

Malabar, FL

Planning and Zoning Board Meeting

Wednesday, December 11, 2019 at 7:00 pm

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. NOMINATIONS FOR CHAIR/ VICE CHAIR
5. CONSENT AGENDA

APPROVAL OF MINUTES

- a. **Approval of Minutes of Planning and Zoning Board Meeting of 10/23/2019**

Exhibit: Agenda Report Number 5a

Attachments:

- Agenda Report Number 5a (12.11_5a.pdf)

6. ACTION ITEMS

None

7. PUBLIC HEARING

None

8. DISCUSSION/POSSIBLE ACTION ITEMS

- a. **Discuss Commercial Development in Malabar Along US Highway 1 and Malabar Road (Chair - Abare)**

Exhibit: Agenda Report Number 8a

Attachments:

- Agenda Report Number 8a (12.11_8a.pdf)

9. ADDITIONAL ITEMS FOR FUTURE MEETING

10. PUBLIC COMMENTS

11. OLD BUSINESS/NEW BUSINESS

- a. **Old Business**
- b. **New Business**

Board Member Comments

Next regular Meeting - December 25th CANCELLED

Next Regular Meeting - January 8th (Discuss)

12. ADJOURNMENT

Contact: Denine Sherear (dsherear@townofmalabar.org 13217277764) | Published on 12/06/2019 at
4:57 PM

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 5.a.

Meeting Date: December 11, 2019

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

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

The minutes must reflect the actions taken by the Board:

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

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

ATTACHMENTS:

Draft minutes of P&Z Board Meeting of 10/23/2019

ACTION OPTIONS:

Secretary requests approval of the minutes.

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
OCTOBER 23, 2019 7:00 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 7:00 P.M. Prayer and Pledge led by Chair Wayne Abare

2. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	GEORGE FOSTER
	DOUG DIAL
	MARY HOFMEISTER
ALTERNATE:	ALLEN RICE, ABSENT
ALTERNATE:	SUSAN SHORTMAN
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

MAYOR
COUNCIL MEMBER:

3. ADDITIONS/DELETIONS/CHANGE: NONE

4. CONSENT AGENDA:

4.a. Approval of Minutes	Planning and Zoning Meeting – 10/09/2019
Exhibit:	Agenda Report No. 4.a.
Recommendation:	Request Approval

**Motion: Foster/Ritter Recommend Approval of Minutes of 10/09/2019 as revised All Vote:
Aye**

Corrections:

Page 4 of packet:

Hofmeister, second parag. Second to last sentence need is needed. Third parag. Last sentence insert "the" before City. Fourth parag. 2nd sentence Towns should be Towns', take out in before compliant. Fifth parag. Second sentence approved by (add) the Brevard. 3rd sentence period after Health. They (Susan) clarification. Last sentence permit after septic.

Page 5 of packet:

Ritter/ Shortman 2nd parag. second sentence add TOPO after survey 2005. 5th parag. Second sentence verses change to vs

5. PUBLIC HEARING: 1

5.a. Recommendation to Council: Rezone Huggins Park from Institutional (INS) to Residential (RS-10) located at 2540 Johnston Ave, Malabar FL 32950	
Exhibit:	Agenda Report No. 5.a.

Recommendation: Action to Council

Abare, made a few suggests to Public for the Public Hearing Agenda Item and explained the process of the P&Z Board's position providing a recommendation to Council.

Chair Abare opens the Public Hearing to the Public.

Sherear reads the Recommendation to Council: Rezone Huggins Park from Institutional to Residential (RS-10) located at 2540 Johnston Ave, Malabar FL 32950.

Jennifer Wormuth 2490 Nord Street, Malabar FL 32950 she sent an email to Denine to hand out to the Board. (attached to minutes)

Jennifer asked questions about what the parks in the Town are zoned. Ritter replied Institutional or green space/ recreational space typically.

Ms. Wormuth explained that when Abare showed up next to her house where Huggins Park is located, they spoke briefly about Huggins Park. Ms. Wormuth explained the reason she moved to Malabar was the parks the open space, the greenery she did not want it to be like Palm Bay.

When Abare was out at property Ms. Wormuth had concerns of property being sold and a bunch of houses would be constructed, and she did not want that next to her property. Wayne explained maybe it would be divided into 3 lots due to septic issues.

Ms. Wormuth discussed with Abare that after research it could be divided into more lots. Abare said it would need city water and septic possibly to maximize the use.

Ms. Wormuth brought up the preamble to the Board, she has been a resident since 2003, She has seen in the past poor choices are made for future uses, why is the Town selling park land. The hot topic in today's world is environmental and eco-friendly. She was told today that there are too many parks in our Town.

Ritter/Abare explained the zoning and the zoning surrounding the area is corresponding with the RS-10 zoning.

The Board discussed dividing the Huggins Park into 4 lots. Abare explained to Ms. Wormuth that she chose to purchase land in one of the highest density areas.

Ms. Wormuth said that her concern is the beautiful land and watches the wildlife. Ritter/Abare explained to Ms. Wormuth that this is the Planning & Zoning Board, it is strictly an advisory Board that makes recommendations and we try to keep the land compatible with what is surrounding to stay away from spot zoning.

Ms. Wormuth thought she had a voice concerning this change of zoning for Huggins Park. Ritter said that our Town has plenty of parks for the ratio of people to open space, more than other Towns. Ms. Wormuth said that is what brings people to Malabar, the parks and open space.

Foster explained that the use of the park can not be denied as the best use.

Abare/Sherear discussed subdivision is costly to the builder.

Abare discussed about the Towns' Planner looked at the three "C"'s Consistency, Capability, and Compatibility since it is surrounded by RS-10 and was RS-10 in the past, it was suggested to rezone back to RS-10.

The next meeting for this Recommendation will be heard on November 4, 2019 at 7:30PM at a Regular Council Meeting.

Ms. Wormuth, for the record rejects the idea of changing the zoning of Huggins Park to RS-10.

Chair, Closed Public Hearing.

MOTION: Foster/Ritter Recommendation to Council to Approve the Re-Zoning for Huggins Park 2540 Johnston Ave, Malabar from Institutional (INS) to Residential (RS-10) and make recommendation to allow three (3) lots 2 on the south side off Johnston Ave & one (1) lot on north side off Nord Street as revised All Vote:

Roll Call: Foster; Aye, Abare; Aye, Dial; Aye, Ritter; Aye, Hofmeister; Aye Motion passed 5 to 0

The Board discussed the division of Huggins Park extensively and suggested how many parcels in the recommendation that goes to Council.

6. **ACTION: none**
7. **DISCUSSION**
8. **ADDITIONAL ITEMS FOR FUTURE MEETING:**

The Board discussed the Calendar for the Holidays.

9. **PUBLIC:**

Any comments from the public.

10. **OLD BUSINESS/NEW BUSINESS:**

Old Business:

Abare spoke about two positions up for renewal on this Board, George Foster & Allen Rice. Foster already renewed.

New Business:

- Board Member Comments

Foster, growth on arterials for the Town to discuss concepts of growth with water and sewer, how would that be brought into Town.

Ritter suggested Babcock Street for growth.

Shortman suggested looking at the future widening of Malabar Road before water & sewer. Shortman said the grant writer (Bill) is looking into all these concepts of future water/ sewer. Dial suggested that he share these things with the Board.

Dial said that we need a plan to get Council to support the widening of Malabar Road and bringing water/ sewer down corridor. Dial said to look 40 years ahead.

Mahoney said in audience that a plan is good instead of surprises. Mahoney said it was Council's decision about doing roundabouts in 2016. FDOT had money and Grant-Valkaria had a plan so that is where the money went. It was a surprise to Residents.

Foster asked about Mahoney assisting the PZ Board with a plan. Abare said that we need to be cautious of the sunshine law meeting with more than 1 Board Member at a time. Dial said he is all about a plan for roads and future growth. Ritter mentioned about Jordan Blvd going through.

Abare said that Malabar has a reputation of being anti-development, Malabar Road widening was not done, and Tillman drainage was not completed.

Abare said the Twin Lake subdivision is taking advantage of City Water. We worked on Comp Plan for years. Foster said if we truly want business on our main arterials maybe we should require City water & sewer to build an interest to others.

Dial suggested to dedicate one meeting for future PZ to move forward:

- List of Roads for future
- Brookhollow Brook Road
- Jordan Blvd to Atz Road
- 4 – lane Malabar Road
- Tillman drainage

Discussion for future meeting for roadways and have Planner to attend Meetings. Abare said to invite Randy Fine to a meeting. Foster asked can Randy Fine help bring water/sewer down Malabar Road.

- Next Regular Meeting- November 13, 2019 (may cancel)

K. ADJOURN

There being no further business to discuss

MOTION: Hofmeister/Dial adjourn this meeting. Vote: All Ayes. The meeting adjourned 8:27 P.M.

BY:

Wayne Abare Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected:

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 8.a.
Meeting Date: DECEMBER 11, 2019

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

SUBJECT: Discuss Commercial Development in Malabar Along US Highway 1 and Malabar Road (Chair- Abare)

BACKGROUND/HISTORY:

This discussion item for Commercial Development is being initiated by Chair Abare to discuss the areas along Malabar Road & US Highway 1. A list of items to be discussed is attached.

The planning and zoning board deals with land use issues such as site plans, conditional uses, special exceptions, residential subdivision developments, plats, replats and zoning change requests.

Copies of related information are attached to this packet.

ATTACHMENTS:

- List of Discussion Items (Chair Abare)
- Chapter 1- Charter (Preamble)
- Division 5- Purpose & Duties of Planning and Zoning Board
- Comp Plan Land Use Map
- Malabar Zoning Map
- Article III District Provisions (Definition & Tables)

ACTION OPTIONS:

Discussion

⏪ Reply all ▾ 🗑 Delete 🗑 Junk Block ...

Commercial Development in Malabar along US1 and Malabar Road



wayne abare <wabare@cfl.rr.com>

Wed 12/4/2019 8:57 AM

Denine Sherear ▾

TOWN OF MALABAR

DEC 04 2019

RECEIVED

Commercial Development in Malabar along US1 and Malabar Road

1. The revised Comprehended Land use Plan has allows more OI and R/LC zoning along our major arteries. This should help spur commercial growth.
2. The Malabar preamble states that "the people of Malabar wants to maintain the rural character ...", so a lot of residents have the mentality that Malabar really doesn't want commercial development.
3. Malabar has a reputation of being "Anti-growth" and difficult to deal with.
4. Malabar Road is only a two lane road. The DOT has approached Malabar Council about 4-laning Malabar Road over the last decade. They keep changing their design. The last change was to Roundabouts instead of traffic lights. Roundabouts require more right-of-way so Council was displeased. DOT has since diverted funding to another municipality.
5. Having R/LC and other Commercial zonings without water and sewer along US1 and Malabar Road greatly limits what kind of commercial businesses that can be built there.
6. Malabar Road does not have water and sewer East of Weber road to US1.
7. US1 does not have water and sewer South of the Yellow Dog Café.
8. Malabar Road has poor drainage.
9. US1 has the Indian River to the East and the rail road to the West. It is harder to get a good return on a business that can only attract people from the West. In addition, the only East/West road along US1 within Malabar's Town limits is Malabar road.
10. The density of residents along US1 is low. Harris has a large facility off Jordon Blvd., but they are only there during the day. A good place for child care or lunch.
11. When a Developer visits Malabar we do not have a simple checklist of the steps that a Developer has to go through.

PART I - CHARTER

PREAMBLE

The people of the Town of Malabar desire to maintain the rural residential quality of life in their town and they are concerned about the possibility of uncontrolled growth in the future affecting that type of lifestyle. The people of the Town of Malabar are concerned that the power to govern their Town remain vested in a duly elected Town Council. Therefore, they have ratified by referendum this Charter and enacted it into law. They wish to maintain the rural residential character of their community. Furthermore, having complete faith in representative government with the ultimate power to govern remaining with themselves, they desire to codify the recent history of Malabar which has been the practice of vesting the decision-making power of the Town in a five (5) member Town Council elected by five single districts.

(Ord. No. 95-3, § 1, 7-17-95; Election Referendum on November 8, 2016 creating single district voting)

ARTICLE I. - GENERAL PROVISIONS

Sec. 1.01. - Short Title.

This act shall be known as the Charter of the Town of Malabar, Brevard County, Florida, as established hereby.

Sec. 1.02. - Creation and Powers.

The Town of Malabar created and incorporated under general law shall continue and is hereby vested with the governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services and may exercise any power for municipal purposes not expressly prohibited by the Constitution, general or special law or county charter.

Sec. 1.03. - Corporate Limits.

The corporate limits of the Town of Malabar, Brevard County, Florida are defined as follows:

(insert description of current boundaries)

Editor's note— The description of the current boundaries is on file in the town clerk's office.

Sec. 1.04. - Power and Jurisdiction.

The power and jurisdiction of the town shall extend over all lands and over all bodies of water and the air above, to the extent allowed by law within the corporate limits, and to all lands without the limits of the town owned, leased or operated by the town. The power and jurisdiction of the town includes all extraterritorial powers and jurisdiction granted by any special or general law. The town shall continue to exercise the power of eminent domain within or without the limits of the town which authority was granted by law. The town shall have the power

DIVISION 5. - PLANNING AND ZONING BOARD

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

(a) *Establishment and purpose.* The planning and zoning board is hereby established and shall consist of five (5) seats and two (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 (5) 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, replats 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) *Alternate member duties.* The alternate member of said planning and zoning board may attend all meetings of the planning and zoning board but shall act only in the absence, disability, abstention from voting or disqualification of a regular member thereof. The alternate members shall alternate to act in the place and stead of a regular voting member. When an alternate member acts, the minutes of the planning and zoning board shall reflect the name of the absent, disabled or disqualified member in whose place and stead the alternate is acting. Alternate members may always participate in board deliberations and debate, but they may make motions and vote only in the absence or voting disqualification of a regular member or the vacancy in a regular member's seat.
- (2) *Local planning agency.* The Malabar Planning and Zoning Board is hereby designated the local planning agency in accordance with F.S. 163, the Local Government Comprehensive Planning Act and as such shall conduct the comprehensive planning program and prepare the elements or portions of the comprehensive plan for presentation and approval by the town council.
- (3) *Authority and functions of planning and zoning board.* The authority of the planning and zoning board is intended to be advisory only. Nothing herein shall be construed to grant to the planning and zoning board final decision making authority. The planning and zoning board shall review proposed site plans, developments, subdivisions, zoning or land use changes for consistency with the Town Code and comprehensive plan and forward their recommendations to council in writing. If any such application is recommended for denial, the written recommendation shall state specifically what provision of the Code or comprehensive plan was not met. The planning and zoning board shall review and recommend updates to the capital improvement plan annually. They shall also undertake any other duties assigned to them by council.
- (4) *Land development regulations.* The planning and zoning board shall be familiar with the Malabar Land Development Regulations contained in the Land Development Code portion of

the Malabar Code. These regulations are found in the chapters identified as Article I (Preamble) Article XX (Definitions) as updated from time to time. F.S. 163 mandates that local governments adopt and enforce land development regulations. Those regulations shall be consistent with their adopted comprehensive plan. That statute also requires that the provisions set forth in the comprehensive plan be implemented through adoption of ordinances.


- (5) *Administrative staff.* The planning and zoning board shall consult with town staff as well as other outside professionals in preparing recommendations for amendments to the comprehensive plan. They should also use staff to assist in preparing proposed ordinances and regulations designed to promote orderly development.


- (6) See division 1, section 2-211 above for other regulations.

- (b) *Designation as local planning agency.* Pursuant to and in accordance with F.S. § 163.3174, the Local Government Comprehensive Planning Act, the town planning and zoning board is hereby designated and established as the local planning agency for the city. The local planning agency, in accordance with the Local Government Comprehensive Planning Act of 1975, F.S. § 163.3161—3211 shall:

- (1) Conduct the comprehensive planning program and prepare the comprehensive plan or elements or portions thereof for the city.
- (2) Coordinate said comprehensive plan or elements or portions thereof with the comprehensive plans of other appropriate local governments and the state.
- (3) Recommend the comprehensive plan or elements or portions thereof to the town council for adoption.
- (4) Monitor and oversee the effectiveness and status of the comprehensive plan as may be required from time to time.

- (c) *Authority, powers and proceedings.*

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

-  (2) *Functions and powers.* The functions and powers of the town planning and zoning board shall include:
- a. Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions. Such information and material may include maps and photographs of man-made and natural physical features of the area concerned, statistics on past trends and present conditions with respect to population, property values, economic case, land use, and such other information as is important or likely to be important in determining the amount, direction, and kind of development to be expected in the area and its various parts;