

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
FEBRUARY 13, 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

C. ADDITIONS/DELETIONS/CHANGES:

Reilly wants to put on record that Grant Ball is alternate #1 and Leeanne Saylor is alternate #2 in tonight's minutes. I will not be here for the next meeting; I want to make sure it is established who is 1 & 2.

Saylor adds, this was brought up at RTCM and it was determined not to do this, and a memo was received via email this week regarding that.

Reilly responds that Council did not take action on our recommendation. It was this Board's recommendation on the order. I just want to establish tonight the order, before the next meeting. Reilly adds that Council is not going to approve it till March, and we have another meeting the end of February, I might miss March meeting to go to Texas, I just want to make sure it is established. Wilbur responds so noted.

D. CONSENT AGENDA:

1. Approval of Minutes Planning and Zoning Meeting – 01/09/2013

MOTION: Reilly / Ryan to approve minutes of 01/09/13 as corrected:

Grant's corrections, page 2 last line they should be we. Page 3 first line they should be we.

Ryan corrections, page 4/19 about 2 inches up sentence ends with "only", 4th word from right margin is done it should be down.

Saylor corrections, page 2 first line of second paragraph, where it says Leeanne said, the word said should be asked. The second paragraph page 2, 13th sentence down starts with "packing house...", take out "~~for the small~~". Page 2 second paragraph 6th sentence down, 3rd sentence over "It is limiting to? The to should be too."

Krieger corrections page 2 second paragraph 20th sentence down, gamut should it be gambit? Sherear will check it.

Page 2, 4th sentence from bottom "Krieger said bicycle shop could have a welding shop. Take out a and put within after welding.

Ritter corrections page 2 second paragraph 24th sentence down, second sentence should be "Liz said the difference...."

Page 5/19 7th sentence down there should be a coma (,) after flex.

Page 5/19 3rd paragraph 2nd sentence, the 2 sentence over "That is you limiting factor." You should be the.

Ryan, 3rd paragraph, second sentence suggestion for clarification .5 acre make 0.5 acre.

Krieger correction, page 3, 4th paragraph down 1st sentence over 3 "Ryan said it is res. now, res is short for residential."

Ritter corrections, page 4 2nd sentence from the top, "Not mesh one ~~for~~ the other" put into after one. Page 4, 1st paragraph, 3rd up from end "if they can they use" insert can, after they.

Krieger, page 4, first paragraph, 11th sentence down, in the middle for clarification, "Krieger said the place in Melb....." Krieger said an ALF.....

VOTE: All Ayes.

E. PUBLIC:

F. ACTION:

G. DISCUSSION:

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

Exhibit: Agenda Report No. 2

Recommendation: Discussion/Action

Leeanne, explains her submitted document for the language for "Light Industrial", she goes on to explain that she made the check boxes so that we could check things off that would be appropriate and leave out all the rest so this could help facilitate us moving through it. This was her only goal to assist in identifying what we would like to see in this "Light Industrial" area.

Wilbur explains that there is quite a list and some could be combined together in one business. Ryan adds the other complicating factor is the scale, how big is it, not only what the activity is.

Ritter comments if we put in the beginning paragraph that a lot of these are small business targeted for the "end user". So if targeted for the end user they are not going to be huge manufacturing place, and no detrimental effects on the environment, that will take care of a lot of chemical issues, etc.

Wilbur adds the building codes and floor area ratio is going to cover the size of the facility.

Grant suggests a good definition for Light Industrial; a manufacturing activity that uses moderate amounts of processed materials to produce a product of high volume per weight, general manufacture of finished products uses a small amount of raw materials. Grant adds if we come up with something that describes what the businesses are, more than a huge list of the businesses considered, because anything can be considered if we can describe what it is. Wilbur adds, that if it was just manufactures he could see that but there could be a lot of uses like ie: the Hagan Das ice cream man (on Kirby), with a ice cream freezers, walk-in freezer plant and stocks his truck out of that. Grant comments that he would fall into that, he is producing a product that for the end user versus someone that is producing the chemicals to make the ice cream, which would not be because they would be taking large amounts of raw material.

Ritter comments, if it is kept to an "end user" business where you're only dealing with directly whomever wants the work done.

Wilbur explains that they do not necessarily have to be a retail business off the street; it could be a contractor that might need a site for his facility that workers can come to to leave for the day.

Grant adds that the only thing you may not want is someone that is not building the product for the "end use", ie manufacturing steel. That would be heavy commercial or heavy industrial.

Ritter, suggest if you go through the list and pick out what you do want, they will generally be the same and if someone brings something else you just compare it, and if it is not comparable and for the "end user" and environmentally friendly you would not accept it.

Saylor's comments on that Bob had brought in several meetings ago a list from Satellite Beach (IHB) that had lists like this. Wilbur explains that he felt Satellite Beaches (IHB) definitions and usages had matched our needs, pretty close.

Reilly adds that we had decided that there are "no conditional" permits. No conditional uses permitted.

The Board is going through the list that Leeanne submitted and discussing what could be used in the Light Industrial area.

Ritter comments, on "Aircraft" to put personal or small aircraft fabrication.

Krieger comments that he read all these permitted uses and got confused; really less is more in this case. If you refer to the big blue book (Code Book), in Article II, we began talking about the area over off Babcock Street where a group of people were going to come together and do something. If you look in our code book it is already described here, if you look at the last three lines on page 54, it has developments. Krieger suggests why can't we take a large area like that on proposed maps and take the whole encompassing area and say the Town is interested in having an industrial PUD there. Once you go to that step the property owners have to come in and say what they would like to propose. If not described on list on page 54, the Code Book then it will have to go to the P&Z and reviewed and send recommendations to the Council.

Krieger suggests, why can't you take areas and reference them "flex zoning areas"? Ritter comments then you will have to define that area. Krieger is adding if you go to R/LC you have mixed use in our terminology. Krieger comments that you have two ways to go with all this, add this designation make things more complicated or we can add it and still make all the other ones so the person that has this CL application with a bicycle shop and then wants to add welding, that the Town says no that is not your zoning anymore.

Grant adds that he would rather see a list of things we do want; I think it is easier done in a description of what we do not want in that zoning. Krieger suggests if we are going to have a list keep it to 10 or 15 not large list, then look at similar uses.

Pat comments that in the Code Book it separates and gives ideas between residential uses and activities, and commercial uses and activities. We need to generalize all this and get groupings, Ritter agrees, that you get groupings and fit the categories into. Ritter suggests ie; agricultural accessories and implements, maintenance and repair, food processing... etc

Reilly is looking at categories also: repairs & maintenance, storage, manufacturing, service, etc.

Ritter suggest putting things in a main paragraph with the intent for small limited business, with the "end user" purchase and not made for manufacturing intent, that would limit what you put in these categories.

Krieger, ideally you want people to buy property and utilize their property to the best of their ability without hurting their neighbors.

Wilbur asks Leeanne where the list & definition came from that she put together, Leeanne explained off the internet in several different places.

Liz suggests if we know what we don't like & want in LI we can make a list. Don said this is a nice list you can put every zoning designation that applies to the listed items, and you could have a list that is almost "flex" in reverse. Then if it a too intensive of a usage they can reference definition to state description, possible OSHA a method of common knowledge.

Leeanne offers that she has this whole list in a Word doc if anyone would like it.

The Board is discussing the idea of "storage area" and not allowing freight yards and things not environmentally safe but proper urban development.

Liz comments if they are working for an "end user" they might need to hold it till they need it not store it. It has a place it is suppose to be going. Grant adds there is not much value in today's market to make things and store, you build it so you supply the demand.

Wilbur suggests if we eliminate what takes up large amounts of land to utilize Freight Company's, storage with large warehouses, these are the usages we would want to prohibit or limit to the scope and size.

Ryan comments that if the scale is limited by the size of property that any one particular occupant can have, then where is the problem? You would want to limit things that have obnoxious fumes, horrendous noise, or operating hours that don't fit the neighboring area.

Reilly suggests looking at Article II, it is Land Use & Zoning it is broken out into Residential Activities, Community Facilities, Commercial Activities, Industrial Activities, Agricultural Activities and then it explains similar uses the list we have can be a list that could go into this Land Use and Zoning Article II. Article III is the Purpose & Intent of the Districts. We will have Light Industrial, and then explain in the paragraph form what Light Industrial is, that is all we have to and we don't have to make too hard. Reilly suggests we should take list and see if it is already in Article II and if it is, we already have it covered. The out is the procedures and criteria for review of similar uses. We don't have to identify everything, but if we can group them that would help and some of the groupings are already in code book. The activities are generalized and then put them in Article II and then make a paragraph for Article III that explains use, what comes out of Art II is permitted in Light Industrial.

Reilly comments that the goal is to compare Article II to the list and see if we can group things that are already listed, because Art II does not say that things are allowed in this district or not, all it is is activities that you can do in different areas. Reilly references page 57, Land Use Classifications.

Reilly adds we have to be very descriptive in our paragraph in Art III definition of Light Industrial. Pat said what Leeanne & Grant came up with a definition we can make a good paragraph. Once we establish this definition then we go to Art II and put what we would want in that district.

Krieger adds that we should be looking at pg 53-65 which shows land use & corresponding zoning and what is most intense and least intense. The Land Use is the generalized stuff that is what we are changing the maps with, land use is more generalized, he suggested CL- LI then you could put these things together and add to Babcock Street and here is a "flex" area to either one.

Krieger comments to look at especially page 65, section 1-2.7 Procedures and Criteria for Review of Similar Uses. Don suggests we should facilitate not having empty buildings in this Town and to give the people in this Town the ability to do a lesser intense activity, than it is already doing.

Krieger said if you are going to change things change the whole section, Pat said it does not need to be all changed, we are just trying to add a district provision.

Krieger & Reilly discussing the development of area north of Booth Lane off Babcock Street. Wilbur & Reilly both said it is individual property owners. The homeowners south of Booth Lane came in and they don't want development, and Wilbur explains to the Board that there was a traffic study done in this area and shows it is not feasible to do any type, not even "LI" and a traffic light at Booth Lane, it has to be somewhere else like Foundation Park Blvd or somewhere else.

The Board is discussing about going less intense on property rather than more intense.

Reilly suggests if we could write a good paragraph that would be a good start. Then also work on the list to see if it is already in Code Book, and we could group things together.

Krieger asks you have your Land Uses & Zoning, you're talking about zoning and what were changing on the maps is Land Uses, so looking at the two lists corresponding with zoning districts you can either have a light industrial under industrial in the zoning category, if you notice there are several large categories on one side that have several small categories on the other side so we would not be talking about adding a land use we would be talking about putting a light industrial zoning under the "CL" land use and that would be a separate issue changing the land use map. Some say when we change land use we are going to change the zoning map, but I disagree with this. Changing the zoning should be the individual right of property owner. It should not be the Town that makes winners and losers out of property owners. Land use, you have commercial limited you could have a light industrial under commercial limited as a corresponding zoning district, so you would still have "CL"'s.

The Board is discussing the table correlating zoning and land uses.

Krieger asks about R/LC, is it commercial or residential and Board discusses it goes to high zoning which is commercial.

Pat is explaining to Bob the Table and adding light industrial will be only a zoning change not a land use change, the land use is still commercial limited. Krieger adds it might not be under "CL", it might be under industrial, remember the size of the lot or other parameters we figure we can simplify our land uses and less is more and have different zoning designations under the land uses.

Wilbur thinks that we are better off keeping it with the commercial limited rather than the industrial that lends more to the scope and intensity of use of what we want to see in this area rather than an industrial type.

Krieger suggests getting back to the paragraphs are these land use or zoning definitions? If it is zoning you just tack another paragraph, I would be happier about that than changing the land use because I see them as two different things. One follows the other; I don't want to see a big Ordinance in this town changing the future land use and zoning of the whole town.

Wilbur states by changing the land use it is just giving property owners suggestions of other ways they can utilize their land other than "CL".

Krieger comments, he would like the Town to stay a lot more the way it is, than what it might become. I don't want skyscrapers.

The Board is discussing the power point presentation that Pat Reilly did with future land use maps.

Leeanne is making reference to the Indian Harbor Beach definition of light industrial to start a paragraph.

Wilbur & Leeanne are reading page 17/63 from P&Z packet October 10, 2012

Reilly adds information from P&Z packet Jan 9, 2013 page 11/25.

Liz suggests adding in the paragraph "the intent being services for "end user", if we put this in the paragraph it will make it known that we want it kept small, local, and direct. Leeanne adds to re move "to the Town" and put "to the end user".

Liz suggests adding to paragraph "functions applicable to an end user" Also add about environmentally friendly. Reilly comments if you group the list we have we could add the groupings too. Then in Art II you put the individual things in this section.

Wilbur talks about concerns of aesthetics of these parcels you can do what W. Melbourne has done and include a section called landscaping and describe requirements of surroundings and conditions. Reilly adds that this is included in the site plan.

Liz suggests verbiage change for proposed new language for light industrial adding "end user".

Reilly comments that we need to look at what else we want to add to paragraph Section 1-3.1. "M" is presently industrial, so if you read what industrial is and then lighten it a little for light industrial. Ryan adds definition for light, limited scale and scope. Wilbur says that Cocoa has a definition for light manufacturing uses which states; "shall include the light assembly & fabrication that is predominantly for retail sales on premises, this use shall be compatible with the general character of the area and surrounding uses. Off street parking and requirements shall be adhered to as indicated in other sections of the zoning code, such light manufacturing issues shall not create any nuisance in the form of noise, dust, smoke, or odor and shall be subject to the performance standards outlined.

Reilly suggests, to read Commercial Limited, which is "K" , Commercial General , which is "L" and Industrial which is "M" these are the only three we need to look at to try to figure out our paragraph words and see how we are different. If we are not different and we can kinda fit in these other three then Don's right in saying we do not need this zoning at all.

Reilly suggests to read K-L-M and then write your light industrial paragraph, if it completely different, as homework It is page 115 & 116 in Code Book.

Krieger adds to remember there is a difference between zoning and land use and page 116 refers to zoning.

Reilly comments that light industrial is in both land use and zoning or the other option it is in strictly zoning. Krieger suggests it gives more people more choices, if it is only in zoning. Krieger is going to look for County zoning classifications.

Leeanne asks Don if he would be willing to put together a paragraph based on some of this. Krieger suggests we should look at all the other paragraphs too. Reilly adds we are just doing the light industrial.

Ritter states we need to find what makes it unique to the others and if it's for small and user purpose then it is unique from what the others are doing, than that is the nitche. Those are the small and personal user product services.

Grant comments that commercial is dirtier, more pollution, light pollution, noise pollution, much heavier traffic but we have an area by a railroad track and you don't get much heavier traffic more than railroad. We want to see how we can open this up and make it desirable for someone to come in and open a business and pay taxes. We want to leave it as open as we can.

Wilbur comments that you can look at other Towns and they go out of their way to make their town attractive to do business in. I don't see us doing that. Ritter adds we do not have central water and sewer in our Town but in limited areas.

Wilbur suggests we need to come up with some sort of land use designation or zoning designation that would be attractive to these land owners to do things and don't want to limit them too much other then things that would be detrimental to the Town. We need to look at this creatively. There was talk that they were trying to get property owners together to do a PUD but I don't believe anything has happened because we have not done our part,

Krieger is talking about the two ways it can go with Booth Lane, we already know there is a traffic problem there and propose to change several of lots to "CL" and a good area for R/LC commercial zoning.

Ryan states the main attraction in that area to light industrial (off Babcock Street) is that it is low impact on residential surrounding, we have non-cooperating property owners, Wilbur adds they do not want to see commercial businesses on their residential roads.

The Board is discussing the FLUM maps that Pat did November, 2012

Ryan states that in Municode it says one of the obligations of this Board is to keep the Town Council and the general public informed as to the physical development of the Town.

Liz suggests a good sound paragraph to describe what it is we want it to be.

Staff will email out to Board document page 11/25 from P&Z 0109 2013. (Board will submit by back to staff by noon on the 2/20/2013).

3. Code Requirements for Assisted Living Facilities

Exhibit: Agenda Report No. 3

Recommendation: Discussion

Reilly stated that the Board was waiting for legal opinions, Ritter comments that we got that back and we don't agree with the recommendation at all, that we should change "group homes".

Wilbur asks, did we get back the Ordinance that we had got before? Sherear points out if you look at the date at the top; it was written in January 17, 2013. Sherear states there is different wording.

Ritter is reviewing the drafted Ordinance from Attorney, dated Jan 17, 2013, it still states to remove references to "group homes" and substitute the term "adult care facility". We have said there is no comparison they need to be separate and on their own.

Sherear asks Board if they had seen the memo on page 15/19 in P&Z packet 02/13/13.

Ritter reads portion of memo out loud and goes on to say the Florida Statutes don't all deal with just assisted living, it is broken out into multiple levels of use. There are sections for the following:

- Institutional
- Adult Day Care
- Residential Adult Day Care
- Assisted Living
- Day Care to Occupancy

Liz goes on to say the FL Statute is broken down. Krieger said essential he cut out the substituting part and the whole thing that has to do with group because we are not changing that, we might change some table designations, all it has to say is; adding in description for "Adult Care Facilities" then a little under line description that it is related to the FL St. Then we need to look at the tables on page 17/19.

Saylors, if we go back to the Land Use code on page 58 it starts out with "group homes" facilities licensed. Ritter states there is nothing for Assisted Living that is the problem. We want to leave it like it is and add what needs to be added and fix it right,

Krieger sees a different between a Hospital, and different stages, if you are a resident; the residency should be in line with the density of the Town, not 96 people in on an acre.

Wilbur adds that we had prohibited "OI" in residential district; ALF opens a big can of worms for Town in the future, there is no regulation, like a hotel. Ritter comments that there are a lot of regulations but condense and make the most of property use.

The Board feels to remove residential totally from "OI" district, the Council said to remove it from those areas.

Leeanne says we are overlooking the fact, regardless if they want 96 people or 3 people per acre; we still have a limiting factor in Malabar that is going to prevent any of that, we don't have water & sewer.

Krieger is discussing the facilities, having 96 people on one acre and a half in this 1 theory whether it is 5 or 20 acres you will still have to have outside activities and have transportation and activities. Liz adds that in this 1 case more land is needed. Reilly comment the land is there 10 acres to the east of designated area, but it is RR-65, they could come in for a zoning change.

Wilbur is explaining that a lot of these ALF are not owned by individuals, they are managed under not for profit corporations.

Liz comments if the opportunities are there and everything they need, density, water, sewer, land size, and they do it right it would be ok, Don adds that this is in District 4, that would mean this district would have possibly 96 more residents living there and you would have to redistrict. Residents are different than living visitors, if you are on long term rehab you are still visiting not really living there.

Ryan commenting talking about ALF's, I could imagine a "geriatric center" over on Booth Lane. A couple high rises and doctors office and walk to shopping, this would be a great place to have it, compatible with the neighborhood and they have water & sewer.

Ritter comments that if we go to FL St they have different description for the different levels of care. Reilly adds that we have to come up with what the definitions are, the Florida Building Codes have different designation, we need to do that with the FL St that go along with the Florida Building Code. Reilly suggests creating a table to go by and describe each designation.

Reilly comments that the memo from the Attorney said that FL St can be referenced. Everything is here for us to go through we just have to reference and pick it, (i.e. FL St 429 etc)

Sherear asks if all Board Members have the 3 ring binders with necessary information for ALF & FL St, everybody noted that they did.

Reilly found another FL St that had information in it, maybe FL St 400 & 429. Krieger commented that we could possibly add to chart making a min. of 10 acres of land for ALF development.

Homework for the Board:
Designation chart & graph with descriptions.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

I. PUBLIC:

Juliana Hirsh, 1035 Malabar Road, the last comment about 10 acres, it is a little much; I think a minimum of 5 acres. I wouldn't say a minimum of 10 acres that is a lot of property; Ritter responds that they were just putting numbers out there. I think they are definitely bldg an apt bldg and we do not have to have it, it is not in our book that we have assisted living facilities, but if they are doing it they should do it right.

J. OLD BUSINESS/NEW BUSINESS:

Reilly will miss next meeting on Feb. 27. I will be here in March.

K. ADJOURN

There being no further business to discuss, MOTION: Ryan / Reilly to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:43 P.M.

BY:



Bob Wilbur, Chair


Denine Sherear, P&Z Board Secretary

4/10/2013 as corrected
Date Approved: