

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
AUGUST 14, 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 by Vice Chair Liz Ritter.

B. ROLL CALL:

CHAIR:	PAT REILLY, EXCUSED
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	DON KRIEGER
	GRANT BALL
ALTERNATE:	DICK KORN, EXCUSED
ALTERNATE:	LEEANNE SAYLORS
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

Ryan submitted paper to add to packet. A copy of FL Planning Officials workshop packet is provided for each Board Member for reference (3 ring binder). Sherear stated that all were invited to attend workshop. Leeanne added that it was a good workshop and interacting with instructor, class could ask questions. Leeanne had asked about accepting someone attending a public meeting by phone and the response was "no" by many surrounding municipalities.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 07/24/2013 **(not ready)**

E. PRESENTATION:

F. ACTION: NONE

G. DISCUSSION:

2. **Code Requirements for Assisted Living Facilities**
Exhibit: Agenda Report No. 2
Recommendation: Discussion

Ritter and Board going over Table 1-3.2 that was revised from the 7/24/13 P&Z Meeting. Take out "no levels, no overnight" from under Adult Day Care Facilities. Ritter asking about question mark by "R/LC" Leeanne gives example if someone lived in R/LC and took people in daily for "Adult Care Facility" it could fit in this category. Ritter agreed if all qualifications were met.

Ritter suggests referring to the FS for the definitions and titles, so that when they update we can let them do all the legislative and legal work. We still have to work on the Ordinance and get things in it and get it right.

Krieger in review the ALF Book of information, discussing Article III, page 113, the first paragraph, under District Provisions, if you read it the only thing it provided for is size and dimensional

regulations it does not have anything to do with population. We need to make "unit" provisions and/or "density" provisions and something about having infrastructure in place. Ryan has submitted paper on 8/14/13 showing an example of acres and density per unit (copy to be included in the minutes of 8/14/13) for purpose of discussion.

Krieger is discussing with the Board that making things "conditional" on Table 1-3.2 we are broadening what people can do conditionally, if in conditional use you can do it any way, all you have to do is follow the dimensional regulations everything else is invalid. Ritter adds we are going to put in how many per "unit". Krieger is explaining that is not size & dimension. We need to rethink the 1st paragraph of Art III and ask the attorney for guidance. Ritter says the number of people in "units" is going to change. Krieger says there is confusion between "family" and "resident" go to page 114 look at all the definitions. Krieger wants to caution about putting "conditional use"(C) in Table 1-3.2, once that "C" is there he sees very few limits on what can be done because it is conditional. Ritter is discussing page 123 in Code Book, Size & Dimension Regulations about the maximum density per acre with Central water & sewer. Ritter is reviewing in the Code Book about a five acre min. site for multiple family residential, RS 10,15, & 21 is minimum lot size.

Krieger is concerned with the conditional use and things being generalized; once you go from "conditional use" and jump into Article VI you have lost control. Ritter explains all the information has to be part of the application. On page 319 specific criteria regulating conditional uses, you are supposed to describe the reason for your conditional use in your paperwork submitted.

Krieger reads page 320 of Article VI, Sec. 2A Town Code Book. The Board is discussing the "C's" on Table 1-3.2 that are in high density residential.

Krieger is explaining to Board about placing "C" in Table, if you want to defend or if you don't want to defend put "C's" everywhere but if you do want to defend we should think everything out.

Ball, Ritter, and Krieger discussing semi public and public, Ritter says that it depends on ownership of property and the service they are providing. Ball asks if a facility is public or private and Ritter responds it is whatever we want it to be.

Krieger is referring to page 322 in Code Book "Conditional Use Requirements" and marked three that we are dealing with:

- Group Homes
- Hospitals
- Nursing Homes

Then we have "Independent Living", I consider that an apartment house, Leeanne says it can be a 55+ community. Krieger says we are talking assisted living but I think we are going to include in all that all these different levels, these are living levels not "non residential" levels, page 322 is a non-residential" page, not a long term resident.

Ritter discussing page 35/160 Ch 419 of the FS

The Board is discussing the definitions on pg 41/160. They are listed as "residential".

Leeanne, asking about creating a specific chapter in our codes. Ritter responds that using FS and definitions making a community facility chapter all in one.

Krieger comments about asking Attorney questions concerning District Provisions and Article VI.

Ritter says applicants for facilities will be referred to conditional use section of the Code. Krieger reads the preamble section in District Provisions Article III:

"the Article describes the purpose and intent of each zoning district identifies permitted and conditional uses by zoning district and provides size & dimensional regulations for respective zoning districts. Ritter says we can do this with conditional uses." Ritter and Krieger say we need to add: **Further Conditional Uses are determined in Conditional Use & Special Criteria Article VI.**

Krieger explains that we have to tighten up definitions. Ritter adds that what falls in the provision of the Town can be used, but if it is outside our normal provisions the applicant should go to conditional uses.

Ball says he would like the "units" or the amount of persons to be clarified. Ritter explains we have required space limits and FS & FL Building Codes have required space limits per person.

Staff: Ritter asks for applicant to get a building permit does applicant need to get a license of intent of business before a permit is issued.

Krieger is discussing about "highest and best use"; the consensus of Board is not to have 2.6 persons per residence/unit. Ritter explains 2.6 persons is just an average to get the required amount of persons per facility on a certain amount of acreage, so some units could be 2 people or some units with 3 people and some might have just 1 person.

Ritter says maybe we need to determine how many persons per acre instead of per unit. Krieger is saying if you put a "C" in the Table 1-3.2 you are letting anything in, no difference between "C" or "P"= permitted. Ball comments, he would like to see the minimum occupancy is a certain number. Ritter is explaining we are talking about how many people per unit, the unit sizes can change. Each unit has a different number in it. Leeanne adds it is just an average. Ritter says the units are the space.

Ryan is discussing the paper he submitted about acres/density/units using the guidelines of FS. (Attached to these minutes)

Ritter says we should not regulate how many persons per unit. Ritter suggests opening our minds and gathering the information we need and see there are different things instead of a set unit. Ryan adds that the FS and FL Building Code regulate the minimum size for building size.

Ritter says we just need to determine how many maximum persons per acre that the Board suggests for approval. Ryan comments that if a facility wants to do an ALF the FS makes it clear what internal accommodations there has to be, not only for the residents but the support staff and community areas there are minimums, it almost pre-determines the size of the building and the sq ft of the building, You are going to have different size rooms containing one, two, or three people depending on size. Ritter says it is going to determine on the type of business they want low scale, upper scale or medium scale, they are going to offer the rooms they want. Ritter comments that we can move our maximum density number to get an upper scaled business. Ryan suggests we can do it by residents not units.

The Board is discussing the amount of persons per acre, for example 19 acres x 15 persons = 285 people. Leeanne says what if we cap density at 15 people per acre for conversation purposes. Ball suggests that we need to discuss how much density we want because that is what affects our community.

Krieger says if you are talking about 19 acres and if you have two residents per unit, and 6 units per acre that is 228 residents = 12 people per acre. At past meeting I made a suggestion, maybe a condition should be that you have to go one lower in zoning category when you have this type of

condition. That would be 4 units per acre; 19 acres with 4 persons per unit would be 152 persons for 19 acres = 9 persons per acre. Ritter comments that no one would be able to come and build and make it worth their time and money, Ball says if you make it that restrictive. Krieger says now we have 9, 12, 15, and 23 persons per acre. Ritter says the 342 is 18 persons per acre, LeeAnne adds we already have restrictions in place because we have height restriction of 35 feet or 3 stories. The next restriction could be to control the amount of people. Krieger adds that if you define a "unit" that changes the building characters and what the engineer designs.

Staff? A/c units on the roof is that included in the 3 stories

LeeAnne comments that we need to concentrate, and we need to stop using Paladin and the 19 acres, Ryan adds that we are using this as an example. Ritter this is for anyone that walks in the door, this is for all the areas that we do not currently have in our Code Book. LeeAnne suggests coming up with a reasonable density for people per acre, something we would have the ability to control. Krieger goes back to "C" & "P", a "P" means they have a right to do it, and a "C" means there is a condition, question for attorney is: Is that a viable condition, population? Ritter explains that when you restrict too much then you are not letting them using their property. Krieger asks can you restrict them as much as you want? Ball explaining that does not make for a town, if someone is going to do something that is going to enhance the Town, they should be allowed to do what they want, they pay taxes on it,

Ritter says whatever number we decide that it can be a nice facility and have that many people then what's wrong with it? LeeAnne adds and be economically viable. Ball says it is good for our community. Ritter says they have requirements to meet for space we have to decide what kind of space we want them to have. LeeAnne asks about architectural requirements. Ritter responds the "Malabar Vernacular". LeeAnne points out what we control:

- We control the general appearance
- Height restrictions
- Green space requirements
- Parking requirements
- State will require so many sq ft per individual
- Florida Building Codes

So the only thing left is to determine the density. Krieger asks how many people build these types of facilities next to the RR tracks. Ritter explains the US1 and the RR Tracks run together from one end of state to the other, there are a lot of them right up US 1.

Ritter/Krieger discussing the water requirements, they are required to have some of these facilities public water and sewer system. Krieger asks that if infrastructure has to be in place before or after building is started. Ryan asks if infrastructure has to be in place. Ritter responds that she does not think so, why would you want to put the expense and the money of the infrastructure before the building was done. Krieger/Ryan explains they will really do it. Ball adds the one thing that we need to make sure that happens as far as water/sewer is that the density number is significantly different because he can build the whole thing and then say he can't get water and now have to do a package plan. Ritter states as long as the town makes the requirements it is their responsibility to make sure all their business comes together at the same time. They are the business people,

Krieger says you might want to ask the lawyer if there are any sovereignty issues, when there is another town that is building the water system. Ritter states as far as the contract in reference to the water they have the rights to all of our easements to do all this stuff.

Ryan says we have to decide the number of people per acre, density. Ball questions the amount of parking for these facilities. Leeanne says the density of people and the amount of parking we can increase the requirements. Ritter explains that there are a lot of rules they have to go by.

Ball expresses as far as the Paladin project that we see on paper it seems as though it is a benefit to Malabar as long as we make sure the densities are right. Ritter adds also as long as it is compatible to surrounding area.

Ritter refers to page 49/160 (ALF reference binder) talks about the initial application for license. The 429.11 initial applications, they have to comply with all provision of part ii chapter 408, they have to identify anything, only allow so many in a certain area. Provide the location and that is big one for us is "B", signed by the appropriate local government officials which state that the applicant has met local zoning requirements. Leeanne comments on the table Bud did is very logical and well thought out, the max. is three people per unit and it is reasonable. Ryan said this is based on FS.

Ryan providing information to the Board on areas for rooms:

- Comparative purposes the standard double occupancy motel living area is around 400 sq ft. can be as low as 300 sq ft.

Krieger/Ritter going over review about changes:

- 1.) Article III the first paragraph a change for last sentence. About that any conditional uses referred to Article VI pg 113.

In second line in paragraph take out conditionals uses and add last sentence underlined above.

- 2.) Page 123 , District Provisions in Code Book Table 1-3.3(A) 6 to 4 under R/LC

- 3.) Article VI Conditional Use Table 1-6.1B pg 322 (Water & sewer) not on table.
Foot note about water over 5 people

- 4.) State reference to Hazards waste issues

- 5.) Max density

Units per acre-About 15 residents per acre maximum density is the consensus of the Board.

Staff: check about the water page 123 max. density w/ central water & waste water & pg 124 or w/o central water & waste water, ask about footnotes Brevard Cty Health Dept

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

Future Land Use Maps as a discussion and defining R/LC (Land Use Change) for future meeting.

I. PUBLIC:

Juliana Hirsch 1035 Malabar Road, asking about the zoning, sees all conditional uses. Ritter explains to Juliana they are working on ALF, these are "community facilities" the Board is discussing the impact of what is going to be in these areas. You guys are doing hard work.

J. OLD BUSINESS/NEW BUSINESS:

K. ADJOURN

There being no further business to discuss, **MOTION:** Ryan/Krieger to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 9: 30P.M.

BY:


Liz Ritter, Vice Chair


Denine Sherear, P&Z Board Secretary

8/28/2013
Date Approved: as corrected

SUBMITTED @ P+Z

Bud Ryan
8/14/13

19 ACRES
 x 6 UNITS / ACRE

 114 TOTAL UNITS
 x 3 PEOPLE PER UNIT

 342 RESIDENTS - MAX.



500 # - 2 PEOPLE
 750 # - 3 PEOPLE

BOTTOM LINE - FOR CODE

500 → 749 # = 2 PEOPLE - MAX.

750 + → # = 3 PEOPLE - MAX.

P & Z update's from last P&Z (7/24/13) the red designates suggestions.

Table 1-6.1(B)

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District/Nonresidential District (feet)	Parking Lot Setbacks from Adjacent residential District/Nonresidential District (feet)	Perimeter Screening Residential District/Nonresidential District (5)	Curb Cut Controls
Community Residential Home	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Nursing Homes	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Hospital and Extensive Care Facilities	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Assisted Living Facility							
Level 1 (1 to 5)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Family Care Homes							
Level 1 (1 to 5)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Day Care Facilities	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
(No levels, no overnight)							

