TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY JANUARY 11, 2012
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 – 12/14/2011
      Exhibit: Agenda Report No. 1
      Recommendation: Motion to Approve
E. PUBLIC HEARING:
F. PUBLIC:

G. ACTION:
   2. **Recommendation to Council re: Setbacks in All Residential Zones**
      Exhibit: Agenda Report No. 2
      Recommendation: Action
   3. **Recommendation to Council re: R/LC Zoning and Density Clarification**
      Exhibit: Agenda Report No. 3
      Recommendation: Action
   4. **Recommendation to Council re: FLUM Changes**
      Exhibit: Agenda Report No. 4
      Recommendation: Action

H. DISCUSSION:
   5. **Continue Review of Checklist and Requirements for Ponds**
      Exhibit: Agenda Report No. 5
      Recommendation: Discussion
   6. **Tractor Trailer Parking in Residential Zonings**
      Exhibit: Agenda Report No. 6
      Recommendation: Discussion
   7. **Define "Light Industrial" Zoning**
      Exhibit: Agenda Report No. 7
      Recommendation: Discussion
   8. **Consider Suggestions from Mayor re: RV Parking**
      Exhibit: Agenda Report No. 8
      Recommendation: Discussion
I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:
   9. **Code Requirements for Assisted Living Facilities**
J. PUBLIC:
K. OLD BUSINESS/NEW BUSINESS:
L. 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: JANUARY 11, 2012

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 December 14, 2011

ACTION OPTIONS:
Secretary requests approval of the minutes.

"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
DECEMBER 14, 2011 7:30 PM

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:
Meeting called to order at 7:30 P.M. Prayer and Pledge led Chair Bob Wilbur.

B. ROLL CALL:

CHAIR:	BOB WILBUR
VICE-CHAIR:	PATRICK REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	WAYNE ABARE
ALTERNATE:	CINDY ZINDEL, excused
BOARD SECRETARY:	DENINE SHEREAR
TOWN CLERK/TREASURER	DEBBY FRANKLIN

For the record, the Building Official Roger Cloutier is present.

C. ADDITIONS/DELETIONS/CHANGES: none

D. CONSENT AGENDA:

1. Approval of Minutes Planning and Zoning Meeting – 11/22/2011
Exhibit: Agenda Report No. 1
Recommendation: Motion to Approve

MOTION: Ritter / Ryan to approve Minutes of 11/22/2011 with corrections:
Corrections: Liz pg 3, motion: regarding the prohibition sb limited to required front yard period (.).
Pg 2, Public, Brian Vail, 3rd para, he did have to separate permit to make sure trees WERE protected.
Pg 4, 4th para, Krieger said the go thru – should be then go thru process
Vote: All Ayes.

E. PUBLIC HEARING:

2. Ordinance 2012-48 Electronic Gaming
Exhibit: Agenda Report No. 2
Recommendation: Action

Ordinance read by title only by Vice Chair Pat Reilly.
Public Hearing Opened:
none
Public Hearing Closed. Back to Board. Franklin said since this was a land use issue a roll call vote should be done. Chair agreed.
MOTION: Wilbur / Ryan to recommend Council approve Ord 2012-48
Discussion: Reilly said on page 3, Sec 5, last sentence, *amusement arcade centers* and should be reversed to *arcade amusements centers* to be consistent with phrasing in rest of ordinance. For him if he has 49 machines is it legal to have them. He will ask the attorney on Monday. Ritter said that the ordinance does not provide for parking requirements. The table she is referring to references setbacks for parking. Why no required parking spaces. Reilly said the parking is located someplace else in code. Reilly went to Florida Statute and downloaded F.S.849. And Attorney did reference them and it defines these items. Wilbur said it does not qualify as an electronic amusements arcade unless there are 50 units. Ryan said the provisions shall apply. Can we put a bubble on that and ask again what that would be called? 1-49 units. or less than 50 units, what is it called.
Roll Call Vote: Krieger, Nay; Reilly, Aye; Wilbur, Aye; Ryan, Aye; Ritter. Nay.
Motion carried 3 to 2.

F. PUBLIC:

3. Don Barker – Update on Access to Properties in Triangle from Babcock Street
Clerk explained that Mr. Barker was to present information along with the Engineer. The Town Engineer was to attend tonight to assist in the presentation. Mr. Barker does not want to present without him. Note: the Engineer is working with Mr. Barker on this project and not billing the Town.

4. Kim Frodge – Introduced a prospective "Nana's House" in Town of Malabar. Handed out flyer on their program and proposed layout in Malabar.
They are currently located in Palm Bay. They have more calls than we can handle. Want to house 30 kids in a gated community, consisting of cottages at the property at 970 Malabar Road. There is an old house there now and they are prepared to make it beautiful and new. The Thrift store is proposed in front area. It is wooded lot and they want to keep it secure and private. Hoping to get approval from Town. They are very structured. Ryan asked where she is proposing this project. She stated the 2-story red house at 970 Malabar Road. Wilbur asked size. 9.55 acres. Wilbur asked how are you going across the creek. He said the Turkey Creek runs through property. She did not know that. DEP does not have any reports of study on that property being done. She is only building small cottages and she will need a road back there. Wilbur said there are other properties better suited for her use. She appreciates any input from them. If they know of any properties please let her know. Ryan asked how much land she would need. Architect says 4 acres of buildable land. She appreciates their help.

4.a. La-sallet Palacious. representing the Portuguese-American Cultural Center. They are dedicated to the enrichment of community and the sharing of the culture. They are considering acquiring the property at 1490 Marie Street, also known as the old school house and converting to a cultural center. It has come to their attention that their proposed use may not be allowed if the proposed land use change goes through. They will come to future meetings and ask for consideration to either change definition of R/LC to allow cultural use; or not recommend any zoning change. Several members live in the Town. They want to become contributing members of the community. All her contact information is on speaker's card. Franklin stated that when members of this group came in, staff explained the current land use and zoning and explained that if the proposed changes go to Council the property may be changed to a land use that does not permit cultural organizations. Staff suggested they ask P&Z Board to consider amending Table 1-3.3.A. to permit a cultural club or ask P&Z to reconsider and leave the property as CL.

G. ACTION:

H. DISCUSSION:

5. Update from Council and Continue Requirements for Ponds
Exhibit: Agenda Report No. 5
Recommendation: Discussion

Speaker card, Tom Eschenberg, 2835 Beran Lane, hasn't spoken to them about ponds before. He started thinking about it. His understanding was someone wanted to put a pond on his adjacent property and it would cost him a lot of money. He read the code on ponds and if it did not break the ¼ acre threshold, no permit is required, just setbacks. He was told it conflicts with Article VII and all kinds of conditions for almost anything you want to do on your property. The fellow came in looking for help and so far has not gotten any from staff. He is a Malabar citizen. Boards should also serve them. Mayor said P&Z Board should leave the pond ordinance alone and work on Article VII and review it and see what it would take to build his pond. In his opinion change Article VII. A simple site plan showing it would meet the setbacks is all that is required. Article VII is quite an involved thing. Mayor told Board to look at the historical data; what did people in the past have to do to get ponds? Have we made them do the site plan?

Reilly said he agreed with Mayor four months ago. He read 1-5.27. He got argued out by Town Engineer and that is why it went that way.

Wilbur said Article VII is protecting the Town. Digging a pond of any size creates consequences. How much area you are going to disturb on that area. Through the checklist and the permitting process that can be reviewed. Abare said it is an immense amount of fill – over 300 loads that come out of a ¼ acre pond per the Engineer. There are issues like wetlands, drainage, runoff on neighbors, trees, --- if you give them free range to allow them to do this there will be no controls.

Franklin said regarding Mayor's comments that staff is not helping citizens. Staff is here to assist, and does assist the citizens and residents with any request they may have. When this request came in, staff looked for direction and it went to the Board. The Board said the applicant could comply with Art VII and go forward with the pond or wait on the possible changes to the code.

Wilbur also explained the other issues around the guy's request. There are unintended consequences that came out of it. He said the direction the Board is going is the best way. Council supported the P&Z recommendation.

Abare said the guy hired a contractor and wanted to do what was necessary to get the job done. Ryan said it was the request that brought up the whole issue. They were willing to do whatever was required to get it done.

Wilbur said keep it in perspective.

Reilly said he will go forward with a draft ordinance regarding the two items: water features and ponds. They can also look at Art VII and see if there is anything that they should look at in that part of the code.

Reilly also said for each Board Member to go through the checklist for water feature and the one for pond. Be prepared to discuss at next meeting.

Ritter said the checklist calls for an accurate survey to scale; that is an expense. The intent is to draw where the pond is to be and show where everything is.

Krieger said should not require a survey – should be able to pace off the distance.

Board recognized resident Anne Crane to speak on RVs in front yard. Skipped temporarily to #7.

6. Tractor Trailer Parking in Residential Zonings
Exhibit: Agenda Report No. 6
Recommendation: Discussion

Staff showed the parked tractor trailer parked at Atz and Corey Roads. Board said to call BCSO and have a deputy respond in that they are creating a safety issue. Abare said if they did not take action, they would be liable.

Page 264, needs re-writing: get rid of owner or change it.
Get rid of second sentence/para.
Definitions as seen in FS 320. If someone has complaint, then pursue. Krieger said he sees no difference in RV and tractor trailer and any other vehicles. He doesn't want plumber wrongly affected.

Wilbur said just separate registered vehicles. Ritter again read the definition of owner. If it is not registered it is being stored. If it registered it is running.

Franklin referenced page 37 of packet – the county refers to the occupant of the residence must be the operator of the vehicle and the vehicle must be an integral part of the income.

Krieger disagreed if it is personal property. He thought the size should be on 1.5 acres not 2.5 acres. Abare said it is not uncommon to own a boat or RV or even if he drives home his business truck. But not everyone drives a tractor trailer. Abare felt it should not be ok to park a tractor trailer.

Ryan said an 18-wheeler parked on a local street fully loaded weighs a lot. It would do damage to our streets. Abare said if someone has it for a regular basis.

Krieger said change 48 hours to 72 hours. Limit the tonnage on dirt roads. Put signage up that the roads are not for tractor trailers like on Florence and Blanche.

Ryan thinks it is wrong to allow the big trucks.

Reilly would like to take the two paragraphs and bring in your suggestions to next meeting.

Liz said we have had so many errors in section. Operator has to be owner of property. Krieger is against this – then kids couldn't drive parent's vehicle.

Ritter said FS 320 covers a lot. Some would have to be changed.

Ryan asked what the FS number was. It was in the packet.

Only apply for it if there is a complaint. Develop process. He would not be able to get signatures if the neighbor is going to complain. Wilbur said have him talk to neighbors within 200 feet. That is not unreasonable. He said the administrative waiver is a cheaper method.

Ritter read definition of truck tractor from statutes – it is not referred to as a cab. Go by statutes. Wilbur said truck tractor had to be enclosed or buffered.

Krieger said this doesn't address the use of roads. This doesn't address the types of roads. We are giving license for destroying the roads. Put a gross weight limit on roads. No parking on ROW at all. Parking on private property – when does it become a nuisance? But so does a generator started in the middle of the night.

Abare said Krieger could find something wrong with every ordinance put in front of him. Abare agreed with Wilbur's idea of having a process so the neighbor can complain. Krieger said they should have different regulations in area like Rocky Point Road. Abare said areas like Rocky Point are covered with homeowner's covenants.

Next meeting: read over the two paragraphs in Section 1-5.16 and draft what they think it should read.

7. Setbacks in All Residential Zoning Classifications

Exhibit: Agenda Report No. 7

Recommendation: Discussion

Speaker Card, Anne Crane, lives on Township Road, has been there 32 years. Has oldest house in South County – 130 years old. In reference to her setbacks, her east side has 12 inches, and west side has 15 feet but it is all trees. She has a vintage RV bitty camper (12 foot long) she was looking at drawing. The PO was on that street, the barrel factory. Her in-laws came there in 1920. She has a pie shaped piece lot and can't get trailer in back yard. She would be grandfathered in at any rate. She is concerned she won't be able to park her bitty trailer in its current location. She was so upset she could not eat before meeting. Board asked if there had been any complaints. No. Malabar has re-active code enforcement. No complaint, no action. Also, she would be grandfathered in.

Board went back to Agenda Item #6 after she spoke.

Back to #7.

Ritter referenced the wording on the proposed footnote 7. She doesn't know why the error by staff has been perpetuated. Much discussion over staff error. Franklin stated they will have it restated as Board directs after this meeting. Board made several more changes to wording. Franklin said revised wording will be on Table for next meeting. Abare felt good about 15-feet on larger parcels in RR-65. Not for the smaller parcels. Wilbur and Ryan agreed. Reilly said we said that two months ago. The whole Board agreed. This is for action for next meeting.

MOTION: Krieger / Ryan to skip the rest of the items. **Vote:** All Ayes

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

8. Residential/Limited Commercial Zoning & Density Clarification
9. Definitions for "Light Industrial" Zoning
10. Code Requirements for Assisted Living Facilities

J. PUBLIC: she was at last council meeting. Council took action on both. Abare asked

K OLD BUSINESS/NEW BUSINESS:

Krieger wants a grandfather clause added to any ordinance regarding setbacks. Ritter said they usually add this. Krieger said can't replace but is not made to take down.

New Business, Board Secretary Sherear said Cindy Zindel contacted her and said she would be back after Christmas and if Board wanted to replace her she understood.

Krieger asked about the ditch clearing on Quarterman Lane. First time in 15 years. Starts as Eva. Then Quarterman and then MacDonald after Atz. Are pilings going to be removed? No.

Denine said the ROW was cleaned in the area so that our equipment could go in and maintain it. If you want more information contact Bonnie or Tom. Clearing it to make the ditches drain.

Franklin said she did a memo with Council minutes and it was handed out to Board regarding the Council approval of the Board's recommendation. They understand Board wants to do more work on ponds but support the two definitions. They also approved the RVs in the front yard outside of the setback area.

Pt. Malabar Elem is collecting water and soda cans for a national recycling contest for 75K. Flyers are available if you would like to help them. Many Malabar youth attend Pt. Malabar.

L. ADJOURN

There being no further business to discuss, **MOTION**: Ryan / Reilly to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 9:30 P.M.

BY:

_____
Bob Wilbur, Chair

_____
Debby Franklin, Recording Secretary

_____
Denine Sherear, P&Z Board Secretary

_____
Date Approved

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: January 11, 2012

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

SUBJECT: Setbacks in All Residential Zoning Classifications

BACKGROUND/HISTORY:
The Board agreed to the following:

- Change title on Table 1-3.3(A) to add "FOR PRINCIPAL STRUCTURES"
- Add Footnote #7 to Table 1-3.3(A) to provide lesser setbacks for accessory structures in RR-65 zoning only.
- Board did not want to reduce setbacks for other residential zonings, commercial or mobile home zonings.
- Delete Article V, Section 1-5.10 as it is redundant and confusing – conflicts with Article III Table 1-3.3(A) and (E).

ATTACHMENTS:
Marked up Table 1-3.3(A) with change in title and added REVISED wording for Footnote 7
Section 1-5.10 – redundant and confusing
Table 1-3.3(E)

ACTION OPTIONS:
Recommend Council approve the recommended changes to Table 1-3.3(A) and deletion of Section 1-5.10.

All the land use recommendations made by P&Z Board and approved by Council can be incorporated into one ordinance amending the land development regulations. Staff will wait until the work on the ponds and zoning classifications is complete before compiling into ordinance form.

TABLE 1-3.3(a) SIZE AND DIMENSION REGULATIONS **FOR PRINCIPAL STRUCTURES**

	Minimum Lot (1)					*Setback (ft.)(2)*							*Maximum Density (units per acre) with Central Water and Wastewater*
Zoning District	*Size (sq. ft.)*	*Width (ft.)*	*Depth (ft.)*	*Maximum Height (ft. / stories)*	*Minimum Living Area (sq. ft.)*	*Front*	*Rear*	*Side (I)*	*Side (C)*	*Maximum Impervious Surface Ratio (%)*	*Maximum Building Coverage*	*Minimum Open Space (%)*	
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
Multiple Family Residential Development													
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
Mixed Use Development													
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	50	25	10[4]	20	65	n/a	35	6
					Commercial: Min. Area: 900 Max. Area 4,000						0.20		
Mobile Home Residential Development													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
Office Development													

TABLE 1-3.3(a) SIZE AND DIMENSION REGULATIONS **FOR PRINCIPAL STRUCTURES**

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

[1]Minimum size sites and lots include one-half of adjacent public right-of-way.
[2]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.
[3]Setback where rear lot line abuts an alley.
[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.
[5]Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
[6]Recreation activities maximum FAR shall be .10.

Per P&Z Board on 12/14/2011:

Table 1-3.3(A) – add a new footnote

Footnote 7 should read "In RR-65 sides and rear may be reduced to 15' for accessory structures only and will increase in proportion with the maximum height of the accessory structure, i.e. if the height of the accessory structure is 20 feet, this will equal a 20 foot setback.

Section 1-5.9. Regulation of waterways, watercraft and marine related structures.

A. *Regular Mooring of Watercraft.* "Regularly moored" shall mean moored in the same general area at least eight (8) hours a day for ten (10) days in any month. Watercraft shall not be regularly moored along any shore without the consent of the riparian land owner. Regularly moored watercraft shall not be used as dwellings. Watercraft shall not be permitted as business offices or other related commercial enterprises. Regularly moored watercraft shall be kept in seaworthy condition when not in a permitted repair area.

B. *Maximum Permitted Projection of Waterfront Structure.* Unwalled boat shelters may be erected over boatslips, but no part of such shelter may extend landward past the shoreline or be higher than fifteen (15) feet. Docks shall not project outward from shore without approval by the U.S. Army Corps of Engineers and/or any other agency having appropriate jurisdiction.

Cross reference—Boats, marinas and waterways, ch. 5.

Section 1-5.10. Building setbacks from center line of rights-of-way.

For the purpose of promoting health, safety and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, storm, hurricane or other causes; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to provide adequate facilities for transportation, parking, water and sewage; and to conserve the value of buildings and encourage the most appropriate use of land, all properties within the town limits shall maintain these minimum building setback lines as measured from the center line of the road.

In determining the setback requirement for any building proposed to be located, the setback requirements in this section shall be construed as a minimum setback and if a greater setback is required under any of the zoning districts then such greater setback requirement shall be enforced.

In the event of the recording of any proposed street or road in the office of the Town Clerk, or in the event of the designation or establishment by the Town Council of any proposed public street or road, the same shall thereupon immediately be used as the reference point for the purpose of determining setbacks for new construction under the terms of this Ordinance. This provision shall not prevent the reconstruction of a fully or partially damaged or destroyed legally nonconforming structure so long as the rebuilt structure is consistent with the Building Code. The measurement shall be from the center line of the road.

Cross reference—Buildings and building regulations, ch. 6.

CONFLICTS WITH Article III Table I-3.3(a) and (E)

Section 1-5.11. Regulation of obstructions to visibility.

A. *Regulation Against Obstruction to Traffic and Traffic Visibility.* There shall be no structures or planting which materially obstructs traffic and traffic visibility.

B. *Corner Lots.* On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede traffic visibility within the triangular space bounded by the street frontage property lines of the subject corner lot and a

E. *Building Setbacks.* Table 1-3.3(A) provides building setbacks for conventional single family lots as well as for multiple family residential and nonresidential sites. In addition to these setbacks the following building setbacks from thoroughfares shall be enforced. The required minimum setback from the thoroughfare shall be measured from the centerline of the right-of-way. The thoroughfare system is illustrated on the Future Traffic Circulation System: 2010 Map located within the traffic circulation element of the Town of Malabar comprehensive plan. The below cited table identifies rights-of-way within the Town and stipulates minimum required building setbacks from these roadways.

TABLE 1-3.3(E). ADDITIONAL BUILDING SETBACKS FROM STREETS AND ROADS

Transportation Facility	*Building Setback (feet)*
Arterial Roadways (150 feet R/W) US 1 Highway Malabar Road (SR 514) Babcock Street (SR 507)	100
Major Collector Streets (100 feet R/W) Corey Road Weber Road Marie Street Briar Creek Jordan Blvd.	85
Local Streets (50—60 feet R/W)	65
Minor Collector Streets (80 feet R/W) Atz Blvd. Hall Road Old Mission Road Benjamin (Reese) Road	75

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: January 11, 2012

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

SUBJECT: Residential/Limited Commercial Zoning & Density Clarification

BACKGROUND/HISTORY:
The Board agreed to the following:

Recommend Council approve the changes to Article II regarding (R/LC) Section "O." by deleting the words after "RLC" as follows:
"Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "RLC". ~~which are situated along the west side of the US1 corridor as delineated on the FLUM.~~
In the following sentence, change six(6) units to four (4) units.

In the same section add the following two bullets:

- residential use shall not exceed commercial use by more than one
- commercial use shall not exceed residential use by more than one

Reduce the maximum density for R/LC from 6 units per acre to 4 units per acre under same section, following page.

In Table 1-3.3(A) carry down the size and dimension regulations into the multiple family filed; increase the required sf for 1 bedroom from 500 to 900 and delete the 2 and 3 bedroom reference. Reduce the units per acre from 6 to 4.

- NOTE: fix scriveners error in Table 1-3.3(A) - MBC for OI should be 0.20.

- Regarding Article XX, Definitions, they should change dwelling to add residential before the word. Krieger said to add "residential" in front of Human habitation in the definition to dwelling. That will take care of it. BOARD AGREED
  - Tri-plex should be changed to residential building (take out dwelling). Change for consistency.

ATTACHMENTS:

- Marked up Code Article III, Table 1-3.3(A) and Article XX encompassing all Board recommendations
- Portion of 07/27/2011 P&Z minutes

ACTION OPTIONS:
Recommend Council approve the changes to Article III and Article XX

Working Documents

ART III

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)~~ (4) four 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.

ADD 2 Bullets

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.

- residential use shall not exceed commercial use by more than one
- commercial use shall not exceed residential use by more than one

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 **FOR PRINCIPAL STRUCTURES**

	Minimum Lot (1)					Setback (ft.)(2)							
Zoning District	Size (sq. ft.)	Width (ft.)	Depth (ft.)	Maximum Height (ft. / stories)	Minimum Living Area (sq. ft.)	Front	Rear	Side (I)	Side (C)	Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	40	30 7	30 7	30	20	N/A	80	~~0.80~~ 1
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	~~2.00~~ 3
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
Multiple Family Residential Development													
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
Mixed Use Development													
R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
RLC				DD	Multiple Family: 1 Bedroom: ~~600~~ 900 ~~2 Bedroom: 700~~ ~~3 Bedroom: 900~~ Each Additional Bedroom: 120	50	25	10^4	20	65	n/a	35	~~6~~ 4
RLC	—	—	—	—	Commercial: Min. Area: 900 Max. Area 4,000						0.20		
Mobile Home Residential Development													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
Office Development													

TABLE 1-3.3(a) SIZE AND DIMENSION REGULATIONS **FOR PRINCIPAL STRUCTURES**

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

[1]Minimum size sites and lots include one-half of adjacent public right-of-way.
[2]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.
[3]Setback where rear lot line abuts an alley.
[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.
[5]Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
[6]Recreation activities maximum FAR shall be .10.

Per P&Z Board on 12/14/2011:

Table 1-3.3(A) – add a new footnote

Footnote 7 should read "In RR-65 sides and rear may be reduced to 15' for accessory structures only and will increase in proportion with the maximum height of the accessory structure, i.e. if the height of the accessory structure is 20 feet, this will equal a 20 foot setback.

ART XX

Dormitory. A building intended or used principally for sleeping accommodations where such building is related to an education or public institution including religious institutions.

Drive-in Establishment. An establishment, which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in motor vehicle.

Duplex. See Dwelling, Two Family.

Dwelling. A structure or portion thereof which is used expressly for human habitation. Residential

Dwelling, Attached. A one-family dwelling attached to two or more one family dwellings by common vertical walls. RESIDENTIAL

Dwelling, Detached. A dwelling which is not attached to any other dwelling by any structural means. RESIDENTIAL

Dwelling, Multiple Family. A residential building designed for or occupied by two or more families living independently of each other.

Dwelling, Single Family. A residential building containing only one (1) dwelling unit and occupied exclusively by one (1) family as a single housekeeping unit.

Dwelling, Triplex. A ~~dwelling~~ RESIDENTIAL BUILDING containing three (3) dwelling units, each of which has direct access to the outdoors or to a common hall.

Dwelling, Two Family. A residential building containing only two (2) dwelling units and not occupied by more than two (2) families.

Dwelling Unit. One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be the same structure, and containing independent cooking, sleeping, and toilet facilities. RESIDENTI

Dwelling Unit, Single-Family. A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family.

Dwelling Unit, Two Family. A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

Dwelling Unit, Mobile Home. A detached residential dwelling unit designed for transportation after fabrication, on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit completed and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like.

Dwelling Unit, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Reilly said then to change the wording on page 25 (of 43) to add two bullets:

- residential use shall not exceed commercial use by more than one
- commercial use shall not exceed residential use by more than one

Units changed from 6 to 4,

Specific sites, pg 25, put "." After RLC. Delete along US 1 and make no other reference.
The paragraph lists all the things that aren't allowed. Ritter wants items listed that are allowed.
Ryan wants to change it to read "limited variety" instead of "limited inventory". Ritter said it is contained with the description. Board doesn't think it is necessary.

Regarding the mix that they are proposing, the Code would need to change to add bullets that state the commercial and residential mix:

- 1 and 1, 2 and 2 or 1 and 2.

Also change the square footage for 1-bedroom apartment to 900sf and then 120sf per additional bedroom; delete the two and three bedroom reference.

Add the 4 to show across from the RLC commercial in the last column.
Use a footnote on the 4 and 4 and the note will read the same as the above bullets.
Don't make changes to min lot size.
Reilly said maximum building coverage is not applicable.
Discussed the mix again.

NOTE: fix scriveners error - Pg 134 fix MBC for OI to 0.20.

Carry all the set back regulations across the table for commercial just like multiple family – or get rid of the line,
Also add 1200 for RM 6 and also RLC – RM4 requirement of 1200 is in ord for ALF.
Set backs – footnote 4. Keep it in.
Defining "units" to create a commercial and residential.
Ritter said they should change dwelling to add residential before the word.
Wilbur says leave it. RLC is going to be unique to itself. To come up with definition would be difficult. Krieger said to add "residential" in front of Human habitation in the definition to dwelling.
That will take care of it. BOARD AGREED

Tri-plex should be changed to residential building (take out dwelling). Change for consistency.
Clean up and have back for this.

Summary: clean up proposed R/LC changes and have something back for them to review as discussion.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: January 11, 2012

Prepared By: Denine Sherear, P&Z Board Secretary

SUBJECT: Proposed Revisions to Future Land Use Map (FLUM)

BACKGROUND/HISTORY:
The P&Z Board met over many months to consider changes to the Future Land Use Map (FLUM). The Board presented periodic progress to Council and received Council support to continue review of all areas of the Town.

P&Z Board wanted to resolve issues related to R/LC before submitting the FLUM changes to Council. Board has discussed the changes to the Code to amend the R/LC land use and zoning requirements.

If the P&Z Board recommends approval of the FLUM update, the recommendation will go to Council in February. If Council supports the recommendation, we will schedule public hearings to solicit input from residents and property owners.

ATTACHMENTS:
- Minutes from P&Z Board 7/13/2011
- Clerk Memo 2011-TC/T-087 on property values
- Maps of parcels along Babcock Street, Malabar Road and Highway 1

ACTION OPTIONS:
Recommend Council support the recommended changes to the Future Land Use Map (FLUM) and ask them to direct public hearings to solicit public input.

This would be considered a large scale amendment to the Comp Plan as well as a Text change to the Comp Plan. Both would require major plan review by the State and multiple other agencies under the 2010 rules. With the legislative changes in 2011 regarding the Growth Management Act, staff will have to determine what the legal requirements are for changes to the Comp Plan.

In the past Malabar's position has been to provide as much opportunity for public input as possible regardless of legal requirements.

Staff will report to both the P&Z Board and the Council on the new requirements.

G.5 Revised Proposed FLUM Babcock Street-Malabar Road-US1 Corridor
Exhibit: Agenda Report No. 2
Recommendation: Discussion/Action

Vice-Chair went over the Power Point presentation. He stated he made changes were made to maps based on previous Board discussions. Some changes were made with staff assistance. Summary:
Pg 5: changed 17 acres to Conservation.
Pg 6: Abare asked about EELs land - do they get financing from State annually. Unknown.
Pg 7: confirmed they wanted RLC on NW corner of Malabar and Corey; it is out parcel, not part of subdivision.
Pg 8: Discussed the jog down at the PO. Reilly stated the depth of OI is 1320 feet. Wilbur questioned the OI to east of Malabar Community Park. Reilly said it used to be CG. They also discussed the placement of the OI line going from the small OI parcel to the larger OI parcel. Consensus to provide OI in the parcel immediately east of Park. The rest of the area designated as OI will be changed to Conservation. It is all part of the Malabar Scrub Sanctuary. Reilly will change this map. Krieger asked about making Institutional if the Town would like to possibly use it in future. Franklin suggested that if the State designated it surplus at some point in future then the Institutional designation may allow something undesirable.
Pg 9 – discussed the new CL designation on west side of RR tracks. Franklin stated perhaps they intended something besides CL and asked them to read from Code on CL. Krieger read CL definition in Article III (page 115 of LDC) and Reilly read from Article II (pg 61 of LDC) on typical uses in CL. They do not seem to fit for the corridor along the railroad tracks. They were looking at a light industrial use and thought the planner had said the CL would work for this area. Wilbur said they have had numerous requests for a light industrial. They came up with a light industrial. Ritter said should reconsider for along Babcock and I-95 as well.
Franklin will get definition for next meeting of light industrial from other municipalities.
Abare referred to the north side of Malabar Road for the areas proposed for RLC. Did they intend to cut use absolute line or go around existing parcels? Franklin said that if their recommendation is approved, the description could be to go around the existing property lines.
Pg 10: OK
Pg 11: OK; Reilly said OI ended at Glatter. Wilbur referred to large piece that was CG and changed to RLC and maybe it should be changed back to CG. That would give a CG presence on US1. Continued discussion – maybe a Commercial PUD or another type of PUD. CG would allow hotel/motel development or a restaurant. Reilly will flag for further discussion at next meeting. Krieger is thinking it should remain R/LC.
Pg 12: Commented that property owner Skora was at P&Z and did not ask for higher density on his parcel.
Pg 13: No change
Pg 14: referred to part by Goat Creek.
Krieger wanted to know when property values change for tax purposes before they make their recommendation to Council. He spoke to someone at Property Appraiser Office and was told they use best and highest use. Franklin said they do use land use designation but when the FLUM changes and the zoning doesn't she is unsure what they use. Their land use designation on their website does not always reflect a municipality's designation. She will find out before next meeting when the property values would change. Franklin stated another recommendation P&Z needs to address with Council is whether the Town should only make the Land Use Changes to the FLUM and require each property owner to come in and ask for the corresponding zoning change. But there is a requirement that the zoning map can't conflict with the FLUM. If Town changes FLUM and creates conflicts with the Zoning map, how does that work? She will try and get answer from State before next meeting. Can Town create a conflict on a FLUM? Franklin will also get definition from other municipalities on Light Industrial – the intent was for repair shop and contractors.

TOWN OF MALABAR

MEMORANDUM

Date: July 19, 2011 2011-TC/T-087

To: Planning & Zoning Board

From: Debby K. Franklin, Town Clerk/Treasurer

Ref: Effect of Changes to FLUM to Property Value Assessments

At the last P&Z meeting, the Board requested a definitive answer to what if any effect changing the FLUM designations would have on the property value assessments done by the Property Appraiser.

The response I received from their office was that they will not automatically change the values just based on a change to the Future Land Use (FLU). They would look at the reaction to the marketplace in the way properties are selling to determine what the values in a given area should be. Foremost they try to consider the Highest and Best Use of the property. Most of the time in today's market if a property is improved with a functioning improvement then the highest and best use is its current use no matter what you do with the FLUM or zoning.

cc: Town Council

TOWN OF MALABAR PROPOSED FUTURE LAND USE CHANGES

PRESENTED BY THE PLANNING AND ZONING COMMITTEE

JULY 8, 2011

23/62

Present Land Use Designations

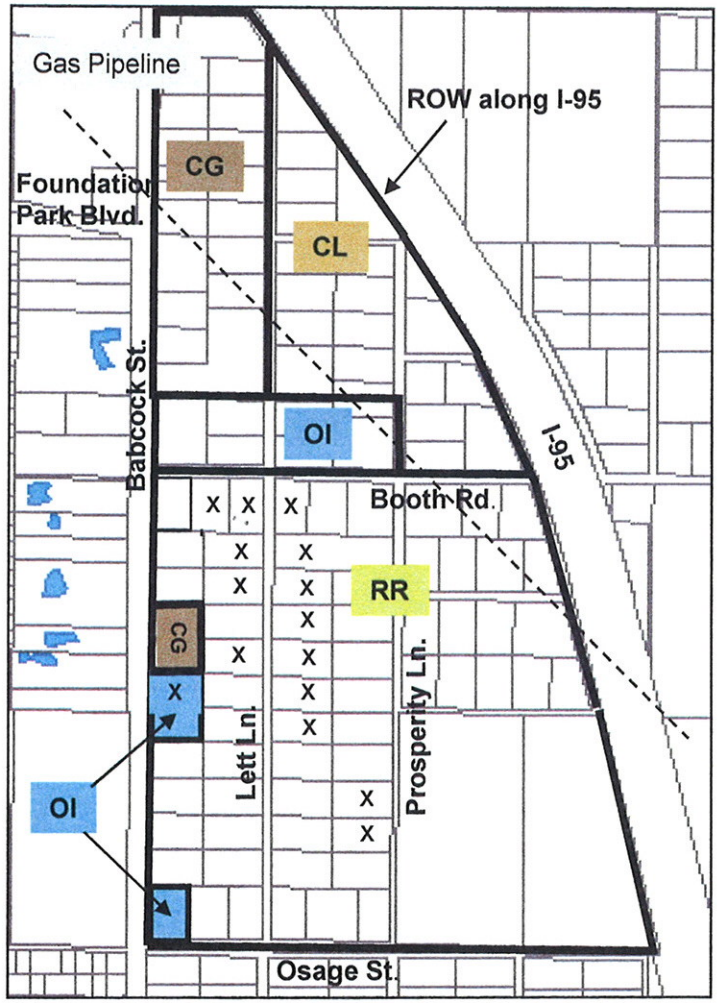
- Residential/Limited Commercial (R/LC)
- High Density Residential (HDR)
- Medium Density Residential (MDR)
- Low Density Residential (LDR)
- Rural Residential (RR)
- Commercial General (CG)
- Commercial Limited (CL)
- Industrial (IND)
- Office Institutional (OI)
- Institutional (INS)
- Open Space and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

Related Data

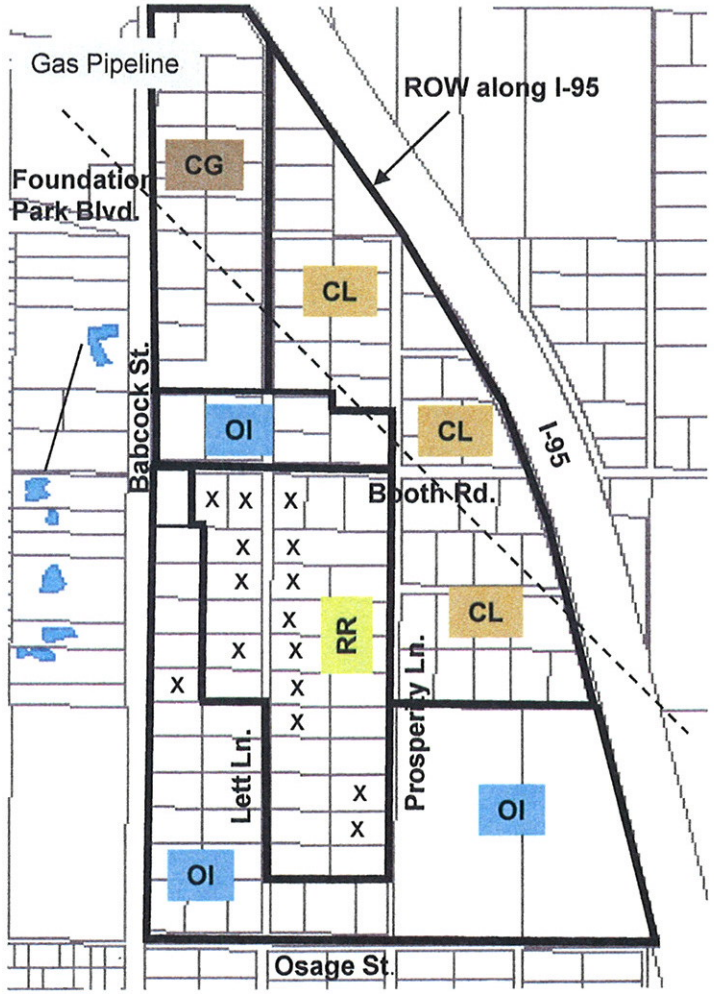
- Use FLU-1 Map for Present Land Use
  - It was 2009's Future Land Use, now it is Malabar's Present Land Use Map
- Definitions of Malabar's Land Use Districts
  - Malabar Land Development Code, Article III, District Provisions handout
  - Board is presently looking at the R/LC densities in the Land Development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

Land Use Along Babcock Street

Present Land Use



Proposed Land Use

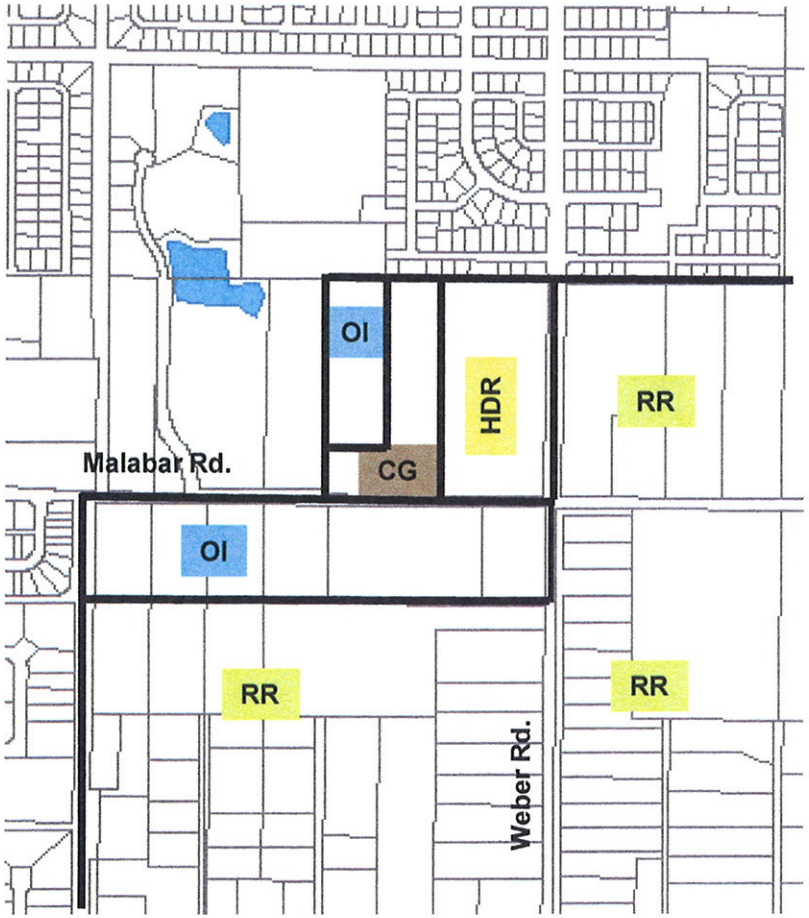


X = Homes

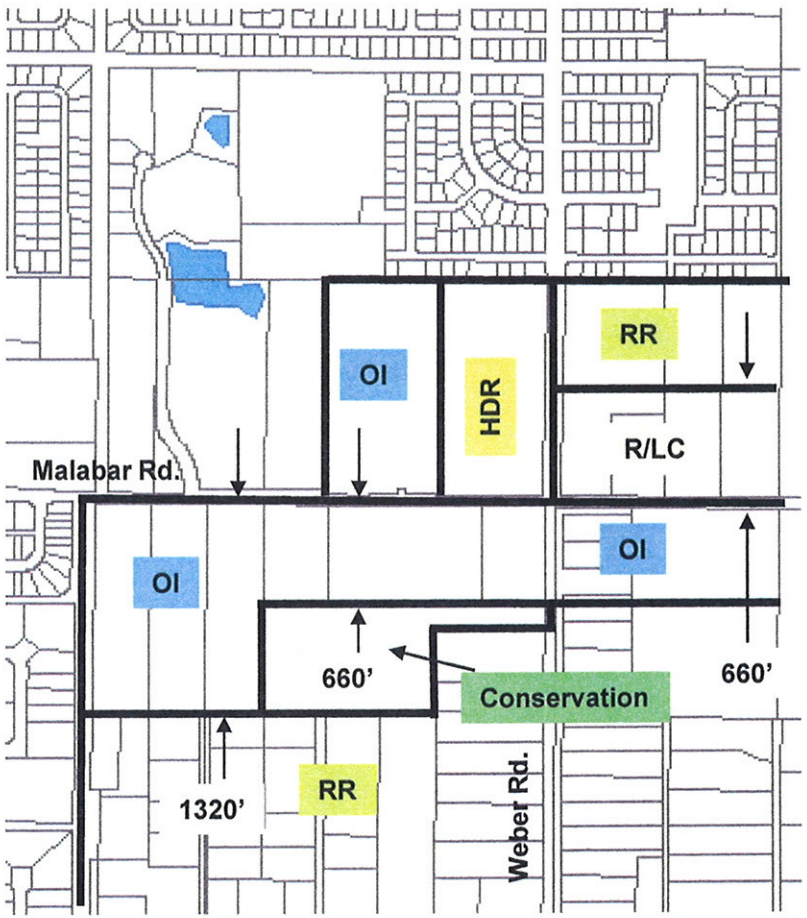
July 8, 2011

Land Use Along Malabar Rd. (West end)

Present Land Use

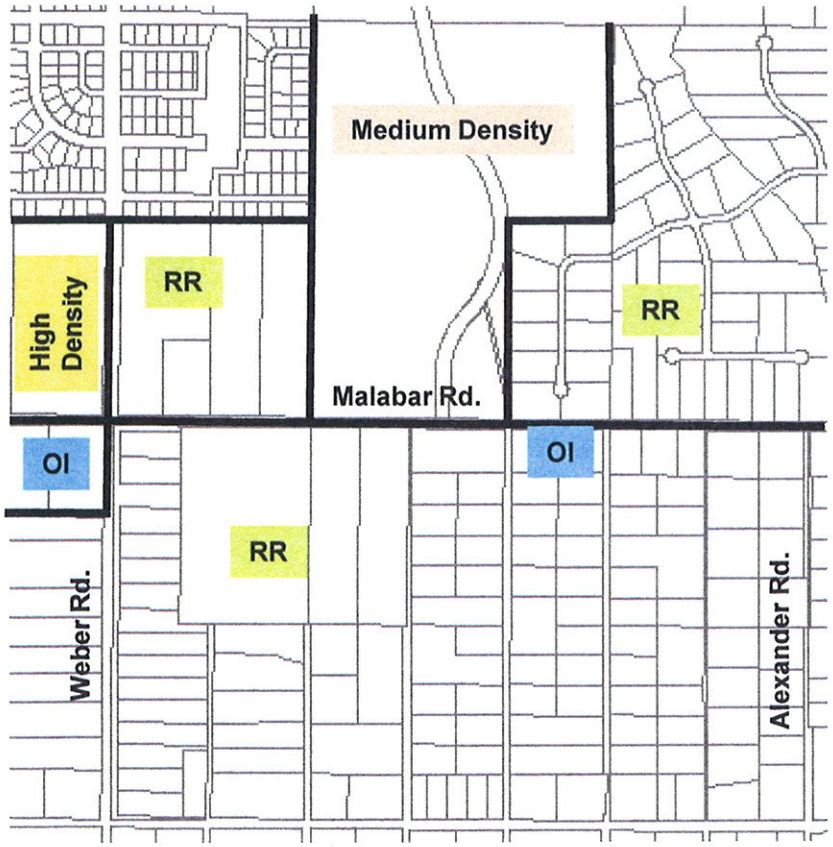


Proposed Land Use

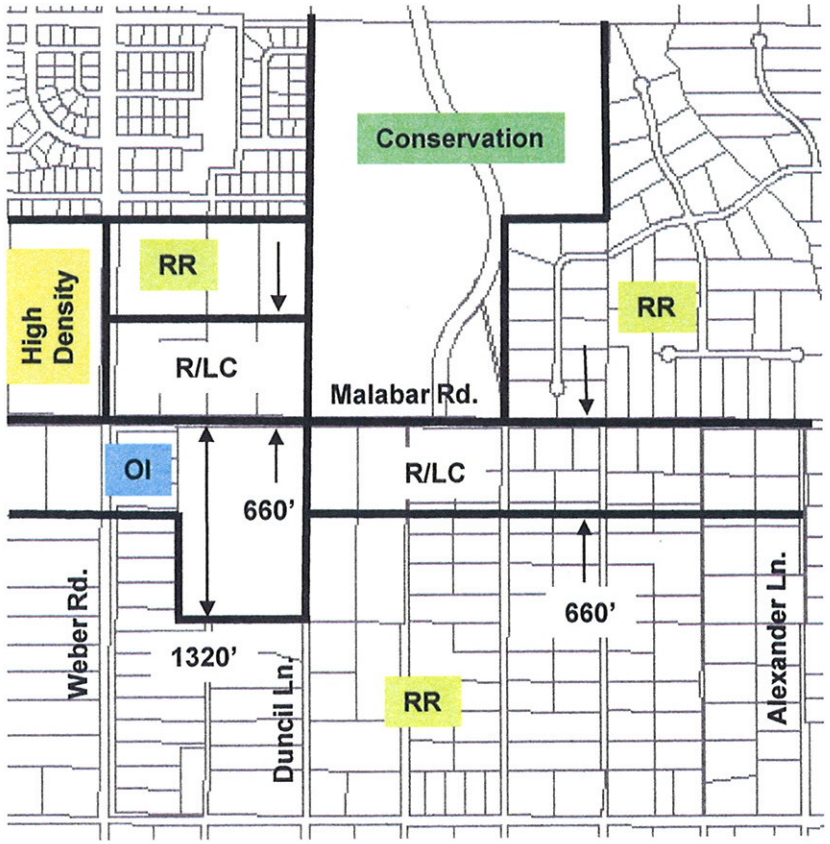


Land Use Along Malabar Rd. (Weber Rd. to Alexander Ln.)

Present Land Use

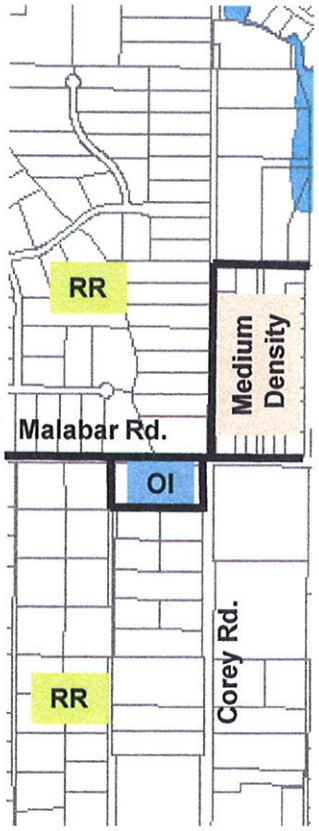


Proposed Land Use

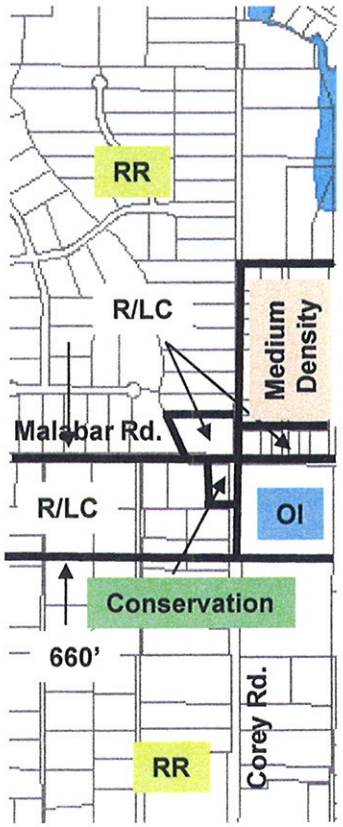


Land Use Along Malabar Rd. (Alexander Ln. to Corey Rd.)

Present Land Use

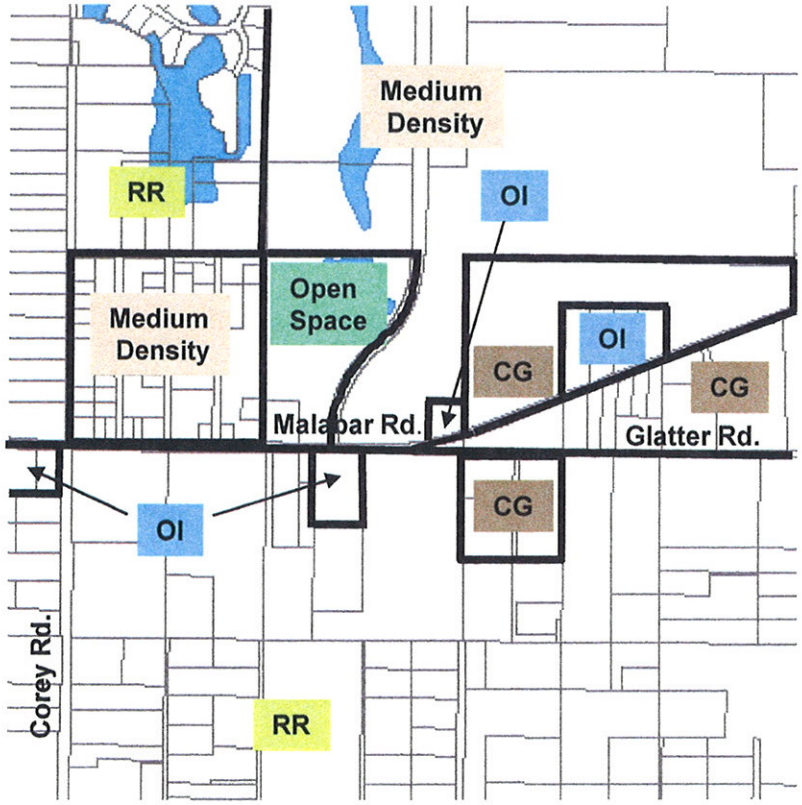


Proposed Land Use

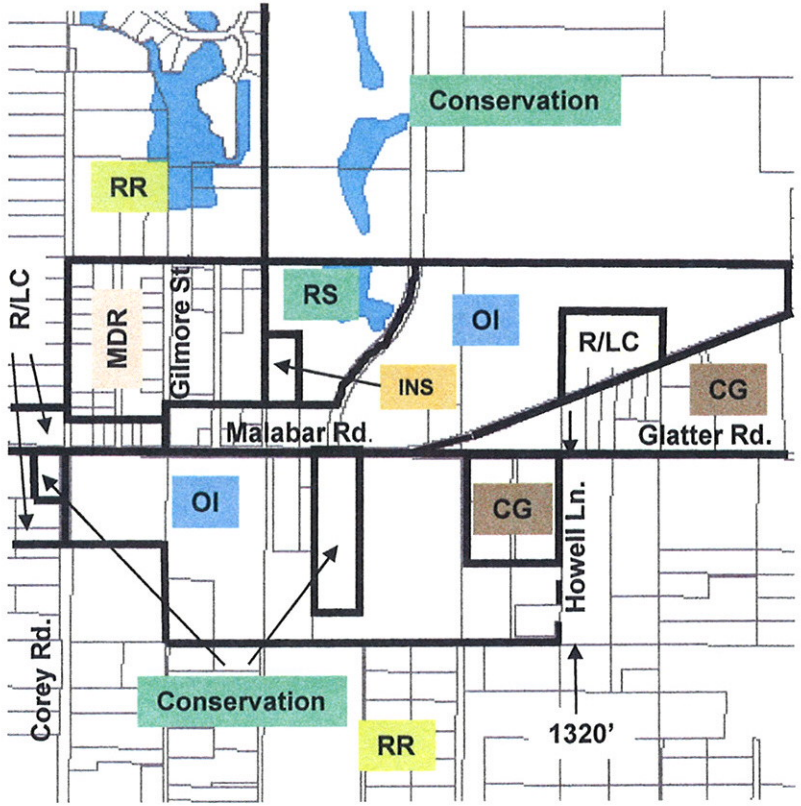


Land Use Along Malabar Rd. (Corey Rd. to Marie St.)

Present Land Use

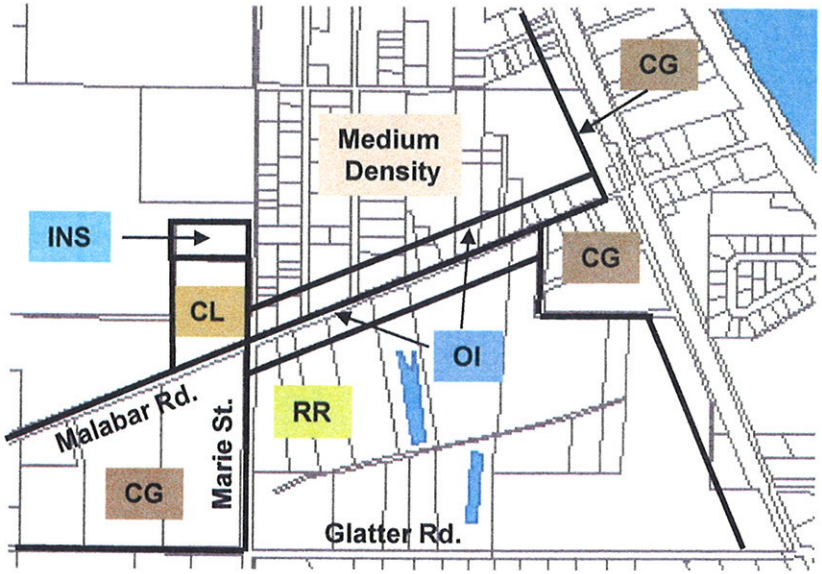


Proposed Land Use

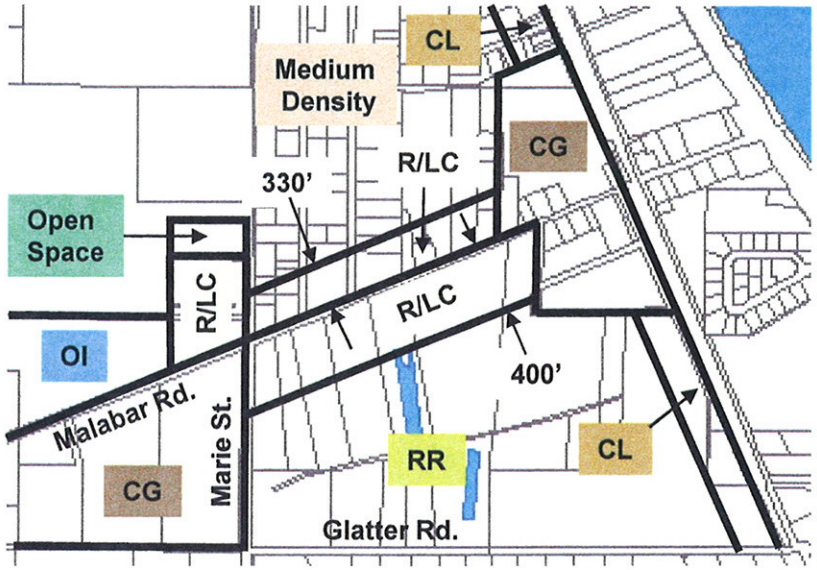


Land Use Along Malabar Rd. (Marie St. to RR Tracks)

Present Land Use

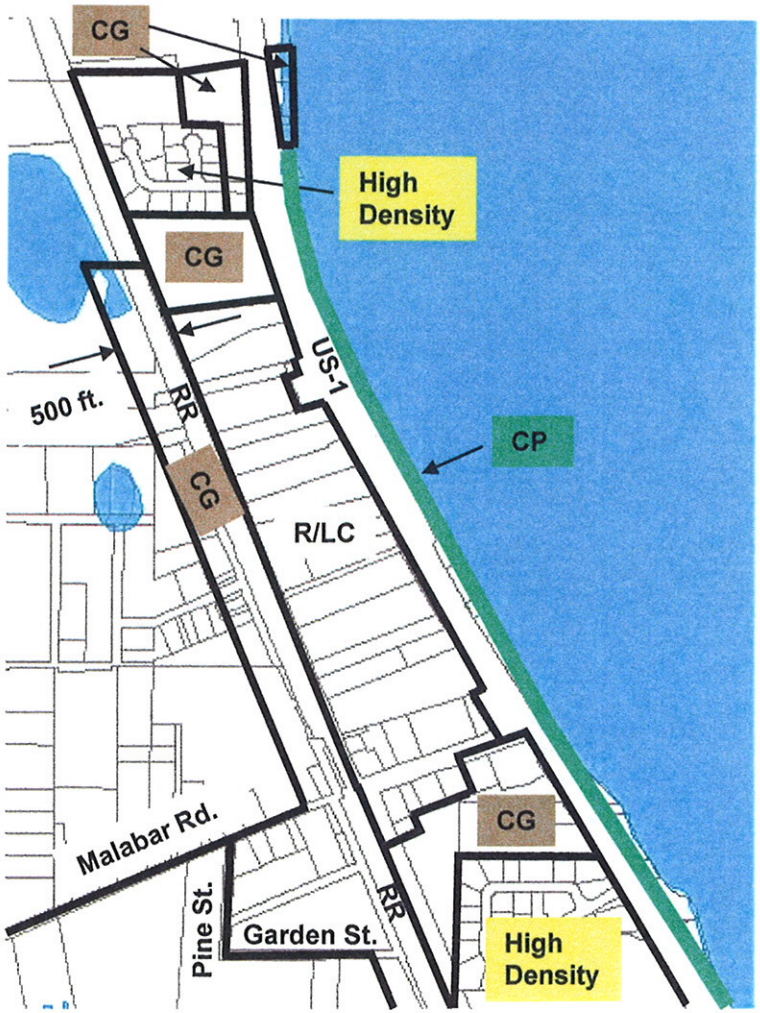


Proposed Land Use

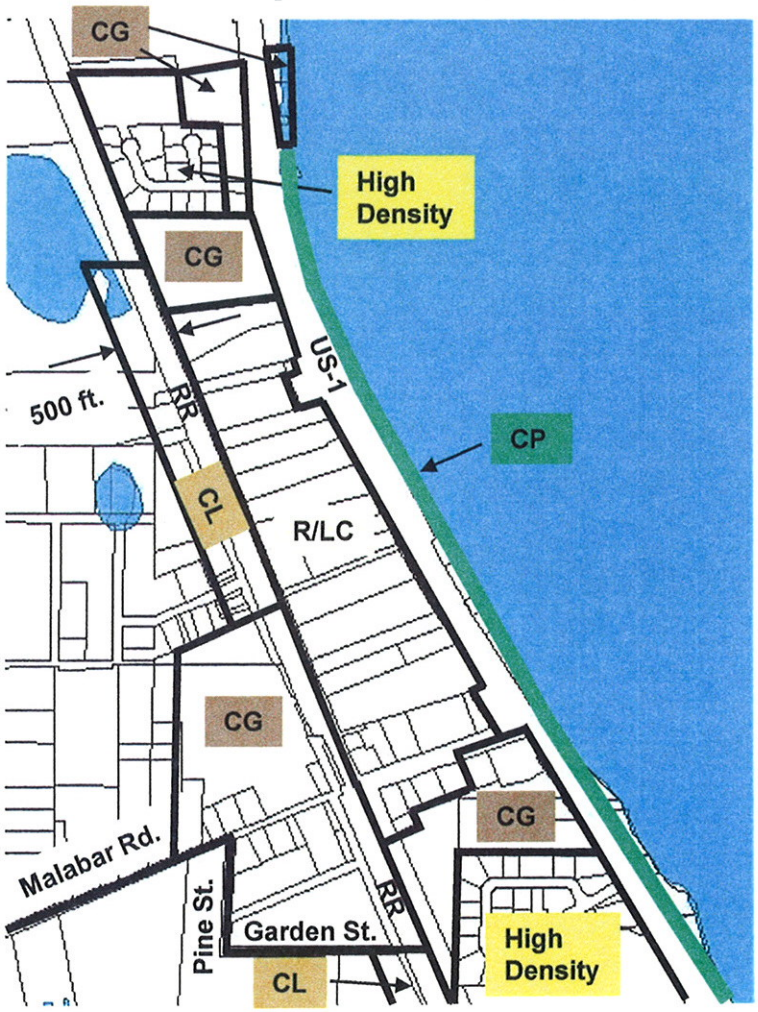


Land Use Along US-1 (North end of Malabar)

Present Land Use

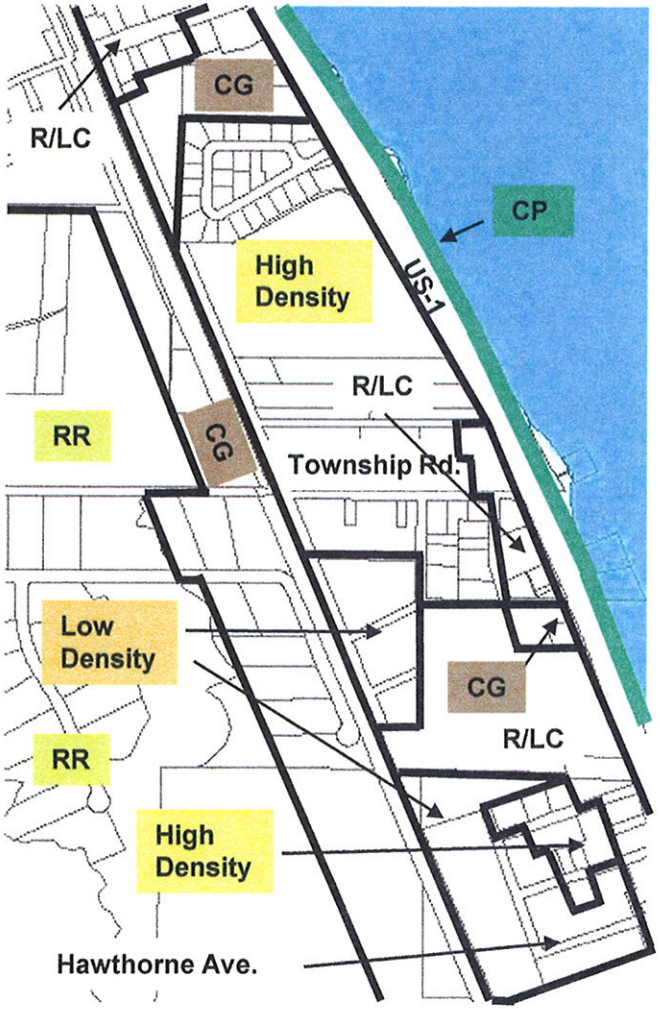


Proposed Land Use

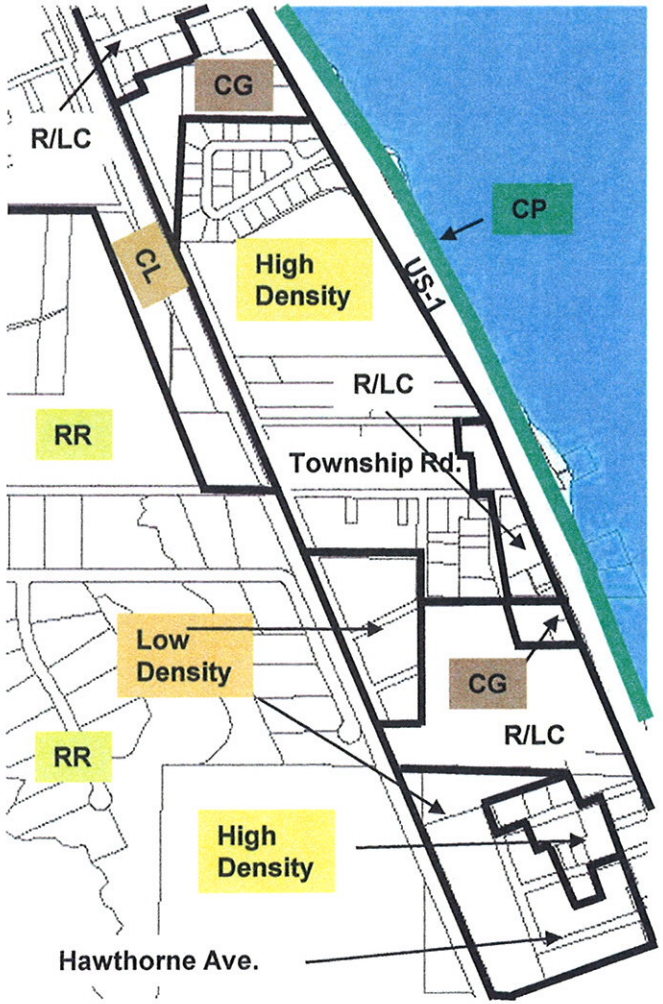


Land Use Along US-1 (Malabar Rd. to Hawthorn Ave.)

Present Land Use

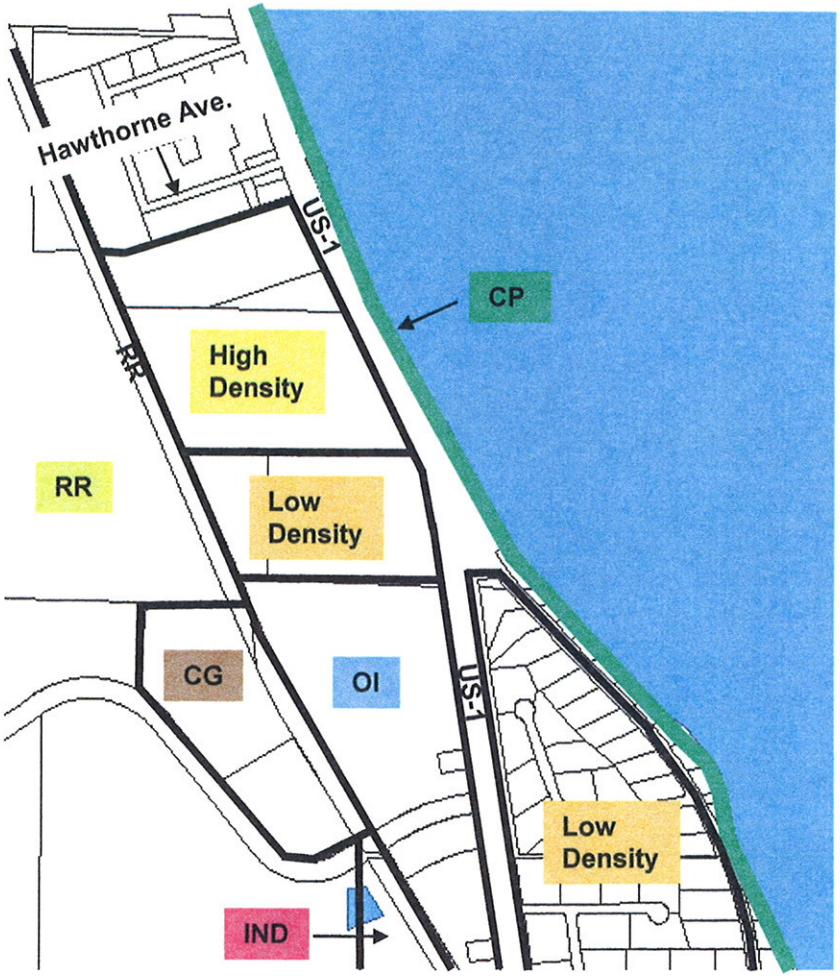


Proposed Land Use

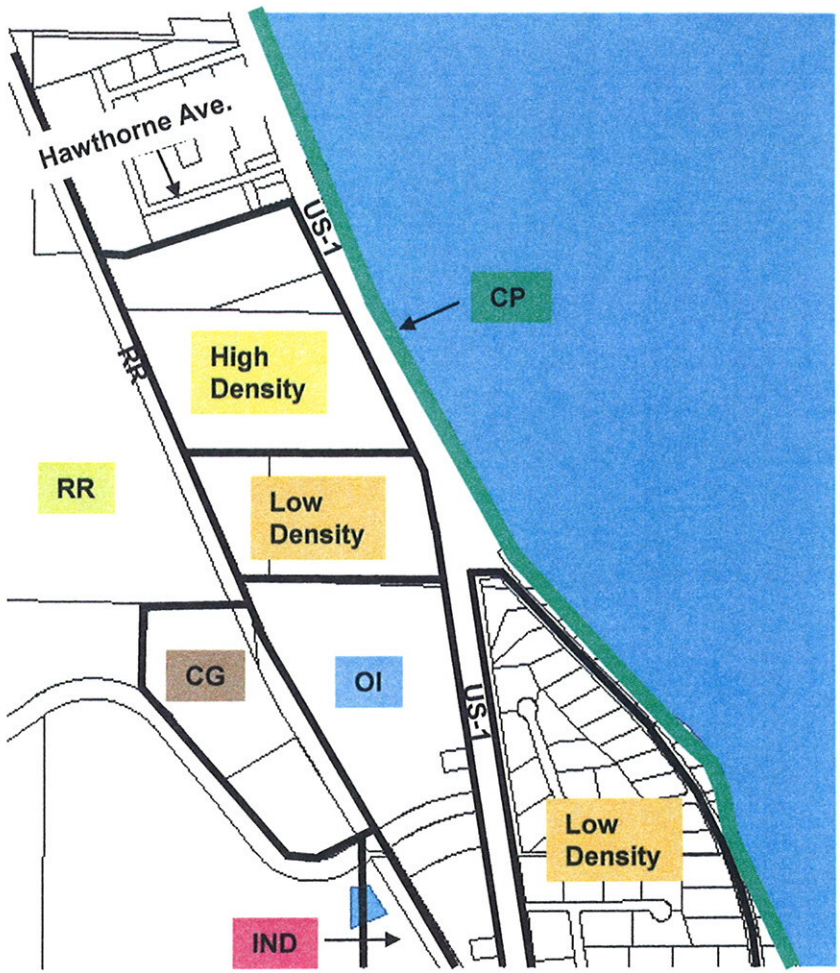


Land Use Along US-1 (North Rocky Point)

Present Land Use

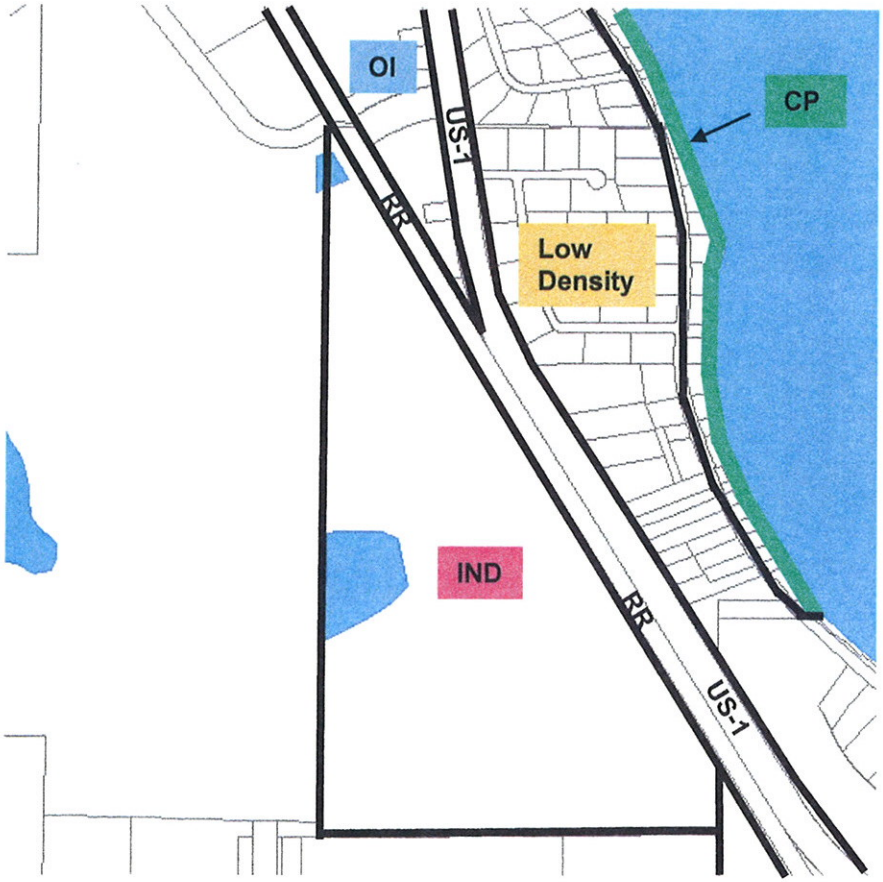


Proposed Land Use

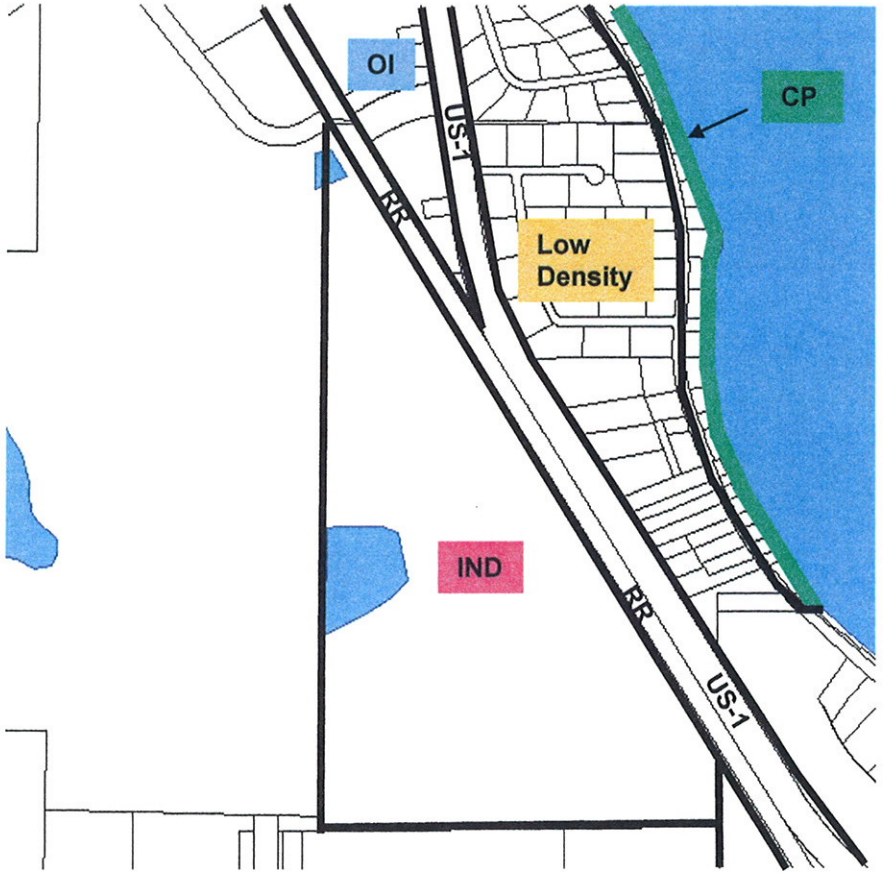


Land Use Along US-1 (Rocky Point)

Present Land Use

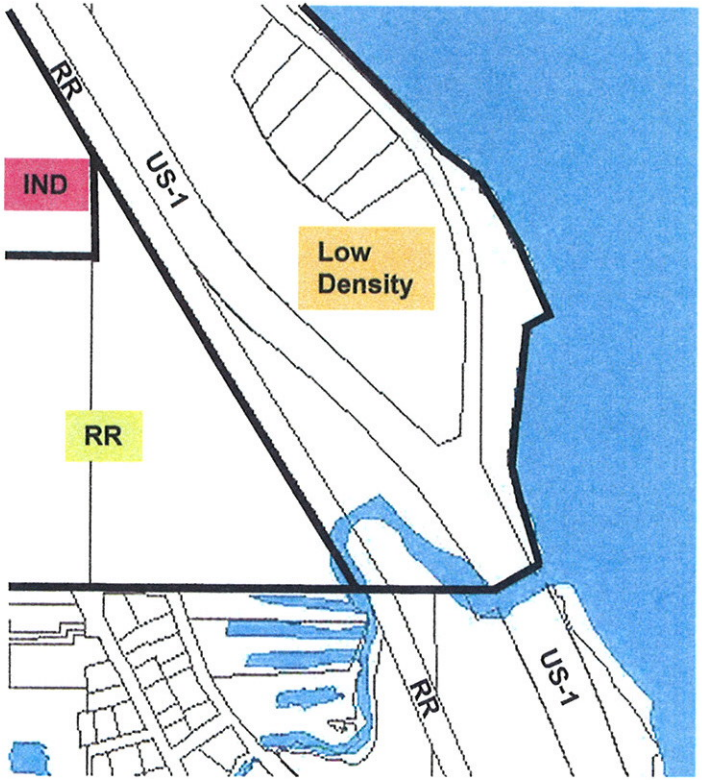


Proposed Land Use

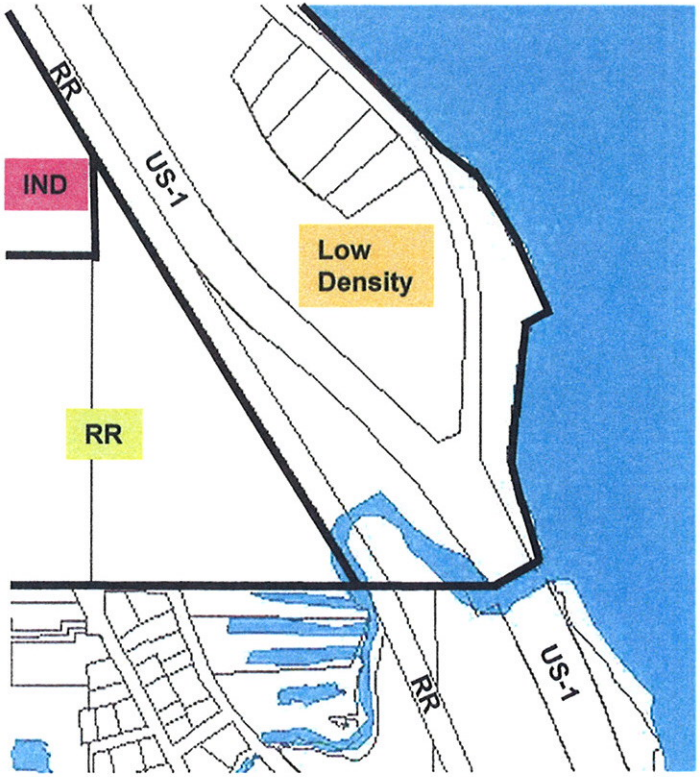


Land Use Along US-1 (South Rocky Point)

Present Land Use



Proposed Land Use



TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: JANUARY 11, 2012

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

SUBJECT: Continue Review for Code Requirements for Ponds

BACKGROUND/HISTORY:
Council approved the P&Z Board recommendation at their RTCM of 12/5/11. The background info given to Council for their consideration follows:

PONDS: They (P&Z) are working on the pond issue that came to them regarding the conflict in our code; in Art V, "ponds" ¼ ac in size or less require no permit and Art VII that states that any disturbance of land affecting 1000sf of surface requires a site plan review. In considering the initial reason Council approved the permit waiver for small ponds to help residents that just wanted a fish pond and balancing that with the fact that a ¼ acre pond could result in over 300 loads of excavated material. They are also reviewing the section of code that allows some types of fill to be removed from Town. As they continue to work on this they wanted to confirm that they had Council support in their preliminary assessments. If Council concurs and adopts the suggested definitions, then they will proceed with the requirements for permitting and review.

MOTION: Reilly / Krieger to recommend Council adopt the following definitions: (amended)

- water bodies less than 1000sf are a decorative water feature,
- water bodies greater than 1,001sf are ponds
- further recommend that excavated material shall remain on site.

Vote: Ayes: 4 (Reilly, Wilbur, Ritter, Abare for Ryan) Nay: 1 (Krieger) – Motion carried
This was not a unanimous vote but the desire was to get Council input on this basic concept before they proceeded.

After discussion, the Council approved the P&Z Board's recommendation as presented. The Attorney did voice concern over requiring applicants to retain fill on their own lot. Council thought Board may want to change that to requirement to keep fill in Town.

Council understands P&Z will continue working on the related issues the P&Z Board brought up in their minutes; such as site plan requirements and the checklists.

P&Z Members were to review the checklists provided from the Engineer and from the Site Plan process and Vice-Chair Reilly was going to work on the ordinance regulations.

ATTACHMENTS:
DRAFT ordinance language from P&Z Vice-Chair Pat Reilly
Checklist from Engineer
PZ Member Abare's Spec sheet
Major Site Plan - Site Plan Ap for non-residential projects

ACTION OPTIONS:
Prepare recommendation for Council

Pat Reilly's Edited Present Pond Ordinance Version (12/30/2011)

(Note: Section 5.0-E is open for discussion, all other sections are changed to separate Decorative Water Features and Ponds)

Section 1-5.27 Decorative Water Features and Ponds

General provisions. It shall be a violation of this ordinance for any person to construct, or permit to be constructed, or to fill a decorative water feature or pond within the Town of Malabar without first obtaining a decorative water feature or pond permit from the Town of Malabar.

1.0 *Definitions.*

A. *Allowable material* shall mean uncontaminated sand, soil or dirt or other items approved by the Town Engineer. Construction debris and yard waste shall not be considered allowable material.

B. *Conservation elevation (also control elevation).* The lowest elevation at which water can be released through the control device and/or the designed normal water level of the decorative water feature or pond.

C. *Construction debris* means material generally considered no to be water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt roofing material, pip, gypsum wallboard and lumber, metal, asphalt paving material, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation or maintenance of a structure.

D. *To fill* shall mean the adding of allowable material to alter the existing topography or characteristics of a decorative water feature or pond.

E. *Project site.* That area where the decorative water feature or pond shall be located and all other affected areas of the property.

F. *Wet season water table.* Elevation of the ground water table during normal wet season conditions as determined by SCS (Soil Conservation Service) or competent engineering studies (referenced to National Geodetic Vertical Datum).

G. *Side slopes.* The ratio between the horizontal and vertical distance of the decorative water feature or pond as measured from any point in the decorative water feature or pond to the property line or finished floor of any improvement. (See Diagram "A")

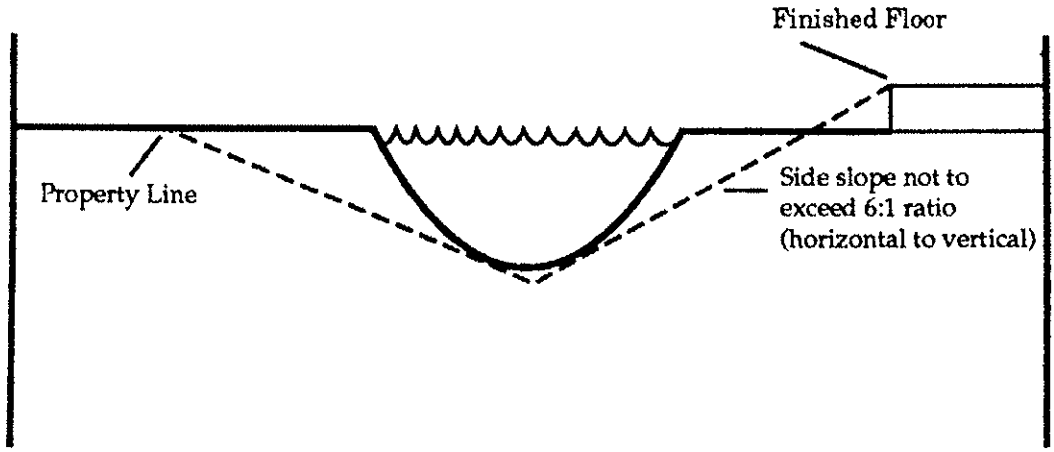


Diagram A

H. *Littoral zone.* That portion of the decorative water feature or pond which is less than three (3) feet deep as measured from the conservation elevation.

I. *Decorative Water Feature.* Shall mean any excavation for the purpose of retaining water wherein the surface area is 1,000 square feet or smaller in size. Notwithstanding this definition of decorative water feature, all fill activity which reduces the surface area of an existing water body, regardless of size, may only be accomplished after a permit authorizing such activity is issued by the Town.

J. *Pond.* Shall mean any excavation for the purpose of retaining water wherein the surface area is greater than 1,000 square feet in size. Notwithstanding this definition of pond, all fill activity which reduces the surface area of an existing water body, regardless of size, may only be accomplished after a permit authorizing such activity is issued by the Town.

2.0 *Permits.*

1. Decorative Water Feature: Any person wishing to construct or permit to be constructed or fill a decorative water feature within the Town of Malabar must, as a precondition, obtain a decorative water feature permit. A decorative water feature must meet setback requirements. In order to obtain a decorative water feature permit, an applicant must:

A. Pay the designated decorative water feature permit application fee prior to the Town accepting any application for a decorative water feature permit. The decorative water feature permit application fee shall be set by a Resolution of the Town Council;

B. If the applicant desires to construct a decorative water feature, the applicant shall provide the following documentation to the Town Clerk as part of the decorative water feature permit application;

1. A site plan containing the existing and proposed elevations for the entire project, site, the location of the proposed decorative water feature, a survey of the project site, said (survey to contain topographic data), tree locations and a plot plan.

2. Applicant must provide a written estimate of the quantity of fill which is proposed to be excavated, and a plan for disposal of said fill in accordance with this section.

3. Any other documents that shall be required by the Town Engineer for purposes of demonstrating compliance with the performance standards of section 1-5.27.5.A—F and completing a conclusive review of the proposed site.

C. If an applicant desires to fill a decorative water feature, the applicant shall submit the following:

1. A decorative water feature permit application containing, at a minimum the following:

a. A site plan of the existing decorative water feature including total area of the surface covered by water; depth of decorative water feature; and its proximity to structure;

b. The estimated amount of fill to be used, as well as, the type of fill to be used;

c. Name of contractor performing the fill activity;

d. Any and all other information required by the Town Engineer.

D. The Town Clerk shall not accept an application for a decorative water feature permit unless the applicant has submitted an original and two (2) copies of all required documents, and paid all required permit fees.

E. In addition to a decorative water feature permit fee required herein the applicant must, apply for and obtain a land clearing permit required by the Town's Code of Ordinances.

2 Ponds: Any person wishing to construct or permit to be constructed or fill a pond within the Town of Malabar must, as a precondition, obtain a pond permit. Ponds must meet setback requirements. In order to obtain a pond permit, an applicant must:

A. Pay the designated pond permit application fee prior to the Town accepting any application for a pond permit. The pond permit application fee shall be set by a Resolution of the Town Council;

B. If the applicant desires to construct a pond, the applicant shall provide the following documentation to the Town Clerk as part of the pond permit application;

1. A site plan containing the existing and proposed elevations for the entire project, site, the location of the proposed pond, a survey of the project site, said (survey to contain topographic data), tree locations and a plot plan.

2. Applicant must provide a written estimate of the quantity of fill which is proposed to be excavated, and a plan for disposal of said fill in accordance with this section.

3. Any other documents that shall be required by the Town Engineer for purposes of demonstrating compliance with the performance standards of section 1-5.27.5.A—F and completing a conclusive review of the proposed site.

C. If an applicant desires to fill a pond the applicant shall submit the following:

1. A pond permit application containing, at a minimum the following:

a. A site plan of the existing pond including total area of the surface covered by water; depth of pond; and its proximity to structure;

b. The estimated amount of fill to be used, as well as, the type of fill to be used;

c. Name of contractor performing the fill activity;

d. Any and all other information required by the Town Engineer.

D. The Town Clerk shall not accept an application for a pond permit unless the applicant has submitted an original and two (2) copies of all required documents, and paid all required permit fees.

E. In addition to a pond permit fee required herein the applicant must, apply for and obtain a land clearing permit required by the Town's Code of Ordinances.

3.0 *Review process.*

1. The following process for review shall apply to all decorative water feature permit applications presented to the Town of Malabar for consideration.

A. The review process shall begin when the applicant has submitted to the Town Clerk all required documents as set forth in paragraph 1, where applicable, of this section and all applicable application fees have been paid.

B. Within five (5) working days of the receipt of a completed application and application fee, the Town Clerk shall forward one copy each of the application and the required documentation to the Town Building Official and the Town Engineer. The Town Building Official shall review the application to insure the completeness and accuracy of the submitted information, and shall notify the Town Engineer of any inaccuracies or incompleteness.

C. The Town Engineer shall review the application and, within two weeks of receipt of the application by the Town Engineer, the Town Engineer shall recommend that the application for a decorative water permit be;

1. Approved;
2. Approved, subject to certain conditions, or
3. Denied.

D. **1.** If the Town Engineer recommends approval of the decorative water feature permit application, the application shall be forwarded to the Planning and Zoning Board for their consideration and action on the next available Planning and Zoning Board Agenda. The review procedures in sections 1-7.1 through 1-7.6 to the extent not inconsistent with this section shall apply. The Town Engineer and the Town's Planning and Zoning Board may impose reasonable conditions upon the applicant for a decorative water feature permit. Upon consideration and action by the Planning and Zoning Board the matter shall be forwarded to the Town Council for consideration and action. Upon approval by the Town Council of the decorative water feature permit application, the Building Official shall issue a decorative water feature permit to the applicant. The decorative water feature permit, however, shall contain the statement of the conditions which must be met by the applicant as set forth by the Town Engineer, the Planning and Zoning Board, and approved by the Council. Upon acceptance of a decorative water feature permit which has stated condition, the applicant agrees to perform all conditions set forth in the decorative water feature permit.

2. A decorative water feature permit shall not be issued if the Town Engineer recommends denial of the permit.

2. The following process for review shall apply to all pond permit applications presented to the Town of Malabar for consideration.

A. The review process shall begin when the applicant has submitted to the Town Clerk all required documents as set forth in paragraph 1, where applicable, of this section and all applicable application fees have been paid.

B. Within five (5) working days of the receipt of a completed application and application fee, the Town Clerk shall forward one copy each of the application and the required documentation to the Town Building Official and the Town Engineer. The Town Building Official shall review the application to insure the completeness and accuracy of the submitted information, and shall notify the Town Engineer of any inaccuracies or incompleteness.

C. The Town Engineer shall review the application and, within two weeks of receipt of the application by the Town Engineer, the Town Engineer shall recommend that the application for a pond permit be;

1. Approved;
2. Approved, subject to certain conditions, or
3. Denied.

D. 1. If the Town Engineer recommends approval of the pond permit application, the application shall be forwarded to the Planning and Zoning Board for their consideration and action on the next available Planning and Zoning Board Agenda. The review procedures in sections 1-7.1 through 1-7.6 to the extent not inconsistent with this section shall apply. The Town Engineer and the Town's Planning and Zoning Board may impose reasonable conditions upon the applicant for a pond permit. Upon consideration and action by the Planning and Zoning Board the matter shall be forwarded to the Town Council for consideration and action. Upon approval by the Town Council of the pond permit application, the Building Official shall issue a pond permit to the applicant. The pond permit, however, shall contain the statement of the conditions which must be met by the applicant as set forth by the Town Engineer, the Planning and Zoning Board, and approved by the Council. Upon acceptance of a pond permit which has stated condition, the applicant agrees to perform all conditions set forth in the pond permit.

2. A pond permit shall not be issued if the Town Engineer recommends denial of the permit.

4.0 *Appeal process.* If an applicant's permit is denied, or approved with conditions, the applicant shall have the right to appeal such a denial or conditions to the Town Council under the following procedure:

A. An appeal of a decision not to issue a decorative water feature or pond permit, or to issue a decorative water feature or pond permit upon conditions, may be appealed to Town Council, by the applicant, within ten days of the applicant receiving notice of the denial of his permit or approval with conditions.

B. To appeal a decision to Town Council, the applicant must submit, in writing, a notice to the Town Council of the intention to appeal the decision of the Town Building Official and

request the matter to be placed on the Council's agenda. The Notice of Appeal shall contain the basis upon which the appeal is being made.

C. Upon receipt of a timely notice of appeal, the Town Clerk shall set the matter on the Town Council's agenda, said appeal to be heard by Council, within thirty (30) days of the date of notice of appeal. The Town Clerk shall submit all documentation relating to the application and permit to Council for review.

D. The Town Council shall review the issue and determine whether the decision of the Building Official shall be upheld, modified or reversed. All decisions of the Town Council are final.

E. Appeals of decisions of the Town Council may be taken to a court of competent jurisdiction.

5.0 *Performance standards for the construction of a* decorative water feature *and ponds.*

A. Setbacks. Setbacks shall be measured from the conservation elevation and shall be set based on the following criteria:

1. Side slopes shall not exceed 6:1 (horizontal to vertical) as measured from existing grade at property lines or finished floor elevation at buildings or structures.

2. The setback from any right-of-way shall comply with the setback requirements of Table 1.3.3(E) of Article III of this Code. The setback in this subsection shall apply to all decorative water features and ponds, whether or not a permit is required for construction of such decorative water feature or pond.

3. The setback from any abutting residentially zoned property line shall be forty (40) feet from such abutting property line otherwise setbacks shall be thirty (30) feet from abutting property line. The setback in this subsection shall apply to all decorative water features and ponds,

4. The decorative water feature or pond and any related site grading shall not adversely affect off-site drainage patterns.

B. Conservation elevation. The proposed design or conservation elevation shall be set at or near the wet season water table. Wells shall not be used to maintain a water level elevation above the seasonal water table and must have float control device installed when there is an outfall. The decorative water feature or pond and discharge structure shall not draw the water table below its wet seasonal elevation.

C. No decorative water feature or pond, regardless of size shall be greater than twelve (12) feet in depth as measured from the conservation elevation to the deepest point.

D. Littoral zone. A minimum of thirty (30) percent of the decorative water feature or pond area shall be littoral zone and shall be planted with suitable wetland vegetation.

E. Disposal of excavated material. All excavated topsoil shall be disposed of on-site. All other excavated material, unless otherwise provided for herein, shall be disposed of on-site. Off-site disposal of excavated material, except topsoil, shall be permitted under the following conditions:

1. The pond has a total surface acreage of less than one-quarter (¼) acre;

2. For any decorative water feature or pond for which a permit is required the excavated material may be disposed of off-site if a certification is presented to the

Town by a Florida licensed professional engineer stating that the excavated material, except topsoil, can not be utilized on-site. In submitting the certification the engineer shall take the following into consideration:

a. The size of the site.

b. Available on-site retention.

c. The impact of on-site disposal will have on adjoining properties.

d. No excavated material from a pond which one-quarter acre or larger in size may be sold; offered for sale or trade or bargained for anything of value.

3. Excavated material which is unsuitable for use on the site because of high organic content (muck) may be disposed of off-site if approved by the Town Engineer.

F. Discharge structures shall be designed to limit the maximum discharge rate to the pre-development discharge rate. The discharge velocity shall be controlled so as to not erode or cause scouring of existing or proposed facilities. Structures shall only discharge to a point of legal positive out-fall.

6.0 *Completion.*

A. Decorative water feature or pond permits issued pursuant to this section shall be effective for a period of six (6) months from the date of issue.

B. An extension may only be granted once upon good cause after review and approval by the Town Building Official.

C. Refusal by the Town Building Official to issue a decorative water feature or pond permit extension may be appealed to Town Council in the same manner set forth in paragraph 3 of the section.

7.0 *Failure to complete.*

A. A fine up to two hundred fifty dollars ($250.00) per day may be assessed against any applicant who fails to complete a decorative water feature or pond within the six-month period of the permit.

B. Further, the Town, at its discretion, may require the applicant to restore the land to the condition prior to obtaining a decorative water feature or pond permit if it's not completed within the allotted time.

C. It shall be the obligation of the applicant to notify the Town of completion. The decorative water feature or pond shall be complete only after a final inspection by the Town Building Official.

8.0 *Standards for fill activities.*

A. No decorative water feature or pond shall be filled if, in the opinion of the Town Engineer, the filling of the decorative water feature or pond will adversely affect on and off-site drainage; promotes soil erosion on or off-site; or adversely affects the natural environment.

B. Before any decorative water feature or pond shall be filled, approval from outside governmental agencies having jurisdiction over filling of water bodies must be submitted to the Town.

(Ord. No. 91-1, 3-19-91; Ord. No. 03-12, § 1, 12-1-03 revised 10/26/2011)

From PZ 9/28/11 Item #2
Morris Smith - Town Engineer

POSSIBLE Permit Application Check List Items - ¼ acre or Less of Soil Displacement:

___ Greater than 75 feet from Septic Tank and/or Drainfield

___ Meets or Exceeds Building Setbacks for Zoning

___ Positive Overflow Discharge to Town of Malabar Stormwater Discharge Swale/Ditch

___ Soil Displaced Remains On-site

___ Accurate Layout Plan (to Scale) on Boundary Survey Showing Soil Displacement Area

___ Accurate Layout Plan (to Scale) on Boundary Survey Showing Location of Displaced Soil

___ Proposed Location of Stormwater Best Management Practices (BMP) Silt Fence, Siltation Barriers, etc.

___ Typical Section for Side Slopes Inside Soil Displacement Area

___ Executed Disclosure of Ownership

___ Sod Side Slopes and Positive Overflow Discharge Path

___ Wetland Lines if Applicable

___ Fee or No Fee ??? (P&Z to Review and Approve/Disapprove for No Fee?)

Denine Sherear

From: Wayne Abare [wabare@cfl.rr.com]
Sent: Friday, November 11, 2011 9:12 AM
To: Denine Sherear
Cc: Abare, Wayne
Subject: Lakes

Denine

I have prepared a list of issues and concerns for digging a Lake, see below. Please forward to the other members of the P&Z Board.

Thanks, Wayne Abare

Major Lake Issues/Concerns

Provide Site Plan which Details

Property lines including all Setback & Right-of-Ways
Proposed placement of Lake
Is placement of Lake within above Setback & Right-of-Ways?
Detailing any overflow pipe(s) including size(s) of pipes
Are sides of Lake tapered as per Malabar's Code?
Will sod be used around Lake Perimeter to stabilize soil?
Description and quantity of any major Tree removal
Online Brevard County overlay of any Wetlands on property
Proposed placement of excavated soil
Are swales sufficient to direct water away from neighbors?

While reviewing these Lake issues ask yourself which of the above concerns should not be required for a smaller Lake or a Pond?

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 Ext. 16
Fax # (321) 727-9997

APPLICATION FOR NON-RESIDENTIAL SITE POND PLAN REVIEW

Project Name: _____ Date: _____

Developer Name: _____ Telephone: _____
Mailing Address: _____ Fax: _____
City, State, Zip: _____ Cell: _____

Name of Property Owner(s): _____ Telephone: _____
E- Mail Address: _____
Mailing Address: _____ Fax: _____
City, State, Zip: _____ Cell: _____

Name of Engineer(s): _____ Telephone: _____
Mailing Address: _____ Fax: _____
City, State, Zip: _____ Cell: _____

Name of Architect(s): _____ Telephone: _____
Mailing Address: _____
City, State, Zip: _____ Cell: _____

Legal Description of Property Covered by Application:
Township: _____ Range: _____ Section: _____ Lot/Block: _____, Parcel: _____
Subdivision: _____ Tax Acct No.: _____
Other Legal: _____
Present Land Use Designation: _____ Present Zoning Classification: _____
Zoning of abutting property: North: _____ South: _____ East: _____ West: _____
Existing and Proposed Use for Property: _____
_____
Gross acreage: _____ Net acreage: _____ Gross density: _____

Setbacks: Required and Proposed: Front: _____/_____ ; Rear: _____/_____;
Side: _____/_____ ; Side corner: _____/_____

Flood Zone: _____ Per FEMA Flood Insurance Rate Map

Pond

~~SITE PLAN~~ APPLICATION AND CHECKLIST

Site Acreages:

	SF	Acres	Percentage
Pervious			
Impervious			
Pond			
Total			

* Wetlands Present: _____ Mitigation required? _____ Permit required? _____

Scaled Dimensional Dwg

The applicant is required to submit TWO original ~~Site Plans~~ with supporting documents, ~~10 TEN paper copies and ONE copy on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents~~. The following information is required per Article VII of the Malabar Land Development Code and must be shown on the site plan (SP) or submitted as an addendum (AD) to the site plan. Please mark where the following information can be found:

_____ ~~Landscape and irrigation plan~~ (existing and proposed) shown on plans.

_____ Boundary of property shown by a heavy line.

_____ ~~Access by means of paved dedicated right-of-way (driveway width)~~.

_____ ~~Topographic survey for existing and proposed conditions~~.

_____ Existing ~~and proposed~~ structures shown on ~~site plan~~ Sketch (including setbacks from all property lines ~~and normal high water elevation and building separations~~.

_____ ~~Typical front, rear and side elevations of proposed structure(s).~~

_____ ~~All existing and proposed utilities (including inverts of pipes~~, etc)

_____ ~~Location of all easements.~~

_____ ~~Fire protection, existing and proposed~~ that meet state and local requirements.

_____ ~~Proposed~~ location of well.

_____ ~~Proposed~~ location of septic and drainfield

_____ Stormwater management plan ~~(including soils report and drainage calculations)~~

_____ ~~Flood Zone(s) depicted on site plan.~~

_____ Tree Location Survey identifying trees 8 inches dbh (Diameter at Breast Height) and larger.

_____ ~~Tree Plan prepared or approved by a Florida registered landscape architect.~~

_____ ~~Required Open Space/Recreational areas.~~

Updated 11/15/11

Pond

~~SITE PLAN~~ APPLICATION AND CHECKLIST PAGE 3

****

Pond 100.00

~~Site Plan~~ Review - ~~$300~~ for the first acre plus $50 per acre for each additional acre or portion thereof for projects consisting of 1,000 or more square feet of impervious surface; ~~plus all costs, excluding advertising, administrative time, and mailing.~~

- Summary of Required Attachments for Site Plan Review:
  - Completed Application, including Disclosure of Ownership (Pages 1 and 2).
  - ~~Radius Package for 500' distance from~~ project site perimeter – obtained from the Brevard ~~County Planning and Zoning GIS Department~~ in Viera – call 321-633-2000
  - Fee of $_____, in **check or money order**, payable to the Town of Malabar.
  - ~~Site Plan – (10) paper copies plus one electronic copy~~.
  - ~~Reason for Site Plan Review (attach correspondence, drawings, etc.)~~
  - Copies of all Federal, State, and Local agency permits. **It shall be the applicant's responsibility to obtain such outside permits.** PRIOR to TOWN Reviews

Signature of Applicant(s): Date:

_____ _____

_____ _____

_____ _____

Signature of Town's Personnel

Updated 11/15/11

Pond

~~SITE PLAN~~ APPLICATION AND CHECKLIST

TOWN OF MALABAR
Disclosure of Ownership

Where the **property is not owned by the applicant**, a letter/letters must be attached giving the notarize consent of the owner/owners to the applicant to request a site plan review of the property.

Please complete only one of the following:

I/we, _____, being first duly sworn, depose and say that I/we, am/are the **legal representative(s)** of the Owners or lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said are to be honest and true to the best of my/our knowledge and belief.

_____

_____ _____
Applicant(s) Date

Sworn and subscribed before me this _____ day of_____, 20____

Notary public, State of Florida
Commission No._____ My Commission Expires_____.

.....

I/we,_____, being first duly sworn depose and say that I/we, am/are **the Owner(s) of the property** described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my/our knowledge and belief.

_____

_____ _____
Applicant(s) Date

Sworn and subscribed before me this day _____ day of_____, 20____

Notary Public, State of Florida
Commission No._____ My Commission Expires _____.

Updated 11/15/11

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6
Meeting Date: January 11, 2012

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

SUBJECT: Parking Tractor Trucks in RR-65 Zoning

BACKGROUND/HISTORY:
The Board agreed to the following:

- Break up Section 1-5.16 into clearer sentences. Staff has proposed language.
- The request to park a tractor trailer has to be in RR-65 zoning, minimum 1.5 acres.
- Owner should be defined as stated in Florida Statute 320; the person *in control* of the vehicle (in this case the truck tractor).

The following points were brought up by P&Z Board Members

- Krieger stated trailers without tags in the back yard are not the Town's business
- Ryan stated that 18-wheelers damage local streets.
- Ritter stated Code should use the Florida Statute 320 for definitions of truck, heavy truck and truck tractor instead of term "cab" used by staff.
- Staff suggested using County language for *occupant of property* instead of owner and that the truck tractor is an integral part of the annual income and then only allows the truck tractor to park on the residential lot and not the trailer.

ATTACHMENTS:
Revised Section 1-5.16 proposed by staff
Revised Application for CUP for parking "heavy trucks over 5001 pounds net weight and truck tractors.

ACTION OPTIONS:
Work on motion to Council for Action at next meeting.

1-5.16. Parking of Tractor Trucks in Residential Zoning

The intent of this section is to provide regulations for the parking of large tractor trucks and the prohibition of parking the semitrailers of such large tracker trucks in residential areas. It is ***not*** intended to provide regulation or prohibition of pick-up trucks or trucks up to 5000 pounds of net vehicle weight (NVW) that are used as part of a home occupation operation.

Definitions:
Heavy Truck: a truck tractor with a net vehicle weight (NVW) of over 5000 pounds designed or equipped with a connecting device for the purpose of hauling semitrailers

Net Weight: actual scale weight in pounds with complete catalog equipment

Gross Weight: means the net weight of tractor truck in pounds plus the weight of the load carried by it.

Motor Vehicle: means an automobile, motorcycle, truck, truck tractor or any other vehicle operated on the roads of this state, used to transport persons or property and propelled by power other than muscular power, but does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles or mopeds.

Semitrailer: any vehicle without motor power designed to be coupled to or drawn by a tractor truck and constructed so that some part of its weight and that of its load rests upon or is carried by the tractor truck.

Tractor Truck or with a gross vehicle weight (GVW) of over 5001 pounds used to draw semitrailers

Trailer: any vehicle without motor power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight and that of its load rests upon or is carried by the motor vehicle.

Truck: a motor vehicle with a net vehicle weight of 5,000 pounds or less and which is designed or used principally for the carriage of goods.

Code:

The parking of tractor trucks on residential land in RR-65 zoning will be allowed as a conditional use. The application shall require that the adjacent property owners have been notified and do not oppose such parking. The conditional use process application is as set forth by the application approved by Council.

The parking of semitrailers is not allowed in RR-65 zoning. The parking of semitrailers or tractor trucks is not allowed in RS-10, RS-15 or RS-21 at all.

TOWN OF MALABAR
2725 Malabar Road, Malabar, FL 32950
Tel. 321-727-7764 x 14

Conditional Use Permit (CUP) Application for Heavy Trucks and Truck Tractors

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office. Applicants for a CUP to provide for parking of Truck Tractors in Malabar must have a minimum of 65,000 sf and be located in areas zoned RR-65. If approved, a CUP permit will be issued only for truck tractor not trailers. Once paid, the CUP will be valid for one year period and is renewable by administratively extension for successive one-year periods. However, if the activity ceases to be compatible with the character of the neighborhood as evidenced by code enforcement complaints, the CUP may be revoked by the Town.

Property Address _____
Present zoning classification_____ Acreage/Lot size_____
Owner/Person in control of Truck Tractor _____
Name of Property Owner _____ Tel_____
Owner Email _____
Mailing Address:_____

Name of Applicant(s)_____ Tel_____
Applicant Email:_____
Mailing Address: _____

Attach a Scaled Dimensional Sketch showing the location of all structures on the parcel, where the Truck Tractor will be parked, ingress and egress, buffering (existing or proposed), and estimated distance to adjacent structures.
Attach signed affidavits from all property owners within 200 feet indicating no objection to the requested permit.
General Standards of Review:

- The proposed conditional use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation and traffic generated
- Ingress and egress to the property shall be adequate for truck tractor
- The proposed conditional use will not cause a diminution in value of abutting residential property
- The proposed conditional use will not have adverse impact or substantially interfere with the use or enjoyment on adjacent and nearby properties due to noise, odor, particulates, smoke, fumes or other emissions or other nuisance activity generated by conditional use
- The proposed conditional use must have existing or proposed screening or buffering to eliminate or reduce adverse nuisance, sight or noise impacts on adjacent and nearby properties.

Application Fee for Tractor Cab Conditional Use -$120.00. Renewal CUP fee is $50.00.

_____ _____

_____ _____
Signature of Applicant(s) Date

PROPOSED

TOWN OF MALABAR

Where the property is not owned by the applicant, a letter/letters must be attached giving the notarized consent of the owner/owners to the applicant to request a CUP review of the property to consider allowing parking of truck tractors.

Please complete only one of the following:

I/we, _____, being first duly sworn, depose and say that I/we, am/are the **legal representative(s)** of the Owner or Lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my/our knowledge and belief.

_____ _____

_____ _____

Applicant(s) Date

Sworn and subscribed before me this _____ day of _____, 20____.

_____

Notary Public, State of Florida

Commission No. _____ My Commission Expires _____.

I/we, _____, being first duly sworn, depose and say that I/we, am/are the Owner(s) of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my/our knowledge and belief.

_____ _____

_____ _____

Applicant(s) Date

Sworn and subscribed before me this _____ day of _____, 20____.

_____

Notary Public, State of Florida

Commission No. _____ My Commission Expires _____.

PROPOSED

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 7
Meeting Date: January 11, 2012

Prepared By: Denine Sherear, P&Z Board Secretary

SUBJECT: Definition of Light Industrial

BACKGROUND/HISTORY:
This item is continued from the July 2011 meetings that resulted from the discussions on the proposed land use changes on the FLUM.

The 500' strip of land to the west of the railroad tracks is currently designated CG. The P&Z Board proposed making it CL. The areas off of Babcock Street adjacent to I-95 are also currently CL.

At the July 13, 2011 meeting, the Board read from Article II and Article III on what a CL designation allows. Staff provided the Board definitions from other agencies on "Light Industrial" which would more likely match what the Board intended for this area.

P&Z Board Chair Wilbur provided sample wording for a new classification of "Light Industrial" (LI). P&Z Board Member Krieger provided sample wording for a new classification consisting of a combination of Commercial Limited & Light Industrial (CL-LI)

If the Board supports creating a new land use and zoning classification staff would include the new designation in the recommendation proposing the other changes to the FLUM before it goes to Council.

ATTACHMENTS:
- Wilbur's language for new classification for Light Industrial (LI)
- Krieger language for new classification for Commercial Light & Light Industrial (CL-LI)
- Portion of P&Z Minutes from 7/27/11

ACTION OPTIONS:
Make Recommendation to Council as part of Agenda Item 4.

Submitted by: P&Z Chair Bob Wilbur 8/10/2011 P & Z Meeting

District and intent "Light Industrial District"

The uses in this district are intended to be located in close proximity to transportation facilities and serving as the manufacturing, warehousing, distribution, wholesaling and other industrial functions of the Town. Restrictions herein are intended to minimize adverse influences of the industrial activities on nearby nonindustrial areas.

(1) *Principal uses and structures:*
- (A) Warehousing and wholesaling carried on solely within an enclosed structure, including refrigerated storage.
- (B) Service and repair establishments, dry cleaning and laundry plants, business services, printing plants and welding shops, bakeries, fruit packing, and similar uses.
- (C) Light manufacturing processing and assembly, such as precision manufacturing of electrical machinery and instrumentation.
- (D) Building materials supply and storage; contractor's storage yard, except scrap materials. Outside storage areas shall be walled or screened on all sides to avoid any deleterious effects on adjacent properties.
- (E) Marine sales, storage and repair establishments, and automotive repair, paint and body shops, transportation terminals, and freight handling.
- (F) Vocational and trade schools, veterinary hospital and clinics.

(2) Accessory uses:
- (A) Retail sales of products manufactured, processed or stored on the premises.
- (B) Customary accessory uses of one or more of the principal uses, clearly incidental and subordinate to the principal use in keeping with the industrial character of the district.

(3) Conditional land uses permissible by Town Council: None

(4) Special exceptions permissible by the zoning board of appeals: None

(5) Prohibited uses and structures: All uses not specifically or provisionally permitted herein, and not in keeping with the industrial character of the district.

(6) Minimum lot dimensions and floor area and maximum height:

Minimum Lot	Minimum Lot	Minimum Lot	Minimum Floor	Maximum Height
9,000 sq. ft	90 ft.	100 ft.	600 sq. ft.	35 ft.

(7) *Minimum setback requirements*:

Front	25 feet
Rear	20 feet; 15 feet when abutting an alley
Side, interior	None, except where use borders a zoning district requiring setbacks, in which case said required setbacks, shall also apply in this district
Side, corner	20 feet

Limited Commercial Light Industrial

CL-LI "Limited Commercial- Light Industrial" The CL-LI district is established to implement comprehensive plan policies for managing such development accessible to major transport facilities as well as accommodate the needs of adjacent or local residential neighborhoods. Such development is intended to provide local services as well as to provide more intensive commercial uses as well as limited light manufacturing, warehousing, distribution and other light industrial functions applicable to the region.

Areas designated for *CL-LI* development are intended to accommodate businesses such as neighborhood shops, light industrial services, limited metal or material fabrication facilities including welding services, electric services, light assembly, limited mechanical repair including but not limited to auto repair, plumbing services, health, environmental, and septic services, as well as the supply of other goods and services compatible to a specialized market with customized market demands. Uses, which are not compatible include but are not limited to large scale discount stores, supermarkets, department stores, large scale wholesale, commercial amusements, and fast food establishments. No residential uses shall be located in this district.

5. Definition of "Light Industrial"

Exhibit: Agenda Report No.5
Recommendation: Discussion

Wilbur stated we should change all CL to LI. He liked IHB definition and add some of W Melb suggested uses: refrigerated storage trucks, bakeries, fruit packing, body shops, paint shops, upholstery shops and the like,

Krieger stated that LI could be added to CL. Wilbur reviewed the maps and the CL is all along I95 and has no access except Booth Road. No access – find me a flower shop that will open back in there.

CL does not fit that area along I95 or the railroad. Those are the only places we have it. Wilbur read the IHB definition. Then add some of the W Melb uses as listed above. You could put your flower shop to that. Krieger then read the Town's definition for IND.

Wilbur said you have 40 potential parcels along I95. We have had numerous businesses that want to open shop and we have no place for them. Krieger is still suggesting merging the two, CL/LI and blend the two uses. Abare said the use is typically along I95 and the RR. Wilbur said it makes more sense to have this separate use.

Wilbur read from Code on CL uses: Wilbur said Limited Commercial person is going to want roadside visibility. A barber shop could be picked up R/LC. But you would have to have a residential component.

Krieger said if Foundation Park builds up, they may want to go there. Abare said that off of R. Conlon Blvd. in Palm Bay is industrial. Wilbur said a lot of the Malabar residents are blue collar workers and would love to have a place for their business. Abare asked about trade schools – they would not like this area. Wilbur said they would if they were learning tractor trailer driving. Wilbur doesn't think they should be merged.

Ryan left at 9:25.

Wilbur said there is CL on the proposed changes to maps on US 1 and those should remain; if you had blended uses you could wind up with LI on Highway 1, which they don't want.

Reilly tended to agree with Krieger and thinks they should be blended. Krieger read from Code on CL – remove the sections dealing with service – Wilbur said it then opens up Highway 1 to also use that. Ritter said why wouldn't you have LI on US1. Wilbur said it protects Highway 1 from Industrial types of uses. Ritter said what is the main difference between the two. Abare said there are certain businesses that you don't want on Highway 1. Stick those uses in LI and put it over by I95. Contractor that wants to store material or automotive repair in LI.

Ritter asked Morris about triangle. Morris explained the PUD. Their goal is to develop the entire site. They will have a concept before they will come in. Reilly wanted to finish this discussion by 10PM. Ritter said Ryan had already left.

Summary: Reilly asked Krieger to draft a couple sentences to the definition of CL to cover the LI uses. Reilly asked Wilbur to put all his LI uses into a document for next meeting.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 8
Meeting Date: JANUARY 11, 2012

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

SUBJECT: Consider Suggestions from Mayor re: RV Parking

BACKGROUND/HISTORY:
Council approved the P&Z Board recommendation at their RTCM of 12/5/11.

MOTION: Krieger / Ritter to recommend Council agree - consensus of P&Z Board that the "required" front yard is equivalent to the setback. P&Z Board believes that any restrictions for personal equipment or vehicles should be limited to front yard within the setback. Tell them that P&Z will continue to work on conflicts within the code.
Vote: Ayes: 4 (Reilly, Wilbur, Ritter, Abare for Ryan) Nay: 1 (Krieger) – Motion carried

The Mayor would still like the P&Z Board to consider his other recommendations: limit of RVs in various residential zones and allowing children to sleep in them.

ATTACHMENTS:
Mayor's proposed changes
Revised drawing showing RVs allowed in front, side and rear yards.

ACTION OPTIONS:
Prepare recommendation for action at next meeting.

MAYOR'S PROPOSED CHANGES TO RV PARKING

Delete 1. and replace with:
1. A limited number of recreational vehicles may be parked in the front yard or driveway.
In RS-10 and 15, the limit shall be one.
In RS-21 the limit shall be two.
In RR-65 the limit shall be three.

Add to 2. Children under 14 years of age are exempt and may sleep overnight in an RV.

Delete 4.

Requested action: Send to P&Z for a recommendation on Mayor's proposed changes.

1-5.15

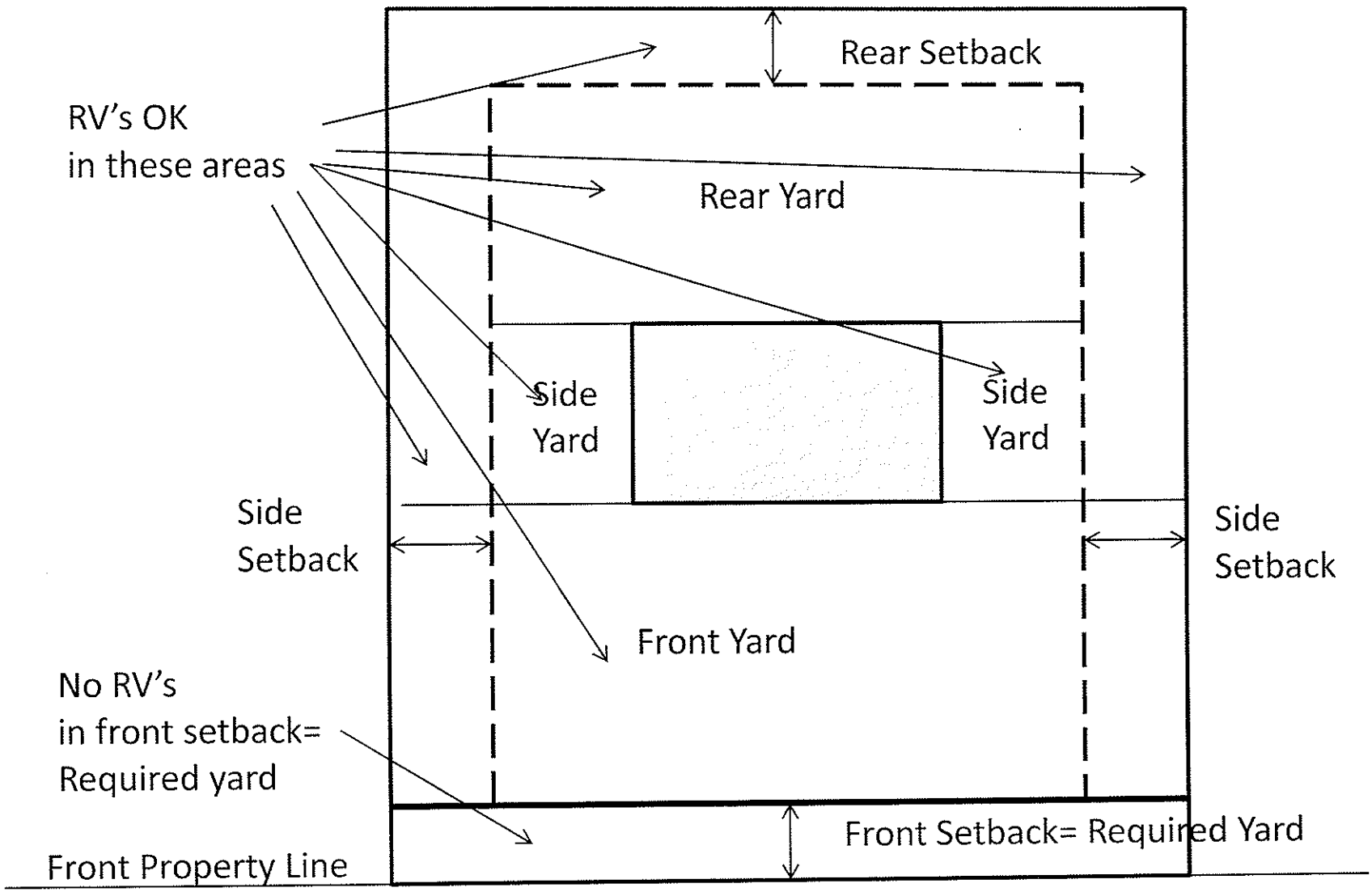
Section 1-5.15. - Parking, storage or use of major recreational equipment.

Major recreational equipment is defined as including boats and boat trailers, pickup campers or coaches (designed to be mounted on an automotive vehicle), motorized dwellings, collapsible camping trailers or motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment whether occupied by such equipment or not.

1. No major recreational equipment shall be parked or stored in any residential front yard in any residential district for more than forty-eight (48) hours during loading or unloading.
2. No such major recreational equipment shall be used for living, sleeping, housekeeping, office, or commercial purposes when parked or stored on a residential lot, or in any location not approved for such use.
3. No such major recreational equipment shall be located within a public right-of-way.
4. If such equipment is a collapsible camping trailer, the trailer shall be stored in a collapsed state.

Mobile homes or other mobile equipment or structures used temporarily in connection with construction, used as a dwelling, office or sales room may be located temporarily in all districts only after the release of a building permit and during the period of construction activity, under a temporary zoning permit, provided however, said trailer must be removed within ten (10) days after completion of construction.

Applies to ALL residential zones Only



RV= Major Recreational Vehicle