

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: AUGUST 14, 2008****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: SUP-28868 - APPLICANT: RAPINDER CHIMA - OWNER:  
PICHAT AND SAMAN POJANSOMBOON, ET AL**

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**\*\* CONDITIONS \*\*****STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. Conformance to all minimum requirements under the Town Center Development Standards Manual for Retail Establishment with Package Liquor Off-Sale.
2. Approval of and conformance to the Conditions of Approval for Special Use Permits (SUP-28542, SUP-28544, SUP-28545, SUP-28546, SUP-28547, SUP-28712, SUP-28713), Variance (VAR-28540), Vacation (VAC-28548) and Site Development Plan Review (SDR-28535) 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, 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.

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

**PROJECT DESCRIPTION**

This is a request for a Special Use Permit for a proposed 5,100 square-foot Convenience Store with Accessory Package Liquor Off-sale at the southwest corner of Durango Drive and Farm Road. The proposed use is part of a development that is not compatible and harmonious with surrounding development; therefore staff recommends denial.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
12/07/98	The City Council approved a Rezoning (Z-0076-98) to T-C (Town Center) on the subject property as part of a larger request.
01/04/05	Code Enforcement cited (#24873) a vacant lot with trash and debris left from temporary Christmas tree sales. The case was closed on 01/20/05.
02/22/05	Code Enforcement cited (#26291) an illegal sign on the property. The case was closed on 02/24/05.
11/14/06	Code Enforcement cited (#47958) a vacant lot with trash and debris left from temporary pumpkin sales for Halloween. The case was closed on 11/21/06.
<b><i>Related Building Permits/Business Licenses</i></b>	
09/23/05	A Temporary Commercial Permit (#4597) was issued for a pumpkin sales lot at the southwest corner of Farm Road and Durango Drive.
11/14/05	A Temporary Commercial Permit (#10307) was issued for a Christmas tree sales lot at the southwest corner of Farm Road and Durango Drive.
09/25/06	A Temporary Commercial Permit (#17097) was issued for a Christmas tree sales lot at the southwest corner of Farm Road and Durango Drive.
09/17/07	A Temporary Commercial Permit (#24612) was issued for a Christmas tree sales lot at the southwest corner of Farm Road and Durango Drive.
<b><i>Pre-Application Meeting</i></b>	
03/20/08	A pre-application meeting was held and elements of this application were discussed. In addition to this application, a Major Modification and several Special Use Permit applications were discussed. A list was provided detailing the Waivers from Town Center Development Standards that the applicant needed to request. Submittal requirements were discussed.

SUP-28868 - Staff Report Page Two  
 August 14, 2008 - Planning Commission Meeting

<i>Neighborhood Meeting</i>	
07/01/08	<p>A neighborhood meeting was held on Tuesday, July 1, 2008 at 5:30 p.m. at the YMCA Club in the CLV Community Resource Room located at 6601 North Buffalo Drive. There were 29 members of the public, seven representatives of the applicant and two city staff were present.</p> <p>The applicant and one of the proposed tenants offered a presentation on the proposed development. Members of the public raised the following questions and concerns:</p> <ul style="list-style-type: none"> <li>* Concerns were raised regarding the height of the hotel building (the applicant explained that the building would be approximately 55 to 60 feet in height). Some members of the public requested that the height be reduced to three stories, and stated that five-story buildings were inappropriate in that area (the east side of the freeway).</li> <li>* Several concerns were expressed regarding traffic flow and the amount of traffic generated by the development. The applicant noted that the traffic study for the project had already been completed, and was being reviewed by city staff. Specific concerns were raised about northbound traffic coming out of the development onto Farm Road, potential increases in traffic on Tule Springs, construction traffic on eastbound Farm Road, and whether or not a traffic light could be installed at the entrance to the development.</li> <li>* One member of the public stated that the hotel use was inappropriate for the site; others questioned the viability of the hotel based on the proximity of the Santa Fe Hotel/Casino and the new hotel/casino at the Kyle Canyon development.</li> <li>* Questions were raised relative to the other tenants proposed for the site and the ability of the developer to lease the retail space based on current market conditions.</li> <li>* Concerns were raised regarding the carwash and any buffers that would be provided to screen the use, and whether the use was necessary.</li> <li>* Questions were raised regarding impacts to the homes that are proposed abutting the site in the Village of Centennial Springs development.</li> <li>* Concerns were raised relative to the signage proposed for the site; the applicant stated that they would comply with the Town Center requirements.</li> </ul>
<i>Field Check</i>	
07/01/08	<p>A field check was made on site. The site is currently an undeveloped property that is juxtaposed between two major streets. To the south of this property is a mixed-use development that is under construction and across Farm Road to the north is a large shopping center.</p>

SUP-28868 - Staff Report Page Three  
 August 14, 2008 - Planning Commission Meeting

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	7.97

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	TC (Town Center)	T-C (Town Center) [SC -TC (Service Commercial Town Center)] Special Land Use Designation
North	Shopping Center	TC (Town Center)	T-C (Town Center) [SC -TC (Service Commercial Town Center) Special Land Use Designation
South	Single Family Residential, Retail, Condominiums, Mixed Use	TC (Town Center)	T-C (Town Center) [SX-TC (Suburban Mixed Use Town Center)] Special Land Use Designation
East	Shopping Center	TC (Town Center)	T-C (Town Center) [SC -TC (Service Commercial Town Center)] Special Land Use Designation
West	Undeveloped	TC (Town Center)	T-C (Town Center) [SC -TC (Service Commercial Town Center)] Special Land Use Designation

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>			
T-C Town Center District	X		N*
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
<b>Trails</b>	X		Y**
<b>Rural Preservation Overlay District</b>		X	Y
<b>Development Impact Notification Assessment</b>		X	Y
<b>Project of Regional Significance</b>		X	Y

\*Multiple Waivers of the Town Center Development Standards have been requested as part of the companion Site Development Plan Review (SDR-28535).

**SUP-28868 - Staff Report Page Four  
August 14, 2008 - Planning Commission Meeting**

*\*\*A Multi-Use Transportation Trail is required adjacent to this site on Farm Road. The proposal adheres to Exhibit 1 of the Transportation Trails Element of The Las Vegas 2020 Master Plan.*

**DEVELOPMENT STANDARDS**

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

<b>Parking Requirement</b>							
<b>Use</b>	<b>Gross Floor Area or Number of Units</b>	<b>Parking Ratio</b>	<b>Required</b>		<b>Provided</b>		<b>Compliance</b>
			<b>Parking</b>		<b>Parking</b>		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center*	64,700 SF	1:250	259				Y
Hotel	139 Units	1 per guest room	139				Y
<b>Subtotal</b>			389	9	386	16**	Y
<b>TOTAL</b>			398		402***		Y
Loading Spaces	64,700 SF		4		4		Y

*\*Under Title 19.04, a shopping center use is defined as Any structure or group of structures that: (1) House any assemblage of various commercial tenants, including without limitation, retail uses, personal service uses, food service uses, and other ancillary uses; (2) Have a minimum combined gross floor area of 25,000 square feet; (3) Are located upon a single parcel of land or upon contiguous parcels of land; and (4) Have common vehicular access and parking facilities. This development is deemed a shopping center use and parking is calculated for the overall development, not each individual use. For the proposed use Retail Establishment with Accessory Package Liquor Off-Sale, no additional parking is required beyond that which is required for the principal use on the site.*

*\*\*Parking spaces dimensions and striping do not meet accessible parking standards. A condition has been added in Site Development Plan Review (SDR-28535).*

*\*\*\*Title 19.10 allows 30 percent of the total parking spaces required be compact parking spaces. The applicant is proposing 44 compact spaces, which is 11 percent of the total provided.*

**ANALYSIS**

The subject site is currently zoned T-C (Town Center) with a SC-TC (Service Commercial Town Center) Special Land Use designation. The applicant is proposing a Major Modification (MOD-28538) of the Town Center Land Use Plan to GC-TC (General Commercial Town Center). The General Commercial District allows all types of retail, service, office and other general business uses of a more intense commercial character. These uses will normally require a Special Use Permit and will commonly include limited outdoor display of product and lights or other

**SUP-28868 - Staff Report Page Five**  
**August 14, 2008 - Planning Commission Meeting**

characteristics not generally compatible with the adjoining residential areas without significant transition. Examples include new and used car sales, highway commercial uses such as hotels and motels, and tourist commercial uses such as resorts and recreational facilities.

The proposed Retail Establishment (Convenience Store) with Accessory Package Liquor use is within the range of uses permitted with a Special Use Permit in the GC-TC (General Commercial - Town Center) Special Land Use designation. In conjunction with this application, the applicant has proposed a Special Use Permit (SUP-28544) for a 5,100 square-foot Convenience Store with Fuel Pumps with a Waiver to allow a zero-foot distance separation from a single-family detached dwelling where 330 feet is required and a Special Use Permit (SUP-28713) for Gaming Establishment, Restricted with a Waiver to allow a zero-foot distance separation from a single-family detached dwelling where 330 feet is required.

In addition to this application, the applicant has requested a Variance (VAR-28540) to allow a 60-foot setback where Residential Adjacency Standards require 185 feet for a proposed Hotel; a Special Use Permit (SUP-28542) for a proposed 7,900 square-foot Liquor Establishment (Tavern) and associated Gaming Establishment, Restricted License Special Use Permit (SUP-28712); a Special Use Permit (SUP-28545) for a proposed 2,200 square-foot Restaurant (with Drive Through); a Special Use Permit (SUP-28546) for a proposed Hotel with a Waiver to allow a zero-foot separation from a single-family detached dwelling where 330 feet is required; a Special Use Permit (SUP-28547) for a proposed Car Wash in conjunction with a proposed Convenience Store (with Fuel Pumps); a Petition to Vacate (VAC-28548) a portion of Durango Drive and a portion of Farm Road generally located on the southeast corner of Durango Drive and Farm Road; and a Site Development Plan Review (SDR-28535) for a 139-room five-story Hotel and a 64,700 square-foot retail development with Waivers to allow a five-story building where two stories is the maximum height permitted and a 14-foot setback where a 20-foot setback is required for retail buildings on 7.97 acres at the southwest corner of Durango Drive and Farm Road.

- **Use**

The proposed Retail Establishment with Accessory Package Liquor Off-Sale use will be constructed in conjunction with a 5,100 square-foot Convenience Store. 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 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 display or merchandising of alcoholic beverages. This use includes an establishment that provides on-premises wine, cordial and liqueur tasting if the licensee also holds a wine, cordial and liqueur tasting license for that location.

**SUP-28868 - Staff Report Page Six**  
**August 14, 2008 - Planning Commission Meeting**

The floor plan depicts an area designated for a sale of alcoholic beverages, which is less than the 10 percent of retail floor space required by the use definition.

- **Conditions**

Pursuant to Town Center Standards Manual a Retail Establishment with Accessory Package Liquor Off-Sale shall comply with all the minimum conditions, standards and requirements applicable to the use Retail Establishment with Accessory Package Liquor Off-Sale under LVMV 19.04.050.

- \*1. Except as otherwise provided, no package liquor off-sale establishment use (herein after establishment) shall be located within 400 feet of any church, synagogue, school, childcare facility licensed for more than twelve 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
  - 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

**SUP-28868 - Staff Report Page Seven**  
**August 14, 2008 - Planning Commission Meeting**

- 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:
    - 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 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 Convenience Store with Accessory Package Liquor Off-Sale is 480 feet from a Commercial Child Care Facility on the corner of Farm Road and Tule Springs Road. City Council approved a Special Use Permit (SUP-5191) for a Child Care Center on 11/17/04 and issued a business license on 11/30/05. Per Title 19.04, this is an acceptable distance from a childcare facility licensed for more than twelve children.

## **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 is part of a development that is not compatible and harmonious with surrounding development.

**SUP-28868 - Staff Report Page Eight  
August 14, 2008 - Planning Commission Meeting**

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

The site is not physically suitable for this type of use and intensity of land use. The numerous distance separation Waivers requested for companion Special Use Permit (SUP-28544, SUP-28546, SUP-28712, SUP-28713) and Site Development Plan (SDR-28535) applications indicate that other sites within the Town Center area would be better suited for this type of 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 property fronts on Durango Drive, which is designed as a 100-foot wide Primary Arterial by the Town Center Street Classification Map Six, and accesses Farm Road, which is designated as an 80-foot wide Arterial/Secondary Collector. Farm Road is the only street that the property takes access from and will provide adequate service for the proposed project.

**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.**

A Retail Establishment with Accessory Package Liquor use will be subject to regular City and County inspections for licensing; therefore, public health, safety, and welfare will not be compromised.

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

The use meets all the applicable conditions per Title 19.04.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 22

**ASSEMBLY DISTRICT** 13

**SENATE DISTRICT** 9

**NOTICES MAILED** 497

**SUP-28868 - Staff Report Page Nine**  
**August 14, 2008 - Planning Commission Meeting**

**APPROVALS**                      2

**PROTESTS**                        21