

Minutes Planning & Zoning Commission January 13, 2022

The Planning & Zoning Commission met in a regular session on January 13, 2022 at 3:00 p.m. in the City Council Chambers, 800 Municipal Drive, Farmington, New Mexico. Virtual participation was available via Zoom at <https://us02web.zoom.us/j/87395802489>

P&Z Members Present:

Chair - Joyce Cardon
Cody Waldroup
Ryan Brown
Elizabeth Lockmiller
Gary Smouse
Cheryl Ragsdale
Shay Davis
Gary Hanson (via Zoom)

P&Z Members Absent:

Vice Chair – Clint Freeman
Mitch Sewell

Staff Present:

Beth Escobar
Tami Spencer
Andrea Jones

Others Who Addressed the Commission:

Grady Williams
Phil Nagel
Paul Olguin
John Huffmyer
Martha Wu
Jackie Johnson
Justin Lewis
Steve Baird

Call to Order

Chair Joyce Cardon called the meeting to order at 3:00 p.m. There being a quorum present the following proceedings were duly had and taken.

Approval of the Agenda

The motion was made by Commissioner Waldroup and seconded by Commissioner Lockmiller to approve the agenda of the January 13, 2022 Planning & Zoning Commission meeting. This motion passed unanimously by an 8-0 vote.

Approval of the Minutes

A motion was made by Commissioner Brown and seconded by Commissioner Lockmiller to approve the minutes of the December 16, 2021 Planning & Zoning Commission meeting. This motion passed unanimously by an 8-0 vote.

Swearing of Witnesses

Tami Spencer, Administrative Assistant swore in all parties that wished to speak.

Petition No. SUP 21-82 - Discussion & possible action regarding a request from Grady Williams for a Special Use Permit (SUP) for a commercial cannabis production and cultivation facility.

Planning Manager Escobar presented the following:

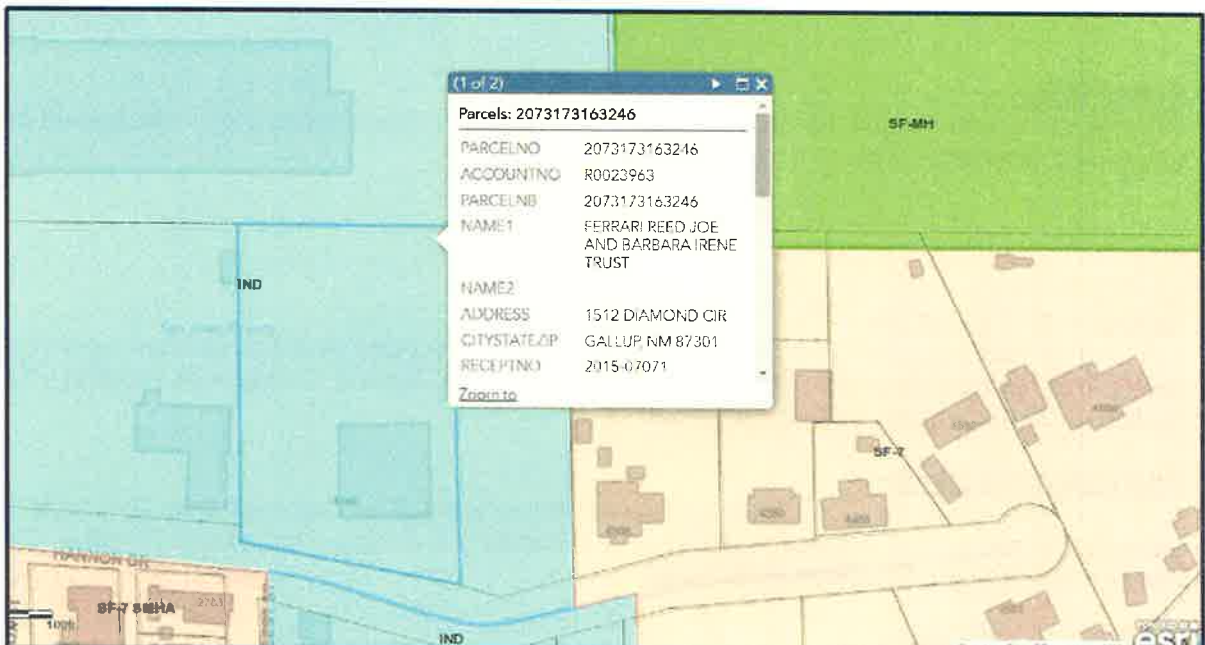
Petition

- Applicant: Grady Williams, tenant
- Location: 4300 Hannon Drive
- Existing Zoning: IND: Industrial
- Existing 10,000 square-foot building on site
- Request: SUP to allow for manufacturing, production and cultivation of adult cannabis.
- Retail sales, a permitted use, was initially proposed to be included at this location but this use was withdrawn by the applicant to address neighbor's concerns.
- Cultivation is anticipated to begin in 2022, production and manufacturing within five years.

Subject Property



Zoning



SUP's

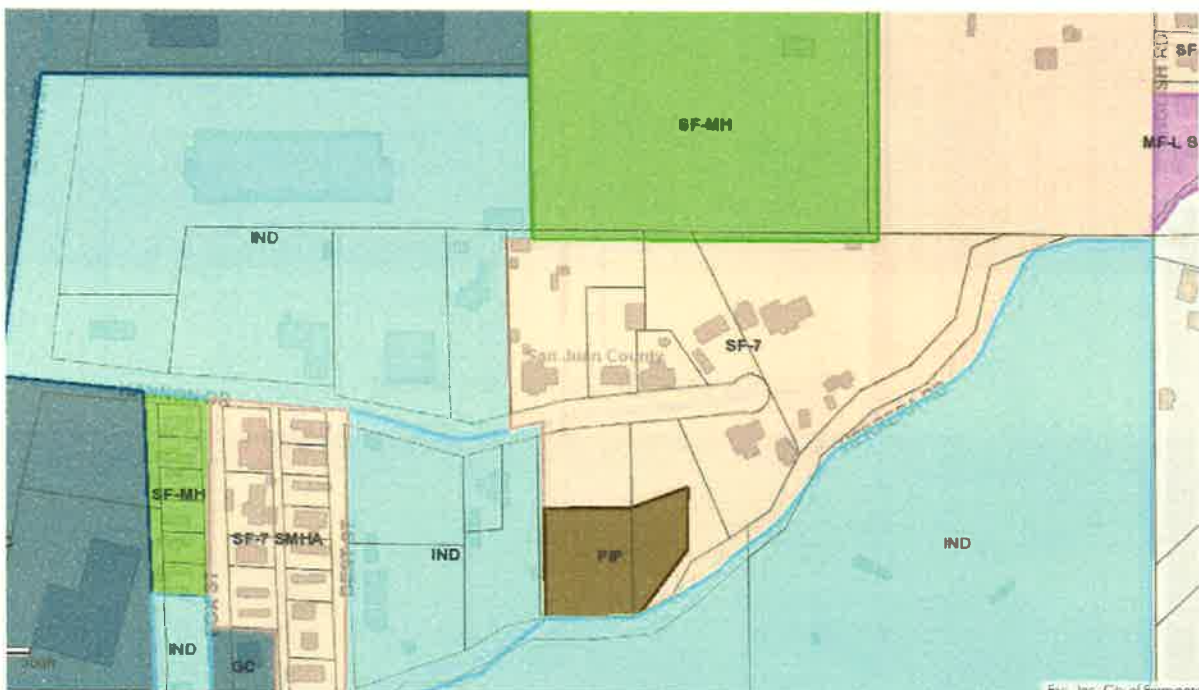
- The purpose of a Special Use Permit is to allow for discretionary approval of uses with unique operating characteristics.
- Per Ordinance No. 2021-1329, adopted by City Council on October 12, 2021, retail sales of adult cannabis are permitted by right in the Industrial Zoning District.
- The manufacturing, production and cultivation of cannabis in the Industrial Zoning District requires a Special Use Permit.
- UDC 8.9. A. Special Use Permits:
- Special use permit approvals attach to the property and are transferable to subsequent owners.
- If this SUP was approved, it could transfer to another owner, carrier or tenant.

Staff Analysis

- This is a unique location:
 - Surrounding land uses to north, south and west are a mix of commercial and industrial uses.
 - Residential uses exist across Hannon Drive and to the east of the subject property.
- State licensing for a integrated cannabis facility requires stringent security measures.
- Noise and odors shall be mitigated by industry best practices.
- Through conditions and state requirements, this use should not be any more impactful to the neighborhood than other permitted Industrial Uses.
- Consistent with the 2040 Future Land Use designation of Commercial Mixed Use.
- On-site parking at the site conforms with UDC requirements.

Industrial Uses

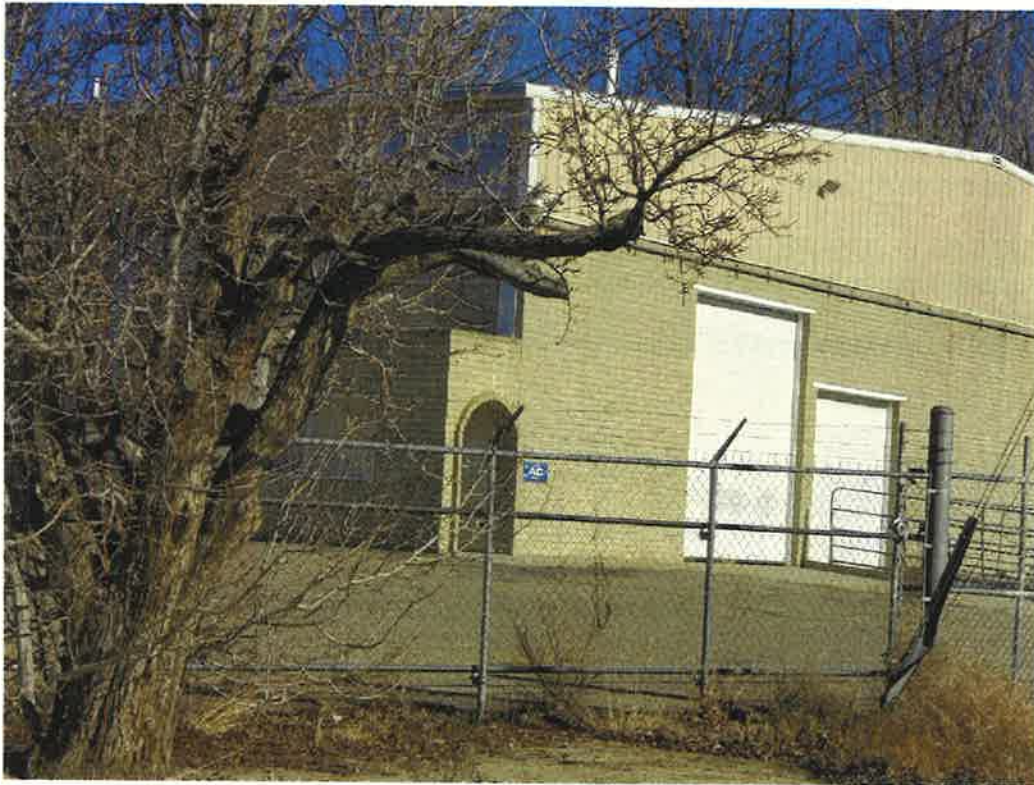
- The following industrial uses do not require a Special Use Permit:
 - Outdoor storage and production yard
 - Freight Terminal
 - Liquor Wholesalers
 - RV Storage Yard
 - Recycling Centers
 - Transfer Station
 - Veterinary Clinics
 - Cell Tower



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Front of Property



Property Border with Adjacent Residential Use



Property Directly Across the Street



Looking East towards Residential Development



Staff Recommendation

The Community Works Department recommends approval of Petition SUP 21-82, a request from Grady Williams for a integrated cannabis facility including manufacturing, production and cultivation at 4300 Hannon Drive. With the following stipulations:
Staff is recommending the SUP be good for ten years.

Planning & Zoning Action

The Farmington Planning Commission held a public hearing on SUP 21-82 on January 13, 2022:

- Four affective parties, within 100 feet, and two interested parties spoke in opposition to the Special Use Permit application citing the potential for increased crime exposure to the neighborhood.
- One interested party spoke in support of Mr. Williams
- The Commission voted 4-3 to recommend approval of the petition.
- Those voting NAY expressed concern over the impact to the surrounding property owners.

Recommended Conditions of Approval

1. A City of Farmington business registration will be required.
2. A building/fire inspection shall be required.
3. A fire suppression system may be required to be installed prior to extraction of product on site.
4. Two hard surface ADA parking spaces, one van accessible, shall be installed in front of the building.
5. Retail sales shall not be permitted at this location as long as the Special Use Permit for a manufacturing, production and cultivation is in place.
6. The Special Use Permit shall be good for ten years.

Discussion

Commissioner Waldroup asked Planning Manager Escobar if there was a distance requirement for the house next door. Planning Manager Escobar explained the only distance requirement set by the City of Farmington is the 300 feet to religious institutions, public, private schools, daycare centers and other facilities. There are no restriction if the City of Farmington to residential and it is not a State restriction. Commissioner Brown asked Planning Manager Escobar does it matter if it is retail or manufacturing for the distance requirement in single-family residential zone. Planning Manager Escobar answered no; there is no restrictions as long as retail is in commercial or industrial zoning district, it is permitted by rights. Manufacturing, production and cultivation requires a special use permit, but there are no restrictions regarding single-family residents.

Commissioner Hanson asked Planning Manger Escobar who determines whether a fire suppression system will be required. Planning Manager Escobar replied that the building official and the Fire Marshal determine that. She also stated there was a SUP that you approved and got final approval by City Council that used a closed loop butane system and the fire department does not have a lot of concern about that and is not requiring a fire suppression system. However, other methods use an open flame, which is a concern for the fire department. When the fire department goes out and does their inspection and talks to the tenant or owner about

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what will go on is when they will make their determination. Chair Cardon asked if that is ruled by the fire department. Ms. Escobar replied that it part of the building code, but the Fire Marshal makes the call.

Commissioner Smouse asked Planning Manager Escobar are there any other approved SUP's that are in close proximity to single-family or mixed use like this. Planning Manager Escobar responded no; there have been no others with close proximity to single-family residences. This was anticipated since most of the commercial corridor along the highway has single-family behind it, which is one of the considerations Council had in not having a distance requirement, because you would eliminate many of the commercial zoning properties in the City.

Commissioner Smouse also asked Ms. Escobar if that access road is the only access to the subdivision. Mr. Escobar replied yes, that is the only road into that subdivision. She also stated that Hannon is a public drive, a City street, it's just not paved.

Commissioner Lockmiller asked Planning Manager Escobar if residential use is permitted in an industrial zone. Planning Manager Escobar explained that property has a legal non-conforming status for residential use. Ms. Escobar did find records from 1971 where there was an application to rezone it to single-family that was denied at that time. She also stated there was not enough information in the minutes as to why it was denied, but the single-family can remain, as long it is occupied and used as a single-family residence. Commissioner Lockmiller also asked if it could be rebuilt if it were destroyed. Ms. Escobar replied yes with the new updates to the UDC last year it could be rebuilt within a year to the current building requirements.

Chair Cardon asked the petitioner Grady Williams, 2405 Southside River Rd, Farmington, if he had had time to go over the documentation, or would he like to introduce any other evidence to the Commission. Mr. Williams wanted to introduce himself as the owner of Cannaculture Grow Company. Mr. Williams gave a summary about himself, and stated that he has been in the greenhouse business for the last 20 years. He added he would like to be a good neighbor to the residents.

Mr. Williams stressed that the State has security requirements and that they will be going beyond those requirements.

Chair Cardon opened the meeting to the public and called upon the residents that had received a letter who reside within 100 feet of this location.

Resident Phil Nagel, 4306 Hannon Dr., Farmington, stated he lives in the house closest to the proposed business. Mr. Nagel informed the Commission that he had just bought the house two months ago and he know nothing about this. He asked the Commission if they would like this next to their house. He stated the biggest problem was the smell and he wanted to know how the 100-foot distance was calculated. Mr. Nagel stated he was also concerned about security, and that he has a chain link fence that you can see through. He is worried if he has a piece of equipment in his yard that can be seen through the fence, that it may be stolen. Mr. Nagel is worried about the riff raff that comes with that type of business.

Resident Paul Olguin, 4308 Hannon Dr., Farmington, stated he is worried about his property value if he tries to sell his home in the future and is worried about security in the neighborhood. He is also concerned because most houses don't have fences, people can see what is left out in the yards. Mr. Olguin stated he is worried that retail customers can drive up and down the road, tag the items in the yards, then come back later and steal those items. Commissioner Smouse asked Mr. Olguin how long he has been at this residence. Mr. Olguin answered 30 years.

Chair Cardon requested Mr. Williams come back to the podium and address the smell issue that may come from the business. Mr. Williams stated that there is basically no outside smell and that each clean room has it's own ventilation system with carbon filters. He also stated there is ventilation systems outside of the rooms. Mr. Williams also stated that if you were to walk outside any of the other cannabis facilities, you would not know it, because there is no smell. Mr. Williams addressed the security question as well. He explained that the entire property would have 24-hour camera surveillance, which the State has access too, and that they are required to keep at least three months of prior video footage. In addition, Mr. Williams added they would also have audio footage for the limited access areas inside the building, outside the building you have to surveil fences, perimeters and any person who comes into the building. Mr. Williams compared his security to a bank's and stated his cameras are 1080p cameras and are much clearer. He said he wanted to keep his location, employees and neighbors safe, and that his cameras can see through the intersection. He feels like it would add to the security of the neighborhood.

Chair Cardon reiterated another concern to Mr. Williams. Ms. Cardon stated with the retail sales, will the number of customers coming be regulated? Mr. Williams answered yes, they are not going to open a large dispensary, but have plans to open a larger one later in another location. He also stated that 90% of their inventory is going to other places.

Chair Cardon asked for the next person that had received a letter to come to the podium to state their concerns.

John Huffmyer, 4600 Hannon Dr., Farmington. Mr. Huffmyer did not receive a letter, but is an interested party. Mr. Huffmyer stated he was concerned about the traffic this business would bring to his quiet neighborhood and he was worried about any disturbances it might also bring. In response, Mr. Williams stated he understands this is a quiet place, and he understands their concerns about the added traffic to their neighborhood. Mr. Williams stated he is willing to move his dispensary to another location that will leave a warehouse with no smell and only five or six cars at this location. He also stated that no one would know what the building is because there is no signage. Commissioner Davis asked Mr. Williams if we remove that provision to have retail sales from this SUP at today's meeting, you would be ok with that. Mr. William answered, that would be fine.

Commissioner Smouse asked Mr. Williams how long he had owned this property. Mr. Williams answered; he is leasing the property since early October. Commissioner Smouse also asked Mr. Williams if he had a chance to have any conversations previously with any of the landowners about his intentions. Mr. Williams answered, no; his conversations were mostly with his landowner himself. Commissioner Smouse said to Mr. Williams that it is obviously not a requirement for the special use permit, but this a sensitive topic and a sensitive situation. There is certainly a large contingency of the public here to hear what you have to say and to see what this committee votes on and what they determine as well. He also stated he thinks it is prudent to understand that this is a community that already exists, and here is a new business coming in, much less, a business of this type, it would probably be beneficial to have some level of conversation so you could diminish some of their concerns before it came before the Commission. Mr. Williams responded that he understood where Commissioner Smouse was coming from.

Chair Cardon asked for the next person that had received a letter to come to the podium to state their concerns.

Martha Wu, 4307 Hannon Dr., Farmington, stated she lives right across the street and has lived there for about ten years. Ms. Wu stated that so far it has been really peaceful. She also stated there have been a few minor things like people going through their cars. Ms. Wu said she was also worried about other people this would bring into their neighborhood. Chair Cardon asked Ms. Wu is she had heard what Mr. Williams speak. Ms. Wu responded that she had and that he would have security at his place but when they figure out they can't get into his place they will go around checking other places. Chair Cardon replied that Mr. Williams just stated that he agrees that we take off the retail portion of the SUP, so the only people coming in would be the workers. Ms. Wu stated that she understood and that she just wanted to state her concerns.

Mr. Nagel returned to the podium and stated that Mr. Williams is going to have all this elaborate security, but they have other criminals on tape and they never catch them. He also stated the cameras are great, but they are not going to stop somebody. Mr. Nagel asked what there is a smell. Commissioner Davis responded with any SUP that is issued we have the authority to revoke the SUP if the conditions are not being met. Commissioner Davis explained the process; it would start with a complaint to Code Compliance, who would then go out and verify the complaint. The complaint would then be brought back in front of the Planning & Zoning Commission to have the SUP revoked. Commissioner Davis also stated that they have revoked SUP's in the past. Chair Cardon added that is why there is a SUP tacked on to the actual request to do business. Commission Davis also added that Planning Manager Escobar listed in her presentation the other businesses that could be put on that property, so there are uses for that property that could be a lot more detrimental that would not have to come before this Commission.

Mr. Nagel had one more zoning question, if his house was zoned single family, would you still allow that SUP. Planning Manager Escobar answered if that property was zoned SF-7 it would not have any more standing than the property that is zoned industrial because we do not require distance setbacks from facilities to a single family residence.

Chair Cardon asked for the next person that had received a letter to come to the podium to state their concerns.

Jackie Johnson, 3720 Herrera Rd, Farmington, was sworn in by Tami Spencer, Administrative Assistant. Ms. Johnson stated she has owned the property directly across the street for 63 years. She also stated that it is an oil field and excavation business with a lot of equipment, and they had been broken into twice. The last time was a man, who said he had only smoked two marijuana cigarettes, but he was loaded on drugs. Before the incident was over a police officer had to shoot him. Ms. Johnson said that her concerns are about security, with people driving up and down the street and coming into her business to ask for directions. Commissioner Davis asked Ms. Johnson if Mr. Williams eliminated the retail sales portion of his business, would that ease some of her concerns. Ms. Johnson replied, a little bit.

Chair Cardon if asked there were any interested parties that would like to speak.

Justin Lewis, 5115 E. 22nd St., Farmington, stated that he heard all the concerns. He agrees there is a stigma with this new emerging market, but that does not mean it is a bad thing. He also stated that he will be opening a dispensary, and that the security requirements are astronomical. There will be security companies monitoring the alarms; it is a fully integrated security system. Mr. Lewis also stated the standard that Mr. Williams will have to meet with his operation is just astronomical. There are so many demands that the State and the City require. Mr. Lewis also points out that with Mr. Williams giving up the retail portion of his business, which he had already paid for, to appease the neighborhood says a lot about Mr. Williams's character. Mr. Lewis stated he has known Mr. Williams to be a good, honest person who wants to be transparent with his business, and he wants to work with the surrounding neighborhood.

Mr. Huffmyer returned to the podium and stated he had been a pharmacist for 61 years. He has dealt with people who have been on drugs, both legal and illegal, and had his pharmacy broken into several times. Hr. Huffmyer also stated he is sure Mr. Williams is a good person and has good intentions, but he cannot manage the people coming into his business. Mr. Huffmyer believes the people that are on drugs do not have good reasoning and he is worried about the neighborhood. He stated that if those people come into their neighborhood, the residents would have to put up security lights and be more attentive to their surroundings.

Chair Cardon asked there were any interested parties that would like to speak.

Steve Baird, 4350 Hannon Dr., Farmington, stated that he is there to support his neighbors and their unwillingness to see if this business will cut-it in their neighborhood. He is also a little concerned about the security and the promises he is hearing. How will Mr. Williams make it happen? Mr. Baird also stated that if Mr. Williams leased the building in September, Mr. Baird thinks this meeting should have been at the forefront, before leasing the building. Chair Cardon explained that Mr. Williams had to go through stringent meetings with the City, which he has done. Planning Manager Escobar explained that, first of all the, City Council did not adopt the ordinance until October so we had no idea when Mr. Williams signed his lease what the process would be. Ms. Escobar also stated that it is usually a five to six week process between the time we start talking to an applicant and they submit their application. She also explains that after the application is submitted it is scheduled for the next Planning & Zoning meeting, so the time lapse is not unreasonable.

Commissioner Brown asked Planning Manager Escobar about the smell, can she explain how that is regulated. Planning Manager Escobar explained that she had heard from others in this industry that the smell in contained within the building. Ms. Escobar also wanted to point out that Mr. Williams's circulation plan is in your packet for your review. She also stated that if the smell becomes a nuisance it becomes a code enforcement issue, which could put the SUP at risk. Commissioner Brown asked if there is a threshold for how that is tested. Planning Manager Escobar explained that is similar to the experience the Commission went through with the noise from the roosters. She also explained that there are thresholds; and that their code enforcement officers are trained in that particular measurement. She continued that there would have to be readings outside that measurement for a significant period of time.

Commissioner Lockmiller asked since Mr. Williams agreed that he will not have retail sales, but because it is a permitted use, are we allowed to say he can't have it. Planning Manager Escobar answered that retail sales are a permitted use in industrial, Mr. Williams did offer as consideration for the neighbors not to have retail sales at this location if you approve this SUP. She also stated that one caveat is that if Mr. Williams sells this business the new owners can have retail sales at the location it is a permitted use. Commissioner Davis asked if the conditions of the SUP don't carry with the SUP. Planning Manager Escobar answered if they are just doing retail sales, no it would not. If the manufacturing, production and cultivation moves, someone can come and do retail sales. Commissioner Brown asked if the SUP stands for ten

years, no matter how many times it is sold. Planning Manager Escobar answered yes and it would have to come through the renewal process after that ten years. Commissioner Ragsdale asked if they say he is not going to have recreational sales here, that does not limit him from having it elsewhere. Planning Manager Escobar answered that is correct. Mr. Williams would have to amend his license application with the State Cannabis Control Division, but other than that, he could proceed if you approve the SUP with the other portions. Commissioner Brown asked if that was a license per location. Ms. Escobar answered yes it is, and it is \$2,500.00 per application.

Planning Manager Escobar wanted to, with the Commissions permission; respond to Mr. Nagel's question about how the 100-foot distance requirement was measured. Ms. Escobar explained how that is measured is property line buffering. 100-feet is measured from the north, south, east and west property lines, exclusive of public right of way. Ms. Escobar also explained that she used the San Juan County web site and drew a 100-foot buffer and she went a little over 100-feet.

Chair Cardon stated the only question left from public input was how this business would affect property value. Planning Manager Escobar stated she knows that the Assessor's Office looks at the neighborhood. What degrades property values is decrepit buildings and trash on the sites. She believes having a business in this location would not negatively affect property values. Chair Cardon stated that they do not have a comment on that; it would be up to the person inquiring to check with their own realtor or someone with the county.

Commissioner Hanson asked Planning Manager Escobar to explain again if the applicant stipulated that there would be no retail sales at this location, and that is part of this conditional use permit. If this applicant or a subsequent tenant would begin retail sales, would that delete the SUP to no longer allow production and growing cannabis? Planning Manager Escobar stated if you recommend approval of this SUP excluding retail sales that becomes part of the entitlement for this SUP. The SUP for manufacturing, production and cultivation would always carry the exclusion for retail sales. Ms. Escobar also explained that if Mr. Williams moves to another location, a retail cannabis sales facility could then move into this location. It is a permitted use in industrial zoning. Commissioner Davis stated that would be by right, no SUP would be needed? Ms. Escobar replied correct, it would only require a business registration and approval from the State.

Chair Cardon closes the public hearing portion of this meeting, and asked the Commissioners for any discussions or if any clarification is needed.

Chair Cardon called for a motion on SUP 21-82

Motion

A motion was made by Commissioner Davis to approve SUP 21-82 as presented by staff with the full recommendation noted in the report and adding the condition that there will be no retail sales associated with this SUP. Commissioner Lockmiller seconded the motion. The motion carried 5-3.

Chair Cardon polled the Commission.

Commissioner Hanson voted aye, because the petitioner had agreed to remove the retail sales portion of the project which addressed the neighborhoods concerns. Mr. Hanson also felt like the neighbors concerns were largely addressed and if Mr. Williams did begin retail sales in that location it would cost him his SUP and the use of this facility for production and growing of product.

Commissioner Ragsdale voted aye, because Mr. Williams was trying to meet everything that the neighbors had questioned and she felt like the approval was the right thing.

Commissioner Brown voted nay, because if the Commission put a stipulation on it now, but considered if in the future, this location can be used for retail sales, then the neighbors will be in the same boat and they will not be happy again in the future.

Chair Cardon voted aye, because she agreed with Commissioner Hanson that the stipulation to remove retail sales lets the business move forward.

Commissioner Waldroup voted nay, because it was not a good location for a dispensary; it would be against the people of the neighborhood to vote yes, because there was big showing of support from that community there.

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Commissioner Davis voted aye, because as a Commissioner he felt his role was to uphold the zoning requirements that were put forth. Mr. Davis also felt that this SUP meet those requirements. He also felt that by putting in this SUP that there is no retail sales allowed at this location that it protects the neighborhood in that regard.

Commissioner Lockmiller voted aye, because she felt that Mr. Williams was gracious enough not to have retail sales in that location, and that this is already a permitted use in an industrial area.

Commissioner Smouse voted nay, Because of the unreasonable burden that is being put on the property owners. There is a certain element of unknown that goes with a business of this nature. That is why there is this demand and attention being drawn to this case. It is an established neighborhood and the Commission needs to take that in to consideration. Their rights to their property and peaceful assembly in their own homes. While Mr. Williams did agree not to have retail sales, he should have met with the neighbors to see what concerns they had, but he did not. Sometimes we have a City ordinance that does not fit and it is up to the Commission to see past that and use common sense. The community does not want it, and he had to agree with that, and say would I want this in my neighborhood or next to me. My answer would be no.

Planning Manager Escobar stated she had a final vote of five in support and three opposed, the recommendation will move forward to the City Council.

Chair Cardon stated this will be heard by City Council on January 25, 2022, at 6:00 pm.

Business from the Floor: There was no business from the floor.

Business from the Chair: Chair Cardon hoped everyone had a great holiday. She also stated that she appreciated the Commission for coming and she appreciated all the input and there careful questions.

Business from the Members: There was no business from Members.

Business from Staff: Planning Manager Escobar stated at Tuesdays City Council meeting the Council moved forward with the recommendations of approval for 928 E. Main St. and 1801 Bloomfield Hwy for SUP's for integrated cannabis facilities. Council also approved the zoning change for that portion of property on E. Main St. adjacent to the residence that they wanted to do a lot combination.

Adjournment: With no further business, a motion to adjourn was made by Commissioner Davis and seconded by Commissioner Waldroup. The motion carried unanimously 8-0 and the meeting was adjourned at 4:16 p.m.



Joyce Cardon
Chair



Tami Spencer
Administrative Assistant