

# TOWN OF MALABAR

PLANNING AND ZONING ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY OCTOBER 28, 2009  
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. CONSENT AGENDA -
  - 1. Approval of Minutes
    - Planning and Zoning Meeting- 9/23/09
    - Exhibit: Agenda Report No. 1
    - Recommendation: Action
- E. PUBLIC HEARING: none
- F. ACTION: none
- G. DISCUSSION:
  - 2. Future Land Use Designation on Malabar Road
    - Exhibit: Agenda Reports No. 2
    - Recommendation: Discussion
  - 3. Future Land Use Designation along Babcock Street
    - Exhibit: Agenda Reports No. 3
    - Recommendation: Discussion
- H. PUBLIC:
- I. OLD BUSINESS/NEW BUSINESS:
- J. 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 28, 2009**

**Prepared By: Denine M. Sherear, Planning and Zoning Board Secretary**

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**SUBJECT: Approval of minutes**

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**BACKGROUND/HISTORY:**

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 P&Z Board Meeting of September 23, 2009

"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 23, 2009 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:	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	CINDY ZINDEL, excused
ALTERNATE:	BRIDGET PORTS, excused
SECRETARY:	DENINE M. SHEREAR

Also present: Debby Franklin, Town Clerk/ Treasurer, Mayor Eschenberg, and Morris Smith, Engineer Consultant.

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

**D. CONSENT AGENDA**

**1. Approval of Minute- Planning and Zoning Meeting- 08/12/09**

**Exhibit:** Agenda Report No. 1

**Recommendation:** Action

Motion: Reilly / Ritter to Approve Correct minutes as noted below. All Vote: Aye.

Krieger/ Ritter, on page 4 third sentence down, Malabar-Open, should be open with one p. same paragraph and enforcement, should be code enforcement.

Krieger, last thing last paragraph, state should be stat. he explains it is an editing term meaning don't change.

**E. PRESENTATION/ ACTION:**

**2. Foundation Park Boulevard Extension Feasibility Study-**

**Jeffrey Maxwell, Calvin, Giordano & Associates, Inc**

**Exhibit:** Agenda Reports No. 2

**Recommendation:** Action

Jeff Maxwell, introduces himself, he is with Calvin Giordano explaining that they are the company that completed the Feasibility study for the Foundation Park Blvd Project; he is presenting a power point slide show on overhead explaining the analysis that was gone through to provide this study. He will be going over the highlights of the study and will then answer any questions.

Maxwell explains there was a traffic analysis done on Babcock Street and Foundation Park Blvd. Analysis included traffic data, including peak hour counts of Foundation Park Blvd (FPB) and Babcock Street, and Booth Rd and Babcock Street. We looked at the wetland impacts concerning this area, to see what kind of delineations are out there to see what we are looking at to pursue this project. Lastly we looked at the cross road intersections.

Maxwell goes on to explain lane configuration of Babcock Street and FPB, deceleration lanes near this intersection and is comparing Booth Rd lane configuration as well.

The level of service for Booth Rd and FPB is "C" or better, which is very good, the level of service is just a level that explains the service of the intersections ("A" being the best, "F" failing, "C" being acceptable and very good)

To determine the possible growth in area we looked at the Towns future land use maps, There are potential commercial and office uses in this particular area.

A land use was taken, and approx. 20% was determined for this land area. This also helps determine traffic flow ratio.

There were 4 different alternative analyses:

- 1- Alternative 1A-No extension of FPB and no improvements to the existing roadway networks, all future commercial traffic would use Booth Rd exclusively and make no improvements to FPB or Booth Rd. FPB would continue to work at a level of service "D" or better, Booth Rd would drop to a level of "F" both in the morning and evening peak periods, due to its over abundance of usage.

Reilly/ Wilbur, has asked about boundary lines in cut out of map shown, Maxwell explains it is a cut out triangle for RR- 65, it is not office or commercial. Franklin explains it is Commercial/ Residential in that triangle, Maxwell will look into this.

Ryan asks if it was RR- 65 how would it have access, Maxwell explains, they would have to go through the commercial development.

- 2- Alternative 1B- No extension of FPB, but signalization and intersection improvements to Booth Rd, all traffic would use Booth Rd, this would be a level of "D" or better
- 3- Alternative 2A- Extension of FPB/ Project traffic utilizes both FPB and Booth Rd, no improvements to Booth Rd, level of service would be "D" or better for FPB and "D" or better for Booth Rd.- Under this scenario you will have to make improvements to FPB but not to Booth Rd, they would both be acceptable levels of service.
- 4- Alternative 2B- Extension of FPB/ Project traffic utilizes FPB only, under this scenario no project traffic would have access to Booth Rd, less costly under this scenario the level of service id "D" or better at FPB and is an acceptable level of service.

Maxwell explains in regards to wetlands, for the local analysis which is the Florida, Fish and Wildlife Commission- there are potential wetlands in the vicinity of the roadway alignment that is proposed and overall project.

The broader look at US Fish & Wildlife Service, they do not show wetlands in the roadway delineation but do show wetlands in the overall project area, where the commercial and office space would be proposed to constructed. In both scenarios there are wetland concerns.

Maxwell recommends the next step is to conduct a formal wetlands delineation to find out exactly what is out there to determine what you are up against and what kind of costs you are looking at to mitigate those wetlands.

Wilbur expresses the wetlands are closer to the southern part of the FPB extension, discussion of re aligning FBP roadway to north and then straighten out to the east.

Maxwell replies there are a lot of possibilities to make adjustments out there we are using the generalized maps once you delineated things then we can go around and accommodate what is out there.

Maxwell states the next step would be to do a formal delineation to figure out what you are up against and then we could come up with some alignments and alternatives and see if it is possible to get out of mitigation impacts. If you cannot get out of mitigation then you would need

to negotiate for credits and purchasing credits which is the cleanest way but can be a little pricey.

Wilbur states, if we can get it mitigated to make that happen that would be great so the rest of that road could be preserved for development.

Maxwell does an overview, recommendation Calvin Giordano is coming up with:

- Alternative 1- No Extension to Foundation Park Blvd and full improvements to Booth Rd. All the traffic would use Booth Rd, but you would need to signalize the intersection and build deceleration lanes at this intersection.

Alternatively,

- Alternative 2B- The extension of Foundation Park Blvd with project traffic only utilizing Foundation Park Blvd under this scenario there will be no improvements to Booth Rd. But do have to construct FPB and put in some deceleration lanes at intersection.

Maxwell explains that a 60 foot ROW for the extension of FPB.

A couple issues of cost, not in presentation:

- Traffic signals cost is 250k to 450k at Booth Rd
- The roadway sections there are a lot of unknowns.
  - We are uncertain of the mitigations for the wetlands, if you have to buy mitigation credits, can be costly.
  - How much ROW acquisition that is involved and the cost of the land.

Wilbur asks if with existing signalization of FPB would we be minimizing our cost in putting in signal lights as opposed to Booth Rd where would have to put everything in .

Maxwell explains the only advantage there would be is to inter connect Booth Rd with FPB for future communications amongst signal lights. The stand alone structure is going to be just as expensive either way.

The board discusses that the approval process to get signal lights is very hard to get, Reilly explains to get two lights next to each other would be very hard.

Maxwell states the one advantage is high relatively high traffic volume on Babcock now and when you put in project traffic, you will have a significant amount of cross street traffic.

Maxwell explains to Wilbur if you put in the 4<sup>th</sup> leg of the traffic signal at FPB you will not have to upgrade Booth Rd and both intersections will work at an excepted level of operation.

Reilly has questions about the Feasibility report.

The board is discussing with Maxell about the report, and the traffic flow, what the county is going to initially look at, initial phase 1 then build out.

Reilly asks Maxwell for an acronym list

Board is discussing percentages of traffic flow on charts in hand out packet, Maxwell explains different scenarios to the Board

Ryan asks about a huge proposed project that would go from present boundaries of Palm Bay to the C- 54 canal and traffic impact.

Wilbur inputs that CG is on Babcock and L/C is to the rear of the property designated for industrial parks with entry way. Make businesses available to operate and not make impact on community

Reilly, expresses to Maxwell it is a very good report.

Franklin, suggest that if there is no more immediate questions for Maxwell, we have some other simulations that were put together by Morris Smith, (New Consulting Engineer for the Town) primarily in the Storm Water area, but very talented in a full array of areas.

Morris Smith, 1754 Barker Street, Palm Bay. Introduces himself and explains wetlands and Cypress pit with power point on overhead viewing to all.

Dennis Brodsky (owns property on Babcock Street), interrupts Smith, explaining that it is all wetlands according to St Johns River Water Management District (STJRWMD), from the back of Callagy Tire all the way to swamp area by FPB extension proposal.

Morris explains the alignment that was set by McKennen Survey Company, showing existing dedication in yellow lines, graphics of area with proposed FPB. The demonstration is going south on Babcock to FPB, turning left by Knights of Columbus and showing an island with Business names, landscaped Blvd and entry drive ROW.

Wilbur asks what the next step is to proceed forward as far as wetland areas, Morris responds that the Town would obtain the services of a biologist to do a walk through and flag the limits of the wetlands, then they do an escort walk with the STJRWMD after that they make adjustments of the locations of the flagging, then have a land surveyor go in and monument those flag locations so they can be shown on a drawing. The fastest permit obtained from STJRWMD was 53 days.

Morris explains once that area is delineated, to looking at a storm water master plan functions to hydrate that wetlands prior to letting the storm water leave the whole area in the commercial site, it is going to have a natural pathway going from north to south.

Dennis Brodsky tells about an option of, the swamp behind the Knights of Columbus wetlands it could be a mitigation factor to make it a real working swamp and develop a small park, to get water from Callagys down a path to the feeder area of the swamp.

Morris, explains it is for the wetlands preservation, to use multi parcels so water is there for STJRWMD, if this particular area is set aside it becomes a central or core area for the wetlands management as well as on site storm water management for the whole commercial development. Two things would happen:

- Preserve the wetlands
- Commercial units would have larger facilities, because multiple parcels would come together to reserve the wetland areas to preserve the area as part of the onsite storm water management.

Wilbur asks Morris if this is a doable project from an engineer's point of view.

Morris responds and says yes. Suggest joining the land owners together to form a possible Commercial Condo. out of the project to work together and have development tools in place that each parcel can take advantage of storm water management system, you would need something stronger than an LLC in place for all those land owners to join together. Wilbur suggests a PUD.

Ritter, states that the land owners in these areas can share parcels between wetlands and working dry lands

Morris explains this would be an interesting way to get harmony to all land owners in this area.

Reilly, asks Franklin approximately how many land owners are in this designated area?

Franklin, states approx. 6 parcels

Board is discussing the amount of parcels in area and triangle area. Morris counts approx 84 to 85 parcels.

Franklin explains the commercial property stops before Booth Rd. There are approx 32 commercial parcel areas; south side of Booth Rd is residential.

Franklin, explains for this stage of this study only the property owners in the abutting area to the proposed areas of ROW , Brodsky explains he owns a great portion of this property. There are two others behind him, Mr. Baker is one of the owners, and he owns the junk yard on US 1. He purchased property approx. a year ago.

#### Public Speak

Dennis Brodsky 1820 Elaine Lane Malabar, all the road reports, how does that interface with the County's feasibility on 4 or 6 Laning Babcock Street? Do the two interface with each other to see what the county plans on doing. There was a new feasibility study from the Brevard County done the first part of this year.

Franklin explains that 6 Laning is already on track to be done on Babcock Street, possibly on the 5 year plan to be done.

Brodsky states the City of Palm Bay is annexing a piece of property down in Palm Bay, south with approx. 30,000 resident near Micco a PUD. near Barefoot Bay.

Ryan asks about it being more urgent to 4 Lane Malabar Rd rather than Babcock Street, since it is a major feeder, seems Babcock Street is in the future and Malabar Rd is in the present.

Wilbur asks for guidance of where this Board goes from here.

Franklin suggests to Wilbur and Board to continue to having staff move forward on this project to the next step or not.

Ryan, this is a feasibility study, it does not necessarily mean that this is the first step in a planned progression that eventually leads to what the feasibility study brought about.

Franklin explains this is true, what Maxwell has presented is 4 scenarios , since the board is set on utilizing existing traffic signals that discounts 2 of those scenarios . The next step is what Smith suggested to get a biologist and get with STJWMD to provide further studies. I can get a copy of Feasibility study from Brevard County about widening Babcock Street, for review.

Wilbur, looking at trip study, something has to happen to improve access to parcels off Booth Rd. I like the idea for potential PUD to develop in this area, there is a lot of leverage for owners, developers, and the Town.

Ryan wants to know what has the better financial impact on town, as far as zoning stand point. Is it commercial, office, residential?

Franklin explaining once it is in the commercial realm it is taxed at that higher bracket.

Smith is discussing the simulation pictures of Foundation Park Blvd, with the Board.

Wilbur, road angles as it goes beyond the Knights of Columbus to make the cut to line up with the projected ROW to the east of Lett Lane. It goes through the middle of the wetlands area.

Franklin, if you look at your wetland maps there are wetlands on the Palm Bay side before they put their road in, it can be dealt with.

Wilbur, suggest to alignment around the wetlands, so we can convince STJWMD we are going to nurture and water the wetlands area, We need to see about creating another ROW either to the north or curve the road somewhere else.

Franklin explains the ROW was picked at FPB because the traffic signal is already existing

Wilbur and Board are discussing the Cypress stands and wetland area on the overhead projection, concerning Lett Lane and ROW alignment.

Board is discussing the different ROW along Babcock near the I-95 Bridge and Community College Road. Brodsky added that Palm Bay at one time discussed bringing Community College Road through to FPB Road.

Wilbur, back to board for discussion,

Krieger expresses what a great feasibility study; we started the feasibility with no cost to town to see what our possibilities were; now it is on inevitable path to spending more money. We should put the information in the town news letter to let the property owners know this is the state of affairs. I don't know why we would go any further to help 6 or so property owners, there are other property owners around Town that need roads widening or fixing a road that would help. It is an interesting case, try an open up a commercial development, how far does the Town go, to the best of my knowledge we have not spent a red cent yet just monies that would not have been utilized anyhow. To go any further without direction would be inappropriate.

Franklin, explains that with the Transportation Impact fees we are still within the budget to proceed

Ryan, states that this all shows great idea, good use of property, the plan looks good.

Franklin expresses to correct the record; there is more like 31 parcels involved, not just 6.

Ritter suggests coming up with an overall plan, and contacting all land owners. Let them come together and tell them about the common wetland area, in a commercial park, but they would have to work together with the dry land owners and wetland owners.

Krieger recommends this information to be a news letter item that the Town has extended funds to do a feasibility study.

The Board is discussing about doing a road re alignment, due to the present images shows the road going right through the wetlands. Smith stated he would realign the road and show new images for FPB. Suggestion from board is to re align road for FPB and join property owners to mitigate land for wetlands and work together with each other.

Krieger, states they only thing we do not want to do is improve the booth side of this. The town is not into building Intersection and paying incredible signalizing fees.

Brodsky, wants to know what is going to go on with this property, he would like to put property up for sale. Wilbur responds as soon as we know we will let you know.

Reilly would like an overlay of plat maps to show the proposed road and land owners involved, and lots would be helpful.

Franklin, states the Planning and Zoning Board historically has always looked at this triangle to possibly modify land use to allow a light industrial, since the state has purchased all our industrial land, especially if traffic comes in off Babcock Street and not impacting the residential part. It has never got any further because when people come forward the residential people do not want industrial, "OI" was put in there as a buffer. The residents do not want Booth Rd used for traffic to get to this area.

Krieger, states that these people off Booth Rd would have a vested interest in opening the alternate road. We have moved as far as we can, we have done the feasibility.

Reilly suggests to continue with St John's Water Management to have more data to go forward to look into wetlands, (if town has money) get free or flag property to continue

Wilbur suggests staff to continue with St John's get back to Board when we know what we have to work with.

Krieger suggests there is a lot more information that this board can look at, especially the planning of Babcock Street.

MOTION: Reilly / Ryan to recommend Council to continue the Feasibility Study of Foundation Park Blv. with continuing with the ST John's Water Management looking into the properties for percentages of mitigation, of what we can do at no cost to the town Vote: All Ayes, Kreiger: Nay

Krieger would like to see motion include a detail of expenditures thus far and even though it is free, would like to see what costs are at next board meeting and I would like the Town Council to be aware of this.

Reilly is not going to add to Motion, it is public record.

Ritter reminds staff to get maps showing owners in designated area to see how many property owners are involved with this project and wetlands

Reilly/ Krieger would like a detail report of monies spent thus far on project.

F. DISCUSSION:

G. PUBLIC:

Tom Eschenberg, 2835 Beran Lane, Malabar, someone referred to this as free money, that this study was being done with, I am not sure of the cost but it is in the budget, you can look at the budget and see what money was set aside to do this study. What this is, is TIFT money (Transportation Impact money) it is not exactly free we got it from developers in the past. The county holds the money and divvies it out; we tell them of a good project to spend it on. The staff convinced the County that this Feasibility Study was a good project so TIFT gave the funds to do this.

The point I want to make, if that TIFT money was not used on this project, it would have still been available to us for something else that may have benefited the entire Town as Mr. Krieger pointed out. I just wanted to make a few comments of where I am coming from on the money.

Ritter states, I never consider it free money, it's always someone's money.

Franklin points out staff never said it was free money.

H. OLD BUSINESS/NEW BUSINESS:

Ryan discusses with Board about Roger (Building Official) asking for guidance on the AAA Mini Storage (2700 Malabar Rd) about them using E. Railroad Ave. (side entrance) that is not allowed or in site plan. They have to use front entrance off Malabar Rd. What is progress on this?

Franklin states, he was given clear directions from this board. I know he is working with property owner now. I don't think any direction was given from Building Official to property owner; Denine can speak better on this.

Wilbur, asks is it Code Enforcement or Building Officials responsibility to handle this.

Franklin responds, it is the Building Official that took that project on, he has not communicated anything to the Town Administrator. The Town Administrator was not aware he was bringing it to P & Z Board.

Board discusses this is an ongoing problem with the tractor trailers turning into side road at E Railroad Ave. It was only suppose to be a secondary entry. It is in violation of site plan.

Franklin explains, Railroad Ave. was not an accepted road to begin with that is why the road was not to be used. To satisfy this Board a side emergency entrance with a gate was put in. Owner of AAA Mini Storage came into Town Hall briefly and I had a short conversation explaining to him that this was not part of his site plan and was not approved and the Building Official would be following up with him. It is not that he lacks the knowledge.

Wilbur, requests a report about AAA mini Storage side road entrance status

Ritter suggests should we take this to Code Enforcement, Wilbur responds with let us see what Roger (Building Official), provides to Board first, and then we will proceed.

Ritter ask about purchase of Logue property.

Franklin replies it went to Council, they were very supportive of this and it went to staff. A person in the audience at Council meeting had real estate get in touch with me, and owners would be willing to discuss selling the property to the Town, and would consider reducing the price if we would name it after deceased brother. No price was given yet. We have established communication.

Ritter asks if we could get a follow up from staff on Logue Property.

**I. ADJOURN:**

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

**Vote:** All Ayes. The meeting adjourned at 8:54 P.M.

BY:

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Bob Wilbur, Chair

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Denine M. Sherear, Secretary

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Date Approved

DRAFT

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: October 28, 2009**

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

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**SUBJECT: Review Land Use Along Malabar Road**

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**BACKGROUND/HISTORY:**

At the last P & Z Meeting on August 12, 2009 the north side of Malabar Road was reviewed starting at the western end of Town and working east to Marie Street.

It was consensus that the recommendations be noted on the maps during the meetings and leave the narrative legal description to the planner and the attorney.

On 7/22/09 P&Z made a series of recommendations for the south side of Malabar Road to the point of Glatter Road.

This meeting will complete the review of Malabar Road, north and south to US1.

The discussion of land use changes along the east side of Babcock Street within Malabar will be the next item. Staff has contacted Calvin Giordano and Associates and requested they hold their presentation on the feasibility study for Foundation Park Boulevard be held until September 23, 2009. The property owners in that area have also been invited to attend the meeting

Please bring packets from P & Z Meeting August 12, 2009 with maps.

**ATTACHMENTS:**

Malabar Road Map of Boundaries and Zoning recommendations discussed to date.



**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: October 28, 2009**

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

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**SUBJECT: Review Land Use Along Babcock Street**

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**BACKGROUND/HISTORY:**

At the P & Z Meeting on August 12, 2009 we did not get to this Item No. #3 of the Land usage along Babcock. We need to Discussion and make Recommendation for possible Land Use changes for the Malabar side of Babcock Street

Please bring your P & Z Packets from August 12, 2009 with the maps.

**ATTACHMENTS:**