

**TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY JULY 24, 2013
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**
- D. CONSENT AGENDA :**
 - 1. Approval of Minutes** Planning and Zoning Meeting – 07/10/2013
Exhibit: Agenda Report No. 1
Recommendation: Motion to Approve
- E. PRESENTATION:**
- F. ACTION:**
- G. DISCUSSION:**
 - 2. Code Requirements for Assisted Living Facilities**
Exhibit: Agenda Report No. 2
Recommendation: Discussion
- H. ADDITIONAL ITEMS FOR FUTURE MEETING**
- I. PUBLIC:**
- J. OLD BUSINESS/NEW BUSINESS:**
- K. ADJOURN**

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service in compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: July 24, 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 July 10, 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
JULY 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 Chair Pat Reilly.

B. ROLL CALL:

CHAIR:	PAT REILLY
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	DON KRIEGER, EXCUSED
	GRANT BALL
ALTERNATE:	DICK KORN
ALTERNATE:	LEEANNE SAYLORS
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:

1. Approval of Minutes Planning and Zoning Meeting – 06/26/2013

MOTION: Ryan/Ritter to approve minutes of 06/26/13 as CORRECTED:

VOTE: All Ayes.

Ryan, page 7/19, 4th parag. from bottom, second sentence residence should be resident

Grant,

page 7/19 2nd parag. from top 1st sentence her should be here 5th parag. referenced should be reference

page 4/19, 2nd parag. 1st sentence take out ~~he~~, add which after Board, 3rd parag. from bottom first sentence take out the 4 & second to last sentence same parag. then should be than

page 5/19 6th parag. taking should be taken

page 9/19 5th parag. have should be has

Ritter,

page 5/19 6th parag. second line should be "care of it's not a nursing home"

page 9/19 5th parag. in-vision should be envision

page 7/19 2nd parag. "if the license that they pull..."

page 7/19 3rd parag 2nd sentence "for dementia it's allowed..." 5th parag. from bottom second line "regulators are constantly inspecting"

page 8/19 1st parag. 2nd sentence for see should be foresee 4th parag. 2nd line "be thinking about it "

page 9/19 5th parag last sentence take out one "as a "

Reilly,

page 9/19 3rd parag. from top paladin should be Paladin

page 10/19 9th parag from top then should be them

Leeanne,

page 7/19 5th parag from bottom last sentence "Due to the...."

E. PRESENTATION:

F. ACTION: NONE

G. DISCUSSION:

3. Code Requirements for Assisted Living Facilities

Exhibit: Agenda Report No. 3

Recommendation: Discussion

Reilly, the first question he is asking the Board is the "unit" size, there is a big discrepancy between 500 & 1,000sq ft. The other issue is the 2.6 beds per unit. The suggestion is to make a single number and Liz explains it is an average. Leeanne adds that sometimes there is a caregiver living with the residents

Reilly suggests sticking to beds per unit, not size. The 500 sq ft seems small. Leeanne explains that during the last discussion, if you have living area and a bedroom, you have common area in the facility.

The Board is discussing the area of a 500 ft room.

Ritter adds that what was asked, if the bathrooms were included in the living space. So we need to know what is considered living space.

Reilly suggest that "unit" needs to be defined, suggestions:

- Bedroom only
- Bedroom/Living Room
- Bedroom/Living Room/Bathroom

Ritter comments that the FS regulates all that. Grant adds that we need to find out the common terminology for everything.

Korn likes the idea of calling it a "unit" rather than a "living space" that includes everything. Ritter comments that FS & Building Codes go by the "living space" and they are compatible. If we are going to use them it will be less confusing.

Ryan comments that "living space" can actually be what is under air.

Juliana Hirsh 1035 Malabar Road. Describes that "Living Space" in the building industry is considered anything inside the perimeter of the walls whether it is bathrooms, etc is considered to be living space.

Reilly explains to the Board if you think of it as a "motel", you walk in and that is your unit & living space. Ryan is going to call a motel and the hospital to see what the size of an average room is.

Ritter is referencing page 123/160 in 3 Ring Binder (new ALF book) reading about "facility standards", referencing 250 sq ft for floor per assigned resident....there is in the county code and building code requiring minimum sq ft. The building codes got into detail.

The board is discussing the minimum sq ft for living space being 500 sq ft to 700 sq ft and the max. being 900 sq ft. Leeanne adds that the 500 sq ft will be for one person, and 700 sq ft for two people. Reilly adds that each unit will have one bathroom. Ritter reads 1 bathroom for two beds.

The Board is discussing the area of 500 sq ft of living space measuring the Town Hall Meeting area to relate to the area.

Korn comments that there is usually an area for a kitchen type space, ie small refrigerator, microwave, and counter for cooking in each living space.

Ryan is suggesting you can set the minimum sizes required for the amount of people per unit. Reilly suggests if you go 250 sq ft (floor space) plus 75 for two people is 150, and 30×2 is 60 = 460 so there is 500.

Reilly is explaining a 500 minimum per "unit" two beds max. per unit. Grant adds two residents per unit.

Reilly suggests:

"Unit" = 500 sq ft min. per unit size equal 1 bedroom
700 sq ft per unit size equal 2 bedrooms

Grant suggests using "residents" and not bedrooms.

Ryan comments two person occupancy would also be the person needing care and the caregiver and the living situation would be a two person residence. Korn adds a resident would be a permanent occupier of the space.

Reilly explains that in our Code/Tables everything says "unit", we need to define what a "unit" is in this section, means resident.

Grant suggests if we say the min. is 500 sq ft. per unit it will all work out, Korn comment we need to define per size of the unit, the maximum number of residents.

Reilly the consensus of the Board is: the minimum size unit is 500 sq ft, two residents per unit with bedroom, living & bathroom and kitchenette.

Ryan asks how State Statues compare to what we have here in Brevard Cty. Ritter explains that the State over rides in some cases, but the Town can be stricter, so if we start with FS they give the overall.

Grant comments to keep things simple per "unit" ie:

- 500 min. sq ft = 1 or 2 residents
- 750sq ft = 3 residents
- 1000sq ft = 4 residents

Reilly in our code and tables right now we have group homes and extensive care facilities, we need to add to our tables the ALF designations.

Sherear comments that the handout tonight has the Table 1-3.2 on page 5/12. Reilly suggests that different designations are needed. Ritter gave handouts to everyone of the 2012 FS Chapter 429 in reference to assisted care communities.

Ritter is explaining to Board the handouts she gave out. (Submitted a copy for records).

The Board is going over different categories

Leeanne comments about the second page on Chapter 400 you have part II Nursing Homes. Ritter suggests the ones we do put in our table we will refer to the Florida Statutes (FS), this will cover our designations. Reilly suggests filling out Table 1-3.2 with what we want in the Code.

Grant comments that as a town we can be more restrictive in our Code. Reilly explains that if we make everything conditional than we have the final say so.

The Board is discussing the Table 1-3.2 extensively and appropriate zoning/land use.

Example below:

Table 1-3.2

COMMUNITY FACILITIES	RR 65	RS 21	RS 15	RS 10	RM 4	RM 6	R MH	OI	CL	C G	R/LC	IN D	IN S	CP
Adult Group Homes														
Adult Day Care Centers														
Adult Family Care Homes														
Group Homes:					c	c		c			p		c	
• Level 1 1-6														
• Level 2 7-15														
• Level 3 15 +														
Assisted Living Facility (ALF)														
Nursing Homes					c	c		c			c		c	
Hospitals & Extensive Care Facility								c					c	

Ritter suggests to Board to read CH 429 in FS there is a lot to understand. Reilly suggests for next meeting to read this chapter. On the Land Use Development add the ALF, Adult Family Care Homes, and Adult Care Centers.

Reilly would like Board to edit the Table 1-3.2 inserting C for conditional use or P for permitted. Ritter is discussing Chapter 419 FS explaining what is allowed and zoning, the zoning will take care of the density.

Reilly is going over the Table 1-3.2.

For homework we need to add "P" for permitted and "C" for conditional use on added ALF's in table, as to what zonings these would be allowed.

Ryan comments about divisions of level of care and then division of number of people within those levels.

Ritter and Leeanne discussing the licensing by the state of the different levels of care and what agencies are involved, i.e. Dept of Elder Affairs, (Ritter reading out of FS Chapters)

Korn asks the Board if a BTR is required of these types of facilities in our town, Ritter explains that you have state licensing, county and town, also health dept., OSHA. Leeanne adds the nature of the business determines some of your licensing. These particular businesses are so heavily regulated by several agencies on state level.

Reilly wants to know who determines what goes into a building. Sherear explains to the Board that for example the MIMA Building, the individual doctors obtain the BTR's.

Leeanne explains that there are so many different agencies involved in this type of facility it is going to be difficult to operate under the radar. The state is going to regulate a lot and the licensing is going to regulate the activity. Grant suggests if we go with Brevard Cty suggestion they will regulate these activities. Sherear comments that reports of building permits are submitted monthly to different agencies.

Leeanne comments that when Paladin brings in the plans do we have the staff to be able to inspect the construction stages. Sherear and Reilly explain that Roger the Building Official handled MIMA project just fine.

Korn is just concerned that the Town needs protection, Ritter comments that houses are built and inspected up to Code.

Reilly suggests reading FS CH 400- 429 - 419 and to work on Table 1-3.2. Ritter explains that you can go on line to read the FS 400 also.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

Future Land Use Maps as a discussion and defining R/LC (Land Use Change) for August 14 Meeting.

Reilly explains to the Board that after almost 2 years that "LI" Light Industrial was take off the maps and they are ready to go forward to Council for approval, Ritter suggests get it moving. Reilly commented that they still need to go over the R/LC the verbiage. This Board needs to look over the R/LC. Reilly suggests to put another book together for this "item", due to new members and bring everyone up to status. Sherear explains that she will go back through the agenda packets and bring for future meeting.

I. PUBLIC:

Juliana Hirsch 1035 Malabar Road, the Board is discussing the impact of what is going to be in Malabar, the "Life Care there is little to no traffic but it is packed full of people. The town's right is to build the building properly and follow the building codes. The board is getting away from who governs the actual business. Ms. Ritter is correct that the ALF's are so governed by different agencies of someone coming in every day to do something. The other concern that everyone had was turning the ALF's into a hotel. Hirsch asked what size were the units at Mr. Foley's proposed ALF? Pat replied that they only defined the building, site plan & elevations not the contents of room size. Hirsch commented that if you make it 500 sq ft minimum unit size, it will be upscale. If you don't have 500 ft you will get the ghetto here.

Juliana comments that Mr. Paladin is a very exclusive builder and builds beautiful things. Juliana also comments if the Town is not inclined to have ALF's at all, lets finish it, don't drag those people on because it is a tremendous expense; if you are going to approve these things get on with it and approve things with a certain amount of time, like 6 months or something. Reilly explains under our present Code ALF's cannot be built, the Board just want to make things correct. Reilly comments we are not writing the Code for him we are writing the Code for anyone in general for ALF's. Anything less then 500 is too small. Leeanne explains we are trying to set a standard here, when you look at Malabar and see what we have done here you will see the high standards. Juliana asks about if the ALF's project going to deed property to residents. Reilly explains that this particular project is based on a yearly lease. Juliana expresses the concern to make this into a hotel is justified, you can easily do that.

Ritter explains that with a lot of these facilities; when FS do this you can't convert these facilities. There is a lot of legalities that have to be done. The residents have rights whether they own it or not. Leeanne comments that if they were to convert to a hotel they would have to come to the Town and see if the zoning allows a hotel in a particular area. Juliana comments that the parcel on US Hwy 1 is a perfect location to put ALF.

J. OLD BUSINESS/NEW BUSINESS:

Reilly has two questions concerning proposed project with Mr. Paladin. 1- Is the water and sewer coming before the building permit? Ritter responds that Mr. Paladin was going the next day to meet with Palm Bay over utilities. Reilly's point is that if he does this in parallel, the water is coming down US Hwy 1 and he is building this high-rise then something happens and he stops. Juliana explains that he puts up a bond. Reilly comments that Paladin would have to put up a bond for water before a shovel goes in the ground "contractors agreement".

Grant stated that is worth consideration in the back of our minds that there is going to be pressure to hook up to water once it comes down US Hwy 1. Ritter said that the contract with Palm Bay over water states that you will only be required to hook up to water by state law. Ritter explains that if your well water is checked and it has bacteria or issues then you might have to hook up to city water.

New Business:

Reilly is talking about the next scheduled meeting is July 24, 2013, is everyone ok with this. July 24 Meeting Grant will be on vacation. Ritter suggests a second option is July 31, 2013 for a meeting; there are 5 weeks in July..

K. ADJOURN

There being no further business to discuss, **MOTION: Ryan/Ritter to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 9:28 P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

7/24/13
Date Approved: as corrected

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: July 24, 2013

Prepared By: Denine M. Sherear Planning & Zoning Secretary

SUBJECT: Code Requirements for Assisted Living Facilities (ALF)

BACKGROUND/HISTORY:

At the 7/10/13 Meeting the Board discussed the "unit" size for the living area for the bedrooms in an ALF. The Board after much discussion suggests having a minimum size of 500 sq ft for 1 or 2 residents, 750 sq ft for 3 residents, and 1,000 sq ft for 4 residents. The Board's consensus is to use Florida Status & Building Codes to regulate the facilities. Liz Ritter gave out handouts designating the different FS Chapters 400-429-419 with association to these living facilities.

The homework assignment is for each Board member to go over Table 1-3.2 "Community Facilities" and mark "C" for Conditional Use and "P" for Permitted Use in appropriate zoning categories.

The Town Attorney revised the Ordinance on 7/18/2013 and it is included in this packet for your review.

ATTACHMENTS: (Pleaser bring 3-Ring Binder from June 26th Meeting)

- Attorney's Ordinance No.(Revised from Attorney 7/18/2013)
- Pat Reilly's example of Tables 1-3.2 and 1-6.1(B)

ACTION OPTIONS:

Board Discussion.

P&Z,

Here are the Table's that we need to update. Please add your Designation and Conditional (C) or Permitted (P) into the columns. This is my example.

Table 1-3.2

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Community Facilities														
Group Homes					C	C		C			P C		C	
Nursing Homes (including Rest Homes and Convalescent Homes)					C	C		C			C			
Hospital and Extensive Care Facilities								C					C	
Assisted Living Facility														
Level 1 (1 to 5)					C	C		C					C	
Level 2 (6 to15)					C	C		C					C	
Level 3 (more than 16)					C	C		C					C	
Adult Family Care Homes														
Level 1 (1 to 5)					C	C		C					C	
Level 2 (6 to15)					C	C		C					C	
Level 3 (more than 16)					C	C		C					C	
Adult Day Care Facilities (No levels, no overnight)					C	C		C					C	

Table 1-6.1(B)

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District/Nonresidential District (feet)	Parking Lot Setbacks from Adjacent residential District/Nonresidential District (feet)	Perimeter Screening Residential District/Nonresidential District (5)	Curb Cut Controls
Group Homes	(3)	(3)	N/A	N/A	N/A	N/A	(7)
Nursing Homes	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Hospital and Extensive Care Facilities	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Assisted Living Facility							
Level 1 (1 to 5)	2 acres	210	Arterial	100/75	25/20	Type A/C	(7)
Level 2 (6 to 15)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Family Care Homes							
Level 1 (1 to 5)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Day Care Facilities	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
(No levels, no overnight)							

ORDINANCE NO. Revised from Atty 7/18/13 re: Sec 7

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING SECTION 1-2.6.B. LAND USE CLASSIFICATIONS; PROVIDING FOR ADULT CARE FACILITIES AS A CONDITIONAL USE IN THE OI (OFFICE-INSTITUTIONAL) ZONING DISTRICT; AMENDING SECTION 1-3.1.I DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND SUBSTITUTING THE TERM ADULT CARE FACILITIES AND SUBSTITUTING THE TERM ADULT CARE FACILITIES AND BY REMOVING REFERENCES TO NURSING HOMES; AMENDING TABLE 1-6.1 (B) REMOVING REFERENCES TO GROUP HOMES AND SUBSTITUTING THE TERM ADULT CARE FACILITIES AND BY REMOVING REFERENCES TO NURSING HOMES; AMENDING SECTION 1-9.2.12; PROVIDING FOR ADULT CARE FACILITIES; ESTABLISHING PARKING REQUIREMENTS FOR ADULT CARE FACILITIES; DELETING THE DEFINITION OF GROUP CARE FACILITY AND EXTENDED CARE FACILITY IN ARTICLE XX; AMENDING TABLE 1-3.3.A PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 AND R/LC ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, as follows:

Section 1. Sections 1-2.6.B. is amended as follows:

“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. *Adult Care Facilities.* Any facility regulated by the State of Florida Agency for Health Care Administration *and* meeting the criteria and requirements of the provisions of Chapter 400 Parts I, II, V, VIII, Florida Statutes, as amended from time to time; Chapter 408, Part I, Florida Statutes as amended from time to time; and Chapter 429,

Parts I – III, Florida Statutes, as amended from time to time. Such facilities are permitted as conditional uses as provided for in Table 1-3.2

23. *Cemetery.* Property used for the interring of the dead.

34. *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.

45. *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.

56. *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.

67. *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.

78. *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.). Hospitals and/or Extensive Care Facilities are not considered Adult Care Facilities as defined herein.

~~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.~~

~~110. *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.~~

~~1211 *Protective Services.* Fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.~~

~~1312. *Public Parks and Recreation Areas.* Public parks and recreation land and facilities developed for use by the general public.~~

~~1413. *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.~~

Section 2, Section 1-3.1.I is amended to read as follows:

• • •

“I. *Office-Institutional.*” The OI district is established to implement comprehensive plan policies for managing office-institutional development. This district is designed to accommodate businesses and professional offices together with institutional land uses on sites which:

- Have accessibility to major thoroughfares;
- Have potential to be served by a full complement of urban services;
- Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential adjacent land uses of differing intensities;
- Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses (except those Community Facilities defined as Adult Care Facilities in 1-2.6.B.2), general retail sales and services, warehousing, and outside storage; and
- Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
- A Malabar Vernacular Style is required for all development along arterial roadways.”

• • •

Section 3. Table 1-3.2 of Section 1-3.2 of the Malabar Land Development Code is amended to delete references to “Group Homes” and substituting in its place the term “Adult Care Facilities” and by deleting references to “Nursing Home” to read as follows:

	RR -65	RS -21	RS- 15	RS- 10	RM- 4	RM- 6	R- MH	OI	CL	CG	R/LC	IND	IN S	C P
COMMUNITY FACILITIES														
<u>Adult Care Facilities</u>					<u>C</u>	<u>C</u>		<u>C</u>			<u>C</u>		<u>C</u>	
Group Homes					C	C		C			P		G	
Nursing Homes (including Rest Homes and Convalescent Homes)					C	C		C			C			

Section 4. Table 1-6.1(B) is hereby amended to delete references to “Group Homes” and substituting in its place the term “Adult Care Facilities” and by deleting references to “Nursing Home” and by amending Note (3) of Table 1-6.1(B) to read as follows:

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District/Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District/Nonresidential District (feet)	Perimeter Screening Residential District/Nonresidential District (5)	Curb Cut Controls
<u>Group Homes Adult Care Facilities</u>	(3)	(3)	<u>N/A Arterial</u>	<u>N/A 60/30</u>	<u>N/A 25/20</u>	<u>N/A Type A/C</u>	(7)
<u>Nursing Homes</u>	2 Acres	240	Paved	60/30	25/20	Type A/C	(7)

•••

“(3) Minimum spatial requirements shall comply with the standards requirements established by the Florida Department of Health and Rehabilitative Services Town of Malabar District Provisions.” (A suggested alternative from staff is: “(3) Minimum spatial requirements shall be the greater of ___ acres or the spatial requirements established by the State of Florida for such facility”)

•••

Section 5. Section 1-9.2.12 is amended to include the following:

“12. Nursing Homes Adult Care Facilities. One (1) space for each five four (5 4) beds plus, the more restrictive of, one (1) space for each employee, including doctors, or one (1) space for per three hundred (300) feet of building area, which ever is greater the standards established by the “Institute of Transportation Engineers”.”

Section 6. Section 1-20.2 of Article XX is amended by deleting the definition for “Group Care Facility” and “Extended Care Facility”.

Section 7. Table 1-3.3.A is hereby amended to provide for a minimum square footage of 1,200 square feet for single family homes in the RM-6 and R/LC zoning districts (**note from Atty to Town Council, the current table does not have any minimum square footage listed for single family homes in the RM-6 and R/LC zoning districts as it appears that this was inadvertently omitted and the Town has consistently interpreted the table to require 1,200 square feet for single family homes in the RM-6 and R/LC zoning districts**)

Section 8. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council, of the Town of Malabar, did not intend to enact such invalid or unconstitutional provision. It shall be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

Section 9. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 10. Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

Section 11. This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council member _____ . The motion was seconded by Council member _____ and, upon being put to a vote, the vote was as follows:

Council Member Wayne Abare	_____
Council Member James Milucky	_____
Council Member Steven (Steve) Rivet	_____
Council Member Jeffrey (Jeff) McKnight	_____
Council Member Marisa Acquaviva	_____

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this ___ day of _____, 2013.

Town of Malabar
By Steven Rivet, Chairperson

First Reading _____
Second Reading _____

ATTEST:

By _____
Debby K. Franklin
Town Clerk/Treasurer

(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney