

June 21, 2017

MINUTES OF THE COLLIER COUNTY DEVELOPMENT SERVICES
ADVISORY COMMITTEE LAND DEVELOPMENT REVIEW
SUBCOMMITTEE

Naples, Florida, June 21, 2017

LET IT BE REMEMBERED, the Collier County Development Services Advisory Committee – Land Development Review Subcommittee in and for the County of Collier, having conducted business herein, met on this date at 3:00 PM in a REGULAR SESSION at the Growth Management Department Building, Room 609/610 2800 N. Horseshoe Drive, Naples, FL with the following persons present:

Chairman: Clay Brooker
Blair Foley
Robert Mulhere
Brad Schiffer

ALSO PRESENT: Jeremy Frantz, Senior Planner
Richard Henderlong, Principal Planner
Mike Bosi, Zoning Division Director

Any persons in need of the verbatim record of the meeting may request a copy of the audio recording from the Collier County Growth Management Division – Planning and Regulation building –Contact Mr. Evy Ybaceta at 239-252-2400.

1. Call to order

The meeting was called to order at 3:00pm

2. Election of Subcommittee Chairperson

Mr. Foley moved to appoint Clay Brooker as Chairman of the Development Services Advisory Committee Land Development Review Subcommittee. Second by Mr. Mulhere. Carried unanimously 4 – 0.

Mr. Brooker chaired the meeting.

3. Approve agenda

Mr. Foley moved to approve the Agenda. Second by Mr. Mulhere. Carried unanimously 4 – 0.

4. Old Business

None

LDC Amendment 5.05.16

Medical Marijuana Dispensaries

5. New Business

a. Staff presentation to Medical Marijuana Dispensaries LDC Amendment

i. Overview of Public Meeting Schedule

Mr. Henderlong provided an overview of the meeting schedule as follows:

- DSAC-LDR subcommittee: June 21, 2017- 3:00 PM
- DSAC: August 2nd, 2017- Daytime Public Meeting -3:00 PM
- BCC: July 11, 2017- Meeting for additional Board direction
- CCPC: July 31st, 2017- Night Time Public Hearing-5:05 PM
- BCC: September 12th and 26th, 2017 - Time To Be Determined
- Board Moratorium Ends-October 10, 2017

ii. Review of June 9, 2017, statutory revisions

Staff provided the PowerPoint “*LDC Amendment 5.05.16 Medical Marijuana Dispensaries*” for information purposes. They provided an overview of the most recent version of the Statute including:

- Each Medical Marijuana Treatment Center is limited to operating 25 dispensing facilities statewide until the registered qualified patients exceed 100,000 patients. Thereafter, an increase can occur at the rate of 5 per 100,000 additional registered qualified patients.
- Regulation of cultivation, processing, and delivery of marijuana by Medical Marijuana Treatment Centers is preempted to the state except that;
- A MMTC cultivation or processing facility may not be located within 500 feet of public or private elementary, middle, or secondary school.

- A MMTC dispensing facility may not be located within 500 feet of a school except for when there is held an open public formal proceeding upon which the county determines the location promotes the public health, safety, and welfare of the community.
- A county or municipality can ban MMTC dispensing facilities from being located within the county or municipality.
- A county or municipality that does not ban dispensing facilities may not;
 - Limit the number of dispensing facilities,
 - Enact an ordinance more restrictive than ordinances permitting or determining locations for pharmacies, or
 - Charge a license or permit fee in an amount greater than for pharmacies.
- A county or municipality may determine the location criteria and other permitting requirements that do not conflict with state law or DOH rule.
- The Statute does regulate the floor plan and interior requirements of a facility, along with handicap accessibility, signage, hours of operation, security measures, age restrictions for sales, the type of products allowed to be dispensed and inspection requirements.

iii. Review of LDC Text Recommendations

Staff reported the County has enacted a ban on the dispensing facilities through October of 2017 and is determining if the ban should be extended. A Land Development Code amendment has been developed for consideration should the ban be lifted. They noted:

- The County is only dealing with Medical Marijuana Dispensary facilities, an arm of a treatment facility which would not be located in the County.
- The dispensary would be an allowed use in districts with the same permitting and location criteria as a pharmacy including C-2 – 5 districts and certain zoning overlay districts.
- Commingling of business uses would not be permitted.
- The facility may not be located within 500 feet of a private or public elementary, middle, or secondary school (consistent with State Statute).
- Construction of a school after the issuance of a permit for a dispensary would not cause a non-conformity in the use.
- A waiver of distance separation can be granted by petition upon approval by the BZA at a public hearing.
- Provisions for a MMD separation distance waiver are added to establish consistency with the County’s alcoholic beverage distance waiver process and comply with state Statute.

b. Committee Questions and Initial Feedback

The Subcommittee reviewed the proposed amendment and suggested the following changes be considered by Staff.

Section 1.08.02 – Definitions – Consider eliminating the definitions and simply cite the Statute for given the ones listed are taken verbatim from the State’s language.

Section 1.08.02 – Definitions – Medical Marijuana Dispensary – consider changing the language from “...which is licensed in accordance...” to “...which is licensed *and operated* in accordance...”

The Committee recommended the following changes to the text:

1. Section 5.05.16.A. Medical Marijuana Dispensaries - to read ***“Medical Marijuana Dispensaries shall be allowed in any zoning district where pharmacies are a permitted use, subject to the following standards.”***
2. Section 5.05.16.A.1 Medical Marijuana Dispensaries – sentence in line 3 to be revised from “The distance of 500 feet may be measured as the shortest...” to “The distance of 500 feet ***shall*** be measured as the shortest...”

Speaker

Bill Barton noted the State heavily regulates and approves the uses and the County language mirrors the State and noted the regulations by the County may not be needed.

It was noted although the amendment may mirror the State Statute, the County would need to provide the State with a record of approval for the use before the facility is approved by the State. Additionally, a waiver may need to be approved by the County and having some type of requirements in place would facilitate the process. The County may also choose to adopt less restrictive standards than those required for pharmacies in the County.

Mr. Mulhere moved to recommend the Board of County Commissioners, if electing not to ban the dispensaries in the County, approve the proposed Land Development Code amendment subject to the 2 recommended text changes shown above. Second by Mr. Foley.

Mr. Schiffer expressed concern on including the language on the BCC “banning” the dispensaries and recommended the motion be limited to the recommended text changes should the amendment be considered by the BCC.

Mr. Mulhere amended the motion to, if the Board of County Commissioners wishes to support medical marijuana dispensary facilities, the proposed amendment to the Land Development Code be approved subject to the 2 recommended text changes shown above. Second by Mr. Foley. Motion carried 3 “yes” – 1 “no.”

6. Public comments

None

There being no further business for the good of the County, the meeting was adjourned by the order of the Chair at 4:07PM.

**COLLIER COUNTY DEVELOPMENT SERVICES
ADVISORY COMMITTEE - LAND DEVELOPMENT
REVIEW SUBCOMMITTEE**

Chairman, Clay Brooker

These Minutes were approved by the Committee on _____, as presented _____, or as amended _____.