Agenda Item: Zoning Motion 2021-736, UDO Text Amendment to allow distilling or manufacturing of alcohol and alcoholic beverages as a permitted use with prescribed conditions in the B-1 zoning district and reduce the minimum separation from any dwelling unit from 500 feet to 50 feet.

TO: Board of Commissioners
DATE: September 9, 2021
FROM: Robert Will, Senior Planner

Background/Issue

- The applicant, Oaklore Distilling Company, is requesting to allow distilleries in the B-1 zoning district under certain prescribed conditions (they are currently only permitted in the I-1 and I-2 zoning districts). These conditions exist in the current UDO section 155.506.45.(B) and include a limitation on the gross floor area of the manufacturing facilities, distance separating the facility from any dwelling unit, and restrictions on noxious smells or fumes.

- Additionally, the applicant is requesting a reduction in the separation distance from any dwelling unit from the existing requirement which is 500 feet to a distance of 50 feet.

- Comments Raised at the Public Hearing(s):
  - Concern over any noxious odors that will be produced.
  - A map of all B-1 districts that would be impacted by the proposed change was requested. See attached map.

- The applicant has submitted revised language that would require landscaping screening when adjacent to a residential use or residentially zoned area. Additionally, they are recommending that distilleries be added to the list of uses that shall comply with the Town noise control ordinance.

- One of the current conditions of a distillery in the UDO is that “No manufacturing of alcohol and alcoholic beverage shall produce or create any noxious smells or odors detectable to the public from the public right-of-way.”

- At their August 24 regular meeting, the Planning Board recommended approval of the zoning Application 2020-736 UDO Text Amendment to allow distilling or manufacturing of alcohol and alcoholic beverages as a permitted use with prescribed conditions in the B-1 zoning district and reduce the minimum separation from any dwelling unit from 500 feet to 50 feet to the Board of Commissioners. Additionally, they recommended that staff revisits microbrewery, brewpub, and the micro-distillery definitions for consistency throughout the Unified Development Ordinance.
Staff recommends that the Board consider a more comprehensive look at the way brewpubs, microbreweries, and distilleries are addressed in the UDO, per the Planning Board recommendation.

Proposal/Solution
Included with this memo is the proposed text change language and a map of the B-1 zoned properties, including B-1(CD) properties.

Recommended Motion/Action
Approve zoning Application 2020-736 UDO Text Amendment to allow distilling or manufacturing of alcohol and alcoholic beverages as a permitted use with prescribed conditions in the B-1 zoning district and reduce the minimum separation from any dwelling unit from 500 feet to 50 feet.
DRAFT – FOR APPROVAL
STATEMENT OF CONSISTENCY WITH LOCAL ADOPTED GROWTH POLICIES
Board of Commissioners Decision on Zoning-Related Issues

ZONING APPLICATION # ______________________________
ZONING MOTION #                     2020-736__________________________________
ADMINISTRATIVE AMENDMENT _______________________________

The Board of Commissioners adopts the checked statement below:

A) _____ The requested zoning action, as most currently amended, is recommended for approval, and has been found to be CONSISTENT with the Matthews Land Use Plan (or other document(s)), as follows:

CONSISTENT: The text amendment is consistent with the land use plan because it allows for an increase in uses in the B-1 zoning district.

REASONABLE: The text amendment is reasonable in that it will add distilleries under 3,000 square feet in gross floor area with prescribed conditions to the B-1 zoning district.

OR

B) _____ The requested zoning action, as most currently amended, is not approved, and has been found to be INCONSISTENT with the Matthews Land Use Plan (or other document(s)), as follows:

INCONSISTENT: The text amendment is inconsistent with the Land Use Plan in that it will not sufficiently protect residential dwelling units.

NOT REASONABLE: The change in zoning conditions is not reasonable as it will drastically reduce the separation requirement.

(In each case, the Statement must explain why the Board deems the action reasonable and in the public interest (more than one sentence). Reasons given for a zoning request being “consistent” or “not consistent” are not subject to judicial review.)

Date: September 13, 2021
Exhibit A – Proposed Text Changes

Section 155.05

Add Distilling or manufacturing of alcohol and alcoholic beverage, subject to §155.506.45 as a permitted use with prescribed conditions (“PC”) in the B-1 zoning district in the Tables of Allowed Uses.

Section 155.506.45(B)(6)

Existing Language

The distilling of alcohol and alcoholic beverages in the I-1 district shall not exceed three thousand (3,000) square feet gross floor area. Manufacturing facilities greater than three thousand (3,000) square feet shall only be in the I-2 district.

Proposed Change

The distilling of alcohol and alcoholic beverages in the B-1 or I-1 districts shall not exceed three thousand (3,000) square feet gross floor area. Manufacturing facilities greater than three thousand (3,000) square feet shall only be in the I-2 district. When located in the B-1 district, all side and rear yard property boundaries abutting an existing residential use or residentially zoned area shall be screened using Option 2 or Option 3 as defined in UDO § 155.606.6.

Section 155.506.45(B)(7)

Existing Language

Any distilling or manufacturing of alcohol and alcoholic beverages shall be separated by a minimum of five hundred feet (500’) from any dwelling unit in existence at the time the manufacturing facility receives any related building permit for construction or upfit. Within the ENT district, no minimum separation is required between a brewpub and a dwelling unit.

Proposed Change

Any distilling or manufacturing of alcohol and alcoholic beverages shall be separated by a minimum of five hundred feet (500’) fifty (50’) from any dwelling unit in existence at the time the manufacturing facility receives any related building permit for construction or upfit. Within the ENT district, no minimum separation is required between a brewpub and a dwelling unit.

Section 155.506.45(B)(5)

Existing Language

All microbreweries and brewpubs shall comply with the Town Noise Control Ordinance, Title 92A. [formerly 153.197]
Proposed Change

All microbreweries, distilleries, and brewpubs shall comply with the Town Noise Control Ordinance, Title 92A. [formerly 153.197]
Town of Matthews

B-1 Zoning District

Legend
- Green: B-1 Conditional Zoning
- Purple: B-1 (Neighborhood Business)