



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2018

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: CHALICE FARMS - OWNER: PALENSKY
PROPERTIES I, LTD

** STAFF RECOMMENDATION(S) **

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
SUP-73811	Staff recommends APPROVAL, subject to conditions:	

** NOTIFICATION **

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 18

NOTICES MAILED 876

PROTESTS 23

APPROVALS 0

**** CONDITIONS ****

SUP-73811 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Marijuana Dispensary use.
2. Conformance to the approved conditions for Plot Plan and Building Elevation Review (Z-0079-88) shall be required.
3. 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 use be removed.
4. Approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
5. All development shall be in conformance with the site plan and floor plan date stamped 06/27/18, except as amended by conditions herein. Any modification of the premises of a 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.
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.

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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.
9. 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.
10. Approval of this Special Use Permit does not constitute approval of a Marijuana Dispensary license.
11. 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.
12. This business shall operate in conformance to Chapter 6.95 of the City of Las Vegas Municipal Code.
13. Conformance to all regulations pertaining to a Marijuana establishment found within Nevada Revised Statute (NRS) 453A and 453D, and Nevada Administrative Code (NAC) 453A and 453D.
14. 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.
15. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed Marijuana Dispensary to be located at 9140 West Sahara Avenue.

ISSUES

- The Marijuana Dispensary use is permitted within the C-1 (Limited Commercial) zoning district with the approval of a Special Use Permit.

ANALYSIS

The Marijuana Dispensary use is defined by Title 19.12 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.”

The Minimum Special Use Permit Requirements for this use include:

Requirement 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
- 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.

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The proposed use meets this requirement as the subject site is not within 1,000 feet of a school, or 300 feet from a City Park, Church/House of Worship, Individual Care Center, community recreational facility, or use geared towards minors.

Requirement 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 as this is the measurement method utilized in determining compliance with Requirement Number One.

Requirement 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
 - 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.

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The proposed use meets this requirement as this is the measurement method utilized in determining compliance with Requirement Number One.

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.

The proposed use meets this requirement as this requirement will apply if approved.

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 proposed use meets this requirement as this requirement will apply if approved.

Requirement 6: No outside storage shall be permitted, including the use of shipping containers for on-site storage.

The proposed use meets this requirement as this requirement will apply if approved.

Requirement 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.

The proposed use meets this requirement as this requirement will apply if approved.

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

The proposed use meets this requirement as this requirement will apply if approved.

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

The proposed use meets this requirement as this requirement will apply if approved.

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Requirement 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 proposed use meets this requirement as this requirement will apply if approved.

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

The proposed use meets this requirement as the subject site does not abut Fremont Street.

Requirement 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 proposed use meets this requirement as requirement will apply if approved.

The proposed use would be located within a 4,800 square-foot free standing structure located within an existing shopping center located on the northeast corner of Sahara Avenue and Fort Apache Road. The shopping center has two frontages, Sahara Avenue and Fort Apache Road Road, with the subject site fronting Sahara Avenue. The subject site facilitates the required parking for the proposed use as it is part of a large shopping center. Other than the Minimum Special Use Permit Requirements found within Title 19.12, there are no special development requirements pertaining to the site; nor are there any 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-73811)

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.

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

The subject site is located within an existing shopping center. This site contains adequate parking for the proposed Marijuana Dispensary and all other existing 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 both Sahara Avenue and Fort Apache Road. Both are Primary Arterials as defined by the Master Plan of Streets and Highways and are adequate in size to meet the requirements of the proposed use.

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 inspections by multiple governmental agencies to ensure compliance 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.

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 Marijuana Dispensary would be permitted to be established at this site.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
09/21/88	The City Council approved a request for the Reclassification of Property (Z-0079-88) located on the northeast corner of Fort Apache Road and Sahara Avenue from N-U (Non-Urban) under Resolution of Intent to R-PD18 and C-1, to R-PD18 (Residential Planned Development) and C-1 (Limited Commercial) for a proposed Commercial Development and Multi-Family Residential Development.
01/24/89	The Planning Commission approved a request for a Plot Plan Review (Z-0079-88) for a proposed shopping center on property located on the northeast corner of Fort Apache Road and Sahara Avenue.
08/14/18	The Planning Commission voted (7-0) to hold SUP-73811 [PRJ-72512] in abeyance to the September 11, 2018 Planning Commission meeting.

<i>Most Recent Change of Ownership</i>	
08/06/99	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
03/19/93	A building permit (#93180297) was issued for onsite improvements at 9140 West Sahara Avenue. The permit expired on 03/19/94.
	A building permit (#93180298) was issued for a new building at 9140 West Sahara Avenue. The permit expired on 03/19/94.
03/23/93	A building permit (#93180653) was issued for a new building (electrical) at 9140 West Sahara Avenue. The permit received its final inspection on 06/30/93.
03/25/93	A building permit (#93180984) was issued for a new building (plumbing) at 9140 West Sahara Avenue. The permit received its final inspection on 06/23/93.
04/29/93	A building permit (#93184986) was issued for a new building (HVAC system) at 9140 West Sahara Avenue. The permit expired on 03/15/03.
05/17/93	A building permit (#93187224) was issued for a sign at 9140 West Sahara Avenue. The permit expired on 03/19/94.
06/09/93	A building permit (#93189833) was issued for a retaining wall at 9140 West Sahara Avenue. The permit received its final inspection on 06/11/93.
06/30/93	A building permit (#93192463) was issued for a telephone system at 9140 West Sahara Avenue. The permit expired on 03/19/94.

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Related Building Permits/Business Licenses	
07/08/93	A building permit (#93193349) was issued for a monument sign at 9140 West Sahara Avenue. The permit expired on 03/19/94.
12/09/02	A building permit (#2021967) was issued for a sign at 9140 West Sahara Avenue. The permit expired on 06/07/03.

Pre-Application Meeting	
04/24/18	A pre-application meeting was conducted to discuss the submittal requirements for a Special Use Permit and the special requirements for a marijuana dispensary.

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

Field Check	
07/03/18	Staff observed the subject site during a routine field check. Nothing of concern was noted by staff, as the subject building is currently vacant.

Details of Application Request	
Site Area	
Net Acres	0.51

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Multi-Family	M (Medium Density Residential)	R-PD18 (Residential Planned Development – 18 Units Per Acre)
South	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
East	Multi-Family	M (Medium Density Residential)	R-PD18 (Residential Planned Development – 18 Units Per Acre)
West	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)

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Master and Neighborhood Plan Areas	Compliance
No Applicable Master Plan Area	N/A
Special Area and Overlay Districts	Compliance
No Applicable Special Area or Overlay Districts	N/A

Other Plans or Special Requirements	Compliance
Canyon Gate	Y
Sahara West	Y
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

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Sahara Avenue	Primary Arterial	Master Plan of Streets and Highways	140	Y
Fort Apache Road	Primary Arterial	Master Plan of Streets and Highways	110	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	
Marijuana Dispensary	4,800 SF	1:175	28				
TOTAL SPACES REQUIRED			28		408		Y*
Regular and Handicap Spaces Required			26	2	394	14	Y*

*The subject site is part of a shopping center (Z-0079-88) previously approved on 01/24/89 by the Planning Commission.