



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, Acting City Manager

THRU: Laurence Bradley, AICP, Growth Management Director

DATE: 12/17/2020

RE: Ordinance 2020-88, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapters 'General Provisions' and 'District Regulations', by including additional definitions and providing provisions for small-box discount stores in NC (Neighborhood Commercial District) zoning (Case T-34-2020, City of Palm Bay), first reading. (Deputy Mayor Johnson)

The City of Palm Bay (Growth Management Department) has submitted a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006 and 185.042, to establish language that will provide for more definitions and create a greater diversity of commercial uses within the NC, Neighborhood Commercial District. The amendment creates definitions for "Fresh Fruits and Vegetables," "Fresh Meats," and "Small-Box Discount Stores." Additional safeguards have been incorporated so that the Neighborhood Commercial District will be more in keeping with the characteristics of the abutting residential neighborhoods. This textual amendment was developed at the request of Deputy Mayor Kenny Johnson.

Small-Box Discount Stores within NC districts will be an approved use for stores 5,000 square feet and under and by Conditional Use for stores over 5,000 square feet. The provision for fresh fruits, vegetables, and meats provides for a greater diversity in healthy retail food options and convenient access within the NC districts. The textual amendment strengthens the buffering of NC properties from existing residentially zoned properties and creates building elevations that are more in line with the architectural character of the residential neighborhoods they are within.

REQUESTING DEPARTMENT:

Growth Management

RECOMMENDATION:

Motion to Case T-34-2020 is recommended for approval.

Planning and Zoning Board Recommendation:

Approval of the request by a vote of 3 to 2.

Planning and Zoning Board minutes are not fully transcribed at this time; the following is an excerpt:

Motion by Mr. Hill, seconded by Mr. Boerema to submit Case T-34-2020 to City Council for approval of a textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.006 Definitions and 185.042 NC, Neighborhood Commercial District, to modify provisions for the NC district. The motion carried with members voting as follows: Mr. Weinberg, aye; Ms. Jordan, nay; Mr. Boerema, aye; Mr. Hill, aye; Ms. Maragh, nay. Mr. Warner was not present.

ATTACHMENTS:

Description

Case T-34-2020

Ordinance 2020-88



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: 321-733-3042

landdevelopmentweb@palmbayflorida.org

Prepared by

Christopher Balter, Senior Planner

CASE NUMBER

T-34-2020

PLANNING & ZONING BOARD HEARING DATE

December 2, 2020

PROPERTY OWNER & APPLICANT

City of Palm Bay, Growth Management
Department

PROPERTY LOCATION/ADDRESS

Not applicable

SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Subsection 185.006; and 185.042 to establish language that will provide for more definitions and to create a greater diversity of Commercial uses in the Neighborhood Commercial District.

Existing Zoning

Not applicable

Existing Land Use

Not applicable

Site Improvements

Not applicable

Site Acreage

Not applicable

APPLICABILITY

Citywide

**COMPREHENSIVE PLAN
COMPATIBILITY**

Not specifically addressed

BACKGROUND:

A textual amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.006 (Definitions), to create the definitions of “Fresh Fruits and Vegetables”, “Fresh Meats”, and “Small-Box Discount Stores”. Also, the amendment seeks to modify Section 185.042 (Neighborhood Commercial District) to modify the principal uses and conditional uses to allow for Small-Box Discount Stores, with regulations. This amendment also builds in additional safeguards so that the Neighborhood Commercial District will be more in-keeping with the characteristics of the residential neighborhoods abutting them.

The Growth Management Department, acting upon a request by a member of the City Council, has submitted this proposed text amendment.

The proposed language is attached for this amendment in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

ANALYSIS:

The first change in this amendment is a modification to the definitions section to create definitions for “Fresh Fruits and Vegetables”, “Fresh Meats”, and “Small-Box Discount Stores”. This change is being made to define these terms for appropriate use.

The second change in this amendment is to add “Small-Box Discount Stores” as an approved use for stores 5,000 square feet and under; and a Conditional use for such a store over 5,000 square feet, in the Neighborhood Commercial District. The purpose of this amendment is to create a greater diversity for healthy retail food options and convenient access to fresh meats, fruits, and vegetables in Neighborhood Commercial areas.

The last text change in this application is a revision to the buffering requirement, and the architectural requirements. The purpose of these amendments is to strengthen the buffering of Commercial establishments from existing residentially zoned properties; and to create a building elevation that is more in line with the architectural character of the residential neighborhoods they are embedded within.

STAFF RECOMMENDATION:

Case T-34-2020 is recommended for approval.

TITLE XVII: LAND DEVELOPMENT CODE

CHAPTER 185: ZONING CODE

GENERAL PROVISIONS

§ 185.006 DEFINITIONS.

>>FRESH FRUITS, AND VEGETABLES. Fruits and vegetables not processed, dehydrated, or frozen. <<

>>FRESH MEATS. Meats not frozen, cooked or dehydrated. <<

>>SMALL-BOX DISCOUNT STORE. Retail sales uses with typically less than 12,000 square feet of floor area that offer for sale a combination and variety of convenience shopping goods and consumer shopping goods; and continuously offer a majority of the items in their inventory for sale at a price less than \$10.00 per item.<<

§ 185.042 NC — NEIGHBORHOOD COMMERCIAL DISTRICT.

(B) Principal uses and structures. The following uses and structures are permitted.

>>(11) Small-Box Discount Stores containing less than five thousand (5,000) square feet of floor area.

(a) Must be separated from another small box discount store by a minimum distance of 5,280 feet. The required separation distance must be measured in a straight line from the nearest point of the lot line of the property occupied by a small box discount store to the nearest point on a lot line of another property occupied by a small box discount store.

(b) Ten (10) percent of the gross floor area must be dedicated to the sale/display of fresh fruits, vegetables, and meats.<<

(D) Conditional uses:

>>(10) Small-Box Discount Stores occupying more than five thousand (5,000) square feet of floor area.

(a) Must be separated from another small box discount store by a minimum distance of 5,280 feet. The required separation distance must be measured in a straight line from the nearest point of the lot line of the property occupied by a small box discount store to the nearest point on a lot line of another property occupied by a small box discount store.

(b) Ten (10) percent of the gross floor area must be dedicated to the sale/display of fresh fruits, vegetables, and meats.<<

(E) Prohibited uses and structures:

>>(6) Small box discount stores not containing fresh fruits, vegetables, and meats.<<

(F) Lot and structure requirements:

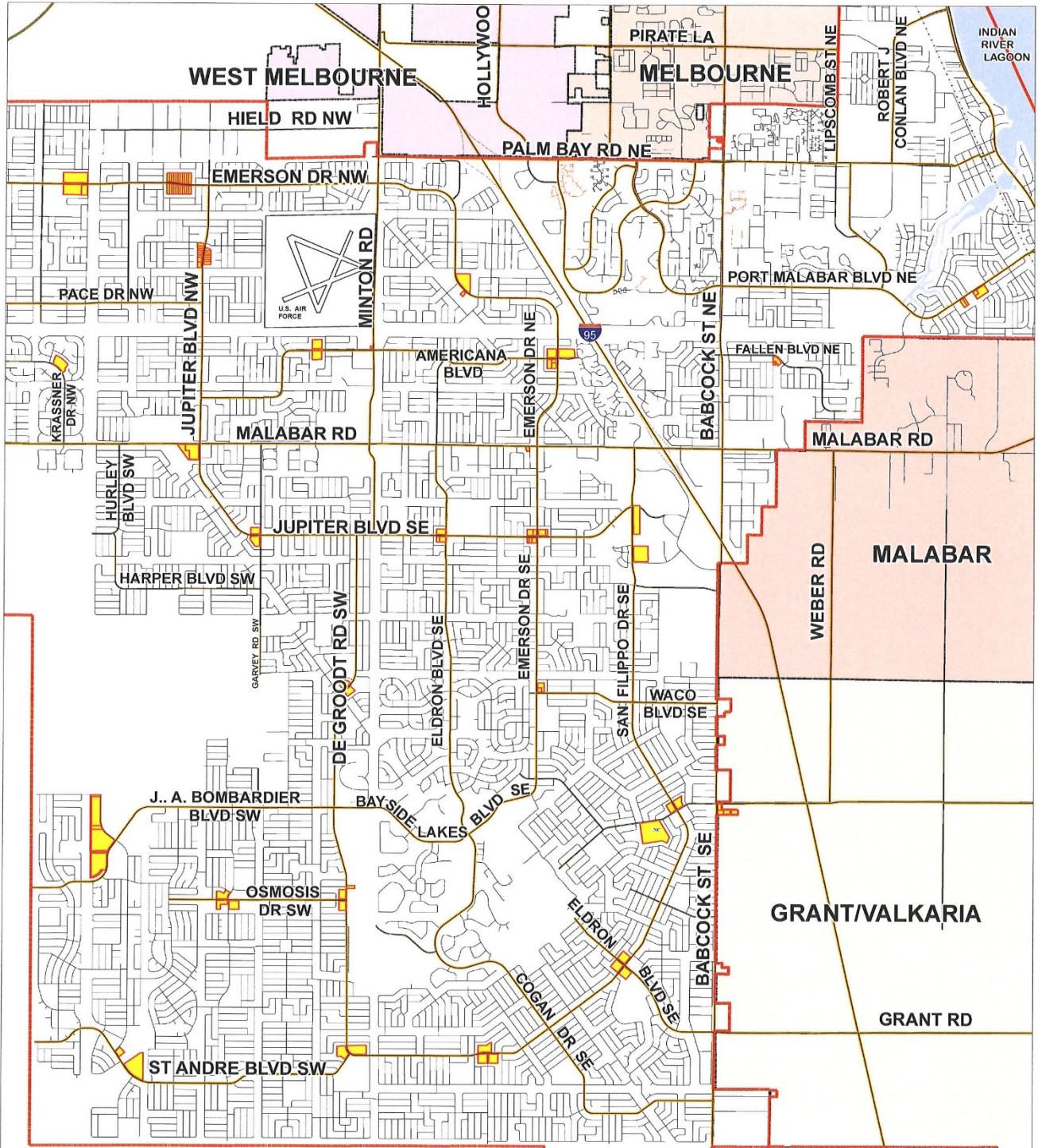
(9) A >>n six eight (68)<< foot high completely opaque masonry wall, >>or<< wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. >>The wall or fence shall not be placed in the front parking setback.<< Landscaping shall be provided in accordance with the landscape requirements of this chapter.

(10) Design requirements.

(a) An Architectural Style for each structure is required >>and shall be complimentary to the adjacent neighborhood.<< This shall include adherence to all standards contained in § 185.134 >>(B) (1)(2) and (5).<<



FIGURE 1 NEIGHBORHOOD COMMERCIAL ZONING MAP



Legend

- NC ZONING
- City Limits

0.5 0.25 0 0.5 Miles

Map for illustrative purposes only. Not to be construed as binding or as a survey.

Map created by the Land Development Division
July 16, 2020



LAND DEVELOPMENT DIVISION
120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042
Landdevelopmentweb@palmbayflorida.org

CODE TEXTUAL AMENDMENT APPLICATION

This application must be deemed complete and legible, and must be returned by the first day of the month during division office hours, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, to be processed for consideration the following month at the earliest by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:

Revise Section 185.006;
Create Sections 185.042(B)(11), (D)(10), (E)(6) and (E)(7); and
Revise Sections 185.042(F)(9) and (10)(a)

PROPOSED LANGUAGE (attach addendum if necessary):

See attached.

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

NC - The proposed change is intended to provide residents in NC Zones with a better shopping experience by requiring fresh produce and meats to be available in their neighborhoods, to create a greater diversity of commercial uses and to have architectural designs on NC zoned properties (mostly located adjacent to residential uses) be more in-line with the character of residential neighborhoods.

CITY OF PALM BAY, FLORIDA
CODE TEXTUAL AMENDMENT APPLICATION
PAGE 2 OF 2

THE APPLICATION FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

*\$1,500.00 Application Fee. Make Check payable to "City of Palm Bay."

I, the undersigned understand that this application must be complete and accurate before consideration by the Planning and Zoning Board/Local Planning Agency and certify that all the answers the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing code textual amendment application and that the facts stated in it are true.

Signature of Applicant Laurence Bradley Digitally signed by Laurence Bradley
DN: dc=org, dc=palmbayflorida, ou=Community
Planning & Economic Development, ou=Land
Development, cn=Laurence Bradley
Date: 2020.10.16 09:40:06 -0400 Date 10/13/2020

Printed Name of Applicant Laurence Bradley, AICP, Growth Management Director

Full Address 120 Malabar Road SE, Palm Bay, FL 32907

Telephone (321) 733-3042 Email laurence.bradley@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name _____

Full Address _____

Telephone _____ Email _____

*NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY

ORDINANCE 2020-88

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, TITLE XVII, LAND DEVELOPMENT CODE, CHAPTER 185, ZONING CODE, SUBCHAPTERS 'GENERAL PROVISIONS' AND 'DISTRICT REGULATIONS', BY INCLUDING ADDITIONAL DEFINITIONS AND PROVIDING PROVISIONS FOR SMALL-BOX DISCOUNT STORES IN NC (NEIGHBORHOOD COMMERCIAL DISTRICT) ZONING; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN THE CITY OF PALM BAY CODE OF ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, Subchapter 'General Provisions', Section 185.006, Definitions, is hereby amended and shall henceforth read as follows:

"Section 185.006 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

* * *

>>FRESH FRUITS AND VEGETABLES. Fruits and vegetables not processed, dehydrated, or frozen.

FRESH MEATS. Meats not frozen, cooked, or dehydrated.<<

* * *

>>SMALL-BOX DISCOUNT STORE. Retail sales uses with typically less than 12,000 square feet of floor area that offer for sale a combination and variety of convenience shopping goods and consumer shopping goods; and continuously offer a majority of the items in their inventory for sale at a price less than \$10.00 per item.<<

* * *"

SECTION 2. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, Subchapter 'District Regulations', Section 185.042, NC – Neighborhood Commercial District, is hereby amended and shall henceforth read as follows:

“Section 185.042 NC – NEIGHBORHOOD COMMERCIAL DISTRICT.

* * *

(B) *Principal uses and structures.* The following uses and structures are permitted.

* * *

>>(11) Small-Box Discount Stores containing less than five thousand (5,000) square feet of floor area.

(a) Must be separated from another small box discount store by a minimum distance of 5,280 feet. The required separation distance must be measured in a straight line from the nearest point of the lot line of the property occupied by a small box discount store to the nearest point on a lot line of another property occupied by a small box discount store.

(b) Ten (10) percent of the gross floor area must be dedicated to the sale/display of fresh fruits, vegetables, and meats.<<

* * *

(D) *Conditional uses:*

* * *

>>(10) Small-Box Discount Stores occupying more than five thousand (5,000) square feet of floor area.

(a) Must be separated from another small box discount store by a minimum distance of 5,280 feet. The required separation distance must be measured in a straight line from the nearest point of the lot line of the property occupied by a small box discount store to the nearest point on a lot line of another property occupied by a small box discount store.

(b) Ten (10) percent of the gross floor area must be dedicated to the sale/display of fresh fruits, vegetables, and meats.<<

(E) *Prohibited uses and structures:*

* * *

>>(6) Small-box discount stores not containing fresh fruits, vegetables, and meats.<<

(F) *Lot and structure requirements:*

* * *

(9) A **>>n<<** six ~~(6)~~ **>>eight (8)<<** foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. **>>The wall or fence shall not be placed in the front parking setback.<<** Landscaping shall be provided in accordance with the landscape requirements of this chapter.

(10) *Design requirements.*

(a) An Architectural Style for each structure is required **>>and shall be complimentary to the adjacent neighborhood<<**. This shall include adherence to all standards contained in § 185.134 **>>(B)(1) (2) and (5)<<**.”

SECTION 3. 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 4. It is the intention of the City Council of the City of Palm Bay that the provisions of this Ordinance shall be made a part of the City of Palm Bay Code of ordinances and the sections may be renumbered to accomplish such intention.

SECTION 5. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void

portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 6. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2020-_____, held on _____, 2020; and
read in title only and duly enacted at Meeting 2020-_____, held on _____, 2020.

Robert Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

~~Strikethrough~~ words shall be deleted; highlighted words that will be included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, Acting City Manager

THRU: Joan Junkala-Brown, Community & Economic Development; Juliet Misconi, Procurement

DATE: 12/17/2020

RE: Award of Bid: Residential Brokerage Services – IFB 06-0-2021 – Community and Economic Development Department (Ellingson Properties, LLC – commissions from proceeds of sales).

At the request of the Community and Economic Development Department, the Procurement Department solicited proposals on behalf of the City for Residential Brokerage Services. The intent of this solicitation was to seek firms with national, regional, and locally licensed residential real estate brokerages that have the relevant experience, understanding of the local market, network and reach, and the capacity to market and sell City-owned residential real estate.

The City of Palm Bay owns residentially zoned lots throughout the city limits, comprising of both vacant lots and parcels with existing structures. The City is seeking to utilizing a real estate broker that specializes in the sale of residential properties and possesses and understanding of the Palm Bay real estate market.

The Procurement Department did extra outreach to the Space Coast Association of Realtors, Palm Bay Chamber of Commerce, and hosted a “Doing Business with the City – Requests for Proposals” webinar and invited any interested proposers, including members from those groups, to attend prior to issuing the RFP. The City received three (3) proposals. The Procurement Department staff reviewed the proposals for responsiveness. The proposals were evaluated by a committee consisting of qualified staff from the City Attorney’s Office and the Community & Economic Development and Growth Management Departments, who assigned points for non-price factors such as Summary of Qualifications and Technical Response. Points for cost were determined by the Procurement Department. See attached Scoring-Ranking form. The Evaluation Team unanimously recommended Ellingson Properties, LLC out of Rockledge, Florida as the top-ranked vendor for award.

Ellingson Properties, LLC demonstrated the ability to successfully market and sell the City’s residential surplus properties. Ellingson’s successful track record includes sales ranging from single-family homes in Palm Bay to million-dollar homes along Brevard County’s beachside communities. The vendor’s expertise includes industry designations from Certified Distressed Properties Expert (CDPE), Certified Investor Agent Specialist (CIAS), Certified Residential Specialist (CRS), Certified New Home Sales Professional (CSP), and Accredited Buyer’s Representative (ABR), to name a few. Ellingson Properties has membership with National Association of Realtors and the Space Coast Association of Realtors, and possesses strong marketing skills, a global reach