



Planning and Zoning Board Meeting

Wednesday, August 25, 2021 at 6:00 pm

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

APPROVAL OF MINUTES

a. Approval of Minutes of 08/11/2021

Exhibit: Agenda Report Number 4a

Attachments:

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

5. PUBLIC COMMENTS
6. ACTION ITEMS

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

Exhibit: Agenda Report Number 6a

Attachments:

- **Agenda Report Number 6a** (Agenda_Report_Number_6a.pdf)

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

Exhibit: Agenda Report Number 6b

Attachments:

- **Agenda Report Number 6b** (Agenda_Report_Number_6b.pdf)
- **Agenda Report Number 6b** (Agenda_Report_Number_6b.pdf)

7. PUBLIC HEARING
8. DISCUSSION/POSSIBLE ACTION ITEMS
9. ADDITIONAL ITEMS FOR FUTURE MEETING
10. PUBLIC COMMENTS

11. OLD BUSINESS/NEW BUSINESS

a. Old Business

b. New Business

Board Member Comments

Next regular Meeting - September 8th, 2021

12. ADJOURNMENT

Contact: Denine Sherear (dsherear@townofmalabar.org 1321727764) | Agenda published on
08/20/2021 at 9:11 AM

TOWN OF MALABAR
PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 4.a.

Meeting Date August 25, 2021

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

SUBJECT: Approval of Minutes

BACKGROUND/HISTORY:

The minutes must reflect the actions taken by the Board:

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

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

ATTACHMENTS:

Draft minutes of P&Z Board Meeting of 8/11/2021

ACTION OPTIONS:

Secretary requests approval of the minutes.

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

**MALABAR PLANNING AND ZONING BOARD REGULAR MEETING
AUGUST 11, 2021, 6:00 PM**

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

1. CALL TO ORDER, PRAYER AND PLEDGE:

Meeting called to order at 6:00 P.M. Prayer and Pledge led by Chair Wayne Abare.

2. ROLL CALL:

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

ADDITIONAL ATTENDEES:

INTERIM TOWN MANAGER:

3.ADDITIONS/DELETIONS/CHANGE:

4. CONSENT AGENDA:1

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

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

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

Board went over minutes and amended.

5. PUBLIC HEARING:0

6. ACTION 1

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

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

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

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

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

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

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

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

Recommendation carried 5 to 0

7. DISCUSSION:0

7.a. *Intentionally left Blank*

8. *Intentionally left Blank*

9. ADDITIONAL ITEMS FOR FUTURE MEETING

10. PUBLIC

11. OLD BUSINESS/NEW BUSINESS:

Old Business:

New Business:

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

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

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

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

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

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

Reminder: Next Meeting – August 25, 2021

K. ADJOURN

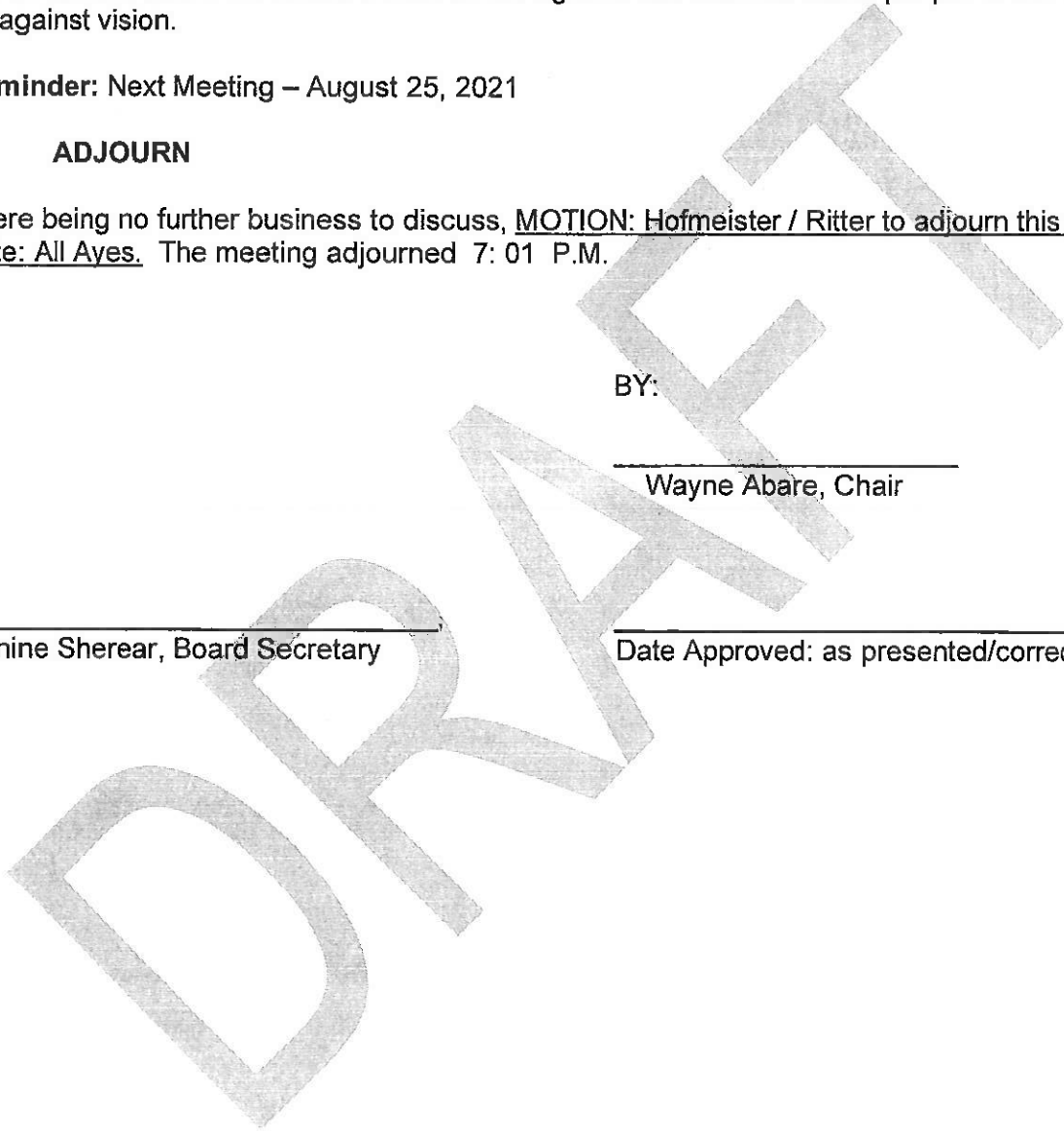
There being no further business to discuss, MOTION: Hofmeister / Ritter to adjourn this meeting.
Vote: All Ayes. The meeting adjourned 7: 01 P.M.

BY:

Wayne Abare, Chair

Denine Sherear, Board Secretary

Date Approved: as presented/corrected



TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6.a.
Meeting Date August 25, 2021

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

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

BACKGROUND/HISTORY:

Please see attached Memo 2021-TC/T-048 From Debby Franklin, C.M.C., Town Clerk/Treasurer with Council draft minutes from 8/16/2021 for your review. The packet provides information and explains the reason for this housekeeping requirement.

ACTION OPTIONS:

Action

TOWN OF MALABAR

MEMORANDUM

Date: August 17, 2021, 2021-TC/T-048
To: Denine Sherear, P&Z Board Secretary
From: Debby K. Franklin, C.M.C., Town Clerk/Treasurer
Ref: Council Action on August 16, 2021, regarding New Property Rights Element

Staff brought this item to Council at the RTCM 0816 2021 meeting. This ordinance creates a new chapter in the Comprehensive Plan that establishes a "private property rights" element with goals and policies. This is like the "peril of flood" legislation that was passed by the Legislature and required us to add language about flooding into the Comp Plan. If we do not adopt this, we will be considered non-compliant and not permitted to consider any land use changes.

A portion of the draft minutes follows:

4. DISCUSSION/POSSIBLE ACTION: 8/16/2021

11.a. New mandated Section to be added to Comp Plan (Ord 2021-16)

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN SMALL SCALE AMENDMENT (SSA) NO. 2021-02; ADDING A PROPERTY RIGHTS ELEMENT WITH ASSOCIATED GOALS AND POLICIES GOVERNING PROPERTY RIGHTS; REQUESTING EXPEDITED STATE REVIEW; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 11.a.

Franklin read by title only and then introduced as a housekeeping requirement of the State due to new legislation signed into law this year. This must go to P&Z Board for review and recommendation since they are the Land Planning Agency for the Town. The new chapter in the Comprehensive Plan will require regulations to ensure that private property owners are properly noticed and allowed to speak at public meetings that deal with land use issues that may affect their property. It also requires developers to take steps to "introduce" their development concept to surrounding property owners and show evidence of that before it is brought to Planning and Zoning. By adopting this now it will ensure the Town remains in compliance with the State. Council consensus to send it to P&Z Board.

Please discuss this at your next meeting and forward the Board's recommendation to me for Council.

Attachments: Draft Ordinance 2021-16 and Agenda Report.

TOWN OF MALABAR AGENDA ITEM REPORT

AGENDA ITEM NO: 11.a.
Meeting Date: August 16, 2021

Prepared By: Debby Franklin, Town Clerk/Treasurer

SUBJECT: Amend Comp Plan with New Property Rights Element (Ord 2021-16)

BACKGROUND/HISTORY:

Discussion Item for direction to P&Z Board.

This is the result of a new law that became effective for any land use considerations received after July 1, 2021. It requires us to add new language to the Comprehensive Plan and then add the corresponding regulations in the LDC. This is for information only at this point. It will need to go to P&Z for review and then their recommendation before Council considers it for transmittal to the State DEO.

ITM Lisa has previously briefed on this new law.

ATTACHMENTS:

Ordinance 2021-16

ACTION OPTIONS:

Direction to Staff to route to P&Z.

ORDINANCE 2021-16

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; ADOPTING THE COMPREHENSIVE PLAN SMALL SCALE AMENDMENT (SSA) NO. 2021-02; ADDING A PROPERTY RIGHTS ELEMENT WITH ASSOCIATED GOALS AND POLICIES GOVERNING PROPERTY RIGHTS; REQUESTING EXPEDITED STATE REVIEW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3167, Florida statutes, requires the Town of Malabar to maintain a Comprehensive Plan to guide its future development and growth; and

WHEREAS, Section 163.3177(6)(i)1., Florida statutes, requires the Town of Malabar to maintain a Comprehensive Plan to include a Property Rights Element; and

WHEREAS, The Town of Malabar respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, The Town of Malabar respects the rights of all people to participate in land use planning processes; and

WHEREAS, this ordinance will amend the Town of Malabar's Comprehensive Plan by adding a Property Rights Element.

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

SECTION 1. The Comprehensive Plan of the Town is hereby amended by adding a Property Rights Element attached as Exhibit "A" and made a part of this ordinance as if set forth in full.

SECTION 2. 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 3. Town Staff is directed to send three full copies of the adopted amendment to the State Department of Economic Opportunity and request Expedited Review.

SECTION 4. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 5. 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 adoption by Council Member _____, The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Council Member Marisa Acquaviva

Council Member Brian Vail

Council Member Steve Rivet

Council Member David Scardino

Council Member Danny White

This ordinance was then declared to be duly passed and adopted this ____ day of _____, 2021.

TOWN OF MALABAR

Mayor Patrick T. Reilly, Council Chair

(seal)

ATTEST

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

Council Discussion: 8/16/2021
P&Z Board Review: _____
Transmittal Council Reading: _____
Adoption Second Reading _____

Approved as to form and
legal sufficiency by:

Karl W. Bohne, Jr.
Town Attorney

EXHIBIT "A"

Small Scale Amendment (SSA) 2021-02ESR

August 2021

Malabar Comprehensive Plan

Element 10 – Property Rights

Goal: The Town of Malabar will make planning and development decisions with respect for private property rights with respect for people’s right to participate in decisions that affect their lives and property.

Objective 1. The Town of Malabar will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1. Property Interests. The Town of Malabar will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property including easements, leases, or mineral rights.

Policy 1.2. Property Usage. The Town of Malabar will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to State law and local ordinances.

Policy 1.3. Privacy and Exclusion. The Town of Malabar will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner’s possessions and property.

Policy 1.4. Disposition of Property. The Town of Malabar will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

Objective 2. The Town of Malabar realizes that people have the right to participate in planning and development decisions that affect their lives and property. The Town of Malabar will be transparent so that all people may participate in decisions that affect their lives and property. Land Development Regulations may be provided for additional processes and standards.

Policy 2.1. Decisions for which the Town of Malabar must follow policies 2.2 – 2.4. The Town of Malabar will follow the procedures in policies 2.2 – 2.4 when it amends the Comprehensive Plan, changes the Zoning designation or property; or approves a development order for more than nine (9) residential dwelling units, for more than 9,999 square feet of non-residential development, governing more than five (5) acres of land, requiring a variance, or requiring an exception.

Policy 2.2. Public Hearing Required. Whenever any issue listed in Policy 2.1 is put before the Town, such decision shall be made in a Public Hearing. Any affected person may participate in and be a party to a hearing on a decision this policy governs. The Town of Malabar will provide every affected person an equal opportunity, to present and rebut evidence, and to be informed of all information on which the Town bases its decision. The Town of Malabar will not grant any affected person, including the applicant, a greater opportunity to be heard than any other affected person.

Policy 2.3. The Town of Malabar must mail notice. At least thirty (30) days prior to the Public Hearing the Town of Malabar will mail notice of the hearing to all property owners within 1,320 feet of the real property to which the decision relates.

Policy 2.4. Public pre-application meeting. The applicant for any issue listed in Policy 2.1, or the Town if Town initiated, shall hold a public pre-application meeting prior to applying for or initiating the decision-making process. The party holding the meeting must request, at least 30 days before the meeting, that the Town of Malabar provide notice of the meeting in the normal manner that the Town provides notice of public meetings and the Town will comply with this request. The party holding the meeting must mail notice of the meeting to residents and owners of real property within 1,320 feet of the real property to which the proposal relates. In the meeting, the party holding the meeting must: present its proposal, provide time for all people attending to ask questions and share their perspectives, and record notes which it will provide to the Town of Malabar and which Malabar will make part of the record related to its decision on the proposal.

Objective 3. The Town of Malabar recognizes that people rely on the Town's Comprehensive Plan and on the zoning designations of properties when deciding how to use property.

Policy 3.1. The Town will follow the policies 3.2 and 3.3 when Malabar amends this Comprehensive Plan or changes zoning designation of property.

Policy 3.2. The Town may only make a decision policy 3.1 identifies by the affirmative vote of a majority plus one of the Malabar Town Council.

Policy 3.3. The Town of Malabar respects the rights of people, including elected officials, to fairly evaluate proposed decisions this objective governs. The Town may only make a decision policy 3.1 identifies ten (10) or more days after the Town of Malabar has made available to the public the specific decision the Council will consider and the written record which will support the decision. If The Town Council adds information to the written record or revises a proposed decision within ten (10) days of a planned public hearing, the Town council must postpone its decision until enough time has passed to satisfy this policy.

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6.b.
Meeting Date August 25, 2021

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

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

BACKGROUND/HISTORY:

Malabar Town Code does not have regulations in the Code pertaining to temporary storage units located on residential sites. ITM Morrell received a Code Compliant concerning this issue.

This Agenda Item is a part of housekeeping to insert into our code. This verbiage is to review, change, and provide a document to Council for Amending the Land Development Code for their next regular meeting September 14, 2021.

ATTACHMENTS:

- Portion of Malabar Land Development Code Article V Section 1-5.6 Accessory buildings
- Verbiage to add to Section 1-5.6 "D"

ACTION OPTIONS:

Action to Council

accumulate as a result of construction or manufacturing processes, wood and paper boxes, wrapping materials, wastes, plastics, and paper products. Also included are materials that are considered hazardous waste by the department of environmental protection, per Florida Administrative Code, or would affect ground water quality. Any other material must be approved by permit obtained from the town engineer.

(Ord. No. 92-8, § 1(E), 8-18-92; Ord. No. 97-4, § 2, 3-17-97)

Section 1-5.5. Wastewater facilities.

Whenever a lot is not served by an approved sanitary sewer, adequate open space as required by the Brevard County Environmental Services Unit shall be provided for a septic tank and drainage field to serve the uses erected on the subject lot. The sanitary installations may be located in a front or side yard, but not closer than five (5) feet to any lot line or within any easements. Notwithstanding, no septic tank shall be located within seventy-five (75) feet of mean high water (MHW) along the Indian River, or any tributary thereof. All package plants must conform to the applicable standards of the Florida Department of Environmental Regulation (FDER), including, but not limited to, location relative to the mean high water line.

Section 1-5.6. Accessory buildings.

A. Presence of Principal Building Required. No accessory building shall be constructed upon a lot until the construction of a principal building has been issued a certificate of occupancy and no accessory building shall be used unless the principal building is in use. No structure which has been constructed as a principal use for the housing of animals or for agricultural purposes shall be used as a residence.

B. Prohibited in Required Yard. No accessory building or structure shall be located in any required yard area.

C. General Regulations of Accessory Building. No mobile homes, travel trailers, or old cars shall be permitted as an accessory structure. No accessory structure shall be built without a permit first being issued by the Building Official expressly authorizing the accessory structure. If the Building Official is in doubt as to the type of added accessory structure or whether a proposed accessory use is a duly authorized accessory use or structure within the district in which it is proposed, then the Building Official shall forward the issue to the Planning and Zoning Board and the Town Council for action.

Section 1-5.7. Storage of gasoline and other combustible fluids.

Any storage of gasoline and other combustible fluids shall be subject to compliance with all State and local laws pertaining to storage of gasoline and other combustible fluids.

Cross reference—Fire prevention and protection, ch. 8.

Sec. 1-5.8. Fences, walls and entranceways and related structures.

(a) *Definitions.* For purposes of this section, the following terms shall have the following definitions:

K
INSERT
D. →

Malabar Land Development Code

Article V- General Provisions

Section 1-5-6. Accessory Buildings

Add:

✂ D. Temporary Storage Unit. Temporary storage containers typically utilized temporarily for the storage of personal belongings only, as part of the process of household moving and/or part of a household intent to store items offsite at a commercial storage location.

1. Allowable use. Temporary storage units are allowable in residential areas with a form submitted to the Town signed by Town Manager/ or designee:

(a) Temporary storage units. Temporary storage units may be permitted provided such units comply with the following provisions:

(b) Size: Temporary storage units shall not exceed nine (9) feet in height, ten (10) feet in width, and 24 feet in length.

(c) Location: Within residential districts, temporary storage units may be in a required setback; however, they shall not be in such a manner to impair a motor vehicle operator's view of other motor vehicles, bicycles, or pedestrians upon entering or exiting rights-of-way. In all other districts, the unit shall not be in any required landscape, buffer, or parking area.

(d) Wind loads: If the National Weather Advisory Service or other qualified weather advisory service identifies weather conditions which are predicted to include winds of 75 mph or greater, all temporary storage units shall be removed from all properties and placed in approved storage locations at least 24 hours prior to the predicted onset of such winds or as soon as reasonably practical if less notice is provided. This requirement may be modified by the building official upon receipt of adequate documentation from a registered architect or engineer or other professional qualified to give such opinion that a greater wind loading pertain to a particular temporary storage unit model or manufacturer so that the temporary storage unit is unlikely to be moved by winds greater than the predicted winds. As an alternative to removal, the temporary storage vendor may submit a tie down proposal for approval by the building official and each temporary storage unit not removed shall be tied down in the approved manner.

(e) Time frame: Temporary storage units are allowed in residential districts for a period not exceeding 14 days and no more than two times a year on residentially zoned property. For nonresidential zoned property, temporary storage units are allowed for a period not to exceed 30 days and no more than two times a year.

(f) A sticker shall be affixed to all temporary storage units indicating the most recent delivery date, on which the temporary storage unit was delivered to a property.

(g) The temporary storage unit shall not be utilized for the following:

- Storage of live animals
- Utilized for human habitation
- Hazard or flammable materials
- Advertising on unit

2. Exemptions:

The temporary storage units are placed for construction purposes in connection with valid building permits during any period of declared emergency by federal, state, or local official action.

3. Fines

Article XII Administrative Procedures-

Section 1-12.7 Violations and Provisions for schedules of fines

TOWN OF MALABAR

PLANNING AND ZONING

AGENDA ITEM REPORT

AGENDA ITEM NO: 6.b.
Meeting Date August 25, 2021

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

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BACKGROUND/HISTORY:

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This Agenda Item is a part of housekeeping to insert into our code. This verbiage is to review, change, and provide a document to Council for Amending the Land Development Code for their next regular meeting September 14, 2021.

ATTACHMENTS:

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- Verbiage to add to Section 1-5.6 "D"

ACTION OPTIONS:

Action to Council

accumulate as a result of construction or manufacturing processes, wood and paper boxes, wrapping materials, wastes, plastics, and paper products. Also included are materials that are considered hazardous waste by the department of environmental protection, per Florida Administrative Code, or would affect ground water quality. Any other material must be approved by permit obtained from the town engineer.

(Ord. No. 92-8, § 1(E), 8-18-92; Ord. No. 97-4, § 2, 3-17-97)

Section 1-5.5. Wastewater facilities.

Whenever a lot is not served by an approved sanitary sewer, adequate open space as required by the Brevard County Environmental Services Unit shall be provided for a septic tank and drainage field to serve the uses erected on the subject lot. The sanitary installations may be located in a front or side yard, but not closer than five (5) feet to any lot line or within any easements. Notwithstanding, no septic tank shall be located within seventy-five (75) feet of mean high water (MHW) along the Indian River, or any tributary thereof. All package plants must conform to the applicable standards of the Florida Department of Environmental Regulation (FDER), including, but not limited to, location relative to the mean high water line.

Section 1-5.6. Accessory buildings.

A. *Presence of Principal Building Required.* No accessory building shall be constructed upon a lot until the construction of a principal building has been issued a certificate of occupancy and no accessory building shall be used unless the principal building is in use. No structure which has been constructed as a principal use for the housing of animals or for agricultural purposes shall be used as a residence.

B. *Prohibited in Required Yard.* No accessory building or structure shall be located in any required yard area.

C. *General Regulations of Accessory Building.* No mobile homes, travel trailers, or old cars shall be permitted as an accessory structure. No accessory structure shall be built without a permit first being issued by the Building Official expressly authorizing the accessory structure. If the Building Official is in doubt as to the type of added accessory structure or whether a proposed accessory use is a duly authorized accessory use or structure within the district in which it is proposed, then the Building Official shall forward the issue to the Planning and Zoning Board and the Town Council for action.

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Cross reference—Fire prevention and protection, ch. 8.

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Malabar Land Development Code

Article V- General Provisions

Section 1-5-6. Accessory Buildings

Add:

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(a) Temporary storage units. Temporary storage units may be permitted provided such units comply with the following provisions:

(b) Size: Temporary storage units shall not exceed nine (9) feet in height, ten (10) feet in width, and 24 feet in length.

(c) Location: Within residential districts, temporary storage units may be in a required setback; however, they shall not be in such a manner to impair a motor vehicle operator's view of other motor vehicles, bicycles, or pedestrians upon entering or exiting rights-of-way. In all other districts, the unit shall not be in any required landscape, buffer, or parking area.

(d) Wind loads: If the National Weather Advisory Service or other qualified weather advisory service identifies weather conditions which are predicted to include winds of 75 mph or greater, all temporary storage units shall be removed from all properties and placed in approved storage locations at least 24 hours prior to the predicted onset of such winds or as soon as reasonably practical if less notice is provided. This requirement may be modified by the building official upon receipt of adequate documentation from a registered architect or engineer or other professional qualified to give such opinion that a greater wind loading pertain to a particular temporary storage unit model or manufacturer so that the temporary storage unit is unlikely to be moved by winds greater than the predicted winds. As an alternative to removal, the temporary storage vendor may submit a tie down proposal for approval by the building official and each temporary storage unit not removed shall be tied down in the approved manner.

(e) Time frame: Temporary storage units are allowed in residential districts for a period not exceeding 14 days and no more than two times a year on residentially zoned property. For nonresidential zoned property, temporary storage units are allowed for a period not to exceed 30 days and no more than two times a year.

(f) A sticker shall be affixed to all temporary storage units indicating the most recent delivery date, on which the temporary storage unit was delivered to a property.

(g) The temporary storage unit shall not be utilized for the following:

- Storage of live animals
- Utilized for human habitation
- Hazard or flammable materials
- Advertising on unit

2. Exemptions:

The temporary storage units are placed for construction purposes in connection with valid building permits during any period of declared emergency by federal, state, or local official action.

3. Fines

Article XII Administrative Procedures-

Section 1-12.7 Violations and Provisions for schedules of fines