



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: SEPTEMBER 10, 2024
DEPARTMENT: COMMUNITY DEVELOPMENT
ITEM DESCRIPTION: APPLICANT: NEVCANN, LLC - OWNER: GDC REALTY, LLC

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0354-SUP1	Staff recommends APPROVAL, subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

NOTICES MAILED 266

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

24-0354-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Cannabis Cultivation Facility use.
2. This 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.
3. 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 Building and Safety Division.
4. 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.
5. An air filtration system to be designed by a Nevada licensed engineer shall be provided prior to the issuance of a certificate of occupancy.
6. Cultivation is limited to the interior of the building.
7. 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.
8. All development shall be in conformance with the site plan and floor plan date stamped 07/17/24, except as amended by conditions herein. Any modification of the premises of a cannabis 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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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 Cannabis Cultivation Facility license.
11. A Cannabis 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.
12. The presence of minors on the premise of a cannabis 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.
13. All cannabis products shall remain in the original manufacturer's configuration intended for off-sale.
14. This business shall operate in conformance to Chapter 6.95 of the City of Las Vegas Municipal Code.
15. Conformance to all regulations pertaining to a Cannabis Establishment found within Nevada Revised Statutes (NRS) 678A, 678B, 678C, 678D and Nevada Administrative Code (NAC) 453A and 453D.
16. 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.
17. 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

The applicant is requesting a Special Use Permit for a Cannabis Cultivation Facility within an existing building at 2310 Western Avenue.

ISSUES

- A Cannabis Cultivation Facility use requires approval of a Special Use Permit in the M (Industrial) zoning district prior to issuance of a business license for this activity.
- A Special Use Permit (SUP-77269) was previously approved for a Marijuana Cultivation Facility at this location and was active until May 30, 2024. The proposed use is subject to all current Title 19.12 minimum Special Use Permit requirements.
- During a field check, staff noted that portions of the perimeter were enclosed by chain link fencing with either barbed wire, razor wire, or both. Title 19.08 states that such material is not acceptable for use in screen or perimeter walls unless part of an overall development plan. Code Enforcement has been notified of this issue.

ANALYSIS

The site is zoned M (Industrial), is located in the Design District of the Downtown Las Vegas Overlay District in Area 1 and is subject to the requirements of Title 19.10.110 and the Interim Downtown Las Vegas Development Standards in Title 19 Appendix F. The Cannabis Cultivation Facility use requires approval of a Special Use Permit in the M (Industrial) zoning district prior to issuance of a business license for this activity.

The use was previously entitled at this location in 2019 (as a “Marijuana Cultivation Facility” through SUP-77269) and exercised in 2021, but became void May 30, 2024, 90 days after the associated business license was revoked. The new operators of the facility were unaware of the 90-day expiration provision (found in 19.12.070 Special Use Permit Requirement Number 8 at the time of approval) and seek to reestablish the use at this location. Since the previous approval, portions of the interior have been remodeled.

A new land use survey submitted by the applicant indicates that the proposed cultivation facility meets all distance separation requirements from protected uses, which include city parks, churches, child care facilities, community recreational facilities and uses whose primary function is to provide recreational opportunities to minors.

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There is no parking onsite; however, Title 19.12 parking requirements do not automatically apply in the Las Vegas Downtown Overlay District Area 1. The facility has operated in the past utilizing on-street parking only without issue.

The Cannabis Cultivation Facility use is defined as “an enclosed structure which cultivates, delivers, transfers, transports, supplies, or sells cannabis to cannabis dispensaries or cannabis production facilities. This use includes an adult-use cannabis cultivation facility and a medical cannabis cultivation facility, as defined in NRS Chapter 678A.” The proposed use will cultivate cannabis and supply it to other facilities in accordance with this definition.

The Minimum Special Use Permit Requirements for this use include (a preceding asterisk indicates the requirement is nonwaivable):

- *1. Pursuant to its general authority to regulate the cultivation, production, dispensing, and sale of cannabis, 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 distance separation between cannabis cultivation facilities and certain other uses that should be protected from the impacts associated with a cannabis cultivation facility. Therefore, except as otherwise provided in these Requirements, no cannabis cultivation facility 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.

The proposed use meets this requirement, as there are no schools within 1,000 feet of the subject property and no city parks, churches/houses of worship, individual care facilities licensed for the care of children, public community recreational facilities or any use whose primary function is provide recreational opportunities to minors within 300 feet of the property.

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

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If approved, the proposed use must conform to current and future provisions of LVMC Title 6 in order to obtain and maintain a business license for the Cannabis Cultivation Facility.

- *3. 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, are shown on the submitted site plan.

- *4. 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 existing air filtration system designed by a Nevada licensed engineer was provided prior to the issuance of a Certificate of Occupancy for the building.

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

The Department of Community Development - Business Licensing Division will monitor and require conformance with this requirement should the use cease at this location.

- *6. A cannabis 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 Department of Community Development - Business Licensing Division will coordinate with the State of Nevada to ensure conformance with this requirement prior to the issuance of a business license at this location.

7. The use may not be located under the same roof as another use, except a cannabis cultivation facility, cannabis dispensary or cannabis production facility.

The proposed use meets this requirement, as no other land uses are operating or are proposed to be operated under the same roof as the proposed Cannabis Cultivation Facility.

- *8. No cannabis cultivation facility may be located within 1500 feet of an establishment that holds a nonrestricted gaming license described in subsection 1 or 2 of NRS 463.0177 and that existed on the date on which the application for the proposed cannabis cultivation facility was submitted to the City, but only if and to the extent the location of the proposed cannabis cultivation facility would be prohibited by Chapter 595, Statutes of Nevada 2019 (Assembly Bill 533).

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The proposed use meets this requirement, as there were no nonrestricted gaming establishments within 1,500 feet of the subject property existing on the date on which the application for the proposed cultivation facility was submitted to the city.

- *9. An application for a Special Use Permit for a cannabis cultivation facility must include or be accompanied by a survey that depicts the minimum distance separation buffers of 300, 1000 and 1500 feet that are referenced within these Minimum Special Use Permit Requirements, as well as the location of all the uses regarding which the separation distances are established. The survey must be signed and stamped or sealed by a surveyor who holds a current license from the Nevada Board of Engineers and Land Surveyors.

The proposed use meets this requirement, as a sealed and signed distance separation survey was submitted with the application for the proposed Cannabis Cultivation Facility.

The applicant is not requesting any waivers of the above minimum requirements. The proposed use would occupy an existing 17,000 square-foot standalone building, which is located on a developed commercial property. The site is located to the north of an existing Cannabis Dispensary and Production Facility. With regard to the lack of onsite parking, staff has determined that the immediate surrounding area provides sufficient on-street parking to support the use.

The Las Vegas Valley Water District (LVVWD) comments that civil improvement plans related to this development will need to be submitted to LVVWD for review. Existing domestic serve/fire protection may not be adequate.

The subject site conforms to all minimum distance requirements as set forth by Title 19.12 and is located in a commercial and industrial area suited for the use. 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. Therefore, staff recommends approval of the proposed Cannabis Cultivation Facility use with conditions. If denied, the Cannabis Cultivation Facility could not be reestablished at this site without approval of a Special Use Permit in conformance with the time restriction provisions of Title 19.16.110.D.

FINDINGS (24-0354-SUP1)

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:

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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 17,000 square-foot standalone building. The subject site is located within the Downtown Las Vegas Overlay - Area 1, where Title 19.12 parking requirements are not automatically applied, although additional parking is available in the vicinity through on-street parking.

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 subject site has primary access from Western Avenue, an 80-foot Major Collector as shown on the city's Master Plan of Streets and Highways that has adequate capacity to serve the proposed Cannabis Cultivation Facility. Secondary access is provided by Highland Drive, a 60-foot Local Street located at the rear of the property.

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 Cannabis Cultivation Facility use will be subject to license review and regular city, county and state inspections 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 Cannabis 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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BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
05/17/06	The City Council approved a request for a General Plan Amendment (GPA-9219) to change the Future Land Use designation to Commercial, Mixed Use, Industrial or Public Facilities on various parcels located within the proposed Las Vegas Redevelopment Plan area and within the proposed Redevelopment Plan expansion area. The Planning Commission and staff recommended approval.
02/04/09	The City Council approved a request for a Special Use Permit (SUP-31893) for a proposed 40-foot tall, 14-foot by 48-foot Off-Premise Sign (Billboard) at 2310 Western Avenue. The Planning Commission and staff recommended approval. The approval expired 02/04/11.
10/29/14	The City Council approved a request for a Special Use Permit (SUP-55187) and associated Compliance Permit (DIR-56428) for a proposed 5,182 square-foot Medical Marijuana Dispensary at 2320 Western Avenue. The Planning Commission recommended denial. Staff recommended approval.
03/18/15	The City Council approved a request for a Special Use Permit (SUP-55189) and associated Compliance Permit (DIR-56415) for a proposed 12,590 square-foot Medical Marijuana Cultivation Facility at 2320 Western Avenue. The Planning Commission and staff recommended approval. The approval expired 03/18/17.
	The City Council approved a request for a Special Use Permit (SUP-55190) and associated Compliance Permit (DIR-55417) for a proposed 449 square-foot Medical Marijuana Production Facility at 2320 Western Avenue. The Planning Commission and staff recommended approval.
06/21/17	The City Council approved a Review of Condition (ROC-70574) of an approved Special Use Permit (SUP-55187) to allow a dual use (medical and retail) Marijuana Dispensary Facility at 2320 Western Avenue. Staff recommended approval.
10/10/17	The Planning Commission approved a request for a Special Use Permit (SUP-71542) request for a proposed 17,000 square-foot Marijuana Cultivation Facility use at 2310 Western Avenue. This facility was relocated from 2320 Western Avenue. Staff recommended approval. The approval expired 10/08/19.
10/08/19	The Planning Commission approved a request for a Special Use Permit (SUP-77269) for a proposed 17,000 square-foot Marijuana Cultivation Facility use at 2310 Western Avenue. The approval expired 05/30/24.

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<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc. (continued)</i>	
09/16/20	The City Council adopted the First Amendment of Ordinance 6750, which amended various provisions of LVMC Titles 6 and 19 regarding marijuana related businesses, including the elimination of provisions regarding compliance permits and the changing of terminology and license categories to those now recognized and used under state law.
06/08/21	The Planning Commission approved the first Extension of Time (21-0199-EOT1) of an approved Special Use Permit (SUP-77269) for a proposed 17,000 square-foot Marijuana Cultivation Facility use at 2310 Western Avenue. Staff recommended approval.

<i>Most Recent Change of Ownership</i>	
06/30/17	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
03/22/16	An application for a business license (M63-00012) for a medical cannabis cultivation facility (Acres Medical, LLC) at 2320 Western Avenue was denied by staff.
05/17/17	A business license (M63-00013) was issued for a medical cannabis dispensary (Acres Medical, LLC) at 2320 Western Avenue. The license was marked out of business on 06/27/18.
	A business license (M63-00013) was issued for a medical cannabis production facility (Acres Medical, LLC) at 2320 Western Avenue. The license was marked out of business on 12/04/19 due to change of ownership.
03/01/18	A building permit (C17-02531) was issued for a tenant improvement for a cannabis cultivation facility at 2310 Western Avenue. The permit was finalized 12/27/21.
07/09/18	A business license (M66-00023) was issued for a medical cannabis cultivation facility (Red Earth, LLC) at 2310 Western Avenue. The license was marked out of business on 07/10/19.
08/20/18	A business license (M66-00026) was issued for a recreational cannabis cultivation facility (Red Earth, LLC) at 2310 Western Avenue. The license was marked out of business on 07/10/19.
10/22/20	An application for a business license (M68-00015) for a medical cannabis cultivation facility (Red Earth) at 2310 Western Avenue was denied by staff.
	An application for a business license (M68-00015) for a recreational cannabis cultivation facility (Red Earth) at 2310 Western Avenue was denied by staff.

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<i>Related Building Permits/Business Licenses (continued)</i>	
12/28/21	A business license (M69-00042) was issued for a recreational cannabis cultivation facility (Red Earth) at 2310 Western Avenue. The license was revoked 03/01/24 for non-payment of fees.
	A business license (M69-00043) was issued for a medical cannabis cultivation facility (Red Earth) at 2310 Western Avenue. The license was revoked 03/01/24 for non-payment of fees.
03/22/22	Application was submitted for building permit (C22-01214) for a tenant improvement for remodel of a portion of an existing cannabis cultivation facility at 2310 Western Avenue. Staff's review was in denial status until the application expired 02/24/24.

<i>Pre-Application Meeting</i>	
07/03/24	A virtual pre-application meeting was held with the applicant to discuss submittal requirements for a Special Use Permit for a Cannabis Cultivation Facility use.

<i>Neighborhood Meeting</i>
A neighborhood meeting was not required, nor was one held.

<i>Field Check</i>	
08/01/24	The site contains an existing commercial building with frontage on Western Avenue and Highland Drive. No onsite parking or perimeter landscaping was noted; there is, however, a loading dock with access to Western Avenue. Chain link fencing with barbed wire or razor wire was noted along the east, north and west perimeter.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.60

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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>
Subject Property	Cannabis Cultivation Facility [nonoperational]	LI-R (Light Industrial and Research)	M (Industrial)
North	Warehouse/Distribution Center	LI-R (Light Industrial and Research)	M (Industrial)
South	Cannabis Dispensary Cannabis Production Facility	LI-R (Light Industrial and Research)	M (Industrial)
East	Office, Other Than Listed	LI-R (Light Industrial and Research)	M (Industrial)
West	Office, Other Than Listed Wholesale Showroom Facility	LI-R (Light Industrial and Research)	M (Industrial)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Downtown Las Vegas	Y
Vision 2045 Downtown Las Vegas Master Plan: Design District	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (175 Feet)	Y
DTLV-O (Downtown Las Vegas Overlay) District - Area 1	Y
LW-O (Live/Work Overlay) District	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area - Area 1	Y
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

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DEVELOPMENT STANDARDS

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Western Ave	Major Collector	Master Plan of Streets and Highways Map	60	N*
Highland Dr	Local Street	Title 13	60	Y

*There is no requirement for dedication of Western Avenue related to this application.

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	
Cannabis Cultivation Facility	17,000 SF	1 space per 1,000 SF GFA	17				
TOTAL SPACES REQUIRED			17		0		N*
Regular and Handicap Spaces Required			16	1	0	0	N*

*Projects located within the Downtown Las Vegas Overlay (Area 1) are not subject to the automatic application of parking and loading requirements. However, the above table should be used to illustrate the requirements of an analogous project in another location in the City.