



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: AUGUST 9, 2011

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: DOG BITES BACK, LLC - OWNER: WINNER PROPERTIES, LLC

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-42252	Staff recommends DENIAL, if approved subject to conditions:	N/A

** CONDITIONS **

SUP-42252 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Retail Establishment with Accessory Package Liquor Off-Sale use.
2. Conformance to the approved conditions for Variance (VAR-37295), Special Use Permit (SUP-36961) and Site Development Plan Review (SDR-36962).
3. This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas
4. Prior to occupancy, all necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
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.

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7.All beer and wine coolers shall remain in the original manufacturer's configuration intended for resale.

8.All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a proposed 98 square-foot Retail Establishment with Accessory Package Liquor Off-Sale use, in conjunction with an existing 1,428 square-foot Deli located at 9500 West Sahara Avenue. The proposed use does not comply with all Title 19.12 requirements and cannot be conducted in a manner that is harmonious and compatible with the existing surrounding development and land uses; therefore, staff recommends denial of this Special Use Permit. If this application is denied, the proposed Retail Establishment with Accessory Package Liquor Off-Sale use cannot be conducted at this location, nor can a business license be issued.

ISSUES

- A Retail Establishment with Accessory Package Liquor Off-Sale use is permitted in the C-1 (Limited Commercial) zoning district with the approval of a Special Use Permit.
- A Waiver is required to allow no distance separation from a religious facility where 400 feet is the minimum distance requirement.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</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.

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07/14/97	The City Council approved a request for a Special Use Permit (U-0049-97) for a proposed Tavern in conjunction with restaurant 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-0050-97) for a proposed Tavern with a Waiver of the 1,500-foot distance separation requirement from an existing and proposed tavern on property located on the north side of Sahara Avenue, west of Fort Apache Road. Planning Commission and staff recommended approval.
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.
01/26/98	The City Council approved a request for a Special Use Permit (U-0128-97) for the sale of Packaged Liquor in conjunction with a proposed 16,708 square-foot drugstore on property located on the northwest corner of Sahara Avenue and Fort Apache Road. Planning Commission recommended approval.
03/23/98	The City Council approved a request for a Site Development Plan Review [Z-0139-88(23)] for a proposed 4,716 square-foot restaurant located on the north side of Sahara Avenue, west of 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 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 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 recommended approval.

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06/08/98	The City Council approved a request for a Special Use Permit (U-0038-98) for a proposed Supper Club in conjunction with a proposed 6,648 square-foot restaurant on property located on the north side of Sahara Avenue, west of Fort Apache Road. Planning Commission recommended approval.
	The City Council approved a request for a Site Development Plan Review [Z-0139-88(24)] for a proposed 27,418 square-foot two-story retail and office building and a 33,207 square-foot two-story retail and office building located on the north side of Sahara Avenue, west of Fort Apache Road. The Planning Commission recommended approval of the request.
09/29/98	The City Council approved a request for a Special Use Permit (U-0080-98) for the On-Premise sale of Beer and Wine in conjunction with a proposed 2,160 square-foot restaurant located on the northwest corner of Fort Apache Road and Sahara Avenue. Planning Commission recommended approval.
	The City Council approved a request for a Site Development Plan Review [Z-0139-88(27)] for a proposed 4,212 square-foot commercial retail building located on the northwest corner of Sahara Avenue and Fort Apache Road. The Planning Commission recommended approval of the request.
10/12/98	The City Council approved a request for a Special Use Permit (U-0090-98) for a proposed Supper Club in conjunction with a proposed 6,990 square-foot restaurant on property located on the north side of Sahara Avenue approximately 1,400 feet west of Fort Apache Road.
10/16/98	The City Council approved a request for a Site Development Plan Review [Z-0139-88(29)] for a proposed 3,190 square-foot restaurant located on the north side of Sahara Avenue, west of Fort Apache Road. The Planning Commission recommended approval of the request.
11/09/98	The City Council approved a request for a Special Use Permit (U-0115-98) for a proposed Supper Club in conjunction with a proposed 8,802 square-foot restaurant on property located on the north side of Sahara Avenue, west of Fort Apache Road.
07/12/06	The City Council approved a Variance (VAR-12102) to allow 2,404 parking spaces where 2,440 is the minimum number of spaces required in conjunction with the addition of a 1,200 square-foot restaurant within the existing shopping center. The Planning Commission recommended approval and staff recommended denial.
01/22/10	The Planning and Development Department administratively approved a Minor Amendment (SUP-37062) to a previously approved Special Use Permit (U-0038-98) to allow alcohol service into an additional 617 square-feet of existing outdoor seating at an existing 6,648 square foot Supper Club at 9500 West Sahara Avenue.

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04/07/10	The City Council approved a request for a Variance (VAR-37295) to allow no additional parking spaces where 36 additional spaces are required on 36.8 acres at the northwest corner of Fort Apache Road and Sahara Avenue. The Planning Commission recommended approval and staff recommended denial.
	The City Council approved a request for a Major Amendment to an approved Special Use Permit (U-0038-98) to add 2,820 square feet of building area and outside seating area to an existing 7,265 square-foot Supper Club at 9500 West Sahara Avenue. The Planning Commission recommended approval and staff recommended denial.
	The City Council approved a request for a Major Amendment to a previously approved Rezoning and Plot Plan Review (Z-0139-88) for a proposed 2,036 square-foot addition to an existing 6,648 square-foot commercial building at 9500 West Sahara Avenue. The Planning Commission recommended approval and staff recommended denial.

Most Recent Change of Ownership

12/07/09	A deed was recorded for a change in ownership.
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Related Building Permits/Business Licenses

07/15/98	A building permit (#98014454) was issued for a new restaurant Certificate of Occupancy at 9500 West Sahara Avenue. The building permit was finalized on 02/02/99.
	A building permit (#98014455) was issued for on-site improvements and hardscapes at 9500 West Sahara Avenue. The building permit was expired on 04/01/00.
09/02/98	A building permit (#98017819) was issued for on-site fire and water at 9500 West Sahara Avenue. The building permit was expired on 04/01/00.
11/09/98	A building permit (#98022139) was issued for patio addition for a restaurant at 9500 West Sahara Avenue. The building permit was expired on 04/05/99.
11/18/98	A building permit (#98022669) was issued for a sign at 9500 West Sahara Avenue. The building permit was finalized on 02/02/99.
12/17/98	A business license (#L21-00012) was issued for a Supper Club at 9500 West Sahara Avenue. The license was marked out on 12/08/09.
09/02/99	A building permit (#99017403) was issued for two illuminated wall signs at 9500 West Sahara Avenue. The building permit was finalized on 09/16/99.
11/13/09	A building permit (#151159) was issued for an illuminated wall sign at 9500 West Sahara Avenue. The building permit has not been finalized.
12/08/09	A business license (#R09-00907) was issued for a Restaurant seating 45 people or more at 9500 West Sahara Avenue. The license is still active.
03/09/10	A building permit (#158131) was issued for a Tenant Improvement at 9500 West Sahara Avenue. The building permit was finalized on 05/24/10.

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06/30/10	A business license (#L21-00078) was issued for a Supper Club at 9500 West Sahara Avenue. The license is still active.
03/01/11	A building permit (#180059) was issued for a Patio Cover at 9500 West Sahara Avenue. The building permit was finalized on 04/28/11.
03/21/11	A business license (#R10-00133) was issued for a Food Caterer at 9500 West Sahara Avenue. The license is still active.

Pre-Application Meeting

06/14/11	A pre-application meeting was held where submittal requirements for a Special Use Permit were discussed.
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Neighborhood Meeting

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

Field Check

06/30/11	Staff conducted a field check and noted a Shopping Center that is well maintained.
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Details of Application Request

Site Area

Net Acres	36.8
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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
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), R-3 (Medium Density Residential)
South	Bank, Apartments	SC (Service Commercial)	C-1 (Limited Commercial)
		M (Medium Density Residential)	R-PD20 (Residential Planned Development – 20 Units Per Acre)

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East	Commercial Shopping Center	M (Medium Density Residential)	R-PD18 (Residential Planned Development – 18 Units Per Acre)
		SC (Service Commercial)	C-1 (Limited Commercial)
West	Library, Church, Apartments	PF (Public Facilities)	C-V (Civic)
		SC (Service Commercial)	C-1 (Limited Commercial)
		M (Medium Density Residential)	R-3 (Medium Density Residential)

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

DEVELOPMENT STANDARDS

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Sahara Avenue	Primary Arterial	Master Plan of Streets and Highways	150	Y*
Fort Apache Road	Primary Arterial	Master Plan of Streets and Highways	100	Y

*Per the Master Plan of Streets and Highways, Sahara Avenue is listed as a 100-foot Primary arterial.

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Pursuant to Title 19.08 and 19.12, 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.	1/250 S.F.	1,703				
TOTAL SPACES REQUIRED			1,703		2,112		Y
Regular and Handicap Spaces Required			1,667	36	2,032	80	Y

Waivers		
Requirement	Request	Staff Recommendation
400-foot distance separation from a religious facility.	To allow no distance separation from a religious facility.	Denial

ANALYSIS

A Retail Establishment with Accessory Package Liquor Off-Sale use is defined by Title 19.20.020 as “a retail establishment:

- (1) Whose license to sell alcoholic beverages authorizes their sale to consumers only and not for resale, in original sealed or corked containers, for consumption off the premises where the same are sold; and
- (2) In which the sale of alcoholic beverages is ancillary to the retail use, and in which no more than ten percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages.

The term includes an establishment that provides on-premises wine, cordial and liqueur tasting if the licensee also holds a wine, cordial and liqueur tasting license for that location.”

A Waiver is required and has been requested to allow no distance separation from a religious facility where 400 feet is the minimum distance requirement. The subject site is located within the Peccole Ranch Master Plan Area and the proposed use will not have a negative impact to the master plan. Staff is recommending denial of this application because the proposed use cannot be conducted in a manner this is compatible with the surrounding land uses, as is evidenced by the requested Waiver of the minimum distance separation. The applicant has not provided sufficient evidence that would warrant the granting of the Waiver to allow no distance separation from a religious facility.

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FINDINGS (SUP-42252)

In order to approve a Special Use Permit application, per Title 19.16.110(L) 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 use cannot be conducted in a manner that is harmonious and compatible with the uses on the existing site and with the commercial uses on adjacent properties, due to the Waiver to allow no distance separation from a religious facility.

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 and intensity of the proposed use. There is no additional parking requirement for a Retail Establishment with Accessory Package Liquor Off-Sale use other than that which is required for the principal use.

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 accessed by Sahara Avenue and Fort Apache Road. These streets are of sufficient size to accommodate the needs of the proposed Retail Establishment with Accessory Package Liquor Off-Sale 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 the proposed Special Use Permit will not compromise the public health, safety and general welfare, as the use will be subject to regular inspections for business licensing.

5.The use meets all of the applicable conditions per Title 19.12.

The proposed use does not meet all Minimum Special Use Permit Requirements pursuant to Title 19.12. A Waiver is required to allow no distance separation from a religious facility where 400 feet is the minimum distance requirement.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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NOTICES MAILED 1,505

APPROVALS 0

PROTESTS 4