TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY FEBRUARY 8, 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 – 1/11/2012; Planning and Zoning Meeting – 1/25/2012
      Exhibit: Agenda Report No. 1
      Recommendation: Motion to Approve

E. PUBLIC HEARING:

F. PUBLIC:

G. ACTION:
   2. **Tractor Trailer Parking in Residential Zonings**
      Exhibit: Agenda Report No. 2
      Recommendation: Action

H. DISCUSSION:
   3. **Consider Suggestions from Mayor re: RV Parking**
      Exhibit: Agenda Report No. 3
      Recommendation: Discussion
   4. **Continue Review of Checklist and Requirements for Ponds**
      Exhibit: Agenda Report No. 4
      Recommendation: Discussion
   5. **Define "Light Industrial" Zoning**
      Exhibit: Agenda Report No. 5
      Recommendation: Discussion

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:
   6. **Setbacks in Residential Zonings**
   7. **R/LC Zoning Clarification**
   8. **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: February 08, 2012

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

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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 January 11, 2012
Draft minutes of P&Z Board Meeting of January 25, 2012

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
JANUARY 11, 2012 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

Denine said Zindel called and is still out of town with medical issues until after January16th.

C. ADDITIONS/DELETIONS/CHANGES: Krieger has problem with 3 and 4 being under Action because we have not finished the discussion of R/LC or FLUM. Chair Wilbur said we can discuss as an Action Item. Krieger respectfully disagreed.

Krieger said with the article on DCA in packet there is no rush to work on these items. Wilbur stated it is the job of P&Z to work on these items. Reilly said the items could be kept as Action and moved to Discussion when we get there. Ryan agreed with Krieger. Chair asked each member. Abare did not have a strong opinion either way. Ritter has thought of other issues re: R/LC and wants to have discussion on them. She also has concern on tax value of properties involved in changing FLUM. Stated she had questions on this and has not received definitive answers. Chair asked if we had planner here to answer those questions could they act on them. Board didn't want to pay for planner. Chair said if Board stated their questions, staff could get answers before the next meeting. Ritter said we have not gotten definitive answers on property values. Wilbur said we could ask staff ahead of time so we would have the information. Consensus to move items to Discussion.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 12/14/2011
   Exhibit: Agenda Report No. 1
   Recommendation: Motion to Approve

MOTION: Krieger / Ryan to approve Minutes of 12/14/2011 with corrections:
Corrections: Reilly said on pg 1 meeting was called to order by Reilly. Pg 2, public F. add that there was no presentation. J. on pg 5, She (who is she) Anne Crane. Abare asked and there is nothing – Adjournment was not Pat Reilly as he was Chair. Put Ritter down as doing motion.

Krieger: on pg 3, he has an editorial comment re: 3rd and 4th para - Wilbur said "guys" request. They should remove guys. Suggested using applicant or property owner. Franklin said that "guy" is the word that was used. Leave it as written.
Vote: All Ayes.

E. PUBLIC HEARING:

F. PUBLIC:
Juliana Hirsch, 1035 Malabar Road, has question on Item 3 which is now after 8. Why are we changing R/LC from 6 to 4 units per acre. For all these years it was 6 units. Ritter said it is a vision

the Board is proposing. Hirsch asked why change it from 6 to 4; it will be less tax and less revenues. Hirsch does not have a dog in fight. Hirsch asked why Ritter is only one that says anything about the reduction from 6 to 4; does Ritter imagine something in future. Hirsch said you have to be realistic; business wise from a builder and property owner she is looking at it. Hirsch also said this topic has been kicking around for over a year. This may go on another two years. Chair Wilbur said he thought Hirsch requested R/LC for her land. Hirsch said she has at one time; a year ago it seemed sensible, but certainly not for fewer units. Hirsch did not feel Board was looking at people who are here now. If change was from 10 to 5 units she could see, but from 6 to 4 does not make sense. Ritter said what is the main character of our Town - Rural, you can't have apartments. Hirsch said for 6 units per acre that is not very much; she has 10 acres. It is not about her. Hirsch said she has flood zone and wetland issues; it does not make sense to go through all this to go to 4 units.

Reilly said it is 4 people per unit. R/LC square foot per unit is maximum of 4000. So a townhouse and a business could operate. If it is only 4000sf then it makes sense because it is like a cat box.

Krieger said if we change the zoning and it increases the taxes for years before the owner requests the land use change he is against it.

Abare said he owned a large piece of land and the Town has a right to have a future land use map (FLUM). Abare did not think the Town can force you to change the zoning. Abare's understanding is that you can decline the change and keep your current zoning.

Wilbur gave comparison of lots on Pt Malabar vs. a lot in Malabar. Malabar will have a higher quality of life.

Hirsch just doesn't see why the Zoning Board and the Council take three years. Now you have decided to have some commercial on Malabar Road and then whammy you want to go from 6 to 4 units per acre in R/LC.

Ritter said if Hirsch likes the larger lots then why does she object to the change from 6 to 4.

Wilbur said if you are going to combine the two then you have to have open space. If you are just going to have office space that leaves at 5pm then they don't have to have the green space. Small businesses can't make it on Malabar Road. Abare said where there is water and sewer they will have development. Hirsch said there is water to Weber Road. Wilbur said water will come but it will only come with larger development. Hirsch said if she paid for the water she could get water to her place; she said the Town took over the lift station so it can be added to and she could hook up to sewer. Hirsch said tonight the Board shelved it again.

Tom Eschenberg, 2835 Beran Lane, regarding RV parking. He wanted to make sure the Board got the right paper. The one in the P&Z package he did originally. Then he did a marked up copy. He thinks it could be for action at next meeting.

G. ACTION:

2. Recommendation to Council re: Setbacks in All Residential Zones

Exhibit: Agenda Report No. 2

Recommendation: Action

Speaker card, Tom Eschenberg, 2835 Beran Lane, he was scanning 1-3.3A and he questions their not thinking of other residential zones. If RS-10 gets a ten foot setback why don't the others get ten feet? On the other hand why not give the other the benefit of the 15? That is all that would mean. Eschenberg said he is always for giving people more freedom instead of more government restrictions. Eschenberg stated he gets a P&Z package and has reviewed it and saw the part about deleting Section 1-5.10

DRAFT

He questions why we even need Table 1-3.3.(E) at all. He doesn't know why they have two tables. Wilbur said if a sidewalk was ever added you have that extra setback. Franklin explained that the two tables are used depending on whether the additional right of way has been dedicated to the Town. If a property owner simply does setback from property line and has not dedicated the additional right of way and his neighbor has, the setbacks do not match.

The Board has discussed this and consensus to keep both tables. Mayor suggested Board look at it again and make it clearer. If they don't look at it, Mayor will have to bring it to Council and they will be confused and it will help if they can read PZ minutes. The footnote for Table 1-3.3(A) of Code directs applicant to whichever setback is more restrictive.

Mayor said if they look at Table A and it is more restrictive then just do away with Table E. Wilbur thinks we should then increase the setback on arterial roads. Reilly tried to explain what Franklin had said about the reason for the two tables and the setbacks.

Abare said instead of footnote, put it in the table title. In foot note 2 eliminate the first part and just leave the last part. Ritter is using table on pg 16. Abare asked why we can't add words instead of footnotes.

Reilly said let's talk about changing side setbacks to 10 in all zoning. Ritter doesn't like it. It is not enough to get a fire truck. Smaller lots have smaller setbacks because the lots are smaller. Krieger doesn't think we should have rules on what a person can do on their property but if you are going to keep 7 that way it should be for all residential zonings.

Krieger said if the wind knocks it over it would not go to next property. Wilbur said what about a fire and a 30 foot clear zone. Fire codes have a lot to do with that. Most smaller lots have water available.

Abare said Mayor came to them with a request and P&Z gave a reasonable compromise. He doesn't think they should change the setbacks in the other residential zonings unless people in those zonings come in and ask.

Ritter said to use footnote 7 on all of them. Or go with zones that are already at 15 feet. Krieger said that would increase the ones that are smaller. Krieger said people don't go out to do things impractical. If you have a fence and swale that is a lot to put in on 10-feet setback.

Wilbur is ok with reduced setbacks in RR-65 for accessory structures.

Ritter said leave Footnote #7 across the board for all zonings. Krieger said to reduce it to 10 feet. Wilbur said it is ludicrous. Ritter asked if they wanted to reduce setback in RM6.

Wilbur said they need to be consistent and keep it in RR-65. Krieger said we all agreed to 15 feet.

Krieger gave example of fence in his neighborhood that was allowed to be built as a 8-foot high cinder block wall. If a neighbor wanted to put a shed next to the wall, he would have to setback 15 feet?

Reilly supports 15 feet.
Wilbur supports 15 feet.
Ritter supports 15 feet.

Good for Footnote #7 in all zonings? Reilly said no, just in RR65, RS 15 and RS 21.
Wilbur said in RR65 only.
Ryan agrees with Wilbur. Ritter RR65 and RM 4 – not the smaller one.
Abare would go with only RR65.

DRAFT

Wilbur works in Pt Malabar all the time and you would be surprised what could put on those lots.

Reilly is thinking only the RR65 and RS21. The others are smaller lots. The Board looked at where RS 21 was and that area is covered under their own covenants.

Keep with wording at beginning of meeting.

Merge the footnote 2 on the next table.

Reilly said keep paragraph E. Ritter said don't delete E.

Reilly asked if Section 1-5.10 should be deleted.

Ritter said delete the paragraph before the Table E.
Krieger said it should provide setbacks for all zonings depicted in the table.
Discussion - 3rd line of para

Discussed the widths of roads.

Franklin explained how the right of way dedication can affect the setback and how they use the two tables.

Ritter read how the paragraph E should read. Krieger agreed. She reread the suggested language.

Abare is talking about 60 ROW that has had some ROW dedicated and some not. Both Table A and E would require the same distance setback. Neither is more restrictive. They try the property on Highway 1 and then on north Corey. Abare wants to find example where E is more restrictive. Found it in MH Zoning.

Ryan got call and had to leave at 9:20PM

MOTION: Reilly / Abare to take all editing and combine into one document for Table 1-3.3.A.
They will have for Action at next meeting. New language will be underscored.
VOTE: All Ayes (Abare voted for Ryan)

Pg 12, building setbacks para in E. Add PRINCIPAL

3. Moved to Discussion (not action) after # 8
Recommendation to Council re: R/LC Zoning and Density Clarification
Exhibit: Agenda Report No. 3
Recommendation: Action

4. Moved to Discussion (not action) after # 8
Recommendation to Council re: FLUM Changes
Exhibit: Agenda Report No. 4
Recommendation: Action

H. DISCUSSION:

Skipped:
5. Continue Review of Checklist and Requirements for Ponds
Exhibit: Agenda Report No. 5
Recommendation: Discussion

DRAFT

Discussed:

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

Reilly said they agreed to clean up the paragraphs in Section 1-5.16 and discuss requiring a CUP process to park truck tractors and/or trailers.

Krieger said his problem – big vehicles – some should be handled by nuisance code and not in this section. CUP – he disagrees with this. Has truck at your property. If he is running a business from his house then that is the conditional use.

Krieger said to increase the hours to 72 hours. There is no limit now. Krieger said there is no problem right now. He does not see it as a problem. Krieger said Franklin showed the picture of a truck tractor and trailer parked on Corey. Now he wants to review the nuisance code.

Reilly stated the guy that started this was not in RR-65.

Wilbur said keep discussion for RR-65 since they have at least 1.5 acres and it can be in RS21 if they own several lots. Ritter said it is not just the people next to them. It could be the others they are driving past; if he has to leave early and comes in late.

Krieger is with Ritter on using State definitions.

Krieger does not want to require other requirements for people with trucks. Krieger said the trigger should be the business OL.

Abare asked if Reilly has problem with that. No, for truck tractor only.
Wilbur – he had neighbor and truck tractor only – no problem – dead end road.
Having a CUP – Abare why come in for CUP if they don't have problem.
Ritter has no problem with it either but not for the trailer part.

Krieger said allow it until it becomes a nuisance. Wilbur said the CUP would require them to have a site plan showing where it would be parked and stored. Ritter doesn't think they will get people to come in and do that. This would give mechanism if there is a complaint.

Krieger said when does it become a nuisance. Neighbor is very seldom there but has a huge RV and tows a car and another neighbor with a truck tractor and trailer. He has no problem with either.

Wilbur gave another example of someone parking a truck tractor and trailer by the church on Marie. Told and he moves it down the road and then on down the road. Then they dump the thing.

Krieger gives another example – truck tractor and trailer full of oranges. Is it agricultural or commercial? What about a huge combine on a truck tractor trailer flatbed – is it agricultural or commercial. What about if he drives it on his 50,000acre parcel.

Wilbur explained difference between agricultural vehicles and commercial vehicles. Ag vehicles have a registration number instead of a VIN.

Abare said if nothing is broken – then don't fix it.

Reilly said bring back next meeting.

Krieger asked where this is in the code book. Section 1-5.16. He found it and marked it and will review it for possible rewrite. Then he will have other items. Like difference between major and minor RVs.

Reilly then said review and consider whether to require the CUP. Also consider if you want to Keep at 65K and delete RR65.

Have for next meeting for discussion.

Skipped

7. Define "Light Industrial" Zoning
Exhibit: Agenda Report No. 7
Recommendation: Discussion

Last item.

8. Consider Suggestions from Mayor re: RV Parking
Exhibit: Agenda Report No. 8
Recommendation: Discussion

They discussed the Mayor's suggestions. Mayor said current code prohibits them from using their RV on their property.

Krieger said what about a collapsible plane or hot air balloon that is for recreation.

Wilbur said anyone should be able to sleep in their RV.

Ritter said it is not our place to give permission for kids to sleep or not in an RV regardless of age; that is parent's job. Krieger said what about a tent?

Mayor said you can't have it popped up in your yard.

Ritter said change it to conform to FS 320 and list the different types and include toy haulers.

Krieger said it should not be used as a domicile.

Reilly said work on this and bring it back.

MOTION: Reilly / Krieger recommend they skip all the rest of agenda items.
Vote: All Ayes.

Skipped:

4. Move to discussion after 8
Recommendation to Council re: FLUM Changes
Exhibit: Agenda Report No. 4
Recommendation: Action

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

9. Code Requirements for Assisted Living Facilities

J. PUBLIC:

Mayor, said regarding discussion of tractor trailer. Per the current code it is perfectly legal to park a rig on your property anywhere in Town.

DRAFT

If you want to now restrict it and make a new law that you can't park. Two totally separate issues. If you own it you can park it. If you don't own it you can't. That is the other section of the code – if you change that then anyone could park their tractor trailer anywhere in town. Abare asked how he felt. Mayor always votes for more freedom. Take out owner to be in control.
Keep them separate issues.
Quality of life is a nebulous term.

Re setbacks:
It seems to him they want to keep Table E. Look at each category and see when it is more restrictive. Krieger said only the main arterials should be in E. Only place it applies is MH Zoning. Mayor argued his point of deleting Table 1-3.3.E.

K OLD BUSINESS/NEW BUSINESS: None.

L. ADJOURN
There being no further business to discuss, **MOTION**: Reilly / Ritter to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 10:25 P.M.

BY:

_____
Bob Wilbur, Chair

_____
Debby Franklin, Recording Secretary

_____
Denine Sherear, P&Z Board Secretary

_____
Date Approved

DRAFT

"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
JANUARY 25, 2012 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

Franklin stated Zindel called and will continue to be out of State till mid February. She will keep us posted.

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:
1. **Approval of Minutes** Planning and Zoning Meeting – none

E. PUBLIC HEARING:
F. PUBLIC:
G. ACTION:
H. DISCUSSION:
Krieger wanted item 2 and 4 moved to item 1 and 2 because people are in audience.

This was moved to Discussion Item #1

2. **Tractor Trailer Parking in Residential Zonings**
   Exhibit: Agenda Report No. 2
   Recommendation: Discussion

Discussion:
Krieger said this was conflict between two paragraphs. The second para of this 1-5.16 should just be dropped. (deleted) He looked at nuisance ordinance and thinks that pg 693 can be used to handle this. He has under the control of the legal property owner. Where it reads shall it should be *may*. He thinks that is incredibly restrictive.

Without defining trucks the two things he would change:
- in first paragraph put *under control* instead of license plate.
- if you leave the second paragraph in then add *under control* instead of legal owner.

Wilbur said truck is vehicle of 5000 or less. A 1-ton truck is over 9000 pounds. It was recommended to him that anything that requires a CDL then is considered a heavy truck.

Ritter said use the definition in the FS 320. Wilbur said these definitions still limit personal vehicles. Ritter said if it is not for commercial use or farm use. If for commercial use then they should have business license. Abare liked Wilbur's idea.

DRAFT

Krieger likes to keep it simple. Use state definition so we don't have to change code when state changes definitions. Who does this affect? He doesn't like the whole chapter. If you get a big RV do you have to have one of those lic? Ritter said no – it is private.

Chuck McClelland said years ago they had chauffeurs license and then State got rid of it. Then got Class D and CDLs. Then soccer moms were getting tickets. You can drive any vehicle up to 26,000 pounds and any RV.

In the truck tractor they go by gross weight not net weight. This is throwing this into the large dump truck. Liz said how many have a dump truck without a bus lic. Dump trucks are the same size as tractor trailers. He had class C up to 26000 pounds. Anyone can drive his tow truck.

Krieger said they came up with control aspect instead of owner for vehicle. Ritter read it again from Florida Statute 320. Should vehicles be defined per FS 320?

Make it all one paragraph or dump it completely. Ritter said add it to bottom of 1-5.16. Change the heading and change title. It is also for construction and storage.

Krieger said the difference is commercial and non-commercial. Can you have a semi-tractor that is not business related? Reilly said it should be separate – Section 1-5.15 and 1-5.16. Reilly said this item is just about 1-5.16.

Krieger said the question they were asked, if you are leasing a vehicle you are in violation of this section of the code.

Ritter said trucks as stated in FS 320. Krieger said are we trying to fix the paragraph. Reilly said yes. Abare said what about the requirement to CDL license. What state requires for CDL then you need to get CUP. Wilbur said that will police itself. Chuck said you can drive dump and tractor without a CDL. Abare drove a truck years before and he had to have a chauffeur license.

Ryan asked about neighbors that move. Initially no problem and then moved and new neighbors don't like it. Code Enforcement would trip it if there is a complaint.

Reilly said we need to wordsmith the two paragraphs and then do we want to add the CUP in another paragraph.

Krieger still thinks this is a major step that is not necessary because it is dealing with such a small part of this town. Why are we talking about it? The town will be controlled by the gated communities. In his mind, someone can drive in with a huge boat and different people are offended by different people. He said he would be in violation if he leases a car. Let's not build up a whole bureaucracy that will control all uses. He may want to buy an airplane and park it in his front yard. If is recreational it should be allowed. Krieger said the other should be controlled by home occupational license. It is part of their livelihood.

Abare said Krieger is being redundant as they all know how he feels; he doesn't like this ordinance.

Ritter said it is the size and if one is tagging on the other. Don't make everybody go in for a CUP but also so they don't get in trouble by the town.

Ryan said the example of person with a medium size box van that uses it for work. He gets his call by phone, needs a BTR, which should be a requirement. Ritter said if they are using vehicle as part of a business then BTR takes care of it. If it is used for personal then it should be no problem.

Ryan talked about Arlo Gurthie who has a large motor coach. Is that commercial? Ritter said no it is for his personal use. It is his home away from home.

Reilly asked what they wanted in 3rd paragraph. The Florida Statute reference for definitions can be added to first paragraph.

The CUP in the 3rd .para use – private vs. commercial- we don't care about those who drive as part of their business.

Wilbur read commercial vehicle – 26,001pounds GVW or has 3 or more axles regardless of weight. If its use is not for profit it is not commercial.

Krieger said if you have a Peterbuilt cab and a trailer and you keep a trailer for your race cars and you drive your big fancy truck on Rocky Point Rd. It is not commercial. Ritter said she sees them and they are private use.

Krieger said he is not against this. He doesn't see a truck tractor parking on Blanche or Florence but for those that have 30 or 50 acres you are just making more criminals by not allowing it.

Wilbur relayed story of a friend that has a truck tractor. Has equipment trailer that he stores at industrial storage yard. He drives his truck tractor home. His single axle freightliner and he lives in a residential area in Melbourne and has no problem with neighbors. When he parks his truck tractor it is not visible.

Krieger said to add the visibility requirement to the paragraph and just add trucks larger than must be screened. The requirement is already in code.

Abare asked what initiated this. Wording? Yes. Abare polled board members on if they had issue. No clear consensus. Ritter said if it is not causing a safety problem and not on public street; just allow the truck tractors to park. She says she does not have problem in RR-65 with truck tractors and trailers. In smaller residential areas, then only the truck tractors.

Wilbur relayed the large trailers that deliver hay in large trailers. They could stay on property for a long while. They are like large roll offs. Ritter asked if they would be considered agricultural.

Krieger is ready to read new paragraph he proposes. Abare is still trying to see if there is a problem and asked again if Ritter had a problem with truck tractor and trailer parking. Ritter said no problem because they are raising cattle. Abare said Bldg. Ofc. said he could get a pole barn on 5 acres.

Reilly said a toy hauler, stockade trailer, enclosed trailer, and 18 wheeler could be an F350 that pulls these. Wilbur said you have to have 3 axles to be defined a heavy truck. Ryan said you can't maneuver on our streets. Abare said it would mess up the driveway. Ryan said it would mess up the road. Ritter said they should have to fix it if they mess it up.

Abare said do you have a problem with that? Reilly said no. Ritter said no, she can't imagine them parking it on this lot. She said there isn't any problem because they would not park on smaller lots.

Krieger read his draft version of first paragraph. Ritter said the first sentence is too long. It should be just owner. Abare asked Reilly to draft for next meeting and Krieger to draft his for next meeting.

Wilbur said then we can ask Council about the CUP. Ritter doesn't want to make people get CUPs.

Chair directed this to be on for action at next meeting.

DRAFT

This was moved to Discussion Item #2

4. Consider Suggestions from Mayor re: RV Parking
Exhibit: Agenda Report No. 4
Recommendation: Discussion

Krieger wanted this to be next since it was the Mayor's. They discussed Ritter's handout.

Krieger referred to Mayor's handout. He read from his marked up copy. Krieger wanted to change residential to non-commercial. They discussed his recommendation. See draft. Then went over Ritter's. Ryan, Wilbur and Abare liked Ritter's. Ritter said they can change residential to non-commercial. They liked #3 on hers. Krieger said it can be resolved with nuisance code and was not needed. Krieger said what about someone who is repairing an RV over time. That doesn't mean it is not usable. Ritter said it is not functional as its intended purpose.

Ryan asked about the example of a RV used for storage instead of a RV. If there is a complaint. Ritter said it should be a shed then instead of an RV. Ryan said for every law there can be found a way around it.

Krieger said instead say permanent unusable condition. Krieger said it should say it is expected instead of making it a regulation. He said if it is in back yard then it is no problem. Krieger said then on US 1, on water side, you couldn't park an RV there. Wilbur and Abare said you can't park RV on that side as you are in right of way. Krieger said yes you can. Abare asked how many park there. Krieger said several MMA members park their RVs in front of their land on US 1. Krieger said you can't park RV in front of Yellow Dog. Krieger said the entire parking is in DOT ROW.
Krieger said what about a boat Captain that teaches sailing and has class at his house? Ryan said no home business can operate out of this. Ryan said we can look at both versions again next meeting.

Wilbur said why can't we have a decision now. No. They will submit for next meeting.

This was moved to Discussion Item #3

1. Continue Review of Checklist and Requirements for Ponds
Exhibit: Agenda Report No. 1
Recommendation: Discussion

Discussion:
Reilly referred to the ordinance he provided and said he separated the two – decorative water features and ponds. He asked Board to look at note at top. Section 5-0.e is what he wants to speak about – page 43. He wants to get to hard part - disposal of excavated material.

Ritter said we need to define muck and what acceptable material is.

Wilbur said he would remove all of #1.
In D. no excavated material in a pond and remove ¼ acre since we got rid of this and pond is 1,000 sf. Abare said why give them an out. Krieger said if you are building a subdivision you can take as much dirt off site as you want. As a rural owner you don't have that right. So on your 20 acre site you should be able to take whatever you want. Krieger said the reason they started defining types of soil is to give them excuse to take it off property.

Abare said a truck load of fill used to cost $300 and it was not unusual to spend tens of thousands on fill and have to wait on it. The reason for most to dig a pond is so they can use material for fill for house. Krieger said that a pond as part of house construction should not require any permit.

Abare stated fill is cheaper now and you can get it the next day. Abare referred to the guy that came in that is not building a house and asked what is reasonable to allow to take off site. Wilbur said it is not up to P&Z; it is up to licensed engineer. Abare said if we have no say then why not pass onto to engineer.

Abare asked who is going to make impassioned speech on why it should not be carried off. Reilly said if you build up your land and cause flooding on your neighbor.

C is a good one.
D. no excavated material on a pond may be sold. 3. Material that is not useable can leave the site.

Wayne said if you allow him to haul it off how do you know where it is going? Under D. Wilbur wants to include decorative water feature.

Under C. If the fill is surplus then under D. if he can't use the soil why can't he give it away. Should the town care what he does with the excess fill?

Abare suggests they get rid of D.

Wilbur said go back to E. and if Engineer states it is surplus it can be removed from Town; 300 truck loads is a lot of dirt. Abare doesn't think C. is any of our business; that's his opinion. Reilly sees his point.

Abare said the intention is for it not to be mined and sold. At $90 a truck load you won't make a lot of money.

Ryan said he had pool put in and they had to take dirt out and haul it to landfill. When he realized his yard was flooding on his neighbors he called the pool contractor and had him drop off dirt rather than take it to land fill for his yard and he now fixed flooding problems.

Krieger said he probably affected 1000 sf and should have gotten a permit and an engineered site plan, etc. Krieger said if he goes to Home Depot and buys a small pool and digs a hole with a shovel and creates a small hole and puts in the small pool does he need engineering. Abare said that would not require permit. Abare said that it would be defined under DWF. Krieger said if he digs a hole for a mailbox and takes dirt to back yard has he affected the topography.

Reilly got Board back on track and said the pretense of 1-5 was to make progress on that section. Then went over the exclusions. Topsoil is not exclusion. There is no definition for top soil Muck can be hauled off. You can't get compaction. There is a fine line between muck and topsoil. Muck would have organic material in it.

Reilly suggested going back to first page of ordinance; #3 town eng must approve removal of muck. Now done with his point so they go back to Pg 38.

Wilbur said staff should check Brevard Cty soil survey – they define the soil types. Different soil types. We will check online. Soil survey Brevard Cty – Denine will get info.

Pg 38 – Reilly said this is word for word from current code. He cut and pasted from Municode. Krieger has problem with wording. The Town is the body having jurisdiction; the five members. The engineer is another person of authority that has to be here.

Abare said if you want to do DWF you may need engineer to review application for trees or wetlands. They discussed the difference between developed land and undeveloped land.
Krieger stated if you are not bothering your neighbor then whose business is it.

Abare said what about digging a pond in the center of wetlands. Krieger said then St Johns will cover that.

Abare said Building Official looks at the setbacks and then looks at the wetlands. Wilbur said you have to have oversight. If you want to put a plastic pool in then that is landscaping. If you are going to put in side slopes, then it is more than that. Krieger said Ryan has pond and there was no engineering. Krieger said he did his own engineering on his pond. He is a bit of an engineer. He said the Town now has an office of Town Engineer. What's wrong with using the building official or a Town official? Krieger said he would like to simplify things. Abare said we have had a Town Engineer.

Reilly said to skip past the definitions and go to pg 39. Ritter said 1 and 2 are identical. Do we need a permit for decorative water feature (DWF)? Reilly and Abare said yes. Krieger said it depends on the size and if it is covered by St. Johns. Krieger said if it is filled then it should not need permit. Reilly suggested they get off definitions or we would be here all night. Abare and Ryan thanked him.

Abare said there is a hole that someone used to fill trash on property he is interested in and Building Official told him he needed a permit to fill it. Krieger said you can bring dirt in right now without a permit.

Reilly said they are split because they were going to have two checklists. One is simple and one more detailed. Ritter said have one checklist and for a DWF you go by the first 10 items and for a pond you go thru all 30 items. Ritter doesn't like the identical lists and suggested Board sort through them. Reilly suggested Ritter do as a take home exercise.

Reilly said he separated everything. Abare likes the separation.

Franklin said the Board has earlier agreed to a hand drawn sketch by applicant showing DWF location, setbacks, any trees in the area of the DWF and evidence that it is not in a wetland and then the Bldg Official could approve.

Wilbur said a pond required more engineering that shows slopes, and overflow and drainage pipe. Wilbur has no problem with making people think. There is a lot to take into consideration when you are considering this. How are you going to fill it? Krieger said a pond does not make more water. Water makes more water. Wilbur said what you do with your pond can affect your neighbor.

Krieger said wetlands on a developed 1.5 acre site is no longer wetlands. Wilbur disagreed and gave example of property on Atz that could only build on a small part of the parcel.

Abare said he has talked to DEP and they can't clear wetland. If there is a tree on property you can't remove the roots, even if it is an evasive.

RE: #4. Appeal process. Reilly put it together. 6,7,8 Reilly left alone. Wilbur said Reilly did a good job. They have fill in original code because you still have review if you are digging or filling.

Abare asked where are we going to put verbiage for checklist. Put in with permits? Or site plan. Abare said on pg 46 any place it has 1.4 acre change to 1000sf or less.

Wilbur said if you are going 6:1 ratio you are not going to get to 12feet deep for a DWF. Abare said change distance to 50' and only from drain field for DWF.

Discharge pipe – only for a pond. A DWF can only be 3' deep.
Does this need to be on checklist? You need this because you have to say what you are going to do with displaced soil.

Krieger said to use *detailed plan* instead of accurate plan and take out boundary survey. He said it doesn't have to be per scale for DWF. Get grid paper. Board disagreed with Krieger.

Location of pond or DWF needs to be on sketch and typical side slopes (DWF and pond) as it could be dangerous to children. Also proof on ownership. Franklin said the Bldg Dept is supposed to support itself and cost of Bldg Ofc is part of that. Board agreed to charge a fee.

Add trees location on sketch (8" or bigger) where DWF is planned

For Pond checklist add the following to the above list:
Easements – also add to decorative water feature
Wilbur asked if we need to ask for a topo survey – very expensive.
Yes if it is for a pond that exceeds a certain size – like a lake pick a size.
Wilbur said as technology progresses we can get topo on our phone.
GPS and Google will not provide accurate info.

Krieger said if it is built and bermed why need a topo.
Wilbur said a pond would produce substantially more fill to place in a yard,

Krieger asked to table Agenda Item #5. He does not think the item will be back.
MOTION: Krieger / Ryan to table until such time as we want to bring it back.
Discussion: Wilbur wants to keep it on for action. Reilly also.
Vote: Aye, 2 (Krieger, Ryan); Nay, 3 (Wilber, Reilly, Ritter)
Motion failed 3 to 2.

Items not covered:

3. **Define "Light Industrial" Zoning**
   Exhibit: Agenda Report No. 3
   Recommendation: Discussion

4. **Recommendation to Council re: FLUM Changes**
   Exhibit: Agenda Report No. 4
   Recommendation: Action

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

5. **Code Requirements for Assisted Living Facilities**

J. PUBLIC:

Mayor wanted to comment on their discussion on ponds and RVS. He asked the Board if he had a ten-acre piece of land and built a five-acre pond and sold all the dirt, how does that affect my neighbor or the town. Ritter said the land is here forever and people aren't. Why should they be able to change topo?

Re: RVs – he likes Krieger's version best with the addition of the Florida Statute definition up front and change of CO (certificate of occupancy) at the end.

Regarding Ritter's version:
#2 is not necessary as it is already illegal.
#3 is covered in nuisance code
#1, insisted on keeping ROW in there the word within means he can park partially within.

That's all.

OLD BUSINESS/NEW BUSINESS:

Krieger asked for update from staff on recent presentation regarding riverfront. Franklin said Park Board Member Bunnie Knudson made presentation to Council last week about a property on the riverfront that is for sale for possible recreation area. The Park Board has made a recommendation that will go for action at the February 6, 2012 Council meeting. There will be another presentation then.

Krieger said somehow it went through the Park Board and since it involves land use it should go through this Board.

L. ADJOURN

There being no further business to discuss, **MOTION**: Reilly / Ryan to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 10:25 P.M.

BY:

_____
Bob Wilbur, Chair

_____
Debby Franklin, Recording Secretary

_____
Denine Sherear, P&Z Board Secretary

_____
Date Approved

DRAFT

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: February 8, 2012

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

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SUBJECT: Parking Tractor Trucks in Residential Zonings

BACKGROUND/HISTORY:

The Chair directed this to be on the agenda for action at this meeting.

ATTACHMENTS:
Article V, General Provisions, Section 1-5.16

ACTION OPTIONS:
Recommendation to Council

Portion of Malabar LDC General Provision, Article V, Section 1-5.16

No automotive vehicles or trailers of any kind or type or any recreational equipment without required current license plates shall be parked or stored on any residentially zoned property other than in an enclosed building, carport or behind a barrier which obscures visibility from any public or approved private street, or adjacent property provided the location is not in any required yard area. This section shall not apply to operative agricultural vehicles or equipment within an RR-65 district.

Any above referenced vehicles or equipment that are visible from a public or private street or from adjacent property shall be titled to the property owner or legal resident or it shall be considered abandoned property under ordinance 3-1-77, § 1 (Section 11-26, Town of Malabar Code of Ordinances).

(Ord. No. 92-8, § 1(F), (G), 8-18-92)

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: February 8, 2012

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

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SUBJECT: RV Parking

BACKGROUND/HISTORY:

This is picked up from last meeting. Board was going to discuss submittals from Board Members and from the Mayor.

ATTACHMENTS:
Submittals from Board Members
Submittal from Mayor

ACTION OPTIONS:
Discussion

Section 1-5.15.

ADD → Definitions

'R.V.' in this Chapter shall mean: **R**ecreational **V**ehicle type units, as defined in the Florida Statutes, Chapter 320; specifically: travel trailer, camping trailer, truck camper, motor home, private motor coach, van conversion, park trailer, and fifth-wheel trailer.

'M.H.' in this Chapter shall mean: **M**obile **H**ome or **M**anufactured **H**ome, also as defined in the Florida Statutes, Chapter 320.

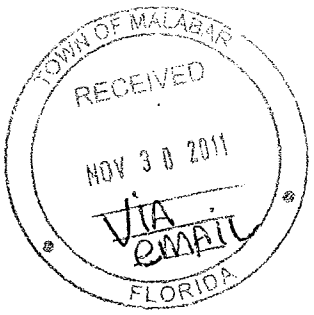
1. No R.V., boat &/or trailer shall be parked or stored within the required front yard setback in any residential district or within any public right-of-way.
2. No R.V., boat &/or trailer shall be used for commercial purposes ~~when~~ on a ~~residential lot or any location not approved for such use.~~

NON-COMMERCIAL DISTRICT IN

3. Any R.V., boat &/or trailer shall be kept in a useable functioning condition for their intended use.

In connection with construction, an R.V., M.H., or other temporary structure may be used in all districts, only after receiving an approved building permit, and only during active construction. After completion of construction, above said structures shall be removed within ten (10) days. + Receipt of C.C

The above is proposed by Liz Ritter this date 1-25-12



Agenda Item 2

From: Mayor Tom Eschenberg

Ref: P&Z recommendation on RV parking.

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~~ Remain non commercial within the front setback in any residential district. ~~for more than forty-eight (48) hours during loading or unloading.~~ for any purpose other than 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.~~ a permanent living area Children under 14 years of age are exempt and may sleep overnight in a motorhome or camper.

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. ↓ receiving a C.O.

The above changes to No.1 reflect my understanding of the intent of P&Z. I have attended a number of P&Z meetings that this item was discussed.
The changes to Nos. 2 & 3 are my recommendations. P&Z did not discuss these items.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: February 8, 2012

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

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SUBJECT: Decorative Water Features and Ponds

BACKGROUND/HISTORY:
The Board directed staff to send checklist and application in Word so Board could provide input.

ATTACHMENTS:
Checklist for DWF
Site Plan application

ACTION OPTIONS:
Recommend Council approve the changes. This will be included in the ordinance amending the land use code.

2725 Malabar Road
Malabar, FL 32950
321-727-7764 Ext. 14 321-727.9997 (Fax)
www.townofmalabar.org

Checklist for Decorative Water Feature (DWF)

(size 1,000 sf or less)

__1. Located more ~~Greater~~ than 50 ~~75~~ feet from ~~Septic Tank and/or~~ Drain field

__2. Meets or exceeds Building Setbacks for Zoning

__3. Positive Overflow Discharge to Town of Malabar Stormwater Discharge Swale/Ditch

__4. ~~Soil Displaced Remains On-Site~~

__5. Detailed Plan ~~Accurate Layout Plan (to Scale) on Boundary Survey~~ showing DWF location, trees in project area and placement of excavated material ~~Soil Displacement Area~~

__6. ~~Accurate Layout Plan (to Scale) on Boundary Survey Showing Location of Displaced Soil~~

__7. ~~Proposed Location of Stormwater Best Management Practices (BMP) Silt Fence, Siltation Barrier, etc.~~

__8. ~~Typical Section for Side Slopes Inside Soil Displacement Area~~

__9. Executed Disclosure of Ownership

__10. Sod Side Slopes and Positive Overflow Discharge Path

__11. Wetland Lines if Applicable

__12. Pay Permit Fee

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 Ext. 14 Fax # (321) 727-9997

APPLICATION FOR POND REVIEW

Project Name: _____ Date: _____
Name of Property Owner(s): _____ Telephone: _____

E- Mail Address: _____

Mailing Address: _____ Fax: _____

City, State, Zip: _____ Cell: _____

Legal Description of Property Covered by Application:

Township: _____ Range: _____ Section: _____ Lot/Block: _____, Parcel: _____

Subdivision: _____ Tax Acct No.: _____

Gross acreage: _____ Setbacks: Front: ____; Rear:____; Side:____; Side corner:_____
Flood Zone: _____ Per FEMA Flood Insurance Rate Map
Wetlands Present: _____ Mitigation required? _____ Permit required? _____

The applicant is required to submit TWO original ~~Site Plans~~ Sealed Dimensional DWG with supporting 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.
_____ Existing structures shown on sketch (including setbacks from all property lines
_____ location of well and drain field
_____ Stormwater management plan
_____ Tree Location in pond area identifying trees 8"dbh (diameter at breast height) and larger.

****

Pond Review - $100.00 for ponds over 1,000sf.

- Summary of Required Attachments for Site Plan Review:
  - Completed Application, including Disclosure of Ownership (Pages 1 and 2).
  - Fee of $_____, in **check or money order**, payable to the Town of Malabar.
  - Copies of all Federal, State, and Local agency permits. **It shall be the applicant's responsibility to obtain such outside permits, prior to Town review.**

Signature of Applicant(s): Date:

_____ _____

_____ _____

_____ _____

Signature of Town's Personnel

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 _____.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: February 8, 2012

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

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SUBJECT: Light Industrial Zoning

BACKGROUND/HISTORY:

This is picked up from earlier meetings. Board was going to discuss submittals from Board Members.

ATTACHMENTS:
Submittals from Board Members
Minutes from P&Z mtg 7/27/11

ACTION OPTIONS:
Discussion

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: 6
Meeting Date: January 8, 2012

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

SUBJECT: Setbacks in Table 1-3.3(A) and E. And Rewording of Section 1-5.10.

BACKGROUND/HISTORY:
The Board directed staff to incorporate all proposed changes to setbacks into Table 1-3.3(A). This includes the proposed new Footnote 7, adding clearer titles to column headings and filling in regulations in each block.

We also revised the language in Table 1-3.3(E)

ATTACHMENTS:
Table 1-3.3(A) with proposed changes
Table 1-3.3(E) with proposed changes
Section 1-5.10 with proposed changes

ACTION OPTIONS:
Recommend Council approve the changes. This will be included in the ordinance amending the land use code.

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS FOR PRINCIPAL STRUCTURES See (numbered) Notes below

	Minimum Lot (1)					Setback (ft.)from property line (2)				MISR	MBC	MOS	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 (interior)	Side (corner)	Maximum Impervious Surface Ratio (%)	Maximum Building Coverage (%)	Minimum Open Space (%)	
Rural Residential Development													
RR-65	65,340	150	250	35/3	Single Family:1500	40	30 (7)	30 (7)	30	20	N/A	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
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	3
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4
Multiple Family Residential Development													
RM-4	5-acre min Site	200	200	35/3	Single Family 1,200	60	40	40	40	50	N/A	50	4
RM-4	5-acre min Site	200	200	35/3	Multiple Family 1-bedroom 900 ea. additional Bedroom 120 ~~2-BR: 1100~~ ~~3-BR: 1300~~	60	40	40	40	50	N/A	50	4
RM-6	5-acre min Site	200	200	35/3	Single Family 1200	25	20	10	10	50	N/A	50	6
RM-6	5-acre min Site	200	200	35/3	Multiple Family ~~1 BR: 500~~ ~~2 BR: 700~~ ~~3 BR: 900~~ 1-Bedroom 900 ea. additional Bedroom 120	60	40	40	40	50	N/A	50	6

REVISED TABLE

Note 1 Minimum ~~size sites and~~ lots ~~include~~ plus one-half of adjacent public right-of-way.
Note 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(A) or (E) whichever is most restrictive.
~~Editor's note — 3 Setbacks where rear lot line abuts alley~~
Note 4 Setback shall be greater where side property line abuts a district requiring a larger setback ~~.on the abutting yard~~. In such cases the more restrictive abutting setback shall apply
Note 5 Where any yard of Industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
Note 6 Recreation activities Maximum Building coverage shall be 20% ~~FAR shall be .10%.~~
Note 7: 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, ie. If the height of the accessory structure is 20 feet, this will equal a 20 foot setback.

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS **FOR PRINCIPAL STRUCTURES See (numbered) Notes below**

Minimum Lot (1)						Setback (ft) from property line (2)							
Zoning District	Size (Sq. ft)	Width (ft)	Depth (ft)	Max Height Ft/stories)	Min Living Area (sq ft)	Front	Rear	Side (Int)	Side (corner)	MISR (%)	MBC (%)	MOS (%)	Max Density Unit/ac
Mobile Home Residential Development													
R-MH	Site: 5 acres Lot: 7000					10	8	8	10	50	N/A	50	6
Mixed Use Development													
R/LC	20,000	100	150	35/3	Single Family: 1200	25	20	10	10	50	N/A	50	4
R/LC	20,000	100	150	35/3	Multiple Family: 1 Bedroom: 900 ~~2 Bedroom: 700~~ ~~3 Bedroom: 900~~ Each Additional Bedroom: 120	50	25	10(4)[4]	20	65	N/A	35	**6** **4**
R/LC	20,000	100	150	35/3	Commercial Min. Area: 900 Max. Area 4,000	50	25	10(4)[4]	20	65	~~0.20~~ **20**	35	
Office Development													
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A

Note 1 Minimum ~~size sites and~~ lots ~~include~~ plus one-half of adjacent public right-of-way.
Note 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(A) or (E) whichever is most restrictive.
~~Editor's note – 3 Setbacks where rear lot line abuts alley.~~
Note 4 Setback shall be greater where side property line abuts a district requiring a larger setback ~~.on the abutting yard~~. In such cases the more restrictive abutting setback shall apply
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Note 6 Recreation activities Maximum Building coverage shall be 20% ~~FAR shall be .10%.~~
Note 7: 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, ie. If the height of the accessory structure is 20 feet, this will equal a 20 foot setback.

REVISED TABLE

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS FOR PRINCIPAL STRUCTURES See (numbered) Notes below

	Minimum Lot (1)					Setback (ft.)from property line (2)				Maximum Impervious Surface Ratio (%)			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 (inter-ior)	Side (corner)		Maximum Building Coverage(%)	Minimum Open Space (%)	
Commercial Development													
CL	20,000	100	150	35/3	Min Floor Area: 900 Max Floor Area: 4000	50	25	10 (4) 15 (3)	20	65	~~.20~~ **20**	35	N/A
CG	20,000	100	150	35/3	Min Floor Area: 1200 Minimum Hotel/Motel Area: 300 ea unit	50	25	20 (4) 15 (3)	30	65	~~.20~~ **20**	35	N/A
Industrial Development													
IND	20,000	100	150	35/3	Min Floor Area: 1200	50 100(5)	25 100(5)	20 100(5)	30 100(5)	70	~~.42~~ 42 Check Comp Plan	30	N/A
Institutional Development													
INS	20,000	100	150	35/3	Min Floor Area: 1200	50	25	20	30	60	~~.20~~ 20 ~~.10(6)~~ 10(6)	40	N/A
Coastal Preservation													
CP	No Size and Dimension ~~Standards~~ Regulations Adopted												

Note 1 Minimum ~~size sites and~~ lots ~~include~~ plus one-half of adjacent public right-of-way.
Note 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(A) or (E) whichever is ~~most~~ restrictive.
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Note 7: 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, ie. If the height of the accessory structure is 20 feet, this will equal a 20 foot setback.

REVISED TABLE

Section E.

~~*Building* *Principal Structures*~~ *Setbacks.* Table 1-3.3(A) provides building setbacks for all the zoning districts. ~~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~~ the required minimum setback from ~~the~~ thoroughfare shall be measured from the centerline of the right-of-way.

as in Table 1-3.3 (E). ~~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~~ PRINCIPAL STRUCTURES SETBACKS FROM THOROUGHFARES ~~STREETS AND ROADS~~ FROM CENTERLINE

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

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. Ref Art III-Table 1-3.3 (A) & (E)

~~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.~~

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 7
Meeting Date: February 8, 2012

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

SUBJECT: Residential / Limited Commercial Zoning & Density Clarification

BACKGROUND/HISTORY:
The Board wants to establish the criteria for R/LC so an ordinance can be drafted to amend Malabar Land Development Code to provide for R/LC for properties along Malabar Road, Babcock Street and Highway 1.

Recommend Council approve the changes to Article III 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 field; 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

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 four (4) ~~six (6)~~ units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.
- Residential use shall not exceed commercial use by more than one
- Commercial use shall not exceed residential use by more than one

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

Single family or multiple family residential uses with a density no greater than four (4) ~~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.~~ VII

Cross reference— Alcoholic beverages, ch. 4

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS FOR PRINCIPAL STRUCTURES See (numbered) Notes below

Minimum Lot (1)						Setback (ft) from property line (2)							
Zoning District	Size (Sq. ft)	Width (ft)	Depth (ft)	Max Height Ft/stories)	Min Living Area (sq ft)	Front	Rear	Side (Int)	Side (corner)	MSR (%)	MBC (%)	MOS (%)	Max Density Unit/ac
Mobile Home Residential Development													
R-MH	Site: 5 acres Lot: 7000					10	8	8	10	50	N/A	50	6
Mixed Use Development													
R/LC	20,000	100	150	35/3	Single Family: 1200	25	20	10	10	50	N/A	50	4
R/LC	20,000	100	150	35/3	Multiple Family: 1 Bedroom: 900 ~~2 Bedroom: 700~~ ~~3 Bedroom: 900~~ Each Additional Bedroom: 120	50	25	10(4)[4]	20	65	N/A	35	**6** **4**
R/LC	20,000	100	150	35/3	Commercial Min. Area: 900 Max. Area 4,000	50	25	10(4)[4]	20	65	~~0.20~~ **20**	35	
Office Development													
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A

REVISED TABLE

Note 1 Minimum ~~size sites and~~ lots ~~include~~ plus one-half of adjacent public right-of-way.
Note 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(A) or (E) whichever is most restrictive.
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Note 6 Recreation activities Maximum Building coverage shall be 20% ~~FAR shall be .10%.~~
Note 7: 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, ie. If the height of the accessory structure is 20 feet, this will equal a 20 foot setback.

Portion from Malabar LDC Article XX, Language and Definitions

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

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

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

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 residential building ~~dwelling~~ 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 residential 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.

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.

4. Residential/Limited Commercial Zoning & Density Clarification

Exhibit: Agenda Report No. 4

Recommendation: Discussion

Speaker's Card: Tom Eschenberg, Beran Lane, regarding R/LC, he was not here but he thinks going back to when it was created, the intent was to encourage the mixed use of residential and limited commercial. He stated you have to do something to still encourage it. If someone comes in and wants to build a large apartment building or a large commercial strip center they could. If you want to encourage the mixed use, the simplest way to do it is to put in the Code that the residential use shall not exceed the commercial development by more than one; the commercial development shall not exceed the residential use by more than one.

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

- residential shall not exceed by more than one;
- Commercial shall not exceed res 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.