



City of Las Vegas

Agenda Item No.: 95.

**AGENDA SUMMARY PAGE - PLANNING & DEVELOPMENT
CITY COUNCIL MEETING OF: APRIL 16, 2008**

DEPARTMENT: PLANNING & DEVELOPMENT
DIRECTOR: M. MARGO WHEELER

Consent Discussion

SUBJECT:
DIRECTOR'S BUSINESS

DIR-27454 - APPLICANT: WESTCARE NEVADA INC. - Appeal of the Director's decision to deny a Business License per 19-04-174 for a Convalescent Care Facility on property located at 401 South Martin Luther King Boulevard (APN 139-33-001-004), M (Industrial) Zone, Ward 5 (Barlow). Staff recommends DENIAL.

PROTESTS RECEIVED BEFORE:

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

Planning Commission Mtg.

City Council Meeting

City Council Meeting

RECOMMENDATION:

Staff recommends DENIAL.

BACKUP DOCUMENTATION:

1. Location and Aerial Maps
2. Staff Report
3. Letter of Denial
4. Appeal Letter filed by Moran and Associates

Motion made by RICKI Y. BARLOW to Deny

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

RICKI Y. BARLOW, LOIS TARKANIAN, LARRY BROWN, OSCAR B. GOODMAN, GARY REESE, STEVE WOLFSON, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

By way of reading the item, MAYOR GOODMAN declared the Public Hearing open.

ATTORNEY JOHN MORAN II appeared as a board member of Westcare and not as an attorney, along with KIRBY BURGESS, Senior Vice President-Westcare. MR. MORAN pointed out that the neighborhood is in support of Westcare's request. He recalled the business license has been in existence at this location since 1987, and the facility has worked well with the neighborhood. The applicants have done a good job in assisting and bettering the youth and desired approval to continue doing the same. MR. MORAN emphasized that the business has been running on an emergency basis, in an effort to try and accommodate the County and the State of Nevada, whose emergency rooms were overcrowded with patients.

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MARGO WHEELER, Director of Planning and Development, explained that the applicant was granted a license in 2005, based upon the Council's action to allow them the acute psychiatric hospital on a temporary basis. The decision was made not to amend the Code, and the license lapsed at the end of 2007. Thereafter, MR. BURGESS and representatives were informed that any new use would have to meet the zoning requirements of the M (Industrial) zone. At this point, the applicant would like to revert back to the previous use that was in place since 1989, which was a non-conforming use. The overnight stays are not allowed in the M zone, and staff cannot reinstate a non-conforming use once it has been abandoned. In this case, the use has been abandoned for two years.

ASSISTANT CITY ATTORNEY BRYAN SCOTT explained that granting the applicant the previous use would, in essence, be giving them a use variance, which is illegal under the Code. Temporary commercial licenses are granted for temporary purposes. The current use at the subject facility is what is allowed at this time. He suggested having the item held in abeyance to allow staff time to review and proceed accordingly. He also emphasized that the Code should be amended to reflect more permanence.

After previous meetings and discussions, COUNCILMAN BARLOW believed the best way to proceed was to move forward with a text amendment to allow this use should Council agree. MS. WHEELER explained if there will be a text amendment in place to allow the use, then the Councilman's recommendation would be the appropriate way to proceed. She informed the Council that a text amendment would take approximately six weeks.

MR. MORAN did not believe that a text amendment was necessary and expressed concern for possibly displacing the youth, should Council deny the request.

MR. BURGESS, Senior Vice President, Westcare, explained that outpatient counseling is currently being provided, and the request is for a previous use that the applicant once had. There is a vacant facility that could be utilized to fill a great need and demand, as the other facility is overcrowded. MAYOR GOODMAN understood the need but wanted to ensure the resolution was done in a legal manner. He noted if the applicant appeared before Council sooner, this would not be an issue now. During the text amendment process, the applicant could still function as a counseling center; individuals would be prohibited from staying overnight. MS. WHEELER noted that that license was effective January 2nd.

COUNCILMAN BARLOW closed by stating the item would have to be denied but move forward with staff working on a text amendment. ASSISTANT CITY ATTORNEY SCOTT added that the use would be a convalescent care facility in the M zone, with a special use permit. MR. MORAN asked for an abeyance; ASSISTANT CITY ATTORNEY SCOTT replied it was appropriate to deny rather than abey. MS. WHEELER added that the denial would not prevent the applicants from operating.

MAYOR GOODMAN declared the Public Hearing closed.