



Planning and Zoning Board Meeting

Wednesday, August 11, 2021 at 6:00 pm

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

APPROVAL OF MINUTES

- a. **Approval of Minutes of 07/28/2021**

Exhibit: Agenda Report Number 4a

Attachments:

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

5. PUBLIC HEARING

6. ACTION ITEMS

- a. **Review and Recommendation to Council Amending Articles XVI & XVIII in the Land Development Code regarding new roads in Subdivisions (Directed by Council)**

Exhibit: Agenda Report Number 6a

Attachments:

- **Agenda Report Number 6a** (Agenda_Report_Number_6a.pdf)

7. DISCUSSION/POSSIBLE ACTION ITEMS

8. ADDITIONAL ITEMS FOR FUTURE MEETING

9. PUBLIC COMMENTS

10. OLD BUSINESS/NEW BUSINESS

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

Board Member Comments

Next regular Meeting - June 26th, 2019

11. ADJOURNMENT

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 4.a.
Meeting Date August 11, 2021

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. These minutes not verbatim, and some editing is done to convey the thought. People do not speak the way they write.

ATTACHMENTS:

Draft minutes of P&Z Board Meeting of 7/28/2021

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
JULY 28, 2021, 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 6:07 P.M. Prayer and Pledge led by Vice-Chair Liz Ritter.

2. ROLL CALL:

CHAIR:	WAYNE ABARE, EXCUSED
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	MARY HOFMEISTER
	DOUG DIAL
	GEORGE FOSTER
ALTERNATE:	SUSAN SHORTMAN, EXCUSED
ALTERNATE:	JEFF RINEHART, UNEXCUSED
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

INTERIM TOWN MANAGER:

3.ADDITIONS/DELETIONS/CHANGE:

Board Secretary Sherear said that Chair Abare & Alternate Shortman asked to be excused for tonight's meeting. We have a quorum.

4. CONSENT AGENDA:1

4.a. Approval of Minutes Planning and Zoning Meeting – 6/23/2021

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

Motion: Hofmeister /Dial to Approve Minutes for June 23, 2021 as amended, All Vote : Aye

Board went over minutes and amended.

Ritter explained that in the "Motion" for the Ordinance for Recreation Vehicle Parking (RVP) it read as amended with changes, no changes were sent, and Ritter spoke to the Mayor and Council person for her district. Ritter explained to the Board if they want to talk to their Council person concerning this request they could do so. Ritter said she will be attending the next Council Meeting for the first reading. Ritter asked the Board about a copy of the amended changes. Sherear said that they could contact ITM Morrell, I believe she took it to Council and/or gave to Debby for Council Packet

The Board discussed Ordinance for RVP amended changes they recommended. Board would like to see amended copy of suggestions before it goes to Council.

Ritter gave a handout for definitions of FL ST 320.01

Sherear commented that ITM Morrell said anyone could attend the Council meeting for review and things are in the Ordinance, it is easier to have things in the Ordinance and if we need to remove them later, we can. Ritter said it appears the Ordinance went to Council the same way it was presented to PZ before reviewed.

5. PUBLIC HEARING:0

6. ACTION 1

6.a. Recommend to Council-Capital Improvement Plan (CIP) suggestions and updates for 2021-2022 proposed budget

Exhibit:

Agenda Report No. 6.a.

Recommendation:

Request Approval/Discussion

Ritter & Board review the CIP chart received in packet:

- River front access for non-motorized area (Hans) down by Rocky Point

Ritter discussed the north end of Rocky Point that was researched in the past by Parks & Rec Board. There was a survey that the Town paid \$500.00 to see about the property on the north end of Rocky Point, north of Rocky Point Road on river.

Dial said there might be a "for sale" sign on parcel in question. Ritter asked if we could research if this parcel is public land?

Board would like to see the following:

- Construction of Jordan Blvd to have another access especially when high speed trains start running through.
- Community Center
- "Mail Boat" quarterly news mailed out to residents for information

Foster's recommendations:

- City Water
- Pave all roads and start with the roads that have the most houses
- Board discussed the petition of paving roads that residents initiate

Foster said the Town should focus on getting the roads paved

Ritter said that the Council was talking about paving roads at one of their last meetings, it cost as much to re-compact roads as if they just resurface it.

- Growing the area
- Economic Developer Planner Recruiter & gets a bonus when something follows through

Ritter asked to have the return of the "Mail Boat" Quarterly newsletter, Sherear said we have a web site and Face Book page to share information and residents visit Town Hall.

Dial

- City Water
- Is there Grants and State assistance to get assistance with growth for the Town?

Foster said that every resident should be asked about city water and paved roads in our Town.

Foster suggested to reprioritizes monies for ditches. We are missing big picture nice small area basics water and paved roads, but we talk about ditches and paved roads.

Foster said we want an Economic Development Recruiter to add to our CIP that gets a salary and a commission or bonus when he gets a grant. Foster said he hopes the Town keeps Lisa (ITM Morrell).

Foster said to have the Economic Development Recruiter look at different parcels like across from Palm Bay Hospital on the south side of Malabar Road to see what Commercial Development could be constructed and try to make it appealing to contractors to build.

Hofmeister brought up schools and said there was a school; that wanted to come to Malabar, the Ester Theological Center School located at 1690 Marie Street, Malabar. They ended up on J Conlon Blvd, Palm Bay. It is not clear why they could not conduct a school at this location that a church is located at.

Dial said he would like to ask ITM Morrell about prioritizing monies.

Foster asked to have ITM Morrell to listen to the tape of this meeting for the passion of this Board.

Ritter asks how the stormwater monies is being used. Sherear said there is a Storm Water Master Plan in Process throughout the Town.

The Board/Foster would like to pursue City Water and start with Arterial areas followed by connectors and roads which have more houses constructed.

Foster asked about the ditch projects and why there is so much money tied up in ditch projects. Sherear explained for water flow and open drainage and monies allotted for ditch maintenance.

Foster said to take some monies that are allotted for ditches and pave roads and install city water, the priorities are upside down. Sherear suggested to go to Council to have your voice heard.

Foster asked if the money allowed for ditches is the best use of the money. Ritter/Sherear explained that certain monies are only to be used for Stormwater projects.

The Board discussed Stormwater funds and drainage on properties.

Foster said that his confidence is in ITM Lisa Morrell and is more likely to get things done.

The Board discussed the Fire Department CIP and commended Chief Mike Foley and Staff for their hard work and Ritter said we have a good Chief. Foster said Chief is a good man. The Staff goes after Grants for the Department, Lt. Hooker and Staff work together to make it happen.

Hofmeister said we love our Fire Department.

7. **DISCUSSION:0**

7.a. ***Intentionally left Blank***

8. ***Intentionally left Blank***

9. **ADDITIONAL ITEMS FOR FUTURE MEETING**

10. **PUBLIC**

11. **OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

Reminder: Next Meeting – August 11, 2021

K. ADJOURN

There being no further business to discuss, MOTION: Hofmeister / Dial to adjourn this meeting.
Vote: All Ayes. The meeting adjourned 7: 50 P.M.

BY:

Liz Ritter, Vice-Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected

DRAFT

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6.a.
Meeting Date August 11, 2021

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

SUBJECT: Review & Recommendation to Council to Amend Articles XVI & XVIII in the Land Development Code regarding new roads in Subdivisions (Directed by Council)

BACKGROUND/HISTORY:

Please see memo, attachments, and Draft Ordinance for your review regarding new roads in subdivisions.

This was a direction by Council for the PZ Board to review this Item due to the changes located in the Land Development Code (LDC) for their review and recommendations before any action is taken by Council.

ATTACHMENT

- **Memo #2021-TC/T-040 & Material provided by Debby Franklin, Town Clerk/Treasurer**
- **Draft Ordinance 2021-12 (provided by Town Attorney)**
- **Existing Section & Code (provided by Denine Sherear, PZ Board Secretary)**

ACTION OPTIONS:

Discussion/Action

PZ Meeting 8/11/2021

AGENDA ITEM 6.a.

INFORMATION PROVIDED
BY Debby Franklin, Town
Clerk/Treasurer

TOWN OF MALABAR

MEMORANDUM

Date: August 4, 2021, 2021-TC/T-040
To: Denine Sherear, P&Z Board Secretary
From: Debby K. Franklin, C.M.C., Town Clerk/Treasurer
Ref: Council Action on August 2, 2021, regarding New Roads in Subdivisions

Staff brought this item to Council at the RTCM 0802 2021 meeting. There is no statutory requirement for a developer to dedicate the improved public roads associated with a new subdivision to the jurisdictional municipality. Once they are dedicated, they become the responsibility of the Town to provide maintenance. Staff has discussed changing this requirement in the Land Development Code Article XVI to remove the requirement that new improved roads associated with new development be dedicated to the Town.

The attached draft ordinance was provided by the Town Attorney. It removes the requirement for such dedication and instead reiterates the fact that the new improved roadways will remain private and the responsibility of the developer and subsequent HOA.

The ordinance also amends another section in the Land Development Code in Article XVIII stating the general policy of the Town is NOT to accept any dedication of roads, but rather for them to remain private.

Because these two changes are in the Land Development Code, the ordinance should be routed through Planning and Zoning for their review and recommendation.

Please discuss this at your next meeting and forward the Board's recommendation to me for Council.

Attachments: Draft Ordinance 2021-12, Agenda Report, and portion of RTCM 08/02/2021 minutes.

ORDINANCE 2021-12

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN; AMENDING ARTICLE XVI SUBDIVISIONS; AMENDING SECTION 1-16.4 PERTAINING TO ROAD DEDICATION AND REQUIRED LANGUAGE IN SUBDIVISION COMMUNITY ASSOCIATION RESTRICTIVE COVENANTS REGARDING MAINTENANCE OF ROADS, STREETS AND RIGHT OF WAYS; AMENDING SECTION 1-18.7, PERTAINING TO PROCEDURE FOR ACCEPTING ROAD DEDICATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

SECTION 1. Section 1-16.4, D.4.j. and k. are amended as follows:

"j. *Restrictions, Reservations and Restrictive Covenants.* Restrictions pertaining to the type and use of water supply; type and use of sanitary facilities; use and benefits of water areas, canals and other open spaces, odd-shaped and substandard parcels; restrictions controlling building lines; establishment and maintenance of buffer strips and walls; and restrictions of similar nature shall require the establishment of restrictive covenants and such covenants shall be noted on the plat. Documents pertaining to restrictive covenants shall be submitted with the final plat.

All plats and replats submitted to the Town on or after July 1, 2021 shall contain the following plat note:

Right to Repair Private Roadways: All roads, streets, and right of ways in the subdivision are private and are not required to be maintained, repaired or replaced by the Town. Such maintenance, repair and replacement is the responsibility of the subdivision community association. The Town of Malabar shall have the right, but not the obligation, to maintain, replace and repair any private roadways within the Property and associated rights of way, and improvements thereon. The Town may use the Special Assessment powers provided for in the Declaration to pay for such maintenance; provided, however, that the Town shall not be required to obtain any approval of the Members before instituting such Special Assessment. Any Owner who does not pay a special assessment assessed against such Owner's Lot pursuant to this subsection may have a lien placed upon their property, which lien shall be superior to any other lien prescribed by the Declaration and Chapter 720, Florida Statutes, and may be enforced as provided by law. In the event the Town does undertake the task of maintaining, replacing and/or repairing said private roadways and/or rights of way, including any improvement thereon, the Association does hereby assign to the Town any and all assessment rights to collect and retain Special Assessments instituted pursuant to this subsection as they become due and to exercise such right as provided herein until the Town receives full reimbursement, including any costs, expenses and attorney's fees incurred for any such repair, replacement and/or maintenance, including such costs, expenses and attorney's fees incurred in enforcing the Town's rights as provided herein. The Town shall not be responsible to the Association, Owner, or any other person or entity as a consequence of the determination not to exercise or of the determination to exercise any of the rights granted to the Town or for failure of the Town to perform any rights granted to the Town herein or by virtue of applicable law. No Owner shall be discharged from any obligations provided herein without the written consent of the Town. This subsection may not be amended without the written approval of the Town Council."

A similar provision shall appear in the subdivisions Restrictions, Reservations and Restrictive Covenants.

...

k. Private Streets and Related Facilities. All plats and replats submitted to the Town on or after July 1, 2021 shall provide that streets, roads and right of ways and their related facilities designed to serve more than one (1) property owner shall be for dedicated to the public private use. ~~Notwithstanding, Private streets shall be permitted within property under single ownership, a property owners' association or a condominium or cooperative association as defined by Florida Law. Where private streets are permitted, ownership and maintenance association documents shall be submitted with the final plat and the dedication contained on the plat shall clearly dedicate the roads and maintenance responsibility to the association without recourse to the Town or any other public agency. The rights-of-way and related facilities shall be identified as tracts for road purposes under specific ownership.~~

...

SECTION 2. Section 1-18.7.B is amended as follows:

"Section 1-18.7. - Acceptance and maintenance of required improvements.

...

B. Procedure for Accepting Dedications. The dedication of public space, parks, streets, rights-of-way, easements or the like on the plat shall not constitute an acceptance of the dedication by the Town. The applicant shall apply to the Town for acceptance of required improvements by the Town Council. It is the general policy of the Town not to accept any dedication of roads, streets, right of ways and travel easements and that such shall remain private and subject to private maintenance and repair. The Any acceptance of the a dedication shall be subject to the inspection and approval of the Town Engineer. Such acceptance shall occur only upon adoption of resolution by the Town Council which shall accept the subject dedications at such time as all improvements meet or exceed the standards set forth by this ordinance. The applicant's engineer shall furnish to the Town Engineer in writing a sealed and signed certificate stating that the required improvements have been completed in accordance with the approved plan therefor and comply with this ordinance and all other applicable codes. Should the Town accept such a road, street, or right of way dedication, the unit owners and subdivision association shall be responsible for any repair, replacement or maintenance and the provisions of Section 1-16.4 D.4.j will apply regarding the Town's obligations to repair, replace or maintain such road, street, or right of way and improvements therein.

...

SECTION 3: Repeal. All Resolutions or Ordinances in conflict herewith are repealed.

SECTION 4: Severability/Interpretation Clause.

(a) In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

SECTION 5: Codification. The provisions of this Ordinance shall be incorporated into the Town's Code of Ordinances.

SECTION 6: Effective date. This Ordinance shall take effect immediately upon passage and adoption.

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 Steve Rivet
- Council Member David Scardino
- Council Member Danny White

This ordinance was then declared duly passed and adopted this ___ day of _____ 2021.

TOWN OF MALABAR

By: _____
Mayor Patrick T. Reilly, Council Chair

1st Reading:
2nd Reading:

ATTEST:

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

(seal)

Approved for Legal Sufficiency:

Karl Bohne, Jr, Town Attorney

12.d. Solid Waste Bid Review Committee Members

Exhibit: Agenda Report No. 12.d.

Discussion: Introduction by ITM Lisa. The goal is to have a primary and secondary member from each district.

MOTION: CM White / CM Acquaviva to direct staff to contact the first two people on the list for each District and see if they are interested.

VOTE: All Ayes.

Chair released Attorney at this time.

13. DISCUSSION/POSSIBLE ACTION: 1

13.a. Amend LDC Article XVI regarding Road Maintenance (Ord 2021-12)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN, AMENDING ARTICLE XVI SUBDIVISIONS; AMENDING SECTION 1-16.4 PERTAINING TO ROAD DEDICATION AND REQUIRED LANGUAGE IN SUBDIVISION COMMUNITY ASSOCIATION RESTRICTIVE COVENANTS REGARDING MAINTENANCE OF ROADS, STREETS AND RIGHT OF WAYS; AMENDING SECTION 1-18.7 PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 13.a.

Discussion: Introduction by ITM Morrell - This amends Article XVI in the LDC so it must go before P&Z Board before Council can act. This will eliminate the requirement to dedicate improved roads to the Town, they can remain the responsibility of the developer and/or HOA. In the past, the Town has accepted the responsibility of road maintenance in HOAs. This will keep the responsibility on the developer and/or residents.

MOTION: CM Acquaviva / CM Vaino direct this ordinance be sent to P&Z board for their review and recommendation.

VOTE: All Ayes.

14. PUBLIC COMMENTS: General Items (Speaker Card Required) None:

15. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: Gave a spotlight to the upcoming Malabar Community Market.

CM Vaino: nothing

CM Rivet: nothing

CM White: Reiterated his support of ITM Morrell.

CM Scardino: nothing

Mayor Reilly: Nothing

15. ANNOUNCEMENTS: Openings on T&G Committee.

16. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 8:55 P.M.

BY: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler
Deputy Town Clerk/Treasurer

Date Approved: 08/16/2021

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 13.a.
Meeting Date: August 02, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

SUBJECT: Discussion: Amend Art XVI regarding new roads in SD (Ord 2021-12)

BACKGROUND/HISTORY:

This was discussed recently with the approval of Twin Lakes Subdivision Final Plat. Our current Code requires the develop to turn over the improved infrastructure such as new roads to the Town before final approval. It has been recommended that we change that to make the maintenance of new roads remain with the development.

Because this language is in the Land Development Code we are asking for Council direction to submit to P&Z Board for their review and recommendation.

ATTACHMENTS:

Ordinance 2021-12

ACTION OPTIONS:

Direction to Staff to route to P&Z Board.

PZ Meeting 8/11/2021

AGENDA ITEM 6.a.

**Ref: Draft Ordinance
2021-12 (page 1)**

ARTICLE XVI SECTION 1-16.4-, D.4
AND "k" FINAL SUBDIVISION
PROCEDURES

FINAL PLAT PROCEDURES AS
NOTED

ARTICLE XVI

and/or line routes, line sizes, manholes, fire hydrants, service connections, valves, laterals, force mains and lift stations. Standard details for the water and, sewer, systems, including type of pipe, service connections, manholes, fire hydrants, force mains and lift stations, shall be provided. The water system shall be sized so as to provide adequate fire protection in compliance with the recommendations of the National Fire Protection Association.

2. A surface and stormwater drainage system, including location and elevation of all structures and culverts with sizes and grades and typical cross sections of drainage facilities, canals, and waterways.
 3. Sidewalks, including location, elevations, and typical cross sections.
 4. Streets, including plan and profile views, typical cross sections of proposed grading, and pavement and curbing details with compaction under pavement.
 5. Bulkheads, if applicable.
 6. If deemed necessary by the Town, subsurface conditions of the parcel, including the location and results of tests performed to ascertain the conditions of subsurface soil, rock, and groundwater, and the existing depth to groundwater.
 7. The location of stormwater retention/detention facilities with sizes, grades, and cross sections and stormwater retention/detention calculations utilizing the applicable permitting agency's requirements. The proposed facilities shall show the effect, if any on the Town's existing conveyance system and structures.
 8. Lot grading plan. Showing no runoff to abutting properties.
 9. Cross sections showing the proposed layout for all private utilities which hold franchise agreements with the Town, including electric, telephone, gas, and cable television.
 10. Location of all traffic control devices, markers, and required signs, including stop signs, traffic signals, crosswalks, street signs, and the like.
- g. The Town staff shall review the engineering plans and shall provide written comments to the applicant regarding compliance with code requirements and the technical aspects of the plans.
- h. If changes to the plans are required, five (5) sets of revised plans shall be submitted to the Town. In addition to the revised plans, the applicant shall submit written responses to the Town staff's review comments.
7. *Concurrency, Outside Agency Permits and Off-Site Easements.*
- a. Following approval of the preliminary plat and prior to construction or prior to bonding for the final plat, the subdivider shall submit proof of concurrency for capacity of all applicable facilities.
 - b. Following approval of the preliminary plat and prior to construction or prior to bonding for the final plat, the subdivider shall submit copies of all required outside agency permits and recorded copies of any off-site easements which may be required for construction.
 - c. No permit for improvements shall be issued or construction allowed within a subdivision and no bonding shall be accepted for a subdivision unless and until all documents and permits required by this section have been submitted to and accepted by the Town.
8. *Temporary Structures.* Subdivision preliminary plats showing temporary structures or permanent structures having a temporary use shall be reviewed by the Town staff within eighteen (18) months from the last approval date. Following approval of a preliminary plat subdivision master plat or site plan, such approved temporary structures may be erected prior to plan recording. All Town permit requirements, including but not limited to Town zoning regulations governing temporary structures, land clearing, excavation and pond construction, as amended, shall be satisfied. A mobile home may not be used as a temporary structure, except that mobile homes approved for use as temporary construction trailers, may be considered for exemption from the application of said definition when fully bonded to assure removal.
- *D. *Final Plat Procedures.* As the final step in the review procedure for obtaining approval of a subdivision in the Town of Malabar, the developer shall have prepared and shall submit a final plat. No final plat shall be recorded until the required improvements have been installed or surety bond posted pursuant to Section 1-16.4.D.5.d.4. and 1-16.4.D.5.e. No such

required improvements including streets, drainage and other required facilities shall be accepted and maintained by the Town, unless and until the same have been duly inspected and approved by the Town Staff, and have also been approved and accepted for maintenance by the Town Council. Prior to acceptance and approval of the required improvements the final plat shall be approved by the Town surveyor, Town Engineer and the Town Council and it shall be duly recorded by the Clerk of the Circuit Court who shall record only those final plats which have been so approved in accordance with this Ordinance.

1. *Fee for Final Plat.* Upon filing application for final plat approval, the applicant shall pay to the Town of Malabar a processing fee, the amount of which shall be determined by resolution of the Town Council in order to help defray the cost of processing the final plat.
2. *Timing of Final Plat Submission.* The subdivider shall be required to submit a final plat package a minimum of fifteen (15) days prior to a regularly scheduled meeting of the Planning and Zoning Board. Failure to submit the final plat within a specified amount of time shall require reapplication under the Preliminary Plat section of this Article. The timing of PUD final plat submittal requirements shall control in case of conflict with provisions herein set forth.
3. *Required Compliance.* The final plat shall conform to the approved subdivision master plan, shall meet the legal requirements of platting as defined by F.S. Ch. 177, as amended, and shall consist of a fully executed correct plat map, meeting all State and Town standards, final engineering drawings and auxiliary submittals, and all required legal instruments. Notwithstanding, the final plat shall constitute only that portion of the approved preliminary plat and subdivision master plan which the subdivider proposes to record and develop within twenty-one (21) months.
4. *Content of Final Plat.* The final plat shall be drawn or printed on 24 inch x 36 inch linen, chronoflex, mylar or other approved material. The final plat shall be prepared by a Florida Registered Engineer and is to be clearly and legibly drawn with black permanent drawing ink or veritytype process to a scale of not smaller than 1 inch = 200 feet, or as otherwise determined by the Town. The final plat shall be prepared in accordance with the provisions of F.S. Ch. 177, as amended, and shall conform to the following requirements:
 - a. *Name of Subdivision.* The plat shall have a title or name acceptable to the Town printed in bold lettering across the top of the sheet. When the plat is a new subdivision, the name of the subdivision shall not duplicate or be phonetically similar to the name of any existing subdivision. When the plan is an addition to a recorded subdivision, it shall carry the same name as the existing subdivision.
 - b. *Title Block.* The plat shall have a title block printed in bold legible letters containing the name of the subdivision; the name of the city, county and state; the section, township and range as applicable or if in a land grant, so stated; and if the plat is a replat, amendment or addition to an existing subdivision, it shall include the words "section," "unit," "replat," "amendment," or similar designation reflecting the same.
 - c. *Legal Description.* A full and legal description of the land within the plat shall be lettered or printed upon the plat. The description shall show the section, township and range in which the lands are situated or if a land grant, so stated, and must be so completed that from it, without reference to the map, the starting point can be determined and the boundaries run.
 - d. *Index Sheet.* If more than one (1) sheet is required for the map, the plat shall contain an index sheet on Page 1, showing the entire subdivision on the sheet indexing the area shown on each succeeding sheet and each sheet shall contain an index delineating that portion of the subdivision shown on that sheet in relation to the entire subdivision. When more than one (1) sheet must be used to accurately portray the land subdivided, each sheet shall show the particular number of that sheet and the total number of sheets included, as well as clearly labeled match lines to each sheet.
 - e. *Required Survey Data.* The final plat shall fully comply with F.S. Ch. 177, and shall show the length of all arcs together with central angles, radii, and points of curvature. Sufficient survey data shall be shown to positively describe the boundary of each lot, block, right-of-way, easement, building line and all other areas shown on the plat and all areas shall be within the boundary of the plat as shown in the description. The survey data contained on the plat shall also include:

- i. The scale, both stated and graphically illustrated, on each sheet.
 - ii. A north arrow shall be drawn on every sheet including showing any portion of the lands subdivided. The bearing or azimuth reference shall be clearly stated on the face or first page of the plat in the notes or legend.
 - iii. The point of beginning shall be boldly shown together with the letters "P.O.B." in bold letters.
 - iv. All intersecting street right-of-way lines shall be joined by the long chord of minimum radius of twenty-five (25) feet and all dimensions shall be shown.
 - v. All adjoining property shall be identified by a subdivision title, plat book and page or if unplatted, the land shall be so designated.
 - vi. Permanent reference monuments (P.R.M.) and permanent control points (P.C.P.) shall be shown in the manner prescribed by F.S. Ch. 177, as amended, and shall be installed prior to submission of the final plat.
 - vii. There shall be reserved on each sheet of the plat a three-inch by five-inch space in the upper right-hand corner to be used by the Clerk of the Circuit Court for recording information and each sheet shall reserve three (3) inches on the left margin and a half inch margin on all remaining sides.
 - viii. The map shall mathematically close within 0.01 feet and shall be accurately tied to all, township, range and section lines occurring within the subdivision by distance and bearing. In addition, the initial point in the description shall be accurately tied to the nearest quarter section corner or section corner or government corner.
 - ix. The cover sheet or first page of the plan shall show a vicinity sketch, showing the subdivision's location in reference to other areas of the Town or abutting unincorporated areas.
- f. *Lot and Block Identification.* Each lot and block shall be numbered or lettered. All lots shall be numbered in each block by progressive numbers individually throughout the subdivision in a clockwise direction starting at the northwest corner of each block of the subdivision. Blocks in each incremental plat shall be lettered consecutively throughout a subdivision in a clockwise direction starting at the northwesternmost corner of the subdivision.
- g. *Street Names.* The plat shall contain the name of each street shown on the plat. Proposed streets which are in alignment with other existing and named streets shall bear the same name of the existing street. In no case, except as indicated in the preceding sentence, shall the name of the proposed street, excluding a numerical system, duplicate or be phonetically similar to existing street names, regardless of the use of the suffix street, avenue, boulevard, drive, place, court, or similar suffix. All proposed street names must be approved by the Brevard County, E 9-11 Department prior to final plat submittal.
- h. *Not-included Parcels.* "Not-included" or "excepted" parcels must be marked "not part of this plat." Where a not-included parcel is completely surrounded by areas included within the plat, sufficient easements or rights-of-way shall be provided for access, utilities, and drainage for the not-included parcel. No strip or parcel of land shall be reserved by the owner unless the same is sufficient in size and area to be of some particular use or service. The intended use for all reserved areas shall be shown on the plat in note form on the cover sheet.
- i. *Rights-of-way and Easements.* All right-of-way and easement widths and dimensions shall be shown on a plat. The plat shall contain a statement that "no buildings, septic tanks or any kind of construction or trees or shrubs shall be placed on easements without written approval of the Town Council."
- j. *Restrictions, Reservations and Restrictive Covenants.* Restrictions pertaining to the type and use of water supply; type and use of sanitary facilities; use and benefits of water areas, canals and other open spaces, odd-shaped and substandard parcels; restrictions controlling building lines; establishment and maintenance of buffer strips and walls; and restrictions of similar nature shall require the establishment of restrictive covenants and such covenants shall be noted on the plat. Documents pertaining to restrictive covenants shall be submitted with the final plat.
- k. *Private Streets and Related Facilities.* All streets and their related facilities designed to serve more than one (1) property owner shall be dedicated to the public use. Notwithstanding, private streets shall be permitted within property under single ownership, a property owners' association or a condominium or cooperative association as defined by Florida Law. Where private streets are permitted, ownership and maintenance association documents



shall be submitted with the final plat and the dedication contained on the plat shall clearly dedicate the roads and maintenance responsibility to the association without recourse to the Town or any other public agency. The rights-of-way and related facilities shall be identified as tracts for road purposes under specific ownership.

- I. *Certifications and Approvals.* The plat shall contain on the face or first page the following certifications and approvals, acknowledged as required by law.
- i. *Dedications.* The purpose of all reserved areas shown on the plat shall be defined in the dedication on the plat. All areas reserved for use by the residents of the subdivision as well as all areas reserved for public use, including but not limited to parks, rights-of-way for roads, streets or alleys, utility or drainage easements or rights-of-way, together with all other area lands to be used by the public or subdivision residents shall be dedicated by the owner of the land at the time the plat is recorded.
 - ii. *Mortgagee's Consent and Approval.* All mortgages, along with the Mortgagee's Consent and Approval of the dedication shall be required on all plats where mortgages encumber the land to be platted. The signature(s) of the mortgagee or mortgagees, as the case may be, must be witnessed and the execution must be acknowledged in the same manner as mortgages are required to be witnessed and acknowledged. In case the mortgagee is a corporation, the consent and approval shall be signed in behalf of the corporation by the president or a vice president and the secretary or an assistant secretary, respectively, by and with the authority of the Board of Directors.
 - iii. *Certification of Surveyor.* The plat shall contain the signature, registration number and official seal of the land surveyor, certifying that the plat is a true and correct representation of the land surveyed under his responsible direction and supervision and that the survey data compiled and shown on the plat complies with all of the requirements of this Ordinance and Chapter 177, Florida Statutes, as amended. The certification shall also state that permanent reference monuments, "P.R.M.," have been set in compliance with this Ordinance and F.S. Ch. 177, as amended, and the permanent control points, "P.C.P.," will be set under the direction and supervision of the surveyor within one (1) year from the date the plat was recorded.

When required improvements have been completed prior to the recording of a plat, the certification shall state the P.C.P.'s have been set in compliance with the laws of the State of Florida and Ordinances of the Town of Malabar.

When plats are recorded and improvements are to be accomplished under surety posted as provided for by this Ordinance, the required improvements and surety shall include installation of P.C.P.'s.
 - iv. *Town Engineer.* The plat shall contain an approval and signature block for the Town Engineer.
 - v. *Mayor and Town Clerk.* The plat shall contain an approval and signature block for the Mayor and the acknowledgment and signature block of the Town Clerk. Upon adoption of an Ordinance approving the plat, the Mayor shall execute the plat and the plat shall be presented to the Clerk of the Circuit Court by the Town Clerk for recording.
 - vi. *Certification of Title.* A title certificate shall be contained on the face or first page of the plat. The title certification shall state:
 - (1) That the lands as described and shown on the plat are in the name and apparent record title is held by the person, persons or organization executing the dedication,
 - (2) That all taxes have been paid on said lands as required by F.S. Ch. 197.0151, as amended,
 - (3) All mortgages on the land and indicate their official record book and page number. The title certification must be an opinion of an attorney at law licensed in Florida, or the certification of an abstractor, or a title insurance company licensed in Florida.
 - vii. *Instrument Prepared By.* The name and address of the natural person who prepared the plat or under whose supervision it was prepared shall be contained on the plat as required by F.S. Ch. 695.24, as amended. The name and address shall be in statement form consisting of the words, "This instrument was prepared by (name),

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AGENDA ITEM 6.a.

**Ref: Draft Ordinance
2021-12 (page 2)**


ARTICLE XVIII SECTION 1-18.7-
ACCEPTANCE AND MAINTENANCE
OF REQUIRED IMPROVEMENTS


“B”

PROCEDURE FOR ACCEPTING
DEDICATIONS

Section 1-18.7 - Acceptance and maintenance of required improvements.

A. *Workmanship and Material Agreement.* The applicant shall execute an agreement guaranteeing the required improvements against defect in workmanship and materials for one year after acceptance of such improvements by the Town Council. Said agreement shall be submitted to the Town Engineer along with the completion certificate and project records.

 B. *Procedure for Accepting Dedications.* The dedication of public space, parks, streets, rights-of-way, easements or the like on the plat shall not constitute an acceptance of the dedication by the Town. The applicant shall apply to the Town for acceptance of required improvements by the Town Council. The acceptance of the dedication shall be subject to the inspection and approval of the Town Engineer. Such acceptance shall occur only upon adoption of resolution by the Town Council which shall accept the subject dedications at such time as all improvements meet or exceed the standards set forth by this ordinance. The applicant's engineer shall furnish to the Town Engineer in writing a sealed and signed certificate stating that the required improvements have been completed in accordance with the approved plan therefor and comply with this ordinance and all other applicable codes.

 C. *Recommendation of Town Engineer.* The Town Engineer upon satisfactory completion, receipt of the applicant's engineer's completion certificate, affidavits from all contractors and others who furnished goods and services for the required improvements acknowledging payment in full therefor, and receipt of the agreement shall certify that the applicant has complied with all of the provisions of this ordinance and shall recommend to the Town Council the acceptance of the dedications and, when applicable, the maintenance of the required improvements.

D. *Acceptance by the Town Council.* Upon recommendations by the Town Engineer the Town Council, by resolution shall approve the subdivision, the dedications on the plat and the maintenance of responsibilities of the required improvements.

E. *Developer's Failure to Complete Required Improvements.*

1. *Premature Recording of Plats (or Where Applicant Fails to Complete Required Improvements).* When a plat has been recorded and the applicant fails to complete the required improvements as required by this ordinance, the Town Council shall complete the required improvements under the guarantees provided by the applicant. In such case, the Town Council shall direct the Town Engineer to call upon the guarantees to secure satisfactory completion of the required improvements. Legal notice of such action shall be deemed to have been duly served upon posting via Certified Mail Return Receipt Requested. Upon the completion of construction of the required improvements, the Town Engineer shall report to the Town Council and the Town Council shall accept by resolution the dedications and maintenance responsibility as indicated on the Plat. In such cases, the remaining guarantees posted by the applicant shall be retained for a period of one year after completion in lieu of the agreement. Any defects occurring during this period shall be repaired using funds remaining in the guarantee.

2. *In Cases Where Plat Has Not Been Recorded.* Where a applicant has elected to install the required improvements prior to recording of the plat and fails to complete such improvements within the time limitations of this ordinance, all approvals of the subdivision shall be null and void and the land