

**TOWN OF JUPITER
PLANNING AND ZONING COMMISSION
FINAL MINUTES
March 11, 2025 7:00 P.M.**

CALL TO ORDER:

Chair Kevin Kirn called the meeting to order at 7:00 p.m.

ATTENDANCE:

Chair Kevin Kirn; Vice Chair Richard Dunning; Comm. Michael Cassatly; Comm. Dan Guisinger; Comm. Beth Kelso; Comm. David Thompson; Comm. Karen Vinson; Paul Keenan 1st Alternate (non-voting member) and Cynthia Blum 2nd Alternate (non-voting member); John Sickler, Director of Planning & Zoning; Garret Watson, Principal Planner; Jenna Johnston, Planner; Thomas Baird, Esq., Town Attorney; Jim Brown, Building Official; Dennis DePalma, Secretary; and Vernisa Ayers, Secretary.

MINUTES:

1. Motion to approve the revised minutes from February 11, 2025 Planning and Zoning Meeting by Comm. Vinson; seconded by Vice Chair Dunning. Final: Final: Motion passed unanimously, with a 7-0 vote.

SWEARING IN:

Secretary Vernisa Ayers conducted the swearing-in of witnesses for all quasi-judicial items on the agenda.

CITIZEN COMMENTS: None.

REGULAR AGENDA:

OLD BUSINESS:

NEW BUSINESS:

2. **U-Tiki**– Application to amend an approved 4.1± acre Small Scale Planned Unit Development (SSPUD) to reduce the required side corner setback from 35 feet to 17 feet for storage buildings, located at 1095 N. A1A. **(PZ 25-6327)**

Disclosures: Comm. Blum stated she drove by the site. Comm. Kelso stated she walked through the property and spoke with Mr. Watson. Comm. Cassatly stated he was present at the property. Comm. Dunning stated he walked the property, spoke with the service manager, and also talked to Mr. Sickler and Mr. Watson. Chair Kirn stated he spoke with town staff, walked the site, spoke with a service manager and one of the district executives. Comm. Guisinger stated he visited the site, went into a couple storage buildings/offices, spoke with the service manager, Jack Thompson and also had an email exchange with Mr. Watson. Comm. Thompson stated that he drove by the site. Comm. Vinson stated that she drove, walked the site, and spoke with one of the managers. Comm. Keenan had no disclosures.

Applicant presentation: Zach Ciciera representative of Cotleur & Hearing presented a PowerPoint presentation of the proposed project. Josh Levine, Manager of Marine Max, was also in attendance.

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

Commissioners asked questions of the Applicant and Staff:

Comm. Keenan asked staff about the proposed artificial reef modules. Mr. Watson explained that the town has been encouraging these reef modules to attract marine life. Comm. Keenan asked staff how they review the placement of the reef modules. Mr. Watson replied that staff defers to the Reef Ball Foundations expertise to make sure they are sited appropriately.

Comm. Vinson inquired about the setback being moved from 35 to 17 feet. Mr. Ciciera explained that the setback they are requesting is 17 feet and the requirement is 35 feet. Comm. Vinson inquired about landscaping around the shipping container. Mr. Ciciera explained that it will be difficult to find good placement for landscaping, but they can commit to low lying plantings. Mr. Ciciera also mentioned that they need to verify if FDOT has requirements for planting. Comm. Vinson asked if there are 2 or 3 buildings and if they are permitted. Mr. Ciciera stated that all 3 buildings are non-permitted buildings and are in the process of permitting. Comm. Vinson asked if anyone was working out of the buildings. Mr. Ciciera stated no, they are service buildings with computers for minute tasks and for inventory, not offices.

Comm. Thompson wanted confirmation if there are computers in the structures. Mr. Ciciera confirmed there are computers. Comm. Thompson asked if there will be electrical, AC, and plumbing or strictly storage sheds. Mr. Ciciera stated that an electrical permit will be pulled.

Comm. Guisinger asked about the definition of an accessory building, adding that it seems like an office building. Joshua Levine stated that he does not know the exact definition of an office space and the service manager has a main office in the main building. Mr. Levine stated that no customers or business will be conducted in the accessory structures.

Comm. Guisinger asked staff if the buildings meet the definition of an accessory building. Mr. Watson stated that they are incidental to their operations and considered them an accessory use. If they were to be used as office space they would be required to be parked separately. In terms of the application being processed, staff was told they were going to be used for storage. Comm. Guisinger asked about the technician and if he has a separate office. Mr. Levine stated that he does not have an office.

Comm. Dunning asked if there had been any positive or negative feedback from the public. Mr. Watson stated there have not received any comments on the public. Comm. Dunning inquired about waiver applicability and about limiting the waiver. Mr. Watson stated that the waiver could be limited to the accessory structures shown on the approved site plan. Comm. Dunning wanted confirmation on if the motion gets approved they will be setting a precedence. Mr.

Watson confirmed, and mentioned that a condition could be added to limit the waiver. Mr. Ciciera stated that there is no other site with these conditions next to the bridge. Comm. Dunning inquired about the marinas operational plan for the Riverwalk. Mr. Ciciera stated that there are two gates that will be closed during fork lift operations for a maximum of 10 minutes to ensure safety.

Comm. Cassatly inquired about the dry dock storage, them needing permitting and wants confirmation that they are modular buildings. Mr. Ciciera confirmed. Comm. Cassatly asked how structurally sound the buildings are. Mr. Ciciera confirmed that they will be up to code and will go through of a full building permit review process. Comm. Cassatly asked if you can take more dry dock storage out and put more unit's underneath. Mr. Ciciera stated they are required 75 dry dock storage and can't remove anymore.

Comm. Kelso asked staff about the past approval and if they currently have an ability to build an office building. Mr. Watson stated that the approval has expired. Comm. Kelso asked if there will be a plan for an office building in the future. Mr. Ciciera stated that it is a possibility in the future. Comm. Kelso asked how tall the potential future structure of an office building can be. Mr. Watson explained that any subsequent office building approval would have to go through its own site plan application process.

Comm. Kelso asked if the black fence is temporary for construction or will be permanent. Mr. Ciciera stated that it is their fence and the they have to verify with the FDOT regarding shielding and buffering purposes. Comm. Kelso asked Mr. Watson if there will be any landscaping on the roadway side. Mr. Watson stated the version of the plans he reviewed has that area being a drainage pond, and will have to look into the DOT requirements. Comm. Kelso inquired about the idea of potential green screens to put on the fence, or to have higher fences, so it is not so visible to the public. Mr. Ciciera agreed with her statement.

Comm. Kirn asked if there is a clear line between accessory use and office space. Mr. Watson stated if the building continues to serve the special exception of the marina and is not occupied for a different use, they would be considered accessory. Jim Brown explained that the building code would not consider it an accessory structure and it would have its own occupancy classification after review. Chair Kirn asked if anything had been done yet. Mr. Brown said no. Chair Kirn asked if that would need to get done before further action. Mr. Sickler stated the building is not being approved, only the setback applicable to the buildings.

Comm. Guisinger asked staff if the buildings will be evaluated by the Town engineering department before the permits are pulled. Mr. Watson said yes. Comm. Guisinger asked if there will be an on-site assessment done by Town engineering. Mr. Brown stated that there will be a review of the building plan submitted to the Building and Palm Beach County Fire Department, and will go on site if necessary.

Comm. Vinson asked if the storage containers are permanent. Mr. Ciciera stated that the blue building is permanent and the beige building is temporary. Comm. Vinson asked about the building in between the blue railroad car and the first white building. Mr. Ciciera stated all buildings will meet the setback, and that it was not out there when he was there. Mr. Levine confirmed that the beige container is a rental container for overflow and is temporary. Mr. Levine also stated that the one sandwiched in between

the white building and the shipping container is a Home Depot plastic A frame structure for the cleaning department. Comm. Vinson asked if the Home Depot shed will count as another building with setbacks. Mr. Watson stated that the Home Depot shed would be considered an accessory building. Comm. Vinson asked if the amount of structures allowed will be addressed. Mr. Ciciera stated that they are only asking for the three buildings and they can add a condition for the setback to apply for all buildings. Comm. Vinson asked staff if that is something that has to be addressed. Mr. Watson stated that it is written that way, so any setbacks are applicable to any accessory buildings on the site. If the commission wants to limit the amount of buildings, that would need to be a condition. Comm. Vinson asked about the logistics and if there needs to be permits for all buildings. Mr. Watson stated that anything that requires a permit will get a permit. Mr. Sickler stated that sheds less than 144 square feet are required a 15-foot side corner setback, that would be two feet closer than what they are asking for, unless there is a condition on the approval.

Comm. Cassatly asked if the blue storage shed is one of the buildings they are asking to be permitted. Mr. Ciciera confirmed.

Comm. Keenan asked if an accessory building is a term in the building code. Mr. Watson stated staff is looking at this from a zoning code perspective, and the definition is that it be ancillary to a primary use. Mr. Sickler stated that the site plan on the screen does not show the blue building

Chair Kirn asked town staff if the number of buildings is governed by Building or Planning and Zoning. Mr. Sickler stated that it depends on the circumstances, and we need to know the uses of each structure, so they can be classified appropriately. If there is functional use going on in the storage building, such as a work shop, it would be classified as a light industrial use and would be parked at a minimum of one space for every 500 square feet. If it is an office use it would be one space for every 250 square feet, and if it's strictly storage it would be one space per 1,000 square feet.

Comm. Vinson asked if there would be a reason to put this on hold until further clarification. Chair Kirn stated that the Town's building department is competent and will make sure it complies with code. Comm. Vinson stated she wants stipulations to move forward. Mr. Watson clarified that the administrative site plan process was paused once we discovered the setback issue, and has yet to go through the entire site planning process until the setback for the buildings is confirmed. Mr. Ciciera stated that they will commit to three accessory buildings, and any excess will be removed from the site.

Public Comment: None.

Deliberation by Commission:

Comm. Keenan stated though the amendment is to allow the change in the setback requirement, there are many more questions and issues popping up, and he will trust town staff to look into those issues.

Comm. Vinson agreed and stated, if the only thing being approved is the setback, the other issues could be worked out down the road.

Comm. Thompson agreed if it is simply the setback they are looking at, they will rely on the building staff to make sure that the other issues are followed thereafter.

Comm. Guisinger concurred with fellow commissioners and had no further questions.

Chair Kirn stated that he agrees with what was said, and maybe add the fence shielding, if possible with DOT.

Comm. Dunning stated that he supports everything, and would like to interject the language Mr. Watson touched on regarding the setback requirements.

Comm. Cassatly stated that the 17-foot setback is fine.

Comm. Kelso also agreed that the 17-foot setback is fine with the screening and/or landscaping along the backside, and is fine with a fourth building rather than having the equipment be an eye sore.

Comm. Blum conquered as well.

Motion: Comm. Cassatly moved to recommend approval of the requested amendment to the Small Scale Planned Unit Development (SSPUD) to allow for a setback reduction from 35 feet to 17 feet. This recommendation includes the conditions outlined by the staff, ensuring that it is limited to the buildings detailed in the plans located in the side corner yard up to the dumpster, and also incorporates fence screening and landscaping for screening, seconded by Comm. Guisinger. Motion passed unanimously, with a 7-0 vote.

3. **30 E Riverside Drive** - Variance request to Section 27-2626(b)(16) and Section 27-3084(4)(b) to encroach 2.6 ± feet into the required 7.5 feet rear setback area between a pool/deck area and dock, on a 0.34± acre property, located at 30 E. Riverside Drive.
(PZ 25-6306) (Acting as the Zoning Board of Adjustments - Final Action)

Disclosures: Commissioners Blum and Guisinger drove through the area. Comm. Kelso looked at it on Google Earth. Comm. Cassatly paddle boarded through the area. Vice Chair Dunning visited the property twice, spoke with the owner's parents, and town staff. Chair Kirn spoke with town staff. Comm. Thompson drove by the site multiple times, but did not access property. Comm. Vinson drove by the site, driving over the bridge multiple times, and used Google Earth. Comm. Keenan had no disclosures.

Applicant presentation: Zach Ciciera, representative of Cotleur & Hearing presented a PowerPoint presentation of the proposed project. Donaldson Hearing of Cotleur & Hearing was in attendance, as well as Rob Mollet with Wells Brother's Construction.

Staff presentation: Planner, Jenna Johnston reviewed the staff report.

Commissioners asked questions of the Applicant and Staff:

Comm. Keenan wanted confirmation that 4 of the 7 criteria have not been met. Ms. Johnston confirmed, stating one is not applicable. Comm. Keenan asked

why it is not applicable. Ms. Johnston stated there are no special conditions or circumstances in this case. Comm. Keenan asked for a ranking of most important, yet unsatisfied. Mr. Watson stated that typically the highest order would be deferring to the comp plan policies, intent being a close second to that and then the remainder.

Comm. Vinson inquired about the planting of the mangroves. Mr. Watson stated that there is a percentage of mangroves on site in the north and south ends of the property, and that a plan would be required if this was approved. Comm. Vinson inquired about the position of the boat dockage, and wanted confirmation that the positioning isn't the problem, but the connection from the patio deck to the dock and not having an open space for filtration of water. Mr. Hearing stated that is not exactly correct, that the open space between the deck and the docks meets the requirement of the code, which is the intent of a 7.5-foot green space. Mr. Hearing also stated that the connection between the deck and the dock is only 4 feet wide, meeting the code requirement. The request is for the marginal dock to encroach into the rear setback up to 2' landward, while maintaining the intent of the Code which is the provision of 7.5' feet of open space. Comm. Vinson asked why they did not go back to the original designed pre-approved in 2022. Mr. Hearing stated what was approved in 2022 had the marginal deck 100% parallel and on top of the seawall cap, and all he is asking is for the marginal dock to be parallel to the house.

Comm. Thompson stated that he is optimistic that half of the criteria has been met, and is halfway there, but some work needs to be done still.

Comm. Guisinger asked if the dock is permitted to be placed on the top of the seawall as it is currently placed. Mr. Watson stated no, it does not comply with the permit exactly in its shape and was permitted directly parallel to the seawall. The decking only encroached to the area over the cap, but it did not go past the cap or landward. Comm. Guisinger asked if the way it is currently positioned requires that it encroaches into the 7.5 feet, from the seawall. Mr. Watson confirmed that is correct. Comm. Guisinger asked if the permitted dock itself requires a variance. Mr. Watson stated no; the only portions of the proposed design requiring the variance are those red triangular areas on the plan that encroach past the seawall cap. Comm. Guisinger asked how to address that. Mr. Watson stated that they will have to get a revision to that permit, and also get revisions to the deck permit and all those other unpermitted elements. Comm. Guisinger asked staff if Section 27 requires additional clarification to minimize misinterpretation of the code with respect to either dock placement or encroachment onto the setback. Mr. Sickler stated that the triangles that are shown, based on the definition of the code are patio since they are not over water, they are not a dock. Comm. Guisinger asked if Section 27 adequately addresses it from a code standpoint. Mr. Sickler explained there are provisions where staff has some flexibility for interpretation and others where hands are tied. When the staff reviewed the dock permit, they felt it was beneficial for the other property to the north to not have the T or L shaped dock that extended the dock facility/boat, potentially impeding access to that property. They were allowed to reconfigure what is typically required as a T or L dock to be put in marginal configuration. For the code, a marginal dock is applicable to canals but they used the flexibility to apply it to the dock permit.

Vice Chair Dunning asked the applicant why they can't follow the staff's criteria. Mr. Hearing stated that the issue of the 7.5 feet of green space is being met. The deck setback is right, the walk through the deck is right, and now the only issue is the definition of what a marginal dock can be. Comm. Dunning asked staff if the same set of standards are used for everyone. Mr. Sickler confirmed. Comm. Dunning stated that this is not a good precedence to be set, if approved. Mr. Hearing stated he believes in this particular case, being on a peninsula, in an unusual shaped area doing a marginal wharf, they are meeting not only the intent of the Comprehensive Plan but also the intent of the code. The challenge being they are dealing with a variance.

Comm. Cassatly asked if there is a different code now with it being 6 feet versus 7.5 feet. Mr. Sickler explained that was because it was permitted and measured from the actual property line. The proposed deck area around the pool would be set back more than it needs to be in most areas in order to provide for the 7.5' of open area. Comm. Cassatly asked how the deck going straight out to the marginal dock was discovered. Mr. Watson stated that the Natural Resources staff was called in for an inspection. Comm. Cassatly asked if this was a spontaneous inspection. Mr. Watson stated that the permit was approved, the next step is construction, then they'll call in for a final inspection before the permits close. It was at that point the staff discovered that the rest of the site had been decked as it shows up on the aerial. It was not final and is still on hold, if it has not already expired at this point.

Comm. Kelso inquired about the area over the bulkhead and if that section can be removed, or if there is a width standard that would preclude that and require the whole dock to be moved out. Mr. Watson stated that it is not the section that's over the physical bulkhead, it's the section that's landward of the edge of the bulkhead. Comm. Kelso asked about the section in question, that is not according to the standards and if that area could be taken off. Mr. Watson stated that's what was permitted. Comm. Kelso asked if the deck itself would then be narrower, and if there are any regulations that would preclude that from happening. Mr. Watson stated that there is not a minimum width requirement, only a maximum. Comm. Kelso asked for clarification on condition 2B. Mr. Watson stated that is plantings within the 7.5-foot zone, and the idea behind that is that the zone was created in order to provide a setback for drainage purposes and softening the waterfront, ensuring the proposed design would meet the intent of the Code. Comm. Kelso inquired about native trees and if that would not block their view of the property. Mr. Sickler stated those could be small trees or palm trees and would not have to be large canopy trees or anything of that nature. Mr. Ciciera stated that was a consideration that they made staff aware of. Comm. Kelso asked the applicant if there was a construction progress report provided by the contractor to the owner. Mr. Ciciera confirmed that they did receive the reports, with the issue being the owners not being aware of the code regulations. Comm. Kelso stated as the owner, there should have been some due diligence realizing that's not what was permitted. Mr. Ciciera agreed with the comment, and that he does not believe they were researching and analyzing too heavily while they were traveling.

Comm. Blum asked when this was discovered. Mr. Watson stated that the inspection took place in late 2022. Comm. Blum wanted confirmation that it's been 2.5 years, and it is being dealt with now. Mr. Watson stated yes. Mr. Mollet explained some history and issues with the house from the previous contractor.

Comm. Kelso asked staff if she were to want all the conditions, and also make a condition that they were to move that part of the dock that is not in compliance, that she would need to vote against it. Mr. Sickler stated that they would not need a variance if they removed those triangles and moved it waterward.

Comm. Guisinger inquired about the condition with the native trees and hedges in the transitional buffer upland, and if that applies to the area in front of the pool also. Mr. Sickler confirmed, as written, it would be the entire area.

Mr. Baird stated the focus on the decision should be whether or not these 7 criteria have all been met, clarifying that criteria #2 would need to be satisfied as well. Mr. Baird also mentioned that courts do not have a hierarchy of criteria. To the extent that there is a criterion that courts focus on, it would be #3, which is the literal interpretation and whether, without the variance, they would be depriving the applicant of a reasonable use of land.

Public Comment: None

Deliberation by Commission:

Comm. Blum had nothing more to add and was not in support.

Comm. Kelso stated that she does not feel like they've met all 7 criteria and was not in support.

Comm. Cassatly stated he was concerned with the aesthetics, landscaping, and safety and is not in support.

Comm. Dunning stated the criteria has not been met and he is not in support.

Comm. Guisinger stated that he does not believe the 7 criteria have been met nor the permit for the docks and is not in support.

Comm. Thompson stated they have not met the criteria and are not even halfway there when taking account what Mr. Baird stated reiterating that the second criteria does apply.

Comm. Vinson stated that she agrees that all 7 criteria have not been met and is not in support.

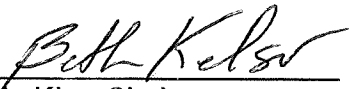
Comm. Keenan stated that the 7 criteria have not been met, and a variance is not a solution to a problem brought on by the property owner, therefore does not support.

Motion: Vice Chair Dunning moved to deny the Variance request and adopt the findings and recommendations outlined in the staff report, seconded by Comm. Thompson. Motion passed, with a 7-0 vote.

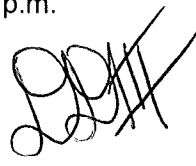
STAFF UPDATE: Planning and Zoning Director report on recent Town Council actions on Commission items.

Chair Kirn announced this would be Vice Chair Dunning's last meeting and gave thanks and recognition.

ADJOURN: Chair Kevin Kirn adjourned the meeting at 8:58 p.m.



~~Kevin Kirn, Chair~~
Acting
Beth Kelso.



Dennis DePalma, Secretary