

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
OCTOBER 10, 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, excused BUD RYAN, excused LIZ RITTER
ALTERNATE:	WAYNE ABARE, voting for Don
ALTERNATE:	LEEANNE SAYLORS, voting for Bud
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

**C. ADDITIONS/DELETIONS/CHANGES:** Abare called point of order. Pg 8/63 it says Discuss and Action to recommend to Council. Thought it had to be on agenda for action first. Is that a conflict? Reilly said they can discuss and then make a recommendation to council. Franklin stated that items can be added at the meeting and voted on for recommendation to Council. There is no policy to the contrary. Council doesn't normally take action on items unless they are on agenda for action but they could. This is an Advisory Board. Abare said he read through all of ALF stuff. Since April this Board has had other items come before us and we have not worked on the ALF code. The Council could vote on an ALF and we wouldn't have any input. He is concerned. The lawyer did not include density - there is no density. If Council says the PZ Board had it for six months and did nothing with it they may take action. Abare wants to move it to next item for action. Wilbur said the Board could make a decision tonight on LI and move it to Council. Saylor's thought they could move on LI quickly.

**D. CONSENT AGENDA:**

1. **Approval of Minutes** Planning and Zoning Meeting – 9/26/2012

**MOTION:** Reilly / Ritter to approve minutes of 9/26/12 as corrected:

Corrections: pg 5/63 (pg 3 of minutes) 2<sup>nd</sup> sentence, he is not supporting – take out “the” Below G discussion “it is not a good location for tractor trailer. **VOTE: All Ayes.**

**E. PUBLIC:** none

**F. ACTION:**

**G. DISCUSSION:**

2. **Review Material of “Light Industrial” Zoning and Recommendation to Council**  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Discussion

Wilbur explained that they are trying to find locations to allow businesses that don't fit in CG. The electronic communications substation type facility. Wilbur said that is why Data Mgmt is located where it is. Ritter asked about towers. They are CUP in whatever zoning. Ritter's concern is how large of building and how many employees. Saylor's said the light manufacturing would have the most impact. Abare said the distribution center would need more area than what we have available. Wilbur said most of the distribution that would be freight type would be in industrial. Ritter asked what Wilbur was envisioning in F. RR spur? Amtrak? Wilbur said take our transportation terminals and freight handling – they would not fit in our area. UPS is off of Conlon Blvd. and that is a large area. Reilly asked about difference between switching stations in C. and H. Agreed to put H. up into C.

Wilbur wanted to get the Boards feelings because a lot of these uses would not be compatible with LC (limited commercial). Abare said all these things require a lot of vehicles moving in and out so you want them by major roads. He is in agreement with that. Industrial land is all taken? Unknown about the Cochran property. If there is land available couldn't you do these things there? Wilbur said there would be more likely development by Babcock with water and sewer. Abare said that Krieger's position that you could use existing and not have to make changes. Reilly said what Wilbur is trying to do is allow new category for businesses that could not fit in CG.

Abare said the minimum lot size of 9000sf is very small and could not probably meet the setbacks. Lots in triangle are about 1.4 acre in size.

They discussed the minimum widths and depths. They wanted to be consistent. They discussed 1000sf for LI for floor area.

Minimum yard requirements: 50 for front and 25 for rear. Side corner interior 20; side corner 30ft. Alleys don't apply to us.

Wilbur started at 1. Principal uses - Does Board agree – yes

- A) Yes
- B) Yes
- C) Add H to this. Even with dishes it is the same. Yes
- D) Yes light manufacturing could be Harris.
- E) Discussed screening matl. Require this for storage areas. Opaque means you can't see through it. It is a legal use of the word. Ritter said it is also a screen. Make note to create definition for book.
- F) Yes with deletion of transportation terminals and freight handling.
- G) Yes – add "animal" in front of clinics. Not intended to people clinics.

2. Accessory uses:

- A) retail and repair ok? Yes
- B) Yes

3. They agreed to leave CUP as none allowed. No conditional land uses. Make it these 4 words

4. No Special Exceptions.

5. Add the word "light" in front of industrial.

6. Already discussed.

Discussed adding "or similar uses" in title.

Come up with "P" for these items on table and have no "C" and leave the language that says ".or similar uses" Reilly said you have to state that they can come in for a CUP.

This would be added to District Provisions. CG, LC, LI, IND, or between K and L. Leeanne said it would be a buffer between these areas. Reilly said it needs to be word smithed. Then they discussed putting them in order. It will become Section "P" in this District Provisions.

Abare asked about a caretaker place. Can they spend the night there? Franklin said that caretaker places are allowed on educational and church properties.

The areas in District Provisions in some sections state prohibited uses: residential uses are not permitted. Abare discussed kennels that allowed in conjunction of residences in other areas. Saylor mentioned that they did not discuss if they allow round the clock shifts. They don't have a bed. That is the difference. Reilly suggested taking it out as it is already in IND as CUP. It contradicts the existing code. They discussed doggie day care. Or add day kennels. Veterinary

Services. Or remove. Wilbur said you can have a business that is staffed 24 hours a day and not have a residence there. It is not a residential use. Leave it in. It would be hard to police. Saylor said put statement in prologue that residential use is not permitted. Add that sentence to prologue.

For next meeting we will add prologue and clean this up and have ready for ACTION. Wilbur, 18/63 referenced W. Melb regarding screening. This is for every site. Wilbur had not seen it in any other city requirement. Thought that was over kill. Reilly said that we already address it in site plan requirements.

Reilly referenced page 19, our book is more descriptive. Pg 22, Krieger wrote some ideas: something like that is what we need. Use both of them. Put in for next meeting. Add the similar uses statement here. Put on for action. The tables will have to be updated also. On the maps it will have to be updated. We will bring in the maps from last July FLUM map series. Also update Article II. Also add in Art II under uses. 1-2 would have all of Bob's stuff from tonight. The rest goes into 1-3. It will be split that is his point. Wilbur said they are adding a LI. Reilly said 1-2 is land use and zoning. Then less in District Provisions.

Franklin explained that the recommendation would then go to council and if they support it it will come back to PZ and hold public hearings and then again at Council.

Abare said taxes would go up if the land use changed. Wilbur said they are not talking about zoning. Abare discusses grandfather clause. He doesn't want anyone forced into rezoning. That is his position.

### **3. Code Requirements for Assisted Living Facilities**

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Discussion

Regarding the 3-ring binder from April 11, 2012. 56/63 is that the latest. Yes. Abare did not see dramatic changes.

Reilly said they have to go to different levels of assisted levels. Reilly said he did 100 hours of research on this. He would like to use this as a base line and get the tables. Criteria at bed level. It is a whole lot harder if you want to do it right. When they do the table they determine the intensity and the site requirements and they should not be across the table. Have it all in one table.

Wilbur said W. Melb requires 5 acres. Different intensities of use. Saylor said she worked in const mgnt and the parking requirements at a skilled care level is 0 for patient. Wilbur said in the assisted living is condition based. Abare said where his mother is there are areas that are locked down and others that if they leave an area an alarm goes off. You still need parking for family for the patient that doesn't have parking. Institutional Institute has done the studies on the requirements. Abare said in some of these places that some areas they can offer multiple levels or one levels. Reilly said what if they got approval for one level and they then changed the level. Then the parking might be an issue. Saylor said in that case they need to buy additional land for parking. They are governed by so many jurisdictions that you can tell if they have changed levels. The Towns tasks are to establish the parking and the green space. Wilbur said between independent and assisted living is a gray area. In that type of facility Town has control.

Abare said when they widen Malabar Road the State is going to take a lot of land. Once they determine which side it is coming off of. Reilly said another thing to bring up is having ALF in lessor classifications. Like RR-65. As a Board is that the direction they want to support? They have said in the past that they don't want that. That should be the starting point. Presently they

are not permitted anywhere. It is Conditional in RM4, RM6, RLC, and OI. What Attorney did was line through group home and replace it will adult care.

Reilly said the ordinance as it stands. The Mayor Tom wanted them to redo the whole thing and it is going to take a lot of work. Abare said the table may be ok? Yes it might be for a group home. Didn't want to get into minutia. Abare said there was no discussion of density in the minutes. Reilly gave his example of 4 people per family and four units per acre.

Saylors said some areas on septic will not be able to handle higher density. Abare asked if ordinance could be kept and just improved by adding more detail and table. Yes.

Pg 60/63 first paragraph, remove from OI and eliminate from R/LC. What was rationale? Ritter said that was Council direction. Wilbur said OI came out of area that was PC (professional commercial). What Council has suggested is taking the residential from the Office Institutional. Wilbur wonders why Council minutes of June 20, 2011. Get those minutes in their entirety. Saylors said what Rivet said was for R/LC intended use was for small businesses and homes.

Wilbur said this ordinance was not passed so they are starting over. Just look at density and site size. Your density is based on size. Abare said at Hibiscus court is 2 acres, is 100 people. We have to collectively decide if we want to do. Ritter said we can refer to State for certain things but not the size. Wilbur said if you want to keep rural character of Town. Saylors said there are some higher end places. Abare said ones with oaks and tables under them. Wilbur said there is one on Babcock by Crane Creek. Saylors said we can control park like settings. Instead of storage yards. Abare said instead of saying no then put in requirements for rural characteristics. Wilbur said get understanding from Council. Ritter said take back to Council after election. Reilly said staff could look at what the different levels are. Look at the different classifications. Try and think of the density you would want in each zoning classification.

**H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:**

**I. PUBLIC:**

**J. OLD BUSINESS/NEW BUSINESS:**

Owner of old day care is interested in developing an ALF and will be coming before P&Z to introduce his project at the Nov 14 or 24 meeting. He will have concept at that time. Current zoning is OI in front in RR65 in back.

Recent articles in paper detailing how some people are being allowed to operate businesses from their rented storage facility. The mini-storage on RR Ave and Malabar Road do not allow business to operate from those locations. The warehouse approved by Council on Highway 1 specifically permitted the operation of businesses from the units.

Reilly said that there is no meeting on 10/24/12, two meetings in November and only one in December due to Christmas. Board agreed.

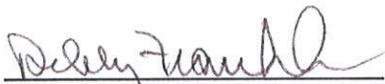
**L. ADJOURN**

There being no further business to discuss, **MOTION: Reilly / Ritter to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 10:15 P.M.

BY:



Bob Wilbur, Chair



Debby Frahclin, Recording Secretary



Denine Sherear, P&Z Board Secretary

11/12/12 as CORRECTED

Date Approved: