

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: August 28, 2013

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 July 24, 2013

Draft minutes of P&Z Board Meeting of August 14, 2013 (**not ready yet**)

ACTION OPTIONS:

Secretary requests approval of the minutes.

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
JULY 24, 2013 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
	DON KRIEGER
	GRANT BALL, EXCUSED
ALTERNATE:	DICK KORN, EXCUSED
ALTERNATE:	LEEANNE SAYLORS
BOARD SECRETARY:	DENINE SHEREAR

C. ADDITIONS/DELETIONS/CHANGES:

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 07/10/2013

MOTION: Ryan/Ritter to approve minutes of 07/10/13 as corrected:

Ritter pg 5/18, 1st parag. there should be this. Second sentence codes should be code & goes instead of got.

Pg 6/18 Table 1-3.2 level 3 should be 16+

Pg 7/18 under "H" 2nd parag. 1st sentence take should be taken

Pg 8/18 under "J" 2nd parag. , 2nd sentence only be should be not be after water add unless required

VOTE: All Ayes.

E. PRESENTATION:

F. ACTION: NONE

G. DISCUSSION:

2. **Code Requirements for Assisted Living Facilities**

Exhibit:	Agenda Report No. 2
Recommendation:	Discussion

Reilly explains to the Board to get through the Table 1-3.2 tonight and get an agreement, then move on to the words. The goal is to set the standards and then write the words.

Reilly explains the example he made which is on page 10/18; he took what we have in the code now and added the three other levels:

- Assisted Living facility
- Adult Family Care Homes
- Adult Day Care Facilities

Ritter adds that everything from ALF down should be taken out of "OI" & "IND" in the Table 1-3.2. The Town Council did not want it there. Reilly suggests with the Board's input that in the "OI" & "IND" column to take out the "C" which represents conditional use, in the following areas.

Ritter discussing page 35/160 Chapter 419 Community Residential Homes for "group home" Ritter suggesting all of our names go along with FS.

Reilly says, I agree "Group Homes" should be called "Community Residential Homes" page 36/160 Ritter is discussing the "Community Residential Home" 7-14 residents. Reilly added that we needed to define density. Reilly explains for the "Community Residential Homes" (7-14) where it will be allowed

Reilly reads what footnote (3) is in Table 1-6.1(B), which is: "minimal space requirement shall comply with standards established by the Fla. Dept of Health in rehabilitative services. Krieger comments that we already have setbacks. The minimum size according to our Charters is 1.5 acres.

The Board is discussing the Table 1-6.1(B) referencing to lot dimensions and density.

Ritter is reading pg 37/160 in working book for ALF #12 "nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria for this section, state law on community residential homes controls over local standards, local ordinances"

Reilly is explaining, to determining a "group home" you will need to define the size of the lot and list as "conditional" for the 7-14. The Board discussion is to take "group homes" & "nursing homes" out of R/LC zoning it doesn't fit. The Town Council wanted P&Z to take these out. Krieger doesn't understand the logic; R/LC can be a 20 acres parcel. Leeanne discussing the 7-14 residents in a "group home" you have to live there and take care of residents.

Ritter suggest the "group homes", etc in the RS-15, RS-10 or RM4 or 6. Reilly adds that this can be in any residential neighborhood, so you have to consider in RS 21, 10 & 15 also. Leeanne comments that they step over the line in residential, when they go to 7-14. Reilly suggest that "Adult Family Care Homes "

➤ Level 1 = RS 21, RS 15, RS 10

Krieger, if we have a density control on the other table why do we have to refer to level 1-2-3. Ritter explains the levels coincide with FS, because it is the number of people, Krieger comments that where you are talking about how many residents per unit that is the density.

Ritter is explaining the definition in the FS explains the different levels and the independent person. The people that are in the "community residential homes" need some assistance. FS 429 show that the Assisted Care Communities can take care of themselves.

Krieger comments that with the independent living, those places are usually 2 bedrooms, 2 bath regular apartments. Leeanne adds that these apartments have call systems in the event something is wrong, they have apartment checks.

Ritter reads from 41/160 in (ALF book) Assisted Living Center...any building or buildings section or distinct part of the building. One or more adults that are not related to the owner or administration of the facility. Page 87&88/160 (ALF book) Adult Family Care Home definition.

Reilly suggests that the "independent living" is addressed in the "assisted living facility". Krieger asks why you have to go with "levels" if you control it by density. Ritter says the FS defines everything. Reilly explains that you go to Table 1-6.1(B) and you put how many acre minimum you

need for each individual "level". Ritter explains that Assisted Living is independent and deals with the levels of care and services.

Krieger is giving an example of his concerns, RM-6 you can build an apartment house there, you can have 6 units and you can have 2.6 persons per unit. This is a conditional use, a service entity that is going to take up more fire and police, and utilize more than an apartment house. Krieger is explaining he would define a "unit" as maximum of two. We are a Town not a City; Towns let other municipalities handle water & sewer and other things.

Krieger discussing what Keith Mills explains is about quality development and about the best standards; we don't have to stick with the standards of the next Town. It is a conditional use in terms of units, but we have to define the "unit".

Krieger suggests the maximum number of residents per "unit" in an ALF is two. Reilly explains that there is the rule of 250 sq ft per person. Ritter adds that a lot of things are also covered under the FL Building Codes.

Ritter & Reilly are discussing the min. area per unit is 500 sq ft, we are not going to make anything smaller than 500 sq ft. Ritter is explaining that in FS a lot of things are covered and in the FL building statues about ALF's, we just want to make sure that it is what we want in our Town. Ritter explains that they have to have utilities before they build. Reilly says that Paladin was going to do this in parallel to building an ALF.

Krieger explains his concerns in the Town of Malabar, for the quality of life, how many people per acre. If it is a condition we want a better quality of life here in Malabar so we can say a "unit" is no more than two people.

Reilly explaining to the Board an example of 20 acres= 14 people per acre, 7 units per acre, and two in a room.

Reilly is explaining to Krieger not to mix "units" with facilities.

Ryan, pg 78/160 about infrastructure before building.

The Board is discussing levels & Table 1-3.2

Reilly suggests that "Adult Family Care Homes" Level 1 can go in: RS 21, RS 15, RS 10 it seems anything after 7 it would be too many people.

Reilly discusses with Board establishing two persons per "unit" minimum of 500 sq ft. Ritter suggests to let builder decide how big the rooms are, if Town gives example of how much space will allow how many persons per "unit" builder does math and follows guidelines.

Leeanne suggest minimum of 500 sq ft per "unit" and 4 "units" per acre and two persons per "unit". This will limit how many people per acre.

Krieger wants to make sure that when and if something happens to facility we want to have the nicest designed building. Ritter explains that in the FS there all kinds of restrictions in place to follow.

Reilly shared with the Board he visited Buono Vita and met a counselor, they are non-profit organization the ones that go "for profit" are out of business in 5 years. That is why they go non-

profit because they strictly rely on insurance monies and they are guaranteed how much they are going to make.

Krieger suggest we should defend our Charter's good design, good planning and rural residential. We are being asked to work on "conditional use", we have the table down. There is another table that says you have to have the infrastructure already in place.

Reilly discussing that Paladin talked about have 900 sq ft "units" to occupy 3 residents that would be how he would get his numbers up. It is going to be hard to have two people per unit.

Reilly went to "Hibiscus Court" and they have 306, 360, 394sq feet per unit, they have 2 people per unit but they are higher care facility. Reilly explains that at Buono Vita Facility they have 3 levels of care:

- 1.) Independent living you have to meet (7) requirements.
- 2.) Assisted Living Facility/Memory unit
- 3.) Nursing Home Care

Ritter, suggesting reading the FS concerning rules, regulations, and statues that must be followed, about licensing and if they lose their license or have violations they will be checked more often. Ritter explains these facilities just cannot change licenses; another agency involved is The Dept of Elder Affairs. Ryan adds this is all for the protection of the residents.

Ryan asks if the building becomes vacant, what else can go into this building. Ritter explains it would have to be approved for whatever license is applied for to occupy the building. Reilly adds that it would have to be approved by the Town of Malabar. Ritter explains you have to approve what is asked for at the time not what it can be in the future. Reilly explained that Paladin discussed turning one of the wings of building into nursing care/memory care section.

Krieger discussing lot sizes, from big huge establishments to smaller lot sizes. Ritter says that anyone coming in to do a large project like this has got to make it pay for itself. It will not pay if they only have 6 or 8 residents. Ritter explains that it kind of controls itself as far as size. Krieger says if you put enough limitations on the conditional use.

The Board is discussing the Tables for Conditional Use & Permitted changing and adding to Table. Ritter is explaining that the Community Residential Homes having 7-14 residents.

Reilly is going over Table 1-3.2 with Board everything is c=conditional, nothing is p= permitted.

Ritter explains that Community Residential Homes is in accordance with FS CH 419.

The Board is discussing the zoning areas from District Provisions from Code Book.

The Board is discussing Table1-6.1(B)

(The two Tables 1-3.2 & 1-6.1 are attached to these minutes of 7/24/13))

The Board will review these tables next meeting. There are two sections in the Land Development Code to update.

Leeanne asks about Adult Day Care Facilities in R/LC? Ryan looked at plan that Paladin submitted just for discussion, it appears that the units are 660 sq ft. Reilly explains that it is not required to give the interior size of the rooms. These are architect not as-built. Reilly remembers that Paladin introduced 500 to 900 sq ft per unit for his proposed project on HWY 1. Reilly explains that as a planning agency the P&Z only sees the foot prints, only when they submit to the Town for permits they will show the size. They have to tell the density requested for the project, Leeanne adds we control the people and the size of the building, but not the internal sizes of building.

Krieger asks about "CL" zoning, no residential.

Reilly stands that ALF is a residential facility; Ritter confirms that in all the FS they refer to "residential". Also "INS" zoning no residents. Reilly comments that the Council suggested to P&Z Board not to have Assisted Living in R/LC zoning.

Leeanne comments that this is all "conditional" so the applicant will have to come before the Boards for approval.

For Homework:

- Go through table & review for next meeting
- Table 1-3 district provision- add words
- 1-2 Land Use & Zoning- add words
- To edit and look at where to add words page 53 Article II
- Reilly suggest reading & use for guidance what attorney did and match to FS and Table page 13/18 in Agenda.
- Next meeting work on "wording", Ritter suggests taking all out of FS. ch419 & 429

Ritter asks about things from the Town Attorney, Reilly responds that he did it, it did not mean anything. Ritter responds why we are using the attorney and being billed for his time if we did not request anything. Reilly explains why the Attorney got involved, so that we could show we are working on an Ordinance and a plan cannot be submitted, Leeanne adds if they submit a plan it can be denied.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

- R/LC & Future Land Maps

Reilly not here next meeting

I. PUBLIC:

Leeanne told Board about going to the Florida Planning and Officials training program it was incredible, Bonnie went, Denine & Debby also attended. Denine is making copies of a wonderful notebook that we all received to give to the Board. Leeanne explained that at the training the class could ask questions and instructor answered all of them. Leeanne asked the question about accepting someone on the telephone for a public meeting. The response from the room was a "no". Sherear told Board that we are going to be a member of the Florida Planning, and as a member 2 or 3 Board members can go to the seminar/training, there is one coming up in September in Orlando and the Town will pay for them to go. Leeanne went on to comment on the instructor and his knowledge on the comprehensive plan and specialties.

J. OLD BUSINESS/NEW BUSINESS:

K. ADJOURN

There being no further business to discuss, **MOTION: Krieger/Ritter to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 9:55 P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

Date Approved: as corrected

P & Z update's from last P&Z (7/24/13) the red designates suggestions.

Table 1-6.1(B)

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
Community Residential Home	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Nursing Homes	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
Hospital and Extensive Care Facilities	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Assisted Living Facility							
Level 1 (1 to 5)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Family Care Homes							
Level 1 (1 to 5)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (more than 16)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
Adult Day Care Facilities	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
(No levels, no overnight)							

P&Z,

P & Z update's from last P&Z (7/24/13) the red designates suggestions. Conditional(C) & Permitted (P).

Table 1-3.2

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Community Facilities														
Community Residential Home 7-14					C	C		€			P-€		C	
Nursing Homes (including Rest Homes and Convalescent Homes)					C	C		C			€		C	
Hospital and Extensive Care Facilities								C					C	
Assisted Living Facility														
Level 1 (1 to 5)		C	C	C	C	C		€			C		€	
Level 2 (6 to15)					C	C		€					€	
Level 3 (more than 16)					C	C		€					€	
Adult Family Care Homes														
Level 1 (1 to 5)		C	C	C	C	C		€			C		€	
Level 2 (6 to15)		C	C		C	C		€					€	
Level 3 (more than 16)					C	C		€					€	
Adult Day Care Facilities														
(No levels, no overnight)					C	C		C			C?		C	

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: August 28, 2013

Prepared By: Denine M. Sherear Planning & Zoning Secretary

SUBJECT: Code Requirements for Assisted Living Facilities (ALF)

BACKGROUND/HISTORY:

At the 8/14/13 Meeting the Board reviewed the Tables 1-3.2 and 1-6.1(B) and further discussed density and what the Town will allow in certain zoning areas and reasoning behind these suggestions.

This Board will continue discussion on the verbiage for the different areas in the Code Book that will relate to these types of facilities.

ATTACHMENTS: (Please bring 3-Ring Binder from June 26th Meeting)

- Table 1-3.3(A) Size & Dimension Regulations
- Portion of Article II Land Use & Zoning
- Article VI Conditional Use & Special Exception Use Criteria
- Article III District Provisions

ACTION OPTIONS:

Board Discussion.

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



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 (L)	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: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6
					Commercial: Min. Area: 900 Max. Area 4,000					0.20			
Mobile Home Residential Development													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
Office Development													

DISTRICT PROVISIONS

§ 1-3.3



§ 1-3.3

MALABAR LAND DEVELOPMENT CODE

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.)	Minimum Floor Area (sq. ft.)			Front	Rear	Side (I)	Side (C)				
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 Min. Area: 900 Max. Area: 4,000	50	25	10 ⁴ 15 ³	20	65	0.20	35	N/A	
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20 ⁴ 15 ³	30	65	0.20	35	N/A	
Industrial Development														
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 ⁶	25 100 ⁵	20 100 ⁴	30 100 ⁵	70	0.42	30	N/A	
Institutional Development														
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 ⁶	40	N/A	
Coastal Preservation														
CP	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.

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Portion Article II Land Use + Zoning

following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.

- (6) *Parallel Lines.* Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- (7) *Bisecting Lines.* Where district boundary lines approximately bisect blocks, the boundaries are the median line of such blocks, between the center line of boundary streets.
- (8) *Uncertainties.* Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in case any other uncertainty exists, the Town Council shall interpret the intent of the Official Zoning Map as to the location of district boundaries.
- (9) *Street Abandonments.* Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned road, street, or alley.
- (10) *Excluded Areas.* Where parcels of land and water areas have been inadvertently excluded from a zoning district classification in any manner, said parcels shall be classified in conformance with the most restrictive zoning district which abuts the excluded area until or unless changed pursuant to amendment procedures contained herein.

Section 1-2.5. Compliance with district regulations.

No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, land or water be used for any purpose other than a use permitted in the district in which such building, land or water is located. No building or land shall be used so as to produce greater heights, smaller yards, less unoccupied area, or higher density or intensity than is prescribed for such building or land within the district regulations in which the building or land is located. No lot, which is now or which may be hereafter built upon shall be so reduced in area so that the yards and open spaces will be smaller than prescribed by this Code.

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



8. *Group Homes*. Facilities licensed by the Florida Department of Health and Rehabilitative Services (HRS) or a successor agency to provide a family residential living environment for persons with special needs, disabilities or handicaps. This service is provided in a minimum restriction home environment and includes supervision, and low intensive personal or therapeutic care necessary to meet physical, emotional, and social needs of clients.



9. *Hospitals and Extensive Care Facilities*. Institutions providing health and rehabilitative services, primarily for in-patients, and medical or surgical care; including, as an integral part of the institution, related facilities, central service facilities, and staff offices. These institutions:
 - (a) Offer health and rehabilitative services more intensive than those offered in group homes, room and board facilities, and general nursing care. Medical offices, hospital and extensive care facilities offer facilities and beds for use beyond twenty-four (24) hours by individuals requiring diagnosis, treatment, or care for illness, rehabilitative services, injury, deformity, infirmity, abnormality, disease, or pregnancy; and
 - (b)

Regularly make 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, including rehabilitative services.

A hospital or extensive care facility shall not include a facility for the care or treatment of the sick who depend exclusively upon prayer or spiritual means for healing in the practice of a religion (§ 395.002(6), F.S.).

Nursing Homes (including Rest Homes or Convalescent Homes). Activities customarily performed by a home for the elderly or infirmed in which three or more persons not of the immediate family are received, kept or provided with food, shelter and care for compensation. This activity shall not include duly state licensed volunteer adult foster care homes in which three or less foster adults are placed. Neither does the principal activity include hospitals, clinics or similar institutions devoted to the diagnosis and treatment of the sick or injured.

11. *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.

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

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

14. *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.

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

Maitabar, Florida, Code of Ordinances >> - LAND DEVELOPMENT CODE >> Article VI CONDITIONAL USE AND SPECIAL EXCEPTION USE CRITERIA >>

Article VI CONDITIONAL USE AND SPECIAL EXCEPTION USE CRITERIA

Section 1-6.1. 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	Otr
Child Care Facilities	1 Acre	145	Paved	50/30	15/10	Type (7)		
Places of Worship	5 Acres	250	Paved	70/45	25/20	Type (7)		
Educational Institution	(1)	500	Arterial	70/45	25/20	Type (7)		
Enclosed Arcade Amusement Center/Electronic Gaming Establishment	1 Acre	120	Highway 1 and Babcock Street only	100/30	N/A	Type (7)		
Golf Courses	(2)	500	Paved	70/45	25/20	Type (7)		
Group Homes	(3)	(3)	N/A	N/A	N/A	Type (7)		
Hospital and Extensive Care Facilities	5 Acres	325	Arterial	100/75	25/20	Type (7)		
Nursing Homes	2 Acres	210	Paved	60/30	25/20	Type (7)		
Protective Services	(4)	120	Paved	50/30	25/20	Type (7)		
Public Parks and Recreation Areas	5 Acres	325	Paved	70/45	25/20	Type (7)		

Public and Private Utilities	N/A	120	N/A	70/30	25/20	A/C	Type	(7)
Commercial Stables	5 Acres	325	N/A	100/75	50/40	B/C	Type	
Adult Entertainment	1 Acre (8, 9, 10)	120	US 1/Babcock	100/30	N/A	A/C	Type	(7) (6)
Bars and Lounges	1 Acre (8, 9)	120	US 1/Babcock	100/30	N/A	A/C	Type	(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 Skilled Services	1 Acre (8)	145	US 1/Babcock/ West Railroad Avenue	100/30	N/A	A/C	Type	(7)
Vehicular Services and Maintenance	1 Acre (8)	145	US 1/Babcock/ West Railroad Avenue	100/30	N/A	A/C	Type	(7)
Wholesale Trades and Services	1 Acre	145	US 1/Babcock/ West Railroad Avenue	50/30	15/10	A/C	Type	(7)
Kennels	1 Acre	145	N/A	100/30	15/10	A/C	Type	(7)
Vehicular and Other Mechanical Repair	1 Acre (8)	145	US 1/Babcock/ West Railroad Avenue	100/30	15/10	A/C	Type	(7)
Noncommercial Piers, Boat Slips and Docks	N/A	N/A	N/A	N/A	N/A		N/A	(7)

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 standards established by the Florida Department of Health and Rehabilitative Services.

(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.

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

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

Malabar, Florida, Code of Ordinances >> - LAND DEVELOPMENT CODE >> Article III DISTRICT PROVISIONS >>

Article III DISTRICT PROVISIONS

This article describes the purposes and intent of each zoning district, identifies permitted and conditional uses by zoning district, and provides size and dimensional regulations for respective zoning districts.

Section 1-3.1. Purpose and intent of districts.

Section 1-3.2. Land use by districts.

Section 1-3.3. Size and dimension criteria.

Section 1-3.1. Purpose and intent of districts.

This section presents the basic purpose and intent of each zoning district.

- A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.
- B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.
- C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- D.

- RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that future densities are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- E. *RS-10 "Single-Family Medium-Density Residential."* The RS-10 district is established to implement comprehensive plan policies for managing traditional single-family residential development on lots not less than 10,000 square feet. This district is established to preserve the stability of existing and future single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that they are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- F. *R-MH "Residential Mobile Homes."* The R-MH district is established to implement comprehensive plan policies for managing high density mobile home residential development. The district is designed for managing mobile home development at a density not to exceed six units per acre. The district is intended to provide sites for mobile home development within existing established mobile home parks.
- G. *RM-4 "Multiple-Family Medium-Density Residential."* The RM-4 district is established to implement comprehensive plan policies for managing medium-density residential development not to exceed four units per acre. The district is established to ensure sufficient land area for development of medium-density multiple-family residential developments which are fully serviced by adequate public facilities. Sites for medium-density multiple-family residential 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, 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.

- N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district 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.

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 (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.

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
Clubs and Lodges (Not-for-Profit)								P	P				
Cultural or Civic Activities								P	P	P			P
Educational Institutions								C, A ¹					C
Golf Course Facilities	C												
Group Homes					C	C		C		P			C
Hospital and Extensive Care Facilities								C					C
Nursing Homes (Including Rest Homes and Convalescent Homes)					C	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
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				

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.

(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)

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 (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 Wastewa
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	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: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 ⁴	20	65	n/a	35	6
					Commercial: Min. Area: 900 Max. Area 4,000						0.20		
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 ³	20	65	0.20	35	N/A

					Min. Area: 900 Max. Area 4,000								
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20 ⁴ 15 ³	30	65	0.20	35	N/A
Industrial Development													
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20 100 ⁵	30 100 ⁵	70	0.42	30	N/A
Institutional Development													
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 ⁶	40	N/A
Coastal Preservation													
CP	No Size or Dimension Standards Adopted												

Minimum size sites and lots include one-half of adjacent public right-of-way.

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.

Setback where rear lot line abuts an alley.

Setback 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.

Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.

Recreation 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).

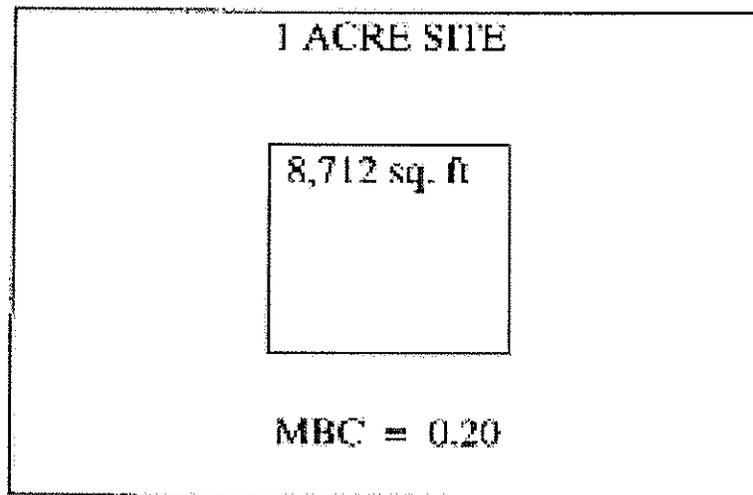
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

MBC	=	<i>Total Building Coverage</i>
		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

Transportation Facility	Building Setback (feet)
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)