



Planning and Zoning Board Meeting

Tuesday, November 15, 2022 at 6:00 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. SWEAR IN NEW BOARD MEMBERS
4. APPOINT CHAIR AND VICE-CHAIR
5. APPROVAL OF AGENDA
6. CONSENT AGENDA

APPROVAL OF MINUTES

- a. **Approval of Minutes of Planning and Zoning Board Meeting 10/26/2022 (Not Ready)**

Exhibit: Agenda Report Number 6a

Attachments:

- **Agenda Report Number 6a** (PZ_Agenda_6a_Item_Report.pdf)

7. PUBLIC COMMENTS
8. PUBLIC HEARINGS: 0
9. ACTION ITEMS: 1

- a. **Discussion continued with Board suggestions to amend the Land Development Code to allow "Limited" Manufacturing in the R/LC, CL, and CG Commercial Land Use and Commercial Zoning Districts.**

Originally Presented by: Mayor Patrick T. Reilly

Exhibit: Agenda Report Number 9a

Attachments:

- **Agenda Report Number 9a** (PZ_Agenda_9a_Item_Report.pdf)

10. DISCUSSION/POSSIBLE ACTION ITEMS
11. ADDITIONAL ITEMS FOR FUTURE MEETING
12. PUBLIC COMMENTS
13. OLD BUSINESS/NEW BUSINESS

- a. **Old Business**
- b. **New Business**

Board Member Comments

Next regular Meeting - November 23rd, 2022

14. **ADJOURNMENT**

Contact: Denine Sherear (dsherear@townofmalabar.org 1321727764) | Agenda published on
11/10/2022 at 3:44 PM

TOWN OF MALABAR
PLANNING AND ZONING
AGENDA ITEM REPORT

AGENDA ITEM NO: 6.a.

Meeting Date November 15, 2022

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. These minutes 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 10/26/2022 (Not Ready)

ACTION OPTIONS:

Secretary requests approval of the minutes.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 9.a.
Meeting Date November 15, 2022

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

SUBJECT: Discussion to amend the Land Development Code, to include "Limited" Manufacturing in certain zoning districts; Residential /Limited Commercial (R/LC), Commercial Limited (CL), and Commercial General (CG).

BACKGROUND/HISTORY:

At the last PZ Meeting on October 26, 2022, it was discussed to have each Board Member submit changes to amend the Land Development Code to include "Limited" Manufacturing suggestions that were discussed at meeting and submit to review at next scheduled meeting.

The Board will review all suggestions and amend this code, first sending comments back to staff before making a motion to send to Council.

Discussion Items to include the following:

- **Bring PZ Agenda Packets from the past two (3) Meetings September 14, 2022, October 12, 2022, and October 26, 2022.**
- **Doug Dial comments (October 26, 2022)**
- **Liz Ritter comments (November 4, 2022)**

ACTION OPTIONS:

Discussion/Action

**DOUG DIAL, VICE CHAIR
PZ MEMBER
SUBMITTED OCTOBER 26, 2022**

AGENDA ITEM REPORT NO: 9.a.

- **COMMENTS FOR LAND DEVELOPMENT CODE SECTION 1-2 LAND CLASSIFICATIONS (9 &10). AND Table 1-3.2. LAND USE BY DISTRICT**

not include more intense general retail sales and services. The procedures and criteria for review of other similar limited commercial activities shall be as cited in the following section, § 1-2.6 [1-2.7].

9. Limited Manufacturing Activities. This land use classification is intended to accommodate small limited item shops with limited inventory serving a specialized market with customized service demand. This classification is intended to include the following:

- Manufacturing or processing of electronic components, optical instruments, electrical appliances, or other precision components;
- Assembly and distribution of goods;
- Maintenance, repair, reconditioning, and cleaning;
- Printing;
- Limited packaging and processing activities;
- Research and development technology;
- Small Machine shops

Other similar limited manufacturing activities conducted in a fully enclosed building which are approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses shall exclude metal fabrication, chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such uses shall be as cited in the following Section 1-2.6 [1-2.7].

10. Limited Manufacturing Services, such as low impact machinery repair and service or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

11. *Waterfront Marine Related Activities.* The following marine related land uses are included in this land use classification: commercial wet or dry storage and boat sales and rental; Marine power sales and service; and bait and tackle shop; and excluding marine salvage and boat yards.
12. *Medical Services.* The provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical laboratory testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician and with no overnight lodging. This land use classification includes pharmacies when developed as an accessory use within a medical service facility.
13. *Parking Lots and Facilities.* Governmental or private commercial building of [or] structure solely for the off-street parking or storage of operable motor vehicles.
14. *Plant Nurseries.* Retail sale of flowers, shrubs, trees, and plants as well as landscaping contractors and provision of related consultative services.
15. *Restaurants (excluding drive-ins and fast food service).* Any establishment (which is not a drive-in service establishment) where the principal business is the sale of food, desserts or beverages to the customer in a ready-to-consume state and where the design or principal method of operation includes two or more of the following:
 - (a) Customers, normally provided with an individual menu, are served generally in non-disposable containers by a restaurant employee at the same table or counter at which items are consumed.

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TOWN OF MALABAR
OCT 26 2022
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- (b) Ice cream parlors and other specialty restaurants having floor area exclusively within a shopping or office center and sharing common parking facilities with other businesses within the center and expressly prohibiting freestanding stores having characteristics of a drive-in restaurant.
- (c) A cafeteria or cafeteria type operation where foods, desserts or beverages generally are served in non-disposable containers and consumed within the restaurant building.
- (d) Customers purchase food, desserts or beverages for carryout.

16. Restaurants (drive-ins and fast food service). Any establishment where the principal business is the sale of foods, desserts or beverages generally contained in a ready-to-consume state and whose design, method of operation or any portion of whose business includes one or both of the following:

- (a) The restaurants are self-service. Food is generally served in disposable containers and customers generally do the busing and clean-up for themselves or foods, desserts or beverages are served directly to the consumer in a motor vehicle.
- (b) The consumption of foods, desserts or beverages within a motor vehicle parked upon the premises, or consumption at other facilities on the premises is allowed, encouraged or permitted.
- (c) *Mobile Food Dispensing Vehicle* means any vehicle that is licensed by the State of Florida as a public food service establishment {See F.S. § 509.013(5) for definition of a public food service establishment} and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.
- (d) *Mobile Food Dispensing Vendor*. The operator of a Mobile Food Dispensing Vehicle.
- (e) *Location of mobile food dispensing vehicle/vendor*. A mobile food dispensing vendor may operate a mobile food dispensing operation in the following locations:

1. *Town-Owned Property.*

A. On the following Town-owned property, total operation must be contained within the area designated for their operation by the Town Manager or designee:

- 1. Malabar Community Park
- 2. Sandhill Trailhead Park
- 3. Town Hall

B. *Access*. A mobile food dispensing vendor shall not operate or park in any location that impedes the ingress or egress of traffic, building entrances, pedestrian ingress or egress, emergency exits, or access to businesses. Notwithstanding anything to the contrary herein, a mobile food dispensing vendor may only operate on Town-Owned Property in areas so designated by the Town.

C. *Conflict*. A mobile food dispensing vendor may not operate on or at any location where the Town Manager or designee determines that a conflict exists between a mobile food dispensing vendor's vehicle or operation and an existing license or franchise agreement, contractual obligation, or any other public health or safety concern, including but not limited to a special event or rental facility.

2. *Improved Property.*

A. A mobile food dispensing vendor may operate on improved private property located within the following zoning districts, only with the written permission of the property owner(s). Evidence of a property owner's written permission must be available for inspection by the Town upon request while the mobile food dispensing vendor is operating.

- 1. Commercial General (CG)
- 2. Industrial (IND)

3. Residential/Limited Commercial (R/LC)
 4. Office Institutional (OI)
 5. Commercial Limited (CL)
 6. Institutional (INS)
- B. *Set-back Requirement.* When operating on private property, a mobile food dispensing vendor may operate only if set-back at least fifty (50) feet from any abutting residential district and at least one hundred and fifty (150) feet from any exclusively single family residential structure, unless the owner(s) of the residential structure immediately abutting such proposed location provides the mobile food dispensing vendor with express written permission to operate. The one hundred and fifty-foot set-back requirement is reduced to fifty (50) feet where an intervening non-residential building, such as a commercial building, screens the operation from the direct view of the single-family residential structure.
- C. *Access.* A mobile food dispensing vendor shall not operate or park in any location that impedes the ingress or egress of traffic, pedestrian ingress or egress, building entrances, blocks a public or private right-of-way, emergency exits, or access to businesses. A mobile food dispensing vendor may locate upon a public or private utility easement area; provided, however, that such location may be terminated by the town Manager if it is determined that such location has cause a deterioration to such easement or utility service needs unrestricted access to the easement area.
3. *Construction areas.* A mobile food dispensing vendor may operate on private property that has an active building permit as part of a commercial or multi-family construction site. Such operation may also occur on a site undergoing master infrastructure construction within a single-family subdivision until the first certificate of occupancy is issued.
4. *Principal structure requirement.* A mobile food dispensing vendor may only operate on a lot that has a permitted principal structure.
- [5.] *Stationary location requirement.* A mobile food dispensing vendor must operate from a stationary location, but may operate from multiple locations throughout the day, except as otherwise permitted in this article.
17. *Service Stations, Including Gasoline Sales.* Establishments for the dispensing of motor fuels and related projects at retail and having pumps, underground storage tanks and other facilities for such activity and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles within enclosed service bays or stalls. For the purpose of this Code, these services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.
18. *Trades and Skilled Services.* Shops providing services requiring skilled labor or craftsmanship for repair including household items, office equipment, appliances, printing, blue printing, carpet sales and service, feed stores, lawn and maintenance services, newspaper printing, radio and television broadcasting, restaurant equipment and supply sales and services. All such activities shall not include outside storage.
19. *Vehicular Service and Maintenance.* Vehicular establishments providing sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles. These services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.
20. *Vehicular Sales and Related Services.* The retail or wholesale sale or rental of motor vehicles and related equipment, with incidental services and maintenance.
21. *Veterinary Medical Services.* The provision of animal medical care and treatment by a Florida licensed veterinarian.

22. *Wholesale Trades and Services.* The display, limited storage and sale of goods to other firms for resale, excluding outside storage, except as otherwise provided in this chapter [Code].

D. *Industrial Activities.* The following land uses are included in the industrial land use classification where the same are conducted within a totally enclosed building except as specifically provided herein:

1. *Kennels* for boarding of domestic dogs and cats and veterinary medical operations.
2. *Manufacturing Activities* including:
 - Manufacturing or processing of electronic components, optical instruments, electrical appliances, or other precision components;
 - Assembly and distribution of goods;
 - Maintenance, repair, reconditioning, and cleaning;
 - Printing;
 - General packaging and processing activities;
 - Research and development technology;
 - Commercial laundries;
 - Machine shops;
 - Agricultural research laboratories;
 - Vocational and trade schools;
 - Sale of building material.

Other similar manufacturing activities conducted in a fully enclosed building which are approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses shall exclude metal fabrication, chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such uses shall be as cited in the following Section 1-2.6 [1-2.7].

3. *Manufacturing Service Establishments*, such as heavy machinery repair and service; heavy machinery or heavy equipment rental or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and based on absence of any characteristic ~~dissimilar and incompatible with the uses identified herein.~~
4. *Vehicle and Other Mechanical Repairs and Services*, including those not permitted as commercial zoning activities including paint and body shops.
5. *Warehousing, Storage and Distribution Activities*, including building contract construction, building supplies, furniture stores with major warehousing, and trade services with extensive warehousing, trucking support facilities, or requirement of outside storage.

E. *Agricultural Activities.* The following land uses are included in the agricultural land use classification. No such activity shall permit commercial retail operations, except as otherwise expressly provided in the definition and/or the agricultural district provisions cited within this Code.

1. *Commercial Stables*, including a stable operated for profit on a minimum five (5) acre site of not more than one (1) horse for the first one (1) acre and one (1) additional horse for each additional one-half (½) acre. Also reference conditional use criteria.

2. *Noncommercial Agricultural Activities*, including home gardens, noncommercial greenhouses, and keeping of agricultural animals. Keeping of agricultural animals shall be limited to one (1) agricultural animal for the first one (1) acre and one (1) additional animal for each additional one-half (½) acre.
3. *Wholesale Agricultural Activities*, including harvested agricultural crops, fish and aquatic farms, grazing of cattle, and wholesale trade of products grown or raised on premises. These agricultural operations shall be restricted to sites with a minimum of five (5) acres.

All animals permitted pursuant to this subsection shall be maintained within a controlled area bounded by a fence or other barrier approved by the Town.

(Ord. No. 12-48, § 1, 1-23-12; Ord. No. 14-01, § 1, 2-3-14; Ord. No. 20-14, § 1, 12-21-20)

Article III DISTRICT PROVISIONS

Section 1-3.2. Land use by districts.

Table 1-3.2 "Land Use by Districts" stipulates the permitted and conditional uses by district.

Permitted uses are uses allowed by right provided all applicable regulations within the land development code are satisfied as well as other applicable laws and administration regulations. Conditional uses are allowable only if approved by the Town pursuant to administrative procedures found in Article VI. The applicant requesting a conditional use must demonstrate compliance with conditional use criteria set forth in Article VI.

No permitted use or conditional use shall be approved unless a site plan for such use is first submitted by the applicant. The applicant shall bear the burden of proof in demonstrating compliance with all applicable laws and ordinances during the site plan review process. Site plan review process is set forth in Article X.

Cross reference(s)—Alcoholic beverages, ch. 4Cross reference(s)—.

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-6 5	RS-2 1	RS-1 5	RS-1 0	RM-4	RM-6	R- MH	OI	CL	CG	R/LC	IND	INS	CP
RESIDENTIAL USES														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			
COMMUNITY FACILITIES														
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P	
Child Care Facilities								C			C		C	
Churches, Synagogues and Other Places of Worship								P, A ¹	P	C	C		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Facilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	C
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C

COMMUNITY RESIDENTIAL HOME													
Level 1 (1 to 6 residents/beds)	C ³					C	C						
Level 2 (7 to 14 residents/beds)						C	C						C
ASSISTED CARE COMMUNITIES													
I Assisted Living Facility													
Level 1 (1 to 5 residents/beds)		C	C	C		C ⁴	C ⁴					C	
Level 2 (6 to 15 residents/beds)						C ⁴	C ⁴						
Level 3 (16 or more residents/beds)						C ⁴	C ⁴						
II Adult Family-Care Homes													
(1 to 5 residents/beds)	C ³	C	C	C		C	C					C	
III Adult Day Care Centers													
						C	C		C			C	C
AGRICULTURAL ACTIVITIES													
Noncommercial Agricultural Operations	P												
Wholesale Agricultural Activities	P												
Commercial Stables	C												
COMMERCIAL ACTIVITIES													
Adult Activities												C	
Bars and Lounges												C	
Bed and Breakfast													P ¹
Business and Professional Offices									P	P	P	P	P
Enclosed Commercial Amusement												P	
Arcade Amusement Center/ Electronic Gaming Establishment												C ²	
Funeral Homes										P	P	C	
General Retail Sales and Services												P	
Hotels and Motels												P	
Limited Commercial Activities										P	P	P	

Limited Manufacturing Activities									C	P	C5						
Limited Manufacturing Services									C	P	C5						
Marine Commercial Activities											C*						
Medical Services							P	P	P	P							
Mini Warehouse/Storage									C	P			P				
Parking Lots and Facilities							P	P	P	P				P			
Retail Plant Nurseries									P	P	P						
Restaurants (Except Drive-Ins and fast food service)									P	P	P						
Restaurants (Drive-ins)											P						
Service Station, Including Gasoline Sales											C*			C*			
Trades and Skilled Services											P			P			
Veterinary Medical Services							P	P	P	P	C		P				
Vehicular Sales and Services											C*			P			
Vehicular Services and Maintenance											C*			P			
Wholesale Trades and Services											C*			P			
INDUSTRIAL ACTIVITIES																	
Kennels																C	
Manufacturing Activities															P		
Manufacturing Service Establishments															P		
Vehicle and Other Mechanical Repair and Services												C*			P		
Warehouse, Storage and Distribution Activities															P		
WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES																	
Noncommercial piers, boat slips, and docks																	C

C	=	Conditional Use
P	=	Permitted Uses
A	=	Accessory Use

*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.

¹ Any Bed and Breakfast which is proposed to have more than five (5) living quarters shall only be approved as a conditional use in accordance with Article VI of the Land Development Regulations.

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

³ Allowed in RR-65, (1 to 2 residents/beds) as defined in FS Title XXX Chapters 419 & 429

⁴ ALF Factor of "3" (see section I-2.6.B.13.B, Part I) only applies to RM-4 & RM-6 for ALF's

⁵ Subject to FL state law associated with CS/HB 403 related to Home-based Businesses which outlines allowances and restrictions such as property use, residents, parking, signage, and federal, state and local regulations related to use/storage/disposal of hazardous materials.

(Ord. No. 94-4, § 3, 4-3-95; Ord. No. 97-3, § 2, 3-17-97; Ord. No. 05-01, § 1, 3-7-05; Ord. No. 06-19, § 1, 1-11-07; Ord. No. 12-48, § 2, 1-23-12; Ord. No. 14-01, § 3, 2-3-14; Ord. No. 2016-03, § 1, 2(Exh. A), 10-3-16; Ord. No. 20-02, §§ 1, 2, 3-2-20

**LIZ RITTER
PZ MEMBER
EMAILED NOVEMBER 4, 2022**

AGENDA ITEM REPORT NO: 9.a.

- **COMMENTS FOR LAND DEVELOPMENT CODE SECTION 1-2 LAND CLASSIFICATIONS. LIMITED MANUFACTURING ACTIVITIES & SERVICES**

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9. Limited Manufacturing Activities. This land use classification is intended to accommodate small limited item shops with limited inventory serving a specialized market with customized service demand. This classification is intended to include the following:

- Manufacturing or processing of electronic &/or computer components, optical instruments, electrical appliances, or other precision components;
- Assembly and distribution of goods;
- Maintenance, repair, reconditioning, and cleaning;
- Printing;
- Limited packaging and processing activities;
- Research and development technology;
- Small Machine shops

Other similar limited manufacturing activities conducted in a fully enclosed building which are approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses shall exclude metal fabrication, chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such uses shall be as cited within the following Section 1-2.6 [1-2.7].

10. Limited Manufacturing Services, such as Customer & Call Support, low impact machinery &/or Electronic Device repair and services or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

Other similar limited manufacturing activities services conducted in a fully enclosed building which are approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses shall exclude metal fabrication, chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.