

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
SEPTEMBER 11, 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, EXCUSED
	GRANT BALL
ALTERNATE:	DICK KORN
ALTERNATE:	LEEANNE SAYLORS
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 08/28/2013

MOTION: Ryan/Grant to approve minutes of 08/28/13 as edited:

VOTE: All Ayes.

Corrections on minutes:

Grant:

Page 4/45 1st parag. 2nd to last sentence ... it is no the corner property it is just ~~one~~ north....

5th line vacant = vacate

2nd parag 2nd line Grant, "we presently lease the building" add quotations

4th parag 7th line so I do not know if there are any.....

Bud:

Page 4/45 4th parag 7th line, My only concern is ~~the~~that property

Liz:

Page 5/45 1st parag 3rd line 25% less than~~than~~

Bud page 5 /45 1st parag 4th line intense~~intensity~~

2nd parag. 6th line down trick should be trip

3rd parag., 1st sentence with = without

Grant:

Page 6/45 1st sentence care = card

7th line down with = without

9th line have = has

14th line with out= without, (Liz)

10th line from bottom of big parag in to = into

4th line up from bottom of big parag individual = individuals

2nd parag. Last sentence does= is

2nd parag 2nd line for not more ~~for~~ more than (Liz)

Grant:

Page 7/45 2nd line Florida Statues= Statutes

4th parag. that we will be (Liz)

Page 8/45 1st line take ~~of~~-out of sentence

3rd parag melt= will meld

Last parag. 1st sentence Statues= Statutes

4th line up from bottom.... We should not be

Grant:

Page 9/45 3rd parag Statues= Statutes

4th parag 1st sentence... he wants to do ~~and~~ ALF.

Grant:

Page 10/45

1st parag. 4th line in middle then = than

6th line you're= you are & your = you are

2nd parag 2nd line of = to (Liz), 7th line it = it's, 8th line so = how (Liz)

2nd parag. 2nd sentence from bottom I =I've (Liz)

3rd parag. 7th line my club house and did not

3rd parag. 3rd to last line add with before me and only before 114 and if after because

Liz:

Page 11/45 2nd parag. 3rd line try = trying

4th line correctly = correct

Page 12/45 under "J" 2nd parag. middle are= our

E. PRESENTATION:

F. ACTION: NONE

G. DISCUSSION:

2. Code Requirements for Assisted Living Facilities

Exhibit: Agenda Report No. 2

Recommendation: Discussion

Ritter is explaining that she handed two (2) handouts at this meeting of 9/11/2013, (will be attached to these minutes of 9/11/13) Liz is discussing the sheet about formulas for ALF's "units" and "occupancy maximums". This is in the RM6 & RM4 zoning per acre. Ryan is understanding these numbers are per acre in RM6 is 18 people and per acre in RM4 is 12 people.

Korn is discussing that we need to come up with a relationship that relates "units" to "people" and this formula seems to provide this information,

Ritter is discussing Table 1-3.2 and explaining to get the formula for the units and use also for the density of people, we have to have a formula to plug in. Ritter says the problem is that they are talking "beds" and "units" and we are talking people. A "unit" can be a 1 bedroom, 2 bedrooms, or 3 bedrooms. Ritter explains that we are reworking all this because we don't have anything in our code for any of this. Ritter explains we need to figure a formula to get it in our codes to work for these facilities and "homes" that aren't traditional family homes.

Ritter is discussing the Table 1-3.2 and moving "Community Residential" Home under Social Welfare. Ritter is discussing with the Board about the one to two people in the RR65 with asterisk for a conditional use referencing just FS Ch 419 & 429. Also, under RM4 & RM6 as conditional use. Ritter is referring to the ALF book page 35 & 36/160, also page 88 & 89/160. Our

responsibility is the proper zoning. Ritter explains that in the FS "Adult Day Care Centers" is title instead of Facilities. Also take out (3+) and add "n" to level 3 in "persons".

Ritter invites Mr. Paladin to podium for discussion on this item:

Mr. Paladin comments that you are almost there we are not too far off. I am Joseph Paladin, President of Black Swan and Malmac Corp. Realistically, how many people do you allow me to have in RM6 zoning? Ritter responds in RM6 is 18 per acre, so for your project it will be 285 units and 342 people. Paladin is explaining right now I have RM6, forget ALF for a second. How many people am I allowed to have in an RM6 zoning, in regular residential, Ritter responds 6 units per acre. Paladin asks how many people? Ritter responds, that is the problem. Paladin says we don't designate how many people I can have in RM6 zoning. We don't designate how many people in RM4 zoning or RS3 zoning, we don't designate how many people we can have in any zoning there is, period. Paladin made a statement at last meeting that you can't zone people per acre; it's not going to work. Mr. Paladin provides a couple examples:

These numbers are probably not going to be far off as far as people because that is the way it works out. I just don't want the wording that way. The wording becomes a problem if I have a man & a woman, a couple in ALF, do I have to put them in a 2 bedroom unit?

The scenario works because of the way the ALF sets it up through the state regulations because of the sq footage, the beds, and the formula. Everything you have here works with the formula except nowhere do they have the 1.2 per people because they don't zone people. You cannot zone people, you can zone "units" and you can control your density through "units". For example, you can have 150 more people in RM6 facility with your current zoning, than I can have in my ALF with your zoning. The 2.5 works it is perfect I need 15 units per acre, everything works. You can't tell me I can have so many people per acre, it's just not going to work, and you're not going to have 10,000 people it is physically impossible you're only going to have 500 sq ft units, you can't have 6 people per unit it is impossible. Ritter comments that a normal family has 6 units per acre. We are rural residential area that is part of what we do, we want to keep it rural residential. Paladin responds if you have 6 units per acre and 1 person per unit and you had 3 bedroom units, why you feel a necessity to zone how many people you are allowed to have per acre. Ritter responds because we are rural residential. Leeanne adds what prohibits you from saying ok I have 6 units; I can have 100 people per unit that would be 600. Ritter responds that I worked the ALF formulas up from Paladins comment that 75% of units are single units, and 25% at double which would be 125 people. Ritter explains that some people are never going to be happy with whatever we do, but for us as a rural residential in an RM6, you are not building a family home where you can have 2 people or 10 people it is not the same.

Paladin is discussing roof space, a/c space that is normally the way you judge sq ft. What I am asking for is half the space under air that you have in the facility that got approved 6 years ago, under RM6, 260,000 sq ft was approved. Now I am asking for an ALF facility because that is what the market calls for and I am going to build 145,000 sq ft under air it is almost half, Ritter says this does not have anything to do with sq ft. Paladins says if I am taking up only 1/2 of sq ft and giving you twice the green space that really relates to a rural area, open space. Ritter responds that I am not sure what you are asking for. Paladin responds, what I am asking for is everything you have here up to what your zoning people per acre. I don't agree with your formula. Ritter explains it is not in the code yet, we are going to have to find some way to control the density because that is what we do in a rural residential area. Paladin says that is what you are doing with your units. Ritter explains that a unit does not specify exactly how many people. Leeanne adds that unit does not specify density. Paladin explains that the way you control your density in your rural community now is with units, you don't control your density with people. Korn asks if we were to do that, RM6 if we were to stay with strictly units like we do in all the other zoning, then we would limit you to 6 units. We have made an exception there to where in an RM6 you can put 15 units that gives us that license to also look at the density of people within those units. If we are going to multiply the

number of units allowed on an acre of land that is designated for no more than 6 units, we are going to have to for the sake of the Town and the Council that will be voting on that, the point is the protection of the Town and the interest of the Town maintaining the rural character.

Paladin responds with that I agree with Korn and Ritter so far, maybe we need a different type of wording to control the density of people like you want. Leeanne comments that you do not want to see "people" on the paper. Grant adds that he does not want anything tagged, if we say "units" that is fine he is afraid if it is tagged with people then his financing is going to be difficult to get. Paladin says we are not far off from what Ritter has proposed; she is giving me my 285 units. Here is where I run into a problem, Paladin explains the people that finance these projects, in order to go forward to accommodate these numbers, I got to tell Mr. & Mrs. Smith that they can't live in a single unit. Korn asks who said that. The Board asks collectively where he is getting this information. Korn explains that Ritter has done on this chart has doubled what you yourself said about your prediction. Leeanne said we are not talking beds, you are talking beds. Paladin I can understand units and beds but I don't agree with people. Paladin said beside units maybe we can control density with beds. The Board is discussing density and beds all at once.

Ritter explains that every 5th unit is double occupancy. Paladin explains that he wants to be able, like everywhere else, to control the density and intensity through units and beds, not through people, nowhere in the state of Florida where zone is so many people per acre it doesn't work. Korn says if we were going with units we would come in with less than 285 units. Paladin explains that he needs his "2.5" that is my formula. I need 2.5 times the density.

Korn in the minds of the leaders of this community, 285 units on 19 acres is about the max. but it does not limit you to 342 people if you average 2 people per unit, it can be more. Ritter asks, how can you regulate that a bed is for 1 person or 2 people? Paladin responds, that only 25% double units, 75% single units and a percentage of those single units to protective ourselves have to be single occupancy. Ritter, Korn, Leeanne all talking and explaining that a 500 sq ft can have a couple. Leeanne says that if you have 750 sq ft unit with 2 bedrooms you can put a caregiver. Ritter explains we are not thinking of just your project, we are thinking of other ALF's that come in and they want to max. out sq ft.

Paladin comments that I like everything you have done but I was very strong about zoning people per acre. If we can control that number with wording another way I would support it, I would agree with you and help you work on it. Ritter explains that we don't want to have 200 people in 15 units. Paladin asks that the 342 people is not offensive to your rural community because it is less than what we can have in a RM6 zoning. Is there some way we can word this and protect ourselves so you don't have 1,000 people on this property, is there some way we can eliminate "people" and we can use units and beds, and further say that so many single units can be double occupancy. Ritter and Leeanne are responding to Paladin about pushing the numbers, Ritter says 75% single occupancy came from you and 25% double occupancy which equal 125 people in these 15 units. If we change that you can have 200 people in these units. We are not restricting the size, or the beds we are going to have to find a way to make your project a profitable organization but to not make us overrun with all the things that go with it, post office, fire department, paving, and hospitals.

Korn asks Paladin how many different size units you will have. Paladin responds that he will have two sizes 500 sq ft and 900 sq ft. Ritter is discussing the ALF Formula Sheet she did, if you change people to beds and 1 in 5 unit can be a double unit then the occupancy comes up to that. Ritter explains that our business is to keep the rural atmosphere of the Town. Paladin says by me building that project there you are going to have less intensity on the 20 acre parcel than you are ever going to have with my 114 units. Korn asks Paladin that in your units no matter what size you will not have no more than two occupants? Paladin responds "that is absolutely for sure".

Korn is talking about 2.5 people per units, which is the national average when you doing zoning and intensity, every planner uses the number that there is "2.5" per unit. Paladin is talking about what Ritter did for formula to get proper units per acre. Paladin says that when you go to 1.2 people per unit, Ritter adds to call it beds not people. Ritter says 1.2 beds and Leeanne says 1 bed = 1 person.

Ritter is discussing that what we have given the units that are applicable; we have to have some way to control how many people are going to be in those units. This is not just for your development this is not just for ALF it is also for the rest of homes and facilities we are working on. We have to have some way we feel comfortable with how many potential residents can be living in these facilities.

Paladin asks, "what wording would we agree on that would make you and me both happy instead of people, that we can both agree on?" Ritter responds, "beds".

Paladin is reviewing, the 285 units which I am happy with and the 18 people per acre, I am not happy with. You're happy with 342 people you know realistically that is less people that you have per acre in our rural community, Ritter replies that there are not too many family homes where there are 18 people.

Paladin and Board are discussing how many people. Leeanne asks Paladin, "How many people do you want?" Paladin responds, I am not trying to get more people. I got what I want 285 units. Give me something to use beside people. Ritter responds, use 15 units and 1 in 5 can have double beds, it will come out the same basically. Leeanne says if we can eliminate the people totally and we say 15 units per acre times 19 acre = 285 and you decide to make them double that is 570. Paladin understands why you are looking at this way because the goal is to get as many people as possible for more money, but that is not the case here. Leeanne and Board is explaining that this is not just for your project but for whoever comes in here to build an ALF.

Korn explains that obviously we have not had a whole lot of experience with this type of facility; in your experience is there a facility you are familiar with or aware of that has 250 to 285 units what is the total citizenship of that facility? Paladin responds, for example I have 12 different ALF facilities on my desk, I have a lady that works in the nursing industry and does the surveys for me. The information that I have been giving you is based on all the information I have been taking in for the last 2 years. The ALF that I am building in Indian River County is 125 beds and 98 units, the same formula that Ritter used but, the only zoning criteria in the LDR's and comp plan that we wrote is 125 beds and 98 acres. I can't have more than 125 beds on this 6.75 acre parcel and I can't have more than 98 units.

Korn suggests that this Board should set the number for RM6 x 2.5 and 15 units per acre and then on an individual project basis look at how you're going to breakdown those 285 units. Ritter bring back to Board. Ryan asks in RM6 the definition of "unit"; whatever you do room size or number of staff verse number of people it is all established in the FS. Ryan says you have 19 acres to work with and you know the foot print the building can be versus the amount of spaces so using that amount of spaces you are going to have for building footprint and fitting in with FS you can come up with how many rooms you can have, is that what your proposal equates to. Ryan asks Paladin your only problem is what? Paladin responds you can't zone people per acre, Grant adds that it is already determined if the FS already tells you how many people you can have for the sq ft he has, we don't have to say how many people are there because it is already described there can only be a maximum per sq footage by FS. Ryan adds to realize 3 stories in the foot print. Grant comments that there is a Statute that sets the maximum person density. If you do the sq ft it is 250 sq ft per person. If you took size of facility and gave everybody 250 sq ft you would have the maximum density. There is going to be a maximum amount of people. Paladin says you take 6.7 acres which is a third of my sq ft of my 19.7 acres, if you take 98 units and multiply it by 3 and 125 beds and

multiply it by 3, you're within 20 beds. The only thing is you're approved for 125 units and 98 beds, in Indian River Cty. Mr. Paladin is looking for this Board to say, you are approved to build on that facility 285 units no more than 285 units and 342 beds. Then when I bring in my floor plan, which you have to show in the floor plan when you get the state certification and when you get certified drawings. You have to show layouts of the rooms, beds, and everything. That is when you approve you like the sq ft, you like the layout, not in the zoning. Your formula works, your wording does not work. Korn asks if that bottom word in ALF formula box was changed from people to beds would that work. Paladin said yes he would be happy and go home, Ritter explains there is a difference, a person is 1, and a bed can have 1 or 2. Grant explains that we are limited by the Statutes that say how many people you can have per 500 ft unit. If we look at the requirements he is going to be under, then this question may already be answered without us needing to use the word people. Paladin says that is exactly correct. Paladin explains that realistically I can only have so many people on that 19.7 acres. Ritter asks according to FS what would be the maximum number of people they would allow you. Paladin responds, what you have 342 beds. Paladin is explaining in their certification and LDR's and legal writings because they know they can't zone people, they zone it by density by the wording and zone beds instead of people. Leeanne asks if they said here is the number of units and here is the number of beds so maximum, how much occupancy would that represent? Ritter adds the 342 would be single bed units. Paladin explains when you layout plan you have to show beds in the units. Leeanne asks what the occupancy would be. Paladin responds your occupancy and beds would still be the same 342. Once I am approved for so many units and so many beds that's all I can have, I can't go back and move beds around.

Ritter comments what we are not together on is definition of "bed" and "people". Paladin says they are in an ALF zoning and a facility per acre. Ritter says to show her that somewhere. Julian comments that this is how it is regulated by beds. Paladin says a double unit is 900 sq ft. Korn says you can put 2 beds in a 500 sq ft unit. Paladin responds it will take away from overall density. Paladin explains the people that run the ALF facility have to follow the laws. Ritter clarifies, when you say a single unit they are talking about people, and a double unit is 2 people not beds. Paladin I can't add to over all density. Ritter clarifying 1 unit = 1 person and a double unit is 2 people that was the confusion. Paladin says you are talking over all zoning. Leeanne adds that they are talking about density. Paladin is talking about ALF's. Ritter comments that we are not just talking about ALF's. Paladin says under the current zonings we are not allowed to do what you are afraid of us doing we are not allowed. You do not have to police us we have to have a certified management company run this place. Ryan asks Paladin, what do you think we are afraid of you doing? Paladin responds, once we have this built and we have 342 people that live there, we are going to make more money and go out and buy 50 beds and add them. Grant says we see what you want to do but we need to craft the language for everyone. Paladin responds, a person can only do what you let them do. Ritter clarifying the wording that a bed is a person. Paladin clarifies to Korn that a 500 ft unit would only occupy 1 person; a 900 sq ft unit would occupy 2 persons. Paladin explains by zoning by people you confuse your whole format on zoning. That is how you need to control your density; by saying you can have 285 units and 342 beds that is how you control your density. Korn asks is there a document that states bed = person. Paladin responds that it doesn't say it like that you go to the gray area where your zoning people, what it does say is that on a 6.75 parcel you cannot have over 98 units & 125 beds. Ritter says that is what we need to see.

Juliana Hirsh 1035 Malabar Road, I think "people" can be substituted for single or double occupancy. The word "people" is offensive and is not necessary. It is so regulated by the state.

Grant comments that we should drop "people" and pick up "beds". Leeanne reminds Paladin to supply us with verbiage.

Ritter is discussing verbiage on page 17/45 and reading to the Board. All this information to be included in the Code and find a way to incorporate the FS and updates automatically. The Table 1-6.1 for Conditional Land Use Requirements we should change to match the other things we do.

Ritter suggests adding the following to pg 22/45 #9 Add to verbiage "or any existing business similar to itself" because a lot of them have a stipulation that they cannot be within 1,000 sq ft from another similar business.

The Board is discussing about the bed is = 1 person, Ritter says there is no problem with this, just understanding the words from what he is working with and what we are working with. We are not just dealing with him we have to do it for anyone that comes in. Grant comment that there is some reason specifically he wants that word out of there. As long as we have a good feeling that we have a handle on it from the regulations that he is under and the way we describe it, if "people" does not show up because it is a red flag. Ritter suggests that we add it to our definitions, in all these community residential homes & ALF a bed is = to 1 person.

Ryan says we have to decide if the infrastructure has to be in place first. Ritter responds we don't have to worry about that because he would not be able to function his business if he did not have it. That is his problem. Leeanne adds that he had said he was already talking to Palm Bay trying to work it with them.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

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

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

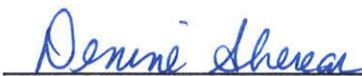
Korn, I have been very grateful for the openness and friendliness you people treated me with. I appreciate all that, I learned things that I will need to know after November. The other thing I have learned is all the paper there is, I am amazed the amount of work she (Denine) does. I want to say to Denine thank you for being you. I will be on the Board until the 7th of November unless there is an applicant to this Board. I want to suggest passing a Resolution of Commendation to Denine for the work she has done, she has gone the extra mile. Sherear thanks the Board.

K. ADJOURN

There being no further business to discuss, **MOTION:** Ryan/Grant to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 9:41P.M.

BY:


Liz Ritter, Vice Chair


Denine Sherear, P&Z Board Secretary

9/25/2013
Date Approved: as corrected