

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
JANUARY 9, 2013 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:   | BUD RYAN        |
|                  | LIZ RITTER      |
| ALTERNATE:       | GRANT BALL      |
| ALTERNATE:       | LEEANNE SAYLORS |
| BOARD SECRETARY: | DENINE SHEREAR  |
| RECORDING CLERK: | DEBBY FRANKLIN  |

**C. ADDITIONS/DELETIONS/CHANGES:** Add as Action item selecting Alt 1 and 2.

**D. CONSENT AGENDA:**

**1. Approval of Minutes** Planning and Zoning Meeting – 11/28/2012

**MOTION:** Reilly / Ryan to approve minutes of 11/28/12 as corrected:

Corrections: A, Bob Wilbur was excused so Chair was Pat Reilly – acting. Ryan under consent agenda, initial is D. Leeann, bottom of pg 1 Saylor's said it should say *asked*. Pg 2, 3rd para, last line, e at end of name.

**VOTE:** All Ayes.

**E. PRESENTATIONS:**

**E. PUBLIC:**

**F. ACTION:**

Now that we have two alternates Pat would like the Board to make recommendation. Sec 1-12.3 does not establish any criteria. It was brought up Monday and the Council discussed it but made no decision.

**MOTION:** Reilly / to make Leeanne Saylor's alt #1. Died for lack of second.

**MOTION:** Reilly / Ritter to make Grant Ball Alt #1.

Roll Call Vote: Ayes: Krieger, Reilly, Wilbur, Ryan and Ritter.

**G. DISCUSSION:**

**2. Continue Review of Code Language for "Light Industrial" and Recommendation to Council**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Discussion/Action

New info in the Fla Bldg Code. 2010 edition. Wilbur said some of those listed could be added to our code but not all of them. Krieger said he missed one meeting but he thought they were going to go through the list and see what can fit in each classification. Some cities are doing flex zoning. From Nov 14 he wanted the uses to be from lessor to greater zoning. It comes down between land use and zoning. Table 1-2.1 should be rewritten to go from lessor to greater intensity. He doesn't know why we are creating a new designation if we can fit some of these uses in existing designations. A welding shop used to mean a certain thing. Wilbur said it is not always the intensity of use. In CG you have to have roadside exposure. The LI would not require that. If he were to change list he would move OI down below Industrial and put RLC between CL and CG. Krieger still has the question. If someone wants to use as a lessor use they should be allowed to

do that. We should facilitate the corporate entities. He doesn't understand the pigeonholing. Wilbur said finding locations by I-95 for less appealing uses. Krieger referred to Canova businesses with the screening sheets. If a subsequent user wants to do a lessor use it is allowed. Wilbur has never seen a code enforcement issue like that. Wilbur said the Canova area has many types of businesses that you don't want on the main roads but could allow them to operate off the main roads. Wilbur said in our code we don't have a zoning district to allow these uses. Grant asked is there anything that addresses size. If you are a one man show or if you have 15 employees is there a difference. Wilbur explained he would like to see the triangle area off Babcock St and if it was opened up it would be a great addition to our tax bases. These types of businesses don't need sewer and can have enough for setbacks and the minimum open space gives you an idea of what these sites would look like.

Krieger said he could see a bakery in the upscale area. Leeanne asked when this came to them, what was the request from Council to create this designation. Wilbur explained they did a feasibility study to possibly open that area up for development. It was looking at the possibility to come in at an existing traffic light. P&Z was looking for a way to allow these 100 lots to be developed. Wilbur said the group of property owners could get together and do a LI PUD and make a quality development. Ryan, pg 11/25 gives new proposed writing. It is very vague. How large is large? Krieger said a PUD would require 20 acres. You could have a retail operation but it could be a Wal-Mart. Wilbur said if they wanted to put a limitation then he doesn't disagree, but he feels we need this designation. Reilly said mostly west side of RR from north of Oakmont to the north end of town. Ryan said the criteria should be more limiting. Krieger thinks a size component is important. Carpentry could be an artist or a cabinet maker. A fruit packing facility is a large facility. Wilbur said what is coming on is the farm to plate and small organic farms and small packing houses. Krieger said just tack it on to Ind. Wilbur said there is no Industrial area available. Reilly said when they come in staff will go through the code with them on what can be done and they need guidance. How big is too big. 2.5 acres you can have a 40 or 50K sf. Wilbur said do you see anything in Canova area that was too big for our area? Reilly said they are all small lots. And they are mixed in with high density residential. CL doesn't allow it. Krieger said can you have a printing place in CL? Could a PIP or similar go there? Bakery could be a commercial bakery or a small one. Krieger said he likes looking at this and thinks all of it should be looked at; including open space. Grant said they run the **gamut** so the designator should be the size and gave example of dry cleaning. How to quantify this? Wilbur showed area they are talking about. The area behind those businesses and OI between the residential. It is prime site for LI and will add to the tax base. You have to open this up unless you want to do agricultural. Grant calling it LI but the name of what they do means very little. Liz said the difference is plant or shop. Wilbur said the Table 1-3.3 governs the amount of development. Leeanne said they should list what can be done in this area. The residents on Booth Lane have fought any attempt to develop this area. Every applicant that has wanted to develop has been shut down. Wilbur said the only hope for this area is LI. He doesn't care about size as long as it meets the code. Wilbur said we have 100 acres that hasn't been able to be used for 20 years. And won't be used for another 20 years unless they do something. Krieger said it is not their job to make winners and losers of property owners. Just explain what can be done in each existing zoning classifications. Ryan said that is the problem. Need to have the LI designation. Smaller is less expensive. The limiting factor is the size of the lot and the Minimum Open Space (MOS) percentage or the Maximum Building Coverage (MBC) percentage. Reilly said look at 1-2.6 and read again. Reilly said maybe some of this could be overlap. Krieger said bicycle shop could have welding shop within. Krieger said he called some printing place by airport and they dumped their waste down the sink. If they pigeon hole this then you are limiting. Is it size or the amount of money they make? Barber or beauty shops. Grant said would it be better to designate what we don't want. Pg 7/25 go through the list and clarify what we don't want in the zoning designation. Aircraft manufacturing could be a 757. Or make small personal aircraft. Liz said what about repair. Leeanne said they are going to be limited. Wilbur said it could be hand gliders or hot air balloons. Ryan said what does the manufacturing consist

of? Grant said there is nothing that shouldn't be on list in LI. What don't you want? Ryan said what about a small builder and then they become Boeing. Krieger said you have Ind land use and then have several zoning classifications within that. There should be some flex. Leeanne said Wilbur hit on it. You can't identify all the things that may come. What would you like to see, identify the things you really don't want; hazard to environment, or not compatible with neighbors. Wilbur said Krieger was talking about photo and any more photo is mostly electronic. Is there anything on list that they don't want? Leeanne said we need to consider that much of Malabar is on septic. Wilbur said the area by I-95 could go on Palm Bay city water and sewer. Grant said they should eliminate the burning, detergents and ?.

Wilbur said service businesses should be allowed. Krieger said the new list eliminated kennels. A vet care will have overnight care. They have tried it for 20 years. People have tried and have been denied. Ryan said an incubator type development might work best there. Wilbur said the multiple small parcels could be joined together for development. There was discussion to move in this direction. Reilly said go to pg 9, in RES in Land Use and then the separate zoning. Go to commercial it is n/a

You could do that for both commercial and industrial in a similar manner. Then define what it is – LI or small scale. Half acre to 2 acres is light. That is the limiting factor. 1.5 to 2.5 is med and anything larger is Ind. Wilbur wants to see this area as strictly LI. Leeanne asked if the applicants have come to them. Yes, Ryan said they should get the local owners together. They have done that. Krieger said land use is changed to Ind. Why couldn't they put several lots together and do an Ind. A LI PUD would be ok with Wilbur. Not a IND PUD. If a property owner wants to do that they can come in and ask for the change. Reilly said he knows someone who just goes out there to sit. If you up the density then the taxes will go up. Krieger said he called tax office. Krieger said we should look at all of the zoning classifications. Leeanne said they still have to be approved. Grant said you should list what you don't want. Recycle hard drives business would be similar to . Krieger pg 10/25 we don't want kennels but later on list we allow vet hospital. Multiple conversations. Denine said the list has kennels in Ind and the vet hospital in LI.

Krieger went on to explain. Solve something that is not a problem. Ryan said it is residential now. They don't have people clamoring. Reilly said talk about why CL doesn't fit. Wilbur said the CL needs highway exposure. Krieger said the code is old. It should be changed to not require highway exposure. Wilbur said by changing it we are chasing our tails.

Leeanne said we also have another item on the agenda that needs their attention. They did have someone come in and give a presentation on their desire for a ALF.

Wilbur said this is not a difficult thing. He brought in some examples from other cities. He submitted what he thought would allow development in these areas. If other Board members don't want to see this they should have brought in what they thought should be changed, added or taken out. That was their homework.

**MOTION:** Krieger / Ryan to table. Or bring it back to next meeting. None of this was discussed at last meeting. Krieger rescind his motion/ Ryan his second.

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

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

Liz said we need to fix it and put it where it needs to be. Leave the old ones for small group homes and create code for larger ones. Not mesh one into the other. Wilbur said he wants to see ALF eliminated from OI. Liz said follow guidelines or Florida Statute. If it is larger than 48 then it is an

institution. We can't say it can't be in a zoning if it is allowed by Florida Statute. Decide if we are counting people or units. If they are warehousing then they are counted as units. Krieger said these are residential and the density should not be more than anywhere else. Make sure the property is used for one use and then operates another. Grant said his mom was in care facility on beach. There were only four people but there were CNAs and visitors and parking was an issue. Wilbur said the issue they had before was the parking for staff and visitors. Wilbur said the fire and rescue personnel are constantly going to these facilities and in Malabar that would be our volunteer fire dept. Leeanne agreed with Liz. Krieger said the ALF place in Melbourne is also going to have facilities for these folks. There will be a glut of them. His suggestion is to make it as strict as possible and that will do the opposite of attracting. Liz said take it out of OI is what we were asked to look at. Wilbur said there are too many things that can come back to us in Institutional zoning. Professional Office would not allow that. Leeanne said we have some limiting factors. There is no water or sewer on Malabar Road or US 1. Large parcels could have package plants. Reilly said we need direction from lawyer. Pat thought the attorney was not favorable on using references to the Florida Statutes. Pat asked that staff get an opinion from the attorney: can they use references to F.S. 419 and F.S. 429 instead of listing everything in those statutes? So we don't have to rewrite.

Krieger said 20/25 if it is 6 per acre. If they have 20 acres they can do a PUD and skip right over them and go straight to Council. Wilbur said no. They have to work with the Town. Come up with criteria would have to be done so it is a quality project. Lay the ground rules out so the developers know what is required to make it a quality project. Denine will provide the last ordinance that Attorney Bohne did and presented to Council.

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

I. **PUBLIC:** Jim Milucky, Council Member District 1, thanked them for their years of service. Not quite sure if he understood the motion and second. It wasn't on the agenda. The appropriate time to talk about the item that was added to the agenda and he was not being allowed to speak to the agenda item that was added. There were four members of council that came to this meeting. You out waited them. There has been an alleged conflict of interest issue and that has been resolved. The attorney said there was no conflict with Leeanne serving on P&Z and Jim serving on Council. Speaking as member of Council, the council was silent on this issue and agreed to revisit this at next meeting. Reilly said some were supportive of most qualified and others said first come first serve. He does not recall any Council member saying they support. Council will wrestle this one as the code was not clear. That was a disaster. It was a fiasco at Council and also apologized to this Board. So they can move forward on more important issues. This is why you are here to ferret out these things.

Carl Beatty came for two reasons. The discussion on the section over on Babcock Street. He has some ideas. He has been asked by several people what is going on. Liz said they were trying to do a PUD. Carl said what happened was they wanted to do a golf course where Stillwater is. That big would require a CG. They make it as a conditional use so if it failed it would revert to Rural Residential. He also wanted to see how they function and also wanted to know about the Babcock Street area. He will put something together and present at next meeting. Krieger asked what are these people asking for in the triangle and are they the property owners? Are they concerned about what may happen?

Carl said at one time he suggested having quarterly meetings with Palm Bay Zoning Board. He will throw in some thought process. He doesn't have any interest. Leeanne said he knows more about the history of this area than most. Mayor Beatty said he was Chair on P&Z and wrote the first Land Use Plan. They had a planner paid with a grant and they met every Monday night until it was done. He was here all day long and had it available for the residents to review. That has

never happened since. That is why we got what we did. Give example, on zoning, they recorded it and then played the tape on a \$19.00 recorder in this room with no carpet and terrazzo. Harris changed the lights. He appreciates their work. Will be more involved.

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

Secretary Sherear said Weber Woods subdivision is building. Stanley Homes has two houses under construction and will be picking up a permit for third home. Also new construction in the Stillwater Preserve subdivision.

Wilbur said they had a rocky end of year and suggested that if there is an issue at this Board, if they bring it up at the meeting they can get it off their chest and do it while Board is all together and resolve it if it is a misunderstanding. He hopes they are off to a good start.

**L. ADJOURN**

There being no further business to discuss, **MOTION:** Ryan / Reilly to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 9:40 P.M.

BY:

Bob Wilbur  
Bob Wilbur, Chair

Debby Franklin  
Debby Franklin, Recording Secretary

Denine Sherear  
Denine Sherear, P&Z Board Secretary

2/13/2013  
Date Approved: