



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2018

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: NEVADA MEDICAL GROUP - OWNER: SSG PROPERTIES, LLC

** STAFF RECOMMENDATION(S) **

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
SUP-73826	Staff recommends APPROVAL, subject to conditions:	

** NOTIFICATION **

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 35

NOTICES MAILED 1739

PROTESTS 49

APPROVALS 4

**** CONDITIONS ****

SUP-73826 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Marijuana Dispensary 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. 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 date stamped and floor plan date stamped 06/28/18, 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. 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.
6. 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.
7. 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.
8. The presence of minors on the premises of a 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.

**Conditions Page Two
September 11, 2018 - Planning Commission Meeting**

9. Approval of this Special Use Permit does not constitute approval of a Marijuana Dispensary license.
10. This business shall operate in conformance to Chapter 6 of the City of Las Vegas Municipal Code.
11. A Marijuana Dispensary 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.
12. Conformance to all regulations pertaining to Marijuana Establishment found within Nevada Revised Statute 453A and 453D, and Nevada Administrative Code NAC 453A and 453D.
13. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Staff Report Page One
September 11, 2018 - Planning Commission Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed 2,646 square-foot Marijuana Dispensary to be located at 1591 North Buffalo Drive, Suite #130.

ISSUES

- The Marijuana Dispensary use is permitted within a C-1 (Limited Commercial) zoning district with the approval of a Special Use Permit.
- The subject site is in compliance with all minimum distance separation requirements pursuant to Title 19.12 pertaining to a Marijuana Dispensary use, as set forth by adopted Ordinance No. 6321.
- On October 29th, 2014 the City Council approved Special Use Permit (SUP-55284) to operate a proposed 1,630 square-foot Medical Marijuana Dispensary within suite #130 of the subject site.

ANALYSIS

The 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. This use includes a "medical marijuana dispensary," as defined in NRS 453A.115 and a "retail marijuana store" as defined in NRS 453D.030." 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 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 marijuana dispensary and certain other uses that should be protected from the impacts associated with a marijuana dispensary. Therefore, except as otherwise provided below, no marijuana dispensary may be located within 1000 feet of any school, or within 300 feet of any of the following uses:
- a. City park;
 - b. Church/house of worship;
 - c. Individual care - family home, individual care - group home, or individual care center (in each case licensed for the care of children);
 - d. Community recreational facility (public); or

Staff Report Page Two
September 11, 2018 - Planning Commission Meeting

e. Any use whose primary function is to provide recreational opportunities to minors. Such uses include without limitation commercial recreation/amusement (indoor or outdoor); library, art gallery or museum (public); teen dance center; and martial arts studio that provides instruction to minors.

The proposed use meets this requirement, the applicant submitted a survey demonstrating that 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 or recreational opportunities to minors 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 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 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 (APN 138-28-501-009).

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

Staff Report Page Three
September 11, 2018 - Planning Commission Meeting

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, condition #3 is not applicable and the site is in conformance with this requirement.

* 4. When a retail marijuana store authorized pursuant to NRS Chapter 453D (the "Chapter 453D facility") is proposed to be located within a medical marijuana dispensary that is authorized pursuant to NRS Chapter 453A (the "Chapter 453A facility"), and the Chapter 453A facility has obtained special use permit approval as of July 1, 2017, the applicable distance separation requirements under Requirement 1 for the proposed Chapter 453D facility shall be those that were in effect at the time of special use permit approval for the Chapter 453A facility. A Chapter 453D facility that has received special use permit approval, either pursuant to a new special use permit or by means of a review of conditions under an existing special use permit, shall be deemed a conforming use for purposes of this Title.

This location was not licensed prior to July 1, 2017; as such condition #4 is not applicable as the site is in conformance with the requirement.

* 5. The use shall conform to, and is subject to, the provisions of LVMC Title 6, as they presently exist and may be hereafter amended.

The use complies will require approval of a business license and continual inspections to verify it is in compliance with Title 6 requirements.

* 6. 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.

* 7. 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.

Per the submitted floor plan, the proposed use will have one primary public access door on the north perimeter of the building which provides access to a waiting room and therefore conforms to this requirement.

Staff Report Page Four
September 11, 2018 - Planning Commission Meeting

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

The proposed use meets this requirement, as no drive-through facilities are proposed with this location.

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

The Department of Planning - Business Licensing division will monitor and require compliance with this requirement should the use cease.

* 10. A 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 Department of Planning - Business Licensing division will coordinate with the State of Nevada to assure that this requirement is met prior to the issuance of a business license.

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

This condition is not applicable, as the subject site is not located on property which abuts Fremont Street west of 8th Street.

* 12. No accessory uses are permitted in association with a marijuana dispensary unless such a use relates to providing education regarding the use of marijuana.

The applicant has not proposed any associated uses with the proposed Marijuana Dispensary use. The Department of Planning - Business Licensing division will assure all activities are educational.

On October 29th, 2014 the City Council approved Special Use Permit (SUP-55284) to operate a proposed 1,630 square-foot Medical Marijuana Dispensary within suite #130 of the subject site. However, the previous entitlement was allowed to expire on April 29th, 2016 as no business license was issued within 18 months of the previous approval. The applicant has requested to re-establish the previous land use approval for a Marijuana Dispensary at 1591 North Buffalo Drive, Suite #130. The applicant has amended this request to include the adjacent suite #120, which brings the total tenant space square-footage to 2,646 square-feet.

Staff Report Page Five
September 11, 2018 - Planning Commission Meeting

The subject site provides 38 parking spaces where 59 parking spaces are required for the commercial development and conforms to Title 19.12 parking requirements for the Marijuana Dispensary use. A Variance (V-0014-00) was approved June 21st, 2000 to allow 40 parking spaces where 49 were required. Two parking spaces were removed when the Wireless Communication Facility was constructed in 2002. The plans approved by Required Review (RQR-29776) in 2008 did not take this into consideration when eliminating two additional parking spaces to provide for the Wireless Communication Facility, leaving a total of 38 parking spaces on site. The site is currently legally non-conforming as the proposed use does not impact required parking. In addition, current parking requirements for a 10,257 square-foot retail center require 59 parking spaces where 49 were required at the time of construction; therefore, the subject site is parking impaired.

Other than the Minimum Special Use Permit Requirements found within Title 19.12, there are no special development requirements pertaining to the site. The subject site is an existing commercial development which can accommodate the intensity of the proposed use.

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 subject to conditions. If denied, no Marijuana Dispensary use would be permitted to be established at this site.

FINDINGS (SUP-73826)

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.

Staff Report Page Six
September 11, 2018 - Planning Commission Meeting

The applicant has proposed a 2,646 square-foot Marijuana Dispensary within an existing 10,257 square-foot retail center. While the site is parking impaired and legally non-conforming, there are no code enforcement complaints regarding a shortage of parking. As this retail center has been in existence since completion in 2000 and this proposed use would not exacerbate existing parking beyond that of previous retail tenants, 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 Marijuana Dispensary can be accessed from Buffalo Drive, a 100-foot Primary Arterial that has adequate capacity to serve the proposed development. Secondary access is also provided from Vegas Drive, an 80-foot Major Collector, as depicted on the Master Plan of Streets and Highways.

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 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 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.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc</i>	
04/17/96	The City Council approved a request for Rezoning (Z-0021-96) from N-U (Non-Urban) to C-1 (Limited Commercial) for a proposed 82,000 square-foot one and two story mini-storage facility, 10,000 square-foot office building, and a 5,000 square-foot bank on property located on the southwest corner of Buffalo Drive and Vegas Drive. The Planning Commission recommended approval.

Staff Report Page Seven

September 11, 2018 - Planning Commission Meeting

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc</i>	
06/09/96	The City Council approved a request for an Extension of Time [Z-0021-96(1)] of a previously approved Rezoning (Z-0021-96) for a mini-storage facility, office building and bank under resolution of intent to C-1 (Limited Commercial) on property located on the southwest corner of Buffalo Drive and Vegas Drive. The Planning Commission recommended approval.
06/08/98	The City Council approved a request for a Special Use Permit (U-0037-98) for the Off-Premise Sale of Beer and Wine in conjunction with a proposed Convenience Store at the southwest corner of Buffalo Drive and Vegas Drive. The Planning Commission recommended approval.
	The City Council approved a related request for a Site Development Plan Review [Z-0021-96(2)] for a proposed 4,097 square-foot Convenience Store and 6,160 square feet of retail shops at the southwest corner of Buffalo Drive and Vegas Drive. The Planning Commission recommended approval.
01/05/99	The Board of Zoning Adjustment approved a request for a Variance (V-0097-98) to allow a zero foot rear yard setback where 20 feet is required in conjunction with a proposed 10,000 square-foot retail center at the southwest corner of Buffalo Drive and Vegas Drive.
06/21/00	The City Council approved a request for a Variance (V-0014-00) to allow 40 parking spaces where 49 spaces are the minimum required for a proposed retail center and convenience store at the southwest corner of Buffalo Drive and Vegas Drive. The Board of Zoning Adjustment recommended denial.
09/19/01	The City Council approved a request for a Required Review [V-0014-00(1)] of a previously approved Variance (V-0014-00) to allow 40 parking spaces where 49 spaces are the minimum required for an existing retail center and convenience store at the southwest corner of Buffalo Drive and Vegas Drive. The Planning Commission recommended approval.
10/15/08	The City Council approved a request for a Required Review (RQR-29776) of a previously approved Variance (V-0014-00) to allow 40 parking spaces where 49 spaces are the minimum required for an existing retail center and convenience store at the southwest corner of Buffalo Drive and Vegas Drive. Staff recommended approval.
07/18/12	The City Council approved a request for a Review of Condition (ROC-45492) of a previously approved Special Use Permit (U-0037-98) to delete Condition #1 that states, "The sale of individual cans and quart size or similar size bottles of beer shall be prohibited" at the subject site. Staff recommended approval.

Staff Report Page Eight
September 11, 2018 - Planning Commission Meeting

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc</i>	
05/21/14	The 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.
06/04/14	The 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.
10/29/14	The City Council approved a request for a Special Use Permit (SUP-55284) for a proposed 1,630 square-foot Medical Marijuana Dispensary at 1591 North Buffalo Drive, Suite #130. The Planning Commission gave no recommendation and staff recommended approval of the request.
08/14/18	The Planning Commission voted (7-0) to hold SUP-73286 [PRJ-73684] in abeyance to the September 11, 2018 Planning Commission meeting.

<i>Most Recent Change of Ownership</i>	
01/21/14	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
10/24/13	A business license (#S25-98532) was denied for a Secondhand Dealer (The Haute Shoppe) at 1591 North Buffalo Drive, Suite #130. The license was not issued.
11/20/13	A building permit (#249320) was issued for tenant improvements (The Haute Shoppe) at 1591 North Buffalo Drive, Suite #130. The permit has not been finalized.

Staff Report Page Nine
September 11, 2018 - Planning Commission Meeting

Pre-Application Meeting	
06/13/18	A Pre-Application meeting was conducted with the applicant to review the application materials and submittal requirements for a Special Use Permit for the re-establishment of an expired entitlement for a Marijuana Dispensary use.

Neighborhood Meeting
A Neighborhood meeting was not required, nor was one held.

Field Check	
07/05/18	Staff conducted a field check of the subject site and found the subject site to be a well-maintained retail center.

Details of Application Request	
Site Area	
Net Acres	1.13

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Convenience Store and Retail Establishments	SC (Service Commercial)	C-1 (Limited Commercial)
North	Single-Family Residences	SF3 (Single Family Detached)	P-C (Planned Community)
South	Mini-Storage Facility	SC (Service Commercial)	C-1 (Limited Commercial)
East	Retail Establishment	SC (Service Commercial)	C-1 (Limited Commercial)
West	Condominiums	M (Medium Density Residential)	R-PD14 (Residential Planned Development - 14 Units per Acre)

Master and Neighborhood Plan Areas	Compliance
No Applicable Master Plan Area	N/A

Staff Report Page Ten
September 11, 2018 - Planning Commission Meeting

<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (200 Feet)	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	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>
Buffalo Drive	Primary Arterial	Master Plan of Streets & Highways	105	Y
Vegas Drive	Major Collector	Master Plan of Streets & Highways	85	Y

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	
General Retail Store, Other Than Listed	10,257 SF (Including 2,646 SF Marijuana Dispensary)	1:175	59				
TOTAL SPACES REQUIRED			59		38		*Y
Regular and Handicap Spaces Required			56	3	36	2	*Y
Loading Spaces			2		1		**Y

*V-0014-00 was approved 06/21/00 to allow 40 parking spaces where 49 were required. Two parking spaces were removed when the Wireless Communication Facility was constructed in 2002. The plans approved by Required Review (RQR-29776) in 2008 did not take this into consideration when eliminating two additional parking spaces to provide for the Wireless Communication Facility, leaving a total of 38 parking spaces on

Staff Report Page Eleven

September 11, 2018 - Planning Commission Meeting

site. The site is currently legally non-conforming as the proposed use does not impact required parking. In addition, current parking requirements for a 10,257 square-foot retail center require 59 parking spaces where 49 were required at the time of construction; therefore, the subject site is parking impaired.

** The existing 10,257 square-foot retail center was approved with one loading space where two are currently required.