

TOWN OF MALABAR

PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY, MARCH 25, 2009
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE
- B. ROLL CALL
- C. ADDITIONS/DELETIONS/CHANGES
- D. CONSENT AGENDA
 - 1. Approval of Minutes
 - Regular Planning and Zoning Meeting – 02/25/09
 - Exhibit: Agenda Report No. 1
 - Recommendation: Discussion
- E. PUBLIC HEARING: none
- F. ACTION:
 - 2. Amending Article VIII Regarding Culvert Endwalls (Ord. No. 2009-21) **AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1-8.14.G. REQUIRING MITERED ENDWALLS IN RESIDENTIAL INSTALLATIONS PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.**
 - Exhibit: Agenda Report No. 2
 - Recommendation: Action on Ord. No. 2009-21
- G. PUBLIC:
- H. OLD BUSINESS/NEW BUSINESS:
- I. ADJOURN:

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service. In compliance with the Americans With Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: March 25, 2009

Prepared By: Denine Fusco-Scarbro, Planning Zoning Secretary

SUBJECT: Approval of minutes

BACKGROUND/HISTORY:

The DRAFT minutes from 02/25/09 are ready for Board review.

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

ATTACHMENTS:

- Draft minutes of 02/25/09

ACTION OPTIONS:

Motion to Approve

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
February 25, 2009 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led by Chair Bob Wilbur.

B. ROLL CALL:

CHAIR:	BOB WILBUR,
VICE-CHAIR:	PATRICK REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN, excused
	LIZ RITTER
ALTERNATE:	CINDY ZINDEL, voting for Ryan
ALTERNATE:	BRIDGET PORTS, excused
SECRETARY:	DENINE FUSCO-SCARBRO

Also present: Mayor Eschenberg
Roger Cloutier- Building Official (BO)
Bill Stephenson- Town Engineer (TE)
Keith Mills- Town Planner (TP)

C. ADDITIONS/DELETIONS/CHANGES:

Reilly asked to add Action Item # 3, Fence Height, Ordinance 2009-99, that was tabled at last P & Z meeting. He would like to make a motion to remove from table and bring it back to this agenda tonight.

Motion: Reilly / Krieger to bring back to tonight's agenda.

Vote: All Ayes

D. CONSENT AGENDA

1. Approval of Minute- None

E. PUBLIC HEARING:

2. Ken Adams- Phase II- Two Proposed Buildings

Exhibit: Agenda Report No. 2

Recommendation: Action

Chair opened Public Hearing for Site Plan recommendation off proposed two new buildings for mini storage use at 2235 Malabar Road. Chair called applicant to podium.

Ken Adams, 2595 Coral Way, resident of Malabar. He designed to build two mini storages at 2235 Malabar Road. I plan to build one building first then future building two it is designed as mini storage. But however, my target customers are indoor boat and RV storage, the large parking lot and garage door sizes of 12' x 14' high all units are for large storage.

Chair Wilbur opened discussion to Town staff.

B.O. Cloutier, referred to the Fire Marshal's memo. F.M. Dave Abernathy submitted a memo about needing (2) two Fire Hydrants. Cloutier stated the original plan called for two fire hydrants and only one is on property and now Mr. Adams wants to put two more buildings on property.

There needs to be another fire hydrant installed. The Fire Marshal is looking for a second Hydrant to be installed.

Mr. Adams had a discussion with Dave Abernathy and his concern was the pond is sufficient for the amount of water that is needed and then some. There is a well and a pond we have all the calculations for the water flow, this is why the C.O. was given on the first building. F.M. Dave Abernathy's biggest concern was if the property in the future and future owner was not an owner occupied person that would take care of the pond and then there would not be enough water flow from the pond and the Fire Department would be unable to utilize the pond as a water source. Zindel asked about the well and float devise. Mr. Adams explained there is an approved float in the pond that stays up on top of the water to hook up for water source, as well as a hydrant well to hook up to for water source. Mr. Adam stated that Abernathy would like to see a well at north side of property. Ritter stated the well/ hydrant and the pond are right next to one another. The memo Abernathy gave to staff was about adding the second hydrant on north side of property.

Mr. Adams remarked about providing Abernathy the water flow requirements again.

Wilbur, the size of the structure and the content of what is going to be inside the storage areas are Abernathy's concerns for the water source; two hydrants would make sense, with a pond as a back-up.

T.E. Bill Stephenson, stated that Mr. Teimouri, who is Mr. Adams engineer, is present and has calculations for the volume in the pond and wet lands for water source.

Wilbur stated the Fire Department needs to do a check on the Fire Hydrant that is presently on the property to make sure they function properly and do what they need to do. Ritter thought the hydrant and alternative water source are too close to one another and to get the fire equipment in this one area, you would want exposure of water sources on the both sides for safety reasons, due to the contents of the storage units including propane, gas, and motors.

Krieger asked Mr. Adams about building one unit at a time for a total of two additional units. He then asked about the pond - It is not a retain age / detain age area, if commingling the two usages you would have to maintain a control level in the pond and only calculate as a detain age / retain age area if it above the maximum level.

Vaheed Teimouri (Engineer for Mr. Ken Adams)-Teimouri and Associates, 32 E. New Haven Ave. - Melbourne, explained when a Fire Flow is calculated for a site that has several buildings it is calculated based on the largest building on the site and the other buildings are added as an exposure. We calculated that number to be slightly under 18,000 gpm (gallon per minute). The exposure, type of construction, and what is in the building, are all taken into consideration of how many gallons per minute is needed. This is all based on the formula that the Fire Department uses. Originally, this site was designed as dry retention but through the approval process it was switched to wet retention pond, instead of adding a second Hydrant. They would use a draft hydrant which is designed to use in water and pull out of a wet retention pond, which holds nearly 470,000 gallons of water. If you translate that amount into a Fire Hydrant which is on a city public water line and can only draw 1,000 gpm. If you pump out of that pond at that rate it will give you 8 hours of fire flow capability, not considering the well at all. The two sources are different; one is a pond, one is a well. Even though they are close together depends how the fire is fought. The first source of water is the tie in to hydrant to fight the fire and the second is the support back-up.

Teimouri, stated that Brevard County Fire Department prefer ponds, the draft hydrants over the wells. The reason is that the wells don't flow, only at the time of fire and they loose their flow

capability with time, have less flow. With the pond they can see the water content, through the storm water calculation we are required to submit that information, through the engineering department. There are two levels in the wet detention pond, one is the orifice to hold water which is about 8 feet deep, and at that level there about 470,000 gallons of water. This comes from ground water. In the case of a drought it might drop the level about a foot and it may drop 100,000 gallons.

Krieger asked about control level, it is doing two things, supplying water for fire protection and doing something for SJRWMD – providing retainage / detainage.

Teimouri believes that there is adequate water to meet fire flow requirement and then some. It provides, even at 18,000 gpm, about 4 hours of fire fighting capability for two buildings.

Additional discussion between Teimouri and Wilbur about the pond as source of fire protection. Wilbur thought it was problematic and adding a Fire Hydrant is a fixed solution to the problem, due to the fact of the fluctuation to water supply of the pond.

Teimouri believes that all requirements are met and we have two sources, we have enough water flow, enough fire fighting capability. This is an approved method, in fact if you look at the Insurance in Fire Departments, they recommend the draft hydrants.

Vice-Chair Reilly explained we need to move on. This is a staff issue about wells. This Board just verifies that the data is provided on site plan.

Teimouri explained that the largest building on site is the one used for calculating the fire flow and to add exposure of other buildings within 500 feet for source of water.

B.O. Cloutier explained to Board that the Fire Marshal's main concern was on original site plan – it called for two Fire Hydrants and two wells one on north side of property and one south side of property. The north side one was never installed.

T.P. Mills, Town Planner discussed the review of memos by staff. He is satisfied with the response that was submitted by Teimouri. Krieger expressed concerns and proposed to table this project or to ok and pass on to Council with stipulations that there is enough water protection to take care of buildings.

Mr. Adams explained that the First building that was built has 24 units including bathrooms along with an office that will be open during business hours, only access will be from Malabar Road. We have approval from St. John's and FDOT. Wilbur asked with the increase of impervious surface will there be more storm water outflow from this project? T.E. Stephenson answered that Teimouri had done the calculations for drainage of both phases initially. They have received the permit from St John's.

Wilbur Opened to the public-

James Noble - owner Brevard Hardwoods, 1490 Marie Street, Malabaar. His initial reaction was negative, there seems to be plenty of Mini Storages and he doesn't feel the idea is good for the Town progress and development.

Wilbur Closed to the Public and back to the Board.

Ritter asked if there is any limit on how many of the same business can develop in the same area.

Reilly made statement that with CG land it is hard to make money with this land due to the fact there is no water and sewer, so mini storage is the easiest way to go.

MOTION: Krieger / Reilly to recommend to Town Council to approve and accept this Site Plan as submitted for Mr. Ken Adams with the following stipulations:

- DOT clears permitting
- Florida Vernacular is addressed properly
- Required (2) wells are supplied as planned for fire protection

Vote: All Ayes

Zindel asked why the property had to be advertised for public hearing. Kreiger suggestion to staff, to please provide the Board with a memo of any up coming projects or new business if we are aware of them in advance.

T.P. Mills and T.E. Stephenson left approx. 9:05 P.M.

F. ACTION:

3. Fence Height Ordinance 2009-99

Exhibit: Agenda Report No. 3
Recommendation: Action

Kreiger has re-written the definition and #6 of the ordinance to clearly define all "Entrance Gates" and "Gates", along with number 6 under Section 2. (See Attached).

B.O. Cloutier has submitted a Memo # 09-BO-006 to clarify the definitions of gates Section 2 #6 only correcting the height with 13.6 not 13.4 feet.

There is a discussion amongst the board about the definitions that have been handed Kreiger explains the definitions and fence design. Wilbur expresses that Cloutier's definition are short and to the point on "Entrance Ways".

Recommendation to Council: To approve this Ordinance 2009-99 using the definition sheet submitted by Krieger with corrects as submitted.

Where "Entrance Gate": is defined an (s) would be inserted after A gate (s).

Where #6 is revised Section 2. Article V

FDOT height requirements (min. 13.6 feet to max. of 16 feet in height) for safe passage of emergency vehicles. The entrance gate and support structure must be set back at least 12 feet from the front property line and a minimum of 20 feet in width.

MOTION: Reilly / Kreiger to recommend to Council to approve with corrections as stated above **Vote: All Ayes**

G. PUBLIC:

H. OLD BUSINESS/NEW BUSINESS:

Reilly would like to know when Town staff (Engineer, Planner, Cloutier) get their packages for P & Z meetings. DFS explained if certain staff are needed to attend a meeting, they get a P&Z packet on the Friday before the meeting.

Kreiger would like staff to let the Board know when new applications are coming up. Ritter asked the Mayor if Town Council still gets memo of up coming building and projects. The Mayor responded he did not see one in a long time.

New business:

Wilbur discusses what he saw in the newspaper about Palm Bay and all the projects they have on a list the for their Economic Stimulus money, when it comes in, shovel ready projects. What do we have as a Town that would be shovel ready - Gateway Development Plan that was approved in our Comp Plan Amendment. This would generate money for our Town.

Kreiger, discussing that he was told that the Paladin Shores Project was possibly purchased by the ELL's. Discussion amongst the board about the property Paladin shores project was supposed to develop on.

Reilly has New Business as a question:

Since Stillwater was built the drain water from south of Malabar Road goes on west side of Corey Road on the ditch and underneath Malabar Road, then gets on the north side of Malabar Road retaining pond/ lake area, since Stillwater it is not draining. Who is responsible for the ditch from corner to turkey creek, Cloutier thought that FDOT is working with State to get this resolved.

Zindel, thinks her code books needs to be updated, has question to Council or somebody where in the code that is says site plans that are not in violation of any kind of controversy require public hearing.

I. ADJOURN:

There being no further business to discuss, **MOTION:** Reilly / Ritter to adjourn this meeting.
Vote: All Ayes. The meeting adjourned at 9:42 P.M.

BY

Bob Wilbur, Chair

Denine Fusco-Scarbro, Secretary

Date Approved

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: March 25, 2009

Prepared By: Denine Fusco- Scarbro, Planning Zoning Secretary

SUBJECT: Amending of Land Development Code, Article VIII

BACKGROUND/HISTORY:

The Town participates in the NPDES permitting process each year. In keeping with that permit and the FDOT outfall standards for pipes less than 30", staff is requesting the Town Code be amended to require the use of mitered endwalls. These endwalls lessen large debris from entering the culverts completely causing complete blockages. They are safer for any person/vehicle, which may go into the ditch as the sharp edges are confined to under the mitered form. The Town in the past has allowed a choice which makes for inconsistency and disregard for the issues raised above. In speaking with the Town Engineer, it was his recommendation that if we were going to discourage the use of any other endwall, then we should change the Town Code to reflect the type we want used.

This item will amend the Land Development Code and must be heard at P&Z before it can proceed to Council for adoption.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Ord. No. 2009-21

ACTION OPTIONS:

Staff seeks recommendation to Council in the form of a motion to approve Ord. No. 2009-21.

ORDINANCE NO. 2009-21

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1-8.14.G. REQUIRING MITERED ENDWALLS IN RESIDENTIAL INSTALLATIONS PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, In order to improve the drainage structures maintenance process and increase conformity with the requirements of the NPDES permit the Town Council desires to provide minimum requirements for endwalls when culvert pipes are newly installed or replaced.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, as follows:

Section 1. Section 1-8.14.G of Article VIII of the Land Development Code of the Town is hereby amended in full to read as follows:

"G. Proposed type of endwall treatment. All endwalls for pipe culverts where the pipe diameter is less than 30 inches located in residential areas and located on lanes and/or minor and major collector roadways shall be mitered and comply with the 2008 FDOT Design Standards Index 273 and turnouts per 2008 FDOT Index 515.

Section 2. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the is Ordinance shall not be effected and it shall be presumed that the Town Council, Town of Malabar did not intend to enact such invalid or unconstitutional revision. It shall further be assumed that the Town Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional revision, thereby causing said remainder to remain in full force and effect.

Section 3. Conflict. All ordinances or resolutions or part of ordinances or resolutions in conflict herewith are hereby repealed.

Section 4. This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council member _____ The motion was seconded by Council member _____ and, upon being put to a vote, the vote was as follows:

Council Member Nancy Borton _____
Council Member Brian Vail _____
Council Member Steve Rivet _____
Council Member Jeffrey (Jeff) McKnight _____
Council Member Patricia (Pat) Dezman _____

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this ___ day of _____, 2009.

BY:

TOWN OF MALABAR

First Reading: 03/16/09
Second Reading: 0

Mayor Thomas M. Eschenberg, Chair

ATTEST:

Debby K. Franklin
Town Clerk/Treasurer

APPROVED as to form and content:

Karl W. Bohne, Jr.
Town Attorney

DRAFT