



# REGULAR TOWN COUNCIL MEETING

Monday, May 3, 2021 at 7:30 pm

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

- a. **Approve Minutes of Regular Town Council Meeting of 04/19/2021**

Exhibit: Agenda Report Number 4a

**Attachments:**

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

- b. **52nd Annual Professional Municipal Clerk Week May 2- May 8, 2021**

Agenda Report Number 4b

**Attachments:**

- **Agenda Report Number 4b** (Agenda\_Report\_Number\_4b.pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS
  - a. T&G Committee
  - b. Park & Recreation Board
  - c. Planning & Zoning Board
8. STAFF REPORTS

- a. **Manager**

Exhibit: Agenda Report Number 8a

**Attachments:**

- **Agenda Report Number 8a** (Agenda\_Report\_Number\_8a.pdf)

- b. **Clerk**
- c. **Fire Chief**

Agenda Report Number 8b

**Attachments:**

- **Agenda Report Number 8b** (Agenda\_Report\_Number\_8b.pdf)

**d. Public Works Director**

Exhibit: Agenda Report Number 8d

**Attachments:**

- **Agenda Report Number 8d** (Agenda\_Report\_Number\_8d.pdf)

**9. PUBLIC COMMENTS**

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

*Five (5) Minute Limit per Speaker*

**10. PUBLIC HEARINGS / SPECIAL ORDERS**

**a. Road Improvement Waiver Request - Unimproved portion of right-of-way in line with Beekeeper ROW and Old Mission ROW running west from Corey Road - Tabled from May 6th, 2019; Applicant Mr. Chris Thomas**

Exhibit: Agenda Report Number 10a

**Attachments:**

- **Agenda Report Number 10a** (Agenda\_Report\_Number\_10a.pdf)

**b. 2nd Reading Amend Comp Plan and LDC regarding MBC in R/LC to 20 percent. (Ordinance 2021-02)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT; PROVIDING FOR A TEXT CHANGE TO THE PERMITTED MAXIMUM BUILDING COVERAGE IN THE RESIDENTIAL AND LIMITED COMMERCIAL (R/LC) MIXED USE DESIGNATION; PROVIDING FOR A SIMILAR CHANGE IN THE LAND DEVELOPMENT CODE DELETING THE MAXIMUM BUILDING COVERAGE OF 4,000SF AND UTILIZING THE TWENTY PERCENT COVERAGE AS STATED IN TABLE 1-3.3(A); PROVIDING FOR CODIFICATION; SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR TRANSMISSION TO THE FLORIDA STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10b

**Attachments:**

- **Agenda Report Number 10b** (Agenda\_Report\_Number\_10b.pdf)

**c. 2nd Reading Amend Article VII of the Land Development Code to provide updated requirements for Culverts. (Ordinance 2021-03)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTIONS 1-8.4 DEFINITIONS; AMENDING SECTION 1-8.8 ITEM 11b; AMENDING SECTION 1-8.14 ITEMS A, E & G; AMENDING SECTION 1-8.16 PARAGRAPH 3; PROVIDING UPDATED REQUIREMENTS FOR SURFACE WATER MANAGEMENT IN MALABAR; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10c

**Attachments:**

- **Agenda Report Number 10c** (Agenda\_Report\_Number\_10c.pdf)

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

**12. ACTION ITEMS**

ORDINANCES:1

RESOLUTIONS:0

MISCELLANEOUS:2

**a. Amend Chapter 13 of the Malabar Code of Ordinances, Street Improvement to provide codification of Exhibits (Ordinance 2021-04)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13 OF THE MALABAR CODE OF ORDINANCE RELATED TO STREETS, ARTICLE II, DELETING SECTION 13.40; AMENDING THE TEXT IN SECTION 13.41; ADDING EXHIBITS "B-4", "B-5", AND "B-6" TO SECTION 13.41; AND DELETING ARTICLE III IN ITS ENTIRETY; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 12a

**Attachments:**

- **Agenda Report Number 12a** (Agenda\_Report\_Number\_12a.pdf)

**b. Approve 460' of Improved Rivet Lane and Certify Cost at \$38,395.89**

Exhibit: Agenda Report Number 12b

**Attachments:**

- **Agenda Report Number 12b** (Agenda\_Report\_Number\_12b.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**13. DISCUSSION/POSSIBLE ACTION**

**a. Parks & Recreation Advisory Board Playground Recommendation**

Exhibit: Agenda Report Number 13a

**Attachments:**

- **Agenda Report Number 13a** (Agenda\_Report\_Number\_13a.pdf)

**b. Upcoming Amended Zoning Map for Council Adoption (Ordinance 2021-05)**

Exhibit: Agenda Report Number 13b

**Attachments:**

- **Agenda Report Number 13b** (Agenda\_Report\_Number\_13b\_2021042710173491.pdf)

**14. PUBLIC COMMENTS**

General Items (Speaker Card Required)

**15. REPORTS - MAYOR AND COUNCIL MEMBERS**

**16. ANNOUNCEMENTS**

(2) Vacancies on the Trails and Greenways Committee

**17. ADJOURNMENT**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

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Contact: Debby Franklin (townclerk@townofmalabar.org 321-727-7764) | Agenda published on  
04/27/2021 at 9:37 AM

**TOWN OF MALABAR**

**COUNCIL MEETING**

**AGENDA ITEM NO: 4.a.**

**Meeting Date: May 03, 2021**

**Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer**

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**SUBJECT: Consent Agenda**

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**BACKGROUND/HISTORY:**

4.a. Town Council Regular Meeting Minutes – 04/19/2021

**ATTACHMENTS:**

- a. Draft Minutes of 04/19/2021

**ACTION OPTIONS:**

Council Action on Consent Agenda

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES**

**APRIL 19, 2021 7:30 PM**

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

**1. CALL TO ORDER:**

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

**2. ROLL CALL:**

CHAIR:	MAYOR PATRICK T. REILLY
VICE CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	MARISA ACQUAVIVA, excused
	BRIAN VAIL
	DAVID SCARDINO
	DANNY WHITE
TOWN MANAGER: (ITM)	LISA MORRELL
TOWN ATTORNEY:	KARL BOHNE, attended via phone.
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

**3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: none**

**4. CONSENT AGENDA:**

**4.a. Regular Town Council Mtg March 15, 2021**

**4.b. Terminate Government Relations Agreement with S.P.G. – Bill Barrett**

**4.c. Approve Piggy-back Contract for Plan Review and Inspection Services**

**MOTION: CM Rivet / CM White to approve consent agenda. VOTE: All Ayes.**

**5. ATTORNEY REPORT:** CM Atty gave update on Faber CE matter. Chair asked for recommendation from Atty. Atty said we need to maybe send one more letter and failing a response – proceed with lien. Staff will get actual staff and attorney costs and forward that amount to Council in an email update tomorrow. That cost is not negotiable. The Atty is proposing to send one more notification to property owner to contact Town for settlement of the lien amount and actual costs. Council consensus to go forward with one more notification letter.

**6. STAFF REPORTS:**

**6.a. Town Manager – written, in package.** Will answer any questions regarding Hunter Ln update from this afternoon; contractor can start mobilization within three weeks of purchase order being issued. We are waiting on revised proposal from contractor currently. SAI SW masterplan update. They are getting ready to give Council a presentation with their latest update.

They have refreshed the safety ADA certified mulch around playground at Malabar Community Park (MCP). She is also working on the annual report for the National Pollution Discharge Elimination System (NPDES) for the last year. CM Scardino asked about the recent land clearing and clearing of wetlands without permits on the weekends. Are these people confused or would there be a way we could prevent these activities? Mayor asked ITM Lisa to respond. ITM Lisa said that the person that was clearing came in the next Monday at 8:30AM with his engineer and the completed road permit application, engineering drawings and wetland determination report. That would indicate that this property owner was probably just excited to start the work.

**6.b. Clerk – Report on results of *Fall in Love with Springfest* –** The winnings from the raffle were \$150 and set aside for the playground equipment replacement. Other revenues were just \$42 in various merchandise sales. The intent was not to make money but provide a community event.

Blanket Zoning – We have succeeded in loading the FLUM designations, the existing zoning, and the proposed zoning if Council approves the blanket zoning for those properties that

have supported it in their responses. It will be legally advertised and presented to P&Z and then come back to Council for first reading of the ordinance hopefully by the RTCM of 6/7/2021.

7. **PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. (Speaker Card is Required) Five **(5) Minute Limit**

8. **PUBLIC HEARINGS: 0**

9. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 0**

10. **ACTION ITEMS:**

**ORDINANCES for FIRST READING: 1**

10.a. **Amend Article VIII of the Land Development Code to provide updated requirements for Culverts (Ord 2021-03)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING SECTIONS 1-8.4 DEFINITIONS; AMENDING SECTION 1-8.8 ITEM 11b; AMENDING SECTION 1-8.14 ITEMS A, E & G; AMENDING SECTION 1-8.16 PARAGRAPH 3; PROVIDING UPDATED REQUIREMENTS FOR SURFACE WATER MANAGEMENT IN MALABAR; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**Exhibit: Agenda Report No. 10.a.**

Ord read by title only.

MOTION: CM Vail / CM Scardino to approve first reading of Ord 2021-03.

ROLLCALL VOTE: CM Acquaviva, excused; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

**RESOLUTIONS: 0**

**MISCELLANEOUS: 1**

10.b. **Appoint Special Magistrate**

Atty Bohne said Mr. Stokes has become very busy in Pt St Lucie and is required to travel all over the State. The hearings we need conflict with his schedule. He is supposed to recommend an attorney or attorneys and he knows the hourly rate most require, and he cannot justify that. Mr. Goldfarb has agreed to the \$175/hr. with a minimum of two (2) hours.

**Exhibit: Agenda Report No. 10.b.**

MOTION: CM Vail / CM White to Atty Bohne recommended Atty Goldfarb as Special Magistrate.

Discussion: none. VOTE: All Ayes.

**Chair excused Attorney from phone participation in meeting.**

11. **DISCUSSION/POSSIBLE ACTION: 3**

11.a. **Increase Penalties in Article XV, Tree Protection for Violations (CM Scardino)**

**Exhibit: Agenda Report No. 11.a.**

CM Scardino said this goes hand in hand with his earlier statements. Just in the past month two incidents on Lett Lane. Protect the old growth trees and wetlands. CM Vail said our fines are higher than other cities. ITM Lisa said there are technically only three staff members at any times in Town Hall. She has visited many sites as calls come in from neighbors, adjacent property owners and the public. She can only document what is visible from public ROW with human eye without assistance of drones or cameras, so it is difficult. There is reference to trees in several parts of the code; perhaps a workshop to combine and focus on intent for preservation could be

combined with the land clearing, site plan, landscaping, commercial and residential development, and tree preservation. She continued that Malabar has not done a tree inventory or have any trees designated as "tree of significance" She has contacted Google that we would like to be included in doing a tree inventory could be done and a registration of "tree of significance". She suggested a workshop to discuss all these issues. CM Scardino said the violations seem to happen at same time and suggested an employee to drive around Town on weekends. CM Rivet questions if it is a lack of education, education and information will always help. He does not want to see unreasonable proactive code enforcement. CM Vail said there are multiple locations that have been developed correctly with tree preservation in mind. Council consensus is to not change to proactive code enforcement.

Mayor asked ITM Lisa if the fines are too high or low. ITM said Malabar penalties are higher than similar municipalities. She agreed that since our primary residential zoning encourages tree retainage, we should keep our fines high but still consider a workshop to discuss combining and making more concise the requirement for tree removal, preservation, and mitigation. CM White said his other homes in a HOA required him to sign a paper on the covenants regarding certain requirements. When he bought here, he did not see anything about policy on trees. Is it possible to add a signature on a "general information statement" on Town rules before issuing a CO. Or a new buyer buying an existing home. Maybe a "Welcome to Malabar" notice to be mailed out to new home buyer. Mayor said we can do it for new homes but how to track resales? Use special events, the pancake b-fast and the farmers market to spread the information.

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

**13. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Acquaviva: Excused.

CM Vail: nothing

CM Rivet: Spoke about the passing of Bob Rossman. He will be missed; He was a valuable member of the community. CM Vail agreed.

CM White: his neighbor had a contractor clearing property and he asked to look a portion of his lot. The contractor said they do not go within 25 feet of any wetlands. He said it the right answer and he was pleased.

CM Scardino: happy with existing fines, but do more education.

Mayor: 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 8:17P.M.

BY: \_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

\_\_\_\_\_

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

Date Approved: 05/03/2021



# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 4.b.

Meeting Date: May 03, 2021

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

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**SUBJECT:** 52<sup>nd</sup> Annual Municipal Clerk's Week May 2 – 8, 2021

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### **BACKGROUND/HISTORY:**

Municipal Clerk's Week recognizes the vital and appreciated services performed by municipal and deputy clerks in serving the changing needs of their communities. It was initiated in 1969 by the International Institute of Municipal Clerks (IIMC) and is endorsed by all its members throughout the United States, Canada and 15 other countries.

In 1984 and 1994, Presidents Ronald Reagan and Bill Clinton, respectively, signed proclamations officially declaring Municipal Clerks Week the first full week in May and recognizing the essential role municipal clerks play in local government.

I am a member of the Florida Association of Municipal Clerks which is comprised of over 600 municipal clerks representing cities, towns, villages, and special districts. I am also a member of the IIMC which has 14,700 members. I have proudly served as your municipal clerk on and off since 1995. As I do plan to retire, we will begin discussing this during our upcoming budget workshops.

### **ATTACHMENTS:**

Proclamation

### **ACTION OPTIONS:**

Council Action on Consent Agenda



**52<sup>nd</sup> Annual Professional Municipal Clerks Week**  
**May 2 - May 8, 2021**  
**FACT SHEET**

Sponsored by the International Institute of Municipal Clerks

*Professionalism In Local Government Through Education*

**PURPOSE**

To recognize the vital and appreciated services performed by Municipal and Deputy Clerks in serving the changing needs of their communities.

**HISTORY**

This May will be the 52<sup>nd</sup> Annual Professional Municipal Clerks Week, initiated in 1969 by IIMC and is endorsed by all of its members throughout the United States, Canada and 15 other countries. In 1984 and in 1994, Presidents Ronald Reagan and Bill Clinton, respectively, signed a Proclamation officially declaring Professional Municipal Clerks Week the first full week of May and recognizing the essential role Municipal Clerks play in local government.

**TYPICAL RESPONSIBILITIES OF THE MUNICIPAL AND DEPUTY CLERK:**

- Maintains the official council minutes, ordinance books and all records and documents.
- Indexes all official actions of council.
- Issues licenses and permits.
- Processes contracts and agreements.
- Keepers of community history and vital records.
- Receives, distributes and files correspondence from citizens and other governmental agencies.
- Administers elections, registration and voting.
- Acts as a key liaison between local government and its citizens.
- Handles significant financial responsibilities including preparation of tax rolls, special assessments and budgets.
- Provides central services such as personnel, purchasing, etc.

IIMC is a professional association of City, Village, Town, Township, Borough and County Clerks, Secretaries and Recorders. IIMC prepares its members to meet the challenges of the diverse role of the Municipal and Deputy Clerk by providing services and continuing professional development opportunities to benefit members and the government entities they serve. Founded in 1947 in French Lick, Indiana, IIMC has 14,700 members throughout the United States, Canada and 15 other countries.

# Proclamation

52nd ANNUAL PROFESSIONAL MUNICIPAL CLERKS WEEK

May 2 - May 8, 2021

*Whereas, The Office of the Professional Municipal Clerk, a time honored and vital part of local government exists throughout the world, and*

*Whereas, The Office of the Professional Municipal Clerk is the oldest among public servants, and*

*Whereas, The Office of the Professional Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and*

*Whereas, Professional Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.*

*Whereas, The Professional Municipal Clerk serves as the information center on functions of local government and community.*

*Whereas, Professional Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Professional Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations.*

*Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Professional Municipal Clerk.*

*Now, Therefore, I, Patrick T. Reilly, Mayor of the Town of Malabar, do recognize the week of May 2 through May 8, 2021, as Professional Municipal Clerks Week, and further extend appreciation to our Professional Municipal Clerk, Debby K. Franklin and to all Professional Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.*

*Dated this 3<sup>rd</sup> day of May, 2021*

*Mayor: \_\_\_\_\_*

*Attest: \_\_\_\_\_*

# TOWN OF MALABAR

## COUNCIL MEETING

### Staff Report

Meeting Date: May 3rd, 2021

Prepared By: Lisa Morrell, Interim Town Manager on April 26<sup>th</sup>, 2021

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**SUBJECT: Town Manager Report for May 3<sup>rd</sup>, 2021 Council Meeting**

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#### **Hunter Lane Paving**

April 7, Goodson Paving reports their Estimator "hasn't had a chance to start on it but he should be able to get it in the work pretty soon." ITM sent a follow-up communication on 4/15, awaiting response. No change to this update, awaiting proposal.

#### **SAI Update**

Conference call completed on Thursday, April 22 with SAI to review the preliminary modeling features of the mapped assets which has three rainfall flooding model layers. Town staff discussed historical customer complaints and key town areas for framework and presentation to Town Council. The stormwater water asset scope of work included major infrastructure components; smaller assets, such as driveway culverts and road swales, can be added into the mapping tool as desired by the Town

#### **Waste Management Quarterly Service Report**

Attached is the quarterly tonnage and service report for the period beginning January 1, 2021 through March 31, 2021.

#### **ARP – American Relief Plan**

Anticipating funding from the State to non-entitlement units of local government to start mid-May. The Town of Malabar is a non-entitlement unit as the Town does not receive CDBG funds directly from HUD. For these Non-entitlement units of local government, Treasury will allocate and pay funds to state governments, and the state will distribute funds to non-entitlement units of local government in proportion to population. This funding will be released in two allotments, half in the next 60 days following enactment of the legislation and the second half 12 months after the first payment. Other important provisions include: the funding has no minimum population threshold for communities, can be used for replacing lost revenue, can be transferred between jurisdictions or to non-profit partners, and finally, does not expire until December 31, 2024.

Staff is compiling a list of priorities for future council consideration, after more guidance is provided to local municipalities for eligibility. Funds issued by the U.S. Treasury Department do include a claw back penalty provision for improper use of non-eligible expenses.

#### **Building Services**

ITM participated in a conference call with Safebuilt on April 26, 2021 to review building department operations for a better understanding and use of building services available to better serve the Town. Safebuilt will provide a contract for execution; all building inspectors are assigned and are self-contained with vehicle, technology, state licensures, and commercial/liability insurance.





# MALABAR QUARTERLY SERVICE REQUEST REPORT - JAN-MARCH 2021

CUST TYPE	NAME	HOUSE #	STREET	SERVICE	DATE ENTERED	TIME ENTERED	DATE CLOSED	TIME CLOSED
R	DEL PRADO, LEE AND ANDREA	1600	WEIR ST	64 GAL TOTER REL PER	1/2/2021	10:15:23 AM	1/5/2021	10:25:23 AM
R	FALLAS, WILLIAM	2490	COREY RD	GRN/YDW SERVICE	1/2/2021	8:20:54 AM	1/5/2021	11:37:54 AM
R	KIGINSKI, LINDA	2450	SKI LN	64 GAL TOTER S/L RCY PER	1/2/2021	8:22:38 AM	1/8/2021	12:05:38 PM
R	LANG, GARY	1000	HOLLOW BROOK LN	35 GAL TOTER REL	1/5/2021	8:02:39 PM	1/7/2021	6:02:39 AM
R	MENDOLA, ANNETTE	2395	WARING LN	GRN/YDW SERVICE	1/8/2021	8:36:28 AM	1/8/2021	1:45:28 PM
R	BALL, DEBRA	211	1ST LN	WHITE GOODS REL	1/25/2021	9:47:18 AM	1/26/2021	10:17:18 AM
R	BARRANTI, JOHN	2230	WILSON LN	WHITE GOODS REL	1/25/2021	9:08:50 AM	1/26/2021	9:52:50 AM
R	GARNIER, SHANNON AND IVAN	2755	SMITH LN	WHITE GOODS REL	1/29/2021	7:00:22 AM	2/2/2021	9:07:22 AM
R	WAINIKAINEN, PAUL AND DONNA	2140	IVEY LN	64 GAL TOTER REL PER	1/30/2021	9:00:47 AM	1/30/2021	1:05:47 PM
R	DOLCOLN LLC	1493	SITKA LN	64 GAL TOTER REL PER	2/6/2021	3:45:12 PM	2/9/2021	5:23:12 PM
R	BROWN, LOUISE ***BACKDOOR SERVICE ***	1290	US HWY 1 S	CARRY OUT S/L	2/10/2021	8:34:17 AM	2/10/2021	11:43:17 AM
R	TOTTEN, FRANCES	2960	CENTURY OAKS CIR	64 GAL TOTER S/L RCY PER	2/13/2021	9:01:25 AM	2/13/2021	2:01:25 PM
R	LEA, RAY	1455	ABSAROKA LN	64 GAL TOTER REL PER	2/20/2021	7:00:00 AM	3/15/2021	1:00:00 PM
R	JONES, ERIC AND TERESA	2643	WESTHORPE DR	96 GAL TOTER REL PER	2/22/2021	10:32:33 AM	2/23/2021	8:13:33 AM
R	ROBERTO, MARIO	1300	MALABAR RD	BULK LOOSE PICKUP GRN/YDW	2/22/2021	11:24:50 AM	2/23/2021	3:06:50 PM
R	CUMMINGS, EVERALD AND SONJA	1383	KNAVE LN	64 GAL TOTER REL PER	2/24/2021	3:32:42 PM	2/25/2021	4:52:42 PM
R	KICINSKI, LINDA	2450	SKI LN	64 GAL TOTER S/L RCY PER	2/27/2021	8:07:05 AM	3/2/2021	1:51:05 PM
R	REHKOP, EMILY	2740	WARING LN	BULK PICKUP REL	2/27/2021	7:00:00 AM	3/1/2021	1:00:00 PM
R	TAYLOR, HENRY	1920	BENJAMIN RD	BULK PICKUP REL	3/4/2021	5:09:50 PM	3/5/2021	2:13:50 PM
R	MORAVECKY, KAREN	1825	EVA LN	GRN/YDW SERVICE	3/5/2021	8:56:30 AM	3/5/2021	4:01:30 PM
R	STIDHAM, SUSAN	2235	GATOR WAY LN	BULK LOOSE PICKUP GRN/YDW	3/5/2021	12:57:54 PM	3/5/2021	4:41:54 PM
R	MARCINISKI, MARK	1175	HALL RD	64 GAL TOTER S/L RCY PER	3/6/2021	11:46:12 AM	3/8/2021	3:04:12 PM
R	DIAZ, DIANA	1780	ATZ RD	BULK LOOSE PICKUP GRN/YDW	3/8/2021	1:27:58 PM	3/10/2021	5:19:58 PM
R	ROBERTS, MARYLN	1325	MARIE ST	WHITE GOODS REL	3/10/2021	11:18:14 AM	3/12/2021	12:05:14 PM
R	BROWN, LOUISE ***BACKDOOR SERVICE ***	1290	US HWY 1 S	CARRY OUT S/L	3/17/2021	8:36:00 AM	3/17/2021	12:48:00 PM
R	BUTLER, THOMAS A	2200	HOWELL LN	64 GAL TOTER S/L RCY PER	3/17/2021	7:54:13 AM	3/17/2021	5:43:13 PM
R	SCHAU, ROBERT	1830	MARIE ST	BULK LOOSE PICKUP GRN/YDW	3/19/2021	12:49:51 PM	3/22/2021	9:48:51 AM
R	SIMPSON, STEVEN	2383	WESTHORPE DR	GRN/YDW SERVICE	3/19/2021	9:58:00 AM	3/19/2021	11:30:00 AM
R	ALBRIGHT, JIM	1382	KNAVE LN	GRN/YDW SERVICE	3/22/2021	4:21:20 PM	3/23/2021	4:26:20 PM
R	SELLS, JARED CHRISTOPHER AND DANIELLE M	1875	ALEXANDER LN	BULK LOOSE PICKUP GRN/YDW	3/23/2021	3:38:43 PM	3/25/2021	11:15:43 AM
R	EVANS, MARK AND JENNIFER	1264	ABSAROKA LN	BULK LOOSE PICKUP GRN/YDW	3/25/2021	9:02:38 AM	3/26/2021	5:06:38 PM
R	KIGINSKI, EDMUND	2470	SKI LN	GRN/YDW SERVICE	3/26/2021	10:27:21 AM	3/26/2021	3:45:21 PM
R	HARTMANN BUILDING CORP OF	3125	COREY RD	64 GAL TOTER S/L RCY PER	3/30/2021	1:07:33 PM	3/31/2021	12:11:33 PM

## Tree and Land Clearing Communciations

Lisa Morrell <LMorrell@townofmalabar.org>

Tue 4/27/2021 8:06 AM

To: Brian Vail <cmdist2@townofmalabar.org>; Danny White <cmdist5@townofmalabar.org>; David Scardino <cmdist4@townofmalabar.org>; Marisa Acquaviva <cmdist1@townofmalabar.org>; Pat Reilly <mayor@townofmalabar.org>; Steve Rivet <cmdist3@townofmalabar.org>  
Cc: Debby Franklin <townclerk@townofmalabar.org>; Richard Kohler <rkohler@townofmalabar.org>; Denine Sherear <dsherear@townofmalabar.org>

Good Morning Mayor and Town Council Members,

Some education regarding tree removal and land clearing permits have been posted to our social media page this morning. There will be some updates made to the building department's web page to reinforce the information repository from constituents. There will be several other posts that will continue over the next month to support permitting and town's ordinances for communication and education, particularly, building permits, land clearing, fill, environmental wetlands and habitat preservation, and illicit discharge education. We envision a newsletter culminating all these topics posted to our website and re-shared to social media. Staff is working hard to avoid reactive violation enforcement and proactive compliance for land related projects. I have provided a snip of the Facebook post for advisement and those not engaged on the platform, we currently have 101 followers on Facebook, which has increased from 85 as of March 30<sup>th</sup>.



Town of Malabar, FL

4m · 🌐

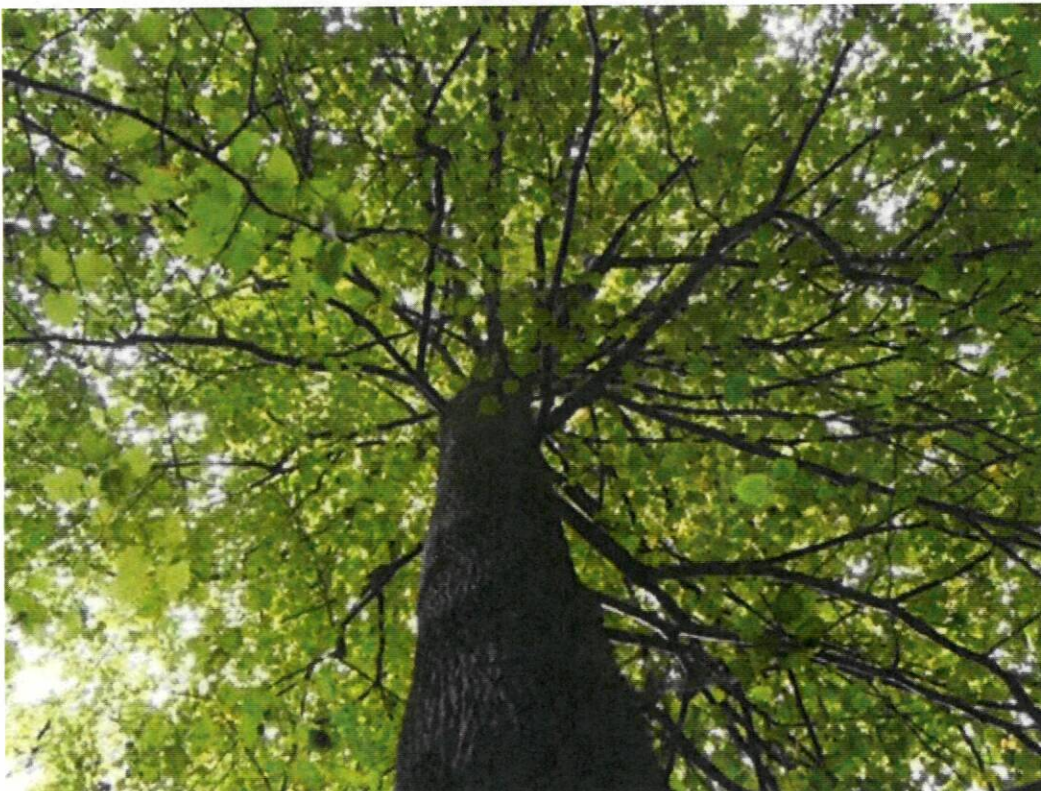
...

Protect the Tree Canopy - The Town of Malabar requires property owners to obtain permits for Tree Removal and Land Clearing including the removal of underbrush. For more information, please visit our website for permits and forms at <https://www.townofmalabar.org/.../building-permits-forms> or call us at 321-727-7764, option 1 for the Building Department.

Town of Malabar Code of Ordinances Article XV - Tree Protection and Restoration:  
[https://library.municode.com/.../codes/code\\_of\\_ordinances...](https://library.municode.com/.../codes/code_of_ordinances...)

Avoid the penalties and time for a due process hearing, obtain a permit.  
[https://library.municode.com/.../codes/code\\_of\\_ordinances...](https://library.municode.com/.../codes/code_of_ordinances...)

In accordance to FSS 163.045 A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.<http://www.leg.state.fl.us/statutes/index.cfm...>



Thank you,

## Town of Malabar Fire Department Status (April 2021)

Current Response (Minutes)	
Cum 2019	5
Malabar only response minutes	5
Active Members' Roster	22
Active Members' Additions	0
Active Members' Deletions	0
Department Growth	0
New Roster	22
Paid employees (not included in roster number)	10
<b>Mutual Aid Calls</b>	
Given to Palm Bay	0
Received from Palm Bay	0
Received from Palm Bay & Brevard	0
Given to Brevard	0
Given to Florida Forestry	0
Total Mutual Aid Incidents	
<b>Training Manhours</b>	
In-house	
Out-of house	0
Total Training Manhours	

Incident Response		Percent
Smoke scare	1	4%
EMS	17	61%
Vehicle accident with injuries	1	4%
Vehicle accident without injuries	1	4%
Public service	0	0%
Dispatched & canceled	3	11%
Construction/landfill fire	1	4%
Power line down	4	14%
	0	0%
	0	0%
	0	0%
<b>Total Manhours</b>	<b>21</b>	
<b>Missed Responses</b>	<b>0</b>	
<b>Total Calls</b>	<b>28</b>	
<b>Total Yearly Responses</b>	<b>175</b>	



**Town of Malabar  
Fire Department Status (April 2021)**

Item	Vehicle ID #	County #	Mileage /	Engine hours /	maintenance done	Status
1	Chief's Car	(Fire-1)			PM Completed	Operational
2	2015 Chevy pick up		102870		Pm Completed	Operational
3	Izuzu Trooper	(E-99)	4539	391	In service	Operational
4	Engine-1					
5	2018 Pierce	(Eng-299)	5301.3	3841.3	In Service as back up engine needs pump test done	Operational
6	Engine-2					
7	1997 E One	(L-99)	102856.2	12590.2	Failed fuel line replaced -Failed pump test	OOS
8	Ladder-1					
9	1993 Sulphen	(SQ-99)	41572	2623.5	Need new fire pump loosing compression	Operational
10	Squad-1					
11	2007 Ford F550	(Tanker-99)	14679.7	1264.3	In service needs pump test	Operational
12	Tanker-1					
13	2006 Freightliner	(B-99)	11750.9	5023.1	In service loaner from DOF	Operational
14	Brush-1					
15	1995 Military	(B-299)	5703.9	9324.3		Operational
16	Brush 299					
17	1991 Military					
18	Brush 499 LMT	(B-499)			work in progress	work in progress
19	1977 Military					
<b>General Comments/Special Tasks</b>						
1	Palm Bay Fire Rescue will be filling our Oxygen Bottles savings of \$65,00a month					on going
2	Progression on Inventory list					up dating
3	Palm Bay Fire Rescue will be doing our Face Fit on our air masks and air bottle testing cost savings of \$1,815.42					completed
4	Forestry 50/50 grant for gear is reapplied for					in progress
5	ISO AUDIT completed and our status is 4/10					same
6	Old Engine 99 out of service unable to find parts /engine too old					out of service
7	Brush Truck 99 in service					in service
8	New Hydrant Testing will begin in October 2020					completed
9	NEW Fire Truck in service					completed
10	State Fire Marshall safety held and 100% compliant					6/12/2018
11	New brush truck being Assembled right now					completed
12	New Engine 99 was reared by Ten 8 in house all issues addressed hand recall on DEF system					in progress
13	Up dating SOPs policies					in service
14	Starting Pre plans in the month of January					in progress
15	2 Hydrant located at 1300 US1 needs repairs repairs owner was sent letter to have repairs done					in progress

**Council Report Overview**

	04/01/21 to 04/03/21	
Quantity	Incident Type	Location
	EMS	
	Motor Vehicle Accident without/injuries	
	Dispatched & Canceled	

	04/04/21 to 04/10/21	
Quantity	Incident Type	Location
5	EMS	
	Power line down	
	Motor Vehicle accident w/injuries	
	Motor Vehicle accident w/out injuries	
1	Dispatched & Canceled	
	Const/Landfill Fire	

	04/11/21 to 04/17/21	
Quantity	Incident Type	Location
5	EMS	
	Motor Vehicle accident w/injuries	
	Motor Vehicle Accident w/out injuries	
2	Dispatched & canceled	
1	Power line down	
1	Constr/Landfill fire	
	Burn permit inspection	
	Brush Fire/Assist	

<b>04/18/21 to 04/24/21</b>		
<b>Quantity</b>	<b>Incident Type</b>	<b>Location</b>
<b>9</b>	<b>EMS</b>	
	<b>Public Assist</b>	
<b>1</b>	<b>Motor Vehicle Accident w/out injuries</b>	
	<b>Outside Rubbish Fire</b>	
<b>1</b>	<b>Motor Vehicle Accident with injuries</b>	<b>US#1/Jordan Blvd</b>
<b>1</b>	<b>Smoke Scare</b>	
	<b>Dispatched &amp; Canceled</b>	

<b>04/25/21 to 04/30/21</b>		
<b>Quantity</b>	<b>Incident Type</b>	<b>Location</b>
	<b>EMS</b>	
	<b>Public Service/Assist</b>	
	<b>Unauthorized burn</b>	
	<b>Motor Vehicle Accident w/out injuries</b>	

# April 2021 Public Works Report

## Equipment Update

- Equipment Serviced in March
  - Repaired bearing in the grass head of slope mower
  - Repaired Air Compressor
- New Equipment
  - New Ford F-450 Utility Truck delivered 04/26

See attached pages for all Mowing, Road Grading and Slope Mowing accomplishments for the month.

## Miscellaneous Jobs

- North Corey Road Extended 400'
  - Work Completed 4/1 – 4/6
  - 20 Loads of Road Stabilizer
  - 16 Leads of Base Rock
- Repaired Marie Street Pothole
  - 8 Bags
- Picked up signs from County Sign shop in Merritt Island.
  - Replaced road name signs and directional signs across the Town.
- Trim line-of-sight blocking trees:
  - Leghorn Lane
  - Sandhill Trailhead Park
- Repaired roof of Public Works Building #1.
- Removed and replaced wood chips at Malabar Community Park Playground.
- Repaired Washouts at following locations:
  - Rocky Point Road
  - Atz Road
  - Briar Creek Blvd Bridge
- Replace 5' x 8' road patch on Briar Creek Blvd at the bridge.

### Mowing & Weed Eating Checklist April 2021

Sanitation	4-2	4-9	4-15	4-26
Soccer Field				4-22
Baseball Field			4-15	4-22
Drag Infield				4-22
<b>Town Property</b>				
Malabar Park	4-2			4-23
Fire Department				4-23
Disc Park	4/1			4-23
Trail Park	4-1			
Eschenberg Park	4/1			4-22
Huggins Park				
Public Works Yard				4-28
Marie St. Yard				4-22
Town Hall/ S. RR Ave				
<b>Town ROWs</b>				
Rocky Point Rd North & South				
Briar Creek Blvd & Bridge				
Corey Rd North End				
Marie St South East Side				
Marie St North West To Johnsnton				
Glatter Rd @ Malabar Rd				4-27
Glatter Rd East to RR				
Data Managment				
Marie St Trail North and South Side				
Quaterman & Atz Rd				
Booth & Lette Intersection North				
Richard Rd Tillman Canal				
<b>Bus Stops</b>				
Atz & Corey				4-27
Weber & Old Mission				4-27
Lacourt & Hall				4-27
LaCourt & Atz				4-27
Hall & Corey				4-27
<b>Main Intersections (All Paved Roads w/ Stop sign, 50 Ft Each Direction)</b>				
Corey & Hall				4-27
Corey & Atz				4-27
Weber & Hall				4-27
Weber & Atz				4-27

Road Grading			Month: April 2021		
Road Name	Date	Machine Used	Loads	Materials	Comments
Fins Lane	4/8	Box Blade	3	Stab	
Marie Street South	4/9	Box Blade			
McCain Lane North & South	4/9	Box Blade			
Howell Lane North & South	4/9	Box Blade			
Rivet Lane	4/9	Box Blade			
Appleby Lane North & South	4/9	Box Blade			
Ivey Lane	4/9	Box Blade			
North Corey Road	4/14	Box Blade	1	Stab	
Linerose Lane	4/14	Box Blade	1	Stab	
Oakridge Lane North & South	4/15	Box Blade			
Linrose Lane South	4/15	Box Blade			
Quaterman Lane	4/15	Box Blade			
Raulerson Lane	4/15	Box Blade			
Wilson Lane	4/15	Box Blade			
Flashy Lane	4/15	Box Blade			
Richards Lane	4/15	Box Blade			
Candy Lane	4/21	Box Blade			
Hunter Lane North	4/21	Box Blade			
Matthews Lane	4/21	Box Blade			
MacDonald Lane	4/22	Box Blade			
Waring Lane North & South	4/22	Box Blade			
Cason Lane	4/22	Box Blade			

Beran Lane	4/22	Box Blade			
Hardway Lane	4/22	Box Blade			
Reese Lane	4/22	Box Blade			
Reble Lane	4/22	Box Blade			
Hunter Lane South	4/27	Box Blade			
Billie Lane	4/27	Box Blade			
Kelly Lane	4/27	Box Blade			
Moss Rose Ave	4/27	Box Blade			
Kramer Lane	4/27	Box Blade			
Linrose Lane South	4/27	Box Blade			
Duncil Lane South	4/27	Box Blade			
Isasa Lane	4/27	Box Blade			
Marshall Lane	4/28	Box Blade			
Johnston Ave	4/28	Box Blade			
Marie Street North	4/28	Box Blade			
Nord Street	4/28	Box Blade			
Sandhill Trailhead Park	4/28	Box Blade			
Malabar Community Park	4/29	Box Blade			
Sandy Creek Lane	4/29	Box Blade			
Weir Street	4/29	Box Blade			
Gilmore Street	4/29	Box Blade			
Marie Street South	4/29	Box Blade			
McCain Lane North & South	4/29	Box Blade			
Howell Lane South	4/29	Box Blade			

Rivet Lane	4/29	Box Blade			
Appleby Lane North	4/29	Box Blade			
<b>TOTALS</b>	<b>9 Days</b>	<b>1 Machine</b>	<b>54 Roads Serviced</b>		



### Slope Mowing / Flat Mowing Month of: April 2021

Date	Road Name	Ditch Side (N, S, E, W)	Grass	Brush	Ditcher	Map #
4-7-2021	Leghorn Lane	East/West		X		
4-8-2021	Corey Road	West		X		
4-9-2021	Benjamin Lane	South		X		
4-12-2021	Treadwell Lane	East/West		X		
4-13-2021	Benjamin Lane	North		X		
4-14-2021	Johnston Ave	North/South		X		
4/15/2021	Kramer Lane	East/West		X		
4-26-2021	Deleware Ave	North/South		X		
4-28-2021	Huggins Park	West		X		
4-29-2021	Moss Rose Ave	North/South		X		

**Totals: 10 Days of Work ;10 Roads Completed; 1 Machine used**

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 10.a.

Meeting Date: May 03, 2021

THIS PUBLIC HEARING ADVERTISED FOR MARCH 15, 2021 WAS TABLED AT REQUEST OF THE APPLICANT.

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

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**SUBJECT:** Determination of "Access" to 20-acre parcel west of Corey Road in line with Beekeeper with conditions

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### **BACKGROUND/HISTORY:**

This issue was originally before Council on May 6, 2019 for consideration of an request for action on "access" to the applicant's 20-acre parcel that lies approximately 330 feet west of Corey Road in line with the previously discussed "Beekeeper" ROW and the existing unimproved ROW in line with Old Mission.

The applicant bought a 20-acre parcel that lies between the platted ROW identified as Old Mission on the north side and the vacated platted ROW known as Alabama on the south side. He had originally approached the Town in 2014 on reversing the "ROW vacate" the Council approved of Alabama Lane that would have provided access to applicant's parcel. The Town Attorney provided a legal memo stating the Town could not reverse a ROW vacate.

### **Background provided to Council on May 6, 2019:**

Since the provision was removed from the Code to allow for a variance dealing with road improvement, the owner of Parcel 751 is requesting Council approval to utilize the existing ROW to access and develop his 20-acre site. The Attorney has recommended an agreement that would require this property owner or his successors to pay their proportionate share if the owners of parcels to the west develop the road. The item was tabled with a verbal that Council would take the issue up again in the future.

- On the **west side** of Corey Road, a home was allowed to be built very close to the ROW in order to avoid wetlands.
- The Town vacated Alabama Lane at the south side of this Parcel preventing access on a ROW that is not in the wetlands.
- Access is now only possible through the Old Mission ROW that impacts wetlands.

### **Current Situation:**

Council now has a "Waiver" request and the applicant is asking for a "waiver" to the road improvement requirement in Chapter 13 of the Malabar Code.

This was formally legally advertised in Florida today for a Public Hearing as required by the "Road Waiver" process.

### **ATTACHMENTS:**

Agenda Face Sheet, Agenda Report & Portion of "Approved" RTCM minutes from 5/6/2019  
Applicant's application from 5/6/2019 from parcel owner, Chris Thomas  
Memo dated 11/13/2017 from Town Attorney Karl Bohne  
Portion of RTCM Draft minutes from 3/15/2021

### **ACTION OPTIONS:**

Direction from Council on if a "Waiver" could be granted with conditions for this applicant.

**TOWN OF MALABAR  
REGULAR TOWN COUNCIL MEETING  
MONDAY, MAY 06, 2019  
7:30 PM  
2725 MALABAR ROAD  
MALABAR, FLORIDA**

---

**AGENDA**

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES:**
- D. CONSENT AGENDA:**
1. **Approve Regular Town Council Mtg Minutes of 4/15/2019 & Workshop Mtg 4/29/2019**  
Exhibit: Agenda Report No. 1  
Recommendation: Approve Minutes
- E. ATTORNEY REPORT:**
- F. BCSO REPORT:**
- G. BOARD / COMMITTEE REPORTS:**  
T&G Committee; Park & Recreation Board; P&Z Board
- H. STAFF REPORTS:** PW Director; Fire Chief; Clerk
- I. PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required) **Five (5) Minute Limit per Speaker.**
- J. PUBLIC HEARINGS: 0**
- UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)**
2. **Request Malabar Declare Sand Hill Cranes a Protected Species**  
Resident Lloyd Behrendt – Agenda Request Form  
Exhibit: Agenda Request Form 2  
Recommendation: Direction to Staff
- PRESENTATION:**
3. **Henry Morin on Proposed Land Use Designation to CG for Parcel 568 at NE Corner of Babcock and Osage Street**  
Exhibit: Agenda Report No. 3  
Recommendation: Action – direction to Applicant
- L. ACTION ITEMS: ORDINANCES for FIRST READING: 0  
RESOLUTIONS: 2**
4. **Support Brevard County Ordinance to Require Signage to Sell Fertilizer in Summer Reso 06-2019)**  
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE SUPPORT OF BREVARD COUNTY'S ORDINANCE TO REQUIRE SIGNAGE AT VENDORS SELLING FERTILIZER BETWEEN JUNE AND SEPTEMBER TO ALERT CONSUMERS TO THE IMPORTANCE OF REDUCING TMDL IN THE IRL; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.  
Exhibit: Agenda Report No. 4  
Recommendation: Adopt Reso 06-2019

**5. Amend Administrative Fees (Reso 07-2019)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PERTAINING TO THE AMENDMENT OF ADMINISTRATIVE AND PERMIT FEES REQUIRED TO BE ESTABLISHED BY VARIOUS ORDINANCES OF THE TOWN OF MALABAR; PROVIDING FOR APPLICATION FEE TO NAME A NEW STREET; PROVIDING FOR APPLICATION FEE WHEN REQUESTING LAND USE DECISIONS NOT OTHERWISE COVERED; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5

**Recommendation:** Approve Reso 07-2019

**MISCELLANEOUS: 3**

**6. Proposed Depth of Six Parcels on the south side of Malabar Road for both R/LC and OI Land Use Designations on FLUM before final adoption**

**Exhibit:** Agenda Report No. 6

**Recommendation:** Action – direction to staff

**7. Proposed Access to 20-acre parcel from unnamed ROW adjacent to Beekeeper/Old Mission Road – Request from Chris Thomas**

**Exhibit:** Agenda Report No. 7

**Recommendation:** Action – direction to staff

**8. Waive Building Permit Fees for 2125 Howell Lane Reconstruction after house fire**

**Exhibit:** Agenda Report No. 8

**Recommendation:** Action – direction to staff

**COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME**

**M. DISCUSSION/POSSIBLE ACTION: 2**

**9. Discussion on Special Assessment**

**10. Discussion on Possible Ordinance regarding Public Notices**

**N. PUBLIC COMMENTS: General Items (Speaker Card Required)**

**O. REPORTS – MAYOR AND COUNCIL MEMBERS**

**P. ANNOUNCEMENTS:**

(2) Vacancies on the Board of Adjustment; (2) Vacancies on the Park and Recreation Board

**Q. ADJOURNMENT: -**

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

**TOWN OF MALABAR  
AGENDA ITEM REPORT**

**AGENDA ITEM NO: 7**  
**Meeting Date: May 6, 2019**

**Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer**

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**SUBJECT: Determination of "Access" to 20-acre parcel west of Corey Road in line with Beekeeper with conditions**

---

**BACKGROUND/HISTORY:**

This issue deals with the portion of Old Mission Road ROW running west of Corey Road.

- On the *west* side of Corey Road a home was allowed to be built very close to the ROW in order to avoid wetlands.
- The Town vacated Alabama Lane at the south side of this Parcel preventing access on a ROW that is not in the wetlands.
- Access is now only possible through the Old Mission ROW that impacts wetlands.

Since the provision was removed from the Code to allow for a variance dealing with road improvement, the owner of Parcel 751 is requesting Council approval to utilize the existing ROW to access and develop his 20-acre site.

The Attorney has recommended an agreement that would require this property owner or his successors to pay their proportionate share if the owners of parcels to the west develop the road.

**ATTACHMENTS:**

Application from property owner, Chris Thomas  
Memo from Karl Bohne

**ACTION OPTIONS:**

Approval of request with Conditions

Portion of approved RTCM minutes from May 6, 2019 that was discussed under "ACTION/MISC" on the agenda.

**4. Proposed Access to 20-acre parcel from unnamed ROW adjacent to Beekeeper/Old Mission Road – Request from Chris Thomas**

**Exhibit:** Agenda Report No. 7

**Recommendation:** Action – direction to staff

Request deals with access maintaining the current roadway. Without impacting wetlands. If he has to build the mitigation credit cost of 160K so wife and he can build a road.

Atty said years ago we had a variance procedure. No mechanism to deal with this. Bringing back the variance procedures will be part of the road workshop. Build the road and that would be an extreme hardship. We will cover this in our workshop.

Mayor asked what the solution. Use the existing roadway.

CM Ball said what about eminent domain. Can't we buy the Alabama ROW that Council vacated back? Could be very expensive.

CM Vail said he was opposed to variance procedures because that burden is place on the next parcel owner. He said there are too many short roads. The road workshop we are going to talk about and how we are going to deal with these unique situations.

Obligation to develop for the future. We are making decisions that will impact people in the future. Atty would rather table it until after the workshop.

**MOTION: CM Vail / CM White to table it.** **Vote:** Ayes, 4; Nay, 0 (CM Korn excused)

TOWN OF MALABAR  
2725 Malabar Road  
Malabar, FL 32950  
Tel. 321-727-7764 x 14

Waiver to Road Improvement  
~~VARIANCE APPLICATION~~

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

Name of Applicant(s) Christopher Thomas Tel: (972)839-0774

Mailing Address: 299 Lachin St SW, Palm Bay, FL 32908

Legal description of property covered by application:

Township 29S, Range 37E, Section 11, Lot/Block Lot 15, Parcel Pb1 Pg165, Subdivision \_\_\_\_\_

Other Legal Brevard Co. Taz Account:29316987, Parcel ID: 29-37-11-00-751.

Property Address: Not Assigned

Present zoning classification RR 65.

Intended use for property Single-family residential

Reason for variance request (state specific hardship or attach correspondence, drawings, etc.).  
See attachment for written request for variance.

Required attachments:

- Hearing fee of \$300.00 which includes advertising, administrative time and mailing. Any additional costs\* shall be paid by the applicant. (\*Additional costs may include, but are not limited to, engineering fees, attorney fees, etc.)
- Proof of ownership
- Site Plan
- Water and sewer facilities to be fully explained (if applicable).
- List of property owners (with tax parcel numbers) within 500 feet of referenced property as shown in the records of the County Property Appraiser. This "Radius" package is available from the Brevard County Planning and Zoning GIS Section located at the Viera government center, in Building A, Room 114, phone 321-633-2060. There is a fee for this package.

\_\_\_\_\_  
Applicant(s)

\_\_\_\_\_  
Date



# Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

Phone: (321) 264-6700

<https://www.bcpao.us>

## PROPERTY DETAILS

Account 2931687  
 Owners Thomas, Christopher B; Thomas, Stacey I  
 Mailing Address 299 SW Lachine SW St Palm Bay FL 32908  
 Site Address Not Assigned  
 Parcel ID 29-37-11-00-751  
 Property Use 9909 - Vacant Residential Land (Single-Family, Unplatted)  
 Exemptions None  
 Taxing District 34Z0 - Malabar  
 Total Acres 20.00  
 Subdivision --  
 Site Code 0001 - No Other Code Appl.  
 Plat Book/Page --  
 Land Description Lot 15 Of Pb 1 Pg 165

## VALUE SUMMARY

Category	2018	2017	2016
Market Value	\$153,000	\$98,600	\$98,600
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$153,000	\$98,600	\$98,600
Assessed Value School	\$153,000	\$98,600	\$98,600
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$153,000	\$98,600	\$98,600
Taxable Value School	\$153,000	\$98,600	\$98,600

## SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
05/26/2017	\$185,000	WD	Vacant	7900/1497
02/19/2004	\$185,000	WD	Vacant	5226/1943
07/15/1964	\$11,500	WD	Improved	0710/0082

No Data Found



## Thomas Property – Request for Variance

Since the shortest and most easily developable right-of-way route to the parcel was vacated, the two remaining access points would be to the northeast corner of the property and the southwest corner of the property. Both of these two remaining right-of-ways would require work in wetlands to meet Town roadway requirements. According to consultation with Florida Department of Environmental Protection (DEP), impacts to wetlands for roadway development would require wetland mitigation. In order to meet the cumulative impact criteria of Section 10.2.8 Applicant's Handbook (A.H.) Volume I, mitigation must be proposed within the same hydrologic basin that the proposed impacts are to occur. We have explored the environmental permitting requirements of constructing a roadway to Town ordinances from Moss Rose Avenue. Since our parcel is located within the Central Indian River Lagoon Hydrologic Basin, our options for purchasing wetland impact credits is limited to the Basin 22 Mitigation Bank. This mitigation bank currently sells its credits for the outrageous price of \$165,000.00 per credit. This wetland impact mitigation expense would need to be incurred for the State to authorize the wetland impact and does not reflect the additional construction costs of demucking the wetland, additional fill expenses for filling the wetland, and the consulting fees associated with wetland impact permitting. In order to gain access to our parcel from Moss Rose Avenue in the alignment pictured above, forested wetland impact credits would need to be purchased for fill impacts to deep swamp. The wetland impact credit purchase from Basin 22 Mitigation Bank required to develop of the remaining right-of-way from Moss Rose Avenue to Town ordinances is estimated to be \$69,300.00. The wetland mitigation expense associated with the previous right-of-way from Moss Rose Ave that was vacated by the Town is \$0.00. The additional \$69,300.00 wetland mitigation expense for accessing the parcel from Moss Rose Avenue from the remaining right-of-way is a special circumstance not created by the applicant. Due to the hardship of wetland mitigation costs, access to our parcel through the deep swamp to the southwest corner of the lot is not a financially viable option.

Our last remaining access point to our parcel is to northeast corner via the existing single lane roadway within the Old Mission right-of-way. This concrete rubble roadway extends from the intersection of Corey Road and Bee Keeper lane to the northeast corner of our lot. Aerial photographs from 1999 clearly show the roadway to our parcel as being 16 feet in width and 670 feet in length. The north and south side of this roadway is bordered by wetlands near Corey Road as confirmed by DEP on September 7, 2017.

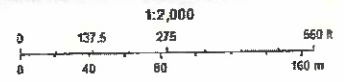
Brevard County Property Appraiser



May 2 2019

↑  
applicant's parcel

↑  
corey rd.



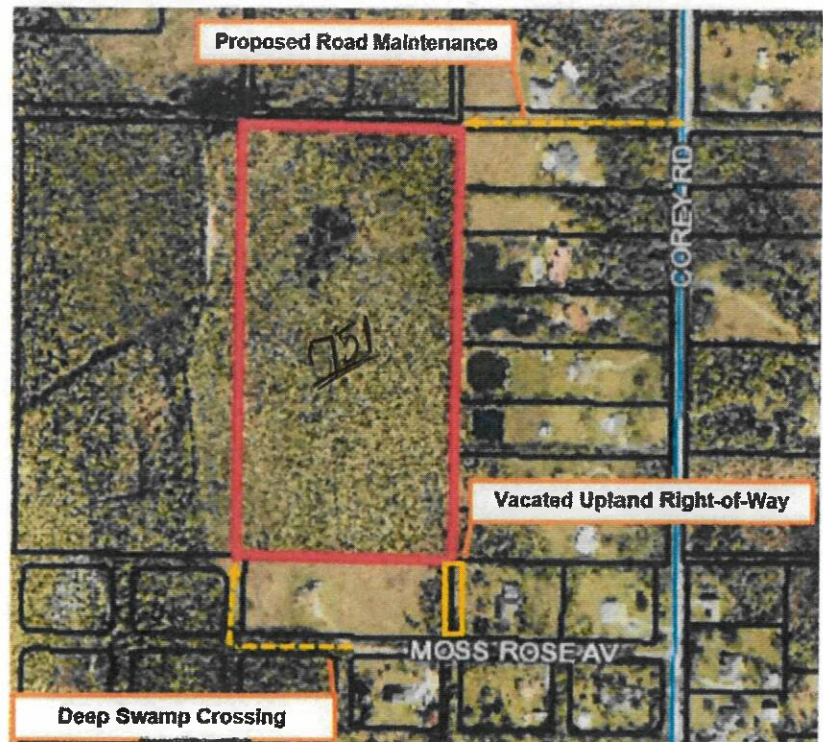
For information only. Not a survey. All layers may not perfectly align.  
© BCPAO 2015

## Thomas Property – Request for Variance

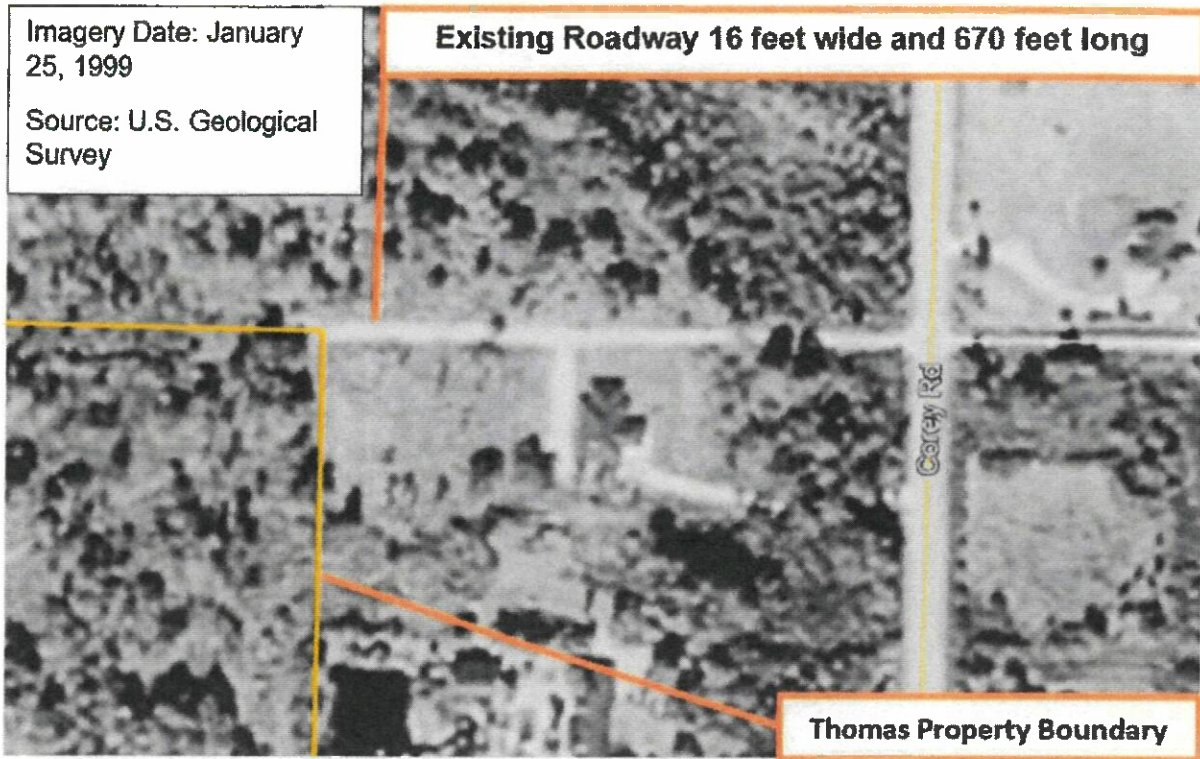
March 4, 2019

Dear Town of Malabar Board of Adjustment,

My wife Stacey and I (Christopher Thomas) are requesting a variance for Town of Malabar Road Improvement Regulations, Chapter 13, Malabar Code for the purpose of reasonable right of access to parcel 29-37-11-00-751 located west of Corey Road and north of Moss Rose Avenue. The parcel is 20 acres in size and contains forested uplands and wetlands. After we purchased the parcel in 2017, we discovered that the shortest public right-of-way access point from the existing Moss Rose Avenue to the southeast corner of our property had been previously vacated by the Town of Malabar. By vacating this public right-of-way that once connected our the southeast corner to Moss Rose Avenue, the Town left us with only two alternative public right-of-way access points, both of which are substantially longer in distance to reach our parcel than the public right-of-way that was vacated. In addition, the two remaining public right-of-way access points contain regulated wetlands while the vacated right-of-way did not. By vacating the only public right-of-way access point to our parcel that consisted entirely of uplands, the Town ensured that all future property owners would be forced to permit wetland fill impacts within remaining public-right-of-ways in order to comply with Town road improvement ordinances. We have worked with Town officials to explore whether the Town's vacating of the public right-of-way could be potentially reversed. According to correspondence received by Attorney Karl W. Bohne, Jr. on behalf of the Town of Malabar on November 13, 2017, there is no hope of getting the previously vacated right-of-way restored.



## Thomas Property – Request for Variance



This existing roadway is bordered by the Robinson property of 2820 Corey Road to the north and the Hammer property at 2920 Corey Road to the south. This roadway has not been maintained in recent years. The eastern portion of the roadway has been overgrown by Brazilian pepper and the western portion of the roadway has been overgrown by lawn grasses.



## Thomas Property – Request for Variance

Due to the extent of jurisdictional wetlands within the Robinson property, the Robinson home is situated within uplands located at the southwest corner of their lot. According to online Brevard County Property Appraiser maps, the southeast corner of the Robinson home is less than 9 feet away from the 60' Old Mission right-of-way boundary. Accessory structures of the Robinson home appear to extend approximately 5 feet within the Old Mission right-of-way. In addition, maintained landscape trees, privacy hedges and banana trees within the Robinson property are located entirely within the Old Mission right-of-way. In order to meet Town ordinances for 60' right-of-way, our introduction to the neighborhood would be tearing down our neighbors' accessory structures, clearing their maintained privacy hedges and building roadway within 10 feet of their home. The existing roadway stabilized with concrete rubble within the Old Mission right-of-way provides sufficient vehicular access for our parcel without adversely affecting existing homes and properties. We request to conduct routine and custodial maintenance of the existing 16 foot by 670 foot roadway for site access. We are requesting to maintain the existing roadway with no expansion of the roadway footprint resulting in wetland dredge and fill impacts that would require wetland impact authorization from the State and a \$165,000.00 per credit mitigation purchase from Basin 22 Mitigation Bank. This request for routine and custodial maintenance of the existing roadway includes the clearing of Brazilian pepper trees within uplands and minor grading activities with no proposed changes to existing roadway elevations. These roadway maintenance activities should qualify for a State exemption of under Chapter 62-340.051(4)(c) Florida Administrative Code (FAC). If the proposed maintenance of the existing roadway does not qualify for an State exemption, we will obtain any permits necessary from DEP or the St. Johns River Water Management District.

In summary, we are seeking relief from *Section 13-38 Precondition to issuance of building permit* which requires the completion of the road to the furthest boundary of the lot and *Section 13-48 Improvements of unaccepted portion of partially improved road* which requires us to bring the road up to the established design standards for a 60' right-of-way to obtain a building permit for the lot. In accordance with Section 13-38(c) (1-6) we provide the following justifications:

(1) The northeast corner of our lot contains uplands and is accessible from Corey Road by an existing 16 foot by 670 foot roadway within the Old Mission right-of-way. The central portion and northwest corner of our northern property boundary contains jurisdictional wetland per DEP. In order to comply with existing Town ordinance Section 13-38 to complete a roadway to the northwest corner of our lot, a roadway that dead-ends within forested wetlands would need to

## Thomas Property – Request for Variance

be constructed. The DEP will not issue a permit for constructing a roadway that dead-ends within forested wetlands since this activity would be reasonably intended to result in future activities that would result in adverse impacts to water quality and wetland and other surface waters functions as per Section 10.2.7.(d) Applicant's Handbook Volume I. In addition, constructing a roadway that dead-ends in wetlands would result in massive wetland impact mitigation costs while providing no practical purpose.

(2) The special circumstances that exist are not caused by the applicant. The subject 20-acre parcel contained public right-of-way access from Moss Road that was 235 feet long and consisted entirely of uplands. This optimal access route to the site was vacated by the Town forcing land owners to conduct work in wetlands in order to comply with Town ordinances for property access. Due to current State rule criteria and circumstances beyond the control of the applicant, the only mitigation bank option is Basin 22 Mitigation Bank. This private business entity is taking advantage of its mitigation bank credit monopoly within Basin 22 by charging \$165,000.00 per wetland impact credit, which is an unreasonable financial burden for a single-family home owner.

(3) The request to utilize and maintain the existing 16 foot by 670 foot roadway within the Old Mission right-of-way will not be injurious or detrimental to the public welfare.

(4) The request to utilize and maintain the existing 16 foot by 670 foot roadway is the minimum variance that will make possible the reasonable use of the land. Constructing a roadway per existing Town ordinance will result destruction of local property and will require work in regulated wetlands within a hydrologic basin where the only mitigation bank credits available are \$160,000.00 per credit.

(5) The applicant acknowledges that the board of adjustment may impose additional reasonable conditions and safeguards that it deems appropriate.

(6) The applicant acknowledges that the board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

My wife Stacey and I thank the Town of Malabar Board of Adjustment for taking the time to review our request to utilize and maintain the existing 16 foot by 670 foot roadway within the Old Mission Right-of-Way to access to our property.

# Memorandum

**To:** Town Clerk, Town of Malabar

**Date:** November 13, 2017

**From:** Karl W. Bohne, Jr.

**Re:** Thomas Property Right of Way Access

You recently asked me for an opinion regarding the above referenced matter. I see and understand the issue; however, we cannot administratively undo the vacate. We need to see if the property owner of the Thomas piece at the time of the vacate was part of the notification process. I do see, as I previously stated, issues with an administrative reversal of the vacate, even assuming there is such a legal process to accomplish this.

This situation could be analyzed under those cases which have looked at the closing of a road which results in a less convenient access to property.

It is settled in this State that the right of a citizen to use the public streets is not absolute and unconditional but may be controlled and regulated in the interest of the public good. *State Ex Rel. Nicholas v. Headley*, 48 So. 2d 80 (Fla. 1950). However, such regulations must not interfere with property rights. The right of access to one's land is a property right. See, *Anhoco Corporation v. Dade County*, Fla. 1962, 144 So.2d 793.

The Florida Supreme Court has established that loss of access is only compensable when access is destroyed entirely or substantially diminished. See, *Anhoco v. Dade County*, 144 So.2d 793 (Fla. 1962), *Palm Beach County v. Tessler*, 538 So.2d 846 (Fla. 1989), *FDOT v. Gefen*, 636 So.2d 1345 (Fla. 1994), *Awbrey v. City Panama Beach*, 283 So.2d 114 (Fla.1 DCA 1973).

In fact, road agencies may change or entirely close access to a public road or highway near the subject property, thereby rendering access to a particular property more circuitous or less convenient, without causing a compensable taking of the landowner's interest. See *Department of Transportation v. Gefen*, 636 So.2d 1345 (Fla. 1994); *Department of Transportation v. Ansbacher*, 672 So.2d 660 (Fla. 1st DCA 1996) (improper to include in compensation any damages for impact of diminished access as a result of closure of non-abutting roads); *Rubano v. Department of Transportation*, 656So.2d 1264 (Fla. 1995) (loss of the most convenient access is not compensable where other suitable access continues to exist and a taking has not occurred when a governmental action causes the flow of traffic on an abutting road to be diminished); *City of Port St. Lucie v. Parks*, 452 So.2d 1089 (Fla. 4th DCA 1984); but see *Dep't of Tansp. V. Kreider*, 658 So.2d 548 (Fla. 4th DCA 1995) (taking of the previously existing direct access and replacing it with a service road substantially diminished the access, and thus it was compensable).

The Legislature, however, in enacting Ch. 316, F. S., recognized that there are conditions which require municipalities to pass certain traffic ordinances regulating municipal traffic that are not required to regulate the movement of traffic outside of the municipalities. See, section 316.002. In, Section 316.008 (1), the statute expressly enumerates those areas within which municipalities may control certain traffic movement or parking on the streets and highways in their respective jurisdictions. Among those areas so enumerated, paragraphs (g), (m), (n), and (p) of 316.008(1) respectively empower a municipality in the reasonable exercise of its police power to restrict the use of streets. Therefore, under certain conditions, and in the reasonable exercise of its police power, a municipality may regulate or prohibit the use of certain streets within the municipality by any class or kind of traffic or designate and restrict or regulate the use of its public streets as prescribed by the provisions of 316.008. Such limited authority may not, however, be employed to absolutely bar access to property as owners of property have an implied right of access to their property in a platted subdivision.

In, AGO 90-51 it was stated that a municipality can't install a security gate on a public road limiting access citing 316.2045 (1): It is unlawful for any person or persons willfully to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon, by standing or approaching motor vehicles thereon, or by endangering the safe movement of vehicles or pedestrians traveling thereon. While that seems clear what is not clear under that opinion is whether a municipality may inhibit vehicular traffic on an unimproved and unapproved right of way. Also, a careful reading of 316.2045 (1) shows that it may not be applicable to a situation where a right of way is blocked or barricaded. The statute provides: "It is unlawful for any person or persons willfully to obstruct the free, convenient, and normal use of..." It cannot be said that where you have an unimproved and unapproved right of way normal use includes vehicular traffic. I believe a municipality can restrict use of an unimproved and unapproved ROW.

F.S.316.006 (2) provides additional support for a municipality to restrict use of roads within its jurisdiction:

"(2) MUNICIPALITIES.—

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic."

I have yet to find any Florida statutory or case law which states that legal access to land which is served by a road which appears on paper but has not been approved by the municipality must include vehicular access. As long as legal access can be made to the property then that is all that appears to be required. Furthermore, according to the town's code no development permits can be granted for such properties until a road is built per code. There still remains legal access with limitations. See for example FS 335.181 (2) (a) (Every owner of property which abuts a road on the State Highway System has a right to



reasonable access to the abutting state highway but does not have the right of unregulated access to such highway), FS 336.09 (1) (Counties have the power to Vacate, abandon, discontinue and close any existing public or private street, alleyway, road, highway, or other place used for travel, or any portion thereof, other than a state or federal highway, and to renounce and disclaim any right of the county and the public in and to any land in connection therewith.

So based upon what you have provided to me the issue is not one of the Town denying access, but rather the Florida Dept of Transportation denying a connection due to its location to an already existing access cut.

Furthermore, I do not see any grounds for the town to exercise its power of eminent domain to take property of a private individual for the purpose of providing private access to another's property. The reason is that there is no public purpose for the exercise of such power.

According to the legal theory of eminent domain, the government can seize private property for public use in exchange for full compensation to be paid to the property owner. A property owner may also argue that the government's planned use of the property does not qualify as public use. Well-established examples of a public use include the construction of schools, highways, police stations, court houses, parks, and public buildings. If no public benefit exists, the government's claim will be dismissed.

While there is a public purpose to take property for the purpose of constructing a road, the issue becomes clouded if that road merely serves one private individual's property and effectively only serves that one private purpose.

When the government condemns property, they must show that they have a legitimate public purpose for the property and that the specific piece of land is necessary for their public purpose. If either of those things aren't proven by the government, it is unable to exercise eminent domain power. In the event the government is overreaching and tries to acquire more land than is needed for the public purpose project, the taking will fail unless the government demonstrates why it is necessary to have the specific land that it is trying to acquire.

Even assuming that a public purpose exists the process is costly. Not only does the municipality have to pay for the land taken, it will pay the costs and attorney fees not only for its lawyer, but such fees and costs of the property owner.

The Florida Supreme Court, *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 241 (Fla. 2001), has held that the "term 'public purpose' does not mean simply that the land is used for a specific public function, i.e. a road or other right of way. Rather, the concept of public purpose must be read more broadly to include projects which benefit the state in a tangible, foreseeable way." Hence a valid "public purpose" does not necessarily entail putting the condemned property to public use. However, the concept is limited in that "eminent domain cannot be employed to take private property for a predominantly private use." *Baycol, Inc. v. Downtown Dev. Auth.*, 315 So. 2d 451, 455 (Fla. 1975).

In this particular instance it might be advisable for the affected property owner to negotiate some type of property purchase or easement arrangement with another property owner who has property abutting the FDOT right of way in an area where FDOT will allow a new cut.

7. **PUBLIC COMMENTS:** Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. (Speaker Card is Required) Five (5) Minute Limit

Kenny Schofield of Dolphin Auto addressed Council: (arrived at 7:55PM and was allowed to speak before the discussion items.)

8. **PUBLIC HEARINGS: 2**

8.a. Road Improvement Waiver Request – unimproved portion of right-of-way in line with Beekeeper ROW and Old Mission ROW running west from Corey Road – tabled from May 6, 2019; applicant Mr. Chris Thomas

Exhibit: **Agenda Report No. 8.a.**

Applicant sent email on 3/10/2021 requesting it be taken from agenda and rescheduled to a later agenda. Council took action on this after removing from table.

**MOTION:** CM Vail / CM Rivet to remove from table. Vote: All Ayes.

CM Acquaviva said she would not be able to attend the April 19 meeting and would like to be present for this item. Consensus to table to the May 3, 2021 meeting.

**MOTION:** CM Acquaviva / CM Rivet to table this PH until May 3, 2021 RTCM. Vote: All Ayes.

8.b. Amend Comprehensive Plan and Code re: maximum building coverage (MBC) in Residential/Limited Commercial (R/LC) to permit 20% coverage (Ord 2021-02)

A ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT; PROVIDING FOR A TEXT CHANGE TO THE PERMITTED MAXIMUM BUILDING COVERAGE IN THE RESIDENTIAL AND LIMITED COMMERCIAL (R/LC) MIXED USE DESIGNATION; PROVIDING FOR A SIMILAR CHANGE IN THE LAND DEVELOPMENT CODE DELETING THE MAXIMUM BUILDING COVERAGE OF 4,000SF AND UTILIZING THE TWENTY PERCENT COVERAGE AS STATED IN TABLE 1-3.3(A); PROVIDING FOR CODIFICATION; SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR TRANSMISSION TO THE FLORIDA STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING AN EFFECTIVE DATE.

Ord read by title only.

Public Hearing opened. Barbara Cameron, Hall Road asked about the 4,000sf – did the change deal with the residential component? No, only the commercial portion and would be changed to 20% of parcel size. Public Hearing closed.

Chair asked staff: as expressed in the agenda report. This will be for transmittal to State and other agencies review.

**MOTION:** CM Acquaviva / CM Vail to approve Ord 2021-02 for transmittal to State.

Discussion: no further Council discussion so Mayor commented. He had been against this initially since allowing R/LC on Malabar Road and this would mix RLC with RR uses. Didn't want a huge building next to an SFR. But reviewing the permitted limited commercial uses in R/LC it is very limited in what you can do – can't be a big box store but could be a Dollar General which is smaller footprint. Due to this he has changed his position and supports this change.

**ROLLCALL VOTE:** CM Acquaviva, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Nay; CM White, Aye. Motion carried 4 to 1.

9. **UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES) 0**

10. **ACTION ITEMS:**  
**ORDINANCES for FIRST READING: 0**  
**RESOLUTIONS: 0**

# TOWN OF MALABAR

## COUNCIL MEETING

**AENDA ITEM NO: 10.b.**

**Meeting Date: May 03, 2021**

**Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer**

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**SUBJECT: Ordinance 2021-02 Adopting the Large-Scale Amendment DEO#2021-01ESR to the Comprehensive Plan for Future Land Use Element and the LDC to provide for the maximum building coverage to be 20% of the gross lot size and delete the reference to 4,000sf in the mixed-use designation of Residential/Limited Commercial in Table 1-3.3(A).**

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### **BACKGROUND/HISTORY:**

Council corrected the issue of the conflict between the 4,000sf and 20% MBC by approving the first reading of Ord 2021-02. It was then sent to the State Dept of Economic Opportunity for Expedited Review. In addition, it was sent to other reviewing agencies as required by law. We have received no negative comments from those reviewing agencies. We have received a technical comment back from the State DEO that pointed out a scrivener's error in the narrative of the ordinance that also deleted the "minimum building size". That language has been "undeleted".

The Town's Local Land Planning Agency (Planning and Zoning Board) has recommended Council support the 20% maximum building coverage and delete the 4,000sf maximum building coverage. This has been discussed and debated and legally advertised for several public hearings after the R/LC designation was expanded from only on Highway 1 to additional parcels fronting Malabar Road and Babcock Road.

This was legally advertised for final adoption in the Florida Today newspaper on April 23, 2021.

### **ATTACHMENTS:**

Ord 2021-02

### **ACTION OPTIONS:**

Action on Ord 2021-02 to transmit Final Adopted Comp Plan Amendment DEO#21-01ESR to Florida DEO

## ORDINANCE 2021-02

A ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT; PROVIDING FOR A TEXT CHANGE TO THE PERMITTED MAXIMUM BUILDING COVERAGE IN THE RESIDENTIAL AND LIMITED COMMERCIAL (R/LC) MIXED USE DESIGNATION; PROVIDING FOR A SIMILAR CHANGE IN THE LAND DEVELOPMENT CODE DELETING THE MAXIMUM BUILDING COVERAGE OF 4,000SF AND UTILIZING THE TWENTY PERCENT COVERAGE AS STATED IN TABLE 1-3.3(A); PROVIDING FOR CODIFICATION; SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR TRANSMISSION TO THE FLORIDA STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING AN EFFECTIVE DATE.

**Whereas**, the Town of Malabar adopted a Comprehensive Plan amendment in 2019 that provided for the mixed-use designation of Residential/Limited Commercial (R/LC) to be expanded from the previously Highway 1 locations to also allow such development along Malabar Road and Babcock Street; and

**Whereas**, the Town of Malabar desires to allow a development to utilize twenty percent (20%) of the gross lot size and delete the reference to the maximum of 4,000sf stated in Chapter 1 of the Comp Plan adopted a Comprehensive Plan amendment in 2019 that provided for the mixed use.

**Whereas**, the Town of Malabar has received technical assistance comments back from the State DEO and desires to further amend this ordinance in include the recommendations regarding the Comprehensive Plan amendment will become effective 31 days after receiving the letter of compliance from the State DEO, and the amendments to the Land Development Code shall then be considered effective after that period.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA**, as follows:

**Section 1.** Section 1-2.2.6 (b) of the Town's Comprehensive Plan, Element/Chapter 1, Future Land Use Designation for Residential and Limited Commercial (R/LC) development amended to read as follows:

.....

1-2.2.6 Policy:

*Criteria for the Residential and Limited Commercial Development R/LC Designation.* The following criteria for development within the R/LC FLUM designation shall be incorporated into the Town of Malabar Land Development Regulations:

.....

b. *Limited Commercial Uses.* Limited Commercial uses with the R/LC FLUM designation shall have a minimum floor area of nine hundred (900) square feet and a ~~maximum of four thousand (4,000) square feet~~ permitted maximum building coverage of twenty percent (20%) of the gross lot size.

.....

**Section 2.** Section 1-3.1. Purpose and Intent of Districts, of Article III, District Provisions, of the Land Development Code to read as follows:

.....

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

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

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities ~~with a floor area in excess of four thousand (4,000) square feet~~, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets, and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops ~~since the former would usually require a floor area larger than four thousand (4,000) square feet~~; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

.....

**Section 3.** Table 1-3.3 (A) of Article III of the Town's Land Development Code is amended to delete the Maximum Building Size and read as follows:

**Table 1-3.3(A) Size and Dimension regulations**

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum (sq. ft.) Commercial: sq ft	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
R/LC	20,000	100	150	35/3	900sf Max 4,000sf	50	25	10	20		20%	35	6

.....

**Section 4.** Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected, and it shall be presumed that the Town Council, of the Town of Malabar, did not intend to enact such invalid or unconstitutional provision. It shall be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**Section 5.** Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

**Section 6.** Codification. The provisions Section 2 and Section 3 of this ordinance shall become part of the Land Development Code of the Town of Malabar only after the plan amendment has taken effect.

**Section 7.** Effective Date. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. Sections 2 and 3 shall become part of the Land Development Code of the Town of Malabar only after the plan amendment has taken effect.

The foregoing Ordinance was moved for Final 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 to be adopted by Council this 03rd day of May 2021.

**TOWN OF MALABAR**

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Mayor Patrick T. Reilly,  
 Council Chair

(seal)

**ATTEST**

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

Approved as to form and content:

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Karl W. Bohne, Jr., Town Attorney

P&Z Board Review: 02/24/2021  
 Transmittal Council Reading: 3/15/2021 Vote: All Ayes.  
 Adoption Second Reading: 5/03/2021.  
 Effective date: appx June 6, 2021



# TOWN OF MALABAR

## COUNCIL MEETING

**AENDA ITEM NO: 10.c.**

**Meeting Date: May 03, 2021**

**Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer**

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**SUBJECT: 2<sup>nd</sup> Reading and Public Hearing on Ordinance 2021-03 Updating the regulatory provisions to reflect changes in standards previously adopted regarding culverts in Article VIII Surface Water Management.**

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### **BACKGROUND/HISTORY:**

This was brought to the Planning and Zoning board by ITM Lisa to update our Code to reflect the current requirements.

This will be legally advertised for a public hearing at the May 3, 2021 meeting and then will be sent to Municode for codification.

It is the ITM recommendation that staff annually review provisions in the Code to ensure it is kept current and relevant.

### **ATTACHMENTS:**

Ord 2021-03

FDOT Standards for Mitered end sections of culvert placement

### **ACTION OPTIONS:**

Action on second reading of Ord 2021-03

ORDINANCE 2021-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VIII OF THE MALBAR LAND DEVELOPMENT CODE; AMENDING SECTIONS 1-8.4 DEFINITIONS; AMENDING SECTION 1-8.8 ITEM 11b; AMENDING SECTION 1-8.14 ITEMS A, E & G; AMENDING SECTION 1-8.16 PARAGRAPH 3; PROVIDING UPDATED REQUIREMENTS FOR SURFACE WATER MANAGEMENT IN MALABAR; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, In order to improve the drainage structures maintenance process and increase conformity with the requirements of the NPDES permit, the Town Council desires to provide minimum requirements for end walls when culvert pipes are newly installed or replaced.

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA:

SECTION 1. Article VIII SECTION 1-8.4 Definitions. of the Town Land Development Code is hereby amended to read as follows:

...

"Elevation: Height in feet expressed in relation to mean sea level and referenced to the ~~National Geodetic Vertical Datum (NGVD)~~ North American Vertical Datum (NAVD88)"

...

~~"National Geodetic Vertical Datum (NGVD)~~ North American Vertical Datum 88 (NAVD 88):  
As corrected in ~~1929~~ 1991 is a vertical control used as a reference for establishing varying elevations within a floodplain by the minimum-constraint adjustment of the Canadian-Mexican-United States leveling observations."

SECTION 2. ARTICLE VIII SECTION 1-8.8 ITEM 11.b of the Town Land Development Code is hereby amended to read as follows:

...

"One or more elevation benchmarks must be established and indicated on the plat. Said elevations must be referenced to the ~~NGVD (1929)~~ NAVD 88 and shall be calculated to within 0.1 feet."

SECTION 3. ARTICLE VIII SECTION 1-8.14 ITEM A of the Town Land Development Code is hereby amended to read as follows:

...

"Existing elevations referenced to ~~1929 NGVD~~ NAVD 1988 (citing benchmarks used) along the existing ditch; at inverts of nearest upstream and downstream culverts; managements system or by the receiving waters relative to flooding, erosion hazards, or water quality and quantity."

SECTION 4. ARTICLE VIII SECTION 1-8.14 ITEM E of the Town Land Development Code is hereby amended to read as follows:

...

"Proposed driveway flares (either three-foot x eight-foot (3'x8') or five-foot x ten-foot (5'x10'):

SECTION 5. ARTICLE VIII SECTION 1/8.14 ITEM G of the Town Land Development Code is hereby amended to read as follows:

...

"Proposed type of endwall treatment. All endwalls for pipe culverts where the diameter is less than thirty (30) inched located in residential areas and located on lanes and/or minor and major collector roadways shall be mitered and comply with the ~~2008 FDOT Design Standards Index 273 and turnouts per 2008 FDOT Index 515~~ 2021 FDOT Design Standards Index 430 and turnouts per 2021 FDOT Index 515, or current adopted design standards."

SECTION 6. ARTICLE VIII SECTION 1-8.16 PARAGRAPH THREE of the Town Land Development Code is hereby amended to read as follows:

...

"Where a concrete driveway meets an existing paved roadway, a twelve-inch wide by twelve-inch (12"x12") deep footer shall be used at the roadway."

SECTION 7. Severability. If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 8. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code, or regulations, the more restrictive shall apply.

**SECTION 9. Inclusion in Code.** It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**SECTION 7. Effective Date.** This Ordinance shall become effective immediately upon its 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 3rd day of May 2021.

**TOWN OF MALABAR**

\_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

**ATTEST:**

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

(seal)

Approved for Legal Sufficiency:

\_\_\_\_\_  
Karl Bohne, Jr, Town Attorney

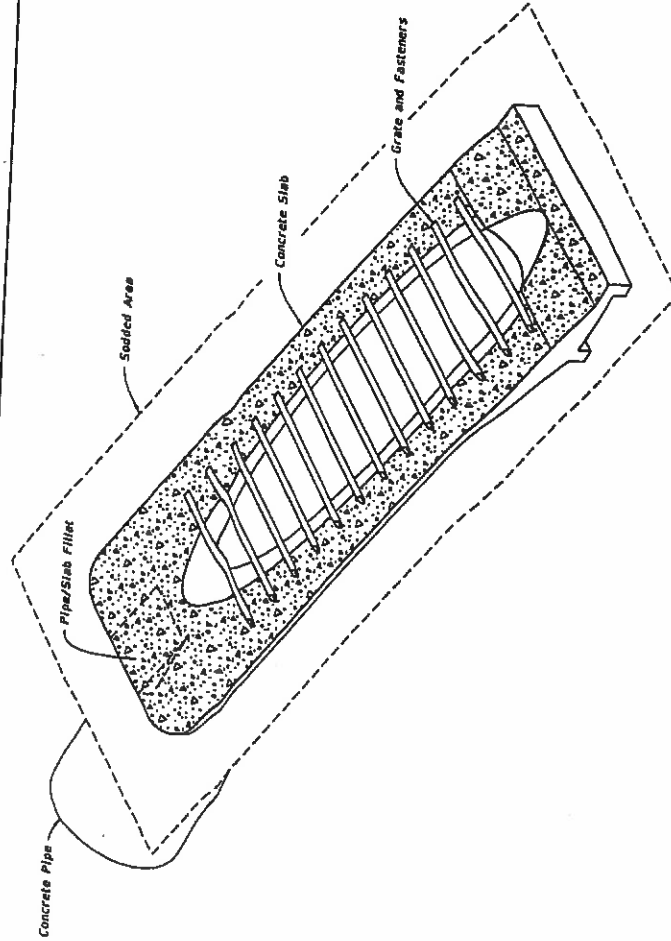
First Reading: 04/19/2021

Second Reading: 05/03/2021

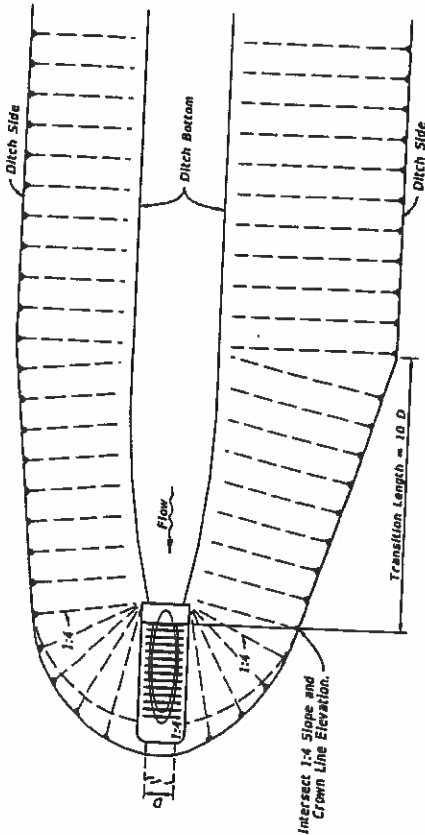
Vote: to .

**GENERAL NOTES:**

1. Unless otherwise designated in the plans, concrete pipe mitered end sections may be used with any type of side drain pipe; corrugated steel pipe mitered end sections may be used with any type of side drain pipe except aluminum pipe; and, corrugated aluminum mitered end sections may be used with any type of side drain pipe except steel pipe. When bituminous coated metal pipe is specified for side drain pipes, construct the mitered end sections with like pipe or concrete pipe. When the mitered end section pipe is dissimilar to the side drain pipe, construct a concrete jacket in accordance with Index 430-001.
  2. Use either corrugated metal or concrete mitered end sections for corrugated polyethylene pipe (HDPE), polyvinyl-chloride pipe (PVC), steel reinforced polyethylene pipe (SRPE), and polypropylene pipe (PP). When used in conjunction with corrugated mitered end sections, make connection using either a formed metal band specifically designated to join HDPE, PVC, SRPE, or PVC pipe. When used in conjunction with a concrete mitered end section, construct concrete jacket in accordance with Index 430-001.
  3. Use class NS concrete cast-in-place reinforced slabs for all cross drain pipes.
  4. Select lengths of concrete pipe that avoid excessive connections in the assembly of the mitered end section.
  5. Repair corrugated metal pipe galvanizing that is damaged during beveling and perforating.
  6. When existing multiple side drain pipes are spaced other than the dimensions shown in this Index, have nonparallel axes, or non-uniform sections, either construct the mitered end sections separately as single pipe or collectively as multiple pipe end sections as directed by the Engineer.
  7. Saddle Slope:
    - 1:4 Miter - Slope to  $\frac{1}{4}$  of pipe for round pipes less than or equal to 18" diameter and 1:1 for round pipes greater than or equal to 24" diameter.
    - Slope to the major axis for elliptical pipes 24"x30" or smaller and 1:2 for pipes 28"x45" or larger.
    - Slope to the span line for pipe arch 20"x20" or smaller and 1:2 for pipe arch 35"x24" or larger.
  - 1:2 Miter - Slope to  $\frac{1}{2}$  of pipe for round pipes less than or equal to 18" diameter and 1:2 for round pipes greater than or equal to 24" diameter.
  - Slope to the major axis for elliptical pipes 28"x45" or smaller and 1:1 for pipes 36"x55" or larger.
  - 1:1 for all pipe arch sizes.
8. Quantities shown are for estimating purposes only.



**SIDEDRAIN MITERED END SECTION**  
(Concrete Pipe Shown, Corrugated Metal Pipe Similar)



**DITCH TRANSITION**

**SIDE DRAIN MITERED END SECTION**

**TABLE OF CONTENTS:**

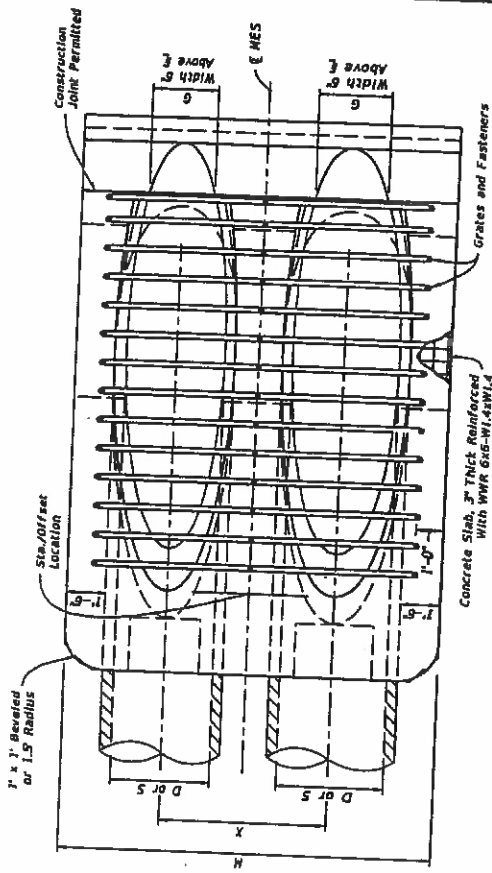
Sheet	Description
1	General Notes and Contents
2	Single and Multiple Concrete Pipe
3	Concrete Pipe Dimensions and Quantities and Permissible Pavement Modifications
4	Single and Multiple Corrugated Metal Pipe
5	Corrugated Metal Dimensions and Quantities
6	Concrete Pipe Connection and Corrugated Metal Pipe Anchor Details
7	Fastener Unit and Grate Details

**DESCRIPTION:**

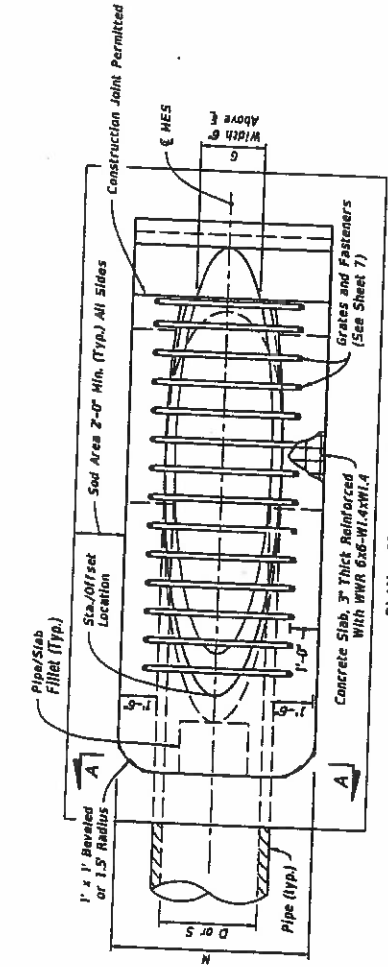
LAST REVISION  
11/01/19



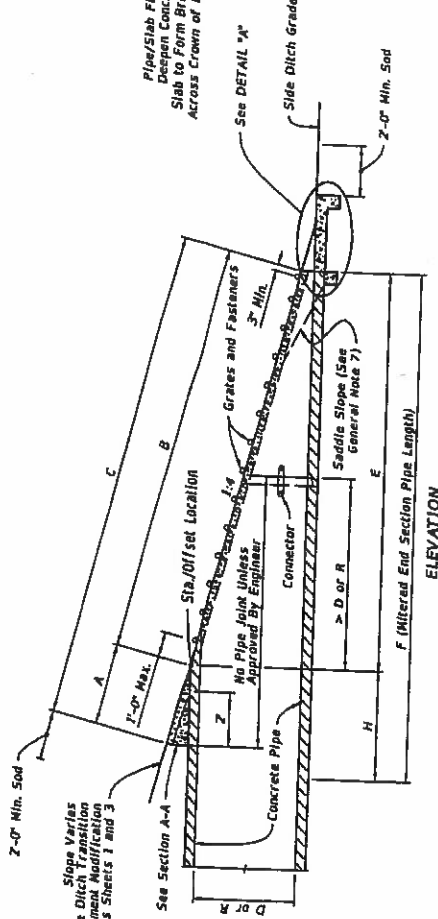
FY 2021-22  
STANDARD PLANS



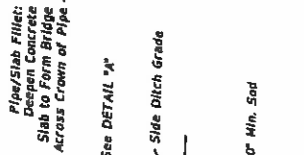
PLAN - MULTIPLE PIPE



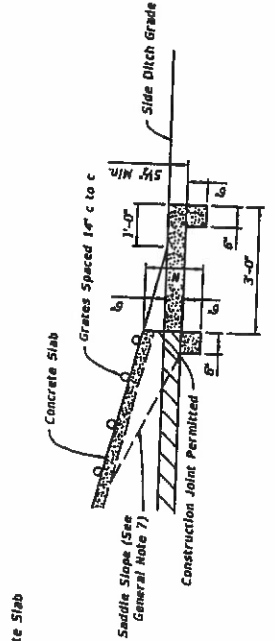
PLAN - SINGLE PIPE



ELEVATION



SECTION A-A  
(Pipe/Slab Fillet)



DETAIL "A"

ROUND CONCRETE PIPE  
(Elliptical Pipe Similar)

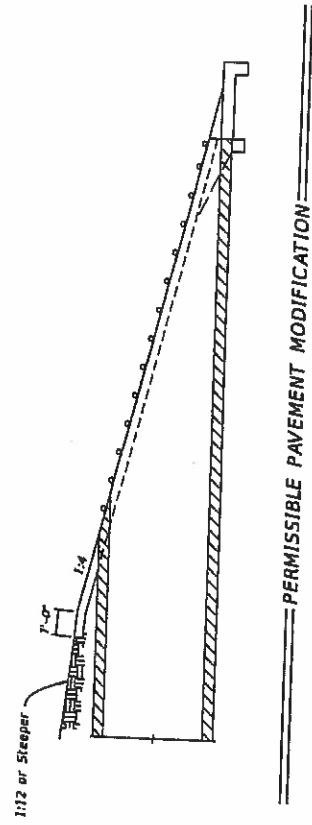
DESCRIPTION:		INDEX		SHEET
LAST REVISION 11/01/18		430-022		2 of 7
FY 2021-22 STANDARD PLANS		SINGLE AND MULTIPLE CONCRETE PIPE SIDE DRAIN MITERED END SECTION		



### SINGLE AND MULTIPLE CONCRETE PIPE DIMENSIONS AND QUANTITIES

Dia. D	Pipe R	Span S	X	A	B	C	E	F	G	H	M		N		STANDARD WEIGHT PIPE	GRADE SIZES		3" CONC. SLAB (CY)		SOODING (CY)		
											Single Pipe	Double Pipe	Single Pipe	Double Pipe		Single Pipe	Double Pipe	Single Pipe	Double Pipe	Single Pipe	Double Pipe	
18"		2'-0"	2'-0"	4.09'	6.38'	4.03'	8'	1.23'	4'-0"	4'-0"	4.63'	7.11'	9.79'	13.37'	1.19'	3"	0.76	1.16	1.54	1.94	0	0
18"		2'-6"	2'-6"	4.53'	7.48'	5.03'	9'	1.41'	4'-0"	4'-0"	5.22'	7.79'	10.59'	13.42'	1.21'	3"	0.85	1.28	1.71	2.17	0	0
18"		3'-0"	3'-0"	4.97'	8.71'	6.03'	11'	1.59'	4'-0"	4'-0"	6.00'	8.92'	12.33'	15.75'	1.25'	3"	0.92	1.38	1.87	2.38	0	0
24"		2'-0"	2'-0"	5.25'	9.25'	6.53'	13'	1.77'	4'-0"	4'-0"	6.50'	10.33'	14.38'	18.83'	1.29'	3"	1.02	1.58	2.15	2.75	10	10
24"		2'-6"	2'-6"	5.71'	11.15'	7.53'	15'	1.95'	4'-0"	4'-0"	7.25'	11.52'	16.83'	21.92'	1.33'	3"	1.13	1.69	2.28	3.00	12	12
24"		3'-0"	3'-0"	6.17'	13.15'	9.03'	17'	2.13'	4'-0"	4'-0"	8.00'	13.52'	19.83'	25.92'	1.37'	3"	1.23	1.89	2.58	3.44	14	14
30"		2'-0"	2'-0"	6.53'	15.15'	10.53'	19'	2.31'	4'-0"	4'-0"	8.75'	14.52'	21.83'	28.92'	1.41'	3"	1.33	2.09	2.88	3.84	16	16
30"		2'-6"	2'-6"	7.09'	17.15'	12.53'	21'	2.49'	4'-0"	4'-0"	9.50'	16.00'	24.00'	31.92'	1.45'	3"	1.43	2.29	3.18	4.24	18	18
30"		3'-0"	3'-0"	7.65'	19.15'	14.53'	23'	2.67'	4'-0"	4'-0"	10.25'	17.50'	26.00'	34.92'	1.49'	3"	1.53	2.39	3.38	4.54	20	20
36"		2'-0"	2'-0"	7.09'	17.15'	12.53'	21'	2.49'	4'-0"	4'-0"	9.50'	16.00'	24.00'	31.92'	1.45'	3"	1.43	2.29	3.18	4.24	18	18
36"		2'-6"	2'-6"	7.65'	19.15'	14.53'	23'	2.67'	4'-0"	4'-0"	10.25'	17.50'	26.00'	34.92'	1.49'	3"	1.53	2.39	3.38	4.54	20	20
36"		3'-0"	3'-0"	8.21'	21.15'	16.53'	25'	2.85'	4'-0"	4'-0"	11.00'	19.00'	28.00'	37.92'	1.53'	3"	1.63	2.59	3.58	4.84	22	22
42"		2'-0"	2'-0"	8.21'	21.15'	16.53'	25'	2.85'	4'-0"	4'-0"	11.00'	19.00'	28.00'	37.92'	1.53'	3"	1.63	2.59	3.58	4.84	22	22
42"		2'-6"	2'-6"	8.77'	23.15'	18.53'	27'	3.03'	4'-0"	4'-0"	11.75'	20.50'	30.00'	40.92'	1.57'	3"	1.73	2.79	3.78	5.14	24	24
42"		3'-0"	3'-0"	9.33'	25.15'	20.53'	29'	3.21'	4'-0"	4'-0"	12.50'	22.00'	32.00'	43.92'	1.61'	3"	1.83	2.99	4.08	5.54	26	26
48"		2'-0"	2'-0"	9.33'	25.15'	20.53'	29'	3.21'	4'-0"	4'-0"	12.50'	22.00'	32.00'	43.92'	1.61'	3"	1.83	2.99	4.08	5.54	26	26
48"		2'-6"	2'-6"	9.89'	27.15'	22.53'	31'	3.39'	4'-0"	4'-0"	13.25'	23.50'	34.00'	46.92'	1.65'	3"	1.93	3.19	4.28	5.94	28	28
48"		3'-0"	3'-0"	10.45'	29.15'	24.53'	33'	3.57'	4'-0"	4'-0"	14.00'	25.00'	36.00'	49.92'	1.69'	3"	2.03	3.39	4.48	6.40	30	30
54"		2'-0"	2'-0"	10.45'	29.15'	24.53'	33'	3.57'	4'-0"	4'-0"	14.00'	25.00'	36.00'	49.92'	1.69'	3"	2.03	3.39	4.48	6.40	30	30
54"		2'-6"	2'-6"	11.01'	31.15'	26.53'	35'	3.75'	4'-0"	4'-0"	14.75'	26.50'	38.00'	52.92'	1.73'	3"	2.13	3.59	4.68	6.60	32	32
54"		3'-0"	3'-0"	11.57'	33.15'	28.53'	37'	3.93'	4'-0"	4'-0"	15.50'	28.00'	40.00'	55.92'	1.77'	3"	2.23	3.79	4.88	6.80	34	34
60"		2'-0"	2'-0"	11.57'	33.15'	28.53'	37'	3.93'	4'-0"	4'-0"	15.50'	28.00'	40.00'	55.92'	1.77'	3"	2.23	3.79	4.88	6.80	34	34
60"		2'-6"	2'-6"	12.13'	35.15'	30.53'	39'	4.11'	4'-0"	4'-0"	16.25'	29.50'	42.00'	58.92'	1.81'	3"	2.33	3.99	5.08	7.00	36	36
60"		3'-0"	3'-0"	12.69'	37.15'	32.53'	41'	4.29'	4'-0"	4'-0"	17.00'	31.00'	44.00'	61.92'	1.85'	3"	2.43	4.19	5.28	7.20	38	38
66"		2'-0"	2'-0"	12.69'	37.15'	32.53'	41'	4.29'	4'-0"	4'-0"	17.00'	31.00'	44.00'	61.92'	1.85'	3"	2.43	4.19	5.28	7.20	38	38
66"		2'-6"	2'-6"	13.25'	39.15'	34.53'	43'	4.47'	4'-0"	4'-0"	17.75'	32.50'	46.00'	64.92'	1.89'	3"	2.53	4.39	5.48	7.40	40	40
66"		3'-0"	3'-0"	13.81'	41.15'	36.53'	45'	4.65'	4'-0"	4'-0"	18.50'	34.00'	48.00'	67.92'	1.93'	3"	2.63	4.59	5.68	7.60	42	42
72"		2'-0"	2'-0"	13.81'	41.15'	36.53'	45'	4.65'	4'-0"	4'-0"	18.50'	34.00'	48.00'	67.92'	1.93'	3"	2.63	4.59	5.68	7.60	42	42
72"		2'-6"	2'-6"	14.37'	43.15'	38.53'	47'	4.83'	4'-0"	4'-0"	19.25'	35.50'	50.00'	70.92'	1.97'	3"	2.73	4.79	5.88	7.80	44	44
72"		3'-0"	3'-0"	14.93'	45.15'	40.53'	49'	5.01'	4'-0"	4'-0"	20.00'	37.00'	52.00'	73.92'	2.01'	3"	2.83	4.99	6.08	8.00	46	46
78"		2'-0"	2'-0"	14.93'	45.15'	40.53'	49'	5.01'	4'-0"	4'-0"	20.00'	37.00'	52.00'	73.92'	2.01'	3"	2.83	4.99	6.08	8.00	46	46
78"		2'-6"	2'-6"	15.49'	47.15'	42.53'	51'	5.19'	4'-0"	4'-0"	20.75'	38.50'	54.00'	76.92'	2.05'	3"	2.93	5.19	6.28	8.20	48	48
78"		3'-0"	3'-0"	16.05'	49.15'	44.53'	53'	5.37'	4'-0"	4'-0"	21.50'	40.00'	56.00'	79.92'	2.09'	3"	3.03	5.39	6.48	8.40	50	50
84"		2'-0"	2'-0"	16.05'	49.15'	44.53'	53'	5.37'	4'-0"	4'-0"	21.50'	40.00'	56.00'	79.92'	2.09'	3"	3.03	5.39	6.48	8.40	50	50
84"		2'-6"	2'-6"	16.61'	51.15'	46.53'	55'	5.55'	4'-0"	4'-0"	22.25'	41.50'	58.00'	82.92'	2.13'	3"	3.13	5.59	6.68	8.60	52	52
84"		3'-0"	3'-0"	17.17'	53.15'	48.53'	57'	5.73'	4'-0"	4'-0"	23.00'	43.00'	60.00'	85.92'	2.17'	3"	3.23	5.79	6.88	8.80	54	54
90"		2'-0"	2'-0"	17.17'	53.15'	48.53'	57'	5.73'	4'-0"	4'-0"	23.00'	43.00'	60.00'	85.92'	2.17'	3"	3.23	5.79	6.88	8.80	54	54
90"		2'-6"	2'-6"	17.73'	55.15'	50.53'	59'	5.91'	4'-0"	4'-0"	23.75'	44.50'	62.00'	88.92'	2.21'	3"	3.33	5.99	7.08	9.00	56	56
90"		3'-0"	3'-0"	18.29'	57.15'	52.53'	61'	6.09'	4'-0"	4'-0"	24.50'	46.00'	64.00'	91.92'	2.25'	3"	3.43	6.19	7.28	9.20	58	58

Δ6.25' Dimensions permitted to allow use of R' standard pipe lengths.  
 Δ6.47' Dimensions permitted to allow use of 12' standard pipe lengths.



**CONCRETE PIPE DIMENSIONS AND QUANTITIES AND PERMISSIBLE PAVEMENT MODIFICATION**

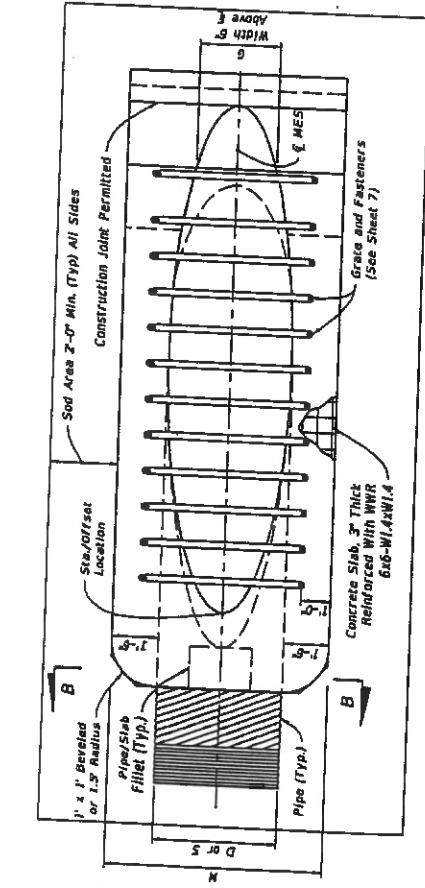
SIDE DRAIN MITERED END SECTION

FY 2021-22 STANDARD PLANS

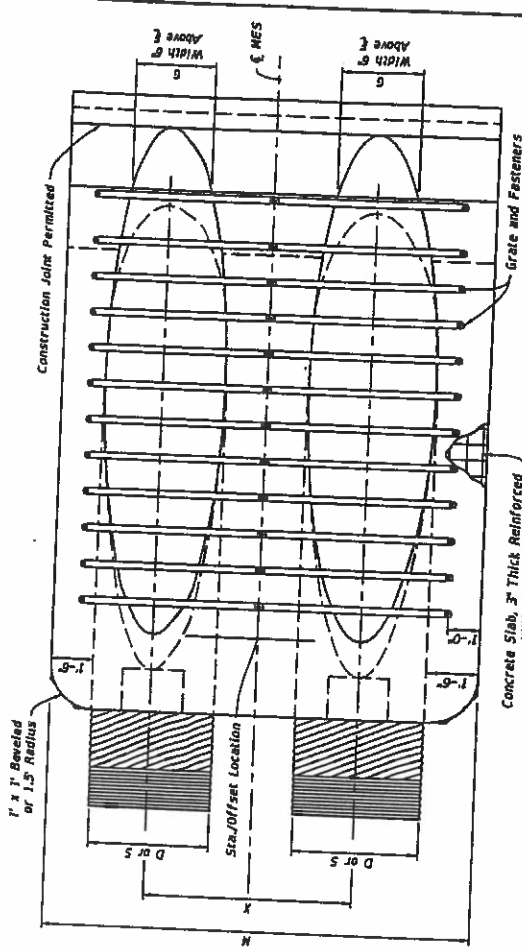
FOOT

REVISION: 11/01/19

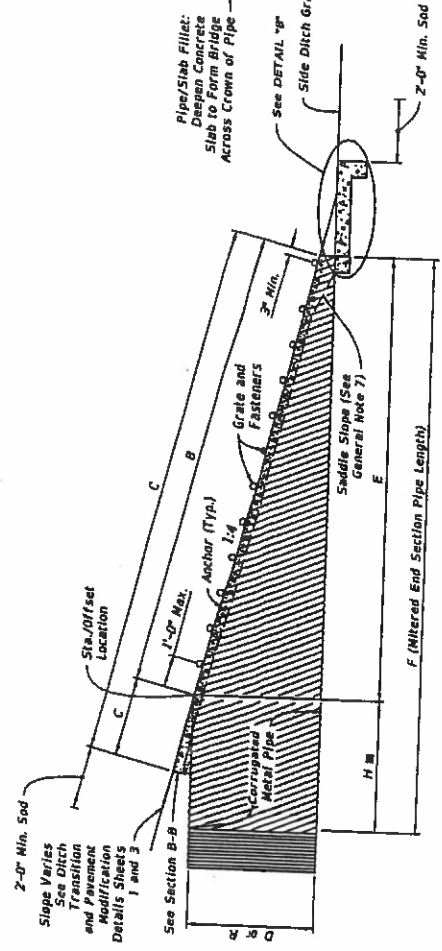
INDEX 430-022 SHEET 3 of 7



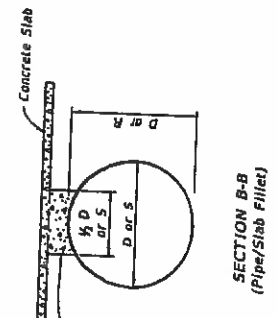
PLAN - SINGLE PIPE



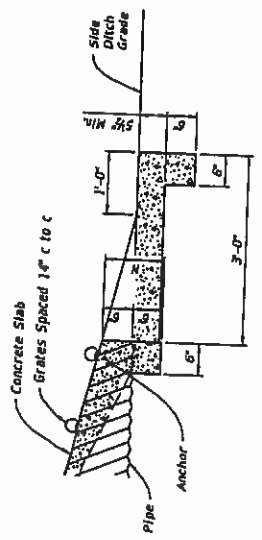
PLAN - MULTIPLE PIPE



ELEVATION



SECTION B-B (Pipe/Slab Fillet)



DETAIL "B"

LAST REVISION 11/01/19	DESCRIPTION: STANDARD PLANS	INDEX 430-022	SHEET 4 of 7
FY 2021-22		SINGLE AND MULTIPLE CORRUGATED METAL PIPE	
FOOT		SIDE DRAIN MITERED END SECTION	



LAST REVISION 11/01/19

DESCRIPTION:

REVISION



FY 2021-22 STANDARD PLANS

SIDE DRAIN MITERED END SECTION

CORRUGATED METAL PIPE DIMENSIONS AND QUANTITIES

INDEX

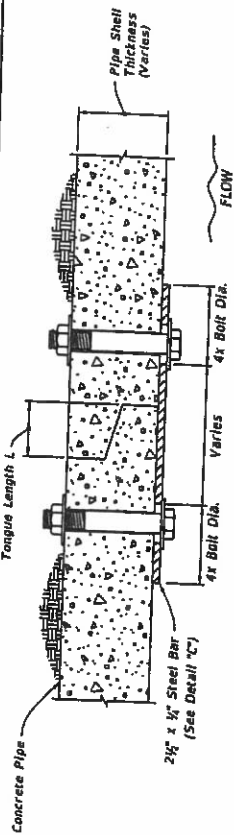
430-022

SHEET

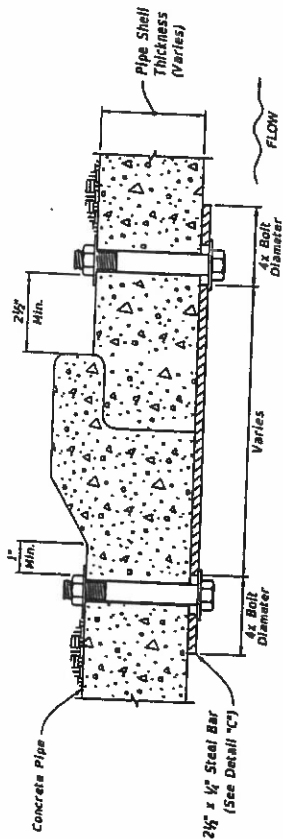
5 of 7

SINGLE AND MULTIPLE CORRUGATED METAL PIPE DIMENSIONS AND QUANTITIES

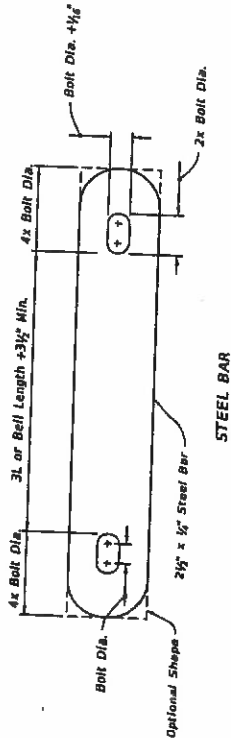
Pipe	Dia. D	Rise R	Span S	X	A	B	C	E	F	G	H	N			3" CONC. SLAB (CY)			SODDING (SY)							
												Single Pipe	Double Pipe	Triple Pipe	Quand. Pipe	N	STANDARD WEIGHT PIPE			EXTRA STRONG PIPE			Single Pipe	Double Pipe	Triple Pipe
																	3"	4"	5"	3"	4"	5"			
Round Corrugated Metal Pipe	10"	2'-0"	2'-5"	0.7'	1.0'	0.58'	3.3'	3.75'	5.75'	7.75'	9.75'	1.04'	0.52	0.90	1.22	1.54	7	8	9						
	12"	2'-0"	2'-5"	0.8'	1.1'	0.61'	3.7'	3.92'	6.08'	8.25'	10.41'	1.04'	0.64	0.99	1.34	1.70	7	8	9						
	15"	2'-0"	2'-5"	0.9'	1.4'	0.64'	4.0'	4.25'	6.42'	8.59'	10.75'	1.04'	0.69	1.09	1.48	1.88	7	8	9						
	18"	2'-0"	2'-5"	1.0'	1.7'	0.67'	4.3'	4.58'	6.75'	8.92'	11.08'	1.04'	0.64	1.09	1.48	1.88	7	8	9						
	24"	2'-0"	2'-5"	1.2'	2.0'	0.70'	4.6'	4.88'	7.05'	9.22'	11.39'	1.04'	0.69	1.09	1.49	1.89	9	10	11						
	30"	2'-0"	2'-5"	1.4'	2.3'	0.73'	4.9'	5.18'	7.35'	9.52'	11.76'	1.04'	0.74	1.14	1.54	1.94	9	10	11						
	36"	2'-0"	2'-5"	1.6'	2.6'	0.76'	5.2'	5.48'	7.62'	9.79'	12.13'	1.04'	0.79	1.19	1.59	1.99	9	10	11						
	42"	2'-0"	2'-5"	1.8'	2.9'	0.79'	5.5'	5.78'	7.89'	10.06'	12.50'	1.04'	0.84	1.24	1.64	2.04	9	10	11						
	48"	2'-0"	2'-5"	2.0'	3.2'	0.82'	5.8'	6.08'	8.16'	10.33'	12.87'	1.04'	0.89	1.29	1.69	2.09	9	10	11						
	54"	2'-0"	2'-5"	2.2'	3.5'	0.85'	6.1'	6.38'	8.43'	10.60'	13.24'	1.04'	0.94	1.34	1.74	2.14	9	10	11						
	60"	2'-0"	2'-5"	2.4'	3.8'	0.88'	6.4'	6.68'	8.70'	10.87'	13.61'	1.04'	0.99	1.39	1.79	2.19	9	10	11						
	Pipe - Arch	18"	2'-0"	2'-5"	1.0'	1.4'	0.61'	3.7'	3.92'	6.08'	8.25'	10.41'	1.04'	0.64	0.99	1.34	1.70	7	8	9					
		24"	2'-0"	2'-5"	1.2'	1.7'	0.64'	4.0'	4.25'	6.42'	8.59'	10.75'	1.04'	0.69	1.09	1.48	1.88	7	8	9					
		30"	2'-0"	2'-5"	1.4'	2.0'	0.67'	4.3'	4.58'	6.75'	8.92'	11.08'	1.04'	0.74	1.14	1.54	1.94	7	8	9					
		36"	2'-0"	2'-5"	1.6'	2.3'	0.70'	4.6'	4.88'	7.05'	9.22'	11.39'	1.04'	0.79	1.19	1.59	1.99	7	8	9					
		42"	2'-0"	2'-5"	1.8'	2.6'	0.73'	4.9'	5.18'	7.35'	9.52'	11.76'	1.04'	0.84	1.24	1.64	2.04	7	8	9					
		48"	2'-0"	2'-5"	2.0'	2.9'	0.76'	5.2'	5.48'	7.62'	9.79'	12.13'	1.04'	0.89	1.29	1.69	2.09	7	8	9					
		54"	2'-0"	2'-5"	2.2'	3.2'	0.79'	5.5'	5.78'	7.89'	10.06'	12.50'	1.04'	0.94	1.29	1.69	2.09	7	8	9					
60"		2'-0"	2'-5"	2.4'	3.5'	0.82'	5.8'	6.08'	8.16'	10.33'	12.87'	1.04'	0.99	1.34	1.74	2.14	7	8	9						
66"		2'-0"	2'-5"	2.6'	3.8'	0.85'	6.1'	6.38'	8.43'	10.60'	13.24'	1.04'	1.04	1.39	1.79	2.19	7	8	9						
72"		2'-0"	2'-5"	2.8'	4.1'	0.88'	6.4'	6.68'	8.70'	10.87'	13.61'	1.04'	1.09	1.44	1.84	2.24	7	8	9						
78"		2'-0"	2'-5"	3.0'	4.4'	0.91'	6.7'	6.98'	8.97'	11.14'	13.98'	1.04'	1.14	1.49	1.89	2.29	7	8	9						
84"		2'-0"	2'-5"	3.2'	4.7'	0.94'	7.0'	7.28'	9.24'	11.41'	14.35'	1.04'	1.19	1.54	1.94	2.34	7	8	9						
90"		2'-0"	2'-5"	3.4'	5.0'	0.97'	7.3'	7.58'	9.51'	11.68'	14.72'	1.04'	1.24	1.59	1.99	2.39	7	8	9						
96"		2'-0"	2'-5"	3.6'	5.3'	1.00'	7.6'	7.88'	9.78'	11.95'	15.09'	1.04'	1.29	1.64	2.04	2.44	7	8	9						
102"		2'-0"	2'-5"	3.8'	5.6'	1.03'	7.9'	8.18'	10.05'	12.22'	15.46'	1.04'	1.34	1.69	2.09	2.49	7	8	9						
108"		2'-0"	2'-5"	4.0'	5.9'	1.06'	8.2'	8.48'	10.32'	12.49'	15.83'	1.04'	1.39	1.74	2.14	2.54	7	8	9						
114"		2'-0"	2'-5"	4.2'	6.2'	1.09'	8.5'	8.78'	10.59'	12.76'	16.20'	1.04'	1.44	1.79	2.19	2.59	7	8	9						
120"		2'-0"	2'-5"	4.4'	6.5'	1.12'	8.8'	9.08'	10.86'	13.03'	16.57'	1.04'	1.49	1.84	2.24	2.64	7	8	9						



TONGUE AND GROOVE CONNECTOR DETAIL



BELL AND SPIGOT CONNECTOR DETAIL

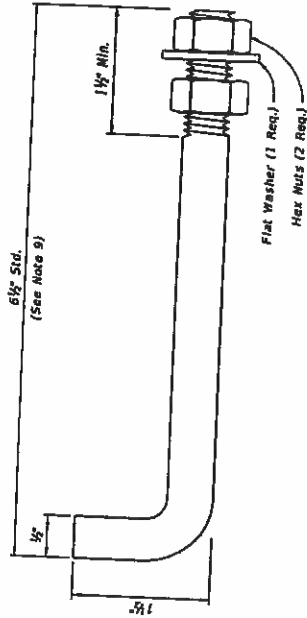


STEEL BAR

NOTES:

1. Use galvanized steel for all bars, bolts, nuts, and washers.
2. Two connectors required per joint, located 50° right and left of bottom center of pipe.
3. Bolt holes in pipe shell are to be drilled.

Bolt Dia.	Pipe Dia.
3/8"	15" to 36"
1/2"	42" to 72"



NOTES:

1. Anchors required for CMP only.
2. Use galvanized steel for all anchors, nuts, and washers.
3. Bend anchor where required to center in concrete slab.
4. Repair damaged surfaces after bending.
5. Space anchors a distance equal to four (4) corrugations.
6. Place flat washers on inside wall of pipe.
7. Drill or punch holes in the mitered end pipe; burning not permitted.
8. A 6" x 1/2" bolt substitution is permitted.

CORRUGATED METAL PIPE (CMP) ANCHOR DETAIL

DESCRIPTION:	CONCRETE PIPE CONNECTION AND CORRUGATED PIPE ANCHOR DETAILS	
REVISION:	INDEX	SHEET
LAST REVISION 11/01/19	430-022	6 of 7
STANDARD PLANS		
FY 2021-22		
SIDE DRAIN MITERED END SECTION		
DETAIL "D"		

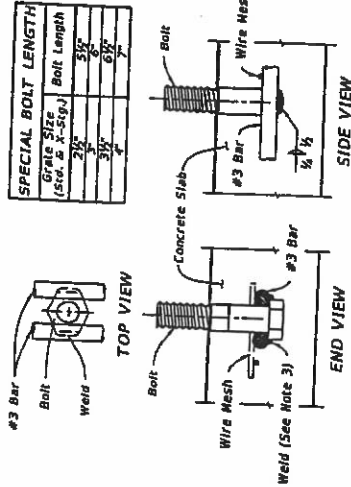
**NOTES:**

1.  $\frac{1}{2}$ " x 3" bolts are standard for all grate fasteners, except when the contractor elects to use the slotted upper holes for the intermediate fastener on multiple drain pipes, which will require bolt lengths in the Spacer Bolt Length Table.
2.  $\frac{1}{2}$ " galvanized bolt hex head bolt stonni; either hex head or square head bolt may be used. Use only hex nuts.
3. Make the specified weld when the fabricated unit is subject to hazardous hauls and repeated handling. Tack welds are permitted for local or job site fabrication. Galvanizing over welded surface not required.
4. Omit on trailing downstream ends on divided roadways.
5. Use grates on all round pipes 30" or greater. Pipe arches 35" x 24" or greater, and elliptical pipe 19" x 30" or greater, unless excluded in the Plans. Use grates on smaller pipes only when called for in the Plans.

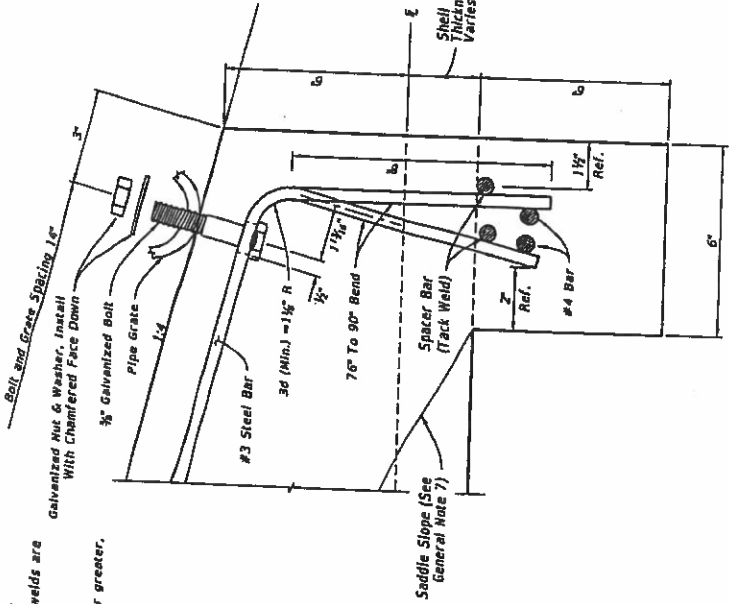
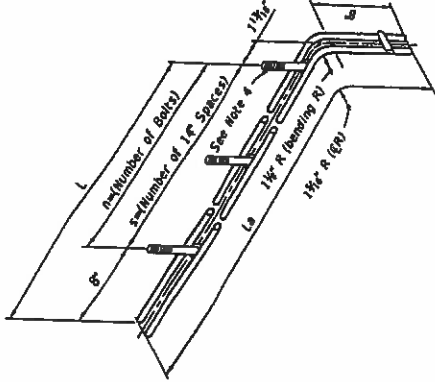
CONCRETE PIPE									
ROUND PIPE					ELLIPTICAL PIPE				
Pipe Dia.	s	n	L	La	Drain Size	s	n	L	La
18"	3	4	6'-0"	6'-11"	12" x 18"	2	3	2'-10"	3'-9"
24"	4	5	8'-0"	8'-11"	18" x 24"	3	4	4'-0"	6'-11"
30"	6	7	9'-6"	10'-5"	24" x 30"	4	5	5'-2"	6'-11"
36"	8	9	11'-0"	11'-11"	24" x 36"	5	6	6'-8"	7'-5"
42"	10	11	12'-0"	12'-11"	24" x 42"	6	7	8'-0"	9'-5"
48"	12	13	13'-6"	14'-5"	30" x 48"	8	9	8'-0"	9'-5"
54"	14	15	15'-0"	16'-5"	36" x 54"	10	11	10'-0"	11'-11"
60"	16	17	17'-0"	18'-5"	42" x 60"	11	12	12'-0"	13'-11"
					48" x 66"	13	14	13'-6"	15'-5"
					54" x 66"	14	15	15'-0"	17'-5"
					60" x 66"	15	16	16'-0"	18'-11"

CORRUGATED METAL PIPE									
ROUND PIPE					ARCHED PIPE				
Pipe Dia.	s	n	L	La	Drain Size	s	n	L	La
18"	2	3	2'-10"	3'-0"	12" x 18"	1	2	1'-8"	2'-7"
24"	3	4	4'-0"	4'-11"	18" x 24"	2	3	2'-10"	3'-9"
30"	5	6	6'-0"	7'-5"	24" x 30"	3	4	4'-0"	6'-11"
36"	7	8	8'-0"	9'-7"	24" x 36"	4	5	5'-2"	6'-11"
42"	8	9	9'-0"	10'-5"	30" x 42"	5	6	6'-8"	7'-5"
48"	10	11	10'-0"	11'-11"	36" x 48"	6	7	8'-0"	9'-5"
54"	12	13	12'-0"	13'-11"	42" x 54"	7	8	8'-0"	9'-5"
60"	14	15	14'-0"	15'-11"	48" x 60"	9	10	10'-0"	11'-11"
					54" x 66"	10	11	12'-0"	13'-11"
					60" x 66"	12	13	14'-0"	15'-5"

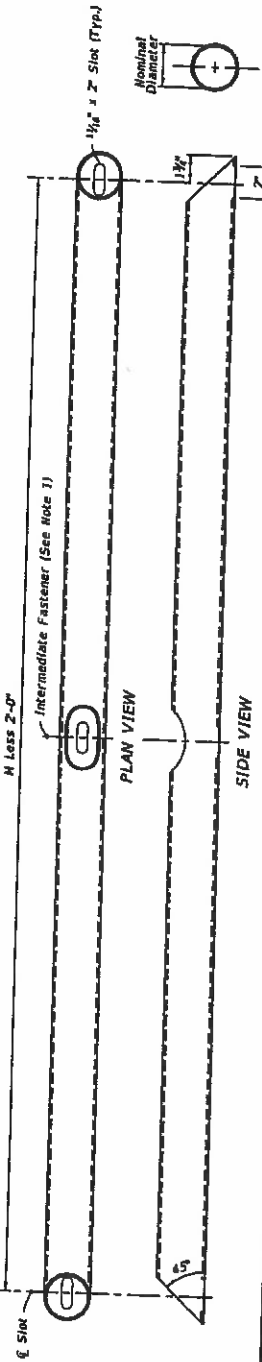
See Note 5



SPECIAL BOLT LENGTH	
Grate Size (Std. or X-Std.)	Bolt Length
30"	30"
36"	36"
42"	42"



**MULTIPLE FASTENER UNIT DETAIL**  
(For Single and Multiple Pipes)



**NOTE:**

1. Install intermediate slot and fastener for multiple drain pipes only.
- Options for top opening:
- a. 4" of 6" mill head cut, 1" deep
  - b. 2" diameter drilled hole
  - c.  $\frac{1}{16}$ " x 2" slot
- Bottom opening:  $\frac{1}{16}$ " x 2" slot.

LAST REVISION 11/01/20

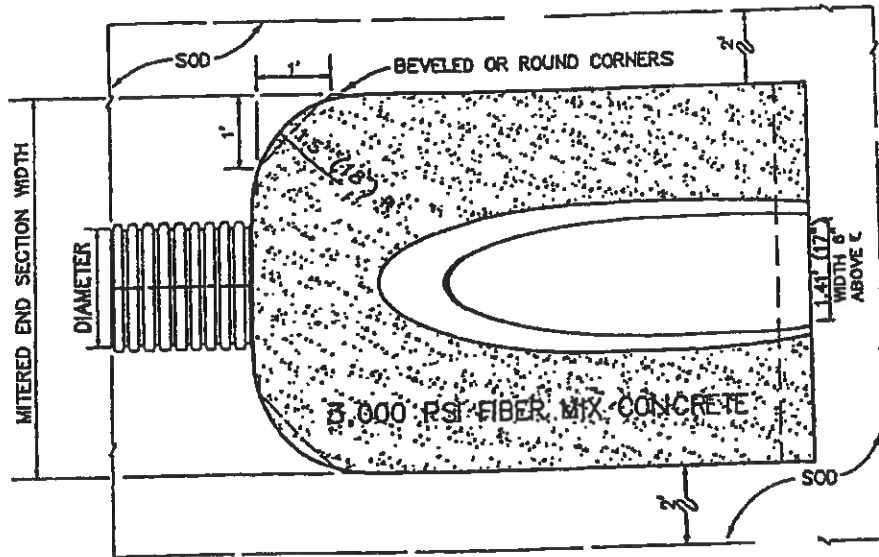
DESCRIPTION:

STANDARD PLANS  
FY 2021-22

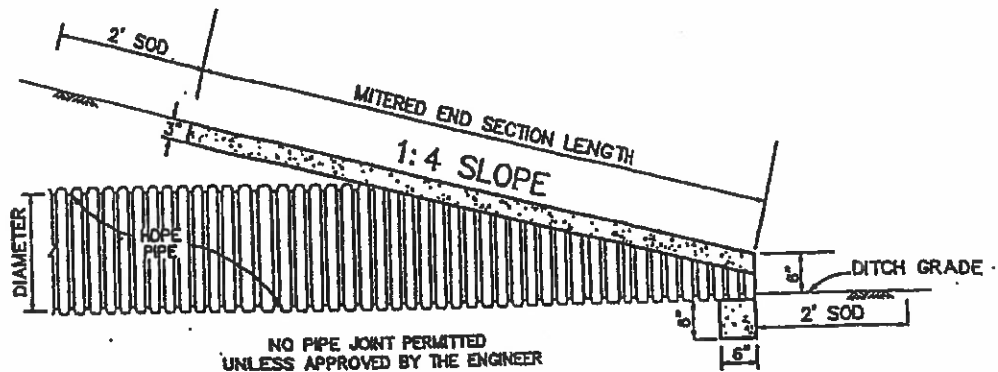
FASTENER UNIT AND GRATE DETAILS  
SIDE DRAIN MITERED END SECTION

INDEX 430-022

SHEET 7 of 7



PLAN VIEW—SINGLE PIPE



SECTION THROUGH PIPE CENTERLINE

MITERED END SECTION DIMENSIONS AND QUANTITIES				
DIAMETER	WIDTH	LENGTH	CONCRETE	SOD
15"	4.33' (52")	5.59' (67")	0.64 CU.YD.	8 SQ.YD.
<del>18"</del>	<del>4.58' (55")</del>	<del>6.62' (80")</del>	0.69 CU.YD.	9 SQ.YD.
24"	5.08' (61")	8.68' (104")	0.83 CU.YD.	10 SQ.YD.
30"	5.58' (67")	10.75' (129")	0.96 CU.YD.	11 SQ.YD.
36"	6.08' (73")	12.81' (154")	1.08 CU.YD.	12 SQ.YD.

## Town of Malabar

2725 Malabar Road ♦ Malabar, FL 32950-4427 (321) 727-7764

[dsherear@townofmalabar.org](mailto:dsherear@townofmalabar.org)

**DRIVEWAY CULVERT MITERED END SECTION DIMENSIONS**

# TOWN OF MALABAR

## COUNCIL MEETING

**AENDA ITEM NO: 12.a.**

**Meeting Date: May 03, 2021**

**Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer**

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**SUBJECT: Ordinance 2021-04 Amend Chapter 13 of Code to Codify Exhibits in Street Improvement Regulations. First Reading.**

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### **BACKGROUND/HISTORY:**

These Exhibits were adopted by Council as follows:

Exhibit "B-4" in Resolution 15-2008

Exhibit "B-5" in Resolution 48-2010

Exhibit "B-6" in Resolution 48-2010

The purpose of including them in this ordinance is to codify them into Chapter 13 so the online Code, Code Book, and applications all match.

The other sections of Chapter 13 that are either corrected or deleted so the regulations match the actual process used.

This is in the front of the Code, so it does not go to the P&Z Board first. The street improvement code is legislative, and policy is set by Council.

If approved at first reading, it will be legally advertised and set for second reading on 17, 2021.

### **ATTACHMENTS:**

Ord 2021-04

### **ACTION OPTIONS:**

Action on first reading of Ord 2021-04

## ORDINANCE 2021-04

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 13, ARTICLE II, DIVISION 2 OF THE MALABAR CODE OF ORDINANCES RELATED TO STREETS; AMENDING SECTION 13-37 DEFINITIONS; AMENDING SECTION 13-38 PRECONDITION TO ISSUANCE OF BUILDING PERMIT; DELETING SECTION 13.40; AMENDING SECTION 13.41 ROADWAY IMPROVEMENT PROCESS AND ADDING EXHIBITS "B-4", "B-5" and "B-6" TO SECTION 13.41; AMENDING SECTION 13-42 ROADWAY IMPROVEMENT PROCESS; AMENDING SECTION 13-46 STANDARDS FOR ROAD IMPROVEMENTS; AMENDING SECTION 13-47 REIMBURSEMENT FOR EXPENSES INCURRED BY OWNER IN CONNECTION WITH THE CONSTRUCTION OF ROAD IMPROVEMENT; AMENDING SECTION 13-48 IMPROVEMENT OF UNACCEPTED PORTION OF PARTIALLY IMPROVED ROAD; AMENDING; AMENDING SECTION 13-49 IMPROVEMENT REQUIRED IF LAND PARTIALLY ABUTS UNACCEPTED ROAD; DELETING ARTICLE III IN ITS ENTIRELY; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, the Town Council desires to update the Code of Ordinances relating to road improvement requirements by adopting this ordinance.

**NOW THEREFORE BE IT ORDAINED** by the Town Council for the Town of Malabar, Brevard County, Florida:

**SECTION 1.** Chapter 13, Article II, DIVISION 2, Section 13-37 is amended as follows:

### **Sec. 13-37. - Definitions.**

As used herein, the following terms shall have the following meanings:

*Building permit* shall mean any permit for construction of any structure on property located within the town, whether it is a principal or accessory structure.

*Improved road* shall mean the path upon which vehicular traffic is intended to travel and upon which the travel way has been improved and accepted by the Town for maintenance ~~altered from its natural state in order to permit use as a road.~~

~~*Interim roadway* shall mean any road, street, or right-of-way which is improved pursuant to this division on a right-of-way, or on an improved but unaccepted road which is less than sixty (60) feet in width and accepted for maintenance by the town. The improved roadway shall be temporary until such time as all the parcels adjacent to the improved roadway have all received permits to construct a permitted structure.~~

*Local streets/roads* shall mean any street or road other than an arterial roadway, major collector street, minor collector street located within the Town.

*Owner* shall mean the individual, entity or, in the event that the property is owned by a partnership or an aggregation of individuals or entities, all of the partners or persons or entities who have a present, possessory interest in such property. In the event that an application for building permit is made by an

individual or entity that holds a leasehold interest in the fee, that individual or entity shall be considered the "owner" for the purposes of this division.

*Permitted structure* shall mean any structure for which a permit is required pursuant to the Town's Land Development Code, whether it is a principal structure, accessory structure or any combination thereof.

*Road /right of way* shall mean the path upon which vehicular traffic is intended to travel in order to obtain ingress and egress to and from real property. As used in this division, the terms "road" and "street" are interchangeable and intended to have the same meaning as expressed herein.

~~*Travel way* shall mean any right-of-way, dedicated to the town, for the purpose of providing ingress and egress by motor vehicles or other method into privately or publicly owned real property.~~

*Unaccepted road* shall mean any unimproved road, street, or right-of-way that has not been accepted by the town for maintenance by affirmative vote of the town council resulting in such street, road or right-of-way to be approved and included on the official list of "accepted" roads within the town.

**SECTION 2.** Chapter 13, Article II, Division 2 Section 13.38 is amended as follows:

**Sec. 13-38. - Precondition to issuance of building permit—Completion of road.**

(a)

As a precondition for the issuance for any permit for a new residence or new commercial structure on property that abuts an unimproved right-of-way or unaccepted local street/road within the Town of Malabar, Brevard County, Florida, the owner of the property for which such permit is requested must provide for the improvement of the local street/road from which a person will obtain primary ingress and egress to and from such property from the nearest improved and accepted road continuously in the most direct route (or route otherwise approved by the town) on public rights-of-way through and including the furthest boundary of the lot of record on which the principal structure is to be constructed.

...

(c)

*Waiver.* The Town Council may grant a waiver to the provisions of section 13-38 (a), (b)(1) and (2).

...

(1) The below stated procedures shall in all respects be utilized for consideration of a waiver to subsection (a), (b)(1) and (2). In order to authorize a waiver under this section the town council must find the following:

- a. That special conditions and circumstances exist and that the presence of which would make complying with section 13-38 (a), (b)(1) or (2) unreasonable. Financial or economic reasons, conditions or circumstances shall not be grounds for a waiver under this section;

...

(8) Public hearing; Notice upon receipt of an executed application pursuant to this section, the town clerk forthwith schedule a hearing on the application before the town council. Notice of the time and place of the public hearing shall be given to the applicant at least fifteen (15) days prior to the public hearing. Notice of the time and place of the public hearing on the application shall be mailed, at least fifteen (15) days prior to the public hearing, to all affected property owners abutting the road right of way in question.

...

**SECTION 3.** Chapter 13, Article II Division 2 is amended, by deleting Section 13.40 in its entirety:

***Sec. 13-40. Cost of Improvement (bond)***

~~Each owner who applies for a building permit, either personally or through an agent or contractor, shall complete an application for a road permit, in the form approved by the town council and shall execute a written agreement with the Town of Malabar, Brevard County, Florida, in a form approved by the town council and town attorney, to construct a road as described hereinabove in accordance with the town's standards. The entire cost of constructing such road shall be the responsibility of the owner and, prior to the issuance of such road permit, the owner shall post a cash bond with the town. The amount of the bond shall be set by the town council after receiving public bids for said improvements and shall be equal to the estimated cost of completion of the improvement plus twenty (20) percent of such amount. The procedure for establishing the road bond shall be established by town council. Procedure shall be adopted by resolution and may be amended by resolution of the town council from time to time, as needed.~~

~~The applicant shall have thirty (30) days from the date the bond is set to post said bond. Failure to post a bond within thirty (30) days shall result in revocation of all road and building permits issued.~~

~~Any person desiring to appeal any decisions made by the town council related to bonds shall do so by filing a notice of appeal with a court of competent jurisdiction as required by the laws of the State of Florida. All procedural requirements for taking an appeal to a court of competent jurisdiction must be complied with by the party making the appeal.(Ord. No. 01-01, § 1-5, 2-5-01)~~

**SECTION 4.** Chapter 13, Article II, Division 2, Section 13.41 is amended to read as follows:

"In order to obtain a road permit, an applicant must complete road permit application. The application for a road permit shall be in a form approved by the town and shall include the following:

- (1) Such surveys and drawings as are required by the standards attached hereto as Exhibit "A," "B-1," "B-2," or "B-3," "B-4," "B-5" or "B-6" whichever is applicable. The standards set forth in Exhibit "A" through "B-3" may be amended from time to time by resolution of the town council of the town.



- (2) Such reports as to soil composition as are required by the standards attached hereto as Exhibit "A," "B-1," "B-2," or "B-3," "B-4," "B-5" or "B-6" whichever is applicable. The standards set forth in Exhibit "A" through "B-6" "B-3" may be amended from time to time by resolution of the town council of the town."
- (3) A written estimate, based upon such surveys and drawings described hereinabove in paragraphs (1) and (2), which estimate shall contain a sufficient description of the work to enable the town engineer and building official to determine that the proposed improvement is consistent with the specifications of the town.

The town council shall set the fee for such road permit, which fee may be amended from time to time by town council by resolution. No action shall be taken on behalf of the applicant until a completed road application permit is filed with the town clerk and the applicable application fee is paid.

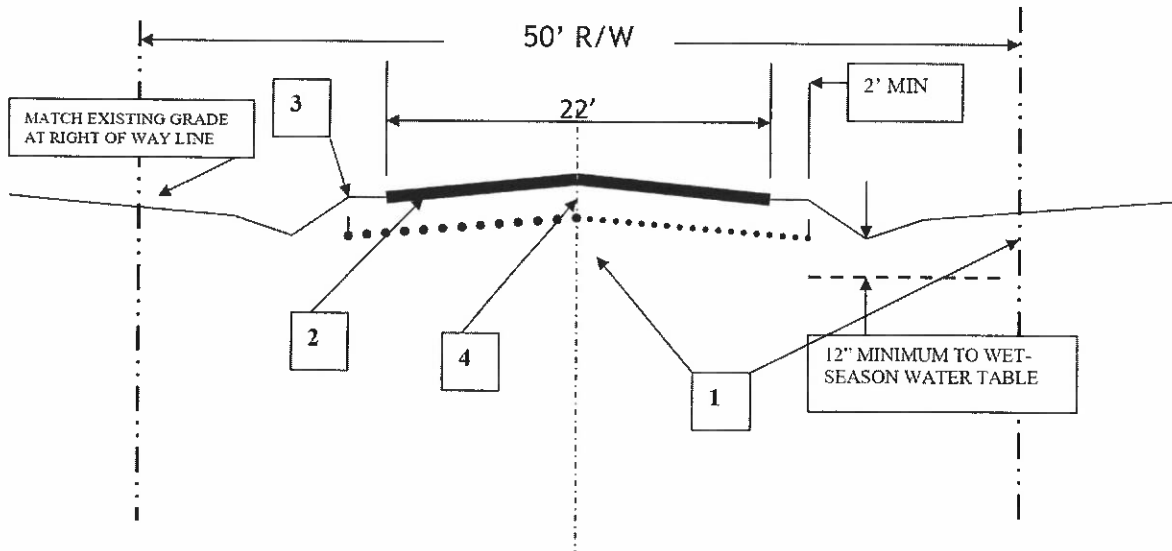
Upon receipt of a completed application and fee, the town clerk shall forward the application package to the appropriate town staff as directed by the Town Manager.

~~town engineer. Upon receipt of the completed road permit application package, the town engineer shall make a recommendation to town council as to the appropriate bond that shall be required from the applicant as set forth in section 34-40 of this division."~~

....

## EXHIBIT "B-4"

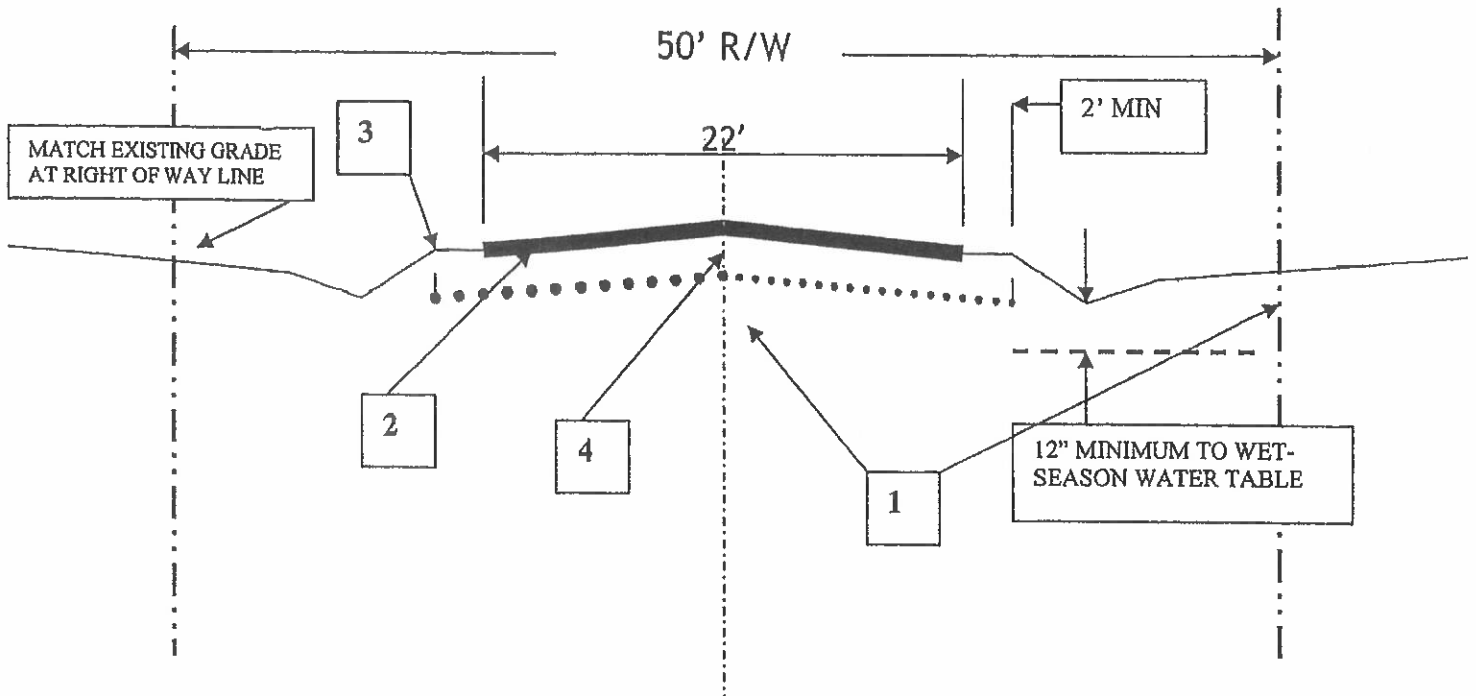
## TYPICAL UNPAVED ROADWAY SECTION FOR 50' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE PAVEMENT MINIMUM 2' WIDE AND ON SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.
5. DRAWING IS NOT TO SCALE.

## EXHIBIT "B-5" Country Lane

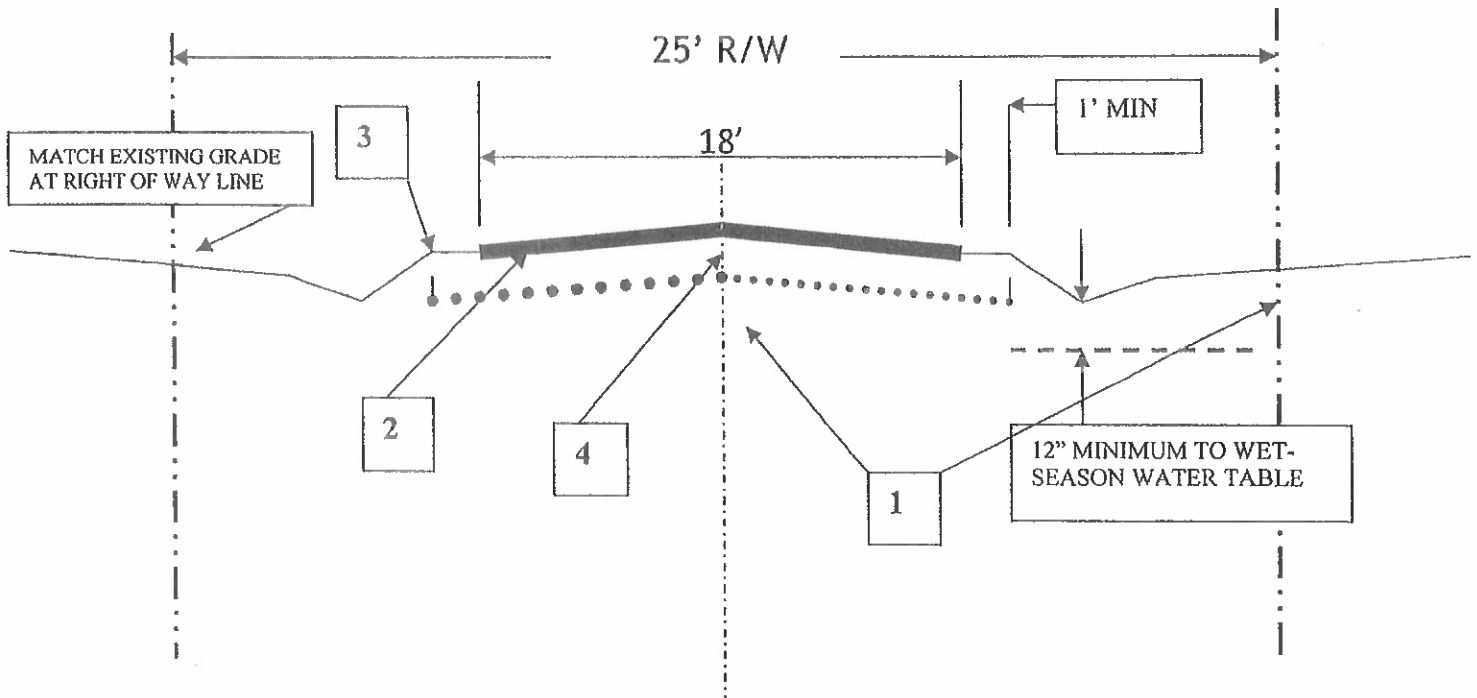
## TYPICAL UNPAVED ROADWAY SECTION FOR 50' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 4' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD OR SEED OF THE ENTIRE ROADWAY SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

## EXHIBIT "B-6" Country Lane

## TYPICAL UNPAVED ROADWAY SECTION FOR 25' WIDE R/W



1. CLEAR & GRUB 50' R/W EXCEPT FOR SPECIMEN TREES TO BE LEFT OUTSIDE SWALES AND DISPOSE OF ALL DEBRIS OFF SITE.
2. STABILIZED & MECHANICALLY MIXED 8" MINIMUM THICKNESS ROAD BASE COMPACTED TO 98% OF MAXIMUM DENSITY PER AASHTO T-180 WITH MINIMUM LBR = 40. USE FDOT APPROVED MATERIALS OR LOCAL MATERIALS APPROVED BY TOWN ENGINEER.
3. STABILIZED SHOULDERS BOTH SIDES AND SOD ADJACENT TO THE TRAVELWAY ON EACH SIDE A MINIMUM 2' WIDE; SOD A MINIMUM OF 2' WIDE IN CENTER OF RIGHT-OF-WAY; SOD SWALE BANKS. SWALE SIDE SLOPES MIN. 3:1. BACKSIDE OF SWALES MAY BE SEEDED. SOD OR SEED OF THE ENTIRE ROADWAY SHALL BE AS APPROVED BY TOWN ENGINEER.
4. SUITABLE SOILS FREE OF ORGANICS. COMPACT SOILS TO 98% DENSITY PER AASHTO T-180.

**SECTION 5.** Chapter 13, Article II, Division 2, Section 13-42 is amended, as follows:

**Sec. 13-42. - Roadway improvement process.**

- (a) Any person (applicant) desiring to improve a public right-of-way within the Town of Malabar shall follow the process described herein:
- (1) Obtain a copy of the town's ~~master~~ roadway design standards and permit forms.
  - (2) Provide the town with a right-of-way survey prepared by, signed and sealed by a Florida registered surveyor.
  - (3) Provide the town with a set of design plans and specifications signed and sealed by a Florida registered engineer and complying with the town's ~~master~~ roadway specifications.
  - (4) Obtain a roadway improvement permit from the town with administrative approval by the engineer as directed by the Town Manager.
  - (5) ~~Obtain administrative approval of the town engineer, stamped "APPROVED" plans and specifications, town construction inspection requirements and any governmental permits and mitigating requirements necessary to proceed with the roadway construction.~~
  - (6) Retain a Florida or Brevard County licensed contractor, meeting the town's licensing and insurance requirements, to perform the construction in accordance with the plans, specifications and permits.
  - (7) Schedule inspection of the work through the Building Department by the town engineer at (1) completion of clearing and rough grading, (2) completion of drainage infrastructure and satisfactory test reports of roadway sub-grade and (3) final inspection.
  - (8) Provide certified soils laboratory test reports indicating that the completed construction or construction progress complies with the roadway plans, specifications and permits.
  - (9) Provide, to the town, "as built" drawings of the roadway improvements certified by a Florida registered surveyor or engineer.
  - (10) Request, in writing, to the Building Department for the Town's designated engineering firm to examine the completed facilities and certify that the work meets the requirements of the Town Code and ~~master~~ roadway specifications and provide a written recommendation that Council accept the road for maintenance.
  - (11) Provide written documentation to the town of roadway survey, design, permitting, testing, mitigation, construction and inspection costs that may be reasonably considered to be included in the costs of improving the right-of-way for certification of costs and determination of the linear foot payback amount.

(12) Request Malabar to place on the next regular town council agenda consideration of formally adopting accepting the roadway and certifying the completed improvement costs as public facilities and assume the maintenance responsibilities.

(b) After determination that the roadway design meets current town standards the town's designated engineer is ~~authorized to administratively~~ shall approve the construction plans for of the roadway improvement and stamp the plans. After administrative approval the owner shall ~~deposit with the town the~~ pay the applicable fees for the town roadway improvement permit, the inspection fee estimated by the Building Department ~~town engineer~~ and furnish the proposed roadway construction schedule. After such determination the town staff will:

- (1) Perform, as a minimum, inspections of the laboratory test results and three (3) inspections of the construction work. The first inspection is at the time of completion of land clearing, the second is at completion of drainage and sub-base shaping/compaction and a final inspection at completion of the roadway work and receipt of documentation of final costs, test results and "as built" drawings.
- (2) Collect, from property owners abutting that segment of the roadway improved, a pro-rata share of the roadway improvement costs from and after the date of roadway acceptance by the town. Payment to the town treasurer is required prior to issuance of any building permit for an improvement on such abutting property.
- (3) Keep a record of payments to the town and disbursement of funds to the applicant.
- (4) Place on the next regular town council agenda, after receipt of the town Town's designated engineering firm written engineer's certification of roadway construction completion, an item for consideration of acceptance of the completed segment of the roadway for operation and maintenance.
- (5) The town council shall not unreasonably withhold acceptance of the completed roadway.

• • •

**SECTION 6.** Chapter 13, Article II, Division 2, Sections 13-46 through Section 13-49 are amended as follows:

**Sec. 13-46. - Standards for road improvements.**

The standards for the contractors to complete local road improvements on sixty (60) foot, fifty (50) foot rights-of-way and twenty-five (25) foot rights-of-way are respectively set forth in Exhibit "A" through "B-6" and "B" to this division and are incorporated herein. The standards may, from time to time, be modified by the town council, by ordinance resolution, provided that no such modification shall affect any owner who has filed an application for a building permit prior to the effective date of any such change in the standards.

**Sec. 13-47. - Reimbursement for expenses incurred by owner in connection with the construction of road improvement.**

The certified costs, as determined pursuant to ~~section 13-42~~ ~~sections 13-43 and 13-44~~ hereinabove, shall be reimbursed to the individual expending such monies to complete the improvement, or their assignees (provided such assignment is recorded as hereinbelow described), by monies obtained from property owners who subsequently apply for building permits on property adjacent to or abutting any street that has been improved by the owner seeking reimbursement, provided that such improvement has been accepted by the town and further provided that the construction of the improvement was commenced after the effective date of this division [February 5, 2001] and in accordance with the terms and conditions of this division.

The method of reimbursement shall be as follows: In order for any property owner to obtain a development permit for a property that abuts any street that had previously been fully or partially improved pursuant to the terms and conditions set forth in this division, such owner must, at the time of application for a development permit, ~~pay post a cash bond with~~ the town in accordance with the formula hereinbelow described.

**Sec. 13-48. - Improvement of unaccepted portion of partially improved road.**

When an owner wishes to obtain a development permit for a property that abuts a street that has not been completely improved pursuant to this division, such owner shall follow the procedure described hereinbefore in sections 13-38, 13-39, ~~13-40~~, 13-41, 13-42, ~~13-43~~, ~~13-44~~, 13-45 and 13-46 to construct the improved street through and including the owner's furthest property line from such improved street if the street had not been previously completed through the owner's furthest property line. Said owner shall be entitled to reimbursement for his expenses as set forth in ~~section 13-46~~ 13-47 of this division.

**Sec. 13-49. - Improvement required if land partially abuts unaccepted road.**

If an owner wishes to obtain a development permit for a property that partially abuts a street that has been improved pursuant to the terms of this division, after the effective date of this division [February 5, 2001], such owner shall complete the street through such owner's furthest property line using the procedure set forth in sections 13-38, 13-39, ~~13-40~~, 13-41, 13-42, ~~13-43~~, ~~13-44~~, 13-45 and 13-46 and shall be entitled to reimbursement from subsequent property owners who build on that portion of the street improved by such owner in accordance with the terms of this division. Additionally, such owner shall further be obligated to reimburse the prior owner(s) who expended certified costs to improve the street that partially abuts such owner's property in accordance with the pro rata formula described hereinabove.

**SECTION 7.** Chapter 13 is amended by deleting Article III in its entirety:

**~~ARTICLE III. - ACCEPTANCE OF LOCAL ROADS~~**

**~~Sec. 13-61. - Definitions.~~**

As used herein, ~~the following terms shall have the following meanings:~~

~~*Improved road* shall mean the path upon which vehicular traffic is intended to travel and upon which the travel way has been altered from its natural state in order to permit use as a street.~~

~~*Owner* shall mean the individual, entity or, in the event that the property is owned by a partnership or an aggregation of individuals or entities, all of the partners or persons or entities who have a present, possessory interest on such property.~~

~~Road shall mean the path upon which vehicular traffic is intended to travel in order to obtain ingress and egress to and from real property. As used in this article, the terms "road" and "street" are interchangeable and intended to have the same meaning as expressed herein.~~

~~Travel way shall mean any right-of-way, dedicated to the town, for the purpose of providing ingress and egress by motor vehicles or other method into privately or publicly owned real property.~~

~~Unaccepted road shall mean any road, street, or right-of-way that has not been accepted by the town for maintenance by affirmative vote of the town council wherein such street, road or right-of-way is approved and included on the official list of accepted roads within the town.  
(Ord. No. 92-5, § 1, 6-19-92)~~

### **Sec. 13-62. -- Local street acceptance.**

~~Any owner of real property located within the town, said property being adjacent to an improved, unaccepted local road, may apply to the town for acceptance of the improved, unaccepted, local road. The application process shall be as follows:~~

- ~~(1) The applicant shall submit to the town an application for acceptance of improved, unaccepted local road. Said application to be approved as to form and content by the town.~~
- ~~(2) The application for acceptance of an improved, unaccepted local road shall specify the name of the street to be accepted; the length of the street to be accepted; and the number of residential dwellings currently located in the street to be accepted. In addition, a survey containing the required information as set forth in Exhibit "A," not more than six (6) months old, of the street to be accepted shall be attached to the application at the time it is submitted to the town.~~
- ~~(3) The applicant shall be required to pay an application fee, as established by town council, at the time of submitting the application.~~
- ~~(4) Upon receipt of a completed application and survey, the town engineer shall inspect the road for the purpose of determining if the road meets the minimum safety standards adopted by this article and attached hereto as Exhibit "B."~~
- ~~(5) If the town engineer determines that said road meets the minimum safety standards, then the town engineer shall recommend to the town council acceptance of said road for all purposes.~~
- ~~(6) Upon receipt of a recommendation from the town engineer for acceptance of a local road, the town council may accept said road for maintenance and all other purposes.~~

~~(Ord. No. 92-5, § 2, 6-19-92)~~

### **Sec. 13-63. -- Reapplication.**

~~If an application, submitted pursuant to section 13-62 of this article, is denied by council, the applicant, after correcting the condition which resulted in denial of his original application, may submit a request for reconsideration of the original application for acceptance of the improved, unaccepted, local road. If the request for reconsideration is resubmitted within ninety (90) days of council's denial of the original application, the application fee, as required by section 13-62, may be waived.~~



All requests for reconsideration shall be submitted to the town on a form approved by the town. An application for reconsideration shall be processed according to the requirements of section 13-62 of this article. (Ord. No. 92-5, § 3, 6-19-92)

**Sec. 13-64. -- Minimum safety standards.**

The town hereby adopts minimum safety standards for local roads within the corporate limits of the town. Said minimum standards are attached hereto as Exhibit "B" and may, from, time to time, be amended by resolution of the town council. It is the intention of these safety standards to provide minimum standards for local roads to provide for the safe ingress and egress to local residential properties. (Ord. No. 92-5, § 4, 6-19-92)

**Sec. 13-65. -- Policy statement and application.**

It is the expressed intention of the town, through adoption of this article, to provide a method whereby real property owners within the town, whose property is adjacent to an improved, unaccepted roadway, may have their road accepted by the town for maintenance purposes.

Through adoption of this article, the town is not accepting roads which do not meet the adopted minimum safety standard. Further, local roads which meet current minimum safety standards, but which have not been accepted pursuant to the terms and provisions of this article, are expressly not being accepted by the town for any purpose.

This article is not to be construed as an acceptance of all local roads which meet current minimum safety standards, nor is this article to be construed to reduce the current standards required for new roadways being constructed within the town.

This article shall only be applied to local roads which are improved as of the date of adoption of this article, but are currently unaccepted by the town for maintenance purposes.

All dedicated rights-of-way, within the town, upon which no improvements have been made as of the date of adoption of this article, shall not be considered for acceptance under the terms and conditions of this article.

**SECTION 8. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**SECTION 9. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

**SECTION 10. Inclusion in Code.** It is intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**SECTION 11. 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 15th day of May 2021.

**TOWN OF MALABAR**

By: \_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

**ATTEST:**

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

(seal)

Approved for Legal Sufficiency:

\_\_\_\_\_  
Karl Bohne, Jr, Town Attorney

First Reading: 05/03/2021 Vote \_\_\_\_ to \_\_\_\_  
Second Reading: 05/17/2021

# TOWN OF MALABAR

## COUNCIL MEETING AGENDA ITEM NO: 12.b. Meeting Date: May 03, 2021

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

---

**SUBJECT: Request Road Improvement Approval for 460' of Rivet Lane and Certify Costs at \$38,395.89.**

---

### **BACKGROUND/HISTORY:**

These applicants were granted a Road Improvement Waiver in March of 2020 and proceeded to build the 460 feet of road to meet the specifications called out in approval process.

We had held off bringing this before Council due to the driveway apron engineering. Since then, we have received the paving petition and have resolved to correct the issue when we bid out the paving/prep portion.

The Code states that once Council accepts the improve roadway it is added to the roads list for maintenance. The Council also certifies the construction costs so we have a starting figure to determine the linear foot payback figure for those parcels that will benefit from the improvement. In this case since all of the improvement was within the 25' ROW on the east side of Rivets there will likely be no road payback. But this is the process we follow.

### **ATTACHMENTS:**

Memo from Morris Smith Engineering recommending approval.

Picture of radius issue

Location map showing area that was improved with the Waiver.

Letter to applicants advising Council had approved the Waiver and minutes from meeting.

Design engineering for this improvement

Certification of costs and area improved.

### **ACTION OPTIONS:**

Action on Request for Acceptance of 460' of Rivet Lane and Certification of Cost at \$38,395.89

RECEIVED

OCT 16 2020

**TOWN OF MALABAR  
MEMORANDUM**

TOWN OF MALABAR

Date: October 16, 2020  
To: Lisa Morrell, Interim Town Administrator  
Denine Sherear, Building Department Manager  
From: Morris Smith, Town Engineer  
Ref: Final Inspection and Recommendation for Acceptance – Rivet Lane

Memo: 20-CE-17  
Project No.  
Variance No.:

As per your request, I have made a walkthrough of the final construction of the Town approved construction of Rivet Lane northerly extension and I recommend the acceptance of this new, unpaved roadway.

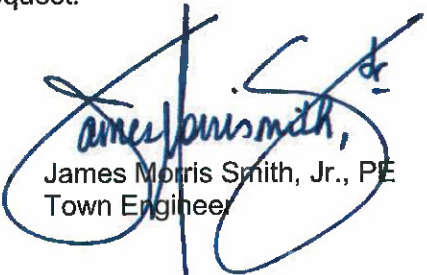
The new construction has added an additional 460 feet x 25 feet of right-of-way to the originally accepted 700 feet x 25 feet of right-of-way, making the total length of the unpaved roadway 1,160 feet x 25 feet right-of-way.

Beyond the approved roadway surface is a 60 feet x 25 feet right-of-way, stormwater management zone, that will be included in the maintenance responsibility of the Town.

This is the first new roadway, utilizing the Town's new 25 feet wide right-of-way cross section, that has been approved by the Town.

An item that will need to be addressed in future construction, pertaining to these 25 feet wide rights-of-way, roadways extensions, is the culvert location and the design geometry of the driveway culvert's mitered end section. The mitered end section was constructed to the Town's standard but is obviously too wide. We have a shear drop from the edge of the stabilized roadway down to the concrete of the mitered end section. This was an unforeseen consequence and on the next roadway extension permit application, using the 25 feet wide right-of-way standard, we will be more vigilant with the driveway culverts and mitered end sections. I have photographic documentation available upon request.

Very Truly Yours,



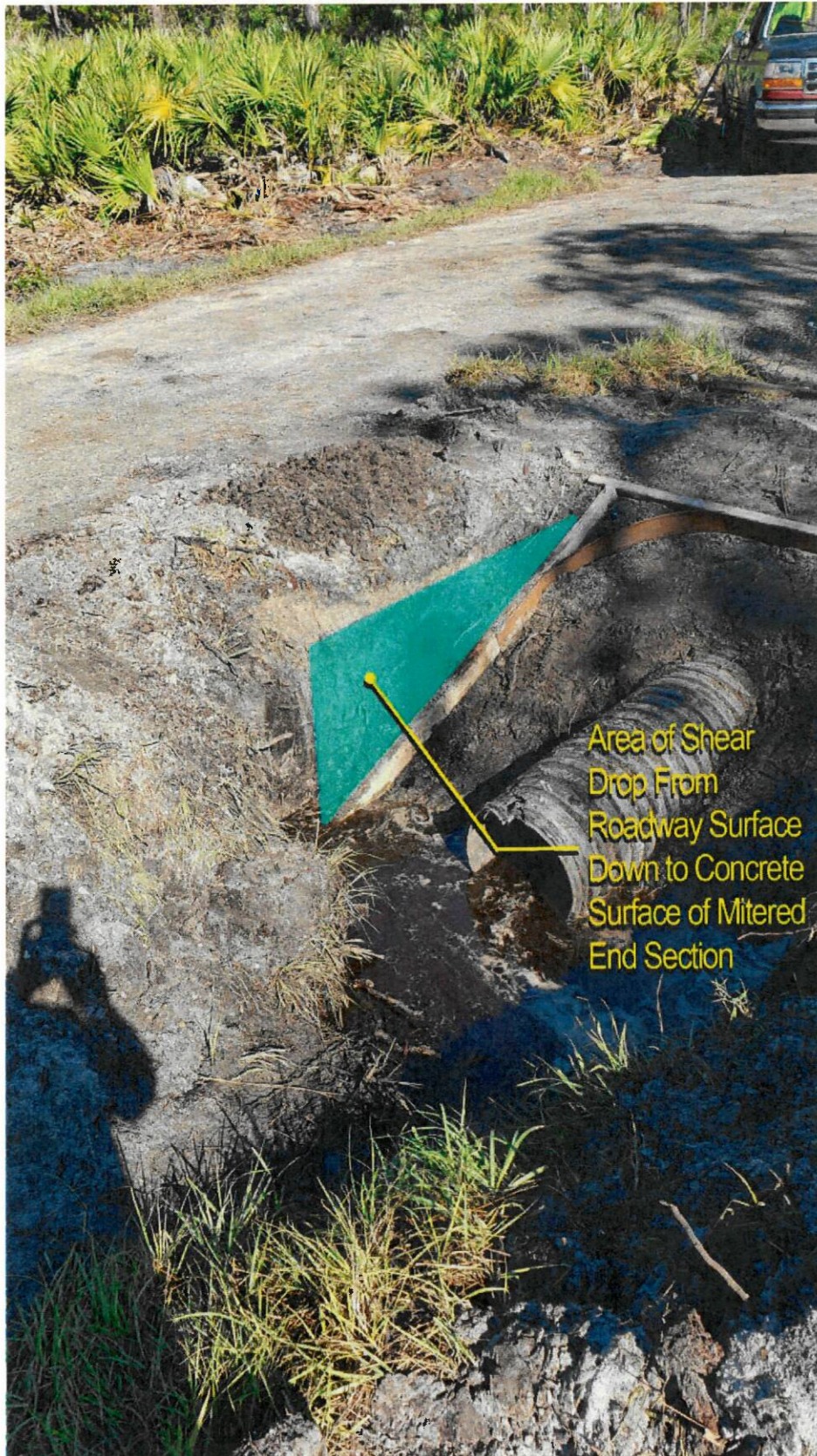
James Morris Smith, Jr., PE  
Town Engineer

**TOWN OF MALABAR  
MEMORANDUM**

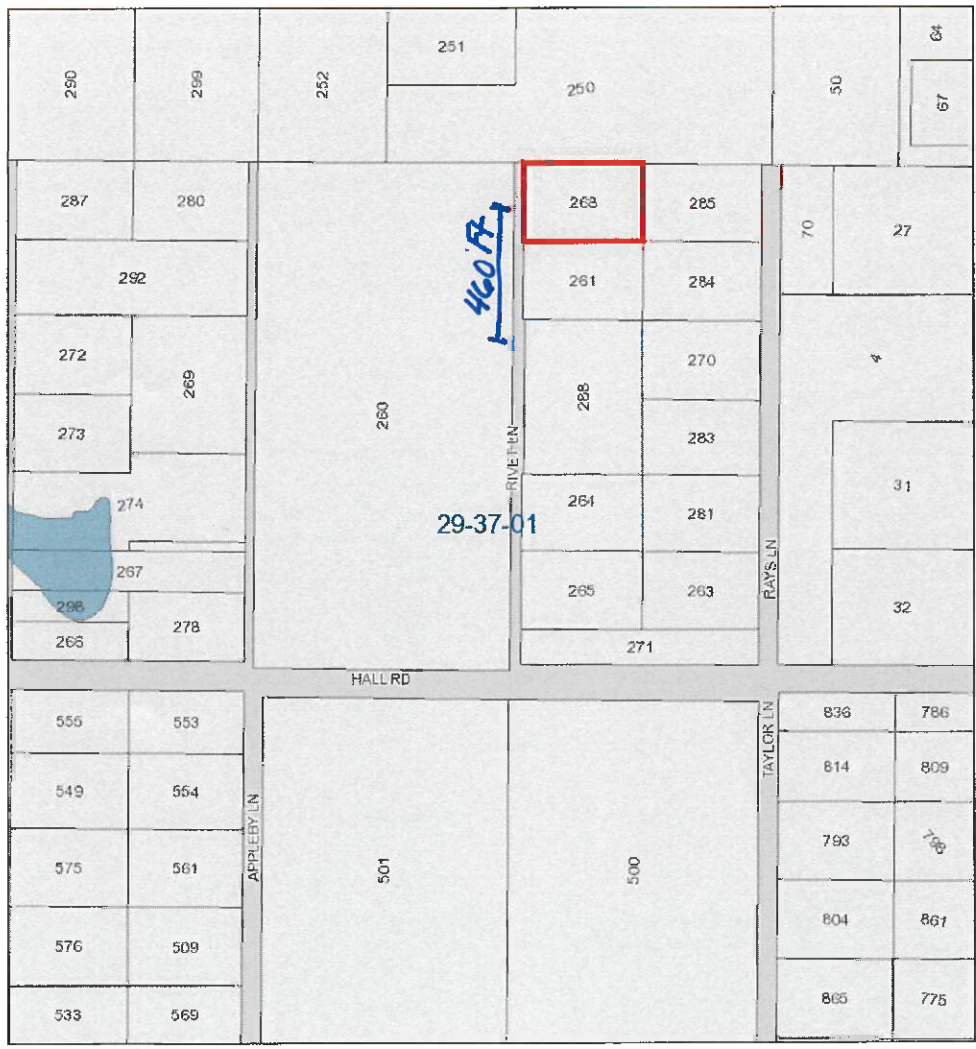
TOWN OF MALABAR

OCT 16 2020

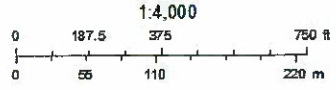
RECEIVED



### Brevard County Property Appraiser



January 13, 2021



2846550

For illustration only. Not a survey. Map lines may not precisely align. © BCPAO 2015



2725 Malabar Road  
Malabar, FL 32950  
321-727-7764 (Office) 321-727-9997 (Fax)  
[www.townofmalabar.org](http://www.townofmalabar.org)

May 19, 2020

Mr. and Mrs. Wilkerson

Via email: [cmwilkerson08@mail.com](mailto:cmwilkerson08@mail.com)

RE: Malabar Road Improvement Waiver Approved for Rivet Lane

Dear Mr. and Mrs. Wilkerson:

Malabar Town Council heard the request and discussed the merits of the proposed waiver of the Town's road improvement regulations at their regular meeting of March 2, 2020. Council voted in support of the waiver as requiring the road improvement to the furthest end of the parcel did not serve a public purpose. Unfortunately, before we could hold a subsequent Council meeting to approve the minutes documenting Council's actions, the coronavirus pandemic began, and we did not hold another meeting until May 4, 2020. On that date the official record of the March 2, 2020 meeting was approved.

Your waiver to the road improvement requirements was approved as stipulated at the meeting:

- Width of right-of-way (ROW) is recognized as the 25-feet east of the should be centerline of the required 50' ROW. Your road improvement shall occur within this 25-foot area.
- Length of roadway to be improved shall begin at the current terminus of the improved area for approximately 425 feet to provide for enough frontage in front of parcel 268 to allow a driveway.
- Width of travelway within the 25-foot ROW will be a minimum of 11 feet with an additional 6-foot improvement for drainage. This is illustrated on Exhibit "B-7".
- The waiver was approved based on using the Town Engineer's guidelines in Exhibit "B-7"

I have enclosed a copy of the portion of approved minutes, Exhibit "B-7", color aerial depicting the area to be improved and the agenda report that described the reasoning for the waiver.

Sincerely,

A handwritten signature in black ink, appearing to read "Debby Franklin".

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

cc: Rivet Lane Road file  
Building Department

**10.b. Action on Road Improvement Waiver Request – Rivet Lane**

A REQUEST FOR A WAIVER TO THE ROAD IMPROVEMENT REQUIREMENTS IN CHAPTER 13 OF THE MALABAR CODE OF ORDINANCES REGARDING THE NORTH END OF RIVET LANE IN SECTION 01, TOWNSHIP 29 AND RANGE 37 WITHIN THE TOWN OF MALABAR. REQUEST BY CHRIS AND NICOLE WILKERSON TO BUILD THE ROAD SHORT.

Franklin explained how Council essentially adopted the variance procedure and changed the name to waiver; BOA is quasi-judicial and required a public hearing; this is a legislative action and does not but still requires professional review so fee is accurate but code could be changed to eliminate public hearing requirement. Franklin read comment from CM Rivet.

MOTION: CM White / CM Vail to approve the waiver request of applicant Wilkerson regarding Rivet Lane granting a 3-foot waiver to the width and a 175' +/- waiver to the length of the improved section.

ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Excused; CM Scardino, Aye; CM White, Aye. Motion carried 4 to 0.

Reminder to Council to finalize the findings at the ROW workshop regarding reducing the widths for accepted road types, i.e., local from 60' to 50'.

**10.c. Action on Notice – Reconsider Appointment of Charles Ryan to Board of Adjustment**

ANY MEMBER MAY BE REMOVED FROM OFFICE FOR CAUSE BY COUNCIL BY WRITTEN CHARGE AND PUBLIC HEARING.

Exhibit: Agenda Report No. 10.a.

Mayor explained the process to be used. He explained this is a meeting in the public – recuse himself from voting in the case of a tie. He passed the gavel as Chair to CM Vail. He will read the charge and then only Mr. Ryan can ask him questions. Later others can speak in support of the charges but will be limited to three minutes. Then there will be the rebuttal and Mr. Ryan, or his representative can speak and then others opposed to the charge can speak but only for three minutes.

Mayor then stepped to podium and read the charge from the notice mailed to Charles “Bud” Ryan. Read the notice and explained that it was sent certified and first-class mail. He presented evidence to Council:

- Exhibit A – applicant’s certification
- Exhibit B – Trespass on Ms. Danielson
- Exhibit C – Picture of Ms. Danielson by a newer model Mustang
- Exhibit D – Trespass on Bud Ryan
- Exhibit E – photo of tire burn out on new pavement
- Exhibit F – email dated 2010 to Nancy Borton from Mr. Ryan –

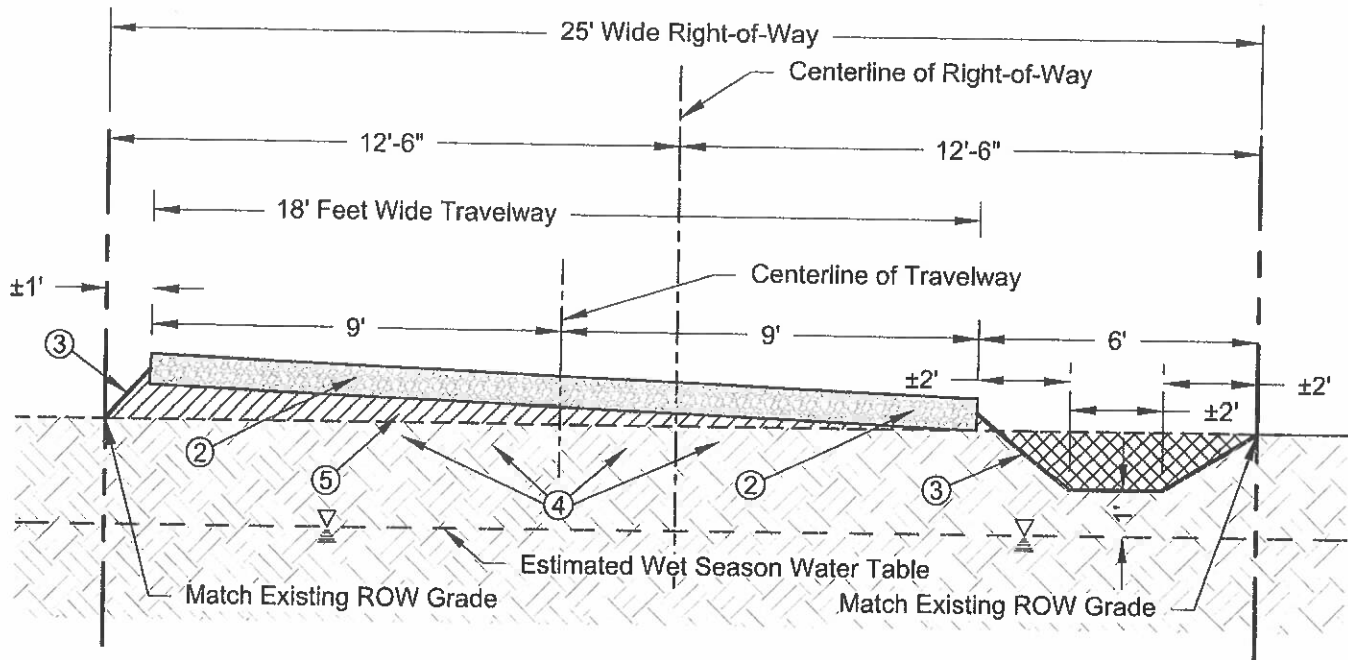
Mr. Ryan – asked Pat about skid marks – who provided pictures. The address is wrong – the date is 19<sup>th</sup> and mailed on 25<sup>th</sup>. Did anyone look into this – did anyone verify. What Mr. Borton verifies. Sent an email today to Clerk for records. Franklin said those were questions, not a PRR. Pat said staff provided pictures. Bud said it was tire tracks not skid marks. Bud asked why the 2010 email was included. Why have it in package? He did apologize at the time to Borton. Franklin read CM Rivet’s comment. Atty said the comment is more of a summation – not evidence in support of the charge. No others.

Called Mr. Ryan to present his defense – he asked if council knew name of Hoke Colburn – name of chauffeur in movie Driving Miss Daisy. He gave Dawn a ride. She wanted a ride to Yellow Dog – thought something was being done illegally. Dropped her off, turned around and picked her up and took her home.



## EXHIBIT "B-7"

### TYPICAL UNPAVED ROADWAY SECTION WITH CONTINUOUS CROSS SLOPE - 25' WIDE RIGHT-OF-WAY



1. Clear and Grub Limits of Right-of-Way, Specimen Trees (See Section 1-15.12 Malabar Land Development Code for Definition) to be Left Outside of Swales. If Location of Specimen Tree is Questionable, due to Possible Damage to Root System When Swale is Excavated, Rely on the Recommendation of a Certified Florida Arborist for Decision to Keep or Remove Specimen Tree.
2. Stabilized and Mechanically Mix 8 Inches of Road Base, Compacted to Minimum 98% of Maximum Density as per AASHTO T-180, Standard Method of Testing for Moisture–Density Relations of Soils, With a Minimum Limerock Bearing Ratio (LBR) = 40. Minimum Cross Slope of  $\frac{1}{2}$  inch per 12 inches = 9 inches over 18 feet.
3. Solid Sod Adjacent to the Stabilized Roadway a Minimum of 1 Foot Wide, Continuously Along Roadway and Solid Sod the Limits of the Drainage Swale Created.
4. Suitable soils Free of Organics. Compact to 98% Density Per AASHTO T-180, Standard Method of Testing for Moisture–Density Relations of Soils.
5. Imported Fill Material, Free of Organics, Compact to 98% Density Per AASHTO T-180, Standard Method of Testing for Moisture–Density Relations of Soils.

## Chapter 13 Malabar Town Code Certification of Costs

Length Improved / Road Name: 460 ft of Rivet Ln (Parcel 268) 25' wide (east of C/L)

Applicant: Mr. & Mrs. Wilkerson Road Builder: LC Consulting Services

Applicant Address: Rivet Lane, Malabar, FL 32950

Phone: 321-560-6683

March 2, 2020: Council approved waiver to Road Improvement Regulations to allow applicant to build road short per Exhibit "B-7" of Road Improvement regulations within the 25 feet lying on the east side of the centerline

Approved by Engineer: Memo from Morris Smith dated 10/16/2020

Council Acceptance of Road Date: November 2, 2020

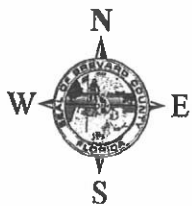
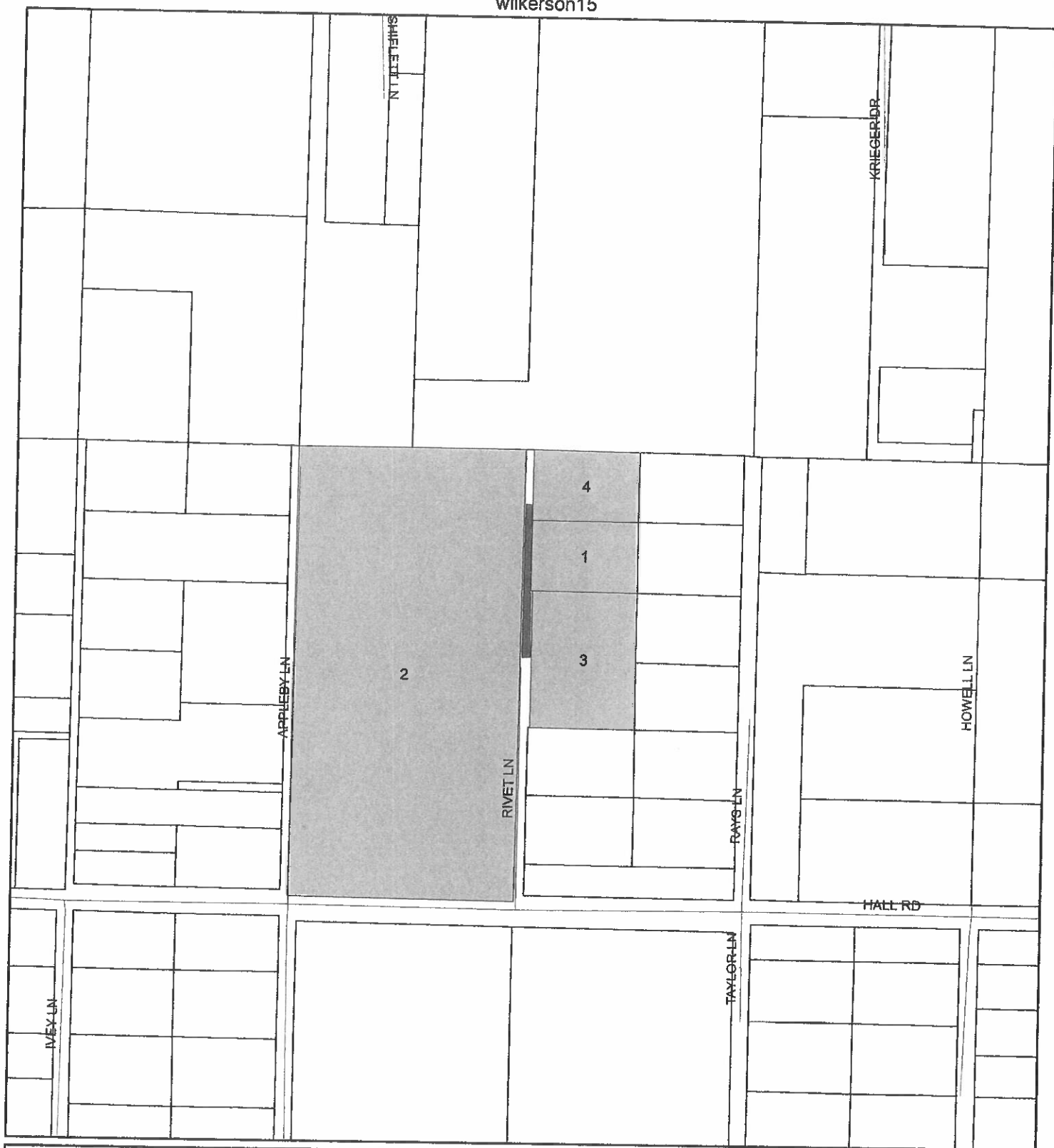
Copy	Description	Amount
_____	Road Waiver Fee	<u>300.00</u>
_____	Application Fee	<u>840.00</u>
_____	Permit Fee	<u>580.79</u>
_____	Materials	<u>included</u>
_____	SJRWMD Permit	<u>n/a</u>
_____	Density Testing	<u>687.00</u>
_____	Soil Boring	<u>850.00</u>
_____	Survey	<u>1,000.00</u>
_____	Engineering	<u>4,000.00</u>
_____	Construction	<u>30,178.10</u>

Total \$38,395.89 for 460 feet @ \$83.47 linear foot  
(This is not divided in half since only the east side of the road was improved – no dedication from property owner on west side)

# RADIUS MAP

NICOLE WILKERSON

wilkerson15







1:4,800 or 1 inch = 400 feet

Buffer Distance: 15 feet

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

Produced by BoCC - GIS Date: 2/6/2020

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

# TOWN OF MALABAR

## COUNCIL MEETING

### AGENDA ITEM NO: 13.a

Meeting Date: May 3, 2021

Prepared By: Lisa Morrell, Interim Town Manager

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**SUBJECT: Malabar Community Park – Replacement Playground Discussion**

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#### **BACKGROUND/HISTORY:**

The Town staff has performed a community survey regarding the replacement playground equipment and provided to the Parks and Recreation Advisory Board at their meeting held on April 21, 2021.

The Park Board members support the replacement of the playground equipment with a recommendation of the Jungle Themed Playground, Item #NUNP-2986, offered by BCI Burke Company located at PO Box 727 Northwest Way, Fond du Lac, Wisconsin, 54937.

The playset offers the same play age group of school age children of 5-12 years as the existing play equipment. The footprint is quite larger, 52 x 52 versus 52 x 39 and the height may interfere with the exist playground shade cover. As such, Town staff has inquired with BCI for further design and fit criteria, inclusion of the swing set to include a "mommy and me" swing, a coastal preservation coating, demo and install costs, and availability of any ordering lead times as well as timeframe for installation to completion.

#### Key Features:

Ages: 5-12

ASTM Use Zone: 52' x 52'

Capacity: 103

Fall Height: 136"

Play Events: 17

Sale Price\*: \$54,799

\*Specifications and pricing subject to change without notice. Sale only applies to the Welcome Spring Sale structures. No changes or modifications permitted other than color. Pricing does not include taxes, installation, surfacing or freight. Must order by June 30th, 2021 and ship by September 30th, 2021. Not applicable with any other offer, discount or grant program. Offer only available to customers in the 48 contiguous United States. Contact your local Burke Representative for details.

#### **ATTACHMENTS:**

Burke Natureplay NUNP-2986.PDF

#### **FINANCIAL IMPACT:**

Parks and Recreation Restricted Fund Balance \$45,160

#### **ACTION OPTIONS:**

No Motion, Town Council discussion with any staff directives.

## NaturePlay NUNP-2986



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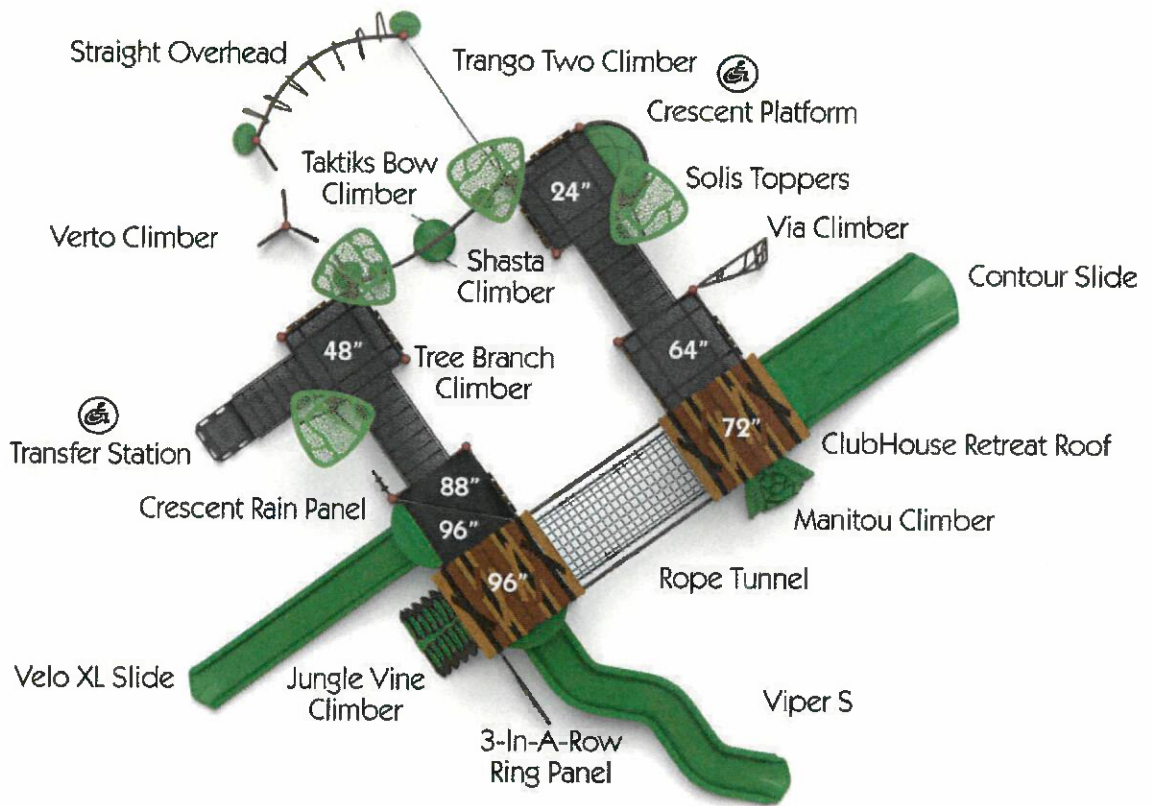
Sale Price\*: \$54,799

NaturePlay® playgrounds bring play to life for children of all ages and abilities! It allows children to grow, develop and engage in ways that they can only do outside. Spending time outdoors is crucial to all aspects of development, including physical, emotional, social and cognitive. Burke's NaturePlay playgrounds bring the benefits of nature to kids wherever they are!

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# NaturePlay NUNP-2986

TOP VIEW



**TOWN OF MALABAR**  
**MEMORANDUM**

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**Date:** April 22, 2021 2021-DMC-02  
**To:** Lisa Morrell, Interim Town Manager  
**From:** Dorothy Carmel, Admin. Assistant  
**Re:** Park & Rec Board Recommendation on Playground

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The Parks and Rec Board met last night, 4/21/21. They have all decided they like the jungle theme for the new playground. Park Board Chair Eric Benoit will be contacting you with some questions they had, like installation, what is the coastal preserve, warranty. But all are in favor with this one and moving forward with purchase.

Thank you.



# TOWN OF MALABAR

## COUNCIL MEETING AGENDA ITEM NO: 13.b. Meeting Date: May 03, 2021

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

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**SUBJECT:** Report on Upcoming Amended Zoning Map for Council Adoption (Ord 2021-05)

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**BACKGROUND/HISTORY:**

This blanket zoning will change approximately 1,716 acres of zoning as shown in Exhibit "A" of the Ordinance 2021-05. It must be heard at two Public Hearings before Council, so I have the display advertising scheduled for May 6 and 27 to appear in a non-legal section of the paper.

I sent out just under 150 letters to individual private property owners advising them of the proposed blanket zoning adoption Council was considering. We received five letters opposing the blanket zoning change; two fronting Babcock want to remain Rural Residential and one on Malabar Road want to remain Rural Residential and two on Malabar want to retain their split zoning of Office Institutional in front and Rural Residential in the back. These properties are circled in black marker on the Exhibit "A" attached to Ordinance 2021-05.

Of the 150 letters sent out, 97 came back in support of the blanket zoning and the rest were no response.

In this package and in the package you get for May 17, 2021 you will also get the updated Future Land Use Map (FLUM) that you can keep handy for future use.

**ATTACHMENTS:**

Ordinance 2021-05 with Exhibit "A"  
Sample letter that went out  
FLUM

**ACTION OPTIONS:**

No Action required – Information only.



**ORDINANCE 2021-05**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR ALL PARCELS EXCEPT THE ONES LISTED IN THIS ORDINANCE; PROVIDING FOR THE EXISTING ZONING CLASSIFICATION FOR THOSE PARCELS; PROVIDING ACCESS TO THE NEW ZONING MAP ON THE TOWN WEBSITE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, The Town Council desires to create a zoning map that reflects the planning horizon adopted in the Comprehensive Plan Future Land Use Map for approximately 1,716 acres within Malabar, primarily along the Malabar Road and Babcock Street corridors and the conservation lands, while providing for exceptions for those property owners that have opposed such zoning change at this time.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA**, as follows:

**Section 1.** The Town Council adopts a zoning map that reflects the adopted planning horizon in the Comprehensive Plan’s Future Land Use Map for approximately 1,716 acres within Malabar, primarily along the Malabar Road and Babcock Street corridors and the conservation lands, with exclusions for those opposing such changes.

**Section 2.** The Town Council has considered the responses from those property owners that wish to retain their existing zoning classification at this time and are identified as the following.

Tax account #: 2851088	Parcel ID: 28-38-31-54-B-52	Size: 12.32 acres
Tax account #: 2851076	Parcel ID: 28-38-31-54-B-4.0	Size: 11.75 acres
Tax account #: 2931413	Parcel ID: 28-37-10-00-548	Size: 1.29 acres
Tax account #: 2931412	Parcel ID: 29-37-10-00-547	Size: 1.29 acres
Tax account #: 2846131	Parcel ID: 28-37-35-00-505	Size: 9.56 acres

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















**Section 3.** The effective date of this ordinance shall be six (6) days following adoption by Council.

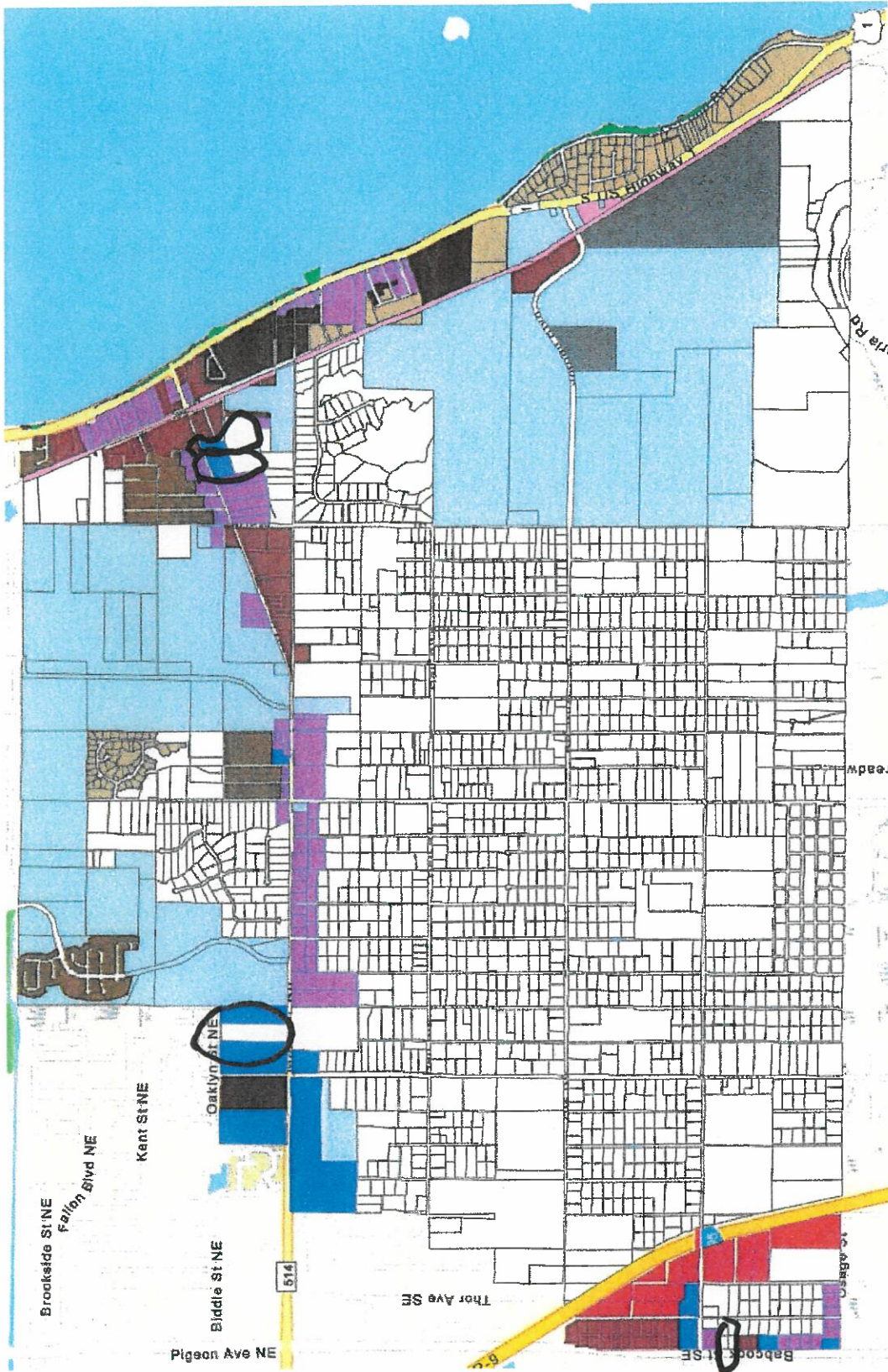
The foregoing Ordinance was moved for adoption by Council Member \_\_\_\_\_. The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

- Council Member Marisa Acquaviva \_\_\_\_
- Council Member Brian Vail \_\_\_\_
- Council Member Steve Rivet \_\_\_\_
- Council Member David Scardino \_\_\_\_
- Council Member Danny White \_\_\_\_

EXHIBIT "A" of Ordinance 2021-05

Future Zoning Map

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





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

*SAMPLE of  
letter  
sent out.*

August 24, 2020

TOWN OF MALABAR

Kenneth Jones, Marjorie Jones  
295 Wooded Lake Drive  
Apex, NC 27502

SEP 04 2020

RECEIVED

Two Parcel IDs: 29-37-10-00-533 and 534, Malabar

Dear Property Owners:

The Town of Malabar updated and amended its Future Land Use Map (FLUM) in the Town's Comprehensive Plan. It is the Town's responsibility to review and update the Planning Horizon every seven years. This provides the "big picture" plan for future development. Separately, every municipality maintains a Zoning map which provides guidance on what is allowed in each zoning classification. Before vacant land is developed, the zoning designation must be consistent with the FLUM designation.

This amendment updated the planning horizon to 2030. In doing so, the land use designation for multiple parcels along the main corridors of Malabar were changed to a mixed-use designation known as Residential/Limited Commercial (R/LC). This designation allows single-family homes, multiple family and limited commercial development. The two parcels referenced above abut Babcock Street have been changed to Residential/Limited Commercial (R/LC). I have enclosed the definition and a Table that shows permitted uses.

Your current zoning designation is Rural Residential (RR-65) requiring 1.5 acres for a single-family home. The only permitted uses in this zoning designation are single-family homes and agricultural.

Should you desire to develop these parcels, it would be necessary to have the Zoning designation match the FLUM designation. The cost to do this at that time would be your responsibility.

Since enacting this FLUM amendment, multiple property owners have successfully requested and been granted Zoning changes to match the new FLUM designation. Council has directed that letters be sent to all affected property owners to solicit their support for proceeding with the corresponding amendment to the Town's Zoning map. Based on the responses received Council will consider doing a "blanket" Zoning Map update for those properties to accomplish the consistency between the FLUM designations and the Zoning designations.

Your input is requested. If you support the Town proceeding with the "blanket" Zoning Map update, please mark below and mail back in the enclosed S.A.S.E.

Support       Object














Signature: Kenneth D Jones

Thank you.

Debby Franklin, C.M.C., Town Clerk/Treasurer  
townclerk@townofmalabar.org

# MALABAR FUTURE LAND USE MAP PLANNING HORIZON TO 2030

## Future Land Use Map

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

