

TOWN OF MALABAR

PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY, OCTOBER 8TH, 2008
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 – 08/13/08
 - Regular Planning and zoning Meeting – 09/10/08
 - Exhibit: Agenda Report No. 1
 - Recommendation: Motion to Approve
- E. PUBLIC HEARING:
- F. ACTION:
 - 2. Appointment of Alternate Positions
 - Exhibit: Agenda Report No. 2
 - Recommendation: Discussion
- G. DISCUSSION ITEMS:
 - 3. Evaluation & Appraisal Report (EAR) Amendments
 - Exhibit: Agenda Report No. 3
 - Recommendation: Discussion
- H. OLD BUSINESS/NEW BUSINESS:
 - 4. Foundation Park Boulevard East – Update
 - Exhibit: Agenda Report No. 4
 - Recommendation: Discussion
- 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: October 08, 2008

Prepared By: Denine Fusco-Scarbro, Planning Zoning Secretary

SUBJECT: Approval of minutes

BACKGROUND/HISTORY:

The DRAFT minutes from 8/13/08 are ready for Board review.
The DRAFT minutes from 9/10/08 are ready for Board review.

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

During this transition of having Denine do the P&Z meeting minutes I will assist and guide her as necessary. I believe she has a good grasp on the land use policies and language and will only get more proficient with time.

ATTACHMENTS:

- Draft minutes of 08/13/08
- Draft minutes of 09/10/08

ACTION OPTIONS:

Motion to Approve

The following draft minutes are subject to changes and/or revisions by the P&Z Board and shall not be considered the official minutes until approved by the P&Z Board."

MALABAR PLANNING & ZONING BOARD REGULAR MEETING
August 13, 2008 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 7:36 pm. Prayer and Pledge led by Chair Bob Wilbur.

B. ROLL CALL:

CHAIR:	BOB WILBUR
VICE-CHAIR:	PATRICK REILLY, excused
BOARD MEMBERS:	RICHARD CAMERON
	DON KRIEGER
	BUD RYAN
ALTERNATE:	CINDY ZINDEL, excused
ALTERNATE:	VACANT
SECRETARY:	MICHELE KELLY

Also present: Building Official roger Cloutier and Mayor Tom Eschenberg.

C. ADDITIONS/DELETIONS/CHANGES: None.

D. CONSENT AGENDA

1. Approval of Minutes

Regular Planning and Zoning Meeting – July 23, 2008

Exhibit: Agenda Report No. 1

Recommendation: Motion to approve

MOTION: Krieger / to approve as corrected

Discussion. List corrections:

Ryan stated he had trouble reading the minutes.

Krieger pg 3, para 1: "...wind storm and rain storm can't have..." should be have read: "...wind storm and rain storm can have..."

Krieger pg 4, bottom of Agenda No 2: "Krieger will trump kate and..." should be: "Krieger will truncate..." ALTERNATIVELY, Krieger suggested just changing it to "Krieger will shorten..."

Ryan pg 3, "Krieger-I think it should cover and species of trees..." should be: "...should cover any species of trees...."

Board consensus: to have minutes proofed and bought back for approval.

E. STAFF REPORTS:

F. PUBLIC HEARING:

2. Amending Article XV Providing for a Tree Buffer (Ord. No. 2008-08)

Exhibit: Agenda Report No. 2

Recommendation: Recommendation to Town Council

Public Hearing opened. No one from the public spoke.

Public Hearing closed.

Discussion.

Krieger had e-mailed the modified version. Krieger stated that he believed that his modified version of the Article had gone to Town Council (TC). Secretary said it had not gone to Council.

Krieger stated that he only made modifications to the 'wording' of the Article and not to any names/statements/etc. He took out the word "Pine Tree" out of the document and then focused on two 'major' topics, which were the 6-inch base diameter (about an 18 or 19-inch circumference) and the distance of 30 feet from a structure. Anything equal to or larger than the 6-inch base diameter was referred to the Building Department for a Type 4 permit. Discussion revolved around where the base diameter of the tree was to be taken; it was generally agreed that it would be measured 3 feet from the ground.

Wilbur noted that from March 31st to the middle of November the Scrub Jays are nesting and that this issue needs to be taken into consideration. Cameron remarked that many of the Scrub Jays might have moved so nesting areas may be different.

Krieger noted that Mayor Eschenberg had raised this issue to P&Z in order to make it safe for structures. The Article changes included broadening to different species of trees, differentiated between native and non-native trees, and large and small trees.

Wilbur wanted to see specifications made to 'structures' in order not to provide carte blanche land clearing. Krieger noted that all new structures require a permit and all trees 6-inches and over would still require a Type 4 permit so the Building Official would be required to make the decision.

Krieger added that this Ordinance is for residents clearing trees that can damage structures during fires and hurricanes. Krieger believes that this Ordinance will be beneficial and is fair to all residents. Nuisance plants are addressed in this ordinance with the term of 'non-native' plants.

MOTION: Krieger / Reilly to recommend Council approval of the modifications to Ordinance No. 2008-08. Vote: Krieger, Reilly, Wilbur, Ryan, Ayes; Cameron, Nay. Passes 4 to 1

G. ACTION: None

H. DISCUSSION ITEMS – General Items

3. Amend LDC to Provide Clarification to Malabar Vernacular (Proposed Ord No. 2008-XX)

Exhibit: Agenda Report No. 3

Recommendation: Recommendation to Town Council

Wilbur asked about Section 1 (e): "...depicted in illustration numbers E (1)-E () are deemed "Malabar Vernacular Style". Wilbur believed pictures need to be added showing the common styles for the Central East Coast for the Malabar area. Pictures can give an idea but it does not necessarily include everything. Examples of current Malabar buildings were discussed. Krieger found specific styles through the University system that are historical styles in specific areas. Cameron suggested the Historical Society of Florida in Cocoa, FL.

Wilbur believes that what Malabar wants to attract is 'Mom & Pop' personalized small businesses and shops that will 'fit-into' the deco of Malabar.

Reilly asked about (e) on pg 1 "...depicted in illustration numbers E (1)-E () are deemed "Malabar Vernacular Style".", regarding the illustrations. Krieger stated that the illustrations already exist and they were with the original Ordinance.

Krieger and Wilbur believed P&Z should okay the 'language' of the Ordinance and forward it on to TC. However, Krieger would like to know if passing this Ordinance would mean that no new pictures/illustrations could be added without doing a Resolution.

MOTION: Ryan / Krieger to recommend Council approve the changes to the Ordinance 2008-XX (Section 1.5.29) Malabar Vernacular

Vote: All Ayes

I. OLD BUSINESS/NEW BUSINESS:

Ryan: Columns on Eva Lane. Property owner has agreed to re-do the columns per code and has dropped off all of the paperwork required for the permit.

Ryan asked if there has been an official complaint about the owner to the North with the big steel gates. Cameron stated that this owner had been 'brought to task' about a tiki hut, and a permit was obtained for the tiki hut, but the gate was never addressed. Ryan asked for verification if it was or was not conforming.

Juliana Hirsch, 1035 Malabar Road: Stated there are several of these types of violations around Town and they might as well all be knocked down because this particular owner not only has these high and huge columns but the columns are in the ROW. These columns look beautiful but the Town needs either to aggressively move toward removing them or forget about it. Ms. Hirsch believes the Ord. needs to be changed. Ryan asked the Board if the Ord. could be retroactive. Either something should be done or this subject should be dropped. Ryan stated that this issue needs to be followed by all and not by just a few.

Reilly stated that both homes' fences were brought up the same night and that both fences would to be followed up on; Reilly stated that the Board should make a recommendation that Code Enforcement act on the fence issue for the house to the North. Reilly thinks the complaints Ryan has will most likely need to be handled personally by seeing the Town Administrator.

Krieger stated that although no specific plans are being discussed; think about what the Town will look like and if 8-foot walls would be the preference.

Wilbur discussed code enforcement was needed for the commercial properties and housing developments that are not being maintained. Wilbur gave examples of: Malabar Grill on Hwy 1, which is now gone along with, a residence east of the Post Office; Weber Woods; and Stillwater Preserve. Wilbur believes that these maintenance issues need to be kept on top of.

Krieger noted that he has seen several sites that the Town has not been able to keep up with such as ditches, roads, etc.; therefore, if one cannot maintain their own then they should not be able to complain about others. Krieger stated that being in a rural community people should be given some leeway. If the neighbors or locals are complaining then something should be done—that is reactive. Ryan stated that the reactive stance is the position of Council. Wilbur stated that he did not believe the residents know that they need to call in and complain. Krieger remarked that if that was the case then the public needs to be informed, maybe by placing the information in the Mailboat.

Ryan. Town Hall Site Committee.

He Informed Board what the Site Committee discussed. With the budget and the shortfalls, the Committee asked TC for direction.

Reilly. "Guidelines for Model Ordinance Language For Protection of Water Quality and Quantity Using Florida Friendly Lawns and Landscapes." Reilly requested input from the Board—place this issue on the next agenda, table the issue, or what decision did the Board want. Krieger does not want to make any decision; there are many rules that need to be followed, this concept is an economic factor not set as a developer guide.

Hirsh (speaker) noted that Malabar does not have an overuse of water and that these types of guidelines are not necessary. Krieger stated that the biggest user of water in Malabar is Palm Bay. Reilly reiterated the question, does the Board want to consider this issue for the next P&Z meeting or table it. Ryan noted that the Mayor is pushing this issue and Ryan believes that if this is enacted then there can be some quantification to it. Reilly suggested that this be discussed at next meeting and then make a recommendation to Council.

Krieger believed this is all premature when the Comp Plan is being worked on that will affect the zoning map of the Town yet the Board still has not received any feedback. No joint meetings that was implied would happen are not occurring and therefore the Board has no idea what will be developed and changed. Ryan asked if there has been any progress on getting the interim meeting with the Comp Planners. Wilbur stated that they wanted meetings so they can make suggestions prior to making any final decisions.

Cameron stated that he was confused about all the ordinances being passed in the Town of Malabar. The Town was to be a rural community, set up for larger spaces for housing. There are more requirements of government are being forced on the citizens, from the types of gates to the number of trees, how close or how far away the trees can be. He has never seen a rural community being governed the way this community is now being governed. This community is now becoming government heavy as to what the lifestyle can and cannot be, and it is becoming just the opposite of what this Town was founded on. Krieger agrees with Cameron and would like to see in this Town a Residence Bill of Rights, as well as, a Resident's Business Owner's Bill of Rights because he sees all types of rules coming into the Town. Krieger noted that Ordinances are commonly drawn up much stricter than ever enforced so the rules are there when a Board wants to become strict. Ryan stated that these Ordinances have come along to establish a look of the Town. Wilbur and Ryan gave examples of unattractive structures and attractive structures that suits and benefits the environment. Krieger believes that the citizens do not get involved in the meetings and when the Ordinances are passed the citizens need to be voting. Krieger would rather see one (1) or two (2) story buildings where the structure are both the business and the home; this is what he envisions US 1 to become and not condo and townhouses.

Reilly brought Board back to the original question, add to next meeting or table it, regardless read the Guidelines and determine. Bring back to next meeting— put on next agenda.

Cameron. Alternates.

Cameron raised the issue of not having alternates. Basically, the Board is currently missing two (2) alternates because Zindel is out on vacation. Krieger asked if the openings were posted in the last Mailboat. Cameron commented that they had not received any responses from multiple letters that ran in the Mailboat. Discussion was held that no one is volunteering for any Board.

Krieger. Leave of Absence.

Krieger stated that in October and September he will possibly not be available and need to be excused. If he is available, he will come to the meetings. This is a formal submission to have a Leave of Absence.

Wilbur. Community Fire Safety Meeting.

Wilbur stated that the Division of Forestry was holding a Community Fire Safety Meeting at the Fire Department.

Reilly. Request of Board.

Reilly asked the Board to spend a lot of time reviewing the Paladin project. This cannot be discussed at that time but if there are any questions to bring them into the Building Department and speak with the Building Official.

Ryan. General Comment.

Ryan brought up the budget. Ryan voiced his deep concern about the shortfall and the concern about the pressure to bring in some higher density zoning to increase the tax base, which would bring in more money than a lower density zoning. Krieger stated that the problems in the past with the higher density zoning were the effects of the Indian River Lagoon, and the results of DOT, Natural Resources, St. Johns River Management District, the phases of the plans, etc. Krieger noted that the Board needs to be aware of the time limits of the phases and that plan with phases do not include all phases. Cameron stated that when there are plans that have phases the reviews are up to the planners and the people who run the community. He continued that the Board's comments are from a 'layperson' view—as someone who lives in the Town—and how each would like to see the Town, based on Ordinances, it is not their job to scrutinize the plans and what they are going to allow, that is up to the Building Department and the Council. This Board gives their recommendation on what is they feel should followed according to the rules and a time limit, etc., but each phase has a time limit, different phases are not grandfathered in because prior phases were approved. Wilbur noted that the Board needs to keep projects of each phase in mind as projects are reviewed, examples given of MIMA (sidewalks) and Brook Hollow (road to Malabar Road).

Ryan. Building Department.

Ryan and Krieger noted that they came to pick up the P&Z packet the Building Department was being moved. Cameron stated that Mr. Booth rented the trailer but the trailer is going away to cut costs.

Staff:

Verify when Cindi Zindel will be back. [November 1, 2008]

J. ADJOURNMENT:

There being no further business to discuss, **MOTION: Ryan / Krieger to adjourn this meeting.**
Vote: All Ayes. The meeting adjourned at 8:50 PM.

BY:

Bob Wilbur, Chair

Michele Kelly, Secretary

Date Approved

Minutes done by Debby Franklin, Town Clerk

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
September 10, 2008 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 pm. Prayer and Pledge led by Chair Bob Wilbur.

B. ROLL CALL:

CHAIR:	BOB WILBUR
VICE-CHAIR:	PATRICK REILLY
BOARD MEMBERS:	RICHARD CAMERON
	DON KRIEGER
	BUD RYAN
ALTERNATE:	CINDY ZINDEL, excused
ALTERNATE:	LIZ RITTER
SECRETARY:	DENINE FUSCO-SCARBRO,
BUILDING OFFICIAL	ROGER CLOUTIER

Also present: Keith Mills, Town Planner

C. ADDITIONS/DELETIONS/CHANGES: None.

D. CONSENT AGENDA

1. Approval of Minutes

Regular Planning and Zoning Meeting – July 23, 2008

Exhibit: Agenda Report No. 1

Recommendation: Motion to approve

MOTION: Krieger / Reilly to approve P&Z minutes of 7/23/08 as submitted.

Vote: All Ayes.

E. PUBLIC HEARING: 1

2. Conditional Use Permit Application for Commercial Stable and Wholesale Agricultural, 2265 Atz Road, Malabar; Applicants Dan and Marsha Michael, 17.3 acres in RR-65 Zoning.

Exhibit: Agenda Report No. 2

Recommendation: Request Action

Chair stated this would be a Public Hearing.

Chair asked applicant to make presentation. Dan Michael introduced himself and his wife. He had cleared an area of his property and wanted to mulch the debris left from his clearing on his property and then fill in a few low spots. With the mulching it is more for than the low spots. They moved here in 1998 and improved the property and bought more land. They have continually had horses. They are looking for approval and help on how to do this better so they can enjoy their land and make use of it. Dan said that 2 times in the last 8 years she has had two horses there for 6 months. During the fires she helped and the town has asked to help on search and rescue. This application is being done to comply with the town code. For the record it will be one horse a year in addition to the six they have. Wanted to state that for the record. Reilly asked applicants if they are going to charge to board. Yes. Reilly explained that is why they are required to get a CUP. Once you accept payment it is a commercial operation and certain information is required.

Wilbur stated that the grinding and hauling of land clearing debris doesn't require a CUP. If that is all he is wanting then he can call someone in to grind and have it hauled off after he has filled his low spots. Dan Michael said he was trying to be green and keep the material on his property. The gravel is from the Pt. Malabar shopping center. He would like to get that material at a reasonable price and he knows the town has been interested in it. He would like to store it on his property and sell to interested persons. Wilbur and Reilly said that would then be a commercial use.

Wilbur asked about the wetlands. Dan Michael said his properties are not in wetlands.

Krieger asked about the noticing requirement. Franklin stated that legal posting was done, property was posted and the letters were sent out to properties owners within 500 feet.

Krieger asked if their properties are contiguous? If they are, then are they asking for vacating LaCourt Lane? He is confused and it is all combined on the property and will they be considered one property.

Dan Michael stated the properties south of Lot 28 and 87 are mostly wetlands. The water comes all the way up. He said there are lots back there. You can't build back there on the listed lots due to wetlands.

Wilbur stated the road access does exist. The gate blocks access and land locks those properties. If you want to make this a continuous property the town would have to vacate the row. Wilbur showed the property on the aerial behind dais. He showed the wetlands and the uplands and both LaCourt and Marie Street access them. Wilbur explained that they would have to improve the road to the town standards if they wanted to develop those lots.

Krieger asked if it was one property – no, it is 8 properties. They never asked for the right-of-way and they have maintained and they have no intent of asking town for right of way. Dan Michael said they didn't need a traffic study; it would be small operation.

Cameron asked if he could speak. Cameron introduced himself - 28 years ago he moved here. Ten years ago they could have asked to do what they want to do and it may have been approved. He doesn't think they would be able to do what they want on their land. The rules in town won't allow it and the new rules in the state are going to make it very hard to accomplish. He proposed they will not get a majority vote in favor of their request. He felt Malabar was no longer a country town. He suggested they have a grinder come in and grind and then they can use it for the low spots and their stables. They have a drainage problem and will continue to have the same problem.

Chair asked Building Official if he had any questions or statements. No. Chair asked Planner Keith Mills. Keith Mills explained his questions were not answered. Some of his questions were answered with tonight's presentation. He would need more information if they wanted to pursue this. He referenced the parking. It doesn't show where the operations are going to take place. The access points aren't well defined for the users. The Engineer Bill S. had also asked questions that don't seem to be answered. There are things he would have to see in more detail in order to review. He noted the Building Official and Fire Marshal also had questions. Keith Mills also stated it was not so much about the traffic study as it is about what it is going to be used for. How many boarders, parking, hours of operation, the info that allows him to understand what is taking place there. It is not just a traffic study.

Public:

George Foster, Malabar Road, is there as a character reference for applicant. They have taken in foster children, volunteered for the town, taken down trees, developed the park, friend of the

fire department, and volunteered his property and equipment and expertise. Been a friend to him personally and done exceptional work to make their property nice. He is always volunteering to help neighbors. Recently during fires was a big help. They have done a great job and he supports their boarding and mulching operation.

Bob Graham, 2140 Atz Road, He has two questions. The fence on his property. The pillars were replaced with a new fence. He has been there for 8 years and the gate has been locked. He wanted to know who put the gate up and the locks. Why is it allowed for construction equipment and kept locked.

Dan Michael said that he had to get permission to build the fence. The columns were put in the right of way during (Town Administrator) Mr. Hall's tenure. The problem with 4 wheelers. The town put big wooden pilings in and then railroad ties and concrete pillars. They took the pillars out and replaced it with columns. The double gates open up wide enough for fire trucks. He stated they got permission to put the double gate across the right of way of LaCourt. They drive through their own gate that is to the west.

Board determined it was an issue for Code Enforcement.

Adele Gratten, 2125 Smith Lane. Stated she moved to Malabar from Palm Bay to have a large lot. She likes the country and the horses. She didn't even know LaCourt Lane right of way existed behind her house until this night. She had seen the gate. Her biggest concern is not the horses; it is the mulching, the gravel, and its effect on the residential aspect. It will put the houses at lower value. Today it just a little bit. They already have a problem with the road on Marie Street. Traffic can't get through there now. What are trucks going to do to the sink hole? What about the increased traffic, more cars. She was also surprised about the 500' distance – the whole neighborhood should be notified. She only got the notice 2 weeks ago. Marie Street goes down and she can hear the trucks from her porch. It is not the kind of neighborhood she wants to live in. She wants it quiet. That is it. Thank you.

Public Hearing Closed.
Back to Board.

Krieger: sees it as 8 lots of land and agrees and if you are going to do commercial mulching and gravel it is not the same as commercial stable.

Reilly stated it is an incomplete package; it is not contiguous; he did not see Engineer Bill S. memo dated in May addressed. He did not see response to Planner Keith Mills memo from May. Both should be addressed before it came to this Board.

Reilly further stated in the Table 1-6 on pg 322 of Land Development Code, it states that wholesale services are only allowed on US 1, Babcock, or Westland. The wholesale is not allowed in RR-65. In the Table in Dist Prov (Art. III) It implies that wholesale agricultural activities are permitted in RR-65. Wood and gravel are not agricultural.

Reilly would like to see this split up into two requests. Do horse stable on the west side of LaCourt. The applicant already has a house there. He is not in favor of any wholesale activity of mulching and gravel. The stable could not be on the east side of LaCourt because the Code says you must have your principal structure first. House is principal structure. Referenced Gentile CUP request. Reilly also tried to do a stable on Waring and was told he had to build house first.

Wilbur said the road, LaCourt is not meant for commercial traffic. It is for local traffic. He agreed with Reilly. Gravel is not an agricultural pursuit. Gravel and mulch are run out in large dump trailers. He mentioned the mining operation on Marie St during construction of Oakmont.

Cameron: He believes that the applicant understands that he made a mistake. The came here in honesty and got beat up and knows he should just go and enjoy his land. Cameron stated that Malabar was a truck farm in early 1900s, but no more. We are now a gated community. Town is so far behind in meeting the state and local requirements for the infrastructure and drainage.

Reilly stated the CUP was approved on Weber Road.

Ryan agreed with every sentiment. He can not support the request.

Ritter would support the commercial stable on the west side with the road opened. She did know that the town blocked it off in the past and stated that it would have to be reviewed.

MOTION: Reilly / Krieger to recommend Council deny this CUP application for Dan and Marsha Michael for Commercial Stable and Wholesale Agricultural Use for Mulch/Gravel at 2265 Atz Road, Malabar for the reasons stated.

Discussion. Ritter would suggest they reapply for the commercial stable portion. Talk to your council member or the mayor. He sees this time and time again. They recommend they come to this board first. We are rural and like horses and don't like construction and don't like noise. It is a shame they expended funds and come to this board and get rejected in this way.

Vote: Ayes, 5; 0, Nay.

Reilly asked if they wanted to reapply for commercial stables he would be happy to help them.

Reilly action move 4 to 3. Reilly/Krieger.

Heard after reptile man.

F. ACTION:

- 3. Pictures for Malabar Vernacular (Ord. No. 2008-10)** AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE III, SECTION 1-5.29(c) and (e); PROVIDING FOR A DEFINITION OF "MIRROR BUILDING AND PROVIDING FOR ILLUSTRATIONS OF THE MALABAR VERNACULAR STYLE; AMENDING ARTICLE XX, DEFINITIONS, REVISING THE DEFINITION OF "MALABAR VERNACULAR STYLE"; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Recommendation to Town Council

Krieger said he is ambivalent. Include them if you want. Wilbur said don't include the pictures. They are doing the ordinance an injustice. Reilly agreed. Ritter said she is more visual and thought the pictures would help. Krieger stated the ordinance clearly describes the styles.

Krieger said when he did the rewrite of the ordinance, he included the drawings. The ordinance verbiage says enough. Cameron said they want the old look that is new.

MOTION: Reilly / Ryan to recommend Council approve Ord. No. 2008-10 without pictures being included as part of the ordinance.

Discussion: Krieger stated they can have a whole book of pictures to look at if they want examples. The narrative clearly describes the types.

Vote: All Ayes.

Heard next:

4. **Request Zoning Approval for Wholesale Reptile Holding and Captive Breeding Project in RR-65 Zoning Applicant Mike Roberts to present**
Exhibit: Agenda Report No. 4
Recommendation: Request Action

Roberts introduced himself. Discussed his background as Missionary for 12 years. He began writing a book. Developed contacts and discovered the financial gains that could be had. Went to Guinea in started exporting animals. In Guinea you get export permits – the government licensed people. Built Cobra Enterprises. His company is still down there. He exports for Incredible Pets. One of the collections developed and then sold his animals. He wants to get involved in this. He explained himself. He explained the package. Fed and State licenses. The most difficult is the State of Florida. How animals are kept. He is the only American that holds an export license. Classification is where it gets complicated.

He is looking for property with at least one acre that he could afford. City of Melbourne helped him a lot. What do you classify a snake as? They said it was a horse. Suntime said it was considered a dog and you can only have 3. Many different answers but no real help.

How do you want to classify this activity? His licensing will require a notarized letter from the Town stating there are no objections to the zoning for this use. He needs this to get a Class II to get a dwarf Cayman which only gets to 18" but also would allow a crocodile.

He explained the breeding project process. He will sell on internet. There is an EBay equivalent for reptiles. No customers at house. Port of entry is Miami. Confined operations for home based financial gain. He wants to be welcomed into community. Is looking at property on Appleby.

Krieger asked about tracking devices in case of disaster. Required on reptiles of concern only. Potential to become invasive or pose a threat. The anaconda he deals with and requires to be chipped. It is not a good snake. He will not be dealing with it.

Krieger said the Code doesn't cover this but it would be a hot button item. As a commercial operation he would think there should be questions to legal – would the town take on liability if they licensed him. If we allow one type on animal that could be dangerous, would we be setting precedent for others.

Ryan said that nothing in RR-65 would permit this. Cameron said he is impressed with him, but he wouldn't vote for it. Wilbur also has a venomous license and gave it up when he decided to have children. He believes it should be in a commercial district. It would take the Board and the Council a lot of time to discuss this. He wishes him well but says he doesn't think it would fit. Krieger said that there was someone that wanted to wash dogs and he was turned down. Krieger asked what zoning Incredible Pets is in? Commercial. The Serpantarium in St. Cloud? Commercial.

Ryan said it is not allowed in RR-65. He thinks it should be in industrial or commercial. He would still need a business license. It is quite a tangled web. Thanks for the opportunity. Roberts wants a crystal clear understanding.

Reilly said that the direction to the Board was to provide a recommendation to staff and he got nothing from staff. He looked through the tables and there was nothing that could support his endeavor. Reilly thought it is a commercial operation.

Board Consensus is not to support such a use in RR-65.

G. DISCUSSION ITEMS: this item not discussed

~~5. Fencing in General~~
~~Exhibit: Agenda Report No. 4~~
~~Recommendation: Discussion~~

H. OLD BUSINESS/NEW BUSINESS:

Ryan said he has made three requests to the TA and has not been responded. Also the neighbor has a problem. These matters can't be let go. Building Official Cloutier gave an update. He was at her house and reminded her that there is only a certain amount of time. She assured him there would be done. He is monitoring it. Ryan wanted answer on neighbor's gate.

Cameron talked about drainage. How can he address it? Go to council. Wilbur suggested recreating the drainage committee. Franklin suggested he speak to BWF. She is working on drainage and has met with citizens and wants to hear from residents. Wilbur suggested a workshop on drainage. He will call Sharon for an appointment.

Reilly stated there should be a Public Hearing Procedure for chair to follow that the Board all knows. The Applicant comes first, and the Board asks questions only. Then they sit down and the Board hears from staff and learns what is factual related to the request. It is then opened to Public for their comment. Listen to their comments and then close the Public portion and bring it back to Board. Staff will create a bulleted list for Chair. Reilly had a whole list of things that he wanted to say to Board without applicant standing at microphone. Do a Checklist: Applicant, staff, public, and then board. You need staff up front to state what is in the code.

Chair asked Building Official why this was brought to Board. He expected staff to follow his sheet and then the applicant comes in and meets with him and goes over the comments. If they want to proceed, they must respond to the comments. Miscommunications prevented the answers from being provided.

Reilly also had as new business item. Referencing the applicant's package - it was incomplete from staff. He saw they were given copies of Art VI and Art VII. They chose not to include it in their package. Reilly understood there are different levels of ability but there must be some criteria to use. He was not comfortable. It is hard to get some items from town. It has to make good business system. He believes that staff can have a checklist for the applicant also. Use the checklist and be firm. We will put checklist together from requirements in Art VII and include a requirement for an Informal Wetlands Determination because that will not cost the applicant any money, and an aerial of the project site. We will put it on Town letterhead and make them sign it.

This item was not discussed.

~~6. Foundation Park Boulevard East Update~~
~~Exhibit: Agenda Report No. 5~~
~~Recommendation: Discussion~~

Chair welcomed Liz Ritter to Board. Council appointed her to Board as alternate on 09/08/08. Board discussed purpose of alternate position on Board. It is important for alternate member to

attend meetings and be familiar with the issues. When there is a vacancy, the Board makes a recommendation to Council on who should replace the member. But in regular meetings, Alt. No. 1 would vote for the missing first regular member and Alt. #2 would only vote if a second member is absent. Alternates are critical and they need to be familiar with issues. Zindel is excused for part of the year because she spends part of the year up north. We potentially had a major issue come before the Board and not only almost didn't have enough members and no alternates. They need to discuss the purpose of the alternate position and put on as an Action item for next agenda.

I. ADJOURN:

There being no further business to discuss, **MOTION:** Reilly / Cameron to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned at 10:10 PM.

BY:

Bob Wilbur, Chair

Denine Fusco-Scarbro, Secretary

Date Approved

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: October 8, 2008

Prepared By: Denine Fusco-Scarbro, Planning & Zoning Board Secretary

SUBJECT: Appointment of Alternates

BACKGROUND/HISTORY:

During the last meeting, the Board discussed the need to have the voting alternate member attending all the meetings and being familiar with the issues and the developments in the Town and the area in general. The Board directed that this be put on agenda for action at this meeting to determine if the appointment of Alternate positions should be modified.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Minutes of Regular Town Council Meeting – dated 09/22/08 are attached under Agenda Item #1.

ACTION OPTIONS:

Staff requests action.



June 3, 2008

To whom it may concern:

I will be going up north until Nov. 1st so I would like to be excused from The Planning and Zoning Board until I return.

Sincerely
Cindy Guild

To Malabar Town Council
Planning and Zoning

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: October 8, 2008

Prepared By: Debby Franklin, Town Clerk

SUBJECT: EAR Amendments

BACKGROUND/HISTORY:

Calvin-Giordano and Associates, Inc. was awarded the contract to produce the amendments required in the EAR. They have completed the amendments and sent them to us. I reviewed them for historical and factual corrections and they made changes as needed and have provided the completed documents.

They cover nine (9) Elements. I will prepare an ordinance adopting these amendments. These elements will be discussed and reviewed at two special meetings: October 22 and October 29, 2008.

We propose to discuss Future Land Use, Transportation, Housing and Intergovernmental Coordination on the 22nd.

We propose to discuss Public Facilities, Conservation, Coastal Management, Recreation and Open space and Capital Improvements on October 29th.

We will have a Public Hearing at P&Z on these amendments on November 19, 2008. This date was selected so you would not have to meet the evening before Thanksgiving. The P&Z Board will make a recommendation to Council to adopt the ordinance with attached amendments in order to transmit to the Department of Community Affairs (DCA).

I will also have two other ordinances drafted and to you by then for review that must be adopted in conjunction with this time line. One deals with the Public School Facilities Element (PSFE) that is now required and the other is a Capital Improvement Element (CIE). I am still working on both of these, but will have them to you for a Public Hearing on November 19, 2008.

Council will hold a Public Hearing for Transmittal of the EAR amendments, the CIE and the PSFE on December 1, 2008.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

CD with the EAR Amendments from Calvin-Giordano and Associates, Inc.

ACTION OPTIONS:

Staff requests action.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: October 8, 2008

Prepared By: Debby Franklin, Town Clerk

SUBJECT: Foundation Park Blvd

BACKGROUND/HISTORY:

The possible extension of Foundation Park Boulevard to the east to provide access to the area zoned commercial and commercial limited and not adversely affect the residential neighborhood to the south of Booth Road is going forward.

The survey of the layout was performed by the Town Surveyor and is attached. The feasibility study for the extension is the next step. Based on the results, we will send letters to all the property owners in the area and request their input.

I updated Council with this information at the RTCM of September 22, 2008 and there was a Malabar resident that spoke against the expenditure of funds for this project. I have attached that portion of the minutes.

The County collects a transportation impact fee for new construction in Malabar and forwards the funds to us for appropriate projects. The funds may only be used to fund road projects that increase capacity and meet other criteria established by the Board based on Florida Statute. This project was reviewed and approved by the Board. We will be selecting a firm to conduct the feasibility study and I will keep you updated.

We also were approved to move forward on the design and engineering for an emergency traffic signal at the entrance to the Fire Station on Malabar Road.

FINANCIAL IMPACT:

Transportation Impact Fees

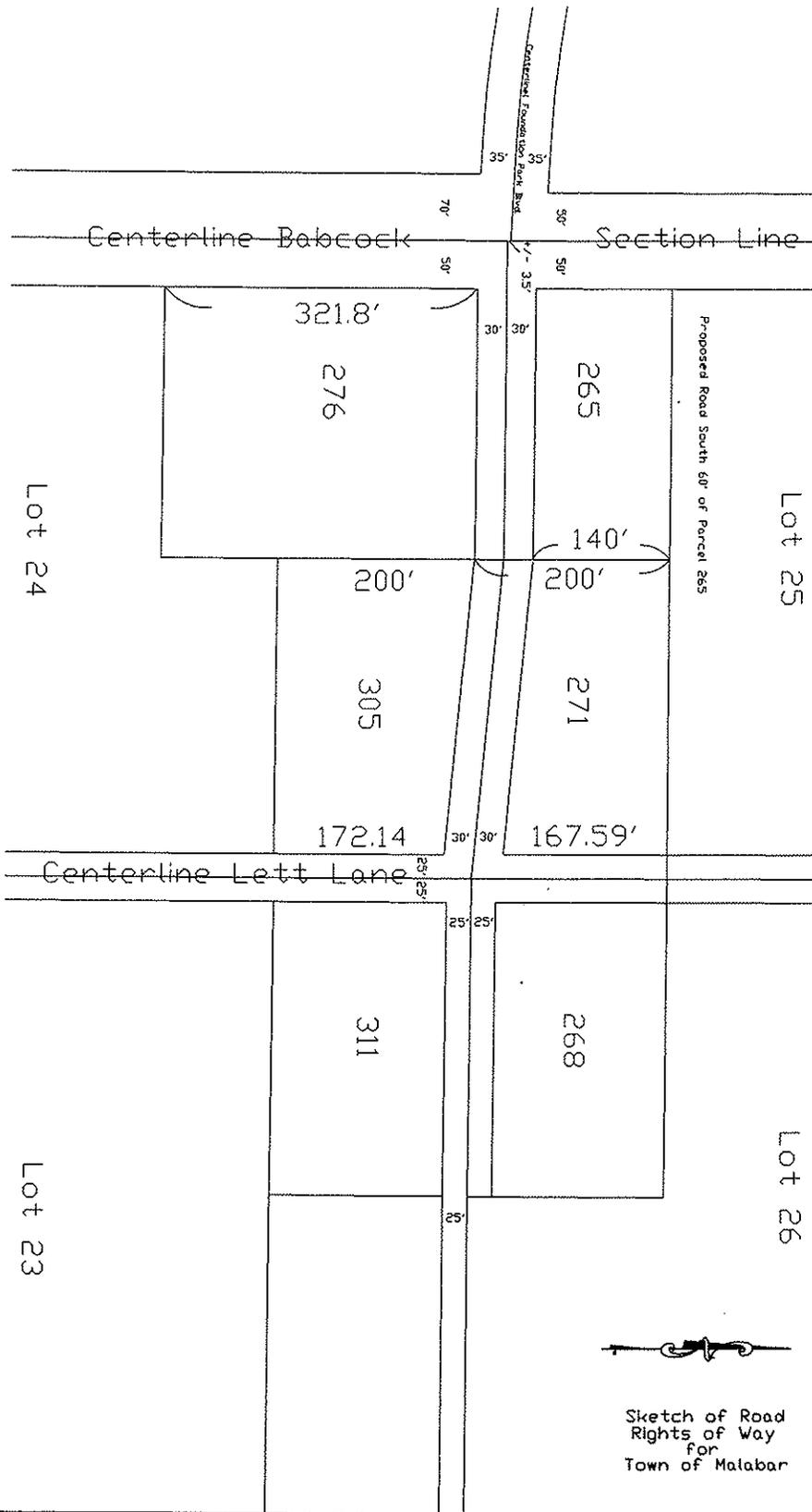
ATTACHMENTS:

Survey of Foundation Park Boulevard (East)
Portion of RTCM of 09/22/08

ACTION OPTIONS:

Discussion purposes only -- no action required.

Sketch of Road Rights of Way



Surveyors Notes:

This sketch is not a survey. It is intended for informational purposes only. This sketch was produced using information from the Plats of Port Malabar Unit 56 and Port Malabar Industrial Park Unit 2, deeds from the subject properties and sectional information from previous surveys.

CERTIFICATION
 I HEREBY CERTIFY THAT THIS SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

Craig S. McKinnon
CRAIG S. MCKINNON
 FLORIDA REGISTERED LAND SURVEYOR # 5057

SKETCH IS NOT VALID UNLESS IT IS
 EMBOSSED WITH SURVEYORS SEAL

CRAIG S. MCKINNON
LAND SURVEYOR

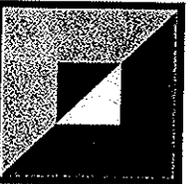
1980 MARIE STREET
 MALABAR, FLORIDA 32950
 (321) 724-6257

SURVEY DATE:	FIELD BOOK:	PAGE:	NOT TO SCALE
			SIGNATURE DATE: 5/3/08

Portion of DRAFT Town Council minutes from RTCM 9/22/08

M. PUBLIC COMMENTS: General Items

Ken Shafer, 3035 Lett lane, regarding Clerk reporting on the feasibility study for Foundation Park Blvd East. His concern is that he doesn't see a need for an access. If you go to Foundation and look east and run a line, you would run into the Knights of Columbus building. He also said St. Johns (SJRWMD) has most of those lots marked as wetlands. There is no right of way exists and to get to a road where no road exists. There are maybe half a dozen of lots that would be buildable per him. If you go south there is a gas pipe line. If those lots are commercially viable, someone would have already done it. He further stated that the property that would need to be bought is owned by out of state owners, it would create non-buildable lots. The owners are in Mississippi and Missouri etc. He encourages them, (Council) to do a field trip. Mayor said that he should take this to P&Z this week. This P&Z of 9/24/08 has been cancelled. Shafer has fought this in the past. Vail said the support for this location was that the traffic light was already there.



November 2008

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
	3 Town Council 7:30	4	5	6	7	8
9	10 Space Coast League of Cit- ies Dinner Meeting	11 Veteran's Day- Town Hall Closed***	12 P & Z 7:30	13	14	15
16	17 Town Council 7:30	18	19 P & Z 7:30	20	21	22
23	24	25	26	27 Town Hall Closed	28 Town Hall Closed	29
30						

***Malabar Mariner's Association, Inc.—5:00 meeting scheduled



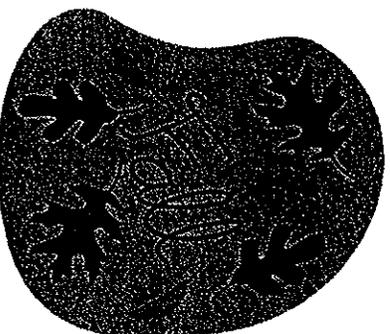
TOWN OF MALABAR

2725 Malabar Road
Malabar, Florida 32950

Phone: 321-727-7764
Fax: 321-722-2234

E-mail:

TownClerk@townofmalabar.org



October 2008

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 Town Council 7:30	7	8 P & Z 7:30	9	10	11
12	13 Space Coast League of Cities Dinner	14 Malabar Mariner's Asso- ciation, Inc.— 5:00	15 Park Board 7:30	16	17	18 Malabar Mari- ner's Associa- tion, Inc.—5:00
19	20 Town Council 7:30	21	22 Special Meeting Comp Plan Review Part I 6:00 PM	23	24	25
26	27	28	29 Special Meeting Comp Plan Review Part II 6:00 PM	30	31	



TOWN OF MALABAR

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