



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

24Z00004

West Malabar Properties, LLC

AU (Agricultural Residential) and RP (Residential-Professional) to all BU-2 (Retail, Warehousing and Wholesale Commercial) with BDP (Binding Development Plan)

Tax Account Number: 2806110, 2806111, 2806112 & 2806115
Parcel I.D.: 28-36-24-FA-2-1, 28-36-24-FA-2-1.01, 28-36-24-FA-2-1.02 & 28-36-24-FA-2-2
Location: Southwest corner of Minton Road and Hield Road (District 5)
Acreage: 4.58 acres

Planning & Zoning Board: 3/18/2024
Board of County Commissioners: 4/04/2024

Consistency with Land Use Regulations

- Current RP zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RP and AU	All BU-2 **
Potential*	4 Residential Units	FAR of 1.0
Can be Considered under the Future Land Use Map	No, RP requires RES 4 & NC AU yes RES 2	Yes CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

** Commercial Zoning permits 30 units per the State of Florida Statute 125.01055 Live Local Act.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) on one acre portion and RP (Residential Professional) on the remaining 3.58 acres to all BU-2 (Retail, Warehousing and Wholesale Commercial).

In addition, the proposed Binding Development Plan contains a concept plan depicting a self-storage facility with future access to Minton Road and Hield Road, which are county-maintained roads. This plan has not been reviewed for compliance with county code. It should be considered informative only and is not included in the Board approval.

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, 24SS00001 to change the Future Land Use Element from Residential 2 (RES 2) and Neighborhood Commercial (NC) to all Community Commercial (CC).

The proposed BDP states:

- The developer/Owner shall limit the use of the property to climate-controlled mini-storage as allowed in BU-2 zoning classification and other uses as allowed in the BU-1 zoning district. The attached Exhibit A demonstrates the proposed development conceptual site plan.

The applicant has provided a BDP which limits the use of the property to a climate controlled mini-storage as allowed in BU-2 zoning classification and other uses as allowed in BU-1 zoning. The BU-1 classification allows retail commercial land uses, such as coffee shops, restaurants, fast food with drive thru, banks and convenience stores, with or without gasoline sales, on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The applicant states that he is requesting BU-2 zoning as the BU-1 zoning restricts the height of a self-storage mini-warehouse and does not permit them to be climate controlled.

Self-storage mini-warehouse is a permitted use with conditions in BU-1 zoning.

The conditions for a self-storage mini-warehouses in BU-1 include:

- (1) No unit within a self-storage mini warehouse shall be utilized as a place of business. No business tax receipt, other than that of the self-storage mini-warehouse operator, shall be approved for a business operation on the property.
- (2) No utilities, namely, electricity, water, telephone, cable TV, or gas, will be provided to the individual units. Lighting and air conditioning may be located in the hallways only.
- (3) In addition to height restrictions as described in the BU-1 zoning classification, structural heights shall be further limited by the heights of adjacent off-site buildings to the side or rear of the property. Where only one structure is contemplated on site, height is limited to the height of the lowest principal structure on any adjacent parcel. Where more than one structure is proposed on site, the height of each structure is limited to the height of the lowest principal structure on the closest parcel. Where the adjacent parcel is vacant, the height of the proposed structure shall be limited to one story.
- (4) No outside storage of commercial vehicles or heavy equipment as defined in and regulated by section 62-2117 shall be permitted. Recreational vehicles and recreational equipment so defined shall be permitted to be stored on site if screened from view from the

street and from adjacent parcels by a minimum eight-foot opaque visual barrier, except that such vehicles and equipment shall not be permitted to be stored outside where said property is adjacent to a parcel zoned residential or used for residential purposes.

(5) The use of generators of any kind is prohibited.

(6) The use or storage of hazardous materials is prohibited.

(7) Signage shall be placed on each building indicating that no hazardous materials use, or storage or generator use is permitted and that units cannot be occupied for business or industrial use.

(8) The entrance gate shall be so designed and located to allow for a 33-foot-long vehicle to queue without extending into the public right-of-way.

(9) Minimum lot size. An area not less than 20,000 square feet, having a minimum width of 100 feet, and a minimum depth of 200 feet.

(10) Landscaping and screening. A landscape buffer and screening strip shall be provided within each side and rear setback. Said buffer and screening strip shall consist of any combination of berming, fencing and vegetation which will provide a six-foot high visual barrier. Where said property is contiguous to a parcel zoned residential, or used for residential purposes, the landscape buffer and screening strip shall be completely opaque to a height of six feet pursuant to chapter 62, articles VIII and XIII. A four-foot-high irrigated and landscaped berm shall be provided along the front property line (excepting the entranceway) and the side property lines for a minimum depth of the required front setback. Additional vegetation shall be added to the berm to achieve a total height of at least six feet. Chain link fence is prohibited.

(11) Architectural requirements. The site shall be designed so that no mini-warehouse overhead doors are visible from the street or from any adjacent parcel zoned residential or used for residential purposes. Perimeter structures shall have trussed roofs. Perimeter walls shall be designed with physical breaks, windows (real or not), façade material changes or other architectural details and features (not just paint) intended to mimic the style of a retail structure as opposed to a continuous, visually monotonous warehouse wall. Metal buildings are prohibited.

(12) Maximum structural coverage. Forty percent of total lot area.

The existing AU zoning classification does not permit commercial uses. The existing RP zoning permits single-family residences, multiple-family dwellings and professional offices. The RP zoning permits does not permit other commercial uses. BU-2 zoning classification requires a building of at least 300 sq. ft. as their principal structure.

The subject parcels have access to both Minton Road and Hield Road, which are county-maintained roadways.

Tax account: 2806112 has its original zoning of AU (Agricultural Residential).

The original zoning of the RP zoned parcels was AU.

Tax account: 2806115 was rezoned on August 24, 1987, per zoning action **Z-7867** from AU to RP (Residential-Professional).

Tax account: 2806111 was rezoned on June 22, 1992, per zoning action **Z-8979** from AU to RP (Residential-Professional).

Tax account: 2806110 was rezoned on August 29, 1996, per zoning action **Z-9766** from AU to RP (Residential-Professional).

The applicant is requesting to change the zoning from AU and RP to all BU-2 to build a multi-story climate controlled mini-warehouse with a Binding Development Plan (BDP).

The subject parcels are located on the southwest corner of Minton Road and Hield Road, County maintained roadways.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Commercial & Single-Family Residence, across Hield Road	BU-1 and RU-1-13	CC & RES 2
South	Commercial	BU-1	CC
East	Across Minton Road	City of West Melbourne	City of West Melbourne
West	Single-Family Residences	AU and EU-1	RES 2

The developed character of the surrounding corridor on the west side of Minton Road and south of Hield Road is commercial and residential. The abutting parcel to the south is BU-1 (General Retail Commercial) zoning. To the west is Residential with AU and EU-1 zoning.

The current AU zoning classification permits single family residential development on lots of not less than two and one-half acres having a minimum width of 150 feet and a minimum depth of 150 feet. The minimum house size is 750 square feet.

The current RP is the Residential-Professional zoning classification, intended to promote low to medium density residential development along with low intensity commercial usage. Minimum lot area requirements in the RP classification are 7,500 square feet, with 75 feet of width and depth.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

The requested BDP restricts BU-2 use to ministorage. While the BU-1 classification allows retail commercial land uses such as coffee shops, restaurants, fast food with drive thru, banks and convenience stores, with or without gasoline sales on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The EU-1 zoning classification is an estate single family residential zoning classification. The minimum lot size is 12,000 square feet with minimum lot width and lot depth of 100'. The minimum living area is 1,800 square feet.

There has been one zoning action within a half-mile of the subject property within the last three years: 22Z00006 located 1,830 feet northwest of the subjected parcels, along the north side of Norfolk Pkwy, was rezoned from GU with a CUP (Conditional Use Permit) for a tower to BU-2 with a BDP and removal of the CUP.

Future Land Use

The subject property is currently designated as Residencial 2 (RES 2) and Neighborhood Commercial (NC) FLUM designation. The existing AU and RP as well as the proposed BU-2 zoning classifications can be considered consistent with the proposed CC FLUM designation. The proposed BU-2 zoning in not consistent with the existing RES 2 and NC designations.

FLUE Policy 2.2 - The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

A. Permitted/prohibited uses;

BU-2 Retail, Warehousing and Wholesale Commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence.

B. Existing commercial zoning trends in the area;

The west side of Minton Road is an existing commercial corridor with residential to the west of the subject parcels. The east side of Minton Road is in the city of

West Melbourne with commercial uses and multi-family uses. Across to the north side of Hield Road is Commercial and residential.

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

The surrounding area along the west side of Minton Road is characterized a mixture of commercial, single-family residential with agricultural residential west of the subject parcels. The applicant's request can be considered compatible with the existing commercial uses along Minton Road.

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service. Future development has not been evaluated.

The parcels are not serviced by public sewer or within the Brevard County service area for potable water. The lots will be serviced by a well and septic.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

The following land use issues were identified:

The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The wetland delineation shall be verified at time of site plan submittal.

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This property will need to comply with Brevard County Standards noted within Section 62-1483 and 62-1845 of Brevard County Code. The proposed use is not anticipated to require performance standards beyond the zoning criteria. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning change be approved.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality

of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The CC FLU allows for an array of light manufacturing, warehouse, retail, personal and professional uses which may increase these standards. This property will need to comply with Brevard County Standards noted within Section 62-1483 and 62-1845 of Brevard County Code.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

The developed character of the surrounding area along the west side of Minton Road is a mix of residential and commercial. To the west of the subject parcel is residential. To the south of the subject property is commercial. To the north across Hield Road is commercial and residential. The east side of Minton Road is in the city of West Melbourne with commercial uses and multi-family uses.

2. actual development over the immediately preceding three years; and

There has been no new development within 0.5 miles of the subject property within the last three years.

3. development approved within the past three years but not yet constructed.

There has not been any development approved within this area in the preceding three (3) years that has yet to be constructed.

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis indicates the request is not located within an existing neighborhood. However, there is a pattern of existing single-family residential surrounding the property to the west. The subject property could be considered as transitional use with BU-1 zoning abutting to the south.

The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, contractor storage yards, restaurants, fast food restaurants and coffee shops). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service; however, the maximum development potential from the proposed rezoning increases the percentage of Maximum Acceptable Volume (MAV) by 0.75%. The proposed access improvements will be reviewed for code compliance during subsequent site plan application. The applicant will need to provide a traffic impact analysis with the site plan.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area has development of roads, open spaces, and similar existing features. It is not located in a neighborhood or subdivision but is along a commercial corridor on the west side of Minton Road and south of Hield Road.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

Staff analysis indicates that the surround area along Minton Road to the south and to the north across Hield Road is a commercial corridor.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial, or other non-residential uses have been applied for and approved during the previous five (5) years.

The subject parcel is located in a commercial corridor along the west side of Minton Road and to the north across Hield Road. The subject parcel is proposed to be rezoned from RP and AU to all BU-2. As the immediate area along the west side of Minton Road is commercial the proposed uses maintain the commercial integrity of the area.

The closest BU-2 zoning classification is located approximately 1,830 feet northwest of the subject property, along the north side of Norfolk Pkwy.

Analysis of Administrative Policy #7

Proposed use(s) shall not cause or substantially aggravate any (a) Substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

Per Natural Resource Management Department:

The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The wetland delineation shall be verified at time of site plan submittal.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Minton Road, between Eber Blvd. and Palm Bay Road, which has a Maximum Acceptable Volume (MAV) of 36,800 trips per day, a Level of Service (LOS) of D north of Hield Road and a Level of Service (LOS) of E south of Hield Road, and currently operates at 76.49% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.75%. The corridor is anticipated to operate at 77.24% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The concurrency analysis was only for a 110,000 sq ft. mini self-storage facility as proposed. Any other future commercial development was not part of this analysis and will be reviewed under a separate site plan application.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The subject parcels are not serviced by public sewer or within the Brevard County service area for potable water. The lots will be serviced by well and septic.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR at this location; however, one of the four subject parcels does not have direct frontage on the road. For a project that encompasses multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.**

For Board Consideration

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area and if the Binding Development Plan mitigates any off-site impacts.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 24Z00004

Applicant: Cole Oliver (Owner: West Malabar Properties, LLC)

Zoning Request: RP and AU to all BU-2 with BDP (NC and RES 2 to all CC)

Note: to develop a multi-story climate controlled mini-storage facility (only BU-2 use)

Zoning Hearing: 03/18/2024; **BCC Hearing:** 04/04/2024

Tax ID Nos.: 2806110, 2806111, 2806115, 2806112

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR at this location; however, one of the four subject parcels does not have direct frontage on the road. For a project that encompasses multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with

Section 62-3696. **The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.**

Land Use Comments:

Wetlands and Hydric Soils

The entire subject parcel contains mapped hydric soils (EauGallie sand and Malabar sand, high), as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The wetland assessment shall be verified at time of site plan submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR at this location; however, one of the four subject parcels does not have direct frontage on the road. For a project that encompasses multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

Indian River Lagoon Nitrogen Reduction Septic Overlay

The northern and eastern portions of this property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for

preservation and canopy coverage requirements as well as buffer requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on properties with wetlands. If applicable, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service prior to any plan, permit submittal, or development activity, including land clearing, as applicable.