

**PLANNING AND ZONING COMMISSION MINUTES  
REGULAR MEETING  
January 10, 2017**

The meeting was called to order by Chair Rutter at 7:00 p.m.

**ATTENDANCE:** Chair Patrick Rutter; Vice Chair Ben Klug; Comms. Ken Duke, David Flinchum, MB Hague, Ankur Patel, Larry Roberts, Nilsa Zacarias (1<sup>st</sup> Alternate), Peter Robbins (2<sup>nd</sup> Alternate); Mr. John Sickler, Director of Planning and Zoning; Ms. Stephanie Thoburn, Assistant Director of Planning and Zoning; Mr. David Kemp, Principal Planner; Mr. Martin Schneider, Senior Planner; Mr. Peter Begovich, Planner; Mr. Thomas Baird, Town Attorney; Ms. Valerie Hampe, Secretary.

**MINUTES:** Regular Planning and Zoning Commission meeting, December 13, 2016.

Comm. Hague moved approval; seconded by Vice Chair Klug. The minutes were approved unanimously by consensus.

**CITIZEN COMMENTS:** None.

**REGULAR AGENDA:**

A. **OLD BUSINESS:** None.

B. **NEW BUSINESS:**

1. **17701 Yancy Avenue** – Variance request to Section 27-1823(2)(a) entitled “Certain nonconforming and substandard lots”, to reduce the minimum total of the building side setbacks from 20 feet to 17.5 feet to construct a single-family home on a 5,000 square foot lot in the Cinquez Park 2nd Addition subdivision. (PZ# 2240)

***Acting as the Zoning Board of Adjustments***

Chair Rutter asked for ex-parte disclosures and there were none. Mr. Baird conducted the swearing in of witnesses.

Lewis Carran, the applicant, said he was asking for a 2.5-foot aggregate setback variance for a single family home.

Peter Begovich, planner, said Staff recommended denial of the variance request. He reviewed each of the seven variance criteria as detailed in the staff report and indicated whether or not they were satisfied according to Staff’s analysis.

Comm. Flinchum asked Mr. Carran to verify that he purchased the property in August and Yates Associates drew the plans for the 32-foot wide home in September. Mr. Carran said yes and clarified that he mistakenly told the architect they needed a total of 17.5 feet in setbacks, 12.5 feet on one side and five feet on the other.

17701 Yancy Avenue – cont'd

Comm. Flinchum asked the following and Mr. Begovich answered as indicated:  
***Is the home under construction?*** Yes; form boards and plumbing are in place.  
***Has a building permit been issued?*** No.  
***Is there a Code Compliance case for the property?*** There isn't an active Code case right now.

Comm. Patel asked why Mr. Carran hadn't changed the house plans to meet the requirements. He replied that he did not want to take another 2.5 feet from the house width because the center hall would not be usable. He would not have bought the property if he had known the restrictions.

Comm. Patel then asked if other properties in Cinquez Park met the setbacks. Mr. Begovich said yes; there is another side corner house that does.

Vice Chair Klug asked if concrete had been poured. Mr. Carran said no; the water line and form boards could easily be removed. Mr. Begovich said he consulted with the building official, Roger Held. Mr. Held said he sometimes allowed work to begin prior to a permit being issued but only when they had made arrangements in advance. Mr. Carran had not made such arrangements.

Comm. Roberts asked Mr. Carran if he had considered redesigning the house and he said no; it wouldn't work as a narrower house, he would have to build upward to make the house appropriate for the price range. Comm. Roberts asked if he planned to duplicate the house in the neighborhood and Mr. Carran said no.

Comm. Zacarias asked if Mr. Carran planned to live in the house and he said no; he would sell it. Comm. Zacarias then asked if the other variances granted in Cinquez Park were similar. Mr. Begovich said the lots had the same dimensions and were each granted aggregate side setbacks of 15 feet.

Comm. Robbins asked if Mr. Carran wished to add anything to his justification for Criteria 3 and 4 since Staff did not consider them to be met. Mr. Carran said he thought a two-story house would seem out of place there.

Vice Chair Klug asked if Mr. Carran thought having a second story would affect the resale value of the house. Mr. Carran said yes; most people want single story homes for themselves and for resale value.

Comm. Hague asked Mr. Carran if he was planning to line up the sides of his house with the one directly behind it which had nonconforming setbacks. Mr. Carran said his house will be set farther off the street.

Chair Rutter asked how many vacant lots with similar characteristics are left in the plat. Mr. Begovich said he knew of one. Chair Rutter asked what the permit fees would be if a permit is issued after construction has commenced. Mr. Begovich replied that the fees are doubled.

Comm. Roberts asked if the vacant lots were the result of tear-downs. Mr. Begovich said no; they were platted in 1946 and have remained vacant until the water and sewer were installed at the time of incorporation.

17701 Yancy Avenue – cont'd

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

Comm. Flinchum noted that Yates Architecture has been involved in these homes and was amazed they didn't realize the lot would need a variance. Also, work was started without a permit so he did not support the variance.

Comm. Duke said the application didn't meet the criteria. The first corner variance was granted because of a Staff error and he did not want to perpetuate the error.

Comm. Hague said she was troubled that construction had started without a permit. The house will not mirror the one behind it in lot placement for conformity. She did not support the variance application.

Comm. Patel said the applicant had not justified the satisfaction of Criteria 3 and 4 so he could not support the variance.

Comm. Zacarias said when the same variance request for the same type of property in the same area is repeated, there is something wrong with the Code. The Code should be re-evaluated. Chair Rutter agreed and cited the example of variances in Ocean Walk. He said the requirement for the combined setbacks may be excessive.

Chair Rutter asked how long the applicant would have to wait to reapply if he was denied and Mr. Sickler said two years. He said he did not consider granting the first two variances as setting a precedent. He suggested postponement to give the applicant the choice of reconfiguring the house or bringing back the variance request with stronger justification.

Comm. Hague agreed that there was a problem in the area and noted that the previous variances were granted with interpretation of Criterion 3, denial of rights commonly enjoyed by others, as having been met. She interpreted Criterion 4, reasonable use of the land, as being for a one-story home.

Comm. Duke said he did not consider the Code to have a problem. Staff made an error initially with one house and then Lisa Chitty wanted the same setback reductions. The issue snowballed.

Comm. Flinchum moved to deny the variance; seconded by Comm. Duke. The Board was polled and the motion failed (3-4 vote).

Hague – N	Flinchum – Y	Patel – N	Roberts – N
Duke – Y	Klug – Y	Rutter – N	

Vice Chair Klug moved to postpone the application indefinitely; seconded by Comm. Roberts. The Board was polled and the motion carried unanimously (7-0 vote).

Hague – Y	Flinchum – Y	Patel – Y	Roberts – Y
Duke – Y	Klug – Y	Rutter – Y	

2. **Center Park** – Applications for a 7.3+/- acre parcel of land located at 114 Datura Street (approximately 220 feet south of Center Street between Hepburn Avenue and Old Dixie Highway) to include:
- A. Small Scale Future Land Use Map amendment from Commercial to General Industrial; (PZ# 16-1910)
  - B. Zoning Map amendment from General Commercial (C-2) on 1.8+/- acres and Restricted Commercial (C-4) on 5.5+/- acres to Industrial Park Light Industry (I-1) for the entire 7.3+/- acres. (PZ# 1911)

Town Council consideration:

February 21, 2017 – 1<sup>st</sup> rdg

March 21, 2017 – 2<sup>nd</sup> rdg

3. **Center Park** - Application for a large-scale Planned Unit Development (PUD), a Site Plan, and Special Exceptions for a redevelopment of 11.6± acres to allow self-storage, warehouse, office, retail, restaurant, medical office, indoor recreation and accessory residential use at 114 Datura Street. (PZ#'s 1913, 1914 and 1916)

Town Council consideration:

February 21, 2017 – 1<sup>st</sup> rdg

March 21, 2017 – 2<sup>nd</sup> rdg

Chair Rutter suggested a collective presentation on the items but separate votes.

Nicole Plunkett, landscape architect with Cotleur-Hearing gave a PowerPoint presentation on behalf of the applicant. She said the following people were present: David Nelson, applicant; Dawn Curry, property manager of Center Park; Harvey Oyer, legal counsel; Rick Gonzalez, architect; Adam Kerr, traffic engineer; and Don Hearing, project manager. Ms. Plunkett reviewed the plans for the site and said they will re-establish connections using abandoned rights-of-way.

Mr. Kemp, principal planner, said Staff recommended approval of the land use change and rezoning applications. Mr. Schneider, senior planner, said the applicant was requesting two waivers for existing non-conformities; one for parking and one for foundation landscaping. He added that they will be required to pay a linkage fee.

Comm. Robbins asked whether the 75% reduction in daily trips would be fewer actual trips or just a change in the way trips are calculated. Mr. Kemp replied that the change in land use resulted in fewer possible trips. Mr. Schneider said the site plan uses would cause the number of actual trips to increase.

Comm. Robbins noted that Point 6 in Attachment J states that Palm Beach County Fire-Rescue would be responsible for service but did not indicate whether they had the capacity for it. Mr. Kemp replied that they had not indicated any concerns with the land use change and rezoning.

Comm. Zacarias asked for further clarification of the applicant's objections to four of the conditions of approval. Mr. Schneider and Mr. Hearing reviewed the details of the applicant's concerns with Conditions 13a, 9, 10b and 11c; parking, linkage fee, sidewalk construction and dedication of a cross access easement to the northeast, respectively.

Center Park – cont'd

Comm. Roberts asked about the timeline of the project and plans for the remainder of the property. Mr. Hearing said it would be about two years. Landscaping for the entire property will be upgraded now and future redevelopment would come back before the Planning and Zoning Commission. Comm. Roberts asked about the handling of traffic during construction and Mr. Schneider said the Engineering department would address that.

Comm. Patel complimented the applicant on the plan and asked the following:

***Why are you proposing a change in land use and rezoning for the entire property if only part of the plat is being redeveloped?*** Mr. Hearing said the current uses are more consistent with Light Industrial than Neighborhood Commercial. Mr. Sickler said the existing C4 district is complicated and it is more advantageous to support the service industries there and offer more flexibility in uses with the L1 designation. .

***What assurance does the Town have that adult entertainment will not locate there?*** Mr. Hearing said that the property is too close to residential.

***Won't the dumpsters along Banyan discourage pedestrians?*** Mr. Hearing said Banyan will be widened, landscaping added and trash will be consolidated.

***How can the Commission address the workforce housing issue?*** Mr. Sickler said Council will have to address it in the upcoming workforce housing ordinance; there isn't a provision in the current Code for off-site construction of workforce housing in lieu of paying the linkage fee.

Comm. Hague asked how much of the site would have a change in land use and Mr. Kemp said 7.3 acres. She then asked if all of the uses being proposed were currently on the site. Mr. Schneider said yes, with the exception of accessory residential which is a special exception in I-1.

Comm. Hague asked for clarification of why the Town would want this change if all of the uses could already be permitted there. The current land use gives the Town more control over uses. Mr. Schneider said the current C-4 zoning only allows a maximum height of 15 feet for self-storage. Mr. Sickler said Industrial zoning is more reflective of the actual uses and there is limited square footage in the Town for those types of businesses.

Comm. Hague noted that Council had not supported accessory residential in industrial areas and said she was concerned about the types of uses that would be able to come in by right. Mr. Hearing said that I-1 is the softest of the industrial zoning districts and agreed with Staff that it would be the most appropriate in relation to the land use.

Comm. Duke agreed with Comm. Hague's concerns and said the only real benefit seemed to be allowing the additional height for the storage facility. He asked if Staff had any issues with allowing a three-story building in that historic area of Town. Mr. Schneider said the 3-story building will be behind commercial buildings on Old Dixie and Center Street which will create a step up. Also, it will be more attractive than what is currently in the area.

**Center Park – cont'd**

Comm. Flinchum said the property has a great mix of industrial and commercial uses and a good occupancy rate. Unfortunately, the architecture of the 3-story building would be largely hidden and he was not sure that signage up high on the building was really needed. He asked if the landscape regulations for parking were in place when the property was developed and Mr. Schneider said no; those regulations did not exist until 1988.

Comm. Flinchum said the handicapped parking spaces need to be relocated to the foundation. He agreed with Staff that the landscaping along Center Street needs to be enhanced. He suggested one landscape island per 12 parking spaces along Center Street and the foundation and one island per 15 spaces in the center section.

Comm. Flinchum said the U-Haul facility is out of control and the site plan needs to make provision for their vehicles. He concluded by saying he was not ready to move on the application until the conditions were resolved.

Comm. Hague agreed about the U-Haul facility being a problem. She asked if there would be a fence around the storage building and Mr. Hearing said no; there would be security cameras inside the building.

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

Comm. Flinchum moved to continue all three applications to the February 14, 2017 meeting; seconded by Comm. Hague. The Commission was polled and the motion carried (4-3 vote).

Hague – Y	Flinchum – Y	Patel – N	Roberts – N
Duke – Y	Klug – N	Rutter – Y	

Mr. Baird said that the remaining two items needed to be voted on separately.

Comm. Flinchum moved to continue the rezoning application to the February 14, 2017 meeting; seconded by Comm. Hague. The Commission was polled and the motion carried (6-1 vote).

Hague – Y	Flinchum – Y	Patel – Y	Roberts – Y
Duke – Y	Klug – N	Rutter – Y	

Comm. Flinchum moved to continue the PUD application to the February 14, 2017 meeting; seconded by Comm. Hague. The Commission was polled and the motion carried (6-1 vote).

Hague – Y	Flinchum – Y	Patel – Y	Roberts – Y
Duke – Y	Klug – N	Rutter – Y	

**ADJOURN:**

Chair Rutter adjourned the meeting at 9:03 p.m.

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**Valerie Hampe, Secretary**

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**PATRICK RUTTER, CHAIR**

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