

**MINUTES
PLANNING AND ZONING BOARD
CITY OF DELRAY BEACH**

MEETING DATE: January 23, 2023

MEETING PLACE: City Commission Chambers

1. CALL TO ORDER

This meeting was called to order by Chris Davey, Chair at 5:01 PM.

2. ROLL CALL

A quorum was present at call to order.

Members Present: Chris Davey, Chair; Joy Howell, Vice Chair; Julen Blankenship, 2nd Vice Chair; Allen Zeller, Christina Morrison; Gregory Snyder; Chris Brown

Members Absent: None

Staff Present: William Bennett, Assistant City Attorney; Rebekah Dasari, Principal Planner; Grisel Rodriguez, Senior Planner and Diane Miller, Board Secretary.

3. APPROVAL OF AGENDA

Motion to APPROVE the January 23, 2023, agenda was made by Christina Morrison and seconded by Julen Blankenship.

MOTION CARRIED 7-0

4. MINUTES

Motion to APPROVE the minutes of the November 14, 2022, meeting was made by Christina Morrison and seconded by Joy Howell.

Motion Carried 7-0

5. SWEARING IN OF THE PUBLIC

Chris Davey, Chair, read the Quasi-Judicial Rules for the City of Delray Beach and Diane Miller Board Secretary swore in all who wished to give testimony.

6. COMMENTS FROM THE PUBLIC

None

7. PRESENTATIONS

None

8. QUASI-JUDICIAL HEARING TERMS

A. Similarity of Use Determination (2023-005): Determination of a similarity of use to "pharmacy," which is a permitted retail use in the General Commercial (GC), Neighborhood Commercial (NC), Planned Commercial (PC), Central Business District (CBD), Planned Commerce Center (PCC), Mixed Residential, Office and Commercial District (MROC), zoning districts.

Agent: Neil Schiller, Esq.; nschiller@govlawgroup.com

Planner: Grisel Rodriguez, Senior Planner; rodriguezg@mydelraybeach.com

Rebekah Dasari, Principal Planner; entered File No. 2023-005 into the record.

Applicant Presentation

Neil Schiller, Attorney; Government Law Group; 137 NW 1st Avenue, Delray Beach FL 33444

Staff Presentation

Rebekah Dasari, Principal Planner; presented the project from a Microsoft PowerPoint presentation.

Exparte Communication

Julen Blankenship- Visited the site, spoke with applicant and landlord.

Joy Howell- None

Chris Davey- Spoke with Neil Schiller.

Christina Morrison- Visited the site, spoke with the Landlord, Applicant and Neil Schiller.

Gregory Snyder- Spoke with Mr. Schiller.

Allen Zeller- Visited the site.

Chris Brown- None

Public Comment

Alice Finst, 707 Place Tavant- Ms. Finst was concerned that the traffic generated from this business may be detrimental to the neighboring businesses.

Rebuttal/Cross

Neil Schiller stated that the proposed use is very similar to a pharmacy, and it will not negatively impact adjacent businesses.

Board Comments

Christina Morrison noted that other pharmacies were located within the area and asked the applicant if diagnostic testing or vaccines will be dispensed on site. Ms. Morrison asked staff if Schedule II drugs will be dispensed from this facility.

Joy Howell asked if Schedule II drugs could be stored at that location.

Julen Blankenship inquired if the similarity of use continues with the business regardless of ownership and noted that the proposed use at this location is similar to other national chain pharmacies.

Chris Brown was in favor of granting the similarity of use.

Gregory Snyder was in favor of granting the similarity of use as this business is appropriate in the Mixed Residential Office Commercial and zoning district.

Allen Zeller was in favor of granting the similarity of use as the business operates as a pharmacy and is licensed as a pharmacy with the State of Florida.

Chris Davey noted that a pharmacy is an appropriate use within the Mixed Residential Office and Commercial Zoning District and was in favor of granting the similarity of use.

MOTION that the Planning and Zoning Board finds that the use of a pharmacy operations without retail goods sales that engages with most of the patients via telehealth with a large percentage receiving their medication through the mail is a similar use to a pharmacy and may be established in the Mixed Office Commercial and Residential zoning district was made by Christina Morrison and seconded by Julen Blankenship.

MOTION CARRIED 7-0

9. LEGISLATIVE ITEMS

A. Restaurant Definitions (File No. 2020-160): Provide a recommendation to the City. Commission on Ordinance No. 40-22, amending Section 4.3.3, "Special Requirements for Specific Uses," Section 4.4.9, "General Commercial (GC) District;" Section 4.4.11, "Neighborhood Commercial (NC) District;" Section 4.4.13, "Central Business (CBD) District;" Section 4.4.14, "Resort/Tourism (RD) District;" Section 4.4.15, "Planned Office Center (POC) District;" Section 4.4.24, "Old School Square Historic Arts District (OSSHAD);" Section 4.6.9, "Off-Street Parking Regulations;" and Appendix A - "DEFINITIONS" of the Land Development Regulations (LDR), for the purpose of updating restaurant definitions, providing provisions for limited indoor dining in certain establishments, and updating language for clarity.

Planner: Rebekah Dasari, Principal Planner; dasarir@mydelraybeach.com

Rebekah Dasari, Principal Planner; entered File No. 2020-160 into the record.

Staff Presentation

Rebekah Dasari, Principal Planner; presented the project from a Microsoft PowerPoint presentation.

Board Comments

Christina Morrison asked staff what parking space requirements would be applied for a fast-casual restaurant and if a limitation would be imposed in regard to the kitchen facilities. Ms. Morrison recommended that the LDR amendment limit indoor and outdoor areas to 8 seats.

Julen Blankenship asked if the outdoor area resulting from a Sidewalk Permit Café would be calculated when determining the amount of required parking spaces. Ms. Blankenship noted that the draft language changes the parking space requirements for a bona fide restaurant from 15 spaces per 1,000 square feet to 12 spaces required per 1,000 square feet.

Chris Davey inquired if a fast-casual restaurant is permitted to have sidewalk café seating and recommended that the sidewalk café seating be included in any parking requirement calculations.

Chris Brown inquired as to what the delineation is between a retail establishment with

limited dining, a fast casual restaurant, and a restaurant.

Allen Zeller asked if staff reviewed surrounding municipalities Land Development Regulations regarding the outdoor seating requirements.

Gregory Snyder asked why a restaurant is not specifically listed as a permissible use within the Central Business District.

MOTION to recommend approval to the City Commission of Ordinance No. 40-22, amending Section 4.3.3, "Special Requirements for Specific Uses," Section 4.4.9, "General Commercial (GC) District;" Section 4.4.11, "Neighborhood Commercial (NC) District;" Section 4.4.13, "Central Business (CBD) District;" Section 4.4.14, "Resort/Tourism (RD) District;" Section 4.4.15, "Planned Office Center (POC) District;" Section 4.4.24, "Old School Square Historic Arts District (OSSHAD);" Section 4.6.9, "Off-Street Parking Regulations;" and Appendix A - "DEFINITIONS" of the Land Development Regulations (LDR), by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations and that the existing restaurant parking regulations are consistent with the existing parking requirements and that the number of seats in limited indoor dining includes any outdoor seating was made by Julen Blankenship and seconded by Christina Morrison.

MOTION CARRIED 7-0

10. REPORTS AND COMMENTS

A. CITY STAFF

Next meetings will be on February 27, 2023 and March 28, 2023.

B. BOARD ATTORNEY

None

C. BOARD MEMBERS

Julen Blankenship recommended that Planning and Zoning Board members who speak at other meetings about items that have been presented before the Board indicate that they are not speaking on behalf of all the members.

Joy Howell recommended that additional information regarding the Board's deliberation be provided to the City Commission if a denial of a project is being appealed to the City Commission.

Allen Zeller voiced concern regarding the closure of parking spaces on Swinton Avenue due to construction at Sundy Village.

11. ADJOURN

There being no further business to come before the Board, the meeting was adjourned at 6:19 pm.

The undersigned is the Board Secretary of the Planning and Zoning Board and the information provided herein is the Minutes of the meeting of said body for **January 23, 2023**, which were formally adopted and APPROVED by the Board on March 20, 2023.

ATTEST:

Chairman

Board Secretary

NOTE TO READER: If the Minutes you have received are not completed as indicated above, then this means that these are not the official Minutes of the Planning and Zoning Board. They will become official minutes only after review and approval, which may involve some amendments, additions, or deletions.