

TOWN OF MALABAR
PLANNING AND ZONING ADVISORY BOARD
REGULAR MEETING
WEDNESDAY JUNE 24, 2015
7:30 PM
MALABAR COUNCIL CHAMBER
2725 MALABAR ROAD
MALABAR, FLORIDA

AGENDA

- A. CALL TO ORDER, PRAYER AND PLEDGE
- B. ROLL CALL
- C. ADDITIONS/DELETIONS/CHANGES
- D. CONSENT AGENDA :
 - 1. Approval of Minutes Planning and Zoning Meeting – 6/10/15(Not Ready)

 Exhibit: Agenda Report No. 1
 Recommendation: Request Approval
- E. PUBLIC HEARING: none
- F. ACTION:
- G. DISCUSSION:
 - 2. Continue Discussion re: Future Land Use Maps for R/LC
 Exhibit: Agenda Report No. 2
 Recommendation: Discussion
- H. ADDITIONAL ITEMS FOR FUTURE MEETING
- I. PUBLIC:
- J. OLD BUSINESS/NEW BUSINESS:
 - 3. Off-Street Parking Article IX of Land Development Code (Discussion)
 Exhibit: Agenda Report No. 3
- K. ADJOURN

NOTE: THERE MAY BE ONE OR MORE MALABAR ELECTED OFFICIALS ATTENDING THIS MEETING. If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to insure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105). The Town does not provide this service in compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 1
Meeting Date: June 24, 2015

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 June 10, 2015 (Not Ready)

ACTION OPTIONS:

Secretary requests approval of the minutes.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 2
Meeting Date: June 24, 2015

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

SUBJECT: Future Land Use Map for R/LC

BACKGROUND/HISTORY:

The PZ Board edited the Future Land Use Maps at the 6/10/15 meeting. Board Members Ritter and Abare worked on these maps dated July 17, 2013 to clarify areas to be designated R/LC. Board Member Dial will provide a map from Marie Street east to RR-tracks showing property lines for clarification purposes and depth in from Malabar Road. (300 or 400 feet)

The Board requested information on the out-parcel located in front of the "MIMA" building and what the zoning designation is presently for clarification. The Land Use is vacant commercial land, and Office Institution "OI" is the zoning. (see attached)

ATTACHMENTS:

- Information on out-parcel located in front of "MIMA" building on Malabar Road (location & description)
- Maps to be handed out at meeting on 6/24/15 (not available at time of packet)
- **PLEASE BRING PZ PACKET FROM 5/13/15 & 6/10/15(handouts of colored maps)**

ACTION OPTIONS:

Discussion

Dana Blickley, CFA
Brevard County Property Appraiser - MAP SEARCH



28-37-34-00-00763.0-0000.0

Zoom To	Account	Owner	Property Address	Parcel Identifier
1	Aerial	2866257	HEALTH FIRST INC	28-37-34-00-00763.0-0000.0

Dana Blickley, CFA
Property Appraiser
Brevard County, FL



Property Details

Vacant
 Commercial
 Land

General Parcel Information

Parcel ID:	28-37-34-00-00763.0-0000.00	Millage Code:	34Z0	Exemption:		Use Code:	1000
Site Address:						Tax ID:	2866257

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

Owner Information

Owner Name:	HEALTH FIRST INC
Second Name:	
Mailing Address:	6450 US HIGHWAY 1
City, State, Zipcode:	ROCKLEDGE, FL 32955

Abbreviated Description

Sub Name:	PART OF LOT 2 DESC AS "PAR C" IN ORB 6311 PG 404 EXC 5913 PG 9631
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Value Summary

Roll Year:	2012	2013	2014
Market Value Total: ¹	\$97,880	\$97,880	\$97,880
Agricultural Market Value:	\$0	\$0	\$0
Assessed Value Non-School:	\$97,880	\$97,880	\$97,880
Assessed Value School:	\$97,880	\$97,880	\$97,880
Homestead Exemption: ²	\$0	\$0	\$0
Additional Homestead: ²	\$0	\$0	\$0
Other Exemptions: ²	\$0	\$0	\$0
Taxable Value Non-School: ³	\$97,880	\$97,880	\$97,880
Taxable Value School: ³	\$97,880	\$97,880	\$97,880

Land Information

Acres:	1.87
Site Code:	381
Land Value:	\$97,880

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

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

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

Sale Information

Official Records Book/Page	Sale Date	Sale Amount	Deed Type	Sale Screening Code	Sale Screening Source	Physical Change Code	Vacant/Improved
6816/0650	2/28/2013	\$350,000	WD	17			V
6322/1904	12/8/2010	\$100	WD	11			V
6311/0404	12/8/2010	\$100	WD	11			V

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

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 3
Meeting Date: June 24, 2015

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

SUBJECT: Off-Street Parking Article IX of Land Development Code

BACKGROUND/HISTORY:

The recommendation for clarifying the "Off-Street Parking" went to Council on April 22, 2015. Then it came back again to Council again on May 4, 2015 after clarification from PZ. The Ordinance was presented at the Council Meeting on 6/15/15 for the First Reading and was tabled until the attorney could be present.

Ms. Debby Franklin Town Clerk/Treasurer suggested sharing the attached comments received (6/12/15) from the Town Attorney Karl Bohne concerning the Ordinance that was presented for your review.

ATTACHMENTS:

- Portion of Draft Minutes from RTCM 6/15/15
- Email from Town Attorney Karl Bohne with comments
- Article IX Off-Street Parking & Article XX Definitions (Draft)

ACTION OPTIONS:

Discussion



Portion of Draft Minutes from RTCM 06/15/15 regarding Off-street Parking:

8. Off-street Parking Article IX of Land Development Code

Exhibit: Agenda Report No. 8

Recommendation: Discussion and Direction

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IX OF THE LAND DEVELOPMENT CODE RELATING TO OFF STREET PARKING; PROVIDING FOR COMPUTATION OF PARKING SPACES, ADDING A PROHIBITION OF NON-CONTIGUOUS AND OFF SITE PARKING; PROVIDING FOR OFF STREET LOADING; PROVIDING FOR SURFACING REQUIREMENTS; AMENDING ARTICLE XX PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Chair read by title only.

Discussion: CM Acquaviva stated that the attorney needs to be present to go over this information.

MOTION: CM Korn / CM Acquaviva moved to table until the attorney is present.

Debby Franklin

From: Karl Bohne <KBohne@fla-lawyers.com>
Sent: Friday, June 12, 2015 9:26 AM
To: Debby Franklin
Subject: RE: ord for discussion offstreet parking
Attachments: Ord 2015-03 Article XX off street parking.docx

Not sure I agree with the inclusion of in the best interest of the health, safety, and welfare of the general public in the promotion and preservation of traffic safety as written. All codes and ordinances are designed to promote the health safety and welfare of the public. May be it would be better to say "Parking shall be designed to promote traffic and pedestrian safety..."

We define "contiguous" in the definition section. So I assume non-contiguous is anything not contiguous. Also continuing on with that what would be the "proper engineering and approved safety standards" be? Seems like that phrase is ambiguous and is open to a subjective determination as to what the "approved standards" are. May be the Town engineer has some input on these standards.

With respect to the section dealing with restricted use, I suggest you include no sales or display of merchandise as a restricted use.

The term porous surface is used. That term should be defined. Is the surface to be porous? For instance pavers are not porous but they may provide some water seepage if they are installed in a way to allow seepage. May be we should say "Porous surface means any surface, material or technique which allows for the movement of water through it."

In the definition section for parking I inserted the word "which" in each type of parking. I did not make any of the changes I suggest above.

From: Debby Franklin [mailto:townclerk@townofmalabar.org]
Sent: Thursday, June 11, 2015 3:00 PM
To: Karl Bohne
Subject: ord for discussion offstreet parking

Debby K. Franklin, C.M.C.

Town Clerk/Treasurer
Town of Malabar
2725 Malabar Road
Malabar, FL 32950
townclerk@townofmalabar.org
321-727-7764 x12
321-722-2234 Fax
321-536-5657 Cell
Town Website: www.townofmalabar.org

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

ORDINANCE 2015-03

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING ARTICLE IX OF THE LAND DEVELOPMENT CODE RELATING TO OFF STREET PARKING; PROVIDING FOR COMPUTATION OF PARKING SPACES, ADDING A PROHIBITION OF NON-CONTIGUOUS AND OFF SITE PARKING; PROVIDING FOR OFF STREET LOADING; PROVIDING FOR SURFACING REQUIREMENTS; AMENDING ARTICLE XX PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

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

SECTION 1. Article IX of the Land Development Code of the Town is amended in full to read as follows:

"Article IX - OFF-STREET PARKING AND INTERNAL TRAFFIC CIRCULATION

Section 1-9.1. - Applicability.

Parking shall be **in the best interest of the health, safety, and welfare of the general public in the promotion and preservation of traffic safety**, 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 **with** 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 Dwellings.* 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. *Social Welfare Facilities.* One (1) space for every three (3) residents/beds plus one (1) space per employee on the largest shift.
12. *Public Health Facilities.* One (1) space for each five (5) beds plus one (1) space for each employee, including doctors, or one (1) space for per three hundred (300) feet of building area, whichever is greater.
13. *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.
14. *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.
15. *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.
16. *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.
17. *Retail Sales Stores.* One (1) space for each two hundred (200) square feet of retail floor space.
18. *Restaurants and Lounges.* One (1) space for each one hundred (100) square feet of gross building area.
19. *Libraries and Museums.* One (1) space for each three hundred (300) square feet of gross building area.
20. *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.
21. *Bowling Lanes.* Six (6) spaces per lane.
22. *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.
23. *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.
24. *Business and Vocational Schools.* One (1) space for each three (3) students.
25. *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.
26. *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.

27. *Office and Professional Building (excluding medical offices)*. One (1) space for each two hundred (200) square feet of office space.
28. *Transportation Terminals*. One (1) space for each two hundred (200) square feet of floor space.
29. *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.
30. *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.
31. *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.
32. *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; Ord. No. 14-01, § 5, 2-3-14)

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 **total** 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. Non-Contiguous & Off-Site Parking Spaces are not permitted unless proper engineering and approved safety standards are implemented

- ~~7.8.~~ *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 **Building Official, 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, and are not intended for~~ 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 Town Building Official, the City Engineer and approval of the Planning and Zoning Commission.
- (b) Width: Twelve (12) feet.
- (c) Height: Fourteen (14) feet & six (6) inches.

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:
 - 1. *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.
 - 2. *Porous Surfaces. Part-time or temporary use such as Church, but not limited to, Park, Fair, and Festival parking. All parking areas must be up to specifications of the Town Engineer, Town Planner, and/or Building Official as to composition, compaction, and drainage/ grade.*
- 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."

SECTION 2. Article XX of the Land Development Code of the Town is amended in full to read as follows:

"Article XX - LANGUAGE AND DEFINITIONS

Section 1-20.1. - General interpretation.

For the purpose of this chapter [Code], certain terms used herein are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular number. The word "shall" is always mandatory and not merely directory. The word "building" shall include the word "structure." The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used.

Section 1-20.2. - Definitions of terms.

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

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

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

Abutting. See adjoining.

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

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

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

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

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

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

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

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

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

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

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

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

Apartment. An independent housekeeping unit in an apartment house.

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

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

Awning. A light, protective appurtenance to a building.

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

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

Bed and Breakfast. A Bed and Breakfast is an owner-occupied residential structure, with no more than _____ sleeping rooms used as guest rooms, which has been modified to serve as a transient public lodging establishment, which provides accommodation and meal services and which is recognized as a bed and breakfast in the community in which it is situated.

Board of Adjustment. A body authorized to hear and decide administrative appeals, special exceptions and variances from the strict application of the zoning code.

Buffer Strip. A parcel or tract of land, plant material or other landscaping that is used to separate one use from another to shield or block noise, light or other nuisances.

Buildable Area. The portion of lot remaining after required yards have been provided.

Builder. Any person, firm, association, syndicate, partnership, corporation, realtor or corporation who constructs model homes and other residential dwellings for sale to the public.

Building. Any structure having a roof supported by columns or walls.

Building Height. The vertical dimension measured from the finished grade at the building line to the highest point of the structure. including any and all decorative and safety structures, unless exempted under 1-5.1 of the Land Development.

Building, Principal. A building in which the principal use of the lot in which it is located is conducted.

Business Office. Facility consisting of desks, files, phone banks, telephone switchboards, typewriters, or other equipment usually associated with and utilized in a business office.

Cemetery. Property used for the interring of the dead.

Child. A person less than eighteen (18) years of age.

Child Care. The care, protection and supervision of a child on a regular basis which supplements for the child, in accordance with his individual needs, daily care, enrichment opportunities, and health supervision and where a payment, fee or grant is made for care.

Child Care Facility. Includes any child center or child care arrangement that provides child care for more than five (5) children unrelated to operator and which received a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit, except that the following are not included: Public schools and nonpublic schools which are in compliance with the compulsory school attendance law, Chapter 232, Florida Statutes; summer camps having children in full-time residence; summer day camps, and Bible schools normally conducted during vacation periods. The provisions of this act shall not apply to a child care facility which is an integral part of a church or parochial schools conducting regular classes or courses of study.

Church or Other Places of Worship. Any structure and/or site legally approved for and used upon a permanent basis by a recognized and established religious sect or denomination as a place where such persons regularly assemble primarily for public worship.

Clinic. Any structure or premises used as an establishment for medical, dental or surgical examination and/or treatment of persons classed as outpatients who are not lodged overnight and maintained and/or operated by any licensed person or organization of persons.

Club, Private. A property owned or leased and operated by a group of persons and maintained and operated solely by and for the members of such group and their guests and not available for unrestricted public access or use. Such a club may be either a profit making or a not-for-profit enterprise.

Commercial Amusement. Establishments engaged primarily in providing amusement or entertainment for a fee or admission charge.

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

Commercial Amusement, Temporary. A commercial amusement which is established as a temporary use. This definition includes, but is not limited to, the following: circuses, carnivals, festivals, fairs and special exhibitions.

Commercial Amusement, Unenclosed. A commercial amusement which is conducted in an outdoor area or in an unenclosed structure. This definition includes, but is not limited to, the following: drive-in theaters, miniature golf courses, golf driving ranges, animal or vehicular race tracks, amusement parks and stadiums.

Commercial Fishery. A commercial establishment for the receiving, processing, packaging, storage, and wholesale or retail distribution and sale of products of the sea. Such an establishment may include facilities for the docking, loading, unloading, fueling, icing and provisioning of vessels and for the drying, maintenance and storage of equipment.

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

Comprehensive Plan. The Town of Malabar Comprehensive Plan, as may hereinafter be amended and which was prepared and adopted pursuant to the "County and Municipal Planning and Land Development Regulation Act," Chapter 163, Part II, Florida Statutes.

Conditional Use. Any use which may be allowed by a Conditional Use Permit pursuant to Article VI, Conditional Use Criteria.

Conditional Use Permit. Any administrative permit issued pursuant to Article VI, Conditional Use Criteria.

Condominium. That form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements. Condominium property means and includes the land in a condominium whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the condominium.

Contiguous. Next to, abutting, or touching and having a boundary, or portion thereof, which is coterminous.

Contractor. Any person, firm, association, syndicate, partnership, realtor, or corporation engaged in the business of accepting orders or contracts, either as a general contractor or subcontractor, for construction of model homes and other residential dwellings for sale to the public.

Courtyard. An open, unobstructed, unoccupied space, other than a yard, on the same premises on which the building is located. A court entirely surrounded by the building is an inner

court. A court bounded on three (3) sides by the building and on the fourth side by any lot line is a lot line court. A court with at least one side opened to a yard, alley or street is an outer court.

Cultural Facilities. Establishments where the principal use is of an historical, educational or cultural interest, which are not operated commercially.

Developer. A "developer" is any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under this ordinance to effect the subdivision and/or development of land in the Town of Malabar and includes "subdivider," including model homes.

Development. The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, enlargement of any structure; any mining, excavation, landfill or land disturbance, or any extension of the use of the land.

District. Any section [or] area of the Town of Malabar to which these regulations apply, within which the zoning requirements are uniform.

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

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

Duplex. See Dwelling, Two Family.

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

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

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

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.

Easement. A grant by a property owner of the right of use of his land by another party for a specific purpose.

Excavations. Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Extended Care Facility. A long term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution.

Family. A single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon economic or domestic bond, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

Fast Food Restaurant. An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant structure or off premises.

Fence (or Wall). A freestanding structure of any material or combination of materials erected for confinement, screening or partition purposes.

Flag Lot. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way.

Floodplain. An area likely to flood based on the officially adopted Flood Issuance [Insurance] Rate Map (FIRM).

Floodplain, Tidal. An area likely to flood or become inundated from water which is subject to tidal action.

Floor Area. The sum of the gross horizontal areas of the several floors of a building or buildings measured from exterior faces of exterior walls or from the center line of walls separating two (2) attached buildings. The required minimum floor area within each district shall not apply to accessory uses; however, the floor area of accessory uses may be computed as a part of the area of the principal use.

Foster Housing Facility. Substitutes for family units where one or two resident adults care for no more than five (5) persons in an environment which approximates family living.

Frontage. All the property abutting measured along the street line.

Funeral Home. A premises, structure or site used as a commercial establishment for the preparation of deceased humans for burial and/or for the conduction of funeral services prior to burial or other disposition of deceased human remains. Such a premises, structure or site shall not be used for the burial, prolonged storage or permanent disposition of deceased human remains.

Garage, Mechanical. Any enclosed structure used for the storage, care, minor repair, or equipping for operation of motor vehicles, or where automotive mechanical service is provided, excluding paint and body repair.

Garage, Private. A detached accessory building or portion of a main building used for the parking or storage of automobiles of the occupants of the main building. A carport is considered a private garage. No garage may be erected prior to construction of a dwelling, or the garage may be built simultaneously with the residence.

Gasoline Service Station. Any structure, building, or land, used for the dispensing, sale, or offering for sale, at retail, of any motor vehicle fuels, oils or accessories and in connection with which is performed general motor vehicle servicing as distinguished from repair service.

Governmental Facility. Any office, facility, building or property owned, leased, or used by the Federal Government, the State of Florida, or any unit of local government, except such uses as are specifically listed elsewhere in this ordinance as specific uses, and except housing projects sponsored by government agencies.

Green Area. See "Open Space."

Greenhouses. A building wherein the temperature and humidity can be regulated for the cultivation of exotic or out of season plants.

Hobby. A subject or pursuit in which one takes absorbing interest.

Home Occupation. Any money-raising occupation or activity carried on within a residential property, where the activity is conducted only by members of the family living within the residence, where products are not offered for sale from the premises, where no evidence of the occupation is visible or audible from the exterior of the residential property, where traffic is not generated in excess of that customary of a residence, and where no commercial vehicles are kept on the premises or parked overnight on the premises unless otherwise permitted by these regulations. The occupation must be clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change residential character thereof.

Hospital. A building or group of buildings, having facilities for one or more overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient departments, training facilities, and staff offices; provided, however, it is coordinate to the main use and must be an integral part of the hospital operations.

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

Hotels and Motels. Every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which rooms are furnished for the accommodation of such guests and which may have one or more dining rooms or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms or cafes being conducted in the same building or buildings in connection therewith.

Houseboat. A watercraft used as a dwelling and moored in the same general area at least eight (8) hours a day for ten (10) days in any month.

Junk. Old and dilapidated modes of conveyance such as automobiles, trucks, tractors, watercraft, and other such vehicles and parts thereof; wagons and other kinds of vehicles and parts thereof; household appliances, scrap building material, scrap contractors' equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron machinery, rags,

paper, excelsior, hair, mattresses, beds, and bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed.

Junk Vehicle. A vehicle which has not had a current license plate or cannot be moved under its own power.

Junk Yard. A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, based, cleaned, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding pawn shops and establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations. The storage of non-operable machinery, equipment or automobiles for sixty (60) days or longer shall be prima facie evidence the property is a junk yard.

Kennels, Commercial. Any lot or premises on which four or more dogs, cats or other domestic animals, at least four months of age, are housed or accepted for boarding, trimming, grooming and/or bathing for which remuneration is received.

Kennels, Non-Commercial. Any building or buildings and/or land used, designated or arranged for the boarding, breeding, or care of four or more dogs, cats, pets, fowl, or other domestic animals belonging to the owner thereof, kept for purposes of show, hunting, or as pets (but not to include riding stables).

Loading Space. An off-street space within the main building or on the same lot, providing for the standing, loading or unloading of vehicles.

Lot. A lot shall mean a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required in this chapter [Code]. Lot shall be comprised of contiguous land. Provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this chapter [Code]. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- (1) A single lot of record;
- (2) A portion of a lot of record;
- (3) A combination of complete lots of record, and portions of lots of record;
- (4) A parcel of land described by metes and bounds.

Lot, Building. A building site area which shall be at least the minimum area required for the zone in which said area is located and such building lot shall be consistent with all lot requirements within the respective zoning district. The term "building lot" is not necessarily synonymous with the term "lot" as defined above. A building lot is always at least one lot or one lot plus a part of another lot or a combination of two or more lots or fractions thereof.

Lot, Corner. A lot abutting upon two or more streets at their intersections.

Lot, Double Frontage (also Through Lots). A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

Lot Frontage. The portion nearest the street. For purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards in this section.

Lot Lines. The lines bounding a lot.

Lot Measurements.

- (1) *Depth of a Lot* shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- (2) *Width of a Lot* shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the front building line established by the minimum from [front] setback of the required front yard, provided however that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in case of a lot on the turning circle of a cul-de-sac, where the eighty-percent requirement shall not apply. Front lot lines on a cul-de-sac shall be no less than forty (40) feet.

Lot of Record. A lot which is a part of a subdivision, the map of which has been recorded in the Office of the Clerk of the Circuit Court of Indian River County or a lot described by metes and bounds, the description of which has been thus recorded.

Malabar Vernacular Style. An architectural style representing Florida's historical influences upon the development of the Town of Malabar. This eclectic style includes elements such as elevated first floors, covered porches, verandas and overhangs that create a relationship to the street at human scale. This may include Cracker, Mediterranean, Caribbean, as well as, other documented local common archetype styles dating back to the turn of the 19th century. The design standards provided in Section 1-5.29 of the Land Development Code of the Town shall apply to any structure required to be built in the Malabar Vernacular style.

Manufactured Building. A closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating or other service systems manufactured in manufacturing facilities, for installation or erection, with or without other specified components, as a finished building or as part of a finished building which shall include but not be limited to residential, commercial, institutional, storage and industrial structure (F.S. 553.36). The building plans for such structures must be sealed by the Florida Department of Community Affairs.

Marina. A place for the sale and service of boats and marine supplies, exclusive of boat or ship building.

Maximum building coverage. The total building coverage on any lot divided by the total lot area.

Mining. The removal, either in or upon the soil of the earth or beneath the soil, of any valuable inert or lifeless substance formed or deposited in its present position through natural agencies alone, as a commercial business.

Mini-Warehouse/Mini-Storage. A mini-warehouse/mini-storage is defined as a fully enclosed, single story, building or buildings that may contain removable interior partitions and having individual compartmentalized units, stalls or lockers with privately controlled access points which are to be rented as storage space for customers' goods, wares, or personal property. No individual storage unit shall exceed five hundred (500) square feet in floor space. No unit shall be used for any wholesale or retail operations; however, it shall not preclude use as a depot for such purposes as franchised distribution.

An office for the rental of the storage spaces may be included, provided it does not exceed three hundred (300) square feet, excluding any bathroom facilities.

Mobile Home Park. A tract of land in one ownership, which provides rental spaces for mobile homes.

Mobile Home Park, Transient. A facility which provides short term parking areas for travel trailers, travel campers and mobile homes, along with the provision of utilities, recreation and related services.

Mobile Home Site. A lot or space or plot of ground within a mobile home park or trailer park, designated for the accommodation of not more than one mobile home or trailer coach.

Mobile Home Subdivision. A recorded subdivision of land officially recorded which provides individual sites, for sale, for mobile homes.

Model Home. A finished, single-family residential unit, including units in a multifamily structure and mobile homes for which a certificate of occupancy could be obtained, located in a residentially zoned district but utilized as an example of a product offered for sale to purchasers (by a realtor, builder, developer or contractor). The dwelling house may be furnished but not occupied as a residence while being used as "Model Home."

Motel. See Hotel.

Motor Vehicle. As defined by Title XXIII Florida Statutes, specifically Chapter 320.01(1) (a) and (b).

Noncomplying Building or Structure. Any building or other structure which is a lawful use (permitted or nonconforming) but which does not comply with all applicable provisions of this Code, including bulk regulations, off-street parking requirements, landscape requirements, performance standards, or airport height hazard zone requirements, either on the effective date of this Ordinance or as a result of any subsequent amendment.

Nonconforming Use. A use of a building or structure or of a tract of land which, at the time of the commencement of the use, was a permitted use in the zoning district, or any legal change thereto from the time of the commencement thereof until the effective date of this Ordinance, but which does not, on the effective date of this Ordinance, conform to the use criteria of the district in which it is located.

Open Space (Green Area). Open space includes the gross area of the site less building coverage, parking surface and internal traffic circulation system.

Parking.

Off-Site Parking. Parking which is not on the same location or property as the Business's Building.

Off-Street Parking. Parking which is not on any Roadway or any Right of Way or within any "Right of Way Line".

On-Site Contiguous Parking. Parking which is in the same location and on the same property as the Business's Building and has the same owner(s).

On-Street Parking. Parking which is abutting a Roadway, which is any public path used by vehicle as a way of getting somewhere. ie; Lane, road, Street, Trail, etc.

Parking Lot. An area or plot of ground, used for the storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

Parking Space, Off-Street shall mean a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walkway or alley, and so that any automobile may be parked and unparked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Town.

Permeable Surface. Any surface permitting full or partial absorption of stormwater into previously unimproved land.

Premises. Any land together with any structures occupying it.

Principal Structure. A building in which is conducted the principal use of the lot on which it is situated. An attached carport, shed, garage, or any other structure with one (1) or more walls, or a part of one (1) wall being a part of the principal building and structurally dependent, totally or in part, on the principal building, shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage or other structure shall conform to the requirements of an accessory building. A structure conforming as an accessory building may be attached to the principal building by an open breezeway.

Public Water and Sewer Service. This shall mean water and sewer systems, including pipes, rights-of-way and treatment plants, owned and operated by the Town or operated under a franchise granted by the Town.

Recreational and Landscaped Open Space. Unroofed or screen roofed ornamental landscaped areas and recreational areas which are easily accessible and regularly available to occupants of all dwelling units on the lot wherein the open space is located. **Not calculated as open spaces are** rooftops, porches, raised decks, parking spaces, driveways, utility and service areas ~~are not calculated as open space.~~

Right-of-Way Line. The boundary line between highway, road, or street and a tract or parcel of land adjoining such highway, road, or street. The right-of-way line shall be considered the property line.

Setback. The minimum horizontal distance between the street, rear or side line of the lot and the front, rear or side lines of the building, including porches, carports, and accessory uses.

Shopping Center. A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Shoreline. The mean high water line for tidal water bodies and ordinary high water line for non-tidal waters for inland water bodies.

Special Exceptions. A special exception is a use that would not be appropriate generally or without restriction throughout a particular zoning district but would, if controlled as to number, area, location or relation to the neighborhood, be appropriate.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and ceiling next above. If any portion of a roof area is intended for human occupancy, except for maintenance purposes, then such roof area shall also be considered a story, notwithstanding that no floor or ceiling is located above it.

Street. A thoroughfare which affords principal means of access to abutting property. Street classifications include the following:

Arterial. Arterial streets serve as principal routes through the Town. The purpose of these facilities is to move large volumes of traffic from one part of the region or county to another. Arterial roads also provide connections between major activity centers of the County or Town.

Major Collector Streets. Major collector streets collect and distribute traffic from residential access streets to arterial streets or other collector streets.

Minor Collector Streets. Minor collector streets collect traffic from local streets and feed traffic to major collectors and arterials.

Residential Access Streets (Local Streets). Streets which directly serve abutting properties and residences. These streets should be relatively safe and quiet and should be completely free of any through traffic.

Street Line. See Right-of-Way Line.

Structure. Anything constructed or erected with a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs and poster panels, driveways, pools, and ponds.

Structural Alteration. Any change in either the supporting members of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

Subdivision. The division and recording in accordance with law of a parcel of land into two or more lots or blocks for the purpose of transfer of ownership or development for development, sale or lease.

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface ground pool, having a depth of more than thirty (30) inches, designed, used and maintained for swimming and bathing.

Townhouse. A one-family dwelling in a group of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

Variance. A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, size of structure, or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Warehouse. A warehouse shall mean any premises where the principal use is the storage of merchandise, products, or materials in bulk, for a fee or charge or for distribution to other establishments operated by the same business enterprise or establishment. A warehouse may include accessory wholesales, but shall not be deemed to include retail sales establishments, motor freight terminals, mini-warehouses or the bulk storage of flammable, explosive, toxic, or noxious materials as a principal use. No commercial vehicles (semi-trailers) shall be parked on the site overnight. No manufacturing, processing or craftsman of any kind shall be permitted.

Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the structure shall be used.

Yard, Front. A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the structure of any projections thereof, other than the projections of uncovered steps. On corner lots and through lots all yards which abut the street are considered front yards.

Yard, Rear. A yard extending across the rear of the lot between the inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Yard, Side. A yard between any structure and the side line of the lot, and extending from the front lot line to the rear yard and being the minimum horizontal distance between a side lot line and the side of any structure. A yard which is not a front or rear yard.

Section 3. Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of this ordinance shall not be affected and it shall be presumed that the Town Council, of the Town of Malabar, did not intend to enact such invalid or unconstitutional provision. It shall be further assumed that the Town Council would have enacted the remainder of this ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

Section 4. Repeal. All other ordinances or resolutions to the extent that conflict with this ordinance are hereby expressly repealed.

Section 5. Codification. The provisions of this ordinance shall become part of the code of ordinances of the Town of Malabar.

Section 6. This Ordinance shall become effective immediately upon its adoption.

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

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

Council Member Marisa Acquaviva _____

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this _____ day of _____, 20 ____.

BY:

TOWN OF MALABAR

Mayor Carl A. Beatty
Council Chair

First Reading:

Second Reading:

ATTEST:

By _____

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

(Seal)

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney