

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: AUGUST 14, 2008****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE RENOTIFICATION - SUP-28323 - APPLICANT:
WASHINGTONPECOS, LLC - OWNER: MADRE MESA**

**** 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 establishment use, including parking requirements.
2. Approval of and conformance to the Conditions of Approval for Variance (VAR-28326) and Site Development Plan Review (SDR-28320) shall be required, if approved.
3. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. The sale of individual containers of any size of beer or 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.
6. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a Beer/Wine/Cooler Off-Sale Establishment within a proposed Convenience Store with a Waiver to allow a 100-foot distance separation, where 400 feet is required from a City Park at the southeast corner of Washington Avenue and Pecos Road. The subject property is currently an undeveloped vacant lot surrounded by a City park to the west as well as single and multi-family residential dwellings to the north, northwest, west and south.

Several companion items have been submitted in addition to this request, including a Site Development Plan Review (SDR-28320) for a 4,618 square-foot Convenience Store with Fuel Pumps; a 748 square-foot Restaurant with Drive Through; a 2,406 square-foot Restaurant with Drive Through and an 8,937 square-foot retail building. This was previously noticed as a Site Development Plan Review (SDR-28320) for a 4,618 square-foot Convenience Store with Fuel Pumps, a 748 square-foot Restaurant with Drive Through, a 2,608 square-foot Restaurant with Drive Through and a 9,449 square-foot retail building with a Waiver to allow a six-foot three-inch side yard landscape buffer where eight feet is required. Several changes have been made to the site plan resulting in a decrease in square footage of the retail building and the southernmost Restaurant with Drive Through as well as a site redesign which no longer necessitates the need for a Waiver of the landscape buffer along the east perimeter or an Exception for parking lot landscape finger islands.

Additionally, requests for a Rezoning (ZON-28325) to change the zoning designation from R-1 (Single Family Residential) to C-1 (Limited Commercial) and a Variance (VAR-28326) to allow a 35-foot setback, where residential adjacency requires 69 feet has been submitted. The request for a 100-foot distance separation Waiver from a city park indicates that this is not an appropriate location for a Beer/Wine/Cooler Off-Sale Establishment; therefore staff recommends denial of this Special Use Permit request.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
11/15/00	The City Council approved a request to amend a portion of the Southeast Sector of the General Plan (GPA-0025-00) from M (Medium Density Residential) to SC (Service Commercial), a request for a Rezoning (Z-0079-00) from R-1 (Single Family Residential) under Resolution of Intent to R-3 (Medium Density Residential) to C-1 (Limited Commercial) and a Site Development Plan Review [Z-0079-00(1)] with a Waiver of the required landscaping for a proposed 21,425 square-foot commercial center on 3.05 acres on the southeast corner of Washington Avenue and Pecos Road. The Planning Commission recommended approval of these requests while staff recommended denial.
04/12/01	The Planning Commission approved a request for a Tentative Map (TM-0010-01) for one lot commercial subdivision on 3.05 acres on the southeast corner of Washington Avenue and Pecos Road. Staff recommended approval of this request. This request expired 04/12/03.
02/05/03	The City Council approved a request for an Extension of Time (EOT-1287) on an approved Rezoning (Z-0079-00) from R-1 (Single Family Residential) under Resolution of Intent to R-3 (Medium Density Residential) to C-1 (Limited Commercial) on 3.05 acres adjacent to the southeast corner of Washington Avenue and Pecos Road. The Planning Commission and staff recommended approval of this request. The Resolution of Intent on this Rezoning expired 11/24/04.
04/22/05	A Code Enforcement Citation (#29171) was issued for overgrown weeds, trash and debris at a vacant lot at the southeast corner of Pecos Road and Washington Avenue.
10/22/07	A Code Enforcement Citation (#59043) was issued for vehicle code violations (numerous cars parked on a vacant lot) at the southeast corner of Pecos Road and Washington Avenue.
12/19/07	A Code Enforcement Citation (#60746) was issued for vehicle code violations (numerous cars parked on a vacant lot) at the southeast corner of Pecos Road and Washington Avenue.
12/26/07	Code Enforcement was called out to southeast corner of Pecos Road and Washington Avenue (#60844) to investigate abandoned vehicles on site. No abandoned vehicles were found on site at the time of inspection.

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07/10/08	The Planning Commission held in abeyance a request for a Site Development Plan Review (SDR-28320) for a 4,618 square-foot Convenience Store with Fuel Pumps; a 748 square-foot Restaurant with Drive Through; a 2,608 square-foot Restaurant with Drive Through and a 9,449 square-foot retail building with a Waiver to allow a six-foot three-inch side yard landscape buffer, where eight feet is required, Rezoning (ZON-28325) to change the zoning designation from R-1 (Single Family Residential) to C-1 (Limited Commercial), a Special Use Permit (SUP-28323) for a Beer/Wine/Cooler Off-Sale Establishment within a proposed Convenience Store and a Variance (VAR-28326) to allow a 35-foot setback, where residential adjacency requires 69 feet at the southeast corner of Washington Avenue and Pecos Road in order for the applicant to revise the site plans to enhance onsite circulation.
<i>Related Building Permits/Business Licenses</i>	
There are no relevant permits or business licenses associated with this property.	
<i>Pre-Application Meeting</i>	
05/15/08	A pre-application meeting was held with the applicant where elements of submitting a Rezoning, Site Development Plan Review, Variance and a Special Use Permit were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not held, nor was one required.	

<i>Field Check</i>	
06/04/08	A field check was performed by staff at the subject property. The site was noted to be relatively flat, undeveloped with numerous political advertising signs on the property.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	2.78

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	SC (Service Commercial)	R-1 (Single Family Residential)
North	Single-Family Residential	L (Low Density Residential)	R-1 (Single Family Residential)

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South	Condominium Development	ML (Medium Low Density Residential)	R-PD12 (Residential Planned Development 12 Units per Acre)
East	Condominium Development	ML (Medium Low Density Residential)	R-PD12 (Residential Planned Development 12 Units per Acre)
West	City of Las Vegas Public Park	PR-OS (Parks/ Recreation/Open Space)	C-V (Civic)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
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</i>		<i>Provided</i>		<i>Compliance</i>
			<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Restaurant, 2,000 SF or more (with Drive-Through)	2,406 SF	1 space / 100 SF of GFA	24	1			

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Restaurant, Less than 2,000 SF (with Drive- Through)	748 SF (Indoor) 1,018 SF (Outdoor) 1,766 SF Total	1 space / 100 SF of GFA	17	1			
General Retail Store, Other Than Listed (3,500 SF or More)	8,937 SF	1 space / 175 SF GFA	50	2			
Service Station (without Automotive Repair)	4,618 SF	1 space / 250 SF GFA	18	1			
SubTotal			109	5	115	5	
TOTAL			114		120		Y
Loading Spaces			4		4		Y

ANALYSIS

This is a request to provide a Beer/Wine/Cooler Off-Sale establishment within a proposed Convenience Store located at the southeast corner of Washington Avenue and Pecos Road. The proposed Convenience Store is part of a larger General Retail and Restaurant with Drive Through development proposed through Site Development Plan Review (SDR-28320). This proposed development contains a total of 120 parking spaces, where Title 19.04 requires a total of 114 spaces, which exceeds the requirements of code.

There is one protected use within the required 400-foot distance separation radius, which is a City of Las Vegas public park 100 feet to the west of the subject property. The public park is separated by a right-of-way 100 feet in width, Pecos Road, which allows the applicant to request a Waiver from this requirement per condition 7b of the Minimum Special Use Permit Requirements. This use meets the intent of the proposed C-1 (Limited Commercial) zoning district, however staff finds that the proximity of this proposed use is too close to a public park; therefore denial of this request is recommended.

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- **Zoning**

This project is located within a proposed C-1 (Limited Commercial) zoning district. This district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This district should be located on the periphery of residential neighborhoods and should be confined to the intersections of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) District is consistent with the SC (Service Commercial) category of the General Plan. The General Plan Designation for site is GC (General Commercial), which allows Service Commercial uses.

- **Use**

A Beer/Wine/Cooler Off-Sale establishment is defined by Title 19 as an establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine or coolers to consumers only and not for resale, in original sealed or corked containers, for the consumption off the premises where the same are sold, and is operated in connection with a grocery store, convenience store or specialty merchandise store. Beer/Wine/Cooler Off-Sale establishment can not be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children. A City Park is located to the west of the subject property; however it is separated by a highway or a right-of-way with a width of at least 100 feet, which allows the applicant to request a Waiver of this requirement.

- **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:

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- 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
 - 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 nonrestricted 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:

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- 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.

The proposed Beer/Wine/Cooler Off-Sale Establishment use within the proposed Convenience Store meets the minimum Special Use Permit requirements; however, staff finds that this use combined with the other proposed uses at the subject property will be too intense. Denial of this request is recommended.

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 land use, if approved, will be too intense when placed 100 feet from a city park and co-located with the proposed General Retail and Restaurant with Drive Through uses and existing nearby residential developments. The combination of this use with the other proposed uses will create an over developed site.

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

This Beer/Wine/Cooler Off-Sale establishment will be established within a proposed commercial shopping center that will have adequate parking for the proposed use; however the use provided in conjunction with the proposed General Retail and Restaurant with Drive Through uses will be too intense for the subject site.

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.

Site access is adequately provided by Washington Avenue and Pecos Road, both classified as 100-foot wide Primary Arterials by the Master Plan Streets and Highways, which will provide adequate access to the site.

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 proposal will not be inconsistent with or compromise the public health, safety, and welfare of the overall objective of the General Plan. Additionally, this site will be subject to inspections and business licensing requirements.

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

The proposed use does not conform with the Minimum Special Use requirements for a Beer/Wine/Cooler Off-Sale establishment use, as the applicant has requested a Waiver to allow 100-foot distance separation from a City park, where 400 feet is required.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 28

SENATE DISTRICT 10

NOTICES MAILED 589

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APPROVALS 8

PROTESTS 18