



**TOWN OF MALABAR**  
**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 1**  
**Meeting Date: April 23, 2014**

**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 April 9, 2014  
Draft minutes of P&Z Board Meeting of March 12, 2014

**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  
APRIL 9, 2014 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:	GEORGE FOSTER
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

**C. ADDITIONS/DELETIONS/CHANGES:**

**D. CONSENT AGENDA:**

- 1. Approval of Minutes** Planning and Zoning Meeting – 3/12/14  
Planning and Zoning Meeting – 3/26/14  
**Exhibit:** Agenda Report No. 1  
**Recommendation:** Motion to Approve

Reilly explained to the Board that there are no minutes ready. They are behind and Debby and Denine will be working on them to get caught up.

**E. PRESENTATION: NONE**

**F. ACTION: NONE**

**G. DISCUSSION:**

- 2. Request by Ms. Juliana Hirsch to discuss the possibility of Reverting front portion 400-600 feet of property located at: 1035 Malabar Road back to Commercial property.**  
**Exhibit:** Agenda Report No. 2  
**Recommendation:** Discussion

Juliana Hirsch 1035 Malabar Road, she is here to get a feel from the Board about reverting this property back to zoning it had when she bought it in 1979 or 1980. It was Commercial for the first 400' back. She would not have paid \$180,000.00 if the property was not commercial. Juliana checked with the town and there are some records missing. Juliana asked how does the board feel about reverting it back to CG (Commercial General) or some other zoning, like "OI" (Office Institutional). Juliana handed out a map that was "in the works" when Bob Wilbur was on this Board. Wilbur had suggested possibly "OI" or "R/LC" zoning. Ritter asked Juliana if she was not going to live there, and Juliana said it is only for the front 5 acres and she (Juliana) had planned to live in the back 5 acres.

Juliana said that originally when the zoning was discussed the "OI" or R/LC" was going to go all the way back and she (Juliana) had requested when Bob Wilbur was on this Board to only go only in

the front so she could live in the rear of the property. This coincides with the 400 feet, 5 acres is actually 600 feet in from Malabar Road, for so many commercial entities you have to have 5 acres.

Foster had some comments about research he did with the Property Appraisers office, Clerk of the Courts Office and talked with Debby Franklin. The property was bought in 1985. My research showed everything you did from the time you bought the property. Foster said that some maps in your package were from the 70's. Foster said he talked with Juliana about the map from 1985. Foster said that map clearly stated your property was in the RR-6 zoning. We had talked about this every meeting for the last 3 months. I agreed with a lot of work that P&Z had done. Foster said, what I see is your property has never not zoned higher then residential. Foster personally thinks that all the arterial roads (US 1, Malabar Road, and Babcock Street) the "R/LC" is an ideal zoning for these areas. The R/LC provides primarily a residential zoning but allows for an upgrade to light commercial. He said the bottom line is that there is no one beating the door down to start a commercial operation, but he thinks it is going to change. Foster said that one of these days when Malabar Road widens there is going to be a time that there is going to be some commercial interest.

Foster concluded with that recently we have had several meetings for the past three months and people have come in to increase their level of zoning primarily to sell it for more money. It was clear to Foster that the focus of the P&Z Board was that if the property owners were harmed in the past, due to zoning changes the Board listened to hear what the property owners had to say.

Juliana explained about her particular property was purchased under her corporation's name. She is not asking for property to be reversed, but what is the possibility if you have a contract.

Juliana cautioned the Board about mentioning that they are willing to rezoning if you have a contract or something. She explained that she spoke with authorities and it is absolutely illegal. Juliana recommended the Board Members read Article XII of the Code to see what their duties and authority is as a Board Member.

Juliana explained to the Board that nowhere does it say in the code that if a person comes in for a zoning change on their property that they have to have a site plan or a contract. The zoning criteria tell you what you can do in a particular zoning. There is no reason for the P&Z Board to ask for a plan, unless the property owner brings it in. It is against the law and you can ask your attorney.

Reilly explained to the Board & Juliana that there are two maps, the present land use map and the future land use map, the future land use are the Boards ideas. Some maps where incorporated and some where not. The Board discussed the land use map on overhead projector.

Reilly explained that as a Board, the Board is open to look at rezoning it as "O1", as a Board R/LC was a better fit.

Juliana understood that the P&Z was open to her request. Reilly explained that if you come in to change the land use of a particular property; that is reviewed one way, but otherwise the Board looks at these requests as they pertain to the FLUM.

Juliana commented that it was her understanding that the Board clearly asks for a site plan or contract of property. Ritter explained that people that have come before P&Z wanted something different then what the future zoning was you cannot have a higher zoning that is "spot zoning".

Ritter discussed the surrounding properties and people have come in to discuss options of proposed land use.

Juliana said that when she is ready for a rezoning she will come in for a rezoning and will bring the closing statement.

Ryan asked Juliana Hirsch what impressions are you walking away with, Juliana responded that she has a good impression, and what have you gained? Did your question get answered? Juliana said no because we have not established yet and we have not found maps from 1978, we just have the proposed from 1978. Juliana said she should have asked the Mayor he may remember the zoning. Reilly said that he finds it hard to believe that it was anything other than "RR-65" zoning. Reilly based this on the 1985 map and 1995 map.

Juliana explained that what I come away with from this meeting is: to revert this property back to what I bought originally is out of the question. Ritter responded to Juliana explaining it may never go back to commercial but the "OI" is the professional version of the commercial. Reilly explained that there is nothing to revert to. Ritter said the "future land use" is just visions.

Krieger said that no one person on this Board can bargain anyone's zoning/land use up or down, we can give our opinions but it is not our job to speculate or give indulgences to people. I think the Town should do the right thing for its citizens. The basic precepts the last few years that Krieger has been on this Board is that zoning generally starts from a lower level and works to a higher and more intense level. When we created these visions and when we recommend this to Council, it is a work in progress and as we get information from the citizens we can modify the future plans. If you take the future vision as R/LC, we have not defined "R/LC". Krieger thinks that when and if a change of zoning takes place or land use, it is residential zoning and it mimics along with density RR-65 or any other residential zoning we have in accordance to density and the size of the lot. If it is considered a commercial application of R/LC normally zonings become more intense. When you consider Babcock Street there is no reason to change anything. The reason for keeping the lower zoning is to protect the people. The Neighbors will be informed. Reilly commented that times have changed, Babcock Street used to be a dirt road and now Babcock has water and sewer. Reilly said why not keep up with the changes if the infrastructure is there you can use higher land use for the property.

Krieger said R/LC is a good fit, as long as we define R/LC. Krieger thinks something has already been passed about R/LC and it has to be fixed. Krieger said once that this Board is done with R/LC the whole chart should be reviewed.

Reilly said to Board to define R/LC first and then go back to the maps. Reilly suggested to Board to focus on the definition of R/LC. Ritter suggested it should be considered a residential property unless someone comes in asks to do a commercial activity.

Ball discussed with the Board about what Juliana Hirsch expressed earlier about a person wanting to change the zoning of their property and it not being allowed. Ritter explained that our job as a Board is to make a recommendation to Council, and Council is the ones that actually make the change and does the legislative actions, this Board just recommends. Reilly said that the property has to follow the present land map or the future land map.

Ritter said even if this Board did not recommend to Council a change of zoning, the land owners still have the option to take it to Council for review.

Ryan said that we need to keep in mind the preamble to code; this is intended to be a rural residential community.

Juliana Hirsch explained to Ball that he misunderstood what she said earlier in the meeting that if someone had a property that is for example "RM-6" and wanted to change the zoning to "R/LC", Juliana said that you could not tell them (the property owner) we cannot give you this R/LC until you let P&Z Board know what you are building. The Board has no right to ask her what is going to be built on the property. It is when the plans get submitted, and then the Board can ask questions.

Foster said that we are an advisory board only; we are not going to recommend anything that we do not know about, we are not going to give a "blanket change" of a zoning. There is no liability there we are an advisory Board. We can choose to recommend to Council the approval or disapproval of a zoning change.

Ryan said that in the recent past people have come in and asked about a piece of property and this is what I want to do with it, just to get the Boards opinion. Ryan said to come in without a purpose in mind and just wants to get the property rezoned, it gets a little...

Juliana Hirsch said if a person comes in and asks for R/LC zoning, Ritter responded that is depended what the present zoning is and the future use is going to be. If a person wanted to do a commercial business the Board is going to explain to person(s) that it is not allowed in that zoning.

Juliana said that the comment had been made that it is not going to be rezoned if someone just wanted to rezone to get a better sale. Juliana spoke to Bohne about it. Ritter said then that is "spot" zoning. Juliana responded that you (the Board) do not have to agree with anything that anybody wants, but you cannot say we will not consider the rezoning until you bring in a specific plan; it cost too much to do a site plan. If someone comes in for a certain rezoning the Board should say yes or no. Ritter said it is on the map and we try to advise them of what their options may be.

Reilly explained to Juliana that there is a big difference between what is allowed in CL and CG.

Krieger asked Juliana if she talked to Attorney Bohne at a Town Council Meeting. Juliana responded that she spoke to him on the phone. Krieger asked if she called him up at his office, Juliana said she called him at home. Krieger said in other words you know Mr. Bohne personally. Juliana responded that she does. It would be nice to get the town attorney at one or two meetings a year to get collective questions answered. Reilly said that he has an obligation on the nights of our meetings.

Krieger said that this Board (P&Z) does the following:

- 1.) We can ask any questions of anybody but no one has to answer the questions.
- 2.) We discuss the needs of the citizens informally
- 3.) We are trying to avoid what happened 20 or 30 years ago when a whole block zoning change was made. I do not think any reversion is necessary, required or advisable people should say this is what we want to do in the future and this is what we have now, and done in some legal format. I do not think it is this Boards job to correct the past errors of previous Boards. It is this Boards job to make an easily understood future.

3. Continue Discussion on Future Land Use Maps and Defining R/LC  
Exhibit: Agenda Report No. 3  
Recommendation: Discussion

Ritter said the present is present and future is future is a vision and I do not know why we keep go back.

Foster said that he has a sensitive spot if a property owner has been harmed and not properly notified when a zoning change has taken place. Ritter asked what definition of being harmed is. Foster responded that the property owners should be able to state their case, and our duty is to the citizens and property owners. There are other property owners that bought an increased and advanced zoning. The notification process has not been right or moral when there has been a change of zoning.

Ritter explained that the Town is a public entity and has an attorney to advise them. Things are done in the legal fashion at the time is considered proper. We have to move forward.

Reilly said that we listen to everyone that comes to this Board.

The Board discussed the maps from 1978 and 1985. Ritter explained that some maps are just proposed. The visions changed because Malabar is rural.

Reilly would like to discuss the definition of R/LC. Ritter/Krieger recommended resubmitting that R/LC is residential, first then with an option if they change and want to do some light commercial activity then it changes.

The Board discussed Florida Vernacular and how it would affect the R/LC zoning. Foster said the Florida Vernacular is a major ton of bricks & obstacles to overcome. Reilly said Palm Bay did the Vernacular.

Foster said that arterial road should be "R/LC" and all property owners should be notified. Reilly said that we have to go through the process to create the FLUM (future land use map) and then get them incorporated – then the property owners will come forward.

Reilly explained that our goal is to come up with good future land use maps for the residents. Ritter said it is a future vision. Krieger said that this is a vision and we have a current and a future land use that this Board can utilize.

Reilly suggested doing a "global change" and letting property owners decide if they want to use it. Reilly said that land use and zoning have to go together. Krieger doesn't believe that and Reilly said he had proof. Krieger said the comp plan did not including zoning, zoning was only related to land use in the last comp plan report.

Krieger said that we have a current land use and a future land use, this is a vision that this Board can utilize in decision making to make recommendations to Council. Krieger said there is no reason to make a "global change" Ritter said we are just making a future vision.

Reilly explained to the Board that it is in our charter every 5 years that the comp plan is to be reviewed. Reilly said that we have changed the land use on 3 or 4 properties recently because it was on our future land use maps – to be changed.

Krieger said if you are writing an Ordinance you are making a change.

Ritter said there should be an Agricultural zoning. Reilly replied that it was changed and now we have RR-65.

The Board discussed what went to Council for the "R/LC". Sherear explained that no Ordinance was adopted yet; Council is waiting on the Future Land Use Maps from the P&Z Board.

Krieger said in reviewing the definition for "R/LC" he inserted "residential" more often. Krieger said that "R/LC" is "mixed use", a flex zone and I envision it is as a residence first then a shop, a combination if you want to go residential or commercial.

Ritter commented that if only a residence is on "R/LC", it is not "R/LC" until the owner comes in for commercial use.

Krieger said that as we make definitions it will change our outlook on different zonings. Instead of changing the FLUM "globally" the basic experimentation should be with the downtown area from Marie Street east, and leave the rest of Malabar Road alone until the road is widened.

Ritter said it is just a future vision, we have spent a lot of time working on this vision, and the property owners don't have to exercise the use until they decide to do so.

Ball said that he agreed since it is Malabar the "R" should always be first in "R/LC" making residential first and the "LC" the limited commercial after that.

Krieger said "R/LC" is changing into a "flex zone". Ritter commented that it is only a vision; it doesn't change until a property owner comes in to change it.

Ryan said, maybe we should look into what similar towns along the east coast do for "R/LC" zoning. Kreiger said they use flex zone.

Reilly said on page 39/47 (P&Z Meeting February 26, 2014) in the first paragraph the P&Z wants to change commercial to residential district, then have a sentence underneath explaining that residential is first in the "R/LC" zoning.

Reilly explained to P&Z Board that Council did not have an Ordinance they passed. Krieger said that he was told an Ordinance was passed and this Board needs to see a copy of the finished Ordinance.

Ryan made a point that it is going on 9PM; we don't have materials needed to go on with this discussion. We should make a list and continue this at the next meeting.

Sherear explained that everything was given to Council as far as the verbiage; they never codified it pending the completion of the FLUM maps. Reilly said he thought that the Council received an Ordinance. Sherear replied what is in front of you was what Council was given. Krieger said that Council did not approve the density of 4, we are going to make the "R/LC" equivalent to the RM-6 zoning with the density of 6. Ritter said the table showing "R/LC" should have residential first and one unit may not exceed each other by one.

Reilly said the following is needed for the next agenda packet:

- PZ proposed R/LC Ordinance "as submitted" without interpretation and changes that was given to Council.
- The FLUM color maps (PZ Packet Feb 12, 2014)

Sherear pointed out that page 32/47 (P&Z Packet) Feb.26, 2014, the memo from Debby Franklin explained what the Council approved the work submitted by P&Z, except the density of 4.

Reilly said page 25/47(PZ packet 2/26/14) is what is presently in the Code Book for "R/LC".

#### H. ADDITIONL ITMES FOR FUTURE MEETINGS

Ryan asked about having a discussion item about "Contiguous Parking" Sherear asked the Chair Pat Reilly, if you want this on the Agenda as a "Discussion Item" I need direction from you. Reilly said it is "Off Street Parking". Ryan said staff had done research on other surrounding municipalities and research Sebastian too.

#### I. PUBLIC: none

#### J. OLD BUSINESS/NEW BUSINESS:

Krieger looked at Florida Statutes at people who did not require having BTR's (Business Tax Receipts), and FL ST 205.1965 talked about Assisted Living Facilities, may not issue a BTR unless they have done the essential state and county requirements.

Krieger said it take time to do draft minutes if we could get a rough draft set of minutes sent out in 2 or 3 days of meeting.

Sherear said that my draft minutes are very rough. Foster asked if we have "dragon software" for transcribing. Reilly responded we don't need verbatim minutes.

Krieger asked if there was a procedurally a problem with staff that they were not getting the minutes. Ryan asked if it is possible to get draft minutes a week from today. Sherear responded in a perfect world, yes.

Ryan said to the Board that you can get an audio CD the next day of the meeting.

Sherear explained to the Board that every secretary does minutes their own way. Debby has offered to help me catch up on minutes, and extra time has been offered to me to catch up. Sherear said she would do her best to catch up on minutes.

#### K. ADJOURN

There being no further business to discuss, **MOTION: Ryan/Krieger to adjourn this meeting. Vote: All Ayes.** The meeting adjourned 9:25 P.M.

BY:

\_\_\_\_\_  
Pat Reilly, Chair

\_\_\_\_\_  
Denine Sherear, P&Z Board Secretary

\_\_\_\_\_  
Date Approved: as corrected

"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  
MARCH 12, 2014 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:	GEORGE FOSTER
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR

**C. ADDITIONS/DELETIONS/CHANGES:** Bud said he regrets missing earlier meeting; he had flu and then viral conjunctivitis then convulsive dogs. Members welcome him back.

**D. CONSENT AGENDA:**

- 1. Approval of Minutes** Planning and Zoning Meeting – 02/26/2014  
**Exhibit:** Agenda Report No. 1  
**Recommendation:** Motion to Approve

Chair asked for a motion to approve P&Z minutes of 2/26/2014.

**MOTION:** Grant / Don to approve with corrections.

Liz: pg 2 – 2/3<sup>rd</sup> down large para, does the 90% refer to wetlands – that seems high? Denine will check tape. Grant said further down on same page - the properties that are wetlands are valued at considerably less "than" not then. Further down it says St John's and should be St Johns River Water Management District for the first time. Last para, "have" instead of "are" they already "been" sold?".

Pg 3, Callagy is misspelled multiple times. Para before that, why has there not been permits pulled for ponds. At end of sentence should say "in the town of Malabar". Above that Reilly said Foundation Pk is there two double lanes – sb "are" there two double lanes. I have supported Don Baker re: Ind because if have CG that is not being used we are losing those taxes. Town was "blindsided" sb blindsided"; then sb I-95. Then several references to tax "basin" sb tax base. Then Don and David sb Don Barker and David Miller. Businesses – plural - is correct. Then another basin. Then receive sb received. Done then said the line that said the study was "successful" – that is what was said but what does that mean? It implies something was accomplished. Next page Reilly "explained" to Board. The Board "discussed". Krieger asked why it came back to Board for action. Chair – anything else? Pg 5, Ritter never liked Rural LC; sb Residential LC. Grant said that in line that starts Krieger explained there is an "a" that needs to be deleted. Then that is your land use today – delete "for" before today. Chair said it is understandable; don't nitpick. Chair asked anything else. Ritter said next page, pg 6, line 6 – we have not changed what but where RLC is. Because now we get to look "at" it again. Reilly said we have a Future Land Use Map (FLUM) that we use – take out presently. Pg 7, Don said it is DCA not CDA. (Note: it is no longer DCA it is DEO – Dept of Economic Opportunity). Don said same page at bottom, has vs. have. Liz, pg 8, Line started "Foster – last full line – has capital "W". Also business people "were" not "where". Grant said he found another correction on pg 7, 4<sup>th</sup> para from bottom, last line sb mixed use. No other corrections.

**VOTE:** All Ayes.

E. **PRESENTATION:** none

F. **ACTION:**

2. **Requests by Applicant: Mr. John Waclawski to revise Proposed FLUM Map, vacant property is located on Babcock Street & Osage Street at Parcel I D# 29-37-10-00-00568**

**Exhibit:** Agenda Report No. 2

**Recommendation:** Discussion/Action to Council

Chair asked applicant to give his name and explain his request. He said back in 1984, he was a realtor and bought three parcels on Babcock Street that were commercial and three parcels behind that and he considered those properties to be their retirement. Torpy was his attorney. It is now OI and he wants it reverted back to B-2 Commercial. He has the plans for a strip mall that was planned for that parcel. He thought he could sell it for 365K and had an offer but there were complications. He has been trying to sell it for 75K with no takers. It is valued now at 65K. He is trying to liquidate his properties and has no interested buyers with the OI. He would like to go back to the B2 zoning so he can possibly sell it for more. He is not concerned about the other parcels in the back but wants the corner piece to be changed to B2. Back in 1984, he was in the tree business and gave a bunch of trees to town hall and they stayed out front and months later they were still out front because they did not have the resources to plant them. He recently met with town staff and they were all excellent, very helpful and he again offered trees and was told they had recently laid off some staff and did not have the capability to plant them at this time. He suggested making it a Scout project but has not heard back yet. He has all the paperwork from 1984 showing it was B-2 zoning and he has the offer he was given back then for \$365K. He is just trying to liquidate for as much as he can. Any Questions?

Chair asked if he could prove the B2. What Chair has shows it as B1. Chair said he is engineer and needs to have facts. Applicant handed him paperwork. Chair sees that there was a B2 zoning but since applicant owned multiple lots he was to verify that the paperwork refers to the parcel in question. On here it says Lot 23 and now it refers to parcel 5 something. It is 568. He wants to make sure they are talking about the same property.

(Note: Lot numbers reference the 20-acre parcels when it was originally platted. Subsequent land divisions created parcels within the Lot. Staff will provide land division definitions of Township, Range, Section, Lot and Parcel)

Applicant said the property to the north has the church (Brevard Worship Center) and that was zoned B1. His parcel was B2. Chair just wanted to make absolute certain that the parcel under discussion was B2 because there is a big difference between B1 and B2.

Applicant referenced Ord 91-3. Chair said look at page 3 of 24 of the package; it says the property was changed from RR to B1. Applicant said that was the house to the north that later became the church and the vacant land behind it.

Chair said the agenda report states that the property was rezoned at request of applicant from RR to B1. That is his concern. Applicant asked what the difference was with B2. Chair said it is huge; it is a deal breaker. Applicant said it was then changed by the Town to OI.

Chair suggests that they table this until they get definitive evidence that the parcel in question was changed to B2. Motion was made to table. Don said before it is seconded he wanted to ask questions of the applicant. Once a motion is tabled and seconded, there can be no more discussion. Chair explained that B1 was low density general commercial; B2 was high density general commercial. Applicant said he had all the plans for a gas station and strip center. Chair said he believes it was B1 and he could still do that as a conditional use. Chair referred Board to page 1283 of old 1988 code book placed in front of each member. You can put a service station in B1 as a conditional use. Chair pointed out that the area abuts a residential area. They like to have

a buffer between commercial and residential. Applicant said he just wants the highest density so he can get rid of the property. There has been virtually no development in the past 36 years.

Chair said at previous meeting a property owner in this same area requested a zoning change and half of the residents living off of Booth Lane and Lett Lane were here – they packed the house to fight the request. Chair said back in 1991 all the B1 was changed to OI. There was an ad placed in the newspaper 1" x ¼" ad with 000 font. Chair states that the advertising is legal but not necessarily ethical.

Bud told applicant that in his opinion the Board may not be able to grant the requested change. Chair asked Denine to put map on overhead; the whole area was RR and then the lots that were changed were changed via individual requests.

Chair asked how church got rezoned to CG. Chair said Board actually was going to propose to Council that all the properties along Babcock Street be changed to OI. Chair said in his opinion applicant could come back and ask for a change from OI to CL since CL is higher use than OI but not as high as CG. Applicant said he would like that change. Don asked applicant if he had read the permitted and conditional uses for OI? Don told applicant to get copy of the permitted and conditional uses for OI. Chair said service stations are possible in CL as a conditional use. Don told applicant to not do anything regarding rezoning and just let potential buyer know if they have a legitimate project that would fit the requested zoning changes, the Board would seriously consider it. Don said to ask for a rezoning for land speculation purposes is not within this Board's job.

**MOTION:** Don / Bud to table this item until they get the information they have requested. Denine asked for the information to be repeated. Don said the original zoning of that particular parcel, original zoning of adjacent parcels, and records of all changes; that would be 1984, 1988 and 1991. Liz said Denine needed to get the current parcels and how they changed from the lot numbers. Chair said Denine should get the zoning on the west side in Palm Bay and the zoning to the south in Grant Valkaria.

**VOTE:** All Ayes

**G. DISCUSSION:**

**3. Future Land Use Maps and Defining R/LC**

**Exhibit:** Agenda Report No. 3  
**Recommendation:** Discussion

Speaker cards: Juliana Hirsch, she declines.

Chair called up other Speaker card for under Public so they don't have to sit through the discussion.

Speaker Card: Mary Ellen, lives in Palm bay but is looking at property in Malabar and would like to open the business and move to Malabar. The property she is looking at is 2605 Malabar Road. She would like to use it for a dog daycare and boarding facility. It is 11.25 acres and the building is 2400sf. She explained how she would like to fence the property in separate areas to separate the dogs by size and temperament. She understands the zoning would have to change and is asking about the likelihood of getting it changed from OI to R/LC. Chair said it would need to be a higher density than that. Her request does not fit in that zoning. She asked what zoning would she be looking for. Chair said Industrial. Don said it is a rental and it would have to be a conditional use tied to the rental so it could not be a similar use after the rental is up. Board thanked her for coming in. She thanked Board.

Board discussed broad principles and how major corridors may develop as residential but if owners are willing to do the financial investment they should be able to.

**H. ADDITIONAL ITEMS FOR FUTURE MEETINGS:**

**I. PUBLIC:**

Juliana Hirsh 1035 Malabar Road, Malabar FL She voiced her opinion on the R/LC and her property and concurred with what Foster was saying.

**J. OLD BUSINESS/NEW BUSINESS:**

**K. ADJOURN**

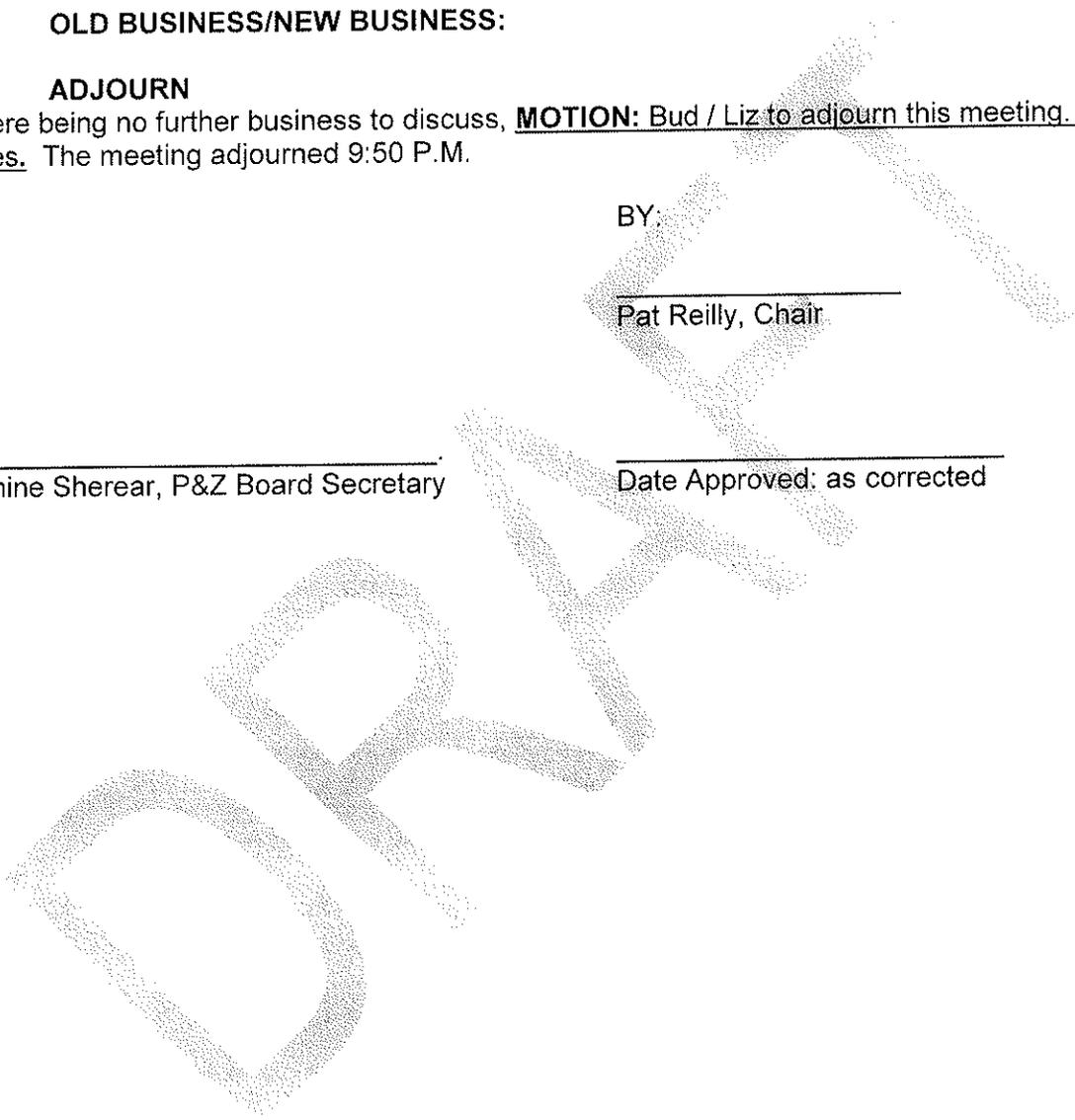
There being no further business to discuss, MOTION: Bud / Liz to adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:50 P.M.

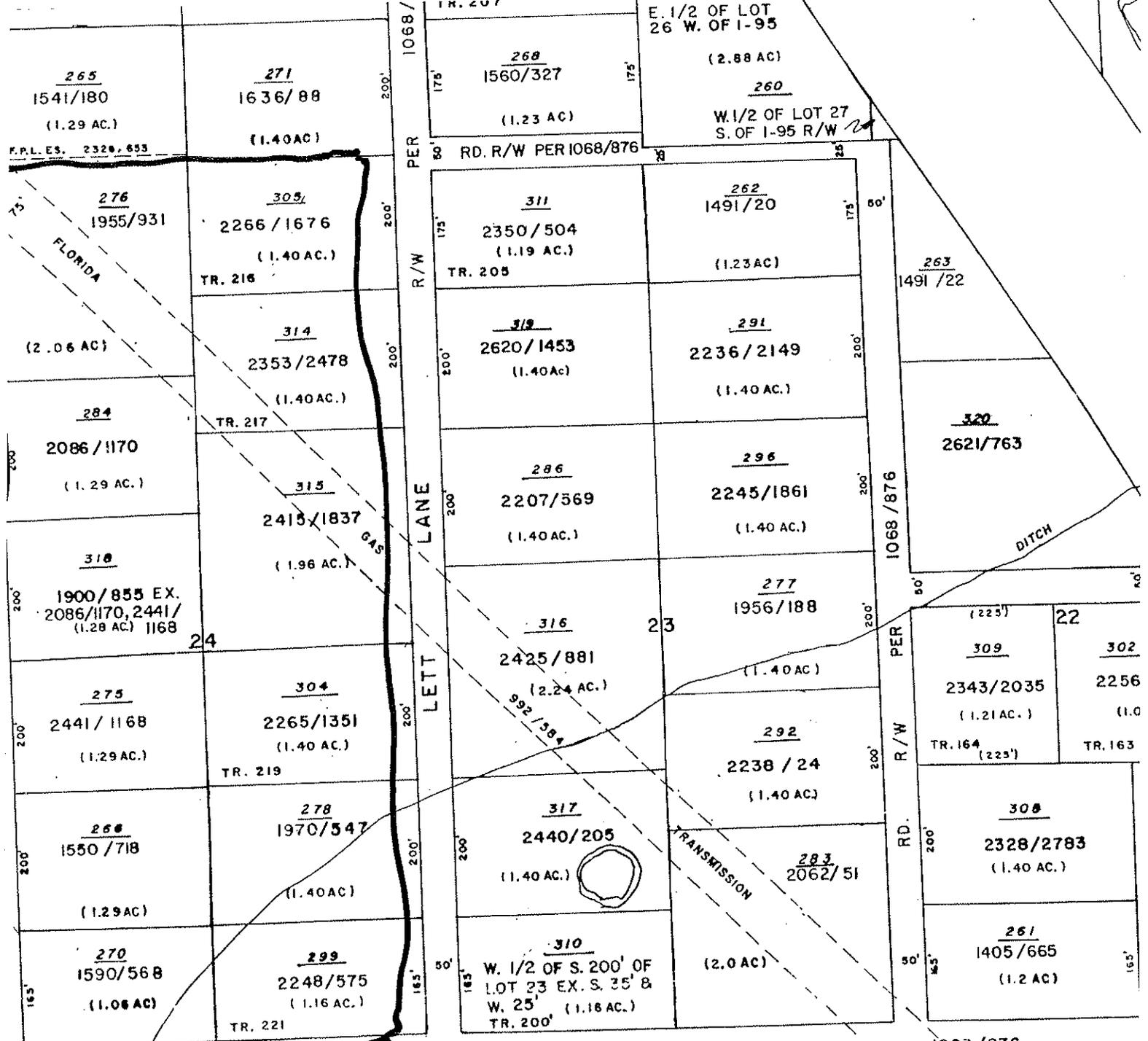
BY:

\_\_\_\_\_  
Pat Reilly, Chair

\_\_\_\_\_  
Denine Sherear, P&Z Board Secretary

\_\_\_\_\_  
Date Approved: as corrected





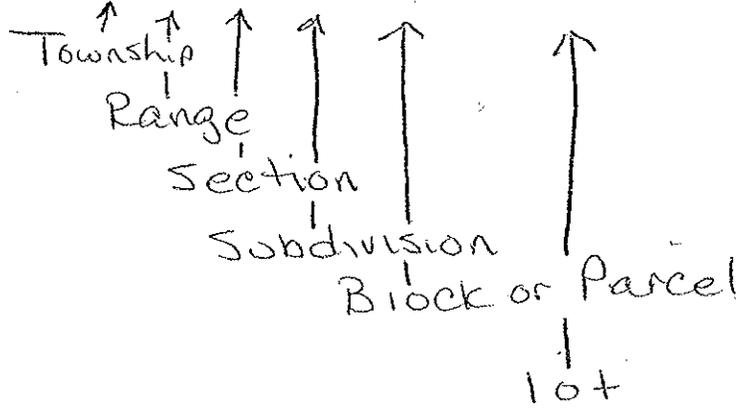
both OLD MISSION ROAD

29-37-10

20 AC LOTS



29-37-02-01-00000.0-0004.00



<u>Section</u>	<u>Township</u>	<u>Range</u>
1	29S	37E
2	29S	37E
3	29S	37E
5	29S	38E
6	29S	38E
7	29S	38E
8	29S	38E
10	29S	37E
11	29S	37E
12	29S	37E
31	28S	38E
34	28S	37E
35	28S	37E
36	28S	37E

**TOWN OF MALABAR**

**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 2**  
**Meeting Date: April 23, 2014**

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

**SUBJECT: Future Land Use Map and Defining R/LC**

**BACKGROUND/HISTORY:**

This Board is clarifying R/LC with definitions and Land Use/Zoning. The request was for staff to provide information that went for approval to Council.

**ATTACHMENTS:**

- Memo # 2014-TC/T-011 from Debby Franklin, Town Clerk/Treasurer with attached supportive information

**ACTION OPTIONS:**

Discussion/ Recommendation to Council

**BRING 3 RING BINDER FROM  
FEBRUARY 12, 2014 MEETING  
& AGENDA (3) FROM  
FEBRUARY 26, 2014**

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** April 17, 2014 2014-TC/T-011  
**To:** Planning and Zoning Board  
**From:** Debby Franklin, Town Clerk / Treasurer  
**Ref:** Land Use Recommendations Approved by Council

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Below is a summary of formal legislative actions Council has taken regarding P&Z Board recommendations. Once Council approves a motion that directs staff to change a process, it is implemented immediately. The Town Attorney advised the staff, P&Z Board and Council that all of these recommendations could be included in one ordinance amending Ordinance 90-5 as they all deal with land use issues.

3/21/11 Council approved incorporating a minimum square footage for SFR in RM-6 zoning. Table 1-3.3(A) would add a 1200 sf minimum requirement for SFR in RM-6.

2/1/10 Council directed that accessory structures over 1000sf no longer have to go to P&Z for review before Bldg Official can approve and issue permit.

9/24/12 Council approved the following recommendations from the P&Z Board:

- In Art III, District Provisions, "O." R/LC – Delete the restriction that R/LC can only be located on the west side of US 1 corridor.
- R/LC activities shall follow these restrictions: Residential Dwelling units shall not exceed commercial uses by more than one and commercial uses shall not exceed residential dwelling units by more than one as described in the following table. (Attached separately)
- Adding N/A to the density column in Table 1-3.3(A) for R/LC in commercial subsection as the percentage overrides the units.
- Change the Minimum size requirement for R/LC from 20,000sf to ½ acre, create a minimum width of 100' a minimum depth of 150' and a maximum height of 35' with 50' front setbacks, 25' rear setbacks, 10' interior side setback, 20' corner side setback, correcting the MBC to 20% and creating a 35% requirement for open space.
- In Art XX, Definitions, adding a definition for *Commercial Unit* – a building or portion of building used expressly for commercial purposes; adding a definition for *Residential/Limited Commercial* – A building or portions of a building that may have residential or commercial uses; insert "residential" before housekeeping in definition of *Dwelling Unit*; insert "residential" before habitation in the definition of *Dwelling*; insert "residential" before dwelling in the definition of *Dwelling, Detached*; insert the words "residential building & delete dwelling" in the definition

for *Dwelling, Triplex*. Add a definition for *Unit* – A building or portion of building used for a residential or commercial purpose.

2010 – Council directive to increase radius packages for Land Use Requests to 500'

- Article XII Sec E.8., Council approved increasing the radius for notification to property owners within "500'" instead of the published 200'

2009 - Identified scrivener's error in Art III, Sec 1-3.2, reference to Art X and should be Art VII.

8/6/12 Council approved P&Z Board recommendation to permit reduction of side and rear setbacks in RR-65 for accessory structures. Council also approved changing the title of Table 1-3.3 (A) to clarify that the regulations are for *principal structures only*. Council also approved a title change to Table 1-3.3(E) to refer to *principal structure setbacks*. Also approved deleting Briar Creek as a major collector in same Table.

8/6/12 Council approved P&Z Board recommendation to allow a reduction of the side and rear setback in RR-65 Zoning for accessory structures only. Council also approved of adding a Footnote 7 to Table 1-3.3(A) providing a narrative of the calculation.

- Certification with the backflow preventer testing failed. Research showed both the Brook Hollow and the Malabar Road backflow prevention tests failed in 2005. We are awaiting estimates on repairs/replacement of the check valves in order to conduct re-test.
- Are still pursuing cost estimates the upgrade to the lift station in Brook Hollow.
- Pump at restroom in Malabar Community Park is failing and needs replacing. We do not want to cause damage with all the new equipment. We were told of this equipment malfunction years ago but have not budgeted for any replacement.
- Got lift station documents from PB digitally.
- Brook Hollow inlet needs replacing –Town will purchase and install and Brook Hollow HOA will pay for it.

CLERK:

- The moratorium Council approved on related to BTRs for pill mills has expired. The State has failed to enact the approved legislature. Do you want staff to draft regulations or extend the moratorium? The County extended their moratorium last month. The cities of Satellite Beach, Titusville and Cocoa have adopted regulations governing these types of clinics.
- Per direction of Council I will be providing information on the cost to Malabar if the County were to provide Fire services – it will be on next agenda. Do you want someone from the Property Appraiser Ofc here to explain the property coding?
- The census has released the data for local municipalities and it shows that Malabar population for 2010 is 2757. We had been using 2887 per the Bureau of Economic and Business Research, University of Florida. They provide the State with each municipality’s population for revenue sharing and other State revenue formulas. This means that our revenues may be reduced slightly based on this new figure. The census count in 1990 was 1,977 and 2,622 in 2000.
- Happy to report there is a measure to repeal the requirement for septic tank inspections approved 15-2 in committee and is headed to the House floor. This was a direct result of the input from the rural areas contacting lawmakers.
- Trail hike on Saturday at Malabar Scrub Sanctuary.
- BW said FPL franchise fee will be going down about 14%. She will be getting with Clerk. FPL said we should not have used last year’s numbers on our estimates because the weather was unseasonably cold.

I. **PUBLIC HEARINGS:** Are legally advertised for 7:30 PM *or as soon thereafter as possible.*  
**ORDINANCES: 0      RESOLUTIONS: 0**

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

2. **Recommendations from Planning & Zoning Board**

Ordinance establishing minimum square footage for SFR in RM-6 Zoning

**Exhibit:** Agenda Report No. 2

**Recommendation:** Request Action

**MOTION:** McKnight / Beatty to direct staff to draft ordinance to incorporate change in Land Development Code to accomplish this.

**Discussion:** Mayor’s comment on it: if it is not in need of a big rush, put it in the same ordinance with Adult Care Facility. Franklin stated they are different subjects. Attorney Bohne stated they are within the single subject as they are both in the land development code.

**VOTE:** All Ayes.

3. **Response to Suggested Purchase Old School – Presentation by Resident Bud Ryan (Changed to Wayne Abare before meeting)**

## MEMORANDUM

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**Date:** 1/31/2011  
**To:** Town of Malabar Planning and Zoning Board  
**From:** Karl W. Bohne, Jr., Town Attorney  
**Ref:** Minimum Square Foot Requirement for SFR in RM-6

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It has come to my attention that a property owner on Prospect Road desires to build a single family residence (SFR) in the RM-6 zoning category. Table 1-3.2 Land Use by Districts in Article III of the Land Development Code permits a single family residence in RM-6 zoning.

Table 1-3.3(A) Size and Dimension Regulations fails to provide a minimum square foot living area for a SFR in RM-6 zoning. The Town Clerk has reviewed the originating ordinance that created this section and it appears that this ordinance failed to require a minimum living area square footage for a single family residence in this zoning.

In my opinion the minimum living area square footage should equal the minimum square footage requirement for a single family home in another zoning classification, i.e., 1200 square feet.

In order to clear up this discrepancy the P&Z should send a recommendation to the Council to adopt minimum square footage requirements for the RM-6 zoning classification. My recommendation would be 1200 square feet which is consistent with other residential zoning categories.

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** September 26, 2012 2012-TC/T-68

**To:** Planning and Zoning Board  
Denine Sherear, P&Z Bd Secretary

**From:** Debby K. Franklin, Town Clerk-Treasurer

**Ref:** P&Z Recommendation re: R/LC

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At the regular Council meeting of September 24, 2012 Council considered the P&Z Board recommendation on changes to the Land Development Code related to R/LC. The Council approved all the proposed recommended changes except the reduction in density from six to four.

In striking that portion of the recommendation they explained that they felt the current regulations in Table 1-3.3.A would adequately limit development in the R/LC areas.

They thanked the Planning and Zoning Board for their efforts and good work on these policies.

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 4  
Council Meeting Date: August 20, 2012

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

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SUBJECT: Recommendations from P&Z Board Clarified with Board's Rationale re:  
• R/LC Expansion and Reduction in Density

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## BACKGROUND/HISTORY:

The P&Z Board is proposing amended criteria for R/LC so an ordinance can be drafted to amend Malabar Land Development Code to provide for R/LC for properties along Malabar Road and Babcock Street in addition to Highway 1. When this land use and zoning designation was created in 1994 it was for Highway 1 only. During the update of the Comp Plan process which began in 2004, the Planning and Zoning Board and Council desired to extend this use to other areas in Malabar.

To accomplish this the P&Z Board recommended Council approve the proposed changes to Malabar Land Development Code, Article III, District Provisions, regarding (R/LC) Sub Section "O." by deleting the words *after* "RLC" as follows:

"Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "RLC", ~~which are situated along the west side of the US1 corridor as delineated on the FLUM.~~

The P&Z Board also recommended adding the following description in the next sentence of that same Sub Section "O" of the Malabar Land Development Code, Article III, District Provisions, regarding (R/LC):

This land use and zoning shall permit single family residential development, multiple family residential development, limited commercial development separately or as a combination of these uses as regulated by Table 1-3.3.A.

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 maximum density up to four (4) six (6) residential units per acre. A building or portions of a building may have residential or commercial use(s) or a combination of both.

Residential / Limited Commercial activities shall generally cater to the following markets:

- Local residential markets within the Town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.
- Residential Dwelling unit(s) shall not exceed commercial use(s) by more than one
- Commercial use(s) shall not exceed residential dwelling unit(s) by more than one as described in the following table:

Permitted Combinations of Uses

Total Units / Uses	Residential	Limited Commercial
1	0	1
1	1	0
2	1	1
3	2	1
3	1	2
4	2	2

Building or portions of building may have residential or commercial use(s) or both as regulated by Table 1-3.3.A.

The P&Z Board also recommended In Table 1-3.3(A) for R/LC to carry down the Size and Dimension Regulations into the *multiple family field*; but to increase the required square footage for a 1 bedroom unit from 500sf to 900sf and delete the 2 and 3 bedroom reference. The Board felt this reduction was consistent with rural nature of Malabar. By reducing the multiple family units per acre from 6 to 4 it would be consistent with this proposed change, i.e. 4 x 900sf = 3600. As the last sentence in Section "O" states the R/LC is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions set out in table 1-3.3.A.

Reilly said that inserting the "N/A" to the R/LC section across from commercial under the "Maximum Density" column made it consistent with the other commercial classes.

Regarding Article XX, Languages and Definitions, the Board directed that staff should change definitions involving *dwelling* to add the word "residential" before the word in each entry. Board directed that definitions be added for *unit* and *commercial unit* as follows:

- Unit: a building or portion of building used for a residential or commercial purpose.
- Commercial Unit: a building or portion of building used expressly for a commercial purpose
- Dwelling, Tri-plex should be changed to add residential building (take out dwelling). Change for consistency.

At the meeting of April 11, 2012, the P&Z Board unanimously voted to send the following motion to Council with the marked up attachments from the code:

**MOTION:** Reilly / Ryan to recommend Council approve the proposed changes to R/LC in Article III, District Provisions, Section O., Table 1-3.3.A and in Article XX, Language and Definitions with the changes noted on the Agenda Report and adding from tonight's meeting: adding the definitions for unit and commercial unit, adding the statement in paragraph in Article III, District Provisions, Section "O" before the added bullets, adding a table after the bulleted items, changing the minimum lot size for R/LC from 20,000 to ½ acre to be consistent with other

commercial designations in the Table, adding "N/A" to the density column in the Table for R/LC in commercial subsection as the percentage overrides the units.

**VOTE: All Ayes**

**FINANCIAL IMPACT:**

Unknown – there will be costs involved in updating the Land Development Code to comply with the Comp Plan approved in 2010 and with the cost of updating the Future Land Use Map and Zoning Map.

**ATTACHMENTS:**

- Marked up Article III, District Provisions, Section O.
- Marked up Table 1-3.3(A) listing the R/LC zoning
- Marked up Article XX, Language and Definitions

**ACTION OPTIONS:** Staff requests Action.

**Subsection:**

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). This land use and zoning shall permit single family residential development, multiple family residential development, limited commercial development or a combination of these uses as regulated by Table 1-3.3.A. 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 **maximum** density up to four (4) six (6) units per acre. A building or portions of a building may have residential or commercial uses or a combination of both. Limited Commercial activities shall generally cater to the following markets:

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

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

Single family or multiple family residential uses with a density no greater than four (4) 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.

**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.25/68

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS See (numbered) Notes below

Zoning District	Minimum Lot (1)				Setback (ft) from property line (2)							MOS (%)	MBC (%)	Max Density Unit/ac
	Size (Sq. ft)	Width (ft)	Depth (ft)	Max Height F/1/stories	Min Living Area (sq ft)	Front	Rear	Side (Int)	Side (corner)	MISR (%)				
<b>Mobile Home Residential Development</b>														
R-MH	Site: 5 acres Lot: 7000					10	8	8	10	50	N/A	50	6	
<b>Mixed Use Development</b>														
R/LC	20,000-sf <del>1/2 acre</del>	100	150	35/3	Single Family: 1200	25	20	10	10	50	N/A	50	4 2	
<del>R/LC</del>	<del>1/2 acre</del>	<del>100</del>	<del>150</del>	<del>35/3</del>	Multiple Family: 1 Bedroom: 900 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10(4)	20	65	N/A	35	6 4	
<del>R/LC</del>	<del>1/2 acre</del>	<del>100</del>	<del>150</del>	<del>35/3</del>	Commercial Min. Area: 900 Max. Area 4,000	<del>50</del>	<del>25</del>	<del>10(4)</del>	<del>20</del>	<del>65</del>	<del>0-20</del> <del>20</del>	<del>35</del>	<del>N/A</del>	
<b>Office Development</b>														
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	20	25	65	20	35	N/A	

Note 1 Minimum lots plus one-half of adjacent public right-of-way.

Note 2 Setbacks determined pursuant to Table 1-3.3(A) or (E) whichever is most restrictive.

Note 4 Setback shall be greater where side property line abuts a district requiring a larger setback. In such cases the more restrictive abutting setback shall apply.

Note 5 Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.

Note 6 Recreation activities Maximum Building coverage shall be 20% FAR shall be 19%.

Note 7: Side and rear may be reduced to 15' for accessory structures only and will increase in proportion with the maximum height of the accessory structure, ie. if the height of the accessory structure is 20 feet, this will equal a 20 foot setback.

(this language is straight from the Code. Underlined words are proposed additions and strike-throughs are proposed deletions)

Commercial Unit. A building or portion of building used expressly for commercial purposes.

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

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

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

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

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

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

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

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

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

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

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

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

Residential/Limited Commercial. A building or portion or portions of a building that may have residential or commercial uses or a combination of both.

(this language is straight from the Code. Underlined words are proposed additions and strike-throughs are proposed deletions)

Unit. A building or portion of a building used for a residential or commercial purpose

7. *Stay of Proceedings.* An appeal to the Board of Adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Building Official or administrative official from whom the appeal is taken and on due cause shown.
8. *Public Notice.* All proceedings shall be conducted only after public notice has been given. The public notice shall contain at least the following items:
- The date, time and place of meeting.
  - The title of the Board, conducting such meeting.
  - A brief description of the matter to be considered.
  - A legal description of the property, other appropriate information identifying the property involved.

2010

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

500 FT

The following additional notice may be provided:

- The property to be considered for change may be posted with a sign of approximately a total area of two (2) square feet placed so as to be visible from the adjacent dedicated public road right-of-way, or private access easement.
  - The sign should contain the information required above.
9. *Recommendation Filed.* On all proceedings held before the Board of Adjustment, the Building Official or other representative designated by the Town Council shall review the application and file a recommendation on each item. Such recommendations shall be received, heard and filed prior to final action on any item before the Board, and shall be part of the record of the application. (In reference to administrative appeals, a summary explanation shall be filed in place of a recommendation).

F. *Judicial Review of Decisions of Board of Adjustment.* Any person or persons jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, Board, commission or Town Council may apply to the circuit court in the judicial circuit where the Board of Adjustment is located for judicial relief within thirty (30) days after the decision

**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~~ <sup>VI</sup>.

**Cross reference**—Alcoholic beverages, ch. 4.

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** August 7, 2012 2012-TC/T-34

**To:** Planning and Zoning Board  
Denine Sherear, P&Z Bd Secretary

**From:** Debby K. Franklin, Town Clerk-Treasurer

**Ref:** P&Z Recommendation re: setbacks in Residential Zoning

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At the regular Council meeting of August 6, 2012 Council listened to P&Z Board Vice-Chair Pat Reilly provide the rationale behind the Board's recommendation on setbacks in residential neighborhoods.

After hearing the rationale, and a brief discussion, the Council voted to approve the P&Z Board's recommendation to allow a reduced side and rear setback, for accessory structures only and only in the RR-65 zoning.

Council also approved the proposed changes to Table E and Section E in Article III and also approved the proposed changes to Article V, Section 1-5.10.

Council was in support of keeping both Table 1-3.3.A and Table 1-3.3.E and understood the reason to keep both in the Code. They also understood the need to correct the scrivener's error on the 70' and also the deletion of Briar Creek Blvd as a major collector.

TABLE 1-3.3(a) SIZE AND DIMENSION REGULATIONS FOR PRINCIPAL STRUCTURES

Zoning District	Minimum Lot (1)			Setback (ft.) <sup>(2)</sup>			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 (1)					Side (C)		
OI	20,000	100	150	35/3	Minimum Floor Area: 1000	35/60	25	25	25	35	N/A		
<b>Commercial Development</b>													
CL	20,000	100	150	35/3	Minimum Floor Area: 900	50	25	10 <sup>4</sup> 15 <sup>3</sup>	20	65	0.20	35	N/A
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20 <sup>4</sup> 15 <sup>3</sup>	30	65	0.20	35	N/A
<b>Industrial Development</b>													
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 <sup>6</sup>	25 100 <sup>5</sup>	20 100 <sup>6</sup>	30 100 <sup>7</sup>	70	0.42	30	N/A
<b>Institutional Development</b>													
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 <sup>8</sup>	40	N/A
<b>Coastal Preservation</b>													
CP	No Size or Dimension Standards Adopted												

<sup>1</sup>Minimum size sites and lots include one-half of adjacent public right-of-way.  
<sup>2</sup>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.  
<sup>3</sup>Setback where rear lot line abuts an alley.  
<sup>4</sup>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.  
<sup>5</sup>Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.  
<sup>6</sup>Recreation activities maximum FAR shall be .10.

Per P&Z Board on 12/14/2011:

Table 1-3.3(A) – add a new footnote

Footnote 7 should read "In RR-65 sides and rear may be reduced to 15' for accessory structures only and will increase in proportion with the maximum height of the accessory structure, i.e. if the height of the accessory structure is 20 feet, this will equal a 20 foot setback."

# TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 2  
Meeting Date: August 6, 2012

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

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**SUBJECT: Rationale of Recommendation re: Setbacks in Residential Zoning Districts**

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## **BACKGROUND/HISTORY:**

The recommendation from P&Z went to Council on 4/16/12. Mayor Eschenberg spoke to Council and stated he had attended the P&Z meetings when this was discussed and that he did not agree with the Board's position. He asked Council to send it back to P&Z Board to get their rationale on their recommendations.

The P&Z Board met on May 9, 2012 and provided their rationale as follows:

Setbacks per Table 1-3.3.A:

P&Z Board felt that only in RR-65 residential zoning could they support a reduced side and rear setback because you are dealing with 1.5 acre (43,560 sf) parcels. Board also only wanted to permit such reduced setbacks for accessory structures – not principal structures. Change the title of Table 1-3.3.A to address "Principal Structures" and address accessory structures with a new Footnote 7.

Board stated in RS-10 (10,000sf) and RS-15 (15,000sf) and RS-21 (21,000sf) the lots are too small to allow additional reduction in side and rear setbacks and still keep the separation between properties.

**Rationale:** The P&Z Board did NOT want it to resemble Palm Bay development. They were also concerned with safety issues for fire services. They listed these bullet items:

- Access for utility service
- Fire safety
- Don't have four sheds in a corner

Setback per Table 1-3.3.E. when using the centerline to determine setbacks.

**Rationale:** Table E is used to ensure consistent setbacks regardless if a property owner has dedicated right-of-way along the road frontage. Sample of different zonings along Malabar Road are attached as an example.

The Board recommended the Table remain as amended with corrections to the two scrivener's errors.

- Briar Creek Blvd should be deleted from list under Major Collector Streets. Briar Creek Blvd was added as it was originally in Ordinance 93-7. During discussions at P&Z and Workshops with Council (big turnout from Brook Hollow) it was consensus to remove it from Ordinance. When the Comp Plan was updated recently the ordinance was incorporated into the update correctly. The Code book has not been corrected since this error was pointed out in 1998 by Code Revision Committee.
- Right-of-way width for Minor Collectors should be 70-feet. The right-of-way width incorrectly shows 80-feet in the Code. The Comp Plan is correct.

Section 1-5.10 should be amended to refer to Principal Structure Setbacks and reference both Table 1-3.3.A or E. whichever provides a greater setback.

**Rationale:** the current wording is redundant and caused confusion to the reader.

**FINANCIAL IMPACT:**

Unknown

**ATTACHMENTS:**

Table 1-3.3.A. with Proposed Changes

Table 1-3.3.E. and Section E. with Proposed Changes

Section 1-5.10 with Proposed Changes

Example of various setbacks on Malabar Road

**ACTION OPTIONS:**

Staff requests Action to approve the recommended changes.

**TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS FOR PRINCIPAL STRUCTURES See (numbered) Notes below**

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft)	Setback (ft.) from property line (2)				MISR		MBC		MOS		Maximum Density (units per acre) residential use only	
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (interior)	Side (corner)	Maximum Impervious Surface Ratio (%)	Maximum Building Coverage (%)	Minimum Open Space (%)					
<b>Rural Residential Development</b>																	
RR-65	65,340	150	250	35/3	Single Family 1,500	40	30 (7)	30	30	20	N/A	N/A	80			1	
<b>Traditional Single Family Residential Development</b>																	
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	N/A	65			2	
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	N/A	55			3	
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	N/A	50			4	
<b>Multiple Family Residential Development</b>																	
RM-4	5-acre min Site	200	200	35/3	Single Family 1,200	60	40	40	40	50	N/A	N/A	50			4	
RM-4	5-acre min Site	200	200	35/3	Multiple Family 1-bedroom 900	60	40	40	40	50	N/A	N/A	50			4	
RM-6	5-acre min Site	200	200	35/3	Single Family 1200	25	20	10	10	50	N/A	N/A	50			6	
RM-6	5-acre min Site	200	200	35/3	Multiple Family	60	40	40	40	50	N/A	N/A	50			6	

Note 1 Minimum lot size include plus one-half of adjacent public right-of-way.

Note 2 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 (A) or (E) whichever is most restrictive.

Note 4 Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such cases the more restrictive abutting setback shall apply

Note 5 Where any yard of Industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.

Note 6 Recreation activities Maximum Building coverage shall be 20%

**Note 7: Sides and rear may be reduced to 15' for accessory structures only and will increase in proportion with the maximum height of the accessory structure, ie. If the height of the accessory structure is 20 feet, this will equal a 20 foot setback**

**P&Z Proposed Changes to Malabar Code, Article III, Section E and Table 1-3.3E.**

Section E.

Building Principal Structure Setbacks. Table 1-3.3(A) provides building setbacks for all the zoning districts, 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. required minimum setback from the thoroughfare shall be measured from the centerline of the right-of-way as in Table 1-3.3 (E).

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 PRINCIPAL STRUCTURE SETBACKS FROM CENTERLINE OF THOROUGHFARES STREETS AND ROADS**

Transportation Facility	Building Setback (feet)
<b>Arterial Roadways (150 feet R/W)</b>	<b>100</b>
US 1 Highway	
Malabar Road (SR 514)	
Babcock Street (SR 507)	
<b>Major Collector Streets (100 feet R/W)</b>	<b>85</b>
Corey Road	
Weber Road	
Marie Street	
Briar Creek	
Jordan Blvd.	
<b>Local Streets (50—60 feet R/W)</b>	<b>65</b>
<b>Minor Collector Streets (70 80-feet R/W)</b>	<b>75</b>
Atz Blvd.	
Hall Road	
Old Mission Road	
Benjamin (Reese) Road	

**Section 1-5.10. – Principal Structure Setbacks** ~~from center line of rights of way.~~

~~For the purpose of promoting health, safety and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, storm, hurricane or other causes; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to provide adequate facilities for transportation, parking, water and sewage; and to conserve the value of buildings and encourage the most appropriate use of land, all properties within the Town limits shall maintain these minimum building setback lines as measured from the center line of the road.~~

In determining the setback requirement for any principal structures proposed to be located, the setback requirements in this section shall be construed as a minimum setback and if a greater setback is required under any of the zoning districts then such greater setback requirement shall be enforced. Ref Art III-Table 1-3.3 (A) & (E)

~~In the event of the recording of any proposed street or road in the office of the Town Clerk, or in the event of the designation or establishment by the Town Council of any proposed public street or road, the same shall thereupon immediately be used as the reference point for the purpose of determining setbacks for new construction under the terms of this Ordinance. This provision shall not prevent the reconstruction of a fully or partially damaged or destroyed legally nonconforming structure so long as the rebuilt structure is consistent with the Building Code. The measurement shall be from the center line of the road.~~

**TOWN OF MALABAR**

**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 3**  
**Meeting Date: April 23, 2014**

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

**SUBJECT: Off-Street Parking and Contiguous Parking**

**BACKGROUND/HISTORY:**

P & Z Board wanted to discuss Off-Street Parking and Contiguous Parking and how it is in our Malabar Codes compared to other surrounding municipalities.

**ATTACHMENTS:**

- Town of Malabar Codes Off-Street Parking
- Brevard County Off-Street Parking
- City of Melbourne Off-Street Parking
- Sebastian Off- Street Parking

**ACTION OPTIONS:**

Discussion

# TOWN OF MALABAR CODES

**OFF-STREET  
PARKING AND  
INTERNAL TRAFFIC  
CIRCULATION**

**ARTICLE IX**

Article IX

OFF-STREET PARKING AND INTERNAL TRAFFIC CIRCULATION

Section 1-9.1. Applicability.

Parking shall be provided in all districts at the time any building or structure is erected or enlarged or increased in capacity by a change of use or the addition of dwelling units, floor area, seats, employees or other factors determinative of parking demand as stated in this Article IX.

Section 1-9.2. Parking spaces required by use.

1. *Single Family Dwellings.* Two (2) spaces for each single family dwelling, plus one (1) space for each one thousand square feet over two thousand square feet of floor area.

2. *Two Family Dwellings.* Two (2) spaces for each family unit, plus one (1) visitor space for each two (2) units.

3. *Multi-Family Dwelling.* Two (2) spaces for each family unit, plus one (1) visitor space for each two (2) units.

4. *Hotels and Motels.* One (1) space for each sleeping unit plus one (1) space for manager and one (1) space for every three (3) employees on the largest shift.

5. *Mobile Home Parks or Courts.* Two (2) spaces per unit; one (1) must be at lot site.

6. *Mobile Home Subdivisions.* Two (2) spaces for each mobile home unit at the site.

7. *Private Clubs or Lodges.* One (1) space for every five (5) seats or one (1) space for every one hundred fifty (150) square feet of gross building area, whichever is greater.

8. *Stadiums and Other Places of Public Assembly.* One (1) space for every three (3) seats figuring maximum seating capacity or one (1) space for each one hundred twenty (120) square feet of floor area of the main assembly hall, whichever is greater.

9. *Places of Worship.* One (1) space for every three (3) seats figuring maximum seating capacity or one (1) space for each one hundred and twenty square feet of floor area in the main assembly hall, whichever is greater.

10. *Public Buildings, Theaters, Auditorium.* One (1) space for every three (3) seats figuring maximum seating capacity or one (1) space for each one hundred and twenty square feet of floor area in the main assembly hall, whichever is greater.

11. *Hospitals.* One (1) space for each two (2) beds intended for patients, plus one (1) space for each doctor, or other employee, and one (1) visitor space for every three beds, or one (1) space per three hundred (300) feet of building area, whichever is greater.

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

13. *Medical Offices.* One (1) space for each one hundred fifty (150) square feet of gross building area or five (5) spaces for each doctor, whichever is greater.

14. *Child Care Facilities.* One (1) space for each employee plus one (1) visitor or parental space for every three children enrolled, or one (1) space for each three hundred (300) feet of building area, whichever is greater.

15. *Retail Sales Stores.* One (1) space for each two hundred (200) square feet of retail floor space.

16. *Restaurants and Lounges.* One (1) space for each one hundred (100) square feet of gross building area.

17. *Libraries and Museums.* One (1) space for each three hundred (300) square feet of gross building area.

18. *Manufacturing Wholesale and Warehousing.* One (1) space per five hundred (500) square feet of gross building area or one (1) space for each two (2) employees on the largest shift, whichever is greater.

19. *Bowling Lanes.* Six (6) spaces per lane.

20. *Marinas.* One (1) space for each three hundred (300) square feet of principal building plus one (1) space for every three (3) storage or slip places.

21. *Schools.*

(a) *High Schools.* One (1) space for each four (4) students.

(b) *Junior High and Elementary Schools.* One (1) space for each ten (10) students.

22. *Business and Vocational Schools.* One (1) space for each three (3) students.

23. *Gasoline Service Stations.* Two (2) spaces for each bay, grease rack (excluding grease trap as parking space) or similar facility, plus one (1) space for each gas pump. No such bay, rack or similar facility shall be counted as a parking space for meeting the parking requirements of this Article.

24. *Shopping Centers.* Five and one-half (5.5) parking spaces for each one thousand (1,000) square feet of gross floor space in the shopping center.

25. *Office and Professional Building (excluding medical offices).* One (1) space for each two hundred (200) square feet of office space.

26. *Transportation Terminals.* One (1) space for each two hundred (200) square feet of floor space.

27. *Auto Sales and Repair.* One (1) space for each employee at maximum employment on a single shift, plus two (2) spaces for each three hundred (300) square feet of auto repair or sales spaces.

28. *Funeral Homes.* One (1) space for every three (3) seats figuring maximum seating capacity plus five (5) spaces for employees or one (1) space for each one hundred twenty (120) square feet of floor area of gross floor area [sic], whichever is greater.

29. *Drive-Through Facilities.* In addition to other parking requirements for a principal use, stacking spaces shall be provided for drive-through facilities in compliance with the following minimum specifications:

(a) *Number of spaces required including receiving or service window space.* Six (6) stacking spaces per drive-through lane. Where this requirement is demonstrated by the applicant to be inconsistent with the traffic generating characteristics of a specific use, the applicant may request that the standard be modified by the Town Council. The Town Council may approve a reduction in the required waiting spaces for such use provided the applicant demonstrates that the intended use generates a low volume of drive-up traffic and does not require the standard six (6) stacking spaces. The Town Council shall consider the nature of the use, its intensity, size, other parking facilities provided and other traffic generating characteristics.

(b) *Length of Spaces.* Each space shall be a minimum of twenty (20) feet in length.

(c) *Width of Spaces.* On curves with a radius of twenty-five (25) feet or less, a minimum pavement width of twelve (12) feet shall be provided. On curves with a radius of more than twenty-five (25) feet, a minimum pavement width of ten (10) feet shall be provided.

(d) *Surface requirements* shall be the same as those specified for parking areas.

30. *Bed and Breakfast.* One (1) parking space for each guest quarter and two (2) spaces for the entire residence.

(Ord. No. 06-19, § 2, 1-11-07)

### **Section 1-9.3. Computation of parking spaces.**

In computing the number of required parking spaces the following rules shall govern:

1. *Floor Area Calculation.* Floor area means the gross floor area of a particular use.
2. *Interpretation of Computation with Fractions.* Where fractional spaces result, the number of spaces required shall be construed to be the next whole number.
3. *Requirements for Uses Not Identified.* The parking requirement for any use not specified shall be the same as that required for a use of a similar nature as recognized herein or where not recognized herein, shall be based on criteria published by the American Planning Association or similarly recognized standards of their profession and such standard shall be approved by the Town Council.
4. *Requirements for Mixed Uses.* In the case of mixed uses the parking spaces shall be equal to the sum of the several uses computed separately.
5. *Applicability of Standards to Expanding Uses.* Whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as

to create a need for a greater number of parking spaces than that existing such spaces shall be provided in accordance with this Section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.

6. *Location of Off-Street Parking Spaces.* Except as otherwise prescribed for dwelling units, off-street parking spaces required by this section shall be located on the site on which the main building or use is located. For buildings or uses located in a commercial district, parking spaces may be located not more than five hundred (500) feet from the subject site if approved by the Town Council. Such parking space will be within a commercially zoned district and appropriate legal documents including any required restrictive covenants, necessary to implement conditions imposed by the Town Council shall be filed as an integral part of the approved site plan.
7. *Combined Parking Spaces.* The required parking spaces for any number of separate uses may be combined in one (1) lot but the required space assigned to one (1) use may not be assigned to another use at the same time.

#### **Section 1-9.4. Parking in yards and landscaping.**

Unenclosed parking spaces may be located within a required yard. All parking areas other than for single family homes shall conform to the landscape requirements of the Town land development regulations, as exist or as may hereinafter be amended.

#### **Section 1-9.5. Design and specifications for parking and loading areas.**

A. *Stalls, Aisles and Driveways.* Parking stalls shall be ten (10) feet wide by twenty (20) feet long for angle parking; and shall be nine (9) feet wide by twenty-three (23) feet long for parallel parking stalls. Aisle dimensions shall be in accord with standard specifications on file with the Building Official. Angle parking shall be restricted to angles of ninety (90) degrees, sixty (60) degrees, or forty-five (45) degrees. The following criteria are applicable to all parking spaces, excepting single family homes.

1. Each parking stall shall be accessible from an aisle or driveway and designed so that no automobile shall back into a public street in order to exit a parking stall. The internal design of the parking lot shall be designed to facilitate vehicular circulation and avoid conflict between pedestrian and vehicular movements. Internal circulation also shall be designed so as not to create conflict with access into or egress from the site and shall be consistent with the landscape requirements of this Code.
2. No door or pedestrian entrance at ground level shall open directly upon any driveway or access aisle unless the doorway or pedestrian entrance is at least three feet or more from said driveway or access aisle and appropriate improvements are provided to allow for safe pedestrian access to the door.
3. All paved parking spaces shall have lines between spaces to indicate individual stalls, and each stall may be required to be equipped with wheel stops if deemed appropriate by the Town Council based on recommendations of the Town Staff.
  - (a) Wheel stops for stalls adjacent to landscaped strips shall be located two and one half (2½) feet from the front end of the stall to prevent encroachment into

required landscaped areas. The front two (2) feet of the stall may be kept as a maintained vegetative ground cover area although no credit will be extended toward the open space requirements of this Code.

- (b) Wheel stops for stalls not adjacent to landscaped strips shall be located three and one-half (3½) feet from the front end of the stall. The front three (3) feet of the stall may be kept as a maintained vegetative ground cover area although no credit will be extended toward the open space requirements of this Code.
- 4. Parking lots with twenty (20) or more spaces may be comprised of a maximum of fifteen (15) percent compact car parking stalls. Such compact car stalls shall be seven and a half (7½) feet wide by fifteen (15) feet long and marked for use by small vehicles. The markings shall be maintained in perpetuity. The intent is to deter larger cars from using compact car spaces.
- 5. All publicly maintained and operated parking facilities intended for public use and all businesses, firms, or other persons licensed to do business with the public shall comply with requirements for access established in the Accessibility Requirements Manual published by the Department of Community Affairs, Florida Board of Building Codes and Standards.

B. *Entries, Exits, Drives and Vehicle Maneuvering Areas.* All uses which are required to provide three or more off-street parking spaces shall have entry and exit ways and drives at least eighteen (18) feet in width to accommodate two-way traffic unless a one-way traffic system is utilized, in which case entry and exit ways and drives shall be at least nine (9) feet in width. In the event a one-way traffic system is utilized, appropriate traffic direction markers shall be installed. The internal circulation system, including drives and maneuvering areas, shall be designed to permit convenient maneuvering of cars and service vehicles into and out of each parking and loading space, and shall be arranged so that no vehicle need back onto a public right-of-way. No occupied parking or loading space shall interfere with access to any other parking or loading space, or with any pedestrian walkway. The design of parking facilities shall also comply with landscape requirements of Article XIII [Article XIV].

C. *Restricted Use of Off-Street Parking Areas.* All parking areas shall be used for automobile parking only, with no sales, dead storage, non-emergency repair work, dismantling or servicing of any kind. Where lighting is provided, it shall be arranged to reflect away from residential areas and public ways.

D. *Off-Street Loading Regulations.* The following spaces shall be provided for the uses indicated:

- 1. Every hospital, institution, hotel, commercial or industrial building or similar use having a floor area in excess of five thousand (5,000) square feet or fraction thereof requiring the receipt or distribution by vehicle of materials and merchandise, shall have at least one permanently maintained off-street loading space for each five thousand (5,000) square feet of gross floor area or fraction thereof.

2. Retail operations, wholesale operations and industrial operations with a gross floor area of less than ten thousand (10,000) square feet, shall provide sufficient space so as not to hinder the free movements of vehicles and pedestrians over a sidewalk, street or alley.
3. Each space shall have a direct access to a public right-of-way and shall have the following minimum dimensions:
  - (a) Length: Twenty-five (25) feet; a larger length upward to thirty-five (35) feet may be required upon recommendation by the City Engineer and approval of the Planning and Zoning Commission.
  - (b) Width: Twelve (12) feet.
  - (c) Height: Fourteen (14) feet.

All subject to site plan approval.

*E. Surfacing Requirements for Parking and Loading Spaces.* In all zoning districts, surfacing of all off-street parking areas and drives, except within the RR-65 zoning district having single family uses exclusively, shall be as follows:

- *Nonporous Surfaces.* All parking areas and approaches thereto shall require a minimum surfacing material of four (4) inches reinforced concrete, or six (6) inches of lime rock, after compaction or a comparable material with one (1) inch minimum asphaltic topping except as other [otherwise] provided herein.

*F. Modifications.* The Town Council may approve modifications to the specifications of Section 1-9.5 upon demonstrated need by the applicant and based on recommendations of the Town Staff and the Planning and Zoning Board. In considering modifications to the specifications required by this Section, the Town Council shall be guided by the current edition of the Architectural Graphic Standards by Ramsey and Sleeper, or an equivalent commonly accepted source of standards.

*G. Parking Areas Not to be Reduced in Area.* Area designated for off-street parking or loading in accordance with the requirements of this Code shall not be reduced in area or changed to any other use unless the permitted use which it served is discontinued or modified, except where equivalent parking or loading space is provided and approved pursuant to Article III [Article VII] "Site Plan Review."

[The next page is 557]

PORTION OF  
REQUIRED  
IMPROVEMENTS  
AND DESIGN  
STANDARDS

ARTICLE XVII

K. *Bicycle/Pedestrian Paths.* Bicycle/pedestrian paths shall be eight (8) feet wide and shall be constructed in accordance with the current FDOT Bicycle Facilities Planning and Design Manual.

L. *Off-Street Parking Areas.* Off-street parking areas shall be provided in accordance with Section 1-8.1 [1-9.1] of this Code and shall contain provisions for ingress, egress, vehicular and pedestrian traffic, and orderly temporary storage of motor vehicles. Parking areas including vehicular storage spaces, driveways and access aisles shall be laid out and striped in accordance with the minimum parking standards of Article VIII [Article IX] of this Code. Parking areas including spaces, driveways, and access aisles shall be constructed in accordance with the following standards:

1. Parking areas for all residential lots and for commercial lots having an area of 15,000 square feet or less shall have a wearing surface of one (1) inch of Type SI or Type II asphalt concrete laid over a subbase not less than six (6) inches thick, free of muck and organic materials, stabilized to a minimum 50 p.s.i. F.V.B.
2. Non-residential parking areas for lots with areas greater than 15,000 square feet shall be paved in the same manner as a local street.
3. Adequate drainage shall be provided for a one-in-ten-year storm in all off-street parking areas.

Catch basins and underground drainage piping or storm sewers shall discharge into retention areas or pits equipped with natural filtration facilities before discharging into drainage ditches, canals, natural lakes, streams or water courses.

M. *Utilities.* Utilities, including franchised utilities, power and light, telephone and telegraph, water, sewer, cable television, wiring to street lights and gas shall be installed underground.

1. *Coordination of Easements.* Easements shall be coordinated with requisite utility authorities and shall be provided as prescribed by this ordinance for the installation of underground utilities or relocating existing facilities in conformance with the respective utility authority's rules and regulations.
2. *Waivers.* The Town Engineer may waive the requirement for underground installation if the service to the adjacent area is overhead and it does not appear that further development in adjacent areas with underground utilities is possible. Any new service which is allowed by the waiver herein to be supplied by overhead utilities shall be connected to a service panel that is convertible for underground utility service at a future date.
3. *Applicant Responsibility for Underground Installations.* The applicant shall make necessary cost and other arrangements for such underground installations with each of the persons, firms or corporations furnishing utility service involved.
4. *Construction within Easements.* Utilities shall be constructed in easements as prescribed by this ordinance.

N. *Utility Installation.* After the subgrade for a street has been completed, the remainder of the street right-of-way has been graded and before any road or street construction

**BREVARD COUNTY  
CODE FOR  
TRAFFIC PARKING**

**Sec. 62-3206. Traffic parking and loading requirements.**

- (a) In the interest of the health, safety and welfare of the general public in the promotion and preservation of traffic safety, all buildings, structures or activities shall be provided with adequate offstreet parking and offstreet loading facilities in accordance with the parking and loading requirements of this section.
- (b) The applicant may apply for a reduction in parking requirements by providing for alternative modes of transportation, including transit, bicycle and pedestrian facilities. The application, which shall include a justification and calculations supporting the request, will be reviewed and considered by the traffic engineering section and the land development section.
-  (c) Offstreet parking and offstreet loading areas shall be maintained and continued as part of the primary use of the site, and shall be expanded in accordance with (d)(1) and (2) of this section if the activities on the site are expanded, enlarged or changed in any manner that would create a need for additional offstreet parking and loading facilities. In all zoning classifications, offstreet parking and offstreet loading shall be provided on the site on which is located the use to which the parking or loading facilities pertain and shall not be separated from that use by public road right-of-way having a minor arterial classification or higher, or any street or roadway currently having average daily traffic (ADT) of 5,000 or more, or any street or road projected to have such classification or average daily traffic under the county comprehensive plan, as determined by the county development engineer, except as may be provided otherwise by article VI of this chapter, the county zoning regulations. In computing the number of required parking spaces, the floor area of a building or structure shall be the sum of the gross horizontal area of every floor of the building, using exterior wall dimensions. Where fractions occur in the computation of required parking spaces, the next highest whole number shall apply where the fraction is 0.5 or more, and where the fraction is less than 0.5, the next lowest whole number shall apply.
-  (d) Required parking area: Sufficient land area for parking shall be provided on the site at the time of construction or expansion of any building or structure, or change of business use of a structure.
- (1) *Minimum number of parking spaces:* The minimum number of required paved parking spaces for a site shall be determined by the use(s) or activities applicable to the site in accordance with the classification schedule established under subsections (d) and (e) of this section. However, a reduction of 15 percent in paved parking spaces may be permitted for the preservation of native vegetation.
- (2) *Paved parking requirements:* The following standards shall be used, along with the design standards in subsection (e) of this section, to determine the paved parking requirements for the following permitted uses, regardless of the zoning classification in which they are located:
- Amusement game parlors, pool halls and other similar recreational buildings:  
One space per 200 square feet of floor area.
  - Automotive, boat and trailer sales: One space per 200 square feet of floor area, plus one space per 2,500 square feet of outside display area.
  - Automobile rental agency: One parking space per 300 square feet of floor area.
  - Barbershops and beauty shops: Two spaces per barber or beauty chair.
  - Carwash: One parking space per 200 square feet of office space.
  -

Churches, and places of worship: One space per three seats or seating places. (Sunday school additions do not require additional parking.) See subsection 62-3206(e)(10).

- g. Colleges, universities, technical or vocational schools, and public and private schools:
  1. Generally:
    - i. Gymnasiums, auditoriums, theaters, etc.: One space per four seats of seating capacity.
    - ii. Stadiums: one space per two seats, minus available campus parking within 750 feet of the stadium proper.
    - iii. Dormitories: One space per two sleeping spaces.
  2. Classrooms:
    - i. Colleges, universities, technical or vocational schools: One space per three seats of seating capacity.
    - ii. High schools: Six spaces per classroom, plus one space per teaching, administrative or staff position.
    - iii. Elementary through junior high or middle schools: One space per classroom and one space for each administrative or staff position.
    - iv. Day care centers: One and one-half spaces for each employee.
- h. Condominiums and apartment complexes: Two spaces per residential unit plus one space per five units for guest parking. If parking is provided under the building and the parking spaces are not enclosed with separate garage doors, at least one handicap parking space must be provided in the under the building parking area. In lieu of providing a handicap parking space under the building, this space may be provided outside of the building and it must be covered. (This space will be provided in addition to the required number of outside handicap parking space(s). This parking must be consistent with the current fair housing act and all accessibility regulations. If outside parking is provided, at least one handicap parking space must be provided. Two handicap parking spaces may share the 5 foot wide access aisle way.
- i. Convenience store: One space per 125 square feet of floor area. Gas pump aisles may be counted as parking spaces—One pump with two sides, two spaces; one pump with one side, one space.
- j. Drive thru businesses only: One space per employee at the largest shift.
- k. Duplexes: Two parking spaces are required per residential unit; a garage space may count as one parking space. The location of parking spaces for each duplex site or lot shall be so designated as to minimize or eliminate the necessity to back into any street. One driveway access, not exceeding 24 feet in width, is limited to each duplex site or lot abutting a minor arterial or higher street classification, as determined by the county development engineer, shall be limited to one driveway access, not exceeding 24 feet in width.
- l. Flea markets and farmers' markets: One space per 50 square feet of sales area, including outdoor areas.
- m. Furniture and major appliance stores: One space per 500 square feet of floor area.
- n.

Furniture and major appliance stores: One space per 500 square feet of floor area devoted to storage for the first 4,000 square feet and one space per 750 square feet of the remaining floor area, plus one space per 200 square feet of display area.

- o. Hospitals and other similar health care facilities: One space shall be reserved for doctors for each ten patient beds, plus one space per four patient beds, plus one space per one and one-half employees, exclusive of doctor parking spaces.
- p. Libraries, museums, art galleries: One space per 300 square feet of floor area.
- q. Lumber yards and building supply firms: Same as manufacturing and warehouses, plus, if applicable, the parking required in subsection (d)(2)hh. of this section.
- r. Manufacturing and warehouses: One and one-tenth spaces per employee at the largest shift or one space per each 500 square feet of floor space, whichever is applicable to the particular needs of the given industry as determined by the county development engineer. This determination would include, but not be limited to, possible expansion and type of use in terms of intensity of employment. For building units having a minimum of 50 square feet and not exceeding 200 square feet, whose primary purpose is to provide an address for an business tax receipt, parking shall be 1 space per unit. Dedicated parking spaces are to be adjacent to but not more than 200 linear feet from the furthest access door.
- s. Mini warehouses: A mini warehouse as defined in the county zoning code shall have a minimum and a maximum of five parking spaces, including one handicap parking space, regardless of size. A minimum 24-foot driveway aisle shall be provided contiguously along any side of the mini-warehouse containing the access points or doors to the individual storage areas. Parking spaces shall not be designed and located where blockage or access points or doors or the driveway aisle would occur.
- t. Marinas and boat ramps:
  - 1. Wet slips: One parking space per three wet slips.
  - 2. Dry slips and moorings: One parking space per four dry slips or moorings for facilities up to fifty dry slips or moorings, or one parking space per five dry slips or moorings for facilities with over fifty dry slips or moorings.
  - 3. Live-aboard: One parking space per boat slip.
  - 4. Boat ramps: Twenty-five parking spaces per boat ramp or hoist available to the general public.

In addition to the aforementioned requirements, one parking space per each 300 square feet devoted to sales and service shall be provided. The County Manager or designee may require that the applicant submit a parking study, signed and sealed by a professional engineer, to determine the number of additional parking spaces necessary to support ancillary uses, including but not limited to, charter boats, ecotourism vessels, boat-yards and party-boats.

- u. Medical and dental clinics and veterinary clinic/hospital: One space per 175 square feet of floor area.
- v. Mortuaries, funeral homes and crematoriums: One space per three seats, or seating spaces within chapel, plus one and one-half spaces per employee.

- w. Motels and hotels: One and three-tenths spaces per unit or room, plus 30 percent of the parking space requirements associated with other uses permitted in addition to overnight lodging accommodations; provided, however, that in order for a motel or hotel to qualify for a 70 percent reduction in parking space requirements for other uses permitted in addition to overnight lodging, such motel or hotel must have a minimum of 100 units for overnight lodging.
- x. Offices and professional buildings: One space per 250 square feet of floor area.
- y. Outdoor attractions, with grandstands or without: One space per three fixed seats and one space per 20 square feet of seating or spectator area where no fixed seats are provided. Parking area shall be stabilized or hard surfaced.
- z. Parks and recreation areas: Parking spaces should be considered on the specific parks development plan and should be determined by its active or passive facilities. A parking study must be reviewed and approved by the county traffic section.
- aa. Private clubs and clubhouses: One space per 200 square feet of floor area.
- bb. Restaurants, cocktail lounges and other eating and drinking establishments. One space per three seats of the maximum seating capacity including indoor and outdoor seating of such establishment plus one space for every four employees.  
Fast Food and sit down restaurants that are part of a strip center or an outparcel with shared parking: one space per three seats of the maximum seating capacity including indoor and outdoor seating of such establishment, plus one space for every four employees on the largest shift.
- cc. Single-family residence: Two spaces per unit.
- dd. Service stations, automobile repair and garages: One space per 200 square feet.
- ee. Theaters, auditoriums, convention halls and other similar public assemblage places: One space per three seats.
- ff. Townhouse subdivisions: Two spaces per dwelling unit plus one space per five units for guest parking.
- gg. Recreational vehicle site: One space per lot plus one space per 20 lots for guest parking.
- hh. General retail: One space per 200 square feet of floor area.
- ii. Specific retail: If the use(s) is an established multi-location business and the county is provided with a certified traffic study or historic data from other similar sites operated by the parent company, The information will be used for a final determination on parking space requirements by the county development engineer or designee.
- jj. Business complex: General businesses consisting of a group of "flex-type" or "incubator" one or two story buildings served by a common roadway system. The tenant space is flexible and lends itself to a variety of uses, the building may be served by a garage door. Tenants may be start-up companies or small mature companies that require a variety of spaces. The spaces may include office; retail or wholesale stores; restaurants; recreational areas; and warehousing; manufacturing, light industrial, or scientific research functions. One space per 325 square foot total.

- kk. Commercial complexes: Parking requirements for commercial complexes of four or more retail units will be calculated based on the general commercial classification grouping of one space per 200 square feet of floor area; provided, however, that where restaurants, cocktail lounges and other similar establishments are planned as part of the overall complex, the floor area shall be computed separately to arrive at the total required parking.
  - ll. Disabled parking spaces: Disabled parking spaces shall be reserved and posted in all tourist and commercial zoning classifications, as required per current ADA standards and the Florida Accessibility Code (FAC). Disabled parking space shall be conveniently located with respect to main and secondary entrances, and ramps to sidewalks shall be provided and conveniently located in relationship to the disabled parking spaces.
  - mm. Sales display and storage parking for commercial and industrial land uses: Commercial and industrial land uses whose permitted business characteristics require significant outside sales display or storage parking shall not cause the developed site to exceed 60 percent impervious area. Additional display and storage parking areas exceeding 60 percent shall not be paved and shall not front on a public right-of-way. This additional sales display and storage parking area shall be designated as a stabilized and sodded area. The method of stabilization shall be subject to approval by the county development engineer's office.
  - nn. Uses not otherwise specified: One space for each 200 square feet of floor area or as approved by the county development engineer.
- (3) *Reduction of required spaces for commercial development:* A 15 percent reduction in the total required parking spaces shall be allowed in the general commercial zoning classification if:
- a. The buildings or structures contain a total gross floor area of 25,000 square feet or more and,
  - b. The site is under common ownership or where separate ownership exists, all applicable parties must execute common access easement agreements, which are then provided at the time of site plan application.
- This determination will be reviewed, approved or denied by the county development engineer or his designee.
- Developments required by this section to provide 400 or more parking spaces may set aside up to 15 percent of that requirement as stabilized overflow parking. This parking does not have to be paved.

*Residential development:* In a planned unit development (PUD), or the RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15 and RU-2-30 zoning classifications, a 25 percent reduction in the number of required paved parking spaces may be permitted where 15 percent of the required parking is reserved and organized as a recreational vehicle parking area and is equal in area to ten percent of the required parking spaces. The surface of the reserved parking and recreational vehicle parking areas shall be stabilized and grassed, pursuant to the requirements of the county development engineer. Each parking space shall be identified and each recreational vehicle parking pad shall be 12 feet by 30 feet, and served by a driveway aisle having a width of not less than 24 feet. The recreational vehicle parking area may be utilized to satisfy up to two percent of the recreational open space requirement. All units shall be considered to have two spaces in this reduction formula. Therefore, the developer

shall not, under any circumstances, exclude any individual unit occupant from the use of two spaces; and no space shall be sold or rented by either the developer or the occupant.

- (4) *Offsite parking options.*
- a. A site may utilize parking spaces of any adjoining site not separated by a public road right-of-way, provided that the adjoining site satisfies the following:
    1. The adjoining site has excess parking spaces as established under this section;
    2. The site being developed provides a minimum of 60 percent of its required parking spaces onsite;
    3. A common access and parking easement agreement is executed by all applicable parties, and is provided at the time of site plan application; and
    4. The easement agreement provides for perpetual access and use of the adjoining property's parking spaces and access drives or aisles.
  - b. The area of a lot, parcel, of or tract, or the existing parking spaces of another developed site, which are separated from the site being developed by a public/private road right-of-way, may be utilized to meet the parking requirements of this section, provided that:
    1. The existing parking spaces of another developed site represent an excess of parking for that developed site under the provisions of this section; and
    2. The conditions of the article VI of this chapter relating to parking separated by a road right-of-way must be satisfied.
    3. Reduction in paved spaces for large commercial projects. Developments required by this section to provide 400 or more parking spaces shall set aside no less than 25 percent or no more than 35 percent of that requirements as stabilized overflow parking. This parking shall not be paved.
    4. Commercial complexes: Parking requirements for commercial complexes of four or more retail units will be calculated based on the general commercial classification grouping of one space per 200 square feet of floor area; provided, however, that where restaurants, cocktail lounges and other similar establishments are planned as part of the overall complex, the floor area shall be computed separately to arrive at the total required parking.
    5. Disabled parking spaces: Disabled parking spaces shall be reserved and posted in all tourist and commercial zoning classifications, as required in section 106.34. Disabled parking space shall be conveniently located with respect to main and secondary entrances, and ramps to sidewalks shall be provided and conveniently located in relationship to the disabled parking spaces. The required number of disabled parking spaces shall be as required by the Standard Building Code Florida Board of Building Codes and Standards.
    6. Sales display and storage parking for commercial and industrial land uses: Commercial and industrial land uses whose permitted business characteristics require significant outside sales display or storage

parking shall not cause the developed site to exceed 60 percent impervious area. Additional display and storage parking areas exceeding 60 percent shall not be paved and shall not front on a public right-of-way. This additional sales display and storage parking area shall be designated as a stabilized and sodded area. The method of stabilization shall be subject to approval by the county development engineer's office.

- (e) Parking, loading and maneuvering space design control: The following design criteria shall be utilized for the design of parking lots and loading facilities and their associated maneuvering driveways and areas, and such requirements shall be applied in any zoning classification in keeping with the character of the onsite use(s) or activities, development and ingress to and egress from the site, both vehicular and pedestrian, so as to provide safe traffic control and flow on the site, as well as between the site and adjoining land, including public road right-of-way.
- (1) Exhibits 21 and 22 present options for the design of parking lots. Upon selection of one of these, it shall be utilized as the minimum design standard for parking spaces as they relate to angle parking concepts, required aisle widths and traffic control measures. Parking space dimensions shall be no less than nine feet by 20 feet, regardless of the degree of parking angles, except that parallel parking spaces shall be nine feet by 24 feet in size.
  - (2) The minimum driveway and loading area and maneuvering standards are presented in Exhibit 23. In the RU-2-4, RU-2-6, RU-2-8, RU-2-10, RU-2-12, RU-2-15 and RU-2-30 zoning classifications, where the development intent is for individual dwelling unit ownership, (condominium or other method of ownership transfer), access private drives that function as a minor street, minor arterial, collector street or higher functional classification, as determined by the county development review department director, shall be constructed in accordance with applicable sections of the article VII of this chapter.
  - (3) Parking lots or loading areas shall have no driveway aisle(s) which dead-ends without a turnaround area. The criteria in Exhibit 22 shall be utilized.
  - (4) No parking lot or loading area driveway aisle shall have an inner radius or any curved portion which is less than 15 feet. For operations, including special vehicles (trucks of various sizes) the criteria in Exhibit 23 and/or AASHTO design vehicle turning templates, shall be utilized to determine proper turning radii.
  - (5) Pavement and parking spaces shall not be permitted where a vegetative buffer is required by article XIII, landscaping regulations. All developments requiring 50 or more parking spaces shall be equipped with tire stops permanently affixed to the surface. Curbing may be substituted for tire stops provided that a two-foot permeable overhang area is provided.
  - (6) All points of ingress and egress for accessing parking lots from either a public street or road or a parking lot, internal collector driveway, shall be delineated with a six-inch concrete curb. Curbing plans and designs for facilities shall not interfere with a public street or road.
  - (7) Where disabled parking is required, each space so designated shall be designed as required per current ADA standards. For single handicap parking spaces, the applicant is encouraged to design the five-foot wide access aisle way on the passenger side of the vehicle or where more than one handicap parking space is

- required, the access aisle way should be placed between two spaces to allow usage from the driver and passenger side of the vehicles.
- (8) All parking access shall be designed so as to prevent the need to back directly onto a public road or right-of-way, except for single-family residential dwellings and duplexes that are located on local and/or subdivision streets.
- (9) Access points to public or private streets shall be kept to a minimum, with widths not in excess of 24 feet; and the distance to any street intersection (from the right-of-way to access points nearest paved edge) shall be determined by the traffic engineering section. Access points to public or private streets shall be designed to minimize disruption to through traffic and optimize public safety. The traffic engineering section shall be authorized to develop and implement access management standards based on sound engineering judgment and preservation of capacity and public safety. Reference manuals, such as the Florida Department of Transportation Access Management Guide shall be used as guidelines in analyzing access requests. The applicant may appeal access restrictions to the board of county commissioners within 30 days from the decision of the traffic engineering section.
- (10) Except for single-family residences and duplexes, all off-street parking, loading areas and maneuvering space and associated driveway aisles, as required in this section, shall be paved with asphalt or concrete. The county development engineer using the following conditions and determinants may reduce paving:
- Whether total paving would have a detrimental effect upon existing unpaved roads or water quality.
  - Whether operations or activities (churches, equipment storage yards, etc.) are such that the use of certain portions of the parking areas would only be used on an intermittent basis. Driveway aisles and loading areas shall be paved.
  - Where paving has been reduced or waived, a stabilized surface acceptable to the county development engineer shall be provided for the entire required parking area.
  - In the areas of a parking lot where paving has been waived, such areas shall be organized for traffic control and parking by permanent fixation of tire stops per the approval of a site development plan.
- (11) All required parking spaces, dumpster spaces, loading areas, delineation and other striping requirements shall be identified using the striping and visual contrast criteria of the current manual of uniform traffic control devices (Federal Highway Administration—FHWA).
- (12) General. On the same premises with every building, or part thereof, erected and occupied for commercial, industrial, retail, manufacturing, storage, institutional, or similar use, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading service vehicles in order to avoid undue interferences with public use of the streets, alleys, or required access aisles and spaces for traffic parking areas. The following requirements for loading spaces or berths and truck parking areas shall apply to all commercial and industrial zones:
- A minimum number of loading spaces or berths shall be provided and maintained as follows:

Size of Building or Structure (square feet)	Number of Spaces or Berths
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Over 5,000 but not over 25,000	1
Over 25,000 but not over 60,000	2
Over 60,000 but not over 120,000	3
Over 120,000 but not over 200,000	4
Over 200,000 but not over 290,000	5

- b. Loading spaces or berths shall have minimum dimensions of 14 by 30 feet, plus each space or berth shall have an additional 250 square feet of loading or maneuvering area immediately contiguous to the space or berth. Service alleys or driveways shall have a minimum width of 20 feet.
  - c. Loading facilities and truck parking are prohibited on street frontages in the commercial zoning categories and in a planned business park (PBP) or planned industrial park (PIP) classification. Loading facilities and truck parking shall be located to the side or at the rear of the most forward structures and shall be paved and have adequate drainage and shall be maintained in good condition. No shipping or receiving shall be permitted in commercial zones within 35 feet of residentially zoned property, or in industrial zones within 100 feet of residentially zoned property in accordance with the county zoning regulations.
  - d. The design of offstreet loading areas shall be in accordance with the criteria in Exhibit 23.
  - e. Loading facilities that make it necessary or possible to back directly into public street shall be prohibited. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way. Such loading spaces shall be accessible by acceptable methods and shall not infringe or interfere with any required parking space or drive aisle.
  - f. Where retail use buildings are 5,000 square feet or less in a BU-1-A, BU-1, BU-2, TU-1, or TU-2 zoning designation and have an average annual daily trip (AADT) generation of over 100 trips per 1,000 square feet of gross floor area or over 100 trips per fueling position or similar unit per Institute of Traffic Engineering (ITE) Trip Generation, 6th edition or most current edition, loading space shall be required in accordance with this subsection.
- (13) Location of parking under building: For all properties located within a residential zoning classification where building height exceeds 45 feet, one level of parking shall be required to be located within the area defined by the exterior walls of the principal habitable structure.
- (14) Within the Merritt Island Redevelopment Area, new developments located within the Merritt Park Place subdivision will be required to locate on-site parking to the side or rear of the principal structure.

*(Ord. No. 95-30, § 2, 7-11-95; Ord. No. 97-14, §§ 9--11, 5-27-97; Ord. No. 97-47, §§ 3-4, 12-2-97; Ord. No. 99-24 § 10, 4-8-99; Ord. No. 2000-29, § 1, 5-2-00; Ord. No. 01-35, § 6, 7-24-01; Ord. No. 2005-14, § 4, 4-12-05; Ord. No. 2007-003, § 23, 2-20-07; Ord. No. 09-17, § 3, 5-19-09; Ord. No. 11-13, § 1, 3-22-11)*

**CITY OF  
MELBOURNE CODE  
FOR OFF STREET  
PARKING**

**Sec. 9.74. Minimum standards for the design of off-street parking areas.**

This section provides minimum standards for the required design of certain accessory areas including parking lots, drive aisles, setbacks, and yard areas and other off-street and vehicular use areas. Parking or additional parking required as a result of new construction, a change in use of an existing structure, or modification of a non-conforming site requires that code complying landscaping improvements be shown on site plans for all uses at both the time of the site plan approval as well as the time of the building permit issuance in accordance with the Preservation and Landscape Design Code (Appendix D, Article XV).

- (a) *Intent.* The intent and purpose of this section is:
- (1) To improve the appearance of required setbacks and yard areas as well as parking lots and other vehicular use areas which will help to protect and preserve the appearance, character and value of the surrounding area and thereby promote the general welfare and aesthetic qualities of the city;
  - (2) To create buffer areas between properties of different zoning classifications and to reduce nuisances of incompatibilities between abutting land uses; and
  - (3) To establish minimum criteria for off-street parking areas by providing for the safety and general welfare.
- (b) *Enforcement.* Parking standards on and off-street shall be enforced as provided for in Chapter 31, City Code. This section provides minimum standards. More stringent conditions already contained in the Code of Ordinances or hereafter adopted by the city council shall take precedence over the provisions of this chapter and be controlling.
- (c) Parking spaces for all dwellings shall be located on the same property with the main building to be served where feasible, unless otherwise permitted in this section, except that one-half ( $\frac{1}{2}$ ) the total number of required spaces for multiple-family dwellings, townhouses, and mobile homes may be located in a common parking facility not more than two hundred (200) feet distant from the nearest boundary of the site. The owners of off-site parking area property and the property to be served by said off-site parking area shall file with the city a binding lot agreement as required in section 9.75(c).
- (d) *Minimum spaces required and use areas.* Except as provided in section 9.74(r), required off-street parking areas for three (3) or more vehicles serving non-single-family or two-family uses shall have individual spaces marked, and shall be so designed, maintained, and regulated in such a manner that no parking or maneuvering incidental to parking shall be on any area, public street, sidewalk, or alley, and so that any vehicle may be parked and unparked without moving another.
- (e) *Plan required.* A plan showing off-street parking, to be developed with or without building improvements, shall be submitted and approved by the engineering division and planning and zoning department of the City of Melbourne before a permit is issued for the construction of, or use of the building, structure or accessory, or separate parking facility being considered. This plan shall show the location, and accurately designate the number of required spaces, their size, access aisles, driveways, and their relation to the plan and required landscaping.
- (f)

*Access and accessibility.* Except as provided in section 9.74(r), each parking space shall be directly accessible from an aisle or driveway leading to a street or alley. Access aisles and/or driveways shall be of sufficient size to permit convenient ingress and egress. Each parking space, with the exception of parking spaces for one- and two-family units, shall be accessible without driving over or through any other parking space. No parking space or loading space shall be located in such manner as to block entry or exit to a building, or ramped curb for handicapped access, and in this respect a clearance shall be provided adjacent to an entrance or exit door equal to the width of the door or three (3) feet, whichever is the greater. No parking space shall be permitted which would require backing into the right-of-way except from single-family and two-family driveways.

- (g) *Paved parking required.* All parking areas and vehicular access to parking areas shall be paved with an asphalt, concrete or other surfacing approved by the city engineer, afford adequate drainage, and meet engineering specifications [also see section 9.74 (q)].
- (h) *Parking prohibitions.* Required parking areas shall be used for motor vehicle parking only, with no sales display, dead storage, repair work, dismantling or servicing of any kind.
- (i) *Landscaping provisions.* All parking areas shall be provided with landscaped areas at the end of each row and meet the landscape requirements specified in city code, Appendix D, Chapter 9, Article XV.
- (j) *Parking lot lighting.* If lighting is provided, it shall be positioned to reflect away from residential areas and from any public street or highway and meet the standards of Chapter 20, Article VII, City Code.
- (k) *Code compliance.* All off-street parking spaces shall comply with the off-street parking standards as set forth in this article.
- (l) *Parking space size.* For the purpose of this article, the term off-street parking space shall apply to non-single-family or two-family units and consist of a minimum rectangular parking area measuring eleven (11) feet by twenty (20) feet exclusive of access drives and aisles. However, in those areas where parking is assigned to employees, there may be ten (10) foot wide parking spaces that provide for use solely by employees either with an employee only gated area in an approved parking lot or with signage on each parking space, or group of spaces, designating that the space is for employee parking only. The number of employee parking spaces must be reasonably based on the business proposed in the development and cannot exceed the number of employees on the largest working shift. Residential uses that provide the required parking with assigned, enclosed spaces may also provide this parking as ten-foot wide spaces. All other parking spaces shall be eleven (11) feet in width and twenty (20) feet in length, or eighteen (18) feet in length when there is a two-foot overhang, when used at anytime for parking. Also, for each ten-foot space provided, an additional twenty (20) square feet of landscaped area must be provided within the parking area. These spaces must be clearly marked and controlled. Parallel curb parking spaces shall be a minimum of eleven (11) feet by twenty-five (25) feet. Bicycle parking spaces shall consist of a minimum rectangular parking area measuring two (2) feet wide by seven (7) feet in length and with a rack for securing each bicycle. Bicycle lockers may substitute for the rack and space requirement. All bicycle parking areas shall be located in a well-lighted area in close proximity to the building away from the general motor vehicular parking area in order to discourage theft and possible damage.

- (m) *Curbing requirements.* Perimeter and interior landscaped areas and sidewalks shall be protected from vehicular encroachment by the use of curbing. When curbing is used as a wheel stop for head-in parking, the twenty (20) foot dimension of the parking space requirement (eleven (11) feet by twenty (20) feet) may be reduced to eighteen (18) feet. Curbing dimensions for the landscaped area shall conform to the standard (not the Miami-type curb) curb specifications established by the city. Because of safety reasons, individual wheel stops protruding from the pavement are prohibited. Where curb parking abuts a sidewalk the sidewalk width shall be increased by two (2) feet.
- (n) *Aisle widths.* Off-street parking areas shall be designed so that there is an unrestricted flow and circulation of traffic within the parking lot as well as at the site ingress/egress points. One-way traffic lanes shall be clearly marked on the paved surface to show the flow of traffic. All areas shall be designed for "head-in" parking only. "Pull through" parking design shall be permitted when necessary to serve special type vehicles such as truck trailers, boat trailers and similar vehicles. The following table shall govern the minimum width of traffic lanes within the parking area:

Angle of Parking	Minimum Width of Lane(s)	
	One-Way (feet)	Two-Way (feet)
0° (parallel to curb)	16	24
45°	16	not permitted
60°	16	not permitted
90° (perpendicular to curb)	24	24
No parking allowed	16	24

- (o) *Special parking lot design considerations and restrictions.*
  - (1) Whenever an off-street parking area is designed to provide parking of vehicles in six (6) rows or more, interior landscaped curbed areas shall be provided the length of the parking rows to prevent cross traffic flow and traffic hazards. Such planted landscaping between rows shall be not less than eight feet in width measured back of curb to back of curb. Parking rows shall be limited to three hundred (300) feet in length. [Also see Appendix D, Chapter 9, Article XV, Section 9.273 (b) (1) c. 5.]
  - (2) Parking may be located in a required front, rear or side yard for single-family and two-family dwellings but may not cover more than twenty (20) per cent of the lot or parcel.
  - (3) In the C-P zoning district, required off-street parking spaces may be located in the front yard in accordance with the requirements of Appendix D, Chapter 9, Article XV, Section 9.273, b.1. In the C-P zoning district, required off-street parking spaces may be located in the side yard, except that no parking space shall be permitted within fifteen (15) feet of the side lot line.

- (4) In the C-1, C-1A, C-2, C-3, M-1, M-2, R-2, R-3 and R-P zoning districts, required off-street parking spaces may be located in the front yard in accordance with the requirements of Appendix D, Chapter 9, Article XV, Section 9.273, b.1.
  - (5) In all districts requiring rear-yard setbacks, required off-street parking spaces may be located in the rear yard, except that no parking space shall be permitted within ten (10) feet of the rear lot line.
  - (6) Other than as listed above in paragraphs (3), (4), and (5), no required yard shall be used for any parking space, drive or back-out area, except that access drives may cross the required yard.
  - (7) When parking structures/parking garages are built in any district, whether as an accessory structure or a part of the principal structure, the garage building setback shall comply with the setback requirements of the applicable zoning district, except when abutting a zoning district with a more restrictive setback. In such cases the more restrictive setback of the adjacent zoning district shall apply. In the C-3 zoning district, the parking garage setback shall be no less than five feet.
  - (8) When an area is posted with a sign stating that non-residential parking is prohibited, only vehicles which are in the area due to an association with a residence may park on either the paved or the unpaved public right-of-way. This shall include the family and guests at a residence, and delivery, service or utility vehicles which are providing materials or services to the residence or to the residential neighborhood. All vehicles shall park in conformance with all other applicable laws and ordinances.
  - (9) Parking lot setbacks are determined by the landscaping regulations outlined in Appendix D, Chapter 9, Article XV, Section 9.73
- (p) *Parking, storage, or use of recreational equipment and recreational vehicles.* No recreational equipment or recreational vehicles shall be parked or stored on any lot in a residential district except in a carport, enclosed building, or to the rear of the front building line.
1. As it relates to this paragraph, the "front building line" shall be construed as the contour of the building located adjacent to the front yard right-of-way and shall extend parallel to the rights-of-way to the side property lines that intersect the right-of-way.
  2. All recreational equipment and recreational vehicles may be parked in a side corner yard if located behind a six-foot opaque fence, or parked behind the required side corner setback.
  3. Recreational equipment and recreational vehicles may be parked anywhere on residential premises during loading/unloading or maintenance for a period not to exceed forty-eight (48) consecutive hours within a seven-day period.
  4. Guests with recreational vehicles visiting the residence are allowed to park a recreational vehicle on a designated driveway for up to two (2) weeks per calendar year. No portion of the recreational equipment or recreational vehicles shall extend over any portion of the sidewalk.
  5. Recreational equipment and recreational vehicles shall not be parked in any right-of-way.
  6. All recreational equipment and recreational vehicles shall be properly tagged (if applicable) and in operable condition.

7. No such recreational equipment or recreational vehicles shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location, except as permitted above. No trailer shall be parked on any lot for living purposes other than in established trailer parks.

For Agriculture Estate Use (AEU) zoning districts, refer to Appendix B, Article V, Section 2(E)(2)(f).

For Rural Estate Use (REU) zoning districts, refer to Appendix B, Article V, Section 2 (F)(2)(e).

- (q) *Vehicular use areas.* All areas within commercial, and industrial districts and for residential developments of four (4) or more attached units used for the display or parking of any and all types of motor vehicles, boats, or heavy construction equipment, and all land upon which vehicles traverse the property as a function of the primary use, including but not limited to drives, parking, service and display areas, shall be paved according to the city's engineering specifications.
- (r) *Vehicular use areas for residential developments.*
- (1) Vehicular use areas for single-family, two- and three-family dwellings. All one-, two- and three-family units shall provide a paved drive a minimum of ten (10) feet wide to an enclosed garage. The garage floor shall be made of cement or any material approved by the building official. This requirement shall be applicable to single-, two- or three-family dwellings in any district where such uses are permitted.
  - (2) Vehicular use areas for multiple-family developments utilizing attached one-car garages. Projects where individual units have an attached one-car garage may utilize a paved drive measuring a minimum of ten (10) feet wide by twenty (20) feet long to an enclosed single car garage as a required parking space if noted on the site plan that such a space is assigned to that unit. The garage floor shall be made of cement or any material approved by the building official.
- (s) *Parking for disabled persons:*
- (1) Location: Accessible parking spaces for the physically disabled shall be located on the shortest possible accessible route of travel from adjacent parking to an accessible entrance of a building. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces for the physically disabled shall be dispersed and located closest to the accessible entrances. Parking spaces shall not be located as to require the disabled person to wheel behind parked vehicles. Parallel parking spaces for the physically disabled shall be located either at the beginning or end of a block or adjacent to alley entrances. Curbs adjacent to such spaces shall be of a height which will not interfere with the opening and closing of motor vehicle doors.
  - (2) Design: Diagonal and perpendicular accessible parking spaces for the physically disabled shall be twelve (12) feet wide, shall have an adjacent five-foot wide access aisle and shall not be located so as to require the handicapped to cross behind another parking space, drive aisle, or other unsafe act in order to obtain access to a building. Two (2) accessible parking spaces for the physically disabled may share a common access aisle. Accessible parallel parking spaces for the physically disabled shall meet the minimum regular parking space size requirements for a parallel parking space. In addition they shall have a five-foot wide access aisle immediately to the front of the parallel accessible parking space. The parking access aisle must be

connected to an accessible route to the appropriate accessible entrance of a building or facility. Handicap ramps for sidewalks and building entrances shall be required to be adjacent to or as close as practical to handicap spaces without violating the above standard. Parked vehicle overhangs shall not reduce the required clear width of an accessible circulation route. The cross slope of the space shall not exceed two (2) per cent. Curb ramps shall be located outside of the disabled parking spaces.

- (3) **Marking/signing:** Each accessible parking space for the physically disabled shall be conspicuously marked with typical four-inch white striping. The space shall then be further outlined within the white striping with a four-inch stripe of light blue paint (tinted to shade 15180 of Federal Standard 595a). There shall be two (2) inches between stripes. The opposite side of the ramp away from the space shall have a four-inch white stripe. Parallel spaces shall be striped with blue and white striping in the front, rear and street side of the space. The space shall also be posted and maintained with a permanent sign, that is positioned at a height of seven (7) feet above grade to the base of the sign. The sign (FDOT Model FTP-26) shall be eighteen (18) inches (wide) by thirty (30) inches (tall) and shall bear the international symbol of accessibility (eighteen (18) inches by eighteen (18) inches) and the caption "PARKING BY DISABLED PERMIT ONLY" (twelve (12) inches by eighteen (18) inches). A smaller sign (FDOT Model FTP-15) may be used when space does not permit placement of a standard sign, as determined by the city engineer. All other specifications regarding marking and signage of parking spaces shall be in accordance with Florida Department of Transportation standards.
- (4) All parking spaces, ramps and sidewalks shall be designed, constructed, and maintained in conformance with Florida and federal law. For any and all uses or structures not specifically provided for in the foregoing enumeration, such parking space as the city engineer shall determine to be necessary, considering all the parking generating factors involved, shall be provided.

*(Ord. No. 95-51, § 6, 11-29-95; Ord. No. 2002-31, § 1, 5-14-02; Ord. No. 2003-23, § 1, 4-22-03; Ord. No. 2004-37, § 1, 5-25-04; Ord. No. 2005-31, § 3, 9-13-05; Ord. No. 2008-70, § 2, 1-13-09; Ord. No. 2009-31, § 15, 8-25-09)*

# SEBASTIAN CODE FOR PARKING REQUIREMENTS

## ARTICLE XV

**Sec. 54-3-15.4. - Parking requirements.****(a) Location of off-street parking spaces.**

- (1) *Residential.* The required parking for single-family and duplex units shall be located on the lot where the structure is located. The garage shall not be counted toward the parking requirement.
- (2) *Multifamily.* Parking for multifamily residential uses shall be located on-site. Spaces shall be within 150 feet of the door of the unit that the spaces are intended for.
- (3) *Model homes.* The required parking for a model home shall be located on the same lot as the model, or on a contiguous lot, owned by the contractor or developer, or may be located in the adjacent right-of-way if approved by the city engineer. All parking shall meet the following requirements:
  - a. Any parking located on a corner lot shall be designed so as not to obstruct the view of approaching traffic.
  - b. Ingress and egress to the parking area shall be a minimum of 30 feet from any corner and a minimum of ten feet from any property line.
  - c. The driveway may be counted for two parking spaces.
- (4) *Commercial, institutional, industrial zoning districts.* Off-street parking spaces required by this section shall be located on or adjacent to the lot on which the main building or use is located, except as specifically provided herein. For buildings or uses located in a nonresidential district, parking spaces may be located on another site, provided such site is not more than 500 feet, if the full amount of the required facilities cannot be provided on the same parcel of land. This shall be measured from the property line of the development to the property line of the off site parking area. No more than 50% of the total required spaces may be located in the off-site facility. Such parking spaces shall be within a nonresidentially zoned district. Such sites can not be separated by streets of a major collector, roadways with more than two lanes or by a railroad right-of-way. Parking sites located across public streets may require safeguards as determined by the planning and zoning commission. Any sites utilizing off-site parking shall execute a cross access agreement by all parties having a legal interest in the property(s) covered. Said agreement shall be provided at the time of site plan application for the properties affected. The easement agreement shall provide for the perpetual access and use of the adjacent property's parking spaces and driving aisles. The easement agreement must be approved as to legal form and sufficiency by the city attorney. The easement agreement must be recorded in the public records prior to the approval of the project site plan or in cases where no site plan approval is necessary (applicable), prior to issuance of a building permit.
- (5) Within the commercial waterfront residential and commercial riverfront zoning districts the following shall apply:
  - a. Increases to the floor area of an existing building, construction of a new building having greater floor area or a change to the approved uses in an existing building, the parking requirements of this section shall apply. In lieu of meeting these requirements, owners or developers in the community redevelopment area (CRA) shall be allowed to purchase required parking spaces by paying a fee in accordance with this subsection (5).
    - (i)

*Establishment of riverfront parking trust fund.* The riverfront parking trust fund is hereby established to receive the fee paid by developers in lieu of providing on-site parking necessary for a project and shall be used only to develop and maintain public parking within the community redevelopment area east of the Florida East Coast railroad tracks. This program is available to commercial uses and properties within the commercial riverfront (CR) and commercial waterfront residential (CWR) districts only.

- (ii) *Establishment and calculation of trust fund spaces.* The fee amount shall be calculated on a "per space" standard. Fees shall be determined by the city based upon the cost of design and construction per parking space. If the city purchases additional land to be utilized as public parking, then the costs shall include the acquisition costs. These fees will be adopted by the city council and may be amended from time to time by resolution.
  - (iii) *Maximum.* The maximum number of spaces that may be purchased in this program is 30 per development.
  - (iv) *Nonexclusive use.* Any public parking utilized in this program is not assigned to a business or to be reserved in any manner. Participating in this program confers no rights upon the business to place any advertisement, notices or signage upon the parking spaces the city expressly retains all such rights.
  - (v) *Exceptions.* Residential and multifamily uses are excluded from utilizing the parking trust fund to meet their parking requirements.
- (b) *Joint use.* A single parking area may be used to service more than one establishment if the normal hours of operation of the establishments do not overlap. If a single parking area is so used, additional parking may be required as a condition of continued occupancy at any time the hours of operation of the establishments are altered to run during any concurrent period. Any joint use of parking spaces on a prorated basis must have a document of joint use signed by all parties concerned and approved as binding by the city attorney.
- (c) *Historical structures.* When the parking standards are applied to an historic structure and such requirements would detrimentally affect the historic character of the property, the planning and zoning commission may reduce the parking requirement. A maximum reduction of one space or ten percent of the total parking spaces required, whichever is greater, may be permitted. The planning and zoning commission shall find that a reduction in parking will not create a hazardous condition or detrimentally affect traffic movement.
- (d) *Specimen or historic trees.* A maximum reduction of one space or ten percent of the total number of parking spaces required, whichever is greater, may be permitted to save specimen or historic trees.

(Ord. No. O-10-05, § 1, 9-22-2010)