

**TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY JUNE 10, 2015
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 – 5/13/15
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Request Approval

- E. PUBLIC HEARING: none**
- F. ACTION:**
- G. DISCUSSION:**
 - 2. Continue Discussion re: Future Land Use Maps for R/LC**
 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Discussion

- H. ADDITIONAL ITEMS FOR FUTURE MEETING**
- I. PUBLIC:**
- J. OLD BUSINESS/NEW BUSINESS:**
 - Discuss upcoming meetings for Planning & Zoning**

- 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: June 10, 2015

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 May 13, 2015

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
May 13, 2015 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, Excused
	WAYNE ABARE
	GEORGE FOSTER
ALTERNATE:	DOUG DIAL
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

Reilly said that Doug Dial will be voting in Bud Ryan's absence tonight.

D. CONSENT AGENDA:

- 1. Approval of Minutes** Planning and Zoning Meeting – 4/22/15

Exhibit:	Agenda Report No. 1
Recommendation:	Request Approval

Motion: Ritter /Abare to Recommend Approval of Minutes of 4/22/15 as corrected All Vote: Aye

Dial Corrections:

Page 5/29 7th parag. down 3rd line withdrawal should be withdraw

Ritter Corrections:

Page 4/29 1st parag. 3rd line road way = roadway & 5th parag. down 4th line Rooftops should be rooftops

Page 6/29 2nd parag from bottom 1st line is should be are

E. PUBLIC HEARING: none

F. ACTION: none

G. DISCUSSION

2. Continue Discussion re: Future Land Use Maps for R/LC

Exhibit: Agenda Report No. 2
Recommendation: Discussion

Reilly explained that the defining of R/LC is complete and now the Board is going to define which lots should be changed from the current zoning to R/LC.

Reilly explained to the Board that he will have to give reasons to Council why to change the use to R/LC.

Reasons why are we changing to R/LC?

- Main Roadways (Ritter)
- Bring Business into Town (Ritter)
- When was the last time any residences been built on these main roadways? No residential development in decades (this was also a comment by a resident in the past meetings, Ms. Juliana Hirsch)(Reilly)
- Help give land owners options on developing their property (Reilly)
- It was looked at in the 1980's to add R/LC but never got implemented (Reilly)

Foster:

- Arterial Roads , Malabar is connected to the interstate off-ramp of I-95
- Opportunity for more commercial
- We realize that limited commercial is coming and we embrace it, it is an inevitable change

Dial:

- Future growth, anticipation, pathway to the future

Ritter

- Water is at west end of Town limits

Abare:

- It is not a forced land change, it is an option to develop
- It is a country flavor, mom & pop business's with commercial activity

Board asked when R/LC was first implemented to Malabar. Sherear said she would research the answer for next meeting.

Reilly said that other municipalities have "mixed use" the R/LC would be Malabar's mixed use.

Foster said these major arterials are there to give them a choice no one is forced into doing anything, if you want limited commercial go ahead or a residential go ahead. There is 100% use on the Limited Commercial (LC) and zero % on the Residential side of developing; there has not been any residential building along these arterial roads in a long time.

Abare commented that we are giving property owners a path a good step forward. Reilly said we are about to change the rural look of Malabar on the arterials (Babcock, Highway 1, Malabar Rd).

Reilly commented that there is going to be different comments from residences about changing the RR65 to R/LC and we need to just be aware that some people will like it, and want R/LC tomorrow others will want to keep the rural look of Malabar. Abare said we have a vacant seat on this Board and we encourage people to come in and share their views.

Abare said we have a certain amount of R/LC right now, he asked if it will be double during this process and Ritter/Reilly said probably more than double. But Ritter comment that this is strictly and option.

Reilly went over R/LC Maps starting with the west end of Town

- Babcock Street

The Boards discussed city water availability to different areas along Babcock and the reason for more commercial zoning due to being along I-95 and possibilities of an Industrial Park area off Foundation Park Blvd to the east of Babcock St.

Foster commented about always having the option to develop your land if you want to or stay in your existing zoning.

Board discussed extensively different options along Babcock St.

Ritter and Board discussed to advertise and let residences be aware of different zoning options that are being discussed at the PZ Meetings so they can add their comments.

Dial asked about big parcel at the end of Osage St. near I95 could it be CL vs OI, it was explained that is could go either way for development.

- Malabar Road

Reilly explained the individual maps along Malabar Road and the splitting of lots.

- It was suggested to give property owners the option to have R/LC for their complete depth of property.

Foster would like the lots to be uniform to go back 660 feet in depth. Reilly explained that not all the property lines measure up to do this. The 660 ft. depth needs to be altered to follow the lot lines. Dial asked if you should include lower lot line or higher lot line. Ritter said to give property owners the choice

Board discussed that between Weber Road & Alexander Lane on south side to lineup changes according to property line boundaries.

Reilly suggested for a discussion in a future meeting if the depth of R/LC off Malabar Road should be 1, 2, or 3 lots deep.

Abare suggested not making it too complicated with the depths of the lots. Ritter added that with the widening of Malabar Road 660 ft. would work if people had sidewalks and driveways. Foster agrees with Ritter about 660 ft.

Discussion Item for future meeting: Option between Cory Road to Howell Lane OI to R/LC

Board discussed areas along Malabar Road to US 1. Abare suggested stepping up and down to go by property lines.

- Highway US 1

Board discussed areas along US 1.

Reilly goal was to go over maps and bring new Board Members up to date. The Board can go back through these maps for next meeting to review for suggestions or changes.

Reilly said to go for the rational to make the changes.

Abare suggested he will do maps per section to enlarge.

Reilly said he will ungroup the maps and change the lines. Reilly is going to send Abare and Ritter the maps to update.

H. ADDITIONAL ITEMS FOR FUTURE MEETING

I. PUBLIC

J. OLD BUSINESS/NEW BUSINESS:

Discuss upcoming meetings:

Reilly will miss 2 meetings (May 27th & June 10th)

The consensus of the Board was to cancel the next regular meeting May 27th. The next meeting regular meeting is June 10th, leave June 24th open. Reilly said to decide to cancel or keep June 24th on the June 10th meeting.

Foster said that at the April 22, 2015 PZ Meeting, after the meeting he went to leave and he discovered nails in his left front tire. He said the nails looked carefully placed. The nails were in the high parts of his tire. Foster said they were very specific nails called "stud nails" for wire lathe on a wall. Abare asked why would you be singled out. Foster responded that he says some things sometimes that upset some people. Foster said his thoughts are that this was meant to intimidate him to be quiet.

Abare asked if Foster had mentioned this to Debby or Bonnie. Foster said he thought he mentioned it to Pat, but Pat doesn't do text messaging. Dial asked if it could have happen elsewhere. Foster said he noticed nails in tire at Town Hall parking lot in his tire.

Ritter suggested about cameras outside Town Hall.

Ritter and Abare shared incidences that happened to them.

K. ADJOURN

There being no further business to discuss, MOTION: Abare / Ritter to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:25P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

Date Approved: as corrected

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: June 10, 2015

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

SUBJECT: Future Land Use Map for R/LC

BACKGROUND/HISTORY:

The PZ Board has completed the defining and verbiage for the R/LC. Chair Reilly & Board requested to review the R/LC maps designated for the (3) arterial roads: Malabar Road, Babcock Street, and US Highway 1. At the last PZ Meeting on (5/13/15) suggestions were made by Board Members to make revisions to "draft maps" dated July 17, 2013. Members Abare & Ritter are working on the updated maps.

Staff did research on when R/LC was first implemented into the Town of Malabar and attached the following Ordinances to this Agenda.

ATTACHMENTS:

- Malabar Ordinance #94-3
- Malabar Ordinance #94-4
- Maps to be handed out at meeting on 6/10/15 (not available at time of packet)
- **PLEASE BRING PZ PACKET FROM 5/13/15**

ACTION OPTIONS:

Discussion

AN ORDINANCE OF THE TOWN OF MALABAR AMENDING THE COMPREHENSIVE PLAN: TO ESTABLISH A NEW MIXED USE FUTURE LAND USE MAP DESIGNATION OF "RESIDENTIAL AND LIMITED COMMERCIAL" (R/LC); AMENDING THE FUTURE LAND USE MAP FOR THE FOLLOWING AREAS WITHIN THE WESTSIDE US 1 CORRIDOR: 1) CERTAIN LANDS WEST OF US 1 FROM CG TO R/LC; 2) PARCEL 250.1, NORTH OF RIVERVIEW DRIVE FROM CG TO HDR; 3) CERTAIN LANDS WITHIN OR NEAR THE DRAKE, OAKHURST, CRESCENT AND SUNNYBANK ON THE DIXIE S/D FROM CG TO HDR; 4) CERTAIN LANDS WITHIN OR NEAR THE OAKHURST AND SUNNYBANK ON THE DIXIE S/D FROM CG TO LDR; 5) PARCELS 751 AND 500 LOCATED APPROXIMATELY 1,045 FEET NORTH OF JORDAN BLVD AND WEST OF US 1 FROM MRO TO LDR FURTHER AMENDING THE COMPREHENSIVE PLAN, CONSERVATION ELEMENT, GOALS, OBJECTIVES AND POLICIES TO INCLUDE POLICIES: 1) LIMITING DENSITY IN THE ATLANTIC COASTAL RIDGE; 2) PROTECTING SCRUB JAY HABITAT; AND 3) ADOPTING AN INTERIM SCRUB JAY HABITAT POLICY; AND PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

SECTION I

GOAL 1-2 "FUTURE LAND USE MAP" in Section 1-2 of the Comprehensive Plan: Goals, Objectives, and Policies shall be amended by adding the following underlined text to the third paragraph:

GOAL 1-2: FUTURE LAND USE MAP. CONTINUE TO MAINTAIN AND MANAGE A FUTURE LAND USE MAP.

The future land use map series, maps 1-3 herein, reflect Town policy for managing the allocation of future land use. The future land use map series (base year 2010) is supported by the "*Comprehensive Plan Data Inventory and Analysis (1987)*" and the "*Comprehensive Plan Evaluation and Appraisal Report (1987)*." Land use designations on the future land use maps have been allocated pursuant to goals, objectives and policies stipulated in the comprehensive plan, together with analysis of population, housing and land resources; the need to conserve natural resources including wetlands, estuaries, floodways, flood plains, water recharge areas, fish and wildlife, consideration of capital improvement needs, and conservation of fiscal resources.

The future land use map series shall designate areas for the following uses: rural residential; low density residential; medium density residential; high density residential; multiple-family residential or offices; limited commercial; residential and limited commercial; general commercial; industrial; institutional; and open space and recreation land uses. This section of the future land use element shall define the nature, density, and intensity of the allowable uses for each of the designations represented on the future land use map. Nothing in this section shall preclude necessary community facilities from locating within any future land use designation when such activity satisfies established criteria of this plan and the Town's Code of Ordinances.

The future land use map series (map 3 herein) shall depict the proposed distribution, extent and location of land uses for the year 2010. Map 1 of the future land use series shall include the allocation of future land uses. Map 2 of the future land use map series shall include the allocation of conservation resources. Map 3 of the future land use series shall designate the 100 year flood plain.

SECTION II

OBJECTIVE 1-2.2 "ALLOCATING COMMERCIAL DEVELOPMENT" in Section 1-2 of the Comprehensive Plan: Goals, Objectives, and Policies shall be amended to read as follows:

OBJECTIVE 1-2.2: ALLOCATING COMMERCIAL DEVELOPMENT. The Future Land Use Map shall identify the allocation of commercial land for: 1) multiple-family residential or office development; 2) limited commercial development; 3) general commercial activities, and 4) residential and limited commercial development. The allocation of land for commercial development is compatible with goals and objectives identified in the Comprehensive Plan and consistent with supportive research and analysis. The policies stated below provide an explanation of the purpose, intent and character of the commercial land use designations.

SECTION III

SECTION 1-2 "MANAGING FUTURE LAND USE MAP" of the Comprehensive Plan: Goals, Objectives, and Policies shall be amended by adding the following Policy 1-2.2.5 "Residential and Limited Commercial Development" (R/LC) and Policy 1-2.2.6 "Criteria for the Residential and Limited Commercial Development (R/LC) Designation" to Section 1-2":

Policy 1-2.2.5: Residential and Limited Commercial Development (R/LC). The R/LC Future Land Use Map designation is intended to accommodate and shall accommodate a mixture of land uses expressly restricted to uses allowed in the "limited commercial" designation together with uses allowed on lands designated for high density residential activities with a density no greater than six (6) units per acre. 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" FLUM designation 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 the Town's Land Development Code. The "R/LC" Future Land Use Map (FLUM) designation is intended to apply to and shall only be applied to strategically located sites situated on the westside of the US 1 corridor. The "R/LC" FLUM designation shall apply only to the following specific areas:

- 1) Land south of the north property line of parcel 252 and 251 located 400+/- feet south of Riverview Home S/D; east of the FEC R/W; north of an irregular line formed by the south property line of lots 15-21 which front on the south side of Malabar Road, the east property line of lot 21 fronting on the south side of Malabar Road, and the north property line of lots 22-24 all fronting on the south side of Malabar Road; and west of an irregular line formed by the US 1 R/W and the west property line of lot 22 which fronts on the south side of Malabar Road.
- 2) Land south of Orange Avenue R/W and north of Township Road within the Drake S/D, lots 41, A, B, C, D, E, F, G, and West of US 1; and the land east of Crescent Road, north of Oak Street R/W, and west of the US 1 R/W.
- 3) Land south of the north property line formed by parcel 7.1, approximately 860 feet south of Oak Street and on the westside of US 1 Highway; and the west and south property lines of parcel 7.1 and east of the west property lines of the following lots all of which abut US 1 R/W and are located in the Sunnybank on the Dixie S/D: lots 1-10 in block C, lots 1-12 in block B, and lots 1-4 in block A; north of the south property line of lot 1, block A, Sunnybank on the Dixie S/D; and west of the US 1 R/W.

These sites currently are characterized by a mixture of generally small scale commercial businesses together with predominantly single family residential land uses. Areas designated "R/LC" are not suitable for and shall not be developed for large scale general retail activities or other commercial activities more intense than land uses expressly provided for in the "limited commercial" Future Land Use Map designation (Reference Policy 1-2.2.3) since such development would be incompatible with existing and anticipated future residential development within or in the vicinity of areas designated "R/LC" on the Future Land Use Map.

Policy 1-2.2.6: Criteria for the Residential and Limited Commercial Development (R/LC) Designation. The following criteria for development within the R/LC FLUM designation shall be incorporated into the Town of Malabar Land Development Regulations:

- a. **Percent of Site for Mixed Use Developments.** Within the R/LC designation where Residential and Limited Commercial activities are proposed to occupy the same site and/or the same building the following minimum and maximum percentages shall apply:

	<u>Minimum</u>	<u>Maximum</u>
Limited Commercial	20%	90%
Residential	10%	80%

- b. **Limited Commercial Uses.** Limited Commercial uses within the R/LC FLUM designation shall have a minimum floor area of nine hundred (900) square feet and a maximum of four thousand (4,000) square feet.
- c. **Residential Uses.** Single family units shall have a maximum density of four (4) units per acre. Multiple family uses shall have a density no greater than six (6) units per acre. However, any residential site located within a high surficial aquifer recharge area on the Atlantic Coastal Ridge and not served by central water and wastewater shall have a density no greater than two (2) units per acre.
- d. **Minimum Lot Requirements.** Lots within the R/LC FLUM designation shall have a minimum lot size of 20,000 square feet, a minimum width of 100' and a minimum depth of 150'.
- e. **Setbacks Requirements.** Single family units shall have setbacks of 25' in the front, 10' on the interior and street sides, and 20' in the rear. Multiple family units shall have setbacks of 50' in the front, 10' on the interior side, 20' on the street side, and 25' in the rear.
- f. **Building Height Requirements.** Any building within the R/LC FLUM designation shall have a maximum height of thirty-five (35) feet or three (3) stories.
- g. **Coverage Requirements.** Single family residential uses shall have an impervious surface ratio of 50% with a minimum open space requirement of 50%. Multiple family residential uses shall have an impervious surface ratio of 65% with a minimum open space requirement of 35%. Limited commercial uses shall have a maximum floor to area ratio (FAR) of 0.20.
- h. **Buffering.** The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required buffering and other provisions referenced by zoning district in the Land Development Code.

**SECTION IV: FUTURE LAND USE AMENDMENT--
CERTAIN PARCELS WEST OF US 1 CORRIDOR**

A Comprehensive Plan Future Land Use Map policy amendment from "General Commercial" to mixed use "Residential and Limited Commercial" (R/LC) is recommended for specific areas expressly identified below. A Comprehensive Plan Future Land Use Map policy of mixed use "Residential and Limited Commercial" is recommended for the following lands:

- 1) Land south of the south property line of parcel 252 and 251 located 400 +/- feet south of Riverview Home S/D; east of the FEC R/W; north of an irregular line formed by the south property line of lots 15-21 which front on the south side of Malabar Road, the east property line of lot 21 fronting on the south side of Malabar Road, and the north property line of lots 22-24 all fronting on the south side of Malabar Road; and west of an irregular line formed by the US 1 R/W and the west property line of lot 22 which fronts on the south side of Malabar Road.
- 2) Land south of Orange Avenue R/W and north of Township Road within the Drake S/D, lots 41, A, B, C, D, E, F, G, and West of US 1; and the land east of Crescent Road, north of Oak Street R/W, and west of the US 1 R/W.
- 3) Land south of the north property line formed by parcel 7.1, approximately 860 feet south of Oak Street and on the westside of US 1 Highway; and the west and south property lines of parcel 7.1 and east of the west property lines of the following lots all of which abut US 1 R/W and are located in the Sunnybank on the Dixie S/D: lots 1-10 in block C, lots 1-12 in block B, and lots 1-4 in block A; north of the south property line of lot 1, block A, Sunnybank on the Dixie S/D; and west of the US 1 R/W.

**SECTION V: FUTURE LAND USE MAP AMENDMENT--
PARCEL 250.1, N OF RIVERVIEW DRIVE**

A Comprehensive Plan Future Land Use Map policy amendment from "General Commercial" to "High Density Residential" (HDR) is recommended for parcel #250.1: located north of the Riverview S/D; South and east of the Town's northeast incorporated municipal boundary; and west of the FEC Railroad R/W. The site has no infrastructure and is currently land-locked. The site is a logical extension of the Riverview S/D abutting to the south. The Riverview S/D is designated "HDR." Both parcel #250.1 and the Riverview S/D have been zoned for residential use for several years and apparently the parcel #250.1 was the target of a scrivener's error when the Future Land Use Map was drafted in 1987-88.

**SECTION VI: FUTURE LAND USE MAP AMENDMENT--
DRAKE/OAKHURST/CRESCENT/SUNNYBANK ON THE DIXIE AREA**

A Comprehensive Plan Future Land Use Map policy amendment from "General Commercial" to "High Density Residential" (HDR) is recommended for land below described. The below described area is comprised of exclusively residential dwelling units, and vacant lots within platted residential subdivisions. Prior to the Comprehensive Plan adoption this area was zoned for high density residential development. Several residents have requested that the Town Council provide for residential development in all land use policies impacting the area. A Comprehensive Plan future land use policy of "High Density Residential" is recommended for the following specific areas:

1. All the land within the Drake Addition to Malabar S/D except for the land identified in Section IV (2) of this Ordinance; and
2. All the land within Blocks B and C of the Oakhurst S/D; and the land located south of Township Road, east of the Prospect Street R/W, and west of Crescent Street, and north of Block B of the Oakhurst S/D; and
3. The following lands within the Sunnybank on the Dixie S/D: Lots 41-44, Block B; Lots 11-22 and 37-52, Block C; and Lots 7-15, Block D.

**SECTION VII: FUTURE LAND USE MAP AMENDMENT --
OAKHURST/SUNNYBANK ON THE DIXIE AREA**

A Comprehensive Plan Future Land Use Map policy amendment from "General Commercial" to "Low Density Residential" (LDR) is recommended for land described below. The area described below is comprised of undeveloped or unimproved vacant parcels and multiple vacant lots under a single owner in a platted residential subdivision. Prior to the Comprehensive Plan adoption this area was zoned for high density residential development. A Comprehensive Plan future land use policy of "Low Density Residential" is recommended for the following specific areas:

1. All the land within Blocks D, E and F of the Oakhurst S/D; and
2. All the land east of FEC Railroad R/W; south of Block F of the Oakhurst S/D; and west of a line formed by the west property lines of parcels 5, 5.1 and 8.1; and
3. All the land within the Sunnybank on the Dixie S/D except for lands identified in Sections IV (3) and VI (3); and
4. All the land south of the north and northwest property lines of parcel #8.1; north of the south property line of parcel #13 located west of and abutting the Sunnybank on the Dixie S/D; and east of the FEC Railroad R/W.

**SECTION VIII: FUTURE LAND USE MAP AMENDMENT --
PARCELS #751 AND #500 LOCATED APPROXIMATELY 1,045+/- FT. N OF JORDAN BLVD.**

A Comprehensive Plan Future Land Use Map policy amendment from "Multiple Family Residential and Office" (MRO) to "Low Density Residential" (LDR) is recommended for parcels #751 and #500 located approximately 1,045 feet north of Jordan Blvd. The Town has never enacted the "MRO" Future Land Use Map designation. A Comprehensive Plan future land use policy of "Low Density Residential" is recommended for the above described parcels.

SECTION IX:

SECTION 6-1 "CONSERVATION GOALS, OBJECTIVES AND IMPLEMENTATION POLICIES" of the Comprehensive Plan: Goals, Objectives, and Policies shall be amended by adding the following Policy 6-1.2.9 "Density Limits in the Atlantic Coastal Ridge:"

Policy 6-1.2.9: Density Limits in the Atlantic Coastal Ridge. Density shall be limited to two (2) dwelling units or motel rooms per acre where the use is located on a non-vested lot in a high surficial aquifer recharge area on the Atlantic Coastal ridge and is not served by a public water and sewer system.

SECTION X

SECTION 6-1 "CONSERVATION GOALS, OBJECTIVES AND IMPLEMENTATION POLICIES" of the Comprehensive Plan: Goals, Objectives, and Policies shall be amended by adding the following Policy 6-1.8.3 "Protection of Scrub Jay Habitats" and Policy 6-1.8.4 "Interim Scrub Jay Habitat Policy:"

Policy 6-1.8.3: Protection of Scrub Jay Habitats. After Brevard County adopts the Scrub Conservation and Development Plan (SCDP), the Town of Malabar shall adopt land development regulations consistent with the SCDP scrub development review process and address at a minimum:

- a) Require identification of Scrub Jay habitat on each parcel or lot prior to its development;
- b) Direct future development away from the most sensitive habitat areas; and
- c) Protect undeveloped portions of the identified habitat through a conservation easement.

Policy 6-1.8.4: Interim Scrub Jay Habitat Policy. Until the regulations mandated by Policy 6-1.8.3 are adopted, the Town of Malabar shall enforce the following interim Scrub Jay Habitat policy:

All requests for development shall be reviewed to determine whether the site is located within any area shown on the Brevard County Scrub Habitat Map series. If the site is not within this area, the applicant may proceed under the normal development review procedures. If the site is within this area, then the applicant must receive authorization from the United States Fish and Wildlife Service prior to proceeding under the normal development review procedures.

SECTION XII: REPEAL OF CONFLICTING ORDINANCES

Upon the effective date of this ordinance, any other ordinances within the Town of Malabar Code of Ordinances, which are in conflict with this ordinance are hereby repealed and shall be superseded by the provisions of this ordinance.

SECTION XIII: 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 the 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 further be 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 XIV: CODIFICATION

Provisions of this ordinance shall be incorporated in the Town code of ordinances, comprehensive plan, and the word "ordinance" may be changed to "section," "article," or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention.

SECTION XV: EFFECTIVE DATE

This ordinance shall become effective upon the State Land Planning Agency's issuance of a notice of intent to find this Comprehensive Plan amendment in compliance, and subsequent adoption by Town Council.

This Ordinance was moved for adoption by Councilmember CREWS. The motion was seconded by KIKLA and, upon being put to a vote, the vote was as follows:

Chairperson	Yovone Rasor	<u>AYE</u>
Councilmember	Julane Kikla	<u>AYE</u>
Councilmember	John Detwiler	<u>AYE</u>
Councilmember	Phillip Crews	<u>AYE</u>
Councilmember	CONNIE CHILES-DOKE	<u>AYE</u>

PASSED AND ADOPTED BY THE COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, this 3 day of APRIL, 1995.

First Reading 9/13/94
[Signature]
Mayor, Town of Malabar

Second Reading 4/3/95
[Signature]
Chairperson, Malabar Town Council

ATTEST:
[Signature]
Town Clerk

Approved as to form and legal sufficiency:

[Signature]
Richard E. Torpy
Town Attorney

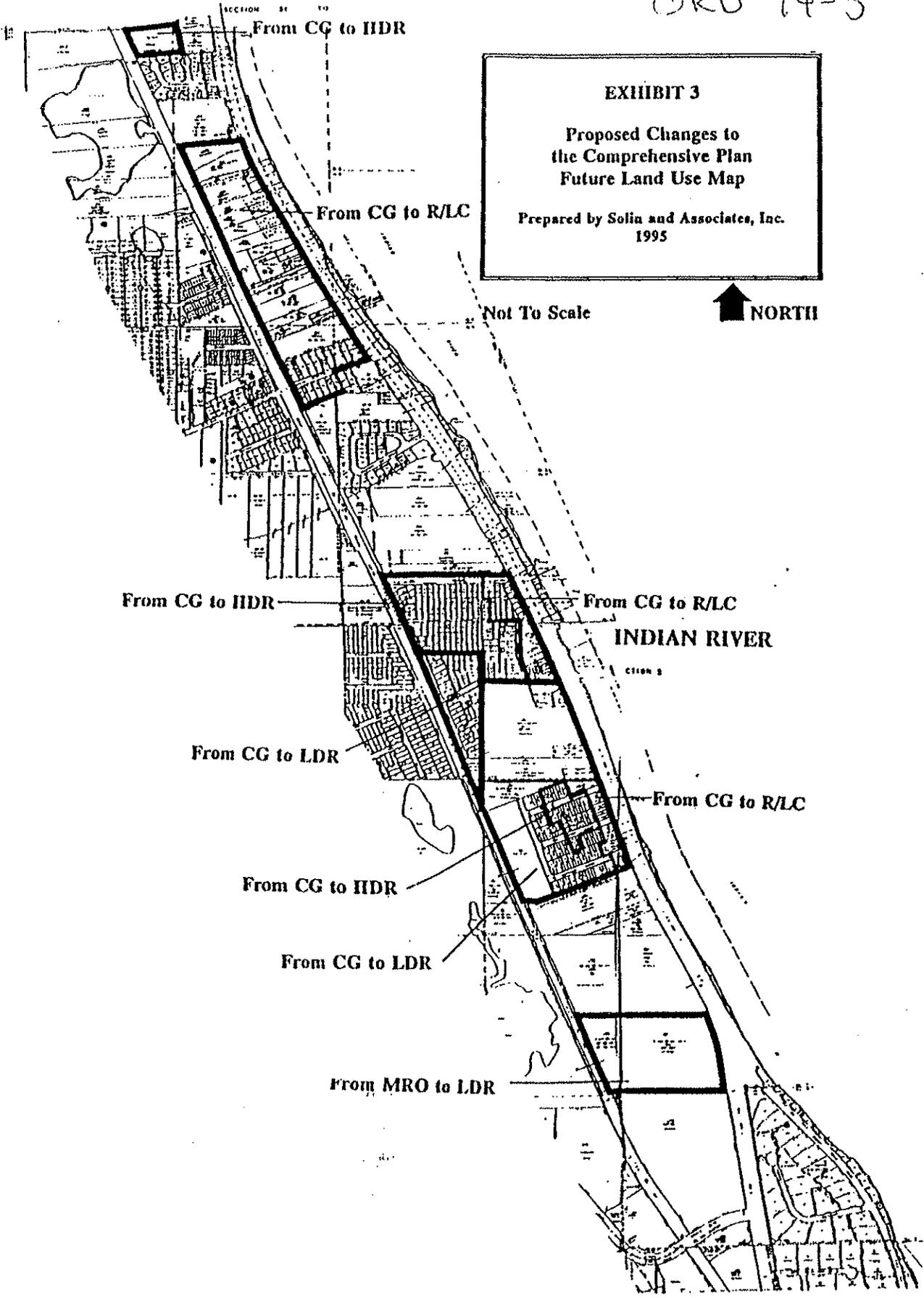


EXHIBIT 3
Proposed Changes to
the Comprehensive Plan
Future Land Use Map
 Prepared by Solia and Associates, Inc.
 1995

Not To Scale



From CG to HDR

From CG to R/LC

From CG to R/LC

INDIAN RIVER

From CG to LDR

From CG to R/LC

From CG to HDR

From CG to LDR

From MRO to LDR

MALABAR ORDINANCE #94-4

AN ORDINANCE OF THE TOWN OF MALABAR AMENDING THE LAND DEVELOPMENT REGULATIONS BY ESTABLISHING A MIXED USE RESIDENTIAL AND LIMITED COMMERCIAL (R/LC) DISTRICT; PROVIDING FOR SPECIFIC R/LC, HDR AND LDR ZONING MAP AMENDMENTS; DESCRIBING A PURPOSE AND INTENT FOR THE R/LC DISTRICT; DEFINING LAND USES, AND SIZE AND DIMENSION CRITERIA FOR THE R/LC DISTRICT; PROVIDING FOR MAXIMUM SQUARE FOOTAGE FLOOR AREA FOR LIMITED COMMERCIAL USES IN THE CL AND R/LC ZONING DISTRICTS; AMENDING THE CONDITIONAL USE CRITERIA OF ARTICLE VI; AND PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

SECTION I

Section 1-2.2: "Zoning districts established" shall be amended by changing Table 1-2.1: "Future Land Use Map Designations and Zoning Districts" to read as follows:

TABLE 1-2.1

FUTURE LAND USE MAP DESIGNATIONS AND ZONING DISTRICTS
Town of Malabar

<u>Future Land Use Map Designations</u>		<u>Corresponding Zoning Districts</u>	
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
<u>R/LC</u>	<u>Residential and Limited Commercial</u>	<u>R/LC</u>	<u>Residential and Limited Commercial</u>
IND	Industrial	IND	Industrial
INS	Institutional	INS	Institutional

Future Land Use Map Designations

Corresponding Zoning Districts

*PUD(R) Planned Unit Development (Residential)	PUD(R) Planned Unit Development (Residential)
*PUD(C) Planned Unit Development (Commercial)	PUD(C) Planned Unit Development (Commercial)
*PUD(I) Planned Unit Development (Industrial)	PUD(I) Planned Unit Development (Industrial)

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

SECTION II

Section 1-3.1 shall be amended by adding a new subsection 1-3.1(O) to read as follows:

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.

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 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 disposable 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.

SECTION III

Section 1-3.2: "Land Use by Districts" shall be amended by changing Table 1-3.2: "Land Use by Districts" to include the following:

TABLE 1.3.2. LAND USE BY DISTRICTS

RESIDENTIAL USES	R/LC	COMMERCIAL ACTIVITIES (con't)	R/LC
Duplex	P	Funeral Homes	C
Mobile Homes		General Retail Sales and Services	
Multiple Family Dwelling	P	Hotels and Motels	
Single Family Dwellings	P	Limited Commercial Activities	P
		Marine Commercial Activities	
COMMUNITY FACILITIES		Medical Services	P
Administrative Services		Parking Lots and Facilities	P
(Public and Not-for-Profit)	P	Retail Plant Nurseries	P
Child Care Facilities	C	Restaurants (Except Drive-ins and fast food service)	P
Churches, Synagogues and Other Places of Worship	P	Restaurants (Drive-ins)	
Clubs and Lodges (Not-for-Profit)		Service Station, Including Gasoline Sales	
Cultural or Civic Activities	P	Trades and Skilled Services	
Educational Institutions		Veterinary Medical Services	C
Golf Course Facilities		Vehicular Sales and Services	
Group Homes	P	Vehicular Services and Maintenance	
Hospital and Extensive Care Facilities		Wholesale Trades and Services	
Nursing Homes (Including Rest Homes & Convalescent Homes)	C	INDUSTRIAL ACTIVITIES	
Protective Services	C	Kennels	
Public Parks and Recreation	C	Manufacturing Activities	
Public and Private Utilities	C	Manufacturing Service Establishments	
		Vehicle and Other Mechanical Repair and Services	
AGRICULTURAL ACTIVITIES		Warehouse, Storage and Distribution Activities	
Noncommercial Agricultural Operations			
Wholesale Agricultural Activities		WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES	
Commercial Stables		Noncommercial piers, boat slips, and docks	
COMMERCIAL ACTIVITIES			
Adult Entertainment			
Bars and Lounges			
Business and Professional Offices	P	C = Conditional uses	
Enclosed Commercial Amusement		P = Permitted uses	

SECTION IV

Section 1-3.3: "Size and Dimension Criteria" shall be amended by changing Table 1-3.3: "Size and Dimension Regulations" to include the following:

TABLE 1-3.3(A) SIZE AND DIMENSION REGULATIONS

ZONING DISTRICT	MINIMUM LOT(S)			MAX HEIGHT (ft./stories)	MINIMUM LIVING AREA/MAX COM'L AREA (sq. ft.)	SEIBACK (FT.)(2)		IMPERVIOUS SURFACE RATIO (%)	FLOOR AREA RATIO (FAR)	MIN OPEN SPACE (%)	MAX DENSITY (units per acre)	
	SIZE (sq.ft.)	WIDTH (ft.)	DEPTH (ft.)			FRONT/ REAR	SIDE (C)				WITH CENTRAL WATER & WASTEWATER	WITHOUT CENTRAL WATER & WASTEWATER
Multiple Family Residential Development												
RM-6	5 acres minimum site	200	200	35/2.5	Single Family:	25/20	10	10	n/a	50	4	1
					Multiple Family:	60/40	40	40	n/a	50	4	1
					1 Bedroom: 500							
					2 Bedroom: 700							
					3 Bedroom: 900							
					Each Additional Bedroom: 120							
Mixed Use Development												
R/LC	20,000	100	150	35/3	Single Family:	25/20	10	10	n/a	50	4	2
					Multiple Family:	50/25	10 ⁴	20	n/a	65	6	2
					1 Bedroom: 500							
					2 Bedroom: 700							
					3 Bedroom: 900							
					Each Additional Bedroom: 120							
Commercial Development												
CL					Commercial:				0.20			
					Min. Area: 900							
					Max. Area: 4,000							
					Min. Area: 900							
					Max. Area: 4,000							

2 - Minimum setbacks determined from the center of the right-of-way where the yard abuts a public street pursuant to the above cited Standards or Table 1-3.3(E) whichever is most restrictive.
 4 - Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
 [editor's note: this table to be incorporated into existing Table 1-3.3(A) which includes the remaining footnotes 1-6.]

**SECTION V: ZONING MAP AMENDMENT -- RESIDENTIAL AND
LIMITED COMMERCIAL DISTRICTS (R/LC)**

A Zoning Map amendment from "General Commercial" (CG) to "Residential and Limited Commercial" (R/LC) is recommended for the lands described below. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "R/LC." The subject areas are characterized by a mixture of generally small scale commercial businesses together with predominantly single family residential land uses. Areas designated "R/LC" are not suitable for and shall not be developed for large scale general retail activities or other commercial activities more intense than land uses expressly provided for in the "residential and limited commercial" Zoning Map designation [Section 1-3.1 (O)] since such development would be incompatible with existing and anticipated future residential development within or in the vicinity of areas designated "R/LC" on the Future Land Use Map. A Zoning Map designation of "Residential and Limited Commercial" (R/LC) is recommended for the following specific areas:

- 1) Land south of the south property line of parcel 252 and 251 located 400+/- feet south of Riverview Home S/D; east of the FEC R/W; north of an irregular line formed by the south property line of lots 15-21 which front on the south side of Malabar Road, the east property line of lot 21 fronting on the south side of Malabar Road, and the north property line of lots 22-24 all fronting on the south side of Malabar Road; and west of an irregular line formed by the US 1 R/W and the west property line of lot 22 which fronts on the south side of Malabar Road.
- 2) Land south of Orange Avenue R/W and north of Township Road within the Drake S/D, lots 41, A, B, C, D, E, F, G, and West of US 1; and the land east of Crescent Road; north of Oak Street R/W; and west of the US 1 R/W.
- 3) Land south of the north property line formed by parcel 7.1, approximately 860 feet south of Oak Street and on the westside of US 1 Highway; and the west and south property lines of parcel 7.1 and east of the west property lines of the following lots all of which abut US 1 R/W and are located in the Sunnybank on the Dixie S/D: lots 1-10 in block C, lots 1-12 in block B, and lots 1-4 in block A; north of the south property line of lot 1, block A, Sunnybank on the Dixie S/D; and west of the US 1 R/W.

**SECTION VI: ZONING MAP AMENDMENT -- DRAKE/OAKHURST/
CRESCENT/SUNNYBANK ON THE DIXIE AREA**

A Zoning Map amendment from "General Commercial" (CG) to "High Density Residential" (RM-6) is recommended for the land described below. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "HDR." The subject area is comprised of exclusively residential dwelling units, and vacant lots within platted residential subdivisions. Prior to the Comprehensive Plan adoption this area was zoned for high density residential development. Several residents have requested that the Town Council provide for residential development in all use policies impacting the area. A Zoning Map amendment of "High Density Residential" (RM-6) is recommended for the following specific areas:

1. All the land within the Drake Addition to Malabar S/D except for the land identified in Section V (2) of this Ordinance; and
2. All land within Blocks B and C of the Oakhurst S/D; and the land located south of Township Road, east of the Prospect Street R/W, and west of Crescent Street, and north of Block B of the Oakhurst S/D; and
3. The following lands within the Sunnybank on the Dixie S/D: Lots 41-44, Block B; Lots 11-22 and 37-52, Block C; and Lots 7-15, Block D.

**SECTION VII: FUTURE LAND USE MAP AMENDMENT --
OAKHURST/SUNNYBANK ON THE DIXIE AREA**

A Zoning Map amendment from "General Commercial" (CG) to "Single Family Low Density Residential" (RS-21) is recommended for the land described below. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "LDR." The below described area is comprised of undeveloped and unimproved vacant parcels and multiple vacant lots under a single owner in a platted residential subdivision. Prior to the Comprehensive Plan adoption this area was zoned for high density residential development. A Comprehensive Plan future land use policy of "Single Family Low Density Residential" (RS-21) is recommended for the following specific areas:

1. All the land within Blocks D, E and F of the Oakhurst S/D; and
2. All the land east of FEC Railroad R/W; south of Block F of the Oakhurst S/D; and west of a line formed by the west property lines of parcels 5, 5.1 and 8.1; and
3. All the land within the Sunnybank on the Dixie S/D except for lands identified in Sections V (3) and VI (3); and
4. All the land south of the north and northwest property lines of parcel #8.1; north of the south property line of parcel #13 located west of and abutting the Sunnybank on the Dixie S/D; and east of the FEC Railroad R/W.

**SECTION VIII: ZONING MAP AMENDMENT -- PARCELS #751 AND #500
LOCATED APPROXIMATELY 1,045 +/- FEET NORTH OF JORDAN BLVD.**

A Zoning Map amendment from "Medium Density Residential" (RM-4) to "Single Family Low Density Residential" (RS-21) is recommended for Parcels #751 and #500 located approximately 1,045 +/- feet north of Jordan Boulevard. The Zoning amendment is required to implement the Comprehensive Plan Future Land Use Map amendment redesignating the subject property to "LDR." A Zoning Map amendment of "Single Family Low Density Residential" (RS-21) is recommended for the above described parcels.

SECTION IX: AMENDMENT TO CONDITIONAL USE REGULATION

Section 1-6.1(B) "Specific Criteria Regulating Conditional Uses" shall be amended by deleting the following text:

~~SECTION 1-6.1(B): SPECIFIC CRITERIA REGULATING CONDITIONAL USES. In addition to satisfaction of the general provisions cited above, a conditional use shall be permitted only upon a finding that the proposed conditional use complies with the table of requirements for the respective conditional use specified herein as Table 1-6.1(B).~~

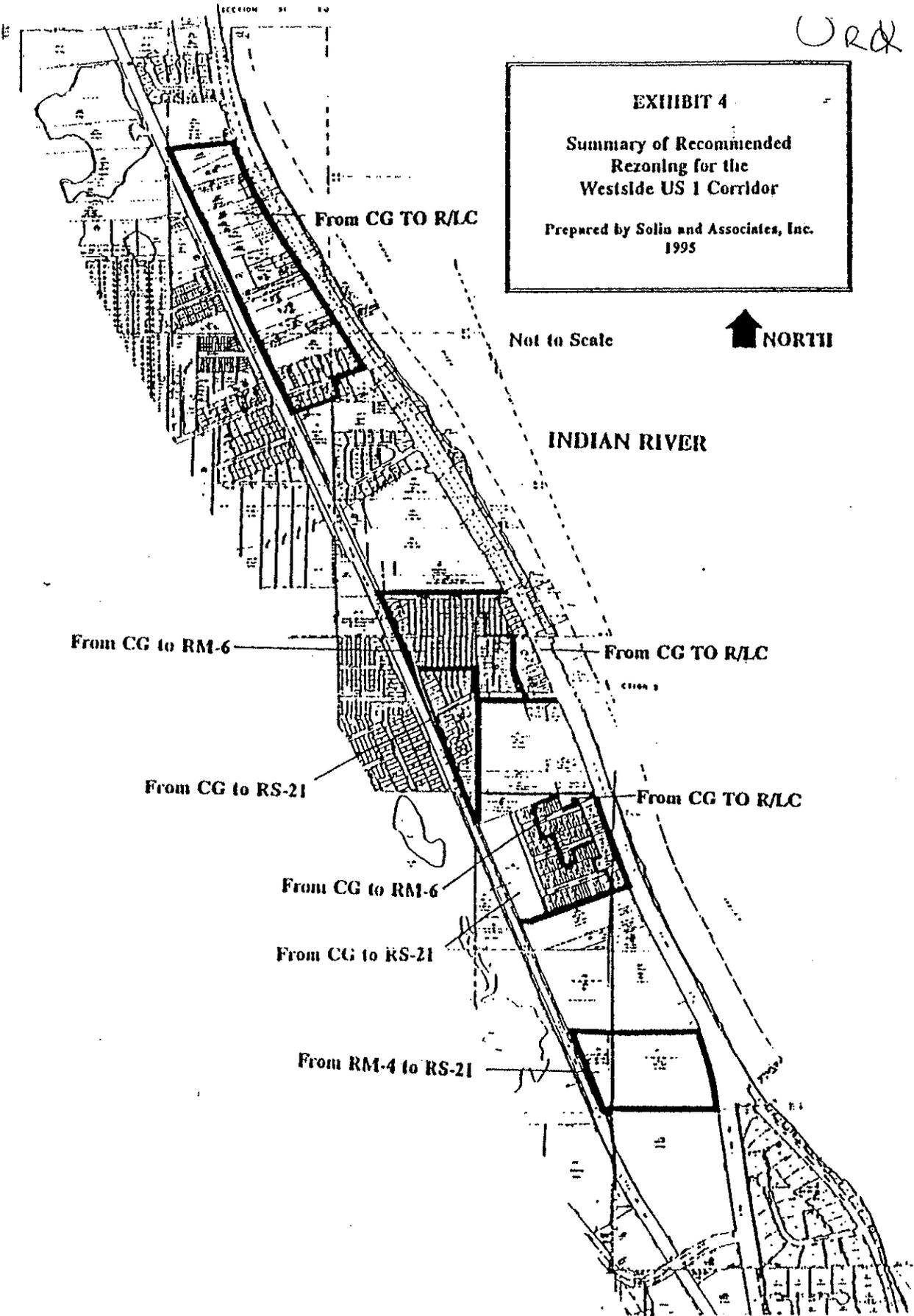
Hereinafter Section 1-6.1(B) shall read as follows:

SECTION 1-6.1(B): SPECIFIC CRITERIA REGULATING CONDITIONAL USES. A conditional use shall be permitted only upon a finding that the proposed conditional use, application, and site plan complies with the criteria herein specified unless the Town determines that the proposed conditional use does not meet the criteria herein provided and the proposed conditional use is adverse to the public's interest. In addition to the site plan criteria of Article VII, an application for a conditional use shall describe the proposed land use characteristics and site plan techniques proposed to mitigate against possible adverse impacts to properties in the immediate vicinity.

1. **Characteristics of Use Described.** The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:

ORD 94-4

EXHIBIT 4
Summary of Recommended
Rezoning for the
Westside US 1 Corridor
Prepared by Solin and Associates, Inc.
1995



- a. **Scale and Intensity.** Scale and intensity of use as measured by the following:
 - i. Floor area ratio;
 - ii. Traffic generation;
 - iii. Square feet of enclosed building for each specific use;
 - iv. Proposed employment;
 - v. Proposed number and type of service vehicles;
 - vi. Off-street parking needs; and
 - vii. Other specifications and/or characteristics of the proposed use describing the nature, character, and intensity of the use, including compatibility with existing and anticipated uses within the immediate vicinity.
 - b. **Site Improvements.** On- or off-site improvement needs generated by the proposed use and not identified in the preceding subparagraph "a":
 - i. On- or off-site facilities required to serve the proposed use such as utilities, public facilities, roadway or signalization improvements, or other similar improvements, including proposed accessory structures or facilities; and
 - ii. Other unique facilities/structures proposed as part of site improvements.
 - c. **On-site Amenities.** On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as open space, setbacks from adjacent properties, screening and buffers, including landscaped berms proposed to mitigate against adverse impacts to adjacent sites.
 - d. **Public Facilities.** If the conditional use is for a public or semi-public facility, the primary and auxiliary service areas shall be described together with the existing and anticipated network of related facilities accommodating service area needs within the incorporated and unincorporated areas of Brevard County.
2. **Criteria for Conditional Use Review and Approval.** In addition to site plan criteria identified in Article VII, applications for a conditional use shall clearly demonstrate the following:
- a. **Land Use Compatibility.** The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts are compatible and harmonious with adjacent land uses and will not adversely impact land use activities in the immediate vicinity.

Similarly, where the use is substantially different from other uses in the district and is not intended to serve residents in the immediate vicinity, the applicant shall bear the burden of demonstrating that the use is appropriate to the subject site and immediate vicinity, and cannot and/or should not be located at an alternative site. In order for a non-residential use to be approved within a residential area, the applicant must demonstrate that a location outside the residential area would not provide for the essential site location needs of the facility or use.
 - b. **Sufficient Site Size and Adequate Site Specifications to Accommodate the Proposed Use.** The size and shape of the site, the proposed setbacks and buffer areas, the proposed access and internal circulation, and the site design enhancements must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to accommodate site design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

- c. **Public and Semi-Public Facilities within Residential Areas.** A public or semi-public facility proposed within any type of residential district must provide an essential service to residential dwelling units within the immediate vicinity and the applicant must demonstrate that alternative sites zoned for non-residential use cannot accommodate the functions of the facility.
- d. **Proper Use of Mitigative Techniques.** The applicant shall demonstrate that the conditional use and site plan has been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
- e. **Hazardous Waste and Hazardous Emissions.** The proposed use shall not generate hazardous waste, hazardous emissions, or require use of hazardous materials in its operation without use of Town approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material, regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste, hazardous emissions or uses hazardous materials shall be located in the Town unless the specific location is consistent with the Comprehensive Plan, land development regulations, and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources. Such uses shall be located within a non-residential district.
- f. **Compliance with Applicable Laws and Ordinances.** A conditional use application shall demonstrate compliance with all applicable federal, state, county, and Town laws and ordinances. Where permits are required from governmental agencies other than the Town, these permits shall be obtained as a condition of approval.

SECTION X: REPEAL OF CONFLICTING ORDINANCES

Upon the effective date of this ordinance, any other ordinances of the code of ordinances, Town of Malabar, Florida, which are in conflict with this ordinance are hereby repealed and shall be superseded by the provisions of this ordinance.

SECTION XI: 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 the 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 further be 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 XII: CODIFICATION

Provisions of this ordinance shall be incorporated in the Town code of ordinances, land development regulations and the word "ordinance" may be changed to "section," "article," or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention.

SECTION XIII: EFFECTIVE DATE

Sections I through VIII of this ordinance shall become effective upon the State Land Planning Agency's issuance of a notice of intent to find the companion ordinance (amending the Comprehensive Plan to include the proposed R/LC policy and the Future Land Use Map to include a R/LC land use designation) in compliance, and subsequent adoption of the companion ordinance by Town Council. Sections IX through XIII of this ordinance shall take effect immediately upon adoption by the Town.

This Ordinance was moved for adoption by Councilmember DETWILER. The motion was seconded by CREWS and, upon being put to a vote, the vote was as follows:

Chairperson	Yovone Rasor	<u>AYE</u>
Councilmember	Julane Kikla	<u>AYE</u>
Councilmember	John Detwiler	<u>AYE</u>
Councilmember	Phillip Crews	<u>AYE</u>
Councilmember	CONNIE CHILES-COOTE	<u>AYE</u>

PASSED AND ADOPTED BY THE COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, this 3 day of APRIL, 1995

First Reading 9/27/94
Ferry A. Durand
Mayor, Town of Malabar

Second Reading 4/3/95
Yovone Rasor
Chairperson, Malabar Town Council

ATTEST:
Susan B. Kelian
Town Clerk

Approved as to form and legal sufficiency:

[Signature]
Richard E. Torpy
Town Attorney