



REGULAR TOWN COUNCIL MEETING

Monday, July 3, 2023 at 7:30 pm

1. CALL TO ORDER, PRAYER AND PLEDGE
2. ROLL CALL
3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES
4. CONSENT AGENDA

- a. Approve Minutes of 06/05/2023

Exhibit: Agenda Report Number 4a

Attachments:

- **Agenda Report Number 4a** (Agenda_Report_Number_4a.pdf)

5. ATTORNEY REPORT
6. BCSO REPORT
7. BOARD / COMMITTEE REPORTS

- a. T&G Committee

Exhibit: Agenda Report Number 7a

Attachments:

- **Agenda Report Number 7a** (Agenda_Report_Number_7a.pdf)

- b. Park & Recreation Board

Exhibit: Agenda Report Number 7b

Attachments:

- **Agenda Report Number 7b** (Agenda_Report_Number_7b.pdf)

- c. Planning & Zoning Board

Exhibit: Agenda Report Number 7c

Attachments:

- **Agenda Report Number 7c** (Agenda_Report_Number_7c.pdf)

8. STAFF REPORTS

- a. Manager
 - b. Special Projects Manager
 - c. Treasurer

Exhibit: Agenda Report Number 8c

Attachments:

- **Agenda Report Number 8c** (Agenda_Report_Number_8c.pdf)

d. Fire Chief

e. Public Works Director

f. Clerk

Exhibit: Agenda Report Number 8f

Attachments:

- **Agenda Report Number 8f** (Agenda_Report_Number_8f.pdf)

9. PUBLIC COMMENTS

Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)

Five (5) Minute Limit per Speaker

10. PUBLIC HEARINGS / SPECIAL ORDERS: 3

a. Amending Land Development Code, Article II – Land use Zoning, Section 1- 2.6 – Land Use Classifications and Table 1-3.2 Land Use By Districts for Limited Manufacturing Activities and Limited Manufacturing Activities providing for a permitted or conditional use in Article VI. Conditional Use and Special Exception Use Criteria in Table 1-6.1(B) - Conditional Land Use Requirements. (Ordinance 2023-01; First Reading)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE II – LAND USE ZONING, SECTION 1-2.6 – LAND USE CLASSIFICATION; AND ARTICLE III – DISTRICT PROVISIONS, SECTION 1-3.2 – LAND USE BY DISTRICT - TABLE 1-3.2 LAND USE BY DISTRICT TO INCLUDE LIMITED MANUFACTURING ACTIVITIES IN CERTAIN ZONING DISTRICTS, RESIDENTIAL/LIMITED COMMERCIAL (R/LC), COMMERCIAL LIMITED (CL), AND COMMERCIAL GENERAL (CG); AND ARTICLE III SECTION 1-3.2, LAND USE BY DISTRICT; ARTICLE VI, SECTION 1-6.1 CONDITIONAL USES; TABLE 1-6.1(B) CONDITIONAL LAND USE REQUIREMENTS AS CONDITIONAL USES IN RESIDENTIAL/LIMITED COMMERCIAL (R/LC), COMMERCIAL LIMITED (CL), AND COMMERCIAL GENERAL (CG), ZONING DISTRICTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10a

Attachments:

- **Agenda Report Number 10a** (Agenda_Report_Number_10a.pdf)

b. Public Hearing - Vacate Requests within Section 11, Melbourne Heights subdivision (SD) Section “E” east of Corey Road (Resolution 06-2023)

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE VACATE OF THREE FIFTY (50) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAYS AND ONE FIFTY-FIVE (55) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAY ABUTTING PARCELS 29-37-11-75-24, 29-37-11-75-15-1, 29-37-11-75-16-1, 29-37-11-75-17-1, 29-37-11-75-27-1, AND 29-37-11-75-14-1 IN SECTION “E” MORE SPECIFICALLY KNOWN AS CORIANDER STREET, FEVERROOT STREET, COLORADO AVE AND CHERVIL STREET, AS DESCRIBED HEREIN; AUTHORIZING THE TOWN CLERK TO RUN A LEGAL ADVERTISEMENT OF THIS ADOPTED RESOLUTION; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 10b

Attachments:

- **Agenda Report Number 10b** (Agenda_Report_Number_10b.pdf)

c. Request Road Improvement Waiver for the North end of Kramer Lane adjacent to parcel 814. Request by parcel owner Joy Maximin.

Exhibit: Agenda Report Number 10c

Attachments:

- **Agenda Report Number 10c** (Agenda_Report_Number_10c.pdf)

11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

12. ACTION ITEMS : 1

a. TRIM Update

Exhibit: Agenda Report Number 12a

Attachments:

- **Agenda Report Number 12a** (Agenda_Report_Number_12a.pdf)

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

13. DISCUSSION/POSSIBLE ACTION

a. Conditional Uses and Special Exception Use Criteria and corresponding table 1-6.1(B)

Mayor Reilly

Exhibit: Agenda Report Number 13a

Attachments:

- **Agenda Report Number 13a** (Agenda_Report_Number_13a.pdf)

14. PUBLIC COMMENTS

General Items (Speaker Card Required)

15. REPORTS - MAYOR AND COUNCIL MEMBERS

16. ANNOUNCEMENTS

(1) Vacancies on the Trails and Greenways Committee; (2) Vacancies on the Parks and Recreation Board, (1) Vacancy on the Planning and Zoning Board; and (1) Vacancy on the Board of Adjustment.

17. ADJOURNMENT

If an individual decides to appeal any decision made by this board with respect to any matter considered at this meeting, a verbatim transcript may be required, and the individual may need to ensure that a verbatim transcript of the proceedings is made (Florida Statute 286.0105).

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with

Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

Contact: Richard Kohler (townclerk@townofmalabar.org 321-727-7764) | Agenda published on 06/28/2023 at 2:08 PM

TOWN OF MALABAR

Regular Town Council Meeting

AGENDA ITEM NO: 4.a

Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Approve Minutes of the RTCM of 6/05/2023

BACKGROUND/HISTORY:

Summary of actions at Town Council Meetings

ATTACHMENTS:

- Draft Minutes of RTCM of 6/05/2023

ACTION OPTIONS:

Review

**MALABAR TOWN COUNCIL
REGULAR MEETING MINUTES
June 5th 2023, 7:30 PM**

This meeting of the Malabar Town Council was held at Town Hall at 2725 Malabar Road.

1. CALL TO ORDER:

Council Chair Mayor Patrick T. Reilly called meeting to order at 7:30 pm. CM Scardino led P&P.

2. ROLL CALL:

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

DAVID SCARDINO

COUNCIL MEMBERS:

MARISA ACQUAVIVA

BRIAN VAIL

JIM CLEVINGER

MARY HOFMEISTER

TOWN MANAGER:

MATT STINNETT- EXCUSED

TOWN ATTORNEY:

KARL BOHNE

SPECIAL PROJECTS MANAGER:

LISA MORRELL

TOWN CLERK:

RICHARD KOHLER

3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: None

4. CONSENT AGENDA:

4.a. Approve Minutes of 5/15/2023 RTCM

Exhibit: Agenda Report Number 4a

4.b. Acknowledgement of State Revolving Loan (SRF) Agreement SW051400, Amendment 3

Exhibit: Agenda Report Number 4b

MOTION: CM Vail/CM Scardino to approve Consent Agenda.

Vote: All Ayes (5-0).

5. PROCLAMATION: Small Cities Month

Mayor Reilly read the Small Cities Month Proclamation into the record.

6. ATTORNEY REPORT: No report. Mayor Reilly asked how the Town could gain access to Piney Groves Cemetery. Atty Bohne states it is private property, but the Town can obtain an inspection warrant. Other than that, it may take a Court injunction. Regarding the private cemeteries, anyone who disturbs an abandoned cemetery is subject to criminal prosecution. Also, the State has a division that should provide more assistance.

Mayor Reilly also asked about the policy for correspondence between the Boards and Committees and the Attorney. He believes that the communications should go to the Town Manager, and then to the Attorney. Since the Attorney bills for all work he does for the Town, all correspondence between the Board/Committee Members must flow through the Town Manager. He requests a consensus from Council to remind the Committee and Board members of this policy. Attorney Bohne states he did not respond to this email, he did not review it, and he forwarded it to Town Staff. CM Acquaviva requested Staff remind the board at their meetings.

MOTION: CM Scardino/CM Hofmeister to remind the board/committees that their communications to the attorney flow through the Town Manager.

Vote: All Ayes (5-0)

7. BCSO REPORT: None

8. BOARD/COMMITTEE REPORTS:

8.a. Trails and Greenways Committee

Written Report provided.

8.b. Parks and Recreation Board

Written Report provided.

8.c. Planning and Zoning Board

Written Report provided.

8.d. Board of Adjustment

Written Report provided.

9. STAFF REPORTS:

9.a. Town Manager – Interim Lisa Morrell states that operations are continuing nicely. FEMA sent an approval agreement to be executed at a future meeting for the Rocky Point Road repairs. The Jordan Scrub Sanctuary will have a prescribed burn tomorrow. CM Vail requests a longer notice for burns. Staff states they were only notified late this afternoon. CM Acquaviva states the County has started their work in the Malabar Scrub. In the past, the Town or County provided advanced notice, and suggests the Town use the new Electronic Display Sign to push out messaging.

9.b. Special Projects Manager – Lisa Morrell states that the Piney Grove Cemetery has been registered with the State of Florida. She inquired about assistance and was referenced to Flagler University. The surveyor will survey the Mary Street ROW in the area. Also, the VFA Grant Bunker Gear has been delivered.

9.c. Town Treasurer – Lisa Morrell states that she has been reconciling old accounts in QB to prepare for the transfer to BS&A. She is working to get the system best prepared for BS&A Roll out. The TRIM Season also started today. Year end estimates, millage calculation, and other preparations are underway for the budget season. Also, she will be on vacation from October 7th to October 15th.

9.d. Fire Chief – Written Report

9.e. Public Works Director – Written Report

9.f. Town Clerk – Richard Kohler

Clerk Kohler informed Council that Form 1s are due by July 1st. If anyone has questions or would like help, please come see Staff. Information on the upcoming Form 6's has been placed in your mailboxes for your review.

10. PUBLIC COMMENTS: Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. Public comments do not require a Council response. (Speaker Card is Required)

Mark Gunter, 1240 Pemberton Trail, states he is here to discuss the Scrub Sanctuary. He searched for the updated agreement on the Town's website and is comparing the original meetings to refresh his memory. He found that the sanctuary was burned in 2014. Do we know how many Scrub Jays were there? Mayor Reilly states there are currently 14 over 577 acres. Mr. Gunther states in between 2014 and 2022, we have no clue how many birds were in there. He is speaking for the whole habitat, not just the Scrub Jays. He wants the scientific data that backs up the County's actions. The East side makes sense, but Malabar West is too small. Why is the County so concerned with a small property? The Trail relocation will be done with no Malabar support. He believes we should have asked for donations and extended the fight. He lives right next to this sanctuary, and he feels he will pay a much higher price than others for this issue. Jordan Scrub is a mess because of the EELs program, and the Malabar Scrub is going to be next. He goes to the Jordan Scrub and sees no wildlife. He is afraid that this project will turn Malabar Sanctuary into Jordan Sanctuary. He feels that the

presentation from the T&GC was intended to go to a judge. The Town didn't really get anything for this deal, and he is very upset. Mayor Reilly states the County counted the Scrub Jays by zone in the Sanctuary, and all of their information is publicly available. Mr. Gunther also requests more tortoise signs along Briar Creek Blvd in the Trailhead area.

11. PUBLIC HEARINGS / SPECIAL ORDERS: 0

12. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO TOWN APPOINTED BOARDS/COMMITTEES: 1

12.a. Parks and Recreation Board Recommendation for FCT Funds

Exhibit: Agenda Report Number 12a

ITM Morrell stated that this item has been before Council before. A few years ago, Council agreed to the original agreement in the exchange of Fern Creek Park. That agreement included 5 items to be completed with the awarded funds. The funds provided are not enough to complete the tasks, so the FCT suggested the Town amend the agreement. At the May 31st Parks and Recreation Board Meeting, the Board voted unanimously to recommend that Council approve the amended FCT Agreement. The Board has recommended a pavilion be purchased for Eschenberg Park, and a foot bridge be installed in the Disc Golf Sanctuary. Multiple options are available for the foot bridge, but the Parks and Recreation Board recommended Option 3, pressure treated wood. These two projects will use all of the \$40,455.00 awarded in the agreement, and only cost \$230.02 of General Fund dollars. Using the Trex Composite to complete the foot bridge would result in an increase of \$805.70 in total. The Park Board reached a consensus to recommend the Patrino Green roof for the pavilion.

MOTION: CM Vail/CM Hofmeister to approve the Parks and Recreation Board recommendation to amend the FCT contract.

Vote: ALL Ayes (5-0)

13. ACTION ITEMS:

ORDINANCES for FIRST READING: 0

RESOLUTIONS: 0

MISCELLANEOUS: 3

13.a. Approve Extension of Temporary Placement of a Travel Trailer while Constructing a SFR at 2060 Howell Lane

Exhibit: Agenda Report Number 13a

Staff: ITM Morrell states the applicant is not here but, but she has emailed staff her request and has made steady progress on the property.

MOTION: CM Acquaviva/CM Scardino to approve a 6-month extension of the placement of a Travel Trailer while constructing a SFR at 2060 Howell Lane.

DISCUSSION: CM Acquaviva reiterates that the extension is for 6 months.

VOTE: Motion Carries 5-0.

13.b. Memorandum of Understanding for Legal Advertisement on Brevard County's Website

Exhibit: Agenda Report Number 13b

Clerk Kohler explained that with the passing of HB 7049 municipalities are now allowed to post legal ads on a County website as long as it is less expensive than posting in the local newspaper. Town Code dictates that certain items must be advertised in the local newspaper, and Staff has begun identifying these for future changes. This MOU does not require us to post on the website, but it allows us the opportunity to.

CM Acquaviva reiterates that Staff can use the website, Florida Today, or both. Mayor states Staff can choose whichever is cheaper.

MOTION: CM Scardino/CM Hofmeister to approve the MOU for Legal Advertisement on Brevard County's Website.

VOTE: All Ayes (5-0)

13.c. Request by Mr. Don Foley to contract or deannex property from the Town of Malabar

Exhibit: Agenda Report Number 13c

Applicant Mr. Don Foley – Introduced himself as the owner of Berri Patch on Malabar Road. He was approached by investors to develop an Assisted Living Facility. At the time, the Town did not have code dictating ALFs. He previously went to P&Z and Council and was denied the requested use of his property. He went to court and lost. His only alternative is to use his land. He wishes to go to Palm Bay. He states he pays no taxes due to tax breaks and pays no utility fees to the Town. He wishes to deannex so he can get the best use of his land.

Staff Comments – Attorney Bohne states that this process started 6 months ago. In that time, Staff has performed a feasibility study. The feasibility study is part of tonight's agenda and concludes to reject the petition. The grounds to reject are that a petition to contract must be signed by 15% of the property owners. This was submitted by an entity, not an individual or qualified voter. The second ground states that if a property can be annexed, it cannot be contracted. Because of this, we cannot approve the petition for contraction.

Mayor Reilly states he believes Mr. Foleys was granted some of the uses for his land, as in his previous submittal to P&Z, phase 3 of the original submittal was allowed.

Motion: CM /CM move to approve the contraction. (No Motion, Motion Fails)

MOTION: CM Scardino/CM Vail move to disapprove the request on the basis outlined in the staff analysis.

Discussion: CM Acquaviva states there are actually 3 lots before the border of Palm Bay. Approving this request would create an island.

Vote: 5-0 (All Ayes)

Chair excused the Attorney at this time.

14. DISCUSSION/POSSIBLE ACTION

14.a Town Hall Staffing

Exhibit: Agenda Report Number 14.a

Mayor Reilly states we have discussed this in the past. Some of the options are a Secretary/Receptionist like the Town had with Ms. Dorothy, Administrative Assistant to assist the Charter Offices (Not Building Department), or an executive assistant at \$65,000. Regarding the Building Department, he believes we should hire a specific person to work in that department. This person will need to learn what Ms. Collette is doing. The Mayor believes we should hire an Administrative or Executive Assistant, and a Building Department Assistant.

CM Vail states TM Stinnett will be back in 14 days. Our next meeting is July 3rd. He feels it would be best if TM Stinnett was here to explain his intentions. Mayor Reilly states he has been waiting for months to do this, and he does not want to wait any longer. CM Scardino states we can accept applications, but not hire one. Mayor states he asked for job requirements 3 months ago, and nothing has come forth. CM Scardino states he would like to move the project forward. CM Acquaviva states she feels the frustration comes from a difficult search for a Treasurer. She feels TM Stinnett and SPM Morrell should be the head and have a high-level assistant. She suggests beginning to accept applications. CM Scardino states we can't advertise until we have a job description. He suggests directing staff to develop appropriate job descriptions.

SPM Morrell states that procedurally, Council approves these new positions, and Staff creates the budget amendment to accompany them. She requests Council give Staff a title, funding source, and salary range.

CM Vail states the salary range included is higher than the Town Clerk they would be assisting. He believes that does not make sense. We should create a position and pay rate appropriate

for the job. CM Acquaviva states this person should support the two highest staff members. CM Vail states the three executive offices should be supported by an executive assistant. He doesn't feel advertising that position at that salary is right. CM Scardino suggests we select the title and figure out the salary later. SPM Morrell states she was unsure about the information included in the Agenda Report. She does not know if this was intended to include anything in the Building Department. CM Hofmeister asks if Staff can develop a job description? The Town Clerk knows what his office needs, and the Building Department knows what their office needs, can they create a job description for future Council approval?

Clerk Kohler states that he could develop a job description for his office, but an executive assistant would encompass the Clerk's Office, Treasurer/SPM Office, and the Town Manager's Office. SPM Morrell states staff has reviewed job descriptions but needs Council direction on salary amounts. Mayor asks the Clerk what the last Administrative Assistant, and the last Deputy Clerk were paid. Clerk states the Administrative Assistant made \$11.00 per hour, and the Deputy Clerk made \$17.00 per hour. Mayor states an Administrative Assistant could be 40-45k and Executive Assistant would be 50-65k. CM Vail states in the information in the packet, it is listed at \$19.00 per hour, which comes to over \$39k per year. CM Scardino asks how many calls per day come into Town Hall.

Clerk Kohler states his office receives approximately 50 per day, and the building department easily doubles that. SPM Morrell states staff spends a large amount of time answering phones and routing calls. If the Building Department is closed, it slows the rest of Town Hall's productivity.

CM Acquaviva states in the past, we had a receptionist who would route calls. When she calls, sometimes it is hard to get a hold of someone. CM Vail asks if hiring a receptionist at \$15.00 would be appropriate, as well as hiring an Executive Assistant? SPM Morrell states it is Council prerogative. CM Vail asks how much are allotted for these positions this year? SPM Morrell states both positions in the agenda are fully funded. CM Acquaviva states she would like to have an administrative assistant at 50-65k, and a receptionist at 39k.

Mayor reiterates he believes there are 3 options:

1. Receptionist Only
2. Administrative Assistant that supports 3 Charter Offices
3. Executive Assistant

CM Scardino states he would like to see an Administrative Assistant and a Receptionist.

SPM Morrell states she will develop a budget amendment and draft job description.

CM Scardino states that well rounded people could work multiple positions. CM Vail states he is unfamiliar with going rates but believes \$19 is too much for a receptionist.

SPM Morrell states the title is unimportant. We need people who will be dishwasher, cook and busboy. Someone who is adaptive and can address problems as they come.

CM Vail states he is okay with \$15-19 for a receptionist, and Administrative Assistant from \$40-65k, depending on experience. CM Scardino states we need to see what we can get.

Mayor reiterates we will hire 2 people, a Receptionist and Administrative Assistant, Receptionist max pay at \$40k, Administrative Assistant max pay at \$65k. Mayor asks if the 2-year college requirement should stay? CM Scardino states 2 years or experience. CM Vail agrees. SPM Morrell states it doesn't have to be a requirement, but we can look for it. A work experience and schooling requirements should match.

14.b Town Welcome Sign

Exhibit: Agenda Report Number 14b

Mayor Reilly states there was a crash near the hospital, and he was stuck next to the Town Welcome Sign. They look like they need replacing. The one on Malabar Road especially. The Mayor suggests taking one from US1 to replace the one on Malabar Road, and get 2 replacements for US 1. CM Vail states if we budget 10k per year, we can replace 2 signs per year. SPM Morrell states the new signs could have the same specifications as the new park signs, which are vandal proof, and rated for 10 years. She can shop for a more comparable sign, but we have quotes from a contractor. Mayor suggests removing one sign from US1 to

replace the one on Malabar and replace the two on US 1. CM Acquaviva asks if we can add "Where People Care" to the signs. CM Vail asks how long it would take if we ordered? SPM Morrell states 3-6 months. She states we can remove the downtrodden one and replace it later.
Consensus is reached to budget 10k per year, and replace 2 signs per year.

14.c 2023 Truth in Millage (TRIM) Estimates for Budgeting Purposes

SPM Morrell states this is for budgeting purposes only. In preparing the Budget, staff must know what the Maximum Millage Rate Council would like to advertise this year. Our rollback rate would be 4.2, we could go the same at 4.5, or increase up to 9. We did a referendum last year about raising the taxes to 5 mills, and it did not pass. She would like to begin developing the budget and needs a starting point. CM Vail, Acquaviva, and Clevenger all state 4.5. Mayor states if we keep the same mills, we need to show results. SPM Morrell states she will begin building a budget and advises Council that their Maximum Millage Rate will be heard at a future Public Hearing. Staying the same millage rate will increase the budget by about \$140k. CM Vail states as long as there is 600k in the roads department he is okay.

15. PUBLIC COMMENTS: General Items (Speaker Card Required)

Denton Taylor – Railroad Ave Property Owner – He states he has been informed that there is possibly a cemetery on his property, and he is working hard to preserve any remains found on his property.

16. REPORTS – MAYOR AND COUNCIL MEMBERS

CM Acquaviva: States she is aware of work starting in the Sanctuary. The Town has done painstaking work to try and keep up our end of the bargain. She believes all of Council and Staff are trying to keep communication open and is proud of how well the Town did.

CM Vail: States the next scheduled meeting is July 3rd, and he will not be here.

CM Clevenger: None

CM Hofmeister: States she has began running in the MSS again. She wants to be involved and stay connected. She believes it is important for everyone to keep an eye out for questionable activity. We want to be able to work together and communicate with the County.

CM Scardino: None

Mayor Reilly: States there will be a Prescribed Burn in Jordan Scrub tomorrow. Also, we received our Form 1s, and he is curious if any CMs plan to no longer serve due to the new legislation requiring elected officials to complete Form 6's.

17. ANNOUNCEMENTS: (1) Vacancy on the Planning & Zoning Board; (2) Vacancy on the Parks & Recreation Board; (1) Vacancy on Board of Adjustment.

15. ADJOURNMENT: There being no further business to discuss and without objection, the meeting was adjourned at 9:05 P.M.

BY: _____
 Mayor Patrick T. Reilly, Council Chair

ATTEST:

 Richard Kohler
 Town Clerk

Date Approved: 07/03/2023

TOWN OF MALABAR

TRAILS AND GREENWAYS COMMITTEE MEETING

AGENDA ITEM NO: 7.a
Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Trails and Greenways Committee Update

BACKGROUND/HISTORY:

The most recent Trails and Greenways Committee Meeting was held on June 12th. The Committee was informed of a resignation by an alternate member. The Committee also requested staff gather quotes for 3 sets of signs:

1. (10) 36"x36" Maps of area for Kiosks
2. (10) 24"x24" Maps of are for in trail "You are Here" Signs
3. (50) 12"x12" Cameron Preserve Boundary Signs

The Committee also agreed to do an exploratory walk at the Eschenberg Sanctuary on July 8th to see if the area is suitable for pedestrian, equestrian, or biking trails.

ATTACHMENTS:

- a. None

ACTION OPTIONS:

- a. Review

TOWN OF MALABAR

PARKS AND RECREATION BOARD MEETING

AGENDA ITEM NO: 7.b
Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Parks and Recreation Board Update

BACKGROUND/HISTORY:

The most recent Parks and Recreation Board Meeting was held on June 22nd. The Board was asked to compile a list of projects they would like to see funded in the upcoming Fiscal Year. They decided on 4 potential projects:

1. Tennis/Basketball Court Resurfacing, to include upgrading the Tennis area to be compatible with Pickleball.
2. Trash Cans in the Disc Golf Sanctuary (4) and in Eschenberg Park (1)
3. Instillation of additional trees in Eschenberg Park (to accompany new Pavilion) and Malabar Community Park
 - a. Possible use of funds from tree removal permits.
4. New or refurbished benches in Malabar Community Park
 - a. The Board felt the benches are structurally sound and could likely be refurbished with a good cleaning. If they are beyond repair, replacement was recommended.

ATTACHMENTS:

- a. None

ACTION OPTIONS:

- a. Review

TOWN OF MALABAR

PLANNING AND ZONING BOARD MEETING

AGENDA ITEM NO: 7.C
Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Planning and Zoning Board Update

BACKGROUND/HISTORY:

The Planning and Zoning Board have not met since the previous update provided to Council. Their next scheduled meeting is July 12th.

ATTACHMENTS:

- a. None

ACTION OPTIONS:

- a. Review

TOWN OF MALABAR

COUNCIL MEETING

Treasurer Staff Report
Meeting Date: July 3, 2023

Prepared By: Lisa Morrell, Special Projects Manager

SUBJECT: Treasurer Report – Revenue & Expenditures Report Through June 15, 2023

The Treasurer report provides a monthly financial report through June 15, 2023 (unaudited), completing nine months, or 75%, of the fiscal year.

Revenue generated through the period totaled: \$ 2,680,355.

- 001-389.5000 Revenue planned to receive through a loan process, \$2,107,000.00, for road improvement expenditures will not be realized by year end, September 30, 2023.
- Year End Estimates are projected to total to \$3,399,621.
- \$719,266 is the project revenue collection through the close of the budget year.

Departmental Expenses for the reporting period totaled, \$1,904,375.

- Year End Estimates of expenses will be included in the budget workshop.

During this period the revenue accounts have an aggregate collection rate of 36% while total department expenses have an aggregate of 56% expended in this period.

The current financial outlook for the fiscal year to date period, October 1, 2022, to June 15, 2023, representing 75% of the fiscal year, is stable. Total expenditures represent an average of 56% usage while revenues represent 79% (revised total) collected.

Attachment(s):

Budget vs. Actuals FY23 Unaudited thru June 13, 2023

Town of Malabar

Budget vs. Actuals: FY23 Unaudited thru June 13, 2023

October 2022 - September 2023

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
Income				
47900 Revenue				
001-311.1000 Ad Valorem Taxes	1,464,475.47	1,484,127.00	-19,651.53	98.68 %
001-312.4100 Local Option Gas Tax	91,697.29	99,500.00	-7,802.71	92.16 %
001-314.1000 Utility Tax - Electricity	225,821.56	330,000.00	-104,178.44	68.43 %
001-314.4000 Utility Tax - Gas	9,856.75	14,000.00	-4,143.25	70.41 %
001-315.1000 Communications Service Tax	84,653.27	107,457.00	-22,803.73	78.78 %
001-316.1000 BTR - Malabar	19,178.00	20,000.00	-822.00	95.89 %
001-322.1000 Building Permits	166,688.42	190,000.00	-23,311.58	87.73 %
001-323.1000 Electric - Franchise Fee	167,426.59	240,000.00	-72,573.41	69.76 %
001-323.3000 Water - Franchise Fee	6,086.30	6,900.00	-813.70	88.21 %
001-323.7000 Solid Waste - Franchise Fee	25,085.95	37,000.00	-11,914.05	67.80 %
001-329.5000 - OPSA Land Use	14,210.00	8,000.00	6,210.00	177.63 %
001-329.5010 - Beautification Trust Fund	6,295.00		6,295.00	
001-331.5100 SLFRF Allotment	1,928.61		1,928.61	
001-335.1250 State Revenue Sharing	69,970.64	95,865.00	-25,894.36	72.99 %
001-335.1400 State Mobile Home Tax	2,014.37	3,000.00	-985.63	67.15 %
001-335.1500 State Alcoholic Beverage Licenses	1,468.32	1,700.00	-231.68	86.37 %
001-335.1800 State Local Gov't 1/2 Cent Sales Tax	146,986.87	191,837.00	-44,850.13	76.62 %
001-335.2100 State FF Education Supplemental Payment	394.29	4,800.00	-4,405.71	8.21 %
001-335.4900 Other General Gov't - Traffic Signal Maintenance	8,067.51	5,500.00	2,567.51	146.68 %
001-338.2000 BTR - Brevard County	693.78	1,100.00	-406.22	63.07 %
001-349.2000 Cell Tower Lease (deleted)	0.00		0.00	
001-349.5000 Special Event Revenue	2,985.00	3,000.00	-15.00	99.50 %
001-349.7010 Background Check	90.00	200.00	-110.00	45.00 %
001-349.8000 Paving Assessment		16,228.00	-16,228.00	
001-349.8010 Golf Cart Registration	150.00	300.00	-150.00	50.00 %
001-349.9000 Lien Searches	3,075.40	6,000.00	-2,924.60	51.26 %
001-351.5000 Fines/Forfeiture	458.31	500.00	-41.69	91.66 %
001-361.1000 Interest	73.27	3,000.00	-2,926.73	2.44 %
001-361.1010 Cell Tower Lease Interest Only	8,196.51	10,885.00	-2,688.49	75.30 %
001-363.1000 SW Assessment	121,587.42	132,001.00	-10,413.58	92.11 %
001-363.2300 TIFT Allocation Request		50,000.00	-50,000.00	
001-365.1000 Sales of Surplus Materials	1,032.90	2,500.00	-1,467.10	41.32 %
001-366.1000 Donations FD/GF	100.00	1,000.00	-900.00	10.00 %
001-369.3000 Insurance Refund - FMIT	0.00	1,500.00	-1,500.00	0.00 %
001-369.9000 Misc. Revenues	686.34	300.00	386.34	228.78 %
001-383.1000 Cell Tower Lease Principal Only	13,538.49	18,095.00	-4,556.51	74.82 %
001-389.3000 VFA State Grant		11,294.00	-11,294.00	
001-389.5000 Debt Proceeds	15,382.00	2,107,000.00	-2,091,618.00	0.73 %
001-389.9000 Parks Rec Funds		45,160.00	-45,160.00	
001-389.9520 Use of BD Restricted Fund Balance		44,390.00	-44,390.00	
001-389.9530 Use of GF Fund Balance		48,369.00	-48,369.00	

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
001-389.9540 Use of SW Fund Balance		164,113.00	-164,113.00	
001-389.9560 SLFRF Restricted Funding		1,462,004.00	-1,462,004.00	
Total 47900 Revenue	2,680,354.63	6,968,625.00	-4,288,270.37	38.46 %
Total Income	\$2,680,354.63	\$6,968,625.00	\$ -4,288,270.37	38.46 %
GROSS PROFIT	\$2,680,354.63	\$6,968,625.00	\$ -4,288,270.37	38.46 %
Expenses				
66000 Payroll Expenses				
Company Contributions				
Retirement	0.00		0.00	
Total Company Contributions	0.00		0.00	
Total 66000 Payroll Expenses	0.00		0.00	
B Legislative				
001-511.110 Spec Projs Mgr	0.00		0.00	
001-511.1100 Spec. Projects Mgr	43,144.10	50,000.00	-6,855.90	86.29 %
001-511.2100 FICA taxes	2,323.52	3,825.00	-1,501.48	60.75 %
001-511.2200 FRS	5,268.29	5,955.00	-686.71	88.47 %
001-511.2300 Employee Benefits	10,975.31	16,919.00	-5,943.69	64.87 %
001-511.3100 Professional Services	2,040.08	14,600.00	-12,559.92	13.97 %
001-511.4000 Mayor Travel	937.00	1,500.00	-563.00	62.47 %
001-511.4010 Council Travel	290.00	3,500.00	-3,210.00	8.29 %
001-511.4200 Postage & Freight	577.08	1,000.00	-422.92	57.71 %
001-511.4500 Insurance	310.00		310.00	
001-511.4700 Printing & Binding	2,550.30		2,550.30	
001-511.4800 Promotional Activities	62.00		62.00	
001-511.5200 Operating Supplies	1,330.83	1,500.00	-169.17	88.72 %
001-511.5400 Books, Subscriptions, Memberships	1,443.00		1,443.00	
Total B Legislative	71,251.51	98,799.00	-27,547.49	72.12 %
C Executive				
001-512.1100 Executive TM	61,886.40	86,000.00	-24,113.60	71.96 %
001-512.2100 FICA Taxes	4,750.19	6,855.00	-2,104.81	69.30 %
001-512.2200 Retire. Cont.-FRS	19,603.07	27,150.00	-7,546.93	72.20 %
001-512.4000 Travel Per Diem	1,200.00	3,600.00	-2,400.00	33.33 %
001-512.5400 Books, Subscriptions, Memberships	358.00		358.00	
Total C Executive	87,797.66	123,605.00	-35,807.34	71.03 %
D Finance & Administration				
001-513.1100 Clerk	39,571.22	55,000.00	-15,428.78	71.95 %
001-513.1110 Treasurer		65,000.00	-65,000.00	
001-513.1200 Deputy Clerk(10/17/22)	4,235.10	34,900.00	-30,664.90	12.13 %
001-513.1400 Overtime		1,000.00	-1,000.00	
001-513.2100 FICA Taxes	3,239.20	11,926.00	-8,686.80	27.16 %
001-513.2200 Retire. Contr. FRS	11,540.11	29,381.00	-17,840.89	39.28 %
001-513.3210 Auditing	21,000.00	22,000.00	-1,000.00	95.45 %
001-513.3400 Other Services	2,825.64	350.00	2,475.64	807.33 %
001-513.4000 Travel Per Diem	759.40		759.40	
001-513.4900 Other Curr. Ob	2,522.29	7,000.00	-4,477.71	36.03 %
001-513.5400 Books, Subscriptions, Memberships	185.00		185.00	
001-513.6400 Machinery & Equip	16,050.00	51,000.00	-34,950.00	31.47 %

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
Total D Finance & Administration	101,927.96	277,557.00	-175,629.04	36.72 %
E Legal				
001-514.3100 Prof. Services	87,123.12	60,000.00	27,123.12	145.21 %
Total E Legal	87,123.12	60,000.00	27,123.12	145.21 %
F Comprehensive Planning				
001-515.3100 Prof. Services		1,500.00	-1,500.00	
Total F Comprehensive Planning		1,500.00	-1,500.00	
G General Government				
001-519.2300 Employee Benefits	102,629.17	169,580.00	-66,950.83	60.52 %
001-519.2330 OEB Liabilities	28,665.39	25,194.00	3,471.39	113.78 %
001-519.2400 Worker's Compensation	42,719.83	42,980.00	-260.17	99.39 %
001-519.2410 AD&D and FFCD Premium	825.00	950.00	-125.00	86.84 %
001-519.3110 Employment/Background	263.98		263.98	
001-519.3400 Other Services - Pest/Herbicide	3,469.16	3,000.00	469.16	115.64 %
001-519.3440 Other Services-Facility	3,731.92	10,000.00	-6,268.08	37.32 %
001-519.3460 Other Services - Janitorial	3,026.00	4,620.00	-1,594.00	65.50 %
001-519.4000 Travel, Train, Per Diem	35.00	5,000.00	-4,965.00	0.70 %
001-519.4100 Communication Services	6,055.05	16,000.00	-9,944.95	37.84 %
001-519.4120 Communication Cellular	2,371.63	12,650.00	-10,278.37	18.75 %
001-519.4300 Utilities-Electric	11,653.45	14,000.00	-2,346.55	83.24 %
001-519.4400 Rentals & Leases	6,469.83	12,700.00	-6,230.17	50.94 %
001-519.4500 Insurance- Property Liability	47,116.87	56,077.00	-8,960.13	84.02 %
001-519.4600 Repairs & Mtnc	275.74	10,000.00	-9,724.26	2.76 %
001-519.4620 Software Mtnc	15,420.41		15,420.41	
001-519.4700 Printing & Binding	1,267.18		1,267.18	
001-519.4900 Other Current Charges & Obligation	1,678.68	5,000.00	-3,321.32	33.57 %
001-519.4920 Contingency		7,674.00	-7,674.00	
001-519.5100 Office Supplies	457.21		457.21	
001-519.5200 Operating Supplies	2,745.71	9,000.00	-6,254.29	30.51 %
001-519.5400 Books, Subscriptions, Memberships	957.59	1,000.00	-42.41	95.76 %
001-519.5500 Training	689.00		689.00	
Total G General Government	282,523.80	405,425.00	-122,901.20	69.69 %
H Fire Control				
001-522.1100 Executive - Fire Chief	31,082.61	53,251.00	-22,168.39	58.37 %
001-522.1200 Regular Salaries	203,800.22	277,023.00	-73,222.78	73.57 %
001-522.1300 Holiday Pay	7,588.28	9,000.00	-1,411.72	84.31 %
001-522.1400 Overtime Pay	7,046.83	6,000.00	1,046.83	117.45 %
001-522.1500 Special Pay - Vol. FF	3,657.56	4,000.00	-342.44	91.44 %
001-522.2100 FICA Taxes	18,252.11	25,353.00	-7,100.89	71.99 %
001-522.2200 Retirement Contribution - FRS	67,763.45	96,090.00	-28,326.55	70.52 %
001-522.3100 Professional Svs - Medical /Testing	7,905.00	12,500.00	-4,595.00	63.24 %
001-522.3400 - Other Services		8,000.00	-8,000.00	
001-522.3470 Other Service - County	14,750.00	7,000.00	7,750.00	210.71 %
001-522.4600 Repairs & Mtnc	17,582.67	20,000.00	-2,417.33	87.91 %
001-522.4610 Repairs & Mtnc Radio	999.74	1,500.00	-500.26	66.65 %
001-522.4620 Software Mtnc	5,863.90		5,863.90	
001-522.4800 Promotion Activity	1,053.00		1,053.00	
001-522.5100 Office Supplies	276.64		276.64	

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
001-522.5200 Operating Expenses - Fuel	6,230.89	12,000.00	-5,769.11	51.92 %
001-522.5210 Operating Expenses	5,703.27	12,000.00	-6,296.73	47.53 %
001-522.5400 Book/Pub/Subsc/Memberships	400.00	600.00	-200.00	66.67 %
001-522.5510 Training MVFD Members		3,000.00	-3,000.00	
001-522.6300 Lease Purchase E99	49,696.00	49,696.00	0.00	100.00 %
001-522.6400 Machinery & Equipment	22,588.61	150,000.00	-127,411.39	15.06 %
001-522.8300 Grants		22,589.00	-22,589.00	
001-522.xxxx Other Services - (3490)		9,500.00	-9,500.00	
Total H Fire Control	472,240.78	779,102.00	-306,861.22	60.61 %
I Protective Inspections				
001-524.1200 Regular Salaries	33,602.14	47,586.00	-13,983.86	70.61 %
001-524.1210 Permitting Clerk -P/T	6,706.61	11,000.00	-4,293.39	60.97 %
001-524.1400 Overtime	540.54	1,500.00	-959.46	36.04 %
001-524.2100 FICA Taxes	2,708.62	4,597.00	-1,888.38	58.92 %
001-524.2200 Retirement Contribution - FRS	3,185.32	7,156.00	-3,970.68	44.51 %
001-524.2300 Employee Benefits	6,445.82	9,332.00	-2,886.18	69.07 %
001-524.2400 Workers Compensation	5,415.20	5,155.00	260.20	105.05 %
001-524.3100 Professional Svs - Engineering	6,060.00	12,000.00	-5,940.00	50.50 %
001-524.3110 Professional Svs - Planner		2,000.00	-2,000.00	
001-524.3120 Professional Svs - Legal	4,252.50	5,000.00	-747.50	85.05 %
001-524.3400 Other Services - Pest/Herbicide	354.25	450.00	-95.75	78.72 %
001-524.3420 Other Services - Facility Services	161.16	8,500.00	-8,338.84	1.90 %
001-524.3440 Professional Svs - Bldg Official, Plan Review	28,835.00	95,000.00	-66,165.00	30.35 %
001-524.3460 Other Services - Janitorial	454.00	960.00	-506.00	47.29 %
001-524.4100 Communication Services	2,322.06	3,000.00	-677.94	77.40 %
001-524.4300 Utilities Electric	892.64	1,300.00	-407.36	68.66 %
001-524.4400 Rentals & Leases	2,533.73	4,000.00	-1,466.27	63.34 %
001-524.4500 Insurance - Property Liability	7,583.10	6,854.00	729.10	110.64 %
001-524.4620 Software Mtnce	4,804.25		4,804.25	
001-524.4700 Printing & Binding	1,329.49		1,329.49	
001-524.4900 Other Current Charges & Obligations	2,614.18	5,000.00	-2,385.82	52.28 %
001-524.5200 Operating Expenses	476.46	1,500.00	-1,023.54	31.76 %
001-524.6400 Machinery & Equipment		2,500.00	-2,500.00	
Total I Protective Inspections	121,277.07	234,390.00	-113,112.93	51.74 %
J Emergency/ Disaster Relief				
001-525.1100 Special Projects Manager	27,097.90	50,000.00	-22,902.10	54.20 %
001-525.2100 FICA	3,120.08	3,825.00	-704.92	81.57 %
001-525.2200 Retirement Contribution - FRS	2,977.69	5,955.00	-2,977.31	50.00 %
001-525.2300 Employee Benefits	10,975.24	16,919.00	-5,943.76	64.87 %
001-525.3010 Disaster Debris	3,447.63		3,447.63	
001-525.3011 PA Rocky Point	26,575.00		26,575.00	
001-525.3020 American Relief Plan Act/SLFRF	171,703.74	1,385,304.00	-1,213,600.26	12.39 %
Total J Emergency/ Disaster Relief	245,897.28	1,462,003.00	-1,216,105.72	16.82 %
K Flood Control				
001-538.3100 Contractual Svs - Engineering/Design	4,168.50	30,000.00	-25,831.50	13.90 %
001-538.3110 Contractual Svs - ROW Culvert	2,600.00	20,000.00	-17,400.00	13.00 %
001-538.3400 ILA Administrative Program	3,862.42	11,000.00	-7,137.58	35.11 %
001-538.4900 - SW Projects	7,363.12	57,440.00	-50,076.88	12.82 %
001-538.6300 Infrastructure Projects	9,430.00		9,430.00	

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
001-538.6400 Machinery/Equipment	168,968.88	167,344.00	1,624.88	100.97 %
001-538.7100 SRF Loan Payment	5,170.00	10,340.00	-5,170.00	50.00 %
Total K Flood Control	201,562.92	296,124.00	-94,561.08	68.07 %
M Streets & Roads				
001-541.1100 PW Director	40,245.36	57,182.00	-16,936.64	70.38 %
001-541.1200 Reg Sal & Wages	45,045.98	116,729.00	-71,683.02	38.59 %
001-541.1400 Overtime	3,597.80	8,000.00	-4,402.20	44.97 %
001-541.2100 FICA Taxes	6,568.83	13,916.00	-7,347.17	47.20 %
001-541.2200 Retirement Contributions - FRS	9,273.92	21,666.00	-12,392.08	42.80 %
001-541.3100 Engineering Services	462.50		462.50	
001-541.4000 Travel, Training, Per Diem		500.00	-500.00	
001-541.4300 Electric - Street Lights & Signals	8,339.58	11,000.00	-2,660.42	75.81 %
001-541.4400 Rentals & Leases	953.40		953.40	
001-541.4600 Repair & Mtnce	5,530.36	35,000.00	-29,469.64	15.80 %
001-541.4610 Repair & Mtnce - Roads	3,525.30	50,000.00	-46,474.70	7.05 %
001-541.4650 Repair & Mtnce RR Signal	3,934.00	3,600.00	334.00	109.28 %
001-541.4900 Other Charges & Obligations		1,000.00	-1,000.00	
001-541.5200 Operating Supplies - Fuel	7,128.57	25,000.00	-17,871.43	28.51 %
001-541.5210 Operating Supplies	3,079.53	7,000.00	-3,920.47	43.99 %
001-541.5300 Road Materials & Supplies	2,902.16		2,902.16	
001-541.6300 TIFT Projects		50,000.00	-50,000.00	
001-541.6400 Machinery & Equipment	37,074.21	37,075.00	-0.79	100.00 %
001-541.6410 Replacement Equipment	40,157.00	45,300.00	-5,143.00	88.65 %
001-541.6420 CIP Road Paving		2,650,292.00	-2,650,292.00	
Total M Streets & Roads	217,818.50	3,133,260.00	-2,915,441.50	6.95 %
N Parks & Recreation				
001-572.3400 Pest/Herbicide	840.00		840.00	
001-572.3460 Other Services - Janitorial	100.00		100.00	
001-572.4400 Rentals & Leases	1,960.00	2,600.00	-640.00	75.38 %
001-572.4600 Repairs & Mtnce	2,948.49	15,000.00	-12,051.51	19.66 %
001-572.4900 Other Charges & Obligations		600.00	-600.00	
001-572.5200 Operating (T&G_Park)		10,000.00	-10,000.00	
001-572.6400 Machinery & Equipment	8,320.00	20,000.00	-11,680.00	41.60 %
001-572.6410 Infrastructure - FCT		45,160.00	-45,160.00	
Total N Parks & Recreation	14,168.49	93,360.00	-79,191.51	15.18 %
O Special Events				
001-574.4800 Fall/SpringFest Event	785.90	3,500.00	-2,714.10	22.45 %
Total O Special Events	785.90	3,500.00	-2,714.10	22.45 %
Purchases	0.00		0.00	
Total Expenses	\$1,904,374.99	\$6,968,625.00	\$ -5,064,250.01	27.33 %
NET OPERATING INCOME	\$775,979.64	\$0.00	\$775,979.64	0.00%
NET INCOME	\$775,979.64	\$0.00	\$775,979.64	0.00%

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 8.f
Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Town Clerk

BACKGROUND/HISTORY:

The Town Clerk recently attended the 2023 Florida Association of City Clerk's (FACC) Summer Conference in St. Petersburg. The three-day conference offered networking opportunities, vendor exhibits and courses on:

1. Legislative Update
2. Municipal Fraud Awareness and Prevention
3. Understanding First Amendment Audits
4. Robert's Rules of Order
5. Campaign & Election Finances
6. Public Record Management

The Town Clerk also attended an EOC refresher course at the Brevard EOC Command Bunker in Rockledge. The course covered an overall review of emergency operation in Brevard County, as well as updates to the WEB EOC portal, and municipalities responsibilities for reporting.

ATTACHMENTS:

- a. None

ACTION OPTIONS:

- a. Review

TOWN OF MALABAR

COUNCIL MEETING

Agenda Item: **10.a**

Meeting Date: July 3rd, 2023

Prepared By: Lisa Morrell, Special Projects Manager

SUBJECT: Amending Land Development Code, Article II – Land use Zoning, Section 1-2.6 – Land Use Classifications and Table 1-3.2 Land Use By Districts for Limited Manufacturing Activities and Limited Manufacturing Activities providing for a permitted or conditional use in Article VI. Conditional Use and Special Exception Use Criteria in Table 1-6.1(B) - Conditional Land Use Requirements. (Ordinance 2023-01; First Reading)

BACKGROUND

Advising Town Council to review and discuss that approved language development by the Planning and Zoning Advisory Board on February 8, 2023. Also included are staff comments to the Planning and Zoning Board Advisory; as well as a staff report that includes the analysis and review of the amendment that includes, data, maps, current land use zoning, future land use zoning, and a review of the comprehensive plan document for the final development of the public hearing ordinance readings and advertising, as required.

Unanimous approval by the Planning and Zoning Board for the following amendment to insert new items nine (9) and ten (10) and renumber existing items nine (9) through eleven (11) as eleven (11), twelve (12), and thirteen (13) under letter C. Commercial Activities. These changes also require updates to corresponding tables in the Code for Tables 1-3.2 - Land Use By Districts and Table 1-6.1(B) - Conditional Land Use Requirements.

P&Z Board Final Draft (2/8/2023) For Land Development Code Section 1-2.6 Land Classifications

9. Limited Manufacturing Activities. This land use classification is intended to accommodate small, limited item shops, with limited inventory serving a specialized market with customized service demand and which are to be conducted in a fully enclosed building.

This classification is intended to include the following:

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

Other similar Limited Manufacturing Activities may be approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses may exclude chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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

10. Limited Manufacturing Services. Services such as Customer & Call Support; Low Impact Machinery &/or Electronic Device Repair or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and which are to be conducted in a fully enclosed building and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

Other similar Limited Manufacturing Services may be approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The uses may exclude, chemical or petroleum manufacturing, rubber or plastics manufacturing, or other use generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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

Staff **concurs** with the board's use and intent of Limited Manufacturing. Staff provided definitions to the Planning and Zoning Board at the initial discussion of this amendment on September 28, 2022. Staff recommends limited manufacturing nomenclature for Town Council's consideration to provide processing and manufacturing involving physical or chemical processes, example small scale three-dimensional (3D) printing. An additive manufacturing process that creates a physical object from a digital design. The process works by laying down thin layers of material in the form of liquid or powdered plastic, metal or cement, and then fusing the layers together.

Governmental Industry Standard Land Use Definitions:

Light Manufacturing zone is intended to provide for the development of industrial uses which include fabrication, manufacturing, assembly or processing of materials that are in already processed form

Limited Manufacturing: A land use involving the fabricating, or the assembling of standardized parts as contrasted to a processing activity which would involve a physical or chemical process that would change the nature or character of the product or raw material.

Staff **concurs** with the board's language intent to allow for small quantities of chemical storage used in the bonding, welding, soldering agents to manufacture and process raw materials. Staff has provided revision and refinement to the proposed verbiage for Town Council's consideration to clarify and preclude and processing, creation, or emulsification of chemical agents in both item nine (9) and ten (1)

9. Limited Manufacturing Activities...

Other similar Limited Manufacturing Activities may be approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The ~~uses-activities may exclude~~ strictly prohibit the manufacturing of any chemical or petroleum ~~process of manufacturing~~, rubber or plastics ~~manufacturing~~, and/or other ~~use-activities~~ generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

10. Limited Manufacturing Services....

Other similar Limited Manufacturing Services may be approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The ~~uses-activities may exclude~~ strictly prohibit the manufacturing of any chemical or petroleum process of manufacturing, rubber or plastics ~~manufacturing~~, and/or other ~~use-activities~~ generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Staff **advises** a revision to the board's recommendation for approval by the Town's Building Official designation. The Building Official is a state licensed authority to enforce adopted building codes. Land use and activities shall be the authority of the Town Council or their designation of the Town Manager or designee.

10. Limited Manufacturing Services. Services such as Customer & Call Support; Low Impact Machinery and/or Electronic Device Repair or other services ~~uses~~ approved by the Town ~~Building Official~~ Council based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and which are to be conducted in a fully enclosed building and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

The Planning and Zoning Board additionally approved amending the use code for Limited Manufacturing Activities and Limited Manufacturing Services or each zoning district as permitted in Commercial General (CG) and conditional for Commercial Limited (CL) and Residential/Limited Commercial (R/LC). Staff generally **concur**s with a discussion by Town Council regarding the amendment to provide as conditional use permit for all affected zoning districts (CG, CL, R/CL), due to the utilization of a chemical change process in the small-scale Limited Manufacturing Activities and Services. An applicant seeking a conditional use permit would apply through the adopted Code, Article VII – Site Plan Review through the Town Clerk's office, review and commented with Town Staff and Officials, and then forwarded through to the Planning and Zoning Board with advisement for final approval by Town Council.

The Conditional Use table 1-6.1(B) Conditional Land Requirements requires an amendment to define the minimum size site, minimum width/depth, access requirements, building setback, and screening, and other specifications compliance.

Staff is recommending a conditional use applicant to have at a minimum: a property of 1 (one) acre, a width of 100 feet, a depth of 150, access on an arterial road (Babcock Street, Malabar Road, US Highway 1, or West Railroad Avenue), a building setback from a residential district of 100 feet or 25 feet from a non-residential district, parking setbacks of 25 feet from a residential district or 20 feet from a non-residential district. The applicant may use Type A or C, opaque or semi-opaque perimeter screening as defined in Article IV, Section 1-4.1 of the Land Development Code, and curb cut controls defined like other conditional use standards with footnote 7 of the adopted table 1-6.1(b). These specifications conform to similar commercial land use activities within the existing table, adhere to the site plan review process, and may be amended by reviews when conditions are necessary or of concern, where the Town Council has the final authority to grant a conditional use permit. Thus, each case shall be reviewed thoroughly for the unique conditions of the proposed site plan with compliance with all applicable Town Codes.

These minimum site plan specifications of a conditional use affect a small number of properties 46 of the 248 zoned sites, or more specifically 45 Residential / Limited Commercial (R/LC) and 1 Commercial Limited (CL), will be deemed ineligible to seek a conditional use permit for the proposed land use by district amendment, Limited Manufacturing Activities or Limited Manufacturing Services because the property site is less than 1 acre. Please see the attached staff report, pages 1- 3, properties are sorted by acres and list the zoning code. Staff advises a Commercial General (CG) zoned property will not seek a conditional use permit under the proposed amendment, as the recommendation is to permit the land use within the Commercial General (CG) district.

A review by the Department of Economic Office must occur after the first reading at a public hearing and before the publicly advertised final reading of the proposed ordinance changes.

Fiscal Impact

Allows for potential development of small scale manufacturing in specific commercial zoning districts of unimproved properties that would otherwise be only allowed in Industrial zoning district, which is limited to

two (2) parcels with the Town of Malabar. Additionally, the proposed amendment has the potential to attract new and or expand existing business development within improved properties within the specific commercial zoning districts for small scale, low impact, limited manufacturing land uses.

Attachments

- Ordinance 2023-01 (First Reading)
- Proposed amendments to Land Development Code 1-2.6 (No Tracked Changes)
- Proposed amendments to Table 1.3-2 Land Use by Districts
- Proposed amendments to Table 1-6.1(B) Conditional Land Use Requirements
- Minutes from the February 8, 2023, Planning and Zoning Board Meeting
- Mayor Reilly's PowerPoint Presentation to Planning and Zoning Board
- Staff Report – Analysis of the code revisions with impacts and review of Adopted Comprehensive Plan.

Action

Motion to approve Ordinance 2023-01 for First Reading

ORDINANCE 2023-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE II – LAND USE ZONING, SECTION 1-2.6 – LAND USE CLASSIFICATION; AND ARTICLE III – DISTRICT PROVISIONS, SECTION 1-3.2 – LAND USE BY DISTRICT - TABLE 1-3.2 LAND USE BY DISTRICT TO INCLUDE LIMITED MANUFACTURING ACTIVITIES IN CERTAIN ZONING DISTRICTS, RESIDENTIAL/LIMITED COMMERCIAL (R/LC), COMMERCIAL LIMITED (CL), AND COMMERCIAL GENERAL (CG); AND ARTICLE III SECTION 1-3.2, LAND USE BY DISTRICT; ARTICLE VI, SECTION 1-6.1 CONDITIONAL USES; TABLE 1-6.1(B) CONDITIONAL LAND USE REQUIREMENTS AS CONDITIONAL USES IN RESIDENTIAL/LIMITED COMMERCIAL (R/LC), COMMERCIAL LIMITED (CL), AND COMMERCIAL GENERAL (CG), ZONING DISTRICTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, manufacturing is a Land Use Classification allowed as an Industrial Activity withing Industrial Land Use Districts; and

WHEREAS, the Town of Malabar has a limited number of Industrial zoned parcels available for manufacturing activities for development and growth; and

WHEREAS, at present, there are no rules or regulations pertaining to limited manufacturing in the Town Code; and

WHEREAS, the Town Council with the recommendation by the Malabar Planning and Zoning Board on February 8, 2023, seek to allow certain Limited Manufacturing Land Use Classifications in specific Commercial Land Use Districts of Residential/Limited Commercial (R/LC), Commercial Limited (CL) and Commercial General (CG); and

WHEREAS, Town Council has determined that the proposed amendments serve the public health, safety and welfare of the citizens of the Town of Malabar, Florida.

NOW THEREFORE BE IT ORDAINED by the Town Council for the Town of Malabar, Brevard County, Florida:

SECTION 1. ARTICLE II SECTION 1-2.6 Subsection (C) of the Town Land Development Code is hereby amended to include new subsections (9) and (10) to read as follows:

...

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

• Manufacturing or processing of electronic components, optical instruments, electrical appliances, or other precision components;

• Assembly and distribution of goods;

• Maintenance, repair, reconditioning, and cleaning;

• Printing;

• Limited packaging and processing activities;

• Research and development technology;

• Small Machine shops

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

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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

10. Limited Manufacturing Services. Services such as Customer & Call Support; Low Impact Machinery &/or Electronic Device Repair or other service uses approved by the Town Council based on similarity of use, excluding services which may generate

potentially harmful nuisance impacts; and which are to be conducted in a fully enclosed building and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

Other similar Limited Manufacturing Services may be approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The activities strictly prohibit the manufacturing of any chemical or petroleum, rubber or plastics, and/or other activities generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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

SECTION 2. ARTICLE II SECTION 1-2.6 Subsection (C) of the Town Land Development Code is hereby amended to renumber previous Sections 9 through 20 as Sections 11 through 22 to read as follows:

11. ~~9.~~ *Waterfront Marine Related Activities.* The following marine related land uses are included in this land use classification: commercial wet or dry storage and boat sales and rental; Marine power sales and service; and bait and tackle shop; and excluding marine salvage and boat yards.

12. ~~10.~~ *Medical Services.* The provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical laboratory testing and analysis services. These services are provided to patients who are admitted for examination and treatment

by a physician and with no overnight lodging. This land use classification includes pharmacies when developed as an accessory use within a medical service facility.

13. ~~41.~~ *Parking Lots and Facilities.* Governmental or private commercial building of [or] structure solely for the off-street parking or storage of operable motor vehicles.

14. ~~42.~~ *Plant Nurseries.* Retail sale of flowers, shrubs, trees, and plants as well as landscaping contractors and provision of related consultative services.

15. ~~43.~~ *Restaurants (excluding drive-ins and fast food service).* Any establishment (which is not a drive-in service establishment) where the principal business is the sale of food, desserts or beverages to the customer in a ready-to-consume state and where the design or principal method of operation includes two or more of the following:

- (a) Customers, normally provided with an individual menu, are served generally in non-disposable containers by a restaurant employee at the same table or counter at which items are consumed.
- (b) Ice cream parlors and other specialty restaurants having floor area exclusively within a shopping or office center and sharing common parking facilities with other businesses within the center and expressly prohibiting freestanding stores having characteristics of a drive-in restaurant.
- (c) A cafeteria or cafeteria type operation where foods, desserts or beverages generally are served in non-disposable containers and consumed within the restaurant building.
- (d) Customers purchase food, desserts or beverages for carryout.

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

- (a) The restaurants are self-service. Food is generally served in disposable containers and customers generally do the busing and clean-up for themselves or

foods, desserts or beverages are served directly to the consumer in a motor vehicle.

(b) The consumption of foods, desserts or beverages within a motor vehicle parked upon the premises, or consumption at other facilities on the premises is allowed, encouraged or permitted.

(c) *Mobile Food Dispensing Vehicle* means any vehicle that is licensed by the State of Florida as a public food service establishment {See F.S. § 509.013(5) for definition of a public food service establishment} and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(d) *Mobile Food Dispensing Vendor*. The operator of a Mobile Food Dispensing Vehicle.

(e) *Location of mobile food dispensing vehicle/vendor*. A mobile food dispensing vendor may operate a mobile food dispensing operation in the following locations:

1. *Town-Owned Property.*

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

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

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

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

2. *Improved Property.*

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

1. Commercial General (CG)
2. Industrial (IND)
3. Residential/Limited Commercial (R/LC)
4. Office Institutional (OI)
5. Commercial Limited (CL)
6. Institutional (INS)

B. *Set-back Requirement.* When operating on private property, a mobile food dispensing vendor may operate only if set-back at least fifty (50) feet from any abutting residential district and at least one hundred and fifty (150) feet from any exclusively single family residential structure, unless the owner(s) of the residential structure immediately abutting such proposed location provides the mobile food dispensing vendor with express written permission to operate. The one hundred and fifty-foot set-back requirement is reduced to fifty (50) feet where an intervening non-residential building, such as

a commercial building, screens the operation from the direct view of the single-family residential structure.

C. *Access.* A mobile food dispensing vendor shall not operate or park in any location that impedes the ingress or egress of traffic, pedestrian ingress or egress, building entrances, blocks a public or private right-of-way, emergency exits, or access to businesses. A mobile food dispensing vendor may locate upon a public or private utility easement area; provided, however, that such location may be terminated by the town Manager if it is determined that such location has cause a deterioration to such easement or utility service needs unrestricted access to the easement area.

3. *Construction areas.* A mobile food dispensing vendor may operate on private property that has an active building permit as part of a commercial or multi-family construction site. Such operation may also occur on a site undergoing master infrastructure construction within a single-family subdivision until the first certificate of occupancy is issued.

4. *Principal structure requirement.* A mobile food dispensing vendor may only operate on a lot that has a permitted principal structure.

5. *Stationary location requirement.* A mobile food dispensing vendor must operate from a stationary location, but may operate from multiple locations throughout the day, except as otherwise permitted in this article.

17. ~~15.~~ *Service Stations, Including Gasoline Sales.* Establishments for the dispensing of motor fuels and related projects at retail and having pumps, underground storage tanks and other facilities for such activity and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles within enclosed service bays or stalls. For the purpose of this Code, these services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.

18. ~~16.~~ *Trades and Skilled Services.* Shops providing services requiring skilled labor or craftsmanship for repair including household items, office equipment, appliances, printing, blue printing, carpet sales and service, feed stores, lawn and maintenance services, newspaper printing, radio and television broadcasting, restaurant equipment and supply sales and services. All such activities shall not include outside storage.

19. ~~17.~~ *Vehicular Service and Maintenance.* Vehicular establishments providing sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles. These services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.

20. ~~18.~~ *Vehicular Sales and Related Services.* The retail or wholesale sale or rental of motor vehicles and related equipment, with incidental services and maintenance.

21. ~~19.~~ *Veterinary Medical Services.* The provision of animal medical care and treatment by a Florida licensed veterinarian.

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

SECTION 3. ARTICLE III SECTION 1-3.2, LAND USE BY DISTRICT; TABLE 1-3.2

LAND USE BY DISTRICT to be amended to include Limited Manufacturing Activities and Limited Manufacturing Services as Conditional Uses in the Commercial Limited (CL), Commercial General (CG), and Residential/Limited Commercial (R/LC) Zoning to read as:

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 ¹	P	C	C		P
Clubs and Lodges (Not-for-Profit)										P	P			
Cultural or Civic Activities									P	P	P	P		P
Educational Institutions									C, A ¹					C
Golf Course Facilities	C													
Hospital and other Licensed Facilities									C					C
Nursing Homes and Related Health Care Facilities					C	C			C					C
Protective Services					C	C	C	C	C	C	C	C	C	C
Public Parks and Recreation	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C
COMMUNITY RESIDENTIAL HOME														
Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C								C
ASSISTED CARE COMMUNITIES														
I Assisted Living Facility														
	RR-65	RS-21`	RS-15	RS-10	RM-4	RM-6	R-MH	OI	CL	CG	R/LC	IND	INS	CP
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								
Level 3 (16 or more residents/beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)	C ³	C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	
AGRICULTURAL ACTIVITIES														

Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities									C					
Bars and Lounges									C					
Bed and Breakfast										P ¹				
Business and Professional Offices							P	P	P	P	P	P		
Enclosed Commercial Amusement									P					
Arcade Amusement Center/ Electronic Gaming Establishment									C ²					
Funeral Homes								P	P	C				
General Retail Sales and Services									P					
Hotels and Motels									P					
Limited Commercial Activities								P	P	P				
<u>Limited Manufacturing Activities</u>								<u>C</u>	<u>C</u>	<u>C⁵</u>				
<u>Limited Manufacturing Services</u>								<u>C</u>	<u>C</u>	<u>C⁵</u>				
Marine Commercial Activities									C*					
Medical Services							P	P	P	P				
Mini Warehouse/Storage								C	P			P		
Parking Lots and Facilities							P	P	P	P			P	
Retail Plant Nurseries								P	P	P				
Restaurants (Except Drive-Ins and fast food service)								P	P	P				
Restaurants (Drive-ins)									P					
Service Station, Including Gasoline Sales									C*			C*		
Trades and Skilled Services									P			P		
Veterinary Medical Services							P	P	P	C		P		
Vehicular Sales and Services									C*			P		

Vehicular Services and Maintenance											C*		P		
Wholesale Trades and Services											C*		P		
INDUSTRIAL ACTIVITIES															
Kennels													C		
Manufacturing Activities													P		
Manufacturing Service Establishments													P		
Vehicle and Other Mechanical Repair and Services											C*		P		
Warehouse, Storage and Distribution Activities													P		
WATER DEVELOPMENT NONCOMMERCIAL ACTIVITIES															
Noncommercial piers, boat slips, and docks															C
C	=	Conditional Use													
P	=	Permitted Uses													
A	=	Accessory Use													
*	=	These uses are permitted only on sites abutting Babcock Street, US 1, West Railroad Avenue, Garden Street and Pine Street.													
1	=	Allowing up to 1,000 square feet of a church or educational institution for the housing of a caretaker or security guard serving the church or educational institution. No such use shall be allowed unless administrative approval is granted by the Town.													

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

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

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

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

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

SECTION 4. ARTICLE VI, SECTION 1-6.1 CONDITIONAL USES; TABLE 1-6.1(B) CONDITIONAL LAND USE REQUIREMENTS to be amended to include Limited Manufacturing Activities and Limited Manufacturing Services to read as:

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District / Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District / Nonresidential District (feet)	Perimeter Screening Residential District / Nonresidential District (5)	Curb Cut Controls	Other
Child Care Facilities	1 Acre	145	Paved	50/30	15/10	Type A/B	(7)	
Places of Worship	5 Acres	250	Paved	70/45	25/20	Type A/C	(7)	
Educational Institution	(1)	500	Arterial	70/45	25/20	Type A/C	(7)	
Enclosed Arcade Amusement Center/Electronic Gaming Establishment	1 Acre	120	Highway 1 and Babcock Street only	100/30	N/A	Type A/C	(7)	
Golf Courses	(2)	500	Paved	70/45	25/20	Type C/C	(7)	
Hospitals and other Licensed Facilities	5 Acres	325	Arterial	100/75	25/20	Type A/C	(7)	
Nursing Homes and Related Health Care Facilities	2 Acres	210	Paved	60/30	25/20	Type A/C	(7)	
Protective Services	(4)	120	Paved	50/30	25/20	Type A/C	(7)	
Public Parks and Recreation Areas	5 Acres	325	Paved	70/45	25/20	Type C/C	(7)	
Public and Private Utilities	N/A	120	N/A	70/30	25/20	Type A/C	(7)	
Commercial Stables	5 Acres	325	N/A	100/75	50/40	Type B/C		
Adult Entertainment	1 Acre (8, 9, 10)	120	US1 / Babcock	100/30	N/A	Type A/C	(7)	(6)
Bars and Lounges	1 Acre (8, 9)	120	US1 / Babcock	100/30	N/A	Type A/C	(7)	(6)
<u>Limited Manufacturing Activities</u>	<u>1 Acre</u>	<u>100/150</u>	<u>Arterial / West Railroad Avenue</u>	<u>100/25</u>	<u>25/20</u>	<u>Type A/C</u>	<u>(7)</u>	
<u>Limited Manufacturing Services</u>	<u>1 Acre</u>	<u>100/150</u>	<u>Arterial / West Railroad Avenue</u>	<u>100/25</u>	<u>25/20</u>	<u>Type A/C</u>	<u>(7)</u>	

Marine Commercial Activities	1 Acre	120	US1 / Babcock / West Railroad Avenue	100/30	N/A	N/A	(7)
Service Stations, Including Gasoline Sales	1 Acre (8)	145	Arterial	100/30	N/A	N/A	(7)
Trades and Skilled Services	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	N/A	Type A/C	(7)
Vehicular Services and Maintenance	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	N/A	Type A/C	(7)
Wholesale Trades and Services	1 Acre	145	US1 / Babcock / West Railroad Avenue	50/30	15/10	Type A/C	(7)
Kennels	1 Acre	145	N/A	100/30	15/10	Type A/C	(7)
Vehicular and Other Mechanical Repair	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	15/10	Type A/C	(7)
Noncommercial Piers, Boat Slips and Docks	N/A	N/A	N/A	N/A	N/A	N/A	(7)
Community Residential Home							
Level 1 (1 to 6 residents/beds)	1.5 acres	210	Paved	60/30	25/20	Type A/C	(7)
Level 2 (7 to 14 residents/beds)	3 acres	210	Paved	60/30	25/20	Type A/C	(7)
Assisted Care Communities							
I Assisted Living Facility							
Level 1 (1 to 5 residents/beds)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)

Level 2 (6 to 15 residents/beds)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (16 or more residents/beds)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
II Adult Family-Care Homes							
(1 to 5 residents/beds)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
III Adult Day Care Facilities	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)

SECTION 5. Severability. If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

SECTION 6. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or town law, rule, code or regulations, the more restrictive shall apply.

SECTION 7. Inclusion in Code. It is the intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the Town of Malabar.

SECTION 8. Effective Date. This Ordinance shall take effect ninety (90) days after the adoption of this Ordinance.

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

Council Member Marisa Acquaviva _____

Council Member Brian Vail _____

Council Member Jim Clevenger _____

Council Member David Scardino _____

Council Member Mary Hofmeister _____

This ordinance was then declared duly passed and adopted this ____ day of ____ 2023.

TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

ATTEST:

Richard W. Kohler, Town Clerk
(seal)

Approved for Legal Sufficiency:

Karl Bohne, Jr, Town Attorney

First Reading: 7/03/2023
Second Reading: _____

Vote: to .
Vote: to .

Section 1-2.6. Land use classifications.

The purpose of these provisions is to classify uses into specially defined types on the basis of common functional characteristics and land use compatibility. These provisions apply throughout the zoning regulations.

All land use activities are classified into the following activity types.

A. *Residential Activities.*

1. Single Family Dwellings.
2. Two Family Dwellings.
3. Multi Family Dwellings.
4. Mobile Homes.
5. Accessory Residential Activities.

B. *Community Facilities.*

1. *Administrative Services (Public or Private Not-for-Profit).* Activities typically performed by not-for-profit private or public social services and utility administrative offices.
2. *Cemetery.* Property used for the interring of the dead.
3. *Child Care Services.* Activities typically performed by an agency, organization or individual providing day care without living accommodations for preteens not related by blood or marriage to, and not the legal wards or foster children of, the attendant adult.
4. *Clubs and Lodges (Not-for-Profit).* Activities typically performed by a group of persons for social or recreational purposes not operated for profit and not including activities which primarily render services which are customarily carried on as a business for profit.
5. *Cultural or Civic Activities.* Activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as literature, science, music, drama, art or similar objectives.
6. *Educational Institutions.* A place for systematic instruction with a curriculum the same as customarily provided in a public school or college. These activities include nursery school and kindergarten facilities designed to provide a systematic program to meet organized training requirements.
7. *Golf Course and Support Facilities.* A golf course is comprised of at least nine separate holes and may be regulation length, executive length, or par three (3) length. A golf course shall be required to comply with recommended minimum design standards established by the U.S. Golf Association or the American Society of Golf Course Architects. The following acreage requirements shall be the minimum standards for a golf course:

Type of Golf Course	Minimum Acres Required
Regulation Course	120 acres
Executive Course	40 acres
Par 3 Course	35 acres

Commercial miniature golf courses and driving ranges and similar facilities are excluded from this activity as defined.

8. *Places of Worship.* Activities customarily performed in a building where persons regularly assemble for religious worship and which building, together with its accessory building and uses, is maintained and controlled by a religious body organized to sustain public worship.
9. *Protective Services.* Fire, law enforcement and emergency medical related facilities planned and operated for the general welfare of the public.

-
10. *Public Health Facilities.* The Town has labeled the facilities below as Public Health Facilities. These facilities are also referenced in Florida Statutes, Title XXIX, in Chapters 395 and 408.

Notwithstanding the identification of other facilities in Florida Statutes, Title XXIX, in Chapters 395 and 408, the facilities below are the only Public Health Facilities provided for by the Town.

A. Hospital and other Licensed Facilities

"Hospital and other Licensed Facilities" means any establishment that:

- (a) Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and
- (b) Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent.

However, the provisions of this chapter do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. Refer to Chapters 395 and 408.

B. Nursing Homes and Related Health Care Facilities

Refer to Chapters 400 and 408 for the definitions and requirements of the following

Nursing Home and Health Care Facilities.

Part I Long-Term Care Facilities

"Long-term care facility" means a nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility (additional reference: see Florida Statutes, Title XXX, Chapter 429, Social Welfare).

Part II Nursing Homes

"Nursing Home Facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

Part V Intermediate, Special Services, and Transitional Living Facilities

Intermediate care facilities; intent-The Legislature recognizes the need to develop a continuum of long-term care in this state to meet the needs of the elderly and disabled persons. The Legislature finds that there is a gap between the level of care provided in assisted living facilities and in nursing homes. The Legislature finds that exploration of intermediate-level care facilities which would fill the gap between assisted living facilities and nursing homes, where both the federal and state government share the cost of providing care, is an appropriate option to explore in the continuum of care.

11. *Public Parks and Recreation Areas.* Public parks and recreation land and facilities developed for use by the general public.
12. *Public and Private Utilities (including Essential Government Services).* Use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmission systems; water distribution; wastewater collection and disposal; communication; and similar services and facilities.

13. *Social Welfare Facilities.* The Town has labeled the facilities below as Social Welfare Facilities. These facilities are also referenced in Florida Statutes, Title XXX, in Chapters 408 and 430. Notwithstanding the identification of other facilities in Florida Statutes, Title XXX, in Chapters 408 and 430, the facilities below are the only Social Welfare Facilities provided for by the Town.

A. Community Residential Homes

"Community Residential Home" means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency of Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. Refer to Chapters 408 and 419.

There are 2 levels of Community Residential Homes:

Level 1 is between 1 to 6 residents/beds

Level 2 is between 7 to 14 residents/beds

B. Assisted Care Communities

Part I Assisted Living Facilities

"Assisted Living Facility (ALF)" means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. Refer to Chapter 408 and 429.

There are 3 levels of Assisted Living Facilities:

Level 1 is between 1 to 5 residents/beds

Level 2 is between 6 and 15 residents/beds

Level 3 is 16 residents/beds or more

In the RM-4 and RM-6 zoning districts, an ALF Factor of 3 will be used to determine the residents/bed density. For example, RM-4 is allowed 4 units per acre multiplied by the 3 ALF Factor is equal to 12 residents/beds per acre. RM-6 is allowed 6 units per acre multiplied by the 3 ALF Factor is equal to 18 residents/beds per acre.

Part II Adult Family-Care Homes

"Adult Family-Care Homes" means a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care, on a 24-hour basis, for no more than five disabled adults or frail elders who are not relatives. Refer to Chapters 408 and 429.

Part III Adult Day Care Centers

"Adult Day Care Centers" or center means any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Refer to Chapters 408 and 429.

C. *Commercial Activities.*

1. *Bars and Lounges.* A commercial establishment selling and dispensing for the drinking on the premises of liquor, malt, wine or other alcoholic beverages. This shall not include the sale of alcoholic beverages accessory to and within a restaurant use.
2. *Business and Professional Offices.* Offices extending the following services which provide advice, information or consultation of a professional nature: insurance, real estate, and financial services; banking services; and executive management and

administrative activities. This classification excludes commercial storage of goods and chattels for the purpose of sale or resale as a principal use.

3. *Commercial Amusement, Enclosed.* Active or passive recreation facilities by profit oriented firms where all activities are conducted within fully enclosed facilities. Facilities as defined herein as amusement arcade centers and/or electronic gaming establishments are permitted as conditional uses as provided for in Table 1-3.2. For purposes herein the following definitions apply:

Arcade Amusement Center as used in this section means a place of business which shall have at least fifty (50) coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility. It is specifically intended by this definition that any place of business that does not have at least fifty (50) coin-operated amusement games or machines on premises shall not be granted a conditional use permit to operate such a business. The provisions of F.S. § 849.161 shall apply to an arcade amusement center.

Electronic Gaming Establishment means a business operation, which shall have at least fifty (50) electronic machines or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to F.S. § 849.094, including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds. It is specifically intended by this definition that any place of business that does not have at least fifty (50) electronic machines or devices shall not be granted a conditional use permit to operate such a business. This term includes, but is not limited to internet cafes, internet sweepstakes cafes, and cybercafes or sweepstakes cafes. This definition is applicable to any electronic gaming establishment, whether or not the electronic machine or device utilized:

- (a) Is server based;
- (b) Uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;
- (c) Uses software such that the simulated game influences or determines the winning or value of the prize;
- (d) Selects prizes from a predetermined finite pool of entries;
- (e) Uses a mechanism that reveals the content of a predetermined sweepstakes entry;
- (f) Predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;
- (g) Uses software to create a game result;
- (h) Requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device;
- (i) Requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device;
- (j) Requires purchase of a related product, regardless if the related product, if any, has legitimate value;
- (k) Reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded;
- (l) Determines and associates the prize with an entry or entries at the time the sweepstakes is entered; or
- (m) A slot machine or other form of electrical, mechanical, or computer game. It is the intent of this definition to classify any mechanism utilized at any electronic gaming establishment that seeks to avoid application of this definition through the use of any subterfuge or pretense whatsoever. Electronic gaming establishments do not include arcade amusement centers, regulated pursuant to F.S. § 849.161, or the official Florida Lottery.

The term *prize* as used herein shall mean any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

4. *Drive-thru Facilities.* A facility, which by design, physical character, and/or by operation (i.e., service or packaging procedures) encourages or permits customers to receive services, obtain goods or be entertained while remaining in the motor vehicle.
5. *Funeral Homes.* Undertaking and funeral services involving care and preparation of human deceased prior to burial, including crematory facilities.
6. *General Retail Sales and Services.* Retail sale or rental from the premises of goods and/or services to include all uses listed under limited commercial activities as well as the following:
 - Appliance Stores, without major warehousing.
 - Art Shops and Supplies.
 - Bakeries, excluding wholesale production and distribution.
 - Bicycle Shops.
 - Copying Services.
 - Cosmetic Stores.
 - Department Stores.
 - Drapery Stores.
 - Drug Stores.
 - Dry Cleaning establishments complying with Class IV or Class V Fire Code Prevention requirements and using only Class IV solvents such as perchlorethelene, except for spotting as provided for in Section 9.6(m) of the Fire Prevention Code.
 - Dry Goods Stores.
 - Fabric Stores.
 - Furniture Stores.
 - Garden Supplies.
 - Grocery Stores.
 - Hardware Stores, without outside storage of lumber and other building supplies.
 - Health and Exercise Studios.
 - Home Furnishing Stores.
 - Lawn and Garden Supplies.
 - Large Specialty Shops.
 - Luggage and Leather Goods Stores.
 - Office Equipment and Supplies.
 - Paint and Wallpaper Retail Sales.
 - Pet Supply and Pet Shops.
 - Sporting Goods Stores.

Other similar retail sales and service activities conducted within a fully enclosed building approved by the Town Council after receipt of a recommendation from the Planning and Zoning Commission. The use shall not include: wholesaling, warehousing, outside storage and distribution functions. The use shall not exhibit any characteristic dissimilar or incompatible with the uses identified herein. In review and approval of a request for a "similar" use, the Planning and Zoning Board and the Town Council shall use the procedures and criteria cited in the following Section 1-2.6 [1-2.7].

7. *Hotels and Motels.* A building or other structure used, maintained or advertised as a place where sleeping accommodations are supplied for rent to transient guests, in which ten (10) or more rooms are furnished for the accommodation of such guests; and which may have as an accessory use one or more dining room areas.
8. *Limited Commercial Activities.* Small limited item shops and stores limited to retail sales of personal service items, including small convenience items or services typically needed on a frequent and recurring basis. This land use classification is intended to accommodate shops with limited inventory serving: (1) a household market area in the immediate vicinity as opposed to citywide or region; (2) a specialized market with customized service demand; or (3) a tourist oriented market area in the immediate vicinity. This classification is intended to include the following:

Bait and Tackle Shop.

Barber and Beauty Shops.

Book and Stationary Stores.

Candy and Ice Cream Stores.

Clothiers.

Drug Stores and Pharmacies.

Dry Cleaning and Laundry Pick-Up Substations and Self-Service Facilities.

Florists.

Gift Shops.

Hobby and Handicraft Shops.

Interior Decorators.

Jewelry Stores.

Meat Shops.

Novelty and Curio Shops.

Optical Stores.

Photo Supplies and Studios.

Shoe Repair Shops.

Tailors or Seamstress.

Other similar limited commercial activities conducted in a fully enclosed building which are approved by Town Council after receipt of a recommendation from the Planning and Zoning Board. Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such "similar" uses shall be as cited in the following section, § 1-2.6 [1-2.7]. The use shall comply with criteria cited in the above definition of limited commercial activities and shall not include more intense general retail sales and services. The procedures and criteria for review of other similar limited commercial activities shall be as cited in the following section, § 1-2.6 [1-2.7].

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9. Limited Manufacturing Activities. This land use classification is intended to accommodate small, limited item shops, with limited inventory serving a specialized market with customized service demand and which are to be conducted in a fully enclosed building.

This classification is intended to include the following:

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

Other similar Limited Manufacturing Activities may be approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The -activities-strictly prohibit the manufacturing of any chemical or petroleum process of rubber or plastics,-and/or other activity generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution. Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such uses shall be as cited within Section 1-2.6 and Section1-2.7.

10. Limited Manufacturing Services. Services such as Customer & Call Support; Low Impact Machinery &/or Electronic Device Repair or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and which are to be conducted in a fully enclosed building and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

Other similar Limited Manufacturing Services may be approved by the Town Council after receipt of a recommendation from the Planning and Zoning Board. The activities strictly prohibit the manufacturing of any chemical or petroleum, rubber or plastics, and/or other activity generating potentially harmful nuisance impacts such as noise, vibrations, glare, dust, explosive or fire hazard, offensive odors beyond the property line, or air or water pollution.

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

Prior to approving any such "similar" use, the Town Council shall render a finding that the use is similar to the uses identified herein and will produce impacts similar in nature to impacts generated by those activities specifically permitted herein. The burden of proof resides with the applicant. The procedures and criteria for review of such uses shall be as cited within Section 1-2.6 and Section1-2.7.

Renumbering formatting for final amendment is required for items below, from 9 through 20 to 11 through 22.

11. *Waterfront Marine Related Activities.* The following marine related land uses are included in this land use classification: commercial wet or dry storage and boat sales and rental; Marine power sales and service; and bait and tackle shop; and excluding marine salvage and boat yards.
12. *Medical Services.* The provision of therapeutic, preventive or other corrective personal treatment services by physicians, dentists and other licensed medical practitioners, as well as the provision of medical laboratory testing and analysis services. These services are provided to patients who are admitted for examination and treatment by a physician and with no overnight lodging. This land use classification includes pharmacies when developed as an accessory use within a medical service facility.

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13. *Parking Lots and Facilities.* Governmental or private commercial building of [or] structure solely for the off-street parking or storage of operable motor vehicles.
 14. *Plant Nurseries.* Retail sale of flowers, shrubs, trees, and plants as well as landscaping contractors and provision of related consultative services.
 15. *Restaurants (excluding drive-ins and fast food service).* Any establishment (which is not a drive-in service establishment) where the principal business is the sale of food, desserts or beverages to the customer in a ready-to-consume state and where the design or principal method of operation includes two or more of the following:
 - (a) Customers, normally provided with an individual menu, are served generally in non-disposable containers by a restaurant employee at the same table or counter at which items are consumed.
 - (b) Ice cream parlors and other specialty restaurants having floor area exclusively within a shopping or office center and sharing common parking facilities with other businesses within the center and expressly prohibiting freestanding stores having characteristics of a drive-in restaurant.
 - (c) A cafeteria or cafeteria type operation where foods, desserts or beverages generally are served in non-disposable containers and consumed within the restaurant building.
 - (d) Customers purchase food, desserts or beverages for carryout.
 16. *Restaurants (drive-ins and fast food service).* Any establishment where the principal business is the sale of foods, desserts or beverages generally contained in a ready-to-consume state and whose design, method of operation or any portion of whose business includes one or both of the following:
 - (a) The restaurants are self-service. Food is generally served in disposable containers and customers generally do the bussing and clean-up for themselves or foods, desserts or beverages are served directly to the consumer in a motor vehicle.
 - (b) The consumption of foods, desserts or beverages within a motor vehicle parked upon the premises, or consumption at other facilities on the premises is allowed, encouraged or permitted.
 - (c) *Mobile Food Dispensing Vehicle* means any vehicle that is licensed by the State of Florida as a public food service establishment {See F.S. § 509.013(5) for definition of a public food service establishment} and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.
 - (d) *Mobile Food Dispensing Vendor.* The operator of a Mobile Food Dispensing Vehicle.
 - (e) *Location of mobile food dispensing vehicle/vendor.* A mobile food dispensing vendor may operate a mobile food dispensing operation in the following locations:
 1. *Town-Owned Property.*
 - A. On the following Town-owned property, total operation must be contained within the area designated for their operation by the Town Manager or designee:
 1. Malabar Community Park
 2. Sandhill Trailhead Park
 3. Town Hall
 - B. *Access.* A mobile food dispensing vendor shall not operate or park in any location that impedes the ingress or egress of traffic, building entrances, pedestrian ingress or egress, emergency exits, or access to businesses. Notwithstanding anything to the contrary herein, a mobile food dispensing vendor may only operate on Town-Owned Property in areas so designated by the Town.
 - C. *Conflict.* A mobile food dispensing vendor may not operate on or at any location where the Town Manager or designee determines that a conflict exists between a mobile food dispensing vendor's

vehicle or operation and an existing license or franchise agreement, contractual obligation, or any other public health or safety concern, including but not limited to a special event or rental facility.

2. *Improved Property.*

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

1. Commercial General (CG)
2. Industrial (IND)
3. Residential/Limited Commercial (R/LC)
4. Office Institutional (OI)
5. Commercial Limited (CL)
6. Institutional (INS)

B. *Set-back Requirement.* When operating on private property, a mobile food dispensing vendor may operate only if set-back at least fifty (50) feet from any abutting residential district and at least one hundred and fifty (150) feet from any exclusively single family residential structure, unless the owner(s) of the residential structure immediately abutting such proposed location provides the mobile food dispensing vendor with express written permission to operate. The one hundred and fifty-foot set-back requirement is reduced to fifty (50) feet where an intervening non-residential building, such as a commercial building, screens the operation from the direct view of the single-family residential structure.

C. *Access.* A mobile food dispensing vendor shall not operate or park in any location that impedes the ingress or egress of traffic, pedestrian ingress or egress, building entrances, blocks a public or private right-of-way, emergency exits, or access to businesses. A mobile food dispensing vendor may locate upon a public or private utility easement area; provided, however, that such location may be terminated by the town Manager if it is determined that such location has cause a deterioration to such easement or utility service needs unrestricted access to the easement area.

3. *Construction areas.* A mobile food dispensing vendor may operate on private property that has an active building permit as part of a commercial or multi-family construction site. Such operation may also occur on a site undergoing master infrastructure construction within a single-family subdivision until the first certificate of occupancy is issued.

4. *Principal structure requirement.* A mobile food dispensing vendor may only operate on a lot that has a permitted principal structure.

[5.] *Stationary location requirement.* A mobile food dispensing vendor must operate from a stationary location, but may operate from multiple locations throughout the day, except as otherwise permitted in this article.

17. *Service Stations, Including Gasoline Sales.* Establishments for the dispensing of motor fuels and related projects at retail and having pumps, underground storage tanks and other facilities for such activity and which may include the retail sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles within enclosed service bays or stalls. For the purpose of this Code, these services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.

18. *Trades and Skilled Services.* Shops providing services requiring skilled labor or craftsmanship for repair including household items, office equipment, appliances, printing, blue printing, carpet sales and service, feed stores, lawn and maintenance

services, newspaper printing, radio and television broadcasting, restaurant equipment and supply sales and services. All such activities shall not include outside storage.

19. *Vehicular Service and Maintenance.* Vehicular establishments providing sale of minor automobile parts and accessories such as tires, batteries, spark plugs, fan belts, shock absorbers, mirrors, floor mats, cleaning and polishing materials and similar items, and which may include the inspection, servicing or minor repair of motor vehicles. These services shall not include body repair and painting, frame straightening, or tire recapping or vulcanizing.
 20. *Vehicular Sales and Related Services.* The retail or wholesale sale or rental of motor vehicles and related equipment, with incidental services and maintenance.
 21. *Veterinary Medical Services.* The provision of animal medical care and treatment by a Florida licensed veterinarian.
 22. *Wholesale Trades and Services.* The display, limited storage and sale of goods to other firms for resale, excluding outside storage, except as otherwise provided in this chapter [Code].
- D. *Industrial Activities.* The following land uses are included in the industrial land use classification where the same are conducted within a totally enclosed building except as specifically provided herein:
1. *Kennels* for boarding of domestic dogs and cats and veterinary medical operations.
 2. *Manufacturing Activities* including:
 - Manufacturing or processing of electronic components, optical instruments, electrical appliances, or other precision components;
 - Assembly and distribution of goods;
 - Maintenance, repair, reconditioning, and cleaning;
 - Printing;
 - General packaging and processing activities;
 - Research and development technology;
 - Commercial laundries;
 - Machine shops;
 - Agricultural research laboratories;
 - Vocational and trade schools;
 - Sale of building material.

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

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

3. *Manufacturing Service Establishments*, such as heavy machinery repair and service; heavy machinery or heavy equipment rental or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

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4. *Vehicle and Other Mechanical Repairs and Services*, including those not permitted as commercial zoning activities including paint and body shops.
 5. *Warehousing, Storage and Distribution Activities*, including building contract construction, building supplies, furniture stores with major warehousing, and trade services with extensive warehousing, trucking support facilities, or requirement of outside storage.
- E. *Agricultural Activities*. The following land uses are included in the agricultural land use classification. No such activity shall permit commercial retail operations, except as otherwise expressly provided in the definition and/or the agricultural district provisions cited within this Code.
1. *Commercial Stables*, including a stable operated for profit on a minimum five (5) acre site of not more than one (1) horse for the first one (1) acre and one (1) additional horse for each additional one-half (½) acre. Also reference conditional use criteria.
 2. *Noncommercial Agricultural Activities*, including home gardens, noncommercial greenhouses, and keeping of agricultural animals. Keeping of agricultural animals shall be limited to one (1) agricultural animal for the first one (1) acre and one (1) additional animal for each additional one-half (½) acre.
 3. *Wholesale Agricultural Activities*, including harvested agricultural crops, fish and aquatic farms, grazing of cattle, and wholesale trade of products grown or raised on premises. These agricultural operations shall be restricted to sites with a minimum of five (5) acres.

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

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

Attachment: Proposed amendments to Table 1.3-2, Page 3

Underline depicts new text; Strikethrough depicts the deletion of text.

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 ¹	P	C	C		P	
Clubs and Lodges (Not-for-Profit)									P	P				
Cultural or Civic Activities								P	P	P	P		P	
Educational Institutions								C, A ¹					C	
Golf Course Facilities	C													
Hospital and other Licensed Facilities								C					C	
Nursing Homes and Related Health Care Facilities					C	C		C					C	
Protective Services					C	C	C	C	C	C	C	C	C	

Attachment: Proposed amendments to Table 1.3-2, Page 3

Underline depicts new text; Strikethrough depicts the deletion of text.

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
Public Parks and Recreation	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	
COMMUNITY RESIDENTIAL HOME														
Level 1 (1 to 6 residents/beds)	C ³				C	C								
Level 2 (7 to 14 residents/beds)					C	C							C	
ASSISTED CARE COMMUNITIES														
I Assisted Living Facility														
Level 1 (1 to 5 residents/beds)		C	C	C	C ⁴	C ⁴					C			
Level 2 (6 to 15 residents/beds)					C ⁴	C ⁴								
Level 3 (16 or more residents/beds)					C ⁴	C ⁴								
II Adult Family-Care Homes														
(1 to 5 residents/beds)	C ³	C	C	C	C	C					C			
III Adult Day Care Centers					C	C		C			C		C	
AGRICULTURAL ACTIVITIES														
Noncommercial Agricultural Operations	P													
Wholesale Agricultural Activities	P													

Attachment: Proposed amendments to Table 1.3-2, Page 3

Underline depicts new text; Strikethrough depicts the deletion of text.

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
Commercial Stables	C													
COMMERCIAL ACTIVITIES														
Adult Activities										C				
Bars and Lounges										C				
Bed and Breakfast											P ¹			
Business and Professional Offices								P	P	P	P	P	P	
Enclosed Commercial Amusement										P				
Arcade Amusement Center/ Electronic Gaming Establishment										C ²				
Funeral Homes									P	P	C			
General Retail Sales and Services										P				
Hotels and Motels										P				
Limited Commercial Activities									P	P	P			
<u>Limited Manufacturing Activities</u>									<u>C</u>	<u>P</u>	<u>C</u>			
<u>Limited Manufacturing Services</u>									<u>C</u>	<u>P</u>	<u>C</u>			
Marine Commercial Activities										C*				
Medical Services								P	P	P	P			

Attachment: Proposed amendments to Table 1.3-2, Page 3

Underline depicts new text; Strikethrough depicts the deletion of text.

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
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		

Attachment: Proposed amendments to Table 1.3-2, Page 3

Underline depicts new text; Strikethrough depicts the deletion of text.

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
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

EXPAND

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

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

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

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

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

**Attachment: Proposed amendments to Table 1-6.1(B) Conditional Land Use Requirements,
Page 1**

Underline depicts new text; Strikethrough depicts the deletion of text.

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District / Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District / Nonresidential District (feet)	Perimeter Screening Residential District / Nonresidential District (5)	Curb Cut Controls	Other
Child Care Facilities	1 Acre	145	Paved	50/30	15/10	Type A/B	(7)	
Places of Worship	5 Acres	250	Paved	70/45	25/20	Type A/C	(7)	
Educational Institution	(1)	500	Arterial	70/45	25/20	Type A/C	(7)	
Enclosed Arcade Amusement Center/Electronic Gaming Establishment	1 Acre	120	Highway 1 and Babcock Street only	100/30	N/A	Type A/C	(7)	
Golf Courses	(2)	500	Paved	70/45	25/20	Type C/C	(7)	
Hospitals and other Licensed Facilities	5 Acres	325	Arterial	100/75	25/20	Type A/C	(7)	
Nursing Homes and Related Health Care Facilities	2 Acres	210	Paved	60/30	25/20	Type A/C	(7)	
Protective Services	(4)	120	Paved	50/30	25/20	Type A/C	(7)	
Public Parks and Recreation Areas	5 Acres	325	Paved	70/45	25/20	Type C/C	(7)	
Public and Private Utilities	N/A	120	N/A	70/30	25/20	Type A/C	(7)	
Commercial Stables	5 Acres	325	N/A	100/75	50/40	Type B/C		
Adult Entertainment	1 Acre (8, 9, 10)	120	US1 / Babcock	100/30	N/A	Type A/C	(7)	(6)
Bars and Lounges	1 Acre (8, 9)	120	US1 / Babcock	100/30	N/A	Type A/C	(7)	(6)
<u>Limited Manufacturing Activities</u>	<u>1 Acre</u>	<u>100/150</u>	<u>Arterial / West Railroad Avenue</u>	<u>100/25</u>	<u>25/20</u>	<u>Type A/C</u>	<u>(7)</u>	
<u>Limited Manufacturing Services</u>	<u>1 Acre</u>	<u>100/150</u>	<u>Arterial / West Railroad Avenue</u>	<u>100/25</u>	<u>25/20</u>	<u>Type A/C</u>	<u>(7)</u>	

**Attachment: Proposed amendments to Table 1-6.1(B) Conditional Land Use Requirements,
Page 1**

Underline depicts new text; Strikethrough depicts the deletion of text.

Marine Commercial Activities	1 Acre	120	US1 / Babcock / West Railroad Avenue	100/30	N/A	N/A	(7)
Service Stations, Including Gasoline Sales	1 Acre (8)	145	Arterial	100/30	N/A	N/A	(7)
Trades and Skilled Services	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	N/A	Type A/C	(7)
Vehicular Services and Maintenance	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	N/A	Type A/C	(7)
Wholesale Trades and Services	1 Acre	145	US1 / Babcock / West Railroad Avenue	50/30	15/10	Type A/C	(7)
Kennels	1 Acre	145	N/A	100/30	15/10	Type A/C	(7)
Vehicular and Other Mechanical Repair	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	15/10	Type A/C	(7)
Noncommercial Piers, Boat Slips and Docks	N/A	N/A	N/A	N/A	N/A	N/A	(7)
Community Residential Home							
Level 1 (1 to 6 residents/beds)	1.5 acres	210	Paved	60/30	25/20	Type A/C	(7)
Level 2 (7 to 14 residents/beds)	3 acres	210	Paved	60/30	25/20	Type A/C	(7)
Assisted Care Communities							
I Assisted Living Facility							
Level 1 (1 to 5 residents/beds)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 2 (6 to 15 residents/beds)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (16 or more residents/beds)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)

**Attachment: Proposed amendments to Table 1-6.1(B) Conditional Land Use Requirements,
Page 1**

Underline depicts new text; Strikethrough depicts the deletion of text.

II Adult Family-Care Homes							
(1 to 5 residents/ beds)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
III Adult Day Care Facilities	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)

Note: Arterial streets refer to transportation linkages on the Major Thoroughfare Plan within the Comprehensive Plan (i.e., Malabar Road, US 1, and Babcock Street).

- (1) Minimum spatial requirements for public and private, primary and secondary educational institutions shall comply with standards used by the Brevard County School Board and the State of Florida.
- (2) Minimum spatial requirements for golf courses shall comply with standards recommended by the U.S. Golf Association or the American Society of Golf Architects.
- (3) Minimum spatial requirements shall comply with the requirements established by the Town of Malabar District Provisions or the Florida Statutes, whichever requirement is greater.
- (4) Minimum spatial requirements for the American Insurance Association and the National Fire Prevention and Control Administration.
- (5) The Type A, B, and C screening requirements reflect the standards cited in Section 1-4.1(G)(2)(a)–(c).
- (6) No parking lot or structure within 200 ft of residential or institutional district.
- (7) No more than two curb cuts shall be permitted to any one street frontage. The ingress-egress width shall be restricted to a maximum width of thirty (30) feet at the point of curvature at the property line; shall be located no closer than thirty (30) feet to a right-of-way intersection; and shall be at least ten (10) feet removed from property lines. A minimum fifty (50) feet separation shall be maintained between curb cuts. The Town may require controlled access, including dedication of cross easements and joint use of drive. The Town Council may grant a waiver to these requirements after considering the recommendations of the Planning and Zoning Board and the Town staff.
- (8) Shall not be located adjacent to a residential district, including the RR district.
- (9) Shall not be located within 1000 feet of a religious institution, educational institution, or public park.
- (10) Reference Town of Malabar Ordinance Regulating Adult Entertainment. (Ord. No. 94-4, § 9, 4-3-95; Ord. No. 12-48, §§ 3, 4, 1-23-12; Ord. No. 14-01, § 4, 2-3-14) **Cross reference—** Adult entertainment establishments, regulations, § 10-26 et seq.

“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
FEBRUARY 8, 2023, 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 (by Meghan Wolfgram) and Pledge led by Chair Wayne Abare.

2. ROLL CALL:

CHAIR:	WAYNE ABARE
VICE-CHAIR:	DOUG DIAL
BOARD MEMBERS:	LIZ RITTER
	DAVE TAYLOR
	SUSAN SHORTMAN
ALTERNATE:	MEGHAN WOLFGRAM
ALTERNATE:	VACANT
BOARD SECRETARY:	DENINE SHEREAR
ADDITIONAL ATTENDEES:	PATRICK T. RIELLY, MAYOR

4. CONSENT AGENDA:1

6.a. Approval of Minutes	Planning and Zoning Meeting – 01/11/2023
Exhibit:	Agenda Report No. 6.a
Recommendation:	Request Approval

Motion: Ritter/Shortman to Approve Minutes of 1/11/2023 as presented.

Voted: All Ayes

5. PUBLIC COMMENTS

6. PUBLIC HEARING:0

7. ACTION ITEMS:1

7.a. Last review Amending the Land Development Code to allow “Limited” Manufacturing in the R/LC, CL, and CG Commercial Land Use and Commercial Zoning Districts. (Originally Presented by Mayor Patrick T. Reilly on September 14, 2022)

Exhibit:	Agenda Report No. 7.a.
Recommendation:	Request/Action to Council

Abare explained to the Board the progress of this Land Use Amendment, the document will go from here to staff and Town attorney and reviewed before it moves on to Council.

The Board discussed the final documentation suggested. The mayor suggested taking “conditional” out of Industrial on the Table1-3.2 Land Use by Districts.

Motion Dial/Ritter to send to staff, then on to Council the Amended the Land Code changes, to include "Limited" Manufacturing in certain zoning districts; Residential/Limited Commercial (R/LC), Commercial Limited (CL), Commercial General (CG).

Voted by Roll Call Vote

Taylor; Aye, Ritter; Aye, Shortman; Aye, Dial; Aye, Abare; Aye. Motion passed 5 to 0.

Abare thanked the Board & Mayor for their hard work during this process.

The Board asked questions about the changes to this Amended Code. Abare explained that the Planning & Zoning (PZ) Board reviews and makes suggestions that gets forwarded on to Staff and Town Attorney. The PZ takes public comments by cards that are submitted to the Chair.

- 8 DISCUSSION:**
- 9. ADDITIONAL ITEMS FOR FUTURE MEETING**
- 10. PUBLIC COMMENTS**

Abare asked if anyone has public comments.

11. OLD BUSINESS/NEW BUSINESS:

Old Business:

New Business:

The Board (Ritter) discussed the FDOT information in reference to US 1 safety on the corridor along US 1 (February 21, 2023 meeting)

- **Reminder:** Next Meeting –February 22, 2023

12. ADJOURN

There being no further business to discuss, MOTION: Shortman / Dial to adjourn this meeting.
Vote: All Ayes. The meeting adjourned 6:35 P.M.

BY:

Wayne Abare Chair

Denine Sherear, Board Secretary

Date Approved: as presented.

AGENDA 7.a.

PZ BOARD FINAL DRAFT (2/8/2023) FOR LAND DEVELOPMENT CODE SECTION 1-2.6 LAND CLASSIFICATIONS

9. Limited Manufacturing Activities. This land use classification is intended to accommodate small, limited item shops, with limited inventory serving a specialized market with customized service demand and which are to be conducted in a fully enclosed building. This classification is intended to include the following:

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

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

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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

10. Limited Manufacturing Services. Services such as Customer & Call Support; Low Impact Machinery &/or Electronic Device Repair or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and which are to be conducted in a fully enclosed building and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

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

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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

Town of Malabar

Allowing "Light" Manufacturing in the
R/LC, CL and CG Commercial Land Use and
Commercial Zoning Districts

Patrick T. Reilly
Town of Malabar Mayor
14 Sep 2022

1

1

Agenda

- Land Development Code
 - Article II Land Use and Zoning (See Appendix A)
 - Section 1-2.6
 - D. Industrial Activities
 - 2. Manufacturing Activities
 - Article III District Provisions
 - Section 1-3.1
 - K. CL "Commercial Limited"
 - L. CG "Commercial General"
 - M. IND "Industrial"
 - O. R/LC "Residential and Limited Commercial"
 - Table 1-3.2 Land Use by Districts (See Appendix B)
 - Table 1-3.3(A) Size and Dimensions (See Appendix C)
 - Table 1-6.1B Conditional Land Use RQTs (See Appendix D)
 - Future Land Use Maps for CG Land Uses
 - Pictures of an example for a manufacturing business's
 - Conclusion

2

Article III District Provisions
Section 1-3.1

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.

Town of Malabar Code for Commercial Limited Land Use

3

3

Article III District Provisions
Section 1-3.1

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.

Town of Malabar Code for Commercial General Land Use
Consider **Allowing** the manufacturing, processing, or assembly of goods

4

4

Article III District Provisions
Section 1-3.1

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.

Town of Malabar Code for Industrial Land Use
No mention of "Manufacturing" in the Description

Article III District Provisions
Section 1-3.1

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.

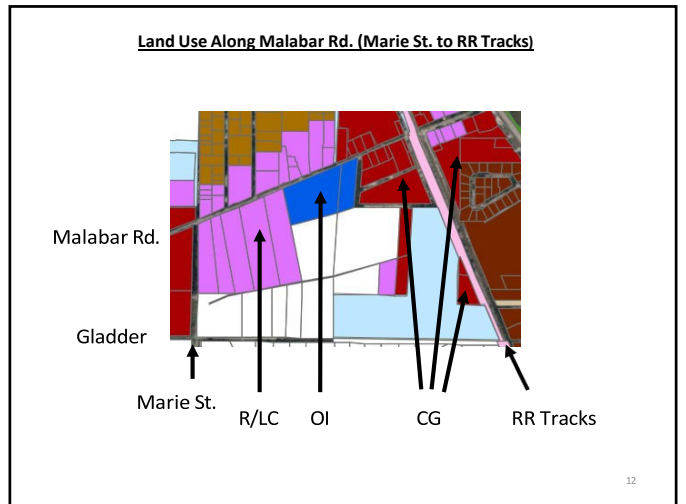
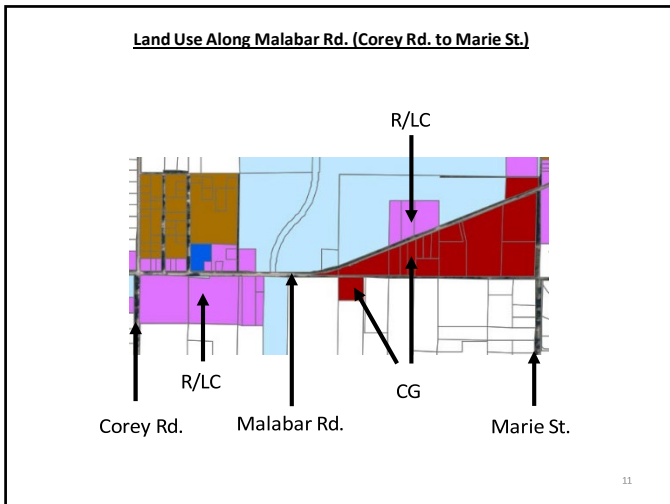
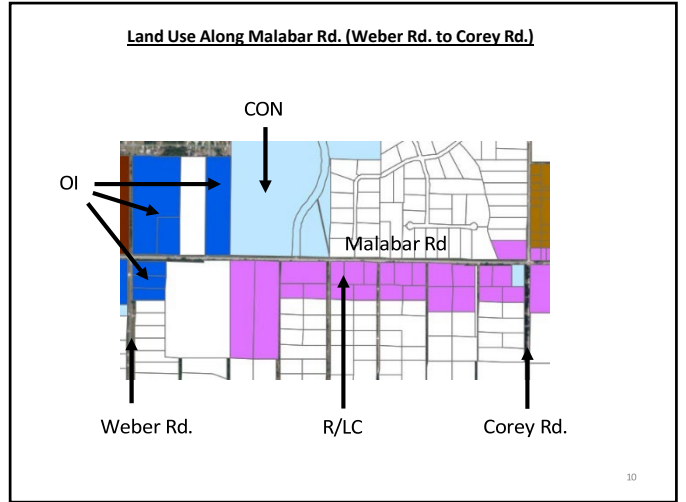
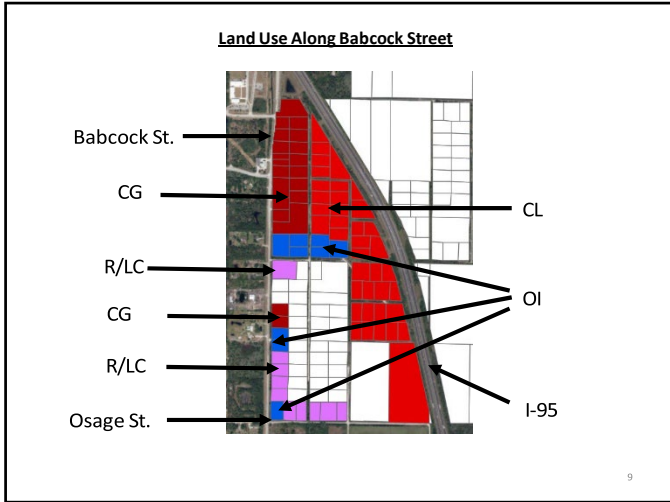
Town of Malabar Code for Residential and Limited Commercial Land Use

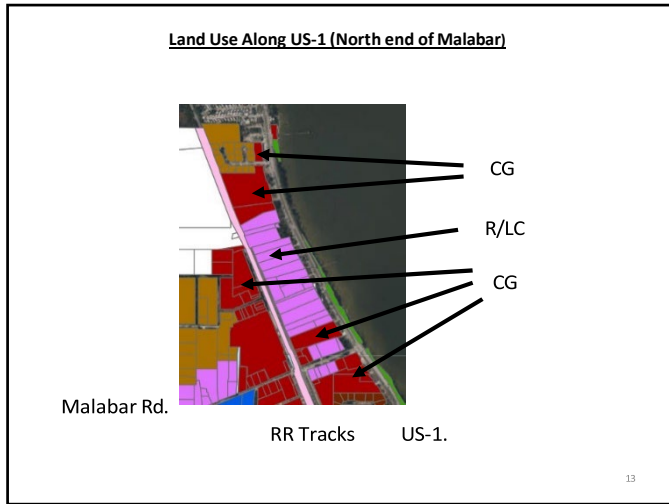
Residential and Limited Commercial (cont)

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.

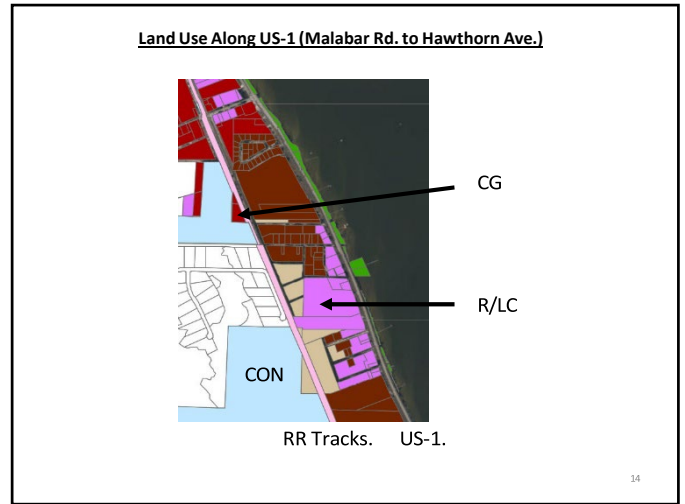
Town of Malabar Code for Residential and Limited Commercial Land Use

Future Land Use Maps

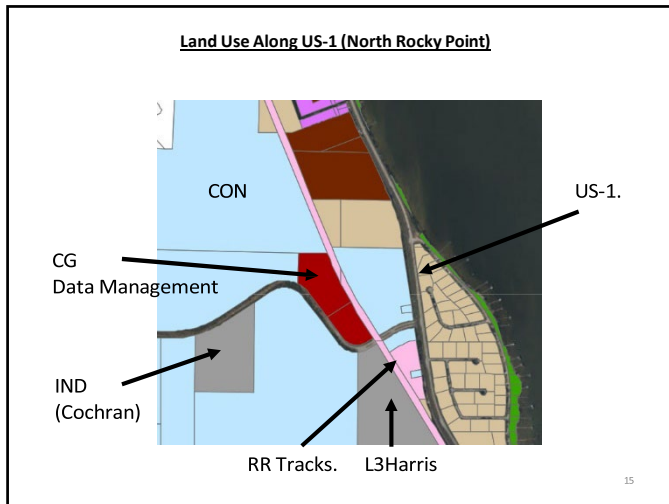




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14



15

Manufacturing, Assembly, and Test Business Example

- Downtown Melbourne
- Zoned C-2
- 4-Business Units
 - Insurance Agent
 - Psychiatrist
 - NoLand Engineering
 - Design, manufacture, test and sell electronic hardware

Example of "Light" Manufacturing in a Commercial General Land Use District

16

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Manufacturing, Assembly, and Test Business Example (cont)

City of Melbourne Code - Zoning Districts

C-1 — Neighborhood Commercial District. The provisions of this district are intended to apply to an area adjacent to arterial and major collector streets and convenient to major residential areas. The types of uses permitted are intended to serve consumer needs. Lot sizes and other restrictions are intended to reduce conflicts with adjacent residential uses and to minimize the interruption of traffic along thoroughfares.

(Comparable to Malabar CL)

C-2 — General Commercial District. The provisions of this district are intended to apply to an area intended to be developed and preserved as a major commercial center serving the commercial needs of the community and region as well as the motoring public. The types of uses and other restriction are intended to promote adequate protection from conflicts with adjacent residential and other noncommercial uses, and to minimize the interruption of traffic along adjacent thoroughfares.

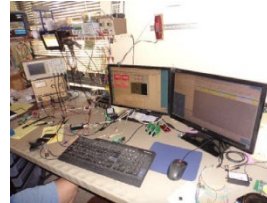
(Comparable to Malabar CG)

Similar Code Language between City of Melbourne and Malabar

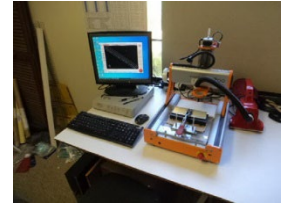
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Manufacturing, Assembly, and Test Business Example (cont)



Software and Hardware, Design and Test Station



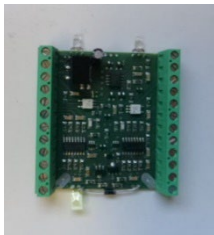
PC Card Layout Station

NoLand Engineering, Melbourne FL. Work Stations

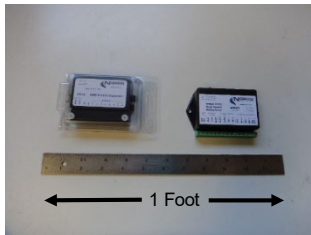
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18

Manufacturing, Assembly, and Test Business Example (cont)



Final PC Card Assembly



Final Product

NoLand Engineering, Melbourne FL. Manufactured Products

19

19

Manufacturing, Assembly, and Test Business Example (cont)



Small Machine Shops Should be Allowed in Commercial Land Use Districts

20

20

Manufacturing, Assembly, and Test Business Example (cont)



- 3D Printer
- 11.6 x 7.6 x 6.5" Build Volume
- Fabricates Small parts

Rapid Prototyping Services, LLC
In Satellite Beach

Should be Allowed in Commercial Land Use Districts

21

Conclusion

- I would like Planning and Zoning to consider allowing "Light Industry" manufacturing in the R/LC, CL and CG Commercial Land Use and Zoning Districts
- "Light Industry" manufacturing, assembly, integration and testing to be performed in enclosed buildings
- Minimal outdoor activities
- Establish Allowable versus Conditional Uses (Table 1-3.2)
- Consider having a workshop and have small manufacturing business's input

22

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Appendix A

Article II Land Use and Zoning

23

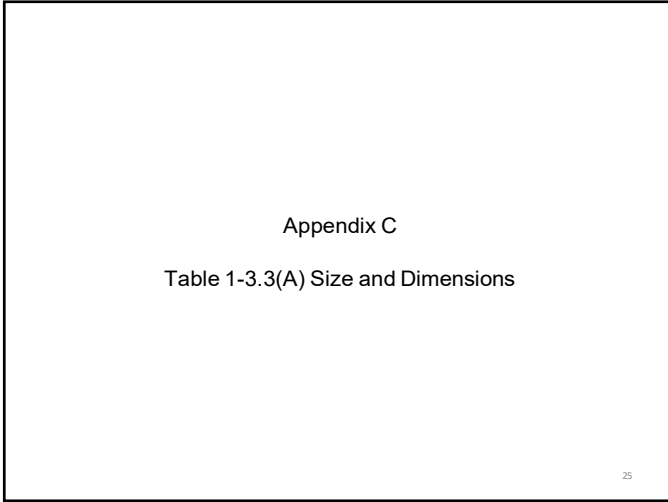
Appendix B

Table 1-3.2 Land Use by Districts

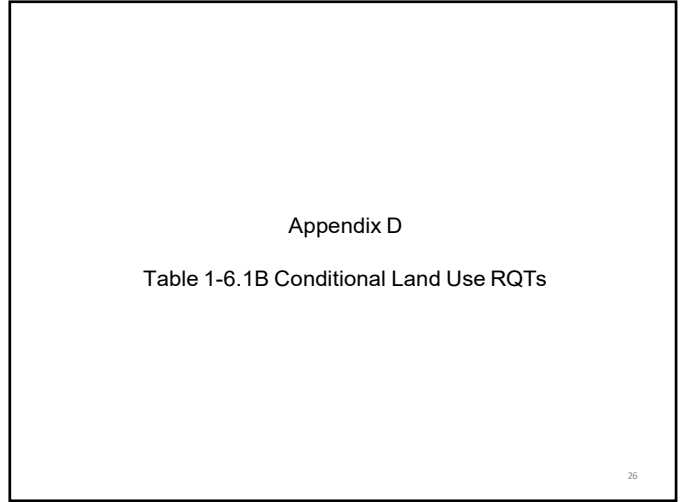
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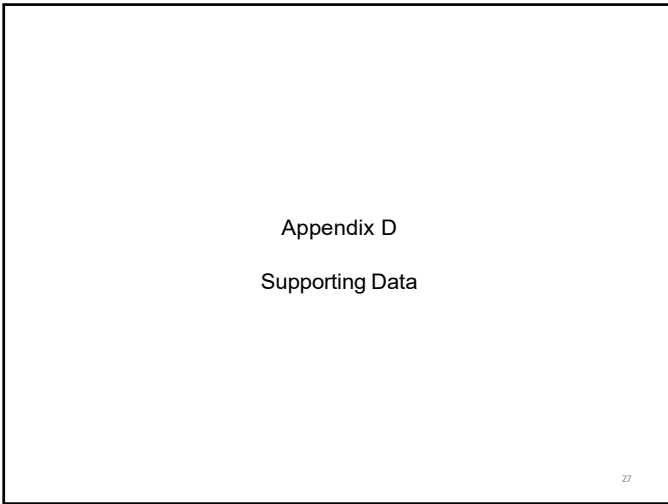
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STAFF REPORT

CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

Prepared by: Lisa Morrell

The Planning and Zoning Board began reviewing the case on September 14, 2022.

Continued discussion by the Planning and Zoning Board on the following dates:

October 12, 2022 - 6:00pm

October 26, 2022 - 6:00pm

November 15, 2022 - 6:00pm

December 14, 2022 - 6:00pm

January 11, 2023 - 6:00pm

January 25, 2023 - 6:00pm

At the February 8, 2023 Planning and Zoning Meeting, the board moved to approve and progress the item to Town Council for approval. The proposed ordinance will amend the Land Development Code to define and add "Limited Manufacturing Activities and Limited Manufacturing Services" as land use classifications to certain zoning districts, specifically Commercial General (CG), Commercial Limited (CL), and Residential Limited Commercial (R/LC).

PROPERTY OWNER OR REPRESENTATIVE

Town of Malabar
 2725 Malabar Road
 Malabar, Florida 32950

The proposed amendment would affect 245 of the 2,365 parcels which are currently zoned Commercial General (CG), Commercial Limited (CL), and Residential Limited Commercial (R/LC), totaling 437.35 Acres. The affected parcels are listed in Table 1.

TABLE 1. ARCGIS DATA SOURCE AS OF MARCH 10, 2023, CG, CL, R/LC:

TAX ACCT	PARCEL ID	ACRES	ZONING/FLU
3020287	28 3831-54-*-R.01	0.05	CG
2851066	28 3831-51-A-5	0.06	CG
2851019	28 3831-26-3-20	0.07	CG
2851013	28 3831-26-2-8	0.09	CG
2851100	28 3831-54-C-27	0.12	CG
2851108	28 3831-54-D-12	0.13	CG
2851146	28 3831-54-5-1	0.14	R/LC
2851148	28 3831-54-5-3	0.14	R/LC
2851084	28 3831-54-B-26	0.14	CG
2953352	29 3806-03-A-5	0.14	R/LC
2851083	28 3831-54-B-14	0.14	CG
2851147	28 3831-54-5-2	0.14	R/LC
2931308	29 3710-00-260	0.17	CL
2851081	28 3831-54-B-10	0.17	CG
2851043	28 3831-50-A-1.01	0.18	CG
2851065	28 3831-51-A-4	0.19	CG
2953359	29 3806-03-C-5	0.20	R/LC
2851115	28 3831-54-2-2	0.20	R/LC
2851093	28 3831-54-C-17	0.21	R/LC



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CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

2851004	28 3831-26-1-3	0.22	R/LC
2953354	29 3806-03-B-1	0.23	R/LC
2850944	28 3831-00-250.3	0.25	CG
2866229	28 3736-00-515	0.26	CG
2851012	28 3831-26-2-5	0.26	CG
2846407	28 3736-51-2-3	0.26	R/LC
2846408	28 3736-51-2-4	0.26	R/LC
2846384	28 3736-51-1-2	0.26	R/LC
2846383	28 3736-51-1-1	0.26	R/LC
2851103	28 3831-54-D-1	0.27	CG
2846377	28 3736-50-A-35	0.27	R/LC
2846381	28 3736-50-B-33	0.27	R/LC
2851078	28 3831-54-B-7	0.27	CG
2960442	29 3806-03-A-3	0.27	R/LC
2851171	28 3831-54-5-48	0.28	R/LC
2851091	28 3831-54-C-15	0.29	R/LC
2851637	28 3831-00-269	0.30	CG
2851016	28 3831-26-2-14	0.31	CG
2851014	28 3831-26-2-9	0.31	CG
2851079	28 3831-54-B-7.01	0.34	CG
2851080	28 3831-54-B-9	0.34	CG
2851064	28 3831-51-A-3	0.34	CG
2851063	28 3831-51-A-2	0.34	CG
2850977	28 3831-00-764	0.34	CG
2953335	29 3806-02-A-1	0.36	R/LC
2851002	28 3831-26-1-1.01	0.36	R/LC
2851592	28 3831-54-C-28.01	0.37	CG
2851104	28 3831-54-D-2	0.39	CG
2851015	28 3831-26-2-11	0.39	CG
2851181	28 3831-75-*C	0.39	R/LC
2851107	28 3831-54-D-10	0.40	R/LC
2953337	29 3806-02-A-6	0.40	R/LC
2953360	29 3806-03-C-7	0.40	R/LC
2851095	28 3831-54-C-20	0.41	R/LC
2851094	28 3831-54-C-18	0.42	R/LC
2851173	28 3831-54-5-52	0.43	R/LC
2851172	28 3831-54-5-50	0.43	R/LC
2953324	29 3806-00-18	0.44	R/LC
2953351	29 3806-03-A-1	0.44	R/LC
2846375	28 3736-50-A-14	0.48	R/LC
2851055	28 3831-50-A-8.01	0.48	R/LC
2851018	28 3831-26-3-14	0.50	CG
2846406	28 3736-51-2-1	0.52	R/LC



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CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

2846385	28 3736-51-1-3	0.52	R/LC
2922168	29 3701-00-254	0.54	R/LC
2851105	28 3831-54-D-4	0.56	R/LC
2953331	29 3806-01-1-1	0.56	R/LC
2850948	28 3831-00-255	0.56	R/LC
2851182	28 3831-75-*-E	0.58	R/LC
2850980	28 3831-25-*-1	0.59	CG
2851180	28 3831-75-*-A	0.60	R/LC
2850955	28 3831-00-262	0.61	R/LC
2846322	28 3736-00-766	0.62	CG
2851058	28 3831-50-A-8.04	0.63	R/LC
2851096	28 3831-54-C-22	0.63	CG
2931342	29 3710-00-294	0.64	CG
2931368	29 3710-00-321	0.64	CG
2851114	28 3831-54-2-1.01	0.72	R/LC
2846320	28 3736-00-764	0.73	CG
2851057	28 3831-50-A-8.03	0.78	CG
2953364	29 3806-03-D-7	0.79	R/LC
2851098	28 3831-54-C-25	0.82	CG
2846323	28 3736-00-767	0.82	CG
2850954	28 3831-00-261	0.82	R/LC
2931311	29 3710-00-263	0.86	CL
2846319	28 3736-00-763.2	0.91	CG
2851082	28 3831-54-B-11	0.95	CG
2922199	29 3701-00-286	1.00	R/LC
2851009	28 3831-26-1-7	1.00	R/LC
2846318	28 3736-00-763.1	1.02	CG
2953355	29 3806-03-B-3	1.03	R/LC
2851039	28 3831-26-10.1	1.04	R/LC
2931333	29 3710-00-285	1.05	CG
2851036	28 3831-26-8.1	1.06	CG
2931349	29 3710-00-302	1.06	CL
3017126	28 3831-26-8.3	1.06	CG
2953314	29 3806-00-2	1.07	R/LC
2851020	28 3831-26-3-21	1.07	CG
2953332	29 3806-01-1-3	1.07	R/LC
2931375	29 3710-00-509	1.08	CL
2922424	29 3702-00-25	1.10	R/LC
2851118	28 3831-54-3-1	1.11	R/LC
2851119	28 3831-54-3-3	1.12	R/LC
2931348	29 3710-00-301	1.13	CG
2850953	28 3831-00-260	1.16	R/LC
2931429	29 3710-00-564	1.19	R/LC



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LAND USE CLASSIFICATION: LIMITED MANUFACTURING

2931439	29 3710-00-574	1.19	R/LC
2931371	29 3710-00-505	1.19	R/LC
2922443	29 3702-00-43	1.19	R/LC
2922447	29 3702-00-47	1.19	R/LC
2931358	29 3710-00-311	1.19	CL
2851097	28 3831-54-C-24	1.19	CG
2922441	29 3702-00-41	1.20	R/LC
2931309	29 3710-00-261	1.20	CL
2931356	29 3710-00-309	1.21	CL
2851106	28 3831-54-D-6	1.21	R/LC
2851006	28 3831-26-1-5	1.21	R/LC
2931415	29 3710-00-550	1.22	CL
2846317	28 3736-00-763	1.22	CG
2931390	29 3710-00-524	1.23	CL
2931392	29 3710-00-526	1.23	CL
2846314	28 3736-00-761	1.23	CG
2931310	29 3710-00-262	1.23	CL
2931316	29 3710-00-268	1.23	CL
2931398	29 3710-00-532	1.26	R/LC
2931400	29 3710-00-534	1.26	R/LC
2931399	29 3710-00-533	1.26	R/LC
2931387	29 3710-00-521	1.26	CL
2931365	29 3710-00-318	1.26	CG
2931313	29 3710-00-265	1.26	CG
2931350	29 3710-00-303	1.26	CG
2851003	28 3831-26-1-2	1.26	R/LC
2931378	29 3710-00-512	1.29	R/LC
2931434	29 3710-00-569	1.29	CG
2931426	29 3710-00-561	1.29	CG
2931332	29 3710-00-284	1.29	CG
2931388	29 3710-00-522	1.33	R/LC
2922456	29 3702-00-56	1.34	R/LC
2851085	28 3831-54-B-30	1.35	CG
2922437	29 3702-00-37	1.35	R/LC
2931425	29 3710-00-560	1.35	CL
2861962	28 3831-54-B-53.01	1.35	R/LC
2922471	29 3702-00-71	1.36	R/LC
2922513	29 3702-00-274	1.36	R/LC
2931421	29 3710-00-556	1.36	CL
2931391	29 3710-00-525	1.38	CL
2922436	29 3702-00-36	1.38	R/LC
2931370	29 3710-00-502	1.40	CL
2922469	29 3702-00-69	1.40	R/LC



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CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

2931411	29 3710-00-546	1.40	CL
2931396	29 3710-00-530	1.40	CL
2931423	29 3710-00-558	1.40	CL
2931397	29 3710-00-531	1.40	CL
2931345	29 3710-00-298	1.40	CG
2922484	29 3702-00-84	1.40	R/LC
2922528	29 3702-00-290	1.40	R/LC
2931340	29 3710-00-292	1.40	CL
2931325	29 3710-00-277	1.40	CL
2931343	29 3710-00-296	1.40	CL
2931334	29 3710-00-286	1.40	CL
2931339	29 3710-00-291	1.40	CL
2931366	29 3710-00-319	1.40	CL
2931361	29 3710-00-314	1.40	CG
2931352	29 3710-00-305	1.40	CG
2931319	29 3710-00-271	1.40	CG
2931359	29 3710-00-312	1.40	CL
2931353	29 3710-00-306	1.40	CG
2931330	29 3710-00-282	1.40	CL
2931360	29 3710-00-313	1.40	CG
2931329	29 3710-00-281	1.40	CG
2931355	29 3710-00-308	1.42	CL
2851041	28 3831-26-10.3	1.42	R/LC
2958905	29 3702-00-88	1.44	R/LC
2851040	28 3831-26-10.2	1.52	R/LC
2851042	28 3831-26-10.4	1.55	R/LC
2846293	28 3736-00-502	1.57	R/LC
2846321	28 3736-00-765	1.61	CG
2922438	29 3702-00-38	1.62	R/LC
2850950	28 3831-00-257.1	1.67	R/LC
2931335	29 3710-00-287	1.69	CL
2850946	28 3831-00-253	1.70	R/LC
2931430	29 3710-00-565	1.76	R/LC
2922442	29 3702-00-42	1.76	R/LC
2931418	29 3710-00-553	1.85	CL
2846311	28 3736-00-758	1.87	R/LC
2850961	28 3831-00-267	1.93	CG
2931382	29 3710-00-516	1.93	CL
2931315	29 3710-00-267	1.93	CL
2846316	28 3736-00-762	1.97	CG
2851127	28 3831-54-4-1	2.01	R/LC
2851017	28 3831-26-3-1	2.02	CG
2931376	29 3710-00-510	2.04	CL



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LAND USE CLASSIFICATION: LIMITED MANUFACTURING

2851116	28 3831-54-2-5	2.04	R/LC
2931324	29 3710-00-276	2.06	CG
2922402	29 3702-00-2	2.07	R/LC
2851001	28 3831-26-1-1	2.07	R/LC
2858397	28 3831-00-760	2.10	CG
2846310	28 3736-00-757	2.11	R/LC
2931367	29 3710-00-320	2.14	CL
2850952	28 3831-00-259	2.23	R/LC
2931363	29 3710-00-316	2.24	CL
2931304	29 3710-00-253	2.24	CL
2851038	28 3831-26-9	2.26	CG
2851068	28 3831-54-B-1.01	2.30	R/LC
2922416	29 3702-00-17	2.31	R/LC
2931380	29 3710-00-514	2.44	R/LC
2851099	28 3831-54-C-26	2.49	CG
2846138	28 3735-00-755	2.49	R/LC
2922147	29 3701-00-53	2.50	CG
2922406	29 3702-00-3.1	2.50	R/LC
2851089	28 3831-54-B-54	2.51	CG
2846306	28 3736-00-753	2.52	R/LC
2922419	29 3702-00-20	2.60	R/LC
2922167	29 3701-00-253	2.66	R/LC
2846308	28 3736-00-755	2.67	CG
2851101	28 3831-54-C-28	2.85	CG
2851067	28 3831-54-B-1	2.88	R/LC
2931312	29 3710-00-264	2.90	CG
2850966	28 3831-00-750	3.22	CG
2851069	28 3831-54-B-1.02	3.85	R/LC
2851086	28 3831-54-B-36	3.95	CG
2922525	29 3702-00-287	4.00	R/LC
2846324	28 3736-00-768	4.32	CG
2846312	28 3736-00-759	4.38	R/LC
2851074	28 3831-54-B-4	4.60	R/LC
2931323	29 3710-00-275	4.65	CG
2846315	28 3736-00-761.1	4.83	CG
2953286	29 3805-00-503	5.00	CG
2953317	29 3806-00-6	5.33	R/LC
2851070	28 3831-54-B-3	5.50	R/LC
2850945	28 3831-00-251	5.55	CG
2922166	29 3701-00-252	5.72	R/LC
3017138	28 3736-00-770	5.76	CG
2953353	29 3806-03-A-7	6.60	R/LC
2953353	29 3806-03-A-7	6.60	R/LC



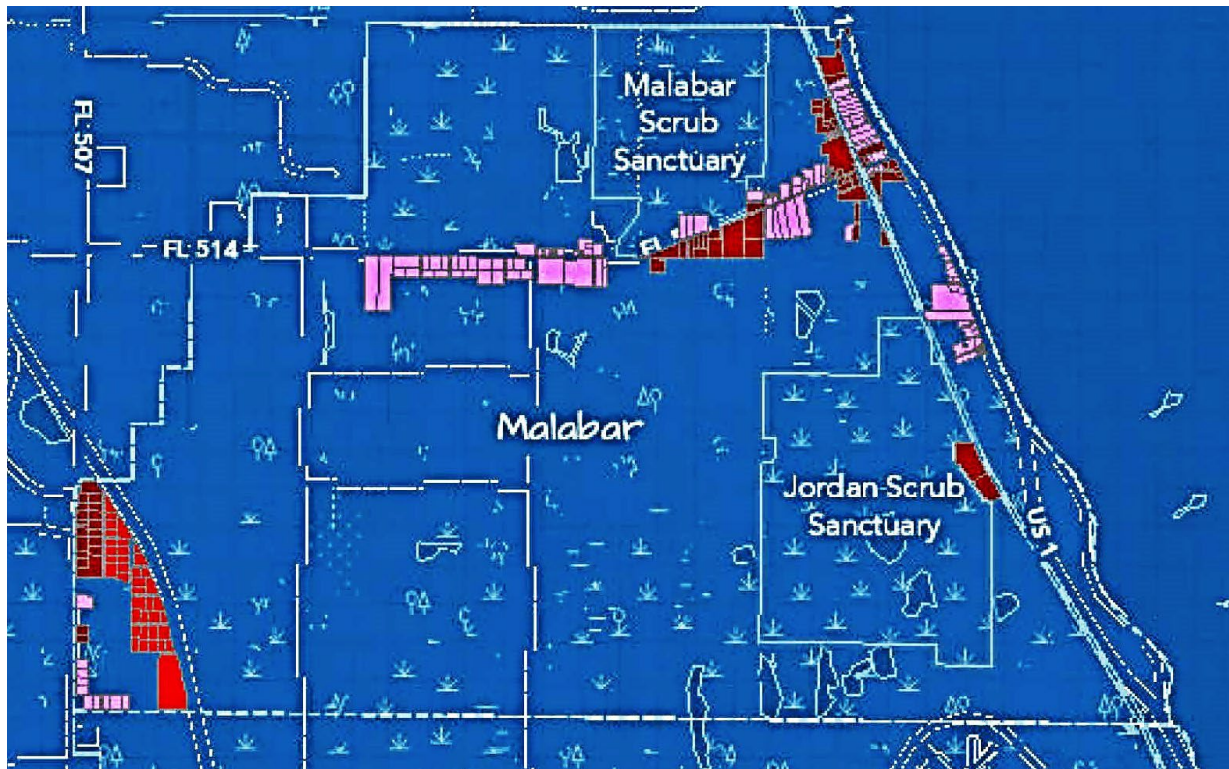
STAFF REPORT

CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

2953353	29 3806-03-A-7	6.60	R/LC
2862244	28 3736-00-769	8.77	CG
2922490	29 3702-00-254	9.68	R/LC
2922169	29 3701-00-255	9.82	R/LC
2953330	29 3806-00-757	10.00	CG
2922170	29 3701-00-256	10.00	R/LC
2922488	29 3702-00-251	10.00	R/LC
2851046	28 3831-50-A-3	10.32	CG
2953315	29 3806-00-3	10.53	R/LC
2846374	28 3736-50-A-3	11.56	R/LC
2931374	29 3710-00-508	17.25	CL

TOWN OF MALABAR PARCELS WITH CG, CL, R/LC ZONING ONLY MAP



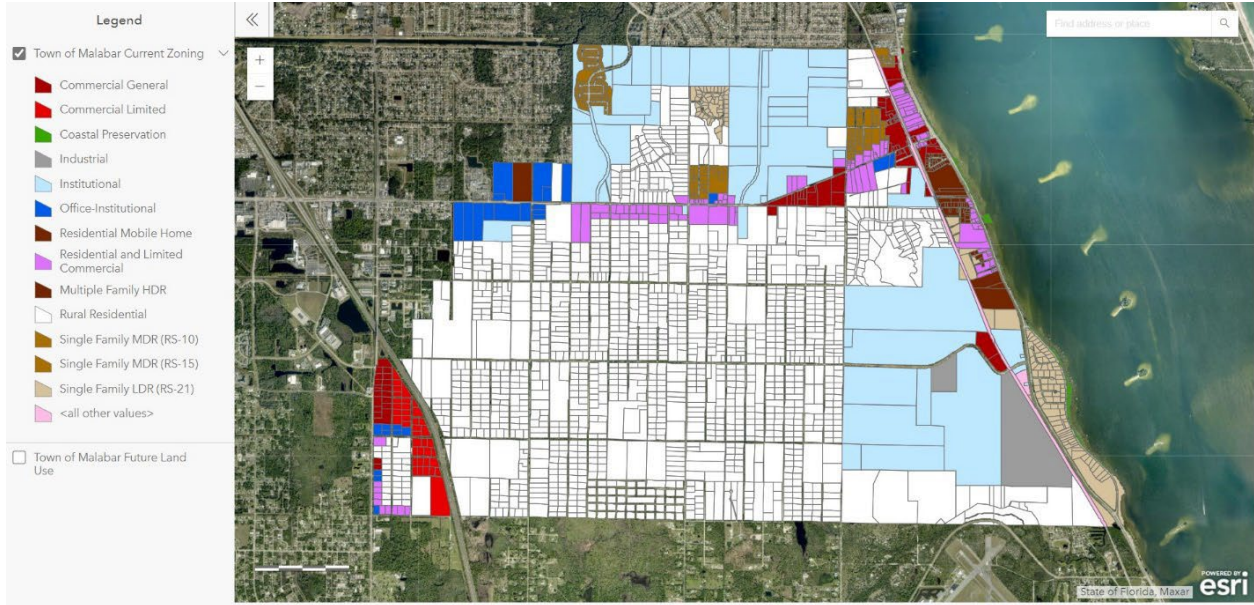


STAFF REPORT

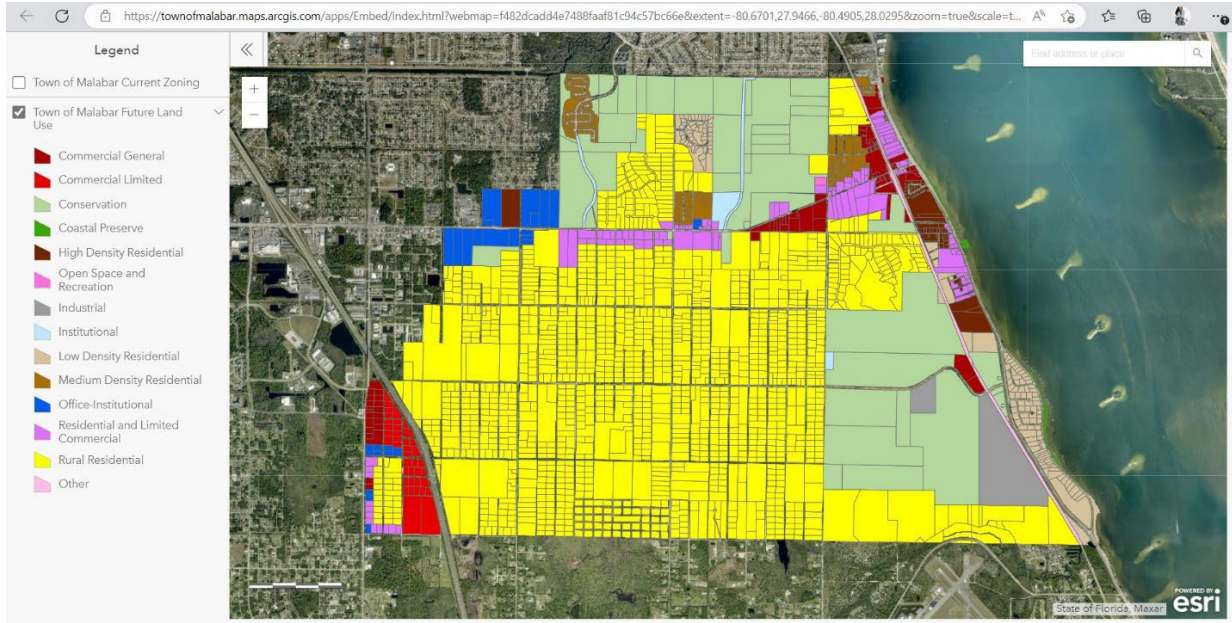
CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

TOWN OF MALABAR CURRENT ZONING MAP



TOWN OF MALABAR FUTURE LAND USE MAP





STAFF REPORT

CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

SUMMARY OF REQUEST

Amend the Land Development Code to add “Limited Manufacturing Activities” and “Limited Manufacturing Services” to Section 1-2.6 – Land Use Classifications in certain zoning districts within the Town of Malabar and update the corresponding Table 1-3.2, Land Use By Districts to define conditional and permitted uses and Table 1-6.2(B), Conditional Land Use Requirements.

Currently, The Town of Malabar permits all manufacturing activities only in the industrial zoning district. Industrial zones account for (2) two parcels within the Town’s boundaries. One parcel is currently developed and the other remains vacant with no improved roadway access for development, currently. The small number of industrial designations impede or limit development for light or limited manufacturing activities.

The purpose of the amendment is to allow for a small-scale level of manufacturing as a permitted or conditional land use classification within three existing zoning districts; Commercial General (CG), Commercial Limited (CL), and Residential / Limited Commercial (R/LC), comprised of 248 parcels. Offering additional small-scale activities within these designations may provide for a wider variety of uses to appeal to commercial development within the Town.

The Planning and Zoning Board advises permitting Limited Manufacturing Activities in Commercial General (CG) and conditional uses in Residential Limited Commercial (R/LC) Commercial Limited (CL).

Discussions by the Planning and Zoning board members have varied on permitting a chemical or physical change in the assembly of raw material or solely assembly of products in a current processed form. Specific discussions include small-scale three-dimensional printing as a permitted or conditional use activity within the new land use classification was met with board approval, yet this activity is a chemical change. The Board was not in favor of creating chemicals within these designations and land use classification.

The terminology must be discussed and finalized by the Town Council during the first reading of the proposed ordinance and public meeting process to clarify the intent of the amendment. The Town Council may approve or return the item for further review and discussion by the Planning and Zoning Board.

Staff recommends limited manufacturing term and defining a small-scale process with the chemical changes to include soldering, welding, laser effected materials, molds, kilns, computer aided numerical control (CNC) machines on a small commercial use scale that does not emit large nuisances of noise, order, or warehouse storage of chemicals.

Staff advises Town Council to revisit the Florida State Statutes Chapter 633 entitled Florida Fire Prevention Code and review the Town of Malabar Code of Ordinances for compliance with annual public safety inspections for non-residential structures after the certificate of occupancy is issued by the Building Official. Establishing a process and ordinance to ensure public safety education and mitigating any risks to the property through an annual inspection for the surrounding properties, occupants, employees, and or members of the public for proper ingress and egress, maintenance of fire protection systems, exit lighting, extinguisher equipment, inventory or supply storage of materials, and fire department pre planning survey updates for emergency personnel responses to calls for service.

PROPOSED TEXT ORDINANCE AMENDMENT EXCERPT:

Unanimous approval by the Planning and Zoning Board for the following amendment to insert new items nine (9) and ten (10) and renumber existing items nine (9) through eleven (11) as eleven (11), twelve (12), through twenty-two (22) under letter C. Commercial Activities. The proposed amendments require updates to corresponding tables within the Land Development Code: Table 1-3.2, Land Use By Districts to define conditional and permitted uses and Table 1-6.2(B), Conditional Land Use Requirements.

P&Z Board Final Draft (2/8/2023) For Land Development Code Section 1-2.6 Land Classifications



STAFF REPORT

CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

9. Limited Manufacturing Activities. This land use classification is intended to accommodate small, limited item shops, with limited inventory serving a specialized market with customized service demand and which are to be conducted in a fully enclosed building.

This classification is intended to include the following:

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

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

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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

10. Limited Manufacturing Services. Services such as Customer & Call Support; Low Impact Machinery &/or Electronic Device Repair or other service uses approved by the Town Building Official based on similarity of use, excluding services which may generate potentially harmful nuisance impacts; and which are to be conducted in a fully enclosed building and based on absence of any characteristic dissimilar and incompatible with the uses identified herein.

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

Hazardous materials may not be stored in excess quantities. This Land Use is intended to only have small day to day quantities of hazardous materials located in a controlled environment.

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



STAFF REPORT

CASE 2023-01:

LAND USE CLASSIFICATION: LIMITED MANUFACTURING

FUTURE LAND USE IMPACT:

There are no impacts to the Future Land Use or Current Zoning for the 248 parcels as the amendment only includes Land Use Classifications additions to specific existing zoning districts and future land uses to permit Limited Manufacturing to Commercial General (CG) and conditional use permits to Residential Limited Commercial (R/LC) and Commercial Limited (CL) zoning districts.

SITE IMPROVEMENTS:

None; the amendment only affects Code of Ordinances, Section 1-2.6 entitled Land Classification Uses and Land Use by Districts Table 1-3.2 and Conditional Land Use Requirements in Table 1-6.1(B).

SITE ACREAGE:

Amendment potentially impacts 437+/- specifically zoned acres, for land use classifications only.

SURROUNDING ZONING AND USE OF LAND USE:

Multiple, refer to Zoning and FLU Map on page 8. The Town's Comprehensive Plan and Code of Ordinance requires a site plan review process and compliance of the adopted comprehensive plan policy in the development of land.

REFERENCE:

Comprehensive Plan, Chapter 1, FUTURE LAND USE ELEMENT - GOALS, OBJECTIVES, AND POLICIES

GOAL 1-1

Land Use. Insure that the character and location of land uses reflect best management practices and principles of resource conservation, promote orderly land use transition, and minimize threats to health, safety and welfare which may be engendered by incompatible land uses, environmental degradation, hazards, and nuisances.

1-1.1 Objective: *Plan and design for residential quality.*

Sufficient space shall be provided for residential development and require community facilities to adequately meet the housing needs of the present and expected future population of the Town. Residential development shall be planned and designed to create and perpetuate stable living areas and protect land and land improvements.

1-1.1.1 Policy: *Provide access to good and services and protect residential areas from adverse impacts of transition in land use.*

Stable residential areas and projected future residential areas as delineated on the Land Use Map shall be protected from encroachment by incompatible nonresidential development. This objective does not preclude necessary community facilities from locating within residential areas when such activities satisfy established criteria of this plan and the Town's Code of Ordinances.

Any potential adverse impacts caused by different land uses located adjacent to each other shall be minimized by landscaping, screening and buffering of all nonresidential activities located adjacent to residential activities. In addition, other reasonable design principles shall be included in the zoning code in order to alleviate any potential adverse impacts of potentially incompatible land uses.

1-1.1.5 Policy: *Encourage separation of urban and rural land uses.*

Within one (1) year of the adoption of this plan, Article VII, Site Plan Review of the Land Development Code shall be amended to incorporate performance standards, urban service availability standards, and other similar incentives and disincentives which encourage a separation of urban and rural land uses. Performance standards may include emission of noise, air pollutants, odor, vibration, fire or explosive hazard, and glare. Urban service standards may include transportation system, off street parking and



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loading, utilities and waste management, storm water management, tree protection, landscaping and signage.

COMPREHENSIVE PLAN COMPATIBILITY:

The Town's Comprehensive plan defines Future Land Use Elements and Policies associated with future land use designations with a direct correlation of the Town's established and adopted Zoning Districts. The proposed amendment affects the land use classifications as defined in the Town's Code of Ordinances within each affected Zoning Districts: Commercial General, Commercial Limited, Residential/Limited Commercial as defined in the Future Land Use Map of the Comprehensive Plan:

1-2 Managing Future Land Use

Goal 1-2: Future Land Use Map. Continue to maintain and manage a Future Land Use map.

The Future Land Use Map, reflects the Town policy for managing the allocation of future land use. Land use designations on the Future Land Use map have been allocated pursuant to the goals, objectives and policies stipulated in the Comprehensive Plan; an analysis of population, housing and land resources; the need to conserve natural resources including wetlands, estuaries, floodways, flood plains, water recharge areas, fish and wildlife; consideration of capital improvement needs; conservation of fiscal resources; discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; and greenhouse gas reduction strategies.

The Future Land Use Map shall designate areas for the following uses: Rural Residential; Low Density Residential; Medium Density Residential; High Density Residential; Multiple-Family Residential or Offices; Residential and Limited Commercial; Limited Commercial; General Commercial; Industrial; Institutional; Conservation; And Open Space and Recreation land uses. This section of the Future Land Use Element shall define the nature, density and intensity of the allowable uses for each of the designations represented on the Future Land Use map. Nothing in this section shall preclude necessary community facilities from locating within any future land use designation when such activity satisfies established criteria of this plan and the Town's Code of Ordinances.



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BACKGROUND:

The following pages of the report are relevant excerpts from Comprehensive Plan that shall be taken into consideration and discussion by Town Council while formalizing and adopting the proposed ordinance amendment relating to the characteristics of the Town, policies established for existing and future land use elements, the commercial development policy, Malabar Corridor Plan, and residential and non-residential land development and intensity standards.

EXISTING LAND USE CONDITIONS

The Town of Malabar is located in the southeast section of Brevard County. The Town's eastern border is along the beautiful and ecologically diverse Indian River Lagoon. In the late 1800's mail was delivered to the fledgling community via a mail boat that docked along the Indian River Lagoon's banks. The Town remains proud of their rustic and rural roots. The Future Land Use element supports the Town's desire to retain its rural heritage both in new development and redevelopment.

An analysis of Existing Land Use indicates that single family residential use designations make up approximately 55%; Commercial, Industrial and Agricultural uses make up 12% and conservation and municipal uses make up 33% of the total land area.

TABLE 1-1 EXISTING LAND USES

Existing Land Use	Acres	Percentage
AGRICULTURE	89.15	1.30%
AQUATIC PRESERVE	16.35	0.20%
COMMERCIAL	38.43	0.56%
CONSERVATION	1009.45	14.75%
INDUSTRIAL	120.58	1.45%
INSTITUTIONAL	83.33	1.00%
INTRACOASTAL WATERWAY	1,467.95	17.65%
MOBILE HOMES	2.95	1.00%
MULTI-FAMILY RESIDENTIAL	4.08	0.05%
Existing Land Use	Acres	Percentage
PARKS	80.14	0.96%
ROW	501.92	6.04%
SINGLE-FAMILY RESIDENTIAL	1,714.11	20.61%
TRANSPORTATION	39.28	0.47%
VACANT AGRICULTURAL	386.96	4.65%
VACANT COMMERCIAL	343.73	4.13%
VACANT INDUSTRIAL	245.33	2.95%
VACANT INSTITUTIONAL	70.96	0.85%
VACANT RESIDENTIAL	1,987.30	23.90%
VACANT RESIDENTIAL/LIMITED COMMERCIAL	29.45	0.35%
TOTAL	8,315.59	100.00%

Source: Brevard County Property Appraiser; Town of Malabar, Calvin, Giordano & Associates



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FUTURE LAND USE ELEMENT
GOALS, OBJECTIVES, AND POLICIES

§1-1 Future land use goals, objectives and policies. This section stipulates goals, objectives, and implementing policies for the Land Use Element pursuant to S163.3177(6)(3), F.S., and S9J-%.006(3), F.A.C.

GOAL 1-1

Land Use. Insure that the character and location of land uses reflect best management practices and principles of resource conservation, promote orderly land use transition, and minimize threats to health, safety and welfare which may be engendered by incompatible land uses, environmental degradation, hazards, and nuisances.

1-1.2 Objective:

Allocating commercial development. Commercial development shall be comprised of a wide range of business uses. The allocation of land resources shall consider the location and space requirements of commercial activities and potential fiscal and environmental impacts on the Town of Malabar.

1-1.2.1 Policy:

General considerations in locating commercial development. The location and distribution of specific types of commercial activities shall be determined based on the following considerations.

- a. Trip generation characteristics, impact on existing and planned transportation facilities and ability to achieve a functional internal circulation and landscaped off-street parking system;
- b. Location and site requirements based on specific needs of respective commercial activities, their market area, anticipated employment generation and floor area requirements;
- c. Compatibility with and impact on other surrounding commercial activities;
- d. Relationship to surrounding land uses and natural systems;
- e. Impact on existing and planned community services and utilities.

1-1.2.2 Policy:



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General pattern of commercial land use. In order to promote efficient flow of traffic along thoroughfares, achieve orderly development and minimize adverse impact on residential quality, commercial development shall be concentrated in strategically located areas having location characteristics which best accommodate specific land, site, public facilities and market location requirements of respective commercial uses.

1-1.2.3 Policy:

Provide appropriate locations for commercial office development. Office development shall be encouraged to locate on accessible sites near major thoroughfares and may serve as transitional uses separating more intensive commercial uses from residential development. In addition, office complexes may be compatible with multiple family units and/or institutional uses situated on strategically located sites along major thoroughfares where the sites are of sufficient size to accommodate land requirements for controlled access, effective internal circulation and off-street parking, and appropriate landscape, screening and buffering to assure stability and protection of established or anticipated future residential areas.

The Office-Institutional (OI), Multiple-Family Residential of Office (MRO), and Residential and Limited Commercial (R/LC) land use designations, as described herein, are designed to carry out the intent of this objective. Land Development Code performance standards shall require significant landscaping, screening, urban design controls.

1-1.3 Objective:

Planning for industrial development. Sufficient land shall be allocated to accommodate industrial development.

1-1.3.1 Policy:

General considerations in locating industrial development. The allocation of land resources for industrial development shall reflect the location and space requirements of industrial activities and potential fiscal and environmental impacts on the Town of Malabar. The location and distribution of specific types of industrial activities shall be determined based on the following considerations:

- a. Trip generation characteristics, impact on existing and planned transportation systems, including dependency on rail, air, or trucking for distribution of material and goods;
- b. Anticipated employment generation, floor area requirements, and market area;



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- c. Ability to meet established performance standards for preventing or minimizing nuisance impacts, such as emission of air pollutants, glare, noise or odor, generation of hazardous by-products;
- d. Impact on established and planned development and natural systems;
- e. Impact on existing and planned public services, utilities, water resources, and energy resources.

1-1.3.2 Policy:

Review of proposed Future Land Use Map amendments for industrial development. A high priority shall be directed toward encouraging development of existing lands designed for industrial development. These lands contain rail access and are highly accessible to the U.S. 1 highway corridor. These transportation facilities provide convenient access to regional markets. Furthermore, the existing designated acreage is compatible with adjacent land uses and furthers goals, objectives, and policies of the Comprehensive Plan.

The Town shall not amend the Future Land Use Map in a manner which would promote the encroachment of industrial activities into residential areas or in a manner which would adversely impact the integrity of established development. No such Future Land Use Map amendment shall be approved unless the applicant presents requisite information needed to affirmatively address policy considerations identified in Policy 1-1.3.1 above.

Any additional industrial designation of lands on the Future Land Use Map shall generally be concentrated near the existing industrial node and shall incorporate those amenities required by respective industrial uses.

1-1.4 Objective:

Promote community appearance, natural amenities and urban design principles. The community appearance shall be reinforced and enhanced through application of the site plan review process.

1-1.4.1 Policy:

Reinforce and enhance the Town's community appearance. Major attributes shall be preserved through application of design review standards and management of signs, landscape, and tree removal or relocation. Special emphasis shall be placed on preserving and/or improving the character of major natural and man-made



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corridors, including the intracoastal shoreline, the scenic estuary system, and major transportation corridors which serve as a focal point for the motoring public and an inviting gateway to the visiting tourist.

1-1.4.2 Policy:

Continue to maintain Malabar Vernacular Architecture Style. The Town shall maintain Land Development Code regulations that require the use of the Malabar Vernacular Architectural Style in non-residential and Residential/Limited Commercial developments located along arterial roadways.

§1-2 Managing Future Land Use

Goal 1-2

Future Land Use Map. Continue to maintain and manage a Future Land Use map.

The Future Land Use Map, reflects the Town policy for managing the allocation of future land use. Land use designations on the Future Land Use map have been allocated pursuant to the goals, objectives and policies stipulated in the Comprehensive Plan; an analysis of population, housing and land resources; the need to conserve natural resources including wetlands, estuaries, floodways, flood plains, water recharge areas, fish and wildlife; consideration of capital improvement needs; conservation of fiscal resources; discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; and greenhouse gas reduction strategies.

The Future Land Use Map shall designate areas for the following uses: Rural Residential; Low Density Residential; Medium Density Residential; High Density Residential; Multiple-Family Residential or Offices; Residential and Limited Commercial; Limited Commercial; General Commercial; Industrial; Institutional; Conservation; And Open Space and Recreation land uses. This section of the Future Land Use Element shall define the nature, density and intensity of the allowable uses for each of the designations represented on the Future Land Use map. **Nothing in this section shall preclude necessary community facilities from locating within any future land use designation when such activity satisfies established criteria of this plan and the Town's Code of Ordinances.**

1-2.2 Objective:

Allocating commercial development. The Future Land Use Map shall identify the allocation of commercial land for: 1) multiple-family residential or office development; 2) limited commercial development; and 3) general commercial activities. The allocation of land for commercial development is compatible with goals and objectives identified in the Comprehensive Plan and consistent with supportive research and analysis. The policies sated below provide an explanation of the purpose, intent and character of the commercial land use designations.

1-2.2.1 Policy:



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Multiple-Family Residential or Office Development (MRO). The MRO policy designation is a _____ designed to accommodate residential development, offices, and institutional uses. This policy designation is intended for sites which shall:

- Have good accessibility;
- Have potential to be serviced 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 future adjacent land uses of differing intensity;
- Accommodate only freestanding multiple-family residential structures or office buildings and shall expressly exclude general retail sales and services, warehousing, and outside storage; and
- Generally serve as a transition area which buffers residential uses located in one area from a nearby area which accommodates uses of a higher density or intensity.

The density of residential development within MRO designated lands shall not exceed six (6) units per acre.

1-2.2.2 Policy:

Office-Institutional Development (OI). The OI policy designation is a land use designation designed to accommodate business and professional offices and institutional land uses. This policy designation is intended for sites which:

- Have accessibility to major thoroughfares;
- Have potential to be served by a full complement or 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 future adjacent land uses of differing intensity;
- Accommodate only office buildings and institutional land uses and shall expressly exclude general retail sales and services, warehousing, and outside storage; and



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- 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.

1-2.2.3 Policy:

Limited Commercial Development (CL). Limited commercial development is allocated to commercial sites 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 designation are intended to accommodate neighborhood shops with limited inventory or goods. Such shops generally cater to the following markets: 1) neighborhood residential markets within the immediate vicinity as opposed to city-wide or regional markets; or 2) a specialized market with customized demands. Commercial development within the limited commercial designation shall generally be restricted to any of the following uses: neighborhood convenience stores; small limited item shops and stores restricted to retail sales of convenience items and services including barber, beauty care, and other personal services; small scale drugstores, laundry and dry cleaning pick-up stations; specialty shops; small scale activities associated with a specialized facility.

Areas designated for limited commercial development are not intended to accommodate large scale retail sales, service, and trade activities, generally servicing a city-wide or regional market. Such store would usually differ from limited commercial shops since the former would usually require a larger floor area, carry a relatively larger inventory and require a 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, supermarkets; department stores; large scale wholesaling and warehousing activities; general sales, service or repair of motor vehicles, heavy equipment, machinery or accessory parts, including tire and battery shops and automotive service centers; commercial amusements; fast food establishments primarily serving in disposable containers and/or providing drive-in facilities, and other similar services to be expressly defined in the zoning ordinance.

No residential uses shall be located in a CL designated area.

1-2.2.4 Policy:

General Commercial Development (CG). The general commercial areas are designated on the Future Land Use Maps for purposes of accommodating general retail sales and services. These areas are located in highly accessible areas adjacent to major thoroughfares which possess necessary location, site, and market requirements. Zoning policy shall stipulate provisions regulating specific land uses.



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The areas designated for general commercial developments are specifically not adaptive to permanent residential housing and such uses shall be located in other areas designated for residential development.

1-2.2.5 Policy:

Residential and Limited Commercial Development (R/LC). The R/LC Future Land Use Map designation is intended to accommodate and shall accommodate a mixture of land uses expressly restricted to uses allowed in the "limited commercial" designation together with uses allowed on lands designated for high density residential activities with a density no greater than six (6) units per acre. Such residential uses may be located either within a free-standing structure or within a structure housing both Residential and Limited Commercial activities. The "R/LC" FLUM designation is intended and shall be interpreted to be a "commercial" district with respect to required setbacks and other size and dimension provisions referenced by zoning district in the Town's Land Development Code.

These sites currently are characterized by a mixture of generally small scale commercial businesses together with predominantly single family residential land uses. Acres designated "R/LC" are not suitable for and shall not be developed for large scale general retail activities or other commercial activities more intense than land uses expressly provided for in the "limited commercial" Future Land Use Map designation (Reference Policy 1-2.2.3) since such development would be incompatible with existing and anticipated future residential development within or in the vicinity of areas designated "R/LC" on the Future Land Use Map.

1-2.2.6 Policy:

Criteria for the Residential and Limited Commercial Development R/LC Designation. The following criteria for development within the R/LC FLUM designation shall be incorporated into the Town of Malabar Land Development Regulations:

- a. *Percent of Site for Mixed Use Development.* Within the R/LC designation where Residential and Limited Commercial activities are proposed to occupy the same site and/or the same building the following minimum and maximum percentages shall apply:

	Minimum	Maximum
Limited Commercial	20%	90%
Residential	10%	80%



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- b. *Limited Commercial Uses.* Limited Commercial uses with the R/LC FLUM designation shall have a minimum floor area of nine hundred (900) square feet and a permitted maximum building coverage of twenty percent (20%) of the gross lot size ~~four thousand (4,000) square feet.~~
- c. *Residential Uses.* Single family units shall have a maximum density of four (4) units per acre. Multiple family uses shall have a density no greater than six (6) units per acre. However, any residential site located with a high surficial aquifer area on the Atlantic Coastal Ridge and not served by central water and wastewater shall have a density no greater than two (2) units per acre.
- d. *Minimum Lot Requirements.* Lots within the R/LC FLUM designation shall have a minimum lot size of 20,000 square feet, a minimum width of 100' and a minimum depth of 150'.
- e. *Setback Requirements.* Single family units shall have setbacks of 25' in the front, 10' on the interior and street sides, and 20' in the rear. Multiple family units shall have setbacks of 50' in the front, 10' on the interior side, 20' on the street side, and 25' in the rear.
- f. *Building Height Requirements.* Any building within the R/LC FLUM designation shall have a maximum height of thirty-five (35) feet or three (3) stories.
- g. *Coverage Requirements.* Single family residential uses shall have an impervious surface ration of 50% with a minimum open space requirement of 50%. Multiple family residential uses shall have an impervious surface ratio of 65% with a minimum open space requirement of 35%. Limited commercial uses shall have a maximum floor to area ratio (FAR) of 0.20.
- h. *Buffering.* The R/LC district is intended and shall be interpreted to be a "commercial" district with respect to required buffering and other provisions referenced by zoning district in the Land Development Code.

1-2.7 Objective:

Allocating Industrial Development (IND). The Future Land Use Map shall allocate land resources for existing and anticipated future industrial needs and requisite support services.

1-2.7.1 Policy:

Industrial Land Use Designation. The allocation of industrial land use designations should provide a high priority to industry's frequent need for strategically located lands which are accessible to rail and terminal



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facilities, major arterials or interchanges, labor markets and necessary urban services.

Industrially designated areas are not generally adaptive to residential use and as such industrial activities shall not be located in areas designated for residential development. This provision shall not prohibit residences for night watchmen or custodians whose presence on industrial sites is necessary for security purposes. Such a use may be permitted as an accessory use through appropriate zoning procedures.

The industrial land use designation is allocated to industrial sites accessible to major thoroughfares and buffered from residential neighborhoods. Light industrial uses include: light manufacturing and assembling activities; kennels; truck or bus terminal facilities; warehousing and storage activities; and other similar land uses which might be permitted through appropriate zoning procedures excluding heavy metal fabrication, chemical or petroleum manufacturing or refining, rubber or plastics manufacturing, or other uses generating potentially harmful nuisance impacts.

1-2.8 Objective:

Allocating Institutional Services (INS). The Town shall set aside land sufficient to accommodate institutional land uses. For instance, approximately 25 acres of institutional land area is anticipated to be required by 2010. The Town shall monitor the need for such increased land area for institutional uses and shall assure that the institutional land use designation on the Future Land Use Map is expanded to accommodate the development of public and semi-public facilities such as government administrative 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 land use designation.

1-2.8.1 Policy:

Institutional Land Use Designation. Lands designated for institutional services shall contain sufficient acreage and open space and be properly screened and buffered in order to minimize potential adverse impacts on adjacent land uses.

1-2.9 Objective:

Allocating Open Space and Recreation (OSR). The open space and recreation designation has been established to direct the preservation of open spaces and recreation areas, both publicly owned and privately owned, including golf courses, parks, recreation areas and similar facilities.



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1-2.9.1 Policy:

Open Space and Recreation Land Use Designation. Lands designated for open space and recreation shall be consistent with the Recreation and Open Space Element and shall reflect actions taken to implement the goals, objectives and policies of the Recreation and Open Space Element.

1-2.10 Objective:

Allocating Conservation (CON). The conservation designation has been established to direct the preservation of publicly-owned major natural resources and environmentally sensitive corridors. The purpose of preservation is for the conservation and protection of natural resources or environmental quality. These areas may be used for wildlife management, passive recreation, and environmental restoration/preservation. These natural areas may include site improvements to support uses which are deemed appropriate and consistent with the function of the designated area.

1-2.10.1 Policy:

Conservation Designation. The Town shall designate lands which are deemed appropriate to conserve in order to implement natural resource conservation goals, objectives, and policies stipulated in the Comprehensive Plan. Where such designations are enacted, the Town Council shall adopt appropriate programs, policies, and/or ordinances for managing implementation of the respective conservation Future Land Use Plan designations.

1-2.10.2 Policy:

Conservation Designation consistent with Conservation Element. Lands designated for conservation shall be consistent with the Conservation Element and shall reflect actions taken to implement the goals, objectives and policies of the Conservation Element.

1-2.10.3 Policy:

Designate Lands as Conservation on the Future Land Use Map. Within two (2) years of the adoption of this plan, publicly owned lands that the Town deems appropriate for conservation shall be allocated as Conservation on the Future Land Use Map.



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1-2.10.4 Policy:

Designate Environmentally Endangered Lands as Conservation on the Future Land Use Map. Within two (2) years of the adoption of this plan, lands that are managed by the Brevard County Environmentally Endangered Lands (EELS) program shall be allocated as Conservation on the Future Land Use Map.

1-2.10.5 Policy:

Amend Land Development Code to create a Recreation/Open Space (RS) district. Within one (1) year of the adoption of this plan, the Land Development Code shall be amended to create a Recreation/Open Space (RS) District. The RS District is intended to implement the open space and recreation land use and conservation land use of the Town's Comprehensive Plan by providing areas for the development of active or passive recreational facilities and the preservation of open space.

1-2.10.6 Policy:

Implement Land Development Regulations to protect Conservation Areas. Within one (1) year of the adoption of this element the Town shall adopt Land Development Code regulations that protect and preserve conservation space. Regulations shall include specific open space definitions and standards addressing protection of open space, natural vegetation, landscape, and signage.

1-2.10.7 Policy:

Implement Land Development Regulations to protect lands east of US-1. Within one (1) year of the adoption of this plan the Town shall amend the Land Development Code to further regulate the Coastal Preserve Zoning District. Land development regulations shall contain performance standards which may include setbacks, buffers, control of exotic species, stormwater management and runoff, signage, public access, and preservation of Indian River Lagoon, seagrass beds, and other estuarine resources.

1-2-13 Objective:

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

1-2.2.13.1 Policy:



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

1-2.13.2 Policy:

Access Management. The "Malabar Road Corridor Plan" shall include an Access Management Plan to address right of way limitations.

1-2.13.3 Policy:

Overlay Zoning District. The Land Development Code shall be amended to incorporate overlay zoning district regulatory provisions and performance standards. The provisions may include permitted land uses, densities, design standards, signage, and required improvements along the corridor.

1-3.1.8 Policy:

Non-residential development standards. Land development regulations shall be adopted which address the location and extend of non-residential land uses in accordance with the Future Land Use Map and the policies and descriptions of types, sizes, and intensities of land uses contained in this Element.

1-3.1.9 Policy:

The Town shall regulate intensity of non-residential land uses as noted in the below Table.

Land Use Category	Intensity Standards	
	Height	Building Coverage
<i>Multiple-Family Residential or Office Development (MRO).</i>	35 feet	20%
<i>Office-Institutional Development (OI).</i>	35 feet	20%
<i>Limited Commercial Development (CL).</i>	35 feet	20%
<i>General Commercial Development (CG).</i>	35 feet	20%
<i>Industrial Development (IND).</i>	35 feet	42%
<i>Institutional Services (INS).</i>	35 feet	20%
<i>Open Space and Recreation (OSR)</i>	35 feet	10%
<i>Conservation (CON)</i>	35 feet	5%

Town of Malabar, 2725 Malabar Road, Malabar, FL 32950
321-727-7764 (Office) 321-727-9997 (Fax) www.townofmalabar.org

To: brelegals@gannett.com

June 14, 2023

From: Richard Kohler, Town Clerk, Town of Malabar, Acct # 126287

Please place the following legal ad one time on Monday, June 19, 2023. Please put the heading in **BOLD** font. Please send proof via email to: townclerk@townofmalabar.org and mail ONE affidavit to 2725 Malabar Road, Malabar, FL 32950.

**TOWN OF MALABAR
NOTICE OF
PUBLIC HEARING**

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, **July 3, 2023, at 7:30pm**, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

ORDINANCE NO. 2023-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING ARTICLE II – LAND USE ZONING, SECTION 1-2.6 – LAND USE CLASSIFICATION; AND ARTICLE III – DISTRICT PROVISIONS, SECTION 1-3.2 – LAND USE BY DISTRICT - TABLE 1-3.2 LAND USE BY DISTRICT TO INCLUDE LIMITED MANUFACTURING ACTIVITIES IN CERTAIN ZONING DISTRICTS, RESIDENTIAL/LIMITED COMMERCIAL (R/LC), COMMERCIAL LIMITED (CL), AND COMMERCIAL GENERAL (CG); AND ARTICLE III SECTION 1-3.2, LAND USE BY DISTRICT; ARTICLE VI, SECTION 1-6.1 CONDITIONAL USES; TABLE 1-6.1(B) CONDITIONAL LAND USE REQUIREMENTS AS CONDITIONAL USES IN RESIDENTIAL/LIMITED COMMERCIAL (R/LC), COMMERCIAL LIMITED (CL), AND COMMERCIAL GENERAL (CG), ZONING DISTRICTS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

Copies of the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Richard Kohler, Town Clerk.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 10.b

Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: PUBLIC HEARING – Vacate Requests within Section 11, Melbourne Heights subdivision (SD) Section “E” east of Corey Road (Resolution 06-2023)

BACKGROUND/HISTORY:

- a. On May 5th, 2023, Mrs. Primavera, the property owner and resident of 1400 Delaware Ave, submitted a vacate request for the following four (4) unimproved platted rights-of-way:
 - a 50-foot by 213.81-foot right-of-way known as Coriander Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-15-1 gaining a 25-foot by 213.81-foot portion, parcel 29-37-11-75-16-1 gaining a 25-foot by 213.81-foot portion.
 - a 50-foot by 213.87-foot right-of-way known as Feveroot Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-16-1 gaining a 25-foot by 213.87-foot portion, parcel 29-37-11-75-17-1 gaining a 25-foot by 213.87-foot portion.
 - A 55-foot by 987.17-foot right-of-way known as Colorado Ave between Ginseng Street and Chervil Street, with parcel 29-37-11-75-24 gaining a 30-foot by 987.17-foot portion, parcel 29-37-11-75-15-1 gaining a 25-foot by 329.25-foot portion, parcel 29-37-11-75-16-1 gaining a 25-foot by 329.43-foot portion, and parcel 29-37-11-75-17-1 gaining a 25-foot by 328.49-foot portion.
 - A 50-foot by 477.61-foot right-of-way known as Chervil Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-15-1 gaining a 25-foot by 238.75-foot portion, parcel 29-37-11-75-24 gaining a 25-foot by 238.76-foot portion, parcel 29-37-11-75-27-1 gaining a 25-foot by 238.76-foot portion, and parcel 29-37-11-75-14-1 gaining a 25-foot by 283.75-foot portion.
- b. The Town has vacated multiple portions of ROWs in this area because of the way Melbourne Heights was platted. Each of the fifty (50) one-acre parcels were created with a platted ROW on each side. Malabar Council has approved multiple ROW Vacates in this area to combine separated lots.

ATTACHMENTS:

- a. Resolution 06-2023.
- b. Application Package from Mrs. Primavera.
- c. Map of area with the applicant's parcels labeled and the ROWs requested to be vacated.
- d. Copy of the legal ad and notice to surrounding properties.

ACTION:

- a. Motion to approve Resolution 06-2023.

RESOLUTION 06-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE VACATE OF THREE FIFTY (50) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAYS AND ONE FIFTY-FIVE (55) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAY ABUTTING PARCELS 29-37-11-75-24, 29-37-11-75-15-1, 29-37-11-75-16-1, 29-37-11-75-17-1, 29-37-11-75-27-1, AND 29-37-11-75-14-1 IN SECTION "E" MORE SPECIFICALLY KNOWN AS CORIANDER STREET, FEVEROOT STREET, COLORADO AVE AND CHERVIL STREET, AS DESCRIBED HEREIN; AUTHORIZING THE TOWN CLERK TO RUN A LEGAL ADVERTISEMENT OF THIS ADOPTED RESOLUTION; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has received a request to vacate a rights-of-way within the Melbourne Heights Subdivision in Section "E" in Section 11 of the southern portion of Malabar, west of Corey Road; and

WHEREAS, Malabar Town Council has previously granted right-of-way vacates in this area after public hearings and a determination that no public purpose is served by maintaining them.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby declares the above recitals are true and correct.

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby provides further details of the vacates approved in this Resolution and depicted on the attached **Exhibit "A"**:

- a 50-foot by 213.81-foot right-of-way known as Coriander Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-15-1 gaining a 25-foot by 213.81-foot portion, parcel 29-37-11-75-16-1 gaining a 25-foot by 213.81-foot portion.
- a 50-foot by 213.87-foot right-of-way known as Feveroot Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-16-1 gaining a 25-foot by 213.87-foot portion, parcel 29-37-11-75-17-1 gaining a 25-foot by 213.87-foot portion.
- A 55-foot by 987.17-foot right-of-way known as Colorado Ave between Ginseng Street and Chervil Street, with parcel 29-37-11-75-24 gaining a 30-foot by 987.17-foot portion, parcel 29-37-11-75-15-1 gaining a 25-foot by 329.25-foot portion, parcel 29-37-11-75-16-1 gaining a 25-foot by 329.43-foot portion, and parcel 29-37-11-75-17-1 gaining a 25-foot by 328.49-foot portion.
- A 50-foot by 477.61-foot right-of-way known as Chervil Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-15-1 gaining a 25-foot by 238.75-foot portion, parcel 29-37-11-75-24 gaining a 25-foot by 238.76-foot portion, parcel 29-37-11-75-27-1 gaining a 25-foot by 238.76-foot portion, and parcel 29-37-11-75-14-1 gaining a 25-foot by 283.75-foot portion.

Section 3. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the Town Clerk to record this resolution, run the legal ad as required by the code and

forward to the Brevard County Property Appraiser’s Office.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 5. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member _____ and a second by Council Member _____ and the vote was as follows:

- Council Member Marisa Acquaviva _____
- Council Member Brian Vail _____
- Council Member Jim Clevenger _____
- Council Member David Scardino _____
- Council Member Mary Hofmeister _____

This Resolution was then declared to be duly passed and adopted this 3rd day of July 2023.

TOWN OF MALABAR

(seal)

By: _____
Mayor Patrick T. Reilly, Council Chair

ATTEST:

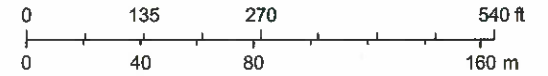
Richard Kohler,
Town Clerk

Approved as to form and content:

Karl W. Bohne, Jr., Town Attorney

Exhibit A

1:2,000





**TOWN OF MALABAR
RIGHT OF WAY VACATE APPLICATION**

TOWN OF MALABAR

MAY 05 2023

RECEIVED

Applicant: Carol Primavera Date: 5/5/2023

Mailing Address: 1400 Delaware Ave Malabar FL 32950

Telephone: 321 727-9641 Email Address: N/A

Property Address: Vacant lots on unimproved Mess Rose Ave, Malabar, FL 32950

Section: 29 Township: 37 Range: 11 Lot: 1-22 Block: 15-17+26

Description of ROW to be vacated (ie. Width, length, adjacent parcel IDs):
Parcels that are affected by this request - 29-37-11-75-15, 29-37-11-75-16, 29-37-11-75-17, 29-37-11-75-26

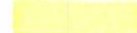

Petition / Reason for Request:

All Rows that have been requested to be vacated lie within or border all of the lots that we own. All of these lots are adjacent to each other. Vacate requested Rows are also known as Colorado Ave, Chervil St, Coriander St and Feveroot St. Parts of Coriander St and Feveroot St were previously vacated by the Town of Malabar at our request. Recently, the Town of Malabar vacated Ginseng St and part of Colorado at the request of our neighbor on Mess Rose Ave.
Thank you.

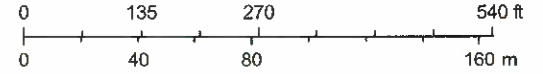
Attach the following:

- 1. Signed and Sealed survey showing right-of-way to be vacated.
- 2. Map showing the general area with minor collector and local lanes identified and subject area highlighted.
- 3. Fee of \$425.00 shall accompany the application and petition.

Applicant Signature: Carol Primavera Date Signed: 5-5-23

X = Primavera owned lots
 = Previous Vacates
 = Current Request

1:2,000



A Daily Publication By:



TOWN OF MALABAR

JUN 26 2023

RECEIVED

TOWN OF MALABAR
2725 MALABAR RD

MALABAR, FL, 32950

STATE OF WISCONSIN COUNTY OF BROWN:
Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Advertising Representative of the **FLORIDA TODAY**, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

Notice Public Hearing

as published in **FLORIDA TODAY** in the issue(s) dated: or by publication on the newspaper's website, if authorized, on

06/19/2023

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 19th of June 2023, by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

My commission expires
Publication Cost: \$229.92
Ad No: 0005741154
Customer No: BRE-6TO207
This is not an invoice
of Affidavits 1

AD# 5741154 6/19/2023

**TOWN OF MALABAR
NOTICE OF
PUBLIC HEARING**

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, July 3, 2023, at 7:30pm, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

RESOLUTION 06-2023
A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE VACATE OF THREE FIFTY (50) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAYS AND ONE FIFTY-FIVE (55) FOOT-WIDE UNIMPROVED PLATTED RIGHT-OF-WAY ABUTTING PARCELS 29-37-11-75-24, 29-37-11-75-15-1, 29-37-11-75-16-1, 29-37-11-75-17-1, 29-37-11-75-27-1, AND 29-37-11-75-14-1 IN SECTION "E" MORE SPECIFICALLY KNOWN AS CORIANDER STREET, FEVERROOT STREET, COLORADO AVE AND CHERVIL STREET, AS DESCRIBED HEREIN:

a 50-foot by 213.81-foot right-of-way known as Coriander Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-15-1, gaining a 25-foot by 213.81-foot portion, parcel 29-37-11-75-16-1, gaining a 25-foot by 213.81-foot portion.

a 50-foot by 213.87-foot right-of-way known as Feverroot Street between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-16-1, gaining a 25-foot by 213.87-foot portion, parcel 29-37-11-75-17-1, gaining a 25-foot by 213.87-foot portion.

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A 25-foot by 477.61-foot right-of-way known as Chervil Street, between Moss Rose Ave and Delaware Ave, with parcel 29-37-11-75-15-1, gaining a 25-foot by 238.75-foot portion, parcel 29-37-11-75-24, gaining a 25-foot by 238.76-foot portion, parcel 29-37-11-75-27-1, gaining a 25-foot by 238.76-foot portion, and parcel 29-37-11-75-14-1, gaining a 25-foot by 283.75-foot portion.

The Town of Malabar Council has the authority to vacate these rights-of-way after a legally noticed public hearing and notification to property owners with 500 feet per Chapter 13, Article II, Section 13-26 of the Malabar Code of Ordinances. If the resolution is adopted vacating these rights-of-way, then the Code authorizes the Town Clerk to run a legal advertisement of the adopted resolution.

Copies of the request and the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Richard Kohler, Town Clerk.

KATHLEEN ALLEN
Notary Public
State of Wisconsin

TOWN OF MALABAR
NOTICE OF PUBLIC HEARING

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If you received this notice then you are listed as an owner of property, as shown in the records of the Brevard County Property Appraiser's office, within 500' of the requested rights-of-way vacate request. This notice is provided as required by Ordinance 2021-15. You are invited to attend or submit your comments before the meeting to the Town Clerk at TownClerk@TownofMalabar.org

Copies of the request and the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Richard Kohler, Town Clerk.

AGER, CLIFFORD J
AGER, CHARLENE
1505 MOSS ROSE AVE
MALABAR FL 32950-3708

AMARA, KEVIN
AMARA, CINDY M
1405 DELAWARE AVE
MALABAR FL 32950-

AMARA, KEVIN M
AMARA, CINDY M
1405 DELAWARE AVE
MALABAR FL 32950-

CHIN-A-YOUNG, ANTHONY L
CHIN-A-YOUNG, MICHELLE S TRUSTEES
13700 SW 26TH ST
DAVIE FL 33325-6621

FERNANDO, FE
FERNANDO, ELEAZAR
1585 HANDLEMAN DR
OVIEDO FL 32765-9511

HARWOOD, KATHERINE A
LEWIS, BARBARA
1500 MOSS ROSE AVE
MALABAR FL 32950-

HARWOOD, LEE M
HARWOOD, KATHERINE A
1500 MOSS ROSS AVE
MALABAR FL 32950-

HARWOOD, LEE M
HARWOOD, KATHERINE A
1500 MOSS ROSE AVE
MALABAR FL 32950-

HASENKOPF, MICHAEL M
HASENKOPF, CAROL S
7029 NORTH DR
JAMESTOWN PA 16134-5447

HAUGHTON, LINNETTE
290 NW 185TH TERR
MIAMI FL 33169-

HELLER, WILLIAM M
HELLER, LISA
1455 DELAWARE AVE
MALABAR FL 32950-3702

JK LAND TRUST LLC TRUSTEE
1270 N WICKHAM RD STE 16-301
MELBOURNE FL 32935-

KERR, JOHN ANTHONY
1270 N WICKHAM RD, STE 16-301
MELBOURNE FL 32935-8923

KURR, JOHN ANTHONY
1270 N WICKHAM RD, # 16-301
MELBOURNE FL 32935-8923

MAC KENZIE, STEVEN R
MAC KENZIE, TERRIA
3360 OLDDHAM CREEK RD
SEVIERVILLE TN 37876-

MALABAR LAND TRUST #1
2885 SANFORD SW AVE SW, #29859
GRANDVILLE MI 49418-1342

MASSEY, GREGORY Y
MASSEY, MICHELLE E
1455 MOSS ROSE AVE
MALABAR FL 32950-3708

MCCONVILLE, DENNIS M
1323 WORTH CT NE
PALM BAY FL 32905-4347

MOLE, NICHOLAS JAMES
MAESTRE, CANDACE HOLLY
1081 IVANHOE ST NW
PALM BAY FL 32907-

MORIARTY, SHANNON M
1505 DELAWARE AVE
MALABAR FL 32950-3807

NICHOLS, ALICE S
122 PAZOLETA
LOS GATOS CA 95032-

PICORNELL FAMILY TRUST
1500 DELAWARE AVE
MALABAR FL 32950-3800

PRIMAVERA, LARRY D
PRIMAVERA, CAROLA
1400 DELAWARE AVE
MALABAR FL 32950-

PRIMAVERA, LARRY D
PRIMAVERA, CAROLA
1400 DELAWARE AVE
MALABAR FL 32950-3701

SUNSCAPE EAST INC
13417 W HILLSBOROUGH AVE
TAMPA FL 33635-

THOMAS, CHRISTOPHER B
THOMAS, STACEY I
299 LACHINE SW ST SW
PALM BAY FL 32908-1319

VAN FLEET, ELLSWORTH
3080 COREY RD
MALABAR FL 32950-3831

WOODLEY, BOBBY JOE
WOODLEY, KAYLIE
3250 COREY RD
MALABAR FL 32950-3835

Richard_Kohler_500_Combined
Page2

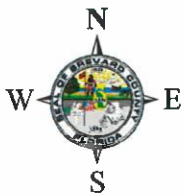
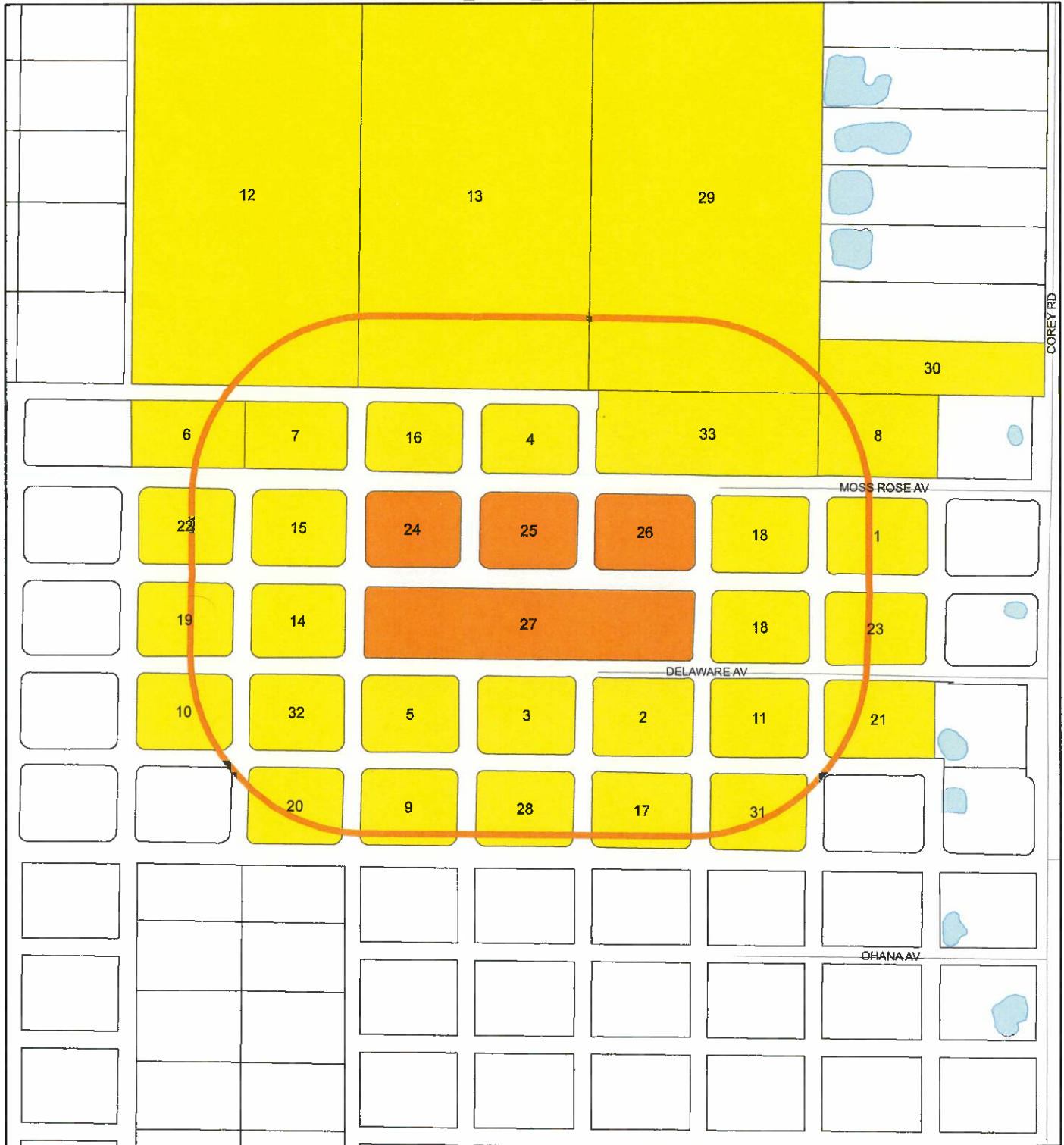
WURMAN, MARGARET ANN
27 RAVENNA ST
ASHEVILLE NC 28803-2226

YANTZ, DENNIS J
YANTZ, BARBARA A
1430 MOSS ROSE AVE
MALABAR FL 32950-

RADIUS MAP

PRIMAVERA, LARRY D

Richard_Kohler_500_Combined







1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions herein.

Produced by BoCC - GIS Date: 5/16/2023

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 10.C

Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: Request Road Improvement Waiver for the North end of Kramer Lane adjacent to parcel 814. Request by parcel owner Joy Maximin.

BACKGROUND/HISTORY:

The applicant purchased the 20-acre lot at the northern end of Kramer Lane. She has since split 1 parcel for future development and is requesting a waiver of the requirement to extend Kramer Lane to the furthest extent of the parcel to be developed.

Kramer Lane is currently approved and accepted 1,322' north from Benjamin Lane, and the northern terminus of the road is at the southern corner of the applicant's lot.

The applicant is requesting to be allowed to use the existing driveway for her property to also be the driveway for potential development, and to forego the road improvement of Kramer Lane.

ATTACHMENTS:

- Application for Waiver to Road Improvement Requirements.
- Staff Report.
- Historic Board of Adjustment Orders for property.
- Legal Ad and Public Notice Mailer

ACTION:

- Action on Request for Waiver of Road Improvement Requirements.

TOWN OF MALABAR
2725 Malabar Road
Malabar, FL 32950
Tel. 321-727-7764 x 14

RIGHT OF WAY (ROW)
ROAD IMPROVEMENT WAIVER APPLICATION

This application is separate and in addition to the Road Improvement Application that must be completed, with required attachments, and returned to the Town Clerk's office.

Name of Applicant(s) Joy MAXIMIN Tel: 954-817-0770
Mailing Address: 3040 KRAMER LN, MALABAR FL Email: JoyMAXIMIN2015@YAHOO.COM

Name of Owner if other than Applicant: Joy MAXIMIN Tel: 9548170770

Acct # 3030094

Legal description of property covered by application: 29-37-12-00-814

Township 29, Range 37, Section 12 Parcel 00, Road ROW Name KRAMER LN

Property Address: 3040 KRAMER LN, MALABAR, FL Zoning classification RR-65

Existing Special Conditions or Conditional Uses Previously Granted: _____

Required ROW dedicated ____ / will be dedicated ____ prior to hearing per Section 13-39 of Road Improvement Code in Chapter 13 of Malabar Code of Ordinances.

Reason for waiver request (state specific hardship or attach correspondence, drawings, etc.).

WE THERE EXISTS NO DEDICATED PUBLIC RIGHT OF WAY ABUTTING & BEYOND PARCELS
ALREADY HAVE ACCEPTED & APPROVED ACCESS
NO DETRIMENT TO PUBLIC WELFARE
MINIMUM WAIVER FOR POSSIBLE RESPONSABLE USE OF MY LAND
NEIGHBORS DO NOT WANT A ROAD BUILT. WOULD BE VERY UNHAPPY NEIGHBORS
Required attachments: THEY ALL SIGNED PETITION *

- Hearing fee of \$300.00 for Residential and \$1,500.00 for Commercial, which includes advertising, administrative time, legal noticing and mailing.
- Proof of ownership of abutting parcel
- Survey to include Site layout depicting the right-of-way (ROW), roadway width and length subject to waiver request and parcel owned by applicant
- List of property owners (with tax parcel numbers) abutting the road right-of-way involved in the waiver request as shown in the records of the County Property Appraiser. This "Radius" package is available from the Brevard County Planning and Zoning GIS Section located at the Viera government center, in Building A, Room 114, phone 321-633-2060. There is a fee for this package.

[Signature] _____ Date 6/14/2023

Chapter 13, Malabar Code of Ordinances, Section 13-38(c) provides as follows for waivers:

“(c) Waiver. The Town Council may grant a waiver to the provisions of Section 13-38 (b) (1) and (2).

1. The below stated procedures shall in all respects be utilized for consideration of a waiver to subsection (b)(1) and (2). In order to authorize a waiver under this section the Town Council must find the following:

i. That special conditions and circumstances exist and that the presence of which would make complying with section 13-38 (b) (1) or (2) unreasonable. Financial or economic reasons, conditions or circumstances shall not be grounds for a waiver under this section;

ii. The special conditions and circumstances are not caused in any way by the owner or applicant;

iii. That such waiver will not be injurious or detrimental to the public welfare;

iv. That the waiver granted is the minimum waiver that will make possible the reasonable use of the land;

v. As a condition to the issuance of a waiver the owner of the property for which such waiver is granted shall dedicate the right of way required by section 13-39 of the code, if no such public right of way exists at the time of the granting of a waiver authorized herein, through the furthest boundary of the lot of record on which a principal structure or accessory structure is to be constructed.

2. The owner of the property for which such waiver is granted shall also execute an agreement in recordable form with the Town that binds the owner and his/her successors in interest of the property for which such waiver is granted to pay for the completion of the entire width of the right of way as it existed on the date the waiver is granted by the Town Council through the furthest boundary of the lot of record on which a principal structure or accessory structure is constructed in the event the road is completed by another. The Agreement shall provide, in part, that should the owner of the property for which the waiver was granted fail to pay for the completion of the entire width of the right of way through the furthest boundary of the lot of record when it is constructed by another then the Town may reimburse the person who completed the road portion through the furthest boundary of the lot of record of the owner who was granted the waiver and the Town shall be entitled to record a lien against the property for which such a waiver was granted for the cost of the reimbursement and/or the Town may withhold the issuance of any future building permit, development order or development permit, for the property for which such waiver is granted.

3. By way of example, and not by way of limitation, “special circumstances” may include:

i. Environmental conditions, and restrictions exist which prohibit any disturbance of such area and make it impossible to complete the road to the furthest extent of the property; [for example where mitigation is not possible]; or

ii. There exists no dedicated public right of way immediately abutting and beyond the furthest boundary of the lot of record for which the waiver applies; or

iii. The property immediately abutting and beyond furthest boundary of the lot of record for which the waiver applies is owned by a governmental agency and is designated as conservation or environmentally sensitive land; or

iv. The property immediately abutting and beyond the furthest boundary of the lot of record for which the waiver applies already has existing accepted access through the use of another public or private right of way

4. Town Council may impose additional reasonable conditions and safeguards that it deems appropriate;

5. The Town Council may prescribe a reasonable time limit within which the action for which the waiver is required shall be begun or completed or both.

6. The decision of the Town Council regarding a request for a waiver is final and no reconsideration, rehearing or further appeal to the Town is available.

7. Application Process: Any person owning an interest in any real property may apply to the Town Council for a waiver hereunder. The application shall be accompanied by a fee established from time to time by the Town Council. The application shall be in such form as provided by the Town, and shall contain the following information:

- i The name of the owner of the particular real property shall be included.
- ii If the applicant is other than all the owners of the particular property, written consent signed by all owners of the particular real property shall be attached.
- iii The application shall contain the legal description of the particular real property, accompanied by a certified survey of that portion of the map maintained by the property appraiser reflecting the boundaries of the particular real property.
- iv The application shall contain the current zoning classification, and any specified conditions or conditional use designation as recorded on the official zoning maps.

8. Public Hearing; Notice Upon receipt of an executed application pursuant to this section, the Town Clerk forthwith shall schedule a hearing on the application before the Town Council. Notice of the time and place of the public hearing shall be given to the applicant at least 15 days prior to the public hearing. Notice of the time and place of the public hearing on the application shall be mailed, at least 15 days prior to the public hearing, to all property owners abutting the road right of way in question. Such notice shall contain the name of the applicant, the legal description of the affected property, and that the owner of the affected property desires a waiver to section 13-38(b)(1) or (2). In addition, a notice containing such information shall be posted at Town Hall and on the Town's website.

Where the property is not owned by the applicant, a notarized letter must be attached giving the consent of the owner/owners to the applicant to proceed with request for waiver.

Please complete only one of the following:

1) I, _____, being first duly sworn, depose and say that I, _____, am the legal representative of the Owner or Lessee of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Signature of Applicant(s) _____ Date _____

Sworn and acknowledged before me by means of ___ physical presence or ___ online notarization, this ___ day of _____, 20___ by _____.

Notary Seal

Signature of Notary Public

Notary Public, State of Florida
Commission No. _____ My Commission Expires _____.

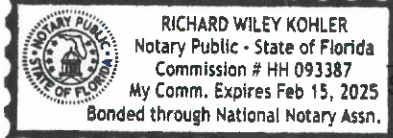
Personally Known _____ OR Produced Identification _____ Type: _____

-----OR-----

2) I, Joy MAXIMIN, being first duly sworn, depose and say that I, Joy MAXIMIN, am the Owner of the property described, which is the subject matter of this application; that all of the answers to the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

[Signature] _____ 6/14/2023
Signature of Applicant(s) Date

Sworn and subscribed before me by means of X physical presence or ___ online notarization, this 14th day of June, 2023 by Joy Maximin.

Notary Seal  Signature of Notary Public [Signature]

Notary Public, State of Florida
Commission No. HH093387 My Commission Expires 2/15/25.

Personally Known X OR Produced Identification _____ Type: _____

Joy Maximin
3040 Kramer Lane,
Malabar, Fl. 32950

Mayor and Council,

I am hereby requesting a road waiver for the subject property. Please take my special circumstances highlighted below, into account as you make your decision in granting this waiver.

I am the owner of the private parcel comprising of approximately 20 acres of land. My intention for this property is solely for myself and my family to be able to live together. We are a close- knit family comprising of four generations and desire to live within close proximity to care for and provide familial support to aging family members and assist in the raising of our grandchildren. This is extremely important to our family and is of great value to us. With this intent, we need to build an additional home as our family has increased in number. The parcel is completely fenced and separated from any public thoroughfare or access.

Prior to purchasing the property, I confirmed with the Town of Malabar, the requirements to build an additional home. I was advised that the lot on which I intend to build must be a minimum of 1.5 acres and the access to the home to be built, must be comparable or better than Kramer Lane, which is an unpaved gravel road that continues to my existing home. I had not catered for the construction of an additional road given the information that I received. We proceeded with a contract to build and we would be in default of the contract, if we are further delayed by the construction of a road. This would result in a major financial loss if we were to default on the builder's contract.

Chapter 13, Malabar Code of Ordinances, Section 13-38(c) makes provision for roadway improvement waivers. I hereby request that the Council consider the conditions set forth below from the Code and consider my circumstances favorably for a waiver to allow the use of the existing access to the property in its current geometric form. I cite sections 1 and 3 from the chapter as it pertains to my situation.

1 (iii). This waiver is not injurious or detrimental to the public welfare; This is for private use by my family. Emergency vehicles have recently entered and existed the property with ease. Further, similar allowances have been made for neighboring properties without causing undue construction burdens.

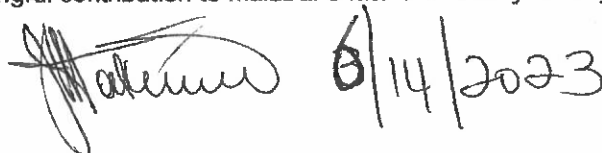
1 (iv). Given there is an existing access, the requested construction of a road or a cul- de- sac is burdensome and unnecessary. The waiver to be granted is the minimum waiver that will make possible the reasonable use of the land.

3(ii). Our special circumstances also include the fact that *"There exists no dedicated public right of way immediately abutting and beyond the furthest boundary of the lot of record for which the lot applies"*.

3 (iv). The property immediately abutting and beyond the furthest boundary of the lot of record for which the waiver applies already has existing accepted access through the use of another public or private right of way. I will provide a right-of-way to the town for access to the 1.5 acre parcel being created for the new residence.

I sincerely appreciate your favorable support as my family and I look to reside and retire in the Town and make a meaningful contribution to Malabar's future. Thank you for your kind consideration.

Respectfully,
Joy Maximin





Parcel Combine Request

GIS_01
R: 02/24/2022
Page 1 of 2

Please read all instructions before proceeding.

Check with the proper agency to verify the parcel combination will result in a legal lot.

1. List all current account number(s) or parcel number(s) under the column titled "Account #(s)/Parcel ID(s)".
2. **All parcels must be titled in the same tenancy and exact same name (including middle name(s), initials, Jr., Sr., etc.). Parcels must be in the same jurisdictional boundary (millage code), must be contiguous, and all taxes paid.**
3. Your request will be accepted at any time during the year, however, the Office of the Brevard County Property Appraiser works within the Tax Roll Calendar. Once our office receives your request, the tax roll calendar will determine if your request can be completed for the current year or processed for the following year.
4. Sign and date the form. **Forms must be signed by the current owner or the owner's legal representative.** Forms signed by prospective buyers will not be processed.

The processing time and/or record update by the Office of the Brevard County Property Appraiser should not hinder the sale or purchase of a property, issuance of a permit, or any outside agency's process.

This form must be completed in its entirety. Incomplete forms will not be processed.

Return to:

Email: splitcomb@bcpao.us

Or

Brevard County Property Appraiser Split/Combine
P.O. Box 429
Titusville, FL 32781-0429

Request for Parcel Combination

Account #(s)/Parcel ID(s)

- | | |
|--------------------------|---------------------------|
| 1. <u>29-37-12-00753</u> | 5. <u>29-37-12-00-815</u> |
| 2. _____ | 6. _____ |
| 3. _____ | 7. _____ |
| 4. _____ | 8. _____ |

Pursuant to **Section 197.192, F.S.** the office of the Property Appraiser **will not combine** parcels **until all taxes due or delinquent taxes have been paid** to the Tax Collector.

Please note that a parcel combination by the Property Appraiser is for **taxation purposes only** and **does not imply suitability for parcel development**. Please contact the appropriate land development or planning and zoning department of your jurisdiction for questions concerning property development.

Homestead/Non-Homestead Properties Affected by Assessment Limitation

*I/we understand that combining property may increase taxes by affecting existing capped values. If you choose to reverse the process at a future date, the cap **will not** be restored to former level.*

Property Appraiser to be Held Harmless

It is the responsibility of the owner to ensure all prior or current tax amounts on any parcels being combined with any other parcels are **paid in full** to the Tax Collector. This agency is **not responsible** for any delinquent taxes, penalties, or interest that could occur and accrue due to negligence on the part of the property owner, the owner's representatives, or other parties requesting parcel combinations. Furthermore, if the property is encumbered by a mortgage, it is the **owner's responsibility** to seek prior approval from the mortgage company for any changes to the property involving a combination.

If this request is being presented by anyone other than the owner, a **Power of Attorney, or letter of authorization** from the owner **must be supplied with a copy attached**.

By signing below, whether by the owner or the owner's legal representative, the signator acknowledges they have read and understand the aforementioned and availed themselves of the opportunity to ask any questions, seek clarification, or obtain additional information prior to this action being requested.

Please check the appropriate box:

Owner

Or

Owner's Legal Representative

Signature Joy Maximin

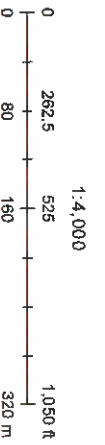
Print Joy MAXIMIN

Email JoyMAXIMIN2015@YAHOO.COM

Phone 9548170770

Date 6/14/2023

Combined
WITH ORIGINAL
LOT
NOT SPLIT



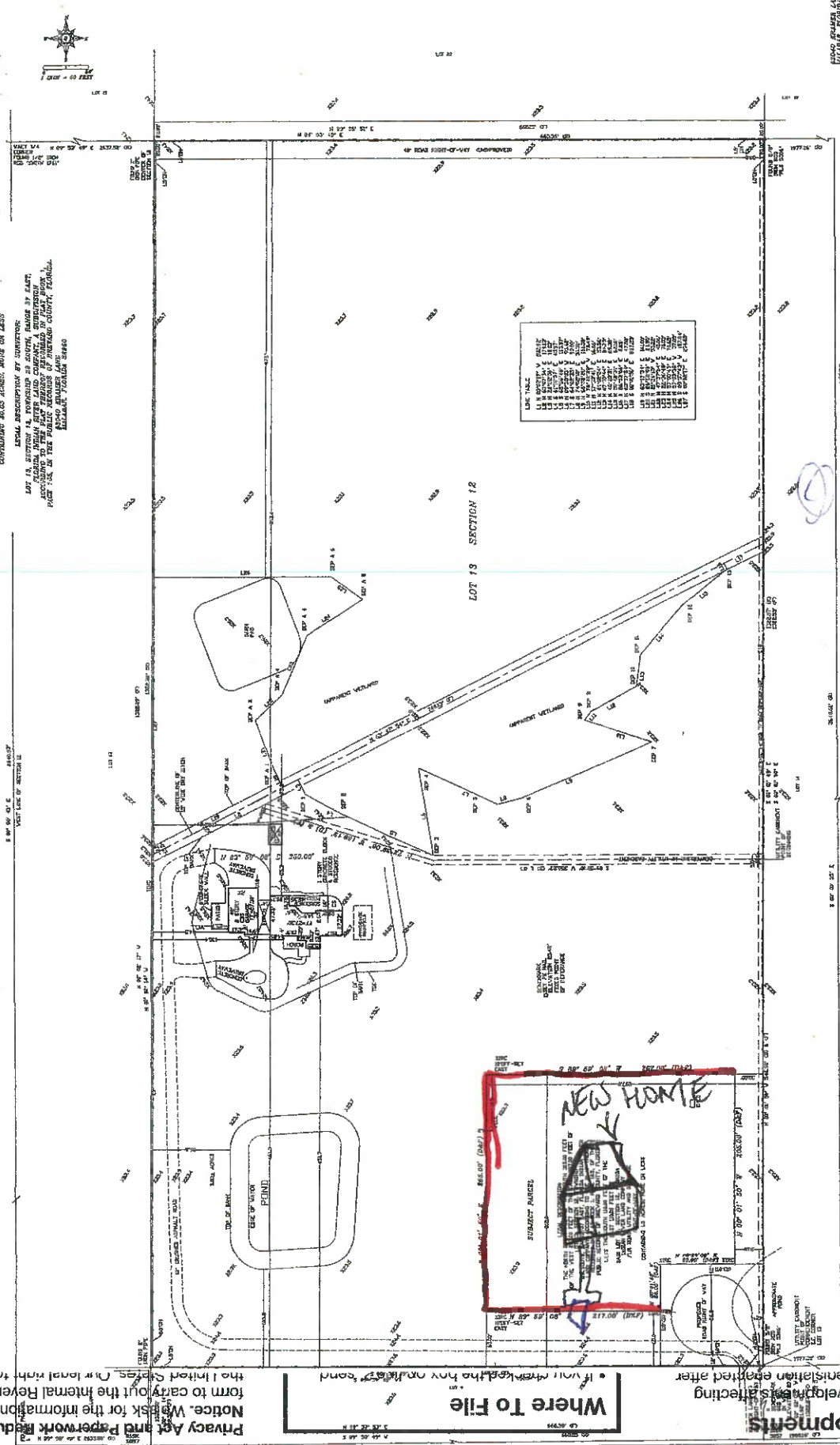
All BCPAO maps and/or map applications are maintained for assessment and illustrative purposes only and do not represent surveys, plats, or any other legal instrument. Likewise, measurement and location tools are for assessment and illustrative purposes only and do not necessarily reflect real-world conditions. Due to the nature of Geographic Information Systems (GIS) and cadastral mapping, map layers may not precisely align and may not represent precise location, shape, and/or legal boundaries. Only a Florida-licensed surveyor can determine legally-relevant property boundaries, elevation, distance, area, and/or location in Florida.
Map created April 26, 2023 (map data dates may vary)

Future Developments
 Information about development projects affecting
 your property is available on the Planning Department's
 website at www.ci.milpitas.ca.us/planning.
 If you are a property owner, you will receive a letter from
 the Planning Department if a project is proposed that
 will affect your property. You may also receive a letter
 from the Planning Department if you are located within
 a project area. If you are a property owner, you may
 wish to contact the Planning Department for more
 information. If you are a property owner, you may
 wish to contact the Planning Department for more
 information.

Where To File
 If you are a property owner, you may wish to
 contact the Planning Department for more information.
 If you are a property owner, you may wish to
 contact the Planning Department for more information.

Privacy Act and Paperwork Reduction Act
 Notice: We ask for the information on this
 form to carry out the Internal Revenue laws of
 the United States. Our legal right to ask for

**MAP OF BOUNDARY SURVEY
 AND TOPOGRAPHIC SURVEY**
 CERTIFIED TO: JOY MANMUN



MAINT. EASES AS SHOWN ON THE PLAT REPRESENTING
 THE SAME. EASES ARE SHOWN IN THE PLAT AND ARE
 SUBJECT TO THE SAME. THE SURVEYOR HAS BEEN
 ADVISED BY THE OWNER THAT THE SAME ARE NOT
 SUBJECT TO ANY OTHER EASES OR INTERESTS.
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 THAT THE SAME ARE NOT SUBJECT TO ANY OTHER
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 ADVISED BY THE OWNER THAT THE SAME ARE NOT
 SUBJECT TO ANY OTHER EASES OR INTERESTS.

LEGAL DESCRIPTION BY INSTRUMENT:
 LOT 19, SECTION 12, TOWNSHIP 29 NORTH, RANGE 37 EAST,
 COUNTY OF MILPITAS, CALIFORNIA, AS SHOWN ON THE
 PLAT 12-19-12, OF THE MILPITAS COUNTY RECORDS,
 BOOK 12, PAGE 12. THE SURVEYOR HAS BEEN ADVISED
 BY THE OWNER THAT THE SAME ARE NOT SUBJECT
 TO ANY OTHER EASES OR INTERESTS.

CONTAINING ALSO ACRES, MORE OR LESS
 AS SHOWN ON THE PLAT.

DATE OF SURVEY: 10/15/2021

LOSS TABLE

NO.	DESCRIPTION	AMOUNT
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STEPHEN W. QUAGNELI
 SURVEYOR

STEPHEN W. QUAGNELI
 2077 MILPITAS AVENUE
 MILPITAS, CALIFORNIA 95035
 (408) 939-1111

DATE OF SURVEY: 10/15/2021

SCALE: 1" = 20'

1. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE
 PROFESSIONAL STANDARDS AND ETHICS OF THE
 SURVEYING PROFESSION AND THE RULES AND
 REGULATIONS OF THE BOARD OF SURVEYING AND
 MAPPING ENGINEERS, CALIFORNIA. THE SURVEYOR
 HAS BEEN ADVISED BY THE OWNER THAT THE SAME
 ARE NOT SUBJECT TO ANY OTHER EASES OR
 INTERESTS. THE SURVEYOR HAS BEEN ADVISED
 BY THE OWNER THAT THE SAME ARE NOT SUBJECT
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 BY THE OWNER THAT THE SAME ARE NOT
 SUBJECT TO ANY OTHER EASES OR INTERESTS.

[All Inboxes](#)

2 Messages

**Terry Ehrig**

To: Shebah Cc: Megan, Mary >

1:02 PM

RE: 3040 Kramer lane Tax account 2931965 & [3030094](#)

Good afternoon, Ms. Maximin.

We have received your request for combine. It will be processed in order of receipt for the 2023 tax roll year.

Please be advised of the following:

- The Property Appraiser's records are solely for assessment/taxing purposes and NOT to be used for confirmation of ownership or property boundaries.
- Properties can be permitted, financed, built upon, or sold without the Property Appraiser's website reflecting the requested updates.
- Please confirm the policies and procedures of the other entities or agencies that you may be working with and address any concerns regarding their policies directly with them.
- We are required to comply with the Florida Statutes and guidelines and unable to adjust our policies or procedures to facilitate outside agencies or entities practices, policies, or procedures.
- We cannot provide an estimated time of completion.

Best regards,

www.BCPAQ.us

@BCPAQ121



Terry Ehrig
 Senior Abstract & Mapping Specialist, CCF, CFE
 GIS & Cadastral Service Department
 Brevard County Property Appraiser
 Phone: 321-264-6943
 Fax: 321-264-6993
 Email: Terry.Ehrig@BCPAQ.us
 400 South Street, 4th floor
 Titusville, FL 32780



Under Florida law, email addresses are public records. If you do not want your email address released in response to a public-records request, please do not send email to this address.

The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

Please note: Effective immediately, we have changed our office policy and procedures concerning property divisions





STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

Prepared by: Lisa Morrell, , Special Projects Manager, Treasurer

At the May 1, 2023, Regular Town Council Meeting, Town Council denied without prejudice, the request for a road improvement waiver for property owner, Joy Maximin, of property located at 3040 Kramer Lane.

An in-person meeting was scheduled and held at Town Hall with the applicant, Joy Maximin, on Monday, June 12, 2023, at 2pm, to review the application for the purpose of re-applying. Property owner states she had updates and revision for re- application. Staff explained the reason for denial at length due the creation of a subdivision of the original 19.41 Acre Parcel.

“According to Florida State Statute, Section 380.04, the state defines “development,” in part, as “the dividing of land into three or more parcels.” This would indicate, therefore, that a subdivision approval is the authorization of the division of land into three or more parcels. This also matches part of the platting definition of subdivision.

The Town of Malabar Code of Ordinances, Land development code Article XVI - Subdivision Administration And Procedures, Section 1.-16.1 Applicability.

Notwithstanding any contrary definition within the Malabar Land Development Code, the term subdivision means the division of land into three (3) or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and re-subdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.”

Town Staff also reviewed and discussed the term and applicability of the Brevard County Property Appraiser’s disclaimer the applicant received when the parcel was split:

“Please note that a parcel split by the Property Appraiser is for taxation purposes only and does not imply suitability for parcel development. Please contact the appropriate land development or planning and zoning department of your jurisdiction for questions concerning property development.”

On February 26, 2021 the Brevard Property Appraiser’s removed the agriculture tax exemption that was applied to the previous parcel owner. The applicant split the property into 3 parcels to apply to the two 1.5 acre parcels the tax class codes associated with Grazing Lands. As of June 7, 2023, The Brevard Property Appraisers Office reports there is one parent parcel:

3040 Kramer Lane
Parcel ID 29-37-12-00-753
Tax Account ID: 2931965
Taxable use code of 6110 - Grazing Land - Soil Capability Class II - With Residence-
Total Acrese:16.41 acres

The parcel has an existing single-family residence, built in 2008 with a total sub area of 6,951 Square Feet. The parcel has other property features of a pool, spa, four (4) pole barns, an outbuilding, additional patios and paved areas.

The parent parcel, 29-37-12-00-753, has two (2) child parcels within the boundary of the parcel. Each containing 1.5 Acres, totaling 3 Acres of the original 19.41 Acres, prior to the request to split by the applicant and property owner, August 24, 2022 (date of records provided by the property appraiser). The two (2) child parcels details:

No Address
Parcel ID: 29-37-12-00-814
Tax Account ID: 3030093



STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

Taxable Property Use: 6120 Grazing Land - Soil Capability Class II – With Buildings Other Than Residence
Total Acres: 1.5

No Address – Removing Parcel and combining to main Parcel ID 29-37-12-00-753, 3040 Kramer Lane.

Parcel ID: 29-37-12-00-815
Tax Account ID: 3030094
Taxable Property Use: 6100 Grazing Land - Soil Capability Class II – Vacant
Total Acres: 1.5

PROPERTY OWNER OR REPRESENTATIVE

Joy Maximin
3040 Kramer Lane
Malabar, Florida 32950
Total Acres: 19.41
Town of Malabar Zoning Code: RR-65 – Rural Residential

Parcel ID: 29-37-12-00-814
Total Acres: 1.5
Town of Malabar Zoning Code: RR-65 – Rural Residential

The applicant has corrected the application to request a road improvement waiver for Parcel ID: 29-37-12-00-814, contain an area of 1.5 acres, and located in Town of Malabar Zoning Code: RR-65 – Rural Residential, see Exhibit A.

The Town has received an email confirming the merger or re-marriage process of parcel ID: 29-37-12-00-815, the northern 1.5-acre parcel with no buildings to the parent Parcel ID 29-37-12-00-753, containing 16.41 acres with an existing single-family home, from the Brevard Property Appraiser's Office. The process has not been complete or recorded to the website. The final merger is intended to remove parcel ID 815, thereby parcel 753 will increase to 17.91 acres.

Town Staff has discussed with the applicant an alternative to request a waiver to improve the right of way for the 300' feet that fronts Parcel ID 814 of Kramer Lane, less than the road improvement requirement of 1300 feet per the Town's ordinance. The applicant does not want to reduce or lose the vegetation buffer from the southeast quadrant of the parcel where the buffer continues into the unimproved right of way extension of Kramer Lane. The area is depicted of wetlands and will require an environmental report to verify any possible mitigation to permit the improvement and extension of Kramer Lane, a public right of way; see Exhibit B, Brevard County Natural Resources GIS application.



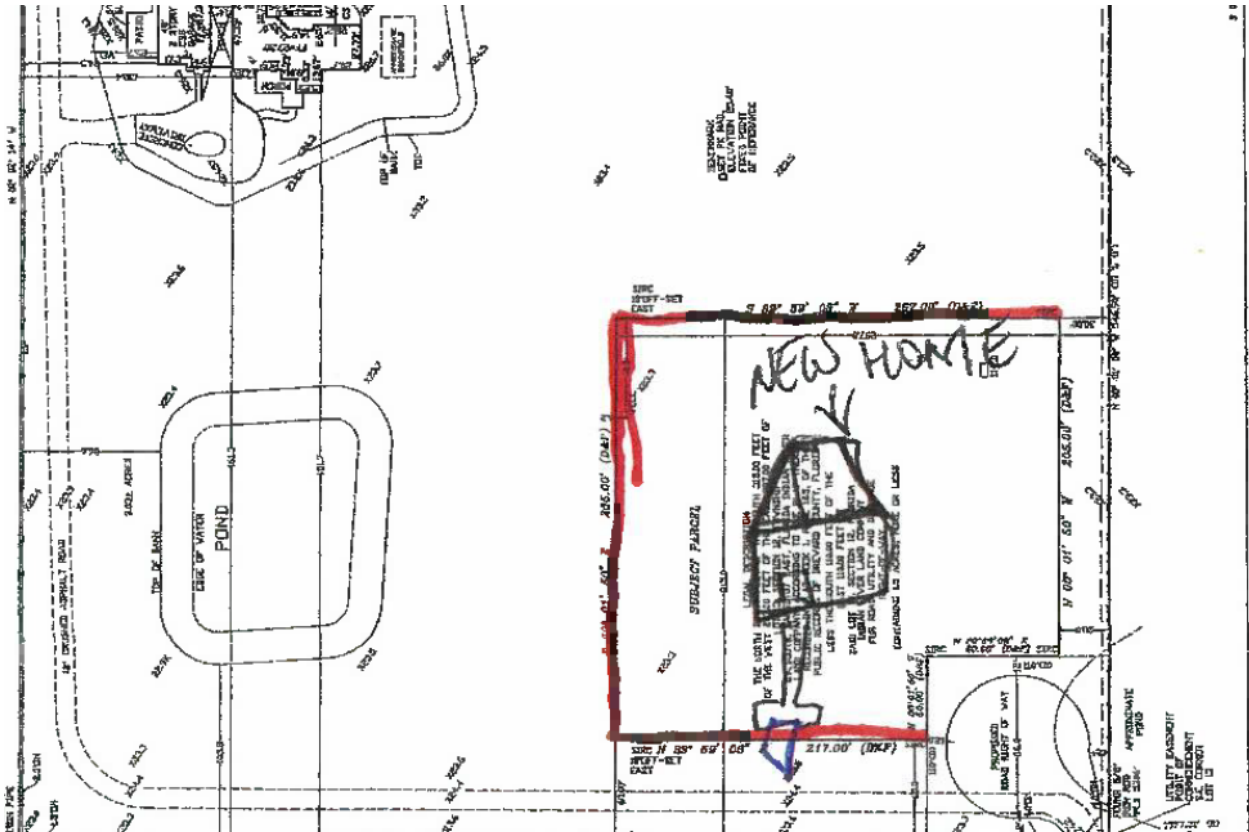


STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

The applicant desires to use the existing driveway to access both parcels. Staff sought legal advisement to prevent a future issue between the parcel owners of the shared access of the single driveway, reference Walker Lane in the Town of Malabar. Legal advises an easement for ingress/egress shall be required and recorded in perpetuity with land deed/title between the two parcels per Town Council's authority to approve the or deny the road improvement waiver and prior to issuance a building permit.



The applicant has included a proposed improvement to the road right of way in the re-application that includes a circular dead-end improvement of the right of way of Kramer Lane. The Town has not received any formal site plans for review the development of the parcel.





STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

RECORDS AND ORDERS OF SIGNIFICANCE:

Town Council is advised an existing order is recorded and is still in effect for the right of way along Parcel ID: 29-37-12-00-753 dated Jun 27, 2006.

CFN 2008051824, OR BK 5851 Page 3602, Recorded 03/19/2008 at 09:04 AM, Scott Ellis, Clerk of Courts, Brevard County

Variance Application re: Chapter 13, Section 13-38(C))
Application of Mark and Patricia Ireland)
Right-of-way along 29-37-12-00-00753.000)
Mailing address: 1380 S. Patrick Drive,)
Satellite Beach, FL 32937)

FINAL ORDER

UPON CONSIDERATION of the above styled proceeding to consider a variance, the Town's Board of Adjustment enters this final order:
On June 27, 2006, the Board of Adjustment conducted a Public Hearing to consider an application for a variance per Chapter 13, Section 13-38 (C) claiming a hardship due to wetlands within the right-of-way in Rural Residential 65 (RR-65) zoning.

Subject property is the unimproved right-of-way at north end of the improved section of Kramer Lane, Malabar, Florida along the east side of a 20-acre parcel known as; 29-37-12-00-00753.0-0000/00.

Applicants request a variance in order to postpone improvements at this time due to the wetlands existing within the right-of-way. They wish to construct a single family residence and currently have a permitted driveway access at the south end of their 20-acre parcel.

They are proposing to dedicate the additional right-of-way now to the Town along Kramer Lane and (Old Mission Road), but because of the significant wetlands within the rights-of-way they are requesting postponement from the requirement to improve the 1200 linear feet along Kramer Lane.

The variance request is: APPROVED with the following CONDITIONS:

These CONDITIONS shall be imposed and are agreed to by Mark and Patricia Ireland as evidenced by their signatures below:

- 1) Dedication of 30' along the eastern boundary of parcel 753 for required right-of-way known as Kramer Lane;
- 2) Dedication of 20' along the northern boundary of parcel 753 for required right-of-way known as Old Mission Road;
- 3) The Irelands agree to dedicate additional property for right-of-way around the wetlands at the south end of their property, even if said right-of-way dedication transverses wetlands;
- 4) The Irelands agree to share equally in the cost of the road improvements should the properties on the east side of parcel 753 be developed;



STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

5) Irelands agree to the creation of a private cause of action by owners of parcels 780, 787, 804, 797, 805, 791 and 798, individually or together, which persons are considered third-party intended beneficiaries of this Agreement, against the Irelands or their successors, if they do not share in the costs involved in road improvements to the Kramer Lane right-of-way abutting parcel 753.

This order shall run with the land and bind all successors in interest to Mark and Patricia Ireland. This Agreement shall survive any transfer of the Property described herein and is not intended to merge into any deed.

To date, only 5 feet of the 30 feet, per the order has been fulfilled per record of Right of Way Dedication on October 20, 2008:

A strip of land 5 feet m width along the EASTERN BOUNDARY OF 19 56 ACRES edge of the parcel known as 3040 KRAMER LANE AKA Township 29, Range 37, Section 12, Parcel: 753.

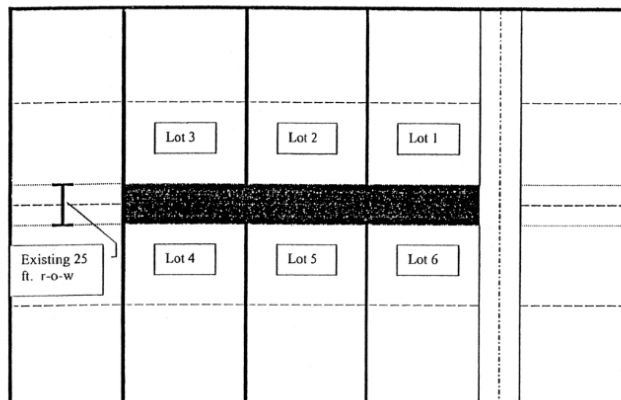
TOWN OF MALABAR FLORIDA – CODE OF ORDINANCES

Chapter 13 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES ARTICLE II. - STREETS
 DIVISION 2. - IMPROVEMENTS Sec. 13-38. - Precondition to issuance of building permit—Completion of road.

Sec. 13-38. - Precondition to issuance of building permit-Completion of road.

- (a) As a precondition for the issuance for any permit for a new residence or new commercial structure on property that abuts an unimproved right-of-way or unaccepted local street/road within the Town of Malabar, Brevard County, Florida, the owner of the property for which such property permit is requested must provide for the improvement of the local street/road from which a person will obtain primary ingress and egress to and from such property from the nearest improved and accepted road continuously in the most direct route (or route otherwise approved by the town) on public rights-of-way through and including the furthest boundary of the lot of record on which the principal structure is to be constructed. Furthermore, as a precondition for the issuance for any permit for an existing or new residence or commercial structure or an existing residence or commercial structure which has been destroyed by fire or natural disaster on property within the Town of Malabar, the owner of the property for which such permit is requested must dedicate right-of-way to the Town of Malabar in accordance with section 13-39.

Illustration #1





STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

(Illustration No. 1 only depicts the length or distance for which the right-of-way must be improved if the owner of Lot No. 4 requests a boundary permit or other development order).

In determining whether any parcel "abuts" such unaccepted local street/road for purposes of this chapter, any property that lies contiguous to an existing unimproved local street/road or right-of-way and which is intended to be used as ingress and egress to said property, shall be deemed to abut the unimproved local street/road or right-of-way.

(b) Ownership of contiguous lots.

- (1) In the event that such owner owns more than one (1) lot of record on the same local street/road and if such lots are contiguous, such local street/road shall be completed only through the furthest boundary of the lot on which the principal structure is to be wholly constructed.
- (2) However, should such principal structure not be located wholly on one (1) lot, or should the owner desire to construct accessory uses, ponds or outbuildings (accessory to the principal structure) on the contiguous lot, then the local street/road shall be improved through the furthest boundary on which such accessory building to be constructed.

(c) Waiver. The town council may grant a waiver to the provisions of section 13-38 (a), (b)(1) and (2).

- (1) The below stated procedures shall in all respects be utilized for consideration of a waiver to subsection (a), (b)(1) and (2). In order to authorize a waiver under this section the town council must find the following:
 - a. That special conditions and circumstances exist and that the presence of which would make complying with section 13-38(a), (b)(1) or (2) unreasonable. Financial or economic reasons, conditions or circumstances shall not be grounds for a waiver under this section;
 - b. The special conditions and circumstances are not caused in any way by the owner or applicant;
 - c. That such waiver will not be injurious or detrimental to the public welfare;
 - d. That the waiver granted is the minimum waiver that will make possible the reasonable use of the land;
 - e. As a condition to the issuance of a waiver the owner of the property for which such waiver is granted shall dedicate the right of way required by section 13-39 of the Code, if no such public right of way exists at the time of the granting of a waiver authorized herein, through the furthest boundary of the lot of record on which a principal structure or accessory structure is to be constructed.
- (2) The owner of the property for which such waiver is granted shall also execute an agreement in recordable form with the town that binds the owner and his/her successors in interest of the property for which such waiver is granted to pay for the completion of the entire width of the right of way as it existed on the date the waiver is granted by the town council through the furthest boundary of the lot of record on which a principal structure or accessory structure is constructed in the event the road is completed by another. The agreement shall provide, in part, that should the owner of the property for which the waiver was granted fail to pay for the completion of the entire width of the right of way through the furthest boundary of the lot of record when it is constructed by another then the town may reimburse the person who completed the road portion through the furthest boundary of the lot of record of the owner who was granted the waiver and the Town



STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

shall be entitled to record a lien against the property for which such a waiver was granted for the cost of the reimbursement and/or the town may withhold the issuance of any future building permit, development order or development permit, for the property for which such waiver is granted.

- (3) By way of example, and not by way of limitation, "special circumstances" may include:
 - a. Environmental conditions, and restrictions exist which prohibit any disturbance of such area and make it impossible to complete the road to the furthest extent of the property; [for example where mitigation is not possible]; or
 - b. There exists no dedicated public right of way immediately abutting and beyond the furthest boundary of the lot of record for which the waiver applies; or
 - c. The property immediately abutting and beyond furthest boundary of the lot of record for which the waiver applies is owned by a governmental agency and is designated as conservation or environmentally sensitive land; or
 - d. The property immediately abutting and beyond the furthest boundary of the lot of record for which the waiver applies already has existing accepted access through the use of another public or private right of way
- (4) Town council may impose additional reasonable conditions and safe-guards that it deems appropriate;
- (5) The town council may prescribe a reasonable time limit within which the action for which the waiver is required shall be begun or completed or both.
- (6) The decision of the town council regarding a request for a waiver is final and no reconsideration, rehearing or further appeal to the Town is available.
- (7) Application process: Any person owning an interest in any real property may apply to the town council for a waiver hereunder. The application shall be accompanied by a fee established from time to time by the town council. The application shall be in such form as provided by the town, and shall contain the following information:
 - a. The name of the owner of the particular real property shall be included.
 - b. If the applicant is other than all the owners of the particular property, written consent signed by all owners of the particular real property shall be attached.
 - c. The application shall contain the legal description of the particular real property, accompanied by a certified survey of that portion of the map maintained by the property appraiser reflecting the boundaries of the particular real property.
 - d. The application shall contain the current zoning classification, and any specified conditions or conditional use designation as recorded on the official zoning maps.
- (8) Public hearing; notice upon receipt of an executed application pursuant to this section, the town clerk forthwith schedule a hearing on the application before the town council. Notice of the time and place of the public hearing shall be given to the applicant at least fifteen (15) days prior to the public hearing. Notice of the time and place of the public hearing on the application shall be mailed, at least fifteen (15) days prior to the public hearing, to all affected property owners abutting the road right of way in question. Such notice shall contain the name of the applicant, the legal description of the affected property, and that the owner of the affected property desires a waiver to section 13-38(b)(1) or (2). In addition, a notice containing such information shall be posted at town hall and on the town's website.



STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
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STAFF REPORT

**CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.**



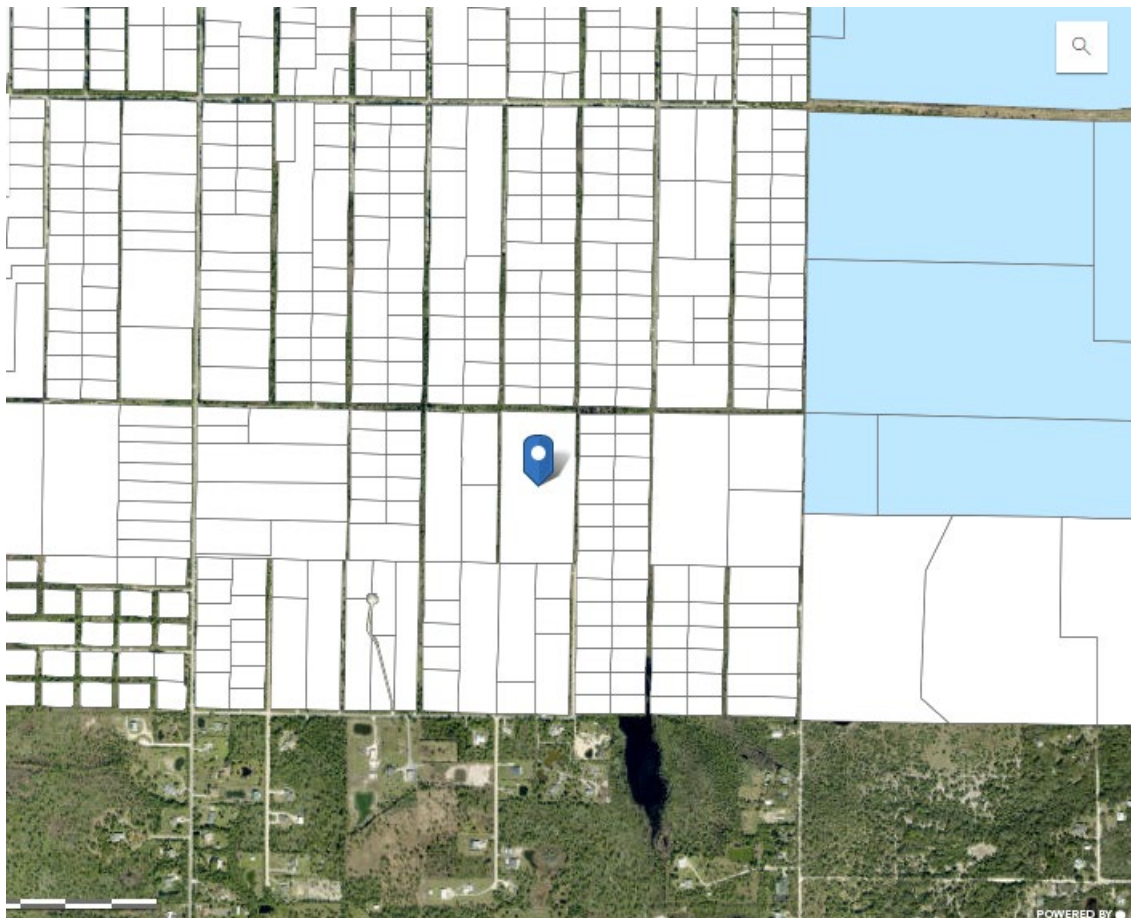
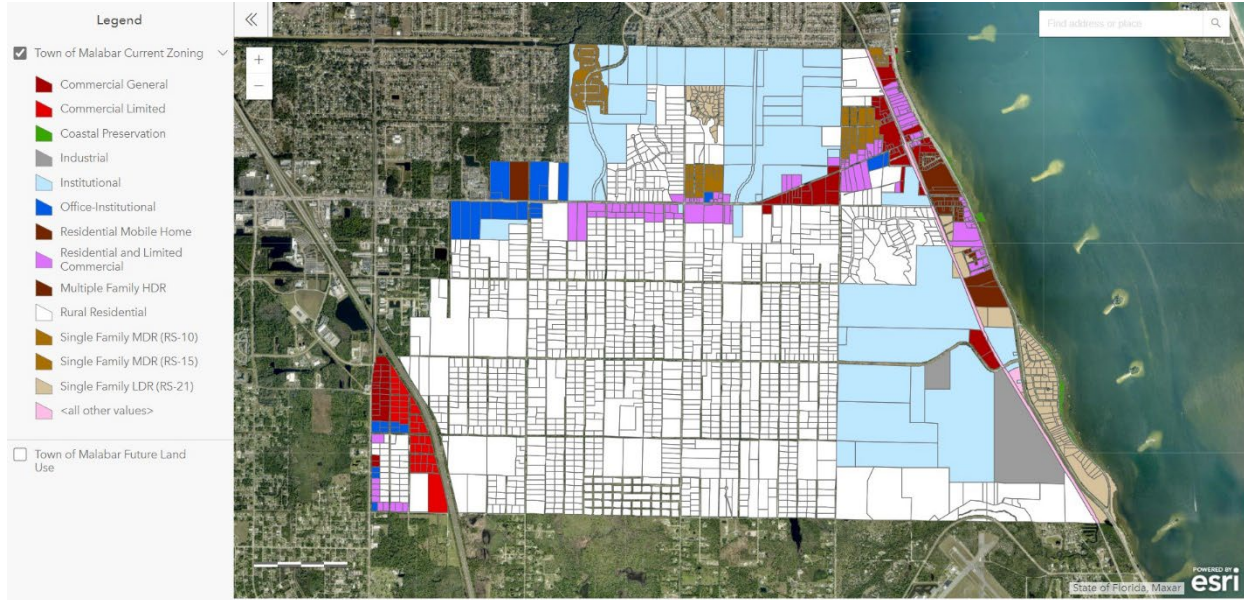


STAFF REPORT

**CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.**

EXHIBIT A

TOWN OF MALABAR CURRENT ZONING MAP

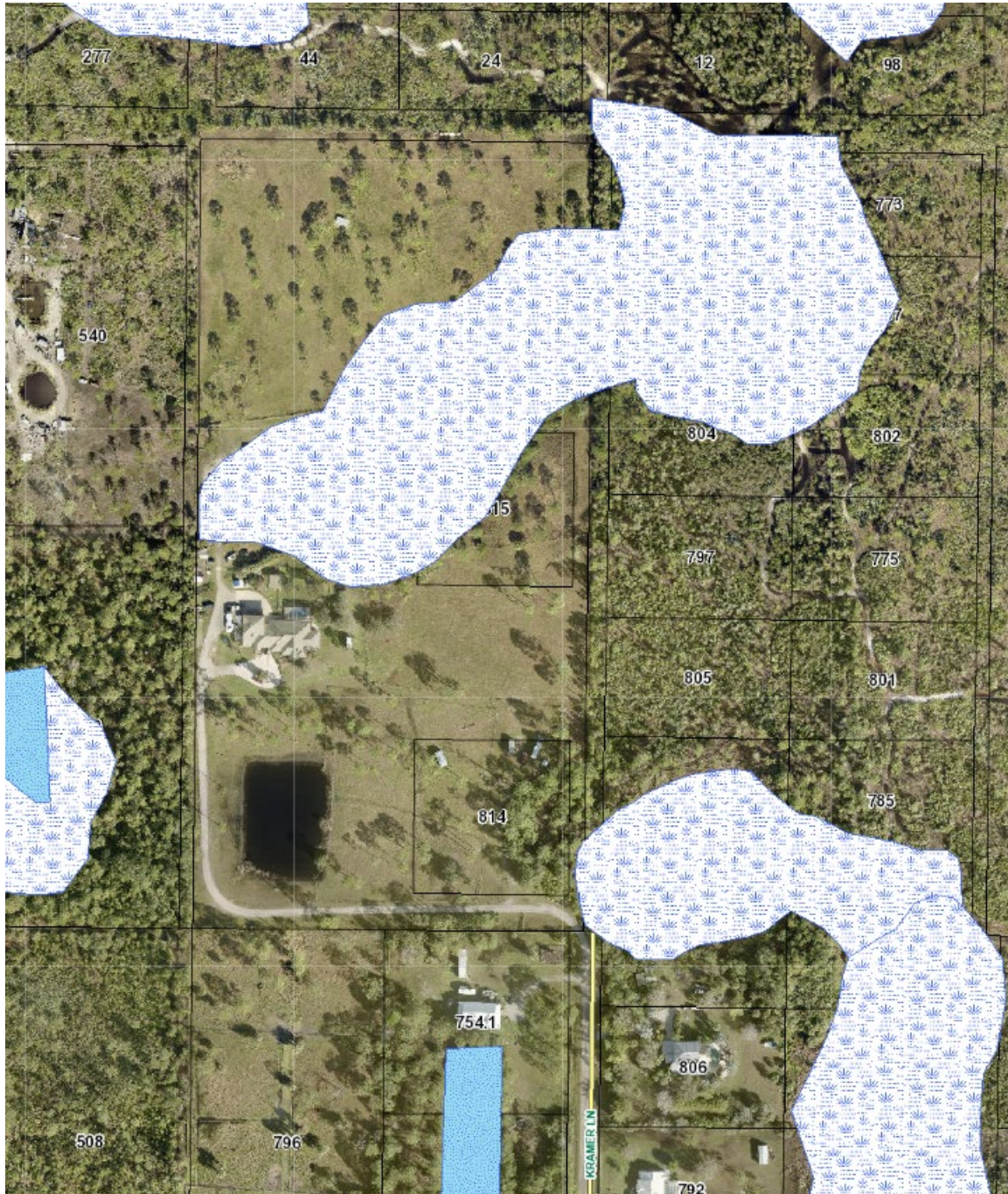




STAFF REPORT
CASE: ROAD IMPROVEMENT WAIVER APPLICATION –
AMENDED JUNE 15, 2023
FROM RTCM MAY 1, 2023, ITEM 10A.

EXHIBIT B

BREVARD COUNTY GIS OPEN DATA HUB - NATURAL RESOURCES MAP



Records & Returns
Town of Malabar
2725 Malabar Rd
Malabar, FL 32950

2
1 of 2

**BEFORE THE BOARD OF ADJUSTMENT OF THE
TOWN OF MALABAR, BREVARD COUNTY, FLORIDA**

Variance Application re: Chapter 13, Section 13-38(C))
Application of Mark and Patricia Ireland)
Right-of-way along 29-37-12-00-00753.000)
Mailing address: 1380 S. Patrick Drive,)
Satellite Beach, FL 32937)
_____)

FINAL ORDER

UPON CONSIDERATION of the above styled proceeding to consider a variance, the Town's Board of Adjustment enters this final order:

On June 27, 2006, the Board of Adjustment conducted a Public Hearing to consider an application for a variance per Chapter 13, Section 13-38 (C) claiming a hardship due to wetlands within the right-of-way in Rural Residential 65 (RR-65) zoning.

Subject property is the unimproved right-of-way at north end of the improved section of Kramer Lane, Malabar, Florida along the east side of a 20-acre parcel known as; 29-37-12-00-00753.0-0000/00.

Applicants request a variance in order to postpone improvements at this time due to the wetlands existing within the right-of-way. They wish to construct a single family residence and currently have a permitted driveway access at the south end of their 20-acre parcel.

They are proposing to dedicate the additional right-of-way now to the Town along Kramer Lane and (Old Mission Road), but because of the significant wetlands within the rights-of-way they are requesting postponement from the requirement to improve the 1200 linear feet along Kramer Lane.

The variance request is: APPROVED with the following CONDITIONS:

These CONDITIONS shall be imposed and are agreed to by Mark and Patricia Ireland as evidenced by their signatures below:

- 1) Dedication of 30' along the eastern boundary of parcel 753 for required right-of-way known as Kramer Lane;
- 2) Dedication of 20' along the northern boundary of parcel 753 for required right-of-way known as Old Mission Road;
- 3) The Irelands agree to dedicate additional property for right-of-way around the wetlands at the south end of their property, even if said right-of-way dedication transverses wetlands;
- 4) The Irelands agree to share equally in the cost of the road improvements

2 of 2

should the properties on the east side of parcel 753 be developed;

- 5) Irelands agree to the creation of a private cause of action by owners of parcels 780, 787, 804, 797, 805, 791 and 798, individually or together, which persons are considered third-party intended beneficiaries of this Agreement, against the Irelands or their successors, if they do not share in the costs involved in road improvements to the Kramer Lane right-of-way abutting parcel 753.

This order shall run with the land and bind all successors in interest to Mark and Patricia Ireland. This Agreement shall survive any transfer of the Property described herein and is not intended to merge into any deed.

Witnesses:

Guaroberts
Mary J. O'Neill
City of

CONDITIONS ACCEPTED BY:

Mark Ireland
Mark Ireland
 Mark Ireland – print and sign

PATRICIA J IRELAND
Patricia Ireland
 Patricia Ireland / print and sign

SO ORDERED.

DATED this 27th Day of June, 2006.

FLORIDA

TOWN OF MALABAR,

BOARD OF ADJUSTMENT

By: Paul Marpil

Paul Marpil, Chairman

ATTEST:

Debby K. Franklin
 Debby K. Franklin
 Board Clerk 7/26/06

FILED

Record & Return To
Town of Malabar
2725 Malabar Road
Malabar, Florida 32950 *HC*

RIGHT-OF-WAY DEDICATION

THIS INDENTURE made this 20 day of Oct, 2008, between **Mark Ireland & Patricia Ireland**, married persons, whose address is **3040 Kramer Lane**, party of the first part, hereinafter referred to as "Grantor," and **The Town of Malabar**, a municipal corporation organized under the laws of the State of Florida and situated in Brevard County, Florida, 2725 Malabar Road, Malabar, FL 32950, party of the second part, hereinafter referred to as "Grantee;"

WITNESSETH:

That the Grantor, for and in consideration of other valuable consideration, receipt of which is hereby acknowledged, does hereby grant, bargain, dedicate and convey unto the party of the second part, its successors and assigns, the following described land, lying and being in the Town of Malabar, County of Brevard, State of Florida, to-wit

A strip of land 5 feet in width along the EASTERN BOUNDRY OF 19 56 ACRES edge of the parcel known as 3040 KRAMER LANE AKA Township 29 , Range 37 , Section 12 , Parcel: 753

The Grantor hereby covenants with the Grantee that the Grantor is lawfully seized of said land in fee simple, that the Grantor has good right and lawful authority to sell and convey said land, that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, and that said land is free of all encumbrances

IN WITNESS WHEREOF, the Grantor has executed this instrument on the day and year first above written

Signed, sealed and delivered in the presence of

M J O'neill

Witness
M Marshall

Witness

Mark Ireland

Grantor Signature (MARK IRELAND)
MARK IRELAND

Grantor Printed Name (MARK IRELAND)

STATE OF Florida
COUNTY OF Brevard

BEFORE ME, the undersigned authority, personally appeared and is personally known to me, or who produced Drivers License as identification, and who executed the foregoing instrument, and acknowledged to and before me that they executed said instrument for the purposes therein expressed

WITNESS my hand and official seal this 11th day of October, 2008

Brenda K Marshall

NOTARY PUBLIC
State of Florida

My Commission Expires

NOTARY PUBLIC-STATE OF FLORIDA
Brenda K. Marshall
Commission # DD803220
Expires: JULY 06, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

Signed, sealed and delivered in the presence of

M. Jones
Witness
M. J. O'neill
Witness

Patricia Ireland
Grantor Signature (PATRICIA IRELAND)
PATRICIA IRELAND
Grantor Printed Name (PATRICIA IRELAND)
NOTARY PUBLIC STATE OF FLORIDA
Brenda K Marshall
Commission # DD803220
Expires JULY 06, 2012
BONDED THRU ATLANTIC BONDING CO, INC.

STATE OF Florida
COUNTY OF Brevard

BEFORE ME, the undersigned authority, personally appeared Patricia Ireland, personally known to me, or who produced Drivers License as identification, and who executed the foregoing instrument, and acknowledged to and before me that they executed said instrument, and acknowledged to and before me that they executed said instrument for the purposes therein expressed

WITNESS my hand and official seal this 16th day of October, 2008

Brenda K Marshall

NOTARY PUBLIC
State of Florida
My Commission Expires

NOTARY PUBLIC-STATE OF FLORIDA
Brenda K Marshall
Commission # DD803220
Expires JULY 06, 2012
BONDED THRU ATLANTIC BONDING CO, INC.

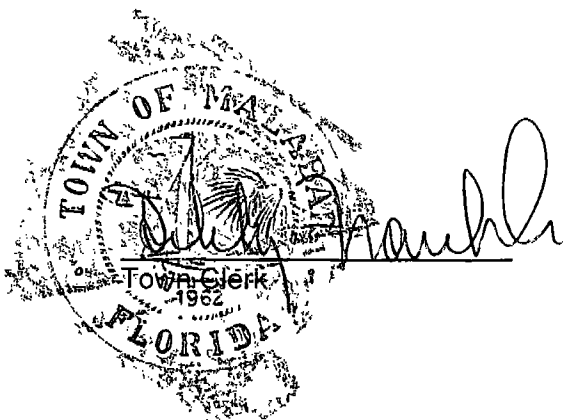
CERTIFICATE OF ACCEPTANCE

The undersigned, TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, the above-named Grantee, hereby accepts this Right-of-Way Dedication, dated the 20 day of October, 2008, under the terms and conditions set forth herein

DATED this 20 day of October, 2008

TOWN OF MALABAR, FLORIDA

By Thomas Eschenberg
Mayor Thomas Eschenberg



A Daily Publication By:



TOWN OF MALABAR
JUN 26 2023
RECEIVED

TOWN OF MALABAR
2725 MALABAR RD

MALABAR, FL, 32950

AD# 5741166 6/19/2023
TOWN OF MALABAR
NOTICE OF
PUBLIC HEARING

The Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Monday, July 3, 2023, at 7:30pm, or as soon thereafter as the matter can be heard, for a public hearing on the following topic:

A request by property owners of parcel 29-37-12-00-814 for a waiver from the road improvement requirements of the Town.

ROAD IMPROVEMENT WAIVER REQUEST
A REQUEST FOR A WAIVER TO THE ROAD IMPROVEMENT REQUIREMENTS IN CHAPTER 13 OF THE MALABAR CODE OF ORDINANCE REGARDING THE NORTH END OF KRAMER LANE. REQUEST BY JOY MAXIMIM, OWNER OF PARCEL 814 IN SECTION 12, TOWNSHIP 29, RANGE 37.

Copies of the request and the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Richard Kohler, Town Clerk.

STATE OF WISCONSIN COUNTY OF BROWN:
Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Advertising Representative of the **FLORIDA TODAY**, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

Notice Public Hearing

as published in **FLORIDA TODAY** in the issue(s) dated: or by publication on the newspaper's website, if authorized, on

06/19/2023

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 19th of June 2023, by legal clerk who is personally known to me

Affiant

Notary State of Wisconsin County of Brown

My commission expires

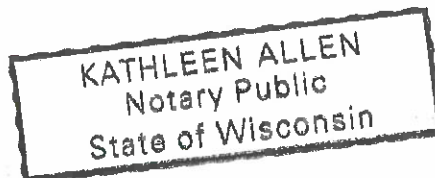
Publication Cost: \$108.19

Ad No: 0005741166

Customer No: BRE-6TO207

This is not an invoice

of Affidavits 1



TOWN OF MALABAR
NOTICE OF PUBLIC HEARING

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ROAD IMPROVEMENT WAIVER REQUEST

A REQUEST FOR A WAIVER TO THE ROAD IMPROVEMENT REQUIREMENTS IN CHAPTER 13 OF THE MALABAR CODE OF ORDINANCE REGARDING THE NORTH END OF KRAMER LANE. REQUEST BY JOY MAXIMIN, OWNER OF PARCEL 814 IN SECTION 12, TOWNSHIP 29, RANGE 37.

If you receive this notice then you are listed as an owner of property, as shown in the records of the Brevard County Property Appraiser's office, along the Right-of-Way of which the waiver is requested. This notice is provided as required by the Malabar Code, Chapter 13, Section 13-38. You are invited to attend or submit your comments before the meeting to the Town Clerk at TownClerk@TownofMalabar.org.

Copies of the request and the Code pertaining to this are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to townclerk@townofmalabar.org or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of the Town Council with respect to these topics. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Richard Kohler, Town Clerk.

TOWN OF MALABAR

REGULAR TOWN COUNCIL MEETING

AGENDA ITEM NO: 12.a
Meeting Date: July 3rd, 2023

Prepared By: Richard W. Kohler, Town Clerk

SUBJECT: TRIM Update

BACKGROUND/HISTORY:

Staff is continuing to work towards a successful budget season. As the TRIM dates have been released, Staff has noted the need to adjust the meeting and workshop schedule. Staff would like to recommend the following dates be selected for Budget Public Hearings:

1st Public Hearing: Monday September 11th, 7:30 PM.

2nd Public Hearing: Monday September 25th, 7:30 PM.

These dates have been selected to conform with the TRIM requirements of being held within 15 days of each other. These changes also allow us to hold the August RTCMs on their regularly scheduled dates of 08/07/2023 & 08/21/2023.

For the DR-420 and the MMP, Staff has recommended the Maximum Millage rate be set at 5.0000 Mills, and the first draft of the budget is being created using 4.5000 Mills.

The rollback rate for the upcoming fiscal year is 4.1721. By keeping the millage at 4.5000, the Town will generate approximately an additional \$124,000 in revenue.

ATTACHMENTS:

- a. DR-420
- b. DR-420MM-P

ACTION OPTIONS:

- a. Motion to approve the new meeting schedule and suggested maximum millage.



CERTIFICATION OF TAXABLE VALUE

DR-420
R. 5/12
Rule 12D-16.002
Florida Administrative Code
Effective 11/12

Year :	County :
Principal Authority :	Taxing Authority :

SECTION I : COMPLETED BY PROPERTY APPRAISER

1.	Current year taxable value of real property for operating purposes	\$	(1)
2.	Current year taxable value of personal property for operating purposes	\$	(2)
3.	Current year taxable value of centrally assessed property for operating purposes	\$	(3)
4.	Current year gross taxable value for operating purposes <i>(Line 1 plus Line 2 plus Line 3)</i>	\$	(4)
5.	Current year net new taxable value (Add new construction, additions, rehabilitative improvements increasing assessed value by at least 100%, annexations, and tangible personal property value over 115% of the previous year's value. Subtract deletions.)	\$	(5)
6.	Current year adjusted taxable value <i>(Line 4 minus Line 5)</i>	\$	(6)
7.	Prior year FINAL gross taxable value from prior year applicable Form DR-403 series	\$	(7)
8.	Does the taxing authority include tax increment financing areas? If yes, enter number of worksheets (DR-420TIF) attached. If none, enter 0	<input type="checkbox"/> YES <input type="checkbox"/> NO	Number (8)
9.	Does the taxing authority levy a voted debt service millage or a millage voted for 2 years or less under s. 9(b), Article VII, State Constitution? If yes, enter the number of DR-420DEBT, <i>Certification of Voted Debt Millage</i> forms attached. If none, enter 0	<input type="checkbox"/> YES <input type="checkbox"/> NO	Number (9)
	Property Appraiser Certification	I certify the taxable values above are correct to the best of my knowledge.	
SIGN HERE	Signature of Property Appraiser:	Date :	

SECTION II : COMPLETED BY TAXING AUTHORITY

If this portion of the form is not completed in FULL your taxing authority will be denied TRIM certification and possibly lose its millage levy privilege for the tax year. If any line is not applicable, enter -0-.

10.	Prior year operating millage levy <i>(If prior year millage was adjusted then use adjusted millage from Form DR-422)</i>		per \$1,000 (10)
11.	Prior year ad valorem proceeds <i>(Line 7 multiplied by Line 10, divided by 1,000)</i>	\$	(11)
12.	Amount, if any, paid or applied in prior year as a consequence of an obligation measured by a dedicated increment value <i>(Sum of either Lines 6c or Line 7a for all DR-420TIF forms)</i>	\$	(12)
13.	Adjusted prior year ad valorem proceeds <i>(Line 11 minus Line 12)</i>	\$	(13)
14.	Dedicated increment value, if any <i>(Sum of either Line 6b or Line 7e for all DR-420TIF forms)</i>	\$	(14)
15.	Adjusted current year taxable value <i>(Line 6 minus Line 14)</i>	\$	(15)
16.	Current year rolled-back rate <i>(Line 13 divided by Line 15, multiplied by 1,000)</i>		per \$1000 (16)
17.	Current year proposed operating millage rate		per \$1000 (17)
18.	Total taxes to be levied at proposed millage rate <i>(Line 17 multiplied by Line 4, divided by 1,000)</i>	\$	(18)

Continued on page 2

19.	TYPE of principal authority (check one)	<input type="checkbox"/> County	<input type="checkbox"/> Independent Special District	(19)
		<input type="checkbox"/> Municipality	<input type="checkbox"/> Water Management District	
20.	Applicable taxing authority (check one)	<input type="checkbox"/> Principal Authority	<input type="checkbox"/> Dependent Special District	(20)
		<input type="checkbox"/> MSTU	<input type="checkbox"/> Water Management District Basin	
21.	Is millage levied in more than one county? (check one)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	(21)

DEPENDENT SPECIAL DISTRICTS AND MSTUs		STOP HERE - SIGN AND SUBMIT
--	---	------------------------------------

22.	Enter the total adjusted prior year ad valorem proceeds of the principal authority, all dependent special districts, and MSTUs levying a millage. <i>(The sum of Line 13 from all DR-420 forms)</i>	\$	(22)
23.	Current year aggregate rolled-back rate <i>(Line 22 divided by Line 15, multiplied by 1,000)</i>	per \$1,000	(23)
24.	Current year aggregate rolled-back taxes <i>(Line 4 multiplied by Line 23, divided by 1,000)</i>	\$	(24)
25.	Enter total of all operating ad valorem taxes proposed to be levied by the principal taxing authority, all dependent districts, and MSTUs, if any. <i>(The sum of Line 18 from all DR-420 forms)</i>	\$	(25)
26.	Current year proposed aggregate millage rate <i>(Line 25 divided by Line 4, multiplied by 1,000)</i>	per \$1,000	(26)
27.	Current year proposed rate as a percent change of rolled-back rate <i>(Line 26 divided by Line 23, minus 1, multiplied by 100)</i>	%	(27)

First public budget hearing	Date :	Time :	Place :
------------------------------------	--------	--------	---------

S I G N H E R E	Taxing Authority Certification		I certify the millages and rates are correct to the best of my knowledge. The millages comply with the provisions of s. 200.065 and the provisions of either s. 200.071 or s. 200.081, F.S.		
	Signature of Chief Administrative Officer :			Date :	
	Title :		Contact Name and Contact Title :		
	Mailing Address :		Physical Address :		
	City, State, Zip :		Phone Number :		Fax Number :

Instructions on page 3

CERTIFICATION OF TAXABLE VALUE INSTRUCTIONS

“Principal Authority” is a county, municipality, or independent special district (including water management districts).

“Taxing Authority” is the entity levying the millage. This includes the principal authority, any special district dependent to the principal authority, any county municipal service taxing unit (MSTU), and water management district basins.

Each taxing authority must submit to their property appraiser a DR-420 and the following forms, as applicable:

- DR-420TIF, Tax Increment Adjustment Worksheet
- DR-420DEBT, Certification of Voted Debt Millage
- DR-420MM-P, Maximum Millage Levy Calculation - Preliminary Disclosure

Section I: Property Appraiser

Use this DR-420 form for all taxing authorities except school districts. Complete Section I, Lines 1 through 9, for each county, municipality, independent special district, dependent special district, MSTU, and multicounty taxing authority. Enter only taxable values that apply to the taxing authority indicated. Use a separate form for the principal authority and each dependent district, MSTU and water management district basin.

Line 8

Complete a DR-420TIF for each taxing authority making payments to a redevelopment trust fund under Section 163.387 (2)(a), Florida Statutes or by an ordinance, resolution or agreement to fund a project or to finance essential infrastructure.

Check “Yes” if the taxing authority makes payments to a redevelopment trust fund. Enter the number of DR-420TIF forms attached for the taxing authority on Line 8. Enter 0 if none.

Line 9

Complete a DR-420DEBT for each taxing authority levying either a voted debt service millage (s.12, Article VII, State Constitution) or a levy voted for two years or less (s. 9(b), Article VII, State Constitution).

Check “Yes” if the taxing authority levies either a voted debt service millage or a levy voted for 2 years or less (s. 9(b), Article VII, State Constitution). These levies do not include levies approved by a voter referendum not required by the State Constitution. Complete and attach DR-420DEBT. Do not complete a separate DR-420 for these levies.

Send a copy to each taxing authority and keep a copy. When the taxing authority returns the DR-420 and the accompanying forms, immediately send the original to:

Florida Department of Revenue
Property Tax Oversight - TRIM Section
P. O. Box 3000
Tallahassee, Florida 32315-3000

Section II: Taxing Authority

Complete Section II. Keep one copy, return the original and one copy to your property appraiser with the applicable DR-420TIF, DR-420DEBT, and DR-420MM-P within 35 days of certification. Send one copy to the tax collector. “Dependent special district” (ss. 200.001(8)(d) and 189.403(2), F.S.) means a special district that meets at least one of the following criteria:

- The membership of its governing body is identical to that of the governing body of a single county or a single municipality.
- All members of its governing body are appointed by the governing body of a single county or a single municipality.
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

“Independent special district” (ss. 200.001(8)(e) and 189.403 (3), F.S.) means a special district that is not a dependent special district as defined above. A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

“Non-voted millage” is any millage not defined as a “voted millage” in s. 200.001(8)(f), F.S.

Lines 12 and 14

Adjust the calculation of the rolled-back rate for tax increment values and payment amounts. See the instructions for DR-420TIF. On Lines 12 and 14, carry forward values from the DR-420TIF forms.

Line 24

Include only those levies derived from millage rates.




MAXIMUM MILLAGE LEVY CALCULATION PRELIMINARY DISCLOSURE

For municipal governments, counties, and special districts

DR-420MM-P
R. 5/12
Rule 12D-16.002
Florida Administrative Code
Effective 11/12

Year:	County:		
Principal Authority :	Taxing Authority:		
1.	Is your taxing authority a municipality or independent special district that has levied ad valorem taxes for less than 5 years?	<input type="checkbox"/> Yes	<input type="checkbox"/> No (1)
<p>IF YES, STOP HERE. SIGN AND SUBMIT. You are not subject to a millage limitation.</p>			
2.	Current year rolled-back rate from Current Year Form DR-420, Line 16	per \$1,000	(2)
3.	Prior year maximum millage rate with a majority vote from 2022 Form DR-420MM, Line 13	per \$1,000	(3)
4.	Prior year operating millage rate from Current Year Form DR-420, Line 10	per \$1,000	(4)
<p>If Line 4 is equal to or greater than Line 3, skip to Line 11. If less, continue to Line 5.</p>			
Adjust rolled-back rate based on prior year majority-vote maximum millage rate			
5.	Prior year final gross taxable value from Current Year Form DR-420, Line 7	\$	(5)
6.	Prior year maximum ad valorem proceeds with majority vote <i>(Line 3 multiplied by Line 5 divided by 1,000)</i>	\$	(6)
7.	Amount, if any, paid or applied in prior year as a consequence of an obligation measured by a dedicated increment value from Current Year Form DR-420 Line 12	\$	(7)
8.	Adjusted prior year ad valorem proceeds with majority vote <i>(Line 6 minus Line 7)</i>	\$	(8)
9.	Adjusted current year taxable value from Current Year form DR-420 Line 15	\$	(9)
10.	Adjusted current year rolled-back rate <i>(Line 8 divided by Line 9, multiplied by 1,000)</i>	per \$1,000	(10)
Calculate maximum millage levy			
11.	Rolled-back rate to be used for maximum millage levy calculation <i>(Enter Line 10 if adjusted or else enter Line 2)</i>	per \$1,000	(11)
12.	Adjustment for change in per capita Florida personal income <i>(See Line 12 Instructions)</i>		(12)
13.	Majority vote maximum millage rate allowed <i>(Line 11 multiplied by Line 12)</i>	per \$1,000	(13)
14.	Two-thirds vote maximum millage rate allowed <i>(Multiply Line 13 by 1.10)</i>	per \$1,000	(14)
15.	Current year proposed millage rate	per \$1,000	(15)
16.	Minimum vote required to levy proposed millage: (Check one)		
<input type="checkbox"/>	a. Majority vote of the governing body: Check here if Line 15 is less than or equal to Line 13. The maximum millage rate is equal to the majority vote maximum rate. Enter Line 13 on Line 17.		
<input type="checkbox"/>	b. Two-thirds vote of governing body: Check here if Line 15 is less than or equal to Line 14, but greater than Line 13. The maximum millage rate is equal to proposed rate. Enter Line 15 on Line 17.		
<input type="checkbox"/>	c. Unanimous vote of the governing body, or 3/4 vote if nine members or more: Check here if Line 15 is greater than Line 14. The maximum millage rate is equal to the proposed rate. Enter Line 15 on Line 17.		
<input type="checkbox"/>	d. Referendum: The maximum millage rate is equal to the proposed rate. Enter Line 15 on Line 17.		
17.	The selection on Line 16 allows a maximum millage rate of <i>(Enter rate indicated by choice on Line 16)</i>	per \$1,000	(17)
18.	Current year gross taxable value from Current Year Form DR-420, Line 4	\$	(18)

Continued on page 2

Taxing Authority :		DR-420MM-P R. 5/12 Page 2	
19.	Current year proposed taxes <i>(Line 15 multiplied by Line 18, divided by 1,000)</i>	\$	(19)
20.	Total taxes levied at the maximum millage rate <i>(Line 17 multiplied by Line 18, divided by 1,000)</i>	\$	(20)
DEPENDENT SPECIAL DISTRICTS AND MSTUs			STOP HERE. SIGN AND SUBMIT.
21.	Enter the current year proposed taxes of all dependent special districts & MSTUs levying a millage. <i>(The sum of all Lines 19 from each district's Form DR-420MM-P)</i>	\$	(21)
22.	Total current year proposed taxes <i>(Line 19 plus Line 21)</i>	\$	(22)
Total Maximum Taxes			
23.	Enter the taxes at the maximum millage of all dependent special districts & MSTUs levying a millage <i>(The sum of all Lines 20 from each district's Form DR-420MM-P)</i>	\$	(23)
24.	Total taxes at maximum millage rate <i>(Line 20 plus Line 23)</i>	\$	(24)
Total Maximum Versus Total Taxes Levied			
25.	Are total current year proposed taxes on Line 22 equal to or less than total taxes at the maximum millage rate on Line 24? (Check one)	<input type="checkbox"/> YES <input type="checkbox"/> NO	(25)
S I G N H E R E	Taxing Authority Certification		I certify the millages and rates are correct to the best of my knowledge. The millages comply with the provisions of s. 200.065 and the provisions of either s. 200.071 or s. 200.081, F.S.
	Signature of Chief Administrative Officer :		Date :
	Title :	Contact Name and Contact Title :	
	Mailing Address :	Physical Address :	
	City, State, Zip :	Phone Number :	Fax Number :

Complete and submit this form DR-420MM-P, Maximum Millage Levy Calculation-Preliminary Disclosure, to your property appraiser with the form DR-420, Certification of Taxable Value.

**MAXIMUM MILLAGE LEVY CALCULATION
PRELIMINARY DISCLOSURE
INSTRUCTIONS**

General Instructions

Each of the following taxing authorities must complete a DR-420MM-P.

- County
- Municipality
- Special district dependent to a county or municipality
- County MSTU
- Independent special district, including water management districts
- Water management district basin

Voting requirements for millages adopted by a two-thirds or a unanimous vote are based on the full membership of the governing body, not on the number of members present at the time of the vote.

This form calculates the maximum tax levy for 2023 allowed under s. 200.065(5), F.S. Counties and municipalities, including dependent special districts and MSTUs, which adopt a tax levy at the final hearing higher than allowed under s. 200.065, F.S., may be subject to the loss of their half-cent sales tax distribution.

DR-420MM-P shows the preliminary maximum millages and taxes levied based on your proposed adoption vote. Each taxing authority must complete, sign, and submit this form to their property appraiser with their completed DR-420, Certification of Taxable Value.

The vote at the final hearing and the resulting maximum may change. After the final hearing, each taxing authority will file a final Form DR-420MM, Maximum Millage Levy Calculation Final Disclosure, with Form DR-487, Certification of Compliance, with the Department of Revenue.

Specific tax year references in this form are updated each year by the Department.

Line Instructions

Lines 5-10

Only taxing authorities that levied a 2022 millage rate less than their maximum majority vote rate must complete these lines. The adjusted rolled-back rate on Line 10 is the rate that would have been levied if the maximum vote rate for 2022 had been adopted. If these lines are completed, enter the adjusted rate on Line 11.

Line 12

This line is entered by the Department of Revenue. The same adjustment factor is used statewide by all taxing authorities. It is based on the change in per capita Florida personal income (s. 200.001(8)(i), F.S.), which Florida Law requires the Office of Economic and Demographic Research to report each year.

Lines 13 and 14

Millage rates are the maximum that could be levied with a majority or two-thirds vote of the full membership of the governing body. With a unanimous vote of the full membership (three-fourths vote of the full membership if the governing body has nine or more members) or a referendum, the maximum millage rate that can be levied is the taxing authority's statutory or constitutional cap.

Line 16

Check the box for the minimum vote necessary at the final hearing to levy your adopted millage rate.

Line 17

Enter the millage rate indicated by the box checked in Line 16. If the proposed millage rate is equal to or less than the majority vote maximum millage rate, enter the majority vote maximum. If a two-thirds vote, a unanimous vote, or a referendum is required, enter the proposed millage rate. For a millage requiring more than a majority vote, the proposed millage rate must be entered on Line 17, rather than the maximum rate, so that the comparisons on Lines 21 through 25 are accurate.

TOWN OF MALABAR

COUNCIL MEETING

Agenda Item 13.a

Meeting Date: July 3, 2023

Prepared By: Lisa Morrell, Special Projects Manager/Treasurer

SUBJECT: Discussion - Conditional Use and Special Exception Use Criteria and corresponding table 1-6.1(B).

Background

The Planning and Zoning Board began reviewing the case on March 22, 2023. On May 10, 2023, the Planning and Zoning Board advised Town Staff to prepare an advisement for Town Council's consideration to provide revisions and amendments to the Land Development Code, Article VI, Article VI - Conditional Use and Special Exception Use Criteria and corresponding table 1-6.1(B). The motion passed unanimously by the Planning and Zoning Board.

Textual additions are underlined and bold.
Textual deletions are strikethroughs and bold.

Section 1-6.1. - Conditional uses.

- A. *Purpose and Intent.* This Section is intended to stipulate general provisions and criteria for considering the approval of conditional uses on specific sites within various zoning districts. Conditional uses shall be permitted **only** upon a finding that the respective use and proposed site plan satisfies the specific criteria of Section 1-6.1(C) cited herein.
- B. *Specific Criteria Regulating Conditional Uses.* A conditional use shall be permitted only upon a finding that the proposed conditional use, application, and site plan complies with the criteria herein unless the town determines that the proposed conditional use does not meet the criteria herein provided and the proposed conditional use is adverse to the public's interest. In addition to the site plan criteria of Article VII, an application for a conditional use shall describe the proposed land use characteristics and site plan techniques proposed to mitigate against possible adverse impacts to properties in the immediate vicinity.. **A conditional use permit applicant has the burden of proof. The applicant must demonstrate, by substantial evidence, that the application and all requirements and conditions established in the ordinance and by the Planning and Zoning Board and Town Council relating to the conditional use are or shall be satisfied.**
1. *Characteristics of use described.* The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:
- a. *Scale and intensity.* Scale and intensity of use as measured by the following:
 - i. Floor area ratio;
 - ii. Traffic generation;
 - iii. Square feet of enclosed building for each specific use;
 - iv. Proposed employment;
 - v. Proposed number and type of service vehicles;
 - vi. Off-street parking needs; and
 - vii. Other specifications and/or characteristics of the proposed use describing the nature, character, and intensity of the use, including compatibility with existing and anticipated uses within the immediate vicinity.

b. *Site improvements.* On- or off-site improvement needs generated by the proposed use and not identified in the preceding subparagraph "a.":

- i. On- or off-site facilities required to serve the proposed uses such as utilities, public facilities, roadway or signalization improvements, or other similar improvements, including proposed accessory structures or facilities; and
- ii. Other unique facilities/structures proposed as part of site improvements.

c. *On-site amenities.* On-site proposed to enhance site and planned improvements. Amenities including mitigative techniques such as open space, setbacks from adjacent properties, screening and buffers, including landscaped berms proposed to mitigate against adverse impacts to adjacent sites.

d. *Public facilities.* If the conditional use is for a public or semi-public facility, the primary and auxiliary service areas shall be described together with the existing and anticipated network of related facilities accommodating service area needs within the incorporated and unincorporated areas of Brevard County.

2. *Criteria for conditional use review and approval.* In addition to site plan identified in Article VII, applications for a conditional use shall clearly demonstrate the following:

a. *Land use compatibility.* The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts are compatible and harmonious with adjacent land uses and will not adversely impact land use activities in the immediate vicinity.

Similarly, where the use is substantially different from other uses in the district and is not intended to serve the residents in the immediate vicinity, the applicant shall bear the burden of demonstrating that the use is appropriate to the subject site and immediate vicinity, and cannot and/or should not be located at an alternative site. In order for a non-residential use to be approved within a residential area, the applicant must demonstrate that a location outside the residential area would not provide for the essential site location needs of the facility or use.

b. Land use consistency. The applicant shall demonstrate that the conditional use is consistent with the Comprehensive Plan and compliant with all applicable federal, state, county and town laws and ordinances. Where permits are required from governmental agencies other than the town, these permits shall be obtained as a condition of approval and use consistency

c. Land use capability. The applicant shall demonstrate that the land is capable of supporting the use, as measured by the following: us.

~~b. i.~~ *Sufficient site size and adequate site specifications to accommodate the proposed use.* The size and shape of the site, the proposed setbacks and buffer areas, the proposed access and internal circulation, and the site design enhancements must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to accommodate site design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

~~c. ii.~~ *Public and semi-public facilities within residential areas.* A public or semi-public facility proposed within any type of residential district must provide an essential service to residential dwelling units within the immediate vicinity and the applicant must

demonstrate that alternative sites zoned for non-residential use cannot accommodate the functions of the facility.

- ~~d.~~iii. *Proper use of mitigative techniques.* The applicant shall demonstrate that the conditional use and site plan has been designated to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure are not burdened with adverse impacts detrimental to the general public health, safety and welfare.
- ~~e.~~iv. *Hazardous waste and hazardous emissions.* The proposed use shall not generate hazardous waste, hazardous emissions, or require use of hazardous materials in its operations without use of town approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material, regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste, hazardous emissions or uses hazardous materials shall be located in the town unless specific location is consistent with the Comprehensive Plan, land development regulations, and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources. Such uses shall be located within a non-residential district.
- ~~f.~~v. *Compliance with applicable laws and ordinances.* A conditional use application shall demonstrate compliance with all applicable federal, state, county and town laws and ordinances. Where permits are required from governmental agencies other than the town, these permits shall be obtained as a condition of approval.

- C. *Review Procedures.* The application for a conditional use on a form to be provided by the Town Clerk shall be submitted to the Town Clerk with the site plan required pursuant to Sec. 1-7.1 of this Code. The procedure for approval shall be the same as for the procedures identified in Chapter VII for site plan review.

The applicant shall demonstrate on the site plan documents and scale drawings that the proposed improvements shall comply with all specifications cited in Table 1-6.1(B). The procedure for review by the Planning and Zoning Board and the Town Council shall be the same as stipulated for site plan review in Sections 1-7.1 and Section 1-7.5.

TABLE 1-6.1(B). CONDITIONAL LAND USE REQUIREMENTS

Conditional Land Uses	Minimum Size Site	Minimum Width/Depth (feet)	Access Required to Street	Building Setback from Residential District / Nonresidential District (feet)	Parking Lot Setbacks from Adjacent Residential District / Nonresidential District (feet)	Perimeter Screening Residential District / Nonresidential District (5)	Curb Cut Controls	Other
Child Care Facilities	1 Acre	145	Paved	50/30	15/10	Type A/B	(7)	
Places of Worship	5 Acres	250	Paved	70/45	25/20	Type A/C	(7)	
Educational Institution	(1)	500	Arterial	70/45	25/20	Type A/C	(7)	
Enclosed Arcade Amusement Center/Electronic Gaming Establishment	1 Acre	120	Highway 1 and Babcock Street only	100/30	N/A	Type A/C	(7)	
Funeral Homes	2 Acres	250	Paved	100/75	25/20	Type A/C	(7)	
Golf Courses	(2)	500	Paved	70/45	25/20	Type C/C	(7)	
Hospitals and other Licensed Facilities	5 Acres	325	Arterial	100/75	25/20	Type A/C	(7)	
Nursing Homes and Related Health Care Facilities	2 Acres	210	Paved	60/30	25/20	Type A/C	(7)	
Protective Services	(4)	120	Paved	50/30	25/20	Type A/C	(7)	
Public Parks and Recreation Areas	5 Acres	325	Paved	70/45	25/20	Type C/C	(7)	
Public and Private Utilities	N/A	120	N/A	70/30	25/20	Type A/C	(7)	
Commercial Stables	5 Acres	325	N/A	100/75	50/40	Type B/C		
Adult Entertainment	1 Acre (8, 9, 10)	120	US1 / Babcock	100/30	N/A	Type A/C	(7)	(6)
Bars and Lounges	1 Acre (8, 9)	120	US1 / Babcock	100/30	N/A	Type A/C	(7)	(6)
Mini Warehouse/ Storage	4 Acres	250	Paved	100/30	25/20	Type A/B	(7)	

Limited Manufacturing Activities	1 Acre	100/150	Arterial / West Railroad Avenue	100/25	25/20	Type A/C	(7)
Limited Manufacturing Services	1 Acre	100/150	Arterial / West Railroad Avenue	100/25	25/20	Type A/C	(7)
Marine Commercial Activities	1 Acre	120	US1 / Babcock / West Railroad Avenue	100/30	N/A	N/A	(7)
Service Stations, Including Gasoline Sales	1 Acre (8)	145	Arterial	100/30	N/A	N/A	(7)
Trades and Skilled Services	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	N/A	Type A/C	(7)
Vehicular Services and Maintenance	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	N/A	Type A/C	(7)
Wholesale Trades and Services	1 Acre	145	US1 / Babcock / West Railroad Avenue	50/30	15/10	Type A/C	(7)
Kennels	1 Acre	145	N/A	100/30	15/10	Type A/C	(7)
Vehicular and Other Mechanical Repair	1 Acre (8)	145	US1 / Babcock / West Railroad Avenue	100/30	15/10	Type A/C	(7)
Noncommercial Piers, Boat Slips and Docks	N/A	N/A	N/A	N/A	N/A	N/A	(7)
Community Residential Home							
Level 1 (1 to 6 residents/beds)	1.5 acres	210	Paved	60/30	25/20	Type A/C	(7)
Level 2 (7 to 14 residents/beds)	3 acres	210	Paved	60/30	25/20	Type A/C	(7)
Assisted Care Communities							
I Assisted Living Facility							
Level 1 (1 to 5 residents/beds)	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)

Level 2 (6 to 15 residents/beds)	3 acres	210	Arterial	60/30	25/20	Type A/C	(7)
Level 3 (16 or more residents/beds)	5 acres	325	Arterial	100/75	25/20	Type A/C	(7)
II Adult Family-Care Homes							
(1 to 5 residents/beds)	2 acres	210	Paved	60/30	25/20	Type A/C	(7)
III Adult Day Care Facilities	2 acres	210	Arterial	60/30	25/20	Type A/C	(7)

Note: Arterial streets refer to transportation linkages on the Major Thoroughfare Plan within the Comprehensive Plan (i.e., Malabar Road, US 1, and Babcock Street).

- (1) Minimum spatial requirements for public and private, primary and secondary educational institutions shall comply with standards used by the Brevard County School Board and the State of Florida.
- (2) Minimum spatial requirements for golf courses shall comply with standards recommended by the U.S. Golf Association or the American Society of Golf Architects.
- (3) Minimum spatial requirements shall comply with the requirements established by the Town of Malabar District Provisions or the Florida Statutes, whichever requirement is greater.
- (4) Minimum spatial requirements for the American Insurance Association and the National Fire Prevention and Control Administration.
- (5) The Type A, B, and C screening requirements reflect the standards cited in Section 1-4.1(G)(2)(a)–(c).
- (6) No parking lot or structure within 200 ft of residential or institutional district.
- (7) No more than two curb cuts shall be permitted to any one street frontage. The ingress-egress width shall be restricted to a maximum width of thirty (30) feet at the point of curvature at the property line; shall be located no closer than thirty (30) feet to a right-of-way intersection; and shall be at least ten (10) feet removed from property lines. A minimum fifty (50) feet separation shall be maintained between curb cuts. The Town may require controlled access, including dedication of cross easements and joint use of drive. The Town Council may grant a waiver to these requirements after considering the recommendations of the Planning and Zoning Board and the Town staff.
- (8) Shall not be located adjacent to a residential district, including the RR district.
- (9) Shall not be located within 1000 feet of a religious institution, educational institution, or public park.
- (10) Reference Town of Malabar Ordinance Regulating Adult Entertainment. (Ord. No. 94-4, § 9, 4-3-95; Ord. No. 12-48, §§ 3, 4, 1-23-12; Ord. No. 14-01, § 4, 2-3-14) **Cross reference—** Adult entertainment establishments, regulations, § 10-26 et seq.

Attachments

P&Z Board Secretary Memo, June 12, 2023

Fiscal Impact

N/A

Action

Direct Town Clerk to prepare the ordinance of amended changes and legally and publicly advertise public hearing(s).

TOWN OF MALABAR

MEMORANDUM

Date: June 12, 2023, 23-BDM-054

To: Richard Kohler, Town Clerk
Town Council

From: Denine M. Sherear, Building Department Manager DS

Ref: Recent discussions at the PZ Board to Clarify Condition Use in the Land Development Code Article VI

The PZ Meeting was on May 10, 2023, the Board discussed this item as presented by Mayor Reilly starting on 3/22/2023, for clarification and suggestions to define the Conditional Use and Land Development Article VI.

On May 10, 2023, the PZ Board made a Motion to present to Council and move forward for their review.

Motion: Dial/Ritter to Recommend Council review additions/changes to allow Amending the Land Development Code Article VI "Conditional Use and Special Exception Use Criteria" to define and suggest clarification on Conditional Use and Land Development as noted.

All Vote: roll Call Vote Taylor: Aye; Dial: Aye; Abare: Aye; Ritter: Aye

Motion passed 4 to 0.

Attached:

- PZ Minutes from 5/10/2023

"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
MAY 10, 2023, 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: DOUG DIAL
BOARD MEMBERS: LIZ RITTER
DAVE TAYLOR
SUSAN SHORTMAN, EXCUSED
ALTERNATE: MEGHAN WOLFGRAM (late 6:22PM)
ALTERNATE: VACANT
BOARD SECRETARY: DENINE SHEREAR

ADDITIONAL ATTENDEES: PATRICK T. RIELLY, MAYOR

4. CONSENT AGENDA:1

4.a. **Approval of Minutes** Planning and Zoning Meeting – 03/22/2023
Exhibit: Agenda Report No. 6.a
Recommendation: Request Approval

The board discussed and corrected minutes, the minutes were revised. Amended, and approved.

Motion: Dial/Ritter to Approve Minutes of 3/22/2023 as amended,
Voted: All Ayes 4:0

5. PUBLIC COMMENTS

6. PUBLIC HEARING:0

7. DISCUSSION ITEMS:1

7.a. Review additions/changes to Amend the Land Development Code Article VI "Conditional Use and Special Exception Use Criteria" to define and suggest clarification on Conditional Use and Land Development.
Presented by: Mayor Patrick T. Reilly (Originally presented on 3/22/2023)

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

Abare explained to the Board this is the final edit before going to staff & Council to the additions and changes process of this Article VI "Conditional Use and Special Exception Use Criteria Land Use Amendment. The mayor has been cleaning up a lot of the Towns Ordinances.

Mayor Patrick Reilly 1985 Howell Lane, Malabar Fl 32950 reviewed suggestions & explained to the Board the changes recommended:

- Section 1-6.1. B adding a sentence to the end of paragraph "The Burdon of proof lies with the applicant to show compliance to the specified criteria".
- Mayor also said he looked at Table 1-6.1(B)

The Board agreed with these suggestions brought forward.

Mayor Reilly made the following suggestions for Table 1-6.1 B; the sections were left blank. The Mayor suggested to allow possibly Lisa Morrell, Special Projects Manager to look at these and see what the requirements would be for each column, it is up to PZ Board.

Mayor Reilly compared two (2) tables 1.6.1(B) & Table1-3.2 Conditional Use

Add:

- "Funeral Homes "was added and left sections blank for Lisa Morrell to fill in the blanks in the (6:55 minutes) Table and delete "Trades."
- "Mini Warehouses/Storage"
- Leave the blanks up to Lisa to see what the code & Added "Limited Manufacturing."

Ritter discussed the Tables and to put heading on each page.

Abare proceeded around to each Board Member for comments:

- Taylor comments looks good agrees.
- Dial absolutely makes sense.
- Ritter wants headings on each table page agrees.
- Abare agrees.

Motion: Dial/Ritter to Recommend Council review additions/changes to allow Amending the Land Development Code Article VI "Conditional Use and Special Exception Use Criteria" to define and suggest clarification on Conditional Use and Land Development as noted.

All Vote: roll Call Vote Taylor: Aye; Dial: Aye; Abare: Aye; Ritter: Aye

Motion passed 4 to 0.

Ritter asked for copy of final document.

8. ACTION ITEMS:0
9. ADDITIONAL ITEMS FOR FUTURE MEETING
10. PUBLIC COMMENTS

Abare asked if anyone has public comments. (none)

11. OLD BUSINESS/NEW BUSINESS:

Old Business:

Abare/Ritter asked if there could be a future map and present map on the walls.

Taylor has offered to get map printed for the future map.

Mayor/Dial discussed Rocky Road repair.

New Business:

Mayor said that the gates are presently opened for the EELs, trails.

The Board discussed future meetings and things to promote on the Board.

- **Reminder:** Next Meeting – May 24, 2023
Board would like a permit list for next meeting.

12. ADJOURN

There being no further business to discuss, MOTION: Dial / Ritter to adjourn this meeting. Vote: All Ayes. The meeting adjourned 6:58 P.M.

BY:

Wayne Abare Chair

Denine Sherear, Board Secretary

Date Approved: as presented.

