

5. Ordinance 2024-05, amending the Code of Ordinances, Chapter 185, Zoning Code, Subchapter 'District Regulations', by including provisions for fitness centers and other indoor/outdoor health facilities and activities within certain zoning districts (Case T23-00030, City of Palm Bay), first reading.



STAFF REPORT

LAND DEVELOPMENT DIVISION

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Prepared by

Lisa Frazier, AICP, Growth Management Director

CASE NUMBER

T23-00030

PLANNING & ZONING BOARD HEARING DATE

January 3, 2023

APPLICANT

City of Palm Bay

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, Sections 185.042, 185.043, 185.044, 185.045, and 185.054 to permit fitness centers and other indoor and outdoor health, recreational, and similar facilities for exercise, sports, and other physical activities within the Neighborhood Commercial (NC), Community Commercial (CC), Highway Commercial (HC), Light Industrial (LI), and General Commercial (GC) zoning districts.

Existing Land Use Not Applicable

Site Improvements Not Applicable

Site Acreage Not Applicable

SURROUNDING ZONING & USE OF LAND

North Not Applicable

East Not Applicable

South Not Applicable

West Not Applicable

BACKGROUND:

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.042, 185.043, 185.044, 185.045, and 185.054 to permit fitness centers and other indoor and outdoor health, recreational, and similar facilities for exercise, sports, and other physical activities within the Neighborhood Commercial (NC), Community Commercial (CC), Highway Commercial (HC), Light Industrial (LI), and General Commercial (GC) zoning districts.

The Growth Management Department is proposing a textual amendment to expressly permit certain uses related to fitness centers within specified zoning districts as part of the existing definition for Indoor Commercial Recreation. Currently, there are fitness centers and other related facilities within Palm Bay; however, in some cases, these uses are not expressly permitted. Staff has evaluated all zoning districts to identify where these uses should be permitted as compatible with the intent of the district.

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

PURPOSE

Permit fitness centers and other indoor and outdoor health, recreational, and similar facilities for exercise, sports, and other physical activities within zoning districts where the use is compatible with the intent of the district.

ANALYSIS:

Staff was recently made aware of fitness centers operating within Palm Bay in districts where such operation was not expressly permitted. In evaluating the Zoning Code, staff identified an opportunity to expand upon the code to allow fitness centers and related facilities within specified zoning districts under the existing definition of indoor commercial recreation, thereby allowing and encouraging commercial operations in Palm Bay.

While the City is currently drafting proposed amendments to the Land Development Code to be brought forth in spring 2024, staff proposes bringing this use forward to avoid furthering conflicts between existing business operations and the City's Zoning Code.

STAFF RECOMMENDATION:

Staff recommends case T23-00030 for approval.

§ 185.042 NC — NEIGHBORHOOD COMMERCIAL DISTRICT.

(A) Intent. The purpose of the neighborhood commercial district shall be to provide areas within Palm Bay which are deemed to be uniquely suited for the development and maintenance of limited commercial activities offering convenience goods and personal services to residents of the surrounding neighborhood area. Development standards and provisions are established to ensure the proper development and location of uses and services deemed appropriate within the district; to reduce conflicts with adjacent residential uses, and to minimize the interruption of traffic along adjacent thoroughfares.

(D) Conditional uses:

(4) Indoor commercial recreation >> fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities containing less than five thousand (5,000) square feet of floor area. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval. <<

§ 185.043 CC — COMMUNITY COMMERCIAL DISTRICT.

(A) Intent. The purpose of the community commercial district shall be to locate and establish areas within the city which are deemed to be uniquely suited for the development and maintenance of community commercial facilities, the areas to be primarily located in or near the intersection of arterial roadways; to designate those uses and services deemed appropriate and proper for location and development within the subject district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district.

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

(24) Indoor commercial recreation such as theaters, driving ranges, bowling alleys, and similar uses, excluding dance clubs,, >> fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities containing less than five thousand (5,000) square feet of floor area. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval. <<

§ 185.044 HC — HIGHWAY COMMERCIAL DISTRICT.

(A) Intent. The purpose of the highway commercial district shall be to provide areas within Palm Bay which are deemed to be uniquely suited for the development and maintenance of highway oriented businesses and regional scale facilities, the areas to be primarily located along or near the intersection of major arterials and major transportation nodes; to designate those uses and services deemed appropriate and proper for location and development within the subject district; and to establish such development standards

and provisions as are appropriate to ensure proper development and functioning of uses within the district.

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

(6) Indoor commercial recreation such as theaters, driving ranges, bowling alleys and similar uses, excluding dance clubs , >> fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.<<

§ 185.045 LI — LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT.

(A) Intent. The provisions of this district are intended to apply to an area which can serve light manufacturing, warehousing, distribution, wholesaling and other light industrial functions for the city and the region. Lot sizes and other restrictions are intended to ensure sufficient open space and minimize adverse impacts of industrial uses off site and to nonindustrial uses.

(B) Principal uses and structures:

- (1) Warehousing within an enclosed structure.
- (2) Wholesaling within an enclosed structure.
- (3) Dry cleaning and laundry plants, printing plants, welding shops, machine shops, taxidermists and similar service and repair establishments and uses.
- (4) Light manufacturing, processing and assembly including precision manufacturing, electrical machinery, instrumentation, bottling plants, dairy products plants, bakeries, fruit packing and similar uses.
- (5) Building materials supply and storage, provided that any outside display and/or storage area shall be screened on all sides to avoid any deleterious impact on adjacent properties; includes contractor storage yards.
- (6) Automotive, truck, major recreational equipment and mobile home sales, storage and repair establishment including, body shops, dry docking facilities, paint shops, upholstery shops and similar uses provided that outside storage of vehicles not for sale shall be effectively screened on four (4) sides so as to avoid off-site visual impacts.
- (7) Vocational and trade schools.
- (8) Veterinary hospitals and clinics including boarding of animals.
- (9) Radio or television transmitter, towers or broadcasting facilities.
- (10) Research and development facilities provided all activities are within an enclosed structure.

- (11) Public utility equipment and facilities.
- (12) Public uses.
- (13) Communication towers and facilities.
- (14) Medical Recycling Facility.
- (15) Canine training and similar uses, provided all activities are within the principal structure and there is no boarding of animals.
- (16) Self-storage facilities.
- (17) Indoor commercial recreation such as theaters, driving ranges, bowling alleys and similar uses, excluding dance clubs, >> fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.<<

§ 185.054 GC - GENERAL COMMERCIAL DISTRICT.

(A) Intent. The purpose of the General Commercial District shall be to locate and establish areas within the city which are uniquely suited for heavy commercial development. Such areas are to be developed in an intensive manner and are designed to provide opportunities for small businesses of a variety of types. The uses and development standards included in the district are intended to provide additional opportunities for businesses to locate within the city by providing a mix of service, warehousing, commercial, wholesaling, storage, and similar businesses and uses.

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

(29) Indoor commercial recreation (excluding dance clubs) >> fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and requires a site plan approval.<<

(D) Conditional uses.

- (1) Permitted uses located on a parcel of ten (10) or more acres of area.
 - (2) Commercial towers.
 - (3) Security dwelling unit, subject to the provisions established in § [185.088\(l\)](#).
 - (4) Canine day care, and related services:

(a) There shall be no more than one (1) dog per thirty-five (35) square feet of the area within the facility that the dogs will be housed.

(b) The facility must have an outdoor area for exercise and bathroom relief. Said area shall be enclosed with a minimum six (6) foot tall fence.

(c) All kennels and housing areas shall be within an air-conditioned building. Outside kenneling will not be permitted.

(d) Fecal matter shall be disposed of on a daily basis.

(e) Dogs shall be indoors between the hours of 10:00 p.m. and 6:00 a.m.

(5) Dancing in eating and drinking establishments.

(6) Churches.

(7) Event halls, subject to the provisions established in § [185.088](#)(J).

~~(8) Indoor commercial recreation; occupying more than five thousand (5,000) square feet of gross floor area in buildings with multiple tenants.~~

(98) Self-storage facilities subject to the provisions established in § [185.088](#)(F).

Acknowledgement Log

Header:

Legal Acknowledgement

Text:

I, the submitter, understand that this application must be complete and accurate before consideration by the City of Palm Bay and certify that all the answers to the questions in said application, and all data and matter attached to and made 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 application and that the facts stated in it are true.

Accepted By:

Lisa Frazier

On:

12/13/2023 2:19:41 PM

T23-00030

Select Language ▼

Ad Preview

AD# 9648315 12/21/2023

CITY OF PALM BAY, FLORIDA

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the Planning and Zoning Board/Local Planning Agency on January 3, 2024, and by the City Council on January 18, 2024, both to be held at 6:00 p.m., in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, for the purpose of considering the following case(s):

1. **FD23-0011 - Paul Daly and Dan Bollew (reps. Kimberly Rezanka, Lacey Lyons Rezanka Attorneys At Law / Aaron Struckmever, Pulte Home Company, LLC / Chris Osso, P.E., and Kinan Husainy, P.E., Kinley Harn & Associates, Inc.)

A Final Subdivision Plat to allow for a proposed 202-unit townhome development to be known as Liscomb Street Townhomes.

Tracts 6 and 5 of Palm Bay Colony Section 3 and Tracts 4 and 3 of Palm Bay Colony Section 2, all in Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 24.56 acres. Located east of and adjacent to Liscomb Street NE, in the vicinity west of Robert J. Conlan Boulevard NE

2. **FD23-0008 - James Garbarsky, Palm Bay Development Group, LLC (Kimberly Rezanka, Lacey Lyons Rezanka Attorneys At Law / James P. McKnight, Rep.)

A Preliminary Development Plan for a proposed PUD to allow for a mixed-use subdivision containing a 100-room hotel and 294 multi-family units to be known as Palm Bay Suites & Residences.

Tracts 1 and 8 of Palm Bay Colony Section 4 and Tracts 1 and 2 of Palm Bay Colony Section 1, all in Section 14, Township 28, Range 37, Brevard County, Florida, containing approximately 26.5 acres. Located west of and adjacent to Robert J. Conlan Boulevard NE

3. **FD23-0005 - Vishal Gupta, Kimaya, LLC (Jake Wise, P.E., Construction Engineering Group, LLC, Rep.)

A Preliminary Development Plan for a proposed PUD to allow for a commercial and multi-family subdivision to be known as Palm Bay Pointe West.

Tax Parcels 1, 300, 4, 750, 751, and 5, along with Tracts SW2 and OS1 of Waterstone Plat One P.U.D., all in Sections 3 and 4, Township 30, Range 37, Brevard County, Florida, containing approximately 84.75 acres. Located west of and adjacent to Babcock Street SE, north and south of St. John's Heritage Parkway

4. **FD23-0007 - Vishal Gupta, Kimaya, LLC (Jake Wise, P.E., Construction Engineering Group, LLC, Rep.)

A Preliminary Development Plan for a proposed PUD to allow for a commercial subdivision to be known as Palm Bay Pointe East.

Portions of Lots 12 through 21, Cape Kennedy Groves Unit 9, Section 10, Township 30, Range 37 along with portions of Tracts 300, 301, and 752, Section 3, Township 30, Range 37, Brevard County, Florida, containing approximately 42.95 acres. Located east of and adjacent to Babcock Street SE, north and south of St. John's Heritage Parkway SE

5. T23-0009 - City of Palm Bay (Growth Management Department)

A Textual Amendment to the Code of Ordinances, Title XVII, Land Development Code, Chapter 185: Zoning Code, Sections 185.042, 185.043, 185.044, 185.045, and 185.054 to permit fitness centers and other indoor and outdoor health, recreational, and similar facilities for exercise, sports, and other physical activities within the Neighborhood Commercial (NC), Community Commercial (CC), Highway Commercial (HC), Light Industrial (LI), and General Commercial (GC) zoning districts.

*Indicates a quasi-judicial request(s).

If an individual decides to appeal any decision made by the Planning and Zoning Board/Local Planning Agency or 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.

Please contact the Palm Bay Land Development Division at (321) 733-3041 should you have any questions regarding the referenced cases.

Chandra Powell
Planning Specialist

ORDINANCE 2024-05

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, SUBCHAPTER 'DISTRICT REGULATIONS', BY INCLUDING PROVISIONS FOR FITNESS CENTERS AND OTHER INDOOR/OUTDOOR HEALTH FACILITIES AND ACTIVITIES WITHIN CERTAIN ZONING DISTRICTS; 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 '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.

* * *

(D) *Conditional uses:*

* * *

(4) Indoor commercial recreation and amusement such as batting cages, miniature vehicle racetracks and similar uses >>, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities containing less than five thousand (5,000) square feet of floor area. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.<<

* * *"

SECTION 2. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, Subchapter 'District Regulations',

Section 185.043, CC – Community Commercial District, is hereby amended and shall henceforth read as follows:

“Section 185.043 CC – COMMUNITY COMMERCIAL DISTRICT.

* * *

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

* * *

(24) Indoor commercial recreation such as theaters, driving ranges, bowling alleys, and similar uses, excluding dance clubs >>, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities containing less than five thousand (5,000) square feet of floor area. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval<<.

* * *”

SECTION 3. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, Subchapter ‘District Regulations’, Section 185.044, HC – Highway Commercial District, is hereby amended and shall henceforth read as follows:

“Section 185.044 HC – HIGHWAY COMMERCIAL DISTRICT.

* * *

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

* * *

(6) Indoor commercial recreation such as theaters, driving ranges, bowling alleys, and similar uses, excluding dance clubs >>, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval<<.

* * *”

SECTION 4. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, Subchapter 'District Regulations', Section 185.045, LI – Light Industrial and Warehousing District, is hereby amended and shall henceforth read as follows:

“Section 185.045 LI – LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT.

* * *

(B) *Principal uses and structures:*

* * *

>>(17) Indoor commercial recreation such as theaters, driving ranges, bowling alleys, and similar uses, excluding dance clubs, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval<<.

* * *”

SECTION 5. The City of Palm Bay Code of Ordinances, Title XVII, Land Development Code, Chapter 185, Zoning Code, Subchapter 'District Regulations', Section 185.054, GC – General Commercial District, is hereby amended and shall henceforth read as follows:

“Section 185.054 GC – GENERAL COMMERCIAL DISTRICT.

* * *

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

* * *

(29) Indoor commercial recreation (excluding dance clubs). In buildings with multiple tenants, indoor commercial recreational uses may occupy up to five thousand (5,000) square feet of gross floor area>>, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval<<.

* * *

(D) Conditional uses.

* * *

~~(8) Indoor commercial recreation; occupying more than five thousand (5,000) square feet of gross floor area in buildings with multiple tenants.~~

~~(9) Self-storage facilities subject to the provisions established in §185.088(F).~~

* * *

SECTION 6. 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 7. 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 8. 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 9. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2024-XX, held on _____, 2024; and read in
title only and duly enacted at Meeting 2024-XX, held on _____, 2024.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Applicant: City of Palm Bay

Case: T23-00030

cc: Case File

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