



**PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY, FEBRUARY 13, 2007
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**
- D. CONSENT AGENDA**
 - 1. Approval of Minutes**
Regular Planning and Zoning Meeting – 1/28/07
Exhibit: Agenda Report No. 1
Recommendation: Motion to approve
- E. PUBLIC HEARING:**
 - 2. Rezoning Request – OI to CG – Section 10, Township 29, Range 37, Lots 266, 278 and 299 – Applicant Stan Wing and Rusty Melle**
- F. ACTION:**
 - 2. Appurtenance Heights purposed for ordinance**
- G. DISCUSSION ITEMS - General Items**
- H. OLD BUSINESS/NEW BUSINESS:**
 - Malabar Vernacular Ordinance**
 - Fencing for Subdivision Projects**
- I. ADJOURN:**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service.

In compliance with the Americans With Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: FEBRUARY 13, 2008

Prepared By: Debby Franklin, Town Clerk/Treasurer, Secretary to P&Z

SUBJECT: Approval P&Z Minutes

BACKGROUND/HISTORY:

ATTACHMENTS:

- Minutes from Planning and Zoning regular meeting January 23, 2007

ACTION OPTIONS:

Motion to Approve

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: February 13, 2008

Prepared By: Debby Franklin, Town Clerk/Treasurer & Secretary to P&Z Board

SUBJECT: Rezoning Request: Booth Road between Babcock and Lett Lane, Malabar – Applicant Stan Wing and Rusty Melle

BACKGROUND/HISTORY:

The rezoning request was submitted on December 10, 2007. The agent is representing both applicants. The parcels are adjacent. The property was posted for thirty days as directed by Council. Notices were sent to the surrounding property owners. No comments have been received as of 2-7-08. The applicant was notified of this Public Hearing. The applications have been reviewed by the Town Planning Consultant.

ATTACHMENTS:

- Application for Rezoning front lot – parcel 266 – with map
- Application for Rezoning back lots – parcels 278 and 299 – with map
- Legal Notice sent to 27 surrounding property owners
- Memo dated 2-4-08 from Planner Mills

ACTION OPTIONS:

Staff requests recommendation to Council on this matter in the form of a motion.

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 - Telephone
(321) 727-9997 - Fax

246



Date: 11-26-07

No. _____

APPLICATION FOR ZONING CHANGE &
APPLICATION FOR AMENDING THE LAND DEVELOPMENT CODE

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
- Florida Statutes, Chapter 166.041(c)
- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): STAN WING OR RUSTI MELL Telephone #: 321. 446-7146
Mailing Address: 907 E STRAWBRIDGE AV. MELBOURNE, FL 32901

Legal description of property covered by application:

Township: 29 Range: 37 Section: 10
Lot/Block: 29-37-10-00-00266.0-0000.00 Parcel Subdivision: LOT 1,2,7 TO 12,17 TO 21
Other Legal: S 400 FT OF W 1/2 OF LOT 24 EX W 50 FT AS DESC IN ORB 1550 PG 718 PAR 2

Property Address: 6855 BOBBOCK ST, MALABAR, FL. 32950

- Current and Proposed Comprehensive Plan Land Use Map Designation. The current and proposed Comprehensive Plan Land Use Map designation for the subject property shall be identified: Current: COMMERCIAL Proposed: COMMERCIAL
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: OF Proposed: CG
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: OFFICE/INSTITUTIONAL Proposed: RETAIL W/GAS

Fees:

- Rezoning - \$325 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Rezoning & Land Use Charges - \$625 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.

(*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ 345.00 in cash or check payable to *Town of Malabar*.
- List of names and addresses of property owners and legal descriptions of all property within 200/500 feet (circle one) of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office.

Stan Wing
Signature of Applicant

[Signature]
Signature of Applicant

TOWN OF MALABAR
APPLICATION FOR ZONING CHANGE AND LAND USE AMENDMENT

Where the property is not owned by the applicant, a letter/letters must be attached giving the notarized consent of the owner/owners to the applicant to request a rezoning review of the property.

Please complete only one of the following:

I, STAN WING OR RUSTI MEULE, being first duly sworn, depose and say that I, STAN WING OR RUSTI MEULE, am the legal representative of the Owner or Lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

St Wing
Applicant

11-26-07
Date

[Signature]
Applicant

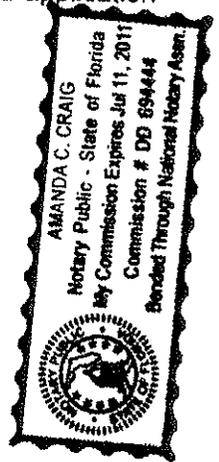
11-26-07
Date

Sworn and subscribed before me this 26th day of November, 2007.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: DD 694444 My Commission Expires: July 11, 2011

Amanda C. Craig



I, _____, being first duly sworn, depose and say that I, _____, am the Owner of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Applicant

Date

Applicant

Date

Sworn and subscribed before me this _____ day of _____, 20_____.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: _____ My Commission Expires: _____

Dear Sirs,

I am writing this letter to give my consent to Stan Wing or Rusty Melle to be my representative as the applicant to request a rezoning review of my property located at 6855 Babcock St in Malabar.

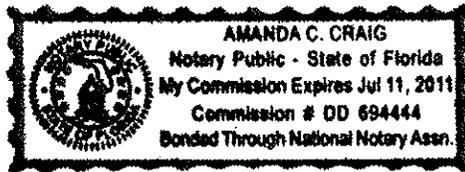
The tax number and legal description for the property are:

1. Tax #2931314, Legal Description: LOTS 1, 2, 7 TO 12, 17 TO 25, W ½, S 400 FT OF W ½ OF LOT 24 EX W 50 FT AS DESC IN ORB 1550 PG 718 PAR 270

We are applying for this rezoning change in cooperation with the owner of the two lots adjacent to the east owned by Salvatore Tabone. His tax numbers are Tax #2931346 and Tax #2931326. We both agree that we want this rezoning review to include all three properties and for the review to look at these properties as one 4.88 acre property.

Thank you,

Jerry Lawrence 11/15/07
Jerry Lawrence, Pastor
Community Gospel Church of Truth



Amanda C. Craig

**Jim Ford, C.F.A.
Property Appraiser
Brevard County, FL**



**Property
Research**

[Home] [Meet JimFord] [Appraiser's Job] [FAQ] [General Info] [Save Our Homes]
[Exemptions] [Tangible Property] [Contact Us] [Locations] [Forms] [Appeals] [Property
Research] [Map Search] [Maps & Data] [Unusable Property] [Tax Authorities] [Tax Facts]
[Economic Indicators] [What's New] [Links] [Press Releases] [Tax Estimator]

General Parcel Information for 29-37-10-00-00266.0-0000.00

Parcel Id:	29-37-10-00-00266.0-0000.00	Map	Millage Code:	34Z0	Exemption:	Use Code:	1000
* Site Address:	6855 BABCOCK ST, MALABAR, FL 32950					Tax Account:	2931314

* Site address information is assigned by the Brevard County Address Assignment Office for E9-1-1 purposes; this information may not reflect community location of property.

Tax information is available at the Brevard County Tax Collector's web site
(Select the back button to return to the Property Appraiser's web site)

Owner Information

Owner Name:	COMMUNITY GOSPEL TRUTH CHURCH OF
Second Name:	GOD INC
Mailing Address:	P O BOX 100055
City, State, Zipcode:	PALM BAY, FL 32910

Legal Description

Sub Name:	S 400 FT OF W 1/2 OF LOTS 1,2,7 TO 12,17 TO 25, W 1/2
	LOT 24 EX W 50 FT AS DESC IN ORB 1550 PG 718 PAR 270

Value Summary for 2006

** Market Value:	\$126,380
Agricultural Assessment:	\$0
Assessed Value:	\$126,380
*** Homestead Exemption:	\$0
*** Other Exemptions:	\$0
Taxable Value:	\$126,380

Land Information

Acres:	2.32
Site Code:	320
Land Value:	\$126,380

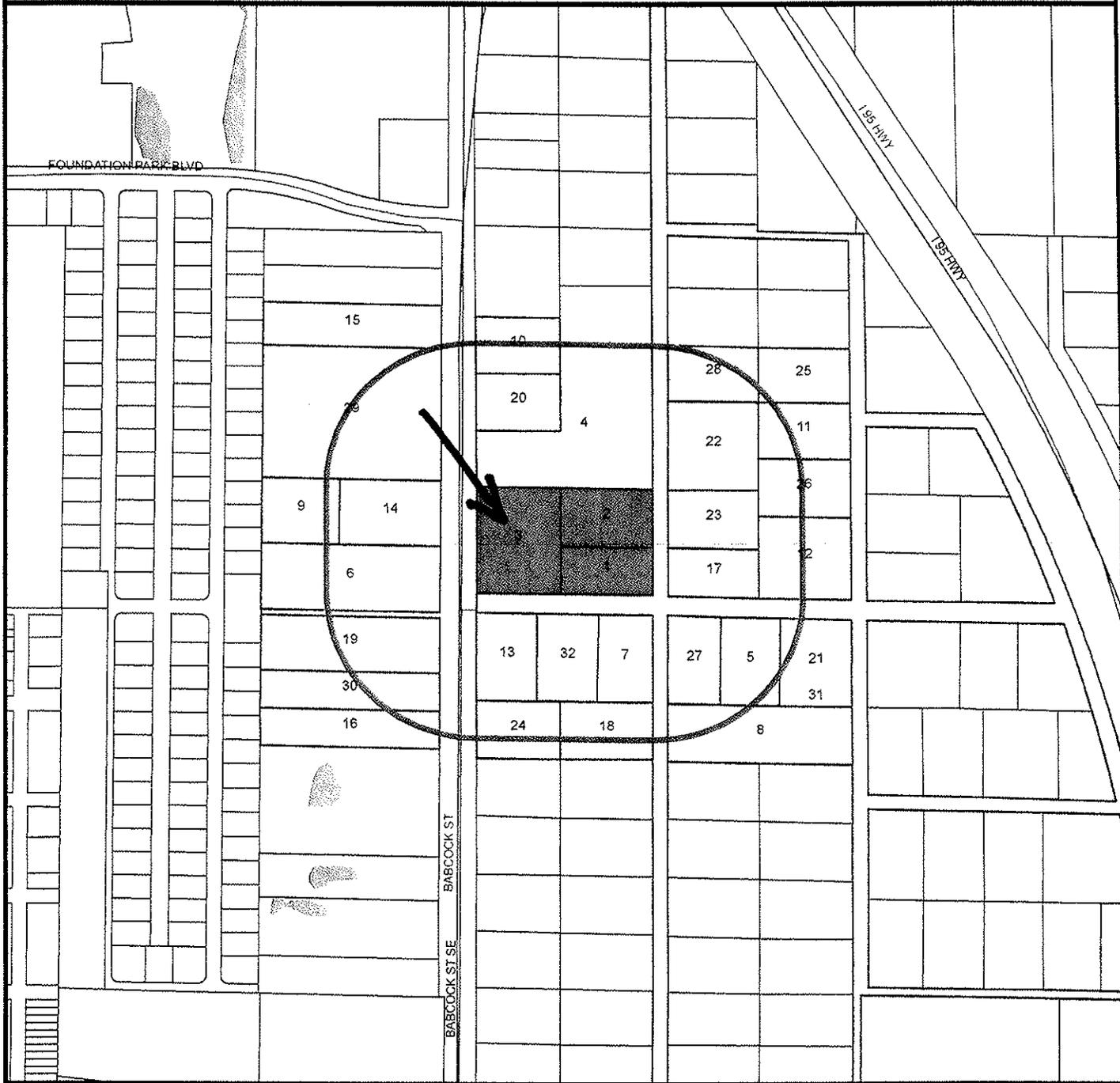
** This is the value established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does not represent anticipated selling price for the property.

*** Exemptions as reflected on the Value Summary table are applicable for the year shown and may or may not be applicable if an owner change has occurred.

Sales Information

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RADIUS MAP
 TABONE, SALVATORE
 coldwell bank-stan



MAP SCALE IS: 1:6,000 OR 1 inch equals 500 feet
 BUFFER DISTANCE: 500 feet

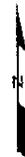
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of Commissioners does not assume responsibility for errors or omissions contained herein.

Produced by: Brevard County Planning & Zoning Office - GIS 11/28/2007



Legend

-  Notification buffer
-  Parcel/lot boundaries
-  Notified Properties
-  Subject Properties



278
299

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 - Telephone
(321) 727-9997 - Fax



Date: 11-26-07

No. DEC 10 2007

APPLICATION FOR ZONING CHANGE &
APPLICATION FOR AMENDING THE LAND DEVELOPMENT CODE

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
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- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): STAN WING OR RUSTY MELLE Telephone #: 321-446-7146
Mailing Address: 907 E STRAWBRIDGE AV MELBOURNE, FL 32901

Legal description of property covered by application:

Township: 29 Range: 37 Section: 10
29-37-10-00- Lot/Block: 00278.00000,00 & 00299,0-0000,00 Parcel Subdivision: LOTS 1,2,7 TO 12,17
Other Legal: E 1/2 OF N 200 FT OF S 400 FT OF LOT 24 OF PBI W 1/2
PG 165 EX E 25 FT AS DES IN ORB 1970 PG 547
(AND) E 1/2 OF S 200 FT OF LOT 24 OF PBI PG 165 EX S 35 FT
Property Address: E 25 FT AS DES IN ORB 2248 PG 575

- Current and Proposed Comprehensive Plan Land Use Map Designation. The current and proposed Comprehensive Plan Land Use Map designation for the subject property shall be identified: Current: COMMERCIAL Proposed: COMMERCIAL
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: OI Proposed: CG
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: OFFICE/INSTITUTIONAL Proposed: RETAIL W/GAS

Fees:

- Rezoning - \$325 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Rezoning & Land Use Charges - \$625 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.

(*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ 345 in cash or check payable to Town of Malabar.
- List of names and addresses of property owners and legal descriptions of all property within 200/500 feet (circle one) of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office.

Stan Wing
Signature of Applicant

Rusty Melle
Signature of Applicant

TOWN OF MALABAR
APPLICATION FOR ZONING CHANGE AND LAND USE AMENDMENT

Where the property is not owned by the applicant, a letter/letters must be attached giving the notarized consent of the owner/owners to the applicant to request a rezoning review of the property.

Please complete only one of the following:

I, STAN WING & RUSTY MELLE, being first duly sworn, depose and say that I, STAN WING & RUSTY MELLE, am the legal representative of the Owner or Lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Stan Wing
Applicant

11-26-07
Date

Handwritten Signature
Applicant

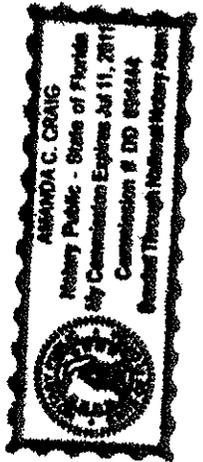
11-26-07
Date

Sworn and subscribed before me this 26th day of NOVEMBER, 2007.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: DD 694444 My Commission Expires: JULY 11 2011

Amanda C. Craig



I, _____, being first duly sworn, depose and say that I, _____, am the Owner of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Applicant

Date

Applicant

Date

Sworn and subscribed before me this _____ day of _____, 20____.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: _____ My Commission Expires: _____.

Dear Sirs,

I am writing this letter to give my consent to Stan Wing or Rusty Melle to be my representative as the applicant to request a rezoning review of my property located at the corner of Booth and Lett Lane in Malabar. The tax number and legal description for the two properties are:

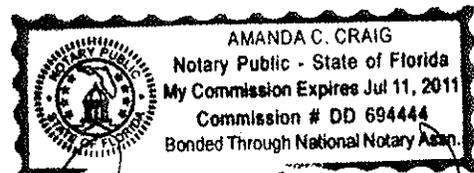
1. Tax #2931326, Legal Description: LOTS 1, 2, 7 TO 12, 17 TO 25, W ½, E ½ OF N 200 FT OF S 400 FT OF LOT 24 OF PB 1 PG 165 EX E 25 FT AS DES IN ORB 1970 PG 547
2. Tax #2931346, Legal Description: LOTS 1, 2, 7 TO 12, 17 TO 25, W ½, E ½ OF S 200 FT OF LOT 24 OF PB 1 PG 165 EX S 35 FT & E 25 FT AS DES IN ORB 2248 PG 575

We are applying for this rezoning change in cooperation with the Community Gospel Church of Truth, Tax #2931314, located at 6855 Babcock St, Malabar, Fl 32950. Their property is adjacent to the west and we both agree that we want this rezoning review to include all three properties and for the review to look at these properties as one 4.88 acre property.

Thank you,

Salvatore Tabone

Salvatore Tabone



Amanda C. Craig 11/21/07

**Jim Ford, C.F.A.
Property Appraiser
Brevard County, FL**



**Property
Research**

[Home] [Meet JimFord] [Appraiser's Job] [FAQ] [General Info] [Save Our Homes]
[Exemptions] [Tangible Property] [Contact Us] [Locations] [Forms] [Appeals] [Property
Research] [Map Search] [Maps & Data] [Unusable Property] [Tax Authorities] [Tax Facts]
[Economic Indicators] [What's New] [Links] [Press Releases] [Tax Estimator]

General Parcel Information for 29-37-10-00-00278.0-0000.00

Parcel Id:	29-37-10-00-00278.0-0000.00	Map	Millage Code:	34Z0	Exemption:	Use Code:	1000
* Site Address:						Tax Account:	2931326

* Site address information is assigned by the Brevard County Address Assignment Office for E9-1-1 purposes; this information may not reflect community location of property.

Tax information is available at the Brevard County Tax Collector's web site
(Select the back button to return to the Property Appraiser's web site)

Owner Information

Owner Name:	TABONE, SALVATORE
Second Name:	
Mailing Address:	2075 CENTRE POINT BLVD
City, State, Zipcode:	TALLAHASSEE, FL 32308

Legal Description

Sub Name:	E 1/2 OF N 200 FT OF S LOTS 1,2,7 TO 12,17 TO 25, W 1/2
	400 FT OF LOT 24 OF PB 1 PG 165 EX E 25 FT AS DES IN ORB 1970 PG 547

Value Summary for 2006

** Market Value:	\$98,000
Agricultural Assessment:	\$0
Assessed Value:	\$98,000
*** Homestead Exemption:	\$0
*** Other Exemptions:	\$0
Taxable Value:	\$98,000

Land Information

Acres:	1.4
Site Code:	1
Land Value:	\$98,000

** This is the value established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does not represent anticipated selling price for the property.

*** Exemptions as reflected on the Value Summary table are applicable for the year shown and may or may not be applicable if an owner change has occurred.

Sales Information

407-482-1813

OR Book/Page	Sale Date	Sale Amount	Deed Type	*** Sales Screening	*** Sales Screening	Vacant/Improved
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**Jim Ford, C.F.A.
Property Appraiser
Brevard County, FL**



**Property
Research**

[Home] [Meet JimFord] [Appraiser's Job] [FAQ] [General Info] [Save Our Homes]
[Exemptions] [Tangible Property] [Contact Us] [Locations] [Forms] [Appeals] [Property
Research] [Map Search] [Maps & Data] [Unusable Property] [Tax Authorities] [Tax Facts]
[Economic Indicators] [What's New] [Links] [Press Releases] [Tax Estimator]

General Parcel Information for 29-37-10-00-00299.0-0000.00

Parcel Id:	29-37-10-00-00299.0-0000.00	Map	Millage Code:	34Z0	Exemption:	Use Code:	1000
* Site Address:						Tax Account:	2931346

* Site address information is assigned by the Brevard County Address Assignment Office for E9-1-1 purposes; this information may not reflect community location of property.

Tax information is available at the Brevard County Tax Collector's web site
(Select the back button to return to the Property Appraiser's web site)

Owner Information

Owner Name:	TABONE, SALVATORE
Second Name:	
Mailing Address:	2075 CENTRE POINT BLVD
City, State, Zipcode:	TALLAHASSEE, FL 32308

Legal Description

Sub Name:	E 1/2 OF S 200 FT OF LOT LOTS 1,2,7 TO 12,17 TO 25, W 1/2
	24 OF PB 1 PG 165 EX S 35 FT & E 25 FT AS DES IN ORB 2248 PG 575

Value Summary for 2006

** Market Value:	\$81,200
Agricultural Assessment:	\$0
Assessed Value:	\$81,200
*** Homestead Exemption:	\$0
*** Other Exemptions:	\$0
Taxable Value:	\$81,200

Land Information

Acres:	1.16
Site Code:	1
Land Value:	\$81,200

** This is the value established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does not represent anticipated selling price for the property.

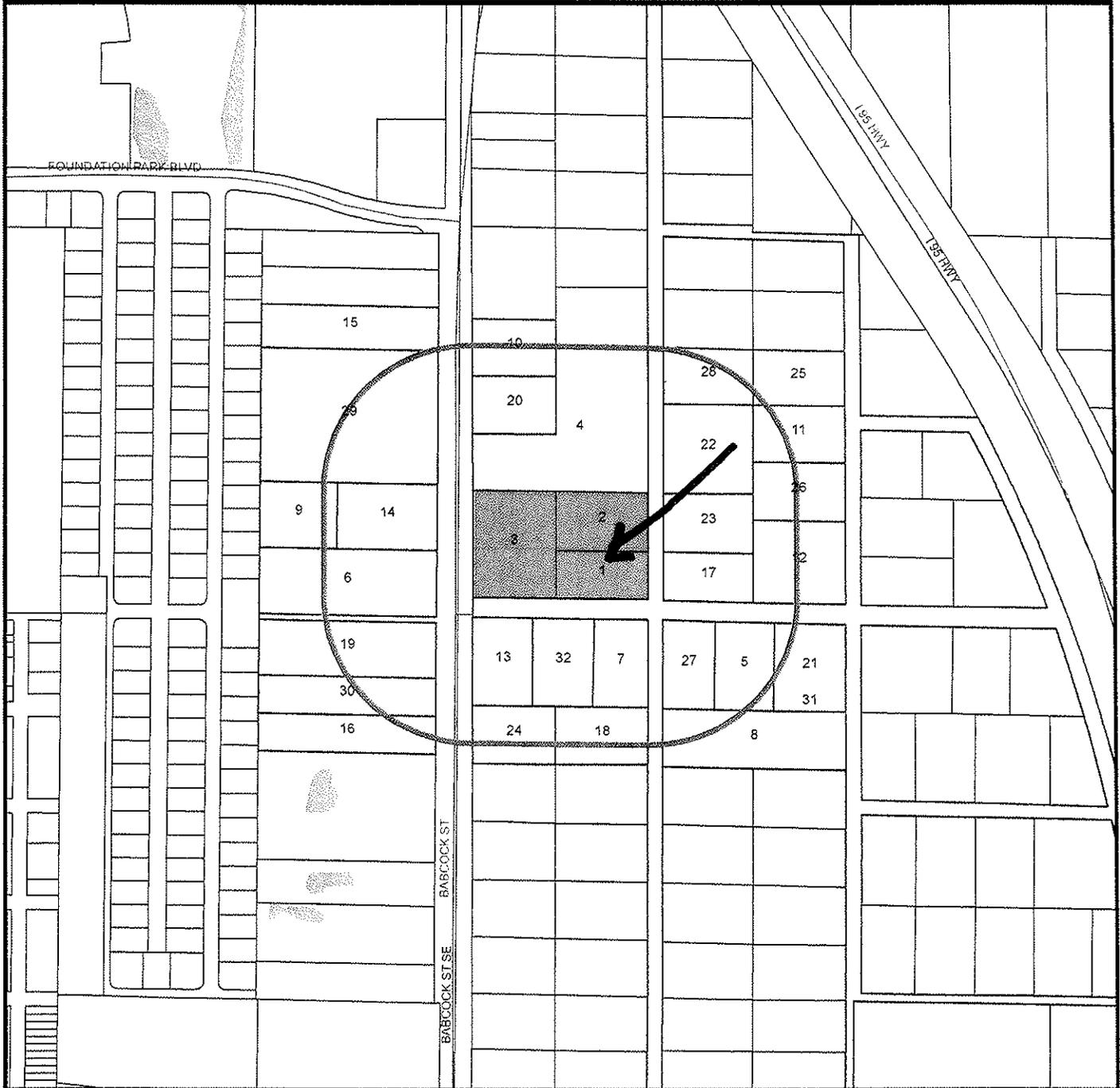
*** Exemptions as reflected on the Value Summary table are applicable for the year shown and may or may not be applicable if an owner change has occurred.

726-0970

Sales Information

OR Book/Page	Sale Date	Sale Amount	Deed Type	*** Sales Screening	*** Sales Screening	Vacant/Improved
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RADIUS MAP
 TABONE, SALVATORE
 coldwell bank-stan



MAP SCALE IS: 1:6,000 OR 1 inch equals 500 feet
 BUFFER DISTANCE: 500 feet

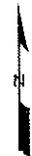
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of Commissioners does not assume responsibility for errors or omissions contained herein.

Produced by: Brevard County Planning & Zoning Office - GIS 11/28/2007



Legend

-  Notification buffer
-  Parcel/lot boundaries
-  Notified Properties
-  Subject Properties





TOWN OF MALABAR

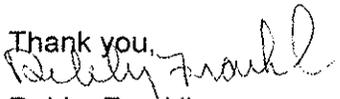
2725 MALABAR ROAD, MALABAR, FLORIDA 32950
(321)727-7764 x 13 OFFICE • (321)722-2234 FAX
www.townofmalabar.org

January 24, 2008

Dear Malabar Property Owner:

You received this notice because you are listed as an owner of property, as shown in the records of the County Appraiser's office, within a 500 foot radius of the applicant requesting a land use and zoning change. There will be a Public Hearing on this request at the Malabar Planning and Zoning meeting of February 13, 2008. A copy of the legal notice that will appear in the Florida Today newspaper is below. If you have any questions, please call the Clerk's Office at 321-727-7764 x 12.

Thank you,


Debby Franklin
Town Clerk

TOWN OF MALABAR NOTICE OF PUBLIC HEARING

The Town of Malabar Planning & Zoning Board will hold a public hearing on February 13, 2008, at 7:30 p.m., at the Town Hall, 2725 Malabar Road, Malabar, Florida, to hear interested persons regarding a Zoning Change requested by Stan Wing and Rusty Melle. The property is identified as three parcels east of Babcock Street, north of Booth Road and west of Lett Lane, and more particularly described as Section 10, Township 29, Range 37, Lots 266, 278 and 299.

The applicant is requesting a change in the Zoning Map from OI to CG. A copy of the request is available in the Clerk's Office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting of the Malabar Planning and Zoning Board
Debby K. Franklin, Town Clerk

~~COLDWELL BANK-STAN~~
Page 1

STAN
446-7146

ANJO OF BREVARD INC
1765 SANDY CREEK LANE
MALABAR FL 32950

BACKOS, NICHOLAS
BACKOS, THOMAS
46201 BENTLEY CIR W
MACOMB TOWNSHIP MI 48044

BAILLARGEON, WAYNE M
BAILLARGEON, BARBARA A H/W
2955 LETT LANE
MALABAR FL 32950

BARTHOLF, JACK BURNELL TRUST
441 N HARBOR CITY BLVD #C-1
MELBOURNE FL 32935

~~BREVARD COUNTY~~
700 PARK AVE S
TITUSVILLE FL 32780

BREVARD WORSHIP CENTER INC
6825 BABCOCK ST SE
MALABAR FL 32950

CLICK, SANDRA FAYE
SPARKS, JEANNE
2925 LETT LANE
MALABAR FL 32950

COLE, RUTH INEZ
2427 LAKE FRONT DR
LAKE WALES FL 33898

COMMUNITY GOSPEL TRUTH CHURCH
OF
GOD INC
P O BOX 100055
PALM BAY FL 32910

CRUZ, MAURICE F
CRUZ, LYNN C H/W
6904 BABCOCK ST SE
PALM BAY FL 32909

EAGAN, PERCY G III
EAGAN, ANGEL T H/W
6786 BABCOCK ST SE
PALM BAY FL 32909

ENTRUST ADMINISTRATION SERV FBO
COOPER, HOMI IRA #1220040102 ETAL
801 INTERNATIONAL PKWY - 5TH FL
LAKE MARY FL 32746

GAST, IRENE TR
5314 CRANE RD
MELBOURNE FL 32904

GAST, THOMAS L
4001 SEATTLE SLEW LANE
VALKARIA FL 32950

GRAVAS, DAVID
GRAVAS, ROSEMARIE H/W
716 E PALMETTO AVE
MELBOURNE FL 32901

HEDBERG, JAY B
HEDBERG, DONNA H/W
111 TUCSON RD SW
PALM BAY FL 32908

HERNANDEZ, MELITON
HERNANDEZ, HILDA H/W
6790 BABCOCK ST SE
PALM BAY FL 32909

LENTI, ELIZABETH A
6672 BABCOCK ST SE
PALM BAY FL 32909

MILLARE, CLEOFAR
MILLARE, ROSEMARIE T H/W
4263 COREY RD
MALABAR FL 32950

MOORE, DEWEY JR
MOORE, PATTI A H/W
6798 BABCOCK ST SE
PALM BAY FL 32909

PAPPAS, ANDREW T II
SUNDE, MARIA L
75 BOOTH RD
MALABAR FL 32950

PARKER, PAUL K
PARKER, BARBARA E H/W LIFE ES
7790 SW 188TH AVE
DUNNERLLON FL 34432

TABONE, SALVATORE
27 UNIVERSITY PARK
FREDONIA NY 14063

TRASK, HARRY F
825 HAWSER ST NE
PALM BAY FL 32907

TRUST PARTNERS INVESTMENT
1125 WALDEN BLVD SE
PALM BAY FL 32909

WILKINS, GARY D
WILKINS, SOFIA H/W
829 ELLICOTT CIR NW
PORT CHARLOTTE FL 33952

XUI BI CORPORATION
117 SE 22ND AVE
BOYNTON BCH FL 33435

ZABINSKI, PETER P
1405 S PINE ST
MELBOURNE FL 32901

February 4, 2008

To: Debby Franklin, Malabar Town Clerk/Treasurer

From: Keith Mills, AICP, Planning Consultant

Re: **Wing and Melle Rezoning Requests Review**

I have reviewed the subject rezoning applications for compliance with the Town's Comprehensive Plan. These are requests to rezone property from OI (Office/ Institutional) to CG (Commercial General). The following information has been compiled to assist the boards in making determinations concerning these requests.

Applicant: Stan Wing and Rusty Melle.

Legal Description: As described on the submitted applications.

Location: East side of Babcock Street, West side of Lett Lane, North side of Booth Road.

Size: Applications indicate a total of 3.48 acres; Letter of Authorization indicates 4.88 acres.

Current Zoning: OI.

Requested Zoning: CG.

Future Land Use Designation: OI.

Existing Use of Subject Property: Vacant

Proposed Development, if any: Application indicates retail with gas pumps.

Analysis: These rezoning requests are not in compliance with the adopted land use for these properties in the Town's Comprehensive Plan. The Town cannot rezone property that is not in compliance with its Comprehensive Plan. Therefore, I recommend denial of these requests. As a footnote, I believe the Town previously discussed this area fairly recently. My recollection is the Town determined the OI land use and zoning to be appropriate as a buffer for the residential properties to the east.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 3

Meeting Date: February 13, 2008

Prepared By: Debby Franklin, Town Clerk/Treasurer, Secretary to P&Z Board

SUBJECT: Appurtenances to the Buildings

BACKGROUND/HISTORY:

P&Z sent a recommendation to Council to consider getting legal opinion on changes to the Town Code regarding exceptions to height listed in Article V.

At the RTCM held on 01/28/08, discussion was held concerning changing the Town Code in include decorative and structural components into the maximum height of buildings. Mayor Eschenberg volunteered to research the Town Code and make suggestions to Council. Attorney Bohne was requested to obtain a definition of the term "human occupancy. That information was discussed at the RTCM of 2/4/08 and those minutes are attached. Council reviewed the research done by the Mayor. They also reviewed the three suggested changes the Mayor offered. Council directed P&Z review and recommend if any or all of the Mayor's suggestions be incorporated into an ordinance.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Definitions of Habitable Space and Appurtenance from ICC and NFPA
Reference Material from Other Sources by Mayor Eschenberg
RTCM 2-4-08
Article V, Section 1-5.1
Article II, Section 1-2.7
Article XX, Definition of Building Height

ACTION OPTIONS:

Staff seeks recommendation to Council in the form of a motion.

International Building Code



2000

- FOOTBOARDS.** See Section 1002.1.
- FLY GALLERY.** See Section 410.2.
- FRAME.** See Section 1602.1.
- Braced frame.** See Section 1602.1.
 - Concentrically braced frame (CBF).** See Section 1602.1.
 - Eccentrically braced frame (EBF).** See Section 1602.1.
 - Ordinary concentrically braced frame (OCBF).** See Section 1602.1.
 - Special concentrically braced frame (SCBF).** See Section 1602.1.
- FRAME, MOMENT.** See Section 1602.1.
- Intermediate moment frame (IMF).** See Section 1602.1.
 - Ordinary moment frame (OMF).** See Section 1602.1.
 - Special moment frame (SMF).** See Section 1602.1.
- FRAME SYSTEM.** See Section 1602.1.
- Building frame system.** See Section 1602.1.
 - Dual frame system.** See Section 1602.1.
 - Space frame system.** See Section 1602.1.
- [F] GAS CABINET.** See Section 415.2.
- [F] GAS ROOM.** See Section 415.2.
- GLASS FIBER BOARD.** See Section 720.1.1.
- GLUED BUILT-UP MEMBER.** See Section 2302.1.
- GRADE FLOOR OPENING.** A window or other opening located such that the sill height of the opening is not more than 44 inches (1118 mm) above or below the finished ground level adjacent to the opening.
- GRADE (LUMBER).** See Section 2302.1.
- GRADE PLANE.** See Section 502.1.
- GRANDSTAND.** See Section 1002.1.
- GRIDIRON.** See Section 410.2.
- GROSS LEASABLE AREA.** See Section 402.2.
- GROUTED MASONRY.** See Section 2102.1.
- Grouted hollow-unit masonry.** See Section 2102.1.
 - Grouted multiwythe masonry.** See Section 2102.1.
- GUARD.** See Section 1002.1.
- GYPSUM BOARD.** See Section 2502.
- GYPSUM PLASTER.** See Section 2502.
- GYPSUM VENEER PLASTER.** See Section 2502.
- HABITABLE SPACE.** A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.
- [F] HALOGENATED EXTINGUISHING SYSTEMS.** See Section 902.1.
- [F] HANDLING.** See Section 307.2.
- HANDRAIL.** See Section 1002.1.
- HARDBOARD.** See Section 2302.1.
- [F] HAZARDOUS MATERIALS.** See Section 307.2.
- [F] HAZARDOUS PRODUCTION MATERIAL (HPM).** See Section 415.2.
- HEAD JOINT.** See Section 2102.1.
- HEADER (Bonder).** See Section 2102.1.
- [F] HEALTH HAZARD.** See Section 307.2.
- HEIGHT, BUILDING.** See Section 502.1.
- HEIGHT, STORY.** See Section 502.1.
- HEIGHT, WALLS.** See Section 2102.1.
- HELIPORT.** See Section 412.4.2.
- HELISTOP.** See Section 412.4.2.
- [F] HIGHLY TOXIC.** See Section 307.2.
- HISTORIC BUILDINGS.** Buildings that are listed in or eligible for listing in the National Register of Historic Places, or designated as historic under an appropriate state or local law. See Section 3405.
- HORIZONTAL EXIT.** See Section 1002.1.
- [F] HPM FLAMMABLE LIQUID.** See Section 415.2.
- [F] HPM ROOM.** See Section 415.2.
- HURRICANE-PRONE REGIONS.** See Section 1609.2.
- IMPACT LOAD.** See Section 1602.1.
- IMPORTANCE FACTOR, I.** See Section 1609.2.
- IMMEDIATELY DANGEROUS TO LIFE AND HEALTH (IDLH).** See Section 415.2.
- INCOMPATIBLE MATERIALS.** See Section 307.2.
- INDUSTRIAL EQUIPMENT PLATFORM.** See Section 502.1.
- [F] INITIATING DEVICE.** See Section 902.1.
- INSPECTION CERTIFICATE.** See Section 1702.1.
- INTERIOR FINISH.** See Section 802.1.
- INTERIOR FLOOR FINISH.** See Section 802.1.
- INTERIOR STAIRWAY.** See Section 1002.1.
- INTERIOR SURFACES.** See Section 2502.
- INTERIOR WALL AND CEILING FINISH.** See Section 802.1.

NFPA Glossary of Terms

Term	Definition	Responsible Document	Code/Standard using Definition
Guide Wall Angle (Sliding, Vertical, and Rolling Steel Doors)	That component of the guide assembly that is fastened to the jamb.	80	80
Guideway	That portion of the transit or passenger rail line included within right-of-way fences, outside lines of curbs or shoulders, underground tunnels, cut or fill slopes, ditches, channels, and waterways, and including all appertaining structures.	130	130
Gunwale	The upper edge of a side of a vessel or boat designed to prevent items from being washed overboard.	1405	1405
GVWR (Gross Vehicle Weight Rating)	The chassis manufacturer's specified maximum load-carrying capacity of a vehicle having two axle systems (a multiaxle axle installation is one system).	1901	1901, 1906, 1914
Gypsum Base For Veneer Plaster	A gypsum board used as the base for application of a gypsum veneer plaster.	5000	5000
Gypsum Board	The generic name for a family of sheet products consisting of a noncombustible core primarily of gypsum with paper surfacing.	5000	5000
Gypsum Lath	A gypsum board used as the base for application of gypsum plaster.	5000	5000
Gypsum Panel Products	The general name for a family of sheet products consisting essentially of gypsum.	5000	5000
Gypsum Plaster	The generic name for a family of powdered cementitious products consisting primarily of calcined gypsum with additives to modify physical characteristics, and having the ability, when mixed with water, to produce a plastic mortar or slurry that can be formed to the desired shape by various methods and subsequently sets to a hard, rigid mass.	5000	5000
Gypsum Veneer Plaster	A calcined gypsum plaster specially manufactured to provide high strength, hardness, and abrasion resistance when applied in thin coats over a gypsum base for veneer plasters.	5000	5000
Gypsum Wallboard	A gypsum board used primarily as an interior surfacing for building structures.	5000	5000
Habitable Room	A room or enclosed floor space arranged for living, eating, food preparation, or sleeping purposes that does not include bathrooms, toilet compartments, laundries, pantries, foyers, hallways, and other accessory floor space.	5000	501A
Habitable Room	A room in a residential occupancy used for living, sleeping, cooking, and eating, but excluding bath, storage and service area, and corridors.	5000	5000
Halocarbon Agent	An agent that contains as primary components one or more organic compounds containing one or more of the elements fluorine, chlorine, bromine, or iodine.	2001	2001
Halocarbons	Halocarbon agents include hydrochlorofluorocarbon (HCFC), hydrofluorocarbon (HFC), perfluorocarbon (PFC), and fluoriodocarbon (FIC) types of agents.	10	10
Halogenated Agent	A liquefied gas extinguishing agent that extinguishes fire by chemically interrupting the combustion reaction between fuel and oxygen. Halogenated agents leave no residue.	402	402
Halogenated Agents	Halogenated agents referenced in this standard are bromotrifluoromethane (Halon 1301), bromochlorodifluoromethane (Halon 1211), and mixtures of Halon 1211 and Halon 1301 (Halon 1211/1301). Approved, listed, and labeled extinguishers containing clean evaporating type HCFC or HFC halogenated replacement agents also can be permitted to be used to comply with the requirements of this standard.	302	408
Halogenated Agents	Halogenated (clean) agents referenced in this standard are of the following types: □ (a) Halons. Halons include Bromochlorodifluoromethane (Halon 1211), bromotrifluoromethane (Halon 1301), and mixtures of Halon 1211 and Halon 1301 (Halon 1211/1301). □ (b) Halocarbons. Halocarbon agents include hydrochlorofluorocarbon (HCFC), hydrofluorocarbon (HFC), perfluorocarbon (PFC), and fluoriodocarbon (FIC) types of agents.	302	302
Halogenated Closed Recovery System	A system that provides for the transfer of halogenated agents between fire extinguishers, supply containers, and recharge and recovery containers so that none of the halogenated agent escapes to the atmosphere. Closed recovery systems for halogenated agents with an ozone depleting potential (ODP) of 0.2 or greater shall be listed for use with that agent. The system's supply or recharge and recovery container shall be capable of maintaining the agent in a sealed environment until it is reused or returned to the agent manufacturer.	10	10
Halon 1211	A halogenated agent whose chemical name is bromochlorodifluoromethane, CBrClF ₂ , and that is a multipurpose, Class ABC-rated agent effective against flammable liquid fires.	402	408, 402
Halon 1301	A halogenated agent whose chemical name is bromotrifluoromethane, CBrF ₃ , and that is recognized as an agent having Class ABC capability in total flooding systems.	402	408, 402
Halons	Halons include bromochlorodifluoromethane (Halon 1211), bromotrifluoromethane (Halon 1301), and mixtures of Halon 1211 and Halon 1301 (Halon 1211/1301).	402	10

this 2 the placing of a word or phrase beside another in explanation ["my niece" is in *apposition* with "Jill" in "Jill, my niece, is here"] —**ap-pos-i-tive** (ə pāz'ə tiv) *adj.*, *n.*

ap-prais-al (ə prāz'əl) *n.* 1 an appraising 2 an appraised value

ap-praise (ə prāz') *vt.* -praised', -prais'ing [*< L ad., to + pretium, price*] 1 to set a price for; estimate the value of 2 to judge the quality or worth of — **ap-prais'er** *n.*

ap-pre-ci-a-ble (ə prē'shə bal, -shē ə-) *adj.* [see *prec.*] enough to be perceived or estimated; noticeable —**ap-pre-ci-a-bly** *adv.*

ap-pre-ci-ate (ə prē'shē āt') *vt.* -at'ed, -at'ing [see *APPRAISE*] 1 to think well of; esteem 2 to recognize gratefully 3 to estimate the quality of 4 to be fully or sensitively aware of —*vi.* to rise in value —**ap-pre-ci-a-tor** *n.* —**ap-pre-ci-a-tory** (-shə tōr'ē, -shē ə-) *adj.*

ap-pre-ci-a-tion *n.* 1 grateful recognition, as of a favor 2 sensitive awareness, as of art 3 a rise in value or price

ap-pre-ci-a-tive (-shə tiv, -shē ə-) *adj.* feeling or showing appreciation —**ap-pre-ci-a-tive-ly** *adv.*

ap-pre-hend (ap'rē hend') *vt.* [*< L ad., a prehendere, take*] 1 to capture or grasp 2 to perceive; understand 3 to dread

ap-pre-hen-sion (-hen'shan) *n.* 1 capture or arrest 2 perception or understanding 3 fear; anxiety

ap-pre-hen-sive (-siv) *adj.* anxious; apprehensive —**ap-pre-hen-sive-ly** *adv.* — **ap-pre-hen-sive-ness** *n.*

ap-pre-n-tice (ə pren'tis) *n.* [see *APPRENTICE*] 1 a person being taught a craft or trade, now usually as a member of a union 2 any beginner —*vt.* -ticed, -ticing to place or accept as an apprentice —**ap-pre-n-tice-ship** *n.*

ap-prize (ə prīz') *vt.* -prized', -priz'ing or -priz'ing [*< L ad., to + praemium, reward*] to inform or notify

ap-prox-i-mate (ə prāk'sə mit, for *v.*, -māt') *adj.* [*< L ad., to + proximus, nearest*] 1 to come closer —*vt.* 1 to estimate 2 to approximate 3 to propose or request to 4 to deal with —*n.* 1 a coming or estimate 2 an approximation 3 an overestimate; usually used in *pl.* 4 a person or place; means of attaining a goal — **ap-prox-i-ma-tion** *n.*

ap-prox-i-ma-tion (ə prō'prē āt') *n.* [see *APPROXIMATE*]

ap-prox-i-ma-tion (ə prō'prē āt'; for *adj.*, -māshən) [*< L ad., to + proximus, nearest*] 1 to take for one's own 2 to estimate 3 to approximate 4 to propose or request to 5 to deal with — **ap-prox-i-ma-tion-ally** *adv.* — **ap-prox-i-ma-tion-ness** *n.* — **ap-prox-i-ma-tion-ist** *n.*

ap-prox-i-ma-tion-ist (ə prō'prē āt'ē-ist) *n.* 1 an appropriator 2 money set aside for a specific use — **ap-prox-i-ma-tion-ist-ry** *n.*

ap-prox-i-ma-tion-ist-ry (ə prō'prē āt'ē-iz-ē-ri) *n.* 1 the act of approximating 2 the attitude or opinion of an approximator 3 an approval for examining and decide

whether to buy or return

ap-prove (ə prōv') *vt.* -proved', -prov'ing [*< L ad., to + probus, good*] 1 to give one's consent to 2 to consider to be good, satisfactory, etc. —*vi.* to have a favorable opinion (of) —**ap-prov'ing-ly** *adv.*

ap-prox-i-mate (ə prāk'sə mit; for *v.*, -māt') *adj.* [*< L ad., to + proximus, nearest*] 1 much like; resembling 2 more or less correct or exact —*vt.* -mat'ed, -mat'ing to come near to; be almost the same as —**ap-prox'i-mate-ly** *adv.*

ap-prox-i-ma-tion *n.* an estimate or guess that is approximately correct

ap-pur-te-nance (ə part'n əns) *n.* [see *APPURTAIN*] 1 anything added to a more important thing 2 [*pl.*] apparatus or equipment 3 *Law* an incidental right attached to some thing

APR *abbrev.* annual percentage rate

ap-ri-cot (ap'ri kät', ā'pri-) *n.* [Fr *abricot*, *< L praecoquum, early matured (fruit)*] 1 a small, yellowish-orange, peachlike fruit 2 the tree it grows on

April (ā'prəl) *n.* [*< L*] the fourth month of the year, having 30 days: *abbrev.* **Apr**

a pri-o-ri (ā'pri ōr'i) [*L*] 1 from cause to effect; deductive or deductively 2 based on theory, logic, etc. instead of experience

a-pron (ā'prən) *n.* [*< L mappa, napkin*] 1 a garment worn over the front part of the body to protect one's clothes 2 any extending or protecting part 3 a paved area, as where a driveway broadens to meet the road 4 the part of a stage in front of the proscenium arch

ap-ro-pos (ap'rə pō') *adv.* [Fr *à propos, to the purpose*] at the right time; opportunistically —*adj.* relevant; apt —*prep.* with regard to —**ap-ro-pos** of with regard to

apse (aps) *n.* [*L apsis, an arch*] a semi-circular or polygonal projection of a church, usually domed or vaulted

apt¹ (apt) *adj.* [*< L aptus*] 1 appropriate; fitting [an *apt* remark] 2 tending or inclined; likely [apt to rain] 3 quick to learn —**apt'ly** *adv.* —**apt'ness** *n.*

apt² *abbrev.* apartment

ap-ti-tude (ap'tē tōd') *n.* [see *APT*¹] 1 a natural tendency, ability, or talent 2 quickness to learn

aq-ua (ak'wə, āk'-) *n., pl. -uas or -uae* (-wē) [*L*] water —*adj.* [*< AQUAMARINE*] bluish-green

aq-ua-cul-ture *n.* [*prec. + CULTURE*] the cultivation of water plants and animals for human use

aq-ua-ma-rine *n.* [*L aqua marina, sea water*] bluish green —*adj.* bluish-green

aq-ua-naut (-nōt') *n.* [*AQUA + (ASTRO)NAUT*] one trained to use a watertight underwater chamber as a base for undersea experiments

aq-ua-plane *n.* [*AQUA + PLANE*¹] a board on which one rides standing up as it is pulled by a motorboat —*vi.* -plan'ed, -plan'ing to ride on such a board as a sport

a-quar-i-um (ə kwēr'ē əm) *n., pl. -iums*



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appurtenance

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appurtenance

Main Entry: **ap·pur·te·nance**

Pronunciation: \ə-'pɜrt-nən(t)s, -'pɜr-tə-nən(t)s\

Function: *noun*

Date: 14th century

- 1 : an incidental right (as a right-of-way) attached to a principal property right and passing in possession with it
- 2 : a subordinate part or adjunct <the *appurtenance* of welcome is fashion and ceremony — Shakespeare>
- 3 *plural* : accessory objects : **APPARATUS** <the *appurtenances* of wealth>

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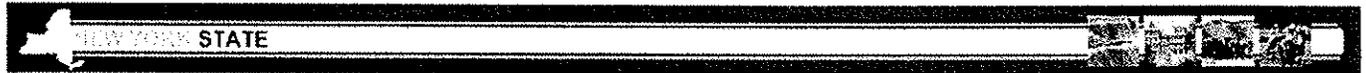
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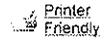
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What is an Appurtenance?



June 08, 2005

DEC's definition of an Appurtenance is the same as EPA's and is as follows:

Appurtenance:

Any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions; pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks; fire escapes; and window screens.

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ap·pur·te·nance [uh-pur-tn-uh ns] [Pronunciation Key](#) - [Show IPA Pronunciation](#)

noun

1. something subordinate to another, more important thing; adjunct; accessory.
2. *Law* a right, privilege, or improvement belonging to and passing with a principal property.
3. **appurtenances**, apparatus; instruments.

[Origin: 1350-1400; ME < AF, equiv. to *ap-* [AP-](#)¹ + *-purtenance* a belonging; see [PURTENANCE](#)]

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ap·pur·te·nance (ə-pūr'tn-əns) [Pronunciation Key](#)

n.

1. Something added to another, more important thing; an appendage. See Synonyms at [appendage](#).
2. **appurtenances** Equipment, such as clothing, tools, or instruments, used for a specific purpose or task; gear.
3. *Law* A right, privilege, or property that is considered incident to the principal property for purposes such as passage of title, conveyance, or inheritance.

[Middle English *appurtenaunce*, from Anglo-Norman *apurtenance*, from Vulgar Latin **appurtinentia*, from Late Latin *appurtinens*, *appurtinent-*, present participle of *appurtinere*, *to appertain*; see [appertain](#).]

ap·pur'te·nant *adj.*

(Absent Now or Buy the Book)

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appurtenance

1377, from Anglo-Fr. *apurtenance*, from O.Fr. *apurtenance*, from *apurtinir*, from L. *appurtinere* "to pertain to," from *ad-* "to" + *pertinere* "belong to" (see [pertain](#)).

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appurtenance

noun

- 1. equipment consisting of miscellaneous articles needed for a particular operation or sport etc. [syn: [gear](#)]
- 2. a supplementary component that improves capability [syn: [accessory](#)]

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Main Entry: **ap·pur·te·nance**

Pronunciation: ˌæp-ˈɜr-tē-nāns

Function: *noun*

Etymology: Anglo-French *apurtenance*, alteration of Old French *apurtenance*, from *apurtenant* *apurtenant*

: property (as an outbuilding or fixture) or a property right (as a right of way) that is incidental to a principal property and that passes with the principal property upon sale or transfer

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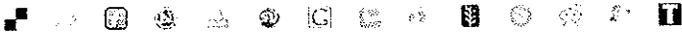
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**Research Material by
Mayor Eschenberg
Agenda Report #3**

P&Z 2-13-08

CURRENT MALABAR CODE

DEFINITIONS

Building Height. The vertical dimension measured from the finished grade at the building line to the highest point of the structure excluding appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, thence [then] the space between such floor and ceiling next above.

Section 1-5.1. Height exceptions.

The below cited appurtenances or mechanical devices typically required to be placed above roof level and not intended for human occupancy may exceed height limitations cited within this Code upon approval by the Town Council. The Town Council shall first consider the recommendation of the Planning and Zoning Board. A staff recommendation shall be provided by the Building Official and/or the Town Engineer. The appurtenances or mechanical devices shall include:

- Chimneys.
- Belfries.
- Water Towers.
- Ventilators.
- Steeples and Spires.
- Cupolas.
- Radio and Television Antennas.
- Other similar duly approved appurtenances or mechanical devices.

In no case shall any permitted heights be in conflict with the height regulations established for the Valkaria Airport by Brevard County and/or the Federal Aviation Administration.

SUGGESTED CHANGES

DEFINITIONS

Building Height. The vertical dimension measured from the finished grade at the building line to the highest point of the structure **INCLUDING ANY AND ALL DECORATIVE AND/OR ARCHITECTURAL COMPONENTS AND SAFETY STRUCTURES AND** excluding appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, thence [then] the space between such floor and ceiling next above. **THE ROOF LEVEL IF INTENDED FOR HUMAN OCCUPANCY.**

Section 1-5.1. Height exceptions.

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- Radio and Television Antennas.
- Other similar duly approved appurtenances or mechanical devices.

AN ELEVATOR IS INTENDED FOR HUMAN OCCUPANCY AND SHALL NOT BE GRANTED A HEIGHT EXCEPTION UNDER THIS SECTION.

In no case shall any permitted heights be in conflict with the height regulations established for the Valkaria Airport by Brevard County and/or the Federal Aviation Administration.

REFERENCE MATERIAL FROM OTHER SOURCES

What is a "story"? A story is "occupiable" space, which means space designed for human occupancy and equipped with one or more means of egress, light, and ventilation. Basements designed or intended for occupancy are considered "stories." Mezzanines are not counted as stories, but are just levels within stories.

ARTICLE 16

HEIGHT OF BUILDINGS

SECTION 16-1. Maximum Height of Buildings. Where a maximum height of buildings is specified in Table B of Section 13-1, or in a second numerical suffix in the designation of sub district as provided in Section 3-1A(i), no building or part of a building in a district, and devoted to a use, specified, shall exceed the number of stories or feet in height so specified except as provided in Sections 16-2 and 16-3.

SECTION 16-2. Exceptions. The provisions of Section 16-1 shall not apply to belfries, cupolas, domes, monuments, church spires, water towers, observation towers, radio towers, transmission towers, windmills, chimneys, smokestacks, silos, derricks, conveyors, masts, flag poles, aerials, **elevator head houses**, water tanks, monitors, signs or other structures normally built above the roof and not devoted to human occupancy, but such structures shall be erected only to such heights, and cover only such areas, as are necessary to accomplish the purpose they are intended to serve.

SECTION 16-7. Increase in Height of pre-Code Structures in H-3-65 and B-3-65 Districts. In an H-3-65 or B-3-65 district, the height of a structure existing on December 31, 1964, shall not be increased by more than one story nor more than 10 feet above its pre-Code height, nor shall the total height of such structure exceed the height limit specified in Table B of Section 13-1. Such additional story and all mechanical equipment shall be set back from the tops of the front and rear walls of the story below it by one-half foot for each foot in height above said tops of front and rear walls.

SECTION 16-8. Restricted Roof Structure Districts. In a restricted roof structure district, no roofed structure designed or used for human occupancy, access (except as allowed in following paragraph), or storage, and no roof structure, head house, or mechanical equipment normally built above the roof and not designed or used for human occupancy, shall be erected or enlarged on the roof of an existing building if such construction relocates or alters the profile and/or configuration of the roof or mansard, unless after public notice and hearing and subject to Sections 6-2, 6-3 and 6-4, the Board of Appeal grants a conditional use therefor.

An open roof deck may be erected on the main roof of a building with a flat roof or a roof with a slope of less than five degrees providing that (a) such deck is less than one foot above the highest point of such roof; (b) the total height of the building, including such deck, does not exceed the maximum height specified in Table B of Section 13-1 or specified on the zoning maps, the Zoning Districts City of Boston, as they may be amended from time to time; and (c) access is by roof hatch or bulkhead no more than thirty inches in height above such deck unless, after public notice and hearing and subject to Sections 6-2, 6-3 and 6-4, the Board of Appeal grants permission for a stairway head house; and (d) an appurtenant hand rail, balustrade, hatch or bulkhead is set back horizontally, one foot for each foot of height of such appurtenant structure, from a roof edge that faces a street more than twenty feet wide. Roof structures, head houses, and mechanical equipment normally built above the roof and not designed or used for human occupancy **shall be included** in measuring the height of a building if the total area of such roof structures, head houses, and mechanical equipment exceeds in the aggregate: (a) 330 square feet if the total roof area of the building is 3,300 square feet or less; or (b) ten percent (10%) of the total roof area of the building if such total roof area is greater than 3,300 square feet.

Additional information: Building height measurement

Adapted from Zoning Ordinance Definitions, Section 59-2(52)

The height of a building or structure shall be the vertical distance measured from the highest point of the building to the average elevation of the corners of a building at the finished grade. This is notwithstanding more stringent requirements elsewhere in the Zoning Ordinance.

The highest point of the building shall be either the top of the parapet or coping of a flat-roofed building, or the ridge of a sloping roof. No occupied part of any building shall be constructed above the permitted height. However, unoccupied building features projecting above the highest point of the building have allowances; please refer to the complete definition.

Re: Definition of Building, Water Storage Reservoir, Article 1.1.3.2.

Project Description

The project in question is an above ground water storage reservoir. The structure is a 18.5 metre square by 5.3 metre high reinforced concrete tank with a reinforced concrete roof. The only access to the interior is via a roof hatch.

Reason for Appeal

Although the structure in question is clearly not intended for human occupancy the definition of the term "building" in Subsection 1.1.3. does not appear to exclude a water tank and the list of structures exempted from the Code in Sentence 1.1.2.2.(1) does not include a water reservoir.

This is in further response to your letter of January 27, and the joint meeting of June 20, between National Elevator Industry Inc. (NEII) and the Occupational Safety and Health Administration (OSHA) requesting guidance in determining whether elevator pits meet the definition of confined spaces. We would like to thank the NEII members for your frank discussion and for conveying the difficulties you face in your industry.

After listening to the presentation restating NEII's position and explanation of the underlying rationale for its position, OSHA believes:

1. The need for a ladder to exit an elevator pit means that there is a restricted means of entry and exit; (Please note: deep elevator pits that have a standard door entry at the base of the pit would not be considered to be restrictive to entry or exit.)

2. Most elevator pits are not designed for continuous human occupancy since they generally cannot be occupied during normal elevator operation.

Much of the Steam Tunnel is designed for human occupancy (e.g. sections that are large enough to work and walk in erect posture and natural ventilation is present- and electrical lighting is provided. See note/s: (2), (3), (6).

When a structure or equipment is found by the building official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this Code and declared a public nuisance.

THIS CITY MUST BE LIKE MALABAR

Description/History:

The 2007 amended City of Poulsbo zoning ordinances allow buildings 45 feet high if underbuilding parking is incorporated. We believe this is an unwarranted bonus for constructing higher occupancy big box buildings (condominiums) which will alter the skyline of Poulsbo forever.

This is an unnecessary nod to over-filling our city. The present rate of development is much faster than required by the Growth Management Act which is a State Law. These large buildings can/will add to already congested streets affecting the quality of neighborhood life. Schools, K-12 and the sewer system will also be impacted, requiring significant funding. Support keeping Poulsbo green, charming and livable.

Petition:

TO PRESERVE THE CHARACTER OF OUR COMMUNITY

We, the undersigned, 18 years of age, or older, residents of Poulsbo, request that the Poulsbo City Council rescind "PMC 18.52.020H Underbuilding Parking", which allows for a building height of 45 feet.

We ask that more public involvement be provided before any future changes are made to the City Code that will allow building heights greater than 35 feet.

Sincerely,

The Undersigned:

Garage, Public. "Public garage" means a structure that provides facilities for the repair of motor vehicles including body and fender repair, painting, rebuilding, reconditioning, upholstering, or other vehicle maintenance or repair.

"Grade" means the average of the finished ground level at the center of all walls of the building. In case the walls are parallel to and within five feet of a sidewalk, the above ground level should be measured at the sidewalk.

"Gross acres" means all of the land area included in the legal description of the property.

"Habitable room" means an undivided enclosed space within a dwelling designed for sleeping, living, cooking or dining purposes excluding attics, cellars, corridors, hallway, laundries, serving or storage pantries, bathrooms, closets or similar places.



"Height" means the vertical distance of a structure measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the structure. Projections such as chimneys, spires, domes, elevator shaft housings, towers excluding TV dish receivers, aerials, flag poles and other similar objects not used for human occupancy, are not subject to the building height limitations of this title if located outside the airport overlay zone.

"Home occupation" means a lawful activity, secondary to the use of the dwelling for living purposes, that is

(Scappoose 10/96) 192-10

17.26.030

conducted entirely within a dwelling or accessory building and that includes no outside display of merchandise with any sale of merchandise clearly incidental to the use of the building for dwelling purposes.

"Homeowners association" means an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner of a planned development or other described land area is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

"Implementing ordinance" means an ordinance adopted to carry out the comprehensive plan, including, but not limited, to the provisions of this title.

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined motor vehicles or motor vehicle parts, iron, steel or other old or scrap ferrous or nonferrous materials, metal or nonmetal materials.

"Junk yard" means the use of more than two hundred square feet of the area of any lot for the dismantling or for the storage or keeping of junk.

- a. For projects subject to Hillside Ordinance, "Grade" is defined as lower of the natural or finished grade. When a project is located in any special area (e.g., Specific Plan, Pedestrian Overlay District, Community Design Overlay District, etc.), the "Grade" definition, the height limitation, exceptions, etc. (if different from the general Code) must be applied appropriately as required by its applicable ordinance. It is always advisable to review the Specific Plans. Some Specific Plans establish height limits in reference to sea level, curb level, street level, or other points of reference.
- b. If grading is (was) done in conjunction with a Subdivision of five acres or more, then the resulting grade would be considered the "Natural Grade".
- c. Retaining walls cannot be used to raise the "Grade" and increase the allowable height of the structure.
- d. If the difference between the highest and the lowest grade elevation around the perimeter of the building exceeds 20 vertical feet, then the allowable height may be increased by 12 feet (provided the original height limit is not exceeded at any given "section" or "plumb line" of any part of the building). This exception is not allowed for buildings that are subject to the Hillside Ordinance.
-  e. Certain roof top features & structures (e.g., antennas, chimneys, stairway towers, elevator tower, etc.) are allowed to exceed the height limit as follows:

... may be erected above the height limit specified in the district in which the property is located if, for each foot such structure exceeds the height limit, an equal setback from the roof perimeter is provided, except that stairways, chimneys and ventilation shafts shall not be required to be set back from the roof perimeter. No portion of any roof structure as provided for above shall exceed the specified height limit by more than five feet, except that where height is limited to seventy-five (75) feet, roof structure for the housing of elevators and stairways shall not exceed twenty (20) feet in height, and where height is limited to thirty (30) feet or forty-five (45) feet, such roof structures for the housing of elevators and stairways shall not exceed ten (10) feet in height. Other than stairways, chimneys or exhaust ducts, these structures shall not be located within five (5) feet of the perimeter of the roof.
 Note: Refer to Sec. 12.21A17(c)3 of the Code for a different set of exceptions for projects subject to the Hillside Ordinance.
- f. Depressed driveways intended for access from the street to a basement garage and secondary side or rear access stairwells are not used to establish the "Grade." This interpretation does not apply to any buildings or structures located within the boundaries of Specific Plans which specifically address height measurement or buildings regulated by the Hillside Ordinance.
- g. Architectural projections which cantilever 5 feet or less from an exterior wall of a building are not included as part of definition of the "perimeter of the building" when calculating height.
- h. Open rooftop guardrails on apartment buildings are not included in the height of a building when such guardrails are provided around the open space required by code.

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities. For efficient handling of information internally and in the internet, conversion to the new format of code related and administrative information bulletins including MGD and RGA that were previously issued will allow flexibility and timely distribution of information to the public.

MALABAR TOWN COUNCIL REGULAR MEETING

February 4, 2008

7:30 PM

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER:

The meeting was called to order at 7:32 pm by Mayor Eschenberg. The prayer and pledge were led by District 4 Councilmember Patricia Dezman.

B. ROLL CALL:

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	CHUCK McCLELLAND
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	JEFF MCKNIGHT
	PAT DEZMAN
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
ATTORNEY:	KARL BOHNE
ENGINEER	BILL STEPHENSON
BUILDING OFFICIAL	ROGER CLOUTIER
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES – BWF stated the Hospital presentation is postponed until March 3, 2008. Chair recognized Commander Salvo of BCSO and asked if he wanted to make a presentation. Commander Salvo, BCSO, came to podium.

D. PRESENTATIONS:

In response to citizen complaint that they are not seeing MSTU vehicles, the MSTU is no longer put on new vehicles. Older vehicles still have it but it will no longer be on new vehicles. Also he will work on preparing a monthly report on activity in the area. BWF stated the town used to get such a report. If he could get it to her by the second week of the month for the previous month, she can include it in her FYI to Council, the Friday before Council meetings. Also, some residents have a concern of not seeing cars around. Four new deputies are finishing training. 16 weeks training and then a one month orientation. They are hired but not solo yet.

McKnight asked for clarification for his constituents – have we benefitted yet from the MSTU taxes we have been paying. Not yet. Mayor relays a call he received from a citizen in January stating Weber Road was blocked with a trailer and the BCSO was notified and didn't show up. Mayor was just relaying a phone message he received.

Borton relayed the gunshots heard recently by her neighborhood. Seem to be coming from Palm Bay. Salvo said she should tell the residents to call BCSO to check it out. Dezman also reported a recent string of car burglaries in Country Cove and other activities at the north end of Corey near the sanctuary. Commander offered to attend HOA meetings and speak to residents. McKnight asked about drug trafficking problems in Malabar – is it because they are rural? Not necessarily; it is a matter of percentages – not locations. Visibility of MSTU – shouldn't see an increase yet because they are in training – and when they re done we will see more from Highway 192 south. That is the south precinct coverage area. TC Vail said that is one officer to us. The vote is coming back up in November. What is the negative of not voting for this? On the rogue website there is a "spot the deputy" game running. Dezman said she knew it would take time to get the additional coverage. They have been working on this since April and the deputies are out doing their job. Commander offers to come and speak to homeowners. BWF stated monthly report will show type of call, number of calls and the average response time. Mayor said he would like to see BCSO on Cops program. Dezman

Wanted to know if they need anything to make their stay here at town Hall better. Commander said to tell residents to call if they think they need them.

E. PROCLAMATIONS - None

F. CONSENT AGENDA

1. Approval of Minutes

Regular Town Council Meeting – 1/28/08
Town Council & P & Z Joint Workshop – 01/28/08

Exhibit: Agenda Report No 1

Recommendation: Motion to Approve

MOTION: Dezman / Borton to approve as corrected.

Page 3 Bohne stated regarding the road as indicated. McKnight said he voted nay, not na. Dezman said she called in and said she would not be able to attend. She should be listed as excused in the rollcall and votes.

Vote: All Ayes.

G. STAFF REPORTS:

ATTORNEY

- nothing

ADMINISTRATOR

- Mentioned the request to change an Agenda Report regarding the disbanding of Trails and greenways by Council. We will not change the record until we review the minutes. We are listening to the tap of the meeting – we are still working it.
- She met with the website designer and if we can get the historical data we can be ready for a Mar 1 debut. It will offer a totally paperless agenda and will be user friendly. If not it will be an April launch.
- Roadrunner has a 12 hour delay. We are working on it. If you have an alternate email give it to her. McKnight said they did a server update and he has also experienced problems.

TOWN CLERK

- SCLC dinner on Feb 11 at Rockledge Country Club.

H. PUBLIC HEARINGS:

ORDINANCES: None

I. ACTIONS ITEMS:

ORDINANCES: None

RESOLUTIONS: None

MISCELLANEOUS: None

J. DISCUSSION ITEMS:

2. Amendment to the Code Regarding Building Heights

Exhibit: Agenda Report No. 2

Recommendation: Discussion and Action

Speakers Card: Juliana Hirsch, 1035 Malabar Road, it is important to keep our 35 foot height limit. The 35' also applies to OI and even along Malabar Road should remain at 35'.

Mayor said he volunteered to do research on this. In his packet, on page one you have the first definition of building height - it is from P&Z with the Mayor adding the safety structures. The second definition has come up in discussions at P&Z and one suggestion was to add to the definition that if the roof is to be used for human occupancy it will be considered a story. The third definition adds elevators to the 35' requirement. Council should send their recommendations back to P&Z.

Attorney Bohne explained that he found several definitions on habitation and use activities. Many of the standards he researched referred to use. Something can be designed for human occupancy even if it is temporary. Mayor wrote it up specifically stating elevators are considered being occupiable. McKnight likes the word use rather than occupancy.

MOTION: McClelland / Vail – to send this back to P&Z for review and consider using the term human use in addition or in lieu of human occupancy.

Vote: All Ayes.

- 3. Billie Property/Town Hall**
Exhibit: Agenda Report No. 3
Recommendation: Discussion and Action

Mayor began by stating perhaps we should ask the citizens if they want to spend 400K or 500K to add on to this building or buy other land for and then build for 4M or 5M. Vail said this location is not a prime location for Town Hall expansion. That is the input he is getting from his constituents. McKnight said the citizens were told that buying Billie property for a new Town Hall. Dezman disagreed. It is a wise purchase to make this property compliant.

Mayor asked Engineer how much of the Billie property would be used up to make us compliant. The Engineer stated his initial reaction was that Town Hall should be on Malabar Road, farther from the tracks. This whole area is under utilized. West Railroad Avenue is not used except for parking. He suggests putting town hall on Pine and Malabar and moving PW to the east by the railroad. He is thinking of the creative ideas to do the parking to not require concrete paving. The property we bought makes good sense because we own the property on both sides. Engineer's opinion is that Council had moved in the right direction. Next step is to determine the size of the building we will need so we can determine what the town needs. Our build out was estimated at population of 10,000 but that was before the lot size changed to 1.5 acre and the EELs bought so much of Malabar. BWF said Bill S. said it can be build so that it can be expanded. He described how the Budwieser building was built so it can expand in the future. The architectural selection committee has already selected the architect.

They discussed eminent domain. It must be for a public purpose. McKnight is against eminent domain and is against just buying land. We need a plan.

Mayor summarized: Bill Stephenson will put together templates on doing an addition to this building, putting up a separate building or build a two-story building. Dezman will ask Vicki Thomas to contact the three property owners in this block and see if they would be willing sellers. BWF will provide Dezman with the names. The Site Selection Committee is waiting on direction from Council. Mayor asked for this information to be available for the second meeting March.

The Town council was reminded of the Environmentally Endangered Lands Program meeting that is set for Sunday morning at 9:00 AM at the Malabar Scrub Sanctuary. Council plans to attend. Clerk will post notice advising that there may be one or more Council Members in attendance.

K. MAYOR AND COUNCIL REPORTS:
 Borton, Vail, McKnight, nothing to report.

McClelland - stated the FD meeting will be Wednesday night.7PM – Secretary will post a notice for the meeting this night so Council can attend. Some discussion about it being for members only.

Dezman – helicopter flights have continued. They are very low. Are we joining Grant-Valkaria in the complaint?

L. PUBLIC COMMENTS: General Items

M. ADJOURNMENT

There being no further business to discuss, **MOTION: McClelland / Vail to adjourn this meeting.**
VOTE: All Ayes. The meeting adjourned at 9:10 PM.

BY: _____
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby K. Franklin, Town Clerk/Treasurer

Date

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Recommendation: Discussion and Action

Mayor began by stating perhaps we should ask the citizens if they want to spend 400K or 500K to add on to this building or buy other land for and then build for 4M or 5M. Vail said this location is not a prime location for Town Hall expansion. That is the input he is getting from his constituents. McKnight said the citizens were told that buying Billie property for a new Town Hall. Dezman disagreed. It is a wise purchase to make this property compliant.

Mayor asked Engineer how much of the Billie property would be used up to make us compliant. The Engineer stated his initial reaction was that Town Hall should be on Malabar Road, farther from the tracks. This whole area is under utilized. West Railroad Avenue is not used except for parking. He suggests putting town hall on Pine and Malabar and moving PW to the east by the railroad. He is thinking of the creative ideas to do the parking to not require concrete paving. The property we bought makes good sense because we own the property on both sides. Engineer's opinion is that Council had moved in the right direction. Next step is to determine the size of the building we will need so we can determine what the town needs. Our build out was estimated at population of 10,000 but that was before the lot size changed to 1.5 acre and the EELs bought so much of Malabar. BWF said Bill S. said it can be build so that it can be expanded. He described how the Budwieser building was built so it can expand in the future. The architectural selection committee has already selected the architect.

They discussed eminent domain. It must be for a public purpose. McKnight is against eminent domain and is against just buying land. We need a plan.

Mayor summarized: Bill Stephenson will put together templates on doing an addition to this building, putting up a separate building or build a two-story building. Dezman will ask Vicki Thomas to contact the three property owners in this block and see if they would be willing sellers. BWF will provide Dezman with the names. The Site Selection Committee is waiting on direction from Council. Mayor asked for this information to be available for the second meeting March.

The Town council was reminded of the Environmentally Endangered Lands Program meeting that is set for Sunday morning at 9:00 AM at the Malabar Scrub Sanctuary. Council plans to attend. Clerk will post notice advising that there may be one or more Council Members in attendance.

K. MAYOR AND COUNCIL REPORTS:

Borton, Vail, McKnight, nothing to report.

McClelland - stated the FD meeting will be Wednesday night.7PM – Secretary will post a notice for the meeting this night so Council can attend. Some discussion about it being for members only.

Dezman – helicopter flights have continued. They are very low. Are we joining Grant-Valkaria in the complaint?

L. PUBLIC COMMENTS: General Items

M. ADJOURNMENT

There being no further business to discuss, **MOTION: McClelland / Vail to adjourn this meeting.**
VOTE: All Ayes. The meeting adjourned at 9:10 PM.

BY: _____
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

Debby K. Franklin, Town Clerk/Treasurer

Date

Article V

GENERAL PROVISIONS

Section 1-5.1. Height exceptions.

The below cited appurtenances or mechanical devices typically required to be placed above roof level and not intended for human occupancy may exceed height limitations cited within this Code upon approval by the Town Council. The Town Council shall first consider the recommendation of the Planning and Zoning Board. A staff recommendation shall be provided by the Building Official and/or the Town Engineer. The appurtenances or mechanical devices shall include:

- Chimneys.
- Belfries.
- Water Towers.
- Ventilators.
- Steeples and Spires.
- Cupolas.
- Radio and Television Antennas.
- Other similar duly approved appurtenances or mechanical devices.

In no case shall any permitted heights be in conflict with the height regulations established for the Valkaria Airport by Brevard County and/or the Federal Aviation Administration.

Section 1-5.2. Encroachments into required yards.

Every part of a required yard shall be open and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, except as hereinafter provided or as otherwise permitted in this chapter [Code]:

1. Fixed or movable awnings may project not over eighteen (18) inches into a required yard.
2. Chimneys, fireplace or pilaster may project not over three (3) feet into a required yard.
3. Fire escapes, stairways and balconies which are unroofed and not enclosed may project not over five (5) feet into a required rear yard, or not over three and one-half (3½) feet into a required side yard in any residential district.
4. Overhangs, hoods, canopies or marquees may project not over three (3) feet into a required yard. Notwithstanding, residential roof overhangs may extend four (4) feet into a required yard.

5. *Warehousing, Storage and Distribution Activities*, including building contract construction, building supplies, furniture stores with major warehousing, and trade services with extensive warehousing, trucking support facilities, or requirement of outside storage.
- E. *Agricultural Activities*. The following land uses are included in the agricultural land use classification. No such activity shall permit commercial retail operations, except as otherwise expressly provided in the definition and/or the agricultural district provisions cited within this Code.
1. *Commercial Stables*, including a stable operated for profit on a minimum five (5) acre site of not more than one (1) horse for the first one (1) acre and one (1) additional horse for each additional one-half (1/2) acre. Also reference conditional use criteria.
 2. *Noncommercial Agricultural Activities*, including home gardens, noncommercial greenhouses, and keeping of agricultural animals. Keeping of agricultural animals shall be limited to one (1) agricultural animal for the first one (1) acre and one (1) additional animal for each additional one-half (1/2) acre.
 3. *Wholesale Agricultural Activities*, including harvested agricultural crops, fish and aquatic farms, grazing of cattle, and wholesale trade of products grown or raised on premises. These agricultural operations shall be restricted to sites with a minimum of five (5) acres.

All animals permitted pursuant to this subsection shall be maintained within a controlled area bounded by a fence or other barrier approved by the Town.

Section 1-2.7. Procedures and criteria for review of "similar" uses.

In the classification of uses stipulated in § 1-2.5 [1-2.6], wherever reference is made to the phrase "other similar" uses approved by Town Council after receipt of recommendations from the Planning and Zoning Board, the Planning and Zoning Board and the Town Council shall apply the following procedures and criteria in the review of such uses:

- (a) The criteria for review shall be the same general criteria used in review of conditional uses.
- (b) Procedures for review shall be the same procedures used in review of a conditional use.
- (c) In addition, the Town Council shall determine: (1) whether the use is similar in character to other uses cited in the specific land use classification; and (2) whether the impacts generated by the use are similar in character to the impact generated by other uses cited in the specific land use classification.

Airport. A special facility designed to accommodate the takeoff and landing of aircraft [and which] may be equipped with hangars, facilities for refueling and repairing airplanes, taxiways, tie down areas, and various accommodations for passengers.

Alley. A roadway dedicated to public use which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration. Any change in the arrangement of a building, including work affecting the structural parts of a building or any change in occupancy.

Apartment. An independent housekeeping unit in an apartment house.

Apartment House. Any building or part thereof where separate accommodations for more than two (2) families living independently of each other are supplied to transient or permanent guests or tenants.

Awning. A light, protective appurtenance to a building.

Bars. Any place selling and dispensing for the drinking on the premises of liquor, malt, wine, or other alcoholic beverages.

Basement. A story partly underground and having at least one-half of its height below the level of the contacting grade.

Bed and Breakfast. A Bed and Breakfast is an owner-occupied residential structure, with no more than ___ sleeping rooms used as guest rooms, which has been modified to serve as a transient public lodging establishment, which provides accommodation and meal services and which is recognized as a bed and breakfast in the community in which it is situated.

Board of Adjustment. A body authorized to hear and decide administrative appeals, special exceptions and variances from the strict application of the zoning code.

Buffer Strip. A parcel or tract of land, plant material or other landscaping that is used to separate one use from another to shield or block noise, light or other nuisances.

Buildable Area. The portion of lot remaining after required yards have been provided.

Builder. Any person, firm, association, syndicate, partnership, corporation, realtor or corporation who constructs model homes and other residential dwellings for sale to the public.

Building. Any structure having a roof supported by columns or walls.

Building Height. The vertical dimension measured from the finished grade at the building line to the highest point of the structure excluding appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Building, Principal. A building in which the principal use of the lot in which it is located is conducted.