

*City of Las Vegas*

**AGENDA MEMO - PLANNING**

**CITY COUNCIL MEETING DATE: JULY 20, 2022**

**DEPARTMENT: PLANNING**

**ITEM DESCRIPTION: APPLICANT: NATURAL MEDICINE - OWNER: KURASHIGE 2013, LLC**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>22-0244-SUP1</b>	Staff recommends APPROVAL, subject to conditions:	

**\*\* NOTIFICATION \*\***

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 20

**NOTICES MAILED** 1034 (by City Clerk)

**PROTESTS** 5

**APPROVALS** 0

**\*\* CONDITIONS \*\***

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**22-0244-SUP1 CONDITIONS**

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**Planning**

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Cannabis Dispensary 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 Department of Building and Safety.
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. 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 is a request for a Special Use Permit for a proposed 6,355 square-foot Cannabis Dispensary use to be located at 101 South Rainbow Boulevard, Suites #1 through #5.

**ISSUES**

- The Cannabis 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 Cannabis use, as set forth by adopted Ordinance No. 6321 and Title 19.18.030(F) Distance Separation requirements.

**ANALYSIS**

The Cannabis Dispensary use is defined as “An establishment which acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses cannabis or related supplies and educational materials to holders of a valid registry identification card, consumers or other cannabis dispensaries. This use includes an adult-use cannabis retail store and a medical cannabis dispensary, as defined in NRS Chapter 678A.” 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 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 a cannabis dispensary and certain other uses that should be protected from the impacts associated with a cannabis dispensary. Therefore, except as otherwise provided in these Requirements, no cannabis 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);

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- 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, 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. All measurements have been taken from APN 138-34-513-007, pursuant to Title 19.18.030(F) distance separation requirements.*

2. Independent of the minimum distance separation requirements in Requirement 1, no cannabis dispensary may be located within 1000 feet of any other cannabis dispensary, whether or not that other dispensary is located within the jurisdictional limits of the City.

*The proposed use meets this requirement, the applicant submitted a survey demonstrating that there are no cannabis dispensaries within 1,000 feet of the subject site.*

\*3. 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 will require approval of a business license and continual inspections to verify it is in compliance with Title 6 requirements.*

\*4. 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.*

\* 5. 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 Building and Fire Department will monitor and require compliance with this requirement. The submitted floor plan indicates customers will enter and exit the dispensary through the Lobby area.*

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\* 6. The Special Use Permit shall be void without further action if the use ceases for a period exceeding 90 days.

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

\* 7. A cannabis 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 License division will coordinate with the State of Nevada to assure that this requirement is met prior to the issuance of a business license.*

\* 8. No cannabis dispensary shall be located:

- a. On any property which abuts Fremont Street west of 8th Street; or
- b. Within 1500 feet of an establishment that holds a non-restricted 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 dispensary was submitted to the City, but only if and to the extent the location of the proposed cannabis dispensary would be prohibited by Chapter 595, Statutes of Nevada 2019 (Assembly Bill 533).

*This condition is not applicable, as the subject site is not located on property which abuts Fremont Street west of 8th Street nor is the property within 1,500 feet of an establishment that holds a non-restricted gaming license.*

\* 9 An application for a Special Use Permit for a cannabis dispensary must include or be accompanied by a survey that depicts the minimum distance separation buffers of 300, 1000 and 1500 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 applicant has submitted a distance separation survey stamped by a land surveyor which indicates the subject site complies with Title 19.12 distance separation requirements.*

In addition, on March 24<sup>th</sup>, 2022 a record of survey was recorded with the Clark County Recorder's Office to create Lot #1-A and Lot #1-B on the subject site. Lot #1-A (APN 138-34-513-007) is the subject record of survey parcel site associated with the new Cannabis Dispensary development. Pursuant to Title 19.18.030(F)(3)(C) distance separation standards the record of survey parcel meets the following criteria:

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- i. Using the parcel line of the parcel created by the record of survey for the purpose of measuring the distance separation would qualify that parcel under the distance separation requirement;

*The Lot #1-A record of survey parcel has been designed to provide a 348-foot separation from the existing Church/House of Worship located to the south of the subject site, which complies with Title 19.12 distance separation requirements for the Cannabis Dispensary land uses.*

- ii. All parking spaces required by Section 19.12.070 for the use are located on the same parcel created by the record of survey and containing the use;

*All required Title 19.12.070 parking spaces have been provided on Lot #1-A designated by the record of survey. The submitted site plan indicates 151 parking spaces have been provided where 81 spaces are required for the existing 20,185 square-foot building that the subject tenant spaces are located within the existing shopping center development.*

- iii. The use has a direct pedestrian and vehicular access (both ingress and egress) from a street having a minimum right-of-way width of 100 feet. The required pedestrian and vehicular access must be located within the parcel lines of the parcel created by the Record of Survey and on which the use is located; and

*The Lot #1-A record of survey parcel has been designed to provide direct pedestrian and vehicular access (both ingress and egress) to the 100-foot wide Rainbow Boulevard right-of-way.*

- iv. If the access provided on the subject parcel to meet the requirements of subparagraph (iii) above also provides access to and from other parcels within a commercial subdivision, or if parking within the subdivision is shared, then an agreement satisfactory to the City Attorney that provides reciprocal cross-access, ingress and egress and/or parking throughout the commercial subdivision is required.

*The subject site is part of a commercial subdivision (Westcliff Shopping Center), which provides reciprocal cross-access, ingress and egress and/or parking throughout the commercial subdivision. The commercial subdivision was recorded on April 22<sup>nd</sup>, 1986 (Book: 034, Page: 083).*

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Overall the existing shopping center provides 223 parking spaces, where 185 parking spaces are required for the 45,371 square-foot center development and conforms to Title 19.12 parking requirements for the Cannabis Dispensary use. 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 shopping center 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 Cannabis Dispensary use would be permitted to be established at this site.

**FINDINGS (22-0244-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:

- 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 applicant has proposed a 6,355 square-foot Cannabis Dispensary within an existing 45,371 square-foot shopping center, which is suitable in size for the proposed Cannabis Dispensary land use.

- 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 Cannabis Dispensary can be accessed from Rainbow Boulevard, a 100-foot Primary Arterial that has adequate capacity to serve the proposed development. Secondary access is also provided from Westcliff 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 Cannabis 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 Cannabis 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

<b><i>Related Relevant City Actions by Planning, Fire, Code Enforcement, etc.</i></b>	
12/15/65	The Board of City Commissioners approved a Petition for Annexation (A-0005-65) which involved the subject property.
02/21/79	The City Council denied a request for a Rezoning (Z-0110-78) from R-E (Residence Estates) to C-1 (Limited Commercial) for a proposed Shopping Center generally located on the south side of Westcliff Drive between Rainbow Boulevard and Lorenzi Street. The Planning Commission recommended denial of the request.
08/01/79	The City Council denied a request for a Rezoning (Z-0070-79) from R-E (Residence Estates) to C-1 (Limited Commercial) for a proposed Shopping Center generally located on the south side of Westcliff Drive between Rainbow Boulevard and Lorenzi Street. The Planning Commission recommended denial of the request.
05/02/83	The Board of Zoning Adjustment approved a request for a Variance (V-0024-83) to erect a 448 square-foot Off-Premise Sign (Billboard) for a two-year time period for the advertising of Chism Homes on property located at the southeast corner of Rainbow Boulevard and Westcliff Drive.
11/07/84	The City Council denied a request for a Rezoning (Z-0064-84) from R-E (Residence Estates) to C-1 (Limited Commercial) for a proposed Shopping Center generally located at the southeast corner of Rainbow Boulevard and Westcliff Drive. The Planning Commission recommended denial of the request.
01/12/86	The City Council approved a request for a Plot Plan Review (Z-0078-85) from R-E (Residence Estates) to C-2 (General Commercial) for a proposed Shopping Center located at the southeast corner of Rainbow Boulevard and Westcliff Drive. The Planning Commission recommended approval of the request. *The application was amended to C-1 (Limited Commercial) except for the carwash site, which is the north 300 feet of the west 320 feet.*
12/21/88	The City Council approved a request for a Variance (V-0137-88) to allow the sale of new books, where such secondhand use is not permitted at 101 South Rainbow Boulevard. The Board of Zoning Adjustment recommended approval of the request.
04/18/90	The City Council approved a request for a Variance (V-0019-90) to allow a Secondhand Dealer for the buying and selling of used records, tapes, compact disc and associated playing and recording equipment in conjunction with a proposed retail record store on property located at 101 South Rainbow Boulevard, Suite #6. The Board of Zoning Adjustment recommended approval of the request.

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<b><i>Related Relevant City Actions by Planning, Fire, Code Enforcement, etc.</i></b>	
12/10/13	The Planning Commission accepted a request to withdraw without prejudice Variance (VAR-51385) to allow a proposed 35-foot tall, 232 square-foot illuminated freestanding sign where a 24.5-foot tall, 118 square-foot non-illuminated sign is allowed on 3.95 acres at 101 South Rainbow Boulevard.
10/31/16	The Department of Planning administratively approved a request for a Site Development Plan Review (SDR-67268) for revised building elevations and parking lot reconfiguration of the existing restaurant with Drive-Through use at 150 South Rainbow Boulevard.
10/01/17	The Department of Planning administratively approved a Minor Amendment (SDR-71673) of a previously approved Plot Plan Review (Z-0078-85) for a proposed 2,059 square-foot restaurant on 0.55 acres at 103 South Rainbow Boulevard.
02/17/21	The City Council approved a request for a Special Use Permit (20-0338-SUP1) for a 1,000 square-foot Tattoo Parlor/Body Piercing Studio use at 101 South Rainbow Boulevard, Suite #27. The Planning Commission recommended approval of the request.
06/21/22	The Planning Commission (5-0-1 vote) recommends APPROVAL on a Land Use Entitlement project request FOR A 6,355 SQUARE-FOOT CANNABIS DISPENSARY USE at 101 South Rainbow Boulevard, Suites #1 - #5 (APN 138-34-513-007), C-1 (Limited Commercial) Zone, Ward 1 (Knudsen)

<b><i>Most Recent Change of Ownership</i></b>	
03/30/22	A deed was recorded for a change in ownership.

<b><i>Related Building Permits/Business Licenses</i></b>	
12/21/10	A business license (#M18-05167) was issued for Management or Consulting Service (Hearts with Helping Hands) at 101 South Rainbow Boulevard, Suite #1. The license was marked inactive on 05/08/19.
08/16/11	A business license (#P55-01745) was issued for Professional Services – Medical (Hearts with Helping Hands) at 101 South Rainbow Boulevard, Suite #1. The license was marked inactive on 05/08/19.
09/28/16	A business license (#G64-06996) was issued for a Residential Home Care Provider (One in a Million Home Health Care) at 101 South Rainbow Boulevard, Suite #1. The license was marked inactive on 06/13/17.
06/19/17	A business license (#G65-04455) was issued for a Residential Home Care Provider (One in a Million Home Health Care) at 101 South Rainbow Boulevard, Suite #1. The license was marked inactive on 05/08/19.

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<b><i>Pre-Application Meeting</i></b>	
04/26/22	A pre-application meeting was conducted with the applicant to review the application materials and submittal requirements for a Special Use Permit for a Cannabis Dispensary.

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

Field Check	
05/05/22	Staff conducted a field check of the subject site and found the subject site to be a well-maintained commercial development.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	3.55

<b><i>Surrounding Property</i></b>	<b><i>Existing Land Use Per Title 19.12</i></b>	<b><i>Planned or Special Land Use Designation</i></b>	<b><i>Existing Zoning District</i></b>
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial) C-2 (General Commercial)
North	Detention Basin	ROW (Right-of-Way)	U (Undeveloped)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)

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<b>Master and Neighborhood Plan Areas</b>	<b>Compliance</b>
Master Plan 2050 Area: Charleston	N/A
<b>Special Area and Overlay Districts</b>	<b>Compliance</b>
A-O (Airport Overlay) District – 200 Feet	Y
<b>Other Plans or Special Requirements</b>	<b>Compliance</b>
Trails	N/A
Las Vegas Redevelopment Plan	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

## DEVELOPMENT STANDARDS

<b>Street Name</b>	<b>Functional Classification of Street(s)</b>	<b>Governing Document</b>	<b>Actual Street Width (Feet)</b>	<b>Compliance with Street Section</b>
Rainbow Boulevard	Primary Arterial	Master Plan of Streets and Highways Map	100	Y
Westcliff Drive	Collector Street	Title 13	80	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	
Shopping Center	45,371 SF	1 per 250 SF	185				
TOTAL SPACES REQUIRED			185		223		Y
Regular and Handicap Spaces Required			179	6	215	8	Y