

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
MAY 9, 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
BOARD SECRETARY:	DENINE SHEREAR, excused
RECORDING CLERK:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES: none.

D. CONSENT AGENDA:

- 1. Approval of Minutes** Planning and Zoning Meeting – 4/11/12
Planning and Zoning Meeting – 4/25/12

MOTION: Reilly / Krieger to approve 4/11/12 minutes as submitted. **Vote:** All Ayes

MOTION: Reilly / Ritter to approve 4/25/12 minutes as corrected: Pg 12 Krieger add natural

Vote: All Ayes

E. PUBLIC HEARING: none

F. PUBLIC: none

G. ACTION:

- 2. Council Reply to P&Z Board Recommendations:**
 - **Setbacks in Residential Areas**
 - **R/LC density and regulations**

Exhibit: Agenda Report No. 2

Recommendation: Discussion

Reilly said Board should take these as 2 separate items. Franklin said they were listed on agenda face sheet as one agenda item from Council but each had considerable background and supporting documents so we made them as separate items. In the future we will give them separate numbers.

Board dealt with Setbacks in Residential Areas first. Reilly said they considered the Mayors suggestions and determined that the setbacks in Table 1-3.3.A. should apply to principal structures and the new Footnote 7 was to deal with a relaxation of the side and rear setbacks for “accessory” structures in RR-65 only because those are larger lots.

MOTION: Reilly / Ritter recommend Council approve the P&Z Board recommendation regarding side and rear setbacks in residential zonings as discussed on page 21, and 22 with the changes, page 23 changes to header and footer, 24 same, 25 same and page 26 as changed; along with the rationale for not changing the setbacks in smaller lots: RS-21, RS-15 and RS-10 per these bullets:

1) access for utility service

2) fire safety

3) don't have 4 sheds in a corner

Remove highlighted areas that don't pertain to setbacks and the diagram.

Bulletize pg 21 – no zingers. Made it more concise. Major change is footnote 7.

VOTE: Aye: Ritter, Abare, (for Bud), Wilbur, Reilly. Nay: Krieger. Motion carried 4 to 1.

Separate discussion on the following:

Reilly said regarding why we need Table 1-3.3.E. he referred board to page 18/74 front setback.

The diagram shows how existing zonings along Malabar Road would have to comply using either Table 1-3.3.A or Table 1-3.3.E. RLC need setback according to Table A and Table E and which is most restrictive and E is more restrictive.

Krieger felt the reference was for future roads. Wilbur does not agree. It deals with future construction along the roads listed. Wilbur explained that not everyone has given the ROW. As a property owner he is not going to offer it up. Krieger then said on US 1 you won't build closer to the river. There are principal structures in the FDOT ROW on Highway 1. They won't build in the river anymore. Wilbur said they are not in the FDOT ROW. Wilbur said the property Krieger is referring to just added a wall to an existing structure. Krieger said if you believe that then look at Yellow Dog.

Abare said how can you expect the extra land to not be used. Wilbur said that was defined years ago to provide for planning. Abare asked if there is any land that is 100 back now. Yes.

Board then discussed "whichever is more restrictive". Wilbur was here when they came and reserved the right-of-way (ROW) in 1986 when they thought the bridge was going in and said they would be negotiating with owners and then the bridge plan didn't go forward. On Malabar Road west of Babcock Street they did that and widened the road. Abare said that would be what the State does, what does that have to do with what P&Z is doing tonight.

Wilbur said it has to do with planning for new construction on an arterial road; that if they build and make an investment they are not going to have to see it torn down when the road is widened. We don't want to allow that in Malabar. Wilbur said if a property owner wants to do a good job he will buy additional land so he can meet the setback. This is to protect the future. If FDOT does find money and you have just given someone permission. That is between the property owner and the State. Abare said that he thought it is like an adverse taking. Deny someone from using their land. Wilbur said they need to get the explanation from a lawyer or a planner.

Krieger also thinks they should get an expert opinion. He set his building back 150 feet. Wilbur said they are discussing setbacks for RLC on arterial roads that may be widened for six lanes and a bike path in the future.

Abare said they were going to straighten out Malabar Road at one point. Wilbur said there is now preservation land on the other side and that is not going to happen. Board then discussed the house across from the fire department. It burned down and was allowed to rebuild under grandfather clause on an undersized lot. The owners went to the Board of Adjustment for a variance to increase the size of the footprint.

Zindel said the Comp Plan is a planning tool. This is just a guide. Wilbur said no, the Comp Plan that the Town has adopted is used to create the land development codes to comply with. Wilbur said Table 1-3.3.E. has been there since 1988. That is when Les Solin was the planner here. It is common planning to provide for building setbacks. It makes the Town better when things are set back. Franklin reminded the Board of the corridor plan that would have made even more restrictive setbacks along the arterials. Wilbur said they have signs that are set back and blend in and they can put their parking and stormwater and open space in the front. This protects the town and saves the right-of-way and provides area for sidewalks without encroachment.

RLC was originally done to protect existing homes along Highway 1. While discussing the width of Malabar Road Wilbur said to look at Malabar Road on the west of 195 – that is greater than 150 feet. Wilbur has talked about a bike path and a sidewalk corridor and for that to be viable you have to have the right-of-way.

Identify Diagram as an Example of Setbacks per Table A and Table E.

Wilbur said what the Board doesn't understand when the developer is starting with a large parcel, like a clean canvas, they can place the landscape, buffers, stormwater, parking and even a water feature within the setback area. If you look at MIMA property. It looks nice. That is what we want.

Abare said what about smaller properties. Wilbur said they will rehab and bring up to code and that gives them a place to do that without having to demolish them and start over and they only have to meet the lesser distance.

Abare referred to the drawing the Mayor had showed them at an earlier meeting that showed the buildable area after setbacks were measured off. Abare said the Mayor's example showed that once you take out for the setbacks you can't do anything. Wilbur said just like where Cindy lives, you have to assemble lots if they are of smaller dimensions.

Ritter would like to see a bike path on Malabar Road. Zindel asked if you build on Malabar Road and need a driveway, do you get the permit from FDOT. Yes. Ritter said then there will be a bike path. Krieger said bike paths should be on back roads. Wilbur said take a wheel and measure it off and you will see you are not going to get two lanes plus a bike path plus drainage and power lines easements. You are not going to cram it in per Table A. Krieger said then maybe they should change Table A.

Abare asked Reilly. Reilly is ok with this and is ready for the vote.
Need bullets on why we need Table E.

Get copies of maps for land use change proposed and Pat's PP presentation for Wayne

Regarding Rationale on RLC:

Reilly said Council wanted to know their rationale on why we changed density from 6 to 4

- Maintain rural aspects of Malabar

There were 3 categories in RLC 2, 4 and 6. They split the difference. How many people do you want to live on an acre? There is only so much you can do.

Pat said the argument used was "you just caused me to lose money". Reilly said they should first show a business plan that would prove how you would lose money. If you go by the existing Table you can't get that many on smaller lots. Reilly is trying to give rationale.

- Couldn't have built 6 anyway – maximum anyway is 5. And you can't do – Need to make a table for this to make them understand. Column for residential and commercial, etc so they fully understand. Reilly drafted one during meeting to insert after bullets in Article III, District Provisions, Section "O."
- Stay in balance with surrounding area. Compatibility with neighboring properties.

There is no request right now. Abare asked how many victims will there be with this change?

- It is victimless unless zoning is also changed

Abare wanted staff to provide a list of parcels and owners in RLC along Highway 1.

Reilly said the rationale for why Board recommended change from 500sf to 900sf:

- Compatibility with surrounding area

- Residential properties not motels

They discussed why they did not want 500sf efficiency; a 20' x 25' space. Maybe up above your store. 1000sf commercial below and 2 500sf efficiency above. That is not what Malabar wants.

Wilbur referenced the diagram Franklin did for the use of a RLC parcel. Abare asked what was the take away of this diagram. Franklin said it was done so Board would have a better understanding of how Table 1-3.3.A regulates development in RLC. Commercial development in RLC is governed by square footage, not density. That is why the N/A is applicable under density column of table for commercial development under RLC.

Board said to also include 2nd diagram. Reilly suggested moving the "percentage" on #2 and #3 so they are more visible.

MOTION: Reilly / Ritter that they recommend Council approve the P&Z Board recommendation regarding R/LC based on information on pages 15, 16, 17, 18, 19 and 20 along with tonight's diagram and new table created tonight inserted after bullets on page 16; along with Board's rationale bullets that have been expressed/changed tonight:

Going from 6 to 4

- Example from previous meeting couldn't have built 6 anyway – maximum would be 5.
- Stay in balance with surrounding area. Compatibility with neighbors.
- It is victimless unless zoning is also changed

along with a list of existing properties and owners of R/LC on US 1 that may be affected.

Discussion: Abare said there are victims because when they bought the land they could have developed 6/units per acre. Only on the existing R/LC on US1 and they had a chance to develop it. Abare gave example of car that could hold 5 persons and then law was passed that only allowed 3 persons. Wilbur gave a reverse example of when in the 1970s Town changed all the land from agricultural to rural-residential and his land value went up.

Abare said there is problem with changing this without property owners input. Franklin said there would be no changes without public input at both P&Z and Council. Wilbur said is anyone in the audience?

Wilbur said they were charged to come up with the first comp plan. Have to have a balanced blend. In doing that we had to change things back then and are still making progress here. Once water and sewer come and a future Board re-looks at this they may change it to a higher density.

Wilbur said the Preamble of the Charter says Malabar is a rural residential community. Abare said you are affecting the way a property owner can develop. They can come in now and build to the present code; if it is changed they have to build to a lesser density. Ritter said if they own land they can't have it both ways.

Wilbur put it into perspective. The change to R/LC came about before the minimum square footage requirements for existing structures on US1.

VOTE: Aye, Krieger, Reilly, Wilbur, Ritter. Nay, Abare (for Ryan)

Reilly recommended Board skip the rest and go to Public. No objections.

Franklin said she will figure out how many properties along US1.

H. DISCUSSION:

- 3. **Continue Review Checklist and Permit Requirements for DWFand Ponds**
- 4. **Define "Light Industrial" Zoning**
- 5. **Code Requirements for Assisted Living Facilities**

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

- 6. **Discuss Procedures for P&Z Excused Absence Policies**

I. PUBLIC:

Tom Eschenberg, Beran Lane, re: Boards position on setbacks and emergency vehicle access. He said what does it matter if each neighbor has a 15' setback; 15' and 15' equals 30 feet so you have enough access for emergency vehicles.

He said re: Table E. it does not match the EAR. Reilly explained that the EAR is like an ECO at Harris. The final product is the drawing, not the ECO. The Amendments were made to the Comp Plan and it was approved. Wilbur said Council should hire a planner. Franklin will print 2010 Comp Plan for each member.

Wilbur asked Mayor to ask Council members if they would develop a schedule so a different council person comes to every other meeting. Krieger said Mayor is resident. Wilbur said his suggestion was meant as in addition to the Mayor.

J. OLD BUSINESS/NEW BUSINESS:

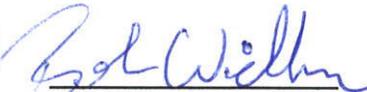
- Section of code related to duties of board
- St Johns updated watering information.
- Memo regarding DEP and St Johns re: wetlands
- Minutes from Council 4/16/12
- There is interest in property known as the TYG Christian Broadcasting building (old TV 56 station) on Babcock – interest by persons to convert to a church or by another for golf cart and lawn mower sales and service.
- FLC hosting a Successful Advisory Board training workshop in Orlando on May 29 if anyone is interested. Let me know and we will get you registered before deadline on May 15th.
- Al Tuttle trail construction should begin around July. Layout is on table.

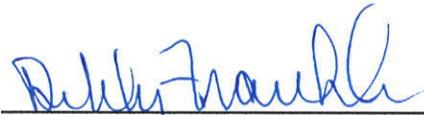
Question on Oakmont Preserve. They have a horse trail. Franklin said the development dedicated the land for the trail and developed it, but it is the Town responsibility to maintain it.

L. ADJOURN

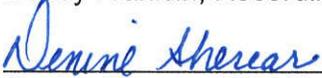
There being no further business to discuss, **MOTION:** Reilly / Ritter to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 10:30 P.M.

BY:


Bob Wilbur, Chair



Debby Franklin, Recording Secretary



Denine Sherear, P&Z Board Secretary

5/23/12 as corrected

Date Approved