



SUBJECT TRACT

**PUD-823
PUD-823-A**

BOA-22773



19-13 26



7.1

BOARD OF ADJUSTMENT CASE REPORT

STR: 9326

Case Number: **BOA-22773**

CZM: 48

CD: 5

HEARING DATE: 11/12/2019 1:00 PM

APPLICANT: Gregg Sandella

ACTION REQUESTED: Verification of the 1,000 spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D)

LOCATION: 6519 E 46 ST S

ZONED: IL

PRESENT USE: Vacant

TRACT SIZE: 20599.61 SQ FT

LEGAL DESCRIPTION: S200 LTS 10 11 & S200 W3 LT 12 BLK 1, KATY FREEWAY INDUSTRIAL PARK ADDN

RELEVANT PREVIOUS ACTIONS:

Subject Property: None

Surrounding Properties:

BOA-22702; On 8/13/2019 The Board **accepted** the verification of spacing for a medical marijuana from another medical marijuana dispensary located 4201 S Sheridan Road.

ANALYSIS OF SURROUNDING AREA: The subject tract is Located East of the NE/c of S. Sheridan Road and E. 46th Street S.

The applicant is requesting Verification of the 1,000 spacing requirements for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D)

40.225-D A medical marijuana dispensary may not be located within 1,000 feet of another medical marijuana dispensary.

Dispensaries who received their OMMA issued dispensary license prior to the December 1, 2018 are not subject to the 1,000 ft spacing requirement per Sec. 40.225-I.

40.225-I The separation distance required under Section 40.225-D must be measured in a straight line between the nearest perimeter walls of the buildings (or portion of the building, in the case of a multiple-tenant building) occupied by the dispensaries. The separation required under Section 40.225-D shall not be applied to limit the location of a medical marijuana dispensary for which a license was issued by the Oklahoma State Department of Health prior to December 1, 2018 for the particular location.

The applicant presented an exhibit with a circle drawn around their location and listing no dispensaries within that 1,000 ft radius. The nearest dispensary listed is Rosebuds Dispensary

located 4111 S. 70th E. Ave. Staff is aware of a dispensary located at the SE/c of E. 42nd Street S and S. Sheridan Road that is not listed on their exhibit, though it should be noted this dispensary is not open for business as of the writing of this report and is still outside of their 1,000 ft radius. The dispensary identified by staff (Seed Cannabis) received their spacing verification on 08/13/2019 in BOA-22702.



SAMPLE MOTION:

I move that based upon the facts in this matter as they presently exist, we **(accept/reject)** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary.

Ms. Ross asked Mr. Chapman if the Board had approved the spacing verification on Forever Green, LLC. Mr. Chapman stated the Board has not and he could not find any building permits that had been applied for, so he does not know their intent or when the license was issued.

Ms. Ross asked Ms. Dampf if the other facility was currently operating. Ms. Dampf answered no, not that she is aware of.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 3-1-0 (Bond, Ross, Shelton "aye"; Radney "nay"; no "abstentions"; Van De Wiele absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

**E 50 OF W95 OF N/2 LT 6 & W95 OF S/2 LT 6 BLK 38, TULSA-ORIGINAL TOWN,
City of Tulsa, Tulsa County, State of Oklahoma**

22702—Seed Cannabis Company

FILE COPY

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 4201 South Sheridan Road East (CD 5)

Presentation:

Taras Filenko, 623 South Peoria, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Ms. Ross asked Mr. Filenko where the nearest dispensary is to his location. Mr. Filenko stated that it is Verde in the 3900 block of Sheridan or about 1,600 feet away.

Mr. Filenko stated he did the OMMA study and checked weed maps and did a drive around his perimeter to make sure he saw no dispensaries that weren't listed in the 1,000-foot radius.

BOA-22702

FILE COPY

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to permit a medical marijuana dispensary subject to the action of the Board being void should another medical marijuana dispensary be established prior to the establishment of this medical marijuana dispensary; for the following property:

LTS 33 THRU 35 & PRT LT 18 BEG SWC LT 35 TH E152 S40 W152 N40 POB BLK 2, KATY FREEWAY INDUSTRIAL PARK ADDN, City of Tulsa, Tulsa County, State of Oklahoma

22703—Euforia, LLC

Action Requested:

Verification of the 1,000-foot spacing requirement for a medical marijuana dispensary from another medical marijuana dispensary (Section 40.225-D).

LOCATION: 11730 East 11th Street South (CD 6)

Presentation:

Tim Wortman, 7815 South Memorial, Tulsa, OK; no formal presentation was made but the applicant was available for any questions.

Mr. Bond stated the Board is in receipt of the applicant's OMMA license on page 10.14 and the spacing verification on page 10.16 of the agenda packet.

Mr. Wortman stated that the closest dispensary to his location is almost 6,000 feet away.

Interested Parties:

There were no interested parties present.

Comments and Questions:

None.

Board Action:

On **MOTION** of **ROSS**, the Board voted 4-0-0 (Bond, Radney, Ross, Shelton "aye"; no "nays"; no "abstentions"; Van De Wiele absent) I move that based upon the facts in this matter as they exist presently, we **ACCEPT** the applicant's verification of spacing to



Subject Tract



Facing West on 46th Street S.



Facing East on 46th Street S.

CHUCK LANGE
ZONING OFFICIAL
PLANS EXAMINER

TEL (918)596-9688
clange@cityoftulsa.org



DEVELOPMENT SERVICES

175 EAST 2nd STREET, SUITE 450
TULSA, OKLAHOMA 74103

ZONING CLEARANCE PLAN REVIEW

LOD Number: 1

September 19, 2019

Greg Helms
424 E Main ST
Jenks, OK 74037

Phone: 918.298.7267

APPLICATION NO: BLDC-42804-2019

(PLEASE REFERENCE THIS NUMBER WHEN CONTACTING OUR OFFICE)

Location: 6519 E 46 ST

Description: Medical Marijuana Dispensary

INFORMATION ABOUT SUBMITTING REVISIONS

OUR REVIEW HAS IDENTIFIED THE FOLLOWING CODE OMISSIONS OR DEFICIENCIES IN THE PROJECT APPLICATION FORMS, DRAWINGS, AND/OR SPECIFICATIONS. THE DOCUMENTS SHALL BE REVISED TO COMPLY WITH THE REFERENCED CODE SECTIONS.

REVISIONS NEED TO INCLUDE THE FOLLOWING:

1. A COPY OF THIS DEFICIENCY LETTER
2. A WRITTEN RESPONSE AS TO HOW EACH REVIEW COMMENT HAS BEEN RESOLVED
3. THE COMPLETED REVISED/ADDITIONAL PLANS FORM (SEE ATTACHED)
4. BOARD OF ADJUSTMENT APPROVAL DOCUMENTS, IF RELEVANT

REVISIONS SHALL BE SUBMITTED DIRECTLY TO THE CITY OF TULSA PERMIT CENTER LOCATED AT 175 EAST 2nd STREET, SUITE 450, TULSA, OKLAHOMA 74103, PHONE (918) 596-9601. THE CITY OF TULSA WILL ASSESS A RESUBMITTAL FEE. DO NOT SUBMIT REVISIONS TO THE PLANS EXAMINERS.

SUBMITTALS FAXED / EMAILED TO PLANS EXAMINERS WILL NOT BE ACCEPTED.

IMPORTANT INFORMATION

1. IF A DESIGN PROFESSIONAL IS INVOLVED, HIS/HER LETTERS, SKETCHES, DRAWINGS, ETC. SHALL BEAR HIS/HER OKLAHOMA SEAL WITH SIGNATURE AND DATE.
2. SUBMIT TWO (2) SETS OF DRAWINGS IF SUBMITTED USING PAPER, OR SUBMIT ELECTRONIC REVISIONS IN "SUPPORTING DOCUMENTS", IF ORIGINALLY SUBMITTED ON-LINE, FOR REVISED OR ADDITIONAL PLANS. REVISIONS SHALL BE IDENTIFIED WITH CLOUDS AND REVISION MARKS.
3. INFORMATION ABOUT ZONING CODE, INDIAN NATION COUNCIL OF GOVERNMENT (INCOG), BOARD OF ADJUSTMENT (BOA), AND TULSA METROPOLITAN AREA PLANNING COMMISSION (TMAPC) IS AVAILABLE ONLINE AT WWW.INCOG.ORG OR AT INCOG OFFICES AT 2 W. 2nd ST., 8th FLOOR, TULSA, OK, 74103, PHONE (918) 584-7526.
4. A COPY OF A "RECORD SEARCH" **[X] IS [] IS NOT** INCLUDED WITH THIS LETTER. PLEASE PRESENT THE "RECORD SEARCH" ALONG WITH THIS LETTER TO INCOG STAFF AT TIME OF APPLYING FOR BOARD OF ADJUSTMENT ACTION AT INCOG. UPON APPROVAL BY THE BOARD OF ADJUSTMENT, INCOG STAFF WILL PROVIDE THE APPROVAL DOCUMENTS TO YOU FOR IMMEDIATE SUBMITTAL TO OUR OFFICE. (See revisions submittal procedure above.).

(continued)

REVIEW COMMENTS

SECTIONS REFERENCED BELOW ARE FROM THE CITY OF TULSA ZONING CODE TITLE 42 AND CAN BE VIEWED AT
WWW.CITYOFTULSA-BOA.ORG

BLDC-042804-2019

6519 E 46 ST

September 19, 2019

Note: As provided for in Section 70.130 you may request the Board of Adjustment (BOA) to grant a variance from the terms of the Zoning Code requirements identified in the letter of deficiency below. Please direct all questions concerning separation distance acceptance and all questions regarding BOA application forms and fees to the INCOG BOA Planner at 918-584-7526. It is your responsibility to submit to our office documentation of any decisions by the BOA affecting the status of your application so we may continue to process your application. INCOG does not act as your legal or responsible agent in submitting documents to the City of Tulsa on your behalf. Staff review comments may sometimes identify compliance methods as provided in the Tulsa Zoning Code. The permit applicant is responsible for exploring all or any options available to address the noncompliance and submit the selected compliance option for review. Staff review makes neither representation nor recommendation as to any optimal method of code solution for the project.

1. **Sec.40.225-D:** A medical marijuana dispensary may not be located within 1000 feet of another medical marijuana dispensary.
2. **Sec.40.225-H:** The separation distance required under *Sec.40.225-D* must be measured in a straight line between the nearest perimeter walls of the buildings (or portion of the building, in the case of a multiple-tenant building) occupied by the dispensary.

Review comment: Submit a copy of the BOA accepted separation distance of 1000' from other dispensaries. Please direct all questions concerning separation distance acceptance and all questions regarding BOA application forms and fees to the INCOG BOA Planner at 918-584-7526. The separation required under *Sec.40.225-D* shall not be applied to limit the location of a medical marijuana dispensary for which a license was issued by the Oklahoma Department of Health prior to December 1, 2018 for the particular location.

Note: All references are to the City of Tulsa Zoning Code. Link to Zoning Code:

<http://www.tmapc.org/Documents/TulsaZoningCode.pdf>

Please notify the reviewer via email when your revisions have been submitted

This letter of deficiencies covers Zoning plan review items only. You may receive additional letters from other disciplines such as Building or Water/Sewer/Drainage for items not addressed in this letter.

A hard copy of this letter is available upon request by the applicant.

END – ZONING CODE REVIEW

NOTE: THIS CONSTITUTES A PLAN REVIEW TO DATE IN RESPONSE TO THE SUBMITTED INFORMATION ASSOCIATED WITH THE ABOVE REFERENCED APPLICATION. ADDITIONAL ISSUES MAY DEVELOP WHEN THE REVIEW CONTINUES UPON RECEIPT OF ADDITIONAL INFORMATION REQUESTED IN THIS LETTER OR UPON ADDITIONAL SUBMITTAL FROM THE APPLICANT.

KEEP OUR OFFICE ADVISED OF ANY ACTION BY THE CITY OF TULSA BOARD OF ADJUSTMENT OR TULSA METROPOLITAN AREA PLANNING COMMISSION AFFECTING THE STATUS OF YOUR APPLICATION FOR A ZONING CLEARANCE PERMIT.

State of Oklahoma

License Certificate

NON - TRANSFERABLE

COMMERCIAL DISPENSARY LICENSE

HEREBY GRANTED TO

ERBA, LLC

6519 E 46TH ST., TULSA, OK, 74145

THE LICENSE IS ISSUED BY THE OKLAHOMA STATE DEPARTMENT OF HEALTH, OKLAHOMA MEDICAL MARIJUANA AUTHORITY TO CERTIFY THE ABOVE HAS FULFILLED THE REQUIREMENTS OF TITLE 63 O.S. § 420A ET SEQ. AND THE OKLAHOMA ADMINISTRATIVE CODE AT TITLE 330 CHAPTER 681. THE LICENSE IS SUBJECT TO THE REPRESENTATIONS MADE ON THE APPLICATION THEREFOR, AND MAY BE SUSPENDED OR REVOKED FOR CAUSE AS PROVIDED BY LAW AND RULE. LICENSEE SHALL OBSERVE AND COMPLY WITH ALL APPLICABLE LAWS, ORDINANCES, RULES AND REGULATIONS OF THE STATE OF OKLAHOMA.

12/23/2019

LICENSE NUMBER:

DAAA-41YR-TLGG



Tom Bates

TOM BATES, J.D.
Interim Commissioner
Oklahoma State Department of Health

DO NOT COPY



MMJ Plantation
Dispensary
7620 E 46th St.

Rosebuds
Dispensary
4111 S 70th
E Ave.

1,000 Ft

Erba
6519 E 46th St.

North

112





0 50 100
Feet



Subject
Tract

BOA-22773

19-13 26

Note: Graphic overlays may not precisely
align with physical features on the ground.

Aerial Photo Date: February 2018



7.13

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