



# Planning and Zoning Board Meeting

Wednesday, March 27, 2024 at 6:00 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA

#### APPROVAL OF MINUTES

**a. Approval of Minutes of 08/11/2021**

Exhibit: Agenda Report Number 4.a.

**Attachments:**

- **Agenda Report Number 4.a.** (Agenda\_Report\_Number\_4.a..pdf)

**b. Approval of Minutes of 08/25/2021**

Exhibit: Agenda Report Number 4.b.

**Attachments:**

- **Exhibit: Agenda Report Number 4.b.** (Agenda\_Report\_Number\_4.b..pdf)

**c. Approval of Minutes of 09/08/2021**

Exhibit: Agenda Report Number 4.c.

**Attachments:**

- **Agenda Report Number 4.c.** (Agenda\_Report\_Number\_4.c..pdf)

**d. Approval of Minutes of 10/27/2021**

Exhibit: Agenda Report Number 4.d.

**Attachments:**

- **Agenda Report Number 4.d.** (Agenda\_Report\_Number\_4.d..pdf)

**e. Approval of Minutes of 11/10/2021**

Exhibit: Agenda Report Number 4.e.

**Attachments:**

- **Agenda Report Number 4.e.** (Agenda\_Report\_Number\_4.e..pdf)

**f. Approval of Minutes of 03/13/2024**

Agenda Report Number 4.f.

**Attachments:**

- **Agenda Report Number 4.f.** (Agenda\_Report\_Number\_4.f..pdf)

**5. PUBLIC COMMENTS**

**6. ACTION ITEMS**

**7. PUBLIC HEARING**

**8. DISCUSSION: 1**

**a. Review LDC Table 1-3.3 Size and Dimensions Table**

Exhibit: Agenda Report Number 8.a.

**Attachments:**

- **Agenda Report Number 8.a.** (Agenda\_Report\_Number\_8.a..pdf)

**9. ADDITIONAL ITEMS FOR FUTURE MEETING**

**10. PUBLIC COMMENTS**

**11. OLD BUSINESS/NEW BUSINESS**

**a. Old Business**

**b. New Business**

Board Member Comments

Next regular Meeting - April 10th, 2024

**12. ADJOURNMENT**

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Contact: Lauren Hamilton (LHamilton@TownofMalabar.org 1321727764) | Agenda published on 03/22/2024 at 3:19 PM

# TOWN OF MALABAR

## Planning and Zoning Board Meeting

**AGENDA ITEM NO: 4.a.**  
**Meeting Date: March 27<sup>th</sup>, 2024**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Approve Minutes of 08/11/2021 Planning and Zoning Board Minutes**

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**BACKGROUND/HISTORY:**

Summary of actions at the Planning and Zoning Board of 08/11/2021.

**ATTACHMENTS:**

- Draft Minutes of the P&Z Board of 08/11/2021

**ACTION OPTIONS:**

Review

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
AUGUST 11, 2021, 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 Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	MARY HOFMEISTER
	DOUG DIAL
	GEORGE FOSTER
ALTERNATE:	SUSAN SHORTMAN
ALTERNATE:	JEFF RINEHART, EXCUSED
BOARD SECRETARY:	DENINE SHEREAR

**3.ADDITIONS/DELETIONS/CHANGE:** None.

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 7/28/2021

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

**Motion:** Ritter /Hofmeister to Approve Minutes for July 28, 2021, as amended, All Vote  
**: Aye**

The board went over minutes and amended.

**5. PUBLIC HEARING:0**

**6. ACTION 1**

**6.a. Review & Recommendation to Council Amending Article XVI regarding new roads in Subdivisions (Directed by Council)**

**Exhibit:** Agenda Report No. 6.a.  
**Recommendation:** Request Discussion/Recommend

Discussion: Abare discussed Subdivision of Twin Lakes coming before this Board a couple times for review for 1.5-acre homesite and wanted a private road. Sherear explained that when things went through the site plan review it was required the subdivision hook-up to city water and put in private road to be maintained by the subdivision. We are presently waiting on landscaping/tree requirements to release required bond that is in place.

Abare/Board discussed the roads in subdivisions being turned over to Town for maintenance. The Board discussed other areas throughout the Town.

The Board discussed private roads and subdivisions. Abare asked Sherear about going forward does the developer have the option? Sherear explained if this Ordinance 2021-12 is adopted the Homeowners Association (HOA)/Covenants for the subdivision would now be the responsible persons for maintaining the roads. Sherear said it is in the packet as Agenda Item 6.a.

The Board discussed the right-of-way (ROW) for Brookhollow Road to go through to Malabar Road.

Ritter/ Dial made Recommendation to Amending Articles XVI & XVIII as written in Draft Ordinance 2021-12 Roll Call Vote

- Foster Aye
- Abare Aye
- Ritter Aye
- Hofmeister Aye
- Dial Aye

Recommendation carried 5 to 0

7. **DISCUSSION:0**
8. **ADDITIONAL ITEMS FOR FUTURE MEETING**
9. **PUBLIC COMMENTS**
10. **OLD BUSINESS/NEW BUSINESS:**

Old Business:

New Business:

Abare said that there might be a future Council candidate from this Board. Ritter spoke about going to the Council Meeting and speaking as a resident referencing Residential Vehicle Parking (RVP) from a previous PZ Meeting (Ritter said if she represented the PZ Board it would need to be unanimous vote from the PZ Board to speak at a Council Meeting)

Shortman asked about installing “not a through street” sign due to traffic overload on Ivey Lane south of Hall Road. Sherear said that she would mention this to Morrell, ITM

Abare discussed his 10 acres located by Palm Bay Hospital/ Enchanted Lakes property on Malabar Road and 20 acres west of his that is under contract. The purchaser is interested in purchasing Abare’s property and has a vision. The person interested is a well-established developer in Orlando. The 20 acres is Office Institution (OI). Abare said this developer has offered him a contract to purchase and has property across from Palm Bay Hospital in a contract to purchase. The vision for the Prospective buyer is to put stores in the front portion along Malabar Road that will be beneficial to the Town and luxury apartment/townhomes to the rear.

Abare asked if the purchaser could come to the Town with pictures, story, and show a vision of what he did in Orlando.

The Board discussed the 20 acres with sewer & city water. Abare said there could be wetlands and it could be mitigated. Abare added if this came before the Board he would have to abstain from voting.

Foster/PZ Board discussed the possible time frame for when this would come before the Town. Abare explained developer has so many days to do his research, Abare recommended going to the Town and share his vision. Abare is not against this idea but some people in the Town might be against vision.

**Reminder:** Next Meeting – August 25, 2021

There being no further business to discuss, MOTION: Hofmeister / Ritter to adjourn this meeting.  
Vote: All Ayes. The meeting adjourned 7: 01 P.M.

BY:

\_\_\_\_\_  
Doug Dial, Chair

\_\_\_\_\_  
Lauren Hamilton, Board Secretary

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

DRAFT

# TOWN OF MALABAR

## Planning and Zoning Board Meeting

**AGENDA ITEM NO: 4.b.**  
**Meeting Date: March 27<sup>th</sup>, 2024**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Approve Minutes of 08/25/2021 Planning and Zoning Board Minutes**

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**BACKGROUND/HISTORY:**

Summary of actions at the Planning and Zoning Board of 08/25/2021.

**ATTACHMENTS:**

- Draft Minutes of the P&Z Board of 08/25/2021

**ACTION OPTIONS:**

Review

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
AUGUST 25, 2021, 6:05 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 Liz Ritter.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE, EXCUSED
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	MARY HOFMEISTER
	DOUG DIAL, ABSENT
	GEORGE FOSTER
ALTERNATE:	SUSAN SHORTMAN
ALTERNATE:	JEFF RINEHART, EXCUSED
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

INTERIM TOWN MANAGER: LISA MORRELL

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

Chair Abare called and asked to be excused. Alternate Shortman will vote in place of Board Member Dial & Alternate Rinehart asked to be excused, out of town working.

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 8/11/2021

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

**Motion:** Shortman /Foster to Approve Minutes for August 11, 2021, as amended, All Vote ; ALL Aye

Board went over minutes and amended.

**5. PUBLIC HEARING:0**

**6. ACTION ITEMS: 2**

**6.a. Review & Recommend to Council Adoption of a for Small Scale Amendment to Comprehensive Plan to establish “Private Property Rights” to add language associated to goals & policies governing property rights Ordinance 2021-16 (Directed by Council).**

**Exhibit:** Agenda Report. 6. a



Ritter explained that the PZ is going to review document for Small Scale Amendment to the Comprehensive Plan & asked if this document for “private property rights” is passable by law just a review for “legalese”.

ITM Morrell, explained to the PZ Board for the record that private property rights have been required by law into the Comprehensive Plan element for. The DEO said it would be a small-scale Amendment to the Comp Plan because it is an element for private property rights.

Community Outreach is in a public meeting not a Town meeting and is required in a non-objective public place to discuss for site plans, etc. Another suggestion is to talk to the neighbors in the area and get feedback before coming to the Town.

ITM Morrell said whether approved or denied by this Board this will move forward to Council.

Foster said it doesn't sound controversial to Foster, it adds a few more protections to the individuals and community that are going to have a project.

Ritter asked about public notices and ITM Morrell explained it is not in the Code. Morrell explained that Debby (Town Clerk/Treasurer) have had that discussion. Sherear said we copied portion of Palm Bays Code and ITM Morrell said we need to modify verbiage. Ritter asked where it is advertised and ITM explained a radius package is done and it can be posted digitally, by US Postal, etc. The applicant pays for public notice.

Motion: Foster/Hofmeister the PZ Recommend to Council Adoption of a for Small Scale Amendment to Comprehensive Plan to establish “Private Property Rights” to add language associated to goals & policies governing property rights Ordinance 2021-16 Roll Call Vote:

- Foster Aye
  - Shortman, Aye
  - Ritter Aye
  - Hofmeister Aye
- Recommendation carried 4 to 0

**6.b. Recommend Council to Amend the Land Development Code Article V Section 1-5.6 General Provisions to Allow for Portable Storage for temporary storage of personal items in Portable Storage Units for a set period.**

**Exhibit:**

Agenda Report. 6. b

ITM Morrell explained to the Board that there was a request of a storage unit (Pod) from the neighborhood on a property located for too long of a period. ITM Morrell explained there is no code that can be enforced, the town would want to add to the Land Development Code and make it part of the zoning code where a pod can be brought to the house or location for a set period.

ITM Morrell explained that she had looked at state Statues and it said anything under less than 720 sq feet is exempt in the FBC (Florida Building Code) no strapping, no permit.

ITM Morrell's request is to add language to code and any suggestions from the PZ Board would assist with the verbiage. Surrounding municipalities allow 14 days, in the event of a delay they can notify the Town of the situation. The Town Manager can allow for this delay due to circumstances. It appears that 3 months is a bit too long.

What would seem to be a reasonable amount of time for a temporary storage unit delivered to a site for moving purpose, not a shed?

ITM Morrell explained that Denine found a place in the code to place this item LDC Article V Section 1-5.6 "D"

Ritter said that it was her husband that complained about storage unit on US HWY 1 in Mobile Home Park (MHP) that had been there a period. This takes away from his business.

Shortman said if it residential and not insight of neighbors what is the point. ITM Morrell explained if she cannot stand on the road and see a code violation it cannot be written up.

Shortman said if she had a storage unit she would want it on her parking lot not on the landscaping.

Ritter suggested verbiage used on page 15 of 8/25/2021 PZ Meeting dealing with Temporary Storage Use

ITM Morrell, the Town Council is complaint driven and the state law has taken away the anonymous ability, it must come from a person, place, or thing so the advised party can know where the complaint came from.

The Board discussed the verbiage submitted to them and updated for final draft.

ITM Morrell handed out 1 page Code for PZ to review, from other municipality and Board is going to take a 5-minute recess and come back to discuss.

The Board Reviewed both documents. It was discussed that the storage unit is not visible from the road, out of sight. Ritter asked about fines and ITM Morell explained this will be presented to the Code Board and fines will be assessed accordingly.

The PZ Board went over the document that ITM Morrell handed out for review and revised verbiage to add to LDC Article V General Provisions Section 1-5-6 Accessory Buildings.

PZ Board asked to bring back a "clean copy" for review on September 8, 2021.

7. **PUBLIC HEARING**
8. **DISCUSSION/POSSIBLE ACTION ITEMS**
9. **ADDITIONAL ITEMS FOR FUTURE MEETING**
10. **PUBLIC COMMENTS**
11. **OLD BUSINESS/NEW BUSINESS:**

Old Business:

ITM Morrell updated the PZ Board on current food truck located on Malabar Road and US Hwy 1. This truck will be moving to new property in which is improved over by the Palm Bay Hospital. There is current activity going on at site and electric will be added for food truck. ITM explained to the current food truck individual that there will need to be a primary structure on property.

Hofmeister asked if anything is given back to Town from mobile food vendors. ITM Morrell responds that we get a portion of the state sale food tax.

New Business:

**Reminder:** Next Meeting – September 8, 2021

There being no further business to discuss, MOTION: Hofmeister / Shortman to adjourn this meeting. Vote: All Ayes. The meeting adjourned 7:12 P.M.

BY:

\_\_\_\_\_  
Doug Dial, Chair

\_\_\_\_\_  
Lauren Hamilton, Board Secretary

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

DRAFT

# TOWN OF MALABAR

## Planning and Zoning Board Meeting

**AGENDA ITEM NO: 4.C.**  
**Meeting Date: March 27<sup>th</sup>, 2024**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Approve Minutes of 09/08/2021 Planning and Zoning Board Minutes**

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**BACKGROUND/HISTORY:**

Summary of actions at the Planning and Zoning Board of 09/08/2021.

**ATTACHMENTS:**

- Draft Minutes of the P&Z Board of 09/08/2021

**ACTION OPTIONS:**

Review

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
SEPTEMBER 8, 2021, 6:05 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 Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	MARY HOFMEISTER, EXCUSED
	DOUG DIAL
	GEORGE FOSTER
ALTERNATE:	SUSAN SHORTMAN
ALTERNATE:	JEFF RINEHART, EXCUSED
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	FIRE CHIEF FOLEY
INTERIM TOWN MANAGER:	LISA MORRELL

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

Chair Abare said Alternate Shortman will vote in place of Board Member Hofmeister asked to be approved & Alternate Rinehart asked to be excused, out of town working.

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 8/25/2021

<b>Exhibit:</b>	Agenda Report No. 4.a
<b>Recommendation:</b>	Request Approval

**Motion: Ritter /Dial to Approve Minutes for August 25, 2021, as amended, All Vote ; ALL Aye**

Board went over minutes and amended.

**5. PUBLIC HEARING:0**

**6. ACTION 4**

**6.a. Review Recommendation of “Final Draft” to Council Amending the Land Development Code Article V Section 1-5.6 General Provisions to Allow for Portable Storage for temporary storage of personal items in Portable Storage Units for a set period.**

<b>Exhibit:</b>	Agenda Report. 6. a
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Abare stated this is a courtesy review before it is recommended to Council. Morrell Interim Town Manager (ITM) explained this is all housekeeping to clean up language in our Code.

related to a temporary storage of personal/temporary items to be dropped off & removed in a timely manner. The concern is to have these things in our code so they can be enforced. Morell, ITM explained to the PZ Board what was put in the Code Book, clarifying the language for the temporary pods/storage located on residential and all other zoning areas. Morrell ITM went over location of pods, time allowed and specifics.

Shortman asked about retroactive of pods located in the past, and Lisa ITM explained this would be in effect from the time it is approved forward, it can be noted that pictures were taken, and it is beyond the time allowed.

Ritter added corrections to verbiage for clarification, (noted on document)

The Board discussed general concerns.

**Motion: Ritter/Shortman Recommendation to Council Amending Land Development Code Article V Section 1-5.6 General Provisions to Allow Portable Storage for Temporary storage of personal items for set period. Roll Call Vote Foster: Aye, Dial: Aye, Ritter: Aye, Shortman: Aye, Abare; ALL Aye**

**Motion carried 5 to 0**

- 6.b. Review & Recommend to Council for and make motion to approve text amendments and additions to Land Development Code, Article XV, Tree Protection and Restoration as presented or with Textual Updates.**  
**Exhibit:** Agenda Report. 6. b.

Morrell, ITM explained about amending LDC XV Tree Protection & Restoration concerning Land Clearing with no permits & Type IV no fee. There needs to be a permit pulled for tree removal. And Land clearing.

The Board discussed different permits with fees and types that will go through Morrell, ITM or designee to review for compliance.

ITM Morell explains the survey with site plan to include drainage plan for each lot that is checked for Environmental Study (Wetlands, protected animals, drainage plan).

Morrell ITM explained that multiple agencies are involved before a permit is issued through the Town. Every property is unique as far as drainage the different engineered plans provide water from draining on adjacent neighbors.

Shortman discussed that when water drains from other people’s properties it creates wetlands around them. It is important for a drainage/stormwater plan.

Morrell, ITM explained we want to have a non-tree process and need to clarify in code. This will be enforced by Morrell, ITM or designee, funds will go to general fund.

The Board discussed corrections and are noted on document.

**Motion: Ritter/Dial Recommendation to Council Amending Land Development Code Article. Tree Protection and Restoration as Amended with Textual Updates fine-tuned 1-15.12 Roll Call Vote Foster: Aye, Dial: Aye, Ritter: Aye, Shortman: Aye, Abare; ALL Aye**

**Motion carried 5 to 0**

**6.c. Recommendation to Council to Approve to Amend Article V, General Provisions, 1.5-22 Fill and Erosion Control with Textual Updates.**  
**Exhibit:** Agenda Report. 6. c.

Per Morrell, ITM fill needs a permit. If disturbing 1000 sq ft, get a permit for fill or out for erosion control, any fill needs a silt fence, planting yard mulch or potting soil, there is a limit of 2 truckloads 30 yard and under is no permit. Abare asked about fill permit, Morrell ITM responds any more than 3 truckloads (30 yards) you will need a permit and fill permit will be adopted for review of drainage, etc.

The Board discussed fill permit and requirements to Amend to Town Code.

**Motion: Ritter/Foster Recommendation to Council Amending Land Development Code Article V Section 1-5.22 Fill and Erosion Control as Amended & Textual Updates Roll Call Vote Foster: Aye, Dial: Aye, Ritter: Aye, Shortman: Aye, Abare; ALL Aye**

Motion carried 5 to 0

**6.d. Recommendation to Council to Amend Article VII, Site Plan Procedures, Section 1-7.1 Applicability and filing procedures with Textual Updates.**  
**Exhibit:** Agenda Report.6. d.

Morrell, ITM discusses with Board the fee. It is a pass-through with Town Staff, if the Engineer is needed, we will seek his advice.

**Motion: Ritter/Shortman Recommendation to Council Amending Land Development Code Article VII Site Plan Procedures, Section 1-7-1 Applicability and filling procedures as Amendments & Textual Updates. Roll Call Vote Foster: Aye, Dial; Aye, Ritter; Aye, Shortman: Aye, Abare; ALL Aye**

Motion carried 5 to 0

Morrell ITM thanks the Board and the Board thanks Morrell ITM for all her hard work.

- 7. **DISCUSSION:0**
- 8. **ADDITIONAL ITEMS FOR FUTURE MEETING**
- 9. **PUBLIC COMMENTAS**
- 10. **OLD BUSINESS/NEW BUSINESS:**

Old Business:

The Board thanked the Fire Chief for all he does, and Chief Foley thanked the Board in return.

Tentative Meeting for 9/22/21, Doug Dial will not be here at the 9/22/2021

Board asked Morrell ITM about anything coming forward for site plan review, it appears right now we do not have anything.

New Business:

**Reminder:** Next Meeting – September 22, 2021

There being no further business to discuss, MOTION: Shortman/Dial to adjourn this meeting. Vote: All Ayes. The meeting adjourned 7:17 P.M.

BY:

\_\_\_\_\_  
Doug Dial, Chair

\_\_\_\_\_  
03/27/2024

Date Approved

\_\_\_\_\_  
Lauren Hamilton, Board Secretary

DRAFT



# TOWN OF MALABAR

## Planning and Zoning Board Meeting

**AGENDA ITEM NO: 4.d.**  
**Meeting Date: March 27<sup>th</sup>, 2024**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Approve Minutes of 10/27/2021 Planning and Zoning Board Minutes**

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**BACKGROUND/HISTORY:**

Summary of actions at the Planning and Zoning Board of 10/27/2021.

**ATTACHMENTS:**

- Draft Minutes of the P&Z Board of 10/27/2021

**ACTION OPTIONS:**

Review

“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 27, 2021, 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 Chair Wayne Abare.

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	MARY HOFMEISTER
	DOUG DIAL
	GEORGE FOSTER
ALTERNATE:	SUSAN SHORTMAN
ALTERNATE:	JEFF RINEHART, UNEXCUSED
BOARD SECRETARY:	DENINE SHEREAR

ADDITIONAL ATTENDEES:

INTERIM TOWN MANAGER:

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

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 9/08/2021

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

**Motion:** Ritter /Hofmeister to Approve Minutes for September 8, 2021, as amended, All Vote  
; ALL Aye

PZ Board went over the September 8, 2021, minutes and amended.

**5. PUBLIC HEARING:0**

**6. ACTION ITEMS:1**

**6.a. Recommendation to Council to select replacement PZ Board Member when Mary Hofmeister moves to Council position in November 2021.**

**Exhibit:** Agenda Report. 6. a

Abare said that the Board needs to discuss a candidate for next official Member of PZ. There is a member moving on to Council, Mary Hofmeister, so this action item is to recommend to Council who will be taking her vacancy for the regular PZ Member.

Abare suggested hearing from each voting member who to recommend.

- Foster, said that Susan is a reliable member- he votes Susan Shortman

- Dial, he recommends Susan Shortman
- Ritter, said Susan Shortman should be the next voting member
- Hofmeister, recommends Susan Shortman
- Abare, recommends Susan Shortman, she is here at meeting and does her homework and is energetic.

**Motion: Ritter/Dial Recommend to Council that Susan Shortman is the next official Member of PZ**

**Roll Call Vote:**

**Foster, Aye**  
**Dial, Aye**  
**Ritter, Aye**  
**Hofmeister, Aye**  
**Abare, Aye**

**Motion carried 5 to 0**

Ritter added to welcome Barbara Cameron as next Alternate PZ Member.

Sherear said that this is the recommendation to Council, but it is up to Council for their review on next member for PZ. This recommendation goes to the Council on November 1, 2021.

- 7. PUBLIC HEARING**
- 8. DISCUSSION/POSSIBLE ACTION ITEMS**
- 9. ADDITIONAL ITEMS FOR FUTURE MEETING**
- 10. PUBLIC COMMENTS**
- 11. OLD BUSINESS/NEW BUSINESS:**

Old Business:

Abare and Board discussed for next meeting to make recommendation for Chair & Vice Chair positions.

New Business:

**Reminder:** Next Meeting – November 10, 2021

**12. ADJOURN**

There being no further business to discuss, MOTION: Hofmeister / Dial to adjourn this meeting.  
Vote: All Ayes. The meeting adjourned 6:37 P.M.

BY:

\_\_\_\_\_  
 DOUG DIAL, Chair

# TOWN OF MALABAR

## Planning and Zoning Board Meeting

**AGENDA ITEM NO: 4.e.**  
**Meeting Date: March 27<sup>th</sup>, 2024**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Approve Minutes of 11/10/2021 Planning and Zoning Board Minutes**

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**BACKGROUND/HISTORY:**

Summary of actions at the Planning and Zoning Board of 11/10/2021.

**ATTACHMENTS:**

- Draft Minutes of the P&Z Board of 11/10/2021

**ACTION OPTIONS:**

Review

“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  
NOVEMBER 10, 2021, 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 Chair Wayne Abare.

**Swear in Doug Dial & Susan Shortman by Chair Abare**

**2. ROLL CALL:**

CHAIR:	WAYNE ABARE
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	DOUG DIAL
	GEORGE FOSTER
	SUSAN SHORTMAN
ALTERNATE:	BARBARA CAMERON
ALTERNATE:	JEFF RINEHART, UNEXCUSED
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	NONE

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

**3.a. NOMINATIONS FOR CHAIR AND VICE CHAIR**

<b>Exhibit:</b>	Agenda Report 3.a
<b>Recommendation:</b>	Welcome New Members/Vote

Chair Abare presents Oath Susan Shortman & Doug Dial, as PZ Board members.

Chair Abare welcomes newest member to the PZ Board Barbara Cameron (alternate)

Chair Abare asks for Nominations for Chair to PZ Board

**Motion: Ritter/ Dial Nominates Wayne Abare to be Chair.**

**VOTE: All Ayes; Motion carried 4 to 0**

Foster Nominates Doug Dial for Vice chair

**Motion: Ritter / Foster to Nominate Doug Dial for Vice Chair All vote:**

**VOTE: All Ayes; Motion carried 4 to 0**

**4. CONSENT AGENDA:1**

**4.a. Approval of Minutes** Planning and Zoning Meeting – 10/27/2021

<b>Exhibit:</b>	Agenda Report No. 4.a
<b>Recommendation:</b>	Request Approval

**Motion:** Dial / Shortman to Approve Minutes for October 27, 2021, as presented, All Vote ; ALL Aye

- 5. PUBLIC HEARING:0
- 6. ACTION:0
- 7. DISCUSSION:0

7.a. *Intentionally left Blank*

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

Abare explained about Sunshine Laws to new Members, Secretary Sherear gave the Board Sunshine Amendment of 2021. The Board discussed the Sunshine Laws.

Sherear suggested reviewing the PZ Board purpose in Sec 2- 250 Establishment and purpose of the planning & zoning board in Town of Malabar Code Book.

Old Business:

New Business:

**Reminder:** Next Meeting – ~~November 24, 2021~~ Canceled, possible next meeting December 8<sup>th</sup> 2021.

**K. ADJOURN**

There being no further business to discuss, MOTION: Shortman / Dial to adjourn this meeting.  
Vote: All Ayes. The meeting adjourned 6:37 P.M.

BY:

\_\_\_\_\_  
Doug Dial, Chair

\_\_\_\_\_  
Lauren Hamilton, Board Secretary

03/27/2024  
Date Approved

# TOWN OF MALABAR

## Planning and Zoning Board Meeting

**AGENDA ITEM NO: 4.f.**  
**Meeting Date: March 27<sup>th</sup>, 2024**

Prepared By: Richard W. Kohler, Town Clerk

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**SUBJECT: Approve Minutes of 03/13/2024 Planning and Zoning Board Minutes**

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**BACKGROUND/HISTORY:**

Summary of actions at the Planning and Zoning Board of 03/13/2024.

**ATTACHMENTS:**

- Draft Minutes of the P&Z Board of 03/13/2024

**ACTION OPTIONS:**

Review

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING MINUTES**  
**March 13, 2024, 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 Chair Dial.

**2. ROLL CALL:**

CHAIR:	DOUG DIAL
VICE-CHAIR:	LIZ RITTER
BOARD MEMBERS:	SUSAN SHORTMAN
	DAVE TAYLOR - ABSENT
	MEGHAN WOLFGRAM
	ALTERNATE: VACANT,
	ALTERNATE: VACANT

BOARD SECRETARY:	LAUREN HAMILTON
TOWN CLERK:	RICHARD KOHLER
TOWN MANAGER:	LISA MORRELL

**3. APPROVAL OF AGENDA:** None.

**4. CONSENT AGENDA:**

**4.a. Approval of Minutes of 03/23/2022**

Exhibit: Agenda Report Number 4.a

**4.b. Approval of Minutes of 09/14/2022**

Exhibit: Agenda Report Number 4.b

**4.c. Approval of Minutes of 11/15/2022**

Exhibit: Agenda Report Number 4.c

**4.d. Approval of Minutes of 01/10/2024**

Exhibit: Agenda Report Number 4.d

**MOTION: Member Shortman/VC Ritter to approve the Consent Agenda as presented.**

**VOTE: All Ayes (4-0)**

**5. PUBLIC COMMENTS: 0**

**6. PUBLIC HEARING: 0**



**7. ACTION ITEMS: 1**

**7.a. Amend Town of Malabar Code 1-5.6 Accessory Buildings to allow Shipping Containers for Storage Only**

Exhibit: Agenda Report Number 7.a

Staff Comments: Chair Dial asked TM Morrell to speak on this item. TM Morrell states that the Town Council has made this request and is seeking advisement from the Board. She states the intent is to not allow shipping containers as a dwelling, and only as permanent storage.

VC Ritter requests future agendas have page numbers. She states that item 2b permits 1 cargo unit per 5 acres of agricultural tax-exempt land. Then it says there is no minimum acreage to be required which is contradictory. She requests that the no minimum acreage to be required should be eliminated. She states 2c has the same issue and recommends removing the no minimum acreage requirement. Member Shortman believes all properties should be able to have one regardless of acreage. Member Wolfgram states the language is too vague. TM Morrell states this item is open for interpretation. VC Ritter reiterates her request to remove the minimum requirement. Member Shortman states she believes we should limit the minimum lot size they are allowed on. Member Wolfgram suggests the Board determine the Town's intent in this action, and then finish the minor changes after. TM Morrell states this is purely for advisement. VC Ritter notes that item 4 requires a buffer and setbacks but does not provide any restrictions on how many containers a resident could have. Member Shortman states she believes that if it is in the backyard, buffered, and meets the required setbacks, why should we restrict this? Chair Dial asks if the buffer language is covered in a separate portion of the code. TM Morrell states it is. Chair Dial asks if there are restrictions on how many containers per acre for residential properties? TM Morrell states there is not at this time, and requests the Board provide a number if they wish to limit it. VC Ritter reiterates her opinion that there should be a limit in residential areas. TM Morrell suggests requiring the buffer and screen to be opaque. VC Ritter states she feels that would ease her objections. Member Wolfgram asks if there would be a conflict on the height of the fences or hedges? TM Morrell states it would not. Member Wolfgram states if an applicant must screen them and meet all other requirements, she doesn't have an issue with this. Chair Dial asks if restricting the number of containers on Agricultural and non-residential properties, why are we not restricting them in residential? TM Morrell states it is mostly an enforcement issue. Member Wolfgram asks if this will create an issue for our local businesses? She uses the example of Malabar Feed. TM Morrell states these are intended to be containers for permanent storage, with no wheels or axels. Chair Dial asks if the Board would like to add a limit to number 4 or do we agree it's self-regulating? VC Ritter states she feels as long as the property owner is using the opaque screening, she has no issues. Member Wolfgram asks if an agricultural property would be required to get a permit? TM Morrell states it would be regulated under the Florida Building Code and would still need a building permit. Chair Dial asks if any board members have final comments? Member Wolfgram states she feels 2b and 2c should be the same. Member Shortman agrees, and suggests the code be consistent. VC Ritter states she feels the Town should restrict use to properties an acre or more. TM Morrell suggests combining 2b and 2c and including a restriction of 1 unit per acre. Consensus is reached to combine 2b and 2c and strike "no minimum acreage being required", opaque screening, and meeting all side and rear yard setbacks. VC Ritter asks how the fees are calculated? TM Morrell states the fee schedule is adopted by Council.

**MOTION: VC RITTER /MEMBER WOLFGRAM to approve changes to the Town of Malabar Code of Ordinance, Land Development Code, Article V – GENERAL PROVISIONS, Section 1-5.6, Accessory Buildings, by adding item "E", entitled Cargo Containers for Permanent Storage, and to advise Council of any comments by the board members.**

**VOTE: All Ayes. Motion Carries 4-0.**

**8. DISCUSSION/POSSIBLE ACTION: 1**

**8.a Discussion – Review LDC Table 1-3.3 Size and Dimension Table**

Staff Comments: Chair Dial asked TM Morrell for comment. TM Morrell states that there has been a lot of discussion of this item. We are not looking for a motion at this time. She has made a few changes to the format and included the section “Without Central Wastewater”. She states outside of replacing that section, there were not many changes. She also cleaned up a few of the footers. The Maximum Building Coverage will also be included as percentages. She is requesting direction on the minimum living square footage for RM-4. VC Ritter states a lot of this information will be determined by setbacks. TM Morrell asks if there should be allowances of single-family residences in RM-4 and RM-6. Member Wolfgram asks if multiple single-family structures can be built in these zoning districts as long as they meet the 1500 sf minimum. TM Morrell states that is what we are here to decide. Chair Dial asks what the easiest way to simplify this table? TM Morrell states that we could find a minimum square footage. VC Ritter suggests including 1500 sq ft as the minimum square footage of RM-4, RM-6 and R/LC. TM Morrell states she can bring back how many parcels this will affect. Member Wolfgram agrees to setting a minimum of 1500 sq ft for all three. VC Ritter also recommends using the same setbacks in RM-4 and RM-6. Members Shortman and Wolfgram agree. VC Ritter also suggests making the bedroom size requirements match as well. TM Morrell states the only difference with these changes will be the maximum units per acre. TM Morrell suggests she will review the past minutes to determine why the sf per bedroom distinction exists currently. Member Wolfgram states she believes this will work. TM Morrell asks the Board to review this Table before their next meeting and provide more feedback at that time. VC Ritter requests the minimum sq ft in RM-4 and RM-6 be swapped, as RM-4 will have more room. Member Wolfgram states it should be consistent and how little do they want to allow. Member Wolfgram asks if the code would limit efficiency building? TM Morrell states no. VC Ritter suggests using the RM-4 numbers for RM-6 and R/LC. Chair Dial agrees. TM Morrell states an overall review of the table would be appreciated. Chair Dial asks if there any other areas Staff would like the Board to review? TM Morrell Commercial Development area. Chair Dial thanks TM Morrell for the improvements to the table. TM Morrell to edit the table with revisions discussed to present at the next meeting along with the data of the number of parcels in all zoning districts.

**9. ADDITIONAL ITEMS FOR FUTURE MEETINGS:** TM Morrell says there are four (4) site plans on deck for P&Z review, none of which are ready yet. Chair Dial requests if the Board would be interested in discussing forward thinking in our Code, 10-years, 30-years from now. Perhaps a workshop that staff could also attend with the P&Z Board. TM Morrell states that is an excellent idea, and we have some Comprehensive Plan Amendments coming forward.

**10. PUBLIC COMMENTS**

**11. OLD BUSINESS/NEW BUSINESS**

**11.a. Old Business:** Clerk Kohler states that the Planning and Zoning Board will be required to file a Form 1 Financial Disclosure Form, not a Form 6. The major change this year is that the forms MUST be submitted online by July 1 directly to the Commission of Ethics. Staff cannot be a repository for the Forms. Chair Dial requests Staff to send a link to the site.

**11.b. New Business: Board Member Comments:**

Member Wolfgram states in light of the Form 1 requirement, her friend will be happy to serve the board as an alternate and will attend the next meeting. Clerk Kohler will reach back out to the alternate member.

VC Ritter asked if we're doing a Spring Fest or Fall Fest this year. Clerk Kohler advises that we are planning a Fall Fest for October 19.

Chair Dial asks if a vendor was selected for Rocky Point? TM Morrell advises yes. We were out there today. We are waiting for their insurance information and once that is received, we'll issue the Notice to Proceed.

Chair Dial asks what the projected completion date is for the US 1 construction. TM Morrell states that the approved plans can be viewed at [www.cflroads.com/project/447092-1](http://www.cflroads.com/project/447092-1). Clerk Kohler states the website has an estimated completion date of Fall 2025.

Member Shortman asks about the PW loader? TM Morrell states the loader is covered under warranty and we're being provided with a loaner.

VC Ritter asks if the Board would be willing to move the meeting time to 6:30. Member Shortman states no.

## 12. ADJOURNMENT

There being no further business to discuss, the meeting adjourned 7:37 P.M.

BY:

\_\_\_\_\_  
Doug Dial, Chair

\_\_\_\_\_  
Lauren Hamilton, Board Secretary

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

# TOWN OF MALABAR

## Planning & Zoning Advisory Board

**AGENDA ITEM NO: 8.a.**  
**Meeting Date: Mar 27, 2024**

**Prepared By: Lisa Morrell, Town Manager**

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**SUBJECT: Discussion – Review LDC Table 1-3.3 Size and Dimensions Table**

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### **BACKGROUND/HISTORY:**

Continued discussion with staff updates to revisions to 1-3.3. A parcel count affected by potential changes are as follows: R/LC (123 parcels), RM-4 (zero (0) parcels), RM-6 (33 parcels); provided as underlined additions. A short subject matter reference has been added to the list of ordinance amendments from 1992 – 2021. July 12, 2004, ordinance 04-08, repeals Maximum Density without Central Water & Wastewater by Town Council members; the minutes are included as an attachment for reference.

The Town of Malabar as the applicant for proposing textual amendments to Malabar, Florida - Code of Ordinances LAND DEVELOPMENT CODE Article III - DISTRICT PROVISIONS Section 1-3.3. - Size and dimension criteria, specifically Table 1-3.3 (A). Planning and Zoning is requested review and advise Town Council based on staff proposed changes as well as any board discussion amendments to ensure clarity and interpretation of the code.

Section 1-3.3 and or Table 1-3.3 (A) has been revised with the following ordinance history, where staff has researched and notated table omissions of the column pertaining to Maximum Density without Central Water & Wastewater:

Ord. No. 92-8, § 1(B), (D), (J), 8-18-92; RS-21 Setbacks

Ord. No. 94-4, § 4, 4-3-95; R/LC Established

Ord. No. 96-1, § 1, 3-4-96; - column included. RS-21 – Increase Impervious

Ord. No. 97-5, § 1, 3-17-97; - not applicable to amendment to table. CL – Floor Area Ratio (FAR)

Ord. No. 02-03, § 1, 8-5-02; - not applicable to amendment to table. Waivers to Setbacks

Ord. No. 03-02, § 1, 2-24-03; - - not applicable to amendment to table. Impervious Surface Ratio (ISR)

Ord. No. 04-08, §§ 1, 2, 7-12-04; - not applicable to amendment to table. Maximum Density without Central Water & Wastewater Repealed. 1.5-20 Editor's note— Ordinance No. 04-08, § 3, adopted July 12, 2004, repealed § 1-5.20 in its entirety. Formerly, such section pertained to residential structures on lots less than one acre in area and derived from Ord. No. 90-5, 4-17-90.

Ord. No. 06-05, § 1, 2-6-06; - not applicable to amendment to table. Height

Ord. No. 06-16, §§ 1, 2, 10-2-06; - not applicable to amendment to table. Maximum Building Coverage (MBC)

Ord. No. 19-02, § 2, 3-4-19; - not applicable to amendment to table. RR-65 Setbacks

Ord. No. 19-03, § 2, 3-4-19; - not applicable to amendment to table. Roads – Text Updates

Ord. No. 2021-02, § 3, 5-3-21; – column omitted on recording. R/LC- Maximum Building Coverage (MBC)

Ord. No. 2021-09, §§ 4, 5, 8-16-21) – column omitted on recording. RVP Established.

The Table from Ordinance 96-1 has been scanned from records and included in this agenda memo for the board's reference in reviewing and incorporating any data for comparison.

Staff has provided the board with some changes for consideration, not strikethrough text is subject to deletion, underline text is for additions. As a Reference the changes to the document are as follows:

- Repopulated omitted column header, Maximum Density without Central Water & Wastewater, and numeric data to all zoning districts.

- Under Multiple Family Residential Development section, added Single Family: N/A, not applicable as not permitted, for zoning code RM-4.
- Under Multiple Family Residential Development section, added Single Family: 1500 for zoning code RM-6; treating the size and criteria utilizing similar to RR-65 as well as the intent of 1 single family dwelling for a site with a minimum lot size of 5 acres. Additional single-family dwellings would require a subdivision of the large lot and shall apply the subdivision code for three or more parcel splits for additional single-family lots.
- Deleted Minimum Site from the numeric entry of Minimum Lot header, as duplicative, for RM-4 & RM-6.
- Revised Multiple Family to Multi-Family in RM-4, RM-6, R/LC for table cell character count.
- Under Mixed Use Development, added clarification of the zoning code to full description Residential / Light Commercial.
- R/LC added 1500 to Single Family, reference RR-65 as similar type of land use as a district and added 1500 to square feet, as it was blank.
- Separated Table for Zoning Districts; OI, CL, CG, IND, INS, to revise column header from Minimum Lot to Minimum Floor Area. Deleted Minimum Floor Area from the numeric data cell for the same districts, as duplicative.
- Footnotes in the table reformatted as superscript font.
- Updated RM-6 and R/LC minimum square feet of living space to the equivalent of RM-4; Single Family is updated to reflect the same of RR-65.

The final format and textual amendments to the table shall occur after the review and discussion, the attached table is formatted for review and discussion purposes only.

Staff requests advisement from the Planning and Zoning Board members for the necessity to further amend the text of Code of Ordinances LAND DEVELOPMENT CODE Article III - DISTRICT PROVISIONS Section 1-3.1 – Purpose and intent of Districts to include any of the table data in written form, whereas the table would be more useful as an exhibit of the code.

**FINANCIAL IMPACT:**

**ATTACHMENTS:**

Land Development Code, Article III, Section 1-3.3, Table 1-3.3 (A), staff revisions.

Reference Material: Currently Adopted Section of the Land Development Code Article III District Provisions as codified, includes Section 1-3.1 – Purpose and intent of District, Section 1-3.2. - Land use by districts, Section 1-3.3. - Size and dimension

Town of Malabar Ord. No. 04-08, §§ 1, 2, 7-12-04

**ACTION OPTIONS:**

Discussion only by the board. Consider revisions and advise the board secretary of providing changes, additions, deletions, for the next regularly scheduled Planning & Zoning Meeting for action advisement for Town Council and Legal Advertisement.

Section 1-3.3. - Size and dimension criteria.

A. *Minimum Lot or Site Requirements for All Uses.* Table 1-3.3(A) incorporates required size and dimension regulations which shall be applicable within each respective zoning district, except for Recreational Vehicle Park District, which is specifically described within Section 1-3.3, Item G. All developments shall have a total land area sufficient to satisfy all standards stipulated within the land development code, including but not limited to:

- Setback requirements;
- Open space, buffers, and landscaping;
- Surface water management;
- Water and wastewater services;
- Access, internal circulation and off-street parking;
- Wetland protection; and
- Soil erosion and sedimentation control standards.

Conventional single family lots shall be required pursuant to square footage requirements stipulated in Table 1-3.3(A). Similarly, more intense development within multiple family residential districts and other specified nonresidential districts shall maintain sites having minimum acreage requirements stipulated in Table 1-3.3(A).

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

Zoning District	Minimum Lot <sup>(1)</sup>			Maximum Height (feet /stories)	Minimum Living Area (sq. ft.)	Setback <sup>(2)</sup>				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage (%)	Minimum Open Space (%)	Maximum Density w/ Central Water & Wastewater (units per acre)	Maximum Density w/o Central Water & Wastewater (units per acre)
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front (ft)	Rear (ft)	Side (ft) (I)	Side (ft) (C)					
<b>Rural Residential Development</b>														
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66	<u>0.66</u>

Zoning District	Minimum Lot <sup>(1)</sup>			Maximum Height (feet /stories)	Minimum Living Area (sq. ft.)	Setback <sup>(2)</sup>				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density w/ Central Water & Wastewater (units per acre)	Maximum Density w/o Central Water & Wastewater (units per acre)
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front (ft)	Rear (ft)	Side (ft) (I)	Side (ft) (C)					
<b>Traditional Single Family Residential Development</b>														
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00	<u>1.00</u>
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904	<u>1.00</u>
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4.00	<u>1.00</u>
<b>Multiple Family Residential Development</b>														
RM-4	<u>5 Acres</u>	<u>200</u>	<u>200</u>	<u>35/3</u>	Single Family <u>1500:</u>	<u>60</u>	<u>40</u>	<u>40</u>	<u>40</u>	<u>50</u>	<u>N/A</u>	<u>50</u>	<u>4.00</u>	<u>1.00</u>
RM-4	5 Acres Minimum m Site	200	200	35/3	Multi-Family: 1 Bedroom: <u>900</u> 2 Bedroom: <u>1100</u> 3 Bedroom: <u>1300</u> Each Additional Bedroom: <u>120</u>	60	40	40	40	50	N/A	50	4.00	<u>1.00</u>
RM-6	5 Acres Minimum m Site	200	200	35/3	Single Family <u>1500:</u>	25	20	10	10	50	N/A	50	6.00	<u>1.00</u>
					Multi-Family: 1 Bedroom: <u>900</u> 2 Bedroom: <u>1100</u> 3 Bedroom: <u>1300</u> Each Additional Bedroom: <u>120</u>	60	40	40	40	50	N/A	50	6.00	<u>1.00</u>

Zoning District	Minimum Lot <sup>(1)</sup>			Maximum Height (feet /stories)	Minimum Living Area (sq. ft.)	Setback <sup>(2)</sup>				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density w/ Central Water & Wastewater (units per acre)	Maximum Density w/o Central Water & Wastewater (units per acre)
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front (ft)	Rear (ft)	Side (ft) (I)	Side (ft) (C)					
<b>Mixed Use Development – Residential / Light Commercial</b>														
R/LC	20,000	100	150	35/3	Single Family: 1500	25	20	10	10	50	N/A	50	4	<u>2.00</u>
					Multi-Family: 1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	50	25	10 <sup>4</sup>	20	65	N/A	35	6	<u>2.00</u>
					Commercial: 900						0.20			
<b>Mobile Home Residential Development</b>														
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00	<u>1.00</u>

Zoning District	Minimum Lot <sup>(1)</sup>			Maximum Height (feet /stories)	Minimum Floor Area (sq. ft.)	Setback <sup>(2)</sup>				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density w/ Central Water & Wastewater (units per acre)	Maximum Density w/o Central Water & Wastewater (units per acre)
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front (ft)	Rear (ft)	Side (ft) (I)	Side (ft) (C)					
<b>Office Development -Office Institutional</b>														
OI	20,000	100	150	35/3	<del>Minimum</del> Floor Area: 1000	35/60	25	20	25	65	20	35	N/A	<u>N/A</u>



Zoning District	Minimum Lot <sup>(1)</sup>			Maximum Height (feet /stories)	Minimum Floor Area (sq. ft.)	Setback <sup>(2)</sup>				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density w/ Central Water & Wastewater (units per acre)	Maximum Density w/o Central Water & Wastewater (units per acre)
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front (ft)	Rear (ft)	Side (ft) (I)	Side (ft) (C)					
<b>Commercial Development – Commercial Limited / Commercial General</b>														
CL	20,000	100	150	35/3	Minimum Floor Area: 900 Min. Area: 900 Max. Area 4,000	50	25	10 <sup>4</sup> 15 <sup>3</sup>	20	65	0.20	35	N/A	<u>N/A</u>
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Unit Area: 300 Each Unit	50	25	20 <sup>4</sup>  15 <sup>3</sup>	30	65	0.20	35	N/A	<u>N/A</u>
<b>Industrial Development</b>														
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 <sup>5</sup>	25 100 <sup>5</sup>	20 100 <sup>5</sup>	30 100 <sup>5</sup>	70	0.42	30	N/A	<u>N/A</u>
<b>Institutional Development</b>														
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	30	60	0.20 0.10 <sup>6</sup>	40	N/A	<u>N/A</u>
<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 (/SR) 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 /SR.* 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 /SR 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(0) 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.

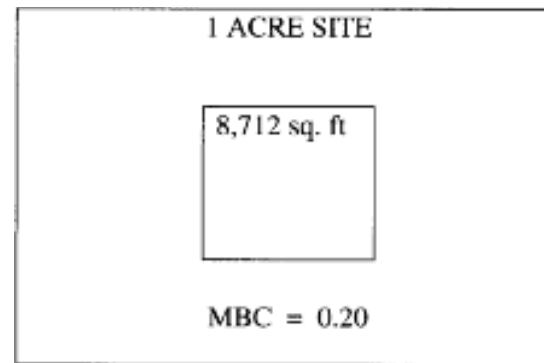


FIGURE 1-3.3(0). MAXIMUM BUILDING COVERAGE ILLUSTRATION

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

MBC	=	<u>Total Building Coverage</u>
		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

Transportation Facility	Building Setback (feet)
Arterial Roadways (150 feet R/W)	100
US 1 Highway	
Malabar Road (SR 514)	
Babcock Street (SR 507)	
Major Collector Streets (100 feet R/W)	85
Corey Road	
Weber Road	
Marie Street	
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.
- G. *Recreational Vehicle Park Zoning District.* Recreational vehicle park zoning district shall be to locate and establish areas within the Town which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with F.S. Ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time.
- (1) Principal uses and structures:
- a) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations.
  - b) Management offices and residence (a mobile home may be allowed for a manager's residence only).
- (2) Accessory uses include:
- a) Grocery store.
  - b) Bottled/Metered gas sales.
  - c) Laundry facilities.
  - d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.
  - e) Public utility equipment and facilities.
- (3) Conditional uses:
- a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.
- (4) Design standards for recreational vehicle parks.
- a) Minimum size: five (5) acres.
  - b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.
  - c) Streets and parking:
    - 1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.
    - 2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:
      - (a) A one-way street/drive shall be at least twelve (12) feet in width.
      - (b) A two-way street/drive shall be at least twenty-four (24) feet in width.

3. Street surfacing. All roads or driveways shall be paved meeting town standards.
  4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All cul-de-sacs shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.
  5. Parking. Each R.V. / travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)
- d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes. The provisions for buffer strips may be waived or reduced by the Town Council taking into consideration the use of abutting properties. Furthermore, any portion of the property which fronts a public right-of-way will not be required to be enclosed along such right-of-way.
- e) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.
1. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.
- f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:
1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
  2. Tent camping may be permitted on a travel trailer site.
- g) Design requirements for recreational vehicle site.
1. Minimum size.
    - a. Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet

- b. Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet. Consensus was to remove these sections.
  2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.
  3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.
  4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.
- h) Provisions of service in recreational vehicle parks.
1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.
  2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
  3. Sewage disposal.
    - a. All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
    - b. At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well- lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
    - c. At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse- restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.

d. The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.



4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V. - General Provisions, Section 1-5.28 entitles Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
  5. Electricity. All requirements of the National Electrical Code as contained referenced in Malabar Code of Ordinances Chapter 6 must be met.
  6. Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.
  7. Fire protection. The park shall be subject to the rules and regulations of State Statute, State Fire Code, and Malabar Code.
  8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
  9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use.
  10. Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a Recreational Vehicle Park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the Recreational Vehicle Park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. The provisions of Section 1-7.5 shall apply.
  - j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein.

(Ord. No. 92-8, § 1(B), (D), U), 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; Ord.

No. 2021-02, § 3, 5-3-21; Ord. No. 2021-09, §§ 4, 5, 8-16-21)

## Article III - DISTRICT PROVISIONS

This article describes the purposes and intent of each zoning district, identifies permitted and conditional uses by zoning district, and provides size and dimensional regulations for respective zoning districts.

### Section 1-3.1. - Purpose and intent of districts.

This section presents the basic purpose and intent of each zoning district.

- A. *CP "Coastal Preserve."* The CP district was originally established by the Town Council through Ordinance Number 7-1-76, § 5.12 and Ordinance Number 7-12-79 § 1. This district is intended to preserve a narrow strip of land east of highway US 1 directly abutting the Indian River Lagoon, a State designated Aquatic Preserve. The district provisions are intended to assist in implementing land use, coastal management, and conservation goals, objectives, and policies within the comprehensive plan. For instance, the district provisions reduce exposure to natural hazards to persons or property as a result of windstorms and high tides; preserve the marine resources of the Aquatic Preserve; and restrict usage to noncommercial piers, boat slips, and docks.
- B. *RR-65 "Rural Residential."* The rural residential district is established to implement comprehensive plan policies for managing rural residential development at a density not to exceed one and one-half (1.5) acres per dwelling unit. The district is intended to protect and preserve existing agricultural and rural residential lands. These lands are generally developed for agricultural uses or for large lot rural residential home sites. The areas designated for rural residential development generally contain few urban services and the street system is generally incapable of carrying traffic generated by more intense urban development. The district is intended to accommodate and preserve a unique lifestyle which cannot be accommodated in more dense residential areas.
- C. *RS-21 "Single-Family Low-Density Residential."* This district is established to implement comprehensive plan policies for managing low-density, single-family residential development at a density not to exceed two (2) single-family dwelling units per acre. The RS-21 district is established in order to protect the quality and character of existing and future conventional single-family low-density neighborhoods, preserve open space, and manage future densities in order to assure compatibility with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.
- D. *RS-15 "Single-Family Medium-Density Residential."* The RS-15 district is designed to accommodate traditional single-family development on lots not less than 15,000 square feet. The district is established to preserve the stability of existing and future conventional single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that future densities are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.

E.

*RS-10 "Single-Family Medium-Density Residential."* The RS-10 district is established to implement comprehensive plan policies for managing traditional single-family residential development on lots not less than 10,000 square feet. This district is established to preserve the stability of existing and future single-family residential neighborhoods, preserve open space, and manage future densities in order to assure that they are compatible with existing developments, natural features of the land, as well as existing and projected public services and facilities within the area.

- F. *R-MH "Residential Mobile Homes."* The R-MH district is established to implement comprehensive plan policies for managing high density mobile home residential development. The district is designed for managing mobile home development at a density not to exceed six units per acre. The district is intended to provide sites for mobile home development within existing established mobile home parks.
- G. *RM-4 "Multiple-Family Medium-Density Residential."* The RM-4 district is established to implement comprehensive plan policies for managing medium-density residential development not to exceed four units per acre. The district is established to ensure sufficient land area for development of medium-density multiple-family residential developments which are fully serviced by adequate public facilities. Sites for medium-density multiple-family residential development shall be located so that they provide a smooth transition between low density residential development and areas developed and/or designated for more intense uses.
- H. *RM-6 "Multiple-Family High-Density Residential Development."* The RM-6 district is established to implement comprehensive plan policies for managing high-density residential development at a density not to exceed six units per acre. The district is established to ensure that sufficient land is available for developments of high-density residential development and is intended to ensure availability of adequate public facilities.
- I. *OI "Office-Institutional."* The OI district is established to implement comprehensive plan policies for managing office-institutional development. This district is designed to accommodate businesses and professional offices together with institutional land uses on sites which:
  - Have accessibility to major thoroughfares;
  - Have potential to be served by a full complement of urban services;
  - Contain sufficient land area to accommodate good principles of urban design, including sufficient land area to provide adequate landscaping and buffers to separate existing as well as potential adjacent land uses of differing intensities;
  - Accommodate only office buildings and institutional land uses and shall expressly exclude residential uses (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.

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

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

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

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

L. *CG "Commercial General."* The CG district is established to implement comprehensive plan policies for managing general commercial development. The general commercial district is designed to accommodate general retail sales and services. Sites designated for CG zoning shall be located in highly accessible areas adjacent to major thoroughfares which possess necessary location, site, and market requirements required by general commercial land use activities.

The general commercial district shall also accommodate commercial trades in strategically designated areas as defined in the conditional use criteria. Development standards within the land development code shall require that site plans incorporate amenities necessary to prevent potential adverse effects on the traffic circulation system, public services, and residential development within the vicinity.

The general commercial district is not intended to accommodate manufacturing, processing, or assembly of goods, sales and services of heavy commercial vehicles and equipment, or related services or maintenance activities; warehousing; uses requiring extensive outside storage; or other activities or trades which may generate nuisance impacts, including glare, smoke, or other air pollutants, noise, vibration or major fire hazards. Finally, no permanent residential housing shall be located within the general commercial district.

The location and distribution of general commercial activities shall be determined based on the following considerations:

- Trip generation characteristics, impact on existing and plan transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation, and floor area requirements;
- Compatibility with and impact on other surrounding commercial activities;
- Relationship to surrounding land uses and natural systems; and
- Impact on existing and planned community services and utilities.
- A Malabar Vernacular Style is required for all development along arterial roadways.

M. *IND "Industrial."* The industrial district is established to implement comprehensive plan policies for managing industrial development. In locating industrial districts, consideration shall be directed to selecting sites accessible to rail facilities, terminal facilities, major arterials, labor markets, and necessary urban services. Industrial districts shall not include residential activities. However, residence for night watchman or custodians whose presence on industrial sites is necessary for security purposes may be approved as an accessory use. Industrial districts shall be accessible to major thoroughfares and shall be buffered from residential neighborhoods.

Any additional industrial zoning shall be consistent with the comprehensive plan, including criteria for siting industrial activities, including but not limited to, policy 1-1.3.1, policy 1-1.3.2, and policy 1-1.3.3.

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

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

O.

*R/LC "Residential and Limited Commercial."* The R/LC district is established to implement comprehensive plan policies for managing development on land specifically designated for mixed use Residential and Limited Commercial development on the Comprehensive Plan Future Land Use Map (FLUM). Such development is intended to accommodate limited commercial goods and services together with residential activities on specific sites designated "R/LC" which are situated along the west side of the US 1 corridor, situated on the north and south side of Malabar Road and those sites on the east side of Babcock Street 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, 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; 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.

P. *RVP "Recreational Vehicle Park."* The RVP district is established to implement comprehensive plan policies for managing local zoning and site development design criteria on land specifically designated for Recreational Vehicle Park(s) as designated by F.S. ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative 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; Ord. No. 2021-02, § 2, 5-3-21; Ord. No. 2021-09, § 2, 8-16-21)

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.

TABLE 1-3.2. LAND USE BY DISTRICTS

	RR-65	RS-21	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP	
RESIDENTIAL USES															
Duplex					P	P					P				
Mobile Homes							P								
Multiple Family Dwelling					P	P					P				
Single Family Dwellings	P	P	P	P	P	P	P				P				
COMMUNITY FACILITIES															
Administrative Services (Public and Not-for-Profit)								P	P	P	P		P		
Child Care Facilities								C			C		C		
Churches, Synagogues and Other Places of Worship								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	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			
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	

Recreational Vehicle Park								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	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

(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; Ord. No. 2021-09, § 3, 8-16-21)

Section 1-3.3. - Size and dimension criteria.

A. *Minimum Lot or Site Requirements for All Uses.* Table 1-3.3(A) incorporates required size and dimension regulations which shall be applicable within each respective zoning district, except for Recreational Vehicle Park District, which is specifically described within Section 1-3.3, Item G. All developments shall have a total land area sufficient to satisfy all standards stipulated within the land development code, including but not limited to:

- Setback requirements;
- Open space, buffers, and landscaping;
- Surface water management;
- Water and wastewater services;
- Access, internal circulation and off-street parking;
- Wetland protection; and
- Soil erosion and sedimentation control standards.

Conventional single family lots shall be required pursuant to square footage requirements stipulated in Table 1-3.3(A). Similarly, more intense development within multiple family residential districts and other specified nonresidential districts shall maintain sites having minimum acreage requirements stipulated in Table 1-3.3(A).

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

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Minimum Living Area (sq. ft.)	Setback (ft.)(2)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) w/Central Water & Wastewater
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side (I)	Side (C)				
<b>Rural Residential Development</b>													
RR-65	65,340	150	250	35/3	1,500	40	30	30	30	20	N/A	80	0.66
<b>Traditional Single Family Residential Development</b>													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2.00
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	2.904
RS-10	10,000	75	100	35/3	1,200	<u>25</u>	20	10	10	50	N/A	50	4.00
<b>Multiple Family Residential Development</b>													

RM-4	5 Acres Minimum Site	200	200	35/3	1 Bedroom: 900 2 Bedroom: 1100 3 Bedroom: 1300 Each Additional Bedroom: 120	60	40	40	40	50	N/A	50	4.00
RM-6	5 acres Minimum Site	200	200	35/3	Single Family:	25	20	10	10	50	n/a	50	6
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	60	40	40	40	50	n/a	50	6

Mixed Use Development													
R/LC	20,000	100	150	35/3	Single Family:	25	20	10	10	50	n/a	50	4
					Multiple Family: 1 Bedroom: 500 2 Bedroom: 700 3 Bedroom: 900 Each Additional Bedroom: 120	50	25	10 <sup>4</sup>	20	65	n/a	35	6
					Commercial: 900						0.20		
Mobile Home Residential Development													
R-MH	Site: 5 Acres Lot: 7000					10	8	8	10	50	N/A	50	6.00
Office Development													



OI	20,000	100	150	35/3	Minimum Floor Area: 1000		<u>25</u>	20	<u>25</u>	65		20	35	N/A
<b>Commercial Development</b>														
CL	20,000	100	150	35/3	Minimum Floor Area: 900	50	<u>25</u>	<sup>4</sup> 10 <sub>3</sub> 15	20	65		0.20	35	N/A
					Min. Area: 900 Max. Area 4,000									
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	<u>25</u>	<sup>4</sup> 20 <sub>3</sub> 15	30	65		0.20	35	N/A
<b>Industrial Development</b>														
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 <sup>5</sup>	<u>25</u> 5 <sup>100</sup>	20 5 <sup>100</sup>	30 5 <sup>100</sup>	70		0.42	30	N/A

Institutional Development													
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	<u>25</u>	20	30	60	0.20 0.10 <sup>6</sup>	40	N/A
Coastal Preservation													
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.

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

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

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

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

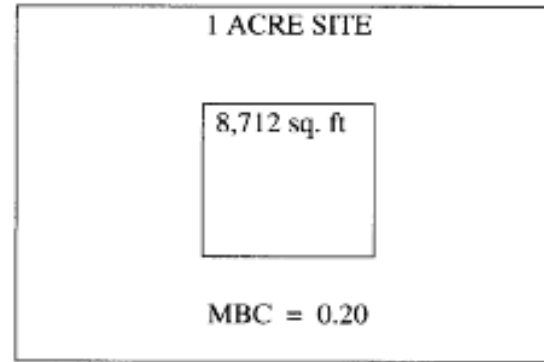
Where a proposed development is donating or dedicating land based on a plan approved by the Town, the gross site before dedication or donation shall be used to calculate ISR. This does not relieve the applicant from providing all required on-site buffers, landscaping, stormwater management areas, setbacks,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

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

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

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

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



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

MBC	=	<u>Total Building Coverage</u>
		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

Transportation Facility	Building Setback (feet)
Arterial Roadways (150 feet R/W)	100
US 1 Highway	
Malabar Road (SR 514)	
Babcock Street (SR 507)	
Major Collector Streets (100 feet R/W)	85
Corey Road	
Weber Road	
Marie Street	
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.

G. *Recreational Vehicle Park Zoning District.* Recreational vehicle park zoning district shall be to locate and establish areas within the Town which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district consistent with F.S. Ch. 513 entitled Mobile Home and Recreational Vehicle Parks, as well as Chapter 64E-15, Florida Administrative Code, as amended from time to time.

(1) Principal uses and structures:

- a) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations.
- b) Management offices and residence (a mobile home may be allowed for a manager's residence only).

(2) Accessory uses include:

- a) Grocery store.
- b) Bottled/Metered gas sales.
- c) Laundry facilities.
- d) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.

e) Public utility equipment and facilities.

(3) Conditional uses:

a) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.

(4) Design standards for recreational vehicle parks.

a) Minimum size: five (5) acres.

b) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.

c) Streets and parking:

1. Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right-of-way during the check-in process or while waiting for others to be checked in.

2. Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:

(a) A one-way street/drive shall be at least twelve (12) feet in width.

(b) A two-way street/drive shall be at least twenty-four (24) feet in width.

3. Street surfacing. All roads or driveways shall be paved meeting town standards.

4. Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All cul-de-sacs shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.

5. Parking. Each R.V. / travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting town standards to accommodate the size of the vehicle and be composition of materials examples: asphalt, cement, gravel, pavers, or LID methods (pervious asphalt, pervious concrete, etc.)

d) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and rights-of-way for the rear and sides of the property and a minimum of fifty (50) foot for roadway frontage of the property. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites but may be utilized for stormwater drainage and retention purposes. The provisions for buffer strips may be waived or reduced by the Town Council taking into consideration the use of abutting properties. Furthermore, any portion of the property which fronts a public right-of-way will not be required to be enclosed along such right-of-way.

e) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity.

1.

However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of recreational vehicle sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be ten thousand (10,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual recreational vehicle sites.

f) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:

1. There shall be a stabilized pad on the site for parking of the transportation vehicle.
2. Tent camping may be permitted on a travel trailer site.

g) Design requirements for recreational vehicle site.

1. Minimum size.

- a. Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.
- b. Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet. Consensus was to remove these sections.

2. Access. Each R.V. site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.

3. Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.

4. Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.

h) Provisions of service in recreational vehicle parks.

1. Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems. Service building are intended to accommodate the servicing equipment used for the park maintenance and are not intended to service any recreational vehicle, trailer, camper or equipment of a park guest. No major service or repair of a recreational vehicle shall occur on the park site. For the purposes of this section the term "major service or repair" shall mean any service or repairs to a recreational vehicle which is anticipated to take more than 4 (four) hours to accomplish.

2. Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies, Department of Environmental

Protection and/or the Department of Health.

3. Sewage disposal.
    - a. All sewage disposal facilities shall be provided in accordance with the regulatory agencies, Department of Environmental Protection and/or the Department of Health.
    - b. At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.
    - c. At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.
    - d. The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.
  4. Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Site Lighting shall conform to the Town's adopted Land Development Code, Article V. - General Provisions, Section 1-5.28 entitles Site Lighting. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.
  5. Electricity. All requirements of the National Electrical Code as contained referenced in Malabar Code of Ordinances Chapter 6 must be met.
  6. Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.
  7. Fire protection. The park shall be subject to the rules and regulations of State Statute, State Fire Code, and Malabar Code.
  8. Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.
  9. Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use.
  10. Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Article XIX of this code of ordinances.
- i) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a Recreational Vehicle Park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such site plan application pursuant to Article VII (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the Recreational Vehicle Park shall be built in accordance with such a plan. The site plan



shall include, but not be limited to, location of all R.V. sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the Town Council. The provisions of Section 1-7.5 shall apply.

j) Prohibited uses and Structures. All other uses and structures not specifically or provisionally permitted herein.

(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; Ord. No. 2021-02, § 3, 5-3-21; Ord. No. 2021-09, §§ 4, 5, 8-16-21)

ORDINANCE NO. 2004-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RELATING TO LAND DEVELOPMENT; AMENDING ARTICLE III OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING TABLE 1-3.3(A) BY REMOVING ALL REFERENCES TO THAT PORTION OF TABLE 1-3.3(A) RELATING TO MAXIMUM DENSITY WITHOUT CENTRAL WATER AND WASTE WATER; AMENDING SECTION 1-3.3(B) PROVIDING THAT ALL PROPOSED DEVELOPMENT WITHIN AREAS NOT SERVED BY CENTRAL WATER AND WASTEWATER SERVICES MUST COMPLY WITH THE SEPTIC PERMITTING REQUIREMENTS OF BREVARD COUNTY; REPEALING SECTION 1-5.20 OF ARTICLE V OF THE MALABAR LAND DEVELOPMENT CODE; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1.** Table 1-3.3(A) is hereby amended to remove all references to the Maximum Density Requirement for Lots Without Central Water and Wastewater.

**Section 2.** Section 1-3.3(B) is amended in full to read as follows:

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. ~~have the minimum lot areas as set forth in Table 1.3.3(B).~~

~~TABLE 1-3.3(B). MINIMUM AREA REQUIREMENTS FOR LOTS WITHOUT CENTRAL WATER OR WASTEWATER SERVICES<sup>1</sup>~~

Type of Development	Water/Wastewater System	Lot Area
Residential	<del>Septic Tanks or Aerobic Septic Individual Wells</del>	One unit per acre
Residential	<del>Septic Tanks Central Water</del>	One half acre per unit
Nonresidential	<del>Septic Tanks Individual Wells</del>	One acre per unit

~~<sup>1</sup>Individual septic tanks, aerobic septic and individual wells must receive development orders from appropriate County and/or State entities. Land development code standards for specific individual uses may impose larger or more restrictive site/lot area requirements.~~

**Section 3. Repeal of Specific Code.**

Section 1-5.20 of Article V of the Malabar Land Development Code is repealed in its entirety.

**Section 4. Repeal.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed and all Ordinances or parts of Ordinances not in conflict herewith are hereby continued in full force and effect.

**Section 5. Severability.**

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

**Section 6. Incorporation.**

It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida and it is herby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

**Section 7. Effective Date.**

This Ordinance shall become effective immediately upon its adoption.

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

Council member Jane Havet	<u>absent</u>
Council member Brian Hunter	<u>aye</u>
Council member Steve Rivet	<u>aye</u>
Council member Bobbi Moccia	<u>aye</u>
Council member Bob Rossman	<u>aye</u>

Passed and adopted by the Town Council, Town of Malabar, Brevard County, Florida this 12<sup>th</sup> day of July, 2004.

By: Phillip R. Crews  
Mayor Phillip R. Crews

PH@PZ 6/9/04  
First Reading: 06/21/04  
Second Reading: 07/12/04

ATTEST  
By Susan Kabana  
Susan Kabana, CMC  
Town Clerk/Treasurer

(seal)

Approved as to form and content:  
Karl W. Bohne, Jr.  
Karl W. Bohne, Jr.  
Town Attorney

Ordinance 2004-08  
Town of Malabar

activity, under a temporary zoning permit, provided however, said trailer must be removed within ten (10) days after completion of construction.

**Cross reference**—Boats, marinas and waterways, ch. 5.

**Section 1-5.16. Parking, storage of vehicles.**

No automotive vehicles or trailers of any kind or type or any recreational equipment without required current license plates shall be parked or stored on any residentially zoned property other than in an enclosed building, carport or behind a barrier which obscures visibility from any public or approved private street, or adjacent property provided the location is not in any required yard area. This section shall not apply to operative agricultural vehicles or equipment within an RR-65 district.

Any above referenced vehicles or equipment that are visible from a public or private street or from adjacent property shall be titled to the property owner or legal resident or it shall be considered abandoned property under ordinance 3-1-77, § 1 (Sec. 11-26, Town of Malabar Code of Ordinances).

(Ord. No. 92-8, § 1(F), (G), 8-18-92)

**Section 1-5.17. Proximity of dwelling units to railroad tracks.**

No dwelling unit shall be located closer than five hundred (500) feet from the railroad tracks unless it has been soundproofed to attenuate an exterior sound pressure level of one hundred (100) decibels.

**Section 1-5.18. Standards for required on-site or off-site improvements.**

All sidewalks, other walkways, streets, drainage facilities, utilities or other on- or off-site improvements shall meet applicable standards of the Town's subdivision regulations for sidewalks.

**Section 1-5.19. Keeping of animals.**

The keeping of grazing animals shall be allowed in any rural residential district provided that where the lot size is less than two and one-half (2½) acres, one (1) animal shall be allowed for the first acre plus one (1) additional animal for each additional one-half acre thereafter.

**Cross reference**—Animals, ch. 4.

**Section 1-5.20. Residential structures on lots less than one acre in area.**

Notwithstanding any other provision of this chapter [Code], no residential structure shall be constructed on any lot having an area of less than one (1) acre unless public water or sewer service is available on such lot and the plans for such construction show that the structure will be connected to such service.

MALABAR TOWN COUNCIL REGULAR MEETING  
JULY 12, 2004 7:30 PM

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road. The meeting was called to order at 7:30 pm by the Chair, Bobbi Moccia. The prayer and pledge were led by Mr. Rivet.

<b><u>ROLL CALL:</u></b> MAYOR:	PHILLIP CREWS - EXCUSED
CHAIR:	BOBBI MOCCIA
VICE-CHAIR:	STEVE RIVET
COUNCIL MEMBERS:	JANE HAVET - EXCUSED
	BRIAN HUNTER
	BOB ROSSMAN
ADMINISTRATOR:	ED BOOTH
ATTORNEY:	KARL BOHNE
CLERK:	SUSAN KABANA

**ADDITIONS AND DELETIONS TO AGENDA**

Kabana – add Hans Kemmler, Park Board Chair, under Reports. Bohne – reminder that item 1 under public hearing has already had public comment and it needs to be taken off the table.

**MOTION: Rivet/Rossman to approve agenda. VOTE: All aye.**

**CONSENT AGENDA:**

**MOTION: Rossman/Hunter to approve. VOTE: All aye.**

Council Minutes 6/21/04.

**PRESENTATION:BRAD SMITH OF BRAD SMITH AND ASSOCIATES, REGARDING BEAUTIFICATION GRANT ALONG US1**

Brad Smith – the project is moving along, is here to present the concept. The medians in Malabar run from the Yellow Dog Café to Township Road. Smith has designed a project that will not create a lot of maintenance. Passes out sketches to Council, the idea is to keep the views open, use open tree types and palms, and use low growing native flowers and grasses. Discussion. Visibility and safety is very important and DOT has strict requirements. Width of the lawn mower is to be taken into consideration. Council is concerned about the visibility and they like palms trees. They would like to see the town sign moved to the median, Smith will talk to DOT. Moccia – notes that this is a 100% grant.

**REPORTS:**

**ATTORNEY**

Nothing at this time.

**ADMINISTRATOR**

Booth – after the last meeting he took a look at the attorney's letter and the allegation by a citizen named in the letter. Booth talked to both the mortgagee or the mortgagor and verified that situations took place as stated in the attorney's letter. States that it would take months to put together an investigation regarding this issue and by that time the issue should be resolved by other means.

Last Friday Booth met with a developer who has the backing to put in water and sewer along US1. Booth showed some overheads of the developments the developer has built, they are neat and well done. There will be a request to develop at a taller height per story. There is some concern about our code not being inline with the State Uniform Building Code. Council would like our code to reflect this. Hunter – is concerned about the ultimate height. Booth – we will be 3 floors maximum, Council agrees with this.

Booth has a request from the building department – how many mobile businesses can be on a single lot? Would like Council to think about this. There are many businesses on the corner of US1 and Malabar Road.

Regarding Brook Hollow and Briar Creek Blvd. Their only exit is the ROW on Briar Creek (going north) and if there is a fire there then there is no way out. States that we cannot give away the ROW to the south. It would have to be used in case of an emergency, if it was not available the citizens could be trapped if there was a fire at the north end.

Needs Council to direct the attorney to write a contract for Booth.

#### **A. STOP SIGNS ON COREY ROAD**

The stop signs have been ordered and they will go in at Atz. They have also ordered rumble strips. There will be advance notice of the placement of the signs.

#### **B. PALM BAY'S REQUEST FOR BERRI PATCH SEWER IMPACT FEES**

When Berri Patch was built the owners of Berri Patch went directly to Palm Bay and negotiated for sewer and now Palm Bay wants to be paid for sewer impact fees. Berri Patch is going to have to pay the impact fee. He would contact Council if an agreement cannot be reached.

#### **PARK BOARD CHAIR**

Hans Kemmler – discussion of the playground equipment for Malabar Community Park. States that because they would like to piggy-back the State they are not trying to circumvent the bidding process. Shows overheads of the playground equipment with a shade cover. Asks Council if the Park Board should budget for the cover. Council – yes. Kemmler – will approach the Park Board with this. What about lighting? Council – would rather have the covered playground than the lighting.

Booth – hands Council a letter he received today from the EELs. Booth will write a rebuttal.

#### **CLERK**

Will be on vacation July 18 to August 1<sup>st</sup>. Can we cancel the second meeting in July if there is nothing urgent? Council – yes.

#### **PUBLIC HEARINGS:**

##### **1. FINAL READING: ORDINANCE 04-02, PERTAINING TO NUISANCES**

**MOTION: Rivet/Rossman to take off the table. VOTE: All aye.**

**MOTION: Rivet/Rossman to approve. VOTE: Aye – Rivet, Moccia, Hunter, Rossman.**

##### **2. FINAL READING: ORDINANCE 2004-08, PERTAINING TO MAXIMUM DENSITY WITHOUT CENTRAL WATER AND WASTEWATER (SEPTIC)**

**MOTION: Rossman to approve by unanimous consent. Chair approved without objection.**

Moccia read:

ORDINANCE NO. 2004-08

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; RELATING TO LAND DEVELOPMENT; AMENDING ARTICLE III OF THE MALABAR LAND DEVELOPMENT CODE; AMENDING TABLE 1-3.3(A) BY REMOVING ALL REFERENCES TO THAT PORTION OF TABLE 1-3.3(A) RELATING TO MAXIMUM DENSITY WITHOUT CENTRAL WATER AND WASTE WATER; AMENDING SECTION 1-3.3(B) PROVIDING THAT ALL PROPOSED DEVELOPMENT WITHIN AREAS NOT SERVED BY CENTRAL WATER AND WASTEWATER SERVICES MUST COMPLY WITH THE SEPTIC PERMITTING REQUIREMENTS OF BREVARD COUNTY; REPEALING SECTION 1-5.20 OF ARTICLE V OF THE MALABAR LAND DEVELOPMENT CODE; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Moccia – opened the public hearing.

Tom Eschenberg – doesn't really understand this ordinance. It appears that we are backing off our more restrictive ordinance to begin using the County ordinance. Would like to know: what caused this? and what are the County requirements?

Cindy Zindel – Council needs to think about what would happen if this density was realized, what would happen to the infrastructure. If you are to increase the density then the comp plan would have to be reviewed.

Moccia – closed the public hearing.

Booth – we are not the agency allowed to give permits on this, nor are we the inspecting agency, therefore, since we have no control over this, then it should not be in our ordinance. As far as density, it is controlled by the zoning. Discussion of the safety of having water available.

**MOTION: Rivet/Rossman to approve. VOTE: Aye: Rivet, Moccia, Hunter, Rossman.**

### **3. FINAL READING: ORDINANCE 2004-05, PERTAINING TO ADMINISTRATIVE LOT SPLITS**

**MOTION: Rossman to approve by unanimous consent. Chair approved without objection.**

Moccia read: ORDINANCE 2004-05

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, REPEALING ORDINANCE 00-11 ADMINISTRATIVE LOT SPLITS; PERTAINING TO ARTICLE XVI SECTION 1-16.1(C) OF THE LAND DEVELOPMENT CODE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Bohne – reminds Council that this was recommended by himself and another attorney to be unconstitutional.

Moccia opened the public hearing and asked for public comment, being none she closed the public hearing.

**MOTION: Rivet/Hunter to approve. Aye: Rivet, Moccia, Hunter, Rossman.**

### **DISCUSSION ITEM:**

#### **1. PROPOSED INTER-LOCAL AGREEMENT WITH BREVARD COUNTY REGARDING BUILDING AND CONSTRUCTION LICENSE ENFORCEMENT**

**MOTION: Rossman/Rivet to table. VOTE: All aye.**

#### **2. PROPOSED CONTRACT WITH MALABAR VOLUNTEER FIRE DEPT. INC.**

Rossman – does not like the word 'adequate', and the term of the contract is for a period of time that is too long. He does not want children in the fire station after 9pm. Wants more approval for staff to be there later than 11pm. Does not see the Town having the ability to take corrective measures listed in this agreement. Bohne – that will have to be in the Standards or Policies and Procedures.

Hunter – how will the budget be recommended? Bohne – it is recommended by the Chief, not the corporation. Hunter – would like to see Council approval for expenditure of Town funds. The number of 'firemen required' is listed at 18, where does that number come from?

McClelland – that is what it takes to man the fire trucks. Hunter – are we putting a small band aid on a big problem? Bohne – 18 is the minimum, 25 is what is the normal requirement.

Discussion. Hunter – would like the minimum number of fire fighters worked on. Moccia – this is a draft and will all have to be worked on.

Booth – notes that Council will receive the feasibility study on August 2<sup>nd</sup>.

### **ACTION ITEMS:**

#### **1. FORM DR420, CERTIFICATE OF TAXABLE VALUE**

Booth – is recommending an increase of 4.99 cents, it will be used for fire protection and help decrease homeowner insurance rates, this based on a proposed budget.

**MOTION: Rossman/Hunter to use 9.9% of the rolled-back rate. VOTE: All aye.**

Rivet – wants more information on the insurance rates.

**2. SCHEDULE MEETING DATES FOR THE FOLLOWING:**

**A. BUDGET WORKSHOP**

August 17<sup>th</sup>, 7:30pm.

**B. TOWN MEETINGS REGARDING ANNEXATION**

August 23<sup>rd</sup> and 31<sup>st</sup>.

**C. SEPTEMBER COUNCIL MEETINGS**

September 13<sup>th</sup> and September 27<sup>th</sup>. Kabana – September 13<sup>th</sup> cannot be changed because it is what will be written on the proposed tax statements received by the citizens.

**REPORTS: MAYOR, COUNCIL**

- Hunter – the City of Palm Bay was very prompt in helping with the fire last Saturday. The damage to the Cameron Preserve is very bad. The Jordan Scrub is quiet but the pile of debris is growing and needs to be removed.
- Rossman – asks about the proposed EELs purchase.
- Rossman – Florida Stormwater letter – are we on top of this? Booth – yes.
- Rossman – there is only one way into and out of the proposed Stillwater Preserve, it needs two. Discussion of the lining up of the entrances.
- Rivet – nothing at this time.
- Moccia – thanks the Fire Department.

**PUBLIC COMMENTS: GENERAL ITEMS**

- Steve Gentile – has letters to give to the Council regarding his issue. Reads a letter regarding horse training and raising. Bohne – some of what Gentile had initially intended did not follow with agriculture use, it was ecotourism. Gentile – but this does not apply to horses. Bohne – disagrees.
- Steve Gentile – there is very fast traffic along the north end of Corey Road, many of them live in Country Cove, it is very dangerous and suggests a letter to the homeowners association. Rossman – the homeowners association is aware of this and the people who do this have been told that they will be cited for this.
- Steve Gentile – has had 4 episodes of vandalism on his property at the north end of Corey Road. He has re-fenced and it has been cut three times. Also, he paid to have irrigation plumbed and it was finished last night, it will allow for irrigation against fire at 200 gallons per minute, and today he went out there and the plumbing had been smashed. He has filed with the sheriff.
- Withers – can we have our property taxed earlier? Bohne – no it is driven by Statute.
- McClelland – former Council Member Ernie Whitt passed away. Kabana – Council will be sending flowers.

**ADJOURNMENT**

Meeting adjourned at 9:27 pm.

BY:



Chair Bobbi Moccia

ATTEST:



Susan Kabana, CMC  
Town Clerk/Treasurer

DATE:

8/2/04