



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: AUGUST 12, 2014

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: SMART & FINAL PROPERTIES 1, LLC -

OWNER: CHARLESTON VEGAS NO. 1, LLC

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-54766	Staff recommends APPROVAL, subject to conditions:	N/A

** CONDITIONS **

SUP-54766 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Retail Establishment with Accessory Package Liquor use.
2. 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.
3. A Waiver from Title 19.12 is hereby approved, to allow a 243-foot distance separation from a House of Worship where a 400-foot distance is required.
4. 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. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit, as well as submitted as part of any business license application.
6. Approval of this Special Use Permit does not constitute approval of a liquor license.
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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed a Retail Establishment with Accessory Package Liquor use within a proposed 36,800 square-foot General Retail Store, Other Than Listed (grocery store). The site is located at 4440 East Charleston Boulevard within an established shopping center in a C-1 (Limited Commercial) zoning district. There is a distance separation Waiver that accompanies this application to allow an alcohol use 243 feet from a House of Worship where 400 feet is the minimum distance required. Staff is recommending approval of the requested distance separation Waiver, as there is a barrier (a six-foot wall) between the protected use (a house of worship) and proposed use. The existing site conditions should be sufficient such that the protected use should not be adversely impacted if this use permit is approved. Additionally, the Retail Establishment with Accessory Package Liquor use can be conducted in a manner that is harmonious and compatible with the surrounding neighborhood and land uses. Staff recommends approval of this Special Use Permit. If this application is denied, then the grocery store can still open; however, no alcohol may be sold.

ISSUES

- The Retail Establishment with Accessory Package Liquor use is permitted in the C-1 (Limited Commercial) zoning district with the approval of a Special Use Permit.
- A Waiver of the distance separation requirement is needed to allow a 243-foot separation from a House of Worship where 400 feet is required.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
05/22/63	The Board of City Commissioners approved a Rezoning (Z-0083-63) request from R-1 (Single Family Residential) to R-3 (Medium Density Residential) and C-1 (Limited Commercial) and a Plot Plan Review (Z-0083-63) for a shopping center on the northeast corner of East Charleston Boulevard and Lamb Boulevard. The Planning Commission recommended approval of the request.
06/17/09	The City Council approved a Special Use Permit (SUP-33973) request for proposed Retail Establishment with Accessory Package Liquor Off-Sale use at 4440 East Charleston Boulevard. The Planning Commission and staff recommended approval. This entitlement expired on 10/01/12.

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<i>Most Recent Change of Ownership</i>	
01/23/03	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
1979	The shopping center was constructed.
12/29/05	A business license (G05-00591) was issued for a Grocery Store at 4440 East Charleston Boulevard. This license was marked out of business on 12/05/07.
01/20/09	A building permit (#131845) was issued for non-structural demolition and sewer investigation at 4440 East Charleston Boulevard. This permit was finalized on 07/21/09.
03/02/09	A building permit (#134584) was issued for a tenant improvement at 4440 East Charleston Boulevard. This permit was finalized on 07/21/09.
03/05/09	A building permit (#134655) was issued for tenant improvement at 4440 East Charleston Boulevard. This permit was finalized on 07/21/09.
05/06/09	A building permit (#138951) was issued for tenant improvement at 4440 East Charleston Boulevard. This permit was finalized on 06/11/09.
05/19/09	A business license (G60-00070) was issued for a Grocery Store at 4440 East Charleston Boulevard. The license was marked out of business on 12/03/13.
05/2009	A business license (L15-00046) was issued for Package Liquor at 4440 East Charleston Boulevard. The license was marked out of business on 04/01/12.

<i>Pre-Application Meeting</i>	
06/10/14	A pre-application meeting was held with the applicant and the applicant's designated representatives to discuss the Special Use Permit submittal requirements for a Retail Establishment with Accessory Package Liquor use at 4440 East Charleston Boulevard.

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

<i>Field Check</i>	
07/03/14	A field inspection was conducted on the subject site revealed that the proposed tenant space is vacant.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	6.93

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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	Mini-Storage Facility	SC (Service Commercial)	C-1 (Limited Commercial)
	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
South	Undeveloped	CG (Commercial General) – Clark County	C-2 (General Commercial) – Clark County
	Restaurant		
	Auto Repair, Major		C-1 (Local Business) – Clark County
	Restaurant		
	General Retail Store, Other Than Listed		
East	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
West	Single-Family, Attached	ML (Medium Low Density Residential)	R-PD6 (Residential Planned Development – 6 Units per Acre)
	Multi-Family Residences	SC (Service Commercial)	R-3 (Medium Density Residential)
	Office, Other than Listed		C-1 (Limited Commercial)
	General Retail Store, Other Than Listed		

<i>Master Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
No Applicable Special Purpose or Overlay Districts	N/A
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	Y

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Pursuant to Title 19.08 and 19.12, the following parking standards apply:

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>	
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	106,943 SF	1/250 SF	433				
TOTAL SPACES REQUIRED			433		433		Y
Regular and Handicap Spaces Required			424	9	419	14	Y

Floor area dedicated to the sale of alcohol			
<i>Allowed</i>	<i>Requested Area in Square Feet</i>	<i>Total Floor Area in Square Feet</i>	<i>Percentage of Floor Area of Alcohol sales</i>
10 percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages	1,470	36,800	3.99

Waivers		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
The minimum distance separation distance from a House of Worship is 400 feet.	To allow a 243-foot distance separation from a House of Worship where 400 feet is required.	Approval

ANALYSIS

A Retail Establishment with Accessory Package Liquor Off-Sale use is defined 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 10 percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages.

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This use 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.

The proposed use meets the definition above, as the provided floor plans show approximately 1,471 square feet of shelf space dedicated for the sale of alcohol (beer, wine and liquor) throughout the store. The total floor area dedicated for alcohol sales is approximately four percent.

The Minimum Special Use Permit Requirements for this use include:

- 1.* Except as otherwise provided, no retail establishment with accessory package liquor off-sale (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. [non-waivable per LVMC 19.12.050 (C)]**

The proposed use does not meet this requirement, as there is a Church/House of Worship located 243 feet from the subject property. A Waiver of the minimum distance separation accompanies this application. The Waiver can be applied for per requirement 7(c) below.

- 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. [non-waivable per LVMC19.12.050(C)]**

The proposed use meets this requirement; measurement is taken from the existing property line of Lot 1-A of Parcel Map File 31 Page 18, located on the northwest corner of Lamb Boulevard and Charleston Boulevard.

- 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**

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- 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.
 [nonwaivable per 19.12.050 (C)]

This requirement does not apply to the proposed use, as the subject site is located on a parcel that is less than 80 acres in size.

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.

This requirement contains instructions for the Planning Commission.

5. The minimum distance requirements in Requirement 1 do not apply to:

- a. An establishment which has a nonrestricted 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.

This requirement does not apply, as the proposed tenant space is 36,800 square feet in size.

6.* All businesses which sell alcoholic beverages shall conform to the provision of LVMC Chapter 6.50. [nonwaivable per 19.12.050 (C)]

The proposed use meets this requirement, as beer, wine, and spirited alcohol will be sold for off-premises consumption only. Also, conformance to LVMC Chapter 6.50 is a standard condition of approval that cannot be waived.

7. The minimum distance requirements set for in Requirement 1, which are otherwise non-waivable under the provisions of LVMC 19.12.050(C), may be waived:

- a. In accordance with the provisions of LVMC 19.12.050(C) 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 TC (Town Center) Zoning District and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan;

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- c. In connection with a proposed establishment having between 20,000 square feet and 50,000 square feet of retail floor space; or
- d. In connection with a retail establishment having less than 20,000 square feet or 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 right of way with a width of at least 100 feet.

The applicant has requested a distance separation Waiver from a Church/House of Worship under Provision (c) above. The size of the proposed retail establishment is 36,800 square feet.

The proposed Retail Establishment with Accessory Package Liquor use will be located within a proposed grocery store. Per site plan date stamped 07/08/14, there is adequate parking for the primary use of a General Retail Store, Other Than Listed and no additional parking is required for the proposed Retail Establishment with Accessory Package Liquor use. Additionally, per floor plan date stamped 06/25/14, the floor area dedicated to the sale of alcohol is approximate 1,471 square feet or four percent of the total floor area.

Staff supports the requested separation Waiver, as the use will be located within an established 10.06-acre shopping center designed to accommodate a variety of uses, including a grocery store with an a Retail Establishment with Accessory Package Liquor use. Additionally, there is a six-foot block wall between the proposed use and the protected use (a House of Worship) that prevents direct access to the protected use. The closest pedestrian or vehicle entrance is approximately 800 feet west of the proposed Retail Establishment with Accessory Package Liquor use.

The subject site is located within 500 feet of a city boundary; therefore, the request is deemed a Project of Regional Significance. The required documents have been completed and distributed to the appropriate agency. The Las Vegas Valley Water District (LVVWD) submitted the following comments:

The property is currently served for both fire and domestic however neither have the required backflow prevention per NAC 445A.67195. Civil plans including the existing and proposed plumbing fixture schedule and proposed fire sprinkler design will need to be submitted to LVVWD.

The approval of a Special Use Permit for a Retail Establishment with Accessory Package Liquor use is appropriate in this C-1 (Limited Commercial) zoning district. The religious facility should not be negatively impacted, as the closest entrance is approximately 800 feet away from the proposed use. In summation, the proposed use can be conducted in a manner that is harmonious and compatible with the surrounding neighborhood and land uses; therefore, staff recommends approval of this use permit. If this application is denied then the proposed General Retail Store, Other Than Listed may open for business; however, no alcohol can be sold at this location.

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FINDINGS (SUP-54766)

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 location for this Retail Establishment with Accessory Package Liquor use is compatible with the SC (Service Commercial) land use designation and staff supports the distance separation Waiver from a protected use (House of Worship). The proposed Retail Establishment with Accessory Package Liquor use can be conducted in a harmonious and compatible manner with the existing and future surrounding land uses.

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

The proposed use will operate within an established shopping center in a proposed discount grocery store that is designed to accommodate the sale of various retail related products such as food, drink, alcohol and other consumable goods.

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.

Site access is from Charleston Boulevard and Lamb Boulevard. Both are 100-foot wide Primary Arterials that have adequate capacity to facilitate 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.

The proposed Retail Establishment with Accessory Package Liquor use will be subject to regular inspections by regulatory agencies for business licensing. The proposed use will not compromise the public health, safety and welfare, or the overall objectives of the General Plan.

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

The proposed use does not meet all of conditions per Title 19.12. Specifically, the applicant is requesting a waiver to allow a 243-foot distance separation from the nearest religious facility where a 400-foot separation is required. Staff supports the requested Waiver.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 19

NOTICES MAILED 749

APPROVALS 0

PROTESTS 1