

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: May 7, 2013

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 April 10, 2013
Draft minutes of P&Z Board Meeting of April 16, 2013

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
APRIL 10, 2013 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 by Vice-Chair Pat Reilly.

B. ROLL CALL:

CHAIR: VACANT
VICE-CHAIR: PAT REILLY
BOARD MEMBERS: BUD RYAN
DON KRIEGER
LIZ RITTER
GRANT BALL

ALTERNATE:
ALTERNATE: LEEANNE SAYLORS, LATE
BOARD SECRETARY: DENINE SHEREAR
TOWN PLANNER KEITH MILLS

C. ADDITIONS/DELETIONS/CHANGES:

Reilly asks Sherear if I have heard from Leeanne, Sherear replied that she has not heard from Leeanne, but I have not checked the phones. Reilly said to please put down as "unexcused".

Reilly, on "E" where it says "Public" it is really suppose to say "Public Hearing"- from now on it should say "Public Hearing" not "Public".

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 02/13/2013

MOTION: Krieger/Ryan to approve minutes of 02/13/13 as corrected:

Ball's corrections are as follows:

Page 3/24 1st sentence under "C" tonight=tonight's; 5th sentence Board=Board's.

Page 5/24 1st word verses=versus; 2nd paragraph whoever=whomever; 2nd paragraph from bottom 1st sentence things we do not want=things we do want 2nd lineof what we do want in that zoning... = ...of what we do not want in that zoning....

Page 6/24 7th sentence down word=Word

Page 7/24 3rd paragraph last sentence then=than

Page 8/24 1st paragraph 2nd sentence then=than; last sentence add after land use and zoning

Page 9/24 4th paragraph nitch=niche

Page 10/24 2nd paragraph from the bottom non for profit=not-for-profit

Page 11/24 1st sentence residences=resident's; 2nd line Resident=Resident's & then=than; 2nd paragraph 2nd line risers=rises

Krieger corrections:

Page 5/24 7th paragraph is=are

Page 11/24 1st paragraph 2nd line visited change to visiting

VOTE: All Ayes.

E. PUBLIC:

F. ACTION:

G. DISCUSSION:

2. Continue Review of Code Language for "Light Industrial" and Recommendation to Council

Exhibit: Agenda Report No. 2

Recommendation: Discussion/Action

Reilly explains to the Board that he is going to take about 5 minutes to bring Mills up to date with some history on this Agenda Item.

Reilly is explaining in tonight's packet you have proposed "Future Land Use" changes. Reilly is referencing pages from this packet:

- Page 4 on the west side of Babcock Street by Booth Lane on the present land use you see "CL" this area is a perfect area to change from "CL" to "LI" which is Light Industrial. Bob Wilbur, past Chairman of this Board, thinks if we can get Foundation Park Blvd extended in this area we can develop the area, very hard due to land use of "CL" which is Commercial Limited. There is water on the west side of Babcock Street, so we could get city water in this area.
- Page 9 north & south side of proposed land use, on west side of Railroad tracks, in order to get up in there you have to use West Railroad Avenue by dirt road, presently it is all "CG", Commercial General, we are trying to give it a different land use and maybe someone would be interested in developing this.
- Page 11 on West side of railroad

Leeanne arrived 7:44PM

Reilly goes on to discuss Article II Land Use Zoning's, page 53 in Code Book, for the residential zoning districts we have density as the criteria, actually for land use we have density so we have for residential:

- Low density
- Medium density
- High density

Than for land use, so many people per acre, i.e. RS-21, RS-15... if you do commercial there is not really a density segregation of CL, CG, and that is why we wanted to introduce "LI" as a lower density. This is the premise of what the Board has been trying to do for a year.

Reilly goes on to explain there is two sides to this issue, our Code is ok as it is we don't really need to distinguish commercial based on density & impact to neighborhood, or few people think we should come up with this "LI" so we can have a lesser density and less impact to neighborhood, so the problem is whenever anyone comes into Town to put up anything, they look in Code Book to see what designation it could go into. There is a lot of overlap, based on what the building official thinks that it would fit into. The Board is trying to look for direction on whether our Code Books are ok as they are or is it advantageous for the Town of Malabar to have this new designation called Light Industrial (LI),

Ritter asks and if there is some way we want a "flex zone" what we would have to do for that, or is that multiple uses in that same area, just highest to lowest in that zone.

Reilly explaining we are not changing the zoning at all, we are just trying to come up with a land use, the LI could go under CL, we not changing land use we are changing the zoning I guess. In order to that we have to change Article III also in our Code Book. We would have to come with a paragraph and what it is and describe "LI".

Reilly came up with what does CG, CL, and what does LI mean I tried to see what the major difference is between the three. If there is no difference between them, the only thing is density and impact to the neighborhood; we really don't need the 'LI'. We looked at other Towns like Satellite Beach & Indian Harbour Beach. I don't see a discriminator that tells me that 'LI' is needed. We can get by with what we have.

Ritter suggests maybe we could put in a paragraph any restriction and amend what we have.

Mills asks Board are you trying to put traditional industrial uses into a commercial zone.

Reilly explains it could be, it is the shop and personal "mom & pop" shops, Leeanne has a whole list. Ritter adds the small retail shops that deals with the "end user".

Mills comments that small retail businesses are already allowed in CG zoning. Leeanne comments that Pat is trying to get at do we really need to add another type of zoning or are what we are trying to accomplish already accomplished.

Mills responds that you are trying to create areas in the town that would be appropriate for LI type uses. Ritter adds it sounds like Limited Commercial.

Saylor, explains that Bob Wilbur was trying to accomplish in the I-95 triangle area off Babcock Street that we could attract LI or LC to try and make things more attractive and bring to these areas more of a tax base, in the areas that would not impact our rural or residential areas. I agree with Pat that it might already be covered in our Code.

Reilly adds that if you think of this like residential, cause residential is density, how many people per acre, so I don't know how to relate it, if there is a way to relate industry or commercial- intensity maybe.

Mills comments that the intensity is not easily measured as residents, it is usually traffic or how much traffic – if you are trying as an example to find Light Industrial, you can go by example Bob Wilbur submitted, if you are wanting allow like warehousing & wholesaling you cannot have a zoning district from the top down on the table. If you want allow all the uses that are in "CL" in this particular area, then you would just have a paragraph that would state "Any use allowed in the "CL" is also allowed in this area". Ritter asks how you would restrict some activities and Mills responds that you would structure the zoning district if it is going to be a new one and you wouldn't include what you wouldn't allow.

Reilly talks about page 13/16 in Agenda Packet, summary of Commercial Zoning presently in our Code Book.

Mills explains that you are mixing uses. The "CL" the very name suggests less intense type uses, if you want to mix & mingle # 1&2 on page 13/16 under "CL"

Krieger asks about page 13/16 says top line says zoning; it is land use not zoning. The Light Industrial has brought us to page 53 in Code Book. Krieger explains that he looks at things in an

intensity format and what is the most complex intense land use and what is the least. I believe the least is Rural Residential formally RA (Rural Agricultural), was changed in early 80's. Krieger is going through Table 1-2-.2 left side only "Future Land Use Map Designations". The point is we are trying to flex between higher & lower densities in the business areas.

Krieger asks Mills about this area over by Babcock Street couldn't we have defined the whole area as a "flex area" and if we had land uses in terms of their intensity say, this is the land use we prefer but you can go to this higher or lower use if you go through the proper procedures. This would give more flexibility to the people from the outside looking in.

The Board is discussing the CL to LI Land Use. Reilly explains the "FLUM 9" is present Land Use Map.

Mills discussing that we are increasing the intensity from CL to LI

Mills discuss with Board that you can make a flex zone, but the CL was set up in mind to do what it says in the book you are going to have CL in other parts of the Town, you can't just mix into existing zoning categories for specific pieces of properties. You can do flex zoning in one area but you have to create that zone. You can't take an existing zoning category.

Krieger is on page 53 of Article II Table 1.2-1 discussing Industrial on left side and right side industrial and on the right side have a sub section of light industrial.

Mills, simple answer is yes, jurisdiction have different way of doing things, most jurisdictions have upload or down load zonings, industrial is the most intense and maybe the most objectionable to residents typically not new to residential, But most jurisdictions have traditionally limited those uses in the industrial district to those more objectionable uses, other jurisdictions do import either all other uses that might be in a zoning category, less objectionable or some of that. Yours is the more traditional type where each zoning category kinda stands on it own. But you're using the term "flex", the Town has used the term "mixed use" A lot of times "mixed use" is used with residential & retail use.

Mills, you have an existing industrial zoning category, some of the things would be to eliminate the objectionable parts of the existing industrial zoning categories, than those are going to be allowable uses in this area as well.

Krieger comments that outside the Town of Malabar, technically looking at these charts what really should be designated as for land use is industrial but the zoning should be light. What this chart is doing is saying "LI" but "LI" is not a land use, our intent would be a zoning. Pat says it was going to be both, land use and zoning.

Reilly explains that LI would have to go on both sides of Table 1-2.1. If you have med. density residential and have three separate zoning districts within med density than, we have two for high density and one for low density.

Mills comments that you could create a zoning district and probably use sub categories, you might be able to say that both may be allowed under both land uses under industrial land use, you would have to make sure the way it was legally written, it would have to cover all bases.

Ritter suggests putting under CL or CG and changing CL to LI. Reilly adds that it would be a sub set of CL

Mills, the first scenario you are allowing a less intense uses in an area that would not accept that. Now you are saying you are going to allow a more intense uses into something that is over and above what the allowable.

Ritter adds if you put the LI under the CL zoning part it would allow both. Mills states that the land use limits the way it is not it would limit the things that aren't allowed in LI. You would have to revise you CL land use to incorporate everything.

Reilly, talking about Land use in Article II it describes what things are and how they are based by how many acres they have. If you go to Article III it defines each one.

Reilly asks Mills if you use the same analogy to go to commercial can you do this. Mills responds for example if you have RS 25, you can allow any number of units per acre less than that.

Ritter comments that creating a new land use would allow CL underneath it, the land use for LI and zoning put LI & CL.

Mills, comments to Board starting off with an industrial land use and fitting what you want for commercial limited into that is easier to do if that is your goal.

Krieger has a question about Planned Urban Development there is commercial and industrial. Could we leave the zoning as it is today and have the whole area to give property owners to use their land as a Planned Commercial, called Commercial PUD, it would give people the possibility to do what they want on their property. Mills, comments that it is possible but you have to look more into things. Krieger if you change the land use to PUD "C" or PUD "I" could the people that come in proposing what they are going to propose can they work towards a mix use? Mills, PUD's don't traditionally allow mixed uses.

Mills is reading out of Code Book page 54, about PUD designation and putting on the map.

Krieger , I am still thinking that less is more in this case if the whole area was brought up to give future people the opportunity to come in.

Mills looks at Article IV and the PUD regulations, you have to look through to see what is in there, and it already exists.

Krieger, future Land Use is not taking something away from someone. This is not land use it is land use and zoning.

Mills, page 182 PUD Commercial (reading out of Code Book) go into IND.

Reilly by creating a PUD, you cannot change the intended land use and zoning of what it was.

Ritter suggests that you could still do a PUD you could do it in area off Babcock St. "CG" and wrap it around but if you make that the LI includes that includes the CL you could still do the PUD.

Mills comments to Board that you would have to follow in the Code,

Krieger we are adding in District Provisions.

Mills stated if you change the land use you are not required to change the zoning.

The Board is discussing with Mills, about Foundation Park Blvd & presentation given about Industrial Park area, that there is city water available. The access to the area properties would come off of Osage, which is off Babcock Street,

Krieger if you look at proposed land use and go north in triangle area could it be a future PUC, Mills responds it depends on what your regulations say.

Ryan, adds that a couple of land owners in the triangle just want to enjoy their land and not do anything with it, just sit and enjoy nature and not interested in doing anything with the land.

Reilly discusses area over by railroad tracks, with LI. There is no road to gain access on the west side of railroad tracks, so they would have to come by way of Jordan Blvd and build their own roads. Page 11 of Future Land Use Maps.

Mills, states if property does not have access that would be a problem until someone gained access Ritter comments that you could extend Glatter Road to railroad tracks, there is an easement there. Mills said there is a partial ROW or complete ROW.

Reilly will send updated Future Land Use Changes with current date and changes.

Leeanne suggests if someone wanted to change their property use they can come before the Board on an individual basis.

Reilly and Ritter making recommendations for Options:

Option 1: Nothing

Option 2: Put LI on both sides future land use & LI zoning district (Jan 9, 2013)

Option 3: LI for land use and LI and CL on zoning side (update Art II & III)

Option 4: PUD overlay for area, (Article IV)

Leeanne suggests inserting different options into Table 1-2.1 in Art II for the next meeting,

Mills comments to see if the present PUD requires min. lot size. Homework read PUD Art IV

Mills suggests reviewing Art IV if you are going to make this an "option", Industrial PUD & Commercial PUD as well.

Reilly due May 8

Mills leaves at 9:10 PM

3. Code Requirements for Assisted Living Facilities

Exhibit: Agenda Report No. 3

Recommendation: Discussion

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

I. PUBLIC:

Juliana Hirsh, the way I feel if anyone comes in here it is too confusing with some plan in mind, multi family, it makes no sense for businesses,

Reilly explains we have issues because we have no water it is easier to build in Palm Bay they have the infrastructure. Hirsh says the way it is written now it is controversial between zoning &

land use, building is expensive and time is expensive. The cycle has turned and it takes years. It is critical and the Boards should consider what it takes to get things off the ground for building.

J. OLD BUSINESS/NEW BUSINESS:

Ryan, for at least the past year or a little longer we have had the luxury of having two secretaries here and I looked it up in the Municode and it only requires one. Maybe Denine should take over the function completely. Maybe we should have one person doing it. If there is a cost to the Town we could reduce that cost as well.

Krieger states it depends how you run your committee and your correct the Code states, technically you could pick someone off the street to be secretary the way the Code is written. Traditionally it is someone from staff,

Sherear spoke up and referenced that Debby has been at the meetings with the history she presents to this Board and I do not have that history.

Krieger adds that we are going to have to have an organizational meeting and that will be the appropriate time. Ritter adds that she had asked Mayor Eschenberg earlier and he told her Debby is salary there is no additional expense, so if she is salary and chose to come to meetings there is no additional expense. Grant comment sit is not fair to her if she is doing double duty and doing it for free. If it is expected for her to do and she is salary that is not right. Ryan adds that also the times that Debby has not been here, Denine did a good job. I don't see any reason for duplication. Reilly states that once we get a Chair and Vice Chair we will bring up and meet with staff.

Board discussed they received email from Bonnie concerning 2700 Malabar Road, AAA Malabar Storage. Krieger said there was no body to the email. Leeanne stated her understanding of email and septic system & hay trailers are sitting in the right-of-way. Ritter adds about Kempfer's septic being in the right of way and Ryan adds about the side gate for the storage was for emergency entrance/exit and has been used constantly.

Sherear tells Boards members about SpringFest coming up on Saturday April 13th, 10AM-4pm and 5K & 10 K following.

Krieger asks a question of Denine, as of last month, I remember being told last month by you & Debby that our next meeting was the 16th, and therefore the first meeting, tonight's meeting was not to occur. I had to go through a lot of changes in my schedule in order to make this meeting. How did this meeting tonight come about since we have two other meeting scheduled for this month? And is the last meeting of this month going to be expunged? Or what? How did this meeting tonight come about? Sherear responds there was some confusion when that was all going on back when the emails where going back and forth about the March 18th meeting. It started when the March 18th meeting was cancelled and then we were questioned by a Council Member about the April 10th meeting, which is today's meeting. Because when I talked to Pat about cancelled the March 27th meeting and nothing was said about the April 10th meeting, my dates were mixed up. So that is how it was cancelled up until April 16th meeting, when we could have an Attorney present. Today was a regular scheduled meeting we just assumed to cancel until April 16th, and how it was brought about a Council Member asked about the April 10th meeting. Reilly asks which Council Member? Sherear responds the Mr. Jim Milucky had come in and ask about the April 10th meeting. Krieger comments that he had the 16th in his head and didn't realize it was going to be a Tuesday and later on I had heard we are going to have a legal things there, then I passed by the Town Hall pretty much every morning and was wondering about the posting of the 16th one of the two items coming before this Board, Last week I noticed a new sign up, it was something I never heard of before because up to that time I had not received any information on it. Don't we have some rule that the posting have to be up a month or 30 days prior to the Public Hearing, I am

almost positive that that was not there the weekend of the 16th. Ritter adds that they are advertised ahead of time. Krieger thought that a few years ago we changed the wording of the Ordinance about the posting of the sign because it came up with the assisted living facility and they had to have it up 30 days and I want to make sure. Sherear adds it was up 30 days, there was a smaller sign by driveway and within a few days the larger sign was placed. Krieger asks how is that verified. I can see if the day the small sign goes up that an email goes out to all Town Council Member's and all Committee Member's and even Park Board Member's that "a sign went out you might be interested". Krieger just wants to make sure the public has been properly informed. Sherear explained that the legal ads had been placed according to Town procedures in the Florida Today local newspaper. Grant comments that someone else has to verify when the sign when up, Krieger adds that there has to be a record of when sign when up. Sherear says there are pictures. Krieger asks who put the sign up and Sherear responds the applicant of the project.

Ryan, with regards to your question why this meeting took place, do I understand that it wouldn't have taken place unless the Councilman called. This meeting tonight that suddenly showed up. Sherear explains it was a miscommunication as well. Ryan says it wasn't scheduled then it was, apparently it was Mr. Milucky that caused that to happen, is that correct? Sherear stated that he had come in and asked about meeting. Krieger asks how did it go from that point to generate a meeting, what were the steps involved. Sherear responds, he just asked about the meeting, it was a regular scheduled meeting and he asked. I contacted Pat. Leeanne comments, that all he asked why was it cancelled. Reilly adds that we were not supposed to have a meeting till a lawyer came to it. Krieger goes on to say that essentially you called up Pat and he agreed to have a meeting. Ritter asks why March meeting was cancelled, Reilly responds that he was out of town and nothing was pressing. Leeanne asks if we had a quorum for that meeting. Pat responds that we don't know.

Reilly to discuss the April 24th regular meeting, Krieger makes a motion to cancel it,

MOTION: Krieger/Ryan To Cancel the Regular Scheduled P&Z Meeting for April 24, 2013 @ 7:30PM. ALL VOTE: All Ayes 5.0

Krieger comments that we will already have had two meetings in April. Leeanne comments that our homework for our PUD is May 8th.

Reilly explains that we will elect Chairman & Vice Chairman at Tuesdays Meeting.

Sherear tells Board that before they leave tonight, I have packet for April 16, 2013 for you to pick up.

K. ADJOURN

There being no further business to discuss, **MOTION: Ryan/Ritter to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 9:48P.M.

BY:

Pat Reilly, Vice -Chair

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
APRIL 16, 2013 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 by acting Chair Pat Reilly.

B. ROLL CALL:

CHAIR/Acting CHAIR:	PAT REILLY
BOARD MEMBERS:	BUD RYAN
	DON KRIEGER
	LIZ RITTER
	GRANT BALL
ALTERNATE:	LEEANNE SAYLORS
ALTERNATE:	DICK KORN
ATTORNEY:	KARL BOHNE
BOARD SECRETARY:	DENINE SHEREAR
RECORDING CLERK:	DEBBY FRANKLIN

C. ADDITIONS/DELETIONS/CHANGES:

Mayor to swear in new P&Z Alternate member, Dick Korn.

D. NOMINATION FOR CHAIR & VICE-CHAIR: Bud/Liz nominated Pat Reilly for Chair. Chair called for other nominations. Leeanne asked if she could nominate. Chair said no. No other nominations. Leeanne is concerned and thinks they should have a chair that is more neutral to the Planning and Zoning Board and not have the biases. She is concerned with his biases and is concerned that he will not act in the best interests of Malabar. Pat said he does not have biases; he is an engineer and makes decisions based on facts. Don finds that riveting. Pat agrees.

Vote: All Ayes. Dick/Bud nominated Liz Ritter for Vice-Chair. Liz/ nominates Don. Liz said Don has been here a long time and knows the town. Don declines due to his business related travel. Bud congrats Liz for always being prepared and thinks she would make excellent vice-chair. Don noted that both he and Liz had been prior Council members. No further discussion. **Vote:** All Ayes.

E. CONSENT AGENDA: no minutes ready.

F. PUBLIC HEARING:

- 1. Conditional Use Permit Application for Extensive Care Facility located at: 2605 Malabar Road, Malabar. Applicants, Mr. Jeffrey Giovino & Mr. Steve Riley are Representatives for Vision Quest National.**

Exhibit: Agenda Report No. 1
Recommendation: Action to Council

Chair went through some procedures. Procedures have been provided for quasi-judicial hearings. He explained the need for disclosures of any ex-parte communications or site visits. Dick Korn met with Franklin this date to go over what the Board has been working on and she gave him the packet and went over the code so he would be up to speed. He does not believe she prejudiced his judgment. Don stated he had called Franklin with questions on the maps and she gave him answers to the best of her ability. Pat also talked to Franklin yesterday regarding issues about this.

Chair invited applicants to podium. Jeff Giovino introduced himself as CEO and Steven Riley who is the State Director for Vision Quest in Florida. He said they appreciate the opportunity to speak.

Jeff went over what they had done with staff. He understands that the PowerPoint presentation was given to the Board in the package. He then gave background on Vision Quest National. It is a place for kids that have difficulty, delinquency, and problems at home. Their facility works with kids from the local community in Brevard County. Kids identified by the State or county as in need and removed from home due to neglect or abuse. They have been identified as in need of parenting and someone to guide them in how to develop in the future and transition back into the community or get placed in foster care. The property is a win-win for town and applicant. They will be bringing 40 Years of experience dealing with this population they will be bringing in good paying long term jobs; they are here for the long haul. Kids will live here and go to school here and participate in community projects. They will utilize local vendors where appropriate if the services are needed. They want to be good neighbors.

Denine put property owner Jay Wolfington on speaker phone.

Chair directed Board to ask applicants questions.

Liz asked what the average stay for these boys 13-18. Steve said it is based on needs and treatment but it is usually a 9 month process before they get them stabilized and place them. Their whole point is to reintegrate them with a family. Liz pointed out there are no schools in town. They know that and would transport to school or use the school bus system.

Liz asked about the proposed two adult staff persons for 14 kids. Steve said the requirement is 1 per 8 kids. The staff is hired and trained by them. Grant asked so there are two staff 24/7? No, Steve stated there would be only one awake during sleeping hours (11pm-7am). He said most of the issues they will deal with at night are boys waking up with emotional upset; more of a counseling aspect than a security aspect of it. Most of the boys are there due to neglect or abuse by parents.

Pat asked about the property outlined in the red box on the aerial. It encompasses two parcels. The one parcel is for 2605 Malabar and the other is a separate parcel owned by Mr. Wolfington. His question is, are both these parcels going to be used for this project.

Robert of Premier Properties said the two properties. It is approximately 2.5 acres. They may want an option. Pat said it is a key issue as the Table 1-6.B said it must be at least 5 acres. The 5 acres has to be in OI. That is why he is trying to make sure it has 5 acres. Pat said it is 433 feet from the CL to. The property outlined in red is only the OI zoned portion and goes over to Pine Street. Jay Wolfington confirmed the area outlined in red was the correct parcel, via the phone. Pat asked about septic. Jay said both septic and well will be up to State and local requirements for this use. Pat asked if they were planning to sell. Jay said not at this time. It was on the market but this is a long term tenant he is not planning to sell.

Liz asked about parking. Jay Wolfington said there were 16 spaces. Liz said Town Engineer Morris Smith did not calculate due to lack of information. Don asked about the young tenants. If they are 16 could they have licenses and could have cars. Applicants stated they would not be allowed to have cars while in their custody. That is a rule. They have not had that situation at any of their other facilities. They take them to their school or jobs or they take public transportation.

Pat asked about the lacking information required on the site plan. The site plan is supposed to show the whole infrastructure and all the improvements, existing and proposed. Pat said what they have submitted is lacking. If it goes forward to Council it should have a full site plan. Jay said any changes would be minor changes done on the inside of the building.

Pat read the sections in Article VI and Article VII. Franklin made the disclosure that she told property owner since it was an existing site it didn't have to have a site plan review application but the CUP application process did require a site plan and it would need to provide all the information stated in Article VII on their site plan. Pat said normally the Board receives the big pages with all the information, where dumpster will be, etc. Jay said it is an existing building and couldn't they look at it and see it is all there. Don asked if it should also be a request to change lot lines. Pat said no. Karl said no. Jay said the project site goes to Pine Street. Karl asked if the daycare (existing facility) was based on the entire parcel. The back building encroaches into the RR-65. Karl stated the conditional use application triggers the requirement for a site plan to be submitted. The parcel that is defined as OI is the subject area for the CUP. Jay asked if the portion south of the OI line had to be included as the project will not encroach into the RR-65 portion. Franklin explained the history. The house was built in late 1970's and was converted in the early 1980's for a daycare. It was renovated again in the later 1980's for a larger childcare facility. Karl said the fact that he is carving out a new parcel. Jay said if drew the red line between the buildings. Karl asked if they could know about the setbacks without a site plan. Realtor said what if they used the entire the 12 acres, 2605 Malabar Road. If they don't change the existing lot lines for the project site, do they have to go through submitting a site plan? Attorney said if they did that it could be just updating the site plan that was submitted for the childcare facility. Franklin spoke to Attorney. Attorney said Town has precedence that commercial projects encompassing mixed zoning areas that have used the residentially zoned areas for setback purposes. The residential area would not be allowed to be used for the buildings.

Chair said Art VII 1-7.3 lists what should be on the site plan. There are 15 paragraphs to that section. Jay asked for a copy of it. Franklin and Denine both stated they have given it to them. Realtor said do they want it that detailed. Liz asked if the inside details need to be shown or it will be addressed by State, Health Dept and the BO.

Any other questions for applicants. Don said we don't get a quasi-judicial. Positive community impacts. Utilize the whole parcel; the residential could not be utilized. How would it be utilized? Steve said the open space treatment modality. Looking at recidivism, DCF, agencies that deal with these type of clients. Get them to the point where they can be put into foster homes. Based on research it has shown to work. They use the parks. Facility in Clermont is 80 acres. Steve said they had 88 acres. As of Mar 1 the large project in Lake County was taken over by a church group. They are going to smaller community group facilities. What the proposed area would be used if the town proceeds with the plan to change the RLC how would that integrate. Don asked about using local vendors. Does that mean Winn Dixie? This use is similar to hospital. Any drugs? Any OTC will be given out by staff and any prescribed drugs from a doctor. Staff is trained to dispense and will have oversight by nurse and will have contact with doctor. Don asked if there is a need to have containment like fencing. They do not plan any fencing. Security cameras will be used. Criminal background on staff. Building will be secured. There is regular fencing.

Steve said there were some kids coming out of juvenile system. They have the right to refuse any clients. DCF contracts all of that out. They have community based partnerships. They have the oversight. They have expectations of what should be in place.

Leeanne asked if they are an approved facility by DCF. They will be licensed through DCF. Leeanne asked about the square footage of the facility and the number of residents, and asked if they could provide the requirements for such.

Dick asked about pg 1-1 extensive care facility. Are youth going to be there 24/7, are they going to school, are they licensed as an extensive care facility or more like a group home. They have different requirements. Steve said they are kids coming in from bad situations. They are licensed through the DCF.

Chair opened to public.

Realtor, Robert Luco for Premier Properties, representing the landlord, Jay Wolfington and also facilitating the sale as a transaction broker for this corporation. He states that the area is about 24 acres but the area that the landlord is leasing is the property including the house and half way to the shed. He guesstimated that this area is about 2.5 acres. Chair asked if the applicants were going to buy the parcel. Applicants state they may want an option on it but at the present time it is just a lease they are proposing. The plan is not to break it up the property. Chair said it is a key issue because on the Table in Article VI states they must have a minimum of five (5) acres and the five acres has to be in the OI zoning area.

The property owner, Jay Wolfington via phone stated that the area encompasses part of both parcels and meets the five acre requirement by going all the way to Pine Street. Chair asked about septic capacity. Owner stated that the septic would comply with whatever requirements were part of permit. Chair asked if there were any plans to sell the property.

Juliana Hirsch, 1035 Malabar Road. In the interest of the Town of Malabar she asked if it will be a tax exempt project or non-profit project or do they know. Attorney Bohne said you can ask the question but it should not be a part of your consideration. It is not relevant. Bud asked what services they would need from the Town.

Chair closed Public Hearing.

Chair called for staff comments. Attorney Bohne said he is having a hard time seeing how the P&Z can make a recommendation without a full site plan. They do need to submit some kind of site plan that meets the requirements of Art VII. If it is sent to Council with a recommendation that they include a professional site plan, Council will be send it back to P&Z for their review. Liz asked about the parking spaces; it was o

The Attorney said to table it and let them come back with a proper site plan. If they table it to a time certain they don't have to advertise again.

Board discussed if they wanted to table to 5/21/13 so the Attorney can attend and start meeting at 7pm? Yes after discussion,

Chair called for Board questions:

Bud asked what services they would use. Riley said they would use the parks and recreation facilities, Police, Fire anything that residents would use. If they encourage jobs, how do they get there? Staff will take them or they will use public transportation. Court orders the supervision and has custody and gives the agencies the charge to oversee them.

Chair asked Board to make motion.

MOTION: Liz / Don to table to 5/21/13 at 7pm to for applicant to submit a complete site plan with all 15 criteria shown as spelled out in Article VII.

Discussion. It could be pushed if not ready. Applicants said they would know by May 8th if they will have that information.

Staff will give them an example to use for site plan as well as a copy of Art VII.

Chair called for vote. Denine did roll call,

VOTE: Pat Reilly, Aye; Bud Ryan, Aye; Don Krieger, Aye; Liz Ritter, Aye; Grant Ball, Aye. Motion carried.

G. ACTION:

H. DISCUSSION:

I. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

5/21/13 at 7PM

J. PUBLIC:

none

K. OLD BUSINESS/NEW BUSINESS:

none

L. ADJOURN

There being no further business to discuss, MOTION: Bud / Don to adjourn this meeting. Vote: All Ayes. The meeting adjourned 8:50 P.M.

BY:

Pat Reilly, Chair

Debby Franklin, Recording Secretary

Denine Sherear, P&Z Board Secretary

Date Approved:

DRAFT

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: May 7, 2013

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

SUBJECT: Public Hearing: Commercial Site Plan Application for Malabar Local Market Located on a Portion of 1870 & 1896 Highway 1, Malabar Florida 32950, 1.95 acre, R/LC Zoning

BACKGROUND/HISTORY:

Staff received from Mr. Frank Plata of Plata Engineering, Inc. this Commercial Site Plan Permit Application. The request is for site plan approval for a 4,000 sq ft commercial development in Residential/Limited Commercial (R/LC) Zoning. Mr. Frank Plata is representing the property owners: Jung-Lin Chen & Shu-Ching Chen.

The Application went to Town Staff for the Project Review process. It was requested to have all comments back in the Building Department by April 24, 2013. The comments of staff went to Applicant Mr. Frank Plata on April 26, 2013 for any revisions or comments to be resubmitted before package goes to this P & Z Board.

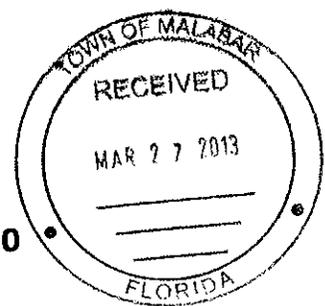
There will be a "Public Hearing" held at the Special Meeting of Planning and Zoning Board on Tuesday, May 7, 2013 @ 7:00 PM at the Town Hall 2725 Malabar Road, Malabar FL. This is a Quasi-Judicial hearing. The Town Council will then consider this Boards' recommendation at a Public Hearing scheduled for May 20th, 2013 @ 7:30 PM or as soon thereafter as the matter can be heard.

ATTACHMENTS:

- Site Plan Permit Application
- Brevard County Property Appraisers Information
- Portion of Town of Malabar Zoning map
- Radius Map for 500' from Perimeter of Project area
- Article II Land Use & Zoning
- Portion of Article III District Provisions
- Article VII Site Plan Review
- Town Staff Comments

ACTION:

Recommendation to Town Council



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

APPLICATION FOR NON-RESIDENTIAL SITE PLAN REVIEW

Project Name: Malabar Local Market Date: March 25, 2013

Developer Name: Plata Engineering Inc. Telephone: 321 2597528

Mailing Address: 3700 N Harbor City Blvd Suite 2F Fax: 321 2597526

City, State, Zip: Melbourne, Florida 32935 Cell: _____

Name of Property Owner(s): Jung-Lin Chen Telephone: 321 543 2219

E- Mail Address: coeyechen@hotmail.com

Mailing Address: 5165 S US Highway 1 Fax: _____

City, State, Zip: Grant, Florida 32949 Cell: _____

Name of Engineer: Plata Engineering/ Frank Plata Telephone: 321 2597528

Mailing Address: 3700 N Harbor City Blvd Suite 2F Fax: _____

City, State, Zip: Melbourne, Florida 32935 Cell: _____

Name of Architect: _____ Telephone: _____

Mailing Address: _____

City, State, Zip: _____ Cell: _____

Legal Description of Property Covered by Application:

Township: 29S Range: 38E Section: 6 Lot/Block: 1,2, Parcel: 3 & 6

Subdivision: N/A Tax Acct No.: 2953315, 2953317

Other Legal: _____

Present Land Use Designation: R/LC Present Zoning Classification: R/LC

Zoning of abutting property: North: R/LC, RM-6 South: R/LC, RM-6, RS-21, East: N/A, West: RS-21

Existing and Proposed Use for Property: R/LC

Gross acreage: 1.95 Net acreage: 1.95 Gross density: N/A

Setbacks: Required and Proposed: Front: 50.00' / 185.86' ; Rear: 25.00' / 69.0' ;
 N Side: 20' / 111.00' ; S Side : 20' / 56.00'

Flood Zone: "X" Per FEMA Flood Insurance Rate Map 12009C 0610F

SITE PLAN APPLICATION AND CHECKLIST

Site Acreages:

	SF	Acres	Percentage
Pervious	46,987	1.08	55.36%
Impervious	37,955	0.87	44.64%
Pond	N/A Dry		
Total	84,942	1.95	100%

Wetlands Present: No Mitigation required? No Permit required? No

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

 P5 Landscape and irrigation plan (existing and proposed) shown on plans.

 P1 Boundary of property shown by a heavy line.

 P1 Access by means of paved dedicated right-of-way (driveway width).

 P2, P3 Topographic survey for existing and proposed conditions.

 P1 Existing and proposed structures shown on site plan (including setbacks from all property lines and normal high water elevation and building separations).

 P4 Typical front, rear and side elevations of proposed structure(s).

 P3 All existing and proposed utilities (including inverts of pipes, etc)

 P1 Location of all easements.

 P1, P4 Fire protection, existing and proposed that meet state and local requirements.

 P1 Proposed location of well.

 P1 Proposed location of septic and drain field

 * Copy of letter from company for refuse container/dumpster location

 Included Stormwater management plan (including soils report and drainage calculations)

 * Copy of NOI for NPDES construction permit from Department of Environmental Protection (DEP) required for projects over 1 acre in size. Include SWPPP on the plans

 P1 Flood Zone(s) depicted on site plan.

(*) Pending / applications after preliminary approvals

Updated 09/13/12

P2 Tree Location Survey identifying trees inches dbh and larger.

P5 Tree Plan prepared or approved by a Florida registered landscape architect.

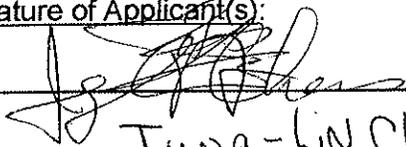
P1 Required Open Space/Recreational areas.

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

- Summary of Required Attachments for Site Plan Review:
 - Completed Application, including Disclosure of Ownership (Pages 1 and 2).
 - Radius Package for 500' distance from project site perimeter – obtained from the Brevard County Planning and Zoning GIS Department in Viera – call 321-633-2070 x52245
 - Fee of **\$350.00**, in **check or money order**, payable to the Town of Malabar.
 - Site Plan – (10) paper copies plus one electronic copy.
 - Reason for Site Plan Review (attach correspondence, drawings, etc.)
 - **Copies of all Federal, State, and Local agency permits. It shall be the applicant's responsibility to obtain such outside permits.**

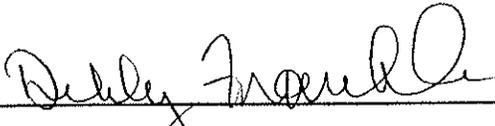
Signature of Applicant(s):

Date:



Tung-kin Chen

3/11/2013



Signature of Town's Personnel

3/27/13

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, Junglin Chen & SueChing Chen, 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.

[Signatures]
Applicant(s)

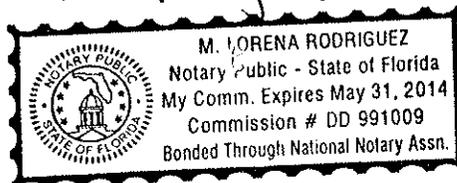
3/15/2013
Date

Sworn and subscribed before me this day 15th day of March, 2013

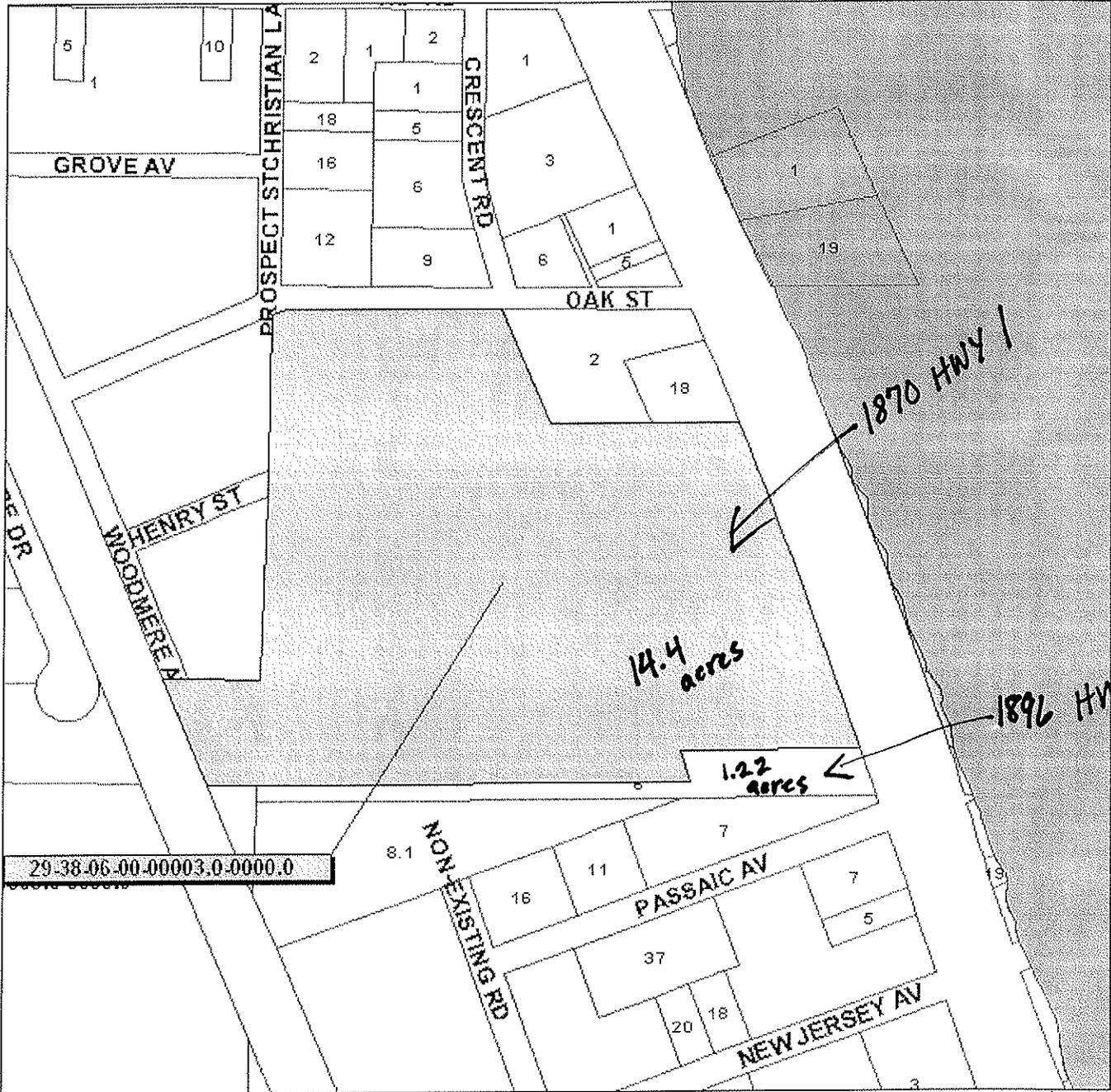
Notary Public, State of Florida

Commission No. DD991009 My Commission Expires May 31 2014.

Updated 09/13/12



Dana Blickley, CFA
 Brevard County Property Appraiser - MAP SEARCH



Zoom To	Account	Owner	Property Address	Parcel Identifier	
2	Aerial	2953315	CHEN, JUNG-LIN	1870 HIGHWAY 1	29-38-06-00-00003.0-0000.0
2	Aerial	2953315	CHEN, JUNG-LIN	1860 HIGHWAY 1	29-38-06-00-00003.0-0000.0

Dana Blickley, CFA
Property Appraiser
Brevard County, FL



Property Research

Online
Homestead
Filing
[CLICK HERE](#)

General Parcel Information for 29-38-06-00-00006.0-0000.00 2011 Trim Notice 2012 Trim Notice

Parcel Id:	29-38-06-00-00006.0-0000.00	Map2	Map2+Sales	Map/Ortho	Aerial	Millage Code:	34Z0	Exemption:	Use Code:	1000
* Site Address:	1896 HIGHWAY 1, MALABAR 32950								Tax Acct:	2953317

* The **site address** is assigned by the Brevard County Address Assignment office for E9-1-1 purposes and may not reflect the postal community name.

Tax information is available at the Brevard County Tax Collector's web site
 (Select the back button to return to the Property Appraiser's web site)

Owner Information

Owner Name:	CHEN, JUNG-LIN
Second Name:	CHEN, SHU-CHING TRUSTEES
Mailing Address:	5165 S US HIGHWAY 1
City, State, Zipcode:	GRANT-VALKARIA, FL 32949

Abbreviated Description

Sub Name:	PART OF GOVT LOT 1 AS DESC IN ORB 401 PG 487 & N 27.5 FT OF GOVT LOT 2 EXC HWY R/W PARS 5.1 & 6.1
------------------	---

Value Summary

	2010	2011	2012
* Market Value Total:	\$42,700	\$32,940	\$32,940
Agricultural Market Value:	\$0	\$0	\$0
Assessed Value Non-School:	\$42,700	\$32,940	\$32,940
Assessed Value School:	\$42,700	\$32,940	\$32,940
** Homestead Exemption:	\$0	\$0	\$0
** Additional Homestead:	\$0	\$0	\$0
** Other Exemptions:	\$0	\$0	\$0
*** Taxable Value Non-School:	\$42,700	\$32,940	\$32,940
*** Taxable Value School:	\$42,700	\$32,940	\$32,940

Land Information

Acres:	1.22
Site Code:	114
Land Value:	\$32,940

* This is the value established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does NOT represent anticipated selling price for the property.

** Exemptions as reflected on the Value Summary table are applicable for the year shown and may or may not be applicable if an owner change has occurred.

*** The additional exemption does not apply when calculating taxable value for school districts pursuant to amendment 1.

Sales Information

22/73

Dana Blickley, CFA
Property Appraiser
Brevard County, FL



**Property
 Research**

Online
 Homestead
 Filing
[CLICK HERE](#)

General Parcel Information for 29-38-06-00-00003.0-0000.00 2011 Trim Notice 2012 Trim Notice

Parcel Id:	29-38-06-00-00003.0-0000.00	Map2	Map2+Sales	Map/Ortho	Aerial	Millage Code:	34Z0	Exemption:	Use Code:	1000
* Site Address:	1870 HIGHWAY 1 DEMO, MALABAR 32950								Tax Acct:	2953315

* The **site address** is assigned by the Brevard County Address Assignment office for E9-1-1 purposes and may not reflect the postal community name.

Tax information is available at the Brevard County Tax Collector's web site
 (Select the back button to return to the Property Appraiser's web site)

Owner Information

Owner Name:	CHEN, JUNG-LIN
Second Name:	CHEN, SHU-CHING TRUSTEES
Mailing Address:	5165 S US HIGHWAY 1
City, State, Zipcode:	GRANT-VALKARIA, FL 32949

Abbreviated Description

Sub Name:	PART OF GOVT LOT 1 & PART OF NW 1/4 OF NE 1/4 AS DESC IN ORB 3496 PG 4745 PARS 4, 5 & 8
------------------	---

Value Summary

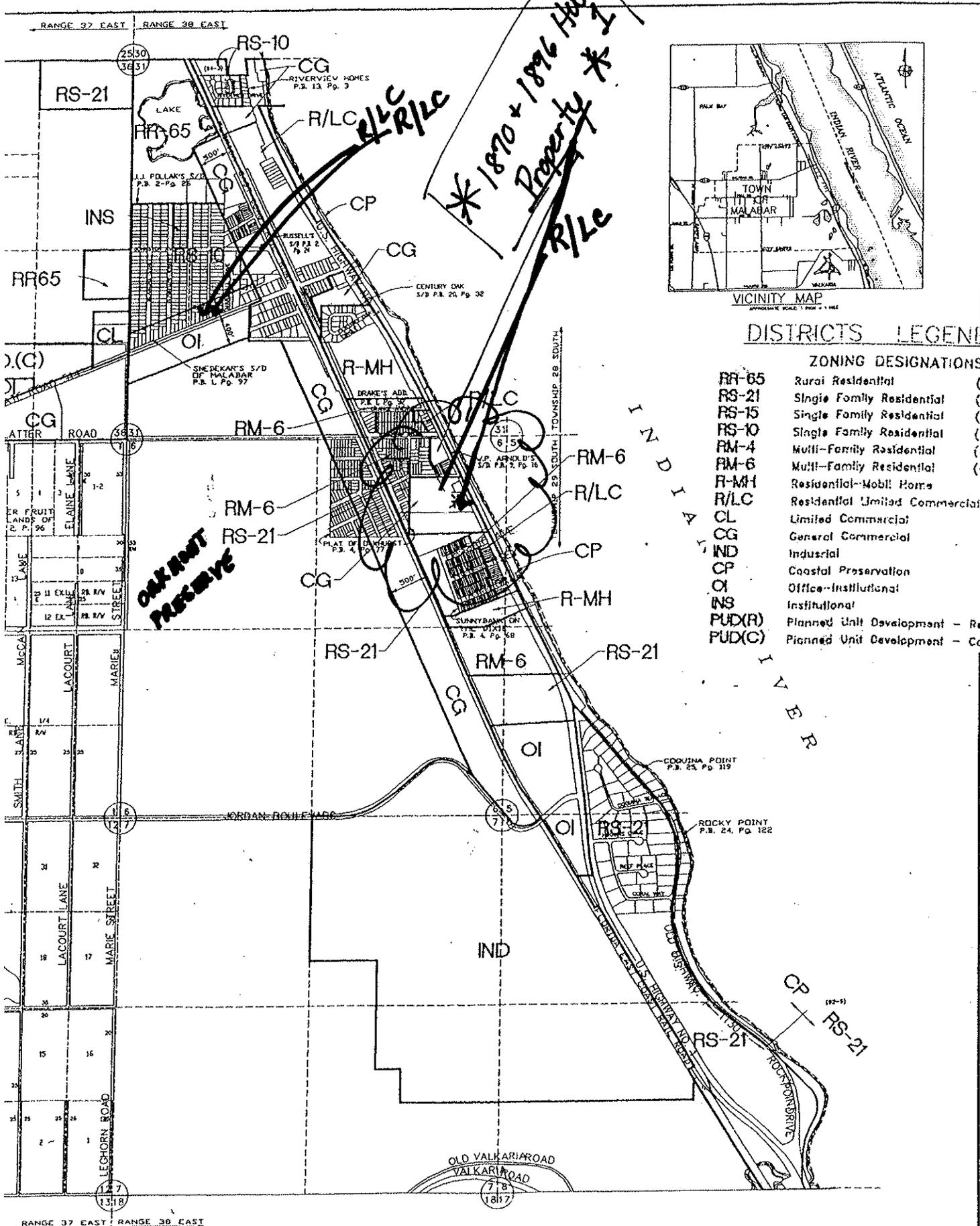
	2010	2011	2012
* Market Value Total:	\$508,250	\$391,950	\$391,950
Agricultural Market Value:	\$0	\$0	\$0
Assessed Value Non-School:	\$508,250	\$391,950	\$391,950
Assessed Value School:	\$508,250	\$391,950	\$391,950
** Homestead Exemption:	\$0	\$0	\$0
** Additional Homestead:	\$0	\$0	\$0
** Other Exemptions:	\$0	\$0	\$0
*** Taxable Value Non-School:	\$508,250	\$391,950	\$391,950
*** Taxable Value School:	\$508,250	\$391,950	\$391,950

Land Information

Acres:	14.4
Site Code:	114
Land Value:	\$391,950

* This is the value established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does NOT represent anticipated selling price for the property.

** Exemptions as reflected on the Value Summary table are applicable for the year shown and may or may not be applicable if an owner change has occurred.



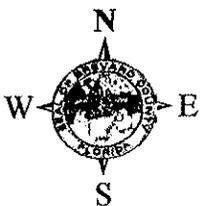
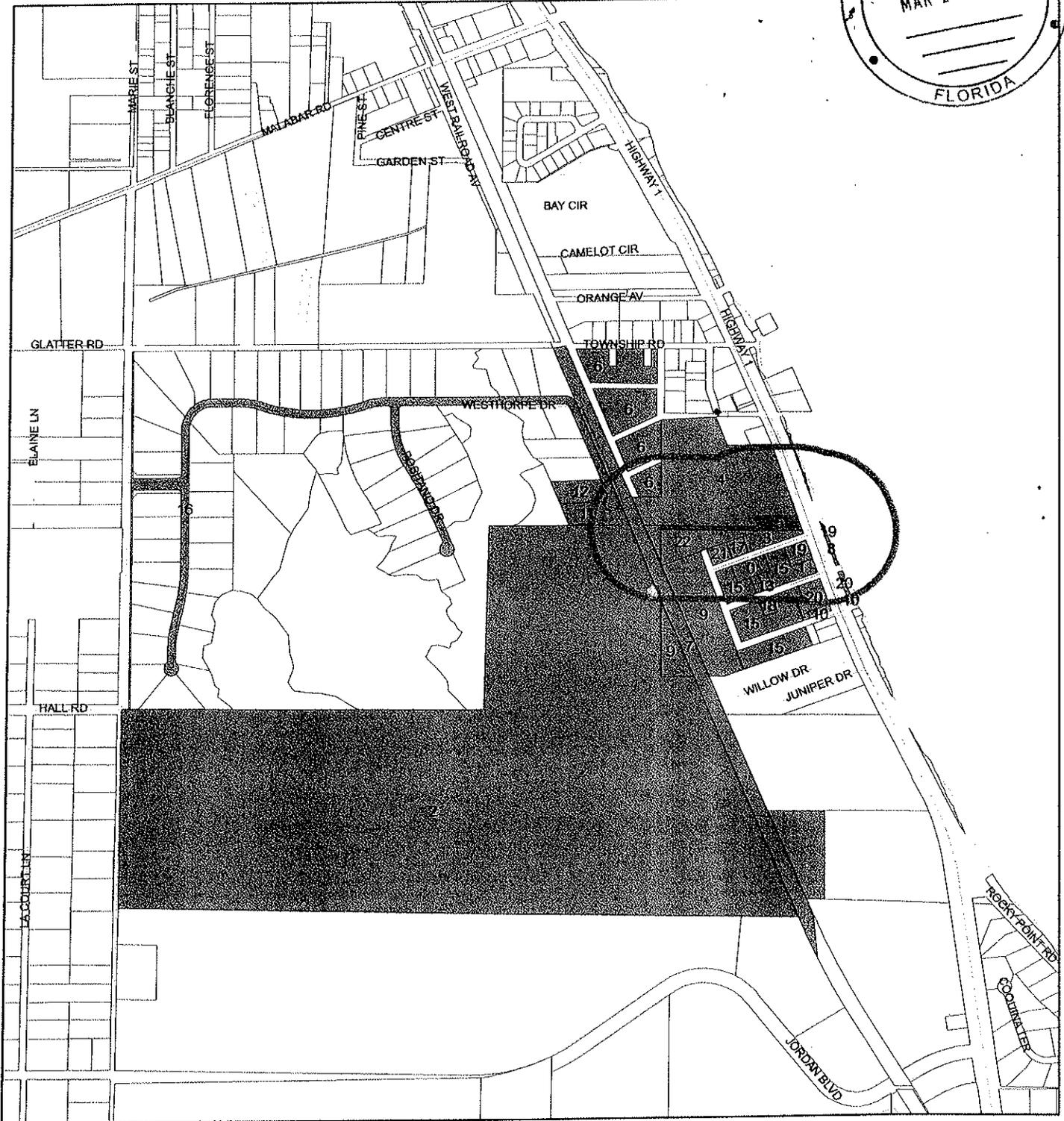
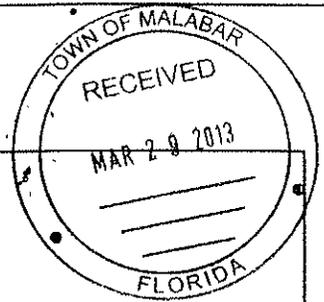
DISTRICTS LEGEND

ZONING DESIGNATIONS

RR-65	Rural Residential	(1.5 Ac./U)
RS-21	Single Family Residential	(2 Units/Ac)
RS-15	Single Family Residential	(3 Units/Ac)
RS-10	Single Family Residential	(4 Units/Ac)
RM-4	Multi-Family Residential	(4 Units/Ac)
RM-6	Multi-Family Residential	(6 Units/Ac)
R-MH	Residential-Mobli Home	
R/LC	Residential Limited Commercial	
CL	Limited Commercial	
CG	General Commercial	
IND	Industrial	
CP	Coastal Preservation	
OI	Office-Institutional	
INS	Institutional	
PUD(R)	Planned Unit Development - Residential	
PUD(C)	Planned Unit Development - Commercial	

RADIUS MAP

Tax ID 2953317



1:12,000 or 1 inch = 1,000 feet

Buffer Distance: 500 feet

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

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 3/28/2013

Chen500
Page1

Frank Plata
Plata Engineering, Inc.
3700 N Harbor City Blvd Suite 2F
Melbourne, Florida 32935

BERKLEY, STEWARD L
BERKLEY, DAWN E H/W
252 STAR RIDGE ROAD
HOPE ID 83836 0

BOSENBERRY, RICHARD B
P O BOX 500157
MALABAR FL 32950 157

~~BREVARD COUNTY
700 S PARK AVE
TITUSVILLE FL 32780 0~~

CABLE, SUSAN S
3090 PASSAIC AV
MALABAR FL 32950 0

CHEN, JUNG-LIN
CHEN, SHU-CHING TRUSTEES
5165 S US HIGHWAY 1
GRANT-VALKARIA FL 32949 0

~~CHEN, JUNG-LIN
CHEN, SHU-CHING TRUSTEES
5165 S US HIGHWAY 1
GRANT-VALKARIA FL 32949 0~~

COASTAL JEWEL LLC
720 LANCE DR
DES PLAINES IL 60016 0

FLORIDA EAST COAST RAILWAY LLC
7411 FULLERTON ST SUITE 300
JACKSONVILLE FL 32256 3629

FOLDESI, DENNIS
1705 VEGA AVE
MERRITT ISLAND FL 32953 0

GIERLING, DAVID L
GIERLING, DIANE L H/W
3020 PASSAIC AVE
MALABAR FL 32950 0

KIRBY, WILLIAM RONALD
2620 STATE ST
MELBOURNE FL 32904 6325

~~MALABAR PREFERRED COMMUNITIES II
LLC
300 E NEW HAVEN AVE
MELBOURNE FL 32901 0~~

MALABAR PREFERRED COMMUNITIES II
LLC
300 E NEW HAVEN AVE
MELBOURNE FL 32901 0

MC CARTY, MARIE F
540 GREENFIELD DR
MAUMEE OH 43537 2354

~~MC CARTY, MARIE F
540 GREENFIELD DR
MAUMEE OH 43537 2354~~

~~MC CARTY, MARIE F
540 GREENFIELD
MAURICE OH 43537 0~~

OAKMONT PRESERVE SUBDIVISION
HOMEOWNERS ASSOCIATION INC
300 E NEW HAVEN AVE
MELBOURNE FL 32901 0

REYNOLDS, CAROLYN
REYNOLDS, JOSEPH C H/W
2135 CYPRESS LAKE DR
GRANT FL 32949 0

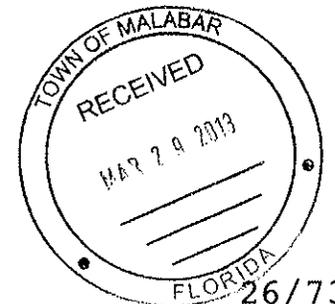
SAUNDERS, RAYMOND R
SAUNDERS, SUSAN JANE H/W
3065 NEW JERSEY AVE
MALABAR FL 32950 0

STEPPI, ALBERT J
STEPPI, MARY H/W
4102 SUMMERWOOD
ORLANDO FL 32812 0

THERIAULT, ROBERT P
P O BOX 500494
MALABAR FL 32950 494

TROWBRIDGE, KEVIN L
TROWBRIDGE, LYNDA D H/W
P O BOX 500309
MALABAR FL 32950 309

WHELAN, THOMAS D
WHELAN, CAROL J H/W
1569 RIVERSIDE DR
MELBOURNE FL 32935 0



ARTICLE
II
Land Use & Zoning

Article II

LAND USE AND ZONING

Section 1-2.1. Implementing the Comprehensive Plan.

In order to implement the Comprehensive Plan in a manner consistent with § 163.3201, Florida Statutes, the following zoning regulations are hereby established. They are intended to assist in managing comprehensive planning issues surrounding the use and/or development of specific lots, parcels, and tracts of land or any combination thereof within the Town of Malabar.

Section 1-2.2. Zoning districts established.

Table 1-2.1, "Future Land Use Map (FLUM) Designations and Zoning Districts" references adopted FLUM designations contained in the land use element of the Town of Malabar Comprehensive Plan and identifies corresponding zoning districts which are hereby established in order to implement the FLUM designations, respectively.

TABLE 1-2.1. FUTURE LAND USE MAP DESIGNATIONS AND ZONING DISTRICTS

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

<i>Future Land Use Map Designations</i>		<i>Corresponding Zoning Districts</i>	
*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.

(Ord. No. 94-4, § 1, 4-3-95)

Section 1-2.3. Official Zoning Map and district boundaries.

A. *Map Adoption.* The boundaries of each zoning district are on the Official Zoning Map for The Town of Malabar, Florida. The boundaries of the districts, together with all explanatory statements thereon, are hereby adopted and incorporated as a part of this Code.

B. *Map Amendment.* No changes or amendments to the Official Zoning Map shall be made except in compliance and conformity with all procedures set forth in this Code. If changes or amendments are made to district boundaries or other subject matter portrayed on the Official Zoning Map, such changes or amendments shall be made promptly after official adoption of the change or amendment as provided for herein. The Town Clerk shall be responsible for assuring that the physical updating and amendment of the Official Zoning Map is carried out in a timely manner.

The new Official Zoning Map may correct drafting and clerical errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the Code or any subsequent amendment thereto without duly noticed public hearings as provided herein.

When any Official Zoning Map is replaced, the prior Map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption and amendment.

Section 1-2.4. Interpretation of district boundaries.

When uncertainty exists as to boundaries of the districts on the Official Zoning Map, the following rules shall apply:

- (1) *Center Lines.* Boundaries indicated as approximately following the center lines of streets, highways and alleys shall be construed as following such lines.
- (2) *Lot, Section and Tract Lines.* Boundaries indicated as approximately following platted lot lines, section or tract lines shall be construed as following such lines.

- (3) *Political Boundaries.* Boundaries indicated as approximately following political boundaries shall be construed as following such political boundaries.
- (4) *Railroad Lines.* Boundaries indicated as following railroad lines shall be construed to be following the centerline of the railroad right-of-way.

- (5) *Shorelines.* Boundaries indicated as following shorelines shall be construed as following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline, boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.
- (6) *Parallel Lines.* Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- (7) *Bisecting Lines.* Where district boundary lines approximately bisect blocks, the boundaries are the median line of such blocks, between the center line of boundary streets.
- (8) *Uncertainties.* Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in case any other uncertainty exists, the Town Council shall interpret the intent of the Official Zoning Map as to the location of district boundaries.
- (9) *Street Abandonments.* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned road, street, or alley.
- (10) *Excluded Areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, said parcels shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures contained herein.

Section 1-2.5. Compliance with district regulations.

No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, land or water be used for any purpose other than a use permitted in the district in which such building, land or water is located. No building or land shall be used so as to produce greater heights, smaller yards, less unoccupied area, or higher density or intensity than is prescribed for such building or land within the district regulations in which the building or land is located. No lot, which is now or which may be hereafter built upon shall be so reduced in area so that the yards and open spaces will be smaller than prescribed by this Code.

Section 1-2.6. Land use classifications.

The purpose of these provisions is to classify uses into specially defined types on the basis of common functional characteristics and land use compatibility. These provisions apply throughout the zoning regulations.

All land use activities are classified into the following activity types.

A. Residential Activities.

1. Single Family Dwellings.

- 2. Two Family Dwellings.
- 3. Multi Family Dwellings.
- 4. Mobile Homes.
- 5. Accessory Residential Activities.

B. Community Facilities.

- 1. *Administrative Services (Public or Private Not-for-Profit).* Activities typically performed by not-for-profit private or public social services and utility administrative offices.
- 2. *Cemetery.* Property used for the interring of the dead.
- 3. *Child Care Services.* Activities typically performed by an agency, organization or individual providing day care without living accommodations for preteens not related by blood or marriage to, and not the legal wards or foster children of, the attendant adult.
- 4. *Clubs and Lodges (Not-for-Profit).* Activities typically performed by a group of persons for social or recreational purposes not operated for profit and not including activities which primarily render services which are customarily carried on as a business for profit.
- 5. *Cultural or Civic Activities.* Activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as literature, science, music, drama, art or similar objectives.
- 6. *Educational Institutions.* A place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.
- 7. *Golf Course and Support Facilities.* A golf course is comprised of at least nine separate holes and may be regulation length, executive length, or par three (3) length. A golf course shall be required to comply with recommended minimum design standards established by the U.S. Golf Association or the American Society of Golf Course Architects. The following acreage requirements shall be the minimum standards for a golf course:

<i>Type of Golf Course</i>	<i>Minimum Acres Required</i>
Regulation Course	120 acres
Executive Course	40 acres
Par 3 Course	35 acres

Commercial miniature golf courses and driving ranges and similar facilities are excluded from this activity as defined.

- 8. *Group Homes.* Facilities licensed by the Florida Department of Health and Rehabilitative Services (HRS) or a successor agency to provide a family residential living environment for persons with special needs, disabilities or handicaps. This service is provided in a minimum restriction home environment and includes

supervision, and low intensive personal or therapeutic care necessary to meet physical, emotional, and social needs of clients.

9. *Hospitals and Extensive Care Facilities.* Institutions providing health and rehabilitative services, primarily for in-patients, and medical or surgical care; including, as an integral part of the institution, related facilities, central service facilities, and staff offices. These institutions:

- (a) Offer health and rehabilitative services more intensive than those offered in group homes, room and board facilities, and general nursing care. Medical offices, hospital and extensive care facilities offer facilities and beds for use beyond twenty-four (24) hours by individuals requiring diagnosis, treatment, or care for illness, rehabilitative services, injury, deformity, infirmity, abnormality, disease, or pregnancy; and
- (b) Regularly make available at least clinical laboratory services, diagnostic X-Ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, including rehabilitative services.

A hospital or extensive care facility shall not include a facility for the care or treatment of the sick who depend exclusively upon prayer or spiritual means for healing in the practice of a religion (§ 395.002(6), F.S.).

- 10. *Nursing Homes (including Rest Homes or Convalescent Homes).* Activities customarily performed by a home for the elderly or infirmed in which three or more persons not of the immediate family are received, kept or provided with food, shelter and care for compensation. This activity shall not include duly state licensed volunteer adult foster care homes in which three or less foster adults are placed. Neither does the principal activity include hospitals, clinics or similar institutions devoted to the diagnosis and treatment of the sick or injured.
- 11. *Places of Worship.* Activities customarily performed in a building where persons regularly assemble for religious worship and which building, together with its accessory building and uses, is maintained and controlled by a religious body organized to sustain public worship.
- 12. *Protective Services.* Fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.
- 13. *Public Parks and Recreation Areas.* Public parks and recreation land and facilities developed for use by the general public.
- 14. *Public and Private Utilities (including Essential Government Services).* Use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water distribution; wastewater collection and disposal; communication; and similar services and facilities.

C. *Commercial Activities.*

- 1. *Bars and Lounges.* A commercial establishment selling and dispensing for the drinking on the premises of liquor, malt, wine or other alcoholic beverages. This

shall not include the sale of alcoholic beverages accessory to and within a restaurant use.

2. *Business and Professional Offices.* Offices extending the following services which provide advice, information or consultation of a professional nature: insurance, real estate, and financial services; banking services; and executive management and administrative activities. This classification excludes commercial storage of goods and chattels for the purpose of sale or resale as a principal use.
3. *Commercial Amusement, Enclosed.* Active or passive recreation facilities by profit oriented firms where all activities are conducted within fully enclosed facilities.
4. *Drive-thru Facilities.* A facility, which by design, physical character, and/or by operation (i.e., service or packaging procedures) encourages or permits customers to receive services, obtain goods or be entertained while remaining in the motor vehicle.
5. *Funeral Homes.* Undertaking and funeral services involving care and preparation of human deceased prior to burial, including crematory facilities.
6. *General Retail Sales and Services.* Retail sale or rental from the premises of goods and/or services to include all uses listed under limited commercial activities as well as the following:

- Appliance Stores, without major warehousing.
- Art Shops and Supplies.
- Bakeries, excluding wholesale production and distribution.
- Bicycle Shops.
- Copying Services.
- Cosmetic Stores.
- Department Stores.
- Drapery Stores.
- Drug Stores.
- Dry Cleaning establishments complying with Class IV or Class V Fire Code Prevention requirements and using only Class IV solvents such as perchlorethelene, except for spotting as provided for in Section 9.6(m) of the Fire Prevention Code.
- Dry Goods Stores.
- Fabric Stores.
- Furniture Stores.
- Garden Supplies.
- Grocery Stores.
- Hardware Stores, without outside storage of lumber and other building supplies.
- Health and Exercise Studios.
- Home Furnishing Stores.
- Lawn and Garden Supplies.
- Large Specialty Shops.

Luggage and Leather Goods Stores.
 Office Equipment and Supplies.
 Paint and Wallpaper Retail Sales.
 Pet Supply and Pet Shops.
 Sporting Goods Stores.

Other similar retail sales and service activities conducted within a fully enclosed building approved by the Town Council after receipt of a recommendation from the Planning and Zoning Commission. The use shall not include: wholesaling, warehousing, outside storage and distribution functions. The use shall not exhibit any characteristic dissimilar or incompatible with the uses identified herein. In review and approval of a request for a "similar" use, the Planning and Zoning Board and the Town Council shall use the procedures and criteria cited in the following Section 1-2.6 [1-2.7].

7. *Hotels and Motels.* A building or other structure used, maintained or advertised as a place where sleeping accommodations are supplied for rent to transient guests, in which ten (10) or more rooms are furnished for the accommodation of such guests; and which may have as an accessory use one or more dining room areas.

8. *Limited Commercial Activities.* Small limited item shops and stores limited to retail sales of personal service items, including small convenience items or services typically needed on a frequent and recurring basis. This land use classification is intended to accommodate shops with limited inventory serving: (1) a household market area in the immediate vicinity as opposed to citywide or region; (2) a specialized market with customized service demand; or (3) a tourist oriented market area in the immediate vicinity. This classification is intended to include the following:

Bait and Tackle Shop.
 Barber and Beauty Shops.
 Book and Stationary Stores.
 Candy and Ice Cream Stores.
 Clothiers.
 Drug Stores and Pharmacies.
 Dry Cleaning and Laundry Pick-Up Substations and Self-Service Facilities.
 Florists.
 Gift Shops.
 Hobby and Handicraft Shops.
 Interior Decorators.
 Jewelry Stores.
 Meat Shops.
 Novelty and Curio Shops.
 Optical Stores.

Photo Supplies and Studios.

Shoe Repair Shops.

Tailors or Seamstress.

Other similar limited commercial activities conducted in a fully enclosed building which are approved by Town Council after receipt of a recommendation from the Planning and Zoning Board. 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 "similar" uses shall be as cited in the following section, § 1-2.6 [1-2.7]. The use shall comply with criteria cited in the above definition of limited commercial activities and shall not include more intense general retail sales and services. The procedures and criteria for review of other similar limited commercial activities shall be as cited in the following section, § 1-2.6 [1-2.7].

9. *Waterfront Marine Related Activities.* The following marine related land uses are included in this land use classification: commercial wet or dry storage and boat sales and rental; Marine power sales and service; and bait and tackle shop; and excluding marine salvage and boat yards.
10. *Medical Services.* The provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical laboratory testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician and with no overnight lodging. This land use classification includes pharmacies when developed as an accessory use within a medical service facility.
11. *Parking Lots and Facilities.* Governmental or private commercial building of [or] structure solely for the off-street parking or storage of operable motor vehicles.
12. *Plant Nurseries.* Retail sale of flowers, shrubs, trees, and plants as well as landscaping contractors and provision of related consultative services.
13. *Restaurants (excluding drive-ins and fast food service).* Any establishment (which is not a drive-in service establishment) where the principal business is the sale of food, desserts or beverages to the customer in a ready-to-consume state and where the design or principal method of operation includes two or more of the following:
 - (a) Customers, normally provided with an individual menu, are served generally in non-disposable containers by a restaurant employee at the same table or counter at which items are consumed.
 - (b) Ice cream parlors and other specialty restaurants having floor area exclusively within a shopping or office center and sharing common parking facilities with other businesses within the center and expressly prohibiting free-standing stores having characteristics of a drive-in restaurant.

- (c) A cafeteria or cafeteria type operation where foods, desserts or beverages generally are served in non-disposable containers and consumed within the restaurant building.
 - (d) Customers purchase food, desserts or beverages for carryout.
14. **Restaurants (drive-ins and fast food service).** Any establishment where the principal business is the sale of foods, desserts or beverages generally contained in a ready-to-consume state and whose design, method of operation or any portion of whose business includes one or both of the following:
- (a) The restaurants are self-service. Food is generally served in disposable containers and customers generally do the busing and clean-up for themselves or foods, desserts or beverages are served directly to the consumer in a motor vehicle.
 - (b) The consumption of foods, desserts or beverages within a motor vehicle parked upon the premises, or consumption at other facilities on the premises is allowed, encouraged or permitted.
15. ***Service Stations, Including Gasoline Sales.*** Establishments for the dispensing of motor fuels and related projects at retail and having pumps, underground storage tanks and other facilities for such activity and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles within enclosed service bays or stalls. For the purpose of this Code, these services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.
16. ***Trades and Skilled Services.*** Shops providing services requiring skilled labor or craftsmanship for repair including household items, office equipment, appliances, printing, blue printing, carpet sales and service, feed stores, lawn and maintenance services, newspaper printing, radio and television broadcasting, restaurant equipment and supply sales and services. All such activities shall not include outside storage.
17. ***Vehicular Service and Maintenance.*** Vehicular establishments providing sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles. These services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.
18. ***Vehicular Sales and Related Services.*** The retail or wholesale sale or rental of motor vehicles and related equipment, with incidental services and maintenance.
19. ***Veterinary Medical Services.*** The provision of animal medical care and treatment by a Florida licensed veterinarian.

20. *Wholesale Trades and Services.* The display, limited storage and sale of goods to other firms for resale, excluding outside storage, except as otherwise provided in this chapter [Code].

D. *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.
- E. *Agricultural Activities*. The following land uses are included in the agricultural land use classification. No such activity shall permit commercial retail operations, except as otherwise expressly provided in the definition and/or the agricultural district provisions cited within this Code.
1. *Commercial Stables*, including a stable operated for profit on a minimum five (5) acre site of not more than one (1) horse for the first one (1) acre and one (1) additional horse for each additional one-half (1/2) acre. Also reference conditional use criteria.
 2. *Noncommercial Agricultural Activities*, including home gardens, noncommercial greenhouses, and keeping of agricultural animals. Keeping of agricultural animals shall be limited to one (1) agricultural animal for the first one (1) acre and one (1) additional animal for each additional one-half (1/2) acre.
 3. *Wholesale Agricultural Activities*, including harvested agricultural crops, fish and aquatic farms, grazing of cattle, and wholesale trade of products grown or raised on premises. These agricultural operations shall be restricted to sites with a minimum of five (5) acres.

All animals permitted pursuant to this subsection shall be maintained within a controlled area bounded by a fence or other barrier approved by the Town.

Section 1-2.7. Procedures and criteria for review of "similar" uses.

In the classification of uses stipulated in § 1-2.5 [1-2.6], wherever reference is made to the phrase "other similar" uses approved by Town Council after receipt of recommendations from the Planning and Zoning Board, the Planning and Zoning Board and the Town Council shall apply the following procedures and criteria in the review of such uses:

- (a) The criteria for review shall be the same general criteria used in review of conditional uses.
- (b) Procedures for review shall be the same procedures used in review of a conditional use.
- (c) In addition, the Town Council shall determine: (1) whether the use is similar in character to other uses cited in the specific land use classification; and (2) whether the impacts generated by the use are similar in character to the impact generated by other uses cited in the specific land use classification.

[The next page is 113]

**PORTION OF
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III
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Portions of Article III

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provides a management strategy for negotiating innovative development concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

→ O. *R/LC "Residential and Limited Commercial."* The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

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

Single family or multiple family residential uses with a density no greater than six (6) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in this Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1-4, 4-2-07)

Section 1-3.2. Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

Cross reference—Alcoholic beverages, ch. 4.

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TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R.MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			
COMMUNITY FACILITIES														
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 ¹	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 ¹						C
Golf Course Facilities	C													
Group Homes					C	C		C			P			C
Hospital and Extensive Care Fa- cilities								C						C
Nursing Homes (Including Rest Homes and Convalescent Homes)					C	C		C			C			C
Protective Services														
Public Parks and Recreation	C	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	C



	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
AGRICULTURAL ACTIVITIES														
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities														
Bars and Lounges										C				
Bed and Breakfast										C				
Business and Professional Offices											P ¹			
Enclosed Commercial Amusement								P	P	P	P	P	P	
Funeral Homes									P	P	C			
General Retail Sales and Services														
Hotels and Motels										P				
Limited Commercial Activities									P	P	P			
Marine Commercial Activities										C*				
Medical Services								P	P	P	P			
Mini Warehouse/Storage									C	P				
Parking Lots and Facilities								P	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										P				
Trades and Skilled Services										C*		C*		
Veterinary Medical Services										C*		P		
Vehicular Sales and Services								P	P	P	C	P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P	P	
INDUSTRIAL ACTIVITIES														
Kennels													C	
Manufacturing Activities													P	
Manufacturing Service Establishments													P	
Vehicle and Other Mechanical Repair and Services										C*			P	

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	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Warehouse, Storage and Distribution Activities														
WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES														
Noncommercial piers, boat slips, and docks												P		

- 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. 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.

1 Any Bed and Breakfast which 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. (Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07)

Section 1-3.3. Size and dimension criteria.

A. *Minimum Lot or Site Requirements for All Uses.* Table 1-3.3(A) incorporates required size and dimension regulations which shall be applicable within each respective zoning district. All developments shall have a total land area sufficient to satisfy all standards stipulated within the land development code; including but not limited to:

- Setback requirements;
- Open space, buffers, and landscaping;
- Surface water management;
- Water and wastewater services;
- Access, internal circulation and off-street parking;
- Wetland protection; and
- Soil erosion and sedimentation control standards.

Conventional single family lots shall be required pursuant to square footage requirements stipulated in Table 1-3.3(A). Similarly, more intense development within multiple family residential districts and other specified nonresidential districts shall maintain sites having minimum acreage requirements stipulated in Table 1-3.3(A).

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

Minimum Lot (1)						Setback (ft) from property line (2)				MISR (%)	MBC	MOS	Max
Zoning District	Size (Sq. ft)	Width (ft)	Depth (ft)	Max Height Ft/stories	Min Living Area (sq ft) for residential or Minimum commercial sf	Front	Rear	Side (Int)	Side (corner)	Max Impervious Surface Ration (%)	Maximum Building Coverage (%)	Minimum Open Space (%)	Maximum Density (units per acre) residential use only
Mobile Home Residential Development													
R-MH	Site: 5 acres Lot: 7000					10	8	8	10	50	N/A	50	6
Mixed Use Development													
R/LC	20,000 <u>½ acre</u>	100	150	35/3	Single Family: 1200	25	20	10	10	50	N/A	50	6
R/LC	<u>½ acre</u>	100	150	35/3	Multiple Family: 1 Bedroom: 900 Each Additional Bedroom: 120	50	25	10(4)	20	65	N/A	35	6
R/LC	<u>½ acre</u>	100	150	35/3	Commercial Min. Area: 900 Max. Area 4,000	50	25	10(4)	20	65	20	35	N/A
Office Development													
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A

Note 1 Minimum lots 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.

B. *Area requirements for uses not served by central water and wastewater services.* All proposed development within areas not served by central water and wastewater services shall comply with the septic permitting requirements of Brevard County.

C. *Impervious Surface Requirements (ISR) for All Uses.* The term "impervious surface" is defined as that portion of the land which is covered by buildings, pavement, or other cover through which water cannot penetrate. The impervious surface ratio requirement controls the intensity of development, by restricting the amount of the land covered by any type of impervious surface.

1. *Calculation of ISR.* The impervious surface ratio (ISR) is calculated for the gross site by dividing the total impervious surface by the gross site area. Water bodies are impervious but shall not be included as such in the ISR calculation.

Cluster development or other site design alternatives may result in individual lots exceeding the ISR, while other lots may be devoted entirely to open space. The Town may require, as a condition of approval, deed restrictions or covenants which guarantee the maintenance of such open space in perpetuity. The ISR requirement shall not be bypassed or reduced. However, the intent is to allow maximum flexibility through calculating ISR on the gross site, and not on a lot-by-lot basis.

2. *Use of Porous Material.* Porous concrete, asphalt, porous turf block, or similar materials may be used subject to approval of the Town Engineer.
3. *Compliance with ISR Stipulated in Table 1-3.3(A).* All proposed development shall comply with the standards given in the table of impervious surface ratios in Table 1-3.3(A).

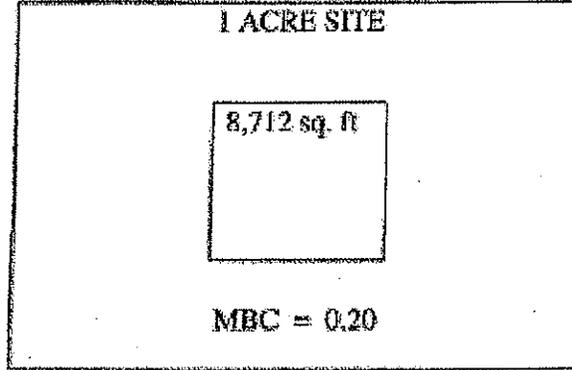
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks, and other required project amenities.

D. *Maximum Building Coverage.* The term "maximum building coverage" is defined as a measurement of the intensity of development on a site. For purposes of this Code, maximum building coverage (MBC) is used to regulate nonresidential development.

1. *Calculation of MBC.* The MBC is the relationship between the total building coverage on a site and the gross site area. The MBC is calculated by adding together the total building coverage of a site and dividing this total by the gross site area. See figure 1-3.3(D) for a graphic illustration of this concept.

All proposed nonresidential development shall comply with the MBC requirements stipulated in Table 1-3.3(A) for the zoning district in which the development is located.

FIGURE 1-3.3(D). MAXIMUM BUILDING COVERAGE ILLUSTRATION



Maximum building coverage for a MBC of 0.20 = 8,712 sq. ft.

$$\text{MBC} = \frac{\text{Total Building Coverage}}{\text{Total Lot Area}}$$

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

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

<i>Transportation Facility</i>	<i>Building Setback (feet)</i>
Arterial Roadways (150 feet R/W)	100
US 1 Highway	
Malabar Road (SR 514)	
Babcock Street (SR 507)	
Major Collector Streets (100 feet R/W)	85
Corey Road	
Weber Road	
Marie Street	
Briar Creek	
Jordan Blvd.	
Local Streets (50—60 feet R/W)	65

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Minor Collector Streets (80 feet R/W)

75

Atz Blvd.

Hall Road

Old Mission Road

Benjamin (Reese) Road

F. *Minimum Distance Between Principal Buildings.* The minimum distance between principal buildings shall be twenty (20) feet. The distance shall be measured at the narrowest space between buildings and shall not include roof overhang.

(Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; Ord. No. 94-4, § 4, 4-3-95; Ord. No. 96-1, § 1, 3-4-96; Ord. No. 97-5, § 1, 3-17-97; Ord. No. 02-03, § 1, 8-5-02; Ord. No. 03-02, § 1, 2-24-03; Ord. No. 04-08, §§ 1, 2, 7-12-04; Ord. No. 06-05, § 1, 2-6-06; Ord. No. 06-16, §§ 1, 2, 10-2-06)

ARTICLE
VII
SITE PLAN REVIEW

Article VII

SITE PLAN REVIEW

Section 1-7.1. Applicability and filing procedure.

Site plan approval, as provided for herein shall be required for each of the following:

1. All permitted uses, except single family homes or single family home accessory structures. However, all uses and structures shall comply with surfacewater management criteria of Article VIII.
2. All conditional uses.
3. Any use or change in use resulting in one thousand (1,000) square feet of impervious surface area on the entire site.
4. The provisions of Article VIII: Surface Water Management shall apply to all site plans as if the same were incorporated in this Article.
5. Any development including single family residences which will involve any clearing, grading or other form of disturbing the land by the movement of earth provided that any one of the following descriptions applies to said movement.
 - (a) Excavation, fill or any combination thereof which will exceed five hundred (500) cubic yards.
 - (b) Fill which will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (c) Excavation which will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (d) Excavation, fill or any combination thereof which will exceed an area of one thousand (1,000) square feet.
 - (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
 - (f) Whenever any amount of excavation or fill is proposed within one hundred (100) feet of a stream, stream channel or body of water a soil erosion and sedimentation control plan shall be provided.

A. *General Site Plan Review Procedure.* In all cases requiring site plan review, no structure or parking area, or part thereof, shall be erected or used, or land or water used, or any change of use consummated, nor shall any building permit be issued therefor, unless a site plan for such structure or use shall have been reviewed by the Town Planning and Zoning Board.

1. *Filing.* Before such site plan shall be approved, an application for such approval shall be filed with the Town Clerk then directed to the Building Official and/or the Town Engineer or other designated officials for their recommendation. Town Engineer is defined as that Town employee, or outside Florida registered engineer contracted by

the Town, responsible for performing the duties specified herein as the Town Engineer.

2. *Application, Fee and Disclosure of Ownership.* Such application shall be in a form substantially in accordance with the form prescribed by the Town Clerk, copies of which may be obtained from the Town Clerk's office. A written power of attorney authorizing a person other than the owner(s) to sign such application must be attached to said application.

All applications shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for site plan approval is sought, except publicly held corporations, in which case the name and address of the corporation and principal executive officers will be sufficient.

The fee schedule for site plan review shall be as determined by resolution of the Town Council.

3. *Review by Town Staff and Planning and Zoning Board.* The application shall be forwarded to the Building Official or Town Engineer and such other staff as may be pertinent. The Town shall proceed to make appropriate studies and/or reviews required to make an appropriate evaluation. The application with evaluative comment shall then be forwarded to the Town Planning and Zoning Board for their consideration and action. The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, so as to prevent inconvenience and delay to the project.

After reviewing a site plan and staff recommendations, the Planning and Zoning Board shall recommend approval or disapproval. The Planning and Zoning Board shall provide written comments documenting any conditions of approval. If site plan is recommended for disapproval, the Planning and Zoning Board shall specify in writing the reasons for recommending denial. All recommendations of the Planning Board together with the written record shall be forwarded to the Town Council for final action.

4. *Action by the Town Council.* The Town Council shall consider the recommendations of staff and the Planning and Zoning Board and approve with or without conditions, or disapprove the site plan. The Town Council may attach to its approval of a site plan any reasonable conditions, limitations or requirements which are found necessary, in its judgement, to effectuate the purpose of this Section and carry out the spirit and purpose of the Zoning Ordinance.

Any condition shall be made a written record and affixed to the site plan as approved. If the Town Council disapproves a site plan, the reasons shall be stated in writing and the appeal shall be to the Court of appropriate jurisdiction.

B. Review of Minor Site Plans.

1. *Applicability.* For the purposes of this section, minor site plans shall include the following:
 - a. Residential projects comprised of a single building, having less than five (5) dwelling units, or;
 - b. Projects containing less than one thousand (1,000) square feet of new impervious surface area.
 - c. Single family homes and accessory buildings or ponds which require site plan approval pursuant to section 1-7.1.5.
2. *Submission Requirements for Minor Site Plans.* Minor site plans shall only include that information required in Sections 1-7.2, 1-7.3, which is determined to be applicable to the proposed minor site plan by the Building Official and Town Engineer.
3. *Minor Site Plan Review Procedures.* All minor site plan applications shall be reviewed by the Town Engineer and Building Official and approved by the Building Official, the Planning and Zoning Board and the Chairperson of the Town Council. However, single family homes, accessory buildings or ponds may be approved by the Building Official. Appeals of such decisions shall be conducted pursuant to section 1-7.4

C. Minor Modifications of Site Plans. Minor modifications to approved site plans shall include changes such as the:

1. Addition of awnings, canopies or other ornamental structures; redesign and different location of pools, parking spaces, drives and driveways; or modifications in stairs or elevations of decks, porches, terraces and fencing;
2. Addition of parking spaces not to exceed twenty-five (25) percent, including fractions thereof, of the total number of existing parking spaces or five (5) spaces, whichever is the greater amount;
3. Attached or detached additions to buildings which do not increase the floor area in excess of five hundred (500) square feet;
4. Installation of utility system improvements including buildings not exceeding two hundred (200) square feet.
5. Aside from minor modifications to site plans as herein defined, any change in use of buildings, structures, land or water, or institutions of new uses, or alteration or major improvements to existing structures, or erection of new buildings or structures shall require a new site plan submittal in accordance with all procedures and provisions of this Code.

Such changes to approved site plans shall be reviewed by the Building Official and or other designated Town consultants/Staff. If the Building Official and Town Engineer have no objection to the request based on its compliance with the Code, such minor modifications shall be submitted for approval by the Town Council Chairperson after review by the Planning and

Zoning Board. The Town Council Chairperson shall report each change so approved to the Town Council for the record at the next scheduled meeting.

D. *Conformance with Zoning Regulations Required.* Any such building, structure or use shall be erected, altered, installed and maintained in full conformity with the provisions of the zoning ordinance and the approved site plan.

(Ord. No. 91-1, 3-19-91)

Section 1-7.2. Considerations in reviewing site plans.

The Planning and Zoning Board shall not approve a site plan unless a finding is made that such site plan conforms to all applicable provisions of the land development regulations.

- A. *Site Location and Character of Use.* The Comprehensive Plan together with the land development regulations, including size and dimension regulations, general provisions, performance standards, and the list of permitted and conditional uses, off-street parking, landscaping, required open spaces, yards and building setbacks shall collectively be the principal guides in determining the suitability of the location of the proposed use.
- B. *Appearance of Site and Structures.* The appearance of site and structures shall be coordinated for the purpose of creating a pleasing and harmonious overall environment. The choice of building materials, plant materials, lighting and other building and site improvements shall be commensurate with the objectives of the subject use without generating adverse visual impact on surrounding properties or transportation corridors. Architectural style or design is not restricted. Evaluation of the appearance of a project shall be based on the quality of its overall design and relationship to the impacted area considering the following factors:
1. *Harmonious Overall Design.* The exterior of buildings and structures including mass, facade and materials shall be in harmony with the site and the general character of the impacted area and shall not be gaudy or garish. Awnings or ornamental features shall be designed in a manner harmonious with the building design and shall be of appropriate scale, shape, and pattern in order to reinforce good design principles. Similarly, awnings or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention. The appearance of buildings and structures shall be disapproved under Section 1-7.2(B) in extreme cases only and reasonable doubt shall be resolved in favor of the applicant.
 2. *Location and Screening of Mechanical Equipment, Utility Hardware and Waste Storage Areas.* Mechanical equipment or other utility hardware other than antennas and stacks on roofs shall be harmonious with the building or they shall be located and/or screened so as not to be visible from any public ways within the impacted area. Similarly, refuse and waste storage areas shall be screened from adjacent properties and public ways by appropriate fences, walls or hedges. In cases where dumpsters must be located in areas highly visible from any public

- right-of-way, the Town Planning and Zoning Board shall be authorized to require appropriate vegetative or structural screening to shield an unsightly condition.
3. *Commercial and Industrial Activities Conducted in Enclosed Buildings.* All businesses, services or manufacturing or processing shall be conducted within completely enclosed buildings. If the Town Council determines that a demonstrated necessity exists for outside storage or display due to the impracticality and unreasonableness of enclosure of such services, storage and display areas, in such case such service, storage and display areas or yards shall be screened by a continuous fence or wall or by landscaping and berm system so as to provide a ninety (90) percent opaque screen with a minimum height of five (5) to eight (8) feet, unless the same is demonstrated by the applicant to the Town Council's satisfaction to be impractical and unreasonable.
 4. *Exterior Lighting.* Exterior lighting shall be provided and shall be so arranged as to shield or deflect the light from adjoining properties and public streets.
- C. *Access, Internal Circulation, Off-Street Parking and Other Traffic Impacts.* The Town Building Official and/or designated staff shall advise on matters related to this subsection 1-7.2(C):
1. *Internal Circulation System Design and Access/Egress Considerations.* Driveways, curb cuts, and areas for the parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient

circulation within the site and safe and convenient access from and onto adjoining streets. The Town Staff shall review such design considerations based on standard traffic engineering principals and practices and such specifications as may be adopted by resolution of the Town Council. Requirements of Article IX of this Chapter [Code] shall be applied for off-street parking. Among factors to be considered shall be need for acceleration and deceleration lanes; the number, location and size of curb cuts and access drives from adjacent streets; the location and design of driveways and access aisles to parking spaces, the arrangement, delineation and marking for parked areas; and the means of access to buildings for fire-fighting apparatus and other emergency vehicles.

2. *Separation of Vehicular and Pedestrian Areas.* Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety.

D. *Traffic Impacts.* A traffic impact analysis shall be required for site plan reviews pursuant to standards, procedures and criteria defined herein. The traffic impact analysis is designed to achieve objectives stipulated in the transportation element of the Comprehensive Plan.

1. *Applicability.* A transportation impact study shall be required if:

- (a) A proposed development generates more than one thousand (1,000) trips per day. Such development shall maintain a level of service C, daily condition and level of service D for peak hour conditions on collector and arterial street segments as noted below. The trip generation shall be based on the Institute of Transportation Engineers, Trip Generation Manual (1988) unless the applicant can demonstrate that unique development characteristics will result in substantially different rates.

2. *Impact Study Areas.* The transportation impact study area shall include all arterial and collector streets within one half (1/2) mile of the site entrance and/or shall include the nearest arterial roads that will be impacted by the development. For developments which generate between five hundred (500) and one thousand (1,000) trips during the peak hour or over one thousand (1,000) trips during the peak hour, the study area shall be one (1) and three (3) miles respectively. Estimates of peak hour trip generation shall be determined by the applicant's Florida Registered Traffic Engineer and shall be approved by the Town Engineer. Peak hour traffic impact shall be assessed, with and without the development, for all collector and arterial road segments and their respective intersections with other collector and arterial roadways within the designated service area. If additional traffic counts are warranted, they shall be the applicant's responsibility.

3. *Contents.* The transportation impact analysis shall contain the following:

- (a) A detailed description of the collector and arterial road network, including existing and proposed roadway widths and right-of-way widths; existing and

- proposed traffic signals and traffic control devices; existing and proposed ingress and egress locations, including existing or proposed acceleration or deceleration lanes or turning lane improvements.
- (b) A detailed description of the existing and proposed land uses within the impacted study area including stages of construction and anticipated completion dates.
 - (c) A detailed description of the existing traffic conditions, including the Average Annual Daily Traffic (AADT) and the highest average peak hour volume for all collector and arterial roads within the study area. The AADT shall be based on a current twenty-four (24) hour traffic count provided by the applicant. The current twenty-four (24) hour traffic count shall be adjusted to compensate for seasonal variations. This adjustment shall be determined by utilizing Florida Department of Transportation (DOT) or traffic counts calculated quarterly at traffic count stations in the Town of Malabar. The methodology and assumptions underlying the annual adjustment shall be clearly stated. The average peak hour traffic volume shall be the highest average peak hour volume for any weekday twenty-four (24) hour period.
 - (d) A detailed Service Level C condition analysis of all collector and arterial roadways and intersections within the study area based on procedures outlined in the 1965 Highway Capacity Manual (including the Northwestern Monographs) and in the Transportation Research Circular No. 212, "Interim Material on Highway Capacity," Transportation Research Board, January, 1980.
 - (e) A description of all the existing collector and arterial roadways and intersections that are at or below the Service Level C condition (Service Levels C, D, E, or F).
 - (f) A detailed analysis of traffic impact of the development, including trip generations (average 24-hour weekday and highest average weekday hour), internal and external trips, trip absorptions and trip distributions over all collector and arterial roads within the study area. The trip generation shall be based on the latest edition of the Institute of Traffic Engineers Trip Generation Manual, unless a qualified traffic engineer demonstrates that unique qualities of the development will result in different rates. All methodology and assumptions must be clearly stated.
 - (g) A detailed cumulative transportation impact of the existing traffic conditions including traffic from the development, normal increases in traffic and increases from allocation of road capacity to already approved projects. This analysis must identify projected AADT and peak hour volumes for all the collector and arterial roads and must describe all the roadways and intersections that will be at or below the Service Level C daily condition or Service Level D peak hour condition.
4. *Traffic Study and Traffic Data Inventory and File.* The Town Engineer shall keep a file on all traffic studies including the future capacity allocated for each project.

In determining the projected demand in subsection 1-7.2(D)(3)(g) above, the impact analysis shall include trips already allocated in previous development approvals. The Town shall provide information when available and where appropriate data already exists in order to prevent duplication of efforts and unnecessary costs.

5. *Improvements to Roadways and/or Traffic Control Devices.* Transportation improvements such as intersection improvements; additional turning, acceleration or deceleration lanes; modified land delineations; new or improved traffic control devices; or other such improvements may be required in order to maintain a level of service C daily condition and/or a level of service D peak hour condition. In such case, the applicant for a development permit may be required to fund and/or install the necessary improvements or provide a legal assurance, such as a performance bond or other surety approved by the Town Attorney, prior to the issuance of a building permit. Where the traffic impact does not generate traffic volume that substantiates the total improvement needs, the Town Council shall determine an equitable participation in the required improvement. The participation by the applicant may, at the discretion of the Town Council, consist of a pro-rata dollar share of improvement costs.

E. *Open Space and Landscape.* Open space shall be comprised of permeable open surfaces, excluding principal structures and impermeable surfaces. No parking areas shall be included as open area. Active recreation areas may be counted as open area.

1. *Residential Open Space Requirement.* All residential development shall preserve a minimum of fifty (50) percent of the upland area as open space. Uplands shall be defined as those areas which are not permanent water bodies or wetlands as defined in Section 1-7.2(G)(2) at the time of application. A maximum of thirty (30) percent of any totally landlocked water body may be credited as open space. At no time shall water bodies comprise more than twenty (20) percent of the total upland open space requirements.
2. *Non-Residential Open Space Requirement.* Non-residential development shall provide a minimum of twenty (20) percent open space.
3. *Mixed Use Open Space Requirement.* Where residential and non-residential development is permitted pursuant to the Town of Malabar Land Development Regulations, the following pro rata open space requirement shall be enforced.

$$OS = \frac{NRA}{TA} \times .2 TA + \frac{RA}{TA} \times .5 TA$$

- OS = Open Space
- NRA = Non-Residential Acreage
- RA = Residential Acreage
- TA = Total Area

4. *Use of Open Space.* Open space and spaces between buildings required by this Chapter [Code] shall be located and improved so as to reasonably serve the purposes for which the requirements are intended. These purposes include provisions

of adequate light and air, appropriate separation between buildings and uses, enhancement of privacy, sufficient area for recreation and leisure pursuits (in residential areas) and to facilitate surface water drainage.

5. *Preserve Natural Landscape.* The natural landscape of the site shall be preserved as much as possible for purposes of enhancing the general appearance of the site as well as to prevent excessive storm water run-off, erosion, siltation and dust.
- F. *Required Screening of Abutting Residential and Non-Residential Uses.* In order to maintain stability of residential areas, non-residential development within or abutting residential districts and multiple family development abutting single family residential districts, shall provide a fence or a wall or a combination of a berm and landscaping so as to provide a continuous ninety (90) percent opaque solid screen not less than eight (8) feet in height to form a continuous screen along such abutting property lines. In addition, one tree shall be provided for each thirty-five (35) lineal feet or fraction thereof of such landscape barrier. Notwithstanding, all developments shall comply with the landscape requirements of Article XIV. Where a conflict exists with the standards of this paragraph, the more restrictive requirement shall prevail. Credit may be given for existing plant material against the requirements of this section. Adjustments may be rendered by the Town Council to the requirements of this paragraph based on demonstrated need by the applicant and recommendations of Town Staff and the Planning and Zoning Board. The site plan applicant and successors in ownership shall maintain the continuous screen in perpetuity.
- G. *Flood Prone Land and Wetland Preservation.* In order to promote and preserve natural hydrological conditions and to preserve water recharge areas, water supply and water quality, and natural habitats, the following regulations shall be applied to wetland areas.
1. *Flood Prone Land.* Construction in flood prone areas shall comply with the Town's flood plain management policies.
 2. *Wetland Defined.* Wetland areas shall include hydric soils and wetland species identified by the DER pursuant to § 17-4.022, F.A.C. Site specific investigations shall confirm the existence of wetland systems based on on-site soil and vegetative analysis with assistance of appropriate representatives of the State Department of Environmental Regulation, the St. John's River Water Management District, U.S. Army Corps of Engineers, and the U. S. Soil Conservation Service.
 3. *Wetland Development Restrictions and Interpretations.* No development other than approved passive recreation, open space, restricted accessway, bird sanctuary, natural stormwater retention/detention, or natural preserve shall be allowed in a wetland area unless "competent evidence" indicates that:
 - (a) Dominant vegetation is no longer comprised of wetland types normally found in the specified soil; and
 - (b) The water regime has been permanently altered artificially or naturally in a manner to preclude its associated watershed areas from functioning as wetlands.

Applicants for site plan review shall have an opportunity to so demonstrate that any wetland designations within the confines of their property no longer function as wetlands as defined above. The County urban forester, the soil conservationist as well as representatives of the State Department of Environmental Regulation, U.S. Army Corps of Engineers and the St. John's River Water Management District may be made a part of the site plan review process to assist in identifying and delineating wetlands. The applicant may request that a waiver of the provisions of this section be granted by the Planning and Zoning Board for small isolated marginal wetlands for which the developer shall provide viable compensatory preserve areas which mitigate against a loss of viable wetland systems. The Planning and Zoning Board shall consider the recommendation of the Town Engineer prior to taking action on such a request and shall grant the same only in the case of an overriding public interest. Finally, this section shall not prevent the construction of one single family home on existing lots of record.

The provisions of Article VIII: Surface Water Management are hereby incorporated into this subsection by reference.

H. *Available Potable Water.* All future applications for new development shall be required to connect to a central water system except as herein provided.

1. *Exceptions for Limited Scale Development.* When connection to a central water system is not feasible, applicants for limited scale development adaptive to service by an interim water system, may be allowed if approved by the County Director of Public Health subject to the following conditions:

- a. Assurance in writing from a central water utility that extension of lines to the development is not part of its master plan for expansion; and,
- b. Agreement by the applicant that the system shall be connected to the central utility system at no cost to the Town when service becomes available. The applicant shall be required to post a performance bond or other surety approved by the Town Council after considering recommendation of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing water system improvements required as a condition of subdivision approval.

2. *Intent of Regulating Procedure.* The intent of this permitting procedure is: (1) to maintain a comprehensive data base concerning water supply and quality; (2) to discourage unregulated proliferation of private water systems; and (3) to achieve a subsystem design which can be effectively and economically integrated into a central public system certified and regulated by an approved local public service entity at a later point in time and to encourage a compact urban development pattern by managing the location, timing and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity; and (4) to discourage all new subdivision of land unless served by a central water utility and to similarly discourage

nonresidential development on existing lots of record when such sites are not serviced by a central water utility.

3. *Testing of Private Wells.* In addition, the Town may undertake any necessary action to prevent or remedy water supply and water quality problems. To this the Town may request analysis of water quality and supply of all permitted private wells based on evolving problems and issues associated with water resources. The private well owner may be assessed by the Town after due public hearings for needed water quality, supply problems, requisite testing, laboratory analysis, and improvements, deemed necessary and fiscally equitable.
- I. *Wastewater Service.* All applicants for development shall be required to connect to a public wastewater utility regulated by the Public Service Commission, the Department of Environmental Regulation (DER) and/or the County Environmental Health Department. Where a system for wastewater is unavailable, the applicant shall provide an interim wastewater system approved by the DER and/or the County Environmental Health Department and shall agree in writing that the system will be connected to a public wastewater utility at no cost to the Town when service becomes available.
1. *Intent and Purpose of Regulating Wastewater Disposal Systems.* The intent of this provision is: (1) to discourage unregulated proliferation of private package treatment plants; (2) to achieve a subsystem design which can be effectively and economically integrated into a major central public wastewater system at a future point in time which would be certified and regulated by a local public entity; and (3) to encourage a compact urban development pattern by managing the location, timing, and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity.
 2. *Design Standards and Required Guarantee.* The system shall be designed to satisfy performance standards of the Department of Environmental Regulation (DER), other applicable regional, state, or federal standards, or standards which may be hereafter adopted by the Town. The applicant shall be required to post a performance bond or other surety approved by the Town Council after considering recommendations of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing waste water system improvements required as a condition of subdivision approval.
 3. *Regulating Use of Septic Tanks and Wastewater Disposal Fields.* Notwithstanding any other provisions of this Code, when septic tank and waste disposal field is the only means of individual sewage disposal, the County Environmental Health Department shall enforce State law regulating use of septic tanks and wastewater disposal fields.
- J. *Soil Erosion, Sedimentation Control, and Estuary Water Resource Protection.*
1. *Applicability.* In order to prevent both soil erosion and sedimentation, and to protect both ground and surface water resources, a soil erosion and sedimentation

control plan shall be required as a part of an application for site plan review whenever a development will involve any clearing, grading, or other form of disturbing land by the movement of earth, provided that any one of the following descriptions applies to said movement:

- (a) Excavation, fill, or any combination thereof will exceed five hundred (500) cubic yards.
- (b) Fill will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
- (c) Excavation will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
- (d) Excavation, fill or any combination thereof will exceed an area of one thousand (1,000) square feet.
- (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
- (f) Whenever excavation or fill is proposed within one hundred feet of a stream, stream channel, or body of water, a soil erosion and sedimentation control plan shall be provided.

2. *Definitions.* For the purposes of this subsection 1-7.2(J) the following definitions are provided:

- (a) *Soil erosion* shall mean any removal and/or loss of soil by the action of water, gravity, or wind. Erosion includes both the detachment and transport of soil particles.
- (b) *Sedimentation* shall mean the settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result.
- (c) *Erodible slope* shall mean all slopes with inclines in excess of four (4) percent unless modified by the Town Engineer based on consideration of specific soil conditions.
- (d) *Large flat surface area (unpaved)* shall mean an area which is flat or whose slope is less than four (4) percent and which consists of more than one thousand (1,000) square feet of exposed soil.

3. *Erosion Water Quality Control Measures.* All measures necessary to minimize water quality degradation soil erosion and to control sedimentation in the disturbed land area shall be implemented. The following protection shall be provided for all disturbed areas: minimize velocities of water runoff, maximize protection of disturbed areas from stormwater runoff, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation water control degradation control

follows. For each one, the purpose(s) of requiring control is described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which a control plan is required:

- (a) *Erodible slopes*: Prevent detachment and transportation of soil particles from slope.
- (b) *Streams, streambeds, streambanks, bodies of water, lake shorelines*: Prevent detachment and transportation of soil particles.
- (c) *Drainageways*: Prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetlands); promote deposit or sediment loads (traversing these areas) before these reach bodies of water.
- (d) *Land adjacent to streams, ponds, lakes, and wetlands*: Prevent detachment and transportation of soil particles. The applicant shall not adversely impact aquatic vegetation within the sensitive transition zone located between the upland and the mean high water line (ordinary high water line for non-tidal waters). No such vegetation shall be disturbed without approval of the Town. Any such approval shall be based on a demonstrated necessity which promotes the overall public health, safety and welfare. Furthermore, any such disturbance of aquatic vegetation shall be compensated by revegetation based on a plan approved by the Town as stipulated herein. The applicant shall coordinate plans for development along the riverfront or tidal waters with the Florida Department of Environmental Regulation as well as the U.S. Army Corp of Engineers where tidal waters might be impacted. Where deemed appropriate by the Town, the site plan shall include the planting of native indigenous aquatic plant vegetation to promote stability of the shoreline and to enhance water quality.
- (e) *Enclosed drainage structure*: Prevent sedimentation in structure, erosion at outfall of system, and deposit of sediment loads within system or beyond it.
- (f) *Large flat surface areas (unpaved)*: Prevent detachment of soil particles and their off-site transportation.
- (g) *Impervious surfaces*: Prevent the detachment and transportation of soil (in response to an increase in the rate and/or volume of runoff of the site or its concentration caused by impervious surfaces).
- (h) *Borrow and stockpile areas*: Divert runoff from face of slopes which are exposed in the excavation process; convey runoff in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition. Creation of water bodies by excavation and/or impoundment shall comply with applicable provisions of Article VIII.
- (i) *Adjacent properties*: Prevent their erosion and/or being deposited with sediment.

K. *Additional Considerations*. The Planning and Zoning Board or the Town Council may require additional information be provided by the petitioner for site plan review in

order to carry out a review process which is necessary to fulfill the purpose, intent and spirit of this Chapter [Code].

(Ord. No. 91-1, 3-19-91)

Section 1-7.3. Information to be included in site plan.

A site plan, for the purposes of this Section, shall include, but not necessarily be limited to, the following requirements:

1. Site plan with lot configuration, finished ground floor elevations, contours and designating number of dwelling units, square footage of site, building coverage, square footage of paved areas and open area, and setbacks to scale indicating compliance with regulations.
2. A scaled drawing of the side, front and rear facades of the building or structure, including roof pitch, fenestration including treatment of roof line, windows, and doors as well as a description of materials to be used.
3. Generalized floor plan indicating uses and square footage of each proposed use within each building or structure, building exterior construction material and color, and building height.
4. Location and character of all outside facilities for waste disposal; storage areas; or display.
5. Location and dimensions of all curb cuts, driveways, dedicated cross-easements including their design, location, alignment, dimensions, and specifications; details of off-street parking and loading areas, and vehicular surfaces available for maneuvering, including surface materials; number of employees and number and type of vehicles owned by the establishment. Any combined off-street parking facilities shall be submitted with an agreement specifying the nature of the arrangement, its anticipated duration, and signatures of all concerned property owners.
6. Location of all pedestrian walks, malls, yards and open spaces.
7. Location, size, character, color and copy, height and design of all signs.
8. Location and character of landscaped areas and recreation areas.
9. Location, design and character of all public, semi-public, or private utilities such as water and wastewater disposal facilities, underground or overhead electric lines, gas transmission lines, or other similar facilities or services.
10. Location, height and general character of perimeter or ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners.
11. Surface water drainage facilities plan showing existing and proposed grading, drainage patterns and earthwork computations, certified by an engineer or architect registered in the State of Florida.

12. Location of existing easements and rights-of-way.
13. Land survey with complete legal description prepared and certified by a registered surveyor. All architecture or engineering designs must be prepared by a professional architect or engineer registered in the State of Florida pursuant to Florida Statutes 467 and 471 as exists or hereafter amended and which require an appropriate seal on the subject plan prior to issuance of a building permit.
14. Verified statement showing each and every individual person having a legal and/or equitable ownership interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.
15. The applicant for site plan review may, at his option, submit a preliminary site plan sketch indicating a general idea of how it is proposed to develop the parcel. Upon tentative approval of a sketch, the applicant can then proceed to have a detailed site plan prepared in accordance with the requirements in this section.

(Ord. No. 91-1, 3-19-91)

Section 1-7.4. Approval, disapproval and appeal procedure.

A. *Approval Procedure.* Upon the approval of such site plan by the Town Council, a building permit may be issued pursuant to Subsection 1-7.4(B) by the Town Building Official. Appeals to disapprovals by the Town Council shall be to the Court of jurisdiction.

B. *Timing of the Release of Building Permits.* No permits shall be granted by the Building Official until the time for appeal from the decision of the Town Council as herein provided shall have expired. Appeal to the Courts shall not bar the issuance of permits unless the court grants an injunction.

C. *Disapproval Procedure.* If the Planning and Zoning Board recommends denial of a site plan or if the Town Council denies a site plan approval, the reasons said plan was denied shall be specified with specific reference to those sections of the applicable Town Ordinances on which said denial was based. No reasons other than those so stated shall be presented to the Town Council or to the court.

Section 1-7.5. Termination, extension and transferability.

Whenever site approval shall have been granted, it shall not be considered to run with the land. The site plan approval shall terminate twelve (12) months thereafter, if construction has not been started as evidenced by steady and continuous progress, including the pouring of footings by said termination date. Extensions may be made by the Town Council at its discretion. In the event the property receiving site plan approval shall be sold, transferred, leased, or the ownership thereof changes in any way whatsoever, the site plan approval shall be transferrable. However, any extension of the twelve (12) month time limit shall require a favorable vote of the Town Council.

Section 1-7.6. Violations.

Failure to comply and continually maintain all approved elements of an approved site plan, including landscape, appearance and other site development features, shall be a violation of this Code subject to enforcement and penalty procedure of Section 1-12.7 of this Code.

TOWN OF MALABAR STAFF

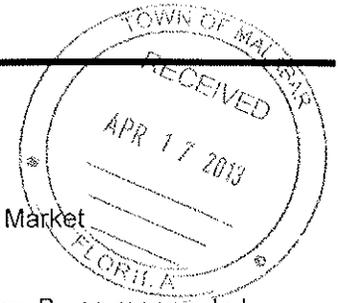
COMMENTS ON:

MALABAR LOCAL MARKET- PORTION OF 1870&1896 HIGHWAY 1

- Karl Bohne-Town Attorney (3 pages)
- Keith Mills-Town Planner (1 page)
- Morris Smith-Town Engineer (1 page)
 - Roger Cloutier (1 page)

Denine Sherear

From: Karl Bohne [REDACTED]
Sent: Wednesday, April 17, 2013 10:31 AM
To: Denine Sherear
Cc: Town Clerk / Treasurer
Subject: FW: Follow-up Review for Site Plan Application for Malabar Local Market



Here are some additional comments relating to the project after my review of the actual site plan. By no means do I pretend to be an expert in planning. I just look at the code and compare it to the site plan.

In accordance with Table 1-3.3 (A) it appears that the maximum square footage for a commercial building in the R/LC is 4,000. The proposed building is 4,686, see note 7.0, 9.0, 10.0 and 12.0 on the site plan. The site plan notes, at 7.0, states that "For the proposed building envelope, the maximum number of units at 4,000 sf commercial space would be one unit. Building includes designated area for utility, bathrooms and equipment." In so much as the overall sf of the proposed building exceeds 4,000 then there must be a determination if the excess 686 sf, which appears to be utilized for utility, bathrooms and equipment is acceptable. I do not find anything in our code which would allow extra square feet for utility, bathrooms and equipment.

From the face of the site plan it looks like minimum lot width and depths are met as well as set back requirements. See note 5.0 Also, the maximum height requirements are met as the building is proposed to be 13 feet. See note 8.0.

If the square footage of the building as proposed at 4,686 is an issue then notes 10.0, 12.0 and 16.0 need to be revised.

Some other areas that need to be addressed concern the requirements of Article VII:

1-7.2: (there may be other areas that need to be addressed but these jumped out at me as they may not have been addressed in the site plan)

1. *Harmonious Overall Design.* The exterior of buildings and structures including mass, facade and materials shall be in harmony with the site and the general character of the impacted area and shall not be gaudy or garish. Awnings or ornamental features shall be designed in a manner harmonious with the building design and shall be of appropriate scale, shape, and pattern in order to reinforce good design principles. Similarly, awnings or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention. The appearance of buildings and structures shall be disapproved under Section 1-7.2(B) in extreme cases only and reasonable doubt shall be resolved in favor of the applicant.
2. *Location and Screening of Mechanical Equipment, Utility Hardware and Waste Storage Areas.* Mechanical equipment or other utility hardware other than antennas and stacks on roofs shall be harmonious with the building or they shall be located and/or screened so as not to be visible from any public ways within the impacted area. Similarly, refuse and waste storage areas shall be screened from adjacent properties and public ways by appropriate fences, walls or hedges. In cases where dumpsters must be located in areas highly visible from any public right-of-way, the Town Planning and Zoning Board shall be authorized to require appropriate vegetative or structural screening to shield an unsightly condition.
3. *Commercial and Industrial Activities Conducted in Enclosed Buildings.* All businesses, services or manufacturing or processing shall be conducted within completely enclosed buildings. If the Town Council determines that a demonstrated necessity exists for outside storage or display due to the impracticality and unreasonableness of enclosure of such services, storage and display areas, in such case such service, storage and display areas or yards shall be screened by a continuous fence or wall or by landscaping and berm system so as to provide a ninety (90) percent opaque screen with a minimum height of five (5) to eight (8) feet, unless the same is demonstrated by the applicant to the Town Council's satisfaction to be impractical and unreasonable.
4. *Exterior Lighting.* Exterior lighting shall be provided and shall be so arranged as to shield or deflect the light from adjoining properties and public streets.

C. *Access, Internal Circulation, Off-Street Parking and Other Traffic Impacts.* The Town Building Official and/or designated staff shall advise on matters related to this subsection 1-7.2(C):

1. *Internal Circulation System Design and Access/Egress Considerations.* Driveways, curb cuts, and areas for the parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient circulation within the site and safe and convenient access from and onto adjoining streets. The Town Staff shall review such design considerations based on standard traffic engineering principals and practices and such specifications as may be adopted by resolution of the Town Council. Requirements of Article IX of this Chapter [Code] shall be applied for off-

street parking. Among factors to be considered shall be need for acceleration and deceleration lanes; the number, location and size of curb cuts and access drives from adjacent streets; the location and design of driveways and access aisles to parking spaces, the arrangement, delineation and marking for parked areas; and the means of access to buildings for fire-fighting apparatus and other emergency vehicles.

2. *Separation of Vehicular and Pedestrian Areas.* Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety.

D. *Traffic Impacts.* A traffic impact analysis shall be required for site plan reviews pursuant to standards, procedures and criteria defined herein. The traffic impact analysis is designed to achieve objectives stipulated in the transportation element of the Comprehensive Plan.

Note 18.0 indicates that the signage will be a detached wall sign. By definition a wall sign is attached. So I do not understand what is meant by a detached wall sign.

Also, that same note indicates site lighting is 2 lux. The code 1-5.28 (d) 1. (vi) states 0.2 lux maximum. I am not sure if the designation on note 18.0 as 2 lux meets the code requirement of 0.2 lux. Needless to say lighting must conform to 1-5.28.

From: Karl Bohne
Sent: Tuesday, April 16, 2013 2:56 PM
To: 'Denine Sherear'
Subject: RE: Preliminary Review for Site Plan Application for Malabar Local Market

As I do not yet have the site plan it is hard to comment in full. However, it does appear that the proposed use as a local market is consistent with the R/LC zoning. Section 1-3.1 O allows local residential markets and specialized markets. Also according to table 1-3.2 this seems to be a permitted use. I also assume that this is located on the west side of US 1.

The site must be a minimum of 20,000 square feet. It appears that the site is 1.95 acres which is greater than 20,000 square feet. The lot width must be a minimum of 100 feet, depth must be at least 150 feet, maximum height is 35 feet not to exceed 5 stories, minimum square feet of structure is 900 square feet not to exceed 4,000 square feet. Front set back must be at least 50 feet and the proposed set back is 185.86 feet. Rear set back must be 25 feet and the proposed is 69 feet. It also appears that the side set backs conform to the requirements under the code. Additional items that may need to be addressed are maximum impervious surface (proposed is 44.64%), building coverage and open space

From: Denine Sherear [mailto:dsherear@townofmalabar.org]
Sent: Monday, April 15, 2013 3:02 PM
To: Building Official; Morris Smith; Karl Bohne; Keith Mills
Cc: Strandell Robert
Subject: Review Packet for Site Plan Application for Malabar Local Market , a portion of 1870 & 1896 Hwy 1, Malabar Florida

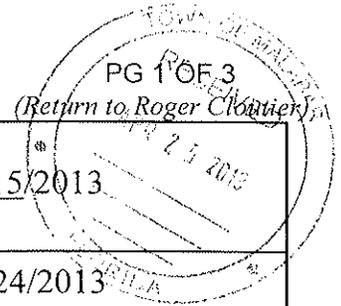
Dear Staff:

Please see attached Application for Site Plan Review for: Malabar Local Market, to be located on a portion of 1870&1896 Hwy 1, Malabar, Florida. There are "paper copies" available for your convenience in the Building Department.

Thank you,
Denine

Denine M. Sherear
Admin Assist. to Building Official
Building Department- Permitting
2725 Malabar Road

Town of Malabar
BUILDING DEPARTMENT REVIEW SHEET



PLEASE RETURN ATTACHED SITE PLAN(S)

PROJECT:	Malabar Local Market 1870 & 1896 Hwy 1 (portion of) Malabar FL 32950	DATE ROUTED:	04/15/2013
BP.:		DATE TO BE RETURNED*:	04/24/2013
APPLICANT	Frank Plata/Plata Engineering 321-259-7528	DEPT.:	<input checked="" type="checkbox"/> MORRIS SMITH, TOWN ENGINEER KEITH MILLS, TOWN PLANNER ROBERT STRANDELL, FIRE CHIEF ROGER CLOUTIER, BUILDING OFFICIAL
MARK IF NO COMMENTS:		REVIEWER'S SIGNATURE: <i>Morris Smith</i>	
PLEASE RETURN WITHIN 5 BUSINESS DAYS			
TOTAL HOURS WORKED ON REVIEW:			12
Included: Packet for Site Plan Malabar Local Market			
COMMENTS:			
1. The existing FDOT drainage swale on the west side of US Highway 1, cannot be re-routed onto private property. All drainage swale modifications and subsequent piping of this swale shall be completed inside the US Highway 1 Right-of-Way.			
2. Remove note from plans which states "Area for Future Connection to Other Phase if Needed."			
3. On Sheet 1 of 5 revise Project Data note No. 18 to read ... "non-glare, 0.2 lux."			
4. On Sheet 4 of 5 provide another Lighting Fixture. The Mini Wall-Packs TWA Metal Halide 50-W High Pressure Sodium fixture specified has an average of 0.25 fc (foot-candles) luminance fall-off approximately 3.5 feet from the mounting location. The Town of Malabar code requires that measurement to be in units of lux. 0.25 fc = 2.69 lux. Please provide data for the specified light fixture as to the distance from the mounting location where the luminance measurement is 0.2 lux. If the specified light cannot meet the Town's this 0.2 lux maximum at the property line, please specify a fixture which can.			
5. Please label the location of the property corner which represents the "Point-of-Beginning" of the legal description for this site.			

*Due to the deadline requirements, if there is no response within allotted time frame it will be considered as No Comments.

Town of Malabar
BUILDING DEPARTMENT REVIEW SHEET

PLEASE RETURN ATTACHED SITE PLAN(S)

PROJECT:	Malabar Local Market 1870&1896 Hwy 1 (portion of) Malabar FL 32950	DATE ROUTED:	04/15/2013
BP.:		DATE TO BE RETURNED*:	04/24/2013
APPLICANT	Frank Plata/Plata Engineering 321-259-7528	DEPT.:	MORRIS SMITH, TOWN ENGINEER KEITH MILLS, TOWN PLANNER ROBERT STRANDELL, FIRE CHIEF ROGER CLOUTIER, BUILDING OFFICIAL

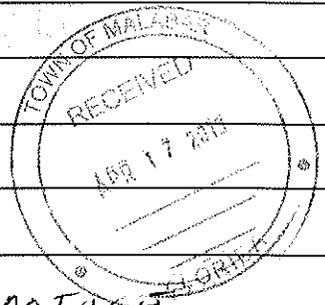
MARK IF NO COMMENTS: **REVIEWER'S SIGNATURE:** *Roger Cloutier*

PLEASE RETURN WITHIN 5 BUSINESS DAYS

TOTAL HOURS WORKED ON REVIEW: 1

Included: Packet for Site Plan Malabar Local Market

COMMENTS: *NO ADVERSE COMMENTS*



*addressed by atty. MAX SQ FOOTAGE
OVER 4,000 sq ft*

*Due to the deadline requirements, if there is no response within allotted time frame it will be considered as No Comments.