



## **AGENDA MEMO**

**CITY COUNCIL MEETING OF: SEPTEMBER 16, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - SUP-34006 - APPLICANT: AMERICAN WEST  
PETROLEUM - OWNER: PHAM CAPITAL, LLC**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 2, 2009 CITY  
COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

### **\*\* 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 a Beer/Wine/Cooler Off-Sale use, including parking requirements.
2. Approval of and conformance to the conditions for Variance (VAR-34008) and Site Development Plan Review (SDR-34010), 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. All beer and wine coolers shall remain in their original manufacturers configuration of four or six-packs.
6. The sale of single beers, malt beverages, or wine coolers of any size with alcohol by volume greater than 6% shall be prohibited. The sale of wines with an alcohol by volume of greater than 16% shall be prohibited.
7. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
8. 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 to allow a Beer/Wine/Cooler Off-Sale Establishment at the southwest corner of Sahara Avenue and Valley View Boulevard. The proposed Beer/Wine/Cooler Off-Sale Establishment cannot be supported on the subject site, as the use cannot function without the approval of the Site Development Plan Review and Variance, which is too intense for the subject site as evidenced by the number of deviations from Title 19 requirements; therefore staff is recommending denial of the application.

**BACKGROUND INFORMATION**

| <i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc. and Property Sales</i> |                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03/11/65                                                                              | The Planning Commission approved a Rezoning (Z-0018-65) from R-3 (Medium Density Residential) to C-1 (Limited Commercial) and a Plot Plan Review [Z-0018-65(1) for a proposed Convenience Store with fuel pumps on 0.58 acres at the southwest corner of Sahara Avenue and Valley View Boulevard. |
| 06/03/97                                                                              | The Board of Zoning Adjustment approved a Variance (V-0047-97) to allow an existing 65-foot tall non-conforming pole sign two feet from the front property line where five feet is the minimum required setback in a C-1 (Limited Commercial) district.                                           |
| 12/18/03                                                                              | The Planning Commission approved a Site Development Plan Review (SDR-3321) for a 2,400 square-foot expansion of an existing Convenience Store with a Waiver of the perimeter and parking lot landscaping at 3701 W. Sahara Avenue. Staff recommended approval of the request.                     |
| 08/03/07                                                                              | A deed was recorded for a change of ownership at 3701 W. Sahara Avenue.                                                                                                                                                                                                                           |
| 05/19/08                                                                              | A Code Enforcement complaint (#65746) was processed for a structure built without permits at 3701 W. Sahara Avenue. The issue was closed by Code Enforcement on 09/17/08.                                                                                                                         |

|                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/21/08                                                                      | A Code Enforcement complaint (#68941) was processed for a repair shop using paint and chemicals at 3701 W. Sahara Avenue. The issue was closed by Code Enforcement on 08/22/08.                                                                                                                                                                                                                                                                  |
| 06/11/09                                                                      | The Planning Commission recommended denial of companion item VAR-34008 and SDR-34010 concurrently with this application.<br><br>The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #22/bts).                                                                                                                                                                                                                                  |
| <b><i>Related Building Permits/Business Licenses</i></b>                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 1966                                                                          | The County Assessors Office indicates a construction date of 1966 for the building located at 3701 W. Sahara Avenue.                                                                                                                                                                                                                                                                                                                             |
| 10/30/97                                                                      | A Building Permit (#97022032) was issued to re-locate an existing pole sign at 3701 W. Sahara Avenue. The permit was finalized on 12/06/97.                                                                                                                                                                                                                                                                                                      |
| 10/08/07                                                                      | A Business License (#C05-01515) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.                                                                                                                                                                                                                                                                                                    |
| 10/08/07                                                                      | A Business License (#G02-00779) was issued for a garage minor auto repair at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.                                                                                                                                                                                                                                                                                          |
| 02/14/08                                                                      | A Business License (#R05-00573) was issued for a restaurant, take-out only at 3701 W. Sahara Avenue. The license is currently active.                                                                                                                                                                                                                                                                                                            |
| 04/10/08                                                                      | A Business License (#C05-02600) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.                                                                                                                                                                                                                                                                                                    |
| 04/10/08                                                                      | A Business License (#C15-00361) was issued for a convenience store at 3701 W. Sahara Avenue. The license was marked out of business on 03/05/09.                                                                                                                                                                                                                                                                                                 |
| 07/30/08                                                                      | A Business License (#C05-02627) was issued for a tobacco dealer at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.                                                                                                                                                                                                                                                                                                    |
| 07/30/08                                                                      | A Business License (#S05-01046) was issued for a service station at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.                                                                                                                                                                                                                                                                                                   |
| 07/30/08                                                                      | A Business License (#C05-00366) was issued for a convenience store at 3701 W. Sahara Avenue. The license was marked out of business on 03/06/09.                                                                                                                                                                                                                                                                                                 |
| 08/06/08                                                                      | A Business License (#A45-00533) was issued for auto detailing at 3701 W. Sahara Avenue. The license is currently active.                                                                                                                                                                                                                                                                                                                         |
| 08/11/08                                                                      | A Business License (#G02-00823) was issued for a garage minor auto repair at 3701 W. Sahara Avenue. The license is currently active.                                                                                                                                                                                                                                                                                                             |
| <b><i>Pre-Application Meeting</i></b>                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 03/06/09                                                                      | Staff met with the applicant and reviewed the requirements for a Site Development Plan Review, Variance and Special Use permit applications. <ul style="list-style-type: none"> <li>• Waivers and exceptions of perimeter landscaping and building placement and orientation standards were also discussed.</li> <li>• Existing business licenses and building permits</li> <li>• Intended use and residential adjacency requirements</li> </ul> |
| <b><i>Neighborhood Meeting</i></b>                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| A neighborhood meeting is not required for this application nor was one held. |                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| <b>Field Check</b> |                                                                                                                                              |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| 04/09/09           | A field check was completed on the indicated date. An existing Auto Repair Garage, Minor with fuel pumps at 3701 W. Sahara Avenue was noted. |

| <b>Details of Application Request</b> |            |
|---------------------------------------|------------|
| <b>Site Area</b>                      |            |
| Net Acres                             | 0.58 acres |

| <b>Surrounding Property</b> | <b>Existing Land Use</b> | <b>Planned Land Use</b>     | <b>Existing Zoning</b>          |
|-----------------------------|--------------------------|-----------------------------|---------------------------------|
| Subject Property            | Convenience Store        | SC (Service Commercial)     | C-1 (Limited Commercial)        |
| North                       | Retail                   | SC (Service Commercial)     | C-1 (Limited Commercial)        |
| South                       | Single-Family Dwellings  | L (Low Density Residential) | R-1 (Single Family Residential) |
| East                        | Convenience Store        | SC (Service Commercial)     | C-1 (Limited Commercial)        |
| West                        | Restaurant               | SC (Service Commercial)     | C-1 (Limited Commercial)        |

| <b>Special Districts/Zones</b>                    | <b>Yes</b> | <b>No</b> | <b>Compliance</b> |
|---------------------------------------------------|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            | X         |                   |
| <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 (200-foot)           | 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               |

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.10, the following parking standards apply:*

| Parking Requirement |                                     |                                    |         |              |         |            |              |
|---------------------|-------------------------------------|------------------------------------|---------|--------------|---------|------------|--------------|
| Use                 | Gross Floor Area or Number of Units | Required                           |         | Provided     |         | Compliance |              |
|                     |                                     | Parking Ratio                      | Parking |              | Parking |            |              |
|                     |                                     |                                    | Regular | Handi-capped | Regular |            | Handi-capped |
| Convenience Store   | 3,018 SF                            | 1 space per 250 square feet of gfa | 12      | 1            | 12      | 1          | Y            |
| TOTAL               |                                     |                                    | 13      |              | 13      |            | Y            |
| Loading Spaces      |                                     |                                    | 1       |              | 1       |            | Y            |

## ANALYSIS

This is a request for a proposed Special Use Permit for Beer/Wine/Cooler Off-Sale Establishment use within a proposed 3,018 square-foot Convenience Store with associated fuel pumps at the southwest corner of Sahara Avenue and Valley View Boulevard. The applicant indicates that they would like to see beer and wine as an additional item within their proposed Convenience Store.

The proposed Beer/Wine/Cooler Off-Sale Establishment requires the approval of a Special Use Permit within a C-1 (Limited Commercial) zoning district. No Waivers are needed as a part of this request. The proposed Beer/Wine/Cooler Off-Sale Establishment use is not appropriate at this location as staff cannot support the subject Site Development Plan Review (SDR-34010) and related Variance (VAR-34008).

- **Use**

A Beer/Wine/Cooler Off-Sale Establishment is defined by Title 19 as an establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine or coolers to consumers only and not for resale, in original sealed or corked containers, for the consumption off the premises where the same are sold, and is operated in connection with a grocery store, convenience store, or specialty merchandise store. Beer/Wine/Cooler Off-Sale cannot be located within 400 feet of any church, synagogue, school, childcare facility licensed for more than 12 children or City Park. The subject location does not have any of the aforementioned protected uses within the required 400-foot distance separation.

- **Minimum Special Use 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 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 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 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; 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 requirement set forth in Requirement 1, which are otherwise non-waivable under the provisions of Section 19.04.050(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 proposed use meets the minimum requirements of a Beer/Wine/Cooler Off-Sale Establishment use, but the related Site Development Plan Review (SDR-34010) and Variance (VAR-34008) are not appropriate and are too intense for the subject site. Therefore, staff is recommending denial of the proposed Beer/Wine/Cooler Off-Sale Establishment, as the use cannot function without the approval of the Site Development Plan Review and Variance.

## 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 Convenience Store use is not compatible or harmonious with adjacent protected residential properties to the south.

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 intended Convenience Store thereby making the proposed ancillary Beer/Wine/Cooler Off-Sale use unsuitable as well.

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.**

Adequate site access is provided from both Sahara Avenue and Valley View Boulevard. Sahara Avenue is indicated as a 100-foot Primary Arterial and Valley View Boulevard is indicated as an 80-foot Secondary Collector. Both are designated by the Master Plan of Streets and Highways.

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.

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

The subject site complies with all applicable conditions pursuant to Title 19.04.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 13

**ASSEMBLY DISTRICT** 8

**SENATE DISTRICT** 11

**NOTICES MAILED** 871 by City Clerk

**APPROVALS** 0

**PROTESTS** 10