

**TOWN OF MALABAR
TOWN COUNCIL MEETING
MONDAY JANUARY 5, 2015
7:30PM
2725 MALABAR ROAD
MALABAR, FLORIDA**

AGENDA

- A. **CALL TO ORDER, PRAYER AND PLEDGE**
- B. **ROLL CALL**
- C. **ADDITIONS/DELETIONS/CHANGES - Pastor Paul Rosbury**
- D. **CONSENT AGENDA: none**
1. **Approval of Minutes** Regular Town Council Mtg – 12/15/14
Exhibit: Agenda Report No. 1
Recommendation: Request Approval of Minutes
- E. **PUBLIC COMMENTS:** Comments may not address subsequent Agenda Items. Comments do not require Council response. (Speaker Card Required) **Five (5) Minute Limit per Speaker**
- F. **ATTORNEY REPORT:**
- G. **BREVARD COUNTY SHERIFF'S OFFICE REPORT:**
- H. **PUBLIC HEARINGS: (3)**
2. Development Agreement between the Town of Malabar and Kellwill, LLC. Per F.S. 163 the Town is authorized to enter into a Development Agreement that will specifically detail that the property located on the west side of Highway 1 at 1300 Highway 1, aka Township 28, Range 38, Section 31, Parcel 750 will NOT be used for Adult Activities, Bars and Lounges and Arcade Amusement Centers/Electronic Gaming Establishments by mutual Agreement. KellWill, LLC. Intends to construct and operate a 10,000sf retail sales and service business that complies with all Code requirements, at this location, which is a permitted use in Commercial General. It will not exceed 35' in height and will comply with the Malabar Vernacular style detailed in the Town Code. The statute requires two (2) public hearings. The 1st Public Hearing was held at Planning and Zoning on December 29, 2014 and was recommended for Council approval with a vote of 3 to 2.
- Exhibit:** Agenda Report No. 2
Recommendation: Request Approval of Development Agreement
3. **Land Use Map Amendment & Zoning Change**, 1300 Highway 1, Malabar, FL lying on the WEST side of Hwy 1; Request to change from Residential/Limited Commercial to Commercial General: Applicant: KellWill, LLC., represented by Mr. William Carmine.
- 2ND Reading and Public Hearing on Ord 2015-01 **AN ORDINANCE OF THE TOWN OF AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE COMPREHENSIVE PLAN MAP AND ZONING MAP FOR THE THREE (3+/-) ACRES OF LOT 750 LOCATED ON THE WEST SIDE OF HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, NORTH OF MALABAR ROAD, AKA 1300 HIGHWAY 1, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR A DEVELOPMENT AGREEMENT; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.**
- Exhibit:** Agenda Report No. 3
Recommendation: Request Adoption of Ord 2015-01

4. Elhoim Christian Church Site Plan Review for a 10,000 sf sanctuary with future expansion of 5,000sf on 3+ acres of vacant land to be located at 2170 Malabar Road (temporary address until Parcel 28-37-36-00-00759 (1.62 acres) & 28-37-36-00-00760(1.38 acres) are joined. This is a Permitted Use in Office Institutional (OI) Zoning. Applicant: Mr. Scott Glaubitz, P.E. with BSE Consultants, Inc. representing Elhoim Christian Church

Exhibit: Agenda Report No.4

Recommendation: Request Approval

I. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING

5. Report from Park & Recreation Advisory Board Chair, Mr. Hans Kemmler

Exhibit: Agenda Report No. 5

Recommendation: Request is Open

6. Resident Mr. Charles Ryan re: Slope Mower Repairs & Maintenance

Exhibit: Agenda Report No. 6

Recommendation: Request is Open

J. ACTION ITEMS:

MISCELLANEOUS: 2

7. Cancel or Reschedule 2nd Meeting in January & February

Exhibit: Agenda Report No. 7

Recommendation: Request Action

8. Request 2000 Ford Explorer Eagle Patrol Vehicle be Declared Surplus

Exhibit: Agenda Report No. 8

Recommendation: Request Action

(No Recess – Attorney Excused)

K. PRESENTATIONS:

L. PROCLAMATIONS:

M. STAFF REPORTS: ADMINISTRATOR and CLERK

N. DISCUSSION ITEMS:

9. Space Coast League of Cities, January Mtg. (Acquaviva)

Exhibit: Agenda Report No. 9

Recommendation: Request Discussion and Direction

O. REPORTS – MAYOR AND COUNCIL MEMBERS

P. PUBLIC COMMENTS: General Items (Speaker Card Required)

Q. ANNOUNCEMENTS:

Two (2) vacancies on the Board of Adjustment

Two (2) vacancies on the Park and Recreation Board

Two (2) vacancies on the Trails & Greenways Committee

Two (2) vacancies on the Planning & Zoning Board

R. ADJOURNMENT:

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service. In compliance with F.S. 286.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 1a
Meeting Date: January 5, 2015

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meetings:

- Regular Town Council Meeting – 12/15/2014

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Minutes of the following meeting:

- Regular Town Council Meeting – 12/15/2014

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

"The following draft minutes are subject to changes and/or revisions by the Town Council and shall not be considered the official minutes until approved by the Town Council."

MALABAR TOWN COUNCIL REGULAR MEETING

December 15, 2014 7:30 PM

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Council Chair, Mayor Beatty. The prayer and pledge were led by Mayor.

B. ROLL CALL:

COUNCIL CHAIR:	MAYOR CARL BEATTY
VICE-CHAIR:	MARISA ACQUAVIVA
COUNCIL MEMBERS:	GRANT BALL
	BRIAN VAIL
	DON KRIEGER
	DICK KORN
TOWN ADMINISTRATOR:	BONILYN WILBANKS
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

For the Record, the Fire Chief Christopher Robinson and Town Engineer Morris Smith were also present.

C. ADDITIONS/DELETIONS/CHANGES: Clerk stated there were two typos in 11/17/14 minutes that she has corrected: pg 4, 3rd para used past tense "Tabled" and page 7, under Agenda Item 6, motion stated appoint of CM Acquaviva as check signer; I have deleted the words after that "appointed Vice Chair.

Mayor said that the resident that asked for placement on the agenda (under J.2. had contacted him and asked for the item be removed from the agenda. Mayor said he was also asked by another resident to add the Slope Mower information Mr. Ryan had formulated to the agenda. CM Acquaviva mentioned it had been added to last the agenda and was discussed for a long period. These types of items should be on the agenda so Council can review the information. CM Vail said we are waiting for more information from TA. CM Vail would like to see it as big picture and placed on meeting agenda.

TA said this is setting precedence. CM Krieger asked if it can it be placed under old business. CM Korn said the last time Mr. Bud Ryan had lost the audio and visual he had prepared, but said Mr. Ryan would be handicapped as the Public input is limited to five (5) minutes. (Note: Council does not have to reply). As an agenda item he could speak longer. (Note: and engage in Council discussion). CM Acquaviva said she appreciates Mr. Ryan's efforts. He wasn't being cut off; rather it should be an agenda item for next meeting. The agenda package should include Mr. Ryan's pictures. Mayor Beatty directed it be an agenda item for 1/5/15 meeting.

D. CONSENT AGENDA: To Be Approved as a voice vote.

(Any Council Member may request an item on the Consent Agenda to be removed and placed on regular agenda immediately after new business to be discussed and voted on separately by the Town Council)

CM Krieger to remove the minutes from the Consent Agenda.

~~1a. Approval of Minutes. Regular Town Council Meeting — 11/17/2014 as corrected~~
~~Regular Town Council Meeting — 12/01/2014~~

1b. Budget Adjustment (Reso 42-2014)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET ADJUSTMENT IN THE FISCAL YEAR 2014-2015; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 1b.

Recommendation: Approval of Consent Agenda with roll call vote on Reso 42-2014

Chair read by title only.

MOTION: CM Korn / CM Vail to approve the Budget Adjustment Reso 42-2014.

ROLL CALL VOTE: 1)CM Ball, Aye; CM Vail, Aye; CM Krieger, Aye; CM Korn, Aye; CM Acquaviva, Aye. Motion carried 5 to 0.

1a. Approval of Minutes. Regular Town Council Meeting – 11/17/2014 as corrected
Regular Town Council Meeting – 12/01/2014

Exhibit: Agenda Report 1.a

Corrections: 11/17/14 minutes: CM Ball referenced n page 7, Item #4, he voted Nay. Clerk will correct. Also on page 1 of same minutes, under "C" the reference to "ranking" – Attorney Bohne stated that is the word he used. If a fact finding board makes a recommendation or "ranks" their findings then they are subject to the Sunshine Law.

CM Krieger said on page 4 of 11/17/14 the Clerk typed "issue" and word used was "situation."

CM Krieger requested on pg 6 of 12/1/14 to delete the last four words "and shut her down" as they were not said. CM Acquaviva said that is what happened though.

Mayor has issue with Mayor/Chair reference in minutes. Other cities simply refer to their Mayors by their name. Franklin said now she knows what he wants it will be changed.

TA suggested putting Agenda Items in parenthesis (that were moved) as it will work better with audio.

MOTION: CM Korn / CM Vail to approve minutes as corrected. **VOTE:** All Ayes

F. PUBLIC COMMENTS: Comments may not address subsequent Agenda Items. Comments do not require Council response. (Speaker Card Required) **Five (5) Minute Limit per Speaker** Bud Ryan to talk about slope mower and will hold pictures for the next agenda. Marisa said this happened at last meeting. She would like it put on the agenda with the backup material so all of Council can review before the meeting.

G. ATTORNEY REPORT – nothing. Mayor asked if the 3 new members have spoken to the outside attorney. Yes.

H. BCSO REPORT – 0

I. PUBLIC HEARINGS: 0

J. PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING

The following item **PULLED** at resident's request as explained by Mayor Beatty.

2. Resident Laura Mahoney Amending Ord 2014-03 re: Burning yard waste

K. ACTION ITEMS:**ORDINANCES: First Reading – 1**

3. Land Use Amendment & Zoning Change for the West side of Highway 1 of Parcel 28-38-31-00-00750 aka 1300 Highway 1, Malabar, FL 32950; Request to change from Residential/Limited Commercial (R/LC) to Commercial General (CG): Applicant: KellWill, LLC, represented by Mr. William Carmine.

First Reading (Ord 2015-01)

Mayor Beatty read Ordinance 2015-01 by title only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RECLASSIFYING THE COMP PLAN MAP AND REZONING THE PROPERTY AS FOLLOWS: THAT SECTION 3+/- ACRE PARCEL IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 750, LYING ON THE WEST SIDE OF HIGHWAY 1, NORTH OF MALABAR ROAD, AKA 1300 HIGHWAY 1, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
Recommendation: Request Adoption of Ord 2015-01

Speaker's Cards.

P&Z Chair Pat Reilly said for the record the applicant should be allowed to speak first. Despite that the reasons it was supported by majority of P&Z Board was that the history shows it was CG; Professional Planner said it was not spot zoning; and it meets the Goals and Objectives of the Comp Plan and the Land Development Code.

Hans Kemmler, 2785 Malabar Road – He got the notice about the change of land and came to PZ and supported this. They had a blight study done. In that study there were a lot of old buildings like the one we had next door. He has no idea why they are against this project. It will make the Town of Malabar a better place and the Town will gain in taxes.

Mayor Beatty called applicant to podium.

Mr. Carmine, as he sees this everyone is familiar with his request. This is his second attempt. He is really disheartened. He sits in audience and hears the "what ifs, and maybes and what ifs". He has done everything by the book. It is located on what is the busiest intersections in Malabar. It was B2 and was Lang's auto repair. It clearly states what the zoning needs to be to operate the business he operates. He is hoping to get Council support.

Bud Ryan, 1923 Howell Lane, Member of P&Z Board. He said it was handled as Quasi-Judicial at P&Z and now is not. Attorney Bohne said it is not quasi-judicial but rather quasi legislative. Mr. Ryan is referring to the last P&Z meeting. Atty Bohne said it should not be Q-J at P&Z if it is not at Council. Setting policy is legislative and implementing policy is quasi-judicial. Mayor Beatty said he found it on Malabar Matters.

Mayor said when Council gave the directive for P&Z Board to look at changing language in Code for R/LC it is like a moratorium. Atty Bohne said nothing prohibited applicant from re-submitting. Mayor said the subject should have more research.

P&Z Chair Pat Reilly said we had a Public Hearing at P&Z.

P&Z Member Liz Ritter, suggested all take a deep breath. Obviously there are misinterpretations of the Code. Also miscommunications. She suggests Town should refund the money to applicant. The P&Z Board is trying to protect the residences in the vicinity. She thinks that they are getting cart in front of horse. She said there seems to be a big rush on this item.

CM Korn – big rush/ - this came before us over a year ago. It is time to get on with it. You can't "Tweak" 2.5 times what is allowed for maximum building coverage.

Park Board Member Bunnie Knudson, 2480 Hunter Lane, is in favor of this request. The applicants have improved the property that Malabar Mo's is operating. She is shocked with the confrontational actions. We need to act like neighbors. We all need to help this Town grow. That property has been vacant for 20 years. She is shocked with the way meeting has been handled.

CM Ball disclosed he has talked to both Milucky and Carmine. CM Vail also spoke with Carmine.

CM Acquaviva said he is willing to do a Developer Agreement. She has not heard one bad thing about the applicant or his businesses. Have Atty Bohne put one together before next meeting.

P&Z Member Ritter said her vote of non-support was because she wanted a Developer Agreement to go along with LU/ZC request. She understood from Atty Bohne that you couldn't do that.

MOTION: CM Korn / CM Vail to approve the P&Z Board's recommendation to approve 1st Reading of Ord 2015-01 adding a proviso that prior to second reading, a Development Agreement is offered by the applicant and agreed upon by Council.

CM Vail said it is productive to tell him what Council's concerns should be addressed. CM Korn asked Atty Bohne if a P&Z member, Atty Bohne, TC Chair Mayor Beatty and Mr. Carmine can have a meeting. Attorney said he is very familiar with the concerns that have been raised at the meetings.

Carmine is ready to throw in the towel on this project. Now he is looking at another expense. Atty Bohne said if he is not being represented by legal counsel then we can put it together. Atty Bohne said he was familiar with the concerns of the Board and Council as they have been discussed.

Discussion: CM Krieger spoke with Jim Milucky. He has never been against someone developing their land. CM Krieger said if you change the "errors" it would not need a LU and ZC. Atty explained that first the narrative in Comp Plan would have to be changed and the language and the Table in the Land Development Code.

CM Korn restated his reasons to support this request.

CM Ball said what they are supposed to be looking at is not 'what's good for Mr. Milucky or Mr. Carmine'. They are supposed to look at what is best for the Town. He is very much in favor of this. This is opening that up for that zoning for Hwy 1. Applicant has deleted the east side of property. If they continue to delay they owe some consideration to Carmine for all he has done to meet the Town's requests.

CM Vail said this has been going on for too long. The only resolve is to grant the rezoning. He believes it is a good project. The man has proven himself. It is a good change and we need to move forward. Atty said now would be the time to do the Development Agreement so let's do it.

Mayor said he could support the zoning change with the approval of the Development Agreement.

Atty said we have no obligation to change the RLC LU and Zoning to CG.

MOTION; CM Krieger to table. Died for lack of 2nd.

ROLL CALL VOTE: Ball, Aye; 1)Vail, Aye; Krieger, Nay; Korn, Aye; Acquaviva, Aye.

Break from 9:20 to 9:30.

RESOLUTIONS: 0

4. Approve Selection of Contractor for Repair of Bridge under Briar Creek Boulevard and Adopt Reso 43-2014

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR COUNCIL APPROVAL OF BID PROPOSAL FROM VOLUSIA GENERAL CONTRACTORS, DBA FORMASTERS AT A COST OF \$39,695.00 FOR THE FABRIFORM BREAK REPAIR & ERODED SOIL REPLACEMENT WITH FLOWABLE FILL UNDER THE WEST END OF BRIAR CREEK BOULEVARD BRIDGE ID#705500 OVER TURKEY CREEK; PROVIDING FOR FUNDING; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4

Recommendation: Request Action

Reso 43-2014 read by title only by Mayor Beatty.

MOTION: CM Acquaviva / CM Vail to approve the Reso 43-2014 approving Volusia General Contractors, DBA Formasters, to perform the Bridge on Briar Creek Blvd per bid for a cost of \$39,695.00.

Discussion: CM Korn asked if this would cure the entire problem. No this stops the erosion. The curbing has to be changed. This is the major repair. Yes.

Mayor said what it was was, on east side someone put asphalt, the guardrails to be welded. The sidewalk needs fixing. Design for the sidewalk. Why he pressure washes part of sidewalk – it was built flat so algae keeps reoccurring. This will stop the erosion at the west end of the bridge.

CM Acquaviva asked about the timetable. Contractor said he would like to start in Feb. TA will work on contract and get it out to Atty. CM Ball asked how much more needs to be spent to do the rest of the fix. TA explained how contracts were done. Morris explained unit pricing. CM Acquaviva said it is a big safety issue. CM Krieger asked what the metrics are and how long will repair last. Engineer Smith said the original fabricore should have lasted 50 years. It lasted 26 years. The new should last 50 years.

ROLL CALL VOTE: Ball, Aye; Vail, Aye; 1)Krieger, Aye; Korn, Aye; Acquaviva, Aye. Motion carried.

MISCELLANEOUS:

5. Approve Final Payment to North Florida Emulsions

Exhibit: Agenda Report No. 5

Recommendation: Request Action

MOTION: CM Acquaviva / CM Vail to approve the final payment to North Florida Emulsions.

Discussion: CM Acquaviva said she signed the check. CM Korn is happy. Old Mission is the only issue. CM Krieger said today on Glatter there were two large dump trucks. The beginning of that road was built by him. He is wondering. Could be Oakmont SD. TA will notify contractor. Also no through trucks signs.

VOTE: All Ayes.

6. FMIT Trustee Nomination

Exhibit: Agenda Report No. 6

Recommendation: Request Action

MOTION: CM Korn / CM Vail to endorse CM Krieger to submit for nomination to FMIT Board.

Discussion: **VOTE:** All Ayes.

7. Presentation Date for Transportation Planning**Exhibit:** Agenda Report No. 7**Recommendation:** Request Action

TA said they want to do a 20 min presentation and have them go over the projects. Consensus to approve March 16, 2015 for Joint Meeting with Boards for presentation by TPO.

8. Expenditure for Elevation Survey of Thomas M. Eschenberg Memorial Park**Exhibit:** Agenda Report No. 8**Recommendation:** Request Action

TA introduced. Take it from contingency. Park and Rec Board Chair Hans Kemmler said if they were to open it up and determine how to make a walking trail and where they can put a footbridge to other side of creek, they need to know what they are facing.

MOTION: CM Korn / CM Acquaviva to approve the expenditure of \$500.00 for an elevation survey of the 17 acres in Tom Eschenberg Memorial Park with funds coming from contingency.

Discussion: none. **VOTE:** All Ayes.

(No Recess – Attorney Excused)

L. PRESENTATIONS:

M. PROCLAMATIONS:

Mayor asked when newsletter going out? Before SpringFest.

N. STAFF REPORTS: ADMINISTRATOR – She told Council about the Miss Florida recently crowned was from Malabar. The Waring Lane work will start tomorrow.

CLERK: nothing

O. DISCUSSION ITEMS: 0

P. REPORTS – MAYOR AND COUNCIL MEMBERS

Dist 1: CM Ball asked if there was any update on the fire at Southern Comfort. TA said it is arson.

Dist 2: CM Vail asked if we still do a Christmas luncheon for Council and staff; TC said no and TA said there is no money in the budget for this.

Dist 3: CM Krieger got call from Dr Seybold about Devin Lane.

Dist 4: CM Korn said we have 8 vacancies on Boards. Put it up on website and in the Mailboat. TA said TC was to be editor. But Council then changed and wanted them to review it first. CM Acquaviva said she did not recall it that way; Council could submit articles and they could review it but they didn't edit or approve it. CM Korn said it used to be done like clockwork. Mayor said it should be quarterly. Marisa said she agrees with Brian – we aren't the editors.

Dist 5: CM Acquaviva has had complaints about the signs on Corey Road re: Field to Forks.

Wanted it on the record. Mayor said it is a co-op. He knows they charge for memberships. Gradall repairs was 6500.

Mayor: will skip due to the time.

Q. PUBLIC COMMENTS: General Items (Speaker Card Required)

R. ANNOUNCEMENTS:

One (1) vacancy on the Board of Adjustment

Three (3) vacancies on the Park and Recreation Board

One (1) vacancy on the Trails & Greenways Committee

Two (2) vacancies on the Planning & Zoning Board

S. ADJOURNMENT:

There being no further business to discuss, Chair asked for a motion.

MOTION: CM Ball / CM Krieger to adjourn. VOTE: All Ayes. The meeting adjourned at 10:30pm.

BY: _____
Mayor Carl Beatty, Council Chair

ATTEST BY:

Debby K. Franklin, C.M.C.
Town Clerk/Treasurer

Date Approved: _____

(seal)

DRAFT

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: January 5, 2015

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Development Agreement between the Malabar Town Council and the Applicant, KellWill, LLC. The Agreement acknowledges permitted uses as established by Table 1-3.2 Commercial Activities for the CG zoning district EXCEPT Adult activities, Bars and Lounges and Arcade Amusement Centers/Electronic Gaming Establishments and by mutual voluntary agreement will not be allowable uses for the property. The property subject to the Agreement is that portion on the west side of Highway 1 of Parcel 28-38-31-00-00750 aka 1300 Highway 1, Malabar, Florida 32950. Represented by Mr. William Carmine.

BACKGROUND/HISTORY:

The 1st Reading of Ord 2015-01 was approved by Council 4 to 1 (CM Krieger) on December 15, 2014. During discussion Council and Mayor requested that a Development Agreement be in place before the 2nd Reading on January 5, 2015. The Town Attorney was directed to craft an agreement with the applicant. Per the Town Attorney, it needed two Public Hearings and since it had to be heard at P&Z, that meeting could be one of the Public Hearings. A Special Meeting was set for Monday December 29, 2014. A legal advertisement was placed in the Florida Today newspaper two (2) times (12/18 & 12/25) as required by F.S. 163 and notices sent to the property owners within 500' radius.

ATTACHMENTS:

- Development Agreement
- Portion of DRAFT minutes from P&Z meeting of 12/29/14
- Portion of DRAFT minutes from RTCM 12/15/14

ACTION OPTIONS:

Recommend Approval of Development Agreement

Development Agreement

This Agreement made this _____ day of _____ 20____ (regardless of when signed) by and between the TOWN OF MALABAR, a Florida Municipal Corporation located at 2725 Malabar Road, Florida 32950, (hereinafter the Town) and KELLWILL, LLC, a Florida Limited Liability Company located at 5110 S. U.S. Highway 1, Grant-Valkaria, Florida 32949 (hereinafter Owner).

WHEREAS, the Owner desires to develop certain property in the Town more particularly described in Exhibit A (the Property); and,

WHEREAS, Chapter 163 of the Florida Statutes, establishes the Florida Local Government Development Agreement Act, which authorizes local governments to enter into development agreements with any person having a legal or equitable interest in real property located within its jurisdiction; however, this Agreement is entered into in accordance with the City's Home Rule Power as set forth in Chapter 166, Florida Statutes, and not pursuant to the optional Florida Government Development Agreement Act with certain provisions of chapter 163 being incorporated herein; and,

WHEREAS, the Owner is desirous of voluntarily entering into this Agreement; and,

WHEREAS, the Town is desirous of entering into this Agreement because it will promote the public health, safety and welfare of the community; and,

WHEREAS, the Owner has applied to the Town for a Comprehensive Land Use Plan Amendment and Rezoning of the Property and has agreed to use conditions applicable to the Property; and,

WHEREAS, in addition to all applicable requirements of the Town's Code of Ordinances, the Owner agrees to conform the development of the property with the provisions of this agreement; and,

WHEREAS, the Town and Owner acknowledge that this Agreement is binding upon the Town and Owner, and their respective successors and assigns for the term of this Agreement.

NOW THEREFORE in consideration of \$10.00 dollars and other good valuable consideration, the sufficiency and receipt of which are acknowledged the parties agree as follows;

1. **RECITALS.** The above recitals are true and correct and are deemed integral part of this Agreement.

2. **PROVISIONS OF F.S. 163.3227 ADOPTED.** The following provisions of F.S.163.3227 are adopted by the parties:

(a) A legal description of the land subject to the agreement, and the names of its legal and equitable owners: Attached as Exhibit A;

(b) The duration of the agreement: 30 years unless extended by mutual consent of the Town and Owner (FS 163.3229);

(c) The development uses permitted on the land are those as established by Table 1-3.2 COMMERCIAL ACTIVITIES for the CG zoning district, except Adult Activities, Bars and Lounges and Arcade Amusement Centers/Electronic Gaming Establishments by mutual voluntary agreement will not be an allowable use for the Property;

(d) Public facilities that will service the development include Town Fire Department, Brevard County Sheriff's Office, solid waste disposal as provided by the Town Solid Waste Franchise, Palm Bay Hospital and utilities;

(e) There is no reservation or dedication of land for public purposes;

(f) Local development permits approved or needed to be approved for the development of the land are as required by Town code and outside agencies;

(g) The development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

(h) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; See (c) above; and

(i) The failure of this agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

3. **BINDING EFFECT.** This Agreement and the provisions hereof shall run with and bind the property in Exhibit "A" or any portion thereof and the heirs, successors and assigns of each party.

4. **NOTICES.** Any notices to the Owner or the Town under the provisions of this Agreement shall be deemed to be properly sent when personally delivered or mailed, postage pre-paid, to the address of the said party above.

5. **ENFORCEMENT.** The enforcement of this Agreement may be by the Town and may be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any provisions hereof, either to restrain a violation or recover damages, and failure to enforce any covenant or provision herein contained shall in no event be deemed a waiver of the right to do so thereafter.

6. **ATTORNEY FEES.** In the event that any party hereto brings legal action to enforce the provisions of this Agreement the prevailing party shall be entitled to an award of reasonable attorneys fees to be fixed by the court together with costs of the action and the right to attorneys fees and costs shall also extend to any appellate proceedings.

7. **RECORDATION.** This Agreement shall become effective upon its recordation in the public records of Brevard County, Florida and any amendment thereto shall become effective upon recordation in the public records of Brevard County, Florida.

8. **AMENDMENTS.** This Agreement shall not be amended, changed or added to unless an instrument reflecting such amendments changes or additions is signed by all parties to this Agreement.

IN WITNESS WHEREOF the parties have caused their respective duly authorized representatives to execute this instrument and to affix their corporate seals on the dates shown.

TOWN OF MALABAR

ATTEST:

Debby K. Franklin, CMC
Town Clerk/Treasurer

By: _____
Mayor Carl A. Beatty
Council Chair

(SEAL)

IN THE PRESENCE OF:

[Handwritten signatures]

Denni M. Mercur

KELLWILL, LLC:

By: *[Handwritten signature]*
William J. Carmine, it's Manager

State of Florida
County of Brevard

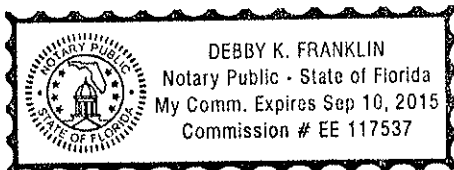
On this 17 day of Dec, 2014 before me appeared William Carmine to me personally known who being by me duly sworn did say that he executed the within instrument and did acknowledge the same to be the free act and deed of KELLWILL, LLC.

[Handwritten signature]

Notary Public

My commission expires:

Notary Stamp



TOWN OF MALABAR

MEMORANDUM

Date: December 23, 2014 2014-TC/T-046
To: Denine Sherear and Planning and Zoning Board
From: Debby Franklin, Town Clerk / Treasurer
Ref: Council Request

At the Town Council meeting of 12/15/2014 Council passed Ordinance 2015-01 on its first reading. They attached a proviso that before it come back to them for the advertised Public Hearing on January 5, 2015 that a Development Agreement be drafted.

Town Attorney Karl Bohne drafted one the following day and sent it to the applicant. With the applicant's approval we called Attorney Bohne and asked how to proceed. He advised if P&Z Board had a publicly noticed special meeting on a date prior to January 5, Council could go forward with Public Hearings on both the Development Agreement and approval of Ordinance 2015-01.

The Development Agreement must be reviewed by P&Z Board before the Council can act on it. This was legally advertised in the Florida Today two times (December 18 and 25). A separate notice was sent to all the property owners within a 500 foot radius. This is in addition to the notice sent to them regarding the Land Use and Zoning change request. The notice was also placed on the Town's website.

The Mayor said he could support the applicant's request for a land use map and zoning map change if there is a Development Agreement in place before the Ordinance 2015-01 is voted on.

The minutes are not ready at this time but here is the motion and vote.

MOTION: CM Korn / CM Vail to approve the P&Z Board's recommendation to approve the first reading of Ordinance 2015-01 changing the land use and zoning per applicant's request with the proviso that prior to the second reading a Development Agreement is offered by the applicant and approved by Council.

Discussion: Attorney Bohne said he knew what the P&Z Board's concerns were and also Council's and could draft one up easily. Council consensus to do that.

ROLL CALL VOTE: CM Vail, Aye; CM Krieger, Nay; CM Korn, Aye; CM Acquaviva, Aye; CM Ball, Aye. Motion carried 4 to 1.



Sent Via Email:kcicala@floridatoday.com

December 16, 2014

Kathy Cicala, Phone: 321-242-3832; FAX: 321-255-0350
Florida Today, Legal Advertising

Please place the following legal ad two (2) times on **December 18, and 25, 2014**.
Please put the heading in **BOLD** font. Please send proof to:

Thank you,

Debby Franklin

Debby K. Franklin
Town Clerk

TOWN OF MALABAR PUBLIC HEARING NOTICE

The Town of Malabar's Planning and Zoning Advisory Board will hold a Special Meeting for a Public Hearing on December 29, 2014 at 7:30PM in the Council chambers, 2725 Malabar Road to consider a Development Agreement between the Town and KellWill, LLC. Per F.S. 163 the Town is authorized to enter into a Development Agreement that will specifically detail that the property located on the west side of Highway 1 at 1300 Highway 1, aka Township 28, Range 38, Section 31, Parcel 750 will NOT be used for Adult Activities, Bars and Lounges and Arcade Amusement Centers/Electronic Gaming Establishments by mutual Agreement. KellWill, LLC. Intends to construct and operate a 10,000sf retail sales and service business that complies with all Code requirements, at this location, which is a permitted use in Commercial General. It will not exceed 35' in height and will comply with the Malabar Vernacular style detailed in the Town Code. The statute requires two (2) public hearings. There will be a second Public Hearing by Town Council on January 5, 2015, at 7:30PM in the Council chambers, 2725 Malabar Road, Malabar, FL so they can consider the Planning and Zoning Advisory Board's recommendation and approve or deny the Agreement.

A copy of the proposed Agreement is available for inspection by the public at the Town Clerk's Office between the hours of 8:30AM and 4:30PM weekdays. Interested persons are encouraged to appear at these hearings and provide comments regarding the proposed Agreement. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764.

Debby K. Franklin, Town Clerk

If you received this notice then you are listed as a property owner, as shown in the records of Brevard County Property Appraiser's office, within 500' of the property identified in the agreement. This Notice is provided as required by F.S. 163.3225 and Malabar Land Development Code, Article XII, Section 1-12.2.E.8.

carmine500
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CARMINE, Willie

BILLIE, GEORGE SR TRUST
912 DARWIN LN NE
PALM BAY FL 32905-0000

BROWN, LOUISE E TRUSTEE
P O BOX 500151
MALABAR FL 32950-0151

CARMICHAEL, C RANDALL
609 ALDEN PLACE
MELBOURNE BCH FL 32951-0000

CARMINE LLC
P O BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY H/W
P O BOX 500833
MALABAR FL 32950-0833

CURRI PROPERTIES LLC
2893 N HARBOR CITY BLVD
MELBOURNE FL 32935-6224

DEBELLAS, JOSEPH TRUSTEE
MARKS, ROBERT D
1100 BROOK ST NE
PALM BAY FL 32905-0000

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-0000

EASTON, RICHARD
EASTON, MARY K H/W
8514 DAMASCUS DRIVE
PALM BEACH GARDENS FL 33418-0000

EDGER PROPERTIES LLC
1672 WEST HIBISCUS BLVD
MELBOURNE FL 32901-0000

FDG RAIL HOLDINGS 14 LLC
4601 TOUCHTON RD
JACKSONVILLE FL 32246-0000

FLORIDA EAST COAST RAILWAY LLC
7411 FULLERTON ST SUITE 300
JACKSONVILLE FL 32256-3629

FRANCO, HECTOR I
WIEHL, SAMANTHA SUSAN
1230 US HIGHWAY 1
MALABAR FL 32950-0000

KEMMLER, HANSEL C
KEMMLER, BARBARA B H/W
2785 MALABAR RD
MALABAR FL 32950-0000

KEMPFER'S FEED & SEED INC
2728 MALABAR ROAD
MALABAR FL 32950-0000

KRIEGER, DONALD E
2345 LINEBERRY LANE
MALABAR FL 32950-0000

LINNELL, MICHAEL L
DOUGLAS, CONNIE S H/W
2275 GRANT RD
GRANT FL 32949-8104

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-0000

MALABAR, TOWN OF
1803 AIRPORT BLVD
MELBOURNE FL 32901-0000

MARSHALL, JIMMIE A TRUSTEE
P O BOX 500176
MALABAR FL 32950-0176

MARSHALL, LORRAINE LIFE ESTATE
P O BOX 500031
MALABAR FL 32950-0031

carmine500
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MASSINGILL, DANNY G
1410 HIGHWAY 1
MALABAR FL 32950-0000

MILUCKY, JAMES J
1280 HIGHWAY 1
MALABAR FL 32950-0000

MILUCKY, JAMES J
SAYLORS, LEEANNE J H/W
1280 HIGHWAY 1
MALABAR FL 32950-0000

NOLA PRIME PROPERTIES LLC
1928 S PATRICK DRIVE
INDIAN HBR BCH FL 32937-0000

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-0000

QUINBY SNYDER LLC
608 B N US HIGHWAY 1
FORT PIERCE FL 34950-0000

RAY, DEANNE HUGGINS
P O BOX 500175
MALABAR FL 32950-0175

WIEHL, SAMANTHA S
1230 US HIGHWAY 1
MALABAR FL 32950-0000

WOOD, MELVIN C
WOOD, REBECCA
726 ROYAL PALM PL
VERO BEACH FL 32960-5140

**PLANNING AND ZONING ADVISORY BOARD
SPECIAL MEETING
DECEMBER 29, 2014 7:30 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led by Chair Pat Reilly.

B. ROLL CALL:

CHAIR:	PAT REILLY
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	GEORGE FOSTER
	WAYNE ABARE
ALTERNATE:	VACANT
ALTERNATE:	VACANT
TOWN ATTORNEY:	KARL BOHNE
BOARD SECRETARY:	DENINE SHEREAR excused
RECORDING SECRETARY	DEBBY FRANKLIN

C. PUBLIC HEARING: 1

Chair stated PH opened. He asked Board if there were any members who had discussions with anyone involved with this or had visited the site. If so then disclosures needed to be made to state whom they talked with and when and when they visited site. Disclosures need to state the person they spoke with, subject of discussion, and date and time of such conversation or visit. Chair then asked Board for Disclosures. Chair noted none were made.

Applicant Mr. Carmine, owner of subject property, objected. He came to podium and stated that he wanted it on the record that several residents called him to state they were contacted by Mr. Ryan. The residents told him (Carmine) that Mr. Ryan had contacted them to ask them to appear and speak against this project. Mr. Carmine said he has evidence.

Attorney said if there was a conversation or visit it should have been disclosed. Attorney Bohne asked if Mr. Ryan had asked those contacted to take a position.

Mr. Ryan said because of the extreme rush of this meeting tonight, he wanted to make sure that all surrounding property owners were aware of the meeting tonight. He only provided information about the request and did not ask them to support any position. He was well aware of his position and did not tell anyone what to support or oppose. He just wanted to make sure the surrounding property owners knew about meeting.

Attorney asked Mr. Ryan if he asked anyone to come in and take a position against this. Mr. Ryan said no he did not. Attorney addressed Mr. Carmine and said if he has evidence to the contrary he has avenues he can pursue.

Chair then read the subject of the Public Hearing:

1. Development Agreement between Malabar Town Council and KellWill, LLC. The Agreement restricts what will be allowed to be developed on the 3(+/-) acre site on the WEST side of Highway 1 known as Parcel Township 28; Range 38; Section 31; Lot 750, aka 1300 Highway 1, Malabar, Florida 32950. Applicant requests a land use and zoning change from Residential/Limited

Commercial (R/LC) to Commercial General (CG). The agreement is proposed as a proviso to be approved before the LU and ZC are voted on by Council as a protection to Town against concerns voiced by some that once it was changed to CG then Adult entertainment, etc. could be developed. Applicant was willing to agree to such deed restrictions prior to the vote by Council on Ord 2015-01. Chair explained the background of the agreement then asked applicant to podium.

Applicant William Carmine is here again and hopes they have had a chance to read the agreement. He and Mr. Bohne went through the list of what could be done in CG that some people were concerned about. They listed those uses as restricted uses on his parcel located on the west side on Highway 1. Hopes this gives assurance so he can proceed.

Chair asked if anyone from Public wished to speak:

Samantha Wiehl, 1230 Highway 1. She has no objections to this project. Mr. Carmine is a local businessman with two successful businesses. This is US 1 and it is a commercial corridor. Her house is also on US1 and also in RLC. She doesn't have any plan to change to CG but has no problem with it. Mr. Carmine is an upstanding citizen; he is not desecrating the land or the river. The fact that he has a successful business and will increase the tax base would be a plus to the Town. The agreement was signed ahead of time and is in good faith and will be attached to the deed. That shows a lot of good faith. The fact that he is willing to restrict what would be permitted speaks for itself.

Chair asked Attorney how Development Agreement was developed. Attorney Bohne said applicant is asking for LU and ZC and the two of them went down the permitted list of uses in CG that were mentioned as concerns and they made them exclusions that would not be allowed on this particular parcel. The east side is Coastal Preservation (CP) and is not part of this application. It is essentially a deed restriction. Statutorily, it expires in 30 years but can be renewed upon mutual agreement. The Dev Agree would be recorded in the land records of Brevard County Clerk of Court and will run with the land. Attorney Bohne said the site plan will be developed and reviewed if the LU and ZC is approved.

PZ Member Ritter said in the "Whereas" it doesn't say why they are doing this and it should include the LU and ZC specifically RLC to CG because no one would bother to ask for the minutes and rest of history behind the Development Agreement. (Note: Staff routinely files such agreements, LU and ZC with the property file so that we can provide complete information to persons interested in purchasing land in Malabar.)

PZ Member Ritter said Development Agreement is vague. She thought it should have more "whereas" to give them more of the "why" it was done. Seems this is being rushed through instead of letting the P&Z Board correct the misinterpretations in the Code. They allowed the school house to change to R/LC. Chair recognized Franklin. Franklin said that the school house was in existence before the Town. When we did become a Town, the regulations were for Floor Area Ratio meaning total sf of all floors. That was in place when Council changed the zoning to LC. The LC has the same 4,000sf max as R/LC. The only change was to allow the new owners to reside there. It is 1200sf larger than allowed not 6,000.

PZ Member Ritter said what about Serene Harbor they allowed that to change to R/LC and it was approved. Franklin said that the home was permitted by the County in the 1980's and the zoning was OI then so it was non-conforming. All we did is change one parcel to allow the facility to accept a grant from the Governor to expand. (Note: Since 2004, P&Z Board and Council have supported changing the entire corridor from OI to R/LC.)

PZ Member Ryan said there is a 30-year term and it can be terminated upon mutual agreement. Attorney said it can be continued or not at that time; or it can be modified, expanded or terminated with mutual agreement.

PZ Member Ritter said this should not be done until they have a site plan. P&Z recommended that the applicant wanting rezoning on Babcock Street should be rejected because the applicant did not provide a site plan.

Chair recognized Franklin who stated for clarification that the P&Z Board was wrong in that instance. A Land Use and/or Zoning Change is a standalone request. The Site Plan review comes later and is reviewed for its own merits.

Attorney said that an application for a site plan for a 10,000sf building for retail sales and services on that site would not have been accepted by Town staff as it did not comply with the land development code.

Chair - PH closed

MOTION: PZ Member Abare / PZ Member Foster to recommend Council approval of the Development Agreement as proposed. Discussion:

PZ Member Foster said tonight's meeting is dedicated to the Development Agreement. He commends Mr. Carmine and thinks this is an additional burden whether put on by staff, PZ or Council. He is aware of all the times they have come before and one pothole after another being thrown in front of him. As long as it is as stated. Community has given testimony in support of this. He made a statement at an earlier meeting. Internet check shows no negative comments re: either of his businesses or him personally. He wishes him the best and supports his request.

PZ Member Abare, Mr. Carmine, the people objected to what it *might become* not what Carmine proposed. From what he remembers, it was more than just the size in RLC, it was the retail sales and service.

PZ Member Ryan has two problems. The Dev Agreement does not address the property on east side of Highway. The other is that the way it is written it can be misinterpreted. Attorney answered saying it is written exactly the way it is written in Table.

PZ Member Abare, said the paragraph on the first page says it only addresses the west side. Atty said when they do the legal it will only include the property on the west. Atty said this is a restriction on the use of the land. PZ Member asked regardless of which way he goes. Atty said it would be a Small Scale Amendment (SSA). The other would require a Large Scale Amendment.

PZ Member Ritter has no problem with the proposed use, only the zoning.

PZ Member Abare asked why Ritter thinks it is wrong. He said we have already had one meeting on possible changes to R/LC. He said the P&Z tries to come up with what they think the town would like. The next P&Z Board could have completely different ideas. PZ Member Ritter said there are items that aren't interpreted right. We drop lines... PZ Member Abare said back off the minutia; we are talking about one property. She said she is entitled to her comments. He said he is entitled to respond. Chair said that the agreement addressed all of her concerns.

PZ Member Ryan said he is not against the project but thinks the man should have asked ahead of time. Chair recognized Franklin. Franklin said it was in each of their packets three times that

Carmine came to P&Z first and introduced his project and said he had outgrown his current location and wanted to relocate to Malabar and needed to build a 10,000sf building. Staff told him the only zoning that would allow retail sales and services at that size is CG. P&Z unanimously supported his project. It is all in the minutes that were part of the packages prepared for Board.

Atty addressed what Ryan said. What normally happens in these cases. His experience is you make the contract contingent on the approval of the rezoning. In this case Carmine was led to believe that it would be supported without objection. Atty said Council supported this and only restricts the use – a deed restrictions. Things can be changed.

PZ Member Foster, from the very beginning, Carmine has come to staff, clearly, honestly and accurately, and followed the steps to the letter. Everyone in the process was in agreement. The punch line was that everyone supported his proposed use. Every piece of the puzzle. He has tied himself into a deed restriction. You asked him to do the agreement. Our bureaucracy keeps throwing him obstacles. We give him the path from start to finish and then throw in a twist and tell him he should have known. He told Board to be adults here and help this man move forward. He (Foster) is also a businessman and he would not have the patience that Carmine has displayed throughout this. Audience applauds.

Bud said the decision can't be made because of potential tax revenue, or him being a good business man. Bud said you can't let emotions get involved. PZ Member Ryan said let him build in RLC...or change to CL as a conditional use; or change to CG with no agreement. PZ Member Ritter said the 4th option is or change to CG with agreement.

PZ Member Abare is looking at RLC deciding what it should be changed. Modifying RLC it is not a good fit. If another business man wants to do something then it will looked at on its own merit.

Chair said no residence is allowed in CG. Franklin said they can convert their home into a commercial structure to meet code but the key is they can no longer live there.

Atty said we are getting off track. Has the LU and ZC been before P&Z. Yes. Atty said it is out of their hands for that. Atty said the P&Z Board is appreciated by Council. Discussing the zoning and LU is mute. PZ Member called for the question.

ROLL VOTE: Abare, Aye; Ryan, Nay; Foster, Aye; Ritter, Nay; Reilly, Aye. Motion passed 3 to 2.

D. ADJOURN

There being no further business to discuss, **MOTION: PZ Member Abare / PZ Member Ritter to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 8:29 P.M.

BY:

Pat Reilly, Chair

Transcribed by:

Debby Franklin, C.M.C.
Town Clerk/Treasurer

Date Approved:

3. Land Use Amendment & Zoning Change for the West side of Highway 1 of Parcel 28-38-31-00-00750 aka 1300 Highway 1, Malabar, FL 32950; Request to change from Residential/Limited Commercial (R/LC) to Commercial General (CG): Applicant: KellWill, LLC, represented by Mr. William Carmine.

First Reading (Ord 2015-01)

Mayor Beatty read Ordinance 2015-01 by title only.

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RECLASSIFYING THE COMP PLAN MAP AND REZONING THE PROPERTY AS FOLLOWS: THAT SECTION 3+/- ACRE PARCEL IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 750, LYING ON THE WEST SIDE OF HIGHWAY 1, NORTH OF MALABAR ROAD, AKA 1300 HIGHWAY 1, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
Recommendation: Request Adoption of Ord 2015-01

Speaker's Cards.

P&Z Chair Pat Reilly said for the record the applicant should be allowed to speak first. Despite that the reasons it was supported by majority of P&Z Board was that the history shows it was CG; Professional Planner said it was not spot zoning; and it meets the Goals and Objectives of the Comp Plan and the Land Development Code.

Hans Kemmler, 2785 Malabar Road – He got the notice about the change of land and came to PZ and supported this. They had a blight study done. In that study there were a lot of old buildings like the one we had next door. He has no idea why they are against this project. It will make the Town of Malabar a better place and the Town will gain in taxes.

Mayor Beatty called applicant to podium.

Mr. Carmine, as he sees this everyone is familiar with his request. This is his second attempt. He is really disheartened. He sits in audience and hears the "what ifs, and maybes and what ifs". He has done everything by the book. It is located on what is the busiest intersections in Malabar. It was B2 and was Lang's auto repair. It clearly states what the zoning needs to be to operate the business he operates. He is hoping to get Council support.

Bud Ryan, 1923 Howell Lane, Member of P&Z Board. He said it was handled as Quasi-Judicial at P&Z and now is not. Attorney Bohne said it is not quasi-judicial but rather quasi legislative. Mr. Ryan is referring to the last P&Z meeting. Atty Bohne said it should not be Q-J at P&Z if it is not at Council. Setting policy is legislative and implementing policy is quasi-judicial. Mayor Beatty said he found it on Malabar Matters.

Mayor said when Council gave the directive for P&Z Board to look at changing language in Code for R/LC it is like a moratorium. Atty Bohne said nothing prohibited applicant from re-submitting. Mayor said the subject should have more research.

P&Z Chair Pat Reilly said we had a Public Hearing at P&Z.

P&Z Member Liz Ritter, suggested all take a deep breath. Obviously there are misinterpretations of the Code. Also miscommunications. She suggests Town should refund the money to applicant. The P&Z Board is trying to protect the residences in the vicinity. She thinks that they are getting cart in front of horse. She said there seems to be a big rush on this item.

CM Korn – big rush/ - this came before us over a year ago. It is time to get on with it. You can't "Tweak" 2.5 times what is allowed for maximum building coverage.

Park Board Member Bunnie Knudson, 2480 Hunter Lane, is in favor of this request. The applicants have improved the property that Malabar Mo's is operating. She is shocked with the confrontational actions. We

need to act like neighbors. We all need to help this Town grow. That property has been vacant for 20 years. She is shocked with the way meeting has been handled.

CM Ball disclosed he has talked to both Milucky and Carmine. CM Vail also spoke with Carmine.

CM Acquaviva said he is willing to do a Developer Agreement. She has not heard one bad thing about the applicant or his businesses. Have Atty Bohne put one together before next meeting.

P&Z Member Ritter said her vote of non-support was because she wanted a Developer Agreement to go along with LU/ZC request. She understood from Atty Bohne that you couldn't do that.

MOTION: CM Korn / CM Vail to approve the P&Z Board's recommendation to approve 1st Reading of Ord 2015-01 adding a proviso that prior to second reading, a Development Agreement is offered by the applicant and agreed upon by Council.

CM Vail said it is productive to tell him what Council's concerns should be addressed. CM Korn asked Atty Bohne if a P&Z member, Atty Bohne, TC Chair Mayor Beatty and Mr. Carmine can have a meeting. Attorney said he is very familiar with the concerns that have been raised at the meetings.

Carmine is ready to throw in the towel on this project. Now he is looking at another expense. Atty Bohne said if he is not being represented by legal counsel then we can put it together. Atty Bohne said he was familiar with the concerns of the Board and Council as they have been discussed.

Discussion: CM Krieger spoke with Jim Milucky. He has never been against someone developing their land. CM Krieger said if you change the "errors" it would not need a LU and ZC. Atty explained that first the narrative in Comp Plan would have to be changed and the language and the Table in the Land Development Code.

CM Korn restated his reasons to support this request.

CM Ball said what they are supposed to be looking at is not 'what's good for Mr. Milucky or Mr. Carmine'. They are supposed to look at what is best for the Town. He is very much in favor of this. This is opening that up for that zoning for Hwy 1. Applicant has deleted the east side of property. If they continue to delay they owe some consideration to Carmine for all he has done to meet the Town's requests.

CM Vail said this has been going on for too long. The only resolve is to grant the rezoning. He believes it is a good project. The man has proven himself. It is a good change and we need to move forward. Atty said now would be the time to do the Development Agreement so let's do it.

Mayor said he could support the zoning change with the approval of the Development Agreement.

Atty said we have no obligation to change the RLC LU and Zoning to CG.

MOTION; CM Krieger to table. Died for lack of 2nd.

ROLL CALL VOTE: Ball, Aye; 1)Vail, Aye; Krieger, Nay; Korn, Aye; Acquaviva, Aye.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: January 5, 2015

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Public Hearing on Ord 2015-01.

A Land Use Map Amendment & Zoning Change for the portion of Parcel 28-38-31-00-00750 aka 1300 Highway 1, Malabar, Florida 32950 located on the WEST side of Highway 1, from Residential/Limited Commercial (R/LC) to Commercial General (CG); Applicant KellWill, LLC, Represented by Mr. William Carmine.

BACKGROUND/HISTORY:

The 1st Reading of Ord 2015-01 was approved by Council 4 to 1 (CM Krieger) on December 15, 2014. During discussion Council and Mayor requested that the Development Agreement be in place before the 2nd Reading on January 5, 2015. The Town Attorney was directed to craft an agreement with the applicant. Per the Town Attorney, it needed two Public Hearings and since it had to be heard at P&Z, that meeting could be one of the Public Hearings. A Special Meeting for P&Z was set for Monday December 29, 2014 and their packages went out on 12/23/14. A legal advertisement was placed in the Florida Today newspaper two (2) times (12/18 & 12/25) as required by F.S. 163.3225. Separate Notices were also sent out to all the property owners within 500' of subject property, for the Development Agreement and then the Ordinance 2015-01.

ATTACHMENTS:

- Proposed Ordinance 2015-01 providing for those changes
- Map Location of all properties (radius packet) within 500'
- Advertising "Public Hearing" Florida Today Newspaper
- Portion of DRAFT minutes from P&Z Special Board meeting of 12/29/14

ACTION OPTIONS:

Recommend Adoption of Ord 2015-01 by Council.

ORDINANCE 2015-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE COMPREHENSIVE PLAN MAP AND ZONING MAP FOR THE THREE (3+/-) ACRES OF LOT 750 LOCATED ON THE WEST SIDE OF HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, NORTH OF MALABAR ROAD, AKA 1300 HIGHWAY 1, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR A DEVELOPMENT AGREEMENT; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Town and the property owner have agreed to a Development Agreement that restricts the uses allowed on the subject property described below as a condition of the approval of the land use and zoning change. Once the Developer's Agreement is signed the property described below is hereby re-designated on the land use map and rezoned on the zoning map from *Residential/Limited Commercial (R/LC)* to *Commercial General (CG)* for the property described as follows:

That portion of Lot 750 lying on the west side of Highway 1 in Township 28, Range 38, Section 31, Malabar, Florida. This is the same property as described in that certain deed recorded in ORB 7137, Page 2345 of the Public Records of Brevard County Florida, less that portion lying east of US Highway 1 which shall not be a part of the Development Agreement and the Comprehensive Land Use change and Rezoning.

Section 2. The Development Agreement shall be recorded in the land records of Brevard County and a copy of the recorded document shall be attached to this ordinance along with the minutes from the council meeting describing the reasons for the restrictions to protect the public.

Section 3. The Town Clerk is hereby authorized and directed to cause the revisions to the Land Use Map and Official Town Zoning Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

Section 4. The effective date of this ordinance shall be six (6) days following adoption by Council.

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

- Council Member Grant Ball _____
- Council Member Brian Vail _____
- Council Member Don Krieger _____
- Council Member Dick Korn _____
- Council Member Marisa Acquaviva _____

This ordinance will become effective and considered adopted by the Town Council, Town of Malabar, Brevard County, Florida six days from the date of this meeting: _____, 2015.

(seal)

BY:
TOWN OF MALABAR

Mayor Carl Beatty, Council Chair

ATTEST:

By: _____
Debby K. Franklin, C.M.C.
Town Clerk/Treasurer

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Legally Advertised to
Comply w/ FS 125 and 166
Hearing at P&Z: 12/10/2014
Ord First Reading: 12/15/2014
second Reading: 1/5/2015

LU + ZC



Sent Via Email:kcicala@floridatoday.com

November 24, 2014

Kathy Cicala, Phone: 321-242-3832; FAX: 321-255-0350
Florida Today, Legal Advertising

Please place the following legal ad two (2) times on **November 27, 2014 and December 18, 2014**. Please put the heading meeting dates in **BOLD** font. These ads DO NOT qualify for a discount. Please send proof to: Townclerk@townofMalabar.org

Thank you,
Debby Franklin
Debby K. Franklin, Town Clerk

**TOWN OF MALABAR
NOTICE OF PUBLIC HEARINGS**

The Town of Malabar Planning and Zoning Board will hold a Public Hearing on **December 10, 2014** at 7:30PM to consider a Land Use and Zoning Change request by KellWill, LLC, for a 3 acre+/- site on the west side of Highway 1 approximately 200 feet north of Malabar Road. Malabar Town Council will consider the request and recommendation from Planning and Zoning at their meeting on **December 15, 2014** and will hold a Public Hearing on **January 5, 2015**. These meetings will be held at the Town Hall, 2725 Malabar Road, Malabar, Florida, to hear interested persons regarding a Land Use and Zoning Change requested by applicant KellWill, LLC.

Ordinance 2015-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE COMP PLAN MAP AND ZONING MAP FOR THE THREE (3+/-) ACRES OF LOT 750 LOCATED ON THE WEST SIDE OF HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, NORTH OF MALABAR ROAD, AKA 1300 HIGHWAY 1, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

A copy of the request and ordinance is available in the Clerk's Office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may appear and be heard at this meeting.

Debby K. Franklin, Town Clerk

If you received this notice then you are listed as a property owner, as shown in the records of Brevard County Property Appraiser's office, within 500' of the property involved in the application. This Notice is provided as required by Malabar Land Development Code, Article XII, Section 1-12.2.E.8.

carmine500
Page1

CARMINE, Willie

BILLIE, GEORGE SR TRUST
912 DARWIN LN NE
PALM BAY FL 32905-0000

BROWN, LOUISE E TRUSTEE
P O BOX 500151
MALABAR FL 32950-0151

CARMICHAEL, C RANDALL
609 ALDEN PLACE
MELBOURNE BCH FL 32951-0000

CARMINE LLC
P O BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY H/W
P O BOX 500833
MALABAR FL 32950-0833

CURRI PROPERTIES LLC
2893 N HARBOR CITY BLVD
MELBOURNE FL 32935-6224

DEBELLAS, JOSEPH TRUSTEE
MARKS, ROBERT D
1100 BROOK ST NE
PALM BAY FL 32905-0000

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-0000

EASTON, RICHARD
EASTON, MARY K H/W
8514 DAMASCUS DRIVE
PALM BEACH GARDENS FL 33418-0000

EDGER PROPERTIES LLC
1672 WEST HIBISCUS BLVD
MELBOURNE FL 32901-0000

FDG RAIL HOLDINGS 14 LLC
4601 TOUCHTON RD
JACKSONVILLE FL 32246-0000

FLORIDA EAST COAST RAILWAY LLC
7411 FULLERTON ST SUITE 300
JACKSONVILLE FL 32256-3629

FRANCO, HECTOR I
WIEHL, SAMANTHA SUSAN
1230 US HIGHWAY 1
MALABAR FL 32950-0000

KEMMLER, HANSEL C
KEMMLER, BARBARA B H/W
2785 MALABAR RD
MALABAR FL 32950-0000

KEMPFER'S FEED & SEED INC
2728 MALABAR ROAD
MALABAR FL 32950-0000

KRIEGER, DONALD E
2345 LINEBERRY LANE
MALABAR FL 32950-0000

LINNELL, MICHAEL L
DOUGLAS, CONNIE S H/W
2275 GRANT RD
GRANT FL 32949-8104

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-0000

MALABAR, TOWN OF
1803 AIRPORT BLVD
MELBOURNE FL 32901-0000

MARSHALL, JIMMIE A TRUSTEE
P O BOX 500176
MALABAR FL 32950-0176

MARSHALL, LORRAINE LIFE ESTATE
P O BOX 500031
MALABAR FL 32950-0031

carmine500
Page2

MASSINGILL, DANNY G
1410 HIGHWAY 1
MALABAR FL 32950-0000

MILUCKY, JAMES J
1280 HIGHWAY 1
MALABAR FL 32950-0000

MILUCKY, JAMES J
SAYLORS, LEEANNE J H/W
1280 HIGHWAY 1
MALABAR FL 32950-0000

NOLA PRIME PROPERTIES LLC
1928 S PATRICK DRIVE
INDIAN HBR BCH FL 32937-0000

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-0000

QUINBY SNYDER LLC
608 B N US HIGHWAY 1
FORT PIERCE FL 34950-0000

RAY, DEANNE HUGGINS
P O BOX 500175
MALABAR FL 32950-0175

WIEHL, SAMANTHA S
1230 US HIGHWAY 1
MALABAR FL 32950-0000

WOOD, MELVIN C
WOOD, REBECCA
726 ROYAL PALM PL
VERO BEACH FL 32960-5140

2. *Establish Fees and Appropriate Funds.* The Town Council may by resolution establish fees, charges, and expenses imposed by these land development code regulations.
3. *Consider and Act on Development Issues as Required.* The Town Council shall consider and act on development and growth management issues pursuant to this Code, Chapter 163 F.S., and other applicable laws and regulations.
4. *Enforce Land Development Code.* The Town Council shall enforce the land development code, including carrying out appropriate administrative and legal actions.
5. *Appoint and Confirm Members of Requisite Boards and Commissions.* The Town Council shall appoint and confirm members of the Town Planning and Zoning Board, the Board of Adjustment, and any other Board, Commission or Committee as may be deemed necessary by the Town Council or applicable laws.

Cross reference—Town council, § 2-26 et seq.

Section 1-12.5. Procedures for adopting, supplementing or amending the land development code.

A. *Initiating Amendments to the Land Development Code.* Amendments to the land development code may be initiated by:

1. *Town Council.* The Town Council may initiate an amendment to the land development code by approving a written statement expressing its intent to amend this code and shall submit such written statement and any relevant supportive material to the Town Planning and Zoning Board for review and action pursuant to Section 1-12.6(C) [1-12.5(C)] of this Chapter [Code].
2. *Planning and Zoning Board.* The Town Planning and Zoning Board may initiate a land development code amendment.
3. *Property Owner(s).* An amendment to the land development code may be initiated by a petition signed by a property owner, or the property owner's authorized agent. Such petition shall be submitted to the office of the Town Clerk together with a fee as shall be determined by resolution of the Town Council. As many lots or parcels of property as the applicant may desire may be included in any single petition if they constitute one contiguous. The petition shall be submitted on an application form prescribed by the Town Clerk. The application shall include, but not be limited to, the following:
 - (a) *Property Description.* The application shall describe by legal description and by street address, where possible, the property to be affected by the proposed change.
 - (b) *Current and Proposed Comprehensive Plan Land Use Map Designation.* The current and proposed Comprehensive Plan Land Use Map designation for the subject property shall be identified.
 - (c) *Current and Proposed Zoning.* The current and proposed zoning for the subject property shall be identified.
 - (d) *Existing and Proposed Use.* The existing and proposed use of the subject property shall be stated.

- (e) *Disclosure of Ownership.* The application shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for rezoning is sought, except publicly held corporations, in which case the names and addresses of the corporate officers shall be sufficient.

B. *Administrative Review.* The Town Clerk shall forward zoning change petitions, for which appropriate fees have been submitted, to all appropriate administrative staff for their review and comment. The application shall be reviewed for conformance with the requirements of this Chapter [Code].

C. *Planning and Zoning Board Review.* The Planning and Zoning Board, regardless of the source of the proposed zone change petition, shall hold a public hearing(s) thereon, with due public notice. The Town Planning and Zoning Board shall submit a written report and recommendation concerning the proposed change of zoning to the Town Council for official action. If the Planning and Zoning Board denies the requested zone change or amendment, this action shall be deemed final unless such action is appealed to the Town Council pursuant to Section 1-12.3(C)(4). In its deliberations the Planning and Zoning Board shall consider the following criteria:

1. *Consistency With Plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service (LOS) standards and the concurrency management program. Any inconsistencies shall be identified by the Planning and Zoning Board.
2. *Conformance With Ordinances.* Whether the proposal is in conformance with all applicable requirements of the Town of Malabar Code of Ordinances.
3. *Changed Conditions.* Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations involved which are relevant to the amendment.
4. *Land Use Compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.
5. *Adequate Public Facilities.* Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.
6. *Natural Environment.* Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, vegetative commodities, and wellfield protection.
7. *Economic Effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area, or the general welfare.

8. *Orderly Development.* Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.
9. *Public Interest; Enabling Act.* Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this ordinance and its enabling legislation.
10. *Other Matters.* Other matters which the Planning and Zoning Board may deem appropriate.

D. *Action Following Reviews By Town Planning and Zoning Board.* If an appeal to a decision of the Planning and Zoning Board is filed, the Town Clerk shall transmit copies of the petition, the comments and the minutes of the Planning and Zoning Board meeting to each member of the Town Council at least seven (7) days before the Council shall consider the appeal. The Town Clerk shall notify the applicant of the time and place of the meeting at which the Council will hear the appeal. Should the Council tentatively approve the petition, the Town Council will proceed to hold a public hearing(s) on the petition.

Should the Town Planning and Zoning Board approve the petition, the Town Clerk shall transmit copies of the petition, [and] all comments and the minutes of the Planning and Zoning Board meeting to each member of the Council at least seven (7) days before the Council shall consider the petition. Should the Council tentatively approve the petition, public hearing(s) shall be held on the petition.

E. *Town Council Review.* The Town Council shall hold a public hearing on the requested zone change petition or amendment, with due public notice, if any change is to be considered and shall then act on the proposed change. An affirmative vote of three (3) members of the Town Council is required for favorable action on a zone change petition or amendment for which the Town Planning and Zoning Board has recommended denial. In its deliberations the Town Council shall consider the criteria identified in Section 1-12.5(C) above together with the findings and recommendations of the Planning and Zoning Board. Any modifications or revisions to the Town Planning and Zoning Board recommendation which involve a greater area of land to be rezoned or a more intensive zoning classification shall be the subject of an additional public hearing before the Town Council with due notice prior to action by the Town Council.

Cross reference—Ordinance adoption procedure, § 2-76 et seq.

Section 1-12.6. Procedures for public hearings.

Due public notice shall be provided pursuant to § 166.041 F.S.

Section 1-12.7. Violations and provisions for schedule of fines.

Violations and Penalties. Prior to issuing a citation for a violation of this Code, the Town Clerk or other designated Town official shall provide notice to the violator that the violator has committed a violation of a code and shall establish a reasonable time period within which the violator must correct the violation. Such time period shall be no more than 30 days. If, upon

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: January 5, 2015

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Elhoim Christian Church Site Plan Review for a 10,000 sf foot sanctuary with future expansion of 5,000sf on 3+ acres of vacant land to be located at 2170 Malabar Road (temporary address until Parcel 28-37-36-00-00759 (1.62 acres) & 28-37-36-00-00760(1.38 acres) are joined. This is a Permitted Use in Office Institutional (OI) Zoning.

BACKGROUND/HISTORY:

The Applicant, Mr. Scott M. Glaubitz, P.E., BSE Consultants, Inc. representing Elhoim Christian Church has applied for a Site Plan Review for a 10,000 SF Church Facility with a future expansion of 5,000 SF on 3+ acres of vacant land, to be located at 2170 Malabar Road, Malabar. The property is zoned Office Institution "OI".

A pre-application meeting was held on January 15, 2014. Comments from Town Staff, ie., Planner, Engineer, Building Official, Fire Chief and Attorney were provided to the applicant at the pre-ap meeting. Post comments provided by then applicants' Engineer, Jim Trauger. The Applicant has now contracted with Engineer Scott Glaubitz. He came in and introduced himself to Clerk and me and showed his rendition of what the other engineer had done.

The Site Plan Application went out to Town Staff for the Project Review process and when comments where returned they were emailed out to the Applicant for any revisions or comments present.

The Town Council will then consider this Boards' recommendation at the next regular scheduled Town Council Meeting.

ATTACHMENTS:

- Complete Application package for Site Plan
- Sections of Applicable Codes
- B.S.E Consultant, comments (12/9/14) in response to P&Z Board meeting and Staff
- Large Site Plan

ACTION OPTIONS:

Request Approval of Site Plan

COPY



TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 Ext. 14
Fax # (321) 727-9997



APPLICATION FOR NON-RESIDENTIAL SITE PLAN REVIEW

Project Name: Elhoim Christian Church Date: October 30, 2014

Developer Name: Ryan Runte, Certified General Contractors Inc. Telephone: (321) 984-5000
Mailing Address: 1120 Palmetto Ave. Fax: (321) 724-4659
City, State, Zip: Melbourne, FL 32901 Cell: (321) 403-7813

Name of Property Owner(s): Elhoim Christian Church Telephone: (321) 872-4375
E- Mail Address: _____
Mailing Address: P.O. Box 100385 Fax: _____
City, State, Zip: Palm Bay, FL 32910 Cell: _____

Name of Engineer(s): Scott M. Glaubitz, P.E., BSE Consultants, Inc. Telephone: (321) 725-3674
Mailing Address: 312 S Harbor City Blvd., Suite 4 Fax: (321) 723-1159
City, State, Zip: Melbourne, FL 32901 Cell: (321) 403-1436

Name of Architect(s): _____ Telephone: _____
Mailing Address: _____
City, State, Zip: _____ Cell: _____

Legal Description of Property Covered by Application:

Township: 28S Range: 37E Section: 36 Lot/Block: _____, Parcel: _____
Subdivision: _____ Tax Acct No.: 2846312 & 2846313
Other Legal: _____

Present Land Use Designation: OI Present Zoning Classification: OI

Zoning of abutting property: North: PUD(C) South: Malabar Road East: PUD(C) West: OI

Existing and Proposed Use for Property: Existing: Vacant Land; Proposed: Church

Gross acreage: 3.16 Net acreage: 3.16 Gross density: N/A

Setbacks: Required and Proposed: Front: 100' / >160'; Rear: 25' / >40';
Side: 20' / >100'; Side corner: 25 / N/A

Flood Zone: X Per FEMA Flood Insurance Rate Map

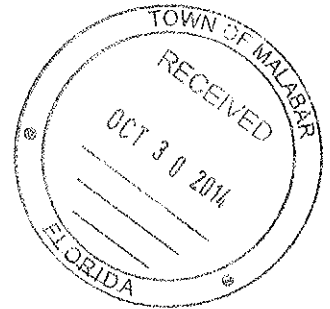
SITE PLAN APPLICATION AND CHECKLIST

Site Acreages:

	SF	Acres	Percentage
Pervious	71,870	1.65	52%
Impervious	40,950	0.94	30%
Pond	24,830	0.57	18%
Total	137,650	3.16	100

Wetlands Present: No Mitigation required? N/A Permit required? N/A

The applicant is required to submit TWO original Site Plans with supporting documents, 10 TEN paper copies and ONE copy on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents. The following information is required per Article VII of the Malabar Land Development Code and must be shown on the site plan (SP) or submitted as an addendum (AD) to the site plan. Please mark where the following information can be found:



Sheet 11 Landscape and irrigation plan (existing and proposed) shown on plans.

Sheet 4 Boundary of property shown by a heavy line.

Sheet 5 Access by means of paved dedicated right-of-way (driveway width).

Sheet 4 Topographic survey for existing and proposed conditions.

Sheet 5 Existing and proposed structures shown on site plan (including setbacks from all property lines and normal high water elevation and building separations).

Church not yet designed Typical front, rear and side elevations of proposed structure(s).

Sheets 4, 6 and 7 All existing and proposed utilities (including inverts of pipes, etc)

Sheet 4-7 Location of all easements.

Sheet 7 Fire protection, existing and proposed that meet state and local requirements.

Sheet 7 Proposed location of well.

Sheet 7 Proposed location of septic and drain field

Report Stormwater management plan (including soils report and drainage calculations)

Sheet 5 Flood Zone(s) depicted on site plan.

Sheet 4 Tree Location Survey identifying trees inches dbh and larger.

N/A Tree Plan prepared or approved by a Florida registered landscape architect.

N/A Required Open Space/Recreational areas.

Site Plan Review - \$300 for the first acre plus \$50 per acre for each additional acre or portion thereof for projects consisting of 1,000 or more square feet of impervious surface; plus all costs, excluding advertising, administrative time, and mailing.

- Summary of Required Attachments for Site Plan Review:
 - ✗ Completed Application, including Disclosure of Ownership (Pages 1 and 2).
 - ✗ Radius Package for 500' distance from project site perimeter – obtained from the Brevard County Planning and Zoning GIS Department in Viera – call 321-633-2070 x52245
 - ✗ Fee of \$400.00, in **check or money order**, payable to the Town of Malabar.
 - ✗ Site Plan – (10) paper copies plus one electronic copy.
 - ✗ Reason for Site Plan Review (attach correspondence, drawings, etc.)
 - Copies of all Federal, State, and Local agency permits. **It shall be the applicant's responsibility to obtain such outside permits.**

Signature of Applicant(s):

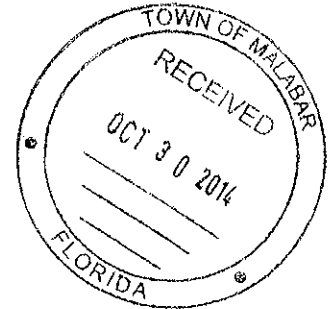
Date:

Sah
 Samuel Rosario, Pastor, Elhoim Christian Church

10/20/14

Demmi Sheeran
 Signature of Town's Personnel

10/30/14



TOWN OF MALABAR
Disclosure of Ownership

Where the **property is not owned by the applicant**, a letter/letters must be attached giving the notarize consent of the owner/owners to the applicant to request a site plan review of the property.

Please complete only one of the following:

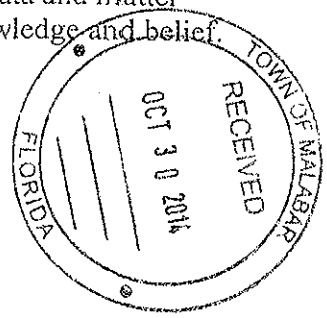
I/we, _____, being first duly sworn, depose and say that I/we, am/are the **legal representative(s)** of the Owners or lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said are to be honest and true to the best of my/our knowledge and belief.

Applicant(s) *N/A* Date _____

Sworn and subscribed before me this _____ day of _____, 20____

Notary public, State of Florida
Commission No. _____ My Commission Expires _____

Notary Signature



I/we, Samuel Rosario, Pastor of Elhoim Christian Church, being first duly sworn depose and say that I/we, am/are **the Owner(s) of the property** described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my/our knowledge and belief.

Samuel Rosario

Samuel Rosario
Applicant(s) Date 10/20/14

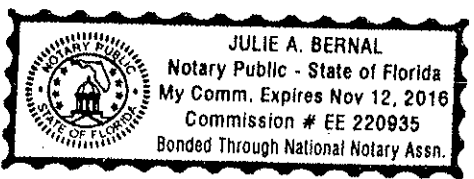
Sworn and subscribed before me this day 20th day of October, 20 14

Notary Public, State of Florida
Commission No. EE 220935 My Commission Expires 11.12.16

Julie A. Bernal

Notary Signature

Updated 05/02/12



FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS



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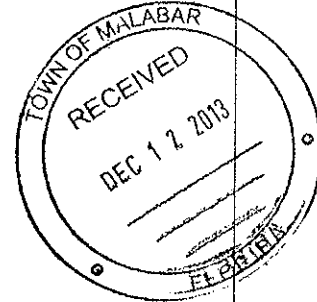
Detail by Entity Name

Florida Non Profit Corporation

ELHOIM CHRISTIAN CHURCH, INC.

Filing Information

Document Number	N02000003593
FEI/EIN Number	300226519
Date Filed	05/08/2002
State	FL
Status	ACTIVE



Principal Address

2154 DR. HARVEY RILEY ST N E
 PALM BAY, FL 32905

Changed: 02/24/2012

Mailing Address

PO BOX 100385
 PALM BAY, FL 32910

Changed: 04/27/2006

Registered Agent Name & Address

ROSARIO, SAMUEL PASTOR
 1241 GOODE DR N E
 PALM BAY, FL 32907

Name Changed: 02/24/2012

Address Changed: 02/24/2012

Officer/Director Detail

Name & Address

Title PD

ROSARIO, SAMUEL PASTOR
 1241 GOODE DR N E
 PALM BAY, FL 32907

Title SEC

ROSARIO, ELIZABETH
 301 RILEY ST N E
 PALM BAY, FL 32907

Title TRES

BURGOS, JOSE A
 1520 WIGMORE ST SE

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State of Florida, Department of State

12/3/2013 3:56 PM

7/29

Title O

VARGAS, CARMEN L
730 CHELSEA AVE N E
PALM BAY, FL 32905

Title O

NIEVES, MARIA L
1335 WAYSIDE CT N E
PALM BAY, FL 32905

Title Officer

ALVARADO, CARMEN S
356 CORQUETAVE NE
PALM BAY, FL 32907



Annual Reports

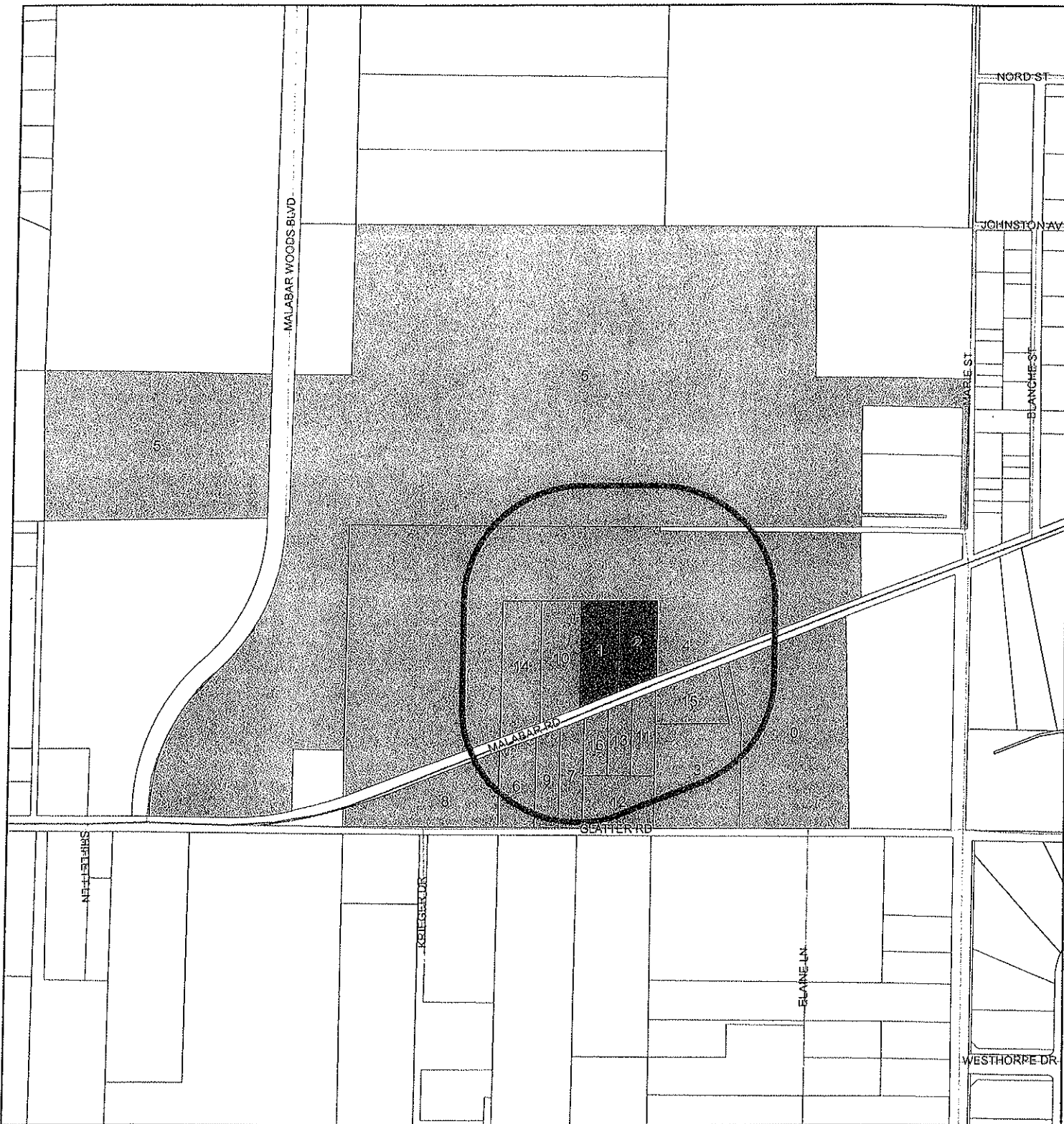
Report Year	Filed Date
2011	02/22/2011
2012	02/24/2012
2013	04/22/2013

Document Images

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03/05/2003 -- ANNUAL REPORT	View image in PDF format
05/08/2002 -- Domestic Non-Profit	View image in PDF format





RADIUS MAP

ELHOIM CHRISTIAN CHURCH INC
ElhoimChurch500



1:7,200 or 1 inch = 600 feet

Buffer Distance: 500 feet

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Dana Blickley, CFA

Brevard County Property Appraiser - MAP SEARCH



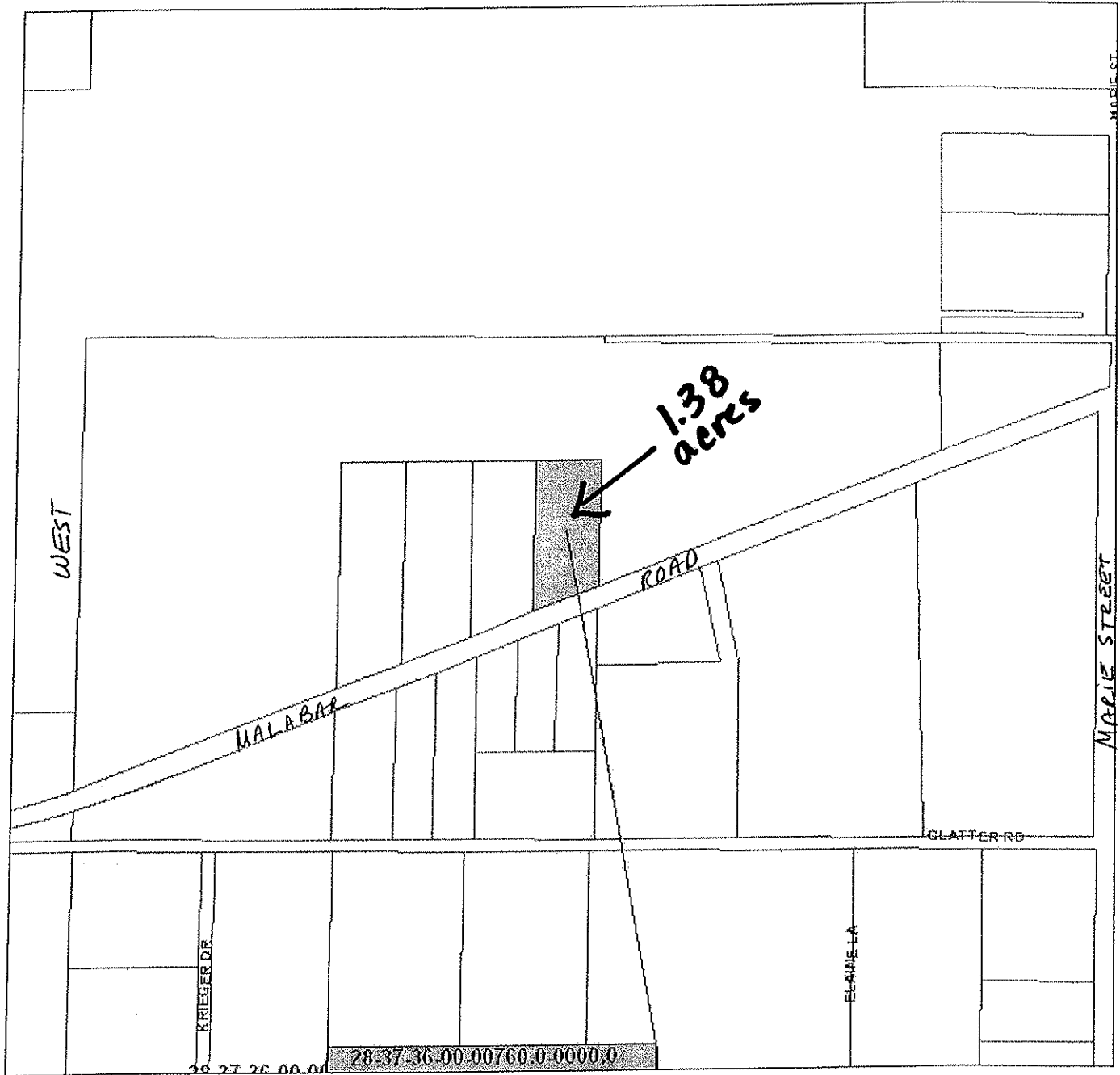
Zoom To	Account	Owner	Property Address	Parcel Identifier
1	Aerial2846312	ELHOIM CHRISTIAN CHRUCH INC		28-37-36-00-00759.0-0000.0



NORTH

Dana Blickley, CFA

Brevard County Property Appraiser - MAP SEARCH



Zoom To	Account	Owner	Property Address	Parcel Identifier
1	Aerial 2846313	ELHOIM CHRISTIAN CHURCH INC		28-37-36-00-00760.0-0000.0



SOUTH

MalhoimChurch500
Page1

BSE Consultants, Inc.

ADAMS, KENNETH G TRUSTEE
P O BOX 500790
MALABAR FL 32950-0790

MALHOIM CHRISTIAN CHURCH INC
P O BOX 100385
MALM BAY FL 32910-0385

FLORIDA POWER & LIGHT CO
700 UNIVERSE BLVD
JUNO BEACH FL 33408-0000

FLORIDA, STATE OF (IITF)
3900 COMMONWEALTH BLVD MS 115
TALLAHASSEE FL 32399-3000

FLORIDA, STATE OF (IITF)
DIVISION OF STATE LANDS
C/O FL DEPT OF ENVIRON PROT
300 COMMONWEALTH BLVD - MS 115
TALLAHASSEE FL 32399-3000

LAHMAN, LAURA LEE
CANNONE, ANTHONY H HW
11259 NW 15TH STREET
CORAL SPRINGS FL 33071-0000

LOSCH, HULDA M
127 QUEEN AVE
SHAMOKIN DAM PA 17876-9277

MCLACHLAN, SCOTT
180 GLATTER RD
MALABAR FL 32950-0000

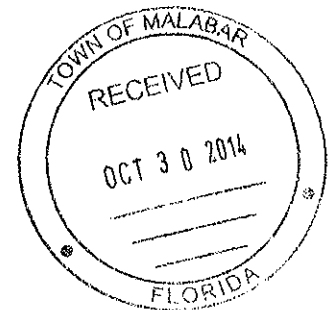
MCLACHLAN, SCOTT
1805 COREY RD
MALABAR FL 32950-0000

MCLACHLAN, SCOTT
2180 GLATTER ROAD
MALABAR FL 32950-0000

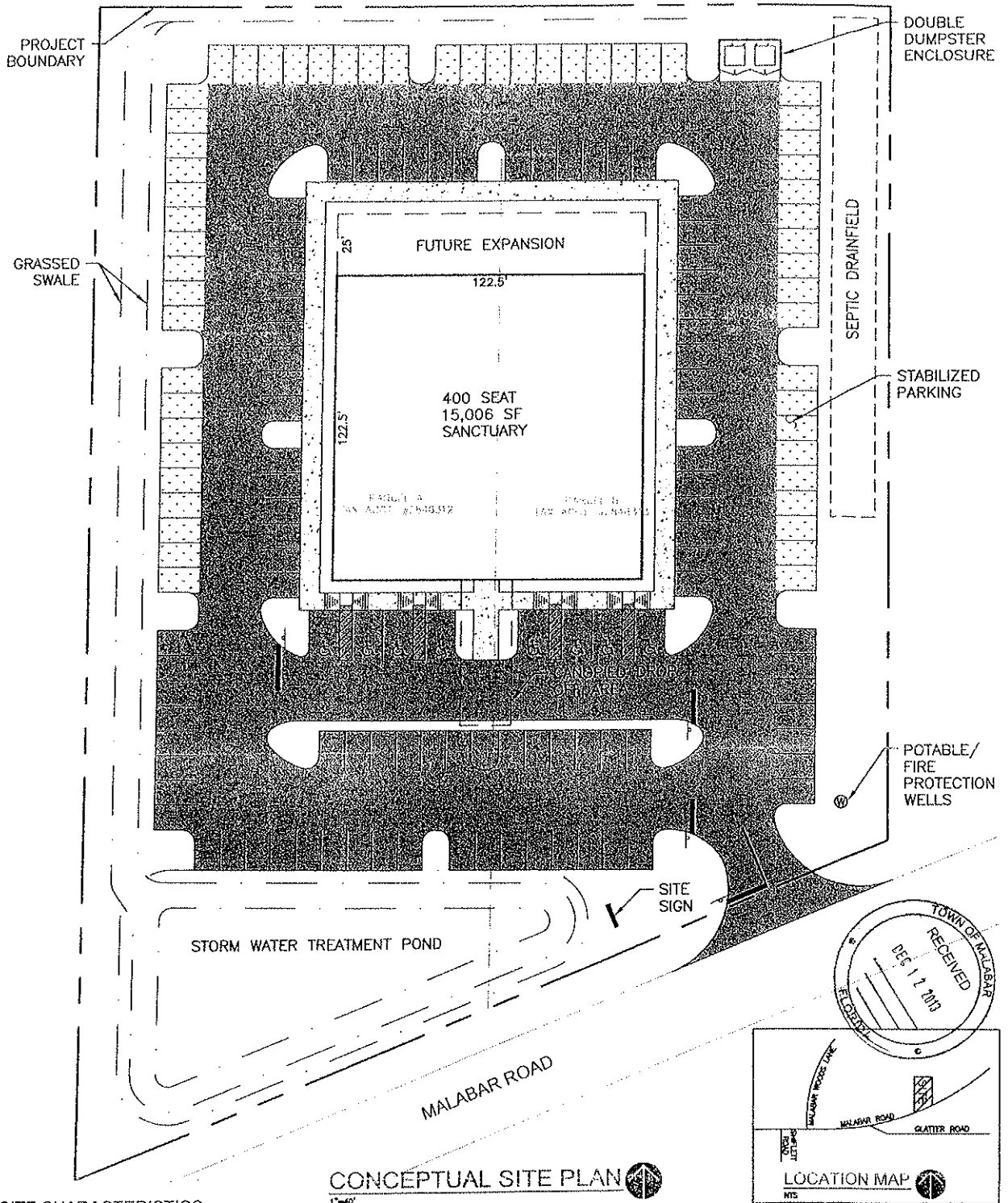
MALAN ONE INC
P O BOX 501195
MALABAR FL 32950-1195

TINDALL, LAWRENCE WILLIAM
2215 MALABAR RD
MALABAR FL 32950-0000

WILBORN, JAMES H
WILBORN, LEONA G HW
P O BOX 500473
MALABAR FL 32950-0473



ELHOIM CHRISTIAN CHURCH



CONCEPTUAL SITE PLAN

SITE CHARACTERISTICS:

THIS PROJECT CONSISTS OF THE CONSTRUCTION OF A 15,000 SQUARE FOOT CHURCH SANCTUARY AND TYPICAL SITE AMENITIES TO ACCOMMODATE THE BUILDING INCLUDING PAVED VEHICULAR AREAS, SIDEWALKS, A DUMPSTER ENCLOSURE, STORMWATER PONDS, LANDSCAPING AND UTILITIES. THIS AREA OF MALABAR DOES NOT HAVE WET UTILITIES READILY AVAILABLE SO WE ARE PROPOSING A POTABLE WELL FOR WATER AND AN ON-SITE SEPTIC SYSTEM FOR SANITARY WASTE WATER DISPOSAL. WATER FOR FIRE PROTECTION IS PROPOSED TO BE PROVIDED BY A SEPARATE ON-SITE WELL. THE CURRENT ZONING OF THIS SITE PERMITS CHURCHES AND PLACES OF WORSHIP AS AN ALLOWABLE USE BY RIGHT PER TABLE 1-3.2 OF THE TOWN CODE. WE ANTICIPATE MEETING THE PARKING REQUIREMENTS FOR THE PROPOSED CHURCH BUILDING AS WELL AS PROVIDING AMPLE REQUIRED PARKING FOR THE CONSTRUCTION OF A FUTURE ADDITION TO THE BUILDING. WE REQUEST A WAIVER OR VARIANCE FROM THE CODE TO ALLOW A PORTION OF THE VEHICULAR PARKING SPACES TO BE STABILIZED GRASS PARKING.

TOTAL ACREAGE: ±3.0 ACRES

FUTURE LAND USE: CURRENT=OI PROPOSED=R/LC

FLOOD ZONE: ZONE X PER FEMA MAP 12009C0540F DATED AUG. 18, 1992

MAXIMUM BUILDING HEIGHT: 35'

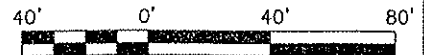
PARKING CALCULATIONS:

CHURCH OR OTHER PLACE OF WORSHIP: ONE (1) SPACE FOR EACH THREE (3) SEATS IN AUDITORIUM OR CHAPEL AREA.

400 SEAT SANCTUARY

400 SEATS / 3 SEATS = 134 PARKING SPACES

REQUIRED: 134 PARKING SPACES INCLUDING 5 HANDICAP SPACES
 PROVIDED: 150 PARKING SPACES INCLUDING 8 HANDICAP SPACES



**Certified General
Contractors, Inc.**

1120 E. PALMETTO AVE. MELBOURNE, FLORIDA 32901
 321-984-5000, ext. 11 FAX: 321-724-4659

**ELHOIM
CHRISTIAN
CHURCH**

PO BOX 100385 PALM BAY, FLORIDA 32910



**CONSTRUCTION
ENGINEERING
GROUP**

consulting engineers

2651 e. gale Blvd. suite o
 Melbourne, FL 32935

tel. 321-263-1721
 fax 321-333-3123
 www.cegroup.com

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 kcorse 4000207

Article VII

SITE PLAN REVIEW

Section 1-7.1. Applicability and filing procedure.

Site plan approval, as provided for herein shall be required for each of the following:

1. All permitted uses, except single family homes or single family home accessory structures. However, all uses and structures shall comply with surfacewater management criteria of Article VIII.
2. All conditional uses.
3. Any use or change in use resulting in one thousand (1,000) square feet of impervious surface area on the entire site.
4. The provisions of Article VIII: Surface Water Management shall apply to all site plans as if the same were incorporated in this Article.
5. Any development including single family residences which will involve any clearing, grading or other form of disturbing the land by the movement of earth provided that any one of the following descriptions applies to said movement.
 - (a) Excavation, fill or any combination thereof which will exceed five hundred (500) cubic yards.
 - (b) Fill which will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (c) Excavation which will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (d) Excavation, fill or any combination thereof which will exceed an area of one thousand (1,000) square feet.
 - (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
 - (f) Whenever any amount of excavation or fill is proposed within one hundred (100) feet of a stream, stream channel or body of water a soil erosion and sedimentation control plan shall be provided.

A. *General Site Plan Review Procedure.* In all cases requiring site plan review, no structure or parking area, or part thereof, shall be erected or used, or land or water used, or any change of use consummated, nor shall any building permit be issued therefor, unless a site plan for such structure or use shall have been reviewed by the Town Planning and Zoning Board.

1. *Filing.* Before such site plan shall be approved, an application for such approval shall be filed with the Town Clerk then directed to the Building Official and/or the Town Engineer or other designated officials for their recommendation. Town Engineer is defined as that Town employee, or outside Florida registered engineer contracted by

the Town, responsible for performing the duties specified herein as the Town Engineer.

- 2. *Application, Fee and Disclosure of Ownership.* Such application shall be in a form substantially in accordance with the form prescribed by the Town Clerk, copies of which may be obtained from the Town Clerk's office. A written power of attorney authorizing a person other than the owner(s) to sign such application must be attached to said application.

All applications shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for site plan approval is sought, except publicly held corporations, in which case the name and address of the corporation and principal executive officers will be sufficient.

The fee schedule for site plan review shall be as determined by resolution of the Town Council.

- 3. *Review by Town Staff and Planning and Zoning Board.* The application shall be forwarded to the Building Official or Town Engineer and such other staff as may be pertinent. The Town shall proceed to make appropriate studies and/or reviews required to make an appropriate evaluation. The application with evaluative comment shall then be forwarded to the Town Planning and Zoning Board for their consideration and action. The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, so as to prevent inconvenience and delay to the project.

After reviewing a site plan and staff recommendations, the Planning and Zoning Board shall recommend approval or disapproval. The Planning and Zoning Board shall provide written comments documenting any conditions of approval. If site plan is recommended for disapproval, the Planning and Zoning Board shall specify in writing the reasons for recommending denial. All recommendations of the Planning Board together with the written record shall be forwarded to the Town Council for final action.

- 4. *Action by the Town Council.* The Town Council shall consider the recommendations of staff and the Planning and Zoning Board and approve with or without conditions, or disapprove the site plan. The Town Council may attach to its approval of a site plan any reasonable conditions, limitations or requirements which are found necessary, in its judgement, to effectuate the purpose of this Section and carry out the spirit and purpose of the Zoning Ordinance.

Any condition shall be made a written record and affixed to the site plan as approved. If the Town Council disapproves a site plan, the reasons shall be stated in writing and the appeal shall be to the Court of appropriate jurisdiction.

(Portion of Art III District Provisions)

§ 1-3.1

MALABAR LAND DEVELOPMENT CODE

developments, natural features of the land, as well as existing and projected public services and facilities within the area.

- E. *RS-10 "Single-Family Medium-Density Residential."* The RS-10 district is established to implement comprehensive plan policies for managing traditional single-family residential development on lots not less than 10,000 square feet. This district is established to preserve the stability of existing and future single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that they are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- F. *R-MH "Residential Mobile Homes."* The R-MH district is established to implement comprehensive plan policies for managing high density mobile home residential development. The district is designed for managing mobile home development at a density not to exceed six units per acre. The district is intended to provide sites for mobile home development within existing established mobile home parks.
- G. *RM-4 "Multiple-Family Medium-Density Residential."* The RM-4 district is established to implement comprehensive plan policies for managing medium-density residential development not to exceed four units per acre. The district is established to ensure sufficient land area for development of medium-density multiple-family residential developments which are fully serviced by adequate public facilities. Sites for medium-density multiple-family residential development shall be located so that they provide a smooth transition between low density residential development and areas developed and/or designated for more intense uses.
- H. *RM-6 "Multiple-Family High-Density Residential Development."* The RM-6 district is established to implement comprehensive plan policies for managing high-density residential development at a density not to exceed six units per acre. The district is established to ensure that sufficient land is available for developments of high-density residential development and is intended to ensure availability of adequate public facilities.
- I. *OI "Office-Institutional."* The OI district is established to implement comprehensive plan policies for managing office-institutional development. This district is designed to accommodate businesses and professional offices together with institutional land uses on sites which:
- Have accessibility to major thoroughfares;
 - Have potential to be served by a full complement of urban services;
 - Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential adjacent land uses of differing intensities;
 - Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses, general retail sales and services, warehousing, and outside storage; and

- Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
- A Malabar Vernacular Style is required for all development along arterial roadways.

J. *INS "Institutional Services."* The INS district is established to implement comprehensive plan policies for managing institutional development. The district is intended to accommodate public and semi-public facilities such as government administration buildings; fire, police, and rescue services; health care delivery services; and educational institutions. Land uses such as places of worship, cultural or civic centers, and other similar public or private not-for-profit uses may be included within this district.

K. *CL "Commercial Limited."* The CL district is established to implement comprehensive plan policies for managing limited commercial development accessible to major thoroughfares near residential neighborhoods. Such development is intended to provide essential household services in locations highly accessible to residential areas. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods. Such shops generally cater to the following markets:

- Neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional market; or
- A specialized market with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for limited commercial development are not intended to accommodate large-scale retail sales, services, and trade activities, generally serving a city-wide or regional market. Such stores would usually differ from limited commercial shops since the former would usually require a larger floor area, carry a relatively larger inventory and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposable containers and/or providing drive-in facilities. No residential uses shall be located in the limited commercial district.

L. *CG "Commercial General."* The CG district is established to implement comprehensive plan policies for managing general commercial development. The general commercial district is designed to accommodate general retail sales and services. Sites designated for CG zoning shall be located in highly accessible areas adjacent to major thoroughfares which possess necessary location, site, and market requirements required by general commercial land use activities.

The general commercial district shall also accommodate commercial trades in strategically designated areas as defined in the conditional use criteria. Development

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			
COMMUNITY FACILITIES														
Administrative Services (Public and Not-for-Profit)														
Child Care Facilities								P	P	P	P		P	
Churches, Synagogues and Other Places of Worship	C	C	C	C	C	C		C			C		C	
Clubs and Lodges (Not-for-Profit)								P, A ¹	P	P	P		P	
Cultural or Civic Activities									P	P	P			P
Educational Institutions								C, A ¹						C
Golf Course Facilities	C													
Group Homes					C	C		C			P		C	
Hospital and Extensive Care Fa- cilities								C						C
Nursing Homes (Including Rest Homes and Convalescent Homes)					C	C		C			C			C
Protective Services					C	C	C	C	C	C	C	C	C	C
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C

C = Conditional Use

P = Permitted Uses

A = Accessory Use

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

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

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

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

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

DISTRICT PROVISIONS

§ 1-3.2

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

Supp. No. 18

Zoning District	Minimum Lot (1)				Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)	Maximum Height (ft./ stories)		Front	Rear	Side (I)	Side (C)				
O1	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A
Commercial Development													
CL	20,000	100	150	35/3	Minimum Floor Area: 900	50	25	10 ⁴ 15 ³	20	65	0.20	35	N/A
					Min. Area: 900 Max. Area: 4,000								
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20 ³ 15 ³	30	65	0.20	35	N/A
Industrial Development													
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 ⁶	25 100 ⁶	20 100 ⁶	30 100 ⁶	70	0.42	30	N/A
Institutional Development													
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 ⁸	40	N/A
Coastal Preservation													
CP	No Size or Dimension Standards Adopted												

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- ¹Minimum size sites and lots include one-half of adjacent public right-of-way.
- ²Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.
- ³Setback where rear lot line abuts an alley.
- ⁴Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
- ⁶Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
- ⁸Recreation activities maximum FAR shall be .10.

§ 1-3.3

MALABAR LAND DEVELOPMENT CODE

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

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

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

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

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

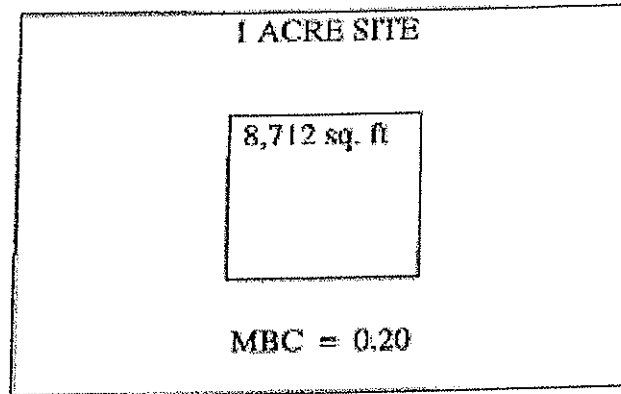
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

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

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

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

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



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

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

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

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

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

2. Pole mounted lighting. Site lighting mounted onto poles or any device intended for the mounting of lighting shall not exceed the maximum height allowed for street lighting.
3. Lights mounted to buildings or structures. Site lighting mounted onto buildings or other structures shall not exceed the highest point of the roof of the building or structure upon which such lighting is located, however; lighting attached to residential structures or accessory structures thereto shall not exceed the height of the eave.
4. The Town recognizes that some indirect off site illumination may occur. To that extent, site lighting meeting the criteria in this section shall be presumed in compliance with this Code.

(Ord. No. 06-01, § 1, 1-12-06; Ord. No. 07-04, § 1, 6-4-07)



Sec. 1-5.29. Design requirements for development within office institutional, commercial limited, commercial general and residential/limited commercial along arterial roadways.

(a) A Malabar Vernacular architectural style for each structure is required. This shall include the following architectural elevations facing public rights-of-way on arterial roadways:

1. A metal panel, 5-seam or metal shake roof is acceptable. A 5-tab twenty-five (25) year dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable. 3-tab roof shingles, barrel vaulted tiles, or corrugated roof systems are not permissible.
2. Pitch of main roof, hipped or gable, shall be no greater than 5:12; mansard roof shall be no greater than 9:12; porch roof shall be a lower pitch than the main roof. A minimum 6" overhang is required for any roof structure. All structures must have a minimum 3:12 slope roof. Multiple roof systems with matching roof slopes are permissible. Low slopes ("Flat") roof systems are permissible when screened by a mansard roof or parapet wall meeting the design requirements.
3. The predominant exterior color shall be pastel shades, white or light earth tones. Dark earth tones are acceptable in brick or stone.
4. Manufactured brick or materials that have the appearance of brick are acceptable. Horizontally struck stucco, exterior insulated finish system stucco panels, board and batten, wood or vinyl siding, and stained hardwood panels shall also be considered acceptable finishes.
5. Front porch. The front porch must encompass an area greater than fifty percent (50%) of the front facade. The porch must be a minimum of 60" in depth.
6. Gingerbread trim and/or porch railings, columns or posts shall have the appearance of light frame wood construction.

7. Trim colors shall be white or light pastels. (Trim shall be considered railings, columns, door and window surrounds, soffits, shutters, gutters and downspouts, and other decorative elements.) Trim finishes shall be of a contrasting lighter color than that of the primary building color with the exception of white as a primary building color.
8. There shall be no area greater than four hundred (400) square feet of contiguous blank wall area on any front facade that remains unadorned by architectural features that include, but are not limited to, windows, doors, lights, banding trim or porch elements.
9. There shall not be any singular facade that has greater than 100' lineal feet of run without a minimum sixteen-inch break, by using a directional or material change.
10. Metal-clad structures are permissible. Internal bracing must be certified to accept additional finishes or structures applied to the exterior metal panels. No external "X" bracing is to be visible on any front facade. Finish panels must be able to accept a painted finish. All exterior wall finishes must match the primary building color. The use of corrugated, synthetic or fiberglass panels is prohibited on any front wall or any front roof surface. All design requirements must be met for metal-clad structures as for any other new structure.

(b) The predominant exterior color shall be applied to all sides of the structure.

(c) The design requirements listed above shall be applicable to all new construction in these zoning districts, and in the case of additions or renovations to, or redevelopment of, an existing building or project, where such addition, renovation or redevelopment exceeds fifty (50) percent of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure, of adjacent or connected properties, by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme may be exempt from the design requirements herein with the approval of Town Council.

(d) The design requirements listed above shall be applicable to all accessory structures not exempted by division (10)(c). Any accessory structure not meeting this requirement shall be screened so as to be not visible from the public right-of-way. Mechanical equipment such as gasoline pumps, air and vacuum machines, drive-through menu boards and speaker stations, drive-through teller stations, ATMs, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this section.

(e) Compliance with the requirements set forth in this subsection shall be demonstrated by submittal of building front elevations and color and material samples at the time of site plan review. By way of illustration and not by way of limitation the styles depicted in illustration numbers E(1)-E() are deemed "Malabar Vernacular Style".

(f) Structures in the following use categories are exempt from the design review requirements of this subsection, including: public utility equipment, commercial towers, hospitals and churches.

(g) The Town-wide Sign Code shall be adhered to with the following exceptions:

1. *Materials.* The color, construction and material of each sign should be compatible with the architecture on the site.
2. *Design.* Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.
3. Free standing signs shall have landscaping at the base.

(h) Structures having a federal or state historic site status shall be exempt from this subsection.

(i) The Town Council may, by resolution, adopt such administrative policies, manuals and/or fees as necessary to implement the design requirements identified above.
(Ord. No. 07-02, § 5, 4-2-07; Ord. No. 08-13, § 1, 10-20-08)



B.S.E. CONSULTANTS, INC.

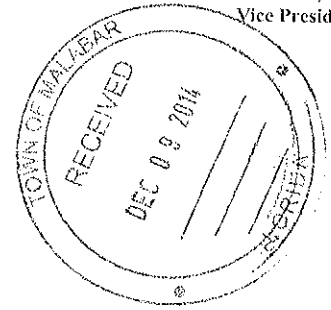
Consulting ~ Engineering ~ Land Surveying

Scott M. Glaubitz, P.E., P.L.S.
President

Hassan Kamal, P.E.
Vice President

December 4, 2014

Revised December 9, 2014



Via E-mail

Ms. Denine Sherear
Town of Malabar
2725 Malabar Road
Malabar, FL 32950

**Re: Elhoim Christian Church
B.S.E. File # 11245**

Dear Denine:

Enclosed for your review is the following:

- Twelve (12) sets of revised Site Plans (two sets signed/sealed)
- One (1) CD containing a PDF of the Site Plans

Below, please find our responses to the Town Planner, Engineer and Fire Safety Review comments, along with additional status updates of other review agencies.

TOWN ENGINEER COMMENT

1. **Called Lance Decuir, PM for Atkins, FDOT consultant for SR-514 (Malabar Road). FDOT is not taking any parcel for ROW, in this area, north of SR-514.**

Good news for the project.

TOWN PLANNER COMMENTS

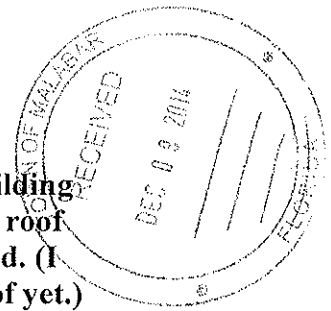
1. **My pre-app comments were either addressed or Staff made decisions on them at the pre-app.**

Acknowledged.

2. **Provide location of site lighting with applicable lighting details.**

Due to budget, site lighting will consist of building wall-packs only. Those wall-packs will be shown on the building at building permit review. Due to the size of the parcel and building location, there will be no light spillage impacts.

Civil ~ Agricultural ~ Transportation ~ Utility ~ Site Planning ~ Environmental
312 South Harbor City Boulevard, Suite #4, Melbourne, FL 32901
(321) 725-3674 ~ Fax (321) 723-1159
Toll Free ~ 1-800-523-4BSE (4273)
info@bseconsult.com



- 3. Provide a scaled drawing of the side, front and rear facades of the building or structure, including roof pitch, fenestration including treatment of roof line, windows and doors as well as a description of materials to be used. (I realize there is a statement that the building hasn't been designed as of yet.)**

This comment has been forwarded to the Owner and Certified General Contractors to be addressed. Once received, the information will be forwarded to the Town for review.

- 4. Show building exterior construction material.**

This comment has been forwarded to the Owner and Certified General Contractors to be addressed.

- 5. Show location, size, character, color and copy, height and design of all signs.**

This comment has been forwarded to the Owner and Certified General Contractors to be addressed.

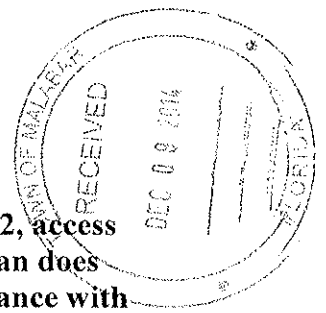
- 6. It appears the perimeter hedge requirement along the east and north property lines was eliminated at the pre-app. However, it appears a hedge or fence was required along the west property line. Show the hedge or fence.**

The Town Planner is correct. We believed the tree plants along the west property line would meet the requirement; however, a 4-foot high wood fence will be added as it will be more sustainable than a hedge. Please refer to the revised Construction Plans, specifically the Site and Landscape Plans (Sheets 5 and 11).

FIRE SAFETY REVIEW COMMENTS

- 1. The combined first and second phase of this project will result in the need to install automatic sprinklers in the building. No provisions have been provided on the site for the location of a fire sprinkler water supply such as a pressure tank or pump and tank/cistern. Please indicate the location of the proposed fire sprinkler water supply and the minimum requirements.**

Please refer to the revised Construction Plans, specifically the Utility Plan (Sheet 7). The building is now identified as being sprinkled and a fire sprinkler water supply and pump have been shown just north of the water treatment area on the west side of the building. Note that the fire sprinkler system shall be designed by a licensed fire sprinkler engineer and the specific design calculations and specifications shall be provided to the Town in conjunction with the building permit application/process.



- 2. Per the Florida Fire Prevention Code (NFPA 1) paragraph 18.2.3.2.2, access to all portions of the building shall not exceed 150 feet. While the plan does depict a roadway around the building, the roadway is not in compliance with 18.2.3.4.1.1 which requires a 20 foot minimum roadway. The turns in the roadway also do not meet the requirements of 18.2.3.4.3.1 which require the AHJ to approve the turning radius. Previous editions of the Fire Prevention Code required a 50 foot turning radius. The Town of Malabar will require a minimum inside radius of 30 feet on all access paving.**

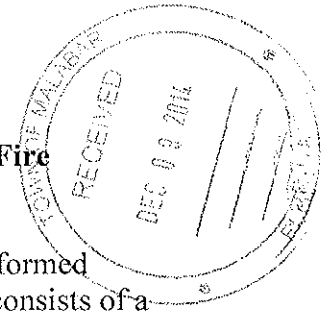
Please note that buildings that are to be sprinkled (as required and noted in Fire Safety Review comment #1 above) shall provide access to all portions of the building not exceeding 450 feet. The 150 foot requirement is for a non-sprinkled building which no longer applies to the building (refer to the enclosed copy of Exhibit 18.4 in the NFPR Fire Code). Please note that the distance to the building's NW corner (the most remote location of the building) as measured from the proposed fire well is approximately 425 feet which is within the maximum 450-foot distance. Although the building's perimeter access was not initially intended to serve fire trucks, the surrounding drive aisles have been revised to 20 feet in width. Please refer to the revised Construction Plans, specifically the Site and Utility Plans (Sheets 5 and 7).

- 3. Markings for fire department access on the pavement are required by the Fire Prevention Code (NFPA 1) section 18.2.3.5 and its subsections.**

The two (2) east-west oriented sections of the paved drive aisles are shown to be striped as fire lanes with parking prohibited. Please refer to the revised Construction Plans, specifically the Site and Utility Plans (Sheets 5 and 7).

- 4. The fire hydrant and fire well connections should be revised so that the fire engines do not have to come any closer than 75 feet from the structure to reduce the potential fire exposure to the equipment while fighting a fire.**

While we are unaware of any code requirement that specifies the minimum distance a fire hydrant should be from a structure the proposed fire well and dry hydrant can be relocated to the eastern end of the landscape islands they are currently located within. Relocating the fire well and dry hydrant to these locations would increase the distance to the building from approximately 58 feet to 90 feet. Please refer to the revised Construction Plans, specifically the Utility Plan (Sheet 7).



5. Fire flow calculations are needed in accordance with the Florida Fire Prevention Code (NFPA 1) section 18.4.4.

The section quoted above requires the fire flow calculations to be performed based on the total floor area of the structure. The proposed building consists of a 10,000 sf sanctuary with a 5,000 sf future expansion area. Please note that the fire flow calculations provided on the Utility Plan (Sheet 7) were performed assuming the building and the expansion were completed (i.e. a total of 15,000 sf).

6. To ensure that there is no bottle neck in the entrance road off of Malabar Road, the entrance drive needs to be widened to 30 feet.

FDOT dictates the driveway connection width to Malabar Road. We have discussed widening the entrance to 30 feet with them and they will allow the addition of a 3-foot paved shoulder on both sides of the entrance which will increase the overall driveway width to 30 feet. Please refer to the revised Construction Plans, specifically the Site Plan (Sheet 5).

Other agency review comments that we have addressed:

1. The HRS Septic System has been redesigned as an alternating dozing system. No location change.
2. FDOT provided a typical section for asphalt, base and subbase for the driveway located within FDOT right-of-way. Both the asphalt and base courses were thicker than we originally showed on the plans.
3. We slightly relocated the side doors based upon a floor plan received from the Owner.

Should you have any questions, feel free to contact me.

Very truly yours,

Scott M. Glaubitz P.E. P.L.S.

Scott M. Glaubitz, P.E., P.L.S.
President
B.S.E. Consultants, Inc.

SMG/jab

11245.town.corr.14-s2999.dec_revised 12.9.14

cc: Ana Saunders, P.E., Project Engineer, BSE Consultants, Inc.
Ryan Runte, Certified General Contractors, Inc.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: January 5, 2015

Prepared By: Debby K. Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Verbal Report by Park & Recreation Board Chair Hans Kemmler

BACKGROUND/HISTORY:

Council requested we have regular reports from departments and boards. The Park Board chose the first Council meeting of the month for their report.

FINANCIAL IMPACT:

N/A

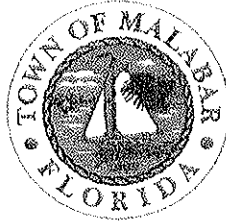
ATTACHMENTS:

none

ACTION OPTIONS:

Staff requests Direction

OFFICE OF THE TOWN CLERK
(321) 727-7764
FAX (321) 722-2234



6

AGENDA ITEM REQUEST FORM
MALABAR TOWN COUNCIL



Please mail completed form to:

Town of Malabar
2725 Malabar Road
Malabar, Florida 32950

NAME: _____

ADDRESS: _____

Charles Ryan
1923 Howell Ln.
Malabar, FL 32950-7018

TELEPHONE: _____

(Home)

298-4512

(Business)

Please state the item you wish to have placed on the Town Council Agenda.

PRESENTATION ON SLOPE MOWING & RELATED MATTERS

Please summarize pertinent information concerning your requested Agenda item and attach applicable documents.

CONTINUATION, WITH PHOTOS TO BE PRESENTED, OF TOPIC BEGUN AT LAST RTCM

Please state desired action by Town Council.

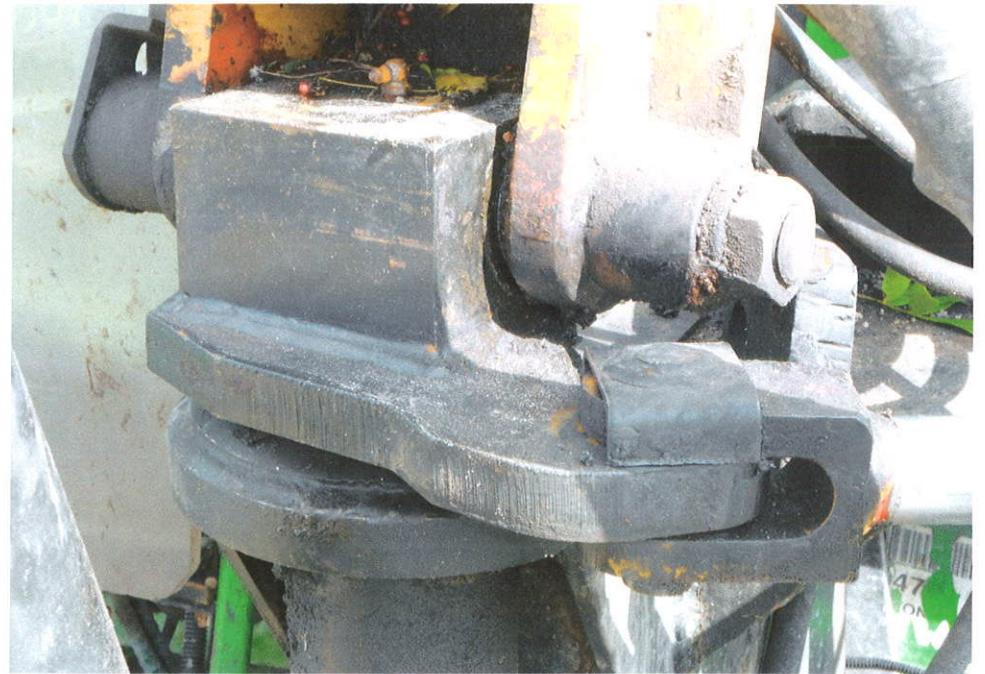
DISCUSSION AND POSSIBLE ACTION

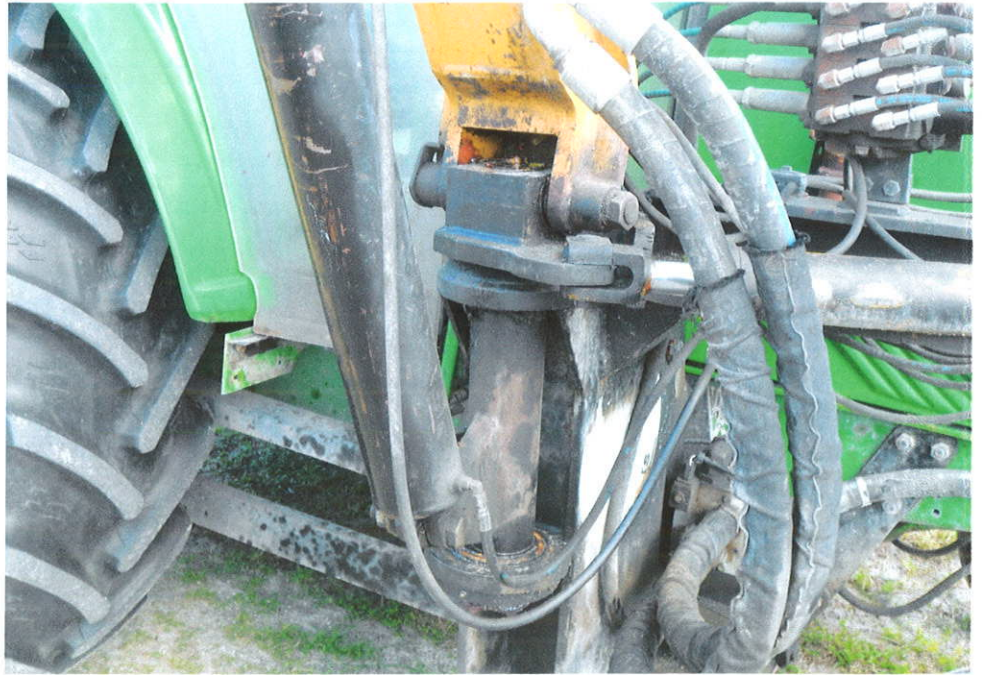
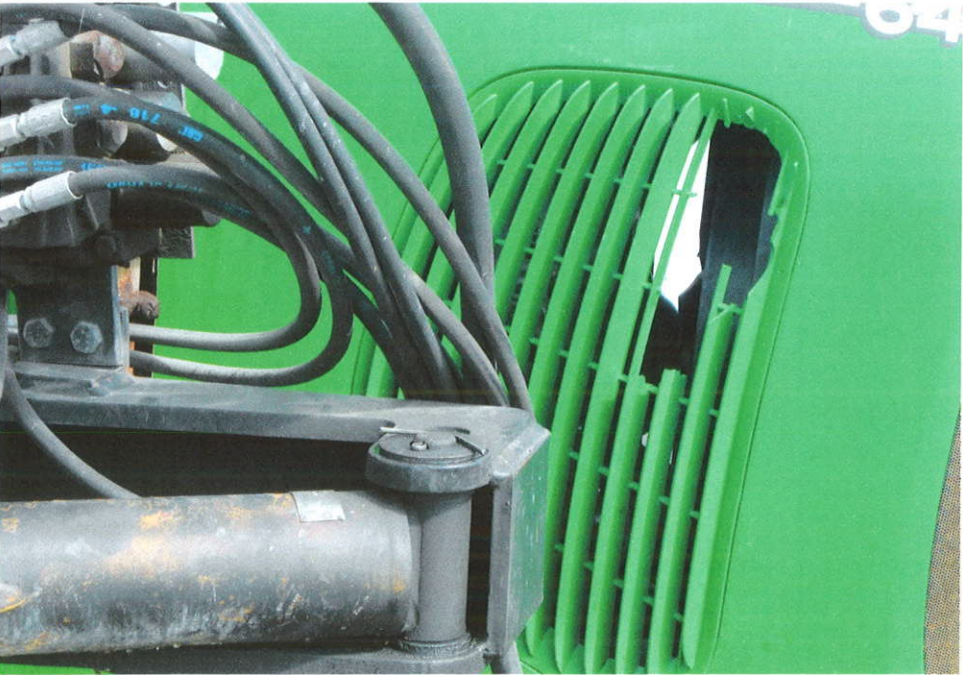
Signed: _____

C. Ryan

Date: _____

12/22/14







3 of 3

Robinson Equipment Co
3030 Cuyler St.
Mims Fl. 32754

December 23, 2014

321-267-2023

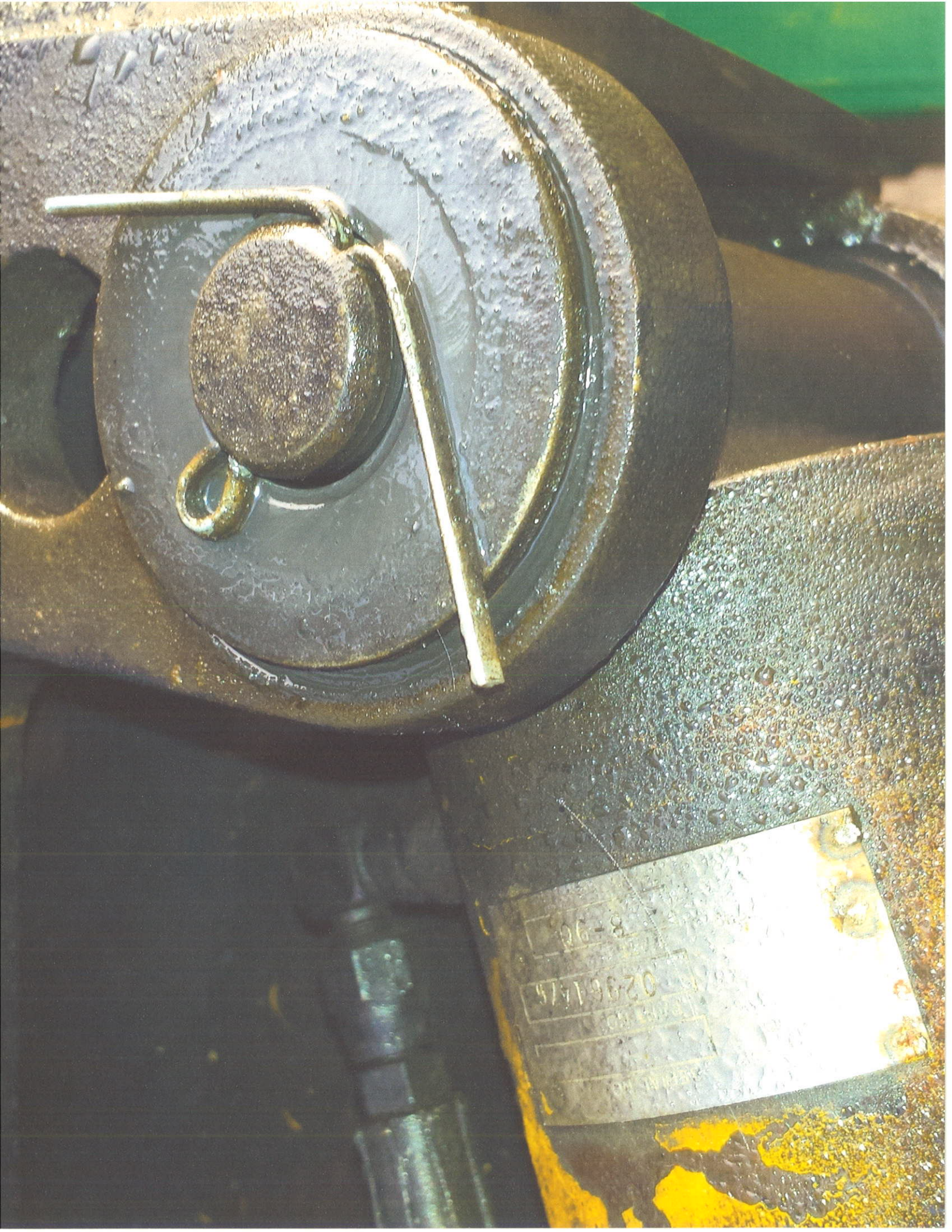
On December 22, 2014 I was asked to do an inspection on a 2005 John Deere 6415 2wd tractor ser# CGSG070558905, with an Alamo boom mower attached to it. I started my inspection of the tractor first, the tractor has 6,107 hours on unit and currently will not start due to an intermittent fuel system problem that they have been dealing with for a couple years. The in house mechanic and John Deere technicians have made repairs to this tractor and every time it works for 3 or 4 months and then quits. It also needs front tie rod ends and front tires.

Inspection of the Alamo boom, I examined main support frame weld repairs, main pivot pin and bushing worn, dipper boom welded and repaired (4 times according to personnel), dipper pins and bushings worn, cylinder eyelets, and pins worn out, link pins and bushings worn. The hydraulic pump currently leaks and needs to be rebuilt or replaced.

One piece of wear is not bad but when you add all of the worn parts, pins and bushing it multiplies the excessive uncontrollable boom movement that leads to a dangerous operating condition. You can replace the boom, pins, bushings, hydraulic pump and make the repairs needed to make the tractor operational, but the cost will be about 3 times the current value of the tractor and you still have a tractor that is 10 years old and could incur costly engine or transmission failure at any time.

Sincerely,

Bryan Michaud



06-8

02-961475

02-961475



TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 7
Meeting Date: January 5, 2015

Prepared By: Debby K. Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Council Meeting Dates for January and February

BACKGROUND/HISTORY:

Malabar Council meets on the first and third Monday of the month. The meeting date for January's second meeting (1/19/145 falls on Martin Luther King Jr. Day, a Federal holiday. The meeting date for February's second meeting (2/16/15) falls on Presidents Day.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Memo 2014-TC/T-042
2015 Calendar

ACTION OPTIONS:

Staff requests Action on this request.

TOWN OF MALABAR

MEMORANDUM

Date: November 17, 2014 2014-TC/T-042
To: Honorable Council, Mayor Beatty
From: Debby K. Franklin, C.M.C., Town Clerk/Treasurer
Ref: Calendar for 2015 of Meetings & Holidays

For your planning purposes, the schedule for Council meetings and proposed workshops are as follows:

Jan 05, 2015 – RTCM
Jan 19, 2015 – No Meeting – MLK Holiday
Feb 02, 2015 – RTCM
Feb 16, 2015 – No meeting – Presidents Day
March 02 & 16, 2015 RTCM
Apr 06 & 20, 2015 RTCM
May 04 & 18, 2015 RTCM
Jun 01 & 15, 2015 RTCM
Jul 06 & 20, 2015 RTCM and July 14, 2015 for Budget Workshop
Aug 03 & 17, 2015 RTCM and Aug 11 & 25, 2015 for Budget Workshop
Sept 14 & 28, 2015 RTCM – **tentative** proposed 1st & 2nd reading on Millage and Budget
Oct 5 & 19, 2015 RTCM
Nov 02 & 16, 2015 RTCM and Nov 5, 2015 for Special post-election mtg
Dec 07 & 21, 2015 RTCM

The Federal holidays for 2015 are as follows:

01/01/2015 – Thursday, New Year's Day
01/19/2015 – MLK Jr.
02/16/2015 – Presidents Day
05/25/2015 – Memorial Day
07/03/2015 – Friday for Independence Day on Saturday
09/07/2015 – Labor Day
11/11/2015 – Veterans Day
11/26/2015 – Thanksgiving Day
11/27/2015 – day after T-day
12/24/2015 – Thursday - half day – Christmas Eve – per Employee Manual
12/25/2015 - Friday, Christmas Day
12/31/2015 – Thursday - half day – New Year's Eve – per Employee Manual
01/01/2016 – Friday, New Year's Day 2016

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 8
Meeting Date: January 5, 2015

Prepared By: Debby K. Franklin, C.M.C., Town Clerk/Treasurer

SUBJECT: Approve Surplus Material for Disposition – Sale, Donation or Disposal

BACKGROUND/HISTORY:

We have disposed of the surplus material approved by Council in 2012. We would request that the Council declare the 2000 Ford Explorer that was formerly used for Eagle Patrol as surplus. It has been sitting in the PW yard as it costs more to keep it running than it is worth. During budget discussions it was suggested that both the Trooper and the Isuzu be declared surplus so that they can come off our insurance and be disposed of, scrapped or sold for parts. Then the Dakota that Tom drives could be used by the Building Official and Tom could get a more functional vehicle for PW.

FINANCIAL IMPACT:

Potential Revenue from Sale of Surplus

ATTACHMENTS:

None

ACTION OPTIONS:

Staff requests Action

9

Debbie Franklin

From: Marisa Acquaviva <marisa-cq@msn.c
Sent: Tuesday, December 23, 2014 2:06 PM
To: Debbie Franklin
Cc: Bonilyn Wilbanks; beattycarl@aol.com; Grant Ball;
 B.vailtownofmalabar@yahoo.com;
 donk.malabar@gmail.com; dkorn@bellsouth.net; Cindi
 Kelley; Alice Passmore
Subject: Re: Meeting Announcement

Thank You for this Explanation as I was confused to what happened with our joint meeting with Palm Bay and the Town of Malabar hosting the dinner in January. I would have liked our Town Council to have had some knowledge on this decision to switch our meetings before it happened. Although the meeting was running late, I still would have appreciated some communication about this from Mayor Beatty.

Marisa

On Dec 23, 2014, at 11:01 AM, ~~Debbie~~ Franklin <townclerk@townofmalabar.org> wrote:

The Board of SCLC at their last meeting apparently decided that Malabar should co-host with G-V "because we have so much more in common."
 Mayor Beatty came to me on Dec 9 and told me of the change and that it was to start in January. He said the reason was that SCLC can't afford to continue using The Tides for the Christmas meeting as it has gotten too expensive. Mayor Parrish of Cocoa said he wanted to take over the December meeting and hold it at the Cocoa Civic Center. That would leave March open. Mayor Beatty had intended to mention it at the Council meeting on Dec 15 but we ran out of time. I contacted Palm Bay and their Mayor said he thought it started in 2016. After that there was much more back and forth between Mayor Beatty and Mrs. Walsh (CM Cape Canaveral) and others and Mayor Beatty said to go ahead and have Palm Bay take over the January meeting and the Board would hash it out at their next meeting on Jan 12. Fortunately, we had already made the arrangements at the Rialto because we expect a large turnout due to it being Nancy Glass' last meeting before retiring. We had also already set the menu as well. So our good friends in Palm Bay were very appreciative and graciously took over the hosting duties.

Debby

Debby K. Franklin, C.M.C.
 Town Clerk/Treasurer
 Town of Malabar
 2725 Malabar Road
 Malabar, FL 32950
townclerk@townofmalabar.org
 321-727-7764 x12
 321-722-2234 Fax
 321-536-5657 Cell