

**AGENDA MEMO**

PLANNING COMMISSION MEETING DATE: OCTOBER 25, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: ABEYANCE - SUP-24243 - APPLICANT: GONZALO AUSQUI
- OWNER: ECT HOLDING, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: **DENIAL.** If Approved, subject to:

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Beer/Wine/Cooler Off-Sale use, including parking requirements.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. The sale of individual containers of any size of beer, wine coolers or screw cap wine is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit to allow for Beer/Wine/Cooler Off-Sale at a proposed general retail store with a Waiver to allow a distance separation from a city park of approximately 150 feet where 400 feet is required at the southeast corner of Charleston Boulevard and Maryland Parkway.

Staff does not find the proposed Beer/Wine/Cooler Off-Sale Establishment use appropriate for this location nor is it harmonious and compatible with the existing surrounding land uses. A city park is within 150 feet south of the subject site, as well as the Huntridge Neighborhood to the southeast. Therefore, staff is recommending denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
08/01/90	The City Council approved a Variance (V-0068-90) to allow a 14-foot by 48-foot Off-Premise Advertising (Billboard) Sign and to allow the sign to be located 290 feet from an existing sign, where a 300-foot minimum separation is required. The Board of Zoning Adjustment and staff recommended approval.
09/20/95	The City Council approved a Required Five Year Review [V-0068-90(1)] of an approved Variance, which allowed a 14-foot by 48-foot Off-Premise Advertising (Billboard) Sign 290 feet from an existing sign, where a 300-foot minimum separation is required at 1200 East Charleston Boulevard. The Board of Zoning Adjustment and staff recommended approval.
03/24/97	The City Council approved an appeal by applicant, which the Board of Zoning Adjustment recommended denial for a Special Use Permit (U-0001-97) to allow a 40-foot high, 14-foot by 48-foot Off-Premise Advertising (Billboard) Sign to replace an existing 12-foot by 24-foot Off-Premise Advertising (Billboard) Sign. The Board of Zoning Adjustment and staff recommended denial.
09/28/97	The City Council denied an appeal by the applicant, which the Planning Commission recommended denial for an Extension of Time [U-0001-97(1)] of an approved 40-foot high, 14-foot by 48-foot Off-Premise Advertising (Billboard) Sign at 1200 East Charleston Boulevard. The Planning Commission and staff recommended denial.

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05/07/03	The City Council approved a Site Development Plan Review (SDR-1877) for an Entertainment Venue including a Restaurant and Tavern, a Special Use Permit (SUP-1875), and a Variance (VAR-1879) and to allow 172 parking spaces where 187 parking spaces on 2.61 acres located at 1208 East Charleston Boulevard. Planning Commission and staff recommended approval.
06/15/05	City Council approved an Extension of Time (EOT-6677, 6678 and 6679) for an approved Site Development Plan Review (SDR-1877), Special Use Permit (SUP-1875) and Variance (VAR-1879) at 1208 East Charleston Boulevard
11/01/06	City Council approved a Required Five Year Review (RQR-15054) of an approved Variance (V-0068-90) which allowed a 40-foot tall, 14-foot by 48-foot off-premise advertising (billboard) sign 290 feet from an existing billboard where 300 feet is the minimum separation distance required at 1200 East Charleston Boulevard. Planning Commission and staff recommended approval.
10/11/07	The Planning Commission voted to hold this item in abeyance to the 10/25/07 Planning Commission meeting.
<i>Related Building Permits/Business Licenses</i>	
02/20/90	A Building License was issued for a furniture store (F-07-01159) at 1200 E. Charleston
09/19/07	A Business License change of location was issued for a furniture store (F-07-01159) at 1200 E. Charleston to move to 1205 S. Main Street.
<i>Pre-Application Meeting</i>	
08/15/07	A pre-application was held with the applicant. The applicant was interested in adding packaged liquor to his proposed grocery store. However, he was informed that per Title 19, the applicant would need a distance separation Waiver. This was nonwaivable. Therefore, the applicant choose to apply for the Beer/Wine/Cooler Off-Sale Establishment as Requirement 7 permitted the distance separation to be waivable since the retail establishment was less than 20,000 square feet and Maryland Parkway was a 100-foot wide arterial. Submittal requirements were then discussed.
<i>Field Check</i>	
09/07/07	A field check was made on the site. The proposed use is for an existing building that was previously used as mattress store, which is being converted to a grocery store. The Huntridge Theater is not part of this proposal.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	2.62

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Convenience Store	C (Commercial)	C-2 (General Commercial)
North	General Retail Stores	C (Commercial)	C-2 (General Commercial)
South	Office, Single Family Residential	SC (Service Commercial), L (Low Density Residential)	C-D (Designed Commercial)
East	General Retail Store	C (Commercial)	C-2 (General Commercial)
West	Convenience Store, General Retail Stores	C (Commercial)	C-2 (General Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Parking Ratio</i>	<i>Required Parking</i>		<i>Provided Parking</i>		<i>Compliance</i>
			Regular	Handi-capped	Regular	Handi-capped	
General Retail Store, Other Than Listed (3,500 SF or More)	12,853	1:175	74	3	179	6	Y
SubTotal			71	3	173	6	Y
TOTAL (including handicap)			74		179		Y
Loading Spaces			2		0		N*

*A condition of approval has been added addressing this deficiency.

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ANALYSIS

Zoning

Per Title 19.04, a Beer/Wine/Cooler Off-Sale Establishment use is allowed with an approved Special Use Permit in the C-2 (General Commercial) Zoning District. A city park, Circle Park, is located within 150 feet south of the subject site. This requires a distance separation Waiver. The applicant has requested a Waiver to allow a distance separation from a city park of approximately 150 feet where 400 feet is required. This is nonwaivable request under Section 19.040.050(A)(4), however may be waived if it is *in connection with a retail establishment having less than 20,000 square feet of retail floor space, if the area to be used for the sale, display or merchandising of alcoholic beverages and each use to be protected are separated by a highway or a right-of-way with a width of at least 100 feet.* The proposed retail establishment is 12,853 square feet and Maryland Parkway is a 100 foot, Primary Arterial as designated by Master Plan Streets and Highways. Therefore, the applicant is entitled to request a distance separation Waiver. Staff cannot support this request as the close proximity is in direct contradiction to the intent of the Title 19 distance separation requirements.

Minimum Special Use Permit Requirements:

- *1. Except as otherwise provided, no beer/wine/cooler off-sale establishment (hereinafter establishment) shall be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City park.
- *2. Except as otherwise provided in Requirement 3 below, the distances referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment 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 establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term property line refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.
- *3. In the case of an establishment proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or

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- b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
4. When considering a Special Use Permit application for an establishment which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.
5. The minimum distance requirements in Requirement 1 do not apply to:
 - a. An establishment which has a non restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
 - b. A proposed establishment having more than 50,000 square feet of retail floor space.
- *6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.
7. The minimum distance requirements set forth in Requirement 1, which are otherwise nonwaivable under the provisions of Section 19.040.050(A)(4), may be waived:
 - a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;
 - b. In accordance with the applicable provisions of the Town Center Development Standards Manual for any establishment which is proposed to be located within the T-C (Town Center) Zoning District and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan;
 - c. In connection with a proposed establishment having between 20,000 square feet and 50,000 square feet of retail floor space, if no more than 10 percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages; or
 - d. In connection with a retail establishment having less than 20,000 square feet of retail floor space, if the area to be used for the sale, display or merchandising of alcoholic beverages and each use to be protected are separated by a highway or a right-of-way with a width of at least 100 feet.

FINDINGS

The following findings must be made for a Special Use Permit:

- 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.**

Staff does not find the proposed Beer/Wine/Cooler Off-Sale Establishment use appropriate for this location nor is it harmonious and compatible with the existing surrounding land uses. A city park is within 150 feet south of the subject site, as well as the Huntridge Neighborhood to the southeast. Therefore, staff is recommending denial.

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

Staff finds that the proposed Beer/Wine/Cooler Off-Sale Establishment is not suitable for this site due to the close proximity to a city park and therefore recommends denial of the request.

- 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 site is served by Maryland Parkway, defined as a 100-foot-wide Primary Arterial by the Master Plan of Streets and Highways. Staff finds the street facilities adequate 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.**

Staff finds that this proposed increase in use would compromise public safety or the perception of a safe environment by the general public; therefore, denial of this request is recommended.

- 5. The use meets all of the applicable conditions per Title 19.04.**

The requested Special Use Permit for a Beer/Wine/Cooler Off-Sale Establishment meets all conditions as listed in Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 14

ASSEMBLY DISTRICT 12

SENATE DISTRICT 10

NOTICES MAILED 355

APPROVALS 2

PROTESTS 9