



**PLANNING AND ZONING ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY, MARCH 28, 2007  
7:30 PM  
MALABAR COUNCIL CHAMBER  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

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**AGENDA**

CALL TO ORDER

ROLL CALL OF MEMBERS

ADDITIONS AND DELETIONS:

MINUTES FROM JANUARY 24, 2007 ADVISORY BOARD MEETING:

PUBLIC

ACTION ITEMS:

1. REVIEW COMP PLAN GOALS FOR WORK ON EVALUATION AND APPRAISAL REPORT
2. ORDINANCE 2007-02 FLORIDA VERNACULAR RECOMENDATION

DISCUSSION/REVIEW:

1. PROPOSE CHANGE TO SUBDIVISION PLAT REVIEW TO REQUIRE PERIMETER FENCING TO BE SHOWN PLAN SUBMITTAL
2. REQUEST FOR ACCESSORY STRUCTURE LARGER THAN 1000sf – MR. AND MRS. REYES, 2445 CANDY LANE, MALABAR.

OLD BUSINESS/NEW BUSINESS:

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 & ZONING ADVISORY BOARD  
3/28/07 MEETING MINUTES**

**ROLL CALL:**

Bob Wilbur, Chair

Richard Cameron, excused

Patrick Reilly, V-Chair

Kathleen Clasen

Don Krieger

Bud Ryan, Alt. #1, voting for Cameron

Cindy Zindel, Alt. #2

Bill Stephenson, Interim T Admin, excused

Debby Franklin, Secretary

Keith Mills, Town Planner

Meeting called to order at 7:35PM. Prayer and Pledge led by Chair Bob Wilbur.

**ROLL CALL OF MEMBERS** – see above.

**ADDITIONS AND DELETIONS:** MOTION: Reilly / Krieger to move, for tonight only, “Discussion” before “Action” and move Discussion Item #2 to first, since they are here. No objection from Board. Vote: All aye.

**PUBLIC:**

**MINUTES FROM JANUARY 24, 2007 ADVISORY BOARD MEETING:**

**MOTION:** Reilly / Clasen to approve as presented. VOTE: all ayes

**DISCUSSION:**

**#2. REQUEST FOR ACCESSORY STRUCTURE LARGER THAN 1000sf – MR. AND MRS. REYES, 2445 CANDY LANE, MALABAR.** MOTION: Reilly/Krieger to approve structure. Zindel asked about access. Secretary explained access would be from driveway, around to the north to structure. Vote: All Ay

**#1. PROPOSE CHANGE TO SUBDIVISION PLAT REVIEW TO REQUIRE PERIMETER FENCING TO BE SHOWN PLAN SUBMITTAL**

Reilly opened with the issue he brought to Council and P&Z and he has pictures. Handout is provided to all members. Problem arose when he saw columns at Oakmont being built. They were 10 foot tall. First picture is a legal 54” fence in RR-65. He then went to Oakmont and measured the column. It is greatly more than 54”. The preliminary plat did not show any fencing. The final plat was not shown to P&Z. That has now been changed. This picture is right across from the gate. Then he showed the one across the street. Then he showed the one on the corner of Glatter and Marie Street. The dirt in the background has now been back filled and he contends that they should not be allowed to do this. He then showed Stillwater columns and they also exceed the 54”. What he handed out tonight is from the Code and the height restrictions. He does not how these will be resolved but he proposes P&Z recommend Malabar Council amend the Land Development Code, Article XVII, Required Improvements, adding an item “x” to specifically deal with

fences, columns, walls, gates, etc in subdivisions. Put it in Art XVII and add as a item " x " Required Improvements. To state a maximum height requirement for subdivision developments. Since final plat was approved by Council. Wilbur also explained the history of a fence on the berm discussion on what is existing grade. Wilbur recognized Zindel for a question. She said you can't build in wetlands. Clasen differs and says it is a legal question. Krieger wants to put something into the code. This plan should have been scrutinized more than a farm fence. He stated that Reilly has created two subjects. Wilbur stated that wetlands have been mitigated and existing grade could not meet requirements. You have to balance that out. Wilbur agreed that these details should be put into the plan that P&Z reviews. How can that be accomplished. Zindel did not see the preliminary plan, if this was a gated development, the fence should have been on the plan. If what is on the plan is different than what is actually put there, then that is the Building Official. The applicant said in words that there would be a split rail plan. Clasen can not find reference to columns in code. Reilly said that Council. Krieger said he is for not changing too much, but Reilly has found a violation and it should be reviewed by the zoning board. The subdivision plan . Clasen said the Stillwater S/D has been there for over a year. Discussion of fill and grade. Ryan said the columns get higher towards the gate. Krieger said that there should be another reference instead of existing grade. Perhaps the crown of the road. Wilbur asked Planner Keith Mills. Mills described the finished grade as the designed final grade and existing grade as the unfinished grade – he is not sure why that is in there as existing grade. He cautioned using a road height as a reference point and then you resurface the road the fence could be much shorted. Mills explained that P&Z reviews the plat what the developer proposes and at that time they don't typically include fences. Fences and how high you want it to go are reviewed and approved by building permit later. Typical section is usually shown on plans. If you want to include a review by this board and council then change the code where it references the engineered drawings, any changes would require a return to P&Z for review. You have to decide how you want the finished product to look. It is not appropriate at the plat time. They may acknowledge in the notes that they are designating a certain width for a fence easement among other things, but that is typically all that is shown on the plat. Review the fence – the required footers and Wilbur explained that undisturbed land. He doesn't have a problem with that but does have problem with the height. Mills stated the code states a required front yard and is typically described as a – the wording seems to indicate individual lots. Subdivision perimeter fencing could be addressed separately if you want to. The same thing could happen in commercial district. And if they abut a residential area you may want it higher. You may want to consider using a different reference point. Staff to work on Art XVII to address subdivision perimeter fencing, what to use for a reference point, and to see what other cities allow for column height. Meeting break at 8:25 and came back at 8:30.

**ACTION ITEMS:****1. REVIEW COMP PLAN GOALS FOR WORK ON EVALUATION AND APPRAISAL REPORT**

Wilbur directed the Board to a handout secretary had copied for them. It was minutes from the Council appointed Citizen's Committee for Long Range Planning back in 1980. He recommends all members read it. Wilbur then asked Planner Mills to address Board on this agenda item. Mills explained the EAR (Evaluation and Appraisal Report) has to do with the Town's Comprehensive Plan. The State Legislature has made many changes to the Smart Growth Act since it was first enacted. The DCA (Florida Department of Community Affairs) is the department charged with enforcing these laws. This Act required every city and county to create and adopt a comp plan. Then on some regular basis, you have to review the comp plan and make sure it still works for your community. That review process is called the Evaluation and Appraisal Report (EAR) and the DCA determines the schedule for those reviews. It used to be every five years, then seven years, then ten years, and towns with small populations were not required to do the review. That is a very broad overview. The current law requires every municipality and county to do a EAR with no exceptions for small populations. Malabar's due date is January 2008. Malabar must by that date submit a EAR that compares how well we have implemented the adopted Comp Plan and reports how well it is working. We must go through each of the elements and evaluate them and appraise how it is working or not working. In addition, DCA has different requirements and additional rules to require public input in this process. Mills explained that per Florida Statute, the Planning and Zoning Board is the "Local Planning Agency" for the Town and as such must act on and deal with Comp Plan issues. Your board will be greatly involved in the EAR process. Council may set some kind of process, such as possible joint meetings, separate citizen committee meetings possibly, but probably not since Malabar is small. Mills suggested taking each element one at a time. Reilly asked what the time period was – five and seven year period and DCA realized that wasn't working. Krieger asked how this was required. Mills explained we are State mandated to do the EAR. Secretary added that recent law change added the financial penalty - we will not get revenue sharing funds if we don't comply and submit on time. Due date is Jan 2008. We have option of sending a draft 90 days prior to the due date for DCA to review.

There are many steps involved with accomplishing this, but before it can begin we must know what we are working with. All members have a copy of the Goals, Objectives and Policies from 1988 – that is the document we start with. Mills stated that Council needs to have a copy. He also suggested that Franklin copy out the guidelines from DCA on how the EAR process works. Wilbur asked when Mills did West Melbourne's? Mills has done one in 1998. Zindel asked what the EAR was and Mills explained that the evaluation is the Town's Comp Plan and an appraisal of how it is working or not. Zindel said we need new goals, that we have accomplished all that were listed in that section. She thought if we update new goals then we can

apply for grants. Mills explained that DCA's function is not for banking – they are a division of the State and have specific requirements to oversee all municipalities growth plans in addition to their other functions. There may be funding in the form of grants to get assistance with doing the E.A.R.

Wilbur asked what to do first. Get copy of outline from Franklin before the end of the meeting. He would suggest starting with the Malabar Comp Plan's Goals, Objectives and Policies. Mills said we are in transition with no Town Administrator. This is something that the Administrator would typically deal with but without one in place and with no work having been done yet. Wilbur asked if Solin should be contacted or consulted since he wrote the first one. Mills was reluctant to respond. Franklin stated that the cost would require it to go to bid. Mills stated that some of the data and analysis work would require outside help. Wilbur asked if Mills would have the time to do the data and analysis. Mills stated it would probably be more than he can do. Much can be done by staff and some parts will require meetings with other agencies and neighboring communities. Krieger stated that some of the administrator candidates can't start for three months. Krieger discussed what to start with, a chapter, part of a chapter or several chapters. He felt the Board should allocate one hour from each meeting to work on this. He also stated that the P&Z Board should meet every time and should not cancel meetings. With all the recently cancelled meeting, this could have been discussed. We should have been doing this at every scheduled meeting and not cancelling meetings when there were no Action Items.

Reilly says there are nine chapters and that could be broken up. Wilbur suggested more meetings – maybe weekly. Wilbur asked at what point we may need a consultant. Mills thought it is probably something we need to look at pretty soon say within the next month. Krieger stated that we need to tell Council. Wilbur suggested contacting Solin. Zindel thought the current Comp Plan was not done well and we could do much better. Wilbur asked how much we paid for it? Franklin will try and find out. Zindel is from PA and they had a great Comp Plan.

Krieger said we should make a recommendation – send a message to Council. Wilbur said we should ask for a workshop with Council. Mills said he understands where Wilbur is coming from, but thought this should come from the interim Administrator as far as what needs to be done.

**MOTION:** Krieger/Reilly Recommend to Council in view of our nine (9) month time frame to review and revise our Comprehensive Land Use Plan, that Council decide on a schedule and a planning consultant to meet this limited timeframe.

Discussion. Board directed Franklin to give a copy of the Evaluation and Appraisal process guideline along with a copy of the Comp Plan and these minutes of the meeting. Get it on the next Council agenda. Zindel asked if Mills did West Melbourne's EAR? Yes. Reilly asked that it be noted in the minutes that Clasen left

the meeting early (8:50 P.M.) and that alternate member #2, Zindel, would be voting in her place. Krieger called for the Vote: All Ayes.

**ACTION ITEMS:**

#2. ORDINANCE 2007-02 FLORIDA VERNACULAR RECOMMENDATION. This agenda package contained the ordinance that was going to Council on April 2 for final reading, pictures on power point from Booth's earlier presentations, and a handout listing additional styles to consider in defining "Florida vernacular".

Reilly explained that this went to first reading and all five members of Council voted for it. At the Public Hearing it was sent back to P&Z. Krieger said that he spoke to Town Council and that is why it is back with P&Z. Ryan said he called Palm Bay and they have a "Palm Bay" vernacular. We should have a "Malabar vernacular".

Mills understood Ryan to say he doesn't want it all one style. He sees Sebastian and it has become pretty artificial. Ryan thinks we need a cohesive mix of style. Krieger said that the proposed ordinance is all wrong and we should start over. This is important and we should not limit ourselves to a narrow scope of this ordinance. He does not understand the need for the ordinance. Ryan was trying to find out what an architectural board does. Wilbur went through the handout secretary supplied. Malabar doesn't have any "theme" that is reflective. He thinks we should do a Florida fishing community – tin roof, front porch. Old existing homes along the river. Ryan mentioned commercial and if new structures will outlast old houses. Wilbur likes the buildings down by Bayside, and the Surveyor new office, the Oaks 10 shops on Hibiscus. This came out of the brainstorming we had for what can be done. He suggests that all members take pictures of designs they think appropriate and bring them back.

The pictures in the power point presentation are ones that Booth got for this ordinance. Krieger stated that they do not match the ordinance. Krieger pointed out that most of the pictures don't match and some are in clear opposition of the ordinance. The picture of the Mediterranean style building with tile roof is not even permitted in the proposed ordinance.

The ordinance mentions arterial roads – that may change; it says facing and should say fronting. The ordinance needs a major reworking. If you add these other styles you may be doing more damage. Wilbur suggests different styles for different zoning classifications.

MOTION: Krieger/ Reilly strongly recommend Council not adopt Ordinance 2007-02 creating a Florida Vernacular style at this time due to inconsistencies discovered in this proposed ordinance by this Board. The Board felt further research and refinement is needed and that passing the ordinance in its present state would be premature.

Discussion. This ordinance requires major revisions: the definition of Florida Vernacular is incorrect, additions, renovations or redevelopment must also meet these requirements, the ordinance is not enforceable. Wilbur referenced the handout and says the different styles are for different areas of Florida. Krieger disagrees. Wilbur would also like to look at other cities ordinances – from central Florida east coast communities to see what they consider Florida vernacular.

Wilbur said we will have expertise soon with the architect and possibly a planning consultant. We will be designing a gateway requirement. Our Charter states that Malabar will be rural residential community. The Planning and Zoning Board did not get a chance to review this ordinance after Booth first presented it. He would like that in the minutes.

VOTE: All Aye.

**OLD BUSINESS:**

**NEW BUSINESS:**

Wilbur got a invite to the ribbon cutting on Sat April 7, 2007 at 8:00AM at the north end of the concrete drive known as Malabar Woods Blvd. Free pancake breakfast from 8 to 9:30. There is a good Krieger asked about the fencing at the Butterfly Park. What is the intent? There is no defined boundaries. The disc park needs to be fenced. Who should he talk to? The Interim Administrator or Council? The property is owned by the State and managed by the Town. There is a management plan.

Kreiger

**ADJOURN:**

**MOTION: Reilly / Ryan** to adjourn. Vote: All Aye. Meeting adjourned at 10:30PM

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Debby Franklin, Secretary

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Bob Wilbur, Chairman

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Date approved