



AGENDA MEMO - PLANNING

SPECIAL CITY COUNCIL MEETING DATE: OCTOBER 28, 2014
DEPARTMENT: PLANNING
ITEM DESCRIPTION: APPLICANT: HERBAL CHOICE, INC. - OWNER: NVDD HOLDINGS RP5, LLC

**** STAFF RECOMMENDATION(S) ****

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-55299	Staff recommends APPROVAL, subject to conditions:	N/A

**** CONDITIONS ****

SUP-55299 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Medical Marijuana Dispensary use.
2. No physician or medical person making recommendations for medical marijuana may be located within a dispensary.
3. 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.
4. All development shall be in conformance with the site plan, building elevations and floor plan, date stamped 08/04/14, and sign elevations, date stamped 07/23/14, 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.
5. 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.

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6. A revised site plan must be submitted prior to the issuance of building permits or a business license that indicates the placement of at least two on-site loading spaces as required by and in compliance with Title 19.08.110(D).
7. 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.
8. 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.
9. 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.
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 the City for these costs may result in a requirement that the Medical Marijuana Dispensary be removed.
15. All medical marijuana products shall remain in the original manufacturer's configuration intended for off-sale.
16. A Medical Marijuana Dispensary 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.
17. Conformance to all regulations pertaining to Medical Marijuana Establishment found within Nevada Revised Statute 453A and Nevada Administrative Code NAC 453A.

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18. Conformance to the associated final recommendation of the Downtown Design Review Committee (DDRC) shall be required.
19. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed Medical Marijuana Dispensary to be located at 800 West Mesquite Avenue. 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 Dispensary would be permitted to be established at this site.

ISSUES

- The Medical Marijuana Dispensary use is permitted within an M (Industrial) zoning district with the approval of a Special Use Permit.
- The subject building elevations and signage has been reviewed and approved by the Downtown Design Review Committee (DDRC) on August 19th, 2014.
- For the subject site to be eligible for a Medical Marijuana Dispensary 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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Related Relevant City Actions by P&D, Fire, Bldg., etc	
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.
08/19/14	The Downtown Design Review Committee approved the building elevations and signage for the proposed Medical Marijuana Dispensary.
09/23/14	Planning Commission will hear a request for a Special Use Permit (SUP-55303) for a proposed 12,000 square-foot Medical Marijuana Cultivation Facility in a separate building on the subject site.

Most Recent Change of Ownership	
03/20/14	A deed was recorded for a change in ownership.

Pre-Application Work Group	
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.

Field Check	
08/14/14	Site is generally in clean and in good repair. There is graffiti on the masonry wall just east of the entrance to the site. Parking areas stripping is hard to see.

Details of Application Request	
Site Area	
Net Acres	3.91 Acres

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Vacant	LI/R (Light Industrial/Research)	M (Industrial)
North	ROW (I-15)	ROW	ROW

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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>
South	ROW (US95)	ROW	ROW
East	Building & Landscape Material/Lumber Yard	LI/R (Light Industrial/Research)	M (Industrial)
West	ROW (I-15)	ROW	ROW

<i>Master Plan Areas</i>	<i>Compliance</i>
Downtown North Plan	Y
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
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	N/A
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>
Mesquite Avenue	Local Collector	Title 19.04 Complete Streets	55 feet	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>Parking Ratio</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>
			<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Medical Marijuana Dispensary Facility	1,360	1/175 SF	8				
Medical Marijuana Cultivation Facility	11,305	1/1000 SF	12				

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Parking Requirement							
<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	
Vacant (Warehouse)	4,375	1/1000 SF	5				
TOTAL SPACES REQUIRED			25		29		Y
Regular and Handicap Spaces Required			24	1	27	2	Y
Loading Spaces			2		None marked, plenty of space available		N *

* an “if approved” condition has been added requiring the submission of a revised site plan that shows at least two designated loading spaces that comply with the on-site loading space design standards per Title 19.08.110(D).

Wall Signs: [North Elevation]			
<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	12 SF	Y
Maximum Height	2 Feet	2 Feet	Y
Illumination	Internal (Neon Prohibited)	Internal	Y

ANALYSIS

The Medical Marijuana Dispensary use is defined as “An establishment which acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card. This use includes a “medical marijuana dispensary,” as defined in NRS 453A.115.” The justification letter states, “A Dispensary is an appropriate for this location and it will serve the diverse and underserved population of the Downtown North Land Use planning area. The Dispensary will also renovate a vacant building and encourage activity in an otherwise under-utilized area of downtown Las Vegas.” The floor plan illustrates an approximately 1,360 square-foot Medical Marijuana Dispensary with approximately 652 square feet of waiting, queuing and transaction space. 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 a medical marijuana dispensary and certain other uses that should be protected from the impacts associated with a medical marijuana dispensary. Therefore, except as otherwise provided below, no medical marijuana dispensary 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 dispensary 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 dispensary. 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 parcel 139-28-802-001, located at the terminus of West Mesquite Avenue east of the I-15.

- * 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 dispensary 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;
 - B. The proposed medical marijuana dispensary 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 dispensary will be located;

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C. All parking spaces required by this Section 19.12.070 for the medical marijuana dispensary use will be located on the same parcel as the use; and

D. The owners of all parcels within the commercial subdivision, including the owner of agreement, satisfactory to the City Attorney, that provides for 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 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. Subject to the requirements of applicable building and fire codes, public access to the building shall be from one point of entry and exit, with no other access to the interior of the building permitted.

The submitted floor plan indicates only one public access point to the proposed Medical Marijuana Dispensary.

*7. No drive-through facilities shall be permitted in conjunction with a medical marijuana dispensary.

The proposed use complies with this requirement as the submitted site plan illustrates no drive-through facilities as part of the subject site.

*8. Signage for the establishment shall be limited to one wall sign 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 12 square-foot internally illuminated wall sign per street frontage.

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*9. 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.

*10. A medical marijuana dispensary 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.

*11. Elevations and signage must first be reviewed by the Downtown Design Review Committee established pursuant to LVMC 19.10.100(D)(1) prior to any public hearing for a Special Use Permit. The review will be performed in accordance with the procedures set forth in LVMC 19.10.100(D), as in the case of reviews normally performed by that Committee, but measuring compliance instead with the substantive standards for elevations and signage pertaining to dispensaries that are set forth in this Title or that have been established administratively by the Director.

The proposed building elevations and signage were reviewed and approved by the Downtown Design Review Committee (DDRC) on August 19th, 2014.

*12. No medical marijuana dispensary shall be located on any property which abuts Fremont Street west of 8th Street.

The use complies with this requirement as the subject site does not abut Fremont Street, west of 8th Street.

*13. No accessory uses are permitted in association with a medical marijuana dispensary.

The use will be subject to this requirement if the Special Use Permit is approved and will remain in effect the duration the use is active.

The proposed use would be placed within a 1,360 square-foot standalone building located within a developed industrial property located along West Mesquite Avenue. The subject site facilitates the required parking for the proposed use. 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-55299)

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 three industrial buildings. This site contains adequate parking for all uses, and the proposed use does not generate the need for any additional parking spaces beyond what has been provided onsite.

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.

The proposed Medical Marijuana Dispensary can be accessed from West Mesquite Avenue, a 55-foot Local Collector, which has adequate capacity to serve the proposed development.

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 Dispensary 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 Dispensary use meets all distance separation requirements per Title 19.12. Conditions of approval will ensure conformance with all other minimum requirements for this use.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 26

NOTICES MAILED 111 (By City Clerk)

APPROVALS 2

PROTESTS 6