

**PLANNING AND ZONING COMMISSION MINUTES  
REGULAR MEETING  
August 9, 2016**

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

**ATTENDANCE:** Chair Patrick Rutter; Vice Chair Ben Klug; Commas. Ken Duke, David Flinched, 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. Peter Meyer, Senior Planner; Mr. Martin Schneider, Senior Planner; Mr. Garret Watson, Planner; Mr. Thomas Baird, Town Attorney; Ms. Valerie Hampe, Secretary.

**MINUTES:** Regular Planning and Zoning Commission meeting, July 12, 2016.

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

**CITIZEN COMMENTS:** None.

**REGULAR AGENDA:**

A. **OLD BUSINESS:** None.

B. **NEW BUSINESS:**

1. **Marine Facilities** – Zoning text amendment to Section 27-1399, entitled “Private Dock Regulations” to reduce setbacks and allow larger marginal docks in canals. (PZ# 2001)

Town Council consideration:

September 20, 2016 – 1<sup>st</sup> rdg  
October 18, 2016 – 2<sup>nd</sup> rdg

Garret Watson, planner, noted that this is a Town-initiated application to relax dock regulations. He explained the proposed changes as detailed in the staff report.

Comm. Zacarias arrived at 7:07 pm.

Comm. Flinchum asked how many boats a homeowner can have on their property. Mr. Watson said two; and added that Code defines a dock with more than two mooring spaces as a marina. Boat lifts and floating platforms are considered mooring spaces. Comm. Flinchum then asked if the Section 27-1399(17) requirement for a building permit would require docks to be brought into conformance when redecked. Mr. Watson said the shape of docks is grandfathered unless a structural change is made.

**Marine Facilities – cont'd**

Comm. Duke asked for further explanation of the problems with dead end canals and how regulations are enforced. Mr. Watson replied that owners sometimes have conflicts over the corner areas. Comm. Duke asked who would be responsible for enforcing these codes and Mr. Watson replied that it would be the Town's Code Compliance office.

Comm. Hague asked how many docks in canals would not be in compliance if docks are restricted from protruding more than five feet. Mr. Sickler said it would not create nonconformities because the five foot limit would only apply to docks larger than 200 s.f.

Comm. Patel asked the following and Mr. Watson replied as indicated:

***What is the smallest canal width in Town?*** Penn Trail canal at 40 feet.

***What did other codes say about marginal docks?*** Most places do not have a square footage maximum because that is governed by the Florida Department of Environmental Protection (FDEP).

Vice Chair Klug asked if all municipalities restrict docks from extending more than five feet waterward from the mean high water line in natural waterways. Mr. Watson said every municipality is different.

Comm. Zacarias asked what issues have arisen that prompted this application. Mr. Watson replied that there have been some issues on canals where mooring space is at a premium. Staff looked at other municipalities and most of them allow boats to be moored to the property line.

Comm. Zacarias asked if Staff had considered using graphics in the Code and Mr. Watson said they will look into it.

Chair Rutter opened the floor to public comment.

Andrew Weston of 949 Dolphin Court said boat owners can work out issues without having regulations written. He noted that mooring poles can be placed out into 25% of canal width and asked that the regulations continue to allow docks to extend five feet or 10% of the canal width.

Kris Heiser of 120 Elsa Road said he agreed with making the regulations more consistent with other municipalities. He noted that different sized docks are not permitted for different sized lots and said he would like to see the 10% canal width continued to be allowed.

Stuart Montgomery of 606 Waldemar Road said he supported the proposed changes.

Paul Jablonski of 116 Elsa Road said he has a navigation problem because the Town would not let him dock his boat bow-in. The boat is on a boatlift parallel to the seawall and the neighbor's boat is extending into his setback.

Comm. Hague said allowing two boats per house without docking setbacks will make it very difficult for navigation, especially on narrow canals. She added that property owners on canals don't expect to have view corridors; they just want to have their boat at their home.

**Marine Facilities – cont’d**

Vice Chair Klug said dock issues came up a lot during his recent campaign for Town Council and he agreed that the Town shouldn't be refereeing disputes between neighbors. He said a lot of boats are already moored to the property line and beyond so he agreed with permitting boats to be moored to the property line. He concluded by saying the Town should continue to allow the 10% dock projection.

Comm. Roberts said he supported allowing mooring to the property line to maintain property rights.

Comm. Zacarias asked if a marine engineer had been consulted by Staff and Mr. Sickler said no. She supported maintaining setbacks for maneuverability.

Comm. Robbins agreed with Vice Chair Klug that setbacks should be removed for boat mooring and the Town should not be refereeing dock disputes between neighbors. Chair Rutter said he wouldn't want to preclude the opportunity for neighbors to work things out themselves.

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

Patel – Y

Roberts – Y

Duke – Y

Hague – Y

Flinchum – Y

Klug – Y

Rutter - Y

2. **Lighthouse Cove Mini Golf** – Site plan amendment to remove a 0.2± acre preserve area and pay a fee in lieu of on-site preservation to construct a playground and multi-purpose pavilion, located on 2.3± acres at 617 North A1A. (PZ# 1901)

Town Council consideration:

September 20, 2016

George Gentile, president of Gentile, Glas, Holloway and Associates, gave a PowerPoint presentation. He noted that Mr. and Mrs. Bartoli, the property owners, were present. He discussed the requests and said the applicant considers a one-to-one payment of the appraised value for the preserve area to be fair. The applicant has already paid for the land once and made a number of improvements required by the Town including building a connection between DuBois Road and A1A.

Mr. Schneider, senior planner, said it makes sense to accept payment in lieu of keeping the preserve because the area is less than two tenths of an acre and is not adjacent to another preserve area. He said the coastal scrub habitat of the preserve is very rare which is why Staff recommended a two-to-one value payment. Mr. Schneider said Staff has received four letters in support of the applicant's requests and one in opposition.

Comm. Robbins asked Mr. Gentile to comment further on why the applicant considered twice the appraised value of the preserve to be an unfair price. Mr. Gentile said it is too small to support wildlife and is surrounded by pavement.

**Lighthouse Cove Mini Golf – cont'd**

Comm. Zacarias asked if the applicant could pay something between the appraised value, \$150,000, and twice that amount. Mr. Schneider said yes, the amount can be determined by Town Council.

Comm. Roberts asked for further explanation of Staff's request for \$300,000. Mr. Sickler replied that there has been a long-standing requirement in the Town for 25% of any native community to remain undeveloped. Buyers need to take that into consideration if they plan to mitigate and develop.

Vice Chair Klug asked the following and Mr. Gentile answered as indicated:

***Will the playground be open to the public without charge?*** No, it will be for customer use only.

***There is no road sign on the connection between A1A and Dubois Road. Is it just an access easement?*** Yes, the easement was required by the Comprehensive Plan and the applicant paid for the construction.

***When will the pavilion mostly be used?*** Probably most parties will occur in the late morning; so traffic should not be affected during peak hours.

***Why didn't the applicant mitigate for the preserve land when they built the facility?*** They thought the original design would meet demand and they couldn't afford it.

***Is the preserve used for drainage?*** No, everything is drained to the perimeter and then goes into the Town's outfall system.

***Does the applicant have any objection to increasing their water capacity reservation?*** No, it will be worked out with the Water Department.

Comm. Patel asked the following:

***Will the pavilion be an extension of the restaurant or only for special events?*** Mr. Gentile said it will be used for both.

***Are the hours for alcohol service limited and will the business remain 2COP?*** Mr. Gentile said alcohol is served whenever the business is open and they will stay 2COP.

Comm. Patel said the site plan indicates that alcohol could be anywhere on the property, including the playground. Mr. Bartoli replied that the idea is to have adults in the pavilion and children on the playground. He offered to post a sign saying "no alcohol on the playground" and possibly have a staff member police it.

Comm. Hague asked where else in Town there is similar rare scrub area and how is it maintained. Ms. Thoburn said Delaware Scrub, Jupiter Ridge Natural Area and the preserve area on the JJ Taylor property. She said usually preserves have quarterly maintenance with manual exotic removal and herbicide.

Comm. Hague asked if Level of Service (LOS) C for A1A was 10,200 Average Daily Trips (ADT) rather than 10,500 as show in the chart on Page 9 of the staff report. Mr. Sickler replied that the information was provided by the Town traffic engineer and said Staff would verify whether it is correct.

**Lighthouse Cove Mini Golf – cont'd**

Comm. Hague said Dr. CJ Lan, the traffic engineer, had determined that with the traffic count and the number of trips promised, the road exceeds LOS C. Mr. Sickler replied that Dr. Lan signed off on the report being true and correct and said the application met the Town's requirements. Mr. Gentile said the additional 128 trips will not put the current traffic count over the threshold for LOS C.

Comm. Duke asked what governs how mitigation funds are spent. Ms. Thoburn said the Town is working toward grouping preserve land into meaningful parcels which is why off-site mitigation is permitted. She said the funds go into an Open Space bond fund, an Environmental fund and a Tree Mitigation fund. Mr. Sickler noted that the money is used for restoration as well as purchases of land.

Comm. Flinchum asked if alcohol would be served under the pavilion and Mr. Gentile said yes. Comm. Flinchum said the impact fees for sewer, water, drainage and the A1A dedication are the price of doing business. He said the preserve area has not been maintained. He agreed with Staff that scrub habitat is rare and the applicant should pay twice the appraised value.

Chair Rutter asked why Staff recommended a mitigation rate of two-to-one rather than three-to-one for the preserve property. Ms. Thoburn said the Council had set a precedent of two-to-one with the Provident Jewelry preserve property. Comm. Flinchum asked if the applicant could work out a payment plan with the Town. Mr. Sickler said it was not the Town's practice and he would have to consult the Finance director. Mr. Baird said the Town is not in the mortgage business and said he wasn't sure that he would recommend accepting payments to Council

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

Comm. Flinchum said he was concerned that the pavilion might result in the business having more revenue from alcohol sales than food.

Comm. Duke said he was in favor of the project with Staff recommendations. He said the preserve is kind of out of place. He wanted to make sure the mitigation funds would be used to preserve natural habitat in the future.

Comm. Hague agreed with Comm. Duke's remarks and said she didn't like the process of applicants being able to pay rather than keep preserve areas. She was concerned about the alcohol issues and traffic exceeding LOS C. She read from a July 24, 2016 memo from the town manager to Council that new traffic counts lead to a projection of traffic on A1A exceeding LOS C in 2020. Comm. Hague said she didn't see how the application could be supported since it wouldn't meet the Comprehensive Plan's LOS requirements.

Comm. Patel said he agreed with Staff's analysis and conditions and supported requiring a two-to-one payment for the preserve land. He said alcohol should stay in the pavilion and the applicant should not be permitted to apply for a license to sell spirits.

**Lighthouse Cove Mini Golf – cont’d**

Vice Chair Klug said he was not in favor of taking payment for the preserve. It is a rare habitat and provides a natural setting coming out of DuBois Park. He wanted the playground to be open to the public free of charge and said he had difficulty supporting the application.

Comm. Roberts said this is the kind of facility that the Town wants to succeed in the Inlet Village. The pavilion might provide the critical mass of customers the business needs. He did not want to see the payment for the preserve area be a problem for the owners and said a one-to-one payment seemed fair.

Comm. Zacarias said this is a small business and she supported the project. She suggested some amount between a one-to-one and a two-to-one payment for the preserve.

Comm. Robbins agreed that this is the type of business needed in the Town. He supported the project and the two-to-one payment.

Chair Rutter remembered neighborhood concerns about alcohol when the project initially came in for approval and said they did not come to fruition. He said it is difficult to place a value on the preserve area but agreed that something between \$150,000 and \$300,000 is worthy of consideration.

Mr. Gentile said the applicant would agree not to allow alcohol on the playground.

Comm. Patel moved to recommend approval with Staff recommendations and the prohibition of alcohol on the playground; seconded by Comm. Duke.

Comm. Flinchum asked if the maker of the motion would consider adding a requirement for signage on the east side of the pavilion stating “no alcohol past this point in the playground area”. Comm. Patel and Comm. Duke agreed to the amendment. The Commission was polled and the motion carried (5-2 vote).

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

**3. Florida Power and Light (FPL) Service Center – Request for variances at the FPL Service Center located at 100 Delaware Boulevard to:**

- Delete the sidewalk requirement on the west side of Delaware Boulevard [Section 27-868(4)]; (PZ# 1998)
- Allow outdoor storage in the front yard adjacent to Indiantown Road [Section 27-684(b)]; (PZ# 1999) and
- Allow a garage door to face Indiantown Road [Section 27-868(3)]. (PZ# 2000)

***Acting as the Zoning Board of Adjustment***

**(FPL) Service Center – cont'd**

The Board made ex-parte disclosures as follows:

- Comm. Flinchum worked FPL over 20 years ago doing substations and did not see a conflict of interest. He drove by the site.
- Comm. Duke drove by the site.
- Comm. Hague visited the site and met with Mr. Gentile a few weeks ago regarding these applications.
- Comm. Patel visited the site and took photographs.
- Chair Rutter met with the applicant's representatives and FPL representatives.
- Vice Chair Klug met with Emily O'Mahoney and an FPL representative in July and visited the site today.
- Comm. Roberts spoke with Council Posner, visited the site and met with O'Mahoney and John Rosenthal.
- Comm. Zacarias met with Emily O'Mahoney and an FPL representative.
- Comm. Robbins met with FPL representatives and said he is a current employee of FPL. He recused himself and left the dais.

Mr. Baird conducted the swearing in of witnesses.

Emily O'Mahoney of Gentile, Glas, Holloway and Associates, gave a PowerPoint presentation. She reviewed the requests as outlined in the staff report and discussed the proposed site plan changes. The applicant would agree to dedicate a 15-foot easement in case a sidewalk is required in the future. Peter Meyer, senior planner, said Staff recommended denial of the sidewalk variance request and reviewed the analysis of each criterion. He noted that Staff recommended conditions of approval if the Board decided to support the request.

Comm. Flinchum suggested increasing the gate height to eight feet on the northeast corner of the site and using a screen mesh to close the visual gap. Mr. Rosenthal of FPL said they would look into making the changes to the gate and agreed to do likewise for the emergency entrance gate on Indiantown Road.

Comm. Flinchum asked if the bus shelter could be solar and Mr. Rosenthal said he would look into it. Comm. Flinchum then asked about the height of outdoor storage items and Mr. Rosenthal explained that lower height items would be stored near the northern perimeter.

Comm. Flinchum said he could not support the applicant's request for a variance not to build the sidewalk because there is a lot of traffic associated with Jupiter Christian School at certain times of day. He recommended a second crossing to the east side of Delaware at the south end of the property.

Comm. Duke asked why Staff recommended the easement and Mr. Sickler said it was for the future so a complete sidewalk could be built if the property to the south is redeveloped. Comm. Duke said an easement makes more sense than having a sidewalk for one third the length of the street.

Comm. Hague asked if there are any other storm rider locations in Palm Beach County and Mr. Rosenthal said yes; in Boynton Beach.

**(FPL) Service Center – cont’d**

Comm. Patel asked about Staff’s analysis of Criterion 7, that the request would not be detrimental to public welfare. Ms. Thoburn replied that although there are more points of conflict on the east side of Delaware, the driveways are for residential traffic rather than commercial traffic.

Vice Chair Klug said he liked the easement option to provide for a sidewalk in the future. He said cars go fast after they clear the speed table and he was concerned about school kids. More kids will be there when the traffic levels are high.

Comm. Roberts asked when the sidewalk would continue southward on Delaware if the applicant is required to build one on their property. Mr. Sickler said it continues by Jupiter Christian School, several hundred feet away. He added that the right-of-way is not sufficient to build a sidewalk.

Chair Rutter said the real benefit of a sidewalk could not be enjoyed until the two parcels between Jupiter Christian and FPL redevelop and the sidewalk is connected. Mr. Sickler said there is limited room for improvements on those properties. They would probably have to be torn down to redevelop and that’s when a sidewalk would be required. Ms. Thoburn noted that both of those properties were built in the 1980s.

Chair Rutter opened the floor to public comment. Ms. Hampe noted that Mary Callahan of 1230 Cherokee Street had completed a comment card indicating that she was in favor of granting all three variances.

Vice Chair Klug and Comm. Roberts agreed that this is a key facility for emergencies and that we are fortunate to have it in Jupiter.

**Garage Door**

Each commissioner agreed that all of the criteria had been met for the garage door variance.

Vice Chair Klug moved to approve the variance request for a garage door facing Indiantown Road. Comm. Hague seconded the motion. The Board was polled and the motion carried unanimously (7-0 vote)

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

**Outdoor Storage**

Comm. Flinchum moved to approve the variance request with the following changes:

- **Driveway** – Delete Condition 5B requiring removal of the driveway along Delaware Boulevard south of Cherokee Street. This can be addressed when the site plan is reviewed.

**(FPL) Service Center – cont'd**

- ***Height of outdoor storage materials*** – Amend Condition B2 to allow materials up to eight feet in height in the outdoor storage area of the front yard.

Comm. Patel seconded the motion.

Each commissioner agreed that all of the criteria had been met for the outdoor storage variance.

The Board was polled and the motion carried unanimously (7-0 vote)

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

**Sidewalk**

Comm. Flinchum said the criteria have not been met. The easement and surety to pay for the sidewalk would be a solution.

Comm. Hague agreed with the applicant's analysis that all of the criteria have been met. A sidewalk not leading anywhere would impose danger.

Comm. Hague moved to approve the sidewalk variance with a 15-foot easement. Vice Chair Klug seconded the motion.

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

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

**ADJOURN:**

Chair Rutter adjourned the meeting at 10:38 p.m.

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**Valerie Hampe, Secretary**

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**PATRICK RUTTER, CHAIR**