



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**CITY COUNCIL MEETING DATE: JULY 19, 2023**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT: DEEP ROOTS MEDICAL, LLC - OWNER: GLK HOLDINGS IV BRUCE, LLC**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>23-0196-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	
<b>23-0196-SDR1</b>	Staff recommends DENIAL, if approved subject to conditions:	23-196-VAR1

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 15

**NOTICES MAILED** 182 (by City Clerk)

**PROTESTS** 0

**APPROVALS** 0

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

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**23-0196-VAR1 CONDITIONS**

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**Planning**

1. Conformance to the approved conditions for Special Use Permit (SUP-78301) except as amended herein.
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.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**23-0196-SDR1 CONDITIONS**

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**Planning**

1. The subject site shall include ample internal traffic signs, to further improve the site's overall circulation.
2. Approval of and conformance to the Conditions of Approval for Variance (23-0196-VAR1) shall be required, if approved.
3. Conformance to the approved conditions for Special Use Permit (SUP-78301) except as amended herein.

**Conditions Page Two**  
**July 19, 2023 - City Council Meeting**

4. 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.
5. All development shall be in conformance with the site plan date stamped 06/29/2023; and the landscape plan and building elevations date stamped 04/20/2023, except as amended by conditions herein.
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 Building and Safety Division.
7. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
8. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.
9. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

**Public Works**

10. Queues for the overall shopping center shall not extend into the public right-of-way as a result of the drive-thru operations on this site
11. Comply with the approved Traffic Impact Analysis (#76132).

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The applicant is requesting to amend their site plan from the approved Special Use Permit (SUP-78301) to add a proposed Drive-Through use within an existing 17,203 square-foot commercial development and to reconfigure the parking lot at 5991 West Cheyenne Avenue. The proposed changes result in the need for a parking Variance to allow 69 parking stalls where 78 are required.

**REVISIONS**

- **A revised Site Plan date stamped 06/29/23 resolves the one-way traffic circulation concerns identified in previous plan drawings and addressed Condition 1 of the Site Development Plan Review (23-0196-SDR1).**

**ISSUES**

- A Drive-Through use is a Conditional Use in the C-1 (Limited Commercial) zoning district. The proposed site configuration meets the minimum Conditional Use Regulations for the Drive-through use.
- The proposed drive through would reduce the available parking stalls by nine.
- The applicant is requesting a Variance to allow 69 parking stalls where 78 are required. Staff recommends denial of the request.

**ANALYSIS**

The proposed project consists of a drive-through reactivation within an existing 17,203 square-foot commercial development, which will serve the existing Cannabis Dispensary at the subject property [Deep Roots]. The scope consist of relocating curb, landscaping, asphalt, and restriping the parking lot, to establish a drive-through where one was for a former building tenant [Rite Aid]. The addition of the drive-through would remove nine parking stalls.

The lot is approximately 1.47 acres and is located at the southeast corner of the intersection of West Cheyenne Avenue and North Jones Boulevard. This parcel is subject to Title 19 regulations and specifically the standards for the C-1 (Limited Commercial) zoning district. On 09/02/20, the City Council approved the Special Use Permit (SUP-78301) for a Cannabis Dispensary at the subject site. As part of that review it was established that 78 parking spaces were the minimum required for the dispensary and office use.

**Staff Report Page Two**  
**July 19, 2023 - City Council Meeting**

The proposed parking lot reconfiguration would bring this property out of compliance with the established Title 19.12 parking minimums. The Cannabis Dispensary use requires a parking ratio of one parking stall per 175 square feet of gross floor area, and the Office, Other Than Listed use requires one stall per 300 square feet of gross floor area. For the existing building, which has not changed other than the drive through, a total of 78 parking stalls are the minimum required. Of the required parking, the applicant is proposing to provide 88-percent of the minimum parking.

Pursuant to Title 19.12, a Drive-Through use is defined as “The use of a dedicated drive lane that, incidental to a principal use, provides access to a station, such as a window, door or mechanical device, from which occupants of a motor vehicle receive or obtain a product or service.”

**The Minimum Conditional Use Regulations for this use are as follows:**

- 1. A single-station drive-through shall have a stacking lane that will accommodate a minimum of six vehicles, including the vehicle at the station. A multiple-station drive-through shall have stacking lanes that will accommodate a minimum of three vehicles per station, including the vehicle at that station.**

*The submitted Site Plan demonstrates six queueing vehicles for the single-station drive-through, including the vehicle at the station.*

- 2. The drive-through shall be screened in accordance with LVMC 19.08.040(F).**

*The submitted Site Plan provides landscaping of a density sufficient to screen the Drive-Through use from the adjacent property and public right-of-ways. There are established mature trees within a landscape buffer to screen the drive-through from the adjacent property and public right-of-ways, with a carve-out of that landscape buffer for the bus turn-in.*

The proposed Variance is evidence that the site is not physically suitable for the proposed drive-through lane, and staff recommends denial. If this application is denied, the current site configuration is compliant with Title 19.12 parking minimums.

**Staff Report Page Three**  
**July 19, 2023 - City Council Meeting**

**FINDINGS (23-0196-VAR1)**

In accordance with the provisions of Title 19.16.140(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature."

Additionally, Title 19.16.140(L) states:

"Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution."

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a land use (drive-through) that the subject site can not physically accommodate without eliminating required parking stalls. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## FINDINGS (23-0196-SDR1)

In order to approve a Site Development Plan Review application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

1. **The proposed development is compatible with adjacent development and development in the area;**

The proposed development is incompatible with adjacent development and development in the area. The reconfigured circulation from two-way to one-way traffic around the site would conflict with the access and circulation for the adjacent multi-family development. Furthermore, the requested parking Variance could result in excess cars searching for parking off-site to access this commercial land use, which conflicts with the surrounding area since (1) the adjacent roadways do not include on-street parking, and (2) the adjacent property is a residential multi-family development.

2. **The proposed development is consistent with the General Plan, this Title, and other duly-adopted city plans, policies and standards;**

The proposed development is not consistent with the Title 19.12 parking standards and is therefore inconsistent with the city's development standards.

3. **Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;**

Cheyenne Avenue is a 110-foot-wide Freeway/Expressway and Jones Boulevard is a 100-foot-wide Major Collector, as defined by the Master Plan of Streets and Highways. Those major roads have enough capacity for the proposed land use intensity.

4. **Building and landscape materials are appropriate for the area and for the City;**

There are minimal proposed changes to the existing building or landscape materials, with the submitted Building Elevation drawings dated 04/20/23 showing appropriate materials for the site, the area, and for the City.

5. **Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;**

**Staff Report Page Five**  
**July 19, 2023 - City Council Meeting**

The submitted Building Elevation drawings dated 04/20/23 demonstrate a building that is not unsightly or obnoxious in appearance.

**6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.**

The proposed use will be subject to business licensing requirements, thereby protecting the public health, safety, and welfare.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i></b>	
06/15/94	The City Council approved a request for a Reclassification of Property (Z-0041-94) from N-U (Non-Urban) to C-1 (Limited Commercial) for a proposed 85,000 square-foot retail shopping center at the southeast corner of Cheyenne Avenue and Jones Boulevard.
10/27/97	The City Council approved a request for a Special Use Permit (U-0087-97) for a Packaged Liquor Sales in conjunction with a proposed 16,708 square-foot drugstore at the southeast corner of Cheyenne Avenue and Jones Boulevard. The Planning Commission recommended approval.
10/11/11	The Planning Commission approved a request for a Special Use Permit (SUP-43087) for a 70 square-foot Accessory package Liquor Off-Sale Establishment Use within a proposed 17,071 square-foot General Retail Store at 5991 West Cheyenne Avenue. Staff recommended approval.
03/11/13	The Department of Community Development - Planning Division administratively approved a request for a Minor Amendment to an approved Special Use Permit (SUP-43087) to add 30 square feet of alcohol retail space to an existing 70 square-foot Accessory Package Liquor Off-sale Establishment use at 5991 West Cheyenne Avenue.
09/02/20	The City Council approved the Special Use Permit (SUP-78301) for a Cannabis Dispensary at 5991 West Cheyenne Avenue. The Planning Commission recommended approval with a 4-2-1 vote, and staff recommended approval.



Staff Report Page Six  
July 19, 2023 - City Council Meeting

<b>Related Relevant City Actions by Planning, Fire, Bldg., etc.</b>	
06/13/23	<p>The Planning Commission voted (5-0-1) to recommend APPROVAL of the following Land Use Entitlement project requests on 1.47 acres at 5991 West Cheyenne Avenue (APN 138-13-101-005), C-1 (Limited Commercial) Zone, Ward 5 (Crear)</p> <p><b>23-0196-VAR1</b> - VARIANCE - TO ALLOW 69 PARKING SPACES WHERE 78 ARE REQUIRED</p> <p><b>23-0196-SDR1</b> - SITE DEVELOPMENT PLAN REVIEW - FOR A PROPOSED INSTALLATION OF A DRIVE THROUGH USE WITHIN AN EXISTING 17,203 SQUARE-FOOT COMMERCIAL DEVELOPMENT AND TO RECONFIGURE THE PARKING LOT</p>

<b>Most Recent Change of Ownership</b>	
01/25/99	A deed was recorded for a change in ownership.

<b>Related Building Permits/Business Licenses</b>	
09/29/11	A business license (G60-00078) was issued for a grocery store at 5991 West Cheyenne Avenue. The license went out of business 03/01/21.
	A business license (C05-02762) was issued for a tobacco dealer at 5991 West Cheyenne Avenue. The license went out of business 09/01/21.
07/05/12	A business license (G01-02479) was issued for restricted gaming at 5991 West Cheyenne Avenue. The license went out of business 04/01/21.
04/18/18	A business license (P66-00074) was issued for packaged liquor at 5991 West Cheyenne Avenue. The license went out of business 04/01/19.
	A business license (L67-00016) was issued for packaged liquor at 5991 West Cheyenne Avenue. The license went out of business 10/01/22.
05/17/19	A business license (G67-03154) was issued for wire transfer services at 5991 West Cheyenne Avenue. The license went out of business 05/01/22.
10/27/21	A building permit (#C21-02257) was issued for tenant improvements for a 16,000 SF Cannabis Dispensary at 5991 West Cheyenne Avenue. This permit was finalized on 03/09/22.
04/07/22	A business license (M69-00040) was issued for a retail cannabis store (Deep Roots Harvest) at 5991 West Cheyenne Avenue. The license is active.
	A business license (G70-00030) was issued for general retail sales (Deep Roots Harvest) at 5991 West Cheyenne Avenue. The license is active.

**Staff Report Page Seven**  
**July 19, 2023 - City Council Meeting**

<b>Pre-Application Meeting</b>	
04/17/23	A pre-application meeting was held with the applicant to discuss submittal requirements for a Site Development Plan Review application with accompanying Variance submittals.

<b>Field Check</b>	
05/09/23	During a routine site inspection staff observed as well-maintained commercial development. The access gate to the adjacent residential property appears to be left open, acting as a second access for the apartments. It was noted that the dumpster enclosure, which may have been existing from the previous tenants when Deep Roots took over occupancy, does not have a roof or trellis structure, as required per Title 19.08.040.(E).

<b>Details of Application Request</b>	
<b>Site Area</b>	
Net Acres	1.47

<b>Surrounding Property</b>	<b>Existing Land Use Per Title 19.12</b>	<b>Planned or Special Land Use Designation</b>	<b>Existing Zoning District</b>
Subject Property	Cannabis Dispensary	SC (Service Commercial)	C-1 (Limited Commercial)
North	Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)
	Pawn Shop		
South	Multi-Family	M (Medium Density Residential)	R-PD25 (Residential Planned Development – 25 Units Per Acre)
East	Multi-Family	M (Medium Density Residential)	R-PD25 (Residential Planned Development – 25 Units Per Acre)
West	General Retail Store, Other Than Listed	SC (Service Commercial)	C-1 (Limited Commercial)
	Alcohol, Off-Premise		

Staff Report Page Eight  
July 19, 2023 - City Council Meeting

<b>Master and Neighborhood Plan Areas</b>	<b>Compliance</b>
City of Las Vegas 2050 Master Plan Area: Twin Lakes	Y
<b>Special Area and Overlay Districts</b>	<b>Compliance</b>
A-O (Airport Overlay) District – 70 Feet	Y
<b>Other Plans or Special Requirements</b>	<b>Compliance</b>
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	Y

## 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>
Cheyenne Avenue	Freeway / Expressway	Master Plan of Streets and Highways	110	Y
Jones Boulevard	Major Collector		100	

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

<b>Parking Requirement</b>							
<b>Use</b>	<b>Gross Floor Area or Number of Units</b>	<b>Parking Ratio</b>	<b>Required Parking</b>		<b>Provided Parking</b>		<b>Compliance</b>
			Regular	Handi-capped	Regular	Handi-capped	
Cannabis Dispensary	8,391 SF	1:175	48				
Office, Other Than Listed	8,812 SF	1:300	30				
<b>TOTAL SPACES REQUIRED</b>			78		69		Y
<b>Regular and Handicap Spaces Required</b>			74	4	65	4	N*

\*A Variance is request to provide relief from the parking requirement under Title 19.12.