

**PLANNING AND ZONING COMMISSION MINUTES  
REGULAR MEETING  
April 9, 2019**

Chair Patel called the meeting to order at 7:01 p.m.

**ATTENDANCE:** Chair Ankur Patel; Vice Chair Cheryl Schneider; Comms. David Flinchum, Frank Fore, MB Hague, Cameron May, Daniel Zuniga; Jackie Ferro (1<sup>st</sup> Alternate); Jennifer Hofmeister, (2<sup>nd</sup> Alternate); Stephanie Thoburn, Assistant Director of Planning and Zoning; Scott Thatcher, Principal Planner; Garret Watson, Senior Planner; Thomas Baird, Town Attorney; Valerie Hampe, Secretary.

**MINUTES:** Regular Planning and Zoning Commission meeting, March 14, 2019.

Comm. Hague moved to approve the minutes; seconded by Comm. Schneider. The motion carried unanimously by consensus.

**ELECTION OF OFFICERS:**

Comm. Hague nominated Chair Patel for Chair; seconded by Vice Chair Schneider. There were no other nominations.

Comm. Hague nominated Vice Chair Schneider for Vice Chair; seconded by Comm. Fore. There were no other nominations.

**CITIZEN COMMENTS:** None.

**REGULAR AGENDA:**

**A. OLD BUSINESS:**

1. **Fishermans Wharf Residential** - Applications for a Small Scale Planned Unit Development with two waivers (setback and height) and a site plan for three five-story, 30 unit multi-family building and a two and three-story, seven unit building with three live/work units, three workforce housing units, and one market rate unit, and a special exception application for an accessory four slip marina, on a 5.2± acre property, located north of Indiantown Road between Fishermans Way and the Intracoastal Waterway. (PZ# 2039, 2040, 2635)

Town Council consideration:

May 21, 2019

Chair Patel asked for ex-parte communications disclosures. Comm. Flinchum went by the site to see if anything had changed since the last hearing. Comm. Fore said he visited the site on land and by water. Comm. Hague said she walked the site with plans in hand and then met with the applicant's planner. Vice Chair Schneider, Comm. May and Comm. Ferro had nothing to disclose. Comm. Hofmeister said she met with the applicant's planner. Chair Patel said he walked the site and met with the applicant's planner.

**Fishermans Wharf Residential – cont'd**

Mr. Baird conducted the swearing in of witnesses.

Dodi Glas of 2GHO noted that Nat Nason, attorney with the Nason Yaeger law firm, was present. She gave a PowerPoint presentation and reviewed the history of the property. The presentation compared previous iterations of the plans and the reasoning behind the design changes. The applicant requested two waivers: one for height and one for a setback from Fisherman's Way.

Garret Watson, senior planner, gave the Staff presentation. He reviewed the history and changes since the last hearing in February 2018. He referred to the executive summary which listed the main unresolved issues, including incompatible land use and zoning. He said the applicant could request Future Land Use Map and Zoning Map amendments for a residential designation to resolve those issues but then more workforce housing units and a greater waiver for the height would be required.

Mr. Watson said small scale Planned Unit Developments (PUDs) are not designed for a mix of uses outside the zoning designation as allowed by a large scale PUD. Height, bulk and mass are other major concerns. He concluded by noting other concerns and stating that Staff continued to recommend denial.

Comm. Flinchum asked the applicant why they hadn't made more changes. Ms. Glas of 2GHO replied that the financial considerations of constructing three buildings over garage space and providing workforce housing on this site are monumental. She added that they have made substantial changes since the beginning of the project.

Comm. Fore asked the following and Ms. Glas answered as indicated.

- ***Will the garages would be completely underground?*** Yes.
- ***How much non-concurrence is there from Water's Edge?*** The applicant and 2GHO have had a lot of contact and meetings with the neighborhood and some of them are interested in purchasing our product.
- ***Where is the parking for the workforce housing units?*** Some is in the three-story building garages and some is surface parking on the west side of Fisherman's Way.
- ***Were there any views from the water?*** No.

Comm. Hague asked the following and Ms. Glas answered as indicated.

- ***How will the buffer slope be treated?*** Fill that was deposited during bridge construction will be removed and the site will be lowered.
- ***Would the applicant consider changing the fourth townhouse unit back to workforce housing from market rate?*** Yes; perhaps.
- ***Why was the architecture not changed to something more coastal?*** There was no unanimous direction from Town Council and we've had some positive responses from adjacent community members.

Comm. Hague said she understood that small scale PUDs can only have accessory residential but having live/work units and workforce housing on the site was huge. She asked if there couldn't be a waiver to make that application work. Mr. Watson replied that the most appropriate course of action, short of changing to a large scale PUD, would be to rezone the property residential.

**Fishermans Wharf Residential – cont'd**

Comm. Hague suggested that the workforce housing, live/work units, towers and marina could be interpreted as a mix of uses. She was disappointed that the project wasn't being evaluated for how well it fit into the area and was seen as something that needs to be rezoned instead.

Comm. Hague asked Staff why they had commented that placing residential next to the bridge was not responsible planning. Ms. Thoburn said the main concern was that the property is zoned for commercial use. She added that the marina slips are considered an accessory use, not a commercial use. Live/work units are considered residential pursuant to Town Code and don't require the work portion to be used as commercial.

Vice Chair Schneider asked how an application with so many problems could come forward. Ms. Thoburn said Staff is responsible for processing applications. Staff told the applicant they would be recommending denial and the applicant asked for due process. Mr. Baird elaborated on the responsibilities of Staff and the Commission when evaluating applications.

Comm. May asked if the residents of this project would be made aware of the noise issues from Harbourside. Ms. Glas said yes; this is an existing situation and she described the buffers and transition of the proposed buildings to the single-family residential to the north. Comm. May said adding more residential units across from Harbourside may create more conflict. Ms. Glas replied that Water's Edge residents only want residential uses next to them.

Comm. Ferro asked about shadows and lack of privacy affecting Water's Edge residents. Ms. Glas said the buildings have been pulled back from where they were on the previous approval and the orientation of the buildings has been changed to minimize the impact. She added that they have worked on the north landscape buffer to provide screening for the adjacent neighbor.

Comm. Hofmeister asked if the applicant had considered rezoning. Ms. Glas said it would require a change in land use, rezoning and withdrawal from the Indiantown Road Overlay Zoning (IOZ) district. It would also entail greater waivers and more workforce housing units.

Chair Patel asked the applicant to explain how they satisfy Comprehensive Plan requirements. Nat Nason, attorney for the applicant, said that the site has always been part of a larger plan. It is mixed use internally and with the surroundings.

Chair Patel noted that Staff said a mixed use project cannot have more than 50% of one use. Mr. Nason cited Town Code which allows for residential with mixed use land use for a small scale PUD. He said this project has that mixed use with the conservation area and marina slips.

Chair Patel asked Staff if it was correct that no one use can ~~be~~ predominate in mixed use land use. Mr. Watson said yes and the Code section that had been referenced applied to accessory residential within a Mixed Use land use, and is not dependent upon a large or small scale PUD.

**Fishermans Wharf Residential – cont'd**

Chair Patel asked if the workforce housing had been reduced because the number of project units was reduced. Mr. Watson said yes and explained the calculations. Ms. Glas said if four on-site workforce housing units were built, two would be public benefit.

Chair Patel asked if staff had received anything in writing from the neighbor to the north. Mr. Watson said not since the previous version of the project last year.

Comm. Fore asked how the Mixed Use land use designation came about and if there was anywhere in Town that a similar project was considered mixed use. Ms. Thoburn said the land use designation started with the Abacoa Development of Regional Impact (DRI). The purpose was to allow different uses within a project and therefore reduce trips. She noted that the Mixed Use designation was only on this property, not the rest of the commercial subdivision.

Chair Patel opened the floor to public comment. Ms. Hampe called Richard Friedkin to the podium but he declined to speak. The comment card completed by Mr. Friedkin did not indicate whether or not he supported the project. Mariah Knefely completed a card in support of the project but did not wish to speak.

Gordon Ripma of Tequesta reviewed the history of the property and said he did not think the 50% rule should apply since there are already commercial uses on the original Fisherman's Wharf site. He supported the project.

Elizabeth Edmonds of 111 Fisherman's Way in Water's Edge Estates said her property would be the most impacted by this project. Her primary issue was privacy because of the units that would look into her back yard. She said the height waiver is not compatible with neighboring residential area and traffic would also be an issue. She stated that she was completely in support of residential use for the parcel.

Leslie Spivack of 380 Fisherman's Way in Water's Edge Estates supported the project. He said there was no need for more commercial uses in the area; there are plenty commercial establishments.

Suzanne Cabrera, president and CEO of the Housing Leadership Council, said her organization's purpose is to ensure the economic sustainability of the area by seeing that there is enough workforce housing. She said residential use of this site makes the most sense and is supported by the neighbors. Having workforce housing on the site is a huge benefit.

Ms. Hampe read the statement of Paul Chaney, 378 Fisherman's Way, at his request. He supported the project and said the lack of a commercial component, is what made this project a good fit for the site. He stated that this would be a good transitional project from the traffic of the bridge to the quiet neighborhood of Water's Edge.

Comm. Flinchum said he was disappointed with the lack of change in the application. He said there were options to make the project work and suggested three units per floor rather than two. He said he was still concerned with the height, the proximity to the bridge, the encroachment on conservation area and the effect on Water's Edge.

**Fishermans Wharf Residential – cont'd**

Comm. Fore said he did not see the project as mixed use; it is residential. He agreed with the public comments that it did not need to be mixed use. Commercial use would create a traffic concern for nearby residents. He did not like the conservation buffer encroachment and was uncomfortable with the proposed height.

Comm. Hague restated that there are a number of uses in the plan and said it could be interpreted as mixed use. She did not like the height and said workforce housing could not be considered a tradeoff for the height. She concluded by saying that she did not care for the architecture and the conservation buffer encroachment was also a concern.

Vice Chair Schneider complimented Staff on the staff report and executive summary. She suggested including an executive summary for future applications that are complex.

Vice Chair Schneider said this is an awkward parcel and it needs to be rezoned Residential. She said there were not enough public benefits for the height waiver even with the workforce housing being offered. Although the neighboring community was in favor of the project with five stories, it would affect everyone in Town. She concluded by saying that the Town should not bend the rules; height, density and setbacks matter.

Comm. May agreed that the applicant was asking for too much height. The area is getting too built up.

Comm. Ferro said there is a lot of congestion nearby. She liked the residential use and the architecture. It would be challenging to have mixed uses on such a small parcel. Height is an issue. She agreed with Vice Chair Schneider that the rules should not be bent and said the rules should be changed because this could be setting a precedent for other developers.

Comm. Hofmeister recognized the challenges of the site being an infill parcel and thought it could be interpreted as mixed use in context with the surrounding commercial development. She liked the landscaping and architecture.

Chair Patel agreed that residential is the best use for the parcel. He was still concerned about height and the privacy issues for neighbors. He said the workforce housing was fantastic but was not sure it would be enough to compensate. He questioned how the Commission could come up with a recommendation for approval and still abide by Town Code.

Vice Chair Schneider moved to recommend denial of the application, as recommended by Staff. Comm. Fore seconded the motion. The Commission was polled and the motion carried unanimously (7-0 vote).

Ferro – Y	Flinchum – Y	Fore – Y	Hague – Y
May – Y	Schneider – Y	Patel - Y	

**B. NEW BUSINESS:**

2. **Roger Dean Chevrolet Stadium Improvements** – A site plan amendment to construct a 9,360 square foot batting tunnel building in the practice field area, on a 90± acre property, located at 4355 Stadium Drive. (PZ# 3695)  
*Town Council consideration:* May 21, 2019

Chair Patel asked for ex-parte communications disclosures. Comms. Flinchum, Ferro, May and Hofmeister had nothing to disclose. Comm. Fore said he drove by the site. Comm. Hague said she had a conversation with George Gentile, the applicant's planner, about the batting cage. Chair Patel said he had looked at the site on Google Maps and Vice Chair Schneider had nothing to disclose.

Mr. Baird conducted the swearing in of witnesses.

George Gentile of 2GHO gave a PowerPoint presentation on behalf of the applicant, Palm Beach County. The request was for a site plan amendment to enclose a batting tunnel in the practice fields to the east of the stadium. This will be an accessory use and will not be open to the public so they did not anticipate an increase in traffic.

Mr. Gentile said the applicant is in agreement with all of the proposed conditions of approval and he noted that the Abacoa Property Owners' Assembly (POA) has endorsed the project.

Garret Watson, senior planner, said the application is for the enclosure of an existing batting cage. He noted that the staff report contained an analysis of parking in the area, which Town Council has designated a strategic priority. The analysis was for informational purposes. He added that the staff report contained a discussion of the stadium's approved signage plan.

Mr. Gentile reviewed elevations in the PowerPoint presentation at Comm. Fore's request.

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

Comm. Flinchum moved to recommend approval; seconded by Comm. Fore. The Commission was polled and the motion carried unanimously (7-0 vote).

Ferro – Y	Flinchum – Y	Fore – Y	Hague – Y
May – Y	Schneider – Y	Patel - Y	

3. **Electronic Sign Regulations** – Town initiated zoning text amendment to Section 27-1529, entitled "Special sign regulations" of the Indiantown Road Overlay Zoning District (IOZ) sign code to provide regulations for electronic changeable copy signs for performing arts theaters. (PZ# 3733)  
*Town Council consideration:*

May 21, 2019 – 1<sup>st</sup> rdg  
June 18, 2019 – 2<sup>nd</sup> rdg

**Electronic Sign Regulations – cont'd**

Scott Thatcher, principal planner, gave a PowerPoint presentation about amending the sign code to allow electronic changeable copy signs for performing arts theaters. The request came about through meetings with Maltz Jupiter Theater. They currently create plastic panels which have to be manually installed for different events.

Mr. Thatcher said the proposal is to limit the changeable copy area to 15 square feet and allow it to be changed only once every 24 hours. The image could not appear to be moving, fading or flashing. These restrictions were to ensure the sign wouldn't become a nuisance to neighboring properties.

Mr. Thatcher concluded by saying Staff recommended approval of the application and noted that a representative of the Maltz Theater was present.

Vice Chair Schneider asked Staff to confirm that the proposed regulations were only for the changeable copy and not the dimensions of the overall sign. Mr. Thatcher said that was correct.

Comm. Fore suggested they may want to change the sign more than once a day for something like a kids' matinee. Mr. Thatcher noted that West Palm Beach allows for the image to change four times per day.

Comm. Fore asked if an electronic monitor would be allowed. Mr. Thatcher replied that the text changes have been worded broadly to allow for advances in technology.

Comm. Flinchum said only allowing copy changes once a day was overly restrictive. He said entertainment venues such as Harbourside and the stadium could benefit from this type of sign.

Chair Patel asked how Staff had arrived at the limit of 0.3 footcandles and Mr. Thatcher cited the International Sign Association study attachment to the staff report. Chair Patel suggested allowing two copy changes per day.

Ms. Thoburn said the text amendment was limited to performing arts theaters because Town Council has discussed the issue of electronic signs in the past and did not want to change the character of the Town.

Chair Patel opened the floor to public comment.

Andrew Kato, producing artistic director and CEO of the Maltz Theater, said this is the largest regional theater in the southeast at present. He discussed the economic impact of the theater and outreach programs for students. He was appreciative of the amendment and said being able to change the copy twice a day would be helpful.

Comm. Hague moved to recommend approval of the text amendment with Staff recommendations and a modification to allow text and images to be changed not more than two times in a 24-hour period. Vice Chair Schneider seconded the motion. The Commission was polled and the motion carried unanimously (7-0 vote).

**Electronic Sign Regulations – cont’d**

Ferro – Y	Flinchum – Y	Fore – Y	Hague – Y
May – Y	Schneider – Y	Patel - Y	

**MISCELLANEOUS**

Ms. Hampe announced an upcoming Ethics training for any commissioners who might be interested.

Ms. Thoburn invited commissioners to call Staff with questions or suggestions for additional information in their packets.

Comm. Flinchum and Comm. Fore found the executive summary helpful.

**ADJOURN:**

Chair Patel adjourned the meeting at 9:27 p.m.

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**Valerie Hampe, Secretary**

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**ANKUR PATEL, CHAIRMAN**