

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: March 14, 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
Draft minutes of P&Z Board Meeting of February 22, 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
FEBRUARY 8, 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:	PAT REILLY, excused
BOARD MEMBERS:	
	DON KRIEGER
	BUD RYAN
	LIZ RITTER
ALTERNATE:	WAYNE ABARE
ALTERNATE:	CINDEL ZINDEL, excused
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES: Krieger thinks 2 and 3 should be swapped. More work on 3 as it leads into #2. Major RVs and large vehicles. Abare said we tend not to close items. Get into 3 and not do anything on 2. Wilbur said that is traditionally what happens. Chair said to move 3 to action. Krieger doesn't mind moving. Chair agrees moving #3 up to action and before #2. Krieger points out to Board that they will have two meetings before the next Council meeting. Leave as discussion for #3.

Ritter said leave RV in the one item and anything else is in #2. Chair wants to deal with tractor trailer parking in residential. Leave agenda the way it is.

Franklin said for the record Krieger submitted his re-write of Sec .15 and .16 and it is before Board Members. Krieger also took Reilly's pond ordinance and removed all the formatting and a clean copy is before Board this night.

D. CONSENT AGENDA:

1. Approval of Minutes Planning and Zoning Meeting – 1/11/12 and 1/25/12

MOTION: Krieger / Ryan to approve P&Z minutes of 1/11/12.

Corrections: Krieger - pg 2, 3rd para, Krieger said if we change zoning. It sb land use and zoning. Pg 5, last sentence, The nuisance code sb reviewed.

Krieger is with Ritter with using sb referring to abbreviations. Should spell out OL and BTR.

Say occupational license spelled out.

Ritter, 1st line, what you could put on those lots.

Pg 5, Wilbur gave another cross out then they dump the thing. Told to move and he moves it down the street or to another spot.

Vote: All Ayes

MOTION: Ritter / Krieger to approve P&Z minutes of 1/25/12.

Ritter - pg 10, Wilbur 5000 pounds or less. Add pounds

Pg11 Krieger, different people are offended by different things. It is recreational.

Pg 12, Krieger said larger than 26,001 pounds sb screened.

Pg 15, Abare said that there is a hole in add "with"

Pg 13, Krieger, said you could park an RV, check tape on what he said *could or can't*.

Ryan for the record, he went by there Yellow Dog and they were parked all the way down illegally.

Abare, pg 14, bottom, his point is if it is not on the checklist, it will not get checked.

Vote: All Ayes

E. PUBLIC HEARING:

G. ACTION:

2. Tractor Trailer Parking in Residential Zonings

Exhibit: Agenda Report No. 2

Recommendation: Action

Ritter, read title and body does not say anything about truck tractors. Expand truck tractors to include any large vehicle used for recreation. Ritter was going to send in her re-write but did not get to it.

Abare referenced the fact that under recreation, boat trailers would not be allowed, and many people have those in yards.

Krieger said if you have standards, then standards should be stated. We can add that somewhere so you can see what was there. In Sec .15 it was talking to major recreational equipment. Krieger's premise of looking at it – Sec .15 would be equipment and Sec .16 would be vehicles. He then went over his proposed language. Vehicles or equipment should not be used for living No parking in *street* – don't use ROW (right-of-way).

Then went over Sec .16 – parking and storage.

Abare asked what needs fixing in Sec 1-5.16. if it is allowed, where it is allowed and ownership, how long, type of equipment/vehicle, commercial, industrial, residential vs commercial. Sec .15 should deal with residential recreational and Sec .16 should deal with commercial

Abare, went over Ritter suggestions, what is not addressed in Sec .15 is addressed in Sec .16 and what is not addressed there can go to staff or Council for determination.

Abare asked Krieger and he thinks RR-65 is rural first not residential. It is different that residential. Ryan said RR does mean rural residential- it is residential.

Get rid of licensed owner and replace with controlled by or responsible for. Krieger said you could be a renter. Ritter went back to FS 320 for definition of owner. Krieger does not see difference between small and large tractor. Abare said that Krieger means you can do anything in RR65.

Wilbur said stick with definitions from FS that are already established. Some of Mayor's verbiage was ok.

Abare said there are unintentional consequences when you make sweeping changes and suggested they just look at the paragraph and if something is glaringly wrong then fix it but it should be a short list.

Krieger referred to Ritter's list that starts with "no" for each item. Ritter said she could reword it.

If it is not in the required front yard, what don't we want them to keep there? Krieger said what about a party or game and people may park in the right-of-way. Ritter said that is short term. Abare said these are for complaints that last longer than two or three days; it is not for three hours into a football game.

Krieger said there is nothing that says what you could do. What if you bring in a shredder. Abare asked about roll-off for pepper tree removal. They are all headed in the same direction. Do what you want on your property. If it is offensive then go back to nuisance ordinance for junk or abandoned property. Abare said you can't go to the person to prove it is licensed and owned. We are not going to make it obscure it from adjacent properties. Krieger said what he wrote is more restrictive that he would like. Krieger said if you drive down Hall and Atz you will find violations.

Krieger said difference between parking in street and parking in right-of-way (ROW). Krieger tried to do minimalist change.

Ritter says one is for commercial and one is not.

Sec .15 needs language allowing non commercial RV and associated equipment to park no longer than 48 hours. Sec .16 needs language not allowing commercial or tractor trailers to park at all in any right-of-way (ROW).

Krieger said differentiate commercial from non-commercial. Abare said if someone has a tractor trailer for commercial use only. Ritter said it should be in Sec .16. She doesn't care if it is out of the required front yard. Who is going to care. Wilbur said an active commercial truck trailer should not be in residential. What if he is hauling cattle or horses? Wilbur said most of the trucks that pulls cattle are dual axle.

Ritter said separate Sec.15 to smaller recreational vehicles and RVs and Sec .16 for larger equipment and commercial vehicles.

Abare asked how Ritter felt about tractor trailer in RR-65. Ritter said it wouldn't bother her in rural residential. She would want him to be on a paved road. There are going to be some restrictions. Krieger said read the Mayors. This is what he gets from it. Must be in a building or can't be in a side or rear yard. Ritter said the only person that would have a problem is someone that complained.

Abare said add a time frame. Take out ownership since the atty said we can't enforce that anyway. The time limit is in Sec .15 and Ritter added it to Sec .16.

Abare then asked why we need Sec .16?

Krieger said Sec .15 is about the uses, that is why he said same location. That is about things you use and has limit of not more than 48 hours to load and unload. But when you get to Sec .16 it is more of parking and storage.

Ritter said you would still have to move it every 48 hours. Then it has to be moved. .16 deals with storage and you usually store more than 48 hours.

Abare says change title to eliminate 48 hours.

Ritter said Sec .16 is to store for more than 48 hours.

Abare said Sec .16 limits parking boat trailers. A lot of people have boat trailers and if they don't have it covered. Wilbur then read disclaimer. The last line should be eliminated or change to reference nuisance code.

Abare said go through Sec .16 line by line:

1st line ok – difference in language. Requirement to screen should be eliminated. Abare wants to have it explained why we need 16.

Ritter said Sec .15 should be recreational related equipment. You have to have definitions.

.16 sb anything other than .15 .16 addresses greater than 48 hours. If you are going to keep it longer than 48 hours, then don't put it in the required front yard. This does not address the issue in the other zonings. RS means residential. RR means rural first and then residential to Krieger.

Abare said the required front yard is different in each zoning.

Ritter said another option – Sec .15 have one part for use and one part for storage.

Ryan wants to keep the "of any kind or type" in sentence.

Wilbur said the key thing in Sec .16 – not owned or controlled by the legal resident. Ritter said what right does Town have to go to someone and ask if they have a title. They go back to title issue. What if it is leased? What if it is rented. What if it is a cop car and you just drive it home.

Wilbur referenced the Mayor's version of 1.5.16

Board asked Mayor for clarification.

Mayor - Sec .16 the original code states two things –if it doesn't have current tag and if it isn't titled then it can't be parked on the property. He only added the "control of" to the sentence. The rest of that was original code.

Ryan said eliminate the possibility – the other section of the code says it can't be a commercial operation. They discussed that commercial operation was a operation for money or for consideration in some other form; even bartering. If you can't see if it is a problem. What if it in an area you can't see and they are dealing drugs back there. Abare said he didn't re-write the first part. It was that way before. You might want to think about that.

Mayor read Krieger's version and he doesn't think Council would go for that. If it prohibits it in Sec .15 is it then ok in Sec .16?

Ryan said restrict it to titled by owner. Ritter said you can't ask owner for proof of ownership. As Town Attorney has said how are you going to enforce that?

Abare said adopt the Mayor's version. Krieger has problem with trailer. He has trailers without tags. If there is no intention to put on a street then why need a plate. Ritter said you have to distinguish some criteria. ATV trailers are short but they still need a tag.

Ryan said we are trying to fit every possibly aspect. Make things legal for more people instead of making more criminals. They discussed having a current tag. Wilbur said keep trailer operable condition, it is acceptable use. Use Ritter's proposed language.

Ryan said we have spent 2 hours can we come to a conclusion. Ritter understands know and we are going to mesh them.

Ritter will bring a new version to next meeting. Then if Krieger wants to modify and eliminate trailers then type something up and send out ahead of time. Wilbur said to keep requirement to keep it operable. Technically, it is inoperable but as long as they keep it tagged.

Have for action at next meeting.

Krieger wants to continue on this. Short version, equipment, does it have to have a license plate? He wants to have equipment and trailers removed.

Ritter has concern with commercial and industrial – should they be included? Wilbur said if they want commercial as a CUP and get neighbor's approval. Abare said make a 17 and make it commercial.

Ritter said combine 15 and 16 for one (15) and make 16 (for commercial) Wilbur said add CUP for commercial semi-tractor parking, or storage then they can apply. And it goes in a one year deal. It is the fairest deal. Abare said we have a draft of our own.

Krieger disagreed. What they are addressing is non-commercial. Commercial should be with where it addresses businesses. Art V does cover Home Occupational lic. Add to that section.

Wilbur said define non-commercial districts in Sections .15 and .16

H. DISCUSSION:**3. Consider Suggestions from Mayor re: RV Parking****Exhibit:** Agenda Report No. 3**Recommendation:** Discussion

Discussion: see discussion under #2.

4. Continue Review of Checklist and Requirements for Ponds

Discussion: none – Board did not get to this.

5. Define "Light Industrial" Zoning

Discussion: none – Board did not get to this.

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS: not discussed at PZ 2/8/12**6. Setbacks in Residential Zonings****7. R/LC Zoning Clarification****8. Code Requirements for Assisted Living Facilities****J. PUBLIC:**

Tom Eschenberg, related to Section .16 he doesn't think you can carve out special exceptions. He has a small trailer but keeps it in the shed. If you have a complaint, then comply. Definitions, using Florida Statute is not the answer. You have the Legislature passing 500 bills every year that can change those definitions. Mayor said if you like a particular definition from F.S. then pull it in and add it to the code and if we want to change it later then we can.

Regarding parking of trucks: make a motion; allow the full 18-wheel rig or not and send it to Council. Make them commit.

OLD BUSINESS/NEW BUSINESS:

Ritter asked about Park Bd recommendation. Mayor gave update. Park Board wants Town to pursue the purchase of waterfront property. Council didn't take any action. The property they were referring to is on market for 320,000.00. Mayor said there was something that came out of P&Z and would be a good project for Park Board. Have the Park Board ask Senator Nelson to donate the little piece of land that goes over Goat Creek. You could launch canoes. So the motion was made to have Park Board contact Senator Nelson and ask him if he will donate. (west side of Hwy 1) Park Board will pursue that.

Wilbur showed on map and also pointed out piece on east side that you would want to give you waterfront landing for sailboards. Ryan said the problem would be to restrict it to Malabar residents. Ryan said think of potential liability.

L. ADJOURNThere being no further business to discuss, **MOTION:** Krieger / Ryan to adjourn this meeting.**Vote:** All Ayes. The meeting adjourned 9:45 P.M.

BY:

Bob Wilbur, Chair

Debby Franklin, Recording Secretary

Denine Sherear, P&Z Board Secretary

Date Approved

"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
FEBRUARY 22, 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:	PAT REILLY
BOARD MEMBERS:	DON KRIEGER
	BUD RYAN, Excused
	LIZ RITTER
ALTERNATE:	WAYNE ABARE
ALTERNATE:	CINDEL ZINDEL, Excused
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

Reilly said he got called by Ryan who asked to be excused for tonight (picking up wife) and next meeting for surgery. Franklin stated staff had checked all phones and email before meeting; no messages.

B. ADDITIONS/DELETIONS/CHANGES:

Franklin explained she finished P&Z minutes from 2/8/12 but due to late date, will hold for approval at next meeting. Regarding the corrections noted on 2/8/12 for minutes of 1/25/12 she had a conflict on one of the corrections and did that part verbatim and asked for direction. Board said to leave the verbatim in for that section. Minutes were approved on 2/8/12 with corrections so no separate action was required.

Ritter said she took last meetings submittals and created a marked up page and then a clean copy of Sections 1-5.15 and 16. She just emailed it to Denine this date so brought copies for Board. The line-throughs are for deletions and the underscores are for new language.

Krieger said Agenda Items 2 and 3 are reversed again. He wants to discuss RV issue before the tractor trailer issue. Reilly said the agenda calls for action on 1-5.16 and they need to start with that.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 2/8/12 not ready

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

Chair Wilbur introduced item.

MOTION: Reilly / Abare to approve what Ritter wrote for Sec. 1-5.16.

Discussion. Abare said Sec .15 allowed for use and for the 48-hour limit and Sec.16 provides for storage for longer than 48 hours.

Ritter said the definitions would apply to both Sections .15 and .16. Abare said pull in the definitions that you like from statutes. Ritter said you could still reference them without including the six pages from the statute. Abare stated he likes the suggestion of the Mayor that they include the definitions they like from the F.S. and then if the State changes them later the Town doesn't have to change them unless they want to. Wilbur asked Ritter how many usages are listed in F.S. 320.01? Ritter said 45 are listed in F.S.

Krieger said use "definitions will follow the current Florida Statutes". Then use only F.S. 320.01. Wilbur said use just a list of the titles and state "for further definitions go to F.S." Consensus to remove 2011 from the reference to F.S.

Wilbur would like a list of types of vehicles. Ritter said she included it. Reilly asked how it would be laid out in Code. Franklin explained that the language in adopting ordinance directs Municode to renumber as necessary to get information into the Sections of Code as we direct. If same language applies to both sections .15 and .16 it would be repeated in both sections. Reilly asked about reference to 3-1-77. Franklin said that is a reference to a specific ordinance and it should reference the section of the code, not an ordinance. Krieger said he took it straight from Code. Franklin said that is an error and we will correct. Staff will put in the correct reference. Chapter 11 in the front portion of the Code Book deals with nuisances. Article X in the Land Development Regulation portion of the Code Book deals with nuisance abatement.

Abare said whenever we change an ordinance we want to make it better. He felt Board did that. There were poor or no definitions so we fixed that. We changed the ownership reference. We dealt with the 48 hours. What about commercial vehicles. Ritter said .15 dealt with use and .16 dealt with storage.

Krieger said he took Mayor's proposed changes to Section 1-5.15 and .16 and stated that the advantage to the Mayor's version is that we don't add definitions and we keep the code pretty close to the original form. Krieger read it again and again and again and the only thing he saw that he didn't like was it should use "non-commercial" instead of residential, and he would cross out park and add limit for only 48-hours.

Reilly called Point of Order. The item under discussion for Board is Article V, Section 1-5.16 and is on agenda for action tonight. You can't be bringing Section .15 into discussion. Reilly said you have to take them one at a time. Abare said they are connected. Ritter said the title of the section does not say tractor trailer parking. Krieger said if you want to use Ritter's re-write, use boats "and" boat trailers, not or. Krieger said if there is no boat on trailer it is not a boat trailer. Yes it is. Krieger said then keep it consistent; and use *boats "and" boat trailers*.

Wilbur asked if semi-tractor trailers are covered in the F.S. definitions. Yes. They are trying to make separate section for them. Possibly use Section .16 to address them.

Abare thought they talked about tractor trailers needing a CUP (conditional use permit). Wilbur said that was for commercially operated large vehicles. Krieger thought they talked about this only if there was a complaint.

Ritter referred to her proposal and said make it subsection A. and B. with A. for use up to 48 hours and B. for parking or storage for more than 48 hours. Abare said we are adding definitions. In section B. add greater than 48 hours.

Wilbur asked if we are going to require a valid registration even though some members had issue with that. Krieger said take word "valid" out and put in "required". They discussed taking out

registration altogether. Abare said they discussed someone trying to work on an old classic vehicle vs. numerous cars up on blocks in front yard. If you put it out of sight then you don't have to have valid registration. Reilly said change *valid registration* to *title*. Krieger said no. Krieger referenced current tag. Ritter said leave it out. Krieger said there is something out there that may not require a registration. Krieger said having "valid" in Code would give permission to Town official to come onto property. He does not support that. Krieger has neighbor that has trailer that carries his leaves on his property. He doesn't take it on the street. This would require him to register it. Board said no, if it does not require registration then this would not require it. Ritter said bottom line if it is stolen, they would have some paper that it is registered/owned by them.

Abare said we are missing the bigger point. Point is if someone is sprinkling the yard with broken down vehicles up on blocks, we need to have a mechanism that would allow Town Administrator to go out and enforce Code. Give TA ammunition that she needs to enforce Code when a neighbor complains. Abare said car on blocks that has title and not current registration would have to be in carport or enclosed building or behind fence.

Wilbur said what about the resident that has a garage full of cars he is working on for other people. Registration is not required unless they can be seen. Krieger said to use required instead of valid registration. Ritter said if it is tagged it is current registration. Abare asked P&Z Members if they had problem with using term *registration*. Wilbur, Reilly, Abare, Ritter – no; Krieger, yes. No further discussion.

Reilly, referring to Ritter's re-write, said at top of page remove the word "please".

Ritter told Abare that subsection 3. of her proposal does not allow for a bunch of cars in yards; so that would not be an issue.

Reilly said make it Section 1-5.15 "A" (use) and "B" (parking and storage).

Ritter said then you could use 1-5.16 for commercial vehicles.

Vehicles why in bold – it lists a ton of stuff. Ritter said the statute list the types and read a portion of list. Instead use "some examples of vehicles are..."

NEW TITLE: Use, parking or storage of vehicles, boats and boat trailers
Use same language in B.

The preamble para will only be used once before the definition of vehicles.

At top we don't have limit of time.

Reilly suggested that if a person buys a frame, tires, motor and builds his own car it doesn't have a registration or title.

Abare said if he buys a current tag for the car on the blocks then it can stay in sight in yard.

Ritter has problem with *legal resident*. Abare doesn't like title.

Krieger wants to use Mayor's language. Board wants to keep "receipt" of C.O. instead of issuance. Also change from "and" to "or" meaning it can be either.

Board took recess to allow Board Secretary Sherear to get Ritter's document from her email and make the changes as noted thus far and bring a clean copy back to Board so they can take action.

Board takes short recess.
Board back in session.

Reilly said the action item on Agenda was for *tractor trailer parking in residential zoning*. Article V, Section 1-5.16 presently refers to parking and storage. The action item we have to take is on tractor trailer parking and not on what the Board just discussed. He asked why the agenda item was worded the way it was.

Franklin said the Board decided at a previous meeting that the Section Titles should be renamed for both Art. V Section 1-5.15 and 16. Regarding Section .16 the issue came before them because the Town got complaints about tractor trailers parking in residential areas and also damaging infrastructure. This section of Code is vague and did not give clear direction whether parking of tractor trailers was allowed or prohibited. Staff asked P&Z for direction regarding parking of tractor trailers in residential areas.

There was also a request by a tractor trailer driver to the Town for a letter stating the Town would allow him to park both his tractor truck and trailer on his property which is in RS10 zoning. That is why Council asked P&Z to review and make a recommendation to them.

Reilly said he would like to make a motion to table this action for next meeting and have the agenda say the correct terminology; have a finalized version for Board to review.

Krieger said there is a motion on floor. Abare said Section .16 begs the question,

MOTION: Reilly / Abare to rescind motion on floor. VOTE: All Ayes.

Reilly then said this item is for action at next meeting. Combine Sections .15 and .16 and use, parking OR storage of vehicles, boats *and* boat trailers.

Reilly said now for the action item. It issue is covered in what the Board just did. Except for addressing commercial properties.

Krieger said get rid of this and take no action on this. Wilbur said take it as a CUP requirement if it doesn't fit under Article V.

MOTION: Krieger to table. No second. Motion dies.

Abare said we have the seeds to do that – changing commercial in residential. Reilly said it needs to go Council together. Or to attend the Council meeting and explain. None of these address anything on commercial.

Abare gave ex of tractor trailer wanting to park in RS 10.

Franklin gave explanation of why . Until problem presents itself don't make more rules. Ritter said in B. change to non-commercial district property. Abare said if we do what they are saying, we are treating it as any other vehicle, just bigger. Wilbur said we have to advertise what we did as an action item.

Reilly said what about

If you want a commercial operation, come up with a mechanism. Bring back staff work up of CUP application and meet the requirements they can use their commercial vehicle in a residential area if the meet the .

Krieger said add a A. add a new number between 2 and 3. And state that commercial use will require a BTR.

Ritter said add private, not for hire in front of title in A. Wilbur said horse are transported by drivers for hire. Krieger said that is getting pretty mucky.

Reilly said at next meeting show new write up with "private not for hire" underlined.

Franklin said no tractor trailer drivers have come in for BTR.

Wilbur said create a CUP for commercial use of vehicles of over 26,001 pounds. PUT FOR Discussion – it is not ready for action.

They discussed the outline of what the intent was for these uses. Wilbur read criteria. If they want to do it they have a process. Abare said that will give TA a way to enforce it. Abare said there are clip board neighbors.

Now create a CUP section somewhere. Look at it next meeting. Wilbur read from the waiver or the CUP. It gives Code Enf a tool to enforce. Krieger said the complaint should trigger the need for a CUP. The parameters are set based on . Wilbur said that County has set up these and can revoke.

H. DISCUSSION:

3. **Section 1-5.15 Consider Suggestions from Mayor re: RV Parking**

Exhibit: Agenda Report No. 3

Recommendation: Discussion

Reilly said we have addresses what we want in .15 it requires no more action is needed.

No other items.

4. **Continue Review of Checklist and Requirements for Ponds**

Exhibit: Agenda Report No. 4

Recommendation: Discussion

Discussion: none – Board did not get to this.

5. **Define "Light Industrial" Zoning**

Exhibit: Agenda Report No. 5

Recommendation: Discussion

Discussion: none – Board did not get to this.

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:

Tom Eschenberg, 2835 Beran Lane, tractor trailers, first off, the original incident, the guy does live in RS10. On corner he has 1 acre lot. It is parked behind his house. It is nice looking. If he understands them, if he drives a tractor trailer with pigs it is ok. Also for tractor trailer for race car,

he can park it anywhere on any residential lot in otwn. If the ag or not objectionable, and hobby vehicles are not objectible, what is different with commercial vehicles.

Abare said it is because it is use, commercial is used more.

Talking about CUP it would not be allowed unless registered in his name. If he drives for a trucking trailer.

It has a valid registration, no vehicles, without a valid registration unless owned by resident.

Need to add back in under the control of. Make note to change. On e other suggestion – Chap 11, if you read that and become familiar with it certain things are not allowed. Mayor would not have problem with

Add to table in Dist II that parking of commercial vehicles

OLD BUSINESS/NEW BUSINESS:

Franklin referred to item on agenda for Site Plan for Camelot RV Park Inc. They want to add a pool and two bathhouses and that required a Site Plan review. It has been reviewed by staff and will be on next P&Z agenda for a Public Hearing.

This is a quasi judicial issue and so there should not be discussion among the members on the project outside the noticed public meeting. The applicant and the public are entitled to be present when the project is discussed. I asked the Attorney about this as we know this Board likes to have projects "introduced" before action is taken. The Attorney has no issue with staff informing the Board of the upcoming site plan review, but also cautioned against discussion of project ahead of time. Denine has handed out the packages for you to review.

Notify Nana's House.'

L. ADJOURN

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

BY:

Bob Wilbur, Chair

Debby Franklin, Recording Secretary

Denine Sherear, P&Z Board Secretary

Date Approved

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: March 14 , 2012

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

SUBJECT: Site Plan Review For Public Pool & (2) Bath Houses; Camelot RV Park, Inc

BACKGROUND/HISTORY:

Packet for this Item delivered on Feb 2/22/2012, one update received on March 8, 2012 included in this packet along with Memo#12-AABO-008.

ACTION OPTIONS:

Action to Council

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: March 14, 2012

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

SUBJECT: Land Use Amendment & Zoning Changes; 2540 Malabar Rd, Malabar "OI" (Office Institutional) to "R/LC" (Residential/ Limited Commercial)

BACKGROUND/HISTORY:

See attached.

ATTACHMENTS:

- Memo #12-TA-010, from Bonilyn Wilbanks, Town Administrator
- Application for Land Use Amendment & Zoning Changes
- Consent from property owner, Kimberly Frodge, President Nana's Children Home
- Map of Location of property 2540 Malabar Road, Malabar
- Present Land Use Map "OI" & Proposed Land Use Map "R/LC"

ACTION OPTIONS:

Action to Council

TOWN OF MALABAR

MEMORANDUM

Date: March 7, 2012 12-TA-010
To: Bob Wilbur, Planning & Zoning Board Chairman
From: Bonilyn Wilbanks, Town Administrator
Ref: Land Use Amendment and Rezoning for Nana's House

In February 24, 2012, a Stop Work Order was given to Nana's House for the renovation work that was being done at the advice of the Town Attorney due to the Building Official making a determination that a Thrift Shop was allowed in OI zoning. In researching this matter it was learned that the administrative offices were going to occupy the second floor of the property and the thrift store would be on the first floor. The Building Official did not view a thrift store as a retail business.

On February 28, 2010 a revised Building Permit was issued removing the renovations for the Thrift store but allowing the property owner to move forward renovating the property from a residence to offices for the administrative offices to be completed which is allowed within the OI designation.

This matter was going to be set to be heard by the Board of Adjustment; however in further discussing this with the Mayor it was felt that we did not want to have a ruling that would begin to allow retail in OI zoning.

It was also shown that this change to RLC was within the planned changes that the P & Z Board was recommending for this area. Presenting the request for this change now would be in conformance with the future changes that are going to be proposed to Council.

By making this change it prevents a hardship for Nana' House. The Town is making the application since the purchase of this property was based on the Building Official's determination that a thrift store was an acceptable use. The Town Attorney agrees that the Town should incur the cost for this land use amendment and zoning change.

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 – Telephone
(321) 727-9997 - Fax

Date: 3/7/2012



APPLICATION FOR LAND USE AMENDMENT
AND ZONING CHANGE

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
- Florida Statutes, Chapter 166.041(c)
- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): Town of Malabar Telephone #: 321-727-7764
Mailing Address: 2725 Malabar Rd, Malabar FL 32950

Legal description of property covered by application:

Township: 28 Range: 38 Section: 31
Lot/Block: 02 / 37, Parcel Subdivision: Snedekers
Other Legal: All Lot 38 + PT OF LOTS 37 + 39 AS DES IN ORB 2308 PG 7

Property Address: 2540 Malabar Road, Malabar FL 32950

- Current and Proposed Comprehensive Plan Land Use Map Designation. The current and proposed Comprehensive Plan Land Use Map designation for the subject property shall be identified: Current: OI Proposed: R/LC
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: OI Proposed: R/LC
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: Single Family Residence Proposed: R/LC

Fees:

- Rezoning - \$325 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Rezoning & Land Use Charges - \$625 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.

(*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ N/A in check or money order payable to *Town of Malabar*. We do not accept cash or credit cards.
- Radius package from Brevard County P&Z GIS Department providing a list of names and addresses of property owners and legal descriptions of all property within 500 feet of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office.

Bonnie D. Winkler
Signature of Applicant

Signature of Applicant

March 7, 2012

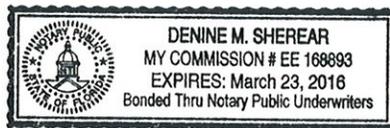
I, **Kimberly M. Frodge, President of Nana's Children Home- Non Profit Corporation** am the property owner of **2540 Malabar Road, Malabar FL 32950**. I give my consent to the Town of Malabar to act on my behalf in requesting a Land Use Amendment and Rezoning of the above stated property.

Kimberly M. Frodge
Kimberly M. Frodge, President Nana's Children Home

3/7/12
Date

Sworn and subscribed before me this 7th day of March, 2012 personally appeared Kimberly M. Frodge who is personally known to me or produced _____ as identification.

NOTARY PUBLIC
STATE OF FLORIDA
COUNTY: **BREVARD**

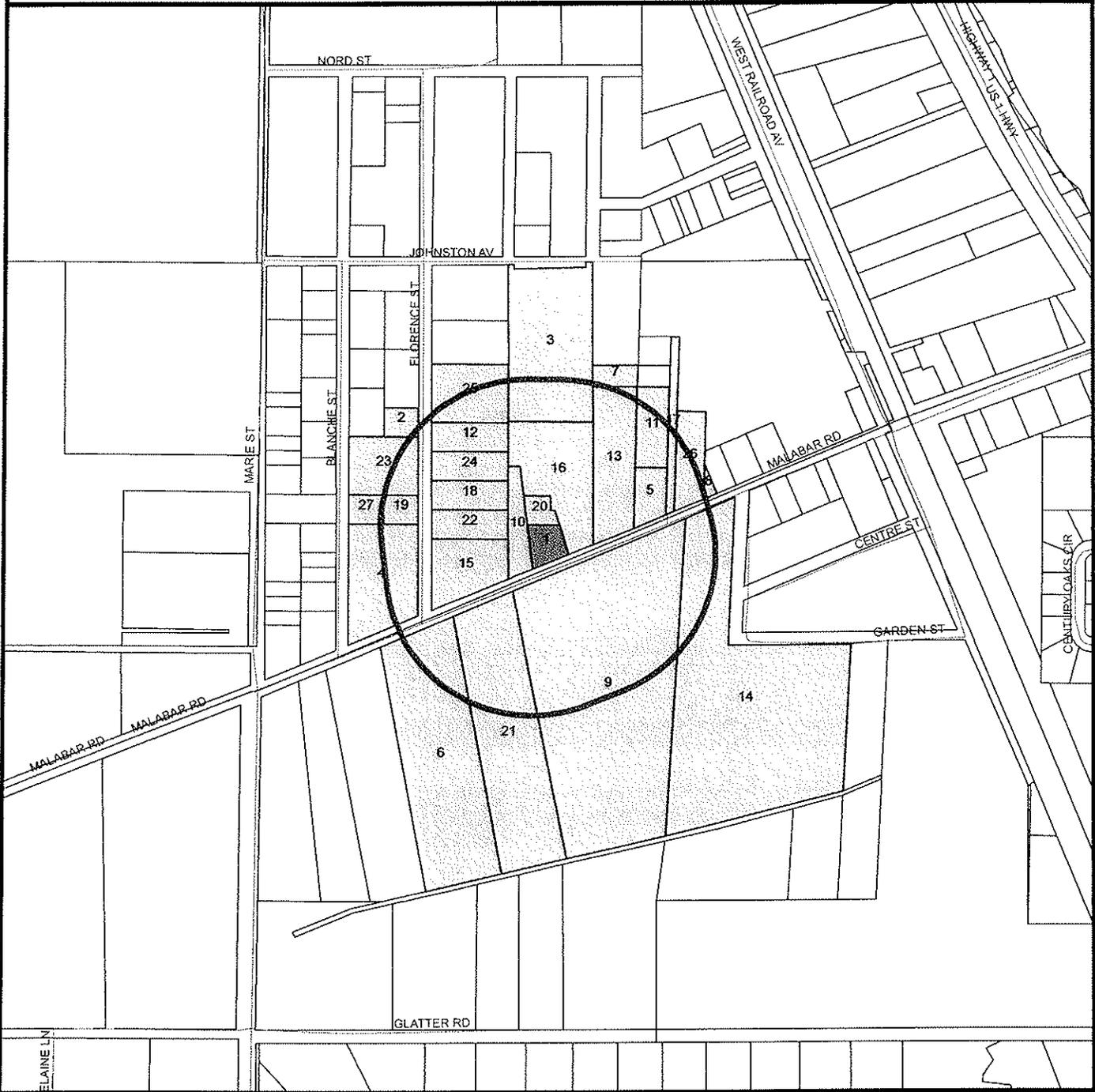


Commission No.: EE 168893 My Commission Expires: March 23, 2016

Denine M. Sherear
Notary Public Signature

RADIUS MAP

HOUSING & URBAN DEV, SEC'TY OF
sherear500



MAP SCALE IS: 1:6,000 OR 1 inch equals 500 feet
BUFFER DISTANCE: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of Commissioners does not assume responsibility for errors or omissions contained hereon.

Produced by: Brevard County Planning & Zoning Office - GIS 3/8/2012

Legend

-  Notification buffer
-  Parcel/lot boundaries
-  Notified Properties
-  Subject Properties

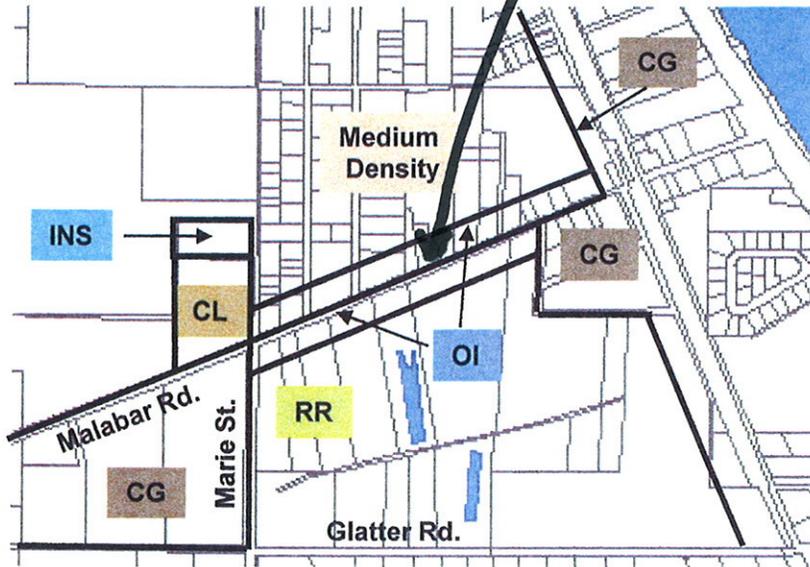


Land Use Along Malabar Rd. (Marie St. to RR Tracks)

Present Land Use

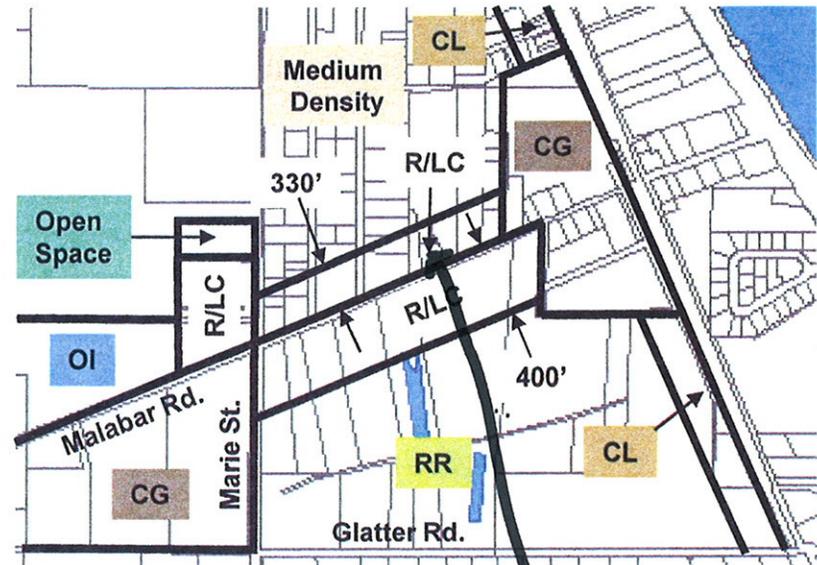
O.I.

*LOCATION
2540 Malabar
Road.*



Proposed Land Use

R/LC



*LOCATION
2540 Malabar
Road*

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: March 14, 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:

At the last P & Z Meeting on 2/22/2012 the Board went over Section 1-5.15 & 1-5.16 that Liz Ritter submitted. The recommendations by this Board were to make to combine the two Sections into Section 1.15 "A" & "B" with other recommendations and bring back at this meeting for review.

Bob Wilbur asked for County information on CUP and Waiver process for this meeting.

ATTACHMENTS:

- Liz Ritter initial suggestions with PZ Board recommendations for Section 1.5.15A & B (2/22/2012)
- County Info/ CUP
- Waiver Process

ACTION OPTIONS:

Work on motion to Council for Action

RE: Art V, Section 1-5.15

Recommendations from P&Z Meeting on 2-22-12 (Updated by staff)

Original Submitted by Liz Ritter 2/22/12

Sections 1-5.15

Use, Parking, or Storage of vehicles, boats and boat trailers.

The Definitions of **vehicles** for these sections will be from the Florida Statutes (FS) Chapter 320.01 terms 1 thru 45. This section does not apply to operative agricultural vehicles in RR-65 districts. **Some examples of Vehicles are:** automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state. Also any recreational vehicle-type unit, mobile or manufactured home and commercial vehicles. See FS Chap. 320 for more details.

A. Private “Not for Hire” Use of vehicles, boats and boat trailers.

1. Vehicles, boats, and boat trailers shall not remain in the same location in any required front yard in any non-commercial district for more than forty-eight (48) hours.
2. Vehicles, boats, and boat trailers shall not be permanently used for living or commercial purposes in any location not approved for such use.
3. Vehicles, boats, and boat trailers shall not block any public or approved private streets.
4. Vehicles or other structures used temporarily in connection with construction as a dwelling, office, or sales room, may be located temporarily in all districts only after receipt of a building permit and during the period of construction activity. This shall be under a temporary zoning permit and provides that said vehicle or structure must be removed within ten (10) days after completion of construction or receipt of Certificate of Occupancy.

B. **Parking or storage** of vehicles, boats and boat trailers.

1. The parking or storage of vehicles, boats **and** boat trailers for more than 48 hours shall not block any public or approved private streets.
2. No vehicles, boats, **and** boat trailer or vehicles without a valid registration to the legal resident or property owner shall be parked or stored on any non-commercial district 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.
3. Any vehicles, boats, **and** boat trailer, or equipment that is visible from a public or private street or from adjacent property that is inoperative and presents a nuisance may be considered abandoned property **per Chapter 11, Section 11-26**

BREVARD

ADMINISTRATIVE
WAIVER

Sec. 62-2132. Administrative permit for commercial vehicle parking at a residence.

(a) Any residential property owner may request from the zoning official an administrative permit to park a commercial motor vehicle on a residential lot. Such a permit may be issued only under the following conditions:

- (1) The parcel must be a developed single-family residential lot of at least two and one-half acres in size.
- (2) The commercial motor vehicle must be operated by the occupant of the residence and must be essential to the occupant's principal means of employment.
- (3) The commercial motor vehicle must be maintained in operating condition.
- (4) The commercial motor vehicle may be a tractor cab but shall not include a trailer.
- (5) The commercial motor vehicle, or any equipment or machinery on the vehicle, may not for any reason be left running for extended periods of time.

(b) Applicants for the administrative permit shall submit a letter to the zoning official setting forth the specific request and the need therefore. The letter shall have the following documents attached thereto:

- (1) A signed affidavit from all property owners within 200 feet indicating no objection to the requested permit.
- (2) Verification by certified survey, recorded deed or other means satisfactory to the zoning official to determine the size and developed status of the lot.

(c) Failure of the applicant to obtain signatures of all property owners within 200 feet will result in denial of the administrative permit. Denial of the request for an administrative permit under the provisions of this section may be appealed to the board of county commissioners in public meeting. The county shall notify all property owners within 200 feet of the date, place and time of the meeting.

(d) Administrative permits are valid for one year and are renewable for successive one-year periods. However, if the activity ceases to be compatible with the character of the neighborhood, as evidenced by code enforcement investigation, the permit shall not be renewed and may be revoked. The owner will be notified in writing if the permit is revoked or will not be renewed administratively. Renewals of permits that are revoked administratively or which are not renewed administratively may be reconsidered only by board of county commissioners action pursuant to subsection (c) above.

(Ord. No. 96-19, § 1, 4-16-96)

BREVISED

C.U.P. process

Sec. 62-1921.3. Commercial vehicle parking at a residence.

(a) Where not otherwise permitted by Section 62-2117, any residential property owner may request a conditional use permit to park one commercial motor vehicle on a residential lot. Such conditional use permit may be issued only under the following conditions:

- 1) The parcel must be a developed single-family residential lot of at least one-half acre in size.
- 2) The commercial motor vehicle must be operated by the occupant of the residence and must be essential to the occupant's principal means of employment.
- 3) The commercial motor vehicle is to be parked within a fully enclosed garage. However, the applicant may request, and the Board may consider, an alternative means of visually buffering the vehicle given the character of the neighborhood and the lot upon which it is to be parked. Such alternative buffering may include cold and drought resistant vegetation or fencing up to 8' in height (notwithstanding the provisions of Section 62-2109).
- 4) The commercial motor vehicle must be maintained in operating condition.
- 5) The commercial motor vehicle may be a tractor cab but shall not include a tractor trailer.
- 6) The commercial motor vehicle, or any equipment or machinery on the vehicle, may not for any reason be left running and unattended by the operator, except for the purpose of preparing the vehicle to be driven off site.

(b) The conditional use permit is valid for one year and is renewable by administrative extension for successive one-year periods. However, if the activity ceases to be compatible with the character of the neighborhood as evidenced by a code enforcement complaint, or if the occupancy of the residence changes, any CUP may be revoked pursuant to Section 62-1901(d). The property owner will be

notified in writing if the CUP extension is not renewed pursuant to Section 62-1901(d). Once a CUP is not renewed administratively, the conditional use permit will be considered to be expired and may be reconsidered only by the Board of County Commissioners as a new conditional use permit pursuant to paragraph (a) above.

(Ordinance No. 2010-11, enacted May 6, 2010.)

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: March 14, 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 _____.

Pat Reilly's Edited Present Pond Ordinance Version (12/30/2011) (Note: Section 5.0-E is open for discussion, all other sections are changed to separate Decorative Water Features and Ponds)

Section 1-5.27 Decorative Water Features and Ponds

General provisions. It shall be a violation of this ordinance for any person to construct, or permit to be

constructed, or to fill a decorative water feature or pond within the Town of Malabar without first obtaining a decorative water feature or pond permit from the Town of Malabar.

1.0 Definitions.

- A. Allowable material shall mean uncontaminated sand, soil or dirt or other items approved by the Town Engineer. Construction debris and yard waste shall not be considered allowable material.
- B. Conservation elevation (also control elevation). The lowest elevation at which water can be released through the control device and/or the designed normal water level of the decorative water feature or pond.
- C. Construction debris means material generally considered no to be water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt roofing material, pip, gypsum wallboard and lumber, metal, asphalt paving material, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation or maintenance of a structure.
- D. To fill shall mean the adding of allowable material to alter the existing topography or characteristics of a decorative water feature or pond.
- E. Project site. That area where the decorative water feature or pond shall be located and all other affected areas of the property.
- F. Wet season water table. Elevation of the ground water table during normal wet season conditions as determined by SCS (Soil Conservation Service) or competent engineering studies (referenced to National Geodetic Vertical Datum).
- G. Side slopes. The ratio between the horizontal and vertical distance of the decorative water feature or pond as measured from any point in the decorative water feature or pond to the property line or finished floor of any improvement. (See Diagram "A")

Diagram A

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

I. Decorative Water Feature. Shall mean any excavation for the purpose of retaining water wherein the surface area is 1,000 square feet or smaller in size. Notwithstanding this

definition of decorative water feature, all fill activity which reduces the surface area of an existing water body, regardless of size, may only be accomplished after a permit authorizing such activity is issued by the Town.

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

2.0 Permits.

1. Decorative Water Feature: Any person wishing to construct or permit to be constructed or fill a decorative water feature within the Town of Malabar must, as a precondition, obtain a decorative water feature permit. A decorative water feature must meet setback requirements. In order to obtain a decorative water feature permit, an applicant must:
 - A. Pay the designated decorative water feature permit application fee prior to the Town accepting any application for a decorative water feature permit. The decorative water feature permit application fee shall be set by a Resolution of the Town Council;
 - B. If the applicant desires to construct a decorative water feature, the applicant shall provide the following documentation to the Town Clerk as part of the decorative water feature permit application;
 1. A site plan containing the existing and proposed elevations for the entire project, site, the location of the proposed decorative water feature, a survey of the project site, said (survey to contain topographic data), tree locations and a plot plan.
 2. Applicant must provide a written estimate of the quantity of fill which is proposed to be excavated, and a plan for disposal of said fill in accordance with this section.
 3. Any other documents that shall be required by the Town Engineer for purposes of demonstrating compliance with the performance standards of section 1-5.27.5.A—F and completing a conclusive review of the proposed site.

- C. If an applicant desires to fill a decorative water feature, the applicant shall submit the following:
1. A decorative water feature permit application containing, at a minimum the following:
 - a. A site plan of the existing decorative water feature including total area of the surface covered by water; depth of decorative water feature; and its proximity to structure;
 - b. The estimated amount of fill to be used, as well as, the type of fill to be used;
 - c. Name of contractor performing the fill activity;
 - d. Any and all other information required by the Town Engineer.
- D. The Town Clerk shall not accept an application for a decorative water feature permit unless the applicant has submitted an original and two (2) copies of all required documents, and paid all required permit fees.
- E. In addition to a decorative water feature permit fee required herein the applicant must, apply for and obtain a land clearing permit required by the Town's Code of Ordinances.

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

- A. Pay the designated pond permit application fee prior to the Town accepting any application for a pond permit. The pond permit application fee shall be set by a Resolution of the Town Council;
- B. If the applicant desires to construct a pond, the applicant shall provide the following documentation to the Town Clerk as part of the pond permit application;
 1. A site plan containing the existing and proposed elevations for the entire project, site, the location of the proposed pond, a survey of the project site, said (survey to contain topographic data), tree locations and a plot plan.
 2. Applicant must provide a written estimate of the quantity of fill which is proposed to be excavated, and a plan for disposal of said fill in accordance with this section.
 3. Any other documents that shall be required by the Town Engineer for purposes of demonstrating compliance with the performance standards of section 1-5.27.5.A—F and completing a conclusive review of the proposed site.
- C. If an applicant desires to fill a pond the applicant shall submit the following:
 1. A pond permit application containing, at a minimum the following:
 - a. A site plan of the existing pond including total area of the surface covered by water; depth of pond; and its proximity to structure;
 - b. The estimated amount of fill to be used, as well as, the type of fill to be used;
 - c. Name of contractor performing the fill activity;
 - d. Any and all other information required by the Town Engineer.

- D. The Town Clerk shall not accept an application for a pond permit unless the applicant has submitted an original and two (2) copies of all required documents, and paid all required permit fees.
- E. In addition to a pond permit fee required herein the applicant must, apply for and obtain a land clearing permit required by the Town's Code of Ordinances.

3.0 Review process.

- 1. The following process for review shall apply to all decorative water feature permit applications presented to the Town of Malabar for consideration.
 - A. The review process shall begin when the applicant has submitted to the Town Clerk all required documents as set forth in paragraph 1, where applicable, of this section and all applicable application fees have been paid.
 - B. Within five (5) working days of the receipt of a completed application and application fee, the Town Clerk shall forward one copy each of the application and the required documentation to the Town Building Official and the Town Engineer. The Town Building Official shall review the application to insure the completeness and accuracy of the submitted information, and shall notify the Town Engineer of any inaccuracies or incompleteness.
 - C. The Town Engineer shall review the application and, within two weeks of receipt of the application by the Town Engineer, the Town Engineer shall recommend that the application for a decorative water permit be;
 - 1. Approved;
 - 2. Approved, subject to certain conditions, or
 - 3. Denied.
 - D. 1. If the Town Engineer recommends approval of the decorative water feature permit application, the application shall be forwarded to the Planning and Zoning Board for their consideration and action on the next available Planning and Zoning Board Agenda. The review procedures in sections 1-7.1 through 1-7.6 to the extent not inconsistent with this section shall apply. The Town Engineer and the Town's Planning and Zoning Board may impose reasonable conditions upon the applicant for a decorative water feature permit. Upon consideration and action by the Planning and Zoning Board the matter shall be forwarded to the Town Council for consideration and action. Upon approval by the Town Council of the decorative water feature permit application, the Building Official shall issue a decorative water feature permit to the applicant. The decorative water feature permit, however, shall contain the statement of the conditions which must be met by the applicant as set forth by the Town Engineer, the Planning and Zoning Board, and approved by the Council. Upon acceptance of a decorative water feature permit which has stated condition, the applicant agrees to perform all conditions set forth in the decorative water feature permit.

2. A decorative water feature permit shall not be issued if the Town Engineer recommends denial of the permit.
3. The following process for review shall apply to all pond permit applications presented to the Town of Malabar for consideration.
 - A. The review process shall begin when the applicant has submitted to the Town Clerk all required documents as set forth in paragraph 1, where applicable, of this section and all applicable application fees have been paid.
 - B. Within five (5) working days of the receipt of a completed application and application fee, the Town Clerk shall forward one copy each of the application and the required documentation to the Town Building Official and the Town Engineer. The Town Building Official shall review the application to insure the completeness and accuracy of the submitted information, and shall notify the Town Engineer of any inaccuracies or incompleteness.
 - C. The Town Engineer shall review the application and, within two weeks of receipt of the application by the Town Engineer, the Town Engineer shall recommend that the application for a pond permit be;
 1. Approved;
 2. Approved, subject to certain conditions, or
 3. Denied.
 - D.
 1. If the Town Engineer recommends approval of the pond permit application, the application shall be forwarded to the Planning and Zoning Board for their consideration and action on the next available Planning and Zoning Board Agenda. The review procedures in sections 1-7.1 through 1-7.6 to the extent not inconsistent with this section shall apply. The Town Engineer and the Town's Planning and Zoning Board may impose reasonable conditions upon the applicant for a pond permit. Upon consideration and action by the Planning and Zoning Board the matter shall be forwarded to the Town Council for consideration and action. Upon approval by the Town Council of the pond permit application, the Building Official shall issue a pond permit to the applicant. The pond permit, however, shall contain the statement of the conditions which must be met by the applicant as set forth by the Town Engineer, the Planning and Zoning Board, and approved by the Council. Upon acceptance of a pond permit which has stated condition, the applicant agrees to perform all conditions set forth in the pond permit.
 2. A pond permit shall not be issued if the Town Engineer recommends denial of the permit.

4.0 Appeal process. If an applicant's permit is denied, or approved with conditions, the applicant

shall have the right to appeal such a denial or conditions to the Town Council under the following

procedure:

- A. An appeal of a decision not to issue a decorative water feature or pond permit, or to issue a decorative water feature or pond permit upon conditions, may be appealed to Town Council, by the applicant, within ten days of the applicant receiving notice of the denial of his permit or approval with conditions.
- B. To appeal a decision to Town Council, the applicant must submit, in writing, a notice to the Town Council of the intention to appeal the decision of the Town Building Official and request the matter to be placed on the Council's agenda. The Notice of Appeal shall contain the basis upon which the appeal is being made.
- C. Upon receipt of a timely notice of appeal, the Town Clerk shall set the matter on the Town Council's agenda, said appeal to be heard by Council, within thirty (30) days of the date of notice of appeal. The Town Clerk shall submit all documentation relating to the application and permit to Council for review.
- D. The Town Council shall review the issue and determine whether the decision of the Building Official shall be upheld, modified or reversed. All decisions of the Town Council are final.
- E. Appeals of decisions of the Town Council may be taken to a court of competent jurisdiction.

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

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

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

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

3. The setback from any abutting residentially zoned property line shall be forty (40) feet from such abutting property line otherwise setbacks shall be thirty (30) feet from abutting property line. The setback in this subsection shall apply to all decorative water features and ponds, 4. The decorative water feature or pond and any related site grading shall not adversely affect off-site drainage patterns.

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

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

D. Littoral zone. A minimum of thirty (30) percent of the decorative water feature or pond

area shall be littoral zone and shall be planted with suitable wetland vegetation.

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

1. The pond has a total surface acreage of less than one-quarter ($\frac{1}{4}$) acre;

2. For any decorative water feature or pond for which a permit is required the excavated material may be disposed of off-site if a certification is presented to the Town by a Florida licensed professional engineer stating that the excavated material, except topsoil, can not be utilized on-site. In submitting the certification the engineer shall take the following into consideration:

a. The size of the site.

b. Available on-site retention.

- c. The impact of on-site disposal will have on adjoining properties.
- d. No excavated material from a pond which one-quarter acre or larger in size may be sold; offered for sale or trade or bargained for anything of value.

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

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

6.0 Completion.

A. Decorative water feature or pond permits issued pursuant to this section shall be

effective for a period of six (6) months from the date of issue.

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

the Town Building Official.

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

7.0 Failure to complete.

- A. A fine up to two hundred fifty dollars (\$250.00) per day may be assessed against any applicant who fails to complete a decorative water feature or pond within the six-month period of the permit.
- B. Further, the Town, at its discretion, may require the applicant to restore the land to the condition prior to obtaining a decorative water feature or pond permit if it's not completed within the allotted time.
- C. It shall be the obligation of the applicant to notify the Town of completion. The decorative water feature or pond shall be complete only after a final inspection by the Town Building Official.

8.0 Standards for fill activities.

- A. No decorative water feature or pond shall be filled if, in the opinion of the Town Engineer, the filling of the decorative water feature or pond will adversely affect on and off-site drainage; promotes soil erosion on or off-site; or adversely affects the natural environment.
- B. Before any decorative water feature or pond shall be filled, approval from outside governmental agencies having jurisdiction over filling of water bodies must be submitted to the Town.

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

Portion of RTCM 12/5/2011 related to ponds

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: 6
Meeting Date: March 14, 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

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.