

# TOWN OF MALABAR

PLANNING AND ZONING ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY, NOVEMBER 12, 2008  
7:30 PM  
MALABAR COUNCIL CHAMBER  
2725 MALABAR ROAD  
MALABAR, FLORIDA

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## AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE
- B. ROLL CALL
- C. ADDITIONS/DELETIONS/CHANGES
- D. NOMINATION AND ELECTION FOR COUNCIL CHAIR TO SERVE 2008/2009
- E. NOMINATION AND ELECTION FOR COUNCIL VICE-CHAIR TO SERVE 2008/2009
- F. CONSENT AGENDA
  - 1. Approval of Minutes
    - Regular Planning and Zoning Meeting – 10/08/08
    - Exhibit: Agenda Report No. 1
    - Recommendation: Motion to Approve
- G. PUBLIC HEARING:
  - 2. **Developer Recreational Fee Amendment (Ord. 2008-14)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XVII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1.17.1.H.4 RELATING TO THE USE OF FEES IN LIEU OF LAND DEDICATION FOR PARKS AND RECREATION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

    - Exhibit: Agenda Report No. 2
    - Recommendation: Discussion
  - 3. **Amend Signage Regarding Political Signs (Ord. 2008-15)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XIX OF THE LAND DEVELOPMENT CODE RELATING TO POLITICAL SIGNS; PROVIDING FOR A REGISTRATION FORM; PROVIDING FOR COMPLIANCE WITH STATE LAW CONCERNING THE PLACEMENT OF POLITICAL OR CAMPAIGN SIGNS, ADVERTISEMENTS AND/OR POSTERS IN A STATE OR COUNTY ROAD RIGHT OF WAY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

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

**H. ACTION:**

**4. Request for Gate Resolution – Eva Lane**

**Exhibit:** Agenda Report No. 4  
**Recommendation:** Discussion

**I. DISCUSSION ITEMS:**

**5. Comp Plan Evaluation and Appraisal Report Amendments**

**Exhibit:** Agenda Report No. 5  
**Recommendation:** Discussion

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

**6. Alternate and Opening on P&Z Board**

**Exhibit:** Agenda Report No. 6  
**Recommendation:** Discussion

**7. P&Z Procedures**

**Exhibit:** Agenda Report No. 7  
**Recommendation:** Discussion

**K. PUBLIC**

**L. 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: November 12, 2008**

**Prepared By: Denine Fusco-Scarbro, Planning Zoning Secretary**

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**SUBJECT: Approval of minutes**

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**BACKGROUND/HISTORY:**

The DRAFT minutes from 10/08/08 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.

**ATTACHMENTS:**

- Draft minutes of 10/08/08

**ACTION OPTIONS:**

Motion to Approve

"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  
OCTOBER 08, 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 P.M. 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, excused
ALTERNATE:	CINDY ZINDEL, excused
ALTERNATE:	LIZ RITTER, voting for Ryan
SECRETARY:	DENINE FUSCO-SCARBRO,

Also present: Mayor Eschenberg.

**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

**MOTION:** Reilly / Krieger to approve P&Z minutes of 08/13/08 as corrected: show Reilly as excused.

**Vote:** All Ayes.

**MOTION:** Reilly / Krieger to approve P&Z minutes of 09/10/08 as corrected: ROW s/b caps.

**Vote:** All Ayes.

**E. PUBLIC HEARING:**

**F. ACTION:**

**2. Appointment of Alternate Positions**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Discussion

Ritter was a voting member and that she abstained from vote.

**MOTION:** Reilly / Krieger to recommend that Council appoint Liz Ritter to the position of Alternate #1 and fill any upcoming vacancy on the Planning & Zoning Board.

This had to do with the priority of alternates voting on the Board, Reilly stated that Cindy Zindel is on vacation and asked if there a rule that alternate #1 votes first, and alternate #2 votes second. Can Alternate #2 vote before alternate #1?

Reilly proposed when alternate #1 leaves on vacation then alternate #2 becomes the voting alternate.

Wilbur thinks a part time alternate should be the #2 alternate, because they are not here half the year. Krieger thinks we shouldn't change this because she asked in advance; this should have been discussed with Cindy when she put in for the vacation explaining that when she comes back she will be alternate #2. Unless more people have come forward to become alternates then a decision would need to be made.

Wilbur explained we are short an alternate, and Mr. Cameron is not extending his term after October of 2008.

The person here at the time becomes alternate #1, when other alternates are away are # 2 because the other person is physically not here, explains Krieger.

Reilly is questioning about who appoints alternates to the P & Z Board? It has to go in front of Council to get approved and if Mr. Cameron retires tonight does it go to Council that we as a Board recommend that Mrs. Ritter comes instead of Ms Zindel, do we keep it in house or does it go to Council for vote?

Reilly states that Zindel will be back by November 1<sup>st</sup>, November 3<sup>rd</sup> the first Council meeting. The recommendation would have to be made ahead of time.

As an advisory Board do we have the responsibility to recommend to Council who the Board feels would be the best alternate, it would be Councils choice to choose out of the alternates available who would fill the position, states Wilbur.

Wilbur would like to recommend to council what we would like to do; to move alternate #2 ( Mrs. Ritter) to alternate #1 position to fill a potential vacancy at the end of the month, and to move Ms Zindel to alternate # 2 position.

Wilbur asks the Mayor about how he recalls how the Council feels about alternate positions on Boards are the filled by the Board or by recommendation from Council as to who moves up from alternates to full time positions?

Mayor says, that in the past about 8-10 years ago the Council let the P&Z Board do it the way they want to, but it seems more recent the Council wants to get involved , I recommend that you send a recommendation to Council of what you want to do.

Reilly asked that the minutes reflect that Ritter is a voting member tonight in Ryan's absence and that she abstained from the vote.

**Vote: Ayes: 4; Abstained, 1 (Ritter abstained).**

#### **G. DISCUSSION ITEMS:**

##### **3. Evaluate & Appraisal Report (EAR) Amendments**

**Exhibit:** Agenda Report No.3

**Recommendation:** Discussion

Reilly said he spent quite a bit of time reviewing it. It was very detailed and it should be coming from the consultants. The maps were incredible and opened up fast and had had great detail. He also stated he liked the idea of splitting up the review over the course of two nights. There are nine elements and lots of material to cover. Reilly asked Board about their overall expectation of the report.

Krieger said he wanted a paper copy. The maps did not open fast for him. He likes to be able to write on it. Krieger is seeing 5% in some areas and would like to further review. The tables and data should be correct from the consultants.

Ritter would also prefer a paper copy. Staff will order copies for them. Wilbur is reviewing one of the two public copies. The Mayor will review on disc.

Krieger asked about the due date. He thought we had more time -18 months from adoption of report. Clerk will check on due date – is it this Jan or next Aug. and get back to P&Z. To have a PH on Nov 19 do we need to have it then or can we postpone it and have more time to review it.

Chair asked them to send questions regarding report to Clerk so she can forward them to all other members and the consultants. Reilly suggested just writing them down and bringing them to the first meeting. Wilbur asked if Council realizes the importance of the Comp Plan. Clerk said yes.

#### H. OLD BUSINESS/NEW BUSINESS:

##### 4. Foundation Park Boulevard East- Update

**Exhibit:** Agenda Report No. 4  
**Recommendation:** Discussion

Chair asked Franklin to update. Franklin explained that this has been discussed before and staff was directed to pursue the possibility. A survey of the possible alignment was done last April. We listed it as a project for funding with transportation impact fees and it was approved. These funds can only be spent on certain projects that qualify under the criteria. If the feasibility study is positive we will report back and then pursue the next step. When Council was updated at last meeting, a person spoke against it. He lives on Lett Lane and did not think it should be done.

Wilbur said that they have tried to provide development in this area and every project would require access from Booth. This new road at the existing intersection would provide access to develop the area without bringing commercial traffic on Booth Road. It is a very positive development. Krieger asked where the money came from. Transportation Impact fees on new developments within Malabar. They are collected by the County and must be petitioned for by the Town.

**MOTION:** Reilly / Kreiger to support the continuation of the feasibility study for the extension Foundation Blvd and continue the process.

**Vote: All Ayes**

Add Public section to Agenda:

Public:

Tom Eschenberg, Beran Lane. Reminds P&Z of meeting on the 20<sup>th</sup> at 7PM for the Water Star Presentation. Mayor Eschenberg understands that Cameron will not be continuing and hates to see him leave this Board. He hopes it is not over filling out the (financial statement) paper. No, it is over frustration. Cameron stated as an example the looking for new property for town hall and the moving forward with the purchase of the property next door and then it is all set aside. Cameron has tried his best to bring up - Cameron also said he has volunteered on the Trails and Greenways and was smacked down for that. He feels antiquated.

They are an advisory Board and he is getting the feeling that they are being expected to review the plans like they are building inspectors. It was his understanding that they are to review it to

see if it fits into the Town's plan and then recommend Council approval and then the Building Department review the details for permitting.

Reilly also stated that the checklist had been provided by staff to use as a guide for the meetings. He asked Board to review and we will discuss it at our Nov meeting. This procedure will keep us out of trouble. Have as Action Item at the Nov mtg.

**I. ADJOURN:**

There being no further business to discuss, **MOTION:** Reilly / Kreiger to adjourn this meeting. **Vote: All Ayes.** The meeting adjourned at 8:25PM.

BY:

\_\_\_\_\_  
Bob Wilbur, Chair

\_\_\_\_\_  
Denine Fusco-Scarbro, Secretary

\_\_\_\_\_  
Date Approved

DRAFT

**TOWN OF MALABAR**  
**PLANNING AND ZONING**  
**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: November 12, 2008**

**Prepared By: Debby Franklin, Town Clerk**

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**SUBJECT: Developer Recreational Fee**

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**BACKGROUND/HISTORY:**

At the October 6, 2008, the Park Board recommended Council direct a kiosk be purchased and placed at the Malabar Community Park. When I said we could use developer recreational fees I was told we first have to modify the code to allow this.

Article XVII deals with required improvements for developers within Malabar. The Attorney has revised this ordinance to allow developer fees to be used on recreational projects that benefit the entire Town.

Since required improvements is covered in the land development code this requires a public hearing at P&Z before going to Council.

**FINANCIAL IMPACT:**

None

**ATTACHMENTS:**

Ordinance 2008-14  
Section of Malabar Code regarding recreational fees  
Portion of RTCM minutes of 10/06/08

**ACTION OPTIONS:**

Staff requests P&Z recommend Council approval of this ordinance.

ORDINANCE NO. 2008-14

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XVII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTION 1.17.1.H.4 RELATING TO THE USE OF FEES IN LIEU OF LAND DEDICATION FOR PARKS AND RECREATION; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

**SECTION 1.**

ARTICLE XVII Section 1-17.1.H.4 of the Malabar Land Development Code is hereby amended to read as follows:

**“Section 1-17.1. Required Improvements.**

...

H. *Dedication of Lands for Parks and Recreation.* All residential development shall provide an equitable dedication of land for public park purposes and/or fees in lieu thereof pursuant to the standards stated below. The standards provided herein are stipulated to implement policies within the parks and recreation element. The standards shall apply to all residential applications for subdivision approval. No property shall be assessed twice for respective subdivision plat applications unless a rezoning subsequently increases the density permitted on a respective parcel(s) of land.

...

4. *Use of Money.* The money collected shall be paid to the Town of Malabar and placed in a reserve account within a special fund. Monies within the reserve account shall be used and expended solely for the acquisition, improvement, expansion or implementation of parks and recreational facilities of the Town. ~~The monies and accrued interest from fees paid for any given development shall be used solely for acquisition of park land or facilities reasonably related to serving said development.~~

...

**SECTION 2. CODIFICATION.** It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the town of Malabar, Florida; that the sections of their Ordinance may be renumbered or re-lettered to accomplish such intention; and the word “Ordinance” may be changed to “Section,” “Article” or other appropriate designations.

**SECTION 3. SEVERABILITY.** In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the ordinance shall not be affected and it shall be presumed that the Town

Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**SECTION 4. CONFLICT.** All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

**SECTION 5. EFFECTIVE DATE.** The ordinance shall take effect immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member \_\_\_\_\_ The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Council Member Nancy Borton	_____
Council Member Brian Vail	_____
Council Member Charles (Chuck) McClelland	_____
Council Member Jeffrey (Jeff) McKnight	_____
Council Member Patricia (Pat) Dezman	_____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this \_\_\_\_ day of \_\_\_\_\_, 2008.

BY: TOWN OF MALABAR

\_\_\_\_\_  
Mayor Thomas M. Eschenberg

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Debby K. Franklin  
Town Clerk/Treasurer

Approved as to form and  
legal sufficiency by:

\_\_\_\_\_  
Karl W. Bohne, Jr.  
Town Attorney

thereof pursuant to the standards stated below. The standards provided herein are stipulated to implement policies within the parks and recreation element. The standards shall apply to all residential applications for subdivision approval. No property shall be assessed twice for respective subdivision plat applications unless a rezoning subsequently increases the density permitted on a respective parcel(s) of land.

1. *Requirements.* As a condition of development, the developer shall dedicate land to the Town of Malabar, pay a fee in lieu thereof, or a combination thereof, at the option of the Town, for park and recreational purposes at the time and according to the standards and formula described in this section. No dedication or payment shall be required when it can be shown that sufficient park facilities already exist as determined by the application of the recreation standards herein cited for meeting the needs of the projected area population.
2. *General Standard.* The public interest, convenience, health, welfare and safety require that five (5) acres of property for each one thousand (1,000) persons residing in the Town be devoted for park and recreational purposes. To determine park and recreational land to be dedicated within the service area of proposed developments, analysis shall consider available facilities inventoried in the Town of Malabar Comprehensive Plan: Data Inventory and Analysis, and application of the "Technical Standards" established in Section 1-17.1(H)(6).
3. *Fees in Lieu of Land Dedication.* If it is demonstrated by the applicant to the satisfaction of the Town Council that no park or recreation facility can be located in whole or part within the proposed development to serve the immediate and future needs of the residents of the development, or if the proposed development shall consist of fifty (50) dwelling units or less, the developer may, in lieu of dedicating land, pay a fee equal to the fair market value of the land which would have been required to be dedicated as defined in Section 1-7.1(H)(6).
4. *Use of Money.* The money collected shall be paid to the Town of Malabar and placed in a reserve account within a special fund. Monies within the reserve account shall be used and expended solely for the acquisition, improvement, expansion or implementation of parks and recreational facilities of the Town. The monies and accrued interest from fees paid for any given development shall be used solely for acquisition of park land or facilities reasonably related to serving said development.
5. *Determination of Fair Market Value.* Where a fee is required to be paid in lieu of land dedication, the value of the property shall be determined by the value per acre assigned by the Brevard County Property Appraiser on the most recent tax roll or the sale price at the most recent sale of the property, whichever is greater.

I. **PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING**

3. **Recommendations from Park & Recreation Board**

- Kiosk at Malabar Community Park entrance
- Park fees per categories 1 - 6

Exhibit: Agenda Report No. 3

Recommendation: Action

**McClelland asked if there is money. Franklin stated there is money in the funds from developer's recreation funds.**

**MOTION: McClelland / Vail to approve the kiosks: Withdrawn by McClelland / Vail.**

Discussion: BWF stated Attorney stated the Developer Fee is restricted to projects adjacent to the development. He gave his opinion in writing. Bohne will review. McClelland withdraws his motion and asked that staff gets a price on the cost of a kiosk. Bohne said that it is in Malabar Land Dev Code, Art. XVII, it states it is restricted right after a sentence stating it should be used for recreation to benefit Malabar. BWF said it restricted her ability to use it for the fencing at the disc park. Bohne will amend code and delete the sentence.

Second part of recommendation is park fees. Mr. Hans Kemmier, Park and Rec Board Chairman, explained that the Board reviewed the marked up copy of the fee resolution from the Mayor. They suggested merging the first three types into one and have the same requirements. The 4<sup>th</sup> is a commercial type and they recommended a higher fee for that. The 5 and 6<sup>th</sup> dealt with league sports. They didn't see any difference and looked at them as the same and saw a need for an agreement with a seasonal fee. Considered the mowing, fertilizers, watering, this is the fee they came up with to be in line with what other charge in the area. The money they pay helps to cover the cost of upkeep. This does not pertain to hot dog vendors. Mayor would like to make a point. Renting the pavilion. If a family wants to reserve the park pavilion for a party, there should be some basis for the charge. If the pavilion is open on the kiosk. You do have to keep up it. Do maintenance. And repair. So it is fair to charge some usage. McKnight agrees with Mayor. He can see both sides.

**MOTION: Borton / Vail to revise park fee resolution per the recommendation by the Park Board.**

Discussion. Vail said there should be a small nominal fee. A fee makes them respect it more. The amount spent to maintain it is considerable. He suggested \$20 for half a day. Council further discussed pros and cons of charging for pavilion. Does not want to change the motion.

McKnight agrees with no charge and only a security deposit. Electric is extra. How can you quantify it? All neighboring areas are attaching fees to their parks. They had a group of 65 scheduled for today and they were from Melbourne. It has also been used by home schools. McClelland said that he had rented and it is not an unreasonable amount.

**Vote: All Ayes.**

**TOWN OF MALABAR**  
**PLANNING AND ZONING**  
**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: November 12, 2008**

**Prepared By: Bonilyn Wilbanks-Free, Town Administrator**

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**SUBJECT: Campaign Sign Registration**

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**BACKGROUND/HISTORY:**

At the August 4, 2008, I spoke with Council about the change to our Political Signage Code reference by adding the requirement that the political candidate register with the Town for the placement of the signs. The registration was to provide a contact name, address, fax number, and email address. As explained this would assist staff when contact was needed to be made for the moving or removal of the signage.

Council directed that the Attorney draft the necessary amendment to the Code. Since signage is covered in the Land Development Code, this requires a public hearing at P&Z before going to Council.

**FINANCIAL IMPACT:**

None

**ATTACHMENTS:**

Ordinance 2008-15  
Section of Malabar Code regarding Signs

**ACTION OPTIONS:**

Staff requests P&Z recommend Council approval of this ordinance.

ORDINANCE NO. 2008-15

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE XIX OF THE LAND DEVELOPMENT CODE RELATING TO POLITICAL SIGNS; PROVIDING FOR A REGISTRATION FORM; PROVIDING FOR COMPLIANCE WITH STATE LAW CONCERNING THE PLACEMENT OF POLITICAL OR CAMPAIGN SIGNS, ADVERTISEMENTS AND/OR POSTERS IN A STATE OR COUNTY ROAD RIGHT OF WAY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is necessary for the town to consider both the current need and the long term impact that political signs have on aesthetics in the Town before, during and after a political campaign and election; and

WHEREAS, limited regulation of political signs is permissible under the United States Constitution and Florida Law and such regulation as provided for in this ordinance is in the best interest of the health, safety and welfare of the Town and in the best interest of the public.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, THAT:

**SECTION 1.** ARTICLE XIX, Section 1-19.10 B (3) of the Land Development Code of the Town of Malabar is hereby amended to read as follows:

**"Section 1-19.10. Temporary permits.**

...

(3) Any political candidate, or person, firm, entity or corporation acting on behalf of a political candidate or political action committee desiring to erect a political or campaign sign, advertisement and/or poster in the Town must complete and file a Political Sign Registration form with the Town, on a form provided by the Town, prior to the erection of such political or campaign sign, advertisement and/or poster. Failure to complete and file such a form with the Town will result in removal of such political or campaign signs, advertisements and/or posters erected in violation of the registration requirement. A permit fee for political or campaign signs, advertisements and/or posters will not be required, provided that said signs, advertisements and/or posters are subject to the following regulations:

a. Such signs, advertisements and/or posters shall be removed within five (5) days following the election. If the candidate or political action committee fails to remove said sign, advertisement and/or poster, within the required five (5) days, the town may remove said signs, advertisements and/or posters. These signs, advertisements and/or posters, will be held by the town for a period of thirty (30) days. During this period, and during regular town business hours, the political candidate or person, firm, entity or corporation acting on behalf of a political candidate or political action committee may claim their signs, advertisements and/or posters but shall pay a service charge of five dollars (\$5.00) to the town for each sign claimed. Any signs not claimed within thirty (30) days shall become the property of the town.

b. Only one (1) stationary sign, advertisement and/or poster per candidate or referendum issue shall be permitted on any one (1) parcel of land, except should there be more than one (1) owner or occupant of said parcel, each owner or occupant shall be permitted one (1) sign, advertisement and/or poster per candidate or per issue of dimensions herein specified.

c. Said sign, advertisement and/or poster shall not exceed sixteen (16) square feet on aggregate area and if detached, shall not be erected in such a manner as to constitute a roof sign. Notwithstanding the provisions of this subparagraph, a sign, advertisement and/or poster may be placed upon any legally existing sign structure but not so as to cover an existing sign.

d. Political or campaign signs, advertisements and/or posters may be allowed in a public or private right-of-way but shall be located no closer than 3 feet from the edge of pavement or in the case of a dirt road no closer than 3 feet from the edge of the dirt or no closer than five feet from the edge of a sidewalk, bike-path, or ped-way. Furthermore, any such sign, advertisement and/or poster allowed in a public or private right of way may not be placed any sooner than 81 days before the election. Such signs, advertisements and/or posters shall not be placed closer than 50 feet to a sign of the same candidate, referendum or political issue. Notwithstanding the provisions of this subsection, no political or campaign sign, advertisement and/or poster shall be erected, posted, placed, painted, tacked, nailed, or otherwise displayed, placed or located on or above any state or county right-of-way.

e. No political or campaign sign, advertisement and/or poster shall be:

- (i). Located such that it obstructs, impedes, or otherwise creates a hazardous condition for safe and normal flow of pedestrian or motor vehicle traffic.
- (ii). Erected on private property without the consent of the property owner.
- (iii). Placed on any tree, utility pole, fences or fence post.
- (iv). Placed in or on government-owned property such as a park'

## **SECTION 2. CONFLICTS.**

All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this ordinance

## **SECTION 3. CODIFICATION.**

It is the intention of the town council of the Town of Malabar, Brevard County, and it is hereby provided that the provisions of this ordinance shall become part of the Land Development Code of the Town of Malabar.

## **SECTION 4. SEVERABILITY.**

Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions or parts of this ordinance.

## **SECTION 5. EFFECTIVE DATE**

This ordinance shall take effect immediately upon its adoption.

The foregoing ordinance was moved for adoption by Council Member \_\_\_\_\_.  
The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Council Member Nancy Borton \_\_\_\_\_

Council Member Brian Vail \_\_\_\_\_

Council Member Chuck McClelland \_\_\_\_\_

Council Member Jeffery McKnight \_\_\_\_\_

Council Member Pat Dezman \_\_\_\_\_

This ordinance was then declared to be duly passed and adopted this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008.

**TOWN OF MALABAR**

**BY:** \_\_\_\_\_

Mayor Tom Eschenberg, Chairperson

P&Z Public Hearing: \_\_\_\_\_

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Debby Franklin  
Town Clerk/Treasurer

Approved as to form and content:

\_\_\_\_\_  
Karl W. Bohne, Jr., Town Attorney

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 4  
Meeting Date: November 12, 2008

Prepared By: Debby K. Franklin, Town Clerk/Treasurer

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SUBJECT: Request for Favorable Recommendation

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### BACKGROUND/HISTORY:

This deals with a gate and fence columns that exceed the 54 inches allowed in RR-65 zoning. The property owner has been very receptive to following the procedures and making the necessary corrections to come into compliance.

We have met with him and he has agreed to reduce the height of the gate to six feet or remove it entirely and replace with a gate no higher than six foot.

He is requesting a favorable recommendation from this Board to Council to allow the six foot height on the gate and columns.

He will be here to answer any questions. Town Staff supports his request.

### FINANCIAL IMPACT:

N/A

### ATTACHMENTS:

- Agenda Request Form from Mr. Martinez
- Site Plan Description
- Sketch of property
- Picture of existing columns and gate
- Portion of Code

### ACTION OPTIONS:

Staff seeks recommendation to Council concerning this matter.

**AGENDA ITEM REQUEST FORM  
MALABAR P&Z**

Please submit the completed form to the Clerk's Office:

Town of Malabar  
2725 Malabar Road  
Malabar, Florida 32950

NAME: Armando MARTINEZ  
ADDRESS: 1780 EVA LAKE  
MALABAR, FL. 32950  
TELEPHONE: (386) 569-8880  
(Home) (Business)

Please state the item you wish to have placed on the Town Council Agenda: Agenda Request  
Forms are not permitted for campaign purposes.

Extend the 4 1/2 FOOT TO SIX FOOT  
IN THE GATE.

Please summarize pertinent information concerning your request Agenda item and attach  
applicable documents:

STAFF HAS THE NECESSARY DOCUMENTS.

Please state desired action by Town Council:

Approval by P&Z and Town Council.

Signed:

Date:

[Signature]  
11/13/08

**Site**

SITE PLAN

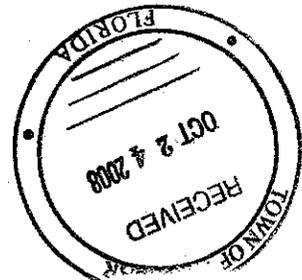
Location: 1780 Eva Lane, Malabar Florida  
Attention: Roger Bldg. Dept

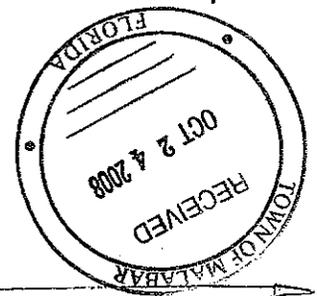


I have forwarded a copy of my site plan for my Gate Entrance and wood horse fence. The dimensions are highlighted below.

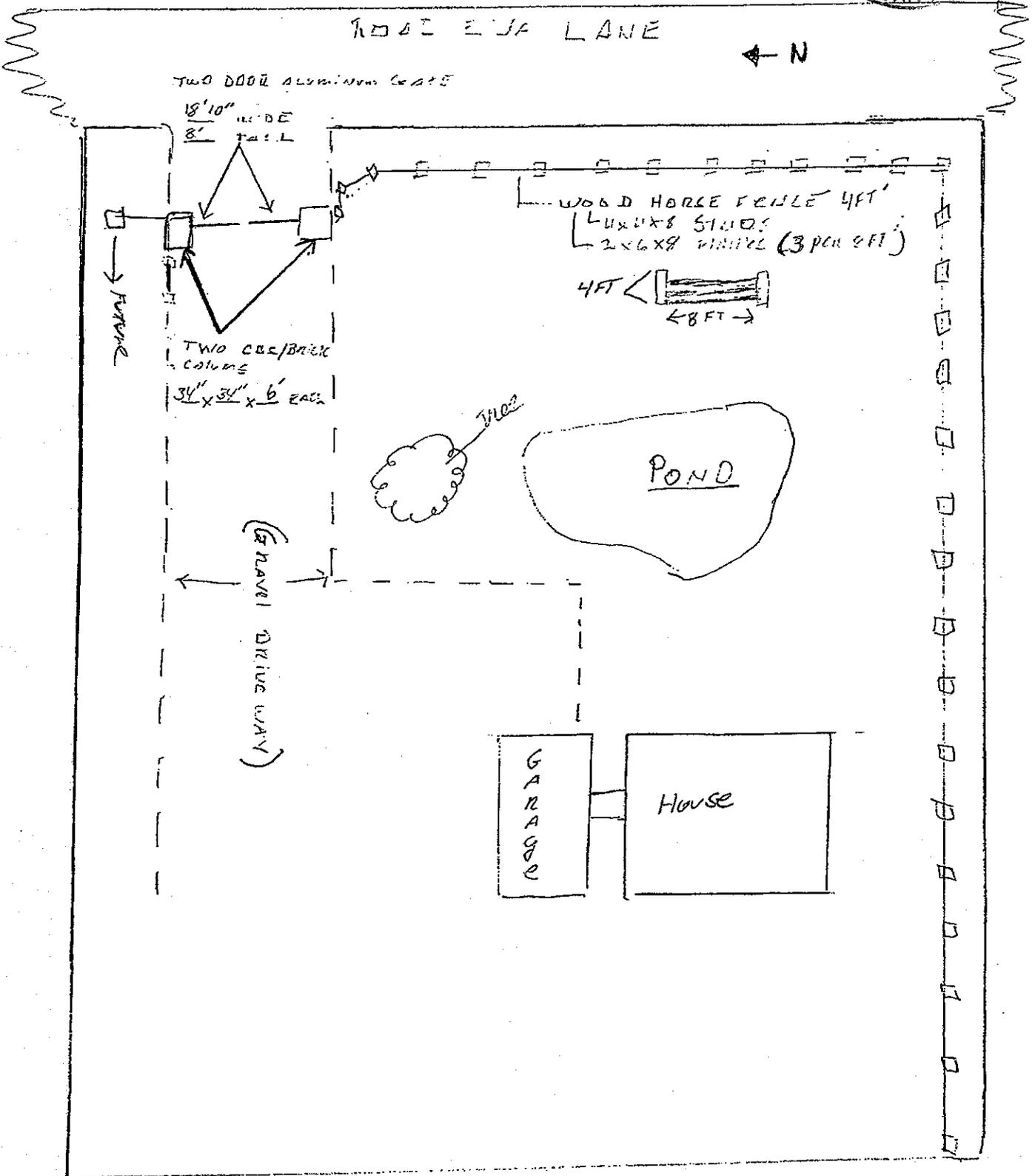
- An aluminum gate with two CBS/Brick columns, the exact dimensions are described below:
  1. The Columns are 34 X34 inches wide and 6 Feet tall. They are of CBS construction and the exterior is covered with bricks. A sound foundation and rebar was used to ensure solid construction.
  2. The Aluminum gates are two gates each 9 feet 5 inches wide totaling 18 feet and ten inches in width. The gates are six feet in height but crest to eight feet were they meet in the middle.
- A 4 foot tall wood Horse Fence with three 2X6X8 rails and 4X4X8 studs. The Studs are eight feet apart. Concrete was used at the base of all the studs.

As you may have already seen, the improvements to my property are not an eye sore and add to the property value of my home and the other homes in the area. I also got the idea from other developments in Malabar. Please contact me at my cellular telephone if you have any questions: (386) 569-8880. I will not be back in Malabar until the week of October 31, 2008 due to work obligations. I will be in on November 1, 2008 to pay for any and all permit fees. Thank You





**SITE PLAN**  
**Location: 1780 Eva Lane, Malabar Florida**



(b) *Permit required for fence or wall.* No fence or wall shall be constructed, erected, replaced or altered unless a permit therefor has been obtained from the Town by the owner of the property on which such fence or wall is to be located, or by some other person duly authorized by such owner. The application for such permit shall be on a form provided by the building official and shall be accompanied by drawings showing the proposed location of and the specifications for the type of construction of such fence or wall.

(c) *Permit fee.* Permit fees shall be calculated in accordance with Resolution 9-94 and all succeeding fee resolutions. Valuation of such fence or wall for the purpose of establishing the permit fee shall be determined by the building official. No permit shall be issued unless and until all fees associated with said permit are paid.

(d) *Materials and design requirements.*

1. All fences or walls constructed pursuant to the permit issued in accordance with this article shall comply with all applicable provisions of this Code relating to the type of construction, required materials, height and location.
2. All fences or walls shall be designed, constructed and secured in accordance with the adopted building code to meet the specified wind load.
3. Posts and stringers required for the support of fences shall not be visible from the side facing any adjacent or abutting property, for which such fence permit was issued. Wood post shall be pressure treated or of a wood type with a natural resistance to decay and termites as listed in the adopted building code.
4. All walls shall have a painted surface with struck mortar joints or, stucco or other finished surface on the side facing any abutting property for which the permit for such wall was issued.
5. The following provisions shall be prohibited in any fence or wall:
  - a. *Electrified wire strands.* Except in the RR-65 districts when used for the control of animals and only around the control area.
  - b. *Barbed wire.* Except in the RR-65 districts when used for the control of animals and only around the control area, and for the top of fences in the commercial, industrial and institutional districts.

(e) *Height restrictions for fences and walls in residential districts.* Fences or walls located, erected, constructed, reconstructed or altered on any property located in a residential district shall comply with the following height requirements:

1. Except as provided in this section, no portion of any fence or wall located between the front building line and the front lot line be more than four (4) feet in height.
2. Any fence or wall located to the rear of the front building line shall be six (6) feet or less in height, except for corner lots.

3. For any corner lot of which the rear lot line abuts the side lot line of another lot, that portion of such fence or wall located between the side right-of-way line and the side building line adjacent to the side right-of-way shall be not more than four (4) feet in height.
4. For any lot or parcel not containing a structure, the requirements of subsection (e)1, (2) and (3) shall be applied to required front and corner building lines in the same manner as if a structure had been constructed in accordance with such required yard area or setback as specified within the zoning district requirements.
5. Any lot or parcel located within a RR-65 District shall be permitted a fence or wall fifty-four (54) inches or less in height within the required front yard. Higher fences and walls, not to exceed six (6) feet in height within the required front yard may be authorized by the Town Council after considering the recommendation of the Planning and Zoning Board. Prior to approving subject structure the Town Council shall render a finding that the structure is safe and visually compatible in the area. Such fence or wall shall be constructed in a manner that provides adequate visibility at any public or private right-of-way, driveway or street providing access to such lot or parcel, and at any abutting intersection.

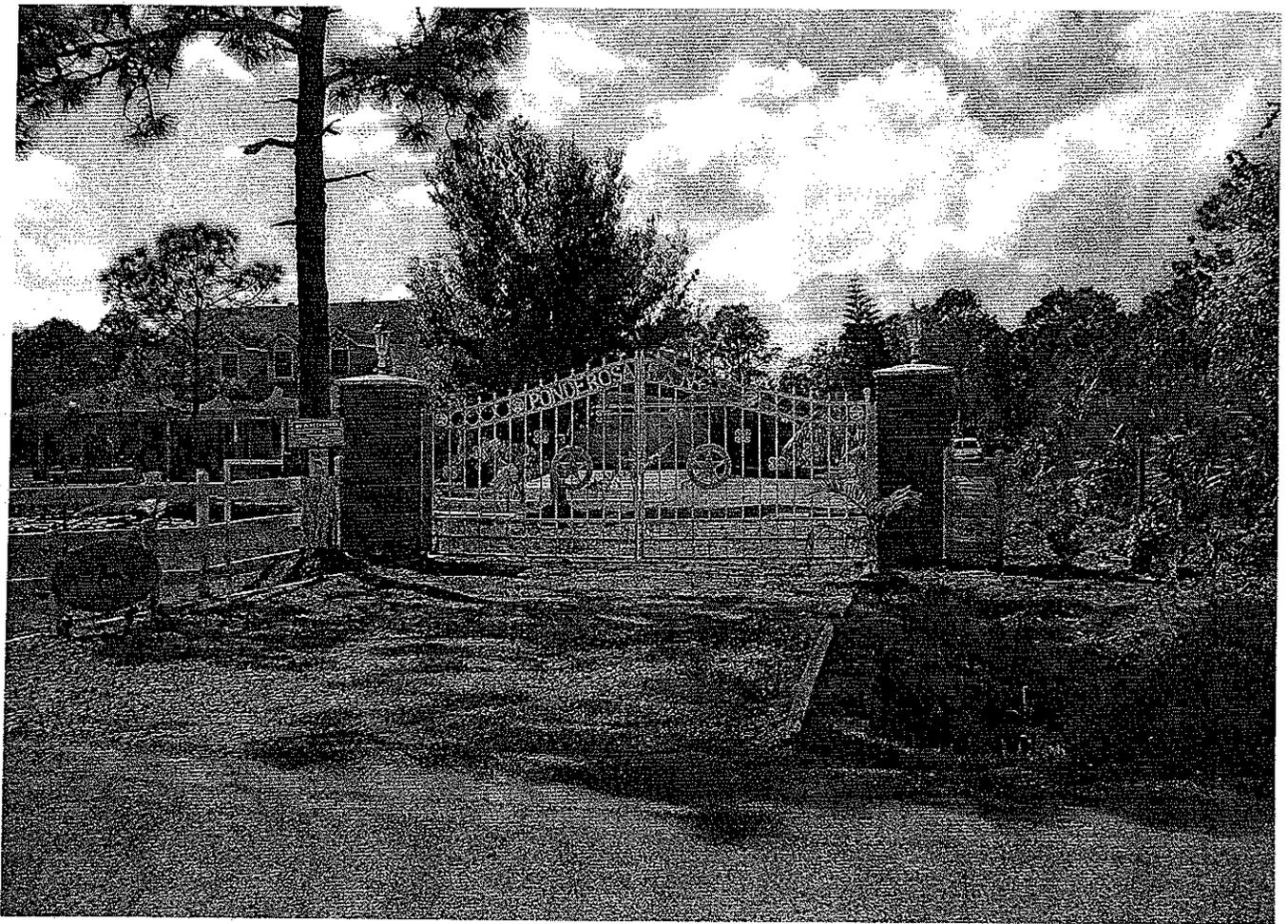
(f) *Height restrictions for fences or walls in commercial, industrial and institutional districts.* Fences or walls located, erected, constructed; reconstructed or altered on any property located in a commercial, industrial and institutional district shall comply with the following height requirements:

1. Commercial district shall be no more than six (6) feet in height. An additional twelve-inch section for security with barbed wire attached may be permitted, total height shall not exceed seven (7) feet in height.
2. Industrial and institutional districts shall be no more than eight (8) feet in height including barbed wire for security.

(g) *Maintenance of fences and walls.* All fences or walls in the Town shall be maintained in good repair and in a structurally sound condition. All fences shall be upright and plumb continuous in alignment.

(h) *Restriction of fences or walls on public easements, utility easements and public rights-of-way.*

1. No wall shall be constructed on any public easement, utility easement or public right-of-way.
2. No fence shall be constructed on any public right-of-way, and except as provided in subsection (3) hereof, no fence shall be constructed on any easement.



1780 EVA LANE  
ARMANDO MARTINEZ  
TAKEN : 10-20-08

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 5  
Meeting Date: November 12, 2008

Prepared By: Debby Franklin, Town Clerk

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**SUBJECT: EAR Amendments (Ord. No. 2008-18)**

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**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. Special Joint Meetings were held on October 22 and October 29, 2008 - Elements Future Land Use, Transportation, Housing and Intergovernmental Coordination on the 22<sup>nd</sup> And Elements Public Facilities, Conservation, Coastal Management, Recreation & Open Space and Capital Improvements on October 29<sup>th</sup>. Recommendations for changes to these amendments were put in a memo format and will be on the P&Z agenda on November 19, 2008 for review and recommendation to Council.

P&Z will also vote on a recommendation to Council on the Public School Facilities Element and a Capital Improvement Element.

Changing the text of the Comprehensive Plan is a legislative item, not quasi-judicial.

The PZ Board sits as the Land Planning Agency per Article XII of the Land Development Code and is charged with making a recommendation to Council

P&Z will hold a Public Hearing on this next week on November 19, 2008. Council will hold a Public Hearing for Transmittal of the EAR amendments on December 1, 2008.

**FINANCIAL IMPACT:**

N/A

**ATTACHMENTS:**

Minutes from Joint Meeting with Council on 10/22/08  
DRAFT minutes from Joint Meeting with Council on 10/29/08.

**ACTION OPTIONS:**

"The following draft minutes are subject to changes and/or revisions by the Town Council and shall not be considered the official minutes until approved by the Town Council."

**MALABAR TOWN JOINT SPECIAL MEETING**  
**October 29, 2008 6:00 PM**

This Special Workshop meeting of the Malabar Town Council and Planning and Zoning board was held at Town Hall at 2725 Malabar Road.

**A. CALL TO ORDER:**

The meeting was called to order at 6:00 pm by Chair, Mayor Eschenberg. The prayer and pledge were led by P&Z Chair Bob Wilbur.

**B. ROLL CALL:**

COUNCIL	
MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	CHUCK McCLELLAND
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	JEFF MCKNIGHT
	PAT DEZMAN
P&Z MEMBERS	
CHAIR	BOB WILBUR
V-CHAIR	PAT REILLY, excused
MEMBERS	RICHARD CAMERON, excused
	BUD RYAN, excused
	DON KRIEGER
ALTERNATES	LIZ RITTER
	CINDY ZINDEL, excused
STAFF	
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

**C. ADNNOUNCEMENT:** McKnight will have to leave at 8PM.

**D. PRESENTATIONS:**

EVALUATION AND APPRAISAL REPORT (EAR) AMENDMENTS REVIEW WITH PRESENTATION BY CALVIN GIORDANO AND ASSOCIATES, INC.

1. PUBLIC FACILITIES
2. CONSERVATION
3. COASTAL MANAGEMENT
4. RECREATION & OPEN SPACE
5. CAPITAL IMPROVEMENTS

Lorraine Tappen started off and introduced herself and other staff. Sandra Lee and Patrick Figarella from CGA Inc will be presenting and answering questions on these elements.

In review of the last week's presentation, she went over the EAR report requirement for audience and Board and Council. It is a 2-part process. This is the second step.

This will keep the Comp Plan current with local issues and compliant with State law. She reviewed the major issues identified by residents during the scoping meeting.

(Note: the EAR Amendments are on the website and so is the power point presentation from last week and tonight's meeting for audience benefit.)

They will go over the elements and summary and then take questions from anyone.

Each section has two parts – the goals objectives and policies or (GOPs) which is the regulatory side; and the data inventory which is used to back these up.

Patrick Figurella worked on the Public Facilities Element. He reviewed the providers: Malabar sewer by Malabar Utility who contracts with Palm Bay. He explained the capacity of the two treatment plants in Palm Bay. Private waste water system at Harris, Enchanted Lakes, etc.

Solid Waste – Waste Management, (WM) handles this service. The landfill currently has a 10 year capacity. New location has a planned 50 year capacity.

Drainage is based on a 10 year, 1-day storm. Potable water is provided to 20% of residents with water. We purchase it from Palm Bay. 4.7 MGD reducing to 3.4 MGD supplied by lime. He discussed the capacity.

Groundwater Aquifer recharge – there are no areas that are identified as prime groundwater recharge.

Policy is to coordinate with Brevard County and the City of Palm Bay on future water needs. Policy is to prepare Master Drainage plan by 2013 to correct deficiencies. Policy to do at least annual drainage maintenance. Increase the stormwater run-off ability. Retain runoff to maximize ability to recharge.

Coastal Element: Sandra worked on this element and the coastal high hazard class. In the past, this was meant to protect coastal areas. Per FS 163, Coastal High Hazard Areas (CHHA) have been redefined. Our CHHA is in the NW corner of the Town. The inset of map shows appx 10 homes in the Brook Hollow area – not near the coast at all. This is different from Flood Zone areas. She explained the rationale behind this designation and the surge potential from Turkey Creek.

She also reviewed coastal areas and incorporated in the policy the recommendation to encourage opening access for public use and suggested pursuing grants. When the State reviewed this in the EAR, they had requested we maintain the coastal parcels as coastal preservation. The IRL is a nationally recognized water system. There are many agencies looking into the protection of the IRL, such as CCMP and SWIM.

Conservation Element: Unique situation here – there is a large amount of undeveloped land in Malabar but not large areas of invasive species. CGA, Inc used mapping information from Fish and Wildlife Agency – they actually map invasives. There are no areas mapped as invasives in Malabar.

There are 950 acres under State control and 150 under Town for conservation. The development policies recommended will allow us to steer applicants to the appropriate jurisdictional agencies on how to develop those areas.

The IRL coast throughout Malabar is all designated as aquatic preserve and has also been designated by the State as part of the Florida Outstanding Waters. Protect shoreline vegetation.

Parks and Open Space Element – many of your park areas fall under conservation. Purpose is to guide policy development. This includes a full inventory. She went over the .inventory list. Total showed error on PowerPoint presentation and she will correct.

Having over 1000 acres for a Town our size is very impressive. Malabar requires five (5) acres per 1000 of population for recreation purposes. We currently have 17 acres plus per 1000 persons.

- Town indicated we need more detail and we can amend the LDC for park and conservation development.
- Also provide trail system master plan

Capital Imp Element – lays out the needs to accomplish, and estimates the costs and schedules the projection date for completion. They used projection of 4% increase in revenues and total expenses are the same. The schedule looks pretty bare bones. The town is not proposing LOS projects.

We do need to include the FDOT projects. We are required to have the I95 widening on our plan and they have 15 Mil planned for it.

We will be looking at the CIE, PSFE and the Update to the CIE at the next P&Z meeting. Our PSFE must include the school boards 5 year plan is being coordinated with. It reflects projects from 2009-2013. This will have to be updated annually.

Jeff McKnight asked if the coastal preservation zoning designation is common in Florida. Sandra said no, it is very unique. It is a benefit to the Town. McKnight has checked and he did not see it in other counties. What is the requirement from the State per FAC 9J5? It does not require this designation. They do have requirements to provide access and a water related uses. There is nothing codified in the State FAC requiring us to maintain this designation but the State did ask Malabar to keep it.

Liz Ritter asked how the State drains the water off the US1. Patrick said if it goes straight out to the river it would be inconsistent with State policies. BWF explained that she toured with the State and they do filter the runoff.

- Krieger referenced the Coastal Element, page 5-2; he suggests that there are HOA that have piers – Coquina Point and Rocky Point and a private organization. He thinks these are the people we have to coordinate with. Wants the policy wording changed to include these groups.
- Bob Wilbur, page 5-4, the old mail drop was at end of Orange Ave. And another to the north. Don Krieger said that there was information about the mule train and these areas can only be used for a mule train. CGA Inc. can verify at City of Sebastian.
- Krieger stated the description of the town he was given refers to the channel. Get with Lorraine regarding verifying the town description. Get copy of legal description and send to Lorraine.
  - Don Krieger wants to extend the due dates to complete the policy. Push everything out to the maximum amount of time

Mayor asked about 7-1.6 – promote greenways. The way it reads it only connects recreational area in Malabar. It should refer to cooperation with the other agencies. It is pointed out that it is already mentioned in the next section.

Capital Imp Element – pg 9-12 Policy stating a need a boat ramp for every 2700 of population.

Lorraine explained the LOS per use that are specific to a use are not necessary and are restrictive in the Comp Plan, and she recommends taking them out. Insert the LOS as 5 acres of recreation land per 1000 population and further define it in LDC. Franklin explained the recreation use guide put out by the State that we use when we apply for FRDAP grants. It explains the points given and it can still be used and not be part of the comp plan.

Mayor said that access to river is a directive and asked Krieger about where the access points could be made. Krieger said at the north and the south of Rocky Pt Road. He explained there was a piece of land whose ownership was in question at the north end of Rocky Point. Franklin said it was discussed at P&Z and he was going to research it. It has since been clarified because it now shows as owned by a private party who is negotiating with EELs to sell to them.

Bob Wilbur said there are 3 acres on the east side of the south end of Rocky Pt Road and the Town approached the owner (Sen. Nelson) during the FCT PT2000 grant application period to donate the land for use as a non-motorized boat pier.

The first Town Administrator got involved and the project turned into something completely different with a motorized boat ramp and Nelson was not interested nor did the residents in the area support the project. He later said he would consider selling it if we got grant money.

Across from Malabar on the other side of the IRL is the Archie Carr Preservation. A location on this side and offering eco-tourism would be a win for a blueway/greenway corridor.

Mayor asked for clarification – do we have to do that or work towards that. In the original Comp Plan and it stated we would have public access to the river every ½ miles.

Tappen explained Brevard County also has a coastal element in their comp plan and they are required to provide access and we could discuss with them and negotiate for a joint partnership for access and recreation. That would be a great strategy because if we could get EELs to buy it, this would be a great blueway and greenway combination.

Wilbur said the third access location is the old Mailboat location near Orange Avenue. We could do just like Palm Shores did with the park being built out with parking for about ten vehicles and they had partnered with work from FDOT.

Dezman asked if we had contacted Sen. Nelson recently and asked if he would consider donating or selling to the Town for river access. Nothing recent.

Krieger stated it was not practical because of lack of parking.

On Capital Improvement Element, Krieger pointed out a typo. Mayor said CIE is a five-year plan. If our proposed 5% increase of revenues is also for expenses then we will still have no money for capital improvement plan. Can we state we have no plans for capital improvement projects? Tappen said yes and ours is essentially that – bare bones with only the State and Palm Bay's projects listed.

She explained the CIE only refers to projects that are related directly to LOS. This may and mostly will be different from the CIP where we identify the town's capital imp plans. These projects must have a direct revenue flow. This area gets a separate review from the State.

Bob Wilbur asked about the master drainage flow map and he thinks it would be a good addition. Lorraine said it is not a good idea because it could change.

Regarding Policy 6-1.2.3 then new sewer systems are extended then persons are required by FS and only if there is gravity main.

- He will email BWF the FS reference. If there is a public gravity sewer installed and if there are package plants they are not a septic system and they would not be required to hook up.

If there is no public sewer or package plant available they would have to have water treatment consistent with the density of their development. If the size of the lot is large enough to permit septic, then they would have septic.

The FS says that a *private septic* must hook up to public system – it would take political will to extend that into the existing neighborhoods. If soil conditions changes and they are not able to have working septic, then they could be required to hook up.

Liz Ritter asked if there are FS requirements – you can have – no requirements for a public system. Large lots allow the septic system. Borton asked if the State would mandate sewer system along the river. No. The statute requires you to connect if you have a septic system and. Mayor asked about the distinction he is stating about gravity system. They don't mandate the type they only require the hook up. It is not the same for water. The well protection zones won't allow for developments without city water.

Parks and Rec – Comp Plan does not require you to accommodate certain recreation types rather than list the types of. These standards were based on State guidelines.

On page 7-2 it lists the trailhead as a park and it is a trail and should be classed under intermodal transportation. This was also caught last week and bulleted in the minutes.

Krieger asked for the plan from tonight.

Tappen stated the proposed changes will come to P&Z for a Public Hearing on November 19th. The proposed changes will be in a bulleted memo attached to the amendments. P&Z will recommend Council adopt with the changes noted and transmit to DCA.

The TC will have a PH on it on Dec 1. Tappen will provide the memo with the proposed changes earlier so P&Z members can review it before the meeting.

Mayor asked about recharge area 4-4.1.3 refers to new development. The policy is to amend the stormwater plan. Mayor doesn't want to commit to too much.

Referring to Coastal High Hazard Area and it showed Brook Hollow in the area and shows where the storm surge would cause high hazard flooding. They would anticipate the combination of the tributaries.

She showed the map that showed the areas I this category. Mayor thinks these people should be notified. Dezman said they know.

Bob Wilbur said this is a storm surge map and not a flood map. He also said that when the Brook Hollow developer came in the Town required them to make the buildings above the 100 year level and they complied. During the recent Tropical Storm Fay, the water from C54 was spilling over and contributing to the surge.

Don Krieger asked about page 4-13 – monitoring the ground water. The FDEP does this from *monitoring wells – the town should coordinate with these agencies – why does this state private wells*. It read like they could come onto your property. *The level of detail – The state will monitor the state of the water that provides quality of ground water.*

- *Change out private wells to ground water. This is a public health issue.*

- On B. on page 4-13, the year was 2013 because it was the end of the 5-year plan.

Bob Wilbur asked if I got anything from Pat Reilly or other P&Z members – I have not as of this meeting.

Mayor asked if we had any final comments.

Lorraine thanked the board and the Council for the clarification and suggestions. There are people that like to live off the grid and don't like the fees. I will send them to email to them and send to Lorraine.

11/19/08 P&Z will have PH on this  
12/1 PH at TC

CIE will have first reading on 12/1 and PH on 12/15

The DCA will review and send ORCs (Objections, Recommendations and Comments) by March or April. Then Town will formally approve.

Dezman asked about the changes – they will be asked to vote on the amendment and the changes. Yes, the EAR Amendments as presented in these two meetings, plus a bulleted memo with the recommended changes from these meetings.

BWF said she uploaded the amendments and also the Power Point presentation and suggested making audio tape copies for the absent P&Z members.

#### **E. ADJOURNMENT**

There being no further business to discuss, **MOTION:** Dezman / McClelland to adjourn this meeting. **VOTE:** All Ayes. The meeting adjourned at 8:20 PM.

BY: \_\_\_\_\_

Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

\_\_\_\_\_  
Debby K. Franklin, Town Clerk/Treasurer

\_\_\_\_\_  
Date Approved

**MALABAR TOWN JOINT SPECIAL MEETING**  
**October 22, 2008                      6:00 PM**

This Special Workshop meeting of the Malabar Town Council and Planning and Zoning board was held at Town Hall at 2725 Malabar Road.

**A.    CALL TO ORDER:**

The meeting was called to order at 6:00 pm by Chair, Mayor Eschenberg. The prayer and pledge were led by P&Z Chair Bob Wilbur.

**B.    ROLL CALL:**

COUNCIL	
MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	CHUCK McCLELLAND
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	JEFF MCKNIGHT, excused
	PAT DEZMAN
P&Z MEMBERS	
CHAIR	BOB WILBUR
V-CHAIR	PAT REILLY
MEMBERS	RICHARD CAMERON
	BUD RYAN
	DON KRIEGER
ALTERNATES	LIZ RITTER
	CINDY ZINDEL, excused
STAFF	
TOWN ADMINISTRATOR:	BONILYN WILBANKS-FREE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

**C.    ADDITIONS/DELETIONS/CHANGES: none**

**D.    PRESENTATIONS:**

EVALUATION AND APPRAISAL REPORT (EAR) AMENDMENTS REVIEW WITH PRESENTATION BY CALVIN GIORDANO AND ASSOCIATES, INC.

Lorraine Tappen started off and introduced herself and explained the process that led to this meeting. The comp plan provides basis for development and how it is organized. She reported that almost 10% of town's population was here for the scoping meeting last year. They prepared the EAR and DCA reviewed it and found it compliant. Now we have the amendments. Every 7 years you do the report and then write up the amendments. FS 163 and F.A.C.9.J.5. govern growth management in Florida.

She then review on a power point presentation the items the Town had expressed as important: Enhancing the IRL; Enhancing the mail route; creating a Corridor plan; creating a Greenway plan; Protect rural atmosphere; Address blight.

Future Land Use:

She explained that each element has two sections – a data inventory section and a goals objectives and policies section (GOPs) that inform how your development happens in Malabar. The Comp Plan provides the big picture for the town.

Tappan went over the existing land use map and data. The Existing Land Use Map is not regulatory. It is informational showing the current use. It shows developed SFR is 25%. The conservation area is significant for a town our size.

The future land use map is regulatory and shows RR makes up 60% and this fits this community. Looking at population projections going from 2500 to 4000 in year 2030 is the projection. Malabar has only seen incremental development. If Malabar is *discovered* and develops it is very important that we have the comp plan in place and current. The vacant acreage could bring more than 3000 new persons. The new census in 2010 will provide updated information to compare with these estimates.

Going through the policies:

- Create performance standards to regulate commercial growth.
- Urban service standards to include signage and tree protection
- Malabar Vernacular has been adopted for non-residential commercial and limited com.
- New requirement in 2008 will add green standards. This requires language to provide for energy conservation.
  
- Conservation lands will have new designation with definition. Recommend that within two (2) years the town will update the FLUM to provide for these new designations.
  
- It would be helpful to include regulations for the Coastal Preservation area
- Enhance the PUD regulations to require rural compatibility.
- For the area along Malabar Road, add a corridor plan to that area to encourage compatible uses: low density office and similar uses.
- For non-residential to regulate the intensity (FAR) combination of height and building coverage and came from the land dev code.
- To discourage blight, increase nuisance abatement code. Perhaps more proactive code enforcement.
- More recognition of the Mailboat route. Homes that are reaching the historic status. Amend LDC to preserve and conserve historic building and sites.
- Any development along the IRL shall have minimum impact on it.

Transportation:

Jeff Maxwell of CGA was introduced and presented this element.

He explained they developed policies with safety, convenience and efficiency in mind. They looked at existing conditions and they were rated with the standards – The towns LOS on local roads we have a D and that is good. For federal it is a C for I-95. The two that are failing under existing conditions are Babcock and I-95. There are plans to widen I-95 in the 5-year plan. They will be doing intersection improvements at Babcock and Malabar. This is in the 5-year plan. The widening from Valkaria to Melbourne is in the 2025 plan.

He explained the high crash rate that FDOT uses in their determinations. The intersections with high crash rate were looked at. Future conditions came up w/ scenarios. US 1 will be failing and there is nothing scheduled at this time to address this. All other roads were shown at acceptable LOS.

They added a recommendation to create a policy to provide a corridor plan and a limited access plan for Malabar Road. Continue with the feasibility study for widening.

Bicycle Pedestrian Greenway and Transit Facilities. Come up with a master plan by 2010 – this may be aggressive but plan early rather than later. Require these in new developments. Provide bike stalls and garages to encourage alternative transportation.

Continue to coordinate with SCAT and MPO to get bus service here.

#### Housing:

Malabar has a very high homeownership percentage compared to the County. People are invested here and are staying here. The age of the housing here in Malabar show 30% built between 1980-1989 and 11% between 1950 to 1959.

Housing cost burden. The percentages are similar to Brevard County. 30% is the norm. Nearly 20% of population has a housing cost burden. Policies would include a possible public/private land trust. Look at historic resources. Look at what was built before 1960. Master site file doesn't show the significance of the individual structures.

- Adopt Green Building Stds by 2011 – team up with and get initiatives from ECFRPC to implement.

#### Intergovernmental Coordination:

This includes participation with common areas of concern with adjacent agencies will be worked out. Trans plan, MPO, School population projections. Coordination with MPO. Franklin is working on the Public School Facilities Element and this will come to same meeting for PH. Coordinate with FDEP on issues related to IRL.

What happens next? Take questions from the TC P&Z and residents and make adjustments as needed or present to P&Z and Council for approval.

Meeting next week will go over next four elements.

Nov 19 P&Z will have PH

Dec 1 TC will have PH for transmittal to DCA

Then DCA has three (3) months to review and submit the objections, comments and recommendations (OCRs):

Reilly: Policy 1.3.1.3 – why can't we amend the thing now. Tappan explained this policy recommends that Council would amend the LDC – the reason is because the small towns have small staff – it is hardship to put a short time frame in policy. Two years to change LDC is reasonable – it can be any time within that timeframe. Tappan referenced changing the land use plans and the bundle them. The EAR amendments are considered one of the two LSA the Town is allowed each year.

Mayor asked about population. He thought projection was low – where does it come from? Bureau of Economic Review – same people that provide population data to State for revenue sharing. The good news is the new census will provide solid numbers and we can compare.

Mayor asked about affordable homes – land trust method – Tappan explained the Town could buy land and then have someone build homes and rent to provide affordable housing. What is required? DCA and Regional Planning agencies want us to participate – it is difficult for small towns. Follow-up – we are supposed to assess this. For this one and the ones that we state two years – who is going to check up on it? The DCA may in their review. Lorraine stated they could state we would continue to access alternatives for affordable housing.

Mayor asked about Jeff's report that Babcock was a failing LOS – was that Babcock south of Malabar Road or just the area north. It is showing failing for both north and south of Malabar

Road. Regarding high crash rates – get crash reports from law enforcement agency. Look and compare them to other areas for anomalies. Statistics will vary so look at all intersections. Comparing to a national level may not apply – compare with similar traffic counts and count the accidents.

The two major intersections are Corey and Weber at Malabar Road. Avoidance accidents are still tracked and they could be used. Mayor about LOS – would Malabar Road be a failing LOS if not widened? Yes.

Regarding the bicycle plan – the Towns writes the plan and it is for the Town – it is not sent to any agency to review or approve – it is for Town use. Mayor asked how far out for implementation. It is not restricted.

Reilly asked regarding housing, the data had only up to 2000, can we get newer information – they tried using tax roll data and that information was not clear on what is new builds verses improvements. They will have to wait for the next census.

Bob Rowan asked about how we can use this transportation data to get traffic lights. Jeff explained the threshold on the need for a traffic signal is very defined and it is a last resort for FDOT. They will use only when the volume is there. They would prefer the other changes, lane additions. Putting these statements into our plan and then they review it. Don't be discouraged about the thresholds.

Corridor plan and the FDOT plan – are they going to work together? Yes. They (FDOT) are looking at R-O-W and volume and we are looking at how they will feel about while they are driving through there. Does coming up with the corridor plan ASAP the better to incorporate it and send it to FDOT. BWF and Mayor attend the MPO and FDOT and they are going to look at this. They have also been listening at EOC and this would strengthen this input.

Bud Ryan asked about FDOT criteria. What are the standards? Safety is nebulous. They have thresholds, signal warrants have eight (8) warrants, they have thresholds for volume, turn lanes etc. If AM and PM peaks are failing then they will work their way out from there. BWF spoke about the widening issues, and the issue with the open drainage. They don't have the money to buy the R-O-W. Alternative for now could be to pipe the ditches. Other areas where they already have the row or have closed drainage go forward sooner.

Bob Wilbur said they talked about piping the ditch on north side for bikes and encourage access or parallel to Malabar. We also want to look at how much we are going to need for commercial land development, widening, set backs buffering, etc.

Bud Ryan said the FPL just put in new concrete poles. Bob Wilbur explained the two methods FDOT had in 1986 to widen either Malabar Road or at Township. The State was in the process of reserving ROW when the project got taken off the list.

Bob Wilbur had questions – regarding Sand Hill Trail head – it is part of a proposed trail system and was funded under transportation because it was bought with greenways and trails.

The (DCA) don't want land use changes to come with EAR amendments for review.

The Commercial designation for Harris and IND for Data Mgmt. Look at maps.

FLUM shows Cochrane property as IND and it was bought for conservation mitigation – Tappen explained that the use is ok if it is less intense than the designation.

Liz Ritter asked about the strip of commercial along the RR? Is there access? There is R-O-W.

Don Krieger asked about FLUM - Tappan said it is from the Town and it is regulatory – Town can allow development at a less intense value. The existing land use map is informational – not regulatory. The conservation areas are not on the FLUM. They will be changed later through ordinances. Then if the State sold the land the re-designation would protect them. The FLUM changes are done through ordinances from the town. The map under review is from 1989 with the few changes that have been made since with ordinances.

They discussed the IND and COM designations and the location of Data Mgmt and Harris Corp. Reilly stated that Data Mgmt prints and stores data – they don't manufacture. Harris also does not manufacture - the assemble stuff.

Don Krieger asked if the conflict is with the map. Data mgmt does not fit their FLU. Probably more analysis is needed. If they want to explain we may want to correct.

Bob Wilbur explained the CG was intended for that 500' strip along RR and the access is from W. Railroad and Westland but the adjacent property was bought and developed by Oakmont SD.

Then they discussed the area at the south of town designated as park land. It is called Valkaria Park. It lies within the boundary of Malabar but is shown as being owned by the County. Franklin said that in the early time of the Town the County offered it to the Town but it was never formalized or completed or accepted and still shows as owned by county. Staff will do more research – take action item to solve this per Pat Reilly. He asked if Valkaria Park is owned by the County or the town. We should have passive use of it. We will work with the county. There are plans to put in restrooms.

Mayor said the county has put some facilities at the north side of the airport.

Ask Lorraine to pull up FLU 8-A and get from G-V and work with them. This goes back to the intergovernmental; coordination. It would be interesting to look at their plan. They should be done.

Bob pointed out that on the map 1 the Brevard Hardwoods is CL not institutional. The trailheads are under the transportation. It was purchased with greenways and transportation. On the FLLUM it should be designated as such. We need to come up with a term for it on that map. It is not a park.

In future land use we designated all land uses. The existing use map shows all the existing uses. Should the designation show as industrial? It now conflicts with the FLUM and consider discussion with property owner and see what they plan to do?

We don't make the changes to land use at this time. If they want to make the change they may have to do additional traffic studies.

Bob asked about the differences in the acreages on the Tables 1-2. existing uses vs. FLU – they should follow along closely but not exactly. Bob asked how land that has mitigate within the industrial LU then how can you leave it at that? If they are conservation uses but under the regulatory FLUM designation of IND. It does not reflect exactly what is on the ground.

Existing – use property tax office

FLUM is the comp plan and any additional ord to make change.

The correction can be made when we update the FLUM. Liz asked how the property was taxed. They asked if they had a map showing tax designation of properties. Staff doesn't have such a map.

Going to transportation. 2

10 minute break at 8pm.

Krieger asked why some items had 2 year time to change the code and some earlier. This is the place to state that. Don said he would like to have no deadlines or the maximum timelines. The comp plan has a 5 and ten time frame. Lorraine said it should be between 1 and 5 years. Don said make it 5 years for all items.

1-32. stds for RR density - Don said in some places it says 1.5 and in other it says one and a half. And the definition does state gross acres. Don continued. Gross acres.

Table of land use data – intensity standard came from LDC. Pat asked about the Data Inventory is part of this. Yes. It won't be two separate documents? No they will be combined. When there is a new plan you could pull the GOPs.

Bob asked about the northern most lot on Rocky Pt. Road. It is showing as commercial and should be residential. He also said the Coastal preservation should be on the FLUM and Existing LUM. No it is only on the zoning map. She will take a look at that to change to the land use map. When looking at property he thinks it is important. She will look at this.

Going to the FLU 5 map showing elevations this map is full of errors. The area by the RR showing 0 feet and that is completely wrong – Pat said to use terra-server with Microsoft. Lorraine will check and correct. Bob's experience with the land area, the elevations are wrong.

Re: the FLU4 map it is based on the 100 and 500 year flood area. Area A is an area where no designation has been determined. She will bring the stormwater engineer to discuss Patrick civil engineer and conservation.

In the Data Inv. - the homes from 1950 or older. He would like to know where the older homes are located. She will see if they can find that information on the tax office. They have to be somewhat careful to designate the home historic. You may be obligating them to certain requirements. Unless it is requested by the owner.

Re: the shell midden – there may be information but it would be expensive to investigate. Also Krieger asked if cemeteries are historic. Yes they could be. Should I send her information on the cemeteries?

The ranch at the west end of Atz Road is active agricultural and give it to staff. The Existing map is for our relevant uses. If you know of some corrections they will update the map. Bob is confused with the existing map shows the scrub and the FLUM shows those areas as ind and res. Is that because it is not showing the changes we are going to make.

Mayor ref the LOS – can she verify the widening of Malabar by 2025 or if it doesn't get widened by 2025 what it would show. They will do

Don Krieger, 2-6 bicycles – questions the statement of no sidewalks - isn't the paved boundary path in Malabar? Yes. Also sidewalks in Weber Woods. In the bullets. Is there a need to add sidewalks – separate bicycle from motorized traffic? Jeff said these are recommendations not policies. Next page 2-7 multi use corridor will be kept natural and not paved. He changed that *to leave as natural as possible.*

2-14, sidewalks, change with pedestrian ways. Fat tires and skinny tires. On Valkaria there is a great paved path. Also cater to carts and wheel chairs and motorized wheel chairs and segways. Need to change that. Gainesville has bike path along road and go up a ways and have a walkway. You don't want bikes on all sidewalks. Come up with an addition. Add new sidewalks and/or pedestrian ways. Lorraine said that this plan is not the master plan for the sidewalks and trails – this is the recommendation. We will lay out the master plan.

Prepare an annual report – change to bi-annual report. How often do you have to do the report? You have to do an annual update to the CIP annually and this would coincide with this. Pg 2.19.1.8.connectivity through cross access rows. Setting up a pseudo roadways. The next one, non-motorized –

2-20. For the dates he wants to change from 2010 to 2015 – do as memo to send to P&Z and then to council.

2-21. 2-22 change to 2015

Page 8-3 transportation - .Trails and Grnways committee. Should use this name or change to appropriate committee.

Keep changes separate from what is in original document.

Bud asked about horses. Majority of horses are south of Malabar Road. The Horse trails are north of Malabar Road. Provide for safe crossing on Malabar Road. Bob Wilbur explained the Al Tuttle trail. The County designates the use on their trails. The spine of the trail is multi-use. It is already in the process to continue the paved trail to the trailhead. He envisions further paving of the trail going south and connections to that at some point of time. Some will remain natural. Most of the people that walk in the road. It is important to provide for both surfaces for the town. Need some

Vail said we are not limiting the words to sidewalks or pavement but use the suitable surfacing. Wilbur said that the signage was supposed to go up at Malabar Road and Marie. Flashing light for safe crossings.

Ports said in north Melb at Lake Washington, when they developed them put push button at parkway and Wickham so a rider on a horse could use and the path is grass I those areas for horses. They can't just use mulch or asphalt. Needs some kind of recognition of that. They will include that. They will look at Wickham Park as sample. Bud said they should extend 30MPH west to Marie Street.

**N. ADJOURNMENT**

There being no further business to discuss, **MOTION:** Reilly/Dezman to adjourn this meeting.

**VOTE:** All Ayes. The meeting adjourned at 9:05 PM.

BY: \_\_\_\_\_  
Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

\_\_\_\_\_  
Debby K. Franklin, Town Clerk/Treasurer

\_\_\_\_\_  
11 | 3 | 08  
Date Approved

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 6  
Meeting Date: November 12, 2008

Prepared By: Debby Franklin, Town Clerk

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**SUBJECT:** Alternate and Board Appointments

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**BACKGROUND/HISTORY:**

P&Z Board's recommendation from their October 8, 2008 meeting went to Council on October 20 for action. Council was not willing to take action on this item until I had contacted Cindy Zindel and given her an opportunity to appear before Council and state her level of commitment to the attendance at the Board meetings.

I called and left a message on her phone on October 24, 2008. Since I knew from her memo that she was not expected back in Town until November 1, I expected to hear something before the last council meeting. I have heard nothing as of November 6, 2008. I have drafted a letter to be mailed and hand delivered on November 7, 2008 and will have an update for the Board at the meeting.

**FINANCIAL IMPACT:**

N/A

**ATTACHMENTS:**

Agenda Report Item #4 and portion of minutes from RTCM 10/20/08

**ACTION OPTIONS:**

I. **PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING**

4. **Recommendations from P&Z Board**

- **Alternate position**
- **Feasibility Study**

**Exhibit:** Agenda Report No. 4

**Recommendation:** Action

Chair asked if Council would like to hear from P&Z Chair Bob Wilbur. He explained that the first alternate had taken a sabbatical. They didn't know if council wanted to handle this or not. With the EAR and other developments they wanted to move Alt 2 to Alt 1 spot. That is it as far as the alternate.

The other issue is the Foundation Park Blvd feasibility study and he encourages Council to look at this. He heard that there was some argument against this. He provided background.

Chair asked if Council wanted to tell P&Z what to do or to allow P&Z to handle their own movement. Vail said the Board knows who is working on the Board and who is not. Borton said council appoints the board members. McKnight said he is not sure of the issue. Chair explained that when there is a vacancy should the alt #1 take that place or can they appoint Alt #2. Let council puts the stamp of approval. It takes the responsibility. Dezman said they have worked very well getting direction from the Boards.

McKnight said when he was on P&Z and had to quit to run. If he had to be taken out of order. Bohne said Council appoints and fills vacancy. They should consider Board recommendation. Wilbur said we have an alternate that is in town six months of the year. Being an alternate you need to be aware of the amendments. If the Alt #1 is named to regular member and goes away for six months and the alt #2 will fill in any way. BWF explained the need to be present. The full time member has to have a certain level of commitment. McKnight said he would want to talk to this person.

Dezman said this is the first time she is hearing that the alt #1 – she didn't know that the alt was only here part of the year. There is no automatic that alt #1 gets to fill the next vacancy. The individual boards know there people. Vail said the person that can't regularly attend, then they need to respond and state if they can make the commitment. Table until you hear from alt #1 Bohne said

**MOTION:** Borton / to table. Dies for a lack of second.

Discussion:

**MOTION:** McClelland / Vail to approve P&Z recommendation to appoint Ritter Alt #1 and have her fill the next available vacancy.

**Roll Call Vote:** Borton, Aye; Vail, Nay; McClelland, Aye; McKnight, Nay; Dezman, Nay.

Motion failed 3-2.

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 4  
Meeting Date: October 20, 2008

Town  
Council  
Packet

Prepared By: Debby K. Franklin, Town Clerk/Treasurer

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**SUBJECT:** Recommendation from Planning & Zoning Board

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**BACKGROUND/HISTORY:**

The Town's P&Z Board has made two recommendations to Council. They discussed the alternate position on the Board. The alternates can attend all meetings and participate but only vote in the absence of a regular member. Vacancies on Boards are filled by action of the Council. In the past, movement from position of *alternate* to *regular* member was made based on recommendation of the Board.

The Planning and Zoning Board has two alternate positions filled and would like to recommend which alternate should fill the next vacancy. Mr. Cameron has decided not to continue his appointment to this board. His term expires in October of this year. Board reappointments have been made by Council at the first regular meeting after the election.

The second recommendation is for Council to support the continuation of the feasibility study process for Foundation Park Boulevard. The feasibility study was approved as a project to be funded by transportation impact fees Malabar receives for new construction.

**FINANCIAL IMPACT:**

Unknown

**ATTACHMENTS:**

Draft Minutes of P&Z Board meeting of 10/08/08

**ACTION OPTIONS:**

Staff Requests Action

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 7  
Meeting Date: November 12, 2008

Prepared By: Debby Franklin, Town Clerk

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SUBJECT: Procedures for P&Z

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### BACKGROUND/HISTORY:

P&Z Board's requested procedures to provide guidance during public hearings and land use discussions. The procedures were drafted, reviewed by the Attorney and given to P&Z in October. Staff is following up to seek input from the Board on any proposed changes.

### FINANCIAL IMPACT:

N/A

### ATTACHMENTS:

Memo 08-TC-093a

### ACTION OPTIONS:

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** October 7, 2008 08-TC-093a  
**To:** Planning & Zoning Board  
**From:** Debby K. Franklin, Town Clerk-Treasurer  
**Ref:** Procedures for Planning and Zoning Advisory Board

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### P&Z Steps for a Public Hearing on a land use issue:

- All Public Hearings shall be scheduled as the first item on the agenda and the Chair shall announce for the record "a legal notice of the Public Hearing has been published in the Florida Today Newspaper on \_\_\_\_\_".
- The Chair reads the request from the agenda and calls on the applicant or agent to make their request.
- Applicant/agent states name, address and describes project. Board can ask direct questions related to project to applicant. Chair asks Town's professional staff for comments. At the end of the Applicant's presentation the Applicant should be asked to take a seat to allow public comment.
- The Chair shall open the Public Hearing and allow all interested persons to comment. The Public shall state their name and address and address their comments to the Board. No comment or response from Board is necessary. All comments shall be made from the podium and not from audience. Only one person at a time shall speak and no talking over any person will be allowed. Any person desiring the Board to review documentary evidence shall hand it to the Chair to be passed out to the remaining members of the board. The documents will be then given to the Clerk as a public record.
- The Chair shall then "Close" the Public Hearing.
- Chair asks for motion and second. Discussion. Board can now discuss the request before them based on the requirements within the Town Code.
- P&Z makes their recommendation to Town Council in the form of a motion in favor or against, and shall include the reason. If they recommend denial, they shall state what section of the Code the application has been found inconsistent or deficient.
- The P&Z Secretary prepares a memo with their recommendation and collects the application packages from the P&Z members and forwards all to the Clerk for the Council meeting.
- The Clerk prepares the packages for the Council meeting to include the complete package used by P&Z, their recommendation, the Section of the Code they based their

recommendation on, and the minutes from the P&Z meeting. If the request involves land use, the Clerk drafts the request into an ordinance. If the request is for Site Plan or Conditional Use, the Clerk drafts a resolution. These will be considered under Action or Public Hearing, depending on the type of request.

- For the most part the P&Z will serve in a quasi-judicial function. Review of site plans, building plans, subdivision plats, conditional use permits, rezonings (not associated with a comprehensive plan change), and re-plats are quasi judicial. Comprehensive plan amendments and rezonings associated with a comprehensive plan amendment are not quasi-judicial.