

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1

Meeting Date: April 11, 2018

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 02/28/2018

Draft minutes of P&Z Board Meeting of 03/14/2018

Draft minutes of P&Z Board Meeting of 03/28/2018 (not ready)

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
FEBRUARY 28, 2018 7:30 PM**

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

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led Chair Liz Ritter.

B. ROLL CALL:

CHAIR:	LIZ RITTER
VICE-CHAIR:	WAYNE ABARE, EXCUSED
BOARD MEMBERS:	BUD RYAN
	DOUG DIAL, EXCUSED
	GEORGE FOSTER, EXCUSED
ALTERNATE:	ALLEN RICE
ALTERNATE:	MARY HOFMEISTER
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

COUNCIL MEMBER:

C. ADDITIONS/DELETIONS/CHANGE:

Chair Ritter said that Hofmeister will be voting in the absence of Abare & Rice will be voting in the absence of Foster.

D. CONSENT AGENDA:

- 1. Approval of Minutes**
Planning and Zoning Meeting – 10/11/2017(not ready)
Planning and Zoning Meeting – 11/08/2017(not ready)
Planning and Zoning Meeting – 12/13/2017(not ready)
Planning and Zoning Meeting – 01/31/2018

Exhibit:	Agenda Report No. 1
Recommendation:	Request Approval

Motion: Ryan/Hofmeister Recommend Approval of Minutes of 01/31/2018 as corrected All

Vote: Aye

Corrections:

Ritter said on page 2 of minutes, 4th parag. 3rd sentence should be hook-up not hook-u.

E PUBLIC HEARING: NONE

PUBLIC:

Christian Sabatino, Township Road Malabar, he has owned property in Malabar since 1999. Mr. Sabatino asked about tiny houses in his residential zoning. He explained to the Board the reason for his inquiry to “tiny houses”, due to he has an autistic daughter that will reside with him & his wife and thought this could give her some independence but close enough for assistance.

Mr. Sabatino was seeing what thoughts that the PZ Board has on "tiny houses". This idea is on television and there are "tiny houses" in south Florida and in Daytona. Ritter explained that currently "tiny homes" are not allowed due to size restrictions. The Board suggested to Mr. Sabatino to add on to his existing residence.

Mr. Sabatino asked if "tiny houses" would be out, the Board responded at this time it would not be allowed now due to, it is not in the statutes; the Board has it on the Agenda for future discussion.

The Board discussed briefly about "tiny homes" and that the current code does not allow the minimum square footage that "tiny homes" is suggesting. Board secretary Sherear said that the Building Official Daryl Munroe suggested attending a PZ Meeting to discuss "tiny homes" and discuss his experience throughout Brevard County. The Board asked about City of Rockledge creating a subdivision on "tiny homes". It appears that an Ordinance was passed but not sure; if there is, a development of "tiny homes" (will research).

The Board discussed "tiny home" ideas for future meeting and different suggestions.

F. ACTION: none

G. DISCUSSION:

H. ADDITIONAL ITEMS FOR FUTURE MEETING

- Discuss Land Development Regulations about "Tiny Homes" (Future Meeting)

The Board discussed Daryl Munroe, the Building Official attending the next meeting to discuss "tiny homes".

- Update on SR-514 from Public Meeting on 2/28/2018 (City of Palm Bay)

Board Members Abare & Foster will discuss & update the PZ Board on Public Meeting held at Palm Bay (City Hall) about widening of Malabar Road (SR 514).

Next Regular Meeting- March 14, 2018

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

Old Business:

Ryan was curious & asked if AAA Storage got permits for all the signs that have recently been put up. Sherear responded that no permits have been issued. Ritter asked about Code Enforcement, Sherear responded that the Building Official, Daryl did go by AAA Storage, I am not certain if he spoke to anyone. Daryl & Town Admin. Doug Hoyt responds to Code Enforcement issues. Ritter asked if the Board could request that Doug or Daryl respond to this sign issue. Ritter asked if telephone pole had been moved yet for road, improvement to be made on north side of W. Railroad Ave. Sherear said that AAA Storage is improving the road to the furthest point of his property.

Rice asked about drainage committee, Ritter explained that the PZ Board would like to get a committee started up and who would start the committee and how it would function, if everyone could suggest a person for this committee that would be good. Ritter said this is a good time before summer to do the ditches because they should be dried up.

Sherear said that there are currently some projects being done now throughout the town. Ritter asked about talking to Morris, the Town Engineer and what projects and future drainage plans are going on and what time line.

The board discussed yard waste debris and pick up.

- Status of R/LC Public Hearing (Council)

Sherear said that this is not on the Councils next Agenda.

New Business:

- List of Permitting in Town of Malabar (last few months)

Ritter & Board asked about building in the Town. Sherear explained that there is residential building currently going into the subdivisions in Malabar Oakmont Preserve on Marie Street & Stillwater Preserve on Corey Road.

Don Krieger Lineberry Lane spoke about SR 514 (Malabar Road) in reference to widening of Malabar Road in the Town of Malabar. Mr. Krieger attended the meeting at City of Palm Bay. The meeting discussed the following:

- 26 acres of ponds & properties along Malabar Road.
- Two directional bike bath (7 foot width) along the road
- 4- lane up to Weber Road/ 4- lane up to Corey Road
- 18 ft. medians
- From Corey Road to Post office 2-lane
- From Post Office to Marie Street a 3-lane
- Marie Street east to Railroad tracks 2 –lane
- Largest cost of widening the road is purchasing the property to design project

Krieger said in 2030 this project is not funded, maybe in 2035.
The Board discussed SR 514 and round-abouts at Corey & Weber Road

Ritter said that Malabar Spring Fest will be April 21, 2018

Information to Come:

- Daryl , Building Official about "tiny homes"
- Morris Smith , Town Engineer about drainage projects & time line
- Debby Franklin, Town Clerk/Treasurer reference to R/LC Public Hearing status

K. ADJOURN

There being no further business to discuss

MOTION: Ryan/ Rice to adjourn this meeting. Vote: All Ayes. The meeting adjourned 8:25 P.M.

BY:

Liz Ritter, Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected

“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
MARCH 14, 2018 7:30 PM**

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

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led Chair Liz Ritter.

B. ROLL CALL:

CHAIR:	LIZ RITTER
VICE-CHAIR:	WAYNE ABARE
BOARD MEMBERS:	BUD RYAN, EXCUSED
	DOUG DIAL
	GEORGE FOSTER
ALTERNATE:	ALLEN RICE
ALTERNATE:	MARY HOFMEISTER
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

BUILDING OFFICIAL	DARYL MUNROE
COUNCIL MEMBER:	LAURA MAHONEY

C. ADDITIONS/DELETIONS/CHANGE:

Chair Ritter said that Hofmeister will be voting in the absence of Ryan.

D. CONSENT AGENDA:

- | | |
|-------------------------------|---|
| 1. Approval of Minutes | Planning and Zoning Meeting – 10/11/2017 |
| | Planning and Zoning Meeting – 11/08/2017 |
| | Planning and Zoning Meeting – 12/13/2017 |
| | Planning and Zoning Meeting – 01/31/2018(not ready) |
| Exhibit: | Agenda Report No. 1 |
| Recommendation: | Request Approval |

Motion: Abare/Foster Recommend Approval of Minutes of 10/11/2017 as presented All Vote: Aye

Motion: Abare/Hofmeister Recommend Approval of Minutes of 11/08/2017 as corrected All Vote: Aye

Corrections:

Ritter page 6/90 above “D” Motion Carried 3 not 2 for Wayne Abare for PZ Vice- Chair

Motion: Abare/Dial Recommend Approval of Minutes of 12/13/2017 as presented All Vote: Aye

- E. PUBLIC:
- F. ACTION:
- G. DISCUSSION:

2. **Discuss the Land Development Regulations about "Tiny House" Construction within the Town of Malabar**

Exhibit: Agenda Report No. 2
Recommendation: Discussion

Daryl Munroe Building Official discussed the Tiny Home Community it has been around for years. It appears City of Rockledge has an Ordinance referencing these Tiny Homes. There is a "Trend", usually occurs when someone has a need. Daryl passed around a picture of a "Basque", a goat trailer.

Daryl suggested working on a definition of a "Tiny Home", on a trailer

Daryl discussed that building codes cannot engineer a tiny home unless they set a standard for a universal design across the United States. Mobile homes are regulated by and inspected by the Federal Government. Daryl interprets a tiny home as: a home built by a homeowner or agent.

Abare said the problem with the code is that the size is unknown and our code does not have allowance for this sq. ft. The minimum that Malabar allows presently is 1,200 sq. ft.

Ritter asked about the "tiny homes" for City of Rockledge. Sherear spoke to the Building Official for City of Rockledge he explained that there is an Ordinance in place but no "Pocket Neighborhood" has been applied for.

Ritter handed out flyer for "tiny home" open house in Melbourne on Saturday March 31, 2018 for anyone who wants attend.

Foster discussed Tiny Homes and it appears they would have to be in a type of subdivision for "tiny homes" to work in Malabar; otherwise, this may not fit in to the Town Character. Foster said we have discussed this in the past.

Ritter explained to Foster that the Board did not discuss rules and regulations for "tiny homes" it has just been general discussion

Foster said if someone would like to do a community of tiny homes he is all for that.

Daryl said to PZ Board that in the Constitution it says something like "Of the People, By the People, and For the People" if it is the Will of the People that is a different situation but there are people out there that own property and they have rights that need to be addressed. There are some Ordinance in place already, basically it is our intent to assist the people to get what they want within reason of rules and guidelines.

The Board discussed different codes & zonings throughout the Town. Foster discussed that Malabar has been know for the property value and large residential lots with substantial homes. Hofmeister asked Daryl if these "tiny homes" would increase property value. Daryl explained it could be move.

Abare said as a town we allow mobile homes; this Town needs to address "tiny homes" and format rules & regulations.

Dial said that our zoning laws presently don't allow "tiny homes" but in a Community neighborhood for "tiny homes" with rules and regulations would appear to be a good direction to go.

Hofmeister and the Board discussed different scenarios, about building a "tiny homes" before building a large regulated house.

Daryl said he looks at these "tiny homes" as a house on wheels and they can get up and go. The Town needs to have something in place (guidelines) for perspective "tiny home" owners.

Foster said to go around the Board and views on "tiny homes" allowed in Malabar:

Rice, all for the PUD in Community setting, not good option for free standing

Foster not for single family, ok with common area designation

Foster suggested a community hearing to get fed-back from the community & residents

Abare not for single family areas

Ritter

Dial not an option for Malabar possibly a "Conditional Use" or exception for special criteria (hardship). Or a PUD

Hofmeister, keep an open mind, it is all circumstantial

The Board discussed other areas of the United States, Ritter said it is a "wave/trend" coming we as a "Town" need to be prepared. There is a "Tiny Home" open house in Melbourne March 31,2018.

Abare asked about what Grant/Valkaria's view on "Tiny Homes".

Juliana Hirsch, 1035 Malabar Road- said that "Tiny Homes" are not for here (Malabar).

H. ADDITIONAL ITEMS FOR FUTURE MEETING

- Update on SR-514 from Public Meeting on 2/28/2018 (City of Palm Bay)

Abare/Foster spoke about the meeting he attended at City of Palm Bay for widening of SR514 (Malabar Road) The state is going to spend \$60 Million dollars and it is not going to be much better then what is there now, FDOT is going to put roundabouts, a two-lane at Weber & a three-lane roundabout at Corey Road, FDOT is buying 26 acres of ROW spending .5 million of acreage.

Foster commented that Berri Patch was at the meeting and did not like the idea of cars being that close to the front part of daycare for the safety of the children.

Foster, said that Dr. Leedy spoke about parking at Brevard Health Alliance at corner of Weber & Malabar Road.

Foster spoke about when FDOT came to Council they only got two votes.

Donald Krieger 2345 Lineberry Lane spoke about SR 514 PDE Study to improve Malabar Road intersect studies (Corey & Weber Road).

The Board & Krieger spoke about Fern Creek Crossing Park and trading area for Drainage pipe under Malabar Road.

Krieger 's other comments concerning meeting of SR-514(Malabar Road Widening):

- Comments to: SR 514 RESOLUTION 6 -2016 was not updated.
- FDOT has no funding to build the road just to draw pictures
- No discussion on Bike Path on North side of Malabar Road or continual to Palm Bay Hospital

Krieger Tiny Houses comments:

- If they have a wheel they are not a tiny home
- Krieger said tiny Homes are permanent structure

Comments from PZ Board Members about SR 514 Widening (Malabar Road):

Allen, no roundabouts

Foster, not convinced that road engineer is going any where

Abare, no where

Dial, 4 lane & over passes- think 40 years out

Mary, no roundabouts don't do it. forget it

Ritter, turn lanes off Weber & Corey Road

Foster asked if we have all the documents and maps for SR 514 (Malabar Road) in Town Hall for the next few weeks for review. Sherear responded that yes, they are available.

Next Regular Meeting- March 28, 2018

- Ritter & Board would like to see a clean copy of sign ordinance.
- Maps for S- 514 (Malabar Road) maybe up for residents to see

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

Old Business:

Ritter asked about AAA Storage signs/flags in front of the building, she said that Bud Ryan had questions about all the signs & flags and if Code Enforcement has been out to property this is going on since the end of January 2018. First, he had flags, then signs on lawn. Daryl said he will talk to Doug about Code Enforcement. Ritter asked about W. Railroad Ave and Sherear explained the road permit for W. Railroad Ave is in the process. This was held up due to telephone pole being moved by FPL and bird nest with eggs located in the middle of W. Railroad Ave.

- Status of R/LC Public Hearing (Council)

Sherear said that the status of R/LC that there is still working on Map for the Legal description. per Debby Franklin, Town Clerk/Treasurer.

- Status of Sign Ordinance

Sherear said that this will go before the Council on March 19th, 2018 per Debby Franklin, Town Clerk/Treasurer.

Ritter asked about a "Clean Copy" of the Sign Ordinance.

New Business:

K. ADJOURN

There being no further business to discuss

MOTION: Abare/Hofmeister to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:20 P.M.

BY:

Liz Ritter, Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 2
Meeting Date: April 11, 2018

Prepared By: Denine Sherear, Planning & Zoning Board Secretary

SUBJECT: Continued Discussion: Recommended by Council to Review Proposed Amendment RE: Medical Marijuana Dispensary Regulations within the Town of Malabar (Ord. 2018-03)

BACKGROUND/HISTORY:

The PZ Board discussed this Ordinance at the last meeting on 3/28/2018; additional discussion was needed to make a recommendation.

The Council had voted to send this to the PZ Board at their previous meeting on (3/19/2018) for review to the amendment to add "pharmacies" to (Ordinance 2018-03) regarding Medical Marijuana Dispensary Regulations.

The Council would like PZ Board to review and make recommendation.

ATTACHMENTS:

- Email from Debby Franklin, Town Clerk/Treasurer dated 4/4/2018 w/ Draft Ordinance 2018-03
- Application for your review for "Low-THC Cannabis Dispensing Organization Approval"
- Office of Medical Marijuana Use web site (www.flhealth.gov/ommu)
- Article X Section 29 FL Constitution Amendment 2
- **PLEASE BRING YOUR PZ PACKET FROM MARCH 28, 2018**

ACTION OPTIONS: Discussion/Action

Reply all | Delete | Junk | ...

Draft Ord 2018-03

Debby Franklin

Wed 4/4, 2:25 PM

Denine Sherear; Danny White

Reply all |

Inbox

You replied on 4/4/2018 2:41 PM.

page 2 Ord 2018 03.p... ▾

406 KB

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The draft ord 2018-03 that the P&Z Board was tasked with reviewing had a distance of 2500' in the document that was changed to 500' by the attorney. I understand from CM White that the Board discussed the distance at their last meeting. The 500' is per the statute that deals specifically with medical marijuana dispensaries. The attorney is not aware of any similar separation requirement for pharmacies.

Since municipalities cannot treat medical marijuana dispensaries differently than pharmacies, it is suggested that the sub-section "a." be deleted from the ordinance. (see attached)

Any medical marijuana dispensary would still have to comply with the separation requirement per the State.

Debby K. Franklin

Certified Municipal Clerk

Town Clerk Treasurer

townclerk@townofmalabar.org



Town of Malabar

2725 Malabar Road

Malabar, FL 32950

www.TownofMalabar.com

Table 1-3.2

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
COMMERCIAL ACTIVITIES														
Pharmacies and Medical Marijuana Treatment Center Dispensing Facilities									C ^s					

5. See criteria in Article VI, Section 1-6.1 D

SECTION 2. Article VI, Section 1-6.1D is amended to read as follows:

...

D. Criteria for Pharmacies and Medical Marijuana Treatment Center Dispensing Facilities

1. Criteria to be considered concerning an application for a pharmacy or medical marijuana treatment center dispensing facility dispensary:

a. Separation distance. A pharmacy and/or medical marijuana treatment center dispensing facility shall not be located within ~~twenty~~ two thousand five hundred (2,500) feet of any ~~pharmacy, school (as defined in section 1002.01 or 1003.01, Florida Statutes), medical office, day care center, day care home, adult living facility or similar type of facility, playground, religious institution, public park, another medical marijuana treatment center, any zoning permitting residential structures, or residential structure. All distance requirements shall be measured by drawing a straight line from the nearest property line of the premises upon which a medical marijuana dispensary is located to the nearest property line of the preexisting protected use.~~

b. Parking. The facility shall provide 1 parking spaces per 200 square feet of gross floor area. In addition, any parking spaces designated for or used by a pharmacy or medical marijuana treatment center dispensing facility shall meet the separation distance requirements of subsection 1.f, above.



STATE OF FLORIDA
DEPARTMENT OF HEALTH

Application for Low-THC Cannabis Dispensing Organization Approval

This Application for Low-THC Cannabis Dispensing Organization Approval (Application) is designed to allow the Florida Department of Health, Office of Compassionate Use (OCU) to fulfill its statutory duty to select the five Dispensing Organizations meeting the requirements of section 381.986(5)(b), F.S. (Statute), best able to further the statutory objective of ensuring accessibility and availability of Low-THC cannabis to patients. This has been further clarified to mean that OCU must choose the most dependable, most qualified dispensing organizations that can consistently deliver high-quality Derivative Products. It is important for each Applicant to remember that the Applicant is competing with other Applicants, not with any mandatory minimum criteria set by the OCU. The criteria used to determine which Applicants are selected are drawn directly from the Statute. The items requested in Rule 64-4.002, F.A.C., Initial Application Requirements for Dispensing Organizations (Rule) and this Application are designed to guide OCU in its determination of the most qualified Applicants that can ensure accessibility and availability of Derivative Products by dependably and consistently delivering high-quality Derivative Products.

This Application is divided into four parts:

- I. Part I requires the Applicant to provide basic information about the Applicant and Application.
- II. Part II requires the Applicant to document its compliance with requirements mandated by the Statute.
- III. Part III requires the Applicant to provide the OCU with all items listed in the Rule. Part III is organized differently than the Rule because it is organized based on the scoring system OCU will use to evaluate Applications. Each individual item listed in the Rule and the Application is not mandatory but is designed to elicit information from the Applicant that will assist the OCU in making its selection. Part III is organized as follows:
 - A. Cultivation (30%)
 1. Technical Ability (4.002(2)(a)) [25%]
 2. Infrastructure (4.002(2)(e)) [25%]
 3. Premises Resources Personnel (4.002(2)(c)) [25%]
 4. Accountability (4.002(2)(d)) [25%]
 - B. Processing (30%)
 1. Technical Ability (4.002(2)(a)) [25%]
 2. Infrastructure (4.002(2)(e)) [25%]
 3. Premises Resources Personnel (4.002(2)(c)) [25%]
 4. Accountability (4.002(2)(d)) [25%]

Phone Number: _____ E-mail Address: _____

License Number: _____

Part II

The following information must be submitted and is required by the Statute. A failure to submit the information required by Part II will result in the application being denied prior to any scoring as contemplated in rule 64-4.002(5), F.A.C.

- A. Please submit documentation sufficient to establish the Applicant meets the requirements of Section 381.986(5)(b)1., F.S., specifically:
1. Certification by the Florida Department of Agriculture and Consumer Services for the cultivation of more than 400,000 plants; and
 2. Operation as a nursery in this state for at least 30 continuous years.
- B. Please submit documentation sufficient to establish that all owners and managers of the Applicant (and proposed Dispensing Organization) have been fingerprinted and have successfully passed a level 2 background screening pursuant to section 435.04, F.S.
1. As stated in rule 64-4.002(2)(g), F.A.C., this requirement can be satisfied by each owner or manager presenting to FDLE or one of its approved vendors for fingerprinting. At that time, give the entity ORI number FL924890Z (DOH – OFFICE OF COMPASSIONATE USE) to FDLE or its approved vendor. The report will be sent directly to the Office of Compassionate Use.
 2. Please submit a list of all owners and managers indicating the date of each individual's most recent level-2 background screening described above.

Part III

Please attach the documentation that provides the information listed in Rule 64-4.002 including (when appropriate) the name, position, and resume' of the employee(s) who provides the knowledge or experience explained for each item shown below:

A. Cultivation (30%)

1. Technical Ability (4.002(2)(a)) [25%]
 - a. Experience cultivating cannabis;
 - b. Experience cultivating in Florida plants not native to Florida;
 - c. Experience introducing new varieties of plants;
 - d. Regional cultivation knowledge and experience;
 - e. Experience cultivating plants for human consumption such as food or medicine products;
 - f. Experience with in-house propagation;
 - g. Experience with genetic modification or breeding;

3

- h. Experience using clean growing rooms;
 - i. Knowledge of cannabis cultivation, including:
 - i. Proper cultivation conditions and techniques;
 - ii. Additives that can be used when growing cannabis;
 - iii. Pests, disease and deficiencies common for cannabis;
 - iv. Production of high quality product in a short time;
 - j. Experience with tracking each plant in a harvest;
 - k. Experience with good agricultural practices;
 - l. Experience with good handling practices;
 - m. Experience with recalls; and
 - n. Any awards, recognition or certifications received for relevant expertise.
2. Infrastructure (4.002(2)(e)) [25%]
- a. Vehicles that will be used to transport product among cultivating, processing, and dispensing facilities;
 - b. Communication systems; and
 - c. Methods of mitigating odors if applicable.
3. Premises, Resources, Personnel (4.002(2)(c)) [25%]
- a. Location of all properties Applicant proposes to utilize to cultivate low-THC cannabis, including ownership information for the properties and any lease terms if applicable:
 - i. For any property that is leased by the Applicant, include documentation that the property owner consents to the use of the property for the purposes of cultivation of low-THC cannabis and documentation that the mortgagor or lienholder has been given notice of the use of the property for the purpose of cultivation of low-THC cannabis; and
 - ii. For any property owned by the Applicant but subject to a mortgage or lien, include documentation that the mortgagor or lienholder has been notified of the use of the property for the purpose of cultivation of low-THC cannabis.
 - b. Compliance with local regulations regarding sanitation and waste disposal;
 - c. The ability to obtain zoning approval;
 - d. Sketch or other illustration approximating the property boundaries, land topography, vegetation, proposed and/or existing structures, easements, wells, and roadways for each cultivation property proposed;
 - e. Description of the areas proposed for the cultivation of low-THC cannabis, including the following:
 - i. Capacity, in square feet of growing area;
 - ii. Cultivation environment, e.g., greenhouse, clean room, aseptic, et cetera;
 - iii. Irrigation system(s); and
 - iv. Environmental control system(s).
 - f. A description of the ability or plan to expand any of the areas proposed for cultivating low-THC cannabis;
 - g. Back-up systems for all cultivation systems;
 - h. A description of one or more strains of low-THC cannabis the applicant intends to cultivate;

- i. Access to water resources that allow for sufficient irrigation;
 - j. A list of current and proposed staffing for cultivation, including:
 - i. Position, duties and responsibilities;
 - ii. Resume; and
 - iii. Professional licensure disciplinary action in all jurisdictions.
 - k. An organizational chart illustrating the supervisory structure of the cultivation function of the proposed Dispensing Organization;
 - l. Plans and procedures for loss of key personnel;
 - m. Plans and procedures for complying with OSHA regulations for workplace safety.
4. Accountability (4.002(2)(d)) [25%]
- a. Floor plan of each cultivation facility or proposed floor plans for proposed cultivation facilities, including the following:
 - i. Locking options for each means of ingress and egress;
 - ii. Alarm systems;
 - iii. Video surveillance;
 - iv. Name and function of each room; and
 - v. Layout and dimensions of each room.
 - b. Storage, including the following:
 - i. Safes;
 - ii. Vaults; and
 - iii. Climate control.
 - c. Diversion and trafficking prevention procedures;
 - d. A facility emergency management plan;
 - e. System for tracking low-THC source plant material throughout cultivation;
 - f. Inventory control system for low-THC cannabis;
 - g. Policies and procedures for recordkeeping;
 - h. Methods of screening and monitoring employees;
 - i. Personnel qualifications and experience with chain of custody or other tracking mechanisms;
 - j. Personnel reserved solely for inventory control purposes;
 - k. Personnel reserved solely for security purposes;
 - l. Waste disposal plan; and
 - m. Access to specialized resources or expertise regarding data collection, security, and tracking.

B. Processing (30%)

1. Technical Ability (4.002(2)(a)) [25%]

- a. Experience with good manufacturing practices;
- b. Experience with analytical, organic chemistry, and micro-biology;
- c. Experience with analytical laboratory methods;
- d. Experience with analytical laboratory quality control, including maintaining a chain of custody;
- e. Knowledge of, and experience with, cannabis extraction techniques;
- f. Knowledge of cannabis routes of administration;
- g. Experience with recalls;
- h. Knowledge of, and experience with, producing cannabis products; and

- i. Any awards, recognition or certifications received for relevant expertise.
- 2. Infrastructure (4.002(2)(e)) [25%]
 - a. Vehicles that will be used to transport product among cultivating, processing, and dispensing facilities;
 - b. Communication systems; and
 - c. Methods of mitigating odors if applicable.
- 3. Premises, Resources, Personnel (4.002(2)(c)) [25%]
 - a. Location of all properties Applicant proposes to utilize to process low-THC cannabis and Derivative Products, including ownership information for the properties and any lease terms if applicable:
 - i. For any property that is leased by the Applicant, include documentation that the property owner consents to the use of the property for the purposes of processing of low-THC cannabis and Derivative Products and documentation that the mortgagor or lienholder has been given notice of the use of the property for the purposes of processing of low-THC cannabis and Derivative Products; and
 - ii. For any property owned by the Applicant but subject to a mortgage or lien, include documentation that the mortgagor or lienholder has been notified of the use of the property for the purposes of processing of low-THC cannabis and Derivative Products.
 - b. Compliance with local regulations regarding sanitation and waste disposal;
 - c. The ability to obtain zoning approval;
 - d. Sketch or other illustration approximating the property boundaries, land topography, vegetation, proposed and/or existing structures, easements, wells, and roadways for each processing property proposed;
 - e. A description of the ability or plan to expand any of the areas proposed for processing low-THC cannabis;
 - f. Back-up systems for all processing systems;
 - g. Description of the areas proposed for the processing of Derivative Products, including the following:
 - i. Extraction equipment and location;
 - ii. Concentration equipment and location;
 - iii. Access to sufficient potable water and hot water;
 - iv. Analytical equipment, including separators and detectors, and location;
 - v. Safety equipment and facilities and location;
 - vi. Computer systems and software; and
 - vii. Ventilation and exhaust system.
 - h. A list of current and proposed staffing, including:
 - i. Position, duties and responsibilities;
 - ii. Resume; and
 - iii. Professional licensure disciplinary action in all jurisdictions.
 - i. An organizational chart illustrating the supervisory structure of the processing function of the proposed Dispensing Organization;
 - j. Plans and procedures for loss of key personnel;
 - k. Plans and procedures for complying with OSHA regulations for workplace

- safety; and
 - I. Relationship(s) with an independent laboratory(ies) with cannabis testing protocols and methods.
4. Accountability (4.002(2)(d)) [25%]
- a. Floor plan of each facility or proposed floor plans for proposed processing facilities, including the following:
 - i. Locking options for each means of ingress and egress;
 - ii. Alarm systems;
 - iii. Video surveillance;
 - iv. Name and function of each room
 - v. Layout and dimensions of each room.
 - b. Storage, including the following:
 - i. Safes;
 - ii. Vaults; and
 - iii. Climate control.
 - c. Diversion and trafficking prevention procedures for the processing facilities;
 - d. A facility emergency management plan for the processing facilities;
 - e. System for tracking low-THC source plant material throughout processing;
 - f. Inventory control system for low-THC cannabis and Derivative Products;
 - g. Policies and procedures for recordkeeping;
 - h. Vehicle tracking systems;
 - i. Vehicle security systems;
 - j. Methods of screening and monitoring employees;
 - k. Personnel qualifications and experience with chain of custody or other tracking mechanisms;
 - l. Personnel reserved solely for inventory control purposes;
 - m. Personnel reserved solely for security purposes;
 - n. Waste disposal plan; and
 - o. Access to specialized resources or expertise regarding data collection, security, and tracking.

C. Dispensing (15%)

- 1. Technical Ability (4.002(2)(a)) [25%]
 - a. Experience interacting with patients;
 - b. Experience with handling confidential information;
 - c. A marketing plan;
 - d. Experience gathering and managing data, i.e. data on patient reactions to products dispensed;
 - e. Experience with recalls;
 - f. Knowledge of cannabis routes of administration;
 - g. Training programs for employees addressing:
 - i. The Health Insurance Portability and Accountability Act (HIPAA);
 - ii. Patient education;
 - iii. Compliance;
 - iv. Patient counseling; and
 - v. Data collection.
 - h. Any awards, recognition or certifications received for relevant expertise.

2. Infrastructure (4.002(2)(e)) [25%]
 - a. A map showing the location of the applicant's proposed dispensing facilities;
 - b. A sketch or other illustration of the actual or proposed dispensing locations showing streets; property lines; buildings; parking areas; outdoor areas, if applicable; fences; security features; fire hydrants, if applicable; and access to water and sanitation systems;
 - c. A floor plan of the actual or proposed building or buildings where dispensing activities will occur showing:
 - i. Areas designed to protect patient privacy; and
 - ii. Areas designed for retail sales.
 - d. A HIPAA compliant computer network utilized by all facilities;
 - e. Vehicles that will be used to transport product among cultivating, processing, and dispensing facilities;
 - f. Communication systems;
 - g. Hours of operation of each dispensing facility; and
 - h. Methods of mitigating odors if applicable.
3. Premises, Resources, Personnel (4.002(2)(c)) [25%]
 - a. Location of all properties Applicant proposes to utilize to dispense Derivative Products, including ownership information for the properties and any lease terms if applicable:
 - i. For any property that is leased by the Applicant, include documentation that the property owner consents to the use of the property for the purposes of dispensing of Derivative Products and documentation that the mortgagor or lienholder has been given notice of the use of the property for the purposes of dispensing of Derivative Products; and
 - ii. For any property owned by the Applicant but subject to a mortgage or lien, include documentation that the mortgagor or lienholder has been notified of the use of the property for the purposes of dispensing of Derivative Products.
 - b. Compliance with local regulations regarding sanitation and waste disposal;
 - c. The ability to obtain zoning approval;
 - d. Sketch or other illustration approximating the dispensing property boundaries, land topography, vegetation, proposed and/or existing structures, easements, wells, and roadways for each property proposed;
 - e. A description of the ability or plan to expand any of the areas proposed for dispensing Derivative Products;
 - f. Description of the methods proposed for the dispensing of Derivative Products, including the following:
 - i. Accessibility of dispensing facilities, e.g., centrally located to several populated areas, located on a main roadway, not in a high crime area, et cetera;
 - ii. Proximity of dispensing facilities to patient populations; and
 - iii. Alternative dispensing, e.g. delivery.
 - g. A list of current and proposed dispensing staffing, including:
 - i. Position, duties and responsibilities;
 - ii. Resume; and

- iii. Professional licensure disciplinary action in all jurisdictions.
 - h. An organizational chart illustrating the supervisory structure of the dispensing function of the proposed Dispensing Organization;
 - i. Plans and procedures for loss of key personnel; and
 - j. Plans and procedures for complying with OSHA regulations for workplace safety.
- 4. Accountability (4.002(2)(d)) [25%]
 - a. Floor plan of each facility or proposed floor plans for proposed dispensing facilities, including the following:
 - i. Locking options for each means of ingress and egress;
 - ii. Alarm systems;
 - iii. Video surveillance;
 - iv. Name and function of each room; and
 - v. Layout and dimensions of each room.
 - b. Storage, including the following:
 - i. Safes;
 - ii. Vaults; and
 - iii. Climate control.
 - c. Diversion and trafficking prevention procedures for the dispensing facilities;
 - d. A facility emergency management plan for the dispensing facilities;
 - e. System for tracking Derivative Products throughout dispensing;
 - f. Inventory control system for Derivative Products;
 - g. Policies and procedures for recordkeeping;
 - h. Vehicle tracking systems;
 - i. Vehicle security systems;
 - j. Methods of screening and monitoring employees;
 - k. Personnel qualifications and experience with chain of custody or other tracking mechanisms;
 - l. Personnel reserved solely for inventory control purposes;
 - m. Personnel reserved solely for security purposes;
 - n. Plans for the recall of any Derivative Products that have a reasonable probability of causing adverse health consequences based on a testing result, bad patient reaction, or other reason; and
 - o. Access to specialized resources or expertise regarding data collection, security, and tracking.

D. Medical Director (5%)

- a. Specialty area, if any;
- b. Experience with epileptic patients;
- c. Experience with cancer patients;
- d. Experience with patients with severe seizures or muscle spasms;
- e. Knowledge of the use of low-THC cannabis for treatment of cancer or physical medical conditions that chronically produce symptoms of seizures or severe and persistent muscle spasms;
- f. Knowledge of good manufacturing practices;
- g. Knowledge of analytical and organic chemistry;
- h. Knowledge of analytical laboratory methods;

- i. Knowledge of analytical laboratory quality control, including maintaining a chain of custody;
- j. Knowledge of, and experience with, CBD/low-THC extraction techniques;
- k. Knowledge of CBD/low-THC routes of administration;
- l. Experience in or knowledge of clinical trials or observational studies;
- m. Knowledge of, and experience with, producing CBD/low-THC products;
- n. Experience with or knowledge of botanical medicines;
- o. Experience with dispensing medications;
- p. Description of how the medical director will supervise the activities of the Dispensing Organization; and
- q. Description of how the Dispensing Organization will ensure it has a medical director at all times.

E. Financials (20%)

- a. Certified Financials issued within the immediately preceding 12 months;
- b. Applicant's corporate structure;
- c. All owners of the Applicant;
- d. All individuals and entities that can exercise control of the Applicant;
- e. All individuals and entities that share in the profits and losses of the Applicant;
- f. All subsidiaries of the Applicant;
- g. Any other individuals or entities for which the Applicant is financially responsible;
- h. Assets of the Applicant and Applicant's subsidiaries;
- i. Liabilities of the Applicant and Applicant's subsidiaries;
- j. Any pending lawsuits to which the Applicant is a party;
- k. Any lawsuits within the past 7 years to which the Applicant was a party;
- l. All financial obligations of Applicant that are not listed as a "liability" in the Certified Financials;
- m. A projected two year budget for the Dispensing Organization; and
- n. Specific reference to sufficient assets available to support the Dispensing Organization activities.

Part IV

The completed Application must be delivered to the Agency Clerk of the Department of Health physically located at 2585 Merchants Row Boulevard in Tallahassee, Florida, 32399, no earlier than 10:00 AM, Eastern Daylight Time, on the (effective date) and no later than 5:00 PM, Eastern Daylight Time, 21 calendar days after (effective date). The Application MUST include:

- 1. A non-refundable \$60,063 application fee in the form of a money order or cashier's check made payable to the Florida Department of Health;**
- 2. All supporting explanations and documents;**
- 3. Any supporting maps, photographs, or illustrations;**
- 4. A list of ALL supporting materials for which the Applicant claims ANY public records exemption, including a specific legal citation to the exemption; and**
- 5. A full proposed redacted version of the Application, if applicable.**

The completed Application with and supporting explanations, documents, maps, photographs, or illustrations can be submitted in the following formats:

1. Hard Copy;
2. USB Drive; and
3. CD/DVD.

The undersigned Applicant /Representative hereby agrees to operate the Dispensing Organization described in this application in accordance with the requirements of Section 381.986, Florida Statutes, and Chapter 64-4, F.A.C. The information contained in this application and the attached exhibits required by Chapter 64-4, F.A.C., which serves as a basis for licensure, is true and correct. I

understand that any misrepresentation of the facts in this application, or failure to comply with requirements of the rules and statutes, is grounds for denial or revocation of the Low-THC Cannabis Dispensing Organization Approval. I understand that knowingly making a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree punishable as provided in sections 775.082 or 775.083, Florida Statutes.

Signature of Applicant _____ Date _____

Name of Applicant (print or type) _____

Agency Clerk Use Only

Date and Time Received: _____

Delivered by: _____

Agency Clerk: _____



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Office of Medical Marijuana Use

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Rules and Regulations
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Welcome to the Department of Health Office of Medical Marijuana Use. The Office of Medical Marijuana Use is charged with writing and implementing the department's rules for medical marijuana ([_documents/ocu-timeline.pdf](/documents/ocu-timeline.pdf)), overseeing the statewide Medical Marijuana Use Registry (<https://mmuregistry.flhealth.gov/>), and licensing Florida businesses to cultivate, process, and dispense medical marijuana to qualified patients.

Amendment 2, and the expanded qualifying medical conditions, became effective on January 3, 2017. The Florida Department of Health, physicians, dispensing organizations, and patients are bound by Article X Section 29 of the Florida Constitution (<http://www.leg.state.fl.us/statutes/index.cfm?submenu=3#A10S29>) and 381.986 Florida Statutes (http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0381/Sections/0381.986.html). The department is committed to moving as quickly as possible to ensure the health of Floridians and implement the new legislation.

It is the responsibility of the qualified ordering physician ([_documents/completed-cme.pdf](/documents/completed-cme.pdf)) to follow Florida constitution and statute, diagnose patients and determine if medical marijuana is an appropriate treatment.

The department recommends speaking to your health care professional to determine if medical marijuana products are right for you or your loved one. *List of Physicians Who Have Completed the Required Training* (http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/_documents/completed-cme.pdf).

Medical marijuana is available in Florida, however, remains illegal under federal law.

→ attached

SECTION 29. Medical marijuana production, possession and use.—

(a) PUBLIC POLICY.

(1) The medical use of marijuana by a qualifying patient or caregiver in compliance with this section is not subject to criminal or civil liability or sanctions under Florida law.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with this section.

(3) Actions and conduct by a Medical Marijuana Treatment Center registered with the Department, or its agents or employees, and in compliance with this section and Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law.

(b) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

(1) “Debilitating Medical Condition” means cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn’s disease, Parkinson’s disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

(2) “Department” means the Department of Health or its successor agency.

(3) “Identification card” means a document issued by the Department that identifies a qualifying patient or a caregiver.

(4) “Marijuana” has the meaning given cannabis in Section 893.02(3), Florida Statutes (2014), and, in addition, “Low-THC cannabis” as defined in Section 381.986(1)(b), Florida Statutes (2014), shall also be included in the meaning of the term “marijuana.”

(5) “Medical Marijuana Treatment Center” (MMTC) means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department.

(6) “Medical use” means the acquisition, possession, use, delivery, transfer, or administration of an amount of marijuana not in conflict with Department rules, or of related supplies by a qualifying patient or caregiver for use by the caregiver’s designated qualifying patient for the treatment of a debilitating medical condition.

(7) “Caregiver” means a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient’s medical use of marijuana and has qualified for and obtained a caregiver identification card issued by the Department. The Department may limit the number of qualifying patients a caregiver may assist at one time and the number of caregivers that a qualifying patient may

have at one time. Caregivers are prohibited from consuming marijuana obtained for medical use by the qualifying patient.

(8) "Physician" means a person who is licensed to practice medicine in Florida.

(9) "Physician certification" means a written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the medical use of marijuana would likely outweigh the potential health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination and a full assessment of the medical history of the patient. In order for a physician certification to be issued to a minor, a parent or legal guardian of the minor must consent in writing.

(10) "Qualifying patient" means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department begins issuing identification cards.

(c) LIMITATIONS.

(1) Nothing in this section allows for a violation of any law other than for conduct in compliance with the provisions of this section.

(2) Nothing in this section shall affect or repeal laws relating to non-medical use, possession, production, or sale of marijuana.

(3) Nothing in this section authorizes the use of medical marijuana by anyone other than a qualifying patient.

(4) Nothing in this section shall permit the operation of any vehicle, aircraft, train or boat while under the influence of marijuana.

(5) Nothing in this section requires the violation of federal law or purports to give immunity under federal law.

(6) Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any correctional institution or detention facility or place of education or employment, or of smoking medical marijuana in any public place.

(7) Nothing in this section shall require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the medical use of marijuana.

(8) Nothing in this section shall affect or repeal laws relating to negligence or professional malpractice on the part of a qualified patient, caregiver, physician, MMTC, or its agents or employees.

(d) DUTIES OF THE DEPARTMENT. The Department shall issue reasonable regulations necessary for the implementation and enforcement of this section. The purpose of the regulations is to ensure the

availability and safe use of medical marijuana by qualifying patients. It is the duty of the Department to promulgate regulations in a timely fashion.

(1) **Implementing Regulations.** In order to allow the Department sufficient time after passage of this section, the following regulations shall be promulgated no later than six (6) months after the effective date of this section:

a. Procedures for the issuance and annual renewal of qualifying patient identification cards to people with physician certifications and standards for renewal of such identification cards. Before issuing an identification card to a minor, the Department must receive written consent from the minor's parent or legal guardian, in addition to the physician certification.

b. Procedures establishing qualifications and standards for caregivers, including conducting appropriate background checks, and procedures for the issuance and annual renewal of caregiver identification cards.

c. Procedures for the registration of MMTCs that include procedures for the issuance, renewal, suspension and revocation of registration, and standards to ensure proper security, record keeping, testing, labeling, inspection, and safety.

d. A regulation that defines the amount of marijuana that could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

(2) **Identification cards and registrations.** The Department shall begin issuing qualifying patient and caregiver identification cards, and registering MMTCs no later than nine (9) months after the effective date of this section.

(3) *If the Department does not issue regulations, or if the Department does not begin issuing identification cards and registering MMTCs within the time limits set in this section, any Florida citizen shall have standing to seek judicial relief to compel compliance with the Department's constitutional duties.*

(4) The Department shall protect the confidentiality of all qualifying patients. All records containing the identity of qualifying patients shall be confidential and kept from public disclosure other than for valid medical or law enforcement purposes.

(e) **LEGISLATION.** Nothing in this section shall limit the legislature from enacting laws consistent with this section.

(f) **SEVERABILITY.** *The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by a court of competent jurisdiction other provisions shall continue to be in effect to the fullest extent possible.*

History.—Proposed by Initiative Petition filed with the Secretary of State January 9, 2015; adopted 2016.

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 3
Meeting Date: April 11, 2018

Prepared By: Denine Sherear, Planning & Zoning Board Secretary

SUBJECT: Continued Discussion: Recommended by Council to Review “Clean Copy” of Signage Regulations of Proposed Ordinance 2018-02 and simplify the regulations

BACKGROUND/HISTORY:

This Agenda Item is for continued discussion, the proposed Signage Ordinance 2018-02 that Council voted to send a “clean copy” back to PZ Board to Amend the Signage Regulations.

At the last PZ Meeting on 3/28/2018 it appears in reviewing Ordinance 2018-2 the word “City” was inserted where “Town” should be.

The PZ Board will review and possibly simplify & clarify the regulations.

The Council would like the PZ Board to review and make a recommendation.

ATTACHMENTS:

- **PLEASE BRING YOUR PZ PACKET FROM MARCH 28, 2018**

ACTION OPTIONS: Discussion/Action