



# Planning and Zoning Board Meeting

Wednesday, December 14, 2022 at 6:00 pm

**1. CALL TO ORDER, PRAYER AND PLEDGE**

**2. ROLL CALL**

**3. SWEAR IN NEW BOARD MEMBERS**

By Mayor Patrick T. Reilly

**4. APPOINT CHAIR AND VICE-CHAIR**

**5. APPROVAL OF AGENDA**

**6. CONSENT AGENDA**

APPROVAL OF MINUTES

**a. Approval of Minutes of 10/26/2022**

Exhibit: Agenda Report Number 6a

**Attachments:**

- **Agenda Report Number 6a** (Agenda\_Report\_Number\_6a.pdf)

**7. PUBLIC COMMENTS**

**8. PUBLIC HEARING**

**9. ACTION ITEMS**

**a. Discussion/Action to Council for 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** (Agenda\_Report\_Number\_9a.pdf)

**10. DISCUSSION/POSSIBLE ACTION ITEMS**

**a. Discussion Request by perspective buyer to operate a private school in the R/LC (Residential/Limited Commercial) Zoning District located at: 1490 Marie Street, Malabar, Florida, 32950.**

Representative: Mr. Pete Baldwin of Christian Prep School

Exhibit: Agenda Report Number 10a

**Attachments:**

- **Agenda Report Number 10a** (Agenda\_Report\_Number\_10a.pdf)

**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 - January 11th, 2023

**14. ADJOURNMENT**

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Contact: Denine Sherear (dsherear@townofmalabar.org 13217277764) | Agenda published on  
12/08/2022 at 2:13 PM

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

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 6.a.**  
**Meeting Date December 14, 2022**

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

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**SUBJECT: Approval of Minutes**

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**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

**ACTION OPTIONS:**

Secretary requests approval of the minutes.

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
OCTOBER 26, 2022, 6:00 PM**

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

**1. CALL TO ORDER, PRAYER, AND PLEDGE:**

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Vice-Chair Doug Dial.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE EXCUSED
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	GEORGE FOSTER,
	SUSAN SHORTMAN EXCUSED
ALTERNATE:	VACANT
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	PATRICK T. RIELLY, MAYOR

**3. ADDITIONS/DELETIONS/CHANGE:**

**4. CONSENT AGENDA:1**

4.a. **Approval of Minutes** Planning and Zoning Meeting – 10/26/022

**Exhibit:** Agenda Report No. 4.a  
**Recommendation:** Request Approval

**Motion: Foster/ Ritter to Approve Minutes of 10/12/2022 as corrected**

**Voted: All Ayes**

**5. PUBLIC HEARING/COMMENTS:0**

Barbara Cameron, Hall Road it appears across the road there are travel trailers, with people living in trailers, Sherear suggested to talk to Town Manager for Code Enforcement.

**6. ACTION:0**

**7. DISCUSSION:1**

7.a. **Continued Discussion and Review to amend Land Development Code to include "Limited" Manufacturing in the R/LC, CL, and CG Commercial Land Use and Commercial Zoning Districts.** (Originally Presented by Mayor Patrick T. Reilly on September 14, 2022)

**Exhibit:** Agenda Report No. 7.a.  
**Recommendation:** Discussion/Action

Dial reminded the Board that at the last meeting this amendment would be "Limited Manufacturing Activity" and "Limiting Manufacturing Services"

Dial/Ritter said in this Agenda Packet it appeared to describe the Limited Manufacturing. The Board is reviewing the packet and on page 18 suggested adding computer businesses.

Ritter asked about Limited Services vs Limited Manufacturing, Dial suggested combing but after looking into this, he said that one would be the business portion ie. Office, etc and the other actual work and put parts together.

Ritter suggested to expand on Limited Manufacturing Services adding customer & call center with electronic computer devise & low impact computer for other repair services.

Dial said under #10 on page 18 add new verbiage. Make two amendments consistent.

Mayor Reilly said that a member on Council wanted to make sure there is no storing of hazardous materials. Also, he was looking in CG & CL as a stretch to add R/LC, it would be an asset.

Mayor Reilly said to review the following section 1-2.6 Land Use on classifications & 1-2.7" with in."

Ritter discussed the R/LC zoning can have a business & residence. Foster added there is also conditional uses available.

The Board discussed the Table 1-2.6 & 1-2.7 page 27 of Agenda.

The Board decided that when they have a full Board, they will review the suggestions and motion for staff to review before going to Council.

8. *Intentionally left Blank*
9. **ADDITIONAL ITEMS FOR FUTURE MEETING**
10. **PUBLIC COMMENTS**
11. **OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

Foster said this is his last night on the PZ Board and Thanked everyone for the opportunity.

**Reminder: Next Meeting – November 9, 2022**

#### **K. ADJOURN**

There being no further business to discuss, MOTION: Foster/ Ritter to adjourn this meeting. Vote: All Ayes. The meeting adjourned 6:48 P.M.

BY:

\_\_\_\_\_  
Doug Dial, Vice-Chair

\_\_\_\_\_  
Denine Sherear, Board Secretary

\_\_\_\_\_  
Date Approved: as presented

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

**AGENDA ITEM NO: 9.a.**  
**Meeting Date December 14 ,2022**

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

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**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).

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#### **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 this 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.

DOUG WILSON

TOWN OF MALABAR

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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.

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.

- 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)





**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
<b>RESIDENTIAL USES</b>														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P	P				P			
<b>COMMUNITY FACILITIES</b>														
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 <sup>1</sup>	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 <sup>1</sup>					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 <sup>3</sup>					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 <sup>4</sup>	C <sup>4</sup>				C	
Level 2 (6 to 15 residents/beds)						C <sup>4</sup>	C <sup>4</sup>					
Level 3 (16 or more residents/beds)						C <sup>4</sup>	C <sup>4</sup>					
II Adult Family-Care Homes												
(1 to 5 residents/beds)	C <sup>3</sup>	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 <sup>1</sup>	
Business and Professional Offices								P	P	P	P	P
Enclosed Commercial Amusement										P		
Arcade Amusement Center/ Electronic Gaming Establishment										C <sup>2</sup>		
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	Cs									
Limited Manufacturing Services								C	P	Cs									
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.

<sup>1</sup> 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.

<sup>2</sup> 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.

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

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

<sup>5</sup> Subject to FL state law associated with CS/HR 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 in 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 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.

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.

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

**AGENDA ITEM NO: 10.a.**  
**Meeting Date December 14, 2022**

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

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**SUBJECT:** Discussion request by perspective buyer to operate a private school in the R/LC (Residential/Limited Commercial) Zoning located at: 1490 Marie Street, Malabar FL 32950  
Representative: Mr. Pete Baldwin of Christian Prep. School

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#### **BACKGROUND/HISTORY:**

This is strictly an informal request by Mr. Pete Baldwin who is affiliated with Christian Prep Schools to operate a private school. The property is in the Town of Malabar AKA: 1490 Marie Street. The present zoning/land use is Residential/Limited Commercial (R/LC).

I have provided information concerning land use/zoning requirements.

Discussion Items to include the following:

- Agenda Request- Christian Prep Schools
- Emails and Flyers in reference to School
- Article III District Provisions- Town of Malabar
- Comprehensive Plan & Map

#### **ACTION OPTIONS:**

No Action- Limited Discussion



TOWN OF MALABAR

**AGENDA ITEM REQUEST FORM  
MALABAR TOWN COUNCIL**

NOV 14 2022

RECEIVED

Please mail completed form to:

Town of Malabar  
2725 Malabar Road  
Malabar, Florida 32950

NAME: Christian Prep Schools

ADDRESS: 227 N John Young Park Way  
pbaldwin@christianprepschools.com

TELEPHONE: 407 973-2011 (Home) 407 946 0231 (Business)

**Please state the item you wish to have placed on the Town Council Agenda.**

Request to operate a private school at  
1490 Marie St, Malabar

**Please summarize pertinent information concerning your requested Agenda item and attach applicable documents.**

The property was originally built to be a school  
and we would love to bring our 13 years of  
successfully run private schools to this community

**Please state desired action by Town Council.**

[Empty box for desired action]

Signed: [Signature]

Date: 11-15-22

## Denine Sherear

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**From:** Pete Baldwin <pbaldwin@christianprepschools.com>  
**Sent:** Wednesday, December 7, 2022 11:47 AM  
**To:** Denine Sherear  
**Cc:** Diana Baldwin  
**Subject:** Fw: Malabar School

TOWN OF MALABAR

DEC 07 2022

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Here is a brief thought on the plans for Bayonne Estates as far as a education component of the property.

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**From:** Diana Baldwin <dcbaldwin30@yahoo.com>  
**Sent:** Tuesday, December 6, 2022 11:07 AM  
**To:** Pete Baldwin <pbaldwin@christianprepschools.com>  
**Subject:** Malabar School

Proposed name:  
Malabar Christian Preparatory School  
The Home of the School of Fine Arts

The Christian Prep Schools ministry is focused on preparing students spiritually, mentally, and academically for their lives in the future. The schools are designed to help students in an individualized way to learn and prepare for their futures. My first visit to Malabar inspired me to see a school in our ministry to develop a Fine Arts school for our students. The building, its history and even the location next to an incredible park with nature inspiring the vision I see. The students would be students of dance, music, and theatre as well as visual arts. I see a culinary component to the school. Then on the weekends we have these students perform and share the fruits of their learning at events. The schools have an incredible Sports program. I am ready to establish our Art program. I was just waiting to the right place. I see students writing and acting in a play, dancers practicing upstairs in dance classes, and painters sitting looking at beautiful trees in the back yard. The first project being the Banyan tree. I see students that benefit from our one-on-one style of teaching thriving to reach their schools academically and artistically in the school. I have seen over the past 15 years thousands of students' lives be changed and given direction in our schools. I hope that Malabar is the next chapter in this story. God Bless.

Diana Baldwin  
Director of New Schools for the Christian Prep. School Ministry

## Denine Sherear

---

**From:** Lauren Ravis <marketing@christianprepschools.com>  
**Sent:** Wednesday, December 7, 2022 9:45 AM  
**To:** Denine Sherear  
**Subject:** Christian Preparatory Schools Information  
**Attachments:** Christian Prep Schools Flyer.pdf

TOWN OF MALABAR

DEC 07 2022

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Hello,

I am Lauren Ravis, the Marketing Director for Christian Preparatory Schools. I have attached an informational flyer about our schools to this email. If you have any questions about Christian Preparatory Schools, please let me know!

Have a blessed day,

Lauren Ravis  
Marketing Director  
Christian Preparatory Schools



# CHRISTIAN PREPARATORY SCHOOLS

christianprepschools.com

TOWN OF MALABAR

DEC 07 2022

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## SAFE

Strong no-bullying policy, security cameras, great teachers, safe environment. Safe before and after care!



## FUN

Fun learning environment, exciting weekly activities, variety of afterschool clubs, competitive sports, monthly field trips, and more!

## GREAT EDUCATION

Every student receives one-on-one instruction, personalized education, dual enrollment, 30 foreign languages, flexible learning options, and more!



# NOW ENROLLING K-12



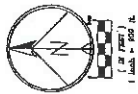
# CALL (407) 577-0003 TO ENROLL TODAY!

# TOWN OF MALABAR

## FUTURE LAND USE MAP



PLANNING HORIZON  
2030



**LAND USE DESIGNATIONS**

RESIDENTIAL LIMITED COMMERCIAL (RLC)	INDUSTRIAL (I)
HIGH DENSITY RESIDENTIAL-1 (HNR PER ACRE (HNR))	OFFICE INSTITUTIONAL (OI)
MEDIUM DENSITY RESIDENTIAL-1 (MDR PER ACRE (MDR))	INSTITUTIONAL (IN)
LOW DENSITY RESIDENTIAL-1 (LDR PER ACRE (LDR))	OPEN SPACE AND RECREATION (OSR)
MIXED RESIDENTIAL-1 (MNR PER 1/2 ACRE (MNR))	MULTI-FAMILY RESIDENTIAL OR LODGE (SPACE (MFR))
COMMERCIAL GENERAL (CG)	CONSERVATION (CON)
COMMERCIAL LIMITED (CL)	RECREATIONAL SERVICES (RS)
INDUSTRIAL (I)	PLD RESIDENTIAL OR COMMERCIAL
OFFICE INSTITUTIONAL (OI)	CORRAL PRESERVE (CP)
INSTITUTIONAL (IN)	RR 1/2 AC
OPEN SPACE AND RECREATION (OSR)	RR 1/4 AC
MULTI-FAMILY RESIDENTIAL OR LODGE (SPACE (MFR))	RR 1/8 AC
CONSERVATION (CON)	RR 1/16 AC
RECREATIONAL SERVICES (RS)	RR 1/32 AC
PLD RESIDENTIAL OR COMMERCIAL	RR 1/64 AC
CORRAL PRESERVE (CP)	RR 1/128 AC
RR 1/2 AC	RR 1/256 AC
RR 1/4 AC	RR 1/512 AC
RR 1/8 AC	RR 1/1024 AC
RR 1/16 AC	RR 1/2048 AC
RR 1/32 AC	RR 1/4096 AC
RR 1/64 AC	RR 1/8192 AC
RR 1/128 AC	RR 1/16384 AC
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principles for locating alternative land use activities shall be governed by the underlying land use designated for the site. Developers who voluntarily participate in the process shall bind themselves as well as those who may be their successors in title to the affected land.

1-2.11.2 Policy:

*Reinforce and enhance the Town's rural residential atmosphere.* Within one (1) year of the adoption of this plan, the Land Development Code shall be amended to incorporate Planned Unit Development District (PUD) standards and specifications that maintain and enhance the profile and rural atmosphere of the Town. Standard and Specifications may include Malabar Vernacular architectural styles and detailing, garage and facades, signage, parking, landscaping, street access and circulation, and open space.

1-2.12 Objective:

*School Siting.* The Future Land Use Map shall accommodate schools within all land use designations at locations that minimize impacts to adjacent residential land use, that provide safe and efficient access to school sites, that create compatibility with adjacent residential land uses, that comply with all provisions of the Comprehensive Plan and Land Development Code, and shall be implemented through the following policies:

1-2.12.1 Policy:

*School Site Locations: Site Compatibility.* School sites shall be located and developed pursuant to plans that preserve land use compatibility.

Compatibility determinations shall be undertaken to ensure that school sites are compatible with present and projected uses of adjacent property and that site plans reinforce long term compatibility. Land use compatibility shall require avoidance or successful mitigation of adverse impacts of noise and any spill over of outdoor lighting onto residential property in excess of best management principles and industry standards; shall accommodate safe and convenient internal circulation and queuing of vehicles, as well as off-street parking area design that avoids headlight illumination into adjacent

residential properties, and shall require successful mitigation of the adverse impacts generated by outside unenclosed activity areas such as playgrounds and field sports areas.

1-2.12.2 Policy:

*School Site Locations: School Site Size.* The sites shall be consistent with recommended State standards for public schools.

1-2.12.3 Policy:

*School Site Locations: Compliance with Town of Malabar Comprehensive Plan and Concurrency Requirements.* All school sites shall be served by adequate public facilities and services required to support elementary, middle, junior high, and senior high schools, including but not limited to, public potable water and sanitary sewer systems, stormwater management facilities, and fire, police, and medical services as well as sidewalks and paved roads with convenient and safe access that create direct linkage to a major collector or arterial street. The developed school site shall meet all concurrency management level of service requirements of the Town. The site plans shall comply with applicable public school facility elements and school facility concurrency requirements as mandated by State law.

- a. Elementary School. A minimum of four (4) acres for the first two hundred (200) student capacity plus one (1) acre for each additional one hundred (100) students.
- b. Middle or Junior High School. A minimum of six (6) acres for the first three hundred (300) student capacity plus one (1) acre for each additional one hundred (100) students.
- c. Senior High School. A minimum of seven (7) acres for the first three hundred (300) student capacity plus one (1) acre for each additional fifty (50) students up to one thousand (1,000) students thereafter.
- d. Minimum site size may be adjusted for sites on which co-location of facilities are proposed or on sites characterized by development of

multi-story facilities designed to achieve advantages of cluster design techniques consistent with best management principles and practices.

1-2.12.4 Policy:

*School Site Locations: Future Land Use Map Designations for Schools.* School sites should be located on sites that can be focal points for community activities and should incorporate innovative urban design, including opportunities for shared use and co-location with other community facilities. All school facility applications for site plan approval or other required land use approvals must comply with the Town of Malabar Comprehensive Plan and Land Development Regulations.

- a. Elementary schools should be within walking distance of residential neighborhoods served and the elementary school sites shall provide safe and convenient direct or indirect access to major collector or arterial roads and such sites may be selected within any future land use designations delineated on the Future Land Use Map.
- b. Middle, Junior High and Senior High Schools shall be located on the periphery of residential neighborhoods and the school sites shall have direct access to major collector or arterial streets and such sites may be selected within any future land use designations delineated on the Future Land Use Map.

1-2.12.5 Policy:

*School Site Locations: Protect Natural Resources and Avoid Encroachment into Environmentally Fragile Systems.* School facilities shall not be located within wetlands, the 100-year floodplain, or threatened or endangered flora or fauna habitats. School facilities shall be planned and developed in a manner approved by all federal, state, and local agencies having jurisdiction over such natural resources, including applicable buffer standards. School sites shall be well drained and the soils shall not impose severe constraints to intensive development.

1-2.12.6 Policy:

*School Site Locations: Protect Archaeologically and Historically Significant Sites.* School sites shall not adversely impact an archaeologically or historically significant site listed in the National Register of Historic Places or the State list of historically or archaeologically significant sites, or listed by the Town of Malabar as an historically or archaeologically significant site and which would be adversely impacted by development of a school facility.

1-2.12.7 Policy:

*School Site Locations: Locate Outside of Airport Approach Zones and High Impact Noise Contours.* School site locations shall be compliant with Section 333.03, F.S., which addresses in part the construction of educational facilities in the vicinity of an airport approach zone or high impact noise contour.

1-2.12.8 Policy:

*School Site Locations: Encourage Co-Location of Public Facilities with Complementary Functions.* School site selection shall encourage co-location of public facilities with complementary functions. Site selection should be coordinated with the Town of Malabar and Brevard County in order to enhance opportunities for such co-location and to ensure that the site selection process considers the spatial needs of not only the school plant but also the spatial needs of other potential joint users of the site. To maximize use of public facilities in the Town of Malabar, the Town shall encourage co-location of public schools with public facilities, having complementary functions such as parks, libraries, and appropriate children's service facilities where feasible, practical, safe and beneficial to the Town and the School Board.

1-2.12.9 Policy:

*Siting of Private School Sites.* The intent and purpose of public and private schools is to provide an organized system of education to a student population. Although the age of the student population served and the

program orientation of educational facilities may differ widely, both public and private school facilities generate potential land use compatibility issues previously identified in Policies 1-2.12.1 through 1-2.12.8.

School siting criteria is required by State law for public schools. However, the land use compatibility issues documented herein shall be implemented in the site plan review process for both public and private schools. Private schools shall be accommodated within all land use designations. Minimum site size for any private school facility shall be determined on a case by case basis based on best management principles and practices. The minimum size shall be directly related to land and facility spatial requirements for the educational activity, size of near and long-term clientele, character and intensity of activity areas, nature of outdoor activities and facilities, and other characteristics of the proposed private facility.

1-2.12.10 Policy:

*Amend the Land Development Code to Implement the School Siting Policies.* The Town shall amend Table 1-3.2 within §1-3.2, Town of Malabar Land Development Code, which currently only allows educational institutions as a conditional use within the Office/Institutional (OI) or Institutional (INS) zoning districts. The amendment shall implement the recommended school siting policies stated in Policies 1-2.12.1 through 1-2.12.8.

1-2-13 Objective:

*Malabar Road as a local corridor.* The Town shall evaluate the development of Malabar Road as a local corridor.

1-2.2.13.1 Policy:

*Malabar Road Corridor Plan.* The Town shall pursue a corridor plan for Malabar that incorporates the following objectives; incorporates low density office and commercial uses; promotes economic development; provides additional services to the Town; remains true to the spirit and rural

**(PORTION OF TOWN OF MALABAR CODE)**

**ARTICLE III**  
**DISTRICT PROVISIONS**



age future densities in order to assure that future densities are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.

- E. *RS-10 "Single-Family Medium-Density Residential."* The RS-10 district is established to implement comprehensive plan policies for managing traditional single-family residential development on lots not less than 10,000 square feet. This district is established to preserve the stability of existing and future single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that they are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- F. *R-MH "Residential Mobile Homes."* The R-MH district is established to implement comprehensive plan policies for managing high density mobile home residential development. The district is designed for managing mobile home development at a density not to exceed six units per acre. The district is intended to provide sites for mobile home development within existing established mobile home parks.
- G. *RM-4 "Multiple-Family Medium-Density Residential."* The RM-4 district is established to implement comprehensive plan policies for managing medium-density residential development not to exceed four units per acre. The district is established to ensure sufficient land area for development of medium-density multiple-family residential developments which are fully serviced by adequate public facilities. Sites for medium-density multiple-family residential development shall be located so that they provide a smooth transition between low density residential development and areas developed and/or designated for more intense uses.
- H. *RM-6 "Multiple-Family High-Density Residential Development."* The RM-6 district is established to implement comprehensive plan policies for managing high-density residential development at a density not to exceed six units per acre. The district is established to ensure that sufficient land is available for developments of high-density residential development and is intended to ensure availability of adequate public facilities.
- I. *OI "Office-Institutional."* The OI district is established to implement comprehensive plan policies for managing office-institutional development. This district is designed to accommodate businesses and professional offices together with institutional land uses on sites which:
- Have accessibility to major thoroughfares;
  - Have potential to be served by a full complement of urban services;
  - Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential adjacent land uses of differing intensities;

- Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses (except those Community Facilities defined as Nursing Homes and Related Health Care Facilities in 1-2.6.B.10(B)), general retail sales and services, warehousing, and outside storage; and
- Frequently serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher intensity.
- A Malabar Vernacular Style is required for all development along arterial roadways.

→ J. *INS "Institutional Services."* The INS district is established to implement comprehensive plan policies for managing institutional development. The district is intended to accommodate public and semi-public facilities such as government administration buildings; fire, police, and rescue services; health care delivery services; and educational institutions. Land uses such as places of worship, cultural or civic centers, and other similar public or private not-for-profit uses may be included within this district.

K. *CL "Commercial Limited."* The CL district is established to implement comprehensive plan policies for managing limited commercial development accessible to major thoroughfares near residential neighborhoods. Such development is intended to provide essential household services in locations highly accessible to residential areas. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods. Such shops generally cater to the following markets:

- Neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional market; or
- A specialized market with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for limited commercial development are not intended to accommodate large-scale retail sales, services, and trade activities, generally serving a city-wide or regional market. Such stores would usually differ from limited commercial shops since the former would usually require a larger floor area, carry a relatively larger inventory and require substantially greater parking area. Uses, which are not intended to be accommodated within the limited commercial area, include the following: large scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposable containers and/or providing drive-in facilities. No residential uses shall be located in the limited commercial district.

L. *CG "Commercial General."* The CG district is established to implement comprehensive plan policies for managing general commercial development. The general commercial

- N. *PUD "Planned Unit Development."* The PUD district is established to implement comprehensive plan policies for managing planned unit development. The comprehensive plan incorporates policies encouraging innovative development concepts, including mixed use development. The planned unit development is intended to provide a voluntary framework for coordinating objectives of developers which may require departures from established public policy. The planned unit development district provides a management strategy for negotiating innovative development concepts, design amenities, and measures for protecting natural features of the land. The management process shall promote public and private coordination and cooperation. The land development code incorporates detailed regulations, standards, and procedures for implementing the planned unit development concept.

The planned unit development district shall be available as a voluntary approach for managing specific development characteristics and project amenities to be incorporated in residential, commercial, industrial or mixed use development. Developers who voluntarily participate in the process shall bind themselves as well as their successors in title to the stipulations within the development order approving the planned unit development district.

~~Present~~ →

- O. ~~*R/LC "Residential and Limited Commercial."*~~ The ~~R/LC~~ district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor as delineated on the FLUM. For instance, sites within this district are intended to accommodate neighborhood shops with limited inventory or goods as well as single family and multiple family structures with a density up to six (6) units per acre. Commercial activities shall generally cater to the following markets:

- Local residential markets within the town as opposed to regional markets; or
- Specialized markets with customized market demands.
- A Malabar Vernacular Style is required for all development along arterial roadways.

Areas designated for mixed use Residential and Limited Commercial development are not intended to accommodate commercial activities with a floor area in excess of four thousand (4,000) square feet, such as large-scale retail sales and/or service facilities or trade activities. These types of commercial activities generally serve regional markets and the intensity of such commercial activities is not generally compatible with residential activities located within the same structure or located at an adjacent or nearby site. Such stores would usually differ from limited commercial shops since the former would usually require a floor area larger than four thousand (4,000) square feet; would generally carry a relatively larger inventory; and require substantially greater parking area. Uses, which are not intended to be accommodated within the

limited commercial area, include the following: large-scale discount stores; health spas; supermarket; department stores; large scale wholesaling and warehousing activities; general sales, services or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; and fast food establishments primarily serving in disposal containers and/or providing drive-in facilities.

Single family or multiple family residential uses with a density no greater than six (6) units per acre may also be located in the R/LC district. Such residential uses may be located either within a freestanding structure or within a structure housing both Residential and Limited Commercial activities. The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in this Code.

(Ord. No. 94-4, § 2, 4-3-95; Ord. No. 07-02, §§ 1—4, 4-2-07; Ord. No. 14-01, § 2, 2-3-14)

### Section 1-3.2. Land use by districts.

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

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

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

Cross reference—Alcoholic beverages, ch. 4.

DISTRICT PROVISIONS

§ 1-3.2

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-5	R-MH	OI	CL	CG	R/LC	IND	INS	CP
<b>RESIDENTIAL USES</b>														
Duplex					P	P					P			
Mobile Homes							P							
Multiple Family Dwelling					P	P					P			
Single Family Dwellings	P	P	P	P	P	P					P			
<b>COMMUNITY FACILITIES</b>														
<b>Administrative Services</b>														
(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 <sup>1</sup>	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 <sup>1</sup>					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	
Public Parks and Recreation		C	C	C	C	C		C	C	C	C		C	
Public and Private Utilities		C	C	C	C	C		C	C	C	C		C	
<b>COMMUNITY RESIDENTIAL HOME</b>														
Level 1 (1 to 6 residents/beds)					C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	
<b>ASSISTED CARE COMMUNITIES</b>														
<b>I Assisted Living Facility</b>														
Level 1 (1 to 5 residents/beds)		C	C	C	C <sup>4</sup>	C <sup>4</sup>					C			
Level 2 (6 to 15 residents/beds)					C <sup>4</sup>	C <sup>4</sup>								
Level 3 (16 or more residents/beds)					C <sup>4</sup>	C <sup>4</sup>								
<b>II Adult Family-Care Homes</b>														
(1 to 5 residents/beds)		C	C	C	C	C		C			C			
III Adult Day Care Centers					C	C		C			C		C	
<b>AGRICULTURAL ACTIVITIES</b>														

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-05	RS-21	RS-15	RS-10	RM-4	RM-6	E-MH	OI	CL	CG	R/ILC	IND	INS	CP
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
<b>COMMERCIAL ACTIVITIES</b>														
Adult Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P <sup>1</sup>			
Business and Professional Offices							P		P	P	P	P	P	
Enclosed Commercial Amusement										P				
* Arcade Amusement Center/ Electronic Gaming Establishment										C <sup>a</sup>				
Funeral Homes									P	P	C			
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities									P	P	P			
Marine Commercial Activities										C <sup>*</sup>				
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														
Trades and Skilled Services										C <sup>*</sup>		C <sup>*</sup>		
Veterinary Medical Services										P		P		
Veterinary Sales and Services							P		P	P	C	P		
Vehicular Services and Maintenance										C <sup>*</sup>		P		
Wholesale Trades and Services										C <sup>*</sup>		P		
<b>INDUSTRIAL ACTIVITIES</b>														
Kennels														C
Manufacturing Activities														P

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Manufacturing Service Establishments														
Vehicle and Other Mechanical Repair and Services												P		
Warehouse, Storage and Distribution Activities										C*		P		
<b>WATER DEVELOPMENT</b>														
<b>NONCOMMERCIAL ACTIVITIES</b>														
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 1-2.6.B.13.B, Part D) only applies to RM-4 & RM-6 for ALF's (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)

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

Zoning District	Minimum Lot (1)		Depth (ft.)	Maximum Height (ft./stories)	Minimum Lotting Area (sq. ft.)	Setback (ft./%)			Maximum Imperious Surface Ratio (%)	Maximum Bathing Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)				Front	Rear	Side (1)				
<b>Rural Residential Development</b>												
RR-05	65,840	160	260	35/3	1,500	40	30	30	20	N/A	60	0.66
<b>Traditional Single Family Residential Development</b>												
RS-01	21,780	120	150	35/3	1,800	35	20	15	15	N/A	65	2.00
RS-16	15,000	100	120	35/3	1,500	30	20	15	15	N/A	65	2.004
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	N/A	60	4.00
<b>Multiple Family Residential Development</b>												
RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedrooms: 1100 3 Bedrooms: 1300 Each Additional Bedroom: 120	60	40	40	40	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedrooms: 700 3 Bedrooms: 900 Each Additional Bedroom: 120	25	20	10	10	n/a	50	6
<b>Mixed Use Development</b>												
M/LC	20,000	100	150	35/3	Single Family: Multiple Family: 1 Bedroom: 500 2 Bedrooms: 700 3 Bedrooms: 900 Each Additional Bedroom: 120 Commercial: Min. Area: 900 Max. Area: 4,000	25 50	20 25	10 10 <sup>4</sup>	10 20	n/a n/a	60 65	4 6
<b>Mobile Home Residential Development</b>												
M-MH	Site: 5 Acres Lot: 7000					10	8	8	10	N/A	50	6.00
<b>Office Development</b>												
OI	20,000	100	160	35/3	Minimum Floor Area: 1000	55/80	25	20	25	65	20	N/A
<b>Commercial Development</b>												



Zoning District	Minimum Lot (1)		Maximum Height (ft./stories)	Minimum Lotting Area (sq. ft.)	Setback (ft.) (2)			Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Depth (ft.)			Front	Rear	Sides (3)				
CL	20,000	100	35/3	Minimum Floor Area: 900	50	25	10 <sup>4</sup> 16 <sup>5</sup>	65	0.20	36	N/A
CG	20,000	100	35/3	Min. Area: 900 Max. Area: 4,000 Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20 <sup>4</sup> 15 <sup>5</sup>	65	0.20	35	N/A
<b>Industrial Development</b>											
IND	20,000	100	35/3	Minimum Floor Area: 1200	50 100 <sup>5</sup>	25 100 <sup>5</sup>	20 100 <sup>5</sup>	70	0.42	30	N/A
<b>Institutional Development</b>											
INS	20,000	100	35/3	Minimum Floor Area: 1200	50	25	20	60	0.20 0.10 <sup>6</sup>	40	N/A
<b>Coastal Preservation</b>											
CP	No Size or Dimension Standards Adopted										

<sup>1</sup>Minimum size sites and lots include one-half of adjacent public right-of-way.  
<sup>2</sup>Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Table 1-3.3(E) whichever is most restrictive.  
<sup>3</sup>Setback where rear lot line abuts an alley.  
<sup>4</sup>Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.  
<sup>5</sup>Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.  
<sup>6</sup>Recreation activities maximum FAR shall be .10.  
<sup>7</sup>In RR-65 Zoning, side and rear setback may be reduced for accessory structures to equal the height of the accessory structure but under no condition be reduced to less than 15 feet. If the height of the accessory structure height is 20 feet, the side and rear setbacks for that building would be 20 feet.

B. *Area requirements for uses not served by central water and wastewater services.* All proposed development within areas not served by central water and wastewater services shall comply with the septic permitting requirements of Brevard County.

C. *Impervious Surface Requirements (ISR) for All Uses.* The term "impervious surface" is defined as that portion of the land which is covered by buildings, pavement, or other cover through which water cannot penetrate. The impervious surface ratio requirement controls the intensity of development, by restricting the amount of the land covered by any type of impervious surface.

1. *Calculation of ISR.* The impervious surface ratio (ISR) is calculated for the gross site by dividing the total impervious surface by the gross site area. Water bodies are impervious but shall not be included as such in the ISR calculation.

Cluster development or other site design alternatives may result in individual lots exceeding the ISR, while other lots may be devoted entirely to open space. The Town may require, as a condition of approval, deed restrictions or covenants which guarantee the maintenance of such open space in perpetuity. The ISR requirement shall not be bypassed or reduced. However, the intent is to allow maximum flexibility through calculating ISR on the gross site, and not on a lot-by-lot basis.

2. *Use of Porous Material.* Porous concrete, asphalt, porous turf block, or similar materials may be used subject to approval of the Town Engineer.
3. *Compliance with ISR Stipulated in Table 1-3.3(A).* All proposed development shall comply with the standards given in the table of impervious surface ratios in Table 1-3.3(A).

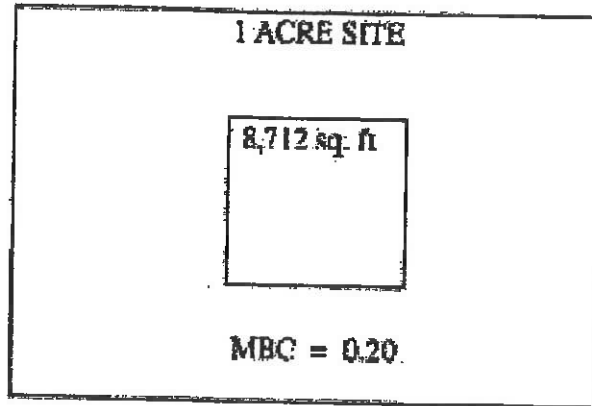
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

D. *Maximum Building Coverage.* The term "maximum building coverage" is defined as a measurement of the intensity of development on a site. For purposes of this Code, maximum building coverage (MBC) is used to regulate nonresidential development.

1. *Calculation of MBC.* The MBC is the relationship between the total building coverage on a site and the gross site area. The MBC is calculated by adding together the total building coverage of a site and dividing this total by the gross site area. See figure 1-3.3(D) for a graphic illustration of this concept.

All proposed nonresidential development shall comply with the MBC requirements stipulated in Table 1-3.3(A) for the zoning district in which the development is located.

FIGURE 1-3.3(D). MAXIMUM BUILDING COVERAGE ILLUSTRATION



Maximum building coverage for a MBC of 0.20 = 8,712 sq. ft.

$$\text{MBC} = \frac{\text{Total Building Coverage}}{\text{Total Lot Area}}$$

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

TABLE 1-3.3(E). PRINCIPAL STRUCTURE SETBACKS FROM CENTERLINE OF THOROUGHFARES

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

F. *Minimum Distance Between Principal Buildings.* The minimum distance between principal buildings shall be twenty (20) feet. The distance shall be measured at the narrowest space between buildings and shall not include roof overhang. (Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; Ord. No. 94-4, § 4, 4-3-95; Ord. No. 96-1, § 1, 3-4-96; Ord. No. 97-5, § 1, 3-17-97; Ord. No. 02-03, § 1, 8-5-02; Ord. No. 03-02, § 1, 2-24-03; Ord. No. 04-08, §§ 1, 2, 7-12-04; Ord. No. 06-05, § 1, 2-6-06; Ord. No. 06-16, §§ 1, 2, 10-2-06; Ord. No. 19-02, § 2, 3-4-19; Ord. No. 19-03, § 2, 3-4-19)