

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: October 28, 2015

Prepared By: Denine M. Sherear, Planning and Zoning Board 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 September 9, 2015

Draft minutes of P&Z Board Meeting of September 23, 2015(not ready yet)

ACTION OPTIONS:

Secretary requests approval of the minutes.

"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
SEPTEMBER 9, 2015 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 Pat Reilly.

B. ROLL CALL:

CHAIR:	PAT REILLY
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	WAYNE ABARE
	GEORGE FOSTER
ALTERNATE:	DOUG DIAL
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:

- 1. Approval of Minutes** Planning and Zoning Meeting – 8/26/15
Exhibit: Agenda Report No. 1
Recommendation: Request Approval

Not ready yet

E. PUBLIC HEARING: none

F. ACTION:

- 2. Vacate ROW on Johnston Avenue, East of Jennie Street-(Applicant Alisha Gline) - Council Tabled and sent back to PZ for Recommendation**
Exhibit: Agenda Report No. 2
Recommendation: Request Approval

Reilly requested a Motion to Un-Table this Item from previous meeting.

Motion: Ritter/ Ryan TO Un-Table the Request to Vacate ROW on Johnston Avenue- East of Jennie Street. All Vote , Ayes

Reilly explained that PZ tabled this item, then it went to Town Council and Council tabled this and sent it back to PZ Board for further explanation. Sherear explained that there was a PowerPoint shown at Council provided by Applicant Alisha Cline and it is available for PZ Board to view.

Applicant Alisha Cline, 2585 Johnston Ave. Malabar explained slides on PowerPoint which was on overhead projection showing right-of-way area from east & west on Johnston Ave.

Reilly asked if there are any questions from the Board Members:

Foster said Applicant Alisha Cline did good job of presentation from before and now, and there was a clear view of that area being the right away on Johnson Avenue.

Board Members and Alisha Cline discussed area surrounding her house and adjacent locations of residents using overhead projection pictures.

Reilly called up Randy Carmichael, speaker card submitted

Randy Carmichael 609 Aldon Place Melbourne Beach, he owns property near right of way to the east, just north of Johnson Avenue. Carmichael explained that this petition to vacate right-of-way would eliminate him to have the access that is plated he currently accesses his property from the Railroad Avenue right away and the Johnson venue right away along the southern boundary of this property seems clear to him that loss of access to his property is loss of value on his piece of property. He is not asking to accept this without the Board's recommendation against the petition; he saw no benefit to the town for them to approve such petition, and sees adverse impact on his property and other residents in the area with the same concerns about this action.

Carmichael respectfully requested that the PZ Board recommend to Council that this petition not be approved due to the adverse consequence and the objections of other property owners.

Foster asked Mr. Carmichael if he accessed his property from the west side of Johnson avenue Carmichael responded that he accessed his property by foot through the unimproved right of way in it front of Ms. Cline's residents. Foster asked if Mr. Carmichael had any specific plans at this time to access through Johnson Avenue and Mr. Carmichael responded not at this time. Mr. Carmichael stated it's what he is losing, but what he might potentially do in the future.

The Board and Mr. Carmichael discussed the width of the road of Johnson Avenue.

Kim Alford 2545 Johnson Avenue Malabar, he lives adjacent to applicant Alisha Cline.

Mr. Alford had a survey done of Johnson Avenue; Mr. Alford explained the improved road footage. Mr. Alford feels his property would be devalued if this vacate was approved. Abare asked why Mr. Alford would care about vacate, he understands Mr. Carmichaels concerns. Mr. Alford's concerns are the flow of traffic in front of his house and Jennie Avenue.

Reilly turned over to Board for discussion

Foster said he clearly understands the dynamics of the vacate concerns. I understand Mr. Carmichael's concern for losing half of his access to his property. It is clear to Foster that vacating

this is premature and he understands the applicant bought the property on the north side of the road and want to join the properties, his suggestion is to amend their application an ask the town if they can fence across Johnston Avenue right-of-way until some later date to relieve the traffic flow. Mr. Foster at this time would not support vacating Johnson Avenue right-of-way request.

Reilly explains that applicant cannot amend their application; their application is to vacate the right away. Abare explained he talked to Town staff and the idea of putting a fence across is a violation of the ordinance.

Abare explained after hearing all the concerns from residents to not approve the vacate. If the

Ryan said this creates two dead end roads; the Town loses the right away to maintain drainage etc. He does not see a sufficient reason that this vacate request get approved. In addition Railroad Avenue is not an accepted road.

Ritter said she does not like giving up right of way, and it cuts the potential of the through street going through for access, not in favor for giving up right of way.

Motion: Abare/Ritter To Deny the approval of the requested Vacate of Johnson Avenue Right of Way. All Vote: in favor to deny the request for the vacate. All Ayes 5 to 0 to Deny request.

G. DISCUSSION:

3. **Continue Discussion to Amending Assisted Living Facilities (ALF) Ordinance 2014-01 ref: to Office/Institutional (OI) Zoning.**
Exhibit: Agenda Report No. 3
Recommendation: Discussion

Reilly pointed out that the definition of assisted living facility came from Florida Statutes Title XXX (30) Chapter 400.

The Board discussed the assisted living definition and between Council and PZ Board it was a directive from Council that there be no assisted living in the "OI" -Office Institutional zoning.

Ritter said the Board needs to make sure there are no references to assisted living in the "OI" zoning. Reilly explained in the Assisted Living Ord. 2014-01 under Part I Long Term Facility definition & Table 1-3.2 of the Malabar Land Development Code under "OI" & "INS" we have to create a new Ordinance to change and make the corrections.

Reilly pointed out that there are two distinctive type facilities: "Public Health Facilities" & "Social Welfare" and assisted living was put in both Facilities and Malabar just wanted assisted living in the "Social Welfare".

Ritter explained Title XXIX is Public Health Facilities and Title XXX is the Social Welfare that is where things were the Board split the two apart as far as allowing assisted living. Reilly explained that the Board only suggested part of the Florida Statues as shown in Ord. 2014-01.

Reilly suggested verbiage on defining Part I Long Term Care Facilities. Ritter and other Board Members are in agreeance to remove the "C" for Conditional Use in the "OI" zoning and to not allow people to live in "OI". The consensus of the Board is in agreement with removing "C" from "OI" for Nursing Home & Related Health Care Facility.

The Board discussed extensively the difference between assisted living facilities and nursing homes.

Ryan/Ritter added that all documents should agree and say that no assisted living (no residential) in "OI" zoning as directed by Council.

Reilly suggested that Board is all in agreeance to make a Recommendation to Council to remove "C" in "OI" zoning in Nursing Homes and Related Health Care Facilities.

The Board continued discussion on Part I, II, and V from the Florida Statutes to clarify Ordinance 2014-01.

Board for next Meeting:

- Review this verbiage in Ordinance 2014-01 and bring back to next meeting
- Ritter/Reilly to bring back comments for next meeting

4. Discussion: The 500 ft. Radius notification for Public Hearings
Exhibit: Agenda Report No. 4
Recommendation: Discussion

Reilly/Board reviewed information from other Towns in the area about notifications for radius package for "Public Hearings".

Reilly said to do an example of a house in RR-65 zoning vs Country Cove which is RS-21 zoning to see how many houses in each that would be notified.

Ryan suggested notifying enough people in any area that are directly affected by "Public Hearing". Ritter suggested it depends what the project is and how it will affect general area.

Foster added it makes sense to determine if 500 ft. radius is enough notification for the project.

The Board discussed the radius from a project for Public hearings. Abare said 500 ft. will depend on noise and smell.

Foster suggested 1,000 ft. notification radius if dealing with an area of one acre or plus.

Ryan/Ritter said it depends what the project is as to what the footage of what the radius should be to notify property owners.

Reilly pointed out this 500 ft. radius is for Board of Adjustments (BOA). Ritter said it was done for other things too.

Abare said it is not that we have to increase the radius, the fact is we have to have it apply to more than the just the BOA.

Reilly suggested that there are two issues:

#1 to fix the Code and add radius notification for Public Hearings and zoning matters, and other things besides the BOA.

Ryan said that there is not really anything in the Code that specifies signage and visibility. Abare said that letters are mailed out ahead of time.

#2 to change the radius diameter.

Foster said this radius should apply to more of the Code.

Abare/Reilly/ Board discussed what should determine the radius notification. The Board made a list below:

Trip larger Radius:

- Anything that effects large scale of people
- ROW
- Roads
- Water
- Drainage
- Conditional Uses
- Site Plans
- Septic
- Abandonment of ROW
- Commercial

Next Meeting discuss list for Radius & footage, and location in Code.

- 5. Discussion: Article III- District Provisions Table 1-3.2 Land Use by District Community Facilities- Reference to Churches & "Conditional Uses"**
Exhibit: Agenda Report No. 5
Recommendation: Discussion

Next meeting

H. ADDITIONAL ITEMS FOR FUTURE MEETING

Foster said in the past Denine transcribed minute's almost verbatim discussions, and now hardly anything is in the minutes. Foster said that hardly anything he says is in the minutes. Foster said that the minutes are not covering the majority of the things discussed. He would like to go back to add more of the discussion verbiage in the minutes.

Ritter said that Denine just gives the flavor of discussion. Foster said it is not enough. Ryan said that Foster can get a copy of the audio of the meetings, and the minutes are just a guide line not an accurate representation.

Foster does not think the minutes that he is getting is not sufficient to cover the majority of the things discussed.

Reilly said we are getting minutes that cover the high points and he told Foster to go look at minutes from 1972 it is a one page document.

Foster added he appreciates what Denine is doing on the minutes.

Ritter said if there is something important that was missed, when the minutes are approved that would be the time to add or review audio.

Consensus from the Board on PZ Minutes:

Dial no issues, always ways to improve- but maybe add bullet high points

Ryan, ok

Reilly, ok

Abare, paragraph to summarize issues

I. PUBLIC

Juliana Hirsch 1035 Malabar Road

#1 The 500 ft. Radius it is not necessary to extend the 500 ft. it is plenty for everyone it is standard. It is enough for 10 acres lots she has built in several cities. Nobody needs to be notified if they build whatever is allowed in that zoning unless it is non-conforming or conditional use.

#2 I think for Denine to make up a synopsis, then it becomes her opinion. There is an audio CD available.

#3 Public Hearing are always advertised

J. OLD BUSINESS/NEW BUSINESS:

Old Business:

Sherear told Board that about 10 days ago she had received a call from Gary Parish who is affiliated with Mr. Paladin asked for copy of ALF Ordinance and they are still working forward and delay is one of financial backers is ill but wants to see project get started, the financing is still available.

Sherear also told Board that the Malabar Local Market, commercial project was put on hold at this time, the permit was already issued and now the property owners are looking into building a residence.

New Business: none

Ryan said that there was a case that went to BOA, and it should have gone to PZ. Reilly explained about if a "Public Hearing" is Wednesday and a Council meeting is Monday it has to be advertised.

Sherear explained the last packet was advertised and Council cancelled the meeting for Monday and the advertising was already scheduled to run.

Reilly/Ryan said why the advertising can't be delayed to see if project is approved. Sherear asked what BOA he was referring to. Ryan said it was the one on Corey Road, a variance for setbacks.

.Abare asked if a variance comes before PZ. Sherear responded neither PZ nor Council, just BOA Board.

Reilly recommended to Ryan to go to Council and fill out a speaker card to discuss about advertising "Public Hearings". Abare suggested going to talk to staff.

The Board discussed advertising procedures for public hearings.

K. ADJOURN

There being no further business to discuss, MOTION: Abare/Ryan to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:38 P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

Date Approved: as corrected

DRAFT

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: October 28, 2015

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Discuss Amending Assisted Living Facility (ALF) Ordinance 2014- 01 in ref: to Office Institutional (OI) Zoning.

BACKGROUND/HISTORY:

The PZ reviewed this Ordinance at the last few PZ Meetings. The PZ Board suggested revising the Part I "Long –Term Care Facility" paragraph in accordance with the Florida Statutes Title XXX, for clarification.

Board Members will review and bring back suggestions to this meeting.

ATTACHMENTS:

PLEASE BRING BOARD MEMBER LIZ RITTER'S HANDOUTS FROM LAST MEETING (BRIGHT COLORED PAPER)

ACTION OPTIONS:

Discussion

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: October 28, 2015

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Discuss 500 ft. Radius notification for Public Hearings

BACKGROUND/HISTORY:

The PZ Board would like to discuss the radius notification for Public Hearings to see if the radius area needs to be extended more than 500 feet for each specific subject area for "Public Hearings". The Board made a list at the last PZ Meeting to work on radius distances and where they could be placed in the Code Book.

I have provided a work sheet for this meeting that the Board can use to make suggestions.

ATTACHMENTS:

- Work Sheet for Radius Notifications

ACTION OPTIONS:

Discussion

Work Sheet for Agenda Item # 3

Radius Notifications

#	SUBJECT	RADIUS FOOTAGE	LOCATION IN CODE BOOK
1.	Site Plan Review		
2.	Commercial Site Plan Review		
3.	All Conditional Uses		
4.	Public Utilities		
5.	Abandonment of ROW		
6.	BOA for Variances		
7.	Land Use Changes & Rezoning		
8.	Abandonment of Improved & Unimproved of existing ROW		
9.			
10.			
11.			
12.			
13.			
14.			

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: October 28, 2015

Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Article III- District Provisions Table 1-3.2 Land Use by District Community Facilities- Reference to Churches & "Conditional Uses"

BACKGROUND/HISTORY:

The Board discussed Table 1-3.2 at the last PZ Meeting, they would like to review this Table and make suggestions to revise the "C's" which represents Conditional Use that are listed under the Community Facilities in reference to Churches in the Town of Malabar.

It is the suggestion of the Board to remove the "C's" In residential zoning districts. There were corrections made on Table 1-3.2 Land Use by Districts under "Community Facilities", "OI" zoning to made larger #1's not small #1's per footnotes. This is noted on attached Table 1-3.2.

ATTACHMENTS:

- Table 1-3.2 Land Use by District

ACTION OPTIONS:

Discussion

DISTRICT PROVISIONS

§ 1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P								
Mobile Homes							P				P			
Multiple Family Dwelling					P	P								
Single Family Dwellings	P	P	P	P	P	P	P							
COMMUNITY FACILITIES														
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C	C					
Churches, Synagogues and Other Places of Worship	C	C	C	C	C	C		P, A, C	P	P	P		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P			P	
Educational Institutions								P, C, A	P	P				
Golf Course Facilities	C													
Hospital and other Licensed Fa- cilities								C						
Nursing Homes and Related Health Care Facilities					C	C		C	C					
Protective Services					C	C		C	C	C	C	C	C	C
Public Parks and Recreation	C	C	C	C	C	C		C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C		C	C	C	C	C	C	C
COMMUNITY RESIDENTIAL HOME														
Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C								C
ASSISTED CARE COMMUNITIES														
I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴							C	
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								
Level 3 (16 or more residents/ beds)					C ⁴	C ⁴								
II Adult Family-Care Homes (1 to 5 residents/beds)	C ³	C	C	C	C	C		C	C	C	C	C	C	C
III Adult Day Care Centers					C	C		C					C	C
AGRICULTURAL ACTIVITIES														

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities														
Bars and Lounges										C				
Bed and Breakfast										C				
Business and Professional Offices											P ¹			
Enclosed Commercial Amusement								P	P	P	P	P	P	
Arcade Amusement Center/ Electronic Gaming Establishment										P				
Funeral Homes									P	P	C			
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities									P	P	P			
Marine Commercial Activities										C*				
Medical Services								P	P	P	P			
Mini Warehouse/Storage									C	P		P		
Parking Lots and Facilities								P	P	P	P		P	
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales										P				
Trades and Skilled Services										C*		C*		
Veterinary Medical Services										C*		P		
Vehicular Sales and Services								P	P	P	C	P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		
INDUSTRIAL ACTIVITIES														
Kennels												C		
Manufacturing Activities												P		

DISTRICT PROVISIONS

§ 1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Manufacturing Service Establishments														
Vehicle and Other Mechanical Repair and Services												P		
Warehouse, Storage and Distribution Activities										C*		P		
WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES														
Noncommercial piers, boat slips, and docks														C

- C = Conditional Use
- P = Permitted Uses
- A = Accessory Use
- * = These uses are permitted only on sites abutting Babcock Street, US 1, and West Railroad Avenue.
- 1 = Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.
- 1. Any Bed and Breakfast which is proposed to have more than five (5) living quarters shall only be approved as a conditional use in accordance with Article VI of the Land Development Regulations.
- 2. Any Arcade Amusement Center and Electronic Gaming Establishment as defined herein shall only be approved as a conditional use in accordance with Article VI of the Malabar Land Development Code.
- 3. Allowed in RR-65, (1 to 2 residents/beds) as defined in FS Title XXX Chapters 419 & 429
- 4. ALF Factor of "3" (see section 1-2.6.B.13.B, Part I) only applies to RM-4 & RM-6 for ALF's (Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14)