



## AGENDA MEMO

**PLANNING COMMISSION MEETING DATE: OCTOBER 21, 2010**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT: PYAAR INDIA RESTAURANT - OWNER: DAVID L. JEWKES, RECEIVER**

### \*\* STAFF RECOMMENDATION(S) \*\*

| <i>CASE<br/>NUMBER</i> | <i>RECOMMENDATION</i>                             | <i>REQUIRED FOR<br/>APPROVAL</i> |
|------------------------|---------------------------------------------------|----------------------------------|
| <b>SUP-39454</b>       | Staff recommends APPROVAL, subject to conditions: |                                  |

### \*\* CONDITIONS \*\*

## SUP-39454 CONDITIONS

### *Planning and Development*

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for Beer/Wine/Cooler On-Site Establishment use.
2. This approval shall be void two years 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. A Waiver to allow a zero-foot distance separation from a religious facility where 400 feet is required is approved.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. Approval of this Special Use Permit does not constitute approval of a liquor license.
6. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

|    |
|----|
| YK |
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**Staff Report Page One**  
**October 21, 2010 - Planning Commission Meeting**

**\*\* 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 at 9350 West Sahara Avenue, Suite #150. The restaurant is 2,400 square feet in size with seating for 74 people. The Beer/Wine/Cooler On-Sale use will be ancillary to the proposed restaurant. The proposed use will not require additional parking beyond that which is required for the principal use on the site. This project is located within a 36.8 acre shopping center, which is able to accommodate a variety of uses. Staff recommends approval of this request and the accompanying distance separation waiver as the use can be conducted in a manner that is compatible with the surrounding uses. If this application is denied, the restaurant would not be allowed to sell alcoholic beverages.

**ISSUES**

- A Special Use Permit is required to allow a Beer/Wine/Cooler On-sale Establishment use in a C-1 (Limited Commercial) zoning district.
- A Waiver is requested to allow a zero-foot distance separation where 400 feet is required between the proposed use and a religious facility.

**BACKGROUND INFORMATION**

| <i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc and Property Sales</i> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12/22/80                                                                             | The City Council approved a request for Annexation (A-0018-80) of a parcel of land generally bounded by Sahara Avenue on the south, Hualapai Way on the west, Ducharme Avenue on the north and Durango Drive on the east, containing approximately 2,246 acres of land. Planning Commission and staff recommended approval.                                                                                                                                                                                                                                                                                |
| 02/15/89                                                                             | The City Council approved a Rezoning (Z-0139-88) application for the reclassification of property from N-U (Non Urban) under Resolution of Intent to R-PD4 (Residential Planned Development - 4 Units Per Acre), P-R (Professional Office and Parking), C-1 (Limited Commercial), and C-V (Civic), to R-PD7 (Residential Planned Development- 7 Units Per Acre), R-3 (Medium Density Residence), and C-1 (Limited Commercial) for property generally located on the west side of Fort Apache Road, between Sahara Avenue and Charleston Boulevard. The Planning Commission and staff recommended approval. |

**Staff Report Page Two**  
**October 21, 2010 - Planning Commission Meeting**

|          |                                                                                                                                                                                                                                                                                                                      |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/27/97 | The City Council approved a request for a Site Development Plan Review [Z-0139-88(19)] for a proposed 8,400 square-foot one story retail building located at 9310 West Sahara Avenue. The Planning Commission recommended approval of the request.                                                                   |
| 11/24/97 | The City Council approved a request for a Site Development Plan Review [Z-0139-88(21)] for a proposed 16,708 square-foot one story drugstore with drive-through located on the northwest corner of Sahara Avenue and Fort Apache Road. The Planning Commission recommended approval of the request.                  |
| 04/27/98 | The City Council approved a request for a Special Use Permit (U-0146-97) for a proposed three-story, non-gaming residence hotel, consisting of seventy-three one-bedroom units on property located on the north side of Sahara Avenue, west of Fort Apache Road. Planning Commission and staff recommended approval. |
|          | The City Council approved a request for a Special Use Permit (U-0020-98) for a Restaurant Service Bar in conjunction with a proposed 3,784 square-foot restaurant located at 9350 West Sahara Avenue. Planning Commission and staff recommended approval.                                                            |
| 05/11/98 | The City Council approved a request for a Special Use Permit (U-0031-98) for the On-Premise sale of Beer and Wine in conjunction with a proposed restaurant located at 9350 West Sahara Avenue. Planning Commission and staff recommended approval.                                                                  |

***Most Recent Change of Ownership***

|          |                                                                      |
|----------|----------------------------------------------------------------------|
| 12/15/06 | A deed was recorded for a change in ownership.                       |
| 02/02/10 | United States District Court ordered the property into Receivership. |

***Related Building Permits/Business Licenses***

|          |                                                                                                                                                 |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/17/10 | A business license (R09-01560-4-149261) was issued for a 74-seat restaurant at 9350 West Sahara Avenue, Suite 150. The license is still active. |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------|

***Pre-Application Meeting***

|          |                                                                                                                                                                                                                                                             |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/10/10 | Staff reviewed the submittal requirements for a Special Use Permit for a Beer/Wine/Cooler On-Sale Establishment use. It was noted that a Waiver is required for the minimum 400-foot distance separation between the proposed use and a religious facility. |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Staff Report Page Three**  
**October 21, 2010 - Planning Commission Meeting**

***Neighborhood Meeting***

A neighborhood meeting is not required, nor was one held.

***Field Check***

|          |                                                                                                     |
|----------|-----------------------------------------------------------------------------------------------------|
| 09/16/10 | Staff conducted a field check on the site. A very well maintained, clean shopping center was noted. |
|----------|-----------------------------------------------------------------------------------------------------|

***Details of Application Request***

***Site Area***

|           |      |
|-----------|------|
| Net Acres | 36.8 |
|-----------|------|

| Surrounding Property | Existing Land Use | Planned Land Use               | Existing Zoning                                                                                   |
|----------------------|-------------------|--------------------------------|---------------------------------------------------------------------------------------------------|
| Subject Property     | Shopping Center   | SC (Service Commercial)        | C-1 (Limited Commercial)                                                                          |
| North                | Apartments        | M (Medium Density Residential) | R-PD21 (Residential Planned Development – 21 Units Per Acre),<br>R-3 (Medium Density Residential) |
| South                | Bank              | SC (Service Commercial)        | C-1 (Limited Commercial)                                                                          |
|                      | Apartments        | M (Medium Density Residential) | R-PD20 (Residential Planned Development – 20 Units Per Acre)                                      |
| East                 | Commercial        | M (Medium Density Residential) | C-1 (Limited Commercial)                                                                          |
|                      | Shopping Center   | SC (Service Commercial)        | R-PD18 (Residential Planned Development – 18 Units Per Acre)                                      |
| West                 | Library           | PF (Public Facilities)         | C-V (Civic)                                                                                       |
|                      | Church            | SC (Service Commercial)        | C-1 (Limited Commercial)                                                                          |
|                      | Apartments        | (Medium Density Residential)   | R-3 (Medium Density Residential)                                                                  |

**Staff Report Page Four**  
**October 21, 2010 - Planning Commission Meeting**

| <i>Special Purpose and Overlay Districts</i>      | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---------------------------------------------------|------------|-----------|-------------------|
| <b>Trails</b>                                     |            | X         | N/A               |
| <b>Rural Preservation Overlay District</b>        |            | X         | N/A               |
| <b>Las Vegas Redevelopment Plan Area</b>          |            | X         | N/A               |
| <b>Development Impact Notification Assessment</b> |            | X         | N/A               |
| <b>Project of Regional Significance</b>           |            | X         | N/A               |

| <i>Functional Classification of Street(s)</i> | <i>Governing Document</i>           | <i>Street Width (Feet)</i> | <i>Compliance with Street Section</i> |
|-----------------------------------------------|-------------------------------------|----------------------------|---------------------------------------|
| Sahara Avenue (Primary Arterial)              | Master Plan of Streets and Highways | 100                        | Y                                     |
| Fort Apache Road (Primary Arterial)           | Master Plan of Streets and Highways | 100                        | Y                                     |

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

Available to Date 1/1/20, 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 |            |
| Shopping Center          | 425,720 S.F.                        | 1 per 250 S.F. | 1,703   |              | 2,112    |              | Y          |
| TOTAL (With Handicapped) |                                     |                | 1675    | 28           | 2,032    | 80           | Y          |

| <i>Waivers</i>                                                                                                     |                                           |                             |
|--------------------------------------------------------------------------------------------------------------------|-------------------------------------------|-----------------------------|
| <i>Requirement</i>                                                                                                 | <i>Request</i>                            | <i>Staff Recommendation</i> |
| A 400-Foot minimum distance separation from a religious facility and a Beer/Wine/Cooler On-Site Establishment use. | To allow a Zero-Foot distance separation. | Approval                    |

## **ANALYSIS**

A Beer/Wine/Cooler On-Sale Establishment use is defined by Title 19.20.020 as “an establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers to consumers only in connection with a meal on the premises where the same is sold, and is operated in connection with a restaurant in which thirty or more people may be served with meals at any one time at tables or stools.”

**Staff Report Page Five**  
**October 21, 2010 - Planning Commission Meeting**

The proposed use requires a Waiver of the minimum 400-foot distance separation requirement from a religious facility in order to comply with all minimum Special Use Requirements of Title 19.04 requirements for a Beer/Wine/Cooler On-Sale Establishment. No additional parking is required for the proposed use. Staff recommends approval of these requests, the proposed use will be operated in conjunction with an existing restaurant, and can be conducted in a manner that is compatible with the surrounding uses.

**FINDINGS (SUP-39454)**

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 Beer/Wine/Cooler On-Sale Establishment use will be located within a 2,400 square-foot restaurant and will be ancillary to the existing restaurant. The proposed use can be conducted in a manner that is harmonious and compatible with the uses on the existing site and with the commercial uses on the adjacent properties.

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

The subject site is located within a commercial shopping center, and is suitable for the type and intensity of land use proposed. The proposed use will not require additional parking beyond that which is required for the principal use on the site.

**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 access is provided from two primary arterial streets that are adequate to meet the demands of the proposed 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.**

Approval of a Special Use Permit for this use at this location will not compromise the public health, safety, or welfare, as the use is subject to licensing and inspections by the City of Las Vegas.

**Staff Report Page Six**  
**October 21, 2010 - Planning Commission Meeting**

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

The proposed Beer/Wine/Cooler On-Sale Establishment use meets the applicable conditions per Title 19.04, with the exception of the requested Waiver. Staff supports the request as the restaurant is located within a shopping center and will be operated in conjunction with an existing restaurant.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

8

**NOTICES MAILED**

1513

**APPROVALS**

4

**PROTESTS**

5