



# Planning and Zoning Board Meeting

Wednesday, October 27, 2021 at 6:00 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA

#### APPROVAL OF MINUTES

- a. **Approval of Minutes of 09/08/2021**

Exhibit: Agenda Report Number 4a

#### Attachments:

- **Agenda Report Number 4a** (Agenda\_Report\_Number\_4a.pdf)

5. PUBLIC COMMENTS
6. ACTION ITEMS

- a. **Recommendation to Council to select replacement for Planning and Zoning Board Member when Ms. Mary Hofmeister moves to a Council Position in November 2021.**

Exhibit: Agenda Report Number 6a

#### Attachments:

- **Agenda Report Number 6a** (Agenda\_Report\_Number\_6a.pdf)

7. PUBLIC HEARING
8. DISCUSSION/POSSIBLE ACTION ITEMS
9. ADDITIONAL ITEMS FOR FUTURE MEETING
10. PUBLIC COMMENTS
11. OLD BUSINESS/NEW BUSINESS

- a. Old Business
- b. New Business

Board Member Comments

Next regular Meeting - November 10th, 2021

12. ADJOURNMENT

**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.a.**  
**Meeting Date October 27, 2021**

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

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**SUBJECT: Approval of Minutes**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. These minutes not verbatim, and some editing is done to convey the thought. People do not speak the way they write.

**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of 9/08/2021

**ACTION OPTIONS:**

Secretary requests approval of the minutes.

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"The following draft minutes are subject to changes and/or revisions by the Planning and Zoning Board and shall not be considered the official minutes until approved by the P&Z Board."

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
SEPTEMBER 8, 2021, 6:05 PM**

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

**1. CALL TO ORDER, PRAYER AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	MARY HOFMEISTER, EXCUSED
	DOUG DIAL
	GEORGE FOSTER
ALTERNATE:	SUSAN SHORTMAN
ALTERNATE:	JEFF RINEHART, EXCUSED
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	FIRE CHIEF FOLEY
INTERIM TOWN MANAGER:	LISA MORRELL

**3. ADDITIONS/DELETIONS/CHANGE:**

Chair Abare said Alternate Shortman will vote in place of Board Member Hofmeister asked to be approved & Alternate Rinehart asked to be excused, out of town working.

**4. CONSENT AGENDA:1**

4.a. **Approval of Minutes** Planning and Zoning Meeting – 8/25/2021

**Exhibit:** Agenda Report No. 4.a  
**Recommendation:** Request Approval

**Motion: Ritter /Dial to Approve Minutes for August 25, 2021, as amended, All Vote ; ALL Aye**

Board went over minutes and amended.

**5. PUBLIC HEARING:0**

**6. ACTION 4**

6.a. **Review Recommendation of "Final Draft" to Council Amending the Land Development Code Article V Section 1-5.6 General Provisions to Allow for Portable Storage for temporary storage of personal items in Portable Storage Units for a set period.**

**Exhibit:** Agenda Report. 6. a

Abare stated this is a courtesy review before it is recommended to Council. Morrell Interim Town Manager (ITM) explained this is all housekeeping to clean up language in our Code.

related to a temporary storage of personal/temporary items to be dropped off & removed in a timely manner. The concern is to have these things in our code so they can be enforced. Morell, ITM explained to the PZ Board what was put in the Code Book, clarifying the language for the temporary pods/storage located on residential and all other zoning areas. Morrell ITM went over location of pods, time allowed and specifics.

Shortman asked about retroactive of pods located in the past, and Lisa ITM explained this would be in effect from the time it is approved forward, it can be noted that pictures were taken, and it is beyond the time allowed.

Ritter added corrections to verbiage for clarification, (noted on document)

The Board discussed general concerns.

**Motion: Ritter/Shortman Recommendation to Council Amending Land Development Code Article V Section 1-5.6 General Provisions to Allow Portable Storage for Temporary storage of personal items for set period. Roll Call Vote Foster: Aye, Dial: Aye, Ritter: Aye, Shortman: Aye, Abare; ALL Aye**

Motion carried 5 to 0

- 6.b. **Review & Recommend to Council for and make motion to approve text amendments and additions to Land Development Code, Article XV, Tree Protection and Restoration as presented or with Textual Updates.**  
**Exhibit:** Agenda Report. 6. b.

Morrell, ITM explained about amending LDC XV Tree Protection & Restoration concerning Land Clearing with no permits & Type IV no fee. There needs to be a permit pulled for tree removal. And Land clearing.

The Board discussed different permits with fees and types that will be through Morrell, ITM or designee to review for compliance.

ITM Morell explains the survey with site plan to include drainage plan for each lot that is checked for Environmental Study (Wetlands, protected animals, drainage plan).

Morrell ITM explained that multiple agencies are involved before a permit is issued through the Town. Every property is unique as far as drainage the different engineered plans provide water from draining on adjacent neighbors.

Shortman discussed that when water drains from other people's properties it creates wetlands around them. It is important for a drainage/stormwater plan.

Morrell, ITM explained we want to have a non-tree process and need to clarify in code. This will be enforced by Morrell, ITM or designee funds will go to general fund.

The Board discussed corrections and are noted on document.

**Motion: Ritter/Dial Recommendation to Council Amending Land Development Code Article. Tree Protection and Restoration as Amended with Textual Updates fine-tuned 1-15.12 Roll Call Vote Foster: Aye, Dial: Aye, Ritter: Aye, Shortman: Aye, Abare; ALL Aye**

Motion carried 5 to 0

- 6.c. Recommendation to Council to Approve to Amend Article V, General Provisions, 1.5-22 Fill and Erosion Control with Textual Updates.**  
**Exhibit:** Agenda Report. 6. c.

The Morrell, ITM fill needs a permit. If disturbing 1000 sq ft, get a permit for fill or out. Erosion controls any fill needs a silt fence, planting yard mulch potting soil there is a limit of 2 truckloads 30 yard. Abare asked about fill permit, Morrell ITM responds any more than 3 truckloads you will need a permit and fill permit will be adopted for review of drainage, etc.

The Board discussed fill permit and requirements to Amend to Town Code.

**Motion: Ritter/Foster Recommendation to Council Amending Land Development Code Article V Section 1-5.22 Fill and Erosion Control as Amended & Textual Updates Roll Call Vote Foster: Aye, Dial: Aye, Ritter: Aye, Shortman: Aye, Abare; ALL Aye**

Motion carried 5 to 0

- 6.d. Recommendation to Council to Amend Article VII, Site Plan Procedures, Section 1-7.1 Applicability and filing procedures with Textual Updates.**  
**Exhibit:** Agenda Report.6. d.

Morrell, ITM discusses with Board the fee. It is a pass-through with Town Staff, if the Engineer is needed, we will seek his advice.

**Motion: Ritter/Shortman Recommendation to Council Amending Land Development Code Article VII Site Plan Procedures, Section 1-7-1 Applicability and filling procedures as Amendments & Textual Updates. Roll Call Vote Foster: Aye, Dial: Aye, Ritter: Aye, Shortman: Aye, Abare; ALL Aye**

Motion carried 5 to 0

Morrell ITM thanks the Board and the Board thanks Morrell ITM for all her hard work.

- 7. DISCUSSION:0**
  - 7.a. *Intentionally left Blank***
- 8. *Intentionally left Blank***
- 9. ADDITIONAL ITEMS FOR FUTURE MEETING**
- 10. PUBLIC**
- 11. OLD BUSINESS/NEW BUSINESS:**

Old Business:

The Board thanked the Fire Chief for all he does, and Chief Foley thanked the Board in return.

Tentative Meeting for 9/22/21, Doug Dial will not be here at the 9/22/2021

Board asked Morrell ITM about anything coming forward for site plan review, it appears right now we do not have anything.

New Business:

**Reminder:** Next Meeting – September 22, 2021

There being no further business to discuss, MOTION: Shortman/Dial to adjourn this meeting. Vote: All Ayes. The meeting adjourned 7:17 P.M.

BY:

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Wayne Abare, Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

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Date Approved: as presented/corrected

DRAFT

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

AGENDA ITEM NO: 6.a.  
Meeting Date October 27, 2021

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

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**SUBJECT:** Recommendation to Council to select replacement PZ Board Member when Mary Hofmeister moves to Council position in November 2021.

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**BACKGROUND/HISTORY:**

This "Action" item to Council is to Recommend a Board PZ Board replacement. A motion is needed for the Council Meeting that will be held on November 1, 2021. A regular Board Member Mary Hofmeister will be taking a seat as Council Member District 5.

Per Town Code a "Motion" to Council is needed for consideration for a replacement suggested by the Planning and Zoning Board.

**ATTACHMENTS:**

- *Town Code on General Board Procedures & Planning & Zoning Board Members- Article VIII*
- *Attendance Record upon request*

**ACTION OPTIONS:**

Action to Council

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## ARTICLE VIII. - BOARDS, COMMITTEES, COMMISSIONS, ETC.

## DIVISION 1. - GENERALLY

## Sec. 2-211. - General procedures for all boards and committees.

Citizen participation is vital to a democratic government. The Town of Malabar recognizes the unique contributions made by volunteers and encourages involvement in the policy-making process through service as an advisory board member. Boards and committees are standing bodies established by town ordinance and appointed by the town council to provide ongoing board/committee recommendations to town council on diverse matters of public concern. Included are zoning, municipal planning, parks and recreation, trails and greenways, public art, historic preservation and building codes. Boards handle a variety of issues within a subject range; committees are delegated to consider, report and take action on specific issues, such as trails and greenways. Ad hoc committees are short term with a limited period and have a particular purpose, such as the taxpayer budget review committee or the SpringFest committee. Ad hoc committees are appointed on an as-needed basis and the committee sunsets once the purpose is served. They do not take a special action by council to terminate.



(a) All appointments, whether regular member appointments, alternate member appointments or appointments to fill any vacancies to any town boards or committees is within the sole and absolute discretion of the town council. Applications for appointment are available in the office of the town clerk and also on the town's website. Completed applications shall be filed with the town clerk. The application shall be given to the respective board or committee for their review and recommendation to the town council. Such board or committee shall rank the applicants in order of preference, including the ranking of any alternates. The town council shall review the recommendation of the respective board or committee and make appointments as the town council desires. Nothing herein is intended to require the town council to accept any recommendation on such appointments from the respective board or committee. All boards and committees shall have five (5) regular members presiding and two (2) alternate members. Both alternates may participate in all discussion but only five (5) members vote. The alternate members shall alternate voting in the absence of a regular board member.



(b) *Requirements for board/committee membership.* Board members should have the expertise necessary to accomplish the board's objectives; a reputation for integrity and community service; interest or experience in the area of board service desired. All boards shall be comprised of Town of Malabar residents who have lived within the town for a minimum of one (1) year immediately preceding their appointment. All members shall also be registered electors of the town. Most boards require financial disclosure; and if appointed to one (1) of these boards, Section 112.3145, Florida Statutes, requires that you file a Form 1, Limited Financial Disclosure, with the Brevard County Supervisor of Elections within thirty (30) days of your appointment. All appointed members shall also be administered the oath of office by the mayor or presiding officer in the absence of the mayor at the council meeting of their appointment. All board/committee members shall serve without compensation. Any member may be removed from office for cause by the town council upon written charge and public hearing.



(c) The term of service for all board/committee regular and alternate members begins November 1 and ends October 31. The initial term of appointment will be based on the term remaining for that seat. Upon successful reappointment the renewing term for all boards/committees will be three (3) years. If the appointment is to fill a standing vacancy, the term for all boards/committees will be three (3) years. The terms are staggered for continuity as established by resolution.

(d) *Attendance.* Most boards/committees meet monthly with meeting times varying in length according to agenda items to be addressed. A quorum is three (3) members on all boards except the board of adjustment. Regular attendance is required by regular members and alternates. If a board/committee member's (regular or alternate) absences exceed



twenty-five percent (25%) of the scheduled meetings in a fiscal year (Oct. 1—Sept. 30) the board secretary shall send memo to clerk. Clerk will place item on next council agenda for action on termination or special exception. A board member is considered absent if not present for at least seventy-five percent (75%) of a scheduled meeting.

(e) *Vacancies.* The board/committee shall find that a vacancy exists upon:

- (1) Receipt of a resignation in writing from one (1) of its members or
- (2) Death, removal or disqualification or
- (3) Absence in excess of twenty-five percent (25%) of scheduled meetings within a fiscal year (Oct. 1—Sept. 30).

Only council can declare the seat vacated.

(f) Each board/committee shall elect its chair and vice-chair from among its members annually at the first meeting in November. The term will begin on the date of appointment and run for one (1) year. The chair shall set the agenda and facilitate the meeting. The vice-chair shall act in the absence of the chair.

(g) *Reappointments.* Board/committee members whose terms are expiring may submit an application for reappointment no later than September 1. The clerk will place the board appointments on the second meeting agenda in October for council action. Once the appointments are made, the members will take their seat at the first meeting in November. Appointees may be administered the oath of office either at the council meeting when they are appointed or at a subsequent council meeting.

(Ord. No. 14-08, § 1, 6-16-14)

#### Sec. 2-212. - Open meetings, public comment and agendas.

All meetings of any advisory board or committee created by the town council to assist in the council's decision-making process, including committee and subcommittee meetings of such boards or committees are declared to be public meetings and open to the public at all times. Open meetings of advisory boards and committees shall be governed by the following standards:

- (1) The minutes of such meetings shall be recorded by a recording secretary who is a member of staff and shall be promptly made available for public inspection.
- ~~(2) Reasonable notice must be given to the public of the time and place of such meetings. Responsibility for providing such notice is delegated to the staff person assigned to assist the advisory board or committee and act as their secretary.~~
- (3) Each advisory body shall allow for public comment at the beginning and end of all meetings.
- (4) The advisory board/committee chair along with the assigned staff member shall prepare the meeting agenda and any back-up material which shall be made available for inspection during regular business hours prior to each meeting.
- (5) All boards/committees shall use Robert's Rules as a guide in meeting protocol.

(Ord. No. 14-08, § 1, 6-16-14)

#### Sec. 2-213. - Ad hoc committees.

From time to time the town council may establish ad hoc committees which are designed to assist the town council in its decision making process on limited topics and issues. Such committees are designed for a limited purpose and duration and can be dissolved or inactivated by the town council at any time. Such committees shall be governed by the provision of this division. Such committees are not quasi-judicial authorities. There are no durational residency requirements for appointments to any ad hoc committee; however, members shall be residents of the town. The town council shall have the sole discretion to determine the number of members and make up of such committees.

(Ord. No. 14-08, § 1, 6-16-14)

regulation adopted pursuant to this act, and may make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken.

- b. *Majority vote required.* The concurring vote of a majority of all the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass under any such ordinance.
- (2) *Criteria for determining variances.* In order to authorize any variance from the terms of this chapter, the board of adjustment must find the following:
- a. *Existence of special conditions or circumstances.* That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
- b. *Conditions not created by applicant.* That the special conditions and circumstances do not result from the actions of the applicant.
- c. *Special privileges not conferred.* That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district.
- d. *Hardship conditions exist.* That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.
- e. *Only the minimum variance granted.* That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- f. *Not injurious to public welfare or intent of ordinance.* That the grant of the variance will be in harmony with the general intent and purpose of the comprehensive plan or this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- g. *Conditions and safeguards may be imposed.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with Chapter 163 F.S., the comprehensive plan, and any ordinance enacted under its authority. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the ordinance.
- h. *Time limit may be imposed.* The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.
- i. *No use variance permitted in specified instances.* Under no circumstances shall the board of adjustment grant a variance to permit a use not generally or by special exception permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

(Ord. No. 14-08, §§ 3, 4, 6-16-14)

**Editor's note**— Ord. No. 14-08, § 4, adopted June 16, 2014, redesignated previous Land Development Code subsections 1-12.2 A.—D as a new Code § 2-240. Section 3 of that same ordinance further amended the newly created Code subsection 2-240(a).

Secs. 2-241—2-249. - Reserved.

#### DIVISION 5. - PLANNING AND ZONING BOARD

Sec. 2-250. - Establishment and purpose of the planning and zoning board.

- (a) *Establishment and purpose.* The planning and zoning board is hereby established and shall consist of five (5) seats and two alternate-seats. The planning and zoning board is advisory in nature. Members of the board shall hold no other town office affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five (5) votes) is necessary for the adoption of any motion. The planning and zoning board deals with land use issues such as site plans, conditional uses, special exceptions, residential subdivision developments, plats, replats and zoning change requests. They review and compile updates for the comprehensive plan and present to council. They shall also draft land development code to conform to changes adopted by council to the comprehensive plan. They shall annually prepare a capital improvement project list to submit to council. Some of the issues that the board considers will be quasi-judicial and staff will alert them to those situations.
- (1) *Alternate member duties.* The alternate member of said planning and zoning board may attend all meetings of the planning and zoning board but shall act only in the absence, disability, abstention from voting or disqualification of a regular member thereof. The alternate members shall alternate to act in the place and stead of a regular voting member. When an alternate member acts, the minutes of the planning and zoning board shall reflect the name of the absent, disabled or disqualified member in whose place and stead the alternate is acting. Alternate members may always participate in board deliberations and debate, but they may make motions and vote only in the absence or voting disqualification of a regular member or the vacancy in a regular member's seat.
- (2) *Local planning agency.* The Malabar Planning and Zoning Board is hereby designated the local planning agency in accordance with F.S. 163, the Local Government Comprehensive Planning Act and as such shall conduct the comprehensive planning program and prepare the elements or portions of the comprehensive plan for presentation and approval by the town council.
- (3) *Authority and functions of planning and zoning board.* The authority of the planning and zoning board is intended to be advisory only. Nothing herein shall be construed to grant to the planning and zoning board final decision making authority. The planning and zoning board shall review proposed site plans, developments, subdivisions, zoning or land use changes for consistency with the Town Code and comprehensive plan and forward their recommendations to council in writing. If any such application is recommended for denial, the written recommendation shall state specifically what provision of the Code or comprehensive plan was not met. The planning and zoning board shall review and recommend updates to the capital improvement plan annually. They shall also undertake any other duties assigned to them by council.
- (4) *Land development regulations.* The planning and zoning board shall be familiar with the Malabar Land Development Regulations contained in the Land Development Code portion of the Malabar Code. These regulations are found in the chapters identified as Article I (Preamble) Article XX (Definitions) as updated from time to time. F.S. 163 mandates that local governments adopt and enforce land development regulations. Those regulations shall be consistent with their adopted comprehensive plan. That statute also requires that the provisions set forth in the comprehensive plan be implemented through adoption of ordinances.
- (5) *Administrative staff.* The planning and zoning board shall consult with town staff as well as other outside professionals in preparing recommendations for amendments to the comprehensive plan. They should also use staff to assist in preparing proposed ordinances and regulations designed to promote orderly development.
- (6) See division 1, section 2-211 above for other regulations.
- (b) *Designation as local planning agency.* Pursuant to and in accordance with F.S. § 163.3174, the Local Government Comprehensive Planning Act, the town planning and zoning board is hereby designated and established as the local planning agency for the city. The local planning agency, in accordance with the Local Government Comprehensive Planning Act of 1975, F.S. § 163.3161—3211 shall:
- (1) Conduct the comprehensive planning program and prepare the comprehensive plan or elements or portions thereof for the city.
- (2) Coordinate said comprehensive plan or elements or portions thereof with the comprehensive plans of other

appropriate local governments and the state.

(3) Recommend the comprehensive plan or elements or portions thereof to the town council for adoption.

(4) Monitor and oversee the effectiveness and status of the comprehensive plan as may be required from time to time.

(c) *Authority, powers and proceedings.*

(1) *Authority.* The town planning and zoning board shall abide by all the applicable provisions of the Town Charter, as amended, and chapter 163.3174, et seq., F.S. The authority of the planning and zoning board of the Town of Malabar is intended to be advisory only. Nothing contained herein shall be construed to grant to the planning and zoning board final decision making authority.

(2) *Functions and powers.* The functions and powers of the town planning and zoning board shall include:

- a. Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions. Such information and material may include maps and photographs of man-made and natural physical features of the area concerned, statistics on past trends and present conditions with respect to population, property values, economic case, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts;
- b. Establish principles and policies for guiding action in the physical development of the town;
- c. Advise and consult with administrative staff and others as may be directed by the town council in preparing the comprehensive plan, recommending amendments to the plan based on continuing plan evaluation; and in recommending to the town council courses of action and proposed ordinances and regulations designed to promote orderly development as may be necessary to implement the plan or to carry out any function of the board;
- d. Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan as to growth and improvement;
- e. Keep the town council and the general public informed and advised as to the physical development of the town;
- f. Conduct such public hearings as may be required to gather information necessary for the preparation, establishment, and maintenance of the comprehensive plan, as well as all other public hearings provided for hereby or by the town council;
- g. Make or cause to be made any necessary special studies on the location, condition, and adequacy of specific facilities in the area. These may include, but are not limited to, studies on housing, commercial and industrial conditions and facilities, public and private utilities, and traffic, transportation, and parking;
- h. Consider all plats subdividing lands, as well as all newly proposed streets or extensions thereto, and recommend acceptance, modification, or rejection thereof; prepare regulations for the subdivision and platting of land; review all plans for such streets and subdivisions, including all required community facilities such as drainage, water and wastewater facilities, and all other needed public improvements; and forward to the town council written recommendations on such matters;
- i. Undertake studies of town public land needs and recommend site acquisition for the same, including development plans and requisite facilities;
- j. Consider all questions involving the location, removal, or alteration in any way of any work of art belonging to the town, including monuments, memorials, and statuary, that is not kept indoors or assigned hereby or by ordinance to the jurisdiction of another agency; and, prior to the acceptance or rejection of any proposed gift to the town in the form of a monument or memorial, to approve or recommend modification or rejection of a sketch or plan thereof and the proposed location thereof;
- k. Annually prepare or update the capital improvements program and budget in conjunction with the town planner and town engineer, including the list of the capital improvements recommended for construction during the

next fiscal year and the five (5) year period following it. This process should include identification of recommended order of priority thereof, the year recommended for beginning construction, the year recommended for completing construction, and the estimated costs thereof;

- l. Carry out powers of site plan review; and
- m. Perform any other duties which lawfully may be assigned to the board.

(3) *Rules of procedure.* The planning and zoning board shall establish and adopt rules of procedure subject to approval by the town council, which include policies for, but not limited to, election and duties of officers; meeting schedule, time, and place; establishing order of business and method of transaction; procedure for action and voting by members; conduct of public hearings; rules of conduct; parliamentary procedure; maintenance of records; and method of amending same.

- a. *Officers.* The Planning and zoning board shall elect a chairman and a vice chairman from among its members. The board shall appoint a secretary who may be an employee of the town.
- b. *Meetings.* The board shall meet at regular intervals to be determined by it and at such other times as the chairman or board may determine. It shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations. Such record shall be a public record. All meetings of the board shall be public.
- c. *Administration of business affairs.* The board may, subject to the approval of the town council and within the financial limitations set by town council appropriations or by other available funds approved by the town council, employ such experts, technicians, and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the Board.
- d. *Procedures for planning and zoning board.* Rules of the planning and zoning board shall also apply to the board acting under powers extended to the planning and zoning board in Chapter 163 F.S. Members of the planning and zoning board shall continue to be appointed and follow such rules of procedure, methods of choosing officers, setting of public meetings, providing of financial support, and accomplishing its duties as provided in existing city ordinances. All meetings of the planning and zoning board shall be public meetings and all agency records shall be public records. The planning and zoning board shall encourage public participation.
- e. *Funding of planning and zoning board.* The town council shall appropriate funds at its discretion to the planning agency for expenses necessary in the conduct of its work. The planning and zoning board may, in order to accomplish its purposes and activities, expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources, provided acceptance of loans or grants must be approved by the town council.
- f. *Establish a schedule for comprehensive plan review.* The planning and zoning board rules of procedure shall establish a schedule for the review of the comprehensive plan pursuant to Chapter 163.3191 F.S. to determine whether comprehensive plan amendments are desirable.

(4) *Decisions of the planning and zoning board.* Decisions of the planning and zoning board are advisory in nature. Actions and requests approved by the planning and zoning board shall not be binding upon the Town of Malabar until approved by majority vote of the town council.

(d) *Planning and zoning board reviews required.* Pursuant to the state's local government comprehensive planning act, the following reviews by the planning and zoning board are mandated:

- (1) *Review of development for consistency with comprehensive plan.*
  - a. *Intent.* In compliance with Chapter 163.3194 F.S. all development within the Town of Malabar and all development orders and public actions related to such development shall be consistent with the town's adopted comprehensive land use plan as may be hereafter amended. "Development order" as stated herein shall mean

any order granting, denying, or granting with conditions an application for a development permit, building permit, zoning permit, subdivision approval, rezoning, variance, or any other action having the effect of permitting the development of land as defined in Chapter 163.3161 F.S.

- b. *Review by planning and zoning board.* Where the building and zoning official or other administrative official as may be charged by the town council, determines that a question exists as to a development application's consistency with the comprehensive plan, a written report and recommendation regarding such question shall be forwarded by the administrative official to the planning and zoning board for its review. The issue shall be placed before the planning and zoning board at its next regularly scheduled meeting. The applicant shall be notified of the meeting date, time, and place of the meeting. Decisions of the planning and zoning board may be appealed to town council pursuant to section 2-250(c)(4) of this article.
- (2) *Review and amendment of comprehensive plan.* At least once every five (5) years, the comprehensive plan or the completed parts thereof shall be reviewed by the planning and zoning board to determine whether changes in the amount, kind, or direction of development of the area, or other reasons, make it beneficial to make additions or amendments to the plan. If the town council desires an amendment or addition to the comprehensive plan, it may, on its own motion, direct the planning and zoning board to prepare such amendment; and if such amendment is in accordance with the purposes of the comprehensive plan, the board shall do so within a reasonable time as established by the town council. The procedure for revising, adding to, or amending the comprehensive plan shall be the same as the procedure for its original adoption.
- (3) *Review of land development code adoption or amendment.* Prior to adoption or amendment of the land development code, the planning and zoning board shall review such regulations and maps, and hold appropriate hearings as required pursuant to Chapter 125.66 F.S. The planning and zoning board, regardless of the source of a proposed land development code change, shall hold a public hearing or hearings thereon, with due public notice, and submit written recommendations to the town council for official action on the proposal.
- (4) *Review of development plans and policies required to carry out powers described herein or delegated by town council.* The town planning and zoning board shall conduct such other reviews of development plans and policies as shall be necessary to effectively carry out duties and responsibilities described in Chapter 163 F.S., stipulated in this Code, or delegated otherwise by the Town council.

(Ord. No. 14-08, §§ 3, 5, 6-16-14)

Editor's note— Ord. No. 14-08, § 5, adopted June 16, 2014, redesignated previous Land Development Code § 1-12.3 as a new Code § 2-250 and amended newly created Code subsection 2-250(c)(4). Section 3 of that same ordinance further amended the newly created Code subsection 2-250(a).

Secs. 2-251—2-299. - Reserved.