TOWN OF JUPITER
PLANNING & ZONING COMMISSION
MINUTES
NOVEMBER 14, 2023

CALL TO ORDER:
Chair Kirn called the meeting to order at 7 p.m.

ATTENDANCE:
Chair Kevin Kirn, Vice Chair Richard Dunning, Comm. Dan Guisinger, Comm. Ashlyn Held, Comm. Marc Pintel, Comm. David Thompson; Paul Keenan (1st Alternate-voting member) and Cynthia Blum (2nd Alternate); John Sickler, Director of Planning & Zoning; Garret Watson, Principal Planner; Stephen Mayer, Senior Planner; Thatcher Hart, Planner; Town Attorney, Thomas Baird, Esq.; Vernisa Ayers, Secretary and Michael Schneider, Secretary.

MINUTES:
Motion to approve the minutes from October 10, 2023 Regular Planning and Zoning Meeting as amended by Comm. Guisinger; seconded by Vice Chair Dunning. Final: Motion passed unanimously, with a 7-0 vote.

CITIZEN COMMENTS: None.

REGULAR AGENDA:

A. **OLD BUSINESS:**

1. **K2 Motorsports** – New Special Exception for a warehouse use over 10,000 square feet and Site Plan Amendment application to increase the amount of warehouse for an existing 70,471 square foot building to allow for the expansion of a car storage facility with limited accessory retail sales by a wholesale motor vehicle dealer, located on 5.56+/- acres on Lots 17, 18 and 19 of the Jupiter Park of Commerce. ***(PZ 23-5640 and 5641)***

Disclosures: Vice Chair Dunning disclosed that he talked with the general manager at K2 Motorcars. Chair Kirn disclosed that he spoke with staff and drove by the site several times. Chair Kirn also stated that he owns a company named K2, but it's not in any way affiliated with K2 Motorcars. Commissioners Blum, Held, Pintel, Guisinger, Thompson and Keenan stated that they did not have any disclosures.

Swearing In:
Town Attorney Thomas Baird, Esq., conducted the swearing-in of witnesses for the item.

Applicant presentation: Josh Nichols, with Schmidt Nichols, agent for K2 Motorcars, reviewed a PowerPoint presentation of the proposed project.

Staff presentation: Stephen Mayer, Senior Planner, reviewed the staff report and conditions.

Commissioners asked questions of the Applicant and Staff:
Comm. Keenan asked if K2 would act as a broker when doing internet sales. Mr. Nichols responded stating that this is really for someone who stores their vehicle but, in some instances, K2 would act as a broker.

Comm. Keenan asked if the applicant knew why the sales numbers grew. Mr. Nichols responded that the pandemic caused increased demand.

Comm. Guisinger asked how many cars are stored on site now and how many are projected if this is approved. Mr. Nichols responded there's about 120 to 125 cars now and that would double. Comm. Guisinger noted some concern surrounding the violations and asked what controls would the applicant put in place to insure sales are not exceeded. Mr. Nichols replied that sales are posted online for monitoring and they are committed to controlling the sales. Comm. Guisinger asked if the 75 square foot of signage was consistent with the area. Mr. Mayer stated it was consistent with a majority of the signs.

Comm. Pintel asked if there were any safety concerns if the sign limits were raised. Mr. Sickler responded saying that the code is intended to provide adequate signage for businesses, but reduce sign pollution.

Comm. Held asked how many jobs would K2 employ. Mr. Nichols responded saying that it would add another seven to eight people. Comm. Held shared some concern surrounding the Comprehensive Plan Policy and setting a precedent. Comm. Held asked if this was similar in square footage to other uses approved in the past. Mr. Mayer responded saying that this building is larger than the others. Mr. Sickler also stated that with Grey Motorsports, they provided 40 percent industrial, so the magnitude was less. Comm. Held asked staff how would they enforce 10 cars per month. Mr. Sickler responded that staff would look at their internet site to monitor it. Mr. Sickler also stated that there were no reports of any complaints that he's aware of specifically with code compliance which is compliant driven, unless there's a safety issue.

Vice Chair Dunning asked what are the consequences for the violations. Mr. Sickler responded that previously compliance was checked through the business tax receipt process, but those no longer exist, so it could be referred to code compliance. Vice Chair Dunning asked what the applicant would do to make sure they were in compliance with the number of vehicles for sale. William McGreevy General Manager for K2 noted that they would provide a report to staff to demonstrate compliance. Vice Chair Dunning asked if the applicant was prepared to meet the requirements for the right of way and to keep the signs as it exists today. Mr. Nichols replied yes.

Comm. Blum stated that she shares the same concerns of her peers. Comm. Blum stated that the Town needs to have something in place regarding the handling of these violations should they occur again. Mr. Nichols responded that they can put a bi-monthly self-reporting process in place on their side to ensure compliance.

Chair Kirn stated that he had concerns about the general industrial areas being occupied by non-industrials users and losing land for manufacturing.

Public Comment: None.

Deliberation by Commission:
Vice Chair Dunning stated that he liked that that the applicant agreed to comply with the right-of-way requirements, self-policing, and would like to keep the sign up the way it exists.

Motion:
Vice Chair Dunning motioned to recommend approval of the application based on Exhibit 1, seconded by Comm. Pintel. Motion passed unanimously, with a 7-0 vote.

B. NEW BUSINESS:

2. Zunzibar Outdoor Seating – Site Plan amendment application to add outdoor seating and a new canopy at an existing restaurant building, on a 0.8± acre property, located at 80 E. Indiantown Road. ***(PZ 23-5689)***

Disclosures: Chair Kirn and Vice Chair Dunning stated that they drove by the site. Commissioners Blum, Held, Pintel, Guisinger, Thompson and Keenan stated that they did not have any disclosures.

Swearing In:
Town Attorney Thomas Baird, Esq., conducted the swearing-in of witnesses for the item.

Applicant presentation: Troy Holloway with 2GHO, agent for Zunzibar Outdoor Seating reviewed a PowerPoint presentation of the proposed project.

Staff presentation: Garret Watson, Principal Planner, reviewed the staff report and conditions.

***Commissioners asked questions of the Applicant and Staff*:**
Vice Chair Dunning asked if music will be played in the outdoor seating area. Mr. Holloway relied that yes, there will be music playing on the inside and outside. Mr. Holloway stated that they'll have to meet the noise ordinance. Vice Chair Dunning asked staff if there was something in the conditions regarding the noise. Mr. Sickler responded that there's no special condition that's recommended since it wasn't adjacent to residential.

Comm. Held shared some concern surrounding loud music even though it is not adjacent to any residential.

Comm. Pintel inquired about the number of ADA parking spots. Mr. Holloway responded that there are two at the front door. Comm. Pintel asked staff about the metal roof and asked if it was compliant. Mr. Watson replied that there are no architectural restrictions but, staff generally looks for compatibility. Mr. Watson explained that the structure is maintaining a lot of the elements as it exists, the roof pitch, tower element and those things are still being maintained.

Comm. Guisinger asked if the canopy was metal and if it matched the roof. Mr. Holloway replied yes. Comm. Guisinger wanted to know if the applicant agreed with the pitch change recommended by staff. Mr. Holloway responded that they're in agreement.

Comm. Thompson asked if there was a bar or food prep in the outside seating area or is it only for seating. Mr. Holloway clarified that it's only for seating. The kitchen is inside.

Comm. Keenan asked what are the anticipated business hours. Mr. Holloway said they'll be open for lunch and dinner.

Chair Kirn asked the applicant how many seats are in the restaurant. Mr. Holloway responded that there's a total of 120 seats. Chair Kirn expressed concern with having proper parking for the restaurant and if there was cross access with the adjacent lots. Mr. Holloway explained that there are 39 spaces on site.

Public Comment: None.

Deliberation by Commission:
Comm. Pintel recommended approval of the application with the recommendations of staff. The Commission agreed to the approval of the application as stated by Comm. Pintel.

Motion:
Comm. Pintel motioned to recommend approval of the application based on Exhibit 1, seconded by Comm. Guisinger. Motion passed unanimously, with a 7-0 vote.

3. Flagler's Wharf – Special Exception for a marina and Site Plan applications for a five-story office building with three floors of underbuilding parking, restaurant with outdoor seating, three (3) residential accessory units, and a marina, on a 2.95 ± acre property located at 401 N. Alternate A1A. ***(PZ 23-5496 and 5497)***

Disclosures: Comm. Guisinger stated that he drove by the site and walked the property. Chair Kirn stated that he met with the applicant at Don Hearings office and drove by the site. Comm. Held said that she knows the applicant from a year and a half ago, but only socially and has not spoken to him in a year. Vice Chair Dunning stated that they drove by the site numerous times. Commissioners Keenan, Thompson, Pintel and Blum stated that they did not have any disclosures.

Swearing In:
Town Attorney Thomas Baird, Esq., conducted the swearing-in of witnesses for the item.

Applicant presentation: Troy Holloway with 2GHO, agent for Flagler's Wharf reviewed a PowerPoint presentation of the proposed project. Troy Holloway stated, Index Realty, Index Investments was also in attendance.

Staff presentation: Stephen Mayer, Senior Planner, reviewed the staff report and conditions.

***Commissioners asked questions of the Applicant and Staff*:**
Comm. Blum asked if the marina would be used for boat parking for the restaurant. Mr. Holloway responded that there won't be restaurant parking, it will just be rented or leased out to private boat owners. Comm. Blum asked if there would be restrictions in place to govern the hours of operation. Mr. Holloway replied yes, there are restrictions outlined in the Statement of Use. Comm. Blum also asked questions surrounding the use of the proposed residential property. Mr. Holloway stated that residential units would be used by business clients from out of town or rented to employees.

Vice Chair. Dunning raised concerns surrounding the numerous and significant issues raised by staff that had not been addressed. Mr. Holloway responded saying that he's not quite sure how they're going to work through all of the issues with traffic, building height/massing or the marina. He went on to explain that there won't be large boats in the marina. Mr. Holloway said that one in ten boat owners use their boats at any one time.

Comm. Held raised concerns as to the impact this would have on surrounding residents in the area and expressed concerns that the residents in the surrounding neighborhood are not fully aware of the details of the proposed development. Comm. Held was concerned about the width of the canal and the impact of additional boat traffic. Comm. Held expressed that what is being proposed is the exact opposite of the Comprehensive Plan. Comm. Held asked if the applicant considered lowering the height. Mr. Boruff, architect for the project, explained that reduction was considered, but in order to meet the parking requirements and the building requirements established by the owner they needed the additional height.

Comm. Pintel asked how many jobs are projected and why workforce housing is not being utilized. Mr. Boruff answered 120 jobs. Mr. Holloway answered that they did not have a problem with workforce housing, but the zoning district limits them to three units. Comm. Pintel asked what's being done to alleviate staff concerns about the marine restoration water quality. Mr. Holloway stated that widening it out and having the two stormwater pipes helps with the flushing. Mr. Holloway explained that they would do 100% of the upland transitional plantings and rip rap.

Comm Pintel asked what was the issues with having Alternate A1A as the front setback. Mr. Holloway replied that they want Alternate A1A as the front setback, but codes definition of a front setback is the narrowest lot width defining the setback as Old Jupiter Beach Road.

Comm. Guisinger asked if there was data to support there being one boat owner using the boat slip per day and does the data include the size of the boat. Mr. Holloway stated that there is data to support this and it was designed for a maximum of a 40-foot boat. Comm. Guisinger expressed that he would like to see if there's any concern with there being issues with passage or safety. Mr. Holloway responded that previously there were a lot of commercial fishing boats that were using the marina but this will be for private docks. Comm. Guisinger asked if the public was notified. Mr. Holloway replied that letters were mailed to the property owners giving notice of the two public meetings by Don Hearing's office. Comm. Guisinger requested that more of the residents in the neighborhood be notified of the public meetings, as the traffic concerns affect the greater neighborhood and not just those fronting Old Jupiter Beach Road. Comm. Guisinger expressed concern surrounding the traffic impact on Alternate A1A and Eganfuske Road, and requested to have the level of service analysis include Eganfuske Road and impact assessment expanded to the entire community.

Comm. Thompson asked if there were any negative concerns expressed at either of the meetings held for the public. Mr. Holloway responded saying there weren't any negative comments and residents were happy that the area was being cleaned up.

Comm. Keenan asked if there was a comparable size building as being proposed in the Redevelopment Overlay Area, or any place along Alternate A1A. Mr. Holloway was not aware of any. He asked if this would be the tallest building along Alternate A1A. Mr. Holloway was not sure.

Comm. Guisinger asked if there would be outdoor music from the restaurant. Mr. Holloway responded saying there will be light music playing. Mr. Holloway stated that this is a waterfront café that will only be open for breakfast and lunch. Comm. Guisinger asked if the requirements for term "historical character" is a subjective or a very specific and objective term. Mr. Sickler answered that the term is somewhat subjective and further explained that this is the reason the application is in being heard by the board, as there is subject matter subject to interpretation.

Chair Kirn asked if they had considered limiting the size of the boats. Mr. Boruff replied yes, it was considered.

<u>Public Comment</u>: Bob Grabowski shared concern surrounding the building height and traffic impact associated with the project. Mr. Grabowski also submitted a comment card that was passed around to the Commission that further outlined his concerns. Thomas Laboon, Sarah Akhtar, Barb Talty and George Floyd spoke against the project. Christine McAuliffe and Bjarnc Borg completed comment cards but did not wish to speak.

Deliberation by Commission:
Vice Chair Dunning shared a great deal of concern surrounding the project in its entirety.

Comm. Pintel felt that project has to many issues and shouldn't be before the Commission at this point.

Comm. Guisinger shared the same concerns as the other Commissioners and felt the traffic issues need to be addressed.

Comm. Thompson expressed concern about the precedent this project would set for the entire area. Comm. Thompson felt that it is a beautiful project, but in the wrong location.

Comm. Keenan agreed that it is a beautiful project, but in the wrong location. Comm. Keenan stated that the height is really inconsistent with the historical character of the area.

Comm. Blum agreed with the comments of her peers. She expressed that the traffic issues on Old Jupiter Beach Road needs to be addressed even outside of this project. Comm. Blum expressed that she felt that more of the residents in the neighborhood should have notified of the public meetings not just those fronting Old Jupiter Beach Road.

Comm. Held agreed with the comments of her peers. She shared that this is not where we are within the current landscape for our community.

Comm. Guisinger motioned to recommend denial of the application, seconded by Comm. Pintel. Motion passed unanimously, with a 7-0 vote.

4. **Application for Rehearing** – Town-initiated Zoning Text Amendment to Section 27-264, clarifying the procedure for application withdrawal and restricting the submittal of any application on a property in which an application was denied for a 24-month period. ***(PZ 23-5714)***

Staff presentation: Thatcher Hart, Planner, reviewed the staff report and recommendations. Mr. Hart, explained this change is based on direction from the Town Council during the Development Approvals Round Table on October 17, 2023.

Commissioners asked questions of the Applicant and Staff:
Comm. Guisinger asked staff why they choose 24 months as opposed to 12 months when 71% of other municipalities are one year. Mr. Hart responded saying that 24 months is the standard outlined within the Code.

Comm. Thompson requested clarification as to what would happen after an application was denied. Mr. Hart explained that if an application is denied it would be 24 months until the applicant could resubmit it.

Vice Chair Dunning stated that Council usually gives the applicant an option to withdraw the application at a hearing. Mr. Sickler explained that the proposed language specifically states that the application would have to be withdrawn eight days before the hearing. Mr. Sickler explained that after consulting with the Town Attorney and in order to follow the Quasi-Judicial process, the applicant is not afforded that right during that process.

Comm. Blum asked if this would still apply to the new owner if the property was sold. Mr. Hart replied yes.

Comm. Held asked if the time limit would follow the property. Mr. Hart replied that it would follow the property.

Comm. Pintel asked if this would still apply if the applicant changed the usage on the property. Mr. Hart replied yes.

Vice Chair Dunning asked when this change would be effective. Mr. Baird stated it would be effective when it gets adopted by the Town Council.

The Commission discussed whether a one-year or two-year penalty would be a better benefit for the community. The Commission also questioned whether this rule crosses the line of being effective to being punitive.

Mr. Baird explained that this policy is intended to encourage the applicant to reconsider their options before taking an application before Council when the application doesn't meet the criteria.

Public Comment: None.

Comm. Keenan Motion to recommend approval of the application with a modification to the timeframe in Exhibit 1 from 24 months to 12 months, seconded by Comm. Thompson. Motion failed with a 3-4 vote.

Dunning	Held	Pintel	Kirn	Guisinger
No	No	No	No	Yes

Thompson	Keenan
Yes	Yes

Comm. Pintel motioned to recommend approval of the application based on Exhibit 1, seconded by Comm. Held. Motion passed with a 5-2 vote.

Dunning	Held	Pintel	Kirn	Guisinger
Yes	Yes	Yes	Yes	No

Thompson	Keenan
No	Yes

STAFF UPDATE:
Planning and Zoning Director gave a report on recent Town Council actions on Commission items.

ADJOURNMENT:
Chair Kirn adjourned meeting at 9:45 p.m.

Kevin Kirn, Chair

Vernisa Ayers, Secretary