

**TOWN OF MALABAR
REGULAR TOWN COUNCIL MEETING
MONDAY MARCH 7, 2016
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. APPROVAL OF THE MINUTES:**
 - 1. Regular Council Mtg of 2/01/16**
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Request Approval

- E. SHERIFF'S REPORT:**
- F. ATTORNEY REPORT:**
- G. 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.**

- H. PUBLIC HEARINGS: 1**
 - 2. Review Site Plan for Commercial Development & Consider Recommendation from P&Z Board:** Parcel 28-38-31-00-00750- aka 1300 Highway 1, Malabar, FL 32950; Route One Motor Sports- Applicant: KellWill, LLC, represented by Mr. William Carmine & Mr. Vaheed Teimouri, Engineer
 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Request Action

- I. ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS/COMMITTEE; RESIDENT GRIEVANCES; HOA REQUESTS)**
 - 3. Appoint Interim Mayor**
 - Exhibit:** Agenda Report No. 3
 - Recommendation:** Request Action

 - 4. Recommendation from P&Z Board: amend LDC to require 500' radius Notification**
 - Exhibit:** Agenda Report No. 4
 - Recommendation:** Request Action

 - 5. Recommendation from P&Z Board: Amend Ordinance 2014-01 re: ALF in OI**
 - Exhibit:** Agenda Report No. 5
 - Recommendation:** Request Action

- J. ACTION ITEMS:**
 - ORDINANCES FOR FIRST READING: 0**
 - RESOLUTIONS: 1**

6. RESOLUTION 02-2016 - A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR REVISION OF RESOLUTION 04-2011 REGARDING PERMIT FEES FOR NEW RESIDENTIAL AND COMMERCIAL CONSTRUCTION; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 6
Recommendation: Adoption of Reso 02-2016

MISCELLANEOUS:

7. Set Next Workshop Date for Council re: FLUM & R/LC

Exhibit: Agenda Report No. 7
Recommendation: Request Action

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

K. BOARD & COMMITTEE MONTHLY STATUS REPORTS:

P&Z Chair Pat Reilly
T&G Chair Drew Thompson
Park Chair Hans Kemmler

L. DISCUSSION/POSSIBLE ACTION:

M. STAFF REPORTS:

ADMINISTRATOR:
CLERK:

N. REPORTS – MAYOR AND COUNCIL MEMBERS

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

P. ANNOUNCEMENTS:

(2) Vacancies on the Board of Adjustment;
(4) Vacancies on the Park and Recreation Board;
(1) Vacancy on the Planning & Zoning 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 insure 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: 1
Meeting Date: March 7, 2016

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

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

Attached are the summary minutes for the following meetings:

- Council Workshop Meeting Minutes – 1/25/2016
- Regular Town Council Meeting – 2/01/2016

ATTACHMENTS:

Draft Minutes of the following meeting:

- Council Workshop Meeting Minutes – 1/25/2016
- Regular Town Council Meeting – 2/01/2016

ACTION OPTIONS:

The Town Clerk requests approval of the minutes.

MALABAR COUNCIL WORKSHOP MEETING
January 25, 2016 7:30 PM

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

A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Chair Mayor Beatty. Prayer & Pledge were said by Committee Member Grant Ball.

B. COUNCIL/COMMITTEE:

COUNCIL CHAIR:	MAYOR CARL BEATTY
VICE-CHAIR:	BRIAN VAIL
COUNCIL MEMBERS:	GRANT BALL
	DON KRIEGER
	DICK KORN
	RICHARD KOHLER
ADMINISTRATOR	DOUG HOYT, excused
CLERK/TREASURER:	DEBBY FRANKLIN, excused
P&Z BOARD CLERK	DENINE SHEREAR

Also present to participate, at Council's request was P&Z Board Chair Pat Reilly.

C. WORKSHOP ACTION: POSSIBLE GHANGES TO FUTURE LAND USE MAP

Pat presented the P&Z Board's rationale for the proposed changes. He went through each section of Babcock Street and Malabar Road on the overhead showing the current land use and zoning and the proposed changes.

Considerable discussion about changing portion of Babcock that is adjacent to residential on Lett Lane.

There was also discussion on where to divide the land use and zoning along Malabar Road. Pat explained the problem that exists now with OI in the front and RR-65 in the rear. Very hard to develop. They discussed the road widening and if changes should be made before road is widened.

Council thanked Pat for his participation and thanked all of P&Z Board for their hard work. Council will decide on future workshops at their next meeting. CM Krieger asked for copies of the ordinances that changed land use and zoning at Nana's House and the old school house.

D. Chair Beatty, without any further discussion, asked for a motion to adjourn.

MOTION: CM Korn / CM Krieger moved to adjourn the meeting. VOTE: All Ayes.

This meeting adjourned at 9:30 pm.

BY: _____
Mayor Carl Beatty, Council Chair

Denine Sherear, P&Z Board Secretary
Recording Clerk

MALABAR TOWN COUNCIL REGULAR MEETING
February 1, 2016 7:30 PM

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

A. CALL TO ORDER:

The meeting was called to order at 7:30 pm by Council Vice-Chair Brian Vail. Vail asked for a moment of silence for the passing of Mayor Beatty yesterday. CM Vail then continued with the P&P and a commorative of the mayor. He loved this town and

B. ROLL CALL:

COUNCIL CHAIR:	MAYOR CARL BEATTY, deceased
VICE-CHAIR:	BRIAN VAIL
COUNCIL MEMBERS:	GRANT BALL
	DON KRIEGER
	DICK KORN
	RICHARD KOHLER
TOWN ADMINISTRATOR:	DOUGLAS HOYT
TOWN ATTORNEY:	KARL BOHNE
TOWN CLERK/TREASURER:	DEBBY FRANKLIN

For the Record, the Fire Chief Christopher Robinson and multiple members of the FD are also present.

C. APPROVE AGENDA - ADDITIONS/DELETIONS/CHANGES –

None noted - agenda is approved.

D. APPROVE MINUTES –

- | | |
|-------------------------------|-----------------------------------|
| 1. Approval of Minutes | Meeting of 1/04/16 |
| Exhibit: | Regular Council Minutes – 1/04/16 |
| Recommendation: | Agenda Report No. 1 |
| | Request Approval of Minutes |

MOTION: CM Korn / CM Kohler moved to approve the minutes from January 4, 2016 as submitted.

Discussion: CM Krieger said the written minutes were supposed to abbreviate and if you wanted you could hear the audio on the website. He is stating that Jeff's presentation was minimized and the Chief's were extensive. Wants it in the record. Duly noted. **VOTE:** All Ayes.

E. SHERIFF'S REPORT: Deputy said issues noteworthy: two batteries, no thefts, 1 trespass. Other calls for service – any questions. TA Hoyt said he just started receiving those reports this week.

F. ATTORNEY REPORT: Vacancy in seat for Mayor. Less than 1 year remaining, remaining full council shall appoint someone, registered voter, and a resident for one year. Entertain submissions from the public. CM Korn feels like tonight the council should appoint vice chair as chair. The March meeting should be the meeting for appointment of interim Mayor. Accept up until

MOTION: CM Korn / CM Kohler to appoint CM Vail as Chair. CM Krieger disagrees, he is acting Chair. Until they appoint the Mayor. CM Ball said there is no difference in having him remain Vice-Chair and act as Chair. Attorney saw nothing wrong with that. CM Korn withdrew his motion. CM Krieger would like some feedback from Attorney on how the interim Mayor would be selected. Council discussed method used last time. Advertise the opening until the cut-off for the next meeting. Stick with 10 business day before rule for cut-off.

G. 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.**

Paul Goestch, stated they had asked after the last year's event to consider them for participation in Malabar Day by selling the hotdogs and hamburgers. The Boy Scouts have provided this for the past many years. This is part of their outreach. They are Trail Life, started as Pack 37 and is based here in Malabar. They live, work and meet here in Malabar and would like to have a greater involvement in the SpringFest. They would be providing a service to the community. They are not out to do this as a fundraiser. The boys would learn how to interface with the community. Two years ago they provided entertainment and refreshments. Kenny takes pictures during the Spring Fest.

Discussion of the limits of food vendors and if Boy Scouts could sell another non-competing food. American Heritage group would do the popcorn and slushies.

They could do it this year and Grant is trying to get a handle on it. Limit the food. Korn said this is the ultimate decision

MOTION: CM Kohler / CM Ball to allow Trail Life to sell the hamburgers and hotdogs this year based on the fact that they requested it after last year's event. Then they can do it on a rotating basis with the Boy Scouts.

H. PUBLIC HEARINGS: 0

I. ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS/COMMITTEE; RESIDENT GRIEVANCES; HOA REQUESTS)

- | | |
|--------------------------|------------------------------|
| 2. Agenda Request | Beer to be donated (CM Ball) |
| Exhibit: | Agenda Report 2 |
| Recommendation: | Request Action |

Discussion:

CM Ball wanted to bring this up. Last year we decided we would sell beer. We made much less in sales than we paid for the beer. He would like to donate a keg and have it served for free.

CM Korn, said do not have no beer. He doesn't think they have any business to give beer away. Korn said his vote is to not have beer. Has no part of the family day event.

Hoyt said what would Citizen Ball liability be – he asked atty. Hoyt said they could also use a stamp. Ball wanted to make that offer. Krieger said could another vendor also give away beer. Yes. CM Ball does not think it is going to turn into a big beer fest. CM Vail said everyone knows everyone there. It would not be a bad thing.

MOTION: CM Kohler / CM Krieger Don to accept donation of beer. Vote: Ayes, 4; Nay, 1 (Korn)

**J. ACTION ITEMS:
ORDINANCES FOR FIRST READING: 0**

RESOLUTIONS: 2

3. RESOLUTION 02-2016 - A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR AMENDMENT TO RESOLUTION 04-2011, PROVING FOR A REVISED FEE SCHEDULE; PROVIDING FOR THE REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 3
Recommendation: Adoption of Reso 02-2016

CM Krieger wants to leave it on the table.

Hoyt said he and staff have spent a lot of time on this. There is no perfect formula. They attempted to address the fee schedule without harming the existing residents. Put the burden of increased permit fees for the building and development of town on the developer. He would be delighted to meet with council member individually over this or as a workshop. That is 544K that is being subsidized by the existing taxpayers. Chair said do we need a workshop? Put on 3/7 agenda for action. Take it off the table at that time.

4. RESOLUTION 03-2016 - A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF JENNIFER BIENVENU TO THE MALABAR PARKS & RECREATION BOARD AS A REGULAR MEMBER FOR A THREE YEAR TERM; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report 4
Recommendation: Adoption of Reso 03-2016

CM Vail read reso by title only.

MOTION: CM Korn / CM Krieger moved to approve Reso 03-2016.

Discussion:

ROLL CALL Vote: CM Grant, Aye; 1)CM Krieger, Aye; CM Korn, Aye; CM Kohler, Aye; CM Vail, Aye.
 Motion carried 5 to 0.

MISCELLANEOUS:

5. Set workshop to review each map for future land use.

Pick the most important one. These should be prominently placed on the website, be part of the next newsletter, and get public input. We should be looking at the definition for R/LC. Push back on maps and deal with definitions. This is not easily available on the website. Chair asked if he asked staff. Korn said are you suggesting put on the website are you asking for public input at a workshop. Krieger said there should be one form and not two. First you have to identify yourself and put your email. His problem with the form is it should be non- they should be categorized by a number. This is the same problem that all the land use on the major roads in the town. It would be complicated. Newsletter is bad. Put on website for 6 months. Get feedback. Brian said postpone the workshop? Krieger said when these changes were presented to council it was a work in process. Korn said he agrees with Krieger. Continue to move that way. He is trying to involve people and most have no idea. Encourage people to get involved. This is something that is very clear to Krieger. Korn said the point is that most people trust us to do the right thing. Brian said we should advertise the FLUM maps. Postpone setting the WS date. Get it out to public.

6. Set workshop to revisit RLC regulations – Korn suggested having a Joint Council WS with P&Z and then ask the zoning board for their input. Krieger said just have council, no P&Z members. They are doing great work. Everyone has a different opinion. Brian use 2/29/16 slot for the R/LC discussion. There are some things they want to do immediately – like the conservation lands.

7. Set due date for each department to provide inventory of assets – Krieger asked for this last year. This all started because they wanted to have a surplus auction. Things have happened over the course of the last 6 months. They want to know the year, hours, value and expected lifespan

Doug said the inventory and the surplus is something they are in the process of putting together but not just the office, pw and the fd. With the recommendations to get rid of the surplus. Get it out of the town. That is in process. Would the first meeting in April to begin working on this. That is also on top of SpringFest. Target date sb first meeting of April. They asked for an inventory – go with what they are working on – clerk will check minutes on value.

8. Start discussion on policy to dispose of surplus property
Combine with 7.

9. Start discussion on materials needed to start a budget process
Krieger said start that in May. Suggestion was March. - Hoyt said he looked at the Oct Nov Dec the expenditures – we are under by 24% but per individual items are not on target at all. Korn said when Jeff was here, we need to start a little earlier. Second half of May or June – will still give us 3 months. Brian said be gently reminded. Hoyt is comfortable with that. At the end of April get the actual vs budget. He also would suggest that he and Treasurer can present sample budget for their consideration.

10. Set workshop to replace second meeting of the month if needed – 2/29

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

K. BOARD & COMMITTEE MONTHLY STATUS REPORTS:

P&Z Board Chair –
T&G Chair Drew Thompson –
Park & Rec Board Hans Kemmler -

DISCUSSION/POSSIBLE ACTION:

M. STAFF REPORTS:
ADMINISTRATOR:
CLERK: nothing

N. REPORTS – MAYOR AND COUNCIL MEMBERS

- 1)CM Ball -no
- 2)CM Krieger – reiterate the service forms on website are not user friendly.
- 3)CM Korn – re: the loss of Mayor Beatty and his family is not local, is it appropriate to make the resources of the town available. Also think the town should do a memorial service. His whole life was this town. This was his life. Needs to be recognized and honored. Everyone would count him as a friend. Dick would like to be a part of it.
- 4)CM Kohler –
- 5)CM Vail – another consideration re: building permit fees is how many of them (cities) have impact fees. Most of the new construction have quite an impact fee. The comparison is not fair when their fee structure is in conjunction with a 6-8K impact fee. Hoyt does show the breakdown of the impact fees. Also some have a fair – share impact fee. He explained it.

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

Mia Crews, 840 Whimsical Lane, who does the website – have a pix and a memorial of the mayor. Have a feature of him in next newsletter. He graduated in 1963. Korn said we are hosting the March – did attend the CivMil and was a strong supporter of the honor flight.

P. ANNOUNCEMENTS:

- (1) Vacancies on the Board of Adjustment;
- (3) Vacancies on the Park and Recreation Board;
- (1) Vacancy on the Planning & Zoning Board

Q. ADJOURNMENT:

There being no further business to discuss, Vice-Chair asked for a motion.

MOTION: CM Korn / CM Ball to adjourn. **VOTE:** All Ayes. The meeting adjourned at 9:20PM.

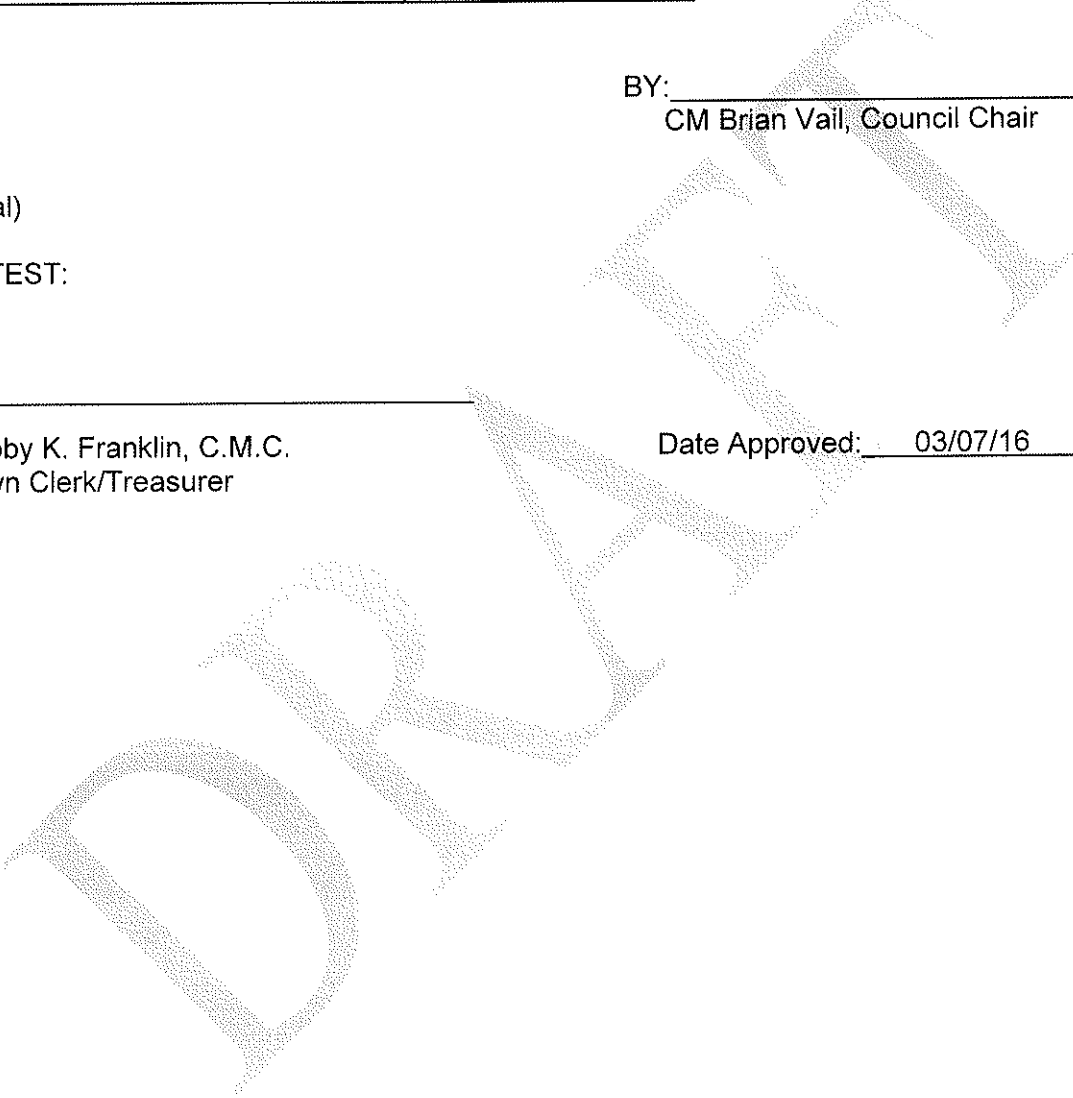
BY: _____
CM Brian Vail, Council Chair

(seal)

ATTEST:

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

Date Approved: 03/07/16



TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: March 7, 2016

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

SUBJECT: Review Site Plan for Commercial Development & Consider Recommendation from P&Z Board: Parcel 28-38-31-00-00750- aka 1300 Highway 1, Malabar, FL 32950; Route One Motor Sports- Applicant: KellWill, LLC, represented by Mr. William Carmine & Mr. Vaheed Teimouri, Engineer

BACKGROUND/HISTORY:

The Applicant, Mr. William Carmine and his Engineer Vaheed Teimouri have presented this site plan for consideration by the Planning and Zoning Board on 2/24/2016. The Board has recommended Council approval with a 4 to 1 vote.

This has been properly advertised and adjacent property owners within 500 feet have been notified of this Public Hearing.

ATTACHMENTS:

- Complete Application package for Site Plan that went to P&Z on 2/24/16.
- Sections of Applicable Land Development Codes
- DRAFT Minutes from P&Z Board meeting of February 24, 2016.
- Large Site Plan

ACTION OPTIONS:

Request Approval of Site Plan

TOWN OF MALABAR

MEMORANDUM

Date: February 26, 2016 16-AABO-005
To: Debby Franklin, Town Clerk/Treasurer
Town Council
From: Denine M. Sherear, Administrative Assistant to the Building official DS

Ref: Recommendation from P&Z to Council for to Approve Site Plan for Commercial Development for Route One Motor Sports, 1300 Highway 1, Malabar FL.

The PZ Board had a Public Hearing meeting on Wednesday February 24, 2016 to review the Site Plan for Route One Motor Sports located at 1300 Highway 1, Malabar FL.

The PZ Board spoke with applicant, Mr. William Carmine & Engineer, Vaheed Teirmouri.

The Board then closed the Public Hearing and discussed the project and reviewed the staff recommendations and made the following recommendation to Council:

Motion: Abare/Foster: Recommend Council Approve Site Plan for Commercial Development for Route One Motor Sports as recommended by Attorney, Planner, Engineer and Building Official and acceptance of the no parking signage recommended by Brian Foster, 3rd party fire reviewer.

ROLLCALL: Foster; Aye, Abare; Aye, Reilly; Aye, Ryan; Nay Ritter; Aye Motion Carried: 4 to 1.

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

MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
February 24, 2016 7:30 PM

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

A. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 7:30 P.M. Prayer and Pledge led by Chair Pat Reilly.

B. ROLL CALL:

CHAIR:	PAT REILLY
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	BUD RYAN
	WAYNE ABARE
	GEORGE FOSTER
ALTERNATE:	DOUG DIAL
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
RECORDING SECRETARY:	DEBBY FRANKLIN, TOWN CLERK
TOWN ATTORNEY:	KARL BOHNE
	TREASURER

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:

- 1. Approval of Minutes** Planning and Zoning Meeting – 01/27/2016 not ready
Planning and Zoning Meeting – 02/10/2016 not ready

E. PUBLIC HEARING:

- 2. Review Site Plan for Commercial Development & make Recommendation to Council:** Parcel 28-38-31-00-00750- aka 1300 Highway 1, Malabar, FL 32950; Route One Motor Sports
Applicant: KellWill, LLC, represented by Mr. William Carmine & Mr. Vaheed Teimouri, Engineer
Exhibit: Agenda Report No. 2
Recommendation: Action to Council

Chair said it was a Quasi-judicial hearing and explained the procedures. He asked if any Board Members had visited the site or spoken with applicant and if so to state disclosures. None.

Chair called Engineer Vaheed Teimouri to the podium. Chair asked him to give an overview of the site plan. Teimori explained he had a cold. The location and the topography were very challenging. Difference of elevation from 35' to 16' was one item. The building is constructed of non-combustible concrete with a Malabar vernacular that is appealing and meets code. The building in back is for receiving and delivery. Some minor repair work in the west portion of building. The access is from close to the turn lane. They contacted FDOT and asked about their parcel on the NW corner of Malabar and Highway 1; FDOT has no plans for that property in the foreseeable future. Shifted the DW all the way to the south to allow vehicles to pull in and out. Provides for stacking. They plan a large cul-d-sac in back that will allow a 75' tractor trailer to turn. Drainage is dry retention. Because of the sand ridge; they have excellent drainage. The plan has met all the requirements of all the outside agencies as well as Malabar code. They have not filed with FDOT yet because they require Town approval of the site plan first. The onsite sewage is on the west side; they placed further to the west to stay away from neighbors wells. They have three

8" fire hydrants throughout the parking lot. Building does not have to be sprinkled. Building is non-combustible. They met with town staff. They have all the agency permits except FDOT. They will make application for driveway access and drainage exemption after Council approval.

Public Hearing opened:

Rolando Rodrigues is an attorney here in town. He thinks this projects fits nicely with Malabar's rural character and urges Board to act favorably. He has reviewed the plans and the package and commends applicant and his engineer for their good planning and design. He supports the project and hopes they approve site plan.

William Carmine, he also spoke with Mr. Milucky today and he had reviewed the plans and is very supportive. Milucky said that the drawings indicated they kept their word and did everything the Milucky's asked – not blocking view of river. Milucky asked him to convey his support with Board and let them know he will be at Council meeting. Carmine has also spoken with other neighbors and everyone is very supportive of the project.

No others to speakers.

Public Hearing closed.

Motion: Abare / Foster: Recommend Council Approve Site Plan for Commercial Development for Route One Motor Sports as recommended by Attorney, Planner, Engineer and Building Official and acceptance of the "no parking" signage recommended by Brian Foster, 3rd party fire reviewer.

Discussion: Foster commended Carmine and Teimouri for the project development. Their willingness to accommodate the town on so many issues is commendable. It is well suited for the location he picked and will be attractive.

Ritter said the project went from a 10,000sf building to double that. She asked if they were bringing fill from top to down in front. Teimouri said no. She asked about the difference in elevations. What is the wall for – retention. It is a stem wall; typical building construction on a hill. Door on north side is for emergency exit. Portion in front of building is flat. Teimouri explained the retention plan and said the retention wall will not be visible from the north side. Ritter questioned the location of the dosing area. It is underground and per FDOT standards. She questioned if the 48' cul-d-sac was big enough with the concrete bump out intruding in the back. Teimouri said if it is big enough to have a tractor trailer turn around. Teimouri also said that access can be worked out before delivery. You have plans; if they are followed then you have done. Even if you have 3 or 4 access points there can still be problems if the plans are not followed. Carmine stated the drivers call ahead of time now at current location. They have had no accidents in ten years. Have a plan and keep it clear. Combination of planning, instructing employees, being proactive and compliance.

Reilly asked about page L1, landscaping plan; he said the two trees on Hwy 1 – he would like them removed. The line of sight will determine if they should be moved/removed. If it not a requirement he would leave them out so the view of the river is not blocked. Reilly also asked about the distance between hydrants; did they need three. Teimouri said that the fire flow requirement is for 3000 gal per min for 3 hours. You are supposed to have redundancy. Reilly thought it was the length of the hose. Teimouri said they have 300' up to 600' feet of hose; it has to do with pressure, not distance. It is very expensive to put three 8" wells with all the fittings. Ryan said in addition you can pull from the retention pond. No, it is dry retention. Water table is 20' down. Abare asked about how the size of retention is determined. Teimouri said there were two parts; first the size of the property and the amount of impervious is determined and a formula is used. The second part is detention – is development creating more runoff. Post construction cannot exceed pre-construction runoff. They have to analyze 48 different storms – from 1 hour to 12 days; a one hour 2 year event all the way up to a one hour 100 year event. With the area as permeable as it is, they will have trouble keeping water.

Ryan stated the applicant went to the full 20% for the building size. And he is concerned with the 3rd party fire reviewer's comments. It is hard for him to minimize those and he thinks someone should look at them. Teimouri said they deal with Brevard County, cities of

Melbourne, Palm Bay and Titusville and they all follow the same NFPA codes and Building codes. Their site plan complies with all current codes of all agencies; there may be some things the reviewer would like to see done but they are not requirements. It would be ideal to have the building in the middle of the lot with a 50' cleared perimeter and three access points, but they can't do that on this property. He has had problems with this reviewer in the past. If you take these recommendations and make them requirements, the project isn't feasible.

Ryan stated if you take these comments it would require major revisions to the plans. Teimouri said the Statute says "the agency having jurisdiction" which is Malabar and the site plan meets or exceeds Malabar code requirements. These are just the reviewer's comments. Foster said you have a 24' wide driveway for a 7' truck to maneuver and then you have a huge 48' cul-d-sac that a 75' tractor trailer can use. Ryan asked if a different consultant would have different recommendations. Teimouri said every day of the week. Ritter said so these are his comments, they are not code. That is correct.

Abare said more is the enemy of good enough. Foster said they are exceeding the fire code requirement of 20' for driveway width and they have a 24' roadway proposed. Reviewer would like to see a 30' wide driveway. The wider you make the drive, the more drivers will be inclined to park there. Carmine added that water does not put out gas fires; it does not put out fiberglass fires. They designed the building to be non-combustible. The vehicles stored inside do not have gas or batteries in them. Teimori gave example of when car lots have big "sales" – you can't drive in there; those areas are full of parked cars parking in fire lanes and driveways, etc. They have taken all the necessary measures and more-so; they have met all the requirements.

Abare asked Denine if she and Building Inspector looked over all the plans – has applicant met all our requirements, county requirements. She said yes, county for septic and well, ours per code, storm water per SJRWMD. All outside agencies. Attorney Bohne said to make sure the minutes reflect whatever the recommendation and any conditions. He also said you can't impose a wish list on anybody.

Re: Engineer comment: the SW outlets were reversed on plan and that has been corrected. Teimori said they don't have problem with the "no-parking" signage, but they can't do the striping. Abare and Foster agreed to amend motion to reflect staff's recommendation and the one item from outside fire reviewer to put up "no parking" signage.

ROLLCALL: Foster, Aye; Abare, Aye; Ryan, Nay; Ritter, Aye; Reilly, Aye.
Motion Carried: 4 to 1 (Ryan).

- F. ACTION:
- G. DISCUSSION:
- H. ADDITIONAL ITEMS FOR FUTURE MEETING
- I. PUBLIC: none
- J. OLD BUSINESS/NEW BUSINESS:

Old Business: Denine said the ALF proposed on Highway 1 has contacted Palm Bay and there is some paperwork being recorded. It is still all very preliminary. Board asked if applicant the ALF was proceeding with waterline. Denine said this information just came in this week. ALF has not submitted a site plan.

New Business:

K. ADJOURN

There being no further business to discuss, MOTION: Ryan / Ritter to adjourn this meeting.
Vote: All Ayes. The meeting adjourned 8:37P.M.

BY:

Patrick Reilly, Chair

TOWN OF MALABAR

MEMORANDUM

Date: February 17, 2016 16-AABO-004
To: Planning & Zoning Board
From: Denine M. Sherear, Administrative Assistant to the Building official
Ref: Kellwill, LLC- Mr. Willy Carmine Applicant & Vaheed Teimouri, Engineer
For Site Plan Application to build @1300 Highway 1, Malabar FL

The Applicant KellWill, LLC , Mr. Willy Carmine along with his Engineer Mr. Vaheed Teimouri has applied for a Site Plan Review to move forward with a Commercial Business for the sale and repair of motorsports to be located at 1300 Highway 1, Malabar. The zoning is "CG" Commercial General.

There is 3.22 acres on this parcel.

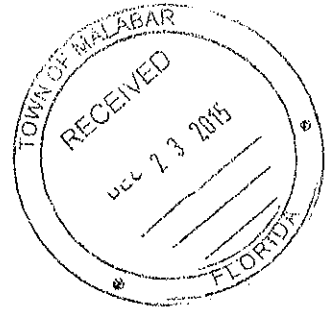
Attached please find:

- Application for Site Plan
- Radius Package 500'/Mailing to Residents
- Gopher Tortoise Survey
- Property information
- Survey/Site Plan-Revised 2/17/2016 (Large folded plans)
- Building Plan (Large folded)
- Portion of Article III District Provisions
- Article VII Site Plan Review
- Sec 1-5.29- Malabar Vernacular
- Development Agreement
- Staff Comments

The Planning & Zoning Meeting is set for February 24, 2016 @7:30PM and the Council Meeting is set for March 7, 2016@7:30PM here at Town Hall 2725 Malabar Road, Malabar, FL 32950.



TOWN OF MALABAR
 2725 Malabar Road, Malabar, Florida 32950
 (321) 727-7764 Ext. 14
 Fax # (321) 727-9997



APPLICATION FOR NON-RESIDENTIAL SITE PLAN REVIEW

Project Name: ROUTE ONE MOTOR SPORTS Date: 12-21-15

Developer Name: KELLWILL, LLC Telephone: _____
 Mailing Address: 1300 US HWY 1 Fax: _____

City, State, Zip: MALABAR, FL. 32950 Cell: 321-626-1835

Name of Property Owner(s): KELLWILL, LLC Telephone: 32-626-1835

E- Mail Address: WILLY@ROUTE1MOTORSPORTS.COM

Mailing Address: 1300 US HWY 1 Fax: _____

City, State, Zip: MELBOURNE, FL. 32950 Cell: _____

Name of Engineer(s): TEIMOURI ASSOCIATES, INC. Telephone: 321-729-8582

Mailing Address: 32 E. NEW HAVEN AVE Fax: 321-729-8969

City, State, Zip: MELBOURNE, FL. 32901 Cell: 321-509-5422

Name of Architect(s): EDC, INC. Telephone: 321-727-2056

Mailing Address: 2115 PALM BOY ROAD #6

City, State, Zip: PALM BOY, FL. 32905 Cell: _____

Legal Description of Property Covered by Application:

Township: 28 Range: 38 Section: 31 Lot/Block: N/A Parcel: 760

Subdivision: _____ Tax Acct No.: 2850906

Other Legal: _____

Present Land Use Designation: COMMERCIAL Present Zoning Classification: GC

Zoning of abutting property: North: GC South: GC East: US 1 West: RAILROAD

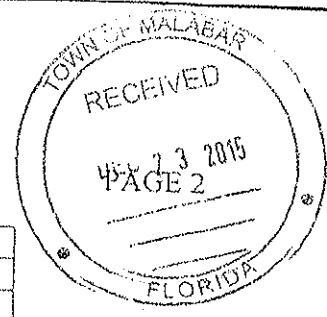
Existing and Proposed Use for Property: VACANT, MOTOR SPORTS SALES AND SERVICE.

Gross acreage: 2.97 Net acreage: _____ Gross density: N/A

Setbacks: Required and Proposed: Front: 20' 110' 167.7' Rear: 25' 186.8'

Side: 20' 20' ; Side corner: 20' 20' 46.0'

Flood Zone: X Per FEMA Flood Insurance Rate Map



SITE PLAN APPLICATION AND CHECKLIST

Site Acreages:

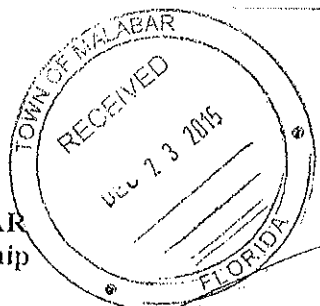
	SF	Acres	Percentage
Pervious	58,607	1.35	45.83%
Impervious	70,679	1.62	54.67%
Pond (WET)	0	0	0
Total	129,286	2.97	100.0%

Wetlands Present: NO Mitigation required? N/A Permit required? NO

The applicant is required to submit TWO original Site Plans with supporting documents, 10 TEN paper copies and ONE copy on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents. The following information is required per Article VII of the Malabar Land Development Code and must be shown on the site plan (SP) or submitted as an addendum (AD) to the site plan. Please mark where the following information can be found:

- Landscape and irrigation plan (existing and proposed) shown on plans.
- Boundary of property shown by a heavy line.
- Access by means of paved dedicated right-of-way (driveway width).
- Topographic survey for existing and proposed conditions.
- Existing and proposed structures shown on site plan (including setbacks from all property lines and normal high water elevation and building separations).
- Typical front, rear and side elevations of proposed structure(s).
- All existing and proposed utilities (including inverts of pipes, etc)
- Location of all easements.
- Fire protection, existing and proposed that meet state and local requirements.
- Proposed location of well.
- Proposed location of septic and drain field
- Stormwater management plan (including soils report and drainage calculations)
- Flood Zone(s) depicted on site plan. C-2
- Tree Location Survey identifying trees inches dbh and larger.
- Tree Plan prepared or approved by a Florida registered landscape architect.
- Required Open Space/Recreational areas. N/A

Updated 05/02/12



SITE PLAN APPLICATION AND CHECKLIST

TOWN OF MALABAR
Disclosure of Ownership

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

Please complete only one of the following:

I/we, _____, being first duly sworn, depose and say that I/we, am/are the legal representative(s) of the Owners or lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said are to be honest and true to the best of my/our knowledge and belief.

Applicant(s)

_____ Date

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

Notary public, State of Florida
Commission No. _____ My Commission Expires _____

Notary Signature

I/we, William Carmine, being first duly sworn depose and say that I/we, am/are the Owner(s) of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my/our knowledge and belief.

William J. Carmine

12/23/15

Applicant(s)

Date

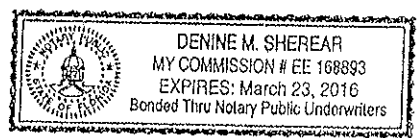
Sworn and subscribed before me this day 23 day of December, 2015

Notary Public, State of Florida
Commission No. EE 168893 My Commission Expires March 23, 2016

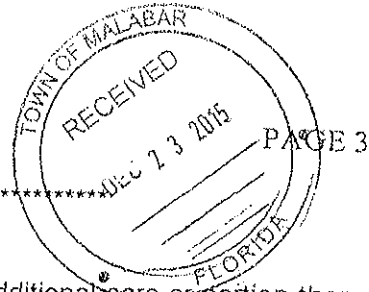
Denise M. Sherear

Notary Signature

Updated 05/02/12



SITE PLAN APPLICATION AND CHECKLIST



Site Plan Review - \$300 for the first acre plus \$50 per acre for each additional acre or portion thereof for projects consisting of 1,000 or more square feet of impervious surface; plus all costs, excluding advertising, administrative time, and mailing.

- Summary of Required Attachments for Site Plan Review:
 - o Completed Application, including Disclosure of Ownership (Pages 1 and 2).
 - o Radius Package for 500' distance from project site perimeter – obtained from the Brevard County Planning and Zoning GIS Department in Viera – call 321-633-2070 x52245
 - o Fee of \$ 400.00, in **check or money order**, payable to the Town of Malabar.
 - o Site Plan – (10) paper copies plus one electronic copy.
 - o Reason for Site Plan Review (attach correspondence, drawings, etc.)
 - o Copies of all Federal, State, and Local agency permits. It shall be the applicant's responsibility to obtain such outside permits.

Signature of Applicant(s):

Date:

William J. Brown

12/23/15

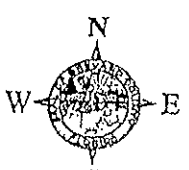
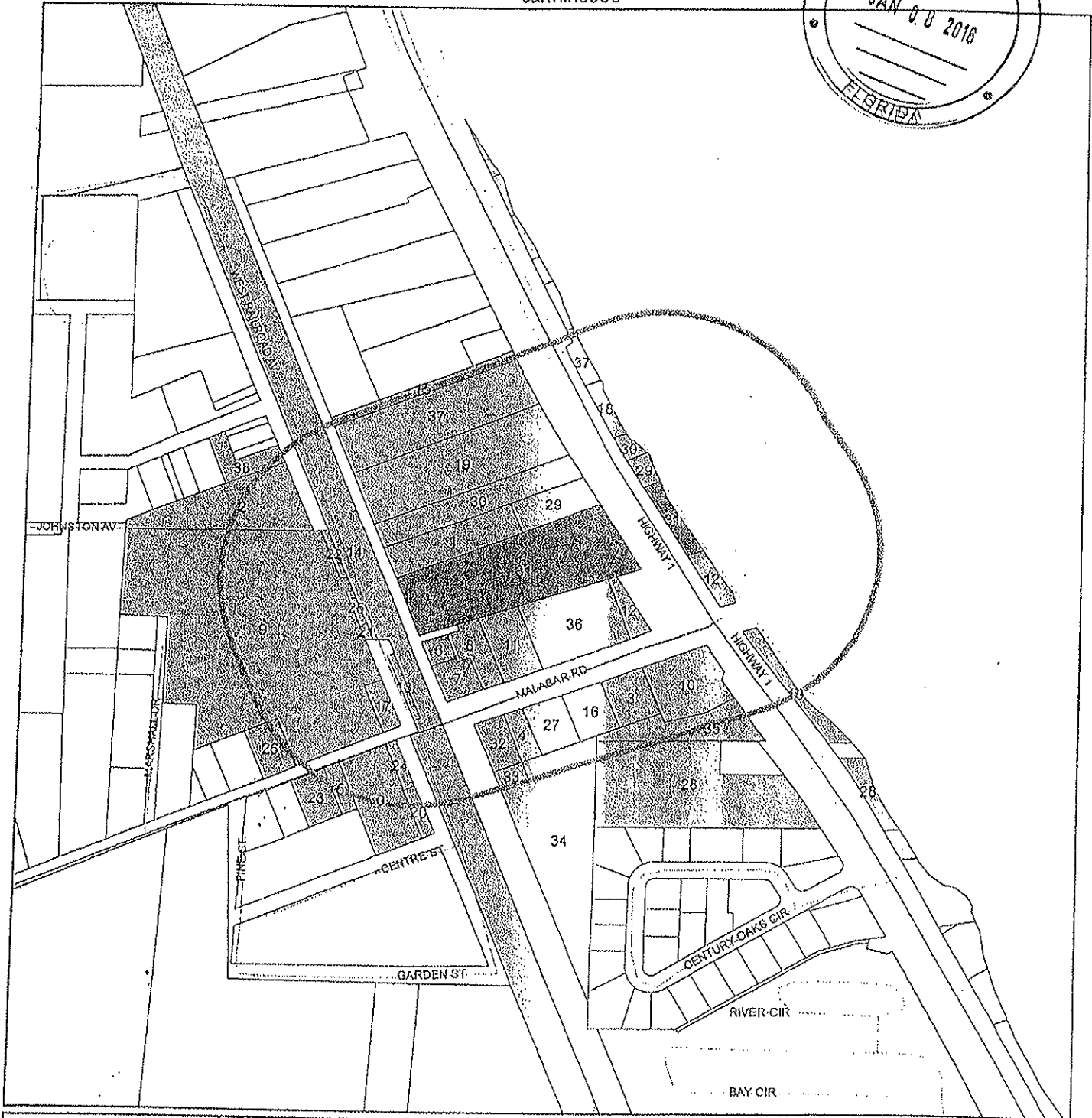
Demio M. Sheena

12/23/15

Signature of Town's Personnel





Updated 05/02/12

RADIUS MAP
 NOLA PRIME PROPERTIES LLC
 carmine500

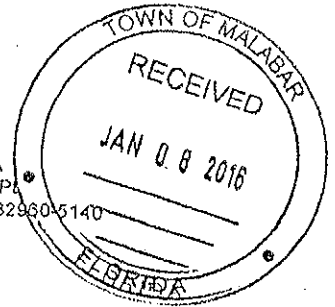


1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does



RAY, DEANNE HUGGINS
P O BOX 500176
MALABAR FL 32950-0175

WIEHL, SAMANTHA S
1230 US HIGHWAY 1
MALABAR FL 32950-0000

WOOD, MELVIN C
WOOD, REBECCA
726 ROYAL PALM PL
VERO BEACH FL 32960-5140

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

CARMICHAEL, C RANDALL
609 ALDEN PLACE
MELBOURNE BCH FL 32951-0000

CARMINE LLC
P O BOX 600835
MALABAR FL 32950-0835

COCHRANE, PAULINE
COCHRANE, ROY H/W
P O BOX 500833
MALABAR FL 32950-0833

CURRI PROPERTIES LLC
2893 N HARBOR CITY BLVD
MELBOURNE FL 32935-6224

DEBELLAS, JOSEPH TRUSTEE
MARKS, ROBERT D
1100 BROOK ST NE
PALM BAY FL 32905-0000

DEVVRAT CORPORATION INC
1360 HIGHWAY 1
MALABAR FL 32950-0000

EASTON, RICHARD
EASTON, MARY K H/W
8514 DAMASCUS DRIVE
PALM BEACH GARDENS FL 33418-0000

EDGER PROPERTIES LLC
1872 WEST HIBISCUS BLVD
MELBOURNE FL 32901-0000

FDG RAIL HOLDINGS 14 LLC
4601 TOUCHTON RD
JACKSONVILLE FL 32246-0000

FLORIDA EAST COAST RAILWAY LLC
7411 FULLERTON ST SUITE 300
JACKSONVILLE FL 32256-3629

FRANCO, HECTOR I
WIEHL, SAMANTHA SUSAN
1230 US HIGHWAY 1
MALABAR FL 32950-0000

KEMMLER, HANSEL C
KEMMLER, BARBARA B H/W
2785 MALABAR RD
MALABAR FL 32950-0000

KEMPFER'S FEED & SEED INC
2728 MALABAR ROAD
MALABAR FL 32950-0000

KRIEGER, DONALD E
2345 LINEBERRY LANE
MALABAR FL 32950-0000

MINNELL, MICHAEL L
DOUGLAS, CONNIE S H/W
275 GRANT RD
GRANT FL 32949-8104

MALABAR, TOWN OF
2725 MALABAR RD
MALABAR FL 32950-0000

MALABAR, TOWN OF
1803 AIRPORT BLVD
MELBOURNE FL 32901-0000

MARSHALL, JIMMIE A TRUSTEE
P O BOX 500176
MALABAR FL 32950-0176

MARSHALL, LORRAINE LIFE ESTATE
P O BOX 500031
MALABAR FL 32950-0031

BILLIE, GEORGE SR TRUST
912 DARWIN LN NE
PALM BAY FL 32905-0000

SSINGILL, DANNY G
0 HIGHWAY 1
MALABAR FL 32950-0000

MILUCKY, JAMES J
1280 HIGHWAY 1
MALABAR FL 32950-0000

MILUCKY, JAMES J
SAYLORS, LEEANNE J H/W
1280 HIGHWAY 1
MALABAR FL 32950-0000

A PRIME PROPERTIES LLC
S PATRICK DRIVE
N HBR BCH FL 32937-0000

PROCTOR, DOUGLAS K
2460 MALABAR ROAD
MALABAR FL 32950-0000

QUINBY SNYDER LLC
608 B N US HIGHWAY 1
FORT PIERCE FL 34950-0000



Sent Via Email:brelegals@ gannett.com

February 9, 2016

Please place the following legal ad two times on **Thursday, February 11 and February 25, 2016**. Please put the heading in **BOLD** font. This ad does NOT qualify for a discount. One affidavit is all that is required. Please send proof to: TownClerk@TownofMalabar.org.

Thank you,
Debby K. Franklin
Town Clerk
TOWN OF MALABAR

NOTICE OF PUBLIC HEARINGS

This is a Public Notice for two (2) Public Hearings. The Town of Malabar's Planning and Zoning Board will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Wednesday, February 24, 2016 at 7:30 pm or as soon thereafter as the matter can be heard, for a public hearing on a request for Site Plan Approval for a Commercial Retail Sales and Service Development known as Route One Motorsports at 1300 Highway 1, Malabar, Township 28S, Range 38E, Section 31, Lot 750, 2.97 acres west of Highway 1, in CG, Commercial General Zoning and Flood Zone X. Applicant William Carmine, KellWell, LLC, represented by engineering firm of Teimouri and Associates, Inc. Malabar Town Council will then consider the Applicant's request and the Planning and Zoning Board's recommendation at a Public Hearing scheduled for March 7, 2016 at 7:30 pm or as soon thereafter as the matter can be heard.

The proposed project site plan may be inspected by the public at the Town Clerk's Office between the hours of 8:30AM and 4:30PM weekdays. Interested persons are encouraged to appear at these hearings and provide comments regarding the proposed project. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764.

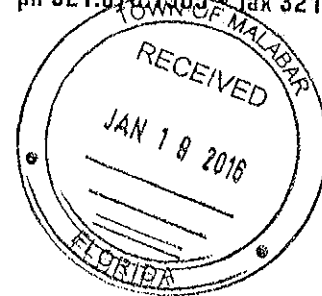
Debby K. Franklin, Town Clerk

If you received this notice then you are listed as a property owner, as shown in the records of Brevard County Property Appraiser's office, within 500' of the property identified in the site plan. This Notice is provided as required by F.S. 163.3225 and Malabar Land Development Code, Article XII, Section 1-12.2.E.8.

May 14, 2015

Kellwill, LLC
c/o Don Bo
PO Box 587
Grant, Florida 32949

Re: Gopher Tortoise Survey
Parcel # 28-38-31-00-00750.0-0000.00
1300 Highway 1
Malabar, Florida
AES File No. 1563



Dear Mr. Bo:

Atlantic Environmental Solutions, Inc. (AES) has completed a habitat assessment and gopher tortoise survey on the above-referenced ± 3.22 acre property located at 1300 US Highway 1 in Malabar, Florida. The site survey was completed on May 14, 2015. Following is a summary of our findings.

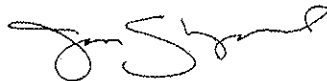
AES conducted a habitat assessment and formal gopher tortoise survey of the proposed clearing area of the subject property using protocol accepted by FWC. AES surveyed 100 percent of the proposed clearing area and no tortoise burrows or evidence of tortoise usage (tracks, scat, etc.) were located. On-site vegetation is dominated by live oak, cabbage palm, hickory, ragweed, Spanish needles, Johnsongrass, and opportunistic weedy species. The site is comprised solely of uplands.

Since no potentially active tortoise burrows were located during our survey, no gopher tortoise permits will be required for site impacts. If you have any questions, or if we can be of additional service, please do not hesitate to contact our office.

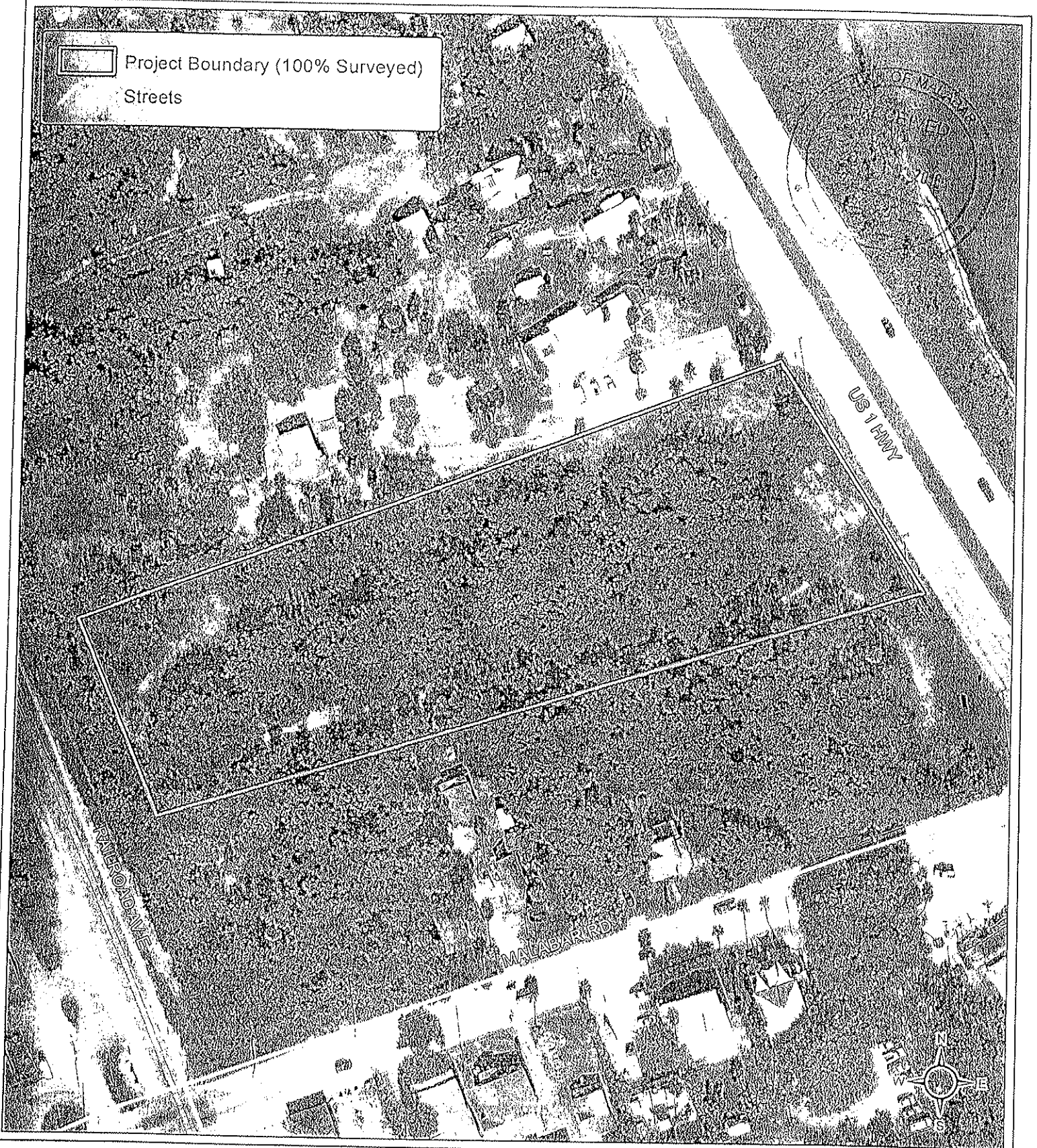
Sincerely,



David G. Purkerson, MS, PWS
Senior Ecologist



Jon H. Shepherd, MS, PWS
President/Ecologist



Project: Malabar 3.22 Acres

Figure 1: Aerial Map

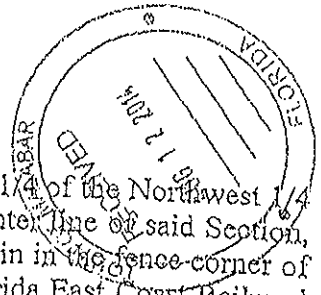
0 50 100 200 Feet

2014 Aerial, Brevard County, Florida

ATLANTIC
 ENVIRONMENTAL SOLUTIONS
 ENVIRONMENTAL PERMITTING & MITIGATION
 AES Proj # 07550

LEGAL DESCRIPTION

Exhibit "A"



Beginning at old concrete post at the Southwest corner of the Southeast 1/4 of the Northwest 1/4 of Section 31, Township 28 South, Range 38 East, thence along the center line of said Section, South 88 degrees and 50 minutes East a distance of 688 feet to an iron pin in the fence-corner of the Northwest corner of the Farley property on the East side of the Florida East Coast Railroad right-of-way and 50 feet East of the center of the Southbound track of said railroad, thence Southerly along the East side of said railroad right-of-way a distance of 370 feet to an iron pin in the fence corner at the Southwest corner of the Farley property which point is the Place of Beginning, thence follow old fence approximately North 72 degrees and 30 minutes East a distance of 792 feet to concrete post on West shore of Indian River ("X" a Palm North 10 degrees East 8 feet and Palm North 40 degrees West 7.2 feet) thence continue on a straight line to the shore of the Indian River, thence follow the meanderings of the shore of the Indian River to point 200 feet Northwesterly from the above line, measured at right angles; thence Southwesterly parallel to said line of the Southeasterly side of the Farley tract and 200 feet distant therefrom to the fence on the East side of said railroad right-of-way at a concrete post, thence Southeasterly along the East side of said right-of-way to the Point of Beginning. Less and except road right-of-way for U.S. Highway No. 1 as presently exist, and LESS AND EXCEPT a right-of-way for East Railroad Avenue.

Dana Blickley, CFA
Property Appraiser
Brevard County, FL



Property
Details

General Parcel Information

Parcel ID:	28-38-31-00-00750.0-0000.00	Millage Code:	34Z0	Exemption:		Use Code:	1000
Site Address:	1300 HIGHWAY 1 , MALABAR 32950					Tax ID:	2850966

Site Address is assigned by Brevard County Address Assignment for E-911 purposes and may not reflect the postal community name.

Owner Information

Owner Name:	KELLWILL LLC
Second Name:	
Mailing Address:	P O BOX 587
City, State, Zipcode:	GRANT, FL 32949-0587

Abbreviated Description

Sub Name:	PART OF LOTS 2,3 AS DES IN DB 287 PG 359 EX RD R/W
------------------	--

Value Summary

Roll Year:	2013	2014	2015
Market Value Total: ¹	\$204,480	\$204,480	\$210,480
Agricultural Market Value:	\$0	\$0	\$0
Assessed Value Non-School:	\$204,480	\$204,480	\$210,480
Assessed Value School:	\$204,480	\$204,480	\$210,480
Homestead Exemption: ²	\$0	\$0	\$0
Additional Homestead: ²	\$0	\$0	\$0
Other Exemptions: ²	\$0	\$0	\$0
Taxable Value Non-School: ³	\$204,480	\$204,480	\$210,480
Taxable Value School: ³	\$204,480	\$204,480	\$210,480

Land Information

Acres:	3.22
Site Code:	114
Land Value:	\$210,480

1: Market value is established for ad valorem purposes in accordance with s.193.011(1) and (8), Florida Statutes. This value does not represent anticipated selling price for the property.

2: Exemptions are applicable for the year shown and may or may not be applicable if an owner change has occurred.

3: The Additional Homestead exemption does not apply when calculating taxable value for school districts pursuant to Amendment 1.

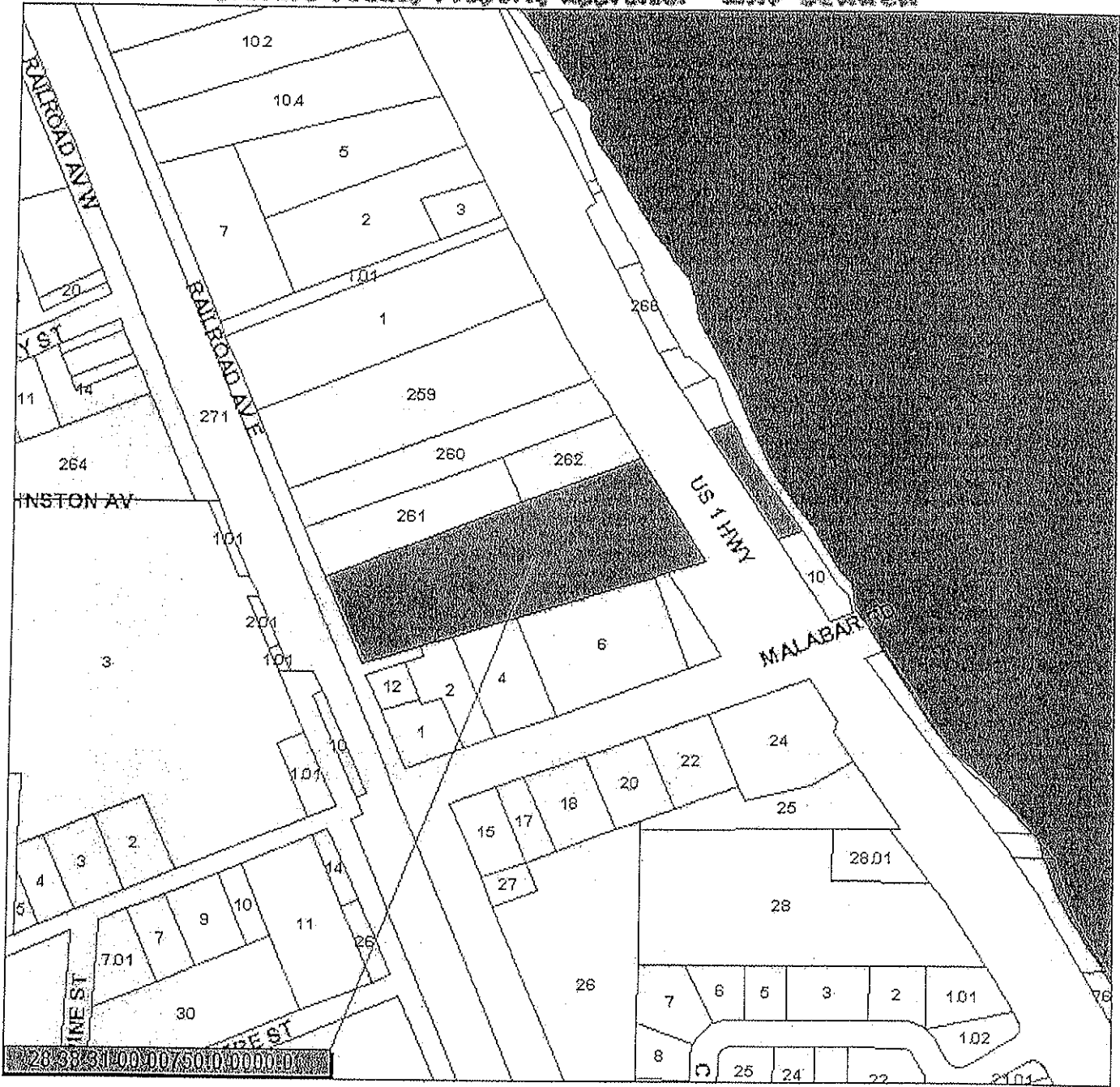
Sale Information

Official Records Book/Page	Sale Date	Sale Amount	Deed Type	Sale Screening Code	Sale Screening Source	Physical Change Code	Vacant/Improved
7137/2345	5/29/2014	\$147,500	WD	30			V
7137/2342	4/12/2014	\$100	PR	11			V
6486/1809	11/11/2011	\$100	QC	11			V
5951/1036	5/5/2009	\$348,500	QC	11			V
5392/1294	11/30/2004	\$575,000	WD		03		I
4304/0890	3/6/2001	\$100,000	WD	05	01		I
3398/0342	6/1/1994	\$60,000	99		03		I
2903/1646	5/1/1988	\$100	WD				V
2824/0192	7/1/1987	\$100	WD				V
2720/1089	8/1/1986	\$0	NN				V

Sale screening and sale screening source codes are for assessment purposes only and have no bearing on potential marketability of the property.

Dana Blickley, CFA

Brevard County Property Appraiser - MAP SEARCH



Zoom To	Account	Owner	Property Address	Parcel Identifier
1	Aerial2850966	KELLWILL LLC	1300 HIGHWAY 1	28-38-31-00-00750.0-0000.0


- Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses (except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), general retail sales and services, warehousing, and outside storage; and
- Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
- A Malabar Vernacular Style is required for all development along arterial roadways.

J. *INS "Institutional Services."* The INS district is established to implement comprehensive plan policies for managing institutional development. The district is intended to accommodate public and semi-public facilities such as government administration buildings; fire, police, and rescue services; health care delivery services; and educational institutions. Land uses such as places of worship, cultural or civic centers, and other similar public or private not-for-profit uses may be included within this district.

K. *CL "Commercial Limited."* The CL district is established to implement comprehensive plan policies for managing limited commercial development accessible to major thoroughfares near residential neighborhoods. Such development is intended to provide essential household services in locations highly accessible to residential areas. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods. Such shops generally cater to the following markets:

- Neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional market; or
- A specialized market with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for limited commercial development are not intended to accommodate large-scale retail sales, services, and trade activities, generally serving a city-wide or regional market. Such stores would usually differ from limited commercial shops since the former would usually require a larger floor area, carry a relatively larger inventory and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposable containers and/or providing drive-in facilities. No residential uses shall be located in the limited commercial district.

 L. *CG "Commercial General."* The CG district is established to implement comprehensive plan policies for managing general commercial development. The general commercial

district is designed to accommodate general retail sales and services. Sites designated for CG zoning shall be located in highly accessible areas adjacent to major thoroughfares which possess necessary location, site, and market requirements required by general commercial land use activities.

The general commercial district shall also accommodate commercial trades in strategically designated areas as defined in the conditional use criteria. Development standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

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

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

- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
 - Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
 - Compatibility with and impact on other surrounding commercial activities;
 - Relationship to surrounding land uses and natural systems; and
 - Impact on existing and planned community services and utilities.
 - A Malabar Vernacular Style is required for all development along arterial roadways.
- M. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods.
- Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

DISTRICT PROVISIONS

§ 1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P								
Mobile Homes							P				P			
Multiple Family Dwelling														
Single Family Dwellings	P	P	P	P	P	P	P				P			
COMMUNITY FACILITIES														
Administrative Services														
(Public and Not-for-Profit)														
Child Care Facilities								P	P	P	P		P	
Churches, Synagogues and Other Places of Worship	C	C	C	C	C	C		P, A ¹	P	P	P			P
Clubs and Lodges (Not-for-Profit)														
Cultural or Civic Activities									P	P				
Educational Institutions								P	P	P	P			P
Golf Course Facilities	C							C, A ¹						C
Hospital and other Licensed Facilities														
Nursing Homes and Related Health Care Facilities								C						C
Protective Services					C	C		C						C
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C
COMMUNITY RESIDENTIAL HOME														
Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C								C
ASSISTED CARE COMMUNITIES														
I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴								
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴					C			
Level 3 (16 or more residents/beds)														
II Adult Family-Care Homes (1 to 5 residents/beds)	C ³	C	C	C	C	C								
III Adult Day Care Centers					C	C		C			C			C
AGRICULTURAL ACTIVITIES														

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities														
Bars and Lounges										C				
Bed and Breakfast										C				
Business and Professional Offices											P ¹			
Enclosed Commercial Amusement							P		P	P	P	P	P	
Arcade Amusement Center/ Electronic Gaming Establishment										P				
Funeral Homes										C ²				
General Retail Sales and Services									P	P	C			
Hotels and Motels										P				
Limited Commercial Activities										P				
Marine Commercial Activities									P	P				
Medical Services										C*				
Mini Warehouse/Storage							P		P	P	P			
Parking Lots and Facilities									C	P		P		
Retail Plant Nurseries							P		P	P	P		P	
Restaurants (Except Drive-Ins and fast food service)									P	P	P			
Restaurants (Drive-ins)										P				
Service Station, Including Gasoline Sales										P				
Trades and Skilled Services										C*		C*		
Veterinary Medical Services										C*		P		
Vehicular Sales and Services							P		P	P	C	P		
Vehicular Services and Maintenance										C*		P		
Wholesale Trades and Services										C*		P		
INDUSTRIAL ACTIVITIES														
Kennels														
Manufacturing Activities													C	P

DISTRICT PROVISIONS

§ 1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Manufacturing Service Establishments														
Vehicle and Other Mechanical Repair and Services												P		
Warehouse, Storage and Distribution Activities										C*		P		
WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES														
Noncommercial piers, boat slips, and docks												P		
														C

- C = Conditional Use
- P = Permitted Uses
- A = Accessory Use
- * = These uses are permitted only on sites abutting Babcock Street, US 1, and West Railroad Avenue.
- 1 = Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.
- 2 Any Bed and Breakfast which is proposed to have more than five (5) living quarters shall only be approved as a conditional use in accordance with Article VI of the Land Development Regulations.
- 3 Any Arcade Amusement Center and Electronic Gaming Establishment as defined herein shall only be approved as a conditional use in accordance with Article VI of the Malabar Land Development Code.
- 4 Allowed in RR-65, (1 to 2 residents/beds) as defined in FS Title XXX Chapters 419 & 429
- 5 ALF Factor of "3" (see section 1-2.6.B.13.B, Part D) only applies to RM-4 & RM-6 for ALF's (Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14)

Section 1-3.3. Size and dimension criteria.

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

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

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

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

Zoning District	Minimum Lot (l)			Maximum Height (ft./stories)	Depth (ft.)	Minimum Living Area (sq. ft.)	Setback (ft./ft)			Minimum Impervious Surface Ro. to (sq. ft)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Area (sq. ft.)				Front	Rear	Side (l)				
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	30	30	30	20	N/A	80	0.66	
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	30	15	15	35	N/A	63	2.00	
RS-15	15,000	100	120	35/3	1,500	30	15	15	45	N/A	55	2.904	
RS-10	10,000	75	100	35/3	1,200	25	10	10	50	N/A	50	4.00	
Multiple Family Residential Development													
RM-4	5 Acres Minimum Site	200	200	35/3		60	40	40	50	N/A	50	4.00	
RM-5	5 acres Minimum Site	200	200	35/3		25	10	10	50	n/a	50	6	
Mixed Use Development													
M/C	20,000	100	150	35/3		25	10	10	60	n/a	50	4	
						60	10 ⁴	20	65	n/a	35	6	
Mobile Home Residential Development													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	50	6.00	
Office Development													
										0.20			

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.) Minimum Floor Area: 1000	Setback (R/1/2)			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)				
01	20,000	100	150	35/3		35/60	25	20	25	65	20	35
Commercial Development												
CL	20,000	100	150	35/3	Minimum Floor Area: 900	60	25	10 ⁴ 15 ³	20	65	0.20	35
CG	20,000	100	150	35/3	Min. Area: 900 Max. Area: 4,000							N/A
Industrial Development												
IND	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	60	25	20 ⁴ 15 ³	30	65	0.20	35
Institutional Development												
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 ⁵	25 100 ⁶	20 100 ⁵	30 100 ⁶	70	0.42	30
Coastal Preservation												
CP					Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 ⁵	40
No Size or Dimension Standards Adopted												

¹Minimum size sites and lots include one-half of adjacent public right-of-way.
²Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.
³Setback where rear lot line abuts an alley.
⁴Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.
⁵Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.
⁶Recreation activities maximum FAR shall be .10.

B. *Area requirements for uses not served by central water and wastewater services.* All proposed development within areas not served by central water and wastewater services shall comply with the septic permitting requirements of Brevard County.

C. *Impervious Surface Requirements (ISR) for All Uses.* The term "impervious surface" is defined as that portion of the land which is covered by buildings, pavement, or other cover through which water cannot penetrate. The impervious surface ratio requirement controls the intensity of development, by restricting the amount of the land covered by any type of impervious surface.

1. *Calculation of ISR.* The impervious surface ratio (ISR) is calculated for the gross site by dividing the total impervious surface by the gross site area. Water bodies are impervious but shall not be included as such in the ISR calculation.

Cluster development or other site design alternatives may result in individual lots exceeding the ISR, while other lots may be devoted entirely to open space. The Town may require, as a condition of approval, deed restrictions or covenants which guarantee the maintenance of such open space in perpetuity. The ISR requirement shall not be bypassed or reduced. However, the intent is to allow maximum flexibility through calculating ISR on the gross site, and not on a lot-by-lot basis.

2. *Use of Porous Material.* Porous concrete, asphalt, porous turf block, or similar materials may be used subject to approval of the Town Engineer.
3. *Compliance with ISR Stipulated in Table 1-3.3(A).* All proposed development shall comply with the standards given in the table of impervious surface ratios in Table 1-3.3(A).

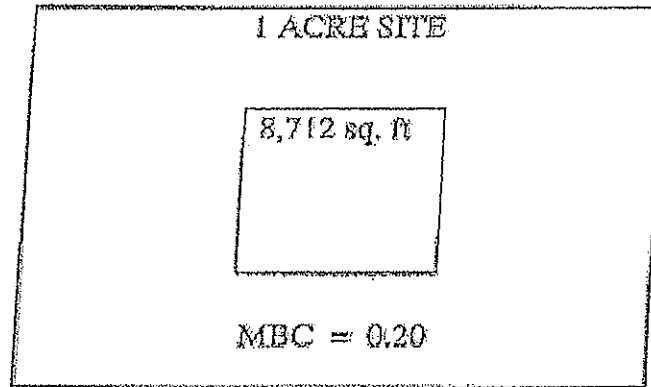
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

D. *Maximum Building Coverage.* The term "maximum building coverage" is defined as a measurement of the intensity of development on a site. For purposes of this Code, maximum building coverage (MBC) is used to regulate nonresidential development.

1. *Calculation of MBC.* The MBC is the relationship between the total building coverage on a site and the gross site area. The MBC is calculated by adding together the total building coverage of a site and dividing this total by the gross site area. See figure 1-3.3(D) for a graphic illustration of this concept.

All proposed nonresidential development shall comply with the MBC requirements stipulated in Table 1-3.3(A) for the zoning district in which the development is located.

FIGURE 1-3.3(D). MAXIMUM BUILDING' COVERAGE ILLUSTRATION



Maximum building coverage for a MBC of 0.20 = 8,712 sq. ft.

$$\text{MBC} = \frac{\text{Total Building Coverage}}{\text{Total Lot Area}}$$

E. Building Setbacks. Table 1-3.3(A) provides building setbacks for conventional single-family lots as well as for multiple family residential and nonresidential sites. In addition to these setbacks the following building setbacks from thoroughfares shall be enforced. The required minimum setback from the thoroughfare shall be measured from the centerline of the right-of-way. The thoroughfare system is illustrated on the Future Traffic Circulation System: 2010 Map located within the traffic circulation element of the Town of Malabar comprehensive plan. The below cited table identifies rights-of-way within the Town and stipulates minimum required building setbacks from these roadways.

TABLE 1-3.3(E). ADDITIONAL BUILDING SETBACKS FROM STREETS AND ROADS

<i>Transportation Facility</i>	<i>Building Setback (feet)</i>
Arterial Roadways (150 feet R/W)	100
US 1 Highway	
Malabar Road (SR 514)	
Babcock Street (SR 507)	
Major Collector Streets (100 feet R/W)	85
Corey Road	
Weber Road	
Marie Street	
Briar Creek	
Jordan Blvd.	
Local Streets (50—60 feet R/W)	65

Minor Collector Streets (80 feet R/W)

75

Atz Blvd.
Hall Road
Old Mission Road
Benjamin (Reese) Road

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

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

Article VII- Site Plan Review

Section 1-7.1. - Applicability and filing procedure.

Site plan approval, as provided for herein shall be required for each of the following:

1. All permitted uses, except single family homes or single family home accessory structures. However, all uses and structures shall comply with surfacewater management criteria of Article VIII.
 2. All conditional uses.
 3. Any use or change in use resulting in one thousand (1,000) square feet of impervious surface area on the entire site.
 4. The provisions of Article VIII: Surface Water Management shall apply to all site plans as if the same were incorporated in this Article.
 5. Any development including single family residences which will involve any clearing, grading or other form of disturbing the land by the movement of earth provided that any one of the following descriptions applies to said movement.
 - (a) Excavation, fill or any combination thereof which will exceed five hundred (500) cubic yards.
 - (b) Fill which will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (c) Excavation which will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (d) Excavation, fill or any combination thereof which will exceed an area of one thousand (1,000) square feet.
 - (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
 - (f) Whenever any amount of excavation or fill is proposed within one hundred (100) feet of a stream, stream channel or body of water a soil erosion and sedimentation control plan shall be provided.
- A. *General Site Plan Review Procedure.* In all cases requiring site plan review, no structure or parking area, or part thereof, shall be erected or used, or land or water used, or any change of use consummated, nor shall any building permit be issued therefor, unless a site plan for such structure or use shall have been reviewed by the Town Planning and Zoning Board.
1. *Filing.* Before such site plan shall be approved, an application for such approval shall be filed with the Town Clerk then directed to the Building Official and/or the Town Engineer or other designated officials for their recommendation. Town Engineer is defined as that Town employee, or outside Florida registered engineer contracted by the Town, responsible for performing the duties specified herein as the Town Engineer.
 2. *Application, Fee and Disclosure of Ownership.* Such application shall be in a form substantially in accordance with the form prescribed by the Town Clerk, copies of which may be obtained from the Town Clerk's office. A written power of attorney authorizing a person other than the owner(s) to sign such application must be attached to said application.

All applications shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for site plan approval is sought, except publicly held corporations, in which case the name and address of the corporation and principal executive officers will be sufficient.

The fee schedule for site plan review shall be as determined by resolution of the Town Council.

3. *Review by Town Staff and Planning and Zoning Board.* The application shall be forwarded to the Building Official or Town Engineer and such other staff as may be pertinent. The Town shall proceed to make appropriate studies and/or reviews required to make an appropriate evaluation. The application with evaluative comment shall then be forwarded to the Town Planning and Zoning Board for their consideration and action. The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, so as to prevent inconvenience and delay to the project.

After reviewing a site plan and staff recommendations, the Planning and Zoning Board shall recommend approval or disapproval. The Planning and Zoning Board shall provide written comments documenting any conditions of approval. If site plan is recommended for disapproval, the Planning and Zoning Board shall specify in writing the reasons for recommending denial. All recommendations of the Planning Board together with the written record shall be forwarded to the Town Council for final action.

4. *Action by the Town Council.* The Town Council shall consider the recommendations of staff and the Planning and Zoning Board and approve with or without conditions, or disapprove the site plan. The Town Council may attach to its approval of a site plan any reasonable conditions, limitations or requirements which are found necessary, in its judgement, to effectuate the purpose of this Section and carry out the spirit and purpose of the Zoning Ordinance. Any condition shall be made a written record and affixed to the site plan as approved. If the Town Council disapproves a site plan, the reasons shall be stated in writing and the appeal shall be to the Court of appropriate jurisdiction.

B. *Review of Minor Site Plans.*

1. *Applicability.* For the purposes of this section, minor site plans shall include the following:

- a. Residential projects comprised of a single building, having less than five (5) dwelling units, or;
- b. Projects containing less than one thousand (1,000) square feet of new impervious surface area.
- c. Single family homes and accessory buildings or ponds which require site plan approval pursuant to section 1-7.1.5.

2. *Submission Requirements for Minor Site Plans.* Minor site plans shall only include that information required in Sections 1-7.2, 1-7.3, which is determined to be applicable to the proposed minor site plan by the Building Official and Town Engineer.

- 3.

Minor Site Plan Review Procedures. All minor site plan applications shall be reviewed by the Town Engineer and Building Official and approved by the Building Official, the Planning and Zoning Board and the Chairperson of the Town Council. However, single family homes, accessory buildings or ponds may be approved by the Building Official. Appeals of such decisions shall be conducted pursuant to section 1-7.4

- C. *Minor Modifications of Site Plans.* Minor modifications to approved site plans shall include changes such as the:
1. Addition of awnings, canopies or other ornamental structures; redesign and different location of pools, parking spaces, drives and driveways; or modifications in stairs or elevations of decks, porches, terraces and fencing;
 2. Addition of parking spaces not to exceed twenty-five (25) percent, including fractions thereof, of the total number of existing parking spaces or five (5) spaces, whichever is the greater amount;
 3. Attached or detached additions to buildings which do not increase the floor area in excess of five hundred (500) square feet;
 4. Installation of utility system improvements including buildings not exceeding two hundred (200) square feet.
 5. Aside from minor modifications to site plans as herein defined, any change in use of buildings, structures, land or water, or institutions of new uses, or alteration or major improvements to existing structures, or erection of new buildings or structures shall require a new site plan submittal in accordance with all procedures and provisions of this Code.

Such changes to approved site plans shall be reviewed by the Building Official and or other designated Town consultants/Staff. If the Building Official and Town Engineer have no objection to the request based on its compliance with the Code, such minor modifications shall be submitted for approval by the Town Council Chairperson after review by the Planning and Zoning Board. The Town Council Chairperson shall report each change so approved to the Town Council for the record at the next scheduled meeting.

- D. *Conformance with Zoning Regulations Required.* Any such building, structure or use shall be erected, altered, installed and maintained in full conformity with the provisions of the zoning ordinance and the approved site plan.

(Ord. No. 91-1, 3-19-91)

Section 1-7.2. - Considerations in reviewing site plans.

The Planning and Zoning Board shall not approve a site plan unless a finding is made that such site plan conforms to all applicable provisions of the land development regulations.

- A. *Site Location and Character of Use.* The Comprehensive Plan together with the land development regulations, including size and dimension regulations, general provisions, performance standards, and the list of permitted and conditional uses, off-street parking, landscaping, required open spaces, yards and building setbacks shall collectively be the principal guides in determining the suitability of the location of the proposed use.
- B. *Appearance of Site and Structures.* The appearance of site and structures shall be coordinated for the purpose of creating a pleasing and harmonious overall environment. The choice of building materials, plant materials, lighting and other building and site improvements shall be

commensurate with the objectives of the subject use without generating adverse visual impact on surrounding properties or transportation corridors. Architectural style or design is not restricted. Evaluation of the appearance of a project shall be based on the quality of its overall design and relationship to the impacted area considering the following factors:

1. *Harmonious Overall Design.* The exterior of buildings and structures including mass, facade and materials shall be in harmony with the site and the general character of the impacted area and shall not be gaudy or garish. Awnings or ornamental features shall be designed in a manner harmonious with the building design and shall be of appropriate scale, shape, and pattern in order to reinforce good design principles. Similarly, awnings or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention. The appearance of buildings and structures shall be disapproved under Section 1-7.2(B) in extreme cases only and reasonable doubt shall be resolved in favor of the applicant.
 2. *Location and Screening of Mechanical Equipment, Utility Hardware and Waste Storage Areas.* Mechanical equipment or other utility hardware other than antennas and stacks on roofs shall be harmonious with the building or they shall be located and/or screened so as not to be visible from any public ways within the impacted area. Similarly, refuse and waste storage areas shall be screened from adjacent properties and public ways by appropriate fences, walls or hedges. In cases where dumpsters must be located in areas highly visible from any public right-of-way, the Town Planning and Zoning Board shall be authorized to require appropriate vegetative or structural screening to shield an unsightly condition.
 3. *Commercial and Industrial Activities Conducted in Enclosed Buildings.* All businesses, services or manufacturing or processing shall be conducted within completely enclosed buildings. If the Town Council determines that a demonstrated necessity exists for outside storage or display due to the impracticality and unreasonableness of enclosure of such services, storage and display areas, in such case such service, storage and display areas or yards shall be screened by a continuous fence or wall or by landscaping and berm system so as to provide a ninety (90) percent opaque screen with a minimum height of five (5) to eight (8) feet, unless the same is demonstrated by the applicant to the Town Council's satisfaction to be impractical and unreasonable.
 4. *Exterior Lighting.* Exterior lighting shall be provided and shall be so arranged as to shield or deflect the light from adjoining properties and public streets.
- C. *Access, Internal Circulation, Off-Street Parking and Other Traffic Impacts.* The Town Building Official and/or designated staff shall advise on matters related to this subsection 1-7.2(C):
1. *Internal Circulation System Design and Access/Egress Considerations.* Driveways, curb cuts, and areas for the parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient circulation within the site and safe and convenient access from and onto adjoining streets. The Town Staff shall review such design considerations based on standard traffic engineering principals and practices and such specifications as may be adopted by resolution of the Town Council. Requirements of Article IX of this Chapter [Code] shall be applied for off-street parking. Among factors to be considered shall be need for acceleration and deceleration lanes; the number, location and size of curb cuts and access drives from adjacent streets; the location and design of

- driveways and access aisles to parking spaces, the arrangement, delineation and marking for parked areas; and the means of access to buildings for fire-fighting apparatus and other emergency vehicles.
2. *Separation of Vehicular and Pedestrian Areas.* Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety.
- D. *Traffic Impacts.* A traffic impact analysis shall be required for site plan reviews pursuant to standards, procedures and criteria defined herein. The traffic impact analysis is designed to achieve objectives stipulated in the transportation element of the Comprehensive Plan.
1. *Applicability.* A transportation impact study shall be required if:
 - (a) A proposed development generates more than one thousand (1,000) trips per day. Such development shall maintain a level of service C, daily condition and level of service D for peak hour conditions on collector and arterial street segments as noted below. The trip generation shall be based on the Institute of Transportation Engineers, Trip Generation Manual (1988) unless the applicant can demonstrate that unique development characteristics will result in substantially different rates.
 2. *Impact Study Areas.* The transportation impact study area shall include all arterial and collector streets within one half (½) mile of the site entrance and/or shall include the nearest arterial roads that will be impacted by the development. For developments which generate between five hundred (500) and one thousand (1,000) trips during the peak hour or over one thousand (1,000) trips during the peak hour, the study area shall be one (1) and three (3) miles respectively. Estimates of peak hour trip generation shall be determined by the applicant's Florida Registered Traffic Engineer and shall be approved by the Town Engineer. Peak hour traffic impact shall be assessed, with and without the development, for all collector and arterial road segments and their respective intersections with other collector and arterial roadways within the designated service area. If additional traffic counts are warranted, they shall be the applicant's responsibility.
 3. *Contents.* The transportation impact analysis shall contain the following:
 - (a) A detailed description of the collector and arterial road network, including existing and proposed roadway widths and right-of-way widths; existing and proposed traffic signals and traffic control devices; existing and proposed ingress and egress locations, including existing or proposed acceleration or deceleration lanes or turning lane improvements.
 - (b) A detailed description of the existing and proposed land uses within the impacted study area including stages of construction and anticipated completion dates.
 - (c) A detailed description of the existing traffic conditions, including the Average Annual Daily Traffic (AADT) and the highest average peak hour volume for all collector and arterial roads within the study area. The AADT shall be based on a current twenty-four (24) hour traffic count provided by the applicant. The current twenty-four (24) hour traffic count shall be adjusted to compensate for seasonal variations. This adjustment shall be determined by utilizing Florida Department of Transportation (DOT) or traffic counts calculated quarterly at traffic count stations in the Town of

Malabar. The methodology and assumptions underlying the annual adjustment shall be clearly stated. The average peak hour traffic volume shall be the highest average peak hour volume for any weekday twenty-four (24) hour period.

- (d) A detailed Service Level C condition analysis of all collector and arterial roadways and intersections within the study area based on procedures outlined in the 1965 Highway Capacity Manual (including the Northwestern Monographs) and in the Transportation Research Circular No. 212, "Interim Material on Highway Capacity," Transportation Research Board, January, 1980.
 - (e) A description of all the existing collector and arterial roadways and intersections that are at or below the Service Level C condition (Service Levels C, D, E, or F).
 - (f) A detailed analysis of traffic impact of the development, including trip generations (average 24-hour weekday and highest average weekday hour), internal and external trips, trip absorptions and trip distributions over all collector and arterial roads within the study area. The trip generation shall be based on the latest edition of the Institute of Traffic Engineers Trip Generation Manual, unless a qualified traffic engineer demonstrates that unique qualities of the development will result in different rates. All methodology and assumptions must be clearly stated.
 - (g) A detailed cumulative transportation impact of the existing traffic conditions including traffic from the development, normal increases in traffic and increases from allocation of road capacity to already approved projects. This analysis must identify projected AADT and peak hour volumes for all the collector and arterial roads and must describe all the roadways and intersections that will be at or below the Service Level C daily condition or Service Level D peak hour condition.
4. *Traffic Study and Traffic Data Inventory and File.* The Town Engineer shall keep a file on all traffic studies including the future capacity allocated for each project. In determining the projected demand in subsection 1-7.2(D)(3)(g) above, the impact analysis shall include trips already allocated in previous development approvals. The Town shall provide information when available and where appropriate data already exists in order to prevent duplication of efforts and unnecessary costs.
 5. *Improvements to Roadways and/or Traffic Control Devices.* Transportation improvements such as intersection improvements; additional turning, acceleration or deceleration lanes; modified land delineations; new or improved traffic control devices; or other such improvements may be required in order to maintain a level of service C daily condition and/or a level of service D peak hour condition. In such case, the applicant for a development permit may be required to fund and/or install the necessary improvements or provide a legal assurance, such as a performance bond or other surety approved by the Town Attorney, prior to the issuance of a building permit. Where the traffic impact does not generate traffic volume that substantiates the total improvement needs, the Town Council shall determine an equitable participation in the required improvement. The participation by the applicant may, at the discretion of the Town Council, consist of a pro-rata dollar share of improvement costs.
- E. *Open Space and Landscape.* Open space shall be comprised of permeable open surfaces, excluding principal structures and impermeable surfaces. No parking areas shall be included as open area. Active recreation areas may be counted as open area.

1. *Residential Open Space Requirement.* All residential development shall preserve a minimum of fifty (50) percent of the upland area as open space. Uplands shall be defined as those areas which are not permanent water bodies or wetlands as defined in Section 1-7.2(G)(2) at the time of application. A maximum of thirty (30) percent of any totally landlocked water body may be credited as open space. At no time shall water bodies comprise more than twenty (20) percent of the total upland open space requirements.
2. *Non-Residential Open Space Requirement.* Non-residential development shall provide a minimum of twenty (20) percent open space.
3. *Mixed Use Open Space Requirement.* Where residential and non-residential development is permitted pursuant to the Town of Malabar Land Development Regulations, the following pro rata open space requirement shall be enforced.

$$OS = NRA / TA \times .2 TA + RA / TA \times .5 TA$$

OS = Open Space

NRA = Non-Residential Acreage

RA = Residential Acreage

TA = Total Area

4. *Use of Open Space.* Open space and spaces between buildings required by this Chapter [Code] shall be located and improved so as to reasonably serve the purposes for which the requirements are intended. These purposes include provisions of adequate light and air, appropriate separation between buildings and uses, enhancement of privacy, sufficient area for recreation and leisure pursuits (in residential areas) and to facilitate surface water drainage.
 5. *Preserve Natural Landscape.* The natural landscape of the site shall be preserved as much as possible for purposes of enhancing the general appearance of the site as well as to prevent excessive storm water run-off, erosion, siltation and dust.
- F. *Required Screening of Abutting Residential and Non-Residential Uses.* In order to maintain stability of residential areas, non-residential development within or abutting residential districts and multiple family development abutting single family residential districts, shall provide a fence or a wall or a combination of a berm and landscaping so as to provide a continuous ninety (90) percent opaque solid screen not less than eight (8) feet in height to form a continuous screen along such abutting property lines. In addition, one tree shall be provided for each thirty-five (35) lineal feet or fraction thereof of such landscape barrier. Notwithstanding, all developments shall comply with the landscape requirements of Article XIV. Where a conflict exists with the standards of this paragraph, the more restrictive requirement shall prevail. Credit may be given for existing plant material against the requirements of this section. Adjustments may be rendered by the Town Council to the requirements of this paragraph based on demonstrated need by the applicant and recommendations of Town Staff and the Planning and Zoning Board. The site plan applicant and successors in ownership shall maintain the continuous screen in perpetuity.
- G. *Flood Prone Land and Wetland Preservation.* In order to promote and preserve natural hydrological conditions and to preserve water recharge areas, water supply and water quality, and natural habitats, the following regulations shall be applied to wetland areas.

1. *Flood Prone Land.* Construction in flood prone areas shall comply with the Town's flood plain management policies.
2. *Wetland Defined.* Wetland areas shall include hydric soils and wetland species identified by the DER pursuant to § 17-4.022, F.A.C. Site specific investigations shall confirm the existence of wetland systems based on on-site soil and vegetative analysis with assistance of appropriate representatives of the State Department of Environmental Regulation, the St. John's River Water Management District, U.S. Army Corps of Engineers, and the U. S. Soil Conservation Service.
3. *Wetland Development Restrictions and Interpretations.* No development other than approved passive recreation, open space, restricted accessway, bird sanctuary, natural stormwater retention/detention, or natural preserve shall be allowed in a wetland area unless "competent evidence" indicates that:
 - (a) Dominant vegetation is no longer comprised of wetland types normally found in the specified soil; and
 - (b) The water regime has been permanently altered artificially or naturally in a manner to preclude its associated watershed areas from functioning as wetlands. Applicants for site plan review shall have an opportunity to so demonstrate that any wetland designations within the confines of their property no longer function as wetlands as defined above. The County urban forester, the soil conservationist as well as representatives of the State Department of Environmental Regulation, U.S. Army Corps of Engineers and the St. John's River Water Management District may be made a part of the site plan review process to assist in identifying and delineating wetlands. The applicant may request that a waiver of the provisions of this section be granted by the Planning and Zoning Board for small isolated marginal wetlands for which the developer shall provide viable compensatory preserve areas which mitigate against a loss of viable wetland systems. The Planning and Zoning Board shall consider the recommendation of the Town Engineer prior to taking action on such a request and shall grant the same only in the case of an overriding public interest. Finally, this section shall not prevent the construction of one single family home on existing lots of record.

The provisions of Article VIII: Surface Water Management are hereby incorporated into this subsection by reference.

- H. *Available Potable Water.* All future applications for new development shall be required to connect to a central water system except as herein provided.
 1. *Exceptions for Limited Scale Development.* When connection to a central water system is not feasible, applicants for limited scale development adaptive to service by an interim water system, may be allowed if approved by the County Director of Public Health subject to the following conditions:
 - a. Assurance in writing from a central water utility that extension of lines to the development is not part of its master plan for expansion; and,
 - b. Agreement by the applicant that the system shall be connected to the central utility system at no cost to the Town when service becomes available. The applicant shall be required to post a performance bond or other surety approved by the Town Council

after considering recommendation of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing water system improvements required as a condition of subdivision approval.

2. *Intent of Regulating Procedure.* The intent of this permitting procedure is: (1) to maintain a comprehensive data base concerning water supply and quality; (2) to discourage unregulated proliferation of private water systems; and (3) to achieve a subsystem design which can be effectively and economically integrated into a central public system certified and regulated by an approved local public service entity at a later point in time and to encourage a compact urban development pattern by managing the location, timing and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity; and (4) to discourage all new subdivision of land unless served by a central water utility and to similarly discourage nonresidential development on existing lots of record when such sites are not serviced by a central water utility.
3. *Testing of Private Wells.* In addition, the Town may undertake any necessary action to prevent or remedy water supply and water quality problems. To this the Town may request analysis of water quality and supply of all permitted private wells based on evolving problems and issues associated with water resources. The private well owner may be assessed by the Town after due public hearings for needed water quality, supply problems, requisite testing, laboratory analysis, and improvements, deemed necessary and fiscally equitable.
- I. *Wastewater Service.* All applicants for development shall be required to connect to a public wastewater utility regulated by the Public Service Commission, the Department of Environmental Regulation (DER) and/or the County Environmental Health Department. Where a system for wastewater is unavailable, the applicant shall provide an interim wastewater system approved by the DER and/or the County Environmental Health Department and shall agree in writing that the system will be connected to a public wastewater utility at no cost to the Town when service becomes available.
 1. *Intent and Purpose of Regulating Wastewater Disposal Systems.* The intent of this provision is: (1) to discourage unregulated proliferation of private package treatment plants; (2) to achieve a subsystem design which can be effectively and economically integrated into a major central public wastewater system at a future point in time which would be certified and regulated by a local public entity; and (3) to encourage a compact urban development pattern by managing the location, timing, and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity.
 2. *Design Standards and Required Guarantee.* The system shall be designed to satisfy performance standards of the Department of Environmental Regulation (DER), other applicable regional, state, or federal standards, or standards which may be hereafter adopted by the Town. The applicant shall be required to post a performance bond or other surety approved by the Town Council after considering recommendations of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing waste water system improvements required as a condition of subdivision approval.

3. *Regulating Use of Septic Tanks and Wastewater Disposal Fields.* Notwithstanding any other provisions of this Code, when septic tank and waste disposal field is the only means of individual sewage disposal, the County Environmental Health Department shall enforce State law regulating use of septic tanks and wastewater disposal fields.
- J. *Soil Erosion, Sedimentation Control, and Estuary Water Resource Protection.*
1. *Applicability.* In order to prevent both soil erosion and sedimentation, and to protect both ground and surface water resources, a soil erosion and sedimentation control plan shall be required as a part of an application for site plan review whenever a development will involve any clearing, grading, or other form of disturbing land by the movement of earth, provided that any one of the following descriptions applies to said movement:
 - (a) Excavation, fill, or any combination thereof will exceed five hundred (500) cubic yards.
 - (b) Fill will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (c) Excavation will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (d) Excavation, fill or any combination thereof will exceed an area of one thousand (1,000) square feet.
 - (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
 - (f) Whenever excavation or fill is proposed within one hundred feet of a stream, stream channel, or body of water, a soil erosion and sedimentation control plan shall be provided.
 2. *Definitions.* For the purposes of this subsection 1-7.2(j) the following definitions are provided:
 - (a) *Soil erosion* shall mean any removal and/or loss of soil by the action of water, gravity, or wind. Erosion includes both the detachment and transport of soil particles.
 - (b) *Sedimentation* shall mean the settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result.
 - (c) *Erodible slope* shall mean all slopes with inclines in excess of four (4) percent unless modified by the Town Engineer based on consideration of specific soil conditions.
 - (d) *Large flat surface area (unpaved)* shall mean an area which is flat or whose slope is less than four (4) percent and which consists of more than one thousand (1,000) square feet of exposed soil.
 3. *Erosion Water Quality Control Measures.* All measures necessary to minimize water quality degradation soil erosion and to control sedimentation in the disturbed land area shall be implemented. The following protection shall be provided for all disturbed areas: minimize velocities of water runoff, maximize protection of disturbed areas from stormwater runoff, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation water control degradation control follows. For each one, the purpose(s) of requiring control is

described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which a control plan is required:

- (a) *Erodible slopes*: Prevent detachment and transportation of soil particles from slope.
- (b) *Streams, streambeds, streambanks, bodies of water, lake shorelines*: Prevent detachment and transportation of soil particles.
- (c) *Drainageways*: Prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetlands); promote deposit or sediment loads (traversing these areas) before these reach bodies of water.
- (d) *Land adjacent to streams, ponds, lakes, and wetlands*: Prevent detachment and transportation of soil particles. The applicant shall not adversely impact aquatic vegetation within the sensitive transition zone located between the upland and the mean high water line (ordinary high water line for non-tidal waters). No such vegetation shall be disturbed without approval of the Town. Any such approval shall be based on a demonstrated necessity which promotes the overall public health, safety and welfare. Furthermore, any such disturbance of aquatic vegetation shall be compensated by revegetation based on a plan approved by the Town as stipulated herein. The applicant shall coordinate plans for development along the riverfront or tidal waters with the Florida Department of Environmental Regulation as well as the U.S. Army Corp of Engineers where tidal waters might be impacted. Where deemed appropriate by the Town, the site plan shall include the planting of native indigenous aquatic plant vegetation to promote stability of the shoreline and to enhance water quality.
- (e) *Enclosed drainage structure*: Prevent sedimentation in structure, erosion at outfall of system, and deposit of sediment loads within system or beyond it.
- (f) *Large flat surface areas (unpaved)*: Prevent detachment of soil particles and their off-site transportation.
- (g) *Impervious surfaces*: Prevent the detachment and transportation of soil (in response to an increase in the rate and/or volume of runoff of the site or its concentration caused by impervious surfaces).
- (h) *Borrow and stockpile areas*: Divert runoff from face of slopes which are exposed in the excavation process; convey runoff in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition. Creation of water bodies by excavation and/or impoundment shall comply with applicable provisions of Article VIII.
- (i) *Adjacent properties*: Prevent their erosion and/or being deposited with sediment.

K. *Additional Considerations*. The Planning and Zoning Board or the Town Council may require additional information be provided by the petitioner for site plan review in order to carry out a review process which is necessary to fulfill the purpose, intent and spirit of this Chapter [Code].

(Ord. No. 91-1, 3-19-91)

Section 1-7.3. - Information to be included in site plan.

A site plan, for the purposes of this Section, shall include, but not necessarily be limited to, the

following requirements:

1. Site plan with lot configuration, finished ground floor elevations, contours and designating number of dwelling units, square footage of site, building coverage, square footage of paved areas and open area, and setbacks to scale indicating compliance with regulations.
2. A scaled drawing of the side, front and rear facades of the building or structure, including roof pitch, fenestration including treatment of roof line, windows, and doors as well as a description of materials to be used.
3. Generalized floor plan indicating uses and square footage of each proposed use within each building or structure, building exterior construction material and color, and building height.
4. Location and character of all outside facilities for waste disposal; storage areas; or display.
5. Location and dimensions of all curb cuts, driveways, dedicated cross-easements including their design, location, alignment, dimensions, and specifications; details of off-street parking and loading areas, and vehicular surfaces available for maneuvering, including surface materials, number of employees and number and type of vehicles owned by the establishment. Any combined off-street parking facilities shall be submitted with an agreement specifying the nature of the arrangement, its anticipated duration, and signatures of all concerned property owners.
6. Location of all pedestrian walks, malls, yards and open spaces.
7. Location, size, character, color and copy, height and design of all signs.
8. Location and character of landscaped areas and recreation areas.
9. Location, design and character of all public, semi-public, or private utilities such as water and wastewater disposal facilities, underground or overhead electric lines, gas transmission lines, or other similar facilities or services.
10. Location, height and general character of perimeter or ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners.
11. Surface water drainage facilities plan showing existing and proposed grading, drainage patterns and earthwork computations, certified by an engineer or architect registered in the State of Florida.
12. Location of existing easements and rights-of-way.
13. Land survey with complete legal description prepared and certified by a registered surveyor. All architecture or engineering designs must be prepared by a professional architect or engineer registered in the State of Florida pursuant to Florida Statutes 467 and 471 as exists or hereafter amended and which require an appropriate seal on the subject plan prior to issuance of a building permit.
14. Verified statement showing each and every individual person having a legal and/or equitable ownership interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.
- 15.

The applicant for site plan review may, at his option, submit a preliminary site plan sketch indicating a general idea of how it is proposed to develop the parcel. Upon tentative approval of a sketch, the applicant can then proceed to have a detailed site plan prepared in accordance with the requirements in this section.

(Ord. No. 91-1, 3-19-91)

Sec. 1-5.29. - Design requirements for development within office institutional, commercial limited, commercial general and residential/limited commercial along arterial roadways.

- (a) A Malabar Vernacular architectural style for each structure is required. This shall include the following architectural elevations facing public rights-of-way on arterial roadways:
1. A metal panel, 5-seam or metal shake roof is acceptable. A 5-tab twenty-five (25) year dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable. 3-tab roof shingles, barrel vaulted tiles, or corrugated roof systems are not permissible.
 2. Pitch of main roof, hipped or gable, shall be no greater than 5:12; mansard roof shall be no greater than 9:12; porch roof shall be a lower pitch than the main roof. A minimum 6" overhang is required for any roof structure. All structures must have a minimum 3:12 slope roof. Multiple roof systems with matching roof slopes are permissible. Low slopes ("Flat") roof systems are permissible when screened by a mansard roof or parapet wall meeting the design requirements.
 3. The predominant exterior color shall be pastel shades, white or light earth tones. Dark earth tones are acceptable in brick or stone.
 4. Manufactured brick or materials that have the appearance of brick are acceptable. Horizontally struck stucco, exterior insulated finish system stucco panels, board and batten, wood or vinyl siding, and stained hardwood panels shall also be considered acceptable finishes.
 5. Front porch. The front porch must encompass an area greater than fifty percent (50%) of the front facade. The porch must be a minimum of 60" in depth.
 6. Gingerbread trim and/or porch railings, columns or posts shall have the appearance of light frame wood construction.
 7. Trim colors shall be white or light pastels. (Trim shall be considered railings, columns, door and window surrounds, soffits, shutters, gutters and downspouts, and other decorative elements.) Trim finishes shall be of a contrasting lighter color than that of the primary building color with the exception of white as a primary building color.
 8. There shall be no area greater than four hundred (400) square feet of contiguous blank wall area on any front facade that remains unadorned by architectural features that include, but are not limited to, windows, doors, lights, banding trim or porch elements.
 9. There shall not be any singular facade that has greater than 100' lineal feet of run without a minimum sixteen-inch break, by using a directional or material change.
 10. Metal-clad structures are permissible. Internal bracing must be certified to accept additional finishes or structures applied to the exterior metal panels. No external "X" bracing is to be visible on any front facade. Finish panels must be able to accept a painted finish. All exterior wall finishes must match the primary building color. The use of corrugated, synthetic or fiberglass panels is prohibited on any front wall or any front roof surface. All design requirements must be met for metal-clad structures as for any other new structure.
- (b) The predominant exterior color shall be applied to all sides of the structure.
- (c) The design requirements listed above shall be applicable to all new construction in these zoning districts, and in the case of additions or renovations to, or redevelopment of, an existing building or project, where such addition, renovation or redevelopment exceeds fifty (50) percent of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure, of adjacent or connected properties, by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme may be exempt from the design requirements herein with the approval of Town Council.
- (d) The design requirements listed above shall be applicable to all accessory structures not exempted by division (10)(c). Any accessory structure not meeting this requirement shall be screened so as to be not visible from the public right-of-way. Mechanical equipment such as gasoline pumps, air and

vacuum machines, drive-through menu boards and speaker stations, drive-through teller stations, ATMs, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this section.

- (e) Compliance with the requirements set forth in this subsection shall be demonstrated by submittal of building front elevations and color and material samples at the time of site plan review. By way of illustration and not by way of limitation the styles depicted in illustration numbers E(1)-E() are deemed "Malabar Vernacular Style".
- (f) Structures in the following use categories are exempt from the design review requirements of this subsection, including: public utility equipment, commercial towers, hospitals and churches.
- (g) The Town-wide Sign Code shall be adhered to with the following exceptions:
 - 1. *Materials.* The color, construction and material of each sign should be compatible with the architecture on the site.
 - 2. *Design.* Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.
 - 3. Free standing signs shall have landscaping at the base.
- (h) Structures having a federal or state historic site status shall be exempt from this subsection.
- (i) The Town Council may, by resolution, adopt such administrative policies, manuals and/or fees as necessary to implement the design requirements identified above.
(Ord. No. 07-02, § 5, 4-2-07; Ord. No. 08-13, § 1, 10-20-08)

Development Agreement

This Agreement made this 5 day of JAN, 2015 (regardless of when signed) by and between the TOWN OF MALABAR, a Florida Municipal Corporation located at 2725 Malabar Road, Florida 32950, (hereinafter the Town) and KELLWILL, LLC, a Florida Limited Liability Company located at 5110 S. U.S. Highway 1, Grant-Valkaria, Florida 32949 (hereinafter Owner).

WHEREAS, the Owner desires to develop certain property in the Town more particularly described in Exhibit A (the Property); and,

WHEREAS, Chapter 163 of the Florida Statutes, establishes the Florida Local Government Development Agreement Act, which authorizes local governments to enter into development agreements with any person having a legal or equitable interest in real property located within its jurisdiction; however, this Agreement is entered into in accordance with the City's Home Rule Power as set forth in Chapter 168, Florida Statutes, and not pursuant to the optional Florida Government Development Agreement Act with certain provisions of chapter 163 being incorporated herein; and,

WHEREAS, the Owner is desirous of voluntarily entering into this Agreement; and,

WHEREAS, the Town is desirous of entering into this Agreement because it will promote the public health, safety and welfare of the community; and,

WHEREAS, the Owner has applied to the Town for a Comprehensive Land Use Plan Amendment and Rezoning of the Property and has agreed to use conditions applicable to the Property; and,

WHEREAS, in addition to all applicable requirements of the Town's Code of Ordinances, the Owner agrees to conform the development of the property with the provisions of this agreement; and,

WHEREAS, the Town and Owner acknowledge that this Agreement is binding upon the Town and Owner, and their respective successors and assigns for the term of this Agreement.

NOW THEREFORE in consideration of \$10.00 dollars and other good valuable consideration, the sufficiency and receipt of which are acknowledged the parties agree as follows;

1. RECITALS. The above recitals are true and correct and are deemed integral part of this Agreement.

2. PROVISIONS OF F.S. 163.3227 ADOPTED. The following provisions of F.S.163.3227 are adopted by the parties:

(a) A legal description of the land subject to the agreement, and the names of its legal and equitable owners: Attached as Exhibit A;

(b) The duration of the agreement: 30 years unless extended by mutual consent of the Town and Owner (FS 163.3229);

(c) The development uses permitted on the land are those as established by Table 1-3.2 COMMERCIAL ACTIVITIES for the CG zoning district, except Adult Activities, Bars and Lounges and Arcade Amusement Centers/Electronic Gaming Establishments by mutual voluntary agreement will not be an allowable use for the Property;

(d) Public facilities that will service the development include Town Fire Department, Brevard County Sheriff's Office, solid waste disposal as provided by the Town Solid Waste Franchise, Palm Bay Hospital and utilities;

(e) There is no reservation or dedication of land for public purposes;

(f) Local development permits approved or needed to be approved for the development of the land are as required by Town code and outside agencies;

(g) The development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

(h) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; See (c) above; and

(i) The failure of this agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

3. **BINDING EFFECT.** This Agreement and the provisions hereof shall run with and bind the property in Exhibit "A" or any portion thereof and the heirs, successors and assigns of each party.

4. **NOTICES.** Any notices to the Owner or the Town under the provisions of this Agreement shall be deemed to be properly sent when personally delivered or mailed, postage pre-paid, to the address of the said party above.

5. **ENFORCEMENT.** The enforcement of this Agreement may be by the Town and may be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any provisions hereof, either to restrain a violation or recover damages, and failure to enforce any covenant or provision herein contained shall in no event be deemed a waiver of the right to do so thereafter.

6. **ATTORNEY FEES.** In the event that any party hereto brings legal action to enforce the provisions of this Agreement the prevailing party shall be entitled to an award of reasonable attorneys fees to be fixed by the court together with costs of the action and the right to attorneys fees and costs shall also extend to any appellate proceedings.

7. **RECORDATION.** This Agreement shall become effective upon its recordation in the public records of Brevard County, Florida and any amendment thereto shall become effective upon recordation in the public records of Brevard County, Florida.

8. **AMENDMENTS.** This Agreement shall not be amended, changed or added to unless an instrument reflecting such amendments changes or additions is signed by all parties to this Agreement.

IN WITNESS WHEREOF the parties have caused their respective duly authorized representatives to execute this instrument and to affix their corporate seals on the dates shown.

TOWN OF MALABAR

ATTEST:

Debby K. Franklin
Debby K. Franklin, CMC
Town Clerk/Treasurer

By:

Carl A. Beatty
Mayor Carl A. Beatty
Council Chair



IN THE PRESENCE OF:

William J. Carruth
Denise M. Merion

KELLWILL, LLC:

By: William J. Carruth
William J. Carruth, it's Manager

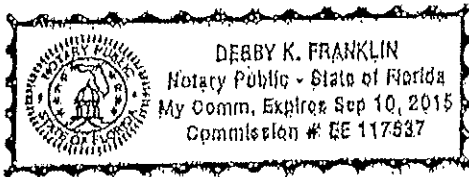
State of Florida
County of Brevard

On this 17 day of Dec, 2014 before me appeared William Carruth to me personally known who being by me duly sworn did say that he executed the within instrument and did acknowledge the same to be the free act and deed of KELLWILL, LLC.

Debby K. Franklin
Notary Public

My commission expires:

Notary Stamp



STAFF COMMENTS

1. Karl Bohne, Town Attorney
2. Daryl Munroe, Building Official
3. Keith Mills, Town Planner
4. Morris Smith, Town Engineer
5. Brian Foster, Third Party Fire
Reviewer

Denine Sherear

➤ **From:** Karl Bohne <KBohne@fla-lawyers.com>
Sent: Tuesday, January 19, 2016 4:51 PM
To: Denine Sherear
Cc: Debby Franklin
Subject: RE: Site Plan Review Information for Kellwill, LLC -Route 1 Motor Sports 1300 HWY 1, Malabar FL

➤ I finished my review and other than that which is required by the development agreement I see no legal issues. Technical issues will need to be addressed by the planner and engineer

From: Denine Sherear [mailto:dsherear@townofmalabar.org]
Sent: Tuesday, January 19, 2016 3:22 PM
To: Karl Bohne
Subject: Site Plan Review Information for Kellwill, LLC -Route 1 Motor Sports 1300 HWY 1, Malabar FL

This is the site plan packet information that has gone out to staff for review.

Thank you
Denine

Denine M. Sherear
Admin Assist. to Building Official
Building Department- Permitting
2725 Malabar Road
Malabar , FL 32950
321-727-7764 x 14
321-727-9997 fax
Hours: 8:30AM- 4:30PM

Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of Malabar officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

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Town of Malabar
BUILDING DEPARTMENT REVIEW SHEET

PG 1 OF 2
(Return to Denine Sherear)

PROJECT:	Site Plan Review Route 1 Motor Sports 1300 Highway 1 Malabar, FL	DATE ROUTED:	01/19/2016
BP.:	n/a	DATE TO BE RETURNED*:	02/01/2016
APPLICANT	Willy Carmine KellWill, LLC 321-626-1835 Vaheed Eng 321-729-8382	DEPT.:	<input type="checkbox"/> MORRIS SMITH, TOWN ENGINEER <input type="checkbox"/> KBETH MILLS, TOWN PLANNER <input type="checkbox"/> CHRISTOPHER ROBINSON, FIRE CHIEF <input checked="" type="checkbox"/> DARYL MUNROE, BUILDING OFFICIAL

MARK IF NO COMMENTS:

REVIEWER'S SIGNATURE:

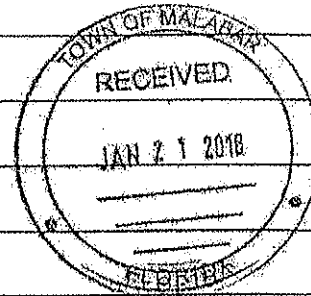
PLEASE RETURN WITHIN 5 BUSINESS DAYS

TOTAL HOURS WORKED ON REVIEW

PLEASE RETURN ATTACHED SITE PLANS

COMMENTS:

I HAVE A CONCERN WITH THE OIL STORAGE ROOM IN THIS BUILDING. BECAUSE OF A POTENTIAL HAZARD, THE WALLS AND CEILING WOULD HAVE TO BE FIRE RATED. FOR INSURANCE PURPOSES, IT MAY BE ADVANTAGED TO STORE GREASE AND OIL IN A DETACHED BUILDING.



Due to the deadline requirements, if there is no response within allotted time frame it will be considered as No Comments.

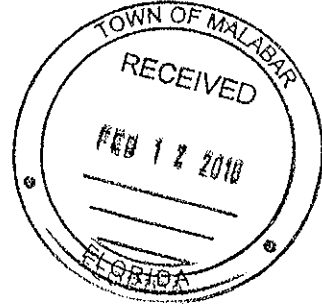
Denine Sherear

From: Keith Mills <kmills@cfl.rr.com>
Sent: Friday, February 12, 2016 12:18 AM
To: Denine Sherear
Subject: Re: Comments' from the Town Engineer- Morris Smith

Denine,

I have the following comments:

1. Show location and details of dumpster.
2. Show location and details of site lighting.



On Tue, Feb 9, 2016 at 6:06 PM, Denine Sherear <dsherear@townofmalabar.org> wrote:

Keith,
Please see attached comments from Morris Smith Town Engineer.

Thank you
Denine

Denine M. Sherear
Admin Assist. to Building Official
Building Department- Permitting
2725 Malabar Road
Malabar , FL 32950
321-727-7764 x 14
321-727-9997 fax
Hours: 8:30AM- 4:30PM

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Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing

TOWN OF MALABAR
MEMORANDUM

↙
Date: February 9, 2016
To: Denine Sherear, Admin Assist. to Building Official
From: Morris Smith, Town Engineer
Ref: Route 1 Motor Sports/Kellwill LLC – Site Plan Comments
Memo: 16-CE-01
Project No.:
Variance No.:

I have completed my review of the site plan provided for the Route 1 Motor Sports facility and my comments are as follows:

1. The Site Drainage and Stormwater Calculations are approved as submitted.
2. The Stormwater structures DS-01 and Ds-03 have their definitions transposed.
3. The Dumpster Pad location was not shown on the site plan.
4. The Site Lighting Plan was not provided.

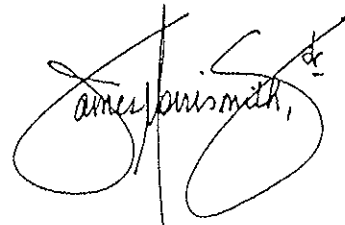
I made a phone call to Mr. Vaheed Teimouri, PE, the Engineer of Record for this project. I spoke to him about my review and we discussed the items above.

I pointed out to Mr. Teimouri that the site lighting plan was not required if the light fixtures are on poles less than six (6) feet tall and that the lights were less than 100 watts. We also discussed the required maximum 0.2 LUX measurement at the property lines

We discussed the use of short bollard type, low-voltage, LED lights as an appropriate fixture for the roadway lighting and for the edge of parking lot lighting.

Very Truly Yours,

DN: c=US, o=IdenTrust ACES
Business Representative,
ou=JAMES MORRIS SMITH JR PE
PSM LLC, cn=James M Smith Jr,
0.9.2342.19200300.100.1.1=A0109
7C00000144C2E806330000A6CA
'Date: 2016.02.09 17:49:38 -05'00



James Morris Smith, Jr., P.E.
Town Engineer



FPE FORENSICS, PLLC

FIRE PROTECTION DESIGN, CONSULTING & THIRD PARTY PLANS REVIEWS



11 Freedom Dr., Murphy, NC 28906 &
4017 Murfield Dr. E., Bradenton, FL 34202
Phone: (828) 837-2551 (w) (941)928-8138 (c)
E-Mail: brfoster@fpeforensics.com

February 15, 2016

Mrs. Denine Sherear,
Administrative Assistant to Building Official
Town of Malabar
2725 Malabar Rd.
Malabar, FL 32950-4427

RE: Route 1 Motor Sports AKA: KellWill, LLC, 1300 Hwy. 1 Malabar
Site Plan Comments
Plans Prepared by: Temouri & Associates, Inc.
Plan Dated 09-14-2015

Dear Mrs. Sherear,

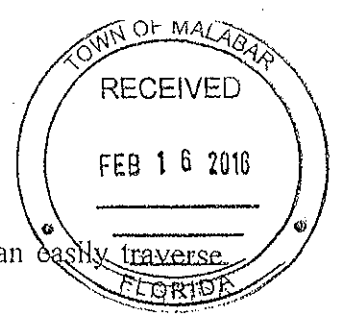
We have reviewed this site plan in conjunction with the proposed preliminary architectural plans. The site is a long narrow site with a proposed single 24 foot entry off of US 1. The access roadway to the site continues as a 24 foot wide improved roadway that will pass within 16 feet of the proposed building. This access extends into the property and is provided with a 48.4 ft. radius loop around parking and passing within about 20 feet of Building 2, a roof only structure. There three 8 inch fire wells will be provided for drafting by the fire department. Use of the two wells interior to the site would not be feasible for use by the fire department as they could have potential fire exposures that would risk fire personnel and equipment.

From the architectural drawings and a phone conversation with the architect, there are no current plans to add fire sprinklers in the two buildings that would reduce the exposures to responding emergency vehicles.

Based on the current site plan submittal, we have the following comments:

1. The existing 24 foot entrance to the site needs to be widened to 30 feet to reduce the risk of obstruction to fire department and emergency vehicles.
2. The roof overbuilds on the south side of Building 1 should be eliminated, except as necessary for a narrow shed roof to reduce rain from entering an open door. This will effectively increase the distance between responding emergency equipment and the structure plus allow for a 30 ft. wide access drive up to the 2nd drafting hydrant. The only two alternatives that could be offered would be to provide fire sprinklers for Building No. 1, so that access to the site by responding emergency vehicles would not be of such a critical concern. If a second entrance to the property was possible from East Railroad Avenue that would also be a satisfactory alternative to eliminate changes to the building.
3. No parking signs and stripping shall be provided along the roadway between Building 1 and the property line.

Mrs. Denine Sherear
February 15, 2016
Page 2 of 2



4. The 48.4 foot turn radius needs to be made symmetrical so that fire vehicles can easily traverse either clockwise or counterclockwise as conditions dictate.

Subject to the above comments, the site plan needs to be revised to improve emergency vehicle access.

Sincerely,

Brian R. Foster, a State of Florida Professional Engineer, License 43938. This document has been electronically signed and sealed by Brian R. Foster on February 7, 2016 using a Digital Signature. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

Digitally signed by Brian R. Foster, P.E.
DN: cn=Brian R. Foster, P.E., o=FPE FORENSICS, PLLC,
ou=Florida P.E. 43938, email=brfoster@fpeforensics.com,
c=US
Date: 2016.02.15 19:08:40 -05'00'

Brian R. Foster, FPE,
President
Certified Fire Safety Inspector

cc FPE Forensics File: 1198-16

Denine Sherear

From: Vaheed Teimouri <vbteimouri@gmail.com>
Sent: Tuesday, February 16, 2016 7:45 PM
To: Denine Sherear
Cc: Willy Carmine; Morris Smith
Subject: Re: FW: Route 1 Motor Sports Site Plan



Hi Denine:

Here are the revised plans, all the minor comments such as dumpster & site lighting locations have been addressed.

Please let me know how many sets do you need and I will bring them tomorrow.

Thank you,



Vaheed B. Teimouri, P.E.

TEIMOURI & Associates, Inc.

32 East New Haven Avenue

Melbourne, Florida 32901

321-729-8382 Tel

321-729-8969 Fax

321-508-5422 Cell

On Tue, Feb 16, 2016 at 9:14 AM, Denine Sherear <dsherear@townofmalabar.org> wrote:
Please see attached comments from the Third Party Plan review.

Thank you
Denine

Denine M. Sherear
Admin Assist. to Building Official
Building Department- Permitting
2725 Malabar Road
Malabar, FL 32950
321-727-7764 x 14
321-727-9997 fax
Hours: 8:30AM- 4:30PM

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 3
Meeting Date: March 7, 2016

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

SUBJECT: Appoint Interim Mayor

BACKGROUND/HISTORY:

I have attached the paperwork previously sent via email regarding the vacancy.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Memo from Attorney Bohne
Portions of Charter
Sworn Statements submitted to Town Hall to date

ACTION OPTIONS:

Discussion and Action

I. **PUBLIC: ITEMS DIRECTLY RELATED TO RESIDENTS AND RECOMMENDATIONS FROM TOWN BOARDS/COMMITTEES PRESENT AT MEETING**

2. **Appoint Interim Mayor**

Exhibit: Agenda Report No. 2

Recommendation: Request Action



Acting Chair asked Attorney Bohne to speak.

Intro by Attorney: email handed out to each Council Person on two suggested methods of making appointment. Bohne said the Charter says it is clear that we need to appoint an interim Mayor. Hard job is on Council and must have full Council to do this. The Attorney narrowed it down to two possible scenarios for their consideration. First scenario presumes they are all nominees and Council would move to appoint and the first one to get 3 votes is Mayor. Or 2nd process is nomination process and Council can nominate a person, and then Council can nominate another person. Rivet suggests each will get a vote that way. At most it would go to three nominees. Bohne said there is no guidance in Charter for them and the method is up to them. McKnight disclosed he solicited previous Mayor Phil Crews as he has been a previous Mayor and he spoke to several residents that thought he would be a good interim.

Beatty said he asked Crews and he was not interested. He was told by Pat Reilly that he was interested.

Rivet would like to hear from each of them.

Patricia Dezman: Sat on Council for six years for District 5 after filling in for Bob Rossman. She put her name in because she felt strongly for Tom Eschenberg and the teen council and the eagle patrol and would like to see them continued. She also wanted Council to think about Susan Kabana who worked here for 14 years and was stricken; Mayor Eschenberg who served for 10 years here and was stricken and now the TA who has worked here five years and is stricken. Look into sick building issue.

Bridget Ports, 1340 Hall Road, didn't plan to speak. She ran in last Mayoral election and lost by not very much. She would bring to Town a new look. Improve in some areas and hopes to be able to do that.

Pat Reilly: 1985 Howell Lane, serves on P&Z and has for 11 years, seven as Vice-Chair. He was approached by Tom Eschenberg three years ago to run for Mayor. He is happy to serve.

Phil Crews said he is retired. Tom Eschenberg was a good friend and attended every CivMil together. He would be honored to fill in for a few months. Leadership styles are similar.

Acting Chair Acquaviva thanked them all for their willingness to serve. McKnight said another reason he solicited Crews was Crews has no motivation to run for office in November.

MOTION: White / McKnight to appoint Crews to fill vacancy as interim Mayor for rest of term.

Discussion: Acquaviva said either Crews or Dezman would be helpful as they have been through budget process. White would like to leave Reilly where he is on P&Z. McKnight and Acquaviva both stated they had wanted to leave the position vacant until the election. Bohne said the Mayor has veto power and power to break ties so he may have a function so position must be filled.

VOTE: All Ayes.

Acting Chair then brought up the issue of Chair. She is acting Chair now. If Council wants to select another she is ok with that. Crews would be happy to be chair. Beatty said first Acquaviva has to step down. Acquaviva steps down.

MOTION: Rivet / White to appoint Crews as Chair for remainder of term.

VOTE: All Ayes.

TOWN OF MALABAR

MEMORANDUM

Date: June 5, 2012
To: Town Council
From: Karl Bohne, Jr., Town Attorney
Ref: Procedure for filling vacancy for Mayor's seat

According to section 2.08 of the Town's charter a vacancy in the office of Mayor is created, in part, upon death. The process for filling such a vacancy is provided for in Section 2.09 of the Town's Charter. If there is less than one year remaining in the term of the office that has become vacant the vacancy **shall** be filled by a majority vote of the remaining **full** council. This means that only a vote where the remaining full council is present will count when filling the vacancy.

The newly appointed person will sit for the remaining unexpired term of the vacant office. Qualifications for the office of Mayor are: the person must be a qualified elector; must be a resident of the Town for a 12 month period prior to qualification; must submit a sworn statement [section 2.03] and must be at least 30 years of age [section 2.04 (b)].

A sitting council member may be appointed as Mayor; however, if that occurs then this will create a vacancy in that office which will need to be filled according to the charter. If less than one year remains in that office then the council appoints the successor. If more than one year exists then the vacant office shall be filled by special election.

I suggest that the Town begin soliciting prospective appointees by use of the web site and newsletter as well as posting the qualification requirements where necessary. The council will be the judge of qualifications. Assuming that we have qualified prospective appointees then the council should vote on the replacement. There will need to be a motion to appoint, a second, discussion and then a vote. The first prospective appointee receiving majority approval of the full council (3 votes or more) will be the next Mayor to fill the unexpired term.



2725 Malabar Road
Malabar, FL 32950

Tel: 321-727-7764
Fax: 321-727-7779

Sworn Statement 2016

Before me, an officer authorized to administer oaths, personally appeared MARISA Aequaviva to me well known N/A, OR produced identification _____, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of **MAYOR** of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is at least 30 years of age.
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least one (1) year consecutively and immediately prior to this date, a permanent resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- He/She is willing to serve if elected/appointed.

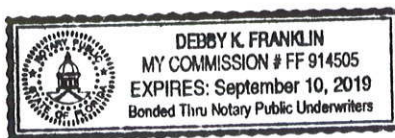
Marisa Aequaviva
Signature of Candidate

1120 Baywood Ct, Malabar 32950
Address

Occupation: Pharmacy Owner

Sworn to and subscribed before me this 2 day of February, 2016.

Debby K. Franklin
(Signature of Notary Public - State of Florida)



(Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known OR Produced Identification _____:

Type of Identification Produced : _____

Marisa Acquaviva

1120 Baywood Court
Malabar, FL 32950
321-693-4172
marisa-cq@msn.com

February 2, 2016

Honorable Council, Residents, and Staff of The Town of Malabar,

I was so shocked to hear of the recent passing of our Mayor, Carl Beatty. It saddens me that he suddenly lost his life and I will fondly remember time spent with him while I served on council. Carl served many years in Malabar and will be greatly missed!

I am interested in serving the interim position of Mayor until the November 2016 Elections. I humbly believe that I can help and serve the Town at this difficult time as I have 6 years of experience with the current council and staff, having just been termed out of my Position on Council (District 5) in November. I was the Vice Chair for 2 years and when Mayor Beatty was ill and hospitalized last summer, I successfully chaired the RTCM's as well as budget meetings and workshops. I also was the Vice Chair when Mayor Eschenberg passed away and stepped up in an emergency situation, chairing a few meetings, attending mayors breakfast, SCLC etc. I know I can fulfill Mayors Beatty's Term with Grace and Dignity and help the Town move forward without disruption as I am most currently familiar with the Residents Concerns, Projects, Budget etc. at this time. I Love the Town of Malabar and am proud to offer my time and experience to honor Mayor Beatty's Position and his remaining term of office.

Sincerely



Marisa Acquaviva



2725 Malabar Road
Malabar, FL 32950

Tel: 321-727-7764
Fax: 321-727-7779

Sworn Statement 2016

Before me, an officer authorized to administer oaths, personally appeared Phillip Crews to me well known , OR produced identification MA, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of **MAYOR** of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is at least 30 years of age.
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least one (1) year consecutively and immediately prior to this date, a permanent resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- He/She is willing to serve if elected/appointed.

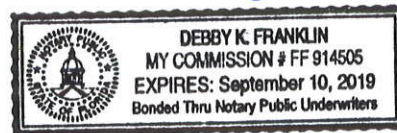
Phillip R Crews
Signature of Candidate

840 Whimsical LN
Address

Occupation: Retired

Sworn to and subscribed before me this 5 day of February, 2016.

Debby K. Franklin
(Signature of Notary Public - State of Florida)



(Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known OR Produced Identification :

Type of Identification Produced : _____



2725 Malabar Road
Malabar, FL 32950

Tel: 321-727-7764
Fax: 321-727-7779

Sworn Statement 2016

Before me, an officer authorized to administer oaths, personally appeared Stuart Borton to me well known OR produced identification N/A, who being sworn that he/she is a qualified elector of the Town of Malabar, Brevard County, Florida, and that he/she is qualified under the Town Charter of the Town of Malabar, Florida, and the Florida Statutes to hold the office of MAYOR of the Town of Malabar, Florida, for which he/she desires to be elected/appointed. Said qualifications are as follows, to wit:

- He/She is at least 30 years of age.
- He/She is not presently adjudicated mentally incompetent under the laws of any state.
- He/She has never been convicted of a felony without having his/her civil rights restored.
- He/She has registered to vote in Brevard County, Florida.
- He/She is now and has been for at least one (1) year consecutively and immediately prior to this date, a permanent resident of the Town of Malabar, Brevard County, Florida within the District the candidate is running.
- He/She is willing to serve if elected/appointed.

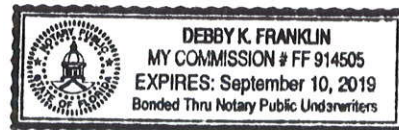
Stuart Borton
Signature of Candidate

905 US Hwy 1
Address

Occupation: Chef/owner

Sworn to and subscribed before me this 2 day of February, 2016.

Debby K. Franklin
(Signature of Notary Public - State of Florida)



(Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known ___ OR Produced Identification ___:

Type of Identification Produced : _____

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 4
Meeting Date: March 7, 2016

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

SUBJECT: Recommendation from P&Z Board – 500 foot Notification

BACKGROUND/HISTORY:

I have attached the packet P&Z Board approved at their meeting on February 10, 2016.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

P&Z Mtg Packet from February 10, 2016

ACTION OPTIONS:

Discussion and Action

TOWN OF MALABAR

MEMORANDUM

Date: February 12, 2016 16-AABO-002

To: Debby Franklin, Town Clerk/Treasurer
Town Council

From: Denine M. Sherear, Administrative Assistant to the Building official DS

Ref: Recommendation from P&Z to Council to Amend the Code Book to insert the 500 feet Radius Notifications for Public Hearings.

The PZ Board discussed amending the Code Book to clarify verbiage & locations of Radius Notification for Public Hearings and made the following motion.

Motion from the February 10, 2016 PZ Meeting:

Motion: Ryan/Ritter To Recommend to Council to Amend the Code Book to insert 500 ft. Radius notifications for Public Hearings in the following designated locations. All Vote: Ayes
Motion passed 5 to 0

- Article VII Site Plan Review
- Article VI Conditional Uses
- Section 1-12.2 BOA for Variances
- Article XII Abandonment of Improved /Unimproved Right of Way

ATTACHMENTS:

Packet from PZ Meeting 02/10/2016

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: February 10, 2016

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

SUBJECT: Amend the Code Book to insert the 500 ft. Radius Notifications for Public Hearings

BACKGROUND/HISTORY:

The PZ Board discussed verbiage & location of Radius Notifications for Public Hearings at the last Meeting on 1/27/2016. Chair, Pat Reilly submitted suggestions for verbiage and locations in the different Code Book Chapters & Articles at PZ Meeting on 1/13/2016.

The PZ Board will review final suggestions at this meeting and make recommendation to Council to Amend the Code Book to include Radius Notifications for Public Hearings in different locations in the Code Book

ATTACHMENTS:

- Work sheet PZ Board used to Amend Radius Notifications
- Chapters & Articles from Code Book to be Amended- marking changes in black marker

ACTION OPTIONS:

Recommendation to Council

Work Sheet for Agenda Item # 2

Radius Notifications

#	SUBJECT	RADIUS FOOTAGE	LOCATION IN CODE BOOK
1.	Site Plan Review	500 ft.	Article VII
2.	Commercial Site Plan Review	500 ft.	Article VII
3.	All Conditional Uses	500 ft.	Article VI
4.	Public Utilities	All affected	Article VII
5.	Abandonment of ROW	-	-
6.	BOA for Variances	500 ft. Correction only	Chapter 2
7.	Land Use Changes & Rezoning	500 ft. All affected	Application
8.	Abandonment of Improved & Unimproved of existing ROW	Greater than 500ft.? 1,000 ft	1-12.9 & 1-12.8 D

Portion of Article VII

- ① Site Plan Review
- ② Commercial Site Plan Review
- ③ Public Utilities

Article VII - SITE PLAN REVIEW

Section 1-7.1. - Applicability and filing procedure.

Site plan approval, as provided for herein shall be required for each of the following:

1. All permitted uses, except single family homes or single family home accessory structures. However, all uses and structures shall comply with surfacewater management criteria of Article VIII.
2. All conditional uses.
3. Any use or change in use resulting in one thousand (1,000) square feet of impervious surface area on the entire site.
4. The provisions of Article VIII: Surface Water Management shall apply to all site plans as if the same were incorporated in this Article.
5. Any development including single family residences which will involve any clearing, grading or other form of disturbing the land by the movement of earth provided that any one of the following descriptions applies to said movement.
 - (a) Excavation, fill or any combination thereof which will exceed five hundred (500) cubic yards.
 - (b) Fill which will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (c) Excavation which will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
 - (d) Excavation, fill or any combination thereof which will exceed an area of one thousand (1,000) square feet.
 - (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
 - (f) Whenever any amount of excavation or fill is proposed within one hundred (100) feet of a stream, stream channel or body of water a soil erosion and sedimentation control plan shall be provided.

A. *General Site Plan Review Procedure.* In all cases requiring site plan review, no structure or parking area, or part thereof, shall be erected or used, or land or water used, or any change of use consummated, nor shall any building permit be issued therefor, unless a site plan for such structure or use shall have been reviewed by the Town Planning and Zoning Board.

1. *Filing.* Before such site plan shall be approved, an application for such approval shall be filed with the Town Clerk then directed to the Building Official and/or the Town Engineer or other designated officials for their recommendation. Town Engineer is defined as that Town employee, or outside Florida registered engineer contracted by the Town, responsible for performing the duties specified herein as the Town Engineer.
2. *Application, Fee and Disclosure of Ownership.* Such application shall be in a form substantially in accordance with the form prescribed by the Town Clerk, copies of which may be obtained from the Town Clerk's office. A written power of attorney authorizing a person other than the owner(s) to sign such application must be attached to said application.

All applications shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for

site plan approval is sought, except publicly held corporations, in which case the name and address of the corporation and principal executive officers will be sufficient.

The fee schedule for site plan review shall be as determined by resolution of the Town Council.

3. *Review by Town Staff and Planning and Zoning Board.* The application shall be forwarded to the Building Official or Town Engineer and such other staff as may be pertinent. The Town shall proceed to make appropriate studies and/or reviews required to make an appropriate evaluation. **The applicant must submit a radius package produced by Brevard County listing all of the properties within five hundred (500) feet of the property involved in the application. If application is related to public utilities, notification must be given to all affected property owners. The Building department will send a letter to all of the listed properties notifying them of the applicant's intentions** The application with evaluative comment shall then be forwarded to the Town Planning and Zoning Board for their consideration and action. The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, so as to prevent inconvenience and delay to the project.

After reviewing a site plan and staff recommendations, the Planning and Zoning Board shall recommend approval or disapproval. The Planning and Zoning Board shall provide written comments documenting any conditions of approval. If site plan is recommended for disapproval, the Planning and Zoning Board shall specify in writing the reasons for recommending denial. All recommendations of the Planning Board together with the written record shall be forwarded to the Town Council for final action.

4. *Action by the Town Council.* The Town Council shall consider the recommendations of staff and the Planning and Zoning Board and approve with or without conditions, or disapprove the site plan. The Town Council may attach to its approval of a site plan any reasonable conditions, limitations or requirements which are found necessary, in its judgement, to effectuate the purpose of this Section and carry out the spirit and purpose of the Zoning Ordinance.

Any condition shall be made a written record and affixed to the site plan as approved. If the Town Council disapproves a site plan, the reasons shall be stated in writing and the appeal shall be to the Court of appropriate jurisdiction.

B. *Review of Minor Site Plans.*

1. *Applicability.* For the purposes of this section, minor site plans shall include the following:
 - a. Residential projects comprised of a single building, having less than five (5) dwelling units, or:
 - b. Projects containing less than one thousand (1,000) square feet of new impervious surface area.
 - c. Single family homes and accessory buildings or ponds which require site plan approval pursuant to section 1-7.1.5.
2. *Submission Requirements for Minor Site Plans.* Minor site plans shall only include that information required in Sections 1-7.2, 1-7.3, which is determined to be applicable to the proposed minor site plan by the Building Official and Town Engineer.
3. *Minor Site Plan Review Procedures.* All minor site plan applications shall be reviewed by the Town Engineer and Building Official and approved by the Building Official, the Planning and Zoning Board and the Chairperson of the Town Council. However, single family homes, accessory buildings or ponds may be approved by the Building Official. Appeals of such decisions shall be conducted pursuant to section 1-7.4

Article VI Conditional Uses

Section 1-6.1. - Conditional uses.

- A. *Purpose and Intent.* This Section is intended to stipulate general provisions and criteria for considering the approval of conditional uses on specific sites within various zoning districts. Conditional uses shall be permitted upon a finding that the respective use and proposed site plan satisfies the specific criteria of Section 1-6.1(C) cited herein.
- B. *Specific Criteria Regulating Conditional Uses.* A conditional use shall be permitted only upon a finding that the proposed conditional use, application, and site plan complies with the criteria herein unless the town determines that the proposed conditional use does not meet the criteria herein provided and the proposed conditional use is adverse to the public's interest. In addition to the site plan criteria of Article VII, an application for a conditional use shall describe the proposed land use characteristics and site plan techniques proposed to mitigate against possible adverse impacts to properties in the immediate vicinity.
1. *Characteristics of use described.* The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:
 - a. *Scale and intensity.* Scale and intensity of use as measured by the following:
 - i. Floor area ratio;
 - ii. Traffic generation;
 - iii. Square feet of enclosed building for each specific use;
 - iv. Proposed employment;
 - v. Proposed number and type of service vehicles;
 - vi. Off-street parking needs; and
 - vii. Other specifications and/or characteristics of the proposed use describing the nature, character, and intensity of the use, including compatibility with existing and anticipated uses within the immediate vicinity.
 - b. *Site improvements.* On- or off-site improvement needs generated by the proposed use and not identified in the preceding subparagraph "a.":
 - i. On- or off-site facilities required to serve the proposed uses such as utilities, public facilities, roadway or signalization improvements, or other similar improvements, including proposed accessory structures or facilities; and
 - ii. Other unique facilities/structures proposed as part of site improvements.
 - c. *On-site amenities.* On-site proposed to enhance site and planned improvements. Amenities including mitigative techniques such as open space, setbacks from adjacent properties, screening and buffers, including landscaped berms proposed to mitigate against adverse impacts to adjacent sites.
 - d. *Public facilities.* If the conditional use is for a public or semi-public facility, the primary and auxiliary service areas shall be described together with the existing and anticipated network of related facilities accommodating service area needs within the incorporated and unincorporated areas of Brevard County.
 2. *Criteria for conditional use review and approval.* In addition to site plan identified in Article VII, applications for a conditional use shall clearly demonstrate the following:
 - a. *Land use compatibility.* The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts are compatible and harmonious with adjacent land uses and will not adversely impact land use activities in the immediate vicinity.

Similarly, where the use is substantially different from other uses in the district and is not intended to serve the residents in the immediate vicinity, the applicant shall bear the burden of demonstrating that the use is appropriate to the subject site and immediate vicinity, and cannot and/or should not be located at an alternative site. In order for a non-residential use to be approved within a residential area, the applicant must demonstrate that a location outside the residential area would not provide for the essential site location needs of the facility or use.

- b. *Sufficient site size and adequate site specifications to accommodate the proposed use.* The size and shape of the site, the proposed setbacks and buffer areas, the proposed access and internal circulation, and the site design enhancements must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to accommodate site design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.
- c. *Public and semi-public facilities within residential areas.* A public or semi-public facility proposed within any type of residential district must provide an essential service to residential dwelling units within the immediate vicinity and the applicant must demonstrate that alternative sites zoned for non-residential use cannot accommodate the functions of the facility.
- d. *Proper use of mitigative techniques.* The applicant shall demonstrate that the conditional use and site plan has been designated to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
- e. *Hazardous waste and hazardous emissions.* The proposed use shall not generate hazardous waste, hazardous emissions, or require use of hazardous materials in its operations without use of town approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material, regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste, hazardous emissions or uses hazardous materials shall be located in the town unless specific location is consistent with the Comprehensive Plan, land development regulations, and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources. Such uses shall be located within a non-residential district.
- f. *Compliance with applicable laws and ordinances.* A conditional use application shall demonstrate compliance with all applicable federal, state, county and town laws and ordinances. Where permits are required from governmental agencies other than the town, these permits shall be obtained as a condition of approval.

C. *Review Procedures.* The application for a conditional use on a form to be provided by the Town Clerk shall be submitted to the Town Clerk with the site plan required pursuant to Sec. 1-7.1 of this Code. The procedure for approval shall be the same as for the procedures identified in Chapter VII for site plan review.

The applicant shall demonstrate on the site plan documents and scale drawings that the proposed improvements shall comply with all specifications cited in Table 1-6.1(B). The procedure for review by the Planning and Zoning Board and the Town Council shall be the same as stipulated for site plan review in Sections 1-7.1 and 1-7.5.

TABLE 1-6.1(B). CONDITIONAL LAND USE REQUIREMENTS

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District/Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District/Nonresidential District (feet)	Perimeter Screening Residential District/Nonresidential District (5)	Curb Cut Controls	Other
Child Care Facilities	1 Acre	145	Paved	50/30	15/10	Type A/B	(7)	
Places of Worship	5 Acres	250	Paved	70/45	25/20	Type A/C	(7)	
Educational Institution	(1)	500	Arterial	70/45	25/20	Type A/C	(7)	
Enclosed Arcade Amusement Center/Electronic Gaming Establishment	1 Acre	120	Highway 1 and Babcock Street only	100/30	N/A	Type A/C	(7)	
Golf Courses	(2)	500	Paved	70/45	25/20	Type C/C	(7)	
Hospitals and other Licensed Facilities	5 Acres	325	Arterial	100/75	25/20	Type A/C	(7)	
Nursing Homes and	2 Acres	210	Paved	60/30	25/20	Type A/C	(7)	

Related Health Care Facilities									
Protective Services	(4)	120	Paved	50/30	25/20	Type A/C	(7)		
Public Parks and Recreation Areas	5 Acres	325	Paved	70/45	25/20	Type C/C	(7)		
Public and Private Utilities	N/A	120	N/A	70/30	25/20	Type A/C	(7)		
Commercial Stables	5 Acres	325	N/A	100/75	50/40	Type B/C			
Adult Entertainment	1 Acre (8, 9, 10)	120	US 1/Babcock	100/30	N/A	Type A/C	(7)	(6)	
Bars and Lounges	1 Acre (8, 9)	120	US 1/Babcock	100/30	N/A	Type A/C	(7)	(6)	
Marine Commercial Activities	1 Acre	120	US 1/Babcock/ West Railroad Avenue	100/30	N/A	N/A	(7)		
Service Stations, Including Gasoline Sales	1 Acre (8)	145	Arterial	100/30	N/A	N/A	(7)		
Trades and	1 Acre	145	US	100/30		Type	(7)		

Skilled Services	(8)		1/Babcock/ West Railroad Avenue		N/A	A/C		
Vehicular Services and Maintenance	1 Acre (8)	145	US 1/Babcock/ West Railroad Avenue	100/30	N/A	Type A/C	(7)	
Wholesale Trades and Services	1 Acre	145	US 1/Babcock/ West Railroad Avenue	50/30	15/10	Type A/C	(7)	
Kennels	1 Acre	145	N/A	100/30	15/10	Type A/C	(7)	
Vehicular and Other Mechanical Repair	1 Acre (8)	145	US 1/Babcock/ West Railroad Avenue	100/30	15/10	Type A/C	(7)	
Noncommercial Piers, Boat Slips and Docks	N/A	N/A	N/A	N/A	N/A	N/A	(7)	
Community Residential Home								
Level 1 (1)	1.5	210	Paved	60/30				

to 6 residents/beds)	acres				25/20	Type A/C	(7)	
Level 2 (7 to 14 residents/beds)	3 acres	210	Paved	60/30	25/20	Type A/C	(7)	
Assisted Care Communities								
I Assisted Living Facility								
Level 1 (1 to 5 residents/beds)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)	
Level 2 (6 to 15 residents/beds)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)	
Level 3 (16 or more residents/beds)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)	
II Adult Family-Care Homes								
(1 to 5 residents/beds)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)	
III Adult Day Care	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)	

Facilities								
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Note: Arterial streets refer to transportation linkages on the Major Thoroughfare Plan within the Comprehensive Plan (i.e., Malabar Road, US 1, and Babcock Street).

- (1) Minimum spatial requirements for public and private, primary and secondary educational institutions shall comply with standards used by the Brevard County School Board and the State of Florida.
- (2) Minimum spatial requirements for golf courses shall comply with standards recommended by the U.S. Golf Association or the American Society of Golf Architects.
- (3) Minimum spatial requirements shall comply with the requirements established by the Town of Malabar District Provisions or the Florida Statutes, whichever requirement is greater.
- (4) Minimum spatial requirements for the American Insurance Association and the National Fire Prevention and Control Administration.
- (5) The Type A, B, and C screening requirements reflect the standards cited in Section 1-4.1(G)(2)(a)—(c).
- (6) No parking lot or structure within 200ft; of residential or institutional district.
- (7) No more than two curb cuts shall be permitted to any one street frontage. The ingress-egress width shall be restricted to a maximum width of thirty (30) feet at the point of curvature at the property line; shall be located no closer than thirty (30) feet to a right-of-way intersection; and shall be at least ten (10) feet removed from property lines. A minimum fifty (50) feet separation shall be maintained between curb cuts. The Town may require controlled access, including dedication of cross easements and joint use of drive. ~~The Town Council may grant a waiver to these requirements after considering the recommendations of the Planning and Zoning Board and the Town staff.~~
- (8) Shall not be located adjacent to a residential district, including the RR district.
- (9) Shall not be located within 1000 feet of a religious institution, educational institution, or public park.
- (10) Reference Town of Malabar Ordinance Regulating Adult Entertainment.

added
→

D. Notification. The applicant must submit a radius package produced by Brevard County listing all of the properties within five hundred (500) feet of the property involved in the application. The Building department will send a letter to all of the listed properties notifying them of the applicant's intentions.



(Ord. No. 94-4, § 9, 4-3-95; Ord. No. 12-48, §§ 3, 4, 1-23-12; Ord. No. 14-01, § 4, 2-3-14)

Cross reference— Adult entertainment establishments, regulations, § 10-26 et seq.

BOA FOR VARIANCES

Section 1-12.2. - Board of adjustment.

A. *Procedures for Processing Matters Before the Board.*

1. *Appeal Proceedings.* Appeals to the Board of Adjustment concerning interpretation or administration of this Chapter [Code] may be taken by any aggrieved person or by any person or officer of the governing body of the Town affected by any decision of the Building Official or succeeding administrative officer. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days (or such lesser period as may be provided by the rules of the Board of Adjustment) after the rendering of the order, requirement, decisions, or determination appealed, by filing with the Building Official or other administrative officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The appeal shall be in the form prescribed by the rules of the Board. The administrative officer from whom the appeal is taken shall, upon notification of the filing and prior to the hearing date, transmit to the Board of Adjustment all papers or materials constituting the record upon which the action appealed from was taken.
2. *Hearing of Appeal, Notice Required.* The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. At the hearing any party may appear in person or be represented by an agent or by an attorney at law authorized to practice in the State of Florida. Appellants may be required to assume such reasonable costs in connection with appeals as may be determined by the Town Council through action in setting of fees to be charged for appeals.
3. *Vote Required for Matter Before Board.* The concurring vote of a majority of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter [Code], or to effect any variation in the application of this chapter [Code].
4. *Procedures for Processing Variances.* A variance from the terms of these regulations shall not be granted by the Board of Adjustment unless and until:
 - a. A written application specifying the grounds for the variance is submitted. See Section 1-12.2(D)(2).
 - b. Notice of public hearing shall have been given as identified in Section 1-12.2(E)(8) herein.
 - c. The public hearing shall have been held, with the aggrieved parties appearing in person or represented by an attorney at law authorized to practice in the State of Florida.
 - d. The Board of Adjustment shall have determined that the application is complete and that granting the variance meets the criteria for granting variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
5. *Expiration of Variance or Determinations.* Variances and special exceptions shall become void if not exercised within six (6) months of the date granted.
6. *Extension of Variance Determinations.* Before this six (6) months period has expired, the applicant may make a request to the Board of Adjustment by letter for an additional six (6) months extension. Any further extensions of time shall require a new application to be processed as a new case.
7. *Stay of Proceedings.* An appeal to the Board of Adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order

which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Building Official or administrative official from whom the appeal is taken and on due cause shown.

8. *Public Notice.* All proceedings shall be conducted only after public notice has been given. The public notice shall contain at least the following items:
- The date, time and place of meeting.
 - The title of the Board, conducting such meeting.
 - A brief description of the matter to be considered.
 - A legal description of the property, other appropriate information identifying the property involved.

correction → The giving of public notice of hearing, as herein required, shall be deemed sufficient when a notice is published at least two (2) times in a newspaper of general circulation in the Town, the first publication of which shall be at least fifteen (15) days before the hearing and a copy of such notice is mailed to all property owners, as shown in the records of the County property appraiser, within ~~two hundred (200) feet~~ **five hundred (500) feet** of the property involved in the application. If the property involved in the application is a condominium, then the required notice shall be by certified mail to the condominium association and by regular mail to the individual owners. ←

The following additional notice may be provided:

- The property to be considered for change may be posted with a sign of approximately a total area of two (2) square feet placed so as to be visible from the adjacent dedicated public road right-of-way, or private access easement.
- The sign should contain the information required above.

9. *Recommendation Filed.* On all proceedings held before the Board of Adjustment, the Building Official or other representative designated by the Town Council shall review the application and file a recommendation on each item. Such recommendations shall be received, heard and filed prior to final action on any item before the Board, and shall be part of the record of the application. (In reference to administrative appeals, a summary explanation shall be filed in place of a recommendation).

- B. *Judicial Review of Decisions of Board of Adjustment.* Any person or persons jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, Board, commission or Town Council may apply to the circuit court in the judicial circuit where the Board of Adjustment is located for judicial relief within thirty (30) days after the decision by the Board of Adjustment. Review in the circuit court shall be either by a trial de novo, which shall be governed by the Florida Rules of Civil Procedure, or by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules. The election of remedies shall lie with the appellant.

(Ord. No. 06-09, § 1, 7-17-06; Ord. No. 14-08, § 4, 2-3-14)

Editor's note—

Ord. No. 14-08, § 4, adopted June 16, 2014, redesignated previous Land Development Code subsections 1-12.2 A.—D. as a new Code § 2-240, deleting the material from LDC § 1-12.2 and renumbering subsequent subsections.

Cross reference— Administration, ch. 2.

Article XII Abandonment ^{IMPROVED /} unimproved ROW

Section 1-12.5. - Procedures for adopting, supplementing or amending the land development code.

- A. *Initiating Amendments to the Land Development Code.* Amendments to the land development code may be initiated by:
1. *Town Council.* The Town Council may initiate an amendment to the land development code by approving a written statement expressing its intent to amend this code and shall submit such written statement and any relevant supportive material to the Town Planning and Zoning Board for review and action pursuant to Section 1-12.6(C) [1-12.5(C)] of this Chapter [Code].
 2. *Planning and Zoning Board.* The Town Planning and Zoning Board may initiate a land development code amendment.
 3. *Property Owner(s).* An amendment to the land development code may be initiated by a petition signed by a property owner, or the property owner's authorized agent. Such petition shall be submitted to the office of the Town Clerk together with a fee as shall be determined by resolution of the Town Council. As many lots or parcels of property as the applicant may desire may be included in any single petition if they constitute one contiguous. The petition shall be submitted on an application form prescribed by the Town Clerk. The application shall include, but not be limited to, the following:
 - (a) *Property Description.* The application shall describe by legal description and by street address, where possible, the property to be affected by the proposed change.
 - (b) *Current and Proposed Comprehensive Plan Land Use Map Designation.* The current and proposed Comprehensive Plan Land Use Map designation for the subject property shall be identified.
 - ~~(c) *Current and Proposed Zoning.* The current and proposed zoning for the subject property shall be identified.~~
 - (d) *Existing and Proposed Use.* The existing and proposed use of the subject property shall be stated.
 - (e) *Disclosure of Ownership.* The application shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for rezoning is sought, except publicly held corporations, in which case the names and addresses of the corporate officers shall be sufficient.
- B. *Administrative Review.* The Town Clerk shall forward zoning change petitions, for which appropriate fees have been submitted, to all appropriate administrative staff for their review and comment. The application shall be reviewed for conformance with the requirements of this Chapter [Code].
- C. *Planning and Zoning Board Review.* The Planning and Zoning Board, regardless of the source of the proposed zone change petition, shall hold a public hearing(s) thereon, with due public notice. The Town Planning and Zoning Board shall submit a written report and recommendation concerning the proposed change of zoning to the Town Council for official action. If the Planning and Zoning Board denies the requested zone change or amendment, this action shall be deemed final unless such action is appealed to the Town Council pursuant to Section 1-12.3(C)(4). In its deliberations the Planning and Zoning Board shall consider the following criteria:

1. *Consistency With Plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service (LOS) standards and the concurrency management program. Any inconsistencies shall be identified by the Planning and Zoning Board.
 2. *Conformance With Ordinances.* Whether the proposal is in conformance with all applicable requirements of the Town of Malabar Code of Ordinances.
 3. *Changed Conditions.* Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations involved which are relevant to the amendment.
 4. *Land Use Compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.
 5. *Adequate Public Facilities.* Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.
 6. *Natural Environment.* Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, vegetative commodities, and wellfield protection.
 7. *Economic Effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area, or the general welfare.
 8. *Orderly Development.* Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.
 9. ~~*Public Interest; Enabling Act.* Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this ordinance and its enabling legislation.~~
 10. *Other Matters.* Other matters which the Planning and Zoning Board may deem appropriate.
- D. *Action Following Reviews By Town Planning and Zoning Board.* If an appeal to a decision of the Planning and Zoning Board is filed, the Town Clerk shall transmit copies of the petition, the comments and the minutes of the Planning and Zoning Council meeting to each member of the Town Council at least seven (7) days before the Council shall consider the appeal. The Town Clerk shall notify the applicant of the time and place of the meeting at which the Council will hear the appeal. Should the Council tentatively approve the petition, the Town Council will proceed to hold a public hearing(s) on the petition.
- Should the Town Planning and Zoning Board approve the petition, the Town Clerk shall transmit copies of the petition, [and] all comments and the minutes of the Planning and Zoning Board meeting to each member of the Council at least seven (7) days before the Council shall consider the petition. Should the Council tentatively approve the petition, public hearing(s) shall be held on the petition.
- E. *Town Council Review.* The Town Council shall hold a public hearing on the requested zone change petition or amendment, with due public notice, if any change is to be considered and shall then act on the proposed change. An affirmative vote of three (3) members of the Town Council is required for favorable action on a zone change petition or amendment for

which the Town Planning and Zoning Board has recommended denial. In its deliberations the Town Council shall consider the criteria identified in Section 1-12.5(C) above together with the findings and recommendations of the Planning and Zoning Board. Any modifications or revisions to the Town Planning and Zoning Board recommendation which involve a greater area of land to be rezoned or a more intensive zoning classification shall be the subject of an additional public hearing before the Town Council with due notice prior to action by the Town Council.

Cross reference— Ordinance adoption procedure, § 2-76 et seq.

Section 1-12.6. - Procedures for public hearings.

Due public notice shall be provided pursuant to § 166.041 F.S.

Section 1-12.8. - Vacate and abandonment.

A. *Definitions:* For purposes of this Section the following terms shall have the following meanings:

1. *Vacate and abandon* shall mean vacate, abandon, close, renounce, disclaim or any other term that indicates the relinquishment of the Town's right, title or interest in a public right-of-way.
2. *Public right-of-way* shall mean public road, street, highway, easement, way, thoroughfare.

B. The Town Council may by resolution vacate and abandon any public right-of-way.

C. All requests for a vacate and abandonment of any public right-of-way shall be by petition and shall state the name and address of all persons owning property abutting said public right-of-way and shall give a description of the public right-of-way sought to be vacated and abandoned.

D. Petitions for a vacate and abandonment shall be submitted to the Town at least twenty-one (21) days prior to a regularly scheduled Planning and Zoning Board meeting. Meetings are the second Wednesday of each month. The following information shall be submitted with the petition:

1. List of all property owners within ~~five hundred (500) feet~~ one thousand (1,000) feet of the total length of the subject public right-of-way. Such list shall be prepared by a county office with access to public records, i.e. property appraiser. The Building Department will send a letter to all of the listed properties notifying them of applicant's intentions.

2. A map of the total area of the public right-of-way and property owners with the area requested to be vacated and abandoned identified.

E. The petition and all associated documents shall be forwarded to the Building Official for distribution to the appropriate Town staff. Staff shall review the request and determine if any conflict may exist or if there may be any reason that the Town should not grant the request. Written staff comments shall be forwarded to the Building Official within ten (10) working days following receipt of the vacate request.

F. The Building Official shall present the vacate and abandon request and staff comments to the next regularly scheduled Planning and Zoning Board meeting for consideration and recommendation to the Town Council.

Corrected

Add

- G. The request and Planning and Zoning Board recommendation shall be forwarded to the Town Council for authorization to proceed.
- H. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.
- I. A courtesy copy of the notice shall be mailed to all property owners identified in subparagraph D. above and to all utility companies serving south Brevard County.
- J. Any decision by the Town Council concerning a vacate and abandonment shall be a legislative decision and governed by the fairly debatable standard.
- K. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.
- L. The proof of publication of notice of the public hearing, the resolution adopted by the Town Council, and the proof of publication of the notice of adoption of the resolution all shall be recorded in the public records of Brevard County after same has been completed.
- M. The Town Council shall establish by resolution the appropriate schedule of fees, charges and expenses and a collection procedure.
(Ord. No. 01-06, § 1, 3-4-02)

Section 1-12.9. - Town-initiated vacate and abandonment.

- A. Nothing in this Section shall be construed to limit, abrogate, deny or otherwise impose restrictions on the Town from vacating and abandoning any public right-of-way of the Town. Notwithstanding any provision of this Section the town shall have the absolute legislative right to vacate and abandon any public right-of-way in the Town. Any decision to vacate and abandon any public right-of-way of the Town which was initiated by the Town shall be governed by the fairly debatable standard.
- B. Before the adoption of any resolution vacating and abandoning any public right-of-way, the Town Clerk shall cause to be published in a newspaper of general circulation in the Town a notice that the Town Council shall hold a public hearing regarding said resolution. Said notice shall be published at least fourteen (14) days prior to the date of said public hearing.
- C. The Town may shall send a courtesy notice of the Town Council's intent to vacate and abandon any public right-of-way to all property owners within ~~five hundred (500) feet~~ one thousand (1,000) feet along the said right-of-way to be vacated and abandoned. The Building Department will send a letter to all of the listed properties notifying them of the Town's intentions.
- D. Notice of the adoption of the resolution vacating and abandoning any public right-of-way by the Town Council shall be published one (1) time within thirty (30) days following its adoption in a newspaper of general circulation in the Town.
(Ord. No. 01-06, § 1, 3-4-02)

CORRECTED

Add

**TOWN OF MALABAR
AGENDA ITEM REPORT**

AGENDA ITEM NO: 5
Meeting Date: March 7, 2016

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

SUBJECT: Recommendation from P&Z Board – ALF in OI Zoning

BACKGROUND/HISTORY:

I have attached the packet P&Z Board approved at their meeting on February 10, 2016.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

P&Z Mtg Packet from February 10, 2016

ACTION OPTIONS:

Discussion and Action

TOWN OF MALABAR

MEMORANDUM

Date: February 12, 2016 16-AABO-003

To: Debby Franklin, Town Clerk/Treasurer
Town Council

From: Denine M. Sherear, Administrative Assistant to the Building official DS

Ref: Recommendation from P&Z to Council to Amend the Assisted Living Facilities (ALF) Ordinance 2014-01 re: Office Institutional (OI) Zoning.

This Assisted Living Facility (ALF) Ordinance 2014-01 came up as a discussion item during a PZ Meeting; it was under the original recommendation of Council to not allow ALF Facilities in the "OI" Zoning. The amendment to this Ordinance is to correct & clarify this recommendation.

Motion from the February 10, 2016 PZ Meeting:

Motion: Ritter/ Ryan To Recommend to Council to Amend the Assisted Living Facilities (ALF) Ordinance 2014-01 ref: Office/Institution (OI) Zoning All Vote: Ayes Motion passed 5 to 0

ATTACHMENTS:

- Packet from PZ Meeting 02/10/2016

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: February 10, 2016

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

SUBJECT: Amend Assisted Living Facility (ALF) Ordinance 2014- 01 in ref: Office Institutional (OI) Zoning.

BACKGROUND/HISTORY:

This Assisted Living Facility (ALF) Ordinance 2014-01 came up as a discussion item during a PZ Meeting; it was under the original recommendation of Council to not allow ALF Facilities in the "OI" Zoning. The amendment to this Ordinance is to correct & clarify this recommendation.

The PZ Board made some corrections and additions to this Ordinance and would like to review and forward to Council their final recommendations.

ATTACHMENTS:

- Corrections to Amend Ordinance 2014-01

ACTION OPTIONS:

Recommendation to Council

SECTION 1-3.2
LAND USE BY DISCTRICTS
PAGE 0-6

CORRECTIONS MADE ON PAGE 0

CORRECTIONS MADE ON PAGE 2

Portion of Article III District Provisions

development shall be located so that they provide a smooth transition between low density residential development and areas developed and/or designated for more intense uses.

- H. *RM-6 "Multiple-Family High-Density Residential Development."* The RM-6 district is established to implement comprehensive plan policies for managing high-density residential development at a density not to exceed six units per acre. The district is established to ensure that sufficient land is available for developments of high-density residential development and is intended to ensure availability of adequate public facilities.

- I. *OI "Office-Institutional."* The OI district is established to implement comprehensive plan policies for managing office-institutional development. This district is designed to accommodate businesses and professional offices together with institutional land uses on sites which:

- Have accessibility to major thoroughfares;
- Have potential to be served by a full complement of urban services;
- Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential adjacent land uses of differing intensities;
- Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses ~~(except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B-10(B))~~, general retail sales and services, warehousing, and outside storage; and
- Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
- A Malabar Vernacular Style is required for all development along arterial roadways.

- J. *INS "Institutional Services."* The INS district is established to implement comprehensive plan policies for managing institutional development. The district is intended to accommodate public and semi-public facilities such as government administration buildings; fire, police, and rescue services; health care delivery services; and educational institutions. Land uses such as places of worship, cultural or civic centers, and other similar public or private not-for-profit uses may be included within this district.

- K. *CL "Commercial Limited."* The CL district is established to implement comprehensive plan policies for managing limited commercial development accessible to major thoroughfares near residential neighborhoods. Such development is intended to provide essential household services in locations highly accessible to residential areas. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods. Such shops generally cater to the following markets:

- Neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional market; or
- A specialized market with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for limited commercial development are not intended to accommodate large-scale retail sales, services, and trade activities, generally serving a city-wide or regional market. Such stores would usually differ from limited commercial shops since the former would usually require a larger floor area, carry a relatively larger inventory and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery



Section 1-3.2. - Land use by districts.

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

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

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

Cross reference— Alcoholic beverages, ch. 4.

TABLE 1-3.2. LAND USE BY DISTRICTS														
	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			
COMMUNITY FACILITIES														
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship	C	C	C	C	C	C		P, A ¹	P	P	P		P	
Clubs and Lodges (Not-for-Profit)									P	P				

Cultural or Civic Activities								P	P	P	P		P
Educational Institutions								C, A ¹					C
Golf Course Facilities	C												
Hospital and other Licensed Facilities								C					C
Nursing Homes and Related Health Care Facilities					C	C		C					C
Protective Services					C	C	C	C	C	C	C	C	C
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C
COMMUNITY RESIDENTIAL HOME													
Level 1 (1 to 6 residents/beds)	C ³				C	C							
Level 2 (7 to 14 residents/beds)					C	C							C
ASSISTED CARE COMMUNITIES													
I Assisted Living Facility													
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C		
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴							

Remove →

Level 3 (16 or more residents/beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)	C ³	C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	
AGRICULTURAL ACTIVITIES														
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities											C			
Bars and Lounges											C			
Bed and Breakfast												P ¹		
Business and Professional Offices									P	P	P	P	P	P
Enclosed Commercial Amusement											P			
Arcade Amusement Center/ Electronic Gaming Establishment											C ²			
Funeral Homes									P	P	C			

General Retail Sales and Services											P								
Hotels and Motels											P								
Limited Commercial Activities										P	P	P							
Marine Commercial Activities											C*								
Medical Services									P	P	P	P							
Mini Warehouse/Storage										C	P			P					
Parking Lots and Facilities									P	P	P	P						P	
Retail Plant Nurseries										P	P	P							
Restaurants (Except Drive-Ins and fast food service)										P	P	P							
Restaurants (Drive-ins)											P								
Service Station, Including Gasoline Sales											C*			C*					
Trades and Skilled Services											C*			P					
Veterinary Medical Services									P	P	P	C	P						
Vehicular Sales and Services											C*			P					
Vehicular Services and Maintenance											C*			P					
Wholesale Trades and Services											C*			P					

INDUSTRIAL ACTIVITIES																		
Kennels																		C
Manufacturing Activities																		P
Manufacturing Service Establishments																		P
Vehicle and Other Mechanical Repair and Services																	C*	P
Warehouse, Storage and Distribution Activities																		P
WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES																		
Noncommercial piers, boat slips, and docks																		C

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

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

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

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

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

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14)

SECTION 1-20.2
PORTION OF DEFINITIONS OF TERMS
PAGE 1

CORRECTIONS MADE ON PAGE 1

Section 1-20.2. - Definitions of terms.

Terms not otherwise defined herein shall be interpreted first by reference to the Comprehensive Plan and this Code; secondly, by reference to generally accepted engineering, planning, or other professional terminology if technical; and otherwise according to common usage, unless the context clearly indicates otherwise.

For the purpose of enforcing and administering this Code, the following words shall have the definitions and meanings herein ascribed:

Abandon. To discontinue a use for more than six (6) consecutive months.

Abutting. See adjoining.

Access. For purposes of this Ordinance, the term access shall mean a way for prospective purchasers, visitors, and prospective customers to get from parking facilities to the model home. Such access shall be a minimum of 30" wide.

Access, Point of. A driveway or other opening for vehicles onto a public street.

Accessory Use or Structure. A use or a structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental to the use of the principal building, provided any such structure is built with or after the construction of the principal building.

Adjoining Lot or Land. A lot or parcel of land that shares all or part of a common lot line including a common right-of-way with another lot or parcel of land.

Administrative Office. A room, studio, suite or building in which the management and general administrative functions are performed.

Administrative (or Town) Official. The person appointed by the Town Council to administer and enforce this chapter [Code] who is normally the building inspector.

Adult Day Care Centers. As defined in section 1-2.6.B.13.B, Part III.

Adult Family-Care Home. As defined in section 1-2.6.B.13.B, Part II.

Advertising Structure. A structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

Airport. A special facility designed to accommodate the takeoff and landing of aircraft [and which] may be equipped with hangars, facilities for refueling and repairing airplanes, taxiways, tie down areas, and various accommodations for passengers.

Alley. A roadway dedicated to public use which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration. Any change in the arrangement of a building, including work affecting the structural parts of a building or any change in occupancy.

Apartment. An independent housekeeping unit in an apartment house.

Apartment House. Any building or part thereof where separate accommodations for more than two (2) families living independently of each other are supplied to transient or permanent guests or tenants.

Assisted Living Facility. As defined in section 1-2.6.B.42-B 13B, Part I.

Awning. A light, protective appurtenance to a building.

Bars. Any place selling and dispensing for the drinking on the premises of liquor, malt, wine, or other alcoholic beverages.

Basement. A story partly underground and having at least one-half of its height below the level of the contacting grade.

Correction ←

SECTION 1-2.6
LAND USE CLASSIFICATIONS
PAGE 1-10

CORRECTIONS MADE ON PAGE 2 & 3



Section 1-2.6. - Land use classifications.

The purpose of these provisions is to classify uses into specially defined types on the basis of common functional characteristics and land use compatibility. These provisions apply throughout the zoning regulations.

All land use activities are classified into the following activity types.

A. Residential Activities.

1. Single Family Dwellings.
2. Two Family Dwellings.
3. Multi Family Dwellings.
4. Mobile Homes.
5. Accessory Residential Activities.

B. Community Facilities.

1. *Administrative Services (Public or Private Not-for-Profit)*. Activities typically performed by not-for-profit private or public social services and utility administrative offices.
2. *Cemetery*. Property used for the interring of the dead.
3. *Child Care Services*. Activities typically performed by an agency, organization or individual providing day care without living accommodations for preteens not related by blood or marriage to, and not the legal wards or foster children of, the attendant adult.
4. *Clubs and Lodges (Not-for-Profit)*. Activities typically performed by a group of persons for social or recreational purposes not operated for profit and not including activities which primarily render services which are customarily carried on as a business for profit.
5. *Cultural or Civic Activities*. Activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as literature, science, music, drama, art or similar objectives.
6. *Educational Institutions*. A place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.
7. *Golf Course and Support Facilities*. A golf course is comprised of at least nine separate holes and may be regulation length, executive length, or par three (3) length. A golf course shall be required to comply with recommended minimum design standards established by the U.S. Golf Association or the American Society of Golf Course Architects. The following acreage requirements shall be the minimum standards for a golf course:

Type of Golf Course	Minimum Acres Required
Regulation Course	120 acres
Executive Course	40 acres
Par 3 Course	35 acres

Commercial miniature golf courses and driving ranges and similar facilities are excluded from this activity as defined.

8. *Places of Worship.* Activities customarily performed in a building where persons regularly assemble for religious worship and which building, together with its accessory building and uses, is maintained and controlled by a religious body organized to sustain public worship.
9. *Protective Services.* Fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.
10. *Public Health Facilities.* The Town has labeled the facilities below as Public Health Facilities. These facilities are also referenced in Florida Statutes, Title XXIX, in Chapters 395 and 408.

Notwithstanding the identification of other facilities in Florida Statutes, Title XXIX, in Chapters 395 and 408, the facilities below are the only Public Health Facilities provided for by the Town.

Add
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The Town may defer from Florida Statutes to maintain its rural nature as stated in the Town Charter

A. Hospital and other Licensed Facilities

"Hospital and other Licensed Facilities" means any establishment that:

- (a) Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and
- (b) Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.

~~However, the provisions of this chapter do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. Refer to Chapters 395 and 408.~~

B. Nursing Homes and Related Health Care Facilities

Refer to Chapters 400 and 408 for the definitions and requirements of the following

Nursing Home and Health Care Facilities.

Part I Long-Term Care Facilities

~~"Long-term care facility" means a nursing home facility, assisted living facility, adult family care home, board and care facility, or any other similar residential adult care facility (additional reference: see Florida Statutes, Title XXX, Chapter 429, Social Welfare).~~

Delete
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Add

Part I Long-Term Care Facilities

"Long Term care facility" only means a nursing home facility or board and health care facility.

Part II Nursing Homes

"Nursing Home Facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Part V Intermediate, Special Services, and Transitional Living Facilities

Intermediate care facilities; intent-The Legislature recognizes the need to develop a continuum of long-term care in this state to meet the needs of the elderly and disabled persons. The Legislature finds that there is a gap between the level of care provided in assisted living facilities and in nursing homes. The Legislature finds that exploration of intermediate-level care facilities which would fill the gap between assisted living facilities and nursing homes, where both the federal and state government share the cost of providing care, is an appropriate option to explore in the continuum of care.

11. *Public Parks and Recreation Areas.* Public parks and recreation land and facilities developed for use by the general public.
12. *Public and Private Utilities (including Essential Government Services).* Use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water distribution; wastewater collection and disposal; communication; and similar services and facilities.
13. *Social Welfare Facilities.* The Town has labeled the facilities below as Social Welfare Facilities. These facilities are also referenced in Florida Statutes, Title XXX, in Chapters 408 and 430. Notwithstanding the identification of other facilities in Florida Statutes, Title XXX, in Chapters 408 and 430, the facilities below are the only Social Welfare Facilities provided for by the Town.

ADD
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The Town may defer from Florida Statutes to maintain its rural nature as stated in the Town Charter.

A. Community Residential Homes

"Community Residential Home" means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency of Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Refer to Chapters 408 and 419.

There are 2 levels of Community Residential Homes:

Level 1 is between 1 to 6 residents/beds

Level 2 is between 7 to 14 residents/beds

B. Assisted Care Communities

Part I Assisted Living Facilities

"Assisted Living Facility (ALF)" means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. Refer to Chapter 408 and 429.

There are 3 levels of Assisted Living Facilities:

Level 1 is between 1 to 5 residents/beds

Level 2 is between 6 and 15 residents/beds

Level 3 is 16 residents/beds or more

In the RM-4 and RM-6 zoning districts, an ALF Factor of 3 will be used to determine the residents/bed density. For example, RM-4 is allowed 4 units per acre multiplied by the 3 ALF Factor is equal to 12 residents/beds per acre. RM-6 is allowed 6 units per acre multiplied by the 3 ALF Factor is equal to 18 residents/beds per acre.

Part II Adult Family-Care Homes

"Adult Family-Care Homes" means a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives. Refer to Chapters 408 and 429.

Part III Adult Day Care Centers

"Adult Day Care Centers" or center means any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Refer to Chapters 408 and 429.

C. Commercial Activities.

1. *Bars and Lounges.* A commercial establishment selling and dispensing for the drinking on the premises of liquor, malt, wine or other alcoholic beverages. This shall not include the sale of alcoholic beverages accessory to and within a restaurant use.
2. *Business and Professional Offices.* Offices extending the following services which provide advice, information or consultation of a professional nature: insurance, real estate, and financial services; banking services; and executive management and administrative activities. This classification excludes commercial storage of goods and chattels for the purpose of sale or resale as a principal use.
3. *Commercial Amusement, Enclosed.* Active or passive recreation facilities by profit oriented firms where all activities are conducted within fully enclosed facilities. Facilities as defined herein as amusement arcade centers and/or electronic gaming establishments are permitted as conditional uses as provided for in Table 1-3.2. For purposes herein the following definitions apply:

Arcade Amusement Center as used in this section means a place of business which shall have at least fifty (50) coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility. It is specifically intended by this definition that any place of business that does not have at least fifty (50) coin-operated amusement games or machines on premises shall not be granted a conditional use permit to

operate such a business. The provisions of F.S. § 849.161 shall apply to an arcade amusement center.

Electronic Gaming Establishment means a business operation, which shall have at least fifty (50) electronic machines or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to F.S. § 849.094, including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds. It is specifically intended by this definition that any place of business that does not have at least fifty (50) electronic machines or devices shall not be granted a conditional use permit to operate such a business. This term includes, but is not limited to internet cafes, internet sweepstakes cafes, and cybercafes or sweepstakes cafes. This definition is applicable to any electronic gaming establishment, whether or not the electronic machine or device utilized:

- (a) Is server based;
- (b) Uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;
- (c) Uses software such that the simulated game influences or determines the winning or value of the prize;
- (d) Selects prizes from a predetermined finite pool of entries;
- (e) Uses a mechanism that reveals the content of a predetermined sweepstakes entry;
- (f) Predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;
- (g) Uses software to create a game result;
- (h) Requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device;
- (i) Requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device;
- (j) Requires purchase of a related product, regardless if the related product, if any, has legitimate value;
- (k) Reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded;
- (l) Determines and associates the prize with an entry or entries at the time the sweepstakes is entered; or
- (m) A slot machine or other form of electrical, mechanical, or computer game. It is the intent of this definition to classify any mechanism utilized at any electronic gaming establishment that seeks to avoid application of this definition through the use of any subterfuge or pretense whatsoever. Electronic gaming establishments do not include arcade amusement centers, regulated pursuant to F.S. § 849.161, or the official Florida Lottery.

The term *prize* as used herein shall mean any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

4. *Drive-thru Facilities.* A facility, which by design, physical character, and/or by operation (i.e., service or packaging procedures) encourages or permits customers to receive services, obtain goods or be entertained while remaining in the motor vehicle.
5. *Funeral Homes.* Undertaking and funeral services involving care and preparation of human deceased prior to burial, including crematory facilities.
6. *General Retail Sales and Services.* Retail sale or rental from the premises of goods and/or services to include all uses listed under limited commercial activities as well as the following:

Appliance Stores, without major warehousing.

Art Shops and Supplies.

Bakeries, excluding wholesale production and distribution.

Bicycle Shops.

Copying Services.

Cosmetic Stores.

Department Stores.

Drapery Stores.

Drug Stores.

Dry Cleaning establishments complying with Class IV or Class V Fire Code Prevention requirements and using only Class IV solvents such as perchlorethelene, except for spotting as provided for in Section 9.6(m) of the Fire Prevention Code.

Dry Goods Stores.

Fabric Stores.

Furniture Stores.

Garden Supplies.

Grocery Stores.

Hardware Stores, without outside storage of lumber and other building supplies.

Health and Exercise Studios.

Home Furnishing Stores.

Lawn and Garden Supplies.

Large Specialty Shops.

Luggage and Leather Goods Stores.

Office Equipment and Supplies.

Paint and Wallpaper Retail Sales.

Pet Supply and Pet Shops.

Sporting Goods Stores.

Other similar retail sales and service activities conducted within a fully enclosed building approved by the Town Council after receipt of a recommendation from the Planning and Zoning Commission. The use shall not include: wholesaling, warehousing, outside storage and distribution functions. The use shall not exhibit any characteristic dissimilar or incompatible with the uses identified herein. In

review and approval of a request for a "similar" use, the Planning and Zoning Board and the Town Council shall use the procedures and criteria cited in the following Section 1-2.6 [1-2.7].

7. *Hotels and Motels.* A building or other structure used, maintained or advertised as a place where sleeping accommodations are supplied for rent to transient guests, in which ten (10) or more rooms are furnished for the accommodation of such guests; and which may have as an accessory use one or more dining room areas.
8. *Limited Commercial Activities.* Small limited item shops and stores limited to retail sales of personal service items, including small convenience items or services typically needed on a frequent and recurring basis. This land use classification is intended to accommodate shops with limited inventory serving: (1) a household market area in the immediate vicinity as opposed to citywide or region; (2) a specialized market with customized service demand; or (3) a tourist oriented market area in the immediate vicinity. This classification is intended to include the following:

Bait and Tackle Shop.

Barber and Beauty Shops.

Book and Stationary Stores.

Candy and Ice Cream Stores.

Clothiers.

Drug Stores and Pharmacies.

Dry Cleaning and Laundry Pick-Up Substations and Self-Service Facilities.

Florists.

Gift Shops.

Hobby and Handicraft Shops.

Interior Decorators.

Jewelry Stores.

Meat Shops.

Novelty and Curio Shops.

Optical Stores.

Photo Supplies and Studios.

Shoe Repair Shops.

Tailors or Seamstress.

Other similar limited commercial activities conducted in a fully enclosed building which are approved by Town Council after receipt of a recommendation from the Planning and Zoning Board. Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such "similar" uses shall be as cited in the following section, § 1-2.6 [1-2.7]. The use shall comply with criteria cited in the above definition of limited commercial activities and shall not include more intense general retail sales and services. The procedures and criteria for review of other similar limited commercial activities shall be as cited in the following section, § 1-2.6 [1-2.7].

9. *Waterfront Marine Related Activities.* The following marine related land uses are included in this land use classification: commercial wet or dry storage and boat sales and rental; Marine power sales and service; and bait and tackle shop; and excluding marine salvage and boat yards.
10. *Medical Services.* The provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical laboratory testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician and with no overnight lodging. This land use classification includes pharmacies when developed as an accessory use within a medical service facility.
11. *Parking Lots and Facilities.* Governmental or private commercial building of [or] structure solely for the off-street parking or storage of operable motor vehicles.
12. *Plant Nurseries.* Retail sale of flowers, shrubs, trees, and plants as well as landscaping contractors and provision of related consultative services.
13. *Restaurants (excluding drive-ins and fast food service).* Any establishment (which is not a drive-in service establishment) where the principal business is the sale of food, desserts or beverages to the customer in a ready-to-consume state and where the design or principal method of operation includes two or more of the following:
 - (a) Customers, normally provided with an individual menu, are served generally in non-disposable containers by a restaurant employee at the same table or counter at which items are consumed.
 - (b) Ice cream parlors and other specialty restaurants having floor area exclusively within a shopping or office center and sharing common parking facilities with other businesses within the center and expressly prohibiting freestanding stores having characteristics of a drive-in restaurant.
 - (c) A cafeteria or cafeteria type operation where foods, desserts or beverages generally are served in non-disposable containers and consumed within the restaurant building.
 - (d) Customers purchase food, desserts or beverages for carryout.
14. *Restaurants (drive-ins and fast food service).* Any establishment where the principal business is the sale of foods, desserts or beverages generally contained in a ready-to-consume state and whose design, method of operation or any portion of whose business includes one or both of the following:
 - (a) The restaurants are self-service. Food is generally served in disposable containers and customers generally do the busing and clean-up for themselves or foods, desserts or beverages are served directly to the consumer in a motor vehicle.
 - (b) The consumption of foods, desserts or beverages within a motor vehicle parked upon the premises, or consumption at other facilities on the premises is allowed, encouraged or permitted.
15. *Service Stations, Including Gasoline Sales.* Establishments for the dispensing of motor fuels and related projects at retail and having pumps, underground storage tanks and other facilities for such activity and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles within enclosed service bays or stalls. For the purpose of this Code, these services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.
16. *Trades and Skilled Services.* Shops providing services requiring skilled labor or craftsmanship for repair including household items, office equipment, appliances, printing, blue printing, carpet sales and service, feed stores, lawn and maintenance services,

newspaper printing, radio and television broadcasting, restaurant equipment and supply sales and services. All such activities shall not include outside storage.

17. *Vehicular Service and Maintenance.* Vehicular establishments providing sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles. These services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.
 18. *Vehicular Sales and Related Services.* The retail or wholesale sale or rental of motor vehicles and related equipment, with incidental services and maintenance.
 19. *Veterinary Medical Services.* The provision of animal medical care and treatment by a Florida licensed veterinarian.
 20. *Wholesale Trades and Services.* The display, limited storage and sale of goods to other firms for resale, excluding outside storage, except as otherwise provided in this chapter [Code].
- D. *Industrial Activities.* The following land uses are included in the industrial land use classification where the same are conducted within a totally enclosed building except as specifically provided herein:
1. *Kennels* for boarding of domestic dogs and cats and veterinary medical operations.
 2. *Manufacturing Activities* including:
 - Manufacturing or processing of electronic components, optical instruments, electrical appliances, or other precision components;
 - Assembly and distribution of goods;
 - Maintenance, repair, reconditioning, and cleaning;
 - Printing;
 - General packaging and processing activities;
 - Research and development technology;
 - Commercial laundries;
 - Machine shops;
 - Agricultural research laboratories;
 - Vocational and trade schools;
 - Sale of building material.

Other similar manufacturing activities conducted in a fully enclosed building which are approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses shall exclude metal fabrication, chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such uses shall be as cited in the following Section 1-2.6 [1-2.7].

3. *Manufacturing Service Establishments*, such as heavy machinery repair and service; heavy machinery or heavy equipment rental or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.
 4. *Vehicle and Other Mechanical Repairs and Services*, including those not permitted as commercial zoning activities including paint and body shops.
 5. *Warehousing, Storage and Distribution Activities*, including building contract construction, building supplies, furniture stores with major warehousing, and trade services with extensive warehousing, trucking support facilities, or requirement of outside storage.
- E. *Agricultural Activities*. The following land uses are included in the agricultural land use classification. No such activity shall permit commercial retail operations, except as otherwise expressly provided in the definition and/or the agricultural district provisions cited within this Code.
1. *Commercial Stables*, including a stable operated for profit on a minimum five (5) acre site of not more than one (1) horse for the first one (1) acre and one (1) additional horse for each additional one-half (½) acre. Also reference conditional use criteria.
 2. *Noncommercial Agricultural Activities*, including home gardens, noncommercial greenhouses, and keeping of agricultural animals. Keeping of agricultural animals shall be limited to one (1) agricultural animal for the first one (1) acre and one (1) additional animal for each additional one-half (½) acre.
 3. *Wholesale Agricultural Activities*, including harvested agricultural crops, fish and aquatic farms, grazing of cattle, and wholesale trade of products grown or raised on premises. These agricultural operations shall be restricted to sites with a minimum of five (5) acres.
- All animals permitted pursuant to this subsection shall be maintained within a controlled area bounded by a fence or other barrier approved by the Town.

(Ord. No. 12-48, § 1, 1-23-12; Ord. No. 14-01, § 1, 2-3-14)

Malabar Ordinance

No. 2014-01

Assisted Living Facilities (ALF)

ORDINANCE 2014-01

A ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING SECTION 1-2.6.B. LAND USE CLASSIFICATIONS; PROVIDING FOR PUBLIC HEALTH CARE FACILITIES AND SOCIAL WELFARE FACILITIES; AMENDING SECTION 1-3.1.I DISTRICT PROVISIONS; PROVIDING FOR LIMITED RESIDENTIAL USES IN THE OI (OFFICE/INSTITUTIONAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; REMOVING REFERENCES TO GROUP HOMES AND AMENDING REFERENCES TO NURSING HOMES AND HOSPITALS AND PROVIDING FOR COMMUNITY RESIDENTIAL HOMES AND ASSISTED CARE COMMUNITIES; AMENDING TABLE 1-6.1 (B) REMOVING REFERENCES TO GROUP HOMES AND AMENDING REFERENCES TO NURSING HOMES AND HOSPITALS AND PROVIDING FOR COMMUNITY RESIDENTIAL HOMES AND ASSISTED CARE COMMUNITIES; AMENDING SECTION 1-9.2; ESTABLISHING PARKING REQUIREMENTS FOR PUBLIC HEALTH FACILITIES AND SOCIAL WELFARE FACILITIES; AMENDING SECTION 1-20.2 OF ARTICLE XX, DEFINITIONS; PROVIDING FOR DEFINITIONS OF HOSPITAL AND OTHER LICENSED FACILITIES, ADULT FAMILY-CARE HOME, ASSISTED LIVING FACILITY, ADULT DAY CARE CENTERS AND COMMUNITY RESIDENTIAL HOME; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Sections 1-2.6.B is amended as follows:

“B. *Community Facilities.*

1. *Administrative Services (Public or Private Not-for-Profit).* Activities typically performed by not-for-profit private or public social services and utility administrative offices.
2. *Cemetery.* Property used for the interring of the dead.
3. *Child Care Services.* Activities typically performed by an agency, organization or individual providing day care without living accommodations for preteens not related by blood or marriage to, and not the legal wards or foster children of, the attendant adult.
4. *Clubs and Lodges (Not-for-Profit).* Activities typically performed by a group of persons for social or recreational purposes not operated for profit and not including activities which primarily render services which are customarily carried on as a business for profit.

5. *Cultural or Civic Activities.* Activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as literature, science, music, drama, art or similar objectives.

6. *Educational Institutions.* A place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.

7. *Golf Course and Support Facilities.* A golf course is comprised of at least nine separate holes and may be regulation length, executive length, or par three (3) length. A golf course shall be required to comply with recommended minimum design standards established by the U.S. Golf Association or the American Society of Golf Course Architects. The following acreage requirements shall be the minimum standards for a golf course:

<i>Type of Golf Course</i>	<i>Minimum Acres Required</i>
Regulation Course	120 acres
Executive Course	40 acres
Par 3 Course	35 acres

Commercial miniature golf courses and driving ranges and similar facilities are excluded from this activity as defined.

8. *Places of Worship.* Activities customarily performed in a building where persons regularly assemble for religious worship and which building, together with its accessory building and uses, is maintained and controlled by a religious body organized to sustain public worship.

9. *Protective Services.* Fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.

10. *Public Health Facilities*

The Town has labeled the facilities below as Public Health Facilities. These facilities are also referenced in Florida Statutes, Title XXIX, in Chapters 395 and 408.

Notwithstanding the identification of other facilities in Florida Statutes, Title XXIX, in Chapters 395 and 408, the facilities below are the only Public Health Facilities provided for by the Town.

Added Sentence



A. Hospital and other Licensed Facilities

"Hospital and other Licensed Facilities " means any establishment that:

- (a) Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours

by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and

(b) Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.

However, the provisions of this chapter do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. Refer to Chapters 395 and 408.

B. Nursing Homes and Related Health Care Facilities

Refer to Chapters 400 and 408 for the definitions and requirements of the following Nursing Home and Health Care Facilities.

Part I Long-Term Care Facilities

"Long-term care facility" means a nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility (additional reference: see Florida Statutes, Title XXX, Chapter 429, Social Welfare).

Part II Nursing Homes

"Nursing Home Facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Part V Intermediate, Special Services, and Transitional Living Facilities

Intermediate care facilities; intent.—The Legislature recognizes the need to develop a continuum of long-term care in this state to meet the needs of the elderly and disabled persons. The Legislature finds that there is a gap between the level of care provided in assisted living facilities and in nursing homes. The Legislature finds that exploration of intermediate-level care facilities which would fill the gap between assisted living facilities and nursing homes, where both the federal and state

Added sentence
Deleted

government share the cost of providing care, is an appropriate option to explore in the continuum of care.

11. *Public Parks and Recreation Areas.* Public parks and recreation land and facilities developed for use by the general public.

12. *Public and Private Utilities (including Essential Government Services).* Use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water distribution; wastewater collection and disposal; communication; and similar services and facilities.

13. *Social Welfare Facilities*

The Town has labeled the facilities below as Social Welfare Facilities. These facilities are also referenced in Florida Statutes, Title XXX, in Chapters 408 and 430.

Notwithstanding the identification of other facilities in Florida Statutes, Title XXX, in Chapters 408 and 430, the facilities below are the only Social Welfare Facilities provided for by the Town.

Added Sentence
↓

A. Community Residential Homes

“Community Residential Home” means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency of Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Refer to Chapters 408 and 419.

There are 2 levels of Community Residential Homes:

- Level 1 is between 1 to 6 residents/beds
- Level 2 is between 7 to 14 residents/beds

B. Assisted Care Communities

Part I Assisted Living Facilities

“Assisted Living Facility (ALF)” means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. Refer to Chapter 408 and 429.

There are 3 levels of Assisted Living Facilities:

- Level 1 is between 1 to 5 residents/beds
- Level 2 is between 6 and 15 residents/beds
- Level 3 is 16 residents/beds or more

In the RM-4 and RM-6 zoning districts, an ALF Factor of 3 will be used to determine the residents/bed density. For example, RM-4 is allowed 4 units per acre multiplied

by the 3 ALF Factor is equal to 12 residents/beds per acre. RM-6 is allowed 6 units per acre multiplied by the 3 ALF Factor is equal to 18 residents/beds per acre.

Part II Adult Family-Care Homes

“Adult Family-Care Homes” means a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives. Refer to Chapters 408 and 429.

Part III Adult Day Care Centers

“Adult Day Care Centers” or center means any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Refer to Chapters 408 and 429.”

Section 2. Section 1-3.1.1 is amended to read as follows:

• • •

“I. *OI "Office-Institutional."* The OI district is established to implement comprehensive plan policies for managing office-institutional development. This district is designed to accommodate businesses and professional offices together with institutional land uses on sites which:

- Have accessibility to major thoroughfares;
- Have potential to be served by a full complement of urban services;
- Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential adjacent land uses of differing intensities;
- Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses ~~(except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B))~~, general retail sales and services, warehousing, and outside storage; and
- Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
- A Malabar Vernacular Style is required for all development along arterial roadways.”

Delete

• • •

Section 3. Table 1-3.2 of Section 1-3.2 of the Malabar Land Development Code, Community Facilities, is hereby amended to delete references to “Group Homes”, and by amending references to “Hospitals and Extended Care Facilities” and “Nursing Homes (including Rest Homes and Convalescent Homes)” and adding references to Community Residential Home and Assisted Care Communities to read as follows:

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
<u>COMMUNITY FACILITIES</u>														
Group Homes					G	G		G			P		G	
Hospitals and Extended-Care other Licensed Facilities								C						
Nursing Homes (including Rest Homes and Convalescent Homes) and Related Health Care Facilities					C	C					G		C	
<u>Community Residential Home</u>														
Level 1 (1 to 6 residents/beds)	C (3)				C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	
<u>Assisted Care Communities</u>														
<u>I. Assisted Living Facility</u>														
Level 1 (1 to 5 residents/beds)		C	C	C	C (4)	C (4)					C			
Level 2 (6 to 15 residents/beds)					C (4)	C (4)								
Level 3 (16 or more residents/beds)					C (4)	C (4)								
<u>II. Adult Family-Care Homes</u>														
(1 to 5 residents/beds)	C (3)	C	C	C	C	C					C			
<u>III. Adult Day Care Centers</u>					C	C		C			C		C	

Deleted "C"

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

(4) ALF Factor of "3" (see section 1-2.6.B.13.B, Part I) only applies to RM-4 & RM-6 for ALF's"

Section 4. Table 1-6.1(B) is hereby amended to delete references to "Group Homes", and by amending references to "Hospitals and Extended Care Facilities" and "Nursing Homes (including Rest Homes and Convalescent Homes)" and adding references to Community Residential Home and Assisted Care Communities to read as follows:

"Conditional Land Uses	Minimum Size Site (3)	Minimum Width/Depth (feet) (3)	Access Required to Street	Building Setback from Residential District/Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District/Nonresidential District (feet)	Perimeter Screening Residential District/Nonresidential District (5)	Curb Cut Controls
Group Homes	(3)	(3)	N/A	N/A	N/A	N/A	(7)
Hospitals and Extended-Care-other Licensed Facilities	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Nursing Homes (including Rest Homes and Convalescent Homes) and Related Health Care Facilities	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Community Residential Home							
Level 1 (1 to 6 residents/beds)	1.5 acres	210	Paved	60/30	25/20	Type A/C	(7)
Level 2 (7 to 14 residents/beds)	3 acres	210	Paved	60/30	25/20	Type A/C	(7)
Assisted Care Communities							
I Assisted Living Facility							
Level 1 (1 to 5 residents/beds)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15 residents/beds)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (16 or more residents/beds)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
II Adult Family-Care Homes							
(1 to 5 residents/beds)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
III Adult Day Care Facilities	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)

• • •

“(3) Minimum spatial requirements shall comply with the requirements established by the Town of Malabar District Provisions or the Florida Statues, whichever requirement is greater.”

• • •

Section 5. Section 1-9.2 is amended to include the following:

11. *Social Welfare Facilities.* One (1) space for every three (3) residents/beds plus one (1) space per employee on the largest shift.”

12. *Public Health Facilities.* One (1) space for each five (5) beds plus one (1) space for each employee, including doctors, or one (1) space for per three hundred (300) feet of building area, whichever is greater.”

...

Section 6. Section 1-20.2 of Article XX is amended by deleting the definition for “Group Care Facility” and amending “Extended Care Facility” and establishing the following additional definitions:

“Hospital and other Licensed Facilities” As defined in section 1-2.6.B.10.A

“Adult Family-Care Home” As defined in section 1-2.6.B.13.B, Part II.

“Assisted Living Facility” As defined in section 1-2.6.B.12.B, Part I.

“Adult Day Care Centers” As defined in section 1-2.6.B.13.B, Part III

“Community Residential Home” As defined in section 1-2.6.B.13.A.”

**Corrected
13 B**

Section 7. 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 8. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 9. Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

Section 10. This Ordinance shall become effective immediately upon its adoption.

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

- Council Member James Milucky
- Council Member Wayne Abare
- Council Member Steven (Steve) Rivet
- Council Member Dick Korn
- Council Member Marisa Acquaviva

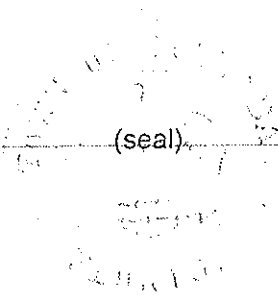
Aye
Aye
Aye
Aye
Aye

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 3rd day of February, 2014.

Town of Malabar
no signature – veto by Mayor
Carl A. Beatty, Mayor

First Reading 1/6/14 PASSED 5/0
Second Reading 2/3/14
Vetoed by Mayor 2/12/14
Council Vote to Override 3/3/14

Results:
Jim Milucky Aye
Wayne Abare Aye
Steve Rivet Aye
Dick Korn Aye
Marisa Acquaviva Aye



Ordinance adopted / fails (circle one)

TOWN OF MALABAR
By: [Signature]
Steve Rivet, Council Chair

ATTEST:
By [Signature]
Debby K. Frahkin, C.M.C.
Town Clerk/Treasurer

Approved as to form and content:
[Signature]
Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

AGENDA ITEM REPORT

AGENDA ITEM NO: 6
Meeting Date: March 7, 2016

Prepared By: Debby Franklin, CMC, Town Clerk/Treasurer

SUBJECT: Request to Increase Building Permit Fees (Reso 02-2016)

BACKGROUND/HISTORY:

This Reso would provide for increased fees for building permits to offset the cost of operations within the Building Department. Although the Building Department is not supposed to be a revenue generating department, it is supposed to charge adequate fees to cover the expenditures within that department. This includes overhead, salaries, training, equipment, etc.

The Town Administrator will speak to this at the meeting.

ATTACHMENTS:

Reso 01-2016

Schedule showing current fees charged by other cities and Malabar for same permits with column at end showing the proposed rates for Malabar

ACTION OPTIONS:

Staff recommends approval of Reso 02-2016

RESOLUTION NO. 02-2016

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR AMENDMENT TO RESOLUTION 04-2011, PROVIDING FOR A REVISED FEE SCHEDULE; PROVIDING FOR THE REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, before an applicant can obtain a permit as prescribed in the Town of Malabar Building Code, the appropriate fees must be paid; and

WHEREAS, these fees have been determined to be necessary and sufficient to compensate for the time and expense of processing the various permits; and

WHEREAS, after a review of the current building permit fees the Malabar Town Council has determined that a rate adjustment is appropriate at this time.

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

SECTION 1. That the following fees are hereby established for building, fence, roofing, electric, plumbing, gas, mechanical, swimming pool, fire protection system, sign and irrigation system permits in the Town of Malabar.

BUILDING PERMITS:

For any work requiring a building permit as prescribed in the Town of Malabar Building Code the following cost of said permits shall be based on the following:

- (1) For the purpose of determining the building permit fee, the estimated **value** cost of construction shall be determined by the Building Official using Florida Building Code formulas.
- (2) Permit fees are as follows:
 - a. Base permit fee - \$30.00 plus:
 - b. Inspection fee(s) shall be computed based on the following table:

<u>Estimated Cost of Construction</u>	<u>Fee – Inspection Fee</u>
\$ 2,500.00 <u>1,000.00</u> and less	\$ <u>\$60.00</u> (base fee + \$30.00 for inspection)
\$ 2,500.01 <u>1,001.00</u> to \$50,000.00 AND UP	\$ 30.00 for the first \$ 1000.00 plus \$7.00 for each additional thousand or fraction thereof, up to and including \$ 50,000.00
\$ 50,001.00 to \$100,000.00	\$260.00 for the first \$ 50,000.00 plus \$ 4.00 for each additional thousand or fraction thereof, up to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$ 460.00 for the first \$100,000.00 plus \$ 3.00 for each additional thousand or fraction thereof, up to and including \$500,000.00
\$500,001.00 and up	\$ 1660.00 for the first \$500,000.00 plus \$ 2.00 for each additional thousand or fraction thereof.

(3) Additional fees:

- a. Moving a building or structure - \$100.00
- b. Demolition of any building or structure - \$ 50.00.
- c. Mobile home setup - \$ 50.00.
- d. ~~Construction of any parking lot where no building construction is permitted in association with the parking lot construction - \$75.00.~~

(4) Plan Review Fees:

- a. Building Construction: when valuation of the construction exceeds one thousand dollars (\$1000.00) a plan review fee equal to fifty (50) per cent of the building permit fee established above shall be charged.
- b. All building construction *EXCEPT single-family and duplex dwellings*: when the valuation of the construction exceeds one thousand dollars (\$1000.00), in addition to the fee established in 4(a) above, an additional plan checking fee shall be charged equal to twenty-five (25) per cent of the building permit fee established above for the life safety plan review pursuant to Florida Statute 633.

- c. If plans for a single project have received two (2) plan reviews and the plans are not approved for construction, an additional plan checking fee equal to one half (1/2) of the original plan checking fee shall be paid before any further plan review is done. This fee shall be applied for each subsequent review for the project.
 - d. Placement of temporary construction trailer - \$ 40.00.
 - e. Placement of temporary mobile home or RV while constructing home is limited to a period of six (6) months and requires a \$500.00 **refundable** cash bond.
 - f. Review/verification to re-issue copy of approved building plans - \$30.00.
- (5) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Building Code 20104 Ed. or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.
- (6) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty dollars (\$50.00) for the second inspection and one hundred dollars (\$100.00) for each additional re-inspection thereafter.

FENCE PERMITS:

For any work requiring a fence permit the cost of said permit shall be based on the following:

- ~~(1) Base permit fee \$30.00 plus:~~
- ~~(2) For the purpose of establishing a permit fee the fee shall be based on the estimated construction cost of the fence and calculated as prescribed above for a building permit.~~
- ~~(3) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Building Code 2001 Ed. or from any other code or ordinance of the Town. The Town shall also have the right to pursue any (4) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty dollars (\$50.00) for the second inspection and one hundred dollars (\$100.00) for each additional re-~~

inspection thereafter.

ROOFING PERMITS:

For any work requiring a roofing permit, the cost of said permit shall be based on the following:

- ~~(1) Base permit fee — \$30.00 plus:~~
- ~~(2) Permit fee shall be based on estimated construction cost of roof and calculated as prescribed above for a building permit.~~
- ~~(3) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Building Code 2001 Ed. or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.~~
- ~~(4) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty dollars (\$50.00) for the second inspection and one hundred dollars (\$100.00) for each additional re-inspection~~

ELECTRIC PERMITS:

For any work requiring an electric permit the cost of said permits shall be as prescribed below:

- ~~(1) Base permit fee — \$30.00 plus:~~
- ~~(2) Inspection fee for new construction (including rough and final wiring) shall be _____ based on the size of the main service and shall be equal to \$0.35 times the _____ amperage of the main.~~
- ~~(3) Inspection fee for service change outs shall be equal to \$0.10 times the size of the main service.~~
- ~~(4) Inspection fee for additions, alterations, or remodeling of an existing electrical _____ system shall be equal to \$0.10 times the size of the main service plus:~~
 - ~~_____ \$2.50 — 1 to 5 outlets and/or fixtures~~
 - ~~_____ \$0.20 each — more than 5 fixtures and/or outlets~~
 - ~~_____ \$0.50 each — 220 volt outlet~~
 - ~~_____ \$2.50 — motors less than 5 brake horsepower~~
 - ~~_____ \$5.00 — motors 5 brake horsepower or more~~
 - ~~_____ \$10.00 — wiring heater or air conditioner~~
- ~~(3) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50.00, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Building Code 2001 Ed., or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.~~
- ~~(4) Re-inspection Fee: in the event it becomes necessary to make a re-inspection,~~

~~due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty dollars (\$50.00) for the second inspection and one hundred dollars (\$100.00) for each additional re-inspection thereafter.~~

PLUMBING PERMITS:

~~For any work requiring a plumbing permit the cost of said permits shall be as prescribed below:~~

- ~~(1) Base permit fee \$30.00 plus~~
- ~~(2) Inspection of plumbing shown in table below:~~

Sewer connection	\$ 10.00
For each septic tank, cesspool, seepage pit or drainfield	\$ 10.00
For each plumbing fixture	\$ 2.50
For each water heater	\$ 5.00
For installation, alteration or repair of water heater	\$ 5.00
For installation, alteration or repair of drainage or vent piping	\$ 5.00

~~(3) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50.00 whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Plumbing Code 2001 Ed. or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.~~

~~(4) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty (\$50.00) for the second inspection and one hundred (\$100.00) for each additional re-inspection thereafter.~~

GAS PERMITS:

~~For any work requiring a gas permit the cost of said permit shall be as prescribed below:~~

- ~~(1) Base permit fee \$30.00 plus:~~
- ~~(2) Inspection Fee consumer's gas piping at one location (including both rough and final piping inspection) shall be \$30.00 for one (1) to four (4) outlets,~~

- ~~inclusive, and \$2.50 for each additional outlet over four (4) outlets.~~
- ~~(3) Inspection Fee—conversion burners, floor furnaces, boilers, or central heating or air conditioning units shall be \$30.00 for one (1) unit and \$5.00 for each additional unit.~~
- ~~(4) Inspection Fee—vented wall furnaces and water heaters—\$30.00 for one (1) unit and \$2.50 for each additional unit.~~
- ~~(5) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50.00, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Fuel Gas Code 2001 Ed. or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.~~
- ~~(6) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty (\$50.00) for the second inspection and one hundred (\$100.00) for each additional re-inspection thereafter.~~

MECHANICAL PERMITS:

For any work requiring a mechanical permit the cost of said permits shall be as prescribed below:

- ~~(1) Base fee permit—\$30.00 plus:~~
- ~~(2) Inspection Fee—heating, ventilating, air conditioning ductwork, refrigeration systems—\$30.00/ first \$1,000 or fraction thereof, of valuation of installation plus \$5.00/each additional \$1,000 or fraction thereof.~~
- ~~(3) Inspection Fee—repairs, alterations and additions to existing system—\$30.00/first \$1000.00, or fraction thereof, of valuation of the permitted work plus \$5.00/each additional \$1000.00, or fraction thereof.~~
- ~~(4) Inspection Fee—Boilers:~~

Under 33,000 BTU	\$5.00
33,000 BTU to 165,000 BTU	\$10.00
Over 165,000 BTU to 330,000 BTU	\$15.00
Over 330,000 BTU to 1,165,000 BTU	\$20.00
Over 1,165,000 BTU to 3,330,000 BTU	\$25.00
Over 3,330,000 BTU	\$35.00

- ~~(5) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the~~

~~fee specified for such permit shall be doubled or \$50.00, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Mechanical Code 2001 Ed. or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.~~

- ~~(6) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty (\$50.00) for the second inspection and one hundred (\$100.00) for each additional re-inspection thereafter.~~

SWIMMING POOL PERMITS:

~~For any work requiring a swimming pool permit, the cost of said permit shall be as prescribed below:~~

- ~~(1) Basic permit fee — \$30.00 plus:~~
- ~~(2) Establishing permit fee — based on the estimated cost of construction of the Swimming pool and calculated as noted in the table listed under Building Permits.~~
- ~~(3) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Building Code 2001 Ed. and Swimming Pool Code or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties as prescribed by law.~~
- ~~(4) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty (\$50.00) for the second inspection and one hundred (\$100.00) for each additional re-inspection thereafter.~~

SIGN PERMITS:

~~For any work requiring a sign permit, the cost of said permits shall be as prescribed below:~~

- ~~(1) Basic permit fee — \$30.00 plus:~~
- ~~(2) Inspection fee — signs shall be calculated at one dollar \$1.00/per sq. ft of sign area. This calculation shall be based on the largest sign area in the case of a sign with more than one face. Minimum: \$30.00.~~
- ~~(3) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50.00, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Building Code 2001 Ed. or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.~~
- ~~(4) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty (\$50.00)~~

~~for the second inspection and one hundred (\$100.00) for each additional re-inspection thereafter.~~

IRRIGATION SYSTEM PERMITS:

~~For the installation of any irrigation system, the cost of the permit shall be as prescribed below:~~

- ~~(1) Basic permit fee \$30.00 plus:~~
- ~~(2) Inspection fee all irrigation systems \$30.00~~
- ~~(3) Double Fee: pursuant to Town of Malabar Code of Ordinances, Chap. 6, Sec. 6-7, when work which requires a permit is started without first obtaining a permit, the fee specified for such permit shall be doubled or \$50.00, whichever is greater. The payment of such double fee shall not relieve any person from fully complying with the requirements of the Florida Plumbing Code 2001 Ed., Florida Plumbing Code 2001 Ed., or from any other code or ordinance of the Town. The Town shall also have the right to pursue any other actions or penalties prescribed by law.~~
- ~~(4) Re-inspection Fee: in the event it becomes necessary to make a re-inspection, due to improper work or permitted work not being ready, the contractor shall pay a re-inspection fee of thirty dollars (\$30.00) for the first inspection, fifty (\$50.00) for the second inspection and one hundred (\$100.00) for each additional re-inspection thereafter.~~

SECTION 2. Conflict.

All resolutions or parts of resolutions in conflict herewith are hereby repealed.

SECTION 3. Effective Date

This Resolution shall take effect immediately upon passage.

This Resolution was moved for adoption by Council Member _____. The motion was seconded by Council Member _____ and, upon being put to a vote; the vote was as follows:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Don Krieger	_____
Council Member Dick Korn	_____
Council Member Richard Kohler	_____

This Resolution was then declared to be duly passed and adopted this _____ day of _____, 2016.

TOWN OF MALABAR

PROPOSED FEE SCHEDULE FOR BUILDING PERMITS

01/29/2015

	A	B	C	D	E	F	G	H	I	J
1	Town	Permit type	Valuation	Base fee	Impact fee	TOTAL	TOM old	TOM new	Net	
2	<i>Melbourne</i>	NSFR	\$332,075.00	\$1,949.50	\$7,587.00	\$9,536.50	\$1,159.00	\$3,661.65	-\$5,874.85	
3		Swimming pool	\$30,000.00	\$287.50		\$287.50	\$145.00	\$395.00	\$107.50	
4		AC change out	\$7,500.00	\$46.00		\$46.00	\$95.00	\$146.00	\$100.00	
5		Re-roof	\$8,000.00	\$65.00		\$65.00	\$95.00	\$157.85	\$92.85	
6		Commercial	\$525,000.00	\$3,678.75	\$12,328.50	\$16,007.25	\$1,670.00	\$5,748.95	-\$10,258.30	
7									\$0.00	
8	<i>Palm Shores</i>	NSFR	\$332,075.00	\$3,816.50	\$788.00	\$4,604.50	\$1,159.00	\$3,661.65	-\$942.85	
9		Swimming pool	\$30,000.00	\$523.25		\$523.25	\$145.00	\$395.00	-\$128.25	
10		AC change out	\$7,500.00	\$161.00		\$161.00	\$95.00	\$146.00	-\$15.00	
11		Re-roof	\$8,000.00	\$221.00		\$221.00	\$95.00	\$157.85	-\$63.15	
12		Commercial	\$525,000.00	\$6,336.00	\$10,000.00	\$16,336.00	\$1,670.00	\$5,748.95	-\$10,587.05	
13									\$0.00	
14	<i>Ind. Har. Beach</i>	NSFR	\$332,075.00	\$2,138.00	\$0.00	\$2,138.00	\$1,159.00	\$3,661.65	\$1,523.65	
15		Swimming pool	\$30,000.00	\$195.00		\$195.00	\$145.00	\$395.00	\$200.00	
16		AC change out	\$7,500.00	\$64.00		\$64.00	\$95.00	\$146.00	\$82.00	
17		Re-roof	\$8,000.00	\$110.00		\$110.00	\$95.00	\$157.85	\$47.85	
18		Commercial	\$525,000.00	\$4,450.75	\$0.00	\$4,450.75	\$1,670.00	\$5,748.95	\$1,298.20	
19									\$0.00	
20	<i>Palm Bay</i>	NSFR	\$332,075.00	\$2,223.78	\$5,462.19	\$7,685.97	\$1,159.00	\$3,661.65	-\$4,024.32	
21		Swimming pool	\$30,000.00	\$391.28		\$391.28	\$145.00	\$395.00	\$3.72	
22		AC change out	\$7,500.00	\$87.85		\$87.85	\$95.00	\$146.00	\$58.15	
23		Re-roof	\$8,000.00	\$89.00		\$89.00	\$95.00	\$157.85	\$68.85	
24		Commercial	\$525,000.00	\$3,845.50	\$9,896.41	\$13,741.91	\$1,670.00	\$5,748.95	-\$7,992.96	
25									\$0.00	
26	<i>Grant Valkaria</i>	NSFR	\$332,075.00	\$1,626.00	\$4,833.96	\$6,459.96	\$1,159.00	\$3,661.65	-\$2,798.31	
27	see note	Swimming pool	\$30,000.00	NR		\$0.00	\$145.00	\$395.00	\$395.00	
28		AC change out	\$7,500.00	\$169.25		\$169.25	\$95.00	\$146.00	-\$23.25	
29		Re-roof	\$8,000.00	\$97.75		\$97.75	\$95.00	\$157.85	\$60.10	
30		Commercial	\$525,000.00	\$5,118.50	\$6,171.11	\$11,289.61	\$1,670.00	\$5,748.95	-\$5,540.66	
31										
32	NOTE: Brevard county is the building department body for Grant Valkaria and as such the fees go									
33	to the County not Grant Valkaria.									
34										
35	NSFR = New single family residence.									

Debby Franklin

From: Douglas C. Hoyt
Sent: Tuesday, March 01, 2016 11:15 AM
To: Richard Kohler; Grant Ball; Dick Korn; Don Krieger; Brian Vail; Debby Franklin
Subject: Building department fee update to 2015/2016
Attachments: Building Fee pkg.pdf

To All Concerned,

Attached is a digital version of the package given to you via your mailbox at the Town Hall on 2-29-2016. Please contact me prior to the RTCM on March 7th if you require additional information pertaining to this matter please let us know. As always I am available to meet with you at your convenience.

Regards,

Doug

Douglas C. Hoyt
Douglas C. Hoyt
Town Administrator

Town of Malabar
2725 Malabar Road
Malabar, FL 32950

dhoyt@townofmalabar.org
Office 321-727-7764 x13
Cell 321-544-0766
Fax 321-727-9997

Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of Malabar officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public record. If you do not want your e-mail address released in response to a public record request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing



2725 Malabar Road
Malabar, FL 32950
321.727.7764 (Office) 321.722.2234 (Fax)
www.townofmalabar.org

Monday, February 29, 2016

To All Town Council Members,

Attached is the information on the Building Fee adjustments that will partially remedy the continued loss in operating the Building Department. As previously discussed the 2005 to 2015 loss amounted to \$544,000.00. The first quarter (2015/2016) figures are as follows: Budget, for 3 months \$20,250.00 verses actual income of \$10,945.28. This amounts to a \$9,304.72 shortfall for the first quarter, projecting this rate for the remaining three quarters we will once again experience a \$27,914.16 loss for this year. First Quarter actual figure for building permits \$10,945.28, if adjusted to the proposed figure the figure would be \$16056.97 thus reducing our loss to \$4,193.03 and the loss for the year to \$12,579.09 or an improvement of \$15,335.07.

The last time our building permit fees were reviewed was in 2004 when the average cost per square foot to build a NSFR was \$98.00 per square foot. Now the cost per square foot for similar construction is \$132.83 or a 36% increase in building costs. This is in accordance with the International Building Code, which is published and updated bi- annually.

Attached is a copy of the International Building Code Building Validation – February 2015, a spread sheet showing Malabar's current and proposed building fees along with the fee schedule from five municipalities in our area. Please note that many of these entities have impact fees as well as building permit fees.

We have the backup documentation received from the surrounding building departments. Please let me know if you wish to have copies of same, however they will reflect the figures shown on the spread sheet.

As business men you would not continue to operate your business at a loss, nor should we operate The Town's Building Department at one. I urge you to support this resolution when presented at the March 7th RTCM. We are now in the second quarter of our fiscal year.

Thank You,

Doug
Douglas C. Hoyt
Town Administrator
Town of Malabar
dhoyt@townofmalabar.org

Enc:

Town of Malabar
Budget vs. Actual
 October through December 2015

	Oct - Dec 15	Budget	% of Budget
Ordinary Income/Expense			
Income			
47900 · Revenue			
A 001-311.1000 Ad Valorem Taxes	270,670.38	366,400.00	73.9%
A 001-312.4000 Loca Op Gas Tax	18,089.79	97,214.00	18.6%
A 001-314.1000 Util Tax - Elec	71,932.68	260,000.00	27.7%
A 001-314.4000 Util Tax - Gas	1,832.14	11,000.00	16.7%
A 001-315.1000 Communi Ser. Tax	24,462.96	98,270.00	24.9%
A 001-316.1000 BTR - Malabar	20,310.50	20,000.00	101.6%
A 001-322.1000 Building Permits	10,945.28	81,000.00	13.5%
A 001-323.1000 Fran Fees Elec	54,573.20	197,000.00	27.7%
A 001-323.4000 Fran Fee Water	872.63	5,000.00	17.5%
A 001-323.7000 Fran WM	0.00	35,000.00	0.0%
A 001-329.1000 SP/CUP	400.00	1,200.00	33.3%
A 001-329.2000 Rezon Appl	0.00	825.00	0.0%
A 001-329.4000 Pre-Dev Mtg	0.00	1,000.00	0.0%
A 001-329.5000 BOA Var App	300.00	600.00	50.0%
A 001-329.9000 BD & BP SC	0.00	300.00	0.0%
A 001-335.1200 FL Rev. Share	16,994.74	71,265.00	23.8%
A 001-335.1400 FL MH Tax	985.99	2,100.00	47.0%
A 001-335.1500 FL Alcoh Bev Lic	0.00	1,600.00	0.0%
A 001-335.1800 FL Loc Gov't 1/2	35,258.37	156,599.00	22.5%
A 001-335.4900 FDOT reimburse	0.00	6,080.00	0.0%
A 001-338.2000 BTR - Brev. Cty.	725.22	1,000.00	72.5%
A 001-349.2000 Cell Tower 1580m	4,740.00	18,960.00	25.0%
A 001-349.4000 OCC Park Use Of	0.00	800.00	0.0%
A 001-349.5000 OCS Spec Evt Rev	0.00	7,000.00	0.0%
A 001-349.7000 OCS FD Training	0.00	6,000.00	0.0%
A 001-349.7010 Background Check	370.00	400.00	92.5%
A 001-349.8010 Golf Cart Regist	50.00	200.00	25.0%
A 001-349.9000 Lien Searches	420.00	1,900.00	22.1%
A 001-351.5000 Fines/Forfeiture	79.47	200.00	39.7%
A 001-361.1000 Interest	40.41	300.00	13.5%
A 001-363.1000 SW Assessment	49,382.27	72,000.00	68.6%
A 001-365.1000 Sale/Surp Mat	0.00	1,000.00	0.0%
A 001-366.1000 Donations FD	8,034.04	7,000.00	114.8%
A 001-369.3000 Settlements FMIT	2,429.00	6,000.00	40.5%
A 001-369.9000 Misc. Revenues	27.40	300.00	9.1%
A 001-389.3000 VFA State Grant	8,897.01	20,000.00	44.5%
A 001-389.9540 SW Prior	0.00	91,042.00	0.0%
A001-389.4000 Safety Grants/Rev	0.00	5,000.00	0.0%
Total 47900 · Revenue	602,823.48	1,651,555.00	36.5%
Total Income	602,823.48	1,651,555.00	36.5%
Gross Profit	602,823.48	1,651,555.00	36.5%
Expense			
B Legislative			
001-511.3400 Contract Svcs - SC	0.00	400.00	0.0%
001-511.4000 Mayor Travel	70.00	0.00	100.0%
001-511.4010 Council Travel	45.00	1,500.00	3.0%



Building Validation Data – February 2015

The International Code Council is pleased to provide the following Building Valuation Data (BVD) for its members. The BVD will be updated at six-month intervals, with the next update in August 2015. ICC strongly recommends that all jurisdictions and other interested parties actively evaluate and assess the impact of this BVD table before utilizing it in their current code enforcement related activities.

The BVD table provides the "average" construction costs per square foot, which can be used in determining permit fees for a jurisdiction. Permit fee schedules are addressed in Section 109.2 of the 2012 *International Building Code* (IBC) whereas Section 109.3 addresses building permit valuations. The permit fees can be established by using the BVD table and a Permit Fee Multiplier, which is based on the total construction value within the jurisdiction for the past year. The Square Foot Construction Cost table presents factors that reflect relative value of one construction classification/occupancy group to another so that more expensive construction is assessed greater permit fees than less expensive construction.

ICC has developed this data to aid jurisdictions in determining permit fees. It is important to note that while this BVD table does determine an estimated value of a building (i.e., Gross Area x Square Foot Construction Cost), this data is only intended to assist jurisdictions in determining their permit fees. This data table is not intended to be used as an estimating guide because the data only reflects average costs and is not representative of specific construction.

This degree of precision is sufficient for the intended purpose, which is to help establish permit fees so as to fund code compliance activities. This BVD table provides jurisdictions with a simplified way to determine the estimated value of a building that does not rely on the permit applicant to determine the cost of construction. Therefore, the bidding process for a particular job and other associated factors do not affect the value of a building for determining the permit fee. Whether a specific project is bid at a cost above or below the computed value of construction does not affect the permit fee because the cost of related code enforcement activities is not directly affected by the bid process and results.

Building Valuation

The following building valuation data represents average valuations for most buildings. In conjunction with IBC Section 109.3, this data is offered as an aid for the building official to determine if the permit valuation is underestimated. Again it should be noted that, when using this data, these are "average" costs based on typical construction methods for each occupancy group and type of construction. The average costs include foundation work, structural and nonstructural

building components, electrical, plumbing, mechanical and interior finish material. The data is a national average and does not take into account any regional cost differences. As such, the use of Regional Cost Modifiers is subject to the authority having jurisdiction.

Permit Fee Multiplier

Determine the Permit Fee Multiplier:

1. Based on historical records, determine the total annual construction value which has occurred within the jurisdiction for the past year.
2. Determine the percentage (%) of the building department budget expected to be provided by building permit revenue.
- 3.

$$\text{Permit Fee Multiplier} = \frac{\text{Bldg. Dept. Budget} \times (\%)}{\text{Total Annual Construction Value}}$$

Example

The building department operates on a \$300,000 budget, and it expects to cover 75 percent of that from building permit fees. The total annual construction value which occurred within the jurisdiction in the previous year is \$30,000,000.

$$\text{Permit Fee Multiplier} = \frac{\$300,000 \times 75\%}{\$30,000,000} = 0.0075$$

Permit Fee

The permit fee is determined using the building gross area, the Square Foot Construction Cost and the Permit Fee Multiplier.

$$\text{Permit Fee} = \text{Gross Area} \times \text{Square Foot Construction Cost} \times \text{Permit Fee Multiplier}$$

Example

Type of Construction: IIB

Area: 1st story = 8,000 sq. ft.
2nd story = 8,000 sq. ft.

Height: 2 stories

Permit Fee Multiplier = 0.0075

Use Group: B

1. Gross area:
Business = 2 stories x 8,000 sq. ft. = 16,000 sq. ft.
2. Square Foot Construction Cost:
B/IIB = \$161.88/sq. ft. Permit Fee:
Business = 16,000 sq. ft. x \$161.88/sq. ft x 0.0075
= \$19,426

Important Points

2015

- The BVD is not intended to apply to alterations or repairs to existing buildings. Because the scope of alterations or repairs to an existing building varies so greatly, the Square Foot Construction Costs table does not reflect accurate values for that purpose. However, the Square Foot Construction Costs table can be used to determine the cost of an addition that is basically a stand-alone building which happens to be attached to an existing building. In the case of such additions, the only alterations to the existing building would involve the attachment of the addition to the existing building and the openings between the addition and the existing building.

- For purposes of establishing the Permit Fee Multiplier, the estimated total annual construction value for a given time period (1 year) is the sum of each building's value (Gross Area x Square Foot Construction Cost) for that time period (e.g., 1 year).
- The Square Foot Construction Cost does not include the price of the land on which the building is built. The Square Foot Construction Cost takes into account everything from foundation work to the roof structure and coverings but does not include the price of the land. The cost of the land does not affect the cost of related code enforcement activities and is not included in the Square Foot Construction Cost.

Square Foot Construction Costs ^{a, b, c, d}

Group (2012 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	229.03	221.51	216.10	207.06	194.68	189.07	200.10	177.95	171.21
A-1 Assembly, theaters, without stage	209.87	202.35	196.94	187.90	175.62	170.01	180.94	158.89	152.15
A-2 Assembly, nightclubs	177.89	172.85	168.07	161.49	151.98	147.78	155.80	137.68	132.99
A-2 Assembly, restaurants, bars, banquet halls	176.89	171.85	166.07	160.49	149.98	146.78	154.80	135.68	131.99
A-3 Assembly, churches	211.95	204.43	199.02	189.98	177.95	172.34	183.02	161.22	154.48
A-3 Assembly, general, community halls, libraries, museums	176.88	169.36	162.95	154.91	141.73	137.12	147.95	125.00	119.26
A-4 Assembly, arenas	208.87	201.35	194.94	186.90	173.62	169.01	179.94	156.89	151.15
B Business	182.89	176.17	170.32	161.88	147.55	142.00	155.49	129.49	123.76
E Educational	195.85	189.10	183.56	175.25	163.21	154.58	169.21	142.63	137.99
F-1 Factory and industrial, moderate hazard	108.98	103.99	97.83	94.17	84.37	80.56	90.16	69.50	65.44
F-2 Factory and industrial, low hazard	107.98	102.99	97.83	93.17	84.37	79.56	89.16	69.50	64.44
H-1 High Hazard, explosives	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	N.P.
H234 High Hazard	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	58.67
H-5 HPM	182.89	176.17	170.32	161.88	147.55	142.00	155.49	129.49	123.76
I-1 Institutional, supervised environment	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
I-2 Institutional, hospitals	308.50	301.79	295.93	287.50	272.14	N.P.	281.10	254.09	N.P.
I-2 Institutional, nursing homes	213.56	206.85	200.99	192.56	179.22	N.P.	186.16	161.17	N.P.
I-3 Institutional, restrained	208.37	201.66	195.80	187.37	174.54	167.98	180.97	156.48	148.74
I-4 Institutional, day care facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
M Mercantile	132.61	127.57	121.79	116.21	106.35	103.15	110.52	92.05	88.36
R-1 Residential, hotels	182.28	175.70	170.83	162.68	150.87	146.84	162.68	135.49	131.23
R-2 Residential, multiple family	152.86	146.27	141.41	133.25	122.04	118.01	133.25	106.66	102.41
R-3 Residential, one- and two-family	143.93	139.97	136.51	132.83	127.95	124.61	130.57	119.73	112.65
R-4 Residential, care/assisted living facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
S-1 Storage, moderate hazard	101.01	96.02	89.86	86.20	76.60	72.79	82.19	61.73	57.67
S-2 Storage, low hazard	100.01	95.02	89.86	85.20	76.60	71.79	81.19	61.73	56.67
U Utility, miscellaneous	77.10	72.64	68.12	64.64	58.13	54.28	61.62	45.49	43.33

- a. Private Garages use Utility, miscellaneous
- b. Unfinished basements (all use group) = \$15.00 per sq. ft.
- c. For shell only buildings deduct 20 percent
- d. N.P. = not permitted