

**PLANNING AND ZONING COMMISSION MINUTES
SPECIAL MEETING
April 13, 2017**

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

ATTENDANCE: Chair Patrick Rutter; Comms. MB Hague, Brett Leone, Ankur Patel, Peter Robbins, Larry Roberts, Cheryl Schneider, David Flinchum (1st Alternate), James Cordeiro, (2nd Alternate); John Sickler, Director of Planning and Zoning; Stephanie Thoburn, Assistant Director of Planning and Zoning; David Kemp, Principal Planner; Garret Watson, Planner, Thomas Baird, Attorney; Valerie Hampe, Secretary.

MINUTES: Regular Planning and Zoning Commission meeting, March 14, 2017.
Comm. Robbins moved approval; seconded by Comm. Hague. The minutes were approved unanimously by consensus.

ELECTION OF OFFICERS:
Comm. Patel nominated Chair Rutter for Chair; seconded by Comm. Hague. Chair Rutter was re-elected unanimously by consensus.
Comm. Hague nominated Comm. Patel for Vice Chair. Comm. Roberts nominated Comm. Robbins for Vice Chair. Vice Chair Patel was elected by a show of hands (5-3 vote).

CITIZEN COMMENTS: None.

CONSENT AGENDA:

A. **OLD BUSINESS:** None.

B. **NEW BUSINESS:**

CONTINUED TO 5/9/17

- **Transportation Element Comprehensive Plan Text Amendments** - Modify the following:
- Table 1 and Figure 1 to include road segment of Island Way south of Indiantown Road;
 - Road Level of Service (LOS) Tables and Figures pertaining to existing and short-term (2020) and long-term (2035) future traffic levels on the following Town-maintained road segments:
 - A1A from US1 to Jupiter Beach Road;
 - Island Way south of Indiantown Road.
 - Policy 1.3.2 pertaining to adopting the LOS standard D for the above A1A road segment;

Transportation Element – cont'd

- Delete Policy 3.2.11 that pertains to establishing an adopted daily LOS standard for the above A1A road segment.

(PZ# 17-2268) **Acting as the Local Planning Agency**

Town Council consideration:

June 6, 2017 – 1st rdg
August 1, 2017 – 2nd rdg

CONTINUED TO DATE UNCERTAIN

- **Fisherman's Wharf Residential and Research & Development** - Applications for a Large Scale Planned Unit Development with three waivers, a special exception application for a marina, and a site plan for 36 residential units and a research and development use, on a 5.2± acre property, located north of Indiantown Road between Fisherman's Way and the Intracoastal Waterway. (PZ# 2038, 2039 & 2040) Town Council consideration: TBA

1. **Cornerstone Property** – Applications for a 1.0+/- acre parcel of land located at the southwest corner of Indiantown Road and US1 to include:
- A. Small Scale Future Land Use Map amendment from Commercial to Mixed Use; (PZ# 16-2081) **Acting as the Local Planning Agency**
 - B. Zoning Map amendment from Indiantown Road Overlay Zoning (IOZ) District - US Highway 1 District, with underlying Office Commercial (C-3) zoning to U.S. Highway One/Intracoastal Waterway Corridor District – Waterway Commercial and Entertainment Subdistrict (US1/ICW-WCE). (PZ# 16-2082)
- Town Council consideration: May 16, 2017 – 1st rdg
June 20, 2017 – 2nd rdg

Comm. Schneider pulled the Cornerstone applications from Consent.

Comm. Robbins moved to approve the remaining Consent agenda; seconded by Vice Chair Patel. The Commission was polled and the motion carried unanimously (7-0 vote).

Hague – Y Leone – Y Robbins – Y Roberts – Y
Schneider – Y Patel – Y Rutter - Y

REGULAR AGENDA:

Vice Chair Patel moved to reorder the agenda to hear all Cornerstone items first; seconded by Comm. Leone. The motion carried unanimously by consensus.

A. OLD BUSINESS:

1. **Cornerstone Property** – Applications for a 1.0+/- acre parcel of land located at the southwest corner of Indiantown Road and US1 to include:
- A. Small Scale Future Land Use Map amendment from Commercial to Mixed Use; (PZ# 16-2081) **Acting as the Local Planning Agency**
 - B. Zoning Map amendment from Indiantown Road Overlay Zoning (IOZ) District - US Highway 1 District, with underlying Office Commercial (C-3) zoning to U.S. Highway One/Intracoastal Waterway Corridor District – Waterway Commercial and Entertainment Subdistrict (US1/ICW-WCE). (PZ# 16-2082)
- Town Council consideration: May 16, 2017 – 1st rdg
June 20, 2017 – 2nd rdg

2. **Cornerstone** – Large Scale Planned Unit Development, Special Exception, and Site Plan applications for a mixed use building with 15 residential units and commercial, located on a 1.0+ acre property at 50 S. U.S. Highway One. (PZ# 16-2083, 16-2084, 16-2085 & 16-2086)

Town Council consideration:

May 16, 2017 – 1st rdg
June 20, 2017 – 2nd rdg

Emily O'Mahoney of 2GHO gave a PowerPoint presentation on behalf of the applicant. Mr. Kemp, principal planner, reviewed report and said Staff recommended approval of the Future Land Use map amendment and rezoning. Mr. Watson, planner, reviewed the Staff analysis and recommendations for the Planned Unit Development (PUD), site plan and special exception applications.

Comm. Robbins asked the applicant to discuss parking, building height and public outreach. Ms. O'Mahoney stated that the project has been reduced in height through the staff review process.

Comm. Leone asked about maintenance of the offsite docks versus payment in lieu. Ms. O'Mahoney said the current proposal is simply for payment in lieu or construction. Mr. Watson said Council would determine how the funds would be used if the applicant selected payment in lieu.

Comm. Roberts asked Staff to comment on the difference in cost estimates of the Community Redevelopment Agency (CRA) and Staff for constructing the docks. Mr. Sickler said he didn't know when the CRA estimate had last been updated and this location would require constructing access through mangroves.

Comm. Schneider asked how this project could be viewed as a large scale PUD when it is less than one acre in size and stated that she did not believe the project was eligible for bonus points from the construction of a dock on public land. Mr. Sickler reviewed the evolution of the land development regulations and bonus points for the Riverwalk area.

Vice Chair Patel asked what report indicated a need for the docks and if anything else had been considered for bonus points. Ms. O'Mahoney said the need for docks was listed in the CRA master plan. She said a plaza on the Riverwalk side of the property or additional parking were the only other options for bonus points. Mr. Sickler noted that the applicant's options were limited.

Comm. Hague suggested adding a second bike rack and an artistic element such as a bench to the greenspace. She asked Staff how they would suggest lowering building height and Mr. Sickler said a variety of design solutions could result in a reduction.

Comm. Cordeiro asked the applicant how they would reduce building height and Ms. O'Mahoney said they would probably reduce density or unit size. Comm. Cordeiro then asked Staff how they had arrived at the recommended building height. Mr. Watson said Staff looked at adjacent buildings.

Comm. Flinchum asked Staff and the applicant if they had reached agreement on specific conditions. Mr. Watson and Ms. O'Mahoney said yes except for Conditions 6,7, 14 and 16. Ms. Thoburn said there was still disagreement on Condition 11.

Chair Rutter opened the floor to public comment.

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Cornerstone – cont'd

Mark Emalfarb, David Aiken and Ernie Fidanza spoke in support of the project.

Walter Collymore spoke on behalf of Jupiter Yacht Club property owners' board and said they will be meeting on May 16th to review the project in detail. At this time, they support the project.

Chuck Collins, executive director of the Marine Industry Association of Palm Beach County, strongly supported the construction of the docks.

Dick Witham, part owner of the property, said there would be a 30% traffic reduction. He disputed Staff's analysis of neighboring building heights and said the price of bonus points has increased dramatically since the time Jupiter Yacht Club was constructed.

Ms. Hampe read a comment card from Helen Ostrowski stating concerns about building height and traffic safety, and a comment card from Lynn Weinberg in support of the project.

Comm. Cordeiro said the neighboring building heights should be verified since they were being disputed by Mr. Witham.

Comm. Hague said the docks would not be appropriate in the proposed location. An artist enclave would be nice but it would need support from the Town.

Comm. Patel was in agreement with most of Staff's recommendation, but said the docks may not be appropriate in the proposed location.

Comm. Schneider liked the project but said this is not a mixed use PUD; it is predominately residential. She agreed with the Staff's recommendation to reduce the height. She was not in favor of the docks and said bonus points are to be earned by providing public benefits on private property; not public.

Comm. Roberts said we need to verify the heights of neighboring buildings since the applicant is contesting Staff's findings.

Comm. Leone questioned whether the Town would really want to be responsible for docks and said there are better areas in Town for an artists' enclave.

Comm. Robbins was in favor of the docks and supported the applicant's request for height.

Chair Rutter also supported the request for increased height.

Vice Chair Patel moved to recommend approval of the Future Land Use Map amendment as recommended by Staff; seconded by Comm. Roberts. The Agency was polled and the motion carried unanimously (7-0 vote).

Hague – Y	Leone – Y	Robbins – Y	Roberts – Y
Schneider – Y	Patel – Y	Rutter - Y	

Cornerstone – cont'd

Vice Chair Patel moved to recommend approval of the rezoning application as recommended by Staff; seconded by Comm. Hague. The Commission was polled and the motion carried unanimously (7-0 vote).

Hague – Y Leone – Y Robbins – Y Roberts – Y
Schneider – Y Patel – Y Rutter - Y

Comm. Leone moved to approve the Planned Unit Development (PUD), site plan and special exception applications with Staff recommendations including the amendments that Staff and the Applicant had agreed upon. Comm. Hague asked if he would amend the motion to include a second bike rack and the possibility of an artistic bench. Comm. Leone accepted the suggestions as an amendment to the motion.

Comm. Leone amended his motion further to remove the requirement for building the docks and to allow the additional height requested. Comm. Hague suggested replacing the requirement for the docks with a requirement for a monetary contribution to be determined. Comm. Leone accepted the suggestion as an amendment to the motion.

Mr. Sickler noted that Staff had agreed to the applicant's request for the following changes as outlined in their memo (Attachment):

Condition 10 – Delete the words "...and six (6) parking spaces in the garage be signed stating 'Public Parking for the Riverwalk'."

Condition 11 – Add the word "administrative" so the condition states "...the Owner may submit an administrative amendment to follow the requirements of revised regulations."

Mr. Watson noted that Condition 11 was also being amended to state the current Code which is three on-site workforce housing units. Chair Rutter asked Staff if they wanted to revise Condition 12a regarding setbacks or if they would work on it prior to Town Council. Mr. Sickler said Staff would work on it prior to Town Council.

Vice Chair Patel asked Comm. Leone if he wanted to specify the maximum allowable average building height or delete Condition 14. Comm. Leone said his motion was to delete the condition. Comm. Hague agreed.

The Commission was polled and the motion carried (6-1 vote).

Hague – Y Leone – Y Robbins – Y Roberts – Y
Schneider – N Patel – Y Rutter - Y

3. **Housing Element Comprehensive Plan Text Amendment** – To modify Policy 1.2.10 associated with mandatory requirements of the Workforce Housing Program. (PZ# 17-2333) ***Acting as the Local Planning Agency***

Town Council consideration:

May 2, 2017 – 1st rdg
July 6, 2017 – 2nd rdg

Housing Element – cont'd

Mr. Kemp, principal planner, gave a presentation explaining the income levels, price levels and purpose of the program. He reviewed the proposed changes and the justifications for them.

Comm. Robbins asked if Staff considered the proposed changes as a way to address the deficit in workforce housing and add flexibility to the program. Mr. Kemp said yes.

Comm. Leone asked if there was any direction for where developers should locate off-site workforce housing. Mr. Kemp said unincorporated enclaves are included but it would be up to the developers to find suitable locations.

Comm. Roberts asked if the workforce housing program was currently funded and said he was concerned about the remaining developments being unfairly burdened. Mr. Sickler said there are cash reserves in the program.

Comm. Schneider asked if projects with a land use change would be permitted to pay a fee in lieu for the first six percent of workforce housing units and build offsite units for the remaining six percent. Mr. Sickler said properties which exceed the 10 unit requirement have more options now.

Comm. Patel asked if the 20% requirement for workforce housing units where a land use change takes place was the result of a Town workshop and the recommendation of the Innovative Housing Institute. Mr. Kemp replied yes. He asked if rehabbing of existing units off site wasn't being included in the amendments. Mr. Sickler said that would be part of the land development regulations.

Comm. Hague asked if Staff had considered a sliding scale for required workforce housing percentages based on what kind of housing is being replaced. Mr. Sickler stated that there is an existing policy in the Housing Element that provides for the replacement of workforce housing units that were included in a bonafied residential project containing Town workforce housing units.

Comm. Flinchum asked if a workforce housing development could be constructed and shared by different developers to meet their requirements. Mr. Sickler said yes; there has been a lot of discussion about that.

Chair Rutter asked Staff to confirm that constructing units off site would provide a benefit to the developer because they would be able to sell more units at market price on site. Mr. Sickler said that was correct.

Chair Rutter opened the floor to public comment.

Suzanne Cabrera of the Housing Leadership Council of Palm Beach County said that workforce housing units would help businesses recruit employees to the area.

Carola Rathke did not think workforce housing should be only the responsibility of the remaining developers. She suggested charging an additional fee for building permits to cover the cost.

Housing Element – cont'd

Dick Witham said commercial property developers should also be required to build workforce housing and asked that the Commission consider a six percent workforce housing requirement across the board.

Emily O'Mahoney said we should look closely at a land use change in a special district that meets the intent of the district before penalizing the change.

Mark Emalfarb suggested a grandfather clause for property owners who have held their property and paid taxes rather than develop it.

Comm. Hague said Cornerstone should be exempt from paying for workforce housing and Comm. Schneider agreed.

Comm. Roberts agreed with Ms. Rathke and said there was an inequity for property owners who had held their property rather than developed. Comm. Leone agreed that the requirement wasn't fair for people who have held their property for a long time.

Chair Rutter said map amendments are legislative and he did not agree with reducing the workforce housing requirements in the Comprehensive Plan. He did agree with reducing the requirements for rezonings but said ten percent would be better than six. He concluded by saying that any units built are a benefit to the Town.

Comm. Leone moved to postpone the application to the May Planning and Zoning meeting; seconded by Comm. Schneider.

Comm. Roberts asked staff how the workforce housing program impacts remaining vacant, infill and developable properties in the Town. He suggested asking Staff to estimate how many workforce housing units might be generated by developing the identified properties.

Vice Chair Patel asked if postponing this application would affect projects currently under way.

The Agency was polled and the motion carried (5-2 vote).

Hague – N	Leone – Y	Robbins – Y	Roberts – Y
Schneider – Y	Patel – N	Rutter – Y	

4. **116 Bonfish Circle** – Variance request to reduce the rear setback from 10 feet to 5.9 feet for a single-family dwelling on a 0.15± acre property, located in Oceanwalk. (PZ# 17-2312) ***Acting as the Zoning Board of Adjustments***

Mr. Baird conducted the swearing in of witnesses and Chair Rutter asked for ex-parte disclosures. Comm. Leone said his office and the applicant's office share an address but they are separate businesses in separate office spaces. Mr. Baird said this would not constitute a voting conflict.

116 Bonefish Circle – cont'd

Ryan Johnston of Johnston Group Development and Design gave a PowerPoint presentation on behalf of the applicants, Terry and Laura Engel. He reviewed the variance criteria and said a variance is the only Town process through which the Engels could seek relief. Mr. Engel asked the Commission to grant the variance.

Mr. Watson, planner, said the application only meets two of the seven criteria therefore Staff recommended denial. He said a Planned Unit Development (PUD) amendment would be another way to bring their property into conformance.

Comm. Robbins asked Mr. Watson and Mr. Johnston to elaborate on their analyses of Condition 1, the existence of special circumstances. Mr. Watson stated there are no special conditions because there are 46 other homes in the community that are similar to the subject property. Comm. Robbins asked Mr. Johnston if the special circumstances applied to the owners rather than the structure. Mr. Johnston replied that it would apply to anyone who purchased the home.

Comm. Leone asked Staff how a PUD amendment would affect the community. Mr. Watson stated that it could be applicable to just similar units or the community as a whole depending upon how it was structured. He asked if there had been any complaints about the structure and Mr. Watson said none that Staff was aware of.

Comm. Roberts asked if the applicant had an attorney or title agent when closing the cash purchase of the property and Mr. Johnston said yes. Comm. Roberts then asked if they had investigated the cost of demolition and Mr. Johnston said no.

Vice Chair Patel asked if there was title insurance and Mr. Engels said yes. Vice Chair Patel said if all of the same model units in the development had a similar value according to the Palm Beach County Property Appraiser, demolition shouldn't affect the value much.

Comm. Hague asked if the applicant had a survey of the property and Mr. Engels said no. She asked if Staff could tell when the addition had been built and Mr. Watson said it was between early 2007 and late 2009 according to aerial photos.

Comm. Cordeiro asked Staff what options were available to the applicant to resolve the situation. Mr. Watson stated that there are 3 options; variance, PUD amendment, or demolition.

Comm. Flinchum noted that the entire house would need a sprinkler system installed. He said the enclosure of the courtyard on the west should be demolished because it posed a serious safety issue since it closed off an emergency egress from a bedroom.

116 Bonefish Circle – cont'd

Chair Rutter asked if the applicant had checked with the homeowners' association regarding their knowledge and approval of the additions. Mr. Johnston said no.

Comm. Leone noted that only the setback encroachment variance for the bathroom addition was currently being considered.

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

Comm. Flinchum noted that the property appraiser's office still does not have the correct information for the property. He was uncomfortable with the safety issue of the enclosed courtyard and didn't like moving problems along to the next buyer.

Comm. Hague said she supported the applicant's request.

Comm. Schneider supported Staff analysis that not all of the criteria were met.

Comm. Roberts said the safety issue could not be overlooked.

Comm. Leone said the safety issue was not under consideration at this time; only the variance request for the setback. The applicant will have to install a fire suppression system and meet all building codes before the house can be sold. He supported the applicant's request.

Comm. Robbins said the criteria were not met and he did not support the request.

Comm. Leone moved to approve the variance request; seconded by Comm. Hague. The Board was polled and the motion failed (2-5 vote).

Hague – Y	Leone – Y	Robbins – N	Roberts – N
Schneider – N	Patel – N	Rutter – N	

Comm. Schneider moved to deny the variance request; seconded by Comm. Robbins. The Board was polled and the motion carried (5-2 vote).

Hague – N	Leone – N	Robbins – Y	Roberts – Y
Schneider – Y	Patel – Y	Rutter – Y	

ADJOURN:

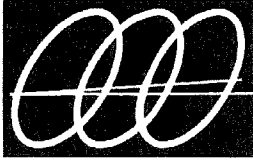
Chair Rutter adjourned the meeting at 11:27 p.m.

Valerie Hampe, Secretary

PATRICK RUTTER, CHAIR

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5/12/2017



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ATTACHMENT

MEMO

DATE: April 13, 2017
TO: P&Z Commission
FROM: Emily O'Mahoney, ASLA
RE: Cornerstone Position Summary

The following is a summary of the main points the Applicant's Team would like the Commission to consider:

1. We are opposed to Staff's summary of Bonus Credits and the conditions because of that (height). We are of the opinion that the project is positioned properly as to code and rights.
2. We have a solution to the setback issue which we believe is supported by Staff.
3. Parking signage – only sign the entry to the garage, not the parking spaces.
4. The modifications to the approved plan to utilize the amended Workforce Housing we would like to be an administrative process.
5. For WFH, we feel that this project should not be penalized for changing Land Use to accomplish the goals and visions of the special district, the US One/ICW Entertainment District. This should be a Town instigated change and not subject to the higher WFH percentage.
6. PUD or not. The Client would like to remove the PUD and do a text amendment to accomplish the lot coverage with the green roof garage. There is precedent in this section of the code (US One ICW corridor) for parking structures of two stories or more not to count towards lot coverage.
 - a. Large Scale PUD – the recreation requirement of 1 acre is too onerous.
 - b. Small Scale PUD – Applicant unwilling to add more WFH units or to do a bronze certified green building, both of which add a lot of money to the project.
 - c. No PUD – Text Amendment for lot coverage, modify plant list to be compliant with IOZ criteria.