

**PLANNING AND ZONING COMMISSION MINUTES  
REGULAR MEETING  
SEPTEMBER 13, 2011**

The meeting was convened by Chair Walker at 7:00 p.m.

Those attending were: Chair Walker; Comms. Cipolla, Rutter; Comm. Youatt (1<sup>st</sup> Alternate); Comm. Henehan (2<sup>nd</sup> Alternate); Mr. Sickler, Director of Planning and Zoning; Mr. Kemp, Principal Planner; Mr. Baird, Attorney; and Ms. Hampe, Secretary.

**MINUTES:** August 9, 2011, Planning and Zoning Commission regular meeting.

Chair Walker noted that "New Business" should be inserted after "Old Business" and before the summary of the first item, Rialto.

Comm. Youatt moved to approve with the change noted by Chair Walker and Comm. Rutter seconded the motion. The motion carried unanimously.

**CONSENT AGENDA:**

A. **POSTPONEMENTS:** None.

B. **OLD BUSINESS:** None.

C. **NEW BUSINESS:**

1. **Pa Ja Motel and Marina** - Applications for a 0.4+/- acre parcel of land located at 18265 N. A1A, approximately 785 feet east of US Highway One to include:

a. Voluntary annexation; (*PZ# 11-226*)

b. Small Scale Future Land Use Map amendment from Palm Beach County Commercial High to Town of Jupiter Inlet Village Flex; and Small Scale Future Land Use Map amendment to assign the Town of Jupiter US Highway One/ Intracoastal Waterway Corridor - Inlet Village Sector; (*PZ# 11-227*)

***Acting as the Local Planning Agency***

c. Zoning Map amendment from Palm Beach County General Commercial (CG) to Town of Jupiter Commercial, General (C-2). (*PZ# 11-228*)

Town Council consideration:

October 18, 2011 - 1<sup>st</sup> rdg  
November 15, 2011 - 2<sup>nd</sup> rdg

Chair Walker asked if anyone wanted to move an item to the Regular agenda and there was no response.

Comm. Rutter moved to approve the Consent agenda; seconded by Comm. Henehan. The Commission was polled and the motion carried unanimously (5-0 vote).

Youatt - Y      Henehan - Y      Cipolla - Y      Rutter - Y      Walker - Y

**REGULAR AGENDA:**

A. **OLD BUSINESS:** None.

**B. NEW BUSINESS:**

**2. Nonconforming Use Regulations - Zoning text amendment to Chapter 27:**

- Section 27-873 to allow buildings and structures associated with certain existing legal nonconforming uses in the Indiantown Road Overlay Zoning District (IOZ) to be repaired, replaced or improved;
- Section 27-1822 to reference the section regarding IOZ nonconformities.

(PZ# 11-178)

Town Council consideration:

October 18, 2011 - 1<sup>st</sup> rdg  
November 15, 2011 - 2<sup>nd</sup> rdg

Chair Walker read the title.

Mr. Kemp reviewed Staff's recommendation.

George Gentile of Gentile, Holloway, O'Mahoney and Associates made the applicant presentation. He said these changes would allow the owners of a number of other legal nonconforming uses in the IOZ to work with the Town to renovate their sites and bring them more into conformance with Code. He said the applicant agreed with the language changes to the Code recommended by Staff.

Comm. Cipolla asked Staff what the justification is for approving an item written by the property owner's agent for the primary benefit of the property owner. He wondered if there is an ethical question as to who should write Town Code. Mr. Sickler replied that there are provisions for the public to submit changes to the Comprehensive Plan and Town Code. He said he didn't see an ethical conflict because these applications are subject to the Town's review process and the public has opportunities to comment.

Mr. Baird reiterated that Town Code provides for any member of the public to submit an application to change Code. Staff then reviews the proposed Code change just as they would any other application.

Comm. Cipolla asked for a definition of "force de majeure" and Mr. Gentile explained that it means "act of God". Mr. Gentile said that the intent is to allow nonconforming uses to rebuild what they have in case of damage due to a natural disaster.

Comm. Cipolla asked who the designee would be in the proposed language that discusses determination of improvements by the Director of Planning and Zoning. Mr. Sickler replied that this is was in the language proposed by the applicant and was changed in the Staff recommendation to require Town Council approval.

Comm. Henehan referred to the table on the last page of the staff report and asked if the changes would benefit up to nine businesses as indicated. Mr. Kemp said that is correct. Comm. Henehan said he considered this to be a positive and added that the applicant working with Staff is also a positive.

Chair Walker opened the floor to public comment and there was no response.

Comm. Rutter moved to recommend approval with Staff recommendations; seconded by Comm. Henehan.

**Nonconforming Use Regulations - cont'd**

Comm. Cipolla said he could not support the application because there are loopholes in the language. He said the property owners can make changes every year and there is no limit on the amount of money they can spend.

Comm. Youatt said that each time a property owner wants to make changes they will have to come before the Town Council. Comm. Cipolla said he still could not support it.

The Commission was polled and the motion carried (4-1 vote).

Youatt - Y      Henehan - Y      Cipolla - N      Rutter - Y      Walker - Y

3. **Transportation Element Comprehensive Plan Text Amendments** - To add a new map, objective and implementing policies to establish provisions for the extension of existing roadways and new roadways in the Toney Penna Redevelopment Overlay Area (ROA). (PZ# 11-173)  
***Acting as the Local Planning Agency***

Chair Walker read the title.

Mr. Sickler noted that Council had identified being transit-ready and preparing for infill and redevelopment as major issues in the 2006 Comprehensive Plan Evaluation and Appraisal Report (EAR). The Town has adopted amendments to meet those goals and has identified three Redevelopment Overlay Areas (ROAs).

Mr. Sickler said this is the first in a series of amendments to establish the road network that was conceived in 2008. This will help provide a framework for development and a block structure with better connectivity between the parcels and better integration with the medical center. Staff recognized a need to change land use designations from industrial to a broader mix that would support transit and redevelopment related to the hospital.

Mr. Sickler said the goal is to provide redevelopment incentives and offer to some predictability to encourage investment. He noted that the south side of Toney Penna on the eastern portion of the block between Military Trail and Alternate A1A is ripe for redevelopment.

Chair Walker disclosed that she is a commissioner on the Jupiter Inlet District. She noted that George Gentile and Tom Boyhan, both present in the audience, are also commissioners. Chair Walker clarified that they were not discussing any matters that would come before the Jupiter Inlet District.

Mr. Kemp said Staff met with property owners in August who own property where future roadways have been identified. Staff explained that redevelopment would be voluntary and owner-initiated. He added that the timing of these text amendments is designed to coincide with a sewer extension project by the Loxahatchee River District and an intersection improvement by Palm Beach County at Alternate A1A and Toney Penna.

**Transportation Element - cont'd**

Mr. Kemp said that after the text amendments, the uses for the sector will be identified and then the sector will be applied to the Future Land Use Map for the properties in the ROA. The uses will include bioscience, workforce housing, medical office and retail. The final step will be revisions to the land development regulations for the Toney Penna ROA and potentially a small scale mixed-use zoning district.

Mr. Kemp referred to the letter sent by Don Hearing, which is Attachment F of the staff report. The staff report notes that there is language in Objective 2.4 to address incentives. Having the specific incentives in the land development regulations will allow for flexibility without amending the Comprehensive Plan.

Comm. Rutter noted that two of three proposed north/south roads would split parcels. Mr. Kemp said that when the property owners come forward for redevelopment, these properties would be modified to incorporate the rights-of-way.

Comm. Rutter asked if Treasure Coast Regional Planning Council (TCRPC) explored the possibility of using driveways or alleys rather than having the property owners dedicate rights-of-way. Mr. Kemp said the purpose is to increase circulation and provide improved access to the medical center.

Comm. Rutter asked how many parcels would be split with the proposed alignments. Mr. Sickler said the alignments were created by the grid that extends north of Toney Penna. He said some of the parcels, particularly by the newer buildings, may provide cross access or easements in the interim. Mr. Sickler discussed each of the proposed extensions and their anticipated effects.

Comm. Rutter asked if TCRPC considered alternate paths with bends for the proposed north/south extensions. Mr. Sickler replied that they had considered another roadway to create an additional block between Hepburn and Loxahatchee Drive but Staff recommended against it. There is some flexibility with the road paths as they move south from Toney Penna.

Comm. Rutter asked if the width of the north/south roads has been decided and Mr. Sickler said it has not yet been defined.

Comm. Henehan said the Orange Avenue continuation would have the most impact on parcels south of Toney Penna. He asked if there really needs to be three north/south extensions and suggested that perhaps this one could be omitted. Mr. Sickler said the right-of-way alignments are flexible and the Orange Avenue continuation is probably one the most important to improve circulation at Toney Penna Drive and Old Dixie. It would also improve exposure to the parcels and make redevelopment of those parcels more desirable.

Comm. Cipolla asked if a Tri-Rail station would have any bearing on what is being proposed. Mr. Sickler replied that these efforts are in part to make the area more transit-ready with supportive land use patterns. The proposed station locations need to be shown as viable to get federal funds.

**Transportation Element - cont'd**

Comm. Youatt asked why Staff would recommend a roundabout for Orange Avenue. He said Hepburn intersects the hospital property in a better location. Chair Walker agreed that if there is only one roundabout, Hepburn would be a better location and just as effective. Mr. Sickler said there may need to be more than one roundabout.

Chair Walker opened the floor to public comment.

Don Hearing of Cotleur-Hearing said he was speaking on behalf of Garnett Williams and Brad Molter. They support the Town getting the proper land uses in place to facilitate what the area will become but they are both affected by the proposed extensions. He said they understand that the program is voluntary but said once something is put onto a map it affects how banks and appraisers look at the property.

Mr. Hearing asked that the incentives be clearly identified and placed in the Comprehensive Plan. The cost of building roads to Town standards is expensive and how that would be financed should be outlined. The land development regulations should be written now to give some predictability to future development.

Frank Sardinha of 160 Toney Penna Drive said he did not want these roadways set out in the Comprehensive Plan and sent to Tallahassee until they were better thought out. This is infringing on property rights. He asked what the timetable is for the construction of the roads and if the Town Attorney had looked at this as a taking.

Mr. Sardinha asked what would happen if an existing building is destroyed. Could it be rebuilt? He concluded by asking if there had been a traffic study for the residential areas between Indiantown Road and Toney Penna.

Tom Boyhan of 19005 Talon Way said he owns a building at 342 Toney Penna. He agreed that once this change in the Comprehensive Plan goes to Tallahassee, it will be cast in stone and affect property values. He said most of these are small lots and he could not understand why anyone would want to participate voluntarily. He wondered if the program would eventually be mandatory.

Comm. Youatt commented that the plan has benefits but those have to be balanced against taking land for the rights-of-way. He agreed with putting incentives in place to show property owners the benefits of participation in the plan. He asked what would happen now, before the plan is finalized, if a property owner sought approval for expansion where a right-of-way is proposed. He concluded by saying the plan needs more development before moving on to Council.

Comm. Rutter asked if the future roadway extensions would be owned and maintained by the Town. Mr. Sickler replied that they could be private roadways and added that there is some flexibility in how the blocks and access are created. Comm. Rutter suggested using the name "future access way" for flexibility and asked if they are defined in the master plan. Mr. Sickler replied that a master plan is still under development and said these comments are helpful.

**Transportation Element - cont'd**

Comm. Youatt asked what will happen when one of the property owners in the suggested alignment comes into the Town wanting to make significant improvements. Mr. Sickler said Staff would work with the applicant to achieve as many as possible of the objectives that have been identified. Comm. Youatt said it still seems preliminary without having the incentives in place.

Chair Walker asked if there are any requirements that this application move ahead right now and Mr. Sickler said no. Chair Walker asked if the Town could still coordinate with the Loxahatchee River District and Palm Beach County with their projects. Mr. Sickler said yes.

Chair Walker said she believes in what the Town is doing with regard to improving transportation. The facilities being built and improved in Jupiter will address the Town's needs well into the future. At the same time there are existing businesses and property owners that also need to have the concerns addressed.

Comm. Rutter moved to continue the application to the October Planning and Zoning meeting; seconded by Comm. Henehan. The Agency was polled and the motion carried unanimously (5-0 vote).

Youatt - Y      Henehan - Y      Cipolla - N      Rutter - Y      Walker - Y

Chair Walker said the public should contact Staff with questions and suggestions.

**ADJOURN**

Chair Walker adjourned the meeting at 8:23 p.m.

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**Valerie Hampe, Secretary**

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**PATRICIA WALKER, CHAIR**