

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING**  
**April 28, 2010 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 Bob Wilbur.

**B. ROLL CALL:**

CHAIR:	BOB WILBUR,
VICE-CHAIR:	PATRICK REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN
	LIZ RITTER, late
ALTERNATE:	CINDY ZINDEL
ALTERNATE:	BRIDGET PORTS
SECRETARY:	DENINE SHEREAR
TOWN PLANNER	KEITH MILLS, excused
TOWN ENGINEER	MORRIS SMITH, P.E. excused

Also present: Mayor Eschenberg

**C. ADDITIONS/DELETIONS/CHANGES:**

Krieger asks since there is not going to be a public hearing, can we switch open public to letter "E- Public Hearing " because if there is nothing, why keep people here. That would be my suggestion. Does that require a motion?

Wilbur replies, "I suppose"

Krieger, I move, we exchange "E" AND "H" in tonight's Agenda.

Motion: Krieger/ Reilly to exchange "E And "H" in tonight's Agenda. All Vote: Ayes

**D. CONSENT AGENDA -**

**1. Approval of Minute- Planning and Zoning Meeting- 03/24/10**

**Exhibit:** Agenda Report No. 1  
**Recommendation:** Action

Motion: Reilly / Krieger to Approve minutes for Minutes 03/24/2010. All Vote: Ayes.

Motion: Reilly / Krieger to Approve Correct minutes as noted and corrected below for Minutes 03/24/2010. All Vote: Ayes.

Krieger, corrections to the minutes of 03/24/2010:

- Page 2, second to last paragraph, last sentence dee change to do.
- Page 4, second to last paragraph above **ADJOURN**, last sentence "The Board asks what is the cost to the town, and who establishing this entity?" Should be, The Board asks what is the cost to the town, and who is establishing this entity?"

**E. PUBLIC HEARING: none**

**F. ACTION: none**

**G. DISCUSSION:**

- 2. Continued Discussion regarding R/LC, CL and Density in Malabar**  
**Exhibit:** Agenda Reports No. 2  
**Recommendation:** Discussion

Reilly asks if we have got any input from Council, Wilbur responds that the only written is from the Mayor and there was supposedly verbal, but I got no transcript of the verbal from Rivet. Denine explains the only written response is from the Mayor was in writing and the only other is a portion of the RTCM minutes, that was from Steve Rivet, and said everything is fine. Board discusses if no further response we move on and approve it all, no further action by this Board. They have had a month to give back a response.

Denine explains that in "Old Business" and put copies of Mayor's response and copy of a portion of minutes.

Krieger a portion of the density issue will be solved by the Table with percentages. There was a Table problem that was corrected over a year ago. Debby attached memo about Table to be corrected.

Wilbur expresses until the Table is corrected we really cannot go forward until we have correct data to go by.

The Board discusses the RL/C density for all across the Town of Malabar, not just US-1. Krieger discusses about density being in the middle of the road medium density. I think something should be corrected in the terminology to say would you can only have four (4) units living per acre. In density they are defining it as 8 units per acre; ideally it is suppose to be a small introductory area to the Town of Malabar.

Wilbur this whole thing came from a desire to do a gateway development plan for Malabar Road; and how we wanted that to look and function, changing this around and adding the zoning district goes a long way to doing that but it is not going to be the end all and give us the gateway development, this comes with design.

Krieger expresses you can talk about the future but no matter what we do as a board the determination of the road is by the DOT, because the road is the limiting factor. If you were going to increase the corridors, the guidelines to the future members of the Board, would be a continuing model of this is where we are and where we are going and where we have been.

Wilbur explains that the EAR was done so we could make changes prior to doing the EAR we could not make these changes, now we are allowed to make these changes.

Krieger adds the critical changes are the PUDS, and the EEL's areas and the areas we don't want to change, so it does not become a high density area.

Krieger states we have had the joint meeting, we have not received much comments are we suppose to now send this and say this is where we are.

Reilly states we might reconsider what we have classified as R/LC, if we change what R/LC means then we will re look at what we purposed.

Krieger adds we want to make sure these R/LC definitions are clear in our minds before we say this is our final thoughts, what is Councils action now?

Wilbur said initially we were under a time constraint, we have done a lot of work and a lot of research to put these R/LC's districts in areas that we thought they would work, it opens up some areas in Town that were not useable, in the short term get the economic engine going and help stimulate a tax base that will work. We are waiting for data to come back from the different areas then we can work on density and we can change the density. The density is not going to make that big of difference.

Ryan, I agree with Mayor's comments especially about Malabar Rd from Weber Road to Marie Street makes a very good point it is strictly a safety issue on a 2 lane 55 mph road I would have said in the future, when there is a possibility of Malabar Road being widened. A point very well taken and I have felt this way from the start.

Krieger discussing about Lanes on Malabar Rd, it is a DOT issue if any sort of building or anything is changed that requires a slow down deceleration lane one way it is DOT and the other way it is the Town. The controlling factor it DOT, land owners will have to deal with the road issues.

Wilbur it depends on the size of the project sometimes a secondary road is the most efficient way to go about it because you have one main entry way ,you do not have all those driveway cuts and all that DOT permitting.

Wilbur suggests as far as a main street project I think once we do this initial work we should move into the design phase through a planner to come up with a plan.

Ryan people bought property when it was designated a certain use and just because they bought it that doesn't mean they should be entitled to get what they want make their improvement and walk away from it. That is what developers do.

Wilbur is discussing about R/LC allows land owners to keep it residential, you can use it as RR-65 for whatever you want to do, or run a small business out of it.

Krieger state it is a matter of a natural progression.

Wilbur, the only way you are going to get water and sewer down Malabar Road, it will be by property to property.

Ports, is that going to allow them to strip the land like Weber & Hall Rd where they just took everything off the land. Wilbur says that is Weber Woods, it was suppose to have homes but it went bankrupt.

Wilbur suggests to toughen the landscape laws to plant trees.

Krieger in the future we have strict design plan in place, maybe some sort of performance bond that says you are going to develop this then you have to develop , if does not develop then something comes back to the Town.

Ports, adds that this area of Weber Woods used to be semi maintained and now it is not. Wilbur suggests making a call to Code Enforcement and seeing that is maintained on a regular basis.

Krieger, where do the Town of Malabar's responsibility end and the property private owners begin?

Reilly, point of order chairman, we are suppose to be talking about density.

Wilbur, back to the board, as far as changes of what we done, no changes,

Krieger stated he would like to see more feedback from the public.

Open to Public:

Carlin Conroy, 1865 Alexander Lane, Malabar, I have not been up to date about these issues, the discussion the first thing I saw was in the news letter about commercializing some property along Malabar Road and I am here to object highly to that. I live off Malabar Road on Alexander and we had a situation that a guy George Foster bought two pieces of property and cleared all

the trees out and all we get is noise constantly from Malabar Road. I live about 900 feet off Malabar Road and all you get is noise. You bring in more commercialization it is going to be more noise

Wilbur explains it is not going to be commercial; it is not designated to be commercial. Conroy states I hope it is not going to change. Wilbur explaining it is going to be Residential Limited Commercial(R/LC). Conroy asks what this is and Wilbur explains.

Krieger to point out when someone strips the trees you want them to follow through and finish, go back to nature. I cannot see how the land use there has not affected the drainage elsewhere. Somehow I would like to see the Town move towards more control of developers performance.

Conroy talking about neighbors complaining about trees on Fosters property messing up drainage ditch. I think he may have lost the property I saw it was in the Tax Lien. I don't even know if he still owns the property. Now he owns property on the corner of Eva Lane & Malabar Road.

Discussion about the Tree Ordinance about if you take down a tree you have to replace a tree.

Ports expresses to Conroy to call the Town about trees being cut down.

Conroy expresses to keep the Town Rural and keep growth down because we all bought here because we know what it is.

Krieger explains to Conroy what we have been working on is land use it leads to zoning but it is not zoning, someone would still have to come in to ask for a zoning change We are talking in the future 20 to 50 years in the future that someday households will become dentists, etc.

Wilbur explains about commercial we felt the best way is R/LC. It is still like a neighborhood and not much has to change.

Conroy is concerned about keeping it rural, I am registering my objection.

Wilbur, start looking at some type of regulation for land development that requires tree surveys.

Ryan, 4-5 years ago subdivision in progress and all dead in the water now.

Krieger the limiting factor is the time you give the permit you have to have a limit to do or stop.

**3. Amendments to Fence Ordinance, Article V**

**Exhibit:** Agenda Reports No. 1

**Recommendation:** Discussion/Action

Krieger asks about Roberts Rules this is a tabled item and we would have to have a motion to take it off the table, I believe this should be covered under a tabled item, under old business. I looked at the minutes of last meeting and I do not recall a motion to specifically, we had two different items we were talking about gates and we are talking about entry ways, two different subjects I do not mind bringing it off the table but it is going to be a lot of work involved because there is a history involved here.

Also, items have changed in the last two months we found there other things, such as columns there is no problem building them under the current building codes, Are we reviewing the definition of gates, or completely revamping the whole thing, if that is true we should start from scratch.

Wilbur, I think we should not revamp it at all, I think we should keep the fence Ordinance the way it is. I would like to see the fence height to be 5 feet.

Krieger table and agenda?

Reilly, if it is for discussion only item you do not need to un table it, but I will ask the Mayor. But if it is an action item you need to un table.

Wilbur asks the Mayor about the tabled item,

Mayor responds with, if you go back and remember what you did there was a motion to table it whether it was a discussion item or not. It is on the Table. If you want to talk about make a motion to pull it from the table.

Reilly, but it was a motion on an action.

Mayor, you tabled the Agenda Item.

**Motion: Reilly/ Krieger to Remove the Tabled Agenda Item of the Fence Ordinance which included gate, columns and other things for discussion purposes All Vote: All AYES**

Krieger last May when this thing started about gates we drew up definition of gates. The complication is that we kept getting added new items, an entrance- handled by DOT, is there setbacks, we got answers, we did give the Council definition of gates.

We did have a joint meeting then it came back to us and we looked at a new iteration that we had not presented. We went through very carefully and made a motion to send back.

The original to Council, in the mean time the Mayor presents a different approach there are some good things taking existing code and stripping some away.

Wilbur is for "entry ways" and "gates", the definitions takes care of public safety off public ROW onto property. The design criteria is to save property and lives.

Krieger took the Mayors suggestions about Fence Ordinances and added his won suggestions. Krieger is for the ROW and visibility the other interesting thing is no changes to trailer park fence heights.

The discussion is among the Board about the fence heights and suggestions. Reilly, expressed to Krieger to give his changes to Denine and she will hand out at the next meeting.

#### H. PUBLIC:

Open to the public: 7:38 PM- no speakers

#### I. OLD BUSINESS/NEW BUSINESS:

Wilbur asks about the storage area AAA Storage using RR Ave as the side entrance The Board is requesting form staff an update about what has been done about the traffic of tankers and semi's going in and out of this Railroad Ave road.

The Board is discussing that AAA Storage has gone way beyond what it was approved for. Krieger suggests in the future when plans come in for certain requests we need to stick to the plans. We should have done something in the beginning.

New business:

The memo that Debby Franklin gave about Country Lane, Wilbur is discussing with Board to put on the Agenda.

Ryan, discussing that a contractor came in to discuss streets that dead ended, where there is no possibility for the road to go any where.

Board has requested information from staff about Stimulus Project on Corey Rd & Atz Rd.

Reilly suggest that the R/LC be an action item for next meeting and come up with a final presentation to give to Council. Review that the Density recommendation is approved and request the corrected table from staff for percentages.

Krieger talking about the last meeting the discussion was the whole Town is Medium Density, the other thing is R/LC going to be all across the Town, because now R/LC is limited to certain areas. That section of the code would have to be changed.

Ryan, states the only two roads not discussed was Weber and Corey Rd, but this is the core of Malabar, best to leave alone.

Wilbur, if we focus in our excellence in our Gateway development Babcock Rd, Malabar Rd, US-Hwy1 that is all the Commercial the R/LC and OI that this Town needs.

Krieger states we should make all the changes at one time, Ritter adds that is more effective and efficient to do everything at one time then have to come back and do it again.

Reilly will not be at next meeting May 12, 2010.

Wilbur asks that if you cannot be at the next meeting if you would write out your comments on different issues that we will be addressing at that meeting and we will incorporate into the minutes.

**J. ADJOURN:**

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

**Vote:** All Ayes. The meeting adjourned 9:10 P.M.

BY:



Bob Wilbur, Chair



Denine M. Sherear, Secretary

5/12/10  
Date Approved