Planning and Zoning Board/Local Planning Agency Meeting 2023-07; July 5, 2023.

Motion to approve the minutes as presented.

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

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

ANNOUNCEMENTS:

1. Ms. Jordan informed the audience that Old/Unfinished Business Item 1, Case CU23-00008, had been withdrawn. Board action was not required to withdraw the case.

OLD/UNFINISHED BUSINESS:

1. ****CU23-00008 - WITHDRAWN - Car Wash - Royal Wash PSL, LLC (Chelsea Anderson, Esq., Mangrove Title & Legal, PLCC, Rep.) - A Conditional Use to allow a retail Car Wash in a GC-General Commercial District, in accordance with Section 185.054(D)(9) of the Palm Bay Code of Ordinances. Lots 1 through 6, Block 2211, Port Malabar Unit 38, Section 3, Township 29, Range 37, Brevard County, Florida, containing approximately 1.15 acres. Specifically located at 1300 Malabar Road SE**

Case CU23-00008 was discussed under Announcements, Item 1.

NEW BUSINESS:

By board consensus, Ms. Jordan announced that New Business Item 16, Case T23-00020, would be heard at this time.

16. **T23-00020 - Construction Codes and Regulations - City of Palm Bay (Growth Management Department) – A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, Sections 170.005 through 170.009, 170.160, and 170.161, to remove language pertaining to the Building Code for the City of Palm Bay**

Mr. White presented the staff report for Case T23-00020. Staff recommended Case T23-00020 for approval.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) inquired whether the proposed amendment would remove the Planning and Zoning Board review of regulations. He stressed that public input and questions, as well as solutions, occurred during the Planning and Zoning Board meetings.

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

In response to the comments from the audience, Mr. White stated that the subject request was regarding the Building Code and requirements, which were outside the purview of the planning agency. He noted that development standards for projects were not being changed.

Motion to submit Case T23-00020 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.

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.

The board resumed consideration of items in the order that was set by the agenda.

1. ****CU23-00001 – EquipmentShare - Equipmentsshare.com, Inc. (Samantha Bischoff, Kimley-Horn and Associates, Inc., Rep.) - A Conditional Use to allow for automotive fuel, propane, and natural gas dispensaries and refueling stations subject to the following provisions: in the LI-Light Industrial and Warehousing District in accordance with Section 185.045(D)(1). Lots 7 through 9, Bay Commercial Center, Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 4.86 acres. Generally located in the vicinity east of Robert J. Conlan Boulevard NE, and east of and adjacent to Transom Circle NE**

Mr. White presented the staff report for Case CU23-00001. Staff recommended Case CU23-00001 for approval, subject to the staff comments contained in the staff report and completion of the lot combination prior to site plan approval.

Ms. Samantha Bischoff, Kimley-Horn and Associates, Inc. (representative for the applicant) explained that EquipmentShare was a construction equipment rental company for contractors. The conditional use request was to permit two 500-gallon above-ground fueling tanks to refuel equipment.

Mr. Good commented on the refueling for just the company and not for public resale. Ms. Bischoff confirmed that this was correct.

Mr. Olszewski asked about the type of fuel to be dispensed. Ms. Bischoff believed that both the tanks would contain diesel fuel.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke in favor of the request. He stated that the site was good for the proposed use, but the use would not be appropriate at all LI sites.

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

Mr. Weinberg agreed that the request was appropriate for the location and noted that the fuel would not be for the public. Mr. Warner concurred and supported that new tank would be installed.

Motion to submit Case CU23-00001 to City Council for approval, subject to the staff comments contained in the staff report and completion of the lot combination prior to site plan approval.

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

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

2. **CP23-00008 – Hiawatha Gardens - Tara Williamson and Ronald Chabot (Kelly Hyvonen, AICP, Land Development Strategies, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Commercial and High Density Residential to Commercial. Lot 1 of Block R and Lot 18.01 of Block C, Hiawatha Gardens Section 2, Section 13, Township 28, Range 37, Brevard County, Florida, containing approximately 1.06 acres. Located at the southwest intersection of Hiawatha Avenue NE and Dixie Highway NE**

Mr. White presented the staff report for Case CP23-00008. Staff recommended Case CP23-00008 for approval.

Ms. Kelly Hyvonen, AICP, Land Development Strategies (representative for the applicant) stated that there was a companion textual amendment request for brew pubs on the agenda. She explained the unique brew pub concept planned for the subject site, which would include an onsite microbrewery/drinking establishment and a permanent area for rotating food trucks. No comments had been forthcoming from the two Citizen Participation Plan meetings that were held. She noted that the property already had an HC, Highway Commercial zoning designation.

Mr. Ronald Chabot (applicant) was also present to answer questions.

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

Motion to submit Case CP23-00008 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.

By board consensus, Ms. Jordan announced that New Business Item 14, Case T23-00015, would be heard at this time.

14. **T23-00015 - Brew Pubs in HC District - Kelly Hyvonen, AICP, Land Development Strategies) - A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section**

185.044, to add Brew Pubs or other drinking establishment as a permitted use within the HC, Highway Commercial District

Mr. White presented the staff report for Case T23-00015. Staff recommended Case T23-00015 for approval.

Ms. Kelly Hyvonen, AICP, Land Development Strategies (representative for the applicant) stated that the subject request for brew pubs met the intent of the HC, Highway Commercial District.

Mr. Ronald Chabot (owner of property at 1191 River Drive NE) addressed board questions regarding his specific site that had initiated the textual amendment. Mr. Anderson reminded the board that only the textual amendment was under consideration at this time.

Ms. Hyvonen and Mr. Chabot responded to questions from the board regarding the River Drive property that was owned by Mr. Chabot. Mr. Olszewski remarked that the discussion should be germane to the textual amendment request.

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 T23-00015 to City Council for approval.

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

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

The board resumed consideration of items in the order that was set by the agenda.

3. ****Z23-00012 - Greenacre - Lawrence Kramer - A Zoning Change from an IU, Institutional Use District to an RC, Restricted Commercial District. Lot 11, Point West Estates, Section 6, Township 29, Range 37, Brevard County, Florida, containing approximately 0.9 acres. Located south of and adjacent to Malabar Road NE, west of and adjacent to Greenacre Drive SE**

Ms. Ramos presented the staff report for Case Z23-00012. Staff recommended Case Z23-00012 for approval.

Mr. Lawrence Kramer (applicant) stated that the subject request made sense.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke in favor of the request. He commented on how the site had not been developed under the current IU designation, and office space would be beneficial in bringing business revenue to Malabar Road. A coffee shop, however, would cause a massive influx of morning traffic.

Mr. Michael Scott (resident at Waterman Lane SE) spoke against the request. The applicant did not have a plan or a developer that was ready to build, so there was no need for a change.

Mr. Lynn Deffenbaugh (resident at Waterman Lane SE) spoke against the request. There was no clear or immediate reason to rezone the parcel. Rezoning the subject site would leave the south adjacent property as an isolated Institutional Use site. He noted how there was undeveloped commercial land and vacant commercial buildings along Malabar Road, whereas IU sites were not as prevalent. IU provisions were of more value to the overall development and a support to the citizens of Palm Bay.

In response to the comments from the audience, Mr. Kramer stated that the property had been for sale for years without any interest, and the zoning change to commercial would make the property more relevant for potential buyers.

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

Mr. Weinberg commented that the land use for the property was already commercial, Malabar Road was a commercial corridor, no interest was shown in developing the site under the existing IU designation, and the proposed zoning conformed with the existing commercial land use.

Motion to submit Case Z23-00012 to City Council for approval.

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

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

Nay: Good.

Mr. Good supported the opinion that there was not a present need to change the zoning.

4. ****Z23-00011 - The Essence Palm Bay - 1611 Meridian, LLC, Nuri Dorra, Manager (Kimberly Rezanka, Lacey Lyons Rezanka Attorneys At Law, Rep.) - A Zoning Change from an IU, Institutional Use District to a CC, Community Commercial District. Tax Parcel 262, Section 22, Township 28, Range 37, Brevard County, Florida; containing approximately 4.08 acres. Located at the northeast corner of Palm Bay Road NE and Skippers Way NE, specifically at 1881 Palm Bay Rd NE**

Ms. Bernard presented the staff report for Case Z23-00011. Staff recommended Case Z23-00011 for approval.

Ms. Kimberly Rezanka, Lacey Lyons Rezanka Attorneys At Law (representative for the applicant) stated that the former Crystal River Palace Assisted Living Facility on the subject site had closed in August of 2020. She described by PowerPoint the affordable and workforce housing facility called the Essence at Palm Bay that was planned for the derelict property. Remodeling of the existing facility and the new building construction would be done in two phases. Facilities could open in 12 months with project completion within three years. She noted that the Citizen Participation Plan Meeting was not attended by any residents.

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

Mr. Weinberg remarked on how the site had been a vacant eyesore for years and would now meet the need for affordable housing.

Motion to submit Case Z23-00011 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.

5. **CP23-00014 - REQUEST TO CONTINUE TO 09/05 P&Z - Eldron Storage - KEW, LLC, Michael Erdman, managing member (Kimberly Rezanka, Lacey Lyons Rezanka Attorneys At Law, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Low-Density Residential to Commercial. A portion of Tract I-3, Bayside Lakes Commercial Center Phase 2, Section 19, Township 29, Range 37, Brevard County, Florida, containing approximately 7.43 acres. Located west of and adjacent to Eldron Boulevard SE, south of and adjacent to Devonwood Court SE**

Ms. Jordan announced the request to continue Case CP23-00014 to the September 5, 2023 Planning and Zoning Board meeting. Board action was required.

Motion to continue Case CP23-00014 to the September 5, 2023 Planning and Zoning Board meeting.

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 CP23-00014 on September 21, 2023.

6. ****FS23-00006 - Commercial at Heritage Square - Heritage Square Partners, LLC, Ryan Karlin (Ana Saunders, P.E., BSE Consultants, Inc., Rep.) - A Final Plat to allow for a proposed 4-lot commercial subdivision called Commercial at Heritage Square. Tract X, St. Johns Preserve Phase I, Section 32, Township 28, Range 36, Brevard County, Florida, containing approximately 15 acres. In the vicinity west of St. Johns Heritage Parkway NW, north of and adjacent to Malabar Road NW**

Ms. Ramos presented the staff report for Case FS23-00006. Staff recommended Case FS23-00006 for approval.

Mr. Olszewski asked if each of the four subject lots would have an onsite building. Ms. Ramos confirmed that the four lots would be developed separately.

Ms. Ana Saunders, P.E., BSE Consultants, Inc. (representative for the applicant) informed the board that there was an approved set of construction plans for the development.

Mr. Olszewski inquired whether the project would be involved with the intersection widening. Ms. Saunders stated that the project would not be involved with any intersection related work, but there would be turn lanes constructed off St. Johns Heritage Parkway NW for the subject property. The project would also have two access points off Malabar Road NW.

Mr. Weinberg commented that the commercial development was a long time coming and badly needed in the area.

Motion to submit Case FS23-00006 to City Council for approval.

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

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

7. **PS23-00006 - Bayside Landing - Diocese of Orlando, John G. Noonan, Bishop (David W. Bassford, P.E., MBV Engineering, Inc., Rep.) - A Preliminary Subdivision Plan to allow for a proposed development of 88 townhome units and 35 single-family residential units to be called Bayside Landings. Tract I-1, Bayside Lakes Commercial Center Phase 4, Section 30, Township 29, Range 37, Brevard County, Florida, containing approximately 21 acres. Located south of and adjacent to Osmosis Drive SE, west of and adjacent to Cogan Drive SE**

Ms. Ramos presented the staff report for Case PS23-00006. Staff recommended Case PS23-00006 for approval.

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

Mr. Weinberg asked if the prior concessions the applicant had made to the area residents would still be in effect. Mr. Bassford confirmed that the previous concessions were being addressed in accordance with what had been agreed to.

Mr. Weinberg wanted to know why the project was back before the board. Mr. Anderson stated that the project had previously received a final development plan approval. The subject request was for a preliminary plat approval.

The floor was open for public comment.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke in favor of the request. He supported the concessions the applicant had previously made to the area residents. He wanted to know when Osmosis Drive SE would connect to De Groodt Boulevard SW to alleviate traffic, and if the developer would be responsible for any of the costs.

Mr. Alan Jurison (resident at Dillard Drive SE) spoke in favor of the request. He wanted the green area of existing vegetation, trees, and drainage that the applicant had agreed to leave untouched to be shown on the lead sheet of the plat plan.

Mr. Robert Stise (resident at Windbrook Drive SE) spoke against the request. He commented on how there was a lack of infrastructure and emergency services in place to support all the developments that were being allowed into the area. The quality of life for existing residents was being affected by suburban gridlock.

Mr. Gary Chaney (resident at Abernathy Circle SE) spoke against the request. He was concerned about an increase in traffic and crime because of more residential development that was not needed in Bayside Lakes. He would prefer more churches, nature, and wildlife for the area.

Mr. John Magee (resident at Thornwood Drive SE) spoke against the request. He believed that the City was trying to leverage into the Bayside area multiple-family townhomes with no thought to the impact on current residents. There was one fire station and no police stations currently serving the entire area. Multiple-family

housing was being plugged into open land just to fill space, and after the developers were gone, the City would receive the tax base, but residents would be left with the problems created by the overcrowding.

Mr. Anderson reminded the board that the area had already received final development plan approval and its entitlements. The board was to determine whether the preliminary plat was in accordance with the approved final development plan.

In response to the comments from the audience, Mr. Bassford stated that all applicable criteria had been met for the project. He noted that the townhomes had been included in the development at the request of the City. A traffic study had been redone to include a traffic signal warrant analysis.

The floor was closed for public comments.

Mr. Olszewski was pleased that the applicant had tried to finesse the property to accommodate the residents.

Mr. Weinberg commented that all entitlements had been met.

Motion to submit Case PS23-00006 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.

8. **CP23-00015 - Thrifty Produce Malabar at Green Acres - Merritt Island Holding, LLC, Mitchell Garner, manager (John Newton, Newton Real Estate and Development, Rep.) - A Small-Scale Comprehensive Plan Future Land Use Map Amendment from Public/Semi-Public to Commercial. Tax Parcel 1, Section 6, Township 29, Range 37, Brevard County, Florida; containing approximately 6.43 acres. Located south of and adjacent to Malabar Road NE, in the vicinity west of Greenacre Drive SE**

Ms. Bernard presented the staff report for Case CP23-00015. Staff recommended Case CP23-00015 for approval.

Mr. John Newton, Newton Real Estate and Development (representative for the applicant) stated that he was a real estate developer and the project manager for the potential buyer of the subject land. The intent was to have a shopping center with Thrifty Produce and Meats as the anchor store. Thrifty would be the owner and primary occupant of the site with 8,000 square feet of additional rental space to attract compatible, family-oriented tenants.

Mr. Weinberg asked about the intended use of the flag lot area. Mr. Newton stated that the southern end of the property was planned for stormwater retention. He assured the board that the pole section of the property would remain undeveloped and there would be no driveway access into the adjacent residential subdivision.

Mr. Good asked if Thrifty was relocating from their Palm Bay Road NE location. Mr. Newton stated that the requested site would be an additional location.

Mr. Olszewski asked about the full-service store that was planned for the property, the proposed unit sizes, and he wanted to know what was considered compatible partner uses for the location. Mr. Newton stated that the size and floor plan was for a full grocery store like the Thrifty store in Rockledge. Thrifty would occupy 30,000 square feet of space, but there were no set plans or uses proposed at this time for the additional 8,000 square feet. However, larger truck deliveries would be fewer because of the distribution warehouse on Palm Bay Road. He commented on how the Malabar Road property where Thrifty had attempted to locate four or five years ago had been too far west for the business. He said that a hardware store would be a compatible use at the site.

Mr. Olszewski wanted to be sure that the itemized list of commercial uses feared by the area residents were not permitted uses for the property. Ms. Bernard confirmed that this was correct.

The floor was opened for public comments, and there was one item of correspondence in the file in opposition to the request as well as correspondence from the applicant in response to an itemized list of area concerns.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke in favor of the request. He said that commercial business made sense for the area. He noticed that the exit points were placed before the entrance for the establishment, which would create a crisscross in traffic. Morning traffic would also be a problem as the grocery store driveway would be too close to the coffee shop entrance that was planned to the east.

Mr. Lynn Deffenbaugh (resident at Waterman Lane SE) spoke against the request. A gopher tortoise study should be done for the property as there was a gopher tortoise and habitat present on the site.

In response to the comments from the audience, Mr. Newton advised the board that the project was at the beginning stage of the development process. Design and environmental studies would be forthcoming in future stages.

The floor was closed for public comment.

Motion to submit Case CP23-00015 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.

9. ****CPZ23-00008 - Thrifty Produce Malabar at Green Acres - Merritt Island Holding, LLC, Mitchell Garner, manager (John Newton, Newton Real Estate and Development, Rep.) - A Zoning Amendment from an IU, Institutional Use District to an RC, Restricted Commercial District. Located at Tax Parcel 1, Section 6, Township 29, Range 37, Brevard County, Florida, containing approximately 6.43 acres. Located south of and adjacent to Malabar Road NE, in the vicinity west of Greenacre Drive SE**

Ms. Bernard presented the staff report for Case CPZ23-00008. Staff recommended Case CPZ23-00008 for approval.

Mr. John Newton, Newton Real Estate and Development (representative for the applicant) stated the subject request was to obtain the proper zoning to allow for the Thrifty Produce and Meats grocery store.

Mr. Olszewski wanted to know what could be done to restrict development from occurring in the southern section of the property adjacent to Waterman Lane SE. Mr. Anderson discussed an extended setback; however, the retention pond planned in that area would already accomplish the intent of the setback. Mr. Newton was concerned with how an extended setback would impact the retention pond. The strip of land might also be needed in the future to help alleviate existing drainage problems in the neighborhood. Mr. Anderson explained that a building setback would not influence the stormwater pond, and that the size of the strip would need to be known for a restriction. He noted that the design of the property would not allow access through the area.

Ms. Jordan suggested a condition to prevent access onto Waterman Lane NE instead of a setback to simplify the matter. Mr. Anderson stated that this would be allowed.

The floor was opened for public comments, and there was one item of correspondence in the file in opposition to the request as well as correspondence from the applicant in response to an itemized list of area concerns.

Mr. Lynn Deffenbaugh (resident at Waterman Lane SE) spoke against the request. He stated how rezoning over six acres of land deeply extended into a residential neighborhood should not be taken lightly. More than half the site abutted residential communities on the east, west, and south sides. He wanted a condition placed on the request to allow the site to revert back to its Public/Semi-Public Use and Institutional Use zoning and land use designations if the grocery store failed to occur in a reasonable timeframe. Thrifty had failed to develop their Malabar Road site after receiving commercial designations that impacted the surrounding neighborhoods. He mentioned Coral Key as an example of a development that had to have an approved site plan or revert to its original zoning designation.

Mr. Anderson clarified for the board that Coral Key had been assigned a tentative zoning designation during its development plan approval process. The subject request, however, was for a regular zoning change.

Ms. Melanie Carter (resident at Waterman Lane SE) spoke against the request. She noted that the subject site and project would be about three times larger than Thrifty's Palm Bay Road location. The project would generate more vehicles, foot traffic, clientele, and truck deliveries, especially with the additional rental spaces. Noise, privacy, and safety issues were being forced upon the surrounding homes to the west, east and south. Exiting Greenacre Drive SE onto Malabar Road SE was already a problem, and the additional traffic would add to the challenge. She suggested a limited use of the site to the front three acres closest to Malabar Road in line with the other established businesses to prevent a direct intrusion into the residential neighborhood.

Mr. Roger Carter (resident at Waterman Lane SE) spoke against the request. The subject site did not meet the definition of a transitioning property as the location extended deeply into a well-established residential area.

In response to the comments from the audience, Mr. Newton stated that concerns had been addressed during the public meetings and in comments to staff. He understood the neighborhood concerns but ventured that the commercial land had existed prior to any homes being built. He assured the board that the only access would be off Malabar Road, noise would be minimized, cameras would not face residential yards, and walls at an adequate height would be installed where necessary to protect the residents to the left and right of the building.

The floor was closed for public comments.

Mr. Weinberg remarked on how Malabar Road was clearly a commercial corridor.

Motion to submit Case CPZ23-00008.

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

Mr. Olszewski asked for a restriction to prohibit access onto Waterman Lane NE.

Motion amended to submit Case CPZ23-00008 to City Council for approval subject to the condition that no ingress/egress be allowed on Waterman Lane SE.

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

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

10. ****CU23-00010 – Malabar Mini Storage - Ansl & Sons, LLC (Jake Wise, P.E., Construction Engineering Group LLC, Rep.) - A Conditional Use to amend an existing resolution to allow for a proposed three-story self-storage facility subject to the following provisions: in the Community Commercial District in accordance with Section 185.043(D)(9). Tax Parcels 20 and 7, Section 5, Township 29, Range 37, Brevard County, Florida, containing approximately 4.93 acres. Generally located in the vicinity south of Malabar Road SE and west of Valor Drive SE, specifically at 920 Malabar Road SE**

Ms. Haigler presented the staff report for Case CU23-00010. Staff recommended Case CU23-00010 for approval, subject to the staff comments contained in the staff report and completion of the lot combination prior to site plan approval.

Mr. Weinberg questioned if only 12 units were being added with the additional stories and the 32,000 square foot increase. He asked if more parking spaces would be required. Ms. Haigler stated that the applicant had originally estimated 600 units and was now committing to 612 units. Additional parking would not be required.

Mr. Olszewski asked if the building was presently being built to three-story specifications. Mr. Anderson explained that a stop worker order was in place for the third story construction, and the City had allowed the third floor to be fortified to avoid a public hazard or nuisance. He commented on how site development was still allowed for the approved 64,000 square foot, two-story building, but an overreach by previous staff had allowed a revision that should have come back for conditional use approval. He explained that the building was allowed three stories, but the storage use would be limited to two stories without the conditional use.

Mr. Olszewski asked the City Attorney about the burden of consideration due to the situation. Ms. Smith advised the board that consideration of the subject request should be handled like any conditional use, which was based on conditional use standards in the code. How the request came about was not relevant to the board's decision.

Mr. Warner asked if the existing building was currently three stories. Mr. Anderson stated that the third story was not fully complete, but a roof was in place to keep the structure secure.

Mr. David Tom, Construction Engineering Group LLC (representative for the applicant) stated that he was the engineer of record for the project. The subject request was to determine whether the third floor could be used for storage. A request by a rear resident at the Citizen Participation Plan meeting to switch one oak tree with a red cedar tree would be done. Stormwater layout was also discussed with residents. He commented on how storage facilities were low traffic generators and good neighbors. He informed the board that the property owner was also in attendance to answer questions.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) spoke against the request. He indicated how the problem with the subject request was a perfect example of what happened when plans were not known before modifications were allowed. The stop order was a financial cost to the builder and a severe embarrassment to the City. He recommended approval of the request as it was not the applicant's mistake.

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

Mr. Weinberg commented that the three-story building was currently allowed, and it was just the storage use for the third floor that was under consideration. There was only 12 units being added, and the footprint of the structure would not change.

Motion by Mr. Weinberg to submit Case CU23-00010 to City Council for approval subject to the staff comments contained in the staff report.

Mr. Warner commented that the third floor was already in place, and the structure should not be left to become a derelict eyesore.

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

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

Nay: Olszewski.

11. **T23-00017 - Billboard and Interchange Signs - All Digital All Day, LLC (Matthew Ashley, Rep.) – A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 178: Signs, Section 178.17, to modify language for the distance between billboards to be in alignment with state statutes**

Ms. Bernard presented the staff report for Case T23-00017. Staff recommended Case T23-00017 for approval.

Mr. Olszewski wanted to know what was referred to as an interchange sign. Ms. Bernard stated that the code was currently silent regarding interchange signs. The intent of the subject request was to align the distance requirement for interchange signs with the distance requirement for billboard signs.

Ms. Jordan inquired about the City's ability to place announcements on interstate and billboard signs. Ms. Bernard stated that the City's Communications Division could partner with the community to broadcast announcements like storm events.

Mr. Matthew Ashley (representative for the applicant) indicated that an interstate sign was considered the same as a digital billboard sign. He said that the proposed amendment would bring the City code up to state statute.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) inquired whether the City's current billboard signs met the new criteria.

Mr. Anderson clarified that the City code distinguished a minor difference in billboard and interstate signage. However, the subject request was concerning the distance between billboards, which would result in less billboards within a given area.

Mr. Olszewski asked about the motivation for the request, if there was a project waiting to move forward. Mr. Anderson stated that less billboards would allow for a better skyline view and more visibility of each sign. There was no project aspect for the proposed request.

The floor was closed for public comments.

Motion to submit Case T23-00017 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.

12. **T23-00013 - Commercial Vehicles In Residential District - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006 and 185.123, to provide clear language for authorized parking within residential districts**

Mr. White presented the staff report for Case T23-00013. Staff recommended Case T23-00013 for approval.

Mr. Olszewski inquired about vehicles that would not be considered large vehicles, and he asked about untagged and inoperable vehicles. Mr. White explained how the City code considered some company trucks that were taken home to be commercial vehicles. By state statute, however, a commercial vehicle at a residence would only require a commercial driver's license. Work vehicles could now be brought home when the gross vehicle weight was not above 15,000 pounds. He stated how vehicles that were damaged or in need of repair would have to be parked in an enclosed structure. Mr. Anderson added that inoperable vehicles were allowed within the bounds of a six-foot high fenced side or rear yard area.

Mr. White gave further details and definitions regarding the code.

Mr. Olszewski did not like that the provisions for commercial and work vehicles were mixed in with the provisions for residential vehicles. He was also opposed to removing parameters for parking recreational vehicles in residential yards. Mr. White explained that the code was outlined as the authorized parking within the residential district, which encompassed the types of commercial vehicles that were allowed. Mr. Anderson clarified that the proposal did not remove the ability to appropriately park recreational vehicles within residential yards.

Mr. Olszewski asked if the same residential parking rules applied to the RR, Rural Residential District. Mr. White noted that parking guidelines outlined in each zoning district had not been changed.

Mr. Good questioned where the parking guidelines for recreation boats were relocated in the code. Mr. White stated that based on state statute, boats were now considered motorized vehicles.

Mr. Warner asked if the code would affect a residence with four operable vehicles. Mr. White stated that it would not.

Mr. Warner preferred the separation of the commercial and residential parking aspects for better clarity. Mr. White reiterated that the proposal was not about commercial parking, the amendment was about parking commercial vehicles in residentially zoned districts, so the types of commercial vehicles had to be defined. Mr. Anderson added that the inclusion or exclusion of residential, commercial, and recreational vehicles had to be addressed by the amendment.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) asked if the change would require him to file another agricultural affidavit. Mr. Anderson indicated that a refiling would not be necessary.

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

Motion to submit Case T23-00013 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. **T23-00014 - Lot Split and Lot Reconfiguration - City of Palm Bay (Growth Management Department) - A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, Sections 184.35 and 184.36, to add language and procedures for lot splits and lot reconfigurations within the City of Palm Bay**

Mr. White presented the staff report for Case T23-00014. Staff recommended Case T23-00014 for approval.

Mr. White questioned how the proposed amendment would prevent the problems that occurred with different land uses on a site. Mr. White explained that tracking dual zonings or land uses would avoid the creation of non-conforming lots. It would allow the sites to go through platting instead of consistently being split before staff was aware of the problem. Mr. Anderson added that the amendment allowed for a more updated and consistent GIS mapping capability, and staff would be able to suggest appropriate processes and land designations prior to any illegal lot splits. He noted that the board would now review site specific areas instead of entire parcels.

Ms. Jordan asked if the process would be handled administratively. Mr. Anderson stated that the process would be done administratively for a nominal to be determined fee.

The floor was opened for public comments.

Mr. Bill Battin (resident at Ocean Spray Street SW) asked about the process to notify the Brevard County Property Appraiser for taxing purposes.

Mr. Anderson stated that the subject procedures would not subjugate nor nullify the County process. The procedures would be in addition to the County process and a

caveat to contact the Brevard County Property Appraiser could be included on the form. Mr. White added that the Property Appraiser's checklist for lot combinations or splits directed applicants to their local municipalities for the zoning. At this point, staff would now ensure legal lot conformity prior to any action with the County.

Mr. Olszewski suggested that staff inform the Property Appraiser about the new procedure. He stated that the new system would set property owners up for success. Mr. Anderson agreed to notify the County.

Motion to submit Case T23-00014 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. **T23-00015 - Brew Pubs in HC District - 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 185.044, to add Brew Pubs or other drinking establishment as a permitted use within the HC, Highway Commercial District**

Case T23-00015 was discussed under New Business, following Item 2.

15. **T23-00019 - Subdivision Building Permit Issuance - City of Palm Bay (Growth Management Department) – A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 184: Subdivisions, to amend Section 184.15 regarding the conditions governing the issuance of building permits for model homes**

Ms. Haigler presented the staff report for Case T23-00019. Staff recommended Case T23-00019 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.

Motion to submit Case T23-00019 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.

16. **T23-00020 - Construction Codes and Regulations - City of Palm Bay (Growth Management Department) – A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 170: Construction Codes and Regulations, Sections 170.005 through 170.009, 170.160, and 170.161, to remove language pertaining to the Building Code for the City of Palm Bay**

Case T23-00020 was discussed under New Business as the first item.

OTHER BUSINESS:

1. **Rescheduled September Planning and Zoning Board Meeting.**

The board was reminded that the September Planning and Zoning Board meeting was rescheduled to 6:00 p.m., Tuesday, September 5, 2023.

ADJOURNMENT:

The meeting was adjourned at approximately 8:43 p.m.

Leeta Jordan, CHAIRPERSON

Attest:

Chandra Powell, SECRETARY

**Quasi-Judicial Proceeding