

TOWN OF MALABAR

PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY AUGUST 12, 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
 - Planning and Zoning Meeting- 07/22/09
 - Exhibit: Agenda Report No. 1
 - Recommendation: Action
- E. PUBLIC HEARING: none
- F. ACTION: none
- G. DISCUSSION:
 - 2. Land Use on Malabar Road
 - Exhibit: Agenda Reports No. 2
 - Recommendation: Discussion
 - 3. Land Use along Babcock Street
 - Exhibit: Agenda Reports No. 3
 - Recommendation: Discussion
- H. PUBLIC:
- I. OLD BUSINESS/NEW BUSINESS:
- J. 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: August 12, 2009

Prepared By: Denine Fusco-Scarbro, Planning Zoning Secretary

SUBJECT: Approval of minutes

BACKGROUND/HISTORY:

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 P&Z Board Meeting of July 22, 2009

“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
July 22, 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 7:35 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
	LIZ RITTER
ALTERNATE:	CINDY ZINDEL
ALTERNATE:	BRIDGET PORTS, excused
SECRETARY:	DENINE FUSCO-SCARBRO
BUILDING OFFICIAL	ROGER CLOUTIER
TOWN PLANNER	KEITH MILLS

Also present: Mayor Eschenberg, Debby Franklin, Town Clerk/ Treasurer

C. ADDITIONS/DELETIONS/CHANGES: none

D. CONSENT AGENDA – no minutes ready

E. PUBLIC:

F. ACTION:

- Fence Ord #1 & #2**
Exhibit: Agenda Report No. 2
Recommendation: Action

Liz Ritter handed out the definitions she came up with for terms discussed relating to fence discussion. Franklin explained the two ordinances. One was corrected as a result of the Joint Meeting in May. It was recognized that all of the P&Z Board recommendations had not been included in ordinance that went to Council. Staff found those P&Z minutes and made revisions and have that one for P&Z review this night marked as #2.

There were also recommendations that resulted from the Joint Meeting with Council Those recommendations were included in the ordinance marked #1.

Staff is looking for a recommendation on the two ordinances – it is not either or. If you like both we will combine them.

Regarding the ordinance marked #1 – Krieger said the definitions conflict with #2. He referenced language conflicts in the ordinance marked #1 in the fourth *WHEREAS*, should read same as third *WHEREAS*. In same ordinance, at the bottom, the reference to entranceway fails to mention setbacks. This is a completely different issue. He has many more markups on page 2. Krieger said the whole column thing was an issue. They used *within* instead of *attached to* when referring to columns. Arches is in there and there was supposed to be a setback.

Krieger also has issue in Section 6, limiting the height of a column to 2 feet above height of fence. Column is not part of the fence. Krieger said it was a language thing. Krieger referenced portion that stated columns shall not exceed six feet – what if it is part of a archway? Krieger stated if it is within the setback, you need to get a permit. Krieger has issue with this. Wilbur asked BO Roger Cloutier about the column and archway. The archway requires engineering and gets expensive.

Krieger said it was the P&Z Board that put #2 together. Joint meetings should be for large issues not small issues. Both of these ordinances are not what they said. He spent his time looking at #1 and finding inconsistencies, not realizing he should have reviewed both. Wilbur asked Franklin to explain again the background on the two ordinances. Staff did not want to assume P&Z wanted to incorporate Joint Meeting recommendation into their draft. That is why there were two ordinances. Krieger was not at Joint Meeting. Council wanted to provide staff with guidance on what to require for fences.

Zindel said what is wrong with ordinance #2? Krieger said # 2 doesn't match what came out of P&Z. Krieger will go back to his notes. He likes to read about it carefully and study it. Is there a time issue – there is no rush. Wilbur likes #1 because it addresses columns. Ritter said take the columns out. Wilbur asked which one they favor. Krieger will have to look at each line. Generally, it mixed gates and entry gates. The original paperwork said that the entry gate can be constructed of any material; Ryan questioned the gates in ordinance # 2 relating to gates 4 foot and less in width and more than 4 foot in width. That is for human traffic and vehicle traffic. Wilbur is happy with #1. Krieger sad if we keep columns in, then we need to integrate that with the 13'6. Ryan said since there is no time limit on this, we should take this home and review and come back with suggestions. Wilbur asked BO Roger Cloutier which was the simplest and most straight forward ordinance. Cloutier said he likes #2 because it is simple. If you get too many details in there then it is hard to enforce. Ritter said just to add columns to #2 ord and take the whole line out when a column is used within a fence, it shall not extend more than 2 feet higher than fence. On #2, Sec 1, entranceways, gates and add columns. And then remove the last sentence. Krieger said it should read *attached* to not *within* when referring. Columns a supporting structure attached to a fence or associated with a fence. Krieger said if they are within the setback, then they don't come into this. If it is just columns, it is not a fence and needs a different type of permit. The LaCourt structure is not a column. If it is part of fence, it is a fence, not a column. Krieger said if he is building something it needs to be in the Building Code. BO Roger Cloutier said that the columns should not be addressed in the fence ordinance. Krieger said it should be as P&Z recommended.

MOTION: Reilly / Ryan to send ordinance #2 as is back to Council.

Ryan wanted columns included in the ordinance. Ritter asked BO Roger Cloutier if they are building just columns, then what is needed. Cloutier stated columns are covered in the Building Code and don't need to be part of fence code...

Vote: All Ayes.

G. DISCUSSION:

2. Malabar Road Land Use

Exhibit:	Agenda Report No. 2
Recommendation:	Discussion

Franklin explained we just got some data files from Brevard County and have not had a chance to look at them. The map in front of you shows the aerial along Malabar Road. The cell is marked with 400' 660' and 1320'. Much discussion on. Krieger said we are getting bogged down on this. The issue is are we legislating something that will change the land values and how a landowner. We should first look at this for what we want. We should make sure that our

land use relates properly to park land and conservation. Ryan asked Chair if we are mandated to make land use changes. Wilbur said we should break and look at the maps. Ryan said go 4 lanes, go 3 lanes, or go 4 with a median. Ryan asked how much space would be needed for a 4 lane road and then buffer and then a frontage road and then parking, and then access for loading and to include semis.

The requirements for FDOT and then think of the requirements for developers retention, and if we are looking for a tax base for this town and not just a postage stamp. You are going to need more than 660 across from the hospital. Ritter thinks Leedy property is perfect. If you have room for a side road, then you have enough for 4 laning.

Krieger said he doesn't want to see anything bigger than Leedys. He thought we are going to talk in generalities. What are we trying to do? Once EAR amendments are adopted we then have to . Are we legislating land values? Even in the 70s and 80s we decided for 400' and 600'. The goal was to be simpler and smaller. Increasing the tax base is not the goal. He thinks they are trying to go from a higher zoning to a lower zoning. Taking a vote on if it should be 1200 or 600. He referred to the red line on the map. If is up to property owner to negotiate the land use and. It should be limited. Make the owner come in and ask for the change. He wants more development like what we already have. If you want more development, go to PB. Ryan said the State plans for Malabar Road are???? Eventually Malabar Road will be widened. The way to get better use of the land in the interim, until it is widened, is to use frontage road. Wilbur said who will pay for it. Ryan said that is the issue. Krieger said it is not about frontage.

Wilbur asked Keith Mills for his vision of Malabar Road on the south side. Keith Mills agreed with Krieger on the philosophy of the Town. Do you want to take into consideration the current land use or consider increasing for the future. Reilly said there are about 13 homes within the 600' from the west line to Corey. You will affect more residences if you increase the depth. Wilbur said only the section across from the hospital. For 20 years, that has envisioned for related to medical. Wilbur said west end south side had not developed because the depth was not enough at current depth. Something to do with the medical field. Keith Mills agreed that keeping the entire parcel would be a good action. Just from the daycare to the the west line. Not any further east. Keith Mills explained the 660 feet and the old depth that was used. He was trying to explain the lot sizes. Wilbur said the 660 would be a good transition to go from daycare to Dr Leedy. 1320 for the section across from the hospital to the west line of the daycare. Krieger to clarify, we are not changing the zoning; the property owner would have to apply for rezoning. East of the daycare to Weber go 660. That would work also on the east side of Weber Road except for the first lot – Keith said you could step it, and make it 600 feet. Keith said you don't have to step it. Krieger said Weber Woods doesn't have any houses on it. The 660 is the natural line. The owner may want to come in and go through process to change it. This would come out in the PH. The zoning has to match the LAND USE MAP. There are 2 schools of thought – some cities do an administrative zoning change. Many don't. Keith Mills said he would not recommend Malabar changing zoning – stick to the land use map changes. Ritter asked the difference. Land use deals with broad uses, and several zoning classifications can conform within a particular land use designation. Keith Mills also said Malabar Road is 66 wide and would go to 150 if 4-laned. We would need 87 feet to get to 150. If they split the difference, then you are looking at 43 from both sides. You are not going to fit retention in that. It is for the bike lanes and median. The State would look for retention. Wilbur would like that retention to be to the rear. Ryan said FPL wouldn't move the new poles. Keith Mills said said yes they would move the poles if that was the approved plan. If they use 12 foot travel lanes in the scenarios, they are looking at only 100 feet row. We already require a buffer along Malabar Road. The parking is based on the size of the building and the use. If you have 24 foot driveway and it is hard to estimate at this time how much depth a hypothetical structure would require..

Wilbur pointed to Briar Creek Blvd. on north side for reference point and say do we want to step it to 400 feet. Ritter said take it to 500'. Keith Mills then explained the Attorney's concern about adverse affect to property owner. If you did that you could adversely leave a property owner who couldn't use the remaining portion because it was no longer conforming. They are talking about taking the 400 to Eva. East of Eva there are 3 houses – leave that RR65. Krieger disagreed. We are dealing with FLUM not zoning. Krieger said we should not talk about tax base. Ritter said – Wilbur said he is decreasing intensity, by decreasing the depth. Krieger said the 660 is a good land use. If they go to RLC does it still require 1.5 acre? Do they need water and sewer? Krieger thought we should draw the line and then put article in newsletter. Keith said the simplest thing to do is to draw the line for a starting point. Then discuss stepping it up. Keith said you can have as many town input as you want so you can invite the public to after the joint meeting. This is first blush, look at the 660. Ritter would just go to the 660. Ryan said what may happen is that there would be unusable lots. Wilbur said he is sensitive to the south side of Malabar Road. The last 20 years, no one wanted any higher density higher than 1.5. Don't draw an arbitrary line. Change it when you get to the residences and follow the property lines. Krieger thinks that would be spot zoning. Ritter said just west of Eva Lane, if you move it to the property line which would be about 500 feet. That line that steps up. Wilbur said you will run into another one on Alexander, they are 5 acre parcels. That is just east of . They split the ten acres at 660 to create the 5 acres. Wilbur said page with Corey Road and Sandy Creek, the 660 would work. It is only the parcels that come off of Sandy Creek Lane. The natural line is at the 660. Keith said a couple of properties may be affected even with the 660. Wilbur said to protect the existing homes. You need to draw the line and have a couple of lines. Krieger said put it in the newsletter. You can invite those property owners in and discuss it with them and then step it up then. Council may want to step it at the joint meeting. Keith also likes to protect existing residences. Krieger said if we don't just use the straight line, then perhaps we should not change anything. Krieger said perhaps we should use spot lu. Keith said it would not be spot land using. Wilbur said it is not spot designating. We are designing a corridor. Krieger said then you are designing a corridor will have some residences. Wilbur said we are talking RLC . Keith said we should agree that 660 is a good line and then discuss with council the other areas, Wilbur said we should work around a group of homes. Krieger gave example of people who came in to ask for a gym north of their home. Krieger said take the 660 line directly to Marie Street. It is the perfect transition. Ritter likes the 660. Wilbur said take it to Krieger's alce. He does not want to see commercial on Glatter. Krieger said he is considering a straight line along Glatter. They discussed the structures along Malabar Road. Keep the distance at 660' all along Malabar Road.

Chair opens to the public.

Lynn Hansel, live in Titusville, representing the owners of property east of Weber and south of Malabar Road. The people he represents, own 1265 deep and 800 along Malabar Road. He will leave this aerial with Franklin and said if you are going to step line up and down, please keep them in mind. His property is east of Weber Woods. He wanted to introduce himself. It is all vacant. Wilbur said it is large enough to consider a greater depth. Krieger asked what the process is. Wilbur likes to see uniformity on the larger parcels. It will give the town an opportunity to develop. It is 24 acres, has sanctuary across from it. Then when we can decrease it in the areas that have residences. Thinks we can group our higher intensity uses in areas that won't impact our residential land uses. Krieger – do you want something in a linear line or do the checkered board. The easiest thing is to make a generalized line. Between the two parcels, the town has preservation land. Ritter said it is land use. Wilbur said it makes more sense to allow the large pieces. Reilly said it is just discussion. Krieger said a joint meeting is premature. Krieger said if you want to do a checker board line, then go right straight across at the 1320 in regardless.

MOTION: Ritter / Krieger to go from west end of Town on south side of Malabar, to Eva at 1320 depth and then from Eva Lane east to the RR at 660. Now they need to discuss what land use.

They discussed OI and RLC. Krieger said it is high density. Reilly said it could be high density. Keith said the 6 per acre was meant to have a mixed use concept. If you are using RLC you are not looking at rural residential. Town didn't mind because it might be across from some commercial use. The nature of RLC was to allow mix use. Keith said the RLC was discussed a lot. Krieger asked for modification. OI for the 1320 and between Eva and Corey it would be RLC and then back to OI.

MOTION: Ritter / Krieger revised motion: only on south side, west boundary, 1320 as OI deep to west side of day care. As 660 as OI. Then back to 1320 as OI to Weber Road, then to 660 across Weber Woods as RLC, and then go back to 1320 to Waring Lane as OI, then back to 660 as RLC to Gilmore, then change to 1320 as OI to Howell Lane ROW line (Glatter).

That would proved RLC bounded by OI. Ritter wants a map showing this for next meeting.

VOTE: All Ayes.

MOTION: Ritter / Krieger to have Council review this work and decide if they want to wait on the workshop until they have the north side of Malabar Road and Babcock.

Discussion. Wilbur wants to have another meeting on Wednesday so we would be ready on the 12th. The next joint meeting would be the first meeting in September.

Vote: All Ayes.

PUBLIC:

H. OLD BUSINESS/NEW BUSINESS:

I. ADJOURN:

There being no further business to discuss, **MOTION: Reilly / Ryan to adjourn this meeting.**

Vote: All Ayes. The meeting adjourned at 10:20 P.M.

BY:

Bob Wilbur, Chair

Denine Fusco-Scarbro, Secretary

Date Approved

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: August 22, 2009

Prepared By: Denine Fusco-Scarbro, Planning and Zoning Board Secretary

SUBJECT: Review Land Use Along Malabar Road

BACKGROUND/HISTORY:

At the last P & Z Meeting on July 22, 2009 the depth of the land use was discussed starting at the western end of Town along Malabar Road and working our way east towards Glatter Road.

It was recommended by the P & Z Board that different depth footage ranging from 660 feet to 1320 feet be considered. You will continue this discussion and recommend the depth the land use all the way to US Highway 1 along Malabar Road.

Please bring your July 22, 2009 Meeting package to this Meeting.

ATTACHMENTS:

(4) Aerial photos attached
Portion of DRAFT Minutes from RTCM 08/03/09

PORTION OF DRAFT RTCM OF AUGUST 3, 2009:

J. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING

2. Recommendation from Planning & Zoning Board Regarding Joint Meeting on Land Use Planning

Exhibit: Agenda Report No. 2

Recommendation: Action

Discussion: Mayor was at the meeting when this was discussed. What they really want to do is make some specific recommendations before the second meeting. They have decided what to do on the south side of the road. Do you want to go with it tonight or save it for the joint meeting? BWF stated that P&Z is recommending the meeting of the 12th be postponed until the first meeting in September. Perhaps the budget hearing won't take too long, it could be done after that. McKnight feels that P&Z should have this for a while and give them the opportunity to do what they need. At the next joint meeting, all information should be available for review and discussion. Vail stated that Council needs time to review the information. McKnight said he likes what they have done so far. Mayor asked that staff give the message to P&Z of the fine job they are doing and to please continue.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: August 22, 2009

Prepared By: Denine Fusco-Scarbro, Planning and Zoning Board Secretary

SUBJECT: Review Land Use Along Babcock Street

BACKGROUND/HISTORY:

Discussion and Recommendation for possible Land Use changes for the Malabar side of Babcock Street.

ATTACHMENTS:

(4) Aerial photos attached