



Cover Memorandum/Staff Report

File #: 20-983

Agenda Date: 12/1/2020

Item #: 8.C.

TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services Director
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: December 1, 2020

ORDINANCE NO. 58-20: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY ADOPTING FINDINGS BY AMENDING SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES", TO ADD A NEW SUBSECTION (CC), "CBD OIL ESTABLISHMENTS", TO PROVIDE A PURPOSE AND INTENT AND SPECIFIC REGULATIONS REGARDING THE HOURS OF OPERATION, PROHIBITIONS BY FREQUENCY AND PROXIMITY TO CERTAIN USES AND ZONING DISTRICTS, AND ACCESSORY USE REGULATIONS; AMENDING ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.9, "GENERAL COMMERCIAL (GC) DISTRICT", SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED", AMENDING SECTION 4.4.12, "PLANNED COMMERCIAL (PC) DISTRICT," SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED", AMENDING SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT," SUBSECTION (C), "ALLOWABLE USES," (3), "REQUIRED RETAIL FRONTAGE USE LIMITATIONS," TABLE 4.4.13(A) - "ALLOWABLE USES IN THE CBD SUB-DISTRICTS", AMENDING SECTION 4.4.19, "MIXED INDUSTRIAL AND COMMERCIAL (MIC) DISTRICT", SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED", AMENDING SECTION 4.4.20, "INDUSTRIAL (I) DISTRICT", SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED", AMENDING SECTION 4.4.26, "LIGHT INDUSTRIAL (LI) DISTRICT", SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED" TO ADD CBD OIL ESTABLISHMENTS TO THE LIST OF PRINCIPAL USES AND STRUCTURES PERMITTED AND PROVIDE ADDITIONAL LOCATION RESTRICTIONS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE. (SECOND READING)

Recommended Action:

Review and consider Ordinance No. 58-20, amending the Land Development Regulations to add CBD Oil Establishments as a use with location and frequency restrictions.

Background:

On July 9, 2019, the City Commission adopted Ordinance No. 26-19, imposing a temporary moratorium on the operation of retail businesses engaged in the sale of retail products containing cannabidiol "CBD". On July 7, 2020, the City Commission approved Ordinance No. 27-20, which established January 5, 2021 as the end of this "zoning in progress". The City has prepared Ordinance No. 58-20 to establish the needed zoning regulations for CBD Oil Establishments. The proposed regulations establish supplemental use regulations that apply to both accessory and principal uses related to the sale of products containing cannabidiol and add "CBD Oil

Establishments” to certain zoning districts to ensure they are appropriately located in the City.

“Principal use” is the main activity occurring in the building or on a site. “Accessory Use” is limited to no more than 40% of the gross floor area of the principal use. No exterior signage related to the CBD products or activities are allowed. Accessory uses are allowed anywhere a principal use is also allowed and within medical uses (such as pharmacies).

The location and frequency criteria require:

1. A distance separation of at least 300 feet for both accessory and principal uses from residential zoning districts, schools, public parks, day care facilities, and houses of worship. (A previous draft stipulated 500 feet separation; however, 300 feet is the same separation the City requires for alcohol establishments.)
2. A limit on frequency for principal use establishments of at least 750 feet between CBD Oil Establishments and no more than one per block.
3. A distance separation for principal use establishments of at least 750 feet to a standalone bar.
4. A prohibition for both accessory and principal uses on Required Retail Frontage (1st story) in the Central Business District, which includes East and West Atlantic Avenue, NE 2nd Avenue, and SR A-1-A (Ocean Boulevard).

In addition, to the separation requirements, certain zoning districts have been amended to add the use: General Commercial, Planned Commercial, Central Business District in the Central Core and Rail Road Corridor Sub-districts, Mixed Industrial Commercial (MIC) District, Light Industrial (LI) District, and Industrial (I) District.

On October 19, 2020, the Planning and Zoning Board reviewed Ordinance No. 58-20 and recommended approval 5 to 2 (Blankenship, Long dissented) with the condition that the Central Business District be excluded as an allowed zoning district; the dissenting votes supported the ordinance as presented.

The Downtown Development Authority (DDA) reviewed the ordinance at its November 16th meeting, and recommended extending the zoning in progress, as well as reducing the allowed gross floor area from 40% to 20% for accessory use (memo attached). The proposed reduction in gross floor area has been incorporated into the ordinance for second reading.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

The Zoning in Progress expires on January 5, 2021.