

**BOARD OF ADJUSTMENT  
January 3, 2023**

Item	Motion/Description	Page
Call to Order	Gary Friedman, Chair of the Board of Adjustment called the meeting to order at 6:05 p.m.	1
Roll Call	A quorum was established with roll call.	1
Pledge of Allegiance	Recited	1
Approval of the Agenda	Approved	1
Approval of the Minutes from August 2, 2022	Approved	2
Approval of Findings/Conclusions	Approved	2
Old Business	None	2
New Business <b><u>Case 2022-6052.</u></b> 2820 West Zia Road Special Use Permit	Approved with Amendments to Condition #3 and #14	2-8
<b><u>Case #2022-6010.</u></b> 50 Mount Carmel Special Use Permit	Approved with Amendments to Condition #3 and #8	8-19
Staff Communications	Comments	19- 20
Matters from the Board	Comments	20
Adjourn	With all business conducted for the Board of Adjustment, the meeting was adjourned at 8:50 p.m.	20

**Board of Adjustment  
Tuesday, January 3, 2023  
City Councilors' Conference Room, City Hall  
200 Lincoln Avenue, Santa Fe, NM**

**A. CALL TO ORDER**

Gary Friedman, Chair of the Board of Adjustment, called the meeting to order at approximately 6:05 p.m. at an in-person meeting at the above location.

**B. ROLL CALL**

A quorum of the Board was established with a roll call vote.

**Present:**

Gary Friedman, Chair  
Rachel Winston, Vice Chair  
Grant Alexander  
Coleen Dearing (arrived at 6:15 pm)  
Doug Maahs  
Daniel Painter

**Absent (Excused):**

Donna Reynolds

**Staff and Others Present:**

Jason Kluck, Land Use Director (Via Zoom)  
Maggie Moore, Planner Manager  
Lani McCulley, Senior Planner  
Patricia Feghali, Assistant City Attorney (Via Zoom)  
Melissa Byers, Stenographer

**NOTE: All items in the packet for all agenda items were incorporated herewith by reference. The original packet is on file with the City Land Use Staff. Any additional attachments will be labeled as exhibits.**

**B. PLEDGE OF ALLEGIANCE**

Chair Friedman led the pledge of allegiance.

**C. APPROVAL OF AGENDA**

**MOTION:** Vice Chair Winston moved, seconded by Member Painter to approve the agenda.

**VOTE:** The motion passed by voice vote.

**D. APPROVAL OF MINUTES**

August 2, 2022

**MOTION:** Member Maahs moved, seconded by Member Painter to approve the minutes of August 2, 2022.

**VOTE:** The motion passed by voice vote.

**E. APPROVAL OF FINDINGS/CONCLUSIONS:**

1. **Case #2022-5500. 2801 Rodeo Road, Suite A-1 Small Brewery Taproom Special Use Permit.**

**MOTION:** Member Painter moved, seconded by Member Maahs to approve the Findings of Fact and Conclusions of Law for Case #2022-5394.

**VOTE:** The motion passed by voice vote.

**F. OLD BUSINESS**

None.

**G. NEW BUSINESS**

Ms. Moore noted that the agenda had been amended.

Chair Friedman confirmed with the maker and seconder of the Motion to Approve the agenda accepted the amendments.

1. **Case 2022-6052. 2820 West Zia Road Special Use Permit.** Becca Snyder, of Woven Architecture, agent for Blakes Lotaburger, LLC, applicant requests approval for a Special Use Permit to develop a drive through within 200 feet of a residential zone at an established restaurant. The property is zoned SC-1 (Planned Shopping Center District) and is located in the Suburban Archaeological Review District. (Lani McCulley, Planner Senior)

**Staff Report:**

Case 2022-5438 is for an application for a special use permit for a drive thru at the existing Blake's Lotaburger Restaurant located at 2820 West Zia Road.

The 3,412 sq. ft. building is existing and will be remodeled with alterations to both the interior and exterior of the structure. The drive-through lane, window, and ordering board will be added to the restaurant.

The property is zoned SC-1 (Planned Shopping Center) and is within 200 feet of a residential zoning district. Restaurants with drive throughs within 200 feet of a residential zone require a special use permit in the SC-1 district.

The applicants attended a pre-application meeting on July 14, 2022. They held an Early neighborhood notification meeting on October 10, 2022.

It was noted that since the applicant submitted their application, they have updated their plans to accommodate feedback that they received from the DRT members and to address the conditions of approval in the staff report and the technical revisions requested in Exhibit A of the staff report. These include ADA and landscaping concerns. They have also addressed the parking for both vehicles and bicycles. The only outstanding DRT comment is from Environmental Services regarding the location and angle of the trash enclosure. The applicant plans to address the issue prior to permitting.

The applicant is represented by Becca Snyder with Woven Architecture who will be presenting the case.

**Staff Recommendation:**

The Land Use Department recommends approval of the Special Use Permit for a restaurant with drive-through service in a SC-1 (Planned Shopping Center) zoning district within 200 feet of a residentially zoned property, subject to the recommended conditions of approval in Table 1 and technical corrections in Exhibit A of the staff report.

**Applicant Presentation:**

Becca Snyder, 2809 Plaza Rojo, Santa Fe, was sworn. She is the project architect and agent for Blakes Lota Burger. She said the drive through would provide convenience and accommodations for neighborhood residents. They have not received any comments from the ENN or the mailings. They are asking for the special use permit and they will accommodate parking and site accommodations. They are not planning to do anything within the building, only the addition of the drive through. Blakes will update landscaping to meet Code requirements. She pointed out the location of the existing trash enclosure. They are discussing with the City where the preferable location of the trash receptacles should be.

Member Painter asked if the packet showed the addition.

Ms. Snyder said the addition is the drive through.

Member Painter said the landscaping plan looked different from the packet to what she had presented.

Ms. Snyder said it was just a softscape because they received comments back from DRT.

Ms. McCulley said what was in the packet was the old design. She said what was displayed was the actual layout.

Member Maahs confirmed with Ms. Snyder that the only change taking place to the existing structure is adding the drive through.

**Public Comment:**

No public comments.

**Board Discussion**

**MOTION:** In Case 2022-6052, 2820 West Zia Road Special Use Permit, Member Painter moved to approve with conditions of approval and technical corrections recommended by staff. The motion was seconded by Member Maahs.

**VOTE:** The motion passed unanimously by voice vote.

2. **Case #2022-6044. 57 Old Santa Fe Trail Variance.** Lila Pickus, agent for 57 Old Santa Fe Trail, LLC, owner, requests sign replacement and exceptions to Article 14-8.10 (H)(26)(a)(i) for exceeding 20 sq. ft. in area; letter height exceeding 20"; and for mounting sign more than 15' above street grade. (Heather Lamboy, Assistant Director, Land Use Department)

Member Dearing arrived at 6:15 pm.

**Staff Report:**

The building located at 57 Old Santa Fe Trail is a two-story commercial building constructed in 1912 that fronts the Santa Fe Plaza on the east side. The building is designated as 'contributing' and its west elevation is considered a primary façade for the purposes of the Historic Districts Ordinance. In the 1950s, John Gaw Meem remodeled the building and transformed the original Beaux Arts Classical Revival Style building into a simplified Spanish-Pueblo Revival style. Currently, it has commercial storefront windows on its ground floor and a large flat windowless stucco wall that extends from the portal to its parapet. In the late 1960s, Meem designed portals that were constructed on this building and other commercial buildings around the Plaza. It was previously known as the First National Bank and later known as Levine's Department Store. In 1954, the bank moved across the Plaza to its current location at the northwest corner of the Plaza. In 2011, exceptions were granted to this building by the Historic Districts Review Board, to install a building wall sign above the 15' height limit and to exceed the maximum 20"

letter height. The rationale for the extra height is that the sign would not be visible from the adjacent street due to the portal.

The applicant proposes to replace the existing wall-mounted sign on the west façade. The purpose of the sign replacement is to be consistent with the updated branding associated with the Lucchese Bootmaker brand. The proposed sign will be 51% smaller than the existing sign, with a maximum area of 34 square feet compared to the current 70 square feet. The letters will all be 24" in height, which is 3'-0" shorter than the largest letter on the current sign, and the sign will be mounted with the base at 17'-6" above street grade, which is the current mounting height. The proposed sign will be constructed of fabricated metal with 2" depth and will have a dark navy painted finish. There is no proposed lighting or transparency to the sign and it will be mounted directly to the stucco wall.

The proposed sign requires three variances to the signage requirements outlined in Article 14-8.10 (H)(26)(a)(i). The sign area will exceed twenty square feet, the letter height will exceed twenty inches, and the sign will be mounted more than fifteen feet above street grade.

This case was heard by the Historic Districts Review Board (HDRB) on August 9, 2022. The case was approved by the HDRB. Subsequently, it was determined by the City Attorney's Office that, in the case of signs, the HDRB has no authority under current City code and that approval was made in error. It was stated that variances should be sought through the Board of Adjustment. As a result, this case is being presented to the BOA for review.

**Staff Recommendation:**

The Planning and Land Use Department recommends approval of the Variance with the conditions of approval as outlined in this report.

**Applicant Presentation:**

Jennifer Jenkins and Lisa Gavioli of Jenkins Gavin, 130 Grant Avenue, Suite 101, Santa Fe, NM were sworn in.

Ms. Jenkins provided a power point presentation. She showed the existing condition of the sign. She summarized the request. The existing sign approved by the Historic Board in 2011 is 70 square feet. The tallest letter is five feet. It is mounted to a height of 21 feet. The proposed sign is shrinking by over 50% to 34 square feet. The tallest letter is 24 inches and mounted at a height of 19' 6". The sign is becoming more in compliance than it has been in the last 70 years. There are constraints that make the variance necessary. She showed how the sign would look if compliant which is clear it does not help with way finding or store identification. They want a variance for a move in the right direction.

Member Painter said everything shows the sign being higher up.

Ms. Jenkins said the sign would be mounted at the lowest height in comparison to the current sign which is 21 feet. The proposed sign is 19' 6".

Member Painter asked how the sign is more visible if it's shrunk by two feet.

Ms. Jenkins said because they made an effort to bring it as low as they could and ensure visibility.

Member Alexander confirmed that it went through Historic Districts Review Board, and it was approved.

Ms. Jenkins said the proposed sign is a lot more subtle.

### **Public Comment:**

Stefanie Beninato, PO Box 1601, Santa Fe, NM was sworn. She said she is opposed to this variance. The H-Board decision was fatally flawed. There was a quorum of four people but only two people voted for it which is not a majority of the quorum. The discussion was about the sensitive design and being in the Spirit of the Law. But what wasn't looked at and hasn't been discussed at this meeting is 14-5.2(A)(6) which is about nonconforming structures, including signs. The Levine sign started in 1954 and ended in 1978. Thirty-three years later an exception was granted. But under 14-5.2(A)(6), it says "an exception may never granted for nonconforming sign." If looking at what historic allows, it does not allow you to grant another nonconforming sign. In terms of the variance, there are no special circumstances that make it infeasible to develop the property. It's not unreasonable to not have a second story sign. No other merchant on the Plaza has a second story sign. There's no need to have a sign changed everytime the corporate logo changes. The 15 feet is an obvious policy decision in the Historic zone not to have second story signs. It's not in the public interest to allow the sign. She doesn't know why signs are needed today, being there are map apps and GPS. The Ordinance should control. She works on the Plaza and important not have corporate logos everywhere making it look like everywhere else. She asked the Board to deny the variance.

There being no further public comments, Chair Friedman closed the public hearing.

### **Board Discussion**

Ms. Jenkins said the actions of the H-Board demonstrate one thing, that they were supportive and comfortable with the request. However, their action is also null and void. It was determined that that was not the appropriate action for approval of the sign. Their consideration of the sign is important for this Board being that the H-Board was comfortable with this proposal. But that decision has been tossed, that is why the applicant is now before this Board.

Member Painter asked if there's anything in the Code that talks about corporate logos, especially on the Plaza.

Ms. Moore said the Sign Ordinance doesn't talk about corporate logos. There are specific criteria about colors and size, etc.

Member Painter said malls will have guidelines about what signs can look like.

Ms. Moore said if their logo fits the sign criteria, it can go up.

Member Winston asked Attorney Feghali to address 14-5.2(A)(6) and nonconformity, that would be helpful.

Attorney Feghali said when the request went to the H-Board, they thought that it fell in their jurisdiction for design criteria. When staff looked at it further, they found there was no design criteria in the decision. This was purely a height variance. While the decision of the H-Board happened, it is not binding in any way. This would be a new decision that the Board of Adjustment is making.

Member Winston asked Attorney Feghali to address Ms. Beninato's comments that the applicant wants to enlarge the nonconformity which according to Ms. Beninato is contrary to 14-5.2(A)(6).

Attorney Feghali said she did not see that in that section. It says, "if they are not conforming to the architectural style or sign standards they shall be considered nonconforming." In this case, design was not a factor because it meets all the sign criteria, except for the height variance.

Member Maahs stated this Board is now in charge of passing a judgement on a nonconforming sign which does not meet 14-5.2(A)(6), height requirements nor does it meet the volume requirements, it exceeds both. He asked if that was correct?

Chair Friedman said they are looking for a variance because it does not meet the height requirement or the placement.

Ms. Gavioli said the Code section is 14-18.10(H). That includes height, size and mounting.

Chair Friedman confirmed that the variance is for all three.

Member Dearing said she finds that if this is not approved, they are going to leave the old sign up which exceeds the current design standards, plus it also looks like 1950. The new branding is quite attractive and more in keeping with the Ordinance, as it is written.

Member Maahs confirmed the old sign can remain if this is not approved.

Member Painter said he's conflicted because he has concern with logos going up. He's lived at places that have outdoor malls, that have national businesses that come in and it gets to be like a carnival. He doesn't care for the old sign, but he hates to approve something that can come back because someone says you approved a corporate logo sign to go up as recently as 2023. Then we have a hard time turning down somebody else.

Member Winston said it's a unique fact pattern in that there is an existing sign. Every case would be reviewed, and decisions would be determined on a case-by-case basis.

Member Maahs asked if any other business on the Plaza has a second story sign.

Ms. Lamboy said the bank and Five and Dime are the only two that exist on the Plaza with a wall sign. With reference to the 15-foot height, that is generally throughout the city for wall signs. With reference to the design and logo issues, that's left up to the Board or staff if staff is reviewing the application. The Code is silent on logos.

Chair Friedman said he's not worried about setting a precedence because the Board reviews items on a case-by-case basis. There's an existing non-conforming sign there that's being replaced by a less non-conforming sign.

Attorney Feghali said there's a provision in the Sign Code that says, "no permanent sign shall be placed on the balcony, gallery shed, roof, door or window or placed so as to disfigure any architectural features or detail of the building." This is one of very few places on the Plaza that could have a large second story sign because this is a blank second story wall.

Ms. Jenkins said it was designed by John Gaw Meem, specifically to accommodate a sign.

**MOTION:** In Case #2022-6044, 57 Old Santa Fe Trail Variance, Member Winston moved to approve the variances subject to the conditions of approval and technical corrections recommended by staff. The motion was seconded by Member Dearing.

**VOTE:** The motion passed by majority voice vote. Member Painter opposed the motion.

3. **Case #2022-6010. 50 Mount Carmel Special Use Permit.** Jennifer Jenkins, of Jenkins Gavin, Inc., Agent, for Santa Fe RC2, LLC c/o Modern Elder Academy, Applicant, requests approval of a Special Use Permit for the property located at 50 Mount Carmel Road to allow for the expansion of the property's use as an educational retreat center by adding a new building

to the 10.0 acre "Tract 1." The property is zoned R-2 and is located in the Historic Review District. (Heather Lamboy)

**Staff Report:**

**A. Purpose and Intent**

Special Use Permits are intended to allow flexibility in providing for, regulating or preventing specified uses within various districts as provided in Table 14-6.1-1 so they are compatible with existing or desired land use patterns. Special use permit approval is required for certain uses so that potential detrimental effects may be reduced or avoided and conflicts in land use may be prevented. Special use permits are necessary because of the wide variety of uses that are allowed within zone districts and because of the variety of existing sites and uses found in the community.

The Mt. Carmel campus offers a rich history that exemplifies an evolution of uses yet maintaining the historic character. The campus has many different buildings that have served a variety of purposes over the years.

The first use of the property was as the Sunmount Tent City, which was established in 1902 to serve the "lungers," people moving to the west from the east in order to recover from tuberculosis with the help of Santa Fe's dry climate. When the tent city was on the verge of collapse, Dr. Frank Mera and his brother Harry bought the tent city and improved the campus, rebranding it as Sunmount Sanitorium. One of the first buildings on the site is now part of the Carmelite Monastery and is on the western portion of the site. Next the Santa Maria building was constructed to serve the expanding number of patients at the sanitorium.

Sunmount closed its doors in 1937 and the main buildings were renovated by John Gaw Meem (who had been a patient at Sunmount and became a noted Santa Fe architect) and Frank Mera and reopened as the Santa Fe Inn.

The Inn was short-lived and in 1944 the US Army requisitioned the property for additional space for the Bruns Army Hospital, which had run out of room at its campus on the current-day Midtown campus.

After the war the Archdiocese of Santa Fe purchased the property for use as a seminary, which eventually became the home for the Santa Fe Order of Carmelite Sisters. Many of the original buildings of the sanitorium were reused, as well as 2 others constructed – a high school building as well as the chapel. Many of the buildings on the campus are a physical record of the time, place and use, and relate to significant events and people in the history of Santa Fe.

**B. Modern Elder Academy**

The Modern Elder Academy (MEA) represents yet another evolution of the uses on the campus. As the MEA provides educational opportunities and housing during course work, it has been determined that this can be classified as a residential college (similar to St.

John's College). In the R-2 zone district, residential colleges are permitted provided that a special use is permitted. The specific criteria relating to residential colleges include that the site be no less than 10 acres, and the street frontage be no less than three hundred (300) feet (Section 14-6.2(B)(2)). The proposed MEA meets both of those criteria.

The Applicant has complied with all applicable subsections of Chapter 14 Section 14-3.1 General Provisions (reference Table 2). The City's Development Review Team (DRT) reviewed the Application for compliance with applicable City Code sections (reference Exhibit B). Staff's analysis identifies the Application has satisfied Special Use Permit Approval Criteria in accordance with Subsection 14-3.6(D)(1), subject to conditions of approval and technical corrections listed in Exhibit A of the staff report.

**Staff Recommendation:**

The Planning and Land Use Department recommends approval of the Special Use Permit with the conditions of approval as outlined in the staff report.

**Applicant Report:**

Ms. Jenkins, previously sworn, was present on behalf of Modern Elder Academy for the special use permit for the Santa Nueva building. She introduced the applicant's team. She showed a vicinity aerial. There is an existing non-conforming use which cannot be intensified.

The main access is off Camino del Monte Sol. She pointed to the parking lot that serves the campus which has two access points: one from Camino del Cruz Blanca and Camino del Monte Sol via Mount Carmel Road. She said they are in the Historic Review District. In addition to being in front of the Board of Adjustment, they are also working with the Historic Districts Review Board. She showed the existing conditions of the site and identified the various buildings.

Ms. Jenkins said Modern Elder Academy (MEA) was founded in 2018. It is a midlife wisdom school for people to revisit their lives and their passions. The average age of guests is 54. There are over 3,000 alumni from around the world who have participated in the program. MEA chose Santa Fe to accommodate their corporate headquarters and the seat of their U.S. operations. Their programming works with existing facilities on the property. When the seminary closed the campus was used as an educational retreat center. The new building is triggering their application this evening. The first phase of improvements will require H-Board approval. There are some site improvements that will require building permit process. They are not proposing to do anything dramatic to the existing historic buildings.

Phase 2 is the new Santa Nueva building and requires a special use permit. The building is just under 9500 square feet building that will accommodate guest quarters and larger classroom space with audio visual capability. Although they're adding a new building, they are decreasing the intensity because the rooms will be single occupancy. Right now, there are 56 rooms and 96 beds. They are going to 64 rooms but reducing to

78 beds. They are de-intensifying the number of participants that can be on campus at any time.

She showed the 1961 Master Plan which showed a proposed building where they want to put this building. She showed the site plan. They are reconfiguring their access coming off Mount Carmel. The whole purpose of this is to protect the privacy of the Carmelites. They are a sequestered order and engage in a very limited way. There is a row of parking that is shared by the Carmelites because they do have a service once a week that is attended by a handful of individuals. They are taking the main entrance and forcing the cars up into another parking area. She showed where they will be converting the interior area to a pedestrian zone. She showed the area of where the Santa Nueva building will be placed. She showed the new service road that is proposed along the east side. It will be strictly used for delivery, service and emergency vehicles. Existing emergency access is not great so they are making some significant improvements from a life safety standpoint.

Regarding parking, she said there's not a City parking requirement. The Code allows applicants to propose a parking plan that would be supported by a parking demand analysis, which is what they had done. They submitted that report to staff for their review and approval. In addition to the parking spaces leased by Santa Fe Prep, there are 72 parking spaces on the campus. The total parking demand is 65. She pointed out that a vast majority of the guests are shuttled from the airport, very few come with their own vehicles. The peak parking demand is 33 spaces and add in the shared uses that puts it to additional 32 spaces and that's how they arrived at 65 spaces. Then there's overflow parking for special events which is in the Santa Fe Prep parking area.

She said they also conducted a Traffic Impact Analysis (TIA). They intersections they addressed were Camino Cruz Blanca and Camino del Monte Sol and access road, Mount Carmel and Old Santa Fe Trail. Traffic studies are based on how intersections function, a level of service and it's called a grading system. If it functions well, you get an "A", if you have a little delay, it goes down to a "B" and then it goes down from there. Their levels of service are "A", "B" and "C". Since a vast majority of individuals are shuttled to the campus, they are anticipating minimal impact on the transportation network.

She referred to staff's Condition of Approval #3, which is to construct a sidewalk along Camino de Cruz Blanca. The current sidewalk ends at their northeast corner on Camino de Cruz Blanca. There are a couple of unique conditions with respect to the sidewalk. First, they have to match up with the existing which is built at the back of curb. There are also a lot of mature trees that would be impacted. It doesn't make sense to take down mature trees and plant new trees that will take 30 years to grow. They request they be permitted to construct the sidewalk in accordance with the existing sidewalk at the back of curb so they can preserve as much of the existing vegetation as possible.

Finally, she referred to Condition of Approval #14 from the Metropolitan Planning Organization (MPO) regarding construction of a trail connection. There's an existing informal social footpath trail that runs along the south side of the arroyo. She pointed out

the FEMA flood plain. Their property line is on the south side of that flood plain. They have concerns about the condition. The trail itself is steep. The only reasonable place to construct a trail connection down to the arroyo is the area that is directly adjacent to the Carmelites. They have had issues in the past of hikers going through the arroyos and peeking over the wall and trying the gate, it's a concern. They are making every effort they can to protect the privacy of the Carmelites by limiting the amount of activity. They don't want to construct a trail connection for that reason. Secondly, there was an additional request that the trail connection be ADA compliant, with these grades. They request that Condition #14 be eliminated, wholesale. If the Board would like to see the trail connection, then they would ask that the ADA compliant requirement be removed because they don't know how that could be accomplished.

Member Dearing asked how the Applicant is expected to connect to the trail, are they supposed to go through the arroyo?

Ms. Jenkins said the trail is an informal kind of dirt....

Member Dearing said once you connect to it, it becomes less informal.

Ms. Lamboy said with reference to the ADA compliance, there are trails that can work along with the topography and not have that type of slope. One of the other things she discussed with the applicant is the possibility that as the Arroyo de los Chamisos network is planned (the MPO has it as part of their long-term plan) this can be discussed when the actual design of that is being developed.

Member Dearing asked if the condition is they say connect, but don't say how. The way it's existing you'd have to go all the way down to the road and then cross at the road to join it or go through the arroyo which seems problematic.

Member Alexander asked why the trail is connecting.

Ms. Lamboy said it's the big picture in terms of pedestrian/bicycle access. The Arroyo de los Chamisos has connections off private property. There is a social path on the other side of the arroyo. They know that all access to the site has to be ADA accessible.

Chair asked if the arroyo fills with water during rainstorms.

Oralynn Guerrerortiz, with Design Enginuity, 1421 Luisa Street, Santa Fe, NM was sworn.

Ms. Jenkins asked her to address how much water the arroyo conveys in a big event.

Ms. Guererortiz said she hasn't analyzed that but there is a FEMA analysis study on that. Based on limited information she has, she estimates its more than 200 CFS.

Ms. Jenkins wanted to touch on requirements for ADA access. There is a requirement that from the public street there has to be an accessible route to the facility. They have a condition to build a sidewalk from Camino Cruz Blanca, along the access drive that gets you in to the heart of the campus. Then, everything within the campus is ADA accessible. She doesn't believe there's an additional requirement for any other access that is supplemental to the primary accessible route.

Director Kluck referred to condition 13 and said if the City is requiring the applicant to create a connection to an existing trail, it would have to be ADA compliant on site. If the condition is removed, then there is no ADA requirement.

Member Alexander asked how open to the public is the site intended to be.

Ms. Jenkins said it's open to the attendees of the campus or invitees to the Carmelites.

Member Painter said the grades get gentler on the east side. It looks like there may be a way to bring a trail down through there. He asked if not required to build a trail would it be easier to put an easement in there for future trail connection.

Ms. Gavioli said that area is quite steep, there's a staircase that goes down toward the arroyo. She said Ms. Lamboy's suggestion that condition be modified to allow for the applicant to work with the MPO as the trail is being designed.

Kenneth Francis, 1611 Paseo de Peralta, Santa Fe, NM was sworn. He said they did a long-range master plan for Museum Hill, several years ago. Santa Fe Trail has a hairpin turn that dips down to the south making any kind of crossing there, dangerous and not feasible. What they had surmised was if they were going to make any trail connection to the northeast to the Arroyo Chamiso, it would have to happen around Camino del Monte Sol to have a safe crossing. He said all of this MEA's private happenings that don't make it feasible for a connection. Trying to avoid activity around the Carmelites because that's a sacred space for them and having that kind of activity is challenging.

Eric Enfield, 612 Old Santa Fe Trail, was sworn. He said the only point he wanted to make as an architect is that the problem with the easement is that you'd have to design the whole trail to place the easement. Right now there is no place because there is no trail in the arroyo.

Ms. Jenkins said the MPO said they want a connection from this campus to the trail. There was no mention of any kind of public access. It was about creating a connection to a future trail. She asked that the condition be modified to allow the applicant to work with the MPO as the trail moves forward.

Chair Friedman said it's up to the MEA if they want the connection or not.

Ms. Lamboy said the connection is important for the entire network. There are still a lot of factors to be considered. The intent of the MPO is that there be a connection, they just don't know where. It would be appropriate that there is a commitment for a connection to be designed in the future.

Member Dearing asked about the sidewalks.

Ms. Jenkins said they are constructing a new sidewalk along their property on Camino Cruz Blanca. They are also dedicating additional right of way. There's also a sidewalk along the access that will connect to Cruz Blanca.

Member Alexander said the intersection at Camino Cruz Blanca and Camino Monte Sol is not safe. Instead of ending at St. John's, pedestrians are being pushed over another 500 feet. He asked if there is talk about proposed crosswalks.

Ms. Jenkins pointed to where there are existing crosswalks.

Chair Friedman asked about occupancy and if people are currently living there.

Ms. Jenkins said they are not offering programs at this time.

Chair Friedman asked if in the future, they want to increase the occupancy, if they are going to be locked into the numbers she presented.

Ms. Jenkins said the request before the Board relates to the new structure. If they are within 96 that would be permissible.

Chair Friedman asked if the parking is based on the number of occupants.

Ms. Jenkins said its based upon the number of staff and making certain assumptions about a percentage of the guests who would bring their own vehicles.

Chair Friedman asked staff if traffic report was reviewed by the City traffic engineer.

Ms. Lamboy said yes.

Member Painter confirmed with Ms. Jenkins that the facility will have its own shuttle.

Member Winston asked about the buffer zone and if she was referring to Condition #3.

Ms. Jenkins said yes, removing the condition would allow the sidewalk to be built to back of curb consistent to the existing sidewalk.

Member Winston confirmed that the applicant is asking for modification of Conditions 3 and 14.

Member Alexander asked about the number of rooms.

Ms. Jenkins said there are 14 rooms in the new building.

**Public Comment:**

Leslie Georgetti, 36 Tano Escondido, was sworn. She said she's a member of the public and expressed her support for the project. The new building fits well into the existing development. She has walked the street numerous times and believes the sidewalk will be fine and keeps the existing trees. She thinks the MEA has done an excellent job incorporating all the local talent to integrate nicely into the community.

Stuart Ashman, 10 Anjelitos Road, Santa Fe, NM was sworn. He said he is not affiliated with the project. He said this completes that area. This is education hill now: there's St. John's, Santa Fe Prep and the Modern Elder Academy. He said this is the lowest impact, sensitive and spiritual piece that could happen there. The nuns will be happy. He supports the project. He also sent a letter of support.

Ms. Lamboy confirmed that his letter is part of the packet.

Aaron Schubach, 1101 Camino de la Cruz Blanca, was sworn. He is the head of Santa Fe Prep. He wanted to speak about the sidewalk. The most common use of that sidewalk would be Santa Fe Prep students. He's in favor of the sidewalk.

Stefanie Beninato, previously sworn, asked about appeal process. She said she wished they had a different name than Santa Nueva. She thinks the building is harmonious with the other buildings on the campus. She thinks that traffic and parking study are dubious. When there's overlap is there enough for all the overlap. The Camino Monte Sol and Cruz Blanca intersection is a nightmare at different times of the day. She thinks this will add to the problem. She appreciates what the applicant is doing to integrate the property. She hopes the Board will make it a condition that they will make a connection to the trail, when the trail is developed.

Chair Friedman asked staff what the appeal process is if anyone wants to appeal to the Board.

Ms. Moore said they typically don't address the appeal process, however, Chapter 14 addresses the appeal process.

Chair Friedman said it's his understanding it's 30 days from the adoption of the Findings of Fact and Conclusions of Law to appeal to the Governing Body.

Chair Friedman closed the public hearing.

## **Board Discussion**

**MOTION:** In Case #2022-6010, 50 Mount Carmel Special Use Permit, Member Winter moved to approve subject to the conditions of approval recommended by staff with the following modifications: removal of Condition #3 and removal of Condition #14 and for #14, substitute a requirement that applicant will cooperate and collaborate with the MPO as their design process advances and also subject to the technical corrections recommended by staff. Member Maahs seconded the motion.

**VOTE:** The motion passed unanimously by voice vote.

Chair called for a break at 7:55 p.m. and reconvened the meeting at 8:10 p.m.

4. **Case #2022-6016. 50 Mount Carmel Special Use Permit (SF Prep).** Jennifer Jenkins, of Jenkins Gavin, Inc., Agent, for Santa Fe RC2, LLC c/o Modern Elder Academy, Applicant, and on the behalf of Santa Fe Preparatory School, requests approval of a Special Use Permit to allow for the 2.379 acre "Tract 2" at 50 Mount Carmel Road to be used as auxiliary parking for the private secondary school at 1101 Camino Cruz Blanca. The property is zoned R-2 and is located in the Historic Review District. (Heather Lamboy)

## **Staff Presentation:**

1. Purpose and Intent

Special use permits are intended to allow flexibility in providing for, regulating or preventing specified uses within various districts as provided in Table 14-6.1-1 so they are compatible with existing or desired land use patterns. Special use permit approval is required for certain uses so that potential detrimental effects may be reduced or avoided and conflicts in land use may be prevented. Special use permits are necessary because of the wide variety of uses that are allowed within zone districts and because of the variety of existing sites and uses found in the community.

The Mt. Carmel campus offers a rich history that exemplifies an evolution of uses yet maintaining the historic character. The campus has many different buildings that have served a variety of purposes over the years.

The first use of the property was as the Sunmount Tent City, which was established in 1902 to serve the "lungers," people moving to the west from the east in order to recover from tuberculosis with the help of Santa Fe's dry climate. When the tent city of on the verge of collapse, Dr. Frank Mera and his brother Harry bought the tent city and improved the campus, rebranding it as Sunmount Sanitorium. One of the first buildings on the site is now part of the Carmelite Monastery and is on the western portion of the site. Next the

Santa Maria building was constructed due to the expanding number of patients at the sanitorium.

Sunmount closed its doors in 1937 and the main buildings were renovated by John Gaw Meem (who had been a patient at Sunmount and became a noted Santa Fe architect) and Frank Mera and reopened as the Santa Fe Inn. The Inn was short-lived and in 1944 the US Army requisitioned the property for additional space for the Bruns Army Hospital, which had run out of room at its campus on the current-day Midtown campus.

After the war the Archdiocese of Santa Fe purchased the property for use as a seminary, which eventually became the home for the Santa Fe Order of Carmelite Sisters. Many of the original buildings of the sanitorium were reused, as well as 2 others constructed – a high school building as well as the chapel. Many of the buildings on the campus are a physical record of the time, place and use, and relate to significant events and people in the history of Santa Fe.

In 2020, 12.4 acres of the Carmelite property was listed for sale. The property was purchased by the Modern Elder Academy, which is in turn selling the 2.4 acres of the parking lot to Santa Fe Preparatory School so they can continue the use of that portion of the property.

**Santa Fe Preparatory Parking Lot:**

When Santa Fe Prep moved to its current campus in the 1970s, a relationship was formed between the Carmelites and Santa Fe Prep to permit parking on the northern portion of their property. The applicant states that the parking lot use began during the 1980s to accommodate student parking.

The Applicant has complied with all applicable subsections of Chapter 14 Section 14-3.1 General Provisions (reference Table 2). The City’s Development Review Team (DRT) reviewed the Application for compliance with applicable City Code sections (reference Exhibit B). Staff’s analysis identifies the Application has satisfied Special Use Permit Approval Criteria in accordance with Subsection 14-3.6(D)(1), subject to conditions of approval and technical corrections listed in Exhibit A.

**Staff Recommendation:**

The Planning and Land Use Department recommends approval of the Special Use Permit with the conditions of approval as outlined in this report.

**Applicant Report:**

Jennifer Jenkins, previously sworn, said she is there on behalf of MEA and Santa Fe Prep. They have submitted a lot split application with the special use permit application. The lot split would create a 10 acre MEA campus and a just about 2.4 acre tract for the Santa Fe Prep parking lot. This serves a couple of different purposes. Santa Fe Prep has been leasing the parking lot since the early 1980s. MEA intends to continue that lease relationship with Prep. The idea is to just carve it off because it’s really for their

use and shared use for MEA. It also opens the possibility for Prep to purchase the property. They have been in negotiations with prep to see if that is a possibility. A stand alone parking lot is not permitted in R2 zoning. This special use permit enables parking lot to be on it's on tract of land. She showed the tract boundaries.

Member Winston asked about condition #3 regarding the sidewalk buffer zone had to be removed from this case as well.

Ms. Jenkins confirmed Condition 3 had to be removed for this case as well.

Member Alexander said the trail connection/ADA condition is there as well.

Ms. Jenkins confirmed that condition had to be modified.

Member Painter said they already have an agreement to use the parking and asked what the purpose is of going through the process.

Ms. Jenkins said they've been leasing for 40 years and it doesn't serve the programming for the MEA. It's a positive for MEA because of potential liability because that parking lot isn't "theirs". Then, it creates the opportunity should an agreement be reached to potentially sell the property to Prep.

Chair Friedman said MEA could put that under the name of a separate LLC.

Member Painter asked about how many people day cross this parking lot to go to Prep.

Ms. Jenkins said there's 124 parking spaces and they are used up.

Mr. Shubach, previously sworn said at least 110 are used and there are multiple crossings per day. Students and staff use the parking lot.

Member Painter said sometimes you put up a signals for crossing. He asked if they have looked into that.

Ms. Jenkins said they haven't, and it did not come up in the review from Public Works or as recommendations in the traffic study. The traffic is not a high-speed area and it's also a designated school zone.

Mr. Shubach said twice a day there is a flashing light that reminds drivers it's a school zone and traffic speed is 15 mph.

Member Alexander confirmed that Tract 3 runs the entire length of both properties.

Member Painter asked if the parking lot is paved and if there are stripes.

Ms. Jenkins said it's base course.

Member Painter said base course is better than nothing at all. He asked if there are there plans to make an electrical vehicle charging station.

Ms. Jenkins said there are no plans to do that.

Mr. Enfield responded to Member Painter's question about stripes in the parking lot. He said there are not stripes but there is a railroad tie for each parking spot.

### **Public Comment:**

Mr. Shubach from Santa Fe Prep said negotiations to purchase the lot are not going as well as they want. Currently, they are leasing the lot. From the presentations an agreement is necessary. He's not sure if they are referring to a purchase agreement or a lease agreement.

There were no further public comments, therefore, Chair Friedman closed the public hearing.

### **Board Discussion**

Member Dearing said if negotiations break down and Prep becomes a walk only campus what would this piece of land be used for.

Ms. Jenkins said you could put houses there, it's zoned R2.

Member Dearing said MEA could expand their campus.

Ms. Jenkins said if Prep does not acquire the property, the intention is to continue to lease to Prep.

**MOTION:** In Case #2022-6016, 50 Mount Carmel Special Use Permit (SF Prep), Member Winston moved to approve subject to conditions of approval and technical corrections recommended by staff, amended to remove Conditions #3 and #8 and for Condition #8 substitute that the applicant will cooperate and collaborate with MPO at such as they move forward with their design. Member Painter seconded the motion.

**VOTE:** The motion passed unanimously (6-0) by voice vote.

## **H. STAFF COMMUNICATONS**

Ms. Moore said she's checked with the Clerk's Office about using the Council Chambers for future meetings. If it's not available, she will look for a bigger room to hold the meetings.

Ms. Moore said she was able to set up Zoom in this room but in the Council Chambers she would not be able to and IT staff is not available to run Zoom for this Board.

Members expressed their concerns about using the Councilors' Conference room and not having IT support for this Board.

Chair Friedman said this is a quasi-judicial board and he concerned that IT is treating this Board differently than any of the other boards. He would rather have the Board meetings on Zoom if they have to use the Councilors' Conference Room.

Ms. Lamboy said staff's goal is to have the Boards supported the way they should be supported.

Ms. Moore said staff has signed contract with Clarion to do Chapter 14 update,

Ms. Moore and Ms. Lamboy gave an update on staffing for Planning and Land Use.

#### **I. MATTERS FROM THE BOARD**

Member Dearing asked if they are able to visit the sites that the Board will be discussing. She said Ms. Lamboy had asked if they had visited the site.

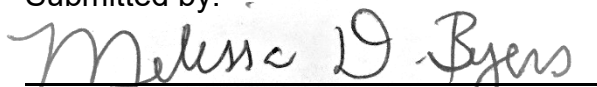
Ms. Lamboy said that was a misstatement.

There was discussion about site visits being permitted but they would have to be publicly noticed.

#### **J. ADJOURN**


With all business conducted for the Board of Adjustment, Chair Friedman adjourned the meeting at 8:50 p.m.

Submitted by:



Melissa D. Byers, Stenographer for  
Byers Organizational Support Services

Approved by:



Gary Friedman, Chair