



# STAFF REPORT

## LAND DEVELOPMENT DIVISION

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### Prepared by

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**CASE NUMBER**

CP23-00016

**PLANNING & ZONING BOARD HEARING DATE**

April 3, 2024

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**PROPERTY OWNER & APPLICANT**

William Rocker, VACATION FINANCE, LLC (Angel Pinero, P.E., Dynamic Engineering Consultants, P.C., Rep.)

**PROPERTY LOCATION/ADDRESS**

A portion of Section 4, Township 29, Range 36, Brevard County, Florida, containing approximately 32.8 acres. Located south of and adjacent to Malabar Road NW, at the intersection of Malabar Road NW and Allison Drive; Tax Account 2903861

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**SUMMARY OF REQUEST**

The applicant is requesting a Small-Scale Comprehensive Plan Future Land Use Map Amendment from COM, Commercial to NC, Neighborhood Center to allow for the development of a mixed-use development to be called Malabar Village.

**Existing Zoning**

CC, Community Commercial

**Existing Land Use**

COM, Commercial

**Site Improvements**

undeveloped land

**Site Acreage**

32.8 acres

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**SURROUNDING FUTURE LAND USE & USE OF LAND****North**

LDR, Low Density Residential, Developed Single Family Homes

**East**

LDR, Low Density Residential, Developed Single Family Homes

**South**

RES 1, Single Family Residential (County); Developed

**West**

RAC, Regional Activity Center (Malabar Springs), under construction

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**BACKGROUND:**

The subject property is located south of and adjacent to Malabar Road NW, at the intersection of Malabar Road NW and Allison Drive. The applicant is requesting Small-Scale Comprehensive Plan Future Land Use Map Amendment for the 32.8-acre parcel to allow for the development of a mixed-use development to be called Malabar Village.

The owner of the property is requesting a change of Future Land Use from Commercial (COM) to Neighborhood Center (NC) and has also submitted concurrently for a Preliminary Development Plan (PD23-00006) and a Final Development Plan (FD23-00009). The proposed multifamily complex will be situated on a 20.25-acre parcel and will include 424 units. The mixed-use development will also consist of 3 commercial parcels, totaling approximately 11.21 acres. The vacant commercial parcels are situated adjacent to Malabar Road NW.

The City's Comprehensive Plan states that the purpose of the Neighborhood Center Land Use Classification is to create areas accommodating high residential densities complemented by neighborhood-scale commercial and office uses. Typical uses shall include a range of housing types, commercial, office, recreation, and institutional uses. The maximum density permitted in Neighborhood Center is 25 dwelling units per acre. The proposed density is 21. The maximum intensity (FAR, Floor to Area Ratio) permitted by the future commercial development in this classification is 0.5.

**ANALYSIS:**

All proposed amendments shall be submitted to the Planning and Zoning Board which shall analyze the factors of analysis applicable to the proposed amendment prior to making a recommendation to City Council.

- (A) Whether the proposed amendment will have a favorable or unfavorable effect on the city's budget, or the economy of the city.

The applicant states that the mixed-use development will encourage a sense of community, economic investment opportunities. This will generate additional revenue for the City in the form of taxes, create new jobs and reduce traffic and road impacts.

Staff Response: The applicant has not provided any data to support this claim.

- (B) Whether the proposed amendment will adversely affect the level of service of public facilities

The applicant states that the proposed amendment will not impact the level of service of public facilities as the current land use could be considered a more intensive use, being completely commercial. The level of service required to service 33 acres of pure commercial development would be much greater than a neighborhood commercial land use as a mix use of commercial and residential.

Staff Response:

**Utilities:** The Utilities Department has no objection to the proposed Future Land Use Map Amendment to Neighborhood Center (NC). Project development will be required to connect to existing water and sewer.

**Drainage:** The Public Works Department has no objection to the proposed FLU amendment. If developed, a drainage plan must be prepared in accordance with current regulations and approved by the City, along with appropriate outside agencies, including the St. Johns River Water Management District and Melbourne Tillman Water Control District. The proposed stormwater management system will be reviewed and approved by the City during the site plan review process.

**Public Schools:** The School Board has determined that when considering the adjacent elementary school, middle school, and high school concurrency service areas, there is sufficient capacity for the total projected student membership to accommodate the Malabar Village development.

**Recreation and Open Space:** The proposed development would provide a minimum of 8.16 acres of open space. Additionally, the multi-family residential development will provide 1.22-acre recreational tract with a clubhouse and pool as well as tennis and pickleball courts. Policy CON-1.5J requires that developments locate the required open space areas as part of native habitat preservation. The proposed open space areas are almost entirely comprised of wet and dry retention ponds.

**Transportation:** The objectives of the Comprehensive Plan's Transportation Element are to provide a safe, balanced, efficient transportation system that maintains the roadway level of service and adequately serves the needs of the community. The City Engineer states that there is a pre-existing deficiency in the level of service provided along Malabar Road NW. This section of Malabar Road is under the jurisdiction of the County and state statute requires that the developer be made to pay their proportionate fair share of the new trips added. The proposed 424 units may further decrease the level of service along this two-lane road.

- (C) Whether the proposed amendment will adversely affect the environment or the natural or historical resources of the city or the region as result of the proposed amendment

The applicant states that no expected impacts to environmental and historical resources are anticipated and that the current land use would likely have a more intensive impact to environmental resources than a proposed neighborhood commercial use.

Staff Response: The environmental character of the city is maintained through conservation, appropriate use, and protection of natural resources. Any protected species or habitats that may be on the subject property would need to be mitigated as required by State and Federal regulations and per Policy CON-1.6.

According to the Florida Land Use and Cover Classification System, the entire 32.8acre site is comprised of coniferous/hardwood uplands. The applicant does not propose the conservation of any of the existing trees or habitat.

The subject property is not located within the Coastal Management Area. The site is located within a flood zone and Letter of Map Release (LOMR) will be required before a site work permit will be issued. There are no known historical resources on the subject property that would be impacted due to this amendment. During any development review, an environmental assessment will be required prior to any construction.

- (D) Whether the proposed amendment will have a favorable or adverse effect on the ability of people to find adequate housing reasonably accessible to their places of employment

The applicant asserts that the amendment will have a favorable impact on the ability of people to find adequate housing reasonably accessible to their places of employment by providing job opportunities within the same area. A range of housing types, as well as commercial, office, recreation, and institutional uses are permitted within the Neighborhood Center land use, as opposed to the current land use which only allows for commercial uses.

Staff Response: Currently, there are no multi-family communities in the immediate vicinity of the proposed project. The area is predominately single family residential with no commercial development within a three-mile radius. However, the applicant provides no proposal or anticipated end users for the 11 acres of commercial land.

- (E) Whether the proposed amendment will promote or adversely impact the public health, safety, welfare, or aesthetics of the region or the city.

The applicant states that the proposed land use change will promote an increase in all these items by providing a more compatible use between the surrounding residential development while still providing for commercial uses.

Staff Response: The proposed project will extend the sidewalk along the south side of Malabar Road NW, bringing it towards the road entrance to Fred Poppe Park. Residents at the citizen participation meeting requested a cross walk be added at this road crossing to ensure pedestrian safety.

- (F) Whether the requested amendment is consistent with all elements of the Comprehensive Plan and established Levels of Services.

The applicant believes that the proposed amendment will follow all the elements of the comprehensive plan and established levels of service in line with Neighborhood Center Land Use.

Staff Response: The City's Economic Development Strategic Plan (2023) identifies the Malabar corridor as a "weak commercial corridor" and further recommends strategies for enhancing the commercial character of the area, which includes the retaining of existing commercial land. The Plan asserts that the smaller size of many of the commercial parcels makes them difficult to develop. There are less than 100 acres of commercial land adjacent to this section of Malabar Road NW, all of which is entirely undeveloped. This proposed land use change would remove another 20.25 acres of commercial lands.

- (G) Whether the request maximizes compatibility (consistent with the definition found in Florida Statutes 163.31649) between uses.

The applicant asserts that the amendment would greatly improve compatibility between uses since the surrounding uses are residential, the multi-family development will provide a good transition from single-family residential and the commercial.

Staff Response: The current zoning of Community Commercial permits low intensity commercial uses and provides additional requirements for only specific moderate intensity uses to maintain compatibility with the surrounding residential area.

- (H) Whether the request provides for a transition between areas of different character, density or intensity.

FLU Element Goal FLU-1 is to ensure a high-quality, diversified living environment through the efficient distribution of compatible land uses.

FLU Objective FLU-1.8 is to ensure that future development activity shall be compatible with established neighborhoods and strive to enhance the character of the community.

The applicant believes the Neighborhood Center Land Use would allow for a transition between single-family residential use and commercial uses, rather than residential uses directly adjacent to more intensive commercial development.

Staff Response: The proposed multifamily development typically provides a good transition between commercial along Malabar Road and the existing single family residential community to the south. In response to public comment, the multi-family buildings along the southern border with the single-family residential community have been reduced to 2-stories and a 35' landscape buffer, consisting of a double row of hedges, trees, will accompany the required opaque wall or fence to screen the view between the properties.

- (I) Whether the request relocates higher density and intensity uses in areas which already feature adequate vehicular access and access to public facilities

The applicant asserts that their request “will not relocate higher density and intensity uses in areas which already feature adequate vehicular access and access to public facilities.”

Staff Response: In accordance with Policy FLU-1.3B, Public sewer and water systems are available, and connection will be required. Public transit is also available with stops in the immediate vicinity. Internal and external sidewalks will be required which connect to the City’s existing system. However, this region of Malabar Road NW is deficient in nonresidential uses needed to meet the daily needs of residents for goods, services, and employment. The commercial parcels being proposed are not planned for immediate development and no end uses have been identified.

- (J) Whether the request has potential for creating land use inequities per Policy FLU 1.12A of the Comprehensive Plan.

The applicant does not expect the proposed land use change to create inequities, as they feel it will allow for the incorporation of equity considerations for land use applications such as potentially building affordable housing, creating more pedestrian- and transit friendly neighborhoods.

Staff Response: The proposed mixed-use development of multi-family residential and commercial is compatible along the major arterial road. This project area does also provide pedestrian connections and access to public transit. Affordable housing is a significant need in Palm Bay and new housing options (particularly multi-family) offer opportunities for underserved populations. However, it is not known if this housing will be at low-income or market rate, which must be established in the deed restrictions.

**STAFF FINDINGS:**

Staff does not support the land use change requested Case CP23-00016.

[REDACTED] NW  
NW [REDACTED]

[REDACTED] NW  
NW [REDACTED]

[REDACTED] NW  
NW [REDACTED]

[REDACTED] NW  
NW [REDACTED]