

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
APRIL 11, 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
	LIZ RITTER
ALTERNATE:	WAYNE ABARE, excused
ALTERNATE:	CINDEL ZINDEL
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES: none.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 3/28/12

MOTION: Reilly / Ritter to approve 3/28/12 minutes as submitted.

Vote: All Ayes

E. PUBLIC HEARING: none

F. PUBLIC: none

G. ACTION:

2. **R/LC Zoning Clarification**

Exhibit:	Agenda Report No. 2
Recommendation:	Action

Speaker Card: Tom Eschenberg, 2835 Beran Lane, has questions, not comments. What was the Board's rationale in reducing density from 6 to 4? What was Board's rationale in increasing the minimum square footage for residential from 500 to 900? Eschenberg said the Board appeared to have confusion on what is a unit at last meeting and that needs to be clarified. He asked himself if someone had one acre, what could they built there. He looked at Table 1-3.3.A. and the maximum building coverage is 20% and that comes up to 8,7120sf on one acre.

Wilbur told him that the build out is limited by other areas in the Table; for example if they don't have central water and sewer their development is limited. Eschenberg referred to a multiple family that is N/A in the density column and asked Board how much can you cram on one acre. Wilbur said that it again would be governed by the Table; the Maximum Impervious Surface Ratio (MISR) is 65%.

Eschenberg asked, can you get 8 residential units on one acre? Reilly asked where he is getting 8. Eschenberg said if you have 8 commercial business units you must have at least 7 residential units.

All Board Members said no; the limit is four. Ritter said a building is a unit.

Eschenberg said their intent is 4 business and 4 residential per acre. Eschenberg said something has to be clarified

No said Board. It is a total of 4. One unit with 4 uses in it. Use is a division of a building. Unit is not the term to use. Ritter said the max is 4 uses. Reilly said a use is either commercial or residential

Page 13/158 and look at the definition.

Unit 2 family. Two dwelling units in a detached building shows a conflict as it references two units. So units can't be same as building. Krieger said you have a 20,000 square foot parcel of land. He said think of the models done by the engineer. Ritter said shared unit with doctor office and also other use.

Board goes over the definitions at the time.

Dwelling attached

Dwelling detached

Res bldg in multifamily.

Krieger said need to clarify the difference between use and unit; he gets confused.

Ryan asked if they have other cities regulations that we could look at.

Krieger said this is a problem.

Building can have both commercial and residential uses. Wilbur said combine it for RLC and have both definitions in there. Or if they are going to go to commercial. He thinks residential definitions are sufficient for what they want to do. Residential he feels are good.

Within a building, you could have 4 separate uses or units or have 4 separate buildings. Zindel asked if you could meet setbacks. Krieger said he has seen ads that state there are "x" number of units available. That is up to the advertiser. Don then brought up the B&B and asked if the landlord is a business and then the balance may be squewed. He said unit is confusing. Krieger said there are 4 things you can do on 20,000 sf.

Wilbur said add language from definition in commercial and residential and pick that out and add it to this page of definitions. For allowable commercial uses in RLC, that portion is what you use. The rest is based on residential. Liz also asked about table heading; shouldn't say minimum living area for commercial areas. Staff will change heading.

Board asked about last column in the table on first page only; appears to be wrong. Franklin said she thinks it was deleted in 2005 but staff will check.

Franklin said that the table provides minimum lot requirements; for R/LC it is 20,000 square feet. The density column is based on one acre. Presently allows 6 units per acre. If person only has 20,000 sf lot it is less than a half acre. Zindel said then you can only have 2 per 20,000. No, then you could only have 1 since it is less than ½ acre.

Wilbur explained the reason RLC was created so these little lots could be used and not harmed. Board discussed units per acre. Wilbur explained that units are term for residential uses. For commercial development, the Table uses square footage. Each commercial use is governed by sf. Franklin said Planner Keith Mills tried to explain this difference but Board wanted to combine them.

Wilbur said for commercial development you are limited by the square footage. For R/LC you have separated the requirements based on use. For the residential part in R/LC you have that identified in Table 1-3.3.A by single family and multiple family. Wilbur explained how you could do an existing multi-family structure with four each 900sf units and be under the 4000sf maximum limit for R/LC under commercial. (Note: the table was not previously separated between multiple family and

commercial.) Ritter and Krieger questioned the square footage at Nanna's House. Wilbur said that Nanna's house was a mistake and they should use a better example.

They are looking at requirements for R/LC in Table 1-3.3.A as they would apply to mixed use. The Table provides multiple requirements that applicant must comply for multiple family development or commercial development; like the maximum building coverage (MBC) of 20% of the lot (footprint of building on lot); Maximum Impervious Surface Ratio (MISR) of 65% (amount of lot that can be covered with non-pervious structures (buildings, ponds, driveways); and Minimum Open space (MOS) of 35% (amount of lot that must remain green).

Board agreed to change the minimum lot size for R/LC to ½ acre. The correction to the ½ ac size is for RLC only.

The commercial part for RLC should be "N/A" to be consistent with other commercial listings in table.

Wilbur said they could add the definition for limited commercial within the R/LC so they know what is allowed in RLC for commercial. They could find the definition under LC (limited commercial). Wilbur said that is not a definition. Maybe we don't have anything. Wilbur said they should add definition as part of it.

"Use" is what it is being used for. "Use" is for commercial or residential. No more confusion.

Board agreed to not add the "s" in the bullets. But do change to *unit* in the bullet or use *use/unit*. Reilly said he is changing his thinking from last meeting. They discussed to change or not. Change or not change. Do not change.

Add before bullets: Building or portions of building may have residential or commercial uses or both.

Wilbur would like it to be tied to RLC. The definition should also be in RLC.

Commercial unit – a building or portion of building used expressly for commercial purposes.

A unit is a building or a portion of a building in use for a residential or commercial purpose.
That needs to be straight.
Add it to Article XX.

Reilly said to send to Council this sheet of paper (agenda report) with changes noted. And add N/A to the last column for R/LC in commercial because the percentage overrides the units. And then for Art XX add the definition for commercial and unit. And change the minimum lot size to ½ acre to RLC.

MOTION: Reilly / Ryan to recommend Council approve the proposed changes to R/LC in District III, Table 1-3.3.A and in Article XX, Language and Definitions with the changes noted the Agenda Report and adding from tonight's meeting: adding the definitions for unit and commercial unit, adding the statement in paragraph in Section "O" before the added bullets, changing the minimum lot size for R/LC to ½ acre to be consistent with other commercial designations in Table, add N/A to the density column in the Table for R/LC in commercial subsection as the percentage overrides the units..

VOTE: All Ayes

3. Setbacks in Residential Zonings

Exhibit: Agenda Report No. 3
Recommendation: Action

Speaker card: Tom Eschenberg, 2835 Beran Lane, make one more appeal for people in other residential districts to give them the same benefit that you are proposing for RR65. On page 16 and note 7.

Reilly said the Board has discussed his request already and did not agree. Ritter said they are smaller lots and houses are closer together. Krieger is saying in RS 10, 15 and RLC he is proposing they be allowed to reduce setback to 15 feet in the rear.

Tom Eschenberg said his big problem is this: Table 1-3.3.E. that causes nothing but confusion.

Ritter explained the reason for the two tables when ROW hasn't been dedicated. Eschenberg also said Briar Creek and Jordan should not be in Table. He said get rid of Table E altogether. Eschenberg would suggest the code use words, anticipating the future. He also doesn't think we should require certain setbacks on roads under jurisdiction of State. He doesn't know what State is going to do that will be used for right-of-way (ROW). Wilbur said you have to have it in there for the here and now, based on the future. We don't know what we are going to need for pedestrian corridor and drainage and they have to fit within the right-of-way (ROW).

Eschenberg again asked what Table E accomplishes. Zindel said the right-of-way widths are in the Comp Plan. Eschenberg said per the E.A.R it is not consistent. Reilly said the E.A.R. was approved and action was then taken to update the 1988 Comp Plan. It was approved in 2010. The Comp Plan states that within a certain number of years, the Land Development Code would be updated/amended to be consistent with the Comp Plan.

Eschenberg insisted the page he was referring to was the latest document. Franklin offered to get approved Comp Plan. No. Reilly said it is in the updated Comp Plan and that trumps the land development Code.

Ryan agreed with Reilly and said there has to be some sort of guideline. He understands Eschenberg' motivation and agrees with him that there should be no development on Malabar Road.

Reilly disagrees with the request to change the rear setbacks. The reasons were stated before as to getting back to those areas.

MOTION: Reilly / Ritter to recommend Council approve the proposed changes as spelled out in the Agenda Report with changes made this meeting.

Vote: Ayes, 4; Nay 1 (Krieger)

Discussion. Krieger mentioned the half roads that were subject of lawsuits in the past. Wilbur said the Town has to look at the future needs.

Change title in Table E. to add Principal Structures and put centerline before thoroughfares. In Section 1-5.10 change title to Principal Structure Setbacks. In the second paragraph of this section, change the word *building* to *principal structures*.

Board ended here for this meeting and moved to J. Public. No objection.

H. DISCUSSION:

4. **Continue Review Checklist and Permit Requirements for Decorative Water Features and Ponds**
5. **Define "Light Industrial" Zoning**
6. **Code Requirements for Assisted Living Facilities**

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

7. **Discuss Procedures for P&Z Excused Absence Policies**

J. PUBLIC:

Tom Eschenberg, Beran Lane, 2835 Beran Lane, acknowledged that Board will be sending a couple of recommendations to Council. He said maybe they shouldn't be doing that unless someone from this Board is there to answer the questions he is going to ask. On RLC he is going to ask Council the same questions and see how they answer. Wilbur said as long as the Building Dept understands the Code that is what counts.

Eschenberg continued about the maximum density per acre for the commercial in R/LC. The P&Z Board made it N/A. P&Z Vice-Chair Reilly said his answer is in the minutes. Wilbur said the Board has done the best it could and doesn't have the benefit of having an attorney at meetings. He referenced previous work they had done for over a year and then Ed Booth threw it out. They do the best they can. Council can change it once it gets to them.

OLD BUSINESS/NEW BUSINESS:

Old –

New:- Chair asked Board Members to propose a meeting date that would work for a Joint Meeting. Krieger said they should not have a Joint meeting on a single issue. Reilly said he will be in Ireland on 5/23/12, the proposed date for the meeting. Franklin said that Council Member David White can't make any Wednesday meeting. Council Member Carl Beatty can't make the May 9 meeting. Chair Wilbur said it is up to the Board when they want to do the workshop. What night is best for everybody?

Zindel said the joint meetings they have had have not accomplished anything. There are seven of them and seven of P&Z and multiple conversations and 14 different ideas and it goes on until there is complete confusion. Zindel said the P&Z Board should have an attorney. The codes they propose are only as good as it will stand up in court. They want to make code easy to understand for residents and make it so you don't have to jump through hoops. Council is taking their recommendations and then just sending them back to the Board. Instead the recommendation should be discussed by Council and then go to Attorney and then come back to P&Z. Zindel said let's get on with it. The P&Z Board has spent months and months on these issues and they should get some kind of feedback from Council. She said to put her on record that a Joint meeting at this time would be a waste of time. She said the P&Z Board will present their ideas on what the code should look like and send to Council. Then Council can approve it, tweak it or send it to Attorney to change.

Ritter said to Eschenberg that they, the Board also have their own opinions on these issues but they set them aside to look at what is best for Malabar. They do their best and then send it to Council.

Reilly said that Eschenberg is in a position to sway the Council.

Ritter asked Eschenberg what Council didn't like about the recent recommendation they sent. Eschenberg said one issue they didn't like was the unlimited amount of vehicles allowed in the yard. Ritter said their wording controlled that.

Ryan asked if someone would go from P&Z to answer questions Monday April 16, 2012. Reilly will go if Liz can't, Wilbur will try to attend. Zindel said they should not have to go and defend their position. Krieger said Council should accept reject or amend their recommendations. Wilbur said they should be reading the P&Z Board meeting minutes and asking staff questions. They also have staff they can ask.

The Board would like to hear back from Council. Krieger said Council is boss. The P&Z Board is supposed to be saving Council time. The Board needs to hear what the issues and complaints are from Council.

Ryan said Council deals with a lot of different things and they don't appreciate the level of detail this Board gets into.

MOTION: Krieger / Ryan to recommend to Council that a Joint meeting would be counterproductive on a single subject until they send their specific problems with the Board's recommendation. Wilbur said include Attorney comments and suggestions to correct as well.

Vote: All Ayes

Board reiterated that if Council has a complaint or complaints they should list them and send them to Board.

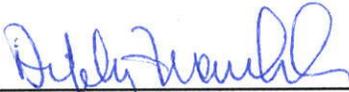
L. ADJOURN

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

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

BY:


Bob Wilbur, Chair



Debby Franklin, Recording Secretary



Denine Sherear, P&Z Board Secretary

5/9/2012 as submitted

Date Approved