

**TOWN OF MALABAR**  
**PLANNING AND ZONING ADVISORY BOARD**  
**REGULAR MEETING**  
**WEDNESDAY NOVEMBER 14, 2012**  
**7:30 PM**  
**MALABAR COUNCIL CHAMBER**  
**2725 MALABAR ROAD**  
**MALABAR, FLORIDA**

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**AGENDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES- PZ Board Alternate Replacement**
- D. CONSENT AGENDA :**
  - 1. Approval of Minutes**                      Planning and Zoning Meeting – 10/10/2012  
**Exhibit:**                                      Agenda Report No. 1  
**Recommendation:**                      Motion to Approve
- E. PUBLIC:**
- F. ACTION:**
  - 2. Final Review of Code Language for “Light Industrial” and Recommendation to Council**  
**Exhibit:**                                      Agenda Report No. 2  
**Recommendation:**                      Discussion/Action
- G. DISCUSSION:**
  - 3. Code Requirements for Assisted Living Facilities**  
**Exhibit:**                                      Agenda Report No. 3  
**Recommendation:**                      Discussion
- H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:**
- I. PUBLIC:**
- J. OLD BUSINESS/NEW BUSINESS:**
- K. 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: November 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 October 10, 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  
OCTOBER 10, 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, excused
	BUD RYAN, excused
	LIZ RITTER
ALTERNATE:	WAYNE ABARE, voting for Don
ALTERNATE:	LEEANNE SAYLORS, voting for Bud
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

**C. ADDITIONS/DELETIONS/CHANGES:** Abare called point of order. Pg 8/63 it says Discuss and Action to recommend to Council. Thought it had to be on agenda for action first. Is that a conflict? Reilly said they can discuss and then make a recommendation to council. Franklin stated that items can be added at the meeting and voted on for recommendation to Council. There is no policy to the contrary. Council doesn't normally take action on items unless they are on agenda for action but they could. This is an Advisory Board. Abare said he read through all of ALF stuff. Since April this Board has had other items come before us and we have not worked on the ALF code. The Council could vote on an ALF and we wouldn't have any input. He is concerned. The lawyer did not include density - there is no density. If Council says the PZ Board had it for six months and did nothing with it they may take action. Abare wants to move it to next item for action. Wilbur said the Board could make a decision tonight on LI and move it to Council. Saylor's thought they could move on LI quickly.

**D. CONSENT AGENDA:**

**1. Approval of Minutes** Planning and Zoning Meeting – 9/26/2012

MOTION: Reilly / Ritter to approve minutes of 9/26/12 as corrected:

Corrections: pg 5/63 (pg 3 of minutes) 2<sup>nd</sup> sentence, he is not supporting – take out “the” Below G discussion “it is not a good location for tractor trailer. VOTE: All Ayes.

**E. PUBLIC:** none

**F. ACTION:**

**G. DISCUSSION:**

**2. Review Material of “Light Industrial” Zoning and Recommendation to Council**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Discussion

Wilbur explained that they are trying to find locations to allow businesses that don't fit in CG. The electronic communications substation type facility. Wilbur said that is why Data Mgmt is located where it is. Ritter asked about towers. They are CUP in whatever zoning. Ritter's concern is how large of building and how many employees. Saylor's said the light manufacturing would have the most impact. Abare said the distribution center would need more area than what we have available. Wilbur said most of the distribution that would be freight type would be in industrial. Ritter asked what Wilbur was envisioning in F. RR spur? Amtrak? Wilbur said take our

transportation terminals and freight handling – they would not fit in our area. UPS is off of Conlon Blvd. and that is a large area. Reilly asked about difference between switching stations in C. and H. Agreed to put H. up into C.

Wilbur wanted to get the Boards feelings because a lot of these uses would not be compatible with LC (limited commercial). Abare said all these things require a lot of vehicles moving in and out so you want them by major roads. He is in agreement with that. Industrial land is all taken? Unknown about the Cochran property. If there is land available couldn't you do these things there? Wilbur said there would be more likely development by Babcock with water and sewer. Abare said that Krieger's position that you could use existing and not have to make changes. Reilly said what Wilbur is trying to do is allow new category for businesses that could not fit in CG.

Abare said the minimum lot size of 9000sf is very small and could not probably meet the setbacks. Lots in triangle are about 1.4 acre in size.

They discussed the minimum widths and depths. They wanted to be consistent. They discussed 1000sf for LI for floor area.

Minimum yard requirements: 50 for front and 25 for rear. Side corner interior 20; side corner 30ft. Alleys don't apply to us.

Wilbur started at 1. Principal uses - Does Board agree – yes

- A) Yes
- B) Yes
- C) Add H to this. Even with dishes it is the same. Yes
- D) Yes light manufacturing could be Harris.
- E) Discussed screening matl. Require this for storage areas. Opaque means you can't see through it. It is a legal use of the word. Ritter said it is also a screen. Make note to create definition for book.
- F) Yes with deletion of transportation terminals and freight handling.
- G) Yes – add "animal" in front of clinics. Not intended to people clinics.

2. Accessory uses:

- A) retail and repair ok? Yes
- B) Yes

3. They agreed to leave CUP as none allowed. No conditional land uses. Make it these 4 words

4. No Special Exceptions.

5. Add the word "light" in front of industrial.

6. Already discussed.

Discussed adding "or similar uses" in title.

Come up with "P" for these items on table and have no "C" and leave the language that says ".or similar uses" Reilly said you have to state that they can come in for a CUP.

This would be added to District Provisions. CG, LC, LI, IND, or between K and L. Leeanne said it would be a buffer between these areas. Reilly said it needs to be word smithed. Then they discussed putting them in order. It will become Section "P" in this District Provisions.

Abare asked about a caretaker place. Can they spend the night there? Franklin said that caretaker places are allowed on educational and church properties.

The areas in District Provisions in some sections state prohibited uses: residential uses are not permitted. Abare discussed kennels that allowed in conjunction of residences in other areas.

Saylors mentioned that they did not discuss if they allow round the clock shifts. They don't have a bed. That is the difference. Reilly suggested taking it out as it is already in IND as CUP. It contradicts the existing code. They discussed doggie day care. Or add day kennels. Veterinary Services. Or remove. Wilbur said you can have a business that is staffed 24 hours a day and not have a residence there. It is not a residential use. Leave it in. It would be hard to police. Saylors said put statement in prologue that residential use is not permitted. Add that sentence to prologue.

For next meeting we will add prologue and clean this up and have ready for ACTION.  
Wilbur, 18/63 referenced W. Melb regarding screening. This is for every site. Wilbur had not seen it in any other city requirement. Thought that was over kill. Reilly said that we already address it in site plan requirements.

Reilly referenced page 19, our book is more descriptive. Pg 22, Krieger wrote some ideas: something like that is what we need. Use both of them. Put in for next meeting. Add the similar uses statement here. Put on for action. The tables will have to be updated also. On the maps it will have to be updated. We will bring in the maps from last July FLUM map series. Also update Article II. Also add in Art II under uses. 1-2 would have all of Bob's stuff from tonight. The rest goes into 1-3. It will be split that is his point. Wilbur said they are adding a LI. Reilly said 1-2 is land use and zoning. Then less in District Provisions.

Franklin explained that the recommendation would then go to council and if they support it it will come back to PZ and hold public hearings and then again at Council.

Abare said taxes would go up if the land use changed. Wilbur said they are not talking about zoning. Abare discusses grandfather clause. He doesn't want anyone forced into rezoning. That is his position.

### **3. Code Requirements for Assisted Living Facilities**

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Discussion

Regarding the 3-ring binder from April 11, 2012. 56/63 is that the latest. Yes. Abare did not see dramatic changes.

Reilly said they have to go to different levels of assisted levels. Reilly said he did 100 hours of research on this. He would like to use this as a base line and get the tables. Criteria at bed level. It is a whole lot harder if you want to do it right. When they do the table they determine the intensity and the site requirements and they should not be across the table. Have it all in one table.

Wilbur said W. Melb requires 5 acres. Different intensities of use. Saylors said she worked in const mgnt and the parking requirements at a skilled care level is 0 for patient. Wilbur said in the assisted living is condition based. Abare said where his mother is there are areas that are locked down and others that if they leave an area an alarm goes off. You still need parking for family for the patient that doesn't have parking. Institutional Institute has done the studies on the requirements. Abare said in some of these places that some areas they can offer multiple levels or one levels. Reilly said what if they got approval for one level and they then changed the level. Then the parking might be an issue. Saylors said in that case they need to buy additional land for parking. They are governed by so many jurisdictions that you can tell if they have changed levels. The Towns tasks are to establish the parking and the green space. Wilbur said between independent and assisted living is a gray area. In that type of facility Town has control.

Abare said when they widen Malabar Road the State is going to take a lot of land. Once they determine which side it is coming off of. Reilly said another thing to bring up is having ALF in

lessor classifications. Like RR-65. As a Board is that the direction they want to support? They have said in the past that they don't want that. That should be the starting point. Presently they are not permitted anywhere. It is Conditional in RM4, RM6, RLC, and OI. What Attorney did was line through group home and replace it will adult care.

Reilly said the ordinance as it stands. The Mayor Tom wanted them to redo the whole thing and it is going to take a lot of work. Abare said the table may be ok? Yes it might be for a group home. Didn't want to get into minutia. Abare said there was no discussion of density in the minutes. Reilly gave his example of 4 people per family and four units per acre.

Saylors said some areas on septic will not be able to handle higher density. Abare asked if ordinance could be kept and just improved by adding more detail and table. Yes.

Pg 60/63 first paragraph, remove from OI and eliminate from R/LC. What was rationale? Ritter said that was Council direction. Wilbur said OI came out of area that was PC (professional commercial). What Council has suggested is taking the residential from the Office Institutional. Wilbur wonders why Council minutes of June 20, 2011. Get those minutes in their entirety. Saylors said what Rivet said was for R/LC intended use was for small businesses and homes.

Wilbur said this ordinance was not passed so they are starting over. Just look at density and site size. Your intensity is based on size. Wilbur said the lower ones are going to need. Abare said at Hibiscus court is 2 acres, is 100 people. We have to collectively decide if we want to do. Ritter said not we can refer to State for certain things but not the size. Wilbur said if you want to keep rural character of Town. Saylors said there are some higher end places. Abare said ones with oaks and tables under them. Wilbur said there is one on Babcock by Crane Creek. Saylors said we can control park like settings. Instead of storage yards. Abare said instead of saying no then put in requirements for rural characteristics.

Wilbur said get understanding from Council. Ritter said take back to Council after election.

Reilly said staff could look at what the different levels are. Look at the different classifications. Try and think of the density you would want in each zoning classification.

**H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:**

**I. PUBLIC:**

**J. OLD BUSINESS/NEW BUSINESS:**

Owner of old day care is interested in developing an ALF and will be coming before P&Z to introduce his project at the Nov 14 or 24 meeting. He will have concept at that time. Current zoning is OI in front in RR65 in back.

Recent articles in paper detailing how some people are being allowed to operate businesses from their rented storage facility. The mini-storage on RR Ave and Malabar Road do not allow business to operate from those locations. The warehouse approved by Council on Highway 1 specifically permitted the operation of businesses from the units.

Reilly said that there is no meeting on 10/24/12, two meetings in November and only one in December due to Christmas. Board agreed.

**L. ADJOURN**

There being no further business to discuss, **MOTION: Reilly / Ritter to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 10:15 P.M.

BY:

\_\_\_\_\_  
Bob Wilbur, Chair



# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

AGENDA ITEM NO: 2

Meeting Date: November 14, 2012

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

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**SUBJECT: Light Industrial Zoning**

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

At the October 10<sup>th</sup> P&Z Meeting the Board went over permitted uses in a Light Industrial District. Changes to Article II to add a Light Industrial FLUM Designation and the corresponding Zoning designation and changes to Article III to add a new Light Industrial description just before the Industrial description. This will include a definition and uses permitted and prohibited. Table 1-3.3.A. would also need a new entry for Light Industrial. The Board discussed and gave direction to staff on what the regulations should be for this use.

Staff was directed to provide "clean" copies of proposed language in code for this meeting for Board's consideration and action to Council.

#### **ATTACHMENTS:**

- Article II FLUM Designations & Zoning *Draft* Table 1-2.1 & Section 1-2.6 Land Use Classifications
- Article III District Provisions Section 1-3.1, *Draft* new subsection for *LI* "Light Industrial"
- Article III District Provisions *Draft* Table 1-3.2 Land Use By District – LI added
- Article III District Provisions *Draft* Table 1-3.3(A) Size&Dimension Regulations – LI added
- FLUM Package will be provided on overhead in Color showing proposed LI areas

#### **ACTION OPTIONS:**

Discuss and Recommend to Council

ARTICLE II FLUM DESIGNATIONS AND ZONING TABLE 1-2.1.

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

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

**D.** *Light Industrial Activities.* The following land uses are included in light industrial land use classification 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 area.

**1. Principal uses and Similar uses and structures:**

- *Warehousing and wholesaling* carried on solely within an enclosed structure, including refrigerated storage.
- *Service and repair establishments*, dry cleaning and laundry plants, business services, printing plants and welding shops, bakeries, fruit packing, machine shops, carpentry mill work, plumbing, masonry, electric.
- *Telephone switching stations*, electric substations and similar operational equipment used by public utilities i.e fiber optic, data storage and Electronic communication/transmission facilities & exchanges.
- *Light manufacturing processing and assembly*, such as precision manufacturing of electrical machinery and instrumentation.
- *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.
- *Marine sales, storage and repair establishments*, and automotive repair, paint and body shops.
- *Vocational and trade schools, veterinary hospital, kennels and animal clinics.*

**2. Accessory uses:**

- *Retail sales of products manufactured, processed or stored on the premises.*
  - *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.*
4. *No Conditional land use.*
5. *No Special exceptions*
6. *Prohibited uses and structures: All uses not specifically or provisionally permitted herein, and not in keeping with the light industrial character of the district.*

E. *Industrial Activities.* The following land uses are included in the industrial land use classification where the same are conducted within a totally enclosed building except as specifically provided herein:

1. *Kennels* for boarding of domestic dogs and cats and veterinary medical operations.
2. *Manufacturing Activities* including:
  - Manufacturing or processing of electronic components, optical instruments, electrical appliances, or other precision components;
  - Assembly and distribution of goods;
  - Maintenance, repair, reconditioning, and cleaning;
  - Printing;
  - General packaging and processing activities;
  - Research and development technology;
  - Commercial laundries;
  - Machine shops;
  - Agricultural research laboratories;
  - Vocational and trade schools;
  - Sale of building material.

Other similar manufacturing activities conducted in a fully enclosed building which are approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses shall exclude metal fabrication, chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such uses shall be as cited in the following Section 1-2.6 [1-2.7].

3. *Manufacturing Service Establishments*, such as heavy machinery repair and service; heavy machinery or heavy equipment rental or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

4. *Vehicle and Other Mechanical Repairs and Services*, including those not permitted as commercial zoning activities including paint and body shops.

5. *Warehousing, Storage and Distribution Activities*, including building contract construction, building supplies, furniture stores with major warehousing, and trade services with extensive warehousing, trucking support facilities, or requirement of outside storage.

ARTICLE III  
District Provisions  
Section 1-3.1 Purpose and Intent of Districts

Existing Language:

L. CG "Commercial General." The CG district is established to implement comprehensive plan policies for managing general commercial development. The general commercial district is designed to accommodate general retail sales and services. Sites designated for CG zoning shall be located in highly accessible areas adjacent to major thoroughfares which possess necessary location, site, and market requirements required by general commercial land use activities.

The general commercial district shall also accommodate commercial trades in strategically designated areas as defined in the conditional use criteria. Development standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

The general commercial district is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards. Finally, no permanent residential housing shall be located within the general commercial district.

The location and distribution of general commercial activities shall be determined based on the following considerations:

- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems; and
- Impact on existing and planned community services and utilities.
- A Malabar Vernacular Style is required for all development along arterial roadways.

ARTICLE III  
District Provisions  
Section 1-3.1 Purpose and Intent of Districts

**Proposed New Language:**

**M. L I "Light Industrial"** The light industrial and similar use district is established to implement comprehensive plan policies for managing light industrial development. Such development is intended to provide local services as well as limited light manufacturing, warehousing, distribution and other light industrial functions applicable to the region. For instances, sites with in this district are intended to accommodate neighborhood shops such as:

- Limited metal or material fabrication facilities including welding services, electrical services, light assembly, limited mechanical repair including but not limited to auto repair, plumbing services, health, environmental, and septic services.
- A specialized market with customized market demands.
- Uses 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.

Existing Language:

N. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods. Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

ARTICLE III LAND USE BY DISTRICTS TABLE 1-3.2.

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	LI	IND	INS	CP
<b>RESIDENTIAL USES</b>															
Duplex					P	P					P				
Mobile Homes							P								
Multiple Family Dwelling					P	P					P				
Single Family Dwellings	P	P	P	P	P	P	P				P				
<b>COMMUNITY FACILITIES</b>															
Administrative Services (Public and Not-for-Profit)								P	P	P	P			P	
Child Care Facilities								C			C			C	
Churches, Synagogues and Other Places of Worship	C	C	C	C	C	C		P, A <sup>1</sup>	P	P	P			P	
Clubs and Lodges (Not-for-Profit)									P	P					
Cultural or Civic Activities								P	P	P	P			P	
Educational Institutions								C, A <sup>1</sup>						C	
Golf Course Facilities	C														
Group Homes					C	C		C			P			C	
Hospital and Extensive Care Facilities								C						C	
Nursing Homes (Including Rest Homes and Convalescent Homes)					C	C		C			C			C	
Protective Services					C	C	C	C	C	C	C		C	C	
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C		C	C	
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C		C	C	
<b>AGRICULTURAL ACTIVITIES</b>															
Noncommercial Agricultural Operations	P														
Wholesale Agricultural Activities	P														

ARTICLE III LAND USE BY DISTRICTS TABLE 1-3.2.

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	LI	IND	INS	CP
Commercial Stables	C														
COMMERCIAL ACTIVITIES															
Adult Activities										C					
Bars and Lounges										C					
Bed and Breakfast											P <sup>1</sup>				
Business and Professional Offices								P	P	P	P		P	P	
Enclosed Commercial Amusement										P					
Funeral Homes									P	P	C				
General Retail Sales and Services										P		P			
Hotels and Motels										P					
Limited Commercial Activities									P	P	P				
Marine Commercial Activities										C*		P			
Medical Services								P	P	P	P				
Mini Warehouse/Storage									C	P			P		
Parking Lots and Facilities								P	P	P	P			P	
Retail Plant Nurseries									P	P	P				
Restaurants (Except Drive-Ins and fast food service)									P	P	P				
Restaurants (Drive-ins)										P					
Service Station, Including Gasoline Sales										C*			C*		
Trades and Skilled Services										C*		p	P		
Vocational and Trade Schools												p			
Veterinary Medical Services								P	P	P	C	P	P		
Vehicular Sales and Services										C*	P		P		
Vehicular Services and Maintenance										C*	P	p	P		
Wholesale Trades and Services										C*	P	p	P		

ARTICLE III LAND USE BY DISTRICTS TABLE 1-3.2.

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	LI	IND	INS	CP
<b>INDUSTRIAL ACTIVITIES</b>															
Building Materials supply & storage												P**			
Kennels												P	C		
Light Manufacturing with low hazard occupancy per Building Code												P			
Manufacturing Activities													P		
Manufacturing Service Establishments													P		
Service & Repair Activities												P			
Communication Transmission Facility and Exchanges												P			
Vehicle and Other Mechanical Repair and Services										C*		P	P		
Warehouse, Storage and Distribution Activities												P	P		
Warehouse, Refrigerated Storage												P			
<b>WATER DEVELOPMENT</b>															
<b>NONCOMMERCIAL ACTIVITIES</b>															
Noncommercial piers, boat slips, and docks															C

C	= Conditional Use
P	= Permitted Uses
A	= Accessory Use
*	= These uses are permitted only on sites abutting Babcock Street, US 1, and West Railroad Avenue.
**	= Storage of Scrap Material Prohibited. Outside storage shall be walled or screened on all sides to avoid any deleterious effects on adjacent properties.
1	= Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town. Any Bed and Breakfast which 1 is proposed to have more than five (5) living quarters shall only be approved as a conditional use in accordance with Article VI of the Land Development Regulations

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

Zoning District	Minimum Lot (1)				Maximum Height (ft./stories)	Minimum Living Area (sq. ft.) for residential or Minimum commercial sf	Setback (ft.) from property line (2)				MISR	MBC	MOS	Max Density
	Size (sq. ft.)	Width (ft.)	Depth (ft.)	Front			Rear	Side (interior)	Side (corner)	Maximum Impervious Surface Ratio (%)	Maximum Building Coverage(%)	Minimum Open Space (%)	Maximum Density (units per acre) Residential only	
<b>Commercial Development</b>														
CL	20,000	100	150	35/3	Min Floor Area: 900 Max Floor Area: 4000	50	25	10 (4) 15 (3)	20	65	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	35	N/A	
<b>Industrial Development</b>														
<b>LIGHT IND</b>	<b>20,000</b>	<b>100</b>	<b>150</b>	<b>35/3</b>	<b>Min Floor Area: 1200</b>	<b>50</b>	<b>25</b>	<b>20</b>	<b>30</b>	<b>65</b>	<b>42</b>	<b>35</b>	<b>N/A</b>	
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	30	N/A	
<b>Institutional Development</b>														
INS	20,000	100	150	35/3	Min Floor Area: 1200	50	25	20	30	60	20 10(6)	40	N/A	
<b>Coastal Preservation</b>														
CP	No Size and Dimension Regulations Adopted													

Note 1 Minimum lot size plus one-half of adjacent public right-of-way.

Note 2 Setbacks determined pursuant to Table 1-3.3(A) or (E) whichever is most restrictive.

Note 4 Setback shall be greater where side property line abuts a district requiring a larger setback. 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%

Note 7: 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.

# TOWN OF MALABAR PROPOSED FUTURE LAND USE CHANGES

PRESENTED BY THE PLANNING AND ZONING COMMITTEE

NOVEMBER 2, 2012

# Present Land Use Designations

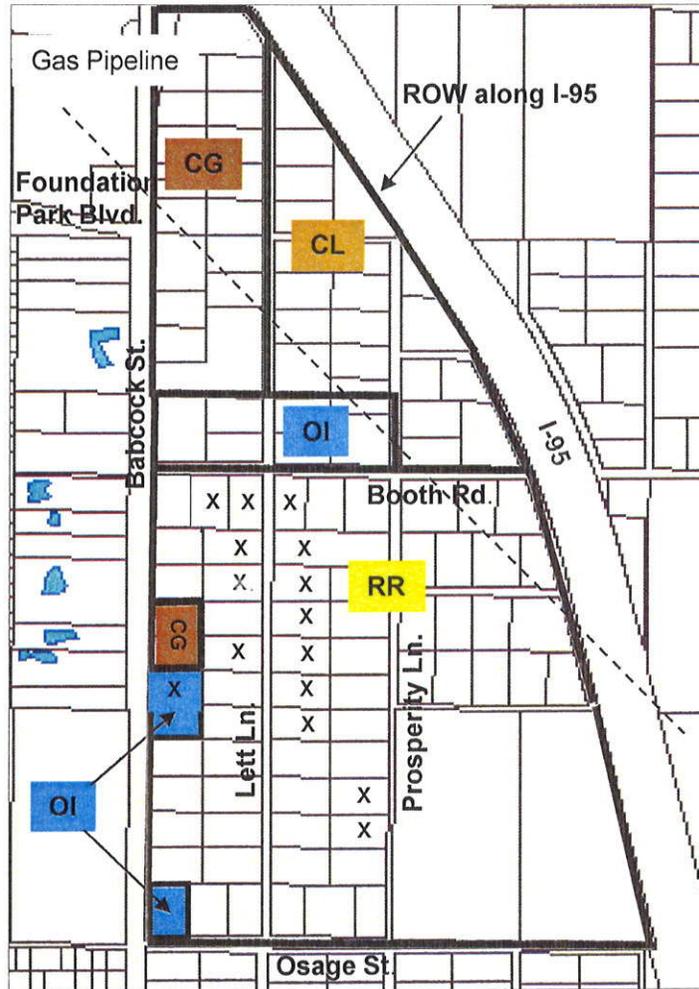
- Residential/Limited Commercial (R/LC)
- High Density Residential (HDR)
- Medium Density Residential (MDR)
- Low Density Residential (LDR)
- Rural Residential (RR)
- Commercial General (CG)
- Commercial Limited (CL)
- Industrial (IND)
- Office Institutional (OI)
- Institutional (INS)
- Open Space and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

# Related Data

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

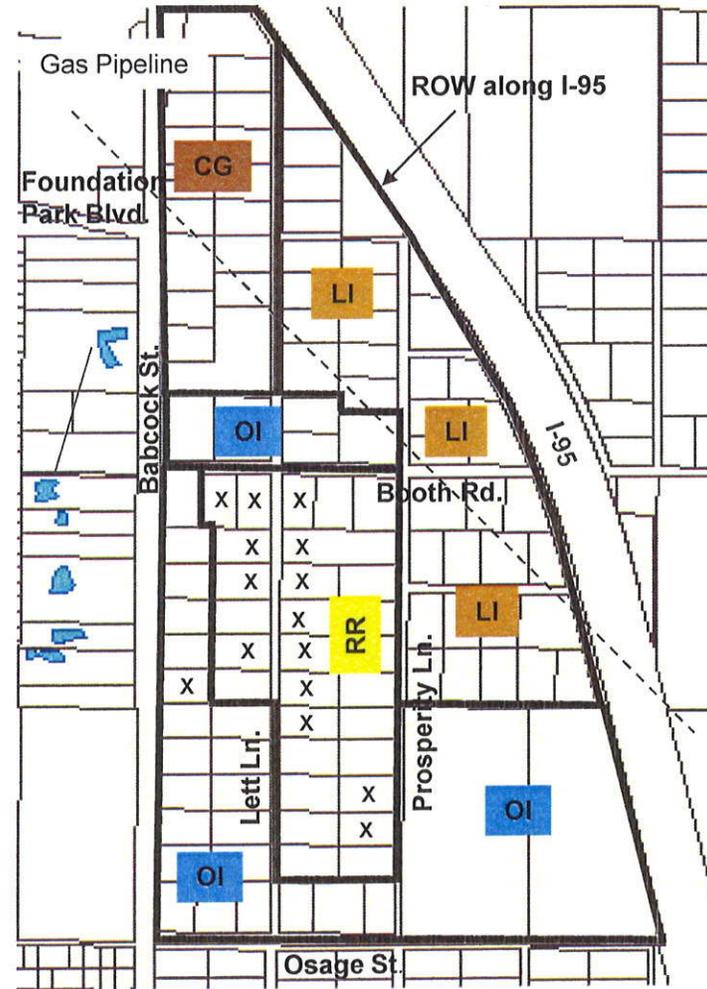
# Land Use Along Babcock Street

## Present Land Use



X = Homes

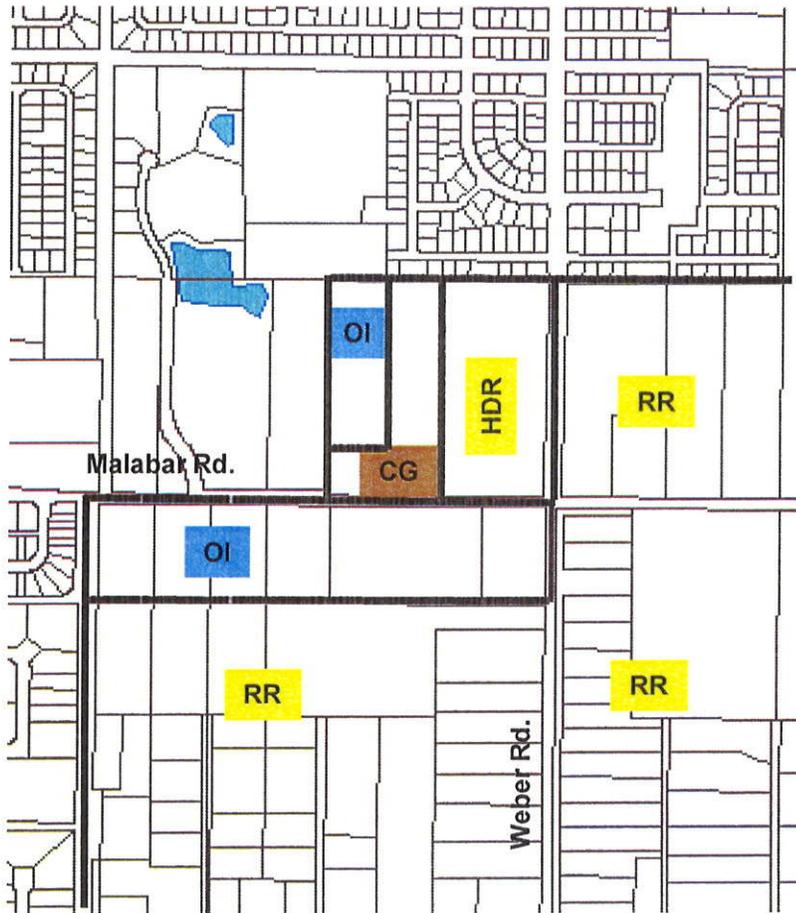
## Proposed Land Use



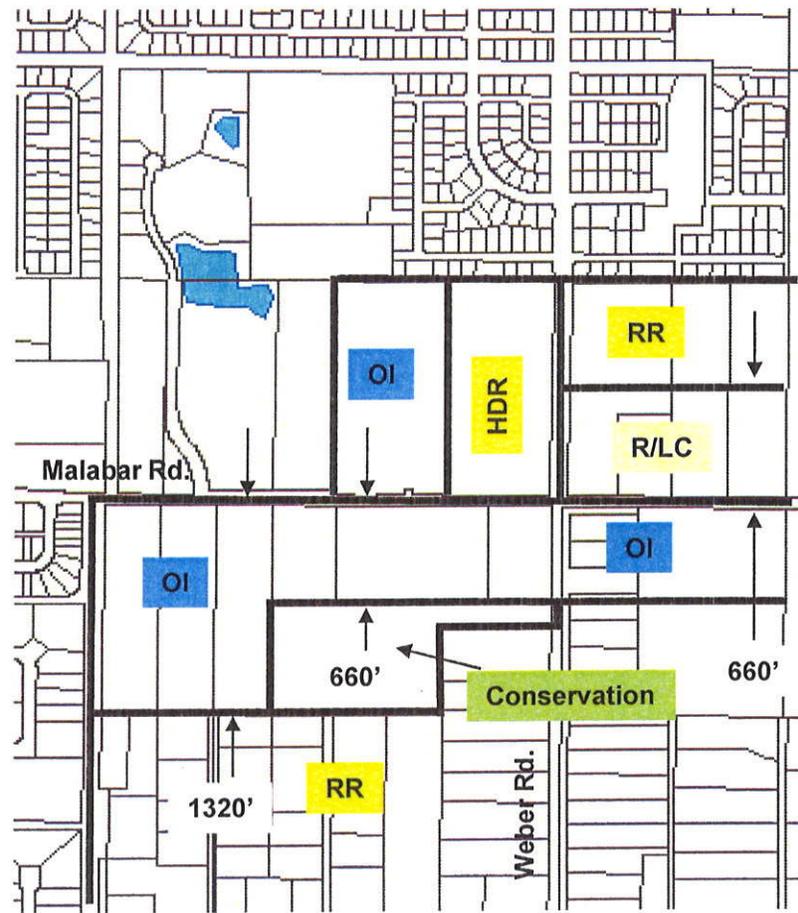
November 2, 2012

# Land Use Along Malabar Rd. (West end)

## Present Land Use

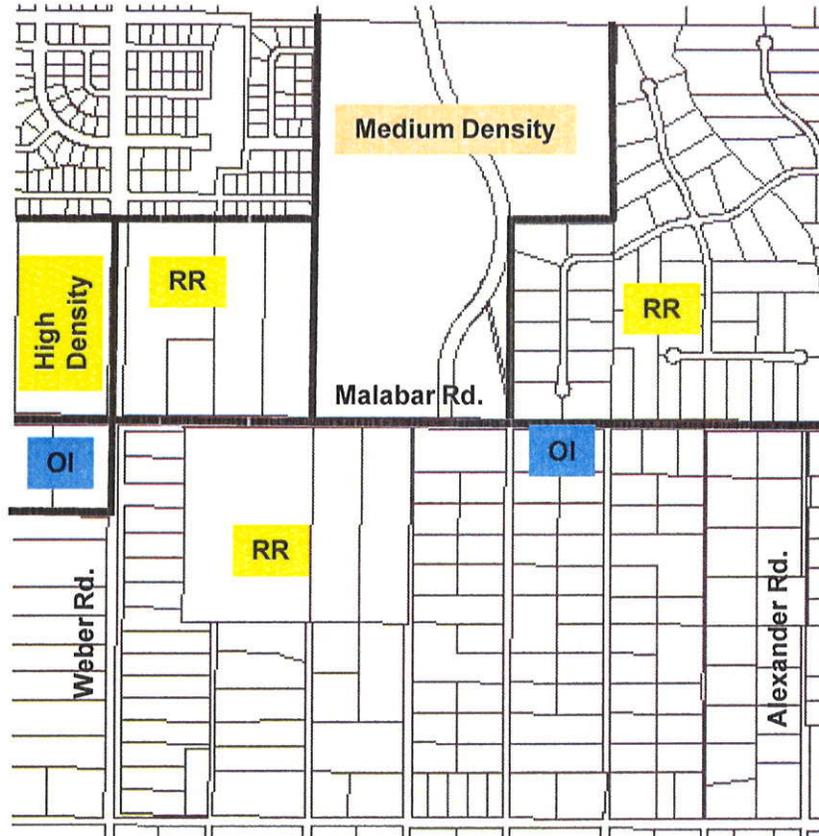


## Proposed Land Use

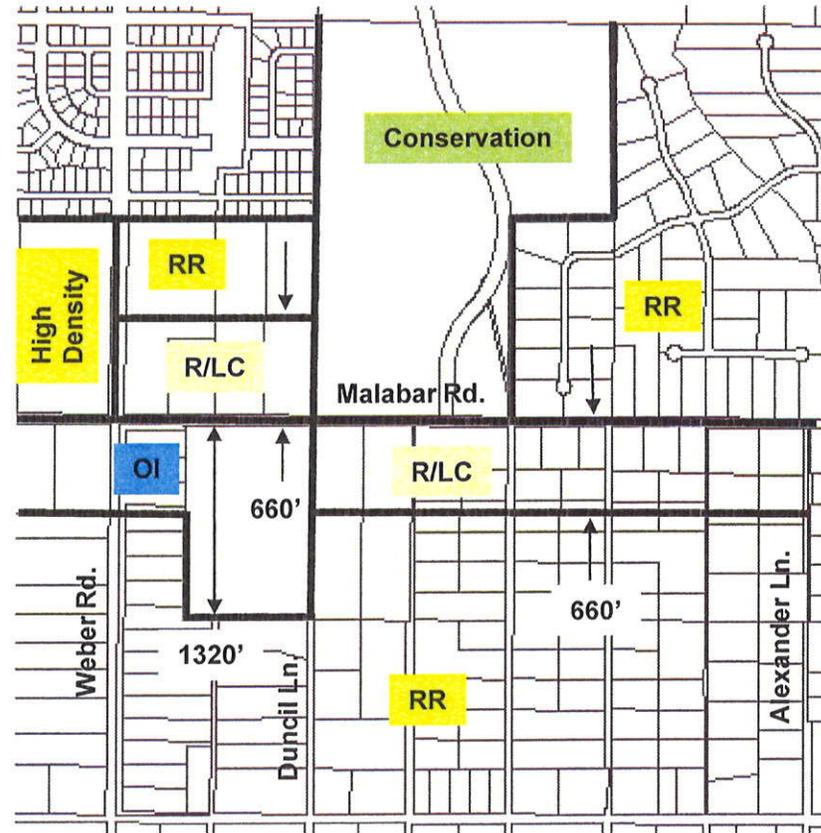


## Land Use Along Malabar Rd. (Weber Rd. to Alexander Ln.)

**Present Land Use**

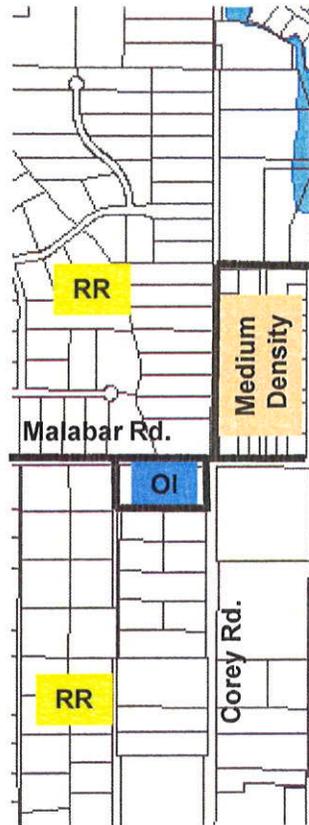


**Proposed Land Use**

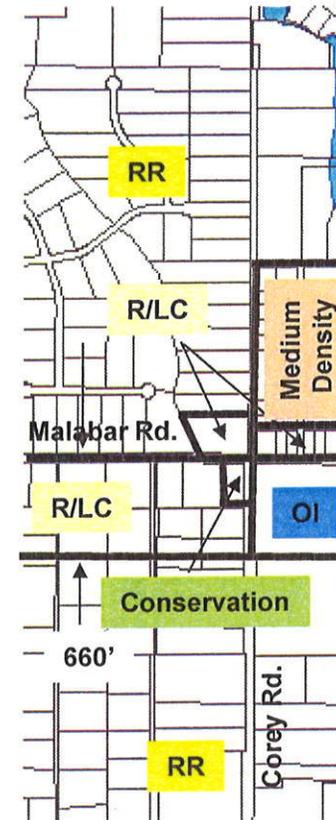


## Land Use Along Malabar Rd. (Alexander Ln. to Corey Rd.)

### Present Land Use

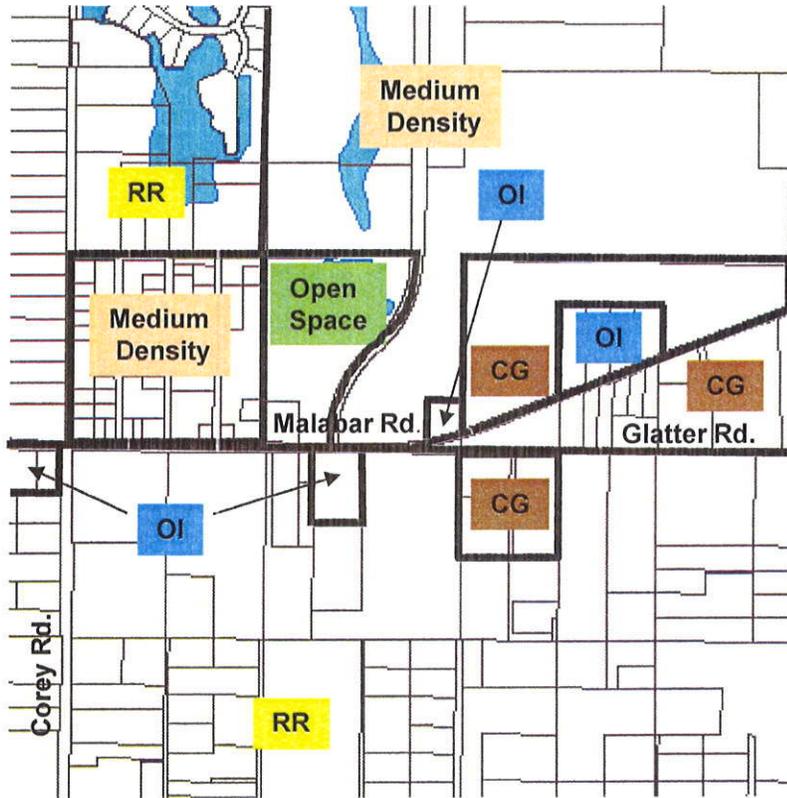


### Proposed Land Use

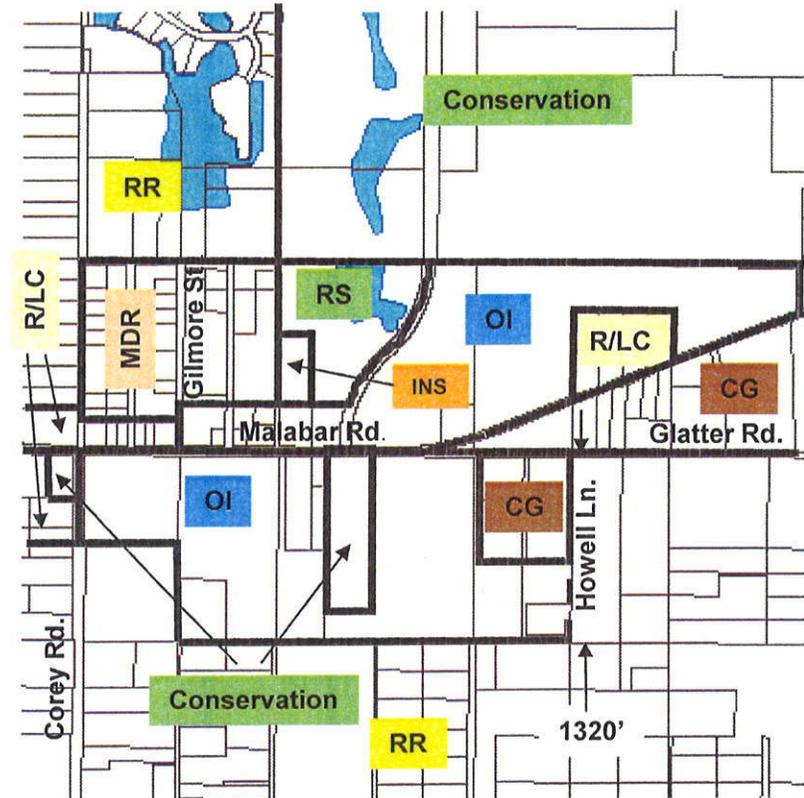


## Land Use Along Malabar Rd. (Corey Rd. to Marie St.)

**Present Land Use**

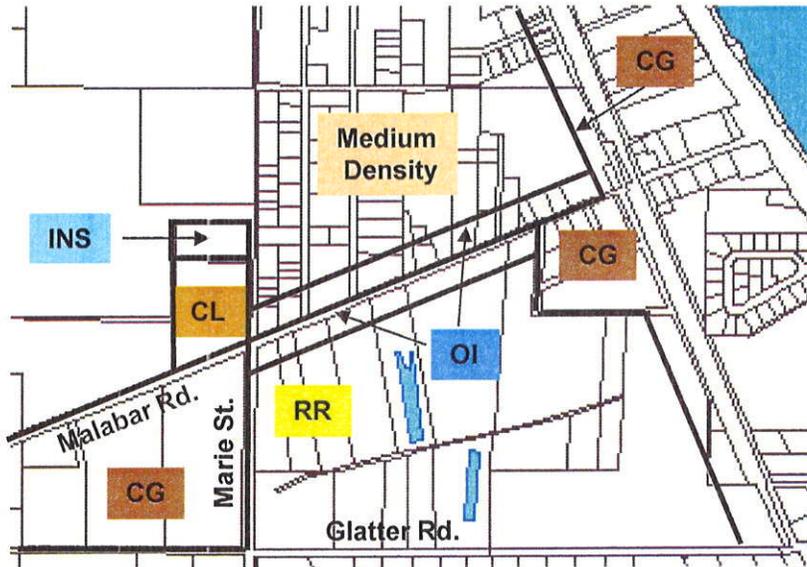


**Proposed Land Use**

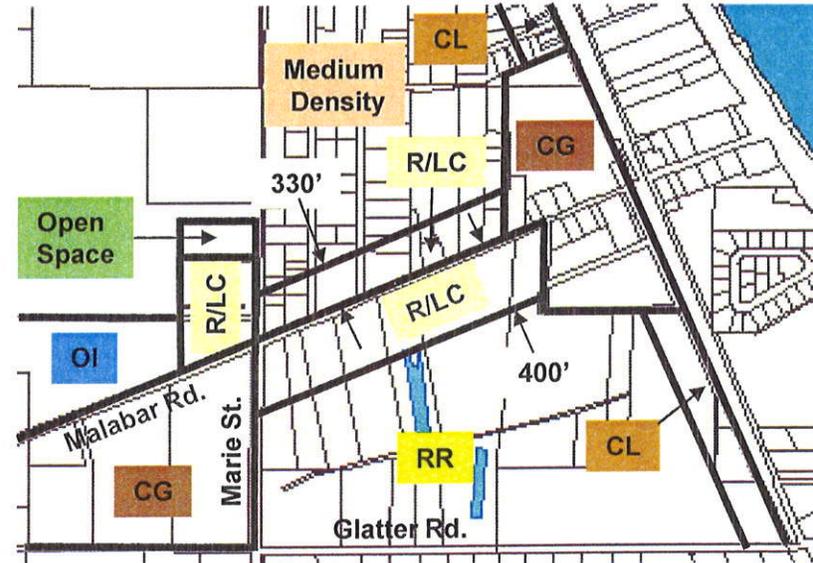


# Land Use Along Malabar Rd. (Marie St. to RR Tracks)

## Present Land Use

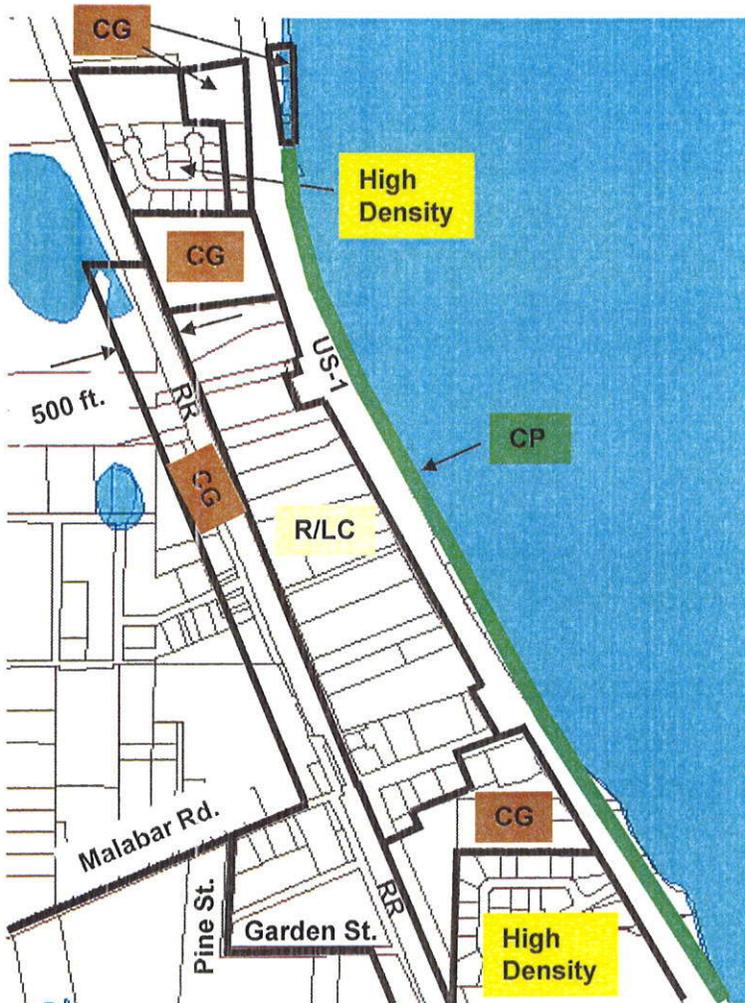


## Proposed Land Use

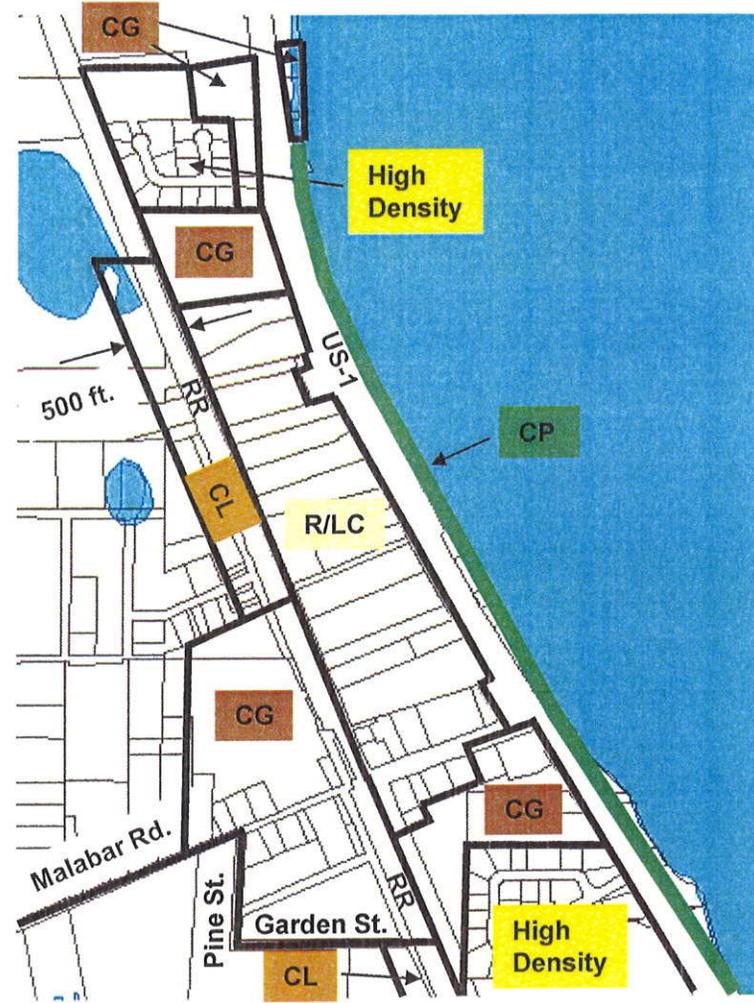


## Land Use Along US-1 (North end of Malabar)

### Present Land Use

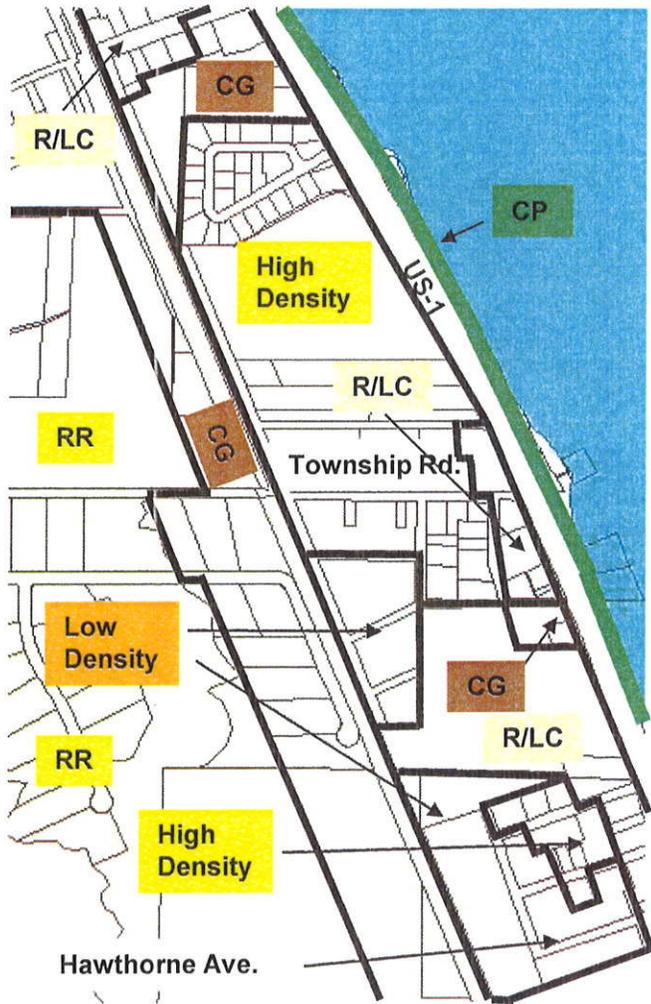


### Proposed Land Use

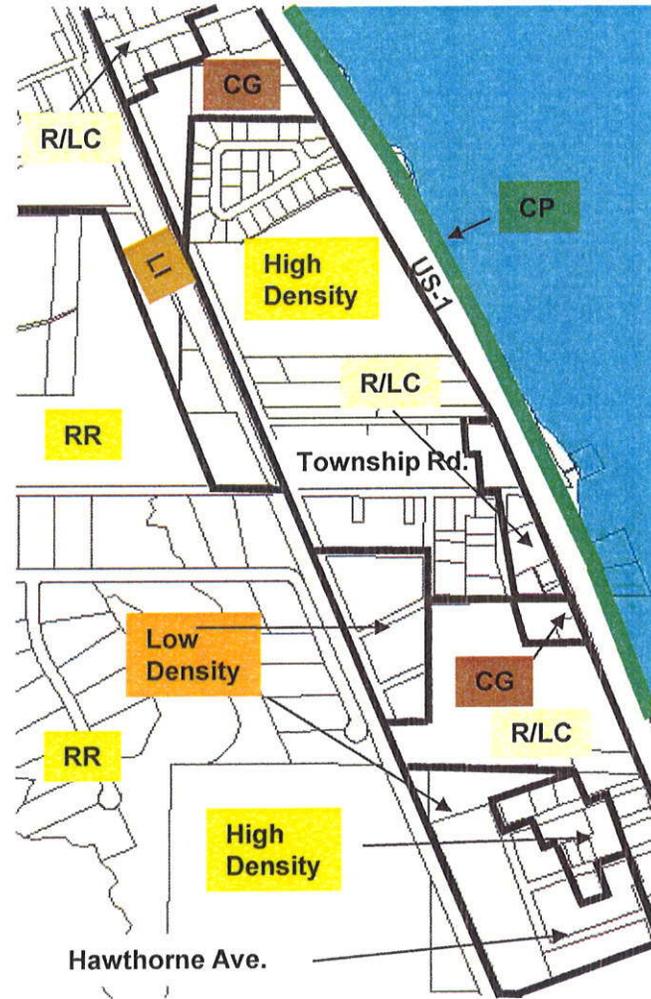


# Land Use Along US-1 (Malabar Rd. to Hawthorn Ave.)

## Present Land Use

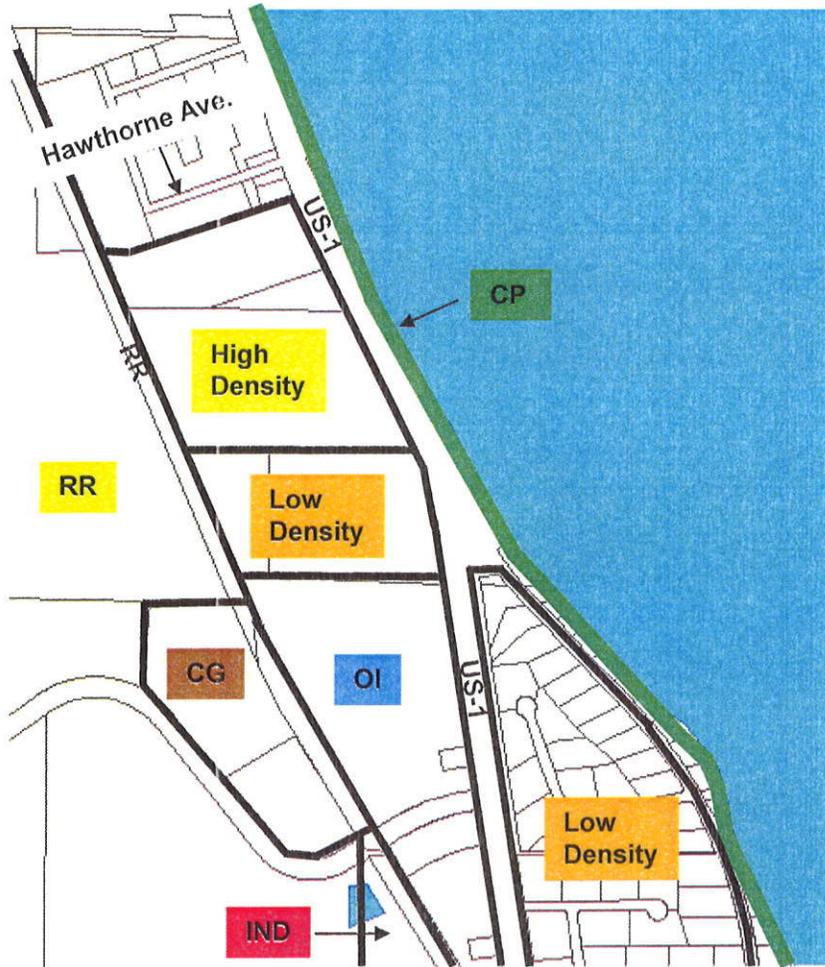


## Proposed Land Use

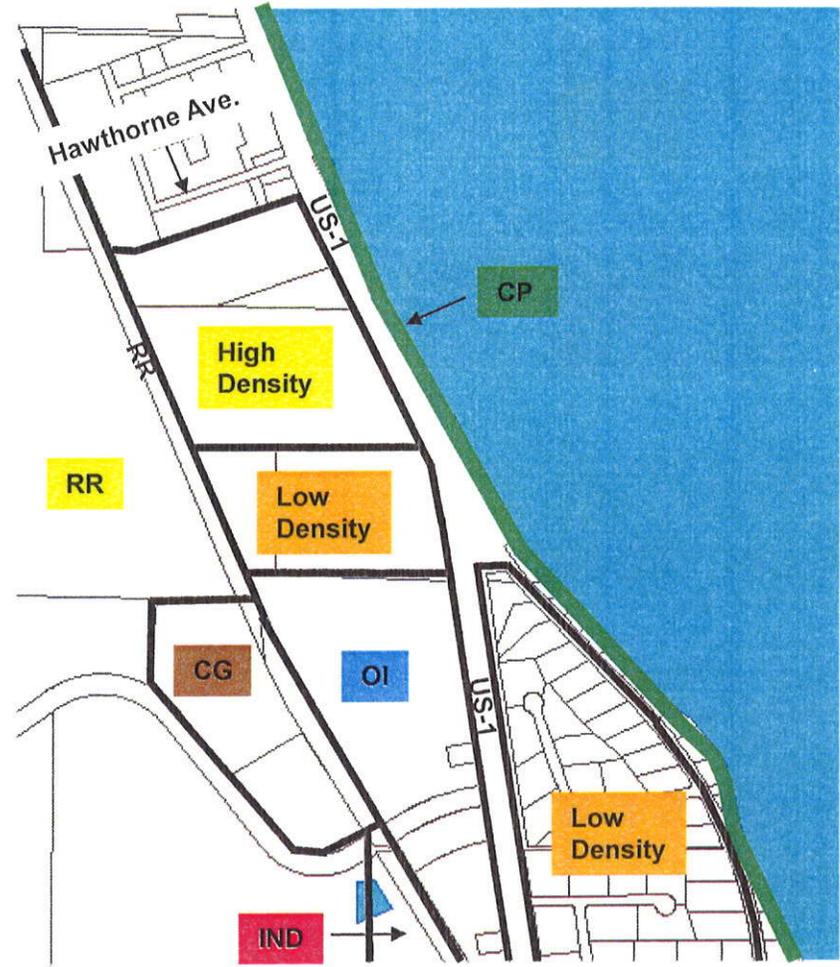


# Land Use Along US-1 (North Rocky Point)

## Present Land Use



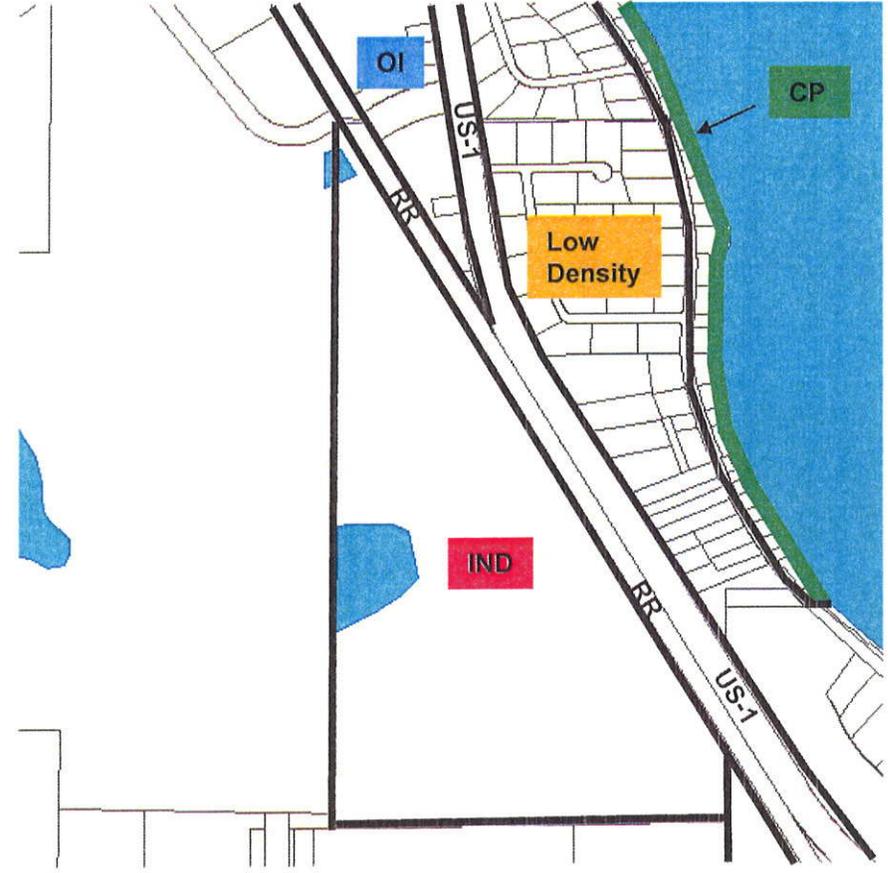
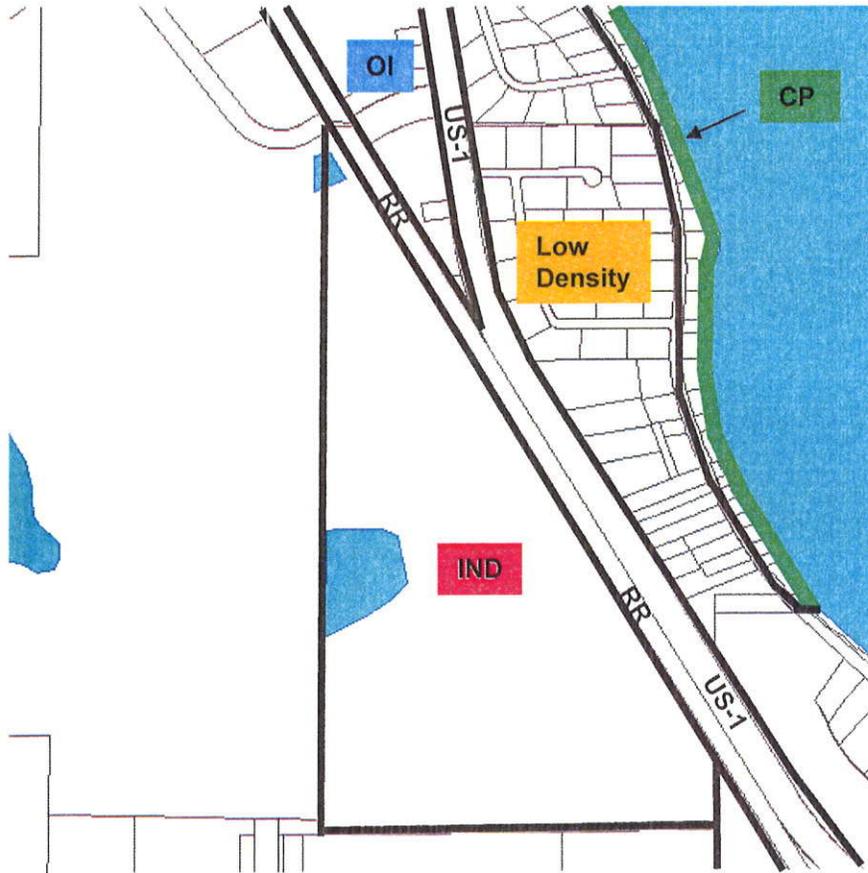
## Proposed Land Use



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

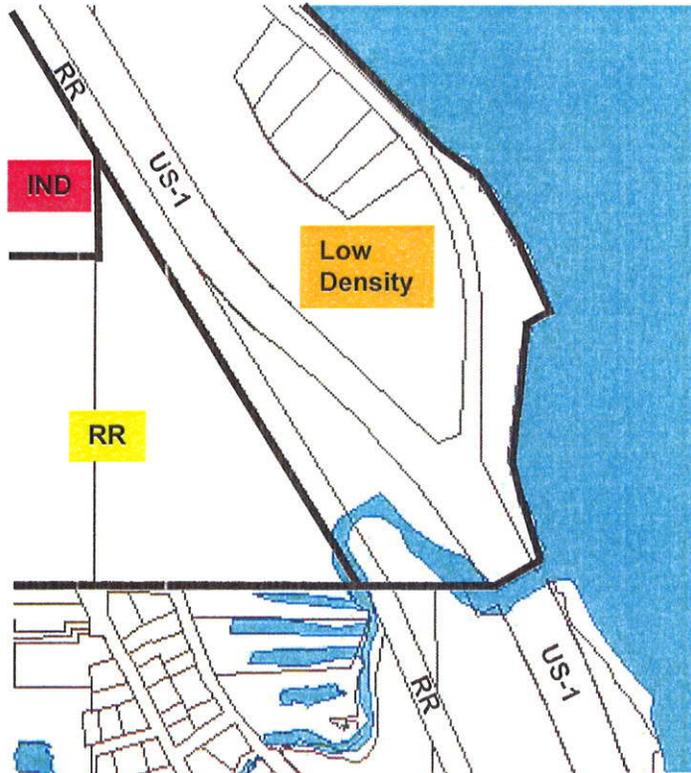
Present Land Use

Proposed Land Use

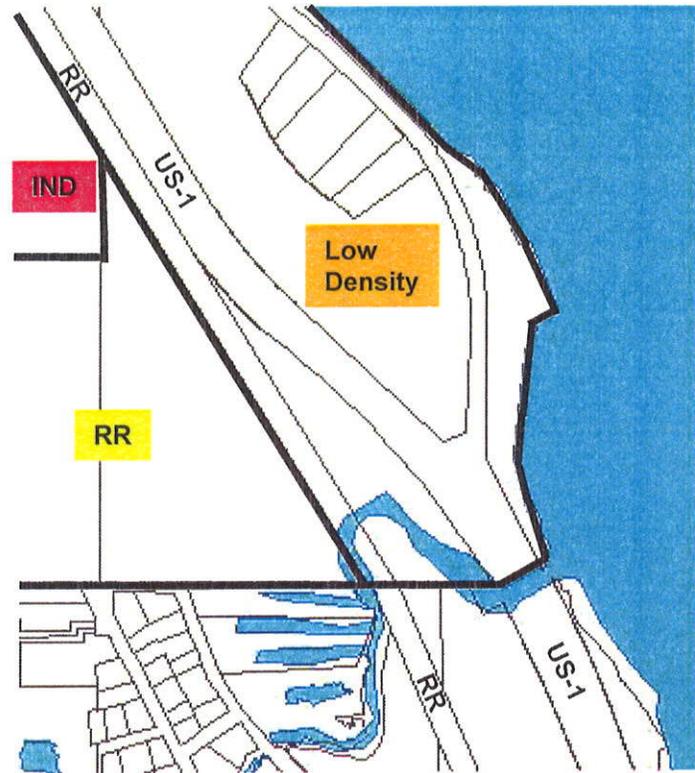


## Land Use Along US-1 (South Rocky Point)

Present Land Use



Proposed Land Use



# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

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

Prepared By: Denine M. Sherear Planning & Zoning Secretary

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**SUBJECT: Code Requirements for Assisted Living Facilities**

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

This item has been discussed at several previous meetings. Staff has provided the Florida Statutes and Florida Building Codes, 2010 to Board Members in a separate white binder.

**We are providing the associated minutes from P&Z and Council when this topic was discussed and would ask that you insert them into your binder for future reference while this item is being discussed. This will save paper.**

#### **ATTACHMENTS:**

- Memo from Atty Bohne 10/30/12
- Memo from Franklin with Council minutes from 6/20/11
- Minutes from P&Z 7/13/11 & 7/27/11
- Minutes from Council 5/5/11
- Brevard County Code (1 page)
- Cocoa Beach Code (8 pages)
- Florida Building Code, 2011 Edition
  - Section 308, Institutional Group I
  - Section 310, Residential Group R
  - Section 313, Daycare, Group D
  - Section 433, Adult Day Care
  - Section 434, Assisted Living Facilities
  - Section 436, Day Care Occupancies
- Florida Statutes, 2011 Edition
  - Chapter 400, Parts I and V
  - Chapter 419
  - Chapter 429, Part I only

#### **ACTION OPTIONS:**

Board Discussion.

**\*NOTE: Please bring 3-Ring Binder from April 11, 2012 P&Z Mtg Agenda Item #6**

# TOWN OF MALABAR

## MEMORANDUM

**Date:** October 30, 2012  
**To:** Town of Malabar  
**From:** Attorney Karl Bohne, Malabar Town Attorney  
**Ref:** ALF in RM-6

We have worked on amending our ordinance to remove the references to nursing homes and group home to replace those terms with up to date terms such as "Adult Living Facilities". Those changes are currently under review by the P&Z. Unless we change the code we are stuck with these seemingly outdated references. We seem not to define group homes in Article XX but define group care facilities (which are probably meant to be group homes). We do have a definition of Group homes in section 1-2.6 B. 8. We do not have a definition for Nursing Home in Article XX, but define an extended care facility to include nursing homes. Nursing home as used in Table 1-3.2 also uses convalescent homes and rest homes but we do not define those terms either. Nursing home is defined in section 1-2.6 B. 10.

So as I see it this is allowed in the RM-6 as a conditional use as long as they can meet the applicable requirements for a nursing home. This includes table 1-6.1 (B) and 1-9.2.12 parking and any other code requirements for nursing homes.

# TOWN OF MALABAR

## MEMORANDUM

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

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

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

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

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

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

Mayor read by title only.

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

**Exhibit:** Agenda Report No. 4

**Recommendation:** Request Action

Speakers cards on this.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

**G. DISCUSSION:**

**3. Adult Living Facility - Ordinance 2011-38**

**Exhibit:** Agenda Report No. 3

**Recommendation:** Discussion

Speaker card: Frank Plata. Some confusion – some people think that this use can be in residential. ALF under Sec 310.2 of Fla Building Code uses group homes interchangeably with ALF also drug and alcohol rehab center. This was never looked at. Under the State, there is Group I-1 part of 308-2 FBC, definition is broken down as group home with three sections, based on number of occupants:

1-5 persons – developer would pull a residential permit.

6-16 persons – developer would still pull a residential permit but a R4 - still res license

They are going for 48 units with more than 16 persons and are under group I-1 – no doubt about where they are in code – not residential must be under institutional zoning. He also referenced County code. These occupancies – more than 16 persons, supervised care that doesn't require extensive medical; has to be more than 16 persons. He discussed the next level up in licensing requires a nursing person for every 3 occupants. Parking would be almost 1 per unit. Nobody likes this type of facility in residential. The confusion is tremendous; that is why you need to go to Mgmt Company. To have consistency, when you go to building dept you are going to institutional. Most people don't know the state rules. Where do you want seniors to go? If you become familiar with codes you can see the difference. He wished they had more input from the building dept explaining the institutional use vs. residential use. He doesn't want to steer anything... They want this cleared up. Doesn't want this use to get kicked out of institutional. If you look into code the questions are answered. He is here to clarify anything they need. Want to be sure the Town is happy. The owner has nothing to do with this. The other two investors want to make sure this is taken care of in a smooth fashion. Code only needs to substitute or add to group home.

Reilly asked about FS 419, Sec 20. It clearly defines the group homes. He will bring this up later. Plata was referring to I-1 in Florida Building Code. Analogy is warehouse for parts and another is warehouse for bikes but they are both warehouses.

Plata said the uses branch down to 11.2 under 3.8.2, the occupancies would be classified are R1, R2 or I-1. Bldg plans would be totally different. They go by zoning. Can't do this type of use in residential. Can't pull a permit for residential in OI. Plata sat down.

Reilly – agreed partly with Plata. Originally they took out group home and put in ALF. Group homes are good for up to 6 persons. This ordinance should address facilities with over 6 persons. FS 419 addresses these uses. He questioned the reference to FS 429. Franklin will check with Attorney.

He would like this ordinance to deal with this instead of a catch all for everything. They went through the ordinance and made changes and he doesn't think they got incorporated. He sees stuff that did not get incorporated. They did change things. This ordinance is a good starting point to add to the tables but should not delete group homes. He has spent many hours of researching assisted living facilities.

Ritter said originally it was an issue with density. She wants density included. Distinguish between units and people.

Wilbur read the motion from Council. They were asked to consider the Council direction to remove residential from OI Zoning; eliminate this type of facility from R/LC Zoning and consider more green space requirement.

Ritter said this application is to be looked at from current code. Wilbur said we are not discussing the project, just the ordinance. Whatever happens to that project is at Council and is not up to P&Z.

Reilly said we should keep group homes and then add other classifications. Do they want to eliminate group homes from OI and add Adult care facilities. He said the break in classification is the 6 persons – 6 and under is group home. You can't group it all together. That is why you need separate listings. We need to do research.

Abare said Council wants us to revisit this and do more on the ordinance. Ritter said we need to incorporate density as well. Wilbur said we should throw this ordinance out and start over.

Don Krieger – sees two situations – project going before Council is site plan without any ramifications on conditional use which has been stalled. If they are going forward with CUP under OI, he has concern with maximum density. Ritter said any ordinance we do needs to address density. Krieger said we didn't have a lawyer and we had two questions. Multiple uses on a parcel and density. Also parking. Density – should add a density statement such as maximum of six units per acre related to a multiple use parcel. If you are going to stick to high density, what are you talking about? Wilbur if you eliminate the residential component, he would propose going back to Professional Commercial. Krieger said if it is not residential it is less of a burden on the fire services. Most of those uses would also be less intensive.

Krieger said you still have a 48-unit with 96 residents on 5 acres. This seems to short circuit the requirement we have everywhere else. If there are no kitchen facilities then is it a residence?

Reilly referred to them to table – if you eliminated residential from OI and then you don't have to define. Krieger said OI now allows residential use for watchman.

Reilly said you can't talk about the site plan. Krieger said yes he can. He said they accepted the site plan and didn't address conditional uses.

Wilbur said we are to talk about the ordinance. We are looking at redoing the OI classification on what we want to allow in the OI classification. If you take out the residential component then you don't have the density issue.

Abare said to follow up with Krieger's point in OI at the end of the day, they go home. With Assisted living they are going to be living there. You have to decide what a good number is; if it is six units per acre and they talk about 48 units, you would have to have eight acres. These are multi-million dollar projects. Don't want too many people on too little of land.

Krieger said that Council did not hear about their concerns. Reilly said they did. Krieger said they didn't have the minutes. Abare said even Council had some concerns. Density is a big concern.

Krieger said on a multiple use parcel – 5 acres with other uses; what is the density they are going to allow?

Ritter said we have to define what a unit is – are 4 people a unit? Make it clear what you expect.

Abare said you have to go with something that is reasonable. The developers have to permit with the State. Abare said Krieger's point – 5 acres is whole site but they are not there 24/7. Krieger does not see children's center and this type of facility meshing together. These are questions we did ask. Krieger reviewed Usteam and the minutes and doesn't think their concerns were conveyed to Council. Ritter said it went to beds. Krieger said we should make recommendations for conditional use; under CUP, you can state the conditions. Abare said the concern is for the demands on the city. Old people will be calling an ambulance more often. Wilbur said if it is a non-profit then the town will foot the bill.

Krieger asked if they were given a directive or a suggestion from Council. Council could have done anything they wanted and made those changes; they didn't need to send this back, but they did. P&Z Board is an advisory Board. Take it out of OI and also take it out Institutional.

Abare said we could accept as a conditional use – instead of creating a whole new category. Does Board want to create an ordinance dealing with adult care facility? They specifically separate the two. They are not going to get an attorney here. So they need the 310 Build Code and get the FS 419. Discuss the difference of FS 429. Abare said they have adult day care centers in Palm Bay but they go home at night. An assisted living facility is under adult care facility but they are there 24/7. That is a different burden on the city.

Have on for next mtg. F.S. and Bldg Code for next mtg. Get other cities regulations. Reilly researched Melbourne. They are under general commercial and institutional. If we could get other towns. Do they talk about density? Reilly was only interested in zoning. Krieger said density is what shapes the town. It is about lifestyle. It is a major change. An apartment that is housing people. That is an apartment house. Reilly visited quite a few of them. There were 76 persons over 2 acres. That would be 36 per acre. Again that was in a PUD. The other one was on a CG zoning. One was 2-story and one was a 3 story. Abare said there is one that has a large retention pond and that is not considered in their acreage.

Krieger thinks it is a fundamental change if you want to say anything about density. Otherwise it is up to Council. These types of places can only be where there is water. So there is not that much of a rush for this. Abare said there are a lot of potential sites there.

Consider R/LC for the use of group homes also. Wilbur said there is a large track on US 1. Stated that 96 persons on 1.5 acres is not good design. Abare said the project is a big investment and it is not the land, it is the building. If you got more land you can make more parking spaces. His mom still has a car and drives. Krieger said in an urban setting they have more parking. Wilbur said the Mgnt Company after it is built is going to determine the resident type. It could be drug rehab or alcohol rehab. Those are expensive facilities and if they need to fill them. If they have someone with money and a car, they would accept the person with a car if they could write the check. Ritter said there are restrictions from the State.

Wilbur said 2 beds per room, a full kitchen providing two meals a days, cleaning staff, kitchen staff, deliveries, nurses, etc. would require many parking spaces. Abare said there were 49 persons on staff when they looked at Hibiscus Court. They did not even ask if she had a car.

Krieger said in six or seven years from now he doesn't want to be the one pointed to and said that he let something happen that shouldn't have or the other way around. Krieger said the site plan was presented to us in a very quick and unusual manner as far as he was concerned.

Normally they get a conceptual look before they deal with site plan and he feels it is very intense use for a very small piece of property, but the engineers and planners told us it was correct.

**3. Research into Requirements for Assisted Living – MOVED TO 6**  
**Exhibit:** Agenda Report No. 3  
**Recommendation:** Discussion

Reilly said they were given over 200 pages of Florida Statutes and also the Building Codes to work with and would like to start with the Statutes. He understands that both F.S. 419 and F.S. 429 apply to these uses, as well as others.

Ritter reviewed the cities codes they received and did not like Cocoa Beach with short term and long term mixed – also day time and ALF. She would not want us to use their code, define each use and create requirements for each use.

Wilbur said that ALF is the least regulated and has the highest probability for abuse. The one we looked at before had 90 persons with one person to oversee them. Doubts their certifications, to watch over, give assistance and give meds. Ritter said we do our own and do them as separate uses. We need to figure out where we want these uses. Krieger said we need good urban design. Don said most of the places he has seen have an incredible amount of acreage. Abare said the Hibiscus Park facility had two acres and lots of parking spaces. He said the facility on Merritt Island had a 98 year old person that still had a van and drove it. The ones he looked at had plenty of parking spaces. They weren't exclusively for ALF – they want to keep you when you go into dementia. These are multi-million dollar places, why not put it on a larger parcel and give them more green space and parking. Why jam it on a site so small. Reilly said it was next to water and across from hospital. They have to have water.

Wilbur said on page 127 / regarding emergency requirements – the buildings have to generators to provide self – sustenance in the event of a disaster. This is a must. Wilbur said eliminate ALF in OI and it will get rid of problem. He is against residential use in OI.

Krieger said if you build a condo on US1 you have to have a certain amount of acreage. He thinks the density requirements should be similar for these uses.

Abare said using our current code, a condo project on US 1 allowing six units per acre and say an average of four persons in each unit that would be 24 persons per acre. He thinks that is a reasonable starting place for density. 96 persons would require four acres.

Reilly said the Cedar Creek facility is a planned unit development (PUD) and it is three different uses. Reilly said the one on Merritt Island is not near a hospital.

Ritter said that the Florida Statutes do have regulations for each use of assisted care, age 18 and up and address daytime day care. Krieger said each place needs a definition in the code. Wilbur said the ALF prepares meals and does laundry. Abare stated the demands on the Town would be greater for such a facility compared to a condo.

Summary: continue discussion at next meeting.

**L. DISCUSSION ITEMS:**

**12. Code Amendment for Adult Care Facility (Ord 2011-38) (Acquaviva)**

**Exhibit:** Agenda Report No. 12

**Recommendation:** Request Discussion and Direction

I was down at Town Hall the other day and I found out P&Z changed this from action to discussion. Council had asked the Attorney to write the new ordinance when we did the whole thing with the assisted living facility that we didn't have in our code the right verbiage for what was being proposed. This is my understanding and that it was proposed under group home since that was what was in code. So the review was a time-tabled item that was supposed to go to P&Z and get back to Council. They've already voted on the project 4 to 1 to approve this project. So now, the ordinance was coming to them to bring the code language up to date as to what an assisted living facility is so Council can consider the project.

She asked Attorney Bohne to confirm her understanding. Bohne stated yes, the current code lists group homes and has a definition of a Florida Statute and the term group homes leaves out a whole bunch of other facilities that would be covered under this thing called adult care facilities. So, it's basically trying to clean up the language in our code.

Acquaviva said what concerned her with P&Z the other day was that we have a time-tabled issue and to be fair to them and to get this back to Council so they can continue the review with updated code, she was concerned when they changed it to discussion and not action.

Mayor said he was there and that is correct; that's the first thing they did when they changed their deletions/corrections to the agenda; they changed it from an action item to a discussion item so they had no intention of making a recommendation to Council that night when they changed it to a discussion item. I have no idea why they did that.

Acquaviva said it was sent to them for that reason and it was a time-tabled event and she thought it would come back to Council in a timely fashion and it wasn't. If they had a problem with the ordinance - it was up for action. Mayor said they asked for more information; they didn't know what these Florida statutes were that were referred to here for one thing. So you're talking about a schedule; the schedule referred to something that was given to the developer who's waiting now as best case. Best case is P&Z gets it and recommends it one time; two readings at Council for the ordinance and it is done. That's best case. Mayor said he made the statement at the time that he did not have any idea what P&Z would do.

Acquaviva stated P&Z really can't hold up an item unless, in that sense of if they have a problem with the ordinance. Mayor stated he thought they can delay it. They certainly can delay it; that's their choice. We don't control them. Acquaviva: I understand but they agreed on the project. My question was that is that getting sent back to be re-written? TA Wilbanks stated they have asked for ordinances from other cities. Mayor said they want more information. Acquaviva was concerned because the ordinance provided updated definitions so if there is a problem with it or they don't like the definitions. She is concerned about that because it is something that was at a public hearing and time tabled. It was sent to them for action; if there's a huge problem and it needs to be re-written or whatever Council should know.

Mayor did not think it needs to be re-written; they didn't delve into it in great detail either. Acquaviva said like Council just did on the fire inspection ordinance. Mayor said that they did not go through it line by line like that. Acquaviva asked if any other Council Member has a concern about this. Mayor said he agreed with her. He said he will be at their next meeting; I go to all the P&Z meeting.

Acquaviva said she is going also. Mayor suggested that if any Council Member is concerned that we're getting an, let's say, unreasonable delay, if you think that, then go to next P&Z meeting.

Acquaviva does not even think it's that. I just want to know what their concerns were and I; in all fairness, I thought when we did speak to the developer, I thought it was going to be in a timely fashion and if it's something major we need to know. Mayor encouraged her to go to the next P&Z meeting and do a card and talk to them and encourage them to come up with a recommendation.

Acquaviva stated they were all here at the Council meeting and knew what was going to go down. If it's a major issue, I think we should know that. I don't know that you all feel that way being Council. Rivet thought Council should not make a decision without hearing their analysis.

***REMINDER:***  
***PLEASE BRING***  
***PACKET***  
***(3-RING BINDER)***  
***FROM P&Z MEETING***  
***APRIL 11, 2012 FOR***  
***THIS AGENDA ITEM***

***THANK YOU***