

**TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY SEPTEMBER 11, 2013
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 – 08/28/2013
 - Exhibit:** Agenda Report No. 1
 - Recommendation:** Motion to Approve
 - E. PRESENTATION:**
 - F. ACTION:**
 - G. DISCUSSION:**
 - 2. Continued Discussion on Code Requirements for Assisted Living Facilities**
 - Exhibit:** Agenda Report No. 2
 - Recommendation:** Discussion
- H. ADDITIONAL ITEMS FOR FUTURE MEETING**
- I. PUBLIC:**
- J. OLD BUSINESS/NEW BUSINESS:**
- K. 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 11, 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 August 28, 2013

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
AUGUST 28, 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 |
| ALTERNATE: | DICK KORN |
| ALTERNATE: | LEEANNE SAYLORS |
| BOARD SECRETARY: | DENINE SHEREAR |

ADDITIONAL ATTENDEES:

C. ADDITIONS/DELETIONS/CHANGES:

Reilly to move Public up to before discussion to allow gentlemen that submitted "speaker card" to come & go.

D. CONSENT AGENDA:

1. **Approval of Minutes** Planning and Zoning Meeting – 07/24/2013
Planning and Zoning Meeting – 08/14/2013

MOTION: Krieger/Ryan to approve minutes of 07/24/13 as edited:

VOTE: All Ayes.

Ritter, page 4/32 6th parag. 3rd sentence acres should be acre.
Page 5/32 2nd to last parag. 2nd sentence "there are" add are after there.

MOTION: Krieger/Grant to approve minutes of 08/14/13 as edited:

VOTE: All Ayes.

Ball, page 1 under "C" last sentence take out "a" after about.
Korn, page 2 2nd parag. "conditionally" should be conditional
Ball page 2 2nd parag. 5th one down "Art III and ask the attorney
Ritter page 3 3rd parag. from the bottom 1st sentence should be "Ritter says we should not regulate how many persons per unit."
Ball page 4 last sentence, spelling "sovereignty"
Ritter page 4 3rd parag from bottom 2nd line add end after one
Leeanne page 41st parag. 6th line down a "," after money & 2nd parag. 8th line down "?" after want

Public:

William (Willy) Carmine, 1322 Stat Rd, Palm Bay 32907, I am the current owner of Malabar Mo's, for the past 12 years. The reason I am coming to you today is I am looking at purchasing a parcel of land at the corner of Malabar Road and US1, 1300 US 1 is the property address. I also own Route 1 Motor Sport, which is a power sports dealership we sell sea doo water crafts and ATV's, 4 wheelers, and motorcycles. I am looking at this property to build a new facility and vacant our business in Grant, I have been in Malabar my whole life, I would love to bring my business to Malabar, we currently employ about 10 people. We have been growing every year we have been there since 2007 and we are looking for expansion. There is 3 acres at the location at 1300 US 1 and after speaking with staff I understand I would have to go through a zoning change of the property for the use that I am looking for, from R/LC to CG, for the size of the building. I just want to ask this Board, is this the type of business you see fitting in to your demographic or what you would want in the Town of Malabar. Willy explains where the property is located it is not the corner property it is just one north of Malabar Road. Leeanne explains the property is next door to her to the south.

Krieger asks what type of business and what do they do. Willy explains sales and service and that he has out grown the building in Grant, we presently lease the building. I am looking to buy a parcel and build a building, size wise I am looking to build a 10,000 sq ft. We sell new & use primarily new and service. Ryan asks if that property has access to the river. Willy explains it has riparian rights but it is not anything that we will be using; Reilly adds it is Coastal Preservation.

Reilly explains that the only issue is that it is a step up in Land Use, I don't know what the neighbors would say, what happens is that within 500 ft of the property the neighbors will be notified for the public hearing and from that you will get a "public feel". Reilly suggests asking the property owners in that area to see how they feel about this.

Korn asks Willy, do you feel there is enough property for your building and parking and not feel crowded. Willy responds there is 3.25 acres plenty of room in my opinion right now we are operating on $\frac{3}{4}$ of an acre. This is my first step before I commit to the property; I just want to get a feel from this Board what your thought is of it. Leeanne adds that it would be her next door neighbor, I have to admit I know Willy & Kelly and I have known them for years, I have watched what they have done with Route 1 Motor Sports and Malabar Mo's and how they improved that property. My only concern is the property used to be a junk yard, so I do not know if there any environmental issues. I would have no problem with you being my neighbor. It makes sense on US 1, Ball adds what else are you going to do on US 1 that makes any more sense, but what he is proposing, Korn says, who would build on US1. Reilly says to make sure you have enough frontage that is the key. Willy says there is 260 ft across the front. Willy also looked into adjacent properties to the 1300 US1 to add to this lot.

Reilly comments to Willy that he hopes the Board has brought issues that you are going to be facing; it seems "doable" so far. Leeanne comments that she is sure the building department will give you all of what the Board will want to look at. Willy explains that this is the first step to see your thoughts on this; it is a long road ahead to complete a project like this. Willy says hopefully he will be able to bring another business into Malabar.

Mr. Paladin has made copies about traffic study and traffic information comparisons from apartments to ALF's and what the difference is in density, and handed out to this Board. (Attach to Minutes of 8/28/13). Mr. Paladin explained to the P&Z that he gave Denine a copy of the "Marketing Report" he just got back, I am going to send it to her digitally so she can send out to the Board. It is quite extensive it covers Brevard, Indian River, and St Lucie County.

Mr. Paladin explains as far as what I am proposing here on the overall sq footages, on my original project where I was going to do condo's which is not in demand right now my total sq ft with just under air conditioned was 260,000 sq ft. What I am proposing to do with the ALF, my total under

air conditioning is 150, 500 sq ft it is not more intense it is more units, but less sq footage and less intensity. The trip monitor that I sent you will show you there are fewer trips per unit; there is about 25% then what you would have in an apartment building. I know you did not want to put more intense on the infrastructure. This would be less intense. I just want to make the point I am not increasing the intensity.

Paladin goes on to say the reason I need a certain amount of density and units, I need to justify the things I have to do. I need to run water and sewer 2.25 miles; it is going to be 2.5 million dollars. I need to have a certified architectural firm to do my architectural drawings. I need to have a restaurant facility here and a care package. I need to lay it out to have "first class" residents to take care of the people. You can't do this with just a handful of people, the numbers we worked out with all the marketing reports is quite extensive, and there are certain numbers that trick the buzzer, as to where you can go. In single units we talked about a minimum of 500 sq ft, that is fine with me it can be a little bigger. I got the space I got 20 acres. I am doing almost the same thing in Indian River County on 7 acres. As far as the two bedroom units we are talking about a minimum of 900 sq ft, again another 100 sq ft doesn't matter. I don't mind expanding units, but I need a certain amount of density in order to go forward and warrant spending that kind of money and bring a "first class" project in to Malabar. I think running water and sewer down Highway 1 is going to give a lot of value to all properties along Highway 1. I think your riverfront is going to come alive, not too many people have the opportunity to have a riverfront like that and me running the water and sewer is going to make it a huge difference, I want to do this as a team player. I do not want to do anything you do not want me to do, but I need to do a certain amount of things in order to justify spending that kind of money, so that is where I am and I would be happy to comment on any questions you have or answer any questions. As far as the design and the style that is all going to come when we get our architectural drawings in, you are going to review all this stuff and tell me if you like it. What we are looking for now is the first phase, the wording you're trying to do and you made a lot of progress. I am looking for something to say, "ok Mr. Paladin you can build an ALF on that parcel that you own and you can get "x" amount of units between 240-250 or 280 whatever we decide on, that's what I need for me to go forward to spend the rest of my money and sign the developers agreement with Palm Bay, which I am negotiating with them and have a rough draft already. I have been very diligent about moving forward, so that is what I am looking for. Any questions let me answer as you go; it is easier to keep up with everything.

E. PRESENTATION:

F. ACTION: NONE

G. DISCUSSION:

3. Code Requirements for Assisted Living Facilities

Exhibit: Agenda Report No. 3
Recommendation: Discussion

Reilly thanks Board for continuing for last two meetings with him. I will miss next meeting (9/11/13) It looks like everyone agreed on the tables. Reilly asks Denine to provide final versions of tables; it is hard with strike outs to determine final tables. Reilly discussing Table 1.6.1(B) page 8/32, Ritter asks about Community Residential Homes being on "paved" streets, suggestion to change Adult Family Care Homes Level 1(1 to 5) to "paved" instead of "arterial" the Board is in agreement with this change. LeeAnne has question about page 9/32, "Adult Day Care Facility" we should allow in R/LC as a conditional use, and it is a day care with no over nights. This would be an appropriate use for R/LC. Reilly explains that there will be a description of each of the facilities.

Reilly received speaker care from Pauline Jones, 2505 Waring Lane Malabar FL. basically what I want approval for is I want to have an adult family care home, in my home. I want approval to have two patients. Reilly responds that presently you cannot do that we are working on the Code to allow you to do that. Reilly explains the other people that have come before us have been denied. We are working on the Code right now to allow that. My name is Regina, I actually live in Palm Bay and I think there is confusion when you say adult family care homes, because you can have one to three patients but you can have two residents in your home privately with out coming to the Town, when you go under the situation of the adult family care homes then you are going under the state of Florida, which only allows you to have 4 patients in your home, and 1 of those beds have to be a Medicare bed. What Pauline wants to do is the 1 or 2 patients because if she does the adult family home she is stepping into a different entity, she will have to take the class and the state comes in and different agencies. Korn comments that what she wants to do would be income producing and if so how does that affect the law. Korn is saying that you are allowed to have a business that is income producing caring for people in your home with out permission of the jurisdiction. Leeanne is concerned that you can't without a license, how is patient paying you through an insurance company or through the state, you have to be licensed and regulated by the state to be able to take any kind of patients. Regina is explaining to the Board that there is a state exam that you can take. You need official approval from your Town depending on the number of persons that you are going to have, without the approval of the Town we can have two people. Regina is saying that is it legal to do "private pay", and through a lawyer a contract is written up and all she would have to carry is malpractice insurance in her home in the event that something happens while that patient is in her home. Leeanne explains there are some issues if a home is in a residential community that is supposed to be single family residential and she is operating a business out of her home even though they are private pay they are operating a business, to operate a business you have to get a business tax receipt through the Town of Malabar to operate the business. If she is operating a business but she is in a residential area that is single family residential then she is not compliant with our current zones. Leeanne explains that we are trying to establish new guidelines, but we would still have a problem with this, I believe Mr. Chair because you're in a residential area that would be a zoning issue not necessarily prohibiting you from taking care of people, but prohibit her from her current zoning, Reilly agrees that it is 100% correct. Regina explains that you have to make sure that there is not another home within a 1,000 ft operating under that same name, as an adult family care home. Korn says that it has to come in compliance with the Ordinances of this municipality which we are working on and eventually have the provisions, we are not going to hurry in to anything, or forced in to anything, Mr. Paladin knows that. Korn explains that you cannot make your own zoning, you cannot decide on your own to open a business in a single family residential area. Reilly says that presently if you look at our Table 1.3-3(A) , Waring Lane is in RR65 in first column and there is "zero" conditional uses or permitted uses of any of these facilities in RR65, right now it will not fly. Reilly explains that our Board does not think the future of our Town would benefit by having adult care facilities or any of these in RR65. Regina comments that right there are numerous adult family care homes in place, because there are individual that are not willing to put their loved ones in a nursing home, etc simply because of the short staff and everything that goes on. This is why these adult family homes have been put in place and people are living longer lives, rather Malabar get into the swing of things they are moving and growing fast.

Ritter is reviewing the FS page 88/160 in ALF book and she is correct for adult family care homes, not more for more than (2) adults under FS 409.212. & FS 429.67 #5. Ritter is explaining to public that the RR65 is more of a farming and agricultural area. Leeanne adds until now we have not had any zoning to accommodate any type of facilities whether there were 2 patients or 100 patients that is what we are working on presently. Ritter comment that FS 419 these type of homes are regulated. Korn comments that we would not want anyone in Malabar that does not subject to the word of law.

Reilly & Board comes back to discussion on ALF-

Reilly suggests that the two tables to bring back to next meeting (9/11/13) clean copies. Reilly suggesting moving on to Article III language, Ritter would like to let the Florida Statutes cover everything, so we need to incorporate the FS into this language. Leeanne adds since the FS cover so much what do we actually have control over. We have already established the following restrictions:

- Height
- Malabar Building vernacular

So it is how many units per acre and how many people per unit, and FS will cover the rest. Reilly goes to page 14/32 of packet # 8 is changing from "Group Homes" to "Adult Family Care Homes". Ritter explains that in FS they are listed as, Community Residential Homes,

- Assisted Care Communities is FS Chapter 429 (2012)
 - Assisted Care Communities
 - ALF's
 - Adult Family Care Homes
 - Adult Day Care Centers
- Community Residential Homes is FS Chapter 419 (2012)
- Nursing Homes and Related Care Facilities FS Chapter 400 (2012)

Ritter explains it is the type of use and intensity and the environment of the situations. There is Social Welfare and Public Health so I would like to somewhat copy what FS does, it will make it easier for someone to go and get all the details. Ritter suggests more heading and subsets but it will make it easier for people to understand.

Reilly suggest redo in Article II Land Use & Zoning Section 1-2.6 Land Use Classifications "B" starting with #8-9-10. Reilly asks if everyone agrees, and consensus was yes.

Krieger, suggests use a small preamble that the terminology that we using is in line with the Florida State Statues.

The Board is discussing Art. II and format.

8.)

Public Health Ch381- 408 FS title 29

- A.)Hospitals/Trauma Centers
- B.) Substance Abuse Services
- C.) Mental Health
- D.) Nursing Homes

9.)

Social Welfare Ch409-430 (Elder Affairs) FS title 30

- A.) Community Residential Homes
- B.) Assisted Care Communities
 - 1.) ALF
 - 2.) Adult Care Facility

10.)

Nursing Homes

- A.) Hospice
- B.) Intermediate Special Services
- C.) Healthcare service pools

Korn says that Public Health and Social Welfare, what that says to me is two different sources of funding. Social Welfare is public assistance. The necessity for Public Health will be a result of an

actual of serious infirmity as oppose to Social Welfare which is done strictly voluntarily public assistance.

Leeanne explains that Public Health is how what you are doing affects all those around you, how your health and what you are doing affects those around you and the Social Welfare is the welfare of the people that are doing what is important to me.

Krieger asks where "Group Homes" melt in with this Table 1-3.2. Ritter responds "Community Residential".

Reilly says that #10 "Nursing Homes" stays in Art II, just update wording.

Krieger asks why under the "Hospitals & Extensive Care Facilities" why do you need and Extensive care Facilities, underneath in (a) it describes the "Extensive Care Facilities" on page 14/32

Leeanne is explaining that it is like Holmes Regional and Kindred Hospital, Holmes has an "Emergency Room" and Kindred does not have an emergency room, Holmes you get treated and released and Kindred is an extensive care facility.

Ritter says #9 on page 14/32 we can take off the "Extensive Care Facilities". Korn brings up that a few months ago a group came before this Board asking for approval for a "group care facility" implying in the application that it was a medical facility, which it was not at all; we need to avoid that pitfall.

Ritter explains that there are sections in the FS that just depends on the exact situation.

Reilly and Krieger discussing # 9 page 14/32 "Hospital and Extensive Care Facilities", Krieger asks is an Extensive Care Facility a Hospital and response is "no" by Board members. Reilly explains that they are institutions. Reilly suggests keeping Table 1-3.2 consistent with Art II verbiage leave #9 as is.

Reilly is explaining that in Art II Section 1-2.6 Land use classifications under "B" 1-14 is where we will be inserting suggestions starting with # 8.

Homework:

- Words to put in those categories in Art II. Use other existing headings as examples.
- Preamble the terminology we are using are from the FS subject to FS

Ritter explaining that we need to put in this section that as the FS updates and changes these Statues will be subject to the updates changes. Ritter will type up a format and get to Denine before next meeting.

Krieger suggests going back to Table 1-3.2 and looking at ALF in RR65 & R/LC because of the people that came in earlier to speak. For some of the lower levels ie. 1-5 type use. Remember R/LC is going to be along Malabar Road and there is large acreages involved there is a lot you can do but you can still limit the people.

Korn talking about state Statues up to two people and we have not addressed that yet, I live in RR65, if someone were to have two paying guest in a home in my neighborhood I don't think you would change the nature of that neighborhood. Korn asks if we have addressed in Mr. Paladin's project the evaluation of his plan is he going to have enough customers to justify his expense. Leeanne responds we have touched on it briefly several times. Korn says at the last meeting number of units and number of persons which is more important to use number of persons per acre or number of units? Ritter is explaining to Korn at the last meeting I wanted to get away from units. We should be in the business of telling someone how many units and what size they are. The Florida Building Codes & FS already restricts all that, what we can do is say how many persons per density that is allowed per acre. Ritter explains the density, how many people per acre. Korn asks if we have established that. Ritter responds that it was gone over very extensively

at the last meeting. Reilly said it is in the minutes. Leeanne adds that there was a worksheet that Bud submitted. Grant reads the worksheet that 4 persons per unit= 152 person for 19 acres = 9 persons per acre, from Krieger.

Ritter comments that the minimum was 15 per acre. The minimum was 500 sq ft per unit, with 1 or 2 people, that is covered in the FS & Florida Building Codes. It got around to maximum density of 15 persons per acre. Krieger asks that we did not define "unit" in terms of conditional use. Ritter said that units are already taken care of; it should not be our business to tell how many people per unit, the size is restricted to 500 sq ft minimum. Ritter explains our restriction is our maximum density per acre.

Mr. Paladin explains that we are not only restricted by the state Statues but also by our certification board on the ALF's. They have to approve all this to be state certified boards and agencies that are running these places. For example the regular condo zoning I had been RM6, 2-3-4 bedroom units, mostly 3 bedroom units you are not defining how many people in each bedroom you can't do that, so when you are starting to do your ALF's, I brought you some formulas from other counties, it is based on the density of 2.5 persons you look at the intensity, the trips, the sq ft it almost works out to where you want to be. If you are talking about a 500 sq ft unit and a standard apt is 1500 sq ft that is 3 times. It all balances out. You need to define what we allowed to do before we can commit to do it. Ritter responds with the number we are looking at for density is 15 persons per acre. Paladin says that works. Ritter says unit is whatever you want it to be with however many people you want it to be, that was the problem we had. We didn't want to do units because we couldn't say specifically how many people are in a unit and that is not for us to do it is covered under FS & Building Codes.

Paladin says if he is zoned RM6 and he wants to do and ALF. How many units can I build on my 20 acre parcel? Reilly says $6 \times 20 = 120$ Paladin says under my standard zoning. But I am looking to do an ALF there I can't build an ALF there with 20% of the sq footage with the same amount of units it does not make sense, it does not financially work. Ritter comments that we don't care how many units because you are already restricted to size, that is why we did people per acre so if you have 15 people per acre you have 19 acres that is 285 people. We are not using units. Mr. Paladin is explaining in all the reports, so many beds and so many units. The beds are what the density is. Ritter responds we can be specific when we say 15 people per acre. Leeanne adds that is up to you as far as how many units for those 15 persons per acre.

Mr. Paladin explains that if we have a 4 bedroom house and if I am zoned RM6 and I have 6 four bedroom units and 1 person in each room that is 24 people, that is a standard RM6 zoning. So when you are telling me I can only have 15 people, I am just asking about the wording to say beds and units, every other place where I build ALF's does the wording like that. That is the way I set up the finances, that is the way we set up what we can do and what we can afford to do. Ritter asks how they define "unit". Paladin responds "a room". Leeanne says if we tell you people and then you can define it however you want as long as it matches up to how many people we are saying. You can do the conversion or equation to do what you need to do. Paladin says you have to be careful of wording, look at the wording on the adjacent counties how they define "beds" and "units" that is what we need to accommodate the certification of the state and what we want to do. Korn asks Paladin, "Can you live with 15 "beds" per acre" and you break it down to units in whatever way you find most profitable. Can you come up with 285-300 permissible people to live on your 19 acres? Paladin responds "no" realistically under my standard RM6 zoning where I was going to build condos, I can have more than 285 people living there and I can only have 114 unit, In order for me to do what I have to do you have to define "units". Ritter explains the problems with units or beds we do not have an actual residential number. Grant adds we are a rural community and we are concerned with an impact and the impact is people. Paladin explains about intensity and density in a standard apt building you are going to have 2-3 cars per apt. In an ALF facility it is

a proven fact that is why you don't have to have as many parking spaces, you going to have 1 car per every 3 or 4 units is what it comes out to. Paladin says even though we are a rural community but when you try to define "people" and not "units" you get into a problem. You can't use the people to give me a higher level of numbers of people then you do on your standard zoning. There is a bonus for doing Assisted Living in every county that I worked in, they give you a bonus because they realize your building smaller units, you're giving me a penalty it does make sense doing it that way. Ritter responds you can do three units and say there are 5 beds in each unit; it would be the same as saying 15 persons per acre. Mr. Paladin responds that he does not want to build less units. I want to be able to build between 240-285 units to do what I have to do. I am asking for assistance in wording to go forward, if you say people it will not fall into criteria I need to do my project. Ritter responds that we will have to adjust. Paladin says we are not far off from doing what we need to do. Ritter responds that we are rural residential there is a difference we are not Palm Bay and we are not Sebastian, we're not Indianalantic that is our community. Paladin says you have RM6 zoning. Ritter responds you are not building a house your building a facility. Leeanne adds that when you say 18 people in Indian River County, and if we say we would prefer it be 15 people here. It is not a penalty; we are not trying to penalize anyone. Paladin explains that you are going backwards instead of forwards on this. Reilly says he understands what Mr. Paladin is saying and explains to the Board. He was allowed 6 units per acre x 4 people per unit = 24 people per acre, he went from 24 people per acre down to 15 people per acre. Paladin explains he needs the wording to say "units". Reilly suggests that we have to look at what the other communities are doing for wording. Reilly says he can't agree to change to people, if you change it to people and we're the only community that does people than how can developers go forward. If other communities do units and beds we have to stay with that, I don't like the 2.5 average, I would rather have 2 or 3 but I understand it is an average. Ritter responds that we cannot tell them how many people per unit that is why it is an average. Ritter explains that we are not doing this just for Paladin project we are doing it for everyone.

Paladin explains that if I lay out my plan and certifications and all my architectural and said ok, we are allowed 265 people, everyone would say I was crazy no one would pay attention of what I was trying to do, it would not fit anything. But if I said I am allowed 235 single units and 35 double units, 561- 982 sq ft now I got what I need to move forward. Our numbers overall are not far off it is the wording. Reilly says it is RM6 that tells you right there. Paladin is asking for over 6 units per acre because he is doing an ALF, I am not asking for something under, I need somewhere between 245- 285 units. Ritter says it just the wording, Leeanne explains that the reason we ended up where we did was because instead of telling you how many single, how many double, so many triple units letting you come up with those numbers. If we said you can have 250 people then you tell us how the units will break down, because we are not designing the interior. Mr. Paladin says that is his job to come back with the design and you have to shoot it down or approve it. I know "units" is defined everywhere else I ever been. Korn adds that you want us to speak to the standards of your industry. Ritter says that is pretty much everyone's standard.

Reilly wants to go back to the folks that came in and wanted to build the Market on Us Hwy 1, they wanted to build a building of 40,000 sq ft as the unit and create 3 bays. Is the unit the building or the 3 bays? In a commercial world the building is the "unit" because it is defined as sq ft in commercial applications and what Mr. Paladin is allowed RM6, 6 units per acre. Paladin explains that everywhere else they have a formula as to how many "units" you can have if you do an ALF because they realize your ALF's units are going to be 500 sq ft... Leeanne adds there will also be common areas which have to be considered into these units also. I explained in my condo units I had 260, 000 sq ft of air conditioning space, not including my club house did not count 2 car garages and terraces on the condos. Here my restaurant is 3800 sq ft of common area. In order for me to lay out my formula to move forward that is why that formula is worked out. There is no way me building 114 units because that is what I am allowed to do on my RM6, I might as well go home now and you tell me you don't want me here, I might as well leave. There is no way it is

impossible. I just need the proper terminology to move forward, I need "units". In a rural area this is the least intensive product you can put on that parcel. It falls in your rural area and works out there on Highway 1, and running water & sewer 2.25 miles, you know how many problems you have along the 2.25 miles because you don't have water and sewer. I am only asking you to let me do it. There are a lot of problems along 2.25 miles, you have a beautiful riverfront, and you can do this right. Ritter adds that there is Coastal Preserve property along the river. Paladin says he is the team player. I am just saying there is some things you have to word to my industry for me to move forward and continue with my financing, I can't do it when you say people. Don't change the RM6 leave that as it is.

Reilly explains the only 2 zoning this affects is the RM4 & RM6. Paladin explains that is why we use state people and formulas to build these ALF's., a sophisticated ALF that is top shelf is what we are try to do, there is a need for it and all the marketing studies say we can make money doing it. I just need to have the wording correctly so I can go forward. Korn asks so that we know where to look in the future, what is a working number. Ritter says he is in RM6, Korn says but if there is an exception to the 6 limit. Paladin explains the formula for the ALF's is 2.5 times the zoning. So if you have RM6 you can have 18 units that is the way it is worded, that allows me to do my units because I can show I can build so many units to justify my restaurant, nurses, 2.5 million dollars of water & sewer I can make it work, Leeanne says we have to determine what 2.5 x RM6 units, for the ALF. Paladin explains it is a special use with that formula to give you the density you need on the units for the ALF to be built.

Reilly explains that if you do 2.5 units per acre times 6= 15 units per acre. Paladin comments that when you approve the site plan you don't have to approve 4 people per unit that is when you don't have to approve it. Reilly explains that is conditional use, Leeanne explains that we are also developing our tables for futures that come down the road. Reilly explains the value of 1 person verses 3 people is 500 people difference in your case. Paladin says he cannot put 3 people in a 500 sq ft unit and get state certified. Paladin explains that 500 sq ft is for 1 person and 750 sq ft is for 2 people. The state is going to monitor. I have state inspectors that tell me what I can and can't do. Ball comments that we are not writing the rule for you we might have someone else come in we are trying to understand how to make this work. Grant understands that a "unit" is 500 sq ft per person. Ritter explains that 2 people can live in that unit max. Paladin says he has a stack of area ALF's and none have 3 people per unit. Reilly & Korn discussing with Paladin the ratio of single and double units, Paladin responds that the ratio is 75% single. Korn says of the 285 units allowed by the Town, the worst case scenario of density is 500-550 people. Paladin says he does not see that happening.

The Board is discussing the formula so all understand. Reilly explains in the wording we can put maximum units per acre is 2.5 x (the zoning). They are all conditional use, they have to come before this Board and we can say your density is too much. (Maximum of 2 people per unit) Korn says you may have 3 persons in a 2 bedrooms as a caregiver. The Board thanks Mr. Paladin.

Reilly for next meeting:

- Help in the preamble 2.5 X _____(debate) able in ALF (B) Social welfare (B) 2.5 units per acre (RM4 & RM6) ALF Level 3 more than 16 persons

Reilly is discussing Table 1.3.3(a) page 11/32 PZ packet the density levels and Ritter adds that these were suppose to all change from "6" to "4". It is restricted because it is with water and sewer. Mr. Paladin is explaining that ALF's is only allowed in RM-6 in other areas.

Reilly wants to add "persons" in table 1-3.2. by the levels

- The units per acres on each of these zoning
- Updated charts as of 8/28/13
- Move on to Art III & Art VI
- Update report to Council 1st meeting in Oct. (Pat)power point

Ball asking about taking of people in your home, we need to look at Codes for 1 or 2 persons in home care approval from local government. Leeanne comments maybe we need to accommodate these type homes so we know they are out there. Korn says it is different if a person needs health care needs. Ritter says in the RR65. Korn says there is a state law for 1 or 2, we need to address that. Leeanne says that local government needs to give approval. Reilly says look at allowing in RR65 1 or 2 persons in Adult Family Care Homes with an asterisk and conditional use, following the FS for 1 or 2 persons. Ritter & Korn comments to reference FS. Ritter read from FS 429.652.

H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:

Future Land Use Maps as a discussion and defining R/LC (Land Use Change)

I. PUBLIC:

J. OLD BUSINESS/NEW BUSINESS:

Pat is going to ask Bonnie for the planner's assistance to come to meetings. Get ALF books to Planner & Attorney

Ritter says the Coastal Preserve (CP) is not suppose to have anything sitting there (old Logue property) asks about the RV camper has been there about a month on riverfront has Bonnie said anything about this? Sherear responds not to my knowledge. Ritter says that she had said something to her. Sherear responds, "I will ask BW". Ritter explains that someone new purchased property. Ritter said that she remembers that someone down in Rocky Point could not park a boat on a trailer on the river. Reilly says CP is just a zoning.

Leeanne we do these Codes and you have to have a permit for this and that but we are standing outside and we are watching 4 dump trucks go up through are parking lot to our neighbors house to fill in the swimming pool on a Sunday, so they filled in their swimming pool with dirt without a permit. We come to the Town, well we are reactive not proactive well you need to react because they did not pull a permit. I do not know if they are required to collapse the walls or do anything else with the pool but they decided on a Sunday to fill their pool with dirt and not do anything else and not pull a permit. If we are going to go through all these exercises to do all these things we need a little more support in making people compliant to the codes we are developing. The County came in and told them they can't put a septic tank there because they were within 75 feet of your empty pool. So homeowner said they would fill it. They filled it on Sunday and put septic in on Monday. They should follow certain guidelines that everyone else has to follow.

K. ADJOURN

There being no further business to discuss, **MOTION:** Krieger/Ritter to adjourn this meeting. **Vote:** All Ayes. The meeting adjourned 10:05 P.M.

BY:

Pat Reilly, Chair

Denine Sherear, P&Z Board Secretary

9/11/2013

Date Approved: as corrected

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: September 11, 2013

Prepared By: Denine M. Sherear Planning & Zoning Secretary

SUBJECT: Code Requirements for Assisted Living Facilities (ALF)

BACKGROUND/HISTORY:

At the 8/28/13 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. The Tables were revised and are included in this packet for a final review. The continue discussion on Article II and revise wording to review at this meeting.

Article III & Article VI will need to be updated to include changes for the ALF requirements.

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

- Table 1-3.2 & Table 1-6.1(B) Revised from 8/28/3 Meeting
- Article II Section 1-2.6 B. submitted by Pat Reilly
- Article II Section 1-2.6 B. by Liz Ritter
- Article VI Conditional Use & Special Exception Use Criteria
- Article III District Provisions

ACTION OPTIONS:

Board Discussion.

REVISED from last P&Z (8/28/13) suggestions.

Table 1-6.1(B)

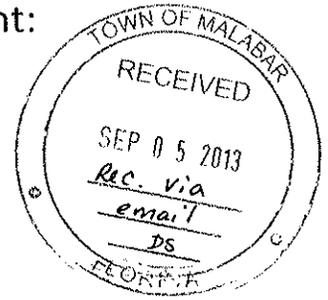
| Conditional Land Uses | Minimum Size Site | Minimum Width/Depth (feet) | Access Required to Street | Building Setback from Residential District/Nonresidential District (feet) | Parking Lot Setbacks from Adjacent residential District/Nonresidential District (feet) | Perimeter Screening Residential District/Nonresidential 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 | Paved | 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) |
| | | | | | | | |

**(Article II. Wording for ALF-Submitted by Pat Reilly for P&Z Meeting
9/11/13)**



8. Public Health (note: see 16/160 in notebook)
Refer to F.S. Title XXIX, Chapters 381 – 408 for (continue wording)
 - A. Mental Health
Refer to Chapters 394 for
 - B. Hospital
Refer to Chapters 395 for
 - C. Substance Abuse
Refer to Chapters 397 for
 - D. Nursing Home and Related Health Care Facilities
Refer to Chapters 400 for
 - Part I Long-Term Care Facilities
 - Part II Nursing Homes
 - Part III Intermediate, Special Services, and Transitional Living Facilities
9. Social Welfare
Refer to F.S. Title XXIX, Chapters 409 – 430 for (continue wording)
 - A. Community Residential Homes (note: see 35/160 in notebook)
Refer to Chapters 419 for (continue wording)
 - B. Assisted Care Communities (note: see 39/160 in notebook)
Refer to Chapters 429 for
 - Part I Assisted Living Facilities
Refer to Chapter 429.01 – 429.54
 - Part II Adult Family Care Homes
Refer to Chapter 429.60 – 429.87
 - Part III Adult Day Care Centers
Refer to Chapter 429.90 – 429.931

Following are the desired future changes being undertaken to current:



Malabar Municode; Article II Land Use & Zoning

Section 1-2.6 Land Use classifications

B. Community Facilities

8. Group Homes
9. Hospitals and Extensive Care Facilities
10. Nursing Homes (including Rest Homes or Convalescent Homes)

Changes:

Our purpose and intent. This section strives to simplify the research needed by generally accepting the 2012 Florida Statutes regarding Community Facilities, which are Conditional Uses in the Town of Malabar.

Whereas the Florida Building Codes and the Florida Statutes govern and regulate the majority of the criteria regarding the standards for these areas, we wish to incorporate them in with ours. We will continue to set the standards allowed local municipalities, so as to retain the rural atmosphere of our Town. The following will be the support base of our criteria.

2012 Florida Statutes

Title XXIX **Public Health** (In Regard to 9 & 10)

Chapter 394 Mental Health

Chapter 395 Hospital Licensing and Regulation

Chapter 397 Substance Abuse Services

Chapter 400 Nursing Homes and Related health Care Facilities

Title XXX **Social Welfare** (In Regard to 8)

Chapter 419 Community Residential Homes

Chapter 429 Assisted Care Communities

Malabar, 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 | Off |
|--|-------------------|----------------------------|-----------------------------------|---|--|--|-------------------|-----|
| 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 | N/A | (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 | N/A | (7) |
| Service Stations, Including Gasoline Sales | 1 Acre (8) | 145 | Arterial | 100/30 | N/A | 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 | 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 200;ft; 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 | | P | |
| | Clubs and Lodges (Not-for-Profit) | | | | | | | | P | P | | | | | |
| | Cultural or Civic Activities | | | | | | | | P | P | P | P | | P | |
| | Educational Institutions | | | | | | | | C, A ¹ | | | | | C | |
| | Golf Course Facilities | C | | | | | | | | | | | | | |
| | 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 Wastewater |
|--|-----------------|-------------|-------------|------------------------------|-------------------------------|------------------|------|----------|----------|--------------------------------------|---------------------------|------------------------|--|
| | 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 | 50 100 ⁵ | 25 100 ⁵ | 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).

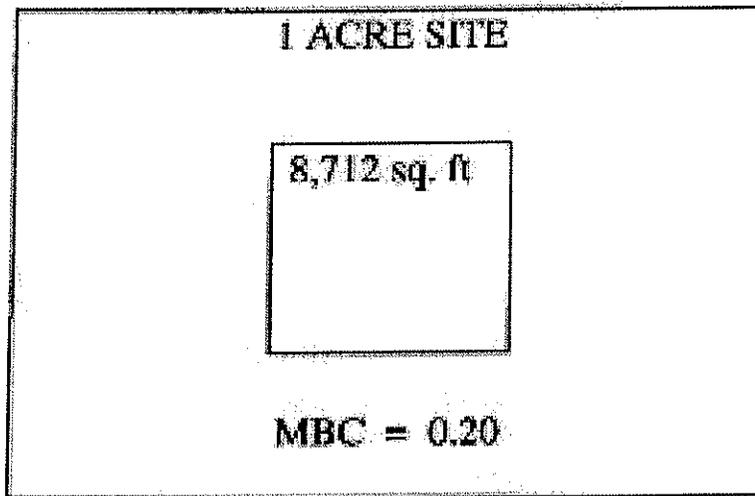
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

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)

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 | | P | |
| Clubs and Lodges (Not-for-Profit) | | | | | | | | | P | P | | | | |
| Cultural or Civic Activities | | | | | | | | P | P | P | P | | P | |
| Educational Institutions | | | | | | | | C, A ¹ | | | | | C | |
| Golf Course Facilities | C | | | | | | | | | | | | | |
| 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 | C |
| Public Parks and Recreation | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| Public and Private Utilities | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| 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 Wastewater |
|--|-----------------|-------------|-------------|------------------------------|-------------------------------|------------------|------|----------|----------|--------------------------------------|---------------------------|------------------------|--|
| | 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 | 2010 | | 10 | 50 | n/a | 50 | 6 |
| | | | | | Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120 | 60 | 4040 | | 40 | 50 | n/a | 50 | 6 |
| Mixed Use Development | | | | | | | | | | | | | |
| R/LC | 20,000 | 100 | 150 | 35/3 | Single Family: | 25 | 2010 | | 10 | 50 | n/a | 50 | 4 |
| | | | | | Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120 | 50 | 2510 | | 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 |

- 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).

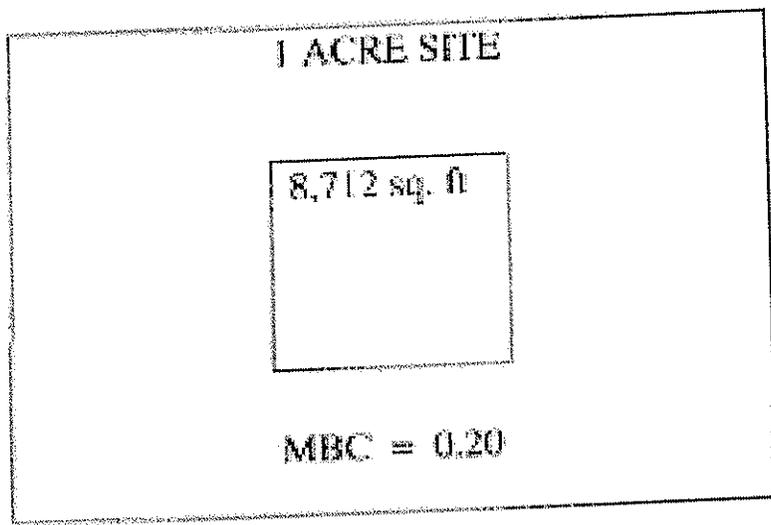
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

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)