

Minutes Administrative Review Board March 3, 2022

The Administrative Review Board met in regular session on Thursday, March 3, 2022 at 6:00 p.m. in the Executive Conference Room, 800 Municipal Drive, Farmington, New Mexico.

Members Present: Chair James Dennis
Vice Chair Brian Erickson
Carl Winters

Members Absent: Shorty Rogers

Staff Present: Mike Safrany
Tami Spencer
Andrea Jones

Others Addressing the Board: Matthew Kopelman – Telephonically

Call to Order

The meeting was called to order at 6:00 p.m. by Chair James Dennis and there being a quorum present the following proceedings were duly had and taken.

Approval of the Agenda

Vice Chair Erickson made a motion to approve the Agenda, Board Member Winters seconded the motion. The motion passed unanimously by a vote of 3-0.

Approval of the Minutes from the January 6, 2022 Regular Meetings

Board Member Winters made a motion to approve the minutes, with noted correction, of the February 3, 2022 regular meeting. Vice Chair Erickson seconded the motion. The motion passed unanimously by a vote of 3-0.

Swearing in of Witnesses

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

Petition ARB 22-05 – 3150 E. Main St. Ste. A20

Mike Safrany, Associate Planner, presented the following:

Variance Request

- The petitioner is Matthew Kopelman, potential tenant
- Location: 3150 E Main St. Suite A20
- Request: Waiver of the 300-foot distance requirement from a retail cannabis establishment to a religious establishment, a private or public school, and a retail cannabis establishment.

Applicable Code

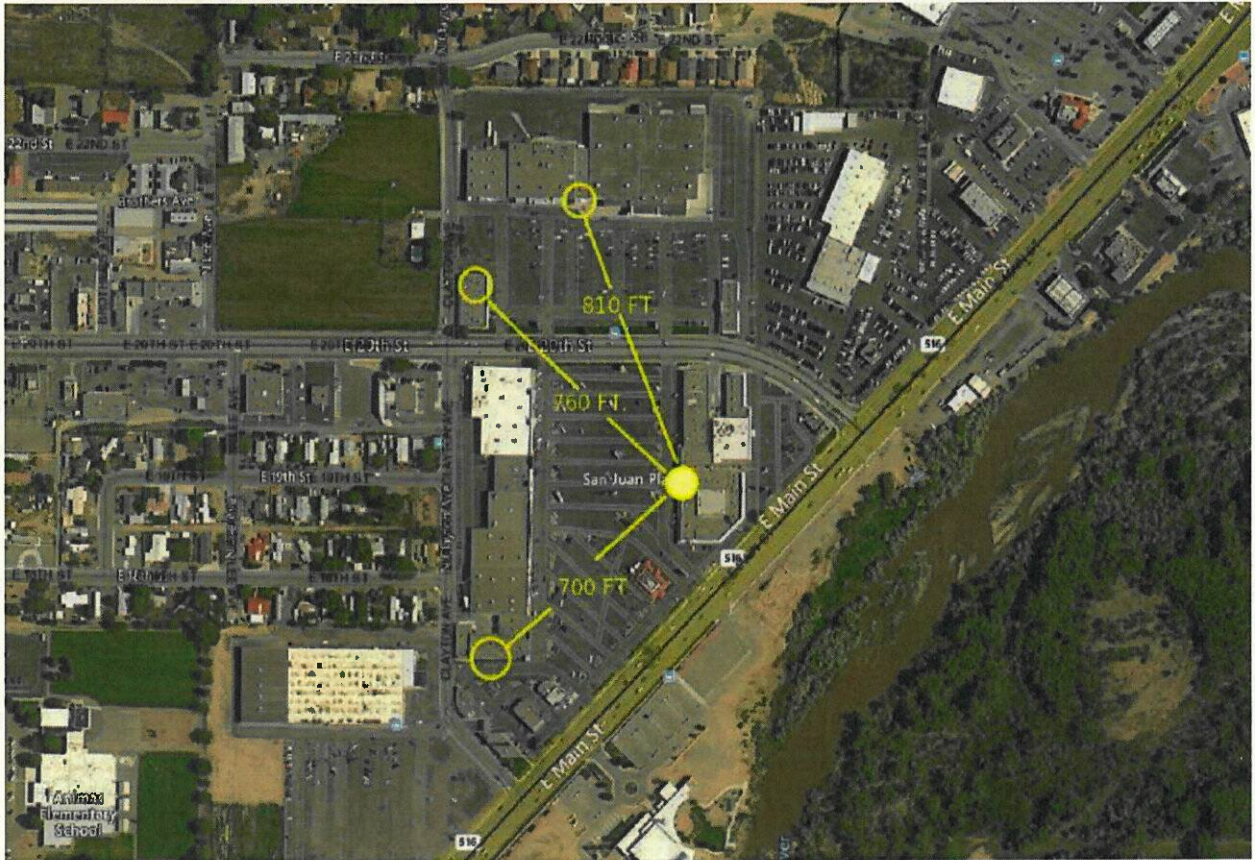
- City of Farmington Unified Development Code Section 2.4.41
Recreational cannabis sales:

Retailers of recreational cannabis shall be licensed by the New Mexico Cannabis Control Division.

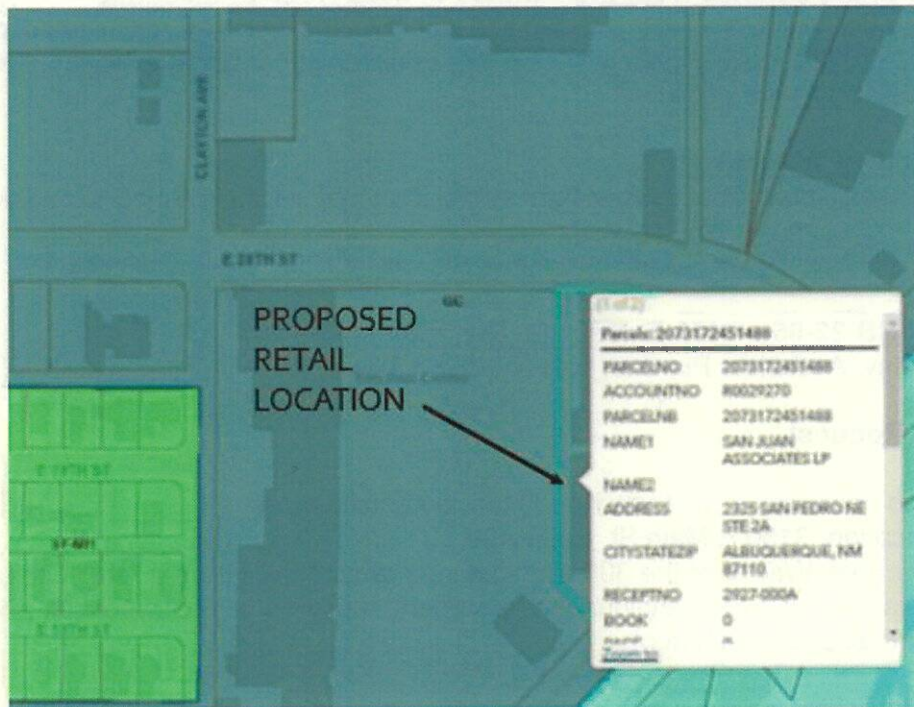
Retail sales are permitted in the CB: Central Business, GC: General Commercial and I: Industrial Zoning Districts only.

Such uses shall not be permitted within 300 feet of any school (public and private), religious institution, registered daycare center or from another dispensary. Distance is measured by a straight line from the closest property line of the retail business to the closest property line of a religious institution, school, registered daycare or dispensary. (NMSA Chapter 60-6b-10)

Aerial View



Zoning Map



Staff Analysis

1. That special conditions and circumstances exist, which are peculiar to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same district; and, furthermore, that they are not self-imposed, self-created or otherwise the result of actions by the applicant.

All three physical buildings are over 700 ft. away from the subject property with retail businesses in between, including several major retail businesses. Also, the buildings are facing different directions and use different parking lots and street entrances. Despite the

actual distance, the property lines are considered within 300 ft. from each other.

This criterion IS met.

- 2. That a literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Code.

A literal interpretation of the code would prohibit a retail cannabis facility from being located at 3150 E Main St.

This criterion IS met.

- 3. The applicant demonstrates that the request is a minimum easing of the Code requirements, making possible the reasonable use of the land, building or structure.

Considering the realities of the distances, the retail buffers plus the 80-foot right-of-way provided by 20th Street and the location of all three institutions being over 700 feet from the subject property, this request is a minimum easing of the Unified Development Code and would allow the property owner to have a retail cannabis sales store on the subject property.

This criterion IS met.

- 4. That the granting of the variance is in harmony with the general interest, the general purpose and intent of the Code, and is not injurious to the neighborhood or otherwise detrimental to the public welfare.

The proposed variance is not injurious to the neighborhood. The location is surrounded by commercial businesses and is on one of Farmington's main commercial corridors.

This criterion IS met.

- 5. That the proposed variance will not permit a use not otherwise allowed in the underlying district.

Granting of this variance would not permit a use not otherwise allowed in the GC: General Commercial Zoning District.

This criterion IS met.

- 6. That no nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts has been or shall be considered grounds for the issuance of a variance.

No nonconforming uses, structures or buildings in the same district have been considered as grounds for this variance request.

This criterion IS met.

- 7. That the applicant would suffer an unnecessary hardship if the variance requested were denied.

The applicant would be prevented from opening a retail cannabis facility at the location of the subject property. The property owner would lose a potential tenant.

This criterion IS met.

Public Notice

- Letters were sent to 4 surrounding property owners. At the time of this report, no public input has been received.

Name	Address	
Melloy Brothers Motor Ltd Co	7707 Lomas Blvd NE	Albuquerque, NM 87110
Melloy Brothers Motor Ltd Co	3200 E Main St	Farmington, NM 87401
Peterson Properties & Associates	2325 San Pedro NE Suite 2A	Albuquerque, NM 87110
San Juan Associates LP	2325 San Pedro NE Suite 2A	Albuquerque, NM 87110

Staff Recommendation

The Community Works Department recommends approval of Petition ARB 22-05 from Matthew Kopelman for a variance from Section 2.4.41 of the City of Farmington Unified Development Code to allow for a waiver of the 300-foot distance requirement from a retail cannabis facility to a religious institution, a school and an adjacent retail cannabis facility.

Discussion

Chair Dennis stated that the board was familiar with the issues that were presented for this variance. If the distance is measured from the property lines, it is not compliant, but in reality, it meets the intent of the 300 feet distance requirement.

Vice Chair Erickson asked Associate Planner Safrany if the school or the religious institution had been notified. Associate Planner Safrany replied the notification letters only go out to the property owners, and he is unaware if the property owner had informed their tenants about this meeting. Mr. Safrany also mentioned that a sign had been posted on the property letting the public know that the petition had been applied for with the dates for this meeting. Mr. Safrany also stated there is a property line that goes down the middle of the parking lot, which is where the 300 feet measurement for the school and religious institute would be measured.

Board Member Winters inquired about the residences behind Staples, shouldn't they be notified. Associate Planner Safrany stated that measurement would start from the property line in the middle of the parking lot and the residences were not within the 100 feet, so they would not receive a letter. Chair Dennis added there is not anything in the code that stipulates a distance to a residence. Mr. Safrany agreed with this statement.

Chair Dennis requested petitioner, Matthew Kopelman be sworn in. Administrative Assistant Tami Spencer swore in Matthew Kopelman.

Mr. Kopelman stated that the Charter Institute is a for-profit college and that children will not be attending that school.

Chair Dennis closed the public portion of this meeting, and asked the Board if they had anything other comments. Board Member Winters wanted clarification of the property line that goes down the middle of the parking lot. Associate Planner Safrany reiterated where the property line was located. Board Member Winters replied that he was concerned if some of the property owners were not notified on an action that had been taken that evening, could be contested on that basis. Mr. Safrany assured that the property owners with 100 feet had been notified.

Chair Dennis called for a motion.

Motion

Vice Chair Erickson made a motion to approve petition ARB 22-05 as recommended by staff. Board Member Winters seconded the motion. The motion passed unanimously 3-0.

- AYE: Chair Dennis, Vice Chair Erickson, and Board Member Winters
- NAY: None
- ABSTAIN: None
- ABSENT: None

APPROVED 3-0

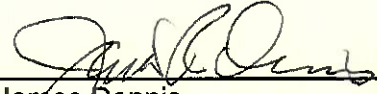
Business from the Floor: There was no business from the Floor.

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

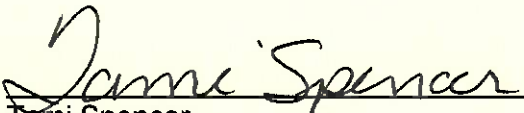
Business from the Members: There was no business from the Board Members.

Business from Staff: There was no business from Staff.

Adjournment: A motion was made by Vice Chair Erickson to adjourn the March 3, 2022 meeting of the Administrative Review Board; Board Member Winters seconded the motion. The meeting of March 3, 2022 was adjourned at 6:23 p.m.



James Dennis
Chair



Tami Spencer
Administrative Assistant

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