



REGULAR TOWN COUNCIL MEETING

Monday, November 6, 2023 at 7:30 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES
4. CONSENT AGENDA

a. Approve Minutes of 10/16/2023

Exhibit: Agenda Report Number 4.a.

Attachments:

- **Agenda Report Number 4.a.** (Agenda_Report_Number_4a.pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS

a. T&G Committee

Exhibit: Agenda Report Number 7a

Attachments:

- **Agenda Report Number 7.a.** (Agenda_Report_Number_7a.pdf)

b. Park & Recreation Board

Exhibit: Agenda Report Number 7.b.

Attachments:

- **Agenda Report Number 7.b.** (Agenda_Report_Number_7b.pdf)

c. Planning & Zoning Board

Exhibit: Agenda Report Number 7.c.

Attachments:

- **Agenda Report Number 7.c.** (Agenda_Report_Number_7.c..pdf)

d. Board of Adjustment

Exhibit: Agenda Report Number 7.d.

Attachments:

- **Agenda Report Number 7.d.** (Agenda_Report_Number_7.d..pdf)

8. STAFF REPORTS

- a. Manager
- b. Clerk

9. PUBLIC COMMENTS

Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)

Five (5) Minute Limit per Speaker

10. PUBLIC HEARINGS / SPECIAL ORDERS : 5

a. **First Reading - Small Scale Comprehensive Plan Amendment Changing the Future Land Use Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.54 acre Parcel 28-38-31-54-D-4 (Ordinance 2023-06)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPORATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.a.

Attachments:

- **Agenda Report Number 10.a.** (Agenda_Report_Number_10.a..pdf)

b. **First Reading - Amending the Town Zoning Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.54 acre Parcel of 28-38-31-54-D-4 (Ordinance 2023-07)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN ZONING MAP FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4 MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAPS; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.b.

Attachments:

- **Agenda Report Number 10.b.** (Agenda_Report_Number_10.b..pdf)

c. **First Reading - Small Scale Comprehensive Plan Amendment Changing the Future Land Use Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.26 acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. (Ordinance 2023-08)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA; PROVIDING FOR AMENDMENT TO

THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPERATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.c.

Attachments:

- **Agenda Report Number 10.c.** (Agenda_Report_Number_10.c..pdf)

d. First Reading - Amending the Town Zoning Map designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.26 acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. (Ordinance 2023-09)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.d.

Attachments:

- **Agenda Report Number 10.d.** (Agenda_Report_Number_10.d..pdf)

e. First Reading - Fiscal Year 2022/2023 Budget Amendment (Ordinance 2023-10)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2022/2023 TO PROVIDE FOR ACTUAL REVENUES RECEIVED; PROVIDING FOR THE UNSPENT BUDGETED FUNDS DUE TO REDUCED EXPENDITURES; PROVIDING DIRECTION TO REALLOCATE SUCH EXCESS FUNDS TO DESIGNATED RESTRICTED RESERVES FOR THE BUILDING DEPARTMENT, PARKS AND RECREATION, AND THE STATE & LOCAL FISCAL RECOVERY FUND; PROVIDING THE SHIFTING OF UNSPENT MONIES BETWEEN DEPARTMENTS TO BALANCE THE EXPENDITURES; PROVIDING REMAINING EXCESS FUNDS TO RESERVES ON DEPOSIT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10.e.

Attachments:

- **Agenda Report Number 10.e.** (Agenda_Report_Number_10e.pdf)

11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

a. Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres.

The applicant is Bowman Consulting Group (Zachary Komninos) representing property owner Mr. Robert Bareman.

Exhibit: Agenda Report Number 11.a.

Attachments:

- **Agenda Report Number 11.a.** (Agenda_Report_Number_11.a..pdf)

12. ACTION ITEMS

ORDINANCES: 0

RESOLUTIONS: 9

a. Town Manager Contract (Resolution 10-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LISA MORRELL AS THE TOWN MANAGER; PROVIDING FOR DUTIES, REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.a.

Attachments:

- **Agenda Report Number 12.a.** (Agenda_Report_Number_12.a..pdf)

b. Appoint Wayne Abare to the Planning and Zoning Board (Resolution 11-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF WAYNE ABARE TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.b.

Attachments:

- **Agenda Report Number 12.b.** (Agenda_Report_Number_12.b..pdf)

c. Appoint Liz Ritter to the Planning and Zoning Board (Resolution 12-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LIZ RITTER TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.c.

Attachments:

- **Agenda Report Number 12c** (Agenda_Report_Number_12c.pdf)

d. Appoint Murray Hann to the Trails and Greenways Committee (Resolution 13-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MURRAY HANN TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.d.

Attachments:

- **Agenda Report Number 12.d.** (Agenda_Report_Number_12.d..pdf)

e. Appoint Hans Kemmler to the Parks and Recreation Board (Resolution 14-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF HANS KEMMLER TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.e.

Attachments:

- **Agenda Report Number 12.e.** (Agenda_Report_Number_12.e.pdf)

f. Appoint Eric Bienvenu to the Parks and Recreation Board (Resolution 15-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ERIC BIENVENU TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.f.

Attachments:

- **Agenda Report Number 12.f.** (Agenda_Report_Number_12.f..pdf)

g. Appoint Charles "Chuck" Frazee to the Board of Adjustment (Resolution 16-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES "CHUCK" FRAZEE TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.g.

Attachments:

- **Agenda Report Number 12.g.** (Agenda_Report_Number_12g.pdf)

h. Appoint David Sowards to the Board of Adjustment (Resolution 17-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DAVID SOWARDS TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.h.

Attachments:

- **Agenda Report Number 12.h.** (Agenda_Report_Number_12.h..pdf)

i. Florida Loan Council Loan Offers (Resolution 18-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF ITS \$3,500,000 CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2023, FOR THE PURPOSE OF FINANCING THE CONSTRUCTION AND ACQUISITION OF CERTAIN CAPITAL PROJECTS, AS MORE FULLY DESCRIBED HEREIN; AUTHORIZING THE NEGOTIATED SALE OF SUCH NOTE TO WEBSTER BANK, NATIONAL ASSOCIATION, PURSUANT TO THE TERMS AND CONDITIONS OF A LOAN AGREEMENT BY AND AMONG THE FLORIDA MUNICIPAL LOAN COUNCIL, THE TOWN OF MALABAR, FLORIDA, AND WEBSTER BANK, NATIONAL ASSOCIATION; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT; DESIGNATING THE NOTE AS A "QUALIFIED TAX-EXEMPT OBLIGATION;" MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH NOTE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12.i.

Attachments:

- **Agenda Report Number 12.i.** (Agenda_Report_Number_12.i..pdf)

j. Tri-Party Development Agreement for 3350 Henderson Drive

Exhibit: Agenda Report Number 12.j.

Attachments:

- **Agenda Report Number 12.j.** (Agenda_Report_Number_12.j..pdf)

k. Approval of Medical Director Contract

Interim Chief Giantonio

Exhibit: Agenda report number 12.k.

Attachments:

- **Agenda Report Number 12.k.** (Agenda_Report_Number_12.k..pdf)

l. Town of Malabar Town Treasurer

CM Vail

Exhibit: Agenda Report Number 12.l.

Attachments:

- **Agenda Report Number 12.l.** (Agenda_Report_Number_12.l..pdf)

m. Schedule Joint Workshop between Town Council and the Planning and Zoning Board for potential amendments to the Comprehensive Plan

Mayor Patrick T. Reilly

Exhibit: Agenda Report Number 12.m.

Attachments:

- **Agenda Report Number 12.m.** (Agenda_Report_Number_12.m.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

13. DISCUSSION/POSSIBLE ACTION

14. PUBLIC COMMENTS

General Items (Speaker Card Required)

15. REPORTS - MAYOR AND COUNCIL MEMBERS

16. ANNOUNCEMENTS

(1) Vacancies on the Trails and Greenways Committee; (3) Vacancies on the Parks and Recreation Board, (1) Vacancy on the Planning and Zoning Board; and (1) Vacancy on the Board of Adjustment.

17. 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 ensure 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. 86.26 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

Regular Town Council Meeting

AGENDA ITEM NO: 4.a
Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Approve Minutes of 10/16/2023 RTCM

BACKGROUND/HISTORY:

Summary of actions at Town Council Meetings

ATTACHMENTS:

- Draft Minutes of the RTCM of 10/16/2023

ACTION OPTIONS:

Review

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
October 16th, 2023, 7:30 PM**

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

1. CALL TO ORDER:

Council Chair Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Clevenger led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

JIM CLEVENER

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT

TOWN ATTORNEY:

KARL BOHNE - Excused

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

- 3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:** CM Acquaviva requests to add a discussion item to discuss the planning of a Fallfest or Springfest. Added as Item 11.a.

4. CONSENT AGENDA:

4.a. Approve Minutes of 10/02/2023 RTCM

Exhibit: Agenda Report Number 4a

MOTION: CM Scardino/CM Hofmeister to approve Consent Agenda as presented.

Vote: All Ayes (5-0).

- 5. ATTORNEY REPORT:** None

6. STAFF REPORTS:

6.a. Town Manager – Matt Stinnett informed Council that the final plans for Rocky Point were submitted over the weekend. He will finalize the RFP and begin to seek bids. The new receptionist began today, and the Executive assistant will begin Monday. Collete's last day is tomorrow. There is also a written report for both the Fire Department and Public Works Department. CM Vail states that he has heard positive feedback from the residents on the Public Works Department. CM Scardino asks how much fill dirt we have on hand? PW Director Johns states that they have about 4 loads left. He is hoping to have a company begin to deliver the fill dirt. He suggests replacing the slope mower with a hydrostatic tractor with a bucket. CM Scardino asks how much that would cost? PW Director states there is a brand called Diamond, which he feels would be the most effective machine for the Town. He also plans to mow the sides of the roads to improve the image of the Town. He also feels that all of the culverts in the park should have guards. CM Scardino states that PVC pipe works well for that project. CM Vail asks if the Town is getting quotes for the new machine? TM Stinnett states no, but there are other possibilities. It costs about \$150,000.00. CM Hofmeister asks how long the slope mower has been down? PW Director states 3 months. He feels the slope mower is the incorrect tool for the Town. He recommends the Diamond machine TM Stinnett mentioned earlier.

6.b. Town Clerk – Richard Kohler informed Council that he would be attending the Florida Association of City Clerks Fall Conference in Daytona Beach from Monday through Thursday of next week. Classes scheduled include Election Management, Local Government Budgeting, Parliamentary Procedures, Employment Laws and

many more. I will have my computer and work phone with me, so please feel free to contact me with any questions.

7. **PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)
8. **PUBLIC HEARINGS/SPECIAL ORDERS: 0**
9. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 0**

10. **ACTION ITEMS:**

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 1

MISCELLANEOUS: 2

10.a. **Resolution 09-2023 Florida Municipal Government Week**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RECOGNIZING FLORIDA MUNICIPAL GOVERNMENT WEEK, OCTOBER 16TH TO OCTOBER 22ND, AND ENCOURAGING ALL CITIZENS TO SUPPORT THE CELEBRATION AND CORRESPONDING ACTIVITIES.

Resolution Read by Title only.

Exhibit: Agenda Report Number 10.a.

Staff Comments: Clerk Kohler states this same Resolution was approved last year, and Staff is planning a series of events to help increase awareness of the Town of Malabar. Some events are employee spotlights and a Malabar history survey.

MOTION: CM Hofmeister/CM Scardino to approve Resolution 09-2023.

Discussion: None

Roll Call Vote: CM Clevenger, Aye; CM Scardino, Aye; CM Hofmeister, Aye; CM Acquaviva, Aye; CM Vail, Aye. Motion Carries 5-0.

10.b. **Draft Contract for Lisa Morrell to become Town Manager – Mayor Reilly**

Exhibit: Agenda Report Number 10.b.

Discussion: Mayor Reilly states that he has requested a contract be presented tonight to appoint Ms. Morrell as the next Town Manager of Malabar. He believes in hiring from within, as the Town has done with both Mr. Stinnett and Mr. Kohler. The Town may choose to advertise the decision, but he feels that Ms. Morrell will be the best candidate. She has served the Town since October of 2020, and served as Town manager for 15 months during Mr. Stinnett's deployment, as well as during 2 hurricanes. She has implemented new processes across the Town and brings with her 23 years of municipal government knowledge and experience. He requests a motion to move forward with the proposed contract, and a second motion to negotiate a final contract.

MOTION: CM Vail/CM Scardino to move forward with the Draft Contract.

CM Acquaviva states she feels Council did not have a lot of time to process this. She feels that as a strong Council form of government, this should have come from Council, not the Mayor. CM Vail states that he spoke to Ms. Morrell and asked her if she wanted the job, and she said yes. He feels confident she will do a good job and will support appointing her. CM Hofmeister states she also spoke with Ms. Morrell.

Staff Comments: Ms. Morrell states she is excited and appreciates the opportunity to take on additional challenges. She is looking forward to continuing the path of progressiveness. She also looks forward to continuing to work with Council to accomplish the goals of our Town and its residents. She hopes to negotiate and provide a final contract for November 6th.

Vote: All Aye (5-0)

MOTION: CM Scardino/CM Hofmeister to appoint CM Scardino to negotiate the final salary and benefits for final approval at the November 6th RTCM.

Vote: All Ayes (5-0).

10.c. Town of Malabar Staffing Needs – Mayor Reilly

Exhibit: Agenda Report Number 10.c.

Discussion: Mayor Reilly explains to Council that the Town Treasurer position is now vacant. Clerk Kohler explained that he felt he could perform the position in addition to his current duties. Ideally, an accounting specialist or payroll clerk would be hired for assistance, while he maintains a high level decision and oversight position. Alternatively, Council could decide to advertise the Treasurer position. He felt that combining the positions would provide continuity at the highest levels of the Town and allow for a quick transition. Mayor Reilly states when the Town posted for the Treasurer position, they did not find any qualified applicants. CM Scardino asks if any of the recent applicants for Executive Assistant could fill the position? Clerk Kohler states that there were a few with minor accounting experience, including one with payroll experience in the military who could likely perform minor accounting duties. CM Vail states he feels it would be a good transition. CM Acquaviva states she feels this is moving to quickly. She believes this is an interesting and possibly great idea but is not ready to vote on it tonight. The Town did a lot to separate the position, and the Town Clerk is a big job. CM Vail states he feels this is the natural progression. He called Mr. Kohler and asked if he felt he could perform the duties of the position, and Mr. Kohler said yes, with the requested assistance. He believes in advancing internally and would like to see Mr. Kohler perform the position with the requested support. Clerk Kohler states he is very interested in doing the job and doing it well. If that includes getting additional accounting knowledge, or working extra hours until assistance is hired, he is willing to do the extra work needed to succeed. CM Vail believes Mr. Kohler has proven his ability in his time with the Town, and asks how long he has worked here? Mr. Kohler states he was hired as a Special Projects Manager, was promoted to Medium Equipment Operator, then promoted to Deputy Clerk/Treasurer, and again promoted to Town Clerk for a total of 5 years. CM Vail states that he has shown he is willing to do more and accomplish the job. CM Hofmeister states this conversation is the first time she has heard of this proposal. CM Scardino suggests making a motion to bring in a payroll specialist and to appoint Mr. Kohler to the position. He feels the Town waits too long to do things. CM Clevenger asks how much experience would the new hire have? CM Scardino states someone to do the inputting. Mayor Reilly states we hired the executive assistant to assist all of the Charter offices, its possible she will be able to assist in this field. CM Clevenger asks Mr. Kohler what the limits are for what he can and will do. Mr. Kohler states he can complete payroll and is familiar with the new accounting software. He can input invoices and cut checks. He would like to have someone to input bills as they come in and perform tasks such as payroll and taxes. He acknowledges that it is a busy building, and he is willing to take on the additional workload and responsibilities, but requests assistance in the future. CM Acquaviva states she has seen Ms. Morrell be overwhelmed with treasurer duties at times. How does she feel Mr. Kohler would be able to handle that? Ms. Morrell states the job is much more than data entry. She has been inundated with Audit requests, she is working through the TRIM process, and many other tasks. There is a lot of minutia work that could be given to a data entry clerk. She spoke with Mr. Kohler and would like to have Mr. Kohler oversee the position because he is knowledgeable in the overall specialties. The perfect position to fill would be a paymaster. The paymaster would be the doer, and Mr. Kohler would review for competence. When Ms. Franklin was the Town Clerk/Treasurer, Mr. Kohler performed a lot of the Treasurer tasks as the Deputy Clerk/Treasurer. CM Acquaviva states we just hired someone who reports to the Clerk. Ms. Morrell states that the receptionist reports to the Town Manager. CM Acquaviva asks if the new position would report to Mr. Kohler? Staff states yes. CM Scardino asks if the new receptionist or executive assistant could be capable of growing into a finance position? SPM Morrell states possibly in the future, but not yet. She reiterates that the goal of this agenda item is to decide if we wait, promote, or advertise.

MOTION: CM Scardino/ to have Mr. Kohler become the Clerk/Treasurer and hire a Paymaster/Payroll Specialist.

Motion Fails due to lack of a second.

CM Vail requests this be on the next agenda as well. CM Scardino states he would like to see the Town move forward.

11. DISCUSSION/POSSIBLE ACTION: 0

11.a. Town Event Discussion (CM Acquaviva)

CM Acquaviva spoke about the possibility of having a future Town event. She feels the Malabar Markets were amazing. She would like to see if there would be volunteer support. She doesn't feel it needs to be a Committee or Board. CM Vail states there used to be a SpringFest and FallFest Committee. CM Acquaviva states she feels there is a want and a need for the events, and she suggests calling on volunteers for a meeting. CM Vail suggests planning for Springfest. PW Director states the Grant Valkaria Seafood Fest would be a great event to recreate. CM Vail states he agrees and would like to see it done through volunteers. CM Scardino suggests branding the event. Grant has a Seafood Fest, what should we do? CM Hofmeister suggests Trail days. CM Acquaviva would like to see who shows up. She remembers the 50th anniversary party and would love to see it recreated. CM Acquaviva asks staff to collect info on this in the future. SPM Morrell states staff can do a survey. CM Acquaviva suggests having a sign-up sheet for volunteers at the Christmas Tree Lighting. Mayor Reilly suggests having a Christmas party.

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

13. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: None

CM Vail: None

CM Clevenger: None

CM Hofmeister: None

CM Scardino: None

Mayor Reilly: Mayor Reilly states that tomorrow is his final ethics training as Mayor. He also found a mistake in Table 1-3.3(A) and is bringing it to the P&Z board for future review. It will be on their second next meeting. He also thanked Matt for his years of service in Malabar, as this is his last Council Meeting before he begins to work at the County. TM Stinnett thanked Council, and states he hopes to have left a positive impact on the Town. He feels the Town has really come along way and is happy to have shared the experience.

16. ANNOUNCEMENTS: (1) Vacancy on the Planning & Zoning Board; (2) Vacancy on the Parks & Recreation Board; (1) Vacancy on Board of Adjustment; (1) Vacancy on the Trails and Greenways Committee.

17. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:23 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

Date Approved: 11/6/2023

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **7.a**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Trails and Greenways Committee Update

BACKGROUND/HISTORY:

The Trails and Greenways Committee met on October 9th. At their meeting, they discussed the Kiosks, Firebreaks and Trail conditions, Updates on the MSS Restoration plan, the Cameron Preserve and Eagles Nest Trailhead, the BPTAC meeting, as well as their next scheduled workday. More details on their discussions can be found in the attached minutes.

One Committee Member, Murray Hann, has a term expiring in 2023. He has submitted an application to remain on the Committee.

ATTACHMENTS:

- DRAFT Minutes of 10/09/2023 T&GC Meeting

ACTION:

- Review.

FINANCIAL IMPACT:

- None

MALABAR TRAILS AND GREENWAYS COMMITTEE REGULAR MEETING MINUTES
October 9th, 2023, 6:00 PM

This meeting of the Malabar Trails and Greenways Committee 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 Thompson.

2. ROLL CALL:

CHAIR:	DREW THOMPSON
VICE-CHAIR:	MURRAY HANN
BOARD MEMBERS:	ANNELIE HARVEY - Excused
	BOB WILBUR
	BARBARA CAMERON
ALTERNATES:	MARK GUNTER
GRANT/VALKARIA LIASON:	CRAIG SMITH
BOARD SECRETARY:	RICHARD KOHLER

3. Additions/Deletions/Changes- None

4. CONSENT AGENDA

4.a. Regular Trails and Greenways Committee Mtg Minutes of 9/19/2023.

Motion to approve the consent agenda as amended by CM Cameron/CM Hann.

Discussion: Chair noted a correction in Cameron Preserve. Amended as directed.

All Ayes: Carried 5-0.

5. PUBLIC COMMENTS: None.

6. ACTION ITEMS: None.

7. DISCUSSION

a. Trail, Kiosk and Firebreak Conditions

VC Hann states the trails are wet. Liaison Smith states he went through the area and found it drier than expected. VC Hann states the bridges of the Secret Trail was flooded. They survived well. The area looked beautiful with the increase of water. He states the bridges are above the waterline again. Cameron Preserve trails are in great condition. The work performed at the last trail day removed a lot of toe catchers, and trimmed all of the Cameron trails. He estimates that 6 or 7 miles of trails were trimmed. He gave a special thanks to BMBA member Jimmy Karp for his hard work in trimming poison ivy from the trails. CM Gunter asks if there is still a tree down across the bridge? VC Hann states it has already been removed. CM Gunter states he rode the area after the rains and has never seen it this wet. VC Hann states he has recently seen a family of Scrub Jays in the Cameron Preserve. He believes they have moved there due to the prescribed burn recently performed by the EELs program. He contests that Fish and Wildlife suggests not burning more than 10% of a property, and the program regularly exceeds that. He fears that they will be removing the Oak trees by Malabar Community Park soon. CM Gunter states he has not seen them working in the west and believes they will finish the work in the east first. VC Hann expresses his frustration that the program removed the trees along the median of Malabar Woods Blvd. He also expresses concern that all the mulch and trimmings are flowing towards the Lagoon.

b. MSS Restoration Plan Observations and Concerns

Chair thanked Clerk Kohler for providing the incident report from the Prescribed burn in the MSS. He feels having this included in the agenda is important. He is concerned that the next fire will burn the Cameron Preserve. He asks if Malabar FD has the authority to deny a prescribed burn in Malabar? CM Wilbur suggests requesting from forestry a notification whenever an application is submitted for a burn in Malabar. Chair suggests Town Staff pursue this. Clerk Kohler states he will investigate the possibilities of advanced notice for prescribed burns. CM Gunter states he spoke with Evan Hall, Brevard EELs Burn Master, and was informed that the winds were favorable, so they burned extra. He is unsure what parameters are laid out in the burn permit. CM Wilbur states that much more information is considered, such as transport winds and ground saturation. He is concerned that the EELs program is not being honest. Chair feels the EELs program took advantage of the favorable winds to burn additional land. He feels the burn limits should have been set by the Scrub Jay sites, not how much land can be burned. He feels Malabar would be smart to request additional information before a burn.

c. Cameron Preserve

Chair began by stating that he has not received any signs yet. VC Hann states he has not had time to drill the signs but expects to have time this week. Chair states he is looking forward to installing them with the bottom of the sign being 6 feet off the ground. Chair thanked staff for planning the FCT walkthrough. Clerk Kohler states he and TM Stinnett will perform a walkthrough. Chair suggests highlighting the new signs, Impala Trail, and the Eschenberg Park plan. Clerk Kohler stated that CM Harvey delivered the hardware she had on hand for the inventory. She stated that she also had two 6"x6"x16' sections of wood left. CM Gunter states that when entering the Cameron Preserve, there are no trash cans. He has picked up trash while walking in the area and has had to carry it all the way out. He is unsure of where one would be most useful but wanted to bring it up. Can we make the Sherrif aware of the increased activity out there? CM Cameron explains that she had requested the BCSO mounted posse patrolled the Cameron Preserve. Clerk Kohler explains that the BCSO Ag/Marine unit came to patrol the area the day after she spoke to them. CM Wilbur explains that the increased development of US 1 will push some homeless towards our area. Clerk Kohler also explained that he is trying to communicate with Mr. Suggs of Forestry in regards to recutting the firebreaks. VC Hann expressed his excitement in beginning that process.

d. Eagles Nest Trailhead

Chair states that the dirt is all in place and level. Do we need more fill? CM Wilbur states he believes so. Chair would like to give the ENT some attention this fall. Clerk Kohler states he has begun researching wells for the Trailhead. He has contacted three local well drillers, Heidi Kruger, Florida Well Drillers, and Aqua Source Well Drillers. Currently, only Heidi Kruger has responded. They stated they a traditional Fire Well is 6-8 inches in diameter. They are not certified or qualified to install them. They did provide three other options:

1. 4" well (\$8,600)
2. 2" well (\$4,000)
3. Shallow well with hand pump and pitcher (\$2,425 (well) + \$175 (pump/pitcher))

Staff will continue to pursue quotes from the other two companies, as well as seek Fire Department input on the size of the well for the next meeting. Chair states he believes that Malabar FD was interested in participating in this concept. He hopes to work towards that goal. He is working on a proposal for funding. He also suggests contacting the County for a partnership on this project. CM Wilbur suggests requesting a member of the Fire Department at our next meeting. VC Hann requests a sketch of the ports and pipes they will require. Chair states he feels this should be a major project for this group and hopes for Council support. He feels it would be a

major win for many facets of the Town. VC Hann suggests having the pump set up so that two or more trucks can refill at any time. Chair suggests a new name for the ENT since the eagle's nest is gone. He proposes the new name become Empty Nest Trailhead. It remains ENT but is more appropriate. VC Hann suggests also including an Osprey nest in the future.

e. Next Field Event – TBD

Chair states that aside from the installation of the signs, the ENT needs assistance. CM Wilbur states he believes there should be more fill brought in. He also believes we can expand further east if needed. Chair then gave a broad overview of the ENT project. VC Hann suggests Friday, October 20th for the next trail day.

8. OLD/NEW BUSINESS

a. Board Member Comments: CM Cameron reported on a webinar she attended on Seniors exercising. She found that Malabar is right on track with all of the points they discussed. She did learn that a lot of the seniors are using E-Bikes. Discussion on e-bikes and potential limitations ensued. Chair states he would like to upload a video to the site in future. Chair also informs the Committee that he uploaded the SCTPO Master Plan to the TGC site. He also informed the Committee that the BPTAC meeting has been canceled with no rescheduled date. CM Wilbur suggests pursuing the Trail Crossing at Malabar and Marie Street, as well as the line of sight cleaning at the same intersection. CM Gunter suggests including a new trash can at the Briar Creek Blvd entrance. VC Hann also suggests getting an additional Trail Crossing sign along Briar Creek Blvd.

b. Staff Reports: None

c. New Business:

- Next Regular Meeting- November 13th, 2023

9. ADJOURN

There being no further business to discuss;

MOTION: HANN/CAMERON to adjourn. Vote: All Ayes. The meeting adjourned 7:57 PM.

BY:

Drew Thompson, Chair

11/13/2023

Date Approved: as presented:

Richard W. Kohler, Board Secretary

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **7.b**
Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Parks and Recreation Board Update

BACKGROUND/HISTORY:

The parks and Recreation Board has not met since their last report to Council.

There are 3 Board Members whose terms expire this year. Two, Eric Bienvenu and Hans Kemmler chose to renew. One, Evan Hall, chose to not renew his term. There are currently only 4 members of the Board.

ATTACHMENTS:

- a. None

ACTION OPTIONS:

- a. None

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **7.C**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Planning and Zoning Board Update

BACKGROUND/HISTORY:

The Planning and Zoning Board held a meeting on October 25th, 2023. Please see the attached Memo from Board Secretary Sherear for more information.

ATTACHMENTS:

- Memo 23-BDM-23

ACTION:

- None

-

TOWN OF MALABAR

MEMORANDUM

Date: October 30,2023 23-BDM-023

To: Richard Kohler, Town Clerk
Town Council

From: Denine Sherear, Planning & Zoning Board Secretary

Ref: Updates from Planning & Zoning Meetings Recommendation to Council from P&Z Board- Public Hearings from the Planning & Zoning Board on October 25,2023 (3- Separate Hearings)

The Planning & Zoning Board has had several "canceled" meetings. There is two PZ Board Members that were up for Board renewal Wayne Abare & Liz Ritter, they did submit their applications to continue on the PZ Board.

- July 26, 2023, PZ Meeting was held to approve minutes of 5/10/2023 and discuss possible items for future meetings, and as requested by the Board a list of permits provided within the last 3 months from the building dept.
- October 25, 2023, the PZ Meeting had three (3) Public Hearing Items on this Agenda, all were discussed and recommended to go before Council.

1.) Recommendation to Council: To Rezone property known as: 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). The applicant is Kellwill, LLC represented by owner William (Willy) Carmine. (Ord.2023-09)

Exhibit: Agenda Report 6.a
Recommendation: Discussion/Action to Council

The Board discussed this item and made a recommendation to move forward to Council upon their advisory.

Motion: Ritter/Shortman Recommendation so noted as requested for LU/ZC to move forward to Council for review.

Chair called for **Roll Call Vote:** Board did roll.
Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye; Motion carried 5 to 0.

Passed

2.) Recommendation to Council: For Site Plan Approval of New Commercial Building property known as: 6795 Babcock Street,

Malabar FL 32950 AKA: Parcel ID # 29-37-10-00-318 Commercial General (CG) property 1.26 acres. The applicant is: Bowman Consulting Group (Zachary Komminos) representing property owner Mr. Robert Bareman.

Exhibit:

Agenda Report 6.b

Recommendation:

Discussion/Action to Council

The Board discussed this item and made a recommendation to move forward to Council upon their advisory.

Motion: Shortman/Ritter Recommendation for Site Plan as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye; Motion carried 5 to 0.

Passed

- 3.) **Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-38-31- 253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG) The applicant is MVB Engineering LLC for property owners Robert B & Jill M Trettis. (Ord 2023-08)**

Exhibit:

Agenda Report 6.d

Recommendation:

Discussion/Action to Council

The Board discussed this item and made a recommendation to move forward to Council upon their advisory.

Motion: Dial/Taylor as Recommendation for LU/ZC to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Nay; Shortman, Nay; Dial, Aye; Abare, Aye. Motion carried 3 to 2.

Passed

The next meeting is November 8, 2023.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 7.d.

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Board of Adjustment Update

BACKGROUND/HISTORY:

The Board of Adjustment held a meeting on October 12th, 2023. Please see the attached Memo from Board Secretary Sherear for more information.

ATTACHMENTS:

- Memo 23-BDM-24

ACTION:

- None

TOWN OF MALABAR

MEMORANDUM

Date: October 31, 2023 23-BDM-024

To: Richard Kohler, Town Clerk
Town Council

From: Denine Sherear, Planning & Zoning Board Secretary

Ref: Board of Adjustment Updates October 2023

The Board of Adjustment (BOA) meets on an "as needed basis" for Variances submitted.

The Board had three members up for renewal, David Sowards, Charles (Chuck) Frazee, and Alternate-Christian Sabatino. The only members that have submitted applications are David Sowards and Charles Frazee. Alternate-Christian Sabatino decided not to continue on the Board.

The BOA had a meeting on October 12, 2023, which consisted of two Variances, both variances were denied due to not meeting the requirements of code.

- 4.a. Case No. 01-09 2023 Applicant requests a Variance to the Malabar Land Development Code Article III Table 1-3.3(A) Size & Dimension Regulations to setbacks, lot size, & dimension in RR-65 Zoning to construct a Single-Family Residence.**
Applicants are Mrs. Diana E. Cho (property owner)/Oscar Hotusing/Jesus Quintero (contractor)
Location: Vacant Parcels ID: 29-37-01-00-835. Aka: 2480 LaCourt Lane, Malabar, Florida
Exhibit: Agenda Report No 4.a.
Recommendation: Action

This did not meet the code requirements for a variance. The variance was not approved, Agenda Item Report attached 4.a.

Motion: Hanna /Korn Recommendation to not approve the requested variance.

Roll call vote: Hanna, Aye; Frazee: Aye; Korn: Sowards: Aye; Abare: Aye motion carried to deny 5 to 0.

- 4.b. Case No. 02-09 2023 Applicant requests a Variance to Malabar Land Development Code Article III Table 1-3.3(A) Size & Dimension Regulations to width of parcel in RS-21 Zoning to Construct Two Single-Family Residences.**
Applicants are Mr. Charles Mack Rowland; Property Owner: Mr. Christopher J. Nelms.
Location: Residential Property ID: 29-38-8-**-258 Aka: 2790 Rocky Point Road, Malabar, Florida

Exhibit: Agenda Report No 4.b.
Recommendation: Action

This did not meet the code requirements for a variance. The variance was not approved, Agenda Item Report attached 4.b.

Motion: Korn/Abare Recommendation to not approve the requested variance.

Roll call vote: Hanna, Aye; Frazee: Aye; Korn: Sowards: Aye; Abare: Aye motion carried to deny 5 to 0.

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 4.b.
Meeting Date: October 12, 2023

Prepared By: Denine Sherear, Building Department Manager

SUBJECT: Variance Request, Case # BOA 02-102023 Mr. Charles Mack Rowland (representing) Mr. Christopher J. Nelms (property owner); request a variance to a Malabar Land Development Code Article III Table 1-3.3(A) Size & Dimension Regulations in RS-21 Zoning to split lots & construct a two Single-Family Residence.

BACKGROUND/HISTORY:

This request came into the Building Department Office. Mr. Charles (Mack) Rowland representing Property owner Mr. Christopher J. Nelms would like to request a Variance of 22 feet to each lot to the parcel width which is 120 feet RS-21 per single-family residence, except for the Cape Kennedy lots that were deeded before Ordinance 7-1-76 can be less acreage and conform with requirements. The current property that Mr. Nelms wants to split would then be 98 feet width. Mr. Nelms would want this variance to be maintained with the vacant parcel so a single-family residence could be constructed. There are other parcels located on Rocky Point Road that do not meet the 120 feet width requirements. These parcels comply with all other Size and Dimension Regulations for RS-21 Zoning.

ATTACHMENTS:

- Application for Variance
- Property Appraiser's Radius map
 - List of property owners within 500' radius that were notified.
 - Notice sent to property owners.
- Property Information & Survey
- Code requirements

- **ACTION OPTIONS:**

Staff Request Review

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 4.a,
Meeting Date: October 12, 2023

Prepared By: Denine Sherear, Building Department Manager

SUBJECT: Variance Request, Case # BOA 01-102023 Ms. Cho (property owner); requests a variance to Malabar Land Development Code Article III, Table 1-3.3(A) Size and Dimension Regulations, Minimum set back from front is 40 feet & if on corner is 40 feet and rear & side are 30 feet setbacks. The Variance is for the rear & front setbacks & square footage for lot per code.

BACKGROUND/HISTORY:

This request came into the Building Department's Office. Ms. Cho/Oscar Hotusing/Jesus Quintero(contractor) would like to construct a single-family residence. Due to wetlands (mitigation enclosed in this packet) and setbacks a variance is requested for rear property survey of 10 feet and front property survey of approx. of 15 feet, and parcel does not meet the square feet of 65,340 sq feet for 1.5-acre requirement. The Town has no proof this is deemed an undersized parcel to build. The parcel is .75 acres, which calculates 32,234 sq ft. The residence size the property owners want to build is 4,522 total and 2,617 living area.

There was work commenced on property before Variance request which included property clearing, going through open drainage ditch & possible wetland areas, and culvert installed improperly. The culvert is the only permit that has been submitted & picked-up. The culvert still has not been installed properly. The other required permits to clear trees/underbrush have not been permitted yet.

It appears that certain criteria will need to be met to build a single-family residence.

ATTACHMENTS:

- Application for Variance (letter from property owner)
- FDEP- Mitigation for wetlands
- Property Appraiser's Radius map
 - List of property owners within 500' radius that were notified.
 - Notice sent to property owners.
- Code requirements for a variance.

ACTION OPTIONS:

Staff requests review

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 10.a.
Meeting Date November 6, 2023

Prepared By: Lauren Hamilton, Executive Administrative Assistant on behalf of
Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Small Scale Comprehensive Plan Amendment Changing the Future Land Use Map Designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.54 Acre Parcel 28-38-31-54-D-4. Applicant is Kellwill, LLC, represented by Mr. William Carmine (Ordinance 2023-06)

BACKGROUND/HISTORY:

This applicant's request to amend the Land Use from Residential /Limited Commercial (R/LC) to Commercial General (CG) to have a continuance of Commercial Business for the sale of motor crafts located at: 2760,2768,2770,2800 aka: Parcel ID# 28-38-31-54-D-4 & 28-38-31-5-D-6 Malabar Road, Malabar. There is a total of 2.54 acres.

This was heard at the P&Z Board meeting on October 25, 2023, and received a 5-0 vote. The request is consistent with the Comprehensive Plan, Compatible with the surrounding areas, and Conforms with the desire of Council to encourage commercial development along the main corridors.

For these reasons, Malabar staff recommends approval of the land use change.

If the first reading of Ordinance 2023-06 is approved, it will be advertised for a subsequent Public Hearing after an expedited review from the State.

Attached please find:

- Draft minutes from P&Z Board Meeting of 10/25/23
- Ord 2023-06
- Map of the area
- Application package from Mr. Carmine
- Memos from Staff
- Legal Ad
- Section 1-3.1, 1-3.2 & 1-3.3 of the Land Development Code

ACTION OPTIONS:

Approval of first reading of Ord 2023-06

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES
OCTOBER 25, 2023, 6:00 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 (by Wayne Abare) and Pledge led by Chair Wayne Abare.

2. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
	ALTERNATE: MEGHAN WOLFGRAM,
	ALTERNATE: VACANT
BOARD SECRETARY:	DENINE SHEREAR

6. PUBLIC HEARING:3

- 6.a.** Recommendation to Council: To Rezone Property known as 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-09)

Property owner, William Carmine 3916 Lakeside Lane, Valkaria, presented the request to rezone the parcel to be consistent with the zoning for Route 1 Motorsports he owns adjacent to this parcel. This property would be used for a marine dealership. They are looking to do this work in stages. Initially, it will be used for an outdoor boat showroom without a building. Fencing the area in to display the boats in an aesthetic manner and stabilize the ground.

Chair Abare asked if any of the Board Members would like to ask Mr. Carmine any questions.

Ms. Ritter commented that CG is not intended for outside storage.

Mr. Carmine responded that this isn't for "outside storage" it is for recreational vehicle sales/display.

Ms. Ritter said that he has a lot of outside storage on his Route 1 property that is zoned CG.

Mr. Carmine responded by inquiring what the zoning is of the properties all around town hall where all the boats and RVs are being stored outside.

The Board Secretary, Denine, responded that the property surrounding Town Hall was not a good comparison but the property across the street is zoned CG.

Ms. Shortman inquired if car dealerships are allowed in CG as that is storage/display of vehicles.

Ms. Ritter said she didn't know if they would be required to fence the area.

Mr. Carmine said they would be fencing the area. His inventory fluctuates and they are looking to build a warehouse in Grant-Valkaria.

Mr. Dial asked applicant if he had any idea when you'd be looking to put up the building.

Mr. Carmine advised that they had started the process of engineering but the initial quotes they've gotten back were shocking compared to what they've built in the past. They're renting a space to the south (Bill's Discount Marine) temporarily to make sure that they can sell boats before investing the money into a new building. They hope to build within the next 2-5 years. He showed a couple renderings.

Ms. Shortman asked how things would be secured in the event of a hurricane.

Mr. Carmine advised that the boats would be on trailers and they would do their best to make sure they are secured. He does not want to add pavement or concrete now until the building is built, just looking to stabilize the area for display parking.

This rezoning request is consistent with the zoning in the area.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for rezoning from RLC to CG: Ritter / Shortman.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

- 6.b.** Recommendation to Council: For Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres. (Ordinance 2023-06)

Zachary Komninos from Bowman Consulting Group presented on behalf of property owner, Mr. Robert Bareman. This is for a shutter/soffit company with an office and warehouse, one driveway access off of Babcock with parking lot in front and service yard in rear. A swale system will handle the stormwater. All permits have been obtained through SJRWMD, FDEP, and the City of Palm Bay.

Ms. Ritter asked about mitigating the wetlands onsite and if only 1 handicap parking spot is required.

Mr. Komninos advised that mitigation was not necessary as the wetlands are less than ½ acre and based on the square footage of the building, only 1 handicap spot was necessary. The project will be on septic as there is no sewer available. Water is provided by the City of Palm Bay. The septic drainfield is 15 ft from the top of bank for the dry pond/swale.

Staff, the reviewing engineer (Morris), and the Fire Department have approved. The engineer has requested a copy of the wetland report. The comments have been provided.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for site plan: Shortman / Ritter.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

6.c. Request withdrawn by applicant.

6.d. Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-3831-253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-08)

The zoning of the adjacent properties to the north is CG and the property to the south is R/LC.

Bruce Moia of MBV Engineering presented for property owners Robert B & Jill M Trettis. The applicant owns the property to the north. He is looking to rezone the 2 parcels to the south to the same CG zoning. The proposed facility would utilize all 3 parcels if these 2 parcels are rezoned.

Mr. Abare opened the floor to public comments.

Mr. Baker who owns the storage facility 1040 Hwy 1 spoke in opposition of the project. He thinks that the project site will be difficult to build without creating a problem for the neighbors (diminished property values, drainage retention) since it is not level. If the property were flat, he would not have any comments.

The property owners are required to retain the water on their properties.

Mr. Moia responded by saying that the drainage and stormwater requirements are much stricter than they were in 1984 when Mr. Baker built his project. They will submit a drainage plan if/when a site plan application is submitted. All these issues will be addressed at that time.

Mr. Dial asked about height restrictions – 35 ft is the max.

Mr. Taylor wanted to confirm that the property owners within a certain radius were notified.

Denine advised they were notified by mail, and it was advertised in the newspaper. If they were unable to attend, they could have called or emailed, and their concerns would have been placed on record. No comments from adjacent owners were received.

Ms. Wolfgram asked about the property immediately to the south. A new single-family residence is being built on that property.

MOTION to approve for Council for rezoning from RLC to CG: Dial / Taylor.

Vote: 3-2

Taylor	Aye
Ritter	Nay
Shortman	Nay
Dial	Aye
Abare	Aye

7. ADJOURNMENT

There being no further business to discuss, MOTION: Ritter / Dial to adjourn this meeting.
Vote: All Ayes.

The meeting adjourned 7:37 P.M.

BY:

Wayne Abare, Chair

Denine Sherear, Board Secretary

Date Approved: as presented.

ORDINANCE 2023-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPERATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR 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 Council has considered the recommendation of the Planning and Zoning Board and approves the land use change for the property described below and is hereby re-designated on the land use map from *Residential/Limited Commercial (R/LC) to Commercial General (CG)*:

The entire portion of Lot 54-D-4, in Township 28, Range 38, Section 31, Malabar, Brevard County, Florida. This property is located at the northeast corner of Malabar Road and East Railroad Avenue.

Section 2. The Town Clerk is hereby authorized and directed to cause the revisions to the Land Use Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

Section 3. If no challenge is filed, the effective date of this ordinance shall be thirty-one (31) days after the State Land Planning Agency notifies the local government that the amendment package is complete. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity (DEO), or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within 10 days of enactment.

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 Marisa Acquaviva _____
- Council Member Brian Vail _____
- Council Member Jim Clevenger _____
- Council Member Dave Scardino _____
- Council Member Mary Hofmeister _____

If no challenge is filed, the effective date of this ordinance shall be thirty-one (31) days after the State Land Planning Agency notifies the local government that the amendment package is complete.

**BY:
TOWN OF MALABAR**

Mayor Patrick T. Reilly, Council Chair

(seal)

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Legally Advertised to Comply with FS 163 and 166.

Hearing at P&Z: 10/25/2023

Ord First Reading:

Second Reading: ___

Effective Date:

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 – Telephone
(321) 727-9997 - Fax

Date: 4/19/23

No. _____

APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE TOWN OF MALABAR

APR 19 2023

RECEIVED

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
- Florida Statutes, Chapter 166.041(c)
- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): Kellwill LLC Telephone #: 321 626-1835
Mailing Address: 1300 US Hwy 1 Malabar FL 32950

Legal description of property covered by application:

Township: _____ Range: _____ Section: _____
Lot/Block: _____, Parcel Subdivision: Snedekers
Other Legal: _____

Property Address: 2760, 2768, 2770, 2900 - Malabar Rd 4.2 acres

- 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: Current: R/LC Proposed: CG
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: R/LC Proposed: CG
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: R/LC Proposed: CG

Fees:

- Rezoning - \$325 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Rezoning & Land Use Charges - \$625 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.

(*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ 1665.00 in check or money order payable to *Town of Malabar*. We do not accept cash or credit cards.
- Radius package from Brevard County P&Z GIS Department providing a list of names and addresses of property owners and legal descriptions of all property within 500 feet of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office.

Town gets Radius

[Signature]
Signature of Applicant

Signature of Applicant

TOWN OF MALABAR
APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE

APR 19 2023

RECEIVED

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

Please complete only one of the following:

I, _____, being first duly sworn, depose and say that I, _____, am the legal representative of the Owner 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 application are honest and true to the best of my knowledge and belief.

Applicant Date

Applicant Date

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

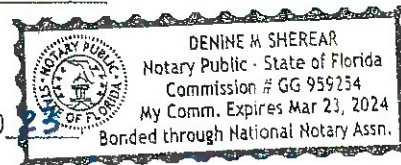
NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: _____ My Commission Expires: _____.

I, William Carmine
William Carmine, being first duly sworn, depose and say that I, _____, am the Owner 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 knowledge and belief.

William J. Carmine 4/19/23
Applicant Date

Applicant Date

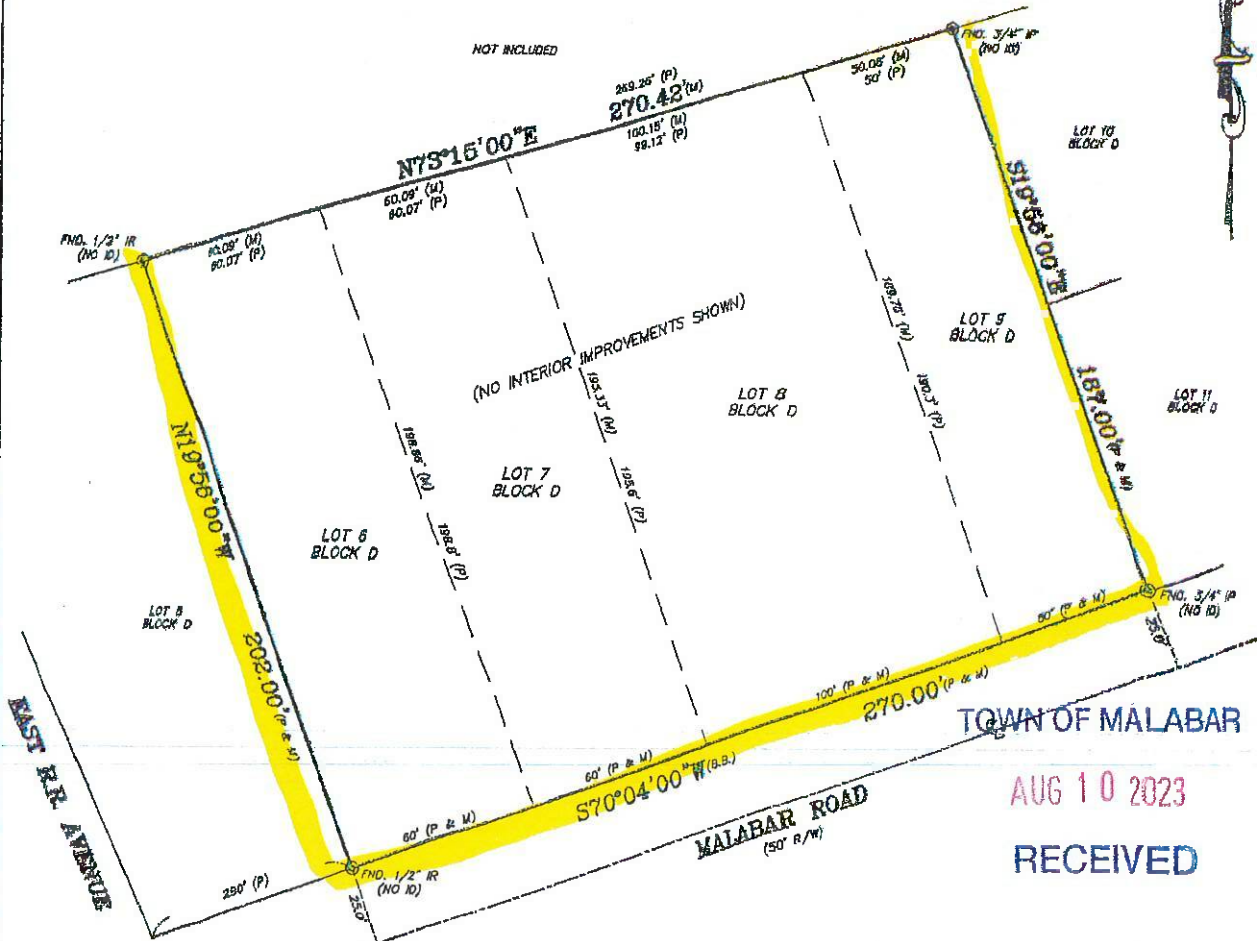


Sworn and subscribed before me this 19 day of April, 2023.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: GG 959254 My Commission Expires: MAR 23, 2024

Denine M Sherear
Denine M Sherear



AUG 10 2023
RECEIVED

**Grading for stabilization and
Fencing to be permitted by Fence
Company.*

SURVEY PREPARED FOR:
DEANNE BIGGINS RAY

DESCRIPTION: LOTS 6-9, BLOCK D, SNEDEKERS SUBDIVISION OF MALABAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 97, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO FLOOD INSURANCE RATE MAP #12028C 0814 G, DATED MARCH 17, 2014 THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X (NAVD 88)

TYPE OF SURVEY:
BOUNDARY

SCALE: 1" = 40'

REVISION:
REVISION:
REVISION:
REVISION:
REVISION:
REVISION: UPDATE 07-18-18

FIELD DATE: 07-20-88

SECTION 31,
TOWNSHIP 38 SOUTH,
RANGE 38 EAST

PROJECT #1211

GENERAL NOTES:
1. THIS SURVEY AND DRAWING HAS BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARD OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER SJ-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.
2. THIS SURVEY AND DRAWING IS FOR THE SOLE USE AND BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE AS NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
3. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
4. NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
5. THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
6. BEARINGS ARE BASED ON AN ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
7. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED.
9. "NO WELLS" AND "NO SEPTICS" ARE DEFINITIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B. #6623
PHONE: (321)768-8110 FAX: (321)952-9771 EMAIL: frontdesk@aalsurvey.com

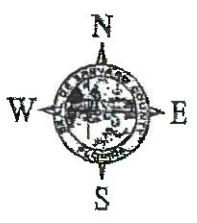
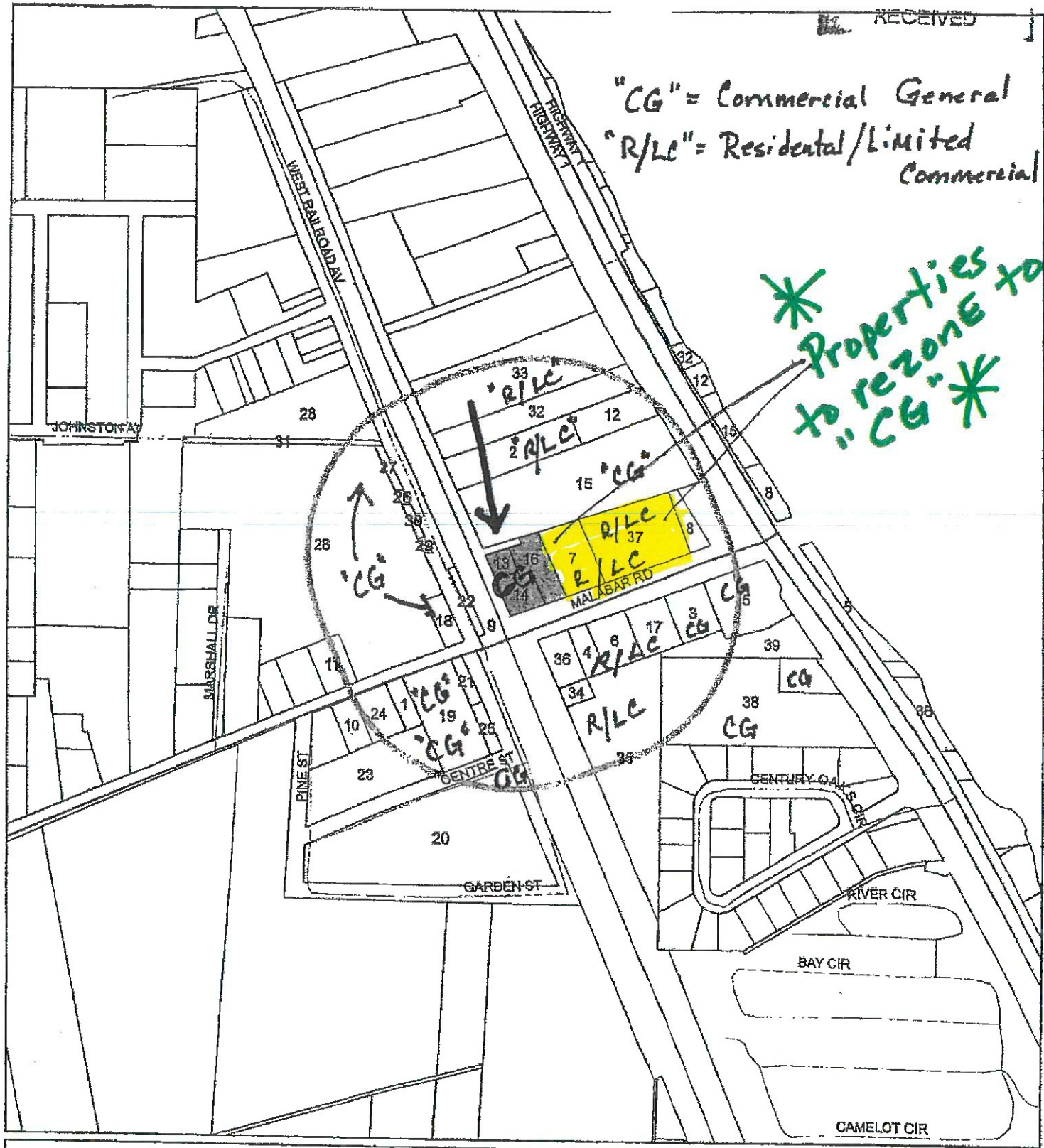
LEGEND	
(B.B.)	- BASIS OF BEARING
(M)	- MEASURED
(P)	- PLAT
(D)	- DEED
(R)	- IRON ROD
(R.P.)	- IRON PIPE
(M&D)	- NAIL AND DISC
(M&T)	- NAIL AND TIN TAB
(C.M.)	- CONCRETE MONUMENT
(P.M.)	- PERMANENT REFERENCE MARK
(E.W.)	- EDGE OF WATER
(T.B.K.)	- TEMPORARY BENCHMARK
(D)	- DELTA
(R)	- RADIUS
(L)	- ARC LENGTH
(F.L.)	- FENCE
(C.H.)	- CHORD LENGTH
(P.O.B.)	- POINT OF BEGINNING
(P.C.)	- POINT OF CURVATURE
(P.T.)	- POINT OF TANGENCY
(P.I.)	- POINT OF INTERSECTION
(P.I.C.)	- POINT OF REVERSE CURVE
(R/W)	- RIGHT OF WAY
(B.S.L.)	- BUILDING SETBACK LINE
(O.W.)	- OVERHEAD WIRE
(E.P.)	- EDGE OF PARCEMENT
(P.U.)	- PUBLIC UTILITY EASEMENT
(O.E.)	- ORDNANCE EASEMENT
(E)	- ELEVATION
(F)	- FINISHED FLOOR
(C)	- CONCRETE
(R.C.P.)	- REINFORCED CONCRETE PIPE
(C.M.P.)	- CORRUGATED METAL PIPE
(C)	- CENTERLINE
(L.S.)	- LICENSED SURVEYOR
(P.L.S.)	- PROFESSIONAL LAND SURVEYOR

[Signature]
ANDREW W. POWSHOK
P.L.S. No. 5383

DANIEL D. GARNER
P.L.S. No. 8189

"CG" = Commercial General
"R/LC" = Residential/Limited Commercial

* Properties to rezone to "CG" *







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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.

Produced by BoCC - GIS Date: 3/27/2019

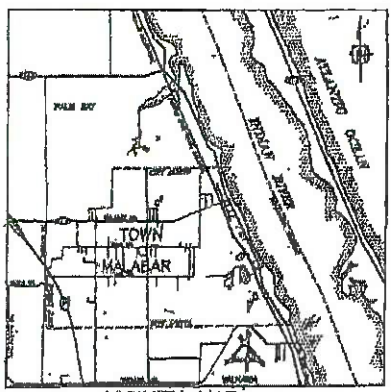
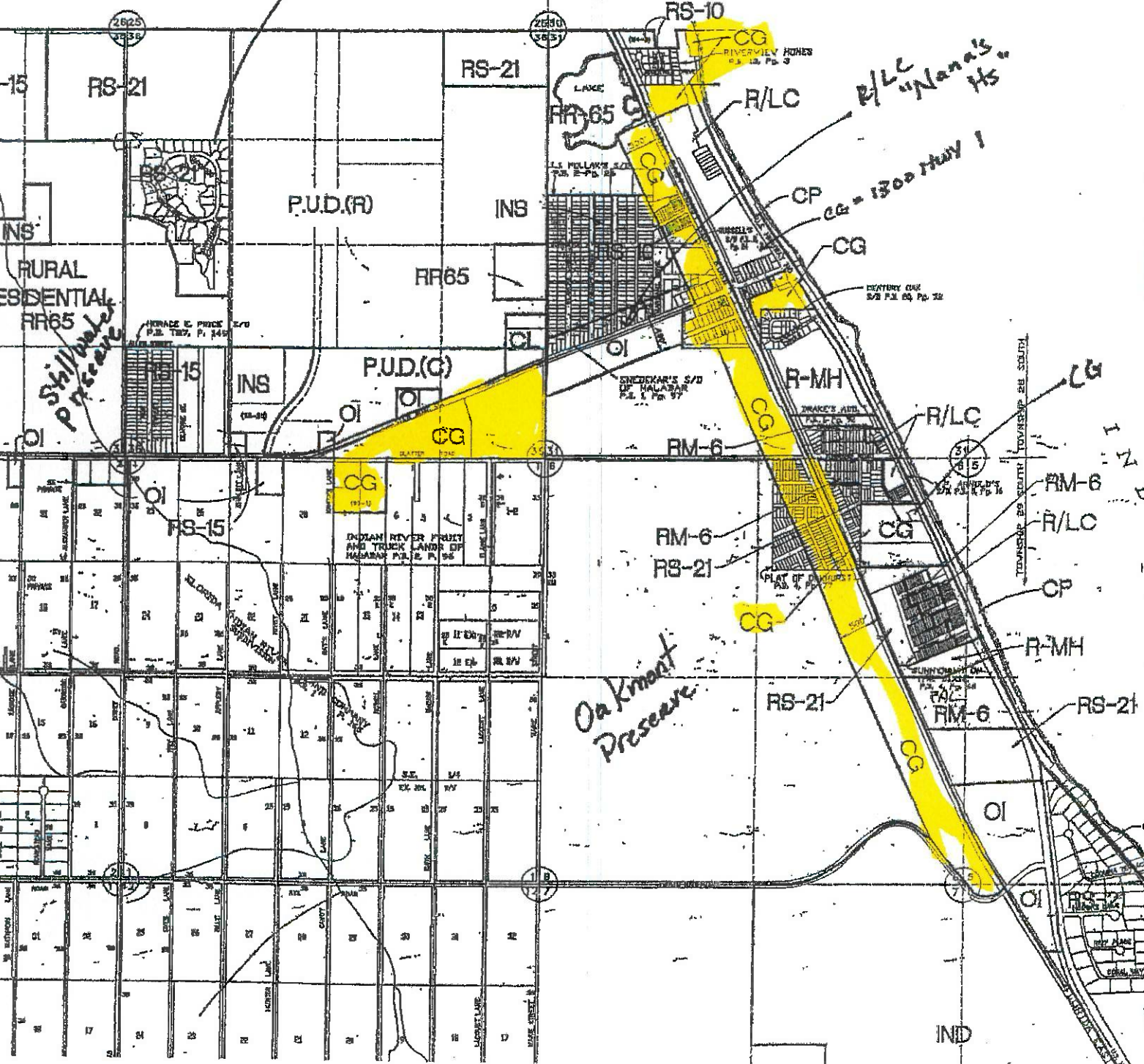
-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

13 10A

Town CO 50

RANGE 27 EAST RANGE 28 EAST

TOWN ZONING MAP 27



DISTRICTS' LEGEND

ZONING DESIGNATIONS

RR-21	Rural Residential	(1.8 Ac./Unit)
RR-15	Single Family Residential	(2 Units/Acre)
RR-10	Single Family Residential	(2 Units/Acre)
RR-5	Single Family Residential	(4 Units/Acre)
RM-6	Medium-Density Residential	(4 Units/Acre)
R-MH	Residential Medium Density	(4 Units/Acre)
R/LC	Residential Limited Commercial	
CP	Community Planned	
CG	Community Growth	
INS	Industrial	
RR65	Rural Residential	
P.U.D.(R)	Planned Unit Development - Residential	
P.U.D.(G)	Planned Unit Development - Commercial	

Stillwater Preserve

Oa Knaut Preserve















R/LC 4/14/15 MS
CG - 1300 Hwy 1

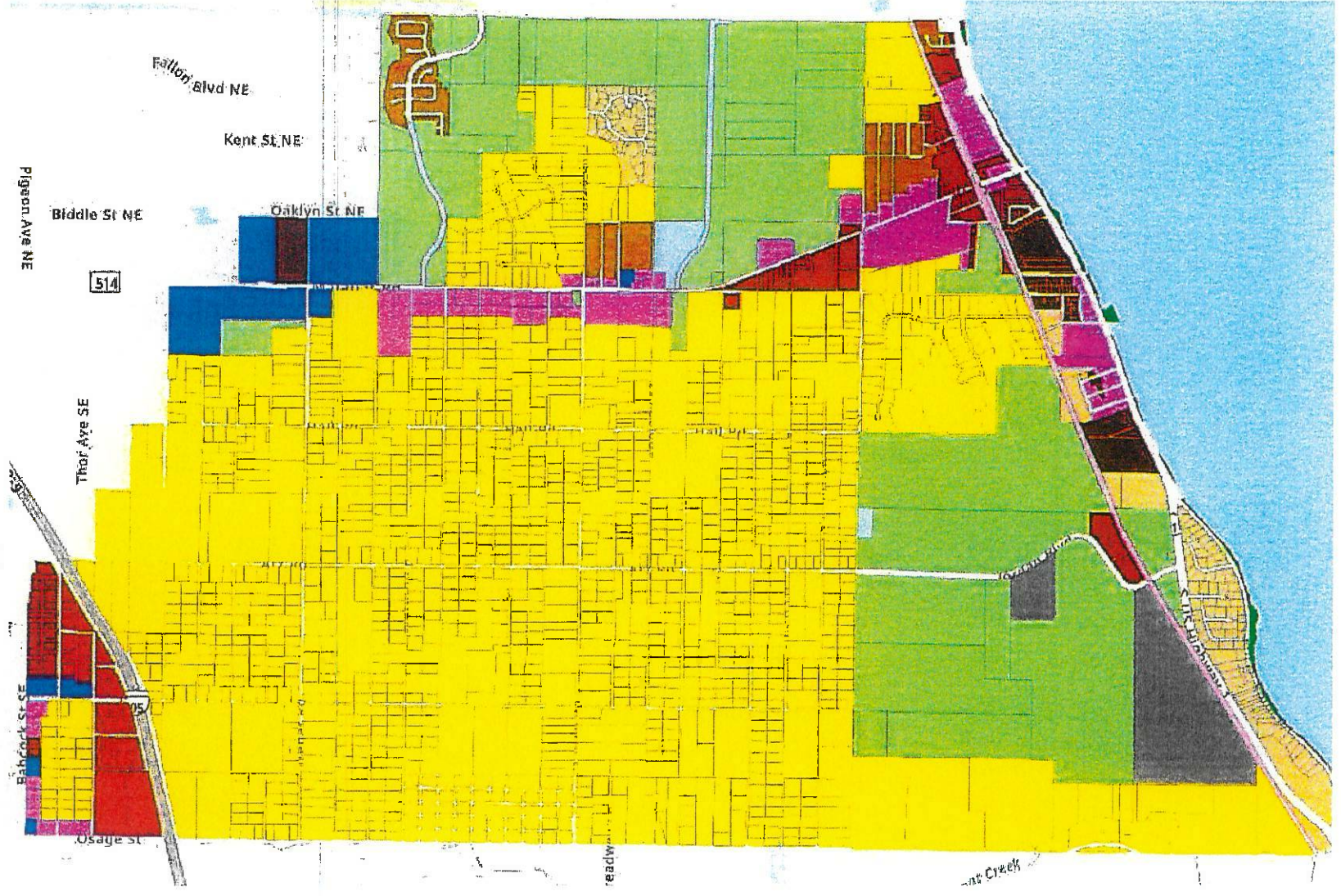
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ROCKY POINT
P.L. 24, P. 122

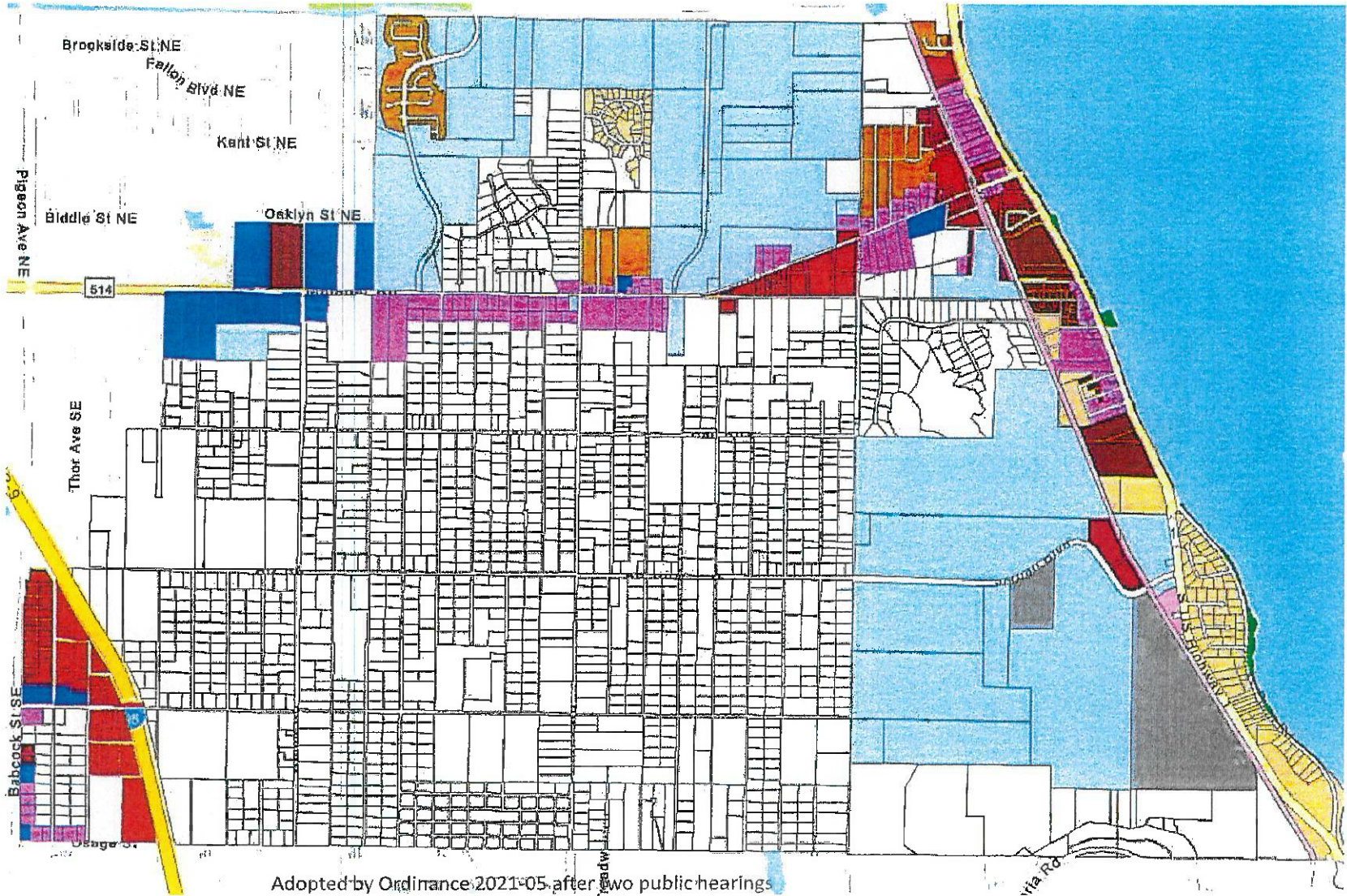
Future Land Use Map

-  Commercial General
-  Commercial Limited
-  Conservation
-  Coastal Preserve
-  High Density Residential
-  Open Space and Recreation
-  Industrial
-  Institutional
-  Low Density Residential
-  Medium Density Residential
-  Office-Institutional
-  Residential and Limited Commercial
-  Rural Residential
-  Other



Future Zoning Map

-  Commercial General
-  Commercial Limited
-  Coastal Preservation
-  Industrial
-  Institutional
-  Office-Institutional
-  Residential Mobile Home
-  Residential and Limited Commercial
-  Multiple Family HDR
-  Rural Residential
-  Single Family MDR (RS-10)
-  Single Family MDR (RS-15)
-  Single Family LDR (RS-21)
-  <all other values>



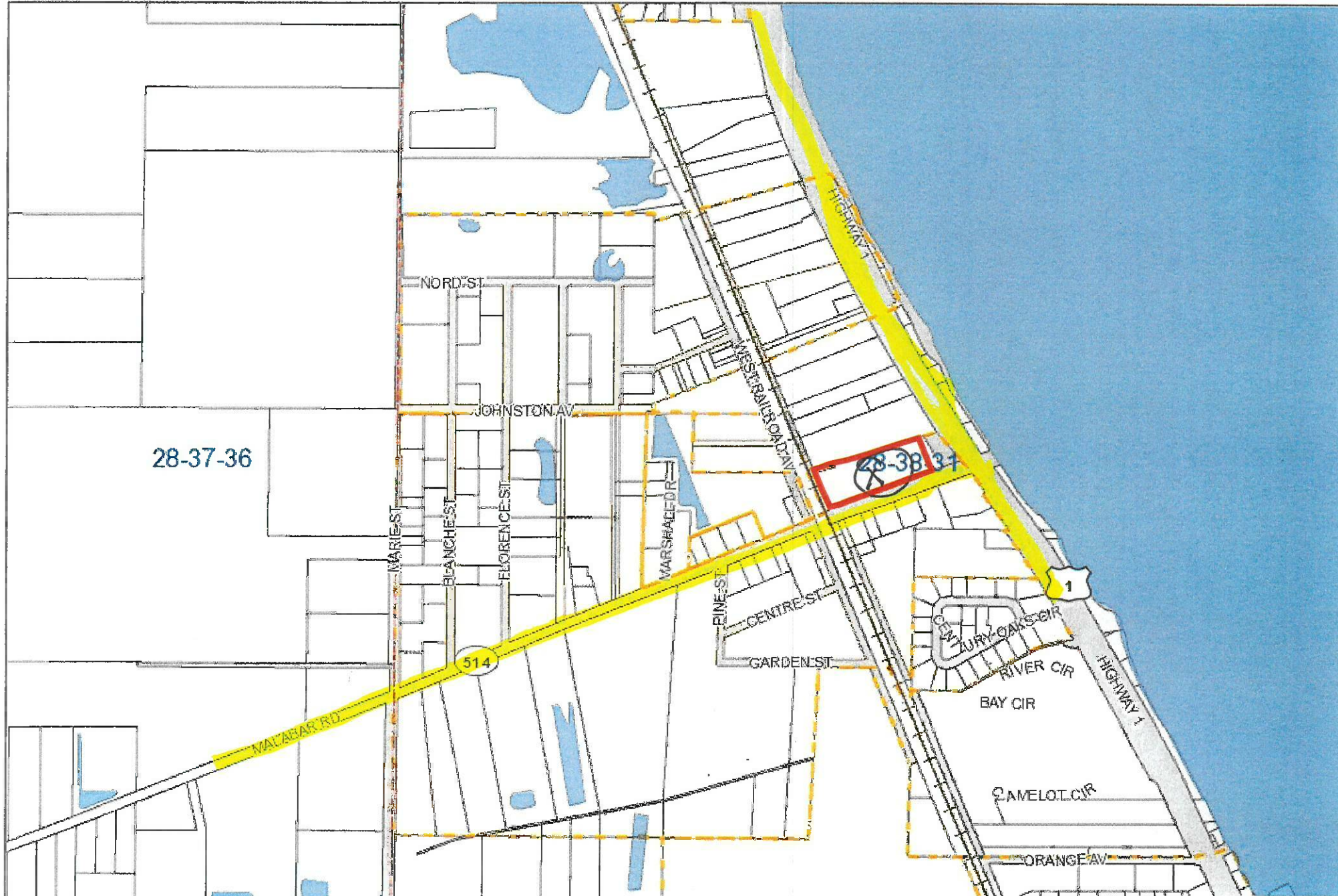
Adopted by Ordinance 2021-05 after two public hearings
5/17/2021 and 6/7/2021





Dana Blickley, CFA
PROPERTY APPRAISER
Brevard County

2760/2768 / 2770/2800
MALABAR ROAD



TOWN OF MALABAR

MEMORANDUM

Date: October 30,2023 23-BDM-022

To: Richard Kohler, Town Clerk
Town Council

From: Denine Sherear, Planning & Zoning Board Secretary

Ref: Recommendation to Council from P&Z Board- Public Hearings from the Planning & Zoning Board on October 25,2023 (3- Separate Hearings)

The Planning & Zoning Board has recommendations that resulted from the meeting on 10/25/2023 under "Public Hear/Action."

- 1.) Recommendation to Council: To Rezone property known as: 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). The applicant is Kellwill, LLC represented by owner William (Willy) Carmine. (Ord.2023-09)**

Exhibit: Agenda Report 6.a
Recommendation: Discussion/Action to Council

Motion: Ritter/Shortman as requested to move forward to Council for review.

Chair called for **Roll Call Vote:** Board did roll.
Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 2.) Recommendation to Council: For Site Plan Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-37-10-00-318 Commercial General (CG) property 1.26 acres. The applicant is: Bowman Consulting Group (Zachary Komninos) representing property owner Mr. Robert Bareman.**

Exhibit: Agenda Report 6.b
Recommendation: Discussion/Action to Council

Motion: Shortman/Ritter for Site Plan as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 3.) **Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-38-31- 253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG) The applicant is MVB Engineering LLC for property owners Robert B & Jill M Trettis. (Ord 2023-08)**

Exhibit:

Agenda Report 6.d

Recommendation:

Discussion/Action to Council

Motion: Dial/Taylor as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Nay; Shortman, Nay; Dial, Aye; Abare, Aye. **Motion carried 3 to 2.**

Account Number:	1127265
Customer Name:	Town Of Malabar
Customer Address:	Town Of Malabar 2725 Malabar Rd Malabar FL 32950-4427
Contact Name:	TOWN OF MALABAR
Contact Phone:	
Contact Email:	
PO Number:	

Date:	10/23/2023
Order Number:	9442233
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	60.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
BRE Brevard Florida Today	1	10/27/2023 - 10/27/2023	Govt Public Notices
BRE floridatoday.com	1	10/27/2023 - 10/27/2023	Govt Public Notices

Order Confirmation Amount	\$124.20
----------------------------------	-----------------

Ad Preview

Ad #9442233

10/27/23

TOWN OF MALABAR NOTICE OF PUBLIC HEARING

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, November 6, 2023, at 7:30pm, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

ORDINANCE 2023-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPERATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Copies of the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. 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. Richard Kohler, Town Clerk.

RADIUS MAP

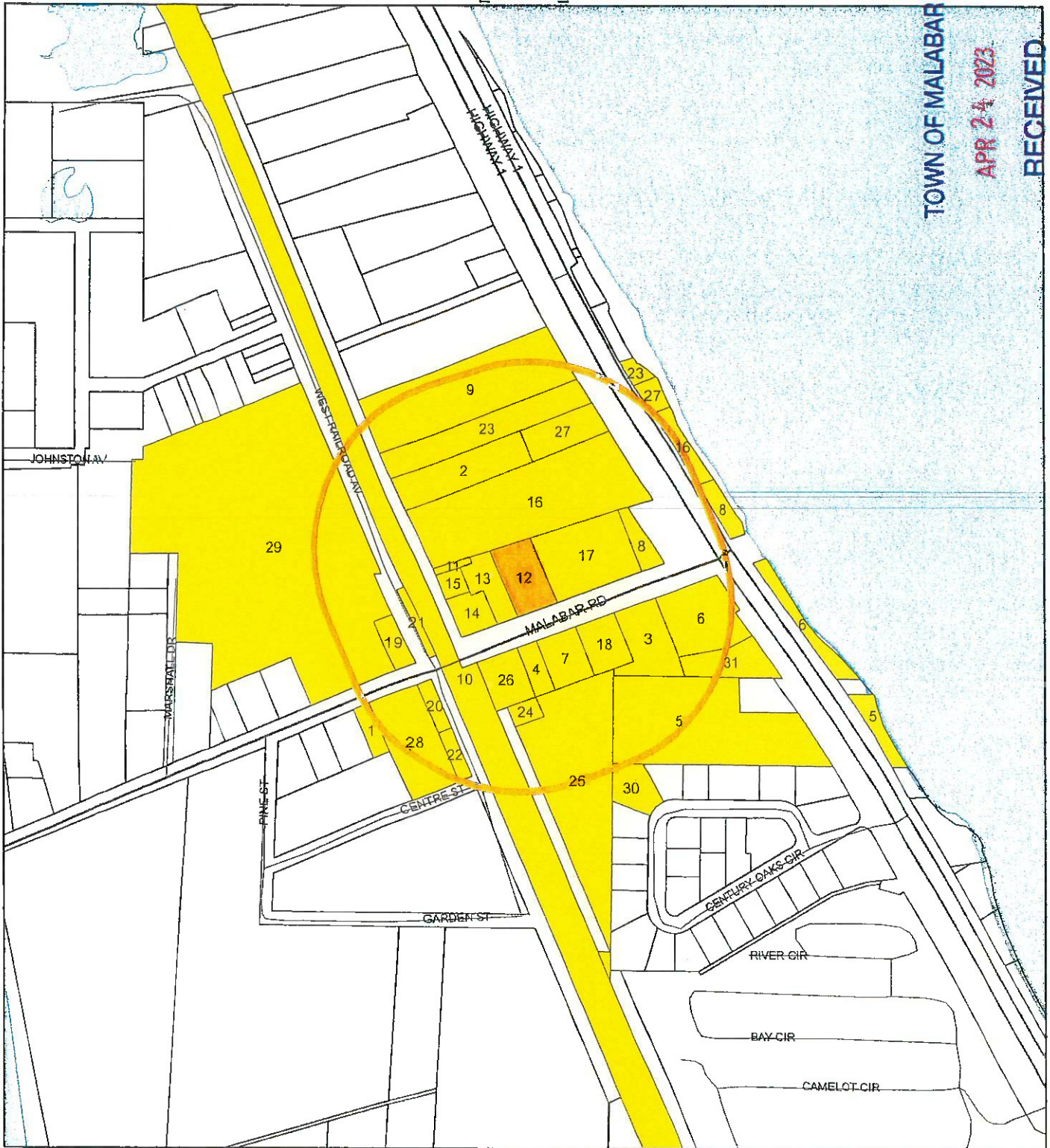
KELLWILL LLC

Denine_Sherear_2851105

TOWN OF MALABAR

APR 24 2023

RECEIVED







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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.

Produced by BoCC - GIS Date: 4/24/2023

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

BROTHERS FAMILY REVOCABLE
LIVING TRUST
5235 SUTTON AVE
MELBOURNE FL 32904-5170

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

CARMINE LLC
PO BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY
PO BOX 500833
MALABAR FL 32950-0833

DEBRA & CARL CHAPMAN REVOCABLE
TRUST
1410 HIGHWAY 1
MALABAR FL 32950-

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-

EASTON, RICHARD
8514 DAMASCUS DR
PALM BEACH GARDENS FL 33418-6014

EDGER PROPERTIES LLC
PO BOX 950847
LAKE MARY FL 32795-0847

EMERALD ALFA LLC
199 COLLINGS SE ST SE
PALM BAY FL 32909-4730

FLORIDA EAST COAST RAILWAY LLC
7150 PHILIPS HWY
JACKSONVILLE FL 32256-6802

KELLWILL LLC
1300 S US HIGHWAY 1
MALABAR FL 32950-4413

KEMMLER, HANSEL C
KEMMLER, BARBARA B
2785 MALABAR RD
MALABAR FL 32950-

LAWRENCE, FITZGERALD
LAWRENCE, MARIA
2728 MALABAR RD
MALABAR FL 32950-4411

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-

MAYNARD, SHARON L
3336 FINOLA SE AVE SE
PALM BAY FL 32909-1321

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-

ROBIN, RONALD M, JR
4283 TURTLE MOUND RD
MELBOURNE FL 32934-8591

SROA 1450 W RAILROAD FL LLC
324 DATURA ST, STE 338
WEST PALM BEACH FL 33401-5417

SROA 2700 MALABAR FL LLC
324 DATURA ST, STE 338
WEST PALM BEACH FL 33401-5417

TOOD, BRITNEY BETH
2928 CENTURY OAKS CIR
MALABAR FL 32950-

WORTHY PROPERTIES LLC
6475 S US HIGHWAY 1
GRANT FL 32949-2217

TOWN OF MALABAR
APR 24 2023
RECEIVED

RADIUS MAP

KELLWILL LLC

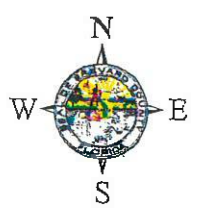
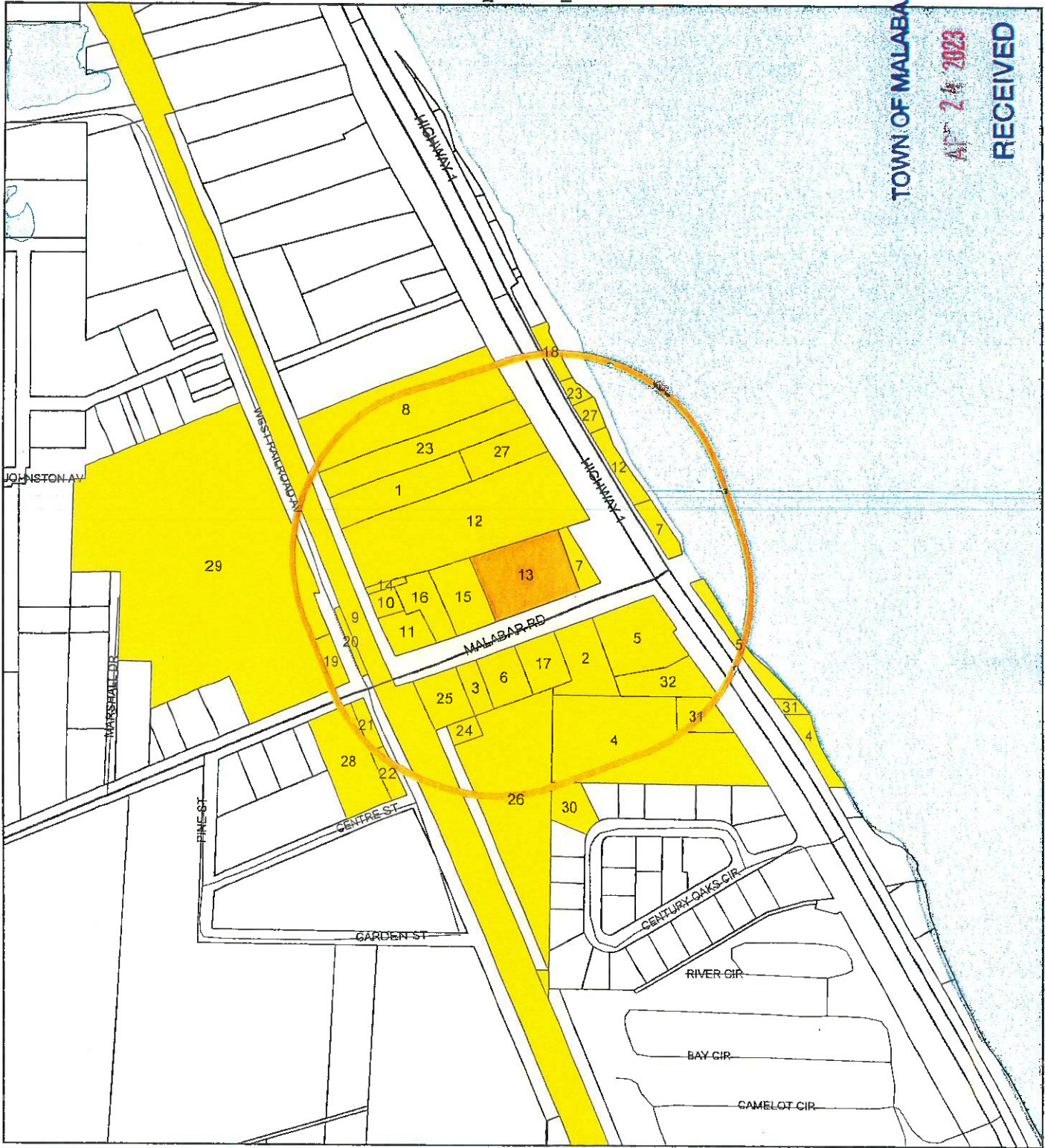
Denine_Sherear_2851106

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TOWN OF MALABAR

APR 24 2023

RECEIVED







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 4/24/2023

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

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

CARMINE LLC
PO BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY
PO BOX 500833
MALABAR FL 32950-0833

DEBRA & CARL CHAPMAN REVOCABLE
TRUST
1410 HIGHWAY 1
MALABAR FL 32950-

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-

EASTON, RICHARD
8514 DAMASCUS DR
PALM BEACH GARDENS FL 33418-6014

EDGER PROPERTIES LLC
PO BOX 950847
LAKE MARY FL 32795-0847

EMERALD ALFA LLC
199 COLLINGS SE ST SE
PALM BAY FL 32909-4730

FLORIDA EAST COAST RAILWAY LLC
7150 PHILIPS HWY
JACKSONVILLE FL 32256-6802

KELLWILL LLC
1300 S US HIGHWAY 1
MALABAR FL 32950-4413

KEMMLER, HANSEL C
KEMMLER, BARBARA B
2785 MALABAR RD
MALABAR FL 32950-

KRIEGER, DONALD E
2345 LINEBERRY LANE
MALABAR FL 32950-

LAWRENCE, FITZGERALD
LAWRENCE, MARIA
2728 MALABAR RD
MALABAR FL 32950-4411

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-

MAYNARD, SHARON L
3336 FINOLA SE AVE SE
PALM BAY FL 32909-1321

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-

ROBIN, RONALD M, JR
4283 TURTLE MOUND RD
MELBOURNE FL 32934-8591

SROA 1450 W RAILROAD FL LLC
324 DATURA ST, STE 338
WEST PALM BEACH FL 33401-5417

SROA 2700 MALABAR FL LLC
324 DATURA ST, STE 338
WEST PALM BEACH FL 33401-5417

TOOD, BRITNEY BETH
2928 CENTURY OAKS CIR
MALABAR FL 32950-

WORTHY PROPERTIES LLC
6475 S US HIGHWAY 1
GRANT FL 32949-2217

TOWN OF MALABAR

APR 24 2023

RECEIVED



2725 Malabar Road
Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax)
www.townofmalabar.org

TOWN OF MALABAR NOTICE OF PUBLIC HEARING

The Malabar Planning and Zoning Board will hold a Public Hearing on Wednesday October 25, 2023 @ 6PM for Recommendation to Town Council on November 6, 2023 @ 7:30PM.

The applicant is Willy Carmine AKA Kellwill LLC, approval of Comp Map change from Residential/ Limited Commercial (R/LC) to Commercial General (CG) & Site Plan for use of property to display motor crafts on open property adjacent to existing business "Route One 1 Motor Sports".

ORDINANCE 2023-09

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RECLASSIFYING THE COMP PLAN MAP AND REZONING THE PROPERTY AS FOLLOWS:
2760,2768,2770,2800 MALABAR ROAD, & TOWNSHIP AKA THE 2.60 ACRES LYING IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 54.D-4 & TOWNSHIP 28, RANGE 38, SECTION 31, LOT 54-D-6 LYING ON NORTH SIDE OF MALABAR ROAD, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); FOR THE PARKING OF MOTORCRAFTS OUTSIDE SITE PLAN TO BE DONE IN STAGES PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

All interested citizens are encouraged to attend and offer comments. 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 Richard Kohler Town Clerk.

Dear Property Owner,

If you receive this notice then you are listed as an owner of property, as shown in the records of the County Property Appraiser's office, within 500' of the project site. This Notice is provided as required by Malabar Code Chapter 2, Section 2-240.6. a. You are invited to attend or submit your comments before the meeting to the TownClerk@townofmalabar.org

This section presents the basic purpose and intent of each zoning district.

- A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.
- B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.
- C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- D. *RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that future densities are compatible with existing 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 (except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), general retail sales and services, warehousing, and outside storage; and
 - Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
 - A Malabar Vernacular Style is required for all development along arterial roadways.

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 standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

The general commercial district is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards. Finally, no permanent residential housing shall be located within the general commercial district.

The location and distribution of general commercial activities shall be determined based on the following considerations:

- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems; and
- Impact on existing and planned community services and utilities.
- A Malabar Vernacular Style is required for all development along arterial roadways.

M. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods.

Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district provides a management strategy for negotiating innovative development

concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

O. R/LC "Residential and Limited Commercial." The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor, situated on the north and south side of Malabar Road and those sites on the east side of Babcock Street as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets, and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

P. RVP "Recreational Vehicle Park." The RVP district is established to implement comprehensive plan policies for managing local zoning and site development design criteria on land specifically designated for Recreational Vehicle Park(s) as designated by F.S. ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1—4, 4-2-07; Ord. No. 14-01, § 2, 2-3-14; Ord. No. 2021-02, § 2, 5-3-21; Ord. No. 2021-09, § 2, 8-16-21)

Section 1-3.2. - Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

Cross reference— Alcoholic beverages, ch. 4.

TABLE <u>1-3.2</u> . LAND USE BY DISTRICTS															
		RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES															
	Duplex					P	P					P			
	Mobile Homes							P							

Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			

COMMUNITY FACILITIES

Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship								P, A ¹	P	C	C		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Facilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	

COMMUNITY RESIDENTIAL HOME

Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	

ASSISTED CARE COMMUNITIES

I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								

Level 3 (16 or more residents/beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)	C ³	C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	

AGRICULTURAL ACTIVITIES

Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													

COMMERCIAL ACTIVITIES

Adult Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P ¹			
Business and Professional Offices							P	P	P	P	P	P		
Enclosed Commercial Amusement										P				
Arcade Amusement Center/ Electronic Gaming Establishment										C ²				
Funeral Homes								P	P	C				
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities								P	P	P				
Marine Commercial Activities										C*				
Medical Services							P	P	P	P				
Mini Warehouse/Storage								C	P		P			

Parking Lots and Facilities								P	P	P	P		P	
Recreational Vehicle Park								P						
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales										C*		C*		
Trades and Skilled Services										P		P		
Veterinary Medical Services								P	P	P	C	P		
Vehicular Sales and Services										C*		P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		

INDUSTRIAL ACTIVITIES

Kennels												C		
Manufacturing Activities												P		
Manufacturing Service Establishments												P		
Vehicle and Other Mechanical Repair and Services										C*		P		
Warehouse, Storage and Distribution Activities												P		

WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES

Noncommercial piers, boat slips, and docks														C
--	--	--	--	--	--	--	--	--	--	--	--	--	--	---

C	=	Conditional Use
P	=	Permitted Uses
A	=	Accessory Use

*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

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

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

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

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

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14; Ord. No. 2016-03, § 1, 2(Exh. A), 10-3-16; Ord. No. 20-02, §§ 1, 2, 3-2-20; Ord. No. 2021-09, § 3, 8-16-21)

Section 1-3.3. - Size and dimension criteria.

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

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

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

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

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) w/Central Water & Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	<u>25</u>	20	10	10	50	N/A	50	4.00

Multiple Family Residential Development

RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6

Mixed Use Development

R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6

- ¹ Minimum size sites and lots include one-half of adjacent public right-of-way.
- ² Minimum 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.
- ³ Setback where rear lot line abuts an alley.
- ⁴ Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
- ⁵ Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
- ⁶ Recreation activities maximum FAR shall be .10.
- ⁷ In RR-65 Zoning, side and rear setback may be reduced for accessory structures to equal the height of the accessory structure but under no condition be reduced to less than 15 feet. If the height of the accessory structure height is 20 feet, the side and rear setbacks for that building would be 20 feet.

- 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).

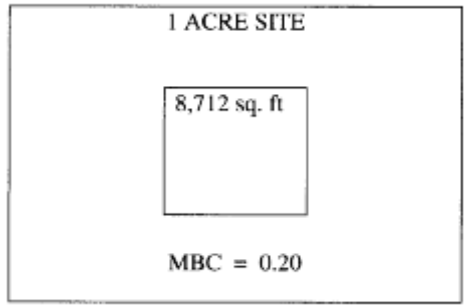
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

MBC	=	<u>Total Building Coverage</u>
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E. *Principal Structure Setbacks.* Table 1-3.3(A) provides building setbacks for all zoning districts. In addition to these setbacks the required minimum setback shall be measured from the centerline of the right-of-way as in Table 1-3.3(E).

TABLE 1-3.3(E). PRINCIPAL STRUCTURE SETBACKS FROM CENTERLINE OF THOROUGHFARES

Transportation Facility	Building Setback (feet)
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	
Jordan Blvd.	

Local Streets (50—60 feet R/W)	65
Minor Collector Streets (70 feet R/W)	75
Atz Blvd.	
Hall Road	
Old Mission Road	
Benjamin (Reese) Road	

F. *Minimum Distance Between Principal Buildings.* The minimum distance between principal buildings shall be twenty (20) feet. The distance shall be measured at the narrowest space between buildings and shall not include roof overhang.

G. *Recreational Vehicle Park Zoning District.* Recreational vehicle park zoning district shall be to locate and establish areas within the Town which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with F.S. Ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time.

(1) Principal uses and structures:

- a) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations.
- b) Management offices and residence (a mobile home may be allowed for a manager's residence only).

(2) Accessory uses include:

- a) Grocery store.
- b) Bottled/Metered gas sales.
- c) Laundry facilities.
- d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.
- e) Public utility equipment and facilities.

(3) Conditional uses:

- a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.

(4) Design standards for recreational vehicle parks.

- a) Minimum size: five (5) acres.
- b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.
- c) Streets and parking:
 1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.
 2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:
 - (a) A one-way street/drive shall be at least twelve (12) feet in width.
 - (b) A two-way street/drive shall be at least twenty-four (24) feet in width.
 3. Street surfacing. All roads or driveways shall be paved meeting town standards.
 4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All cul-de-sacs shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.
 5. Parking. Each R.V. / travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)
- d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes. The provisions for buffer strips may be waived or reduced by the Town Council taking into consideration the use of abutting properties. Furthermore, any portion of the property which fronts a public right-of-way will not be required to be enclosed along such right-of-way.
- e) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.
 1. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.
- f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
 1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
 2. Tent camping may be permitted on a travel trailer site.
- g) Design requirements for recreational vehicle site.
 1. Minimum size.
 - a. Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.
 - b. Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet. Consensus was to remove these sections.
 2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.
 3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.
 4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.
- h) Provisions of service in recreational vehicle parks.
 1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a

recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.

2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 3. Sewage disposal.
 - a. All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 - b. At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
 - c. At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.
 - d. The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
 4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V. - General Provisions, Section 1-5.28 entitles Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
 5. Electricity. All requirements of the National Electrical Code as contained referenced in Malabar Code of Ordinances Chapter 6 must be met.
 6. Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.
 7. Fire protection. The park shall be subject to the rules and regulations of State Statute, State Fire Code, and Malabar Code.
 8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
 9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use.
 10. Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a Recreational Vehicle Park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the Recreational Vehicle Park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. The provisions of Section 1-7.5 shall apply.
- j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein.

(Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; Ord. No. 94-4, § 4, 4-3-95; Ord. No. 96-1, § 1, 3-4-96; Ord. No. 97-5, § 1, 3-17-97; Ord. No. 02-03, § 1, 8-5-02; Ord. No. 03-02, § 1, 2-24-03; Ord. No. 04-08, §§ 1, 2, 7-12-04; Ord. No. 06-05, § 1, 2-6-06; Ord. No. 06-16, §§ 1, 2, 10-2-06; Ord. No. 19-02, § 2, 3-4-19; Ord. No. 19-03, § 2, 3-4-19; Ord. No. 2021-02, § 3, 5-3-21; Ord. No. 2021-09, §§ 4, 5, 8-16-21)

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 10.b.
Meeting Date November 6, 2023

**Prepared By: Lauren Hamilton, Executive Administrative Assistant on behalf of
Denine M. Sherear, Planning and Zoning Board Secretary**

SUBJECT: Amending the Town Zoning Map Designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.54 Acre Parcel 28-38-31-54-D-4. Applicant is Kellwill, LLC, represented by Mr. William Carmine (Ordinance 2023-07)

BACKGROUND/HISTORY:

This applicant's request to amend the Zoning from Residential /Limited Commercial (R/LC) to Commercial General (CG) to have a continuance of Commercial Business for the sale of motor crafts located at: 2760,2768,2770,2800 aka: Parcel ID# 28-38-31-54-D-4 & 28-38-31-5-D-6 Malabar Road, Malabar. There is a total of 2.54 acres.

This was heard at the P&Z Board meeting on October 25, 2023, and received a 5-0 vote. The request is consistent with the Comprehensive Plan, Compatible with the surrounding areas, and Conforms with the desire of Council to encourage commercial development along the main corridors.

For these reasons, Malabar staff recommends approval of the zoning change.

If the first reading of Ordinance 2023-07 is approved, it will be advertised for a subsequent Public Hearing after an expedited review by the State.

Attached please find:

- Draft minutes from P&Z Board Meeting of 10/25/23
- Ord 2023-07
- Map of the area
- Application package from Mr. Carmine
- Memos from Staff
- Legal Ads
- Section 1-3.1, 1-3.2, & 1-3.3 of the Land Development Code

ACTION OPTIONS:

Approval of first reading of Ord 2023-07

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES
OCTOBER 25, 2023, 6:00 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 (by Wayne Abare) and Pledge led by Chair Wayne Abare.

2. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
	ALTERNATE: MEGHAN WOLFGRAM,
	ALTERNATE: VACANT
BOARD SECRETARY:	DENINE SHEREAR

6. PUBLIC HEARING:3

- 6.a.** Recommendation to Council: To Rezone Property known as 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-09)

Property owner, William Carmine 3916 Lakeside Lane, Valkaria, presented the request to rezone the parcel to be consistent with the zoning for Route 1 Motorsports he owns adjacent to this parcel. This property would be used for a marine dealership. They are looking to do this work in stages. Initially, it will be used for an outdoor boat showroom without a building. Fencing the area in to display the boats in an aesthetic manner and stabilize the ground.

Chair Abare asked if any of the Board Members would like to ask Mr. Carmine any questions.

Ms. Ritter commented that CG is not intended for outside storage.

Mr. Carmine responded that this isn't for "outside storage" it is for recreational vehicle sales/display.

Ms. Ritter said that he has a lot of outside storage on his Route 1 property that is zoned CG.

Mr. Carmine responded by inquiring what the zoning is of the properties all around town hall where all the boats and RVs are being stored outside.

The Board Secretary, Denine, responded that the property surrounding Town Hall was not a good comparison but the property across the street is zoned CG.

Ms. Shortman inquired if car dealerships are allowed in CG as that is storage/display of vehicles.

Ms. Ritter said she didn't know if they would be required to fence the area.

Mr. Carmine said they would be fencing the area. His inventory fluctuates and they are looking to build a warehouse in Grant-Valkaria.

Mr. Dial asked applicant if he had any idea when you'd be looking to put up the building.

Mr. Carmine advised that they had started the process of engineering but the initial quotes they've gotten back were shocking compared to what they've built in the past. They're renting a space to the south (Bill's Discount Marine) temporarily to make sure that they can sell boats before investing the money into a new building. They hope to build within the next 2-5 years. He showed a couple renderings.

Ms. Shortman asked how things would be secured in the event of a hurricane.

Mr. Carmine advised that the boats would be on trailers and they would do their best to make sure they are secured. He does not want to add pavement or concrete now until the building is built, just looking to stabilize the area for display parking.

This rezoning request is consistent with the zoning in the area.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for rezoning from RLC to CG: Ritter / Shortman.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

- 6.b.** Recommendation to Council: For Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres. (Ordinance 2023-06)

Zachary Komninos from Bowman Consulting Group presented on behalf of property owner, Mr. Robert Bareman. This is for a shutter/soffit company with an office and warehouse, one driveway access off of Babcock with parking lot in front and service yard in rear. A swale system will handle the stormwater. All permits have been obtained through SJRWMD, FDEP, and the City of Palm Bay.

Ms. Ritter asked about mitigating the wetlands onsite and if only 1 handicap parking spot is required.

Mr. Komninos advised that mitigation was not necessary as the wetlands are less than ½ acre and based on the square footage of the building, only 1 handicap spot was necessary. The project will be on septic as there is no sewer available. Water is provided by the City of Palm Bay. The septic drainfield is 15 ft from the top of bank for the dry pond/swale.

Staff, the reviewing engineer (Morris), and the Fire Department have approved. The engineer has requested a copy of the wetland report. The comments have been provided.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for site plan: Shortman / Ritter.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

6.c. Request withdrawn by applicant.

6.d. Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-3831-253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-08)

The zoning of the adjacent properties to the north is CG and the property to the south is R/LC.

Bruce Moia of MBV Engineering presented for property owners Robert B & Jill M Trettis. The applicant owns the property to the north. He is looking to rezone the 2 parcels to the south to the same CG zoning. The proposed facility would utilize all 3 parcels if these 2 parcels are rezoned.

Mr. Abare opened the floor to public comments.

Mr. Baker who owns the storage facility 1040 Hwy 1 spoke in opposition of the project. He thinks that the project site will be difficult to build without creating a problem for the neighbors (diminished property values, drainage retention) since it is not level. If the property were flat, he would not have any comments.

The property owners are required to retain the water on their properties.

Mr. Moia responded by saying that the drainage and stormwater requirements are much stricter than they were in 1984 when Mr. Baker built his project. They will submit a drainage plan if/when a site plan application is submitted. All these issues will be addressed at that time.

Mr. Dial asked about height restrictions – 35 ft is the max.

Mr. Taylor wanted to confirm that the property owners within a certain radius were notified.

Denine advised they were notified by mail, and it was advertised in the newspaper. If they were unable to attend, they could have called or emailed, and their concerns would have been placed on record. No comments from adjacent owners were received.

Ms. Wolfgram asked about the property immediately to the south. A new single-family residence is being built on that property.

MOTION to approve for Council for rezoning from RLC to CG: Dial / Taylor.

Vote: 3-2

Taylor	Aye
Ritter	Nay
Shortman	Nay
Dial	Aye
Abare	Aye

7. ADJOURNMENT

There being no further business to discuss, MOTION: Ritter / Dial to adjourn this meeting.
Vote: All Ayes.

The meeting adjourned 7:37 P.M.

BY:

Wayne Abare, Chair

Denine Sherear, Board Secretary

Date Approved: as presented.

ORDINANCE 2023-07

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN ZONING MAP FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4 MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAPS; PROVIDING FOR 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 Council has considered the recommendation of the Planning and Zoning Board and approves the zoning change for the property described below and is hereby rezoned on the zoning map from *Residential/Limited Commercial (R/LC) to Commercial General (CG)*:

The entire portion of Lot 54-D-4, in Township 28, Range 38, Section 31, Malabar, Brevard County, Florida. This property is located at the northeast corner of Malabar Road and East Railroad Avenue.

Section 2. The Town Clerk is hereby authorized and directed to cause the revisions to the Official Town Zoning Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

Section 3. This ordinance shall be effective as required by Town Code but in no event sooner than the effective date of Ordinance No 2023-06.

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 Marisa Acquaviva _____
- Council Member Brian Vail _____
- Council Member Jim Clevenger _____
- Council Member Dave Scardino _____
- Council Member Mary Hofmeister _____

This ordinance shall be effective as required by Town Code but in no event sooner than the effective date of Ordinance No 2023-06.

**BY:
TOWN OF MALABAR**

Mayor Patrick T. Reilly, Council Chair

(seal)

ATTEST:

By: _____
Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Legally Advertised to Comply with FS 163 and 166.

Hearing at P&Z: 10/25/2023
Ord First Reading:
Second Reading: ___
Effective Date:

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 – Telephone
(321) 727-9997 - Fax

Date: 4/19/23

No. _____

APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE TOWN OF MALABAR

APR 19 2023

RECEIVED

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
- Florida Statutes, Chapter 166.041(c)
- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): Kellwill LLC Telephone #: 321 626-1835
Mailing Address: 1300 US Hwy 1 Malabar FL 32950

Legal description of property covered by application:

Township: _____ Range: _____ Section: _____
Lot/Block: _____, Parcel Subdivision: Snedekers
Other Legal: _____

Property Address: 2760, 2768, 2770, 2900 - Malabar Rd 4.2 acres

- 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: Current: R/LC Proposed: CG
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: R/LC Proposed: CG
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: R/LC Proposed: CG

Fees:

- Rezoning - \$325 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Rezoning & Land Use Charges - \$625 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.

(*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ 1665.00 in check or money order payable to *Town of Malabar*. We do not accept cash or credit cards.
- Radius package from Brevard County P&Z GIS Department providing a list of names and addresses of property owners and legal descriptions of all property within 500 feet of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office.

Town gets Radius

[Signature]
Signature of Applicant

Signature of Applicant

TOWN OF MALABAR
APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE

APR 19 2023

RECEIVED

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

Please complete only one of the following:

I, _____, being first duly sworn, depose and say that I, _____, am the legal representative of the Owner 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 application are honest and true to the best of my knowledge and belief.

Applicant Date

Applicant Date

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

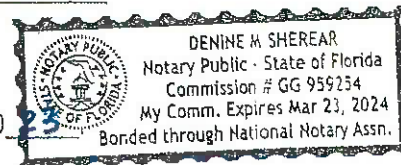
NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: _____ My Commission Expires: _____.

I, William Carmine
William Carmine, being first duly sworn, depose and say that I, _____, am the Owner 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 knowledge and belief.

William J. Carmine _____ 4/19/23
Applicant Date

Applicant Date

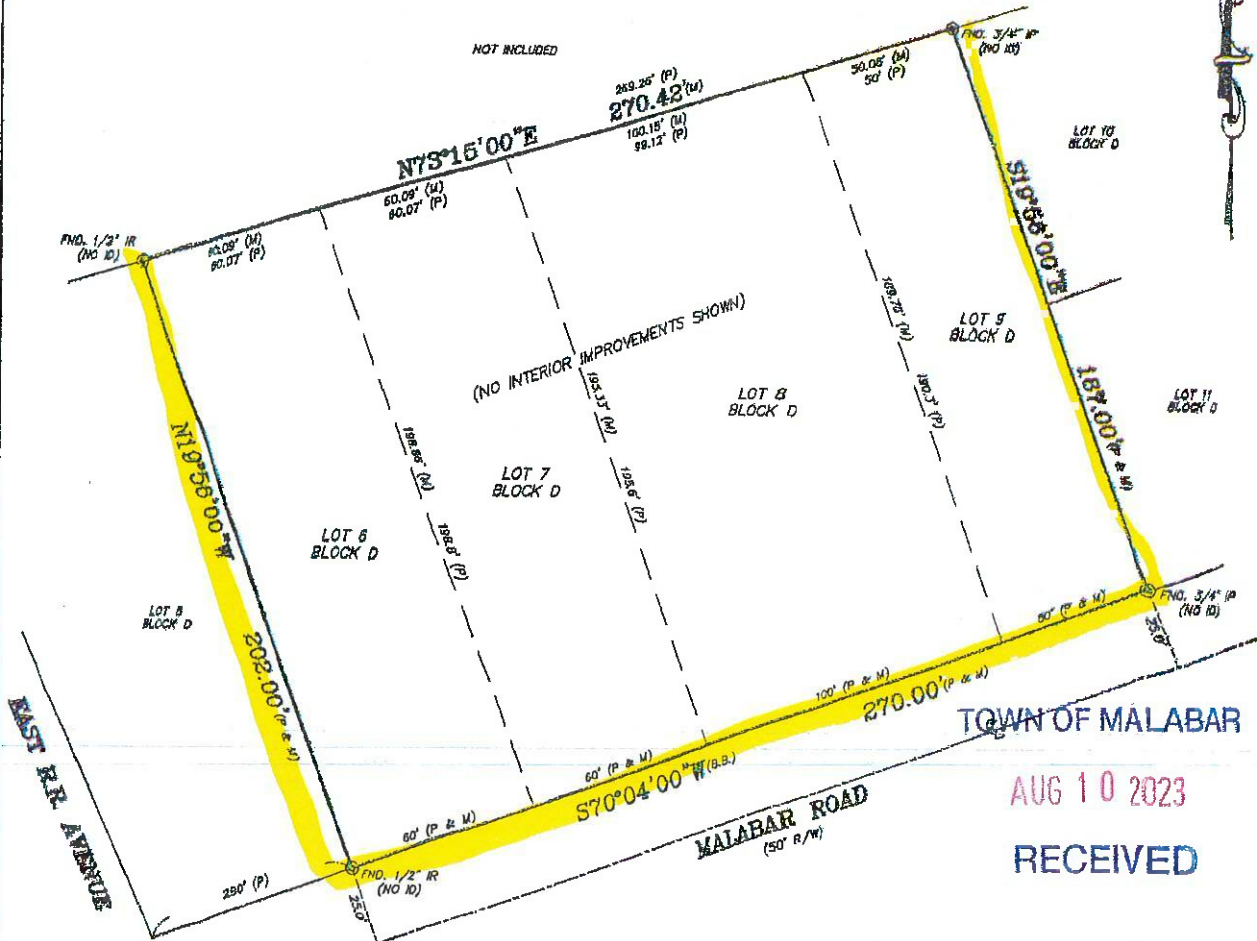


Sworn and subscribed before me this 19 day of April, 2023.

NOTARY PUBLIC
STATE OF FLORIDA

Commission No.: GG 959254 My Commission Expires: MAR 23, 2024

Denine M Sherear
Denine M Sherear



AUG 10 2023
RECEIVED

**Grading for stabilization and
Fencing to be permitted by Fence
Company.*

SURVEY PREPARED FOR:
DEANNE BIGGINS RAY

DESCRIPTION: LOTS 6-9, BLOCK D, SNEDEKERS SUBDIVISION OF MALABAR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 97, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO FLOOD INSURANCE RATE MAP #12028C 0814 G, DATED MARCH 17, 2014 THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X (NAVD 88)

TYPE OF SURVEY:
BOUNDARY

SCALE: 1" = 40'

REVISION:
REVISION:
REVISION:
REVISION:
REVISION:
REVISION: UPDATE 07-18-18

FIELD DATE: 07-20-88

SECTION 31,
TOWNSHIP 38 SOUTH,
RANGE 38 EAST

PROJECT #1211

GENERAL NOTES:
1. THIS SURVEY AND DRAWING HAS BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARD OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER SJ-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.
2. THIS SURVEY AND DRAWING IS FOR THE SOLE USE AND BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE AS NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
3. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
4. NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
5. THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
6. BEARINGS ARE BASED ON AN ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
7. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED.
9. "NO WELLS" AND "NO SEPTICS" ARE DEFINITIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B. #6623
PHONE: (321)768-8110 FAX: (321)952-9771 EMAIL: frontdesk@aalsurvey.com

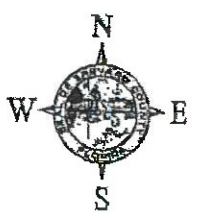
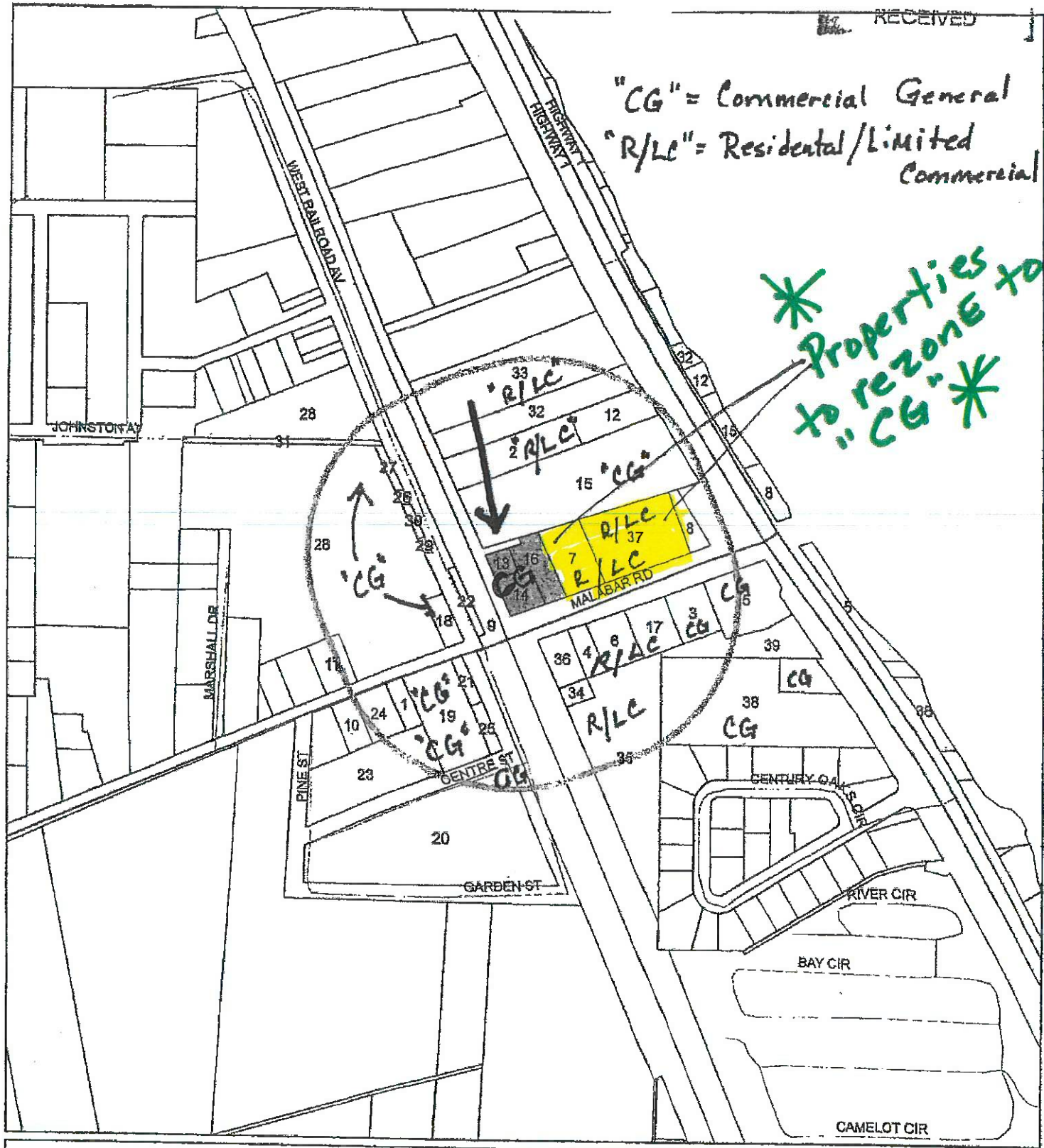
LEGEND	
(B.B.)	- BASIS OF BEARING
(M)	- MEASURED
(P)	- PLAT
(D)	- DEED
(R)	- IRON ROD
(R.P.)	- IRON PIPE
(M.D.)	- NAIL AND DISC
(M.T.)	- NAIL AND TIN TAB
(C.M.)	- CONCRETE MONUMENT
(P.M.)	- PERMANENT REFERENCE MARK
(E.W.)	- EDGE OF WATER
(T.B.K.)	- TEMPORARY BENCHMARK
(D)	- DELTA
(R)	- RADIUS
(L)	- ARC LENGTH
(F.L.)	- FENCE
(C.H.)	- CHORD LENGTH
(P.O.B.)	- POINT OF BEGINNING
(P.C.)	- POINT OF CURVATURE
(P.T.)	- POINT OF TANGENCY
(P.I.)	- POINT OF INTERSECTION
(P.O.I.)	- POINT OF REVERSE CURVE
(P.R.W.)	- RIGHT OF WAY
(B.S.L.)	- BUILDING SETBACK LINE
(O.W.)	- OVERHEAD WIRE
(E.P.)	- EDGE OF PARCEMENT
(P.U.)	- PUBLIC UTILITY EASEMENT
(O.E.)	- ORDNANCE EASEMENT
(E)	- ELEVATION
(F)	- FINISHED FLOOR
(C)	- CONCRETE
(R.C.P.)	- REINFORCED CONCRETE PIPE
(C.M.P.)	- CORRUGATED METAL PIPE
(C)	- CENTERLINE
(L.S.)	- LICENSED SURVEYOR
(P.L.S.)	- PROFESSIONAL LAND SURVEYOR

Andrew W. Powshok
ANDREW W. POWSHOK
P.L.S. No. 5383

Daniel D. Garner
DANIEL D. GARNER
P.L.S. No. 8189

"CG" = Commercial General
"R/LC" = Residential/Limited Commercial

* Properties to rezone to "CG" *







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

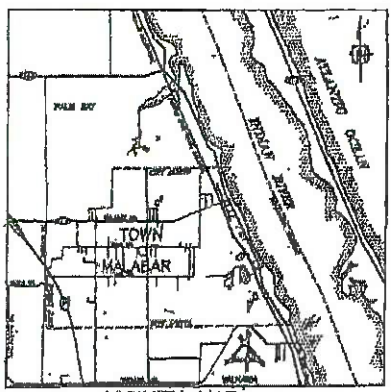
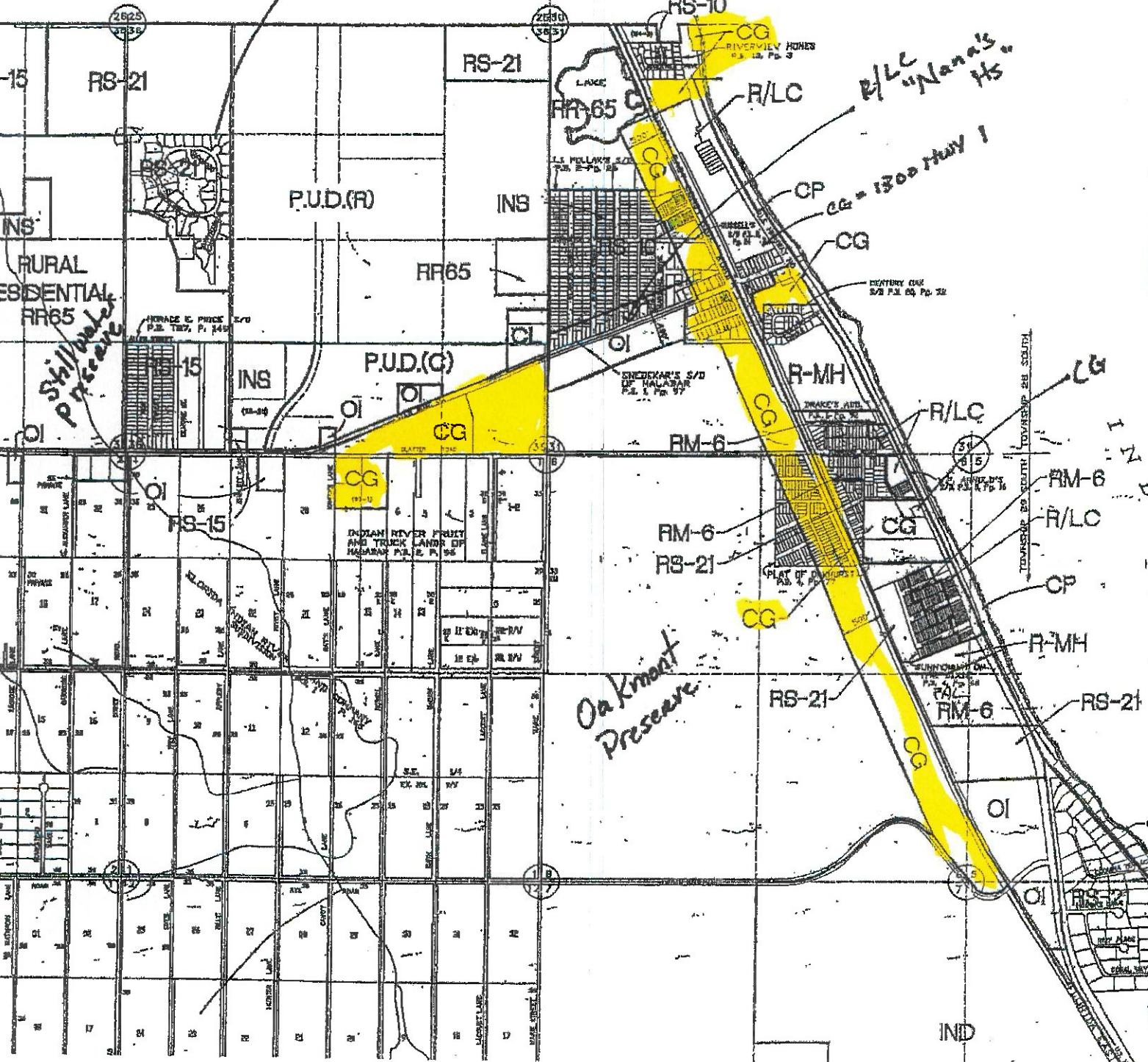
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 3/27/2019

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

town
COY 50

RANGE 27 EAST RANGE 28 EAST



DISTRICTS' LEGEND

ZONING DESIGNATIONS

RR-21	Rural Residential	(1.5 Acs/Unit)
RS-21	Single Family Residential	(2 Units/Acre)
RS-15	Single Family Residential	(4 Units/Acre)
RM-6	Medium-Density Residential	(4 Units/Acre)
R-MH	Medium-Density Residential	(4 Units/Acre)
R/LC	Residential Limited Commercial	(4 Units/Acre)
CG	Community General	
P.U.D.(R)	Planned Unit Development - Residential	
P.U.D.(G)	Planned Unit Development - Commercial	

Still under P. Preserve















Oa Knant Preserve

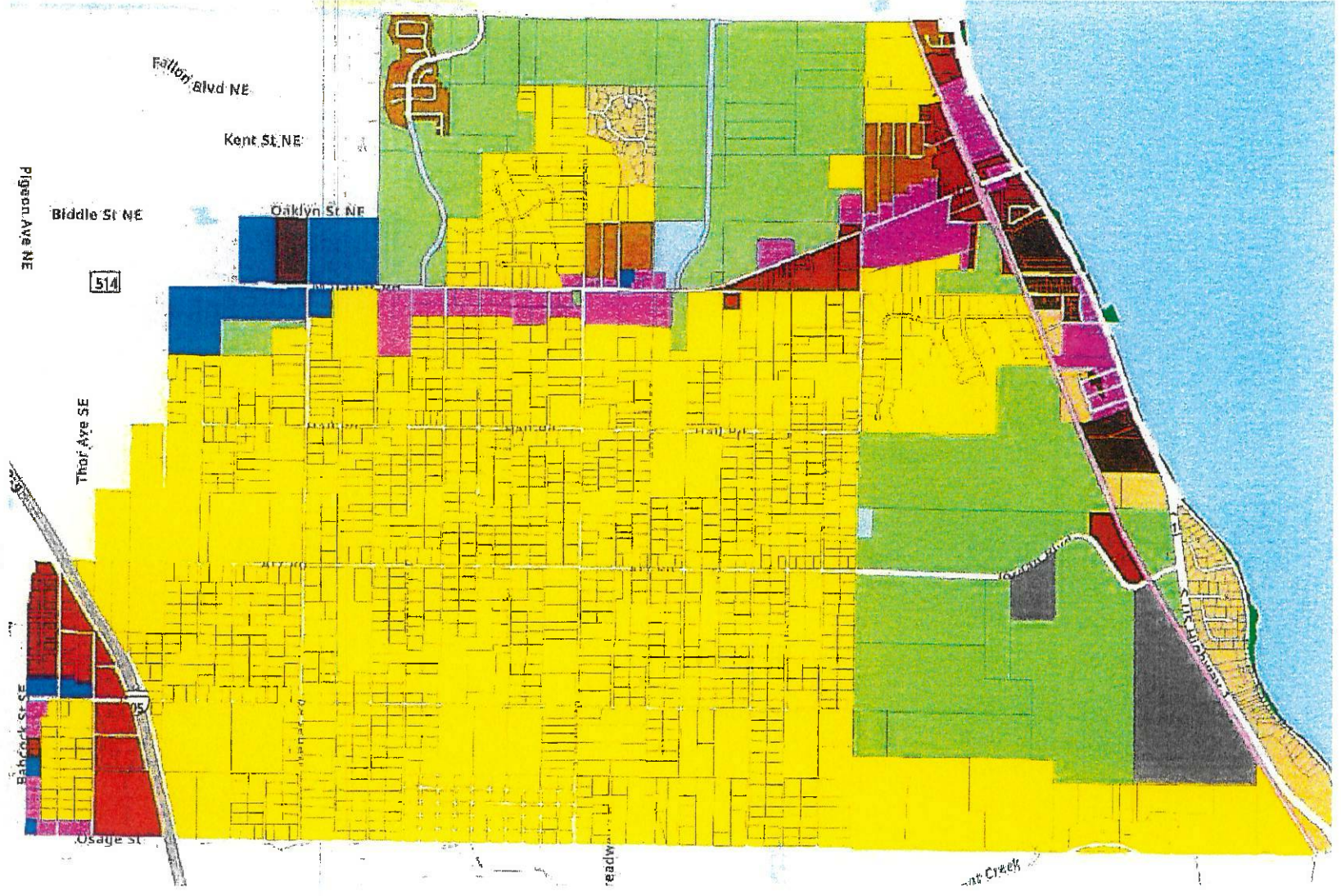
R/LC
Nana's HS
CG - 1300 Hwy 1

INDIAN RIVER
FRUIT AND TRUCK LAND OF MALABAR


ROCKY POINT
P.L. 24, P.O. 122

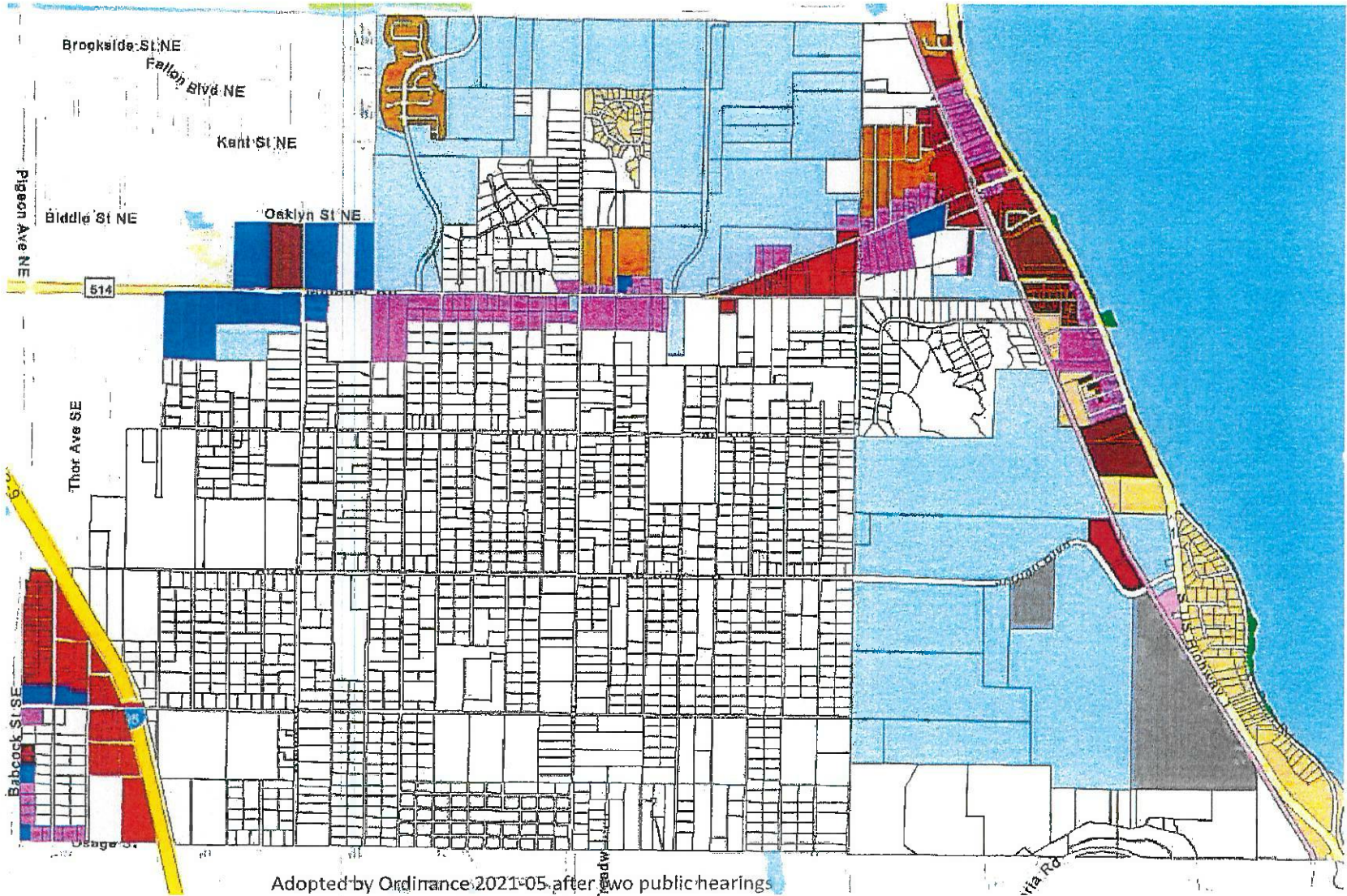
Future Land Use Map

-  Commercial General
-  Commercial Limited
-  Conservation
-  Coastal Preserve
-  High Density Residential
-  Open Space and Recreation
-  Industrial
-  Institutional
-  Low Density Residential
-  Medium Density Residential
-  Office-Institutional
-  Residential and Limited Commercial
-  Rural Residential
-  Other



Future Zoning Map

-  Commercial General
-  Commercial Limited
-  Coastal Preservation
-  Industrial
-  Institutional
-  Office-Institutional
-  Residential Mobile Home
-  Residential and Limited Commercial
-  Multiple Family HDR
-  Rural Residential
-  Single Family MDR (RS-10)
-  Single Family MDR (RS-15)
-  Single Family LDR (RS-21)
-  <all other values>



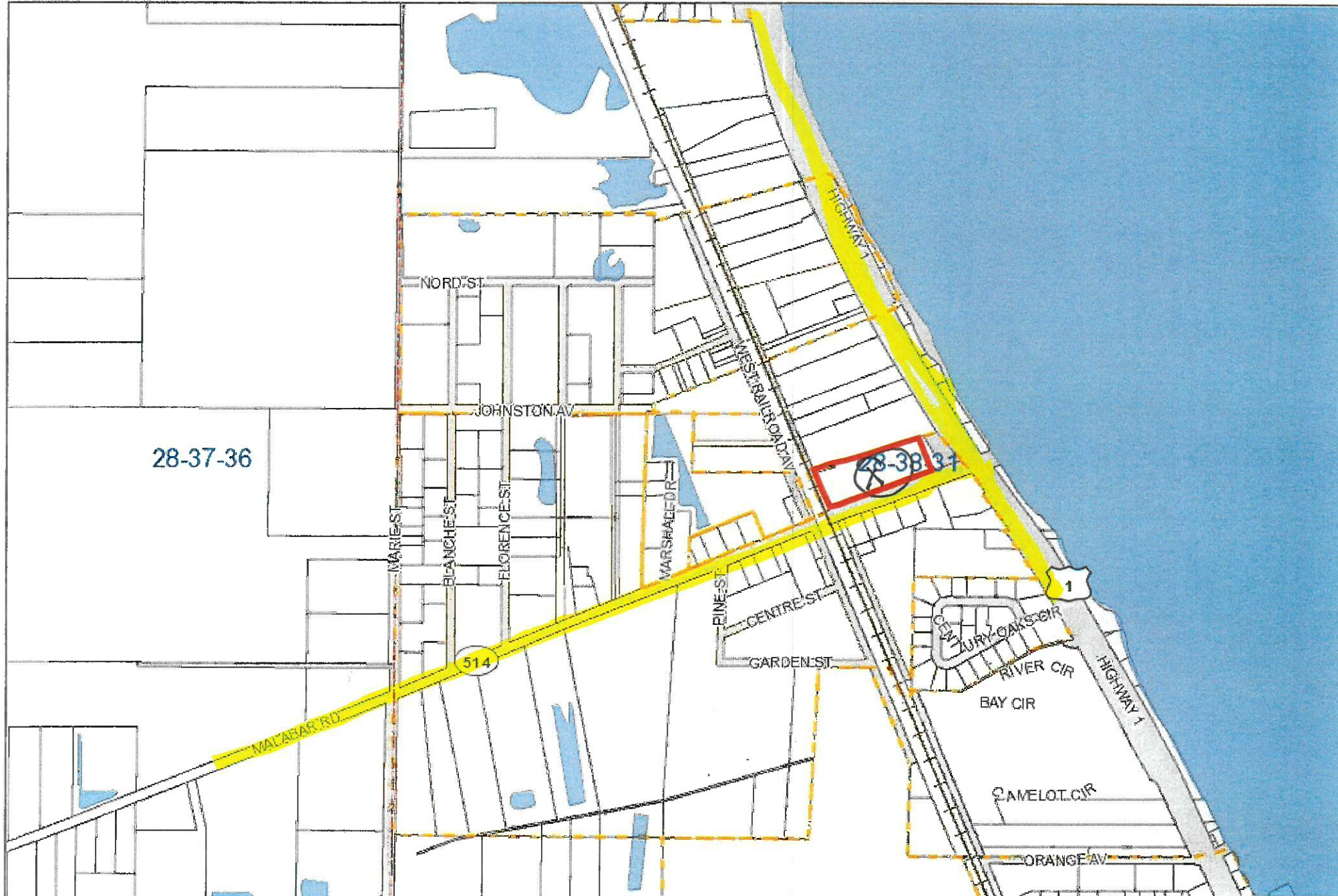
Adopted by Ordinance 2021-05 after two public hearings
 5/17/2021 and 6/7/2021





Dana Blickley, CFA
PROPERTY APPRAISER
Brevard County

2760/2768 / 2770/2800
MALABAR ROAD



TOWN OF MALABAR

MEMORANDUM

Date: October 30,2023 23-BDM-022

To: Richard Kohler, Town Clerk
Town Council

From: Denine Sherear, Planning & Zoning Board Secretary

Ref: Recommendation to Council from P&Z Board- Public Hearings from the Planning & Zoning Board on October 25,2023 (3- Separate Hearings)

The Planning & Zoning Board has recommendations that resulted from the meeting on 10/25/2023 under "Public Hear/Action."

- 1.) Recommendation to Council: To Rezone property known as: 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). The applicant is Kellwill, LLC represented by owner William (Willy) Carmine. (Ord.2023-09)**

Exhibit: Agenda Report 6.a
Recommendation: Discussion/Action to Council

Motion: Ritter/Shortman as requested to move forward to Council for review.

Chair called for **Roll Call Vote:** Board did roll.
Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 2.) Recommendation to Council: For Site Plan Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-37-10-00-318 Commercial General (CG) property 1.26 acres. The applicant is: Bowman Consulting Group (Zachary Komninos) representing property owner Mr. Robert Bareman.**

Exhibit: Agenda Report 6.b
Recommendation: Discussion/Action to Council

Motion: Shortman/Ritter for Site Plan as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 3.) **Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-38-31- 253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG) The applicant is MVB Engineering LLC for property owners Robert B & Jill M Trettis. (Ord 2023-08)**

Exhibit:

Agenda Report 6.d

Recommendation:

Discussion/Action to Council

Motion: Dial/Taylor as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Nay; Shortman, Nay; Dial, Aye; Abare, Aye. **Motion carried 3 to 2.**

Account Number:	1127265
Customer Name:	Town Of Malabar
Customer Address:	Town Of Malabar 2725 Malabar Rd Malabar FL 32950-4427
Contact Name:	TOWN OF MALABAR
Contact Phone:	
Contact Email:	
PO Number:	

Date:	10/23/2023
Order Number:	9442254
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	49.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
BRE Brevard Florida Today	1	10/27/2023 - 10/27/2023	Govt Public Notices
BRE floridatoday.com	1	10/27/2023 - 10/27/2023	Govt Public Notices

Order Confirmation Amount	\$103.43
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Ad Preview

Ad #9442254

10/27/23

TOWN OF MALABAR NOTICE OF PUBLIC HEARING

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, November 6, 2023, at 7:30pm, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

ORDINANCE 2023-07

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN ZONING MAP FOR THE 2.54 ACRE (+/-) PROPERTY WITH THE FORMER PARCEL ID'S OF 28-38-31-54-D-4 AND 28-38-31-54-D-6, WHICH HAS BEEN JOINED INTO ONE PARCEL WITH THE PARCEL ID OF 28-38-31-54-D-4 MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAPS; PROVIDING FOR AN EFFECTIVE DATE.

Copies of the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. 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. Richard Kohler, Town Clerk.

RADIUS MAP

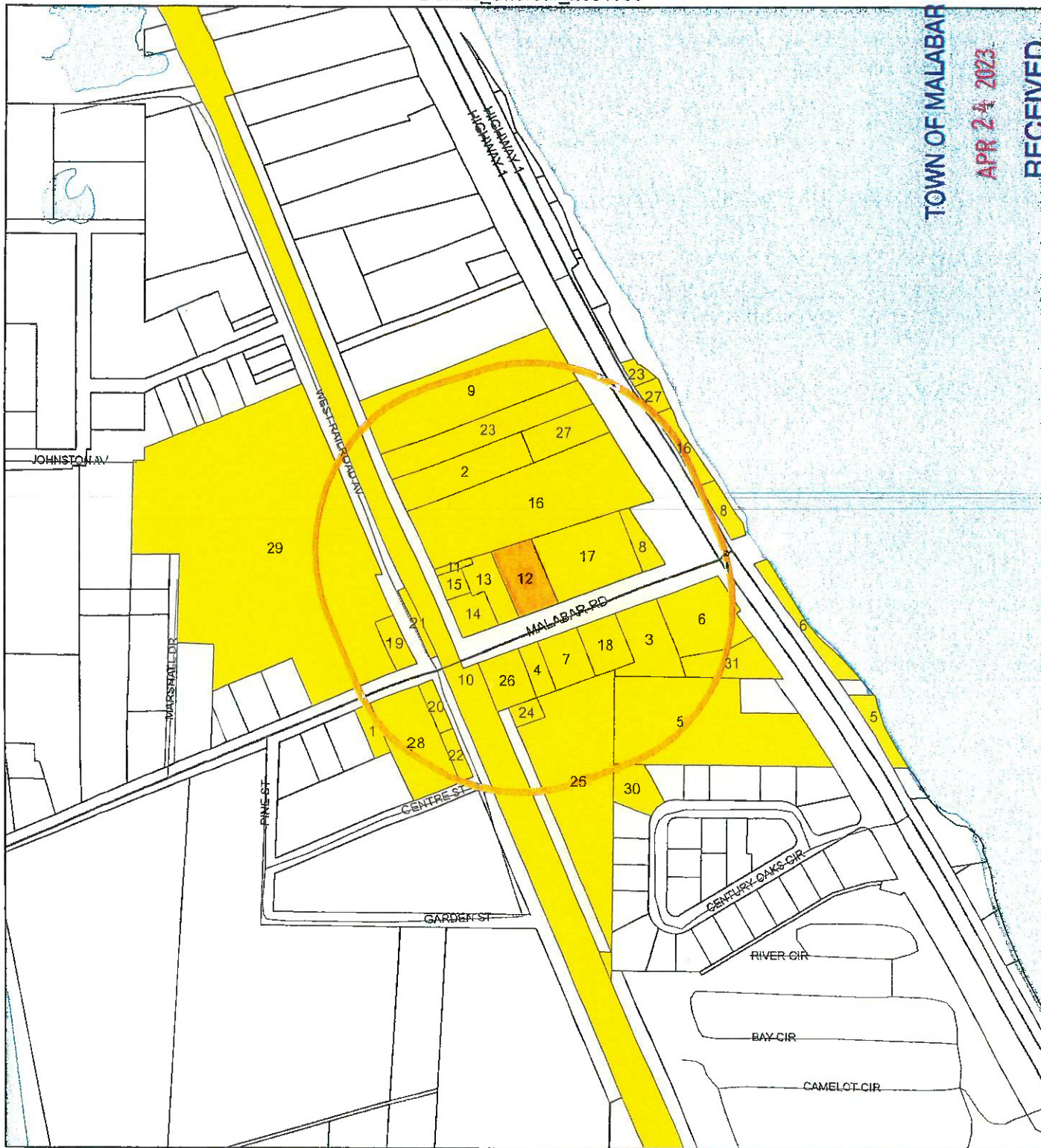
KELLWILL LLC

Denine_Sherear_2851105

TOWN OF MALABAR

APR 24 2023

RECEIVED







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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.

Produced by BoCC - GIS Date: 4/24/2023

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

BROTHERS FAMILY REVOCABLE
LIVING TRUST
5235 SUTTON AVE
MELBOURNE FL 32904-5170

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

CARMINE LLC
PO BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY
PO BOX 500833
MALABAR FL 32950-0833

DEBRA & CARL CHAPMAN REVOCABLE
TRUST
1410 HIGHWAY 1
MALABAR FL 32950-

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-

EASTON, RICHARD
8514 DAMASCUS DR
PALM BEACH GARDENS FL 33418-6014

EDGER PROPERTIES LLC
PO BOX 950847
LAKE MARY FL 32795-0847

EMERALD ALFA LLC
199 COLLINGS SE ST SE
PALM BAY FL 32909-4730

FLORIDA EAST COAST RAILWAY LLC
7150 PHILIPS HWY
JACKSONVILLE FL 32256-6802

KELLWILL LLC
1300 S US HIGHWAY 1
MALABAR FL 32950-4413

KEMMLER, HANSEL C
KEMMLER, BARBARA B
2785 MALABAR RD
MALABAR FL 32950-

LAWRENCE, FITZGERALD
LAWRENCE, MARIA
2728 MALABAR RD
MALABAR FL 32950-4411

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-

MAYNARD, SHARON L
3336 FINOLA SE AVE SE
PALM BAY FL 32909-1321

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-

ROBIN, RONALD M, JR
4283 TURTLE MOUND RD
MELBOURNE FL 32934-8591

SROA 1450 W RAILROAD FL LLC
324 DATURA ST, STE 338
WEST PALM BEACH FL 33401-5417

SROA 2700 MALABAR FL LLC
324 DATURA ST, STE 338
WEST PALM BEACH FL 33401-5417

TOOD, BRITNEY BETH
2928 CENTURY OAKS CIR
MALABAR FL 32950-

WORTHY PROPERTIES LLC
6475 S US HIGHWAY 1
GRANT FL 32949-2217

TOWN OF MALABAR
APR 24 2023
RECEIVED

RADIUS MAP

KELLWILL LLC

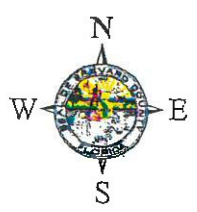
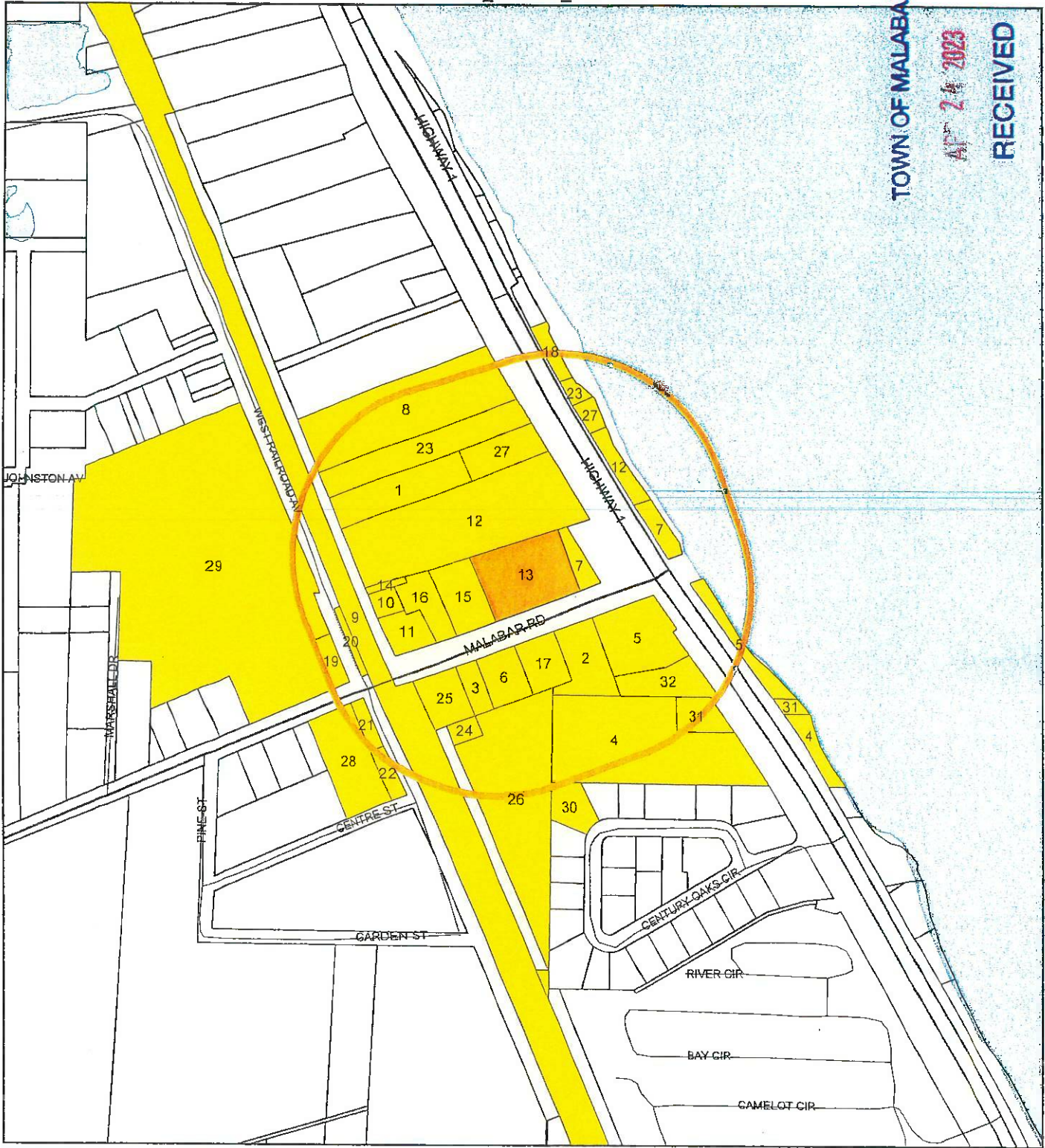
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TOWN OF MALABAR

APR 24 2023

RECEIVED







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Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 4/24/2023

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

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MALABAR FL 32950-0151

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PO BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
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PO BOX 500833
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PO BOX 950847
LAKE MARY FL 32795-0847

EMERALD ALFA LLC
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PALM BAY FL 32909-4730

FLORIDA EAST COAST RAILWAY LLC
7150 PHILIPS HWY
JACKSONVILLE FL 32256-6802

KELLWILL LLC
1300 S US HIGHWAY 1
MALABAR FL 32950-4413

KEMMLER, HANSEL C
KEMMLER, BARBARA B
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MALABAR FL 32950-

KRIEGER, DONALD E
2345 LINEBERRY LANE
MALABAR FL 32950-

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LAWRENCE, MARIA
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324 DATURA ST, STE 338
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TOOD, BRITNEY BETH
2928 CENTURY OAKS CIR
MALABAR FL 32950-

WORTHY PROPERTIES LLC
6475 S US HIGHWAY 1
GRANT FL 32949-2217

TOWN OF MALABAR

APR 24 2023

RECEIVED



2725 Malabar Road
Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax)
www.townofmalabar.org

**TOWN OF MALABAR
NOTICE OF PUBLIC HEARING**

The Malabar Planning and Zoning Board will hold a Public Hearing on Wednesday October 25, 2023 @ 6PM for Recommendation to Town Council on November 6, 2023 @ 7:30PM.

The applicant is Willy Carmine AKA Kellwill LLC, approval of Comp Map change from Residential/ Limited Commercial (R/LC) to Commercial General (CG) & Site Plan for use of property to display motor crafts on open property adjacent to existing business "Route One 1 Motor Sports".

ORDINANCE 2023-09

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RECLASSIFYING THE COMP PLAN MAP AND REZONING THE PROPERTY AS FOLLOWS:
2760,2768,2770,2800 MALABAR ROAD, & TOWNSHIP AKA THE 2.60 ACRES LYING IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 54.D-4 & TOWNSHIP 28, RANGE 38, SECTION 31, LOT 54-D-6 LYING ON NORTH SIDE OF MALABAR ROAD, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); FOR THE PARKING OF MOTORCRAFTS OUTSIDE SITE PLAN TO BE DONE IN STAGES PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING AN EFFECTIVE DATE.

All interested citizens are encouraged to attend and offer comments. 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 Richard Kohler Town Clerk.

Dear Property Owner,

If you receive this notice then you are listed as an owner of property, as shown in the records of the County Property Appraiser's office, within 500' of the project site. This Notice is provided as required by Malabar Code Chapter 2, Section 2-240.6. a. You are invited to attend or submit your comments before the meeting to the TownClerk@townofmalabar.org

This section presents the basic purpose and intent of each zoning district.

- A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.
- B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.
- C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- D. *RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that future densities are compatible with existing 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 (except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), general retail sales and services, warehousing, and outside storage; and
 - Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
 - A Malabar Vernacular Style is required for all development along arterial roadways.

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 standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

The general commercial district is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards. Finally, no permanent residential housing shall be located within the general commercial district.

The location and distribution of general commercial activities shall be determined based on the following considerations:

- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems; and
- Impact on existing and planned community services and utilities.
- A Malabar Vernacular Style is required for all development along arterial roadways.

M. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods.

Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district provides a management strategy for negotiating innovative development

concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

O. R/LC "Residential and Limited Commercial." The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor, situated on the north and south side of Malabar Road and those sites on the east side of Babcock Street as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets, and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

P. RVP "Recreational Vehicle Park." The RVP district is established to implement comprehensive plan policies for managing local zoning and site development design criteria on land specifically designated for Recreational Vehicle Park(s) as designated by F.S. ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1—4, 4-2-07; Ord. No. 14-01, § 2, 2-3-14; Ord. No. 2021-02, § 2, 5-3-21; Ord. No. 2021-09, § 2, 8-16-21)

Section 1-3.2. - Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

Cross reference— Alcoholic beverages, ch. 4.

TABLE <u>1-3.2</u> . LAND USE BY DISTRICTS															
		RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES															
	Duplex					P	P					P			
	Mobile Homes							P							

Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			

COMMUNITY FACILITIES

Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship								P, A ¹	P	C	C		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Facilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	

COMMUNITY RESIDENTIAL HOME

Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	

ASSISTED CARE COMMUNITIES

I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								

Level 3 (16 or more residents/beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)	C ³	C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	

AGRICULTURAL ACTIVITIES

Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													

COMMERCIAL ACTIVITIES

Adult Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P ¹			
Business and Professional Offices							P	P	P	P	P	P	P	
Enclosed Commercial Amusement										P				
Arcade Amusement Center/ Electronic Gaming Establishment										C ²				
Funeral Homes								P	P	C				
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities								P	P	P				
Marine Commercial Activities										C*				
Medical Services							P	P	P	P				
Mini Warehouse/Storage								C	P		P			

Parking Lots and Facilities								P	P	P	P		P	
Recreational Vehicle Park							P							
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales										C*		C*		
Trades and Skilled Services										P		P		
Veterinary Medical Services								P	P	P	C	P		
Vehicular Sales and Services										C*		P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		

INDUSTRIAL ACTIVITIES

Kennels												C		
Manufacturing Activities												P		
Manufacturing Service Establishments												P		
Vehicle and Other Mechanical Repair and Services										C*		P		
Warehouse, Storage and Distribution Activities												P		

WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES

Noncommercial piers, boat slips, and docks														C
--	--	--	--	--	--	--	--	--	--	--	--	--	--	---

C	=	Conditional Use
P	=	Permitted Uses
A	=	Accessory Use

*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

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

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

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

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

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14; Ord. No. 2016-03, § 1, 2(Exh. A), 10-3-16; Ord. No. 20-02, §§ 1, 2, 3-2-20; Ord. No. 2021-09, § 3, 8-16-21)

Section 1-3.3. - Size and dimension criteria.

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

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

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

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

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) w/Central Water & Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	<u>25</u>	20	10	10	50	N/A	50	4.00

Multiple Family Residential Development

RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6

Mixed Use Development

R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6

- ¹ Minimum size sites and lots include one-half of adjacent public right-of-way.
- ² Minimum 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.
- ³ Setback where rear lot line abuts an alley.
- ⁴ Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
- ⁵ Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
- ⁶ Recreation activities maximum FAR shall be .10.
- ⁷ In RR-65 Zoning, side and rear setback may be reduced for accessory structures to equal the height of the accessory structure but under no condition be reduced to less than 15 feet. If the height of the accessory structure height is 20 feet, the side and rear setbacks for that building would be 20 feet.

- 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).

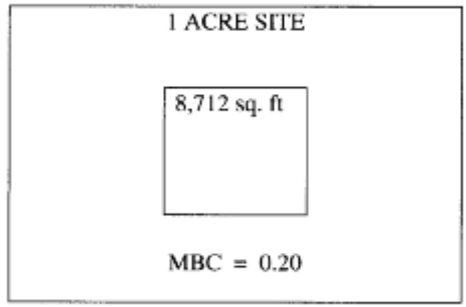
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

MBC	=	<u>Total Building Coverage</u>
-----	---	--------------------------------

E. *Principal Structure Setbacks.* Table 1-3.3(A) provides building setbacks for all zoning districts. In addition to these setbacks the required minimum setback shall be measured from the centerline of the right-of-way as in Table 1-3.3(E).

TABLE 1-3.3(E). PRINCIPAL STRUCTURE SETBACKS FROM CENTERLINE OF THOROUGHFARES

Transportation Facility	Building Setback (feet)
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	
Jordan Blvd.	

Local Streets (50—60 feet R/W)	65
Minor Collector Streets (70 feet R/W)	75
Atz Blvd.	
Hall Road	
Old Mission Road	
Benjamin (Reese) Road	

F. *Minimum Distance Between Principal Buildings.* The minimum distance between principal buildings shall be twenty (20) feet. The distance shall be measured at the narrowest space between buildings and shall not include roof overhang.

G. *Recreational Vehicle Park Zoning District.* Recreational vehicle park zoning district shall be to locate and establish areas within the Town which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with F.S. Ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time.

(1) Principal uses and structures:

- a) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations.
- b) Management offices and residence (a mobile home may be allowed for a manager's residence only).

(2) Accessory uses include:

- a) Grocery store.
- b) Bottled/Metered gas sales.
- c) Laundry facilities.
- d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.
- e) Public utility equipment and facilities.

(3) Conditional uses:

- a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.

(4) Design standards for recreational vehicle parks.

- a) Minimum size: five (5) acres.
- b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.
- c) Streets and parking:
 1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.
 2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:
 - (a) A one-way street/drive shall be at least twelve (12) feet in width.
 - (b) A two-way street/drive shall be at least twenty-four (24) feet in width.
 3. Street surfacing. All roads or driveways shall be paved meeting town standards.
 4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All cul-de-sacs shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.
 5. Parking. Each R.V. / travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)
- d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes. The provisions for buffer strips may be waived or reduced by the Town Council taking into consideration the use of abutting properties. Furthermore, any portion of the property which fronts a public right-of-way will not be required to be enclosed along such right-of-way.
- e) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.
 1. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.
- f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
 1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
 2. Tent camping may be permitted on a travel trailer site.
- g) Design requirements for recreational vehicle site.
 1. Minimum size.
 - a. Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.
 - b. Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet. Consensus was to remove these sections.
 2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.
 3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.
 4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.
- h) Provisions of service in recreational vehicle parks.
 1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a

recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.

2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 3. Sewage disposal.
 - a. All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 - b. At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
 - c. At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.
 - d. The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
 4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V. - General Provisions, Section 1-5.28 entitles Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
 5. Electricity. All requirements of the National Electrical Code as contained referenced in Malabar Code of Ordinances Chapter 6 must be met.
 6. Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.
 7. Fire protection. The park shall be subject to the rules and regulations of State Statute, State Fire Code, and Malabar Code.
 8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
 9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use.
 10. Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a Recreational Vehicle Park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the Recreational Vehicle Park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. The provisions of Section 1-7.5 shall apply.
- j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein.

(Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; Ord. No. 94-4, § 4, 4-3-95; Ord. No. 96-1, § 1, 3-4-96; Ord. No. 97-5, § 1, 3-17-97; Ord. No. 02-03, § 1, 8-5-02; Ord. No. 03-02, § 1, 2-24-03; Ord. No. 04-08, §§ 1, 2, 7-12-04; Ord. No. 06-05, § 1, 2-6-06; Ord. No. 06-16, §§ 1, 2, 10-2-06; Ord. No. 19-02, § 2, 3-4-19; Ord. No. 19-03, § 2, 3-4-19; Ord. No. 2021-02, § 3, 5-3-21; Ord. No. 2021-09, §§ 4, 5, 8-16-21)

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 10.c.
Meeting Date November 6, 2023

Prepared By: Lauren Hamilton, Executive Administrative Assistant on behalf of
Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Small Scale Comprehensive Plan Amendment Changing the Future Land Use Map Designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.26 Acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. Applicant is MBV Engineering, LLC, representing property owners Robert B, and Jill M. Trettis (Ordinance 2023-08)

BACKGROUND/HISTORY:

This Applicant's request to amend the Land Use from Residential /Limited Commercial (R/LC) to Commercial General (CG) the 2.26 Acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. The Applicant plans to submit an application at a later date to develop this property for a self-storage facility.

This was heard at the P&Z Board meeting on October 25, 2023, and received a 3-2 vote (Taylor: Aye; Ritter: Nay; Shortman: Nay; Dial: Aye; Abare: Aye). The request is consistent with the Comprehensive Plan, Compatible with the surrounding areas, and Conforms with the desire of Council to encourage commercial development along the main corridors.

For these reasons, Malabar staff recommends approval of the land use change.

If the first reading of Ordinance 2023-08 is approved, it will be advertised for a subsequent Public Hearing after an expedited review by the State.

Attached please find:

- Draft minutes from P&Z Board Meeting of 10/25/23
- Ord 2023-08
- Map of the area
- Application package from MBV Engineering, LLC
- Memos from Staff
- Legal Ads
- Section 1-3.1, 1-3.2, & 1-3.3 of the Land Development Code

ACTION OPTIONS:

Approval of first reading of Ord 2023-08

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES
OCTOBER 25, 2023, 6:00 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 (by Wayne Abare) and Pledge led by Chair Wayne Abare.

2. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
	ALTERNATE: MEGHAN WOLFGRAM,
	ALTERNATE: VACANT
BOARD SECRETARY:	DENINE SHEREAR

6. PUBLIC HEARING:3

- 6.a.** Recommendation to Council: To Rezone Property known as 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-09)

Property owner, William Carmine 3916 Lakeside Lane, Valkaria, presented the request to rezone the parcel to be consistent with the zoning for Route 1 Motorsports he owns adjacent to this parcel. This property would be used for a marine dealership. They are looking to do this work in stages. Initially, it will be used for an outdoor boat showroom without a building. Fencing the area in to display the boats in an aesthetic manner and stabilize the ground.

Chair Abare asked if any of the Board Members would like to ask Mr. Carmine any questions.

Ms. Ritter commented that CG is not intended for outside storage.

Mr. Carmine responded that this isn't for "outside storage" it is for recreational vehicle sales/display.

Ms. Ritter said that he has a lot of outside storage on his Route 1 property that is zoned CG.

Mr. Carmine responded by inquiring what the zoning is of the properties all around town hall where all the boats and RVs are being stored outside.

The Board Secretary, Denine, responded that the property surrounding Town Hall was not a good comparison but the property across the street is zoned CG.

Ms. Shortman inquired if car dealerships are allowed in CG as that is storage/display of vehicles.

Ms. Ritter said she didn't know if they would be required to fence the area.

Mr. Carmine said they would be fencing the area. His inventory fluctuates and they are looking to build a warehouse in Grant-Valkaria.

Mr. Dial asked applicant if he had any idea when you'd be looking to put up the building.

Mr. Carmine advised that they had started the process of engineering but the initial quotes they've gotten back were shocking compared to what they've built in the past. They're renting a space to the south (Bill's Discount Marine) temporarily to make sure that they can sell boats before investing the money into a new building. They hope to build within the next 2-5 years. He showed a couple renderings.

Ms. Shortman asked how things would be secured in the event of a hurricane.

Mr. Carmine advised that the boats would be on trailers and they would do their best to make sure they are secured. He does not want to add pavement or concrete now until the building is built, just looking to stabilize the area for display parking.

This rezoning request is consistent with the zoning in the area.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for rezoning from RLC to CG: Ritter / Shortman.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

- 6.b.** Recommendation to Council: For Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres. (Ordinance 2023-06)

Zachary Komninos from Bowman Consulting Group presented on behalf of property owner, Mr. Robert Bareman. This is for a shutter/soffit company with an office and warehouse, one driveway access off of Babcock with parking lot in front and service yard in rear. A swale system will handle the stormwater. All permits have been obtained through SJRWMD, FDEP, and the City of Palm Bay.

Ms. Ritter asked about mitigating the wetlands onsite and if only 1 handicap parking spot is required.

Mr. Komninos advised that mitigation was not necessary as the wetlands are less than ½ acre and based on the square footage of the building, only 1 handicap spot was necessary. The project will be on septic as there is no sewer available. Water is provided by the City of Palm Bay. The septic drainfield is 15 ft from the top of bank for the dry pond/swale.

Staff, the reviewing engineer (Morris), and the Fire Department have approved. The engineer has requested a copy of the wetland report. The comments have been provided.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for site plan: Shortman / Ritter.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

6.c. Request withdrawn by applicant.

6.d. Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-3831-253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-08)

The zoning of the adjacent properties to the north is CG and the property to the south is R/LC.

Bruce Moia of MBV Engineering presented for property owners Robert B & Jill M Trettis. The applicant owns the property to the north. He is looking to rezone the 2 parcels to the south to the same CG zoning. The proposed facility would utilize all 3 parcels if these 2 parcels are rezoned.

Mr. Abare opened the floor to public comments.

Mr. Baker who owns the storage facility 1040 Hwy 1 spoke in opposition of the project. He thinks that the project site will be difficult to build without creating a problem for the neighbors (diminished property values, drainage retention) since it is not level. If the property were flat, he would not have any comments.

The property owners are required to retain the water on their properties.

Mr. Moia responded by saying that the drainage and stormwater requirements are much stricter than they were in 1984 when Mr. Baker built his project. They will submit a drainage plan if/when a site plan application is submitted. All these issues will be addressed at that time.

Mr. Dial asked about height restrictions – 35 ft is the max.

Mr. Taylor wanted to confirm that the property owners within a certain radius were notified.

Denine advised they were notified by mail, and it was advertised in the newspaper. If they were unable to attend, they could have called or emailed, and their concerns would have been placed on record. No comments from adjacent owners were received.

Ms. Wolfgram asked about the property immediately to the south. A new single-family residence is being built on that property.

MOTION to approve for Council for rezoning from RLC to CG: Dial / Taylor.

Vote: 3-2

Taylor	Aye
Ritter	Nay
Shortman	Nay
Dial	Aye
Abare	Aye

7. ADJOURNMENT

There being no further business to discuss, MOTION: Ritter / Dial to adjourn this meeting.
Vote: All Ayes.

The meeting adjourned 7:37 P.M.

BY:

Wayne Abare, Chair

Denine Sherear, Board Secretary

Date Approved: as presented.

ORDINANCE 2023-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPERATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR 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 Council has considered the recommendation of the Planning and Zoning Board and approves the land use change for the property described below and is hereby re-designated on the land use map from *Residential/Limited Commercial (R/LC) to Commercial General (CG)*:

The entire portion of Lot 00-253, in Township 28, Range 38, Section 31, Malabar, Brevard County, Florida. This property is located adjacent to the Florida East Coast Railroad and US Highway 1.

Section 2. The Town Clerk is hereby authorized and directed to cause the revisions to the Land Use Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

Section 3. If no challenge is filed, the effective date of this ordinance shall be thirty-one (31) days after the State Land Planning Agency notifies the local government that the amendment package is complete. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity (DEO), or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within 10 days of enactment.

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 Marisa Acquaviva _____
- Council Member Brian Vail _____
- Council Member Jim Clevenger _____
- Council Member Dave Scardino _____
- Council Member Mary Hofmeister _____

If no challenge is filed, the effective date of this ordinance shall be thirty-one (31) days after the State Land Planning Agency notifies the local government that the amendment package is complete.

**BY:
TOWN OF MALABAR**

Mayor Patrick T. Reilly, Council Chair

(seal)

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Legally Advertised to Comply with FS 163 and 166.

Hearing at P&Z: 10/25/2023

Ord First Reading:

Second Reading: ___

Effective Date:

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 - Telephone
(321) 727-9997 - Fax

TOWN OF MALABAR

AUG 13 2023

No. RECEIVED

Date:

APPLICATION FOR LAND USE AMENDMENT
AND ZONING CHANGE

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
- Florida Statutes, Chapter 166.041(c)
- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): Robert B and Jill M T'rettis Telephone #:
Mailing Address: 107 Sunset Drive, Cocoa Beach, FL 32931

Legal description of property covered by application:

Township: 28 Range: 38 Section: 31
Lot/Block: 00, Parcel Subdivision: 253 and 255
Other Legal: Part of NW 1/4 as described in DB 312 Pg 179 and DB 327 Pg 389
Exc ORB 885 [g 276, 1465 and RR & Hwy R/W's

Property Address: 1080 Highway 1, Malabar FL 32950

- 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: Current: R/LC Proposed: CG
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: R/LC Proposed: CG
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: Vacant Proposed: Self Storage Facility

Fees:

- Rezoning - \$325 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Rezoning & Land Use Charges - \$625 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant. (2.32 acres) \$625.00 + 30.00 = \$655.00
(*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ 655.00 in check or money order payable to *Town of Malabar*. We do not accept cash or credit cards.
- Radius package from Brevard County P&Z GIS Department providing a list of names and addresses of property owners and legal descriptions of all property within 500 feet of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office.


Signature of Applicant


Signature of Applicant

AUG 03 2023

RECEIVED

TOWN OF MALABAR
APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE

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

Please complete only one of the following:

I, Bruce A. Moia, P.E. - MBV Engineering, Inc., being first duly sworn, depose and say that I, Bruce A. Moia, P.E., am the legal representative of the Owner 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 application are honest and true to the best of my knowledge and belief.

[Signature]
Applicant

8/2/23
Date

[Signature]
Applicant

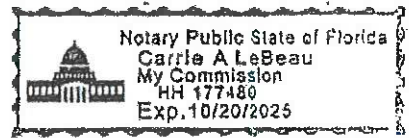
8-2-23
Date

Sworn and subscribed before me this 2nd day of August, 20 23.

NOTARY PUBLIC
STATE OF FLORIDA

[Signature]

Commission No.: HH177480 My Commission Expires: 10/20/25



I, Robert and Jill Trettis, being first duly sworn, depose and say that I, Robert and Jill Trettis, am the Owner 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 knowledge and belief.

[Signature]
Applicant

8-2-23
Date

[Signature]
Applicant

8/2/23
Date

Sworn and subscribed before me this 2nd day of August, 20 23.

NOTARY PUBLIC
STATE OF FLORIDA

[Signature]

Commission No.: HH177480 My Commission Expires: 10/20/2025



GENERAL INFORMATION
AMENDMENTS TO THE COMPREHENSIVE PLAN OR REZONING

AUG 03 2023

RECEIVED

In 1985, the Florida Legislature enacted the Local Government Comprehensive Planning and Land Development Regulation Act as part of a comprehensive package of legislation dealing with growth management. The Act is codified in Chapter 163 of the Florida Statutes. Pursuant to requirements in the Act, the Town of Malabar adopted a Comprehensive Plan with the enactment of Ordinance Number 90-5 on April 17, 1990 and subsequent amendments. This Plan, combined with the requirements of the Act and various Town ordinances and resolutions, has a direct effect upon the development of land within the Town of Malabar. You are encouraged to review these documents prior to making decisions concerning land development matters.

In the event that you are requesting a rezoning, it may be necessary for you to first seek an amendment to the Land Use Element of the Comprehensive Plan. Our office staff will provide you with the application to request such an amendment. You are advised, however, that this is a significant undertaking, requiring the submission of considerable requirements of notice and public hearings. The following schedule is provided to assist you in your planning:

If the parcel is under ten acres:

1. The Town's staff shall have up to thirty (30) days in which to review the application. During this time the land shall be posted by the applicant that it is the subject of a land use change request. It will then be scheduled before the Planning and Zoning Advisory Board for a Public Hearing.
2. The Planning and Zoning Board, during its meeting, will receive comment from the applicant and any other interested persons. In addition, the Board will review the written comments of the Town's professional staff, which may include the Engineer, Attorney, Planner, Fire Inspector, and Building Official. The Board will then make written recommendations to the Town Council.
3. If the recommendation is to approve the changes, the requests will be drafted into ordinance form and presented to the Town Council for a First Reading. Then a Public Hearing will be scheduled.
4. A newspaper legal advertisement will be run 10 days prior to the Public Hearing before Town Council. A similar courtesy notice will be sent to each property owner within a radius of 500' of the subject property. The applicant will be notified by the Town Clerk of the date of the public hearing before Town Council.
5. The Town Council will conduct the public hearing on the issue, receiving comments from all persons interested in the matter.
6. The amendment request, if approved by the Town Council, will be forwarded to the Department of Community Affairs of the State of Florida. Various State agencies will then review the proposed amendment and submit their comments back to the Department of Community Affairs. The Department of Community Affairs must then publish an intent to approve or disapprove the proposed amendment within 90 days of receipt of the proposed amendment from the Town Council.
7. In the event that the Department of Community Affairs approves the proposed amendment, it shall take effect. If, however, the Department does not approve the amendment, a notice of additional public hearings will be provided to the Town and published in a newspaper of general circulation in Brevard County. Thereafter, a Hearing Officer will conduct a formal proceeding and make final recommendations to the Department of Community Affairs.

If the parcel of land which is the subject of your amendment application is less than five acres, you may be entitled to an exception from the twice-annual submission requirement. Please consult with an attorney or other person of your choice who can provide you with professional advice concerning this exception procedure.

AUG 03 2023

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If the parcel is ten acres or larger:

1. The Town's staff shall have thirty (30) days in which to review the application. If the application is determined to be complete and all staff comments have been responded to, it will then be scheduled before the Planning and Zoning Advisory Board.
2. The Planning and Zoning Board, during its meeting, will receive comment from the applicant and any other interested persons. In addition, the Board will review the written comments of the Town's professional staff, which may include the Engineer, Attorney, Planner, Fire Inspector, and Building Official. The Board will then make written recommendations to the Town Council.
3. If the recommendation is to approve the changes, the requests will be drafted into ordinance form. Then a Public Hearing will be scheduled before the Planning and Zoning Advisory Board.
4. A newspaper advertisement, a minimum of two columns wide, must be run in a section of paper other than the legal section. The ad must include a map of the general area and depict the subject parcel. The ad shall notify persons of the Public Hearing before Planning and Zoning and the subsequent Public Hearing before Town Council. Staff will abide by F.S. 163 regarding these requirements. A copy of the notice of public hearing will be mailed to each property owner within a radius of 500' of the subject property. The applicant will be notified by the Town Clerk of the dates of the public hearings before Planning and Zoning and Town Council.
5. The Planning and Zoning Advisory Board will conduct the public hearing on the issue, receiving comments from all persons interested in the matter. They will then forward a written recommendation to Town Council and the applicant.
6. The Town Council will hold a first reading and subsequently, conduct the advertised public hearing on the issue, receiving comments from all persons interested in the matter.
7. The amendment request, if approved by the Town Council for transmittal, will be forwarded to the Department of Community Affairs of the State of Florida. Various State agencies will then review the proposed amendment and submit their comments back to the Department of Community Affairs. The Department of Community Affairs must then publish an Intent to approve or disapprove the proposed amendment within 90 days of receipt of the proposed amendment from the Town Council.
8. In the event that the Department of Community Affairs approves the proposed amendment, it shall take effect. If, however, the Department does not approve the amendment, a notice of additional public hearings will be provided to the Town and published in a newspaper of general circulation in Brevard County. Thereafter, a Hearing Officer will conduct a formal proceeding and make final recommendations to the Department of Community Affairs.

TOWN OF MALABAR
AUG 03 2023
RECEIVED

August 1, 2023

Ms. Denine Shearer
Town of Malabar – Land Development Division
3725 Malabar Road
Malabar, FL 32950

Via Hand Delivery

RE: Malabar Self Storage
Parcel #: 28-38-31-00-253 / 2850946
28-38-31-00-255 / 2850948
MBV Project #: 23-1040

Project Description

Dear Ms. Shearer:

Please allow this letter to serve as narrative for the intended Zoning actions for the parcel listed above, within the Town of Malabar.

The subject parcel is +/- 2.26 acres (per survey) with current Zoning and Land Use of R/LC. We are requesting the Rezoning and a Land Use change to CG.

The development of the property will also consist of neighboring parcel 28-38-64-00-267, which is already zoned CG. The intended use is for a Self Storage Facility.















After rezoning is completed, Site Plan and all associated applications will be submitted for the development by MBV Engineering for the parcels. Applications will also be submitted to any other municipalities as needed.

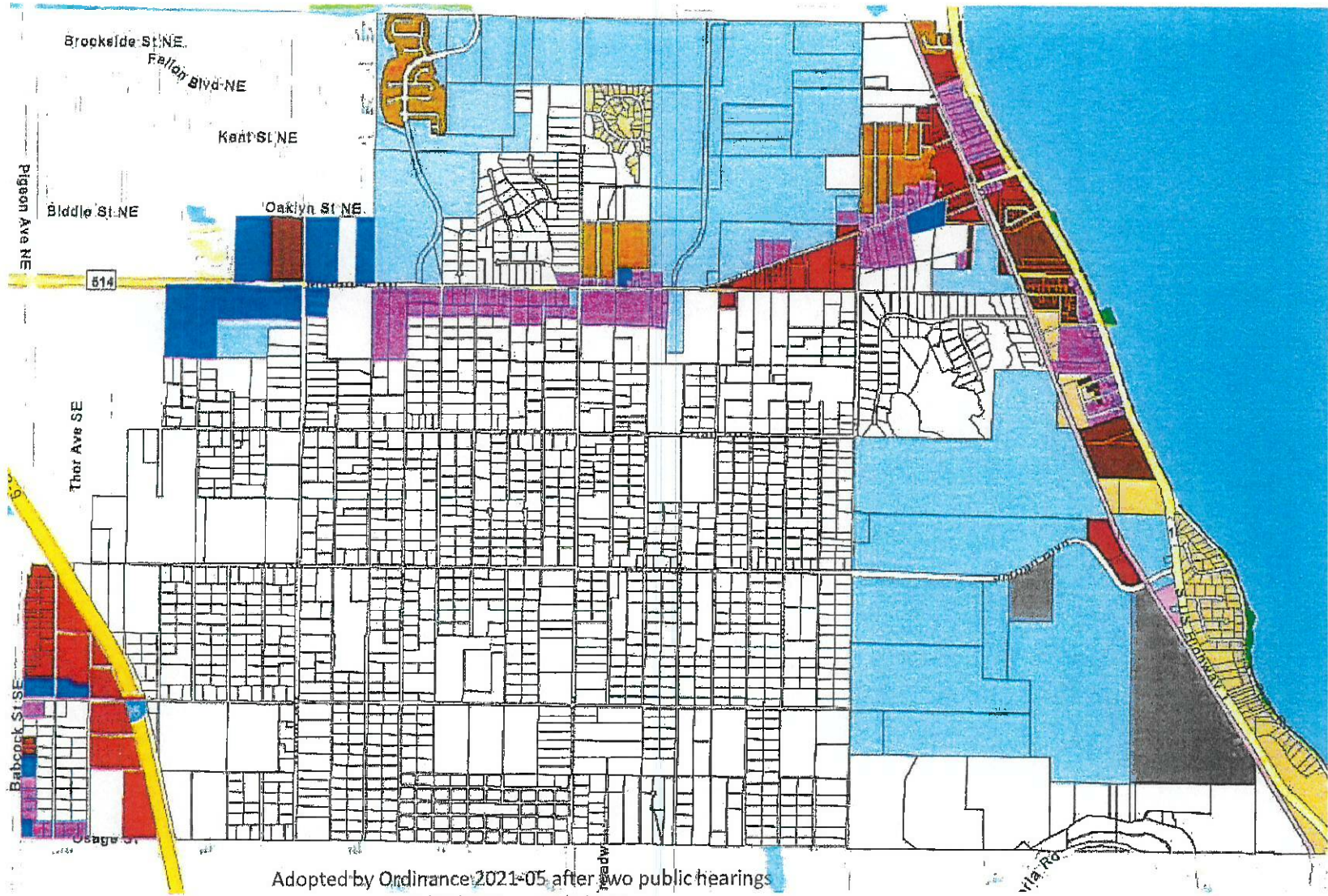
Sincerely,



Wanda Kessler, Permitting Coordinator

Future Zoning Map















-  Commercial General
-  Commercial Limited
-  Coastal Preservation
-  Industrial
-  Institutional
-  Office-Institutional
-  Residential Mobile Home
-  Residential and Limited Commercial
-  Multiple Family HDR
-  Rural Residential
-  Single Family MDR (RS-10)
-  Single Family MDR (RS-15)
-  Single Family LDR (RS-21)
-  <all other values>

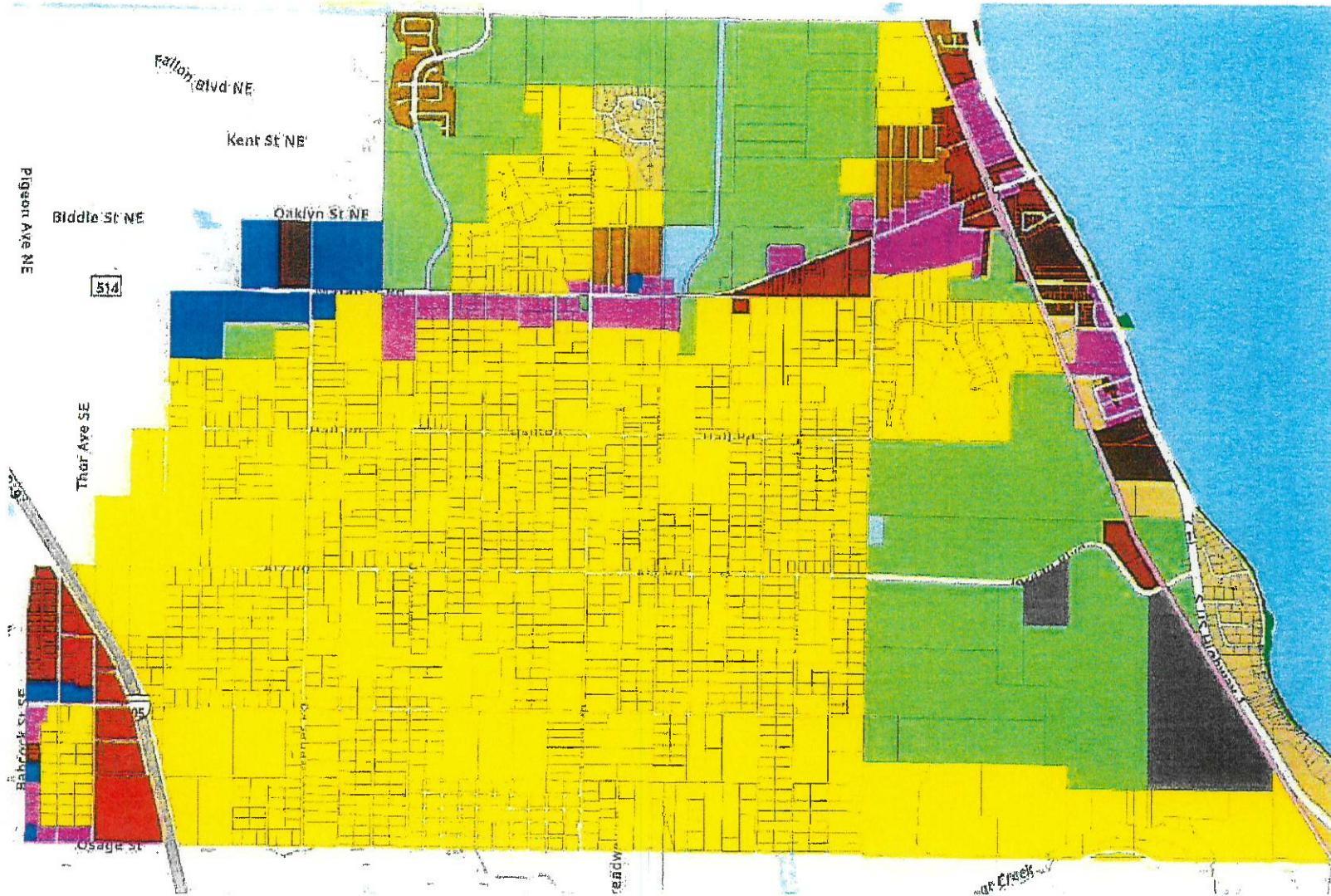


Adopted by Ordinance 2021-05, after two public hearings
5/17/2021 and 6/7/2021



Future Land Use Map

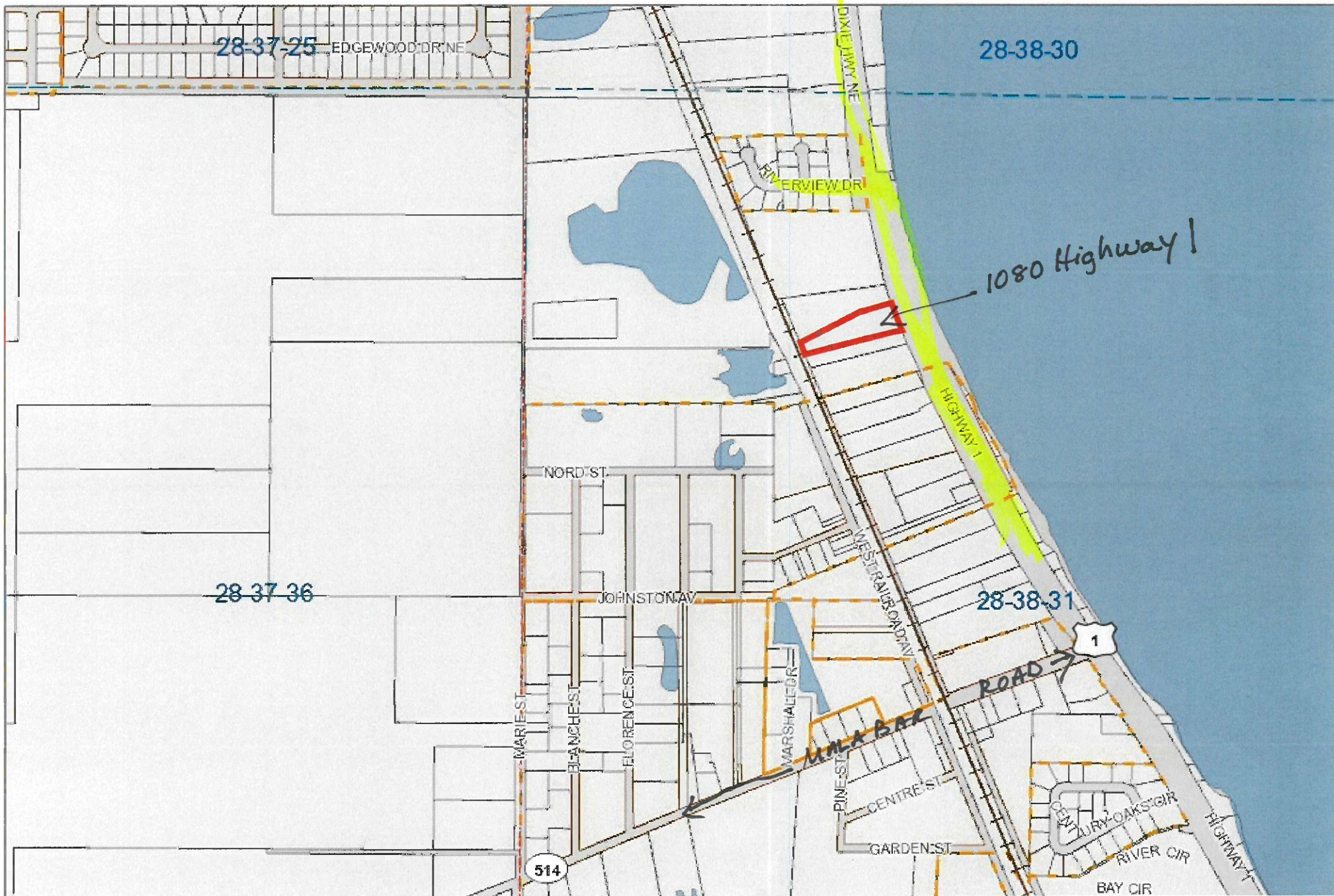
-  Commercial General
-  Commercial Limited
-  Conservation
-  Coastal Preserve
-  High Density Residential
-  Open Space and Recreation
-  Industrial
-  Institutional
-  Low Density Residential
-  Medium Density Residential
-  Office-Institutional
-  Residential and Limited Commercial
-  Rural Residential
-  Other





1080 Highway 1

0
1
0
T



TOWN OF MALABAR

MEMORANDUM

Date: October 30,2023 23-BDM-022

To: Richard Kohler, Town Clerk
Town Council

From: Denine Sherear, Planning & Zoning Board Secretary

Ref: Recommendation to Council from P&Z Board- Public Hearings from the Planning & Zoning Board on October 25,2023 (3- Separate Hearings)

The Planning & Zoning Board has recommendations that resulted from the meeting on 10/25/2023 under "Public Hear/Action."

- 1.) Recommendation to Council: To Rezone property known as: 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). The applicant is Kellwill, LLC represented by owner William (Willy) Carmine. (Ord.2023-09)**

Exhibit: Agenda Report 6.a
Recommendation: Discussion/Action to Council

Motion: Ritter/Shortman as requested to move forward to Council for review.

Chair called for **Roll Call Vote:** Board did roll.
Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 2.) Recommendation to Council: For Site Plan Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-37-10-00-318 Commercial General (CG) property 1.26 acres. The applicant is: Bowman Consulting Group (Zachary Komninos) representing property owner Mr. Robert Bareman.**

Exhibit: Agenda Report 6.b
Recommendation: Discussion/Action to Council

Motion: Shortman/Ritter for Site Plan as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 3.) **Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-38-31- 253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG) The applicant is MVB Engineering LLC for property owners Robert B & Jill M Trettis. (Ord 2023-08)**

Exhibit:

Agenda Report 6.d

Recommendation:

Discussion/Action to Council

Motion: Dial/Taylor as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Nay; Shortman, Nay; Dial, Aye; Abare, Aye. **Motion carried 3 to 2.**

Account Number:	1127265
Customer Name:	Town Of Malabar
Customer Address:	Town Of Malabar 2725 Malabar Rd Malabar FL 32950-4427
Contact Name:	TOWN OF MALABAR
Contact Phone:	
Contact Email:	
PO Number:	

Date:	10/23/2023
Order Number:	9442256
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	59.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
BRE Brevard Florida Today	1	10/27/2023 - 10/27/2023	Govt Public Notices
BRE floridatoday.com	1	10/27/2023 - 10/27/2023	Govt Public Notices

Order Confirmation Amount	\$124.13
----------------------------------	-----------------

Ad Preview

Ad #9442256

10/27/23

TOWN OF MALABAR NOTICE OF PUBLIC HEARING

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, November 6, 2023, at 7:30pm, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

ORDINANCE 2023-08

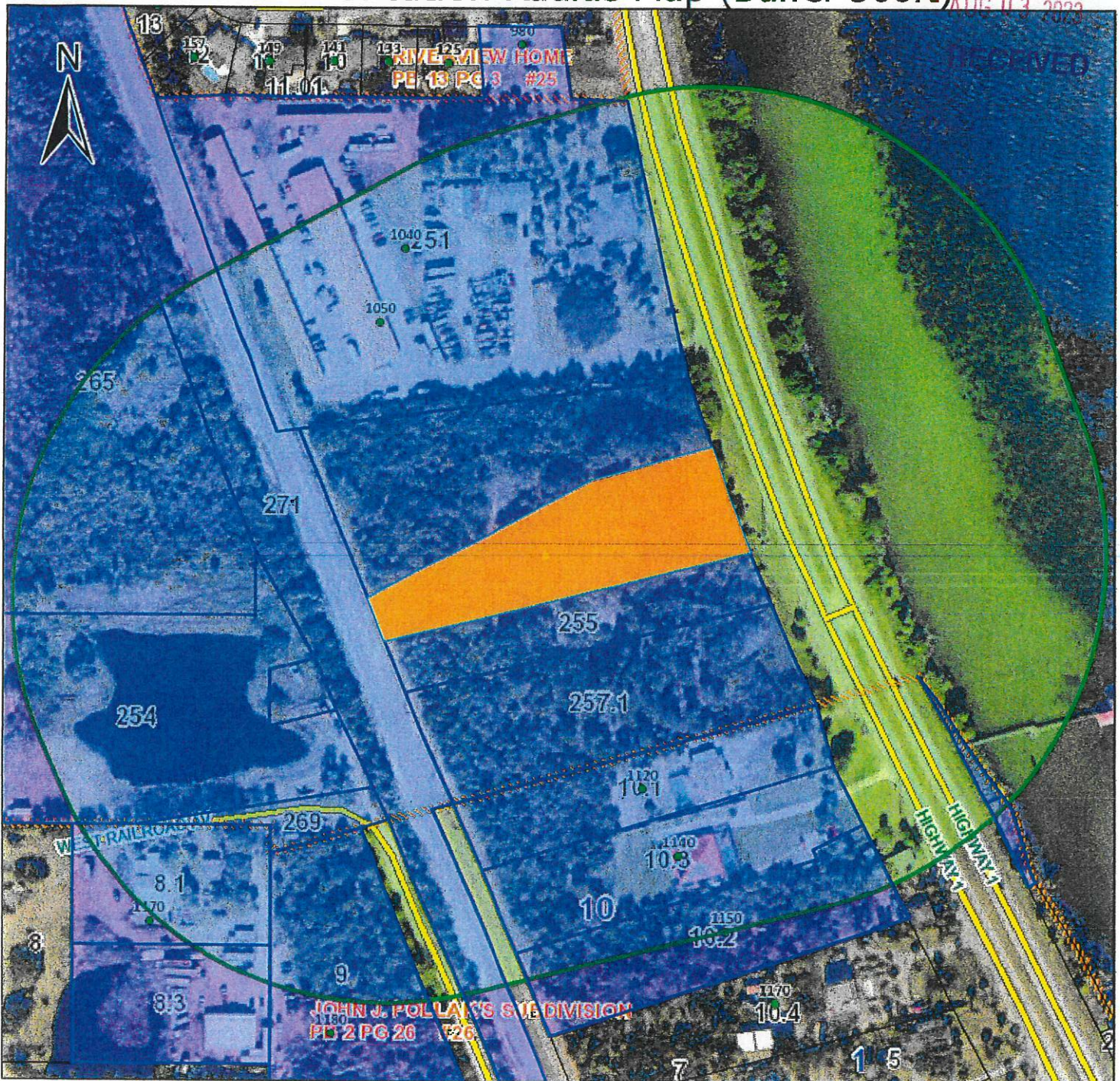
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; PROVIDING FOR A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION OF THE PROPERTY DESCRIBED HEREIN FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG) FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA; PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN LAND USE MAPS; PROVIDING FOR INCORPORATION INTO THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE REPEAL OF EXISTING ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

Copies of the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. 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. Richard Kohler, Town Clerk.

Public Notification Radius Map (Buffer 500ft)

AUG 11 3 2023

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Parcel Property Layer27

Subdivisions

Address Point Layer

Block Text

Address Points

Parcel Information Layers

Parcel Property

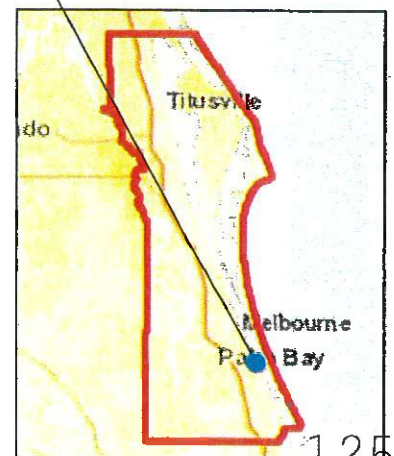
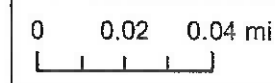
Parcels

Buffer Boundary in GREEN

Notify Properties in BLUE

Disclaimer: 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.

Scale: 1:2,400
1 inch equals 200 feet



<p>Tax Account ID: 2851036 LINNELL, MICHAEL LLOYD 2275 GRANT RD GRANT, FL 32949</p>	<p>Tax Account ID: 3017126 WHYNOT, HAROLD W 155 WHYNOT DR PALM BAY, FL 32909</p>	
<p>Tax Account ID: 2851038 GREIMEL, JOHN ANTHONY ECK, MARY G 1150 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850946 TRETTIS, ROBERT B TRETTIS, JILL M 107 SUNSET DRIVE COCOA BCH, FL 32931</p>	
<p>Tax Account ID: 2851039 ZEMKOSKI, JOYCE L 1120 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850948 TRETTIS, ROBERT B TRETTIS, JILL M 107 SUNSET DRIVE COCOA BCH, FL 32931</p>	
<p>Tax Account ID: 2851041 LEYVA, JOSE 1140 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850950 ZEMKOSKI, RICHARD Z ZEMKOSKI, JOYCE L 3450 LEGHORN RD MALABAR, FL 32950</p>	
<p>Tax Account ID: 2851040 GREIMEL, JOHN A 1150 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850961 GORMAN, JERRY G GORMAN, JUDITH W 60 LINDEN AVE BETHPAGE, NY 11714</p>	
<p>Tax Account ID: 2850947 PALMAROSA NURSERY OF VALKARIA LLC 1255 VALKARIA ROAD MALABAR, FL 32950</p>		
<p>Tax Account ID: 2850945 BAKER FAMILY TRUST 1040 S US HIGHWAY 1 MALABAR, FL 32950</p>		
<p>Tax Account ID: 2850958 C I T A INC 2330 JOHNNY ELLISON DR MELBOURNE, FL 32901</p>		
<p>Tax Account ID: 2851637 LINNELL, MICHAEL LLOYD 2275 GRANT RD GRANT, FL 32949</p>		
<p>Tax Account ID: 2857950 FLORIDA EAST COAST RAILWAY LLC 7150 PHILIPS HWY JACKSONVILLE, FL 32256</p>		

TOWN OF MALABAR

U 3 2023

RECEIVED 126

TaxAcct	OWNER_NAME1	OWNER_NAME2	OWNER_STREET_NAME	OWNER_CITY	OWNER_STATE	OWNER_ZIP5
2851036	LINNELL, MICHAEL	LLOYD	2275 GRANT RD	GRANT, FL	FL	32949
2851038	GREIMEL, JOHN ANTHONY	ECK, MARY G	1150 S US HIGHWAY 1	MALABAR, FL	FL	32950
2851039	ZEMKOSKI, JOYCE	L	1120 S US HIGHWAY 1	MALABAR, FL	FL	32950
2851041	LEYVA, JOSE		1140 S US HIGHWAY 1	MALABAR, FL	FL	32950
2851040	GREIMEL, JOHN	A	1150 S US HIGHWAY 1	MALABAR, FL	FL	32950
2850947	PALMAROSA NURSERY OF VALKARIA	LLC	1255 VALKARIA ROAD	MALABAR, FL	FL	32950
2850945	BAKER FAMILY TRUST		1040 S US HIGHWAY 1	MALABAR, FL	FL	32950
2850958	C I T A	INC	2330 JOHNNY ELLISON DR	MELBOURNE, FL	FL	32901
2851637	LINNELL, MICHAEL	LLOYD	2275 GRANT RD	GRANT, FL	FL	32949
2857950	FLORIDA EAST COAST RAILWAY	LLC	7150 PHILIPS HWY	JACKSONVILLE, FL	FL	32256
3017126	WHYNOT, HAROLD	W	155 WHYNOT DR	PALM BAY, FL	FL	32909
2850946	TRETTIS, ROBERT B	TRETTIS, JILL M	107 SUNSET DRIVE	COCOA BCH, FL	FL	32931
2850948	TRETTIS, ROBERT B	TRETTIS, JILL M	107 SUNSET DRIVE	COCOA BCH, FL	FL	32931
2850950	ZEMKOSKI, RICHARD Z	ZEMKOSKI, JOYCE L	3450 LEGHORN RD	MALABAR, FL	FL	32950
2850961	GORMAN, JERRY G	GORMAN, JUDITH W	60 LINDEN AVE	BETHPAGE, NY	NY	11714

TOWN OF MALABAR

AUG 03 2023

RECEIVED



2725 Malabar Road
Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax)
www.townofmalabar.org

**TOWN OF MALABAR
NOTICE OF PUBLIC HEARING**

The Malabar Planning and Zoning Board will hold a Public Hearing on Wednesday October 25, 2023 @ 6PM for Recommendation to Town Council on November 6, 2023 @ 7:30PM.

The applicant is MVB Engineering Inc representing Robert & Jill Trettis (property owner), approval of Comp Map change from Residential/ limited Commercial(R/LC) to Commercial General (CG) The intent is to do a self-storage facility on 2.26 acres +/-.

ORDINANCE 2023-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RECLASSIFYING THE COMP PLAN MAP AND REZONING THE PROPERTY AS FOLLOWS:
1080 US HWY 1, MALABAR FL AKA THE 2.26 +/- ACRES LYING IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 253 & 255 LYING ON THE WEST SIDE OF US HWY 1, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; THE INTENDED USE IS FOR A SELF STORAGE FACILITY PROVIDING AN EFFECTIVE DATE.

All interested citizens are encouraged to attend and offer comments. 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 Richard Kohler Town Clerk.

Dear Property Owner,

If you receive this notice then you are listed as an owner of property, as shown in the records of the County Property Appraiser's office, within 500' of the project site. This Notice is provided as required by Malabar Code Chapter 2, Section 2-240.6. a. You are invited to attend or submit your comments before the meeting to the TownClerk@townofmalabar.org

This section presents the basic purpose and intent of each zoning district.

- A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.
- B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.
- C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- D. *RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that future densities are compatible with existing 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 (except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), general retail sales and services, warehousing, and outside storage; and
 - Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
 - A Malabar Vernacular Style is required for all development along arterial roadways.

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 standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

The general commercial district is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards. Finally, no permanent residential housing shall be located within the general commercial district.

The location and distribution of general commercial activities shall be determined based on the following considerations:

- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems; and
- Impact on existing and planned community services and utilities.
- A Malabar Vernacular Style is required for all development along arterial roadways.

M. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods.

Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district provides a management strategy for negotiating innovative development

concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

O. R/LC "Residential and Limited Commercial." The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor, situated on the north and south side of Malabar Road and those sites on the east side of Babcock Street as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets, and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

P. RVP "Recreational Vehicle Park." The RVP district is established to implement comprehensive plan policies for managing local zoning and site development design criteria on land specifically designated for Recreational Vehicle Park(s) as designated by F.S. ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1—4, 4-2-07; Ord. No. 14-01, § 2, 2-3-14; Ord. No. 2021-02, § 2, 5-3-21; Ord. No. 2021-09, § 2, 8-16-21)

Section 1-3.2. - Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

Cross reference— Alcoholic beverages, ch. 4.

TABLE <u>1-3.2</u> . LAND USE BY DISTRICTS															
		RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES															
	Duplex					P	P					P			
	Mobile Homes							P							

Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			

COMMUNITY FACILITIES

Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship								P, A ¹	P	C	C		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Facilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	

COMMUNITY RESIDENTIAL HOME

Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	

ASSISTED CARE COMMUNITIES

I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								

Level 3 (16 or more residents/beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)	C ³	C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	

AGRICULTURAL ACTIVITIES

Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													

COMMERCIAL ACTIVITIES

Adult Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P ¹			
Business and Professional Offices							P	P	P	P	P	P	P	
Enclosed Commercial Amusement										P				
Arcade Amusement Center/ Electronic Gaming Establishment										C ²				
Funeral Homes								P	P	C				
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities								P	P	P				
Marine Commercial Activities										C*				
Medical Services							P	P	P	P				
Mini Warehouse/Storage								C	P		P			

Parking Lots and Facilities								P	P	P	P		P	
Recreational Vehicle Park								P						
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales										C*		C*		
Trades and Skilled Services										P		P		
Veterinary Medical Services								P	P	P	C	P		
Vehicular Sales and Services										C*		P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		

INDUSTRIAL ACTIVITIES

Kennels												C		
Manufacturing Activities												P		
Manufacturing Service Establishments												P		
Vehicle and Other Mechanical Repair and Services										C*		P		
Warehouse, Storage and Distribution Activities												P		

WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES

Noncommercial piers, boat slips, and docks														C
--	--	--	--	--	--	--	--	--	--	--	--	--	--	---

C	=	Conditional Use
P	=	Permitted Uses
A	=	Accessory Use

*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

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

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

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

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

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14; Ord. No. 2016-03, § 1, 2(Exh. A), 10-3-16; Ord. No. 20-02, §§ 1, 2, 3-2-20; Ord. No. 2021-09, § 3, 8-16-21)

Section 1-3.3. - Size and dimension criteria.

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

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

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

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

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) w/Central Water & Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	<u>25</u>	20	10	10	50	N/A	50	4.00

Multiple Family Residential Development

RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6

Mixed Use Development

R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6

- ¹ Minimum size sites and lots include one-half of adjacent public right-of-way.
- ² Minimum 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.
- ³ Setback where rear lot line abuts an alley.
- ⁴ Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
- ⁵ Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
- ⁶ Recreation activities maximum FAR shall be .10.
- ⁷ In RR-65 Zoning, side and rear setback may be reduced for accessory structures to equal the height of the accessory structure but under no condition be reduced to less than 15 feet. If the height of the accessory structure height is 20 feet, the side and rear setbacks for that building would be 20 feet.

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).

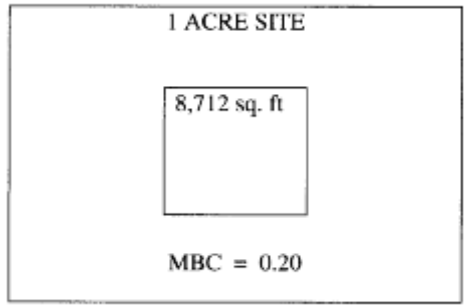
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

MBC	=	<u>Total Building Coverage</u>
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E. *Principal Structure Setbacks.* Table 1-3.3(A) provides building setbacks for all zoning districts. In addition to these setbacks the required minimum setback shall be measured from the centerline of the right-of-way as in Table 1-3.3(E).

TABLE 1-3.3(E). PRINCIPAL STRUCTURE SETBACKS FROM CENTERLINE OF THOROUGHFARES

Transportation Facility	Building Setback (feet)
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	
Jordan Blvd.	

Local Streets (50—60 feet R/W)	65
Minor Collector Streets (70 feet R/W)	75
Atz Blvd.	
Hall Road	
Old Mission Road	
Benjamin (Reese) Road	

F. *Minimum Distance Between Principal Buildings.* The minimum distance between principal buildings shall be twenty (20) feet. The distance shall be measured at the narrowest space between buildings and shall not include roof overhang.

G. *Recreational Vehicle Park Zoning District.* Recreational vehicle park zoning district shall be to locate and establish areas within the Town which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with F.S. Ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time.

(1) Principal uses and structures:

- a) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations.
- b) Management offices and residence (a mobile home may be allowed for a manager's residence only).

(2) Accessory uses include:

- a) Grocery store.
- b) Bottled/Metered gas sales.
- c) Laundry facilities.
- d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.
- e) Public utility equipment and facilities.

(3) Conditional uses:

- a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.

(4) Design standards for recreational vehicle parks.

- a) Minimum size: five (5) acres.
- b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.
- c) Streets and parking:
 1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.
 2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:
 - (a) A one-way street/drive shall be at least twelve (12) feet in width.
 - (b) A two-way street/drive shall be at least twenty-four (24) feet in width.
 3. Street surfacing. All roads or driveways shall be paved meeting town standards.
 4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All cul-de-sacs shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.
 5. Parking. Each R.V. / travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)
- d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes. The provisions for buffer strips may be waived or reduced by the Town Council taking into consideration the use of abutting properties. Furthermore, any portion of the property which fronts a public right-of-way will not be required to be enclosed along such right-of-way.
- e) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.
 1. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.
- f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
 1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
 2. Tent camping may be permitted on a travel trailer site.
- g) Design requirements for recreational vehicle site.
 1. Minimum size.
 - a. Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.
 - b. Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet. Consensus was to remove these sections.
 2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.
 3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.
 4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.
- h) Provisions of service in recreational vehicle parks.
 1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a

recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.

2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 3. Sewage disposal.
 - a. All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 - b. At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
 - c. At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.
 - d. The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
 4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V. - General Provisions, Section 1-5.28 entitles Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
 5. Electricity. All requirements of the National Electrical Code as contained referenced in Malabar Code of Ordinances Chapter 6 must be met.
 6. Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.
 7. Fire protection. The park shall be subject to the rules and regulations of State Statute, State Fire Code, and Malabar Code.
 8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
 9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use.
 10. Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a Recreational Vehicle Park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the Recreational Vehicle Park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. The provisions of Section 1-7.5 shall apply.
- j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein.

(Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; Ord. No. 94-4, § 4, 4-3-95; Ord. No. 96-1, § 1, 3-4-96; Ord. No. 97-5, § 1, 3-17-97; Ord. No. 02-03, § 1, 8-5-02; Ord. No. 03-02, § 1, 2-24-03; Ord. No. 04-08, §§ 1, 2, 7-12-04; Ord. No. 06-05, § 1, 2-6-06; Ord. No. 06-16, §§ 1, 2, 10-2-06; Ord. No. 19-02, § 2, 3-4-19; Ord. No. 19-03, § 2, 3-4-19; Ord. No. 2021-02, § 3, 5-3-21; Ord. No. 2021-09, §§ 4, 5, 8-16-21)

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 10.d.
Meeting Date November 6, 2023

Prepared By: Lauren Hamilton, Executive Administrative Assistant on behalf of
Denine M. Sherear, Planning and Zoning Board Secretary

SUBJECT: Amending the Town Zoning Map Designation from Residential/Limited Commercial (R/LC) to Commercial General (CG) for the 2.26 Acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. Applicant is MBV Engineering, LLC, representing property owners Robert B, and Jill M. Trettis (Ordinance 2023-09)

BACKGROUND/HISTORY:

This Applicant's request to amend the Land Use from Residential /Limited Commercial (R/LC) to Commercial General (CG) the 2.26 Acre Parcel 28-38-31-00-253, or 1080 Highway 1 in Malabar, Florida. The Applicant plans to submit an application at a later date to develop this property for a self-storage facility.

This was heard at the P&Z Board meeting on October 25, 2023, and received a 3-2 vote (Taylor: Aye; Ritter: Nay; Shortman: Nay; Dial: Aye; Abare: Aye). The request is consistent with the Comprehensive Plan, Compatible with the surrounding areas, and Conforms with the desire of Council to encourage commercial development along the main corridors.

For these reasons, Malabar staff recommends approval of the zoning change.

If the first reading of Ordinance 2023-09 is approved, it will be advertised for a subsequent Public Hearing after an expedited review by the State.

Attached please find:

- Draft minutes from P&Z Board Meeting of 10/25/23
- Ord 2023-09
- Map of the area
- Application package from MBV Engineering, LLC
- Memos from Staff
- Legal Ads
- Section 1-3.1, 1-3.2, & 1-3.3 of the Land Development Code

ACTION OPTIONS:

Approval of first reading of Ord 2023-09

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES
OCTOBER 25, 2023, 6:00 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 (by Wayne Abare) and Pledge led by Chair Wayne Abare.

2. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
	ALTERNATE: MEGHAN WOLFGRAM,
	ALTERNATE: VACANT
BOARD SECRETARY:	DENINE SHEREAR

6. PUBLIC HEARING:3

- 6.a.** Recommendation to Council: To Rezone Property known as 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-09)

Property owner, William Carmine 3916 Lakeside Lane, Valkaria, presented the request to rezone the parcel to be consistent with the zoning for Route 1 Motorsports he owns adjacent to this parcel. This property would be used for a marine dealership. They are looking to do this work in stages. Initially, it will be used for an outdoor boat showroom without a building. Fencing the area in to display the boats in an aesthetic manner and stabilize the ground.

Chair Abare asked if any of the Board Members would like to ask Mr. Carmine any questions.

Ms. Ritter commented that CG is not intended for outside storage.

Mr. Carmine responded that this isn't for "outside storage" it is for recreational vehicle sales/display.

Ms. Ritter said that he has a lot of outside storage on his Route 1 property that is zoned CG.

Mr. Carmine responded by inquiring what the zoning is of the properties all around town hall where all the boats and RVs are being stored outside.

The Board Secretary, Denine, responded that the property surrounding Town Hall was not a good comparison but the property across the street is zoned CG.

Ms. Shortman inquired if car dealerships are allowed in CG as that is storage/display of vehicles.

Ms. Ritter said she didn't know if they would be required to fence the area.

Mr. Carmine said they would be fencing the area. His inventory fluctuates and they are looking to build a warehouse in Grant-Valkaria.

Mr. Dial asked applicant if he had any idea when you'd be looking to put up the building.

Mr. Carmine advised that they had started the process of engineering but the initial quotes they've gotten back were shocking compared to what they've built in the past. They're renting a space to the south (Bill's Discount Marine) temporarily to make sure that they can sell boats before investing the money into a new building. They hope to build within the next 2-5 years. He showed a couple renderings.

Ms. Shortman asked how things would be secured in the event of a hurricane.

Mr. Carmine advised that the boats would be on trailers and they would do their best to make sure they are secured. He does not want to add pavement or concrete now until the building is built, just looking to stabilize the area for display parking.

This rezoning request is consistent with the zoning in the area.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for rezoning from RLC to CG: Ritter / Shortman.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

- 6.b.** Recommendation to Council: For Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres. (Ordinance 2023-06)

Zachary Komninos from Bowman Consulting Group presented on behalf of property owner, Mr. Robert Bareman. This is for a shutter/soffit company with an office and warehouse, one driveway access off of Babcock with parking lot in front and service yard in rear. A swale system will handle the stormwater. All permits have been obtained through SJRWMD, FDEP, and the City of Palm Bay.

Ms. Ritter asked about mitigating the wetlands onsite and if only 1 handicap parking spot is required.

Mr. Komninos advised that mitigation was not necessary as the wetlands are less than ½ acre and based on the square footage of the building, only 1 handicap spot was necessary. The project will be on septic as there is no sewer available. Water is provided by the City of Palm Bay. The septic drainfield is 15 ft from the top of bank for the dry pond/swale.

Staff, the reviewing engineer (Morris), and the Fire Department have approved. The engineer has requested a copy of the wetland report. The comments have been provided.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for site plan: Shortman / Ritter.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

6.c. Request withdrawn by applicant.

6.d. Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-3831-253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-08)

The zoning of the adjacent properties to the north is CG and the property to the south is R/LC.

Bruce Moia of MBV Engineering presented for property owners Robert B & Jill M Trettis. The applicant owns the property to the north. He is looking to rezone the 2 parcels to the south to the same CG zoning. The proposed facility would utilize all 3 parcels if these 2 parcels are rezoned.

Mr. Abare opened the floor to public comments.

Mr. Baker who owns the storage facility 1040 Hwy 1 spoke in opposition of the project. He thinks that the project site will be difficult to build without creating a problem for the neighbors (diminished property values, drainage retention) since it is not level. If the property were flat, he would not have any comments.

The property owners are required to retain the water on their properties.

Mr. Moia responded by saying that the drainage and stormwater requirements are much stricter than they were in 1984 when Mr. Baker built his project. They will submit a drainage plan if/when a site plan application is submitted. All these issues will be addressed at that time.

Mr. Dial asked about height restrictions – 35 ft is the max.

Mr. Taylor wanted to confirm that the property owners within a certain radius were notified.

Denine advised they were notified by mail, and it was advertised in the newspaper. If they were unable to attend, they could have called or emailed, and their concerns would have been placed on record. No comments from adjacent owners were received.

Ms. Wolfgram asked about the property immediately to the south. A new single-family residence is being built on that property.

MOTION to approve for Council for rezoning from RLC to CG: Dial / Taylor.

Vote: 3-2

Taylor	Aye
Ritter	Nay
Shortman	Nay
Dial	Aye
Abare	Aye

7. ADJOURNMENT

There being no further business to discuss, MOTION: Ritter / Dial to adjourn this meeting.
Vote: All Ayes.

The meeting adjourned 7:37 P.M.

BY:

Wayne Abare, Chair

Denine Sherear, Board Secretary

Date Approved: as presented.

ORDINANCE 2023-09

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING FOR 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 Council has considered the recommendation of the Planning and Zoning Board and approves the zoning change for the property described below and 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)*:

The entire portion of Lot 00-253, in Township 28, Range 38, Section 31, Malabar, Brevard County, Florida. This property is located adjacent to the Florida East Coast Railroad and US Highway 1.

Section 2. The Town Clerk is hereby authorized and directed to cause the revisions to the Official Town Zoning Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

Section 3. This ordinance shall be effective as required by Town Code but in no event sooner than the effective date of Ordinance No 2023-08.

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 Marisa Acquaviva _____
- Council Member Brian Vail _____
- Council Member Jim Clevenger _____
- Council Member Dave Scardino _____
- Council Member Mary Hofmeister _____

This ordinance shall be effective as required by Town Code but in no event sooner than the effective date of Ordinance No 2023-08.

**BY:
TOWN OF MALABAR**

Mayor Patrick T. Reilly, Council Chair

(seal)

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Legally Advertised to Comply with FS 163 and 166.

Hearing at P&Z: 10/25/2023

Ord First Reading:

Second Reading: ___

Effective Date:

TOWN OF MALABAR
2725 Malabar Road, Malabar, Florida 32950
(321) 727-7764 – Telephone
(321) 727-9997 - Fax

TOWN OF MALABAR

AUG 13 2023

No. RECEIVED

Date:

APPLICATION FOR LAND USE AMENDMENT
AND ZONING CHANGE

Before completing this application, please refer to the attached:

- General Information
- Section 1-12.5 - Procedures for Adopting, Supplementing or Amending the Land Development Code
- Florida Statutes, Chapter 166.041(c)
- Article III - District Provisions

This application must be completed, with required attachments listed below, and returned to the Town Clerk's office.

Name of Applicant(s): Robert B and Jill M T'rettis Telephone #:
Mailing Address: 107 Sunset Drive, Cocoa Beach, FL 32931

Legal description of property covered by application:

Township: 28 Range: 38 Section: 31
Lot/Block: 00, Parcel Subdivision: 253 and 255
Other Legal: Part of NW 1/4 as described in DB 312 Pg 179 and DB 327 Pg 389
Exc ORB 885 [g 276, 1465 and RR & Hwy R/W's

Property Address: 1080 Highway 1, Malabar FL 32950


- 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: Current: R/LC Proposed: CG
- Current and Proposed Zoning. The current and proposed zoning for the subject property shall be identified: Current: R/LC Proposed: CG
- Existing and Proposed Use. The existing and proposed use of the subject property shall be stated: Current: Vacant Proposed: Self Storage Facility

Fees:

- Rezoning - \$325 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Land Use Charges - \$300 which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant.
- Rezoning & Land Use Charges - \$625 for first acre plus \$10 for each additional acre, which includes administrative time and mailing. Any advertising or additional costs* shall be paid by the applicant. (2.32 acres) \$625.00 + 30.00 = \$655.00
(*Additional costs may include, but are not limited to engineering fees, attorney fees, etc.)

Required Attachments:

- Completed application, including Disclosure of Ownership (Pages 1 & 2)
- Fee of \$ 655.00 in check or money order payable to *Town of Malabar*. We do not accept cash or credit cards.
- Radius package from Brevard County P&Z GIS Department providing a list of names and addresses of property owners and legal descriptions of all property within 500 feet of the boundaries of the property covered by this application. The source of this list must be the most current records maintained by the Brevard County Tax Appraiser's Office.


Signature of Applicant


Signature of Applicant

AUG 03 2023

RECEIVED

TOWN OF MALABAR
APPLICATION FOR LAND USE AMENDMENT AND ZONING CHANGE

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

Please complete only one of the following:

I, Bruce A. Moia, P.E. - MBV Engineering, Inc., being first duly sworn, depose and say that I, Bruce A. Moia, P.E., am the legal representative of the Owner 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 application are honest and true to the best of my knowledge and belief.

[Signature]
Applicant

8/2/23
Date

[Signature]
Applicant

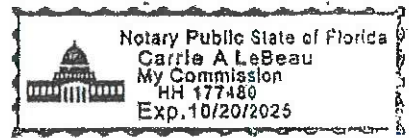
8-2-23
Date

Sworn and subscribed before me this 2nd day of August, 20 23.

NOTARY PUBLIC
STATE OF FLORIDA

[Signature]

Commission No.: HH177480 My Commission Expires: 10/20/25



I, Robert and Jill Trettis, being first duly sworn, depose and say that I, Robert and Jill Trettis, am the Owner 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 knowledge and belief.

[Signature]
Applicant

8-2-23
Date

[Signature]
Applicant

8/2/23
Date

Sworn and subscribed before me this 2nd day of August, 20 23.

NOTARY PUBLIC
STATE OF FLORIDA

[Signature]

Commission No.: HH177480 My Commission Expires: 10/20/2025



GENERAL INFORMATION
AMENDMENTS TO THE COMPREHENSIVE PLAN OR REZONING

AUG 03 2023

RECEIVED

In 1985, the Florida Legislature enacted the Local Government Comprehensive Planning and Land Development Regulation Act as part of a comprehensive package of legislation dealing with growth management. The Act is codified in Chapter 163 of the Florida Statutes. Pursuant to requirements in the Act, the Town of Malabar adopted a Comprehensive Plan with the enactment of Ordinance Number 90-5 on April 17, 1990 and subsequent amendments. This Plan, combined with the requirements of the Act and various Town ordinances and resolutions, has a direct effect upon the development of land within the Town of Malabar. You are encouraged to review these documents prior to making decisions concerning land development matters.

In the event that you are requesting a rezoning, it may be necessary for you to first seek an amendment to the Land Use Element of the Comprehensive Plan. Our office staff will provide you with the application to request such an amendment. You are advised, however, that this is a significant undertaking, requiring the submission of considerable requirements of notice and public hearings. The following schedule is provided to assist you in your planning:

If the parcel is under ten acres:

1. The Town's staff shall have up to thirty (30) days in which to review the application. During this time the land shall be posted by the applicant that it is the subject of a land use change request. It will then be scheduled before the Planning and Zoning Advisory Board for a Public Hearing.
2. The Planning and Zoning Board, during its meeting, will receive comment from the applicant and any other interested persons. In addition, the Board will review the written comments of the Town's professional staff, which may include the Engineer, Attorney, Planner, Fire Inspector, and Building Official. The Board will then make written recommendations to the Town Council.
3. If the recommendation is to approve the changes, the requests will be drafted into ordinance form and presented to the Town Council for a First Reading. Then a Public Hearing will be scheduled.
4. A newspaper legal advertisement will be run 10 days prior to the Public Hearing before Town Council. A similar courtesy notice will be sent to each property owner within a radius of 500' of the subject property. The applicant will be notified by the Town Clerk of the date of the public hearing before Town Council.
5. The Town Council will conduct the public hearing on the issue, receiving comments from all persons interested in the matter.
6. The amendment request, if approved by the Town Council, will be forwarded to the Department of Community Affairs of the State of Florida. Various State agencies will then review the proposed amendment and submit their comments back to the Department of Community Affairs. The Department of Community Affairs must then publish an intent to approve or disapprove the proposed amendment within 90 days of receipt of the proposed amendment from the Town Council.
7. In the event that the Department of Community Affairs approves the proposed amendment, it shall take effect. If, however, the Department does not approve the amendment, a notice of additional public hearings will be provided to the Town and published in a newspaper of general circulation in Brevard County. Thereafter, a Hearing Officer will conduct a formal proceeding and make final recommendations to the Department of Community Affairs.

If the parcel of land which is the subject of your amendment application is less than five acres, you may be entitled to an exception from the twice-annual submission requirement. Please consult with an attorney or other person of your choice who can provide you with professional advice concerning this exception procedure.

AUG 03 2023

RECEIVED

If the parcel is ten acres or larger:

1. The Town's staff shall have thirty (30) days in which to review the application. If the application is determined to be complete and all staff comments have been responded to, it will then be scheduled before the Planning and Zoning Advisory Board.
2. The Planning and Zoning Board, during its meeting, will receive comment from the applicant and any other interested persons. In addition, the Board will review the written comments of the Town's professional staff, which may include the Engineer, Attorney, Planner, Fire Inspector, and Building Official. The Board will then make written recommendations to the Town Council.
3. If the recommendation is to approve the changes, the requests will be drafted into ordinance form. Then a Public Hearing will be scheduled before the Planning and Zoning Advisory Board.
4. A newspaper advertisement, a minimum of two columns wide, must be run in a section of paper other than the legal section. The ad must include a map of the general area and depict the subject parcel. The ad shall notify persons of the Public Hearing before Planning and Zoning and the subsequent Public Hearing before Town Council. Staff will abide by F.S. 163 regarding these requirements. A copy of the notice of public hearing will be mailed to each property owner within a radius of 500' of the subject property. The applicant will be notified by the Town Clerk of the dates of the public hearings before Planning and Zoning and Town Council.
5. The Planning and Zoning Advisory Board will conduct the public hearing on the issue, receiving comments from all persons interested in the matter. They will then forward a written recommendation to Town Council and the applicant.
6. The Town Council will hold a first reading and subsequently, conduct the advertised public hearing on the issue, receiving comments from all persons interested in the matter.
7. The amendment request, if approved by the Town Council for transmittal, will be forwarded to the Department of Community Affairs of the State of Florida. Various State agencies will then review the proposed amendment and submit their comments back to the Department of Community Affairs. The Department of Community Affairs must then publish an Intent to approve or disapprove the proposed amendment within 90 days of receipt of the proposed amendment from the Town Council.
8. In the event that the Department of Community Affairs approves the proposed amendment, it shall take effect. If, however, the Department does not approve the amendment, a notice of additional public hearings will be provided to the Town and published in a newspaper of general circulation in Brevard County. Thereafter, a Hearing Officer will conduct a formal proceeding and make final recommendations to the Department of Community Affairs.

TOWN OF MALABAR
AUG 03 2023
RECEIVED

August 1, 2023

Ms. Denine Shearer
Town of Malabar – Land Development Division
3725 Malabar Road
Malabar, FL 32950

Via Hand Delivery

RE: Malabar Self Storage
Parcel #: 28-38-31-00-253 / 2850946
28-38-31-00-255 / 2850948
MBV Project #: 23-1040

Project Description

Dear Ms. Shearer:

Please allow this letter to serve as narrative for the intended Zoning actions for the parcel listed above, within the Town of Malabar.

The subject parcel is +/- 2.26 acres (per survey) with current Zoning and Land Use of R/LC. We are requesting the Rezoning and a Land Use change to CG.

The development of the property will also consist of neighboring parcel 28-38-64-00-267, which is already zoned CG. The intended use is for a Self Storage Facility.















After rezoning is completed, Site Plan and all associated applications will be submitted for the development by MBV Engineering for the parcels. Applications will also be submitted to any other municipalities as needed.

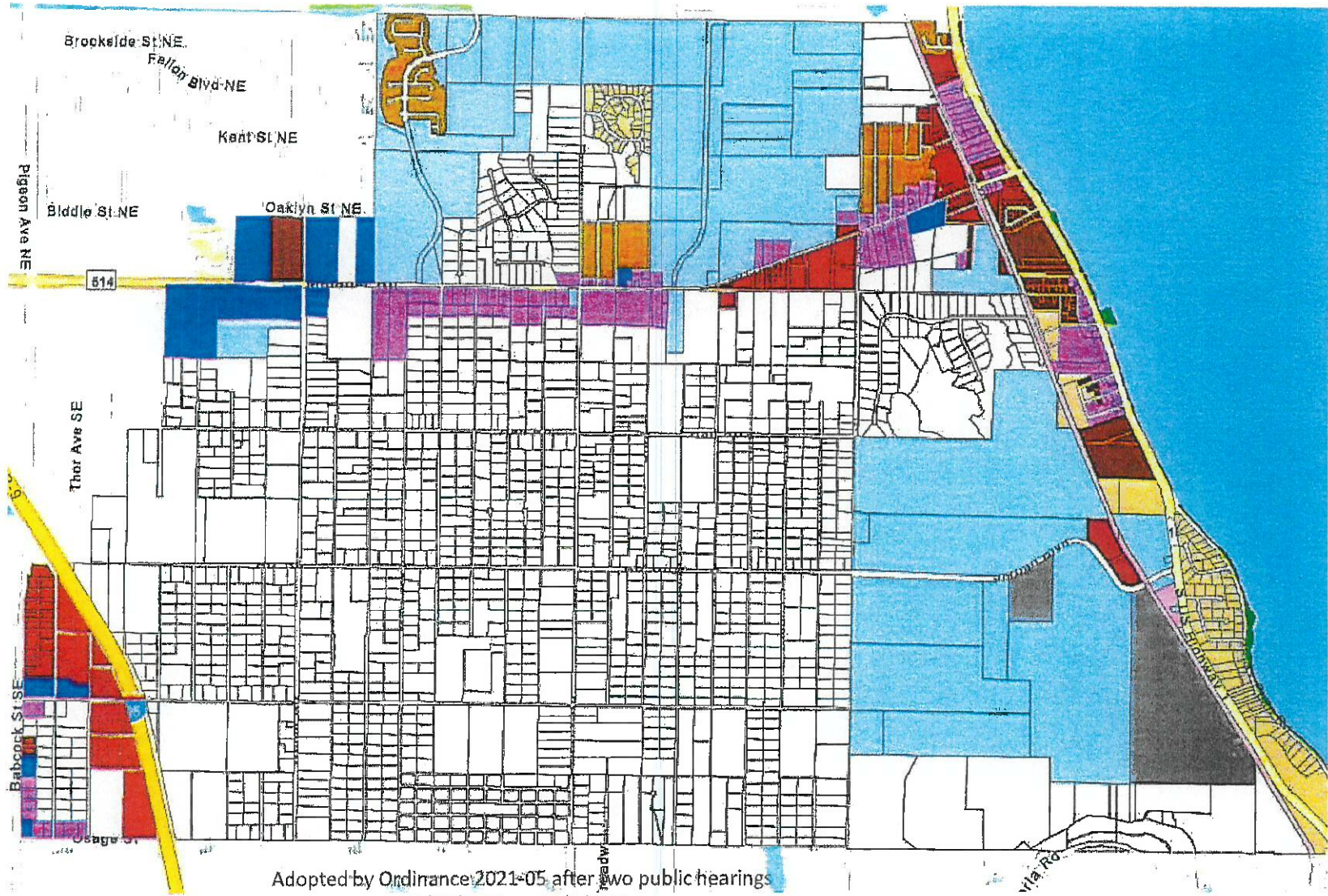
Sincerely,



Wanda Kessler, Permitting Coordinator

Future Zoning Map















-  Commercial General
-  Commercial Limited
-  Coastal Preservation
-  Industrial
-  Institutional
-  Office-Institutional
-  Residential Mobile Home
-  Residential and Limited Commercial
-  Multiple Family HDR
-  Rural Residential
-  Single Family MDR (RS-10)
-  Single Family MDR (RS-15)
-  Single Family LDR (RS-21)
-  <all other values>

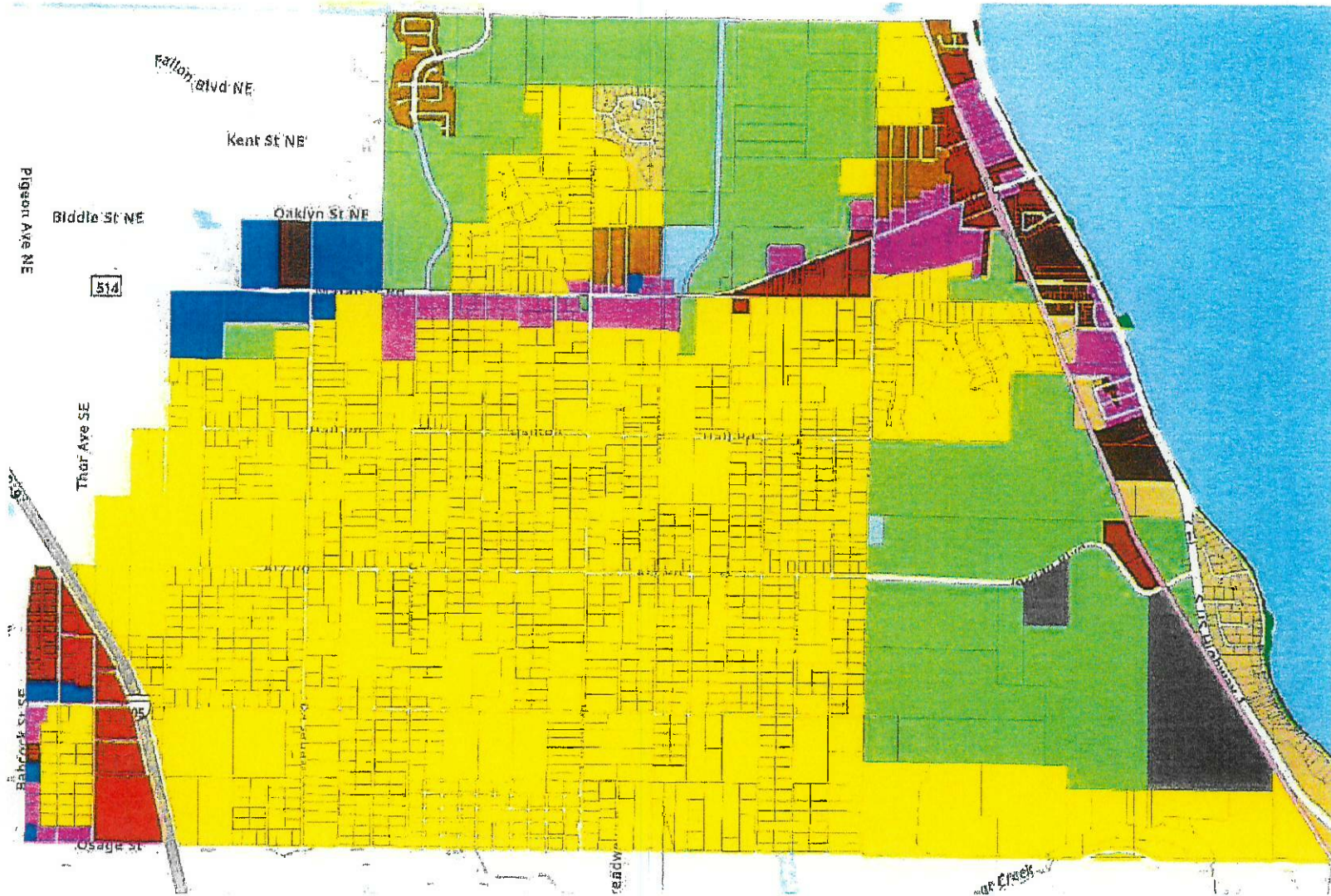


Adopted by Ordinance 2021-05, after two public hearings
5/17/2021 and 6/7/2021



Future Land Use Map

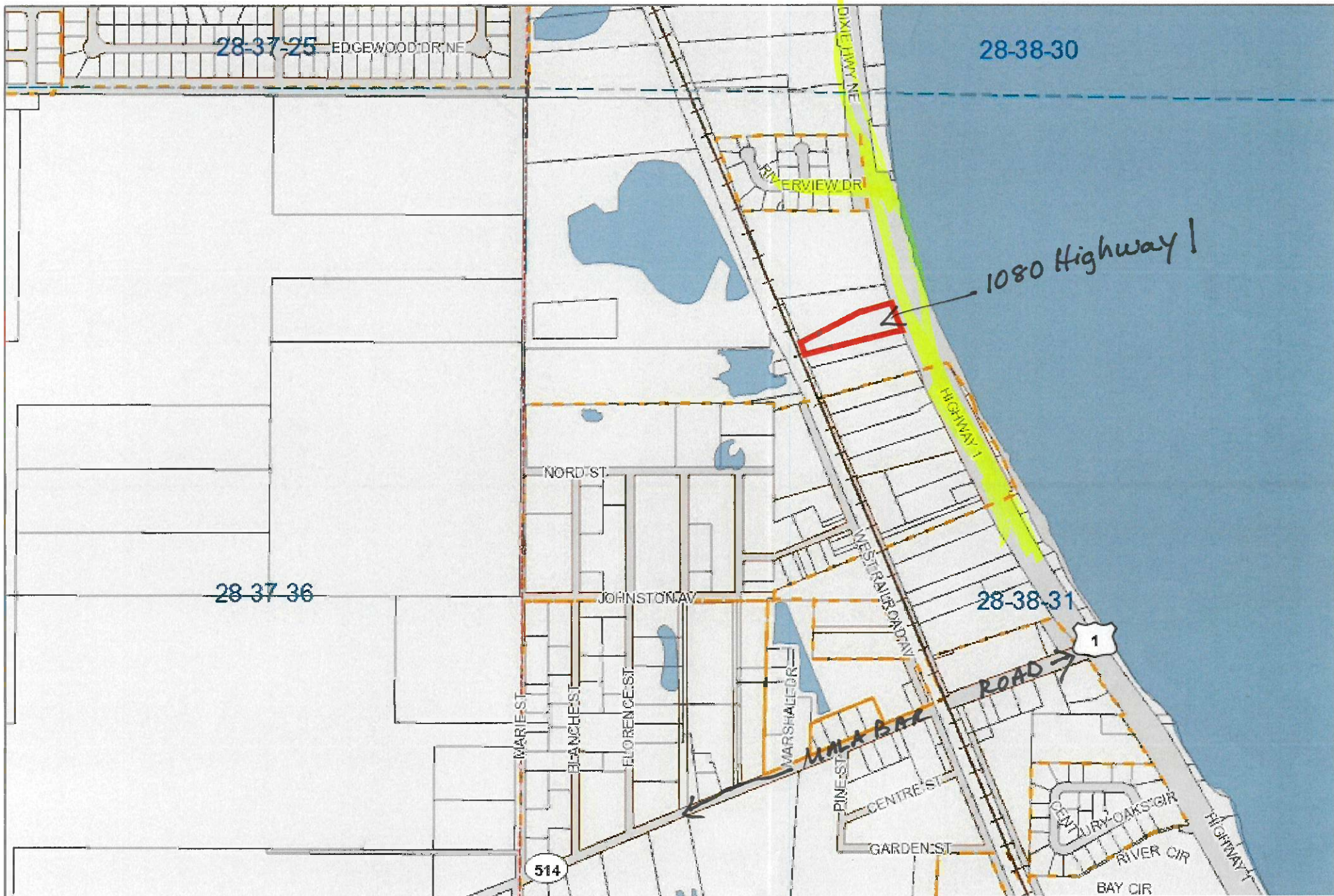
-  Commercial General
-  Commercial Limited
-  Conservation
-  Coastal Preserve
-  High Density Residential
-  Open Space and Recreation
-  Industrial
-  Institutional
-  Low Density Residential
-  Medium Density Residential
-  Office-Institutional
-  Residential and Limited Commercial
-  Rural Residential
-  Other





1080 Highway 1

0
1
0
T



TOWN OF MALABAR

MEMORANDUM

Date: October 30,2023 23-BDM-022

To: Richard Kohler, Town Clerk
Town Council

From: Denine Sherear, Planning & Zoning Board Secretary

Ref: Recommendation to Council from P&Z Board- Public Hearings from the Planning & Zoning Board on October 25,2023 (3- Separate Hearings)

The Planning & Zoning Board has recommendations that resulted from the meeting on 10/25/2023 under "Public Hear/Action."

- 1.) Recommendation to Council: To Rezone property known as: 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). The applicant is Kellwill, LLC represented by owner William (Willy) Carmine. (Ord.2023-09)**

Exhibit: Agenda Report 6.a
Recommendation: Discussion/Action to Council

Motion: Ritter/Shortman as requested to move forward to Council for review.

Chair called for **Roll Call Vote:** Board did roll.
Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 2.) Recommendation to Council: For Site Plan Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-37-10-00-318 Commercial General (CG) property 1.26 acres. The applicant is: Bowman Consulting Group (Zachary Komninos) representing property owner Mr. Robert Bareman.**

Exhibit: Agenda Report 6.b
Recommendation: Discussion/Action to Council

Motion: Shortman/Ritter for Site Plan as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 3.) **Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-38-31- 253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG) The applicant is MVB Engineering LLC for property owners Robert B & Jill M Trettis. (Ord 2023-08)**

Exhibit:

Agenda Report 6.d

Recommendation:

Discussion/Action to Council

Motion: Dial/Taylor as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Nay; Shortman, Nay; Dial, Aye; Abare, Aye. **Motion carried 3 to 2.**

Account Number:	1127265
Customer Name:	Town Of Malabar
Customer Address:	Town Of Malabar 2725 Malabar Rd Malabar FL 32950-4427
Contact Name:	TOWN OF MALABAR
Contact Phone:	
Contact Email:	
PO Number:	

Date:	10/24/2023
Order Number:	9442259
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	47.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
BRE Brevard Florida Today	1	10/27/2023 - 10/27/2023	Govt Public Notices
BRE floridatoday.com	1	10/27/2023 - 10/27/2023	Govt Public Notices

Order Confirmation Amount	\$99.29
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Ad Preview

Ad #9442259 10/27/23

TOWN OF MALABAR NOTICE OF PUBLIC HEARING

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, November 6, 2023, at 7:30pm, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

ORDINANCE 2023-09

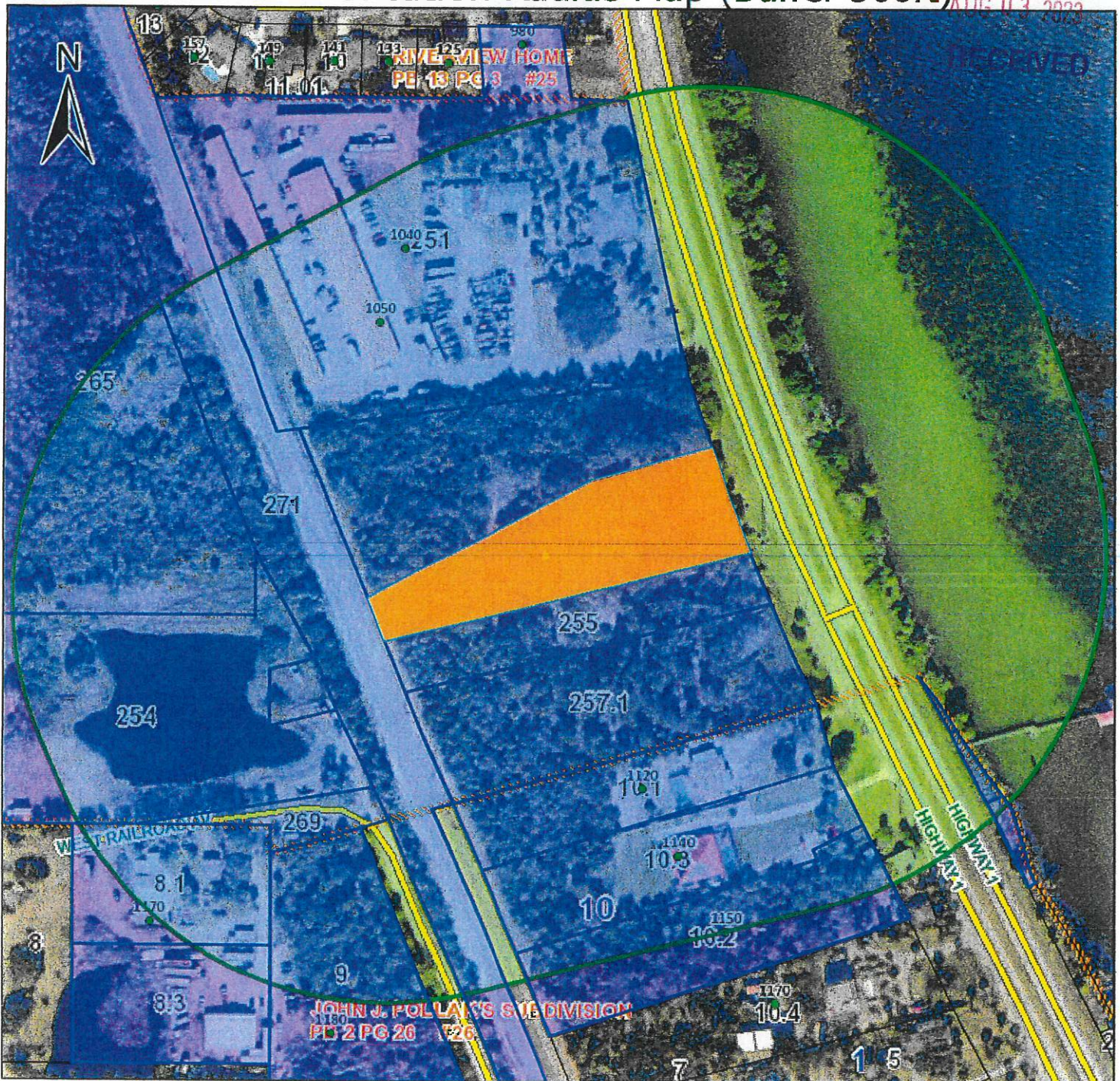
AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP FOR THE 2.26 ACRE (+/-) PROPERTY WITH THE ADDRESS OF 1080 HIGHWAY 1 IN TOWNSHIP 28, RANGE 38, SECTION 31, SUBDIVISION 00, LOT 253, MALABAR, FLORIDA, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Copies of the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. 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. Richard Kohler, Town Clerk.

Public Notification Radius Map (Buffer 500ft)

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Parcel Property Layer27

Subdivisions

Address Point Layer

Block Text

Address Points

Parcel Information Layers

Parcel Property

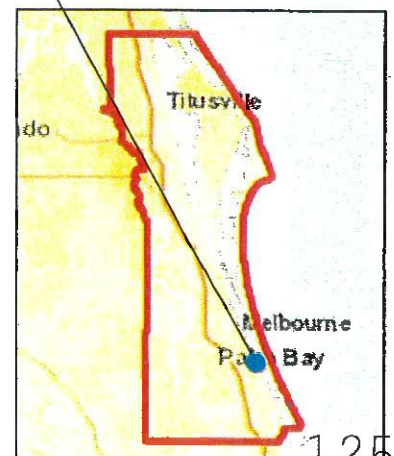
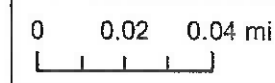
Parcels

Buffer Boundary in GREEN

Notify Properties in BLUE

Disclaimer: 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.

Scale: 1:2,400
1 inch equals 200 feet



<p>Tax Account ID: 2851036 LINNELL, MICHAEL LLOYD 2275 GRANT RD GRANT, FL 32949</p>	<p>Tax Account ID: 3017126 WHYNOT, HAROLD W 155 WHYNOT DR PALM BAY, FL 32909</p>	
<p>Tax Account ID: 2851038 GREIMEL, JOHN ANTHONY ECK, MARY G 1150 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850946 TRETTIS, ROBERT B TRETTIS, JILL M 107 SUNSET DRIVE COCOA BCH, FL 32931</p>	
<p>Tax Account ID: 2851039 ZEMKOSKI, JOYCE L 1120 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850948 TRETTIS, ROBERT B TRETTIS, JILL M 107 SUNSET DRIVE COCOA BCH, FL 32931</p>	
<p>Tax Account ID: 2851041 LEYVA, JOSE 1140 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850950 ZEMKOSKI, RICHARD Z ZEMKOSKI, JOYCE L 3450 LEGHORN RD MALABAR, FL 32950</p>	
<p>Tax Account ID: 2851040 GREIMEL, JOHN A 1150 S US HIGHWAY 1 MALABAR, FL 32950</p>	<p>Tax Account ID: 2850961 GORMAN, JERRY G GORMAN, JUDITH W 60 LINDEN AVE BETHPAGE, NY 11714</p>	
<p>Tax Account ID: 2850947 PALMAROSA NURSERY OF VALKARIA LLC 1255 VALKARIA ROAD MALABAR, FL 32950</p>		
<p>Tax Account ID: 2850945 BAKER FAMILY TRUST 1040 S US HIGHWAY 1 MALABAR, FL 32950</p>		
<p>Tax Account ID: 2850958 C I T A INC 2330 JOHNNY ELLISON DR MELBOURNE, FL 32901</p>		
<p>Tax Account ID: 2851637 LINNELL, MICHAEL LLOYD 2275 GRANT RD GRANT, FL 32949</p>		
<p>Tax Account ID: 2857950 FLORIDA EAST COAST RAILWAY LLC 7150 PHILIPS HWY JACKSONVILLE, FL 32256</p>		

TOWN OF MALABAR

U 3 2023

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TaxAcct	OWNER_NAME1	OWNER_NAME2	OWNER_STREET_NAME	OWNER_CITY	OWNER_STATE	OWNER_OWNER_ZIP5
2851036	LINNELL, MICHAEL LLOYD		2275 GRANT RD	GRANT, FL	FL	32949
2851038	GREIMEL, JOHN ANTHONY	ECK, MARY G	1150 S US HIGHWAY 1	MALABAR, FL	FL	32950
2851039	ZEMKOSKI, JOYCE L		1120 S US HIGHWAY 1	MALABAR, FL	FL	32950
2851041	LEYVA, JOSE		1140 S US HIGHWAY 1	MALABAR, FL	FL	32950
2851040	GREIMEL, JOHN A		1150 S US HIGHWAY 1	MALABAR, FL	FL	32950
2850947	PALMAROSA NURSERY OF VALKARIA LLC		1255 VALKARIA ROAD	MALABAR, FL	FL	32950
2850945	BAKER FAMILY TRUST		1040 S US HIGHWAY 1	MALABAR, FL	FL	32950
2850958	C I T A INC		2330 JOHNNY ELLISON DR	MELBOURNE, FL	FL	32901
2851637	LINNELL, MICHAEL LLOYD		2275 GRANT RD	GRANT, FL	FL	32949
2857950	FLORIDA EAST COAST RAILWAY LLC		7150 PHILIPS HWY	JACKSONVILLE, FL	FL	32256
3017126	WHYNOT, HAROLD W		155 WHYNOT DR	PALM BAY, FL	FL	32909
2850946	TRETTIS, ROBERT B	TRETTIS, JILL M	107 SUNSET DRIVE	COCOA BCH, FL	FL	32931
2850948	TRETTIS, ROBERT B	TRETTIS, JILL M	107 SUNSET DRIVE	COCOA BCH, FL	FL	32931
2850950	ZEMKOSKI, RICHARD Z	ZEMKOSKI, JOYCE L	3450 LEGHORN RD	MALABAR, FL	FL	32950
2850961	GORMAN, JERRY G	GORMAN, JUDITH W	60 LINDEN AVE	BETHPAGE, NY	NY	11714

TOWN OF MALABAR

AUG 03 2023

RECEIVED



2725 Malabar Road
Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax)
www.townofmalabar.org

**TOWN OF MALABAR
NOTICE OF PUBLIC HEARING**

The Malabar Planning and Zoning Board will hold a Public Hearing on Wednesday October 25, 2023 @ 6PM for Recommendation to Town Council on November 6, 2023 @ 7:30PM.

The applicant is MVB Engineering Inc representing Robert & Jill Trettis (property owner), approval of Comp Map change from Residential/ limited Commercial(R/LC) to Commercial General (CG) The intent is to do a self-storage facility on 2.26 acres +/-.

ORDINANCE 2023-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RECLASSIFYING THE COMP PLAN MAP AND REZONING THE PROPERTY AS FOLLOWS:
1080 US HWY 1, MALABAR FL AKA THE 2.26 +/- ACRES LYING IN TOWNSHIP 28, RANGE 38, SECTION 31, LOT 253 & 255 LYING ON THE WEST SIDE OF US HWY 1, FROM RESIDENTIAL/LIMITED COMMERCIAL (R/LC) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE OFFICIAL TOWN ZONING MAP; THE INTENDED USE IS FOR A SELF STORAGE FACILITY PROVIDING AN EFFECTIVE DATE.

All interested citizens are encouraged to attend and offer comments. 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 Richard Kohler Town Clerk.

Dear Property Owner,

If you receive this notice then you are listed as an owner of property, as shown in the records of the County Property Appraiser's office, within 500' of the project site. This Notice is provided as required by Malabar Code Chapter 2, Section 2-240.6. a. You are invited to attend or submit your comments before the meeting to the TownClerk@townofmalabar.org

This section presents the basic purpose and intent of each zoning district.

- A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.
- B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.
- C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- D. *RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that future densities are compatible with existing 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 (except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), general retail sales and services, warehousing, and outside storage; and
 - Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
 - A Malabar Vernacular Style is required for all development along arterial roadways.

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 standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

The general commercial district is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards. Finally, no permanent residential housing shall be located within the general commercial district.

The location and distribution of general commercial activities shall be determined based on the following considerations:

- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems; and
- Impact on existing and planned community services and utilities.
- A Malabar Vernacular Style is required for all development along arterial roadways.

M. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods.

Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district provides a management strategy for negotiating innovative development

concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

O. R/LC "Residential and Limited Commercial." The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor, situated on the north and south side of Malabar Road and those sites on the east side of Babcock Street as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets, and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

P. RVP "Recreational Vehicle Park." The RVP district is established to implement comprehensive plan policies for managing local zoning and site development design criteria on land specifically designated for Recreational Vehicle Park(s) as designated by F.S. ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1—4, 4-2-07; Ord. No. 14-01, § 2, 2-3-14; Ord. No. 2021-02, § 2, 5-3-21; Ord. No. 2021-09, § 2, 8-16-21)

Section 1-3.2. - Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

Cross reference— Alcoholic beverages, ch. 4.

TABLE <u>1-3.2</u> . LAND USE BY DISTRICTS															
		RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES															
	Duplex					P	P					P			
	Mobile Homes							P							

Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			

COMMUNITY FACILITIES

Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship								P, A ¹	P	C	C		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Facilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	

COMMUNITY RESIDENTIAL HOME

Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	

ASSISTED CARE COMMUNITIES

I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								

Level 3 (16 or more residents/beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)	C ³	C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	

AGRICULTURAL ACTIVITIES

Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													

COMMERCIAL ACTIVITIES

Adult Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P ¹			
Business and Professional Offices							P	P	P	P	P	P		
Enclosed Commercial Amusement										P				
Arcade Amusement Center/ Electronic Gaming Establishment										C ²				
Funeral Homes								P	P	C				
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities								P	P	P				
Marine Commercial Activities										C*				
Medical Services							P	P	P	P				
Mini Warehouse/Storage								C	P		P			

Parking Lots and Facilities								P	P	P	P		P	
Recreational Vehicle Park								P						
Retail Plant Nurseries									P	P	P			
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales										C*		C*		
Trades and Skilled Services										P		P		
Veterinary Medical Services								P	P	P	C	P		
Vehicular Sales and Services										C*		P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		

INDUSTRIAL ACTIVITIES

Kennels													C	
Manufacturing Activities													P	
Manufacturing Service Establishments													P	
Vehicle and Other Mechanical Repair and Services										C*		P		
Warehouse, Storage and Distribution Activities													P	

WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES

Noncommercial piers, boat slips, and docks														C
--	--	--	--	--	--	--	--	--	--	--	--	--	--	---

C	=	Conditional Use
P	=	Permitted Uses
A	=	Accessory Use

*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

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

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

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

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

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14; Ord. No. 2016-03, § 1, 2(Exh. A), 10-3-16; Ord. No. 20-02, §§ 1, 2, 3-2-20; Ord. No. 2021-09, § 3, 8-16-21)

Section 1-3.3. - Size and dimension criteria.

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

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

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

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

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) w/Central Water & Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	<u>25</u>	20	10	10	50	N/A	50	4.00

Multiple Family Residential Development

RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6

Mixed Use Development

R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6

- ¹ Minimum size sites and lots include one-half of adjacent public right-of-way.
- ² Minimum 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.
- ³ Setback where rear lot line abuts an alley.
- ⁴ Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
- ⁵ Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
- ⁶ Recreation activities maximum FAR shall be .10.
- ⁷ In RR-65 Zoning, side and rear setback may be reduced for accessory structures to equal the height of the accessory structure but under no condition be reduced to less than 15 feet. If the height of the accessory structure height is 20 feet, the side and rear setbacks for that building would be 20 feet.

- 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).

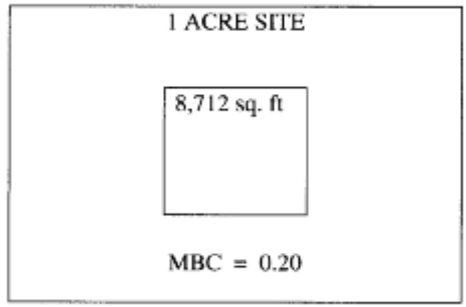
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

MBC	=	<u>Total Building Coverage</u>
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E. *Principal Structure Setbacks.* Table 1-3.3(A) provides building setbacks for all zoning districts. In addition to these setbacks the required minimum setback shall be measured from the centerline of the right-of-way as in Table 1-3.3(E).

TABLE 1-3.3(E). PRINCIPAL STRUCTURE SETBACKS FROM CENTERLINE OF THOROUGHFARES

Transportation Facility	Building Setback (feet)
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	
Jordan Blvd.	

Local Streets (50—60 feet R/W)	65
Minor Collector Streets (70 feet R/W)	75
Atz Blvd.	
Hall Road	
Old Mission Road	
Benjamin (Reese) Road	

F. *Minimum Distance Between Principal Buildings.* The minimum distance between principal buildings shall be twenty (20) feet. The distance shall be measured at the narrowest space between buildings and shall not include roof overhang.

G. *Recreational Vehicle Park Zoning District.* Recreational vehicle park zoning district shall be to locate and establish areas within the Town which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with F.S. Ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time.

(1) Principal uses and structures:

- a) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations.
- b) Management offices and residence (a mobile home may be allowed for a manager's residence only).

(2) Accessory uses include:

- a) Grocery store.
- b) Bottled/Metered gas sales.
- c) Laundry facilities.
- d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.
- e) Public utility equipment and facilities.

(3) Conditional uses:

- a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.

(4) Design standards for recreational vehicle parks.

- a) Minimum size: five (5) acres.
- b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.
- c) Streets and parking:
 1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.
 2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:
 - (a) A one-way street/drive shall be at least twelve (12) feet in width.
 - (b) A two-way street/drive shall be at least twenty-four (24) feet in width.
 3. Street surfacing. All roads or driveways shall be paved meeting town standards.
 4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All cul-de-sacs shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.
 5. Parking. Each R.V. / travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)
- d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes. The provisions for buffer strips may be waived or reduced by the Town Council taking into consideration the use of abutting properties. Furthermore, any portion of the property which fronts a public right-of-way will not be required to be enclosed along such right-of-way.
- e) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.
 1. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.
- f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
 1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
 2. Tent camping may be permitted on a travel trailer site.
- g) Design requirements for recreational vehicle site.
 1. Minimum size.
 - a. Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.
 - b. Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet. Consensus was to remove these sections.
 2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.
 3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.
 4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.
- h) Provisions of service in recreational vehicle parks.
 1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a

recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.

2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 3. Sewage disposal.
 - a. All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
 - b. At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
 - c. At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.
 - d. The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
 4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V. - General Provisions, Section 1-5.28 entitles Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
 5. Electricity. All requirements of the National Electrical Code as contained referenced in Malabar Code of Ordinances Chapter 6 must be met.
 6. Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.
 7. Fire protection. The park shall be subject to the rules and regulations of State Statute, State Fire Code, and Malabar Code.
 8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
 9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use.
 10. Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a Recreational Vehicle Park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the Recreational Vehicle Park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. The provisions of Section 1-7.5 shall apply.
- j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein.

(Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; Ord. No. 94-4, § 4, 4-3-95; Ord. No. 96-1, § 1, 3-4-96; Ord. No. 97-5, § 1, 3-17-97; Ord. No. 02-03, § 1, 8-5-02; Ord. No. 03-02, § 1, 2-24-03; Ord. No. 04-08, §§ 1, 2, 7-12-04; Ord. No. 06-05, § 1, 2-6-06; Ord. No. 06-16, §§ 1, 2, 10-2-06; Ord. No. 19-02, § 2, 3-4-19; Ord. No. 19-03, § 2, 3-4-19; Ord. No. 2021-02, § 3, 5-3-21; Ord. No. 2021-09, §§ 4, 5, 8-16-21)

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 10.e.
Meeting Date: November 6, 2023

Prepared By: Lisa Morrell, Special Projects Manager/Treasurer

SUBJECT: FY 2022/2023 Final Budget Amendment (Ordinance 2023-10)

BACKGROUND/HISTORY:

It is within normal governmental accounting practices to perform necessary year-end budgetary amendments up to 60 days after the close of the fiscal year. Historically, staff used a Budget Amendment Ordinance to reflect the shift of budgeted funds from one department to another. The Town has an internal process to track when we reallocate funds within each department. This final FY23 Budget Amendment is used to close out the fiscal year 2022/2023. There were zero payments received for paving assessment from resident properties approved to participate in the road improvement program.

As of September 30, 2023, overall expenditures for the amended fiscal year 2022/2023 budgeted funds totaled \$3,990,636 from the adopted \$6,968,625. The reduction in adopted revenues is actual reflection of an unrealized loan, reduction use of fund balance of State & Local Fiscal Recovery Funds (SLFRF) and Stormwater Fund, and zero use of fund balance of General Fund, Building Fund, Park and Rec Fund, and Transportation Impact Fee Trust Fund at the close of the fiscal year 2022/2023.

Total expenditures for all funds totaled. \$2,889,039. The overall FY 22/23 budget, which includes General Fund, American Rescue Plan Act Fund, Building Fund, and Stormwater funds, ends with an unexpended balance of 2,072,404. At the close of the fiscal year, the expenditures were less than revenues.

The Legal Department exceeded expenses greater than the adopted budget, \$35,6766, where funds from a vacant position in the Finance department were transferred to the Legal Department to reconcile the shortfall. Minor shortfalls, \$2,926, occurred in the Executive Town Manager Department, where unused fund balance from the Legislative Department from line 3114 Contracted Services was also transferred to reconcile the shortfall.

A fund balance, \$868,210, remains for continued utilization for State and Local Fiscal Recovery Fund (SLFRF) project allocations in the next fiscal year 2023/2024 as a roll forward amount. Weber Road was repaved using this funding source last year.

The Public Works line-item budget of \$543,292, for paving was transferred to the Rocky Point Shoreline Restoration project, which is slated to be reimbursed by FEMA Public Assistance Agreement after completion and expense by Town funding. This project fund will roll forward to FY23/24 as the invitation for bid is readying for public bidding for repairs for Rocky Point roadway and shoreline due to Hurricane Nicole.

The fund balance for Parks & Rec is dedicated to FCT projects only. Although the PCT agreement is in need of updating and amendment, these funds are anticipated to be expended for the approved pavilion in FY23/2, as another roll forward funding.

The Building Fund has a surplus from FY22/23 revenues over expenses totaling, \$98,198, at the close of the year. These funds are restricted and assigned to the Building Fund Balance. Future planned expenses will be brought forth in FY23/24 for designations to several large projects as

agenda request for Town Council consideration, specific to the Building Department operational needs.

The Stormwater Fund utilized \$104,748 of the fund's reserve balance and depleted the revenues received this fiscal year for the utility maintenance. The unused portion of \$59,365 at the close of FY22/23 will return to the Stormwater Fund Balance.

Additionally, The General Fund will have a positive fund balance totaling \$498,366. Ordinance-2023-10 designates and assigns:

\$60,000, Roll to FY23/24 toward the Slope Mower purchase.

\$75,000, Assign to approve purchase of a Fire Tender, Reserve of Deposit.

\$200,000, Designated to Disaster Relief Reserves on Deposit (See Below)

\$163,366, Assign to a new Town Hall Facility, Reserves on Deposit.

Town Staff is requesting Town Council to approve these assignments with the adoption of Ordinance 2023-10.

This ordinance will be legally advertised for a Public Hearing to be held at the next meeting for the second reading on 11/16/2023.

FINANCIAL IMPACT: Amend the final budget from the adopted \$6,968,625 to \$3,990,636 as stated in the ordinance Re-allocate department fund balance savings to Legal Services and Executive Town Manager departments exceeding their budget expenses.

Direct funds as stated in the ordinance to specific restricted and unrestricted funds on deposit.

ATTACHMENTS: Ordinance 2023-10 Table of deposits for Restricted and Unrestricted Fund Balances FY22/23 Year End Budget Report

ATTACHMENTS:

FY22-23 Financial Summaries BA Ordinance

ACTION OPTIONS:

Action on 1st reading of Ordinance 2023-10

ORDINANCE 2023-10

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO A BUDGET AMENDMENT IN THE FISCAL YEAR 2022/2023 TO PROVIDE FOR ACTUAL REVENUES RECEIVED; PROVIDING FOR THE UNSPENT BUDGETED FUNDS DUE TO REDUCED EXPENDITURES; PROVIDING DIRECTION TO REALLOCATE SUCH EXCESS FUNDS TO DESIGNATED RESTRICTED RESERVES FOR THE BUILDING DEPARTMENT, PARKS AND RECREATION, AND THE STATE & LOCAL FISCAL RECOVERY FUND; PROVIDING THE SHIFTING OF UNSPENT MONIES BETWEEN DEPARTMENTS TO BALANCE THE EXPENDITURES; PROVIDING REMAINING EXCESS FUNDS TO RESERVES ON DEPOSIT; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council has directed that staff prepare a budget amendment to recognize additional revenues received over budgeted amounts and the reduced expenditures from the budgeted expenditures.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA that;

SECTION 1. Total Revenues: \$3,990,636

Total received from revenues in the 2022/2023 Fund 001 General Fund be amended from \$6,968,625 to 5,402,139 to reflect unrealized debt proceeds.

An overall decreased total of \$2,977,989 was received for the fiscal year. The most substantial reduction in revenues was in Debt Proceeds. The Town Council sought to defer the loan planned for Capital Outlay Projects from FY 2022/2023 to FY2023/2024. Additional revenue was received from the State of Florida to include proportionate interest regarding the U.S. Treasury's distribution of State and Local Fiscal Recovery Funds (SLFRF), in the amount of \$1,929, which was transferred to the restricted fund 389.9860. The anticipated budgeted amount of SLFRF fund balance, \$1,462,004, was expended by 40% or \$595,723; and provides a fund balance of \$870,139.

The General Fund revenues derived from a variety of sources, including ad valorem tax revenues with a collection rate budgeted at 96%; had actual revenue increases totaling \$203,302 during the fiscal year. There were zero payments received for the road improvement program and there were no requests from Brevard County Transportation Impact Fee Trust Fund (TIFT) to utilize the budgeted amount of \$50,000.

SECTION 2. Total Disbursements: \$2,889,039.

Total disbursements in the 2022/2023 Fund 001 General Fund be amended from \$6,968,625 to \$2,889,039. Overall department expenses were on par or less than the budgeted line items, except for the Legal Department, 515, due to the increase in the fiscal year need of litigation services. A major factor in the decreases in Public Works were planned expenses related to the unrealized loan revenue for general ledger 541.6500. Personnel savings from partial to fully vacant positions also contributed to less expenditure(s) related to salaries, taxes, retirement, and other employee benefits.

The Legal Department fund exceeded the budgeted amount of \$60,000 by \$35,766, which is amended with unfilled position in the Finance Department, 513.1110. There were minor shortfalls in the Town Manger's budget, \$2,926, which were amended with surplus funding from the Legislative Department's contracted services general ledger 511.514. The emergency failure of Rocky Point Road from Hurricane Nicole, \$543,292, has been transferred from 541.6500 to 525.3010 & 525.3000. These are disaster line items whereas the Town has been approved by Federal Emergency Manament Agency (FEMA) for future reimbursement for the shoreline

restoration of Rocky Point and the portion of the failed roadway. The disaster debris cleanup are Town exercised expenses from the interlocal agreement with Brevard County. The year end budget amendment provides disbursements totaling \$2,889,039 from the following designated funds:

- \$1,828,501 from the General Fund
- \$189,578 from Building Department and Other Permits and Special Assessments (OPSA) (Restricted)
- \$230,313 from the Stormwater Fund (Restricted)
- \$0 Beautification Trust Fund Restricted
- \$593,794 Fiscal Recovery Fund (Restricted ARPA/SLFRF)
- \$46,853 FEMA Rocky Point Shoreline FEMA PA (Restricted)
- \$0 Parks & Rec Fund for FCT Projects (Restricted)

SECTION 3. Use of Fund Balance & Fund Balance Assignment: \$2,073,404

The funds for this Budget Amendment to the FY 2022/2023 budget are from the approved budget allocations, the fiscal budget planned to use fund balances from Building Services, and Stormwater, Parks & Recreation totaling \$302,032. The actual use of fund balance totaled \$104,748 from the Stormwater Fund. The unused remainder totaling \$197,284 will return to their respective fund balances.

- \$ 45,160 Parks & Recreation Restricted Fund (389.9000)
- \$ 59,365 Stormwater Restricted Fund (389.9540)
- \$ 44,390 Building Department Restricted Fund (389.9520)
- \$ 48,369 General Fund Reserve (389.9530)

Additionally, revenues exceeded expenditures in FY2022/2023, totaling \$1,967,878 and shall be designated in the approved FY23/24 budget, as well as designations into the indicated reserve accounts on deposit and to the following fund assignments, as approved by Town Council.

- \$498,366 for the General Fund
 - \$60,000, Roll to FY23/24 toward the Slope Mower purchase.
 - \$75,000, Assign to approve purchase of a Fire Tender, Reserve of Deposit.
 - \$200,000, Designated to Disaster Relief Reserves on Deposit (See Below)
 - \$163,366, Assign to a new Town Hall Facility, Reserves on Deposit.

- \$98,198 for the Building Department Restricted Fund include a proportionate designation to a new Town Hall Facility, Reserves on Deposit

- \$6,665 for the Beautification Trust Fund, designated to replanting trees and vegetation in boundaries of municipality owned land for beautification projects as approved by the Town Council, Reserves on Deposit.

- \$1,364,649 for the Restricted General Fund designating a roll forward for use in Fiscal year 2023/2024:
 - \$868,210 Restricted ARPA/SLFRF Fund
 - \$496,439 Restricted for Rocky Point Road Repairs

SECTION 4. Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5.

This ordinance shall become effective immediately upon its adoption after the second reading and public hearing.

This ordinance was moved for adoption by Council Member _____ and was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hoffmeister	_____

This ordinance was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

By

Mayor Patrick T. Reilly, Council Chair

(Seal)

First Reading: 11/6/2023 Approved ___ to ___

Second Reading: 11/20/2023

ATTEST:

Richard W. Kohler, Town Clerk

Approved as to Form and Content:

Karl W. Bohne, Jr.,
Town Attorney

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 11.a.
Meeting Date November 6, 2023

**Prepared By: Lauren Hamilton, Executive Administrative Assistant on behalf of
Denine M. Sherear, Planning and Zoning Board Secretary**

SUBJECT: Site Plan Approval for New Commercial Building, Property known as 6795 Babcock Street Malabar FL 32950. AKA: Parcel # 29-37-10-00-318 Commercial General property 1.26 acres. Applicant is Bowman Consulting Group, representing the property owner Robert Bareman.

BACKGROUND/HISTORY:

This Applicant submitted a site plan application build a Commercial Building, for retail sales and service for an established business: Brevard Soffit & Siding Inc (BSS). The property is 1.26 acres on the east side of Babcock Street.

This was heard at the P&Z Board meeting on October 25, 2023, and received a 5-0 vote. The request is consistent with the Town's Land Development Code for Commercial General, and this project meets requirements.

For these reasons, Malabar staff recommends approval of the site plan.

Attached please find:

- Draft minutes from P&Z Board Meeting of 10/25/23
- Map of the area
- Application package from Bowman Consulting Group
- Memos from Staff
- Article VII of the Land Development Code

ACTION OPTIONS:

Approval of site plan

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES
OCTOBER 25, 2023, 6:00 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 (by Wayne Abare) and Pledge led by Chair Wayne Abare.

2. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
	ALTERNATE: MEGHAN WOLFGRAM,
	ALTERNATE: VACANT
BOARD SECRETARY:	DENINE SHEREAR

6. PUBLIC HEARING:3

- 6.a.** Recommendation to Council: To Rezone Property known as 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-09)

Property owner, William Carmine 3916 Lakeside Lane, Valkaria, presented the request to rezone the parcel to be consistent with the zoning for Route 1 Motorsports he owns adjacent to this parcel. This property would be used for a marine dealership. They are looking to do this work in stages. Initially, it will be used for an outdoor boat showroom without a building. Fencing the area in to display the boats in an aesthetic manner and stabilize the ground.

Chair Abare asked if any of the Board Members would like to ask Mr. Carmine any questions.

Ms. Ritter commented that CG is not intended for outside storage.

Mr. Carmine responded that this isn't for "outside storage" it is for recreational vehicle sales/display.

Ms. Ritter said that he has a lot of outside storage on his Route 1 property that is zoned CG.

Mr. Carmine responded by inquiring what the zoning is of the properties all around town hall where all the boats and RVs are being stored outside.

The Board Secretary, Denine, responded that the property surrounding Town Hall was not a good comparison but the property across the street is zoned CG.

Ms. Shortman inquired if car dealerships are allowed in CG as that is storage/display of vehicles.

Ms. Ritter said she didn't know if they would be required to fence the area.

Mr. Carmine said they would be fencing the area. His inventory fluctuates and they are looking to build a warehouse in Grant-Valkaria.

Mr. Dial asked applicant if he had any idea when you'd be looking to put up the building.

Mr. Carmine advised that they had started the process of engineering but the initial quotes they've gotten back were shocking compared to what they've built in the past. They're renting a space to the south (Bill's Discount Marine) temporarily to make sure that they can sell boats before investing the money into a new building. They hope to build within the next 2-5 years. He showed a couple renderings.

Ms. Shortman asked how things would be secured in the event of a hurricane.

Mr. Carmine advised that the boats would be on trailers and they would do their best to make sure they are secured. He does not want to add pavement or concrete now until the building is built, just looking to stabilize the area for display parking.

This rezoning request is consistent with the zoning in the area.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for rezoning from RLC to CG: Ritter / Shortman.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

- 6.b.** Recommendation to Council: For Site Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-3710-00-318 Commercial General (CG) property 1.26 acres. (Ordinance 2023-06)

Zachary Komninos from Bowman Consulting Group presented on behalf of property owner, Mr. Robert Bareman. This is for a shutter/soffit company with an office and warehouse, one driveway access off of Babcock with parking lot in front and service yard in rear. A swale system will handle the stormwater. All permits have been obtained through SJRWMD, FDEP, and the City of Palm Bay.

Ms. Ritter asked about mitigating the wetlands onsite and if only 1 handicap parking spot is required.

Mr. Komninos advised that mitigation was not necessary as the wetlands are less than ½ acre and based on the square footage of the building, only 1 handicap spot was necessary. The project will be on septic as there is no sewer available. Water is provided by the City of Palm Bay. The septic drainfield is 15 ft from the top of bank for the dry pond/swale.

Staff, the reviewing engineer (Morris), and the Fire Department have approved. The engineer has requested a copy of the wetland report. The comments have been provided.

Mr. Abare opened the floor to public comments. No members of the audience wished to speak and the public comment portion for this matter was closed.

MOTION to approve for Council for site plan: Shortman / Ritter.

Vote: 5-0

Taylor	Aye
Ritter	Aye
Shortman	Aye
Dial	Aye
Abare	Aye

6.c. Request withdrawn by applicant.

6.d. Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-3831-253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG). (Ordinance 2023-08)

The zoning of the adjacent properties to the north is CG and the property to the south is R/LC.

Bruce Moia of MBV Engineering presented for property owners Robert B & Jill M Trettis. The applicant owns the property to the north. He is looking to rezone the 2 parcels to the south to the same CG zoning. The proposed facility would utilize all 3 parcels if these 2 parcels are rezoned.

Mr. Abare opened the floor to public comments.

Mr. Baker who owns the storage facility 1040 Hwy 1 spoke in opposition of the project. He thinks that the project site will be difficult to build without creating a problem for the neighbors (diminished property values, drainage retention) since it is not level. If the property were flat, he would not have any comments.

The property owners are required to retain the water on their properties.

Mr. Moia responded by saying that the drainage and stormwater requirements are much stricter than they were in 1984 when Mr. Baker built his project. They will submit a drainage plan if/when a site plan application is submitted. All these issues will be addressed at that time.

Mr. Dial asked about height restrictions – 35 ft is the max.

Mr. Taylor wanted to confirm that the property owners within a certain radius were notified.

Denine advised they were notified by mail, and it was advertised in the newspaper. If they were unable to attend, they could have called or emailed, and their concerns would have been placed on record. No comments from adjacent owners were received.

Ms. Wolfgram asked about the property immediately to the south. A new single-family residence is being built on that property.

MOTION to approve for Council for rezoning from RLC to CG: Dial / Taylor.

Vote: 3-2

Taylor	Aye
Ritter	Nay
Shortman	Nay
Dial	Aye
Abare	Aye

7. ADJOURNMENT

There being no further business to discuss, MOTION: Ritter / Dial to adjourn this meeting.
Vote: All Ayes.

The meeting adjourned 7:37 P.M.

BY:

Wayne Abare, Chair

Denine Sherear, Board Secretary

Date Approved: as presented.

BP 1891



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

TOWN OF MALABAR

AUG 03 2022

RECEIVED

APPLICATION FOR COMMERCIAL SITE PLAN REVIEW

Before completing this application, please refer to:

- Chapter 6 Town of Malabar Code of Ordinances Section 6-1 Codes and amendments adopted
- Land Development Code Article VII Site Plan Review

Project Name: BSS building Date: 08/03/2022
 Developer Name: Brevard Soffit & Siding Inc Telephone: _____
 Mailing Address: 2560 Billie Ln Fax: _____
 City, State, Zip: Malabar, FL 32950 Cell: 321-508-8793

Name of Property Owner(s): Robert Bareman Telephone: 321-508-8793
 E- Mail Address: robbyb@bssexteriors.com
 Mailing Address: 2560 Billie Ln Fax: _____
 City, State, Zip: Malabar, FL 32950 Cell: 321-508-8793

Name of Engineer(s): Zachary Komninos Telephone: (321) 270-8982
 Mailing Address: 4450 W Eau Gallie Boulevard, Suite 144 Fax: _____
 City, State, Zip: Melbourne, FL, 32934 Cell: (321) 543-9247

Name of Architect(s): Meld Studio Architecture (Jerry Balletti) Telephone: 321-728-3869
 Mailing Address: 1542 Guava Ave, Unit A
 City, State, Zip: Melbourne, FL Cell: _____

Legal Description of Property Covered by Application:
 Township: 29 Range: 37 Section: 10 Lot/Block: 318 Parcel: 29-37-10-00-318
 Subdivision: N/A Tax Acct No.: 2931365
 Other Legal: _____

Present Land Use Designation: General Retail Sales and Services
 Present Zoning Classification: Commercial General
 Zoning of abutting property: North: CG South: CG East: CG West: RR
 Existing and Proposed Use for Property: Existing - Retail Sales & Services
Proposed - Retail

Gross acreage: 1.29 AC Net acreage: 0.81 AC Gross density: _____

Setbacks: Required and Proposed: Front: 70' / 84.74'; Rear: 25' / 62.82';
Side: 20' / 69.94'; Side corner: 20' / 61.97'

Flood Zone: Zone A Per FEMA Flood Insurance Rate Map

Site Acreages:

	SF	Acres	Percentage
Pervious	20,829	0.48	37%
Impervious	35,171	0.81	63%
Pond	-	-	-
Total	56,000	1.29	100%

Wetlands Present: Yes Mitigation required? No Permit required? No

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:

SP Florida Building Code Requirements must be met for 2017 6th Edition or in accordance with current edition before site plan is approved.

SP Florida Fire Code Requirements are separate from Florida Building Code Requirements and must be in compliance as a condition before site plan is approved. In accordance with _____ current edition.

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

SP Boundary of property shown by a heavy line.

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

SP Topographic survey for existing and proposed conditions.

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

SP Typical front, rear and side elevations of proposed structure(s).

SP All existing and proposed utilities (including inverts of pipes, etc)

SP Location of all easements.

SP Fire protection & "Life Safety", existing and proposed that meet state/local code requirements.

Updated 03/01/20

N/A Proposed location of well.

SP Proposed location of septic and drain field

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

SP Flood Zone(s) depicted on site plan.

SP Tree Location Survey identifying trees inches dbh and larger.

SP Tree Plan prepared or approved by a Florida registered landscape architect.

AD Copy of NOI (Notice of Intent) for NPDES (National Pollutant Discharge Elimination System) construction permit from Department of Environmental Protection (DEP) required for projects over 1 acre in size. Include SWPP (Storm Water Prevention Plan) on the site plan

AD Establish Mail Service with Postmaster

SP Required Open Space/Recreational areas.

_____ All the conditions listed above must be meet to obtain a Building Permit

Site Plan Review - \$900 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 \$ 950, 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.**

By signing below, the applicant acknowledges that they have read the foregoing, that they understand the requirements therein, that it is their responsibility to comply with all applicable laws and codes and agrees to comply with all federal, state, and local of the requirements for obtaining the permits requested.

Updated 03/01/20

Signature of Applicant(s):

Fabrizio Ammirato

Date:

8/3/22

Applicant initial-copy received

Signature of Town's Personnel

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, Zachary Kominas/Bowman, 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.

Zachary Kominas
Applicant(s)

12-6-21
Date

Sworn and subscribed before me by means of physical presence or on line notarization; this 16th day of December by ZACHARY KOMINAS day of December, 2021 who is personally know to me or produced personally known to me as identification.

Notary public, State of Florida
Commission No. HH 144760 My Commission Expires 10/22/2025



I/we, _____, 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.

Applicant(s)

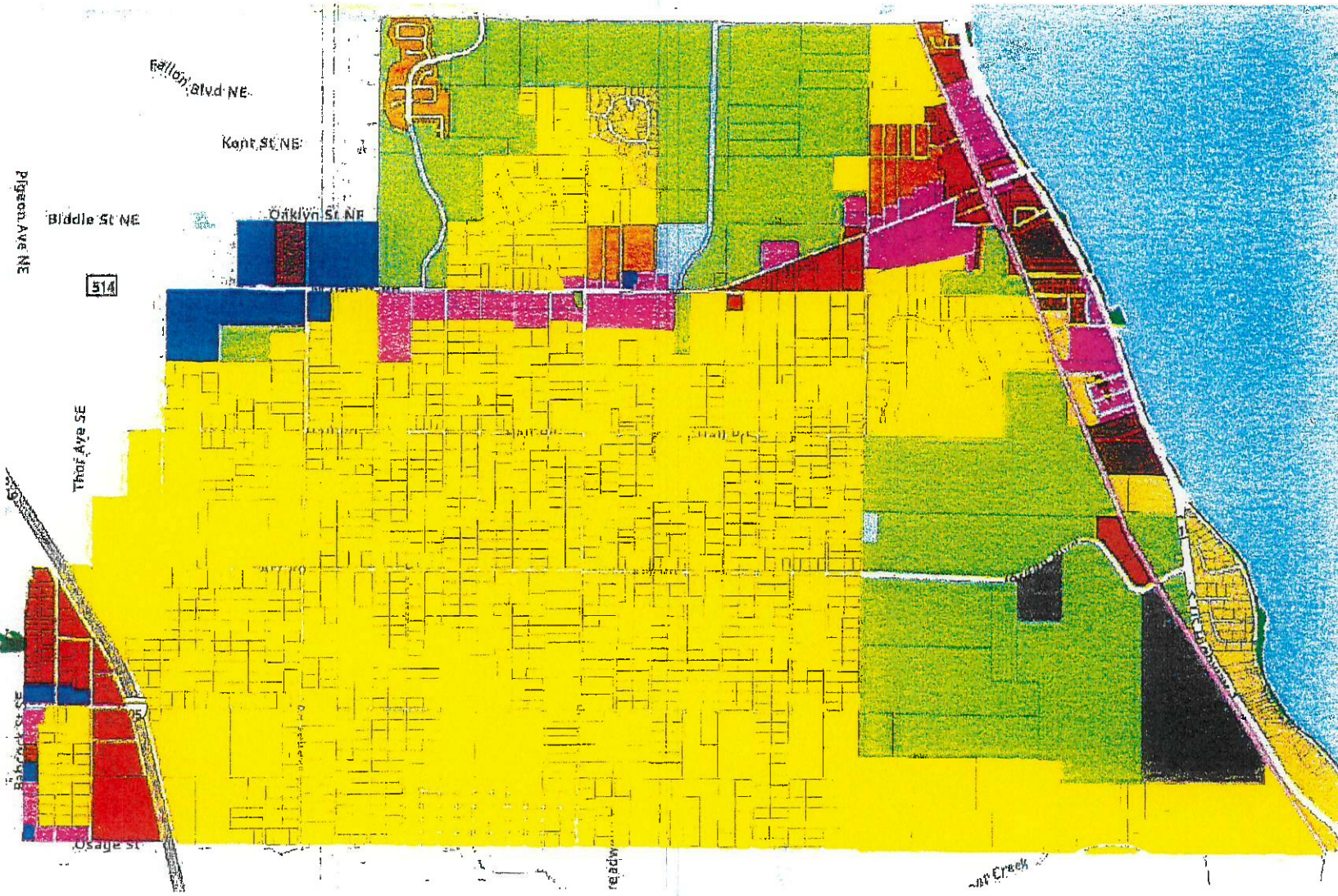
Date

Sworn and subscribed before me by means of _____ physical presence or _____ on line notarization; this _____ by _____ day of _____, 20____ who is _____ personally know to me or produced _____ as identification.

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

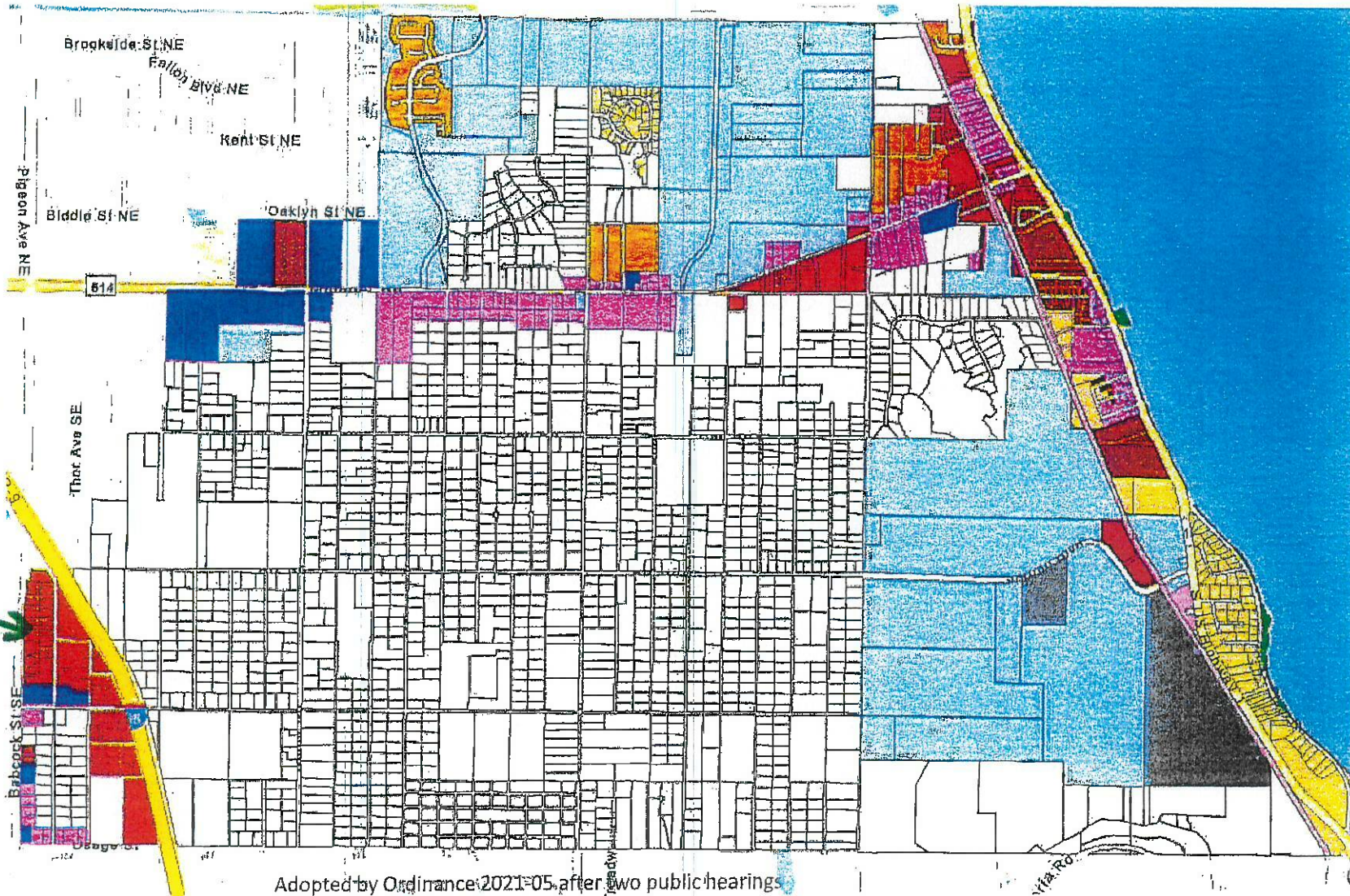
Future Land Use Map

- Commercial General
- Commercial Limited
- Conservation
- Coastal Preserve
- High Density Residential
- Open Space and Recreation
- Industrial
- Institutional
- Low Density Residential
- Medium Density Residential
- Office-Institutional
- Residential and Limited Commercial
- Rural Residential
- Other



Future Zoning Map

-  Commercial General
-  Commercial Limited
-  Coastal Preservation
-  Industrial
-  Institutional
-  Office-Institutional
-  Residential Mobile Home
-  Residential and Limited Commercial
-  Multiple Family HDR
-  Rural Residential
-  Single Family MDR (RS-10)
-  Single Family MDR (RS-15)
-  Single Family LDR (RS-21)
-  <all other values>



Adopted by Ordinance 2021-05, after two public hearings
5/17/2021 and 6/7/2021



**TOWN OF MALABAR
MEMORANDUM**

TOWN OF MALABAR

SEP 15 2022

RECEIVED

Date: September 14, 2022
To: Denine Sherear, Asst. Building Official
From: Morris Smith, Town Engineer
Ref: Site Plan Review Comments – BSS Building – Brevard Soffit & Siding

Memo: 22-CE
Project No.
Variance No.:

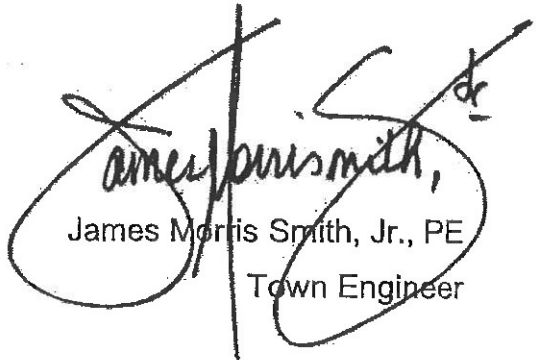
At your request I made a site plan review of the documents you provided to me for the above referenced project.

The general civil engineering plans were reviewed as well as the stormwater calculations.

The St. Johns River Water Management District (SJRWMD) requires more stringent stormwater management activity than the Town's stormwater code. When they approve the site for their permit, the Town's requirements will be met or exceeded.

I have no objections to the proposed land development.

Very Truly Yours,



James Morris Smith, Jr., PE
Town Engineer

CARL WEAVER - FIRE MARSHAL

TOWN OF MALABAR

September 12, 2022

SEP 12 2022

BSS Warehouse and Office Building Site Plan

Fire Marshal Review Comments

RECEIVED

6795 Babcock Street

1. Proposed site plan is acceptable and appears to be comply with the Florida Fire Prevention Code.



Miami-Dade (Corporate) Office
 343 Almeria Avenue
 Coral Gables, FL 33134
 Phone: 305.448.1711

Broward Office
 100 SE 12th Street
 Fort Lauderdale, FL 33316
 Phone: 954.888.9882

Palm Beach Office
 1910 North Florida Mango Road
 West Palm Beach, FL 33409
 Phone: 561.508.0615

Permit 2249 6795 Babcock BSS Exteriors Plans Malabar
Electronic Plan Review Results

Project Information

Phase 100% Construction Documents
AE:
Submittal:
Facility Name: Permit 2249 6795 Babcock BSS Exteriors Plans Malabar
Plans Dated: 08/23/2023
Project Name: Permit 2249 6795 Babcock BSS Exteriors Plans Malabar
Plans 9/7/23
Received:
Project No: Permit 2249 6795 Babcock BSS Exteriors Plans Malabar
Review 9/11/23
Completed:
Building Code: FBC2020
Review Status: Review Cycle Closed Out - Awaiting administrative approval
Project NEW COMMERCIAL BUILDING PER ENGINEERED PLANS & FBC 2020 7TH ED
Description:

Plan Review Summary

Discipline	Status	Reviewer	Email	Phone	License
00) Structural	Not Applicable				
01) Building	Approved	Roy Bronold	rbronold@capfla.com	3054481711	
02) Mechanical	Approved	Roy Bronold	rbronold@capfla.com	3054481711	
03) Electrical	Approved_As_Noted	Chassler Holm	cholm@capfla.com	561.632.6100	PX4672
04) Plumbing	Approved	Anthony A. D'Auria	adauria@capfla.com	561-592-9195	PX4133
05) Gas	Not Applicable				
06) Engineering/Civil	Not Applicable				
07) Fire	Not Applicable				
08) Roofing	Not Applicable				
09) Planning/Zoning	Not Applicable				
10) Landscape	Not Applicable				
11) Flood Plain	Not Applicable				
12) CRA	Not Applicable				
Admin-Stamp	Not Applicable				

Plans and specifications review is performed in accordance with the Florida Building Code, Florida Statutes and all applicable codes.

Open Issues: 2

Electrical

BSS ELECTRICAL PERMIT SET FOR EXTERIORS PLANS (07/20/23)

1. Electrical Mandatory

CAP Government, Inc.
Chassler Holm
8/30/23 3:24 PM
Express Workflow - 1

1) Ensure GFCI receptacle is not installed behind water cooler, must be readily accessible or on a GFCI breaker per NEC Article 100.
2) Install show window receptacles per NEC 210.62.

cap government
Samuel Sangiorgi
9/7/23 11:04 AM
Express Workflow - 1

COMMENTS LETTER SUBMITTED

Plumbing

General Issues

2. Plumbing Review Mandatory

CAP Government, Inc.
Anthony A. DAuria
8/29/23 7:12 PM
Express Workflow - 1

- All Hose connections and Hose Bibbs shall be protected by an atmospheric-type or pressure-type vacuum breaker or a permanently attached hose connection vacuum breaker; **FBC-P 608.16.4.2**

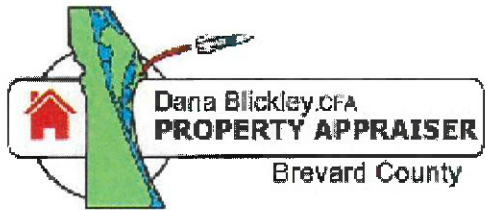
- Shutoff valves for Hose-Bibb/Sill-cocks shall be installed on the water supply pipe at each location; **FBC 606.2**

cap government
Samuel Sangiorgi
9/7/23 11:04 AM
Express Workflow - 1

COMMENTS LETTER SUBMITTED

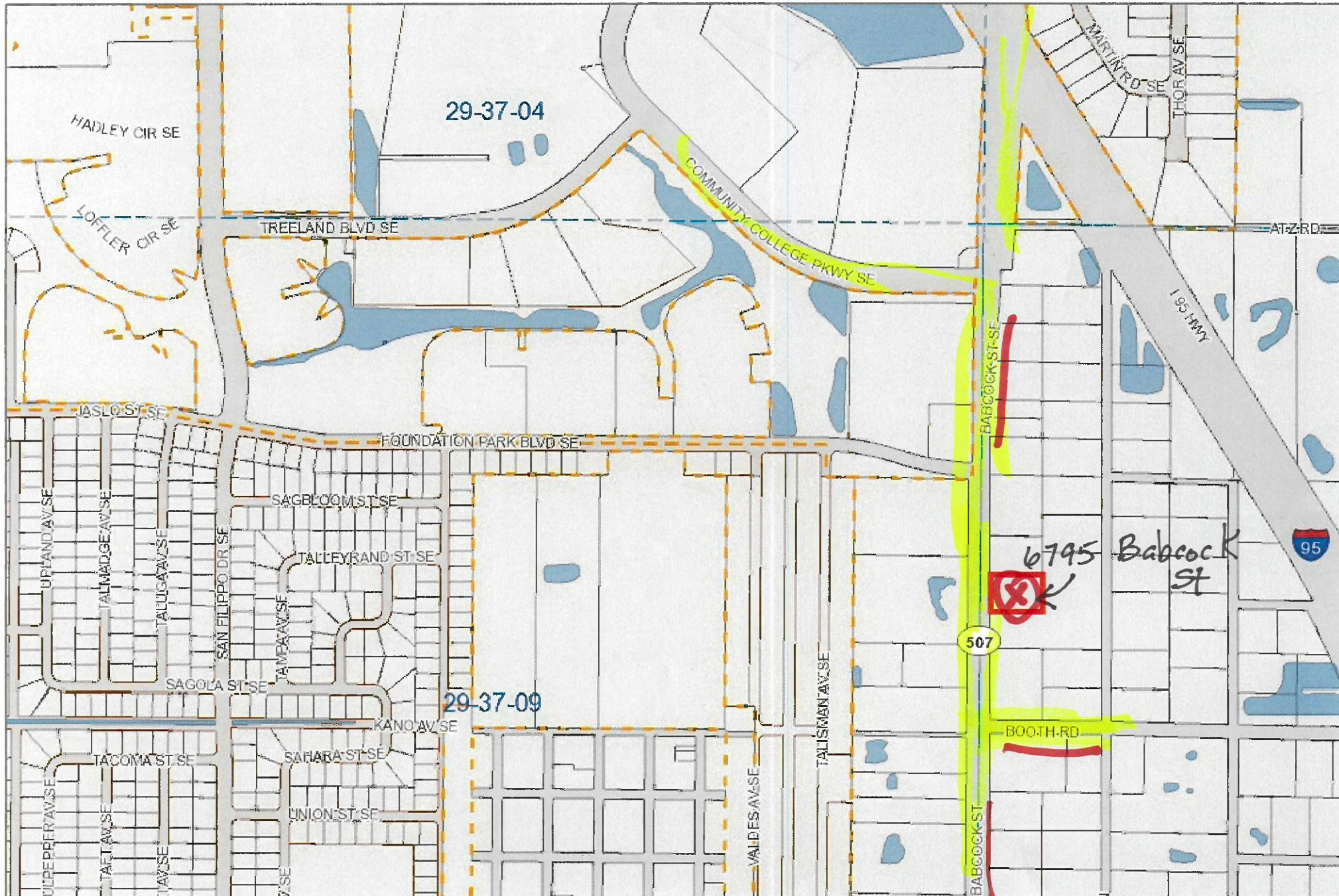
Closed Issues: 0

No Closed Issues Found



6795 Babcock St

0
T
0



TOWN OF MALABAR

MEMORANDUM

Date: October 30,2023 23-BDM-022

To: Richard Kohler, Town Clerk
Town Council

From: Denine Sherear, Planning & Zoning Board Secretary

Ref: Recommendation to Council from P&Z Board- Public Hearings from the Planning & Zoning Board on October 25,2023 (3- Separate Hearings)

The Planning & Zoning Board has recommendations that resulted from the meeting on 10/25/2023 under "Public Hear/Action."

- 1.) Recommendation to Council: To Rezone property known as: 2760,2768,2770,2800 Malabar Road, Malabar FL 32950 AKA: Parcel ID # 28-38-31-54-D-4 & 28-38-31-54-D-6 Malabar Road (NW Corner), From Residential/Limited Commercial (R/LC) to Commercial General (CG). The applicant is Kellwill, LLC represented by owner William (Willy) Carmine. (Ord.2023-09)**

Exhibit: Agenda Report 6.a
Recommendation: Discussion/Action to Council

Motion: Ritter/Shortman as requested to move forward to Council for review.

Chair called for **Roll Call Vote:** Board did roll.
Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 2.) Recommendation to Council: For Site Plan Approval of New Commercial Building property known as: 6795 Babcock Street, Malabar FL 32950 AKA: Parcel ID # 29-37-10-00-318 Commercial General (CG) property 1.26 acres. The applicant is: Bowman Consulting Group (Zachary Komninos) representing property owner Mr. Robert Bareman.**

Exhibit: Agenda Report 6.b
Recommendation: Discussion/Action to Council

Motion: Shortman/Ritter for Site Plan as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Aye; Shortman, Aye; Dial, Aye; Abare, Aye;. **Motion carried 5 to 0.**

Passed

- 3.) **Recommendation to Council: To Rezone property known as: 1080 US HWY 1, Malabar FL 32950 AKA: Parcel ID # 28-38-31- 253 & 255 property is 2.26 +/- acres (lying on the west side of US Hwy 1) From Residential/Limited Commercial (R/LC) to Commercial General (CG) The applicant is MVB Engineering LLC for property owners Robert B & Jill M Trettis. (Ord 2023-08)**

Exhibit:

Agenda Report 6.d

Recommendation:

Discussion/Action to Council

Motion: Dial/Taylor as requested to move forward to Council for review.

Chair called for **Roll Call Vote**: Board did roll.

Taylor, Aye; Ritter, Nay; Shortman, Nay; Dial, Aye; Abare, Aye. **Motion carried 3 to 2.**

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 and structures shall comply with surface water management criteria of Article VIII and Fill and Erosion Control criteria in Article V.
2. All conditional uses.
3. Any use or change in use resulting in the land disturbance of one thousand (1,000) square feet of 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, fill, grading or other form of disturbing the land by the movement of earth shall comply with the provisions of Article V as if the same were incorporated in this Article.
 - (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. See Article V, Section

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 Staff and Planning and Zoning Board and received approval by Town Council.

1. *Filing.* Before such site plan shall be approved, an application for such approval shall be filed with the Town Clerk.
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 Department for Town Staff review for their recommendation to the Planning and Zoning Board. 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.

The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, 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.

3. *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.

B. *Review of Minor Site Plans.*

1. *Applicability.* For the purposes of this section, minor site plans shall include the following:
 - a. Residential projects comprised of a single building, having less than five (5) dwelling units, or:
 - b. Projects containing less than one thousand (1,000) square feet of new impervious surface area.
 - c. Single family homes and accessory buildings or ponds which require site plan approval pursuant to section 1-7.1.5.
2. *Submission Requirements for Minor Site Plans.* Minor site plans shall only include that information required in Sections 1-7.2, 1-7.3, which is determined to be applicable to the proposed minor site plan by the Building Department and Town Engineer.
3. *Minor Site Plan Review Procedures.* All minor site plan applications shall be reviewed by the Building Official and Town Staff and approved by the Building Official. However, single family homes, accessory buildings or ponds may be approved by the Building Official. Appeals of such decisions shall be conducted pursuant to Section 1-7.4
4. Aside from minor modifications to site plans as herein defined, any change in use of buildings, structures, land or water, or institutions of new uses, or alteration or major improvements to existing structures, or erection of new buildings or structures shall require a new site plan submittal in accordance with all procedures and provisions of this Code.

Such changes to approved site plans shall be reviewed by the Building Official and or other designated Town consultants/Staff.
5. *Conformance with Zoning Regulations Required.* Any such building, structure or use shall be erected, altered, installed, and maintained in full conformity with the provisions of the zoning ordinance and the approved site plan.

(Ord. No. 91-1, 3-19-91; Ord. No. 2021-21, § 1, 9-27-21)

Section 1-7.2. - Considerations in reviewing site plans.

The Planning and Zoning Board shall not approve a site plan unless a finding is made that such site plan conforms to all applicable provisions of the land development regulations.

- A. *Site Location and Character of Use.* The Comprehensive Plan together with the land development regulations, including size and dimension regulations, general provisions, performance standards, and the list of permitted and conditional uses, off-street parking, landscaping, required open spaces, yards and building setbacks shall collectively be the principal guides in determining the suitability of the location of the proposed use.
- B. *Appearance of Site and Structures.* The appearance of site and structures shall be coordinated for the purpose of creating a pleasing and harmonious overall environment. The choice of building materials, plant materials, lighting and other building and site improvements shall be commensurate with the objectives of the subject use without generating adverse visual impact on surrounding properties or transportation corridors. Architectural style or design is not restricted. Evaluation of the appearance of a project shall be based on the quality of its overall design and relationship to the impacted area considering the following factors:
 1. *Harmonious Overall Design.* The exterior of buildings and structures including mass, facade and materials shall be in harmony with the site and the general character of the impacted area and shall not be gaudy or garish. Awnings or ornamental features shall be designed in a manner harmonious with the building design and shall be of appropriate scale, shape, and pattern in order to reinforce good design principles. Similarly, awnings or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention. The appearance of buildings and structures shall be disapproved under Section 1-7.2(B) in extreme cases only and reasonable doubt shall be resolved in favor of the applicant.
 2. *Location and Screening of Mechanical Equipment, Utility Hardware and Waste Storage Areas.* Mechanical equipment or other utility hardware other than antennas and stacks on roofs shall be harmonious with the building or they shall be located and/or screened so as not to be visible from any public ways within the impacted area. Similarly, refuse and waste storage areas shall be screened from adjacent properties and public ways by appropriate fences, walls or hedges. In cases where dumpsters must be located in areas highly visible from any public right-of-way, the Town Planning and Zoning Board shall be authorized to require appropriate vegetative or structural screening to shield an unsightly condition.
 3. *Commercial and Industrial Activities Conducted in Enclosed Buildings.* All businesses, services or manufacturing or processing shall be conducted within completely enclosed buildings. If the Town Council determines that a demonstrated necessity exists for outside storage or display due to the impracticality and unreasonableness of enclosure of such services, storage and display areas, in such

case such service, storage and display areas or yards shall be screened by a continuous fence or wall or by landscaping and berm system so as to provide a ninety (90) percent opaque screen with a minimum height of five (5) to eight (8) feet, unless the same is demonstrated by the applicant to the Town Council's satisfaction to be impractical and unreasonable.

4. *Exterior Lighting.* Exterior lighting shall be provided and shall be so arranged as to shield or deflect the light from adjoining properties and public streets.
- C. *Access, Internal Circulation, Off-Street Parking and Other Traffic Impacts.* The Town Building Official and/or designated staff shall advise on matters related to this subsection 1-7.2(C):
1. *Internal Circulation System Design and Access/Egress Considerations.* Driveways, curb cuts, and areas for the parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient circulation within the site and safe and convenient access from and onto adjoining streets. The Town Staff shall review such design considerations based on standard traffic engineering principals and practices and such specifications as may be adopted by resolution of the Town Council. Requirements of Article IX of this Chapter [Code] shall be applied for off-street parking. Among factors to be considered shall be need for acceleration and deceleration lanes; the number, location and size of curb cuts and access drives from adjacent streets; the location and design of driveways and access aisles to parking spaces, the arrangement, delineation and marking for parked areas; and the means of access to buildings for fire-fighting apparatus and other emergency vehicles.
 2. *Separation of Vehicular and Pedestrian Areas.* Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety.
- D. *Traffic Impacts.* A traffic impact analysis shall be required for site plan reviews pursuant to standards, procedures and criteria defined herein. The traffic impact analysis is designed to achieve objectives stipulated in the transportation element of the Comprehensive Plan.
1. *Applicability.* A transportation impact study shall be required if:
 - (a) A proposed development generates more than one thousand (1,000) trips per day. Such development shall maintain a level of service C, daily condition and level of service D for peak hour conditions on collector and arterial street segments as noted below. The trip generation shall be based on the Institute of Transportation Engineers, Trip Generation Manual (1988) unless the applicant can demonstrate that unique development characteristics will result in substantially different rates.
 2. *Impact Study Areas.* The transportation impact study area shall include all arterial and collector streets within one half (½) mile of the site entrance and/or shall include the nearest arterial roads that will be impacted by the development. For developments which generate between five hundred (500) and one thousand (1,000) trips during the peak hour or over one thousand (1,000) trips during the peak hour, the study area shall be one (1) and three (3) miles respectively. Estimates of peak hour trip generation shall be determined by the applicant's Florida Registered Traffic Engineer and shall be approved by the Town Engineer. Peak hour traffic impact shall be assessed, with and without the development, for all collector and arterial road segments and their respective intersections with other collector and arterial roadways within the designated service area. If additional traffic counts are warranted, they shall be the applicant's responsibility.
 3. *Contents.* The transportation impact analysis shall contain the following:
 - (a) A detailed description of the collector and arterial road network, including existing and proposed roadway widths and right-of-way widths; existing and proposed traffic signals and traffic control devices; existing and proposed ingress and egress locations, including existing or proposed acceleration or deceleration lanes or turning lane improvements.
 - (b) A detailed description of the existing and proposed land uses within the impacted study area including stages of construction and anticipated completion dates.
 - (c) A detailed description of the existing traffic conditions, including the Average Annual Daily Traffic (AADT) and the highest average peak hour volume for all collector and arterial roads within the study area. The AADT shall be based on a current twenty-four (24) hour traffic count provided by the applicant. The current twenty-four (24) hour traffic count shall be adjusted to compensate for seasonal variations. This adjustment shall be determined by utilizing Florida Department of Transportation (DOT) or traffic counts calculated quarterly at traffic count stations in the Town of Malabar. The methodology and assumptions underlying the annual adjustment shall be clearly stated. The average peak hour traffic volume shall be the highest average peak hour volume for any weekday twenty-four (24) hour period.
 - (d) A detailed Service Level C condition analysis of all collector and arterial roadways and intersections within the study area based on procedures outlined in the 1965 Highway Capacity Manual (including the Northwestern Monographs) and in the Transportation Research Circular No. 212, "Interim Material on Highway Capacity," Transportation Research Board, January,

- (e) A description of all the existing collector and arterial roadways and intersections that are at or below the Service Level C condition (Service Levels C, D, E, or F).
- (f) A detailed analysis of traffic impact of the development, including trip generations (average 24-hour weekday and highest average weekday hour), internal and external trips, trip absorptions and trip distributions over all collector and arterial roads within the study area. The trip generation shall be based on the latest edition of the Institute of Traffic Engineers Trip Generation Manual, unless a qualified traffic engineer demonstrates that unique qualities of the development will result in different rates. All methodology and assumptions must be clearly stated.
- (g) A detailed cumulative transportation impact of the existing traffic conditions including traffic from the development, normal increases in traffic and increases from allocation of road capacity to already approved projects. This analysis must identify projected AADT and peak hour volumes for all the collector and arterial roads and must describe all the roadways and intersections that will be at or below the Service Level C daily condition or Service Level D peak hour condition.
4. *Traffic Study and Traffic Data Inventory and File.* The Town Engineer shall keep a file on all traffic studies including the future capacity allocated for each project. In determining the projected demand in subsection 1-7.2(D)(3)(g) above, the impact analysis shall include trips already allocated in previous development approvals. The Town shall provide information when available and where appropriate data already exists in order to prevent duplication of efforts and unnecessary costs.
5. *Improvements to Roadways and/or Traffic Control Devices.* Transportation improvements such as intersection improvements; additional turning, acceleration or deceleration lanes; modified land delineations; new or improved traffic control devices; or other such improvements may be required in order to maintain a level of service C daily condition and/or a level of service D peak hour condition. In such case, the applicant for a development permit may be required to fund and/or install the necessary improvements or provide a legal assurance, such as a performance bond or other surety approved by the Town Attorney, prior to the issuance of a building permit. Where the traffic impact does not generate traffic volume that substantiates the total improvement needs, the Town Council shall determine an equitable participation in the required improvement. The participation by the applicant may, at the discretion of the Town Council, consist of a pro-rata dollar share of improvement costs.
- E. *Open Space and Landscape.* Open space shall be comprised of permeable open surfaces, excluding principal structures and impermeable surfaces. No parking areas shall be included as open area. Active recreation areas may be counted as open area.
1. *Residential Open Space Requirement.* All residential development shall preserve a minimum of fifty (50) percent of the upland area as open space. Uplands shall be defined as those areas which are not permanent water bodies or wetlands as defined in Section 1-7.2(G)(2) at the time of application. A maximum of thirty (30) percent of any totally landlocked water body may be credited as open space. At no time shall water bodies comprise more than twenty (20) percent of the total upland open space requirements.
2. *Non-Residential Open Space Requirement.* Non-residential development shall provide a minimum of twenty (20) percent open space.
3. *Mixed Use Open Space Requirement.* Where residential and non-residential development is permitted pursuant to the Town of Malabar Land Development Regulations, the following pro rata open space requirement shall be enforced.
- $$OS = \frac{NRA}{TA} \times .2 TA + \frac{RA}{TA} \times .5 TA$$
- OS = Open Space
 NRA = Non-Residential Acreage
 RA = Residential Acreage
 TA = Total Area
4. *Use of Open Space.* Open space and spaces between buildings required by this Chapter [Code] shall be located and improved so as to reasonably serve the purposes for which the requirements are intended. These purposes include provisions of adequate light and air, appropriate separation between buildings and uses, enhancement of privacy, sufficient area for recreation and leisure pursuits (in residential areas) and to facilitate surface water drainage.
5. *Preserve Natural Landscape.* The natural landscape of the site shall be preserved as much as possible for purposes of enhancing the general appearance of the site as well as to prevent excessive storm water run-off, erosion, siltation and dust.
- F. *Required Screening of Abutting Residential and Non-Residential Uses.* In order to maintain stability of residential areas, non-residential development within or abutting residential districts and multiple family development abutting single family residential districts, shall provide a fence or a wall or a combination of a berm and landscaping so as to provide a continuous ninety (90) percent opaque solid

screen not less than eight (8) feet in height to form a continuous screen along such abutting property lines. In addition, one tree shall be provided for each thirty-five (35) lineal feet or fraction thereof of such landscape barrier. Notwithstanding, all developments shall comply with the landscape requirements of Article XIV. Where a conflict exists with the standards of this paragraph, the more restrictive requirement shall prevail.

Credit may be given for existing plant material against the requirements of this section. Adjustments may be rendered by the Town Council to the requirements of this paragraph based on demonstrated need by the applicant and recommendations of Town Staff and the Planning and Zoning Board. The site plan applicant and successors in ownership shall maintain the continuous screen in perpetuity.

- G. *Flood Prone Land and Wetland Preservation.* In order to promote and preserve natural hydrological conditions and to preserve water recharge areas, water supply and water quality, and natural habitats, the following regulations shall be applied to wetland areas.
1. *Flood Prone Land.* Construction in flood prone areas shall comply with the Town's flood plain management policies.
 2. *Wetland Defined.* Wetland areas shall include hydric soils and wetland species identified by the DER pursuant to § 17-4.022, F.A.C. Site specific investigations shall confirm the existence of wetland systems based on on-site soil and vegetative analysis with assistance of appropriate representatives of the State Department of Environmental Regulation, the St. John's River Water Management District, U.S. Army Corps of Engineers, and the U. S. Soil Conservation Service.
 3. *Wetland Development Restrictions and Interpretations.* No development other than approved passive recreation, open space, restricted accessway, bird sanctuary, natural stormwater retention/detention, or natural preserve shall be allowed in a wetland area unless "competent evidence" indicates that:
 - (a) Dominant vegetation is no longer comprised of wetland types normally found in the specified soil; and
 - (b) The water regime has been permanently altered artificially or naturally in a manner to preclude its associated watershed areas from functioning as wetlands. Applicants for site plan review shall have an opportunity to so demonstrate that any wetland designations within the confines of their property no longer function as wetlands as defined above. The County urban forester, the soil conservationist as well as representatives of the State Department of Environmental Regulation, U.S. Army Corps of Engineers and the St. John's River Water Management District may be made a part of the site plan review process to assist in identifying and delineating wetlands. The applicant may request that a waiver of the provisions of this section be granted by the Planning and Zoning Board for small isolated marginal wetlands for which the developer shall provide viable compensatory preserve areas which mitigate against a loss of viable wetland systems. The Planning and Zoning Board shall consider the recommendation of the Town Engineer prior to taking action on such a request and shall grant the same only in the case of an overriding public interest. Finally, this section shall not prevent the construction of one single family home on existing lots of record.

The provisions of Article VIII: Surface Water Management are hereby incorporated into this subsection by reference.

- H. *Available Potable Water.* All future applications for new development shall be required to connect to a central water system except as herein provided.
1. *Exceptions for Limited Scale Development.* When connection to a central water system is not feasible, applicants for limited scale development adaptive to service by an interim water system, may be allowed if approved by the County Director of Public Health subject to the following conditions:
 - a. Assurance in writing from a central water utility that extension of lines to the development is not part of its master plan for expansion; and,
 - b. Agreement by the applicant that the system shall be connected to the central utility system at no cost to the Town when service becomes available. The applicant shall be required to post a performance bond or other surety approved by the Town Council after considering recommendation of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing water system improvements required as a condition of subdivision approval.
 2. *Intent of Regulating Procedure.* The intent of this permitting procedure is: (1) to maintain a comprehensive data base concerning water supply and quality; (2) to discourage unregulated proliferation of private water systems; and (3) to achieve a subsystem design which can be effectively and economically integrated into a central public system certified and regulated by an approved local public service entity at a later point in time and to encourage a compact urban development pattern by managing the location, timing and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity; and (4) to discourage all new subdivision of land unless served by a central water utility and to similarly discourage nonresidential development on existing lots of record when such sites are not serviced by a central water utility.

3. *Testing of Private Wells.* In addition, the Town may undertake any necessary action to prevent or remedy water supply and water quality problems. To this the Town may request analysis of water quality and supply of all permitted private wells based on evolving problems and issues associated with water resources. The private well owner may be assessed by the Town after due public hearings for needed water quality, supply problems, requisite testing, laboratory analysis, and improvements, deemed necessary and fiscally equitable.
- I. *Wastewater Service.* All applicants for development shall be required to connect to a public wastewater utility regulated by the Public Service Commission, the Department of Environmental Regulation (DER) and/or the County Environmental Health Department. Where a system for wastewater is unavailable, the applicant shall provide an interim wastewater system approved by the DER and/or the County Environmental Health Department and shall agree in writing that the system will be connected to a public wastewater utility at no cost to the Town when service becomes available.
 1. *Intent and Purpose of Regulating Wastewater Disposal Systems.* The intent of this provision is: (1) to discourage unregulated proliferation of private package treatment plants; (2) to achieve a subsystem design which can be effectively and economically integrated into a major central public wastewater system at a future point in time which would be certified and regulated by a local public entity; and (3) to encourage a compact urban development pattern by managing the location, timing, and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity.
 2. *Design Standards and Required Guarantee.* The system shall be designed to satisfy performance standards of the Department of Environmental Regulation (DER), other applicable regional, state, or federal standards, or standards which may be hereafter adopted by the Town. The applicant shall be required to post a performance bond or other surety approved by the Town Council after considering recommendations of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing waste water system improvements required as a condition of subdivision approval.
 3. *Regulating Use of Septic Tanks and Wastewater Disposal Fields.* Notwithstanding any other provisions of this Code, when septic tank and waste disposal field is the only means of individual sewage disposal, the County Environmental Health Department shall enforce State law regulating use of septic tanks and wastewater disposal fields.
- J. *Soil Erosion, Sedimentation Control, and Estuary Water Resource Protection.*
 1. *Applicability.* In order to prevent both soil erosion and sedimentation, and to protect both ground and surface water resources, a soil erosion and sedimentation control plan shall be required as a part of an application for site plan review whenever a development will involve any clearing, grading, or other form of disturbing 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 will exceed five hundred (500) cubic yards.
 - (b) Fill will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (c) Excavation 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 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 excavation or fill is proposed within one hundred feet of a stream, stream channel, or body of water, a soil erosion and sedimentation control plan shall be provided.
 2. *Definitions.* For the purposes of this subsection 1-7.2(j) the following definitions are provided:
 - (a) *Soil erosion* shall mean any removal and/or loss of soil by the action of water, gravity, or wind. Erosion includes both the detachment and transport of soil particles.
 - (b) *Sedimentation* shall mean the settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result.
 - (c) *Erodible slope* shall mean all slopes with inclines in excess of four (4) percent unless modified by the Town Engineer based on consideration of specific soil conditions.
 - (d) *Large flat surface area (unpaved)* shall mean an area which is flat or whose slope is less than four (4) percent and which consists of more than one thousand (1,000) square feet of exposed soil.

Erosion Water Quality Control Measures. All measures necessary to minimize water quality degradation soil erosion and to control sedimentation in the disturbed land area shall be implemented. The following protection shall be provided for all disturbed areas: minimize velocities of water runoff, maximize protection of disturbed areas from stormwater runoff, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation water control degradation control follows. For each one, the purpose(s) of requiring control is described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which a control plan is required:

- (a) *Erodible slopes:* Prevent detachment and transportation of soil particles from slope.
- (b) *Streams, streambeds, streambanks, bodies of water, lake shorelines:* Prevent detachment and transportation of soil particles.
- (c) *Drainageways:* Prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetlands); promote deposit or sediment loads (traversing these areas) before these reach bodies of water.
- (d) *Land adjacent to streams, ponds, lakes, and wetlands:* Prevent detachment and transportation of soil particles. The applicant shall not adversely impact aquatic vegetation within the sensitive transition zone located between the upland and the mean high water line (ordinary high water line for non-tidal waters). No such vegetation shall be disturbed without approval of the Town. Any such approval shall be based on a demonstrated necessity which promotes the overall public health, safety and welfare. Furthermore, any such disturbance of aquatic vegetation shall be compensated by revegetation based on a plan approved by the Town as stipulated herein. The applicant shall coordinate plans for development along the riverfront or tidal waters with the Florida Department of Environmental Regulation as well as the U.S. Army Corp of Engineers where tidal waters might be impacted. Where deemed appropriate by the Town, the site plan shall include the planting of native indigenous aquatic plant vegetation to promote stability of the shoreline and to enhance water quality.
- (e) *Enclosed drainage structure:* Prevent sedimentation in structure, erosion at outfall of system, and deposit of sediment loads within system or beyond it.
- (f) *Large flat surface areas (unpaved):* Prevent detachment of soil particles and their off-site transportation.
- (g) *Impervious surfaces:* Prevent the detachment and transportation of soil (in response to an increase in the rate and/or volume of runoff of the site or its concentration caused by impervious surfaces).
- (h) *Borrow and stockpile areas:* Divert runoff from face of slopes which are exposed in the excavation process; convey runoff in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition. Creation of water bodies by excavation and/or impoundment shall comply with applicable provisions of Article VIII.
- (i) *Adjacent properties:* Prevent their erosion and/or being deposited with sediment.

K. *Additional Considerations.* The Planning and Zoning Board or the Town Council may require additional information be provided by the petitioner for site plan review in order to carry out a review process which is necessary to fulfill the purpose, intent and spirit of this Chapter [Code].

(Ord. No. 91-1, 3-19-91)

Section 1-7.3. - Information to be included in site plan.

A site plan, for the purposes of this Section, shall include, but not necessarily be limited to, the following requirements:

1. Site plan with lot configuration, finished ground floor elevations, contours and designating number of dwelling units, square footage of site, building coverage, square footage of paved areas and open area, and setbacks to scale indicating compliance with regulations.
2. 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.
3. Generalized floor plan indicating uses and square footage of each proposed use within each building or structure, building exterior construction material and color, and building height.
4. Location and character of all outside facilities for waste disposal; storage areas; or display.
5. Location and dimensions of all curb cuts, driveways, dedicated cross-easements including their design, location, alignment, dimensions, and specifications; details of off-street parking and loading areas, and vehicular surfaces available for maneuvering, including surface materials, number of employees and number and type of vehicles owned by the establishment. Any combined off-street parking facilities shall be submitted with an agreement specifying the nature of the arrangement, its anticipated duration, and signatures of all concerned property owners.
6. Location of all pedestrian walks, malls, yards and open spaces.

7. Location, size, character, color and copy, height and design of all signs.
8. Location and character of landscaped areas and recreation areas.
9. Location, design and character of all public, semi-public, or private utilities such as water and wastewater disposal facilities, underground or overhead electric lines, gas transmission lines, or other similar facilities or services.
10. Location, height and general character of perimeter or ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners.
11. Surface water drainage facilities plan showing existing and proposed grading, drainage patterns and earthwork computations, certified by an engineer or architect registered in the State of Florida.
12. Location of existing easements and rights-of-way.
13. Land survey with complete legal description prepared and certified by a registered surveyor. All architecture or engineering designs must be prepared by a professional architect or engineer registered in the State of Florida pursuant to Florida Statutes 467 and 471 as exists or hereafter amended and which require an appropriate seal on the subject plan prior to issuance of a building permit.
14. Verified statement showing each and every individual person having a legal and/or equitable ownership interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.
15. The applicant for site plan review may, at his option, submit a preliminary site plan sketch indicating a general idea of how it is proposed to develop the parcel. Upon tentative approval of a sketch, the applicant can then proceed to have a detailed site plan prepared in accordance with the requirements in this section.

(Ord. No. 91-1, 3-19-91)

Section 1-7.4. - Approval, disapproval and appeal procedure.

- A. *Approval Procedure.* Upon the approval of such site plan by the Town Council, a building permit may be issued pursuant to Subsection 1-7.4(B) by the Town Building Official. Appeals to disapprovals by the Town Council shall be to the Court of jurisdiction.
- B. *Timing of the Release of Building Permits.* No permits shall be granted by the Building Official until the time for appeal from the decision of the Town Council as herein provided shall have expired. Appeal to the Courts shall not bar the issuance of permits unless the court grants an injunction.
- C. *Disapproval Procedure.* If the Planning and Zoning Board recommends denial of a site plan or if the Town Council denies a site plan approval, the reasons said plan was denied shall be specified with specific reference to those sections of the applicable Town Ordinances on which said denial was based. No reasons other than those so stated shall be presented to the Town Council or to the court.

Section 1-7.5. - Termination, extension and transferability.

The site plan approval shall terminate twelve (12) months thereafter, if construction has not been started as evidenced by steady and continuous progress, including the pouring of footings by said termination date. Extensions may be granted by the Town Council at its sole and absolute discretion. Any request for extension shall be made in writing prior to the expiration of the site plan and such request for extension shall be reviewed by the Planning and Zoning Board which shall make a recommendation on the request for extension to the Town Council. In the event the property receiving site plan approval shall be sold, transferred, leased, or the ownership thereof changes in any way whatsoever, the site plan approval shall be transferrable.

(Ord. No. 08-09, § 1, 9-8-08)

Section 1-7.6. - Violations.

Failure to comply and continually maintain all approved elements of an approved site plan, including landscape, appearance and other site development features, shall be a violation of this Code subject to enforcement and penalty procedure of Section 1-12.7 of this Code.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.a**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Appoint Lisa Morrell as Town Manager (Resolution 10-2023)

BACKGROUND/HISTORY:

At the 10/02/2023 RTCM, Matt Stinnett informed Council that he had accepted a position with Brevard County, and that his last day working for Malabar would be November 3rd.

At the 10/16/2023 RTCM, Mayor Reilly requested a draft contract appointing Ms. Morrell as Town Manager be heard for discussion. Council unanimously approved the draft contract, and selected Council Member Scardino to negotiate a contract with Ms. Morrell.

Ms. Morrell and CM Scardino have drafted the attached contract. It has been reviewed by the Town Attorney for competency and compliance.

ATTACHMENTS:

- Resolution 10-2023

ACTION:

- Council Action

FINANCIAL IMPACT:

- \$5,000 salary increase over current rate.

RESOLUTION 10-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LISA MORRELL AS THE TOWN MANAGER; PROVIDING FOR DUTIES, REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has determined the benefit of hiring Lisa Morrell as the Malabar Town Manager as of November 6, 2023; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Lisa Morrell as the Malabar Town Manager to begin on November 6, 2023 as described in contract attached as "Exhibit A".

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the contract for these services to be executed.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ . This motion was seconded by Council Member _____ and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva
Council Member Brian Vail
Council Member Jim Clevenger
Council Member Dave Scardino
Council Member Mary Hofmeister

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: -----
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard Kohler, C.M.C.
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

EMPLOYMENT AGREEMENT

This Agreement made and entered into this 15th day of November 2023 by and between the TOWN OF MALABAR, a Florida municipal corporation (hereinafter referred to as "Employer") as party of the first and LISA MORRELL (hereinafter referred to as "Employee") as party of the second part, both of whom understand as follows:

WITNESSETH:

WHEREAS, Employer desires to retain the services of the Employee as Town Manager as provided by the Code of Ordinances of the Town of Malabar; and,

WHEREAS, Employee desires to accept employment as Town Manager; and,

WHEREAS, it is the desire of the Town Council to provide certain benefits, to set forth certain conditions of employment, and to set working conditions of said Employee; and

WHEREAS, the parties acknowledge that Employee is a member of The Florida City and County Management Association ("FCCMA") and that Employee is subject to the ICMA Code of Ethics;

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1: Duties

Employer hereby agrees to employ Lisa Morrell as Town Manager of said Employer to perform functions and duties specified in the Town Charter, Code of Ordinances, Personnel Policies, and job descriptions of the Town of Malabar and to perform other legally permissible and proper duties and functions as the Council from time to time may assign.

Section 2: Term

A. Employee agrees to remain in the exclusive employ of the Employer and neither to accept other employment nor to become employed by any other employer until said termination date, unless said termination date is affected as hereinafter provided.

B. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 4, paragraphs A and B, of this agreement.

C. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 6 of this agreement.

D. Unless otherwise terminated as provided for herein, this Employment Agreement shall automatically renew annually under the same terms and provisions unless modified in writing by the parties to this agreement. The Town shall provide the Employee at least ninety (90) days of its intent not to renew this agreement. In the event that the agreement is not renewed, all compensation, benefits and requirements of this agreement shall remain in effect until the expiration of the term of the agreement unless Employee voluntarily resigns.

Section 3: Suspension

Employer may suspend the Employee without full pay and benefits at any time during the term of this agreement, but only if after a public hearing a majority of the Council votes to suspend Employee, "for cause", as defined in section 4B below, provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing by the Council member bringing such charges.

Section 4: Termination and Severance Pay

A. In the event Employee is terminated without cause by the Council before expiration of the aforesaid term of employment and during such time that Employee is willing and able to perform the duties under this agreement, then in that event Employer agrees to pay Employee lump sum cash severance payment equal to three (3) months' aggregate salary, benefits, and perquisites. The employee shall also be compensated for all earned, vacation and personal leave accrued through the effective date of the termination.

B. In the event the Employee is terminated for cause, then, in that event, employer shall have no obligation to pay the aggregate severance sum designated in the above paragraph. For purposes herein the term "for cause" shall mean a removal from office pursuant to FS. 112.51, misconduct as defined in F.S. 443.036 (29) and for misfeasance or malfeasance, or the conviction of any crime involving dishonesty, or the conviction of any crime designated as a felony under the laws of the jurisdiction imposing the penalty. The hearing requirements provided for in Section 3 above shall apply to a termination under this subsection. Severance shall not be paid should the Employee be terminated for misconduct as defined in Section 443.036(29) of the Florida Statutes.

C. If the Employer reduces the base salary, compensation, or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination under Section A and be entitled to Severance Pay as provided for therein.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer then the Employee may declare a termination as of the date of the suggestion and be entitled to Severance Pay as provided for in Section A above.

Section 5: Automobile and Equipment

A. The Employer shall provide Employee use of an automobile for business use and shall furnish fuel, maintenance, insurance and operating needs for said automobile. Employee's use of the automobile shall be utilized for be for traveling on official business for the Town of Malabar.

B. The Town shall provide Employee with a cellular telephone to be paid for by the Employer.

Section 6: Resignation

In the event Employee voluntarily resigns the position with Employer before expiration of the aforesaid term of employment, the Employee shall give Employer ninety (90) days' notice in advance, unless the parties agree otherwise. If Employee shall resign then Employee shall be entitled to accrued benefits and no other severance.

Section 7: Disability

If Employee is permanently disabled or is otherwise unable to perform the duties because of sickness, accident, injury, mental incapacity, or health for a period of four successive weeks beyond any accrued sick leave, Employer shall have the option to terminate agreement, subject to the severance pay requirements of Section 4, paragraph A.

Section 8: Salary

On November 13, 2024, Employer agrees to pay Employee for services rendered pursuant hereto an annual base salary of One Hundred Five Thousand and no/100 Dollars (\$105,000.00), payable in installments at the same time as the other employees of the Employer are paid.

Further, the Employer agrees to provide the Employee with a \$150.00 per month expense allowance as an annually budgeted line item in the Town Manager's budget totaling \$1800.00, associated with conducting employee team building activities, employee recognition, and or employee service awards.

Section 9: Performance Evaluation

A. The Council shall review and evaluate the performance of the employee at least annually. Said review and evaluation shall be in accordance with specific criteria developed by the Employer. Said criteria may be added to or deleted from as the Council may from time to time determine in consultation with the Employee. Further, the Employer shall provide the Employee with a summary written statement of the findings of the Council and provide an adequate opportunity for the Employee to discuss the evaluation with the Council. The evaluation- shall be used as a consideration by the Council in its deliberations and determinations on renewing the Agreement and for considering salary and adjustments.

B. Annually, the Council and Employee shall define such goals and performance objectives that they determine necessary for the proper operation of the Town and in the attainment of the Council's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

Section 10: Vacation, Sick and Military Leave

A. Employee shall accrue eighteen days per year of vacation leave.

B. Employee shall annually accrue sick and other permitted leaves on the same basis and at the same rate as other Town employees and is held to the same limits per the Employee Manual

C. The Employee shall devote substantially all of their productive time, ability, and attention to the business of the Town, both during normal business hours and outside normal business hours as the business of the Town may require, such as attending Council, Board and Committee meetings. To that end, it is agreed that as compensation for time spent on Town business during non-business hours, the Employee shall be entitled to take compensatory time off as they shall deem appropriate during normal business hours within same pay period.

Section 11: Disability, Health, Life Insurance and Retirement

A. Employer agrees to put into force and to make required premium payments for Employee for insurance policies for life, accident, sickness, disability income benefits, major medical, and dependent's coverage group insurance covering Employee and dependents.

B. Employer agrees to provide hospitalization, surgical and comprehensive medical insurance for Employee and dependents and to pay the premiums thereon equal to that which is provided to all other general employees of Employer.

C. The Town shall contribute on Employee's behalf the Employer's share for Employee to participate as an Executive member in the Florida Retirement System ("FRS").

Section 12: Dues, Subscriptions Professional Development

Employer agrees to budget for and to pay for professional dues and subscriptions of Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for his continued professional participation growth, and advancement, and for the good of the Employer.

A. Employer hereby agrees to budget for and to pay for travel and subsistence expenses of Employee pursuant to applicable law and Town policy for professional and official travel, meetings, and occasions adequate to continue the professional development of Employee.

B. Employer shall pay or reimburse employee for all membership dues and the cost of attending national, state, and local associational conferences. Reimbursement for travel and expenses shall be subject to the policy and procedures set forth in the Code of the Town of Malabar.

Section 13: Other Terms and Conditions of Employment

A. The Council, in consultation with the Manager, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, the Town Charter, or any other law.

B. All provisions of the Town charter and code, regulations and rules and policies of the Employer relating to vacation and sick leave, retirement and pension system contributions, holidays, and other benefits and working conditions as they now exist or hereafter may be amended, also shall apply to Employee as they would to other general employees of Employer, in addition to said benefits enumerated specifically for the benefit of Employee except as herein provided.

Section 14: Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- (1) EMPLOYER: Mayor and Town Council Members
Town of Malabar
2725 Malabar Road
Malabar, FL 32904
- (2) EMPLOYEE: Lisa Morrell

At the permanent address on record with the Town of Malabar

(3) Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 15: General Provisions

- A. The text herein shall constitute the entire agreement between the parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. Notwithstanding the date of execution of this agreement, this agreement shall have an effective date of November 6, 2023.
- D. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- E. This Agreement may not be modified or changed in any way whatsoever except by written agreement of the parties.

Section 16. Indemnification

Employer shall defend, save harmless and indemnify Employee pursuant to FS. 111.07 and 111.071. The Town shall be required to provide independent legal representation at Employer's expense to the Employee for any matter for which this indemnity shall apply. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appellate proceedings. Employee recognizes that Employer shall have the right to compromise and settle any claim or suit. Such payments shall continue beyond Employee's service to the Employer as long as litigation is pending.

IN WITNESS WHEREOF, the Town of Malabar has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its Town Clerk, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

EMPLOYEE:

Witness

Lisa Morrell

Witness

THE TOWN OF MALABAR

By: _____
Mayor Patrick T. Reilly

ATTEST:

Richard Kohler, Town Clerk

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.b**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Appoint Wayne Abare to the Planning and Zoning Board (Resolution 11-2023)

BACKGROUND/HISTORY:

Wayne Abare, a Malabar resident, submitted an application to Town Staff to remain in his position on the Planning and Zoning Board. Mr. Abare has submitted all of the required paperwork and meets the minimum requirements for Board Membership.

ATTACHMENTS:

- Resolution 11-2023
- Mr. Abare's Application Packet

ACTION:

- Motion to approve Resolution 11-2023.

FINANCIAL IMPACT:

- None.

RESOLUTION 11-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF WAYNE ABARE TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Planning and Zoning Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Wayne Abare as a regular member of the Planning and Zoning Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the members, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

_____.

Richard W. Kohler
Town Clerk

Approved as to form and content:

_____.

Karl W. Bohne, Jr., Town Attorney

RECEIVED

RECEIVED
12/20/2023

Planning & Zoning Advisory Board Application

The Planning and Zoning Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Planning and Zoning Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be 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, re-plats and zoning change requests. They also 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 Projects 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. Name: Wayne Abare Phone: 321-727-8559
 2. Home Address: 2530 Rocky Point Rd Malabar, FL 32950
 3. Email Address: wabare@cfbrr.com
 4. Are you a resident of the Town: Yes No
 5. How long have you been a resident of the Town of Malabar: 25 years
 6. Are you currently involved with any other organization of the Town: Yes No
- If yes, which organization: _____

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

TOWN OF MALABAR

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

OCT 20 2023 RECEIVED

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person. Any application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: Wayne Abare TELEPHONE: 321-727-8559
ADDRESS: 2530 Rocky Point Rd Malabar, FL 32950
EMAIL: wabare@cfi2.vr.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

Electrical Engineer

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

ADDITIONAL INFORMATION/REFERENCES:

Please select the Board that you would like to serve on by indicating first choice & second choice:

- Board of Adjustment
- Planning & Zoning
- Parks & Recreation
- Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

Wayne Abare
Signature of Applicant

Oct 19, 2023
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

TOWN OF MALABAR
OCT 20 2023
RECEIVED

Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - o Malabar Code of Conduct
 - o Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - o Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.

Wayne Osborne
Signature

Oct 19, 2023
Date

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

TOWN OF MALABAR
OCT 20 2023
RECEIVED

Town of Malabar Board Member Code of Conduct

(Malabar Code Chap 2. – Code of Conduct) In addition to adhering to the requirements of State Law, any person appointed to serve as a Member of a Town Board or Committee shall commit to the following Code of Conduct by written affirmation, which shall remain on file with the Town Clerk, as follows:

I affirm that the proper Statutory and Town Charter role of Members of appointed Town Boards and Committees, as with any Member of an appointed government body, is to act collectively, not individually, to apply the Town's governing policies, and that the Town Administrator and Staff administer such policies.

I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into daily operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.

Wayne Abare
Signature

Oct 19, 2023
Date

Wayne Abare
Print Name

Dorine W. Shearer
Witness

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.C**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Appoint Liz Ritter to the Planning and Zoning Board (Resolution 12-2023)

BACKGROUND/HISTORY:

Liz Ritter, a Malabar resident, submitted an application to Town Staff to remain in his position on the Planning and Zoning Board. Mrs. Ritter has submitted all of the required paperwork and meets the minimum requirements for Board Membership.

ATTACHMENTS:

- Resolution 12-2023
- Mrs. Ritter's Application Packet

ACTION:

- Motion to approve Resolution 12-2023.

FINANCIAL IMPACT:

- None.

RESOLUTION 12-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LIZ RITTER TO THE MALABAR PLANNING AND ZONING BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Planning and Zoning Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Liz Ritter as a regular member of the Planning and Zoning Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the members, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

_____.

Richard W. Kohler
Town Clerk

Approved as to form and content:

_____.

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

OCT 25 2023

Town of Malabar

Volunteer Committee/Board Application

RECEIVED

Planning & Zoning Advisory Board Application

The Planning and Zoning Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Planning and Zoning Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be 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, re-plats and zoning change requests. They also 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 Projects 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. Name: Liz Ritter Cell Phone: 321-544-2036
 - 2. Home Address: 2860 Orange Ave
 - 3. Email Address: FLizRitter@aol.com
 - 4. Are you a resident of the Town: Yes No
 - 5. How long have you been a resident of the Town of Malabar: 35 years
 - 6. Are you currently involved with any other organization of the Town: Yes No
- If yes, which organization: _____

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: Car Ritter TELEPHONE: ^{Cell} 321-544-2036
ADDRESS: 1860 Orange Ave
EMAIL: CLRitter@aol.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES [] NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

Admin.

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

Canaveral Mineral & Gem Society

ADDITIONAL INFORMATION/REFERENCES:

Past Council Member

Please select the Board that you would like to serve on by indicating first choice & second choice:

Board of Adjustment Planning & Zoning
 Parks & Recreation Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

Car Ritter
Signature of Applicant

10-23-23
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - Malabar Code of Conduct
 - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.



Signature

10/23/23

Date

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Town of Malabar Board Member Code of Conduct

(Malabar Code Chap 2. – Code of Conduct) In addition to adhering to the requirements of State Law, any person appointed to serve as a Member of a Town Board or Committee shall commit to the following Code of Conduct by written affirmation, which shall remain on file with the Town Clerk, as follows:

I affirm that the proper Statutory and Town Charter role of Members of appointed Town Boards and Committees, as with any Member of an appointed government body, is to act collectively, not individually, to apply the Town's governing policies, and that the Town Administrator and Staff administer such policies.

I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into daily operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.

Liz Ritter
Signature

10-23-2023
Date

Liz Ritter
Print Name

Dominic M. Sheehan
Witness

*This should apply to All,
Including Town Employees!*

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.d**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

**SUBJECT: Appoint Murray Hann to the Trails and Greenways Committee
(Resolution 13-2023)**

BACKGROUND/HISTORY:

Murray Hann, a Malabar resident, submitted an application to Town Staff to remain in his position on the Trails and Greenways Committee. Mr. Hann has submitted all of the required paperwork and meets the minimum requirements for Board Membership.

ATTACHMENTS:

- Resolution 13-2023
- Mr. Hann's Application Packet

ACTION:

- Motion to approve Resolution 13-2023.

FINANCIAL IMPACT:

- None.

RESOLUTION 13-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF MURRAY HANN TO THE MALABAR TRAILS AND GREENWAYS COMMITTEE AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Trails and Greenways Committee; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Murray Hann as a regular member of the Trails and Greenways Committee for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the members, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Trails & Greenways (T&G) Committee Application

The T&G Committee is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Committee is established to deal with the specific subject of trails and greenways within Malabar and how they connect to the South Brevard Linear Trail system. The Committee shall gather information and present it to the Park and Recreation Board for referral to the Town Council. The Committee is advisory in nature but consults with trail groups from other agencies on trail related issues and forwards their recommendations to the Parks and Recreation Board for their consideration and recommendation to Council.

1. Name: MURRAY HANN Phone: (321) 223-3265
2. Home Address: 1365 COREY RD, MALABAR, FL.
3. Email Address: MURRAY.HANN@L3HARRIS.COM
4. Are you a resident of the Town: Yes No
5. How long have you been a resident of the Town of Malabar: 30 YEARS
6. Are you currently involved with any other organization of the Town: Yes No
If yes, which organization: (NOT SURE IF BMBA COUNTS AS "IN TOWN")

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: MURRAY HANN TELEPHONE: 321 223-3265
ADDRESS: 1365 COREY RD, MALABAR, FL.
EMAIL: MURRAY.HANN@LBHARRIS.COM

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

ENGINEER

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

BREVARD MOUNTAIN BIKING ASSOC BOB, BREV COUNTY
BPTAC MEMBER & EELS REAC MEMBER

ADDITIONAL INFORMATION/REFERENCES:

Please select the Board that you would like to serve on by indicating first choice & second choice:

Board of Adjustment Planning & Zoning
 Parks & Recreation Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

Murray Hann
Signature of Applicant

11/01/2023
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

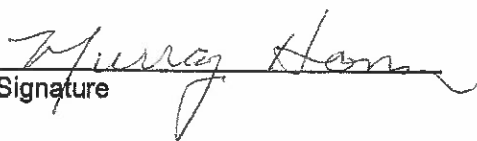
Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - Malabar Code of Conduct
 - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.


Signature

11/01/2023
Date

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Town of Malabar Board Member Code of Conduct

(Malabar Code Chap 2. – Code of Conduct) In addition to adhering to the requirements of State Law, any person appointed to serve as a Member of a Town Board or Committee shall commit to the following Code of Conduct by written affirmation, which shall remain on file with the Town Clerk, as follows:

I affirm that the proper Statutory and Town Charter role of Members of appointed Town Boards and Committees, as with any Member of an appointed government body, is to act collectively, not individually, to apply the Town's governing policies, and that the Town Administrator and Staff administer such policies.

I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into daily operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.

Murray Horn
Signature

MURRAY HORN
Print Name

11/01/2023
Date

Frank W. Koller
Witness

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.e**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Appoint Hans Kemmler to the Parks and Recreation Board (Resolution 14-2023)

BACKGROUND/HISTORY:

Hans Kemmler, a Malabar resident, submitted an application to Town Staff to remain in his position on the Parks and Recreation Board. Mr. Kemmler has submitted all of the required paperwork and meets the minimum requirements for Board Membership.

ATTACHMENTS:

- Resolution 14-2023
- Mr. Kemmler's Application Packet

ACTION:

- Motion to approve Resolution 14-2023.

FINANCIAL IMPACT:

- None.

RESOLUTION 14-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF HANS KEMMLER TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Parks and Recreation Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Hans Kemmler as a regular member of the Parks and Recreation Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the members, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR
OCT 31 2023
RECEIVED

Town of Malabar Volunteer Committee/Board Application

Park & Recreation Advisory Board Application

The Park & Recreation Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Board discusses matters relating to the acquisition, development, maintenance, rehabilitation and operations of parks and recreation properties and facilities within the Town of Malabar and forward their recommendations to the Town Council for their consideration.

1. Name: Hans Kemmler Phone: 321-223-6222
 2. Home Address: 2785 Malabar Rd, Malabar FL 32950
 3. Email Address: ib@hanskemmler.com
 4. Are you a resident of the Town: Yes No
 5. How long have you been a resident of the Town of Malabar: 2004
 6. Are you currently involved with any other organization of the Town: Yes No
- If yes, which organization: NA

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: Hans Kemmler TELEPHONE: 321-223-6222
ADDRESS: 2785 Malabar Rd, Malabar, FL 32950
EMAIL: ibe.hans.kemmler.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: [X] YES [] NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

Engineer, Radar

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

Disc Golf
Precinct Clerk

ADDITIONAL INFORMATION/REFERENCES:

Brian Veil, Pat Reilly

Please select the Board that you would like to serve on by indicating first choice & second choice:

Board of Adjustment Planning & Zoning
Parks & Recreation Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

[Signature]
Signature of Applicant

10/31/23
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - Malabar Code of Conduct
 - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.



Signature

10/31/23

Date

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Town of Malabar Board Member Code of Conduct

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I affirm that the proper Statutory and Town Charter role of Members of appointed Town Boards and Committees, as with any Member of an appointed government body, is to act collectively, not individually, to apply the Town's governing policies, and that the Town Administrator and Staff administer such policies.

I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into daily operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.


Signature

Hans Kemmler
Print Name

10/31/2023
Date


Witness

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.f**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Appoint Eric Bienvenu to the Parks and Recreation Board (Resolution 15-2023)

BACKGROUND/HISTORY:

Eric Bienvenu, a Malabar resident, submitted an application to Town Staff to remain in his position on the Parks and Recreation Board. Mr. Bienvenu has submitted all of the required paperwork and meets the minimum requirements for Board Membership.

ATTACHMENTS:

- Resolution 15-2023
- Mr. Bienvenu's Application Packet

ACTION:

- Motion to approve Resolution 15-2023.

FINANCIAL IMPACT:

- None.

RESOLUTION 15-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF ERIC BIENVENU TO THE MALABAR PARKS AND RECREATION BOARD AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Parks and Recreation Board; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Eric Bienvenu as a regular member of the Parks and Recreation Board for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the members, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Park & Recreation Advisory Board Application

The Park & Recreation Board is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The Board is advisory in nature. Members of the Board shall hold no other Town office. The affirmative vote of a majority of the regular and alternate board members present and voting (maximum of five votes) shall be necessary for the adoption of any motion. The Board discusses matters relating to the acquisition, development, maintenance, rehabilitation and operations of parks and recreation properties and facilities within the Town of Malabar and forward their recommendations to the Town Council for their consideration.

1. Name: Eric Bienvenu Phone: 321 652 4070
 2. Home Address: 2480 Rocky Pt. Road Malabar 32950
 3. Email Address: eric @ avyaparts.com
 4. Are you a resident of the Town: Yes [] No []
 5. How long have you been a resident of the Town of Malabar: 12 years
 6. Are you currently involved with any other organization of the Town: Yes [] No []
- If yes, which organization: _____

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

- This application, when completed and filed with the Office of the Town Clerk, is a PUBLIC RECORD UNDER Chapter 119, Florida Statute, and is open to public inspection.
- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - Malabar Code of Conduct
 - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.



Signature

10/30/23

Date

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
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TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Town of Malabar Board Member Code of Conduct

(Malabar Code Chap 2. – Code of Conduct) In addition to adhering to the requirements of State Law, any person appointed to serve as a Member of a Town Board or Committee shall commit to the following Code of Conduct by written affirmation, which shall remain on file with the Town Clerk, as follows:

I affirm that the proper Statutory and Town Charter role of Members of appointed Town Boards and Committees, as with any Member of an appointed government body, is to act collectively, not individually, to apply the Town's governing policies, and that the Town Administrator and Staff administer such policies.

I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into daily operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.


I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.




Signature

10/30/23

Date

ERIC BIENVENUE

Print Name



Witness

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 12.g
Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Appoint Charles “Chuck” Frazee to the Board of Adjustment (Resolution 16-2023)

BACKGROUND/HISTORY:

Charles “Chuck” Frazee, a Malabar resident, submitted an application to Town Staff to remain in his position on the Board of Adjustment. Mr. Frazee has submitted all of the required paperwork and meets the minimum requirements for Board Membership.

ATTACHMENTS:

- Resolution 16-2023
- Mr. Frazee’s Application Packet

ACTION:

- Motion to approve Resolution 16-2023.

FINANCIAL IMPACT:

- None.

RESOLUTION 16-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF CHARLES “CHUCK” FRAZEE TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Board of Adjustment; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Charles “Chuck” Frazee as a regular member of the Board of Adjustment for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the members, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

OCT 30 2023

Town of MalabarVolunteer Committee/Board ApplicationBoard of Adjustment Application

The Board of Adjustment is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The quorum for the Board of Adjustment is four (4) members. The Board shall meet only on an as needed basis when a property owner requests a variance to the Land Development Code or the Street Improvement Code. They shall also hear and consider challenges to the administrative decisions by the Town Building Official or Town Engineer. The Board of Adjustment shall have the authority to compel attendance of witnesses at hearings or meetings and to administer oaths. Any appeal of the decision of the Board of Adjustment shall be made through the Circuit Court and must be made within thirty (30) days of the finding by the Board of Adjustment.

1. Name: CHARLES J. FRAZEE Phone: 407-448-2409
 2. Home Address: 2860 ROCKY POINT RD. MALABAR, FL. 32950
 3. Email Address: CJFRAZEE@FRAZEEINC.COM
 4. Are you a resident of the Town: Yes No
 5. How long have you been a resident of the Town of Malabar: 30 YEARS
 6. Are you currently involved with any other organization of the Town: Yes No
- If yes, which organization: _____

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
 Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
 Website: www.townofmalabar.org

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

NOTE: Florida's Public Records Law, Chapter 119, Florida Statutes states, "It is the policy of this state that all state, county, and municipal records shall at all times be open for a personal inspection by any person." Your application when filed will become a public record and subject to the above statute. In addition, any appointed member of a board of any political subdivision (except members of solely advisory bodies) and all members of bodies exercising planning, zoning or natural resources responsibilities are required to file a financial disclosure form within 30 days after appointment and annually thereafter for the duration of the appointment as required by F.S. Chap. 112.

NAME: CHARLES J. FRAZEE TELEPHONE: 407-448-2409
ADDRESS: 2860 ROCKY POINT RD. MALABAR, FL. 32950
EMAIL: CJ.FRAZEE@FRAZEEINC.COM

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: [X] YES [] NO

OCCUPATION: (If retired, please indicate former occupation or profession.)

RETIRED FRAZEE, INC.

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

ADDITIONAL INFORMATION/REFERENCES:

Please select the Board that you would like to serve on by indicating first choice & second choice:

[X] Board of Adjustment [] Planning & Zoning
[] Parks & Recreation [] Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

Charles J. Frazee
Signature of Applicant

10/27/23
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

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- I am responsible for keeping the information on this form current and that any changes or updates will be provided to the Office of the Town Clerk.
- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
 - Malabar Code of Conduct
 - Code of Ethics for Public Officials (F.S., Chapter 112, Part III)
 - Florida Sunshine Law (F.S., Chapter 286)

I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.

Charles J. Frayee
Signature

10/27/23
Date



TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
(321) 727-7764 OFFICE • (321) 722-2234 FAX
www.townofmalabar.com

Town of Malabar Board Member Code of Conduct

(Malabar Code Chap 2. – Code of Conduct) In addition to adhering to the requirements of State Law, any person appointed to serve as a Member of a Town Board or Committee shall commit to the following Code of Conduct by written affirmation, which shall remain on file with the Town Clerk, as follows:

I affirm that the proper Statutory and Town Charter role of Members of appointed Town Boards and Committees, as with any Member of an appointed government body, is to act collectively, not individually, to apply the Town's governing policies, and that the Town Administrator and Staff administer such policies.

I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into daily operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.

Charles J. Frazee
Signature

10/27/23
Date

CHARLES J. FRAZEE
Print Name

Dominic M. Shuman
Witness

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.h**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Appoint David Sowards to the Board of Adjustment (Resolution 17-2023)

BACKGROUND/HISTORY:

David Sowards, a Malabar resident, submitted an application to Town Staff to remain in his position on the Board of Adjustment. Mr. Sowards has submitted all of the required paperwork and meets the minimum requirements for Board Membership.

ATTACHMENTS:

- Resolution 17-2023
- Mr. Sowards' Application Packet

ACTION:

- Motion to approve Resolution 17-2023.

FINANCIAL IMPACT:

- None.

RESOLUTION 17-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF DAVID SOWARDS TO THE MALABAR BOARD OF ADJUSTMENT AS A REGULAR MEMBER; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has been notified of completed terms on the Board of Adjustment; and

WHEREAS, Malabar Town Council desires to fill this opening by appointment.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of David Sowards as a regular member of the Board of Adjustment for a three-year term.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to notify the members, the Board Chair and the Board Secretary of this appointment.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

Council Member Marisa Acquaviva	_____
Council Member Brian Vail	_____
Council Member Jim Clevenger	_____
Council Member David Scardino	_____
Council Member Mary Hofmeister	_____

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

(seal)

By: _____

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR
NOV 01 2023
RECEIVED

Board of Adjustment Application

The Board of Adjustment is hereby established and shall consist of five (5) seats and two (2) alternate-seats. The quorum for the Board of Adjustment is four (4) members. The Board shall meet only on an as needed basis when a property owner requests a variance to the Land Development Code or the Street Improvement Code. They shall also hear and consider challenges to the administrative decisions by the Town Building Official or Town Engineer. The Board of Adjustment shall have the authority to compel attendance of witnesses at hearings or meetings and to administer oaths. Any appeal of the decision of the Board of Adjustment shall be made through the Circuit Court and must be made within thirty (30) days of the finding by the Board of Adjustment.

- 1. Name: DAVID SOWARDS Phone: 321 987-5492
 - 2. Home Address: 1565 Corey Rd Malabar, FL 32950
 - 3. Email Address: dmsowards@aol.com
 - 4. Are you a resident of the Town: Yes No
 - 5. How long have you been a resident of the Town of Malabar: 16 years
 - 6. Are you currently involved with any other organization of the Town: Yes No
- If yes, which organization: _____

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
Website: www.townofmalabar.org

TOWN OF MALABAR

APPLICATION FOR APPOINTMENT TO BOARD/COMMITTEE

TOWN OF MALABAR
NOV 01 2023
RECEIVED

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NAME: DAVID SOWARDS TELEPHONE: 321 987 5492
ADDRESS: 1565 Corey Rd Malabar FL 32950
EMAIL: dmsowards@aol.com

RESIDENT OF TOWN FOR 12 MONTHS OR LONGER: YES [] NO

OCCUPATION: (If retired, please indicate former occupation or profession.)
ARBORIST

PROFESSIONAL AND/OR COMMUNITY ACTIVITIES:

ADDITIONAL INFORMATION/REFERENCES:

Please select the Board that you would like to serve on by indicating first choice & second choice:

- Board of Adjustment Planning & Zoning
 Parks & Recreation Trails & Greenways

Per Town Code, Council shall require removal of members after 3 successive absences.

David Sowards
Signature of Applicant

10/1/23
Date

Please return this form to: Town Clerk
Town of Malabar
2725 Malabar Road
Malabar, FL 32950-4427
Email: townclerk@townofmalabar.org

Note: If you need more information concerning the duties of these Boards, please contact the Town Clerk. Please attach a copy of your resume to this application. You will be notified of the date of the Town Council Meeting that your application will be considered for appointment. You will need to plan to attend the Council Meeting.

TOWN OF MALABAR
NOV 17 2023
RECEIVED

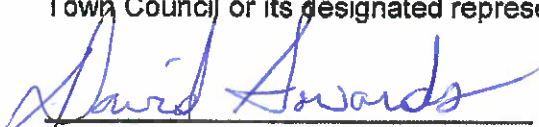
Applicant Certification

By completing this application with the Town of Malabar and placing my signature below, I do hereby acknowledge the following:

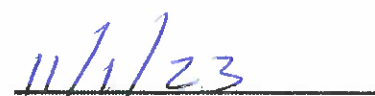
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- I acknowledge that I am a resident of the Town of Malabar.
- I consent to filing the Statement of Financial Interest as required by Chapter 112, Florida Statutes.
- If appointed to a Committee or Board, I acknowledge that it is my obligation and duty to comply with the following:
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I understand the responsibilities associated with being a Committee or Board member and I will have adequate time to serve on this Committee or Board.

The information provided on this form is true and correct and consent is hereby given to the Town Council or its designated representative to verify any and/or all the information provided.



Signature



Date

Town of Malabar 2725 Malabar Road Malabar, Florida 32950
Phone: 321-727-7763 ~ Fax 321-722-2234 ~ Email: townclerk@townofmalabar.org
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TOWN OF MALABAR

2725 MALABAR ROAD • MALABAR, FLORIDA 32950
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www.townofmalabar.com

TOWN OF MALABAR
NOV 01 2023
RECEIVED

Town of Malabar Board Member Code of Conduct

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I understand that an appointed Board or Committee Member does not manage the affairs of the Town. I will not intrude into dally operations or spheres of responsibility designated by Florida Statutes, Town Code, and Town Charter to the Town Administrator as the Chief Executive Officer; or undermine the Town Administrator's lawful authority. Further, I understand that the Town Administrator is responsible for administering the policy direction established by a majority vote of the Town Council and not the individual wishes of Board or Committee Members.

I will represent the interests of the entire Town when making decisions and will rely upon available facts and my independent judgment. In my capacity as an appointed Board or Committee Member, I will avoid conflicts of interest and avoid using my official position for personal, professional, or partisan gain.

I will demonstrate dignity, respect, and courtesy toward those whom I am in contact with in my capacity as an appointed Board or Committee Member. I will refrain from intimidation and ridicule of fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of the Town, and those conducting business with the Town.

In my capacity as an appointed Board or Committee Member, I will refrain from inappropriate language including statements that are malicious, threatening, slanderous, disparaging, mean-spirited, vulgar or abusive. All disagreements, concerns or criticisms shall be framed in language that is in keeping with the dignity and professionalism of an appointed official and the honor of my respective Town Board or Committee.

I will focus on solving problems. I will maintain appropriate decorum and professional demeanor in the conduct of Town business and work cooperatively and conscientiously with others as I request or receive information, examine data or weigh alternatives in the decision-making process.

I will demonstrate patience and refrain from demanding, interruptive access to Staff or immediate responses or services when requesting information that requires significant Staff time in research, preparation or analysis or that will result in Staff neglect of urgent duties. Such requests will be made through the Town Administrator for scheduling and prioritizing through consensus of my respective Town Board or Committee.

I will devote adequate time for preparation prior to my respective Town Board or Committee meetings and as much as possible, I will be in attendance at such meetings and all other scheduled events where my participation is required.

I will respect diversity and encourage the open expression of divergent ideas and opinions from fellow Board or Committee Members, Town Council Members, Town Administrator, Town Attorney, Staff, citizens of Malabar. I will listen actively and objectively to others' concerns or constructive criticisms.

I will refrain from any individual action that could compromise lawfully authorized decisions of the Town or the integrity of the Town and my fellow Board or Committee Members. I will delineate clearly for any audience whether I am acting or speaking as an individual citizen or in my capacity as a Town Board or Committee Member.

I will maintain the confidentiality of privileged information and will abide by all laws of the State applicable to my conduct as a Board or Committee Member, including but not limited to the Government in the Sunshine Law, the Florida Code of Ethics for Public Officers, and Town Rules of Procedure and Codes of Conduct.

I will promote constructive relations in a positive climate with all Members of the Town Council, Town employees, Town Attorney, and Town contractors and consultants consistent with my role as a Board or Committee Member, as a means to enhance the productivity and morale of the Town. I will support the Town Administrator's decision to employ the most qualified persons for Staff positions. I will recognize the bona fide achievements of the Town Council, Town Administrator, Staff, Town Attorney, Town contractors and consultants, business partners, and others sharing in, and striving to achieve, the Town's mission.

I will enhance my knowledge and ability to contribute value to the Town as a Board or Committee Member by keeping abreast of issues and trends that could affect the Town through reading, continuing education and training. I will study policies and issues affecting the Town, and will attend training programs if required by the Town. My continuing goal will be to improve my performance as a Board or Committee Member.

I will value and assist my fellow Board or Committee Members by exchanging ideas, concerns, and knowledge through lawful means of communication. I will help build positive community support for the Town's mission and the policies established by the Town Council.

I will support and advocate for my beliefs, but will remain open to understanding the views of others. I recognize that I share in the responsibility for all Town decisions that my respective Board makes and will accept the will of the majority.

As a Board or Committee Member, I will always hold the best interests of the citizens of the Town and the public health, safety and welfare of the community in the highest regard. I will seek to provide appropriate leadership that nurtures and motivates Town citizens to be stakeholders in the affairs and achievements of the Town.

I will be accountable to the Town Council for violations of this Code of Conduct.

David Sowards
Signature

11/1/23
Date

DAVID SOWARDS
Print Name

Demetri M. Shereas
Witness

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 12.i.
Meeting Date: November 6, 2023

Through: Lisa Morrell, Treasurer/Special Projects Manager

SUBJECT: CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2023 (Resolution 18-2023)

BACKGROUND/HISTORY:

At the August 21, 2023 Town Council Meeting, Town Council executed Engagement Letters for Florida Municipal Loan Council Financing Program (FMLC) and Public Resources Advisory Group, Inc. (PRAG) for the purpose of accomplishing more road maintenance projects as included in the 2023 budget workshops. The road maintenance for repaving methods were based upon the priorities of the Roadway Asphalt Pavement Surface Evaluation Report Surficial Road Paving Analysis performed by Engineering Design & Construction, Inc (EDC) presented to Town Council March 20, 2023.

PRAG provided professional financial services for a request for proposal that was derived for qualified banking institutions to respond for a loan amount of \$3,500,000 over a period of fifteen years to achieve capital improvement projects for the Town was released within the financial market.

The Note is to be issued as a single, fully registered note in a principal amount of \$3,500,000; shall be dated its date of delivery and shall mature on October 1, 2038. The Note shall bear a fixed interest rate of 5.08% per annum, and interest shall be payable on each April 1 and October 1, commencing April 1, 2024, and thereafter until the principal amount of the Note has been paid. Interest shall be calculated on the basis of a 360-day year consisting of 12 months of 30 days each. Principal shall be payable annually on October 1, commencing on October 1, 2024, and thereafter, through and including, the Maturity Date.

The Note shall be subject to optional prepayment as set forth in the Loan Agreement. There is no prepayment premium due after October 1, 2031.

FINANCIAL IMPACT:

The proceeds received from the Loan as evidenced by the Note in the amount of \$3,500,000 shall be applied by the Issuer as follows:

- \$36,525.00, representing a portion of the proceeds of the Note shall be applied to pay costs of issuance of the Note in accordance with the Closing Memorandum; and
- \$3,463,475.00, representing a portion of the proceeds of the Note shall be deposited in the Project Fund and applied to pay Costs of the Project.

The total value of the loan is \$5,074,066.22.

The note has a fixed interest rate is 5.08% computed based on twelve 30-day months and a 360-day year.

The principal of and interest on the Note shall be secured by a covenant to budget and appropriate legally available Non-Ad Valorem Revenues

Interest payments are due each April 1 and October 1, commencing April 1, 2024.

Principal shall be payable annually on October 1, commencing on October 1, 2024, and thereafter, through and including, the maturity date, October 1, 2038.

The average annual payment amount is \$338,271.08:

ATTACHMENTS:

- Resolution 18-2023
- Loan Agreement - Town of Malabar (02584108-5)

ACTION OPTIONS:

- Motion to approve Resolution 18-2023, authorizing Mayor Reilly to sign and execute the agreement with Webster Bank National Association, located at 360 Lexington Ave, 5th Floor, New York, New York 10017, for a \$3,500,000 loan, to be repaid over 15 years with 5.08% interest.

RESOLUTION NO. 18-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF ITS \$3,500,000 CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2023, FOR THE PURPOSE OF FINANCING THE CONSTRUCTION AND ACQUISITION OF CERTAIN CAPITAL PROJECTS, AS MORE FULLY DESCRIBED HEREIN; AUTHORIZING THE NEGOTIATED SALE OF SUCH NOTE TO WEBSTER BANK, NATIONAL ASSOCIATION, PURSUANT TO THE TERMS AND CONDITIONS OF A LOAN AGREEMENT BY AND AMONG THE FLORIDA MUNICIPAL LOAN COUNCIL, THE TOWN OF MALABAR, FLORIDA, AND WEBSTER BANK, NATIONAL ASSOCIATION; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT; DESIGNATING THE NOTE AS A "QUALIFIED TAX-EXEMPT OBLIGATION;" MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH NOTE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, participating governmental units have created the Florida Municipal Loan Council (the "Council") pursuant to a certain Interlocal Agreement and pursuant to Chapter 163, Part I, Florida Statutes, for the purpose of issuing its bonds to make loans to participating governmental units for qualified projects; and

WHEREAS, the Council administers a financing program within the State of Florida (the "State") whereby funds are provided by a qualified lending institution and loaned directly to the participating local government to finance, refinance, or reimburse the costs of qualifying projects and secured by a debt obligation issued by such participating local government (the "Program"); and

WHEREAS, through the Program, participating local governments receive access to the Council's team of professionals and pre-reviewed set of form financing documents, and the Council coordinates the financing process and professionals through loan closing; and

WHEREAS, the Town of Malabar, Florida (the "Issuer") is a municipal corporation duly created and existing pursuant to the Constitution and laws of the State of Florida (the "State"); and

WHEREAS, the Issuer has determined that it is necessary to adopt this resolution authorizing the issuance of debt to finance the construction, acquisition, renovation, and equipping of various capital improvements, including, but not limited to, the resurfacing and improving of various roads (the "Project"); and

WHEREAS, the Issuer is authorized pursuant to the provisions of the Constitution of the State, Chapter 166, Florida Statutes, the Charter of the Issuer and other applicable provisions of law, each as amended to participate in the Program and to borrow funds to finance the costs of the Project (the "Loan"); and

WHEREAS, it is determined that it is necessary and desirable and in the best interest of the inhabitants of the Issuer to finance the Project, and that the Project serves a public purpose;

WHEREAS, it is determined that it is necessary and desirable and in the best interest of the Issuer to issue its \$3,500,000 Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023 (the "Note") pursuant to a Loan Agreement, by and among the Issuer, the Council, and Webster Bank, National Association (the "Lender"), in substantially the form attached hereto as Exhibit A (the "Loan Agreement"), to finance the costs of the Project and to pay the transaction costs associated with the issuance of the Note; and

WHEREAS, debt service on the Note and any other amounts due under the Loan Agreement will be secured by a covenant to budget and appropriate legally available non-ad valorem revenues of the Issuer (the "Non-Ad Valorem Revenues"), as further described in this Resolution and in the Loan Agreement; and

WHEREAS, the Non-Ad Valorem Revenues are estimated to be sufficient to pay all principal of and interest on the Note, as the same becomes due, and to make all other deposits or payments required by this Resolution and the Loan Agreement; and

WHEREAS, the Issuer received proposals from a number of financial institutions in response to the Issuer's request for proposals, dated September 28, 2023; and

WHEREAS, it is determined that it is necessary and desirable and in the best interest of the Issuer to authorize the Mayor, or his or her duly authorized designee, to accept the proposal from the Lender to extend credit to the Issuer by obtaining a loan evidenced by the Note upon the terms and conditions set forth in, this Resolution, the Loan Agreement, and in the term sheet, dated October 18, 2023, submitted by the Lender with respect to the Note, a copy of which is attached hereto as Exhibit B (the "Loan Commitment"); and

WHEREAS, due to the present volatility of the market for tax-exempt obligations such as the Note and the complexity of the transactions relating to the Note, including the duration of the Note and the relatively small size of the principal amount of the Note, it is in the best interest of the Issuer that the Note be issued on a negotiated basis to the Lender; and

WHEREAS, the Issuer will be provided all applicable disclosure information by the Lender as required by Section 218.385, Florida Statutes; and

WHEREAS, the Note shall not constitute a general obligation, or a pledge of the faith, credit, or taxing power of the Issuer, the State, or any political subdivision thereof, within the meaning of any constitutional or statutory provisions. Neither the State, nor any political subdivision thereof, nor the Issuer shall be obligated to (i) exercise its ad valorem taxing power in any form on any real or personal property of or in the Issuer to pay the principal of and interest on the Note, or any other amounts due under the Loan Agreement, or (ii) to pay the same from any other funds of the Issuer except from the Non-Ad Valorem Revenues budgeted and appropriated and deposited to the debt service fund established in the Loan Agreement, all in the manner provided in this Resolution and the Loan Agreement. The Note shall not constitute a lien on any property owned or situated within the limits of the Issuer.

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

SECTION 1. **ADOPTION OF REPRESENTATIONS.** The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

SECTION 2. **AUTHORITY.** This Resolution is adopted pursuant to the Constitution of the State, Chapter 166, Florida Statutes, the Charter of the Issuer, and other applicable provisions of law, each as amended (collectively, the "Act").

SECTION 3. **AUTHORIZATION OF THE PROJECT.** The Issuer does hereby authorize the acquisition and construction of the Project.

SECTION 4. **AUTHORIZATION OF THE LOAN AGREEMENT.** To provide for the security of the Note and to express the contract among the parties to the Loan Agreement, the Issuer does hereby authorize and direct the Mayor or Vice Mayor of the Issuer, or their duly authorized designee (the "Mayor"), as attested by the Town Clerk of the Issuer, or his or her duly authorized designee (the "Town Clerk"), and approved as to form by the Town Attorney, or his or her duly authorized designee (the "Town Attorney"), if required, to execute and deliver the Loan Agreement and to undertake all actions in respect to the Loan Agreement, which is in substantially the form attached hereto as Exhibit A, with such changes, amendments, modifications, deletions, and additions as may be approved by the Mayor, after consultation with the Town Attorney, the execution thereof being conclusive evidence of such approval.

SECTION 5. **AUTHORIZATION OF THE NOTE.** Subject and pursuant to the provisions of this Resolution, and the terms and provisions of the Loan Agreement, an obligation of the Issuer to be designated as "Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023" is hereby authorized to be issued, which Note shall evidence amounts outstanding under the Loan Agreement and will be repaid in accordance with the terms of the Loan Agreement. The proceeds of the Note shall be used for the principal purpose of financing all or a portion of the costs of the Project and financing certain costs of issuance incurred with respect to

the Loan, which such costs shall include costs of issuance incurred by the Issuer, the Lender, and the Council.

SECTION 6. DESCRIPTION OF THE NOTE.

(A) The Note is to be issued as a single, fully registered note in a principal amount of \$3,500,000; shall be dated its date of delivery and shall mature on October 1, 2038 (the "Maturity Date"). The Note shall bear a fixed interest rate of 5.08% per annum, and interest shall be payable on each April 1 and October 1, commencing April 1, 2024, and thereafter until the principal amount of the Note has been paid. Interest shall be calculated on the basis of a 360-day year consisting of 12 months of 30 days each. Principal shall be payable annually on October 1, commencing on October 1, 2024, and thereafter, through and including, the Maturity Date.

(B) The Note shall be subject to optional prepayment as set forth in the Loan Agreement.

SECTION 7. EXECUTION OF THE NOTE. The Note shall be executed in the name of the Issuer with the manual or facsimile signature of the Mayor, and the official seal of the Issuer shall be imprinted thereon, attested, countersigned, and authenticated with the manual or facsimile signature of the Town Clerk, and approved as to form and legal sufficiency by the Town Attorney, if necessary. In case any one or more of the officers who shall have signed or sealed the Note, or whose facsimile signature shall appear thereon, shall cease to be such officer of the Issuer before the Note so signed and sealed has been actually sold and delivered, such Note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Note had not ceased to hold such office. The Note may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of such Note shall hold the proper office of the Issuer, although, at the date of such Note, such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or both shall have ceased to hold such office at the time the Note shall be actually sold and delivered.

SECTION 8. FORM OF THE NOTE. The text of the Note shall be in substantially the form set forth on Exhibit C of the Loan Agreement with such changes, amendments, modifications, deletions, and additions as may be approved by the Mayor, upon consultation with the Town Attorney, the execution thereof being conclusive evidence of such approval.

SECTION 9. NEGOTIATED SALE OF THE NOTE.

(A) Due to the present volatility of the market for tax-exempt obligations such as the Note and the complexity of the transactions relating to the Note, including the duration of the

Note and the relatively small size of the principal amount of the Note, it is in the best interest of the Issuer that the Note be issued on a negotiated basis to the Lender.

(B) Prior to the issuance of the Note, the Issuer shall receive from the Lender a Lender's Certificate, substantially in the form attached hereto as Exhibit C and a Disclosure Letter containing the information required by section 218.385, Florida Statutes, substantially in the form attached hereto as Exhibit D.

SECTION 10. PAYMENT OF THE NOTE; LIMITED OBLIGATION.

(A) The principal of and interest on the Note shall be secured by a covenant to budget and appropriate legally available Non-Ad Valorem Revenues in accordance with this Resolution and the Loan Agreement.

(B) THE FULL FAITH AND CREDIT OF THE ISSUER, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF, ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTE, AND ALL OTHER AMOUNTS DUE UNDER THE LOAN AGREEMENT, AND HOLDERS SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF ANY TAXING POWER OF THE ISSUER, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF, TO THE PAYMENT OF SUCH PRINCIPAL OR INTEREST, OR ALL OTHER AMOUNTS DUE UNDER THE LOAN AGREEMENT. THE NOTE AND THE OBLIGATION EVIDENCED THEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE ISSUER, AND SHALL BE PAYABLE FROM AND SECURED SOLELY BY THE NON-AD VALOREM REVENUES ACTUALLY BUDGETED, APPROPRIATED, AND DEPOSITED INTO A DEBT SERVICE FUND ESTABLISHED FOR SUCH PURPOSE, ALL IN THE MANNER AND TO THE EXTENT DESCRIBED IN THIS RESOLUTION AND THE LOAN AGREEMENT. THE NOTE SHALL NOT BE OR CONSTITUTE A GENERAL OBLIGATION OR INDEBTEDNESS OF THE ISSUER AS "BONDS" WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION.

SECTION 11. OTHER INSTRUMENTS. The Mayor, the Town Clerk, the Town Manager, the Town Finance Director, the Town Attorney, and other officers, attorneys, and other agents and employees of the Issuer are hereby authorized to perform all acts and things required of them by this Resolution and the Loan Agreement or desirable or consistent with the requirements thereof and hereof, for the full, punctual, and complete performance of all of the terms, covenants, and agreements contained in the Note, this Resolution, and the Loan Agreement, and they are hereby authorized to execute and deliver all documents which shall be required by note counsel, the Financial Advisor, or the Council to effectuate the issuance of the Note. All action taken to date by the officers, attorneys, and any other agents and employees of the Issuer in furtherance of the issuance of the Note is hereby approved, confirmed, and ratified.

SECTION 12. BANK QUALIFIED. The Issuer hereby designates the Note in the amount which is issued hereunder, which shall be an amount equal to \$3,500,000 (which together with

any previous tax-exempt debt of the Issuer issued in the calendar year 2023 totals less than \$10,000,000) as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3)(B)(i) of the Internal Revenue Code of 1986, as amended. There are no entities which are subordinate to or which issue obligations on behalf of the Issuer. The Issuer hereby covenants and agrees not to take any action or to fail to take any action if such action or failure would cause the Note to no longer be a "qualified tax-exempt obligation."

SECTION 13. SEVERABILITY AND INVALID PROVISIONS. If any one or more of the covenants, agreements, or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions and shall in no way affect the validity of any of the other provisions hereof.

[Remainder of page intentionally left blank]

SECTION 14. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage.

This Resolution 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 Marisa Acquaviva _____

Council Member Brian Vail _____

Council Member Jim Clevenger _____

Council Member David Scardino _____

Council Member Mary Hofmeister _____

This Resolution was then declared to be duly passed and adopted this 6th day of November, 2023.

Town of Malabar

By:

(Seal)

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Town Clerk, Town of Malabar

APPROVED AS TO FORM AND CONTENT:

Karl W. Bohne, Jr., Town Attorney

EXHIBIT A

FORM OF LOAN AGREEMENT

EXHIBIT B

THE LOAN COMMITMENT

EXHIBIT C

FORM OF LENDER CERTIFICATE

Town of Malabar
2725 Malabar Road
Malabar, Florida 32450

Re: \$3,500,000 Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023, dated November 9, 2023 (the "Loan Obligation")

Ladies and Gentlemen:

Webster Bank, National Association (the "Lender") is extending credit to the Town of Malabar, Florida (the "Issuer"), evidenced by the Loan Obligation to hold for its own account to maturity or earlier prepayment and has no present intent to distribute or sell any interest therein or portion thereof other than to an affiliate of the Lender, provided that the Lender retains the right at any time to dispose of the Loan Obligation or any interest therein or portion thereof, but agrees that any such sale, transfer, or distribution by the Lender shall be made in accordance with applicable law and the provisions of the Loan Obligation. The Lender has required that as a condition to making such loan, that no CUSIP numbers be obtained and that the Loan Obligation not be made DTC eligible. No inference should be drawn that the Lender, in the acceptance of the Loan Obligation, is relying on Bryant Miller Olive P.A., Note Counsel, or Schillinger & Coleman P.A., Town Attorney, as to any such matters other than the legal opinions rendered by Note Counsel and by the Town Attorney.

The Lender is a lender that regularly extends credit by making loans in the form of state and local government obligations; has knowledge and experience in financial and business matters that make it capable of evaluating the Issuer, the Loan Obligation, and the risks associated with the making of such loan; and has the ability to bear the economic risk of extending the credit evidenced by the Loan Obligation.

The Lender acknowledges that it is (a) a "qualified institutional buyer" as defined in Rule 144A promulgated by the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended (the "Securities Act"), or (b) an "accredited investor" as defined in Section 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act.

The Lender has conducted its own investigation of the financial condition of the Issuer and of the security for the payment of the principal of and interest on the Loan Obligation, and has obtained such information regarding the Loan Obligation, the Issuer, and its operations, financial condition, and financial prospects as the Lender deems necessary to make an informed credit decision with respect to the making of the loan evidenced by the Loan Obligation.

The Lender acknowledges that (a) the Loan Obligation (i) has not been registered under the Securities Act of 1933, as amended, (ii) has not been registered or otherwise qualified for sale under the securities laws of any state, (iii) will not be listed on any securities exchange, and (iv) will carry no rating from any rating agency; and (b) there is no established market for the Loan Obligation and that none is likely to develop. The Lender acknowledges that Resolution No. ___-2023, adopted by the Issuer on November 6, 2023, and the Loan Agreement, dated as of November 1, 2023, by and among the Florida Municipal Loan Council (the "Council"), the Issuer, and the Lender, are not being qualified under the Trust Indenture Act of 1939, as amended. The Lender acknowledges that (a) the making of the loan evidenced by the Loan Obligation is not intended to be subject to the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended, and (b) the Issuer has not prepared or caused to be prepared, any official statement, private placement memorandum or other offering document, or other disclosure document.

The Lender is not acting as a fiduciary for the Issuer or in the capacity of broker, dealer, placement agent, municipal securities underwriter, municipal advisor, or fiduciary in connection with its making of the loan evidenced by the Loan Obligation. The Lender has not acted as an agent or served as the Issuer's municipal advisor (as defined in Section 15B of the Securities and Exchange Act of 1934). The Lender has no fiduciary duty to the Issuer, and is entering into an arm's length transaction involving extending credit to the Issuer evidenced by the Loan Obligation. The Lender has not provided, and will not provide, financial, legal (including securities law), tax, accounting, or other advice to or on behalf of the Issuer (including to any financial advisor or any placement agent engaged by the Issuer) with respect to the structuring, issuance, sale, or delivery of the Loan Obligation. The Lender expresses no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to the Issuer or its financial advisor or placement agent.

The Lender acknowledges that the Council is a "municipal entity" under Section 15B(e)(8) of the Securities Exchange Act of 1934 (15 U.S.C.A.) and that it is not a municipal advisor to the Issuer and is not acting as such in providing services with respect to the Loan Obligation. The Lender also acknowledges that neither the Council nor Public Resources Advisory Group (the "Financial Advisor"), are acting as a broker or dealer with respect to the Loan Obligation nor is the loan being distributed as a security or otherwise marketed by the Council.

The Lender acknowledges that the Financial Advisor is relying on the representations contained herein for purposes of the Municipal Advisor's determination (i) that this transaction meets the requirements for being a qualified exception for purposes of MSRB Rule G-34, and (ii) that the Municipal Advisor is excepted and released from the requirement to request a CUSIP assignment on behalf of the Issuer pursuant to MSRB Rule G-34 for the Loan Obligation.

[Remainder of page intentionally left blank]

DATED this 9th day of November, 2023.

WEBSTER BANK, NATIONAL
ASSOCIATION

By: _____

Name: Kevin C. King

Title: Senior Managing Director

EXHIBIT D

FORM OF DISCLOSURE LETTER

The undersigned, on behalf of Webster Bank, National Association (the "Lender"), proposes to negotiate with the Town of Malabar, Florida (the "Issuer") for the extension of credit to the Issuer through the private purchase of the Issuer's \$3,500,000 Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023 (the "Note"). Prior to the award of the Note, the following information is hereby furnished to the Issuer:

1. Set forth below is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to the Lender in connection with the issuance of the Note:

Gilmore & Bell, P.C., Lender's Counsel
\$3,000.00

2. (a) No other fee, bonus, or other compensation is estimated to be paid by the Lender in connection with the issuance of the Note to any person not regularly employed or retained by the Lender (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Lender, as set forth in paragraph 1. above.

(b) No person has entered into an understanding with the Lender, or to the knowledge of the Lender, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Lender or to exercise or attempt to exercise any influence to effect any transaction in connection with the Note.

3. The amount of the underwriting spread expected to be realized by the Lender is \$0.00.

4. The management fee to be charged by the Lender is \$0.00.

5. Truth-in-Bonding Statement:

The Issuer is proposing to issue the Note in the principal amount of \$3,500,000 to finance the costs of certain capital improvements as described in Resolution No. __-2023 (the "Resolution") and the Loan Agreement, dated as of November 1, 2023, by and among the Issuer, the Lender, and the Florida Municipal Loan Council (the "Loan Agreement").

Based solely on calculations provided by Public Resources Advisory Group, the Note is expected to be repaid over a period of approximately 14.9 years. At a forecasted interest rate of 5.08%, total interest paid over the life of the Note is estimated to be approximately \$1,573,170.62.

The source of repayment or security for the Note is a covenant to budget and appropriate Non-Ad Valorem Revenues (as defined in the Loan Agreement). Issuance of the Note is estimated to result in an annual average of approximately \$340,608.25 of the Non-Ad Valorem Revenues not being available to finance the other services of the Issuer during the life of the Note for approximately 14.9 years. This paragraph is provided pursuant to section 218.385, Florida Statutes, is for informational purposes only, and shall not affect or control the actual terms and conditions of the Note.

6. The name and address of the Lender is as follows:

Webster Bank, National Association
360 Lexington Avenue, 5th Floor
New York, New York 10017
Attention: Public Sector Finance

This Disclosure Letter is provided for the sole purpose of complying with Section 218.385, Florida Statutes, as amended, and does not change the terms of and is not evidence of the terms of the Note. It is the understanding of the Lender that the Issuer has not requested any further disclosure from the Lender.

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Lender this 9th day of November, 2023.

WEBSTER BANK, NATIONAL
ASSOCIATION

By: _____
Name: Kevin C. King
Title: Senior Managing Director

LOAN AGREEMENT

by and among

WEBSTER BANK, NATIONAL ASSOCIATION,

FLORIDA MUNICIPAL LOAN COUNCIL,

and

TOWN OF MALABAR, FLORIDA

Dated as of November 1, 2023

TOWN OF MALABAR, FLORIDA
CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2023

This Instrument Prepared By:

Jason M. Breth, Esquire
Bryant Miller Olive P.A.
1545 Raymond Diehl Road, Suite 300
Tallahassee, Florida 32308

and

JoLinda Herring, Esquire
Bryant Miller Olive P.A.
SunTrust International Center
1 SE 3rd Avenue, Suite 2200
Miami, Florida 33131

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LOAN AGREEMENT

This Loan Agreement (the "Loan Agreement"), dated as of November 1, 2023, and entered into among WEBSTER BANK, NATIONAL ASSOCIATION, and its successors and assigns (the "Lender"), the FLORIDA MUNICIPAL LOAN COUNCIL (the "Council"), a separate legal entity and public body corporate and politic duly created and existing under the Constitution and laws of the State, and the TOWN OF MALABAR, FLORIDA (the "Issuer"), a duly constituted municipality under the laws of the State.

WITNESSETH:

WHEREAS, capitalized terms used in these recitals and not otherwise defined shall have the meanings specified in Article I of this Loan Agreement; and

WHEREAS, the Council is a separate legal entity and public body corporate and politic duly created and existing under the laws of the State organized and existing under and by virtue of the Interlocal Agreement by and among, initially, the City of DeLand, Florida, the City of Rockledge, Florida, and the City of Stuart, Florida, as amended and supplemented, together with the additional governmental entities who become members of the Council, in accordance with Chapter 163, Part I, Florida Statutes, as amended; and

WHEREAS, the Council has determined that the public interest will best be served and that the purposes of the Interlocal Act can be more advantageously obtained by the Council's administering a financing program within the State whereby funds are provided by a qualified lending institution and loaned directly to the participating local government to finance, refinance, or reimburse the costs of qualifying projects and secured by a debt obligation issued by the participating local government; and

WHEREAS, the Issuer is authorized under and pursuant to the Act and the Resolution to participate in the Program, enter into this Loan Agreement, and issue the Note for the purposes set forth herein; and

WHEREAS, pursuant to the authority of the Act, the Council desires to assist the Issuer in participating in the Program to provide a loan evidenced by the Note issued by the Issuer in an amount necessary to enable the Issuer to finance or reimburse the Costs of the Project; and

WHEREAS, pursuant to the authority of the Act and the Resolution, the Issuer desires to issue the Note and borrow such amount subject to the terms and conditions of and for the purposes set forth in this Loan Agreement; and

WHEREAS, the Issuer has determined that it is necessary, desirable, and in the best interests of the Issuer and its citizens, visitors, property owners, and workers, and to serve a public purpose that the Project be financed and completed; and

WHEREAS, the Issuer has determined that the lending of funds by the Lender to the Issuer pursuant to the terms of this Loan Agreement will assist in the development and maintenance of the public welfare of the residents of the State and the areas served by the Issuer, and shall serve a public purpose by improving the health and living conditions, and providing adequate governmental services, facilities, and programs and will promote the most efficient and economical development of such services, facilities, and programs in the State and the areas served by the Issuer; and

WHEREAS, the Issuer has determined that a covenant to budget and appropriate Non-Ad Valorem Revenues shall secure the Issuer's payment obligations under this Loan Agreement and the Note; and

WHEREAS, neither the Issuer nor the State or any political subdivision thereof, shall in any way be obligated to pay the principal of or interest on the Note, except that the Note shall be payable by the Issuer and secured solely from the funds and revenues pledged under and pursuant to this Loan Agreement, as the same shall become due, and the issuance of the Note hereunder shall not directly, indirectly, or contingently obligate the Issuer, the State, or any political subdivision or municipal corporation thereof to levy or pledge any form of ad valorem taxation for their payment; and

WHEREAS, the Lender is willing to extend credit to the Issuer by paying a purchase price for the Note as set forth herein in order to provide the funds to finance the Loan.

NOW, THEREFORE, for and in consideration of the premises hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. DEFINITIONS.

Unless the context or use indicates another meaning or intent, the following words and terms as used in this Loan Agreement shall have the following meanings, and any other hereinafter defined words and terms, shall have the meanings as therein defined.

"Accountant" means the independent certified public accountant or firm of independent certified public accountants employed by the Issuer under the provisions of this Loan Agreement to perform and carry out the duties imposed on the Accountant by this Loan Agreement.

"Act" means, collectively, to the extent applicable to the Issuer, Article VIII, Section 2 of the Florida Constitution; Chapter 166, Florida Statutes; the Charter of the Issuer; and other applicable provisions of law, each as amended.

"Additional Payments" means payments required by Section 5.02 hereof.

"Administration Fee" means the fee by that name described in Section 4.04 hereof.

"Audit" means the audited financial statements of the Issuer.

"Authorized Representative" means, when used pertaining to the Council, the Chairman of the Council and such other designated members, agents, or representatives as may hereafter be selected by Council resolution; and, when used with reference to the Issuer, means the Person performing the functions of the Mayor or Vice Mayor thereof or other officer authorized to exercise the powers and perform the duties of the Mayor; and, when used with reference to an act or document, also means any other Person authorized by resolution or ordinance to perform such act or sign such document.

"Balloon Indebtedness" means Debt, 25% or more of the original principal of which matures during any one Fiscal Year.

"Basic Payments" means the payments denominated as such in Section 5.01 hereof.

"Business Day" means any day of the year which is not a Saturday or Sunday or a day on which banking institutions located in New York, New York or the State are required or authorized to remain closed.

"Certificate," "Statement," "Request," "Requisition," and "Order" of the Council means, respectively, a written certificate, statement, request, requisition, or order signed in the name of the Council by its Chairman, Program Administrator, or such other Person as may be designated and authorized to sign for the Council; or of the Issuer means, respectively, a written certificate, statement, request, requisition, or order signed in the name of the Issuer by its Mayor or Vice Mayor, or such other Person as may be designated and authorized to sign for the Issuer. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion, or representation, and the two or more so combined shall be read and construed as a single instrument.

"Closing" means the closing of the Loan pursuant to this Loan Agreement.

"Closing Memorandum" means the Closing Memorandum for the Note, dated November 9, 2023, and providing the details for the delivery of the Note, the receipt and application of the proceeds of the Note and other moneys, and the costs of issuance to be paid with respect to the Note.

"Code" means the Internal Revenue Code of 1986, as amended, from time to time, including, when appropriate, the statutory predecessor thereof, or any applicable corresponding provisions of any future laws of the United States of America relating to federal income taxation, and except as otherwise provided herein or required by the context hereof, includes interpretations thereof contained or set forth in the applicable regulations of the Department of the Treasury (including applicable final or temporary regulations and also including regulations issued pursuant to the statutory predecessor of the Code, the applicable rulings of the Internal Revenue Service (including published Revenue Rulings and private letter rulings), and applicable court decisions).

"Costs" means all or a portion of the costs of undertaking the Project including, but not limited to: the purchase price of any project acquired; the cost of constructing or acquiring improvements; the cost of construction, extension, or enlargement; the cost of all lands, properties, rights, easements and franchises acquired; the cost of all machinery and equipment, financing charges, interest during construction; and, if deemed advisable, for one year after completion of construction, cost of investigations, audits, and engineering and legal services; and all other expenses necessary or incident to determining the feasibility or practicability of such acquisition or construction, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and to the acquisition or construction, of a project and the placing of the same in operation. Any obligation or expense incurred by the Issuer prior to the issuance of notes for engineering studies and for estimates of cost and of revenues, and for other technical, financial, or legal services in connection with the acquisition or construction of any project, may be regarded as a part of the cost of such project.

"Council" means the Florida Municipal Loan Council.

"Counsel" means an attorney duly admitted to practice law before the highest court of the State and, without limitation, may include legal counsel for either the Council, the Lender, or the Issuer.

"Debt" means at any date (without duplication) all of the following to the extent that they are guaranteed or secured by or payable in whole or in part from any Non-Ad Valorem Revenues (a) all obligations of the Issuer for borrowed money or evidenced by bonds, debentures, notes, or other similar instruments; (b) all obligations of the Issuer to pay the deferred purchase price of property or services, except trade accounts payable under normal trade terms and which arise in the ordinary course of business; (c) all obligations of the Issuer as lessee under capitalized leases; (d) all indebtedness of other Persons to the extent guaranteed by, or secured by, the Non-Ad Valorem Revenues of the Issuer; and (e) any obligation of the Issuer for borrowed money or evidenced by bonds, debentures, notes, or other similar instruments where the security provided by the Non-Ad Valorem Revenues is not the primary security for the obligation or is a backup pledge for the obligation; provided, however, if with respect to any obligation contemplated in (d) or (e) above, such obligation shall not be considered "Debt" for purposes of this Loan Agreement unless the Issuer has actually used

Non-Ad Valorem Revenues to satisfy such obligation during the immediately preceding Fiscal Year or reasonably expects to use Non-Ad Valorem Revenues to satisfy such obligation in the current or immediately succeeding Fiscal Year. After an obligation is considered "Debt" as a result of the proviso set forth in the immediately preceding sentence, it shall continue to be considered "Debt" until the Issuer has not used any Non-Ad Valorem Revenues to satisfy such obligation for two consecutive Fiscal Years.

"Debt Service Fund" means the special fund of the Issuer designated "Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023 Debt Service Fund" established pursuant to Section 2.02(b) hereof.

"Default" means an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

"Event of Default" shall have the meaning ascribed to such term in Section 8.01 of this Loan Agreement.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law.

"Governmental Funds" means all of the "governmental funds" of the Issuer as described and identified in the Audit.

"Governmental Funds Revenues" means total revenues of the Issuer derived from any source whatsoever and that are allocated to and accounted for in the Governmental Funds.

"Governmental Obligations" means (i) non-callable direct obligations of the United States of America ("Treasuries"), (ii) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any Person claiming through the custodian or to whom the custodian may be obligated, or (iii) any combination of the foregoing.

"Interest Account" means the separate account in the Debt Service Fund established pursuant to Section 2.02(b) hereof.

"Interest Payment Date" means April 1 and October 1 of each year, commencing April 1, 2024.

"Interest Period" means the semi-annual period between Interest Payment Dates.

"Interlocal Act" means Chapter 163, Part I, Florida Statutes.

"Interlocal Agreement" means that certain Interlocal Agreement originally dated as of December 1, 1998, initially by and among the City of Stuart, Florida, the City of Rockledge, Florida, and the City of DeLand, Florida, together with the additional governmental entities who become members of the Council, all as amended and supplemented from time to time.

"Issuer" means the Town of Malabar, Florida, a Florida municipal corporation.

"Loan" means the Loan made by the Lender to the Issuer from proceeds of the Note in order to finance or reimburse the Costs of the Project in the amount specified in Section 3.01 herein.

"Loan Agreement" means this Loan Agreement and any amendments and supplements hereto.

"Loan Repayments" means the payments of principal and interest and other payments payable by the Issuer pursuant to the provisions of this Loan Agreement, including, without limitation, Additional Payments.

"Loan Term" means the term of the Loan provided for in Article IV of this Loan Agreement.

"Maturity Date" means October 1, 2038.

"Maximum Rate" means the maximum rate allowed by the laws of the State of Florida.

"Mayor" means the Mayor of the Issuer, or in his or her absence or inability to act, the Vice Mayor of the Issuer or such other Person as may be duly authorized by the Town Council to act on his or her behalf.

"Non-Ad Valorem Revenues" means all revenues of the Issuer derived from any source whatsoever other than revenues generated from ad valorem taxation on real or personal property, and which are legally available to make the Loan Repayments.

"Note" means the \$3,500,000 Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023.

"Note Counsel" means Bryant Miller Olive P.A. or any other attorney at law or firm of attorneys, of nationally recognized standing in matters pertaining to the exclusion from gross income for federal income tax purposes of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

"Noteholder," "Holder," "holder of the Note," "Owner," "owner of the Note," "Lender," or any similar term, when used with reference to the Note, means any Person who shall be the registered owner of the outstanding Note as provided in the registration books of the Issuer. The initial Noteholder shall be the Lender.

"Permitted Investments" means any investments authorized pursuant to the laws of the State and the Issuer's written investment policy, if any.

"Person" means an individual, a corporation, a partnership, an association, a trust, or any other entity or organization including a government or political subdivision or an agency or instrumentality thereof.

"Principal Account" means the separate account in the Debt Service Fund established pursuant to Section 2.02(b) hereof.

"Principal Payment Date" means October 1, 2024, and thereafter each October 1 through and including the Maturity Date.

"Program" means the Council's program whereby funds are provided by a qualified lending institution and loaned directly to the participating local government to finance, refinance, or reimburse the costs of qualifying projects and secured by a debt obligation issued by the participating local government.

"Program Administrator" means the Florida League of Cities, Inc., a non-profit Florida corporation.

"Project" means the governmental undertaking approved by the Town Council, as more specifically detailed on Exhibit A hereof, and as may be amended from time to time in accordance with this Loan Agreement.

"Project Fund" means the special fund of the Issuer designated "Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023, Project Fund" established pursuant to Section 2.02(b) hereof.

"Resolution" means the resolution authorizing the issuance of the Note, adopted by the Issuer on November 6, 2023, as may be amended and supplemented from time to time, or its successor in function.

"State" means the State of Florida.

"Town Clerk" means the Town Clerk of the Issuer or assistant or deputy Town Clerk of the Issuer, or such other Person as may be duly authorized by the Town Council to act on his or her behalf.

"Town Council" means the governing body of the Issuer.

"Town Manager" means the Town Manager of the Issuer or any assistant or deputy Town Manager of the Issuer, or such other Person as may be duly authorized by the Town Council to act on his or her behalf.

SECTION 1.02. USES OF PHRASES.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "Note," "Noteholder," "Owner," and "Person" shall include the plural as well as the singular number. All references herein to specific sections of the Code refer to such sections of the Code and all successor or replacement provisions thereto.

ARTICLE II

REPRESENTATIONS, WARRANTIES, AND COVENANTS OF ISSUER

SECTION 2.01. REPRESENTATIONS, WARRANTIES, AND COVENANTS.

The Issuer represents, warrants, and covenants on the date hereof for the benefit of the Lender as follows:

(a) Organization and Authority. The Issuer:

(1) is a duly organized and validly existing municipality of the State;
and

(2) has all requisite power and authority to own and operate its properties, to undertake, finance, or be reimbursed for the Project, to covenant to budget and appropriate the Non-Ad Valorem Revenues to the repayment of the Note and the other obligations of the Issuer hereunder, and to carry on its activities as now conducted and as presently proposed to be conducted.

(b) Full Disclosure. There is no fact that the Issuer knows of which has not been specifically disclosed in writing to the Lender that materially and adversely affects or, except for pending or proposed legislation or regulations that are a matter of general public information affecting the State municipalities generally, that will materially adversely affect the properties, activities, prospects, or condition (financial or otherwise) of the Issuer or the ability of the Issuer to repay the Note or to perform its obligations under this Loan Agreement.

The Audit, including, but not limited to the Audit for the Fiscal Year ended September 30, 2022, financial statements, balance sheets, and any other written statement furnished by the Issuer to the Lender were prepared in accordance with Generally Accepted Accounting Principles ("GAAP") and do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein or herein not misleading. There is no fact known to the Issuer which the Issuer has not disclosed to the Lender in writing which materially adversely affects or is likely to materially adversely affect the financial condition of the Issuer, or its ability to make the payments under this Loan Agreement when and as the same become due and payable.

(c) Pending Litigation. There are no proceedings pending, or to the knowledge of the Issuer threatened, against or affecting the Issuer, except as specifically described in writing to the Lender, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the properties, prospects, or condition (financial or otherwise) of the Issuer, or the existence or powers or ability of the Issuer to enter into and perform its obligations under this Loan Agreement.

(d) Borrowing Legal and Authorized. The execution and delivery of this Loan Agreement and the consummation of the transactions provided for in this Loan Agreement and compliance by the Issuer with the provisions of this Loan Agreement:

(1) are within the powers of the Issuer and have been duly and effectively authorized by all necessary action on the part of the Issuer; and

(2) do not and will not (i) conflict with or result in any material breach of any of the terms, conditions, or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any property or assets of the Issuer pursuant to any indenture, loan agreement, or other agreement or instrument (other than this Loan Agreement) or restriction to which the Issuer is a party or by which the Issuer, its properties, or operations are bound as of the date of this Loan Agreement; or (ii) with the giving of notice or the passage of time or both, constitute a breach or default or so result in the creation or imposition of any lien, charge, or encumbrance, which breach, default, lien, charge, or encumbrance (described in (i) or (ii)) could materially and adversely affect the validity or the enforceability of this Loan Agreement or the Issuer's ability to perform fully its obligations under this Loan Agreement, nor does such action or inaction result in any violation of the provisions of the Act, the Resolution, or any laws, ordinances, governmental rules or regulations, or court orders to which the Issuer, its properties, or operations may be bound.

(e) No Defaults. No Event of Default or Default has occurred or exists. The Issuer is not in violation in any material respect, and has not received notice of any claimed violation (except such violations as (1) heretofore have been specifically disclosed in writing to, and have been in writing specifically consented to, by the Lender and (2) do not, and shall not, have any material adverse effect on the transactions herein contemplated and the compliance by the Issuer with the terms hereof), of any terms of any agreement or other instrument to which it is a party or by which it, its properties, or its operations may be bound, which may materially adversely affect the ability of the Issuer to perform hereunder.

(f) Governmental Consents. The Issuer has obtained, or expects to obtain when required, all permits, approvals, and findings of non-reviewability required as of the date hereof by any governmental body or officer for the acquisition, construction, installation, rehabilitation, improvement, and/or equipping of the Project, including, but not limited to, construction and renovation work necessary for such acquisition, construction, installation, rehabilitation, improvement, and/or equipping, the financing thereof or the reimbursement of the Issuer therefor, or the use of the Project, and, prior to or after entering into the Loan, the Issuer will obtain all other such permits, approvals, and findings as may be necessary for the foregoing and for the Loan and the proper application thereof. The Issuer has complied with or will comply with all applicable provisions of law requiring any notification, declaration, filing, or registration with any agency or other governmental body or officer in connection with the acquisition, construction, installation, rehabilitation, improvement, and/or equipping of the Project, including, but not limited to, construction and renovation work necessary for such acquisition, construction, installation, rehabilitation, improvement, equipping, financing, or reimbursement thereof, or reimbursement of the Issuer therefor. Any such acquisition, construction, installation, rehabilitation, improvement, equipping, financing, or reimbursement contemplated in this Loan Agreement is consistent with, and does not violate or conflict with, the terms of any such agency or other governmental consent, order, or other action which is applicable thereto. No further consent, approval, or authorization of, or filing, registration, or qualification with, any governmental authority is required on the part of the Issuer as a condition to the execution and delivery of this Loan Agreement, or to amounts becoming outstanding hereunder.

(g) Compliance with Law. The Issuer is in compliance with all laws, ordinances, and governmental rules and regulations to which it is subject, and which are material to its properties, operations, finances, or status as a municipal corporation or subdivision of the State. The Issuer will take all reasonable legal action within its control in order to maintain its existence as a municipal corporation of the State, and shall not voluntarily dissolve.

(h) Use of Proceeds.

(1) The Issuer deems it necessary, desirable, and in the best financial interest of the Issuer to finance the acquisition, construction, installation, rehabilitation, improvement, and/or equipping of the Project. The financing of the Project in the manner herein provided is hereby authorized.

(2) The Issuer will apply the proceeds of the Loan from the Lender for (i) the financing of the Costs of the Project as set forth in Exhibit A hereto; and (ii) paying the transaction costs associated with the issuance of the Note. Simultaneously with the Closing of the Loan, a portion of the proceeds of the Loan will, at the Issuer's request and instruction as provided in Section 3.05 herein, be deposited into the Project Fund.

(3) If any component of the Project listed in Exhibit A is not paid for out of the proceeds of the Loan at the Closing of the Loan, the Issuer shall, as quickly as reasonably possible, with due diligence, use the remainder of the proceeds of the Loan listed in Exhibit A and any investment earnings thereon to pay the Costs of the Project. All such proceeds of the Loan shall be expended prior to November 9, 2026; provided, however, such time limit may be extended by the written consent of the Lender with notice to the Council, and provided further, the Issuer must obtain an opinion of Note Counsel to the effect that such extension of such time limit will not adversely affect the validity of the Note or tax-exempt status of the Note. The Issuer may amend Exhibit A to provide for the financing of different or additional Project if the Issuer, after the date hereof, deems it to not be in the interest of the Issuer to acquire, construct, install, rehabilitate, improve, and/or equip of any item of the Project or the Costs of the Project prove to be less than the amounts listed on Exhibit A and the investment earnings thereon, without the consent of the Lender or the Council (but with notice thereto); provided, however, the Issuer must obtain an opinion of Note Counsel to the effect that such an amendment and the completion of the revised Project will not adversely affect the validity of the Note or tax-exempt status of the Note regarding the amended Exhibit A.

(4) The Issuer will be responsible for repaying, through the Loan Repayments, the Note issued to fund the Loan, including the portion of the Note issued to fund any transaction costs associated with the issuance of the Note.

(5) The Issuer covenants that it will make no use of the proceeds of the Note that are in its control at any time during the term of the Note, which would cause the Note to be an "Arbitrage Bond" within the meaning of Section 148 of the Code.

(6) The Issuer covenants that it shall neither take any action nor fail to take any action or to the extent that it may do so, permit any other party to take any action which, if either taken or not taken, would adversely affect (i) the exclusion from gross income for Federal income tax purposes of interest on the Note, or (ii) the qualification of the Note as a "qualified tax exempt obligation" under Section 265(b)(3) of the Code.

(i) Project. All items constituting the Project are permitted to be financed or reimbursed with the proceeds of the Note and the Loan pursuant to the Act.

SECTION 2.02. COVENANTS OF THE ISSUER. The Issuer makes the following covenants and representations as of the date first above written and such covenants shall continue in full force and effect during the Loan Term:

(a) Security for the Loan and Loan Repayments. Subject to the provisions of Section 2.02(n) hereof, the Issuer covenants and agrees to appropriate in its annual budget, by amendment, if required, and to deposit or credit to the Debt Service Fund to pay, when due under this Loan Agreement, directly to the Lender, amounts of Non-Ad Valorem Revenues of the Issuer sufficient to satisfy and timely make the Loan Repayments as required under this Loan Agreement. Such covenant is subject in all respects to the payment of obligations secured by a pledge of such Non-Ad Valorem Revenues heretofore or hereafter entered into. Such covenant and agreement on the part of the Issuer to budget and appropriate such amounts of Non-Ad Valorem Revenues shall be cumulative, and shall continue until such Non-Ad Valorem Revenues or other legally available revenues in amounts sufficient to make all required Loan Repayments, including delinquent Loan Repayments, shall have been budgeted, appropriated, and actually paid to the Lender. The Issuer further acknowledges and agrees that the obligations of the Issuer to include the amount of any deficiency in Loan Repayments in each of its annual budgets and to pay such deficiencies from Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein. Notwithstanding the foregoing or any provision of this Loan Agreement to the contrary, the Issuer does not covenant to maintain any services or programs now maintained by the Issuer which generate Non-Ad Valorem Revenues or to maintain the charges it presently collects for any such services or programs.

(b) Funds and Accounts.

(1) The Issuer hereby covenants and agrees to establish a separate fund to be known as the "Town of Malabar, Florida Capital Improvement Revenue Note, Series 2023 Debt Service Fund." The Issuer hereby covenants and agrees to maintain in the Debt Service Fund the following accounts: the "Interest Account" and the "Principal Account." The Issuer hereby covenants and agrees to establish a separate fund to be known as the "Town of Malabar, Florida Capital

Improvement Revenue Note, Series 2023 Project Fund." Moneys in the aforementioned funds and accounts, until applied in accordance with the provisions hereof, shall be subject to a lien and charge in favor of the Noteholder and for the further security of the Noteholder. The Project Fund and the Debt Service Fund shall constitute trust funds for State law purposes to secure the Noteholder, and shall at all times be kept separate and distinct from all other funds and accounts of the Issuer and used only as herein provided.

(2) The Issuer shall at any time and from time to time appoint one or more qualified depositories to hold, for the benefit of the Noteholder, any one or more of the funds and accounts established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring, and disbursing moneys to and from each of such funds and accounts as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agents and employees.

(3) The Project Fund and the Debt Service Fund shall be continuously secured in the manner by which the deposit of public funds is authorized to be secured by the laws of the State and the investment policy of the Issuer. Moneys on deposit in the Project Fund and the Debt Service Fund may be invested and reinvested in Permitted Investments maturing no later than the date on which the moneys therein will be needed. Any and all income received by the Issuer from the investment of moneys in the Project Fund and the Debt Service Fund shall be retained in such respective fund and accounts unless otherwise required by applicable law. Nothing contained in this Loan Agreement shall prevent any Permitted Investments acquired as investments of or security for funds and accounts held under this Loan Agreement from being issued or held in book-entry form on the books of the Department of the Treasury of the United States.

(4) The moneys required to be accounted for in each of the foregoing funds and accounts may be deposited in a single bank account, and funds allocated to the various funds and accounts may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds and accounts as herein provided. The designation and establishment of the various funds and accounts shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues as herein provided.

(c) Project Fund.

(1) The Project Fund created pursuant to Section 2.02(b) of this Loan Agreement shall be used only for payment of the Costs of the Project. Moneys in the Project Fund, until applied in payment of any item of the Costs of the Project, in the manner hereinafter provided, shall be held in trust by the Issuer and shall be subject to a lien and charge in favor of the Noteholder and for the further security of such Noteholder.

(2) Any funds on deposit in the Project Fund that, in the opinion of the Issuer, are not immediately necessary for expenditure, as herein provided, may be invested and reinvested in Permitted Investments which shall mature or be redeemable at face value not later than the dates on which such funds are needed. All income derived from investment of funds in the Project Fund shall be used to pay Costs of the Project, as provided herein.

(3) Any payments for any damages of whatever kind received by the Issuer as a result of the negligence or breach of contract or warranty by any contractor, subcontractor, supplier, or design professional working on or supplying goods or services for the Project, and all insurance proceeds received with respect to damages to such Project during the acquisition, construction, installation, rehabilitation, improvement, and/or equipping of the Project, shall be deposited into the Project Fund to ensure proper completion of the Project.

(4) The Issuer covenants to commence the acquisition, construction, installation, rehabilitation, improvement, and/or equipping of the Project promptly upon delivery of the Note and to thereafter work with due diligence to complete the Project. Except as otherwise provided in Section 2.01(h)(3) herein, upon completion of the Project, any amounts then remaining in the Project Fund and not reserved by the Issuer for the payment of any remaining part of Costs of the Project, shall be used to prepay the Note in the manner that such Note is to be prepaid under the terms of this Loan Agreement, or to pay principal of or interest on the Note, as such becomes due.

(5) Upon the occurrence of an Event of Default hereunder, to the extent there are no other funds available under this Loan Agreement, the moneys in the Project Fund shall be applied to the payment of the Note.

(d) Flow of Funds. Pursuant to Section 2.02(a) of this Loan Agreement, Non-Ad Valorem Revenues shall be deposited or credited at least five Business Days prior to the applicable due date, in the following manner and in the following order of priority:

(1) First, the Issuer shall deposit into or credit to the Interest Account of the Debt Service Fund the sum which, together with the balance in such Interest Account, shall equal the interest coming due on the Note accrued and unpaid and to accrue on such Interest Payment Date. Moneys in the Interest Account shall be used to pay interest on the Note, as and when the same become due, whether by prepayment or otherwise, and for no other purpose.

(2) Next, the Issuer shall deposit into or credit to the Principal Account of the Debt Service Fund the sum which, together with the balance in such Principal Account, shall equal the principal coming due on the Note on the next Principal Payment Date. Moneys in the Principal Account shall be used to pay the principal of the Note, as and when the same shall become due, whether by prepayment or otherwise, and for no other purpose.

(e) Anti-Dilution Test.

(1) During such time as the Loan is outstanding hereunder, the Issuer agrees and covenants with the Noteholder that, prior to the issuance of Debt by the Issuer, it shall deliver to the Noteholder a certificate certifying that it is in compliance with the following: (i) the Non-Ad Valorem Revenues shall cover projected aggregate maximum annual debt service on the Loan and on all other Debt, including the proposed Debt to be issued, by at least 1.5x; and (ii) projected aggregate maximum annual debt service on the Loan and on all other Debt will not exceed 20% of the Governmental Funds Revenues, exclusive of (A) ad valorem tax revenues restricted to payment of debt service on any Debt and (B) any proceeds of the Loan or any Debt. The calculations required by clauses (i) and (ii) above shall be determined using the average of actual receipts for the prior two Fiscal Years based on the Audit.

(2) For purposes of the covenants contained in this Section 2.02(e), maximum annual debt service on the Debt means, with respect to the Debt that bears interest at a fixed interest rate, the actual maximum annual debt service, and, with respect to the Debt which bears interest at a variable interest rate, maximum annual debt service on such Debt shall be determined assuming that interest accrues on such Debt at the greater of (i) current "Bond Buyer Revenue Bond Index" as published in *The Bond Buyer* no more than two weeks prior to any such calculation or (ii) 5% per annum; provided, however, if any Debt, whether bearing interest at a fixed or variable interest rate, constitutes Balloon Indebtedness, maximum annual debt service on such Debt shall be determined assuming such Debt is amortized over 25 years on an approximately level debt service basis.

(3) For purposes of the covenants contained in this Section 2.02(e), if the Debt is also payable from additional revenues that are not legally available to pay debt service on the Loan, the maximum annual debt service on such Debt shall be discounted by the amount that will be covered by such additional revenues.

(4) In the event additional Debt is issued for the purpose of refunding any Debt then outstanding, the conditions of this Section 2.02(e) shall not apply, provided that the issuance of such additional Debt shall not result in an increase of the debt service on the applicable Debt in any Fiscal Year ending on or before the maturity date of the Note.

(5) Notwithstanding anything herein to the contrary, the provisions of this Section 2.02(e) may be amended, supplemented, or waived from time to time with the prior written consent of the Owner of 100% of the outstanding principal amount of the Note.

(f) Delivery of Information to the Lender. Beginning with the Fiscal Year ended September 30, 2023, the Issuer will provide the Noteholder with a copy of the Audit within 360 days of the end of its Fiscal Year. The Issuer will prepare its Audit in accordance with the Act and generally accepted accounting principles and audited by Accountant; provided, that in the event the Audit is not available within 360 days after the close of the Fiscal Year, the Issuer will furnish unaudited financial statements to the Noteholder within such period as provided herein and will then supply the Audit immediately upon the availability thereof. In addition, the Issuer will provide the Noteholder with (i) a copy of its final annual budget for each Fiscal Year within 30 days of adoption thereof by its Town Council and (ii) such other financial or public information as the Noteholder may from time to time reasonably request. The Issuer further agrees that it will permit the Noteholder or its agents and representatives to inspect the Issuer's books and records and make extracts therefrom at the Noteholder's own expense during regular business hours and in a manner which will not disrupt normal business operations of the Issuer. So long as the Lender or its affiliate is the Owner of the Note, the Issuer may deliver the Audit and annual budget in electronic PDF format. In the event the Audit is filed on the MSRB's "EMMA" website, to satisfy this requirement the Issuer may email a link to the posted Audit within such 360-day period. The electronic Audit or link may be sent to the Lender at the following email address: Public Finance@WebsterBank.com.

(g) Information. The Issuer's chief financial officer or other staff of the Issuer shall discuss the Issuer's financial matters with the Lender or its representatives at all reasonable times at the office of the Issuer, and provide the Lender with copies of any documents reasonably requested by the Lender unless such documents or material are protected or privileged from disclosure under applicable State law.

(h) Further Assurance. The Issuer shall execute and deliver to the Lender and the Council all such documents and instruments and do all such other acts and things as may be reasonably necessary to enable the Lender and the Council to exercise and enforce their respective rights under this Loan Agreement and the Note and to realize thereon, and record and file and re-record and re-file all such documents and instruments, at such time or times, in such manner, and at such place or places, all as may be reasonably necessary or required by the Lender to validate, preserve, and protect the Lender's security under this Loan Agreement.

(i) Keeping of Records and Books of Account. The Issuer shall keep or cause to be kept proper records and books of account, in which correct and complete entries will be made in accordance with generally accepted accounting principles, consistently applied (except for changes concurred in by the Issuer's independent auditors) reflecting all of its financial transactions.

(j) Payment of Taxes, Etc. The Issuer shall pay all legally contracted obligations when due and shall pay all taxes, assessments, and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which penalties attach thereto, and all lawful claims, which, if unpaid, might become a lien or charge upon any of its properties, provided that it shall not be required to pay any such tax, assessment, charge, levy, or claim which is being contested in good faith and by appropriate proceedings, which shall operate to stay the enforcement thereof.

(k) Compliance with Laws, Etc. The Issuer shall comply with the requirements of all applicable laws, the terms of all grants, rules, regulations, and lawful orders of any governmental authority, non-compliance with which would, singularly or in the aggregate, materially adversely affect its business, properties, earnings, prospects, or credit, unless the same shall be contested by it in good faith and by appropriate proceedings which shall operate to stay the enforcement thereof.

(l) Tax-Exempt and Bank Qualified Status of the Note.

(1) The Issuer understands that it is the intention hereof that the interest on the Note not be included within the gross income of the Holder thereof for federal income tax purposes and the Note be a "qualified tax exempt obligation" under Section 265(b)(3) of the Code.

(2) In furtherance thereof, the Issuer agrees that it will take all action within its control which is necessary in order for (i) the interest on the Note to remain excludable from gross income for federal income taxation purposes and (ii) the Note to remain qualified as a "qualified tax exempt obligation" under

Section 265(b)(3) of the Code, and shall refrain from taking any action which results in such interest on the Note becoming includable in gross income or the Note losing its bank qualified status.

(3) The Issuer further covenants that, to the extent it has control over the proceeds of the Note, it will not take any action or fail to take any action with respect to the investment of the proceeds of the Note, with respect to the payments derived from the Note or hereunder or with respect to the issuance of other obligations, which action or failure to act may cause the Note to be an "arbitrage bond" within the meaning of such term as used in Section 148 of the Code. In furtherance of the covenant contained in the preceding sentence, the Issuer agrees to comply with the Tax Certificate as to Arbitrage and the provisions of Section 141 through 150 of the Code, including the letter of instruction attached as an exhibit thereto, delivered by Note Counsel to the Issuer simultaneously with the issuance of the Note, as such letter may be amended from time to time, as a source of guidelines for achieving compliance with the Code. The covenants of the Issuer contained in this Section 2.02(l) shall survive the termination of this Loan Agreement.

(m) Reporting Requirements. The Issuer agrees to provide along with its Audit described in Section 2.02(f) above, a certificate of the chief financial officer of the Issuer stating that to the best of his or her knowledge the Issuer is in compliance with the terms and conditions of this Loan Agreement, or, specifying the nature of any noncompliance and the remedial action taken or proposed to be taken to cure such noncompliance.

(n) Limited Obligation. Anything in this Loan Agreement to the contrary notwithstanding, it is understood and agreed that all obligations of the Issuer hereunder shall be payable only from Non-Ad Valorem Revenues budgeted and appropriated as provided for hereunder and nothing herein shall be deemed to pledge ad valorem taxation revenues or to permit or constitute a mortgage or lien upon any assets or property owned by the Issuer and no Noteholder or any other Person, including the Council or the Lender, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the Issuer. The obligations hereunder do not constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory, or charter provision or limitation, and neither the Lender, the Council, the Noteholder, nor any other Person shall have the right to compel the exercise of the ad valorem taxing power of the Issuer or taxation of any real or personal property therein for the payment by the Issuer of its obligations hereunder. Except to the extent expressly set forth in this Loan Agreement, this Loan Agreement and the obligations of the Issuer hereunder shall not be construed as a limitation on the ability of the Issuer to pledge or covenant to pledge the Non-Ad Valorem Revenues or any revenues or taxes of the Issuer for other legally permissible purposes. Notwithstanding any provisions of this

Loan Agreement or the Note to the contrary, the Issuer shall never be obligated to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees, or any Non-Ad Valorem Revenues or the rates for such services or regulatory fees. Neither this Loan Agreement nor the obligations of the Issuer hereunder shall be construed as a pledge of or a lien on all or any legally available Non-Ad Valorem Revenues of the Issuer, but shall be payable solely as provided in Section 2.02(a) hereof and is subject in all respects to the provisions of Section 166.241, Florida Statutes, and is subject, further, to the payment of services and programs which are for essential public purposes affecting the health, welfare, and safety of the inhabitants of the Issuer.

(o) Other Conditions. The Council, the Lender, and the Issuer mutually agree and understand that the amounts available to be budgeted and appropriated to make Loan Repayments hereunder are subject to the obligation of the Issuer to provide essential services; however, the Issuer's obligation to make Loan Repayments is cumulative and would carry over from Fiscal Year to Fiscal Year.

(p) Indemnity.

(1) To the full extent permitted under the laws of the State, the Issuer will pay, and will protect, indemnify, save, and hold harmless, the Council, each member, officer, commissioner, employee, and agent of the Council, and each other Person, if any, who has the power, directly or indirectly, to direct or cause the direction of the management and policies of the Council, harmless from and against, any and all liabilities, losses, damages, costs, and expenses (including reasonable attorneys' fees, costs, and expenses), suits, claims, and judgments of whatsoever kind and nature (including those in any manner directly or indirectly arising or resulting from, out of, or in connection with, any injury to, or death of, any Person or any damage to property resulting from the use or operation of the Project) in any manner arising out of or in connection with the failure to act of the Issuer, its successors and assigns, or the agents, contractors, employees, licensees, or otherwise of the Issuer or its successors and assigns in connection with, the Project financed with the proceeds of the Loan, or the breach or violation of any agreement, covenant, representation, or warranty of the Issuer set forth in this Loan Agreement or any document delivered pursuant hereto or thereto or in connection herewith or therewith. Such indemnification shall not apply to any actions caused by the gross negligence or willful misconduct of the party seeking such indemnification.

(2) Such indemnity shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable under any workers' compensation acts, disability benefit acts, or other employee benefits acts or any other similar laws but may be limited by State law relating to

the ability of governmental units to indemnify parties for the actions of such governmental units, including but not limited to Section 768.28, Florida Statutes.

(3) An indemnified Person shall promptly notify the Issuer in writing of any claim or action brought against it, in respect of which indemnity may be sought against the Issuer, setting forth, to the extent reasonably practicable under the circumstances, the particulars of such claim or action, and the Issuer will promptly assume the defense thereof with its in-house counsel or, at its election, the employment of competent outside counsel reasonably satisfactory to such indemnified Person and the payment of all expenses.

(4) An indemnified Person may employ separate counsel with respect to any such claim or action and participate in the defense thereof, but, except as provided herein, the fees and expenses of such separate counsel shall not be payable by the Issuer unless such employment has been specifically authorized by the Issuer, which such authorization shall not be unreasonably withheld, or unless such employment was occasioned by conflicts of interest between and among indemnified Persons and/or the Issuer. If the Issuer shall fail to assume the defense of any action as required hereunder, or, within a reasonable time after commencement of such action, to retain outside counsel, if it so elects or if it becomes necessary due to conflict, reasonably satisfactory to the indemnified Person, the fees, costs, and expenses of counsel to such indemnified Person hereunder shall be paid by the Issuer.

(5) The provisions of this Section 2.02(p) shall survive the termination of this Loan Agreement.

(q) Insurance. The Issuer shall bear all risk or loss or damage to the Project and shall be responsible for keeping the Project insured with companies reasonably satisfactory to and for such reasonable amounts as reasonably required by the Lender. The Lender must be named as loss payee and additional insured as applicable on all such insurance policies. Evidence of such insurance must be reasonably satisfactory to the Lender. Notwithstanding the foregoing, the Issuer shall not be required to maintain insurance with respect to the Project for which insurance shall not be available at reasonable cost.

SECTION 2.03. ISSUER PAYMENTS. Prior to or on each Interest Payment Date and Principal Payment Date, the Issuer shall withdraw from the appropriate account of the Debt Service Fund sufficient moneys to pay the Loan Repayments and shall pay directly to the Lender such Loan Repayments.

ARTICLE III

THE LOAN AND THE NOTE

SECTION 3.01. ISSUANCE OF THE NOTE AND THE LOAN. The Issuer hereby agrees to borrow the sum of \$3,500,000 from the Lender. The amounts advanced to the Issuer net of the costs of the initial issuance are to be used by the Issuer for the purposes of financing the Costs of the Project.

SECTION 3.02. EVIDENCE OF LOAN. The Issuer's obligation hereunder to repay amounts advanced pursuant to Section 3.01, together with interest thereon, and other payments required under this Loan Agreement, shall be evidenced by this Loan Agreement and the Note.

SECTION 3.03. PURCHASE OF NOTE. The Lender agrees to extend credit to the Issuer by making the Loan to the Issuer and purchasing the Note to evidence such Loan at the price equal to the principal amount of the Note, which amount is hereby to be used to fund the Loan to the Issuer.

SECTION 3.04. DESCRIPTION OF THE NOTE. The Note shall have the terms set forth in the form of Note attached hereto as Exhibit C. The Issuer hereby approves the form of the Note attached and agrees hereby to issue the Note to the Lender. There is hereby pledged and assigned all amounts payable by the Issuer as Loan Repayments to the Lender as security for the payment of the Note.

SECTION 3.05. LOAN FOR PURPOSE OF FINANCING THE PROJECT. The proceeds received from the Loan as evidenced by the Note in the amount of \$3,500,000 shall be applied by the Issuer as follows:

(a) \$36,525.00, representing a portion of the proceeds of the Note shall be applied to pay costs of issuance of the Note in accordance with the Closing Memorandum; and

(b) \$3,463,475.00, representing a portion of the proceeds of the Note shall be deposited in the Project Fund and applied to pay Costs of the Project.

ARTICLE IV

LOAN TERM AND LOAN CLOSING REQUIREMENTS

SECTION 4.01. COMMENCEMENT OF LOAN TERM. The Issuer's obligations under this Loan Agreement shall commence upon Closing, unless otherwise provided in this Loan Agreement.

SECTION 4.02. TERMINATION OF LOAN TERM. The Issuer's obligations under this Loan Agreement shall terminate after payment in full of all amounts due on the Note and under this Loan Agreement; provided, however, that all covenants and all obligations provided hereunder specified to so survive (including the obligation of the Issuer to pay the rebate obligations owed on the Note, if any) shall survive the termination of this Loan Agreement and the payment in full of principal and interest hereunder. If required by the Issuer, upon termination of the Loan Term as provided above, the Lender shall deliver, or cause to be delivered, to the Issuer an acknowledgment thereof. The Lender shall return to the Issuer the cancelled Note in a reasonable amount of time after payment in full of principal of and interest on the Note. The foregoing sentence shall survive the termination of this Loan Agreement and the Loan Term.

SECTION 4.03. LOAN CLOSING SUBMISSIONS. Concurrently with the execution and delivery of this Loan Agreement, the Issuer is providing to the Lender the following documents each dated the date of such execution and delivery unless otherwise provided below:

- (a) a certified copy of the Resolution;
- (b) an opinion of the Issuer's Counsel to the effect that the Loan Agreement is a valid and binding obligation of the Issuer and opining to such other matters as may be reasonably required by Note Counsel and the Lender and acceptable to Issuer's Counsel and in substantially the form of Exhibit B attached hereto;
- (c) a certificate of the officials of the Issuer to the effect that the representations and warranties of the Issuer are true and correct;
- (d) an executed and authenticated Note;
- (e) this executed Loan Agreement;
- (f) a certificate of the Issuer, in form and substance satisfactory to Note Counsel, stating (1) the estimated dates and the amounts of projected expenditures for the Project, and (2) that it is reasonably anticipated by the Issuer that the Loan proceeds will be fully advanced therefor and expended by the Issuer prior to November 9, 2026,

and that the projected expenditures are based on the reasonable expectations of the Issuer having due regard for its capital needs and the revenues available for the repayment thereof;

(g) a standard opinion of Note Counsel (addressed for reliance by and to the Council, the Lender, and the Issuer) to the effect that: (1) the Loan Agreement and the Note are authorized and enforceable, (2) the Note is authorized under the Act and the Resolution authorizing this Loan Agreement, (3) the interest on the Note is excludable from gross income for purposes of federal income taxation, and (4) the Note is a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code; and

(h) such other certificates, documents, opinions, and information as the Council, the Lender, or Note Counsel may require.

SECTION 4.04. ADMINISTRATION FEE. In further consideration for the Council's assistance in connection with the Loan, the Issuer hereby agrees to pay the Council a one-time administration fee to be collected from the Issuer at the rate of 1/10 of 1% (0.001) of the amount of the Loan with a minimum fee of \$5,000 and a maximum fee of \$15,000 with respect to the Loan. Such administration fee is included in the costs of issuance of the Note set forth in Section 3.05(a) herein.

ARTICLE V

LOAN REPAYMENTS

SECTION 5.01. PAYMENT OF BASIC PAYMENTS. The Issuer shall pay all Basic Payments in lawful money of the United States of America to the Noteholder, as payment on the Note on the dates and in the amounts required hereunder and under the Note. No such Basic Payments shall be in an amount such that interest on the Loan is in excess of the Maximum Rate. The Basic Payments consist of the principal of and interest on the Note. The Basic Payments shall be paid by the Issuer directly to the Lender by wire transfer in accordance with written instructions delivered by the Lender to the Issuer, or by such other medium acceptable to the Issuer and to the Lender, from the appropriate accounts in the Debt Service Fund at the times such amounts are due on the Note, as set forth in the Note, and under this Loan Agreement.

SECTION 5.02. PAYMENT OF ADDITIONAL PAYMENTS. In addition to the Basic Payments which are set forth in Section 5.01 hereof, the Issuer agrees to pay in lawful money of the United States of America, on demand of the Council or the Lender, as applicable, all reasonable fees and expenses relating to this Loan Agreement, including, but not limited to, the following Additional Payments:

(a) the reasonable fees and disbursements of legal counsel utilized by the Council and the Lender in connection with the Note, the Loan, this Loan Agreement, and the enforcement thereof;

(b) reasonable extraordinary fees and expenses of the Council and the Lender following an Event of Default hereunder;

(c) all other reasonable out-of-pocket expenses of the Council and the Lender in connection with the Note, the Loan, this Loan Agreement, and the enforcement thereof, including, but not limited to, all fees and expenses related to the prepayment and defeasance of the Loan and the Note;

(d) all taxes (including any recording, documentary stamp taxes, intangible taxes, and filing fees) in connection with the execution and delivery of this Loan Agreement and/or the Note, and all expenses, including reasonable attorneys' fees, relating to any amendments, waivers, consents, or collection or enforcement proceedings pursuant to the provisions hereof;

(e) any amounts owed by the Issuer to the United States of America as rebate obligations on the Note, which obligation shall survive the termination of this Loan Agreement; however, neither the Council nor the Lender will perform arbitrage rebate calculations on the Note, and the Issuer will be responsible for conducting such arbitrage rebate calculations and paying such amounts owed directly to the United States of America; and

(f) (1) any and all losses, damages, expenses (including reasonable legal and other fees and expenses), liabilities, or claims (or actions in respect thereof), to which the Council may become subject under any federal or state securities laws, federal, or state tax laws, or other statutory law or at common law or otherwise, and (2) any and all fees and expenses of any inquiries or audits by any regulatory agencies, all as caused by or arising out of or based upon this Loan Agreement, the Loan, the Note, the issuance of the Note, or the use of the proceeds of the Note.

SECTION 5.03. OBLIGATIONS OF ISSUER UNCONDITIONAL. Subject in all respects to the provisions of this Loan Agreement, the obligations of the Issuer to make the Loan Repayments required hereunder and to perform and observe the other agreements on its part contained herein, shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed, or otherwise modified in any manner or to any extent whatsoever, while the Note remains outstanding or any Loan Repayments remain unpaid, regardless of any contingency, act of God, event, or cause whatsoever. The Issuer shall pay in full the Loan Repayments and all other payments required hereunder, regardless of any rights of set-off, recoupment, abatement, or counterclaim that the Issuer might otherwise have against the Council, the Lender, or any other party or parties.

SECTION 5.04. PREPAYMENT. On October 1, 2028 and any Interest Payment Date thereafter, the Note shall be subject to prepayment, in whole, at the option of the Issuer upon at least 30 days' prior written notice to the Noteholder, by paying to the Noteholder the outstanding principal amount on the Note, together with the unpaid interest accrued to the date of such prepayment, plus the following prepayment premium denoted as a percentage of the principal amount being prepaid:

Date of Prepayment	Prepayment Premium
October 1, 2028 through and including September 30, 2030	2%
October 1, 2030 through and including September 30, 2031	1%
October 1, 2031 and thereafter	No premium

ARTICLE VI

DEFEASANCE

SECTION 6.01. DEFEASANCE OF THE LOAN AGREEMENT AND THE NOTE.

(a) This Loan Agreement shall continue to be obligatory and binding upon the Issuer in the performance of the obligations imposed by this Loan Agreement and the repayment of all sums due by the Issuer under this Loan Agreement shall continue to be secured by this Loan Agreement as provided herein until all of the indebtedness and all of the payments required to be made by the Issuer shall be fully paid to the Council and the Lender, as provided herein, including any fees and expenses in connection with such repayment, if any.

(b) If, at any time, the Issuer shall have paid, or shall have made provision for payment of, the principal amount and interest on the Note and shall have paid all amounts due under the Note and this Loan Agreement, then, and in that event, the covenant regarding the Non-Ad Valorem Revenues for the benefit of the Noteholder shall be no longer in effect and all future obligations of the Issuer under this Loan Agreement shall cease; provided, however, that all covenants and all obligations provided hereunder specified to so survive (including the obligation of the Issuer to pay the rebate obligations owed on the Note) shall survive the termination of this Loan Agreement and the payment in full of principal of and interest on the Note. For purposes of the preceding sentence, in order for the Issuer to have made "provision for payment," the Issuer shall have deposited sufficient cash and/or Governmental Obligations in irrevocable trust with a banking institution or trust company, for the sole benefit of the Lender in respect to which such cash and/or Governmental Obligations,

the principal and interest on which will be sufficient (as reflected in an Accountant's verification report provided to the Lender by the Issuer) to make timely payment of the principal of and interest on the Note.

(c) Prior to the defeasance of the Note becoming effective, the Noteholder shall receive a defeasance opinion of Note Counsel to the effect that the Note has been defeased in accordance with this Loan Agreement.

ARTICLE VII

ASSIGNMENT AND PAYMENT BY THIRD PARTIES

SECTION 7.01. ASSIGNMENT OF LOAN AGREEMENT.

(a) This Loan Agreement may not be assigned by the Issuer for any reason without the express prior written consent of the Lender with notice to the Council.

(b) The Note may be assigned by the Lender in accordance with the terms thereof, and such assignment shall, without further action, be deemed to assign the Lender's interest under this Loan Agreement.

SECTION 7.02. NO PARTNERSHIP, ETC. The relationship between the Lender and the Issuer are solely those of lender and borrower. Neither the Council nor the Lender has any fiduciary or other special relationship with or duty to the Issuer and none is created by the Note documents or Loan documents. Nothing contained in the Note documents or Loan documents, and no action taken or omitted pursuant to the Note documents or Loan documents, is intended or shall be construed to create any partnership, joint venture association, or special relationship between or among the Issuer, the Lender, and the Council or any of them or in any way make the Council or the Lender a co-principal with the Issuer with reference to the Note, the Loan, or otherwise. In no event shall the Council's or Lender's rights and interests under the Note documents or Loan documents be construed to give the Council or the Lender the right to control, or to be deemed to indicate that the Council or the Lender is in control of, the business, properties, management, or operations of the Issuer.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.01. EVENTS OF DEFAULT DEFINED. The following shall be "Events of Default" under this Loan Agreement and the term "Event of Default" shall mean (except where the context clearly indicates otherwise), whenever it is used in this Loan Agreement, any one or more of the following events:

(a) failure by the Issuer to timely pay any Loan Repayment, when due, so long as the Note is outstanding;

(b) failure by the Issuer to timely pay any other payment required to be paid hereunder on the date on which it is due and payable, provided the Issuer has prior written notice of any such payments being due;

(c) failure by the Issuer to observe and perform any covenant, condition, or agreement (other than a failure under Section 8.01(a)), on its part to be observed or performed under this Loan Agreement, for a period of thirty (30) days after written notice of the failure is given to the Issuer (as provided in Section 9.01 of this Loan Agreement), unless the Council or the Lender, as applicable, shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Council or the Lender, as applicable, but cannot reasonably be cured within the applicable thirty (30) day period, the Council or the Lender will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Issuer within the applicable period and diligently pursued until the failure is corrected;

(d) any warranty, representation, or other statement by the Issuer or by an officer or agent of the Issuer contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement, is false or misleading in any material respect when made;

(e) a petition is filed against the Issuer under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or liquidation law of any jurisdiction, whether now or hereafter in effect, and is not dismissed within sixty (60) days of such filing;

(f) the Issuer files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under such law;

(g) the Issuer admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including without limitation a receiver, liquidator, or trustee) of the Issuer or any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than sixty (60) days;

(h) default under any agreement to which the Issuer is a party evidencing, securing, or otherwise respecting any Debt if, as a result thereof, such indebtedness is in whole or in part declared due and payable prior to its stated maturity;

(i) any material provision of this Loan Agreement shall at any time for any reason cease to be valid and binding on the Issuer, or shall be declared to be null and void, or the validity or enforceability of this Loan Agreement shall be contested by the Issuer or any governmental agency or authority, or if the Issuer shall deny any further liability or obligation under this Loan Agreement; or

(j) final judgment for the payment of money in the amount of \$250,000 or more is rendered against the Issuer, and the payment of which would materially adversely affect the Issuer's ability to meet its obligations hereunder (it being agreed that, if insurance or adequate reserves are available to make such payment, such judgment would not materially affect the Issuer's ability to meet its obligations hereunder) and at any time after ninety (90) days from the entry thereof, unless otherwise provided in the final judgment, (1) such judgment shall not have been discharged, or (2) the Issuer shall not have taken and be diligently prosecuting an appeal therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, and have caused the execution of or levy under such judgment, order, decree, or process of the enforcement thereof to have been stayed pending determination of such appeal, provided that such execution and levy would materially adversely affect the Issuer's ability to meet its obligations hereunder; or (3) it has not been determined by a court of competent jurisdiction from which appeal may not be taken or from which appeal has been taken but has been finally denied that the Issuer is not obligated with respect to such judgment pursuant to the provisions of Chapter 768, Florida Statutes or other applicable law;

SECTION 8.02. NOTICE OF DEFAULT. The Issuer agrees to give the Lender and the Council written notice within 10 days if any petition, assignment, appointment, or possession referred to in Section 8.01(e), 8.01(f), and 8.01(g) is filed by or against the Issuer or of the occurrence of any other event or condition which constitutes an Event of Default immediately upon becoming aware of the existence thereof.

SECTION 8.03. REMEDIES ON DEFAULT. Whenever any Event of Default referred to in Section 8.01 hereof shall have happened and be continuing, the Council or the Lender shall have all remedies provided by law, and shall, in addition to any other remedies herein or by law provided, have the right, at its or their option without any further demand or notice, except as otherwise provided for in this Loan Agreement, to take whatever other action at law or in equity which may appear necessary or desirable to collect amounts then due to it and thereafter to become due hereunder or to enforce any other of its or their rights hereunder including the right of set off against and apply all funds of the Issuer held on deposit with or

under the control of the Lender to the payment of any obligations of the Issuer under any of the Loan documents; provided, however, the Council shall only have the right to take such action as it deems necessary to collect amounts then due or to become due to the Council.

SECTION 8.04. NO REMEDY EXCLUSIVE; WAIVER, NOTICE. No remedy herein conferred upon or reserved to the Council or the Lender is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Council or the Lender to exercise any remedy reserved to it in this Article VIII, it shall not be necessary to give any notice other than such written notice as provided in this Article VIII.

SECTION 8.05. APPLICATION OF MONEYS. Any moneys collected by the Council or the Lender pursuant to Section 8.03 hereof shall be applied (a) first, to pay interest due on the Loan, (b) second, to pay principal due on the Loan, (c) third, to pay any other amounts due hereunder, including, but not limited to, any attorney's fees, costs or expenses, or other expenses owed by the Issuer pursuant to Section 5.02(a), (b), and (c) hereof; and (d) fourth, to pay interest and principal on the Loan and other amounts payable hereunder but which are not due, as they become due (in the same order, as to amounts which come due simultaneously, as in (a) through (c) in this Section 8.05).

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. NOTICES. All notices, certificates, or other communication hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by certified mail, postage prepaid, return receipt requested, to the parties at the following addresses:

Council: Florida Municipal Loan Council
c/o Florida League of Cities, Inc.
301 South Bronough Street, Suite 300
Tallahassee, Florida 32301

Lender: Webster Bank, National Association
360 Lexington Avenue, 5th Floor
New York, New York 10017
Attention: Public Sector Finance

Issuer: Town of Malabar, Florida

2725 Malabar Road
Malabar, FL 32950
Attention: Town Treasurer

with a copy to: Schillinger & Coleman P.A.
1311 Bedford Dr.
Melbourne, FL 32490
Attention: Karl Bohne, Esq.

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 9.02. BINDING EFFECT. This Loan Agreement shall inure to the benefit of the Lender, the Council, and the Issuer, and shall be binding upon the Lender, the Council, and the Issuer, and their respective successors and assigns.

SECTION 9.03. SEVERABILITY. In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 9.04. AMENDMENTS, CHANGES, AND MODIFICATIONS. This Loan Agreement may be amended or supplemented from time to time only by a writing duly executed by the Issuer and the Lender; provided, however, any such amendment affecting the rights or obligations of the Council shall not be effective unless it shall have been consented to in writing by the Council.

SECTION 9.05. EXECUTION IN COUNTERPARTS. This Loan Agreement may be simultaneously executed in several counterparts, each of which, when so executed and delivered, shall be an original and all of which shall constitute but one and the same instrument.

SECTION 9.06. APPLICABLE LAW; VENUE. This Loan Agreement shall be governed by and construed in accordance with the laws of the State without regard to conflict of law principles. Venue of any action relating to the Loan shall be in Brevard County, Florida.

SECTION 9.07. BENEFIT OF NOTEHOLDER. This Loan Agreement is executed in part to induce the purchase by the Lender of the Note. Accordingly, all covenants, agreements, and representations on the part of the Issuer, as set forth in this Loan Agreement, are hereby declared to be for the benefit of the Noteholder from time to time of the Note. Any opinion of Note Counsel required to be obtained by the Issuer under the provisions of this Loan Agreement shall also be addressed to and delivered to the Lender.

SECTION 9.08. CONSENTS AND APPROVALS. Whenever the written consent or approval of the Council shall be required under the provisions of this Loan Agreement, such consent or approval may be given by an Authorized Representative of the Council or such other additional Persons provided by law or by rules, regulations, or resolutions of the Council.

SECTION 9.09. IMMUNITY OF OFFICERS, EMPLOYEES, AND MEMBERS OF COUNCIL AND ISSUER. No recourse shall be had for the payment of the principal of or interest hereunder or for any claim based thereon or upon any representation, obligation, covenant, or agreement in this Loan Agreement against any past, present, or future official officer, member, counsel, counsel's firm, employee, director, or agent, as such, of the Council or the Issuer, either directly or through the Council or the Issuer, or respectively, any successor public or private corporation thereto under any rule of law or equity, statute, or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, counsels, employees, directors, or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement.

SECTION 9.10. CAPTIONS. The captions or headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of sections of this Loan Agreement.

SECTION 9.11. NO PECUNIARY LIABILITY OF COUNCIL. The Council shall not in any way be obligated to pay the principal of or interest on the Note, and the issuance of the Note by the Issuer shall not directly, indirectly, or contingently obligate the Council to levy or pledge any form of ad valorem taxation for its payment.

SECTION 9.12. PAYMENTS DUE ON HOLIDAYS. If the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Loan Agreement, shall be other than on a Business Day, such payments may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Loan Agreement; provided, however, that any interest due shall accrue until paid.

SECTION 9.13. CALCULATIONS. Interest shall be computed on the basis of twelve 30-day months and a 360-day year.

SECTION 9.14. TIME OF PAYMENT. Any Loan Repayment or other payment hereunder which is received by the Lender after 2:00 p.m. (Eastern Time) on any day shall be deemed received on the following Business Day.

SECTION 9.15. WAIVER OF JURY TRIAL. EACH OF THE COUNCIL, THE LENDER, AND THE ISSUER HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS LOAN AGREEMENT. EACH OF THE COUNCIL, THE LENDER, AND THE ISSUER HEREBY KNOWINGLY, VOLUNTARILY

AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION (WHETHER AS CLAIM, COUNTER-CLAIM, AFFIRMATIVE DEFENSE OR OTHERWISE) BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS LOAN AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF THE COUNCIL, THE LENDER, AND THE ISSUER. EACH OF THE COUNCIL, THE LENDER, AND THE ISSUER ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND RECOGNIZES AND AGREES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR OTHER PARTIES HERETO TO ENTER INTO THIS LOAN AGREEMENT. EACH OF THE COUNCIL, THE LENDER, AND THE ISSUER REPRESENTS AND ACKNOWLEDGES THAT IT HAS REVIEWED THIS PROVISION WITH ITS LEGAL COUNSEL AND THAT IT HAS KNOWINGLY AND VOLUNTARILY WAIVED ANY JURY TRIAL RIGHTS IT MAY HAVE FOLLOWING CONSULTATION WITH SUCH LEGAL COUNSEL.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Council has caused this Loan Agreement to be executed in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers, the Issuer has caused this Loan Agreement to be executed in its name with its seal hereunto affixed and attached by its duly authorized officers, and the Lender has caused this Loan Agreement to be executed in its corporate name by its duly authorized officer. All of the above occurred as of the date first above written.

FLORIDA MUNICIPAL LOAN COUNCIL

(SEAL)

By: _____

Name: Isaac Salver

Title: Chairman

ATTEST:

By: _____

Name: Jeannie Garner

Title: Executive Director/CEO

WEBSTER BANK, NATIONAL
ASSOCIATION

By: _____
Name: Kevin C. King
Title: Senior Managing Director

TOWN OF MALABAR, FLORIDA

(SEAL)

By: _____
Name: Patrick T. Reilly
Title: Mayor

ATTESTED BY:

By: _____
Name: Richard W. Kohler
Title: Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Name: Karl W. Bohne, Jr.
Title: Town Attorney

EXHIBIT A

TOWN OF MALABAR, FLORIDA
USE OF LOAN PROCEEDS

<u>PROJECT</u>	<u>TOTAL AMOUNT TO BE FINANCED</u>
Construction, acquisition, renovation, and equipping of certain capital improvements, including, but not limited to the resurfacing and improving of various roads.	\$3,500,000

EXHIBIT B

OPINION OF ISSUER'S COUNSEL

[Letterhead of Counsel to Issuer]

November 9, 2023

Florida Municipal Loan Council
c/o Florida League of Cities, Inc.
301 South Bronough Street
Tallahassee, Florida 32301

Bryant Miller Olive P.A.
1 SE 3rd Avenue, Suite 2200
Miami, Florida 33131

Webster Bank, National Association
360 Lexington Avenue, 5th Floor
New York, New York 10017

Re: \$3,500,000 Town of Malabar, Florida Capital Improvement Revenue Note, Series
 2023 (the "Note")

Ladies and Gentlemen:

We are the Town Attorney to the Town of Malabar, Florida (the "Issuer"), and have been requested by the Issuer to give this opinion in connection with the Issuer's financing all or a portion of the Costs of the Project, each as defined in the Loan Agreement, dated as November 1, 2023 (the "Loan Agreement"), by and among the Florida Municipal Loan Council (the "Council"), the Issuer, and Webster Bank, National Association (the "Lender"). The Note is issued by the Issuer pursuant to Chapter 166, Part II, Florida Statutes; the Charter of the Issuer, and other applicable provisions of law, each as amended (collectively, the "Act"); and the resolution authorizing the issuance of the Note, adopted by the Town Council of the Issuer on November 6, 2023 (the "Resolution"). All terms not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

In rendering this opinion, we have examined such proceedings and records of the Issuer and made such inquiry of officials of the Issuer as we deem necessary. Based on such review, and such other considerations of law and fact, as we believe to be relevant, we are of the opinion that:

(a) The Issuer is a municipality duly organized and validly existing under the Constitution and laws of the State of Florida. The Issuer has the legal right and all requisite power and authority to acquire and construct the Project, to issue the Note, to enter into the Loan Agreement, to covenant to budget and appropriate Non-Ad Valorem Revenues to the payment of the Note, to adopt the Resolution, and to consummate the transactions contemplated thereby and otherwise to carry on its activities and own its property.

(b) On November 6, 2023, the Resolution was duly adopted by the Issuer at a duly called public meeting following proper public notice, at which a legal quorum was present and acting throughout, is in full force and effect, and has not been amended, supplemented, or repealed as of the date hereof.

(c) The Issuer has duly authorized the acquisition and construction of the Project, duly adopted the Resolution, and authorized, executed, and delivered the Loan Agreement and the Note, and such instruments are legal and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms, except to the extent that the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights heretofore or hereafter enacted and that their enforcement may be subject to the exercise of judicial discretion in accordance with general principles of equity, and to the sovereign police powers of the State of Florida and the constitutional powers of the United States of America.

(d) The execution and delivery of the Resolution, the Loan Agreement, and the Note; the consummation of the transactions contemplated thereby; the acquisition and construction of the Project; and the fulfillment of or compliance with the terms and conditions of the Resolution, the Loan Agreement, and the Note does not and will not conflict with or result in a material breach of or default under any of the terms, conditions, or provisions of any agreement, contract, or other instrument, or law, ordinance, regulation, or judicial or other governmental order, to which the Issuer is now a party or it or its properties is otherwise subject or bound, and the Issuer is not otherwise in violation of any of the foregoing in a manner material to the transactions contemplated by the Resolution, the Loan Agreement, or the Note.

(e) There is no litigation or legal or governmental action, proceeding, inquiry, or investigation pending or, to the best of our knowledge, threatened by governmental authorities or to which the Issuer is a party or of which any property of the Issuer is subject, which has not been specifically described in writing to the Lender, in any court or before any governmental authority or arbitration board or tribunal that, if determined adversely to the Issuer, would individually or in the aggregate materially and adversely affect the validity or the enforceability of the Resolution, the Loan Agreement, the Note, or materially and adversely affect the properties, prospects, or

condition (financial or otherwise) of the Issuer, or the existence or powers or ability of the Issuer to enter into and perform its obligations under the Resolution, the Loan Agreement, or the Note.

(f) All approvals, consents, waivers, authorizations, and orders of any governmental authority or agency having jurisdiction in any matter which would constitute a condition precedent to the performance by the Issuer of its obligations under the Resolution, the Loan Agreement, or the Note have been obtained and are in full force and effect and the Issuer has complied with all conditions precedent to the issuance of the Note contained in the resolutions and ordinances of the Issuer, in particular the Resolution.

The addressees hereof and their successors and assigns are entitled to rely on this opinion.

Very truly yours,

Schillinger & Coleman P.A.

By: _____

EXHIBIT C

FORM OF NOTE

ANY OWNER SHALL, PRIOR TO BECOMING AN OWNER, EXECUTE A LENDER'S CERTIFICATE IN THE FORM ATTACHED TO THE NOTE RESOLUTION (HEREIN DEFINED) CERTIFYING, AMONG OTHER THINGS, THAT SUCH OWNER IS A "QUALIFIED INSTITUTIONAL BUYER" AS SUCH TERM IS DEFINED IN RULE 144A OF THE SECURITIES ACT OF 1933, AS AMENDED, OR AN "ACCREDITED INVESTOR" AS SUCH TERM IS DEFINED IN THE SECURITIES ACT OF 1933, AS AMENDED, AND REGULATION D THEREUNDER.

R-1 \$3,500,000

TOWN OF MALABAR, FLORIDA
CAPITAL IMPROVEMENT REVENUE NOTE, SERIES 2023

<u>RATE OF INTEREST</u>	<u>MATURITY DATE</u>	<u>DATE OF ISSUE</u>
5.08%	October 1, 2038	November 9, 2023

KNOW ALL MEN BY THESE PRESENTS that the Town of Malabar, Florida (the "Issuer"), for value received, hereby promises to pay from the sources hereinafter provided, to the order of WEBSTER BANK, NATIONAL ASSOCIATION, or its registered assigns (hereinafter, the "Owner"), the principal sum of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000), in the amounts and on the dates described below, together with interest on the principal balance at a fixed rate of 5.08%, payable semi-annually on each April 1 and October 1 (each, an "Interest Payment Date"), commencing April 1, 2024. Interest shall be calculated on the basis of twelve 30-day months and a 360-day year. Principal on this Note is payable pursuant to the principal installment schedule attached hereto as Schedule I.

On or before each Interest Payment Date and Principal Payment Date (each as defined in the hereinafter defined Loan Agreement), as applicable, the principal of and interest on this Note are payable in lawful money of the United States of America by wire transfer in accordance with written instructions delivered by the Owner to the Issuer, or by such other medium acceptable to the Issuer and to the Owner. The Note shall not be required to be presented for prepayment or principal installment payments.

On October 1, 2028, and any Interest Payment Date thereafter, this Note shall be subject to prepayment, in whole, at the option of the Issuer upon at least 30 days' prior written notice to the Noteholder, by paying to the Noteholder the outstanding principal amount on this Note,

together with the unpaid interest accrued to the date of such prepayment, plus the following prepayment premium denoted as a percentage of the principal amount being prepaid:

Date of Prepayment	Prepayment Premium
October 1, 2028 through and including September 30, 2030	2%
October 1, 2030 through and including September 30, 2031	1%
October 1, 2031 and thereafter	No premium

If any date for the payment of principal hereof and interest hereon or the taking of any action hereunder shall fall on a day which is not a Business Day (as defined in the hereinafter defined Loan Agreement), the payment due or action to be taken on such date shall be due on the next succeeding day which is a Business Day, but the Issuer shall not receive credit for the payment until it is actually received by the Owner.

This Note is issued to finance all or a portion of the Costs of the Project under the authority of and in full compliance with Chapter 166, Part II, Florida Statutes; the Charter of the Issuer, and other applicable provisions of law, each as amended (collectively, the "Act"); the resolution authorizing the issuance of the Note, adopted by the Town Council on November 6, 2023; and pursuant to a Loan Agreement by and among the Owner, the Issuer, and the Council, dated as of November 1, 2023 (the "Loan Agreement"), to which reference should be made to ascertain those terms and conditions. All capitalized undefined terms used herein shall have the meanings ascribed to such terms in the Loan Agreement.

This Note and the interest thereon are payable from and secured solely by a covenant to budget and appropriate Non-Ad Valorem Revenues, as defined and described in the Resolution and the Loan Agreement, all in the manner provided in, and subject to the terms and conditions of the Resolution and the Loan Agreement.

THIS NOTE SHALL NOT BE OR CONSTITUTE A GENERAL OBLIGATION OR INDEBTEDNESS OF THE ISSUER AS "BONDS" WITHIN THE MEANING OF ARTICLE VII, SECTION 12 OF THE FLORIDA CONSTITUTION, BUT SHALL BE PAYABLE FROM AND SECURED SOLELY BY BUDGETED AND APPROPRIATED NON-AD VALOREM REVENUES IN ACCORDANCE WITH THE TERMS OF THE RESOLUTION AND THE LOAN AGREEMENT. NO OWNER OF THIS NOTE SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF ANY AD VALOREM TAXING POWER TO PAY THIS NOTE, OR BE ENTITLED TO PAYMENT OF THIS NOTE FROM ANY FUNDS OF THE ISSUER EXCEPT FROM BUDGETED AND APPROPRIATED NON-AD VALOREM REVENUES AS DESCRIBED THE RESOLUTION AND THE LOAN AGREEMENT.

The transfer of this Note may be registered only upon the books kept for the registration of this Note and registration of transfer thereof upon surrender thereof to the Issuer together

with an assignment duly executed by the Owner or its attorney or legal representative in the form of the assignment set forth in this Note; provided, however, that this Note may be transferred only in whole and not in part and only to (i) an affiliate of the Owner or (ii) banks, insurance companies, trusts, custodians or other financial institutions and their affiliates, that executes and delivers to the Issuer a Lender Certificate substantially in the form attached as Exhibit C to the Resolution. Nothing herein shall limit the right of the Owner or its assignees to sell or assign participation interests in this Note to one or more entities listed in (i) or (ii) of this paragraph. In the case of any such registration of transfer, the Issuer shall execute and deliver in exchange for this Note a new Note registered in the name of the transferee. In all cases in which this Note shall be transferred hereunder, the Issuer shall execute and deliver at the earliest practicable time a new Note in accordance with the provisions of this paragraph. The Issuer may make a charge for every such registration of transfer of this Note sufficient to reimburse it for any tax or other governmental charges required to be paid (other than a tax or other governmental charge imposed by the Issuer) with respect to such registration of transfer, but no other charge shall be made for registering the transfer.

Neither the members of the Town Council nor any Person executing this Note shall be liable personally hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

The Issuer has entered into certain additional covenants with the Owner of this Note, for the terms of which reference is made to the Loan Agreement.

It is hereby certified and recited that all acts, conditions, and things required by the Act to be performed, to exist and to happen precedent to and in connection with the issuance of this Note, have been performed, exist and have happened in regular and due form and time as so required.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Town of Malabar, a Florida municipal corporation, has issued this Note and has caused the same to be signed by the Mayor and countersigned and attested to by the Town Clerk and approved as to form and legal sufficiency by the Town Attorney and its seal to be affixed, impressed, imprinted, lithographed, or reproduced hereon, all as of the 9th day of November, 2023.

TOWN OF MALABAR, FLORIDA

(SEAL)

By: _____
Name: Patrick T. Reilly
Title: Mayor

ATTESTED BY:

By: _____
Name: Richard W. Kohler
Title: Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Name: Karl W. Bohne, Jr.
Title: Town Attorney

CERTIFICATE OF AUTHENTICATION

Dated: November 9, 2023

This is the Note described in the within defined Loan Agreement and this Note is hereby duly authenticated and registered.

TOWN OF MALABAR, FLORIDA

By: _____
Name: Richard W. Kohler
Title: Town Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

_____.

[Insert Name, Address, Social Security or Other Identifying Number of Assignee]

the within note and does hereby irrevocably constitute and appoint _____ as attorneys to register the transfer of the said note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature to this assignment must correspond with the name of the Owner as it appears upon the face of the within note in every particular, without alteration or enlargement or any change whatever and the Social Security or other identifying number of such assignee must be supplied.

The following abbreviations, when used in the inscription on the face of the within note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common
TEN ENT -- as tenants by the entireties
JT TEN -- as joint tenants with right of survivorship and not as tenants in common
UNIF TRANS MIN ACT -- _____
(Cust.)

Custodian for _____
under Uniform Transfer to Minors Act of _____
(State)

Additional abbreviations may also be used though not in the list above.

**SCHEDULE I
PRINCIPAL INSTALLMENT SCHEDULE**

<u>Payment Date</u>	<u>Principal</u>
10/1/2024	\$145,620
10/1/2025	170,200
10/1/2026	178,850
10/1/2027	187,940
10/1/2028	197,480
10/1/2029	207,520
10/1/2030	218,060
10/1/2031	229,140
10/1/2032	240,780
10/1/2033	253,010
10/1/2034	265,860
10/1/2035	279,370
10/1/2036	293,560
10/1/2037	308,470
10/1/2038	324,140
	\$3,500,000



Mark A. Cargo
Managing Director
Webster Bank
Concord, NC 28027
704-287-4493
Email: mcargo@websterbank.com
Website: www.websterbank.com

TERM SHEET

TYPE OF FINANCING:	A Tax-Exempt Fixed Rate Loan, Series 2023 (the “2023 Loan” or “Loan”), with repayment from all Non-Ad Valorem Revenues as detailed in the RFP. Lender will fund the Loan on a private-placement basis.
BORROWER:	The Town of Malabar, Florida (the “Town”)
LENDER:	Webster Bank, N. A., or an affiliated entity
AMOUNT FINANCED:	Approximately \$3,500,000.00.
PURPOSE/USE:	The Town will use the 2023 Loan proceeds to (i) fund the construction, acquisition, renovation, and equipping of various capital improvements, including but not limited to road resurfacing projects within the Town (the “Project”) and (ii) fund costs of issuance related to the 2023 Loan.
TERM:	Approximately Fourteen (14) years, Eleven (11) months (Exhibit A).
PAYMENT STRUCTURE:	Borrower shall make Loan payments as set forth in the RFP and in Exhibit A.
ANTICIPATED CLOSING DATE:	On or before November 10, 2023
INTEREST RATE:	5.08% (Exhibit A)
INTEREST RATE LOCK:	The Interest Rates quoted above are valid through November 10, 2023.
SECURITY:	The Note shall be secured by a covenant to budget and appropriate from all non-ad valorem revenues of the Town not derived from ad valorem taxation and which are lawfully available to be used to pay debt service on amounts due under the Loan.
PREPAYMENT:	Borrower shall have the right to pre-pay the Loan in whole, on any payment date by paying the Principal Balance plus any outstanding interest due, provided the Borrower gives Lender at least thirty (30) days prior written notice of its intent to do so.

The Redemption Price, as a percentage of the then-outstanding Loan balance, shall be equal to:

Exhibit A:

Year:	Percentage:
1-5	No Call
6-7	102%
8	101%
Thereafter	100%

FEES OF LENDER:

Not to exceed \$3,000. The costs of issuance incurred by Borrower, such as loan counsel fees, are payable by Borrower and may be capitalized into the Loan upon request.

DOCUMENTATION:

Borrower shall provide the documentation for the Loan, subject to review & approval by Lender. If required, Borrower shall provide an opinion of legal counsel attesting to the legal, valid, binding, and enforceable nature of the Loan. The Lender will use Gilmore & Bell as counsel to review the documents. The City will be required to send the Lender financial statements on an annual basis by agreed upon dates.

ASSIGNMENT:

Webster Bank, N. A. (the "Purchaser/Lender") is purchasing the Loan Obligation as a vehicle for making a commercial loan for its own account with the present intent to hold the Loan Obligation to maturity or earlier prepayment, and without any present intent to distribute or sell any interest therein or portion, provided, however, the Purchaser/Lender reserves the right – without the consent of (but with notice to) the Borrower - to assign, transfer or convey the Loan or any interest therein or portion thereof, but no such assignment, transfer or conveyance shall be effective as against the Borrower, unless and until the Purchaser/Lender has delivered to the Borrower written notice thereof that discloses the name and address of the assignee and such assignment, transfer or conveyance shall be made only to (i) an affiliate of the registered owner of the Loan or (ii) banks, insurance companies or other financial institutions or their affiliates. Nothing in the Loan shall limit the right of the Purchaser/Lender or its assignees to sell or assign participation interests in the Loan to one or more entities listed in (i) or (ii). Webster Bank, N. A. will sign an Investment Letter upon award.

IRS CIRCULAR 230 DISCLOSURE:

Lender and its affiliates do not provide tax advice. Accordingly, any discussion of U.S. tax matters contained herein (including any attachments) is not written or intended to be used, and cannot be used, in connection with the promotion, marketing or recommendation by anyone unaffiliated with Lender of any of the matters addressed herein or for the purpose of avoiding U.S. tax-related penalties.

ADVISORY DISCLOSURE:

Webster Bank, N. A. is not a registered municipal advisor as defined under the Dodd-Frank Wall Street Reform and Consumer Protection Act and its related rules and regulations. In providing this Term Sheet, Webster Bank, N. A. is not providing any advice, advisory services, or recommendations with respect to the structure, timing, terms, or similar matters concerning an issuance of municipal securities. This Term Sheet is a commercial, arms-length proposal that does not create a fiduciary duty by Webster Bank, N. A. to the Borrower. The Borrower may engage, separately and at its own cost, an advisor to review this Term Sheet and the proposed transaction on the Borrower’s behalf.

CREDIT APPROVAL:

Although favorably prescreened, the Loan is subject to final approval by Webster Bank, N. A. and the negotiation of mutually acceptable documentation. For due diligence, Lender will require Borrower’s three (3) most recent audited financial statements, its most recently adopted budget, and any other information that Lender may reasonably require.

PROPOSAL EXPIRATION:

Unless accepted by the Borrower or extended in writing by Webster Bank, N. A. at its sole discretion, this Term Sheet shall expire on October 20, 2023. Once accepted, this Term Sheet shall expire if the Loan is not funded by November 10, 2023.

Upon receipt of the signed Term Sheet, we will endeavor to provide you with a timely commitment, and we will use good faith efforts to negotiate and finance the Loan based on the terms herein. It is a pleasure to offer this financing proposal and we look forward to your favorable review.

Very truly yours,



Mark A. Cargo
Managing Director
mcargo@websterbank.com
www.websterbank.com

**Agreed to and Accepted by:
The Town of Malabar, Florida**

_____ (Name)

_____ (Title)

_____ (Date)

Exhibit A--Sample Amortization Schedule						
Funding Amount:		\$3,500,000.00			Interest Rate:	5.08%
Down Payment:		\$0.00			Closing Date:	11/9/2023
Capitalized Interest:		\$0.00			Term (years):	15
Cost of Issuance:		<u>\$0.00</u>				
Amount Financed:		\$3,500,000.00				
Payment	Payment	Payment	Interest	Principal	Outstanding	Redemption
Number	Date	Amount	Component	Component	Balance	Price
Principal:	11/9/2023				\$3,500,000.00	No Call
1	4/1/2024	\$70,145.75	\$70,145.75	\$0.00	\$3,500,000.00	No Call
2	10/1/2024	\$240,950.00	\$88,900.00	\$152,050.00	\$3,347,950.00	No Call
3	4/1/2025	\$85,037.93	\$85,037.93	\$0.00	\$3,347,950.00	No Call
4	10/1/2025	\$261,877.93	\$85,037.93	\$176,840.00	\$3,171,110.00	No Call
5	4/1/2026	\$80,546.19	\$80,546.19	\$0.00	\$3,171,110.00	No Call
6	10/1/2026	\$265,346.19	\$80,546.19	\$184,800.00	\$2,986,310.00	No Call
7	4/1/2027	\$75,852.27	\$75,852.27	\$0.00	\$2,986,310.00	No Call
8	10/1/2027	\$268,962.27	\$75,852.27	\$193,110.00	\$2,793,200.00	No Call
9	4/1/2028	\$70,947.28	\$70,947.28	\$0.00	\$2,793,200.00	No Call
10	10/1/2028	\$272,747.28	\$70,947.28	\$201,800.00	\$2,591,400.00	\$2,643,228.00
11	4/1/2029	\$65,821.56	\$65,821.56	\$0.00	\$2,591,400.00	\$2,643,228.00
12	10/1/2029	\$276,711.56	\$65,821.56	\$210,890.00	\$2,380,510.00	\$2,428,120.20
13	4/1/2030	\$60,464.95	\$60,464.95	\$0.00	\$2,380,510.00	\$2,428,120.20
14	10/1/2030	\$280,844.95	\$60,464.95	\$220,380.00	\$2,160,130.00	\$2,181,731.30
15	4/1/2031	\$54,867.30	\$54,867.30	\$0.00	\$2,160,130.00	\$2,181,731.30
16	10/1/2031	\$285,157.30	\$54,867.30	\$230,290.00	\$1,929,840.00	\$1,929,840.00
17	4/1/2032	\$49,017.94	\$49,017.94	\$0.00	\$1,929,840.00	\$1,929,840.00
18	10/1/2032	\$289,667.94	\$49,017.94	\$240,650.00	\$1,689,190.00	\$1,689,190.00
19	4/1/2033	\$42,905.43	\$42,905.43	\$0.00	\$1,689,190.00	\$1,689,190.00
20	10/1/2033	\$294,385.43	\$42,905.43	\$251,480.00	\$1,437,710.00	\$1,437,710.00
21	4/1/2034	\$36,517.83	\$36,517.83	\$0.00	\$1,437,710.00	\$1,437,710.00
22	10/1/2034	\$299,317.83	\$36,517.83	\$262,800.00	\$1,174,910.00	\$1,174,910.00
23	4/1/2035	\$29,842.71	\$29,842.71	\$0.00	\$1,174,910.00	\$1,174,910.00
24	10/1/2035	\$304,472.71	\$29,842.71	\$274,630.00	\$900,280.00	\$900,280.00
25	4/1/2036	\$22,867.11	\$22,867.11	\$0.00	\$900,280.00	\$900,280.00
26	10/1/2036	\$309,857.11	\$22,867.11	\$286,990.00	\$613,290.00	\$613,290.00
27	4/1/2037	\$15,577.57	\$15,577.57	\$0.00	\$613,290.00	\$613,290.00
28	10/1/2037	\$315,477.57	\$15,577.57	\$299,900.00	\$313,390.00	\$313,390.00
29	4/1/2038	\$7,960.11	\$7,960.11	\$0.00	\$313,390.00	\$313,390.00
30	10/1/2038	<u>\$321,350.11</u>	<u>\$7,960.11</u>	<u>\$313,390.00</u>		
Total:		\$5,055,498.11	\$1,555,498.11	\$3,500,000.00		

ABOUT – Webster Bank

The public finance group of Webster Bank provides tax-exempt and taxable financing solutions on a nationwide basis for state & local governments, non-profit corporations, and the federal government. Projects financed include virtually all types of essential capital items, including equipment, vehicles, energy efficiency & renewable energy equipment, and real property. Financing terms are tied to the useful life of the capital improvements and range from 3 to 20 years. Each member of the public finance team has 25 or more years of lending experience and is committed to the timely closing of awarded transactions.

CONTACT INFORMATION

For more information about this financing opportunity, please contact:

Mark Cargo

Managing Director

Webster Bank

Phone: (704) 287-4493

Email: mcargo@websterbank.com

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 12.j

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Tri-Party Development Agreement for 3350 Henderson Drive

BACKGROUND/HISTORY:

- Mr. Radencic owns property in the Town of Malabar that he wishes to develop.
- Access to his property would be through Henderson Lane, in Grant-Valkaria.
- Town Attorney Karl Bohne has drafted the attached Tri-Party Developer's Agreement between the Town of Malabar, the Town of Grant-Valkaria, and Mr. Radencic which would allow him to build a maximum of two single-family homes on his land in Malabar, while accessing the land from Grant-Valkaria.

ATTACHMENTS:

- Tri-Party Development Agreement

ACTION:

- Council Action

FINANCIAL IMPACT:

- None

TRI-PARTY DEVELOPMENT AGREEMENT

This AGREEMENT made and entered into this ____ day of _____, 2023, by and between, the TOWN OF MALABAR, FLORIDA, a Florida municipal corporation, 2725 Malabar Road, Malabar FL 32950 (hereinafter referred to as “MALABAR”), the TOWN OF GRANT-VALKARIA, a Florida municipal corporation, 1449 Valkaria Road, Grant-Valkaria, FL 32950 (hereinafter referred to as “GRANT-VALKARIA”) and RADENCIC RANCH, LLC, a Florida Limited Liability Company , 2575 Gradick Dr., Malabar, FL 32950 (hereinafter referred to as “RADENCIC”).

WITNESSETH:

WHEREAS, RADENCIC owns the property described in Exhibit A, attached hereto and made a part hereof, also identified as Parcel Id 29-38-07-00-762 and tax account number 3020626 and a site address assignment of 3350 Henderson Dr., Malabar, FL 32950 (hereinafter the “PROPERTY”); and,

WHEREAS, the PROPERTY is located in MALABAR; and,

WHEREAS, the current access to the PROPERTY is through GRANT-VALKARIA via Henderson Drive; and,

WHEREAS, GRANT-VALKARIA would not, if the PROPERTY was located in GRANT-VALKARIA, require any roadway improvements as a condition to receiving a building permit because the access is through an existing improved roadway; and,

WHEREAS, in addition, access to the PROPERTY is through private easements connecting to Henderson Drive and leading to the PROPERTY and GRANT-VALKARIA would not require any further improvements to the private easements as a condition to receiving a building permit; and,

WHEREAS, because the access to the PROPERTY is through GRANT-VALKARIA and across a private easement also located in GRANT-VALKARIA, the GRANT-VALKARIA code limits the use of the access for only 2 residences. GRANT-VALKARIA has the right to control their roads and usage; and

WHEREAS, RADENCIC desires to construct one single-family residence on the PROPERTY and needs the cooperation of both MALABAR and GRANT_ VALKARIA; and

WHEREAS, GRANT-VALKARIA agrees to allow access through Henderson Drive to the PROPERTY so long as RADENCIC limits development on the PROPERTY as it exists now or may exist in the future by subdividing the PROPERTY or selling, conveying or transferring or any portion of the PROPERTY; and

WHEREAS, RADENCIC and MALABAR agree to limit the development of the PROPERTY as it exists now or may exist in the future by subdividing the PROPERTY or selling, conveying or transferring or any portion of the PROPERTY to 2 single family residences; and,

WHEREAS, it is in the interest of the public health, safety and welfare of the municipal parties to cooperate concerning the development of the PROPERTY; and

WHEREAS, the parties recognize that GRANT-VALKARIA should continue to have ownership and jurisdiction over Henderson Drive; and

WHEREAS, the parties recognize that MALABAR shall maintain development control, subject to the terms and conditions herein, over the PROPERTY.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties agree as follows:

1. RECITALS. The foregoing recitations are true and correct and by this reference are incorporated herein and constitute an integral part hereof.

2. EFFECTIVE DATE; TERM. This Agreement shall become effective upon execution by all of the parties hereto, and recording by the Clerk of Court of Brevard County. RADENCIC shall be responsible to reimburse MALABAR for the cost of recording this agreement and cost of preparation hereof. This agreement shall be a continuing agreement and may only be terminated as provided herein.

3. RIGHTS, DUTIES AND OBLIGATIONS OF MALABAR.

(a) MALABAR shall have and maintain jurisdiction over the development of the PROPERTY consistent with the terms of this Agreement and shall be responsible to enforce the terms of this Agreement against RADENCIC in the event of a breach by RADENCIC.

(b) MALABAR shall have the sole and absolute authority to issue any permits or development orders for development of the PROPERTY consistent with the terms of this Agreement.

(c) MALABAR shall have the sole and absolute authority to inspect any work performed pursuant to a properly issued permit by MALABAR upon the property described in Exhibit A.

(d) MALABAR will notify GRANT-VALKARIA concerning any applications for permits or development orders submitted to MALABAR for the property described in Exhibit A. It is not intended by this provision that GRANT-VALKARIA will have any ability to direct MALABAR concerning such permits; however, GRANT_VALKARIA shall at all times maintain jurisdiction, authority, control and ownership of Henderson Drive.

(e) Any development or any other work to, on or within the properties described in Exhibit A shall be done in accordance with the requirements of MALABAR code.

4. RIGHTS, DUTIES AND OBLIGATIONS OF GRANT-VALKARIA.

(a) GRANT-VALKARIA will at all times maintain jurisdiction, authority, control and ownership of Henderson Drive and reserves the right to enforce all of its laws, codes, and regulations regarding use of Henderson Drive.

(b) GRANT-VALKARIA will not close or barricade Henderson Drive, other than temporarily for right-of-way maintenance, repair, accidents or emergencies, or vacate any portion of Henderson Drive.

(c) Should there be a need to temporarily close or barricade Henderson Drive GRANT-VALKARIA shall provide reasonable notice to the other parties of such closure or barricading of no less than 30 days in advance, except that in the case of an emergency notice shall be given as expeditiously as possible under the circumstances.

5. AFFECT ON PRIVATE EASEMENTS. Nothing herein is intended to affect, change, modify or otherwise impact any private easements which exists off of Henderson Drive and which serve as RADENCIC's access to the PROPERTY. This Agreement does not guaranty the future existence of any such private easement and neither municipal party hereto shall have any obligation to ensure such private easements remain in full force an effect. Any issues regarding the continued use of such easements shall be resolved between RADENCIC and the owner of the servient estate.

6. TERMINATION. The following shall be grounds for termination of this agreement:

(a) Any future contraction of the property described in Exhibit A from MALABAR and annexation into GRANT-VALKARIA;

(b) A signed mutual termination of this Agreement by the parties; or

7. NOTICES. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or by depositing same in first class mail, postage prepaid by certified mail:

MALABAR: Town Manager
2725 Malabar Road
Malabar FL 32950

GRANT-VALKARIA: Town Administrator
1449 Valkaria Road
Grant-Valkaria, FL 32950

RADENCIC: William J. or Pamela T. Radencic
2575 Gradick Dr.
Malabar, FL 32950

or to such other addresses such by notice in writing to any other parties.

8. AUTHORITY. By executing this Agreement each of the parties represent and acknowledge to each of the other parties that each has the full power and authority to enter into this Agreement, the person executing the Agreement either has, or has been delegated, the authority to execute the Agreement on behalf of that party, nor is the consent of any third party required.

9. BINDING EFFECT. This Agreement, including the exhibits and all documents and papers delivered pursuant hereto, and any written amendments hereto executed by the parties to this Agreement constitute the entire agreement between the parties and supersedes all prior agreements and understandings, oral or written, among the parties to this Agreement with respect to the subject matter hereof. This Agreement may be amended only by written agreement approved and executed with the same formalities as this Agreement by both of the parties. This Agreement shall bind the heirs, successors and assigns of the parties and shall run with the land described in Exhibit A.

10. DELIVERY OF DOCUMENTS. The parties to this Agreement will execute and deliver or cause to be executed and delivered such additional or further transfers, assignments, endorsements, or other instruments as the other party may reasonably request for the purpose of carrying out the matters contemplated by this Agreement.

11. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

12. ATTORNEY'S FEES. In the event any litigation arises out of this Agreement or under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, including attorney's fees for any appeal.

13. GOVERNING LAW. The validity, construction, and enforcement of and the remedies under this Agreement shall be governed in accordance with the laws of the State of Florida, and venue of any proceeding shall be Brevard County, Florida.

14. SAVINGS CLAUSE. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be signed on this the first date first above written.

ATTEST:

Richard Kohler, Town Clerk

TOWN OF MALABAR
By: _____
Patrick T. Reilly
Its: Mayor

Jessica Keenan, Town Clerk

TOWN OF GRANT-VALKARIA
By: _____
Del Yonts
Its: Mayor

RADENCIC
By: _____

Its: Property Owner/Authorized Agent

STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Patrick T. Reilly, as Mayor of the TOWN OF MALABAR, a Florida municipal corporation, physically present, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same and did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2023.

Notary Public
My Commission Expires:

STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Del Yonts, as Mayor of the TOWN OF GRANT-VALKARIA, a Florida municipal corporation, physically present, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same and did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2023.

Notary Public
My Commission Expires:

STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____, as authorized Manager of RANDENCIC RANCH, LLC, a Florida limited liability company, physically present, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same and did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2023.

Notary Public
My Commission Expires:

TOWN OF MALABAR

COUNCIL MEETING

AGENDA ITEM NO: 12.k.
Meeting Date: November 6, 2023

Through: Lisa Morrell, Treasurer/Special Projects Manager

Prepared By: Anthony Giantonio, Interim Fire Chief

SUBJECT: Medical Director Agreement Brevard Physician Associates, PLLC

BACKGROUND/HISTORY:

Pursuant Section 401.265, Florida Statutes, which requires each basic life support service (BLS) must employ or contract with a medical director the Malabar Fire Department requires a medical professional to the first responder agency.

Brevard Physician Associates, PLLC currently employs Dr. Larissa Dudley who currently holds a valid and unrestricted license to practice medicine in the State of Florida and possess the skill and expertise necessary to provide adequate supervision of the above services.

Historically, this agreement has been executed annually. The term of this agreement will be for a term of three (3) years, commencing October 1, 2023 and expiring September 30, 2026, with contracted compensation calculator:

Year 23-24 Compensation - \$12,500.00

Year 24-25 Compensation - \$13,000.00

Year 25-26 Compensation - \$13,500.00

FINANCIAL IMPACT:

Total contract value \$39,000, paid annually and budgeted in the Fire Department, 522.3104

ATTACHMENTS:

Medical Director Agreement 2023

ACTION OPTIONS:

Motion to approve the three-year agreement for medical director services as presented and authorize the Town Manger to execute the contract with Brevard Physician Associates, PLLC the current employer for, Dr. Larissa Dudley, medical director of record for the Town of Malabar.

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
TOWN OF MALABAR
AND
BREVARD PHYSICIAN ASSOCIATES, PLLC**

This Agreement is made on October 1, 2023, by and between the Town of Malabar and the Town of Malabar Fire Department (collectively TMFD) and Brevard Physicians Associates PLLC and Dr. Larissa Dudley (collectively, MEDICAL DIRECTOR).

WITNESSETH:

WHEREAS, Section 401.265, Florida Statutes, requires each basic life support service (BLS) must employ or contract with a medical director; and,

WHEREAS, the TMFD desires to obtain the services of a qualified practicing physician to serve as a medical director in the performance of duties relating to the operation of an existing BLS within the town; and,

WHEREAS, Brevard Physician Associates, PLLC currently employs Dr. Larissa Dudley who currently holds a valid and unrestricted license to practice medicine in the State of Florida and possess the skill and expertise necessary to provide adequate supervision of the above services.

NOW THEREFORE, in consideration as set forth below, the parties hereto do agree as follows:

1. **Description of Services:** the MEDICAL DIRECTOR shall have the duties, responsibilities and provide the professional services as follows:
 - a. To have and maintain the expertise and competence to serve as MEDICAL DIRECTOR as defined by applicable State laws and regulations.
 - b. To advise the TMFD as to the assessment of the competence of each of the Department's EMTs and for making recommendations regarding the medical procedures which each EMT should be authorized to perform. Such assessment shall be made by utilizing reasonable evaluative process and techniques and shall include assessment of each EMT's ability to:
 - 1) Appropriately evaluate emergency medical patients and determine proper priorities for emergency medical care;
 - 2) Communicate the findings of such evaluation to a physician who has agreed to provide reasonable supervision on that EMT;
 - 3) Receive and understand proper orders from a physician providing direct supervision of the EMT;
 - 4) Understand and properly apply any standing orders authorized by the MEDICAL Director;
 - 5) Understand the legal relationships between the EMT, medical director, physician(s) under agreement to provide responsible supervision of the EMT and any other physician; and,
 - 6) Perform the specific medical procedure(s) which EMT is specifically authorized to perform by the MEDICAL DIRECTOR and by the TMFD.

- c. To ensure that any services performed by the EMT is specifically authorized to perform by the MEDICAL DIRECTOR and by the TMFD.
 - d. To continually evaluate the medical capability of the EMTs and the TMFD and advise the Department regarding the appropriate levels and standards of care that should be achieved.
 - e. To assist in identifying the specific medical skills and knowledge which EMTs must possess to achieve the desired level and standards of care that should be achieved.
 - f. Assist in identifying the training and experience necessary for the EMTs to acquire the desired skills and knowledge and, in cooperation with approved education programs, in assuring that EMT receives such training and experience.
 - g. Assist the TMFD in the development and continual updating of standing orders and other procedures to facilitate the proper management of emergency medical procedures.
 - h. Develop and implement an appropriate process for periodic audit and review of BLS services and other emergency procedure performed by EMTs and other personnel providing such BLS service to ensure that such procedures comply with the requirements and standards established by the State of Florida, Department of Health and Rehabilitative Services.
 - i. To develop and authorize, or review and authorize for use, standing orders which allow the EMTs to properly manage certain medical emergencies when voice communication with the responsible physician is not available. Such standing orders must be specific and must at least provide for managing immediately life-threatening medical emergencies, but they are not required to be so comprehensive as to include as possible medical emergencies.
 - j. To accept responsibility for the medical correctness of any standing order which he authorized for use by the EMTs and for properly instructing the EMTs regarding the correct use of the standing orders.
 - k. To determine the qualifications necessary for a physician to provide responsible supervision of the EMTs.
 - l. To develop and authorize, or review and authorize, standards and procedures controlling the use of drugs and other medications used for ALS services and emergency medical services; to accept responsibility for procedures providing for the security and periodic inventory of drugs and medications.
 - m. To retain the ultimate authority to permit and/or prohibit any EMT to utilize the basic life support techniques and emergency medical procedures.
 - n. To become a member of the "Florida Association of Emergency Medical Services Directors" and attend a minimum of two (2) meetings each year.
 - o. To provide medical direction for AED protocol for the Town of Malabar thru TMFD.
2. **Term/Renewal:** The term of this Agreement shall be for a period of three (3) years beginning October 1, 2023 and terminating September 30, 2026. This Agreement supersedes any and all contracts of agreements, oral or written, expressed or implied, heretofore entered into by and between the parties hereto. Either party to this Agreement shall have the right to terminate same at any time given thirty (30) days' notice to the other party. This Agreement shall automatically terminate upon suspension or revocation of the license to practice medicine in the State of Florida held by the MEDICAL DIRECTOR.

3. **Basis of Compensation:** Compensation to the MEDICAL DIRECTOR shall be \$12,500.00 annually. Should this Agreement be terminated early, annual compensation shall be prorated, and the MEDICAL DIRECTOR will refund the TMFD all unearned compensation paid to it within 45 days of termination. TMFD shall also compensate MEDICAL DIRECTOR up to \$1,000.00 for medical malpractice insurance reimbursement. Such reimbursement shall be paid as provided in section 4 below. Each subsequent year of this contract; the MEDICAL DIRECTOR will receive an increase to the base in this section, of \$500.00 annually until the end of the contract. At year three, the final year, of this contract the MEDICAL DIRECTOR will receive a compensation of \$13,500.00. *See Compensation Breakout below.*
4. **Payment:** Payment of the services herein shall be made at the beginning of each term of this agreement.
5. **Insurance and Indemnification:** The MEDICAL DIRECTOR shall at all times be covered by professional liability insurance for her work performed under this Agreement in an amount of not less than \$1,000,000.00 per person/ \$1,000,000.00 per occurrence in accordance with Florida Statute 768.28, unless otherwise approved by the TMFD. Such insurance shall be provided by the MEDICAL DIRECTOR and the MEDICAL DIRECTOR shall be reimbursed such coverage for the TMFD as provided for in section 3 above.

MEDICAL DIRECTOR shall indemnify and hold harmless the Town of Malabar, and its officers, Council members and employees, from liabilities, damages, losses, and cost, including, but not limited to, reasonable attorneys' fees, to the extent caused by the recklessness, or intentionally wrongful conduct of MEDICAL DIRECTOR and other persons employed or utilized by MEDICAL DIRECTOR in the performance of the contract.

SOVEREIGN IMMUNITY: Nothing in this Agreement shall be construed as a waiver of the Town of Malabar's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the Town of Malabar's potential liability under state or federal law.

6. **Successors and assigns:** The TMFD and MEDICAL DIRECTOR each bind itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract.
7. **Remedies:** No remedy herein conferred upon any party is intended to be exclusive, or any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or nor or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof. In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.
8. **Conflict of interest:** MEDICAL DIRECTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. MEDICAL DIRECTOR further represents that no person having any interest shall be employed for said performance.

MEDICAL DIRECTOR shall promptly notify the TMFD in writing by certified mail of all potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence MEDICAL DIRECTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that MEDICAL DIRECTOR may undertake and request an opinion of the

TMFD, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by MEDICAL DIRECTOR.

The TMFD agrees to notify MEDICAL DIRECTOR of its opinion by certified mail within 30 days of receipt of notification by MEDICAL DIRECTOR. If, in the opinion of the TMFD, the prospective business association, interest or circumstance would not constitute a conflict of interest by MEDICAL DIRECTOR, the TMFD shall so state in the notification and MEDICAL DIRECTOR shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the TMFD by MEDICAL DIRECTOR under the terms of this Contract.

9. **Independent contractor relationship:** MEDICAL DIRECTOR is, and shall be, in the performance of all work services and activities under this Contract, and Independent Contractor, and not an employee, agent, or servant of the TMFD. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times and in all places be subject to MEDICAL DIRECTOR's sole direction, supervision, and control.

MEDICAL DIRECTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects MEDICAL DIRECTOR's relationship and the relationship of its employees to the shall be that of an Independent Contractor and not as employees or agents of the TMFD. MEDICAL DIRECTOR does not have the power or authority to bind the TMFD in any promise, agreement, or representation other than specifically provided for in this agreement.

10. **Severability:** If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such items or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.
11. **Amendments and modifications:** No modifications of this Contract shall be valid unless by a written document.
12. **Florida law:** This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Brevard County.
13. **Third parties:** Nothing contained in this contract shall create a contractual relationship with a cause of action in favor of a third party against either the TMFD or MEDICAL DIRECTOR. MEDICAL DIRECTOR'S services under this contract are being performed solely for the TMFD's benefit and no other entity shall have any claim against MEDICAL DIRECTOR because of this contract or the performance or non-performance of services hereunder.
14. **Notice:** All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the TOWN shall be mailed to:

Town of Malabar Fire Department
Fire Chief
1840 Malabar Road
Malabar, Florida 329350

Town Manager
2725 Malabar Road
Malabar, Florida 329350

and if sent to MEDICAL DIRECTOR shall be mailed to:

Brevard Physician Associates, PLLC and Dr. Larissa Dudley
1775 W. Hibiscus Blvd., Suite 215
Melbourne, FL 32901

Dr. Larissa Dudley
1775 W. Hibiscus Blvd., Suite 215
Melbourne, FL 32901

15. **Headings:** The heading preceding the several articles and sections hereof are solely for convenience of reference and shall not constitute a part of this Contract, or affect its meaning, construction, or effect.

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed by their duly authorized officers on the date first written above.

Brevard Physicians Associates, PLLC

Town of Malabar – Town Manager

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Dr. Larissa Dudley

Town of Malabar Fire Department

Signature: _____

Signature: _____

Name: _____

Title: _____

Date: _____

Date: _____

Compensation Breakout:

Year 23-24 Compensation - \$12,500.00

Year 24-25 Compensation - \$13,000.00

Year 25-26 Compensation - \$13,500.00

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: **12.I.**

Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Town of Malabar Town Treasurer –CM Vail

BACKGROUND/HISTORY:

At the 10/02/2023 RTCM, Matt Stinnett informed Council that he had accepted a position with Brevard County, and that his last day working for Malabar would be November 3rd.

At the 10/16/2023 RTCM, Mayor Reilly requested a draft contract appointing Ms. Morrell as Town Manager be heard for discussion. Council unanimously approved the draft contract, and selected Council Member Scardino to negotiate a contract with Ms. Morrell. Ms. Morrell and CM Scardino have drafted a contract, heard tonight as Resolution 10-2023.

As Council has appointed Ms. Morrell as the new Town Manager, Staff has developed two options for Council to consider to fill the Town Treasurer position.

Option 1: Post the position for Town Treasurer with the job description and salary range used in the search last year.

- Staff may post the position as soon as Council directs.
- Discuss the posting period for the advertisement.

Option 2: Combine the Town Clerk and Town Treasurer position.

- This would require a Resolution repealing and replacing Resolution 15-2022, which separated the positions.
- This would also require a renegotiated contract with the Town Clerk for increased duties and responsibilities.
- Staff requests for this change to include the creation of a job description and funded position of a Paymaster to work in the Treasurer's office.
- Staff could develop the required Resolution, renegotiated contract and Job Description for Council review at the November 20th RTCM.

At the 10/16/2023 RTCM, Council discussed both possibilities. CM Vail requested the item be brought back for further discussion and possible action.

ATTACHMENTS:

- Town Treasurer Job Description

ACTION:

- Motion to direct Staff to post the position of Town Treasurer.

OR

- Motion to direct Staff to draft a resolution repealing and replacing Resolution 15-2022, draft a job description for a Paymaster, and appoint a Council Member to

renegotiate the Town Clerk/Treasurer contract to be approved by Council at the November 20th RTCM.

FINANCIAL IMPACT:

- Treasurer position was previously advertised at \$56,680 - \$76,539.
- \$65,000 budgeted for FY23/24.



TOWN OF MALABAR

Treasurer

Position Description
Non-Exempt
Salary Range \$56,680 - \$76,539

A Charter Officer of the Town, appointed by and responsible to the Town Council. Receives policy direction from the Town Council. As member of the Town's Senior Management, is responsible for all activities related to the Town Council and all Accounting and Financial Management Functions. A final employment contract shall be executed by Town Council.

ESSENTIAL DUTIES & RESPONSIBILITIES:

The following duties are normal for this position. They are not to be construed as exclusive or all-inclusive. Further description of details follows this section.

- I. Develop, plan, and implement departmental goals and objectives.
- II. Establish and administer policies and procedures for financial operations.
- III. Responsible for all accounting and financial management functions of the Town, including investments and banking.
- IV. Responsible for payroll.
- V. Assists in preparation of the Annual Financial Budget with the Town Manager.
- VI. Reviews monthly and quarterly financial assessments of Annual Budget.
- VII. Prepares for and assists with the independent audit on an annual basis.
- VIII. Oversees all grant functions, applications, reporting and close-outs.
- IX. Responsible for all Accounts Receivable funds and accounting and oversees Accounts Payable.

General:

- A. Must be able to operate independently of supervision and organize work product to comply with all Local, State and Federal requirements.
- B. Must be able to prioritize complex task(s) to meet schedule deadlines for reporting.
- C. Possess the aptitude to maintain transparent and accurate financial operations.

Finances:

1. Responsible for managing and understanding all facets of Town finances including general ledger, accounts payable, revenues (tax and other), accounts receivable, payroll, building permits, local, state, and federal grants, code enforcement fines, liens, loans, bonds, millage (TRIM), budgets for all departments, and non-ad valorem assessments.
2. Responsible for maintaining proper timetable for TRIM (Truth in Millage), must file all documents in a timely manner and follow appropriate advertising requirements. Responsible for proper execution of procedure in relation to non-ad valorem assessment(s).
3. Responsible for the collection and security of Town monies and receipts. Verifies, reviews, and counter-signs accounts payable checks. Custodian of petty cash.
4. Responsible for transmitting all financial information to accountant monthly and reviewing the general ledger that is prepared.
5. Plans and organizes investments and cash management programs.
6. Preparation of Department budget and forecasting financial needs to cover liabilities.
7. Prepares pre-audit documentation and assists auditors with annual financial audit.
8. Prepares monthly, quarterly, and yearly reports for various Local, State and Federal agencies, files all report(s) in a timely manner.
9. Supervises and verifies payroll. countersigns check(s), distributes payroll, and meets payroll tax deposit requirements. Prepares payroll reports including quarterly state and federal payroll reports.

10. Responsible for monthly reporting and submitting FRS retirement payments in a timely manner.
11. Supervises and verifies grant disbursements and grant reimbursement requests.
12. Keeps abreast of changing laws that directly, or indirectly, affect the Town.
13. Interacts with various groups and individuals, including employees, Town Manager, Town Attorney, Town Clerk, members of the Town Council and other Board members, as well as Local, State, and Federal officials.
14. Designee for disaster preparedness, response, and recovery.

Technology:

15. Must be proficient in technology and skilled using Office 365 Suite and web-based government software solutions.
16. Requires advance knowledge in accounting software packages, preferably Intuit QuickBooks Online.
17. Be capable of performing general office and equipment maintenance.

Additional:

- Must be able to communicate effectively in English with constituents and Town Council verbally, written memorandums, and/or oral presentations.
- Must be able to lift boxes up to 30 lbs.
- Possess a valid Florida Driver's License and personal vehicle for reimbursable business travel as needed by the Town.
- Availability to attend public meetings, workshops, or other governmental agency meetings as directed by Town Council; frequently occur after-hours.

Education & Experience:

A qualified candidate will possess a minimum of three (3) years of experience in a financial position, preferably in a government setting and possess a bachelor's degree in finance or similar area of study; or the equivalent of an associate degree in finance, and a Certified Public Finance Officer, and minimum of five (5) years of experience in a financial position, preferably in a government setting.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 12.m
Meeting Date: November 6th, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Schedule Joint Workshop between Town Council and the Planning and Zoning Board for potential amendments to the Comprehensive Plan

BACKGROUND/HISTORY:

Staff has received numerous inquiries regarding the properties West of Weber Road, along Malabar Road. Mayor Reilly has requested a joint meeting be held to discuss potential land use projects in the area.

ATTACHMENTS:

- Town Calendar for November 2023

ACTION:

- Direct Staff to schedule a joint workshop for 11/27/2023 at 7 PM.