



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

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### Prepared by

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#### CASE

CU24-00006 - 7/11 Convenience Store  
& Gas Station

#### PLANNING & ZONING BOARD HEARING DATE

October 2, 2024

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#### PROPERTY OWNER & APPLICANT

Royal Wash PSL, LLC (Chelsea  
Anderson, Rep.)

#### PROPERTY LOCATION/ADDRESS

1300 Malabar Rd. SE, Located in Port Malabar  
Unit 38 Lots 1 Thru 6 Blk 2211, Excluding Hwy  
R/W; Tax Account 2922786

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#### SUMMARY OF REQUEST

A **Conditional Use** to allow retail automotive gas/fuel sales in the Community Commercial District, in accordance with 173.021 and Table 173-2 [previously Section 185.043(D)(3)] of the Palm Bay Code of Ordinances.

##### Existing Zoning

GC, General Commercial

##### Existing Land Use

Commercial, Retail

##### Future Land Use

COM, Commercial

##### Site Improvements

1-story concrete block building consisting of multiple units

##### Site Acreage

Approximately 1.15 acres

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#### SURROUNDING ZONING & USE OF LAND

##### North

CC, Community Commercial; RaceTrac Store/Gas Station

##### East

GC, General Commercial; Commercial

##### South

GC, General Commercial; Commercial

##### West

CC, Community Commercial; Bank, Commercial Plaza

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#### COMPREHENSIVE PLAN

##### COMPATIBILITY?

Yes, Commercial Use

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**BACKGROUND:**

The subject site is located at the intersection of Babcock Street NE and Malabar Road NE on the southeast corner. The property was platted in 1966 as part of Port Malabar Unit Thirty-Eight Subdivision and consists of 1.15 acres. The applicant has provided a conceptual plan with a proposed 9,564 square foot 7-Eleven convenience store and gas station. The conditional use request is specifically to allow a retail automotive gas/fuel sales store to be developed in the Community Commercial District.

The applicant has also concurrently applied for a Rezoning (Z24-00002) from GU, General Use Holding to CC, Community Commercial. Should the Planning and Zoning Board recommend approval of the conditional use request, City Council will take no action on CU24-00006 until the rezoning has been adopted. Upon CU approval, the applicant would then be required to proceed with the site plan approval process.

**ANALYSIS:**

In accordance with Section 185.043(D)(3) of the Code of Ordinances, a retail automotive gas/fuel sales use/development may be allowed by conditional use approval in the Community Commercial Zoning District.

Section 185.043(D)(3)(a-g) provides specific requirements that must be provided by a retail automotive gas/fuel sales establishment for approval of a conditional use permit at a particular site/location in the Community Commercial Zoning District.

Retail automotive gas/fuel sales establishments are to be located on arterial roadways, at a signalized intersection of a major collector road, or on corner lots at the intersection of collector streets or a higher functional classification as identified in the adopted Palm Bay Comprehensive Plan. *Malabar Road and Babcock Street are both classified as Arterial Roads in the Palm Bay Comprehensive Plan, Transportation Element, Map TRAN-1.*

No more than two (2) corner lots at any intersection shall be used for retail gasoline or automotive fuel sales. *There is a Racetrac Gas Station and Convenience Store located at the northeast corner of Malabar Road and Babcock Street. If the applicant's conditional use request is approved, the subject site will become the second corner lot with automotive fuel sales at the intersection.*

A minimum street frontage of one hundred and fifty (150) feet on each abutting street is required. In addition, no driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification. *The site is large enough to meet the frontage and driveway spacing requirements. The sketch provided by the applicant shows approximately one-hundred seventy (170) feet of frontage along St. Babcock Street, and approximately three hundred (300) feet of frontage on Malabar Road. The Traffic Study provided by the applicant proposes the removal of the existing western driveway, closest to Babcock Street to meet the 100-foot distance requirement. The driveways to the south of the property*

*should be further evaluated during administrative site plan review.*

Gasoline, fuel pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building, and one hundred (100) feet from the nearest residentially owned land. *The sketch provided by the applicant shows that the proposed location of fuel pumps, which meet the code requirements. The underground storage tanks are located on the southeast corner of the subject site and appear to meet the distance requirements. Upon site plan review, the applicant will be required to meet this requirement and all other underground storage tank regulations in the LDC.*

No gasoline fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well. *The Palm Bay Utilities Department has confirmed that the proposed locations for the pumps, storage tanks and other equipment meets this standard.*

Underground storage tanks are required for all receptacles that contain more than two hundred (200) gallons of combustible materials. *Although capacity is not indicated on the sketch, underground storage tanks are proposed on the southeast portion of the lot.*

Development and operation of the fuel pumps and attendant storage tanks will be in compliance with Section 174.042 of the code of ordinances. *This will be reviewed in detail during the administrative site plan review.*

The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation. *Should the applicant's request be approved, staff will work with the design team during the administrative site plan review to ensure the proposed use will not constitute a nuisance or hazard.*

Signs, if any, and proposed exterior lighting will be designed and arranged to promote traffic safety and to eliminate or minimize any undue glare, incompatibility or disharmony with adjoining properties. *Proposed sign locations are not shown on the provided sketch; however, any proposed signage will be required to meet signage regulations in Chapter 178 of the LDC during the administrative site plan review. Lighting and photometric plans will also be required. Pursuant to Sec. 178.017, any illuminated signs proposed by the applicant will be shielded and/or directed downward to avoid driving hazards and nuisance to adjacent properties.*

Underground storage is required for all receptacles for combustible materials in excess of two hundred (200) gallons. *Although capacity is not indicated on the conceptual plan, underground storage tanks are shown. Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with Section 176.01 of the code of ordinances. An administrative site plan review will be required to ensure compliance with all applicable codes.*

All Conditional Use requests are evaluated upon items (A) through (H) of the General Requirements and Conditions of Section 185.087 of the Code of Ordinances. A review of these

items is as follows:

**Item (A):** Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergencies.

Ingress and egress on Malabar Road is proposed to be right turn in and right turn out only. A second ingress and egress driveway is proposed at the southeast corner of the property. The conceptual sketch also shows interior traffic lanes onsite at width ranging from 24-31 feet for two-way traffic. This will accommodate vehicular traffic movement, but more information is required to fully determine if the sketch provides the most efficient layout for the proposed use. For example, it appears the site would have challenges if fuel delivery and sanitation pick-up occur on the same day and time. In addition, the sketch does not identify the location of the loading and delivery parking area/space. For pedestrian safety, the project will be required to provide sidewalks along the right-of-way frontage and on-site to connect to off-site sidewalk connections. The applicant is proposing four-foot wide sidewalks on Malabar Road; however, five-foot wide sidewalks are required.

**Item (B):** Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.

Section 185.140(G)(10) of the Code of Ordinances establishes parking requirements for food stores at one (1) space for each two hundred (200) square feet of gross floor area. The proposed retail automotive gas/fuel sales establishment is 4,000 square feet, which will require twenty-four (20) parking spaces. The conceptual plan shows 28 parking spaces. Section 185.140(D) requires each parking space be a minimum width of ten (10) feet and a minimum length of nineteen (19) feet, which is provided on the sketch. A loading space is not required for food stores under 5,000 square feet; however, possible conflicts may exist at the southeast driveway entry (underground storage tank access, and sanitation receptacle access) that will need to be resolved during administrative site plan review.

**Item (C):** Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

The Utilities Department stated they have no objections to the proposed project. Any necessary upgrades will be required to be designed, permitted, installed, and inspected at the developer's cost.

**Item (D):** Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.

The conceptual sketch indicates a 10' landscaping buffer along the south and west boundaries of the subject site. Both buffers appear to lie within the 10' setback area and needs to be further evaluated during administrative site plan review. A landscape plan has not been included with

the request but will be required with the site plan application and will be required to meet all landscaping requirements during the administrative site plan review.

**Item (E):** Signs, if any, and proposed exterior lighting will be so designed and arranged to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.

Proposed sign locations are not shown on the conceptual plan. Signage, lighting, and photometric plans will be required for administrative site plan review. It shall be noted that City codes require any lighting to be shielded and/or directed downward to avoid creating a nuisance to adjacent properties.

**Item (F):** Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

On the conceptual sketch, the site appears to meet all building setback requirements. Setback and landscaping requirements are reviewed in depth during the administrative site plan review, and the project will be required to meet all code requirements.

**Item (G):** The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation, or type of physical activity. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.

**Item (H):** Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, a reasonable time limit within which the action for which special approval is requested shall be begun or completed, or both.

The Board and Council have the authority and right to impose any additional and justifiable safeguards, and/or conditions, to ensure that the facility operates safely and harmoniously with its surroundings.

As mentioned previously, the applicant has submitted a rezoning request for the subject parcel, which is under review as Case Z24-00002. The rezoning must be approved by the City Council prior to the hearing of CU24-00006, as the proposed use is not allowed in the current zoning district for the site (General Commercial District).

#### **STAFF RECOMMENDATION:**

Staff recommends **approval with conditions** of Case CU24-00006 to allow a retail automotive gas/fuel sales use at the subject location. Conditions include:

1. Case Z24-00002 for the subject site must first be approved by the City Council (adoption of rezoning ordinance).

2. Five-foot wide sidewalks are required along Malabar Road.
3. Resolve potential access conflicts during site plan review (southeast corner driveway).
4. The administrative site plan review will be subject to the current Land Development Code.
5. The conditional use shall commence within two (2) years of the date that the conditional use is granted, as evidence by the issuance of a certificate of occupancy, certificate of completion and/or business tax receipt, as applicable.

**REQUESTED ACTION:**

Conditional Use requests must be reviewed by the Planning and Zoning Board to provide a recommendation to the City Council for final action Section 185.089. The Planning and Zoning Board may recommend approval, approval with conditions, or denial of the subject request.



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



**AERIAL LOCATION MAP**

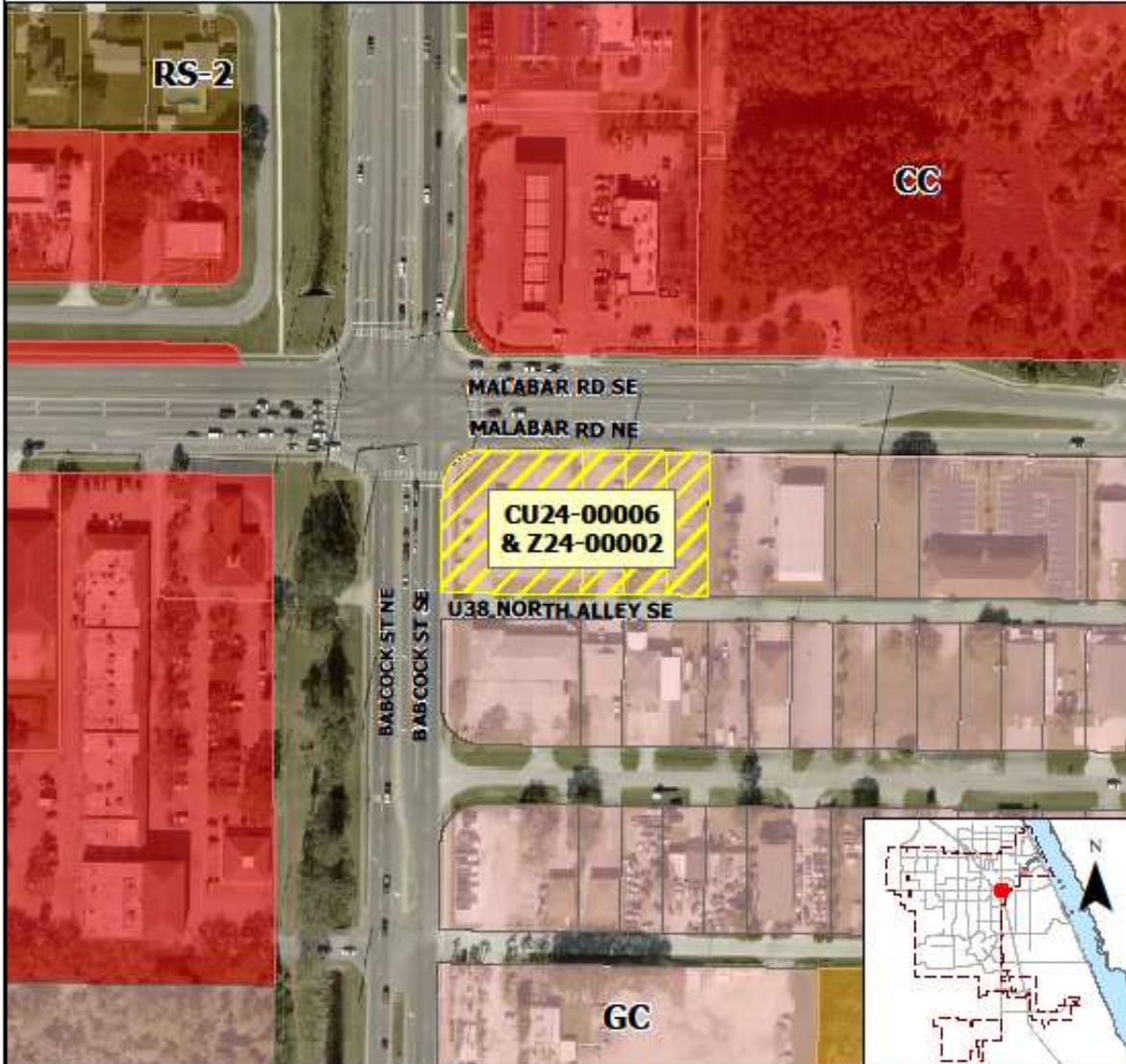
**CASE: CU24-00006 & Z24-00002**

**Subject Property**

Located at the southeast corner of Babcock Street SE and Malabar Road SE, specifically at 1300 Malabar Road SE



Map is not to scale—for illustrative purposes only; not to be construed as binding or as a survey.



**ZONING MAP**

**CASE: CU24-00006 & Z24-00002**

**Subject Property**

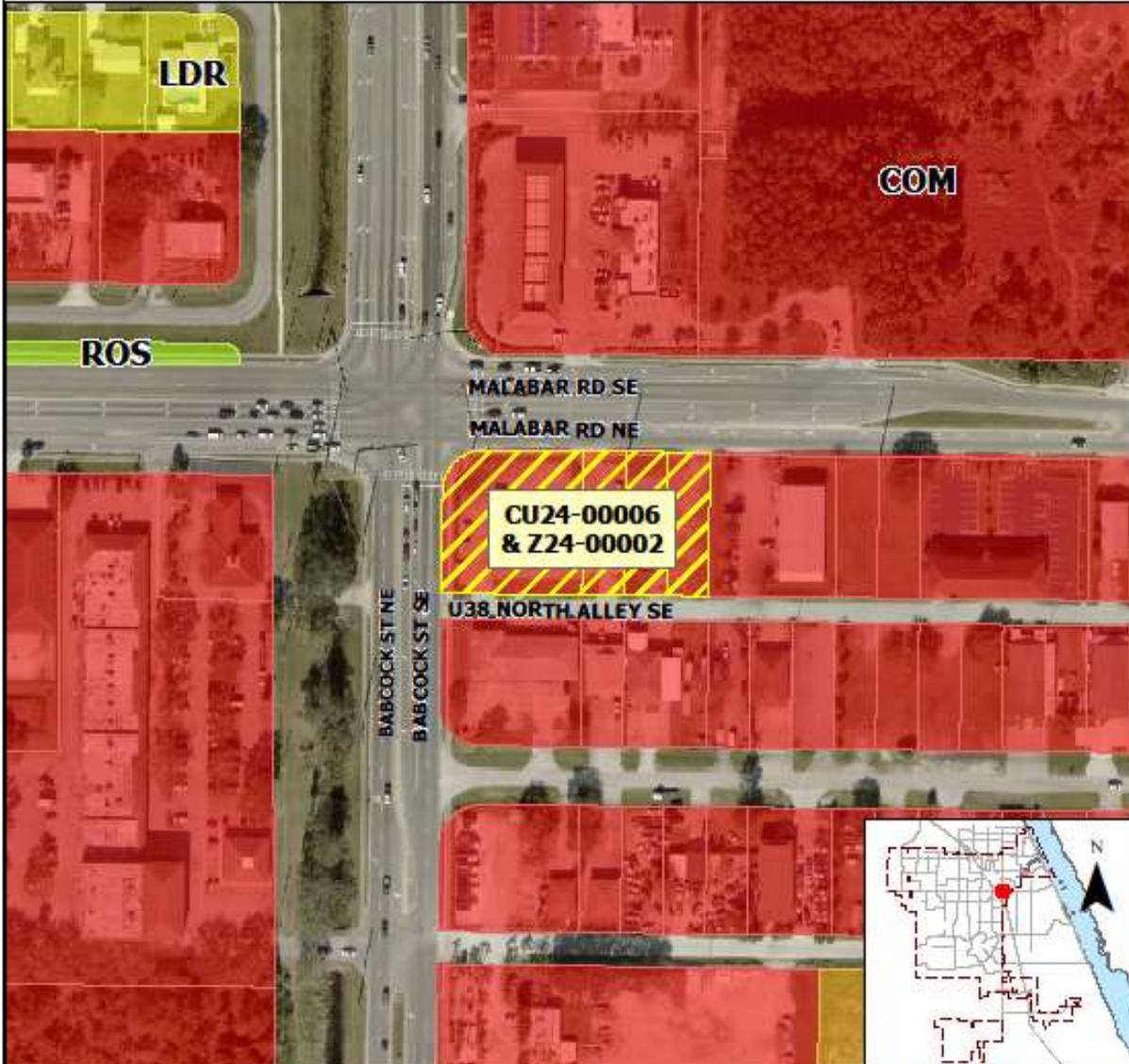
Located at the southeast corner of Babcock Street SE and Malabar Road SE, specifically at 1300 Malabar Road SE

**Zoning District**

GC - General Commercial



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**FUTURE LAND USE MAP**

**CASE: CU24-00006 & Z24-00002**

**Subject Property**

Located at the southeast corner of Babcock Street SE and Malabar Road SE, specifically at 1300 Malabar Road SE

**Future Land Use Classification**

COM - Commercial

