

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
FEBRUARY 22, 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
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN, Excused
	LIZ RITTER
ALTERNATE:	WAYNE ABARE
ALTERNATE:	CINDEL ZINDEL, Excused
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

Reilly said he got called by Ryan who asked to be excused for tonight (picking up wife) and next meeting for surgery. Franklin stated staff had checked all phones and email before meeting; no messages.

B. ADDITIONS/DELETIONS/CHANGES:

Franklin explained she finished P&Z minutes from 2/8/12 but due to late date, will hold for approval at next meeting. Regarding the corrections noted on 2/8/12 for minutes of 1/25/12 she had a conflict on one of the corrections and did that part verbatim and asked for direction. Board said to leave the verbatim in for that section. Minutes were approved on 2/8/12 with corrections so no separate action was required.

Ritter said she took last meetings submittals and created a marked up page and then a clean copy of Sections 1-5.15 and 16. She just emailed it to Denine this date so brought copies for Board. The line-throughs are for deletions and the underscores are for new language.

Krieger said Agenda Items 2 and 3 are reversed again. He wants to discuss RV issue before the tractor trailer issue. Reilly said the agenda calls for action on 1-5.16 and they need to start with that.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 2/8/12 not ready

E. PUBLIC HEARING:

F. PUBLIC:

G. ACTION:

2. **Section 1-5.16 Tractor Trailer Parking in Residential Zonings**

Exhibit: Agenda Report No. 2

Recommendation: Action

Chair Wilbur introduced item.

MOTION: Reilly / Abare to approve what Ritter wrote for Sec. 1-5.16.

Discussion. Abare said Sec .15 allowed for use and for the 48-hour limit and Sec.16 provides for storage for longer than 48 hours.

Ritter said the definitions would apply to both Sections .15 and .16. Abare said pull in the definitions that you like from statutes. Ritter said you could still reference them without including

the six pages from the statute. Abare stated he likes the suggestion of the Mayor that they include the definitions they like from the F.S. and then if the State changes them later the Town doesn't have to change them unless they want to. Wilbur asked Ritter how many usages are listed in F.S. 320.01? Ritter said 45 are listed in F.S.

Krieger said use "definitions will follow the current Florida Statutes". Then use only F.S. 320.01. Wilbur said use just a list of the titles and state "for further definitions go to F.S." Consensus to remove 2011 from the reference to F.S.

Wilbur would like a list of types of vehicles. Ritter said she included it. Reilly asked how it would be laid out in Code. Franklin explained that the language in adopting ordinance directs Municode to renumber as necessary to get information into the Sections of Code as we direct. If same language applies to both sections .15 and .16 it would be repeated in both sections. Reilly asked about reference to 3-1-77. Franklin said that is a reference to a specific ordinance and it should reference the section of the code, not an ordinance. Krieger said he took it straight from Code. Franklin said that is an error and we will correct. Staff will put in the correct reference. Chapter 11 in the front portion of the Code Book deals with nuisances. Article X in the Land Development Regulation portion of the Code Book deals with nuisance abatement.

Abare said whenever we change an ordinance we want to make it better. He felt Board did that. There were poor or no definitions so we fixed that. We changed the ownership reference. We dealt with the 48 hours. What about commercial vehicles. Ritter said .15 dealt with use and .16 dealt with storage.

Krieger said he took Mayor's proposed changes to Section 1-5.15 and .16 and stated that the advantage to the Mayor's version is that we don't add definitions and we keep the code pretty close to the original form. Krieger read it again and again and again and the only thing he saw that he didn't like was it should use "non-commercial" instead of residential, and he would cross out ~~park~~ and add limit for only 48-hours.

Reilly called Point of Order. The item under discussion for Board is Article V, Section 1-5.16 and is on agenda for action tonight. You can't be bringing Section .15 into discussion. Reilly said you have to take them one at a time. Abare said they are connected. Ritter said the title of the section does not say tractor trailer parking. Krieger said if you want to use Ritter's re-write, use boats "and" boat trailers, not or. Krieger said if there is no boat on trailer it is not a boat trailer. Yes it is. Krieger said then keep it consistent; and use *boats "and" boat trailers*.

Wilbur asked if semi-tractor trailers are covered in the F.S. definitions. Yes. They are trying to make separate section for them. Possibly use Section .16 to address them.

Abare thought they talked about tractor trailers needing a CUP (conditional use permit). Wilbur said that was for commercially operated large vehicles. Krieger thought they talked about this only if there was a complaint.

Ritter referred to her proposal and said make it subsection A. and B. with A. for use up to 48 hours and B. for parking or storage for more than 48 hours. Abare said we are adding definitions. In section B. add greater than 48 hours.

Wilbur asked if we are going to require a valid registration even though some members had issue with that. Krieger said take word "valid" out and put in "required". They discussed taking out registration altogether. Abare said they discussed someone trying to work on an old classic vehicle vs. numerous cars up on blocks in front yard. If you put it out of sight then you don't have to have valid registration. Reilly said change *valid registration* to *title*. Krieger said no. Krieger

referenced current tag. Ritter said leave it out. Krieger said there is something out there that may not require a registration. Krieger said having "valid" in Code would give permission to Town official to come onto property. He does not support that. Krieger has neighbor that has trailer that carries his leaves on his property. He doesn't take it on the street. This would require him to register it. Board said no, if it does not require registration then this would not require it. Ritter said bottom line if it is stolen, they would have some paper that it is registered/owned by them.

Abare said we are missing the bigger point. Point is if someone is sprinkling the yard with broken down vehicles up on blocks, we need to have a mechanism that would allow Town Administrator to go out and enforce Code. Give TA ammunition that she needs to enforce Code when a neighbor complains. Abare said car on blocks that has title and not current registration would have to be in carport or enclosed building or behind fence.

Wilbur said what about the resident that has a garage full of cars he is working on for other people. Registration is not required unless they can be seen. Krieger said to use required instead of valid registration. Ritter said if it is tagged it is current registration. Abare asked P&Z Members if they had problem with using term *registration*. Wilbur, Reilly, Abare, Ritter – no; Krieger, yes. No further discussion.

Reilly, referring to Ritter's re-write, said at top of page remove the word "please".

Ritter told Abare that subsection 3. of her proposal does not allow for a bunch of cars in yards; so that would not be an issue.

Reilly said make it Section 1-5.15 "A" (use) and "B" (parking and storage).

Ritter said then you could use 1-5.16 for commercial vehicles.

Vehicles why in bold – it lists a ton of stuff. Ritter said the statute list the types and read a portion of list. Instead use "some examples of vehicles are..."

NEW TITLE: Use, parking or storage of vehicles, boats and boat trailers
Use same language in B.

The preamble para will only be used once before the definition of vehicles.

At top we don't have limit of time.

Reilly suggested that if a person buys a frame, tires, motor and builds his own car it doesn't have a registration or title.

Abare said if he buys a current tag for the car on the blocks then it can stay in sight in yard.

Ritter has problem with *legal resident*. Abare doesn't like title.

Krieger wants to use Mayor's language. Board wants to keep "receipt" of C.O. instead of issuance. Also change from "and" to "or" meaning it can be either.

Board took recess to allow Board Secretary Sherear to get Ritter's document from her email and make the changes as noted thus far and bring a clean copy back to Board so they can take action.

Board takes short recess.
Board back in session.

Reilly said the action item on Agenda was for *tractor trailer parking in residential zoning*. Article V, Section 1-5.16 presently refers to parking and storage. The action item we have to take is on tractor trailer parking and not on what the Board just discussed. He asked why the agenda item was worded the way it was.

Franklin said the Board decided at a previous meeting that the Section Titles should be renamed for both Art. V Section 1-5.15 and 16. Regarding Section .16 the issue came before them because the Town got complaints about tractor trailers parking in residential areas and also damaging infrastructure. This section of Code is vague and did not give clear direction whether parking of tractor trailers was allowed or prohibited. Staff asked P&Z for direction regarding parking of tractor trailers in residential areas.

There was also a request by a tractor trailer driver to the Town for a letter stating the Town would allow him to park both his tractor truck and trailer on his property which is in RS10 zoning. That is why Council asked P&Z to review and make a recommendation to them.

Reilly said he would like to make a motion to table this action for next meeting and have the agenda say the correct terminology; have a finalized version for Board to review.

Krieger said there is a motion on floor. Abare said Section .16 begs the question,

MOTION: Reilly / Abare to rescind motion on floor. VOTE: All Ayes.

Reilly then said this item is for action at next meeting. Combine Sections .15 and .16 and use, parking OR storage of vehicles, boats *and* boat trailers.

Reilly said now for the action item. It issue is covered in what the Board just did. Except for addressing commercial properties.

Krieger said get rid of this and take no action on this. Wilbur said take it as a CUP requirement if it doesn't fit under Article V.

MOTION: Krieger to table. No second. Motion dies.

Abare said we have the seeds to do that – changing commercial in residential. Reilly said it needs to go Council together. Or to attend the Council meeting and explain. None of these address anything on commercial.

Abare gave ex of tractor trailer wanting to park in RS 10.

Franklin gave explanation of why this came to Board. Until problem presents itself don't make more rules. Ritter said in B. change to non-commercial district property. Abare said if we do what they are saying, we are treating it as any other vehicle, just bigger. Wilbur said we have to advertise what we did as an action item.

Reilly said what about

If you want a commercial operation, come up with a mechanism. Bring back staff work up of CUP application and meet the requirements they can use their commercial vehicle in a residential area if the meet the criteria.

Krieger said add a A. add a new number between 2 and 3. And state that commercial use will require a BTR.

Ritter said add private, not for hire in front of title in A. Wilbur said horse are transported by drivers for hire. Krieger said that is getting pretty mucky.

Reilly said at next meeting show new write up with "private not for hire" underlined.

Franklin said no tractor trailer drivers have come in for BTR.

Wilbur said create a CUP for commercial use of vehicles of over 26,001 pounds. PUT FOR Discussion – it is not ready for action.

They discussed the outline of what the intent was for these uses. Wilbur read criteria. If they want to do it they have a process. Abare said that will give TA a way to enforce it. Abare said there are clip board neighbors.

Now create a CUP section somewhere. Look at it next meeting. Wilbur read from the waiver or the CUP. It gives Code Enf a tool to enforce. Krieger said the complaint should trigger the need for a CUP. The parameters are set based on . Wilbur said that County has set up these and can revoke.

H. DISCUSSION:

3. Section 1-5.15 Consider Suggestions from Mayor re: RV Parking

Exhibit: Agenda Report No. 3

Recommendation: Discussion

Reilly said we have addressed what we want in .15 it requires no more action is needed.

No other items.

4. Continue Review of Checklist and Requirements for Ponds

Exhibit: Agenda Report No. 4

Recommendation: Discussion

Discussion: none – Board did not get to this.

5. Define "Light Industrial" Zoning

Exhibit: Agenda Report No. 5

Recommendation: Discussion

Discussion: none – Board did not get to this.

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

6. Setbacks in Residential Zonings

7. R/LC Zoning Clarification

8. Code Requirements for Assisted Living Facilities

J. PUBLIC:

Tom Eschenberg, 2835 Beran Lane, tractor trailers, first off, the original incident, the guy does live in RS10. On corner he has 1 acre lot. It is parked behind his house. It is nice looking. If he understands them, if he drives a tractor trailer with pigs it is ok. Also for tractor trailer for race car, he can park it anywhere on any residential lot in Town. If the ag are not objectionable, and hobby vehicles are not objectionable, what is difference with commercial vehicles.

Abare said it is because it is use, commercial is used more.

Talking about CUP it would not be allowed unless registered in his name. If he drives for a trucking trailer.

It has a valid registration, no vehicles, without a valid registration unless owned by resident.

Need to add back in under the control of. Make note to change. One other suggestion – Chap 11, if you read that and become familiar with it certain things are not allowed. Mayor would not have problem with

Add to table in Dist II that parking of commercial vehicles

OLD BUSINESS/NEW BUSINESS:

Franklin referred to item on agenda for Site Plan for Camelot RV Park Inc. They want to add a pool and two bathhouses and that required a Site Plan review. It has been reviewed by staff and will be on next P&Z agenda for a Public Hearing.

This is a quasi judicial issue and so there should not be discussion among the members on the project outside the noticed public meeting. The applicant and the public are entitled to be present when the project is discussed. I asked the Attorney about this as we know this Board likes to have projects "introduced" before action is taken. The Attorney has no issue with staff informing the Board of the upcoming site plan review, but also cautioned against discussion of project ahead of time. Denine has handed out the packages for you to review.

Notify Nana's House.'

L. ADJOURN

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

BY: 
Bob Wilbur, Chair


Debby Franklin, Recording Secretary


Denine Sherear, P&Z Board Secretary

3/14/12 as corrected
Date Approved