



Mayor
WILLIAM CAPOTE

Deputy Mayor
BRIAN ANDERSON

Councilmembers
HARRY SANTIAGO, JR.
JEFF BAILEY
KENNY JOHNSON

120 Malabar Road, SE - Palm Bay, FL 32907
(321-952-3400)
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AGENDA

REGULAR COUNCIL MEETING 2019-10

THURSDAY

May 2, 2019 - 7:00 P.M.
City Hall Council Chambers

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

1. Three (3) vacancies on the Community Development Advisory Board (represents 'for-profit provider', 'actively engaged in home building' and 'employer within the City' positions).++
2. Two (2) vacancies on the Business Improvement District (must be located within the District) representing one (1) 'institution of higher education (college or university)' and one (1) 'bank or financial institution'.++
3. Two (2) vacancies on the Business Improvement District (must be located within the District) representing 'at-large' position. Preferably members of the Palm Bay Chamber of Commerce.++
4. Three (3) terms expiring on the Community Development Advisory Board (represents 'real estate', 'essential services personnel' and 'not-for-profit provider' positions).+

AGENDA REVISIONS:

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE AND
TELEVISED ON THE SPACE COAST GOVERNMENT TV CHANNEL.

CONSENT AGENDA:

There will be no separate discussion on those items listed under Consent Agenda (indicated with asterisks(*)). They will be enacted by the City Council on one motion. If discussion is desired by the City Council, that item will be removed from the Consent Agenda by Council and will be considered in the order that it appears on the agenda.

RECOGNITION AND PROCLAMATION:

1. Keep Brevard Beautiful 38th Annual Trash Bash – recognizing the City of Palm Bay for most trash collected in Brevard County.
2. National Public Works Week, May 19-25, 2019.

ADOPTION OF MINUTES:

- *1. Regular Council Meeting 2019-09; April 18, 2019.

PUBLIC COMMENTS/RESPONSES: (Non-agenda Items Only)

Public comments will be heard by the City Council on non-agenda issues. Speakers must complete 'Public Comment Cards' (orange) and are limited to three (3) minutes each.

PUBLIC HEARINGS:

1. Ordinance 2019-27, amending the Code of Ordinances, Chapter 37, Community Planning and Economic Development, by repealing the chapter in its entirety, final reading.
2. Ordinance 2019-28, amending the Code of Ordinances, creating Chapter 37, Growth Management Department, final reading.
3. Ordinance 2019-29, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'Supplementary District Regulations', by including additional provisions related to mobile food vending, final reading.
4. Ordinance 2019-30, amending the City's Comprehensive Plan Future Land Use Element to remove Policy FLU-3.2A requiring Land Development Regulations to provide for commercial development over three acres in size to be developed as Planned Commercial Development (PCD) (Case CP-6-2019, City of Palm Bay), first reading.
5. Ordinance 2019-22, amending the City's Comprehensive Plan Future Land Use Map to change the designated use of property located at the southwest corner of Malabar Road and Allison Drive from Single Family Residential Use to Commercial Use (32.8 acres)(Case CP-2-2019, Vacation Finance, LLC), first reading. **(CONTINUED FROM RCM – 04/04/19)**

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- ♣6. Ordinance 2019-23, rezoning property located at the southwest corner of Malabar Road and Allison Drive from RS-1 (Single-Family Residential District) to CC (Community Commercial District) (32.8 acres)(Case CPZ-2-2019, Vacation Finance, LLC), first reading. **(CONTINUED FROM RCM – 04/04/19)**
- ♣7. Request by Juan Blanco, Jr., for a variance to allow an existing fence to encroach the 15-foot side corner setback by a maximum of 12.8 feet (0.85 acres)(Case V-7-2019).
- 8. Request by Richard and Barbara Miller for a variance to allow the north side of a proposed home to exceed the allowable finish floor elevation by a maximum of 0.38 feet (0.28 acres)(Case V-6-2019). **(WITHDRAWN)**
- 9. Request by William Benson for a final development plan to be known as 'Gulfport Key' on property located north of and adjacent to Gulfport Road, in the vicinity between Grapefruit Road and Sable Circle (20.76 acres)(Case FD-8-2019). **(RESCHEDULED TO P&Z – 05/01/19)**

PROCUREMENTS:

Award of Bid:

- *1. Mowing, city parks – IFB 30-0-2019 – Parks and Recreation Department (Ground Professionals, LLC - \$140,136).

Miscellaneous:

- *1. 'Cooperative Purchase', cured-in-place pipe lining, Stormwater Program (City of Orlando contract) – Public Works Department (Granite Inliner –\$515,911).

COUNCIL REPORTS:

NEW BUSINESS:

- *1. Consideration of initiating foreclosure proceedings on property located at 648 Osmosis Drive, SW.
- *2. Consideration of expenditures from the Palm Bay Police Department's Law Enforcement Trust Fund (\$3,000).
- *3. Consideration of travel and training for specified City employees.

ADMINISTRATIVE AND LEGAL REPORTS:

PUBLIC COMMENTS/RESPONSES: Speakers are limited to 3 minutes.

ADJOURNMENT:

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♣Quasi-judicial proceeding.

Councilmembers who are members of the Space Coast Transportation Planning Organization (TPO) may discuss TPO issues which may subsequently be addressed by the TPO.

If an individual decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required, and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

Any aggrieved or adversely affected person desiring to become a party in the quasi-judicial proceeding shall provide written notice to the City Clerk which notice shall, at a minimum, set forth the aggrieved or affected person's name, address, and telephone number, indicate how the aggrieved or affected person qualifies as an aggrieved or affected person and indicate whether the aggrieved or affected person is in favor of or opposed to the requested quasi-judicial action. The required notice must be received by the Clerk no later than five (5) business days at the close of business, which is 5 p.m., before the hearing. (§ 59.03, Palm Bay Code of Ordinances).

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

Pursuant to Council Policies and Procedures, members of the public wishing to use electronic media when addressing City Council must provide the electronic file to staff for screening no later than 2:00 P.M. on the day of the meeting; audio presentations must be submitted to the City Clerk at least twenty-four (24) hours prior to the meeting.

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LAND DEVELOPMENT DIVISION
120 MALABAR ROAD SE
PALM BAY, FL 32907
T: 321-733-3042 F: 321-953-8920

REVISED

STAFF REPORT
PREPARED BY:
Patrick J. Murphy
Assistant Growth Management Director

CASE NUMBER
CP-6-2019

APPLICANT/PROPERTY OWNER
City of Palm Bay, Growth Management Department

PLANNING & ZONING BOARD HEARING DATE
May 1, 2019

PROPERTY LOCATION/ADDRESS
N/A

SUMMARY OF REQUEST

The applicant is removing Policy FLU-3.2A from the Future Land Use Element of the Comprehensive Plan to be consistent with Ordinance No. 2016-17.

EXISTING ZONING	EXISTING LAND USE	SITE IMPROVEMENTS	SITE ACREAGE	SURROUNDING ZONING & LAND USE
N/A	N/A	N/A	N/A	N/A

PROPERTY HISTORY
N/A

COMPATIBILITY with the COMPREHENSIVE PLAN
Yes

COMPATIBILITY with the CODE OF ORDINANCES
Yes

STAFF RECOMMENDATION: TRANSMIT ☒ APPROVE ☒ APPROVE WITH CONDITIONS ☐ DENY ☐

ANALYSIS:

The subject Policy was included in the original creation of the Palm Bay Comprehensive Plan, which was adopted on October 6, 1988. The comprehensive plan has had many updates over the past 30 years to react to changes in development patterns and to address new ideologies.

On April 21, 2016 the Palm Bay City Council adopted Ordinance 2016-17, which amended Title XVII, Land Development Code, Chapter 185 Zoning Code, to update certain provisions contained within the chapter. One of these changes was the deletion of Section 185.088(D), Planned commercial development. Since this section was removed, there is no need to have Policy **FLU-3.2A** remain within the comprehensive plan.

STAFF RECOMMENDATION:

Motion to approve Case CP-6-2019, and to transmit the request to the Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes.

**PLANNING AND ZONING BOARD/
LOCAL PLANNING AGENCY
RECOMMENDATION
May 1, 2019**

As the Planning and Zoning Board minutes are not fully transcribed at this time, an excerpt of the minutes is being provided.

CP-6-2019 – CITY OF PALM BAY (GROWTH MANAGEMENT DEPARTMENT)

Staff Recommendation:

Motion to approve Case CP-6-2019 and to transmit the request to the Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes.

Planning and Zoning Board Recommendation:

Motion by Mr. Warner, seconded by Ms. Maragh to submit Case CP-6-2019 to City Council for approval, and to transmit the request to the Florida Department of Economic Opportunity for review, pursuant to Chapter 163, Florida Statutes, for an amendment to the Comprehensive Plan Future Land Use Element to remove Policy FLU-3.2A requiring Land Development Regulations to provide for commercial development over three acres in size to be developed as Planned Commercial Development (PCD). The motion carried with members voting unanimously.



**LAND DEVELOPMENT DIVISION
STAFF REPORT**

**ADDENDUM
to Case No. CP-2-2019**

The following addendum to the future land use map amendment application submitted by Vacation Finance, LLC. has been provided for City Council consideration. The segment of Malabar Road SE, for which the subject property abuts, is under the jurisdiction of Brevard County. In review of the application, the County has expressed concerns with the potential impact to their segment of road. The County's ownership and maintenance of Malabar Road is from Melbourne-Tillman Canal No. 10 (east of and adjacent to Brentwood Lakes) to the western terminus. As such, the City has provided the below analysis to examine current and potential impacts to the roadway segment.

Exist Malabar ADT	No. of Lanes	Level of Service (LOS) Std.	Max Allowable Volume	Available Capacity
11,370	2	E (County)	33,300	21,930

The maximum allowable volume (MAV) is per the FDOT 2012 Generalized Annual Average Daily for urbanized area. Using the ITE 10th Edition Trip Generation Manual to calculate the projected ADT for Retail per SF.

Retail Square Footage	ADT
278,000	10,495
200,000	7,550
180,000	6,795
160,000	6,040
150,000	5,663
140,000	5,285

The above data includes the annual average daily trips (AADT) of 11,370 trips, from Jupiter Boulevard to the St. Johns Heritage Parkway, as obtained from the Space Coast Transportation Planning Organization (TPO) website. According to the Transportation Element of Brevard County Comprehensive Plan (Policy 1.3), the adopted level of service (LOS) for arterial and collector roadways within the urban boundary is LOS E.

With this LOS threshold in place, the maximum allowable volume (MAV) on the adjacent road segment is 33,300 trips. That means there is an available capacity of 21,930 trips for this roadway segment. Typical commercial development of this size yields approximately 20% of the site covered by commercial building(s). Based on the size of the subject property, a logical build-out of commercial development is roughly 278,000 square feet.

A comparison project, to put this in perspective, is the shopping plaza located at the SW corner of Malabar and Minton Roads. Per the ITE 10th Edition Trip Generation Manual, a development of this size, using a “retail use” (which is the highest traffic generator), approximately 10,495 daily trips would be expected. This use of course, is at the high-end of commercial uses, and the trip data includes “pass-by” trips and internal capture. This number of trips would place the roadway to mid-capacity.

Commercial uses that would cause the adopted LOS to be exceeded will only be allowed upon inclusion of this segment of Malabar Road in the City’s 5-year Capital Improvements Plan. At that time, any future development of the subject property will be subject to a Proportionate Fair Share Agreement.

Based upon this analysis, and on the need for commercial development to serve the existing and future residents in the general and overall vicinity, City Staff recommends that the future land use map amendment be approved with the following conditions:

- 1) Development of the subject property shall be limited to a maximum of 278,000 square feet;
- 2) At the time of proposed development, a traffic analysis shall be required to determine the transportation impact of the development on Malabar Road, with an emphasis on Access Management;
- 3) Access to the site shall be from Malabar Road SW only;
- 4) There shall be a 100-foot deep preservation buffer along the southern property line of the subject property; and
- 5) There shall be 25-foot wide preservation buffers along the east and west sides of the subject property.

ORDINANCE 2019-22

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 183, COMPREHENSIVE PLAN REGULATIONS, SECTION 183.01, COMPREHENSIVE PLAN, SUBSECTION (D), ADOPTION OF FUTURE LAND USE MAP, BY AMENDING FUTURE LAND USE MAP SERIES 2; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Bay has designated the Planning and Zoning Board as its Local Planning Agency and said Local Planning Agency held a public hearing on an amendment to the Comprehensive Plan on March 18, 2019, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held a public hearing on an amendment to the Comprehensive Plan on April 4, 2019, after public notice, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, submitted the amendment to the Florida Department of Economic Opportunity for review and comment, and

WHEREAS, the Florida Department of Economic Opportunity submitted a Comment Report regarding this amendment, and

WHEREAS, the City Council of the City of Palm Bay has considered the Comments provided and has addressed all items, and

WHEREAS, the City Council of the City of Palm Bay, pursuant to Chapter 163, Florida Statutes, held an adoption public hearing on the amendment to the Comprehensive Plan on **(DATE OF HEARING)**, after public notice, and

WHEREAS, the City Council of the City of Palm Bay desires to adopt said amendment to the Comprehensive Plan of the City of Palm Bay.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The Comprehensive Plan of the City of Palm Bay, Brevard County, Florida, is hereby amended to provide for the change in land use of property from Single Family Residential Use to Commercial Use, which property is legally described as follows:

Tax Parcel 4, of the Public Records of Brevard County, Florida; Section 4, Township 29S, Range 36E; containing 32.8 acres, more or less.

SECTION 2. The Future Land Use Map Series Map 2 is hereby changed to reflect this amendment.

SECTION 3. All staff report conditions and limitations shall be met and those conditions and limitations shall be made a part of the Comprehensive Plan. Specifically:

1) Development of the subject property shall be limited to a maximum of 278,000 square feet;

2) At the time of proposed development, a traffic analysis shall be required to determine the transportation impact of the development on Malabar Road, with an emphasis on Access Management;

13) Access to the site shall be from Malabar Road Southwest only.

24) There shall be a 100-foot deep preservation buffer along the southern property line of the subject property for which no development shall take place in order to preserve the existing vegetation.

35) There shall be a 25-foot wide preservation buffers along the east and west sides of the subject property.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 5. This ordinance shall become effective 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance pursuant to Section 163.3184(3)(c)4, Florida Statutes. The Department only issues a final order for Expedited State Review amendments if they are challenged by an affected party.

Read in title only at Meeting 2019-__, held on, ____, 2019; and read in title only and duly enacted at Meeting 2019-__, held on, ____, 2019.

William Capote, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: Vacation Finance, LLC
Case: CP-2-2019

cc: (date) Applicant
Case File