

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
SEPTEMBER 25, 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 Chair Pat Reilly.

B. ROLL CALL:

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

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 09/11/2013

MOTION: Ryan/Krieger to approve minutes of 09/11/13 as edited:

VOTE: All Ayes.

Liz

Page 4/62 second parag. under "G" re working = reworking

Leeanne

Page 4/62 second parag 1st sentence take out about

Grant

Page 6/62 2nd parag 4th line than=then & last sentence "unit's"= units

Last parag 2nd to last sentence then=than

Liz Page 6/62 4th parag last sentence over run = overrun

Korn

Page 7/62 4th parag 1st sentence take out "in"

Grant

Page 7/62 last paragraph 5th line down verses=versus

Grant

Page 8/62 1st parag. 11th line than=then

Liz

Page 9/62 1st paag last line map= match

2nd parag 1st line take out second "add"

Krieger asks about Page 9/62 4th parag 1st line (Paladin Project), for clarification purpose Ryan said "for any project in general"..... Has to be in place first.

E. PRESENTATION:

F. ACTION: NONE**G. DISCUSSION:****2. Code Requirements for Assisted Living Facilities****Exhibit:** Agenda Report No. 2**Recommendation:** Discussion

Reilly is explaining to Board that he has asked the Town Planner, Keith Mills to help finish up these suggestions for Code Requirements to make sure we are consistent with other municipalities based on the knowledge of other Codes and to make sure we stick with our Code. We don't want density of people; we can have resident/beds, added Ritter. Reilly suggest reviewing what we have done so far before we move forward. Reilly is going over Table 1-3.2 pages 59/62 & Table 1-6.1(B) pages 60/62; we are addressing only those we want to accept in Malabar.

Ritter made corrections to Table 1-3.2 on bottom "*" should read: Allowed in RR-65 (1-2 persons) as defined in FS Title XXX CH 419 & 429. Also take "C" out of OI & INS that is under Convalescent Homes.

Mills asks if these Tables are suppose to reflect what the lawyer did in draft Ordinance? Ritter responds we don't know where that came from and Reilly says yes but are redoing his Ordinance. Ritter explains that the Board is redoing everything that we want in our Codes, and we are using the verbiage that is in the Florida Statutes.

Mills saw one of the main discussion points was using the word "people" for figuring density. The levels and use of persons is from FS. Reilly explains for the levels it is specific. Mills discussing in the institutional zoning you're choosing to make these all conditional uses? Reilly replies originally that hospitals and nursing homes were already per our table conditional uses. Mills explains that that zone is set up for that kind of use, so you are extending this all to conditional uses. Reilly explains that the Board wants to look at every project and not have just anything come in.

Krieger asks both the ALF and Adult Family Care your level 1 is 1 to 5 persons but your "*" says 1 to 2 persons. Krieger is saying you have to be careful that the Ordinance when you start referring to Florida State Statutes that would override anything you put in little asterisks. Ritter explains that it is in the FS under special exceptions for 1 to 2 persons. Ritter is explaining that this is in the RR-65 in a home setting and the conditional use is only up to 2 persons. Leeanne adds that it is still conditional because it depends on if there are other facilities doing this (within 1,000 feet) and zoning and they have to come to us. Ritter is explaining that we have put a lot on the FS because they regulate everything.

Reilly is explaining to Mills the changes made to Table 1-6.1. Ritter want the Table 1-6.1 to match Table 1-3.2 in the same order. (correction) Reilly explains to Mills these are our final tables and would like your review.

Reilly explains that the next task is the hardest, to write the verbiage. Ritter is discussing pages 61 & 62 of this Agenda Package.

Reilly is explaining that we have to come up to the point of verbiage, the directions we need is for example RM6, it is 6 units per acre but how big are units and how many people? Then that will establish density. Reilly explains that Mr. Paladin was gracious to give his idea tonight what that was, and he suggested we have a formula. Leeanne adds that Liz had come up with a formula at the last meeting page 11/62. Ritter explains we would just change where it says people to

"residents/beds". Reilly is explaining that 6 units per acre, a unit would be a 3 or 4 bedroom house, but when you are talking ALF a unit is the room as small as 250 sq ft for 1 person in the codes the 250 was the minimum or you can have 1,000 sq ft room. We have to come up with code that tells everybody, so there is a multiplication factor of 2.5 because usually they are shared units in a building so we say 6 units per acre times (x) 2.5 factor which = 15 units x 1.2 residents/beds which is 18 per acre. Reilly is explaining to Mills that we need to put this in words in our Code, which is the key. We have to do each district and say what is allowed in each district. Reilly explains we have to define what we say and identify each zone with a formula.

Reilly explains to Mills we need to do verbiage for Article II & Article III. Ritter comments about page 62/62, which are her suggestions for verbiage. Reilly explains that the County is pretty vague on all this. Mills asks how are you proposing to get this written. Reilly responds that typically the lawyers have copy code from other municipalities and that was the starting basis. Reilly explains that we have gathered data from surrounding municipalities. Mills asks who and what form you are looking to have this constructed as. Reilly responds if I got your help we just need a start. Ritter adds that it does not have to be a whole lot because the majority is governed by FS, it is mainly what we can control with our zoning. The Tables are going to take care of the rest. Reilly comments that we have control over the formula to keep it rural. Reilly explains basically we need to come up with a good paragraph for Article II Land Use & Zonings and be more specific in Article III.

Mills explains that W. Melbourne (WM) is based on units and or beds there are no levels. Mills comments that referencing the FS is better than repeating. Using that as example 15 units per acre is what it is based on and parking spaces off of that. Mills is explaining that there are different types of units, some with kitchens and some with common area kitchens. Mills asks a question about RM6, it is typically 6 units per acre, now you are proposing to allow over 6 units per acre? Reilly says because it is an ALF and they don't have a garage, that is where the 2.5 comes from. Mills explains unit count, if the Comp Plan calls for 6 units per acre on this piece of property, I understand it is a different kind of use but you are going to have to cover that in some fashion to allow the result of the multiplier, since it is not a traditional home.

Ritter explains that since it is not a traditional home and they have shared facilities like the kitchen and dining room, their living space is considered the unit instead of the house. The building is the house and the bedrooms are the units. Ritter explains that we have to justify the "multiplier" because of the size of the units. Leeanne explains that we need to be very specific that this multiplier only applies to these certain types of facilities so we don't allow anyone else to use this multiplier. Mills is explaining maybe not to use units in the formula.

The Board is discussing the formula for Occupancy. Mr. Paladin is commenting on the "formula" the first part would be "units" your 1.2 would = residents/bedrooms. Ritter says it is still a type of unit we just have to find a different name for it.

Korn asks Mr. Paladin when you were proposing on this same piece of property to do condos, were you still limited to 6 or was there a multiplier? Mr. Paladin responded it was RM6 and we were doing condos, it was limited to 6. Korn says the question will come up down the road, how does this differs from apartments; you have common walls, not separate houses. Ritter says there is a definite distinction between an ALF and condos or apartments. Ritter explains that we did not want all units as doubles so we are restricting it. Reilly and Board discussing the ALF Formula:

Zoning		ALF Units		Resident/Bed
RM6	6 units x 2.5 factor	15	x 1.2 =	18

Ritter is explaining we are trying to get all this down and explain units, then the density issue for resident/beds then we have some control of how many people are in that area.

Reilly comments that in the commercial world the unit is the building. Korn says would it fit our mission here to stop at that point, because they are all conditional and each applicant is going to have to come before us to satisfy the conditions that we put before them. Ritter explains that what we want to control is the density.

Ritter wanted a "factor" for whatever zoning. Reilly explains that these are the only ones that apply to this formula are RM4 & RM6 zoning. Krieger comments that no matter what we come up with we should always say at the end: unless it conflicts with Florida State Statutes, whichever is the more restricted will be used.

Krieger's suggestions for the Formula Table: Take out the units, we are talking about acreage the numbers end up the same no matter what way they do it. If you take 19 acres +/- X 6 units per acres you get 114×2.5 units = 285 units and $342 =$ resident/beds

Krieger agrees with Mills that you cannot change your units it is 6 and that is what it is. The multiplier factor is for beds or residents whatever you want it to be. Krieger is explaining that you are making this more complicated than it needs to be.

The Board is discussing the ALF & Adult Care Homes (ACH) Formula for units.

Krieger asks what affects the changes of the multiplying factor. Ritter explains that regulates how many units in that type of facility that they can have. The 1.2 tells how many double occupancies they can have.

Korn asks if this changing of the verbiage will satisfy the comp plan or do we further have to do an amendment to the comp plan. Mills is explaining that what is being attempted is to not change it. Mill adds that as long as legal Council agrees and does not conflict with the comp plan.

Mr. Paladin explains the subject on special exception is on Indian River County (IRC) the only way to change this after you set up a formula is to get another special exception- variance to do it. You cannot do it with the zoning you have for the rules you are passing today. It is set 1.2 or 2.5 the formula is good.

Paladin explains that residence/beds control how many people you can have, if we limit our single units to 500 sq ft and dble 750 sq ft a safety factor. You are governed by sq ft. max of 500 sq ft. Leeanne, if you put 650 sq ft. and if you keep under 500 the state is working for you.

Paladin explains the average size for a single unit in the 12 facilities we did the research was 362 sq ft & 749sq ft or larger for double size, actually 501 sq ft you can have a double unit. Leeanne comments if we say you can only have so many beds, it doesn't matter how big your unit are. Ritter adds it depends on the building size and the facility they are going to build. Reilly comments that if you have a 1,000 sq ft unit you can have 4 beds per unit. Ritter says you can make it only a single unit for up to 500sq ft.

Paladin explains that a big concern you had was that you want to keep this as rural as possible, the way you do this is control your density, the two ways to control your density would be to approve more density, which is safe for everybody, and the second way is by eliminating your sq ft so your state regulations support controlling your density to keep it as rural as you want so nobody can change it.

Reilly and Leeanne commenting about controlling density by the "factor" we use in our formula table. Ritter adds that it is not altering the size of the units. Paladin explains that this is market driven like most free enterprises, the only thing I am trying to do with the sq ft is to keep an "in fill" from happening in the future. Leeanne asks, are you proposing another layer on top of what we are doing to control the density. Paladin responds, yes. Reilly asks Mills about this to control the density. Reilly says we just need to control density by changing the "factor" in our formula table, we cannot control units per acre and I don't want to change the 1.2 factor that controls the single and double units, but we can control the "2.5 factor". Mr. Paladin explains the 2.5 factor is the common denominator used; I am just trying to prevent 5 years from now just adding beds. Anything in free enterprise is market driven; these places are all filled up. Paladin explains that in an ALF you have a lot of common areas you do not have in a regular home. Reilly explains we will put in our words for now and review. Paladin discusses a previous meeting about 1,000 sq ft unit some day there is nothing stopping someone from putting 4 beds in there, and this is true. Ritter replied that we have a maximum beds/ resident number. Paladin says if you keep the sq ft to the state regulations then they cannot do this.

Krieger asks about the 2.5 being a generality and 1.2 is unique to the project. Ritter explains to control the density. Reilly says if you can combine both numbers and made a bigger factor that would work. Reilly explaining if we do this it would be one number and this would be the maximum resident/beds you can have and you can split up however you want. Ritter and Krieger explain the ALF Factor would be "3". Reilly explains they can have as many units as they want and single or double units. Leeanne adds that the state controls the sq ft. Ritter comments that the FS and Building Codes designate the living size they have to have. Mr. Paladin says that would be fine, you would have the same amount of cap on the amount of residents. Mills comments that this is a good way to do this. Ritter adds that one we are restricting the units and then controlling density but with this we are not restricting units. Leeanne comments that the state controls how many sq ft they must have.

Ritter and Mills discussing units page 14/62, if you are going under nursing home they reference "single resident" or "bed" in the FS. They reference 1 bed = 1 resident.

Paladin references Brevard County; they refer to units and trips. Ritter referring to page 35/62 this is the Application Check List for Health Care ALF, they base their licensing fee on per beds. We are making sure each bed = 1 resident.

Ritter discussing with the Board the Application process for ALF and different forms. Ritter comments that they are very regulated by the state.

Krieger asks where we are as far as formula, to change to "3" for the factor and write language to correspond to this formula. This would be the verbiage for Article II & III.

Reilly submitted verbiage for Article II & III suggestions on page 61/62.

Mills comments that the Town Manager would have to authorize for his assistance to work on verbiage on these Articles.

The Board is discussing the purpose and intent verbiage for Articles, Mills suggests that if you want to do that, you don't need me; someone can do this on the Board and submit. Leeanne said she would take a stab at it and Ritter would also try it again. Reilly would ask everyone on the Board to present something and work together. Reilly asks Mills if he can come back the end of October after they get it worked out.

Reilly is going to present to Council the Two Tables and what we intend to do with those two chapters. Sherear asks Reilly when he intends on going to Council so I can inform Debby so it can be put on the Agenda. Reilly replies October 7.

Krieger's understanding is that "formula" becomes independent of zoning classifications across the Board, the Board explains it is only for RM4 & RM6 and only for ALF's and Adult Care Homes (ACH).

Paladin asks that his understanding now on the sq ft the minimum sq ft is governed by state regulations and there is no maximum sq ft? Reilly replies, correct. Leeanne adds that we do appreciate your suggestions.

Reilly explaining we want to do all this right. Paladin comments that I think you are close and we are all working together and all on the same page. Reilly asks if we are ok on your time schedule, my goal was to have this all done by the end of September, it will probably end of October, and then it will go on to Council. Paladin responds, in reality where I am, actually my deadline is December, if I can get this approved and something to a point that I can build an ALF on this site with this formula and up to this many units, if I can do this by December or end of November, I am a happy camper, my finances are in place everything stays in place I can continue on my drawings and continue with my negotiations with my off site developers agreement to bring in the water and sewer in and it doesn't slow anything down.

Ryan asks in reference to water/sewer that there is something in this material referencing that you were already in negotiation with Palm Bay, is there a target date? Mr. Paladin responds that yes he has been in touch and a target date is that he wanted to make sure he could build his ALF project, Ryan asks if bonds and all that was discussed. Paladin responds yes we discussed all that and I am fine with all that, it just a matter of us deciding on my engineer has some preliminary drawings from years ago. We have to bring our drawings up to date and get them approved by Palm Bay and approve developer's agreement on how I can recapture some of my investment for spending \$2.5 million installing the water/sewer. Ritter explains that a lot of this is regulated by the checklists from FS.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

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

Sherear explains that coming before this Board is a zoning change to R/LC on Marie Street the "Old School House", 1490 Marie Street. It will be the last meeting in October.

Ritter asks Don if we ever finished the definition on R/LC. Reilly explains that we did this with Serene Harbor, if we envisioned that we were going to move forward. Krieger suggests that we should concentrate on Marie Street to Highway 1. We should wait to see the widening take place before we move forward. What we have done is a pandemic change which is as far as I am concerned we have suggested to the town that it is a work in progress. It seems as though we have 3 or 4 R/LC's coming up between Marie Street and the railroad tracks basically. Ritter discussing the paragraph with one study that was done that specifically states where R/LC is on US 1, Reilly replies that is what it says in our Comp Plan, we would go against our Comp Plan we did already when they approved Serene Harbor, about 5 to 7 years ago. Reilly asked if that was spot zoning and it was not because the Town envisioned creating R/LC 600 ft north of Malabar Road, it is our future land use. Korn said he was under the impression that there was zoning corridors on either side of Malabar Road they went back 600 ft. Reilly said that is correct.

Ritter is explaining to Mills that we did not do an adoption of changing area to R/LC we did not want to do an overall adoption we figure we would wait till the people came in and asked for it and then the future would become the present we did not want to force everyone to go with what visions we have, it might change their tax base. Mills suggests that the first one you do, you might want to revise that language. Reilly explains that Debby called it a minor Comp Plan, you are allowed to do that every so often.

Leeanne asks if the R/LC is a lesser use then CL, Krieger would love to see something in our Code specifically that talks about if you're using property as lesser use. Krieger said there is one zoning that allows for live in guards, Reilly explains it is "OI", BerriPatch. I would suggest that we take the leaps and bounds out of R/LC, and put that one line in all the zoning you should be able to have a night guard all the time.

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

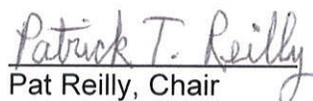
Ritter asks about the septic tank and Kempfer's Feed and Ryan explains it is a work in progress and come to a happy ending for everybody.

Leeanne, we received a memo last week from Bonnie and I think she has revised it but having said that, I have aerial photos from Brevard County Property Appraiser's office of the pool and I have been told that we have no Code or Ordinance for filling in a pool. Reilly said that is an incorrect statement, we did a decorative water feature. Reilly said to me it is settled. Leeanne also stated that she was told it was a flower bed. Korn asks how is this a P&Z subject. Then another thing too I was told was a garden was the pit that was dug on 1250 US Hwy 1, and I have aerial's of the pit that was dug there and I was told that it was a garden. Reilly asked if she brought all this to Code Enforcement and Leeanne said she did. Reilly replied it is not a P&Z matter it is a staff matter. Leeanne just says this is in response to the memo we received the last few days.

K. ADJOURN

There being no further business to discuss, **MOTION: Ryan/Ritter to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 9: 24P.M.

BY:


Pat Reilly, Chair


Denine Sherear, P&Z Board Secretary

10/09/2013
Date Approved: as corrected