

TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY SEPTEMBER 14, 2011
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE**
- B. ROLL CALL**
- C. ADDITIONS/DELETIONS/CHANGES**
- D. CONSENT AGENDA :**
 - 1. Approval of Minutes** Planning and Zoning Meeting – 08/24/2011
Exhibit: Agenda Report No. 1
Recommendation: Motion to Approve
- E. PUBLIC HEARING: none**
- F. ACTION:**
 - 2. Internet Cafes Defined and Regulated (Ord. 2011-48)**
Exhibit: Agenda Report No. 2
Recommendation: Action
- G. DISCUSSION:**
 - 3. Morris Smith, P.E. Town Engineer- Requirements for Site Plans as they relate to Excavation and Ponds less than ¼ acre of water surface area**
Exhibit: Agenda Report No. 3
Recommendation: Discussion
 - 4. Continue Discussion Recreational Vehicles & Trailers in front yards of- Residential Zoning**
Exhibit: Agenda Report No. 4
Recommendation: Discussion
 - 5. Continued Discussion Residential/Limited Commercial Zoning & Density Clarification- Attorney R/LC (Ord. 2011-49)**
Exhibit: Agenda Report No. 5
Recommendation: Discussion/Action
 - 6. Continue Discussion of "Light Industrial"**
Exhibit: Agenda Report No.6
Recommendation: Discussion
 - 7. Continue to Work on Requirements for Assisted Living**
Exhibit: Agenda Report No. 7
Recommendation: Discussion
- H. PUBLIC:**
- I. OLD BUSINESS/NEW BUSINESS:**

J. ADJOURN

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING.

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 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
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: September 14, 2011

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

SUBJECT: Approval of minutes

BACKGROUND/HISTORY:

The minutes must reflect the actions taken by the Board:

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

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

ATTACHMENTS:

Draft minutes of P&Z Board Meeting of August 24, 2011 (**will email 9/10/2011**)

ACTION OPTIONS:

Secretary requests approval of the minutes.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: September 14, 2011

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

SUBJECT: Internet Cafes Defined and Regulated (Ord 2011-48)

BACKGROUND/HISTORY:

This Ordinance 2011-48 went before P & Z Board at the last meeting on 8/24/2011. There were revisions made and now is back before P & Z to review and forward to Council for recommendation.

This Ordinance was originally drafted by the Attorney to follow direction of Council to provide a clear definition of this use. They also wanted to further regulate these uses by requiring a Conditional Use Permit.

ATTACHMENTS:

- Ordinance 2011-48 (Revised 8/24/2011) by P & Z Board
- Ordinance 2001-48 (Revised 7/29/2011) by Town Attorney

ACTION OPTIONS:

Recommend to Council with Revisions of 8/24/2011, and staff will move forward with advertising for a Public Hearing on Ordinance 2011-48.

TOWN ATTORNEY VERSION

ORDINANCE NO. 2011-48 (REVISED 07/29/2011)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING SECTION 1-2.6.C. 3, LAND USE CLASSIFICATIONS; PROVIDING FOR AMUSEMENT ARCADE CENTERS AND ELECTRONIC GAMING ESTABLISHMENTS AS A CONDITIONAL USE IN THE CG (COMMERCIAL-GENERAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; ESTABLISHING AMUSEMENT ARCADE CENTERS AND ELECTRONIC GAMING ESTABLISHMENTS AS A CONDITIONAL USE IN THE CG (COMMERCIAL-GENERAL) ZONING DISTRICT; AMENDING TABLE 1-6.1 (B) MAKING PROVISIONS FOR AMUSEMENT ARCADE CENTERS AND ELECTRONIC GAMING ESTABLISHMENTS; AMENDING ARTICLE XX RELATING TO LANGUAGE AND DEFINITIONS; 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.C.3 is hereby amended to read as follows:

"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 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 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 Section 849.161, Florida Statutes shall apply to an Arcade Amusement Center.

'Electronic Gaming Establishment' means a business operation, which shall have at least 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 Section 849.094, F.S., 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 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 cybercafés 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 Section 849.161, Florida Statutes, 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."

Section 2. Table 1-3.2 of Section 1-3.2 of the Malabar Land Development Code is amended as follows:

	RR -65	RS -21	RS- 15	RS- 10	RM- 4	RM- 6	R- MH	OI	CL	CG	R/LC	IND	IN S	C P
COMMERCIAL ACTIVITIES														
ENCLOSED COMMERCIAL AMUSEMENT										P2				

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

Section 3. Table 1-6.1(B) is hereby amended to provide for Amusement Arcade Centers and Electronic Gaming Establishments to read as follows:

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
<u>Amusement Arcade Center/ Electronic Gaming Establishment</u>	<u>1 Acre</u>	<u>120</u>	Highway 1 and Babcock Street only	<u>100/30</u>	<u>N/A</u>	<u>Type A/C</u>	<u>(7)</u>

Section 4. Article XX of the Malabar Land Development Code is amended to change the definition of "Commercial amusement, Enclosed" to read as follows:

"Commercial Amusement, Enclosed. A commercial amusement establishment, the operations of which are conducted entirely within the confines of an enclosed building or structure, excluding necessary off-street parking facilities. This definition includes, but is not limited to, the following: bowling alleys, billiard and pool establishments, skating rinks, video arcades, amusement arcade centers, electronic gaming establishments and indoor theaters."

Section 5. 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 6. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 7. Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

Section 8. This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council member _____ The motion was seconded by Council member _____ and, upon being put to a vote, the vote was as follows:

Council Member, Carl Beatty _____

Council Member, David White	_____
Council Member, Steven (Steve) Rivet	_____
Council Member, Jeffrey (Jeff) McKnight	_____
Council Member, Marisa Acquaviva	_____

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2011.

Town Of Malabar
By Mayor Tom Eschenberg

First Reading _____
Second Reading _____

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

(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

P+Z REVISED VERSION

ORDINANCE NO. 2011-48 (REVISED 07/29/2011) (PZ revised 8/24/2011)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING SECTION 1-2.6.C. 3, LAND USE CLASSIFICATIONS; PROVIDING FOR GAMING ESTABLISHMENTS AS A CONDITIONAL USE IN THE CG (COMMERCIAL-GENERAL) ZONING DISTRICT; AMENDING TABLE 1-3.2; GAMING ESTABLISHMENTS AS A CONDITIONAL USE IN THE CG (COMMERCIAL-GENERAL) ZONING DISTRICT; AMENDING TABLE 1-6.1 (B) MAKING PROVISIONS FOR GAMING ESTABLISHMENTS; AMENDING ARTICLE XX RELATING TO LANGUAGE AND DEFINITIONS; 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.C.3 is hereby amended to read as follows:

"21. Gaming Establishments. As defined by FL Statue 849."

Section 2. Table 1-3.2 of Section 1-3.2 of the Malabar Land Development Code is hereby amended as follows:

	RR -65	RS -21	RS- 15	RS- 10	RM- 4	RM- 6	R- MH	OI	CL	CG	R/LC	IND	IN S	C P
COMMERCIAL ACTIVITIES														
<u>GAMING ESTABLISHM ENTS</u>										<u>C2</u>				

2. Gaming Establishments as defined by FL Statue 849 shall only be approved as a conditional use in accordance with Article VI of the Malabar Land Development Code.

Section 3. Table 1-6.1(B) is hereby amended to provide for Gaming Establishments to read as follows:

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
<u>Gaming Establishments</u>	<u>1 Acre</u>	<u>120</u>	<u>Highway 1 and Babcock Street only</u>	<u>100/30</u>	<u>N/A</u>	<u>Type A/C</u>	<u>(7)</u>

Section 4. Article XX of the Malabar Land Development Code is hereby amended to add the definition of "Gaming Establishments" to read as follows:

"Gaming Establishments. As defined in FL Statues 849."

Section 5. 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 6. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 7. Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

Section 8. This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council member _____ The motion was seconded by Council member _____ and, upon being put to a vote, the vote was as follows:

- Council Member, Carl Beatty _____
- Council Member, David White _____
- Council Member, Steven (Steve) Rivet _____
- Council Member, Jeffrey (Jeff) McKnight _____
- Council Member, Marisa Acquaviva _____

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2011.

Town Of Malabar
By Mayor Tom Eschenberg

First Reading _____
Second Reading _____

ATTEST:

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

(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: September 14, 2011

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

SUBJECT: Morris Smith, Town Engineer Discusses Requirements for Site Plan as related to Excavation and Ponds < ¼ acre of water surface area

BACKGROUND/HISTORY:

This discussion is continued from last P& Z Meeting (8/24/2011), Morris Smith-Town Engineer will be present to discuss requirements that this Board suggested to obtain a permit for Site Plan, Excavation, and Ponds < ¼ acre of water surface area.

ATTACHMENTS:

(Bring packet from P & Z Meeting 8/24/2011)

ACTION OPTIONS:

Discussion to clarify requirements for Site Plan, Excavation and Ponds < ¼ acre

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 4
Meeting Date: September 14, 2011

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

SUBJECT: Discussion of Vehicles & Trailer in Front yards of Residential Zoning

BACKGROUND/HISTORY:

This is continued discussion from last P & Z Meeting (8/24/2011); the Mayor proposes changes to allow such parking. Per the Malabar Code; the parking of recreational vehicles in the front yards is restricted.

ATTACHMENTS:

(Bring Packet from P & Z Meeting 8/24/2011)

ACTION OPTIONS:

Discussion and Work towards a recommendation to Council.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 5
Meeting Date: September 14, 2011

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

SUBJECT: Residential/Limited Commercial Zoning & Density Clarification

BACKGROUND/HISTORY:

This item is continued from July 27, 2011 meeting. The Board wants to establish the criteria for R/LC so an ordinance can be drafted to amend Malabar Land Development Code to provide for R/LC for properties along Malabar Road, Babcock Street and Highway 1.

The Town Clerk sent P & Z's proposed changes to the Attorney to put in Ordinance form, after the July 27, 2011 meeting. It is back for this Boards review & recommendation.

ATTACHMENTS:

- Ordinance 49-2011 from Karl Bohne- Town Attorney (8/2011) 5 pages
- Article III, District Provisions, page 117,118, and 123
- Page 1179 from Language and Definitions related to "UNITS"
- Page 322 from Table 1-6.1(B) Conditional Land Use Requirements

ACTION OPTIONS:

Continued Board work towards a recommendation to Council.

DRAFT Ordinance

ORDINANCE NO.

49-2011

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE TOWN'S LAND DEVELOPMENT CODE; AMENDING SECTION 1-3.1 (O), R/LC RESIDENTIAL AND LIMITED COMMERCIAL; REDUCING DENSITY FROM 6 UNITS PER ACRE TO 4 UNITS PER ACRE; PROVIDING FOR THE NUMBER OF RESIDENTIAL/COMMERCIAL USES ALLOWED; CORRECTING A SCRIVENER'S ERROR IN SECTION 1-3.2; AMENDING TABLE 1-3.3.A; PROVIDING FOR A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE R/LC ZONING DISTRICT; PROVIDING FOR MINIMUM SQUARE FOOTAGE FOR MULTIPLE FAMILY DWELLINGS; PROVIDING FOR CRITERIA FOR COMMERCIAL USES IN R/LC; PROVIDING A MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES IN THE RM-6 ZONING DISTRICT; CORRECTING A SCRIVENER'S ERROR IN THE OI ZONING DISTRICT; AMENDING REFERENCES IN TABLE 1-6.1 (B) IN THE "ACCESS REQUIRED TO STREET" COLUMN FROM "WESTLAND" TO "WEST RAILROAD AVENUE"; AMENDING ARTICLE XX, LANGUAGE AND DEFINITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Section 1. Section 1-3.1 (O) is amended to read as follows:

"O. *R/LC "Residential and Limited Commercial."* The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to ~~six~~ four (64) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.
- Residential use shall not exceed commercial use by more than one.
- Commercial use shall not exceed residential use by more than one.

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

Single family or multiple family residential uses with a density no greater than ~~six~~ four (64) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in this Code."

Section 2. Section 1-3.2 is amended to read as follows:

"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 ~~XVII~~."

Section 3. Table 1-3.3(A) is amended, in part, to read as follows:

SEE ATTACHED EXHIBIT A

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
RM-6	5 acres Minimum Site	200	200	35/3	Single Family: 1200	25	20	10	10	50	n/a	50	6
					Multiple Family: 500 1 Bedroom: 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6
Mixed Use Development													
R/LC	20,000	100	150	35/3	Single Family: 1200	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500-900 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6 4
R/LC	20,000	100	150	35/3	Commercial Min. Area: 900 Max. Area 4,000	50	25	10 ⁴	20	65	0.20	35	4
Office Development													
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20 0.20	35	N/A

Editor's note— 1 Minimum size sites and lots include one-half of adjacent public right-of-way.

Editor's note— 2 Minimum 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.

Editor's note— 3 Setback where rear lot line abuts an alley.

Section 4. Table 1-6.1(B) is hereby amended, in part, to replace references to "WESTLAND" in the "Access Required to Street" column to "WEST RAILROAD AVENUE" as follows:

<i>Conditional Land Uses</i>	<i>Access Required to Street</i>
Marine Commercial Activities	US 1/Babcock/ Westland West Railroad Ave
Trades and Skilled Services	US 1/Babcock/ Westland West Railroad Ave
Vehicular Services and Maintenance	US 1/Babcock/ Westland West Railroad Ave
Wholesale Trades and Services	US 1/Babcock/ Westland West Railroad Ave
Vehicular and Other Mechanical Repair	US 1/Babcock/ Westland West Railroad Ave

Section 5. Article XX is amended in part to read as follows:

Dwelling. A structure or portion thereof which is used expressly for residential human habitation.

Dwelling, Attached. A residential one-family dwelling attached to two or more one family dwellings by common vertical walls.

Dwelling, Detached. A residential dwelling which is not attached to any other dwelling by any structural means.

• • •

Dwelling, Triplex. A residential dwelling containing three (3) dwelling units, each of which has direct access to the outdoors or to a common hall.

• • •

Dwelling Unit. One room or rooms connected together, constituting a separate, independent residential housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be the same structure, and containing independent cooking, sleeping, and toilet facilities.

Section 6. 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 7. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 8. Codification. The provisions of this ordinance shall become part of the land development code of the Town of Malabar.

Section 9. This Ordinance shall become effective immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council member _____.

The motion was seconded by Council member _____ and, upon being put to a

vote, the vote was as follows:

Council Member, Carl Beatty	_____
Council Member, David White	_____
Council Member, Steven (Steve) Rivet	_____
Council Member, Jeffrey (Jeff) McKnight	_____
Council Member, Marisa Acquaviva	_____

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2011.

Town of Malabar
By: Mayor Tom Eschenberg

First Reading _____
Second Reading _____

ATTEST:
By _____
Debby K. Franklin, Town Clerk/Treasurer

(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Working Documents

ART III

working doc for
ORD 49-2011

DISTRICT PROVISIONS

§ 1-3.1

provides a management strategy for negotiating innovative development concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

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

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

ADD 2 Bullets →
Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities with a floor area in excess of four thousand (4,000) square feet, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops since the former would usually require a floor area larger than four thousand (4,000) square feet; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

-
- residential shall not exceed by more than one;
 - Commercial shall not exceed res by more than one.

20/26

Single family or multiple family residential uses with a density no greater than six (6) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in this Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1-4, 4-2-07)

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~~ 3/B VII

Cross reference—Alcoholic beverages, ch. 4.

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

DISTRICT PROVISIONS

AR 25 III

§ 1-3.3

Zoning District	Minimum Lot (1)			Maximum Height (ft./ stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Maximum Density (units per acre)	With Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (D)	Side (C)				
Rural Residential Development													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
Traditional Single Family Residential Development													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00
Multiple Family Residential Development													
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6
Mixed Use Development													
R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 560 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	4
				Delete	Commercial: Min. Area: 900 Max. Area 4,000					0.20			4
Mobile Home Residential Development													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
Office Development													
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A
Commercial Development													
CL	20,000	100	150	35/3	Minimum Floor Area: 900	50	25	10 ⁴ 15 ⁸	20	65	0.20	35	N/A

5/8 0.20

ART XX

LANGUAGE AND DEFINITIONS

§ 1-20.2

Dormitory. A building intended or used principally for sleeping accommodations where such building is related to an education or public institution including religious institutions.

Drive-in Establishment. An establishment, which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in motor vehicle.

Duplex. See Dwelling, Two Family.

Dwelling. A structure or portion thereof which is used expressly for human habitation. Residential

Dwelling, Attached. A one-family dwelling attached to two or more one family dwellings by common vertical walls. RESIDENTIAL

Dwelling, Detached. A dwelling which is not attached to any other dwelling by any structural means. RESIDENTIAL

Dwelling, Multiple Family. A residential building designed for or occupied by two or more families living independently of each other.

Dwelling, Single Family. A residential building containing only one (1) dwelling unit and occupied exclusively by one (1) family as a single housekeeping unit.

Dwelling, Triplex. A dwelling containing three (3) dwelling units, each of which has direct access to the outdoors or to a common hall. RESIDENTIAL

Dwelling, Two Family. A residential building containing only two (2) dwelling units and not occupied by more than two (2) families.

Dwelling Unit. One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be the same structure, and containing independent cooking, sleeping, and toilet facilities. RESIDENTIAL

Dwelling Unit, Single-Family. A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family.

Dwelling Unit, Two Family. A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

Dwelling Unit, Mobile Home. A detached residential dwelling unit designed for transportation after fabrication, on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit completed and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like.

Dwelling Unit, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

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	60/30	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)	
Golf Courses	(2)	500	Paved	70/45	25/20	Type C/C	(7)	
Group Homes	(3)	(3)	N/A	N/A	N/A	N/A	(7)	
Hospital and Extensive Care Facilities	5 Acres	325	Arterial	100/75	25/20	Type A/C	(7)	
Nursing Homes	2 Acres	210	Paved	60/30	25/20	Type A/C	(7)	
Protective Services	(4)	120	Paved	60/30	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)	(8)
Bars and Lounges	1 Acre (8, 9)	120	US 1/Babcock	100/30	N/A	Type A/C	(7)	(8)
Marine Commercial Activities	1 Acre	120	US 1/Babcock/ Westland	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 Skilled Services	1 Acre (8)	145	US 1/Babcock/ Westland	100/30	N/A	Type A/C	(7)	
Vehicular Services and Maintenance	1 Acre (8)	145	US 1/Babcock/ Westland	100/30	N/A	Type A/C	(7)	
Wholesale Trades and Services	1 Acre	145	US 1/Babcock/ Westland	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/ Westland	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)	

ART VI

change WESTLAND to W. Railroad Ave.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6
Meeting Date: September 14, 2011

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

SUBJECT: Definition of Light Industrial

BACKGROUND/HISTORY:

At last P & Z Meeting on 8/24/2011, P & Z did not get to this Agenda Item; this Item is continued from previous meetings for the discussion of the proposed land use changes on the FLUM.

The Board discussed the suggestions submitted by Don Krieger and Bob Wilbur at last P & Z meeting on 8/10/2011. Staff was directed to get City of Sebastian's zoning for "Light Industrial". The Board is going to review all comments and suggestions and work towards a recommendation to Council.

ATTACHMENTS:

- **Bring Packet from P & Z Meeting 7/27/2011**
- **Bring packet from P & Z Meeting 8/24/2011**

ACTION OPTIONS:

Continued Board work towards a recommendation to Council.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6
Meeting Date: September 14, 2011

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

SUBJECT: Continue to Work on Requirements for Assisted Living

BACKGROUND/HISTORY:

This is continued discussion from previous P & Z Meetings to work on requirements for Assisted Living in the Town of Malabar.

ATTACHMENTS:

- **Bring Packets from July 27, 2011 Meeting concerning this Agenda Item**

ACTION OPTIONS:

Board research on F.S. requirements and Florida Building Code requirements.