

**AGENDA MEMO**

PLANNING COMMISSION MEETING DATE: JULY 24, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-28382 - APPLICANT: WAL-MART STORES, INC. -
OWNER: PAN PACIFIC DEVELOPMENT, INC.

**** CONDITIONS ****

STAFF RECOMMENDATION: **APPROVAL**, subject to:

Planning and Development

1. Conformance to all of the Minimum Requirements under LVMC Title 19.04.050 for a Retail Establishment with Accessory Packaged Liquor Off-Sale.
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. 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 and wine coolers 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 is to allow a Retail Establishment with Accessory Package Liquor Off-Sale at an existing 130,942 square-foot General Retail Store at 3041 North Rainbow Boulevard within a 32.53 acre retail commercial shopping center. This 130,942 square-foot General Retail Store has been in operation since 1994 without major incident. Staff recommends approval of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/06/89	The City Council approved a request for Rezoning (Z-0114-89) from N-U (Non-Urban) under Resolution of Intent to R-3 (Medium Density Residential) and C-1 (Limited Commercial) to C-1 (Limited Commercial) for this property as part of a larger request that approved the overall commercial center on this site. The Planning Commission and staff recommended approval.
01/10/91	The Planning Commission approved a Site Development Plan Review [Z-0114-89(2)] for a shopping center that includes the subject property. Staff recommended approval.
05/08/03	The Planning Commission approved a Site Development Plan Review (SDR-2086) for a proposed 10,296 square foot stock room addition to an existing 118,902 square-foot retail store on the subject site.
06/04/03	The City Council approved a Special Use Permit (SUP-2081) for a proposed Restaurant Service Bar and a Waiver of the minimum distance requirement from a protected use (Religious Facility) on property located at 3059 North Rainbow Boulevard, which is within the subject commercial center.
06/15/05	The City Council approved a Special Use Permit (SUP-6360) for a Financial Institution, Specified and Waivers of the 1,000-foot separation distance from a similar use and a 200-foot minimum separation distance from a residential use. The Planning Commission recommended approval. Staff recommended denial.
01/04/06	The City Council approved a Special Use Permit (SUP-9992) for a Beer/Wine/Cooler On-Sale Establishment and a Waiver of the minimum distance requirement from a protected use (Religious Facility) at 3175 North Rainbow Boulevard. The Planning Commission recommended approval and staff recommended denial.

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<i>Related Building Permits/Business Licenses</i>	
10/08/92	A business license issued for a Packaged Liquor license (L15-00079) was issued at 3195 - 3209 North Rainbow Boulevard.
02/16/94	A business license issued for a Tavern (L16-00234) at 3085 North Rainbow.
12/28/94	A business license issued for a Restaurant and Tavern licenses (R09-00592; L16-00237) at 3131 North Rainbow Boulevard.
06/28/96	A business license issued for a Beer/Wine/Cooler On Sale Licenses (L09-0015) and a Restaurant license (R09-00713) at 3081 North Rainbow Boulevard.
08/22/03	A business license issued for a Restaurant license (R09-01256), a Retail Tobacco license (CO5-0277) and a Coin Operated Amusement Machines license (C08-01662) at 3085 North Rainbow.
<i>Pre-Application Meeting</i>	
05/15/08	Requirements for a Special Use Permit application for a Retail Establishment with Accessory Packaged Liquor Off-Sale Establishment were discussed with representatives of the applicant.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this type of application, nor was one held.	

<i>Field Check</i>	
06/17/08	Staff conducted a site visit and found the subject location to be in operation as a general retail establishment. The site was well maintained and secured.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	32.53

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
South	Apartment Complex	M (Medium Density Residential)	R-3 (Medium Density Residential)
East	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
West	US-95 Right of Way	ROW (Right of Way)	ROW (Right of Way)

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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (140-Foot)	X		Y*
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

**The subject site is located in an Airport Overlay district that restricts the height of structures to 140 feet. The existing center is well under the maximum height allowed.*

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

<i>Parking Requirement</i>							
<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>		
			Regular	Handi-capped	Regular	Handi-capped	
General Retail Store (Wal-Mart)	130,942 S/F	1/250 S/F	513	11	702	24	Y
Subtotal			524		726		
Total*	130,942 S/F	1/250 S/F	524		726		Y

**Per an approved plot plan [Z-0114-89(2)] the overall commercial center has 2,429 spaces, with more than the required 50 handicapped spaces.*

ANALYSIS

This is a request for a Special Use Permit is to allow a Retail Establishment with Accessory Package Liquor Off-Sale at an existing 130,942 square-foot General Retail Store at 3041 North Rainbow Boulevard within a 32 acre retail commercial shopping center. The retail store has been in operation at this location since 1994 without major incident. Title 19.04 allows the Retail Establishment with Accessory Package Liquor Off-Sale use without requiring a waiver of the separation requirement for protected uses in General Retail Stores greater in size that 50,000 square feet. Due to size of this existing General Retail store of 130,942 square feet no waivers for distance separation requirements, and staff is recommending approval. The proposed floor layout for the sale of liquor at this location will be less than 1,000 square feet of a store which has 91,686 square feet of retail display area. This proposed use meets all Title 19.04 requirements for a Retail Establishment with Accessory Packed Liquor Off-Sale; therefore, staff recommends approval of this request.

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• **Zoning/Use**

Per Title 19.04, a Retail Establishment with Accessory Package Liquor Off-Sale use is allowed only with an approved Special Use Permit in the C-1 (Limited Commercial) zoning district. The commercial center must be at least four hundred feet from a church, synagogue, school, child care facility licensed for twelve children, or a city park, which the subject site is not. However in case where the proposed use is in connection with a retail establishment having more than 50,000 square feet of retail floor space the minimum distance separation requirements do not apply. Staff finds that pursuant to Title 19.04 the addition of an Accessory Package Liquor Off-Sale use to an existing 130,942 square-foot General Retail Store is appropriate and recommends the approval of this request.

• **Floor Plan**

The proposed floor plan for the Accessory Packaged Liquor display area indicates that an 884 square-foot display area that is separated from the main retail display area, with one gated entry point. Depicted in the floor plan are two center aisle displays, two large coolers and shelving along all of the exposed wall area with the exception of a doorway, which leads to the fire sprinkler room for the building.

• **Title 19.04 Description of the Retail Establishment with Accessory Package Liquor Off-Sale use:**

A Retail establishment:

- 1) Whose license to sell alcoholic beverages authorizes their sale to consumers only and not for resale, in original sealed or corked containers, for consumption off the the premises where the same are sold; and
- 2) In which the sale of alcoholic beverages is ancillary to the retail use, and in which no more than 10 percent of the retail floor space is regularly devoted to the dspaly or merchandising of alcoholic beverages.

• **Minimum Special Use Requirements:**

Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by requiring that:

- *1. Except as otherwise provided in this Chapter, no retain establishment accessory package liquor off-sale (hereinafter establishment) shall be located within four hundred feet of any church, synagogue, school, child care facility licensed for more than twelve children, or City park.

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- *2. Except as otherwise provided in Paragraph 3 below, the distances referred to in Paragraph 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 Paragraph 1.
- *3. In the case of an establishment property to be located on a parcel of at least eighty acres in size, the minimum distances referred to in Paragraph 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
 - 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 lines 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 Paragraph 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 Paragraph 1 do not apply to:
- a. An establishment which has a non-restricted gaming license in connection with a hotel having two hundred or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of two hundred guest rooms after July 1, 1992; or
 - b. A proposed establishment having more than fifty thousand square feet of retail floor space.

- *6. All businesses which sell alcoholic beverages shall conform to the provisions of Chapter 6.50 of the Las Vegas Municipal Code.
- 7. The minimum distance requirements set forth in Paragraph 1, which are otherwise nonwaivable under the provisions of this subdivision, 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; or
 - c. In connection with a retail establishment having less than twenty thousand 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 right-of-way with a width of least one hundred feet.

*Conditions denoted with an asterisk cannot be waived.

Staff finds that the proposed use meets the minimum Title 19.04.010 standards for this use. The proposed use is to be operated in connection with a retail establishment having more than 50,000 square feet of retail floor space, therefore minimum distance separation requirements do not apply. Furthermore staff finds that the addition of an Accessory Package Liquor Off-Sale use to an existing 130,942 square-foot General Retail Store is appropriate and recommends the approval of this request.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 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.**

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Per Title 19.04.010 the proposed use is to be operated in connection with a retail establishment having more than 50,000 square feet of retail floor space, therefore minimum distance separation requirements do not apply. Staff finds that the addition of an Accessory Package Liquor Off-Sale use to an existing General Retail Store, which has been in operation continuously for over ten years without major incident, is suitable for this location and recommends the approval of this request.

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

The subject site is located within an existing retail center, which has been in continuous operation for over ten years. The addition of Accessory Packed Liquor Off-Sale to this location will not increase the existing intensity of the land use. The site is physically suitable for the type and intensity of the proposed 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 subject site is accessible at multiple points on Rainbow Boulevard and at multiple points along Cheyenne Avenue. The Master Plan of Streets and Highways identifies Rainbow Boulevard and Cheyenne Avenue as 100-foot Primary Arterial roadways, these roadways are more than adequate to carry any added traffic generated from this 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.

The use is an acceptable use within a property designated SC (Service Commercial) under the Las Vegas 2020 Master Plan. Public health safety and welfare are not compromised by this proposal as the use requires frequent inspection and rigorous standards must be met by the State of Nevada and the City of Las Vegas.

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

The use complies with all applicable conditions per Title 19.04

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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SENATE DISTRICT 3

NOTICES MAILED 768

APPROVALS 2

PROTESTS 2