

**TOWN OF MALABAR  
PLANNING AND ZONING ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY AUGUST 14, 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 – 07/24/2013  
    **Exhibit:**                                      Agenda Report No. 1  
    **Recommendation:**                      Motion to Approve
- E. **PRESENTATION:**
- F. **ACTION:**
- G. **DISCUSSION:**
  - 2. **Continued Discussion on 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: August 14, 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 24, 2013(**Not Ready Yet**)

**ACTION OPTIONS:**

Secretary requests approval of the minutes.

**TOWN OF MALABAR**

**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**

**Meeting Date: August 14, 2013**

**Prepared By: Denine M. Sherear Planning & Zoning Secretary**

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

**BACKGROUND/HISTORY:**

At the 7/24/13 Meeting the Board went over proposed Tables submitted by (Pat Reilly, Chair) for Assisted Living Facilities. The Board's consensus is to use Florida Statutes & Building Codes to regulate these types of facilities and move forward with proposed Code Requirements for Assisted Living Facilities in the Town of Malabar.

**ATTACHMENTS: (Pleaser bring 3-Ring Binder from June 26<sup>th</sup> Meeting)**

- Attorney's Ordinance No.(Revised from Attorney 7/18/2013)
- Updated Tables 1-3.2 and 1-6.1(B) from PZ Meeting 7/24/13

**ACTION OPTIONS:**

Board Discussion.



P & Z update's from last P&Z (7/24/13) the red designates suggestions.

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
Community Residential Home	2 acres	210	Paved	60/30	25/20	Type A/C	(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	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	3 acres	210	Arterial	60/30	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)	3 acres	210	Arterial	60/30	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	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
(No levels, no overnight)							

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:

• • •

"1. *OI "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
<b>COMMUNITY FACILITIES</b>														
<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		C	
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)
Nursing Homes	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