



**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: MARCH 5, 2008**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: ROC-26440 - REVIEW OF CONDITION - PUBLIC HEARING -**  
**OWNER: OWEN'S STAR, LLC - APPLICANT: CABANA FOOD MARKET**

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

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

**Planning and Development**

1. Condition Number Seven from Special Use Permit (SUP-8433) shall be removed.
2. Conformance to all other Conditions of Approval for Special Use Permit (SUP-8433) and all other related actions as required by the Planning and Development Department and Department of Public Works.

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

**PROJECT DESCRIPTION**

This is a request for a Review of Condition to remove condition number seven of an approved Special Use Permit (SUP-8433) which stated that the sale of individual containers of any size of beer, wine coolers or screw cap wine is prohibited, that all such products shall remain in their original configurations as shipped by the manufacturer, and that no repackaging of containers into groups smaller than the original shipping container size shall be permitted.

Staff recommends denial of this request as the intensification of use has been determined unsuitable for this location.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
10/19/05	The City Council approved a Rezoning (ZON-8432) from N-S (Neighborhood Services) to C-1 (Limited Commercial), and a Special Use Permit (SUP-8433) for a proposed Liquor Establishment (on-sale/off-sale/on-off-sale) within an existing market. The Planning Commission and staff recommended approval at the 09/22/05 Planning Commission meeting.
4/05/06	The City Council approved a Variance (VAR-11644) to allow 128 parking spaces where 143 spaces are required, and a Master Sign Plan (MSP-11643) on the subject property.
4/19/06	The City Council approved a request for a Special Use Permit (SUP-11425) for a Financial Institution, Specified within an existing market and a Waiver of the 200-foot distance separation requirement from a residential use. The Planning Commission and staff had recommended approval.
7/12/06	The City Council approved a Required Six Month Review (RQR-13859) of an approved Special Use Permit (SUP-8433) that allowed a Liquor Establishment (on-sale/off-sale/on-off-sale) within an existing market at 3965 East Owens Avenue.
8/10/06	The Planning Commission voted to strike a request for a Variance (VAR-14759) to allow 124 parking spaces where 171 spaces is the minimum number required on 2.27 acres at 3955 East Owens Avenue from the 8/10/06 Planning Commission agenda.
<b><i>Related Building Permits/Business Licenses</i></b>	
4/20/05	Business License #C05-02356 issued for a Tobacco Dealer Retail at 3955 East Owens Avenue, Ste #110
6/29/05	Business License #W10-00079 issued for Wire Service at 3955 East Owens Avenue, Ste #110
10/27/05	Business License #C15-00325 issued for a Convenience Store at 3955 East Owens Avenue, Ste #110

1/12/06	Business License #L10-00257 issued for Beer/ Wine/ Cooler Off-Sale at 3955 East Owens Avenue, Ste #110
1/04/07	Business License #C22-00041 issued for Check Cashing Service, Gross at 3955 East Owens Avenue, Ste #110
1/08/07	Business License #G01-02275 issued for Gaming, Restricted at 3955 East Owens Avenue, Ste #110
1/08/07	Business License #C20-02274 issued for a at 3955 East Owens Avenue, Ste #110
<b><i>Pre-Application Meeting</i></b>	
1/18/07	A pre-application meeting was held with staff to discuss the requirements for submitting a Review of Conditions request. The applicant was informed of the original conditions of approval of the approved Special Use Permit and the requirements of the Beer/Wine/Cooler Off-Sale as listed in
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	2.26 acres

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Undeveloped	Clark County	Clark County
South	Multifamily Residential	M (Medium Density Residential)	R-PD17 (Residential Planned Development 17 Units per Acre)
East	Undeveloped	M (Medium Density Residential)	R-E (Residence Estates) under Resolution of Intent to R-PD15 (Residential Planned Development - 15 Units per Acre)
West	Drainage Channel	PF (Public Facilities)	Las Vegas Wash

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

## ANALYSIS

The applicant is seeking to remove condition of approval number seven of an approved Special Use Permit (SUP-8433). That condition explicitly states:

7. *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.*

The proposed removal of this condition is not considered appropriate. The applicant has not demonstrated a justifiable reason for the intensification of use with an allowance of the sale of single packages of beer/wine/coolers. The business is located in a primarily residential area and does not fit in with the surrounding residential neighborhood.

## FINDINGS

The removal of condition number seven from Special Use Permit (SUP-8433) related to the sale of single packages of beer/wine/coolers does not fit in with the surrounding residential neighborhood. There are also undeveloped lots and an accessible drainage channel adjacent to the subject site that may promote vagrant or other non-desirable activity to the immediate area with the intensification of this use. Denial of this request is recommended.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**                      N/A

**ASSEMBLY DISTRICT**                      N/A

**SENATE DISTRICT**                      N/A

**NOTICES MAILED**                      848

**APPROVALS**                      0

**PROTESTS**                      0