



TO: Honorable Mayor and City Council

FROM: Richard Secrist, Development Services Director

DATE: July 8, 2016

SUBJECT: Consideration of the introduction of Bill No. 502 (Medical Marijuana Separation Requirements) to amend Mesquite Municipal Code Section 9-15-8 Location Restrictions and Section 9-8-8 Separation Requirements by inserting language to exempt schools, community facilities, and residential zones, from the separation requirements if they knowingly choose to locate closer to existing medical marijuana establishments.

Recommendation

Introduce Bill No. 502 as Ordinance No. 502, and set the public hearing for August 9, 2016.

Background

On August 5, 2014 the City Council approved Ordinance No. 484 establishing zoning regulations for Medical Marijuana Facilities. These regulations included location restrictions or separation requirements from public or private schools, churches, community facilities, and residential zones.

City staff recently met with MLF Receiverships, Inc. regarding the Barcelona Partners properties. They've been tasked by the Courts to market the properties and pay off creditors. As a part of our discussions, they asked what the properties at 195 Willis Carrier Canyon were being used for. Staff explained that that is where Deep Roots Medical LLC operates its medical marijuana establishments. Hearing that, the next question asked was, "are there required distance separations from things like schools, churches, etc.?"

Staff explained the location restrictions, generally, and we discussed the impact these may have on some of the Barcelona Partners parcels nearby.

Key Facts

- A. All medical marijuana establishments must be located a distance of at least 1,000 feet from any of the following land uses:
 1. Public or private schools (grades K-12)
 2. Community Facilities as defined in MMC 9-15-3.
 3. This distance limitation does not apply to a church or synagogue that is located in an industrial zone.

- B. All medical marijuana dispensaries must be located a distance of at least 300 feet from a Residential Zone Boundary Line. The foregoing distance requirement may be waived through the conditional use permit only if it can be shown by clear and convincing evidence by the applicant that a waiver of such distance requirements will not

compromise the general intent of this code to protect the public health, safety, and general welfare of the citizens of the city.

COMMUNITY FACILITY: Any of the following: a facility that provides daycare to children, a public park, a playground, a public swimming pool, a center or facility which provides recreational opportunities or services to children or adolescents, a church, synagogue, or other building, structure or place used for religious worship or other religious purposes.

Analysis

The intent of the location requirements for Medical Marijuana establishments is to protect the health, safety, and general welfare of the citizens of the city. It is also the intent to not draw attention to such facilities by placing them in less visible areas away from the more heavily trafficked destinations.

The separation from schools, churches, parks etc. is an affirmative requirement on those seeking to locate MMEs in the community. But what about those seeking to locate schools, churches, parks within those separation limits established by code? Do they get denied because of the existence of an MME in close proximity to their proposed location? And what impact would that have on the value of properties seeking to develop around such facilities?

These are the types of questions now being asked by those seeking to market foreclosed properties around the Deep Roots Medical Establishment.

MMC 9-15-8 partially addresses this question in sub-section A.3. where it states, "This distance limitation does not apply to a church or synagogue that is located in an industrial zone." In other words, MMEs are an allowed use in the Light Industrial Zone and if a church locates in this zone, it does so knowing that these types of facilities may exist. And the church's presence should not disqualify someone from applying for permits for a Medical Marijuana establishment.

Similar language exists in MMC 9-8-8-3 Separation of Liquor License Buildings from Public Facilities. The second line under sub-section (A) states, "This liquor license distance limitation does not apply to a church that is located in a commercial or hotel/tourist zone.

In light of the questions raised about the impact of these requirements on surrounding residential and commercial properties, staff has reviewed again the language of 9-15-8. In hindsight now, it appears there may be some loop-holes and inconsistent language.

Exemption for Churches in IR-1 Zone

Does the exemption from the separation requirement of churches in an industrial zone go far enough? What about those seeking to locate schools, churches, parks, pools, child daycare centers, within those separation limits established by code? Particularly those community facilities not in an Industrial zone, but those wanting to locate in nearby residential and commercial zones? Or what about other community facilities besides churches, wanting to

locate in industrial zones? The fact the distance separations are imposed on MMEs does not mean that such distance separations need be imposed on schools, churches, community facilities wishing to accept closer proximity. But if such facilities are allowed to locate closer to existing MMEs, that also should not mean that the MMEs have to move, or that they are now treated as “non-conforming uses.”

Method of Measurement for Distance Separation

Under the existing rule, the measurement is taken from the nearest point on the property lines of the land use parcels in question. This is a different method of measurement than that found in MMC 9-8-8-3 for liquor license establishments. There the measurement is taken from the entry door of the prospective liquor establishment to the entry door of the nearest church, school, or other community facility.

To avoid future confusion, staff believes the method of measurement should be the same for both types of separation requirements. Therefore, staff is suggesting MMC 9-15-8 and MMC 9-8-8-1 be amended.

Previous Council Action

On June 15, 2016 the City Council Approved (4-1 Hafen) Bill No. 500 by amending the business license hours of operation and security video storage requirements for Medical Marijuana Facilities.

On July 14, 2015 the City Council Approved (4-1 Hafen) Bill No. 493 by amending the business license fees for Medical Marijuana Facilities.

On November 25, 2015 the City Council Approved (3-1, Hafen) Conditional Use Permit Nos. 5, 6, & 7 for Deep Roots Medical Cultivation, Production, and Dispensary Facilities.

On August 5, 2014 the City Council Approved (4-1, Hafen) Bill Nos. 484 & 485 adopting Zoning and Business License regulations for Medical Marijuana Facilities.