



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: AUGUST 14, 2008**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: SUP-29035 - APPLICANT: BUY LOW MARKET - OWNER:**  
**EDMOND TOWN CENTER, LLC**

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

**STAFF RECOMMENDATION:**      **APPROVAL**, 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 this Special Use Permit does not constitute approval of a liquor license.
3. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
4. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.
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.

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

**PROJECT DESCRIPTION**

This is a request for a Special Use Permit for a proposed Beer/Wine/Cooler Off-Sale Establishment within a existing 43,000 square-foot General Retail Store with Waivers to allow a distance separation of 300 feet from a Church and 150 feet from a City Park where 400 feet is required at 1061 West Owens Avenue. The proposed use does not satisfy all of Title 19 Special Use Permit requirements for Beer/Wine/Coolers Off-Sale Establishment use. However, there was a previous Special Use Permit approved and exercised at this site for a Vons Supermarket. Therefore, staff recommends approval of this request as the use can be conducted in a manner that is harmonious and compatible with surrounding land uses.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
04/24/86	The Board of Zoning approved a Variance (V-0044-86) to allow refurbishing and repair of heavy equipment and parts.
06/23/92	The Board of Zoning approved an reinstatement and Extension of Time (V-0142-89) on a Variance which allows a charter bus operation on property located west of "H " Street between Owens Avenue and Monroe Avenue
10/17/93	The City Council approved a Rezoning (Z-93-93) for reclassification from R-3 (Limited Multiple Residence) to C-1 (Limited Commercial). Staff recommended approval.
04/28/94	The Planning Commission approved a Building Elevation Review [Z-93-93(1)] for a proposed commercial center on this site as part of a larger request.
08/17/94	The City Council approved a Special Use Permit (U-163-94) for package liquor sales within a Vons supermarket. Planning Commission recommended approval.
07/14/05	A 1-lot Reversionary Parcel Map (PMP-6689) on property located at the southwest corner of Owens Avenue and H Street was approved.
06/22/06	The Planning Commission approved a Master Sign Plan (MSP-13599) for a commercial development on 20.88 acres at 931 W. Owens Avenue (139-28-503-025). Planning Commission recommended approval.
08/17/07	An 80-foot tall wireless communications facility, stealth at 921 West Owens Avenue was approved.
10/18/01	The Planning Commission approved a Site Development Plan Review [Z-93-93(2)] for a proposed 84,350 square-foot addition to an existing retail center. Planning Commission recommended approval.

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<b>Related Building Permits/Business Licenses</b>	
07/21/03	A business license (#L15-00025) was issued for a Package Liquor License at 1061 W. Owens Avenue. The license has been inactive since 12/13/06.
<b>Pre-Application Meeting</b>	
07/11/08	A pre-application meeting with the applicant was held and the requirements for a Special Use Permit were reviewed.
<b>Neighborhood Meeting</b>	
A neighborhood meeting is not required, nor was one held.	
<b>Field Check</b>	
07/21/08	A field check was conducted on site and the building was found to be a vacant former 43,000 square-foot Vons Grocery Store within a shopping center.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	20.88

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	C (Commercial)	C-1 (Limited Commercial)
North	Shopping Center	C (Commercial)	C-1 (Limited Commercial)
South	Apartments	M (Medium Density Residential)	R-3 (Medium Density Residential), R-5 (Apartments)
East	Multi-Family Residential	MXU (Mixed Use)	R-3 (Medium Density Residential)
West	Single-Family Residential	L (Low Density Residential), C (Commercial)	R-1 (Single Family Residential)

<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
West Las Vegas Plan	X		Y*
<b>Special Districts/Zones</b>	<b>Yes</b>	<b>No</b>	<b>Compliance</b>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District (140 feet)	X		Y*
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

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\* **West Las Vegas Plan** -The West Las Vegas Plan encourages and fosters economic development and job creation. The proposed use meets the goals of the West Las Vegas Plan.

\* **A-O Airport Overlay District** -The subject property is located within the North Las Vegas Airport Overlay within the 140-foot height limitation contour. There are no structures or buildings on site, which will encroach within this height limitation.

	<i>Gross Floor Area or Number of Units</i>	<i>Base Parking Requirement</i>			<i>Provided</i>			<i>Compliance</i>	
		<i>Parking Ratio</i>	<i>Parking</i>			<i>Parking</i>			
			Regular	Handi-capped	Loading Zone	Regular	Handi-capped		Loading Zone
Shopping Center	221,700	1/250	543	11	7	1035	15	7+	Y
<b>TOTAL</b>	221,700	1/250	543	11	7	1035	15	7+	Y

**ANALYSIS**

- **Zoning**

The subject property is in a C-1 (Limited Commercial) zoning district, within the Redevelopment Area. The C-1 (Limited Commercial) 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 as is this project. The C-1 district is consistent with the Service Commercial, and the Neighborhood Center categories of the General Plan. The proposed Beer/Wine/Cooler Off-Sale Establishment use is permissible in the C-1 district with approval of a Special Use Permit as an accessory use. This application will satisfy this requirement.

- **Use**

A Beer/Wine/Cooler/Off-Sale Establishment is defined by Title 19.04.010 as an establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers to consumers only and not for resale, in original sealed or corked containers, for consumption off the premises where the same are sold, and is operated in connection with the grocery store, drug store, convenience store or specialty merchandise store. The proposed 43,000 square-foot General Retail Store will sell beer, wine, and coolers in conjunction with their retail goods. The submitted floor plan does not designate the location for the sale of beer, wine, and coolers.

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- **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:
  - 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
  - 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.

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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;
  - 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 location fails to meet the Minimum Special Use Permit Requirement #1. However, the applicant does meet the requirement set forth in #7 (c), which may allow a Waiver of the 400-foot distance separation from any church, synagogue, school, child care facility licensed for more than 12 children, or City park based on the retail 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 (The applicant states that no more than 10 percent of the floor will be used for alcoholic display or merchandising in their justification letter). Therefore, the applicant is applying for a Waiver to allow a distance separation of 300 feet from a Church and 150 feet from a City park, where 400 feet is required.

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## 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 the site of a former Vons Supermarket and was approved for package liquor sales in 1994 under Special Use Permit U-163-94; the use can be conducted in a manner that is harmonious and compatible with the existing surrounding land uses as previously demonstrated.

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

The subject site contains an existing shopping center. This site is adequate to handle the accessory use for a Beer/Wine/Cooler Off-Sale Establishment use within an existing 43,000 square-foot General Retail Store.

- 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 Owens Avenue and H Street, which are respectively a 100-foot Primary Arterial and 80-foot Secondary Collector as categorized by the City's Master Streets and Highways Plan. These streets will provide adequate access for the requirements of the proposed accessory Beer/Wine/Cooler Off-Sale Establishment within an existing 43,000 square-foot General Retail Store.

- 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.**

This use will be subject to licensing requirements and will therefore not compromise the public health, welfare or safety or overall objectives of the General Plan.

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

The use does not meet all of the applicable conditions per Title 19.40 due to the proximity of a City park and two Churches; a Waiver to allow a distance separation of 300 feet and 150 feet from protected uses, where 400 feet has been requested.

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**ASSEMBLY DISTRICT**      6

**SENATE DISTRICT**      4

**NOTICES MAILED**      704

**APPROVALS**      5

**PROTESTS**      3