

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
FEBRUARY 8, 2012 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:	PAT REILLY, excused
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	WAYNE ABARE
ALTERNATE:	CINDEL ZINDEL, excused
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES: Krieger thinks 2 and 3 should be swapped. More work on 3 as it leads into #2. Major RVs and large vehicles. Abare said we tend not to close items. Get into 3 and not do anything on 2. Wilbur said that is traditionally what happens. Chair said to move 3 to action. Krieger doesn't mind moving. Chair agrees moving #3 up to action and before #2. Krieger points out to Board that they will have two meetings before the next Council meeting. Leave as discussion for #3.

Ritter said leave RV in the one item and anything else is in #2. Chair wants to deal with tractor trailer parking in residential. Leave agenda the way it is.

Franklin said for the record Krieger submitted his re-write of Sec .15 and .16 and it is before Board Members. Krieger also took Reilly's pond ordinance and removed all the formatting and a clean copy is before Board this night.

D. CONSENT AGENDA:

1. Approval of Minutes Planning and Zoning Meeting – 1/11/12 and 1/25/12

MOTION: Krieger / Ryan to approve P&Z minutes of 1/11/12.

Corrections: Krieger - pg 2, 3rd para, Krieger said if we change zoning. It sb land use and zoning. Pg 5, last sentence, The nuisance code sb reviewed.

Krieger is with Ritter with using sb referring to abbreviations. Should spell out OL and BTR.

Say occupational license spelled out.

Ritter, 1st line, what you could put on those lots.

Pg 5, Wilbur gave another cross out then they dump the thing. Told to move and he moves it down the street or to another spot.

Vote: All Ayes

MOTION: Ritter / Krieger to approve P&Z minutes of 1/25/12.

Ritter - pg 10, Wilbur 5000 pounds or less. Add pounds

Pg11 Krieger, different people are offended by different things. It is recreational.

Pg 12, Krieger said larger than 26,001 pounds sb screened.

Pg 15, Abare said that there is a hole in add "with"

Pg 13, Krieger, said you could park an RV, check tape on what he said *could or can't*.

Ryan for the record, he went by there Yellow Dog and they were parked all the way down illegally.

Abare, pg 14, bottom, his point is if it is not on the checklist, it will not get checked.

Vote: All Ayes

E. PUBLIC HEARING:

F. PUBLIC:

G. ACTION:

2. Tractor Trailer Parking in Residential Zonings**Exhibit:** Agenda Report No. 2**Recommendation:** Action

Ritter, read title and body does not say anything about truck tractors. Expand truck tractors to include any large vehicle used for recreation. Ritter was going to send in her re-write but did not get to it.

Abare referenced the fact that under recreation, boat trailers would not be allowed, and many people have those in yards.

Krieger said if you have standards, then standards should be stated. We can add that somewhere so you can see what was there. In Sec .15 it was talking to major recreational equipment. Krieger's premise of looking at it – Sec .15 would be equipment and Sec .16 would be vehicles. He then went over his proposed language. Vehicles or equipment should not be used for living. No parking in *street* – don't use ROW (right-of-way).

Then went over Sec .16 – parking and storage.

Abare asked what needs fixing in Sec 1-5.16. if it is allowed, where it is allowed and ownership, how long, type of equipment/vehicle, commercial, industrial, residential vs commercial. Sec .15 should deal with residential recreational and Sec .16 should deal with commercial

Abare, went over Ritter suggestions, what is not addressed in Sec .15 is addressed in Sec .16 and what is not addressed there can go to staff or Council for determination.

Abare asked Krieger and he thinks RR-65 is rural first not residential. It is different than residential. Ryan said RR does mean rural residential- it is residential.

Get rid of licensed owner and replace with controlled by or responsible for. Krieger said you could be a renter. Ritter went back to FS 320 for definition of owner. Krieger does not see difference between small and large tractor. Abare said that Krieger means you can do anything in RR65.

Wilbur said stick with definitions from FS that are already established. Some of Mayor's verbiage was ok.

Abare said there are unintentional consequences when you make sweeping changes and suggested they just look at the paragraph and if something is glaringly wrong then fix it but it should be a short list.

Krieger referred to Ritter's list that starts with "no" for each item. Ritter said she could reword it.

If it is not in the required front yard, what don't we want them to keep there? Krieger said what about a party or game and people may park in the right-of-way. Ritter said that is short term. Abare said these are for complaints that last longer than two or three days; it is not for three hours into a football game.

Krieger said there is nothing that says what you could do. What if you bring in a shredder. Abare asked about roll-off for pepper tree removal. They are all headed in the same direction. Do what you want on your property. If it is offensive then go back to nuisance ordinance for junk or abandoned property. Abare said you can't go to the person to prove it is licensed and owned. We are not going to make it obscure it from adjacent properties. Krieger said what he wrote is more restrictive that he would like. Krieger said if you drive down Hall and Atz you will find violations. Krieger said difference between parking in street and parking in right-of-way (ROW). Krieger tried to do minimalist change.

Ritter says one is for commercial and one is not.

Sec .15 needs language allowing non commercial RV and associated equipment to park no longer than 48 hours. Sec .16 needs language not allowing commercial or tractor trailers to park at all in any right-of-way (ROW).

Krieger said differentiate commercial from non-commercial. Abare said if someone has a tractor trailer for commercial use only. Ritter said it should be in Sec .16. She doesn't care if it is out of the required front yard. Who is going to care. Wilbur said an active commercial truck trailer should not be in residential. What if he is hauling cattle or horses? Wilbur said most of the trucks that pulls cattle are dual axle.

Ritter said separate Sec.15 to smaller recreational vehicles and RVs and Sec .16 for larger equipment and commercial vehicles.

Abare asked how Ritter felt about tractor trailer in RR-65. Ritter said it wouldn't bother her in rural residential. She would want him to be on a paved road. There are going to be some restrictions. Krieger said read the Mayors. This is what he gets from it. Must be in a building or can't be in a side or rear yard. Ritter said the only person that would have a problem is someone that complained.

Abare said add a time frame. Take out ownership since the atty said we can't enforce that anyway. The time limit is in Sec .15 and Ritter added it to Sec .16.

Abare then asked why we need Sec .16?

Krieger said Sec .15 is about the uses, that is why he said same location. That is about things you use and has limit of not more than 48 hours to load and unload. But when you get to Sec .16 it is more of parking and storage.

Ritter said you would still have to move it every 48 hours. Then it has to be moved. .16 deals with storage and you usually store more than 48 hours.

Abare says change title to eliminate 48 hours.

Ritter said Sec .16 is to store for more than 48 hours.

Abare said Sec .16 limits parking boat trailers. A lot of people have boat trailers and if they don't have it covered. Wilbur then read disclaimer. The last line should be eliminated or change to reference nuisance code.

Abare said go through Sec .16 line by line:

1st line ok – difference in language. Requirement to screen should be eliminated. Abare wants to have it explained why we need 16.

Ritter said Sec .15 should be recreational related equipment. You have to have definitions. .16 sb anything other than .15 .16 addresses greater than 48 hours. If you are going to keep it longer than 48 hours, then don't put it in the required front yard. This does not address the issue in the other zonings. RS means residential. RR means rural first and then residential to Krieger.

Abare said the required front yard is different in each zoning.

Ritter said another option – Sec .15 have one part for use and one part for storage.

Ryan wants to keep the "of any kind or type" in sentence.

Wilbur said the key thing in Sec .16 – not owned or controlled by the legal resident. Ritter said what right does Town have to go to someone and ask if they have a title. They go back to title issue. What if it is leased? What if it is rented. What if it is a cop car and you just drive it home.

Wilbur referenced the Mayor's version of 1.5.16

Board asked Mayor for clarification.

Mayor - Sec .16 the original code states two things –if it doesn't have current tag and if it isn't titled then it can't be parked on the property. He only added the "control of" to the sentence. The rest of that was original code.

Ryan said eliminate the possibility – the other section of the code says it can't be a commercial operation. They discussed that commercial operation was a operation for money or for consideration in some other form; even bartering. If you can't see if it is a problem. What if it in an area you can't see and they are dealing drugs back there. Abare said he didn't re-write the first part. It was that way before. You might want to think about that.

Mayor read Krieger's version and he doesn't think Council would go for that. If it prohibits it in Sec .15 is it then ok in Sec .16?

Ryan said restrict it to titled by owner. Ritter said you can't ask owner for proof of ownership. As Town Attorney has said how are you going to enforce that?

Abare said adopt the Mayor's version. Krieger has problem with trailer. He has trailers without tags. If there is no intention to put on a street then why need a plate. Ritter said you have to distinguish some criteria. ATV trailers are short but they still need a tag.

Ryan said we are trying to fit every possibly aspect. Make things legal for more people instead of making more criminals. They discussed having a current tag. Wilbur said keep trailer operable condition, it is acceptable use. Use Ritter's proposed language.

Ryan said we have spent 2 hours can we come to a conclusion. Ritter understands know and we are going to mesh them.

Ritter will bring a new version to next meeting. Then if Krieger wants to modify and eliminate trailers then type something up and send out ahead of time. Wilbur said to keep requirement to keep it operable. Technically, it is inoperable but as long as they keep it tagged.

Have for action at next meeting.

Krieger wants to continue on this. Short version, equipment, does it have to have a license plate? He wants to have equipment and trailers removed.

Ritter has concern with commercial and industrial – should they be included? Wilbur said if they want commercial as a CUP and get neighbor's approval. Abare said make a 17 and make it commercial.

Ritter said combine 15 and 16 for one (15) and make 16 (for commercial) Wilbur said add CUP for commercial semi-tractor parking, or storage then they can apply. And it goes in a one year deal. It is the fairest deal. Abare said we have a draft of our own.

Krieger disagreed. What they are addressing is non-commercial. Commercial should be with where it addresses businesses. Art V does cover Home Occupational lic. Add to that section.

Wilbur said define non-commercial districts in Sections .15 and .16

H. DISCUSSION:

3. Consider Suggestions from Mayor re: RV Parking

Exhibit: Agenda Report No. 3

Recommendation: Discussion

Discussion: see discussion under #2.

4. **Continue Review of Checklist and Requirements for Ponds**

Discussion: none – Board did not get to this.

5. **Define “Light Industrial” Zoning**

Discussion: none – Board did not get to this.

I. **ADDITIONAL ITEMS FOR FUTURE MEETINGS:** not discussed at PZ 2/8/12

6. **Setbacks in Residential Zonings**

7. **R/LC Zoning Clarification**

8. **Code Requirements for Assisted Living Facilities**

J. **PUBLIC:**

Tom Eschenberg, related to Section .16 he doesn't think you can carve out special exceptions. He has a small trailer but keeps it in the shed. If you have a complaint, then comply. Definitions, using Florida Statute is not the answer. You have the Legislature passing 500 bills every year that can change those definitions. Mayor said if you like a particular definition from F.S. then pull it in and add it to the code and if we want to change it later then we can.

Regarding parking of trucks: make a motion; allow the full 18-wheel rig or not and send it to Council. Make them commit.

OLD BUSINESS/NEW BUSINESS:

Ritter asked about Park Bd recommendation. Mayor gave update. Park Board wants Town to pursue the purchase of waterfront property. Council didn't take any action. The property they were referring to is on market for 320,000.00. Mayor said there was something that came out of P&Z and would be a good project for Park Board. Have the Park Board ask Senator Nelson to donate the little piece of land that goes over Goat Creek. You could launch canoes. So the motion was made to have Park Board contact Senator Nelson and ask him if he will donate. (west side of Hwy 1) Park Board will pursue that.

Wilbur showed on map and also pointed out piece on east side that you would want to give you waterfront landing for sailboards. Ryan said the problem would be to restrict it to Malabar residents. Ryan said think of potential liability.

L. **ADJOURN**

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

Vote: All Ayes. The meeting adjourned 9:45 P.M.

BY: 
Bob Wilbur, Chair


Debby Franklin, Recording Secretary


Denine Sherear, P&Z Board Secretary

3/14/12 as corrected
Date Approved