

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
MARCH 12, 2014 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:	GEORGE FOSTER
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

**C. ADDITIONS/DELETIONS/CHANGES:** Bud said he regrets missing earlier meeting; he had flu and then viral conjunctivitis then convulsive dogs. Members welcome him back.

**D. CONSENT AGENDA:**

- |                               |  |
|-------------------------------|--|
| <b>1. Approval of Minutes</b> | Planning and Zoning Meeting – 02/26/2014 |
| <b>Exhibit:</b>               | Agenda Report No. 1                      |
| <b>Recommendation:</b>        | Motion to Approve                        |

Chair asked for a motion to approve P&Z minutes of 2/26/2014.

**MOTION:** Grant / Don to approve with corrections.

Liz: pg 2 – 2/3<sup>rd</sup> down large para, does the 90% refer to wetlands – that seems high? Denine will check tape. Grant said further down on same page - the properties that are wetlands are valued at considerably less “than” not then. Further down it says St John’s and should be St Johns River Water Management District for the first time. Last para, “have” instead of “are” they already “been” sold”?”.

Pg 3, Callagy is misspelled multiple times. Para before that, why has there not been permits pulled for ponds. At end of sentence should say “in the town of Malabar”. Above that Reilly said Foundation Pk is there two double lanes – sb “are” there two double lanes. I have supported Don Baker re: Ind because if have CG that is not being used we are losing those taxes. Town was “blindsided” sb blindsided”; then sb I-95. Then several references to tax “basin” sb tax base. Then Don and David sb Don Barker and David Miller. Businesses – plural - is correct. Then another basin. Then receive sb received. Don then said the line that said the study was “successful” – that is what was said but what does that mean? It implies something was accomplished. Next page Reilly “explained” to Board. The Board “discussed”. Krieger asked why it came back to Board for action. Chair – anything else? Pg 5, Ritter never liked Rural LC; sb Residential LC. Grant said that in line that starts Krieger explained there is an “a” that needs to be deleted. Then that is your land use today – delete “for” before today. Chair said it is understandable; don’t nitpick. Chair asked anything else. Ritter said next page, pg 6, line 6 – we have not changed what but where RLC is. Because now we get to look “at” it again. Reilly said we have a Future Land Use Map (FLUM) that we use – take out presently. Pg 7, Don said it is DCA not CDA. (Note: it is no longer DCA it is DEO – Dept of Economic Opportunity). Don said same page at bottom, has vs. have. Liz, pg 8, Line started “Foster – last full line – has capital “W”. Also business people “were” not “where”. Grant said he found another correction on pg 7, 4<sup>th</sup> para from bottom, last line sb mixed use. No other corrections.

**VOTE:** All Ayes.

E. **PRESENTATION:** none

F. **ACTION:**

2. **Requests by Applicant: Mr. John Waclawski to revise Proposed FLUM Map, vacant property is located on Babcock Street & Osage Street at Parcel I D# 29-37-10-00-00568**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Discussion/Action to Council

Chair asked applicant to give his name and explain his request. He said back in 1984, he was a realtor and bought three parcels on Babcock Street that were commercial and three parcels behind that and he considered those properties to be their retirement. Torpy was his attorney. It is now OI and he wants it reverted back to B-2 Commercial. He has the plans for a strip mall that was planned for that parcel. He thought he could sell it for 365K and had an offer but there were complications. He has been trying to sell it for 75K with no takers. It is valued now at 65K. He is trying to liquidate his properties and has no interested buyers with the OI. He would like to go back to the B2 zoning so he can possibly sell it for more. He is not concerned about the other parcels in the back but wants the corner piece to be changed to B2. Back in 1984, he was in the tree business and gave a bunch of trees to town hall and they stayed out front and months later they were still out front because they did not have the resources to plant them. He recently met with town staff and they were all excellent, very helpful and he again offered trees and was told they had recently laid off some staff and did not have the capability to plant them at this time. He suggested making it a Scout project but has not heard back yet. He has all the paperwork from 1984 showing it was B-2 zoning and he has the offer he was given back then for \$365K. He is just trying to liquidate for as much as he can. Any Questions?

Chair asked if he could prove the B2. What Chair has shows it as B1. Chair said he is engineer and needs to have facts. Applicant handed him paperwork. Chair sees that there was a B2 zoning but since applicant owned multiple lots he was to verify that the paperwork refers to the parcel in question. On here it says Lot 23 and now it refers to parcel 5 something. It is 568. He wants to make sure they are talking about the same property.

(Note: Lot numbers reference the 20-acre parcels when it was originally platted. Subsequent land divisions created parcels within the Lot. Staff will provide land division definitions of Township, Range, Section, Lot and Parcel)

Applicant said the property to the north has the church (Brevard Worship Center) and that was zoned B1. His parcel was B2. Chair just wanted to make absolute certain that the parcel under discussion was B2 because there is a big difference between B1 and B2.

Applicant referenced Ord 91-3. Chair said look at page 3 of 24 of the package; its says the property was changed from RR to B1. Applicant said that was the house to the north that later became the church and the vacant land behind it.

Chair said the agenda report states that the property was rezoned at request of applicant from RR to B1. That is his concern. Applicant asked what the difference was with B2. Chair said it is huge; it is a deal breaker. Applicant said it was then changed by the Town to OI.

Chair suggests that they table this until they get definitive evidence that the parcel in question was changed to B2. Motion was made to table. Don said before it is seconded he wanted to ask questions of the applicant. Once a motion is tabled and seconded, there can be no more discussion. Chair explained that B1 was low density general commercial; B2 was high density general commercial. Applicant said he had all the plans for a gas station and strip center. Chair said he believes it was B1 and he could still do that as a conditional use. Chair referred Board to page 1283 of old 1988 code book placed in front of each member. You can put a service station in B1 as a conditional use. Chair pointed out that the area abuts a residential area. They like to have

a buffer between commercial and residential. Applicant said he just wants the highest density so he can get rid of the property. There has been virtually no development in the past 36 years.

Chair said at previous meeting a property owner in this same area requested a zoning change and half of the residents living off of Booth Lane and Lett Lane were here – they packed the house to fight the request. Chair said back in 1991 all the B1 was changed to OI. There was an ad placed in the newspaper 1" x ¼" ad with small font. Chair states that the advertising is legal but not necessarily ethical.

Bud told applicant that in his opinion the Board may not be able to grant the requested change. Chair asked Denine to put map on overhead; the whole area was RR and then the lots that were changed were changed via individual requests.

Chair asked how church got rezoned to CG. Chair said Board actually was going to propose to Council that all the properties along Babcock Street be changed to OI. Chair said in his opinion applicant could come back and ask for a change from OI to CL since CL is higher use than OI but not as high as CG. Applicant said he would like that change. Don asked applicant if he had read the permitted and conditional uses for OI? Don told applicant to get copy of the permitted and conditional uses for OI. Chair said service stations are possible in CL as a conditional use. Don suggests applicant to not do anything regarding rezoning and just let potential buyer know if they have a legitimate project that would fit the requested zoning changes, the Board would seriously consider it. Don said to ask for a rezoning for land speculation purposes is not within this Board's job.

**MOTION:** Don / Bud to table this item until they get the information they have requested. Denine asked for the information to be repeated. Don said the original zoning of that particular parcel, original zoning of adjacent parcels, and records of all changes; that would be 1984, 1988 and 1991. Liz said Denine needed to get the current parcels and how they changed from the lot numbers. Chair said Denine should get the zoning on the west side in Palm Bay and the zoning to the south in Grant Valkaria.

**VOTE:** All Ayes

**G. DISCUSSION:**

**3. Future Land Use Maps and Defining R/LC**

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

Speaker cards: Juliana Hirsch, she declines.

Chair called up other Speaker card for under Public so they don't have to sit through the discussion.

Speaker Card: Mary Ellen, lives in Palm bay but is looking at property in Malabar and would like to open the business and move to Malabar. The property she is looking at is 2605 Malabar Road. She would like to use it for a dog daycare and boarding facility. It is 11.25 acres and the building is 2400sf. She explained how she would like to fence the property in separate areas to separate the dogs by size and temperament. She understands the zoning would have to change and is asking about the likelihood of getting it changed from OI to R/LC. Chair said it would need to be a higher density than that. Her request does not fit in that zoning. She asked what zoning would she be looking for. Chair said Industrial. Don said it is a rental and it would have to be a conditional use tied to the rental so it could not be a similar use after the rental is up. Board thanked her for coming in. She thanked Board.

Board discussed broad principles and how major corridors may develop as residential but if owners are willing to do the financial investment they should be able to.

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

**I. PUBLIC:**

Juliana Hirsh 1035 Malabar Road, Malabar FL She voiced her opinion on the R/LC and her property and concurred with what Foster was saying.

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

**K. ADJOURN**

There being no further business to discuss, **MOTION:** Bud / Liz to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 9:50 P.M.

BY:

Pat Reilly  
Pat Reilly, Chair

Denine Sherear  
Denine Sherear, P&Z Board Secretary

4/23/14  
Date Approved: