

EVALUATION AND APPRAISAL REPORT of the Malabar Comprehensive Plan

2007



TOWN OF MALABAR, FLORIDA

Prepared by



Calvin, Giordano & Associates, Inc.

EXCEPTIONAL SOLUTIONS

1800 Eller Drive, Suite 600, Fort Lauderdale, Florida 33316

Phone: 954.921.7781 • Fax: 954.921.8807

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Acknowledgements

The Evaluation and Appraisal Report (EAR) of the Comprehensive Plan for the Town of Malabar has been developed by Town Staff and Consultants working with residents, the Town Council, and Brevard County.

The 2007 EAR process took place under the direction of:

Town Council

Tom Eschenberg, Mayor
Nancy Borton, District 1
Brain Vail, District 2
Chuck McClelland, District 3
Jeffrey McKnight, District 4
Pat Dezman, District 5

Town Staff

Bonilyn Wilbanks-Free, Town Administrator
Debby Franklin, Clerk/Treasurer

Consultants

Calvin-Giordano and Associates, Inc.

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CHAPTER ONE

INTRODUCTION

Malabar is a small town located directly along the west coast of Indian River and extending to I-95 in Brevard County, Florida. Incorporated in 1962, Malabar now has an estimated population of 2,842, according to 2005 census data, and a land area of approximately 6,372 acres. The town is mostly a rural-oriented community with predominantly low density housing through out the town and commerce along major arterials such as US 1 and Malabar Road. Still some areas dedicated to agriculture and many areas within Malabar are covered by swamp and wetlands as well. Much of Malabar is undeveloped land accounting for approximately 4,117 acres.

In 1988 the Town adopted its Comprehensive Plan, and has since then implemented a number of policies to achieve the Goals and Objectives of the comprehensive plan. However, the Comprehensive Plan has not formally undergone and EAR after its adoption in 1988. During the first round of EARs in the 1990s, the Town of Malabar was exempt from writing an EAR because its population was less than 2,500.

Purpose of the EAR

The Local Government Comprehensive Planning and Land Development Act, Chapter 163, Part II of the Florida Statutes (F.S.) directs local governments to evaluate and assess the overall performance of their Comprehensive Plans at least every seven years. Accordingly, the purpose of the EAR for the Town of Malabar Comprehensive Plan is to:

- Identify major issues (current and future) for the Town;
- Assess how the plan has guided growth and development since its 1988 adoption of the Comprehensive Plan;
- Identify and evaluate changing conditions and trends, as they relate to the major issues identified;
- Assess both successes and shortcomings of the plan; and
- Identify changes to the Plan to effectively manage growth and impacts into the next 15-20 years.

This assessment will allow the Town to amend the Comprehensive Plan to update it to current statutory requirements and the Town's current vision. These EAR-based amendments are expected to occur according to the following schedule:

Schedule for Adoption of EAR-Based Amendments:

December 2007.....EAR Adoption
March 2008.....DCA EAR Sufficiency Determination
May-August 2008.....Prepare Amendments Package
September/October 2008.....Public meetings on Propose and transmit to DCA
April 2009Adopt EAR-Based Amendments

Schedule for Other State-required amendments:

- February 2008.....Public School Facilities Element
- June 2008.....Future Land Use/Coastal Management Element
Amendments related to new definition of Coastal
High Hazard Areas
- October 2008.....Capital Improvement Element Update

Other Comprehensive Plan-related requirements:

- March 2008..... Ordinance regarding methodology for proportionate
fair share mitigation for transportation improvements

Public Participation Process

In September 2007, the Town retained Calvin, Giordano & Associates, and a planning services consultant, to assist with the preparation of the EAR for the Town. On October 1, 2007, the Town of Malabar held an advertised public scoping meeting with area reviewing agencies, the Town Council, Planning and Zoning Advisory Board, and Town residents to receive input on key planning issues required to be addressed in the Town’s Evaluation and Appraisal Report (EAR). Thirty residents attended the meeting at the Malabar Town Hall.

The Planning and Zoning Advisory Board will review the EAR in a public hearing on December 12, 2007 and provide a recommendation on adoption of the report to the Town Council. The Town Council will consider adoption of the EAR in a public hearing on December 17, 2007.

The public hearings held by the Planning and Zoning Advisory Board and Town Council were advertised in the local newspaper of general circulation.

Regional Vision

The Town subscribes to the Central Florida Regional Growth Vision: How Shall We Grow? Project as noted on the website www.myregion.org. Myregion.org is “an organization of citizens and leaders from public, private and institutional sectors who have launched a program to prepare the Central Florida Region to compete more effectively in the 21st century while enhancing the quality of life of its citizenry.” The project is supported by the Florida Department of Community Affairs (FDCA), Florida Department of Transportation (FDOT), Central Florida MPO Alliance, the East Central Florida Regional Planning Council (ECFRPC),

Four key themes emerged from the How Shall We Grow? campaign demonstrating how the future of Central Florida can be different if future policies and practices are based on the 4 C's: Conservation, Countryside, Centers and Corridors:

- Conservation- Establish a "Green Areas" conservation footprint.
- Countryside- Preserve countryside outside of centers.
- Centers - Promote growth in current city, town or village centers and encourage the development of additional population centers to counter the current pattern of sprawling development.
- Corridors - Connect centers with a balance of roads, light rail, streetcars and buses planned by county transportation planners cooperating regionally.

The recommendations in this Evaluation and Appraisal Report reflect the wishes and desires of the Town of Malabar and coordination with the 4 C's of the How Shall We Grow? Project.

Scope of Work

On October 16, 2007, a letter from the consultant was sent to the Department of Community Affairs (DCA) which outlined the scope of work and issues to be addressed during the EAR process as regulated by 163.3191, Florida Statutes. The Town received a Letter of Understanding from DCA dated November 21, 2007 affirming the scope. On December 17, 2007, the Town Council held a public hearing to adopt the Evaluation and Appraisal Report.

The following provides a scope of work for the Evaluation and Appraisal Report based upon 163.3191, F.S. Page numbers indicating the section of the report where the topic is covered are listed here as well.

(a) Population growth and changes in land area, including annexation, since the adoption of the original plan or the most recent update amendments.

(b) The extent of vacant and developable land.

(c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.

(d) Location of development as anticipated in the original plan, or in the plan as amended by the most recent evaluation and appraisal report update amendments, such as within areas designated for urban growth.

(e) An identification of the major issues for the jurisdiction and, where pertinent, the potential social, economic, and environmental impacts.

(f) Relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

(g) An assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved. The report shall include, as appropriate, an identification as to whether unforeseen or unanticipated changes in circumstances have resulted in problems or opportunities with respect to major issues identified in each element and the social, economic, and environmental impacts of the issue.

(h) A brief assessment of successes and shortcomings related to each element of the plan including a brief overview of each element.

(i) The identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report. Such identification shall include, as appropriate, new population projections, new revised planning timeframes, a revised future conditions map or map series, an updated capital improvements element, and any new and revised goals, objectives, and policies for major issues identified within each element. This paragraph shall not require the submittal of the plan amendments with the evaluation and appraisal report.

(j) A summary of the public participation program and activities undertaken by the Town in preparing the report.

(k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable educational facilities plan adopted pursuant to s. 1013.35. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decision making processes engaged in by the Town and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. (Page 43)

(l) The extent to which the Town has been coordinating water supply planning with land successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in s.73.0361(2)(a) within the Town's jurisdiction. The report will evaluate the degree to which the Town has implemented the work plan for building public, private, and regional water supply facilities, including the development of alternative water supplies identified in the element as necessary to serve existing and new development.

(m) If any of the jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs, including, but not limited to, redevelopment following a natural disaster. The property rights of current

residents shall be balanced with public safety considerations. The local government must identify strategies to address redevelopment feasibility and the property rights of affected residents. These strategies may include the authorization of redevelopment up to the actual built density in existence on the property prior to the natural disaster or redevelopment.

Please note that the following sections of 163.3191 are not applicable to the assessment to the Town of Malabar Comprehensive Plan (n) regarding compatibility with military stations, and (o) regarding concurrency exception areas

(p) An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system in coordination with the municipalities and counties, as appropriate pursuant s. 163.3180.

Local Issues Identified

163.3191[1][c], Florida Statutes requires local governments to only address the subjects within the plan that are important issues for those communities. In October 2007, the Town held a Scoping Meeting with area reviewing agencies, the Town Council, the Planning and Zoning Advisory Board and residents to receive input on development-related issues. A major issues list was developed based upon this input.

Major issues to be addressed include the following:

- 1a. Enhancing Indian River Lagoon access
- 1b. Enhancing historic features particularly the mail route historic
2. Need for a corridor plan along Malabar Road
3. Improve pedestrian/bike/equestrian connectivity
4. Timing of infrastructure improvements
5. Enhance and protect rural atmosphere
6. Address blight and redevelopment
7. Stormwater management and Indian River Lagoon water quality

Relevant sections of the Comprehensive Plan, impacts of the issue, and suggested revisions are discussed in this Chapter.

Local Issue 1a. Enhancing Indian River Lagoon access.

Define/Describe the Issue. How does the past compare to the present with respect to the issue? How was the issue treated in the existing plan?

Access to the Indian River Lagoon (IRL) has been identified as a major issue by the residents of the Town of Malabar. Access to the waterfront in one form or another is a part of the lifestyle of the residents. Due to the desirability of waterfront property for private development, the Town needs to be proactive in acquiring and enhancing waterfront properties to ensure public access is available.

The 1988 Data Inventory and Analysis stated there were no publicly owned access facilities, defined as parks or designated access points, which provided access to the Indian River Lagoon. It did indicate that there were a number of privately owned parcels utilized by the general public. Immediately south of Malabar on US 1 there were various access points to the IRL such as at Goat Creek. The area north and south of Goat Creek was popular because of its sandy, gentle topography and adequate parking. The data indicated there were no designated scenic overlook facilities or marinas located within the Town. The only boat ramp was an undeveloped area immediately south of Goat Creek. These current conditions remain the same.

According to the existing plan, there was one public fishing pier located within the Town, owned by Brevard County which was located at the east end of Orange Avenue and US 1. This is actually the historical boat dock owned by the Town of Malabar.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

Coastal Element Objective 5-1.2 (Criteria for prioritizing shoreline uses and promoting public access to shoreline) establishes priorities in developing land use policies for shoreline uses. Water dependent recreation and pervious accessways are identified as a first priority use. Second priority is direct to water-related parking facilities for shoreline access and recreational facilities.

Under this objective, Policy 5-1.2.1 (Implementing policies for shoreline land uses) addressed shoreline access. Per section (g) shoreline access to the Indian River Lagoon shall be promoted in order to maintain accessways at one-half mile intervals along the shoreline and State assistance shall be enlisted to acquire land required to appropriately store vehicles, provide restroom facilities, and accessways designed in a manner compatible with the shoreline ecosystem. No beaches are present within the Town limits.

Land use decisions have reflected the prioritization of uses but the Town has not made progress on the promotion of shoreline access.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

Several amendments are needed in order for the Town's Comprehensive Plan to be in compliance with F.A.C. 9J-5 regarding public access. Specifically, FAC 9J-5.012 (3) (b) 9 requires the town to "Increase the amount of public access to the beach or shorelines consistent with estimated public needs." Additionally, F.A.C. 9J-5.012 (3) (c) 10 requires the town to address "providing transportation or parking facilities for beach and shoreline access." Policy statements addressing both of these points need to be adopted.

Overall the data and analysis included in the Comprehensive Plan are from 1988. This information needs to be updated to reflect the current data and conditions in the Town.

The 2007 Planning and Zoning Board had numerous suggestions to enhance access to the IRL. They suggested looking for grant funding to acquire the Nelson property. The Board stated that the Town owns a small lot at Orange Avenue and suggested doing something similar to Palm Shores and building it in conjunction with the Florida Department of Transportation. Properties along the IRL north and south of Rocky Point Road were suggested as potential public access points.

The Board also recommended revising Policy 5-1.2.1.g which requires access at one-half mile intervals because of the limited number of potential sites for public access.

Actions, such as the discussion by the Board referenced above should continue, from these discussions the Town should establish an achievable means to enhance access to the Indian River Lagoon. This may include acquiring land or working in conjunction with State or Federal partners on land acquisition of land designated for access purposes. Policy 5-1.2.1.g should be revised to set deadlines for assessing the feasibility of land acquisition to increase public access. Objectives and policies regarding land acquisition to enhance public access should be included in the Coastal Management Element in order to meet this community goal.

Local Issue 1b. Enhancing historic features (particularly the historic mail route).

Define/Describe the Issue. How does the past compare to the present with respect to the issue? How was the issue treated in the existing plan?

The first Post Office and historic mailboat stop is not identified in the Comprehensive Plan as a site of local historic significance. The historic mailboat is an important piece of history and makes the Town of Malabar unique.

On December 24, 1883 Malabar received official designation from the U.S. Postal Service. President Chester A. Arthur appointed R.A. Ward the first Postmaster for the local population of 25. Two times a week, weather permitting, a mailboat, depicted in the Malabar Town seal, hoisted sail and traveled along the shallow Intracoastal Waterway from Jacksonville to deliver the mail. A palmetto shack served as the post office. It was close to a pier north of the Malabar Road - U.S. Highway 1 intersection today. Although never built, the State of Florida had proposed a mule canal to travel inland from this area. Later the steamboat arrived and dropped off mail further to the south on piers that extended over 300 feet to reach the deeper water these craft required. In 1893 the railroad replaced mailboats for delivery of mail and other commodities.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

Coastal Element Objective 5-1.8 (Historic Resources). States that the Town shall assure that there shall be no net loss of historic resources on Town-owned property and land development regulations shall assure that historic resources on private property shall be protected, preserved, or reused in a manner sensitive to the historic properties of the site and/or structure. This objective has three policies: promoting identification of the Town's historic, archaeological, and cultural resources; performance standards for protecting sites of historic or archaeological significance; and alternatives to preserving historic or archaeological sites.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

Policy 5-1.8.1 states that the Town shall coordinate with the State Division of Historic Resources and the South Brevard Historical Society in continuing to identify, protect, analyze, and explain the Town's historical, archaeological, and cultural resources. Such efforts shall include determination of their worth and vulnerability, as well as determination of specific applicable preservation management policies. Currently, the Town has identified four (4) sites of local historic or archaeological significance.

The Town should work with the above agencies in researching the mailboat route and history. The Town should recognize the post office site and historic mail route in the Comprehensive Plan.

Local Issue 2. Need for a corridor plan along Malabar Road

Define/Describe the Issue. How does the past compare to the present with respect to the issue? How was the issue treated in the existing plan?

Malabar Road is a two lane paved road running from Indian River Lagoon to the town limits. Future land use along Malabar Road varies and includes Office Institutional, Commercial Limited, Open Space and Recreation, Medium Density Residential, High Density Residential, and Residential/Limited Commercial. However, the predominant land use along the road is Rural Residential with a density of 1 dwelling unit per 1.5 acres. While some residents would like to keep the road as a rural connector others would like to see some type of development that is compatible with the rural nature of the Town. Residents have expressed an interest in developing Malabar Road as a corridor that incorporates low density office and commercial uses in order to promote economic development and provide additional services to the Town. The general consensus on Malabar Road however is for development of a corridor plan that provides low density commercial and office uses and remains true to the spirit and rural atmosphere of the town.

A comparison of 1988 and 2007 existing land use data shows that over the years Malabar Road has seen little or no change with respect to the type and amount of development that runs adjacent to the road. The road incorporates mostly rural residential land uses to the north and south with some segregated office institutional and commercial land uses. The residential homes that currently exist along the road are no longer considered appropriate due to the access constraints and road characteristics which can be described as a main or secondary collector/distributor road rather than a local access road. The speed limit along Malabar Road also raises a concern for existing residential uses. Small clusters of commercial development have spurred along the road due to its centrality and connectivity to other arterial roads and major highways such as US1 and I-95. It is this connectivity that presents an opportunity to develop Malabar Road into a successful corridor. However, density and design standards must be carefully considered in order to preserve the town's overall rural character.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

Developing Malabar Road into a corridor will require infrastructure improvements to roads and other public facilities. Funding for these improvements can be achieved through a Capital Improvements Program (CIP) for roads, transit, water, sewer, drainage, and other improvements. Some of the objectives that have been achieved and that relate to the issue involve the creation of a residential/limited commercial land use and zoning category. This land use category provides for an additional low density commercial use which can be used along Malabar Road as part of the corridor plan.

Some of the Future Land Use Element objectives of the comprehensive plan that relate to this issue include:

Objective 1-1.2 – Allocating Commercial Development. Commercial development shall be comprised of a wide range of business uses. The allocation of land resources shall consider the location and space requirements of commercial activities and potential fiscal and environmental impacts on the Town of Malabar.

Objective 1-1.4 – Accommodate Institutional Facilities and Public Services. The Town shall assure that needed public services and facilities are developed current with new development, including adoption of an adequate facilities ordinance within its Land Development Code. The Town shall use the capital improvements program and budget process to pursue the advance acquisition of land required to provide recreation, conservation, and related public facilities.

Objective 1-1.5 – Promote Community Appearance, Natural Amenities and Urban Design Principles. The community appearance shall be reinforced and enhanced through application of the site plan review process.

Objective 1-3.3 – Prevent land uses inconsistent with Town’s character. Future land uses shall be consistent with the Town’s character, the future land use map, and other applicable laws, ordinances, and administrative rules impacting land and water resource.

Objective 1-3.8 Coordinate Timing and Staging of Public and Private Development. The location, scale, timing, and design of development shall be coordinated with public facilities and services in order to promote cost effective land development patterns and direct future development only to those areas where provisions of public facilities necessary to meet level of service standards are available concurrent with the impact of development.

Policy 2-1.1.3 Criteria for Evaluating Proposed Roadway Improvements. b. Whether the project increases efficiency of use of existing facilities, prevents or reduces future improvements costs, provides services to developed areas lacking full service, or promotes infill development.

Objective 2-1.5 Managing Traffic Circulation and Land Use. The Town shall coordinate Traffic Circulation Element with and implement programs with goals, objectives, and policies of the Land Use Element, including the Future Land Use map.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

There have not been many changes in the circumstances surrounding Malabar Road that were not anticipated for. The idea of creating a corridor along Malabar Road

resulted from the Town's desire to promote economic development and provide compatible land uses along Malabar Road. The location and connectivity to other major highways and arterials make Malabar Road suitable for commercial development. The Town's comprehensive plan will require amending in order to update and/or incorporate new Goals, Objectives, and Policies for the creation and maintenance of a corridor along Malabar Road. Policies should be aimed at conducting a feasibility study to evaluate the impacts and identify the areas best suited for development of the corridor. In addition, policies should be directed at creating an Overlay Zoning to allow for commercial/office development along Malabar Road following the recommendations of the feasibility study, and for an Access Management Plan to address right of way limitations. Policies dealing with regulatory provisions will also need to be incorporated and made part of the Land Development Code. These regulations should address at a minimum permitted land uses, densities, design standards, signage, and required improvements along the corridor. Consequently, the Capital Improvements Element should also be amended to create a program to allocate funds for the corridor project and any required improvements.

Local Issue 3. Improve pedestrian/bike/equestrian connectivity

Define/Describe the Issue. How does the past compare to the present with respect to the issue. How was the issue treated in the existing plan?

Recognizing Brevard County's unique natural resources and potential for greenways and trails to enhance the overall quality of life for residents and visitors, several community and conservation groups, local governments, and citizen activists formed the Greenways and Trails Committee in 1995.

The Town of Malabar took the lead in 1996 by including the development of trails in their management plans for conservation lands acquired in coordination with the County's Environmentally Endangered Lands (EELs) program and the Florida Communities Trust. The Town of Malabar, in coordination with the Brevard Metropolitan Planning Organization (MPO) staff, held several public workshops designed to gather input and recommendations from stakeholders regarding the preferred locations and types of trails, and how to link these trails to surrounding neighborhoods and communities.

The Brevard County Greenways and Trails Master Plan, adopted in 2001, first showcased the South Brevard Linear Trail which purports to link Malabar and surrounding communities with existing parks and conservation areas through a multi-use corridor with amenities for hikers, joggers, bicyclists, roller bladders, equestrians, and the physically challenged.

Malabar prides itself on its rural lifestyle, anti-sprawl, and slow growth principles. Yet new development and an increasing population compel the Town to improve pedestrian, bike, and equestrian connectivity in order to ensure the Town's character and livability remain intact.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

The Town's existing Comprehensive Plan promotes connectivity of its public recreation facilities in Recreation and Open Space Element Objective 7-1.3, but fell short of its intent to have full multi-modal access at each park by 1992. (Objective 7-1.3: By 1992, all public recreational facilities shall have operational automobile, bicycle and pedestrian access facilities as deemed appropriate by the Town Council.) More broadly, Objective 2-1.4 in the Traffic Circulation Element calls for the Town to consider bicycle and pedestrian ways in planning for transportation facilities. The promotion of a multi-use trail helps the Town achieve these objectives.

Over the past several years, the Town has worked actively with the Brevard County MPO's Bicycle Pedestrian Trails Program Coordinator, and in July 2007, the Town's Parks and Recreation Advisory Board reinstated the Trails and Greenways Committee, which had been inactive in recent years.

Objective 7-1.5 calls for public-private partnerships and coordination in the planning for recreation improvements. Indeed the Town has taken an active role by working with the County, the State, and private land owners for the purposes of enhancing the recreational opportunities for its citizens, most notably through the advancement of the multi-use linear trail.

This 22-mile trail, renamed the Al Tuttle Trail, is coming to fruition and links the Malabar Scrub Sanctuary and Jordan Scrub Sanctuary in Malabar to other natural areas outside of the Town's limits such as the preserve by Valkaria Airport, the Turkey Creek Sanctuary, and the Sebastian Buffer Preserve. The multi-use corridor will have equestrian paths, and will be kept natural (not paved) in environmentally sensitive areas. In 2003, Malabar opened its first trailhead for the Sandhill Trail.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

The Goals, Objectives, and Policies in the Recreation and Open Space Element should be modified to integrate the Greenways & Trails Master Plan and the Environmentally Endangered Lands (EELs) program's management plan.

Future Land Use Policy 1-3.11.9 states, "In order to maintain land use policies responsive to changing conditions, problems, and issues, the Town shall undertake special studies as needed to develop specific local strategies for resolving unanticipated land use problems and issues." Therefore, the Town should spearhead a study to identify those key facilities that should connect to a multi-use trail. Such areas need not be limited to parks and open space. The proposed Town Hall relocation and other civic structures, including the Palm Bay Community Hospital in neighboring Palm Bay, may be facilities where multi-use connectivity is desired. To that end, the Transportation Element's GOPs and related land development regulations – particularly those that focus on the right-of-way improvements and developer concurrency requirements – should be reviewed and updated to address this issue. Additionally, the proposed Malabar Road Corridor Plan (Local Issue 1) should include specific provisions for bicycle and pedestrian connectivity to any significant improvements or developments along the Road.

Local Issue 4. Timing of infrastructure improvements

Define/Describe the Issue. How does the past compare to the present with respect to the issue. How was the issue treated in the existing plan?

Residents in the scoping meeting mentioned a concern about the timing of infrastructure improvements with development. When the Malabar Comprehensive Plan first adopted term “concurrency” had not become commonplace in Florida growth management nor was it required in Comprehensive Plans. Town staff has also indicated a desire to track demands on existing facilities and the potential impacts indicated by development applications. The Town’s Land Development Code (Article XIII) provides for a Concurrency Management System and review of all development applications for concurrency.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

Future Land Use Element Policy 1-3.1.2 requires all non-residential development and residential development where the density is greater than 1 dwelling unit per 1.5 acres to show all urban services are available concurrent with development. Capital Improvements Objective 9-1.3 requires that future development bear the cost of their respective infrastructure impacts, and corresponding Policy 9-1.4.1 states that the Town will issue no development order for new development which would result in an increase in demand on deficient facilities prior to completion of improvements needed to bring the respective facility up to standard. Policy 9-1.5.2 requires an adequate facilities ordinance in the Town’s Land Development Code.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

Future Land Use Element policies currently do not require all residential development to comply with concurrency requirements. This conflicts with the Concurrency Management Section of the Land Development Code. With 71.1% of the land uses Rural Residential, many parcels could potentially be developed without accounting for their impacts.

Policies in the Future Land Use Element and Capital Improvements Element should be modified to require concurrency assessments for all certificates of use, site plans and subdivision plans. Policies should be revised as follows:

- Development orders should only be issued if public facilities will be available with the impacts of development.
- Provide for facilities according to timing requirements in Chapter 163.3180 as follows:

(a) Sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy.

(b) Parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance by the local government of a certificate of occupancy.

(c) Transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.

- Any required improvements to meet concurrency, as determined by Town staff, shall include a detailed schedule for construction and completion.
- Should development or facilities improvements fail to begin or completed in accordance with the development order or permit, then all outstanding approvals of the development would expire.
- Amendments or changes to time schedules shall be permitted but must be approved by the body granting the original approval.

The Capital Improvements Element should be modified to include policies for scheduling an update the Level of Service standards in the Concurrency Management section of the Land Development Code. Additionally, the Capital Improvements Element should be modified to require objectives and policies to require maintenance of a Capacity and Level of Service inventory. The Inventory would track all public facilities (transportation, sanitary sewer, potable water, solid waste, drainage, and parks and open space.) It would also track improvements made to facilities by the Town, Brevard County, FDOT, City of Palm Bay, other public agencies. Data on school capacity should also be included once the Town has adopted school concurrency and Public School Facilities Element. The database would ease implementation of the Town's Concurrency Management System.

The Intergovernmental Coordination Element, Capital Improvements Element, and Traffic Circulation Element must also be updated to allow for proportionate fair share mitigation for roadways not meeting level of service standards. In many cases coordination with the County or State may be necessary to ensure adequate facilities or capital improvements will be available for existing and future development.

Local Issue 5. Enhance and protect rural atmosphere

Define/Describe the Issue. How does the past compare to the present with respect to the issue? How was the issue treated in the existing plan?

Over the years the Town of Malabar has kept a rural character that is defined by large lots with very low density residential uses of 1 dwelling units per 1.5 acre. It is the Town's desire to keep this rural atmosphere for the years to come and limit the amount of residential, commercial and industrial development in an effort to preserve its laid back rural style of living. In reality little has change in Malabar over the years. The large lot residential uses are predominant through out the town with slightly higher development along the east side of US 1 and north of Malabar Road specifically on Country Cove Circle and Briar Creek Blvd. It is the Town's intent to keep developments higher than 1 dwelling unit to 1.5 acre east of US1 and north of Malabar Road. This is reflected in the city's future land use map. Town residents have expressed their sentiments to preserve this rural atmosphere and are content with the elements that contribute to this setting which include very low density land uses, no shopping centers, low traffic, and few commercial business and industry.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

Possible impacts associated with enhancing and preserving the rural atmosphere may include limited opportunities for economic development by limiting the amount of commercial and industrial land designated for development. Also limitations on residential density would limit housing choices and the housing stock available in the future to accommodate the growing population. The objectives of the plan relating to this issue have been achieved.

Many of the objectives of the plan relating to this issue have been achieved. Most recently the Town of Malabar adopted an ordinance to incorporate a Malabar Vernacular architectural style for building elevations facing public rights-of-way on arterial roadways such as Malabar Road, US1 and Babcock Road. The intent of the ordinance is to make new commercial development consistent through out the corridors and reflective of the rural character of the Town. The design requirements of the Vernacular Ordinance only apply to commercial buildings within the Office Institutional, Commercial Limited, Commercial General and Residential/Limited Commercial and address roof and building materials, style, dimensions, colors and detail of finishes, porch requirements, trims, façade, signs and landscaping.

Specifically Objective 1-1.1 Plan and Design for Residential Quality; Sufficient space shall be provided for residential development and required community facilities to adequately meet the housing needs of the present and expected future population.

Objective 1-1.5 Promote Community Appearance Natural Amenities and Urban Design Principles;

Policy 1-2.1.2 Rural Residential Development; The community appearance shall be reinforced and enhanced through application of the site plan review process.

Objective 1-2.5 Allocating Open Space and Recreation. The open space and recreation designation has been established to direct the preservation of major open space and recreation areas, including golf courses, parks, recreation areas, and similar facilities.

Objective 1-3.3 Prevent Land Use Inconsistent with Town's character. Future land uses shall be consistent with the Town's character, the future land use map, and other applicable laws, ordinances, and administrative rules impacting land and water resources.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

The pressure for new development and growth are always present. Many residents and town officials have expressed their concerns on this subject and the Town clearly wishes to limit the amount of development and growth in order to preserve the rural character and atmosphere that has made Malabar a great place to live. The Town has also undertaken discussions and drafting of a land use designation for the conservation of lands along environmentally sensitive areas in order to protect water supply reserve areas, wildlife and other natural resources as well as helping to preserve the rural character of the Town. The comprehensive plan currently provides an open space and recreation land use designation (OSR). This designation is however too general in context and does not make a clear distinction between recreation, open space and conservation functions. It is the town's intent to separate these three into distinct land use categories that allow for specific uses and land use regulations within each. Upon final drafting and approval the town should reclassify lands identified as Recreation, Open space or Conservation and coordinate with the adjoining jurisdictions to ensure multi jurisdictional consistency and compatibility of land uses.

Local Issue 6. Address blight and redevelopment.

Define/Describe the Issue. How does the past compare to the present with respect to the issue. How was the issue treated in the existing plan?

In June 2005, Lawnadales Planning Associates presented the Town with an analysis of perceived blighted conditions along Malabar Road and the US 1 corridor. The *Final Blight Study Technical Memo* contained several recommendations including proposed redevelopment opportunities. The report suggested that old platted lands, dating from the early part of the Town's development, remain in place, "providing a parcel system that has small lots, faulty layouts, inappropriate or limited accessibility, contributes to poor drainage, and negates development of a sufficient size and type to produce overall community benefits." The purpose of the report was to provide the basis for creating a Community Redevelopment Agency and Community Redevelopment Area.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

According to the blight report study, much of the Town's developable land is under public ownership, impeding the ability of the Town to derive tax revenues for public services and facilities support. Although many of these lands were purchased with the best of intentions – to limit growth and provide for natural resource conservation, for example, through the Environmental Endangered Lands (EEL) program – government ownership of these lands on Malabar Road and US 1 corridor drains the service provision system, causing undue burden on remaining properties and impeding the corridor from sound development.

Objective 1-3.2 of the Comprehensive Plan encourages redevelopment and renewal of declining areas, but states there are currently no such blighted areas in the Town. Code enforcement activities (Policy 1-3.2.1) and public-private partnerships (Policy 1-3.2.2) are two policies identified in the Plan to help combat blight.

Further, Policy 3-1.7.3 asserts that Malabar shall minimize potential blighting influences through implementing "best practices" of land use planning, urban design, landscaping, and site plan review. This policy has been traditionally applied as a "micro" code enforcement matter rather than in a "macro" redevelopment issue.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

Although the blight study calls for the creation of a community redevelopment agency and the adoption of a Redevelopment Plan, many of the goals, objectives, and policies already in the Comprehensive Plan can help foster industry, employment, and improve and preserve neighborhoods and affordable housing in these areas. Amendments to

the Plan, including the provision for a Malabar Corridor Study, shall specifically address many issues relating to blight and redevelopment including streetscape improvements; more liberal zoning along Malabar Road between the curve and US 1; a multi-use trail connecting civic, commercial, and recreational facilities; and using historic preservation as a tool for economic development.

Local Issue 7. Stormwater management and Indian River Lagoon water quality

Define/Describe the Issue. How does the past compare to the present with respect to the issue. How was the issue treated in the existing plan?

Stormwater management is an important issue in the Town of Malabar due to its close proximity to the Indian River Lagoon, a sensitive and vital feature of the community. In the past, minimal stormwater management improvements had been constructed in the Town. Storm runoff was conveyed by natural corridors, Turkey Creek and Goat Creek, to the Indian River Lagoon. Stormwater management involves two factors, water quality, which refers to the controlling the amount of pollutants and sediment in the runoff, and water quantity, which is the amount of runoff. Several water quantity issues, such as private property and roadway flooding, ditch erosion, overflowing of private ponds and ditches, and roadway washout have been a problem for Town residents. Flooding problems have mainly resulted from low laying lands, improperly sized culverts, and ditches and swales in disrepair.

Prior to the adoption of the initial Comprehensive Plan, little regard was given to the quality of the storm runoff entering the natural drainage corridors. Pollution and sediment were transported into the natural corridors and the Indian River Lagoon with little restriction. Many improvements came after 1994 with the adoption of Phase I of the Stormwater Master Plan. The Stormwater Master Plan consists of three phases, Phase I is an overview of the system, Phase II is an analysis of the system and Phase III is proposed design improvements for the system. Improvements that helped alleviate system deficiencies included increasing storage volume through larger ditches and new retention areas and rehabilitating dilapidated culverts.

Identify the impacts of the issue. Assess whether the objectives of the plan that relate to the issue have been achieved. List the objectives in each element of the plan that relate to the issue.

Stormwater Management directly relates to quality of life for Town residents and sustaining an environmentally sound water ecosystem. The following objectives were presented in the 1988 Comprehensive Plan:

Objective 4-2.1 – Reconcile Existing Deficiencies. (d). Drainage Projects. Prepare an engineered master plan for stormwater management and drainage facilities. The master plan shall incorporate the following: Engineered analysis confirming the natural sub-drainage basins within the Town together with major tributaries within each sub-basin; Identification of floodways, drainage corridors, and other features comprising the Town's natural and manmade drainage system; Analysis and recommendations concerning needed land acquisition and/or identification of lands which should be specifically regulated in order to preserve floodways together with drainage corridors and achieve effective stormwater management; Include a schedule of requisite improvement projects together with assigned priorities and costs; Recommended implementation program for funding, managing, and continually maintaining the stormwater management system. The implementation program should include a management framework for achieving equitable assessments required to implement the

stormwater management program; Recommended land use restrictions, including changes to existing stormwater management and flood prevention regulations.

A Stormwater Master plan was prepared in 1994, in accordance with the Objective.

Objective 4-3.1 – Protect Natural Drainage Features. By 1991, the Town shall amend the stormwater drainage and flood prevention regulations as well as Comprehensive Plan level of service standards as needed in order to protect natural drainage features and insure that future development utilizes stormwater management systems compatible with the Town’s master stormwater drainage plan which is scheduled for completion by 1991. The town shall amend development regulation to incorporate the following considerations:

a. Consider if sufficient technical data exists to support increasing the storm event standard for on-site drainage calculations from the current ten (10) year frequency, 24 hour duration, to a twenty five (25) year frequency, 24 hour storm event (or such other storm design standard as shall be recommended in the master stormwater drainage plan). Also require those drainage improvements for new development which are necessary to assure that post-development run-off rates run-off volumes and pollutant loads for the new development do not exceed pre-development conditions.

In addition, consistent with ECFRPC policy, the Town shall coordinate with the ECFGPC, FL-DER and the SJRWMD in identifying any urban drainage systems which are non-compliant with Chapter 17-25, FAC. Where such non-compliant systems are found to contribute significantly to the degradation of surface waters, the Town shall coordinate with the FL-DER, SJRWMD and Brevard County in order to achieve a regional approach to improved drainage and retrofitting as may be appropriate;

b. Existing stormwater engineering, design and construction standards for on-site systems should be evaluated and amended as needed;

c. Specific standards for erosion and sediment controls to be used during development should be provided; and

d. Periodic inspection of on-site systems should be required to assure continuance of system design and maintenance.

The on-site storm event was never revised from the 10 year- 24 hour storm event.

Discuss whether there have been changes in circumstances that were not anticipated. Discuss whether these changes resulted in either problems or opportunities for the community. Identify actions, including plan amendments that are needed to address the issue.

Recent trends toward environmental friendly design have led the SJRWMD to recommend Low Impact Development (LID). LID employs site specific design and utilizes natural features to capture and treat storm runoff as an alternative method of stormwater management. It is recommended that the Comprehensive Plan be amended to adopt the stormwater management performance criteria and LID concepts established by SJRWMD.

CHAPTER TWO **ANALYZING THE ISSUES**

Population Estimates

The Shimberg Center for Affordable Housing has provided population and housing projections for the Town of Malabar using data supplied by the University of Florida's Bureau of Economic and Business Research (BEBR). According to the Shimberg Center for Affordable Housing, Malabar's 2005 population was 2,842.

Table 2-1: Shimberg Population Projections for Malabar, FL

	1990	2000	2005	2010	2015	2020	2025	2030
Shimberg Center	1,977	2,622	2,842	3,142	3,426	3,687	3,925	4,145

Between 1990 and 2000, the Town of Malabar grew 32.6%, which is 9.1% more than the statewide average growth of 23.5%. Shimberg's projections, which are based upon historical growth rates, show the population of Malabar continuing to increase. While the Town estimates its population to be a slightly higher figure – approximately 3,000 residents in 2006 – the Shimberg projections will be used for calculating Level of Service standards later in this document.

The Comprehensive Plan offers population projections through 2010 based upon BEBR estimates from 1986. At that time, Malabar's 2000 population was expected to be 3,116, but Census 2000 data revealed the resident population to be 2,622. The Comprehensive Plan will need to be revised to reflect the slower-than-anticipated growth.

Changes in Land Area

Annexations

As of 1988, Malabar's total land area was 7,358.10 acres. The town has since not annexed any adjacent properties and is not actively pursuing annexation.

Location of Development

There has not been a lot of development in Malabar over the past 10 years. In 2006, final plat approval was issued for three subdivisions, along Malabar Road which include: Oakmont Preserve (58 single family homes off Marie Street), Stillwater Preserve (74 single family homes at Corey and Malabar Road (currently under construction), and Weber Woods (14 single family homes at Weber and Malabar Road). There is a fourth proposed development (Windover) for 16 single family homes still in the planning stages.

Other proposed projects include Paladin Shores Condos located on Highway 1, south of Malabar Road. (This project has received an extension on their approved Site Plan until December 2007) and a proposed mixed use on the property just north of the proposed Paladin Shores.

The comprehensive plan future land use element and future land use map was amended in 1994 to establish a new mixed use future land use designation of "Residential and Limited Commercial" (R/LC). The R/LC designation is intended as a "Commercial" district. The land development regulations accommodate a mixture of land uses expressively 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. The town has since its adoption designated a number of areas through out town as R/LC to allow compatibility with adjacent land uses along major arterials, particularly US 1 and Malabar Road.

Existing Land Uses

The Town of Malabar covers a total land area of 7,358.10 acres per the 1988 data. A current analysis using GIS shows a total land area of 6,372 acres. It is important to note that, overall, 2007 GIS data is much more accurate than the 1988 data. 2007 data assigns land uses by parcel rather than larger areas without well defined boundaries. Consequently, there are discrepancies in the total acreage between 1988 and 2007. The GIS parcel and land use data is obtained from the County Property Tax office and verified for accuracy. It should be assumed that new data reflects an accurate count of existing acreage and land uses.

In 1988, the Town's Comprehensive Land Use Plan showed the predominant existing land use to be Residential with a total of 1,258 acres mainly for single family – Low Density (less than 2 units/acre). 2007 data reveals that this figure has increased to 1,856 acres since then. The land use with the least amount of acreage in 1988 was Institutional with a total of 1.73 acres and Multiple Family – Low density (up to 6 units/acre) with a total of 1.75 acres. Again 2007 data shows that the existing land use with the least amount of acreage is Industrial accounting for just 10 acres or 0.2%

The data analysis shows that Commercial uses have increased from 0.3% in 1988 to 2.3% in 2007. On the other hand Industrial uses have significantly dropped from 2.6% in 1988 to 0.2% in 2007. This reduction can be in part attributed to the designation of 1,038 acres to Conservation, which amounts to 16.2% of the total land use for Malabar.

Table 2-2: Existing Land Uses

Land Use	1988		2007	
	Acres	% of Total Land Area	Acres	% of Total Land Area
Residential				
Low Density	1,154.40	15.7%	1,768	27.7%
Medium Density	28.08	0.4%	2	0.5%
Mobile Home	74.02	1%	84	1.3%
Multiple Family	1.75	0.0%	2	0.5%
Commercial	27.08	0.3%	147	2.3%
Industrial	195.41	2.6%	10	0.2%
Institutional	1.73	0.0%	138	2.2%
Recreational	27.50	0.3%	37	0.6%
Right of Way	529.61	7.2%	28	0.4%
Trans/Utilities/Comm,	49.36	0.6%	39	0.6%
TOTAL DEVELOPED	2,088.94	28.3%	2,255	36.3%
Conservation			1,038	16.2%
Water	215.90	2.9%		
Agricultural	1,237.54	16.8%	17	0.3%
Undeveloped	3,815.72	51.8%	3,062	48%
TOTAL ACREAGE	7,358.10	100%	6,372	100%

Future Land Use Profile

Land uses in Malabar are distributed as shown in Table 2-3. Per the 1988 Comprehensive Plan the predominant future land use in Malabar was Residential making up approximately 83.9% of the town's total acreage. The Rural Residential (RR) land use category encompasses most of the residential land use accounting for 71.1% of the total. The Institutional (INS) land use category has the least amount of acreage with 25 acres, followed closely by open space and recreation with approximately 27 acres.

2007 data shows that future land uses are still relatively similar to what they were in 1988. The predominant future land use is Rural residential with 4,490 acres equivalent to 71.1% of the total land use. The "Commercial Limited" category is the future land use with the lowest amount of acreage at 25 acres or 0.4%. The total acreage for the 2007 existing and future land use vary due to the fact that the "right of way" and "transportation" categories are included for the Existing Land Use but not for the Future Land Use figures.

Large areas of the Town have been designated Environmentally Endangered Lands (EEL's) and are currently classified in the Existing Land Use inventory as "Conservation". The Future Land Use section of the comprehensive plan however, does not provide for a "Conservation" land use designation to account for these and other lands to be used for conservation. To this end, the Town has initiated drafting a policy to include a "Conservation" land use category in the comprehensive plan.

Table 2-3. Future Land Use Distribution

Land Use	1988		2007	
	Acres	% of Total Land Area	Acres	% of Total Land Area
Residential				
Rural Residential (RR)	5,422	73.7%	4,490	71.1%
Low Density Residential (LDR)	135	1.8%	255	4.0%
Medium Density Residential (MDR)	534	7.3%	617	9.8%
High Density Residential (HDR)	80	1.1%	117	1.9%
Mixed Use				
Multiple-Family /Office (MRO)	200	2.7%		
Residential Limited Commercial(R/LC)			52	0.8%
Commercial				
Limited Commercial (CL)	36	0.5%	25	0.4%
General Commercial (CG)	351	4.8%	212	3.4%
Industrial (IND)	428	5.8%	354	5.6%
Institutional (INS)	25	0.3%	139	2.2%
Open Space / Recreation (OSR)	27	0.4%	52	0.8%
Total	7,358		6,313*	

* Total does not include Right of Way.

Vacant Land for Future Development

The amount of vacant land in 2007 is approximately 3,012 acres. This is lower than the figures in 1988 (3,815 acres) and shows that the level of development has occurred at a very low pace over the years. There is still a significant amount of land that remains vacant. This land is mostly designated rural residential and located south of Malabar Road and West of US-1. Table 2-4 illustrate the vacant lands by land use category.

Table 2-4: Vacant Lands with Future Land Use

FLU Designation	Vacant Acreage	Total Acreage	% Vacant
Rural Residential	2413	4490	54%
Low Density Residential	51	255	20%
Medium density Residential	77	617	12%
High Density Residential	38	117	32%
Residential/Limited Commercial	15	52	28%
Commercial Limited	22	25	90%
Commercial General	122	212	58%
Industrial	229	354	65%
Office Institutional	38	139	27%
Open Space & Recreation	9	52	18%
TOTAL	3012	6313	48%

The above analysis shows that the land use with the highest percent of vacant land is “Commercial Limited” with 90% vacant lands. On the other end, the land use with the least amount of vacant land is “Medium Density Residential” with 12%. Some land uses that currently show close to 50/50 vacant/developed ratio include Rural Residential at 54% and Commercial General at 58%. The total shows that approximately 3,012 acres of Malabar are vacant undeveloped land equivalent to 48% of the total acreage.

Map 2.1: Existing Land Use

Map 2.2: Future Land Use

Demands of Growth on Infrastructure

The following section provides an analysis of the Town's ability to provide public facilities for existing and future development.

Potable Water

The Town of Malabar's Public Works Department owns and maintains all infrastructure within the town limits, which provides potable water service to approximately 20% of the residents, while the other 80% rely on private wells. The Town of Malabar purchases water from the City of Palm Bay Utility Department (PBUD) through a thirty year contract. PBUD owns and operates two water treatment plants, the Troutman Water Treatment Facility and the new South Regional Water Treatment Facility.

The Troutman Water Treatment Facility has two water treatment plants. The Lime Softening plant draws water from 35 surficial aquifer wells and is permitted to withdraw 4.8 million gallons per day (MGD) in 2007, decreasing by 0.1 MGD yearly until reaching 3.4 MGD in 2021. There is one Floridan Aquifer well, permitted to withdraw 0.72 MGD, that draws brackish water for blending purposes during periods of peak demand. The maximum treatment capacity of the Lime Softening facility is 10 MGD. The Troutman Reverse Osmosis plant has three additional Floridan Aquifer wells, with a maximum permitted withdrawal of 2.61 MGD. The maximum treatment capacity of the Reverse Osmosis plant is 1.5 MGD, although it can be expanded to 3 MGD.

The South Regional Water Treatment Plant (SRWTP) is a Reverse Osmosis facility and has five Floridan Aquifer wells with a permitted withdrawal of 5.09 MGD in 2007 and 10.49 MGD in 2021. The plant's treatment capacity, when constructed in 2006 was 4 MGD, but the current footprint allows the plant to be expanded to 10 MGD. The SRWTP site has the available space for an additional 10 MGD allowing for a total plant capacity of 20 MGD. This new plant relies solely on water from the Floridan Aquifer, which is an alternative water supply source, thereby reducing dependence on the surficial aquifer. Both the Troutman and SRWTP have sufficient capacity for existing residents and for the short term (5 year) and long term (10 year) planning periods.

The PBUD has recognized the need to plan for future water supply needs and explore alternative water supply sources, in accordance with the St. John's River Water Management District (SJRWMD) Water Supply Plan. A Water Master Plan was completed in 2006, wherein PBUD has prepared for foreseeable growth within their service area. Data from the PBUD Water Master Plan, including alternative water supply and 10 year water supply plans, can be included in the Malabar Comprehensive Plan. However, per SJRWMD, the Town of Malabar does not need to amend their comprehensive plan to include regional water supply plans as the Town lies outside the "Priority Water Resource Caution Area." The data may, however, be useful for concurrency management. The following table illustrates PBUD's projected additional Equivalent Residential Connections (ERC) for the five year, ten year and ultimate build-out conditions and corresponding potable water consumption within their service area.

	ERC	Cumulative Consumption (MGD)
5 Year	11,400*	14.45
10 Year	23,619*	20.95
Ultimate Build-Out	22,858*	27.24

*ERCs shown are not cumulative . Palm Bay Utility Department, 2006.

The Level of Service (LOS) for potable water is 75 gallons per capita per day (GCD) for residential and 7,500 GCD for commercial and industrial, as adopted in the 1988 Comprehensive Plan. It is recommended that the residential LOS be raised to 100 GCD.

Sanitary Sewer

Sanitary sewage collection is provided by the Public Works Department for approximately 13% of the residents within the Town of Malabar's limits. Sewage is transmitted to the Palm Bay Utility Department (PBUD) facility. The PBUD owns and operates two wastewater treatment facilities; a 4.0 MGD plant which is located on the east side of Troutman Boulevard and a 1.2 MGD plant located on the west side of Troutman Boulevard. Wastewater effluent is discharged via a Class I Deep Injection Well (DIW) 3,000 feet deep. The Florida Department of Environmental Protection permits PBUD to inject 5.0 MGD of effluent, although the DIW has a design capacity of 10.0 MGD, which is sufficient capacity to serve the projected population of the PBUD service area for at least the next 10 years.

The remaining 87% of Malabar residents rely on package treatment plants or septic systems for treatment of sewage. Due to the proximity of the surficial aquifer to the ground surface, septic tanks and drain fields must be monitored closely to ensure the potable water supply is not contaminated. The Brevard County Health Department and the Florida Department of Environmental Protection regulate groundwater monitoring and permitting of private septic systems.

It is recommended that the Town continue to investigate available grants to help fund necessary upgrades. The Public Works Department should also create and annually update a maintenance and capital improvement plan to facilitate their ability to maintain their adopted Level of Service (LOS); this is achievable through the appropriate allocation of funds and schedule of maintenance.

The LOS for sanitary sewer is 300 gallons per day (GPD) per dwelling unit and 150 GPD for mobile homes, as adopted in the 1988 Comprehensive Plan. It is recommended the LOS for sanitary sewer remain unchanged.

Stormwater and Drainage Facilities

The Town of Malabar exhibits generally level terrain, with ponds, natural occurring wetlands and manmade drainage improvements. Stormwater management within the Town of Malabar is provided by a system of ditches, swales, inlets and pipes which convey storm run-off into Turkey Creek and the Indian River Lagoon. The Town is

divided into three main drainage basins: Turkey Creek Basin, which has 9 sub-basins, Goat Creek Basin, which has 5 sub-basins, and the Indian River Basin, which has 2 sub-basins.

Stormwater management projects within the Town must be permitted through the Town of Malabar Public Works Department and the St. Johns River Water Management District. Ownership and maintenance of all drainage facilities is the responsibility of the Town of Malabar Public Works Department, with the exception of the Melbourne-Tillman Canal which is maintained by the Melbourne-Tillman Drainage District.

The Stormwater Master Plan adopted in 1994 analyzed existing drainage facilities and patterns, identified problem areas, and proposed preliminary solutions to problems.

Solid Waste

Solid waste handling and disposal is the responsibility of Brevard County, which owns and operates the transfer stations and landfill facilities. Solid waste collection is provided to the Town through contract with Waste Management Inc. The LOS for solid waste collection is 6.8 Pounds per Capita per Day (PCD) as adopted in the 1988 Comprehensive Plan Amendment. The transfer station will be able to maintain this level of service through the next 10 year planning period. At the Central Disposal Facility, the County's Solid Waste Management Department has approximately 10 years of permitted capacity and sixteen additional years of capacity in the southern expansion area. The capacity of the Central Disposal Facility will be used for Class I as well as Class III materials. The Sarno Road Landfill, which is used for Class III materials, has five years of permitted capacity. The County is investigating additional capacity at the Sarno Road facility that will allow accepting wastes for an additional year. Once the facility reaches full capacity, Class III materials will be disposed at the US-192 solid waste facility.

The County's Solid Waste Management Department is currently involved with obtaining state and federal permits to allow construction of a solid waste facility on County-owned property located on US 192. The project will be constructed in two phases. Phase I will incorporate disposal of Class III materials and Phase II will include Class I solid waste. Once this facility is fully constructed, the County solid waste capacity is expected to last until 2066. Recycling is also provided through contract with Waste Management Inc.

Coordination of Water Supply Plan

Traditionally, potable water has been supplied from the surficial aquifer, a shallow water source. As populations increase, this water source has become threatened due to overdrawing, lack of recharge areas, saltwater intrusion and susceptibility to surface contamination. With growth rates increasing, new legislation concerning Florida's water supply has been enacted since the 1988 Comprehensive Plan. The Town of Malabar is under the jurisdiction of the St. Johns River Water Management District (SJRWMD), which adopted its updated District Water Supply Plan in 2006. The Water Supply Plan mandates that the Town of Malabar have sufficient water supplies and facilities to serve

all new development prior to issuing a certificate of occupancy. The Town purchases potable water from The City of Palm Bay Utility Department.

According to the Palm Bay Utilities Water Master Plan, adequate water supplies will be available to existing and projected future customers through the 10 year planning period. Private wells still obtain water from the surficial aquifer, as it can be treated using conventional methods. Raw water from the deeper Floridan Aquifer, due to its high mineral content, must undergo more advance treatment processes such as desalination, reverse osmosis or micro/nano filtration. All new development within the Town of Malabar shall connect to public utilities where feasible.

Changes to Chapter 163 in 2005 required local governments that “[w]ithin 18 months after the governing board approves an updated regional water supply plan, the element must incorporate the alternative water supply project or projects selected by the local government from those identified in the regional water supply plan pursuant to s. [373.0361\(2\)\(a\)](#) or proposed by the local government under s. [373.0361\(7\)\(b\)](#).” Per SJRWMD, the Town of Malabar does not need to amend their comprehensive plan to include regional water supply plans as the Town lies outside the “Priority Water Resource Caution Area.”

Roads

State Roads

US 1 is the primary north-south route through the Town of Malabar which serves as an Urban Principal arterial on the State Primary system.

S.R. 514/Malabar Road is a 2-lane facility oriented in the east-west direction that connects US 1, S.R. 507 and I-95. It is currently classified by FDOT as an urban minor arterial.

S.R. 507 (Babcock Street) only services a small area of Malabar but is now classified by FDOT as an urban minor arterial and runs in the north-south direction.

Primary Local Roads.

Both Corey Road and Weber Road are primary north-south routes in the town and are classified by FDOT as urban collectors.

Both Atz Road and Hall Road are east-west routes that are classified by FDOT as Urban collectors.

Adopted Roadway Level of Service Standards

US 1 and Malabar Road (SR 514)	D*
Babcock Street (SR 507)	C*
Collector Roads and Other Local Roadways	C

*30th highest peak hour as established by DOT.

Level of Service

The level of service standard is used as a guide for planning purposes, to identify the needs and plan for the improvements necessary to maintain a desired level of service. Factors which influence the level of service are number of lanes, number of vehicles, speed, control type, number of access connections, maneuverability, safety and convenience of the public.

The description of level of service standards in transportation planning is defined as follows:

LOS A-Represents ideal condition of primarily free-flow traffic conditions at average travel speed with minimal delay.

LOS B-Represents unimpeded traffic flow at average travel speed, the maneuverability is a little restricted within the flow.

LOS C-Represents traffic flow is stable but drivers are more restricted in their choice of speeds and ability to maneuver as compared to LOS B.

LOS D-Represents traffic flow is unstable, speeds are tolerable for short periods of time but subject to sudden variance.

LOS E-Represents traffic flow is unstable and flow rates variable. This flow is characterized by significant delays and lower operating speeds.

LOS F-Represents traffic flow at extremely low speeds, congested roadways, high approach delays, and driving comfort is very low.

Existing Design and Operating Capacities

To assess the capacity of roadways that serve existing land use, a level of service analysis was performed. The Average Annual Daily Traffic (AADT) bidirectional volumes were converted into peak season peak direction by multiplying 'K' and 'D' factors. The values for adopted level of service volumes are directly taken from the FDOT 2007 Level of Service Tables for Generalized Peak Hour Directional Volume. SR 9/I-95 is part of the Strategic Intermodal System (SIS) and follows the SIS adopted level of service standards.

The values for K and D factors were obtained from the FDOT *2006 Traffic Information DVD*. The level of service on all major thoroughfares within the Town of Malabar was measured using volume to capacity (v/c) ratios. All AADT were obtained from the Florida Department of Transportation. There was an exception for Babcock Road from Foundation Park to Malabar Road, where the volumes were exerted from Brevard County's database.

Table 2-1 exhibits the results of the existing peak hour direction level of service. Based on the results of Table 2-1, a needs assessment for failing facilities was identified in Table 2-2.

While other failing segments have planned improvements, Malabar Road does not have project scheduled for improving its existing F level of service. The Town passed a resolution supporting widening of Malabar Road and will need to continue coordination with the Brevard County Metropolitan Organization and the Florida Department of Transportation in order to ensure that concurrency requirements can be met.

Coordination of Transportation Concurrency Management

The Town of Malabar follows the standard traffic engineering principals consistent with Brevard County allowing for ease of coordination and consistency in data. The Town intends to adopt an ordinance for a methodology for proportionate fair share mitigation in March 2008. The Town intends to actively coordinate with the County for issues regarding concurrency management.

TABLE 2-5
EXISTING PEAK HOUR PEAK DIRECTION LEVEL OF SERVICE

ROADWAY	FROM	TO	AREA TYPE	CLASSIFICATION ⁽¹⁾	Adpt LOS	# Lanes	Pk Hr Pk Dir Cap ⁽²⁾	2006 AADT Vol	K ₃₀ ⁽³⁾	D ₃₀ ⁽³⁾	Peak Hour Peak Dir Vol ⁽⁴⁾	v/c	LOS
SR 5/US1	Indian River County Line	SR 514/Malabar Rd	U	State Arterial Class I	D	4	1,860	17,900	0.1075	0.5177	996	0.54	B
	SR 514/Malabar Rd	Robert Conlan Blvd	U	State Arterial Class I	D	4	1,860	24,300	0.1135	0.5722	1,578	0.85	C
SR 507/Babcock St	SR 514/Malabar Rd	US 192	U	State Arterial Class I	D	4	1,860	33,500	0.1135	0.5722	2,176	1.17	E
SR 514/Malabar Rd	Babcock St	SR 5/US 1	U	State Arterial Class I	D	2	860	14,400	0.1135	0.5722	935	1.09	F
SR 9/I-95	Indian River County Line	Malabar Urban Limit	R	Freeway	B	4	2,020	38,800	0.0995	0.5477	2,114	1.05	C
	Malabar Urban Limit	CR 516	U	Freeway	C	4	2,940	57,500	0.1030	0.5647	3,344	1.14	D

Note:

- (1) Roads were classified into Roadway Classifications from the FDOT 2007 Level of Service Table 4-7 for Generalized Peak Hour Directional Volumes for the Florida
- (2) The values for adopted level of service are directly taken from the FDOT 2007 Level of Service Tables 4-7 and 4-9 for Generalized Peak Hour Directional Volume.
- (3) Peak hour K and D factors are taken from the FDOT 2006 Traffic Information DVD.
- (4) The peak hour peak direction volume is calculated from multiplying 2006 AADT with K and D factors.

**TABLE 2-6
ROADWAY NEEDS ASSESMENT**

ROADWAY	FROM	TO	AREA TYPE	CLASSIFICATION	Adpt LOS	Exist # Lanes	Pk Hr Pk Dir Cap ¹	2006 AADT Vol	K30	D30	Peak Hour Peak Dir Vol	v/c	Exist LOS	Needs # Lanes	Needs Pk Hr Pk Dir Cap	Needs LOS
SR 507/Babcock St	SR 514/Malabar Rd	US 192	U	State Arterial Class I	D	4	1,860	33,500	0.1135	0.572	2,176	1.17	E	6	2,790	B
SR 514/Malabar Rd	Babcock St	SR 5/US 1	U	State Arterial Class I	D	2	860	14,400	0.1135	0.572	935	1.09	F	4	1,860	B
SR 9/I-95 ²	Indian River County Line	Melabar Urban Limit	R	Freeway	B	4	2,020	38,800	0.0995	0.548	2,114	1.05	C	6	3,110	B
	Malabar Rd	CR 516	U	Freeway	C	4	2,940	57,500	0.1030	0.565	3,344	1.14	D	6	4,550	C

Note:

1) The values for adopted level of service are directly taken from the FDOT 2007 Quality/Level of Service Handbook (Table 4-7-4-9) for Generalized Peak Hour Directional Volume.

(2) SR 9/I-95 is part of the Strategic Intermodal System (SIS) and follows the SIS adopted level of service standards.

Table 2-3 shows the results of the future traffic on year 2025.

TABLE 2-7
FUTURE PEAK HOUR PEAK DIRECTION LEVEL OF SERVICE

ROADWAY	FROM	TO	AREA TYPE	CLASSIFICATION ⁽¹⁾	Adpt LOS	# Lanes	Pk Hr Pk Dir Cap ⁽²⁾	2025 AADT Vol ⁽³⁾	K30 ⁽⁴⁾	D30 ⁽⁴⁾	Peak Hour Peak Dir Vol	v/c	LOS
SR 5/US1	Indian River County Line	SR 514/Malabar Rd	U	State Arterial Class I	D	4	1,860	30,100	0.1075	0.5177	1,675	0.90	C
	SR 514/Malabar Rd	Robert Conlan Blvd	U	State Arterial Class I	D	4	1,860	29,500	0.1135	0.5722	1,916	1.03	E
SR 507/Babcock St	SR 514/Malabar Rd	US 192	U	State Arterial Class I	D	4	1,860	22,900	0.1135	0.5722	1,487	0.80	C
SR 514/Malabar Rd	Babcock St	SR 5/US 1	U	State Arterial Class I	D	4	1,860	6,900	0.1135	0.5722	448	0.24	C
SR 9/I-95	Indian River County Line	Malabar Urban Limit	R	Freeway	B	4	2,020	85,200	0.0995	0.5477	4,643	2.30	F
	Malabar Urban Limit	CR 516	U	Freeway	C	4	2,940	85,200	0.1030	0.5647	4,956	1.69	F

Note:

- (1) Roads were classified into Roadway Classifications from the FDOT 2007 Level of Service Table 4-7 for Generalized Peak Hour Directional Volumes for the Florida
- (2) The values for adopted level of service are directly taken from the FDOT 2007 Level of Service Tables 4-7 and 4-9 for Generalized Peak Hour Directional Volume.
- (3) 2025 AADT volume are taken from 2025 Brevard County MPO model.
- (4) Peak hour K and D factors are taken from FDOT 2006 Traffic Information DVD.
- (5) The peak hour peak direction volume is calculated from multiplying 2006 AADT with K and D factors.

Roadway Improvements

Programmed roadway improvements included in FDOT's FY 07-11 Work Program is shown in Table 2-8.

Table 2-8
Programmed Roadway Improvements

FM #	Project Location	Type of work	From	To	Phase	Year
4169381	I-95	Mill and resurface	Indian River county	South of Malabar	Const.	2008
4219901	US 1	Resurfacing	Rocky Point Rd.	Malabar	Const.	2009
2376503	Babcock St.	Add Lanes & Reconstruction	At Malabar		Right of Way	2008
4130721	I-95	Add Lanes Rehab Pavement	Brevard County Line	South of Malabar Road	Const.	2008-2011

High Accident/Problem Intersections.

The following is a list of the high accident incident intersections collected over a four year period in the Palm Bay/Malabar Area. The Data has been collected by the Brevard County Sheriffs Office.

Year	Accidents	Location	Cross Road	Fatalities
2006	20	SR 514 (Malabar Rd)	SR 9 (I-95)	0
	7	SR 5 (US 1)	SR 514 (Malabar Rd)	0
	6	SR 514 (Malabar Rd)	SR 5 (US 1)	0
	6	VALKARIA RD	SR 9 (I-95)	0
2005	22	SR 514 (Malabar Rd)	SR 9 (I-95)	0
	7	SR 514 (Malabar Rd)	SR 5 (US 1)	0
	7	VALKARIA RD	SR 9 (I-95)	0
	7	WEBER RD	SR 514 (Malabar Rd)	0
2004	19	SR 514 (Malabar Rd)	SR 5 (US 1)	0
	10	COREY RD	SR 514 (Malabar Rd)	0
	8	SR 514 (Malabar Rd)	SR 9 (I-95)	0
	6	SR 5 (US 1)	SR 514 (Malabar Rd)	0
	6	VALKARIA RD	SR 9 (I-95)	0
	6	WEBER RD	SR 514 (Malabar Rd)	0
2003	11	SR 514 (Malabar Rd)	SR 9 (I-95)	0
	8	SR 5 (US 1)	SR 514 (Malabar Rd)	0
	8	SR 514 (Malabar Rd)	SR 5 (US 1)	0
	7	COREY RD	SR 514 (Malabar Rd)	0
	6	WEBER RD	SR 514 (Malabar Rd)	0

Parks

The following is the revised inventory of public recreation and open space facilities in Malabar:

Table 2-9: Publicly-owned parks

NAME / LOCATION	FACILITIES	ACREAGE
Malabar Community Park 1850 Malabar Rd.	<ul style="list-style-type: none"> • Soccer field • Baseball field • Tennis court • Basketball court • Volleyball court • Pavilions • Fitness trail • Playground • Bridal trail • Restrooms 	20.0
Huggins Neighborhood Park Johnston Ave.	<ul style="list-style-type: none"> • Playground • Gazebo 	5.0
Sand Hill Trailhead 1490 Marie St.	<ul style="list-style-type: none"> • Pavilion • Horse paddock • Water troth • Hitching post 	3.0
Fern Creek Crossing 1585 Malabar Road	<ul style="list-style-type: none"> • Benches • Passive walkway 	1.1
Richard E. Cameron Sr. & Volunteers Wilderness Preserve North Corey Rd.	<ul style="list-style-type: none"> • Bridal trail • Multiuse walking/hiking trails 	100.0
Golf Disc Park 1845 Malabar Rd.	<ul style="list-style-type: none"> • 10 golf disk pins 	8.5
17-acre parcel (undeveloped) Weber Rd.	<ul style="list-style-type: none"> • None currently but designated for passive recreation 	17.0
TOTAL		154.6

With an estimated 2005 population of 2,842, Malabar has an impressive 54.4 acres of parks for every 1,000 residents. This level of service is up dramatically because the total park acreage inventoried has gone from 27 acres (as indicated in the Comprehensive Plan) to 154.6 acres. Based on the Shimberg Center's population projections for Malabar, the estimated parks LOS though 2030 is indicated in the table below.

Table 2-10: Projected park needs through 2030

Year	Population (projected)*	Park acreage demand (based on 5 acres / 1,000 population)	Available park acres (based on 2007 inventory)	Surplus (+) / deficit (-) acreage (based on 2007 inventory)
2005	2,842	14.2	154.6	+ 140.4
2010	3,142	15.7	154.6	+ 138.9
2015	3,426	17.1	154.6	+ 137.5
2020	3,687	18.4	154.6	+ 136.2
2025	3,925	19.6	154.6	+ 135.0
2030	4,145	20.7	154.6	+ 133.9

* Population projections based on University of Florida's Bureau of Economic and Business Research (BEBR)

Clearly the level of service is being fulfilled, and will continue to be for the foreseeable future.

School Capacity and Location

The Brevard County School Board provides figures for current and projected student enrollment and capacity by school for each district. Malabar is within the School Board District 3. Within District 3 there are currently 2 elementary schools, 1 middle school, and 2 high schools serving the Town of Malabar. These are:

Elementary:

Port Malabar Elementary

John F. Turner, Sr. Elementary

Middle:

Stone Middle School

High:

Palm Bay High School

Bayside High school

The student enrollment from the Town of Malabar for the year 2006-2007 is as follows:

Elementary (Kindergarten – 6th grade)

294

Middle School (7th – 8th grade)

113

High School (9th – 12th grade)

228

*Enrollment totals are calculated from the students that were enrolled at anytime during the 2006-2007 school year.

Table 2-11 shows there is a projected decrease in the number of total enrollment between 2006-2007 and 2011-2012. By 2012, the Turner Elementary School will utilize 71% of its capacity, while Stone Middle will utilize only 57%. Palm Bay High and Bayside high school also show a decrease at 84% and 91% respectively of its total capacity.

Table 2-11: Current and Future Enrollment Capacity

School Name	2006/07			2011/12 (Projected)		
	Enrollment	Capacity	%	Enrollment	Capacity	%
Port Malabar Elementary	769	792	97%	802	792	101%
John F. Turner, Sr. Elementary	693	856	81%	608	856	71%
Stone Middle School	683	1,136	67%	585	1022	57%
Palm Bay High School	2,577	2,522	102%	2,207	2,641	84%
Bayside High school	2,580	2,195	118%	2,252	2,480	91%
Total Enrollment	7,302	7,501		6,454	7,791	

Source: Brevard Public Schools, 2007 Student Accommodation Plan.

The Brevard Public Schools Facility Improvement Plan Proposed Project List for fiscal year 2006 through 2012 identifies new school facilities and improvements within School Board District 3 serving Malabar. They include the following:

- New elementary school "S" (550 student station / K-6 grade configuration) in Palm Bay area.
- Design/construct a new middle school (1186 student station / 7-8 grade configuration) on Bayside/Westside site.
- During the 2007-08 school year, as part of the 7-Year Plan, construction will begin on a new high school with 2,387 student stations in the Palm Bay area. This school will accommodate growth in the south area of the county as well as relieve over crowding at Melbourne High, Palm Bay High and Bayside High.
- Palm Bay H.S. Music Practice Room Addition.
- Design/construct a 10 classroom addition at Bayside H.S.
- New playground equipment or equipment replacement at 47 schools.
- Science Laboratory Upgrades.
- Educational Technology Infrastructure / Equipment Upgrades.
- Foreign Language Labs.
- Additional Parking, Lighting Upgrades and circulation Improvements.
- Security upgrades and security fencing.
- Facility Renewal (80 Schools)
- Core Facility Upgrades at 75 Schools

Coordination of Comprehensive Plan with Existing Public Schools

Most recently the Town of Malabar amended the Comprehensive Plan Future Land Use Element by adopting an ordinance to provide for school sitting pursuant to section

163.3177(6) (A), Florida Statutes. The objective of the school siting ordinance is to identify land use categories in which Elementary, Middle, Junior and Senior High Schools are an allowable use, as well as to establish site planning criteria for land use compatibility, and concurrency requirements. It also creates policies for the protection of natural resources and historical sites when considering land for school siting, and the location of schools outside of airport approach zones and high impact noise contours. In addition, it includes policies to encourage collocation of public facilities with complementary functions such as parks, libraries, and children's services facilities.

Growth Management legislation passed in 2005, requires all local governments to adopt school concurrency standards and a Public School Facilities Element. The Florida Department of Community Affairs has scheduled completion of the Brevard County and Town of Malabar Public School Facility Elements by March 1, 2008. The Town approved an interlocal agreement between the School Board, Brevard County, and County Municipalities on school concurrency on November 5, 2007. The Town expects to adopt a Public School Facilities Element by February 2008 in order to meet the State deadline.

Redevelopment in Coastal High Hazard Areas

The current model following the new definition for the Coastal High Hazard Area (CHHA) indicates only a very small area in the Town of Malabar falls within the CHHA. This area actually is more than two miles inland from the ICW. The CHHA is a riverine area at the confluence of two streams at the very northwest corner of the Town. Mapping indicates most of the CHHA is undeveloped; however, approximately 10 single family residential properties along Hollow Brook Road do fall within the CHHA (See attached Exhibit). As a part of the Post Disaster Redevelopment plan the town should draft a policy to authorize redevelopment up to the actual built density in existence on the property prior to the natural disaster or redevelopment.

Map 2.3: Coastal High Hazard Area

Successes and Shortcomings of Each Element of the Plan

The Town is required to assess the successes and shortcomings of each element as they pertain to the local issues identified. Refer to Table 2-19 for information on how specific objectives (related to the issues) within each plan element have been met since the adoption of the 1988 Comprehensive Plan.

Land Use Element

The Land Use policies are intended to guide land use and zoning decisions to meet the Town's needs for growth and future development. The Land Use Element is the primary element of the Comprehensive Plan, as its policies significantly influence all other aspects of planning for the Town. The Land Use Element sets forth policies for the location and development of land uses while providing a framework for capital improvement programs to meet infrastructure needs.

Major emphases of the current Land Use Element include but are not limited to:

- Land use transition and compatibility with residential developments.
- Managing the Future Land Use Map
- Implementation, land development regulations and development standards.
- Availability of Public Facilities and Services
- Protection of natural resources

The Town of Malabar has addressed much of the above issues in the Future Land Use Element and through the Land Development Code. The Town has successfully amended the Land Development Code to address land use issues to ensure compatibility of adjacent land uses and guide the development process. The land development code has served to implement many of the policies of the Future Land Use element through performance and development standards, and ensuring the provision of adequate public services for existing and new developments.

The comprehensive plan future land use element and future land use map was amended in 1994 to establish a new mixed use future land use designation of "Residential and Limited Commercial" (R/LC). The R/LC designation is intended as a "Commercial" district. The land development regulations accommodate a mixture of land uses expressively 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. The town has since its adoption designated a number of areas through out town as R/LC to allow compatibility with adjacent land uses along major arterials, particularly US1 and Malabar Road.

The Town has also undertaken discussions and drafting of a land use designation for the conservation of lands along environmentally sensitive areas in order to protect water supply reserve areas, wildlife and other natural resources. The comprehensive plan currently provides an open space and recreation land use designation (OSR). This designation is however too general in context and does not make a clear distinction between recreation, open space and conservation functions. It is the town's intent to separate these three into distinct land use categories that allow for specific uses and

land use regulations within each. Upon final drafting and approval the town should reclassify lands identified as Recreation, Open space or Conservation and coordinate with the adjoining jurisdictions to ensure multi jurisdictional consistency and compatibility of land uses.

Other significant updates to the Future Land Use Element include:

- Adding Objectives and Policies for a Malabar Road Corridor Plan.
- Adding Policies to adopt and maintain land development regulations for Florida Vernacular design regulations
- Intensity Standards for Future Land Use Designation
- Concurrency Review for all development and redevelopment
- References and maps to accommodate new designation of Coastal High Hazard Areas
- Create Policies based on the recommendations of the slum and blight study of US 1.

Traffic Circulation Element

This is the first EAR evaluation done by the Town of Malabar since the adoption of the Comp Plan in 1988. Since that time, the town now falls within the urban area of the Brevard County Metropolitan Planning Organization (MPO). Pursuant to Section 339.175, F.S., the town shall prepare and adopt a Transportation Element consistent with the provisions of the Florida Administrative Code and Chapter 163, Part II, F.S. during the EAR-based amendment process. The Town of Malabar shall coordinate this plan with the long-range transportation plan of the MPO. The element shall be based on all the data requirements pursuant to subsection 9J-5.005 (2) F.A.C. inclusive of information regarding data and analysis on bike and pedestrian and transit and airport options.

Malabar has seen a population increase of 70% over the past twenty years and although projections of Brevard County anticipate 72% increase, unless densities and intensities are altered dramatically in the future, Malabar will maintain much of its rural character. Because of this, Malabar's plan should support a variety of transportation alternatives, which have minimal impact on the natural environment. Upon review of the existing Comprehensive Plan it is recommended the following changes be made during the Ear-based Amendment process:

- Policies and objectives should be added to the plan that support corridor planning efforts along Malabar Road.
- Policies and objectives should be added that support the creation of multi-use trails (bike, pedestrian, and equestrian) specifically the Marie St. Trail which will connect two environmentally endangered lands. This is part of the overall plan for the 22 mile long South Brevard Linear Trail identified in the Brevard Greenways and Trails Master Plan.
- Provide trail connections to other key traffic generators such as the post office and Hospital.

- As part of the development of the Transportation Element, a complete Bike and Pedestrian assessment needs to be completed.
- A full sidewalk inventory should be undertaken which identifies deficiencies, missing sidewalks and potential location for multiuse trails.
- Policies and objectives should be added that support updating the Land Development Regulations and Adequate Public Facilities language.
- Update outdated information.
- Policies that provide for proportionate fair share mitigation and coordination with appropriate agencies.

The Town intends to adopt an ordinance for proportionate fair share by March 2008.

Housing Element

The Housing Element is intended to identify and summarize existing and future housing needs and to highlight deficits in the supply of housing for different income levels. Brevard County and the Town of Malabar's housing conditions were inventoried based on a review of the 1980 Census of Population and Housing data together with a survey conducted by Town staff. All data in the EAR-based amendments should be updated to assess Malabar's current housing needs.

The Town issued 131 building permits between April 2000 and April 2006. Recently approved subdivisions include Oakmont Preserve, Weber Woods, and Stillwater Preserve. Most residential zoning in Malabar is low density with home sites on at least 1.5 acres. Since this Element was last amended, a Blight Study was conducted for Malabar Road and the US 1 corridor, in part to determine the feasibility of new development. The Town works with agencies such as the Brevard County Housing Authority which received Community Development Block Grant (CDBG) funding for affordable housing projects, State Housing Initiative Partnership (SHIP), and the HOME programs. Despite this, the deficit of affordable housing in Malabar is increasing, as the following analysis demonstrates.

Affordable Housing Needs Assessment

The Shimberg Center for Affordable Housing has provided population and housing projections for the Town of Malabar using data supplied by the University of Florida's Bureau of Economic and Business Research (BEBR).

Table 2-12: Housing Units in 2005

Residency type	Malabar		Brevard County	
	Number of units	Percent of units	Number of units	Percent of units
Owner occupied	988	94.3%	158,907	74.8%
Renter occupied	60	5.7%	53,608	25.2%
TOTAL	1,048	100%	212,515	100%

Shimberg Center for Affordable Housing <http://www.shimberg.ufl.edu/>
 "Household Demographic Data"

As the above chart indicates, the overwhelming majority of the housing units in Malabar are owner occupied, and this has been the status quo since this Element was last updated. Countywide, the percentage of residents owning their homes has increased approximately 10%. Statewide, Florida's homeownership rate is about 70%.

When a household spends 30% or more of their income on housing costs, they are considered burdened, and their housing is no longer affordable. In Malabar, 20% of homeowners and 31% of renters were spending more than 30% of their income on housing costs. (See Table 2-13) This is up from the 1986 figure provided in the Comprehensive Plan where only 9% of the Town's households (46 out of 552 households) were cost burdened. Thus, the deficit of affordable housing has increased, just as it has statewide. It should be noted that in 2000, Malabar had a median family income of \$62,321, statistically making it one of the more affluent towns in Florida.

Table 2-13: Cost Burden 2005 – Breakdown

Percent of income spent on housing cost	Number of owner-occupied residences	Percent of owner-occupied residences	Number of renter-occupied residences	Percent of renter-occupied residences
Less than 30% (<u>not</u> cost burdened)	787	79.7%	46	76.7%
Greater than 30% (cost burdened)	201	20.3%	14	23.3%

Shimberg Center for Affordable Housing <http://www.shimberg.ufl.edu/>
 "Housing Demographic Data>Geographic Areas>Indicators"

In terms of housing characteristics, reportedly, only 4% of Malabar's dwelling units were considered "substandard" in 2000 which is consistent with the County's substandard housing percentage. Moreover, overcrowding does not appear to be a significant problem in either the Town or the County.

Table 2-14: Substandard Housing 2000

Substandard Facility	Malabar		Brevard County	
	Number of Units	Percent of Units	Number of Units	Percent of Units
Overcrowded	26	2.4%	5,021	2.5%
Heating	0	0	1,560	.8%
Kitchen	8	.7%	783	.4%
Plumbing	16	1.3%	590	.3%
TOTAL	50	4.4%	7,954	4%

In 2005, the median purchase price of a single family home in Malabar was almost 42% greater than that of Brevard County as a whole. (See Table 2-15)

Table 2-15: 2005 Median Sales Price

Malabar	Brevard County
Single Family Purchase Price	Single Family Purchase Price
\$311,828	\$220,358

Shimberg Center for Affordable Housing <http://www.shimberg.ufl.edu/>
"Housing Market"

Generally speaking, Malabar wishes to maintain its rural atmosphere and slow controlled-growth policy. The Comprehensive Plan encourages a coordinated area-wide approach to planning for central water and wastewater systems in order to promote higher densities within strategically located areas which can support more affordable housing in the future.

Historic Preservation

Objective 3-1.5 lays the groundwork for the promotion and advancement of historic preservation. However, the Town has yet to commission a study to identify potentially historically significant housing. This should be a priority as Malabar's rural lifestyle character is contingent on commemorating its past.

Recommendations

The most current housing data from Shimberg for Malabar should be included in the EAR-based amendments. Other specific recommendations include revising Housing Element policies as follows:

- Include provisions for *very low* income residents as required by 9J-5.010.
- Coordinate with the East Central Florida Regional Planning Council and Brevard County to support regional affordable housing programs and incentives, including those outlined in the Brevard County Workforce and Affordable Housing Ordinance;
- Continue to allow a variety of residential use densities in order to enhance the opportunity for private sector to provide for a variety of housing types;
- Support provisions of affordable housing by exploring community land trusts;
- Review Town ordinances, codes, regulations, and permitting process to determine whether there exists requirements which systematically and unduly inhibit the construction of quality housing that is affordable to very low, low, and moderate income groups;
- Schedule for a comprehensive historic housing survey.

Infrastructure Element

Since the 1998 Comprehensive Plan, the Town has made significant upgrades to their utility and stormwater management systems. Many residents have voiced a desire for expansion of public facilities without opening the door to rampant development. Palm Bay Utilities has demonstrated, through their Water Master Plan, the ability to provide the residents of the Town of Malabar sufficient potable water and sewage treatment capacity for their projected growth through the next 10 years.

Solid waste collection and disposal is considered effective. However, the Town of Malabar should more actively promote a recycling program.

The Town, with coordination with Brevard County and the St. Johns River Water Management District, has maintained the drainage LOS as established in the 1988 Comprehensive Plan. However, residents and Town staff report further stormwater management improvements are imperative.

The SJRWMD has recommended Low Impact Development (LID) & Water Resource Protection as an alternative method of stormwater management. LID employs site specific design and utilizes natural features to capture and treat storm runoff. The following are examples of how LID can be incorporated into site design:

Bio-retention cells - grass buffers, sand beds, a retention area for excess runoff storage, organic layers, planting soil and vegetation to collect storm water and filters into the soil.

Vegetated swales - used as an alternative to curb and gutter systems, usually along residential streets or highways. They incorporate grasses or other vegetation to reduce runoff velocity and allow filtration, while high volume flows are channeled away safely to a quantity management facility.

Filter strips - designed as landscape features within parking lots or other areas, to collect flow from large impervious surfaces. They may direct water into vegetated quantity detention areas or special sand filters that capture pollutants and gradually discharge water over a period of time.

Disconnected impervious areas - direct water flow collected from structures, driveways, or street sections, is separated into localized detention cells instead of combining it in drainpipes with other runoff to help reduce velocity.

Cistern collection systems - designed to store rainwater for dry-period irrigation, rather than channeling it to streams. Smaller tanks that collect residential roof drainage are often called "rain barrels" and may be installed by individual homeowners. Some collection systems are designed to be installed directly under permeable pavement areas, allowing maximum water storage capacity while eliminating the need for gravel beds.

Permeable Pavement Surfaces - constructed from a variety of materials, including traditional asphalt and concrete, gravel or pavers. Permeable roadway or parking areas allow water to flow through, replenishing soil areas directly beneath. However, the sub-base underneath permeable pavements must be engineered to accommodate both filtration and quantity water storage. In many cases, permeable surfaces can reduce or eliminate the need for traditional storm water structures.

It is recommended that the Town of Malabar update the Stormwater Master Plan to incorporate Low Impact Development techniques. The Public Facilities Element should be amended to schedule this update.

Conservation Element

The purpose of the Conservation Element is to promote conservation, use and protection of natural resources.

The Town of Malabar is in southern Brevard County; which is centrally located along the east coast of the State. The Town is located on the eastern shoreline of the mainland component of the County. There are two, Class II, waterbodies which traverse the Town, Goat Creek and Turkey Creek, and the Town's eastern boundary falls along the Indian River Lagoon (IRL). The IRL is a linear estuarine system that extends along more than a third of Florida's east coast. Numerous freshwater wetlands and sloughs undergo a transition into riverine systems that connect directly to the IRL. Overall the IRL extends over 155 miles from Ponce de Leon Inlet in Volusia County south to Jupiter Inlet in Palm Beach County. The lagoon, separated from the Atlantic Ocean by a barrier Island system, interacts with the saline waters of the Atlantic Ocean through the Sebastian, Fort Pierce, St. Lucie, and Jupiter inlets, providing tidal exchange with fresh water discharged into the lagoon from the Sebastian, St. Lucie, and Loxahatchee rivers. The Indian River Lagoon is America's most diverse estuary. There are over 400 species of fish, 260 species of mollusks and 479 species of shrimp and crabs. The IRL also contains the intra-coastal waterway (ICW) and dredge spoil islands from the maintenance of the ICW.

The Town's eastern boundary also falls along an area of the IRL designated as an aquatic preserve. The Indian River - Malabar to Vero Beach Aquatic Preserve was established on October 21, 1969 by the Governor and Cabinet by resolution. In 1975, the Florida Legislature established The Florida Aquatic Preserve Act as codified in Chapter 258, F.S. The Aquatic Preserves are administered under Chapters 18-20 and 18-21, Florida Administrative Code (F.A.C.).

These waterbodies, along with wetlands, and the three primary native vegetative communities, South Florida Flatwoods, Wetland Hardwood Hammock, and Swamp Hardwoods, which are found in the Town, represent the Town's primary natural resources.

The resource pressures and impacts continue to be floodplain and stormwater management; wetland and shoreline protection; and regulating development within environmentally sensitive habitat. Air quality in the Town continues to be generally excellent.

New programs have been developed to protect environmentally sensitive land and to manage stormwater. The Environmentally Endangered Lands (EEL) Program was established by Brevard County in 1990 to protect the natural habitats of the County through acquisition of environmentally sensitive lands for conservation, passive

recreation, and environmental education. Portions of the Town of Malabar have been incorporated into the EEL Program. The Town's 1994 Stormwater Management Program is the guiding document for Malabar on stormwater treatment methods. These programs need to be reflected in the Conservation Element.

Conservation data and status is continuously being reported and updated by local, state, federal and non-governmental agencies. Monitoring of the Indian River Lagoon is ongoing and coordinated by various agencies including the Marine Resources Council of East Florida, the St. Johns River Water Management District and numerous other agencies. Up-to-date information is available from these agencies, including the updated information on storage tanks and contaminated sites from FDEP. The Town should continue to utilize, and incorporate into the Towns Comprehensive Plan, as appropriate, the most credible, current data and technologies made available by these programs and agencies.

Other amendments to the Conservation Element include:

- Revising policies to reflect feasible environmental regulation (i.e. Town cannot regulate submerged lands)
- Schedule dates for adoption of LDC changes to regulate agricultural activities in relation to surface water management
- Revise LDC regarding mining to mitigate soil loss.

Coastal Management Element

The purpose of the Coastal Element is to plan for, and where appropriate, restrict development activities where such activities would damage or destroy coastal resources, and protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

The Town of Malabar is in southern Brevard County; which is centrally located long the east coast of the State. The Town and is located on the eastern shoreline of the mainland component of the County. There are two, Class II, waterbodies which traverse the Town, Goat Creek and Turkey Creek and the Town's eastern boundary falls along the Indian River Lagoon (IRL). The IRL is a linear estuarine system that extends along more than a third of Florida's east coast. Numerous freshwater wetlands and sloughs undergo a transition into riverine systems that connect directly to the IRL. Overall the IRL extends over 155 miles from Ponce de Leon Inlet in Volusia County south to Jupiter Inlet in Palm Beach County. The lagoon, separated from the Atlantic Ocean by a barrier Island system, interacts with the saline waters of the Atlantic Ocean through the Sebastian, Fort Pierce, St. Lucie, and Jupiter inlets, providing tidal exchange with fresh water discharged into the lagoon from the Sebastian, St. Lucie, and Loxahatchee rivers. The Indian River Lagoon is America's most diverse estuary. There are over 400 species of fish, 260 species of mollusks and 479 species of shrimp and crabs. The IRL also contains the intra-coastal waterway (ICW) and dredge spoil islands from the maintenance of the ICW.

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These waterbodies, along with wetlands, and the three primary native vegetative communities, South Florida Flatwoods, Wetland Hardwood Hammock, and Swamp Hardwoods, which are found in the Town, represent the Town's primary natural resources.

Due to the desirability of waterfront real estate, and close proximity to waterfront, the pressures to develop along the coastal are intensifying with the population increases the State is experiencing. The natural resource pressures and impacts continue to be floodplain and stormwater management; wetland and shoreline protection; protection of the IRL; and regulating development within environmentally sensitive habitat. Providing public access to the shoreline also continues to be an issue the Town faces. Objective 5-1.2 provides for shoreline uses, however, related policies may need to be amended according to feasibility of acquiring land useable for public access. Policies should also be added to coordinate with appropriate agencies to mark the mailboat route along the IRL.

The primary natural disaster that the Town may encounter is a hurricane; which has the potential to occur from June through November. Significant tropical storms, tornadoes or wildfires may also occur in the Town. Regulating development activities within areas that are subject to destruction by natural disaster also continues to create challenges the Town must faces.

The Brevard County Peacetime Emergency Plan outlines the procedures for the planning and execution of evacuation in areas threatened by disaster in order to minimize or reduce the casualties attributed to the disaster. The Town also has a local emergency management plan, which they update annually. The Town should take steps to develop their own or to adopt a Post Disaster Redevelopment plan and have this reflected in the Coastal Management Element. Additionally, it is recommended that the Town review the recommendations in the Brevard County Profile of the *Integration of the Local Mitigation Strategy into the Local Comprehensive Plan* presented by the Department of Community Affairs, and incorporate those recommendations, as appropriate, into Towns Comprehensive Plan when the EAR based amendments are put forward.

A new definition of Coastal High Hazard Areas has been adopted and needs to be reflected in the Coastal Management Element's Data and Analysis section as well as in the Goals, Objectives and Policies section. Currently, pursuant to Chapter 163.3178(2)(h) F.S., the "Coastal High Hazard Areas" (also referred to as the high-hazard coastal areas) means the area below the elevation of the category 1 storm surge

line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

Coastal programs and plans are continually being developed and updated by local, state, federal and non-governmental agencies. Numerous agencies are monitoring the IRL. THE SJRWMD continues to implement and update the *Indian River Lagoon Comprehensive Conservation and Management Plan (CCMP)*. The Brevard County Stormwater Program (BCSP) provides assistance and recommendations for the selection and implementation of the most efficient and cost effective stormwater treatment methods. The Brevard County Natural Resource Management Office and the University of Florida Brevard County Extension Service have initiated and are jointly sponsoring the development of the Brevard County Comprehensive Maritime Management Master Plan (CM3P).

The Town should continue to coordinate and cooperate with the many programs and plans concerned with natural resource management and preservation; and should continue to utilize, and incorporate into the Towns Comprehensive Plan, as appropriate, the most credible, current data and technologies made available by these programs. The Plan should include policies that maintain the Coastal Preservation zoning district which according to the land development code “ is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.”

The 2007 Planning and Zoning Board recently questioned if there should be different subsections to recognize and address distinctions in freshwater and saltwater wetlands and distinctions from wetlands to ponds and lagoons. Wetland delineations are determined pursuant to Sections 62-340.100 through 62-340.550, F.A.C., as ratified by Section 373.4211, F.S., as well as in accordance with the 1987 US ACOE Wetland Delineation Manual. Pursuant to F.A.C. 62-340.200 (19) “Wetlands,” as defined in subsection 373.019(25), F.S., means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory

dominated by saw palmetto.”

A wetland, as currently defined and regulated, encompasses fresh, brackish and saltwater as well as herbaceous and forested habitats. Additionally, FAC 62-340.600 provides for a definition of Surface Waters to distinguish these from wetlands.

Wetland regulations apply uniformly for all jurisdictional wetlands. Unless the Town wishes to singularly acknowledge a very specific habitat type, it is unnecessary for the Town to create distinctions and subcategories.

Recreation and Open Space Element

The purpose of the Recreation and Open Space Element is to plan for a comprehensive system of recreation and open space lands available to the public. The Comprehensive Plan inventory of parks from 1988 identified 27 acres of town and county-owned recreational land within its boundaries. Additionally, the Comprehensive Plan identifies over 1,100 acres of other public and private recreational facilities in and around Malabar. Much has happened over the past two decades.

Recognizing the potential for greenways and trails in Brevard County, local activists established The Greenways and Trails Committee in 1995. The Town of Malabar spearheaded this grassroots movement by including the development of trails in its management plans for conservation lands acquired in coordination with the County’s Environmentally Endangered Lands (EEL) program and the Florida Communities Trust. Malabar worked closely with the Brevard Metropolitan Planning Organization (MPO) by holding several public workshops designed to gather input and recommendations from its citizens on the location and types of trails and how to link these trails to surrounding communities. Ultimately, this resulted in the Brevard Greenways and Trails Master Plan which proposed a multimodal system of urban connector trails that utilize existing right of way as well as greenway trails with their own right of way in less developed areas.

Included in the Greenways and Trails Master Plan proposal is a 22-mile South Brevard Linear Trail linking Malabar’s endangered lands with neighboring communities. The 395-acre Malabar Scrub Sanctuary and the 354-acre Jordan Scrub Sanctuary – both EEL’s within the Malabar Town limits – are along this proposed multi-use corridor to be renamed after the late conservationist Al Tuttle by Brevard County. In Malabar, a bicycle path is already being planned along Marie Street, which connects the two sanctuaries.

To advance the vision of the Brevard County EEL Program, the EAR recommends that a high priority be placed on revising land use designations and corresponding zoning districts for conservation lands as needed.

The 1988 Comprehensive Plan identifies a 10-acre unnamed and undeveloped park on Gilmore Street and Malabar Road. Five Florida Recreation Development Assistance Program (FRDAP) grants helped develop this land. Now known as Malabar Community

Park, this facility has expanded to approximately 20 acres and includes soccer and baseball fields, basketball, volleyball, and tennis courts, pavilions, playground, picnic tables, and restroom facilities. This park lies south and adjacent to the Malabar Scrub Sanctuary.

The 2-acre park along Johnson Avenue has developed into Huggins Neighborhood Park, which boasts a playground and gazebo, and comprises approximately 5 acres. Additionally, the Town is developing a Disc Golf Course park on 8.5 acres of wooded land across the street from Malabar Community Park.

The inventory and analysis section of the Recreation and Open Space Element references a level of service standard of five (5) acres of recreation land for every one thousand (1,000) residents. However, that LOS standard is not specifically denoted in any of the Goals, Objectives, or Policies section. Policy 7-1.1.1 should be amended accordingly. To that end, the Town may wish to create a new policy clarifying what constitutes “recreation and open space.”

Intergovernmental Coordination Element

Lands surrounding the Town of Malabar to the north, west and south are mostly Palm Bay. To the east Malabar is bordered by Indian River Lagoon.

Malabar interacts formally and informally with numerous state and regional agencies, utility companies, authorities, and special districts for the provision and regulation of services.

The Town of Malabar actively coordinates with the following entities:

- a. Adjacent governments, school boards and other units of local government:
 - Brevard County Environmentally Endangered Lands (EEL) Program
 - Brevard County Metropolitan Planning Organization and Technical Advisory Committee
 - Brevard County Housing Authority
 - Brevard County Planning & Zoning (P&Z) and Geographic Information System (GIS) Department
 - Brevard County School Board
 - Brevard County Sheriff’s Office
 - Brevard County Fire Rescue
 - City of Palm Bay
 - Town of Grant-Valkaria
 - Brevard County Intergovernmental Steering Committee
 - Marine Resource Council
 - Space Coast Growth Management Coalition
 - Space Coast League of Cities
 - Florida League of Cities

- b. Independent special districts and regional agencies:

- East Central Florida Regional Planning Council
- St. Johns River Water Management District

c. State agencies:

- Florida Department of Community Affairs
- Florida Department of Environmental Protection
- Florida Department of Transportation
- Florida Fish and Wildlife
- Florida Department of State
- Florida Department of Education

c. Authorities, independent special districts and utility companies which provide services:

- Florida Power and Light
- AT&T
- Brighthouse
- Palm Bay Utility
- City Gas Company
- Waste Management

The Intergovernmental Coordination Element requires the Town to actively communicate and participate with the County, State, and adjacent municipalities on issues relating to annexation, land use changes, and coordination of public facilities. The Town has been an active participant of many intergovernmental entities since its inception in 1962 and continues to do so to this day. Currently, the Town of Malabar is a voting member of the Space Coast League of Cities and the Florida League of Cities in which several council members and the Town Administrator serve on policy committees. The Town participates in the East Central Florida Regional Planning Council to discuss development projects for regional and sub regional infrastructure systems and in the preparation of area wide infrastructure master plans. In addition, the town council participates in Metropolitan Planning Organization (MPO)/Technical Advisory Committee (TAC) meetings at the county and stays current on activities in and around Malabar, Palm Bay, Grant-Valkaria. The town also serves as a member of the Valkaria Airport Authority Master Plan Committee.

Other recommendations include adopting policies for the following:

- Coordination with Brevard County, the MPO, FDOT, and adjacent municipalities on proportionate fair share mitigation and concurrency management for transportation facilities
- Specific coordination with FDOT on widening Malabar Road per the FDOT Five-Year Work Plan
- Coordination with Brevard County School District on school concurrency
- Coordination with the MPO, Brevard County Greenways and Trails, on a multiuse trail plan for the Town

Capital Improvements Element

The Capital Improvement Element provides for review criteria of capital improvements, coordination with the budget, level of service standards, and concurrency management. The Town does not currently have a Capital Improvement Program. The Town will need to update its Schedule of Capital Improvements and provide a financially feasible Capital Improvements Element before December 1, 2008, possibly in advance or in conjunction with the other EAR-Based amendments.

The Town has prepared an update to its Capital Improvement Plan in August 2007. The update provides an inventory of Town projects and suggestions for projects. No projects for the next five years are listed. The Capital Improvement Plan and related Schedule of Capital Improvements should be created to show a clear program for implementing capital projects. The Schedule of Capital Improvements should include projects from FDOT, Brevard County, Brevard County School Board, and the City of Palm Bay that affect the Town's level of service standards.

Policies in the Capital Improvements Element should be modified to require concurrency assessments for all certificates of use, site plans and subdivision plans and direct the timing of development-related projects.. Policies should be revised as follows:

- Development orders should only be issued if public facilities will be available with the impacts of development.
- Provide for facilities according to timing requirements in Chapter 163.3180 as follows:
 - (a) Sanitary sewer, solid waste, drainage, adequate water supplies, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy.
 - (b) Parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance by the local government of a certificate of occupancy.
 - (c) Transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation.
- Any required improvements to meet concurrency, as determined by Town staff, shall include a detailed schedule for construction and completion.
- Should development or facilities improvements fail to begin or completed in accordance with the development order or permit, then all outstanding approvals of the development would expire.
- Amendments or changes to time schedules shall be permitted but must be approved by the body granting the original approval.

The Capital Improvements Element should be modified to include policies for scheduling an update the Level of Service standards in the Concurrency Management section of the Land Development Code. Additionally, the Capital Improvements

Element should be modified to require objectives and policies to require maintenance of a Capacity and Level of Service inventory. The Inventory would track all public facilities (transportation, sanitary sewer, potable water, solid waste, drainage, and parks and open space.) It would also track improvements made to facilities by the Town, Brevard County, FDOT, City of Palm Bay, other public agencies. Data on school capacity should also be included once the Town has adopted school concurrency and Public School Facilities Element. The database would ease implementation of the Town's Concurrency Management System.

Overall, recommended revisions to the Capital Improvements Element include:

- Policies requiring an annual update to the Capital Improvements Element and Schedule of Capital Improvements
- Coordination of proportionate fair share mitigation for transportation and school projects
- Updates to level of service standards
- Updated data on sources of funding
- Financially feasible Schedule of Capital Improvements that include projects from FDOT, Brevard County, Brevard County School Board, and the City of Palm Bay that affect the Town's level of service standards

Table 2-16: Matrix for Evaluating Plan Objectives

Future Land Use Element Objectives

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 1-1.1 – Plan and Design for Residential Quality. Sufficient space shall be provided for residential development and required community facilities to adequately meet the housing needs of the present and expected future population.</p>	<p>(Policy 1-1.1.1.) Provide Access to Goods and Services and Protect residential Areas from Adverse impacts of transition in land use.</p> <p>(Policy 1-1.1.2) Promote Orderly Land Use Transition.</p> <p>(Policy 1-1.1.3) Promote Orderly Transition In residential densities.</p> <p>(Policy 1-1.1.4) Reinforce and Enhance Appearance of Residential Areas and Provide Amenities.</p> <p>(Policy 1-1.1.5) Encourage the separation of Urban and Rural Land uses.</p>	<p>1. The Town Land Development Code (LDC) provides for screening along perimeter of parking and vehicular use areas in general but it is not specific on screening requirements for non residential uses adjacent to residential properties.</p> <p>2. Highest residential densities continue to be allocated to sites that are highly accessible to major through fares and collectors streets such as US1 and Malabar Road and adjacent</p> <p>3. LDC provides for separation of land uses.</p>	<p>No change required for the objective. Policies should be revised to schedule amending the LDC regarding screening requirements for non residential uses adjacent to residential property. It should also include additional performance and urban service availability standards to separate urban and rural land uses.</p>
<p>Objective 1-1.2 – Allocating Commercial Development. Commercial development shall be comprised of a wide range of business uses. The allocation of land resources shall consider the location and space requirements of commercial activities and potential fiscal and environmental impacts on the Town of Malabar.</p>	<p>(Policy 1-1.2.1) General Considerations in Locating Commercial development.</p> <p>(Policy 1-1.2.2) General pattern of Commercial Land Use.</p> <p>(Policy 1-1.2.3) Provide Appropriate Locations for Commercial Office Development.</p> <p>(Policy 1-1.2.4) Designate</p>	<p>The Land Development Code (LDC) provides for screening along perimeter of parking and vehicular use areas in general but it is not specific on screening requirements for non residential uses adjacent to residential properties.</p>	<p>No change required for the objective. However, LDC does not address policies regarding screening requirements for non residential uses adjacent to residential property and should therefore be revised to include this provision.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	Various Types of Commercial Nodes to Accommodate Diverse Commercial Uses.		
Objective 1-1.3 – Planning for Industrial Development. Sufficient land shall be allocated to accommodate industrial development.	<p>(Policy 1-1.3.1) General Consideration in Locating Industrial Development.</p> <p>(Policy 1-1.3.2) Review of Proposed Future Land Use Map Amendments for Industrial Developments.</p> <p>(Policy 1-1.3.3) Pursue Selective Industrial Expansion Policy.</p> <p>(Policy 1-1.3.4) Prevent Nuisance Impacts of Industry)</p>	The Town continues to follow the LDC as applicable for Industrial Uses. The LDC provides regulations for the policies regarding development standards for industrial uses under Objective 1-1.3	No change necessary.
Objective 1-1.4 – Accommodate Institutional Facilities and Public Services. The Town shall assure that needed public services and facilities are developed current with new development, including adoption of an adequate facilities ordinance within its Land Development Code. The Town shall use the capital improvements program and budget process to pursue the advance acquisition of land required to provide recreation, conservation, and related public facilities.	<p>(Policy 1-1.4.1) Coordinate Public and Private Investments in Land Improvements.</p> <p>(Policy 1-1.4.2) Maintain and Enforce Standards and Specifications for Design and Construction of Public and Semi-public Services.</p> <p>(Policy 1-1.4.3) Provision of On-site and Off-Site Improvements.</p>	The Town continues to follow the LDC as applicable for Institutional Facilities and Public Services. The LDC provides regulations for concurrency management and availability of public services.	Objective requires no change. The LDC should be reviewed to incorporate standards and specifications for design and construction of public and semi public services.
Objective 1-1.5 – Promote Community Appearance, Natural Amenities and Urban Design Principles. The community appearance shall be	(Policy 1-1.5.1) Reinforce and Enhance the Town's Community Appearance.	The Town continues to follow the LDC. Protecting the rural atmosphere and natural amenities is a major issue for the Town of	The town should incorporate policies to include design regulations for PUD's in order to ensure new developments fit the

Objective	Measurable Target	Current Conditions 2007	Comments
reinforced and enhanced through application of the site plan review process.		Malabar. The regulations for PUD's however do not ensure that new development will be consistent with the rural character of the town of Malabar.	profile and rural atmosphere of the Town of Malabar. Policy to include maintenance of Florida Vernacular Ordinance should be included.
Objective 1-2.1 – Allocating Residential Development. The future land use map shall allocate residential density based on the following considerations: past and projected future populations and housing trends and characteristics; provision and maintenance of quality residential environments; protection of environmentally fragile natural systems; the need to plan for smooth transition in residential densities, and provision and maintenance of traffic circulation and multiple-family improvements.	(Policy 1-2.1.1) Density Defined. (Policy 1-2.1.2) Rural Residential Development (RR). (Policy 1-2.1.3) Low Density Residential Development (LDR). (Policy 1-2.1.4) Medium Density residential development (MDR) (Policy 1-2.1.5) High Density Residential Development (HDR)	The Town continues to follow the LDC.	No change required.
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; and 3) general commercial activities. 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 and explanation of the purpose, intent and character of the commercial land use	(Policy 1-2.2.1) Multifamily-Residential or Office Development (MRO) (Policy 1-2.2.2) Office Institutional Development (OI) (Policy 1-2.2.3) Limited Commercial Development (CL) (Policy 1-2.2.4) General Commercial Development (CG) (Policy 1-2.2.5) Residential and	In 1994 Town Commission approved ordinance #94-3 to amend the comprehensive plan and establish a new mixed use Future Land Use designation of “Residential and Limited Commercial” (R/LC) to meet the goals and objective in 1-2.2. The LDC was also amended to include development standards for the R/LC land use. Also, the desire to create a corridor along Malabar Road aims to meeting Objective 1-2.2	Objective requires no change. Policies should be provided for the creation of a corridor along Malabar Road and the inclusion of regulations for design standards and availability of public facilities. Intensity standards needed for all non-residential categories.

Objective	Measurable Target	Current Conditions 2007	Comments
designation.	Limited Commercial Development (R/LC) (Policy 1-2.2.6) Criteria for the Residential and Limited Commercial Development Designation.		
Objective 1-2.3. – Allocating Industrial Development (IND). The Future Land Use map shall allocate land resources for the existing and anticipated future industrial needs and requisite support services.	(Policy 1-2.3.1) Industrial Land Use Designation.	The Town continues to follow the LDC.	No change required.
Objective 1-2.4 – Allocating Institutional Services (INS). The town shall set aside land sufficient to accommodate institutional land uses. For instance, approximately 25 acres of institutional land area is anticipated to be required by 2010...	(Policy 1-2.4.1) Institutional Land Use Designation.	Land Use map has a minimum 25 acres reserved for Institutional Land Uses to meet the goals and objectives 1-2.4. [Acreage to be confirmed with finalization for Existing land Use Map].	No change required.
Objective 1-2.5 – Allocating Open Space and Recreation (OSR). The open space and recreation designation has been established to direct the preservation of major open space and recreation areas, including golf courses, parks, recreation areas, and similar facilities.	(Policy 1-2.5.1) Open Space and Recreation Land Use Designation.	The town contains approximately 27.5 acres of land designated open space and recreation. Based on population projections to 2010 the amount of acreage is adequate and compatible with the goals and objectives of the Recreation and Open Space element.	Town should amend Objective 1-2.5 and Policy 1-2.5.1 to separate Open Space and Recreation as distinct land uses categories and include a Conservation land use category to demonstrate consistency with the goals and objectives of the land use and conservation element.
Objective 1-2.6 – Planned Unit Development. The town shall promote innovative development concepts including mixed use development, and	(Policy 1.2.6.1) Planned Unit Development Overlay Designation.	The town has incorporated a mixed use (residential/ limited commercial) land use designation. The LDC also incorporates PUD overlay district and	Objective requires no change. Policies should be addressed for design standards for PUD's to

Objective	Measurable Target	Current Conditions 2007	Comments
shall institute procedures for resolving conflict through the use of planned unit development.		regulations.	match Town's rural character.
<p>Objective 1-2.7 – School Siting: The future land use map shall accommodate schools within all land use designations at locations that minimize impacts to adjacent residential land use, that provide efficient access to school sites, that create compatibility with adjacent residential land uses, that comply with all the provisions of the comprehensive plan and land development code, and shall be implemented through the following policies.</p>	<p>(Policy 1-2.7.1) School Site Locations.</p> <p>1.1 Site compatibility;</p> <p>1.2 School Site Size;</p> <p>1.3 Compliance with Town of Malabar Comprehensive Plan and Concurrency Requirements;</p> <p>1.4 Future Land Use Map Designations for Schools;</p> <p>1.5 Protect Natural Resources and Avoid Encroachment into Environmentally Fragile System;</p> <p>1.6 Protect Archeologically Historically and Historically Significant Sites;</p> <p>1.7 Locate outside of Airport Approach Zones and High Impact Noise Contours.</p> <p>1.8 Encourage Co-Location of Public Facilities with Complementary Functions.</p> <p>(Policy 1-2-7.2) Siting of Private School Sites.</p> <p>(Policy 1-2-7.3) Amend the Land Development Code to Implement the School Siting Policies.</p>	<p>Ordinance 2006-13 was adopted on 8/21/06 - Town will coordinate with School Board on any potential school development. Currently none are planned within the Town.</p>	<p>No change required.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 1-3.1 – Manage and Coordinate Future Land Use Decisions. Management of land and physical improvements identified on the future land use map will be coordinate with natural systems, including topography, soil conditions, vegetation, natural habitat potable water well fields, and other environmentally sensitive land and water resources.</p>	<p>(Policy 1-3.1.1) Future Land Use Map and Related Policies. (Policy 1-3.1.2) Resolving Public Service Concurrency Issues Surrounding New Development. (Policy 1-3.1.3) Land Development Regulations. (Policy 1-3.1.4) Standards for Residential Density. (Policy 1-3.1.5) Non-Residential Development Standards. (Policy 1-3.1.6) Performance Standards.</p>	<p>Future land use designations in land use element are consistent with LDC land use and zoning designations. The LDC also provides for concurrency requirements for new development based on LOS standards. The concurrency management requirements are required for any development applications and/or comprehensive plan amendments for non-residential development or residential development when the density is greater than 1 unit per 1.5 acres.</p> <p>Continue to follow LDC land use designation and performance standards.</p>	<p>Objective requires no change. Amend policies to schedule review of LDC to include concurrency assessments for all development and redevelopment applications. Policy 1-3.1.2 should be amended for this purpose.</p>
<p>Objective 1-3.2 - Encourage Development and Renewal. Manage future development of declining areas.</p>	<p>(Policy 1-3.2.1) Code enforcement activities. (Policy 1-3.2.2) Public and Private Sector Partnership's.</p>	<p>The Town has indicated a need for a Corridor Plan for Malabar Road. The town also conducted a blight study to identify blighted areas and mechanisms for improvement and renewal.</p>	<p>Objective requires no changes. Include new policies for scheduling completion of a Malabar Road Corridor Plan and recommendations for improving the US I area through nuisance abatement program and linear park.</p>
<p>Objective 1-3.3 – Prevent land Uses Inconsistent with Town's Character. Future land uses shall be consistent with the Town's character, the future land use map, and other applicable laws, ordinances, and administrative rules impacting land and water resources.</p>	<p>(Policy 1-3.3.1) Managing Future Land Uses. (Policy 1-3.3.2) Managing Improvements to Existing Non-Complying Structures.</p>	<p>The town continues to follow LDC regulations.</p>	<p>No change necessary.</p>
<p>Objective 1-3.4 – Protection of</p>	<p>(Policy 1-3.4.1) Programming</p>	<p>The LDC has little provisions for</p>	<p>Objective requires no change.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
Archeological and Historical Resources. Land development and conservation activities shall insure protection of archeological and/or historical resources.	for Archeological and Historic sites. (Policy 1-3.4.2) Preventing Adverse Impact of Development on Historic or Archeological Sites.	protection of archeological and historic sites as suggested in objective 1-3.4 and policies.	Policies should be amended to require revision of the LDC to include provisions for protection of archeological and historic sites and to schedule study of historic housing and other structures.
Objective 1-3.5 – Protection of Natural Resources. Development and conservation activities shall assure the protection of natural resources.	(Policy 1-3.5.1) Future Land Use Policies for Managing Environmentally Sensitive Lands. (Policy 1-3.5.2) Policy Incorporate Land Development Regulations for Environmentally Sensitive. (Policy 1-3.5.3) Intergovernmental Coordination and Natural Resource Management. (Policy 1-3.5.4) Protecting Flora and Fauna Having Special Status. (Policy 1-3.5.5) Managing Storm water Runoff. (Policy 1-3.5.6) Conservation of Potable Water Supply.	The LDC incorporates performance standards for the preservation of recharge areas but not specific to preservation of Indian River Lagoon, sea grassbeds, and other estuarine resources. LDC Article VII Sec. 1-7.2 G.3. Wetland Development Restrictions and Interpretations regulate wetland development. Potable water conservation standards are provided for in LDC.	The town should review LDC to incorporate performance standards for preservation of Indian River lagoon, sea grassbeds, and other estuarine resources. Change ECFRPC Comprehensive Plan to ECFRPC Strategic Regional Policy Plan.
Objective 1-3.6 Coordinating Coastal Area Population Densities. Coastal area population densities shall be coordinated with Brevard County Peacetime Emergency plan, Disaster Evacuation Plan, and shall also be consistent with	(Policy 1-3.6.1) Continuing Review of Population Densities.	Policy needs to include FAC 9J-5.012 (3) (c) 8. The relocation, mitigation or replacement, as deemed appropriate by the local government, of infrastructure presently within the coastal high-hazard area when state funding is	Amend policy to fulfill requirements of FAC 9J-5.

Objective	Measurable Target	Current Conditions 2007	Comments
the applicable regional hurricane evacuation plans.		anticipated to be needed.	
Objective 1-3.7 Consistency with the State Aquatic Preserve Plan for the Indian River Lagoon. Resource planning and management activities shall be coordinated with the State Aquatic Preserve Management Plan for Indian River Lagoon.	(Policy 1-3.7.1) Indian River Lagoon Aquatic Preserve Plan.	Town coordinates with appropriate agencies	No change necessary.
Objective 1-3.8 Coordinate Timing and Staging of Public and Private Development. The location, scale, timing, and design of development shall be coordinated with public facilities and services in order to promote cost effective land development patterns and direct future development only to those areas where provisions of public facilities necessary to meet level of service standards are available concurrent with the impact of development.	(Policy 1-3.8.1) Development Orders and Permitting Process. (Policy 1-3.8.2) Design Public Facilities and Utilities. (Policy 1-3.8.3) Developments not Served by Public Water and/or Wastewater Systems. (Policy 1-3.8.4) Accommodating Requisite Infrastructure.	Development orders and permits are tied to the concurrency standards in the LDC that ensure the provision of adequate infrastructure facilities, public services and level of service.	No change necessary.
Objective 1-3.9 – Consider Application of Innovative land and water resource management concepts. Monitor state of the art concepts for managing land and water resources and land development regulations which are responsive to unique development and conservation issues confronted by the Town.	(Policy 1-3.9.1) Incorporate Innovative Techniques in the Land Development Regulations.	The town continues to follow LDC.	No change necessary.
Objective 1-3.10 – Intergovernmental Coordination. The town shall coordinate land and water resource management	(Policy 1-3.10.1) Implementing Intergovernmental coordination.	The town coordinates with a number of local, regional and state agencies to address land use, public facilities	No change necessary.

Objective	Measurable Target	Current Conditions 2007	Comments
<p>issues with other applicable public agencies at all levels of government pursuant to the Intergovernmental Coordination Element.</p>		<p>and services, environmental issues, Indian River Lagoon, potable water, and wastewater, housing, public safety, and utilities among others issues pursuant to the Intergovernmental Coordination Element.</p>	
<p>Objective 1-3.11 – Continuing Land Use Programs. The Town shall implement land use goals, and objectives, by carrying out a continuing program of land use activities below cited.</p>	<p>(Policy 1-3.11.1) Land Use Information System (Policy 1-3.11.2) Land Use Trends. (Policy 1-3.11.3) Fiscal management. (Policy 1-3.11.4) Administer Land Use Controls. (Policy 1-3.11.5) Public Assistance. (Policy 1-3.11.6) Intergovernmental Coordination. (Policy 1-3.11.7) Manage Current development Impacts. (Policy 1-3.11.8) Urban Design and Community Appearance. (Policy 1-3.11.9) Special Land Use studies.</p>	<p>1. The town provides policies and procedures on land development regulations but does not currently maintain a land use information system. The town however intends to implement a databank in 2008. 2. The town monitors its annual population determination and conducts its own population analysis. 5. The town provides on a daily basis continuing land use information and assistance. 6. The town coordinates with FDEP for the permitting of docks along Indian River Lagoon (IRL) and with St. Johns Water Management District for drainage into the IRL. 9. The town conducts special studies in response to changing land use conditions. Most recently a blight study for the US 1 corridor.</p>	

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 1-3.12 – Continuing Evaluation of Land Use Element Effectiveness. The town shall use the following policies as criteria in evaluating the effectiveness of the Land Use Element.</p>	<p>(Policy 1-3.12.1) Review the Impact of Change Indicators on land Use Policy.</p> <p>(Policy 1-3.12.2) Schedule, Budget, and Implement Programmed Activities</p> <p>(Policy 1-3.12.3) Coordinate with Public and Private Sectors.</p> <p>(Policy 1-3.12.4) Achieve Effective Resolution of Land Use Goals, Objectives, and Policies.</p>	<p>The Town is evaluating the effectiveness of the Comprehensives Plan.</p>	<p>No change necessary.</p>

Traffic Circulation Element Objectives

Objective	Measurable Target	Current Conditions-2007	Comments
Objective 2-1.1 Safe, Convenient and Efficient transportation System: Establish a safe, convenient, and efficient motorized and non motorized transportation system through development and implementation of level of service standards (LOS).			Objective needs no change.
	(Policy)2-1.1.1 Level of Service Standards: Adoption of LOS standards for state, county and local roadways.	The Town has adopted peak hour level of service standard "D" for all roadways.	Revise the policy to include the adopted LOS standards for SIS facilities.
	(Policy)2-1.1.2 Master Plan for Road Paving: Prepare and adopt a Master Plan for road paving by 1991, and identify the funding resources.	Master plan Adopted. Town has indicated a need to have the plan updated.	Revise the policy to adopt the updated Master Plan.
	(Policy)2-1.1.3 Criteria for Evaluating Proposed Roadway Improvement: Evaluate priority criteria for roadway improvement based on public health and safety.	Town follows criteria.	No change necessary.
	(Policy)2-1.1.4 Review of Proposed Developments: Review of proposed developments for concurrency with adopted LOS standards.	The Land Development Code (LDC) has the provisions in Section XIII to review proposed developments and procedures for a traffic impact study.	No change necessary.

Objective	Measurable Target	Current Conditions-2007	Comments
	(Policy)2-1.1.5 Assessment in New Developments: Adoption of impact fee ordinance.	Adopted. Brevard County collects the road impact fees.	No change needed.
	(Policy)2-1.1.6 Adequate Facilities Ordinance: Adopt an adequate public facility ordinance.	Adopted; The Town would like to maintain inventory of all approved developments and remaining capacity in a database.	Revise the policy to prepare a yearly report on the adequacy of public facilities.
	(Policy)2-1.1.7 On-Site transportation Improvements: New land development regulations for internal circulation, and parking.	Adopted, LDC has provisions for driveway standards, off-street parking, and internal circulation.	No change needed.
	(Policy)2-1.1.8 Controlled Access: Adoption of LDR for access management standards.	Adopted, the LDC has provisions for number and type of driveway, and access management standards.	Revise the policy and remove the word "controlled access" since the policy is about the access management.
			Include a policy under this objective which supports other modes of transportation, and encourages transportation demand management techniques.
			Include a policy to support and ensure public involvement in transportation planning.

Objective	Measurable Target	Current Conditions-2007	Comments
<p>Objective 2-1.2 Right-of-Way Acquisition: The Town shall protect existing and future right-of-way from building encroachment. By 1990, additional transportation system right-of-way acquisition needs shall be identified and relative priorities for land acquisition shall be established.</p>	(Policy)2-1.2.1 Traffic Circulation Map: Adoption of future transportation map, identification of future ROW needs	Adopted.	Objective needs no change. Revise the policy to adopt the updated ROW plan.
	(Policy)2-1.2.2 Standards for Future R/W Acquisition: Adoption of minimum ROW standards.	ROW standard adopted by Town.	No change needed.
	(Policy)2-1.2.3 Traffic Circulation Map: Adoption of future transportation map, identification of future ROW needs	Adopted.	Revise the policy to adopt the updated ROW plan.
	(Policy)2-1.2.2 Standards for Future R/W Acquisition: Adoption of minimum ROW standards.	ROW standard adopted by Town.	No change needed.
	(Policy)2-1.2.3 Mandatory R/W Dedication/Fees in Lieu: Plan a mandatory fees for dedication of ROW needed as a result of proposed development.	The LDC has the provisions for dedication of ROW.	No change needed.

Objective	Measurable Target	Current Conditions-2007	Comments
<p>Objective 2-1.3 Future Roadway Improvements: The Town shall coordinate with FDOT and the Brevard County MPO to attain roadway improvements needed to accommodate future traffic circulation system improvements needed to accommodate system demands through the year 1995. Consider bicycle and pedestrian ways in planning for transportation facilities.</p>	<p>(Policy)2-1.3.1 Specific FDOT Planned Roadway Improvements: Increase coordination with FDOT for Malabar Road and Babcock Road Widening.</p>	<p>Malabar Road is not included in the FDOT five year plan, revise the policy to reflect the change. Town passed a resolution in 2006 supporting widening of Malabar Road continued increased coordination needed.</p>	<p>Objective requires no change. Policy requires no change.</p>
<p>Objective 2-1.4 Facilities for Bicycle and Pedestrian Ways: The Town shall consider bicycle and pedestrian ways in planning for transportation facilities.</p>	<p>(Policy)2-1.4.1 Planning for Bicycle and Pedestrian Ways: Prepare a bicycle and pedestrian plan by 1990 to connect the residential areas to recreational and activity centers, and identify the funding resources.</p>	<p>Brevard County MPO has several programs to support bicycles, and improve safety around schools and recreational areas. The town continues to work with the Brevard county MPO's Bicycle Pedestrian Trails Coordinator. Town's Trails & Greenways Committee recently reinstated (July 2007). Additionally, the 22 mile A1 Turtle Trail, once completed, will be a</p>	<p>Objective needs no change No change needed</p> <hr/> <p>Include a policy to conduct an inventory of sidewalks, and bike paths within the city to determine the deficiencies.</p>

Objective	Measurable Target	Current Conditions-2007	Comments
		multi use corridor connecting the EEL's and other natural area.	Include a policy to coordinate with Brevard County MPO on bicycle, pedestrian & greenways program.
	(Policy)2-1.4.2 Bicycle and Pedestrian Facilities Required for New Developments: Include provisions in LDRs for pedestrian and bicycle ways.	LDC has provisions to develop bike & pedestrian on- site improvement plan.	No change needed.
		Brevard County MPO adopted a plan on Greenways & Trails.	Include a policy to coordinate with Brevard County MPO on 'Greenways & Trails' program. Malabar Road Corridor Plan (Local Issue) should include provisions for bicycle and pedestrian connectivity.
Objective 2-1.5 Coordinating Traffic Circulation Planning. The Town shall coordinate Traffic circulation system planning with the plans and programs of the Brevard County Metropolitan Planning Organization (MPO), The FL-DOT (5) Year Transportation Plan, the City of Palm Bay, and the East Central Florida Regional Planning Council (ECFRPC).			Objective needs no change
	Policy 2-1.5.1 Implementing Traffic Circulation Planning and Coordination.	Town continues to coordinate with county, MPO Technical Advisory Committee and FDOT.	Include a policy to involve FDOT at early stage in the development review process if the proposed development impacts the FIHS or SIS facilities.

Objective	Measurable Target	Current Conditions-2007	Comments
<p>Objective 2-1.6 Managing Traffic Circulation and Land Use: The Town shall coordinate the Traffic Circulation Element and implementing programs with goals, objectives, and policies of the Land Use Element including Future Land Use Plan Map.</p>	<p>(Policy)2-1.6.1 Integrated Traffic Circulation and Land Use Planning: Monitor the impacts of existing and future developments on the transportation system.</p>	<p>LDC has provisions to monitor all new developments and check the concurrency.</p>	<p>Objective needs no change The objective and policies do not go with each other therefore the policy 2-1.6.1 and policy 2-1.6.2 should move under objective 2-1.1.</p>
	<p>(Policy)2-1.6.2 Traffic Circulation Performance Criteria: Incorporate the performance criteria into LDRs to maintain the adopted LOS, and pay the fair share for required improvement.</p>	<p>LDC has the provisions for concurrency management system.</p>	<p>Include a policy to ensure the consistency of traffic circulation element with future land use, capital improvement element, and other elements of comp plan. Should move the policy under the objective 2-1.1 Revise the policy to include the provisions in LDRs for most recent concurrency requirements and Proportionate Fair Share Ordinance.</p>
	<p>(Policy) 2-1.6.3 Traffic Circulation Site Plan Review Criteria: Include the provisions for site plan review into LDR.</p>	<p>LDC has the provisions for site plan review.</p>	<p>Policy 2-1.6.3 is similar to Policy 2-1.1.7 therefore it is recommended to consolidate the Policy 2-1.6.3 into Policy 2-1.1.7.</p>

Housing Element

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 3-1.1: Promote affordable quality housing. Assist the private sector in providing the projected need for 484 new dwelling units (1990 DU Demand of 1988 Less '86 housing stock of 506 = 484) with characteristics responsive to the market demand by 1990, and an additional 503 new dwelling units by the year 2000 (200 DU Demand of 1230 Less 1990 Projected Supply of 988 = 503) in order to meet the estimated housing needs of the existing and anticipated future population of the Town.</p>	<ol style="list-style-type: none"> 1. (Policy 3-1.1.1) Provide technical assistance, information, and referral services. 2. (Policy 3-1.1.2) Develop public/private partnerships. 3. (Policy 3-1.1.3) Promote affordable housing for low and moderate income households. 	<ol style="list-style-type: none"> 1. Participation in CDBG, SHIP, and HOME programs. 2. PUD designations added as a zoning district in 1995 for the intent of promoting voluntary public/private partnerships. 3. Works with Brevard County Housing Authority and participates in CDBG, SHIP, and HOME programs. 	<p>Objective requires no change. Policies should be revised to direct the Town to work with the Florida Community Land Trust Institute to assess whether a community land trust is appropriate for Malabar. If so, identify locations for and explore the feasibility of providing lands on which workforce housing can be built.</p>
<p>Objective 3-1.2: Maintain housing stock free of substandard units. The Town has no substandard housing units and shall strive to maintain a housing stock free of substandard units.</p>	<ol style="list-style-type: none"> 1. (Policy 3-1.2.1) Implement code enforcement activities. 	<ol style="list-style-type: none"> 1. Town Code directs Building Official to proactively enforce land development code. 	<p>Objective requires no change.</p>
<p>Objective 3-1.3: Mobile home sites. The Town of Malabar shall continue to provide adequate land area to accommodate the demand for mobile home residences within its corporate limits.</p>	<ol style="list-style-type: none"> 1. (Policy 3-1.3.1) Town building codes shall be consistent with State criteria. 	<ol style="list-style-type: none"> 1. As of 3/1/02, Florida Building Code supersedes all local building codes. 	<p>Objective requires no change.</p>
<p>Objective 3-1.4: Provide opportunities for group homes and foster care facilities. Pursuant to the requirements of §163.3177(6)(3), F.S., the Town shall promote housing opportunities to meet the unique housing needs of the</p>	<ol style="list-style-type: none"> 1. (Policy 3-1.4.1) Single family foster care homes shall be allowed in all residential districts. 2. (Policy 3-1.4.2) Group homes shall be allowed in multiple family zoning districts. 	<ol style="list-style-type: none"> 1. Not specifically noted in Code, although there are foster care facilities in Town. 2. Not specifically noted in Code, although there are group homes in Town. 	<p>Objective requires no change.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
elderly, dependent children and physically and mentally handicapped, and the developmentally disabled.			
Objective 3-1.5: Preserve historically significant housing. Housing resources identified as historically significant shall be preserved and protected for residential uses.	<ol style="list-style-type: none"> 1. (Policy 3-1.5.1) Promote identification of the Town's historically significant housing resources. 2. (Policy 3-1.5.2) Assist with rehabilitation and adaptive re-use of historically significant housing. 3. (Policy 3-1.5.3) Assist owners of historic properties with obtaining state and federal grants. 4. (Policy 3-1.5.4) Assist South Brevard Historic Society. 	Preservation efforts have been typically limited to non housing facilities such as the Mailboat dock.	Objective requires no change. Set schedule to conduct inventory to identify potentially significant historic structures and include in Comprehensive Plan.
Objective 3-1.6: Relocation Housing. Uniform and equitable treatment of persons and businesses displaced by State and local government programs shall be provided consistent with §421.55, F.S.	<ol style="list-style-type: none"> 1. (Policy 3-1.6.1) Provide alternative housing sites for displaced structures and residents thereof. 	<ol style="list-style-type: none"> 1. No displacement of structures or residents. 	Objective requires no change. Malabar Road corridor study should identify potentially displaced residences and provide specific provisions for relocation options.
Objective 3-1.7: Conserve neighborhood quality and existing housing stock. The useful life of the existing housing stock shall be conserved through effective implementation of laws, ordinances, and programs directed toward preserving neighborhood quality, including conservation of natural resources, maintenance of community facilities, and code enforcement activities.	<ol style="list-style-type: none"> 1. (Policy 3-1.7.2) Promote maintenance of housing stock and neighborhood conservation. 2. (Policy 3-1.7.2) Plan supportive facilities and services necessary for quality residential neighborhoods. 3. (Policy 3-1.7.3) Minimize potential blighting influences. 4. (Policy 3-1.7.4) Coordinate public/private partnerships. 5. (Policy 3-1.7.5) Continue housing 	<ol style="list-style-type: none"> 1. Active code enforcement contributes to neighborhood conservation. 2. Road improvement regulations and site plan review procedures for new development. 3. Code enforcement activities. 4. PUD designations added as a zoning district in 1995 for the intent of promoting voluntary public/private partnerships. 5. Policies being implemented 	Objective requires no change.

Objective	Measurable Target	Current Conditions 2007	Comments
	programs via: (a) Maintain and update population and housing information system. (b) Monitor housing trends. (c) Review plans and policies. (d) Fiscal management evaluation. (e) Administer housing code. (f) Provide housing information and referral services. (g) Intergovernmental coordination. (h) Manage current development impacts. (i) Continue refinement of housing policies. 6. (Policy 3-1.7.6) Conduct special housing studies.	through land development review process, code enforcement, and Code of Ordinances. 6. Blight study conducted for Malabar Road and US 1 corridor.	
Objective 3-1.8: Continuing evaluation of housing element effectiveness. The Town shall use the following policies as criteria in evaluating the effectiveness of the Housing Element.	1. (Policy 3-1.8.1) Review the impact of change indicators on housing policy. 2. (Policy 3-1.8.2) Schedule, budget, and implement programmed activities. 3 (Policy 3-1.8.3) Coordinate with public and private sectors. 4. (Policy 3-1.8.4) Achieve effective resolution of housing goals, objectives, and policies.	1 – 4. Policies being implemented through land development review process, code enforcement, and Code of Ordinances.	Objective requires no change.

Public Facilities Element

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 4-1.1 Insure Available Public Capacity. The Town shall adopt procedures to ensure that at the time a development permit is issued, adequate facility capacity is available or will be available when needed to serve the development.</p>	<p>1. (Policy 4-1.1.1) The following level of service standards are hereby adopted, and shall be used as the basis for determining the availability of facility capacity and the demand generated by a development.</p> <p>Sanitary Sewer: 300GPD per dwelling unit 150 GPD per mobile home unit 1089 GPD per acre for commercial/light industrial</p> <p>Solid Waste: 6.85 lbs per capita per day</p> <p>Drainage: Off-site: 25-year, 24 hour design storm On-site: 10-year, 24 hour design storm</p> <p>Potable Water: Residential – 75 GCD Commercial/Industrial – 7500 GCD</p> <p>2. (Policy 4-1.1.2) Compliance with Level of Service Standards.</p> <p>3. (Policy 4-1.1.3) Demand and Supply Information System. The</p>	<p>1. Current LOS:</p> <p>Sanitary Sewer – 300GPD per dwelling unit 150 GPD per mobile home unit</p> <p>Solid Waste – 6.85 lbs per capita per day</p> <p>Drainage – Off-site: 25-year, 24 hour design storm On-site: 10-year, 24 hour design storm</p> <p>Potable Water – Residential – 75 GCD Commercial/Industrial – 7500 GCD</p> <p>2. Policy met</p>	<p>Objective requires no change.</p> <p>1. Revise policies to:</p> <p>Drainage – Off-site: 25-year, 24 hour design storm On-site: 25-year, 24 hour design storm</p> <p>Potable Water – 100 GCD</p> <p>5. Revise to exclude GDU.</p> <p>Add the following policy: All new development shall be required to construct entire stormwater management improvements on site.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Town shall develop procedures for updating facility demand and capacity information and shall prepare annual summaries of capacity and demand information for respective facilities and/or service areas.</p> <p>4. (Policy 4-1.1.4) Coordination Between Future Land use and Potable Water/ Wastewater System needs.</p> <p>5. (Policy 4-1.1.5) Areawide Planning for Potable Water and Wastewater Systems.</p>	<p>3. Policy met</p> <p>4. Policy met</p> <p>5. Town coordinates with Brevard County and Palm Bay.</p>	
<p>Objective 4-1.2 – Maintaining a Schedule of Public Facility Capital Improvement Needs. The Town shall develop and maintain a five-year schedule of capital improvement needs for public facilities and shall annually update the schedule as stipulated in the Capital Improvements Element</p>	<p>1. (Policy 4.1.2.1) Capital Improvements Schedule.</p> <p>2. (Policy 4-1.2.2) Proposed capital improvement projects shall be evaluated and ranked according to the following priority level guidelines:</p> <p>a. Level 1: Whether the project is needed to: Protect public health and safety, fulfill the town’s legal commitment to provide facilities and services, preserve or achieve full use of existing facilities.</p> <p>b. Level 2: Whether the project accomplishes the following: increases efficiency of existing facilities, prevents or reduces future improvements costs, provides service to developed areas lacking full service</p>	<p>1. Policy met</p> <p>2. Policy met</p>	<p>Objective requires no change.</p> <p>CIE must be updated annually.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Brevard County Environmental Services Unit. The Town's land development regulations shall require that all proposed development which impacts an existing septic tank or generates need for a new septic tank be required to provide evidence of approval by the Brevard County Environmental Health Unit prior to receiving a development order or permit from the Town.</p> <p>3. (Policy 4-1.3.3) Conditions Governing Development Orders of Permits. Issuance of development orders or permits shall be conditioned upon demonstration of compliance with applicable federal, State and local permit requirements for on-site wastewater treatment systems.</p> <p>4. (Policy 4-1.3.4) Compliance with On-site Wastewater Treatment and Water Quality Regulations. The Town shall coordinate with appropriate federal, State and County agencies and amend local ordinances to require that issuance of permits for replacement for expansion of existing on-site wastewater treatment systems is conditioned upon compliance with current regulatory requirements and water quality standards.</p>	<p>systems must be permitted through Brevard County Health Department.</p> <p>3. Policy met.</p> <p>4. Policy met.</p>	<p>Environmental Services Unit to Brevard County Health Department.</p>
<p>Objective 4-2.1 – Reconcile Existing Deficiencies.</p> <p>a. Wastewater Systems Projects. The</p>	<p>1. (Policy 4-2.1.1) Compliance with Capital Improvements element.</p> <p>2. (Policy 4-2.1.2) Priority for</p>	<p>Objective 4-2.1</p> <p>a. GDU no longer exists.</p>	<p>Objective 4-2.1 should include:</p> <p>a. Remove GDU from</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Town shall coordinate with Brevard County, the City of Palm Bay, and the General Development Utilities Corporation in order to assess the potential for an areawide management plan for achieving a cost effective areawide wastewater system(s), including wastewater reuse through such programs as use of “gray water” for spray irrigation. No existing deficiencies have been identified.</p> <p>b. Solid Waste Projects. The Town shall coordinate with Brevard County’s South County Landfill site acquisition study efforts. In addition, the Town shall coordinate with Brevard County in developing a local response compliant with State legislation establishing new mandates for achieving a thirty (30) percent reduction in the solid waste volumes by 1994.</p> <p>c. Potable Water System Projects. The Town shall coordinate with Brevard County, the South Brevard Water Authority, the City of Palm Bay and the General Development Utilities Corporation in order to assess the potential for an areawide management plan to achieving a cost effective areawide potable water system(s).</p> <p>The Town shall work with appropriate County and State public agencies in order to initiate a periodic County of State monitoring program of private wells. This program is desirable since</p>	<p>Correcting Existing Deficiencies.</p> <p>3. (Policy 4-2.1.3) Existing Deficiencies Not to be Increased by New Development.</p> <p>4. (Policy 4-2.1.4) Coordinate with Brevard County Hazard Waste Planning Efforts.</p>	<p>b. The Town does not monitor ground water.</p> <p>c. Stormwater master plan adopted in 1994</p> <p>1. Policy met.</p> <p>2. Policy met.</p> <p>3. Policy met.</p> <p>4. Policy met.</p>	<p>objective.</p> <p>b. Initiate programs to promote recycling.</p> <p>c. Remove GDU from objective; remove responsibility to monitor ground water from town and place on county health department.</p> <p>d. annually update stormwater master plan</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>the town relies on private wells draining from the shallow surficial aquifer, of septic tanks for sewage treatment and has areas of poorly drained soils. The monitoring program will check possible contamination from septic tank leakage.</p> <p>Also, the town shall work through the St. Johns River Water Management District to initiate a SJRWMD program or other appropriate areawide approach designed to analyze existing or potential future problems surrounding existing practices of withdrawing potable water resources, Any needed areawide improvements shall be investigated on an areawide basis.</p> <p>d. Drainage Projects. Prepare an engineered master plan for stormwater management and drainage facilities. The master plan shall incorporate the following: Engineered analysis confirming the natural sub-drainage basins within the Town together with major tributaries within each sub-basin; Identification of floodways, drainage corridors, and other features comprising the Town's natural and manmade drainage system; Analysis and recommendations concerning needed land acquisition and/or identification of lands which should be specifically regulated in order to preserve floodways together with drainage corridors and achieve effective stormwater management;</p>			

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Include a schedule of requisite improvement projects together with assigned priorities and costs; Recommended implementation program for funding, managing, and continually maintaining the stormwater management system. The implementation program should include a management framework for achieving equitable assessments required to implement the stormwater management program; Recommended land use restrictions, including changes to existing stormwater management and flood prevention regulations.</p>			
<p>Objective 4-2.2 Meeting Projected Public Facility Demands to 1995. The Town shall meet projected public facility demands through the year 1995 by undertaking the following projects:</p> <p>a. Wastewater System Projects. The Town shall participate with Brevard County, the City of Palm Bay and the General Development Utilities Corporation in preparing an area wide master wastewater system plan if the intergovernmental coordination effort identified in Objective 4-2.1 generates an affirmative conclusion regarding the need for such a master plan. This plan shall: Identify an areawide organizational framework for managing the areawide system; Describe and prioritize sub-area service boundaries; Establish an engineered system of</p>	<p>(Policy 4-2.2.1) Coordinate with Capital Improvements Element.</p> <p>(Policy 4-2.2.2) Public Facility Planning and Management Efficiency.</p> <p>(Policy 4-2.2.3) Additions of Public Facility Project Approvals. All required federal, State and County permits shall be obtained before the Town undertakes or authorizes contractors to undertake construction and/or operation of facilities.</p>	<p>Objective 4-2.2</p> <p>a. The Town has coordinated with Palm Bay Utilities in the development of their 10 year water supply plan.</p> <p>b. Policy met.</p> <p>c. Policy met.</p>	<p>Objective 4-2.2 Meeting Projected Public Facility Demands to 1995 needs to be updated from 1995 to 2013.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>wastewater facility improvement needs; and Estimate the cost of engineering and constructing the requisite areawide system improvements.</p> <p>b. Solid Waste Projects. Purchase the Town's pro-rate share of an additional 700-900 acre landfill site currently being considered by Brevard County for purposes of servicing the South County area.</p> <p>c. Potable Water System. The Town shall participate with Brevard County, the South Brevard Water Authority, the City of Palm Bay and the General Development Utilities Corporation in preparing an areawide master potable water system plan if the intergovernmental coordination effort identified in Objective 4-2.1 generates an affirmative conclusion regarding the need for such a master plan. The plan shall: Identify an areawide organizational framework for managing the areawide system; Describe and prioritize sub-area service boundaries; Establish an engineered system of wastewater facility improvement needs; and Estimate the cost of engineering and constructing the requisite areawide system improvements.</p>			
<p>Objective 4-2.3 – Meeting projected Demands for the YR 1996 through YR 2000. Specific improvements surrounding wastewater, potable water and drainage systems for the year</p>	<p>1. (Policy 4-2.3.1) Evaluate Needs for Existing Facility Improvements.</p> <p>2. (Policy 4-2.3.2) Scheduling Needed</p>	<p>1. Policy met</p> <p>2. Policy met</p>	<p>Objective 4-2.3 – Meeting projected Demands for the YR 1996 through YR 2000. Revise objective for current</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>1996 through the year 2000 shall be predicted on the master plans for the respective public facilities scheduled for completion during the five year increment: 1990-1995.</p>	<p>Capital Improvements.</p>		<p>planning period.</p>
<p>Objective 4-3.1 – Protect Natural Drainage Features. By 1991, the Town shall amend the stormwater drainage and flood prevention regulations as well as Comprehensive Plan level of service standards as needed in order to protect natural drainage features and insure that future development utilizes stormwater management systems compatible with the Town’s master stormwater drainage plan which is scheduled for completion by 1991. The town shall amend development regulation to incorporate the following considerations:</p> <p>a. Consider if sufficient technical data exists to support increasing the storm event standard for on-site drainage calculations from the current ten (10) year frequency, 24 hour duration, to a twenty five (25) year frequency, 24 hour storm event (or such other storm design standard as shall be recommended in the master stormwater drainage plan). Also require those drainage improvements for new development which are necessary to assure that post-development run-off rates run-off volumes and pollutant loads for the</p>	<p>1. (Policy 4-3.1.1) Buffer Zone Requirements. The Town shall develop buffer zone requirements for areas adjacent to natural drainage features. Such regulations may be required prior to the completion of the master drainage plan. If so, the buffer zone requirements shall reflect an interim standard recommended by the Town Engineer. The buffer zone requirement may be superseded by regulations predicated on the findings of the master stormwater drainage plan.</p> <p>2. (Policy 4-3.1.2) Managing Land Use in the Floodplain. The Town shall prepare and adopt necessary revisions to the Town’s stormwater management and floodplain regulations based on the finding of the master stormwater drainage plan within one (1) year after the adoption of the stormwater master plan.</p> <p>3. (Policy 4-3.1.3) Implementing Master Drainage Plan. The Town shall establish a program and funding mechanisms necessary to implement the adopted master stormwater drainage plan including, but not</p>	<p>1. Policy met</p> <p>2. Policy met</p> <p>3. Policy met</p>	<p>Objectives were met, but standards could be adjusted. Town shall consider Low Impact Development (LID) & Water Resource Protection for future development. Investigate funding through St. Johns Water Management District for projects which will incorporate LID design.</p> <p>Town shall keep log of maintenance records.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>new development do not exceed pre-development conditions.</p> <p>In addition, consistent with ECFRPC policy, the Town shall coordinate with the ECFGPC, FL-DER and the SJRWMD in identifying any urban drainage systems which are non-compliant with Chapter 17-25, FAC. Where such non-compliant systems are found to contribute significantly to the degradation of surface waters, the Town shall coordinate with the FL-DER, SJRWMD and Brevard County in order to achieve a regional approach to improved drainage and retrofitting as may be appropriate;</p> <p>b. Existing stormwater engineering, design and construction standards for on-site systems should be evaluated and amended as needed;</p> <p>c. Specific standards for erosion and sediment controls to be used during development should be provided; and</p> <p>d. Periodic inspection of on-site systems should be required to assure continuance of system design and maintenance.</p>	<p>necessarily limited to:</p> <p>a. Plans for protecting natural drainage corridors and other natural drainage features, including acquiring necessary drainage easements;</p> <p>b. Funding mechanisms necessary for achieving drainage improvements within each sub-basin;</p> <p>c. Special consideration of the impacts of existing and future land development adjacent to the Indian River Lagoon which is an "Outstanding Florida Water". The master drainage plan shall address the fact that state requirements mandate that the level of treatment for stormwater discharging directly into these waters is fifty (50) percent above normal FDER standards cited in 17-25.035(i)(1), F.A.C.</p> <p>d. Organizational structure and funding mechanisms for carrying out necessary operation and maintenance programs.</p> <p>4. (Policy 4-3.1.4) Inspection and Maintenance of Drainage Systems.</p>	<p>4. Policy met</p>	

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 4-4.1 – Coordinate Issues Surrounding Aquifer Recharge. The Town shall coordinate with Brevard County and the St. Johns River Water Management District in providing for maintenance of aquifer recharge area functions.</p>	<p>1. (Policy 4-4.1.1) Protect Surficial Aquifer Recharge Areas. Requirements shall be incorporated into the Town’s land development regulations which require retention of open space for all development in order to preserve the quality and quantity of water resources within the surficial aquifer.</p> <p>2. (Policy 4-4.1.2) Deep Aquifer Water Conservation.</p> <p>3. (Policy 4-4.1.3) Retain Run-Off to Maximize Recharge.</p> <p>4. (Policy 4-4.1.4) Coordinate with Other Recharge Protection Programs.</p>	<p>1. Policy met.</p> <p>2. Policy met</p> <p>3. Policy met.</p> <p>4. Policy met.</p>	<p>Objective requires no change. Adjust policy to investigate funds for well capping programs through SJRWMD and Brevard County.</p>

Conservation Element

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 6-1.1: Protect Air Quality. The Town shall meet or exceed the minimum air quality standards established by the Florida Department of Environmental Regulations (DER) and shall establish regulatory programs to prevent and/or minimize non-point sources of air pollution (note: the Town has no point sources of air pollution).</p>	<p>Policy 6-1.1.1: Combat Erosion and Generation of Dust Particles. Land development regulations shall incorporate performance standards which combat erosion and generation of fugitive dust particles. The regulations shall require that measures be taken on building sites or cleared areas which assure that exposed, destabilized, or other altered soil is expeditiously covered with an acceptable erosion control material.</p>	<p>Florida Department of Environmental Regulations (DER) is now the Florida Department of Environmental Protection (DEP). Land Development Code (LDC) Article XV Sec. 1-15.8 B.3 Criteria for issuing a land clearing permit includes incorporating an erosion control plan.</p>	<p>Objective requires no change except to amend text to reflect agency's new name.</p>
	<p>Policy 6-1.1.2: Air Pollution and Land Use Regulations. The Town shall continue to protect against loss of air quality by maintaining land use controls which promote only activities compatible with existing land uses and natural systems and prohibit activities which generate air pollutants and other adverse impacts on the environmentally fragile ecosystem.</p>	<p>LDC Article X Sec. 1-10.4 Specific standards for nuisance abatement regulates smoke, particulate matter including dust, odor and toxic matter citing FAC standards.</p>	<p>No change needed.</p>
<p>Objective 6-1.2: Water Quality and Quantity. Coordinate with the federal, State, regional, County and the City Of Palm Bay in conserving and protecting the quality and quantity of current and projected future water sources and surface water run-off.</p>	<p>Policy 6-1.2.1: Water Quality, Surface Water Management and Land Use. Land development regulations shall incorporate the following performance standards in order to protect the quality of the Town's water resources: a. Surface water management systems shall be designed and constructed to meet the following standards: Off-Site: 25-year, 24-hour design</p>	<p>Florida Department of Environmental Regulations (DER) is now the Florida Department of Environmental Protection (DEP). The DNR is now incorporated into the Florida Department of Environmental Protection (DEP). 2007 Planning and Zoning Board recommends deleting the City of Palm Bay from Objective. Board also recommends updating storm design.</p>	<p>Objective requires no change. Amend the policy to reflect DEP instead of DER and DNR and delete DNR where it creates duplication. Amend objective and policy to reflect Planning and Zoning Board comments. Amend policy to include coordination with the Brevard County</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>storm (Ord. #2-14-86) On-Site: 10-year, 24-hour design storm (Ord. #2-14-86) In addition, the Town shall amend its drainage ordinance to include the following standard where the same is more restrictive: Retain or detain with filtration, as a minimum the first one-inch of run-off or run-off from a one-hour, three-year storm event, whichever is greater.</p> <p>b. A vegetated and functional littoral zone shall be established as part of the surface water management system of lakes occurring on all property. Prior to construction of the surface water management system for any phase of a project, the developer shall prepare a design and management plan for the wetland/littoral zone that will be developed as part of these systems. The plan should:</p> <ul style="list-style-type: none"> i. Include typical cross sections of the surface water management system showing the average water elevation and the -3 foot contour (i.e., below average elevation); ii. Specify how vegetation is to be established within this zone, including the extent, method, type and timing of any planting to be provided; and iii. Provide a description of any management procedures to be followed in order to assure the continued viability and health of the 	<p>a. represented in Article 8. 1-8.7</p> <p>b. represented in LDC Article V 1-5</p>	<p>Stormwater Program.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>littoral zone. The littoral zone as established should consist entirely of native vegetation and should be maintained permanently as part of the water management system. At a minimum, 10 square feet of vegetated littoral zone per linear foot of lake shoreline should be established as part of the surface water management system.</p> <p>c. Class II Waters (i.e., coastal waterbodies which currently do or have potential for supporting shellfish harvesting.) That portion of the Indian River within the Town's corporate limits has been classified by Florida DER, Southeast Subdistrict, as a Class II waterbody shall be protected by incorporating the following provisions into the Town's land development regulations:</p> <ul style="list-style-type: none"> i. Dredging activities should be limited to approved maintenance dredging and should minimize adverse impacts on shellfish propagation or harvesting. ii. Ensure good water quality by coordinating with the DER, DNR, and the SJRWMD in monitoring the quality of stormwater run-off and all discharge processes. The Town shall notify the appropriate agency with jurisdiction as potential issues or problems are identified by the Town. iii. Limit the use of Class II waters to water dependent activities that are not 	<p>c. the Town does not appear to regulate submerged lands</p>	<p>c. amend policy to reflect activities the Town regulates.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>contrary to the public interest and satisfy a community need.</p> <p>iv. Limit modification of grassbeds only to those cases involving overriding public interest.</p> <p>v. Where modification of grassbeds is permitted the Town shall assure that:</p> <p>(a) A determination of overriding public interest has been demonstrated prior to modification of grassbeds.</p> <p>(b) Project run-off and nutrient introduction shall be controlled to prevent an increase in water turbidity.</p> <p>(c) Projects damaging grassbeds during construction shall incorporate mitigative techniques which re-establish benthic conditions favorable to natural regeneration.</p> <p>(d) Special attention shall be given to stipulations cited in (a) through (c) above during the development review process. The Town shall coordinate closely with State and federal agencies during the permitting processes to insure that the intent of these policies is carried out.</p>		
	<p>Policy 6-1.2.2: Regulate Agricultural Activities to Preserve Water Quality. Land development regulations shall include stipulations requiring that agricultural activities shall:</p> <p>a. Not be conducted adjacent to existing waterways and surface water management activities and shall comply with all applicable policies of</p>	<p>Florida Department of Environmental Regulations (DER) is now the Florida Department of Environmental Protection (DEP).</p> <p>No mention of stipulations for agricultural activities in LDC.</p>	<p>Amend text to reflect agency's new name.</p> <p>Provide estimated date for adoption of stipulations or modify policy.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>the DER, SJRWMD, and other agencies having appropriate jurisdiction as well as State laws, including administrative rules governing the Indian River Lagoon Aquatic Preserve. Such activities shall not threaten the water quality of the Indian River Lagoon;</p> <p>b. Maintain natural drainage patterns;</p> <p>c. Promote the use of surface water supplies for irrigation purposes;</p> <p>d. Prohibit the expansion of agricultural activities into wetland areas; and</p> <p>e. Use best management principles and practices in order to reduce pesticide and fertilizer run-off, prevent soil erosion, and preserve water quality.</p>		
	<p>Policy 6-1.2.3: Regulate Wastewater Treatment Discharge to Preserve Water Quality. Land development regulations shall incorporate the following performance standards in order to protect water quality:</p> <p>a. All new residential subdivisions as well as multiple family and non-residential development within the established service area of the major public wastewater system shall be required to connect to the major public wastewater system pursuant to Chapter 16 of the Town Code of Ordinances. In areas where developments cannot be connected to the public sewer, package sewage</p>	<p>Florida Department of Environmental Regulations (DER) is now the Florida Department of Environmental Protection (DEP).</p> <p>LDC Article XVII states "The entire wastewater collection system must be engineered and coordinated with the Town's Comprehensive Plan."</p>	<p>Amend text to reflect agency's new name.</p> <p>No changed needed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>treatment plant systems are acceptable as interim measures providing such facilities are designed to achieve effluent limitations of 15 milligram/liter B.O.D. 5 and 15 milligram/liter total suspended solids on an annual average. All owners of wastewater treatment plants shall provide sufficient on-site certified operator time as determined by the Florida Department of Environmental Regulation, in order to be assured that estuarine and potable water systems are protected from pollution. As a minimum, the following are required:</p> <ul style="list-style-type: none"> i. Surge tanks (flow equalization tanks) are required on all treatment plants with design flows less than 100,000 gallons per day. ii. The system for monitoring treatment efficiency shall include a schedule with a minimum frequency of one grab sample per week. iii. A flow measuring device is required which will provide a record of diurnal flow changes as well as total daily flow. iv. Provide emergency power to the treatment facilities, if the water system has not been interrupted. <p>In addition, policies of the ECFRPC shall be incorporated. These policies include: 1) installation of plumbing fixtures compliant with the State Water Conservation Act (§553.14,</p>		

Objective	Measurable Target	Current Conditions 2007	Comments
	F.S.) in all new construction or renovations; 2) water reuse and/or reclamation; and 3) implementation of leak detection programs by owners/operators of public water supply systems to curtail wasteful loss of potable water resources.		
	Policy 6-1.2.4: Preserve and Enhance Lagoon and Canal Shoreline. In order to stabilize the shoreline of canals and the shoreline of the Indian River Lagoon which are susceptible to erosion, land development regulations shall require that all new development preserve shoreline native vegetation and revegetate areas of the shoreline which demonstrate erosive tendencies.	LDC Article VII. Sec 1-7.2 Considerations in reviewing site plans J.3.(d) Lands adjacent to streams, ponds, lakes and wetlands states no vegetation shall be disturbed, any disturbance compensated by vegetation.	No change needed.
	Policy 6-1.2.5: Protect Surficial Aquifer Recharge Areas. Although the Town has no prime deep aquifer recharge areas defined pursuant to §373.095(3) and §373.0937, F.S., which have been identified by the St. Johns River Water Management District, the Town has abundant surficial aquifer recharge areas. Requirements shall be incorporated into the Town's land development regulations which require retention of open space for all development in order to preserve the quality and quantity of water resources within the surficial aquifer. Also, consistent with the ECRPC policy, activities within recharge areas shall be regulated to	LDC does not specify requirements for retention of open space for all development in order to preserve the quality and quantity of water resources within the surficial aquifer.	No change needed.

Objective	Measurable Target	Current Conditions 2007	Comments
	avoid reduction in the volume of recharge. Such developments shall not be permitted to increase the total volume of post development run-off or reduce the quality of groundwater below applicable state standards.		
	Policy 6-1.2.6: Deep Aquifer Water Conservation. In order to protect the quality and quantity of deep aquifer water resources, the Town shall coordinate with the St. Johns River Water Management District and other applicable regulatory agencies in identifying free flowing deep aquifer wells and in requiring corrective measures; including capping, plugging, or installing regulatory devices which control the discharge of water from the deep aquifer.	No change needed.	No change needed.
	<p>Policy 6-1.2.7: Conservation of Potable Water Supply. In order to conserve potable water supply and to achieve a reduction in the current rates of water consumption land development regulations shall incorporate the following performance standards:</p> <p>a. Where nonpotable alternative sources of irrigation water are available, potable water supplies may not be used to meet irrigation needs (also reference §04-2.1 (a&c).</p> <p>b. Require the use of water saving plumbing fixtures on all new development.</p> <p>c. In order to reduce demand for</p>	Policy not in sync with LDC.	Amend policy.

Objective	Measurable Target	Current Conditions 2007	Comments
	irrigation water (which in turn often places greater demand upon potable water sources), at least thirty percent (30%) of all landscaping material obtained from off-site sources for use on any site should be native plant material adapted to soil and climatic conditions existing on the subject site. Further, at least fifty percent (50%) of all trees used in landscaping shall be native species adapted to soil and climatic conditions existing on-site in order to lessen water demand.		
	Policy 6-1.2.8: Emergency Conservation of Water Sources. The Town shall coordinate with the St. Johns River Water Management District (SJRWMD) in implementing emergency water conservation measures based on the SJRWMD plans for management of the region's water resources.	No change needed.	No change needed.
	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.	This is a new policy adopted in 1994.	Waiting on completion of maps to verify changes.
Objective 6-1.3: MAaintenance Of Floodplain. The Town shall protect the natural functions of the 100-year floodplain in order to protect and maintain it's flood-carrying and flood storage capacity.	Policy 6-1.3.1: Enforce Policies to Maintain Floodplain. The Town shall continue to enforce its flood damage prevention regulations, Ordinance Number 2-14-86, Town of Malabar Code of Ordinances (as currently	Code Chapter 9 Article I Sec. 9-2 Statement of purpose includes controlling the alteration of natural floodplain and controlling filling. LDC Article VIII Sec. 1-8.8.1	No change needed.

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>exists and as may hereinafter be amended). Consistent with ECFRPC floodplain policy, the Town shall incorporate floodplain protection measures sufficient to protect and preserve the value and function of floodplains from encroachment by development. Land development regulations shall provide that flood control measure for new development minimize fill within the 100-year floodplain. Where no alternative to fill within the 100-year floodplain exists, compensatory storage for such fill should be provided through excavation of a volume of uplands equivalent to the loss of storage within the 100-year floodplain caused by the placement of fill.</p> <p>The Town's Stormwater Management and Flood Protection Ordinance shall maintain consistency with program policies of the Federal Insurance Administration. The Town shall monitor new cost effective programs for minimizing flood damage. Such programs may include modification in construction setback requirements or other site design techniques, as well as upgraded building and construction techniques.</p>	<p>Additional stormwater management policy states that an equal volume of storage capacity must be created for any volume of the regulatory flood that would be displaced by fill or structures.</p>	
	<p>Policy 6-1.3.2: Purchase of Floodplain. The Town shall identify and recommend to the State and the St. Johns River Water Management District purchase of floodplains that</p>	<p>(has the Town identified sites)</p>	<p>Amend?</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	would comply with program guidelines established under the Conservation and Recreation Lands (CARL) Program or the Save Our Rivers (SOR) Program.		
Objective 6-1.4: Protect And Preserve Wetlands. The Town's wetlands shall be protected and preserved from physical and hydrologic alterations.	Policy 6-1.4.1: Wetland Development Restrictions. Wetlands (i.e., wetlands shall include hydric soils and wetland species identified by the DER pursuant to §17-4.022, F.A.C.) shall be protected from physical or hydrologic alterations in order to maintain natural functions. No development shall be permitted in wetlands other than approved passive recreation, open space, restricted accessway, bird sanctuary, natural stormwater retention/detention, natural preserve, or other similar approved uses pursuant to the Town's Stormwater Management and Flood Protection Ordinance.	Florida Department of Environmental Regulations (DER) is now the Florida Department of Environmental Protection (DEP). 2007 Planning and Zoning Board stated that this objective is outside agencies mostly.	Objective requires no change except to amend text to reflect agency's new name. Amend policy to reference mitigation as option for unavoidable impacts. Amend policy to required external agency approvals prior to Town approvals
Objective 6-1.5: Combat Soil EROSION. Reduce the incidence of soil erosion caused by land clearing, breaches in stabilized shorelines, and lands having exposed soil without vegetative cover.	Policy 6-1.5.1: Implementing Erosion Control. Land development regulations shall require that appropriate measures be taken during land clearing and building operations to assure that exposed, destabilized or otherwise altered soil is expeditiously covered with an acceptable erosion control material. These provisions shall be incorporated in the Subdivision and Tree and Landscape Ordinance.	LDC Article XV (Tree Protection and Restoration) Sec. 1-15.8 B.3 Criteria for issuing a land clearing permit includes incorporating an erosion control plan. LDC Article XVI (Subdivision Administration and Procedures) 1-16.4 C.2.i. Erosion and sedimentation control improvements includes reference to LDC Article VII Sec. 1-7.2 J. Soil erosion, sedimentation control and estuary water resource protection.	Objective requires no change.

Objective	Measurable Target	Current Conditions 2007	Comments
Objective 6-1.6: Preventing Potential Adverse Impacts Of Future Mining And Excavation Activities. No mining activities shall be permitted within the Town of Malabar since the Town is characterized by natural systems which would potentially receive irretrievable losses from the impacts of such operations.	Policy 6-1.6.1: Prohibition Against Mining Activities. Land development regulations shall prohibit mining activities based on the irretrievable losses which such intense activities may potentially impose on the Town's fragile ecosystem as documented in the Comprehensive Plan Data Inventory and Analysis.	Town Code Chapter 7.5 Article II Sec. 7.5-28 Prohibitions prohibits mining on any real property within the Town. 2007 Planning and Zoning Board stated that in future focus on mining and amend ordinance so SD cannot remove dirt from town, or do similar to mitigation bank.	Objective requires no change. Amend policy if needed to reflect Planning and Zoning Board comments.
Objective 6-1.7: Protect Native Vegetation And Marine Habits. The Town shall protect and retain major vegetative communities and marine habitats, including the hardwood hammock community, wetlands, and marine habitats within the Indian River Lagoon.	Policy 6-1.7.1: Implementing Protection of Vegetative Communities and Marine Habitats. Land development regulations, including the adopted Tree and Landscape Ordinance, the shoreline protection policies, as well as performance standards governing development activities shall be used in managing and protecting the impacts of development on major vegetative communities and marine habitats. These regulations shall mandate fair and equitable restoration and/or mitigative measures in order to compensate for loss of vegetation and to enhance stabilization of fragile slopes and/or shorelines.	No change needed.	Objective requires no change.
Objective 6-1.8: Protecting Fisheries, Wildlife And Wildlife Habits. The Town shall coordinate with Brevard County, the Marine Resources Council of East Central Florida, the SJRWMD, and the State in protecting fisheries, wildlife, and wildlife habitat.	Policy 6-1.8.1: Manage the Impacts of Development on Fisheries. The town shall incorporate procedures for coordinating with the Florida Game and Freshwater Fish Commission, the DER, and the Marine Resources Council of East Central Florida, as appropriate, in reviewing the implications of development	Agency names have changed. The new names are Florida Department of Environmental Protection, Florida Fish and Wildlife Conservation Commission and Marine Resources Council of East Florida.	Objective requires no change except to amend text to reflect new agency names.

Objective	Measurable Target	Current Conditions 2007	Comments
	proposals, including proposed subdivisions and site plan review petitions. Such coordination shall be designed to assist in identifying potential adverse impacts of proposed development on marine habitats and fisheries.		
	Policy 6-1.8.2: Protect Wildlife and Wildlife Habitats. Land development regulations shall incorporate provisions which restrict development activities known to adversely impact endangered, threatened, or rare wildlife and wildlife habitats as well as wildlife and wildlife habitats of special concern as defined in Table 9 of the Conservation Element data inventory and analysis. The Town shall further protect wildlife and wildlife habitats by use of conservation easements pursuant to stipulations incorporated into the Stormwater Management and Flood Protection Ordinance.	LCD Article XVI. Sec. 1-16.3.1 Proposals to provide for preservation of endangered and threatened species and their habitats states development activities which may cause either direct or indirect harm to the species or their habitat shall not be allowed until a management plan has been approved by the Town.	No change needed.
Objective 6-1.9: Protect Environmentally Sensitive Lands. Designate environmentally sensitive lands for protection based on locally determined criteria which further the goals, objective and policies of the Conservation Element.	Policy 6-1.9.1: Designation of Environmentally Sensitive Areas. The Town shall implement Policies 1-3.5.1 through 1-3.5.4 of the Land Use Element which incorporates implementing policies for managing environmentally sensitive lands identified on the Future Land Use Map.	See Land Use Element.	Objective requires no change.
Objective 6-1.10: Hazardous Waste Management. The Town shall coordinate with Brevard County as well as appropriate State and regional agencies in developing effective plans	Policy 6-1.10.1: Managing Hazardous Waste. The Town shall continue to enforce land development regulations which incorporate development restrictions directed	See Land Use Element.	Objective requires no change.

Objective	Measurable Target	Current Conditions 2007	Comments
for managing hazardous waste (Note: No hazardous waste pollutants or sites currently exist within the Town).	toward preserving natural systems and accommodating only low intensity land use activities identified in the Land Use Element.		
Objective 6-1.11: Intergovernmental Coordination for Managing Conservation Activities. Establish an intergovernmental coordination mechanism in order to manage natural resources and assist in implementing appropriate laws, ordinances, and plans of existing State, regional and local agencies sharing responsibilities for managing natural resources within the Town.	Policy 6-1.11.1: Implementing Policies for Intergovernmental Coordination in Managing Conservation Activities. Policy 5-1.10.1 of the Coastal Management Element identifies policies for coordinating natural resources within the Town. These policies shall be applied in managing intergovernmental activities associated with protecting, conserving, and preserving natural resources within the Town.	See Coastal Management Element.	Objective requires no change.
Objective 6-1.12: Continuing Evaluation Of The Conservation Element. Effectiveness. The Town shall use the following policies as criteria in evaluating the effectiveness of the Conservation Element.	Policy 6-1.12.1: Review the Impact of Changing Conditions on Conservation Policy. The Town shall monitor and evaluate significant changes in the characteristics of natural resources within the Town.	No change needed.	Objective requires no change.
	Policy 6-1.12.2: Schedule, Budget and Implement Programmed Activities. The timely scheduling, programming, budgeting and implementation of programmed conservation activities identified in this Element shall be evidence of the Town's effectiveness in carrying out a systematic program for implementing coastal management goals, objectives, and policies.	No change needed.	No change needed.
	Policy 6-1.12.3: Coordinate with Public and Private Sectors. While continually implementing and	No change needed.	No change needed.

Objective	Measurable Target	Current Conditions 2007	Comments
	evaluating the Conservation Element the Town shall maintain a process of intergovernmental coordination as well as coordination with private sector groups interested in conservation policy and programs.		
	Policy 6-1.12.4: Achieve Effect Resolution of Conservation Goals, Objectives and Policies. The effectiveness of the Conservation Element shall be measured by the Town's success in achieving conservation goals, objectives and policies.	No change needed.	No change needed.

Coastal Management Element

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 5-1.1: Protect Coastal Resources, Wetlands, Estuary, Living Marine Resources, And Wildlife Habitats. Protect, conserve, and enhance the natural resources of the Town's incorporated area, including wetlands, the estuarine shoreline, deepwater habitats, and other natural coastal resources in a manner consistent with ECFRPC policies and by:</p> <ul style="list-style-type: none"> a. Preventing potentially adverse impacts of development and redevelopment on wetlands; b. Managing the impacts of development on the Indian River Lagoon, including estuarine resources such as living marine organisms, seagrasses, coastal marsh, and mangroves together with adjacent environmentally sensitive transition areas; c. Regulating the impacts of development on wildlife habitats; and d. Managing vegetative landscaping, including prohibition of noxious exotic species consistent with the ECFRPC Comprehensive Plan. <p>These objectives shall be accomplished as herein below cited as well as through coordination with the St. Johns River Water Management district and through the Indian River Lagoon SWIM Program.</p>	<p>Policy 5-1.1.1: Development Restrictions in Wetlands. The Town shall adopt a wetlands protection ordinance which shall prohibit development within wetlands except where such activities are clearly within the public interest and no practicable alternative exists which reduces adverse impacts on wetlands. Any unavoidable adverse impacts to or losses of wetlands shall be amended to incorporate criteria for wetland preservation and compensatory mitigation performance criteria which is consistent with and furthers the ECFRPC Plan policies. The regulations shall require dedication of conservation easements over regulated wetlands.</p>	<p>Adopted: LDC Article VII Sec. 1-7.2 G.3. Wetland Development Restrictions and Interpretations regulates wetland development.</p>	<p>Objective requires no change.</p> <p>Change ECFRPC Comprehensive Plan to ECFRPC Strategic Regional Policy Plan.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Policy 5-1.1.2: Protect the Indian River Lagoon. The Town shall implement policies contained herein and coordinate with Brevard County and the Marine Resources Council of East Central Florida together with public agencies having jurisdiction over the Indian River Lagoon in order to:</p> <ul style="list-style-type: none"> a) prevent estuarine pollution; b) control surface water runoff; c) protect living marine resources; d) reduce exposure to natural hazards; e) insure adequate public access; and f) insure adequate sites and standards regulating for water-dependent and water-related uses. 	<p>No change needed.</p>	<p>No change needed.</p>
	<p>Policy 5-1.1.3: Protect, Stabilize, and Enhance the Estuarine Shoreline. The Town shall incorporate criteria within the land development regulations which stipulate that no native vegetation shall be removed from the estuarine shoreline without a duly authorized permit. Similarly, criteria shall be included in the land development regulations which require that applicants for development along the estuarine shoreline shall be required to revegetate, stabilize, and enhance damaged</p>	<p>Adopted: LDC Article VII Sec. 1-7.2 J.3.(d) Land adjacent to streams, ponds, lakes and wetlands states applicant shall not adversely impact aquatic vegetation within the sensitive transition zone.</p>	<p>No change needed on vegetation policy.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>estuarine shorelines by planting native vegetation, including mangrove and/or other native estuarine plant species which:</p> <ul style="list-style-type: none"> a. Contribute to marine productivity and water quality; b. Offer protection from erosion & flooding; and c. Contribute to the natural soil building process <p>Hardening of the estuarine shoreline with rip-rap, bulkheads or other similar devices shall not be allowed unless erosion constitutes a critical peril to upland property and the use of vegetation has failed to stabilize the shoreline. Such shoreline hardening structures shall generally not be vertical seawalls or bulkheads and shall comply with performance standards herein cited in Policy 5-1.2.1(c). The specific location and design of such structures shall be approved by the Town as well as by other public entities having jurisdiction in the matter. Land development regulations shall incorporate performance criteria governing the location and design of such structures.</p>		<p>Performance criteria has not been adopted, establish date.</p>
	<p>Policy 5-1.1.4: Protect Living Marine Resources, Coastal Marsh, and Seagrass Beds.</p>	<p>No change needed. Adopted: LDC Article VIII Section 1-</p>	<p>No change needed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Seagrass beds within shallow estuarine waters are habitats for organisms in the marine food chain and perform significant functions related to water quality. Consistent with ECFRPC policies activities within an estuarine basin and/or coastal marsh area that will adversely impact seagrass beds and other valuable submerged aquatic vegetation shall be prohibited, unless an overriding public benefit can be shown and adequate mitigation and monitoring measures are included. Criteria shall be developed in the land development code refinements and these provisions shall be consistent with and further ECFRPC plan policies governing seagrass bed preservation.</p>	<p>8.7 Surface water management review criteria for all development projects.</p>	
	<p>Policy 5-1.1.5: Manage Impact of Coastal Development on Tidal Flushing and Circulation Patterns. Tidal flushing and circulation patterns generally shall not be altered by development activities. No development shall produce changes in the tidal flushing and circulation patterns unless the Town and other public agencies having jurisdiction have granted requisite permits.</p>	<p>Town requires external agency permits</p>	<p>No change needed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	No such permit shall be granted by the Town unless all other agencies having jurisdiction have granted clearance and the applicant has submitted hydrographic information sufficient to clearly demonstrate that no adverse environmental impacts shall be occasioned by the proposed changes in tidal flushing and circulation patterns. Finally, no alteration in tidal flow shall be permitted which causes stagnation or siltation.		
	Policy 5-1.1.6: Promote propagation of Fish and Wildlife. The Town shall incorporate criteria in the land development regulations which require consideration of the impact of development on submerged lands. The criteria shall be implemented to insure maintenance of essentially natural conditions in order to further the propagation of fish and wildlife as well as public recreation opportunities.	No change needed. Adopted LDC Article VIII Section 1-8.7 Surface water management review criteria for all development projects.	No change needed.
	Policy 5-1.1.7: Managing Spoil Islands. Development of spoil islands (i.e., artificial islands created with material dredged from State owned lands) shall be regulated pursuant to the following: a. Any modification of spoil	Florida Department of Environmental Regulations is now the Florida Department of Environmental Protection. Florida Department of Natural Resources is now the Florida Department of Environmental	Amend text to reflect agency's new name. Delete DNR from text.

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>islands shall be subject to regulation by the Department of Environmental Regulation and by the Department of Natural Resources;</p> <p>b. Where practical, spoil islands shall be left undeveloped to serve as green areas, bird sanctuaries, and/or water-dependent recreation areas not requiring major expenditures of public funds; and</p> <p>c. Where practical, creation of new spoil islands shall be accomplished in a manner that maximizes habitat values.</p>	Protection.	
<p>Objective 5-1.2: Criteria For Prioritizing Shoreline Uses And Promoting Public Access to Shoreline. In developing land use policies for shoreline uses, first priority shall be directed toward:</p> <p>a. Non-structural shoreline protection uses such as native shoreline revegetation programs;</p> <p>b. Approved water-dependent estuarine shoreline uses such as: fish and wildlife production, recreation, pervious accessways, small dock facilities and residential multi-slip dock facilities without commercial fuel tanks or other commercial services;</p> <p>c. Water related or enhanced uses such as utilities requiring access to water, water enhanced recreation, and other water related uses consistent with the land development code. Lowest priority</p>	<p>Policy 5-1.2.1: Implementing Policies for Shoreline Land Uses. Land development regulations shall stipulate provisions implementing shoreline land use priorities consistent with the ECFRPC Plan, including criteria for regulating water-dependent and water-related shoreline land uses. The regulations shall address the following:</p> <p>a. <u>Protecting Living Coastal Marine Life</u>. The Town shall refine land development regulations and enforce the same in order to protect fish and wildlife from the adverse impacts caused by</p>	<p>Objective needs to include FAC 9J-5.012 (3) (b) 9. Increase the amount of public access to the beach or shorelines consistent with estimated public needs.</p> <p>Water access identified as a major issue.</p> <p>a. Adopted LDC Article VII Site plan review.</p>	<p>Amend to include FAC 9J-5.012 (3).</p> <p>Adopt policies to reflect land acquisition for waterfront/water access purposes.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>shall be directed to non-water dependent uses.</p> <p>These facilities shall demonstrate during site plan review compliance with performance standards stipulated herein in Policy 5-1.2.1(e) in order to prevent adverse impacts to natural features.</p> <p>Second priority shall be directed toward water-related uses such as:</p> <p>a. Parking facilities for shoreline access;</p> <p>b. Residential structures which comply with the building code for structures within the coastal building zone; and</p> <p>c. Recreational facilities which comply with applicable codes.</p> <p>This objective shall be directed as herein cited below.</p>	<p>development.</p> <p>i. All applicants proposing development activities along the estuarine shoreline or within submerged areas shall be required to submit a site plan pursuant to site plan review regulations. Such site plan shall provide sufficient information describing marine life potentially impacted by proposed land uses as well as related construction activity. The plan shall stipulate assurances that the proposed project shall not adversely impact marine life or water quality. For instance, water quality control techniques such as the use of weirs for purposes of managing turbidity may be required by the Town. In addition, the Town shall require surveys of existing conditions, specifications of planned site improvements, and techniques to be used during construction as well as in operating and maintaining the land use in order to prevent damage to living marine organisms.</p> <p>b. <u>Water-Related Uses in Coastal Building Zone.</u> All water-related uses shall be built on uplands landward of the preservation zone. Within the</p>	<p>b.2007 Planning and Zoning Board</p>	<p>b.Modify policy by deleting text as follows: "All water-related uses shall be built on uplands landward of the preservation zone. Within the coastal building zone all</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>management principles and practices and be accomplished by use of the least environmentally damaging methods and designs possible;</p> <p>ii. Avoid a vertical slope which generates erosive tendencies, especially to adjacent unprotected shoreline properties. Pervious interlocking tile systems, filter mats, and similar stabilization methods shall be used in lieu of vertical walls whenever feasible;</p> <p>iii. Not be located waterward of the mean high water line except when it is shown to be in the public interest;</p> <p>iv. First be approved by other public agencies having jurisdiction; and</p> <p>v. Incorporate a program of shoreline vegetation or revegetation in order to build, enhance, and stabilize a natural shoreline.</p> <p>d. <u>Land Use Restrictions in Submerged Lands and Wetlands</u>. No nonwater dependent uses shall be permitted on submerged lands or wetlands. Development on uplands adjacent to wetlands shall preserve a buffer within wetland transition areas as defined in the Stormwater</p>	<p>d.Town does not regulate Submerged Land Activities.</p> <p>Adopted LDC Article VII 1-7.2 J.3.(d) Land adjacent to streams, ponds, lakes, and wetlands.</p>	<p>d. not all wetlands are adjacent to a water body. Recommend that the policy be re-worked to reflect the concern for wetlands that located adjacent to a waterbody.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Management and Flood Protection Ordinance. No commercial marina shall be permitted along the Indian River Lagoon, a State designated Aquatic Preserve and critical manatee habitat. Similarly, no structures which constrict water circulation in the lagoon shall be permitted.</p> <p>e. <u>Dock Facilities</u>. Docks including multi-slip docks, shall not be approved by the Town until the applicant demonstrates compliance with all applicable federal and State laws and administrative rules, including §160.20.04(5), F.A.C., governing Aquatic Preserves as well as applicable policies of regional agencies. The Town shall require site plans for all docks. These plans must demonstrate to the Town's satisfaction, that the facilities shall not adversely impact natural marine resources, including, but not limited to, seagrasses, estuarine waters, manatees and other living marine organisms. The plans shall indicate:</p> <ul style="list-style-type: none"> i. Location relative to all impacted natural marine resources. ii. Structural specifications. 	<p>e. Adopted LDC Article XVII Sec. 1-17.2 H. Docks installed along access waterways shall be installed under permit issued by Town Engineer.</p> <p>e.i-vii are not in LDRs.</p>	<p>e. No change needed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>iii. Description of all impacted natural marine resources, including their location and physical characteristics.</p> <p>iv. Multi-slip dock facilities shall be located so as to prevent or minimize dredging and shall not disturb seagrass beds or adjacent wetlands.</p> <p>v. Availability and location of sewage pump-out facilities.</p> <p>vi. Hurricane contingency plans.</p> <p>vii. Mitigation techniques proposed to compensate for any potential environmental disruption.</p> <p>f. <u>Estuarine Water Quality</u>. In order to protect the water quality of the Aquatic Preserve, no new point source pollution shall be permitted to discharge into the lagoon or into ditches or canals flowing into the lagoon. In addition, in order to reduce non-point source pollutants, the Town's stormwater management regulations shall continue to require the following:</p> <p>i. Surface water management systems shall retain or detain with filtration, as a minimum, the first one (1) inch of run-off or run-off from one-hour, three-year storm event, whichever is</p>	<p>f. Not in sync with LDC Article VIII Sec. 1.8.7 Surface water management review criteria for all development projects.</p>	<p>f.Amend policy.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>greater.</p> <p>ii. A vegetated and functional littoral zone shall be established as part of the surface water management system of lakes occurring on all property. Prior to construction of the surface water management system for any phase of a project, the developer shall prepare a design and management plan for the wetland/ littoral zone that will be developed as part of these systems. The plan should:</p> <p>(a) Include typical cross sections of the surface water management system showing the average water elevation and the -3 foot contour (i.e., below average elevation);</p> <p>(b) Specify how vegetation is to be established within this zone, including the extent, method, type and timing of any planting to be provided;</p> <p>(c) Provide a description of any management procedures to be followed in order to assure the continued viability and health of the littoral zone. The littoral zone as established should consist entirely of native vegetation and should be maintained permanently as part of the water management system. As a minimum, 10</p>		

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>square feet of vegetated littoral zone per linear foot of lake shoreline should be established as part of the surface water management plan; and</p> <p>(d) Agricultural activities shall comply with policies herein stipulated in the Land Use Element, §1-2(3).</p> <p>iii. The Town shall coordinate with the St. Johns River Water Management District in developing and adopting an ordinance regulating installation of underground storage tanks for petroleum products.</p> <p>iv. The Town shall coordinate with the St. Johns River Water Management District in reviewing issues and appropriate enforcement activities surrounding safe yield for water withdrawals from the surficial and intermediate aquifers near the Indian River Lagoon in order to avoid adverse impacts on the estuary.</p> <p>g. <u>Shoreline Access</u>. Shoreline access to the Indian River Lagoon shall be promoted in order to maintain accessways at one-half mile intervals along the shoreline. State assistance shall be enlisted to achieve land required to appropriately store vehicles, provide restroom</p>	<p>g.Policy needs to include FAC 9J-5.012 (3) (c) 10. ... providing transportation or parking facilities for beach and shoreline access.</p> <p>Water access identified as a major issue.</p>	<p>g. Amend policy to include FAC 9J-5.012 (3) (c) 10.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	facilities, and accessways designed in a manner compatible with the shoreline ecosystem. No beaches are present within the Town limits.		
Objective 5-1.3: Limiting Public Subsidy Of Development In The Coastal High-Hazard Area. The Town shall limit public expenditures that subsidize development permitted in coastal high-hazard areas, except for restoration or enhancement of natural resources.	Policy 5-1.3.1: Public Investment in Coastal High-Hazard Area. Town funded public facilities shall not be built in the coastal high-hazard area, unless the facility is for public access or resource restoration.	Policy inconsistent with Policy 5-1.4.1.a.	Objective requires no change. Amend one of these policies to ensure consistency.
Objective 5-1.4: Avoid Permanent Population Concentrations In Coastal High Hazard Areas. Direct permanent population concentrations away from known or predicted coastal high-hazard areas.	Policy 5-1.4.1: Restrict Development in Coastal High-Hazard Areas. The Town shall incorporate appropriate policies in the land development regulations in order to direct permanent residential population concentrations away from known or predicted coastal high-hazard areas (i.e., areas located within the high velocity hurricane zone as denoted on the Federal Emergency Management Agency [FEMA] Flood Insurance Rate Maps [FIRM] for the Town of Malabar. The following provisions shall restrict development within the coastal high-hazard area: a. Consistent with Coastal Management Element Policy 5-1.2.1(a), no uses other than stipulated water-dependent structures shall be allowed in	Pursuant to Chapter 163.3178(2)(h) F.S., the "Coastal High Hazard Areas" (also referred to as the high-hazard coastal areas) means the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model. Policy inconsistent with Policy 5-1.3.1. b. Need direction from the Town if this is a reference to flood zone or hurricane surge areas. Policy needs to include FAC 9J-	Objective requires no change. Amend text to include new definition. Amend one of these policies to ensure consistency.

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>the coastal high-hazard area and the location of habitable structures is expressly prohibited. Similarly, sewage treatment plants, industrial holding ponds and other potentially polluting facilities within the coastal high-hazard area is prohibited.</p> <p>b. Require non-residential construction within the hurricane flood zone to meet storm and floodproofing standards exceeding those required for a 100-year storm.</p>	<p>5.012 (3) (c) 8. The relocation, mitigation or replacement, as deemed appropriate by the local government, of infrastructure presently within the coastal high-hazard area when state funding is anticipated to be needed.</p>	<p>Amend policy to fulfill requirements of FAC 9J-5.</p>
<p>Objective 5-1.5: Hurricane Evacuation The Town shall coordinate with the County in attaining a hurricane evacuation time of less than twelve (12) hours for a Category III storm.</p>	<p>Policy 5-1.5.1: Hurricane Evacuation Logistical Support. In order to prevent unnecessary evacuees crowding roads and shelters, the Town shall coordinate with the County in disseminating information concerning the need of residents to evacuate at various hurricane threat levels. The Town shall coordinate with the County and the Brevard County Emergency Management Director in assisting the implementation of the County's campaign to educate the general citizenry regarding emergency preparedness plans, including specific citizen directives.</p>		<p>Objective requires no change.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Policy 5-1.5.2: Continued Planning and Coordination with the County in Emergency Preparedness, including Advance Plans for Safe Evacuation. In order to provide for safe and efficient evacuation of the residents of the Town of Malabar and other communities in the event of a hurricane, the Town shall continue to plan and coordinate with Brevard County in annual updates of the County Peacetime Emergency Plan, including the evacuation plan. This update shall enable the County and incorporated municipalities to plan for future population densities which will neither adversely impact the efficiency of the evacuation plan nor increase evacuation times.</p> <p>In order to ensure that future developments are consistent with the Peacetime Emergency Plan and amendments thereto, the Town's land development regulations shall mandate that new development maintain a density threshold which is consistent with the Peacetime Emergency Plan. This stipulation will assure that future density thresholds may be accommodated without adversely impacting hurricane</p>		<p>Amend policy to ensure compliance with the evacuation LOS established by the plan.</p> <p>Amend policy to be consistent with local and County emergency management plans.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	evacuation time. The Town shall also coordinate with the County in updating hurricane evacuation shelter assignments as well as other policy formulation surrounding land use and emergency preparedness.		
Objective 5-1.6: Hazard Mitigation And Coastal High Hazard Areas. The Town shall carry out development activities in a manner which minimizes the danger to life and property occasioned by hurricane events.	Policy 5-1.6.1: Coastal High-Hazard Area Defined. The coastal high-hazard area shall encompass the area so defined in the Coastal Management Element, Policy 5-1.4.1. The Town shall enforce development restrictions identified in the subject Policy 5-1.4.1.	Pursuant to Chapter 163.3178(2)(h) F.S., the "Coastal High Hazard Areas" (also referred to as the high-hazard coastal areas) means the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.	Objective requires no change. Amend text to include new definition.
	Policy 5-1.6.2: Coordinate Update of the Hazard Mitigation Plan. The Town shall coordinate with the County in updating the hazard mitigation annex of the Local Peacetime Emergency Plan pursuant to the five (5) year interval schedule adopted by the County. Updates of the Plan shall identify specific actions that may be implemented to reduce exposure to natural hazards. The current Plan contains no inter-agency hazard mitigation component.	No change needed.	No change needed.

Objective	Measurable Target	Current Conditions 2007	Comments
<p>OBJECTIVE 5-1.7: POST-DISASTER Redevelopment. The Town shall plan for- and coordinate with the County in providing immediate response to post-hurricane situations. Planning activities shall include mitigative actions to reduce or avoid future property damage through implementation of the following policies.</p>	<p>Policy 5-1.7.1: Recovery Operations and Mitigation. The Town shall coordinate with the County and the City of Palm Bay in modifying the Local Peacetime Emergency Plan in order to establish compliance with this objective. The update of the Plan shall include strategies for post-disaster recovery operations. Post-hurricane mitigation shall include mechanisms for relocation of structures significantly damaged as a result of a major storm event.</p>	<p>Town has an annually updated emergency management plan.</p>	<p>Objective requires no change except to amend objective to fulfill requirements of FAC 9J-5 for adoption of a Post-Disaster Redevelopment Plan and establish date.</p> <p>Additionally it is recommended that the Town use the Brevard County Profile of the Integration of the Local Mitigation Strategy Into the Local Comprehensive Plan as a guide when the local emergency plan is updated.</p>
	<p>Policy 5-1.7.2: Post-Hurricane Assessments. Following a hurricane event and prior to re-entry of evacuees into the evacuated area, the Town Council shall meet to hear preliminary damage assessments and to appointment a recovery Task Force comprised of the Building Official and others as determined by the Town Council. The Recovery Task Force shall meet to consider the following issues: a. Establishing a temporary moratorium on building activity; b. Reviewing and deciding upon emergency building permits. The redevelopment and rebuilding of facilities that</p>	<p>No change needed.</p>	<p>No change needed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>encourage growth in vulnerable areas shall be limited to those activities required to extend necessary public services to existing development;</p> <p>c. Coordinating with State and Federal officials to prepare disaster assistance applications;</p> <p>d. Analyzing and recommending to the Town Council hazard mitigation options, including reconstruction or relocation of damaged public facilities;</p> <p>e. Developing a redevelopment plan; and</p> <p>f. Recommending amendments to the Local Peacetime Emergency Plan and other appropriate policies and procedures.</p>		
	<p>Policy 5-1.7.3: Repair and Cleanup. In planning post-disaster redevelopment activities, factors to be considered in order to protect the public health and safety shall include:</p> <p>a. Repairs to potable water, wastewater and power facilities;</p> <p>b. Removal of debris;</p> <p>c. Stabilization or removal of structures in a perilous condition; and</p> <p>d. Minimal repairs to make structures habitable.</p>	No change needed.	No change needed.

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>These considerations shall receive first priority in determining the appropriateness of emergency building permits. Long term redevelopment activities shall be postponed until the Recovery Task Force has coordinated immediate repair and clean-up operations.</p>		
	<p>Policy 5-1.7.4: Hazard Mitigation and Comprehensive Plan Amendments. The Recovery Task Force shall propose any needed Comprehensive Plan amendments which reflect the recommendations contained in any inter-agency hazard mitigation reports or other reports prepared pursuant to §406, Disaster Relief Act of 1974 (PL 93-288).</p>	<p>No change needed.</p>	<p>No change needed.</p>
	<p>Policy 5-1.7.5: Redevelopment Plans. If structures receiving storm damage in excess of fifty (50%) percent of their appraised value shall be rebuilt, such structures shall meet all current laws and ordinances, including those enacted since construction of the subject structure.</p>	<p>Not reflected in LDRs.</p>	<p>No change needed.</p>
	<p>Policy 5-1.7.6: Establish Building Facilities Review Committee. The Planning and</p>	<p>No change needed.</p>	<p>No change needed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Zoning Board shall be the Town's designated Public Facilities Review Committee charged by the Town Council with the responsibility for reviewing available alternatives for managing damaged public facilities following a hurricane event. The Committee shall evaluate future options for such facilities, including but not limited to, abandonment, repair in place, relocation, and reconstruction with structural modifications. The Committee shall consider these options based on the following considerations:</p> <ul style="list-style-type: none"> a. Cost to construction; b. Cost to maintain; c. Recurring damages; d. Impacts on land use; e. Impacts on the environment; f. Public sector; and g. Other relevant factors. 		
	<p>Policy 5-1.7.7: Contingency Fund for Disaster Assistance. The Town shall maintain a contingency fund in order to cover the Town required match for disaster assistance grants.</p>	<p>No change needed.</p>	<p>No change needed.</p>
<p>Objective 5-1.8: Historic Resources. The Town shall assure that there shall be no loss of historic resources on Town owned property and land development regulations shall assure that historic resources on private property shall be</p>	<p>Policy 5-1.8.1. Promote Identification of the Town's Historic, Archaeological, and Cultural Resources. The Town shall coordinate with the State Division of Historic Resources</p>	<p>State Division of Historic Resources is now State Bureau of Historic Resources.</p>	<p>Objective requires no change. Amend policy to reflect new agency name.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
protected, preserved, or reused in a manner sensitive to the historic properties of the site and/or structure.	and the South Brevard Historical Society in continuing to identify, protect, analyze, and explain the Town's historical, archaeological, and cultural resources. Such efforts shall include determination of their worth and vulnerability, as well as determination of specific applicable preservation management policies. Currently, the Town has identified four (4) sites of local historic or archaeological significance, including the school house at the corner of Marie Street and Malabar Road; the Cain farm which was built in 1912; and two Ais Indian midden and/or burial sites.		
	Policy 5-1.8.2: Performance Standards for Protecting Sites of Historic or Archaeological Significance. Land development regulations shall include precautions necessary to prevent the following adverse impacts to historic or archaeological sites of significance: a. Destruction or alteration of all or part of such site; b. Isolation from, or alteration of the surrounding environment; c. Introduction of visual, audible, or atmospheric elements that are out of	Not reflected in LDRs and no timeline for implementation.	Amend policy to include a timeline for implementation and establish a date for adoption.

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>character with a property or alter its setting;</p> <p>d. Transfer or sale of the site of significance without adequate conditions or restrictions regarding preservation, maintenance, use, or re-use;</p> <p>e. Vegetation removal shall not be permitted on a historic or archaeological site unless the vegetation to be removed is a part of a duly authorized scientific excavation, or is a part of an approved development plan; and</p> <p>f. Other forms of neglect resulting in resource deterioration.</p>		
	<p>Policy 5-1.8.3: Alternatives to Preserving Historic or Archaeological Sites. As an alternative to preserving historic or archaeological sites, the owner of impacted lands may allow excavation of the site by the Division of Historic Resources or another State approved entity prior to development. Should a site be scientifically excavated in this manner, development may proceed following completion of the scientific excavation by the approved entity.</p>	<p>No change needed.</p>	<p>No change needed.</p>
<p>Objective 5-1.9: Public Services In Coastal Area. The level of service standards, service areas, and proposed</p>	<p>Policy 5-1.9.1: Coordinate Timing and Staging of Public Facilities With Private</p>	<p>Adopted LDC Article XIII Sec. 1-13.3 Compliance with level of service standards mandated to ensure that</p>	<p>Objective requires no change.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>phasing stipulated in other elements of the Comprehensive Plan for facilities in the coastal area and additional standards under this objective shall be applied whenever development orders or permits are requested.</p>	<p>Development. Land development regulations shall assure that future development is directed only to those areas where public facilities which meet the Town's adopted level of service standards are available concurrent with the impacts of the development. In order to assure appropriate timing and staging no occupancy permit shall be granted until infrastructure and services required by respective developments are in place and available for use by the development.</p>	<p>certain public services are available at prescribed levels of service concurrent with the impacts of the development.</p>	
<p>Objective 5-1.10: Intergovernmental Coordination Within The Coastal Area. Establish an intergovernmental coordination mechanism in order to manage coastal resources within the jurisdiction of more than one local government or public agency and assist in implementing appropriate portions of existing multi-jurisdictional resource planning and management plans addressing the coastal area, including the Indian River Lagoon and other natural systems within the Town.</p>	<p>Policy 5-1.10.1: Implementing Policies for Intergovernmental Coordination Within the Coastal Area. The Town shall coordinate with Brevard County, the City of Palm Bay and appropriate regional, State, and federal agencies in managing coastal resources. Management activities shall include, but not be limited to, the following:</p> <p>a. The Town shall coordinate the following coastal resource management issues with Brevard County:</p> <p>i. Participate in County forums and technical review concerning emergency preparedness and hurricane evacuation issues</p>		<p>Objective requires no change.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>and update of the Peacetime Emergency Plan, including hurricane evacuation plans.</p> <p>ii. Participate in technical review and in formulation of policies concerning the US 1, 514, and Babcock Street corridors, including stormwater management policies within these corridors. This activity shall also be coordinated with the State DOT.</p> <p>iii. Public access issues shall be coordinated with Brevard County, including issues surrounding maintenance and improvements.</p> <p>iv. Issues surrounding conservation of spoil islands shall be coordinated with Brevard County as appropriate. Issues shall include technical assessment of the proposed County management plan or potential plans impacting spoil islands.</p> <p>v. The Town shall coordinate resource management within the Indian River Lagoon with Brevard County as well as the Marine Resource Council of East Central Florida.</p> <p>b. Major issues to be coordinated with the City of Palm Bay include:</p> <p>i. The Town shall coordinate</p>	<p>Florida Department of Environmental Regulations (DER) is now the Florida Department of Environmental Protection (DEP).</p> <p>Florida Department of Natural Resources (DNR) is now the Florida Department of Environmental Protection (DEP).</p>	<p>Amend text to reflect agency's new name.</p> <p>Delete DNR from text.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>with the City of Palm Bay in order to assure that all future development shall be timed and staged to assure that requisite infrastructure and services are available to respective developments concurrent with the impacts of the development.</p> <p>c. Major issues to be coordinated with the State Department of Natural Resources (DNR), the Department of Environmental Regulation (DER), and the St. Johns River Water Management District (SJRWMD) as may be appropriate in managing the following activities:</p> <p>i. The Town shall coordinate all development and resource conservation measures impacting the Aquatic Preserve with the DNR as well as other applicable public agencies. These activities shall include, but not be limited to, review of proposed development potentially impacting natural resources, including development petitions for docks, shoreline stabilizations, dredging, or other alteration of natural resources under the State's jurisdiction.</p> <p>ii. All applications for</p>	<p>No mechanism to create list of public agencies.</p>	<p>d. Change ECFRPC Comprehensive Plan to ECFRPC Strategic Regional Policy Plan.</p> <p>Amend policy to include creation of list of public agencies and specific types of development proposals to forward.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>development activity impacting waters of the State as well as tidally influenced coastal marsh, or other lands under the jurisdiction of the State shall be coordinated with agencies having appropriate jurisdiction.</p> <p>iii. The Town shall coordinate with technical staff within DNR, DER, and SJRWMD in order to assure implementation of sound principles and practices of coastal resource management during the development review process as well as in the formulation of policies impacting coastal resource management.</p> <p>iv. The Town shall coordinate with the SJRWMD as well as other appropriate State agencies in matters surrounding stormwater management, drainage, water quality and quantity, and consumptive use permitting.</p> <p>d. The Town shall coordinate with the East Central Florida Regional Planning Council (ECFRPC) in preparing the Comprehensive Plan and amendments thereto in order to assure consistency with the ECFRPC Comprehensive Plan. In addition, the Town shall coordinate other planning issues of regional significance</p>		

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>with the ECFRPC.</p> <p>The Town shall forward copies of development proposals within the coastal area to public agencies having jurisdiction in the management of potentially impacted natural resources.</p>		
<p>Objective 5-1.11: Continuing Evaluation Of Coastal Management Element Effectiveness The Town shall use the following policies as criteria in evaluating the effectiveness of the Coastal Management Element.</p>	<p>Policy 5-1.11.1: Review the Impact of Changing Conditions on Coastal Management Policy. The Town shall monitor and evaluate significant changes in the characteristics of natural coastal resources. Policy implications of such changes shall be examined and corrective measures shall be pursued. Coastal management policies shall be refined as needed in order to remain responsive to evolving problems and issues.</p>	<p>No schedule of monitoring or definition of monitoring and evaluation.</p>	<p>Objective requires no change.</p> <p>Amend policy to include creation of schedule of monitoring and define how it will be monitored and evaluated or change to reflect communication with the agencies currently monitoring these conditions.</p> <p>Coordinate with, for example, EPA, SJRWMD, and the Brevard County Comprehensive Maritime Management Master Plan.</p>
	<p>Policy 5-1.11.2: Schedule, Budget, and Implement Programmed Activities. The timely scheduling, programming, budgeting, and implementation of programmed coastal management activities identified in this Element shall be evidence of the Town's effectiveness in carrying out a systematic program for implementing coastal management goals, objectives, and policies.</p>	<p>No change needed.</p>	<p>No change needed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	<p>Policy 5-1.11.3: Coordinate with Public and Private Sectors. While continually implementing and evaluating the Coastal Management Element, the Town shall maintain a process of intergovernmental coordination as well as coordination with private sector groups interested in coastal management policy and programs. The effectiveness of this approach shall be evaluated by the success of coordination mechanisms in resolving coastal management problems and issues.</p>	<p>No mechanism to coordinate a process of intergovernmental coordination as well as coordination with private sector groups interested in conservation.</p>	<p>Amend policy to include a timeframe to implement and define the process for coordination with public and private sectors.</p>
	<p>Policy 5-1.11.4: Achieve Effective Resolution of Coastal Management Goals, Objectives, and Policies. The effectiveness of the Coastal Management Element shall be measured by the Town's success in achieving coastal management goals, objectives, and policies. The Coastal Management Element incorporates a systematic planning process for identifying coastal management problems and issues and implementing corrective actions.</p>	<p>No change needed.</p>	<p>No change needed.</p>

Recreation & Open Space Element

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 7-1.1: The system of parks and recreation facilities shall be improved and maintained over time in order to meet the needs of existing and future population.</p>	<ol style="list-style-type: none"> 1. (Policy 7-1.1.1) Provide level of service standards for parks and recreation facilities. 2. (Policy 7-1.1.2) Monitor and update recreation demand and supply analysis. 3. (Policy 7-1.1.3) Enforce mandatory land dedication or fees in lieu thereof. 4. (Policy 7-1.1.4) Schedule and incorporate into Capital Improvements Element any publicly-funded recreation improvements costing \$25,000 or more. 5. (Policy 7-1.1.5) Maintain existing recreation and facilities through proper management and funding techniques. 	<ol style="list-style-type: none"> 1. 5 ac / 1,000 population in data inventory and analysis section, but not in GOPs. 2. Informally monitored but Comp Plan uses 1988 data. 3. Being enforced / no change needed. 4. CIE last updated 1988. 5. Town contracts for the maintenance of parks for landscaping, extermination, and cleaning of restrooms. Public Works Dept assists in general repairs and maintenance. Additionally, the Town seeks funding via grants. 	<p>Objective requires no change. Policies should be revised as follows:</p> <ol style="list-style-type: none"> 1. Specifically state 5 ac / 1,000 population, as indicated in data inventory and analysis section. 2. Update parks inventory and LOS analysis. 3. Policy may need to be amended to include providing a multi-purpose trail connection as a requirement for new development. 4. none 5. none
<p>Objective 7-1.2: Protect open space systems. The Town shall protect lands designated as open space from incompatible land uses and such designated lands shall remain functionally intact.</p>	<ol style="list-style-type: none"> 1. (Policy 7-1.2.1) Implement land development regulations. 2. (Policy 7-1.2.2) Within one year of adoption of master drainage plan, adopt standards for reviewing proposed development. 	<ol style="list-style-type: none"> 1. Section 1-17.1.H of the Town Code outlines the recreation and open space improvement requirements and standards for new subdivisions. Additionally, to protect lands, Town currently drafting new zoning district classifications for conservation lands. 2. Land Development Code adopted via Ordinance 90-05. 	<p>Objective requires no change. Policies should be revised to include a timeline for revising land use and/or zoning designations for those publicly owned lands intended for conservation but never formally changed.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 7-1.3: Access facilities. By 1992, all public recreational facilities shall have operational automobile, bicycle and pedestrian access facilities as deemed appropriate by the Town Council.</p>	<ol style="list-style-type: none"> 1. (Policy 7-1.3.1) Improve rights-of-way as needed. 2. (Policy 7-1.3.2) Design accessways to parks which are compatible with character of on-site natural resources. 3. (Policy 7-1.3.3) Provide bicycle and pedestrian accessways to parks. 4. (Policy 7-1.3.4) Park improvements shall incorporate facilities accessible to handicapped and elderly. 	<ol style="list-style-type: none"> 1. ROW regulations adopted 6/19/92. 2. On 7/18/07 Park & Rec Board reestablished Trails & Greenways committee. 3. Proposed multi-use South Brevard Linear Trail, as advanced by the Brevard County Greenways & Trails Master Plan, will link EEL and recreational areas. 4. ADA mandate / not optional. 	<p>Objective and policies should be updated to include the South Brevard (Al Tuttle) Linear Trail; the provision for a multi-purpose trail system which builds upon the Linear Trail; and a study to identify those key facilities that should connect to the multi-use trail.</p>
<p>Objective 7-1.4: Access to Indian River Lagoon and tributaries. The Town shall promote the new access points and preserve existing access facilities to the Indian River Lagoon and its tributaries.</p>	<ol style="list-style-type: none"> 1. (Policy 7-1.4.1) Require access points be provided as needed. 	<ol style="list-style-type: none"> 1. No new access points. Reconstruction of historic mailboat docks may promote public access to River. 	<p>Objective requires no change. Policies should be updated according to recommendations in this report including directing the Town to work with FDOT in determining safe and appropriate access points to the River along US 1, including parking considerations.</p>
<p>Objective 7-1.5: Public and private coordination in planning for recreation improvements. The Town shall coordinate planning for recreation improvements with each level of government, including the Brevard County School Board, the Audubon Society, and the private sector in order to promote recreational opportunities in a cost effective manner.</p>	<ol style="list-style-type: none"> 1. (Policy 7-1.5.1) Coordinate with Brevard County School Board a joint school park concept for any future school sites. 2. (Policy 7-1.5.2) By 2000, any recreation needs identified in the Comprehensive Plan which are not fulfilled by private sector shall be met by the public sector. 3. (Policy 7-1.5.3) Coordinate with private development sector to accommodate future recreation 	<ol style="list-style-type: none"> 1. No public schools in Town, nor are any planned. 2. Facility types denoted in Table 13 of the DIA may need to be updated based on more contemporary interests. 3. Limited development due to slow controlled growth policy. 	<p>Objective requires no change. Revise policies accordingly based on new Recreation and Open Space goals.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
	land and facility needs.		

Intergovernmental Coordination Element

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 8-1.1 Normal Process for Intergovernmental Coordination. Systematically coordinate the development and implementation of the Town's Comprehensive plan with the plans of Brevard County, the City of Palm Bay, Brevard County School Board, and other units of local government through the Brevard County intergovernmental Coordination Steering Committee.</p>	<p>Policy 8-1.1.1 - Responsible Entity for Intergovernmental Coordination.</p> <p>Policy 8-1.1.2 - Coordination with Adjacent Jurisdiction</p> <p>Policy 8-1.1.3 - Coordination of Growth Management Issues.</p> <p>Policy 8-1.1.4 - Brevard League of Municipalities.</p>	<p>The Town coordinates planning activities with Palm Bay, Brevard County, and the School Board directly. Brevard County Intergovernmental Steering Committee does not exist.</p> <p>Malabar is a voting member of the Space Coast League of Cities and The Florida Leagues of Cities in which several Council Members and the Town Administrator serve on policy committees.</p>	<p>Objective should be updated to remove Brevard County Intergovernmental Coordination Committee. Policy 8-1.1.3 should be updated to accommodate current Intergovernmental Coordination issues including water supply planning, proportionate fair share for transportation and school improvements, concurrency management, widening of Malabar Road, and coordination of multi-use trails.</p>
<p>Objective 8-1.2 Conflict Resolution. The Town shall participate on the Brevard County Intergovernmental Steering Committee, using this Committee as an informal forum for resolving conflicts among Brevard County, municipalities within the County, the School Board, and other special purpose districts or entities which provide services but do not have regulatory authority over the use of land.</p>	<p>Policy 8-1.2.1 - Informal Mediation Process</p> <p>Policy 8-1.2.2 - Mechanisms for Intergovernmental Coordination Review.</p> <p>Policy 8-1.2.3 - Coordination with the East Central Florida Regional Planning Council.</p>	<p>The Brevard County Intergovernmental Steering Committee does not exist, however, the Town coordinated with other local government entities and will take advantage of mediation procedures if necessary.</p>	<p>Objective should be updated to remove Brevard County Intergovernmental Coordination Committee.</p>
<p>Objective 8-1.3 Infrastructure Systems and level of Service Standards. The Town shall use the Brevard Intergovernmental</p>	<p>Policy 8-1.3.1 - Coordinate Regional/Sub regional Infrastructure Issues.</p>	<p>The Brevard County Intergovernmental Steering Committee does not exist. The Town coordinates through the East</p>	<p>Objective should be updated to remove Brevard County Intergovernmental Coordination</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Coordination Steering Committee for purposes of initiating discussions concerning development of regional or sub-regional infrastructure systems for providing central water and wastewater, stormwater management, solid waste, and major transportation linkages to areas within the Town and adjacent areas outside the Town. Also, use the technical assistance provided by the St. John's River Water Management District in issues surrounding [sic] water management potable water supplies [sic] and conservation of natural resources.</p>	<p>Policy 8-1.3.2 - Infrastructure Improvement Master Plans and Implementing Strategies.</p> <p>Policy 8-1.3.3 - Timing, Location, and Capacity of Area wide Infrastructure</p> <p>Policy 8-1.3.4 - Capital Improvement Programs Coordination</p>	<p>Central Florida Regional Planning Council.</p>	<p>Committee.</p>
<p>Objective 8-1.4 Multi-Jurisdictional Environmental Issues. The Town shall coordinate with the Brevard Intergovernmental Coordination Steering Committee and/or other similar organizations as appropriate to ensure consistent and coordinated management of multi-jurisdictional environmental systems.</p>	<p>Policy 8-1.4.1 - Form Liaison with Permitting Agencies.</p> <p>Policy 8-1.4.2 - Management of Indian River Lagoon.</p>	<p>The Town coordinates with Brevard County, FDEP, Florida Inland Navigation District, and the Army Corps of Engineers on issues relating to the environment and the Indian River Lagoon.</p>	<p>Objective should be updated to remove Brevard County Intergovernmental Coordination Committee.</p>
<p>Objective 8-1.5 Database Management and Coordination. The Town shall develop and update and [sic] appropriate data base in order to further the goals,</p>	<p>Policy 8-1.5.1 - Generate Necessary Data.</p> <p>Policy 8-1.5.2 - Consideration of Area wide Resources.</p>	<p>The Town actively monitors data produced by the School Board and the County as necessary. The Town may want to consider</p>	<p>Amendment Objective and policies for coordination of data for a Concurrency Management System.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
objectives, and policies of the Comprehensive Plan.		amending this section to adapt to it Concurrency Management System where coordination with other agencies will be important.	

Capital Improvements Element

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 9.1-Rationale for Capital Improvements. Capital improvements will be provided for purposes of correcting existing deficiencies, accommodating future growth, and replacing worn out or obsolete facilities, as indicated in the Five-Year Schedule of Capital Improvements.</p>	<p>Policy 9-1.1.1 Rationale for Capital Improvements</p> <p>Policy 9-1.1.2 Priorities in Allocating Capital Improvements</p> <p>Policy 9-1.1.3 Planning and Zoning Board to Draft Capital Improvement Policy</p> <p>Policy 9-1.1.4 Capital Improvement Project Evaluation and Criteria.</p>	<p>The Schedule of Capital Improvements need to be updated based upon existing conditions and plans.</p>	<p>Objective requires no changes. Policies should be revised to include annual update to Capital Improvements Element and Schedule of Capital Improvements.</p>
<p>Objective 9-1.2 Limitation on Public Investments in the Coastal Preservation Zone. The Public expenditures that subsidize development shall be limited to improvements include in the Coastal Management Element.</p>	<p>Policy 9-1.2.1 Public Improvements in the Coastal Preservation Zone.</p>	<p>A Coastal Preservation Zone is not mapped in the Comprehensive Plan nor are public facilities listed.. A Coastal Planning Area should be designated in conjunction with the Coastal Management Element.</p>	<p>Update Objective and policy to specify Coastal Planning Area.</p>
<p>Objective 9-1.4: Fiscal Resource Management. The Town shall manage the fiscal resources to ensure a provision of needed capital improvements for previously issued development orders and future development and redevelopment.</p>	<p>Policy 9-1.3.1 Availability of Adequate Public Facilities.</p> <p>Policy 9-1.4.2 Limitations on indebtedness.</p> <p>Policy 9-1.4.4 Master Drainage Plan</p> <p>Policy 9-1.4.5 Grantsmanship.</p>	<p>The Town would like to actively monitor concurrency and development impacts.</p> <p>The Town maintains a debt of less than 15% of property tax.</p> <p>The Town adopted a Stormwater Master Plan in 1994. Update should be scheduled.</p> <p>The Town actively seeks grants for public projects.</p>	<p>Objective requires no change. Need to update Policy regarding Master Drainage Plan.</p>

Objective	Measurable Target	Current Conditions 2007	Comments
<p>Objective 9-1.5 Management of Development Orders and Permits. Decisions regarding the issuance of development orders, building permits, certificates of occupancy, and other applicable respective Comprehensive Plan elements, the Town's adopted Land Development Code, and requirements for adequate public facilities meeting stated levels of service standards.</p>	<p>Policy 9-1.5.1 Level of Service Standards</p> <p>Policy 9-1.5.2 Adequate Facilities Ordinance</p> <p>Policy 9-1.5.3 Evaluation Criteria for Plan Amendments.</p>	<p>Level of Service standards should be reviewed and updated.</p> <p>The Town maintains an adequate facilities ordinance.</p> <p>The Town uses this criteria for plan amendments.</p>	<p>Objective requires no change. Need to update Level of Service standards in EAR-Based Amendments.</p>

Chapter Three

Assessment of Changes to Florida Statutes and State and Regional Policy Plan

Chapter 163.3191 (2)(f) F. S. requires that the Evaluation and Appraisal Report (EAR) contain an evaluation and assessment of relevant changes to the State Comprehensive Plan (187.201, F.S.), Chapter 163, F.S. Rule 9J-5 and the East Central Florida Strategic Regional Policy Plan, When an inconsistency was identified, such as a requirement not currently addressed in the Malabar Comprehensive Plan, the appropriate element is identified for update. The sections containing the assessment of changes to Chapter 163, F.S. and Rule 9J-5, F.A.C..

State Comprehensive Plan

The State Comprehensive Plan was amended in 1999 by Chapter 99-378 to include policies related to urban policy in the State Comprehensive Plan. Goal 17 identified as Downtown Revitalization was amended and entitled Urban and Downtown Revitalization. The goal was modified to state that “In recognition of the importance of Florida’s vital urban centers and of the need to develop and redevelop downtowns to the state’s ability to use...”

The following policies, 4 through 12, were added:

4. Promote and encourage communities to engage in a redesign step to include public participation of members of the community in envisioning redevelopment goals and design of the community core before redevelopment.
5. Ensure that local governments have adequate flexibility to determine and address their urban priorities within the state urban policy.
6. Enhance the linkages between land use, water use, and transportation planning in state, regional, and local plans for current and future designated urban areas.
7. Develop concurrency requirements that do not compromise public health and safety for urban areas that promote redevelopment efforts.
8. Promote processes for the state, general purpose local governments, school boards, and local community colleges to coordinate and cooperate regarding education facilities in urban areas, including planning functions, the development of joint facilities and the reuse of existing buildings.
9. Encourage the development of mass transit systems for urban centers, including multimodal transportation feeder systems, as a priority of local, metropolitan, regional and state transportation planning.
10. Locate appropriate public facilities within urban centers to demonstrate public commitment to the centers and to encourage the private sector development.

11. Integrate state programs that have been developed to promote economic development and neighborhood revitalization through incentives to promote the development of designated urban infill areas.
12. Promote infill development and redevelopment as an important mechanism to revitalize and sustain urban centers.

Chapter 2002-387 repealing the education goals and policies 187.201(1) of the State Comprehensive Plan also amended policies in 2002.

Although the Comprehensive Plan was not revised to address these provisions, they are already addressed through existing adopted provisions, except for the promotion of mass transit for urban centers. The EAR-based amendments may include some refinements to the goals, objectives, and policies of the Town's Comprehensive Plan furthering its consistency with these added State Comprehensive Plan policies.

East Central Florida Regional Policy Plan

Chapter 186, F.S. governs the adoption and revision of the Strategic Regional Policy Plans (SRPP) by Regional Planning Councils. A review of the East Central Florida Strategic Policy Plan adopted in 1998 indicates that recommendations in the Evaluation and Appraisal Report will allow the Town of Malabar to fulfill the major tenets of the Plan. Some of the recommendations include:

1. Economic Development

- a. Redevelopment of areas indicated in the Slum and Blight study
- b. Corridor Plan for Malabar Road

2. Emergency Management

- a. Incorporation of post-disaster redevelopment plan

3. Housing

- a. Coordination among public and private sectors for support of affordable and workforce housing

4. Natural Resources

- a. Incorporation of water conservation techniques and programs
- b. Best Management Practices for control of erosion, sedimentation
- c. Identification and protection of habitat corridors
- d. Avoid adverse impact to listed species

5. Transportation

- a. Policies that encourage alternate forms of transportation and pedestrian safety

6. Land Use

- a. Exclude environmentally sensitive areas with severe development constraints from the potential supply of land available for urban development

7. Public Facilities

- a. Perform ongoing capacity analyses on existing public facilities

Changes to Chapter 163, F.S.

Chapter 163 Part II provides GROWTH POLICY; COUNTY AND MUNICIPAL PLANNING, LAND DEVELOPMENT REGULATION. Subsection 163.3164, F.S. known as the Local Government Comprehensive Planning and Land Development Regulation Act, governs comprehensive planning in the State of Florida.

An analysis of all changes to Chapter 163, F.S. having occurred since the adoption of the Town's Comprehensive Plan in 1989 is provided in Table 3-1. The changes are summarized by year including appropriate citations.

Changes to Rule 9J-5 F.A.C. Rule 9J-5 F.A.C. establishes the minimum criteria for the preparation, review and determination of compliance of the comprehensive plans and plan amendments pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, F.S. An analysis of all of the changes to Rule 9J-5, F.A.C. that have occurred is provided in Table 3-2.

Changes to Chapter 163 and the Florida Administrative Code

Table 3-I. Changes in Chapter 163, Florida Statutes

Changes to Chapter 163, F.S. 1986-2003	Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
1986: [Ch. 86-191, SS.7 - 12, & 18 - 31, <u>Laws of Florida</u>]				
1	The requirement that plans include soil surveys which indicate the suitability of soils for septic tanks moved from the Capital Improvements Element to the General Sanitary Sewer, Solid Waste, Drainage, Potable Water and Natural Groundwater Aquifer Recharge Element, by striking Subparagraph 163.3177(3)(a)4., and adding the last sentence of Paragraph 163.3177(6)(c).	163.3177(6)(c)	NA	
2	A Future Land Use Element must have "goals, policies, and measurable objectives ," rather than "measurable goals, objectives, and policies."	163.3177(6)(a)		Future Land Use Element Objectives.
3	Eliminated the 12-month delay for consistency with the comprehensive regional policy plans.	163.3177(9)(c)		Procedural
4	Approved 9J-5, F.A.C. Defined " consistency ," " compatible with ," and " further ." Required each local government to review and address all State Comprehensive Plan provisions relevant to that jurisdiction. Support data shall not be subject to the compliance review process, but that goals and policies must be clearly based on appropriate data . The Department of Community Affairs	163.3177(10)		Procedural

Changes to Chapter 163, F.S. 1986-2003	Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
<p>authorized to reject data if not collected in a professionally accepted manner, but forbidden to require a particular professionally accepted methodology. 9J-5 does not require original data collection.</p> <p>Recognized that local governments are charged with setting level-of-service standards.</p> <p>Public facilities and services needed to support development shall be available concurrent with the impacts of development.</p> <p>Established the "shield" against rule challenges to 9J-5 until July 1, 1987.</p>				
5	Required the comprehensive master plan for each deepwater port to be submitted to the appropriate local government at least 6 months before the due date of the local plan; defined "appropriate local government", and provided for sanctions for deepwater ports which are not part of a local government and which fail to submit their comprehensive master plan.	163.3178(2)(k)	NA	
6	Substantially reworded Section 163.3184, " Process for adoption of comprehensive plan or amendment thereto," to basic format in place today.	163.3184	Procedural	
7	Extended development of regional impact exemption from twice-a-year plan amendments to Florida Quality Developments.	163.3187(1)(b)	Procedural	
8	Exempted small scale amendments from the twice-a-year limitation.	163.3187(1)(c)	Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
9	Required the local planning agency's evaluation and appraisal report to be transmitted to DCA, and required the governing body of the local government to adopt, or adopt with changes, the local planning agency's report within 90 days after receipt. Authorized transmittal of the EAR plan amendments, rather than the entire plan as amended, to DCA.	163.3191(1) & (4) [Note: 163.3191 was amended and reworded in 1998. Check statutes for current wording.]		Procedural	
10	Delayed implementation of concurrency until 1 year after due date for submittal of the comp plan.	163.3202(2)(g)		Procedural	
11	Initial adoption of the Florida Local Government Development Agreement Act .	[Now: 163.3220-.3243]		Procedural	
1987: [Ch. 87-224, SS. 24, 25 & 26, <u>Laws of Florida</u> (Revisor's bill), and Ch. 87-338, <u>Laws of Florida</u>					
12	Extended date for DCA to adopt schedule for submittal of local plans from October 1, 1986 to October 1, 1987, and extended the latest date for submission by non-coastal counties from July 1, 1990 to July 1, 1991.	[Now: 163.3167(2)]		Procedural	
1988: None					
1989: None					
1990: None					
1991: [Ch. 91-45, SS. 31 and 32, <u>Laws of Florida</u>] Nothing substantive.					
1992: [Ch. 92-129, <u>Laws of Florida</u> , and Ch. 92-279, S. 77, <u>Laws of Florida</u>					
13	Clarified that the procedures for approval of the original plans also applied to plan amendments .	[Now: 163.3189(2)(a)]		Procedural	
14	Provided that the local planning agency should prepare plan amendments.	163.3174 163.3164(13) [Now: (14)] 163.3221(10) [Now: (11)]		Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
15	Added " spoil disposal sites for maintenance dredging located in the intracoastal waterways, except for spoil disposal sites owned or used by ports" to the definition of "public facilities."	163.3164(24)			Coastal Management
16	Added requirement that independent special districts submit a public facilities report to the appropriate local government.	163.3177(6)(h)2. [Now: 163.3177(6)(h)3]	NA		
17	Extended " shield " against challenges to the portion of rule 9J-5 that was adopted before October 1, 1986, from July 1 1987 to April 1, 1993.	163.3177(10)(k)		Procedural	
18	Recognized the need for innovative planning and development strategies to address the anticipated continued urbanization of the coast and other environmentally sensitive areas. Stated that plans should allow land use efficiencies within existing urban areas, and should also allow for the conversion of rural lands to other uses. Provided that plans and land development regulations ("LDRs") should maximize the use of existing facilities and services through redevelopment, urban infill , and other strategies for urban revitalization.	163.3177(11)		Innovative Planning- Land Use Element Objective 1-2.6. Land Use Efficiencies- Policy 1-2.2.5 and 1-2.2.6. Conversion of Rural Lands- No specific policies. Redevelopment- Land Use Element Objective 1-3.2.	Land Use Element for Conversion of Rural Lands.
19	Amended definition of " affected person " to clarify that the affected person's comments, recommendations, or objections have to be submitted to the local government after the transmittal hearing for the plan amendment and before the adoption of the amendment.	163.3184(1)(a)		Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
20	Required the local government to include such materials as DCA specifies by rule with each plan amendment transmittal.	163.3184(3)(b)		Procedural	
21	Gave the local government 120 days , rather than 60 days, after receipt of the objections, recommendations, and comments to adopt or adopt with changes the plan or amendment ; and gives the local government 10 days, rather than 5 days, after adoption to transmit the adopted plan or amendment to DCA. Also requires that a copy of the adopted plan or amendment be transmitted to the regional planning council.	163.3184(7)(a) [Now: 163.3184(7)(c)1]		Procedural	
22	Provided that the Secretary of DCA, as well as a "senior administrator other than the Secretary" can issue a notice of intent ("NOI") .	163.3184(8)(b)		Procedural	
23	Required that the Division of Administrative Hearings hearing must be held "in the county of and convenient to" the affected local jurisdiction.	163.3184(9)(b) & (10)(a)		Procedural	
24	Provided that new issues cannot be raised concerning plan compliance more than 21 days after publication of the NOI.	163.3184(10)(a)		Procedural	
25	Added a procedure for Compliance Agreements .	163.3184(16)		Procedural	
26	Changed the requirements for small scale amendments : <ul style="list-style-type: none"> Increased the geographic size from 5 to 10 acres of residential land use at a density of 10, rather than 5, units per acre; and for other land use, an increase from 3 to 10 acres. Also increased the annual total from 30 to 60 acres. 	163.3187(1)(c))		Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	<ul style="list-style-type: none"> Allowed local governments to use a newspaper ad of less than a quarter page in size. Authorized DCA to adopt rules establishing an alternative process for public notice for small scale amendments. Provided that small scale amendments require only an adoption hearing. 				
27	Provided that a plan amendment required by a compliance agreement may be approved without regard to the twice-a-year limitation on plan amendments.	163.3187(1)(e) [Now: 163.3187(1)(d)]		Procedural	
28	Stated that nothing in the statute prevented a local government from requiring a person requesting an amendment to pay the cost of publication of notice .	163.3187(5)		Procedural	
29	Created an alternative process for amendment of adopted comprehensive plans	163.3189		Procedural	
30	Provided that the first EAR report is due 6 years after the adoption of the comp plan, and subsequent EAR reports are due every 5 years thereafter.	163.3191(5) [Now: 163.3191(13)]		Procedural	
31	Amended the Development Agreement Act by providing: <ul style="list-style-type: none"> Development agreements are not effective unless the comp plan or plan amendments related to the agreement are found in compliance. 	163.3235		Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	<ul style="list-style-type: none"> Development agreements are not effective until properly recorded and until 30 days after received by DCA. 	163.3239			
1993: [Ch. 93-206, <u>Laws of Florida</u> (aka the ELMS bill) and Ch. 93-285, S. 12, <u>Laws of Florida</u>]					
32	Amended the intent section to include that constitutionally protected property rights must be respected.	163.3161(9)		Procedural	
33	Added definitions for " coastal area ", " downtown revitalization ", " Urban redevelopment ", " urban infill ", " projects that promote public transportation ", and " existing urban service area ."	163.3164		Procedural	
34	Amended the scope of the act to provide for the articulation of state, regional, and local visions of the future physical appearance and qualities of a community.	163.3167(11)		Procedural	
35	Amended the requirements for the housing element by: <ul style="list-style-type: none"> Having the element apply to the jurisdiction, rather than the area. Including very-low income housing in the types of housing to be considered. Provided guidance that the creation or preservation of affordable housing should minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas. 	163.3177(6)(f)		<ul style="list-style-type: none"> Addressed in Housing Element. Not addressed in Housing Element. Not addressed in Housing Element. Data for housing needs uses 1980 	Amend Housing Element to address very-low income housings and avoidance of concentration of affordable housing units. Housing Element Data, Inventory and Analysis needs current data.

	Changes to Chapter 163, F.S. 1986-2003	Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	<ul style="list-style-type: none"> Required DCA to prepare an affordable housing needs assessment for all local jurisdictions, which will be used by each local government in preparing the EAR report and amendments, unless DCA allows the local government to prepare its own needs assessment. 			data.	
36	<p>Amended the intergovernmental coordination element ("ICE") by:</p> <p>Requiring each ICE to include:</p> <ul style="list-style-type: none"> A process to determine if development proposals will have significant impacts on state or regional facilities. A process for mitigating extrajurisdictional impacts in the jurisdiction in which they occur. A dispute resolution process. A process for modification of DRI development orders without loss of recognized development rights. Procedures to identify and implement joint planning areas. Recognition of Campus master plans. Requiring each county, all municipalities within that county, the school board, and other service providers to enter into formal agreements, and include in their plans, joint processes for collaborative planning and decision-making. <p>Requiring DCA to:</p>	<p>163.3177(6)(h)</p> <p>[Note: requirement deleted in 1996]</p>		Not addressed.	Intergovernmental Coordination Element

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	<ul style="list-style-type: none"> Encouraging local governments to adopt countywide marina siting plans. Requiring coastal local governments to identify spoil disposal sites in the future land use and port elements. Requiring each county to establish a process for identifying and prioritizing coastal properties for state acquisition. 	(6) (7) (8)		<ul style="list-style-type: none"> Not addressed Not addressed. NA 	<ul style="list-style-type: none"> Coastal Management Element Future Land Use Element NA
42	<p>Created a new section for Concurrency which:</p> <ul style="list-style-type: none"> Provides concurrency on a statewide basis only for roads, sewers, solid waste, drainage, potable water, parks and recreation, and mass transit; a local government can extend concurrency to public schools if it first conducts a study to determine how the requirement would be met. Set timing standards for concurrency of: <ul style="list-style-type: none"> For sewer, solid waste, drainage and potable water facilities, in place no later than the issuance of the certificate of occupancy. For parks and recreation facilities, no later than 1 year after issuance of certificate of occupancy. For transportation facilities, in place or under actual construction no later than 3 years after issuance of a certificate of occupancy. 	163.3180		Not addressed.	The Future Land, Public Facilities, Recreation and Open Space, and Capital Improvements Elements should be amended to address state Concurrency requirements, de minimum impacts, Level of Service standards for FIHS facilities.

Changes to Chapter 163, F.S. 1986-2003	Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
<ul style="list-style-type: none"> • Allowing exemptions from transportation concurrency for urban infill, urban redevelopment and downtown revitalization. • Allowing a de minimus transportation impact of not more than 0.1% of the maximum volume of the adopted level of service as an exemption from concurrency. • Authorizing the designation of transportation management areas. • Allowing urban redevelopment to create 110% of the actual transportation impact caused by existing development before complying with concurrency. • Authorizing local governments to adopt long-range transportation concurrency management systems with planning periods of up to 10 years where significant backlogs exist. • Requiring local governments to adopt the level-of-service standard established by the Department of Transportation for facilities on the Florida Intrastate Highway System. • Allows development that does not meet concurrency if the local government has failed to implement the Capital Improvements 				

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	Element, and the developer makes a binding commitment to pay the fair share of the cost of the needed facility.				
43	Provided a procedure to ensure public participation in the approval of a publicly financed capitol improvement.	163.3181(3)		Not addressed.	Capital Improvement Element
44	Amended the procedure for the adoption of plans and plan amendments as follows: <ul style="list-style-type: none"> Proposed plans or amendments, and materials, must be transmitted to the regional planning councils, the water management districts, the Department of Environmental Protection, and the Department of Transportation as specified in DCA's rules. DCA reviews amendments only upon the request of the regional planning council, an affected person, or the local government, or those, which it wishes to review. The regional planning council's review of plan amendments is limited to effects on regional facilities or resources identified in the strategic regional policy plan and extra jurisdictional impacts. DCA may not require a local government to duplicate or exceed a permitting program of a state, federal, or regional agency. 	163.3184		Procedural	
45	Provided that local governments cannot amend their comp plans after the date established for submittal of the EAR report unless the report has	163.3187(5) [Now: 163.3187(6)(a)]		Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	been submitted.				
46	Changed the Alternative Process for the amendment of adopted comp plans to the Exclusive Process.	163.3189(1)		Procedural	
47	Provided that plan amendments do not become effective until DCA or the Administration Commission issues a final order determining that the amendment is in compliance.	163.3189(2)(a)		Procedural	
48	* Provides that the sanctions assessed by the Administration Commission do not occur unless the local government elects to make the amendment effective despite the determination of noncompliance.	163.3189(2)(b)		Procedural	
49	Authorizing the local government to demand formal or informal mediation , or expeditious resolution of the amendment proceeding.	163.3189(3)(a)		Procedural	
50	Amended the EARs section to require additional statements of: <ul style="list-style-type: none"> • The effect of changes to the state comprehensive plan, ch. 163, part II, 9J-5 and the strategic regional policy plan. • The identification of any actions that need to be taken to address the planning issues identified in the report. • Proposed or anticipated amendments. • A description of the public participation process. • Encourage local governments to use the EAR to develop a local vision. • Allows DCA to grant a 6 month extension for the adoption of plan amendments required by 	163.3191 [Note: 163.3191 was amended and reworded in 1998. Check statutes for current wording.]		Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	<p>the EAR.</p> <ul style="list-style-type: none"> Requires plan amendments to be consistent with the report. Allows municipalities of less than 2,500 to submit the EAR no later than 12 years after initial plan, and every 10 years thereafter. Authorized DCA to review EAR for sufficiency, but not for compliance. DCA authorized to delegate review to the regional planning council . Administration Commission is authorized to impose sanctions for failure to timely implement the EAR. DCA authorized to enter into agreement with municipalities of less than 5,000 and counties of less than 50,000 to focus planning efforts on selected issues when updating the plans. 				
1994 [Ch. 94-273, S. 4, <u>Laws of Florida</u>]					
51	* A plan amendment for the location of a state correctional facility can be made at any time, and does not count toward the twice-a-year limitation .	163.3187(1)(f) [Now: 163.3187(1)(e)]	NA		
1995 [Ch. 95-181, ss. 4-5; Ch. 95-257, ss. 2-3; Ch. 95-310, ss. 7-12; Ch. 95-322, ss. 1-7; Ch. 95-341, ss. 9, 10, and 12, <u>Laws of Florida</u>]					
52	Required opportunities for mediation or alternative dispute resolution where a property owner's request for a comprehensive plan amendment is denied by a local government (Subsection 163.3181(4)) and prior to a hearing where a plan or plan amendment was determined by the Department of Community Affairs ("DCA") to be not in compliance.	163.3184(10)(c)		Procedural	
53	Added a definition for " transportation corridor	163.3177(6)(j)9	NA	No transportation corridor	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
	management " (Subsection 163.3164(30)) and allowed the designation of transportation corridors in the required traffic circulation and transportation elements and the adoption of transportation-corridor-management ordinances.			identified.	
54	Amended the definition of "public notice" and certain public notice and public hearing requirements to conform to the public notice and hearing requirements for counties and municipalities in Sections 125.66 and 166.041, respectively.	163.3164(18), 163.3171(3), 163.3174(1) and (4), and 163.3181(3)(a), 163.3184(15)(a)- (c), 163.3187(1)(c)		Procedural	
55	Prohibited any initiative or referendum process in regard to any development order or comprehensive plan or map amendment that affects five or fewer parcels of land.	163.3167(12)		Procedural	
56	Reduced to 30 [note: changed to 20] days the time for DCA to review comp plan amendments resulting from a compliance agreement .	163.3184(8)(a)		Procedural	
57	Amended the requirements for the advertisement of DCA's notice of intent .	163.3184(8)(b)		Procedural	
58	Required the administrative law judge to realign the parties in a Division of Administrative Hearings ("DOAH") proceeding where a local government adopts a plan amendment pursuant to a compliance agreement.	163.3184(16)(f)		Procedural	
59	Added clarifying language relative to those small scale plan amendments that are exempt from the twice-per-year limitation and prohibited DCA review of those small scale amendments that meet the statutory criteria in Paragraph 163.3187(1)(c).	163.3187(1)(c) and (3)(a)-(c)		Procedural	

Changes to Chapter 163, F.S. 1986-2003		Chapter 163 F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed By Element
60	Required DCA to consider an increase in the annual total acreage threshold for small scale amendments . (later repealed by s. 16, Ch. 2000-158, Laws of Florida)	163.3177(7)		Procedural	
61	Required local planning agencies to provide opportunities for involvement by district school boards and community college boards .	163.3174(1)		Procedural	
62	Required that the future land use element clearly identify those land use categories where public schools are allowed.	163.3177(6)(a)		Future land Use Element Objective 1-2.7.	
63	Established certain criteria for local governments wanting to extend concurrency to public schools . (later amended by s. 5, Ch. 98-176, Laws of Florida)	163.3180(1)(b) [Now: 163.3180(13)]	NA		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
1996: [Ch. 96-205, s. 1; Ch. 96-320, ss. 10-11; 96-416, ss. 1-6, 15, <u>Laws of Florida</u>]					
64	Substantially amended the criteria for small scale amendments that are exempt from the twice-per-year limitation .	163.3187(1)(c)		Procedural	
65	Revised the objectives in the coastal management element to include the maintenance of ports .	163.3177(6)(g)9.	N/A		
66	Provide that certain port related expansion projects are not DRIs under certain conditions.	163.3178(2), (3), and (5)	N/A		
67	Allowed a county to designate areas on the future land use plan for possible future municipal incorporation .	163.3177(6)(a)	N/A		
68	Required the Intergovernmental Coordination Element to include consideration of the plans of school boards and other units of local government providing services but not having regulatory authority over the use of land.	163.3177(6)(h)		Intergovernmental Coordination Element Objective 8-1.1.	
69	Revised the processes and procedures to be included in the Intergovernmental Coordination Element.	163.3177(6)(h)		Procedural	
70	Required that within 1 year after adopting their Intergovernmental Coordination Element each county and all municipalities and school boards therein establish by interlocal agreement the joint processes consistent with their Intergovernmental Coordination Element.	163.3177(6)(h)2.		Procedural	
71	Required local governments who utilize school concurrency to satisfy intergovernmental coordination requirements of ss. 163.3177(6)(h)1.	163.3180(1)(b)2. [Now: 163.3180(13)(g)]		No	Intergovernmental Coordination Element
72	Permitted a county to adopt a municipal overlay amendment to address future possible municipal incorporation of a specific geographic area.	163.3217	N/A		
73	Authorized DCA to conduct a sustainable communities demonstration project .	163.3244 [Now: Repealed.]	N/A		
1997: [Ch. 97-253, ss. 1-4, <u>Laws of Florida</u>]					
74	Amended the definition of de minimis impact as it pertains to concurrency requirements.	163.3180(6)		Procedural	
75	Established that no plan or plan amendment in an area of critical	163.3184(14)	N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	state concern is effective until found in compliance by a final order.				
76	Amended the criteria for the annual effect of Duval County small scale amendments to a maximum of 120 acres.	163.3187(1)(c)1.a.III	N/A		
77	Prohibited amendments in areas of critical state concern from becoming effective if not in compliance.	163.3189(2)(b)	N/A		
1998: [Ch. 98-75, s. 14; Ch. 146, ss. 2-5; Ch. 98-176, ss. 2-6 and 12-15; Ch. 98-258, ss. 4-5, <u>Laws of Florida</u>]					
78	Exempted brownfield area amendments from the twice-a-year limitation .	163.3187(1)(g)		Procedural	
79	Required that the capital improvements element set forth standards for the management of debt .	163.3177(3)(a)4.		Capital Improvements Element Policy 9-1.4.2.	
80	Required inclusion of at least two planning periods – at least 5 years and at least 10 years.	163.3177(5)(a)		Procedural	
81	Allowed multiple individual plan amendments to be considered together as one amendment cycle.	163.3184(3)(d)		Procedural	
82	Defined “optional sector plan” and created Section 163.3245 allowing local governments to address DRI issues within certain identified geographic areas.	163.3164(31) and 163.3245		Procedural	
83	Established the requirements for a public school facilities element .	163.3177(12)		Procedural	
84	Established the minimum requirements for imposing school concurrency .	163.3180(12) [Now: Section (13)]		Procedural	
85	Required DCA adopt minimum criteria for the compliance determination of a public school facilities element imposing school concurrency.	163.3180(13) [Now: Section14]		Procedural	
86	Required that evaluation and appraisal reports address coordination of the comp plan with existing public schools and the school district’s 5-year work program.	163.3191(2)(i) [Now: 163.3191(2)(k)]		Procedural	
87	Amended the definition of “in compliance” to include consistency with Sections 163.3180 and 163.3245.	163.3184(1)(b)		Procedural	
88	Required DCA to maintain a file with all documents received or generated by DCA relating to plan amendments and identify; limited DCA’s review of proposed plan amendments to written comments, and required DCA to identify and list all written	163.3184(2), (4), and (6)	N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	communications received within 30 days after transmittal of a proposed plan amendment.				
89	Allowed a local government to amend its plan for a period of up to one year after the initial determination of sufficiency of an adopted EAR even if the EAR is insufficient.	163.3187(6)(b)		Procedural	
90	Substantially reworded Section 163.3191, F.S., related to evaluation and appraisal reports.	163.3191	N/A		
91	Changed the population requirements for municipalities and counties which are required to submit otherwise optional elements.	163.3177(6)(i)	N/A		
1999: [Ch. 99-251, ss. 65-6, and 90; Ch. 99-378, ss. 1, 3-5, and 8-9, Laws of Florida]					
92	Required that ports and local governments in the coastal area, which has spoil disposal responsibilities , identify dredge disposal sites in the comp plan.	163.3178(7)	NA	No temporary storage or the permanent upland dredge spoil locations are within Malabar.	
93	Exempted from the twice-per-year limitation certain port related amendments for port transportation facilities and projects eligible for funding by the Florida Seaport Transportation and Economic Development Council.	163.3187(1)(h)	N/A		
94	Required rural counties to base their future land use plans and the amount of land designated industrial on data regarding the need for job creation, capital investment, and economic development and the need to strengthen and diversity local economies.	163.3177(6)(a)	N/A		
95	Added the Growth Policy Act to Ch. 163, Part II to promote urban infill and redevelopment.	163.2511,163.25,14,163.2517,163.2520,163.2523, and 163.2526	N/A		
96	Required that all comp plans comply with the school siting requirements by October 1, 1999.	163.3177(6)(a)		Future Land Use Element Objective 1-2.7.	
97	Made transportation facilities subject to concurrency.	163.3180(1)(a)		Capital Improvements Element Objective 9-1.5.	
98	Required use of professionally accepted techniques for measuring level of service for cars, trucks, transit, bikes and pedestrians.	163.3180(1)(b)		Procedural	

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
99	Excludes public transit facilities from concurrency requirements.	163.3180(4)(b)		Procedural	
100	Allowed multiuse DRIs to satisfy the transportation concurrency requirements when authorized by a local comprehensive plan under limited circumstances.	163.3180(12)		Procedural	
101	Allowed multimodal transportation districts in areas where priorities for the pedestrian environment are assigned by the plan.	163.3180(15)	N/A		
102	Exempted amendments for urban infill and redevelopment areas, public school concurrency from the twice-per-year limitation .	163.31879(1)(h) and (i) [Now: (i) and (j)]		Procedural	
103	Defined brownfield designation and added the assurance that a developer may proceed with development upon receipt of a brownfield designation. [Also see Section 163.3221(1) for "brownfield" definition.]	163.3220(2)		Procedural	
2000: [Ch. 2000-158, ss. 15-17, Ch. 2000-284, s. 1, Ch. 2000-317, s. 18, <u>Laws of Florida</u>]					
104	Repealed Section 163.3184(11)(c), F.S. , that required funds from sanction for non-compliant plans go into the Growth Management Trust Fund.	163.3184(11)(c) [Now: Repealed]	N/A		
105	Repealed Section 163.3187(7), F.S. that required consideration of an increase in the annual total acreage threshold for small scale plan amendments and a report by DCA.	163.3187(7) [Now: Repealed]	N/A		
106	Repealed Sections 163.3191(13) and (15), F.S.	163.3191(13) and (15) [Now: Repealed]	N/A		
107	Allowed small scale amendments in areas of critical state concern to be exempt from the twice-per-year limitation only if they are for affordable housing.	163.3187(1)(c)1.e		Procedural	
108	Added exemption of sales from local option surtax imposed under Section 212.054, F.S., as examples of incentives for new development within urban infill and redevelopment areas .	163.2517(3)(j)2.		Procedural	
2001: [Ch. 2001-279, s. 64, <u>Laws of Florida</u>]					
109	Created the rural land stewardship area program.	163.3177(11)(d)	N/A		
2002: [Ch. 2002-296, ss. 1 - 11, <u>Laws of Florida</u>]					
110	Required that all agencies that review comprehensive plan	163.3174		No	Intergovernmental

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	amendments and rezoning include a nonvoting representative of the district school board.				Coordination Element
111	Required coordination of local comprehensive plan with the regional water supply plan.	163.3177(4)(a)		Procedural	
112	Plan amendments for school-siting maps are exempt from s. 163.3187(1)'s limitation on frequency.	163.3177(6)(a)		Procedural	
113	Required that by adoption of the EAR , the sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge element consider the regional water supply plan and include a 10-year work plan to build the identified water supply facilities.	163.3177(6)(c)		No	Public Facilities Element
114	Required consideration of the regional water supply plan in the preparation of the conservation element.	163.3177(6)(d)		No	Conservation Element
115	Required that the intergovernmental coordination element (Intergovernmental Coordination Element) include relationships, principles and guidelines to be used in coordinating comp plan with regional water supply plans.	163.3177(6)(h)		No	Intergovernmental Coordination Element to
116	Required the local governments adopting a public educational facilities element execute an inter-local agreement with the district school board, the county, and non-exempting municipalities.	163.3177(6)(h)4.	N/A		
117	Required that counties larger than 100,000 population and their municipalities submit a inter-local service delivery agreements (existing and proposed, deficits or duplication in the provisions of service) report to DCA by January 1, 2004. Each local government is required to update its Intergovernmental Coordination Element based on the findings of the report. DCA will meet with affected parties to discuss and id strategies to remedy any deficiencies or duplications.	163.3177(6)(h)6., 7., & 8.		No	Intergovernmental Coordination Element
118	Required local governments and special districts to provide recommendations for statutory changes for annexation to the Legislature by February 1, 2003. NOTE: this requirement repealed by Ch. 2005-290, s. 2, LOF.	163.3177(6)(h)9. [Now repealed]		Repealed	
119	Added a new Section 163.31776 that allows a county, to adopt an	163.31776	N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	optional public educational facilities element in cooperation with the applicable school board.				
120	Added a new Section 163.31777 that requires local governments and school boards to enter into an inter-local agreement that addresses school siting, enrollment forecasting, school capacity, infrastructure and safety needs of schools, schools as emergency shelters, and sharing of facilities.	163.31777		Procedural	
121	Added a provision that the concurrency requirement for transportation facilities may be waived by plan amendment for urban infill and redevelopment areas.	163.3180(4)(c)	N/A		
122	Expanded the definition of “affected persons” to include property owners who own land abutting a change to a future land use map.	163.3184(1)(a)		Procedural	
123	Expanded the definition of “in compliance” to include consistency with Section 163.31776 (public educational facilities element).	163.3184(1)(b)	N/A		
124	Streamlined the timing of comprehensive plan amendment review.	163.3184(3), (4), (6), (7), and (8)		Procedural	
125	Required that local governments provide a sign-in form at the transmittal hearing and at the adoption hearing for persons to provide their names and addresses.	163.3184(15)(c)		Procedural	
126	Exempted amendments related to providing transportation improvements to enhance life safety on “controlled access major arterial highways” from the limitation on the frequency of plan amendments contained in s.163.3187(1).	163.3187(1)(k)		Procedural	
127	Required EARs to include (1) consideration of the appropriate regional water supply plan, and (2) an evaluation of whether past reductions in land use densities in coastal high hazard areas have impaired property rights of current residents where redevelopment occurs.	163-3191(2)(1)		Procedural	
128	Allowed local governments to establish a special master process to assist the local governments with challenges to local development orders for consistency with the comprehensive plan.	163.3215		Procedural	
129	Created the Local Government Comprehensive Planning	163.3246		Procedural	

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	Certification Program to allow less state and regional oversight of comprehensive plan process if the local government meets certain criteria.				
130	Added a provision to Section 380.06(24), Statutory Exemptions , that exempts from the requirements for developments of regional impact, any water port or marina development if the relevant local government has adopted a “boating facility siting plan or policy” (which includes certain specified criteria) as part of the coastal management element or future land use element of its comprehensive plan. The adoption of the boating facility siting plan or policy is exempt from the limitation on the frequency of plan amendments contained in s.163.3187(1).	163.3187(1)	N/A		
131	Prohibited a local government, under certain conditions, from denying an application for development approval for a requested land use for certain proposed solid waste management facilities.	163.3194(6)		Procedural	
2003: [Ch. 03-1, ss. 14-15; ch. 03-162, s. 1; ch. 03-261, s. 158; ch. 03-286, s. 61, Laws of Florida.]					
132	Creates the Agricultural Lands and Practices Act . (2): Provides legislative findings and purpose with respect to agricultural activities and duplicative regulation. (3): Defines the terms “farm,” “farm operation,” and “farm product” for purposes of the act. (4): Prohibits a county from adopting any ordinance, resolution, regulation, rule, or policy to prohibit or otherwise limit a bona fide farm operation on land that is classified as agricultural land. (4)(a): Provides that the act does not limit the powers of a county under certain circumstances. (4)(b): Clarifies that a farm operation may not expand its operations under certain circumstances.	163.3162	N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	(4)(c): Provides that the act does not limit the powers of certain counties . (4)(d): Provides that certain county ordinances are not deemed to be a duplication of regulation .				
133	Changes "State Comptroller" references to "Chief Financial Officer."	163.3167(6)	N/A		
134	Provides for certain airports to abandon DRI orders.	163.3177(6)(k)		Procedural	
135	Throughout s.163.3177, F.S., citations for Ch. 235, F.S., are changed to cite the appropriate section of Ch. 1013, F.S.	163.31776		Procedural	
136	Throughout s.163.31777, F.S., citations for Ch. 235, F.S., are changed to cite the appropriate section of Ch. 1013, F.S.	163.31777		Procedural	
2004: [Ch. 04-5, s. 11; ch. 04-37, s. 1; ch. 04-230, ss. 1-4; ch. 04-372, ss. 2-5; ch. 04-381, ss. 1-2; ch. 04-384, s. 2, <u>Laws of Florida.</u>]					
137	(10): Amended to conform to the repeal of the Florida High-Speed Rail Transportation Act, and the creation of the Florida High-Speed Rail Authority Act. (13): Created to require local governments to identify adequate water supply sources to meet future demand. (14): Created to limit the effect of judicial determinations issued subsequent to certain development orders pursuant to adopted land development regulations.	163.3167		(10) NA (13) No (14) Procedural	(13) Public Facilities Element
138	(1): Provides legislative findings on the compatibility of development with military installations . (2): Provides for the exchange of information relating to proposed land use decisions between counties and local governments and military installations. (3): Provides for responsive comments by the commanding officer or his/her designee.	Creates 163.3175.	N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	<p>(4): Provides for the county or affected local government to take such comments into consideration.</p> <p>(5): Requires the representative of the military installation to be an ex-officio, nonvoting member of the county's or local government's land planning or zoning board.</p> <p>(6): Encourages the commanding officer to provide information on community planning assistance grants.</p>				
139	<p>(6)(a):</p> <ul style="list-style-type: none"> • Changed to require local governments to amend the future land use element by June 30, 2006 to include criteria to achieve compatibility with military installations. • Changed to specifically encourage rural land stewardship area designation as an overlay on the future land use map. <p>(6)(c): Extended the deadline adoption of the water supply facilities work plan amendment until December 1, 2006; provided for updating the work plan every five years; and exempts such amendment from the limitation on frequency of adoption of amendments.</p> <p>(10)(l): Provides for the coordination by the state land planning agency and the Department of Defense on compatibility issues for military installations.</p> <p>(11)(d)1.: Requires DCA, in cooperation with other specified state agencies, to provide assistance to local governments in implementing provisions relating to rural land stewardship areas.</p> <p>(11)(d)2.: Provides for multi-county rural land stewardship areas.</p> <p>(11)(d)3.-4: Revises requirements, including the acreage threshold</p>	163.3177	NA		
			N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	<p>for designating a rural land stewardship area.</p> <p>(11)(d)6.j.: Provides that transferable rural land use credits may be assigned at different ratios according to the natural resource or other beneficial use characteristics of the land.</p> <p>(11)(e): Provides legislative findings regarding mixed-use, high-density urban infill and redevelopment projects; requires DCA to provide technical assistance to local governments.</p> <p>(11)(f): Provides legislative findings regarding a program for the transfer of development rights and urban infill and redevelopment; requires DCA to provide technical assistance to local governments.</p>				
140	<p>(1): Provides legislative findings with respect to the shortage of affordable rentals in the state.</p> <p>(2): Provides definitions.</p> <p>(3): Authorizes local governments to permit accessory dwelling units in areas zoned for single family residential use based upon certain findings.</p> <p>(4) An application for a building permit to construct an accessory dwelling unit must include an affidavit from the applicant which attests that the unit will be rented at an affordable rate to a very-low-income, low-income, or moderate-income person or persons.</p> <p>(5): Provides for certain accessory dwelling units to apply towards satisfying the affordable housing component of the housing element in a local government's comprehensive plan.</p> <p>(6): Requires the DCA to report to the Legislature.</p>	Creates 163.31771		Procedural	
141	Amends the definition of "in compliance" to add language	163.3184(1)(b)	N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	referring to the Wekiva Parkway and Protection Act .				
142	(1)(m): Created to provide that amendments to address criteria or compatibility of land uses adjacent to or in close proximity to military installations do not count toward the limitation on frequency of amending comprehensive plans. (1)(n): Created to provide that amendments to establish or implement a rural land stewardship area do not count toward the limitation on frequency of amending comprehensive plans.	163.3187		Procedural Procedural	
143	Created to provide that evaluation and appraisal reports evaluate whether criteria in the land use element were successful in achieving land use compatibility with military installations .	163.3191(2)(n)		Procedural	
2005 [Ch. 2005-157, ss 1, 2 and 15; Ch. 2005-290; and Ch. 2005-291, ss. 10-12, <u>Laws of Florida</u>]					
144	Added the definition of “ financial feasibility .”	Creates ss. 163.3164(32)		Procedural	
145	(2): Required comprehensive plans to be “ financially ” rather than “economically” feasible . (3)(a)5.: Required the comprehensive plan to include a 5-year schedule of capital improvements . Outside funding (i.e., from developer, other government or funding pursuant to referendum) of these capital improvements must be guaranteed in the form of a development agreement or interlocal agreement . (3)(a)6.b.1.: Required plan amendment for the annual update of the schedule of capital improvements. Deleted provision allowing updates and change in the date of construction to be accomplished by ordinance. (3)(a)6.c.: Added oversight and penalty provision for failure to adhere to this section’s capital improvements requirements. (3)(a)6.d.: Required a long-term capital improvement schedule if the local government has adopted a long-term concurrency management system.	163.3177		(2) Procedural 3(a)5 No 3(a)6.b.1 No 3(a)6cProcedural (3) (a) 6.d Procedural	3(a)5 Capital Improvements Element 3(a)6.b.1 Capital Improvements Element

Changes to Chapter 163, F.S. 1986-2006	Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
<p>(6)(a): Deleted date (October 1, 1999) by which school sitting requirements must be adopted.</p> <p>(6)(a): Add requirement that future land use element of coastal counties must encourage the preservation of working waterfronts, as defined in s.342.07, F.S.</p> <p>(6)(c): Required the potable water element to be updated within 18 months of an updated regional water supply plan to incorporate the alternative water supply projects selected by the local government to meet its water supply needs.</p> <p>(6)(e): Added waterways to the system of sites addressed by the recreation and open space element.</p> <p>(11)(d)4.c.: Required rural land stewardship areas to address affordable housing.</p> <p>(11)(d)5.: Required a listed species survey be performed on rural land stewardship receiving area. If any listed species present, must ensure adequate provisions to protect them.</p> <p>(11)(d)6.: Must enact an ordinance establishing a methodology for creation, conveyance, and use of stewardship credits within a rural land stewardship area.</p> <p>(11)(d)6.j.: Revised to allow open space and agricultural land to be just as important as environmentally sensitive land when assigning stewardship credits.</p> <p>(12): Must adopt public school facilities element.</p> <p>(12)(a) and (b): A waiver from providing this element will be</p>		(6)a NA	<p>(6)a N/A</p> <p>(6)(c)N/A. Per SJRWMD, Malabar is exempt from amendments in regard to the regional water supply plan.</p> <p>(6) (e)</p> <p>11(d)4.c N/A</p> <p>(11) (d) 5 N/A</p> <p>(11)(d)6 NA</p> <p>(11) (d) 6.j Procedural</p> <p>(12)(a) and (b) N/A</p>	(6)(e) Recreation and Open Space

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	<p>allowed under certain circumstances.</p> <p>(12)(g): Expanded list of items to be to include colocation, location of schools proximate to residential areas, and use of schools as emergency shelters.</p> <p>(12)(h): Required local governments to provide maps depicting the general location of new schools and school improvements within future conditions maps.</p> <p>(12)(i): Required DCA to establish a schedule for adoption of the public school facilities element.</p> <p>(12)(j): Established penalty for failure to adopt a public school facility element.</p> <p>(13): (New section) Encourages local governments to develop a "community vision," which provides for sustainable growth, recognizes its fiscal constraints, and protects its natural resources.</p> <p>(14): (New section) Encourages local governments to develop a "urban service boundary," which ensures the area is served (or will be served) with adequate public facilities and services over the next 10 years. See s. 163.3184(17).</p>			<p>12)(g):No</p> <p>(12) (h) No</p> <p>(12)(i): Procedural</p> <p>12)(j)Procedural</p> <p>(13):Procedural</p> <p>(14) Procedural</p>	<p>(12) Public School Facilities Element to be adopted</p> <p>12)(g)Public School Facilities</p> <p>(12) (h) Public School Facilities</p>
146	163.31776 is repealed	163.31776 [Now: Repealed]	N/A		
147	<p>(2): Required the public schools interlocal agreement (if applicable) to address requirements for school concurrency. The opt-out provision at the end of Subsection (2) is deleted.</p> <p>(5): Required Palm Beach County to identify, as part of its EAR, changes needed in its public school element necessary to conform to the new 2005 public school facilities element requirements.</p>	163.31777			

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	(7): Provided that counties exempted from public school facilities element shall undergo re-evaluation as part of its EAR to determine if they continue to meet exemption criteria.				
148	(2)(g): Expands requirement of coastal element to include strategies that will be used to preserve recreational and commercial working waterfronts, as defined in s.342.07, F.S.	163.3178			Coastal Management Element
149	<p>(1)(a): Added “schools” as a required concurrency item.</p> <p>(2)(a): Required consultation with water supplier prior to issuing building permit to ensure “adequate water supplies” to serve new development is available by the date of issuance of a certificate of occupancy.</p> <p>(2)(c): Required all transportation facilities to be in place or under construction within 3 years (rather than 5 years) after approval of building permit.</p> <p>(4)(c): Allowed concurrency requirement for public schools to be waived within urban infill and redevelopment areas (163.2517).</p> <p>(5)(d): Required guidelines for granting concurrency exceptions to be included in the comprehensive plan.</p> <p>(5)(e) – (g): If local government has established transportation exceptions, the guidelines for implementing the exceptions must be “consistent with and support a comprehensive strategy, and promote the purpose of the exceptions.” Exception areas must include mobility strategies, such as alternate modes of transportation, supported by data and analysis. FDOT must be consulted prior to designating a transportation concurrency exception area. Transportation concurrency exception areas existing prior to July 1, 2005 must meet these requirements by July 1, 2006, or when the EAR-based amendment is adopted, whichever occurs last.</p>	163.3180		<p>(2)(c)No</p> <p>(4)(c) N/A</p> <p>(5) (d) Procedural</p> <p>(5)(e) – (g):N/A</p>	<p>(2)(a) Public Facilities/Capital Improvements Elements</p> <p>(2)(c) Capital Improvements Element</p>

Changes to Chapter 163, F.S. 1986-2006	Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
<p>(6): Required local government to maintain records to determine whether 110% de minimis transportation impact threshold is reached. A summary of these records must be submitted with the annual capital improvements element update. Exceeding the 110% threshold dissolves the de minimis exceptions.</p> <p>(7): Required consultation with the Department of Transportation prior to designating a transportation concurrency management area (to promote infill development) to ensure adequate level-of-service standards are in place. The local government and the DOT should work together to mitigate any impacts to the Strategic Intermodal System.</p> <p>(9)(a): Allowed adoption of a long-term concurrency management system for schools.</p> <p>(9)(c): (New section) Allowed local governments to issue approvals to commence construction notwithstanding s. 163.3180 in areas subject to a long-term concurrency management system.</p> <p>(9)(d): (New section) Required evaluation in EAR of progress in improving levels of service..</p> <p>(10): Added requirement that level of service standard for roadway facilities on the Strategic Intermodal System must be consistent with FDOT standards. Standards must consider compatibility with adjacent jurisdictions.</p> <p>(13): Required school concurrency (not optional).</p> <p>(13)(c)1.: Requires school concurrency after five years to be applied on a "less than districtwide basis" (i.e., by using school</p>		N/A	<p>(6) No</p> <p>(7) N/A</p> <p>(9) (a) Procedural</p> <p>(9)(c)Procedural</p> <p>(9)(d): Procedural</p> <p>(10) No</p> <p>(13) No</p> <p>(13)(c)1.No.</p>	<p>(6)Traffic Circulation Element</p> <p>(10) Traffic Circulation Element</p> <p>(13) Public School Facilities Element</p> <p>13)(c)1.Public</p>

Changes to Chapter 163, F.S. 1986-2006	Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
<p>attendance zones, etc).</p> <p>(13)(c)2.: Eliminated exemption from plan amendment adoption limitation for changes to service area boundaries.</p> <p>(13)(c)3.: No application for development approval may be denied if a less-than-districtwide measurement of school concurrency is used; however the development impacts must be shifted to contiguous service areas with school capacity.</p> <p>(13)(e): Allowed school concurrency to be satisfied if a developer executes a legally binding commitment to provide mitigation proportionate to the demand.</p> <p>(13)(e)1.: Enumerated mitigation options for achieving proportionate-share mitigation.</p> <p>(13)(e)2.: If educational facilities funded in one of the two following ways, the local government must credit this amount toward any impact fee or exaction imposed on the community:</p> <ul style="list-style-type: none"> • contribution of land • construction, expansion, or payment for land acquisition <p>(13)(g)2.: (Section deleted) – It is no longer required that a local government and school board base their plans on consistent population projection and share information regarding planned public school facilities, development and redevelopment and infrastructure needs of public school facilities. However, see (13)(g)6.a. for similar requirement.</p> <p>(13)(g)6.a.: [Formerly (13)(g)7.a.] Local governments must establish a uniform procedure for determining if development applications are in compliance with school concurrency.</p>			<p>(13)(c)2.Procedural</p> <p>13)(c)3.: Procedural</p> <p>(13)(e):Procedural</p> <p>(13)(e)1 Procedural</p> <p>(13)(e) 2 No</p> <p>(13)(g)2. Section deleted</p> <p>(13)(g)6.a Procedural</p>	<p>School Facilities Element</p> <p>13(c) (2) Public School Facilities</p> <p>13(e) (2) Public School Facilities</p>

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	<p>(13)(g)7. [Formerly (13)(g)8.] Deleted language that allowed local government to terminate or suspend an interlocal agreement with the school board.</p> <p>(13)(h): (New 2005 provision) The fact that school concurrency has not yet been implemented by a local government should not be the basis for either an approval or denial of a development permit.</p> <p>(15): Prior to adopting Multimodal Transportation Districts, FDOT must be consulted to assess the impact on level of service standards. If impacts are found, the local government and the FDOT must work together to mitigate those impacts. Multimodal districts established prior to July 1, 2005 must meet this requirement by July 1, 2006 or at the time of the EAR-base amendment, whichever occurs last.</p> <p>(16): (New 2005 section) Required local governments to adopt by December 1, 2006 a method for assessing proportionate fair-share mitigation options. FDOT will develop a model ordinance by December 1, 2005.</p>			<p>(13)(g)7 Deleted.</p> <p>(13)(h) Procedural</p> <p>(15): N/A</p> <p>(16) Town will adopt ordinance for proportionate fair share by March 2008.</p>	
150	<p>(17): (New 2005 section) If local government has adopted a community vision and urban service boundary, state and regional agency review is eliminated for plan amendments affecting property within the urban service boundary. Such amendments are exempt from the limitation on the frequency of plan amendments.</p> <p>(18): (New 2005 section) If a municipality has adopted an urban infill and redevelopment area, state and regional agency review is</p>	163.3184	N/A		
			N/A		

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	in penalties . Once updated, the comprehensive plan must be submitted to the DCA.				
153	(10) New section designating Freeport as a certified community . (11) New section exempting proposed DRIs within Freeport from review under s.380.06, F.S., unless review is requested by the local government.	163.3246	N/A		
2006 [Ch. 2006-68, Ch. 2006-69, Ch. 2006-220, Ch. 2006-252, Ch. 2006-255, Ch. 2006-268, <u>Laws of Florida</u>]					
154	Establishes plan amendment procedures for agricultural enclaves as defined in s.163.3164(33), F.S. Ch. 2006-255, LOF.	163.3162(5)		Procedural	
155	Defines agricultural enclave . Ch. 2006-255, LOF.	163.3164(33)		Procedural	
156	Adds new paragraph encouraging local governments with a coastal management element to adopt recreational surface water use policies; such adoption amendment is exempt from the twice per year limitation on the frequency of plan amendment adoptions. Ch. 2006-220, LOF.	163.3177(6)(g)2.			Coastal Management Element
157	Allows the effect of a proposed receiving area to be considered when projecting the 25-year or greater population with a rural land stewardship area . Ch. 2006-220, LOF.	163.3177(11)(d)6.			
158	Recognizes "extremely-low-income persons" as another income groups whose housing needs might be addressed by accessory dwelling units and defines such persons consistent with s.420.0004(8), F.S. Ch. 2006-69, LOF.	163.31771(1), (2) and (4)		No	Housing Element
159	Assigns to the Division of Emergency Management the responsibility of ensuring the preparation of updated regional hurricane evacuation plans . Ch. 2006-68, LOF.	163.3178(2)(d)	N/A		
160	Changes the definition of the Coastal High Hazard Area (CHHA) to be the area below the elevation of the category 1 storm surge line as established by the SLOSH model. Ch. 2006-68, LOF.	163.3178(2)(h)	N/A		Coastal Management Element
161	Adds a new section allowing a local government to comply with the requirement that its comprehensive plan direct population concentrations away from the CHHA and maintains or reduces hurricane evacuation times by maintaining an adopted LOS Standard for out-of-county hurricane evacuation for a category 5 storm, by maintaining a 12-hour hurricane evacuation time or by	163.3178(9)(a)	N/A		Coastal Management Element

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
	providing mitigation that satisfies these two requirements. Ch. 2006-68, LOF.				
162	Adds a new section establishing a level of service for out-of-county hurricane evacuation of no greater than 16 hours for a category 5 storm for any local government that wishes to follow the process in s.163.3178(9)(a) but has not established such a level of service by July 1, 2008. Ch. 2006-68, LOF.	163.3178(9)(b)			Coastal Management Element
163	Requires local governments to amend their Future Land Use Map and coastal management element to include the new definition of the CHHA , and to depict the CHHA on the FLUM by July 1, 2008. Ch. 2006-68, LOF.	163.3178(2)(c)	N/A		Coastal Management Element
164	Allows the sanitary sewer concurrency requirement to be met by onsite sewage treatment and disposal systems approved by the Department of Health. Ch. 2006-252, LOF.	163.3180(2)(a)			Public Facilities Element
165	Changes s.380.0651(3)(i) to s.380.0651(3)(h) as the citation for the standards a multiuse DRI must meet or exceed. Ch. 2006-220, LOF.	163.3180(12)(a)		Procedural	
166	Deletes use of extended use agreement as part of the definition of small scale amendment. Ch. 2006-69, LOF.	163.3187(1)(c)1.f.	N/A		
167	Creates a new section related to electric distribution substations ; establishes criteria addressing land use compatibility of substations; requires local governments to permit substations in all FLUM categories (except preservation, conservation or historic preservation); establishes compatibility standards to be used if a local government has not established such standards; establishes procedures for the review of applications for the location of a new substation; allows local governments to enact reasonable setback and landscape buffer standards for substations. Ch. 2006-268, LOF.	163.3208		Procedural	
168	Creates a new section preventing a local government from requiring a permit or other approval for vegetation maintenance and tree pruning or trimming within an established electric transmission and distribution line right-of-way . Ch. 2006-268, LOF.	163.3209		Procedural	

Changes to Chapter 163, F.S. 1986-2006		Chapter 163, F.S. Citations	N/A*	Addressed (where/how)	Amendment Needed by Element
169	Community Workforce Housing Innovation Pilot Program; created by Ch. 2006-69, LOF, section 27. Establishes a special, expedited adoption process for any plan amendment that implements a pilot program project.			Procedural	
170	Affordable housing land donation density incentive bonus; created by Ch. 2006-69, LOF, section 28. Allows a density bonus for land donated to a local government to provide affordable housing; requires adoption of a plan amendment for any such land; such amendment may be adopted as a small-scale amendment; such amendment is exempt from the twice per year limitation on the frequency of plan amendment adoptions.			Procedural	

2007 Legislative Changes

The only new substantial comprehensive plan requirement that affects the Malabar Comprehensive Plan is the extension of the deadline (now December 1, 2008) of a financially feasible updated Capital Improvements Element. The Town will update its Capital Improvements Element in September 2008 to correspond with the new budget year.

Table 3-2. Changes to Rule 9J-5, F.A.C.

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
November 22, 1989					
1	Defined availability or available, concurrency, concurrency management system, currently available revenue sources, and public facilities and services . <i>Note: the definition of availability or available was repealed March 23, 1994 and the definition of public facilities and services was repealed February 25, 2001.</i>	9J-5.003		Procedural	
2	Required comprehensive plan amendments applicable to the Wekiva River Protection Area to meet requirements of section 369.301, F.S., in addition to meeting compliance requirements of section 163.3184, F.S.	9J-5.005(8)	N/A		
3	Required local governments to adopt a concurrency management system in their comprehensive plans and established requirements for such systems.	9J-5.0055			Capital Improvements Element
4	Required the capital improvement element to include requirements to ensure an adequate concurrency management system is implemented.	9J-5.016			Capital Improvements Element
5	Clarified requirements relating to projected revenue sources that are contingent upon ratification by public referendum.	9J-5.016(4)(a)2.		Procedural	
April 2, 1992					

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
6	Defined transportation concurrency management area, transportation demand management, transportation system management, and transportation mobility element . <i>Note: the definitions of transportation concurrency management area and transportation mobility element were repealed March 23, 1994.</i>	9J-5.003		Procedural	
7	Authorized local governments to establish optional transportation concurrency management areas and provided requirements for such areas. <i>Note: this rule was repealed March 23, 1994.</i>	9J-5.0057	N/A		
8	Required transportation concurrency management areas to be shown on the future land use map.	9J-5.006(4)(a)	N/A		
9	Required the capital improvement element to include requirements to ensure concurrency management areas are implemented, if designated.	9J-5.016	N/A		
March 23, 1994					
10	Defined central business district, coastal area, evaluation and appraisal report, partial evaluation and appraisal report, proposed evaluation and appraisal report, sufficiency review, and very low income family . <i>Note: the definition of very low income family was repealed March 21, 1999.</i>	9J-5.003		Procedural	
11	Revised the definition of coastal high hazard areas and modified the definition of coastal area to provide a definition of the term coastal planning area . <i>Note: the definition of coastal planning area was revised March 21, 1999.</i>	9J-5.003	N/A	Procedural	
12	Repealed definitions of availability or available, transportation concurrency management area, and transportation mobility element .	9J-5.003		Procedural	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
13	Required local comprehensive plans to include a countywide marina siting plan for participating local governments in the coastal area and intergovernmental coordination processes.	9-5.005(1)(c)	N/A		Coastal Management Element
14	Revised monitoring and evaluation requirements to include a description of the public participation process and components of the evaluation and appraisal process. <i>Note: Revised February 25, 2001.</i>	9-5.005(7)		Procedural	
15	Added procedures for transmittal and review of evaluation and appraisal reports and evaluation and appraisal amendments . <i>Note: Repealed March 21, 1999 and February 25, 2001.</i>	9J-5.0053	N/A		
16	Revised requirements for the concurrency management system to include provisions regarding level of service standards , and minimum requirements for concurrency , and authorized local governments to incorporate within their concurrency management system optional long term concurrency management systems, transportation concurrency management areas, transportation concurrency exception areas; concurrency exceptions for projects that promote public transportation , and provisions for private contributions to local government capital improvement planning .	9J-5.0055			Capital Improvement Element
17	Repealed provisions authorizing establishment of optional transportation concurrency management areas and providing requirements for such areas.	9J-5.0057		Procedural	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
18	Required the Future Land Use Element for coastal counties and municipalities that have dredge spoil disposal responsibilities to identify any existing dredge spoil disposal sites and include an analysis of the need for additional dredge spoil disposal sites.	9J-5.006(1)(f)3 and 9J-5.006(2)(f)	N/A		Land Use Element
19	Required the Future Land Use Element to include an analysis of proposed development and redevelopment based upon hazard mitigation reports.	9J-5.006(2)(g)		No	Land Use Element
20	Required the Future Land Use Element to include objectives to encourage elimination or reduction of uses that are inconsistent with an interagency hazard mitigation report and ensure the availability of dredge spoil disposal sites for affected coastal counties and municipalities.	9J-5.006(3)(b)		No	Land Use Element
21	Required policies of the future land use element to designate dredge spoil disposal sites for affected coastal counties and municipalities and establish site selection criteria for designation of future dredge spoil disposal sites.	9J-5.006(3)(c)	N/A		Land Use Element
22	Required local governments to adopt the level of service standards established by the Department of Transportation for facilities on the Florida Intrastate Highway System and adopt adequate level of service standards for all other transportation facilities. <i>Note: 9J-5.007 was repealed February 20, 1996, and has been replaced by 9J-5.019.</i>	9J-5.007(3)(c)	N/A	Repealed.	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
23	Required the Ports, Aviation and Related Facilities Element to include an analysis of the need for additional dredge spoil disposal sites for existing and proposed ports. <i>Note: 9J-5.009 was repealed February 20, 1996, and has been replaced by 9J-5.019</i>	9J-5.009(2)(c)	N/A		
24	Required the Housing Element inventory and analysis to: § Use data from the affordable housing needs assessment ; § Address housing needs of existing and future residents; § Avoid the concentration of affordable housing; and Address the needs of very-low income families as well as low and moderate income families.	9J-5.010(1) and (2)		No-Housing Element Yes-Housing Element Data Inventory and Analysis No-Housing Element	Housing Element
25	Required Housing Element objectives to address: § Housing needs of current and future residents; § Sites and distribution of housing for very-low income and low-income families; and Use of job training, job creation and economic solutions to address affordable housing concerns.	9J-5.010(3)		Yes – Housing Element. Goal 3-1 and Objectives 3-1.1, 3-1.3 and 3-1.7. No– Housing Element No – Housing Element	Housing Element
26	Required Coastal Management Element inventories and analyses to be coordinated with the countywide marina siting plan .	9J-5.012(2)	N/A	No	Coastal Management Element

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
27	Required Coastal Management Element policies to: § Incorporate recommendations from interagency hazard mitigation reports ; § Address the relocation, mitigation or replacement of infrastructure within the coastal high-hazard area; § Include criteria consistent with the countywide marina siting plan ; and Include a procedure to resolve inconsistencies between the local comprehensive plan and the deepwater port master plan .	9J-5.012(3)		No-Coastal Management Element No- Coastal Management Element No-Coastal Management Element N/A- Deepwater Port Master Plan	Coastal Management Element
28	Required affected local governments to incorporate the marina siting plan in the Coastal Management Element.	9J-5.012(4)	N/A	No	Coastal Management Element
29	Required objectives of the Intergovernmental Coordination Element to: § Ensure coordination in the designation of new dredge spoil disposal sites ; § Involve the navigation and inlet districts, state and federal agencies and the public in identifying dredge spoil disposal sites; and Resolve conflicts between a coastal local government and a public agency seeking a dredge spoil disposal site through the Coastal Resources Interagency Management Committee=s dispute resolution process.	9J-5.015(3)	N/A	No	Coastal Management Element
30	Required local governments having all or part of their jurisdiction within the urbanized area of a Metropolitan Planning Organization to prepare and adopt a transportation element which replaces the traffic circulation element, the mass transit element, and the ports, aviation and related facilities element and established requirements for the transportation element.	9J-5.019	N/A	No	Traffic Circulation Element

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
May 18, 1994					
31	Added provisions for settlement of conflicts through compliance agreements.		N/A		
32	Defined adjusted for family size, adjusted gross income, affordable housing, agency, amendment, clustering, compatibility, composition, density, development, development controls, distribution, environmentally sensitive lands, extent, facility availability, floodprone areas, functional relationship, high recharge area, hurricane vulnerability zone, intensity, manufactured home, moderate income household, natural drainage flow, natural groundwater aquifer recharge areas or natural groundwater recharge areas, new town, Apattern, potable water wellfield, purchase of development rights, rural areas, rural village or rural activity center, stormwater basin, stormwater facilities, stormwater management system, suitability, transfer of development rights, urban area, urban sprawl, very low income household, wellhead protection area, and wetlands. <i>Note: the definitions of adjusted for family size, adjusted gross income, development, and high recharge area were repealed and the definitions of affordable housing and wetlands were revised March 21, 1999.</i>	9J-5.003		Procedural	
33	Revised definitions of areas subject to coastal flooding, conservation uses, deepwater ports, estuary, low income household, mobile home, natural reservations, and oceanic waters.	9J-5.003		Procedural	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
34	Revised comprehensive plan content requirements to clarify that the future land use map or map series must be included in the adopted comprehensive plan.	9J-5.005(1)	N/A	Procedural	
35	Required all goals, objectives, policies, standards, findings and conclusions of the comprehensive plan and plan amendments to be based upon analysis as well as data, explained the meaning of being based upon data , referenced the Department's guide to data sources and National Wetland Inventory Maps, and authorized local governments to submit textual portions of their plan or amendment on electronic processing storage media .	9J-5.005(2)		Procedural	
36	Required goals, objectives and policies to establish standards for the use of land and guidelines for land development regulations.	9J-5.005(6)		Future Land Use Element Objectives 1-2.1, 1-2.2, 1-2.3, 1-2.4, 1-3.1.	
37	Required plan amendments exempt from the twice-a-year restriction under the development of regional impact provision to be transmitted as required by law and revised adoption by reference requirements. <i>Note: adoption by reference requirements were further revised March 21, 1999.</i>	9J-5.005(2)(g)		Procedural	
38	Authorized local governments to recognize in their comprehensive plans, statutory and common law vested rights .	9J-5.005(8)		Procedural	
39	Required public potable water wells and wellhead protection areas to be shown on existing land use map or map series and provided that educational uses, public buildings and grounds and other public facilities may be shown as one land use category.	9J-5.006(1)]		No	Future Land Use Element to include these in land use maps

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
40	Required policies of the Future Land Use Element to address protection of potable water wellfields by designating appropriate activities and land uses within wellhead protection areas .	9J-5.006(3)		No	Future Land Use Element
41	Required public potable waterwells, wellhead protection areas, and coastal high hazard areas to be shown on the future land use map and provided that educational uses, public buildings and grounds and other public facilities may be shown as one land use category. Provided that if mixed use categories are used, policies must specify types of land uses allowed, the percentage distribution among the mix of uses or other objective measurement, and the density and intensity of each use.	9J-5.006(4)		No	Future Land Use Element
42	Provided criteria for reviewing local comprehensive plans and plan amendments for adequacy in discouraging the proliferation of urban sprawl , including indicators of sprawl and measures for evaluating land uses, local conditions, and development controls.	9J-5.006(5)		Procedural	
43	Required the Housing Element to address housing for moderate income, low income, and very low income households, group homes, foster care facilities, and households with special housing needs, including rural and farmworker housing.	9J-5.010		Low and Moderate Income Households- Policy 3-1.1.3 Group Homes, Foster Care, special housing needs- Objective 3-1.4. Very-low income households, and rural and farmwork housing not mentioned in Housing Element	Housing Element
44	Required the Housing Element analysis to address the existing housing delivery system. [9J-5.010(2)		Housing Element Data Inventory and Analysis	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
45	Required objectives of the Housing Element to address adequate sites for mobile and manufactured homes.	9J-5.010(3)(b)		Housing Element Objective 3-1.3	
46	Required policies of the Housing Element to: § Include specific programs and actions to streamline the permitting process and minimize costs and delays for housing; § Establish principles and criteria guiding the location of manufactured homes ; § Identify interlocal agreements with nearby local governments to provide affordable housing ; and § Designate sufficient sites at sufficient densities to accommodate affordable housing.	9J-5.010(3)(c)		No-Housing Element No-Housing Element No-Housing Element No-Housing Element	Housing Element
47	Required the data and analysis of the Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water and Natural Groundwater Aquifer Recharge Element to identify major natural drainage features and natural groundwater aquifer recharge areas , including areas identified by the water management district as prime or high groundwater recharge areas .	9J-5.011(1)		Public Facilities Element Data Inventory and Analysis	
48	Required the policies of the Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water and Natural Groundwater Aquifer Recharge Element to establish water quality standards for stormwater recharge .	9J-5.011(2)		Public Facilities Element Policy 4-1.1.1.	
49	Required the Conservation Element to identify and analyze groundwater and important fish or shellfish areas .	9J-5.013(1)		Conservation Element Data Inventory and Analysis	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
50	Required policies of the conservation element to address land uses known to affect adversely the quality and quantity of water sources , including natural groundwater recharge areas, well head protection areas and surface waters used as a source of public water supply, and the protection and conservation of wetlands .	9J-5.013(2) and (3)		No	Conservation Element
February 20, 1996					
51	Repealed rule requirements for the Traffic Circulation Element; Mass Transit Element; Ports, Aviation and Related Facilities Element . <i>Note: Certain local governments must continue to prepare these elements pursuant to 163.3177, F.S., and 9J-5.019, F.A.C.</i>	9J-5.007, 9J-5.008, and 9J-5.009	N/A		
52	Repealed rule requirements for the Recreation and Open Space Element . <i>Note: Section 163.3177, F.S., requires local governments to prepare this element.</i>	9J-5.014	N/A		
53	Repealed rule requirements for consistency of local government comprehensive plans with Comprehensive Regional Policy Plans and with the State Comprehensive Plan . <i>Note: Local government comprehensive plans are required by section 163.3184(1)(b), F.S., to be consistent with the applicable Strategic Regional Policy Plan and the State Comprehensive Plan.</i>	9J-5.021	N/A		
October 20, 1998					
54	Established requirements for the Public School Facilities Element for Public School Concurrency for local governments that adopt school concurrency.	9J-5.025	NA		
March 21, 1999					

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
55	Defined public transit and stormwater management facilities	9J-5.003		Procedural	
56	Revised the definitions of affordable housing, coastal planning area, port facility, and wetlands.	9J-5.003		Procedural	
57	Repeal the definitions of adjusted for family size, adjusted gross income, development, high recharge area or prime recharge area, mass transit, paratransit, public facilities, very low-income family.	9J-5.003		Procedural	
58	Revised provisions relating to adoption by reference into the local comprehensive plan.	9J-5.005(2)(g) and (8)(j)		Procedural	
59	Repealed transmittal requirements for proposed evaluation and appraisal reports , submittal requirements for adopted evaluation and appraisal reports, criteria for determining the sufficiency of adopted evaluation and appraisal reports, procedures for adoption of evaluation and appraisal reports. <i>Note: transmittal requirements for proposed evaluation and appraisal reports and submittal requirements for adopted evaluation and appraisal reports were incorporated Rule Chapter 9J-11, F.A.C.</i>	9J-5.0053(2) through (5)	N/A		
60	Repealed conditions for de minimis impact and referenced conditions in subsection 163.3180(6), F.S.	9J-5.0055(3)6	N/A		
61	Required the future land use map to show the transportation concurrency exception area boundaries of such areas have been designated and areas for possible future municipal incorporation.	9J-5.006(4)	N/A		
62	Required objectives of the Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water	9J-5.011(2)		Not addressed	Public Facilities Element

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
	and Natural Groundwater Aquifer Recharge Element to address protection of high recharge and prime recharge areas.				
63	Repealed the Intergovernmental Coordination Element process to determine if development proposals would have significant impacts on other local governments or state or regional resources or facilities, and provisions relating to resolution of disputes, modification of development orders, and the rendering of development orders to the Department of Community Affairs (DCA)	9J-5.015(4)	N/A		
64	Clarified that local governments not located within the urban area of a Metropolitan Planning Organization are required to adopt a Traffic Circulation Element and that local governments with a population of 50,000 or less are not required to prepare Mass Transit and Ports, Aviation and Related Facilities Elements .	9J-5.019(1)	N/A		
65	Required objectives of the Transportation Element to:	9J-5.019(4)(b)			
	<ul style="list-style-type: none"> • Coordination the siting of new, or expansion of existing ports, airports, or related facilities with the Future Land Use, Coastal Management, and Conservation Elements; 		N/A		
	<ul style="list-style-type: none"> • Coordination surface transportation access to ports, airports, and related facilities with the traffic circulation system; 		N/A		
	<ul style="list-style-type: none"> • Coordination ports, airports, and related facilities plans with plans of other transportation providers; and 		N/A		
	<ul style="list-style-type: none"> • Ensure that access routes to ports, airports and related facilities are properly integrated with other modes of transportation. 		N/A		
66	Required policies of the Transportation Element to:	9J-5.019(4)(c)			

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
	<ul style="list-style-type: none"> Provide for safe and convenient on-site traffic flow; 			Traffic Circulation Policy 2-1.1.7.	
	<ul style="list-style-type: none"> Establish measures for the acquisition and preservation of public transit rights-of-way and corridors; 		N/A		
	<ul style="list-style-type: none"> Promote ports, airports and related facilities development and expansion; 		N/A		
	<ul style="list-style-type: none"> Mitigate adverse structural and non-structural impacts from ports, airports and related facilities; 		N/A		
	<ul style="list-style-type: none"> Protect and conserve natural resources within ports, airports and related facilities; 		N/A		
	<ul style="list-style-type: none"> Coordinate intermodal management of surface and water transportation within ports, airports and related facilities; and 		N/A		
	<ul style="list-style-type: none"> Protect ports, airports and related facilities from encroachment of incompatible land uses. 		N/A		
67	Added standards for the review of land development regulations by the Department.	9J-5.022		Procedural	
68	Added criteria for determining consistency of land development regulations with the comprehensive plan.	9J-5.023		Procedural	
February 25, 2001					
69	Defined general lanes	9J-5.003		Procedural	
70	Revised the definition of " marine wetlands. "	9J-5.003		Procedural	
71	Repeal the definition of " public facilities and services. "	9J-5.003		Procedural	
72	Revised procedures for monitoring , evaluating and appraising implementation of local comprehensive plans.	9J-5.005(7)		Procedural	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
73	Repealed requirements for evaluation and appraisal reports and evaluation and appraisal amendments.	9J-5.0053		Procedural	
74	Revised concurrency management system requirements to include provisions for establishment of public school concurrency .	9J-5.005(1) and (2)		No	Town will need to adoption Public School Facilities Element
75	Authorized local governments to establish multimodal transportation level of service standards and established requirements for multimodal transportation districts .	9J-5.0055(2)(b) and (3)(c)	N/A		
76	Authorized local governments to establish level of service standards for general lanes of the Florida Intrastate Highway System within urbanized areas, with the concurrence of the Department of Transportation.	9J-5.0055(2)(c)		No-Traffic Circulation Element	Traffic Circulation Element
77	Provide that public transit facilities are not subject to concurrency requirements.	9J-5.0055(8)		Procedural	
78	Authorized local comprehensive plans to permit multi-use developments of regional impact to satisfy the transportation concurrency requirements by payment of a proportionate share contribution .	9J-5.0055(9)		Procedural	
79	Required the future land use map to show multimodal transportation district boundaries, if established.	9J-5.006(4)	N/A		
80	Authorized local governments to establish multimodal transportation districts and, if established, required local governments to establish design standards for such districts.	9J-5.006(6)	N/A		
81	Required data for the Housing Element include a description of substandard dwelling units and repealed the requirement that the housing inventory include a locally determined definition of standard and substandard housing conditions.	9J-5.010(1)(c)		Housing Element Inventory and Analysis.	

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
82	Authorized local governments to supplement the affordable housing needs assessment with locally generated data and repealed the authorization for local governments to conduct their own assessment.	9J-5.10(2)(b)		Yes - Housing Element Data Inventory and Analysis.	Affordable Housing Assessment to be updated with most recent Shimberg data.
83	Required the Intergovernmental Coordination Element to include objectives that ensure adoption of interlocal agreements within one year of adoption of the amended Intergovernmental Coordination Element and ensure intergovernmental coordination between all affected local governments and the school board for the purpose of establishing requirements for public school concurrency .	9J-5.015(3)(b)		No	Intergovernmental Coordination Element
84	Required the Intergovernmental Coordination Element to include:	9J-5.015(3)(c)			
	<ul style="list-style-type: none"> • Policies that provide procedures to identify and implement joint planning areas for purposes of annexation, municipal incorporation and joint infrastructure service areas; 			No-Intergovernmental Coordination Element	Intergovernmental Coordination Element
	<ul style="list-style-type: none"> • Recognize campus master plan and provide procedures for coordination of the campus master development agreement; 		N/A		
	<ul style="list-style-type: none"> • Establish joint processes for collaborative planning and decision-making with other units of local government; 			No-Intergovernmental Coordination Element	Intergovernmental Coordination Element
	<ul style="list-style-type: none"> • Establish joint processes for collaborative planning and decision making with the school board on population projections and siting of public school facilities; 			No-Intergovernmental Coordination Element	Intergovernmental Coordination Element
	<ul style="list-style-type: none"> • Establish joint processes for the siting of facilities with county-wide significance; and 			No-Intergovernmental Coordination Element	Intergovernmental Coordination Element

Changes to Rule 9J-5, F.A.C. 1989-2003		9J-5, F.A.C. Citations	NA	Addressed (where/how)	Amendment Needed By Element
	<ul style="list-style-type: none"> Adoption of an interlocal agreement for school concurrency. 			No	Intergovernmental Coordination Element
85	Required the Capital Improvements Element to include implementation measures that provide a five-year financially feasible public school facilities program that demonstrates the adopted level of service standards will be achieved and maintained and a schedule of capital improvements for multimodal transportation districts , if locally established.	9J-5.016(4)(a)		Not addressed	Capital Improvement Element
86	Required the Transportation Element analysis for multimodal transportation districts to demonstrate that community design elements will reduce vehicle miles of travel and support an integrated, multi-modal transportation system.	9J-5.019(3)	N/A		
87	Required Transportation Element objectives for multimodal transportation districts to address provision of a safe, comfortable and attractive pedestrian environment with convenient access to public transportation.	9J-5.019(4)	N/A		
88	Authorized local governments to establish level of service standards for general lanes of the Florida Intrastate Highway System within urbanized areas, with the concurrence of the Department of Transportation.	9J-5.019(4)(c)	N/A		

CHAPTER FOUR

CONCLUSIONS AND PROPOSED REVISIONS

The following provides a summary of changes noted in this Evaluation and Appraisal Report:

Overall Changes

Because the Data Inventory and Analysis has not been updated since 1988, all data and maps should be updated in the EAR-based amendments should be updated according to 9J-5 and requirements of Comprehensive Plans in Chapter 163, F.S.

Future Land Use Element

- Add Objectives and Policies for a Malabar Road Corridor Plan.
- Add Policies to adopt and maintain land development regulations for Florida Vernacular design regulations
- Intensity Standards for Future Land Use Designation
- Require Concurrency assessments for all development and redevelopment
- References and maps to accommodate new designation of Coastal High Hazard Areas
- Create Policies based on the recommendations of the slum and blight study of US-1
- Reclassify lands identified as Recreation, Open space or Conservation

Traffic Circulation Element

- Policies and objectives should be added to the plan that support corridor planning efforts along Malabar Road including policies for access management.
- Policies and objectives should be added that support the creation of multi-use trails (bike, pedestrian, and equestrian) specifically the Marie St. Trail which will connect two environmentally endangered lands. This is part of the overall plan for the 22 mile long South Brevard Linear Trail identified in the Brevard Greenways and Trails Master Plan.
- Provide trail connections to other key traffic generators such as the post office and Hospital.
- As part of the development of the Transportation Element, a complete Bike and Pedestrian assessment needs to be completed.
- A full sidewalk inventory should be undertaken which identifies deficiencies, missing sidewalks and potential location for multiuse trails.

Housing Element

- Include provisions for *very low* income residents;

- Coordinate with the East Central Florida Regional Planning Council and Brevard County to support regional affordable housing programs and incentives, including those outlined in the Brevard County Workforce and Affordable Housing Ordinance;
- Continue to allow a variety of residential use densities in order to enhance the opportunity for private sector to provide for a variety of housing types;
- Support provisions of affordable housing by exploring community land trusts;
- Review Town ordinances, codes, regulations, and permitting process to determine whether there exists requirements which systematically and unduly inhibit the construction of quality housing that is affordable to very low, low, and moderate income groups;
- Schedule for a comprehensive historic housing survey.

Public Facilities

- Update Level of Service standards
- Schedule update to Stormwater Master Plan to incorporate LID strategies
- Include Low Impact drainage standards
- Investigate grants for utility upgrades
- Annually update maintenance and Capital Improvement Plan

Conservation

- Revising policies to reflect feasible environmental regulation (i.e. Town cannot regulate submerged lands)
- Schedule dates for adoption of LDC changes to regulate agricultural activities in relation to surface water management
- Revise LDC regarding mining to mitigate soil loss

Coastal Management

- Amend policies to assess feasibility of acquiring property for public access
- Coordinate with appropriate agencies for marking the historic mailboat route
- Policies to schedule completion of a post-disaster redevelopment plan
- Incorporate recommendations of DCA's Local Mitigation Strategy Plan
- Identify the Coastal High Hazard Area based upon new definitions
- Update the Stormwater Master Plan in order to protect Indian River Lagoon water quality
- Policy to maintain Coast Preservation zoning district

Recreation and Open Space

- Revise facility types denoted in Table 13 of DIA to more contemporary interests, i.e. consider removing shuffleboard and adding disc golf or skateboard instead.
- Add policy specifically stating 5 acres of parkland per 1,000 population, as indicated in DIA.
- Add policy specifying the criteria for what types of parkland may be used in determining the Town's level of service, i.e. whether to include EELs, private recreation, undeveloped open space, etc.
- Include policy with specific deadline to revise "recreation and open space" land use designations and/or zoning classifications as needed for the purposes of protecting lands intended for conservation. Thereafter, provide timeline for rezoning said parcels and updating Future Land Use map accordingly.
- Include policy to determine safe and appropriate access points to the Indian River along US 1.
- Incorporate Goals, Objective and Policies found in the Brevard County Greenways Plan, notably the South Brevard (Al Tuttle) Linear Trail.
- Determine feasibility of and identify preferred locations for a town-wide multi-use trail expanding upon the already planned Al Tuttle Linear Trail.

Intergovernmental Coordination

- Coordination with Brevard County, the MPO, FDOT, and adjacent municipalities on proportionate fair share mitigation and concurrency management for transportation facilities
- Specific coordination with FDOT on adding widening of Malabar Road to the FDOT Five-Year Work Plan
- Coordination with Brevard County School District on school concurrency
- Coordination with the MPO, Brevard County Greenways and Trails, on a multiuse trail plan for the Town

Capital Improvements Element

- Policies requiring an annual update to the Capital Improvements Element and Schedule of Capital Improvements
- Coordination of proportionate fair share mitigation for transportation and school projects
- Updates to level of service standards
- Updated data on sources of funding
- Schedule of Capital Improvements to include projects from FDOT, Brevard County, and City of Palm Bay that affect the Town's level of service standards
- Timing requirements as per Chapter 163.3180.
- Maintenance of Capacity and Level of Service inventory

Appendix A



TO: Bonilyn Wilbanks-Free, Town Administrator

FROM: Lorraine Tappen, AICP, Senior Planner

DATE: October 10, 2007

RE: EAR Major Issues

The Town of Malabar held it's Scoping Meeting for the 2007 Evaluation and Appraisal Report on October 1, 2007. Approximately 40 residents attended the meeting in addition to the Town Council and staff. During the meeting, comments were recorded on what the residents like about their community and what concerns them about their community.

Based upon the comments received at the Scoping meeting and notes provided by the Planning and Zoning Advisory Board, a list of major issues has been compiled. They are as follows:

1. Enhancing Indian River Lagoon access and historic features
2. Need for a corridor plan along Malabar Road
3. Improve pedestrian/bike/equestrian connectivity
4. Timing of infrastructure improvements
5. Enhance and protect rural atmosphere
6. Address blight and redevelopment
7. Stormwater management and Indian River Lagoon water quality

These major issues will be included in a letter to the Florida Department of Community Affairs requesting a Memorandum of Understanding for the scope of the Evaluation and Appraisal Report on the Town of Malabar Comprehensive Plan.

Cc: Debby Franklin, Interim Town Clerk/Treasurer

Attachments:
Scoping Meeting Comments

Engineering
Construction Engineering
& Inspection
Municipal Engineering
Transportation Planning
& Traffic Engineering
Surveying & Mapping
Planning
Landscape Architecture
& Environmental Services
Construction Services
Indoor Air Quality
Data Technologies
& Development

1800 Eller Drive, Suite 600
Fort Lauderdale, FL 33316
Phone: 954.921.7781
Fax: 954.921.8807

www.calvin-giordano.com

Likes

- 1.5 acre zoning
- Country setting
- EEL Lands
- Greenspace and greenways
- People
- Lowest mileage rate in County
- Last hold-out from urban sprawl
- Breathing room for now and future
- One voice can make a difference
- Low cost
- Easy access to government
- Indian River Lagoon
- Outstanding, accessible town staff
- Recognition of railroad community
- Absolutely no shopping centers
- Ample wildlife
- Well designed, laid-out parks
- Many volunteer programs/camaraderie
- Historically significant features
- Respect for environment through EELs, greenway
- Clean, well-kept, well maintained roads
- Tolerable traffic
- Freedom from significant property restrictions (Trucks, RV)
- Large-animal friendly
- Equitable intergovernmental relationships
- Unparalleled shoreline and view
- Coastal property owners' rights
- Few commercial businesses, industry

Dislikes/Concerns

- Need better local and state coordination of traffic lights/transportation
- Malabar park fields need upgrading for more advanced levels of soccer
- Speed limit on Malabar Road too high
- Concern about inaccuracy of Google/Map Quest maps
- Concern about emergency response
- Expansion of Valkrie Airport/Concern about traffic
- Cost of improving roads for new development unfair in allocation of cost
- Make Malabar eco-friendly – integration of bicycles, golf carts, and animals on trails/roadways
- Change of zoning along Malabar Road to a commercial use/potential traffic nightmares
- Need gateway development plan, pedestrian corridor – especially near hospital/Malabar Road
- Water/sewer will promote growth/concern
- 2nd fire department needed east of railroad tracks
- Lack of police/speeding on Malabar Road
- Lack of adequate water for fire service
- Make City water available
- Concern about existing residents paying for improvements/possible to get funds through document/impact fees
- Need a municipal complex – town hall, community center, hurricane shelters
- Concern about development on Malabar Rd. – limited by ROW in widening
- Concern about residences/children on Malabar Rd. – Consider office/institutional uses
- Subdivision requirement – Weber Woods. Why frontage road? Doesn't look like Malabar
- Cohesive image for town without being too restrictive – parks, lighting on Malabar Road
- Tree removal with development/need more environmentally-friendly development
- Need to improve drainage
- Concern about being able to negotiate water cost with Palm Bay

- Better communication on public information. Better public involvement
- River access/reconstruction of mailboat docks
- Malabar Road property owners should have option to rezone to commercial
- Zoning restricts recreational use too much along lagoon
- Intergovernmental partnerships to increase access on lagoon
- Exchange ROW with Malabar Road owners in order to allow commercial/industrial development
- Review blight study/investigate improvements
- Remove eminent domain as an option
- Concern about bridge coming across to Malabar/Town should plan for it.
- County bypass – need to plan
- Better emergency response to Brook Hollow
- Change should not overrun rights of residents, come back to people for input

Appendix B



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
 Governor

THOMAS G. PELHAM
 Secretary

November 21, 2007

The Honorable Thomas Eschenberg
 Mayor, Town of Malabar
 2725 Malabar Road
 Malabar, Florida 32922

Dear Mayor Eschenberg,

The Department has reviewed your letter dated October 18, 2007 outlining the scope of work for the preparation of the Town's Evaluation and Appraisal Report (EAR). The Department agrees with the summary of the issues set forth in the attached document. This letter serves as confirmation of our understanding. However, we have additional comments concerning your Scope of Work

With reference to the Scope of Work, the Town should note that the assessment of goals, objectives and policies, as they relate to the major issues, must include the data and analysis indicating progress made towards the achievement of those objectives. If insufficient progress was made, the report should discuss why and assess how things could be done differently to achieve the objectives. In addition, the EAR should update the population projections and identify changes to the plan as required by State Statutes and the Strategic Regional Policy Plan and address the requirements set forth under Section 163.3191(2), Florida Statutes (F.S.). As part of the Town's assessment of successes and shortcomings of each element pursuant to Section 163.3191(2)(h), F.S., the Department will look for an assessment of the Town's post-disaster redevelopment policies in the Coastal Management Element required by 9-J5.012(3)(c)3 Florida Administrative Code (F.A.C).

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FL 32399-2100
 Phone: 850-488-8466/SUNCOM 278-8466 Fax: 850-921-0781/SUNCOM 291-0781
 Website: www.dca.state.fl.us

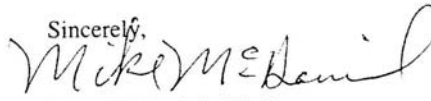
COMMUNITY PLANNING
 Phone: 850-488-2356/SUNCOM 278-2356
 Fax: 850-488-2356/SUNCOM 278-2356

AREAS OF CRITICAL STATE CONCERN FIELD OFFICE
 Phone: 305-289-2402
 Fax: 305-289-2442

HOUSING AND COMMUNITY DEVELOPMENT
 Phone: 850-488-7956/SUNCOM 278-7956
 Fax: 850-922-5623/SUNCOM 292-5623

The Honorable Thomas Eschenberg
November 21, 2007
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We appreciate the effort you and your staff have shown in developing your EAR scoping issues for the Town of Malabar. We look forward to continued success as the Town prepares its EAR. If you or your staff have any questions, please contact Jon Frederick, Planner, Division of Community Planning at (850) 922-1807.

Sincerely,

Mike McDaniel, Chief
Division of Community Planning

MM/jf

cc: Ms. Lorraine Tappen, Senior Planner, Calvin, Giordano & Associates, INC
Ms Bonilyn Wilbanks-Free, Town Administrator, Town of Malabar

Town of Malabar Comprehensive Plan EAR Scope of Work:

- (a) Population growth and changes in land area since the adoption of the original plan or the most recent update amendments.
- (b) The extent of vacant and developable land.
- (c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address infrastructure backlogs and meet the demands of growth on public services and facilities.
- (d) Location of development as anticipated in the original plan, or in the plan as amended by the most recent evaluation and appraisal report update amendments, such as within areas designated for urban growth.
- (e) An identification of the major issues for the Town and, where pertinent, the potential social, economic, and environmental impacts. Major issues to be addressed include the following:
 - 1. Enhancing Indian River Lagoon access and historic features
 - 2. Need for a corridor plan along Malabar Road
 - 3. Improve pedestrian/bike/equestrian connectivity
 - 4. Timing of infrastructure improvements
 - 5. Enhance and protect rural atmosphere
 - 6. Address blight and redevelopment
 - 7. Stormwater management and Indian River Lagoon water quality
- (f) Relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.
- (g) An assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved. The report shall include, as appropriate, identification as to whether unforeseen or unanticipated changes in circumstances have resulted in problems or opportunities with respect to major issues identified in each element and the social, economic, and environmental impacts of the issue.
- (h) A brief assessment of successes and shortcomings related to each element of the plan including a brief overview of each element.

- (i) The identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report. Such identification shall include, as appropriate, new population projections, new revised planning timeframes, a revised future conditions map or map series, an updated capital improvements element, and any new and revised goals, objectives, and policies for major issues identified within each element. This paragraph shall not require the submittal of the plan amendments with the evaluation and appraisal report.
- (j) A summary of the public participation program and activities undertaken by the Town in preparing the report.
- (k) The coordination of the comprehensive plan with existing public schools.
- (l) The extent to which the Town has been coordinating water supply planning with land successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in s.73.0361(2)(a) within the Town's jurisdiction. The report will evaluate the degree to which the Town has implemented the work plan for building public, private, and regional water supply facilities, including the development of alternative water supplies identified in the element as necessary to serve existing and new development.
- (m) If any of the jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs, including, but not limited to, redevelopment following a natural disaster.
- (n) An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system in coordination with the municipalities and counties, as appropriate pursuant s. 163.3180.