

**TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY AUGUST 26, 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 – 8/12/15
Exhibit: Agenda Report No. 1
Recommendation: Request Approval

- E. PUBLIC HEARING: none**
- F. ACTION:**

- 2. **Final Review and make Recommendation to Council for: Future Land Use Maps & R/LC Definition.**
Exhibit: Agenda Report No. 2
Recommendation: Action

- G. DISCUSSION:**

- 3. **Discuss Amending Assisted Living Facilities (ALF) Ordinance 2014-01 ref: to Office/Institutional (OI) Zoning.**
Exhibit: Agenda Report No. 3
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 26, 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 August 12, 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
AUGUST 12, 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 stated that Doug Dial will be voting in the absence of Bud Ryan tonight.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 7/22/15

Exhibit: Agenda Report No. 1
Recommendation: Request Approval

Motion: Ritter /Abare to Recommend Approval of Minutes of 7/22/15 as presented All Vote: Aye

E. PUBLIC HEARING: none

F. ACTION:

2. **Vacate ROW on Johnston Avenue, East of Jennie Street-(Applicant Alisha Cline)**

Exhibit: Agenda Report No. 2
Recommendation: Request Approval

Reilly asked applicant to come to podium and explain the reason for the vacate.

Alisha Cline (Applicant) 2585 Johnston Ave, Malabar explained that she recently purchased the property to the north across Johnston Ave and has been maintaining ROW by mowing and keeping

invasive species cut back. Cline explained that Malabar ends at her mailbox. (the improved ROW of Johnston Ave. ends at her mailbox). Cline explained it doesn't serve any public purpose because Johnston Ave. does not go through to West Railroad Ave. The Storage Company (AAA Storage) has Oaks planted all along ROW area.

Reilly asked Cline to show properties on overhead map. Reilly asked if area is overgrown and Cline responded it is freshly mowed by them.

Abare asked if it would ever be a through street, the Board discussed the map that was email out showing the ROW of Johnston Ave. (on paper only). The official map plotted. Reilly explained that from Marie Street to the east on Johnston Ave. is a dirt road with a sign at the eastern point that says "No Outlet".

Reilly explained to the Board that no properties would be land locked there is access from West Rail Road Ave, Jennie Street, and Mary Street. Ritter said that West Rail Road is not an approved ROW, so it would depend which was the shortest way to improve the ROW to access a property.

Board discussed letter received by property owner within the 500 ft. radius, Mr. Emilio Cirelli who objects the vacate, said he access his properties via Johnston Ave. Reilly pointed out that Mr. Cirelli would be cutting across private property if he accessed his property via Johnston Ave. The official way for Mr. Cirelli to access his two properties would be Mary Street. The Board discussed no matter what way Mr. Cirelli accessed his property he would have to improve a ROW. Reilly said that he went to site and it is all overgrown. Reilly asked if Jennie Street, north of Johnston Ave. was vacated, Sherear replied it is not vacated to the north only to the south of Johnston Ave. Reilly explained that Mr. Cirelli has two ways to his property, Johnston Ave to Jennie Street, and Across Mary Street or West Rail Road Ave north to Mary Street.

Reilly pointed out to Board that this is not creating any property to be "land locked" by vacating this ROW area. Ms. Cline showed Board pictures on her phone of the end of Johnston Ave.

Abare asked if all the property owners have been notified, Ritter explained the 500 ft. radius packet with address's attached to mail out notification.

Reilly explained to Board/Applicant that if it gets approved or disapproved it goes to Council. Reilly explained to applicant to send pictures to Denine for Council to see.

Juliana Hirsch 1035 Malabar Road, Malabar asked a few questions. Hirsch said that you (Town/Boards) have to be cautious before you take away the access to properties. The Board explained that properties do have access through West Rail Road Ave. and Mary Street, and Jennie Street.

Reilly said that this area has not been developed in a long time, and the point is that a "land locked" property is not being created.

Abare asked if there are any swales on either side of Johnston Ave, Reilly said it was flat in the area of the "proposed vacate".

Cline said she wanted to join the properties for tax purposes and make it one unified property.

Mr. Kim & Lisa Alford 2545 Johnston Ave, Malabar explained that he owns the property adjacent to Alisha, Mr. Alford showed where his property is located on overhead map. Mr. Alford asked if there

are any plans in the immediate future to pave Johnston Ave. Sherear explained the process of paving a road is done by petition.

Mr. Alford said he understands that a Mr. Cobb has bought several vacant lots in this area off Jennie Street and Mary Street and he might be looking to develop this area. If Jennie Street is developed, then all the traffic will be in front of my property. Ritter said unless they develop Mary Street off West Rail Road Ave., then the traffic flow will go that direction. Mr. Alford said maybe we should air on the side of caution about abandoning a street to park cars, more research should be done on what Mr. Cobbs plans are to develop this area. Mr. Alford's concern is that if you abandon this vacate request then nothing else will be done with this street (Johnston Ave.). Reilly explained that if there is going to be a development then there are rules that have to be followed for the roads and they have to be developed according to standards of the Town to the development. Mr. Alford said that tonight is just a recommendation for the vacate of Johnston Ave., maybe we should do more research. If the Board recommends this it is going to happen.

Reilly/Ritter explained that the accepted/approved road (Johnston Ave) ends at the beginning of Jennie Street. The ROW goes through to West Rail Road Ave., but not improved.

Mr. Alford said he doesn't have a problem with this vacate, he (Mr. Alford) said to just take a better look at what everyone is doing on Johnston Ave. But I do know once you abandon a street it is done.

Reilly reads from the street map that Johnston Ave is improved from Marie Street east to approx. Jennie Street 1,164 feet and (road Payback last 306 ft. 01-01).

(*note look up Ordinance 01-01)

Reilly said that the improved road (Johnston Ave.) ends at Jennie Street. Reilly said that probably the Ordinance came after Ms. Cline's house was built.

Reilly sums up suggestions of the Board for further research:

- To determine is Johnston Ave. a ROW or a Road?
- Determine if the improved road (Johnston Ave.) stops at Jeannie?
- Suggestions for Applicant to modify application to put fence across Johnston Ave, to stop people from coming up driveway and give Town a key.

Ritter commented to research the proposed vacated area before we give it up, and Reilly explained that the property owners have had 50 years to develop this land and have done nothing.

The Board discussed how many houses are on Johnston Ave? There are three (3) with others on side streets, (Marie Street, Florence Street, and Blanche Street).

Abare said that the applicant can still clear and fence property, just not the ROW until issue is resolved and research is done.

Foster asked the applicant why the vacate request, and applicant Ms. Cline explained that people come down the end of the road to turn around and almost hit their dogs. People do not pay attention to the "No Outlet" sign that is posted. Ms. Cline said that after they bought the house they found out it was a "drug house". There are some questionable people that would come down to the end of the road, and the Sheriff said that there was drug activity at this house.

Abare suggested his opinion to Ms. Cline that if the Town would allow you to fence across the ROW of Johnston Ave and you give the Town a key, would that solve your problem. Reilly said they (Ms. Cline) would still not be able to unite their properties for tax purposes. Abare said he does not have the authority, but it might be a compromise. The Council would have that authority.

Sherear pointed out that the property east of Ms. Cline is CG (Commercial General) that abuts residential.

Ms. Cline pointed out that there is a pond east of her property (2585 Johnston Ave) that appears to be in the Johnston Ave. ROW.

Reilly explained that Ms. Cline's driveway came in off of an approved road as seen on map.

Motion: Abare/Ritter To Table Pending further research on Vacate Request and Allow Applicant to Modify the Application: VOTE: All Ayes.

3. **Amend Signage Code Article XIX, Recommend by Town Council & Town Attorney**
Exhibit: Agenda Report No. 3
Recommendation: Request Approval

Reilly explained to Board the Amended Ordinance 2015-06 that the Town Attorney recommended after a Supreme Court case.

Abare asked for explanation of why the Amendment for Signage Code. Reilly explained that there was a church in Arizona that wanted to put out signs directing people to their church. It was taken as not a stationary sign, so someone said it is like those political signs. The people went to the Town and said we should follow the same rules and that is how it went all the way up to the Supreme Court.

Correction in Ordinance 2015-06 page 3 Section 3(B) f take out Ne as the first word and put sign(s) as second word. Political sign(s) may not be.....

The Board discussed and made the following motion with above correction:

Motion: Ritter/Dial To Recommend Approval of Attorneys Amendment with one correction: (Correction in Ordinance 2015-06 page 3 Section 3(B) f take out Ne as the first word and put sign(s) as second word. Political sign(s) may not be.....) to Signage Code Ordinance 2015-06 VOTE: All Ayes

G. DISCUSSION

4. **Final Discussion and Review of Future Land Use Maps**
Exhibit: Agenda Report No. 4
Recommendation: Discussion/Action

Reilly went over each FLUM map and updated to July 22, 2015 all changes proposed. The Board went over each map page by page:

Page 2 FLUM map:

Ritter said that "CP" Coastal Preserve is missing from list. Reilly said he would add it to page 2.

Page 3 FLUM map:

- Need Aerial Maps of Corridors for Reilly to presentation to Council (Denine)

Page 4 FLUM map:

Ritter suggested in two large lots on Osage Street by I-95 to insert "CL"

Page 5 FLUM map:

Good

Page 6 FLUM map:

Good

Page 7 FLUM map:

Board discussed, remove Alexander Lane from heading, it is not show on map

Page 8 FLUM map:

Board discussed clarification of R/LC area (Reilly noted)

Page 9 FLUM map:

Board discussed no changes

Page 10 FLUM map:

Board discussed clarification of area north on Highway 1 (Reilly noted)

Page 11 FLUM map:

Board discussed no changes

Page 12 FLUM map:

Good

Page 13 FLUM map:

Board discussed no changes

Page 14 FLUM map:

Board discussed no change.

Reilly/Board went over verbiage of R/LC and District Provisions Article III only changes noted:

- Center numbers on table for R/LC

*Reilly noted for the next meeting make this Agenda Item on FLUM & R/LC definition an action item.

H. ADDITIONAL ITEMS FOR FUTURE MEETING

- ALF next meeting discussion of "OI" zoning in Ordinance.

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

Old Business:

Abare asked if we have heard from Paladin for ALF, Sherear responded the only contact was an email given to this Board a few weeks back from Gary Parish who works with Paladin about they were moving forward with City of Palm Bay about the water/sewer infrastructure.

New Business: none

K. ADJOURN

There being no further business to discuss, MOTION: Abare/Ritter to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:15 P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

Date Approved: as corrected

DRAFT

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: August 26, 2015

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

SUBJECT: Final Review and make Recommendation to Council for: Future Land Use Maps (FLUM) & R/LC Definition

BACKGROUND/HISTORY:

The PZ Board has been working on these FLUM maps and verbiage for Residential Limited Commercial (R/LC) for a period of time to recommend the best usage for all areas involved.

This is the final review by P&Z before it will be presented to Council at a future meeting.

ATTACHMENTS:

- Pat Reilly revised FLUM maps dated August 24, 2015
- Portion of Article III District Provisions "O." and Tables for "R/CL" Residential and Limited Commercial.

ACTION OPTIONS:

Recommendation to Council

TOWN OF MALABAR PROPOSED FUTURE LAND USE CHANGES

PRESENTED BY THE PLANNING AND ZONING BOARD

August 24, 2015

Present Land Use Designations

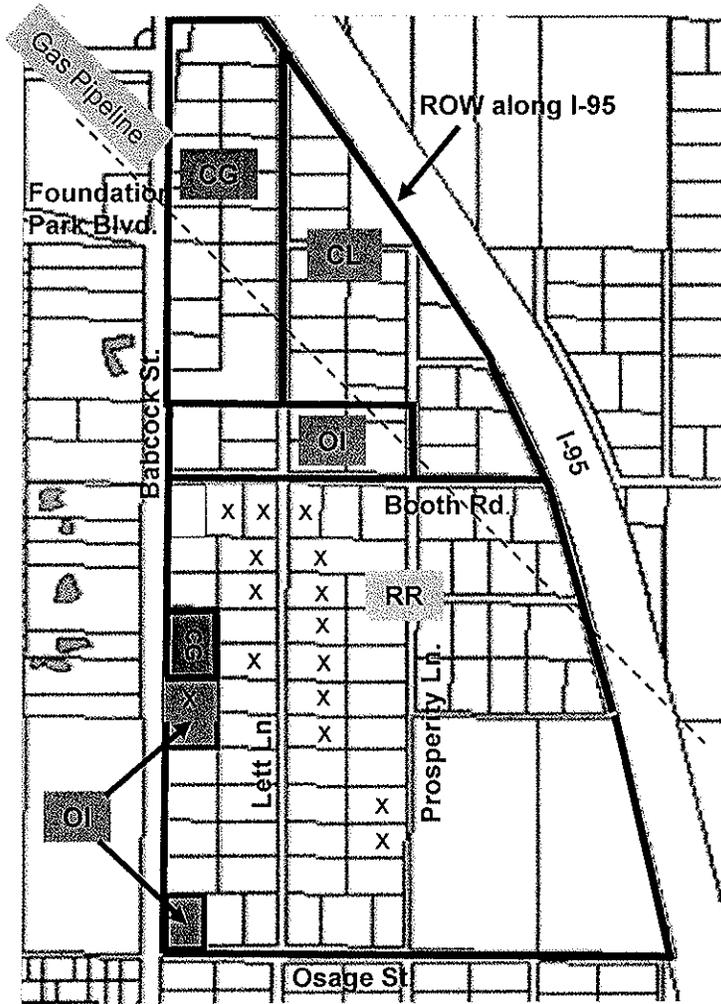
- Residential/Limited Commercial (R/LC)
- High Density Residential (HDR)
- Medium Density Residential (MDR)
- Low Density Residential (LDR)
- Rural Residential (RR)
- Commercial General (CG)
- Commercial Limited (CL)
- Industrial (IND)
- Office Institutional (OI)
- Institutional (INS)
- Open Space and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

Related Data

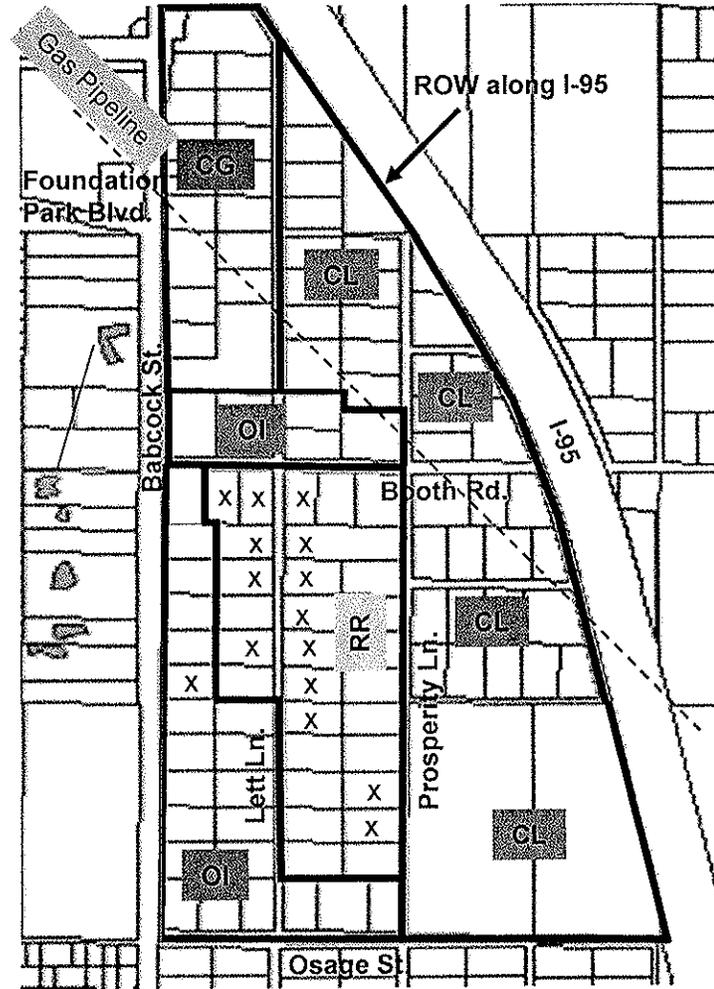
- Use FLU-1 Map for Present Land Use
 - It was 2009's Future Land Use, now it is Malabar's Present Land Use Map
- Definitions of Malabar's Land Use Districts
 - Malabar Land Development Code, Article III, District Provisions handout
 - Board is presently looking at the R/LC densities in the Land Development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

Land Use Along Babcock Street

Present Land Use



Proposed Land Use

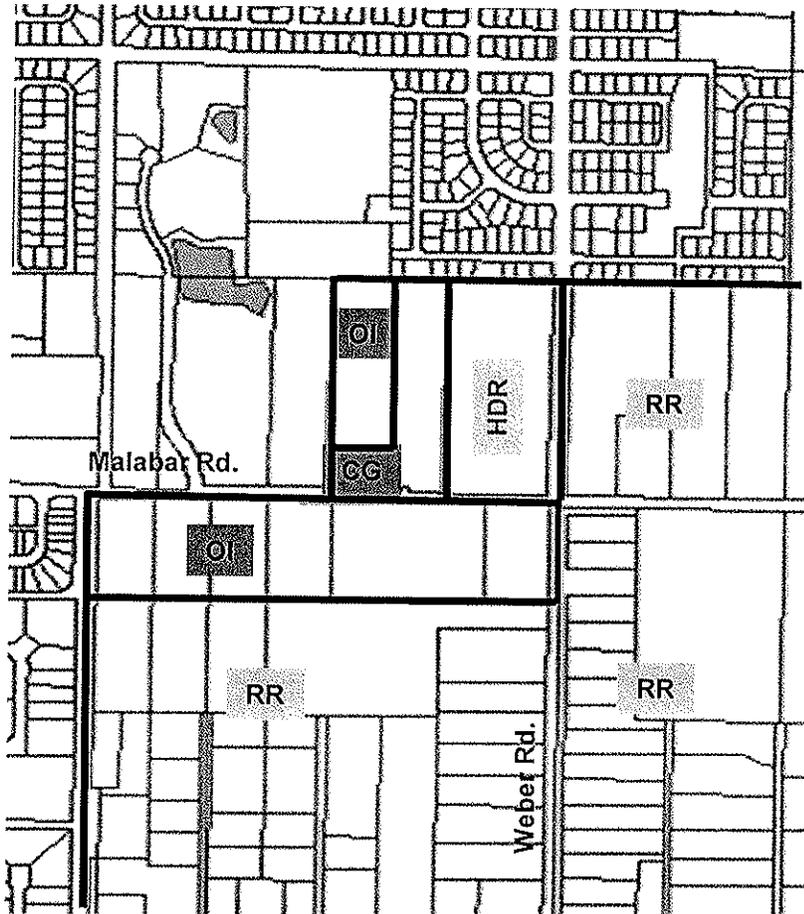


X = Homes

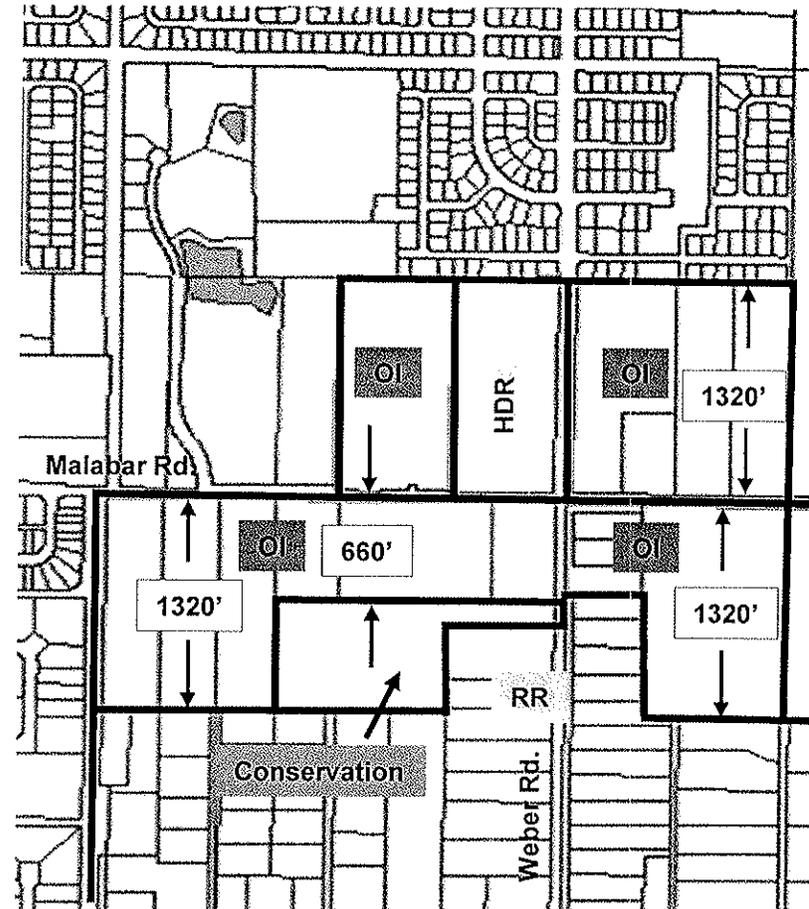
August 24, 2015

Land Use Along Malabar Rd. (West end)

Present Land Use

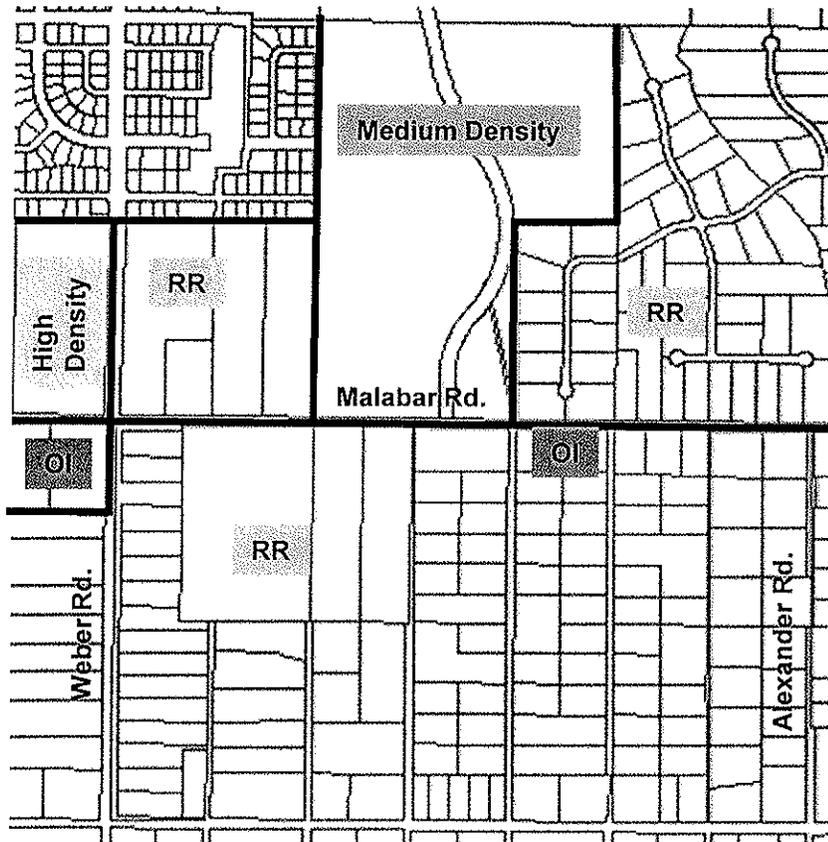


Proposed Land Use

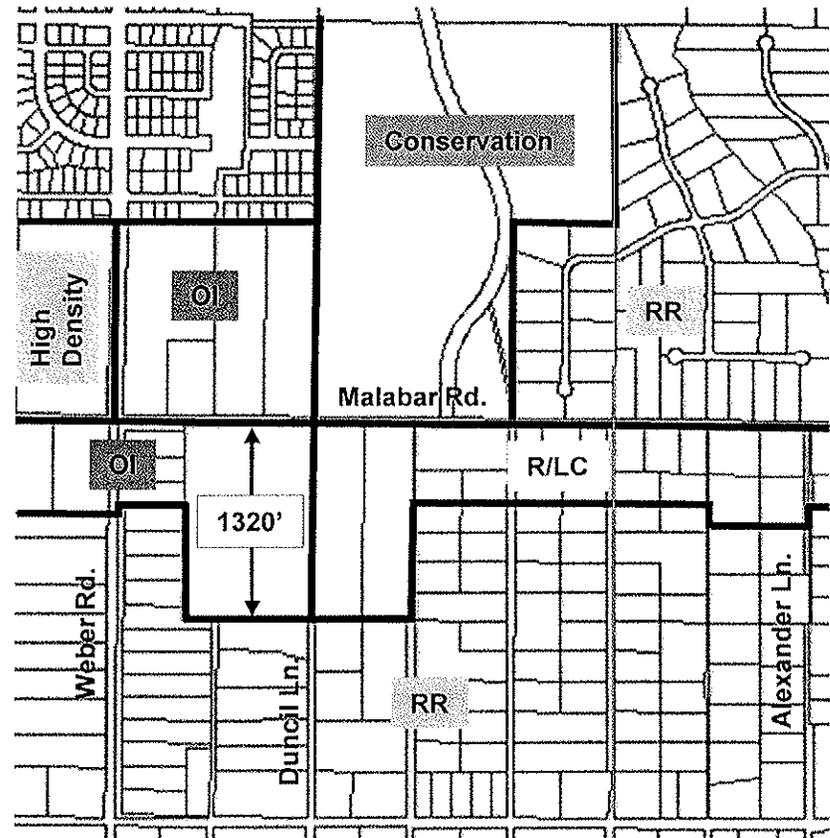


Land Use Along Malabar Rd. (Weber Rd. to Alexander Ln.)

Present Land Use

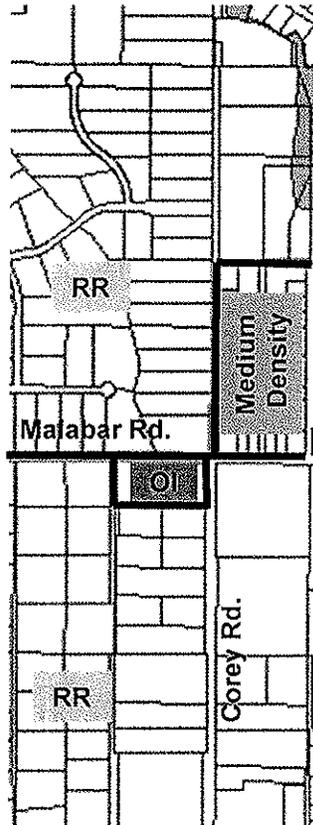


Proposed Land Use

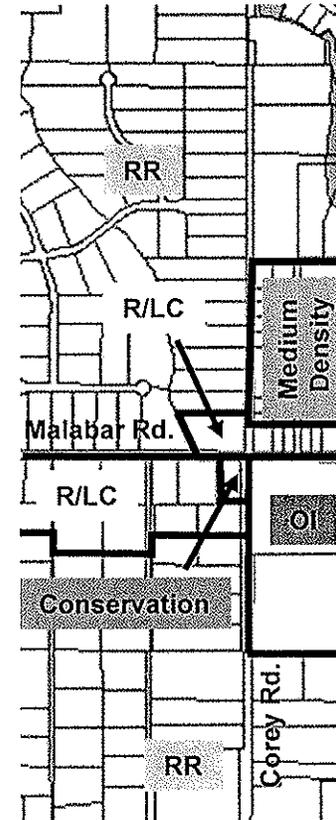


Land Use Along Malabar Rd. (Alexander Ln. to Corey Rd.)

Present Land Use

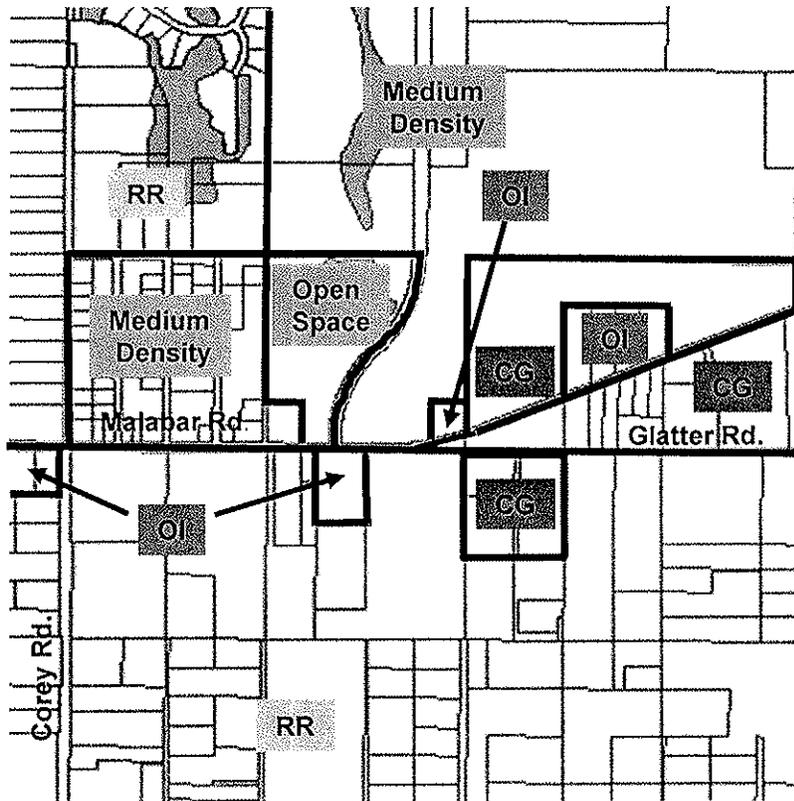


Proposed Land Use

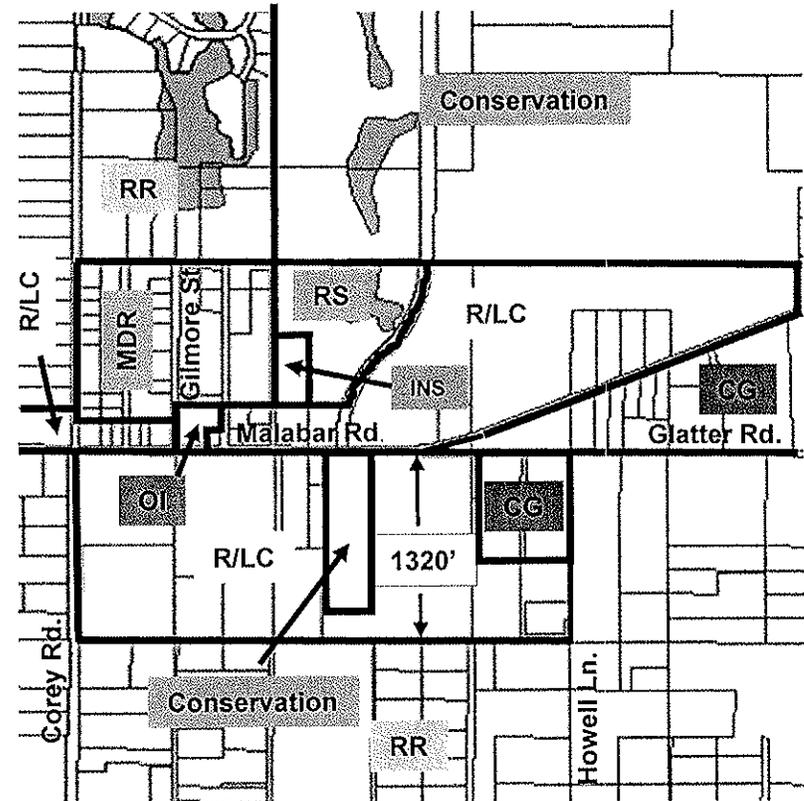


Land Use Along Malabar Rd. (Corey Rd. to Marie St.)

Present Land Use

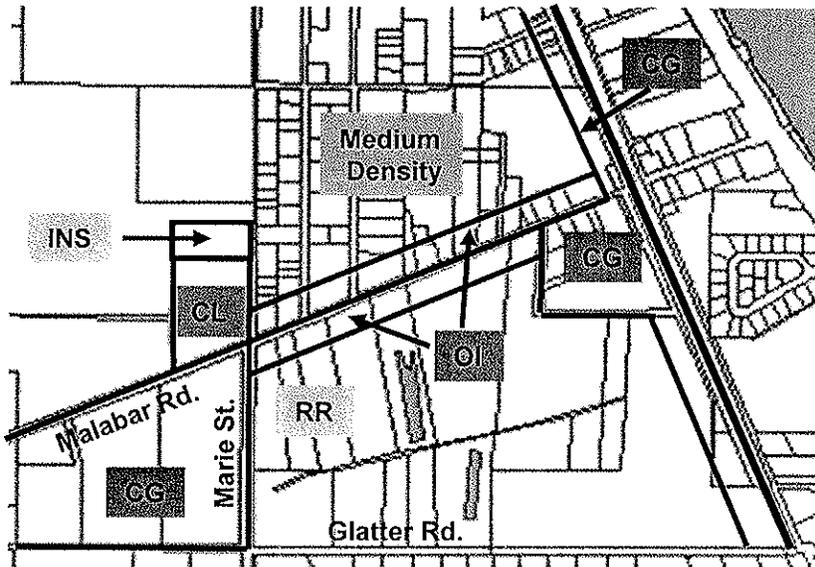


Proposed Land Use

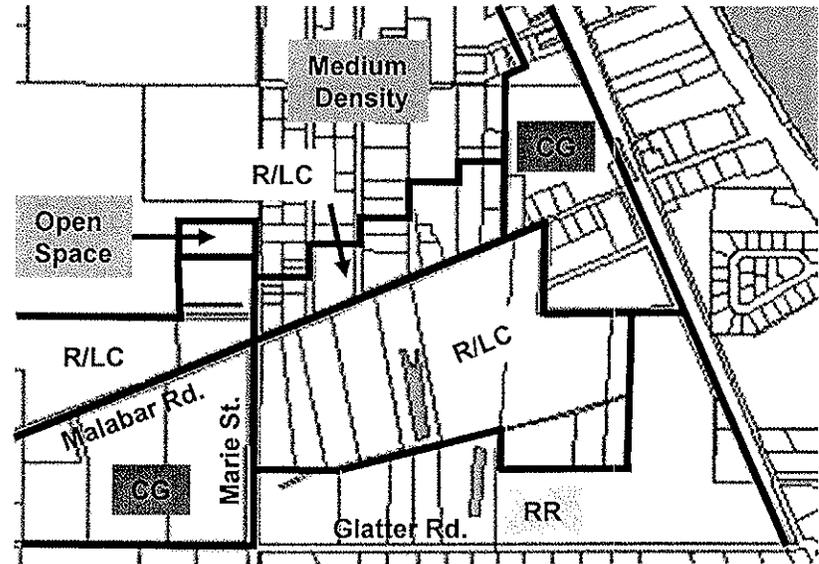


Land Use Along Malabar Rd. (Marie St. to RR Tracks)

Present Land Use

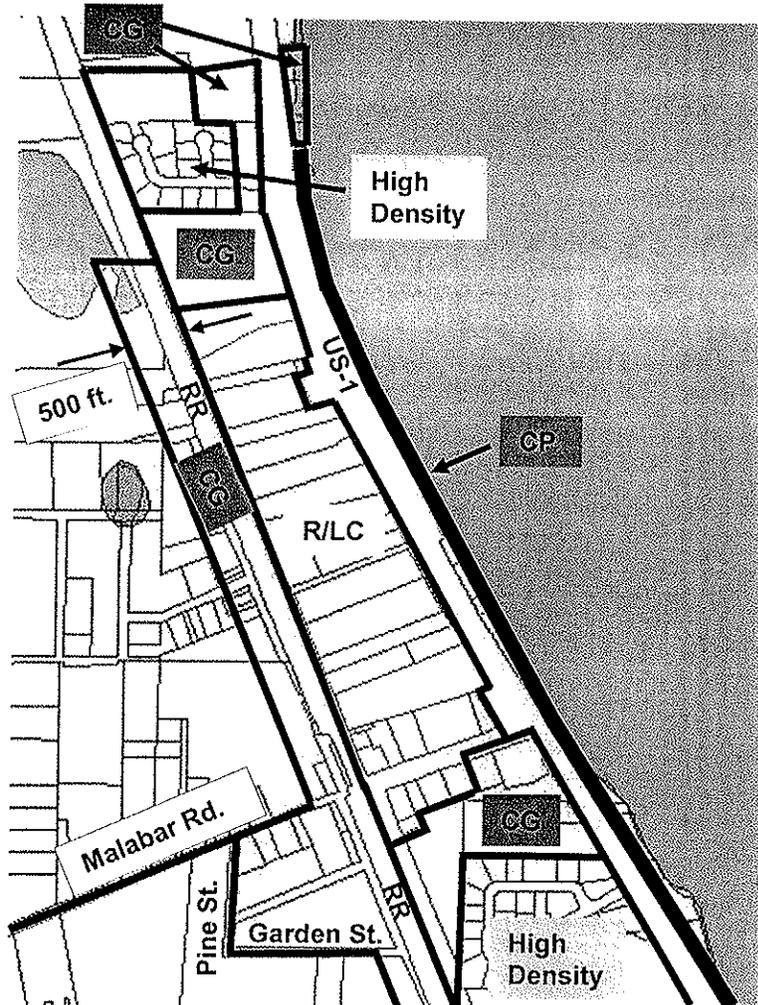


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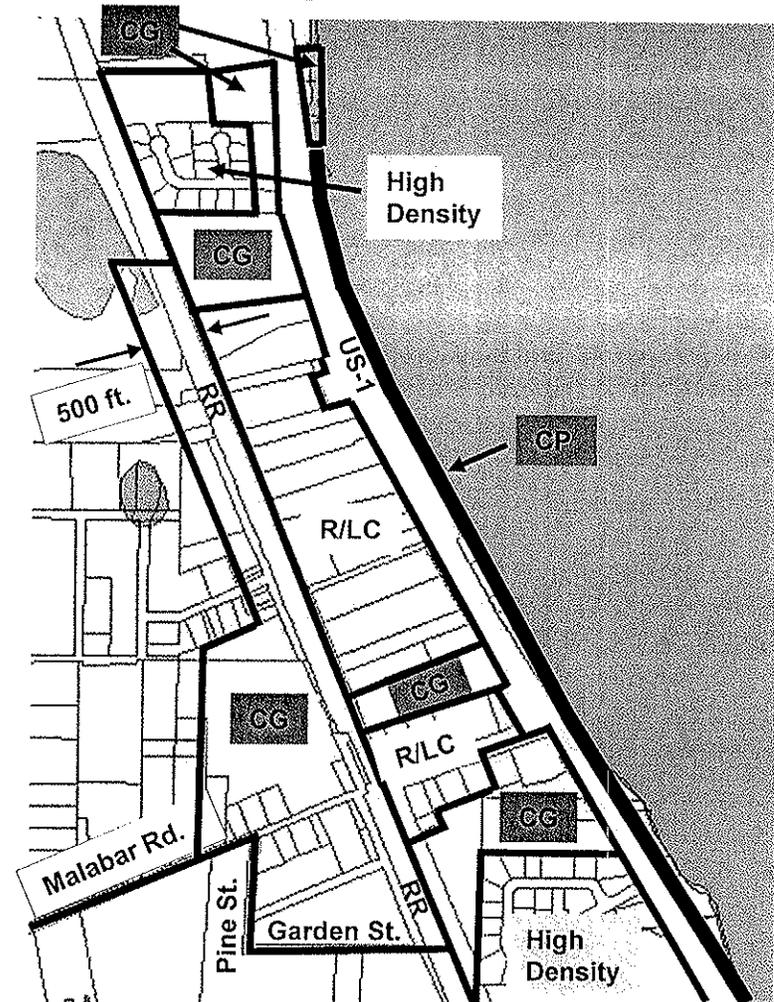


Land Use Along US-1 (North end of Malabar)

Present Land Use

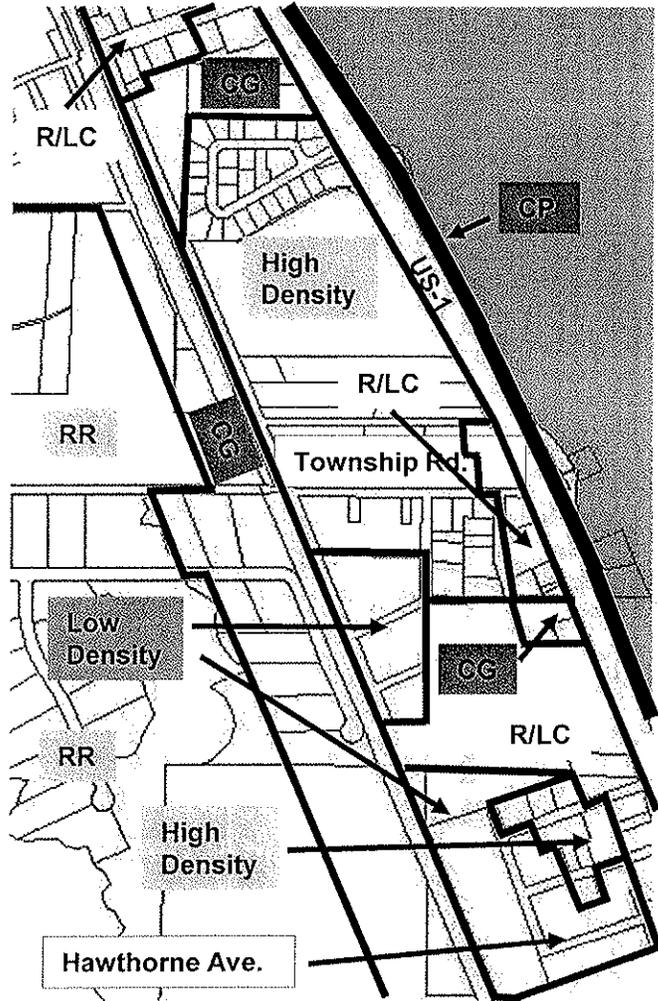


Proposed Land Use

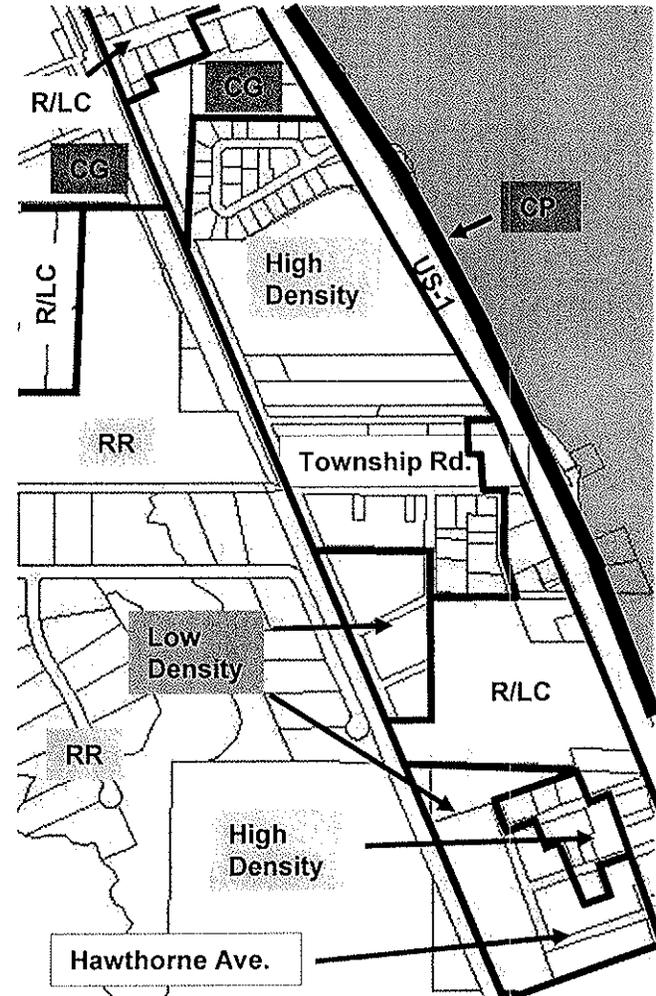


Land Use Along US-1 (Malabar Rd. to Hawthorn Ave.)

Present Land Use

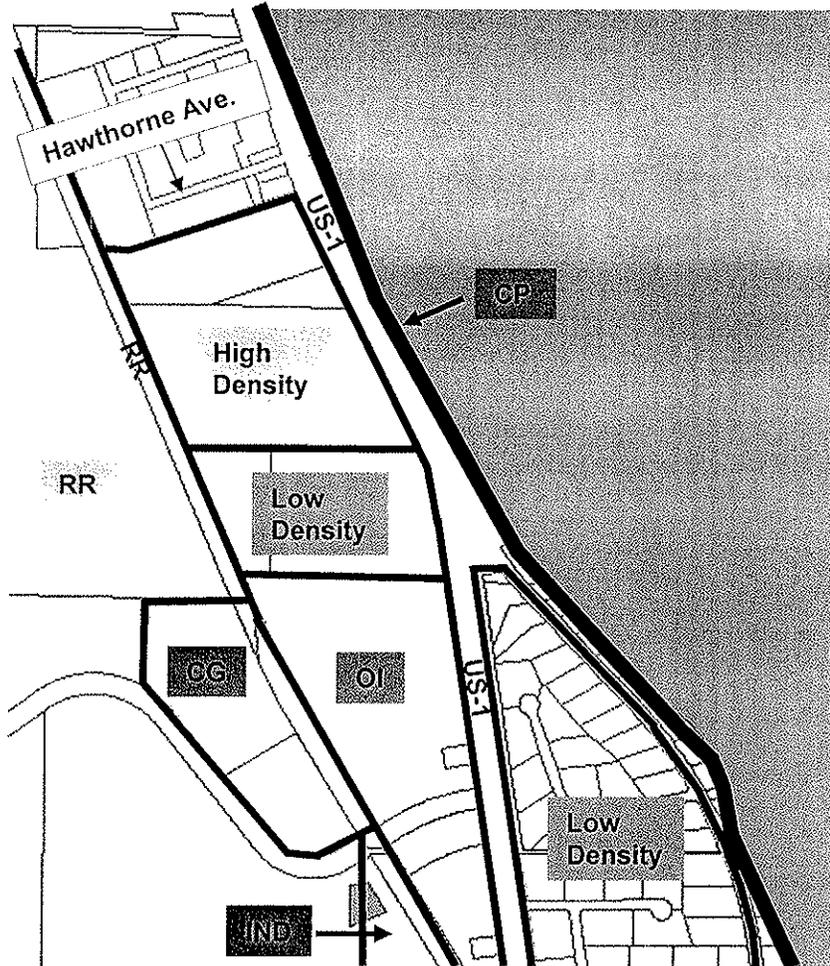


Proposed Land Use

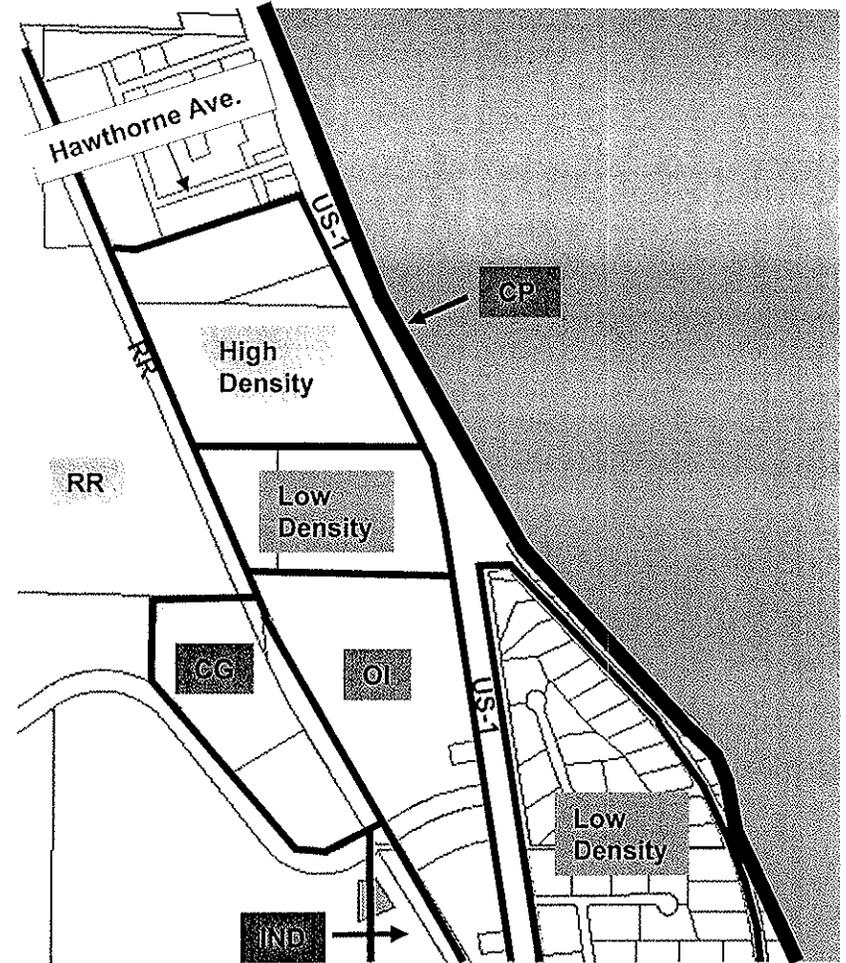


Land Use Along US-1 (North Rocky Point)

Present Land Use



Proposed Land Use



No Change from Present

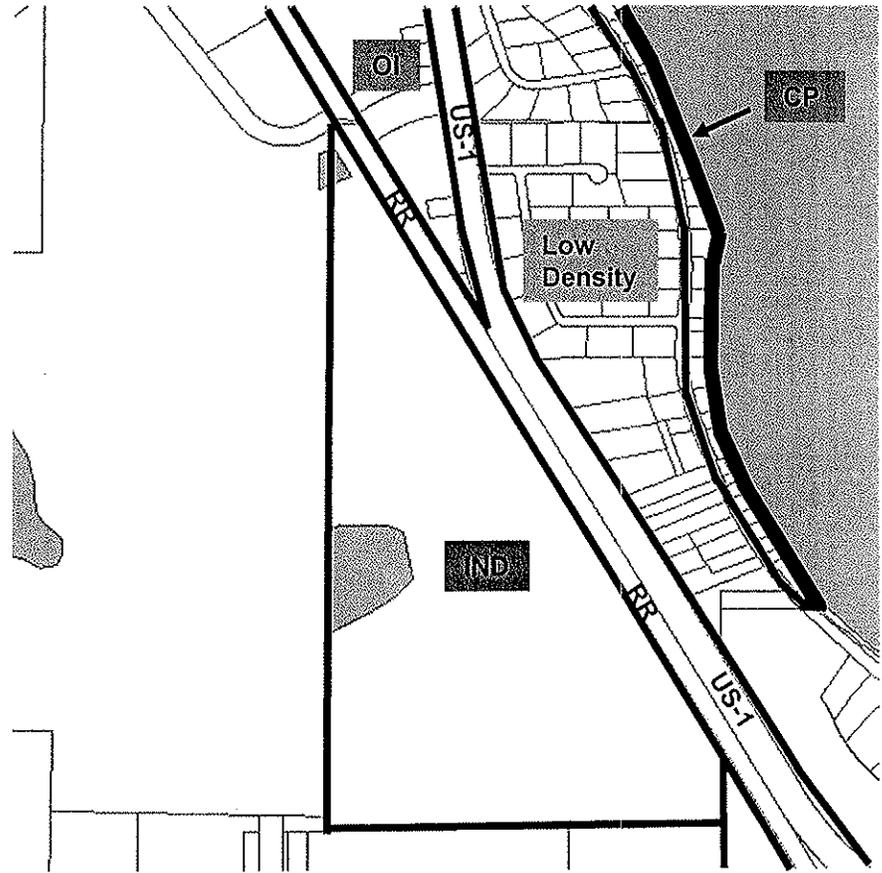
August 24, 2015

Land Use Along US-1 (Rocky Point)

Present Land Use



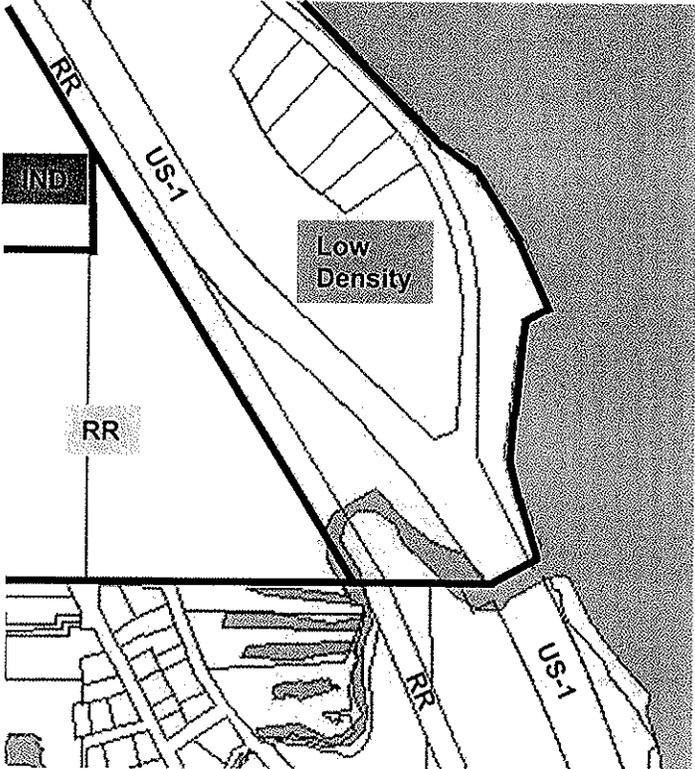
Proposed Land Use



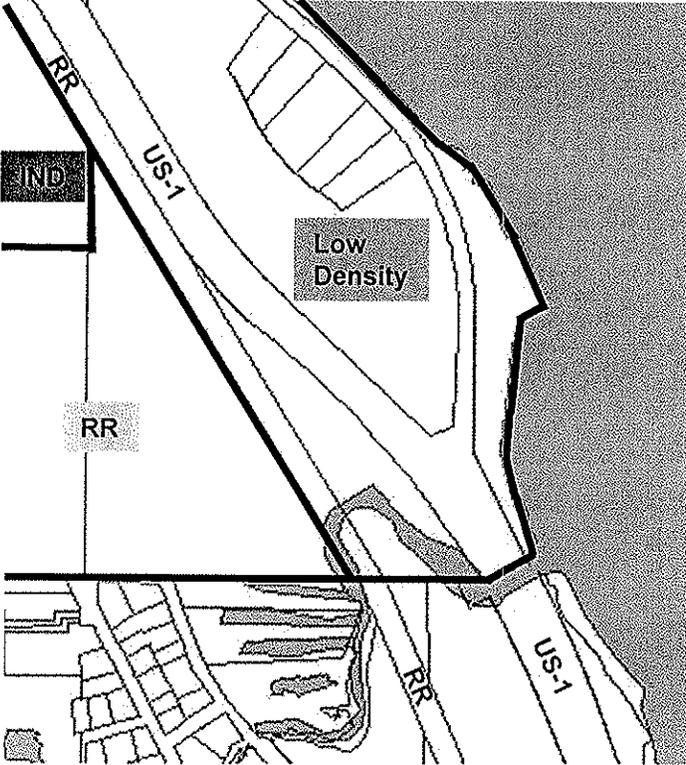
No Change from Present

Land Use Along US-1 (South Rocky Point)

Present Land Use



Proposed Land Use



No Change from Present

PORTION OF DISTRICT PROVISIONS ARTICLE III

Clean Copy (easier reading) (updated 4/22/2015 by Pat Reilly/Denine Shear)

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 Rural Residential and Limited Commercial developed on the Comprehensive Plan Future Land Use Map (FLUM). R/LC is intended for flexible land uses including elements of rural and agricultural applications as well as allowing limited commercial applications within a mixed-use district(s). A Malabar Vernacular Style is required for all development along arterial roadways. (see Article V General Provisions Section 1-5.29)

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(s) housing both Residential and Limited Commercial activities. The R/LC district is intended and shall be interpreted to be a "residential" district, until such time as application is made and accepted for a Limited Commercial activity, and shall then comply with the required setbacks and other size and dimension provisions referenced by zoning district as shown in Table 1-3.3(A).

Such development is intended to accommodate Rural Residential activities together with Limited Commercial goods and services on specific sites designated "R/LC". This residential land use shall permit multiple family residential development, limited commercial development separately where current infrastructure allows, or as a combination of these uses as regulated by Table 1-3.1 and Table 1-3.3(A).

Residential and Limited Commercial activities shall generally cater to the local residential markets within the town as opposed to regional markets or specialized markets with customized market demands.

Residential Dwelling unit(s) shall not exceed commercial use(s) by more than one as regulated by Table 1-3.1.

Limited Commercial use(s) shall not exceed residential dwelling unit(s) by more than one as regulated by Table 1-3.1.

Table 1-3.1. Permitted Combinations of R/LC Land Uses

Total Units/ Uses	Residential	Limited Commercial
1	1	0
1	0	1
2	1	1
3	2	1
3	1	2
4	2	2
5	3	2
5	2	3
6	3	3

(Ord. No. 94-4, § 2.1-3-95; Ord. No. 07-02, §§ 1-4.4-2-07; Ord. No. 14-01, § 2.2-3-14)

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			
COMMUNITY FACILITIES														
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship	C	C	C	C	C	C		P, A ¹	P	P	P		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Fa- cilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	
COMMUNITY RESIDENTIAL HOME														
Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	
ASSISTED CARE COMMUNITIES														
I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								
Level 3 (16 or more residents/ beds)					C ⁴	C ⁴								
II Adult Family-Care Homes (1 to 5 residents/beds)														
	C ³	C	C	C	C	C					C			
III Adult Day Care Centers														
					C	C		C			C		C	
AGRICULTURAL ACTIVITIES														

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities														
Bars and Lounges										C				
Bed and Breakfast										C				
Business and Professional Offices											P ¹			
Enclosed Commercial Amusement								P	P	P	P	P	P	
Arcade Amusement Center/ Electronic Gaming Establishment										P				
Funeral Homes										C ²				
General Retail Sales and Services									P	P	C			
Hotels and Motels										P				
Limited Commercial Activities										P	P			
Marine Commercial Activities										C*				
Medical Services								P	P	P	P			
Mini Warehouse/Storage									C	P		P		
Parking Lots and Facilities								P	P	P	P		P	
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales													C*	
Trades and Skilled Services										C*		C*		
Veterinary Medical Services								P	P	C*	C	P		
Vehicular Sales and Services										C*		P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		
INDUSTRIAL ACTIVITIES														
Kennels												C		
Manufacturing Activities												P		

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Manufacturing Service Establishments												P		
Vehicle and Other Mechanical Repair and Services										C*		P		
Warehouse, Storage and Distribution Activities												P		
WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES														
Noncommercial piers, boat slips, and docks														C

C = Conditional Use

P = Permitted Uses

A = Accessory Use

* = These uses are permitted only on sites abutting Babcock Street, US 1, and West Railroad Avenue.

1 = Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

¹ Any Bed and Breakfast which is proposed to have more than five (5) living quarters shall only be approved as a conditional use in accordance with Article VI of the Land Development Regulations.

² Any Arcade Amusement Center and Electronic Gaming Establishment as defined herein shall only be approved as a conditional use in accordance with Article VI of the Malabar Land Development Code.

³ Allowed in RR-65, (1 to 2 residents/beds) as defined in FS Title XXX Chapters 419 & 429

⁴ ALF Factor of "3" (see section 1-2.6.B.13.B, Part I) only applies to RM-4 & RM-6 for ALF's

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14)

Section 1-3.3. Size and dimension criteria.

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

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

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

TABLE 1-3.3(A). SIZE AND DIMENSION REGULATIONS

Zoning District	Minimum Lot (1)				Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)	Maximum Height (ft. / stories)		Front	Rear	Side (1)	Side (C)				
Rural Residential Development													
RR-65	65,240	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
Multiple Family Residential Development													
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6
Mixed Use Development													
R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6
					Commercial: Min. Area: 900						0.20		
Mobile Home Residential Development													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
Office Development													

DISTRICT PROVISIONS

§ 1-3.3

*
R/LC

Zoning District	Minimum Lot (1)			Maximum Height (ft./ stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
O1	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A
Commercial Development													
CL	20,000	100	150	35/3	Minimum Floor Area: 900	60	25	10 ⁴ 15 ³	20	65	0.20	35	N/A
					Min. Area: 900 Max. Area 4,000								
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/ Motel Area: 300 Each Unit	50	25	20 ⁴ 15 ³	30	65	0.20	35	N/A
Industrial Development													
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 ⁶	25 100 ⁶	20 100 ⁶	30 100 ⁶	70	0.42	30	N/A
Institutional Development													
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 ⁶	40	N/A
Coastal Preservation													
CP	No Size or Dimension Standards Adopted												

¹Minimum size sites and lots include one-half of adjacent public right-of-way.

²Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.

³Setback where rear lot line abuts an alley.

⁴Setback 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.

⁵Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.

⁶Recreation activities maximum FAR shall be .10.

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

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

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

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

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

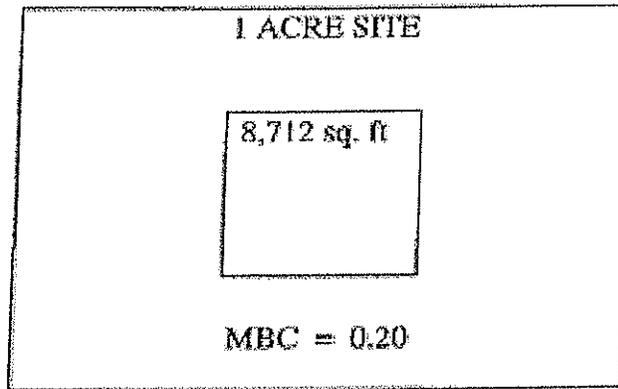
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

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

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

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

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



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

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

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

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

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

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: August 26, 2015

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

SUBJECT: Discuss Amending Assisted Living Facility (ALF) Ordinance 2014- 01 in ref: to Office Institutional (OI) Zoning.

BACKGROUND/HISTORY:

The Town Attorney brought to Debby Franklin Town Clerk/Treasurers attention that he discover a contradiction in the adopted Ordinance in reference to "OI" Office Institutional.

ATTACHMENTS:

- Memo from Debby Franklin, Town Clerk/Treasurer #2011-TC/T-079 (July 6, 2011)
- Portion of RTCM Minutes 06/20/2011
- ALF Adopted Ordinance 2014-01

ACTION OPTIONS:

Discussion

TOWN OF MALABAR

MEMORANDUM

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

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

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

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

K. ACTIONS ITEMS:

ORDINANCE: First Reading

4. Amend Code to Provide Regulations for Adult Care Facility (Ord 2011-38)

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

Mayor read by title only.

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

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Speakers cards on this.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

Malabar Ordinance

No. 2014-01

Assisted Living Facilities (ALF)

ORDINANCE 2014-01

A 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 PUBLIC HEALTH CARE FACILITIES AND SOCIAL WELFARE FACILITIES; 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 AMENDING REFERENCES TO NURSING HOMES AND HOSPITALS AND PROVIDING FOR COMMUNITY RESIDENTIAL HOMES AND ASSISTED CARE COMMUNITIES; AMENDING TABLE 1-6.1 (B) REMOVING REFERENCES TO GROUP HOMES AND AMENDING REFERENCES TO NURSING HOMES AND HOSPITALS AND PROVIDING FOR COMMUNITY RESIDENTIAL HOMES AND ASSISTED CARE COMMUNITIES; AMENDING SECTION 1-9.2; ESTABLISHING PARKING REQUIREMENTS FOR PUBLIC HEALTH FACILITIES AND SOCIAL WELFARE FACILITIES; AMENDING SECTION 1-20.2 OF ARTICLE XX, DEFINITIONS; PROVIDING FOR DEFINITIONS OF HOSPITAL AND OTHER LICENSED FACILITIES, ADULT FAMILY-CARE HOME, ASSISTED LIVING FACILITY, ADULT DAY CARE CENTERS AND COMMUNITY RESIDENTIAL HOME; 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. *Cemetery.* Property used for the interring of the dead.
3. *Child Care Services.* Activities typically performed by an agency, organization or individual providing day care without living accommodations for preteens not related by blood or marriage to, and not the legal wards or foster children of, the attendant adult.
4. *Clubs and Lodges (Not-for-Profit).* Activities typically performed by a group of persons for social or recreational purposes not operated for profit and not including activities which primarily render services which are customarily carried on as a business for profit.

5. *Cultural or Civic Activities.* Activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as literature, science, music, drama, art or similar objectives.

6. *Educational Institutions.* A place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.

7. *Golf Course and Support Facilities.* A golf course is comprised of at least nine separate holes and may be regulation length, executive length, or par three (3) length. A golf course shall be required to comply with recommended minimum design standards established by the U.S. Golf Association or the American Society of Golf Course Architects. The following acreage requirements shall be the minimum standards for a golf course:

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

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

8. *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.

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

10. *Public Health Facilities*

The Town has labeled the facilities below as Public Health Facilities. These facilities are also referenced in Florida Statutes, Title XXIX, in Chapters 395 and 408. Notwithstanding the identification of other facilities in Florida Statutes, Title XXIX, in Chapters 395 and 408, the facilities below are the only Public Health Facilities provided for by the Town.

A. Hospital and other Licensed Facilities

"Hospital and other Licensed Facilities " means any establishment that:

- (a) Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours

by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

(b) Regularly makes 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.

However, the provisions of this chapter do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. Refer to Chapters 395 and 408.

B. Nursing Homes and Related Health Care Facilities

Refer to Chapters 400 and 408 for the definitions and requirements of the following Nursing Home and Health Care Facilities.

Part I Long-Term Care Facilities

“Long-term care facility” means a nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility (additional reference: see Florida Statutes, Title XXX, Chapter 429, Social Welfare).

Part II Nursing Homes

“Nursing Home Facility” means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Part V Intermediate, Special Services, and Transitional Living Facilities

Intermediate care facilities; intent.—The Legislature recognizes the need to develop a continuum of long-term care in this state to meet the needs of the elderly and disabled persons. The Legislature finds that there is a gap between the level of care provided in assisted living facilities and in nursing homes. The Legislature finds that exploration of intermediate-level care facilities which would fill the gap between assisted living facilities and nursing homes, where both the federal and state

government share the cost of providing care, is an appropriate option to explore in the continuum of care.

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

12. *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.

13. *Social Welfare Facilities*

The Town has labeled the facilities below as Social Welfare Facilities. These facilities are also referenced in Florida Statutes, Title XXX, in Chapters 408 and 430. Notwithstanding the identification of other facilities in Florida Statutes, Title XXX, in Chapters 408 and 430, the facilities below are the only Social Welfare Facilities provided for by the Town.

A. Community Residential Homes

“Community Residential Home” means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency of Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Refer to Chapters 408 and 419.

There are 2 levels of Community Residential Homes:

- Level 1 is between 1 to 6 residents/beds
- Level 2 is between 7 to 14 residents/beds

B. Assisted Care Communities

Part I Assisted Living Facilities

“Assisted Living Facility (ALF)” means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. Refer to Chapter 408 and 429.

There are 3 levels of Assisted Living Facilities:

- Level 1 is between 1 to 5 residents/beds
- Level 2 is between 6 and 15 residents/beds
- Level 3 is 16 residents/beds or more

In the RM-4 and RM-6 zoning districts, an ALF Factor of 3 will be used to determine the residents/bed density. For example, RM-4 is allowed 4 units per acre multiplied

by the 3 ALF Factor is equal to 12 residents/beds per acre. RM-6 is allowed 6 units per acre multiplied by the 3 ALF Factor is equal to 18 residents/beds per acre.

Part II Adult Family-Care Homes

“Adult Family-Care Homes” means a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives. Refer to Chapters 408 and 429.

Part III Adult Day Care Centers

“Adult Day Care Centers” or center means any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Refer to Chapters 408 and 429.”

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 Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), 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, Community Facilities, is hereby amended to delete references to “Group Homes”, and by amending references to “Hospitals and Extended Care Facilities” and “Nursing Homes (including Rest Homes and Convalescent Homes)” and adding references to Community Residential Home and Assisted Care Communities to read as follows:

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
<u>“COMMUNITY FACILITIES</u>														
<u>Group Homes</u>					C	C		C			P		C	
<u>Hospitals and Extended-Care other Licensed Facilities</u>								C						
<u>Nursing Homes (including Rest Homes and Convalescent Homes) and Related Health Care Facilities</u>					C	C		C			G		C	
<u>Community Residential Home</u>														
<u>Level 1 (1 to 6 residents/beds)</u>	C (3)				C	C								
<u>Level 2 (7 to 14 residents/beds)</u>					C	C							C	
<u>Assisted Care Communities</u>														
<u>I Assisted Living Facility</u>														
<u>Level 1 (1 to 5 residents/beds)</u>		C	C	C	C (4)	C (4)					C			
<u>Level 2 (6 to 15 residents/beds)</u>					C (4)	C (4)								
<u>Level 3 (16 or more residents/beds)</u>					C (4)	C (4)								
<u>II Adult Family-Care Homes</u>														
<u>(1 to 5 residents/beds)</u>	C (3)	C	C	C	C	C					C			
<u>III Adult Day Care Centers</u>					C	C		C			C		C	

(3) Allowed in RR-65, (1 to 2 residents/beds) as defined in FS Title XXX Chapters 419 & 429

(4) ALF Factor of “3” (see section 1-2.6.B.13.B, Part I) only applies to RM-4 & RM-6 for ALF’s”

Section 4. Table 1-6.1(B) is hereby amended to delete references to “Group Homes”, and by amending references to “Hospitals and Extended Care Facilities” and “Nursing Homes (including Rest Homes and Convalescent Homes)” and adding references to Community Residential Home and Assisted Care Communities to read as follows:

“Conditional Land Uses	Minimum Size Site (3)	Minimum Width/Depth (feet) (3)	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)
Hospitals and Extended-Care-other Licensed Facilities	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Nursing Homes (including Rest Homes and Convalescent Homes) and Related Health Care Facilities	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
<u>Community Residential Home</u>							
Level 1 (1 to 6 residents/beds)	1.5 acres	210	Paved	60/30	25/20	Type A/C	(7)
Level 2 (7 to 14 residents/beds)	3 acres	210	Paved	60/30	25/20	Type A/C	(7)
<u>Assisted Care Communities</u>							
I. Assisted Living Facility							
Level 1 (1 to 5 residents/beds)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15 residents/beds)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (16 or more residents/beds)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
II. Adult Family- Care Homes							
(1 to 5 residents/beds)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
III. Adult Day Care Facilities	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)

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“(3) Minimum spatial requirements shall comply with the requirements established by the Town of Malabar District Provisions or the Florida Statues, whichever requirement is greater.”

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Section 5. Section 1-9.2 is amended to include the following:

11. *Social Welfare Facilities.* One (1) space for every three (3) residents/beds plus one (1) space per employee on the largest shift.”

12. *Public Health Facilities.* One (1) space for each five (5) beds plus one (1) space for each employee, including doctors, or one (1) space for per three hundred (300) feet of building area, whichever is greater.”

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Section 6. Section 1-20.2 of Article XX is amended by deleting the definition for “*Group Care Facility*” and amending “*Extended Care Facility*” and establishing the following additional definitions:

“*Hospital and other Licensed Facilities*” As defined in section 1-2.6.B.10.A

“*Adult Family-Care Home*” As defined in section 1-2.6.B.13.B, Part II.

“*Assisted Living Facility*” As defined in section 1-2.6.B.12.B, Part I.

“*Adult Day Care Centers*” As defined in section 1-2.6.B.13.B, Part III

“*Community Residential Home*” As defined in section 1-2.6.B.13.A.”

Section 7. 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 8. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 9. Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

Section 10. This Ordinance shall become effective immediately upon its adoption.

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

- Council Member James Milucky
- Council Member Wayne Abare
- Council Member Steven (Steve) Rivet
- Council Member Dick Korn
- Council Member Marisa Acquaviva

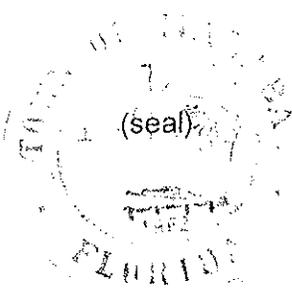
Aye
Aye
Aye
Aye
Aye

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 3rd day of February, 2014.

Town of Malabar
no signature – veto by Mayor
Carl A. Beatty, Mayor

First Reading 1/6/14 PASSED 5/0
Second Reading 2/3/14
Vetoed by Mayor 2/12/14
Council Vote to Override 3/3/14

Results:
Jim Milucky Aye
Wayne Abare Aye
Steve Rivet Aye
Dick Korn Aye
Marisa Acquaviva Aye



Ordinance adopted / fails (circle one)

TOWN OF MALABAR
By: [Signature]
Steve Rivet, Council Chair

ATTEST:
By: [Signature]
Debby K. Franklin, C.M.C.
Town Clerk/Treasurer

Approved as to form and content:
[Signature]
Karl W. Bohne, Jr., Town Attorney