

**TOWN OF MALABAR**  
**PLANNING AND ZONING ADVISORY BOARD**  
**REGULAR MEETING**  
**WEDNESDAY JULY 14, 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 :
- E. PUBLIC HEARING: none
- F. ACTION:
  - 1. Final Review Amendment to Fence Ordinance, Article V
    - Exhibit: Agenda Reports No. 1
    - Recommendation: Remove from Table /Action to Council
  - 2. Review of District Provisions Table 1.3-3A (Pages 123-124) Changes and Ordinance 2004-08 (Last Column)
    - Exhibit: Agenda Reports No. 2
    - Recommendation: Action to Council
- G. DISCUSSION:
- H. PUBLIC:
- I. OLD BUSINESS/NEW BUSINESS:
  - 3. Ronald Egoroff (Remax Reality) for Bill Currie BRC Septic Regarding Zoning for property located at 2735 Malabar Road.
    - Exhibit: Agenda Reports No. 3
    - Recommendation: Discussion only
- 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: July 14, 2010**

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

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**SUBJECT: Amendments to Fence Ordinance, Article V**

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**BACKGROUND/HISTORY:**

Remove from Table the Fence Ordinance, this item was on last meeting of 06/23/2010. It was reviewed and corrections were made by this Board. Please review all corrections for action to be presented to Council.

**ATTACHMENTS:**

- Copy of Fence Ordinance , Article V ( from Meeting of 06/09/2010)
- Corrected Fence Ordinance , Article V (from Meeting of 06/23/2010)

**ACTION REQUESTED:**

Formulation of Recommendations to bring to Council to bring this subject to final disposition.

6/09/10

Section 1-5.8. Fences and walls.

(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.

**Entrance Gate means** a gate designed for ingress and egress for vehicular traffic to and from a lot or parcel that directly connects to the public roadway. Entrance Gates may be constructed of approved materials and may be opened manually or by automated means and may be guided by hinges, tracks, or other approved means.

**Fence means** a vertical row of nonliving material, 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. Such amenities as kennels, cages, corals, trellises and related conveniences are not fences for the purposes of this subsection.

**Gate means** a rigid structure to open and close in order to allow ingress and egress through a fence or wall. Gates may be constructed of approved materials and may be opened manually or by automated means and may be guided by hinges, tracks, or other approved means.

**Height means** the distance from existing grade to the top of such fence or wall including post and/or uprights 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-L/C or R-MH, in accordance with the land development regulations of the town.

**Wall means** a vertical row of primarily composed 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.

**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) Height restrictions for fences or walls in commercial, industrial and institutional districts. Fences or walls located, erected, constructed, or altered on any property located in a commercial, industrial and institutional district shall comply with the following height requirements: Commercial, Industrial and Institutional districts shall be no more than eight (8) feet in height including barbed wire for security.

(c) Height restrictions for fences and walls in residential districts. Fences or walls 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 shall be more than five (5) feet in height. Such permitted fences or walls 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.
2. For any lot or parcel not containing a structure, the requirements of subsection (e) 1, shall be applied 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.
3. Any lot or parcel located within a RR-65 District shall be permitted a fence or wall six (6) feet or less in height.
4. Subject to the requirements in this subsection the owner of any lot or parcel located in RR-65 District may install gates and/or entrance gates and supporting structures that do not exceed two (2) feet above the maximum height restriction to which such gate and support structures is attached. Arches or other decorative features may supplement gates.
  - a. Arches or other decorative features associated with an entrance gate serving as the primary vehicular ingress and egress to the public roadway must meet FDOT minimum height requirements of 13.6 feet and a maximum of 18 feet in height for safe passage of emergency vehicles.

- b. The entrance gate and support structures must be set back at least 15 feet from the front property line and a minimum of 20 feet in width.

(d) Height restrictions for Perimeter Fencing for Certain Residential Subdivisions/Developments. Any perimeter fencing and/or wall which is placed or located on any portion of the perimeter boundaries of a residential subdivision or development shall comply with 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 six (6) feet in height.
2. In the RR Zoning District, 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 not exceed six (6) feet.
3. In the R-MH Zoning District no portion of a fence or wall, 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 six (6) feet in height.
4. In RM Zoning Districts, no portion of a fence or wall, 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 six (6) feet in height

(e) Maintenance of fences, walls and associated structures. All fences, walls and associated structures in the Town shall be maintained in good repair and in a structurally sound condition. All such structures shall be maintained to their original specifications.

(f) 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 relating to the type of construction, required materials, height and location.

2. Posts and stringers required for the support of opaque fences shall not be visible from the side facing any abutting property, for which such fence permit was issued. Posts shall be a treated wood type or wood or material type with a resistance to decay as adopted by code.

3. 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.

4. 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.

(g) Permit required for fence or wall. No fence or wall shall be constructed, erected, replaced or altered between abutting parcels 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. Permits are not required for periodic repair and maintenance of an existing fence or wall.

(h) Permit fee. Permit fees shall be calculated in accordance adopted resolutions. No permit shall be issued unless and until all fees associated with said permit are paid.

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

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

2. A non permanent fence or gate may be constructed on an easement providing the property owner making application for such fence has submitted written permission from any affected property owners and 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.

(j) Town Council may authorize non-compliant design specifications only 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.

(Ord. No. 99-1, § 1, 4-19-00; Ord. No. 08-05, § 1, 5-5-08)  
Cross references: Buildings and building regulations, ch. 6.

Corrected copy  
6/23/10

Section 1-5.8. Fences and walls.

(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.

**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.

**Entrance Gate means** a gate designed for ingress and egress for vehicular traffic to and from a lot or parcel that directly connects to the public roadway. Entrance Gates may be constructed of approved materials and may be opened manually or by automated means and may be guided by hinges, tracks, or other approved means as approved by the Southern Building Code.

**Fence means** a vertical row of nonliving material, 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. Such amenities as kennels, cages, corals, trellises and related conveniences are not fences for the purposes of this subsection.

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**Height means** the distance from existing grade to the top of such fence or wall including post and/or uprights 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.

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**Wall means** a vertical row of primarily composed 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.

**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.

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

Commercial , Industrial and Institutional districts shall be no more than eight (8) feet in height including barbed wire for security.

(c) Height restrictions for fences, walls, gates and related structures in residential districts shall comply with the following height requirements:

1. Except as provided in this section, no portion of any fence or wall shall be more than five (5) feet in height. Such permitted fences or walls 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.
2. For any lot or parcel not containing a structure, the requirements of subsection (c) 1, shall be applied 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.
3. Any lot or parcel located within a RR-65 District shall be permitted a fence or wall six (6) feet or less in height.
4. Subject to the requirements in this subsection the owner of any lot or parcel located in RR-65 District may install gates and/or entrance gates and supporting structures that do not exceed two (2) feet above the maximum height restriction to which such gate and support structures is attached.
5. Arches or other decorative features may supplement gates. Arches or other decorative features associated with an entrance gate serving as the primary vehicular ingress and egress to the public roadway must meet FDOT minimum height requirements of 13.6 feet for safe passage of emergency vehicles. In addition such structures must be set back at least 15 feet from the front property line and a minimum of 20 feet in width.

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2. In the RR Zoning District, 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 not exceed six (6) feet.
3. In the R-MH Zoning District no portion of a fence or wall, 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 six (6) feet in height.

4. In RM Zoning Districts, no portion of a fence or wall, 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 six (6) feet in height

(e) Maintenance of fences, walls and associated structures. All fences, walls and associated structures in the Town shall be maintained in good repair and in a structurally sound condition. All such structures shall be maintained to their original specifications.

(f) 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 relating to the type of construction, required materials, height and location as approved by the Southern Building Code.

2. Posts and stringers required for the support of opaque fences shall not be visible from the side facing any abutting property, for which such fence permit was issued. Posts shall be a treated wood type or wood or material type with a resistance to decay as adopted by code.

3. 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.

4. The following provisions shall be prohibited in any fence or wall:

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- 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.

(g) Permit required for fence or wall. No fence or wall or associated structure shall be constructed, erected, replaced or altered between abutting parcels 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. Permits are not required for periodic repair and maintenance of an existing fence or wall.

(h) Permit fee. Permit fees shall be calculated in accordance with adopted resolutions. No permit shall be issued unless and until all fees associated with said permit are paid.

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

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

2. A non permanent fence or gate may be constructed on any public easement providing the property owner making application for such fence has submitted written permission from any affected property owners and 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 public easement is required.

(j) Town Council may authorize non-compliant design specifications only 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.

(Ord. No. 99-1, § 1, 4-19-00; Ord. No. 08-05, § 1, 5-5-08)  
Cross references: Buildings and building regulations, ch. 6.

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: July 14, 2010**

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

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**SUBJECT: Review District Provision Table 1.3-3 A And Ordinance 2008-04 For Table Corrections**

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**BACKGROUND/HISTORY:**

Review Ordinance 2008-04 of corrections previously made to this District Provisions Table 1.3-3 A, then make finalized recommendations regarding last column on Table.

**ATTACHMENTS:**

- Copy of Ordinance No. 2004-08
- Table 1-3.3 (A) Page 123 & 124 Supplement (9)
- Table 1-3.3 (A) Page 123 & 124 Old Table Supplement (16)
- Table 1-3.3 (A) Page 123 & 124 **Corrected Table** Supplement (15) Rev. 2

ORDINANCE NO. 2004-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RELATING TO LAND DEVELOPMENT; AMENDING ARTICLE III OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING TABLE 1-3.3(A) BY REMOVING ALL REFERENCES TO THAT PORTION OF TABLE 1-3.3(A) RELATING TO MAXIMUM DENSITY WITHOUT CENTRAL WATER AND WASTE WATER; AMENDING SECTION 1-3.3(B) PROVIDING THAT ALL PROPOSED DEVELOPMENT WITHIN AREAS NOT SERVED BY CENTRAL WATER AND WASTEWATER SERVICES MUST COMPLY WITH THE SEPTIC PERMITTING REQUIREMENTS OF BREVARD COUNTY; REPEALING SECTION 1-5.20 OF ARTICLE V OF THE MALABAR LAND DEVELOPMENT CODE; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Table 1-3.3(A) is hereby amended to remove all references to the Maximum Density Requirement for Lots Without Central Water and Wastewater.

**Section 2.** Section 1-3.3(B) is amended in full to read as follows:

B. *Area Requirements For Uses Not Served By Central Water and Wastewater Services.* All proposed development within areas not served by central water and wastewater services shall comply with the septic permitting requirements of Brevard County. ~~have the minimum lot areas as set forth in Table 1.3.3(B).~~

~~TABLE 1-3.3(B). MINIMUM AREA REQUIREMENTS FOR LOTS WITHOUT CENTRAL WATER OR WASTEWATER SERVICES<sup>1</sup>~~

<del>Type of Development</del>	<del>Water/Wastewater System</del>	<del>Lot Area</del>
<del>Residential</del>	<del>Septic Tanks or Aerobic Septic Individual Wells</del>	<del>One unit per acre</del>
<del>Residential</del>	<del>Septic Tanks Central Water</del>	<del>One half acre per unit</del>
<del>Nonresidential</del>	<del>Septic Tanks Individual Wells</del>	<del>One acre per unit</del>

<sup>1</sup>~~Individual septic tanks, aerobic septic and individual wells must receive development orders from appropriate County and/or State entities. Land development code standards for specific individual uses may impose larger or more restrictive site/lot area requirements.~~

**Section 3. Repeal of Specific Code.**

Section 1-5.20 of Article V of the Malabar Land Development Code is repealed in its entirety.

**Section 4. Repeal.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed and all Ordinances or parts of Ordinances not in conflict herewith are hereby continued in full force and effect.

**Section 5. Severability.**

In the event a court of competent jurisdiction shall hold or determine that any part of the this ordinance is invalid or unconstitutional, the remainder of the is Ordinance shall not be effected and it shall be presumed that the Town Council, Town of Malabar did not intend to enact such invalid or unconstitutional revision. It shall further be assumed that the Town Council would have enacted the remainder of this Ordinance without said invalid and unconstitutional revision, thereby causing said remainder to remain in full force and effect.

**Section 6. Incorporation.**

It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is herby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**Section 7. Effective Date.**

This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council member Rivet. The motion was seconded by Council member Rossman and, upon being put to a vote, the vote was as follows:

Council member Jane Havet	<u>absent</u>
Council member Brian Hunter	<u>aye</u>
Council member Steve Rivet	<u>aye</u>
Council member Bobbi Moccia	<u>aye</u>
Council member Bob Rossman	<u>aye</u>

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 12<sup>th</sup> day of July, 2004.

By: Phillip R. Crews  
Mayor Phillip R. Crews

First Reading: 06/21/04  
Second Reading: 07/12/04

ATTEST  
By Susan Kabana  
Susan Kabana, CMC  
Town Clerk/Treasurer

(seal)

Approved as to form and content:  
Karl W. Bohne, Jr.

Karl W. Bohne, Jr.  
Town Attorney  
Ordinance 2004-08  
Town of Malabar

Corrected Table

DISTRICT PROVISIONS

§ 1-3.3

TABLE 1-3.3(A). SIZE AND DIMENSION REGULATIONS

Zoning District	Minimum Lot (1)		Maximum Height (ft. / stories)	Minimum Living Area (sq. ft.)	Setback (ft. / 2)				Maximum Impervious Surface Ratio (%)	Floor Area Ratio (FAR)	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater	
	Size (sq. ft.)	Width (ft.)			Depth (ft.)	Front	Rear	Side (1)					Side (C)
<b>Rural Residential Development</b>													
RR-65	65,340	150	250	35/3	1,600	40	30	30	30	20	N/A	80	0.66
<b>Traditional Single Family Residential Development</b>													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,600	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
<b>Multiple Family Residential Development</b>													
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	60	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	25	20	10	40	50	n/a	50	6
<b>Mixed Use Development</b>													
R/LC	20,000	100	150	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120 Commercial: Min. Area: 900 Max. Area 4,000	25	20	10	10	60	n/a	50	4
<b>Mobile Home Residential Development</b>													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
<b>Office Development</b>													

Corrected Table

Zoning District	Minimum Lot (L)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.) Minimum Floor Area: 1000	Setback (ft.)(2)			Maximum ImperVIOUS Surface Ratio (%)	Floor Area Ratio (FAR)	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)				
OI	20,000	100	150	35/3		35/60	25	20	25	20	35	N/A
<b>Commercial Development</b>												
CL	20,000	100	150	35/3	Minimum Floor Area: 900	50	25	10 <sup>4</sup> 15 <sup>3</sup>	20	0.20	35	N/A
CG	20,000	100	150	35/3	Min. Area: 900 Max. Area: 4,000 Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20 <sup>4</sup> 15 <sup>3</sup>	30	0.20	35	N/A
<b>Industrial Development</b>												
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	60 100 <sup>5</sup>	25 100 <sup>5</sup>	20 100 <sup>5</sup>	30 100 <sup>6</sup>	0.42	30	N/A
<b>Institutional Development</b>												
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	0.20 0.10 <sup>5</sup>	40	N/A
<b>Coastal Preservation</b>												
CP	No Size or Dimension Standards Adopted											

<sup>1</sup>Minimum size sites and lots include one-half of adjacent public right-of-way.  
<sup>2</sup>Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-8.3(E) whichever is most restrictive.  
<sup>3</sup>Setback where rear lot line abuts an alley.  
<sup>4</sup>Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.  
<sup>5</sup>Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.  
<sup>6</sup>Recreation activities maximum FAR shall be .10.

## DISTRICT PROVISIONS

§ 1-3.3

TABLE 1-3.3(A). SIZE AND DIMENSION REGULATIONS

Zoning District	Minimum Lot (L)		Maximum Height (ft./stories)	Minimum Lining Area (sq. ft.)	Setback (ft.) (2)			Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Maximum Density (units per acre)	With Central Water and Wastewater	
	Size (sq. ft.)	Width (ft.)			Depth (ft.)	Front	Side (I)					Side (C)
<b>Rural Residential Development</b>												
RR-65	65,340	150	250	35/3	1,500	40	30	30	20	N/A	80	0.65
<b>Traditional Single Family Residential Development</b>												
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	N/A	50	4.00
<b>Multiple Family Residential Development</b>												
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	25	20	10	10	n/a	50	6
<b>Mixed Use Development</b>												
R/LC	20,000	100	150	35/3	Single Family: Multiple Family: 1 Bedroom: 600 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120 Commercial: Min. Area: 900 Max. Area 4,000	25	20	10	10	n/a	50	4
						50	25	10 <sup>4</sup>	20	n/a	35	6
<b>Mobile Home Residential Development</b>												
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	N/A	50	6.00
<b>Office Development</b>												
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	20	35	N/A
<b>Commercial Development</b>												
CL	20,000	100	150	35/3	Minimum Floor Area: 900	50	25	10 <sup>4</sup> 15 <sup>3</sup>	20	0.20	35	N/A

Zoning District	Minimum Lot (L)		Maximum Height (ft./stories)	Minimum Living Area (sq. ft.) Min. Area: 900 Max. Area: 4,000	Setback (ft.) <sup>(2)</sup>				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Maximum Density (units per acre)	With Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)			Depth (ft.)	Front	Rear	Side (L)				
CG	20,000	100	150	35/3	50	25	20 <sup>4</sup> 15 <sup>5</sup>	30	65	0.20	35	N/A
<b>Industrial Development</b>												
IND	20,000	100	150	35/3	50	25	20	30	70	0.42	30	N/A
<b>Institutional Development</b>												
INS	20,000	100	150	35/3	50	25	20	30	60	0.20 0.10 <sup>6</sup>	40	N/A
<b>Coastal Preservation</b>												
CP	No Size or Dimension Standards Adopted											

<sup>1</sup>Minimum size sites and lots include one-half of adjacent public right-of-way.  
<sup>2</sup>Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.  
<sup>3</sup>Setback where rear lot line abuts an alley.  
<sup>4</sup>Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.  
<sup>5</sup>Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.  
<sup>6</sup>Recreation activities maximum FAR shall be .10.

DISTRICT PROVISIONS

§ 1-3.3

TABLE 1-3.3(A). SIZE AND DIMENSION REGULATIONS

Zoning District	Size (sq. ft.)	Minimum Lot (l)		Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.) (2)			Side (C)	Maximum Impervious Surface Ratio (%)	Floor Area Ratio to (FAR)	Minimum Open Space (%)		Maximum Density (units per acre)	
		Width (ft.)	Depth (ft.)			Front	Rear	Side (D)				With Water and Wastewater	Without Water and Wastewater		
<b>Rural Residential Development</b>															
RR-650	66,340	150	250	35/2.5	1,500	40	30	30	30	20	N/A	80	0.66	0.66	
<b>Traditional Single Family Residential Development</b>															
RS-21	21,780	120	150	35/2.5	1,800	35	20	15	15	35	N/A	65	2.00	1.00	
RS-15	15,000	100	120	35/2.5	1,500	30	20	15	15	45	N/A	55	2.904	1.00	
RS-10	10,000	75	100	35/2.5	1,200	25	20	10	10	50	N/A	50	4.00	1.00	
<b>Multiple Family Residential Development</b>															
RM-4	5 Acres Minimum Site	200	200	35/2.5	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00	1.00	
RM-6	5 acres Minimum Site	200	200	35/2.5	Single Family:	25	20	10	10	50	n/a	50	6	1	
<b>Mixed Use Development</b>															
RLC	20,000	100	150	35/3	Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6	1	
					Single Family: Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 800 Each Additional Bedroom: 120	25	20	10	10	50	n/a	50	4	2	
					Commercial: Min. Area: 900 Max. Area: 4,000	50	25	10 <sup>4</sup>	20	65	n/a	35	6	2	
														0.20	

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1-3-3

MALABAR CODE

Zoning District	Minimum Lot (1) Size (sq. ft.)	Minimum Lot (1) Width (ft.)	Depth (ft.)	Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Front	Setback (ft.) (2)		Side (C)	Maximum Impervious Surface Ratio (%)	Floor Area Ratio (FAR)	Minimum Density (units per acre)	
							Rear	Side (D)				With Central Water and Wastewater	Without Central Water and Wastewater
<b>Mobile Home Residential Development</b>													
EMH	Site: 5 Acres					10	8	8	10	50	N/A	6.00	1.00
<b>Office Development</b>													
CI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	N/A	N/A
<b>Commercial Development</b>													
CL	20,000	100	150	35/3	Minimum Floor Area: 900 Min. Area: 900 Max. Area: 4,000	50	25	10 <sup>4</sup> 15 <sup>3</sup>	20	65	0.20	N/A	N/A
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20 <sup>4</sup> 15 <sup>3</sup>	30	65	0.20	N/A	N/A
<b>Industrial Development</b>													
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 <sup>5</sup>	25 100 <sup>5</sup>	20 100 <sup>6</sup>	30 100 <sup>6</sup>	70	0.42	N/A	N/A
<b>Institutional Development</b>													
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 <sup>6</sup>	N/A	N/A
<b>Coastal Preservation</b>													
CP	No Size or Dimension Standards Adopted												

<sup>1</sup>Minimum size sites and lots include one-half of adjacent public right-of-way.

<sup>2</sup>Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.

<sup>3</sup>Setback where rear lot line abuts an alley.

<sup>4</sup>Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.

<sup>5</sup>Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.

<sup>6</sup>Recreation activities maximum FAR shall be .10.

# TOWN OF MALABAR

## AGENDA ITEM REPORT

AGENDA ITEM NO: 3  
Meeting Date: July 14, 2010

Prepared By: Denine Sherear, P&Z Board Secretary

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**SUBJECT: Ronald Egoroff c/o Bill Currie BRC Septic- Informal Inquiring about prospective Business**

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### BACKGROUND/HISTORY:

Mr. Ronald Egoroff who is with REMAX Realty would like to speak to the P & Z on behalf of the prospective purchaser, Mr. Bill Currie about the land use for property located at 2735 Malabar Rd. This is strictly for discussion only.

The Land use now is currently "R/LC"- Residential Limited Commercial on Malabar Road and "CG"- Commercial General to the south of the Malabar frontage.

Mr. Egoroff originally submitted A Request to Malabar Town Council, in which I have attached to this Agenda for your review. I called and explained the process to Mr. Egoroff.

### ATTACHMENTS:

- Agenda Item Request Form- (Dated June 21, 2010) + map
- Quasi-judicial Procedures

### ACTION OPTIONS:

This requires no action from the Board at this time. This will be a quasi-judicial issue when formal application is made.

OFFICE OF THE TOWN CLERK  
(321) 727-7764  
FAX (321) 722-2234



2725 MALABAR ROAD  
MALABAR, FLORIDA 32950-4427

**AGENDA ITEM REQUEST FORM  
MALABAR TOWN COUNCIL**



Please mail completed form to:

Town of Malabar  
2725 Malabar Road  
Malabar, Florida 32950

NAME: Ronald Egoroff c/o Bill Currie BRC Septic

ADDRESS: REMAX 2000, 4250 N Wickham Rd., Ste 103 Melbourne Fl., 32935

TELEPHONE: \_\_\_\_\_ (321) 544-6434  
(Home) (Business)

**Please state the item you wish to have placed on the Town Council Agenda.**

2735 Malabar Rd, Inc Tx# 2851099, Tx# 2851100, Tx# 2851091

**Please summarize pertinent information concerning your requested Agenda item and attach applicable documents.**

Purchaser looking to purchase and relocate to this address based on the current zoning of "CG" article III District Provisions Section 1-3-1 Paragraph "L" it appears that the purchaser would meet the requirements of Office use (frontage parcel, and equipment and vehicular storage usage (back parcels).

**Please state desired action by Town Council.**

To approve and except the Purchasers use at this site.

Signed: [Signature]

Date: 6-21-10

Click Action: Parcel Info Distance 0

Decrease Zoom Bar Aerial View Range Increase

MALABAR RD

RAILER

1.01 10 12 2 1 17 18 20 22 15 14 11 26 7 8

.29

.12

RCC

CG

CG

2.49 ac

28-38-31-51-00000.0-0027.0

View

Map Aerial

Change

Locate

Parcel ID

Zoom to

Brevard County

Printable Version

Map Previous

Check below the

Parcels

Schools

RoadNames

Water

Update

Help Leg

**RESOLUTION 29-2008**

**A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING QUASI-JUDICIAL PROCEDURES; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council recognized the need for established procedures to facilitate orderly and respectable Board and Town Council meetings when quasi-judicial items are on the agenda; and

**WHEREAS**, the Town Council recognizes that this Resolution shall act as a guide and provide a procedure for Town Boards and Council to follow; and

**WHEREAS**, the Town Council recognizes that the procedures may be amended from time to time by resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:**

**SECTION 1. Procedures**

A copy of the Procedures are attached as Exhibit "A"

**SECTION 2. Conflict.**

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

**SECTION 3. Effective Date.**

This Resolution shall take effect immediately upon its adoption.

This Resolution was moved for adoption by Council Member McClelland.

This motion was seconded by Council Member Borton and, upon being put to vote, the vote was as follows:

Council Member Nancy Borton	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Charles (Chuck) McClelland	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>

□

Council Member Patricia (Pat) D. Dezman

Aye

This Resolution was then declared to be duly passed and adopted this 21st day of July, 2008.

By: TOWN OF MALABAR

Thomas M. Eschenberg

Mayor Thomas M. Eschenberg, Chair  
Town of Malabar

Approved for Legal Sufficiency:

Karl W. Bohne, Jr.

Karl Bohne, Jr., Town Attorney

ATTEST:

Debby K. Franklin

Debby K. Franklin  
Town Clerk/Treasurer

(seal)

(EXHIBIT "A" BEGINS ON NEXT PAGE)

□

**EXHIBIT "A"****I. NATURE OF QUASI-JUDICIAL HEARINGS**

Certain standards of basic fairness must be provided in quasi-judicial proceedings. A quasi-judicial hearing meets due process requirements if the parties are provided notice of the hearing and a fair opportunity to be heard in person or through counsel, the right to present evidence and cross-examine witnesses and the right to be informed of all the facts upon which the Board acts.

**II. ORDER OF PROCEEDINGS**

1. Counsel for the Board or Council shall remind the Board or Town Council that the matter before them is a quasi-judicial hearing and that rules of procedures have been adopted governing these proceedings.

2. Florida law does not require that witnesses be sworn in at a quasi-judicial hearing. The Board may want to have the witnesses sworn. If it chooses to do so then the Chair directs Clerk or attorney to swear in witnesses en masse.

a. Counsel for the Board or Council shall advise such body of the need to swear in witnesses. The Clerk or attorney has all witnesses stand and swear to the following: "do you swear and affirm that the testimony you will give before the Board or Council will be the truth, the whole truth and nothing but the truth so help you God?" Clerk or attorney announces witnesses have been sworn. An attorney shall be present representing the Board or Council at all quasi-judicial proceedings.

b. The Chair announces that anyone testifying before the Board or Council needs to state their name and address for the record.

3. The Chair should announce that any person desiring to present written documentation, photographs or other documentary evidence must give a copy of the documents to the Clerk and may provide the Board members a copy as well.

4. Chair announces that all ex parte communications and any pre-hearing site visitations must be disclosed. Such disclosure shall include the date of the communication and/or site visit, whom the communication and/or site visit was with, and a summary of the communication and /or site visit.

5. Petitioner's presentation:

a. Petitioner or Petitioner's representative may make an opening statement by presenting its position, introducing documentation or other evidence.

b. Petitioner may then call witnesses.

c. Any person desiring to cross-examine Petitioner's witnesses may do so.

□

6. Testimony and presentation of evidence by the public, either in support or against the Petitioner.

a. Time limit for such presentations by the public shall be 3 minutes. The Board or Council has the discretion to enlarge any time limitations.

b. If there is an authorized representative of a group of citizens or public, (by way of example and not limitation, a representative of a homeowner's association, condominium association or other type of property association, private clubs, churches, or other governmental agencies) then that person would be given 3 minutes to present its case on behalf of the property owner's association. Unless there is different testimony to be presented by a member of the same association, no other person within the property owner's association will be permitted to testify. The Board or Council has the discretion to enlarge any time limitations.

c. Cross-examination of any person of the public who has given testimony.

7. Staff's presentation:

a. Staff may make an opening statement.

b. Staff may call witnesses and present evidence.

c. Staff may be cross-examined by any person. Once the evidence has been presented, the Chair shall close the public hearing and bring the matter back to the Board or Council for any additional questions they may have of any person who participated in the public hearing. However, no discussion amongst the Board or Council members shall be made unless and until a motion and a second have been made.

### **III. BOARD OR COUNCIL DISCUSSES AND VOTES.**

1. When a decision is made by a body that has final decision making authority, the Town Attorney shall prepare a written order to be signed by the chairperson and such order shall become final when filed with the Clerk.

### **IV. REHEARING/RECONSIDERATION.**

There is no specific rule or statutory authority for the rehearing or reconsideration of a local agency decision; however, a local agency has the inherent power and authority to rehear and reconsider a previously entered order. The Town has determined that, notwithstanding this inherent power and authority, no rehearing or reconsideration shall be entertained regarding a previously entered order of any quasi-judicial board of the Town.