



# Planning and Zoning Board Meeting

Wednesday, September 9, 2020 at 7:00 pm

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA

#### APPROVAL OF MINUTES

- a. **Approval of Minutes of Planning and Zoning Board Meeting of 08/26/2020**

Exhibit: Agenda Report Number 4a

Recommendation: Request Approval

#### **Attachments:**

- Agenda Report Number 4a (Agenda\_Report\_Number\_4a.pdf)

5. PUBLIC HEARING: 0
6. ACTION ITEMS: 1

- a. **Review Site Plan for Commercial Development & make Recommendation to Council.**

Parcel 28-38-31-54-D-2 also known as 2740 Malabar Road, Malabar Florida, 32950; Route One Motor Sports. Applicant Kellwill, LLC represented by Mr. William Carmine & Mr. Vaheed Teimouri, Engineer.

Exhibit: Agenda Report Number 6a

#### **Attachments:**

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

7. DISCUSSION: 2

- a. **Ordinance 2020-12 Table 1-3.3(A) - Debby Franklin, Town Clerk/Treasurer**

Exhibit: Agenda Report Number 7a

#### **Attachments:**

- Agenda Report Number 7a (Agenda\_Report\_Number\_7a.pdf)

- b. **Discuss local regulations for Mobile Food Vendors**

Exhibit: Agenda Report Number 7b

#### **Attachments:**

- [Agenda Report Number 7b \(Agenda\\_Report\\_Number\\_7b.pdf\)](#)

**8. ADDITIONAL ITEMS FOR FUTURE MEETING**

**9. PUBLIC COMMENTS**

**10. OLD BUSINESS/NEW BUSINESS**

**a. Old Business**

**b. New Business**

Board Member Comments

Next regular Meeting - September 23, 2020

**11. ADJOURNMENT**

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Contact: Denine Sherear ([dsherear@townofmalabar.org](mailto:dsherear@townofmalabar.org) 1321727764) | Agenda published on  
09/03/2020 at 3:56 PM

**TOWN OF MALABAR**  
**PLANNING AND ZONING**  
**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 4.a**  
**Meeting Date: September 9, 2020**

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

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**SUBJECT: Approval of Minutes**

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**BACKGROUND/HISTORY:**

The minutes must reflect the actions taken by the Board:

- Who made the motion
- What is the motion
- Who seconded the motion
- What was the vote

Malabar has historically included discussion to provide the reader the understanding of how the Board came to their vote. It is not verbatim, and some editing is done to convey the thought. People do not speak the way they write.

**ATTACHMENTS:**

Draft minutes of P&Z Board Meeting of 8/26/2020

**ACTION OPTIONS:**

Secretary requests approval of the minutes.

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING  
AUGUST 26, 2020 7:00 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 7:00 P.M. Prayer and Pledge led by Chair Wayne Abare

**2. ROLL CALL:**

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

**ADDITIONAL ATTENDEES:**

MAYOR	MAYOR PATRICK REILLY
COUNCIL MEMBER:	

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

**4. CONSENT AGENDA: 1**

<b>4.a. Approval of Minutes</b>	a. Planning and Zoning Meeting – 8/12/2020
<b>Exhibit:</b>	Agenda Report No.4. a
<b>Recommendation:</b>	Request Approval

Motion: Ritter/Hofmeister to approve as amended

Vote: All Ayes, Motion Carried 5 to 0.

**5. PUBLIC HEARING: 1**

<b>5.a. Applicant, Timothy A. Reynolds, agent for the Property Owner Requests a Zoning Map Amendment from (CL) to Comply with Future Land Use Map (FLUM) Designation of Commercial General (CG) in the Comprehensive Plan. The Property is located at the NW Corner of Malabar Road &amp; Marie Street, Malabar FL 32950, Parcel 28-37-36-00-762. The request is to change the Zoning from Commercial Limited (CL) to Commercial General (CG) in the Town of Malabar</b>	
<b>Exhibit:</b>	Agenda Report No. 5.a.

Chair explained the PH to the audience. He then asked the Secretary to read the application by title only.

Chair calls the agent for the property owner, Timothy Reynolds, to the podium.

Timothy Reynolds, 3870 Garvin Lake Drive, Palm Bay, Florida. Resident and business owner in this area for 35 years. He worked at Harris, started his own business and sold it to DRS, and built and managed the conference center on Babcock, known as the Knowledge Center, to give back to the community. Ran it for years and sold the building.

A few years ago, he began looking for a new home for his business, which does applied research in the area of archeological sites. We looked at several properties and fell in love with this piece on the NW corner of Marie Street and Malabar Road. We have met with the owners of the Banyan Estate, the property just north of the parcel in question, and I thought it was a productive meeting. They did a wetlands determination about a month ago. We are hoping to preserve trees that we can preserve, as the property is a mixture of some Oak Trees and many invasive Australian Pines. We have begun a site plan for a 5000 square foot building on 2 acres.

Applicant states that he is very respectful of the Town, he helped write the financial charter for the Town for Grant-Valkaria, and it gave me a great amount of respect for what a good role player and a good community can do together. Thank you.

Chair opened the Hearing to the Public:

Barbara Cameron 665 Hall Road, this would be a great addition to the Town. We are looking for small businesses, and this fits perfectly within the vision we have for the Town.

Public Hearing is closed to the public.

Chair asks Town Staff if they have any comments.

Board Secretary Sherear added that this zoning change would make the zoning designation to comply with the FLUM.

Abare explained that this is a zoning change.

**MOTION:** Ritter/Hofmeister to accept the rezoning application

Board Member Foster said that this a perfect fit for the Town, especially in this specific location. The quality of Mr. Reynold's building on Babcock was spectacular. He also appreciates Mr. Reynold's work to help Grant Valkaria, and believes he is doing the same for Malabar by developing this property.

Board Member Hofmeister said she used to spend a lot of time at the Knowledge Exchange with her sons, and that this fits perfectly for that area.

Vice Chair Ritter states that she also spent time there during her time working with the boy scouts. She states that this is a great location for this idea.

Board Member Shortman asks if a lab will be incorporated inside the building itself?

Applicant spoke on this issue and explained that his building will be open to the public, and he encourages residents to come in and look at the historical artifacts they will be restoring.

Board Member Shortman thanked him and stated that this business idea also fits with the Town's goal of creating eco-tourism.

Board Member Reinhart states his support for this project.

Chair Abare states he too is in support of this project.

**Roll Call Vote: George Foster- Aye; Wayne Abare – Aye; Liz Ritter – Aye; Susan Shortman– Aye; Mary Hofmeister – Aye**  
**Motion Approved 5 to 0**

Board Secretary states that this item will be heard at the next Town Council Meeting, which will be held on Thursday, September 3<sup>rd</sup>.

**6. ACTION: 1**

**6.a. Ordinance 2020-12 Table 1-3.3(A) – Debby Franklin, Town Clerk/Treasurer**  
**Exhibit: Agenda Report No.6. a.**

Vice Chair Ritter explains that the issue she has with this proposal is the maximum building coverage.

Motion: Ritter/Hofmeister to table until further notice.  
All Ayes.

**7. DISCUSSION:**

**7.a. Discuss local regulations for Mobile Food Vendors**  
**Exhibit: Agenda Report No.7.a**  
**Recommendation: Discussion**

Chair Abare began by discussing State regulations on Mobile Food Vendors. Our job is to decide if we want them in our Town, and what restrictions we would use if we do allow them in our Town. He said he has spoken to Grant-Valkaria Town Manager Jason Mahaney, and found that they do not allow them, although there is one located along US 1. He reads from handout provided to Board Members, which included pictures of Mobile Food Vendors currently in Malabar and an e-mail exchange with TM Mahaney.

Vice-Chair Ritter said that due to Senate bill 474, the State does not allow towns to make that decision.

Board Member Reinhart states that the only thing we can control is where they are zoned in our Town.

Board Member Foster asks Secretary Sherear if there are any regulations enforced by Malabar on Mobile Food Vendors?

Secretary Sherear responds that there were unwritten rules enforced regarding tables and permanent structures. Town Staff is hoping the Board will develop recommendations. Before they can set-up shop, they must show Town Hall Staff proof of a lease agreement with the landowner, and a drawing of where on the property they will be located.

Board Member Reinhart recommends that the Board only allow Mobile Food Vendors on improved commercial property with safe ingress and egress.

Foster asks Fire Chief for his opinion.

Fire Chief Foley states he will follow the States regulations and regulation set forth by the Board.

Board Member Reinhart states that by regulating the Zoning we can fairly determine where these businesses will be allowed.

The board discussed studying the Senate Bill for more information.

Chair Abare states that the businesses have value. They provide lunches on site for US 1 Motor Sports employees, but they are encroaching on FDOT property. He asks Board Member Reinhart if he would consider those businesses to be on improved property?

Board Member Reinhart states that they would not be considered on improved property. The one across the street in the Citgo parking lot would be.

Chair Abare states that he would speak to the mayor about where to take this issue from here.

Vice Chair Ritter states that the food truck by the Knights of Columbus is in an improved lot.

Board Member Shortman suggests the Board create a Mobile Food Vendor park in Town.

Vice Chair Ritter states that Palm Bay used to hold Mobile Food Vendor events, and possibly Malabar could as well.

Chair Abare states he will talk to the Mayor and possibly the Attorney about where to go from here.

Secretary Sherear reminds Board to review Palm Bay's Mobile Food Vendor's regulations.

**8. ADDITIONAL ITEMS FOR FUTURE MEETING:**

**9. PUBLIC: None**

**10. OLD BUSINESS/NEW BUSINESS:**

Old Business:

Chair Abare states he has spoken to the Management at L3 Harris and has not received much feedback. His estimation is that there is approximately one mile of road needed to go from the end of Jordan Blvd. to Marie Street. To get there from Atz Road is another block west. Chair states he reached out to the Landowner of the Industrial property in the middle of the Jordan Sanctuary, and that Mr. Cochran was very receptive to developing the property. Chair states that if Mr. Cochran develops a road to the furthest extent of his property, it would cover more than half of the necessary roadway to connect Jordan Blvd. to the rest of Malabar.

Board Member Reinhart reminds the Board that during there discussion with the Lobbyist, Mr. Barrett stated that due to the unique location of that piece of property, there is a chance we can get assistance in developing the road if we can convince the State the development would bring economic development to the area.

Foster said that Bill Barrett and Matt and Lisa are the right people to develop property in the Town that has is in that area. Currently the Town of Malabar has the resources to recruit the ideal candidate to fit in our areas the highest and greatest use, or we should recruit an Economic Development Recruiter.

Board Member Shortman said there must be a plan. Foster said there is a vision. Susan said eco-tourism should bring in business in a downtown area, but we don't have anything like that. We could bring tourist in here.

Vice Chair Ritter states that the Medical Park across from the hospital is a set vision.

Chair Abare states that we either need to raise our millage rate or promote commercial growth in our Town. He asked Mr. Reynolds to speak.

Mr. Reynolds states that the portion of Malabar Road in Malabar is a jewel. As the Planning and Zoning Board it is up to you to create an environment that will allow for development there. Out by the Interstate, it is a wonderful spot for not only medical offices, but also medical research, or other businesses on the higher end of that market. For this Town to flourish, it needs to begin to export products. Develop industrial manufacturing in the Town for the largest growth.

Chair Abare said the economic development grants want to see salaries stay in the area.

Mr. Reynolds said building local businesses is the best way to grow local economies. The money spent at the business stays in the community. Development of raw goods into a product creates more value in the area.

Board Member Shortman asks Mr. Reynolds what he would like to see along Malabar Road near his future business?

Mr. Reynolds states he would like to see continuity. As a Planning and Zoning Board its up to you to decide what you want the vision of the Town to be. Environmental research can take up a lot of land, while employing a few people and produce a high yield.

Chair Abare states that Malabar has a lot of vacant commercial land.

Board Member Foster states that we should stop waiting for a businessman to come in and start perusing the right ones. We should create an Economic Development Recruiter and go after development.

Board Member Shortman states that Universities help develop commercial planning and community planning. We should pursue that.

Chair Abare states that we have made considerable progress and are pushing a 2-hour meeting.

Chair Abare asks for a motion to adjourn.

New Business:

- Next Regular Meeting- September 9, 2020

**11. ADJOURN**

There being no further business to discuss

MOTION: Hofmeister/Ritter adjourn this meeting. Vote: All Ayes. The meeting adjourned 9:01:PM.

BY:



\_\_\_\_\_  
Wayne Abare Chair

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

\_\_\_\_\_  
Date Approved: as presented/corrected:

# TOWN OF MALABAR

## PLANNING AND ZONING BOARD MEETING

**AGENDA ITEM NO: 6.a**  
**Meeting Date: September 9, 2020**

**Prepared By: Denine Sherear, Planning & Zoning Board Secretary**

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**SUBJECT: Review Site Plan for Commercial Development & make Recommendation to Council:** Multiple Parcels at 2740 Malabar Road, Malabar FL 32950; Route One Motor Sports. Applicant Kellwill, LLC represented by Mr. William Carmine & Mr. Vaheed Teimouri, Engineer.

**BACKGROUND/HISTORY:**

The Applicant, Mr. William Carmine (Property Owner) and his Engineer Vaheed Teimouri are proposing a 6,000 sq ft Commercial Retail Building on approximately 1.0132 acres (gross lot size).

The current land use & zoning was done in July 2019 to change from Residential/Limited Commercial (R/LC) to Commercial General (CG).

The Town Council will hear this request at their September 17, 2020 meeting.

**ATTACHMENTS:**

- Application package from property owner
- Property Information
- Large Set of Plans (***MUST BE RETURNED AFTER MEETING ON 9/9/2020 TO PROVIDE FOR COUNCIL REVIEW FOR MEETING ON 9/17/2020***)
- Staff Comments
- Article III & VII Site Plan Review (Code Book)

**ACTION OPTIONS:**

Recommendation to Council

**SITE PLAN**

**APPLICATION**

**FOR**

**ROUTE 1 MOTOR SPORTS**

**2740 MALABAR ROAD**



**TOWN OF MALABAR**  
**2725 Malabar Road, Malabar, Florida 32950**  
**(321) 727-7764 Ext. 14**  
**Fax # (321) 727-9997**

TOWN OF MALABAR

JUL 27 2020

RECEIVED

**APPLICATION FOR COMMERCIAL SITE PLAN REVIEW**

Before completing this application, please refer to:

- Chapter 6 Town of Malabar Code of Ordinances Section 6-1 Codes and amendments adopted
- Land Development Code Article VII Site Plan Review

Project Name: Route 1 Motorsports Date: 7/27/20

Developer Name: William Carmine Telephone: 321 626-1835  
 Mailing Address: 1300 US Hwy 1 Fax: 321 768-0049  
 City, State, Zip: Malabar, FL 32950 Cell: \_\_\_\_\_

Name of Property Owner(s): William Carmine Telephone: 321 626-1835  
 E- Mail Address: Willy@route1motorsports.com  
 Mailing Address: 1300 US Hwy 1 Fax: 321 768-0049  
 City, State, Zip: Malabar, FL 32950 Cell: \_\_\_\_\_

Name of Engineer(s): Vahed Teimouri Telephone: 321 729-8382  
 Mailing Address: 32 East New Haven Fax: 321 729-8969  
 City, State, Zip: Melbourne FL 32901 Cell: \_\_\_\_\_

Name of Architect(s): \_\_\_\_\_ Telephone: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_ Cell: \_\_\_\_\_

Legal Description of Property Covered by Application:  
 Township: 29 Range: 38 Section: 31 Lot/Block: 5402 Parcel: \_\_\_\_\_  
 Subdivision: Ineedekers Tax Acct No.: 2951104  
 Other Legal: 2740 Malabar Rd  
 Present Land Use Designation: lot Present Zoning Classification: C.G.  
 Zoning of abutting property: North: \_\_\_\_\_ South: \_\_\_\_\_ East: \_\_\_\_\_ West: \_\_\_\_\_  
 Existing and Proposed Use for Property: Verant to Retail /  
Storage  
 Gross acreage: .78 Net acreage: \_\_\_\_\_ Gross density: \_\_\_\_\_

Setbacks: Required and Proposed: Front: 30 / 25 / 89 / 65.2, Rear: 25 / 65;  
Side: 20 / 43.7; Side corner: 20 / 20

Flood Zone: \_\_\_\_\_ Per FEMA Flood Insurance Rate Map

TOWN OF MALABAR

Site Acreages:

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	SF	Acres	Percentage
Pervious	16,046		43.73%
Impervious	20,644		56.27
Pond			
Total	36,690		100%

Wetlands Present: N/A Mitigation required? N/A Permit required? \_\_\_\_\_

The applicant is required to submit TWO original Site Plans with supporting documents, 10 TEN paper copies and ONE copy on CD ROM in Portable Document Format (PDF), including graphic and textual materials and support documents. The following information is required per Article VII of the Malabar Land Development Code and must be shown on the site plan (SP) or submitted as an addendum (AD) to the site plan. Please mark where the following information can be found:

(W) Florida Building Code Requirements must be meet for 2017 6<sup>th</sup> Edition or in accordance with current edition before site plan is approved.

(W) Florida Fire Code Requirements are separate from Florida Building Code Requirements and must be in compliance as a condition before site plan is approved. In accordance with current edition.

(W) Landscape and irrigation plan (existing and proposed) shown on plans.

(W) Boundary of property shown by a heavy line.

(W) Access by means of paved dedicated right-of-way (driveway width).

(W) Topographic survey for existing and proposed conditions.

(W) Existing and proposed structures shown on site plan (including setbacks from all property lines and normal high water elevation and building separations.

(W) Typical front, rear and side elevations of proposed structure(s). 8/10/2020 elevations

(W) All existing and proposed utilities (including inverts of pipes, etc)

(W) Location of all easements.

(W) Fire protection & "Life Safety", existing and proposed that meet state/local code requirements.

(W) Proposed location of well.

(W) Proposed location of septic and drain field

(W) Stormwater management plan (including soils report and drainage calculations)

Updated 03/01/20

\_\_\_\_\_ Flood Zone(s) depicted on site plan.

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CS Tree Location Survey identifying trees inches dbh and larger.

CS Tree Plan prepared or approved by a Florida registered landscape architect.

\_\_\_\_\_ Copy of NOI (Notice of Intent) for NPDES (National Pollutant Discharge Elimination System) construction permit from Department of Environmental Protection (DEP) required for projects over 1 acre in size. Include SWPP (Storm Water Prevention Plan) on the site plan

CS Establish Mail Service with Postmaster

CS Required Open Space/Recreational areas.

CS All the conditions listed above must be met to obtain a Building Permit

\*\*\*\*\*

Site Plan Review - \$900 for the first acre plus \$50 per acre for each additional acre or portion thereof for projects consisting of 1,000 or more square feet of impervious surface; plus all costs, excluding advertising, administrative time, and mailing.

- Summary of Required Attachments for Site Plan Review:
  - o Completed Application, including Disclosure of Ownership (Pages 1 and 2).
  - o Radius Package for 500' distance from project site perimeter – obtained from the Brevard County Planning and Zoning GIS Department in Viera – call 321-633-2070 x52245
  - o Fee of \$ 900.00, in **check or money order**, payable to the Town of Malabar. *pd 7/27/2020*
  - o Site Plan – (10) paper copies plus one electronic copy.
  - o Reason for Site Plan Review (attach correspondence, drawings, etc.)
  - o Copies of all Federal, State, and Local agency permits. **It shall be the applicant's responsibility to obtain such outside permits.**

By signing below, the applicant acknowledges that they have read the foregoing, that they understand the requirements therein, that it is their responsibility to comply with all applicable laws and codes and agrees to comply with all federal, state, and local of the requirements for obtaining the permits requested.

Signature of Applicant(s):  
William J. Loomis

Date:  
7/27/20

\_\_\_\_\_  
Applicant initial-copy received

7/27/2020

Demetri Shivers  
Signature of Town's Personnel

7/27/2020

Updated 03/01/20

I/we, William Cornice, being first duly sworn depose and say that I/we, am/are **the Owner(s) 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/our knowledge and belief.

TOWN OF MALABAR

JUL 27 2020

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William J. Cornice  
Applicant(s)

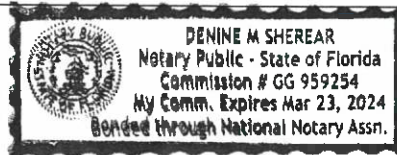
7/27/20  
Date

Sworn and subscribed before me this day 27 day of JULY, 2020

Notary Public, State of Florida

Commission No. Mar 23 2024 My Commission Expires GC 959254

Denine M Sherear  
Notary Signature



# **SITE PLAN**

## **PROPERTY INFORMATION**

**FOR  
ROUTE 1 MOTOR SPORTS  
2740 MALABAR ROAD**





# **SITE PLAN**

**LARGE SET OF SITE PLAN**

**(24 X 36)**

**MUST BE RETURNED  
SEPTEMBER 9, 2020 AFTER PZ  
MEETING**

**FOR**

**ROUTE 1 MOTOR SPORTS**

**2740 MALABAR ROAD**

# SITE PLAN

## STAFF COMMENTS

FOR  
ROUTE 1 MOTOR SPORTS  
2740 MALABAR ROAD

# **SITE PLAN**

TOD MOWERY  
TOWN PLANNER  
REVIEW

FOR  
ROUTE 1 MOTOR SPORTS  
2740 MALABAR ROAD



TOWN OF MALABAR

AUG 23 2020

RECEIVED

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**TO:** Planning and Zoning Board, Town of Malabar

**FROM:** Tod Mowery, AICP, Town Planner

**RE:** Route 1 Motorsports – Site Plan

**DATE:** August 18, 2020

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**CURRENT ZONING AND LAND USE:** CG/CG

**APPLICANT:** William J. Carmine

**OWNER:** Kellwill LLC

**LOCATION:** NW Corner of Malabar Road & FEC Railroad

**PARCEL IDs:** 28-38-31-54-D-1

**SIZE:** 36,390 SF / 0.84 acres

**EXISTING USE:** Vacant

**SURROUNDING ZONING / LAND USE**

South: RLC/RLC

West: CG/CG

North: CG/CG

East: RLC/RLC



AUG 23 2020

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**BACKGROUND AND ANALYSIS –**

The applicant is requesting consideration for approval of a site plan. The planned development is for a storage building that will be utilized by the existing Route 1 Motorsports, located on the adjacent property to the north. The applicant owns both properties and Route 1 Motorsports. The subject property is currently vacant.

In evaluating the proposal, Article VII, Section 1-7.2 C. of the Land Development Code was utilized in the review of the proposed site plan.

1. *Site Location and Character of Use.* The proposed plan appears to conform to size and dimension regulations, general provisions, performance standards, off-street parking, required open spaces, yards, and building setbacks. Landscape improvements need to be added for additional buffering along the east side adjacent to the residential properties. Suggested material could be Simpson Stopper, Clusia, Podocarpus, etc. Also, additional landscaping needs to be provided on the west side since there are no trees shown. If there are concerns about seeing the west side of the building due to signage, then the applicant needs to provide for a lower elevation tree such as crepe myrtle. These can be placed on 20' centers, but at least a canopy on 35' centers or understory trees on 20' centers needs to be provided along the western edge. Irrigation source is not provided and can be determined at construction, but plants need to be provided with an irrigation source. Landscape Detail Note #2 is missing and note 3 is not a complete sentence to know what is being required.
2. *Appearance of Site and Structures.* Elevations were not provided for review. A site lighting photometric plan was not included for review. Mechanical equipment and dumpster enclosures are not located on the site plan.
3. *Access, Internal Circulation, Off-Street Parking and Other Traffic Impacts.* It appears that access, egress, and internal circulation have been designed and controlled so as to provide for safe and convenient circulation within the site and safe and convenient access from and onto adjoining streets. Due to the number of trips generated and due to the traffic volumes on Malabar Road, a dedicated right turn lane may require consideration. It would need to be designed so as to not conflict with the existing single family home driveway to the east, however, based upon trip generation and volumes, a turn lane may be necessary. The FDOT has their 2019 Access Management Guidelines, which details the reasons why a turn lane should be considered. In the absence of a traffic study, which was not provided, the Town could require that this issue be further examined prior to Site or Construction plan approvals. Here is an excerpt from the FDOT manual, p98, which provides guidance:

### **6.2 Exclusive Right-Turn Lanes**

Exclusive right-turn lanes are useful where a combination of high roadway speeds, and high right-turn volumes into a driveway are expected. Congestion on the roadway may also be a good reason to use an exclusive right-turn lane. If properly built, they remove the turning vehicle from the through lanes, thereby decreasing the operational and safety impact of right turning vehicles on the through traffic.

Previous requirements in Standard Index 301 were removed and placed into FDM 212 – Intersections. There is no specific guidance on warrants for right-turn lanes based on number of turns in and out of unsignalized driveways, but the guidelines in this chapter were

developed to assist in the decision-making process. *FDM 212* does contain information needed to design right-turn lanes.

#### 6.2.1 When to Consider Exclusive Right-Turn Lanes

Here are some additional situations when adding an exclusive right-turn lane may be required:

- Facilities having a high volume of buses, trucks or trailers (2 or 3 per hour)
- Poor internal site design of a driveway facility causing potential backups in the through lanes
- Heavier than normal peak flows on the main roadway
- Very high operating speeds (such as 55 mph or above) and in rural locations where turns are not expected by through drivers
- Highways with curves or hills where sight distance is impacted
- Gated entrances
- Crash experience, especially rear end collisions
- Intersections or driveways just after signalized intersections where acceleration or driver expectancy would make a separate right-turn lane desirable
- Severe skewed angle of intersection requiring right-turn vehicle to slow greatly

#### When Not to Consider Exclusive Right-Turn Lanes

- Dense or built-out corridors with limited space
- Right-turn lane that would negatively impact pedestrians or bicyclists
- Vehicular movements from driveways or median openings that cross the right-turn lane resulting in multiple threat crashes
- Context classifications C2T, C4, C5, or C6

#### When Exclusive Right-Turn Lanes are Beneficial

There are instances when adding an exclusive right-turn lane for unsignalized driveways are beneficial to traffic operations and safety. **Table 27** provides some guidance for this situation based on the speed limit of the roadway and how many right turns occur per hour. Locations where the Auto and Truck Modal Emphasis is "High" may be appropriate for consideration of Exclusive Right Turn Lanes.

4. *Traffic Impacts.* The site plan lists an expected 317 Calculated Daily Trips from employees. Again, absent a traffic study, it is hard to determine whether there are traffic impacts to be considered that would impact Malabar Road.
5. *Open Space and Landscape.* The site plan shows 56.27% Total Impervious Coverage and 43.75% Total Pervious Coverage. This meets and exceeds the 35% Open Space Requirement. The Building Coverage is 16.35%. This also meets the 20% Max Building Coverage Requirement.
6. *Required Screening of Abutting Residential and Non-Residential Uses.* The existing residential home on the east needs to be provided with some residential landscape screening. Per the Town Zoning Code:
 

*Required Screening of Abutting Residential and Non-Residential Uses. In order to maintain stability of residential areas, non-residential development within or abutting residential districts and multiple family development abutting single family residential districts, shall provide a fence or a wall or a combination of a berm and landscaping so as to provide a continuous ninety (90) percent opaque solid screen not less than eight (8) feet in height to form a continuous screen along such abutting property lines. In addition, one tree shall be provided for each thirty-five (35) lineal feet or fraction thereof of such landscape barrier. Notwithstanding, all developments shall comply with the landscape requirements of Article XIV. Where*

*a conflict exists with the standards of this paragraph, the more restrictive requirement shall prevail.”*

In addition, the dry detention swale should not be used for the parking of ATV or other equipment, but should be maintained with the approved shrub and tree plantings.

7. *Available Potable Water.* The property is proposed to be serviced by well.
8. *Wastewater Service.* The property is proposed to be serviced by a septic tank.
9. *Soil Erosion, Sedimentation Control, and Estuary Water Resource Protection.* The site plan requires the installation of silt fence and erosion control measures at the time of development.

**STAFF FINDINGS AND RECOMMENDATION:**

Based upon the Land Development Code and the Comprehensive Plan, we are recommending approval with conditions. The applicant needs to provide site lighting details and the location of a dumpster enclosure and or mechanical equipment if they are being utilized onsite. The applicant will also be required to provide appropriate screening of abutting residential properties as required by the Land Development Code. A traffic study may be necessary to better determine traffic safety impacts onto Malabar Road. Signage needs to be shown on the site plan if any is proposed.

TOWN OF MALABAR

AUG 23 2020

RECEIVED



**SITE PLAN**

MORRIS SMITH  
TOWN ENGINEER  
REVIEW

FOR  
ROUTE 1 MOTOR SPORTS  
2740 MALABAR ROAD

TOWN OF MALABAR  
MEMORANDUM

AUG 27 2020

RECEIVED

Date: August 27, 2020 Memo: 20-CE-13  
To: Denine Sherear, Building Department Manager Project No.  
From: Morris Smith, Town Engineer Variance No.:  
Ref: Route 1 Motor Sports – Storage Facility

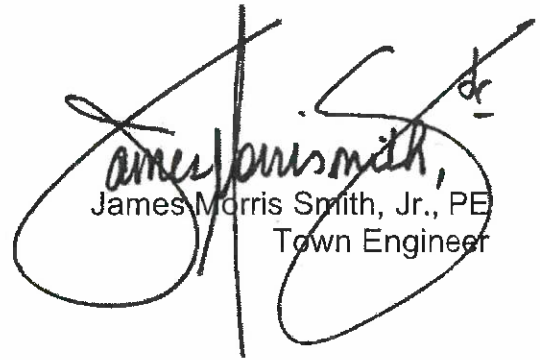
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As per your request, I have reviewed the Site Plan Application, Site Plan Civil Engineering drawings and the Stormwater Calculations, submitted for this site.

I have found that all of the data sets reviewed to be in compliance with the Town's Land Development Code.

The driveway access to the site will be from Malabar Road, State Road 514, therefore the driveway connection permit will need to be secured from the Florida Department of Transportation (FDOT). A copy of this FDOT permit will be provided to the Town.

Very Truly Yours,



James Morris Smith, Jr., PE  
Town Engineer

# **SITE PLAN**

**CARL WEAVER  
FIRE MARSHAL  
REVIEW**

**FOR  
ROUTE 1 MOTOR SPORTS  
2740 MALABAR ROAD**

**COASTAL FIRE SAFETY, LLC MEMORANDUM**

DATE: August 27, 2020  
TO: Denine M Sherear  
Building Department Manager  
FROM: Carl F Weaver, CFPS, EFO  
Contract Fire Marshal  
SUBJECT: Route One Motorsports Site Plan

TOWN OF MALABAR

AUG 28 2020

RECEIVED

Per our discussion I reviewed the site plan for the subject property on August 12, 2020, and I did not find any fire code deficiencies during my review. My please let me know if you have any questions. Thank you

# SITE PLAN

## Article III District Provisions Table

FOR  
ROUTE 1 MOTOR SPORTS  
2740 MALABAR ROAD

TABLE 1-3.3(A) SIZE & DIMENSION REGULATIONS

Zoning District	Minimum Lot (1)		Depth (ft.)	Maximum Height (ft.) stories	Minimum Floor Area (sq. ft.)	Setback (ft.) <sup>2</sup>			Maximum Impermeable Surface Ratio (%)	Maximum Stabling Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater
	Size (sq. ft.)	Width (ft.)				Front	Rear	Side (ft.)				
CL	20,000	100	150	35/3	Minimum Floor Area: 900 Max. Area: 4,000	50	25	10' <sup>4</sup> 15' <sup>4</sup>	65	0.30	35	N/A
CG	20,000	100	150	35/3	Minimum Floor Area: 1200 Minimum Hotel/Motel Area: 300 Each Unit	50	25	20' <sup>4</sup> 15' <sup>4</sup>	65	0.20	35	N/A
Industrial Development												
IND	20,000	100	150	35/3	Minimum Floor Area: 1200	50 100 <sup>6</sup>	25 100 <sup>6</sup>	20 100 <sup>6</sup>	70	0.42	30	N/A
Institutional Development												
INS	20,000	100	150	35/3	Minimum Floor Area: 1200	50	25	20	60	0.30 0.10 <sup>6</sup>	40	N/A
Coastal Preservation												
CP	No Size or Dimension Standards Adopted											

<sup>1</sup>Minimum size sites and lots include one-half of adjacent public right-of-way.  
<sup>2</sup>Minimum setbacks determined from the existing right-of-way line where the yard abuts a public street pursuant to the above cited standards or from the center of the right-of-way pursuant to Tables 1-8.3(E) whichever is most restrictive.  
<sup>3</sup>Setback where rear lot line abuts an alley.  
<sup>4</sup>Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such case the more restrictive abutting setback shall apply.  
<sup>5</sup>Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.  
<sup>6</sup>Recreation activities maximum FAR shall be .10.  
<sup>7</sup>In RR-65 Zoning, side and rear setback may be reduced for accessory structures to equal the height of the accessory structure but under no condition be reduced to less than 15 feet. If the height of the accessory structure height is 20 feet, the side and rear setbacks for that building would be 20 feet.

# SITE PLAN

## ARTICLE VII

Sec.1-7.1.A PZ Review steps

Sec. 1-7.2 A thru K Considerations

Sec. 1-7.3. Site Plan Info

FOR

ROUTE 1 MOTOR SPORTS

2740 MALABAR ROAD

Article VII

SITE PLAN REVIEW

Section 1-7.1. Applicability and filing procedure.

Site plan approval, as provided for herein shall be required for each of the following:

1. All permitted uses, except single family homes or single family home accessory structures. However, all uses and structures shall comply with surfacewater management criteria of Article VIII.
2. All conditional uses.
3. Any use or change in use resulting in one thousand (1,000) square feet of impervious surface area on the entire site.
4. The provisions of Article VIII: Surface Water Management shall apply to all site plans as if the same were incorporated in this Article.
5. Any development including single family residences which will involve any clearing, grading or other form of disturbing the land by the movement of earth provided that any one of the following descriptions applies to said movement.
  - (a) Excavation, fill or any combination thereof which will exceed five hundred (500) cubic yards.
  - (b) Fill which will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
  - (c) Excavation which will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
  - (d) Excavation, fill or any combination thereof which will exceed an area of one thousand (1,000) square feet.
  - (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
  - (f) Whenever any amount of excavation or fill is proposed within one hundred (100) feet of a stream, stream channel or body of water a soil erosion and sedimentation control plan shall be provided.

A. *General Site Plan Review Procedure.* In all cases requiring site plan review, no structure or parking area, or part thereof, shall be erected or used, or land or water used, or any change of use consummated, nor shall any building permit be issued therefor, unless a site plan for such structure or use shall have been reviewed by the Town Planning and Zoning Board.

1. *Filing.* Before such site plan shall be approved, an application for such approval shall be filed with the Town Clerk then directed to the Building Official and/or the Town Engineer or other designated officials for their recommendation. Town Engineer is defined as that Town employee, or outside Florida registered engineer contracted by



the Town, responsible for performing the duties specified herein as the Town Engineer.

2. *Application, Fee and Disclosure of Ownership.* Such application shall be in a form substantially in accordance with the form prescribed by the Town Clerk, copies of which may be obtained from the Town Clerk's office. A written power of attorney authorizing a person other than the owner(s) to sign such application must be attached to said application.

All applications shall include a verified statement showing each and every individual person having a legal and/or equitable ownership interest in the property upon which the application for site plan approval is sought, except publicly held corporations, in which case the name and address of the corporation and principal executive officers will be sufficient.

The fee schedule for site plan review shall be as determined by resolution of the Town Council.

3. *Review by Town Staff and Planning and Zoning Board.* The application shall be forwarded to the Building Official or Town Engineer and such other staff as may be pertinent. The Town shall proceed to make appropriate studies and/or reviews required to make an appropriate evaluation. The application with evaluative comment shall then be forwarded to the Town Planning and Zoning Board for their consideration and action. The site plan review process shall be carried out in accordance with procedures established by the Planning and Zoning Board, so as to prevent inconvenience and delay to the project.



After reviewing a site plan and staff recommendations, the Planning and Zoning Board shall recommend approval or disapproval. The Planning and Zoning Board shall provide written comments documenting any conditions of approval. If site plan is recommended for disapproval, the Planning and Zoning Board shall specify in writing the reasons for recommending denial. All recommendations of the Planning Board together with the written record shall be forwarded to the Town Council for final action.

4. *Action by the Town Council.* The Town Council shall consider the recommendations of staff and the Planning and Zoning Board and approve with or without conditions, or disapprove the site plan. The Town Council may attach to its approval of a site plan any reasonable conditions, limitations or requirements which are found necessary, in its judgement, to effectuate the purpose of this Section and carry out the spirit and purpose of the Zoning Ordinance.

Any condition shall be made a written record and affixed to the site plan as approved. If the Town Council disapproves a site plan, the reasons shall be stated in writing and the appeal shall be to the Court of appropriate jurisdiction.

# SECTION 1-7.1

§ 1-7.1

MALABAR CODE

Zoning Board. The Town Council Chairperson shall report each change so approved to the Town Council for the record at the next scheduled meeting.

D. *Conformance with Zoning Regulations Required.* Any such building, structure or use shall be erected, altered, installed and maintained in full conformity with the provisions of the zoning ordinance and the approved site plan.

(Ord. No. 91-1, 3-19-91)

## Section 1-7.2. Considerations in reviewing site plans.

The Planning and Zoning Board shall not approve a site plan unless a finding is made that such site plan conforms to all applicable provisions of the land development regulations.

A. *Site Location and Character of Use.* The Comprehensive Plan together with the land development regulations, including size and dimension regulations, general provisions, performance standards, and the list of permitted and conditional uses, off-street parking, landscaping, required open spaces, yards and building setbacks shall collectively be the principal guides in determining the suitability of the location of the proposed use.

B. *Appearance of Site and Structures.* The appearance of site and structures shall be coordinated for the purpose of creating a pleasing and harmonious overall environment. The choice of building materials, plant materials, lighting and other building and site improvements shall be commensurate with the objectives of the subject use without generating adverse visual impact on surrounding properties or transportation corridors. Architectural style or design is not restricted. Evaluation of the appearance of a project shall be based on the quality of its overall design and relationship to the impacted area considering the following factors:

1. *Harmonious Overall Design.* The exterior of buildings and structures including mass, facade and materials shall be in harmony with the site and the general character of the impacted area and shall not be gaudy or garish. Awnings or ornamental features shall be designed in a manner harmonious with the building design and shall be of appropriate scale, shape, and pattern in order to reinforce good design principles. Similarly, awnings or ornamental features shall not use incompatible or extraordinary scale, shapes, color schemes, patterns or other extraordinary features for purposes of attracting attention. The appearance of buildings and structures shall be disapproved under Section 1-7.2(B) in extreme cases only and reasonable doubt shall be resolved in favor of the applicant.
2. *Location and Screening of Mechanical Equipment, Utility Hardware and Waste Storage Areas.* Mechanical equipment or other utility hardware other than antennas and stacks on roofs shall be harmonious with the building or they shall be located and/or screened so as not to be visible from any public ways within the impacted area. Similarly, refuse and waste storage areas shall be screened from adjacent properties and public ways by appropriate fences, walls or hedges. In cases where dumpsters must be located in areas highly visible from any public

- right-of-way, the Town Planning and Zoning Board shall be authorized to require appropriate vegetative or structural screening to shield an unsightly condition.
3. *Commercial and Industrial Activities Conducted in Enclosed Buildings.* All businesses, services or manufacturing or processing shall be conducted within completely enclosed buildings. If the Town Council determines that a demonstrated necessity exists for outside storage or display due to the impracticality and unreasonableness of enclosure of such services, storage and display areas, in such case such service, storage and display areas or yards shall be screened by a continuous fence or wall or by landscaping and berm system so as to provide a ninety (90) percent opaque screen with a minimum height of five (5) to eight (8) feet, unless the same is demonstrated by the applicant to the Town Council's satisfaction to be impractical and unreasonable.
  4. *Exterior Lighting.* Exterior lighting shall be provided and shall be so arranged as to shield or deflect the light from adjoining properties and public streets.
- C. *Access, Internal Circulation, Off-Street Parking and Other Traffic Impacts.* The Town Building Official and/or designated staff shall advise on matters related to this subsection 1-7.2(C):
1. *Internal Circulation System Design and Access/Egress Considerations.* Driveways, curb cuts, and areas for the parking and internal circulation of vehicles shall be located, designed and controlled so as to provide for safe and convenient

circulation within the site and safe and convenient access from and onto adjoining streets. The Town Staff shall review such design considerations based on standard traffic engineering principals and practices and such specifications as may be adopted by resolution of the Town Council. Requirements of Article IX of this Chapter [Code] shall be applied for off-street parking. Among factors to be considered shall be need for acceleration and deceleration lanes; the number, location and size of curb cuts and access drives from adjacent streets; the location and design of driveways and access aisles to parking spaces, the arrangement, delineation and marking for parked areas; and the means of access to buildings for fire-fighting apparatus and other emergency vehicles.

2. *Separation of Vehicular and Pedestrian Areas.* Parking areas and driveways shall be clearly identified and separated from principal pedestrian routes and recreation areas by curbs, pavement markings, planting areas, fences or similar features designed to promote pedestrian safety.
- D. *Traffic Impacts.* A traffic impact analysis shall be required for site plan reviews pursuant to standards, procedures and criteria defined herein. The traffic impact analysis is designed to achieve objectives stipulated in the transportation element of the Comprehensive Plan.
1. *Applicability.* A transportation impact study shall be required if:
    - (a) A proposed development generates more than one thousand (1,000) trips per day. Such development shall maintain a level of service C, daily condition and level of service D for peak hour conditions on collector and arterial street segments as noted below. The trip generation shall be based on the Institute of Transportation Engineers, Trip Generation Manual (1988) unless the applicant can demonstrate that unique development characteristics will result in substantially different rates.
  2. *Impact Study Areas.* The transportation impact study area shall include all arterial and collector streets within one half (1/2) mile of the site entrance and/or shall include the nearest arterial roads that will be impacted by the development. For developments which generate between five hundred (500) and one thousand (1,000) trips during the peak hour or over one thousand (1,000) trips during the peak hour, the study area shall be one (1) and three (3) miles respectively. Estimates of peak hour trip generation shall be determined by the applicant's Florida Registered Traffic Engineer and shall be approved by the Town Engineer. Peak hour traffic impact shall be assessed, with and without the development, for all collector and arterial road segments and their respective intersections with other collector and arterial roadways within the designated service area. If additional traffic counts are warranted, they shall be the applicant's responsibility.
  3. *Contents.* The transportation impact analysis shall contain the following:
    - (a) A detailed description of the collector and arterial road network, including existing and proposed roadway widths and right-of-way widths; existing and

- proposed traffic signals and traffic control devices; existing and proposed ingress and egress locations, including existing or proposed acceleration or deceleration lanes or turning lane improvements.
- (b) A detailed description of the existing and proposed land uses within the impacted study area including stages of construction and anticipated completion dates.
  - (c) A detailed description of the existing traffic conditions, including the Average Annual Daily Traffic (AADT) and the highest average peak hour volume for all collector and arterial roads within the study area. The AADT shall be based on a current twenty-four (24) hour traffic count provided by the applicant. The current twenty-four (24) hour traffic count shall be adjusted to compensate for seasonal variations. This adjustment shall be determined by utilizing Florida Department of Transportation (DOT) or traffic counts calculated quarterly at traffic count stations in the Town of Malabar. The methodology and assumptions underlying the annual adjustment shall be clearly stated. The average peak hour traffic volume shall be the highest average peak hour volume for any weekday twenty-four (24) hour period.
  - (d) A detailed Service Level C condition analysis of all collector and arterial roadways and intersections within the study area based on procedures outlined in the 1965 Highway Capacity Manual (including the Northwestern Monographs) and in the Transportation Research Circular No. 212, "Interim Material on Highway Capacity," Transportation Research Board, January, 1980.
  - (e) A description of all the existing collector and arterial roadways and intersections that are at or below the Service Level C condition (Service Levels C, D, E, or F).
  - (f) A detailed analysis of traffic impact of the development, including trip generations (average 24-hour weekday and highest average weekday hour), internal and external trips, trip absorptions and trip distributions over all collector and arterial roads within the study area. The trip generation shall be based on the latest edition of the Institute of Traffic Engineers Trip Generation Manual, unless a qualified traffic engineer demonstrates that unique qualities of the development will result in different rates. All methodology and assumptions must be clearly stated.
  - (g) A detailed cumulative transportation impact of the existing traffic conditions including traffic from the development, normal increases in traffic and increases from allocation of road capacity to already approved projects. This analysis must identify projected AADT and peak hour volumes for all the collector and arterial roads and must describe all the roadways and intersections that will be at or below the Service Level C daily condition or Service Level D peak hour condition.
4. *Traffic Study and Traffic Data Inventory and File.* The Town Engineer shall keep a file on all traffic studies including the future capacity allocated for each project.

In determining the projected demand in subsection 1-7.2(D)(3)(g) above, the impact analysis shall include trips already allocated in previous development approvals. The Town shall provide information when available and where appropriate data already exists in order to prevent duplication of efforts and unnecessary costs.

5. *Improvements to Roadways and/or Traffic Control Devices.* Transportation improvements such as intersection improvements; additional turning, acceleration or deceleration lanes; modified land delineations; new or improved traffic control devices; or other such improvements may be required in order to maintain a level of service C daily condition and/or a level of service D peak hour condition. In such case, the applicant for a development permit may be required to fund and/or install the necessary improvements or provide a legal assurance, such as a performance bond or other surety approved by the Town Attorney, prior to the issuance of a building permit. Where the traffic impact does not generate traffic volume that substantiates the total improvement needs, the Town Council shall determine an equitable participation in the required improvement. The participation by the applicant may, at the discretion of the Town Council, consist of a pro-rata dollar share of improvement costs.

E. *Open Space and Landscape.* Open space shall be comprised of permeable open surfaces, excluding principal structures and impermeable surfaces. No parking areas shall be included as open area. Active recreation areas may be counted as open area.

1. *Residential Open Space Requirement.* All residential development shall preserve a minimum of fifty (50) percent of the upland area as open space. Uplands shall be defined as those areas which are not permanent water bodies or wetlands as defined in Section 1-7.2(G)(2) at the time of application. A maximum of thirty (30) percent of any totally landlocked water body may be credited as open space. At no time shall water bodies comprise more than twenty (20) percent of the total upland open space requirements.
2. *Non-Residential Open Space Requirement.* Non-residential development shall provide a minimum of twenty (20) percent open space.
3. *Mixed Use Open Space Requirement.* Where residential and non-residential development is permitted pursuant to the Town of Malabar Land Development Regulations, the following pro rata open space requirement shall be enforced.

$$OS = \frac{NRA}{TA} \times .2 TA + \frac{RA}{TA} \times .5 TA$$

- OS = Open Space
- NRA = Non-Residential Acreage
- RA = Residential Acreage
- TA = Total Area

4. *Use of Open Space.* Open space and spaces between buildings required by this Chapter [Code] shall be located and improved so as to reasonably serve the purposes for which the requirements are intended. These purposes include provisions

- of adequate light and air, appropriate separation between buildings and uses, enhancement of privacy, sufficient area for recreation and leisure pursuits (in residential areas) and to facilitate surface water drainage.
5. *Preserve Natural Landscape.* The natural landscape of the site shall be preserved as much as possible for purposes of enhancing the general appearance of the site as well as to prevent excessive storm water run-off, erosion, siltation and dust.
- F. *Required Screening of Abutting Residential and Non-Residential Uses.* In order to maintain stability of residential areas, non-residential development within or abutting residential districts and multiple family development abutting single family residential districts, shall provide a fence or a wall or a combination of a berm and landscaping so as to provide a continuous ninety (90) percent opaque solid screen not less than eight (8) feet in height to form a continuous screen along such abutting property lines. In addition, one tree shall be provided for each thirty-five (35) lineal feet or fraction thereof of such landscape barrier. Notwithstanding, all developments shall comply with the landscape requirements of Article XIV. Where a conflict exists with the standards of this paragraph, the more restrictive requirement shall prevail. Credit may be given for existing plant material against the requirements of this section. Adjustments may be rendered by the Town Council to the requirements of this paragraph based on demonstrated need by the applicant and recommendations of Town Staff and the Planning and Zoning Board. The site plan applicant and successors in ownership shall maintain the continuous screen in perpetuity.
- G. *Flood Prone Land and Wetland Preservation.* In order to promote and preserve natural hydrological conditions and to preserve water recharge areas, water supply and water quality, and natural habitats, the following regulations shall be applied to wetland areas.
1. *Flood Prone Land.* Construction in flood prone areas shall comply with the Town's flood plain management policies.
  2. *Wetland Defined.* Wetland areas shall include hydric soils and wetland species identified by the DER pursuant to § 17-4.022, F.A.C. Site specific investigations shall confirm the existence of wetland systems based on on-site soil and vegetative analysis with assistance of appropriate representatives of the State Department of Environmental Regulation, the St. John's River Water Management District, U.S. Army Corps of Engineers, and the U. S. Soil Conservation Service.
  3. *Wetland Development Restrictions and Interpretations.* No development other than approved passive recreation, open space, restricted accessway, bird sanctuary, natural stormwater retention/detention, or natural preserve shall be allowed in a wetland area unless "competent evidence" indicates that:
    - (a) Dominant vegetation is no longer comprised of wetland types normally found in the specified soil; and
    - (b) The water regime has been permanently altered artificially or naturally in a manner to preclude its associated watershed areas from functioning as wetlands.

Applicants for site plan review shall have an opportunity to so demonstrate that any wetland designations within the confines of their property no longer function as wetlands as defined above. The County urban forester, the soil conservationist as well as representatives of the State Department of Environmental Regulation, U.S. Army Corps of Engineers and the St. John's River Water Management District may be made a part of the site plan review process to assist in identifying and delineating wetlands. The applicant may request that a waiver of the provisions of this section be granted by the Planning and Zoning Board for small isolated marginal wetlands for which the developer shall provide viable compensatory preserve areas which mitigate against a loss of viable wetland systems. The Planning and Zoning Board shall consider the recommendation of the Town Engineer prior to taking action on such a request and shall grant the same only in the case of an overriding public interest. Finally, this section shall not prevent the construction of one single family home on existing lots of record.

The provisions of Article VIII: Surface Water Management are hereby incorporated into this subsection by reference.

- H. *Available Potable Water.* All future applications for new development shall be required to connect to a central water system except as herein provided.
1. *Exceptions for Limited Scale Development.* When connection to a central water system is not feasible, applicants for limited scale development adaptive to service by an interim water system, may be allowed if approved by the County Director of Public Health subject to the following conditions:
    - a. Assurance in writing from a central water utility that extension of lines to the development is not part of its master plan for expansion; and,
    - b. Agreement by the applicant that the system shall be connected to the central utility system at no cost to the Town when service becomes available. The applicant shall be required to post a performance bond or other surety approved by the Town Council after considering recommendation of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing water system improvements required as a condition of subdivision approval.
  2. *Intent of Regulating Procedure.* The intent of this permitting procedure is: (1) to maintain a comprehensive data base concerning water supply and quality; (2) to discourage unregulated proliferation of private water systems; and (3) to achieve a subsystem design which can be effectively and economically integrated into a central public system certified and regulated by an approved local public service entity at a later point in time and to encourage a compact urban development pattern by managing the location, timing and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity; and (4) to discourage all new subdivision of land unless served by a central water utility and to similarly discourage



nonresidential development on existing lots of record when such sites are not serviced by a central water utility.

3. *Testing of Private Wells.* In addition, the Town may undertake any necessary action to prevent or remedy water supply and water quality problems. To this the Town may request analysis of water quality and supply of all permitted private wells based on evolving problems and issues associated with water resources. The private well owner may be assessed by the Town after due public hearings for needed water quality, supply problems, requisite testing, laboratory analysis, and improvements, deemed necessary and fiscally equitable.
- I. *Wastewater Service.* All applicants for development shall be required to connect to a public wastewater utility regulated by the Public Service Commission, the Department of Environmental Regulation (DER) and/or the County Environmental Health Department. Where a system for wastewater is unavailable, the applicant shall provide an interim wastewater system approved by the DER and/or the County Environmental Health Department and shall agree in writing that the system will be connected to a public wastewater utility at no cost to the Town when service becomes available.
1. *Intent and Purpose of Regulating Wastewater Disposal Systems.* The intent of this provision is: (1) to discourage unregulated proliferation of private package treatment plants; (2) to achieve a subsystem design which can be effectively and economically integrated into a major central public wastewater system at a future point in time which would be certified and regulated by a local public entity; and (3) to encourage a compact urban development pattern by managing the location, timing, and scale of land development to assure that new development can be efficiently served by public facilities without adversely impacting the City's fiscal capacity.
  2. *Design Standards and Required Guarantee.* The system shall be designed to satisfy performance standards of the Department of Environmental Regulation (DER), other applicable regional, state, or federal standards, or standards which may be hereafter adopted by the Town. The applicant shall be required to post a performance bond or other surety approved by the Town Council after considering recommendations of the Town Engineer and the Town Attorney. The performance bond shall be for the express purpose of constructing waste water system improvements required as a condition of subdivision approval.
  3. *Regulating Use of Septic Tanks and Wastewater Disposal Fields.* Notwithstanding any other provisions of this Code, when septic tank and waste disposal field is the only means of individual sewage disposal, the County Environmental Health Department shall enforce State law regulating use of septic tanks and wastewater disposal fields.
- J. *Soil Erosion, Sedimentation Control, and Estuary Water Resource Protection.*
1. *Applicability.* In order to prevent both soil erosion and sedimentation, and to protect both ground and surface water resources, a soil erosion and sedimentation

control plan shall be required as a part of an application for site plan review whenever a development will involve any clearing, grading, or other form of disturbing land by the movement of earth, provided that any one of the following descriptions applies to said movement:

- (a) Excavation, fill, or any combination thereof will exceed five hundred (500) cubic yards.
  - (b) Fill will exceed three (3) feet in vertical depth at its deepest point as measured from the natural ground surface.
  - (c) Excavation will exceed four (4) feet in vertical depth at its deepest point as measured from the natural ground surface.
  - (d) Excavation, fill or any combination thereof will exceed an area of one thousand (1,000) square feet.
  - (e) Plant and/or tree cover is to be removed from an area exceeding one thousand (1,000) square feet on any parcel of land.
  - (f) Whenever excavation or fill is proposed within one hundred feet of a stream, stream channel, or body of water, a soil erosion and sedimentation control plan shall be provided.
2. *Definitions.* For the purposes of this subsection 1-7.2(J) the following definitions are provided:
- (a) *Soil erosion* shall mean any removal and/or loss of soil by the action of water, gravity, or wind. Erosion includes both the detachment and transport of soil particles.
  - (b) *Sedimentation* shall mean the settling out of the soil particles which are transported by water or wind. Sedimentation occurs when the velocity of water or wind in which soil particles are suspended is slowed to a sufficient degree and for a sufficient period of time to allow the particles to settle out of suspension or when the degree of slope is lessened to achieve the same result.
  - (c) *Erodible slope* shall mean all slopes with inclines in excess of four (4) percent unless modified by the Town Engineer based on consideration of specific soil conditions.
  - (d) *Large flat surface area (unpaved)* shall mean an area which is flat or whose slope is less than four (4) percent and which consists of more than one thousand (1,000) square feet of exposed soil.
3. *Erosion Water Quality Control Measures.* All measures necessary to minimize water quality degradation soil erosion and to control sedimentation in the disturbed land area shall be implemented. The following protection shall be provided for all disturbed areas: minimize velocities of water runoff, maximize protection of disturbed areas from stormwater runoff, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation water control degradation control

follows. For each one, the purpose(s) of requiring control is described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which a control plan is required:

- (a) *Erodible slopes*: Prevent detachment and transportation of soil particles from slope.
- (b) *Streams, streambeds, streambanks, bodies of water, lake shorelines*: Prevent detachment and transportation of soil particles.
- (c) *Drainageways*: Prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetlands); promote deposit or sediment loads (traversing these areas) before these reach bodies of water.
- (d) *Land adjacent to streams, ponds, lakes, and wetlands*: Prevent detachment and transportation of soil particles. The applicant shall not adversely impact aquatic vegetation within the sensitive transition zone located between the upland and the mean high water line (ordinary high water line for non-tidal waters). No such vegetation shall be disturbed without approval of the Town. Any such approval shall be based on a demonstrated necessity which promotes the overall public health, safety and welfare. Furthermore, any such disturbance of aquatic vegetation shall be compensated by revegetation based on a plan approved by the Town as stipulated herein. The applicant shall coordinate plans for development along the riverfront or tidal waters with the Florida Department of Environmental Regulation as well as the U.S. Army Corp of Engineers where tidal waters might be impacted. Where deemed appropriate by the Town, the site plan shall include the planting of native indigenous aquatic plant vegetation to promote stability of the shoreline and to enhance water quality.
- (e) *Enclosed drainage structure*: Prevent sedimentation in structure, erosion at outfall of system, and deposit of sediment loads within system or beyond it.
- (f) *Large flat surface areas (unpaved)*: Prevent detachment of soil particles and their off-site transportation.
- (g) *Impervious surfaces*: Prevent the detachment and transportation of soil (in response to an increase in the rate and/or volume of runoff of the site or its concentration caused by impervious surfaces).
- (h) *Borrow and stockpile areas*: Divert runoff from face of slopes which are exposed in the excavation process; convey runoff in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition. Creation of water bodies by excavation and/or impoundment shall comply with applicable provisions of Article VIII.
- (i) *Adjacent properties*: Prevent their erosion and/or being deposited with sediment.

K. *Additional Considerations*. The Planning and Zoning Board or the Town Council may require additional information be provided by the petitioner for site plan review in

order to carry out a review process which is necessary to fulfill the purpose, intent and spirit of this Chapter [Code].

(Ord. No. 91-1, 3-19-91)

**Section 1-7.3. Information to be included in site plan.**

A site plan, for the purposes of this Section, shall include, but not necessarily be limited to, the following requirements:

1. Site plan with lot configuration, finished ground floor elevations, contours and designating number of dwelling units, square footage of site, building coverage, square footage of paved areas and open area, and setbacks to scale indicating compliance with regulations.
2. A scaled drawing of the side, front and rear facades of the building or structure, including roof pitch, fenestration including treatment of roof line, windows, and doors as well as a description of materials to be used.
3. Generalized floor plan indicating uses and square footage of each proposed use within each building or structure, building exterior construction material and color, and building height.
4. Location and character of all outside facilities for waste disposal; storage areas; or display.
5. Location and dimensions of all curb cuts, driveways, dedicated cross-easements including their design, location, alignment, dimensions, and specifications; details of off-street parking and loading areas, and vehicular surfaces available for maneuvering, including surface materials, number of employees and number and type of vehicles owned by the establishment. Any combined off-street parking facilities shall be submitted with an agreement specifying the nature of the arrangement, its anticipated duration, and signatures of all concerned property owners.
6. Location of all pedestrian walks, malls, yards and open spaces.
7. Location, size, character, color and copy, height and design of all signs.
8. Location and character of landscaped areas and recreation areas.
9. Location, design and character of all public, semi-public, or private utilities such as water and wastewater disposal facilities, underground or overhead electric lines, gas transmission lines, or other similar facilities or services.
10. Location, height and general character of perimeter or ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners.
11. Surface water drainage facilities plan showing existing and proposed grading, drainage patterns and earthwork computations, certified by an engineer or architect registered in the State of Florida.

order to carry out a review process which is necessary to fulfill the purpose, intent and spirit of this Chapter [Code].  
(Ord. No. 91-1, 3-19-91)

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9. Location, design and character of all public, semi-public, or private utilities such as water and wastewater disposal facilities, underground or overhead electric lines, gas transmission lines, or other similar facilities or services.
10. Location, height and general character of perimeter or ornamental walls, fences, landscaping, including berms and other required screening devices and any other plans for protecting adjacent property owners.
11. Surface water drainage facilities plan showing existing and proposed grading, drainage patterns and earthwork computations, certified by an engineer or architect registered in the State of Florida.

12. Location of existing easements and rights-of-way.
  13. Land survey with complete legal description prepared and certified by a registered surveyor. All architecture or engineering designs must be prepared by a professional architect or engineer registered in the State of Florida pursuant to Florida Statutes 467 and 471 as exists or hereafter amended and which require an appropriate seal on the subject plan prior to issuance of a building permit.
  14. Verified statement showing each and every individual person having a legal and/or equitable ownership interest in the subject property except publicly held corporations whose stock is traded on a nationally recognized stock exchange, in which case the name and address of the corporation and principal executive officers will be sufficient.
  15. The applicant for site plan review may, at his option, submit a preliminary site plan sketch indicating a general idea of how it is proposed to develop the parcel. Upon tentative approval of a sketch, the applicant can then proceed to have a detailed site plan prepared in accordance with the requirements in this section.
- (Ord. No. 91-1, 3-19-91)

**Section 1-7.4. Approval, disapproval and appeal procedure.**

A. *Approval Procedure.* Upon the approval of such site plan by the Town Council, a building permit may be issued pursuant to Subsection 1-7.4(B) by the Town Building Official. Appeals to disapprovals by the Town Council shall be to the Court of jurisdiction.

B. *Timing of the Release of Building Permits.* No permits shall be granted by the Building Official until the time for appeal from the decision of the Town Council as herein provided shall have expired. Appeal to the Courts shall not bar the issuance of permits unless the court grants an injunction.

C. *Disapproval Procedure.* If the Planning and Zoning Board recommends denial of a site plan or if the Town Council denies a site plan approval, the reasons said plan was denied shall be specified with specific reference to those sections of the applicable Town Ordinances on which said denial was based. No reasons other than those so stated shall be presented to the Town Council or to the court.

**Section 1-7.5. Termination, extension and transferability.**

The site plan approval shall terminate twelve (12) months thereafter, if construction has not been started as evidenced by steady and continuous progress, including the pouring of footings by said termination date. Extensions may be granted by the Town Council at its sole and absolute discretion. Any request for extension shall be made in writing prior to the expiration of the site plan and such request for extension shall be reviewed by the Planning and Zoning Board which shall make a recommendation on the request for extension to the Town Council.

**TOWN OF MALABAR**

**PLANNING AND ZONING**

**AGENDA ITEM REPORT**

**AGENDA ITEM NO: 7.a.**

**Meeting Date: September 9, 2020**

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

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**SUBJECT: Ordinance 2020-12 Amending District Provisions Table 1-3-3.3(A)**

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**BACKGROUND/HISTORY:**

**See attached Packet**

**ATTACHMENTS:**

- Package from Debby Franklin, C.M.C., Town Clerk/Treasurer

**ACTION OPTIONS:**

Discussion

# TOWN OF MALABAR

## MEMORANDUM

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**Date:** September 3, 2020 2020-TC/T-037  
**To:** Denine Sherear, Bldg. Dept. Manager, P&Z Board Secretary  
**From:** Debby K. Franklin, C.M.C., Town Clerk/Treasurer  
**Ref:** Upcoming Action for Council

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While reviewing the recent recommendation from P&Z related to tiny homes, the Attorney noticed that the minimum square footage for single family homes in RM-6 and R/LC was missing from the Table 1-3.3(A). RM-4 also permits single family homes but does not specify a minimum square footage. The attached ordinance provides for a minimum square footage of 1,200 for single family homes in these Zoning classifications.

There is also a conflict between the language in the Comprehensive Plan for commercial development in R/LC which states in the narrative that it shall not exceed 4,000sf. The Attorney has stated that the Table 1-3.3(A) should be corrected to delete the .20 percent. That will eliminate the conflict between the narrative in the Comp Plan and in Article III, District Provisions of the Land Development Code.

This ordinance would correct these two issues. A separate ordinance is being created to address the tiny homes specifically.



ORDINANCE 2020-12

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE AMENDMENT TO ARTICLE III, DISTRICT PROVISIONS, SECTION 1.3.3, TABLE 1-3.3(A) OF THE LAND DEVELOPMENT CODE, PROVIDING CORRECT LANGUAGE FOR THE MINIMUM LIVING AREA OF 1,200 SQUARE FEET FOR SINGLE FAMILY HOMES IN RESIDENTIAL/LIMITED COMMERCIAL (R/LC) RM-4 AND RM-6 ZONING; REMOVING MAXIMUM BUILDING COVERAGE 0.20 FOR COMMERCIAL USE IN R/LC; PROVIDING FOR CODIFICATION AND REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, The Town Council has determined there is a need to clarify Table 1-3.3(A) of Article III, District Provisions, to state that 1,200 is the minimum square footage for single family homes in Residential/Limited Commercial (R/LC) RM-4 and RM-6 zoning; and

**WHEREAS**, The Town Council has determined there is a need to eliminate the conflict in Table 1-3.3(A) of Article III, District Provisions, by deleting the 0.20 in the *Maximum Building Coverage* column for R/LC as the maximum floor area is stated as 4,000 square feet for commercial development in Residential/Limited Commercial (R/LC); and

**WHEREAS**, The Town Council approved these recommendations upon advice of the Town Attorney.

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

**Section 1.** Findings. The above statements are correct.

**Section 2.** Table 1-3.3(A) is hereby amended as directed above. See attached Table 1-3.3(A).

**Section 3.** Codification. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida, that the provisions of this ordinance be codified into the next supplement update of the Land Development Code of the Town of Malabar, Florida.

**Section 4.** Severability. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder of the ordinance shall not be affected, and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision

**Section 5.** Conflicts. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

**Section 6.** Effective Date. This ordinance shall take effect immediately upon its adoption. This ordinance was moved for adoption by Council Member \_\_\_\_\_. This motion was seconded by Council Member \_\_\_\_\_, and being put to a vote, the vote was as follows:

Council Member District 1 Grant Ball \_\_\_\_\_  
Council Member District 2 Brian Vail \_\_\_\_\_

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS See numbered Notes below

Zoning District	Minimum Lot (1)			Maximum Height (ft./stories)	Min Sq Ft Living Area Commercial Area	Setback (ft.) from property line or centerline(2)				MISR (%)	MBC	MOS	Maximum Density (units per acre)
	Size (sq. ft.)	Width (ft.)	Depth (ft.)			Front	Rear	Side interior	Side corner				
<b>Rural Residential Development</b>													
RR-65	65,340	150	250	35/3	Single Family:1500	40	30 (7)	30	30	20	N/A	80	1
<b>Traditional Single-Family Residential Development</b>													
RS-21	21,780	120	150	35/3	1,800	35	20	15	15	35	N/A	65	2
RS-15	15,000	100	120	35/3	1,500	30	20	15	15	45	N/A	55	3
RS-10	10,000	75	100	35/3	1,200	25	20	10	10	50	N/A	50	4
R/LC	20,000	100	150	35/3	1,200	25	20	10	10	50	N/A	50	2
RM-4				35/3	1,200								
RM-6				35/3	1,200								
<b>Multiple Family Residential Development and Mixed-Use Development</b>													
RM-4	5-acre min Site	200	200	35/3	Multi Family 1-bedrm 900 2-bedrm 1100 3-bedrm 1300 Ea additional bedrm 120	60	40	40	40	50	N/A	50	4
RM-6	5-acre min Site	200	200	35/3	Multi Family 1-bedrm 500 2-bedrm 700 3-bedrm 900 Ea additional bedrm 120	60	40	40	40	50	N/A	50	6
R/LC Residential	20,000	100	150	35/3	Multi Family 1-bedrm 500 2-bedrm 700 3-bedrm 900 Ea additional bedrm 120	50	25 (5)	10 (4)	20	65	N/A	35	6
R/LC Mixed Use	20,000	100	150	35/3	Commercial Min 900 sf Max: 4,000sf	50	25	10 (4)	20	65	20 N/A	35	6

TABLE 1-3.3 (A) SIZE AND DIMENSION REGULATIONS See numbered Notes below

Zoning	Minimum Lot (1)		Depth	Max Height	Floor Area	Setback (ft.) from property line or centerline (2) See also Note 5					MBC %	MOS %	Maximum Density
	Lot Size	Width				Front (2)	Rear (5)	Side interior (I)	Side (C)	MISR %			
<b>Mobile Home Residential Development</b>													
R-MH	Size: 5 acres Lot: 7000sf	N/A	N/A	N/A	N/A	10	8	8	10	50	N/A	50	6
<b>Office Institutional Development</b>													
OI	20,000	100	150	35/3	Minimum floor Area: 1,000sf	35/60 (2)	25	20	25	65	20	35	N/A
INS	20,000	100	150	35/3	Minimum floor Area: 1,200sf	50	25	20	30	60	20 (6)	40	N/A
<b>Commercial Development</b>													
CL	20,000	100	150	35/3	Minimum floor Area: 900sf Max: 4,000sf	50	25	10(4) 15(3)	20	65	20	35	N/A
CG	20,000	100	150	35/3	Minimum floor Area: 1,200sf Min hotel/motel 300sf ea unit	50	25	20(4) 15(3)	30	65	20	35	N/A
IND	20,000	100	150	35/3	Min 1,200sf	50 (5)	25 (5)	20(5)	30(5)	70	42	30	N/A
CP	No size or Dimension Standards Adopted												

Note 1: Minimum lot size include plus one-half of adjacent public right-of-way.

Note 2: Setbacks determined pursuant to Table 1-3.3(A) or (E) whichever is most restrictive.

Note 3: Setbacks where rear lot line abuts an alley.

Note 4: Setback shall be greater where side property line abuts a district requiring a larger setback on the abutting yard. In such cases the more restrictive abutting setback shall apply.

Note 5: Where any yard of industrial zoned property abuts a residential district, the building setback for such yard shall be 100 feet.

Note 6: Recreation activities Maximum Building coverage shall be 20%.

Note 7: Sides and rear may be reduced to 15' for accessory structures only and will increase in proportion with the maximum height of the accessory structure, i.e. if the height of the accessory structure is 20 feet, this will equal a 20-foot setback.

# Comp. Plan

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%

- 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 maximum of 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'.

# Malabar Article III

## DISTRICT PROVISIONS

§ 1-3.1

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

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

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

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

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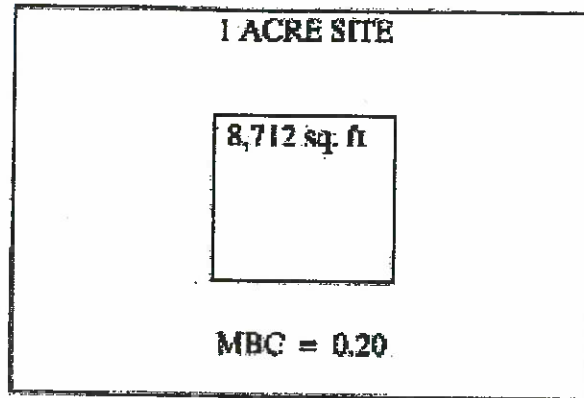
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Chair Wayne  
Abare

§ 1-3.3

MALABAR LAND DEVELOPMENT CODE

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



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

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

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

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

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

# TOWN OF MALABAR

## PLANNING AND ZONING

### AGENDA ITEM REPORT

**AGENDA ITEM NO: 7.b.**  
**Meeting Date: September 9, 2020**

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

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**SUBJECT: Discuss local Regulations for Mobile Food Vendors**

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

The PZ Board discussed the regulations a few times in the past and it is before our Board per Chair Wayne Abare. This continued discussion will be to gather a list of questions, restricted locations, and zoning areas that Mobile Food Vendors can park. It is suggested to have a joint workshop with Town Council to discuss these regulations for the Town of Malabar.

Also, reviewed was Senate Bill 474 for Food Vendor Regulations as discussed by PZ Board at a past meeting this has to do with licensing and locations.

#### **ATTACHMENTS:**

- Bill CS/SB 474 January 21, 2020 Flsenate.gov – Chair Wayne Abare

#### **ACTION OPTIONS:**

Discussion

SEP 03 2020

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*Submitted  
by chair  
Wayne  
Abare*

1. **Public Food Service Establishments BILL CS/SB 474 January 21, 2020**

**Present Situation**

Section 509.013(5)(a), F.S., defines the term “public food service establishment” to mean:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

The Division of Hotels and Restaurants within the DBPR is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

1. There are several exclusions from the definition of public food service establishment,
2. Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests.
3. • Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests.
4. • Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
5. • Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Health Care Care Administration or the Department of Children and Families
6. • Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under 500.12,F.S..
7. • Any place of business serving only ice, beverages, popcorn, and prepackaged items.
8. • Any vending machine that dispenses any food or beverage other than potentially hazardous foods..
9. • Any research and development test kitchen limited to the use of employees and not open to the general public.

**Effect of Proposed Changes**

**Section 66** of the bill creates s. 509.102, F.S, to preempt the regulation of mobile food dispensing vehicles (food truck) to the state. The bill prohibits local government from requiring a license, registration, or permit to operate a food truck. Under the bill, a local government may also not prohibit the operation of food trucks. It is not clear whether this prohibition applies to local regulation of the locations where a food truck may operate.



# Florida lawmakers back deregulation efforts: Sun-sentinel.com

TALLAHASSEE Feb 23, 2020— Local governments would be barred from licensing food truck vendors in their communities, as part of broader deregulation proposals that cleared final House and Senate committees Thursday.

The Senate Appropriations Committee and House Commerce Committee approved similar bills ([SB 474](#) and [HB 1193](#)) that meet part of a call by Gov. Ron DeSantis to scale back occupational regulations

Local governments would be barred from prohibiting the operation of food trucks.

Senate sponsor Ben Albritton, R-Wauchula, said the intent is to eliminate the duplication of state and local licensing requirements. He said local officials will still be able to dictate the hours and locations of food trucks.

Albritton added that while state sanitary rules would be in place for the vehicles, local zoning laws would still be enforceable.

"It is clear in this bill that if the local ordinance or the local perspective is that they do not want these mobile vendors operating in that downtown space, they still have every right and authority to provide for that," Albritton said. "And the local law enforcement or whoever they choose can still enforce that."

The food truck "preemption" drew opposition from the Florida League of Cities.

Jeff Branch, a lobbyist for the league, said after the meeting that local governments should be able to know who is operating in their communities. Branch added that even requiring the vendors to register without a charge would save time for local code enforcement and law enforcement.

"If they're aware of our regulations, they [the vendors] are less likely to get a zoning violation," Branch said.

Senate Minority Leader Audrey Gibson, D-Jacksonville, questioned the wisdom of the food-truck regulation changes.

"In cities and counties where the food trucks operate, it is the requirement of the locals to make sure that those trucks are operating safety, that they are operating in a sanitary manner," Gibson said.

Gibson added that the changes would reduce local revenue generated by small businesses.

"By preempting everything to the state, it goes to the state," she said.

DeSantis has repeatedly called for scaling back occupational licensing requirements.

"We feel this is going to put success more in the hands of folks and not have a guild mentality where you're trying to keep people out," DeSantis told reporters Thursday.

The committee actions came before the full House on Thursday voted 78-40 to approve a separate measure (HB 3) that would prevent local licensing of numerous types of occupations. It would preempt such licensing to the state.

Democrats voting against the proposal, calling it overly broad. But bill sponsor Michael Grant, R-Port Charlotte, said the intent is to “free up the workforce.”

A similar measure in the Senate (SB 1336) stalled Monday after being brought up by the Innovation, Industry, and Technology Committee.

*Jim Turner writes for the News Service of Florida.*