

MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
May 11, 2011 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 Vice-Chair Pat Reilly.

B. ROLL CALL:

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

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA :

1. Approval of Minute- Planning and Zoning Meeting- 04/27/2011

Exhibit: Not Ready
Recommendation:

E. PUBLIC HEARING:

F. ACTION:

2. Amend Code to Provide Current Regulations for Adult Facility (Ord 2011-38) REVISED BY TOWN ATTORNEY May 3, 2011

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; DELETING SECTION 1-2.6.B. 8, LAND USE CLASSIFICATIONS; PROVIDING FOR ADULT CARE FACILITIES; AMENDING SECTION 1-3.1.I DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND PROVIDING FOR ADULT CARE FACILITIES; AMENDING TABLE 1-6.1 (B) DELETING REFERENCES TO GROUP HOMES AND MAKING PROVISIONS FOR ADULT CARE FACILITIES; AMENDING SECTION 1-9.2.12; PROVIDING FOR ADULT CARE FACILITIES; ESTABLISHING PARKING REQUIREMENTS FOR ADULT CARE FACILITIES; DELETING THE DEFINITION OF GROUP CARE FACILITY IN ARTICLE XX; AMENDING TABLE 1-3.3.A PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 AND R/LC ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2
Recommendation: Action

Reilly reading Ord.2011-38 out loud.

Reilly is opening up to the "speaker cards: and will do them in the order he received them.

Jeff McKnight, 2005 Flashy Lane, I have concerns of facility, I know you are going to be discussing parking, from the site plan I have seen personally I think they are inadequate for that type of facility. I don't think it is appropriate to rely on a working relationship with the Berri Patch to accommodate some of their parking. I want to see something very solid to prevent this from becoming strictly a 55 and older apt complex. I know it is listed as assisted living but right now there is nothing from preventing residence 55 and older from living there. I could foresee this becoming a 55 and older apt complex or strictly if it changes hands an apt complex, I don't want to see that either. Also, I want you to consider the impact of what 96 additional Malabar residence in that zoning would do to the community.

I have one unrelated statement, I had recommended to Council to have fire inspection code brought to you and the Attorney and Council said it wasn't appropriate to bring to you, if anyone could give me personal input for that I need help. I currently do not have enough help to review this and provide input to the Attorney, either as a Board or individually, I cannot direct you as a Council member, I respect your opinions and there is a wealth of experience here and I can use some help on this.

Reilly thinks we can add this as discussion item on Agenda, any residence in the Town of Malabar can put anything on any Agenda.

Tom Eschenberg, 2835 Beran Lane, just a couple points:

- 1.) I guess I can understand now, why you changed this from an Action Item to a Discussion Item at your last meeting. I want to encourage you to make a decision tonight, recommend it to Council the Ord. as is, recommend it with changes, or send it up with no recommendation.
- 2.) Looking at Ord. the only other thing is, I don't think a facility like this ought to be allowed at all in RLC, I don't think it was ever the intent to have these facilities in RLC.
- 3.) I believe the Nursing Homes are in RLC, I don't think they belong there either, while you are looking at this, you might consider deleting those from RLC zoning.

Frank Plata, 3700 N. Harbor City Blvd. representing Plata Engineering the draft Ord. was very well together, this is an excellent attempt by Town Attorney only six Items being covered.

The main part,"parking", the flexibility of this type of development this is a very low density, low impact, which has the flexibility of number not only employees but also medical service, given the location of this property Institutional (OI) close to the hospital is ideal to limit the amount of extra services you have to keep on staff to service the residents, with this the amount of parking is less. We don't need full staff of nursing or medical.

The Ord the way it is written is in accord to the Institute of Traffic Engineers, and codes it depends on the amount of medical staff you have in the facilities. The location of this parcel is the best location for evacuation route.

We are picking this parcel it has some benefit "OI" compared to Brevard County and Melbourne, very comparable. There is always a concern it can be looked at as Apt complex and different use. The only entity that can control it is the Town; individual rooms have no kitchen facilities. A facility permitted for strictly as an "assisted living facility." Given all the restrictions there is nothing else.

You could not convert this facility easily to change the use. In all the paper work only designated this as an assisted living facility.

Plata states," from our view we understand your concern, we want to have a project that is beneficial to the elderly that they can afford. This parcel being so close to the hospital will eliminate cost to elderly." The latest one open is \$4,500.00 per month, for full service. I believe the elderly are being neglected that is why we picked the Town of Malabar, the convenient location to the hospital with the best access and utility.

Reilly asked Plata about statement he made, that there will be very few medical personal. Plata response basically 1 nurse for assisting for pill dispensing/medication. The assisted living has like extended care license which is basically "Level 1", we will have complete agreement we are still looking for management companies, whoever is interested when we know the type of foot prints we can end up with, they will have good agreement with hospital.

Reilly asks Plata how many in staff will there be per shift. Plata answers, the ratio of employee is 16 per shift, at night 2-3 per night overlap employees. Meal preparation is the most for staff.

Plata, the average for this facility is 16 employees, you can go down to 12 employees, depends on facility, the parking available is more than enough.

Reilly is trying to get a definitive number of staff; every time you come it changes. 18 is a good number we will work with that.

Zindel asks Plata about the management company and that you do not seem to know what the Management rules and regulations are or how they are going to handle this. Do you build these facilities and turn them over or do you run them.

Plata explains that his firm is putting together the package; right now we are merging property owners with management companies. The management company is from Merritt Island the one interested in this facility. (Cedar Creek)

Plata explains the big variable is not the management company, but the financial part. The financing is very expensive most have the H.U.D. The overhead in financing gets wasted in paper work.

Plata explains that HUD provides the main financing for this type of facility with low rate and 40 years people try to get this it is very accessible for the owner of the facility. Bigger companies can do different things it would be too expensive to develop. We are trying to do something with different local management companies and work the package with local banks and local investors. The advantage we have is the location next to hospital is very good.

Zindel asks the splitting of the property, creating another parcel of Land, the Berri Patch is a school and exempt from real-estate taxes, this parcel will be taxable so it will be a full profit facility. How will you work this with the driveway and acreage?

Plata responds that is the type of benefit that is required from the Florida Department of Transportation that we will be encouraged to connect part of this project for one driveway. The property itself is master drainage, that part stays together forever; it is part of the permit. As far as taxes it will be a separate building and taxed accordingly.

Plata adds that is you look at previous foot prints and design of his project parcel was medical offices complex which has the same foot print, There was going to be 900 trips a day, the only thing changes is the footprint and like 200 trips per day. According to the information with the FDOT, back in 2004.

Reilly states to keep questions limited to the Ord. we cannot talk about site plan.

Krieger, asks Plata is the floor space 25,000 sq ft? Then 3 stories is 53,444 sq ft
Plata responds, right now 53,000with the overall for 3 floors.

Krieger asks Plata, if he used parking calculation as 1 space for every 5 beds? Plata responds that is correct, plus employees. This is the correct numbers with the Institute of the Transportation of Engineers.

Krieger, our Art IX, the closest thing they have is nursing homes or hospitals also claim they want 1 one space for every 300 sq ft. of building area, that is not impervious area that is the whole building area which comes out to 178 parking spaces.

Plata express that he thinks there is an error in the code for nursing homes; maybe the Town Engineer can research this issue.

Krieger adds that when you get to smaller dwellings it becomes more intense.

Plata states that this parking calculation came from semi public use like an auditorium and is 300 sq foot for medical offices, this is what is questionable a separate item not nursing homes take a look this is double more than anywhere else.

Krieger comments that this is a question of density, and problems with conditional Use. As a Board we take word of staff that everything was done correctly, we had send comments with concerns to the Town Council about density.

Krieger adds that these people are ambulatory, Plata responds that these people are 85 years and older, I don't think they will be going in and out. The families take care of that person going out with family members.

Krieger, asks Plata the people residing at this facility will they have to go out of facility for medical and pharmaceutical needs? Plata responds with normally once a week a van will transport for appointments and medication needs by the staff.

Reilly adds that Bud has a question

Ryan, as far as medicines and pharmacies and so forth is it going to be one single source that contracts for all the residents or can they pick and choose their own. Plata responds with probably not they collect their medication from CVS or Walgreens. Bud comments that the plan is the residents make their own choice. Plata agrees with this.

Abare, are you familiar with Hibiscus Court , I agree putting next to hospital is a good fit, Abare asks why they use 60 parking spaces.

Plata responds with if they have to have separate Alzheimer & Assisted Living there are different staff for the combination of services.

Abare states the concern is parking, once you put this building up you will have issues. I can see this possibly owned by different people in the future.

Plata is explaining that we are only offering 48 units, if there is a combination of facilities it would fall under different licensing it depends on the type of licensing from assisted living to nursing home and if medical is offered. When we know the numbers the Town can control the compliance of the building for future uses.

Smith suggests a single driveway can be recommended to revise for drop off of patients. Plata adds that your comparison is different when you add Alzheimer care to a facility.

Reilly wants to clarification 48 rooms – 96 beds.

Plata states that it will be accurate per code for parking to total parking of 37.

Ryan, asks what about when residents get visitors?

The Board is discussing the parking with Plata explaining the facilities change with the level of assistance. Plata explains the approximate cost is \$3500.00 - 4,000.00 per month, per resident. Plata adds the charges include transportation for the residents.

Ritter asks if the 48 units have double beds. Plata said this is flexibility, different results for different facilities.

Ben Elliot, Plata Engineering 3700 N Harbor Blvd, the Ordinance is a double revision explaining about the facility.

Elliot questions about the setbacks in the revised Ord. it was 25 feet on page 2.

Krieger comments that this property represents a multiple use. Plata adds the previous approval of this property is "OI", for a medical building to use a common driveway and drainage area.

This is not a residential use, in a commercial use. Plate did the research about mailing address.

Ritter asks about the mail for the considered residents. Plata responds that the majority of mail goes to the family members.

Reilly brings the discussion back to Board.

Reilly reads Bob Wilbur's comments to Board due to his absence. (Attach to minutes).

Krieger comments that this Ordinance I think should be for all cases. In Article 9 – 300 sq feet, this site is 1.5 acres of the 5 acre parcel. Consider the density and multi uses in zoning classification as two different things.

Ritter adds we try our best to clarify and simplify things. Some Ord. are confusing compare with Florida State.

Reilly comments on a facility called, Cedar Creek in Merritt Island. He did some research to understand about the Ordinance. He went on line to see about this facility to find out what types of zoning specifications are required.

Abare noted that the Town Attorney did a good job of revising the Ordinance. It is a very tight site. Abare added that if this Ordinance was adopted tonight it could not meet the proper setbacks.

Krieger commented if this place was a rehab center and not a residence, the greatest density is 6 units per acre so it will equal 9 units.

Board is going over the Ordinance line by line:

Section 1:

Reilly asks for any corrections from the Board

The Board is discussing the Florida Statue "429" check with Attorney to see if "Adult Care Facility" is all lumped into one or individual.

Krieger adds if/when they amend statues does that supersede.

Section 2:

"OI" the thing that changes was bullet number 4 uses to Community Facilities

General Titles:

429 Assisted Care Communities keep

Kreiger suggests this should be considered a "Multiple Use".

Abare, if some one wanted to do two things on the same parcel they could.

Section 3: none

Section 4:

Reilly comments that there is a question about the setbacks?

Reilly and Board recommend changing to 60/25 on the Building setbacks from Residential District/ Nonresidential District (feet)

On (3) Add Town of Malabar before District Provisions.

Section 5:

Reilly said that under "Adult Care Facilities" Wilbur wanted 1space for 4 beds Krieger all is saying whatever is greater or more restrictive, "Institution of Transportation of Engineers" (ITE) standards.

Or ITE whichever is more restricted

- Density

Options:

- 1.) 1 space to 5 beds Liz
W/ITE Regulations
- 2.) 1 space to 4 beds
w/ ITE regulations
- 3.) ITE regulated

Addition foot notes suggested:

Abare is concerned when they get conditional approval they get only what they ask for. Smith, suggests "A developer's agreement" should run with every conditional use it is recorded in the public record and a non negotiable and binding and follows with the property.

Motion: Recommendation to Approval Current Regulations for Adult Facility for Ord 2011-38 as Amended: Vote All Ayes

Don Foley, the Owner of Berri Patch a community driveway, there will be a division in practical matter the property is going to be separated and obtain a different tax folio. Foley adds the he feels comfortable with the process.

G. DISCUSSION:

H. PUBLIC:

I. OLD BUSINESS/NEW BUSINESS:

The Board is discussing the process of the site plan process and presentation of projects and the times table of events.

J. ADJOURN:

There being no further business to discuss, **MOTION:** Reilly/Abare to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 10: 25 P.M.

BY:


Bob Wilbur, Chair


Denine M. Sherear, Secretary

5/22/11
Date Approved