



AGENDA MEMO - PLANNING

SPECIAL CITY COUNCIL MEETING DATE: OCTOBER 29, 2014

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: NULEAF CULTIVATION CLV, LLC - OWNER: POZEMKI, LLC

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-55287	Staff recommends APPROVAL, subject to conditions:	N/A

**** CONDITIONS ****

SUP-55287 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 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. 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.
10. Approval of this Special Use Permit does not constitute approval of a medical marijuana facility license.
11. This business shall operate in conformance to Chapter 6.95 of the City of Las Vegas Municipal Code.
12. 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.
13. 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 Cultivation Facility be removed.
14. All medical marijuana products shall remain in the original manufacturer's configuration intended for off-sale.
15. 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.
16. Conformance to all regulations pertaining to Medical Marijuana Establishment found within Nevada Revised Statute 453A and Nevada Administrative Code NAC 453A.
17. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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Public Works

18. 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 email 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 1018 Commerce Street. 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.
09/30/14	The Planning Commission (5-0-2 vote) recommends APPROVAL of a request for a Special Use Permit for a proposed Medical Marijuana Cultivation Facility to be located at 1018 Commerce Street (SUP-55287).

<i>Most Recent Change of Ownership</i>	
12/27/12	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	Staff visited the site and found a warehouse building. The property was clean and well maintained.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	.40

<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	Warehouse	LI/R (Light Industrial / Research)	M (Industrial)
North	Undeveloped	LI/R (Light Industrial / Research)	M (Industrial)
South	Warehouse	LI/R (Light Industrial / Research)	M (Industrial)
East	NV Energy Substation	C (Commercial)	C-M (Commercial/Industrial)
West	Union Pacific Railroad	LI/R (Light Industrial / Research)	M (Industrial)

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<i>Master Plan Areas</i>	<i>Compliance</i>
Downtown Centennial Plan	Y
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
Downtown Centennial Plan (Downtown South District)	Y
A-O (Airport Overlay) District – 200 Feet	Y
Live/Work Overlay District	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Las Vegas Redevelopment Plan Area	Y
Trails	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

The subject site is within the Downtown South District of the Downtown Centennial Plan, the Airport Overlay District, the Live/Work Overlay District, and the Las Vegas Redevelopment Plan Area. The proposed Medical Marijuana Cultivation Facility meets all applicable requirements of these plan and overlay areas.

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>
Commerce	45' Local Street	N/A	45 Feet	N/A

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

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Medical Marijuana Cultivation Facility	21,307	1/1000 SF	22				
TOTAL SPACES REQUIRED			22		5		N*
Regular and Handicap Spaces Required			21	1	5	1	N*
Loading Spaces			1		0		N*

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*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. The subject site has significantly fewer parking spaces than would a similar use not located within the Downtown Centennial Plan Area.

<i>Wall Signs: [type in sign reference]</i>			
<i>Standards</i>	<i>Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Maximum Number	1 per Street Frontage	None	Yes
Maximum Area	30 SF	None	Yes
Maximum Height	2 Feet	None	Yes
Illumination	Internal (Neon Prohibited)	None	Yes

The building elevations indicate no signage for this proposed medical marijuana cultivation facility. Current code allows for a cultivation facility to have one 30 square-foot internally illuminated wall sign with a maximum height of two feet. Signage for Medical Marijuana Cultivation Facilities is not required to be reviewed by the Downtown Design Review Committee.

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, “NuLeaf will take great care to ensure the building is well secured and proper surveillance is maintained at all times. The building’s outer appearance will be inconspicuous and no indication for the use will be recognizable from outside the building.” The floor plan illustrates a 21,307 square-foot Medical Marijuana Cultivation Facility with 13,637 square feet of enclosed cultivation area. Per the submitted justification letter and floor plan, the proposed use meets the definition outlined above.

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.

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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 a portion of the Southeast quarter of the Southeast quarter of Section 33, Township 20, Range 61.

- *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;
 - 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 subject site is a standalone parcel and did not require the creation of a separate parcel to meet the distance separation requirements. As such, subsection b.ii is not applicable to the site and the site is in conformance with this requirement. The proposed use meets this requirement, as the measurement to the protected uses was determined using the specified method in Requirement Two. The distance to the protected uses was taken from the property line of the subject site.

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*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.

There is currently no proposed signage depicted on the building elevations. Any future signage will be required to be in conformance with the provisions of the above section. Downtown Design Review Committee review and approval is not required for medical marijuana cultivation facilities.

*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.

*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 be placed within a 21,307 square-foot standalone building located on an industrial parcel located along Commerce Street. The subject site has significantly fewer parking spaces than would a similar use not located within the Downtown Centennial Plan Area; however, projects located within the plan area are not subject to the automatic application of standard parking requirements. 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.

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FINDINGS (SUP-55287)

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 subject site has significantly fewer parking spaces than would a similar use not located within the Downtown Centennial Plan Area; however, projects located within the plan area are not subject to the automatic application of standard parking requirements.

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 Cultivation Facility can be accessed from Commerce Street, a 45-foot wide street that 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 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.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 31

NOTICES MAILED 301 (By City Clerk)

APPROVALS 4

PROTESTS 21