



AGENDA MEMO

CITY COUNCIL MEETING DATE: NOVEMBER 5, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-29869 - APPLICANT: BUY LOW MARKET 4 - OWNER:
EDMOND TOWN CENTER, LLC

**** CONDITIONS ****

The Planning Commission (7-0 vote) and staff recommend APPROVAL, subject to:

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Retail Establishment with Accessory Package Liquor Off-Sale, including parking requirements.
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. 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. 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 Retail Establishment with Accessory Package Liquor Off-Sale within an 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. Staff is recommending approval of this application, as the proposed use will be ancillary to the General Retail Store (Grocery Store) and can be conducted in a manner that is harmonious and compatible with the existing and future surrounding land uses.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&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. Staff recommended approval.
06/23/92	The Board of Zoning approved a 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. Staff recommended approval.
10/17/93	The City Council approved a Rezoning (Z-0093-93) for reclassification from R-3 (Medium Density Residential) to C-1 (Limited Commercial). The Planning Commission recommended approval.
04/28/94	The Planning Commission approved a Building Elevation Review [Z-0093-93(1)] for a proposed commercial center on this site as part of a larger request. Staff recommended approval.
08/17/94	The City Council approved a Special Use Permit (U-0163-94) for package liquor sales within a Vons supermarket. Planning Commission recommended approval.
10/18/01	The Planning Commission approved a Site Development Plan Review [Z-0093-93(2)] for a proposed 84,350 square-foot addition to an existing retail center. Staff 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. Staff recommended approval.

08/17/07	A Site Development Plan Review (SDR-23782) was Administratively approved for an 80-foot tall Wireless Communications Facility, Stealth Design at 921 West Owens Avenue.
09/03/08	The City Council approved a Special Use Permit (SUP-29035) for a proposed Beer/Wine/Cooler Off-Sale Establishment within a proposed general retail store with Waivers to allow a 300-foot distance separation where 400 feet is required from a church and to allow 150-foot distance separation from a City Park where 400 foot is required at 1061 West Owens Avenue. The Planning Commission recommended approval.
10/23/08	The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #11/dh).
<i>Related Building Permits/Business Licenses</i>	
07/21/03	A business license (#L15-00025) was issued for a Package Liquor at 1061 W. Owens Avenue. The license has been inactive since 12/13/06.
09/18/08	A business license (#C05-93354) was issued for a Tobacco Dealer at 1061 W. Owens Avenue.
09/18/08	A business license (#G05-93355) was issued for a Grocery Store at 1061 W. Owens Avenue.
09/18/08	A business license (#L10-93903) was issued for Beer/Wine/Cooler Off-Sale Establishment at 1061 W. Owens.
<i>Pre-Application Meeting</i>	
08/22/08	A pre-application meeting with the applicant was held and the requirements for a Special Use Permit were reviewed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	

<i>Field Check</i>	
10/02/08	A field check was conducted on site and the building was open and operating as a BUY-LOW Supermarket in the former Vons Grocery Store at Edmond Town Shopping Center.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	20.88 acres

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)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
West Las Vegas Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (140-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

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 (140-Feet) -The subject property is located within the North Las Vegas Airport Overlay Map within the 140-foot height limitation contour. There are no structures or buildings on site, which will encroach within this height limitation.

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

	Gross Floor Area or Number of Units	Base Parking Requirement			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	221,700	1/250	532	11	1020	15	Y
TOTAL	221,700		543		1035		Y
Loading Zones			7		11		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 Retail Establishment with Accessory Package Liquor Off-Sale is a permissible use in the C-1 district with a Special Use Permit.

- **Use**

A Retail Establishment with Accessory Package Liquor Off-Sale is defined by Title 19.04.010 as a retail establishment:

1. Whose license to sell alcoholic beverages authorizes their sales to consumers only and not for resale, in original sealed or corked containers, for consumption off the premises

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 liquor tasting if the licensee also holds a wine, cordial and liquor tasting license for the location.

- **Minimum Special Use Permit Requirements:**

*1. Except as otherwise provided, no retail establishment with accessory package liquor off-sale (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 fee interest parcels and does not include the property 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.

*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 the 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 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 proposed establishment having between 20,000 square feet and 50,000 square feet of retail floor space; 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 right-of-way with a width of at least 100 feet.

The location fails to meet the Minimum Special Use Permit Requirement Number One. 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. Pursuant to Minimum Special Use Permit Requirement Number Seven for a Retail Establishment with Accessory Package Liquor Off-Sale, staff finds that the Waiver request is acceptable and recommends approval of this Special Use Permit request.

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. **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-0163-94). 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 Package Liquor 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 Package Liquor 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. In order to exercise the Special Use Permit the applicant has one year to apply and receive a business license related to the accessory Package Liquor Off-Sale Establishment.

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 19.40.010 due to the proximity of a City Park and two churches; a Waiver to allow a distance separation of 150-feet and 300-feet from protected uses, where 400-feet is required has been requested by the applicant, respectively. As the use is ancillary to a large Retail Establishment (Grocery Store) staff is in support of the Waiver Request.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 19

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 667 by City Clerk

APPROVALS 5

PROTESTS 3