

**TOWN OF MALABAR  
PLANNING AND ZONING ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY JULY 13, 2011  
7:30 PM  
MALABAR COUNCIL CHAMBER  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

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**AGENDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**
  
- D. CONSENT AGENDA :**
  - 1. Approval of Minutes - Planning and Zoning Meeting – 06/22/2011**
    - Exhibit:** Agenda Report No. 1
    - Recommendation:** Motion to Approve
  
- E. PUBLIC HEARING:**
  
- F. ACTION:**
  - 2. Proposed Maps of Land Use Changes for Review Revised (7/08/2011)**  
Babcock Street-Malabar Road-US1 Corridor
    - Exhibit:** Agenda Report No. 2
    - Recommendation:** Discussion/Action
  
- G. DISCUSSION:**
  - 3. Assistant Living Facility- Ordinance 2011-38**
    - Exhibit:** Agenda Report No. 3
    - Recommendation:** Discussion
  
  - 4. Residential/Limited Commercial Zoning & Density Clarification**
    - Exhibit:** Agenda Report No. 4
    - Recommendation:** Discussion
  
- H. PUBLIC:**
  
- I. OLD BUSINESS/NEW BUSINESS:**
  
- J. ADJOURN**

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

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

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: July 13, 2011**

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

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**SUBJECT: Approval of minutes**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the Motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim and some editing is done to convey the thought. People do not speak the way they write.

**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of June 22, 2011 will be provided on Monday July 11, 2011

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: July 13, 2011**

**Prepared By:** Denine Sherear, P&Z Board Secretary

**SUBJECT:** Proposed Maps of Land Use Changes Revised July 8, 2011 Review

**BACKGROUND/HISTORY:**

Please see in this packet the maps that were corrected by Board member; Pat Reilly, for your review for the Proposed Land Use Changes along Babcock Street, Malabar Road, and US 1 Corridor.

Make recommendation to forward to Council.

**\*Please bring maps from the June 22, 2011 P & Z Meeting that were in your packet to compare changes made.**

**ATTACHMENTS:**

- Maps of Babcock Street , Malabar Road, and US 1 Corridor (14 pages)

# TOWN OF MALABAR PROPOSED FUTURE LAND USE CHANGES

PRESENTED BY THE PLANNING AND ZONING COMMITTEE

JULY 8, 2011

# Present Land Use Designations

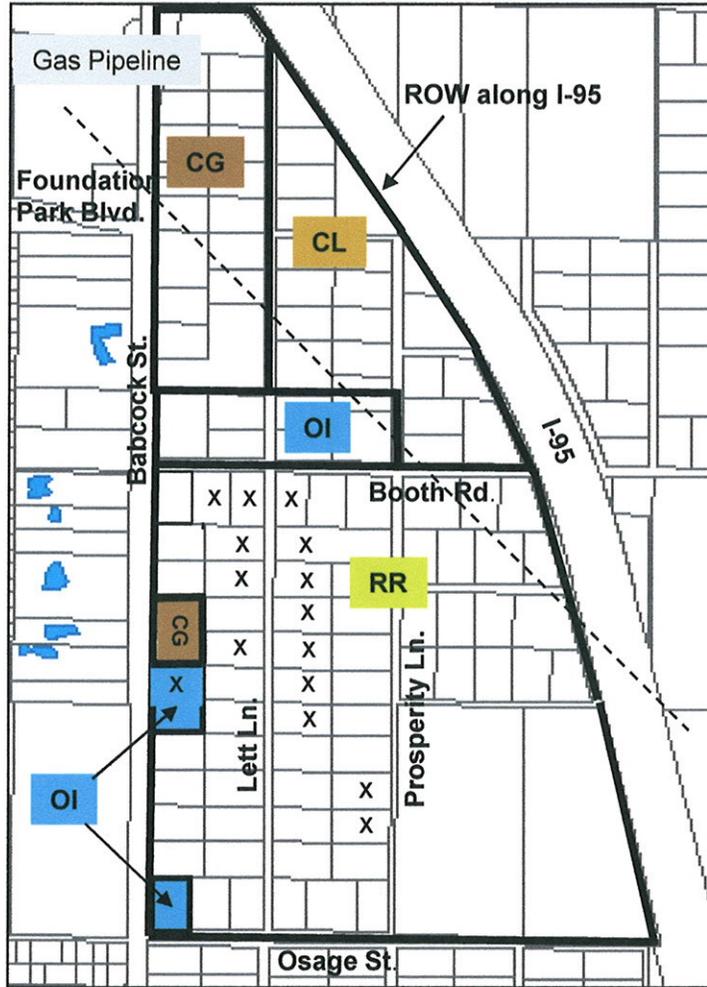
- Residential/Limited Commercial (R/LC)
- High Density Residential (HDR)
- Medium Density Residential (MDR)
- Low Density Residential (LDR)
- Rural Residential (RR)
- Commercial General (CG)
- Commercial Limited (CL)
- Industrial (IND)
- Office Institutional (OI)
- Institutional (INS)
- Open Space and Recreation (OSR)
- Multiple-family Residential or Office Space (MRO)
- Conservation (CON)
- Recreational Services (RS)
- PUD (Residential or Commercial)

# Related Data

- Use FLU-1 Map for Present Land Use
  - It was 2009's Future Land Use, now it is Malabar's Present Land Use Map
- Definitions of Malabar's Land Use Districts
  - Malabar Land Development Code, Article III, District Provisions handout
  - Board is presently looking at the R/LC densities in the Land Development Codes
- Satellite Aerial Maps

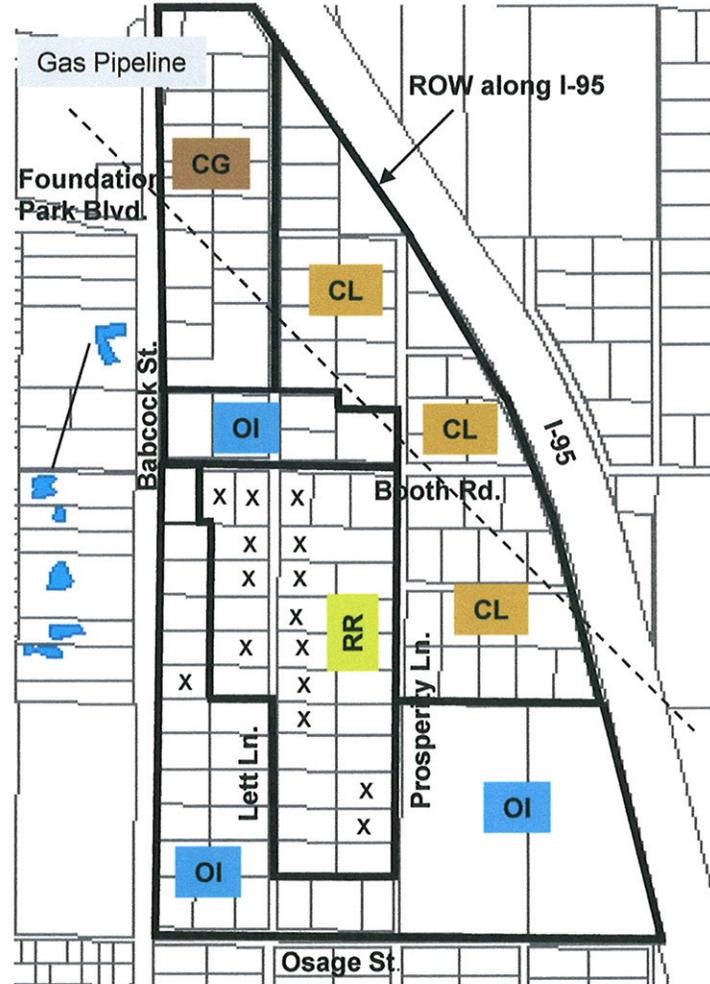
# Land Use Along Babcock Street

## Present Land Use



X = Homes

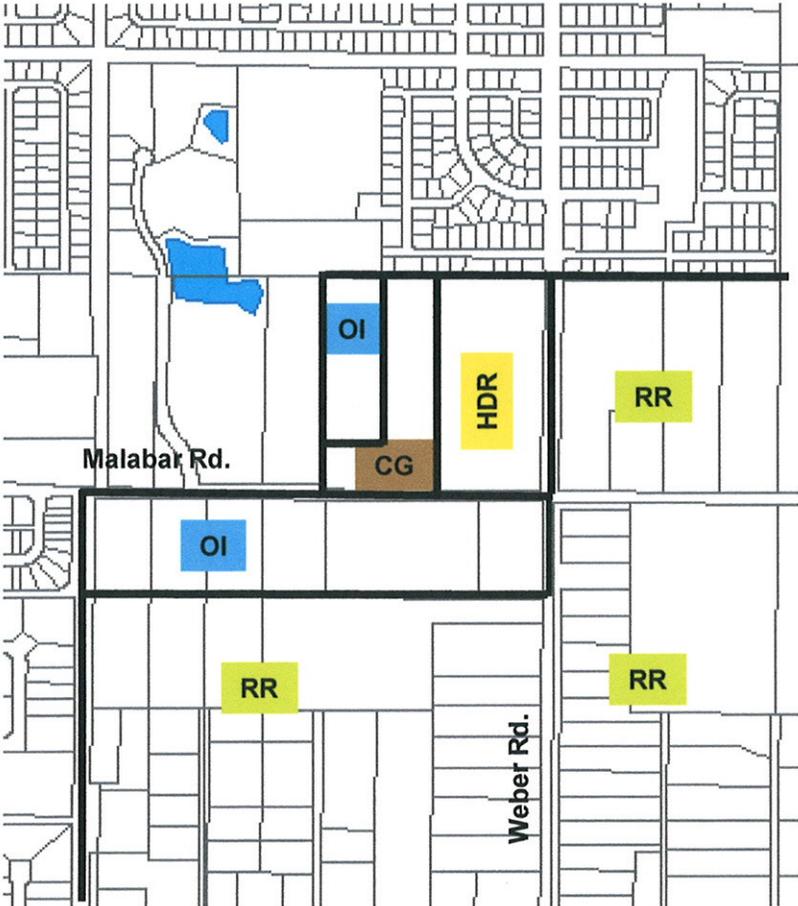
## Proposed Land Use



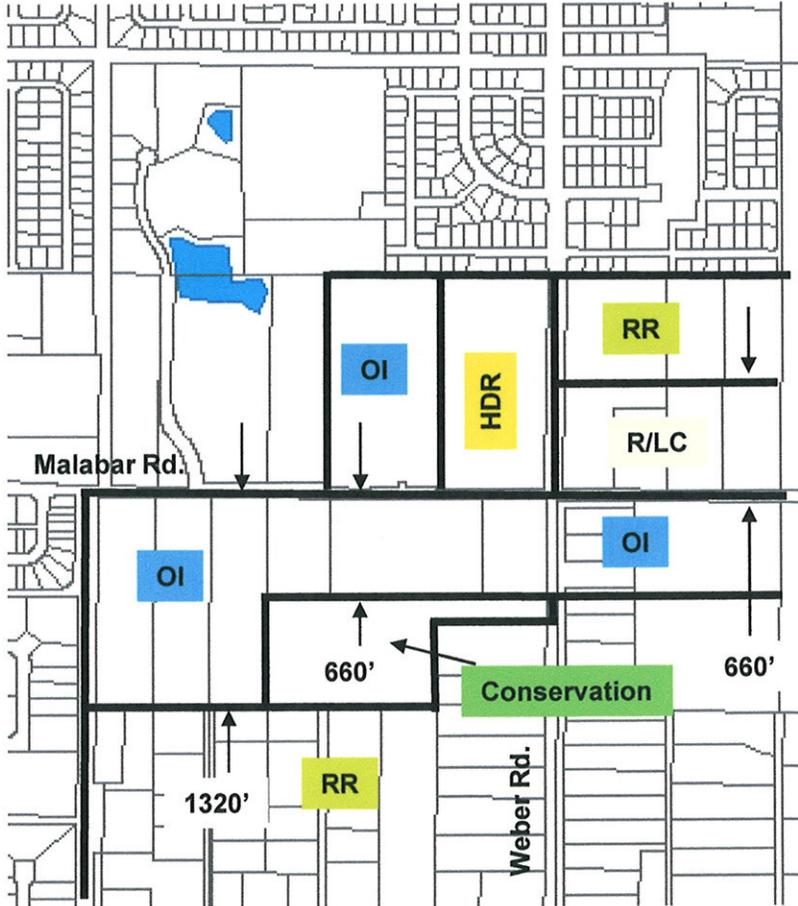
July 8, 2011

# Land Use Along Malabar Rd. (West end)

## Present Land Use

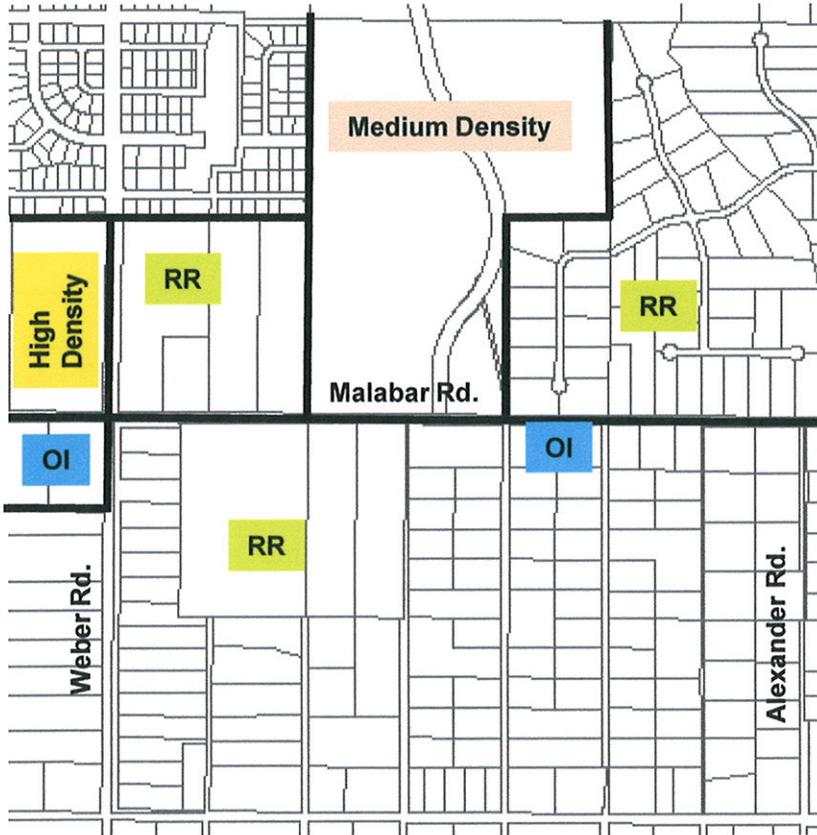


## Proposed Land Use

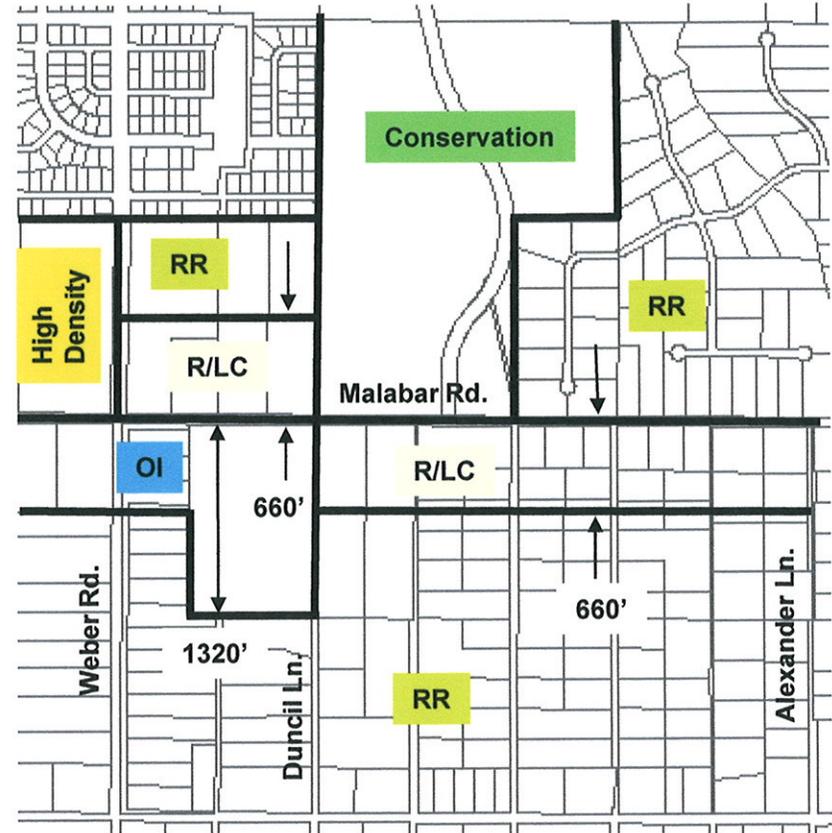


# Land Use Along Malabar Rd. (Weber Rd. to Alexander Ln.)

## Present Land Use



## Proposed Land Use



# Land Use Along Malabar Rd. (Alexander Ln. to Corey Rd.)

## Present Land Use



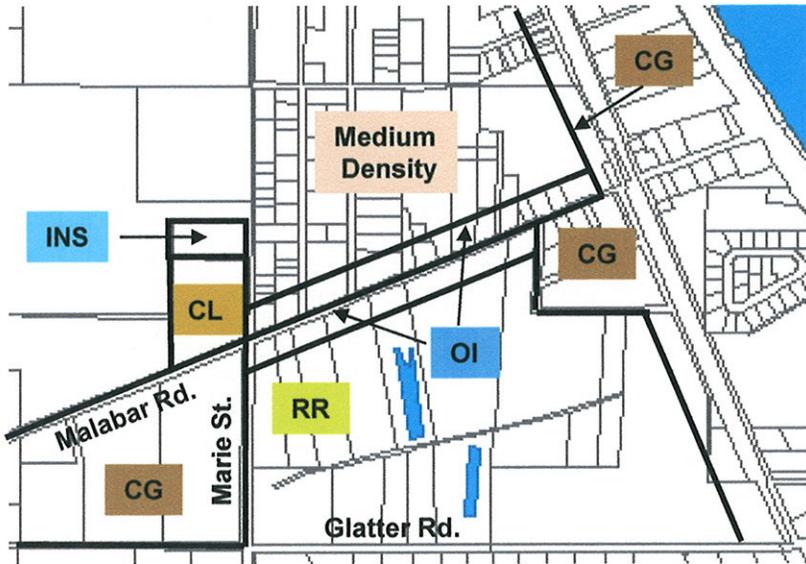
## Proposed Land Use



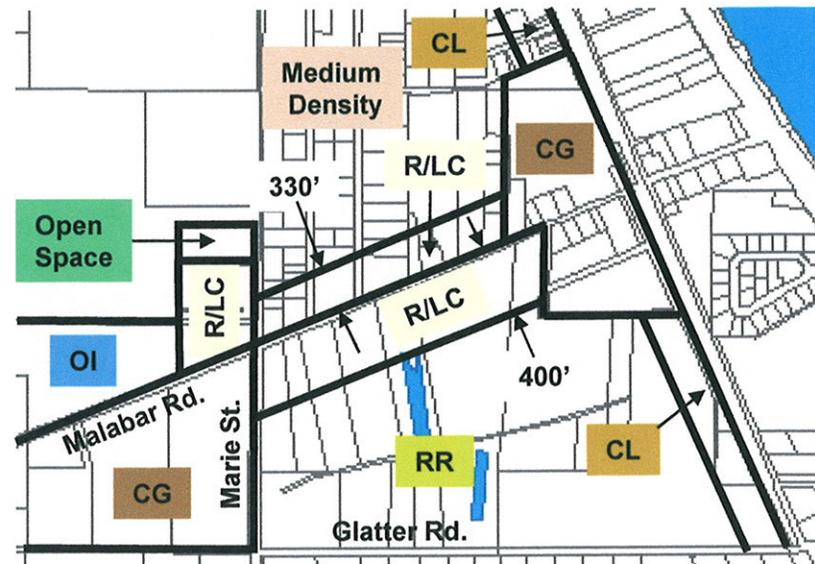


# Land Use Along Malabar Rd. (Marie St. to RR Tracks)

## Present Land Use

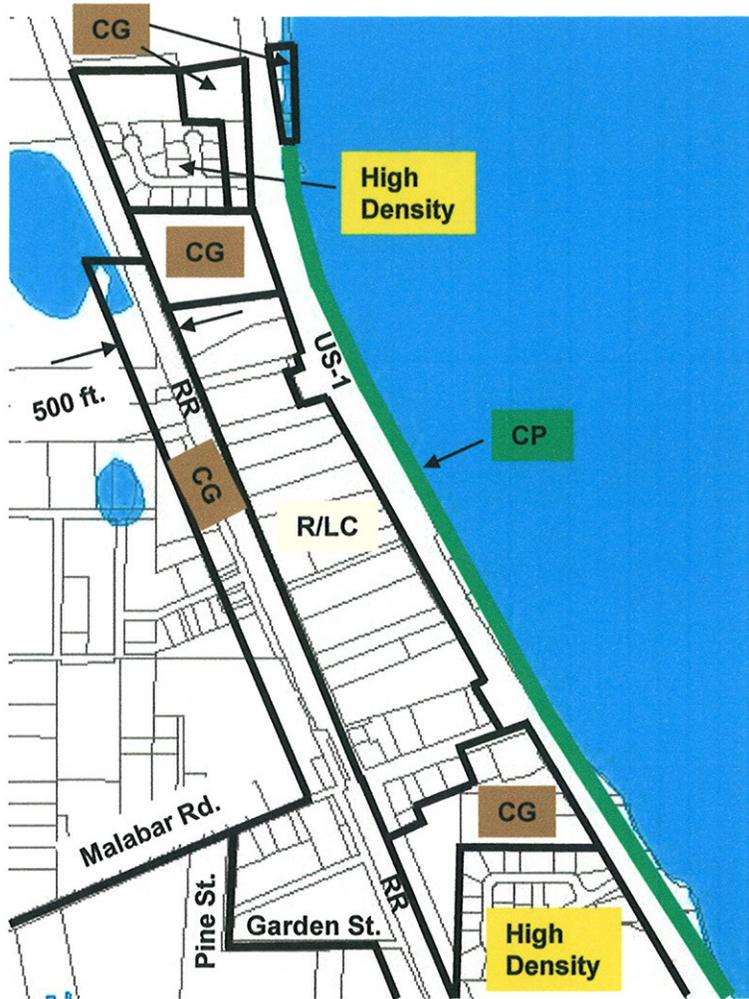


## Proposed Land Use

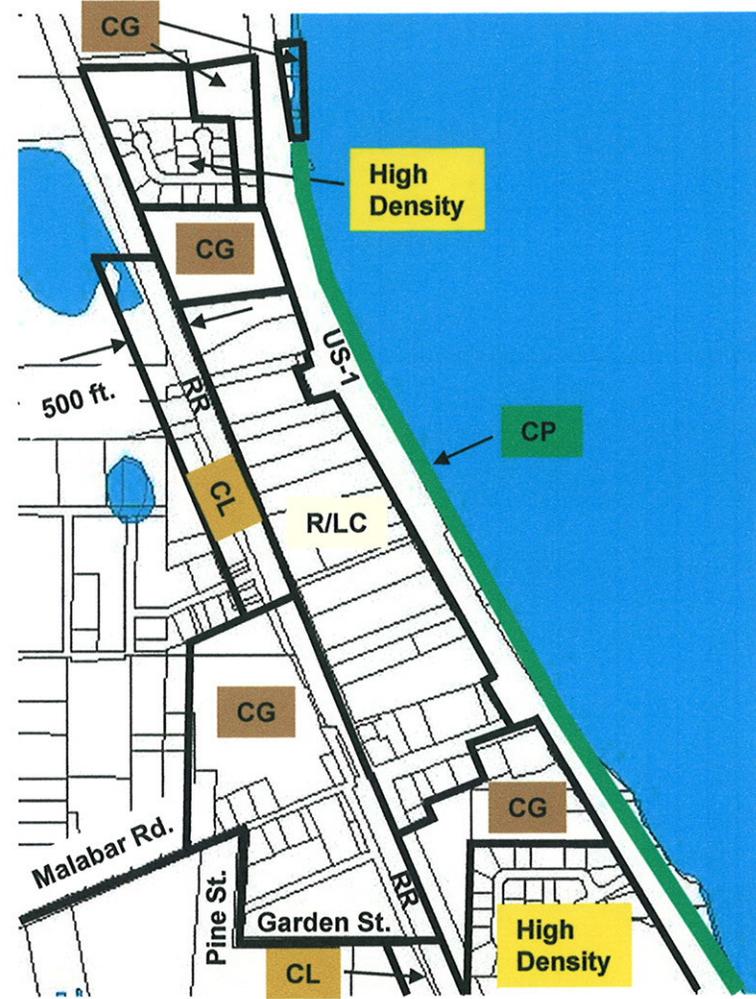


## Land Use Along US-1 (North end of Malabar)

### Present Land Use

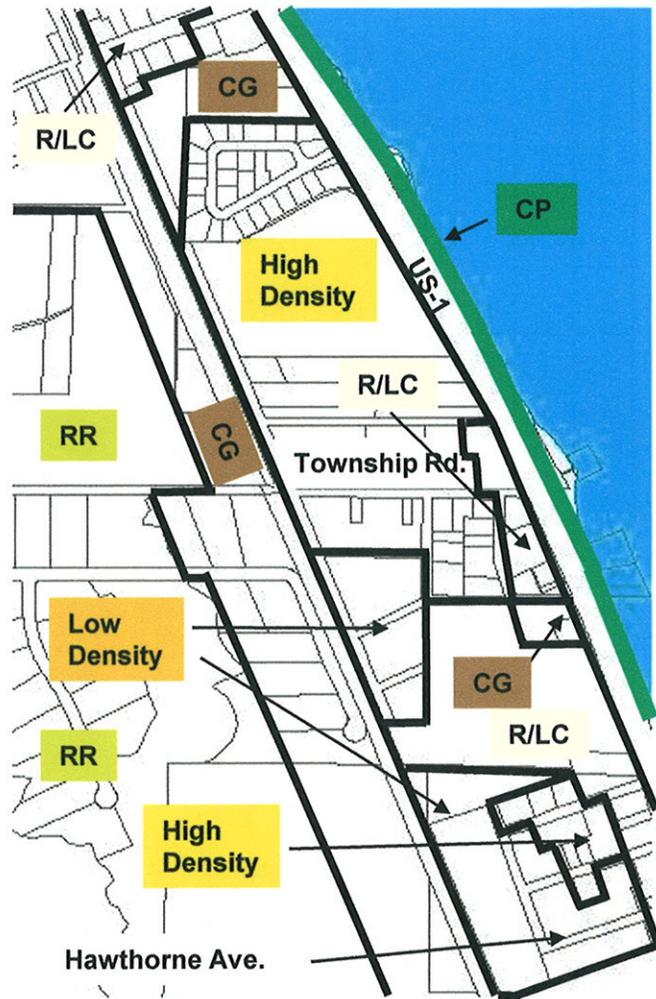


### Proposed Land Use

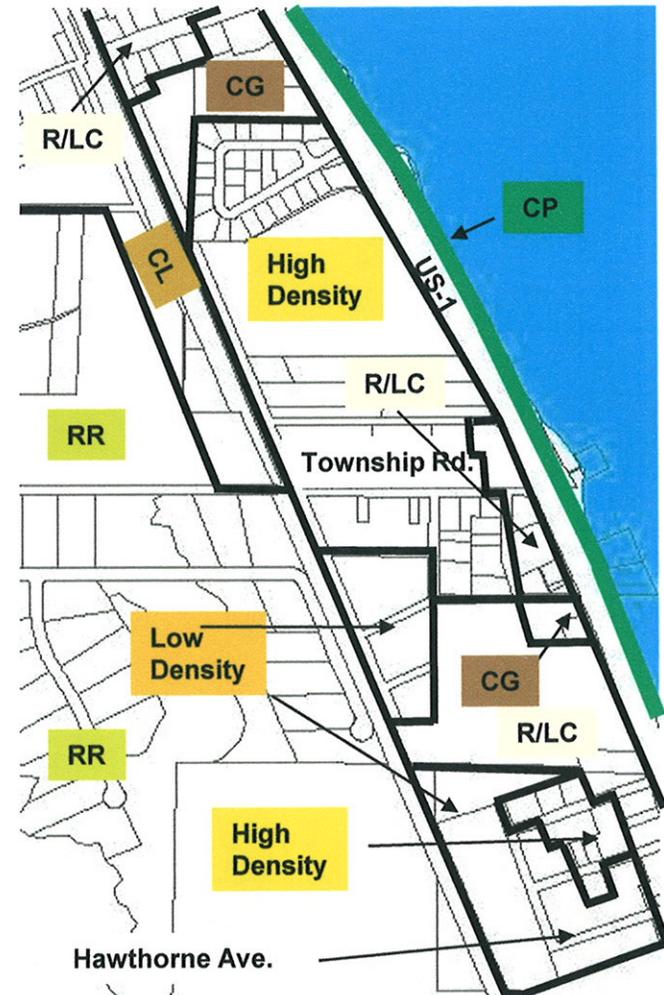


# Land Use Along US-1 (Malabar Rd. to Hawthorn Ave.)

## Present Land Use

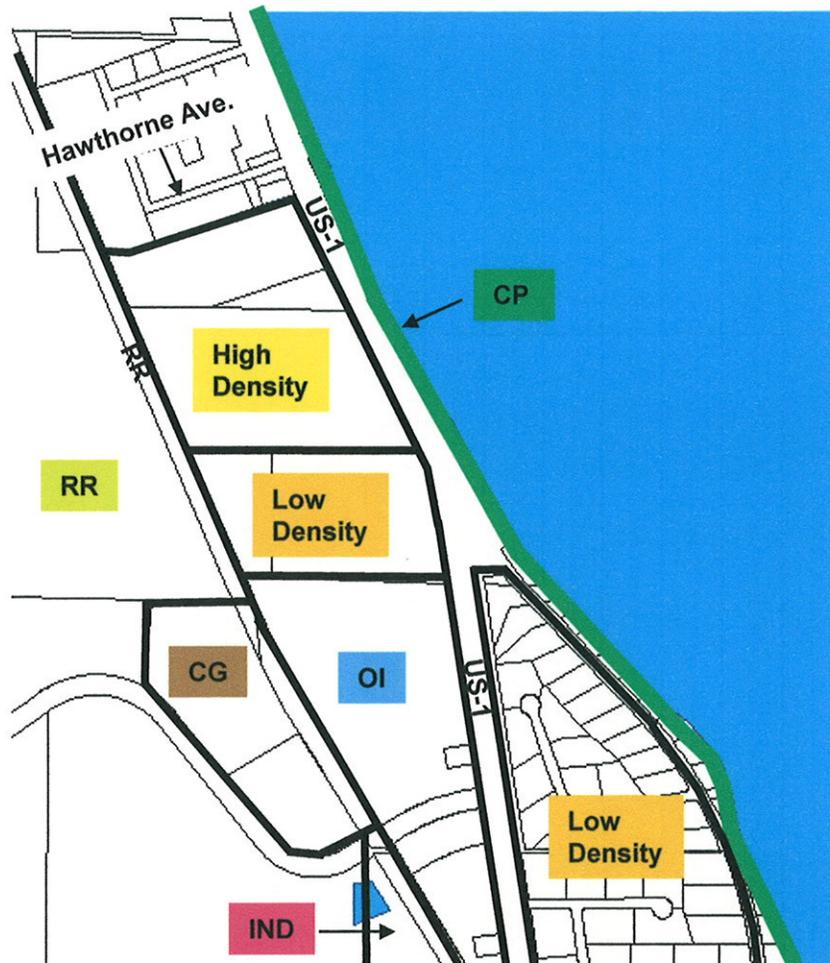


## Proposed Land Use

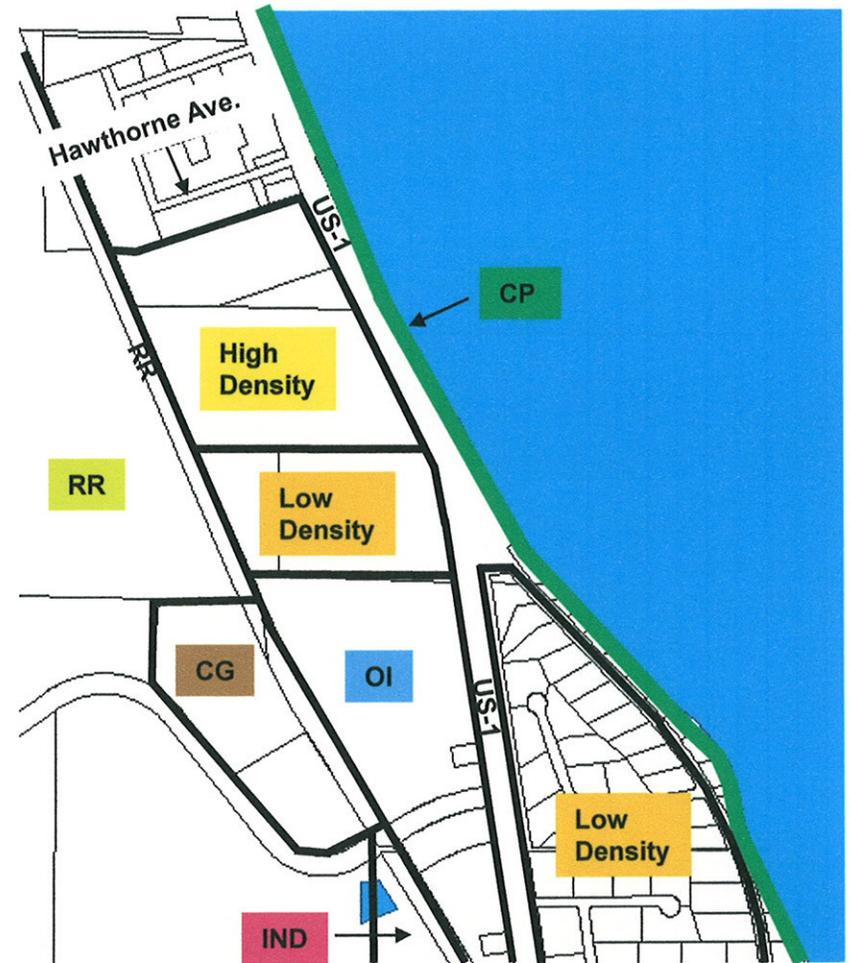


## Land Use Along US-1 (North Rocky Point)

Present Land Use



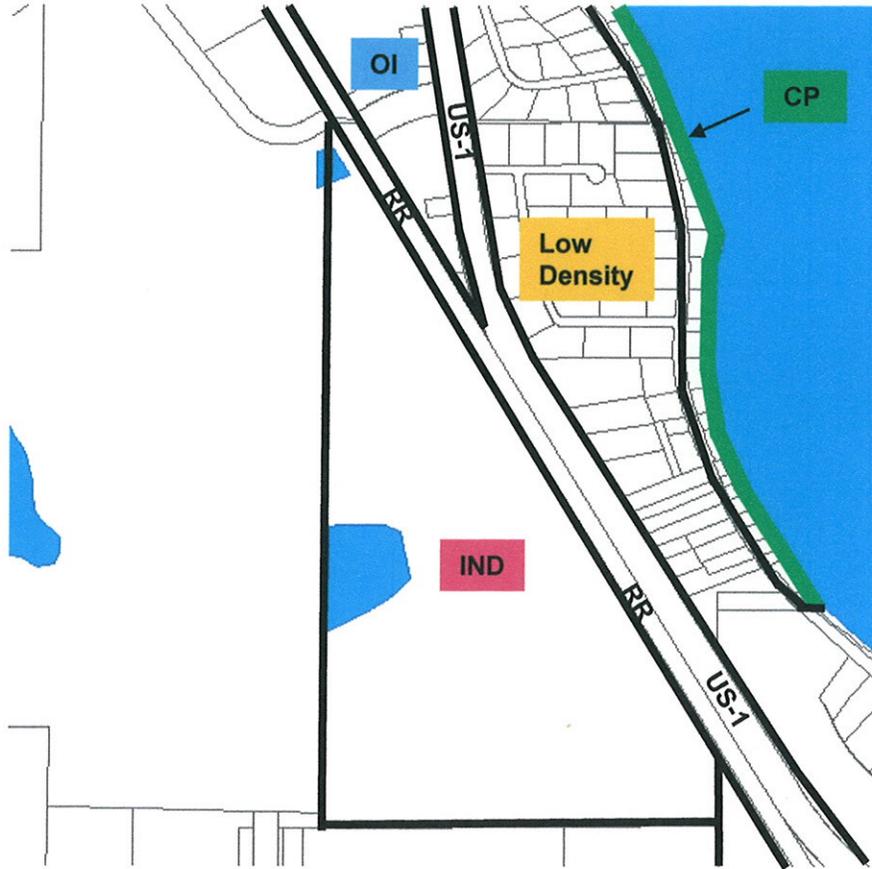
Proposed Land Use



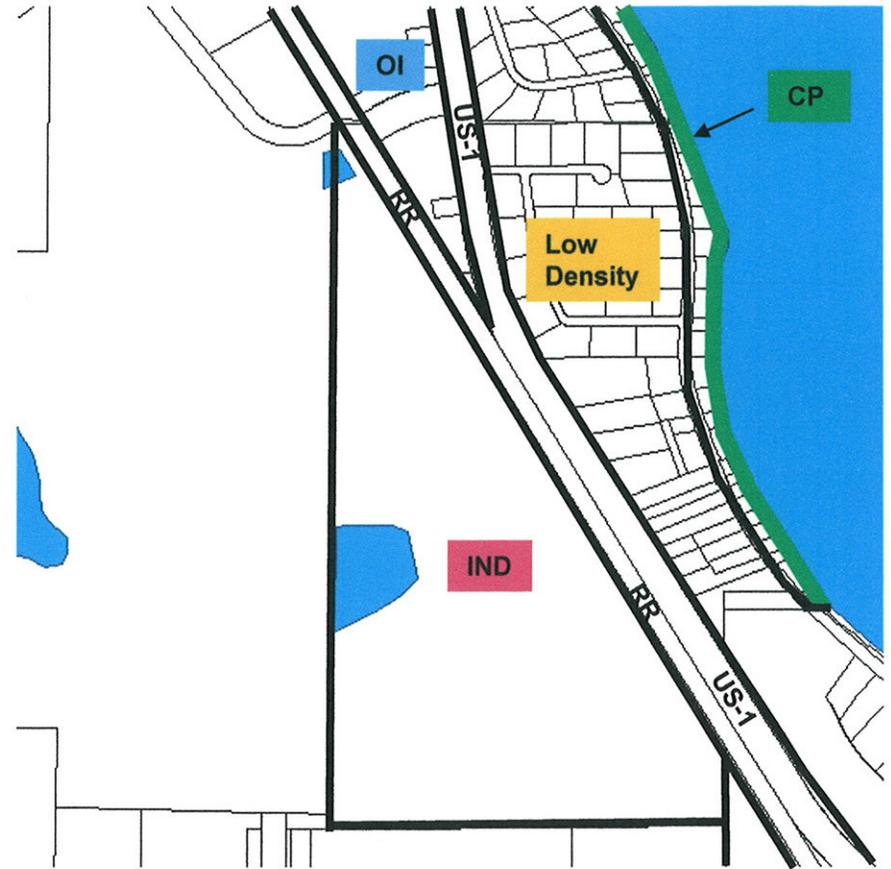
July 8, 2011

# Land Use Along US-1 (Rocky Point)

## Present Land Use

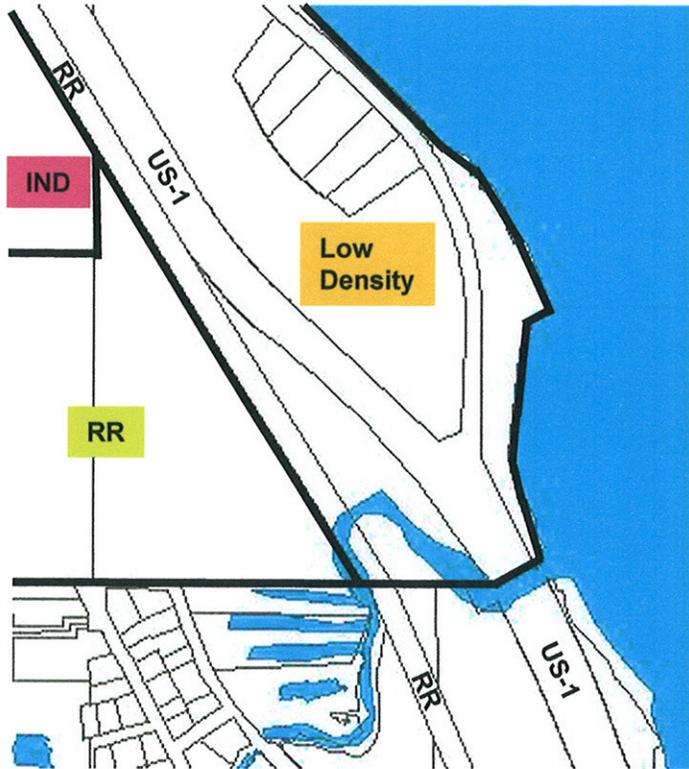


## Proposed Land Use

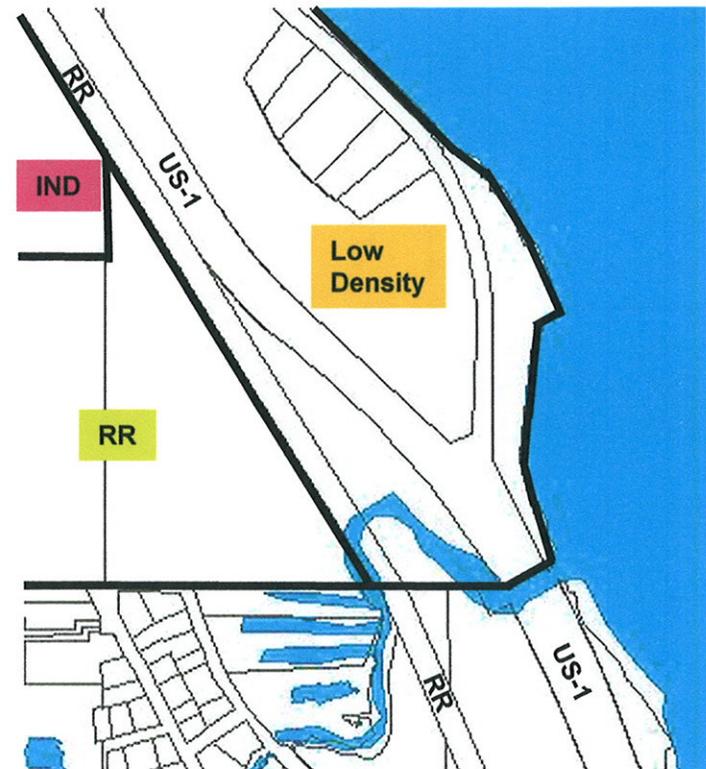


## Land Use Along US-1 (South Rocky Point)

**Present Land Use**



**Proposed Land Use**



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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: July 13, 2011**

**Prepared By: Denine Sherear, P&Z Board Secretary**

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**SUBJECT: Council Action Regarding ALF Ordinance 2011-38**

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**BACKGROUND/HISTORY:**

This Ordinance 2011-38 was sent back from Council for further amendment by P & Z Board.

**ATTACHEMENTS:**

Memo 2011-TC/T 079  
Portion of RTCM 06/20/11 (3 pages)  
Letter from Plata Engineering dated 6/20/11  
Ord 2011-38

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** July 6, 2011 2011-TC/T-079  
**To:** Planning & Zoning Board  
**From:** Debby K. Franklin, Town Clerk/Treasurer  
**Ref:** Council Action

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At the RTCM of June 20, 2011, Council considered Ordinance 2011-38 amending the Malabar code to provide for new language related to adult care facilities referenced in Florida Statute 429.

Council directed that the ordinance be sent back to P&Z for your consideration of further changes. The motion Council made asked for P&Z to remove residential uses from OI zoning; delete these types of facilities from R/LC zoning and also require more green space for these projects.

I have attached the portion of minutes from the RTCM of June 20, 2011 regarding this ordinance.

**K. ACTIONS ITEMS:****ORDINANCE: First Reading****4. Amend Code to Provide Regulations for Adult Care Facility (Ord 2011-38)**

Mayor introduced the item. In reviewing the agenda, Clerk had added the site plan review. He reviewed the RTCM March meeting where Council voted the site plan is tabled until the ordinance is drafted to add language. Chair spoke with Attorney and agreed since no action was taken on ordinance, it could be brought back. Chair directed it be brought back for action by Council. Bohne said Council is going to have to deal with this site plan. Chair brought ordinance back with hopes with full Council there would be action on this first reading.

Mayor read by title only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; DELETING SECTION 1-2.6.B. 8, LAND USE CLASSIFICATIONS; PROVIDING FOR ADULT CARE FACILITIES AS A CONDITIONAL USE IN THE OI (OFFICE-INSTITUTIONAL) ZONING DISTRICT; AMENDING SECTION 1-3.1.1 DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND PROVIDING FOR ADULT CARE FACILITIES; AMENDING TABLE 1-6.1 (B) DELETING REFERENCES TO GROUP HOMES AND MAKING PROVISIONS FOR ADULT CARE FACILITIES; AMENDING SECTION 1-9.2.12; PROVIDING FOR ADULT CARE FACILITIES; ESTABLISHING PARKING REQUIREMENTS FOR ADULT CARE FACILITIES; DELETING THE DEFINITION OF GROUP CARE FACILITY IN ARTICLE XX; AMENDING TABLE 1-3.3.A PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 AND R/LC ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Action

Speakers cards on this.

Pat Reilly, 1985 Howell Lane and Vice Chair of P&Z. He is going to talk about the Board discussion. P&Z had most difficulty with two different types of uses – it is flagged in the ordinance to be addressed by Council. The Board intended that if more than one use is provided for in a zoning, then the most restrictive conditions would apply. They also discussed at length whether or not to have this use as conditional use in RLC or not at all. The biggest debate was in Sec 5, 4 vs. 5 parking spaces. The delta is only 5 spaces, but there was a big debate on this.

Reilly pointed out to Council to make sure you understand that Sec 7 has nothing to do with Assisted Living. This would still need to be approved separately if this ordinance fails.

Reilly also mentioned that Sec 1-2 has to do with cemetery – Bohne said there is a note to the codifier to renumber. The cemetery one will be in there but as another number.

Reilly stated that Sec 5 deletes definition of group care facility but does not add a definition for assisted care facility. Bohne said that adult care facility covers all of those uses referred to in FS 429 and that does include assisted living facilities.

Reilly's personal comments as a resident: His problem is having residents live in OI. No one would ever state that openly. He said the original builders of Malabar created Professional Commercial before it became OI. He stated if it is an assisted living facility, they do live there.

He would also request that if this ordinance is approved, the site plan should go back to P&Z to review under the new guidelines. Acquaviva asked before his personal feelings, those were from P&Z? Yes.

Mr. Charles Leedy, Smith Lane, he would like to see this hospital go in as soon as possible.

Sheila Eschenberg, Beran Lane, one day we will all need something. The adult care facility is needed. The location is such a good spot across from the hospital. Asked Council to give good consideration. In today's economy, it will give jobs to the community. The location next to the children's facility is also good for the children and the adults and there could be visiting between the two places. Please consider.

Chair asked Council to consider the ordinance only. It does not apply to any specific project.

Frank Plata, 3700 Harbor City Blvd. He is not representing any type of facility. Concentrate on the code modification. The code adds a complete piece of mind. The change in FS is no. By adding specific details. The parking is a little more restrictive. The project they are considering is institutional and is consistent with other areas in the county.

You can connect one to the other one. Each one has a specific requirement in ITE and you can go by that for parking. To recap – they started on 9/25/2007. They got help from Bohne and Mills on how to look at code. They are adding definitions and details in code. All of this will be helpful to the elderly so they can be treated.

McKnight has comment before motion. McKnight wanted to make clear why he didn't make motion on this at last meeting. He thought since he didn't support it, he couldn't make motion. Chair clarified, that the motion maker can make an affirmative motion, but cannot speak against the subject. The motion maker can vote against the motion. The seconder to the motion is free to speak pro or con.

**MOTION: Acquaviva / \_\_\_\_\_ to approve ordinance. Motion died for lack of a second.**  
**MOTION: McKnight / Rivet to send ordinance back to P&Z to direct that residences can't be in OI and look at green space requirements and direct they delete this use in RLC.**

Discussion. Acquaviva thought the intent was to support the hospital with the OI zoning. Rivet said there are many uses that would be compatible to hospital that are not residential. Acquaviva stated it is not an apartment building. McKnight said it could be.

Acquaviva was at the P&Z meeting, and McKnight said he did not support this project openly. He asked for assistance from P&Z.

Chair said rather than send it back to P&Z, if the majority of Council wants to make changes they can do so, Council can change it. McKnight said that the P&Z Vice-Chair already said they had much debate. Mayor said if Council directs that this go back to P&Z and recommends they remove this use from OI he would also want to recommend to them to take it out of RLC. RLC was not intended for this. It was for small shops and residences. Apartments upstairs with a business downstairs. Rivet said it is a bigger issue. Sounds like there is not much support to

do residential in OI. Atty Bohne said in Article II, the Land Use Section, it refers to community facilities and group homes, and they are listed as a conditional use in OI.

Atty Bohne said their pending application has to be reviewed under current Code. They agreed to wait to allow time to add language to clarify the different uses under FS 429, but their submittal is required to be reviewed under the current code. In the Code on parking requirements, it doesn't list reference group homes. They have right to be reviewed under current Code. Land Use section refers to community facilities and group homes. Mayor said they don't meet current Code. Bohne said this application will be reviewed under current code. If they eliminate the residential component under OI that will not affect this project. McKnight said throughout this process, the applicant has tried to advocate. He doesn't think we should change our code for one applicant. Also to clarify, Atty Bohne stated he told Clerk to get site plan back on agenda if applicant wanted to proceed.

**VIOTE: 4 Ayes, 1 Nay (Acquaviva) Motion carried 4 to 1.**

***PIE*** **plata engineering, inc.**

**ENGINEERS \* PLANNERS \* CONSTRUCTION MANAGEMENT**

**3700 N. Harbor City Blvd., Suite 2F, Melbourne, FL 32935**

www.plataengineering.com - EB 0005636 - Excellence in service since 1990.

**Telephone: (321) 259 - PLAT Facsimile: (321) 259 - PLAN**

June 20, 2011

Town of Malabar  
Honorable Tom Eschenberg, Mayor  
Karl Bohne, Esquire, Town Attorney.

Attention: Debby Franklin, CMC, Town Clerk/Treasurer.  
2725 Malabar Road, Malabar, Florida 32950-4427.

Re: ORDINANCE NO. 2011-38.

Honorable Mayor Eschenberg:

Pursuant your suggestion at the June 06, 2011 public meeting section, for us to lobby Council individually on their thinking. Please note that we were not able to do it, since the Ordinance has been set back on Agenda, and not open to public yet.

Also, the proposed Ordinance is similar to existing codes. It does not give new rights or change current zoning, therefore, it does not apply to any development in particular, just to the elderly care.

This Ordinance only provides more details to the current Ordinance definitions. It should be self-explanatory since only copied the requirements of each of the current zoning Districts to the elderly facility type, to avoid discrimination to the elderly facilities in general, or to protect them.

These are reasonable accommodations in rules and policies. Facilities that assist the elderly needs are inherently beneficial use to the community and extremely important public value and service.

Sincerely,

*Frank Plata*

Frank S. Plata, P.E., R.A., C.G.C.

ORDINANCE NO. 2011-38 (modified after 5/16/11 RTCM mtg.)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; DELETING SECTION 1-2.6.B. 8, LAND USE CLASSIFICATIONS; PROVIDING FOR ADULT CARE FACILITIES AS A CONDITIONAL USE IN THE OI (OFFICE-INSTITUTIONAL) ZONING DISTRICT; AMENDING SECTION 1-3.1.I DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND PROVIDING FOR ADULT CARE FACILITIES; AMENDING TABLE 1-6.1 (B) DELETING REFERENCES TO GROUP HOMES AND MAKING PROVISIONS FOR ADULT CARE FACILITIES; AMENDING SECTION 1-9.2.12; PROVIDING FOR ADULT CARE FACILITIES; ESTABLISHING PARKING REQUIREMENTS FOR ADULT CARE FACILITIES; DELETING THE DEFINITION OF GROUP CARE FACILITY IN ARTICLE XX; AMENDING TABLE 1-3.3.A PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 AND R/LC ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Sections 1-2.6.B.8 is hereby deleted. A new section 1-2.6.B.2 is added to read as follows:

"2. Adult Care Facilities. Any facility regulated by the State of Florida Agency for Health Care Administration and meeting the criteria and requirements of the provisions of Long Term Care Facilities, Florida Statute 400.0060 (5), as amended from time to time; Nursing Homes Florida Statute 400.011, as amended from time to time; Intermediate, Special Services, and Transitional Living Facilities, Florida Statute 400.701, as amended from time to time; Intermediate Care Facilities for Developmentally Disabled Persons, Florida Statute 400.960, as amended from time to time; Assisted Living Facilities, Florida Statute 429.02 (5), as amended from time to time; Adult Day Care Centers, Florida Statute 429.901 (1) ; Adult Family-Care Homes, Florida Statute 429.65 (2); and Health Care Facilities, Florida Statute 408.032 (8), as amended from time to time. Such facilities are permitted as conditional uses as provided for in Table 1-3.2"

(Note to Codifier: Section 1-2.6.B shall be renumbered to accomplish the changes herein).

**Section 2.** Section 1-3.1.I is amended to read as follows:

...



					<b>District (feet)</b>		
<b>Group Homes Adult Care Facilities</b>	(3)	(3)	<b>N/A Arterial</b>	<b>N/A 60/25</b>	<b>N/A 25/20</b>	<b>N/A Type A/C</b>	(7)

...  
 "(3) Minimum spatial requirements shall comply with the standards requirements established by the Florida Department of Health and Rehabilitative Services Town of Malabar District Provisions."

...  
**Section 5.** Section 1-9.2 is amended to include the following:

"Adult Care Facilities. One (1) space for each five ~~four~~ (5 ~~4~~) beds plus, the more restrictive of, one (1) space for each employee, including doctors, or ~~one (1) space for per three hundred (300) feet of building area, which ever is greater~~ the standards established by the "Institute of Transportation Engineers"."

**(Note to Codifier: Section 1-9.2 shall be renumbered to accomplish the changes herein).**

**Section 6.** Section 1-20.2 of Article XX is amended by deleting the definition for "*Group Care Facility*".

**Section 7.** Table 1-3.3.A is hereby amended to provide for a minimum square footage of 1,200 square feet for single family homes in the RM-6 and R/LC zoning districts.

**Section 8.** 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 this 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 be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**Section 9.** Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

**Section 10.** Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

**Section 11.** This Ordinance shall become effective immediately upon its adoption.

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

Council Member, Carl Beatty	_____
Council Member, David White	_____
Council Member, Steven (Steve) Rivet	_____
Council Member, Jeffrey (Jeff) McKnight	_____
Council Member, Marisa Acquaviva	_____

This ordinance was then declared to be duly passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Town Of Malabar  
By Mayor Tom Eschenberg

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

ATTEST:  
By \_\_\_\_\_  
Debby K. Franklin  
Town Clerk/Treasurer

(Seal)

Approved as to form and content:

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

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

AGENDA ITEM NO: 4  
Meeting Date: July 13, 2011

Prepared By: Denine Sherear, P&Z Board Secretary

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**SUBJECT: Residential/Limited Commercial Zoning & Density Clarification**

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#### **BACKGROUND/HISTORY:**

This Board would like to clarify the definition of RLC Zoning and Density for Future Land Use Maps.

The District Zoning Provision – Table 1-3.3(A) page 123, in the last Column designates the density, along with Ordinance No 2004-08. You will see Supplement 18 is the updated version of Table 1-3.3(A) page 123 & 124.

#### **ATTACHMENTS:**

- Ordinance 94-4 creating R/LC (9 pages)
- Definition of R/LC from Art III of Code (2pages)
- Table 1-3.3(A) Size and Dimension Regulations (2 pages)
- Ordinance 2004-08 related to density of parcels without central water/wastewater (2pgs)

MALABAR ORDINANCE #94-4

AN ORDINANCE OF THE TOWN OF MALABAR AMENDING THE LAND DEVELOPMENT REGULATIONS BY ESTABLISHING A MIXED USE RESIDENTIAL AND LIMITED COMMERCIAL (R/LC) DISTRICT; PROVIDING FOR SPECIFIC R/LC, HDR AND LDR ZONING MAP AMENDMENTS; DESCRIBING A PURPOSE AND INTENT FOR THE R/LC DISTRICT; DEFINING LAND USES, AND SIZE AND DIMENSION CRITERIA FOR THE R/LC DISTRICT; PROVIDING FOR MAXIMUM SQUARE FOOTAGE FLOOR AREA FOR LIMITED COMMERCIAL USES IN THE CL AND R/LC ZONING DISTRICTS; AMENDING THE CONDITIONAL USE CRITERIA OF ARTICLE VI; AND PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

SECTION I

Section 1-2.2: "Zoning districts established" shall be amended by changing Table 1-2.1: "Future Land Use Map Designations and Zoning Districts" to read as follows:

TABLE 1-2.1

FUTURE LAND USE MAP DESIGNATIONS AND ZONING DISTRICTS  
Town of Malabar

<u>Future Land Use Map Designations</u>		<u>Corresponding Zoning Districts</u>	
OSR	Open Space and Recreation	CP	Coastal Preservation
		INS	Institutional
RR	Rural Residential	RR-65	Rural Residential
LDR	Low Density Residential	RS-21	Single Family LDR
MDR	Medium Density Residential	RS-15	Single Family MDR
		RS-10	Single Family MDR
		RM-4	Multiple Family MDR
HDR	High Density Residential	RM-6	Multiple Family HDR
		R-MH	Residential Mobile Home
MRO	Multiple-family Residential or Office Space	RM-4	Multiple Family HDR
		RM-6	Multiple Family MDR
		OI	Office-Institutional
OI	Office-Institutional	OI	Office-Institutional
		INS	Institutional
CL	Commercial Limited	CL	Commercial Limited
CG	Commercial General	CG	Commercial General
<u>R/LC</u>	<u>Residential and Limited Commercial</u>	<u>R/LC</u>	<u>Residential and Limited Commercial</u>
IND	Industrial	IND	Industrial
INS	Institutional	INS	Institutional

Future Land Use Map Designations

Corresponding Zoning Districts

*PUD(R) Planned Unit Development (Residential)	PUD(R) Planned Unit Development (Residential)
*PUD(C) Planned Unit Development (Commercial)	PUD(C) Planned Unit Development (Commercial)
*PUD(I) Planned Unit Development (Industrial)	PUD(I) Planned Unit Development (Industrial)

- \* Planned Unit Development (PUD) designations are special overlay map designations intended to promote voluntary public/private partnerships for managing and coordinating objectives which promote innovative development concepts, design amenities, and measures for protecting natural features of the land.

**SECTION II**

Section 1-3.1 shall be amended by adding a new subsection 1-3.1(O) to read as follows:

O. R/LC "Residential and Limited Commercial". The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- local residential markets within the Town as opposed to regional markets; or
- specialized markets with customized market demands.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities with a floor area in excess of four thousand square feet, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops since the former would usually require a floor area larger than four thousand (4,000) square feet; would generally carry a relatively larger inventory; and require 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; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposable containers and/or providing drive-in facilities.

Single family or multiple family residential uses with a density no greater than six (6) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district 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 this Code.

**SECTION III**

Section 1-3.2: "Land Use by Districts" shall be amended by changing Table 1-3.2: "Land Use by Districts" to include the following:

**TABLE 1.3.2. LAND USE BY DISTRICTS**

<b>RESIDENTIAL USES</b>	<b>R/LC</b>	<b>COMMERCIAL ACTIVITIES (con't)</b>	<b>R/LC</b>
Duplex	P	Funeral Homes	C
Mobile Homes		General Retail Sales and Services	
Multiple Family Dwelling	P	Hotels and Motels	
Single Family Dwellings	P	Limited Commercial Activities	P
		Marine Commercial Activities	
<b>COMMUNITY FACILITIES</b>		Medical Services	P
Administrative Services		Parking Lots and Facilities	P
(Public and Not-for-Profit)	P	Retail Plant Nurseries	P
Child Care Facilities	C	Restaurants (Except Drive-ins and fast food service)	P
Churches, Synagogues and Other Places of Worship	P	Restaurants (Drive-ins)	
Clubs and Lodges (Not-for-Profit)		Service Station, Including Gasoline Sales	
Cultural or Civic Activities	P	Trades and Skilled Services	
Educational Institutions		Veterinary Medical Services	C
Golf Course Facilities		Vehicular Sales and Services	
Group Homes	P	Vehicular Services and Maintenance	
Hospital and Extensive Care Facilities		Wholesale Trades and Services	
Nursing Homes (Including Rest Homes & Convalescent Homes)	C	<b>INDUSTRIAL ACTIVITIES</b>	
Protective Services	C	Kennels	
Public Parks and Recreation	C	Manufacturing Activities	
Public and Private Utilities	C	Manufacturing Service Establishments	
		Vehicle and Other Mechanical Repair and Services	
<b>AGRICULTURAL ACTIVITIES</b>		Warehouse, Storage and Distribution Activities	
Noncommercial Agricultural Operations			
Wholesale Agricultural Activities			
Commercial Stables			
<b>COMMERCIAL ACTIVITIES</b>		Noncommercial piers, boat slips, and docks	
Adult Entertainment			
Bars and Lounges			
Business and Professional Offices	P		
Enclosed Commercial Amusement			

**WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES**

Noncommercial piers, boat slips, and docks

C = Conditional uses  
P = Permitted uses

**SECTION IV**

Section 1-3.3: "Size and Dimension Criteria" shall be amended by changing Table 1-3.3: "Size and Dimension Regulations" to include the following:

TABLE 1-3.3(A) SIZE AND DIMENSION REGULATIONS

ZONING DISTRICT	MINIMUM LOT(1)		MAX HEIGHT (ft./stories)	MINIMUM LIVING AREA/MAX COM'L AREA (sq. ft.)	SETBACK (FT.)(2)		IMPERVIOUS SURFACE RATIO (%)	FLOOR AREA RATIO (FAR)	MAX DENSITY (units per acre)					
	SIZE (sq.ft.)	WIDTH (ft.)			DEPTH (ft.)	FRONT/ REAR			SIDE (1)	SIDE (C)	WITH CENTRAL WATER & WASTEWATER	WITHOUT CENTRAL WATER & WASTEWATER		
Multiple Family Residential Development														
RM-6	5 acres minimum site	200	200	35/2.5	Single Family:	25/20	10	10	50	n/a	50	4	4	1
					Multiple Family:	60/40	40	40	50	n/a	50	4	4	1
					1 Bedroom: 500									
					2 Bedroom: 700									
					3 Bedroom: 900									
					Each Additional Bedroom: 120									
Mixed Use Development														
R/LC	20,000	100	150	35/3	Single Family:	25/20	10	10	50	n/a	50	4	4	2
					Multiple Family:	50/25	10*	20	65	n/a	35	6	6	2
					1 Bedroom: 500									
					2 Bedroom: 700									
					3 Bedroom: 900									
					Each Additional Bedroom: 120									
					Commercial:					0.20				
					Min. Area: 900									
					Max. Area: 4,000									
Commercial Development														
CL					Min. Area: 900									
					Max. Area: 4,000									

2 - Minimum setbacks determined from the center of the right-of-way where the yard abuts a public street pursuant to the above cited Standards of Table 1-3.3(E) whichever is most restrictive.  
 4 - Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.  
 [editor's note: this table to be incorporated into existing Table 1-3.3(A) which includes the remaining footnotes 1-6.]

**SECTION V: ZONING MAP AMENDMENT -- RESIDENTIAL AND  
LIMITED COMMERCIAL DISTRICTS (R/LC)**

A Zoning Map amendment from "General Commercial" (CG) to "Residential and Limited Commercial" (R/LC) is recommended for the lands described below. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "R/LC." The subject areas are characterized by a mixture of generally small scale commercial businesses together with predominantly single family residential land uses. Areas 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 "residential and limited commercial" Zoning Map designation [Section 1-3.1 (O)] since such development would be incompatible with existing and anticipated future residential development within or in the vicinity of areas designated "R/LC" on the Future Land Use Map. A Zoning Map designation of "Residential and Limited Commercial" (R/LC) is recommended for the following specific areas:

- 1) 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 the north property line of lots 22-24 all 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.
- 2) 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.
- 3) 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.

**SECTION VI: ZONING MAP AMENDMENT -- DRAKE/OAKHURST/  
CRESCENT/SUNNYBANK ON THE DIXIE AREA**

A Zoning Map amendment from "General Commercial" (CG) to "High Density Residential" (RM-6) is recommended for the land described below. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "HDR." The subject area is comprised of exclusively residential dwelling units, and vacant lots within platted residential subdivisions. Prior to the Comprehensive Plan adoption this area was zoned for high density residential development. Several residents have requested that the Town Council provide for residential development in all use policies impacting the area. A Zoning Map amendment of "High Density Residential" (RM-6) is recommended for the following specific areas:

1. All the land within the Drake Addition to Malabar S/D except for the land identified in Section V (2) of this Ordinance; and
2. All land within Blocks B and C of the Oakhurst S/D; and the land located south of Township Road, east of the Prospect Street R/W, and west of Crescent Street, and north of Block B of the Oakhurst S/D; and
3. The following lands within the Sunnybank on the Dixie S/D: Lots 41-44, Block B; Lots 11-22 and 37-52, Block C; and Lots 7-15, Block D.

**SECTION VII: FUTURE LAND USE MAP AMENDMENT --  
OAKHURST/SUNNYBANK ON THE DIXIE AREA**

A Zoning Map amendment from "General Commercial" (CG) to "Single Family Low Density Residential" (RS-21) is recommended for the land described below. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "LDR." The below described area is comprised of undeveloped and unimproved vacant parcels and multiple vacant lots under a single owner in a platted residential subdivision. Prior to the Comprehensive Plan adoption this area was zoned for high density residential development. A Comprehensive Plan future land use policy of "Single Family Low Density Residential" (RS-21) is recommended for the following specific areas:

1. All the land within Blocks D, E and F of the Oakhurst S/D; and
2. All the land east of FEC Railroad R/W; south of Block F of the Oakhurst S/D; and west of a line formed by the west property lines of parcels 5, 5.1 and 8.1; and
3. All the land within the Sunnybank on the Dixie S/D except for lands identified in Sections V (3) and VI (3); and
4. All the land south of the north and northwest property lines of parcel #8.1; north of the south property line of parcel #13 located west of and abutting the Sunnybank on the Dixie S/D; and east of the FEC Railroad R/W.

**SECTION VIII: ZONING MAP AMENDMENT -- PARCELS #751 AND #500  
LOCATED APPROXIMATELY 1,045 +/- FEET NORTH OF JORDAN BLVD.**

A Zoning Map amendment from "Medium Density Residential" (RM-4) to "Single Family Low Density Residential" (RS-21) is recommended for Parcels #751 and #500 located approximately 1,045 +/- feet north of Jordan Boulevard. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "LDR." A Zoning Map amendment of "Single Family Low Density Residential" (RS-21) is recommended for the above described parcels.

**SECTION IX: AMENDMENT TO CONDITIONAL USE REGULATION**

Section 1-6.1(B) "Specific Criteria Regulating Conditional Uses" shall be amended by deleting the following text:

~~SECTION 1-6.1(B): SPECIFIC CRITERIA REGULATING CONDITIONAL USES. In addition to satisfaction of the general provisions cited above, a conditional use shall be permitted only upon a finding that the proposed conditional use complies with the table of requirements for the respective conditional use specified herein as Table 1-6.1(B).~~

Hereinafter Section 1-6.1(B) shall read as follows:

**SECTION 1-6.1(B): SPECIFIC CRITERIA REGULATING CONDITIONAL USES.** A conditional use shall be permitted only upon a finding that the proposed conditional use, application, and site plan complies with the criteria herein specified unless the Town determines that the proposed conditional use does not meet the criteria herein provided and the proposed conditional use is adverse to the public's interest. In addition to the site plan criteria of Article VII, an application for a conditional use shall describe the proposed land use characteristics and site plan techniques proposed to mitigate against possible adverse impacts to properties in the immediate vicinity.

1. **Characteristics of Use Described.** The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:

- c. **Public and Semi-Public Facilities within Residential Areas.** A public or semi-public facility proposed within any type of residential district must provide an essential service to residential dwelling units within the immediate vicinity and the applicant must demonstrate that alternative sites zoned for non-residential use cannot accommodate the functions of the facility.
- d. **Proper Use of Mitigative Techniques.** The applicant shall demonstrate that the conditional use and site plan has been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
- e. **Hazardous Waste and Hazardous Emissions.** The proposed use shall not generate hazardous waste, hazardous emissions, or require use of hazardous materials in its operation without use of Town approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material, regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste, hazardous emissions or uses hazardous materials shall be located in the Town unless the specific location is consistent with the Comprehensive Plan, land development regulations, and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources. Such uses shall be located within a non-residential district.
- f. **Compliance with Applicable Laws and Ordinances.** A conditional use application shall demonstrate compliance with all applicable federal, state, county, and Town laws and ordinances. Where permits are required from governmental agencies other than the Town, these permits shall be obtained as a condition of approval.

#### **SECTION X: REPEAL OF CONFLICTING ORDINANCES**

Upon the effective date of this ordinance, any other ordinances of the code of ordinances, Town of Malabar, Florida, which are in conflict with this ordinance are hereby repealed and shall be superseded by the provisions of this ordinance.

#### **SECTION XI: 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 and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

#### **SECTION XII: CODIFICATION**

Provisions of this ordinance shall be incorporated in the Town code of ordinances, land development regulations 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 XIII: EFFECTIVE DATE**

Sections I through VIII of this ordinance shall become effective upon the State Land Planning Agency's issuance of a notice of intent to find the companion ordinance (amending the Comprehensive Plan to include the proposed R/LC policy and the Future Land Use Map to include a R/LC land use designation) in compliance, and subsequent adoption of the companion ordinance by Town Council. Sections IX through XIII of this ordinance shall take effect immediately upon adoption by the Town.

- a. **Scale and Intensity.** Scale and intensity of use as measured by the following:
    - i. Floor area ratio;
    - ii. Traffic generation;
    - iii. Square feet of enclosed building for each specific use;
    - iv. Proposed employment;
    - v. Proposed number and type of service vehicles;
    - vi. Off-street parking needs; and
    - vii. Other specifications and/or characteristics of the proposed use describing the nature, character, and intensity of the use, including compatibility with existing and anticipated uses within the immediate vicinity.
  - b. **Site Improvements.** On- or off-site improvement needs generated by the proposed use and not identified in the preceding subparagraph "a":
    - i. On- or off-site facilities required to serve the proposed use such as utilities, public facilities, roadway or signalization improvements, or other similar improvements, including proposed accessory structures or facilities; and
    - ii. Other unique facilities/structures proposed as part of site improvements.
  - c. **On-site Amenities.** On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as open space, setbacks from adjacent properties, screening and buffers, including landscaped berms proposed to mitigate against adverse impacts to adjacent sites.
  - d. **Public Facilities.** If the conditional use is for a public or semi-public facility, the primary and auxiliary service areas shall be described together with the existing and anticipated network of related facilities accommodating service area needs within the incorporated and unincorporated areas of Brevard County.
2. **Criteria for Conditional Use Review and Approval.** In addition to site plan criteria identified in Article VII, applications for a conditional use shall clearly demonstrate the following:
- a. **Land Use Compatibility.** The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts are compatible and harmonious with adjacent land uses and will not adversely impact land use activities in the immediate vicinity.
 

Similarly, where the use is substantially different from other uses in the district and is not intended to serve residents in the immediate vicinity, the applicant shall bear the burden of demonstrating that the use is appropriate to the subject site and immediate vicinity, and cannot and/or should not be located at an alternative site. In order for a non-residential use to be approved within a residential area, the applicant must demonstrate that a location outside the residential area would not provide for the essential site location needs of the facility or use.
  - b. **Sufficient Site Size and Adequate Site Specifications to Accommodate the Proposed Use.** The size and shape of the site, the proposed setbacks and buffer areas, the proposed access and internal circulation, and the site design enhancements must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to accommodate site design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

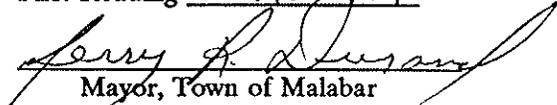
This Ordinance was moved for adoption by Councilmember DETWILER. The motion was seconded by CREWS and, upon being put to a vote, the vote was as follows:

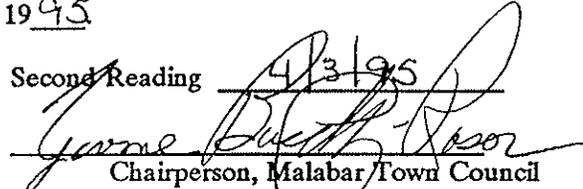
Chairperson	Yovone Rasor	<u>AYE</u>
Councilmember	Julane Kikla	<u>AYE</u>
Councilmember	John Detwiler	<u>AYE</u>
Councilmember	Phillip Crews	<u>AYE</u>
Councilmember	CONNIE CHILES-COOKE	<u>AYE</u>

PASSED AND ADOPTED BY THE COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, this 3 day of APRIL, 1995

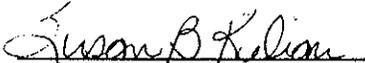
First Reading 9/27/94

Second Reading 4/3/95

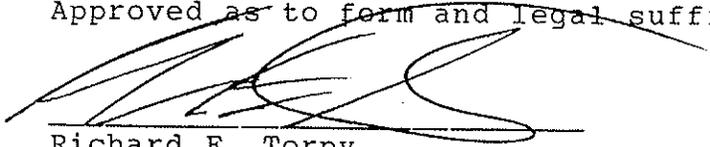
  
Perry A. Durand  
Mayor, Town of Malabar

  
Yovone Rasor  
Chairperson, Malabar Town Council

ATTEST:

  
Susan B. Kelton  
Town Clerk

Approved as to form and legal sufficiency:

  
Richard E. Torpy  
Town Attorney

provides 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 land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district 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. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.



O. *R/LC "Residential and Limited Commercial."* The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities with a floor area in excess of four thousand (4,000) square feet, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops since the former would usually require a floor area larger than four thousand (4,000) square feet; would generally carry a relatively larger inventory; and require 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; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

Single family or multiple family residential uses with a density no greater than six (6) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district 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 this Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1—4, 4-2-07)

**Section 1-3.2. Land use by districts.**

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

**Cross reference**—Alcoholic beverages, ch. 4.

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

Zoning District	Minimum Lot (1)				Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)	Maximum Height (ft./ stories)		Front	Rear	Side (I)	Side (C)				
<b>Rural Residential Development</b>													
RR-65	65,340	150	250	35/3	1,600	40	30	30	30	20	N/A	30	0.66
<b>Traditional Single Family Residential Development</b>													
RS-21	21,780	120	160	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.004
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
<b>Multiple Family Residential Development</b>													
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6
<b>Mixed Use Development</b>													
R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	25	10 <sup>4</sup>	20	65	n/a	35	6
					Commercial: Min. Area: 900 Max. Area 4,000					0.20			
<b>Mobile Home Residential Development</b>													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
<b>Office Development</b>													

Supp. No. 18 Updated

Zoning District	Minimum Lot (1)				Maximum Height (ft./ stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)	Minimum Floor Area (sq. ft.)			Front	Rear	Side (I)	Side (C)				
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A	
<b>Commercial Development</b>														
CL	20,000	100	150	35/3	Minimum Floor Area: 900 Min. Area: 900 Max. Area 4,000	60	25	10 <sup>4</sup> 15 <sup>3</sup>	20	65	0.20	35	N/A	
CO	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/ Motel Area: 300 Each Unit	50	25	20 <sup>4</sup> 15 <sup>3</sup>	30	65	0.20	35	N/A	
<b>Industrial Development</b>														
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 <sup>5</sup>	25 100 <sup>5</sup>	20 100 <sup>5</sup>	30 100 <sup>6</sup>	70	0.42	30	N/A	
<b>Institutional Development</b>														
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 <sup>9</sup>	40	N/A	
<b>Coastal Preservation</b>														
CP	No Size or Dimension Standards Adopted													

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

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

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

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

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

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

ORDINANCE NO. 2004-08

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

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

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

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

*B. Area Requirements For Uses Not Served By Central Water and Wastewater Services.* All proposed development within areas not served by central water and wastewater services shall comply with the septic permitting requirements of Brevard County. ~~have the minimum lot areas as set forth in Table 1-3.3(B).~~

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

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

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

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

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

**Section 4. Repeal.**

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

**Section 5. Severability.**

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

**Section 6. Incorporation.**

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

**Section 7. Effective Date.**

This Ordinance shall become effective immediately upon its adoption.

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

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

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

By: Phillip R. Crews  
Mayor Phillip R. Crews

First Reading: 06/21/04

Second Reading: 07/12/04

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

(seal)

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

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