



AGENDA MEMO - PLANNING

SPECIAL CITY COUNCIL MEETING DATE: OCTOBER 28, 2014

DEPARTMENT: PLANNING

**ITEM DESCRIPTION: APPLICANT: COMPASSIONATE TEAM OF LAS VEGAS, LLC -
OWNER: HIGHLAND BY THE HIGHWAY, LLC**

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-55290	Staff recommends APPROVAL, subject to conditions:	N/A

** CONDITIONS **

SUP-55290 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Medical Marijuana Cultivation Facility use.
2. An air filtration system to be designed by a Nevada licensed engineer shall be provided prior to the issuance of a certificate of occupancy.
3. Cultivation is limited to the interior of a building.
4. There shall be no on-premise consumption (the use, smoking, ingestion or consumption of any marijuana, edible marijuana or marijuana infused product) on the licensed premises.
5. All development shall be in conformance with the site plan date stamped 07/23/14 and floor plan date stamped 08/04/14, except as amended by conditions herein. Any modification of the premises of a medical marijuana establishment shall be filed 60 days in advance of any proposed construction. A full and complete copy of all architectural and building plans shall be filed with the Director for a review of compliance with Title 6.95 and Title 19. The Director shall review the plans and approve any modifications in compliance with this chapter prior to the commencing of any construction of modifications.

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6. This approval shall be void eighteen months from the date of final approval, unless exercised pursuant upon the issuance of a business license. An Extension of Time may be filed for consideration by the City of Las Vegas.
7. All necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit, as well as submitted as part of any business license application.
9. Prior to the submittal of a building permit application, the applicant shall meet with Department of Planning staff to develop a comprehensive address plan for the subject site. A copy of the approved address plan shall be submitted with any future building permit applications related to the site.
10. The presence of minors on the premises of a medical marijuana establishment is prohibited unless the minor is a qualified patient on the premises of a dispensary and is accompanied by his or her parent or legal guardian.
11. Approval of this Special Use Permit does not constitute approval of a medical marijuana facility license.
12. This business shall operate in conformance to Chapter 6.95 of the City of Las Vegas Municipal Code.
13. No temporary signs such as banners, pennants, inflatable objects, streamers, flags, or other similar attention gaining item or devices shall be displayed upon the subject property or a vehicle displaying advertisement in the parking lot of the subject property without the appropriate permits.
14. This Special Use Permit shall be reviewed biennially concurrently with the associated business license, at which time the City Council may require the termination of the use. The applicant shall be responsible for notification costs of the review. Failure to pay for these costs may result in a requirement that the Medical Marijuana Cultivation Facility be removed.
15. All medical marijuana products shall remain in the original manufacturer's configuration intended for off-sale.
16. A Medical Marijuana Cultivation Facility shall obtain all required approvals from the State of Nevada to operate such a facility prior to the Special Use Permit being exercised pursuant to LVMC 19.16.110.

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17. Conformance to all regulations pertaining to Medical Marijuana Establishments found within Nevada Revised Statute 453A and Nevada Administrative Code NAC 453A.
18. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

19. Coordinate with the Environmental Compliance Section of the Department of Public Works to determine appropriate pretreatment procedures, if any, required for industrial effluent from this facility prior to occupancy of this site or a business license for this use. Comply with the recommendations of the Environmental Compliance Section. The Section may be contacted through John Solvie, 702-229-6547 or e-mail at jsolvie@lasvegasnevada.gov.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed Medical Marijuana Cultivation Facility to be located at 2601 Highland Drive. The subject site complies with all minimum distance requirements as set forth by Title 19.12, and therefore the use can be conducted in a compatible and harmonious manner with the existing surrounding land uses and future land uses as projected by the General Plan. As such, staff recommends approval of the proposed use with standard conditions. If denied, no Medical Marijuana Cultivation Facility would be permitted to be established at this site.

ISSUES

- The Medical Marijuana Cultivation Facility use is permitted within an M (Industrial) zoning district with the approval of a Special Use Permit.
- For the subject site to be eligible for a Medical Marijuana Cultivation Facility, the subject site must be in compliance with all minimum distance separation requirements, pursuant to Title 19.12, as set forth by adopted Ordinance No. 6321.
- Simultaneous reviews of the business license application and the Special Use Permit application were conducted. If either application failed to comply with their respective requirements, both applications would have been deemed incomplete and consequently rejected.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
05/21/14	City Council approved Text Amendment (TXT-52502) to amend LVMC Chapter 19.12 related to Permitted Uses and Chapter 19.18 related to Definitions and Measures to add Medical Marijuana Dispensaries, Facilities for the Production of Edible Marijuana Products or Marijuana Infused Products and Marijuana Cultivation Facilities as permissible uses by adding zoning district applicability, descriptions and definitions for these activities as they are contemplated by SB 374 of the Nevada Revised Statutes and to provide for other related matters. Ordinance No. 6321.

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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
06/04/14	City Council approved Text Amendment (TXT-52502) to amend Las Vegas Municipal Code Title 6 to implement licensing regulations related to facilities for the production of edible marijuana products or marijuana-infused products, medical marijuana dispensaries, medical marijuana cultivation facilities, and independent testing laboratories, collectively referred to as medical marijuana establishments, in conformance with the intent of SB 374 of the 2013 session of the Nevada Legislature and to provide for other related matters. Ordinance 6324.
09/23/14	The Planning Commission voted (6-0) to recommend APPROVAL on a request for a Special Use Permit (SUP-55276) for a Medical Marijuana Dispensary at 2601 Highland Drive.
09/23/14	The Planning Commission voted (5-1) to recommend DENIAL on a request for a Special Use Permit (SUP-55290) for a proposed Medical Marijuana Cultivation Facility to be located at 2601 Highland Drive.

<i>Most Recent Change of Ownership</i>	
08/23/07	A deed was recorded for a change in ownership.

<i>Pre-Application Work Group</i>	
06/12/14 06/17/14 06/19/14 07/01/14	Multiple pre-application workgroup meetings were facilitated, in which submittal requirements for the filing of the Special Use Permit application, as well as Business Licensing applications were reviewed and supplemental handouts were given.

<i>Field Check</i>	
07/31/14	The site contains an existing two-story industrial building containing suites with no storefronts and a loading zone on the south edge of the east elevation.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.42

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Secondhand Dealer	LI/R (Light Industry/Research)	M (Industrial)
North	Office, Other Than Listed	LI/R (Light Industry/Research)	M (Industrial)
South	General Retail	LI/R (Light Industry/Research)	M (Industrial)

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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
East	Sexually Oriented Business	LI/R (Light Industry/Research)	M (Industrial)
West	General Retail	LI/R (Light Industry/Research)	M (Industrial)
	Office, Other Than Listed		

<i>Master Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
Downtown Centennial Plan Overlay District (Industrial Corridor)	Y
A-O (Airport Overlay) District (175 Feet)	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	Y
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Highland Drive	Major Collector	Master Plan of Streets and Highways Map	80	Y

Pursuant to Title 19.08 and 19.12, the following parking standards apply:

<i>Parking Requirement</i>							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>	
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Medical Marijuana Dispensary Facility	3,004 SF	1/175 SF	18				
Medical Marijuana Cultivation Facility	6,600 SF	1/1000 SF	7				
TOTAL	9,604 SF		25				

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Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
TOTAL SPACES REQUIRED			25		23		N*
Regular and Handicap Spaces Required			24	1	22	1	N*
Loading Spaces	9,604 SF		1		1		Y

*Projects located within the Las Vegas Downtown Centennial Plan area are not subject to the automatic application of parking requirements. However, the above table should be used to illustrate the requirements of an analogous project in another location in the City.

Pursuant to Title 19.12.070, the following standards apply:

<i>Wall Signs: [East Elevation]</i>			
<i>Standards</i>	<i>Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Maximum Number	1 per Street Frontage	1 sign	Y
Maximum Area	30 SF	27 SF	Y
Maximum Height	2 Feet	2 Feet	Y
Illumination	Internal (Neon Prohibited)	Internal per justification letter (no neon)	Y

ANALYSIS

The Medical Marijuana Cultivation Facility use is defined as “A fully stand-alone detached enclosed structure which cultivates, delivers, transfers, transports, supplies, or sells marijuana to medical marijuana dispensaries or medical marijuana production facilities. This use includes a “cultivation facility,” as defined in NRS 453A.056.” The justification letter states, “The Company will provide its customers with high quality medicinal marijuana. . . . A variety of marijuana strains will be safely cultivated and harvested, as influenced by customer demand. All harvested strains will be delivered safely and securely in compliance with the pertinent laws and regulations.” The floor plan illustrates a 6,600 square-foot Medical Marijuana Cultivation Facility with 5,950 square feet of enclosed cultivation area. Per the submitted justification letter and floor plan, the proposed use meets the definition outlined above.

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The Minimum Special Use Permit Requirements for this use include:

*1. Pursuant to its general authority to regulate the cultivation, production, dispensing and sale of medical marijuana, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by generally requiring a minimum separation between medical marijuana cultivation facilities and certain other uses that should be protected from the impacts associated with a medical marijuana cultivation facility. Therefore, except as otherwise provided below, no medical marijuana cultivation facility may be located within 1000 feet of any school; or within 300 feet of any individual care center licensed for more than 12 children, community recreational facility (public), City park, or church/house of worship.

The proposed use meets this requirement, as there are no schools, within 1,000 feet of the subject property, as well as there are no individual care centers licensed for more than 12 children, community recreational facilities (public) or City parks or churches/houses of worship within 300 feet of the subject property.

*2. The distance separation referred to in Requirement 1 shall be measured with reference to the shortest distance between two property lines, one being the property line of the proposed medical marijuana cultivation facility which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed medical marijuana cultivation facility. The distance shall be measured in a straight line without regard to intervening obstacles.

The proposed use meets this requirement; measurement is taken from the property line of Lot 6, Block 1 of Book 4, Page 84 of Plats, generally located south and east of Westwood Drive.

- *3. For the purpose of Requirement 2, and for that purpose only:
- a. The “property line” of a protected use refers to the property line of a fee interest parcel that has been created by an approved and recorded parcel map or subdivision map, and does not include the property line of a leasehold parcel; and
 - b. The “property line” of a medical marijuana cultivation facility refers to:
 - i. The property line of a parcel that has been created by an approved and recorded parcel map or commercial subdivision map; or
 - ii. The property line of a parcel that is located within an approved and recorded commercial subdivision and that has been created by a record of survey or legal description, if:
 - A. Using the property line of that parcel for the purpose of measuring the distance separation referred to in Requirement 1 would qualify the parcel under the distance separation requirement;

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B. The proposed medical marijuana cultivation facility will have direct access (both ingress and egress) from a street having a minimum right-of-way width of 100 feet. The required access may be shared with a larger development but must be located within the property lines of the parcel on which the proposed medical marijuana cultivation facility will be located;

The established location is within a commercial subdivision that has a recorded agreement of perpetual, reciprocal cross-access, ingress and egress throughout the commercial subdivision. The subject site is an existing commercial development and did not require the creation of a separate parcel to meet the distance separation requirements. As such, Subsection 3.b.ii is not applicable and the site is in conformance with this requirement.

*4. The use shall conform to, and is subject to, the provisions of LVMC Title 6, as such provisions may be presently adopted or hereafter amended.

The use complies and will be subject to this requirement.

*5. No outside storage shall be permitted, including the use of shipping containers for on-site storage.

The proposed use meets this requirement, as no outside storage, including shipping containers has been denoted within the submitted site plan.

*6. An air filtration system to be designed by a Nevada licensed engineer shall be provided prior to the issuance of a Certificate of Occupancy.

The proposed use shall comply with this requirement as part of the permitting process that will occur prior to the issuance of a Certificate of Occupancy.

*7. Signage for the establishment shall be limited to one wall per street frontage, the face of the sign not to exceed thirty square feet in area and not to exceed two feet in height. Such a sign shall be internally illuminated, with the use of neon prohibited.

The proposed use complies with this requirement, as the submitted building and sign elevations illustrate the location and size of one 27 square-foot internally illuminated wall sign per street frontage.

*8. The Special Use Permit shall be void without further action if the uses ceases for a period exceeding 90 days.

The use will be subject to this requirement if the Special Use Permit is approved and exercised.

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*9. A Medical Marijuana Cultivation Facility shall obtain all required approvals from the State of Nevada to operate such a facility prior to the Special Use Permit being exercised pursuant to LVMC 19.16.110.

The use will be subject to this requirement if the Special Use Permit is approved and prior to it being exercised.

The proposed use would occupy the ground floor (6,600 square feet) of an existing 9,604 square-foot standalone building, which is located on a developed commercial property at 2601 Highland Drive. The subject site does not conform to the parking requirements for the medical marijuana dispensary and medical marijuana cultivation facility uses; this is because the site plan erroneously counts a loading zone as a parking space. However, Title 19 parking requirements within the Downtown Centennial Plan area are not strictly applied, and adequate parking is located in the vicinity of the site to accommodate the uses. Other than the Minimum Special Use Permit Requirements found within Title 19.12, there are no special development requirements pertaining to the site. There are no other similar uses or protected uses within the required distance separations. For these reasons, the proposed use is deemed compatible with the surrounding uses; therefore, staff recommends approval with conditions.

FINDINGS (SUP-55290)

In order to approve a Special Use Permit application, per Title 19.16.110(L) the Planning Commission and City Council must affirm the following:

1. The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.

The subject site complies with all minimum distance requirements as set forth by Title 19.12 and therefore the use can be conducted in a compatible and harmonious manner with the existing surrounding land uses and future land uses as projected by the General Plan.

2. The subject site is physically suitable for the type and intensity of land use proposed.

The site contains an existing 9,604 square-foot standalone building. Located within the Downtown Centennial Plan Overlay District, this site contains adequate parking for both a medical marijuana dispensary and cultivation facility. The proposed uses do not generate the need for any additional parking spaces beyond what has been provided onsite, although additional parking is available in the vicinity.

3. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.

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The proposed Medical Marijuana Cultivation Facility can be accessed from Highland Drive, an 80-foot Major Collector as depicted on the Master Plan of Streets and Highways, which has adequate capacity to serve the proposed development. Secondary access is also provided from a rear alley to the west of the subject site.

4.Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.

The proposed Medical Marijuana Cultivation Facility use will be subject to regular City and County inspections for licensing and will therefore not compromise the public health, safety, and general welfare or any objective of the General Plan.

5.The use meets all of the applicable conditions per Title 19.12.

The proposed Medical Marijuana Cultivation Facility use meets all distance separation requirements per Title 19.12. Conditions of approval will ensure conformance with all other minimum requirements for this use.

NOTICES MAILED

92 (By City Clerk)

APPROVALS

2

PROTESTS

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