

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
JUNE 22, 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 Chair Bob Wilbur.

B. ROLL CALL:

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

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA :

1. Approval of Minute- Planning and Zoning Meeting- 05/11/2011

Exhibit: Agenda Report No. 1
Recommendation: Motion to Approve

Motion: Reilly/Krieger To Remove from the table minutes from 5/11/2011. All Vote: All Ayes

Motion: Reilly/ Ritter To Approve the Minutes from 5/11/2011 with corrections. All Vote: All Ayes.

Reilly on the Adjournment it was not Reilly, he was the chair, check tape.
Reilly under Old and New Business made a comment about Council giving the Board Land Development Code things that are immediate action items without being discussion first. Then us as a Board and then get flak from Council at the meetings about P & Z not doing their job. (listen to tape).

Ritter page 4 top line Art-9 =Article IX.

Next paragraph center sentence, this is what is questionable, take the or out.

Krieger Page 2 the top line "I have concerns of facility" should be concerns of this facility.

Krieger Page 6, Section 5, About Density (listen to tape) there was a Density issue and we kept trying to figure how to get Density involved in this Ordinance. The comment was made that we do not have legal advice here and we have no real way of implementing it.

Wilbur recommends that if we have another Ordinance to deal with the Attorney should be present, to assist the Board with any questions.

Krieger adds that in this case the we discussed about the Density issue being six (6) people per acre in a 1.5 acre.

Sherear comments that on page 5, half way down explains about the Density above Section 1.

Krieger, before we adjourned in "Old Business", Ms Zindel asked about the Fire Code that was brought up the beginning of the meeting and Reilly said it could be a discussion item at a future meeting.

Reilly, at this meeting or a future meeting the Fire Inspection was supposed to be brought up for discussion.

Board wants to add to minutes about adding to a future Agenda Fire Inspection and Defining the R/LC.

Ryan suggested about one parking space for four beds for assisted living facility.
Reilly make note that Wayne voted for Cindy at the last meeting 5/11/2011.

E. PUBLIC HEARING:

F. ACTION:

2. Internet Café about Zoning in the Town of Malabar

Exhibit: Agenda Report No. 2

Recommendation: Action

Reilly looked at this it would only fit in "CG" or "CL" and debate "CL" and just make it "CG", I compared to other towns commercial and industrial areas is where they are located. I suggest "CG" only or "CG" and "CL" and Conditional Use with every one of them and it gives us the opportunity to review.

Ryan reviewed three things under Commercial Activities: Adult Activities, Bars and Lounges, Closed Commercial Amusements, it is permitted in "CG" and make it conditional.

Krieger, it is an Adult Activity if it's a Café or an Internet; we don't have to define it.
Abare, adds that if you have a Café that is one thing but if you start "gaming" that is a whole different issue.

Wilbur asks if there is an age limit for "electronic gaming"? They believe 18 yrs old. Does this eliminate children in the establishments? Ritter adds the parents should be responsible for the kids and if they are in there with their parents.

Ryan, Electronic Gaming Establishments are defined and is a Florida Statues.

Wilbur says the Board feels this could be an abused issue and is being abused in other cities all we have to do it create a zoning, I think Industrial would be good.

Ryan discussing with the Board about a year or so ago Palm Bay decided to group Adult Entertainment in one area.

Wilbur these establishments relatively popular there was a big parking issue where the Internet Café shared parking with a shopping center or strip mall. They were taking up all the parking spaces. Parking could be an issue in certain circumstances.

Ryan, the percentage of space you occupy is the ratio of the space used for parking.

Motion: Reilly/Ritter Recommend to Council that P & Z Believes Internet Café falls under Present Land Use CG Adult Services that the only area that Internet Cafe will be allowed in our Town would be "CG" with Conditional Use. **All Vote: All Ayes**

3. **Proposed Maps of Land Use Changes for Review Revised (6/15/2011) - Babcock Street-Malabar Road-US1 Corridor**
Exhibit: Agenda Report No. 3
Recommendation: Discussion/Action

Motion: Reilly/Ryan Recommendation to Accept the maps with corrections All Vote; All Ayes

Reilly discussing about the Present Land Use Maps are correct, didn't want to do the Proposed Land Use Maps without this meeting.

Ritter this is where Bob needs to say about "RS" or "Conservation" will allow for funding.

Wilbur it determines the source of the funding that bought the Conservation Land to determine what we will call it as far as Conservation or Open Spaces, or Recreation Space.

Reilly wants to go through Maps and make necessary editing page by page.
 Change "CG" to "CL". Present Land Use is now.

Page 10 Maps- no change to Danny's Storage

Wilbur asks about Riverview Dr & "High Density" in yellow. Reilly says it is RS-10 with water and sewer.

Ritter does "CP" go all the way to the north end?

Krieger, from where Yellow Dog, south my proposal Future Land Use should all be "CP" for the whole coast of Malabar. It doesn't affect the whole coast of Malabar, because it doesn't affect zoning.

Krieger is discussing the definitions Zoning vs Land Use this is a Future Land Use the understanding is the whole sets of changes we are doing all the boarders is that if we change the Land Use and there is a Present Zoning until the zoning asks for change than that is when they look at the Land Use. If it is already zoned for building you cannot prevent the land owners from building. Future Land Use is a goal.

Reilly, CP starts by Yellow Dog at black line (will correct)

Reilly, Change "CG" west of RR to "CL" includes the see page 9 "CL" down by Railroad tracks it includes Garden St. and Pine St area.

The Board is discussing the area by Riverview Dr as being "High Density", RS -10 water/sewer.

Krieger if the area is presently "Medium Density" do we want to keep it or do we want to change it to a higher density?

Reilly says there is a cul-d -sac and could be a ROW there.

Reilly keep as it is.

Page 10 Maps

Reilly it is not "R/LC" it is "CG" where Danny Storage is located on US Highway 1 has outside storage. Do we want to change the "CG"? To R/LC leave as is.

Ryan is it ok for new owner to live there with the business entity. The Board agreed it was ok for new owner to live on property.

Page 11 Maps

Reilly change "CG" to "CL" (west side of RR), to Township Road = Glatter Rd, south is going to be RR-65 (by Oakmont Preserve).

Page 12 Maps

Reilly

Wilbur, not going to change "CG" to "CL" cause it is north of DATA Management. If you are going to change it suggestion would be "IND".

The Board is working with maps on overhead making corrections.

Wilbur is discussing about area near Jordan Blvd making "IND" and put in proper buffers, when EELS took a lot of that land and it was used for mitigation a lot of "IND" was taken away, an opportunity to get some of our "IND" back with Jordan Blvd as a road to take you to property. Reilly adds that DATA Management is "OI". The west side of RR track is "CG".

Page 13 Maps

Wilbur says the Harris property is "IND".

Abare page 13 Harris has more land on the frontage on Jordan Blvd on west side RR tracks. Correct lines at bend of Jordan Blvd.

**Wilbur asks staff to look up what zoning is at DATA Mang.?

Reilly said Data Mang. Is presently "CG".

Krieger would consider it should be zoning and land use until you want to do something with land. The Jordan Blvd section as a major roadway, very well built up o curve. My concern is that as you go north the zoning should go down until you meet the Oakmont Preserve area. Krieger adds that Land Use does not affect until you want to do something with your land.

Page 13 Maps

Reilly is working with overhead projector and pointing to map areas where "CP" ends on south end of Malabar. Showing where "Nelsons" property starts and "CP" ends.

Wilbur explaining that the reason the "CP" stopped by Nelsons property is because there was a "developers plan" in place.

**Wilbur wants to find out about the developers plan with Nelson property? Is there a time frame that you have to do something with the property?

Krieger suggest that you are not really negatively affecting anything all your doing is making common sense that the Future Land Use is "CP". The "CP" zoning was described to be the whole coast, anything that is coast is supposed to be "CP".

Ritter does not have to be all or nothing. Krieger you cannot build unless you get permits and permission.

Wilbur comments historically, that "CP" is to preserve the lagoon and our view of the river.

CP has no building specifications

Krieger comments that if you change areas in Future Land Use on north and south end of town to "CP" whatever rights the person have on the property they already have the rights to the property. However if the rights to the property change in the future , the Town can take the "CP" zoning and place what kind of building codes you can have on "CP" zoning. The "CP" zoning does not mean you cannot build we just have no building specifications. There is no limitation and no affect on property owners.

The Board is discussing about the CP Land Use.

**Wilbur, research on the history of CP Nelson in the south and north end of town

Page 4

Reilly explaining that the "X's" on the map are houses.

Ritter explains the "CG" went to "OI".

The Board is discussing maps.

Page 5

Reilly corrections for Malabar Park (by Weber Rd) is Conservation area.

Page 7
RS Park funding
Reilly will make

Page 8
Future land use

Reilly
Wilbur run line from south of church property
Correct page
The Board is discussing the areas on page 8

Page 10
Reilly what is the consensus of the Board to will leave it like this

Page 9
Good maps

4. Fence Ordinance 2011- Revision from 4/27/2011
Exhibit: Agenda Report No. 4

Recommendation: Action

Motion: Reilly/ Krieger To accept Fence Ordinance as corrected **All Vote: Ayes**

Corrections:
Ritter Page 1 of 3 Perimeter Multiple adjoining lots.cor

Corrections page 3 of 3 See changes in marked in red ink on page.

G. DISCUSSION:

H. PUBLIC:

Tom Eschenberg 2835 Beran Lane, discussing with Reilly about that Council in general will not criticize if an item will be discussed before an action is taken, It is up to the Boards and how complex the issue is. Tom explained you always have the option to change an item on the Agenda from action item to discussion.

Tom discussion the Fence Ord. and that he pledged to the people in 1995 that I would never vote for and Ordinance unless it gave more freedom to the people.

Last item I have to discuss that if you watch the Council meetings on "U stream.tv". The discussion that Council had about the Ordinance on assisted living. There was a motion but no second. Ryan asks the future of the Ordinance, Tom explains that the Council wants to send the Ordinance back to P & Z, Tom explained to Council if they want to make the change it is on the table and for Council to make the change. It is coming back to P & Z with direction from Council to make the change. Reilly discusses that they want to take "OI" and Residential out of Ordinance. Reilly discussion they also illuminated "group homes" and we need to put that back in Ordinance.

Tom added that according to our Attorney the Council with have to address the site plan and conditional use under the existing Ordinance because they made their application under this.

Krieger asks is there a time limit on this issue, when do you have to address this? When does it have to be addressed? I thought the whole process was tabled until the Ordinance could be done. Tom explained that the Town Attorney explained it has to be addressed and it has to be approved or not approved.

Wilbur asks what is coming back to the P&Z Board, Tom explains the whole Ordinance.

Abare asks if the Attorney went back and looked that the assisted living did not fit in the existing Ordinance. Tom said that there was a motion to table it until the Ordinance was done. Tom explains if the Council left this on the table while this Ordinance is floating around it could create a problem.

Krieger would like to add that he tried to present the history of this Boards side of the story. Krieger presented history of the issue it was never brought to us prior to having a finished site plan combined with CUP, normally in the past the staff would direct applicant to come to us for review and discussed. This did not happen this time. I think this Board has done its best to try and educate itself and figure out things.

If this applicant had come to us we could have discussed the intensity of the project and density on 1.5 acres. If the Council is going to address this with the present zoning and description, the closest thing I see is a nursing home that is 178 parking spaces; people don't live in a nursing home they are being cared for. The density issue is 9 people on 1.5 acres (high density), how can you have 96 people on 1.5 acres.

Eschenberg explains that when you get the Ordinance back you have to take it real serious, what could happen when this site plan/condition use comes back to Council under the current code Council will turn it down. The developer was willing to wait it out for new Ordinance, so if they get turn down by Council under old code then they can re apply again under the new code.

Reilly explains that Council doesn't want residence in "OI" in that zoning.

Wilbur suggests why don't we do away with "OI" and go to Professional Office. Reilly explains it is Conditional Use and that is a personal feeling along with code.

Ryan suggests having the Town Attorney when it is considered again and comes before this Board.

I. OLD BUSINESS/NEW BUSINESS:

J. ADJOURN:

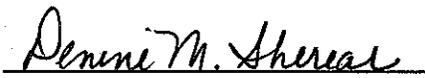
There being no further business to discuss, **MOTION:** Reilly/Abare to adjourn this meeting.

Vote: All Ayes. The meeting adjourned 10:15 P.M.

BY:



Bob Wilbur, Chair


Denine M. Sherear, Secretary

7/27/2011 corrected
Date Approved