

## AGENDA MEMO

**CITY COUNCIL MEETING DATE:      OCTOBER 17, 2007**  
**DEPARTMENT:      PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: SUP-23296 - APPLICANT: BJ STORES LLC - OWNERS: LA**  
**FERIA LLC**

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### **\*\* CONDITIONS \*\***

The Planning Commission (6-0 vote) and staff recommend DENIAL.

#### **Planning and Development**

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for a Financial Institution, Specified use, including parking requirements, except as amended herein.
2. Conformance to the conditions for Rezoning (Z-0017-72), Variance (VAR-18625) and Site Development Plan Review (SDR-19214), except as amended herein.
3. A Waiver from Conditional Use Regulation 6 for a Financial Institution, Specified use is hereby approved, to allow an area of 940 square feet where 1,500 square feet is the minimum area required for this type of use.
4. A Waiver from Conditional Use Regulation 7 for a Financial Institution, Specified use is hereby approved, to allow a distance separation of zero feet to a residential use where a 200-foot distance separation is required and 316 feet from an existing Financial Institution, Specified where a 1,000-foot distance separation is required for this type of use.
5. 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.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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

**PROJECT DESCRIPTION**

This request is for a Special Use Permit for a Financial Institution, Specified use with waivers of the minimum distance separation to a residential use and a similar use and a waiver of the 1,500 square-foot minimum required area. The use is proposed to occupy a 940 square-foot existing tenant space located at 3851 Pennwood Avenue, Suite B1 and B2.

The subject proposal does not meet several of the conditions that are automatically applicable to Financial Institution, Specified uses per Title 19.04. Specifically, the use will be located in a tenant space that does not meet the 1,500 square-foot minimum required area and the site is not sufficiently far enough away from residentially zoned property or other similar uses to meet the distance separation requirements. For these reasons, staff recommends denial of this request.

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b> |   |
|---|---|
| 03/15/72  | The City Council approved a Rezoning (Z-0017-72) to allow M (Industrial) zoning, where C-1 had been the zoning on a portion of the site. The Planning Commission and staff recommended approval.  |
| 09/27/79  | The Board of Zoning Adjustment approved a Variance (V-0071-79) to allow a resident managers quarters in a mini-warehouse complex where residential uses are not allowed. Staff recommended approval.  |
| 04/18/07  | The City Council approved a Variance (VAR-18625) to allow 39 parking spaces to be provided, where 95 spaces would otherwise have been required. The Planning Commission and staff recommended denial.   |
| 07/18/07  | The City Council approved a Site Development Plan Review (SDR-19214) to allow the conversion of mini-warehouse space to retail and additional office space. The Planning Commission and staff recommended denial.   |
| 09/13/07  | The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #45/rts).   |
| <b><i>Related Building Permits/Business Licenses</i></b>                  |   |
| 11/29/94  | A business license, C05-01690, for a Tobacco Dealer Retail category license was issued by the Department of Finance and Business Services. This license is listed for suite B10 at 3851 Pennwood Avenue. *  |
| 11/22/94  | A business license, C15-00197, for a Convenience Store category license was issued by the Department of Finance and Business Services. This license was re-issued due to a change of owner on 01/02/07. This license is listed for suite B10 at 3851 Pennwood Avenue. * |
| 02/15/96  | A business license, D16-00056, for a Department Store category license was issued by the Department of Finance and Business Services. This license was re-issued due to a change of owner on 02/15/06. This license is listed for suite B21 at 3851 Pennwood Avenue. *  |

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| 04/20/99 | A business license, F07-01586, for a Furniture Store category license was issued by the Department of Finance and Business Services. This license was re-opened for review due to a change of location (updated suite number, same building) and denied by the Planning and Development Department on 11/30/06, pending verification of adequate parking. This license has not been re-issued as of 08/22/07. This license is listed for suite B14 at 3851 Pennwood Avenue.                     |
| 01/09/01 | A business license, B02-00085, for a Bakery category license was issued by the Department of Finance and Business Services. This license is listed for suite A1 at 3851 Pennwood Avenue. *  |
| 11/01/02 | A business license, B08-00842, for a Beauty/Cosmetics Sales category license was issued by the Department of Finance and Business Services. This license was re-opened due to a change of location (updated suite number, same building) and was denied by the Planning and Development Department on 12/04/06, pending issuance of a Certificate of Occupancy. This license has been marked out-of-business as of 07/03/07. This license was listed for suite B4 at 3851 Pennwood Avenue.      |
| 03/25/03 | A business license, G04-05167, for a Gifts and Novelties category license was issued by the Department of Finance and Business Services. This license was re-issued due to a change of name and expansion (added a suite number, same building) on 03/14/07. This license is listed for suite B16 at 3851 Pennwood Avenue.  |
| 10/17/03 | A business license, W10-00044, for a Wire Service category license was issued by the Department of Finance and Business Services. This license was re-opened due to a change of location and expansion (added a suite number, same building) and was denied by the Planning and Development Department on 10/18/06, pending verification of adequate parking. This license has been marked out-of-business as of 07/11/07. This license was listed for suite B1 at 3851 Pennwood Avenue.        |
| 10/27/03 | A business license, M06-02771, for a Miscellaneous Sales category license was issued by the Department of Finance and Business Services. This license was re-opened due to a change of location and expansion (added a suite number, same building) and was denied by the Planning and Development Department on 10/18/06, pending verification of adequate parking. This license has been marked out-of-business as of 07/11/07. This license was listed for suite B1 at 3851 Pennwood Avenue. |
| 06/30/05 | A business license, P11-00557, for a Stenographer category license was issued by the Department of Finance and Business Services. This license was re-opened due to a change of location (updated suite number, same building) and was approved by the Planning and Development Department on 06/28/06. This license has not been re-issued due to a Fire Department denial on 06/29/06. This license is listed for suite B7 at 3851 Pennwood Avenue.   |

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| 06/30/05 | A business license, A23-02087, for a Bookkeeper category license was issued by the Department of Finance and Business Services. This license was re-opened due to a change of location (updated suite number, same building) and was denied by the Planning and Development Department on 06/02/06. This license is marked as denied as of 05/01/07. The business has been informed by the Department of Finance and Business Services that they are operating without a valid business license as of 07/27/07. This license is listed for suite B7 at 3851 Pennwood Avenue. |
| 11/07/05 | A business license, T18-00683, for a Miscellaneous Telephone Sales/Service category license was issued by the Department of Finance and Business Services. This license has been marked out-of-business as of 07/18/07. This license was listed for suite G2 at 3851 Pennwood Avenue.  |
| 10/19/05 | A building permit application, plan check L-1841-05, was submitted for the site. This was for a Non-work Certificate of Occupancy for a rental office. This permit (05007418) was reviewed by the Planning and Development Department and issued by the Building and Safety Department the same day as submitted.  |
| 01/31/06 | A business license, W11-00005, for a Mini Warehouse category license was issued by the Department of Finance and Business Services. This license is listed for suite B26 at 3851 Pennwood Avenue.  |
| 11/04/05 | A business license, P27-00314, for a Personal Services category license was issued by the Department of Finance and Business Services. This license was re-opened due to a change of location (updated a suite number, same building) and was denied by the Planning and Development Department on 10/18/06, pending verification of adequate parking. This license has been marked out-of-business as of 07/03/07. This license was listed for suite B6 at 3851 Pennwood Avenue.  |
| 01/31/06 | A building permit application, plan check L-3018-06, was submitted for the site. This was for a Non-work Certificate of Occupancy for a general retail location. This permit (06000721) was reviewed by the Planning and Development Department and issued by the Building and Safety Department the same day as submitted.  |
| 02/15/06 | A business license, C07-03484, for a Clothing Store category license was issued by the Department of Finance and Business Services. This license has been marked out-of-business as of 08/07/07. This license was listed for suite B23 at 3851 Pennwood Avenue.  |
| 02/21/06 | A building permit application, plan check L-0292-06, was submitted for the site. This was for a Non-work Certificate of Occupancy for a general retail location. This permit (06001377) was reviewed by the Planning and Development Department and issued by the Building and Safety Department the same day as submitted.  |

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| 03/16/06 | A building permit application, plan check L-3830-06, was submitted for the site. This was for a tenant improvement to obtain a Certificate of Occupancy for an office remodel. The Planning and Development Department review began 04/11/06 and recorded approval on 05/05/06. There have been revisions and reviews added to this plan check with the latest being for architectural revisions that were completed on 09/12/06. The permit received final building inspection approval on 11/03/06. |
| 08/18/06 | A building permit application, plan check L-3485-06, was submitted for the site. This is for a tenant improvement to obtain a Certificate of Occupancy for a restaurant expansion. This application (739306) not been approved by the Planning and Development Department and there are outstanding reviews within the Building and Safety Department portion of the review and no permit has been issued. This application has been voided by the Building and Safety Department as of 08/22/07.     |
| 10/20/06 | A business license, M21-00938, for a Merchandise Broker category license was issued by the Department of Finance and Business Services. This license has been marked out-of-business as of 07/03/07. This license was listed for suite B5 at 3851 Pennwood Avenue.  |
| 10/20/06 | A business license, T18-00705, for a Miscellaneous Telephone Sales/Service category license was issued by the Department of Finance and Business Services. This license has been marked out-of-business as of 07/03/07. This license is listed for suite B5 at 3851 Pennwood Avenue.  |
| 10/30/06 | A business license, C23-98869, for a Check Cashing Service Limited category license was processed in by the Department of Finance and Business Services. This license was denied by the Planning and Development Department on 11/14/06, pending approval of a parking variance. This license has been marked out-of-business as of 07/03/07. This license was listed for suite B1 at 3851 Pennwood Avenue.   |
| 11/20/06 | A building permit application, plan check L-3539-06, was submitted for the site. This was for a tenant improvement to obtain a Certificate of Occupancy for an retail space remodel. The Planning and Development Department review began and recorded approval on 12/12/06. The permit has not been issued as of 08/22/07.   |
| 04/27/07 | A building permit application, plan check OTC-87654, was submitted for the site. This was for a building investigations in preparation to submit tenant improvements to obtain the Certificate of Occupancys for 19 units. There is no Planning and Development Department review on this type of permit. The final inspection has not been approved as of 08/22/07.  |
| 07/09/07 | A business license, C23-00013, for a Check Cashing Service Limited category license was issued by the Department of Finance and Business Services. This license is meant to replace C23-98869, which was marked out-of-business as of 07/11/07. This license is listed for suite B1 at 3851 Pennwood Avenue.  |

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| 07/09/07   | A business license, M06-02956, for a Miscellaneous Sales category license was issued by the Department of Finance and Business Services. This license is listed for suite B1 at 3851 Pennwood Avenue.   |
| 07/09/07   | A business license, W10-00143, for a Wire Service category license was issued by the Department of Finance and Business Services. This license is listed for suite B1 at 3851 Pennwood Avenue.  |
| 07/10/07   | A building permit application, plan check TI-93535, was submitted for the site. This was for a tenant improvements for the exterior wall openings on the rear of the shell building. The Planning and Development Department review began on 07/19/07 and recorded approval on 08/15/07. The permit has not been issued as of 08/22/07. |
| 07/25/07   | A building permit application, plan check PLAN CHECK-23413, was created for the site. This was done in anticipation of multiple tenant improvements to bring the site up to code. Only TI-93535 has been reviewed under this plan check number.   |
| 08/22/07   | A business license, F07-01966, for a Furniture Store category license was issued by the Department of Finance and Business Services. This license appears to replace F07-01586 which remains in denied status. This license is listed for suite B14 at 3851 Pennwood Avenue.  |
| <b><i>Pre-Application Meeting</i></b>                    |   |
| 07/10/07   | A pre-application meeting was held and elements of this application were discussed. It was noted that waivers for conditions 6 and 7 for the proposed use would need to be requested. Submittal requirements were explained.  |
| <b><i>Neighborhood Meeting</i></b>                       |   |
| A neighborhood meeting is not required nor was one held. |   |

\* This license was issued with no apparent Planning and Development review.

|                           |  |
|---------------------------|--|
| <b><i>Field Check</i></b> |  |
| 08/23/07                  | The Department of Planning and Development conducted a site visit that found that this site is fully developed. The parking area was found to need still need the stripping and improvements identified on the approved site plan. |

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| <b><i>Details of Application Request</i></b> |      |
| <b><i>Site Area</i></b>                      |      |
| Net Acres                                    | 2.33 |

| Surrounding Property | Existing Land Use                            | Planned Land Use                   | Existing Zoning                  |
|----------------------|--|------------------------------------|----------------------------------|
| Subject Property     | Office, other than Listed and General Retail | LI/R (Light Industrial / Research) | M (Industrial)                   |
|                      | Mini-warehouse                               | LI/R (Light Industrial / Research) | M (Industrial)                   |
| North                | Multi-Family Residential                     | H (High Density Residential)       | R-4 (High Density Residential)   |
| South                | Auto Repair Garage - Major                   | LI/R (Light Industrial / Research) | M (Industrial)                   |
| East                 | General Retail                               | LI/R (Light Industrial / Research) | M (Industrial)                   |
| West                 | Multi-Family Residential                     | M (Medium Density Residential)     | R-3 (Medium Density Residential) |

| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            | X         |                   |
| <i>Special Districts/Zones</i>                    | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| <b>Special Purpose and Overlay Districts</b>      |            |           |                   |
| A-O (Airport Overlay) District                    | X          |           | Y                 |
| <b>Trails</b>                                     |            | X         |                   |
| <b>Rural Preservation Overlay District</b>        |            | X         |                   |
| <b>Development Impact Notification Assessment</b> |            | X         |                   |
| <b>Project of Regional Significance</b>           |            | X         |                   |

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.04 and Title 19.10, the following parking standards apply:*

| <b>Parking Requirement</b> |  |                      |                 |                     |                 |                     |                   |
|----------------------------|--|----------------------|-----------------|---------------------|-----------------|---------------------|-------------------|
| <i>Use</i>                 | <i>Gross Floor Area or Number of Units</i> | <i>Parking Ratio</i> | <i>Required</i> |                     | <i>Provided</i> |                     | <i>Compliance</i> |
|                            |  |                      | <i>Parking</i>  |                     | <i>Parking</i>  |                     |                   |
|                            |  |                      | <i>Regular</i>  | <i>Handi-capped</i> | <i>Regular</i>  | <i>Handi-capped</i> |                   |
| Office, Other Than Listed  | 6,567 SF                                   | 1 space / 300 SF GFA | 21 Spaces       | 1 Space             | 8 Spaces        | 1 Space             | Y*                |

|   |                        |  |                      |                     |                                  |                     |           |
|---|------------------------|--|----------------------|---------------------|----------------------------------|---------------------|-----------|
| Mini-Storage Facility                     | 32,809 SF<br>119 Units | 1 space /<br>50 Storage<br>Units<br>spread<br>throughout<br>plus min. 5<br>spaces on<br>exterior of<br>security<br>fence | 8<br>Spaces          |                     | 3<br>Spaces                      |                     | Y*        |
| General Personal Service                  | 308 SF                 | 1 space /<br>250 SF<br>GFA   | 2<br>Spaces          |                     | 1<br>Space                       |                     | Y*        |
| Furniture/App<br>liance Store             | 561 SF                 | 1 space /<br>500 SF<br>of GFA  | 2<br>Spaces          |                     | 1<br>Space                       |                     | Y*        |
| Bakery -<br>Delicatessen/<br>Donut Shop   | 1,848 SF               | 1 space /<br>100 SF<br>GFA   | 18<br>Spaces         | 1<br>Space          | 8<br>Spaces                      | 1<br>Space          | Y*        |
| General<br>Retail, Other<br>Than Listed   | 6,300 SF               | 1 space /<br>175 SF<br>GFA   | 34<br>Spaces         | 2<br>Spaces         | 14<br>Spaces                     |                     | Y*        |
| Financial<br>Institution,<br>Specified    | 940 SF                 | 1 space /<br>250 SF<br>GFA   | 4<br>Spaces          |                     | 2<br>Spaces                      |                     | Y*        |
| <b>SubTotal</b>                           | <b>49,556 SF</b>       |  | <b>89<br/>Spaces</b> | <b>4<br/>Spaces</b> | <b>37<br/>Spaces</b>             | <b>2<br/>Spaces</b> | <b>Y*</b> |
| <b>TOTAL<br/>(including<br/>handicap)</b> |                        |  | <b>93 Spaces **</b>  |                     | <b>39 Spaces</b>                 |                     | <b>Y*</b> |
| <b>Percent<br/>Deviation</b>              |                        |  |                      |                     | <b>≈ 58.06%<br/>Reduction **</b> |                     |           |
| Loading<br>Spaces                         |                        | 3 Spaces<br>at 30,000<br>to 50,000<br>SF of<br>GFA   | 3 Spaces             |                     | 3 Spaces                         |                     | Y         |

\* A Variance (VAR-18625) allowed 39 parking spaces where 95 parking spaces would otherwise be the minimum required.

\*\* The tenant space that is proposed for the Financial Institution, Specified use was designated as General Retail, Other Than Listed as a part of the above referenced parking variance. The change of this space to the proposed use, if approved, will reduce the sites standard parking requirement by two spaces.

| <b>Waivers</b>   |  |                             |
|--|--|-----------------------------|
| <b>Request</b>   | <b>Requirement</b>   | <b>Staff Recommendation</b> |
| To allow a separation distance of zero feet from an existing residential use.  | 200-foot minimum distance separation   | Denial                      |
| To allow a separation distance of 316 feet from an existing Financial Institution, Specified (3003 S. Valley View Ave.). | 1,000-foot minimum distance separation   | Denial                      |
| To allow the area dedicated to the use to be 940 square feet.  | The tenant space dedicated to the use shall have a minimum size of 1,500 square feet | Denial                      |

## **ANALYSIS**

The subject property is designated as LI/R (Light Industrial/Research) under the Southeast Sector Plan of the General Plan. This category allows areas appropriate for clean, low-intensity (non-polluting and non-nuisance) industrial uses, including light manufacturing, assembling and processing, warehousing and distributions, and research, development and testing laboratories. The existing buildings are currently used for a variety of retail and office uses at the front of the property and provides mini-storage facilities for the remainder of the property which are in compliance with the General Plan.

The M (Industrial) zoning district is intended to provide for heavy manufacturing industries in locations where they will be compatible with and not adversely impact adjacent land uses. This district is intended to be located away from all residential development. The Financial Institution, Specified use proposed at this location is conditionally permissible in an M (Industrial) zoning district which is compatible with the LI/R (Light Industrial/Research) General Plan designation. Due to inability to meet the distance separations to a similar use and a residential use and the lack of the required minimum amount of area for the use, the may not be conditionally approved and a special use permit request is necessary.

The site is within the McCarran International Airport Overlay Map portion of the Airport Overlay District. This is a developed site and is in compliance with Title 19.06.080 (B) which allows a structure to a height up to thirty five feet above the surface of the land on any parcel without a height limitation review or prohibition.

Pursuant to Title 19.04 the Minimum Requirements of Approval for a Financial Institution, Specified use in an M (Industrial) district are:

1. The use shall comply with all applicable requirements of Title 6.
2. The building design and color scheme shall be subject to review by the Department to ensure that it will be harmonious and compatible with the surrounding area.

3. No temporary signs (as described in Title 19.14.090) such as balloons, inflated devices, searchlights, pennants, portable billboards, portable signs, streamers, trucks parked for signage purposes, or other similar devices are permitted, except that banners announcing a grand opening or that a business is coming soon may be approved administratively for a period not to exceed thirty days.
4. Window signs shall not:
  - a. Cover more than twenty percent (20%) of the area of all exterior windows;
  - b. Include flashing lights or neon lighting; or
5. The hours of operation shall not extend beyond the hours of 8:00 a.m. to 11:00 p.m.
6. The building or portion thereof that is dedicated to the use shall have a minimum size of one thousand five hundred square feet, and shall have sufficient interior space to provide for adequate customer waiting areas, customer queuing, and transaction space (such as teller windows or desks).
7. No specified financial institution use may be located closer than two hundred feet from any parcel used or zoned for residential use. In addition, no specified financial institution use may be located closer than one thousand feet from any other specified financial institution use, auto title loan use or pawn use. For purposes of this Paragraph (7), distances shall be measured in a straight line from property line to property line, without regard to intervening obstacles. The term property line refers to lines of fee interest parcels and not leasehold parcels.

The proposed Financial Institution, Specified fails to meet the requirement of condition 6 as the proposed use will take place in a 940 square-foot suite where 1,500 square feet is the minimum area required. Further, the proposed use does not meet condition 7 as the subject site is located zero feet from a residential use where a 200-foot distance separation is required, and 316 feet from an existing Financial Institution, Specified where a 1,000-foot distance separation is required.

The applicant is requesting waivers of the minimum space requirement and the distance separation requirements to a residential use and another Financial Institution, Specified. Specifically, the waivers, if approved, would allow the portion of the building dedicated to this use to be only 940 square feet where 1,500 square feet is the minimum area required; allow zero feet of separation between the subject property and a residential land use where 200 feet is the minimum separation required; and 316 feet of separation from another similar use where 1,000 feet is the minimum separation required.

The proposed use is not well-suited to the surrounding area based on standards set forth in Title 19.04 for Financial Institution, Specified uses as referenced above. The proposal is located within a tenant space that is too small to house the use and is too close to an existing business of this nature and residential uses. As such, this use cannot be conducted in a manner that is harmonious and compatible with surrounding development and staff is recommending denial of this Special Use Permit.

## **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.**

The proposed use can not be harmonious with this particular area as Title 19.04 sets forth distance requirements and a minimum operations area to protect neighboring uses from this type of business. This proposal does not meet those distance standards nor the minimum area requirement.

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

The subject site is not physically suitable for the proposed Financial Institution, Specified use. The existing tenant space that is proposed to house this use is not of sufficient area to meet the required 1,500 square-foot total space requirements.

- 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 Pennwood Avenue (an 80-foot wide local street). This road is capable of accommodating the traffic flow created by the site and the 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.**

Approval of this use will not support the public health, safety, and general welfare as it would violate the protections adopted by Title 19.04 for Financial Institution, Specified uses.

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

The use does not meet all applicable conditions of Title 19.04 for Financial Institution, Specified uses. The location of this use requires a waiver of the minimum area requirement and a waiver of the distance separation requirements from residential uses and existing Financial Institution, Specified uses.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 10

**ASSEMBLY DISTRICT** 8

**SENATE DISTRICT** 11

**NOTICES MAILED** 332 by City Clerk

**APPROVALS** 1

**PROTESTS** 0