

City of Las Vegas

AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: JUNE 17, 2015

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: L'CHAIM WESTERN VILLAGE
PROPERTY, LLC

**** STAFF RECOMMENDATION(S) ****

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
RQR-57973	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

RQR-57973 CONDITIONS

Planning

1. Conformance to the conditions for Special Use Permit (SUP-33731).
2. 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 Required Review of an approved Special Use Permit (SUP-33731); which permitted a Beer/Wine/Cooler Off-Sale Establishment use within an existing 5,000 square-foot General Retail Store, Other than Listed at 321 Fremont Street. Condition #A of the most recent Required Review (RQR-51477) requires a Required Review at City Council to ensure that the applicant remains in compliance with all Conditions of Approval of the Special Use Permit (SUP-33731). The applicant has the appropriate business licenses and has incurred a few calls for service by the Metropolitan Police Department to the subject site, but none are directly related to the operation of the subject business. The applicant has experienced seven business license enforcement cases, with five of the cases related to alcohol. Staff recommends denial as the applicant has not met all the conditions of approval of Special Use Permit (SUP-33731); specifically condition #4 which states, "This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code."

ISSUES

- City Council approved a Required Review (RQR-51477) of a previously approved Special Use Permit (SUP-33731); which permitted a Beer/Wine/Cooler Off-Sale Establishment use within an existing 5,000 square-foot General Retail Store, Other than Listed at 321 Fremont Street. Condition #A of Required Review (RQR-51477) required another review six-months from approval. This Required Review was rescheduled to a later date to measure the applicant's compliance with Ordinance #6329 which was adopted on 06/18/14.
- During a routine business license inspection (BLE7141) on April 17, 2015 the following issues were found. Manager is listed on the employee list as a key employee, but has not been approved as a key employee by the Business License Division. Non-compliance with Title 6.50.050 and 6.50.020 as the location does not provide at least 51% of its gross retail floor area for the sale of prepackaged food products, household items and other goods commonly associated with those products and items.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
12/16/64	The City Council approved a Rezoning (Z-0100-64) from R-1 (Single Family Residential), R-4 (High Density Residential), C-1 (Limited Commercial), C-2 (General Commercial) and C-V (Civic) to C-2 (General Commercial) for approximately 230 acres generally located on property bound by Main Street to the west, Bonanza Road on the north, Las Vegas Boulevard on the east, and Charleston Boulevard on the south. The Planning Commission and staff recommended approval of the request.

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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
12/18/97	The City Council approved an Aesthetic Review (AR-0017-96) for a proposed exterior remodel to the existing retail business at 321 Fremont Street. The Planning Commission and staff recommended approval.
05/20/09	The City Council approved a Special Use Permit (SUP-33731) for a Beer/Wine/Cooler Off-Sale Establishment at 321 Fremont Street. The Planning Commission and staff recommended approval.
09/25/13	A code enforcement case (133782) was processed for banners and temporary signs along the front and side of the building at 321 Fremont Street. The case was resolved on 10/15/13.
02/19/14	The City Council approved a Required Review (RQR-51477) of a previously approved Special Use Permit (SUP-33731) for a Beer/Wine/Cooler Off-Sale Establishment at 321 Fremont Street. The Department of Planning staff recommended denial.
03/27/14	A code enforcement case (139335) was processed for construction in the alley behind the store at 321 Fremont Street. The case was closed on 03/31/14, with no violations noted.
06/18/14	City Council adopted Ordinance #6329 that amended LVMC 6.02 to increase civil penalties for violations of LVMC 6.50 and clarifying that the director may suspend an alcoholic beverage license on an administrative basis under certain circumstances, adding a new condition to LVMC 6.50 to clarify that a licensee's violation, or knowingly permitting an employee to violate a condition of an alcoholic beverage license is a misdemeanor, and creating a zone in the downtown area where the possession of glass or metal containers for the consumption of beverages is prohibited and the consumption of alcoholic beverages in its original packaging is prohibited, and to require that alcoholic beverages bought at Pack Liquor or Off-Sale licensee within the pedestrian mall be placed in a bag prior to the customer leaving the establishment and to provide for other related matters.
02/03/15	The Department of Planning approved a Temporary Sign Permit (TSP-57819) to allow two 22-inch by 28-inch Sandwich Board signs at 321 Fremont Street. The permit is valid from 02/04/15 through 04/03/15.

<i>Most Recent Change of Ownership</i>	
12/13/07	A deed was recorded for a change in ownership.

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<i>Related Building Permits/Business Licenses</i>	
02/09/98	A building permit (98002584) was issued for an exterior remodel at 321 Fremont Street. The permit was finalized on 04/15/99.
01/19/99	A building permit (99001051) was issued for an exterior remodel at 321 Fremont Street. The permit was finalized on 04/15/99.
06/01/09	A business license (C05-02590) was issued for a Tobacco Dealer at 321 Fremont Street. The license remains active at this location.
	A business license (C15-00372) was issued for a Convenience Store/Gift Shop at 321 Fremont Street. The license remains active at this location.
	A business license (I12-00031) was issued for Internet Computers at 321 Fremont Street. The license was marked out of business on 10/01/13.
11/20/08	A building permit (119927) was issued for a Tenant Improvement for a Certificate of Occupancy at 321 Fremont Street. The permit was finalized on 06/29/09.
11/19/09	A business license (L10-00303) was issued for a Beer/Wine/Cooler Off-Sale use at 321 Fremont Street. The license remains active at this location.
02/05/10	A business license (575878) inspection was conducted for beer/coolers within 10 feet of the entrance at 321 Fremont Street. The case was closed on 02/17/10.
10/26/11	A business license (711146) inspection was conducted for allowing On-Premise consumption and no Off-Sales signs posted at 321 Fremont Street. The case was closed on 12/06/11.
06/07/12	A business license (115433) inspection was conducted for unlicensed Hand Billers at 321 Fremont Street. The case was closed on 06/21/12.
06/26/12	A business license (M21-00978) was issued for a Tour Broker at 321 Fremont Street. The license was marked out of business on 12/31/14.
09/17/12	A business license (117285) inspection was conducted at 321 Fremont Street, with no violations noted. The case was closed on 09/18/12.
01/09/13	A building permit (227287) was issued for an interior remodel at 321 Fremont Street. The permit was finalized on 12/31/14.
04/29/13	A building permit (234521) was issued for wall signs at 321 Fremont Street. The permit has not been finalized.
05/13/13	A business license (G50-09002) was issued for General Retail Sales at 321 Fremont Street. The license remains active at this location.
09/18/13	A business license (133466) inspection for an out of business notice was conducted at 321 Fremont Street, with no violations noted. The case was closed on 09/25/13.
09/20/13	A business license enforcement case (133681) was processed for allowing On-Premise consumption of alcoholic beverages at 321 Fremont Street. A \$250.00 civil fine was assessed; the case was closed on 01/15/14.

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<i>Related Building Permits/Business Licenses</i>	
10/29/13	A business license (134928) inspection to discuss new conditions to sell package liquor at establishments at 321 Fremont Street, with no violations noted. The case was closed on 10/29/13.
01/23/14	A business license enforcement case (137266) was processed for an employee without a work card at 321 Fremont Street. The case was closed on 03/30/14.
05/14/14	A business license enforcement case (141264) was processed for incorrect business license renewal fee submitted for license (G50-09002) General Retail Sales at 321 Fremont Street. The case was closed on 08/14/14.
05/23/14	A business license (141696) inspection to verify compliance with Las Vegas Municipal Code 6.50.020 regarding retail floor area devoted to alcoholic beverages at 321 Fremont Street, with no violations noted. The case was closed on 07/09/14.
06/03/14	A business license (142056) inspection to deliver a copy of proposed Ordinance #6329 to amend LVMC 6.02 to increase civil penalties for violations of LVMC 6.50 and clarifying that the director may suspend an alcoholic beverage license on an administrative basis under certain circumstances, adding a new condition to LVMC 6.50 to clarify that a licensee's violation, or knowingly permitting an employee to violate a condition of an alcoholic beverage license is a misdemeanor, and creating a zone in the downtown area where the possession of glass or metal containers for the consumption of beverages is prohibited and the consumption of alcoholic beverages in its original packaging is prohibited, and to require that alcoholic beverages bought at Pack Liquor or Off-Sale licensee within the pedestrian mall be placed in a bag prior to the customer leaving the establishment and to provide for other related matters to 321 Fremont Street, with no violations noted. The case was closed on 06/03/14.
06/10/14	A business license (142397) inspection for a possible unlicensed business at 321 Fremont Street, with no violations noted. The case was closed on 08/14/14.
06/13/14	A business license enforcement case (142496) was processed for an unlicensed Timeshare Marketing booth at 321 Fremont Street. The case was closed on 06/25/14.

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<i>Related Building Permits/Business Licenses</i>	
06/24/14	A business license (142056) inspection to deliver a copy of the approved Ordinance #6329 that amended LVMC 6.02 to increase civil penalties for violations of LVMC 6.50 and clarifying that the director may suspend an alcoholic beverage license on an administrative basis under certain circumstances, adding a new condition to LVMC 6.50 to clarify that a licensee's violation, or knowingly permitting an employee to violate a condition of an alcoholic beverage license is a misdemeanor, and creating a zone in the downtown area where the possession of glass or metal containers for the consumption of beverages is prohibited and the consumption of alcoholic beverages in its original packaging is prohibited, and to require that alcoholic beverages bought at Pack Liquor or Off-Sale licensee within the pedestrian mall be placed in a bag prior to the customer leaving the establishment and to provide for other related matters to 321 Fremont Street, one violation noted; advertisement found within the store that is not posted on the windows. Nine subsequent inspections were conducted with no violations and the case was closed on 01/06/15.
09/02/14	A business license (145152) inspection for a business name changed in error and to submit application to reverse name change at 321 Fremont Street, with no violations noted. The case was closed on 09/02/14.
12/03/14	A building permit (270527) was issued for a 321 square-foot Tenant Improvement at 321 Fremont Street. The permit has not been finalized.
04/17/15	A business license (BLE7141) inspection to verify the applicants compliance with Condition #4 of Special Use Permit (SUP-33731) at 321 Fremont Street; specifically compliance with Chapter 6.50 of the City of Las Vegas Municipal Code. The following violations were noted. LVMC 6.50.410(A) Ensure that a person who is at least twenty-one years of age, who is either an owner or employee of the licensee and who has a valid work card and health card in his possession, is present on the premises during all times that the premises are open for business, 6.50.440(A-E) Employee working on premise as a manager without a non-gaming work card or approved as a key employee, 6.86.186(A) Failure to maintain an updated employee list. Additionally, measurements of the retail area, alcohol area and convenience item display area.
04/28/15	A follow up of business license (BLE7141) inspection was conducted for compliance with Condition #4 of Special Use Permit (SUP-33731) at 321 Fremont Street; specifically compliance with Chapter 6.50 of the City of Las Vegas Municipal Code. The following violations were noted. From the previous visit on 04/17/15, the measurement of all areas 6.02.060(A) (1) and 6.50.020 in regards to not meeting the Convenience Store definition. 6.50.440(A-E) Employee working on premise as a manager without a non-gaming work card or approved as a key employee. The applicant was given till May 30, 2015 to bring the site in compliance with Title 6.50.050 and Title 6.50.020.

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<i>Pre-Application Meeting</i>	
A pre-application meeting was not required, nor was one held.	

<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

<i>Field Check</i>	
03/19/15	Staff conducted a field check of the subject site and found the area clean and neat in appearance.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.16

<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	Beer/Wine/Cooler Off-Sale Establishment	C (Commercial)	C-2 (General Commercial)
North	General Retail Store, Other than Listed	C (Commercial)	C-2 (General Commercial)
South	Gaming Establishment, Non-restricted	C (Commercial)	C-2 (General Commercial)
East	Parking Structure	C (Commercial)	C-2 (General Commercial)
West	General Retail Store, Other than Listed/Package Liquor Off-Sale Establishment	C (Commercial)	C-2 (General Commercial)

<i>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Master Plan Area			
Downtown Centennial Plan (Central Casino Core)	X		Y

<i>Special Purpose and Overlay Districts</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
Downtown Centennial Plan Overlay District	X		Y
A-O (Airport Overlay) District (200 Feet)	X		Y
Downtown Casino Overlay District	X		Y
Live/Work Overlay District	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Las Vegas Redevelopment Plan Area	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

ANALYSIS

This is the second Required Review of a previously approved Special Use Permit (SUP-33731) for an existing Beer/Wine/Cooler Off-Sale Establishment use within an existing 5,000 square-foot General Retail Store, Other than Listed at 321 Fremont Street. Per Condition #A of the most recent Required Review (RQR-51477), a follow up review was mandated by the City Council to ensure that the applicant remains in compliance with all Conditions of Approval of the Special Use Permit (SUP-33731). As a result of three Business License Enforcement cases related to alcoholic beverages since the prior Required Review, staff is recommending denial.

FINDINGS

Staff finds the subject business not operating in conformance to the Conditions of Approval of the Special Use Permit (SUP-33731) and compliance with Business Licensing requirements; staff is recommending denial of this review, if approved subject to conditions.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 36

NOTICES MAILED 211 (By Planning)

APPROVALS 0

PROTESTS 0