

BOARD OF ADJUSTMENT
Zoning Administration Division
Planning and Development Services Department (PDSD)
201 North Stone Avenue, Tucson, Arizona 85701

***** NOTICE OF DECISION *****

DATE OF PUBLIC HEARING **May 25, 2022**

THE DECISIONS OF THE BOARD OF ADJUSTMENT MAY BE APPEALED TO THE SUPERIOR COURT OF PIMA COUNTY BY FILING A COMPLAINT FOR SPECIAL ACTION WITHIN THIRTY (30) DAYS AFTER THE BOARD HAS RENDERED ITS DECISION. ARIZONA REVISED STATUTES SECTION 9-462.06 (J) & (K).

ACTIVITY NO. **T22SA00201**

CASE NO. THE APPELLANT

C10-22-05 DOWNTOWN DISPENSARY / 221 E 6TH ST LLC / 221 EAST 6TH STREET / C-3

The appellant, Jesse R. Callahan, May Potenza Baran & Gillespie, on behalf of Forever 46, LLC, is appealing the Zoning Administrator's Determination (T22SA00041), issued March 18, 2022 relating to the City's application of setbacks to the marijuana dispensary required by the UDC in Section 4.9.9.E.1.j, which states that "the expansion of an existing marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school." The Zoning Administrator (ZA) determined that for the purposes of applying the required zoning setbacks of a marijuana dispensary, as indicated in UDC Sections 4.9.9.E.1.h & j, that the use of the property addressed 440 North 6th Avenue does meet the definition of "K-12 public, private, or charter school" as established through a Certificate of Occupancy and as provided in the UDC, Arizona Revised Statutes and Arizona Administrative Code. The appellant contends that the ZA "mischaracterizes UDC Sections 4.9.9.E.1.h & j as imposing a setback requirement from any property whereon a school may conduct "educational land use activities." The appellant is requesting reversal of the March 18, 2022 Zoning Administrator's determination.

DECISION: REVERSE THE ZONING ADMINISTRATOR'S DETERMINATION


For
Sue Montes, Secretary
Board of Adjustment

s: zoning administration/ba/decision/2205 ZAD Appeal