TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY FEBRUARY 22, 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 – 2/08/2012
   Exhibit: Agenda Report No. 1
   Recommendation: Motion to Approve

E. PUBLIC HEARING:

F. PUBLIC:

G. ACTION:

2. **Section 1-5.16 Tractor Trailer Parking in Residential Zonings**
   Exhibit: Agenda Report No. 2
   Recommendation: Action

H. DISCUSSION:

3. **Section 1-5.15 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: Camelot RV Park, Inc. – Pool Site Plan, 3-14-12
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 22, 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 February 8, 2012 **(To be provided 2/21/2012)**

ACTION OPTIONS:
Secretary requests approval of the minutes.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: January 22, 2012

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

SUBJECT: Section 1-5.16 Parking Tractor Trucks in RR-65 Zoning

BACKGROUND/HISTORY:
This is carried forward from last meeting.
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:

- Mayor Eschenberg suggestions for Section 1.5.16 (2 pages 2/6/12)
- Don Kreiger suggestions for Section 1.5.15 & Section 1.5.16 (1 page 2/8/12)
- Liz Ritter suggestions for Section 1.5.15 (1 page 1/25/12)
- Section 1-5.16 from Code with "mark up's" from 2/8/2012

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

2/6/2012

From: Mayor Tom Eschenberg

Ref: Recommendation to P&Z .

Section 1-5.16. - Parking, storage of vehicles.

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 automotive vehicles or trailers of any kind or type or any recreational equipment with current license plates that are visible from a public or private street or from adjacent property shall be under the control of the property owner or legal resident.

(Krieger submitted for last P&Z February 8, 2012)

Parkingstoragesection1-5.15and16

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

Vehicles or equipment shall not block any public or approved private streets.

1.
~~No major recreational equipment~~ Equipment or vehicles shall not remain in the same location ~~be parked or stored~~ in any ~~residential~~ required front yard in any ~~residential~~ non-commercial district for more than forty-eight (48) hours ~~during loading or unloading~~.
2.
~~No such major recreational equipment~~ Vehicles or equipment shall not be permanently 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.

Section 1-5.16. - Parking, storage of vehicles.
The parking or storage of vehicles shall not block any public or approved private streets.
No automotive vehicles or trailers ~~of any kind or type~~ or ~~any~~ recreational vehicles not owned or controlled by the legal resident or property owner ~~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 or enclosed by 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, automotive vehicles, trailers, or recreational vehicles and equipment or agricultural 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 that is inoperative and presents a nuisance ~~shall be titled to the property owner or legal resident or it shall~~ may be considered abandoned property under ordinance 3-1-77,

PZ Meeting Hand out 1/25/12 Handed out @ meeting DS

Section 1-5.15.
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~~ NON COMMERCIAL district or within any public right-of-way.
2. No R.V., boat &/or trailer shall be used for commercial purposes ~~when~~ IN on a ~~residential lot or any location not approved for such use.~~ RESIDENTIAL to NON COMMERCIAL NON COMMERCIAL DISTRICT
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.~~ after receipt of C.O. + receipt OF C.O

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

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.

per Don remove

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)

~~TRACTOR TRUCKS~~ TRACTOR TRUCKS

* Problems w/ 1-5.16 to Fix . . .

1. where allowed ?
2. ownership ?
3. How long ?
4. type of Equip ?
5. comm v.s. Resid.

FL STATUTES 320 ?

Don:

Don:
RR-65 not resid
It is Rural.
It is non commercial.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: February 22, 2012

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

SUBJECT: Section 1-5.15 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 recommendations Article V Section 1-5-15,(2/6/2012)
- Don Krieger recommendations Article V Section 1-5-15 (2/8/2012)

ACTION OPTIONS:
Prepare recommendation for action at next meeting.

2/6/2012

From: Mayor Tom Eschenberg

Ref: Recommendation to P&Z 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 or non-collapsible camping trailers, 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 within the front setback in any non-commercial district.

2.No such major recreational equipment shall be used for living, sleeping, housekeeping, office, or commercial purposes when parked or stored on a non-commercial lot, or in any location not approved for such use except relatives of an occupant of the property for a period not to exceed 30 days. This provision (2) does not apply to children under the age of 16 years.

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 and issuance of a certificate of occupancy.

(Krieger submitted for last P&Z February 8, 2012)

Parkingstoragesection1-5.15and16

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

Vehicles or equipment shall not block any public or approved private streets.

1.
~~No major recreational equipment~~ Equipment or vehicles shall not remain in the same location ~~be parked or stored~~ in any ~~residential~~ required front yard in any ~~residential~~ non-commercial district for more than forty-eight (48) hours ~~during loading or unloading~~.
2.
~~No such major recreational equipment~~ Vehicles or equipment shall not be permanently 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.

Section 1-5.16. - Parking, storage of vehicles.
The parking or storage of vehicles shall not block any public or approved private streets.
No automotive vehicles or trailers ~~of any kind or type~~ or ~~any~~ recreational vehicles not owned or controlled by the legal resident or property owner ~~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 or enclosed by 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, automotive vehicles, trailers, or recreational vehicles and equipment or agricultural 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 that is inoperative and presents a nuisance ~~shall be titled to the property owner or legal resident or it shall~~ may be considered abandoned property under ordinance 3-1-77,

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: February 22, 2012

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

SUBJECT: Decorative Water Features and Ponds

BACKGROUND/HISTORY:
The Board directed staff to send checklist and application in Word so Board could provide input. This was emailed out to Board on February 10, 2012.

ATTACHMENTS:
- Checklist for DWF (Decorative Water Features) (1 page)
- Pond Site Plan application (2 pages)
- Pat's version with format removed by Don of Pond Ordinance (12/30/11) (8 pages)
- Portion of RTCM 12/5/2011 (1 page)

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 _____.

Updated 01/25/12

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 d esignated 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 a ddition 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 d esignated 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 a ddition 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. Th e 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. W ithin 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.
3. The following process for review shall apply to all pond permit applications presented to the Town of Malabar for consideration.

A. Th e 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. W ithin 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 a ppeal 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. Appe als 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 shallbe 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, t he 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 dec orative 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. Be fore 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)

Pond Recommendation:
Mayor said this started with guy wanting to build a pond larger than ¼ acre on adjacent lot to his house. He asked Franklin. Franklin said that issue came up first when a person was allowed to build a pond ¼ acre or less and they had issues with DEP. Also because of the conflict with Article VII that requires a site plan for disturbance of land 1000sf or larger. Clerk took issue to Council and was directed to send to P&Z. Mayor said it had to do with a guy who wanted to put ¼ acre pond on his adjacent lot and the amount of engineering was excessive and costly. Rivet asked Mayor for clarification. Mayor said 1000sf or less would require permit and checklist; larger would require site plan. Smaller water features would only have to follow checklist and meet setbacks; no expensive engineering. Acquaviva said they are recommending that Council approve these recommendations that would require they keep excavated material on lot. Yes. They came up with three recommendations. Define small water area and larger water area and third recommendation is don't take fill off site. Code currently says don't take from Town. Acquaviva asked for Attorney opinion. Attorney has no problem with what they want to call a water feature or pond. Code does provide exceptions regarding excavated material for developments, allowing it to be removed. Attorney said there could be issue with telling people they can't remove fill from their lot. Perhaps it should say it should first be used on site and then excess can be removed. Current Code requires it to stay within Town unless it is a listed exception. Chair said Council could just provide consensus. Franklin said if Council takes formal action it will provide direction to staff and let P&Z know they are working in the right direction. They will continue to work on the checklist.

MOTION: Rivet / Acquaviva to approve the P&Z Board definition of water feature and ponds.
VOTE: All Ayes.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: February 22, 2012

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

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

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.

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.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6
Meeting Date: February 22, 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
- Mayor's suggestions for Table 1-3.3 (E)

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

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.

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)							
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
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.

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 (interior)	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.
~~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.

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.~~

2/6/2012

From: Mayor Tom Eschenberg

Ref: Table 1-3.3(E) Additional Building Setbacks

Questions and observations.

Arterial roadways are specified at 150 feet. Does this mean that if the roadway is not 150 feet, the table does not apply? The same for major collector streets at 100 feet. Malabar Road is nowhere near a 150 foot ROW. I doubt that major colectors are 100 feet.

Briar Creek and Jordan Blvd are no longer major collectors. They end at EEL's land.

Minor collectors are all in RR-65. This table would never apply.

Setbacks specified in Table 1-3.3(a) would never apply to RS-10, RS-15, RL/C and RM6 because table 1-3.3(E) is more restrictive. This appears to be an unreasonable restriction in those districts especially on local streets.

My reccomendation: Delete Table 1-3.3(E)

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 7
Meeting Date: February 22, 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 Section 1-3.2 O., 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

See. 1-3.2.

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.

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

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

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.

DRAFT

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.