



City of Las Vegas

Agenda Item No.: 84.

**AGENDA SUMMARY PAGE PLANNING & DEVELOPMENT
CITY COUNCIL MEETING OF SEPTEMBER 1, 2010**

**DEPARTMENT: PLANNING & DEVELOPMENT
DIRECTOR: M. MARGO WHEELER**

☐ Consent ☒ Discussion

SUBJECT: SUP-3853 - SPECIAL USE PERMIT PUBLIC HEARING - APPLICANT/OWNER: WAI CHUN GINN. Appeal filed from meeting by the Planning Commission of a request for a Special Use Permit FOR A BEER/WINE/SOFT DRINK OFF-SALE ESTABLISHMENT WITHIN AN EXISTING 1,200-SQ-FT RETAIL CONVENIENCE STORE WITH A WAIVER TO ALLOW A 3-3-FOOT DIS-USE SEPARATION FROM A CHILD CARE FACILITY WHERE 400 FEET IS REQUIRED. 4441 West Owens Avenue (APN 139-28-501-001), C-2 (General Commercial) Zone, Ward 5 (Barlow). The Planning Commission (4-3 vote) recommends DENIAL. Staff recommends APPROVAL.

PROTESTS RECEIVED BEFORE:

Planning Commission Mtg.

40

City Council Meeting

37

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.

0

City Council Meeting

226

RECOMMENDATION:

The Planning Commission (4-3 vote) recommends DENIAL. Staff recommends APPROVAL, subject to conditions:

BACKUP DOCUMENTATION:

1. Location, Aerial and Special Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photos
5. Appeal Letter Filed by Vincent Ginn, Esq.
6. Justification Letter
7. Protest Postcards
8. Submitted at Meeting Protest Letter and Petition with approximately 32 signatures and Email by Councilman Barlow, Support Petition with approximately 226 signatures, Support Letters and Letter from Mary E. Smith by Vincent Ginn
9. Recordation Notice of City Council Action and Conditions of Approval
10. Backup referenced from the July 29, 2010 Planning Commission Meeting Item SUP-38536

Motion made by RICKI Y. BARLOW to Approve subject to conditions and adding the following conditions as read for the record:

A. The applicant shall submit a landscape plan for review and approval by Planning and Development. Landscape material shall be replaced and augmented to meet current code. It shall be installed and approved prior to issuance of a license for alcohol and all landscaping shall be continuously maintained.

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B. There shall be an administrative review six months after issuance of the business license for the alcohol use and to ensure there were no calls for service from the Las Vegas Metropolitan Police Department.

Passed For: 6; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 1

RICKI Y. BARLOW, LOIS TADKANIAN, STEVE WOOLFSON, GARY REESE, STEVEN D. ROSS, STAVROS S. ANTHONY: (Against=None); (Abstain=None); (Did Not Vote=None); (Excused-OSCAR B. GOODMAN)

Minutes:

MAYOR PRO TEM REESE declared the Public Hearing open.

VINCENT GINN appeared with the applicants, his parents. Mr. GINN submitted letters and a petition in support. He requested approval, noting that the concerns of the Planning Commission regarding handicap parking and landscaping were addressed.

COUNCILMAN WOOLFSON verified with MR. GINN that his parents have been operating a business at this location for 25 years. The current business is a convenience store that offers takeout food, and his parents wish to add the ability to sell beers and cooler off-sale alcohol.

JIM DiFIORE, Manager of Business Services, informed COUNCILMAN WOOLFSON that there have been no concerns with this owner. The Council could grant the license with a review.

JOHN RILEY, REGINA HELK, MICHAEL EIGHT, JESSIE FARRELL, MARION BENNETT and SISTER LORRAINE FORRESTER and DONALD CLARK supported this application. They have known the GINN'S for many years and they are of good character and morals. They did not believe the nearby child care facility would be a problem as school age children are not allowed to purchase liquor. Mr. CLARK added that the GINN'S have a long-time investment in this area and they deserve the right to sell alcohol with food.

BRENDA BANKS, TAILORA HALEY, RASHAD JOSHUA COLLINS, BILL HYDE, BEVERLY BASS, SWAYZINE FIELDS, and HELEN TOLAND objected to the request, stating that alcohol sales are not good for any community. MR. HYDE added that most of the customers do not live in the surrounding neighborhood, and that the Planning Commission denied the request. Alcohol sales will be a detriment to this area, which has taken a long time to beautify.

ANTHONY HODGES, Las Vegas resident, pointed out that the Planning Commission recommended denial.

COUNCILMAN BARLOW stated this is a very difficult issue because the West Las Vegas residents are divided. Those in opposition are concerned about potential negative activity, yet he recognizes the fact that the GINN'S have been in this community for a long time.

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MR. DiFIORE clarified for COUNCILMAN BARLOW that the prohibition for a facility that sells alcohol within 400 feet of a church is strictly a land use issue. When reviewing a license, staff looks at the suitability of the applicant, location and the potential of problems that may occur during the licensing period of any establishment that sells alcohol. There is an opportunity during the second phase to condition the license to address concerns the Council may have.

MARGO WHEELER, Director of Planning and Development, added that churches are exempt from obtaining a business license because they are worship institutions, and churches in a commercial zone are not required to get a Special Use Permit. In this case, the church on Owens Avenue does not have permits for the change of occupancy from a retail store. A church is required to obtain Building and Safety and Fire approval for the change of occupancy and parking requirements.

COUNCILMAN BARLOW imposed a six-month review and should there be an ownership change, the license must come back before the City Council. ASSISTANT CITY ATTORNEY SCOTT explained that the use remains as is regardless of whom the owner is and the Special Use Permit will remain with the property. MS. WHEELER interjected that the license could come back in the event of a change of ownership.

COUNCILMAN BARLOW stated he is proud of the efforts made in this corridor and he is willing to bring more business in this area. He asked that the landscaping be fully enhanced prior to the issuance of the beer and wine license, no additional alcohol or single containers shall be sold at this location. COUNCILMAN BARLOW acknowledged the GINN'S good heart in always giving to the community, in any way, from free gas to free food.

MS. WHEELER verified that the condition regarding the alcohol containers and volume of alcohol being sold have already been included, and read into the record additional conditions. MR. GINN agreed to the conditions.

MAYOR PRO TEM REESE declared the Public Hearing closed.