



AGENDA MEMO

CITY COUNCIL MEETING DATE: JULY 16, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-27933 - APPLICANT/OWNER: HECTOR CAMACHO

**** CONDITIONS ****

The Planning Commission (7-0 vote) and staff recommend DENIAL.

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Restaurant with Service Bar use, including parking requirements.
2. Conformance to the conditions for Site Development Plan Review (SDR-25148) and Variance (VAR-25220) 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. An address must be assigned for the Restaurant with Service Bar use at the time of building permits.
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 proposed Restaurant with Service Bar at 4561 East Bonanza Road in an approved 36,650 commercial center. The first phase of the commercial center 16,250 square foot automotive repair facility is complete and in operation. The second approved phase of the project will add an additional 20,400 square-foot of commercial space. The phase II expansion is to include a 11,550 square-foot furniture store, a 6,207 square-foot fast food restaurant and a 2,035 square-foot meat market. The applicant is requesting the addition of a Service Bar to the approved 6,207 square foot restaurant.

This proposed use requires Waivers of the 400-foot distance separation requirements from Title 19.04.050 for the Restaurant with Service Bar use. Section 19.04.050 of the City of Las Vegas Zoning Code establishes the criteria for the approval of alcohol-related uses. The Code requires a restaurant service bar to be a minimum of 400 feet from any church, synagogue, school, childcare facility licensed for more than twelve children, or city park as measured from property line to property line. The subject site is zero-feet from an existing child care facility and 51-feet from a public elementary school.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
09/02/03	Code Enforcement cited (#3208) the property for trash, debris, high vegetation and large piles of dirt on the site. The citation was resolved on 10/24/03
10/30/03	Code Enforcement cited (#6336) the property for high and dry vegetation and litter. The citation was resolved on 12/15/03.
01/24/04	City Council approved a General Plan Amendment (GPA-2966) from SC (Service Commercial) to GC (General Commercial), a Rezoning (ZON-2967) from R-E (Residence Estates) Zone under Resolution of Intent to O (Office) and C-1 (Limited Commercial) to C-2 (General Commercial), a Special Use Permit (SUP-3223) and Site Development Plan Review (SDR-3224) for an Auto Repair Garage (Major) and a proposed Self Serve Car Wash on 3.41 acres adjacent to the southeast corner of Bonanza Road and Page Street. Planning Commission and staff recommended denial. NOTE: the area designated phase 2 on the site plan was zoned to C-1 (Limited Commercial).
03/02/04	Code Enforcement cited (#10625) the property for graffiti. The citation was resolved on 03/19/04.
06/21/04	Code Enforcement cited (#16380) the property for trash on the vacant lot portion of the site. The citation was resolved on 06/30/04.
07/27/04	Code Enforcement cited (#19314) the property for trash and piles of debris. The citation was resolved on 12/06/04.

03/02/05	Code Enforcement cited (#26624) the property for graffiti and a broken fence on the property. The citation was resolved on 04/04/05.
04/20/06	Code Enforcement cited (#40443) the property for graffiti and abandoned cars. The citation was resolved on 07/06/06.
07/21/06	Code Enforcement cited (#44724) the property for graffiti and a broken fence on the property. The citation was resolved on 02/10/07.
01/09/08	<p>A site inspection was conducted for Special Use Permit (SUP-3223). The following violations were observed by staff:</p> <p>Temporary signage was observed at 4561 E. Bonanza Road. Per Title 19.14.090, a temporary sign certificate is required for all temporary signage, including banners and small temporary advertising signs. Please remove the temporary signage, or obtain the required sign certificate.</p> <p>Window sign(s) covering more than twenty-five (25) percent of the total window area were observed at 4561 E. Bonanza Road. Per Title 19.14.060.F.12.a, Window signs shall not cover more than 25 percent of the total area of all windows located on a building elevation. The total combined area of all wall, window, roof, awning and marquee signs shall not exceed 20 percent of the building elevation to which they are attached. Please reduce the window sign(s) to 25 percent of the total window area.</p> <p>Per condition #7 of SUP-3223, All disabled vehicles shall be stored in an area that is screened from view from the surrounding properties and adjoining streets. Disabled vehicles were noted in the parking lot of 4561 E. Bonanza Road. Please keep disabled vehicles within the enclosed building or remove them from the property.</p> <p>The landscaping at 4561 E. Bonanza Road has died and is not in compliance with Landscape Plan date stamped 01-20-04. Per Title 19.12.030.A.3, The owner, developer and occupant of the property are jointly and severally responsible for maintaining or assuring the ongoing maintenance of installed landscaping so that the landscaping continues to thrive Please replace the dead landscaping and bring the landscaping into compliance with Title 19 standards.</p>

01/09/08	<p>Per condition #10 of SUP-3223, A revised site plan that shows two additional handicap spaces and a trash enclosure shall be submitted to the Planning and Development Department prior to issuance of building permits. As of this date, there has not been a revised site plan submitted to Planning and Development. Also, the trash enclosure(s) that have been constructed on site do not have the proper building permits, nor are they constructed per Title 19 standards. Please submit a revised site / landscape plan, and submit for the appropriate building permit(s) for the trash enclosure(s) and bring them into compliance with Title 19 standards.</p> <p>Graffiti was observed on the walls surrounding the monopole, and on the monopole itself. Per condition #11 SUP-3223, All City Code requirements and all City departments design standards shall be met, please remove the graffiti from the walls of the trash enclosure(s), and the building addressed 4561 E. Bonanza Road.</p> <p>A letter has been sent by staff requesting that if these issues have not been corrected by February 15, or the owner has not contacted staff to make other arrangements, this matter will be referred to the City of Las Vegas Code Enforcement Department for further action. As of 05/29/08 Code enforcement has not been able to confirm compliance on these issues.</p>
03/19/08	<p>The City Council approved a Site Development Plan Review (SDR-25148) which was a request to add a 20,400 square-foot addition to an existing 16,400 square-foot commercial center. Associated to that item was a request for a Variance (VAR-25220) to allow 201 parking spaces where 250 are required. The Planning Commission and staff recommended denial.</p>
06/12/08	<p>The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #30/leh).</p>
<p><i>Related Building Permits/Business Licenses</i></p>	
07/25/06	<p>A Business License #G02-00753 was issued for Garage/Tire Sales at 4561 East Bonanza Road.</p>
10/10/06	<p>A Business License #G03-02372 was issued for Major Car Repair at 4561 East Bonanza Road.</p>
06/15/06	<p>A Business License #G02-00751 was issued for Minor Auto Repair at 4561 East Bonanza Road.</p>
06/22/06	<p>A Business License #G03-02357 was issued for Major Auto Repair at 4561 East Bonanza Road.</p>
07/20/06	<p>A Business License #G02-00745 was issued for Minor Auto Repair at 4561 East Bonanza Road.</p>
<p><i>Field Check</i></p>	
05/08/08	<p>A site visit by staff revealed storage of vehicles undergoing various stages of automotive repair from the adjacent auto repair facility being stored in the existing parking lot. A trash container enclosures was not being used for dumpsters, rather it is in such disrepair wild vegetation has over grown it.</p>

	Landscaping has been allowed to die and graffiti was seen on the site in numerous locations.
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Details of Application Request	
Site Area	
Net Acres	3.42

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Automotive Repair/Approved Retail	GC (General Commercial)	C-1 (Limited Commercial)
North	Single family Homes	ML (Medium-Low Density Residential)	R-CL (Single Family Compact Lot)
South	Public Elementary School	PF (Public Facility)	C-V (Civic)
East	Condominium Complex	ML (Medium-Low Density Residential)	R-PD12
West	Automotive Repair/Child Care Facility	GC (General Commercial) / SC (Service Commercial)	C-2 (General Commercial)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts		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							
Use	Gross Floor Area or Number of Units	Parking Ratio	Required		Provided		Compliance
			Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Existing Auto Repair Garage Major	16,250 SF	1:200, +5 spaces	87				
General Retail Store (Furniture Store)	11,280 SF	1:175	65				

Restaurant 2,000 SF or more (without Drive- through)	3,623 SF	1:50 SF of Public Seating	73				
	2,584 SF	1:200 SF of total remaining GFA	13				
General Retail Store (Meat Market)	2,035 SF	1:175	12				
SubTotal			243	7	194	7	
TOTAL			250		201		Yes*
Loading Spaces			3		3		

**A Variance (VAR25220) to allow 201 Spaces where 250 are required was approved on 03/19/08.*

ANALYSIS

This is a request for a proposed Restaurant with Service Bar at 4561 East Bonanza Road in an approved 36,650 square-foot commercial center. The first phase of the commercial center is a 16,250 square foot automotive repair facility. The second phase which was approved on 03/19/08 includes an additional 20,400 square foot of commercial space. Note there is a request for two Waivers from the 400-foot distance separation requirements between the proposed use and a childcare facility and a public elementary school. Staff is recommending denial.

- **Land Use and Zoning**

This project is located within the 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) zoning district is consistent with the GC (General Commercial) category of the General Plan. The subject site is in conformance with the current General Plan Designation. The Restaurant with Service Bar use is allowable with a Special Use Permit on a C-1 (Limited Commercial) zoned parcel.

- **Use**

The Restaurant with Service Bar use is described in Table Two of Title 19.04.010 as, A bar wherein alcoholic beverage drinks are prepared for service only at tables in a restaurant and for consumption only in connection with a meal served on the premises, and where customers are not permitted to purchase alcoholic beverage drinks directly from the bar or for off-premise consumption. This Restaurant with Service Bar use can not be located within 400-feet of any church, synagogue, school, child care facility licensed for more than 12 children or City Park. The subject site is zero-feet from a child care facility, and 51-feet from a public elementary school (Elbert Edwards Elementary School).

- **Site Plan**

On the subject site there is an approved Site Development Plan Review to build a 20,400 square-foot retail building on the undeveloped eastern portion of the parcel. This application is related to the fast food eatery portion of this development which is a 3,623 square-foot facility. The fast food eatery is position between a meat market and a home furnishings store in the center of a 520-foot long commercial center that is to be located on the south eastern side of the subject site. The western portion of the parcel contains an existing 16,250 square-foot auto repair facility. Vehicular access to the site is provided by Bonanza Road, a 100-foot right-of-way as driveway to the site with an emergency crash gate at the south end of the site. The parking provided is located around the existing and proposed buildings with the majority positioned at the southeast portion of the site. A Variance (VAR-25220) for parking to allow 201 spaces, where 250 are required was approved, thus the site has been deemed to have adequate parking for this use.

- **Waivers**

Section 19.04.010 of the City of Las Vegas Zoning Code establishes the criteria for the approval of alcohol-related uses. The Code requires a restaurant service bar to be a minimum of 400 feet from any church, synagogue, school, childcare facility licensed for more than twelve children, or city park as measured from property line to property line. There is an existing child care facility directly abutting the subject site to the south. There is a public elementary school to the south of the site approximately 51 feet away (Elbert Edwards Elementary School). Staff recommends denial of the waiver to allow a zero-foot distance separation where 400-feet is required between a restaurant with service bar and a child care facility. Staff also recommends denial of the request to allow a waiver of the 400-foot distance requirement between the Restaurant with Service Bar use and a school.

- **Floor Plan**

The floor plan depicts a building divided into four proposed uses. On the south side of the building, the applicant proposes an approximately 6,200 square-foot fast food eatery and 2,035 square-foot meat market with an 11,550 square-foot furniture store on the north portion.

•Minimum Special Use Permit Requirements:

1. No restaurant service bar 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 minimum 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 restaurant service bar 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 restaurant service bar. 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 describe in Requirement 1.
3. In the case of a restaurant service bar 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 restaurant service bar will be located, without regard to intervening obstacles; or
 - b. In the case of a proposed restaurant service bar 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 restaurant service bar will be located, without regard to intervening obstacles.
4. When considering a Special Use Permit application for a restaurant service bar 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 requirement in Requirement 1 does not apply to an establishment which has a non-restricted 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.

*6. In the O District, a restaurant service bar is permitted only as an accessory use.

*7. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.

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 requires two Waivers from the 400-foot distance separation requirements contained in Section 19.04.050 of the City of Las Vegas Zoning Code. The Code requires a restaurant service bar to be a minimum of 400 feet from any church, synagogue, school, childcare facility licensed for more than twelve children, or City park as measured from property line to property line. This proposed Restaurant with Service Bar is directly abutting, zero-feet, from a child care facility, and is within 51-feet of a public elementary school. This use is too intense for the area and is not harmonious or compatible with the surrounding area.

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

The proximity of this site to the protected uses of a child care center and a public elementary school renders it unsuitable for the level of 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.**

Vehicular Access to the site is provided by Bonanza Road, a 100-foot right-of-way as designated on the city's Master Plan of Streets and Highways. The adjacent roadways are adequate to meet the demands of the 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 proposed use will not result in detrimental effects to the human health and public safety as the project must comply with Chapter 6.50 of the Municipal Code, as well as Section 268.090 of the Nevada Revised Statutes, which further governs the sale and distribution of alcoholic beverages.

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

The applicant is requesting waivers from the 400-foot separation requirement between a Restaurant with Service Bar and a child care facility (zero-feet) and a public elementary school (51 feet). Therefore the proposed use fails to meet the base Special Use Permit requirements set forth in Section 19.04.010 for a Restaurant Service Bar and staff is recommending denial of this application.

PLANNING COMMISSION ACTION

There were two speakers opposed to this application at the Planning Commission meeting. The hours of operation were discussed by the Planning Commission.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 4

ASSEMBLY DISTRICT 14

SENATE DISTRICT 10

NOTICES MAILED 1457 by City Clerk

APPROVALS 1

PROTESTS 2