

**TOWN OF MALABAR**  
**PLANNING AND ZONING ADVISORY BOARD**  
**REGULAR MEETING**  
**WEDNESDAY FEBRUARY 10, 2010**  
**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 - 01/27/10
    - Exhibit:** Agenda Report No. 1
    - Recommendation:** Motion to Approve
- E. PUBLIC HEARING: none**
- F. ACTION:**
  - 2. Request for Decorative Fence higher than 54" in RR-65 Zoning, 2680 Corey Road, applicant Dale & Barbara Lackey**
    - Exhibit:** Agenda Reports No. 2
    - Recommendation:** Request for Action
  - 3. Presentation by P & Z Board Member (Patrick Reilly) for Land Use: Babcock Street & Malabar Road that will be presented to Council February 24, 2010 Joint Meeting.**
    - Exhibit:** Agenda Reports No. 3
    - Recommendation:** Recommendation
  - 4. Fence Ordinance Proposed by Mayor To be Reviewed by P & Z Board and Request for Approval**
    - Exhibit:** Agenda Reports No. 4
    - Recommendation:** Request for Action
- G. DISCUSSION:**
- H. PUBLIC:**
- I. OLD BUSINESS/NEW BUSINESS:**
- J. ADJOURN**

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service in compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: February 10, 2010**

**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 January 27, 2010

"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**  
**January 27, 2010 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 7:33 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
ALTERNATE:	BRIDGET PORTS
SECRETARY:	DENINE M. SHEREAR
TOWN PLANNER	KEITH MILLS

Also present: Mayor Eschenberg

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

Krieger would like to make an addition, to get back and look at R/LC density under discussion.

**D. CONSENT AGENDA**

- 1. Approval of Minute- Planning and Zoning Meeting- 12/09/09  
Planning and Zoning Meeting- 01/13/10**

**Exhibit:** Agenda Report No. 1  
**Recommendation:** Action

Motion: Reilly / Ryan to Approve minutes for Minutes 12/09/2009. All Vote: Ayes.

Motion: Reilly / Ryan to Approve Correct minutes as noted and corrected below for Minutes 01/13/2010. All Vote: Ayes.

Ritter corrections:

- Page 2 bottom of page second to last sentence, take out the word "there" after is.
- Page 3 last paragraph, first sentence greater tax basin-should be base.
- Page 4, 4<sup>th</sup> paragraph -4 Ryan suggests moving the RR-65 one line over to the west.

**E. PUBLIC HEARING: none**

**F. ACTION:**

- 2. Final Review of Future Land Use Designation along Babcock Street**

**Exhibit:** Agenda Reports No. 2  
**Recommendation:** Discussion

Motion: Reilly / Krieger recommendation to Council the changes P & Z Board has done to designations along Babcock Street.

The discussion among the board members is about the presentation to the Council of Land Use changes.

Wilbur is explaining about taking to Town Council and be able to have input from Council to have a joint meeting and discuss why P & Z did the changes and answer questions.

Kreiger expresses the Motion should be definitive, we are asking for Councils appraisal. Ryan suggests this can be a recommendation.

The Board is discussing which map is to be used for the presentation to Council. Reilly is doing the presentation to Council on February 24, 2010 in a Joint Meeting.

Reilly stated he will use Page 1 of Maps as Exhibit 1 and Page 2 overlayed on Plat map. Zindel has suggested to have existing land use and have and overlay of changes made.

Kreiger states he would like to see Reilly's presentation before it is presented to Council.

Wilbur asks Mills about Presentations he has seen in the past. Mills responds that the Board is on the right track to show the Land Use, then show the changes suggested by this Board, make sure the street names are present.

Ritter drove the area off Babcock Street and expressed the roads are misleading on the maps because the roads do not go through in some areas.

Mills suggest showing ROW even though the roads are unimproved in areas. Wilbur is discussing with Board to label roads and designate the end of a road.

Mills indicated that paper ROW and traveled roads show all areas for land separations.

Wilbur suggests to encourage Council to go and drive the areas where homes are and the neighborhoods are, to see where the roads end so they will be on the same page as P & Z.

Kreiger states as the Motion stands I don't mind going forward with this towards the presentation but I still want to see the next step. Even with the joint meeting there could be changes.

Reilly amends Motion to state to go to P & Z for Presentation- before Council Recommendation to use "Page 2" Map will be accepted for presentation with noted corrections and additions.

Mills suggests showing plats and making sure lot lines are shown. The Plat maps show true lot lines. The more visuals you can have with correct information the more it will be understood.

Ryan commends the Mayor the procedure he implemented to present the Land Use to the Council for the joint meeting.

Reilly expresses he will have hand outs and plenty of visuals of what we will be presenting for **Present Future Land Use** then **Future Future land Use**.

Ritter offers changes after driving the area out at Babcock Street in the Town of Malabar looking at the roads and houses. Booth Road south to make "OI" except for in the center where Lett Lane is, make this RR- 65 on both sides of Lett Lane.

Reilly state we are shrinking the RR- 65 and residents are not going to go along with this kind of change.

Ritter pointing out this would be a good area for a School or Hospital.

The discussion is for Future Land Use of these properties west of I-95. If the Future Land Use that is suggested by Board is close to what the future should be we will not have to change with these with votes in the future.

Reilly is in agreement to keep the "CL" along I-95 and "OI" when you come in off Osage.

Wilbur suggests having "OI" you can be totally out of the Tax Base if you have a church come in to develop or a non profit state organized program, by keeping "CL" you can not loose a tax base for the Town. Ryan agrees with keeping "CL" to use as a buffer.  
Mills reads the "CL" zoning district specifications to the Board.

MOTION: Reilly/ Kreiger the Board is going to use Page 2 Map for the Presentation to the P & Z Board then to Council, All Vote: Ayes

### 3. Final Review of Future Land Use Designation along Malabar Road

**Exhibit:** Agenda Reports No. 3

**Recommendation:** Discussion

Kreiger has found an error on Malabar Road Map, the depth in the "OI" section by the "CG" going up to Howell Lane on the South side of the road goes back to 1,320' feet.

The discussion is "CL" verses "OI" Land Use.

Krieger, asks about "R/LC" to shy away from due to density 6 units per acre.

"R/LC" is high density you will need a water system.

Ritter, expresses to show what land use is on US- Highway1 as it currently is.

MOTION: Reilly/ Kreiger to Recommend to Planning & Zoning to accept this Colored Map for Future Land Use for Presentation with Corrections on Malabar Road. Vote: All Ayes.

Wilbur suggests the south side of Malabar Rd, east of Marie Street, west of Pine Street which is "OI" now, make it uniform and leave "R/LC" on both the north and south sides of Malabar Rd. Kreiger also suggest to make "R/LC" on both north and south in this area.

Wilbur would like to create a "Down Town Area" where people live on the property and have there business, they can only go so deep due to wetlands.

Mills stated this makes a lot of sense to make this a uniform area

Reilly stated that there was not much "OI" on this map when we started; we have added "OI" during this Future Land Use.

Mills explains zoning is compatible to land use, others municipalities do administrator land use there is no reason for Malabar to do administrator Land Use.

MOTION: Reilly / Krieger to Amend the above MOTION to include the changes that we have discussed during this meeting (Listed Below). Vote: All Ayes

- The "CG" just west of Howell Lane on south side of Malabar Rd is to 1320 feet
- The "OI" on south side of Malabar Rd east of Marie Street change to "R/LC" to "CG" just west of RR tracks.

Kreiger and Ritter discussing to color code distances of Malabar Road and Land uses. Possibly use lines for depths and clarify designated Land Usages.

Zindel asks for classification for Environmental Land and Preservation Land, what are the designations?

Board discussed about FLU 1 EAR Map existing to show future land usages in Environmental and Preservation Land.

Mills, show correct land use with existing land use. The FLU 9 is future in 1984 – now.

The FLU 1 is Agricultural & Parks. Mills states the Land Use maps takes care of Environmental Above CL on Marie Street in CL is INS as designated on map

MOTION: Reilly/ Kreiger to Amend the small portion connected to the "CL" located on the corner of Marie Street and Malabar Rd (north side) portion on to "INS" on Marie Street where the Trail Head is located. Vote: All Ayes

**G. DISCUSSION:**

**H. PUBLIC**

**I. OLD BUSINESS/ NEW BUSINESS:**

Kreiger would like to see "R/LC" have a low density. It is now 6 units per acre. A low density would keep a country town like atmosphere where you don't have all this closeness together like Down Town Melbourne. A four or three density per acre with set backs and retainage, detainage would be good.

Discussion among the Board to keep "R/LC" Low Density. Ryan suggests making this an Agenda Item for a future meeting.

Kreiger sees this in conjunction with all changes that are being made to the FLU Maps. Giving money base to bring high density to the area.

Ritter points out that water/ sewer would be needed and some one would have to spend a lot of money to bring this to the particular area.

Krieger stated if you have limitations of less per unit it changes the nature of what they are going to develop. The six units per acre is high is that what we want in our area.

Wilbur asks Mills what he recommends for a Rural Residential community for a lower density throughout the town. Mills suggests you can lower it to 4 units per acre.

Mill discussing if you are looking for "mixed use" concepts ,you have to have higher units per acre if you are not looking for mixed use then you can come down to less per acre.

Discussion is to lessen the units per acre.

Mills other concern are that if you get enough in areas further west on Malabar Road, then you are setting up to allow small lot subdivisions.

Krieger inputs that it changes the nature of the community and this could lead to overbuilding acres.

Reilly talks about the EAR Table 1-3.3a, states about the density levels,

- Medium 4
- Low 2
- High 6
- Rural 1

Board suggests making Agenda Item to look at areas as "RLC" the density table 1-6 in the EAR.

Kreiger discusses the FLU-1 (existing) verses FLU-9 Maps

Board wants to know has the process taken place for the EAR to be processed with the state.

Mills explained the EAR has to be sent to DCS for approval.

Kreiger asks about the "Entrance Way" status. I have written separate descriptions as follows:

- "Entry Ways": Built outside of set backs shall be considered auxiliary structures.
- "Entry Ways" Built within the set backs may exceed 6 feet max. height by a factor of 1 foot additional height for every 15 feet set back from the point of origin of the existing way perpendicular to the ROW.

Mayor Eschenberg explains to P & Z Board, that he took the Fence Ordinance and did line through and additions and it will be on the Council Agenda to look at. for Mondav February

1,2010 Meeting. I am asking Council for a Motion or Consensus to send it back to P & Z Board. If Council Approves what I did to send on to the P & Z Board. What I did was simple. I made a third version and took out all line outs and the third version for the new Fence Ordinance is smaller than the Old Fence Ordinance.

**J. ADJOURN:**

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

Vote: All Ayes. The meeting adjourned at 9:24 P.M.

BY:

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

\_\_\_\_\_  
Denine M. Sherear, Secretary

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

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: February 10, 2010**

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

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**SUBJECT: Dale & Barbara Lackey- 2680 Corey Road, Want to place a Decorative Iron Fence with Electric Gate across Driveway with Height above 54" on property.**

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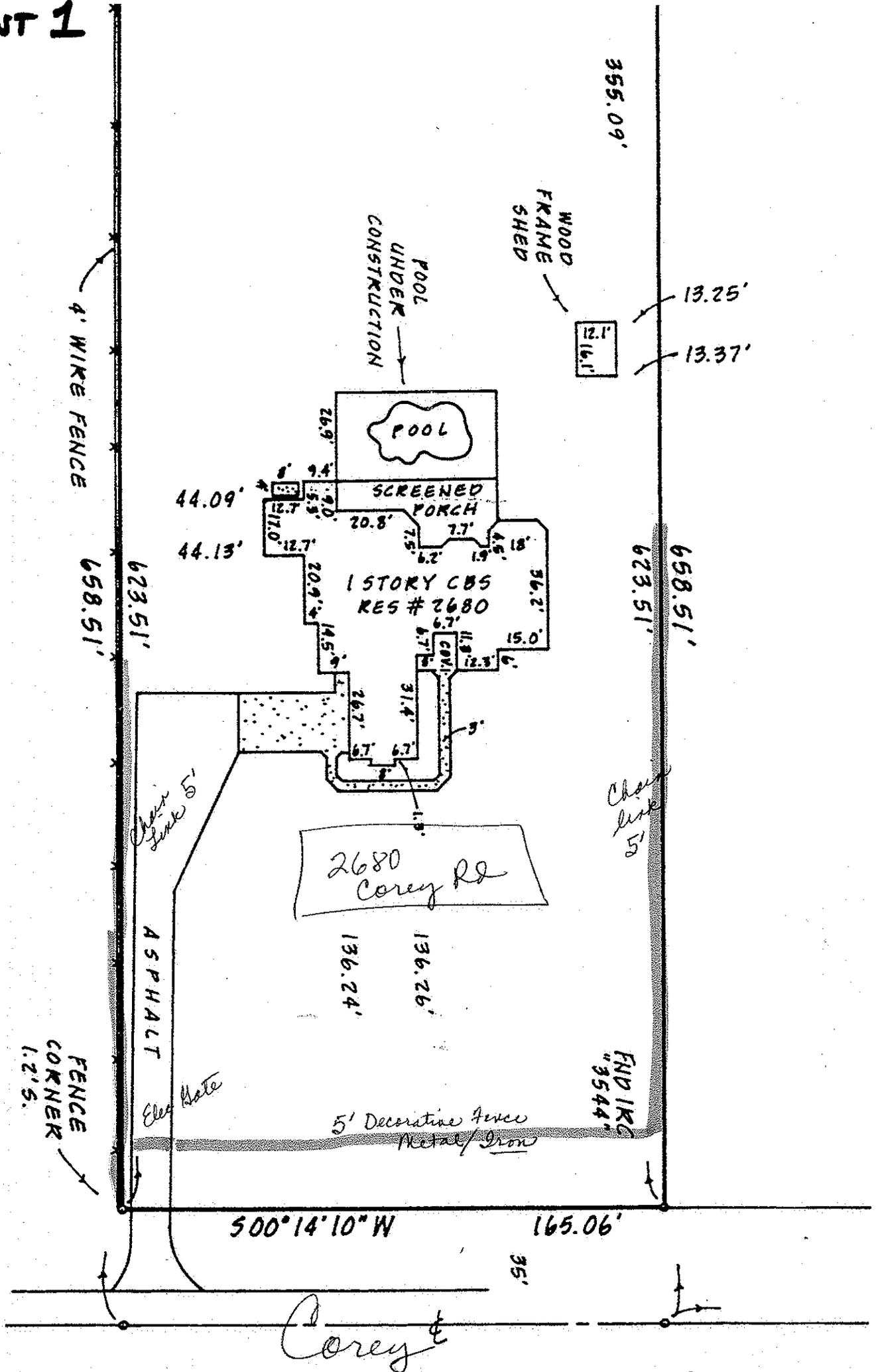
**BACKGROUND/HISTORY:**

Dale & Barbara Lackey would like to construct a fence along with a gate in the front of their property that is above the height of 54" and along sides of property a chain link fence 5 foot in height. They are coming before this board to present their case and reason.

**ATTACHMENTS:**

- Document 1 – Shows site plan of property and location of Fence
- Document 2- Permit Application

# DOCUMENT 1



# DOCUMENT 2

**TOWN OF MALABAR**  
**BUILDING & ZONING DEPARTMENT**  
2725 Malabar Rd., Malabar, FL 32950; Phone: (321) 727-7764 x14, Fax: (321) 727-9997 5782

## FENCE PERMIT

PERMIT INFORMATION	LOCATION INFORMATION
Permit #: 5782 Permit Type: FENCE PERMIT Class of Work: 250 Fence Proposed Use: RR65 RURAL RESIDENTIAL Sq. Feet:                      Est. Value: Cost: 3,200.00      Total Fees: 97.50 Amount Paid:                      Date Paid:	Address: 2680 Corey Road Malabar, FL Township: 29                      Range: 37 Lot(s):                              Block: 1.2      Section: 11 Book:                                Page: Subdivision: Fl. Indian River Land Co. Parcel Number: 29-37-11-00-1.2

CONTRACTOR INFORMATION	OWNER INFORMATION
Name: OWNER/BUILDER Addr:  Phone:                              Lic: QUAL BUS	Name: Lackey, Dale & Barbara Address: 2680 Corey Rd. Malabar, FL 32950 Phone: (321)952-5683

**Work Desc:** TO INSTALL 5" IRON DECORATIVE FENCE ACROSS FRONT OF PROPERTY AND 5' CHAIN LINK FENCE ON SIDES OF PROPERTY AS PER SITE PLAN ATTACHED TO THIS PERMIT.

APPLICATION FEES	
PLAN REVIEW FEE -B/P                      22.50	BUILDING PERMIT                              75.00

INSPECTIONS REQUIRED			
FINAL			

**WARNING TO OWNER:**  
**YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.**

In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of Brevard County, and there may be additional permits required from other government entities such as Water Management Districts, State Agencies or the Federal Government.

In consideration of the granting of this Permit, the owner and builder agree to construct the fence or wall in full compliance with the Building and Zoning codes of the Town of Malabar, Florida. This permit not refundable after 30 days.

_____ Owner/Contractor      Date	_____ Building Official      Date
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Permits shall become null and void if work authorized is not inspected within 6 months of date of permit.      FILE \_\_\_ APPLICANT \_\_\_ COUNTY \_\_\_

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: February 10, 2010**

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

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**SUBJECT: Presentation by Pat Reilly for Land Use Along Babcock Street & Malabar Road before presenting to Council at Joint Meeting**

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**BACKGROUND/HISTORY:**

Mr. Reilly is going to present a Future Land Use Presentation of all the suggestions made by this Board over a period of months. Mr. Reilly will provide this Board with Maps and Literature at meeting. This is a review before the Joint Meeting with Council on February 24, 2010.

**ATTACHMENTS:**

- None

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4**  
**Meeting Date: February 10, 2010**

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

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**SUBJECT: Fence Ordinance that the Mayor Proposed to Council at Town Council Meeting on February 1, 2010 Looking for Approval from P & Z Board.**

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**BACKGROUND/HISTORY:**

Mayor asked Council at the RTCM of 2/1/2010 to allow his recommendation regarding fence ordinance to be considered by P&Z.

**ATTACHMENTS:**

- Portion of RTCM Draft minutes
- Document 1-4 Fence Ordinance Proposed

5. **Fence Ordinance Proposed Change (Mayor)**

**Exhibit:** Agenda Report No. 5

**Recommendation:** Request Action

**Discussion:** All Mayor Eschenberg is asking is for an okay from Council to send to P&Z to make a recommendation to Council. Rivet and Vail are both good with this. Vail would like this to go to P&Z. McKnight has an issue with some of the wording. Rivet stated that P&Z shouldn't restrict anything unless there is a really good reason. McKnight and Vail suggested that Mayor's recommendations be sent back to P&Z.

**MOTION: Vail / McKnight to send Mayor's recommendations to P&Z. VOTE:**

**All Ayes.**

Motion carried 4 to 0.

# DOCUMENT 1

AGENDA ITEM NO. 5

FENCE ORDINANCE PROPOSED CHANGE

Submitted by Mayor

After attending the last P&Z meeting, it has become apparent that the change to the fence ordinance has stalled. In order to get the process moving again, I am submitting a change that will address "ENTRANCEWAYS". Along with other changes I recommend, the people of Malabar will have more freedom and less government interference in their property rights.

Requested action: Send the Mayor's proposed fence ordinance changes to P&Z for evaluation and recommendation.

# DOCUMENT 2

## Section 1-5.8. Fences, and walls and entranceways.

### (a) Definitions.

For purposes of this section, the following terms shall have the following definitions:

Abut or abutting property means a lot or parcel sharing a common boundary with the lot or parcel in question, or a lot or parcel immediately across a public or private right-of-way or street from the lot or parcel in question.

Building line means a line within a lot or parcel established by yard or setback requirements in the land development regulations of the Town, outside of which no principal building or structure may be erected.

Commercial district means any area of the Town having the zoning classification CL or CG in accordance with the land development regulations of the Town.

Entranceway means columns, poles, walls, arches or other structures that define a point of entry onto a property. The entranceway may or may not have a gate.

Fence means a vertical row of nonliving material, exclusive of masonry products, placed close together or abutting each other in such a manner as to form a boundary or barrier between two (2) adjacent parcels of land or portions of parcels of land.

Gate means that portion of an entranceway installed for the purpose of controlling passage to and from the property on which it is located.

Height means the distance from existing grade to the top of such fence or wall including post and/or columns measured on the side facing abutting property.

Industrial district means any area of the Town having the zoning classification IND in accordance with the land development regulations of the Town.

Institutional district means any area of the town having the zoning classification INS in accordance with the land development regulations of the town.

Opaque shall mean that objects located on one side of a fence or wall are not visible from the opposite side when the viewer's line of sight to such object is through such fence or wall.

Residential district means any area of the Town having the zoning classification RR-65, RS-21, RS-15, RS-10, RM-4, RM-6, R-1/C or R-MH, in accordance with the land development regulations of the town.

Wall means a vertical row of masonry materials placed close together or abutting each other in such a manner as to form a boundary or barrier between two (2) parcels of land or portions of parcels of land.

Yard means an open, unoccupied space on the same lot or parcel with a building or buildings, other than a court, which is unobstructed from the ground upwards by buildings or structures.

(1) Required front yard means an open, unoccupied space extending across the full width of the lot, the depth of which is the minimum horizontal distance established by the Land Development Code beyond which no building may be erected. Is determined by the frontage to which the address is assigned to such lot or parcel.

(2) Required rear yard means an open, unoccupied space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line.

(3) Required side yard means an open, unoccupied space between the front and rear building lines and the side lot line and the side building line.

(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 or entranceways 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 or entranceways shall be designed, constructed and secured in accordance with the adopted building code to meet the specified wind load.

# DOCUMENT 3

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 shall be more than four (4) ~~four~~ six (6) 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~~ eight (8) feet 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 eight (8) feet in height including barbed wire for security. ~~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 or entranceway structure excluding a gate shall be constructed on any public easement, utility easement or public right-of-way.

2. No fence including a gate 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.

3. A non permanent type fence and gate may be constructed on an easement providing the property owner making application for such fence agrees in writing, at the time of application for permit, that the property owner and/or any successors in interest will bear the expense of removal of such fence if access to said easement is required.

(i) Perimeter Fencing for Certain Residential Subdivisions/Developments. Any perimeter fencing and/or wall and entranceway which is placed or located on any portion of the perimeter boundaries of a residential subdivision or development shall comply with this section. ~~the following:~~

1. ~~In RS Zoning Districts, no portion of a fence or wall, including gates, support posts, members or decorative features, located on any perimeter property of a residential subdivision or development that is not part of a platted residential lot shall exceed forty-eight (48) inches in height.~~

# DOCUMENT 4

2. In the RR Zoning District, fence or wall, including gates, support posts, members, or decorative features, located on any perimeter property of a residential subdivision or development that is not part of a platted residential lot shall not exceed fifty-four (54) inches. Higher perimeter fences and walls within the RR Zoning Districts, not to exceed six (6) feet in height, may be approved by Town Council after considering the recommendation by the Planning and Zoning Board. Prior to approving any fence or wall in excess of fifty-four (54) inches, 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 an abutting intersection.

3. In the R-MH Zoning District no portion of a fence, or wall or entranceway including gates, support posts, members or decorative features, located on any perimeter property of a mobile home residential subdivision or development that is not part of a mobile home site shall exceed forty-eight (48) inches in height.

4. In RM Zoning Districts, no portion of a fence, or wall or entranceway including gates, support posts, members or decorative features, located on any perimeter property of a multi family residential subdivision or development that is not part of a residential site shall exceed forty-eight (48) inches in height.

**(i) Height restrictions for entranceways in residential districts. Entranceways 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 entranceway located between the front building line and the front lot line shall be more than six (6) feet in height.**
2. **Any lot or parcel located within a RR-65 District shall be permitted an entranceway eighteen (18) feet or less in height. If part of the entranceway structure is erected over the driveway, that part of the structure shall meet minimum DOT height requirements.**
3. **If a gate is installed to provide ingress from a major collector road. The gate must be set back at least fifteen (15) feet from the property line.**

(Ord. No. 99-1, § 1, 4-19-00; Ord. No. 08-05, § 1, 5-5-08)

Cross references: Buildings and building regulations, ch. 6.