

**TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY JANUARY 13, 2016
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 – 12/09/2015
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Request Approval

- E. PUBLIC HEARING: none**
- F. ACTION:**
- G. DISCUSSION:**

- 2. Continue Discussion: The 500 ft. Radius notification for Public Hearings**
 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Discussion

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

- H. ADDITIONAL ITEMS FOR FUTURE MEETING**
- I. PUBLIC:**
- J. OLD BUSINESS/NEW BUSINESS:**
- K. ADJOURN**

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.
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: JANUARY 13, 2016

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 December 9, 2015

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
December 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 Vice Chair Pat Reilly.

B. ROLL CALL:

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

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

Reilly added a "Discussion" #5 Future Land Uses & R/LC the purpose for this discussion is that a representative from PZ will need to attend the Council Meeting for a Workshop they will have to discuss these items. All Vote: Aye

D. CONSENT AGENDA:

- 1. Approval of Minutes** Planning and Zoning Meeting – 11/19/2015
Planning and Zoning Meeting – 09/23/2015
Exhibit: Agenda Report No. 1
Recommendation: Request Approval

Motion: Ritter/Ryan: To Recommend Approval Minutes of 09/23/15 as presented All Vote: Aye

Motion: Ritter/Ryan: To Recommend Approval Minutes of 11/19/15 as corrected All Vote: Aye

Ritter Corrections:

Page 18/95 1st parag under "G" Discussion 2nd & 4th line non should be not, 3rd parag 1st line after become non should be not

Page 18/95 2nd parag from the bottom, 1st line after non delete for

Reilly Corrections:

Page 17/95 change Vice Chair to Chair Pat Reilly & signature on page 21/95 should be Chair

- E. PUBLIC HEARING: none
 F. ACTION:

2. **Recommendation to Council: Amending Assisted Living Facilities (ALF) Ordinance 2014-01 ref: to Office/Institutional (OI) Zoning.**
Exhibit: Agenda Report No. 2
Recommendation: Action

Reilly said to go through this "Action" Item for Discussion to clarify question to the attorney, in reference to nonprofit & not for profit.

Ritter would like to also ask attorney about adding service fees like for example:

- road service fees if they are going be a resident

There should be some way they contribute to the expense of the Town. Abare discussed about the county getting taxes and then giving the portion of taxes to the Town.

Ritter suggested if there is any way to get a special assessment from the ALF Residents, as they are a resident of the town using our services. If the business is a nonprofit or not for profit, the resident's still pay the ALF facility and don't pay taxes

Question for the Attorney:

Can the Town require a nonprofit or not for profit in ALF's and be excluded from our tax base, can we (the Town) include a statement in the Ordinance for the ALF i.e. for profit ALF only. How can this be enforced? Can the ALF change after it has been in business awhile to a nonprofit?

Foster asked the Board about his wife coming to a meeting to talk about ALF; she has had 20 + years' experience. The concern was home care ALF's 5 residents or less. Foster said she (his wife) can come in next meeting.

Reilly said on page 35/95 all agreed to change Part 1 Long Term Care Facilities

Board discussed that all changes are accepted, the Board is waiting to hear from attorney about "nonprofit" & "not for profit" to see if changes can be added in reference to a special assessment for services that the Town provides to ALF residents.

No Action back to Discussion

3. **Recommendation to Council: Amending Article III- District Provisions Table 1-3.2 Land Use by District Community Facilities- Reference to Churches & "Conditional Uses"**
Exhibit: Agenda Report No. 3
Recommendation: Action

Motion: Abare/Foster: Recommendation to Council Amending Article III- District Provisions Table 1-3.2 Land Use by District to remove the Condition Uses "C" out of the following Residential Zoning Districts RR-65, RS-21, RS-15, RS-10, RM-4, and RM-6, All Vote; Aye Motion Carried: 4 to 0

Send to Council

- G. DISCUSSION:

4. Continue Discussion: The 500 ft. Radius notification for Public Hearings

Exhibit: Agenda Report No. 4
Recommendation: Discussion

Reilly & Board discussed suggested locations for Radius Notifications for different subject matters and locations in Code Book (Articles)

Chapter 2

Reilly, page 49/95 discussed Board of Adjustment location for Radius Notifications. Reilly suggested adding the verbiage into Art VI page 54, 55/95 is Conditional Uses. The Board discussed location of Radius Notification.

The Board discussed putting as an individual "D" on page 60/95

Article VI- Conditional Uses

D. Procedures for Radius Notification (suggestion is noted on page 49/95 (PZ Packet (6) a 4th -8th sentence & 6(b) 7TH & 8TH sentence)

Article VII- All Site Plan Review

Page 63/95 - locate under #3 *Reviews by Town Staff and Planning and Zoning Board*. 4th sentence down after evaluation.... Insert Radius verbiage

Article XII

Reilly explained that Radius may not need to be in this Article it is already in the legal Board of Adjustment section of Code Book page 75/95 #8 (5th sentence) the suggestion was to increase the footage of radius notification

*note the 200 feet should be 500 feet notification that needs to be corrected or if the footage changes to increase.

Ritter/Foster discussed the increase in radius notification for Board of Adjustments & Public utilities

Ritter suggested when it comes to abandonment of anything it should be 1,000 feet radius notification.

The Board discussed placing Radius Notification "Table" that PZ created into Code Book and Reilly explained that you still need to add verbiage into different sections of the Code.

Suggested homework:

- Abare said for next Meeting decide where to put the verbiage for Radius Notification
- Action to come up with 2 or 3 sentence (Reilly)
- Locate where Land Use Changes & Rezoning and Abandonment of Improved & Unimproved of existing ROW & Public Utilities

5. Discussion: Future Land Uses & R/LC the purpose for this discussion is that a representative from PZ will need to attend the Council Meeting for a Workshop they will have to discuss these items.

Exhibit: Agenda Report No. 5 (none)
Recommendation: Discussion

Reilly reported to the PZ Board the presentation for R/LC and Future Land Use Maps (FLUM) that took place at the RTCM Meeting on 12/7/15 Reilly said he explained to Council the overview of the Town.

Reilly said that Council wants to do a workshop with one person from PZ Board in attendance to go over the R/LC presentation.

Foster asked what was the over view of the Council? Reilly replied that CM Korn said about not bring Commercial below Booth Lane & Lett Lane.

The Board discussed the area known as "Foundation Blvd Project" off Babcock Street by Knights of Columbus, Commercial Limited/ Industrial area.

The consensus of the PZ Board nominated Pat Reilly to attend a workshop with Council to discuss R/LC.

H. ADDITIONAL ITEMS FOR FUTURE MEETING

- Foster discussed packet 10/28/15 the Tables page 14 & 15 /16 in the R/LC Column like to consider more freedom for homeowner's things that are typical on major arteries (Table 1-3.2)

I. PUBLIC: none

J. OLD BUSINESS/NEW BUSINESS:

Old Business: none

New Business:

Sherear told Board about a BOA Meeting for a Variance next Tuesday @ 6PM in Country Cove.

K. ADJOURN

There being no further business to discuss, MOTION: Ritter /Abare to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:20 P.M.

BY:

Patrick Reilly, Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: January 13, 2016

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

SUBJECT: Discuss 500 ft. Radius notification for Public Hearings

BACKGROUND/HISTORY:

The PZ Board discussed at the last Meeting on 12/9/2016 the locations of where to insert radius notification for Public Hearings and to see if the radius areas need to be extended more than 500 feet for each specific subject area for "Public Hearings".

The PZ Board is working on the verbiage to insert into Code Book in the different Articles that pertain to Public Hearings.

The homework from 12/9/16 was the following:

- Reilly was going to come up with verbiage (2 or 3 sentences) for each area in the town Code Book
- PZ Board was going to work on this as well, and suggest the locations of where to locate in Code Book the following:
 - Land Use Changes & Rezoning
 - Abandonment of Improved & Unimproved of existing ROW
 - Public Utilities

ATTACHMENTS:

- Suggestions submitted by Pat Reilly (1/13/16)
- **PLEASE BRING AGENDA PACKET FROM 12/9/16 PZ MEETING**

ACTION OPTIONS:

Discussion

AGENDA ITEM #2

SUBMITTED BY PAT REILLY, CHAIR OF PZ (2 pages)

1/13/2016

500 ft Radius Paragraph

This is my suggested paragraph to add to the Town's Ordinances for the 500 ft radius notification.

"The applicant must submit a radius package produced by Brevard County listing all of the properties within five hundred (500) feet of the property involved in the application. The Building department will send a letter to all of the listed properties notifying them of the applicant's intentions."

Note: Add this paragraph to the following Article's in the Town's Ordinances in the following locations.

Article VI – Conditional Uses

Section 1-6.1

- A. Purpose and Intent
- B. Specific Criteria Regulating Conditional Uses
- C. Review Procedures
- D. Notification. The applicant must submit a radius package produced by Brevard County listing all of the properties within five hundred (500) feet of the property involved in the application. The Building department will send a letter to all of the listed properties notifying them of the applicant's intentions.

Article VII – Site Plan Review

- A. General Site Plan Review
 - 1. Filling
 - 2. Application

3. Review by Town Staff and Planning and Zoning Board. The application shall be forwarded to the Building Official or Town Engineer and such other staff as may be pertinent. The Town shall proceed to make appropriate studies and/or reviews required to make an appropriate evaluation. The applicant must submit a radius package produced by Brevard County listing all of the properties within five hundred (500) feet of the property involved in the application. The Building department will send a letter to all of the listed properties notifying them of the applicant's intentions. The application with evaluative comment shall then be forwarded to the Town Planning and Zoning Board for their consideration and action. The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, so as to prevent inconvenience and delay to the project.

After reviewing a site plan and staff recommendations, the Planning and Zoning Board shall recommend approval or disapproval. The Planning and Zoning Board shall provide written comments documenting any conditions of approval. If site plan is recommended for disapproval, the Planning and Zoning Board shall specify in writing the reasons for recommending denial. All recommendations from the Planning Board together with the written record shall be forwarded to the Town Council for final action.

4. Action by Town Council

Pat Reilly
Malabar Planning and Zoning Chairman

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: January 13, 2016

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

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

BACKGROUND/HISTORY:

This Assisted Living Facility (ALF) Ordinance 2014-01 came up as a discussion item during a PZ Meeting; it was under the original recommendation of Council to not allow ALF Facilities in the "OI" Zoning. The amendment to this Ordinance is to correct & clarify this recommendation.

The PZ has reviewed this Ordinance at the last few PZ Meetings and has some questions for the Attorney referencing "nonprofit" and "not for profit".

Portion of Draft Minutes 12/9/15:

Reilly said to go through this "Action" Item for Discussion to clarify question to the attorney, in reference to nonprofit & not for profit.

Ritter would like to also ask attorney about adding service fees like for example:

- *road service fees if they are going be a resident*

There should be some way they contribute to the expense of the Town. Abare discussed about the county getting taxes and then giving the portion of taxes to the Town.

Ritter suggested if there is any way to get a special assessment from the ALF Residents, as they are a resident of the town using our services. If the business is a nonprofit or not for profit, the resident's still pay the ALF facility and don't pay taxes.

Question for the Attorney:

Can the Town require a nonprofit or not for profit in ALF's and be excluded from our tax base, can we (the Town) include a statement in the Ordinance for the ALF i.e. for profit ALF's only. How can this be enforced? Can the ALF change after it has been in business awhile to a nonprofit?

ATTACHMENTS:

- Will Provide response from Attorney on or before 1/13/16 of questions that PZ Board requested
- **PLEASE BRING AGENDA PACKET FROM 12/9/15 PZ MEETING**

ACTION OPTIONS:

Discussion