



# REGULAR TOWN COUNCIL MEETING

Thursday, September 17, 2020 at 7:30 pm

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

- a. **Approve Minutes of Regular Town Council Meeting of 09/03/2020**

Exhibit: Agenda Report Number 4a

**Attachments:**

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

- b. **Renew Government Relations Agreement with S.P.G. - Bill Barrett**

Exhibit: Agenda Report Number 4b

**Attachments:**

- Agenda Report Number 4b (Agenda\_Report\_Number\_4b.pdf)

5. BCSO REPORT
6. STAFF REPORTS
  - a. Manager
  - b. Clerk

7. PUBLIC COMMENTS

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

***Five (5) Minute Limit per Speaker***

8. PUBLIC HEARINGS: 4

- a. **Second Reading to Amend Zoning to be Consistent with the Current F.L.U.M. (Ordinance 2020-09)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 1.97+/- ACRE SITE LOCATED AT THE NW CORNER OF MALABAR ROAD AND MARIE STREET, ALSO KNOWN AS PARCEL 762 IN SECTION 36, TOWNSHIP 28 AND RANGE 37, MALABAR, FLORIDA FROM COMMERCIAL LIMITED (CL) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 8a

**Attachments:**

- Agenda Report Number 8a (Agenda\_Report\_Number\_8a.pdf)

**b. Second Reading: Approve Millage Levy for FY 2020/2021 (Ordinance 2020-10)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE MILLAGE RATE OF 2.3800 FOR THE LEVY OF AD VALOREM TAXES WITHIN THE TOWN FOR THE PERIOD FROM OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021, AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 8b

**Attachments:**

- Agenda Report Number 8b (Agenda\_Report\_Number\_8b.pdf)

**c. Second Reading: Approve Budget for FY 2020/2021 (Ordinance 2020-11)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE BUDGET OF \$2,350,633.00 FOR THE FISCAL PERIOD FROM OCTOBER 1, 2020, THROUGH SEPTEMBER 30, 2021; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 8c

**Attachments:**

- Agenda Report Number 8c (Agenda\_Report\_Number\_8c.pdf)

**d. Second Reading: Amend FLUM to Revert to RR Designation (Ordinance 2020-08)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN LARGE SCALE AMENDMENT (LSA) NO. 2020-01; AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE TOWN FROM OFFICE INSTITUTIONAL (OI) TO RURAL RESIDENTIAL (RR) FOR A 24.73 +/- PARCEL IN THE TOWN LYING ON THE SOUTH SIDE OF MALABAR ROAD AND EAST OF WEBER ROAD; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report Number 8d

**Attachments:**

- Agenda Report Number 8d (Agenda\_Report\_Number\_8d.pdf)

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

(RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)

**a. Application for Temporary Location of Motor Home while Constructing Home, 1740 Highway 1, Malabar by owner Mr. Balwant.**

Exhibit: Agenda Report Number 9a

**Attachments:**

- Agenda Report Number 9a (Agenda\_Report\_Number\_9a.pdf)

**b. Request by Waste Management for the Annual Rate Adjustment of \$0.24 to the monthly residential rate and a \$0.36 increase to the monthly**

**recycling rate for a total of \$0.60 monthly increase by Waste Management  
Public Affairs Manager Ms. Dina Reider-Hicks**

Exhibit: Agenda Report Number 9b

**Attachments:**

- Agenda Report Number 9b (Agenda\_Report\_Number\_9b.pdf)

**c. Application for Commercial Retail Site Plan in CG zoning by Property  
Owner, Kellwill, LLC located at 2740 Malabar Road.**

Exhibit: Agenda Report Number 9c

**Attachments:**

- Agenda Report Number 9c (Agenda\_Report\_Number\_9c.pdf)

**10. ACTION ITEMS**

ORDINANCES: 0

RESOLUTIONS: 0

MISCELLANEOUS: 0

COUNCIL CHAIR MAY EXCUSE ATTORNEY AT THIS TIME

**11. DISCUSSION/POSSIBLE ACTION**

**12. PUBLIC COMMENTS**

General Items (Speaker Card Required)

**13. REPORTS - MAYOR AND COUNCIL MEMBERS**

**14. ANNOUNCEMENTS**

(1) Vacancy on the Parks and Recreation Board; (2) Vacancies on the Trails and Greenways Committee

**15. ADJOURNMENT**

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

The Town does not provide this service. In compliance with F.S. 86.26 and the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town's ADA Coordinator at 321-727-7764 at least 48 hours in advance of this meeting.

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 4.  
Meeting Date: September 17, 2020

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

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**SUBJECT: 4. Consent Agenda**

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**BACKGROUND/HISTORY:**

- a. Town Council Regular Meeting Minutes – 9/03/2020
- b. Renew Govt Relations Agreement with SPG – Bill Barrett

**ATTACHMENTS:**

- a. Draft Minutes of 9/03/2020
- b. Agreement

**ACTION OPTIONS:**

Council Action on Consent Agenda

**MALABAR TOWN COUNCIL REGULAR MEETING MINUTES  
SEPTEMBER 03, 2020                      7:30 PM**

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

**1. CALL TO ORDER:**

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

**2. ROLL CALL:**

CHAIR:

MAYOR PATRICK T. REILLY

VICE CHAIR:

STEVE RIVET

COUNCIL MEMBERS:

GRANT BALL

BRIAN VAIL

DAVID SCARDINO, excused

DANNY WHITE

MATT STINNETT

KARL BOHNE excused

DEBBY FRANKLIN

TOWN MANAGER: (TM)

TOWN ATTORNEY:

TOWN CLERK/TREASURER:

For the record, the Interim TM Lisa Morrell was also present.

**3. APPROVAL OF AGENDA - ADDITIONS/DELETIONS/CHANGES: none**

**4. CONSENT AGENDA:**

**4.a. Regular Town Council Mtg Minutes of 8/17/2020**

**4.b. Appoint Lisa Morrell as TPO/TAC Representative**

**MOTION: CM Vail / CM White to approve consent agenda. VOTE: All Ayes.**

**5. ATTORNEY REPORT: not present**

**6. BCSO: will present at next month**

**7. BOARD/COMMITTEE REPORTS:**

**7.a. T&G Committee - none**

**7.b. Park & Recreation Board - none**

**7.c. Planning & Zoning Board - none**

**8. STAFF REPORTS:**

**8.a. Manager: none**

**8.b. Bill Barrett, Malabar Lobbyist – Update on what's been done this year and what they plan to do next year. TM and Bill met with all the agencies to work on funding. The agencies want to work with us. Paperwork for the DEP revolving funding is being finalized. The goal is to have enough of the SW master plan completed by the end of the year to look at potential individual projects for Council to start with and which to go to DEP or SJRWMD for funding. Then they will come back to Council for next round of grants. Looking at SW utility as a separate enterprise fund. So, DEP can see a dedicated fund. Doesn't show exactly what comes in and payments go out. As an enterprise fund it will show as separate entries. Basically, over this year, they have set the stage with all those that have funding available. St Johns said when you have plans come see us. They intend to have enough done by year end to start identifying projects.**

**8.c. PW Director: written**

**8.d. Fire Chief: will be emailed out next week**

**8.e. Clerk: TRIM notice mailed to all property owners includes dates and times for public hearings on the various assessments from the taxing agencies. That is based on the info we gave the PA after our July 7 meeting, when we set the proposed max millage and date for 1<sup>st</sup> PH. I also forwarded you an email from FLC offering the Ethics training on Oct 14 via webinar. You can either register yourself or let me know and I will register you.**

**9. PUBLIC COMMENTS: Comments at this point may address items NOT on the Agenda. Comments related to subsequent Agenda Items may be made as those items come up. (Speaker Card is Required) Five (5) Minute Limit**

**10. PUBLIC HEARINGS: 4****10.a. Request from Representative of Property Owner to Amend Zoning to be Consistent with the current FLUM (Ord 2020-09)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 1.97+/- ACRE SITE LOCATED AT THE NW CORNER OF MALABAR ROAD AND MARIE STREET, ALSO KNOWN AS PARCEL 762 IN SECTION 36, TOWNSHIP 28 AND RANGE 37, MALABAR, FLORIDA FROM COMMERCIAL LIMITED (CL) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit: Agenda Report No. 10.a.**

Request and Ord is read by title only – First Reading.

Chair Called applicant to podium.

Mr. Reynolds made his request. He has been a Brevard Cty resident for 35 years. He has built landmark bldgs. Like the Knowledge Exchange on Babcock Street. He is proposing a small environmentally sensitive research facility of about 5,000sf. He looked at other areas in the County but liked the parcel here. This will be a professional business with nine employees. He met with Denine and explained their intended plans. He also met with the owners of the Banyan Tree Estate to the north of his property. It appears to be a good fit. Archeological research and development. He also wants to keep the old growth trees on the site and to continue to beautify the area. He has done a preliminary walk through with the environmental engineer and there are no wetlands.

Open Public Hearing: none. Closed Public Hearing.

**MOTION: CM White / CM Ball to approve request and first reading of Ord 2020-09.**

Discussion: Chair asked staff – staff supports the request for consistency in FLUM. P&Z voted 5-0 to support request. If approved, it will be advertised for 2<sup>nd</sup> reading for 9/17/2020.

**ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, excused; CM White, Aye.** Motion carried 4 to 0.

**10.b. Storm Water Assessment Roll for Collection for FY 2020/2021 (Reso 13-2020)**

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING CERTIFICATION OF ANNUAL STORMWATER UTILITY ASSESSMENT ROLL FOR FY2020/2021; ADOPTING AN ANNUAL BUDGET FOR THE TOWN'S STORMWATER UTILITY; PROVIDING AN EFFECTIVE DATE.

**Exhibit: Agenda Report No. 10.b.**

Reso is read by title only.

Open Public Hearing: none. Closed Public Hearing.

**MOTION: CM Rivet / CM Vail to adopt Reso 13-2020.**

Discussion: TM explained Council must certify the assessment roll. This year the valuation is increased to \$64 per ERU (equivalent residential unit). This is the final stepped increase as approved in the Stormwater Assessment increase adopted in 2017. These are restricted for use in operating the SW Utility.

**ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, excused; CM White, Aye.** Motion carried 4 to 0.

**10.c. First Reading: Approve Millage Levy for FY 2020/2021 (Ord 2020-10)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 2.3800 FOR THE LEVY OF AD VALOREM TAX WITHIN THE TOWN FOR THE PERIOD FROM OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021, AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit: Agenda Report No. 10.c.**

Ord is read by title only.

Required statement is read: proposed millage is 2.3800 to levy on property values and represents a ten percent increase in the RBR (rolled back rate) of 2.1627. It is intended to fund the expenses commencing October 1, 2020 through September 30, 2021.

Open Public Hearing: none. Closed Public Hearing.

**MOTION: CM Ball / CM White to approve first reading of Ord 2020-10.**

Discussion: CM White said the actual increase is closer to 7% if you look at your TRIM notice.

**ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, Excused; CM White, Aye.** Motion carried 4 to 0.

**10.d. First Reading: Approve Budget for FY 2020/2021 (Ord 2020-11)**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$2,350,633.00 FOR THE FOR THE FISCAL PERIOD FROM OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit: Agenda Report No. 10.d.**

Ord is read by title only.

Open Public Hearing: none. Closed Public Hearing.

**MOTION: CM Vail / CM Rivet to approve first reading of Ord 2020-11.**

Discussion: TM said he focused on Council priorities to put money aside for vehicle replacements, continue working on roads and drainage projects, set money aside for PW equipment needs and plan for funding capital projects.

**ROLLCALL VOTE: CM Ball, Aye; CM Vail, Aye; CM Rivet, Aye; CM Scardino, excused; CM White, Aye.** Motion carried 4 to 0.

**11. UNFINISHED BUSINESS/GENERAL ORDERS MAY INCLUDE ITEMS DIRECTLY RELATED TO RESIDENTS PRESENT AT MEETING (RECOMMENDATIONS FROM BOARDS, HOA REQUESTS, RESIDENT GRIEVANCES)**

**11.a. Appeal Denial of Home BTR in RR-65 – Endless Summer AC LLC  
APPLICANT APPEALS DENIAL OF HOME BUSINESS FOR AC CONTRACTOR AT 400 HALL ROAD**

**Exhibit: Agenda Report No. 11.A.**

Chair called applicant to podium and state name and address.

Nano Brenan at 400 Hall Road and co-owner. She does all the paperwork from the business. Does not do any repair business there. They don't have employees coming there. Computer and filing cabinet. Don't store anything. She said occasionally she has her sons work for them.

CM Ball said it is an LLC and that is not an individual. She said that protects their personal assets. Ball said all the business. He said they are not repairing anything there. They store filters in the accessory structure. They do residential and light commercial work. How many commercial vehicles. CM Vail said the LLC is a corp and not a person. CM Vail said this particular code doesn't allow that or the use of the accessory structure or outside employees. Family members living in that address and working in the business only. CM Vail said our hands are tied. Mayor asked if Council had any more questions for the applicant. None. Chair asked for a motion to approve the appeal.

**MOTION: CM none / CM none to approve the appeal of the denial.** No motion made or seconded. Chair explained to applicant that without a motion, the denial stands.

**12. ACTION ITEMS: ORDINANCES for FIRST READING: 0  
RESOLUTIONS: 0  
MISCELLANEOUS: 0**

**13. DISCUSSION/POSSIBLE ACTION: 0**

**14. PUBLIC COMMENTS: General Items (Speaker Card Required) None:**

**15. REPORTS – MAYOR AND COUNCIL MEMBERS**

CM Ball: nothing

CM Vail: Reported that last night the FD flowed water from the newly installed nozzle on Brush 99. Lt. Hooker submitted for the grant from Forestry for the nozzle and a local individual and his two sons were instrumental in getting it installed and operational. It is huge asset to the Fire Dept. to be able to fight fires with one person operating from in the cab. They put on a guard to protect the nozzle. All FD shifts are training on it now.

CM Rivet: nothing

CM White: nothing

CM Scardino: excused

Mayor: nothing

16. **ANNOUNCEMENTS:** Openings on T&G and Park and Rec Bds.

17. **ADJOURNMENT:** There being no further business to discuss and without objection, the meeting was adjourned at 8:00 P.M.

BY: \_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

\_\_\_\_\_

Debby Franklin, C.M.C.  
Town Clerk/Treasurer

Date Approved: 09/17/2020

DRAFT



**First Addendum to Professional Consultant Services Agreement Between The Town of Malabar and SPG**

This Addendum is by and between The Town of Malabar hereinafter referred to as "Town" and SPG hereinafter referred to as "SPG" and is to that certain agreement between the parties dated July 2019, hereinafter referred to as the "Agreement." The parties, in exchange for the mutual covenants contained herein and in the Agreement, agree as follows:

1. This Addendum expressly modifies the Agreement and in the event of conflict, the terms and conditions of this Addendum shall prevail.

2. TERM is hereby amended to read as follows:

This agreement shall be effective from the date of the execution of this agreement until September 30, 2021. Such termination shall not deprive the Town of work products that are complete or substantially complete. Such termination shall not deprive SPG from invoicing the Town for the administrative fee for such grants or outside funds that are approved, under consideration for approval, or substantially complete.

3. COMPENSATION is hereby amended to read as follows:

SPG shall be paid \$2,500 upon the execution of this agreement.

SPG shall be paid \$5,000 on October 1, \$5,000 on January 1, 2021 and \$2,500 on April 1, 2021.

SPG shall be paid an administrative fee of 7% on all grant funding obtained through the services of SPG. Such administrative fee shall be invoiced upon the Town receiving notification that such funding has been awarded. This administrative fee shall not apply to any legislative appropriation.

All invoices shall be paid by the Town within 30 days. A late fee of 5% shall be applied to any invoice not paid within 30 days.

4. All other terms and conditions set forth in the Agreement shall remain in full force and effect and unchanged as agreed to by the parties.

Dated this the \_\_\_\_\_ day of September 2020.

FOR: TOWN OF MALABAR

FOR: SPG

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

## Government Relations Agreement

This agreement is between the Town of Malabar Florida, herein referred to as "Town" and Sewell Point Group, Inc., hereafter referred to as "SPG."

Whereas, the Town desires to engage the services of an individual or firm to provide government relations services; legislative services; grant services; and outside funding services for the Town.

Whereas, the Town desires to enter into a contract with SPG to provide government relations services; legislative services; grant services; and to seek and administer outside funding for special projects.

SERVICES: SPG will provide the following services:

**Legislative Services:** Represent the Town before the Florida Legislature as a registered lobbyist; Coordinate the legislative agenda of the Town; Solicit support from legislators in order to advance the legislative agenda of the Town; Draft legislation; Draft appropriation documents; Identify possible appropriations and legislation; Attend Committee and Sub-committee meetings; Provide data and testimony to the Members and staff of the Florida Legislature.

**Government Relations:** Provide consulting services to the Town on coordination of special projects; Represent the Town before appropriate regional and statewide agencies.

**Grant Administration:** Identify sources of outside funding for special projects; Prepare grant applications; Provide information and data to Federal, State and Regional Agencies; Coordinate and solicit support from appropriate Federal, State and Regional Agencies; Administer all grants and outside funding.

### COMPENSATION:

SPG shall be paid \$7,500 upon the execution of this agreement.

SPG shall be paid \$2,500 on October 1, 2019, \$2,500 on January 1, 2020 and \$2,500 on April 1, 2020.

SPG shall be paid an administrative fee of 7% on all grant funding obtained through the services of SPG. Such administrative fee shall be invoiced upon the Town receiving notification that such funding has been awarded. This administrative fee shall not apply to any legislative appropriation.

All invoices shall be paid by the Town within 30 days. A late fee of 5% shall be applied to any invoice not paid within 30 days.

**TERM:** This agreement shall be effective from the date of the execution of this agreement until September 30, 2020. Such termination shall not deprive the Town of work products that are complete or substantially complete. Such termination shall not deprive SPG from invoicing the Town for the administrative fee for such grants or outside funds that are approved, under consideration for approval, or substantially complete.

**TERMINATION:** Termination of this contract may be made by either the Town or SPG with a thirty

**Government Relations Agreement**

(30) day written notice except for during such times when the Florida Legislature is in session. This agreement may not be terminated during such times that the Florida Legislature is in session. Such termination shall not deprive the Town of work products that are complete or substantially complete. Such termination shall not deprive SPG from invoicing the Town for the administrative fee for such grants or outside funds that are approved, under consideration for approval, or substantially complete.

WARRANTY: SPG cannot and does not make, nor imply, any form of warranty or guarantees regarding the outcome of any grant or other outside funding, legislation, or appropriation request.


PUBLIC INFORMATION: SPG agrees to follow the rules as set forth in Chapter 119 Florida Statutes.

Dated this the 3 day of July 2019.

FOR: TOWN OF MALABAR

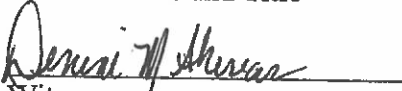
FOR: SPG

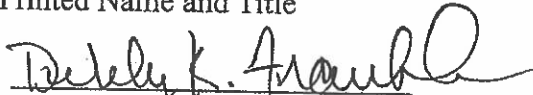
  
Signature

  
Signature

Matthew Stinnett Town Administrator  
Printed Name and Title

William Barrett President  
Printed Name and Title

  
Witness

  
Witness

# TOWN OF MALABAR

## COUNCIL MEETING

**AGENDA ITEM NO: 8.a**  
**Meeting Date: September 17, 2020**

**Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer**

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**SUBJECT: Second Reading of Zoning Change Ordinance:** Zoning Map Amendment for the 1.97+/- acre site located at the NW corner of Malabar Road and Marie Street, also known as parcel 762 in section 36, township 28 and range 37, Malabar, Florida from Commercial Limited (CL) to Commercial General (CG). (Ord 2020-09)

### **BACKGROUND/HISTORY:**

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This was heard as a Public Hearing at P&Z on August 26, 2020. **They voted 5 to 0 to recommend Council approve this rezoning request to be consistent with the FLUM.**

Council also held a Public Hearing on the request for the zoning change at their meeting of September 3, 2020. Council approved the request 4 to 0.

The current zoning is Commercial Limited (CL). The buyer desires to develop the land and before he can proceed the Zoning must be consistent with the Land Use designation on the FLUM. The applicant mailed out his own flyer to the property owners listed in the radius package and has provided a rendering of what he would like to build.

The Town recently adopted an amended Future Land Use Map (FLUM) that changed the entire parcel to the Commercial General (CG).

This was legally advertised for the second reading and Public Hearing per F.S. 166.041.

### **ATTACHMENTS:**

Ordinance 2020-09

Legal Advertisement for Florida Today and Notices to property owners based on radius package

### **ACTION OPTIONS:**

Council Action on second Reading of Ordinance 2020-09

**ORDINANCE 2020-09**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 1.97+/- ACRE SITE LOCATED AT THE NW CORNER OF MALABAR ROAD AND MARIE STREET, ALSO KNOWN AS PARCEL 762 IN SECTION 36, TOWNSHIP 28 AND RANGE 37, MALABAR, FLORIDA FROM COMMERCIAL LIMITED (CL) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

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

**Section 1.** The Town Council has considered the request from Timothy A. Reynolds, the proposed buyer acting with authority from the property owner, the Shepard family and the recommendation of the Planning and Zoning Board and approves the Zoning change for the property described below to be consistent with the Future Land Use Map designation of *Commercial General (CG)*:

*Parcel 762 in Township 28, Range 37, Section 36, Malabar, Brevard County, Florida.  
This property is located at the NW corner of Marie Street and Malabar Road and consists of 1.97 acres +/-.*

**Section 2.** The Town Clerk is hereby authorized and directed to cause the revision to the Official Town Zoning Map as referenced in Article II of the Land Development Code to show the zoning change set forth above.

**Section 3.** The effective date of this ordinance shall be six (6) days following adoption by Council.

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

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This ordinance will become effective and considered adopted by the Malabar Town Council six business days from the date of adoption at second reading.

**BY:**

(seal)

**TOWN OF MALABAR**

\_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

By: \_\_\_\_\_  
Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

Approved as to form and content:

\_\_\_\_\_  
Karl W. Bohne, Jr., Town Attorney

P&Z PH: 8/26/2020 vote 5 to 0 in favor  
1<sup>st</sup> Reading: 9/03/2020 approved 4 to 0  
2<sup>nd</sup> Reading: 9/17/2020

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

To: [brelegals@gannett.com](mailto:brelegals@gannett.com)

September 07, 2020

From: Debby Franklin, Town Clerk, Town of Malabar, Acct # 126287

Please place the following legal ad one time on Thursday, September 10, 2020. Please put the heading in **BOLD** font. Please send proof via email to: [townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org) and mail ONE affidavit to 2725 Malabar Road, Malabar, FL 32950.

**TOWN OF MALABAR  
NOTICE OF PUBLIC HEARING**

The Town of Malabar Town Council, Brevard County, Florida will convene in the Town Hall, 2725 Malabar Road, Malabar, Florida on Thursday, September 17, 2020 at 7:30 PM or as soon thereafter as the matter can be heard, to conduct public hearings on the following ordinance.

**ORDINANCE 2020-09**

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING MAP TO MATCH THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN FOR THE 1.97+/- ACRE SITE LOCATED AT THE NW CORNER OF MALABAR ROAD AND MARIE STREET, ALSO KNOWN AS PARCEL 762 IN SECTION 36, TOWNSHIP 28 AND RANGE 37, MALABAR, FLORIDA FROM COMMERCIAL LIMITED (CL) TO COMMERCIAL GENERAL (CG); PROVIDING FOR AMENDMENT TO THE TOWN ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

Copies of these documents are available in the Clerk's office for review, 2725 Malabar Road, Malabar, Florida, during regular business hours. All interested parties may email comments to [townclerk@townofmalabar.org](mailto:townclerk@townofmalabar.org) or mail comments to 2725 Malabar Road, Malabar, FL 32950 or appear and be heard at this meeting of Town Council with respect to these subjects. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Clerk's Office, ADA Coordinator, 48 hours in advance of the meeting at 321-727-7764. Debby Franklin, CMC, Town Clerk/Treasurer.

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 8.b.  
Meeting Date: September 17, 2020

Prepared By: Debby K. Franklin, C.M.C. Town Clerk/Treasurer

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**SUBJECT: Setting Millage for Fiscal Year 2020 / 2021 (Ord 2020-10)**

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### **BACKGROUND/HISTORY:**

The Florida Statutes lay out the requirements for local governments on how the annual budget process is approved by each governing body. The process requires the following steps:

1. Announce the FY 2020 / 2021 proposed millage of 2.3800 to levy on property values
2. State this is an increase of 10.00% over the rolled back rate of 2.1627
3. The final millage rate of 2.3800 is to fund the expenses commencing October 1, 2020 and ending September 30, 2021.

The Malabar Town Manager submitted a balanced budget with a ten percent increase over the rolled back rate in order to fund the operational costs of the Town, provide for funding for vehicle replacement and continue the dirt road and storm water projects begun in previous year.

This was advertised as required by law in the Florida Today newspaper on September 14, 2020.

### **FINANCIAL IMPACT:**

Council directed the millage be set at 2.3800

### **ATTACHMENTS:**

- Ord. No. 2020-10

### **ACTION OPTIONS:**

Adoption of Ord 2020-10



**ORDINANCE 2020-10**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, ADOPTING THE MILLAGE RATE OF 2.3800 FOR THE LEVY OF AD VALOREM TAX WITHIN THE TOWN FOR THE PERIOD FROM OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, public hearings as prescribed by Florida Statutes have been duly held in accordance with the laws of the State of Florida;

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

**SECTION 1.** The Town Council, in regular session duly assembled adopted the millage rate of 2.3800, to be levied for the General Fund upon all real and tangible personal property located within the boundaries of the Town of Malabar taxing authority.

**SECTION 2.** The final levy of 2.3800 mils will result in a 10.00% increase to the rolled back rate of 2.1527.

**SECTION 3.** This final millage rate of 2.3800 is to fund the general fund expenses for the fiscal year commencing October 1, 2020 and ending September 30, 2021.

**SECTION 4.** This ordinance shall become effective October 1, 2020 upon its adoption after the second public hearing.

This ordinance was moved for adoption by Council Member \_\_\_\_\_ and was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This ordinance was then declared duly passed and adopted this 17th day of September 2020.

**TOWN OF MALABAR**

By: \_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

\_\_\_\_\_  
Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

(seal)

First Reading: 09/03/20 Vote 4 to 0.  
Second Reading: 09/17/20

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 8.c.  
Meeting Date: September 17, 2020

Prepared By: Debby K. Franklin, C.M.C., Town Clerk / Treasurer

---

**SUBJECT:** Budget for Fiscal Year 2020 / 2021 – Ord 2020-11

---

**BACKGROUND/HISTORY:**

*The TRIM Notice mailed to all property owners in mid-August lists the dates and times for the first Public Hearings on the tentative millages and budgets for all agencies taxing property owners to provide them the opportunity to attend and be heard. This meeting date was selected by Malabar Council for that notice.*

Council consensus during the budget workshop process was to:

- Commit budgeted funds to reserves for vehicle replacement.
- Commit budgeted funds to reserves for road resurfacing
- Provide pay increase as noted in the budget
- Provide funds for continued maintenance of Malabar Community Park
- Continue to Develop Long Range Plans for Funding Capital Improvements

This was advertised as required by law on September 14, 2020.

**FINANCIAL IMPACT:**

As stated in attached budget documents

**ATTACHMENTS:**

- Ord 2020-11 setting FY 2020/2021 Budget

**ACTION OPTIONS:**

Adoption of Ord 2020-11.

**ORDINANCE 2020-11**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA ADOPTING THE BUDGET OF \$2,350,633.00 FOR THE FOR THE FISCAL PERIOD FROM OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Malabar has set forth the appropriations and revenue estimates for the budget for the period from October 1, 2020 through September 30, 2021; and in accordance with the laws of the State of Florida;

**WHEREAS**, The Town Council has held Public Hearings as required by F.S. 200.065.

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

**SECTION 1.** The Town Council, in regular session duly assembled adopt the Fiscal Year 2020/2021 Budget of \$2,350,633.00 consisting of \$2,116,557.00 for General Fund expenditures and \$234,076.00 in approved expenditures for Stormwater projects funded through non-ad valorem fees and DEP financing.

**SECTION 2.** This budget may be amended during the year if necessary, by ordinance.

**SECTION 3.** This ordinance shall become effective on October 1, 2020 upon its adoption after the second reading and public hearing.

This ordinance was moved for adoption by Council Member \_\_\_\_\_ and was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Council Member Grant Ball	_____
Council Member Brian Vail	_____
Council Member Steve Rivet	_____
Council Member David Scardino	_____
Council Member Danny White	_____

This ordinance was then declared duly passed and adopted this 17<sup>th</sup> day of September 2020.

**TOWN OF MALABAR**

\_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

ATTEST:

\_\_\_\_\_  
Debby K. Franklin, C.M.C.  
Town Clerk/Treasurer

(seal)

First Reading: 09/03/2020 Vote 4 to 0  
Second Reading: 09/17/2020

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA REPORT NO: 8.d.  
Meeting Date: September 17, 2020

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

---

**SUBJECT: Public Hearing of Ord 2020-08 for Adoption of FLUM amendment:**

Land Use Map Amendment for the 24.75 acre (+/-) site known as a portion of Lot 25 and 26 in the Florida Indian River Land Company Subdivision, Section 2, Township 29 South, Range 37 East, Plat Book 1, Page 165 of the Public Records of Brevard County, Florida more particularly described in Ordinance 2020-08 from Office Institutional (OI) to Rural Residential (RR) Designation. The application is submitted by Mr. Malcolm Kirschenbaum, Manager of Weber Woods, LLC.

---

### **BACKGROUND/HISTORY:**

This request is being made by the current property owner. When the Twin Lakes Subdivision was initially submitted, the applicant was told that it would be reviewed under the current Land Use Designation and Zoning Designation. When Council finally adopted the amended Future Land Use Map it changed the Designation from RR to OI, creating an inconsistency between the Zoning and Land Use.

In order to avoid possible conflicts in the future they are requesting we revert back to the previous Land Use Designation of RR in order to be consistent with the development of the subdivision zoning of RR-65.

**This request was heard at the P&Z Board meeting on July 22, 2020 as a Public Hearing as required by Florida Statutes 163 and the Board voted 5 to 0 to recommend Council approve this amendment and forward to the State. It was sent to the State on August 7, 2020 as well as the other State reviewing agencies.**

We received the letter from the State on September 11, 2020 stating they have no comments. We have had responses from the other reviewing agencies with no adverse comments. It was advertised for second reading of the Ordinance 2020-08.

### **ATTACHMENTS:**

Letter from DEO dated 9/11/2020

Ordinance 2020-08 Amending Land Use Designation from OI to RR in the Comprehensive Plan Future Land Use Map showing parcel to be changed back to RR

### **ACTION OPTIONS:**

Adoption of Ord 2020-08

**Ron DeSantis**  
GOVERNOR



September 11, 2020

SEP 11 2020 10:13

The Honorable Patrick T. Reilly  
Mayor, Town of Malabar  
2725 Malabar Road  
Malabar, Florida 32950-4427

Dear Mayor Reilly:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for the Town of Malabar (Amendment No. 20-01ESR) received on August 14, 2020. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The Town should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the Town is reminded that:

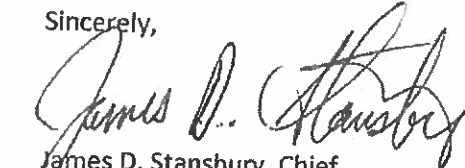
- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the Town. **If the Town receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the Town that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
[www.twitter.com/FLDEO](https://www.twitter.com/FLDEO) | [www.facebook.com/FLDEO](https://www.facebook.com/FLDEO)

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

If you have any questions concerning this review, please contact Wisnerson Benoit, Planning Analyst, by telephone at (850) 717-8524 or by email at [Wisnerson.Benoit@deo.myflorida.com](mailto:Wisnerson.Benoit@deo.myflorida.com).

Sincerely,



James D. Stansbury, Chief  
Bureau of Community Planning and Growth

JDS/wb

Enclosure(s): Procedures for Adoption

cc: Debby Franklin, Town Clerk, Town of Malabar

Hugh Harling, Jr., P.E., Executive Director, East Central Florida Regional Planning Council

**ORDINANCE 2020-08**

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN LARGE SCALE AMENDMENT (LSA) NO. 2020-01; AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN OF THE TOWN FROM OI (OFFICE INSTITUTIONAL) TO RR (RURAL RESIDENTIAL) FOR A 24.75 +/- ACRE PARCEL IN THE TOWN LYING ON THE SOUTH SIDE OF MALABAR ROAD AND EAST OF WEBER ROAD; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Malabar updated its Future Land Use Map on May 20, 2019 pursuant to Ordinance 2018-01ER, which amended the designation for the property from Rural Residential to Office Institutional; and

**WHEREAS**, Council's intention was for the property to be allowed to develop as a residential subdivision pursuant to a preliminary plat under review by the Town at the time, which has subsequently been approved; and

**WHEREAS**, it is Council's intention to adopt the Comprehensive Plan Amendment in order for the proposed residential subdivision to be consistent with the designation on the Future Land Use Map.

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

**SECTION 1.** The Future Land Use Map of the Comprehensive Plan of the Town is hereby amended to provide for Rural Residential use for the parcel as more particularly described as follows:

*"A PORTION OF LOT 25 AND 26, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION, SECTION 2, TOWNSHIP 29 SOUTH, RANGE 37 EAST, PLAT BOOK 1, PAGE 165, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT A POINT MARKING THE NORTHWEST CORNER OF SAID SECTION 2, THENCE RUN SOUTH 89°59'54" EAST, ALONG THE NORTH LINE OF SAID SECTION 2, A DISTANCE OF 471.36 FEET TO A POINT; THENCE RUN SOUTH 00°07'32" EAST, A DISTANCE OF 58.00 FEET TO A POINT, SAID POINT BEING ON THE SOUTH RIGHT OF WAY LINE OF STATE ROUTE 514 AND ALSO BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE RUN SOUTH 89°59'54" EAST, ALONG THE SOUTH RIGHT OF WAY LINE OF SAID STATE ROUTE 514, A DISTANCE OF 497.91 FEET; THENCE NORTH 00°00'06" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 89°59'54" EAST, A DISTANCE OF 348.30 FEET TO A POINT ON THE EAST LINE OF LOT 26, FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION OF SAID SECTION 2; THENCE SOUTH 00°07'21" EAST, ALONG THE EAST LINE OF SAID LOT 26, A DISTANCE OF 1287.71 FEET TO A POINT, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 26; THENCE RUN NORTH 89°59'58" WEST, ALONG THE SOUTH LINE OF SAID LOT 25 AND 26, A DISTANCE OF 846.19 FEET; THENCE RUN NORTH 00°07'32" WEST, A DISTANCE OF 1262.73 FEET TO THE POINT OF BEGINNING."*

**SECTION 2.** The current and proposed zoning for the Property is Rural Residential (RR-65). The Property is vacant and the proposed use is single-family residential.

**SECTION 3.** It is the intention of the Malabar Town Council to adopt the amendment to the Comprehensive Plan. The Clerk of the Town is hereby directed to incorporate the approved Comprehensive Pain Amendment into the Comprehensive Plan of the Town.

**SECTION 4.** Town Council approved this amendment for transmittal to the State for expedited review on August 3, 2020 and forwarded copies to other State agencies entitled to review amendment with no adverse comments received back.

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

**SECTION 6.** The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If the amendment is timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

The foregoing Ordinance was moved for approval to transmit to the State for an expedited review by Council Member \_\_\_\_\_. The motion was seconded by Council Member \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

- Council Member Grant Ball \_\_\_\_\_
- Council Member Brian Vail \_\_\_\_\_
- Council Member Steve Rivet \_\_\_\_\_
- Council Member David Scardino \_\_\_\_\_
- Council Member Danny White \_\_\_\_\_

This ordinance was then declared to be adopted this 17th day of September 2020.

**TOWN OF MALABAR**

\_\_\_\_\_  
Mayor Patrick T. Reilly, Council Chair

(seal)

**ATTEST**

\_\_\_\_\_  
Debby K. Franklin, C.M.C.  
Town Clerk / Treasurer

P&Z Board Review: 7/22/2020  
Transmittal Council Reading: 8/03/2020  
Adoption Second Reading \_\_\_\_\_

Approved as to form and  
legal sufficiency by:

\_\_\_\_\_  
*Karl W. Bohne, Jr.*  
Karl W. Bohne, Jr., Town Attorney





# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 9.a.

Meeting Date: September 17, 2020

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

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**SUBJECT:** Approve Temporary Placement of a Travel Trailer While Constructing SFR at 1740 Highway 1 - Applicants: Mr. and Mrs. Balwant

---

### **BACKGROUND/HISTORY:**

Malabar Land Development Code Article V, Section 1-5.15 (attached) allows Council to approve the *temporary residential occupancy* in a travel trailer on residential property "*while a new single family home is under construction.*" The application requires a \$500.00 bond that is refundable once the home is completed and the trailer ceases to be used for residential use. If the home is not complete within six-months, the applicant may request one extension.

The Building Department handles the issuance of such a temporary permit once sanitation and temporary utility connections have been approved and established.

In R/LC Zoning, residential occupancy in an RV is prohibited without issuance of a building permit for new home construction and active progress on the home.

The applicants, Mr. and Mrs. Balwant, have submitted all necessary applications for land development and construction of their new home and the building permit has been issued.

### **FINANCIAL IMPACT:**

None – bond is returned once the Certificate of Occupancy is issued and the RV ceases to be used for residential occupancy.

### **ATTACHMENTS:**

Application and site plan for RV placement  
Map of area showing location  
Section of Code

### **ACTION OPTIONS:**

Approval the Temporary Placement of RV while SFR is constructed.



2725 Malabar Road  
Malabar, Florida 32950-4427  
321-727-7764 – Telephone  
321-722-2234 – FAX

TOWN OF MALABAR  
AUG 13 2020  
RECEIVED

**LOCATION AGREEMENT  
TEMPORARY LOCATION OF MOBILE HOME, CAMPER, ETC.**

A CLASS A MOTORHOME may be placed on my property located at 1740 HIGHWAY 1 in Malabar, Florida, on a temporary basis, while my home is being built on that property. I agree that the mobile home shall be removed immediately after completion of construction, approximately six months from this date. I also agree to start action on construction of my residence on the property as soon as possible, and be able to show completion or major progress at the end of the six-month period.

In the event the construction is not completed by that date, I will apply to the Town of Malabar for an extension of time. If no progress whatsoever is shown, the MOTORHOME will be removed immediately, and I will forfeit the \$500.00 security bond.

- o Proof of Ownership
- o Survey or Plot Plan showing location
- o Description; means of septic hook-up, water & power PRIVATE WELL, TEMP POWER, RV TANK PUMPS - ANDERSON RENTS
- o Reason for mobile home on property - TEMPORARY RESIDENCE
- o Building Permit No. # \_\_\_\_\_
- o Road Permit Application # \_\_\_\_\_
- o Road Bond: \_\_\_\_\_

Signature:

\_\_\_\_\_

Date: \_\_\_\_\_

Date Accepted: \_\_\_\_\_

Town Clerk: \_\_\_\_\_

BP AP SFR Revised 03/2017

Signature:

Rajjwal Bahwan

Date: 8/13/2020

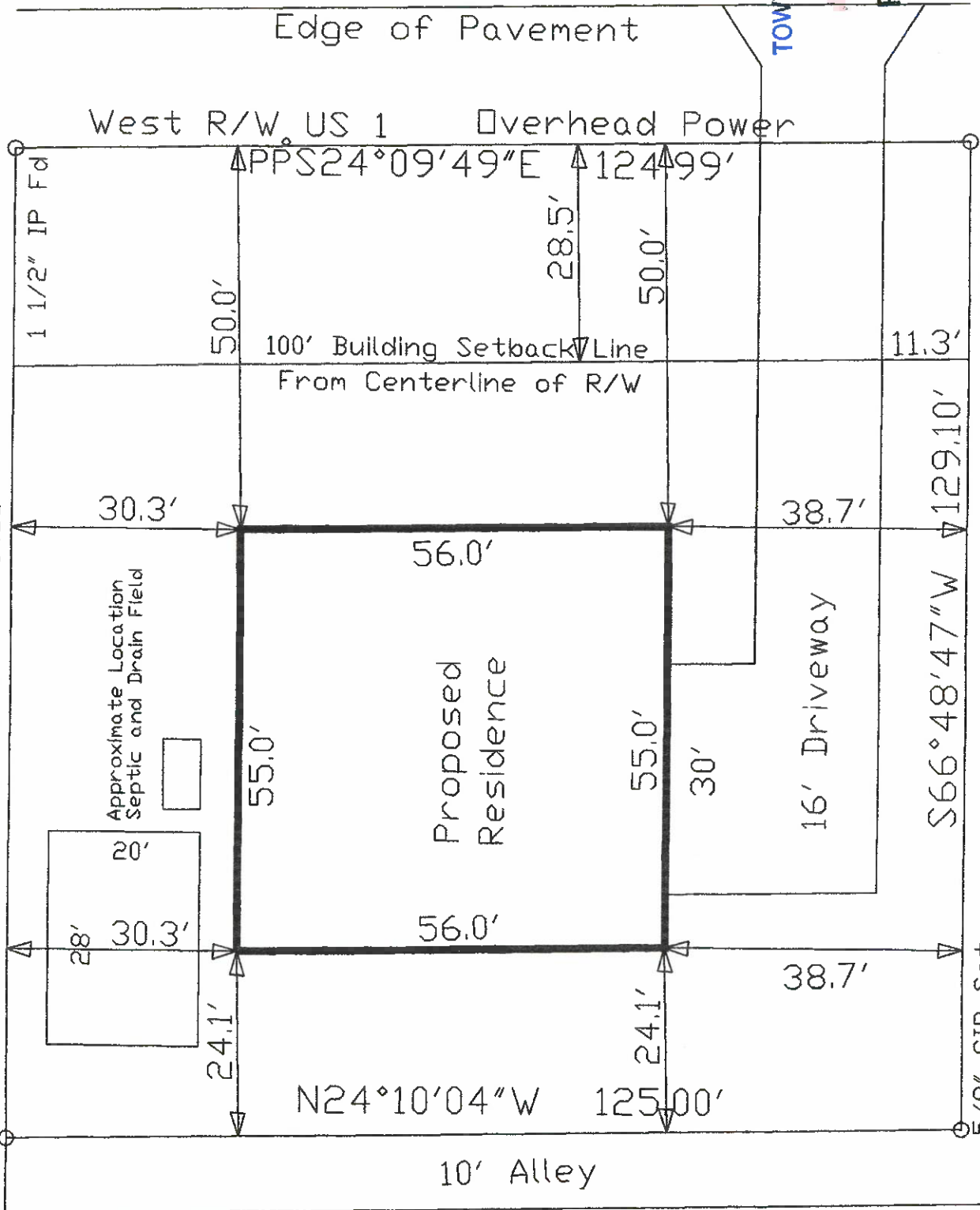
# MAP OF SURVEY

Parcel Described in ORB 8610, Page 2799  
Vacant



5/8" CIR Fd  
WJS LB 5419

1 1/2" IP Fd 0.6'S, 0.17'E  
1 1/2" IP Fd 0.23'S



TOWN OF MALABAR  
AUG 13 2020  
RECEIVED

Grass Median

2' Curb

26' Pavement

Edge of Pavement

West R/W US 1      Overhead Power

PPS 24°09'49"E      124.99'

50.0'

28.5'

50.0'

100' Building Setback Line  
From Centerline of R/W

11.3'

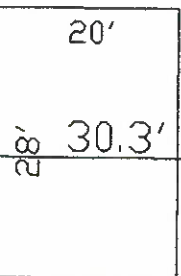
N66°49'09"E      129.11'

30.3'

56.0'

38.7'

Approximate Location  
Septic and Drain Field



28'      30.3'

55.0'

Proposed  
Residence

55.0'

30'

16' Driveway

S66°48'47"W      129.10'

N24°10'04"W      125.00'

24.1'

38.7'

10' Alley

5/8" CIR Fd

## Portion of Article V of the Malabar Land Development Code

### Section 1-5.15. Parking, storage or use of major recreational equipment

Major recreational equipment is defined as including boats and boat trailers, pickup campers or coaches (designed to be mounted on an automotive vehicle), motorized dwellings, collapsible camping trailers or motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment whether occupied by such equipment or not.

1. No major recreational equipment shall be parked or stored in any residential front yard in any residential district for more than forty-eight (48) hours during loading or unloading.
2. No such major recreational equipment shall be used for living, sleeping, housekeeping, office, or commercial purposes when parked or stored on a residential lot, or in any location not approved for such use.
3. No such major recreational equipment shall be located within a public right-of-way.
4. If such equipment is a collapsible camping trailer, the trailer shall be stored in a collapsed state.

***Mobile homes or other mobile equipment or structures used temporarily in connection with construction, used as a dwelling, office or sales room may be located temporarily in all districts only after the release of a building permit and during the period of construction activity, under a temporary zoning permit, provided however, said trailer must be removed within ten (10) days after completion of construction.***

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 9.b.  
Meeting Date: September 17, 2020

Prepared By: Debby K. Franklin, C.M.C. Town Clerk/Treasurer

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**SUBJECT:** Request by WM for the Annual Rate Adjustment of \$0.24 to the monthly residential rate and a \$0.36 increase to the monthly recycling rate for a total of \$0.60 monthly increase by WM Public Affairs Manager Ms. Dina Reider-Hicks

---

### **BACKGROUND/HISTORY:**

The Franchise Agreement with WM permits them to request an annual increase based on the consumer price index (CPI).

WM is also requesting an increase to the recycling rate based on the extraordinary events in the recycling industry due to changes in laws and regulations imposed by China.

### **FINANCIAL IMPACT:**

Combined increases total \$0.60 per month.

### **ATTACHMENTS:**

- Information letter to TM dated June 19, 2020

### **ACTION OPTIONS:**

Action on request



**Waste Management Inc. of Florida  
7382 Talona Drive  
West Melbourne, FL 32904**

June 19, 2020

Mr. Matthew Stinnett  
Town Administrator  
Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950-4427

Dear Mr. Stinnett:

Thank you for the opportunity to provide solid waste collection services to the Town of Malabar.

In accordance with the franchise agreement granted to Waste Management Inc. of Florida, please accept this notice for the annual rate adjustment to reflect changes in the cost of doing business.

Latest data reflected in the Consumer Price Index for Urban Consumers (CPI) serves as the basis for a 1.13% adjustment. Supporting documentation is included for your reference. The revised pricing structure, effective October 1, 2020 is attached for your review.

Waste Management Inc. of Florida ("WM") is also writing to share with you a review of issues that have had negative impacts on our Recyclable Materials operations, and to begin a dialogue with you regarding adjustments to the Solid Waste Agreement ("Agreement") to help address those impacts.

Since entering into the Agreement, uncontrollable circumstances have resulted in the costs of providing processing, transportation and marketing services for Recyclable Materials to increase dramatically. The primary driver of these significant adverse changes has been changes in laws governing these activities, which were outside of WM's control.

Most noteworthy were changes in laws and regulations imposed by the People's Republic of China. In accordance with the Law of the People's Republic of China on Prevention and Control of Environmental Pollution by Solid Waste, starting in 2017, the government of China adopted standards that have had a devastating impact on the recycling industry. See, for example, National Standards of the People's Republic of China GB 16487.4-2017 related to paper recyclables. The biggest impact of this standard was that it established a new quality

specification of 0.3% contamination by weight for any imported wastepaper. The prior standard had been 10% contamination.

For plastics, the contamination specification was established at 0.5%. See National Standards of the People's Republic of China GB 16487.12-2017 related to plastic recyclables. The prior standard had been 10% contamination. Even worse, in 2018, Announcement No. 6 of the Announcement on Adjustment to the Catalogue for the Administration of Import Solid Waste banned the import of "scraps of plastics," effective December 31, 2018.

More nations have followed China's lead, including domestically. Moreover, there has been growing concern over the issue of plastic waste in the environment, and the impact of plastics transported to less developed countries. This has led WM's parent, Waste Management, Inc., to adopt a policy in August 2019 that its operating subsidiaries would no longer ship collected and processed plastics outside of North America.

### **Processing Costs**

The adoption of more stringent quality specifications has increased the cost of processing collected Recyclable Materials. In order to meet the new specifications, the material has had to undergo additional sorting, which has reduced the tons per hour of material that can be processed and readied for market at our Cocoa Material Recovery Facility (MRF). It has also increased labor costs due to the need for additional hand sorting.

### **Loss of Commodity Value**

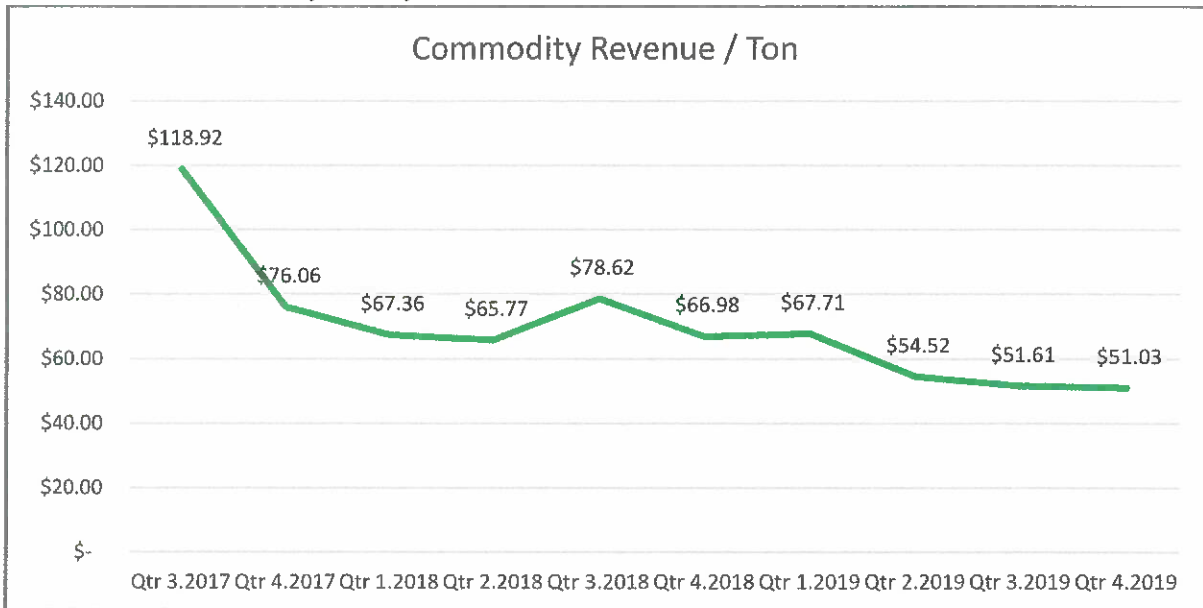
The series of events discussed above has resulted in large reductions in commodity values, and current trends are not encouraging. This can best be seen by looking at commodity values for paper products, which nationally make up about 60% of Recyclable Materials received and processed. The largest paper commodity is mixed paper. Prices have fallen dramatically from \$88.00 per ton in 2017 to **negative \$5.00-20.00** per ton in November 2019. This means that WM must pay to have this material recycled following processing. The second commodity is cardboard, which has similarly fallen from well above \$100.00 per ton to \$30-35 per ton in November 2019. One example of this loss of value is in the Southeast, where values have plummeted from \$180.00 per ton in 2017 to \$30.00 per ton in 2019, but that same trend generally exists throughout the United States.

To demonstrate the overall loss of commodity value specific to your community, the following table is presented. This sets forth the revenue per ton of all residential Recyclable Materials collected and processed at the Cocoa Material Recovery Facility from 3Q 2017 through 4Q 2019. This is the destination for Residential Recyclable Materials or Commercial Recyclable Materials collected in the Town of Malabar.





### Cocoa Material Recovery Facility



As seen above, overall commodity values have declined by a staggering \$67.89 per ton from October 2017 through December 2019, an approximately 57% reduction. For the Town of Malabar, based on the tonnage of Recyclable Materials collected, monthly revenue for Residential Recyclable Material has decreased by \$0.36 per customer per month.

Furthermore, the fee that WM pays for marketing of recyclables is based on a calculation of commodity value less processing cost. Currently, the processing costs significantly exceed commodity value, which means that WM has to pay a tipping fee for processing and marketing to the Material Recovery Facility.

Our company carefully evaluates market conditions and has provided guidance that commodity values are not likely to recover significantly in the foreseeable future, as supply will continue to outstrip demand. These events have proven devastating for the recyclables industry, and at this point, WM's recycling operations are marginally sustainable. WM wants to make it clear that the purpose of this request is to align the rates with our recycling costs on a going forward basis, and not to retroactively recover prior increased costs or decreased commodity revenues.

As a result, WM respectfully requests an extraordinary increase of \$0.36 per Residential customer per month for recycling. The current CPI adjustment for 2020-2021 is 1.13%, resulting in a \$0.24 increase in monthly single-family home residential rates. The net impact of our request would be a \$0.60 increase in monthly residential rates for the annual CPI adjustment and the extraordinary increase for recycling operations.



The attachment on page 5 outlines current market-viable single stream Recyclable Materials for the Town's review.

*I will be calling you soon to discuss this matter and next steps. Thank you in advance for your consideration.*

Sincerely,



Dina Reider-Hicks  
Public Affairs Manager

cc: Debby Franklin, Town Clerk, Town of Malabar  
Lisa McNeight, Public Sector Director, North Florida  
Christopher Bolyard, Pricing Management, Florida Area  
Michael Lewis, Sr. District Manager, Brevard County Area

Attachment

**RECYCLABLES SPECIFICATIONS**

**RECYCLABLES** must be dry, loose (not bagged), unshredded, empty, and include **ONLY** the following:

Aluminum cans	Newspaper
PET bottles with the symbol #1 – with screw tops only	Mail
HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.)	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
PP plastic bottles and tubs with symbol # 5 - empty	Uncoated printing, writing and office paper
Steel and tin cans	Old corrugated containers/cardboard (uncoated)
Glass food and beverage containers – brown, clear, or green – empty*	Magazines, glossy inserts and pamphlets

**Non-Recyclables** include, but are not limited to the following:

Plastic bags and bagged materials (even if containing Recyclables)	Microwavable trays
Porcelain and ceramics	Mirrors, window or auto glass
Light bulbs	Coated cardboard
Soiled paper, including paper plates, cups and pizza boxes	Plastics not listed above including but not limited to those with symbols #3*, #4*, #6*, #7* and unnumbered plastics, including utensils
Expanded polystyrene	Coat hangers
Glass and metal cookware/bakeware	Household appliances and electronics
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)
Hazardous/Medical Waste or containers which contained such materials	Napkins, paper towels, tissue, paper plates, and paper cups
Any paper Recyclable materials or pieces of paper Recyclables less than 4" in size in any dimension	Propane tanks, batteries
Cartons*	Aseptic Containers*

\* These materials may be deemed Recyclables upon written consent of Contractor, which may be withdrawn upon notice to City if there is no commercially viable market.

**Exhibit 1**  
**SUMMARY OF RATES AND CHARGES**  
**Effective October 1, 2020**

**FORM D**  
**RESIDENTIAL PREMISES RATES**

This form is for residential premises service for solid waste, recyclables, and yard waste collection, and all other services to be available to residential premises as described in Proposer's proposal and Agreement. All rates will be effective for the first year of the agreement beginning October 1st, 2014. These rates will be the contractor's sole compensation for residential premises services. All rates are for 2 times per week collection.

Cart sizes are approximate. Proposers must note any proposed variations. Variations cannot, however, be substantial.

**Residential Premises Rates**

Service	Rates per household /month	Additional solid waste carts % of single cart rate	Additional customer requested recycling cart
<b>Residential Solid Waste</b>			
Option 1 – semi-automated service – multiple size carts provided by Collector. (35,64,96 gallon)	\$17.60	4%	No Charge
<b>Residential Recycling</b>			
Option 1 – semi-automated service – multiple size carts provided by Collector. (35,64,96 gallon)	\$3.55	24%	No Charge

Residential premises includes once weekly curbside recyclables collection and once weekly yard trash collection.

**Residential Breakdown of all inclusive cost**

	Option 1
Solid Waste	\$10.82
White/Bulky Goods	No charge
Yard Trash	\$6.78
Bulk Yard Waste	No charge

**FORM E-1**

**COMMERCIAL PREMISES SOLID WASTE COLLECTION SERVICE: CAN, CART AND BIN SERVICE**

This form is for commercial premises, multi-family dwellings, and mobile home parks service for solid waste, recyclables, yard waste collection (as appropriate), processing and disposal, billing services, and all other services to be available to aforementioned service units as described in Proposer's proposal and Agreement. All rates will be effective for the first year of the agreement beginning October 1st 2014. These rates will be the contractor's sole compensation for these service units' services.

**COMMERCIAL/INDUSTRIAL PREMISES SOLID WASTE COLLECTION SERVICE: CAN AND CART SERVICE**

Service Type	Frequency	Rate per Account per Month
32-gallon can (curbside) (If additional can sizes are proposed, please add additional sheets)	1x weekly	\$17.39
	2x weekly	\$20.07
32-gallon can (carryout) (If additional can sizes are proposed, please add additional sheets)	1x weekly	\$30.29
	2x weekly	\$32.99
36-gallon cart	1x weekly	\$18.42
	2x weekly	\$21.12
64-gallon cart	1x weekly	\$18.42
	2x weekly	\$21.12
96-gallon cart	1x weekly	\$18.42
	2x weekly	\$21.12

**COMMERCIAL/INDUSTRIAL PREMISES SOLID WASTE COLLECTION SERVICE: BIN SERVICE**

(If additional bin sizes are proposed, please use table to specify)

Service Type	Frequency	Rate per Account per Month
2 c.y. bin	1x weekly	\$36.63
	2x weekly	\$73.26
	3x weekly	\$109.88
	4x weekly	\$146.51
	5x weekly	\$183.15
	6x weekly	\$219.78
4 c.y. bin	1x weekly	\$73.26
	2x weekly	\$146.51
	3x weekly	\$219.78
	4x weekly	\$293.05
	5x weekly	\$366.30
	6x weekly	\$439.57
6 c.y. bin	1x weekly	\$109.88
	2x weekly	\$219.78
	3x weekly	\$329.66
	4x weekly	\$439.57
	5x weekly	\$549.45
	6x weekly	\$659.35
8 c.y. bin	1x weekly	\$146.51
	2x weekly	\$293.05
	3x weekly	\$439.57
	4x weekly	\$586.10
	5x weekly	\$732.62
	6x weekly	\$879.15
3 c.y. bin	1x weekly	\$54.96
	2x weekly	\$109.88
	3x weekly	\$164.84
	4x weekly	\$219.78
	5x weekly	\$274.74
	6x weekly	\$329.68

**FORM E-2**

**COMPACTOR AND DEBRIS BOX SERVICE**

This form is for compactor, debris box and on-call bin service including collection, processing and disposal, billing services, and all other services to be available to aforementioned service units as described in Proposer's proposal and Agreement. All rates will be effective for the first year of the agreement beginning October 1st, 2014. These rates will be the contractor's sole compensation for these service units' services.

**COMPACTOR AND DEBRIS BOX SERVICE**

Service Type	Frequency	Rate per Account per Month
<b>Compactor Service</b>		
3 c.y.*	1x weekly	\$55.75
	2x weekly	\$111.55
	3x weekly	\$167.30
	4x weekly	\$223.07
	5X weekly	\$278.84
4 c.y.*	1x weekly	\$76.92
	2x weekly	\$153.84
	3x weekly	\$230.77
	4x weekly	\$307.69
	5X weekly	\$384.61
5 c.y.*	1x weekly	\$92.95
	2x weekly	\$185.90
	3x weekly	\$278.84
	4x weekly	\$371.80
	5X weekly	\$464.75
6 c.y.*	1x weekly	\$115.38
	2x weekly	\$230.77
	3x weekly	\$346.16
	4x weekly	\$461.54
	5X weekly	\$576.93

\* Compactor rates do not include leasing or maintenance.

<b>Industrial Debris Box and Bin Service (incl. C&amp;D; per pull)</b>		
Service Type	Rate	
2 c.y. bin**	\$20.44	per pull
3 c.y. bin**	\$31.20	per pull
4 c.y. bin**	\$41.95	per pull
5 c.y. bin**	\$52.69	per pull
6 c.y. bin**	\$63.46	per pull
7 c.y. bin**	\$74.21	per pull
20 c.y.**	\$258.13	per pull
25 c.y.**	\$274.26	per pull
30 c.y.**	\$290.39	per pull
40 c.y.**	\$306.52	per pull
Less than 30 c.y. compactor*	\$290.39	per pull
30 c.y. – 39 c.y. compactor*	\$306.52	per pull
Greater than 40 c.y. compactor*	\$306.52	per pull
* Compactor rates do not include leasing or maintenance.		
** Rates include dropping off box or bin at customer location, retrieving box or bin when requested, hauling waste to, and up to 4 tons of landfill disposal. An additional charge equal to \$23.66 per ton will apply for disposal in excess of 4 tons.		
*or current landfill rate		

**FORM E-3**

**SPECIAL CHARGES**

All special charges will be effective for the first year of the agreement beginning October 1st, 2014. These charges will be the contractor's sole compensation for these services.

Special Service	Charge	
Wheel-out service for non-qualifying households	\$12.91	Additional per month per hh.
On-call bulky waste pick-up for non-qualifying residents	\$16.14	per cubic yard per event.
	\$0	freon removal charge per unit.
On-call extra solid waste collection for residential premises	36-gallon cart:	\$16.14
	64-gallon cart:	\$16.14
	96-gallon cart:	\$16.14
Cart exchange (for requests in addition to 2 x first year free exchange and subsequent 1x annual free exchange; includes delivery fee)	\$64.52	per event.
Call back for collection as a result of set-out after collection time	\$26.90	per event.
Cart replacement as a result of loss or damage through wilful or intentional misuse or abuse	\$64.52	per cart including delivery fee.
Extra Commercial Pick-up:		
32-gallon can	\$8.61	per event
36-gallon cart	\$8.61	per event
64-gallon cart	\$8.61	per event
96-gallon cart	\$8.61	per event
1 1/2 c.y. bin	\$10.76	per event
2 c.y. bin	\$15.06	per event
3 c.y. bin	\$18.28	per event
4 c.y. bin	\$22.58	per event
5 c.y. bin	\$26.90	per event
6 c.y. bin	\$30.12	per event
7 c.y. bin	\$34.43	per event
Key charge: Allowed when container access requires driver to remove lock to empty container.	\$0.00	per container per month
Enclosure charge: Allowed when collection requires removing a container from an enclosure and replacing it when empty.	\$10.76	per container per month
Gate service charge: Allowed when collection requires passing through a gate in order to access a container.	\$0.00	per container per month
Distance charge: Allowed when a container is placed further than 10 feet from where the collection vehicle has access.	\$10.76	per fifty (50) feet per container per month
Other: Special Collection Solid Waste outside of Container	\$0.00	per issue
Other:	None	

Other special charges not identified herein are subject to the review and approval of the Town prior to levy.

**CPI for All Urban Consumers (CPI-U)  
Original Data Value**

**For the Town of Malabar**

Series Id: CUUR0000SA0, CUUS0000SA0

Not Seasonally Adjusted

Series Title: All items in U.S. city average, all urban consumers, not seasonally adjusted

Area: U.S. city average

Item: All items

Base Period: 1982-84=100

Years: 2010 to 2020

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179	217.535	218.576
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672	223.598	226.280
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601	228.850	230.338
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049	232.366	233.548
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812	236.384	237.088
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525	236.265	237.769
2016	236.916	237.111	238.132	239.261	240.229	241.018	240.628	240.849	241.428	241.729	241.353	241.432	238.778	241.237
2017	242.839	243.603	243.801	244.524	244.733	244.955	244.786	245.519	246.819	246.663	246.669	246.524	244.076	246.163
2018	247.867	248.991	249.554	250.546	251.588	251.989	252.006	252.146	252.439	252.885	252.038	251.233	250.089	252.125
2019	251.712	252.776	254.202	255.548	256.092	256.143	256.571	256.558	256.759	257.346	257.208	256.974	254.412	256.903
2020	257.971	258.678	258.115	256.389	256.394									

Index Change = 3.913

CPI Change = 1.54%

Fuel Change = -1.71%

CPI Weighting 87.5%

Fuel Weighting 12.5%

Total Change = 1.13%



Back to Contents **Data 2: M Diesel Prices - All Types**

Sourcekey	EMD_EPD2D_PTE_R1Z _DPG Lower Atlantic (PADD 1C) No 2 Diesel Retail Prices (Dollars per Gallon)	For the Town of Malabar
Date		
May-2018	3.133	4.82%
Jun-2018	3.130	-0.10%
Jul-2018	3.101	-0.93%
Aug-2018	3.089	-0.39%
Sep-2018	3.129	1.29%
Oct-2018	3.233	3.32%
Nov-2018	3.176	-1.76%
Dec-2018	3.025	-4.75%
Jan-2019	2.900	-4.13%
Feb-2019	2.907	0.24%
Mar-2019	2.986	2.72%
Apr-2019	3.019	1.11%
<b>Average of Monthly Changes =</b>		<b>0.12%</b>
May-2019	3.034	0.50%
Jun-2019	2.978	-1.85%
Jul-2019	2.937	-1.38%
Aug-2019	2.898	-1.33%
Sep-2019	2.908	0.35%
Oct-2019	2.921	0.45%
Nov-2019	2.917	-0.14%
Dec-2019	2.93	0.45%
Jan-2020	2.962	1.09%
Feb-2020	2.813	-5.03%
Mar-2020	2.634	-6.36%
Apr-2020	2.443	-7.25%
<b>Average of Monthly Changes =</b>		<b>-1.71%</b>

# TOWN OF MALABAR

## COUNCIL MEETING

AGENDA ITEM NO: 9.c  
Meeting Date: September 17, 2020

Prepared By: Debby Franklin, C.M.C., Town Clerk/Treasurer

---

**SUBJECT: Application for Commercial Retail Site Plan in CG zoning by Property Owner, Kellwill, LLC located at 2740 Malabar Road.**

### **BACKGROUND/HISTORY:**

---

This was heard at P&Z on September 9, 2020. They voted 5 to 0 to recommend Council approve this site plan for a 6,000 sf commercial development at 2740 Malabar Road with two conditions:

- 1) Additional landscaping on eastern side of property
- 2) Join the multiple parcels known as 2740 Malabar Road with a Unity of Title

The land use and zoning are Commercial General.

### **ATTACHMENTS:**

Letter of Commitment from applicant's Engineer to comply with conditions  
Draft of P&Z Board minutes from Sept 9, 2020.  
Application package  
Site plan  
Staff comments

### **ACTION OPTIONS:**

Council Action on Site Plan

SEP 10 2020 11:51



**TEIMOURI & Associates, Inc.**  
*Consulting Engineers*

September 10, 2020

Debby Franklin  
Town Clerk Treasurer  
Town of Malabar  
2725 Malabar Road  
Malabar, FL 32950

**RE: Route 1 Motor Sport Storage Building  
TAI Project No.: 2019-106**

Dear Debby:

The Planning & Zoning Board approve the site plan with two conditions last night. The owner will join the parcels to have unity of title and work with Town on additional landscape buffering on the east property line. Please schedule this project for Town Council approval on September 17, 2020 meeting.

If you have any questions regarding this matter, please call our office at (321) 729-8382. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Vaheed B. Teimouri". The signature is fluid and cursive, with a prominent initial "V".

Vaheed Teimouri, P.E.

**“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  
September 9, 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 (Listening Virtually)  
MARY HOFMEISTER (Excused)  
ALTERNATE: SUSAN SHORTMAN (Voting for Member Hofmeister)  
ALTERNATE: JEFF RINEHART (Voting for Member Dial)  
ACTING BOARD SECRETARY: RICHARD KOHLER

ADDITIONAL ATTENDEES:

TOWN PLANNER: TOD MOWREY(Virtual)

INTERIM TOWN MANAGER: LISA MORRELL

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

**Chair Abare states that due to Secretary Sherear's excused absence, after the public hearing he will end the meeting.**

**4. CONSENT AGENDA: 1**

**4.a. Approval of Minutes** a. Planning and Zoning Meeting – 08/26/2020  
**Exhibit:** Agenda Report No.4. a  
**Recommendation:** Request Approval

Motion: Vice Chair Ritter / Chair Abare to approve as presented.

Vote: All Ayes, Motion Carried 5 to 0.

**5. PUBLIC HEARING: 0**

**6. ACTION: 1**

**6.a. Review Site Plan for Commercial Development & make Recommendation to Council.**  
**Exhibit:** Agenda Report No.6. a.

Chair calls the project Engineer to the podium.

Engineer Vaheed Teimouri states that this project is an addition to the existing Route 1 Motor Sports location. It will be an additional storage and display area for their products. We will develop this site independently so that it could be sold independently of the main building in the future. There will be no additional employees, and it will add parking and landscaping to the existing lot,

as well as make the property more accessible to emergency vehicles. We have received the comments from staff, most of them from the Town Planner. We have identified and solved issues regarding lighting and landscaping. The biggest issue we see is if we need a turn lane. We are looking for a specified engineer to do a traffic study.

Chair asked acting Board Secretary Kohler if this property would meet the requirements for a turn lane.

Secretary Kohler explained that the site would not meet the Town of Malabar's requirements of 500 expected trips per day, but the site will be on a State road, so the FDOT rules and regulations would need to be met.

Chair Abare explains this process is only Malabar's approval. He asked about the landscaping requirements on the east side of the property.

Teimouri states that he will fix the issues discussed here before it is sent to Council.

Vice Chair Ritter asked engineer if the traffic study will be done during the busy winter months or slow summertime?

Engineer states that he will leave that decision up to FDOT, but generally they focus on morning and evening times, not seasonal.

Chair asked about the lighting detail.

Engineer states it is provided on page C3 of the site plan.

Chair states that he has provided the retention pond, waste disposal and parking.

Chair states that the landscaping seems to be the only standing issue.

Engineer states that he has discussed a solution with the Town Planner of putting up a 6-foot vinyl fence instead of an 8-foot-high block wall, and extra trees.

Vice Chair asks if the engineer has considered the possibility of Malabar Road being expanded.

Engineer states he will worry about that when the time comes. He will develop the property as it stands today.

Chair reminds the board that the applicant has met all the Town's setback requirements.

Chair asks the applicant if there will be a bathroom in the new facility.

Owner states that there will be restrooms, and it will also have its own well.

Chair states that as a condition of approval, the engineer needs to solve a unity of title issue.

Engineer states that each unit of the business will have its own title.

Board Member Foster states that he supports this proposal. He believes the owner is going above and beyond and has demonstrated time and time again that he is a good steward of business in our Town.

Board Member Shortman states her support for the plan. Expanding businesses are great for Malabar. She reviewed these plans very thoroughly and was impressed. Everything was provided for.

Board Member Reinhart thanks the Owner for opening shop in Malabar and makes a motion to approve.

Motion: Reinhart/Ritter Motion to approve the site plan for commercial development of multiple parcels located at 2740 Malabar Road also known as Route 1 Motorsports with two conditions:

- Resolve landscaping dispute on the eastern edge of the property with Town Staff
- Resolver the Unity of Title issue with Town Staff.

**ROLL CALL VOTE:**

- George Foster: Aye
- Wayne Abare: Aye
- Liz Ritter: Aye
- Susan Shortman: Aye
- Jeff Reinhart: Aye

**7. DISCUSSION: 2**

7.a. Ordinance 2020-12 Table 1-3.3(A) – Debby Franklin, Town Clerk/Treasurer  
 Exhibit: Agenda Report No.7.a  
 Recommendation: Discussion

**REMOVED FROM AGENDA PER CHAIR**

7.b. Discuss Local Regulations for Mobile Food Vendors

**REMOVED FROM AGENDA PER CHAIR**

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

9. PUBLIC: None

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

Old Business:

New Business:

- Next Regular Meeting- September 23, 2020

**11. ADJOURN**

There being no further business to discuss

MOTION Shortman/Reinhart: Vote: All Ayes. The meeting adjourned 7:31 PM.

BY:

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

**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  
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**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 2 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: 9B Section: 31 Lot/Block: 5402 Parcel: \_\_\_\_\_  
 Subdivision: Snoedekers Tax Acct No.: 2951104  
 Other Legal: 2740 Malabar Rd  
 Present Land Use Designation: lot Present Zoning Classification: CG  
 Zoning of abutting property: North: \_\_\_\_\_ South: \_\_\_\_\_ East: \_\_\_\_\_ West: \_\_\_\_\_  
 Existing and Proposed Use for Property: Warehouse to Retail / Storage  
 Gross acreage: .78 Net acreage: \_\_\_\_\_ Gross density: \_\_\_\_\_



Setbacks: Required and Proposed: Front: ~~25~~ <sup>30</sup> / ~~65~~ <sup>75</sup>; Rear: 25 / 65;  
 Side: 20 / 43.7; Side corner: 20 / 20

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

TOWN OF MALABAR

Site Acreages:

	SF	Acres	Percentage
Pervious	16,046		43.78%
Impervious	20,644		56.27
Pond			
Total	36,690		100%

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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

JUL 27 2020

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

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 meet 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:
  - Completed Application, including Disclosure of Ownership (Pages 1 and 2).
  - 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
  - Fee of \$ 900.00, in **check or money order**, payable to the Town of Malabar. *pd 7/27/2020*
  - Site Plan – (10) paper copies plus one electronic copy.
  - Reason for Site Plan Review (attach correspondence, drawings, etc.)
  - 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):

Date:

*William J. Lammie*

7/27/20

*AS*  
Applicant initial-copy received

7/27/2020

*Danni Shera*  
Signature of Town's Personnel

7/27/2020

Updated 03/01/20

I/we, William Cornie, 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. Cornie  
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 GG 959254.

Denine M Sherear  
Notary Signature



# **SITE PLAN**

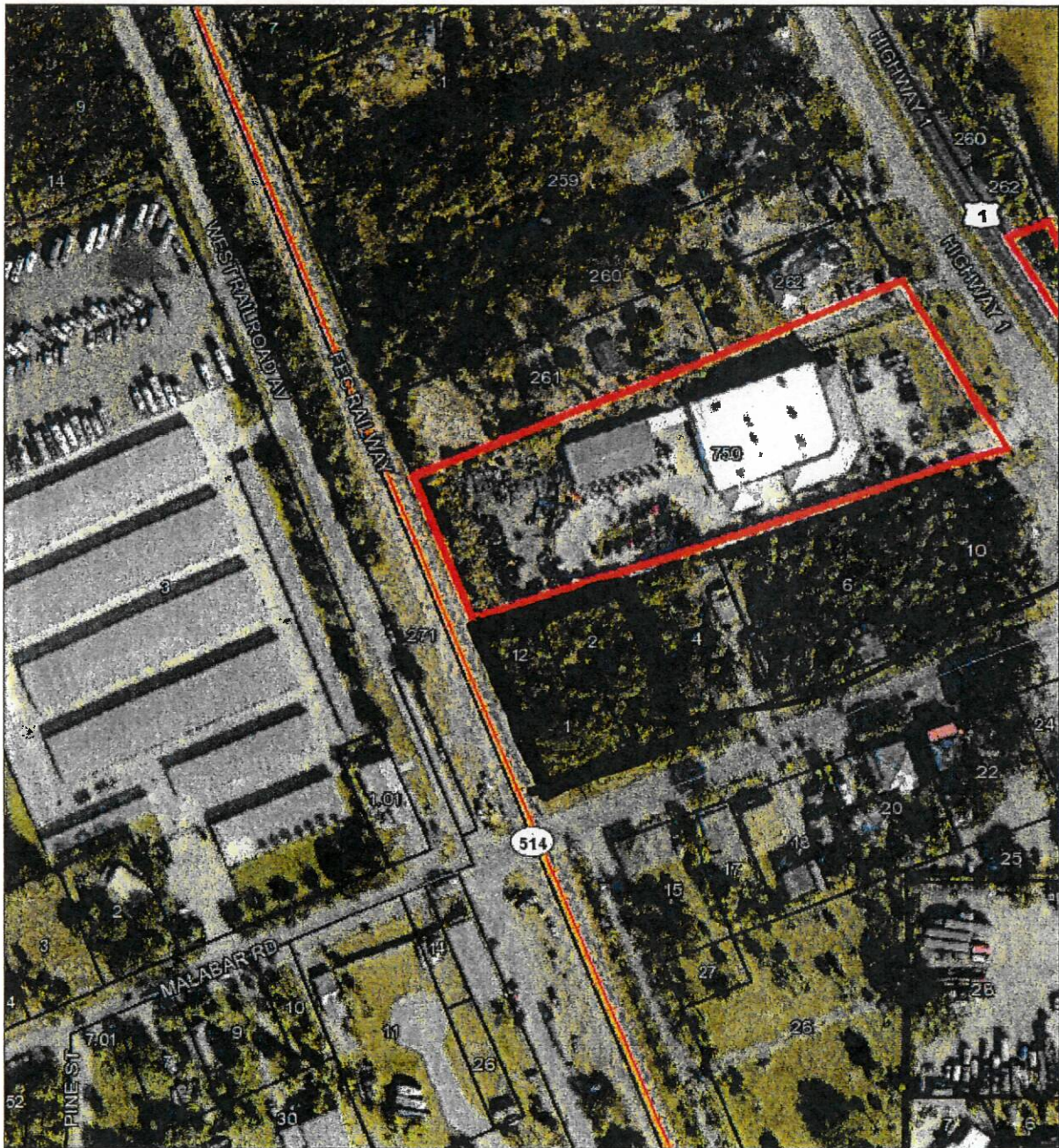
## **PROPERTY INFORMATION**

**FOR**

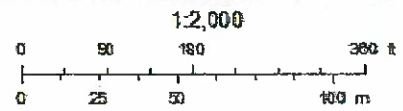
**ROUTE 1 MOTOR SPORTS**

**2740 MALABAR ROAD**

# Brevard County Property Appraiser



September 3, 2020



2846350

For illustration only. Not a survey. Map lines may not precisely align.  
© SCPAO 2015

# **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

# Staff Comments





TOWN OF MALABAR

AUG 23 2020

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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

---

**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



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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 the information needed to design right-turn lanes.

TOWN OF MALABAR

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

AUG 23 2020

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

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- 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

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TOWN OF MALABAR  
MEMORANDUM

AUG 27 2020

Date: August 27, 2020 RECEIVED 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

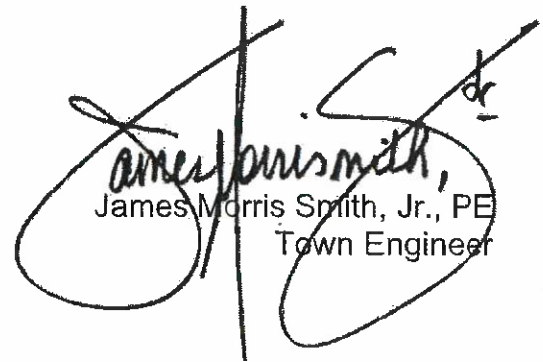
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As per your request, I have reviewed the Site Plan Application, Site Plan Civil Engineering drawings and the Stormwater Calculations, submitted for this site.

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

**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

**RE: Town of Malabar- Site Plan for Route One Motor Sports 2740 Malabar Road, Malabar**

kbohne@fla-lawyers.com <kbohne@fla-lawyers.com>

Sat 9/5/2020 8:16 PM

To: Denine Sherear <dsherear@townofmalabar.org>

Cc: Debby Franklin <townclerk@townofmalabar.org>

I did not get an actual copy of the site plan so I cannot comment on it.

As the Agenda report discloses this is a multiple parcel application. The property appraisers website shows that this "site", as best as I can tell, is composed of 4 parcels owned by Kellwill. The Parcel IDs are as follows:

28-38-31-54-D-2;

28-38-31-54-D-1;

28-38-31-54-D-12; and,

28-38-31-54-\* -R.01.

The application only lists on parcel although the eagle view "map" attached shows a "site" which appears to be composed of all 4 pieces. For completeness purposes the application should list all 4 properties.

The application lists William Carmine as the owner. This is incorrect as Kellwill LLC is the owner and should be corrected on the application.

Based upon my reading of the material this property is zoned CG. The District Provisions in the Land Development Code states:

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

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

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

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

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

The Agenda face sheet says the proposed use is Retail. The application says Retail/Storage and the Planner states the proposed use is a storage building for the existing Route 1 Motor Sports. The use needs to be clarified. Warehousing, Storage and Distributions are only permitted in the Industrial Zone. As these parcels are separate parcels from the Route 1 Motor Sports site they must be analyzed as separate parcels.

If this is a storage building for the Route 1 business it could not qualify as an accessory structure for the reason that it is located on a separate lot apart from the Route 1 parcel. Section 1-5.6.A states: No accessory building shall be constructed upon a lot until the construction of a principal building... See also Art. XX: *Accessory Use or Structure*. A... structure subordinate to the principal... building on the **same lot** and serving a purpose customarily incidental to the use of the principal building, provided any such structure is built with or after the construction of the principal building.

Finally, although not relevant at the site planning level, A Malabar Vernacular Style would appear to be required for any building construction for buildings along arterial roadways.

Karl W. Bohne, Jr.

Schillinger & Coleman, P.A.

1311 Bedford Drive

Melbourne, FL 32940

321-255-3737 Telephone

321-255-3141 Facsimile

Office Hours:

8:30 a.m. to 5:00 p.m. Monday thru Thursday

8:30 a.m. to 12 Noon on Friday

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**From:** Denine Sherear [mailto:dsherear@townofmalabar.org]

**Sent:** Friday, September 4, 2020 5:26 PM

**To:** Karl Bohne <kbohne@fla-lawyers.com>

**Subject:** Town of Malabar- Site Plan for Route One Motor Sports 2740 Malabar Road, Malabar

Karl,

Please see attached Site Plan packet for your review that will go before the PZ Board on Wednesday 9/9/2020

Thank you

*Respectfully,*

Denine

Denine Sherear, Building Department Manager

Town of Malabar

2725 Malabar Road, Malabar FL 32950

office: 321-727-7764 x 14



# **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	Star (sq. ft.)	Minimum Lot (1)		Depth (ft.)	Maximum Height (ft. stories)	Minimum Easement Area (sq. ft.)	Setback (ft.)				Maximum Impervious Surface Ratio (%)	Maximum Building Coverage	Minimum Open Space (%)	Maximum Density (units per acre) with Central Water and Wastewater	
		Width (ft.)	Area (sq. ft.)				Front	Rear	Side (1)	Side (2)					
CL	20,000	100	150	150	35/8	Minimum Floor Area: 800	50	25	10 <sup>4</sup>	20	65	0.30	35	N/A	
CO	20,000	100	150	150	35/8	Min. Area: 800 Max. Area: 4,000	50	25	20 <sup>4</sup> 15 <sup>4</sup>	30	65	0.30	35	N/A	
Industrial Development															
IND	20,000	100	150	150	35/8	Minimum Floor Area: 1200	50	25	20	30	70	0.42	30	N/A	
Institutional Development															
INS	20,000	100	150	150	35/8	Minimum Floor Area: 1200	50	25	20	30	60	0.30 0.10 <sup>5</sup>	40	N/A	
Coastal Preservation															
CP	No Size or Dimension Standards Adopted														

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

# 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 1-1.1

§ 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.



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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.