



Understanding Zoning: Where and why different types of businesses can be built in Palm Coast

Citizens often wonder what types of businesses can be built where in Palm Coast – and why. The answer: It depends on the property's zoning.

“What is zoning?” you may ask. Zoning, in a nutshell, is a land-use planning tool that establishes the uses that can be constructed on a given property along with the criteria to be used to determine where and how much of a particular use can be put on that property. Zoning generally exists to promote logical and orderly development. Traditional zoning districts generally include those for residential uses, commercial uses, office uses and industrial uses, and many municipalities also have a special zoning district known as “Planned Development,” which can be used for mixed-use development.

For this reason, a property's zoning district creates significant and valuable property rights in the form of allowed uses. When ITT planned the Palm Coast community in the 1970s, it planned for and created many “neighborhood commercial” properties throughout Palm Coast – in addition to the more traditional “general commercial” and “residential” areas. “Neighborhood commercial” uses are those that are developed at a neighborhood scale to meet the day-to-day retail and service needs of nearby residents. An example of a “neighborhood commercial” property is the BP gas station at the corner of Palm Harbor Parkway and Fellowship Drive. These “neighborhood commercial” properties were established by ITT and Flagler County long before Palm Coast incorporated as a City. The City of Palm Coast inherited these zoning districts following incorporation Dec. 31, 1999.

Because zoning is created through the adoption of a local law known as an ordinance, often called a “Code,” zoning is a property right that may not be changed without a legal process. That process includes the concurrence of the property owner or by paying compensation to the property owner for his or her property rights. Because of this requirement, there are only three scenarios by which the City could halt commercial development on privately owned, commercially zoned property:

- 1) If the owner of the property was willing to sell, the City could offer to buy the property. The asking price could far exceed “fair market value,” since the property owner would undoubtedly try to recover his/her lost “return on investment.”
- 2) If the owner was not willing to sell, the City could “take” the property through the process of “eminent domain.” That is often a long and costly legal process that would likely result in the City paying more than Option One above, since the property's value is determined by a judge and jury and includes reimbursing the property owner for all expenses including, but not limited to attorney's fees, appraisal fees, etc. Further, State law has established that the City would have to have a “public purpose” for the taking – creation of a public park or a stormwater

retention pond, for example. The City could not simply purchase and hold the property, later re-selling it to recoup some of the City's acquisition costs.

3) Rezone the property to a less intense use than "commercial," a process known as "down-zoning." Under a Florida Statute commonly known as the "Bert Harris Act," the City might be required to pay the property owner a sum equal to the loss in value resulting from the "down-zoning," along with all attorneys' fees incurred by the property owner.'

Because there are many "neighborhood commercial" properties throughout the City, each of these options would be prohibitively expensive if the City were to consider purchasing all of them. To fund such purchases, the city would likely need to implement a substantial property tax increase.

The Land Development Code (LDC) is the regulatory tool that the city uses, along with the Comprehensive Plan, the Future Land Use Map and the Zoning Map, as well as state and federal laws to govern the review and approval of projects that are proposed on commercially zoned properties. Once a property owner decides to move forward with proposed development, he or she submits an application and plans to the Planning Division of the City's Community Development Department for review. The plan review looks at the placement of structures on the property, parking levels, traffic circulation and access to and from roads, natural or landscaped buffer requirements, drainage systems, utility systems and environmental factors among others. Plans are reviewed by City staff for compliance with the LDC and various other regulatory tools, and are able to be approved once all aspects comply with all regulatory requirements. In some cases, a development proposal requires final approval by the Planning and Land Development Regulation Board (PLDRB) and/or the City Council.

The Planning section of the City's website, which can be found at <https://www.palmcoastgov.com/government/community-development/planning> contains additional helpful information, plans, maps and application packages.

If you have additional questions, please contact the Planning Division at 386-986-3736.