



AGENDA MEMO

CITY COUNCIL MEETING DATE: NOVEMBER 5, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-29439 - APPLICANT: SUJATHA MOCHERLA - OWNER:
FANNY NG

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for Beer/Wine/Cooler On-Sale use.
2. Conformance to the conditions for Rezoning (Z-0045-88), if approved.
3. 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.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Special Use Permit for a proposed Beer/Wine/Cooler On-Sale Establishment within an existing restaurant and a Waiver to allow a zero-foot distance separation from a religious facility. The restaurant is located at 6840 West Sahara Avenue within a 3,210 square-foot space, with seating available for approximately 125 customers.

Title 19.04.010 requires an establishment providing beer/wine/coolers on-sale to have a minimum distance separation of 400 feet from any church, synagogue, school, childcare facility (licensed for more than 12 children), or city park. The proposed site is located within a commercial subdivision, and as such, has a zero-foot distance separation from the religious facility, as the distance is measured from property lines. The actual distance between the two establishments is more than 600 feet. As Title 19 requirements are not met, staff recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
07/06/88	The City Council approved a Zoning Reclassification (Z-0045-88) from N-U (Non-Urban) to C-1 (Limited Commercial) for a 273,740 square-foot Shopping Center with eight smaller retail buildings totaling 37,500 square feet. The Planning Commission recommended approval on 06/28/88.
03/01/00	The City Council granted the Appeal, thereby approving a Special Use Permit (U-0160-99) request for a Gaming Establishment, General Business Related (four gaming devices) in conjunction with an existing restaurant. The Planning Commission voted to deny the request on 01/27/00.
02/06/02	The City Council accepted the Withdrawal with Prejudice of the Appeal for a Special Use Permit (U-0131-01) for one 14-foot by 48-foot Off Premise Advertising (Billboard) sign adjacent to the north side of Sahara Avenue, approximately 270 feet east of Rainbow Boulevard. The Planning Commission voted to deny the request on 11/15/01.
09/02/03	A Code Enforcement case (#3713) was opened for dumping and cleaning out deep fryers behind the building causing a build-up in the parking lot. The case was closed on 09/04/03.
07/15/08	A Code Enforcement case (#67792) was opened for uncontained trash in the dumpster area behind an out-of-business diner. The case was closed on 08/08/08.
09/25/08	The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #43/ds).

Related Building Permits/Business Licenses	
03/18/98	Building plans (C-0019-98) for a new restaurant were submitted with subsequent permits issued for electrical, mechanical, sewer, water lines, plumbing revisions to drawings, fire safety, onsite improvements, trash enclosures, walls, etc. The project was completed 08/15/98.
06/24/08	A building permit (#8000243) was issued for a pylon sign. The project was completed 07/25/08.
08/13/98	A building permit (#98016564) was issued for six sets of channel letters for a wall sign. The project was completed 08/13/98.
09/18/98	A business license (R09-00883) was issued for a restaurant at 6840 W. Sahara Avenue. The company was out of business on 06/24/06.
11/09/06	A building permit (#6006833) was issued for a sign for Vegas Diner. Sign tag 09386 was issued on 11/09/06.
11/30/06	A business license (R09-01374) was issued for a restaurant at 6840 W. Sahara Avenue. The company was out of business on 06/08/07.
08/22/08	A business license (R09-93828) was requested for a restaurant at 6840 W. Sahara Avenue. The license is still pending.
Pre-Application Meeting	
07/22/08	A pre-application meeting was held with the applicant to discuss Title 19 and Special Use Permit requirements for a Beer/Wine/Cooler On-Sale Establishment.
Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

Field Check	
08/19/08	A field check of the restaurant was conducted. It appeared that the outside of the building was being painted.

Details of Application Request	
Site Area	
Gross Acres	0.69

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)
North	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
South	Vacant	CG (Commercial General- Clark County)	R-E (Rural Estates Residential- Clark County)

East	Financial Institution - Bank	SC (Service Commercial)	C-1 (Limited Commercial)
West	Restaurant	SC (Service Commercial)	C-1 (Limited Commercial)

<i>Special Districts/ Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance	X		Y

INTERAGENCY ISSUES

Pursuant to Ordinance #5477, the proposed Special Use Permit request has been deemed a Project of Regional Significance, as it concerns property located within 500 feet of the City boundary with Clark County. A questionnaire describing the impacts of the project to the area was submitted to various regional agencies for review. As of 9/3/08, no comments have been received.

ANALYSIS

- **General Plan/Zoning**

The subject parcel is located in the SC (Service Commercial) designation of the General Plan and within the Southwest Sector Plan area. This district allows for low to medium intensity retail, office, or other commercial uses that are intended to serve residents of the immediate area. The current zoning of C-1 (Limited Commercial) complies with the General Plan and allows uses such as the one proposed contingent upon approval of a Special Use Permit.

- **Use**

The existing restaurant will sell beer/wine/coolers in conjunction with their food service. Shown on the site plan and explained in the justification letter, the restaurant will consist of 3,210 square feet and provide seating for approximately 125 customers.

In accordance with Title 19.20.020, operational requirements for a Beer/Wine/Cooler On-Sale Establishment include: 1) 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; 2) And is operated in connection with a restaurant in which 45 or more people may be served with meals at any one time at tables or stools.

Title 19.04.010 establishes the criteria and minimum requirements for the approval of alcohol-related uses. The Code requires a Beer/Wine/Cooler On-Sale Establishment 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. In this case, there is a religious facility located within the same lot as the restaurant; therefore, a zero-foot distance separation exists between the properties.

- **Minimum Special Use Permit Requirements**

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 distance 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 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 Beer/Wine/Cooler On-Sale Establishment within an existing restaurant does not meet the Minimum Special Use Permit Requirements set forth in Condition 1. The proposed establishment has a zero-foot distance separation from a religious facility, where a minimum of 400 feet is required.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

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 cannot be conducted in a manner that is harmonious and compatible with existing or future surrounding land uses as projected by the General Plan. Title 19 Development Standards require a Beer/Wine/Cooler On-Sale Establishment 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. In this case, the proposed establishment is located on the same commercial subdivision as a church, therefore, has a zero-foot distance separation, where 400 feet is required.

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

The proposed use will be located in an existing restaurant within a commercial lot. The location has adequate parking and there appears to be no physical constraint to the proposed use on the site, except that it does not have the minimum required distance separation of 400 feet from a church, as both establishments are located within the same lot.

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.

Staff finds that South Rainbow Boulevard and West Sahara Avenue, both fully developed 100-foot Primary Arterials, as depicted within the Master Plan for Street and Highways, will provide adequate access to the subject property.

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 Beer/Wine/Cooler On-Sale use on this site will be subject to regular inspections by regulatory agencies for business licensing and will therefore not compromise the public health, safety, and welfare or overall objectives of the General Plan.

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

The proposed Beer/Wine/Cooler On-Sale use in conjunction with an existing restaurant does not comply with the conditions of Title 19.04, as it is located within a commercial subdivision that has a religious facility; therefore, it has a zero-distance separation from the facility, though the actual distance between the two establishments is more than 600 feet.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 3

ASSEMBLY DISTRICT 5

SENATE DISTRICT 8

NOTICES MAILED 464 by City Clerk

APPROVALS 2

PROTESTS 0