

TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY SEPTEMBER 22, 2010
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**
- D. CONSENT AGENDA :**
 - 1. Approval of Minutes - Planning and Zoning Meeting – 8/25/2010**
Exhibit: Agenda Report No. 1
Recommendation: Motion to Approve
- E. PUBLIC HEARING: none**
- F. ACTION:**
- G. DISCUSSION:**
 - 2. Recommendations from Council – US 1 Corridor Review**
Exhibit: Agenda Reports No. 2
Recommendation: Discussion
 - 3. Roadway Designations – Possible Revision**
Exhibit: Agenda Reports No. 3
Recommendation: Discussion
- H. PUBLIC:**
- I. OLD BUSINESS/NEW BUSINESS:**
 - 4. Council Responses - from P&Z Recommendations**
Exhibit: Agenda Reports No. 4
Recommendation: Discussion
- 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: September 22, 2010

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

SUBJECT: Approval of minutes

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 August 25, 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
August 25, 2010 7:35 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 Vice-Chair Patrick Reilly.

B. ROLL CALL:

CHAIR:	BOB WILBUR, excused
VICE-CHAIR:	PATRICK REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	CINDY ZINDEL
SECRETARY:	DENINE SHEREAR
TOWN PLANNER	KEITH MILLS, excused
TOWN ENGINEER	MORRIS SMITH, P.E. excused

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA -

1. Approval of Minute- Planning and Zoning Meeting- 08/11/10

Exhibit: Agenda Report No. 1

Recommendation: Action

MOTION: Reilly / Krieger to approve minutes of August 11, 2010 with corrections.

Vote: All Ayes.

Krieger, last

Krieger corrections page 2

Ritter, page 3

E. PUBLIC HEARING: none

F. ACTION:

2. District Provision Size & Dimension Regulations Table 1-3.3A To Recommend Changes

Exhibit: Agenda Reports No. 2

Recommendation: Action

Reilly went through Table 1-3.3.A. and made corrections to table

Option 1 – leave present chart alone

Option 2- leave as is

Option 3- Add #7 note relating to maximum density and units per acre

Reilly explained FAR (Floor Area Ratio) was deleted and replaced with maximum floor ratio.

FAR is not a % and is shown as (.2) in chart

Reilly do you want add back FAR **column** and without Central

MOTION: Reilly / Krieger to recommend Council add column back into chart without central water & waste water and add FAR into column and fix the super scripts.

Vote : All Ayes

Board discussed the values of the last two columns for R/LC should change that with a second motion to bring 6 to 4. Reilly to bring back Table with corrections and talk to Debby.

The Board discussed not having high density, 3 units on ½ acre. 6 units per acre. Krieger stated currently there are in R/LC 6-4-2 and suggested changing the Table from low, medium and high. He believed Board wanted to have 4 and 4 and 2 and 2.

MOTION: Krieger / Reilly to recommend Council change Table 1-3.3.A. from 6 to 4 under the column "w/ Central Water & Waste Water" on the multi-family line.

Vote: All Ayes

3. Discuss Possible Purchase of Logue Property located at 1670 Highway 1 To Create River Front Malabar Park

Exhibit: Agenda Reports No. 3

Recommendation: Discussion

Ritter stated she believed the price is coming down. The docks are not in good shape. The house area on the west side can be better used for something else. They discussed trading it. Reilly said the property to the south is the CITA mission property and to the north is Gary Gu's Bonsai Garden and across from Orange Avenue on east side is where the Historical Mail Boat Dock was and there are old footings still there. Secretary showed pictures on overhead of river front park in Palm Shores. Krieger said the area across from Orange Avenue the Town owns the right-of-way is it not big enough, is that why they are looking to buy this as a park. Wilbur said Orange Ave is not big enough by itself and we were going for a grant to re-build the dock and there is a parking area there now and would allow enough room for expansion.

Reilly asked about west side of Highway 1, the sheds and small buildings on the property. Zindel asked how many vehicles can you get down there - six maybe. They reviewed the aerial of Palm Shores Park on the River and discussed pursuing grants in the future. Ritter suggested using the owner's name in the name of the park and they may lower selling price.

Wilbur said if there is any crossing of US1 it has to be at an intersection. Wilbur said to look at parcels to the south. Krieger to look at parcels that are available by Orange Avenue. They will do research on property along the River that is for sale and look into grant possibilities.

MOTION: recommend Council keep in contact with owner to see if the price goes down.

Vote: All Ayes.

4. Purchase of Old School House Located at 1490 Marie Street for Town Hall/ Building Department

Exhibit: Agenda Reports No. 4

Recommendation: Discussion

Tom Eschenberg, 2835 Beran Lane, Malabar, Correction not any use as Town Hall or Building Department. Wilbur said it was originally proposed for Community Center, past administration looked at changing the use for a Town Hall, when went to Council, if was a community center it would be less

Jim Noble, owner of Brevard Hardwoods, Old School House, 1490 Marie Street said in 1987 he constructed the 2500 sq ft shed. He is dealing with clearing the title from the Marshals and it is 98% renovated it is a matter of up keep.

Ritter asks about the historical aspect. Noble said it is not a state registered historical building, it is just in Brevard County. Noble related some of the history; there were no desks when he arrived. It was a mill shop. There is originality in the main building, but the roof is new. Wilbur asked if there were differences. Noble said the original structure has changed a bit, he added some to the front, the structure is there but he dealt with the stair cases to provide private access, ready to walk into. He named the architect and said the termite damage had been eliminated. Krieger asked about the air-conditioning and Noble said the down stairs is central A/C and the upstairs has window units in each area and he has built a wall to divide the studios. There is three phase power into the building.

The total area is 2.4 acres looking at the map on the overhead. Board discussed the property around the area suggested a good use would be a Community Center. Wilbur said it is all cleared behind the buildings. There is concern about the other properties for sale in the area. The building is a potential for a future Community Center. It is a unique and a property of interest. The Council has looked at this property. Wilbur said if we are looking for a downtown and trail head this is a plus to the Town. The funding might be available through grants. There is discussion among the Board about gatherings,

Wilbur asked about further study for this property and what grants could be applied for and what will we use this for, to host events, by trail head, 10 years later we have another possible site. Krieger, is there a time capsule / cornerstone in the building. Reilly said it could be a meeting place for the trail head or a community center; rent it out for revenue; there is room for expansion on the property, specifically not look for town hall, community center, for recreation center; activities for the community. Reilly said there is plenty of parking for the floor area ratio. Do a site plan to research best use. Building is 83 years old.

MOTION: Reilly / Ritter recommend Council consider the purchase of the Old School House @ 1490 Marie Street.

Vote: All Ayes.

Reasons are:

- Trail head meeting center
- Rent out upstairs
- Scouting
- Buildable property
- Malabar Community Center
- Proximity to Sand Hill Trail Head

Keep In mind the improvements done over the past ten (10) years; many improvements have been done and it is up to date.

G. DISCUSSION:

H. PUBLIC:

Jim Noble. Marie Street, said a lot of wildlife is killed on Malabar Road and noticed on Malabar at Marie Street that there were two Sand Hill Cranes dead, Wilbur said we need to have a crossing walk area marked for the Sand Hill Trail. Ritter has taken pictures of this happening. Secretary will check about signs about crossings for Sand Hill Trail crossing for wildlife. Wilbur suggested checking for caution signs for the trail and wildlife crossing.

Mayor recommended to Board to pursue what to expect Council to do about the Old School House recommendation. He has spoken to the Park Board Chair about their recommendation on the recreation side. Mayor will recommend Council allow him to form a committee to do research the possibility of this purchase.

Zindel asked why are these items on the agenda if there is no possible way to purchase. Mayor stated it takes time and effort.

I. OLD BUSINESS/NEW BUSINESS:

Board asked staff to put "Caution signs" along Malabar Road by Marie Street.

J. ADJOURN:

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

Vote: All Ayes. The meeting adjourned 9:00 P .M.

BY:

Bob Wilbur, Chair

Denine M. Sherear, Secretary

Date Approved

DRAFT

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: September 22, 2010

Prepared By: Debby Franklin, Town Clerk/Treasurer

SUBJECT: Discussion About Land Use Along US 1

BACKGROUND/HISTORY:

The Mayor stated at the RTCM of 9/7/2010 that P&Z had planned to review the FLUM for the entire Town. The Council supported with the recommendations P&Z had made for Malabar Road and the Babcock Street corridors and recommended the P&Z Board review the land use along US1.

P&Z Vice-Chair Reilly stated the land use and zoning were discussed in 2004 when a large scale Comp Plan amendment was done. It was a 17-acre site that was changed from CG to R/LC to allow applicant to submit for a mixed use development.

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ATTACHMENTS:

- Future Land Use (FLU) Element from Comp Plan
- FLU-1 map
- FLU-9 map

FUTURE LAND USE ELEMENT GOAL, OBJECTIVES, AND POLICIES

§1-1 Future land use goals, objectives and policies. This section stipulates goals, objectives, and implementing policies for the Land Use Element pursuant to §163.3177(6)(3), F.S., and §9J-5.006(3), F.A.C.

Goal 1-1

Land Use. Insure that the character and location of land uses reflect best management practices and principles of resource conservation, promote orderly land use transition, and minimize threats to health, safety, and welfare which may be engendered by incompatible land uses, environmental degradation, hazards, and nuisances.

1-1.1 Objective:

Plan and design for residential quality. Sufficient space shall be provided for residential development and require community facilities to adequately meet the housing needs of the present and expected future population of the Town. Residential development shall be planned and designed to create and perpetuate stable living areas and protect land and land improvements.

1-1.1.1 Policy:

Provide access to goods and services and protect residential areas from adverse impacts of transition in land use. Stable residential areas and projected future residential areas as delineated on the Land Use Map shall be protected from encroachment by incompatible nonresidential development. This objective does not preclude necessary community facilities from locating within residential areas when such activities satisfy established criteria of this plan and the Town's Code of Ordinances.

Any potential adverse impacts caused by different land uses located adjacent to each other shall be minimized by landscaping, screening, and buffering of all nonresidential activities located adjacent to residential activities. In addition, other reasonable design principles shall be included in the zoning code in order to alleviate any potential adverse impacts of potentially incompatible land uses.

1-1.1.2 Policy:

Promote orderly land use transition. Where it is infeasible to separate residential from nonresidential land uses, buffering shall be required to promote a smooth and gradual land use transition. Buffering may take the form of 1) physical barriers, such as berms, hedges or other landscape cover; walls or fences aesthetically designed for screening purposes; or open space systems with dense native vegetation; or 2) the development of a transitional use between the incompatible uses (such as low intensity office development between general retail commercial centers and residential areas).

1-1.1.3 Policy:

Promote orderly transition in residential densities. Highest residential densities shall continue to be allocated to sites highly accessible to major thoroughfares or collector streets and adjacent to existing development with the same or higher density or less restrictive zoning districts. Residential densities shall be allocated in a manner compatible with available public services, natural features of land as well as existing and anticipated future development.

1-1.1. Policy:

Reinforce and enhance appearance of residential areas and provide amenities. Scenic vistas, especially along the Indian River, Turkey Creek, Goat Creek, and their tributaries as well as vistas adjacent to transportation corridors should be enhanced by preservation of open space, by installation and maintenance of landscape and by application of community appearance criteria which reinforces good principles of design.

1-1.1.5 Policy:

Encourage separation of urban and rural land uses. Within one (1) year of the adoption of this plan, Article VII, Site Plan Review, of the Land Development Code shall be amended to incorporate performance standards, urban service availability standards, and other similar incentives and disincentives which encourage a separation of urban and rural land uses. Performance standards may include emission of noise, air pollutants, odor, vibration, fire or explosive hazard, and glare. Urban service standards may include transportation system, off street parking and loading, utilities and waste management, storm water management, tree protection, landscaping, and signage.

1-1.2 Objective:

Allocating commercial development. Commercial development shall be comprised of a wide range of business uses. The allocation of land resources shall consider the location and space requirements of commercial activities and potential fiscal and environmental impacts on the Town of Malabar.

1-1.2.1 Policy:

General considerations in locating commercial development. The location and distribution of specific types of commercial activities shall be determined based on the following considerations:

- a. Trip generation characteristics, impact on existing and planned transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- b. Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation and floor area requirements;
- c. Compatibility with and impact on other surrounding commercial activities;
- d. Relationship to surrounding land uses and natural systems;
- e. Impact on existing and planned community services and utilities.

1-1.2.2 Policy:

General pattern of commercial land use. In order to promote efficient flow of traffic along thoroughfares, achieve orderly development and minimize adverse impact on residential quality, commercial development shall be concentrated in strategically located areas having location characteristics which best accommodate specific land, site, public facilities and market location requirements of respective commercial uses.

1-1.2.3 Policy:

Provide appropriate locations for commercial office development. Office development shall be encouraged to locate on accessible sites near major thoroughfares and may serve as transitional uses separating more intensive commercial uses from residential development. In addition, office complexes may be compatible with multiple family units and/or institutional uses situated on strategically located sites along major thoroughfares where the sites are of sufficient size to accommodate land requirements for controlled access, effective internal circulation and off-street parking, and appropriate landscape, screening and buffering to assure stability and protection of established or anticipated future residential areas.

The Office-Institutional (OI), Multiple-Family Residential or Office (MRO), and Residential and Limited Commercial (R/LC) land use designations, as described in herein, are designed to carry out the intent of this objective. Land Development Code performance standards shall require significant landscaping, screening, urban design controls.

1-1.3 Objective:

Planning for industrial development. Sufficient land shall be allocated to accommodate industrial development.

1-1.3.1 Policy:

General considerations in locating industrial development. The allocation of land resources for industrial development shall reflect the location and space requirements of industrial activities and potential fiscal and environmental impacts on the Town of Malabar. The location and distribution of specific types of industrial activities shall be determined based on the following considerations:

- a. Trip generation characteristics, impact on existing and planned transportation systems, including dependency on rail, air, or trucking for distribution of material and goods;
- b. Anticipated employment generation, floor area requirements, and market area;
- c. Ability to meet established performance standards for preventing or minimizing nuisance impacts, such as emission of air pollutants, glare, noise or order, generation of hazardous by-products;
- d. Impact on established and planned development and natural systems; and

- e. Impact on existing and planned public services, utilities, water resources, and energy resources.

1-1.3.2 Policy:

Review of proposed Future Land Use Map amendments for industrial development. A high priority shall be directed toward encouraging development of existing lands designed for industrial development. These lands contain rail access and are highly accessible to the U.S. 1 highway corridor. These transportation facilities provide convenient access to regional markets. Furthermore, the existing designated acreage is compatible with adjacent land uses and furthers goals, objectives, and policies of the Comprehensive Plan.

The Town shall not amend the Future Land Use Map in a manner which would promote the encroachment of industrial activities into residential areas or in a manner which would adversely impact the integrity of established development. No such Future Land Use Map amendment shall be approved unless the applicant presents requisite information needed to affirmatively address policy considerations identified in Policy 1-1.3.1 above.

Any additional industrial designation of lands on the Future Land Use Map shall generally be concentrated near the existing industrial node and shall incorporate those amenities required by respective industrial uses.

1-1.4 Objective:

Promote community appearance, natural amenities and urban design principles. The community appearance shall be reinforced and enhanced through application of the site plan review process.

1-1.4.1 Policy:

Reinforce and enhance the Town's community appearance. Major attributes shall be preserved through application of design review standards and management of signs, landscape, and tree removal or relocation. Special emphasis shall be placed on preserving and/or improving the character of major natural and man-made corridors, including the intracoastal shoreline, the scenic estuary system, and major transportation corridors which serve as a focal point for the motoring public and an inviting gateway to the visiting tourist.

1-1.4.2 Policy:

Continue to maintain Malabar Vernacular Architecture Style. The Town shall maintain Land Development Code regulations that require the use of the Malabar Vernacular Architectural Style in non-residential and Residential/Limited Commercial developments located along arterial roadways.

§1-2 Managing Future Land Use.

Goal 1-2

Future Land Use Map. Continue to maintain and manage a Future Land Use map.

The Future Land Use Map, reflects the Town policy for managing the allocation of future land use. Land use designations on the Future Land Use map have been allocated pursuant to the goals, objectives and policies stipulated in the Comprehensive Plan; an analysis of population, housing and land resources; the need to conserve natural resources including wetlands, estuaries, floodways, flood plains, water recharge areas, fish and wildlife; consideration of capital improvement needs; conservation of fiscal resources; discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; and greenhouse gas reduction strategies.

The Future Land Use Map shall designate areas for the following uses: Rural Residential; Low Density Residential; Medium Density Residential; High Density Residential; Multiple-Family Residential or Offices; Residential and Limited Commercial; Limited Commercial; General Commercial; Industrial; Institutional; Conservation; and Open Space and Recreation land uses. This section of the Future Land Use Element shall define the nature, density and intensity of the allowable uses for each of the designations represented on the Future Land Use map. Nothing in this section shall preclude necessary community facilities from locating within any future land use designation when such activity satisfies established criteria of this plan and the Town's Code of Ordinances.

1-2.1 Objective:

Allocating residential development. The Future Land Use Map shall allocate residential density based on the following considerations: past and projected future population and housing trends and characteristics; provision and maintenance of quality residential environments; protection of environmentally fragile natural systems; the need to plan for smooth transition in residential densities; and provision and maintenance of traffic circulation and multiple-family improvements.

1-2.1.1 Policy:

Density defined. All residential densities denoted on the Future Land Use Map reflect the maximum gross density permitted on the land. Maximum gross residential density will be determined by dividing the "maximum allowable units" by the "gross land area". Gross land area shall be defined as those contiguous land areas under common ownership subject to the following provisions and exceptions:

- a. In cases where land abuts the tidal waters of the Indian River and all tributaries and manmade canals thereof, the boundary of the land shall be delineated as established by State statutes (Chapter 177, Part II, Coastal Mapping), or as may be amended.
- b. No submerged land or aquatic areas waterward of the boundary above described shall be included as gross land area under this definition.
- c. No land areas proposed to be allocated to nonresidential uses shall be included under this definition, excepting contiguous areas proposed for:

- Public or private rights-of-way;
- Utilities under common ownership and principally supporting the residential use;
- Recreational facilities for the primary use of on-site residents; and
- Dedications to the Town or other Town approved agencies or Town approved not-for-profit corporations.

Density is expressed in terms of a range up to a specified maximum. Where so stated as a range, the maximum density is not guaranteed by right. Subdivision, zoning and site plan review criteria and procedures shall assure that specific density assigned to new development is compatible and consistent with established residential development patterns and provides equitable use of the land. Criteria to be considered in allocating density shall include the following:

- a. Protect the integrity and stability of established residential areas;
- b. Assure smooth transition in residential densities;
- c. Require application of sound landscaping and urban design principles and practices;
- d. Protect environmentally sensitive areas;
- e. Minimize the impact of hurricane and flood hazards;
- f. Coordinate with Brevard County; and
- g. Provide equitable rights to the use of the land.

1-2.1.2 Policy:

Rural Residential Development (RR). Areas delineated on the Future Land Use Map for rural residential development shall be developed and maintained as rural residential areas with a density of one and one-half (1.5) acres per dwelling unit. This designation is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lots for rural residential homesites. The areas contain few urban services and the street system is generally incapable of carrying traffic generated by urban densities. This land use policy provides land area for accommodating a unique lifestyle which cannot be accommodated in more dense residential areas. Zoning regulations shall provide standards for these areas which are designed to permit development compatible with the need for preserving a rural character and large open space systems.

1-2.1.3 Policy:

Low Density Residential Development (LDR). Areas delineated on the Future Land Use Map for low density residential development shall be developed and/or maintained as residential areas with a maximum density of up to two (2) dwelling units per acre. Specific densities will be determined by such factors as natural features of the land, character of undeveloped land and surrounding development, level of accessibility, housing supply and

demand, and adequacy of public facilities. Supportive community facilities and accessory land uses may be located within areas designated LDR. The Town land development regulations shall provide regulatory procedures for considering such uses

The low density designation is established to protect the quality and character of existing stable low density single family neighborhoods, preserve open space, and encourage densities which are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities for the area.

1-2.1.4 Policy:

Medium Density Residential Development (MDR). Areas delineated on the Future Land Use Map for medium density residential development shall be developed and/or maintained as residential neighborhoods. This designation allows for multi-family and single family structure types and maximum density of up to four (4) dwelling units per acre. The medium density designation is intended to ensure sufficient land area for developments of medium density and the adequacy of existing and/or projected public facilities for the area. Supportive community facilities and accessory land uses may be located within areas designated MDR. The Town land development regulations shall provide regulatory procedures for considering such uses.

Review of specific densities of developments shall be directed toward preserving stability of established residential areas. Sites for medium density residential developments should be located so that they provide a smooth transition between lower density residential areas and areas developed and/or designated for other more intense uses.

1-2.1.5 Policy:

High Density Residential Development (HDR). High density residential development ranges up to a maximum of six (6) units per acre. The high density policy designation is intended to primarily provide for multiple family residential development at higher densities which shall be adequately supported by public services and facilities, and maintain compatibility with the surrounding area. The specific designated for high density development shall be accessible to existing or anticipated future major thoroughfares and requisite utilities. In addition, these areas generally shall be highly accessible to commercial services. Specific density of future development proposals within these areas shall provide for smooth transition in residential density, preserve stability of established residential areas, and shall include sufficient open space, parking and landscaping to reinforce goals and objectives for quality living areas.

1-2.2 Objective:

Allocating commercial development. The Future Land Use Map shall identify the allocation of commercial land for: 1) multiple-family residential or office development; 2) limited commercial development; and 3) general commercial activities. The allocation of land for commercial development is compatible with goals and objectives identified in the Comprehensive Plan and consistent with supportive research and analysis. The policies stated below provide an explanation of the

purpose, intent and character of the commercial land use designations.

1-2.2.1 Policy:

Multiple-Family Residential or Office Development (MRO). The MRO policy designation is a land use classification designed to accommodate residential development, offices, and institutional uses. This policy designation is intended for sites which shall:

- Have good accessibility;
- Have potential to be serviced by a full complement of urban services;
- Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential future adjacent land uses of differing intensity;
- Accommodate only freestanding multiple-family residential structures or office buildings and shall expressly exclude general retail sales and services, warehousing, and outside storage; and
- Generally serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher density or intensity.

The density of residential development within MRO designated lands shall not exceed six (6) units per acre.

1-2.2.2 Policy:

Office-Institutional Development (OI). The OI policy designation is a land use designation designed to accommodate business and professional offices and institutional land uses. This policy designation is intended for sites which:

- Have accessibility to major thoroughfares;
- Have potential to be served by a full complement of urban services;
- Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential future adjacent land uses of differing intensity;
- Accommodate only office buildings and institutional land uses and shall expressly exclude general retail sales and services, warehousing, and outside storage; and
- Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.

1-2.2.3 Policy:

Limited Commercial Development (CL). Limited commercial development is allocated to commercial sites accessible to major thoroughfares near

residential neighborhoods. Such development is intended to provide essential household services in locations highly accessible to residential areas. For instance, sites within this designation are intended to accommodate neighborhood shops with limited inventory or goods. Such shops generally cater to the following markets: 1) neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional markets; or 2) a specialized market with customized demands. Commercial development within the limited commercial designation shall generally be restricted to any of the following uses: neighborhood convenience stores; small limited item shops and stores restricted to retail sales of convenience items and services including barber, beauty care, and other personal services; small scale drugstores, laundry and dry cleaning pick-up stations; specialty shops; small scale activities associated with a specialized facility.

Areas designated for limited commercial development are not intended to accommodate large scale retail sales, service, and trade activities, generally serving a city-wide or regional market. Such stores would usually differ from limited commercial shops since the former would usually require a larger floor area, carry a relatively larger inventory and require a substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large scale discount stores; health spas, supermarkets; department stores; large scale wholesaling and warehousing activities; general sales, service or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; fast food establishments primarily serving in disposable containers and/or providing drive-in facilities, and other similar services to be expressly defined in the zoning ordinance.

No residential uses shall be located in a CL designated area.

1-2.2.4 Policy:

General Commercial Development (CG). The general commercial areas are designated on the Future Land Use Maps for purposes of accommodating general retail sales and services. These areas are located in highly accessible areas adjacent to major thoroughfares which possess necessary location, site, and market requirements. Zoning policy shall stipulate provisions regulating specific land uses.

The areas designated for general commercial development are specifically not adaptive to permanent residential housing and such uses shall be located in other areas designated for residential development.

1-2.2.5 Policy:

Residential and Limited Commercial Development (R/LC). The R/LC Future Land Use Map designation is intended to accommodate and shall accommodate a mixture of land uses expressly restricted to uses allowed in the "limited commercial" designation together with uses allowed on lands designated for high density residential activities with a density no greater than six (6) units per acre. Such residential uses may be located either within a free standing structure or within a structure housing both Residential and

Limited Commercial activities. The "R/LC" FLUM designation is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in the Town's Land Development Code. The "R/LC" Future Land Use Map (FLUM) designation is intended to apply to and shall only be applied to strategically located sites situated on the Westside of the US 1 corridor. The "R/LC" FLUM designation shall apply only to the following specific areas:

- a. Land south of the south property line of parcel 252 and 251 located 400+/- feet south of Riverview Home S/D; east of the FEC R/W; north of an irregular line formed by the south property line of lots 15-21 which front on the south side of Malabar Road, the east property line of lot 21 fronting on the south side of Malabar Road; and west of an irregular line formed by the US 1 R/W and the west property line of lot 22 which fronts on the south side of Malabar Road.
- b. Land south of Orange Avenue R/W and north of Township Road within the Drake S/D, lots 41, A, B, C, D, E, F, G, and West of US 1; and the land east of Crescent Road, north of Oak Street R/W, and west of the US 1 R/W.
- c. Land south of the north property line formed by parcel 7.1, approximately 860 feet south of Oak Street and on the Westside of Us 1 Highway; and the west and south property lines of parcel 7.1 and east of the west property lines of the following lots all of which abut Us 1 R/W and are located in the Sunnybank on the Dixie S/D; lots 1-10 in block C, lots 1-12 in block B, and lots 1-4 in block A; north of the south property line of lot 1, block A, Sunnybank on the Dixie S/D; and west of the US 1 R/W.

These sites currently are characterized by a mixture of generally small scale commercial businesses together with predominantly single family residential land uses. Acres designated "R/LC" are not suitable for and shall not be developed for large scale general retail activities or other commercial activities more intense than land uses expressly provided for in the "limited commercial" Future Land Use Map designation (Reference Policy 1-2.2.3) since such development would incompatible with existing and anticipated future residential development within or in the vicinity of areas designated "R/LC" on the Future Land Use Map.

1-2.2.6 Policy:

Criteria for the Residential and Limited Commercial Development R/LC Designation. The following criteria for development within the R/LC FLUM designation shall be incorporated into the Town of Malabar Land Development Regulations:

- a. *Percent of Site for Mixed Use Development.* Within the R/LC designation where Residential and Limited Commercial activities are proposed to occupy the same site and/or the same building the following minimum and maximum percentages shall apply:

	Minimum	Maximum
Limited Commercial	20%	90%

The industrial land use designation is allocated to industrial sites accessible to major thoroughfares and buffered from residential neighborhoods. Light industrial uses include: light manufacturing and assembling activities; kennels; truck or bus terminal facilities; warehousing and storage activities; and other similar land uses which might be permitted through appropriate zoning procedures excluding heavy metal fabrication, chemical or petroleum manufacturing or refining, rubber or plastics manufacturing, or other uses generating potentially harmful nuisance impacts.

1-2.8 Objective:

Allocating Institutional Services (INS). The Town shall set aside land sufficient to accommodate institutional land uses. For instance, approximately 25 acres of institutional land area is anticipated to be required by 2010. The Town shall monitor the need for such increased land area for institutional uses and shall assure that the institutional land use designation on the Future Land Use Map is expanded to accommodate the development of public and semi-public facilities such as government administrative buildings; fire, police and rescue services; health care delivery services; and educational institutions. Land uses such as places of worship, cultural or civic centers, and other similar public or private not-for-profit uses may be included within this land use designation.

1-2.8.1 Policy:

Institutional Land Use Designation. Lands designated for institutional services shall contain sufficient acreage and open space and be properly screened and buffered in order to minimize potential adverse impacts on adjacent land uses.

1-2.9 Objective:

Allocating Open Space and Recreation (OSR). The open space and recreation designation has been established to direct the preservation of open spaces and recreation areas, both publicly owned and privately owned, including golf courses, parks, recreation areas and similar facilities.

1-2.9.1 Policy:

Open Space and Recreation Land Use Designation. Lands designated for open space and recreation shall be consistent with the Recreation and Open Space Element and shall reflect actions taken to implement the goals, objectives and policies of the Recreation and Open Space Element.

1-2.10 Objective:

Allocating Conservation (CON). The conservation designation has been established to direct the preservation of publicly-owned major natural resources and environmentally sensitive corridors. The purpose of preservation is for the conservation and protection of natural resources or environmental quality. These areas may be used for wildlife management, passive recreation, and environmental restoration/preservation. These natural areas may include site improvements to support uses which are deemed appropriate and consistent with the function of the designated area.

1-2.10.1 Policy:

Conservation Designation. The Town shall designate lands which are

deemed appropriate to conserve in order to implement natural resource conservation goals, objectives, and policies stipulated in the Comprehensive Plan. Where such designations are enacted, the Town Council shall adopted appropriate programs, policies, and/or ordinances for managing implementation of the respective conservation Future Land Use Plan designations.

1-2.10.2 Policy:

Conservation Designation consistent with Conservation Element. Lands designated for conservation shall be consistent with the Conservation Element and shall reflect actions taken to implement the goals, objectives and policies of the Conservation Element.

1-2.10.3 Policy:

Designate Lands as Conservation on the Future Land Use Map. Within two (2) years of the adoption of this plan, publicly owned lands that the Town deems appropriate for conservation shall be allocated as Conservation on the Future Land Use Map.

1-2.10.4 Policy:

Designate Environmentally Endangered Lands as Conservation on the Future Land Use Map. Within two (2) years of the adoption of this plan, lands that are managed by the Brevard County Environmentally Endangered Lands (EEL) program shall be allocated as Conservation on the Future Land Use Map.

1-2.10.5 Policy:

Amend Land Development Code to create a Recreation/Open Space (RS) district. Within one year of the adoption of this plan, the Land Development Code shall be amended to create a Recreation/Open Space (RS) District. The RS District is intended to implement the open space and recreation land use and conservation land use of the Town's Comprehensive Plan by providing areas for the development of active or passive recreational facilities and the preservation of open space.

1-2.10.6 Policy:

Implement Land Development Regulations to protect Conservation Areas. Within one year of the adoption of this element the Town shall adopt Land Development Code regulations that protect and preserve conservation space. Regulations shall include specific open space definitions and standards addressing protection of open space, natural vegetation, landscape, and signage.

1-2.10.7 Policy:

Implement Land Development Regulations to protect lands east of US-1. Within one year of the adoption of this plan the Town shall amend the Land Development Code to further regulate the Coastal Preserve Zoning District. Land development regulations shall contain performance standards which may include setbacks, buffers, control of exotic species, stormwater management and runoff, signage, public access, and preservation of Indian River Lagoon, seagrass beds, and other estuarine resources.

1-2.11 Objective:

Planned Unit Development. The Town shall promote innovative development concepts including mixed use development, and shall institute development concepts including mixed use development, and shall institute procedures for resolving conflict through use of the planned unit development.

1-2.11.1 Policy:

Planned Unit Development overlay designation. The Town hereby establishes a planned unit development overlay designation in order to provide a voluntary management framework for coordinating objectives of developers which may require departures from established public policy.

The planned unit development overlay designation shall provide a management strategy for negotiating innovative development concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The detailed regulations, standards, and procedures for implementing the planned unit development overlay designation shall be incorporated in the land development code. Planned Unit Developments must be designed to fit into the rural residential nature of the Town.

The planned unit development overlay designation shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development options. The basic development options, including principles for locating alternative land use activities shall be governed by the underlying land use designated for the site. Developers who voluntarily participate in the process shall bind themselves as well as those who may be their successors in title to the affected land.

1-2.11.2 Policy:

Reinforce and enhance the Town's rural residential atmosphere. Within one (1) year of the adoption of this plan, the Land Development Code shall be amended to incorporate Planned Unit Development District (PUD) standards and specifications that maintain and enhance the profile and rural atmosphere of the Town. Standard and Specifications may include Malabar Vernacular architectural styles and detailing, garage and facades, signage, parking, landscaping, street access and circulation, and open space.

1-2.12 Objective:

School Siting. The Future Land Use Map shall accommodate schools within all land use designations at locations that minimize impacts to adjacent residential land use, that provide safe and efficient access to school sites, that create compatibility with adjacent residential land uses, that comply with all provisions of the Comprehensive Plan and Land Development Code, and shall be implemented through the following policies.

1-2.12.1 Policy:

School Site Locations: Site Compatibility. School sites shall be located and developed pursuant to plans that preserve land use compatibility.

Compatibility determinations shall be undertaken to ensure that school sites are compatible with present and projected uses of adjacent property and that site plans reinforce long term compatibility. Land use compatibility shall require avoidance or successful mitigation of adverse impacts of noise and any spill over of outdoor lighting onto residential property in excess of best management principles and industry standards; shall accommodate safe and convenient internal circulation and queuing of vehicles, as well as off-street parking area design that avoids headlight illumination into adjacent residential properties, and shall require successful mitigation of the adverse impacts generated by outside unenclosed activity areas such as playgrounds and field sports areas.

1-2.12.2 Policy:

School Site Locations: School Site Size. The sites shall be consistent with recommended State standards for public schools.

1-2.12.3 Policy:

School Site Locations: Compliance with Town of Malabar Comprehensive Plan and Concurrency Requirements. All school sites shall be served by adequate public facilities and services required to support elementary, middle, junior high, and senior high schools, including but not limited to, public potable water and sanitary sewer systems, stormwater management facilities, and fire, police, and medical services as well as sidewalks and paved roads with convenient and safe access that create direct linkage to a major collector or arterial street. The developed school site shall meet all concurrency management level of service requirements of the Town. The site plans shall comply with applicable public school facility elements and school facility concurrency requirements as mandated by State law.

- a. Elementary School. A minimum of four (4) acres for the first two hundred (200) student capacity plus one (1) acre for each additional one hundred (100) students.
- b. Middle or Junior High School. A minimum of six (6) acres for the first three hundred (300) student capacity plus one (1) acre for each additional one hundred (100) students.
- c. Senior High School. A minimum of seven (7) acres for the first three hundred (300) student capacity plus one (1) acre for each additional fifty (50) students up to one thousand (1,000) students, plus one (1) acre for each additional one hundred (100) students thereafter.
- d. Minimum site size may be adjusted for sites on which co-location of facilities are proposed or on sites characterized by development of multi-story facilities designed to achieve advantages of cluster design techniques consistent with best management principles and practices.

1-2.12.4 Policy:

School Site Locations: Future Land Use Map Designations for Schools. School sites should be located on sites that can be focal points for

community activities and should incorporate innovative urban design, including opportunities for shared use and co-location with other community facilities. All school facility applications for site plan approval or other required land use approvals must comply with the Town of Malabar Comprehensive Plan and Land Development Regulations.

- a. Elementary schools should be within walking distance of residential neighborhoods served and the elementary school sites shall provide safe and convenient direct or indirect access to major collector or arterial roads and such sites may be selected within any future land use designations delineated on the Future Land Use Map.
- b. Middle, Junior High and Senior High Schools shall be located on the periphery of residential neighborhoods and the school sites shall have direct access to major collector or arterial streets and such sites may be selected within any future land use designations delineated on the Future Land Use Map.

1-2.12.5 Policy:

School Site Locations: Protect Natural Resources and Avoid Encroachment into Environmentally Fragile Systems. School facilities shall not be located within wetlands, the 100-year floodplain, or threatened or endangered flora or fauna habitats. School facilities shall be planned and developed in a manner approved by all federal, state, and local agencies having jurisdiction over such natural resources, including applicable buffer standards. School sites shall be well drained and the soils shall not impose severe constraints to intensive development.

1-2.12.6 Policy:

School Site Locations: Protect Archaeologically and Historically Significant Sites. School sites shall not adversely impact an archaeologically or historically significant site listed in the National Register of Historic Places or the State list of historically or archaeologically significant sites, or listed by the Town of Malabar as an historically or archaeologically significant site and which would be adversely impacted by development of a school facility.

1-2.12.7 Policy:

School Site Locations: Locate Outside of Airport Approach Zones and High Impact Noise Contours. School site locations shall be compliant with Section 333.03, F.S., which addresses in part the construction of educational facilities in the vicinity of an airport approach zone or high impact noise contour.

1-2.12.8 Policy:

School Site Locations: Encourage Co-Location of Public Facilities with Complementary Functions. School site selection shall encourage co-location of public facilities with complementary functions. Site selection should be coordinated with the Town of Malabar and Brevard County in order to enhance opportunities for such co-location and to ensure that the site selection process considers the spatial needs of not only the school

plant but also the spatial needs of other potential joint users of the site. To maximize use of public facilities in the Town of Malabar, the Town shall encourage co-location of public schools with public facilities, having complementary functions such as parks, libraries, and appropriate children's service facilities where feasible, practical, safe and beneficial to the Town and the School Board.

1-2.12.9 Policy:

Siting of Private School Sites. The intent and purpose of public and private schools is to provide an organized system of education to a student population. Although the age of the student population served and the program orientation of educational facilities may differ widely, both public and private school facilities generate potential land use compatibility issues previously identified in Policies 1-2.12.1 through 1-2.12.8.

School siting criteria is required by State law for public schools. However, the land use compatibility issues documented herein shall be implemented in the site plan review process for both public and private schools. Private schools shall be accommodated within all land use designations. Minimum site size for any private school facility shall be determined on a case by case basis based on best management principles and practices. The minimum size shall be directly related to land and facility spatial requirements for the educational activity, size of near and long-term clientele, character and intensity of activity areas, nature of outdoor activities and facilities, and other characteristics of the proposed private facility."

1-2.12.10 Policy:

Amend the Land Development Code to Implement the School Siting Policies. The Town shall amend Table 1-3.2 within §1-3.2, Town of Malabar Land Development Code, which currently only allows educational institutions as a conditional use within the Office/Institutional (OI) or Institutional (INS) zoning districts. The amendment shall implement the recommended school siting policies stated in Policies 1-2.12.1 through 1-2.12.8.

1-2.13 Objective:

Malabar Road as a local corridor. The Town shall evaluate the development of Malabar Road as a local corridor.

1-2.13.1 Policy:

Malabar Road Corridor Plan. The Town shall pursue a corridor plan for Malabar that incorporates the following objectives: incorporates low density office and commercial uses; promotes economic development; provides additional services to the Town; remains true to the spirit and rural atmosphere of the town; and enhances and improves traffic operations and mobility along Malabar Road.

1-2.13.2 Policy:

Access Management. The "Malabar Road Corridor Plan" shall include an Access Management Plan to address right of way limitations.

1-2.13.3 Policy:

Overlay Zoning District. The Land Development Code shall be amended to incorporate overlay zoning district regulatory provisions and performance standards. The provisions may include permitted land uses, densities, design standards, signage, and required improvements along the corridor.

§1-3 Land Use Element Implementation.

Goal 1-3

Implementing Land Use Goals and Objectives. Continue to monitor and evaluate development and resource conservation within the Town pursuant to goals and objectives of the comprehensive plan Land Use Element and carry an effective implementation program as herein established.

1-3.1 Objective:

Manage and coordinate future land use decisions. Management of land and physical improvements identified on the Future Land Use Map will be coordinated with natural systems, including topography, soils conditions, vegetation, natural habitat, potable water wellfields, and other environmentally sensitive land and water resources. Land use shall also be predicated on availability of man-made infrastructure and service systems required to support land use activities.

1-3.1.1 Policy:

Future Land Use Map and related policies. The Future Land Use Map and related policies provide definitions of land use designations and qualitative standards which shall be applied in allocating future land uses.

1-3.1.2 Policy:

Resolving public service concurrency issues surrounding new development. Pursuant to Chapter 163, F.S., and §9J-5, F.A.C., the Town of Malabar shall issue no development order for new development which would result in an increase in demand on deficient facilities prior to completion of improvements needed to bring the respective facility up to standard. Pursuant to 9J-5.006(3)(c)3] the Town shall encourage and direct development to areas where public facilities and services are available or are projected to be.

1-3.1.3 Policy:

In order to implement concurrency management for proposed new residential or nonresidential development, any required improvements to meet concurrency, as determined by Town Staff, shall include a detailed schedule for construction and completion. Should development or facility improvements fail to begin or be completed in accordance with the development order or permit, then all outstanding approvals of the development shall expire. Amendments or changes to time schedules shall be permitted but must be approved by the body granting the original approval.

1-3.1.4 Policy:

In order to implement concurrency management the Town shall require that all proposed non-residential developments and/or proposed residential developments that require a comprehensive plan amendment and/or zoning code amendment, whichever occurs first, shall at the time the subject application for amendment is filed, submit information which demonstrates that all urban services needed by the proposed development can and will be provided concurrent with the new development.

In order to establish an orderly review process, the Town shall refine the Land Development Code by stipulating specific narrative and/or graphic data and information required at the time a comprehensive plan amendment or zoning code amendment is filed with the Town. As a minimum, the information shall include the following:

- The specific land use(s) and the proposed density and/or intensity of the use(s);
- Estimated trips per day generated by the proposed land use(s) together with anticipated on- and off-site improvements necessitated to accommodate the traffic impacts generated by the development including, additional R/W, roadway improvements, additional paved laneage, traffic signalization, and other similar improvements;
- Anticipated wastewater generation together with anticipated improvements for collecting and treating the same;
- Potable water demands together with proposed improvements for providing the potable water;
- Conceptual plan for accommodating stormwater run-off and demonstrated evidence proposed drainage improvements shall accommodate stormwater run-off without adversely impacting actual systems;
- In cases where residential development is proposed, information shall be submitted describing plans for accommodating recreational demands generated by the development, including demonstrated evidence that the Town's adopted level of service for recreation shall not be adversely impacted;
- Projected demand generated by the development on the solid waste disposal system and assurances that the Town's adopted level of service for solid waste disposal shall not be adversely impacted;
- Potential to increase the prevention of urban sprawl as defined by 9J-5.006(5)(g), Florida Administrative Code (F.A.C.)
- Other information which the Town determines is necessary to assure that the concurrency requirement shall be satisfied without adversely impacting existing levels of service or the Town's ability to adequately service participated development which is consistent with the adopted plans and policies of the Town.

All such information submitted pursuant to this subsection shall incorporate proposed funding sources, including any identification of improvements which the applicant anticipates shall be funded by the Town or other public entity.

1-3.1.5 Policy:

The Town will discourage and assess potential for urban sprawl in formal review of development proposals utilizing criteria in Rule 9J- 5.006(5)(g).
F.A.C.

1-3.1.6 Policy:

Land development regulations. Existing regulations governing zoning; subdivision; signage; landscaping and tree protection; flood plain management; surface water management; water conservation; sewers and sewage disposal; streets and sidewalks; parks, playgrounds and recreation; health and sanitation; fire prevention and protection; building and electrical codes; excavation and erosion; and other land and water management regulations shall be revised and/or updated as needed in order to: 1) effectively regulate future land use activities and resources identified on the Future Land Use Map; and 2) implement the goals, objectives, and policies stipulated in the Comprehensive Plan. These ordinances shall be incorporated into a land development code pursuant to Chapter 163.3202, F.S., and shall contain specific detailed provisions which as a minimum:

- a. Regulate the subdivision of land;
- b. Regulate the use of land and water consistent with this Element, ensure the compatibility of adjacent land uses, and provide for open space;
- c. Protect the environmentally sensitive lands designated in the Comprehensive Plan;
- d. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
- e. Protect potable water wellfields and aquifer recharge areas;
- f. Regulate signage;
- g. Ensure safe and convenient onsite traffic flow and vehicle parking needs; and
- h. Provide that development orders and permits shall not be issued which result in a reduction of the level of services for the impacted public facilities below the level of service standards which shall be adopted by the Town Council.

1-3.1.7 Policy:

Standards for residential density. Land development regulations adopted to implement this Comprehensive Plan shall be based on and be consistent with the following standards for residential densities as indicated below and as elaborated in §4-2; Policy 1.1 (1-5), herein:

- a. Rural residential density – a maximum density of up to one and one-half (1.5) gross acres per residential unit.
- b. Low density residential – a maximum density of up to two (2) residential

units per gross acre.

- c. Medium density residential – a maximum density of up to four (4) residential units per gross acre.
- d. High density residential – a maximum density of up to six (6) residential units per gross acre.

1-3.1.8 Policy:

Non-residential development standards. Land development regulations shall be adopted which address the location and extent of non-residential land uses in accordance with the Future Land Use Map and the policies and descriptions of types, sizes, and intensities of land uses contained in this Element.

1-3.1.9 Policy:

The Town shall regulate intensity of non-residential land uses as noted in the below Table.

Land Use Category	Intensity Standards	
	Height	Building Coverage
<i>Multiple-Family Residential or Office Development (MRO).</i>	35 feet	20%
<i>Office-Institutional Development (OI).</i>	35 feet	20%
<i>Limited Commercial Development (CL).</i>	35 feet	20%
<i>General Commercial Development (CG).</i>	35 feet	20%
<i>Industrial Development (IND).</i>	35 feet	42%
<i>Institutional Services (INS).</i>	35 feet	20%
<i>Open Space and Recreation (OSR)</i>	35 feet	10%
<i>Conservation (CON)</i>	35 feet	5%

1-3.1.10 Policy:

Performance standards. Land development regulations shall contain performance standards which:

- a. Provide criteria for protecting wetlands;
- b. Establish buffering and open space requirements;
- c. Provide criteria for protection of potable water wellfields;
- d. Provide criteria for drainage and stormwater management;
- e. Incorporate criteria for requiring off-street parking and managing internal traffic circulation as well as access to and egress from the street system;
- f. Mandate availability of requisite service and infrastructure;
- g. Stipulate criteria for screening and buffering land uses and facilities which may otherwise adversely impact development of adjacent land use;
- h. Establish standards for erosion control;
- i. Address historically significant properties meriting protection.

1-3.2 Objective:

Encourage redevelopment and renewal: Manage future redevelopment of declining

areas. Although the Town currently has no blighted or declining areas, the Town has designated Malabar Road and US 1 as target areas for redevelopment. The Town shall coordinate public and private resources necessary to initiate needed improvements and/or redevelopment within currently defined redevelopment areas as well as areas that may in the future exhibit indications of blight or decline.

1-3.2.1 Policy:

Code enforcement activities. Code enforcement activities shall be continued as an integral part of the Town's regulation programs. The code enforcement program shall preserve and protect structurally sound land improvements and land uses consistent with the Comprehensive Plan.

1-3.2.2 Policy:

In order to discourage blight, the Town shall increase emphasis on nuisance abatement to improve neighborhood quality of life. The Town shall routinely review and update existing nuisance abatement codes.

1-3.2.3 Policy:

Public and private sector partnerships. If redevelopment issues materialize, the Town shall coordinate with the private sector in promoting mobilization of public and private resource necessary to effectively carryout redevelopment efforts.

1-3.2.4 Policy:

Malabar Road Corridor Plan. The Town shall pursue a corridor plan that promotes economic development, pedestrian connectivity, and good urban design along Malabar Road.

1-3.3 Objective:

Prevent land use inconsistent with Town's character. Future land uses shall be consistent with the Town's character, the Future Land Use Map, and other applicable laws, ordinances, and administrative rules impacting land and water resources. Similarly, if improvements are proposed to an existing structure which does not comply with such provisions governing setbacks, size dimensions, height, density, or other location criteria, then: 1) in no case shall any existing non-compliance be increased; and 2) the existing non-compliance shall be eliminated or reduced to the greatest reasonable and practical extent.

1-3.3.1 Policy:

Managing future land use. The Future Land Use Map and related policies together with the Land Development Code shall be applied as a planning and management device in order to prevent development of land uses which do not conform to the Town's character as reflected in the Town's adopted Future Land Use Map, Zoning Map, and other applicable laws, ordinances, and administrative rules.

1-3.3.2 Policy:

Managing improvements to existing non-complying structures. The Land Development Code shall provide standards regulating improvements to existing non-complying structures and such standards shall require compliance and/or mitigation to the greatest reasonable and practical extent.

1-3.4 Objective:

Protection of archaeological and historic resources. Land development and conservation activities shall insure protection of archaeological and/or historic resources.

1-3.4.1 Policy:

Programming for archaeological and historic sites. The Town shall coordinate with the State in developing appropriate programs for implementing Town and State policies for identifying, preserving, and enhancing sites of historical and archaeological significance. Programs for identification, evaluation of relative significance, protection, preservation, and enhancement shall be promoted utilizing available public resources at the local, State, and Federal level as well as available private sector resources.

1-3.4.2 Policy:

Preventing adverse impact of development on historic or archaeological sites. Development activities shall include precautions necessary to prevent the following adverse impacts to historic or archaeological sites of significance: 1) destruction or alteration of all or part of such site; 2) isolation from or significant alteration to its surrounding; 3) introduction of visible, audible, or atmospheric elements that are out of character with the property or significantly alter its setting; 4) transfer or sale of a site of significance without adequate conditions or restrictions regarding preservation, maintenance, or use; and 5) other forms of neglect resulting in its deterioration .

1-3.4.3 Policy:

Amend Land Development Code. Within one year of the adoption of this plan, the Town shall amend the Land Development Code regulations that preserve and conserve historic or archaeological sites of significance; Protect and encourage the revitalization of historic or archaeological sites of significance; Protect such archaeological and historic sites to combat urban blight, promote tourism, foster civic pride, and maintain physical evidence of the city's heritage; and Encourage and promote restoration, preservation, rehabilitation and reuse of archaeological and historic sites by providing technical assistance, investment incentives, and facilitating the development review process.

1-3.5 Objective:

Protection of natural resources. Development and conservation activities shall assure the protection of natural resources.

1-3.5.1 Policy:

Future land use policies for managing environmentally sensitive lands. Policies in Chapter 5 and 6 for managing environmentally sensitive estuarine and upland areas shall be applied in protecting natural systems.

1-3.5.2 Policy:

Incorporate land development regulations for environmentally sensitive estuarine and upland areas. The Town shall amend the Land Development Code to further regulate the Coastal Preserve Zoning District. Land

development regulations shall preserve and protect the Indian River Lagoon, sea grassbeds and other estuarine resources, natural drainage and recharge areas, and native vegetation from potentially adverse impacts of development. The Code shall contain performance standards which may include setbacks, buffers, control of exotic species, stormwater management and runoff, signage, public access, and preservation of Indian River Lagoon, seagrass beds, and other estuarine resources.

1-3.5.3 Policy:

Intergovernmental coordination and natural resource management. The Town shall coordinate with the State, the St. John's River Water Management District, the East Central Florida Regional Planning Council, the Marine Resources Council of East Central Florida, Brevard County, and other agencies concerned with managing the Indian River Lagoon as well as environmentally sensitive coastal uplands. Such intergovernmental coordinating activities shall be directed toward protecting the values and functions of the coastal marsh and submerged lands.

1-3.5.4 Policy:

Protecting flora and fauna having special status. The habitat of rare and endangered species of flora and fauna and others having special status as identified in the Conservation Element shall be protected.

1-3.5.5 Policy:

Managing stormwater run-off. The developer/owner of any site shall be responsible for managing on-site run-off.

1-3.5.6 Policy:

Conservation of potable water supply. The potable water supply shall be conserved by enforcing potable water standards to be developed as part of the Land Development Code.

1-3.6 Objective:

Coordinating coastal area population densities. Coastal area population densities shall be coordinated with the Brevard County Peacetime Emergency Plan, Disaster Evacuation Plan (as exists or as hereinafter may be amended) and shall also be consistent with applicable regional hurricane evacuation plans.

1-3.6.1 Policy:

Continuing review of population densities. The Town shall coordinate with Brevard County in order to assure continued compliance with the County disaster evacuation plan (referenced above). In addition, the Town shall coordinate with Brevard County in order to remain responsive to issues which may impact County hurricane evacuation plans, including issues surrounding planned State improvements to S.R. 514

1-3.7 Objective:

Minimize impacts on Indian River Lagoon. The Town shall allow the expansion of existing facilities which will have minimum impact on the Indian River Lagoon system and to discourage their location in inappropriate areas.

1-3.7.1 Policy:

Strategic placement of infrastructure. Infrastructure shall be located in areas where maximum physical advantage exists, where the least dredging and maintenance are required, and where adequate resources will not be adversely affected subject to State and Federal regulations.

1-3.7.2 Policy:

Water quality. Present and future facilities along the Indian River Lagoon shall not degrade water quality in the estuaries of the region per State and Federal regulations. [9J-5.012(3)(c)(8 and 13)]

1-3.7.3 Policy:

Utilization of existing facilities. Expansion of facilities along the Indian River Lagoon, where environmentally feasible, rather than construction of new facilities, shall be encouraged. [9J-5.012(3)(c)(8 and 14)]

1-3.8 Objective:

Consistency with the State Aquatic Preserve Plan for the Indian River Lagoon. Resource planning and management activities shall be coordinated with the State Aquatic Preserve Management Plan for the Indian River Lagoon.

1-3.8.1 Policy:

Indian River Lagoon Aquatic Preserve Plan. The Town shall coordinate with appropriate County, regional, and State agencies in managing development and resource conservation issues impacting the Indian River lagoon Aquatic Preserve.

1-3.9 Objective:

Coordinate timing and staging of public and private development. The location, scale, timing, and design of development shall be coordinated with public facilities and services in order to promote cost effective land development patterns and direct future development only to those areas where provision of public facilities necessary to meet level of service standards are available concurrent with the impacts of the development.

1-3.9.1 Policy:

Development orders and permitting process. Development orders and permits for all future development shall be timed and staged to assure that requisite infrastructure and services are available to respective developments concurrent with the impacts of development.

1-3.9.2 Policy:

Design of public facilities and utilities. Public facilities and utilities shall be located and designed to: 1) maximize the efficiency of services provided; 2) minimize related costs; and 3) minimize adverse impacts on natural systems.

1-3.9.3 Policy:

Developments not served by public water and/or wastewater systems. All developments in areas not serviced by public water and/or wastewater systems shall be governed by applicable State laws and administrative regulations.

1-3.9.4 Policy:

Accommodating requisite infrastructure. During the subdivision review, site plan review, and permitting processes the Town shall insure that respective future developments allocate sufficient land area for infrastructure required to support proposed development.

1-3.10 Objective:

Consider application of innovative land and water resource management concepts. Monitor state-of-the-art concepts for managing land and water resources and land development regulations which are responsive to unique development and conservation issues confronted by the Town.

1-3.10.1 Policy:

Incorporate innovative techniques in the land development regulations. The Town's land development regulations shall incorporate land and water resource management techniques which have been demonstrated to be successful and cost effective in resolving development and conservation issues.

1-3.11 Objective:

Intergovernmental coordination. The Town shall coordinate land and water resource management issues with other applicable public agencies at all levels of government pursuant to the Intergovernmental Coordination Element.

1-3.11.1 Policy:

Implementing intergovernmental coordination. The Town shall require that development applications be coordinated, as appropriate, with the City of Palm Bay, Town of Grant-Valkaria, Brevard County, special districts, the East Coast Regional Planning Council, the St. John's River Water Management District, as well as State and Federal agencies prior to issuance of a development order or permit.

1-3.12 Objective:

Continuing land use programs. The Town shall implement land use goals and objectives by carrying out a continuing program of land use activities below cited.

1-3.12.1 Policy:

Land use information system. Maintain and periodically update the land use information system.

1-3.12.2 Policy:

Land use trends. Monitor and evaluate population and land use trends.

1-3.12.3 Policy:

Fiscal management. Implement fiscal management policies of the capital improvement program and budget.

1-3.12.4 Policy:

Administer land use controls. Administer adopted land use controls, including the zoning code, subdivision regulations, building regulations, electrical code, flood drainage prevention regulations, housing code, water and sewer codes, traffic regulations, fire code, and regulations governing streets and sidewalks.

1-3.12.5 Policy:

Public assistance. Provide continuing land use information and assistance to the public.

1-3.12.6 Policy:

Intergovernmental coordination. Coordinate land development issues where applicable with other public agencies at all levels of government pursuant to the Intergovernmental Coordination Element of this plan.

1-3.12.7 Policy:

Manage current developmental impacts. Evaluate and manage impacts of proposed development pursuant to existing ordinances, including but not limited to, public facilities, natural environment, and impact on stable residential neighborhoods.

1-3.12.8 Policy:

Urban design and community appearance. Good principles of urban design shall be applied through site plan review procedures in order to enhance general community appearance as well as to preserve and enhance open space landscape. This program shall assist in protecting major natural and manmade resources within the Town, including such scenic natural resources as the Indian River lagoon, and tributaries of Turkey Creek and Goat Creek, as well as developing residential neighborhoods or centers of commercial or institutional activity.

1-3.12.9 Policy:

Special land use studies. In order to maintain land use policies responsive to changing conditions, problems, and issues, the Town shall undertake special studies as needed to develop specific local strategies for resolving unanticipated land use problems and issues.

1-3.13 Objective:

Continuing evaluation of Land Use Element effectiveness. The Town shall use the following policies as criteria in evaluating the effectiveness of the Land Use Element.

1-3.13.1 Policy:

Review the impact of change indicators on land use policy. Major shifts in the magnitude, distribution, and characteristics of population and land use shall serve as indicators of possible changes in land use needs. The policy implications of major shifts in land use characteristics shall be evaluated on a continuing basis. Land use policy shall be refined as needed in order to remain responsive to evolving problems and issues.

1-3.13.2 Policy:

Schedule, budget and implement programmed activities. The timely scheduling, programming, budgeting and implementation of programmed land use activities identified in this Element shall be evidence of the

Town's effectiveness in carrying out a systematic program for implementing adopted land use goals, objectives and policies.

1-3.13.3 Policy:

Coordinate with public and private sectors. While continually implementing and evaluating the Land Use Element, the Town shall maintain a process of intergovernmental coordination as well as coordination with private sector groups interested in land use policy and programs. The effectiveness of this approach shall be evaluated by the success of coordination mechanisms in resolving land use problems and issues.

1-3.13.4 Policy:

Achieve effective resolution of land use goals, objectives, and policies. The effectiveness of the Land Use Element shall be measure by the Town's success in achieving land use goals, objectives, and policies. The Land Use Element incorporates a systematic planning process for identifying land use problems and issues implementing corrective actions.

APPENDIX 1A FLORIDA MASTER SITE PLAN

Site Name	Site Type	Site Detail	Cultural Affiliation	Survey Evaluation	State Historic Preservation Office (SHPO) Evaluation	Human Remains
MALABAR	Prehistoric shell midden	Ceramic scatter	Malabar I and Malabar II	Not Evaluated by Recorder	Not Evaluated by SHPO	
DAMON	Prehistoric burial mound(s)	Ceramic scatter	Prehistoric	Not Evaluated by Recorder	Not Evaluated by SHPO	YES
Brick Chimney	Building remains		Twentieth century American, 1900-present	Ineligible for NRHP	Not Evaluated by SHPO	
Historic Canal	Canal		Twentieth century American, 1900-present	Ineligible for NRHP	Not Evaluated by SHPO	

Source: Florida Master Site File, Florida Division of Historic Resources, 2008.

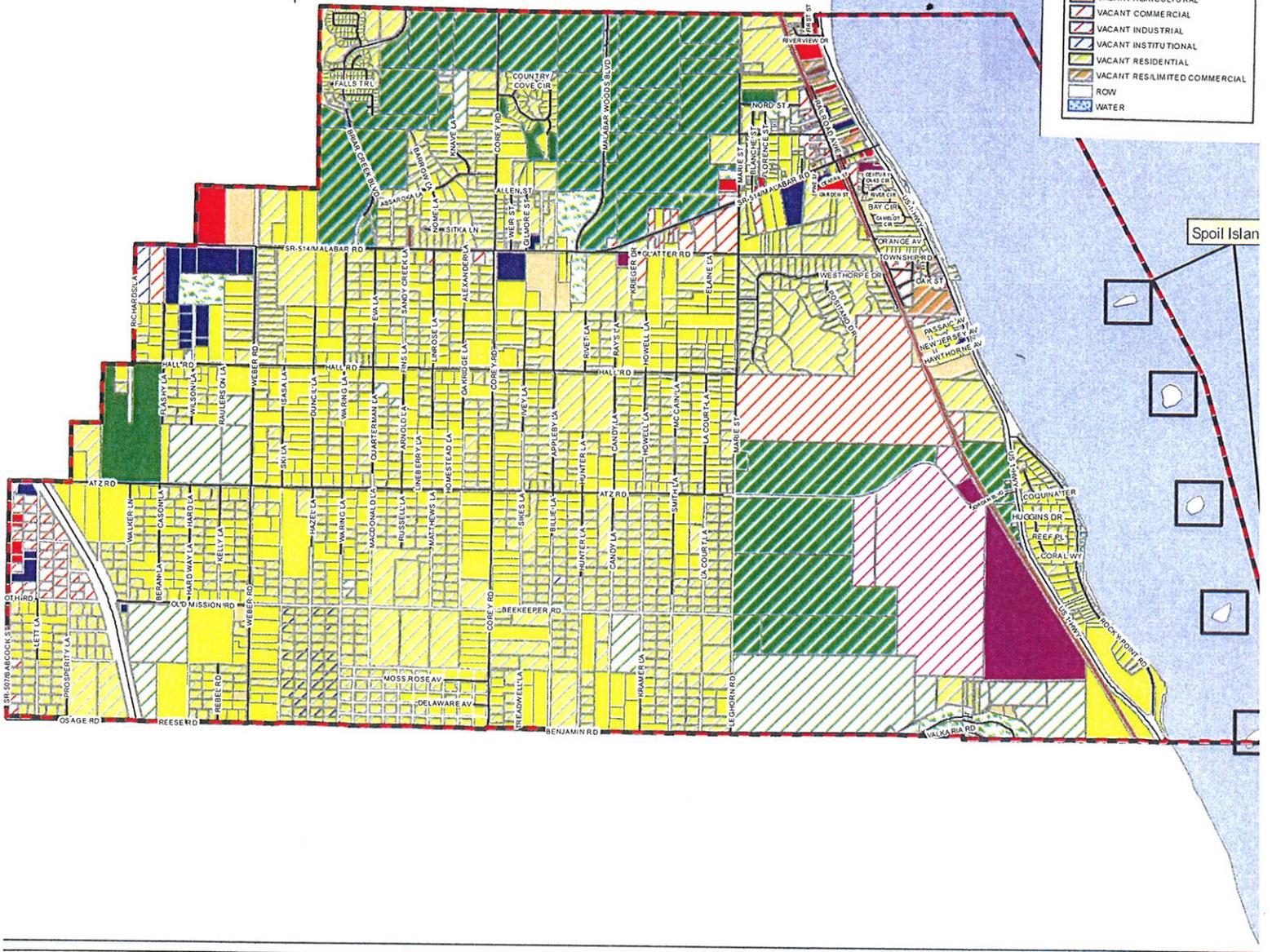


Existing Land Use as of 2009

FLU - 1

Legend

- Malabar Town Boundary
- Roads
- Malabar Existing Land Use
 - SINGLE-FAMILY RESIDENTIAL
 - MULTI-FAMILY RESIDENTIAL
 - MOBILE HOMES
 - AGRICULTURE
 - INSTITUTIONAL
 - TRANSPORTATION
 - COMMERCIAL
 - INDUSTRIAL
 - CONSERVATION
 - PARKS
 - COASTAL PRESERVE
 - VACANT AGRICULTURAL
 - VACANT COMMERCIAL
 - VACANT INDUSTRIAL
 - VACANT INSTITUTIONAL
 - VACANT RESIDENTIAL
 - VACANT RES. LIMITED COMMERCIAL
- ROW
- WATER



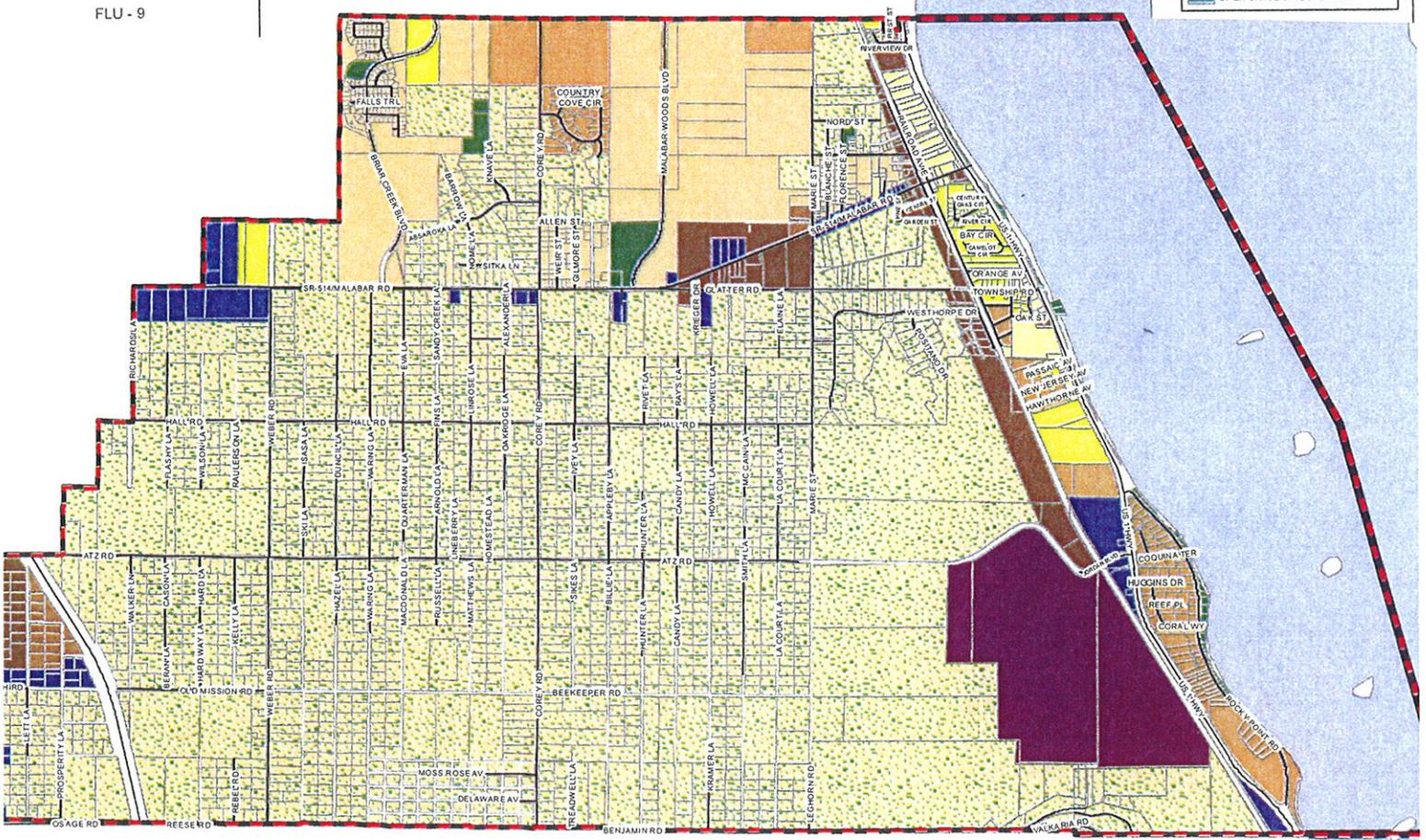


Future Land Use

FLU - 9

Legend

- Malabar Town Boundary
- Roads
- Malabar Future Land Use**
 - RESIDENTIAL/LIMITED COMMERCIAL
 - HIGH DENSITY RESIDENTIAL
 - MEDIUM DENSITY RESIDENTIAL
 - LOW DENSITY RESIDENTIAL
 - RURAL RESIDENTIAL
 - COMMERCIAL GENERAL
 - COMMERCIAL LIMITED
 - INDUSTRIAL
 - OFFICE INSTITUTIONAL
 - OPEN SPACE & RECREATION



TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: September 22, 2010

Prepared By: Debby Franklin, Town Clerk/Treasurer

SUBJECT: Discussion - Roadway Designations

BACKGROUND/HISTORY:

It may be appropriate to modify some of the requirements for the minor and major collectors and local roadways.

It has come to light that there may be a conflict between the Comp Plan and the Land Development Code related to minor collectors. Staff is still trying to determine where the error occurred on the discrepancy on minor collector widths.

Ordinance 93-7 was adopted to amend the Comp Plan of 1988 that only provided for arterial, collector and local streets. Ord 93-7 established "minor" and "major" collectors and set the right-of-way width at 70 feet for minor collectors.

The LDC in Article III, District Provisions, calls for 80' right-of-way for minor collectors. I have not been able to research what ordinance established that.

ATTACHMENTS:

- TRN – 3 Existing Functional Classification
- TRN – 7 Future Roadway Level of Service (LOS)
- Ord 93-7
- District Provisions from LDC – page 127

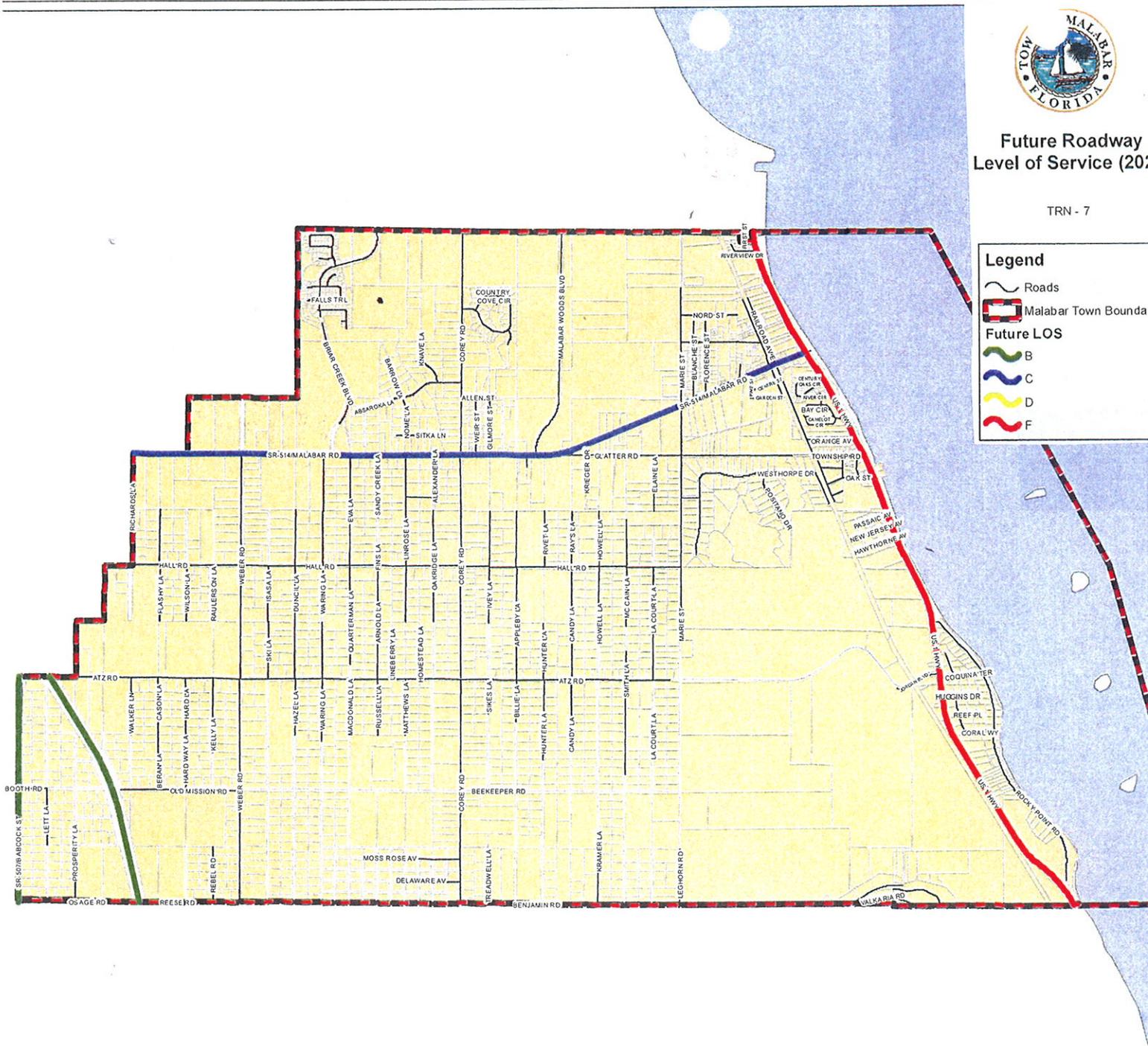


Future Roadway Level of Service (20)

TRN - 7

Legend

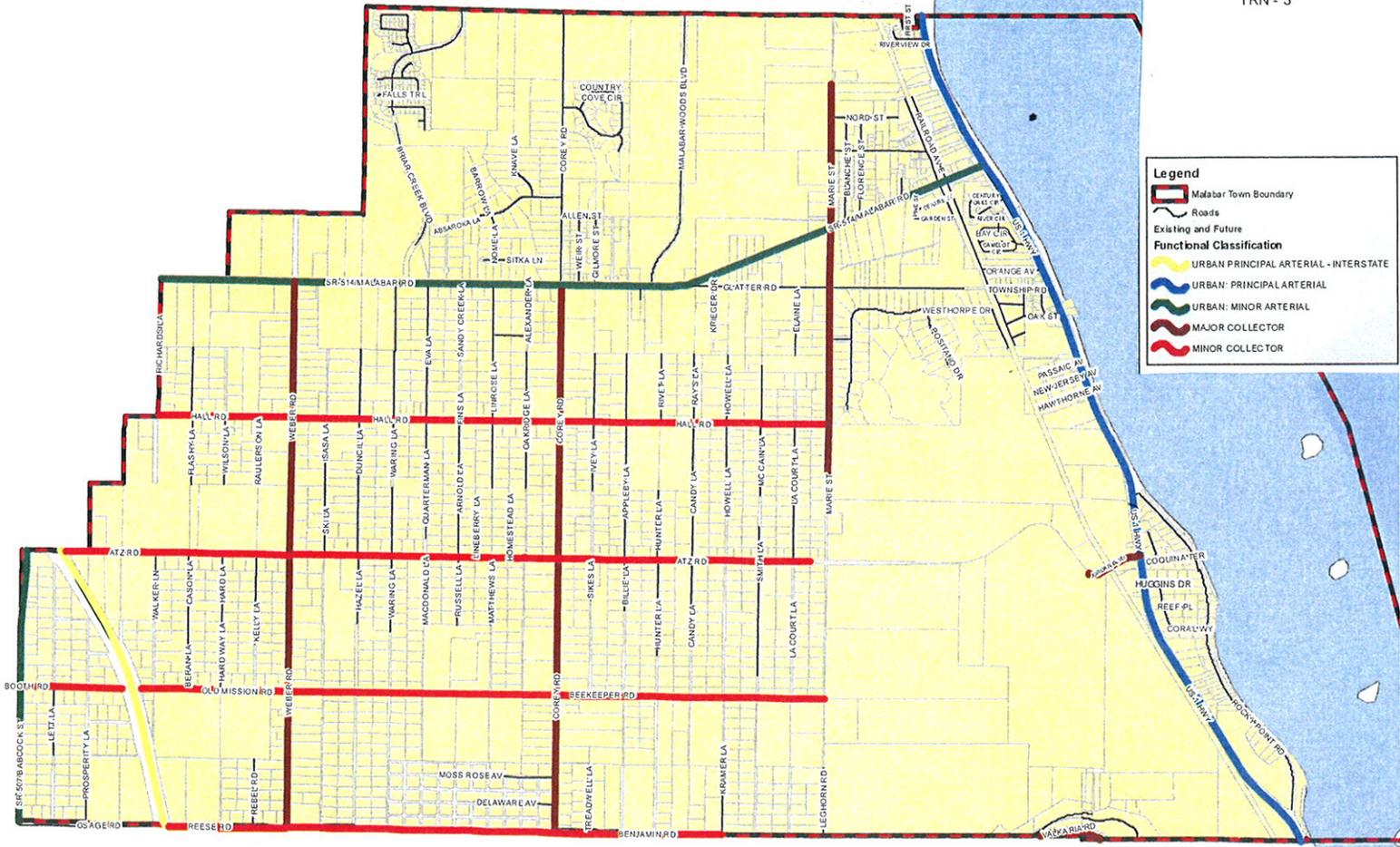
- Roads
- Malabar Town Bounda
- Future LOS**
- B
- C
- D
- F





Existing and Future Functional Classification (2025)

TRN - 3



Legend

- Malabar Town Boundary
- Roads
- Existing and Future Functional Classification**
- URBAN PRINCIPAL ARTERIAL - INTERSTATE
- URBAN PRINCIPAL ARTERIAL
- URBAN MINOR ARTERIAL
- MAJOR COLLECTOR
- MINOR COLLECTOR

MALABAR ORDINANCE #93 - 7

AN ORDINANCE OF THE TOWN OF MALABAR AMENDING THE COMPREHENSIVE PLAN: DATA INVENTORY AND ANALYSIS, TRAFFIC CIRCULATION ELEMENT, BY INCLUDING WEBER ROAD, COREY ROAD, VALKARIA ROAD, JORDAN BOULEVARD AND THE MARIE STREET CORRIDOR AS MAJOR COLLECTOR STREETS; BY INCLUDING HALL ROAD, ATZ ROAD, OLD MISSION ROAD AND BENJAMIN (REESE) ROAD AS MINOR COLLECTOR STREETS; AND THE COMPREHENSIVE PLAN: GOALS, OBJECTIVES, AND POLICIES, TRAFFIC CIRCULATION, BY AMENDING POLICY 2-1.2.1 AND BY INCLUDING ON MAP 4: FUTURE TRAFFIC CIRCULATION SYSTEM WEBER ROAD, COREY ROAD, VALKARIA ROAD, JORDAN BOULEVARD AND THE MARIE STREET CORRIDOR AS MAJOR COLLECTORS, AND HALL ROAD, ATZ ROAD, OLD MISSION ROAD AND BENJAMIN (REESE) ROAD AS MINOR COLLECTOR STREETS; AND BY AMENDING POLICY 2-1.2.2 TO PROVIDE A MINIMUM RIGHT-OF-WAY FOR MINOR COLLECTOR STREETS OF 70 FEET; AND PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

SECTION I: ARTERIAL STREET SYSTEM

- (1) The Arterial Street System sub-section of the Traffic Circulation Analysis in the Traffic Circulation Data Inventory and Analysis shall be amended to include the following paragraphs:

Babcock Street. As noted in the inventory sections of this Element, Babcock Street directly services only a small portion of Malabar's community. Traffic count information obtained from the Brevard County Planning and Zoning Department shows 7,430 vehicles per day traversing the road section from Malabar Road to Valkaria Road. A LOS "A" is maintained along this corridor.

Outside the Town's municipal limits, daily traffic increases north of Malabar Road to points north of Palm Bay Road. A LOS of "D" or worse is experienced along this road section, with volumes reaching as high as 18,200 ADT south of Port Malabar ^{ROAD} ~~(Road)~~. In 1988 FDOT programmed the widening of this section between Port Malabar Boulevard and Malabar Road. The portion of Babcock Street located within the Town limits is classified as a minor collector street.

Traffic volume projections and transportation needs stated with FDOT's Brevard County 2010 Transportation Needs Plan show daily traffic reaching 29,000 vehicles south of the I-95 overpass on Babcock Street by year 2010. Hence, FDOT has identified a need for upgrading this section to a four-lane, divided facility. A LOS "C" will develop along that portion of Babcock ~~Road~~ ^{STREET} servicing the Town of Malabar.

SECTION II: COLLECTOR STREET SYSTEM

- (1) The Collector Street System sub-section of the Traffic Circulation System Inventory in the Traffic Circulation Data Inventory and Analysis shall be amended to read as follows:

Collector Street System

The following streets have been classified as collectors pursuant to §9J-5.007(a)(b), F.A.C., with their location and linkages shown on the Existing Traffic Circulation System Map:

Major Collectors

- (1) Weber Road. Weber Road is located in the western one-third of the Town, and runs south from Malabar Road to the southern boundary of the Town.

- (2) Corey Road. Corey Road is centrally located within Malabar and runs parallel to Weber Road. Corey Road is the most heavily travelled collector street within the Town because of its central location. Corey Road runs south from the Country Cove subdivision to the southern Town Limit.
- (3) Valkaria Road. Valkaria Road is a county owned major collector street. Only a small segment of Valkaria Road near Goat Creek is actually within the Town. Residents in the Southeast portions of the Town utilize Valkaria Road to reach S.R. 507 and U.S. #1.
- (4) Marie Street Corridor. The Marie Street corridor, located in the eastern half of the Town, generally extends from a point approximately 970 feet north of Johnston Avenue south across Malabar Road (SR 514) to a point approximately 850 feet past Hall Road. From this point the right-of-way extends to the south Town limits.
- (5) Jordan Boulevard. Jordan Boulevard is located in the southeast section of the Town, and runs west from US 1 to just east of the right-of-way for Marie Street. Traffic on this roadway is generated by the Harris Governmental Systems facility.

Minor Collectors

- (1) Atz Road. Atz Road is located in the central part of the Town, and is south of both Hall and Malabar Roads. Atz Road runs from the western Town limit to just west of the right-of-way for Marie Street.
 - (2) Hall Road. Hall Road is first east-west roadway south of Malabar Road, and is parallel to Atz and Malabar Roads. Hall Road runs from Marie Street on the east to the Town limits on the west.
 - (3) Old Mission Road. Old Mission Road begins at Babcock Street and runs east to Interstate 95 and stops, and then begins again on the east side of the Interstate and runs east to the right-of-way for Marie Street. Old Mission Road is located south of Malabar Road.
 - (4) Benjamin (Reese) Road. Benjamin (Reese) Road forms the southern limit of the Town. The section of the roadway which runs east from Interstate 95 to Weber Road is referred to as Reese Road. Benjamin Road is the part that runs east from Weber Road to the right-of-way for Marie Street.
- (2) The Collector Street System sub-section of the Traffic Circulation Analysis in the Traffic Circulation Data Inventory and Analysis shall be amended to read as follows:

Collector Street System

Major Collectors

Valkaria Road. This collector is presently operating near level of service "B" with peak period operation at LOS "C", according to information obtained from the Brevard County Planning Department. Traffic count information was unavailable for this assessment. Projections of future traffic volumes and transportation improvement needs were not available for this corridor. No future improvements to Valkaria Road are envisioned based on projected development within Malabar. However, developments within the unincorporated area will determine future improvement needs since only a small segment of the corridor is located within Malabar. Malabar maintains a rural residential development policy along this segment of Valkaria Road. The area includes a section of Goat Creek together with lands included in the one hundred year floodplain.

Corey and Weber Roads. Although Corey and Weber Roads are not classified by the Florida Department of Transportation (FDOT) as major collectors, they represent the only north-south routes that residents located south of Malabar Road can use to reach this major roadway. As the Town's population increases in conjunction with new residential developments, Corey and Weber Roads will likely meet FDOT's definition and eligibility standards set for major collector classification. Although traffic count data is not available for these roads, an inventory of existing single-family homes generating traffic onto Weber Road and/or Corey Road is estimated to be between 1,000 and 2,000 vehicles per day per roadway. This estimate utilizes a trip generation figure of ten (10) trips per day for single-family dwelling units--a figure determined by the Institute of Transportation Engineers. Based on the estimated average daily trips, Weber and Corey Roads presently experience an average daily level of service of A.

Marie Street Corridor. Although the Marie Street corridor is not classified by the Florida Department of Transportation (FDOT) as a major collector, it represents the only route that residents located between FEC railway and Corey Road can use to reach Malabar Road. As the Town's population increases in conjunction with new residential developments, the Marie Street corridor will likely meet FDOT's definition and eligibility standards set for major collector classification. Although traffic count data is not available for this road, an inventory of existing single-family homes generating traffic onto Marie Street is estimated to be between 1,000 and 2,000 vehicles per day. This estimate utilizes a trip generation figure of ten (10) trips per day for single-family dwelling units--a figure determined by the Institute of Transportation Engineers.

Based on the estimated average daily trips, the Marie Street corridor presently experiences an average daily level of service of A; however, Marie Street is unpaved. Since unpaved roadways reduce vehicle speed and quality of flow, a level of service C should be recognized for the Marie Street corridor. Once paved, the roadway will be at level of service A.

Jordan Boulevard. Although, Jordan Boulevard is not classified by the Florida Department of Transportation (FDOT) as a major collector, it represents the only route that traffic to and from the Harris Governmental Systems facility can use to access the site. Jordan Boulevard should meet FDOT's definition and eligibility standards set for major collector classification in the future due to the commercial and industrial nature of the traffic generated. Although traffic count data is not available for this road, an inventory of existing industrial facility generating traffic on Jordan Boulevard is estimated to be between 2,000 and 2,500 vehicles per day. This estimate utilizes a trip generation figure of 6.97 trips per day per 1,000 square feet -- a figure determined by the Institute of Transportation Engineers. Based on the estimated average daily trips, Jordan Boulevard presently experiences an average daily level of service of A.

Minor Collectors

Hall and Atz Roads. Although Hall and Atz Roads are not classified by the Florida Department of Transportation (FDOT) as minor collectors, they represent the only east-west routes that residents located south of Malabar Road can use to reach Corey, Weber and Marie roads. As the Town's population increases in conjunction with new residential developments, Hall and Atz Roads will likely meet FDOT's definition and eligibility standards set for minor collector classification. Although traffic count data is not available for these two roads, an inventory of existing single-family homes generating traffic onto these roads is estimated to be between 1,000 and 2,000 vehicles per day per roadway. This estimate utilizes a trip generation figure of ten (10) trips per day for single-family dwelling units--a figure determined by the Institute of Transportation Engineers.

Based on the estimated average daily trips, Hall and Atz Roads presently experience an average daily level of service of A; however, since neither road is currently paved, which reduces vehicle speed and quality of flow, a level of service C should be recognized for these two roadways. Once paved, these roadways will be at level of service A.

Old Mission and Benjamin (Reese) Roads. Although Old Mission and Benjamin (Reese) Roads are not classified by the Florida Department of Transportation (FDOT) as minor collectors, they represent the only east-west routes that some residents located in the extreme southern part of the Town can use to access Corey and Weber Roads as well as Malabar Road. As the Town's population increases in conjunction with new residential developments, these two roads will likely meet FDOT's definition and eligibility standards set for minor collector classification. Although traffic count data is not available for these two roads, an inventory of existing single-family homes generating traffic onto these roads is estimated to be less than 500 vehicles per day per roadway. This estimate utilizes a trip generation figure of ten (10) trips per day for single-family dwelling units--a figure determined by the Institute of Transportation Engineers.

Based on the estimated average daily trips, Old Mission and Benjamin (Reese) Roads presently experience an average daily level of service of A; however, since neither road is currently paved, which reduces vehicle speed and quality of flow, a level of service C should be recognized for these two roadways. Once paved, these roadways will be at level of service A.

No long term improvement programs are envisioned for these corridors. The Town anticipates maintenance of a rural residential land use along these corridors with residential densities up to a maximum of one (1) unit per one and one-half (1.5) acres.

SECTION III: AMENDMENT TO POLICY 2-1.2.1

Policy 2-1.2.1 in the Traffic Circulation Element of the Comprehensive Plan: Goals, Objectives, and Policies shall be amended to read as follows and Map 4 shall be revised to include Weber Road, Corey Road, Valkaria Road, Jordan Boulevard and the Marie Street Corridor as major collectors and Hall Road, Atz Road and Old Mission Road and Benjamin (Reese) Road as minor collectors (Map 4 attached):

Policy 2-1.2.1: Traffic Circulation Map. The Town hereby adopts Map 4: Future Traffic Circulation System Map. Additional right-of-way (R/W) needs for future roadway and drainage improvements shall be identified based on an assessment to be completed by 1990. The findings regarding specific additional R/W needs for roadway and drainage facility improvements shall be incorporated as an amendment to Map 4: Future Traffic Circulation System Map.

SECTION IV: AMENDMENT TO POLICY 2-1.2.2

Policy 2-1.2.2 in the Traffic Circulation Element of the Comprehensive Plan: Goals, Objectives, and Policies shall be amended to read as follows:

Policy 2-1.2.2: Standards of Future Road R/W Acquisition. The Town hereby adopts the following minimum standards for road rights-of-way:

- | | |
|-----------------------------|---|
| a. Arterial Roadways: | 150' R/W |
| b. Major Collector Streets: | 100' R/W |
| c. Minor Collector Streets: | 70' R/W |
| d. Local Streets: | 60' R/W (if swale drainage)
50' R/W (if curb and gutter) |

SECTION V: REPEAL OF CONFLICTING ORDINANCES

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

TOWN OF MALABAR

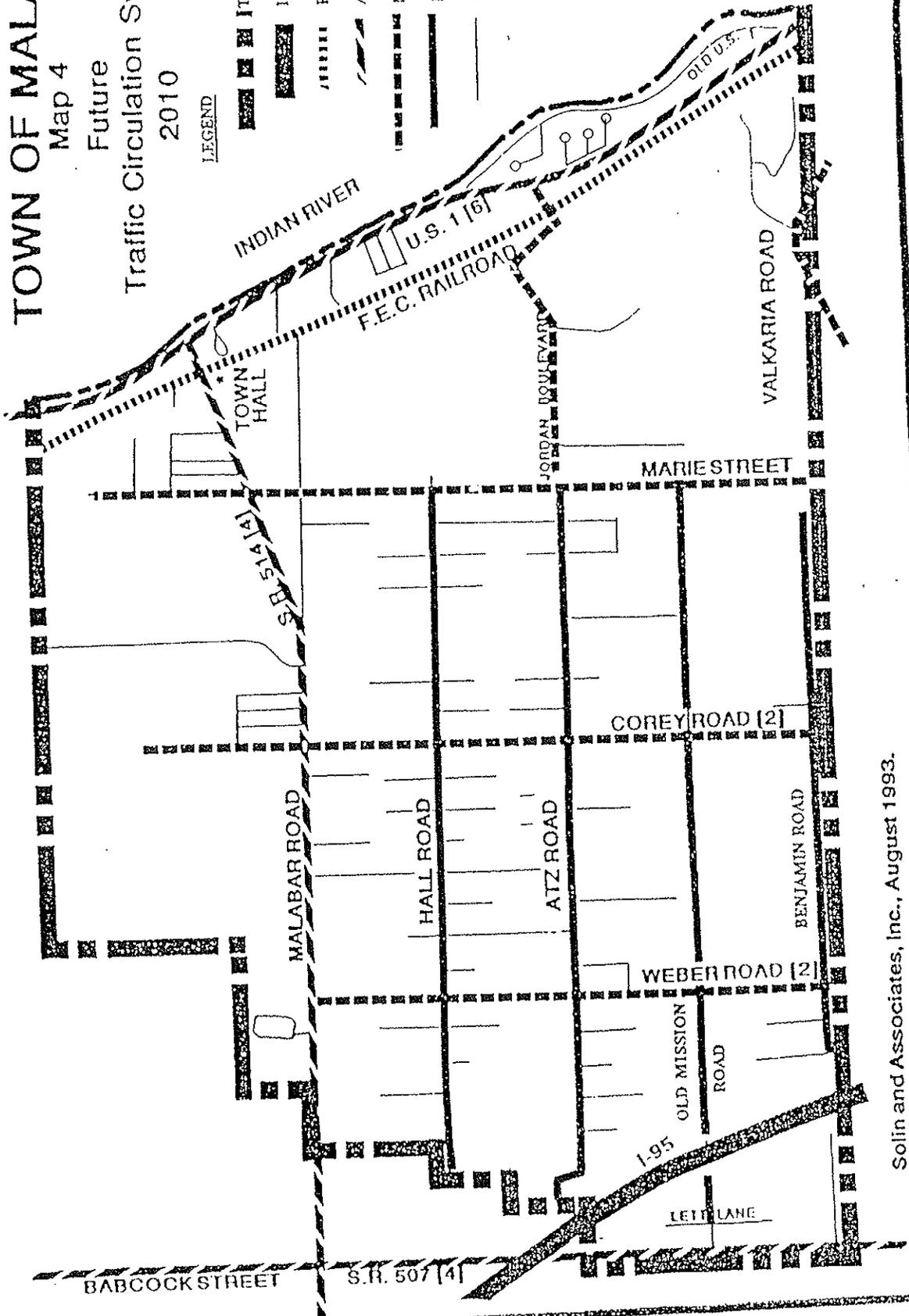
Map 4

Future Traffic Circulation System 2010

LEGEND

- Town Limits
- Interstate 95
- F.E.C. Railroad
- Arterial
- Major Collector
- Minor Collector
- Local Road

(#) Number of Traffic Lanes



Solin and Associates, Inc., August 1993.

SECTION VI: SEVERABILITY

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

SECTION VII: CODIFICATION

Provisions of this ordinance shall be incorporated in the City Code of Ordinances, Comprehensive Plan, and the word "ordinance" may be changed to "section," "article," or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention.

SECTION VIII: EFFECTIVE DATE

This ordinance shall become effective upon the State Land Planning Agency's issuance of a notice of intent to find this Comprehensive Plan amendment in compliance.

The foregoing ordinance was moved for adoption by Councilmember Theriault. The motion was seconded by Councilmember Grady and, upon being put to a vote, the vote was as follows:

John Kelvington	<u>Aye</u>
Ray Grady	<u>Aye</u>
Susan Theriault	<u>Aye</u>
James Hurley	<u>Aye</u>
Yovone Rasor	<u>Aye</u>

PASSED AND ADOPTED BY THE COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, this 6th day of Dec., 1993.

First Reading 11-1-93

Second Reading 12-6-93

[Signature]
Mayor, Town of Malabar

[Signature]
Chairperson, Malabar Town Council

ATTEST:

[Signature]
Town Clerk

Approved as to form and correctness:

DISTRICT PROVISIONS

§ 1-3.3



Minor Collector Streets (80 feet R/W)

75

- Atz Blvd.
- Hall Road
- Old Mission Road
- Benjamin (Reese) Road

F. *Minimum Distance Between Principal Buildings.* The minimum distance between principal buildings shall be twenty (20) feet. The distance shall be measured at the narrowest space between buildings and shall not include roof overhang.

(Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; Ord. No. 94-4, § 4, 4-3-95; Ord. No. 96-1, § 1, 3-4-96; Ord. No. 97-5, § 1, 3-17-97; Ord. No. 02-03, § 1, 8-5-02; Ord. No. 03-02, § 1, 2-24-03; Ord. No. 04-08, §§ 1, 2, 7-12-04; Ord. No. 06-05, § 1, 2-6-06; Ord. No. 06-16, §§ 1, 2, 10-2-06)

way acquisition needs shall be identified and relative priorities for land acquisition shall be established.

2-1.2.1 Policy:

Transportation Map. The Town hereby adopts that Future Transportation System Map. Additional right-of-way (R/W) needs for future roadway and drainage improvements shall be identified based on an assessment to be completed by 2010. The findings regarding specific additional R/W needs for roadway and drainage facility improvements shall be incorporated as an amendment to Future Transportation System Map.

2-1.2.2 Policy:

Standards of Future Road R/W Acquisition. The Town hereby adopts the following minimum standards for road rights-of-way:

- a. Arterial Roadways: 150' R/W
- b. Major Collector Streets: 100' R/W
- c. Minor Collector Streets: 70' R/W
- d. Local Streets: 60' R/W (if swale drainage)
50' R/W (if curb and gutter)

2-1.2.3 Policy:

Mandatory R/W Dedication/Fees in Lieu. The Town shall continue to implement a program for mandatory dedication or fees in lieu thereof as a condition of development approval associated with plats, replats, PUDs, or site plans where such development generate a need for new or improved roadways. The purpose and intent of such program shall be to assure that: 1) adequate road R/W and necessary roadway improvements are dedicated and developed concurrent with the impacts of new development; and 2) the cost of such improvements shall be borne by the developer generating the need for the facilities.

2-1.3 Objective:

Future Roadway Improvements. The Town shall coordinate with the FDOT and with the Brevard County MPO to attain roadway improvements needed to accommodate future transportation system improvements needed to accommodate system demands.

2-1.3.1 Policy:

FDOT Planned Roadway Improvements. The Town shall provide necessary coordination in achieving planned FDOT improvements to Town roadways.

2-1.3.2 Policy:

FDOT Planned Roadway Improvements. Brevard County plans to pave Corey and Weber Roads and the Town shall participate in funding a portion of the scheduled improvement pursuant to their interlocal agreement on this subject.

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: September 22, 2010

Prepared By: Debby Franklin, Town Clerk/Treasurer

SUBJECT: Council Response to P&Z Recommendations

BACKGROUND/HISTORY:

P&Z Vice-Chair presented the Board's recommendations at the RTCM of 9/7/2010.

ATTACHMENTS:

- Draft Minutes of the RTCM of 9/7/2010
 - Pages 4 – 6: Fence Regulations
 - Page 6: Logue Purchase
 - Pages 6 – 7: Land Use changes
 - Pages 7 – 8: Table 1-3.3.A:
 - Page 8: Old School House Purchase

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

MALABAR TOWN COUNCIL REGULAR MEETING

September 7, 2010 7:30 PM

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Chair Thomas Eschenberg. The prayer and pledge were led by District 2 Council Member Brian Vail.

ROLL CALL:

MAYOR/CHAIR	TOM ESCHENBERG
VICE-CHAIR:	JEFF MCKNIGHT, excused
COUNCIL MEMBERS:	NANCY BORTON
	BRIAN VAIL
	STEVE RIVET
	MARISA ACQUAVIVA
TOWN ADMINISTRATOR:	BONILYN WILBANKS
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

For the record Council Member McKnight called the TA earlier and asked to be excused due to prior engagement.

B. ADDITIONS/DELETIONS/CHANGES: Franklin asked to add presentation; pull Item #5 because Mr. Ryan called the Mayor and told him he can't make it; TA suggested pulling Item #13 since it was Jeff McKnight's and put on next agenda; Chair asked to add an item after proclamation – it is a less than 1-min video on web streaming demo of his progress to date. No objections.

C. PRESENTATION: Mayor presented plaque to Chief Gianantonio and flowers to his wife. Mayor stated the MFD has made great advances during his time and will be sorely missed. Mayor has had many meetings with him and it has been a total pleasure working with him. TA said the acting Chief will be Dan Welton until one can be appointed.

D. PROCLAMATIONS: Read by the Mayor and will be posted on the Town's website.

Susan B. Kabana September 7 – will be mailed to her husband.

Patriot Day & National Day of Service & Remembrance September 11

Franklin stated that title on agenda was correct and proclamation will be corrected next year. Under Public Law 111-13, approved April 21, 2009, Congress requested the observance of September 11 as an annually recognized National Day of Service and Remembrance as they honor the lives that were lost.

Commodore John Barry Day September 13 - presented to Bill Moroney and Patrick Reilly. The proclamations are on display at the library on Fee Avenue during Irish-American month.

E. CONSENT AGENDA:

1. Approval of Minutes

Regular Town Council Meeting – 8/16/2010

Budget Workshop Meeting – 8/31/2010

Exhibit: Agenda Report No. 1

Recommendation: Motion to Approve

MOTION: Rivet / Borton to approve the Consent Agenda as presented.

VOTE: All Ayes.

H. PUBLIC COMMENTS: General Items not related to agenda items; Speaker Card Required

None

I. STAFF REPORTS:

ATTORNEY: He got the AGO opinion back on questions he sent regarding the exemption of former addresses of former law enforcement and they responded September 2, 2010. It was basically two questions and he read the questions. AGO said yes the person must make a written request for an exemption. It only applies to current addresses. If that person is employed by current employer as code enforcement, current address is exempt. The former addresses are open to disclosure. Current address is not to be disclosed since the code enforcement capacity. TA said she put in written request for exemption. Former addresses are considered disclosable. Timing is the key. When was the request made? When his response was received. Atty Bohne said there is an informal opinion of Dr Cook. If a request for public record was made prior to request for exemption, the records must be disclosed.

TA said that she worked for eight of the 12 years in law enforcement as undercover and arrested some really bad people. Her daughter now lives in the house that is her former address. Attorney said she can seek a declaratory judgment with injunction relief, and she might get an injunction to prevent us from releasing it. Mayor thought it was only Brevard County addresses that were requested. Atty said when TA Wilbanks was hired, she was not a resident of this County – the body politic knew that and would have to give reasonable time for her to become a resident. TA Wilbanks said within three months she was a resident. Borton said if she stills owns it, it should be exempt. The AGO states that former addresses are not exempt in this situation but he will look at the specific public records request. Rivet said none of the persons they interviewed for Town Administrator were residents. Atty said he can't guess what the intent was of the requestor. TA Wilbanks stated that she is notified by the Feds and the State whenever someone is released from prison or up for parole that was related to a case she worked on.

Attorney's other item to report regarded the Palm Bay Utilities Surcharge Issue. No mediation has been scheduled. He has tried to talk to Palm Bay Attorney but calls have not been returned. Vail feels they are stalling. Acquaviva said she thought they were just selecting dates for the mediation meeting. TA Wilbanks had offered to and will contact City Manager Lee Feldman to get some dates. The Mayor also said he could talk to any of their Council. Ethically, Atty Bohne said he can't talk to another attorney's clients. TA will get three dates for pre-suit mediation. We can meet a PB Rec Center and there should be no problem with mediator that was suggested.

ADMINISTRATOR:

- Engineer Report – Morris Smith gave update on the Stimulus projects. He stated that two weeks ago we received request for payment for 73,540.00 They were asking for 400.00 more than their contract called for. There are six project sites. Smith recommended payment of 55K as it is his opinion they have not met the design requirement on three of the projects. FDOT said it is a good thing that we have not made payment. They need to finish the projects. Contract ended June 12, 2010, with 100/day penalty after that for not finishing. As of 9/3/10 that amount is 8300.00 The 55K is what they have done, minus 10% held and he can and has documented that this work has been done. The 8300.00 would be off the final payment. The contractor has asked for no extensions. Town has had to ask for two extension of the LAP agreement. Weber and Malabar is one with issues, one of the covers was pried and another was paved over entirely.

- Atz and Weber is still wrong.

- They were to caulk the inside of the seams and they only did half.

Borton said can't we just withhold payment? Morris Smith said he can validate the 55K and approve that amount for payment. TA said part of the problem is that Bill Stephenson did not put a lot of this on the plans. The contractor's contention was that was what was on the plans.

Morris Smith said on the overlay projects, that the contractor stated that 20 tons of asphalt would be laid and there are numbers in their contract. You can't put 20 tons of asphalt on Pine Street. They could not have done that. At Pine Street again they called out for payment for work they did not do. Those numbers get considerably reduced because they were overlays.

TA said the plans called for the contractor to replace the stop signs and put up new 24" signs and take the old signs. The existing signs are regulation 30" signs and there was not anything wrong with them. The contract also directed that they order MOTs but never opened and used them. They said nobody required them to use them if they weren't closing a lane of traffic.

Mayor commented that the "stop ahead" signs are back on roads and look good.

Morris Smith asked to comment on the PW staff. They are a pleasure to work with and they have never asked the same question twice. He has taught them how to use some surveying equipment. PW Mgr Tom Miliore has checked gone out and verified elevations and done site inspection for drainage work. He referenced the work done on a catch basin on Rocky Point that saved about 16K on just the box. Tom Miliore's previous experience with concrete allowed them to modify a drainage box that had been sitting in the PW yard with weeds growing in it and ordered a new lid form Miami. They are very teachable and willing to learn. The work they did recently on Glatter Road at Elaine Lane was excellent. Morris Smith said to Council well done on selecting these guys for your PW staff.

CLERK:

- SCLC September Dinner Meeting is hosted by Sat Bch and Palm Shores and will be at Country Club in Sun Tree.

J. PUBLIC HEARINGS:

Are legally advertised for 7:30 PM or as soon thereafter as possible.

ORDINANCES: (2)

Without objection, the Chair read by title only.

2. Ordinance Regarding Millage (Ord 2010-34)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 1.6630 FOR THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2010 THROUGH AND INCLUDING SEPTEMBER 30, 2011; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2

Recommendation: Request Action

Chair also read from the information sheet stating that by setting the millage at 1.6630 it would result in a 11.69 reduction.

Public Hearing opened:

None

Public Hearing closed.

MOTION: Rivet / Vail to approve Ord 2010-34.

Discussion: none.

VOTE: 1) Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Absent; Acquaviva, Aye.

Motion carried 4 to 0.

Borton said Wilbanks and Franklin deserve a big thank you.

Without objection, the Chair read by title only.

3. Ordinance Regarding Budget 2010/2011 (Ord 2010-35)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET FOR THE TOWN OF MALABAR FOR THE PERIOD FROM OCTOBER 1, 2010 THROUGH AND INCLUDING SEPTEMBER 30, 2011; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3

Recommendation: Request Action

Chair also read the entire Section 1 from the ordinance.

SECTION 1. The Town Council, in regular session duly assembled adopt the final Budget of \$2,007,419.00 for the proposed expenditures from October 1, 2010 through and including September 30, 2011, reflecting the general operating millage rate of 1.6630 mills. This total budget includes \$1,582,761.00 in the General Fund, \$228,601 in the Stormwater Fund and \$196,057.00 in the Utility Fund.

Public Hearing opened:

Pat Reilly, Howell Lane, suggested we put "first reading" on the agenda so people would know. He thought there two public hearings and hoped Council approved this ordinance.

Public Hearing closed.

MOTION: Rivet / Borton to approve Ord 2010-35.

Discussion: none.

VOTE: Borton, Aye; 1) Vail, Aye; Rivet, Aye; McKnight, Absent; Acquaviva, Aye.

Motion carried 4 to 0.

RESOLUTIONS: 1

Without objection, the Chair read by title only.

4. Certify Stormwater Assessment (Resolution 62-2010)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING AN ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL; PROVIDING AN EFFECTIVE DATE

Exhibit: Agenda Report No. 4

Recommendation: Request Action

This item is to certify the assessment of the parcels assessed for stormwater non-advalorum. That deals directly with the collections of the assessment per our approved rates. We use these assessed fees on stormwater related projects. Under separate agreement with the County Dept of Natural Resources, we pay the County ten-percent of these collections in administrative fees.

Public Hearing opened:

None

Public Hearing closed.

MOTION: Borton / Vail to approve Reso 62-2010.

Discussion: Chair said the County has a representative here if there are any questions from Council. Rivet asked what does the County do for 10%. Carolina Alvarez is with the Dept of Natural Resources with Brevard County and the work with property owner on any changes to the assessments. They also review the assessment to make sure it accurately reflects the assessments. The credits Malabar approves remove about 8K from the assessments. The ten percent is an administrative cost.

VOTE: Borton, Aye; Vail, Aye; 1) Rivet, Aye; McKnight, Absent; Acquaviva, Aye.

Motion carried 4 to 0.

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

Pulled under "B" – will be put on next agenda

~~5. Agenda Request Form from Resident Charles "Bud" Ryan – MFD/EMS~~

~~Exhibit: Agenda Report No. 5~~

~~Recommendation: Request Action~~

Chair stated the Planning and Zoning Board Vice-Chair Patrick Reilly has completed a speaker card for the following five items. Also in attendance is P&Z Board Chair Bob Wilbur. (P&Z Member Cindy Zindel was also in attendance.)

6. Recommendation from Planning & Zoning Board – Fences

Exhibit: Agenda Report No. 6

Recommendation: Request Action

Pat Reilly, Howell Lane, Vice-Chair of P&Z stated that the Board and Council have worked on this issue for over two years. He stated the Mayor had attended some of the P&Z meetings and presented his information and suggestions. Some of his recommendations were taken by the Board and some were not. As a team of the five member and two alternates they have had much input on this. They worked very hard on the wording as it is the hardest part. The P&Z Board is asking for Council to accept the wording and then have it put into ordinance form and approved.

Mayor then spoke and said he doesn't like anything vague in the ordinances. Referring to the wording, under gates in the definitions, it says approved materials; Mayor feels it should say materials approved by the Building Official or the adopted building code but when he asked the Building Official Roger Cloutier, Cloutier said the Florida Building Code does not address fences or gates specifically. Franklin said that our Code states that a fence is a structure and all structures require a building permit. The permit for the structure would require the construction to meet Florida Building Code. Mayor said there is no code per the Building Official. Vail said the material has to be substantial in nature. Attorney Bohne asked Council if they want to define "approved materials." Vail said does the entrance gate include the support structures for the gate. Remove the reference to approved materials in its entirety.

Attorney Bohne said he checked Malabar Code and verified a fence is a structure. Attorney also stated Council should not give that much allowance to one person; maybe the Building Official doesn't like brick; then you have an issue.

Mayor said this had to do with gates. The next issue Mayor has is in section C.1. excluding RR-65, making five (5) feet the maximum height. Mayor said when P&Z Member Don Krieger did this there was a line dropped. Borton said it should be allowed to be 6 feet. In current Code it is 4 feet in front and 6 feet in back. Bob Wilbur said this came from the desire of property owners to build structures to make statements and P&Z was asked to incorporate them into the fence ordinance. Wilbur said you have to move those entry ways back into the yard. Put them in the yard area itself and pull a permit for an accessory structure. The height would then be limited by the height restriction of 35 feet. The further you put them back would allow you to get a trailer and truck off the road and emergency vehicles can get in.

Vail did not think going to 6 feet in section c.1 would be a problem. Mayor said the second statement in c.1 is a safety statement he felt it should be in its own section so it applies to all fences. It is a safety issue so it doesn't matter if it is residential or commercial or industrial.

Under c.4. Mayor said instead of the 2 feet above height of fence is open to interpretation. Why not just put 8 feet and be done. Vail said it is the proportion with the fence. Mayor said the gate that started this discussion is on Eva Lane and there was no fence. The fence was added later and is not 4 feet high. Does he now have to cut his gate down?

Under c.5. the minimum set back and width Mayor has a problem with. Mayor can see this on a main road but not on the little dead end roads that we have so many of. He can't see putting those kinds of restrictions on these property owners. Rivet said we don't have problems with trucks getting into their properties. Vail said a lot of people have already pushed their gates back in.

Mayor said there would be 100's of gates that would not be compliant if this wording was approved. The other issue the Mayor has is the 20 feet width requirement for driveways. There are a lot of residences where the DW over the culvert is not near that. Everyone is grandfathered in until they have to replace it. Rivet doesn't want to restrict anything property owners can do unless you absolutely have to. Rivet said if you are going to require people to put in a wider DW it is penalizing the property owner. If someone has to rebuild, then you have to have a standard. Rivet said if the requirement is for public safety, then also require silver for all re-wiring because it is safer and also require mandatory sprinkler systems in residential homes. He asked how wide is a typical DW? Morris Smith said most are 12-foot D/W with a grass area on each side and the 6 foot mitered end. Council asked Morris Smith for his

opinion. Morris Smith said the gate should match the geometry of the D/W. Borton asked him to write the section covering this. He agreed to do so.

Morris Smith explained the requirement for mitered end sections in residential areas and related the very recent issue with the new residents of property on Atz and Smith. Morris Smith was pleased they were so willing to comply and the property owners in turn were thankful for the Town's input and assistance.

Vail said RE: DW radius if they are that far set back 1000 then you would have an exception. If you can't drag a fire hose to the house you need to access the property. Morris said most new homes have 16' DW and our code provides for it.

Mayor's last comment was a typo on page 89, para 2 first line, typo – "or" after joints should be removed.

Council asked Morris Smith for input. He recommended Council add a "cumulative height" statement in the code to determine how to measure the height. If tonight you were voting on this, he would recommend they need to add a definition for "existing grade". Council asked him to do so and Morris will provide both a definition and add the cumulative statement for existing elevation. Vail asked Morris to work on it. P&Z has completed their work. Attorney Karl Bohne will put it into an ordinance form from Morris Smith. Planning and Zoning Board Vice Chair Patrick Reilly addressed Council and answered questions. Morris said the Code should a guide to the residents.

7. Recommendation from Planning & Zoning Board – Logue Purchase

Exhibit: Agenda Report No. 7

Recommendation: Request Action

Vail said it is more responsible to buy it now. Acquaviva said it is irresponsible to discuss this when we have had to cut the budget. It is exciting to discuss this and other potential projects but we should bring this back in two years.

Pat Reilly, Howell Lane, P&Z Vice-Chair said this was brought to P&Z from Council to discuss. It is P&Z opinion that they need to trade the west side parcel for either the parcel to the north or south so they would have enough to develop. They wanted to use grant money not Malabar money to develop. They suggest Council set up a committee to look at this. If you would consider setting up a committee to look at this and also the old school house. At least look into it. To build something like they did in Palm Shores. The parcel was shown on the overhead. Reilly said if you do trade and get either parcel E or A you would have almost a .25 acre. If you could get $\frac{3}{4}$ of the money in grants and then pull some out of reserves and just pay for it.

Acquaviva said after just going through her first budget process, knowing this is something that can be paid with grants; she is not against having a committee look into the possibilities. Mayor said hold the suggestion of using a committee until Agenda Item 10, because they will discuss it then.

8. Recommendation from Planning & Zoning Board – Land Use Changes

Exhibit: Agenda Report No. 8

Mayor stated that the P&Z Board was trying to do the whole town of Malabar, but wanted to provide what they have thus far.

Pat Reilly, Howell Lane, Vice-Chair of P&Z went through the Power Point presentation showing the proposed changes along Babcock Street and Malabar Road. Reilly stated that the P&Z Board felt that the US 1 corridor had been looked at in 2004 and did not need review for several more years. Acquaviva liked what they presented before at the joint meeting. She asked if the affected property owners and other people know about this process and when they

will be included. Acquaviva said if Council approves what they are proposing, when will the property owners be consulted.

Mayor stated he is opposed to any land use changes to commercial on Malabar Road between Marie and Weber because it is a 55 mph zone. It is very dangerous. Vail said they could pursue slowing down speed limit on Malabar Road. Rivet said we can influence but not enforce. Mayor said the Town in 15-20 years from now can consider changing the land use to commercial.

TA Wilbanks said she attends the TAC meetings and the most recent one she learned that the FDOT and TPO will be watching any road that is at 85% capacity and Malabar Road is in that group. The reason they will be watching Malabar Road is because it is a main evacuation route. The widening is scheduled for 2030-2035 timeframe but in the interim, they could put in drainage like piping the ditches to allow for an additional lane.

Morris Smith said that commercial development on FDOT roads require a deceleration lane. They discussed the decal lanes required for MIMA and Berri Patch as well as the lane the Town added at the Post Office. The Mayor asked about the possibility of a frontage road. Bob Wilbur said if one property owner could provide one driveway (D/W) cut and then other properties could use it for access, but you would have to have enough depth to allow for that and development on the remaining area. Wilbur said he would support a reduction in speed limit. Mayor would have no objection if a frontage road was required. Wilbur said perhaps a commercial PUD is what they envisioned. Both Rivet and Vail liked what P&Z Board had proposed.

MOTION: Rivet / Vail to approve the P&Z Board recommendations on land use changes and proceed with US1 corridor.

VOTE: All Ayes.

**9. Recommendation from Planning & Zoning Board – Table 1-3.3.A Well & Septic Exhibit: Agenda Report No. 9
Recommendation: Request Action**

Mayor stated that this issue comes to Council with a majority vote of Planning and Zoning Board. Mayor gave history of the change of the code in 2004. The county has jurisdiction on lot size for septic and wells. The county has reduced the lot size requirement. Rivet said we may want to require more land and less density. Franklin stated that on that same table, 1-3.3.A, the Town provides for the minimum lot size for each zoning and said that R/LC requires 20,000 sf lot size. Our Code does regulate density by lot size. The column that was deleted provided for an additional requirement for minimum lot size for development without central water. If you wanted to develop a half acre site on US 1 in R/LC zoning and were told you could not because Malabar required one acre for development on a site without central water, when Malabar does not have jurisdiction over either well or septic. Mayor asked if Council wanted to rescind the ordinance and put the requirement back in?

Pat Reilly stated the members on the Board wanted one sheet of paper with all the requirements. Rivet said we can be more restrictive than the county and we should have that ability. Reilly stated the other issue was the reduction in density from 6 units per acre to 4 units per acre in R/LC. That is also on this table. Reilly thought it was Ed Washburn and Ed Booth that were the ringleaders of this change. It was a land use ordinance and it should have come before P&Z but Reilly did not think it went before P&Z.

The Council discussed the lot size required for well and septic. Rivet said we want to reserve the right to be more restrictive than the county. The county has changed their minimum lot size requirements. Morris Smith stated that the Florida Administrative Code guides the lot septic

requirements and it is not the County it is the State through the County dictating lot size. He explained that there are other requirements for smaller lots that when a certain number of lots have been developed with well and septic then no further can be done until there is central water and sewer.

Reilly stated the P&Z Board also found other mistakes on the Table 1-3.3.A and Denine has made a list of them. One of them is the .20 is wrong and the heading is wrong on the table. Franklin stated that Municode is making the correction at no cost to the column heading and also to the supplement revision notation.

The Mayor said if you direct to add the column you will be spending money. Rivet said the changes in Malabar should be made by Malabar and if we have other mechanisms in place to limit density and lot size, then this additional change isn't necessary. Mayor said since this change will incur a cost, does Council feel it is necessary to proceed with the ordinance.

Council consensus that no action was required on this issue.

10. Recommendation from Planning & Zoning Board – Old School House

Exhibit: Agenda Report No. 10

Recommendation: Request Action

Mayor stated Council could do a committee and look at this possibility. In 1999 the Town looked at the possibility of purchasing it and there were issues with the State requirements. It is now back on the market. Vail said if we can do it with grant money he would support going forward. If we can support this with grant money and if we can acquire it for citizens for future use. Acquaviva is excited about this but after looking at the budget, again she asked how it can come up for discussion in this economy? Borton said the constituents have said don't spend any money.

Wilbur said we could appeal to FIT Grad students to go look for grant money. He explained we got the Sand Hill trail head with grant funds from the Office of Greenways and Trails. We could go back to them. The property is next to the trailhead and has 5K sf and an out building. They have had pot luck dinners there. It has potential for historical preservation grants.

Mayor asked if the Council would authorize Mayor to select a committee to go get information and bring back findings on grant resources for the purchase of this site. He has three people interested in such a committee for the purchase of the school house property. His committee will only look at potential grants for this purchase – not the river front property. Their interest is only for this item.

Acquaviva asked TA to put something on website asking about resident interest. And do an article for the next newsletter. Ask for volunteers for the committee for the school house purchase property and also ask questions to citizens/residents to provide input on this. Rivet said only a certain group uses the website. The newsletter can then refer them to the website.

Consensus of Council to allow Mayor to go forward with getting fact finding information with use of committee.

L. ACTIONS ITEMS:

ORDINANCE: First Reading – 0

RESOLUTIONS: 1

Without objection, the Chair read by title only.

11. Resolution Regarding Local Mitigation (Reso 63-2010)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING AND SUPPORTING MALABAR'S DESIGNATED PORTION OF THE SPACE COAST LOCAL MITIGATION STRATEGY; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 11
Recommendation: Request Action
Public Hearing opened:
None
Public Hearing closed.

MOTION: Borton / Vail to approve Reso 63-2010.

Discussion: none.

VOTE: Borton, Aye; Vail, Aye; Rivet, Aye; McKnight, Absent; 1) Acquaviva, Aye.

Motion carried 4 to 0.

MISCELLANEOUS:

12. Council to Qualify Candidates for November 2010 Election

Exhibit: Agenda Report No. 12
Recommendation: Request Action

Clerk Franklin stated that all candidates had met the Malabar requirements for qualification as candidates.

MOTION: Vail / Rivet to qualify candidates. **VOTE:** All Ayes.

M. DISCUSSION ITEMS:

Moved under "B" to the next meeting

~~13. Enforcing Malabar Code Related to Mowing and Maintenance of Rights of Way~~

~~**Exhibit:** Agenda Report No. 13
Recommendation: Discussion~~

N. MAYOR AND COUNCIL REPORTS:

4) Borton – nothing

3) Vail – nothing

2) Rivet – resident complaining about adjacent empty lot. North of Milucky's property. TA sent letter and the owner is making efforts. The first party died and he had already paid him. She will update Rivet. Residents are complaining about Gerena's ditch and not meeting setbacks. They will be moving on this ASAP, Rivet thinks since they have three seats with contested seats, he would like to try and schedule something in October. Schedule it at the old school house. Residents can hear from all the candidates. Debate or Forum. Debate. League of Women's Voters. TA will contact.

Have a moderator and ask certain questions and then let the candidates ask each other ahead of time.

) McKnight – excused

1) Acquaviva – nothing

) Mayor – nothing

O. PUBLIC – speaker card required

P. ADJOURNMENT

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

VOTE: All Ayes. The meeting adjourned at 10:30 PM.

BY: _____

Mayor Thomas M. Eschenberg, Chair

ATTEST BY:

 Debby K. Franklin, Town Clerk/Treasurer

Date Approved: _____