



Development Services Advisory Committee Meeting

**Wednesday, August 3, 2022
3:00 pm**

**2800 N. Horseshoe Dr.
Naples, FL 34104
Growth Management Department
Conference Room 609/610**

**If you have any questions or wish to meet with
staff, please contact
Trish Mill at 252-8214**



Development Services Advisory Committee

Agenda

Wednesday, August 3, 2022

3:00 pm

2800 N. Horseshoe Dr., Naples, FL 34104
Growth Management Building, Conference Rooms 609/610

NOTICE:

Persons wishing to speak on any Agenda item will receive up to three (3) minutes unless the Chairman adjusts the time. Speakers are required to fill out a "Speaker Registration Form", list the topic they wish to address and hand it to the Staff member before the meeting begins. Please wait to be recognized by the Chairman and speak into a microphone. State your name and affiliation before commenting. During the discussion, Committee Members may direct questions to the speaker.

Please silence cell phones and digital devices. There may not be a break in this meeting. Please leave the room to conduct any personal business. All parties participating in the public meeting are to observe Roberts Rules of Order and wait to be recognized by the Chairman. Please speak one at a time and into the microphone so the Hearing Reporter can record all statements being made.

1. Call to order - Chairman
2. Approval of Agenda
3. Approval of Minutes:
 - a. DSAC Meeting – June 1, 2022
 - b. DSAC LDR Meeting – May 25, 2022
4. Public Speakers
5. Staff Announcements/Updates
 - a. Development Review Division – **[Jaime Cook]**
 - b. Code Enforcement Division – **[Mike Ossorio]**
 - c. Public Utilities Department – **[Matt McLean]**
 - d. Growth Management Dept. Transportation Engineering Division – **[Jay Ahmad or designee]**
 - e. Collier County Fire Review – **[Shar Beddow or Shawn Hanson, Assistant Chief, Fire Marshal]**
 - f. North Collier Fire Review – **[Chief Sean Lintz or Deputy Director Daniel Zunzunegui]**
 - g. Operations & Regulatory Mgmt. Division – **[Ken Kovensky]**
 - h. Zoning Division – **[Mike Bosi]**

6. New Business

- a. NIM process modifications [Requested by Clay Brooker]
- b. SB 4D – Existing building recertification [Rich Long]
- c. Land Development Code Amendments
 - i. PL20220004273 – Medical Marijuana Dispensaries
 - ii. PL20220004350 – Golden Gate Estates Variance Distance Notification

7. Old Business

8. Committee Member Comments

9. Adjourn

FUTURE MEETING DATES:

September 7, 2022 – 3:00 pm

October 5, 2022 – 3:00 pm

November 2, 2022 – 3:00 pm

LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20220004273

SUMMARY OF AMENDMENT

This Land Development Code (LDC) amendment shall allow medical marijuana dispensaries to become a new permitted land use in the same zoning districts where pharmacies and drug stores are permitted.

ORIGIN

BCC

HEARING DATES

BCC	TBD
CCPC	TBD
DSAC	08/03/22
DSAC-LDR	07/27/22

LDC SECTION(S):

1.08.02	Definitions
2.03.03	Commercial Zoning Districts
2.03.04	Industrial Zoning Districts
2.03.06	Planned Unit Development Districts
2.03.07	Overlay Zoning Districts
5.05.16	Medical Marijuana Dispensaries (New Section)

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR

Not Approve

DSAC

TBD

CCPC

TBD

BACKGROUND

On May 10, 2022, the Board directed staff to advertise and bring back for consideration a Land Development Code Amendment (LDCA) to allow medical marijuana/cannabis dispensaries in the same zoning districts as pharmacies and report back on any law enforcement issues related to existing dispensaries, specifically those located in Bonita Springs and three or four on Bonita Beach Road. An update to 2021 F.S. 381.986 regulatory framework for medical marijuana dispensing facilities, as distinguished from the cultivation and processing and the delivery of medical marijuana was performed. The yellow highlighted textual changes represent the statutory changes adopted since the previous LDC amendment was publicly voted on May 10, 2018. Staff recently contacted various law enforcement agencies to obtain a law enforcement report on any issues related to existing Medical Marijuana Treatment Centers' dispensaries within Lee and Collier Counties. The law enforcement report, regulatory framework, and specific amendment changes are presented below.

Applicable Statutory Dispensing Facilities Regulatory Framework:

On June 9, 2017, the Florida legislature enacted Senate Bill 8-A to allow the medical use of marijuana to be dispensed through a state approved Medical Marijuana Treatment Center (MMTC). Only a MMTC is licensed to cultivate, process, transport and dispense medical cannabis. Section 381.986 (11) F.S., states "Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state..." The proposed LDCA does not address the cultivation and processing of medical marijuana use. Per section 381.986 (8.j) F.S., "Medical marijuana treatment centers are the sole source from which a qualified patient may legally obtain marijuana." Section 381.986 (11.b.1) F.S. states, "A county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality." There are no limits to the number of dispensaries with this LDCA.

Section 381.986 (11.b.2) F.S. states, "A county may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, all such dispensing

facilities located within the unincorporated areas of that county.” Additionally, the county ‘...may not enact ordinances for permitting or for determining the locations of dispensing facilities which are more restrictive than its ordinances for permitting or determining the locations for pharmacies licensed under F.S. 465.” The proposed amendment’s land use location for dispensing facilities is consistent with the county’s criteria for pharmacies and drug stores.

Section 318.986 (11.c) F.S. states, “A medical marijuana treatment dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.” This provision has been included in the amendment’s new LDC section 5.05.16 B-Medical Marijuana Dispensaries.

Number of Licensed MMTCs, Dispensing Facilities, and Law Enforcement Issues to Existing MMTCs;

The Florida Department of Health’s latest weekly update report, June 03, 2022, published by the “Office of Medical Use of Marijuana” confirms a total of 436 dispensing locations for twenty two MMTCs, and 726,390 qualified patients with active identification cards have been authorized. Currently, there are eleven existing MMTCs operating twenty eight dispensaries located in Bonita Springs (10), Ft. Myers (9), Cape Coral (7), Lehigh Acres (1) and Marco Island (1). See Exhibit A for the list of existing MMTC’s dispensing facilities operating within Lee and Collier County and the law enforcement issue report.

The LDC proposed textual changes are summarized in Exhibit B.

DSAC-LDR SUBCOMMITTEE RECOMMENDATION: On July 27, 2022, the DSAC-LDR Subcommittee, after hearing public comments, reviewed the amendment and voted to recommend the Board ban medical marijuana dispensaries as a permitted land use. Further, should the Board decide to allow medical marijuana dispensaries as a permitted use, then DSAC-LDR Subcommittee recommends the following LDC amendment changes:

- In LDC section 5.05.16 D.1.a, change the words from “*dark sky compliant outdoor lighting*” to read “*photometric compliant outdoor lighting*”, and seek professional counsel on lighting designs to existing lighting in shopping centers, strip centers or multi-tenant buildings.
- In LDC section 5.05.16, delete subsection B.2 in its entirety because as the proposed text doesn’t exist anywhere else in the LDC where there is a distance separation requirement.

The recommended changes have been incorporated.

FISCAL & OPERATIONAL IMPACTS

There are no anticipated fiscal or operational impacts to the County.

GMP CONSISTENCY

To be provided by Comprehensive Planning Staff.

EXHIBITS: A) Medical Marijuana Treatment Centers-Dispensaries; B) Summary of LDC Changes

Amend the LDC as follows:

1.08.02 Definitions

Low-THC cannabis: Has the same meaning as in F.S. 381.986; a plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana dispensary.

Marijuana: Has the same meaning as in F.S. 381.986; all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana dispensary for medical use, as defined by F.S., by a qualified patient.

Medical marijuana dispensary: A dispensing facility of a medical marijuana treatment center, which is licensed in accordance with F.S. 381.986.

Medical use: Has the same meaning as in F.S. 381.986; the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. The term does not include:

1. Possession, use, or administration of marijuana that was not purchased or acquired from a medical marijuana dispensary.
2. Possession, use, or administration of marijuana in a form for smoking, in the form of commercially produced food items other than edibles, or of marijuana seeds or flower, except for flower in a sealed, tamper-proof receptacle for vaping.
3. Use or administration of any form or amount of marijuana in a manner that is inconsistent with the qualified physician's directions or physician certification.
4. Transfer of marijuana to a person other than the qualified patient for whom it was authorized or the qualified patient's caregiver on behalf of the qualified patient.
5. Use or administration of marijuana in the following locations:
 - a. On any form of public transportation, except for Low-THC cannabis not in the form for smoking.
 - b. In any public place, except for Low-THC cannabis not in a form for smoking.

- c. In a qualified patient's place of employment, except when permitted by his or her employer.
- d. In a state correctional institution, as defined in F.S. 944.02 or a correctional institution, as defined in F.S. 944.241.
- e. On the grounds of a preschool, primary school, or secondary school, except as provided in F.S. 1006.062.
- f. In a school bus, a vehicle, an aircraft, or a motorboat, except for Low-THC cannabis not in a form for smoking.

6. The smoking of marijuana in an enclosed indoor workplace as defined in F.S. 386.203(5).

*	*	*	*	*	*	*	*	*	*	*	*	*	*
#	#	#	#	#	#	#	#	#	#	#	#	#	#

2.03.03 Commercial Zoning Districts

*	*	*	*	*	*	*	*	*	*	*	*	*	*
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B. Commercial Convenience District (C-2).

*	*	*	*	*	*	*	*	*	*	*	*	*	*
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1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the C-2 commercial convenience district.

a. Permitted uses.

*	*	*	*	*	*	*	*	*	*	*	*	*	*
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46. Medical marijuana dispensary with 1,800 square feet or less gross floor area in the principal structure and subject to LDC section 5.05.16.

Renumber remaining uses

*	*	*	*	*	*	*	*	*	*	*	*	*	*
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C. Commercial Intermediate District (C-3).

*	*	*	*	*	*	*	*	*	*	*	*	*	*
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1. The following uses, as identified with a number from the Standard Industrial Classification Manual (1987), or as otherwise provided for within this section are permissible by right, or as accessory or conditional uses within the commercial intermediate district (C-3).

a. Permitted uses.

1
2 * * * * *
3 57. Medical marijuana dispensary, subject to LDC section 5.05.16.
4 **Renumber remaining uses**

5
6 * * * * *
7
8 D. General Commercial District (C-4).
9
10 * * * * *

- 11
12 1. The following uses, as defined with a number from the Standard Industrial
13 Classification Manual (1987), or as otherwise provided for within this section are
14 permissible by right, or as accessory or conditional uses within the general
15 commercial district (C-4).
16
17 a. *Permitted uses.*

18
19 * * * * *
20 86. Medical marijuana dispensary, subject to LDC section 5.05.16.
21 **renumber remaining uses**

22
23 * * * * *
24
25 E. Heavy Commercial District (C-5).

26
27 * * * * *
28 1. The following uses, as identified with a number from the Standard Industrial
29 Classification Manual (1987), or as otherwise provided for within this section are
30 permissible by right, or as accessory or conditional uses within the heavy
31 commercial district (C-5).

- 32
33 a. *Permitted uses.*

34
35 * * * * *
36
37 106. Medical marijuana dispensary, subject to LDC section 5.05.16.
38 **renumber remaining uses**

39
40 # # # # # # # # # # # # #

2.03.04 Industrial Zoning Districts

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42
43
44 * * * * *
45
46 B. Business Park District (BP).

47
48 * * * * *
49 1. The following uses, as identified within the latest edition of the Standard Industrial
50 Classification Manual, or as otherwise provided for within this section, are

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~~Text strikethrough is current text to be deleted~~

permitted as of right, or as uses accessory to permitted primary or secondary uses, or are conditional uses within the business park district.

* * * * *

b. Permitted secondary uses accessory to the business park district. Development is limited to a maximum of 30 percent of the total acreage of the business park district for the following uses:

* * * * *

4. Drug stores (5912, limited to drug stores and pharmacies) in conjunction with health services group and medical laboratories/research/rehabilitative groups; and medical marijuana dispensaries, subject to LDC section 5.05.16.

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2.03.06 Planned Unit Development Districts

* * * * *

D. The following are permissible uses in the Research and Technology Park PUD:

Identified Use	Special Notes Or Regulation	RTPPUD
Accessory uses and structures	4.07.02 and 5.03.00	P
Accounting 8721, 7521,7231,7241		NT
Administrative offices		P (2)
Aircraft & Parts 3721-3728		T
Aviation/Aerospace Industries		P
ATM (automatic teller machine)		NT
Automobile service station	\$5.05.05	NT
Banks and financial establishments Group I 6011—6062 Group II 6081—6173	NT NT	
Bar or cocktail lounge		-
Barber Shops 7241		NT
Beauty Shops 7231		NT
Boats: Boat ramps and dockage (not marinas) Boat rental Boat repair and service Boat sales	5.03.06	NT -NT
Broadcast studio, commercial radio and television		T
Business services 7311—7352, 7359—7389		NT
Cable and other pay television services 4841		T
Call Center and Customer Support Activities		T
Car wash		NT

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~~Text strikethrough is current text to be deleted~~

CD-ROM development		T
Clothing stores, general		NT
Communication groups 4812—4841		T
Communication towers: 75 feet or less in height	5.05.09	P CU
More than 75 feet in height		
Computer and data processing services, Computer related services, not elsewhere classified		T
Consumption on premises		NT
Convenience food and beverage store		NT
Day care center, adult & <u>and</u> child services		P/NT
Data and Information processing		T
Development testing and related manufacturing		T
Drive-through facility for any Permitted use		P
Drugs, Medicine 2833-2836		T
Drugstore, pharmacy 5912		NT
Dwelling unit: Single-family, duplex		P P
Two-family attached		P
Townhouse, multiple-family building		
Educational, scientific and research organizations		T
Engineering 0781, 8711—8713, 8748		NT
Export based laboratory research or testing activities		T
Fences, walls	5.03.02	P
Food and beverage service, limited		NT
Food stores 5411—5499		NT
Gasoline dispensing system, special		NT
General Merchandise 5331—5399		NT
General Contractors 1521—1542		NT
Gift and souvenir shop		NT
Hardware store 5251		NT
Health care facilities: 8011—8049		NT NT
8051—8099		
Health Technologies		T
Heliport or helistop		P
Hobby, toy and game shops		NT
Hotel/motel: 7011, 7021, 7041		NT
Housing units for employees only	5.05.03	P
Insurance companies 6311—6399, 6411		NT
Information Technologies		T
Laboratories 5047, 5048, 5049, 8071, 8731, 8734		T
Laundry or dry cleaning		NT
Legal Offices 8111		NT
MANUFACTURING OF:		
1. Electronics 3612—3699		T
2. Measuring, analyzing & <u>and</u> Controlling instruments, 3812—3873		T
3. Novelties, jewelry, toys and signs		NT

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~~Text strikethrough is current text to be deleted~~

Management 8741—8743, 8748		NT
Medical Laboratory 8071, 8072, 8092, 8093		T
<u>Medical marijuana dispensary</u>	<u>5.05.16</u>	<u>NT</u>
Membership Organization 8611—8699		NT
Motion picture production studio 7812—7819		NT
Multimedia activities		T
Parks		P
Parking lot:		P
Accessory		P
Garage, public parking		
Personal services 7211—7299		NT
Pharmacy		NT
Photo finishing laboratory		T
Photographic Studios 7221		NT
Physical Fitness 7991		NT
Play Ground		P
Printing and publishing 2752		T
Production facilities and operations/technology based		T
Professional Office		NT
Research, development laboratories & <u>and</u> Technology Parks: 8071, 8731, 8734	See Note (3)	P
All others		P
Residential Development including care units, family care facilities and group care facilities		P
Residential accessory uses		NT
Restaurant, fast food		NT
Restaurants 5812—5813		NT
Schools:		NT
Commercial 8243—8299		
Security & <u>and</u> Commodity Brokers 6211—6289		NT
Self-service fuel pumps		NT
Signs in accordance with 5.06.00	§ 5.06.00	P
Storage:		P
Indoor only		
Studios		NT
Telephone communications 4813		T
Travel Agency 4724		NT

Legend: (-) not permitted, (P) permitted, (CU) conditional use (T) target industry [RTPUD only], (NT) non-target industry [RTPUD only]

Notes:

- (1) Subject to limitations for commercial uses set forth in LDC subsection 2.03.03 C. ~~of this LDC.~~
- (2) Accessory uses only.
- (3) Subject to ordinance 02-24 (GMP amendment).

* * * * *

I. A Medical marijuana dispensary is a permitted use, subject to LDC section 5.05.16, within PUDs approved prior to [effective date of the ordinance], only when the PUD's list of permitted uses includes SIC ~~code~~ 5912, drug store, pharmacy, or any of the following zoning districts listed in the PUD: C-2 with 1,800 square feet or less gross floor area, C-3, C-4, C-5, BP, or RTPUD.

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2.03.07 Overlay Zoning Districts

* * * * *

H. Santa Barbara Commercial Overlay District (SBCO). Special conditions for properties abutting the east side of Santa Barbara Boulevard and the west side of 55th Terrace S.W., as referenced in the Santa Barbara Commercial Subdistrict Map (Map 7) of the Golden Gate Area Master Plan. This is referenced as figure 2.03.07 H. below.

* * * * *

6. The following uses, as identified within the latest edition of the Standard Industrial Classification Manual, or as otherwise provided for within this section, are permitted as of right, or as uses accessory to permitted primary or secondary uses, or are conditional uses within the Santa Barbara Commercial Overlay District.

a. Permitted uses.

* * * * *

51. Medical marijuana dispensary, subject to LDC section 5.05.16.

Renumber remaining uses

* * * * *

#

5.05.16 - Medical Marijuana Dispensaries.

A. Purpose and Intent. The purpose of this section is to provide for the compatibility of medical marijuana dispensaries with surrounding uses and to protect the health, safety, and welfare of the general public by adherence to Section 381.986 F.S.

B. Separation Distances.

1. A medical marijuana dispensary shall not be located within 500 feet of the real property that comprises a public or private elementary, middle, or secondary school. The distance of 500 feet shall be measured as the shortest distance between the lot on which the school is located and the lot on which the medical marijuana dispensary is located, except that medical marijuana dispensaries located in shopping centers shall be measured from the outer wall of the establishment.

~~2. The erection of any public or private elementary school, middle school, or secondary school subsequent to the issuance of a development order for a medical marijuana dispensary shall be a legal non-conforming use subject to LDC section 9.03.02.~~

C. Signage. Signage shall be limited to one wall sign or hanging sign in the window of the premises that identify the medical marijuana dispensary by business name, the state Department of Health (DOH) approved trade name, or the DOH approved logo and meet the requirements of LDC section 5.06.00. A medical marijuana dispensary's trade name and logo may not contain wording or images commonly associated with marketing targeted toward children or which promote recreational use of marijuana.

D. Security Measures and Design.

1. Medical marijuana dispensaries shall be designed and equipped with the following:

a. A ~~dark sky~~ photometric compliant outdoor lighting system that is intended to clearly identify persons and vehicles on premise, oriented downward and shielded to minimize light trespass and glare. The design shall reduce excessive glare, light trespass, and sky glow with light fixtures that are full cutoff with flat lenses.

b. The indoor premises will include a waiting area with adequate seating for qualified patients and caregivers and at least one private consultation area that is isolated from the waiting area and the area where dispensing occurs.

c. The medical marijuana transport delivery vehicle shall be parked in a garage or fully enclosed structure, when not in use for delivery.

2. The following are prohibited:

a. Drive-through, drive-ins, curbside pickup, take-out windows or similar outdoor transaction facilities and all outdoor transactions.

b. The display of products, marijuana, or marijuana delivery devices in the waiting area.

c. Dispensing from the premises marijuana or a marijuana delivery device between the hours of 9:00 P.M. and 7:00 A.M.

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Exhibit A-Medical Marijuana Treatment Centers-Dispensaries

Medical Marijuana Treatment Centers					
Lee and Collier County					
Source: Florida Department of Health-					
Office of Medical Marijuana Use (OMMU) May 06 , 2022 Registry					
Company-Location	Bonita Springs	Ft. Myers	Cape Coral	Marco Island	Lehigh Acres
Cannabist	X		X		
Curaleaf	X	X			
Fluent		X	X		
GTI (Dispensaries)	X				
GrowHealthy	X		X		
Liberty Health Sciences	X	X	X		
MuV	X	2	X	X	
Sunnyside	X				
Surterra Wellness	X	X			
Trulieve	X	3	X		X
VidaCann	X		X		
Total (28)	10	9	7	1	1

Exhibit A-Medical Marijuana Treatment Centers-Dispensaries

LAW ENFORCEMENT AGENCY	CONTACT	LAW ENFORCEMENT ISSUE REPORT	
Marco Island Police Department	Captain Rich Stoltenborg	Report Date /Period	Any increase in crime associated with existing MMTCs?
		6-2-22	One existing MMTc, opened within the last two to three weeks. None.
Collier County Sheriff's Office	Captain Scott Forth, Homeland Security: Lieutenant Gary Gambino, Vice and Narcotics Bureau	5-31-22	None.
Lee County Sheriff's Office	Sergeant Adam Winton, School Threat Enforcement Team	6-3-22/ 1-1-21 to 6-1-22	"Nothing higher than normal prevalence." Two incidents, "assault and aggravated assault at Trulieve sites" which "do not appear to cause issues for law enforcement....".

Exhibit B-Summary of LDC Changes

Changes to LDC Section 1.08.02.

The definitions for this amendment consist of the following: *Low-THC Cannabis, Marijuana, Medical marijuana dispensary, and Medical Use*. These definitions have the same meaning as provided for in F.S. 381.986 (1). They are included to establish a consistent relationship with statutory law and describe a new land use facility.

Changes to LDC Section 2.03.03.

For the Commercial Districts: C-2, C-3, C-4, and C-5, a medical marijuana dispensary is treated the same as a pharmacy subject to the new LDC section 5.05.16 standards and for the C-2 zoning district, 1,800 square feet or less in area.

Changes to LDC Section 2.03.04.

For the Business Park District (BP), a medical marijuana dispensary is one of several secondary uses that are allowed but subject to a maximum of 30 percent of the total district's acreage. This is the same limitation for a pharmacy or drug store.

Changes to LDC Section 2.03.06.

For the Research and Technology Park PUDs (RTPPUD), a pharmacy is one of several businesses that are non-targeted industries serving as commercial support services to light industrial uses. The development of these uses, including a medical marijuana dispensary, are limited up to 20 percent of the total research and technology park's acreage.

A new LDC section 2.03.06 I, is added to allow a medical marijuana dispensary within a previously approved PUD, when such PUD includes SIC 5912, drug store, pharmacy, or such listing as a permitted use in any of the following zoning districts: C-2, C-3, C-4, C-5, BP, or RTPPUD

Changes to LDC Section 2.03.07.

Medical marijuana dispensaries are added to Overlay Zoning Districts where a drug store is specifically listed as a permitted use. They are the Santa Barbara Commercial Overlay (SBCO) District and in C-2, C-3, C-4, or C-5 zoning districts of the Golden Gate Parkway Overlay District (GGPOD).

New LDC section 5.05.16.

All medical marijuana dispensaries shall be subject to the provisions and standards of this new LDC section which consists of the following:

- A Purpose and Intent section. This section establishes that the change will provide consistency and compatibility with the need for medical use of marijuana at a medical marijuana dispensary.
- A Separation Distances section. The amendment proposes a minimum separation of 500 feet between a MMTC dispensary and a school, consistent with section 381.986 (11.c) F.S.. It describes how the distance shall be measured, consistent with LDC section 5.05.01-Businesses Serving Alcoholic Beverages. A clause is provided to clarify the construction of a school after the issuance of a development order for a medical marijuana dispensary would not cause the medical marijuana dispensary to become non-conforming.
- A Signage section. Per section 381.986 (8.h) F.S. there are certain limitations to advertising and signage such as:

“ A medical marijuana treatment center may not engage in advertising that is visible to members of the public from any street, sidewalk, park, or other public place, except:

Exhibit B-Summary of LDC Changes

1. The dispensing location of a medical marijuana treatment center may have a sign that is affixed to the outside or hanging in the window of the premises which identifies the dispensary by the licensee's business name, a department-approved trade name, or a department-approved logo. A medical marijuana treatment center's trade name and logo may not contain wording or images commonly associated with marketing targeted toward children or which promote recreational use of marijuana." This specific provision has been included in the amendment.

- A Security Measures and Design section. When dispensing marijuana or a marijuana delivery device, there are various operational security and safety requirements mandated in section 381.986 (8.f) F.S. that apply to a medical marijuana dispensary. Staff integrated some of the requirements related to indoor design and security measures, outdoor lighting, and the handling or dispensing of medical marijuana and a delivery device.

In general, the applicable statutory requirements relative to this section, are:

"To ensure the safety and security of premises where the cultivation, processing, storing, or dispensing of marijuana occurs, and to maintain adequate controls against the diversion, theft, and loss of marijuana or marijuana delivery devices, a medical marijuana treatment center shall: ...

2. Ensure that the medical marijuana treatment center's outdoor premises have sufficient lighting from dusk until dawn.

3. Ensure that the indoor premises where dispensing occurs includes a waiting area with sufficient space and seating to accommodate qualified patients and caregivers and at least one private consultation area that is isolated from the waiting area and area where dispensing occurs. A medical marijuana treatment center may not display products or dispense marijuana or marijuana delivery devices in the waiting area.

4. Not dispense from its premises marijuana or a marijuana delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver marijuana to qualified patients 24 hours a day."...

Each dispensing facility and its location must be authorized by the Florida Department of Health. The retail sale activity at the dispensary is limited to qualified patients or authorized caregivers. The sale transaction can only occur within the indoor designated area that is separate from the waiting area or outside of the building.

The sufficiency of lighting during night time operations is an objective of the county's outdoor lighting standard to reduce light pollution and maintain adequate visibility of persons and vehicles. By requiring the outdoor lighting system to be directed downward and shielded to minimize light trespass and glare, the provision would ensure no light pollution. A similar provision is located in LDC section 5.05.15 H. lighting design standard for golf course conversions. This provision is intended to address implementation of the lighting standard in section 381.986 (8.f.2) F.S.

Another security measure, as suggested by the cultivation manager at Growth Healthy Medical Marijuana Treatment Center, is the dispensary's transport delivery vehicle be located within a garage or enclosed structure when not in use for delivery. This provision would restrict the potential for night time criminal activity.

Exhibit B-Summary of LDC Changes

- There are three prohibitions that serve to deter crime, limit the potential for the illicit sale of marijuana, and reduce the potential risk of driver intoxication. They are:
 - The dispensing of marijuana by pick-up at curbside, take-out by window, drive-in or drive-through facility, or other similar outdoor transaction facilities. This provision follows other Florida communities such as Sarasota County, Town of Palm Beach, Maitland, Mount Dora, Altamonte Springs, Ocala, Plantation, and Ft. Lauderdale.
 - The display of medical marijuana products or marijuana delivery devices within the waiting and entry area. This provision incorporates section 381.986 (8.f.3) F.S. excerpted above.
 - The dispensing of marijuana or marijuana delivery device shall be prohibited between 9:00 p.m. and 7:00 a.m. This provision incorporates section 381.986 (8.f.3) F.S. excerpted above.

LAND DEVELOPMENT CODE AMENDMENT

PETITION

PL20220004350

ORIGIN

Board of County
Commission (Board)

HEARING DATES

BCC TBD

CCPC TBD

DSAC 08/03/2022

DSAC-LDR 07/27/2022

SUMMARY OF AMENDMENT

For variance applications proposed on properties located within the Rural and Urban Golden Gate Estates designated areas of the Golden Gate Area Master Plan (GGAMP), this amendment will change the mailed written public notification distance to property owners from 1 mile to 1,000 feet. Also, this Land Development Code (LDC) amendment requires a companion amendment to the Collier County Administrative Code for Land Development, regarding public notice procedures for land use petitions.

LDC SECTION TO BE AMENDED

10.03.05 Required Methods of Providing Public Notice

ADVISORY BOARD RECOMMENDATIONS

DSAC-LDR

Approval

DSAC

TBD

CCPC

TBD

BACKGROUND

Prior to 2021, the distance for required mailed notice was 500 feet of a subject property for properties located in the urban designated area of the Future Land Use Element of the Growth Management Plan (GMP). For all other areas, the mailed notices were sent to all property owners within 1,000 feet of the property lines of the subject property. However, the mailed notice requirements changed once Ordinance 2021-25 was adopted on July 13, 2021. The new ordinance increased the mailed notice distance from 1,000 feet to 1 mile, for properties located within the boundaries of the Rural Golden Gate Estates Sub-Element of the GGAMP and in the Urban Golden Gate Estates Sub-Element of the GGAMP.

On June 14, 2022, the Board unanimously directed staff to bring back a LDC amendment specific to variance petitions, to reinstate the mailed notification distance of 1,000 feet for properties located in the boundaries of the Urban and Rural Golden Gate Estates Sub-Elements of the GGAMP. With respect to variances, LDC section 9.04.02 states as follows:

A variance is authorized for any dimensional development standard, including the following: height, area, and size of structure; height of fence; size of yards and open spaces; dimensional aspects of landscaping and buffering requirements; size, height, maximum number of, and minimum setback for signs; and minimum requirements for off-street parking facilities.” Unlike other land use petitions, a request for variance is specific to the location of a subject property and “... has no adverse effect on the community at large or neighboring property owners.

This LDC amendment implements the Board’s direction to change the written notification distance from 1 mile to 1,000 feet for variance petitions involving properties located with the Urban and Rural Golden Gate Estates Sub-Elements of the GGAMP.

DSAC-LDR Subcommittee (Subcommittee) Recommendation:

The Subcommittee recommended approval; however, prior to when the motion was made, the Subcommittee requested that staff clarify the Background portion to ensure greater accuracy. Staff updated the Background, Summary, and GMP Consistency portions of this staff report for accuracy purposes.

FISCAL & OPERATIONAL IMPACTS

There is no fiscal impact to the County. Costs associated with mailed notices are the responsibility of the petitioner.

GMP CONSISTENCY

The proposed LDC amendment has been reviewed by Comprehensive Planning staff and may be deemed consistent with the GMP.

EXHIBITS: A) Administrative Code Amendment

Amend the LDC as follows:

10.03.05 – Required Methods of Providing Public Notice

This section shall establish the required methods of providing public notice. Chapter 8 of the Administrative Code shall establish the public notice procedures for land use petitions.

A. Neighborhood Information Meetings (NIM). Neighborhood Information Meetings, where required, shall be held prior to the first public hearing and noticed as follows:

1. Mailed Notice shall be sent prior to the NIM and shall be pursuant to LDC section 10.03.05 B.

2. Newspaper Advertisement prior to the NIM.

B. Mailed Notice.

1. Where required, Mailed Notice shall be sent to property owners in the notification area as follows:

a. For areas in the urban designated area of the future land use element of the Growth Management Plan notices shall be sent to all property owners within 500 feet of the property lines of the subject property.

b. For all other areas, except areas designated in the Rural Golden Gate Estates Sub-Element or Urban Golden Gate Estates Sub-Elements of the Golden Gate Area Master Plan, notices shall be sent to all property owners within 1,000 feet of the property lines of the subject property.

c. For areas designated within the Rural and Urban Golden Gate Estates Sub-Element of the Golden Gate Area Master Plan, notices shall be sent to all property owners within one mile of the subject property lines, except for variance applications, which shall be 1,000 feet of the subject property lines.

d. Notices shall also be sent to property owners and condominium and civic associations whose members may be impacted by the proposed land use changes and who have formally requested the county to be notified. A list of such organizations must be provided and maintained by the county, but the applicant must bear the responsibility of insuring that all parties are notified.

* * * * *
#

Exhibit A- Administrative Code

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Text underlined is new text to be added
~~Text strikethrough is current text to be deleted~~

Collier County Land Development Code | *Administrative Procedures Manual* Chapter 8 | Public Notice

C. Mailed Notice

Applicability For applicable land use petitions, a **mailed notice** shall be as follows.

Notice Requirements Mailed written notices shall be sent by regular mail to **property owners in the notification area** listed below. Names and addresses of **property owners** shall be those listed on the latest ad valorem tax rolls of the County. The ~~County must send~~ **mailed notice** must be sent out at least 15 days before the hearing for all applications, except as identified otherwise in the Administrative Code.

The **applicant** must provide a copy of the list of all parties noticed by the required notification deadline to the ~~Planning & Zoning Department~~ Division staff.

The written notice must include:

- a. Date, time, and location of the **NIM** meeting or public hearing;
- b. Description of the proposed land uses; and
- c. 2 in. x 3 in. map of the project location.

For a conditional use, rezoning, PUD, PUD extension, or variance, the notice must also include:

- a. A clear description of the proposed land uses;
- b. A clear description of the applicable development standards;
- c. Intensity or density in terms of total floor area of commercial or industrial space and dwelling units per acre for residential projects;
- d. A clear description of the institutional or recreational uses when part of the development strategy; and
- e. The substance of the proposed ordinance or resolution (rezoning only).

For a site plan with deviations for redevelopment projects, the notice must also include:

- ~~T~~he type of deviation sought.

The ~~e~~Clerk to the BCC will make a copy of all notices available for public inspection during ~~the~~ regular business hours.

Recipients of Mailed Written Notice **Property owners in the notification area** are described below and shall be based on the latest tax rolls of Collier County and any other persons or entities who have formally requested notification from the County:

→ Urban designated area of the future land use element of the growth management plan

The notification area includes:

1. All property owners within 500 feet of the property lines of the subject property ~~or one mile of the property lines of the subject property if located within the areas designated in the Urban Golden Gate Estates Sub-Element of the Golden Gate Master Plan.~~

Exhibit A- Administrative Code

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Text underlined is new text to be added

~~Text strikethrough is current text to be deleted~~

2. If any of the land in the area listed in paragraph 1 is owned by the same person or entity who owns the subject property, the 500-foot ~~or one mile~~ distance is measured from the boundaries of the entire ownership or PUD.
3. The maximum notification area is ½ mile (2,640 feet) from the subject property except for areas designated in the Urban and Rural Golden Gate Estates Sub-Element of the Golden Gate Area Estates Master Plan.

→ All other areas The notification area includes:

1. All property owners within 1,000 feet of the property lines of the subject property. However, for ~~For~~ areas designated in the Urban and Rural Golden Gate Estates Sub-Element of the Golden Gate Area Master Plan, the notices shall be sent to all property owners within one mile of the property lines of the subject property, except for variance applications, which shall remain at 1,000 feet of the subject property.
2. If any of the land in the area listed in paragraph 1 is owned by the same person or entity who owns the subject property, the 1,000-foot or one mile distance is measured from the boundaries of the entire ownership or PUD.
3. The maximum notification area is ½ mile (2,640 feet) from the subject property, except for areas designated in the Urban and Rural Golden Gate Estates Sub-Element of the Golden Gate Area Master Plan.

→ Associations

Notification shall also be sent to **property owners** and condominium and civic associations whose members are impacted by the proposed land use changes and who have formally requested the County to be notified. A list of such organizations shall be provided and maintained by the County, but the **applicant** must bear the responsibility of ~~in~~ensuring all parties are notified.