



**PLANNING AND ZONING ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY, September 26, 2007  
7:30 PM  
MALABAR COUNCIL CHAMBER  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

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**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 – 09/12/07  
Exhibit: Agenda Report No. 1  
Recommendation: Motion to approve
- E. PUBLIC:**
- F. ACTION**
  - 2. Recommend Town Council approval for Ordinance 2007-99 to provide for Doggie Dining at Malabar restaurants**
- G. DISCUSSION ITEMS**
  - 3. Discuss Issues for E.A.R. preparation**

**OLD BUSINESS/NEW BUSINESS:**  
**Florida Vernacular Ordinance**

**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

**9/26/07 MEETING MINUTES**

**ROLL CALL:**

Bob Wilbur, Chair

Richard Cameron

Patrick Reilly, V-Chair

Don Krieger

Bud Ryan

Cindy Zindel, Alt. #2, excused until October, 2007

Bill Stephenson, Town Eng, excused

Debby Franklin, Secretary

Keith Mills, Town Planner, excused

Bonnie Wilbanks-Free, Town Administrator (TA) also present.

Mayor Eschenberg also present.

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

**ROLL CALL OF MEMBERS** – see above.

**ADDITIONS AND DELETIONS:** Secretary asked to move discussion item – Evaluation and Appraisal before Action item because we have a presenter from Calvin-Giordano - no objection

**MINUTES FROM SEPTEMBER 12, 2007 ADVISORY BOARD MEETING:**

**MOTION:** Ryan / Krieger to approve minutes of September 12, 2007 with following corrections: Pg 3 2<sup>nd</sup> to last line put in bullet form –

Vote: All Aye.

**E. PUBLIC – other than on the agenda - none**

**Insert Discussion here -**

**G. DISCUSSION ITEMS**

**Comprehensive Plan for E.A.R. preparation for Scoping Meeting  
Calvin Giordano and Associates**

Ms. Lorraine Tappan, Senior Planner and Project Manager for the Malabar E.A.R. update that is due by January 1, 2008. She will be here Monday for Scoping Meeting and commends town for getting the signage – Recognized P&Z has an important role in this endeavor. She has read the minutes and reviewed their work on the Goals and Objectives. The Board has a good grasp of the reason and importance of the E.A.R.

Ms. Tappan presented a Power Point presentation and briefly provided an overview. She will be making a similar presentation on Monday before they open it up for input. The E.A.R. is report card on how well we are doing on following our Comp Plan. First is the report and then they have to incorporate the changes to State Statutes. Then Comp Plan is updated. This should be every ten years. Malabar has not done it since 1989. She reviewed the main elements that will be reviewed. The recreation and open space element is optional but most towns include it because it is a quality of life issue.

Ms. Tappan displayed the DCA's schedule of due dates for the E.A.R. for cities within Brevard. Many of Malabar's neighboring cities are also doing their EARs. County did theirs in 2006. They have been reviewing it. Invitations have gone out to agencies, state departments and other cities and we have received good responses. West Melbourne is sending a planner for Monday night. Floor will be opened for public input and list of major issues will be assembled. Ms. Tappan showed timeline for accomplishing various steps in process. From the input gathered at the Scoping meeting they will prepare the issues and send the letter to DCA and request the letter of understanding.

Purpose of Scoping meeting – chance to seek input from FDOT, FDCA, St. Johns, adjacent cities and other agencies we deal with - the process has been expanded to include the public. In general, Ms. Tappan has found in other cities the P&Z members don't attend the Scoping meeting and they really should. As the Land Planning Agency it is important for them to participate – she encouraged Board to attend.

Ryan asked what will be on the agenda for Monday? Ms. Tappan explained that she will show the same power point presentation and then ask three questions:

- What do you like about your community?
- What don't you like?
- What would you like to change in your Comp Plan.

Ryan asked about estimated attendance in other cities? Anywhere from 3 to 100 people. Cameron thought we would have a good turn out. "Scoping" is unusual name. She explained that the intent of the meeting is to review the Comp Plan a determine the "scope" of the update. She will leave powerpoint disk with us. TA will upload the presentation to the website. And provide a link on the website.

Ms. Tappan stated that citizens can send comments in by email. They will consider verbal and email ideas. TA is also going to ask the Florida Today reporter to attend and do an article on the meeting. It will be first on the agenda as a presentation. From the scoping meeting we will get the issues the town feels are important. She will act as facilitator.

Reilly asked Chairman how he will handle the public speakers. He will let expert handle it. She is for letting everyone speak. She then explained this is part one of a two step process. After EAR is found sufficient – we must go back in and make the changes. If we discover other changes should be made, we can add some more meetings and add more items. The Comp Plan can be changed by following the process.

Wilbur is concerned about space. TA explained if there is a large crowd the Town Council can reset another meeting and staff can change the signs, etc. Cameron said if we pack this house, he will be pleased.

There will be an article in the next Mailboat – looking at early November – wants to make sure the issues are correct. They will also have information on the new Fall Fest.

TA is looking at updating the website. The signs have caught the eye. Krieger said people have asked him also.

Wilbur said Florida Today will post agenda information in paper in local section and then do follow-up. We need to send agenda to them. TA advised Board Clerk Kabana has health

issues and this notification would come from her office. In her absence, the TA will begin this process.

Wilbur asked Ms. Tappan what Board could do? Tell neighbors to come out and participate on Monday. Krieger asked if it was advisable to have a prepared list available to citizens at the meeting. Ms. Tappan said some may find it restricting – she prefers to keep it open.

Wilbur stated we used to have aerials of the Town on the wall and it was very helpful to point to an area when it was being discussed. Building department has large section maps but they would be cumbersome. Ms. Tappan said she would bring maps and have a larger one for the easel. Land Use designation will be on map.

**F. ACTION** (Discussion of E.A.R. was held first without objection)  
**2. Recommend Town Council approval for Ordinance 2007-99 to provide for Doggie Dining at Malabar restaurants**

Reilly asked why we need this. Is the next thing going to be dining with cats and horses?

Chair recognized speaker card. Stuart Borton, owner of Yellow Dog Cafe, resides at 141 Riverview Drive, Malabar. He explained this is more common in other areas of the country and is very common in Europe. They would just like to have the legal ability to offer this. He has discussed this with the other restaurant owners in Town. The restaurant owners would maintain the liability - same as drunk customers and customers fighting in the restaurants. Ordinance spells out rules. They want to be able to compete. They as restaurant owners would weigh all these options and want to be able to do so if they determine it is a good idea. Melbourne Beach set it aside at this time.

TA said there is so much that has to be in place, and inspected. It is done in Orlando and Los Alos area (Ft. Lauderdale) – Insurance is a big factor. It is temporary right now for testing. And if it causes a problem, it can be revoked.

Wilbur does not have a problem. The restaurant would have to decide to do it. We would be the first in Brevard. Krieger thinks it is goofy – State has a pilot program – is for dogs only. It is only for 18 months so State can gather statistics. He doesn't think Malabar should be the first. He is also against fees by resolution – thinks they should be advertised for the public. He also thinks \$250.00 is too much.

Franklin explained the fee would cover the expenses to process and review the application and site plan and then perform the inspection. The Health Department would stay on top of this after Building Department approved it. TA explained the fee covers the regulatory costs and expenses. The burden should not go on the other citizens. She explained it is a one time application fee – not an annual fee. Franklin also stated that this is a Malabar resident and Malabar business person asking for this ordinance – she compared it to a similar request from another resident who asked this Board and Council to adopt an ordinance allowing bed and Breakfasts. Back to Board

Ryan – he has been around dogs for 60 years and owns dogs and horses and birds – however he sees disadvantages:

- When more than two dogs get together, the pack effect takes over
- If dogs are not allowed on beach, why allow them in the restaurant

- Who bears the liability – Not the town
- How do you control the melee?
- When you consider the restrictions – what is the real advantage?

He is not against animals.

Cameron said the State has approved this for a trial – we should support State. Wilbur thinks it is a great pilot program. We have a request from a resident and a business owner and should support that.

Reilly pointed out: page 4, #3 – delete the extra “d” before diagram  
 He also asked why permit could not be transferred. Franklin suggested it was because each new owner would need to apply and agree by signature to comply with restrictions – town liability. TA explained the use couldn’t be transferred.

**MOTION: Reilly / Krieger recommend Council approve Ordinance 2007-14.  
 Roll Call Vote: Krieger, Nay; Reilly, Aye; Wilbur, Aye; Cameron, Nay; Ryan, Nay; -**

This will be on Town Council agenda for their next meeting – Monday October 1, 2007.

**H. OLD BUSINESS/NEW BUSINESS:**

On subdivisions add a Section “X” – Reilly explained the need for the added section. Our Code on Fence heights does not specifically include subdivisions. Ryan said we need to add the method of measuring – point of reference. Franklin has it ready and will bring it back to board.

Ryan asked about Eva Lane fence height exception – Council denied it and applicant was sent letter explaining the options:

- Remove it
- Reduce height to 6’ and request exception
- Ask for a variance from BOA

Reilly stated we should also add definition and provide policy for gates and columns for an entrance – when not part of a fence or wall. Krieger added - Same goes for entrance to farms – also if gate is farther back from property line – also allow for decorative gates with curved tops. Wilbur said maybe we are too restrictive. Yes maybe. Krieger said we should require open spaces a bottom of fence for critters.

**I. ADJOURN:**

MOTION: Krieger / Ryan to adjourn. Vote: All Aye. Meeting adjourned at 9:45 PM

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 Debby Franklin, Secretary

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 Bob Wilbur, Chair

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 Date approved