

**AGENDA MEMO**

PLANNING COMMISSION MEETING DATE: OCTOBER 23, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-29867 - APPLICANT: YOUNG SUP KIM - OWNER:
AMERICAN PACIFIC CAPITAL, LLC

**** 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 On-Sale Establishment.
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, if required, or upon approval of a final inspection. 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. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
5. No temporary signs such as banners, pennants, inflatable objects, streamers, flags, or other similar attention gaining items or devices shall be displayed upon the subject property without the appropriate permits.
6. A revised floor plan is to be submitted to the Planning and Development Department illustrating seating for 45 people.
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 Beer/Wine/Cooler On-Sale establishment within an existing restaurant located at 7331 West Lake Mead Boulevard, Suite #105 within an existing Shopping Center.

The applicant is also requesting a Waiver to allow a distance separation of approximately 100 feet from a City Park where 400 feet is required. The proposed location is within a 10.83 acre Shopping Center on the southwest corner of Lake Mead Boulevard and Tenaya Way. As the proposed use fails to meet the minimum Development Standards set forth by the Las Vegas Municipal Code staff recommends denial of the request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
08/16/95	The City Council approved a Rezoning (Z-0053-95) from U (Undeveloped) to C-1 (Limited Commercial) for the subject property. The Planning Commission and staff recommended approval.
10/27/97	The City Council approved a Site Development Plan Review [Z-0053-95(2)] for a 120,000 square-foot Shopping Center with a Service Station and Convenience Store on the subject property. The Planning Commission and staff recommended approval.
02/09/98	The City Council approved a request for a Special Use Permit (U-0024-98) to allow Beer and Wine On-Sale within an 11,375 square-foot restaurant. Planning Commission and staff recommended approval.
04/27/98	The City Council approved a request for a Special Use Permit (U-0132-97) to allow Beer/Wine/Cooler-Off Sale in conjunction with an approved 3,200 square foot Convenience Store. The Planning Commission and staff recommended approval.
07/13/98	The City Council approved a Special Use Permit (U-0057-98) for a proposed 7,520 square-foot Supper Club. The Planning Commission recommended approval.
07/27/08	The City Council approved a Site Development Plan Review (SDR-14333) to add 1,961 square feet of floor area to an existing restaurant, within the subject existing Shopping Center at 7381 West Lake Mead Boulevard. The Planning Commission and staff recommended approval.

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Related Building Permits/Business Licenses	
06/13/00	A business license (R09-01469) was re-issued for a Restaurant with more than 45 seats at 7331 West Lake Mead Suite #105 (Yummy Grill & Sushi). The license was reclassified from (R07-00825) a restaurant with less than 45 seats on 09/18/08.
08/02/05	A building permit (#05005269) for a wall sign was issued for work at 7331 West Lake Mead. The permit expired on 02/04/06.
06/09/08	A building permit (#116493) was issued for Tenant Improvement was issued for Certificate of Occupancy at 7331 West Lake Mead Boulevard, Suite #105. The Permit was finaled on 06/17/08.
09/18/08	Business License (L09-94315) application has been made for a Beer/Wine/Cooler On-Sale Establishment, and that application was denied pending approval of this Special Use Permit as of 10/10/08.
Pre-Application Meeting	
09/05/08	The requirements to submit an application for a Special Use Permit for a Beer/Wine/Cooler On-Sale Establishment were discussed with the applicant.
Neighborhood Meeting	
A meeting was not held, nor was one required.	

Field Check	
09/16/08	Staff conducted a site visit and noted the subject business establishment to be open for business. Staff also made note of an illegal banner displayed in the front of the subject location.

Details of Application Request	
Site Area	
Gross Acres	10.83

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	City Park/Soccer Complex	PR-OS (Parks/Recreation/Open Space)	C-V (Civic)
South	Single-Family Homes	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
East	Shopping Center/Office	SC (Service Commercial)	C-1 (Limited Commercial)
West	Mini Storage	SC (Service Commercial)	C-1 (Limited Commercial)

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<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		X	N/A
A-O (Airport Overlay) District (175 Feet)	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 property is located within the North Las Vegas Airport Overlay Map within the 175-foot height limitation contour. None of the buildings on the subject property extend beyond this limitation.

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>Required</i>			<i>Provided</i>		<i>Compliance</i>
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	115,811 SF	1/250 SF	454	9	713	18	Y
TOTAL			463		695		Y

Waivers		
Request	Requirement	Staff Recommendation
To allow a 100-foot distance separation from a City Park.	Beer/Wine/Cooler On-Sale Establishment may not be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.	Denial

ANALYSIS

This is a request for a Special Use Permit for a proposed Beer/Wine/Cooler On-Sale Establishment within an existing restaurant at 7331 West Lake Mead Boulevard, Suite #105. The restaurant is located within an 115,811 square-foot Shopping Center. The applicant has requested a Waiver to allow a 100-foot distance separation from a City Park where 400 feet is required. Due to the request for a Waiver staff is recommending denial.

- **Zoning**

This project is located within a 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 intersection 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.

- **Use**

Title 19.04 defines the Beer/Win/Cooler On-Sale Establishment Use as follows:

An establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers for consumption only in connection with a meal on the premise where the same is sold, and is operated in connection with a restaurant in which 45 or more people maybe be served with meals at any one time at tables or stools.

Minimum Requirements of Approval for a Beer/Wine/Cooler On-Sale Establishment use within a C-1 (Limited Commercial) zoning district are:

1. Except as otherwise provided, no beer/wine/cooler on-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 onsite 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 multi-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.

The proposed use fails to comply with the minimum Special Use Permit requirement number 1. The restaurant use is located in a suite within a commercial subdivision that is within 100 feet of a City Park to the north of the subject site. The applicant has requested a Waiver of this requirement and staff is recommending denial of that request.

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- **Floor Plan**

The existing 1,428 square-foot restaurant has a 705 square-foot dining room area with 35 seats. There is a 423 square foot kitchen and food preparation area with an additional 300 square feet of space devoted to storage, office and restroom use. Pursuant to Title 6.50 and Title 19.20 45 seats are required for a Beer/Wine/Cooler On-Sale use. A condition as been added requiring a revised floor plan to be submitted depicting seating for 45 persons.

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 applicant has requested a Waiver of the Title 19.04 standard to allow a 100-foot distance separation from a City Park where 400 feet are required. Staff finds that the proposed use is too intense for the subject location.

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

The subject site is physically suitable for the type of land use proposed, however it is not suitable for the intensity of the land use being proposed.

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 a located within a commercial shopping center on the southwest corner of Lake Mead Boulevard a 100-foot Primary Arterial and Tenaya Way an 80-foot Secondary Collector Street, according to the Master Plan of Streets and Highways. Both roadways are adequate to meet the traffic needs of this 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 subject establishment is subject to State of Nevada and City of Las Vegas inspections and would not compromise public health or safety.

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

The subject site is within 100 feet from a City Park, therefore fails to comply with the Title 19.04 400-foot distance separation requirement for a Beer/Wine/Cooler On-Sale Establishment.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 12

ASSEMBLY DISTRICT 37

SENATE DISTRICT 6

NOTICES MAILED 936

APPROVALS 0

PROTESTS 2