



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: JUNE 9, 2015

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: T-LVCR, LLC

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-59044	Staff recommends DENIAL, if approved subject to conditions:	

** CONDITIONS **

SUP-59044 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Package Liquor Off-Sale Establishment 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. 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.
4. 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.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. No more than 10 percent of the gross internal floor area shall be regularly devoted to the display or merchandising of alcoholic beverages.
7. All beer and wine coolers shall remain in the original manufacturer's configuration intended for off-sale 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

The applicant is requesting a Special Use Permit for a Package Liquor Off-Sale use within a proposed 13,810 square-foot general retail use (drugstore). The proposed drugstore and package liquor Off-Sale use would locate within an existing Non-Restricted Gaming Establishment (Casino) at 18 Fremont Street. The subject site is located adjacent to the pedestrian mall, known as the Fremont Street Experience. On 05/07/14, the City Council adopted Ordinance #6320 which intended to add minimum Special Use Permit requirements to the Package Liquor Off-Sale Establishment and Retail Establishment with Accessory Package Liquor uses. Specifically, minimum Special Use Permit requirements would be added to prohibit Package Liquor Off-Sale Establishment uses from locating adjacent to the pedestrian mall and limit Retail Establishments with Accessory Package Liquor uses to locating within grocery stores and drugstores only. However, upon adoption, the minimum Special Use Permit requirements were switched in error, thereby prohibiting the Retail Establishment with Accessory Package Liquor from locating adjacent to the pedestrian mall and limiting the Package Liquor Off-Sale Establishment use to grocery stores and drugstores. A Text Amendment (TXT-58497) is scheduled to be heard by City Council on 06/17/15, which would remedy the error, if approved. The applicant decided to proceed with the knowledge that the request did not comply with the intent of Ordinance #6320. For these reasons, staff recommends denial with conditions.

ISSUES

- A Special Use Permit is required in order to allow a Package Liquor Off-Sale Establishment Use in the C-2 (General Commercial) zoning district.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
11/30/64	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 bounded by Main Street to the west, Bonanza Road on the north, Las Vegas Boulevard on the east, and Charleston Boulevard on the south.
05/07/14	The City Council approved Ordinance #6320 clarifying Title 6 rules regarding the sale, packaging and advertising of alcoholic beverages by package and off-sale liquor licenses on or adjacent to the pedestrian mall. In addition, the ordinance clarified Title 19 land use entitlements for package liquor and other off-sale liquor licenses on or adjacent to the pedestrian mall.

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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
07/16/14	The City Council struck a request for a Special Use Permit (SUP-49539) for a Package Liquor Off-Sale Establishment use at 18 Fremont Street. The Planning Commission could not reach a majority recommendation. Staff recommended approval.

<i>Most Recent Change of Ownership</i>	
08/04/14	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
c. 1931	The existing Non-Restricted Gaming building was constructed.
c. 1931	A business license (H06-00012) was issued for a Hotel use at 18 Fremont Street. The business license was marked out of business 09/12/14.
03/13/13	A building permit (#229431) was issued for an interior tenant improvement at 18 Fremont Street. The permit received a final inspection on 05/20/13.
05/06/13	A business license (G50-94305) was issued for general retail at 18 Fremont Street. The license remains active.
05/21/14	A building permit (#253217) was issued for two exterior wall signs at 18 Fremont Street. A final inspection has not been conducted.
08/02/14	A business license (P62-00199) was issued for a Non-Restricted Gaming use at 18 Fremont Street. The license remains active.
	A business license (P62-00198) was issued for a Liquor Establishment (Tavern) use at 18 Fremont Street. The license remains active.
08/19/14	A business license (G62-07505) was issued for a general retail use at 18 Fremont Street. The license remains active.

<i>Pre-Application Meeting</i>	
04/22/15	Staff conducted a pre-application conference with the representative to discuss a proposal to locate a Retail Establishment with Accessory Package Liquor Off-Sale use within an existing Non-Restricted Gaming Establishment (Casino) at 18 Fremont Street. A discussion was held regarding Ordinance #6320 in which staff required additional information to make concluding remarks. Staff contacted the applicant on 04/23/15 and explained a Retail Establishment with Accessory Package Liquor Off-Sale was not allowed next to the pedestrian mall as approved by Ordinance #6320, but that the intent of Ordinance #6320 was to allow Package Liquor Off-Sale Establishments and not allow Retail Establishments with Accessory Package Liquor Off-Sale uses from locating next to the pedestrian mall. Staff advised the applicant to wait until Text Amendment (TXT-58497) was heard prior to submittal of a Special Use Permit. The representative decided to pursue the Package Liquor Off-Sale use instead.

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

Field Check	
04/30/15	Staff performed a routine field check and noted a well maintained gaming establishment.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	2.1

<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	Gaming Establishment, Non-Restricted	C (Commercial)	C-2 (General Commercial)
North	Gaming Establishment, Non-Restricted	C (Commercial)	C-2 (General Commercial)
South	Gaming Establishment, Non-Restricted	C (Commercial)	C-2 (General Commercial)
East	Gaming Establishment, Non-Restricted Sexually Oriented Business	C (Commercial)	C-2 (General Commercial)
West	Gaming Establishment, Non-Restricted	C (Commercial)	C-2 (General Commercial)

<i>Master Plan Areas</i>	<i>Compliance</i>
Downtown Centennial Plan – Central Casino Core	Y
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
Downtown Centennial Plan Overlay District	Y
G-O (Gaming Enterprise Overlay) District	Y
A-O (Airport Overlay) District – 200 Feet	Y
Downtown Casino Overlay District	Y
Live/Work Overlay District	N/A

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<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	Y
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	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>
Main Street	Primary Arterial	Master Plan of Streets and Highways	100	Y
Fremont Street	Pedestrian Mall	Title 11.68	80	Y

ANALYSIS

The applicant is requesting a Special Use Permit for a Package Liquor Off-Sale use within a proposed 13,810 square-foot general retail use (drugstore). The proposed drugstore and package liquor Off-Sale use would locate within an existing Non-Restricted Gaming Establishment (Casino) at 18 Fremont Street. The subject site is located adjacent to the pedestrian mall.

The Package Liquor Off-Sale Establishment Use is defined as “An establishment, other than a retail establishment with package liquor off-sale, whose license to sell alcoholic beverages and 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. 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 Minimum Special Use Permit Requirements for this use include:

- 1.Except as otherwise provided, no package liquor off-sale establishment (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.

The proposed use meets this requirement as there are no protected uses within 400 feet of the location.

- 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

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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 onsite parking and which has been created so as to avoid the distance limitation described in Requirement.

This requirement does not apply.

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 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.

This requirement does not apply.

4. 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 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.

5. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.

A condition of approval has been added requiring compliance with Title 6.50.

6. Except for a grocery store or drugstore as defined by LVMC 6.50.020 that contains not less than 12,000 square feet of gross internal floor area, no establishment shall be permitted on or adjacent to the Pedestrian Mall, as defined in LVMC Chapter 11.68.

The submitted floor plans, date stamped 04/23/15, illustrate a total gross internal floor area of 13,810 square feet. In addition, the floor plans and justification letter detail that the area will include a pharmacy and qualifies as a drugstore. Therefore, the proposal complies with this requirement.

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As proposed, the Package Liquor Off-Sale use adheres to all minimum conditions as outlined by Title 19.12. However, on 05/07/14, the City Council adopted Ordinance #6320, which added minimum Special Use Permit requirements to the Package Liquor Off-Sale Establishment and Retail Establishment with Accessory Package Liquor uses. Specifically, minimum Special Use Permit requirements would be added to prohibit Package Liquor Off-Sale Establishment uses from locating adjacent to the pedestrian mall and limit Retail Establishments with Accessory Package Liquor uses to locating within grocery stores and drugstores only. In addition, Retail Establishments with Accessory Package Liquor Off-Sale Establishment uses would not be able to locate adjacent to the pedestrian mall unless the associated grocery store or drugstore contained at least 12,000 square feet of gross internal floor area. However, upon adoption, the minimum Special Use Permit requirements were switched in error, thereby completely prohibiting the Retail Establishment with Accessory Package Liquor use from locating adjacent to the pedestrian mall, regardless of size, and limiting the Package Liquor Off-Sale Establishment use to grocery stores and drugstores. Furthermore, the Package Liquor Off-Sale Establishment uses were prohibited from locating adjacent to the pedestrian mall unless the use was located within a grocery store or drugstore with at least 12,000 square feet of gross internal floor area.

The applicant approached staff at a pre-application conference on 04/22/15 with the intentions of submitting a Special Use Permit for a Retail Establishment with Accessory Package Liquor Off-Sale use. However, due to the error, an application for a Retail Establishment with Accessory Package Liquor Off-Sale use could not be accepted. Instead, the applicant is pursuing a Package Liquor Off-Sale use, which must locate within a drugstore or grocery store with at least 12,000 square feet of internal gross floor area. According to the submitted site plan, floor plan and justification letter, date stamped 04/23/15, the Package Liquor Off-Sale use would locate within a 13,810 square-foot drugstore. However, the submitted floor plans indicate a 1,832 square-foot lower level dedicated for storage, bringing the total internal gross floor area dedicated to the drugstore use below the minimum 12,000 square feet.

A Text Amendment (TXT-58497) is scheduled to be heard by City Council on 06/17/15, which will remedy the error, if approved. Staff advised the applicant to wait for the Text Amendment (TXT-58497) to be heard prior to submittal. The applicant decided to proceed with the knowledge that the request did not comply with the intent of Ordinance #6320, staff and City Council. For these reasons, staff recommends denial with conditions.

FINDINGS (SUP-59044)

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.**

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The proposed Package Liquor Off-Sale Establishment will be located within a proposed 13,810 square-foot general retail use (drugstore). The proposed drugstore and package liquor Off-Sale use would locate within an existing Non-Restricted Gaming Establishment (Casino) at 18 Fremont Street, adjacent to the pedestrian mall. The proposal does not meet the intent of Ordinance #6320, in which Package Liquor Off-Sale Establishments would not be permitted adjacent to the pedestrian mall. Therefore, 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 the adjacent properties.

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

The proposed Package Liquor Off-Sale Establishment will occupy an existing commercial space and will not require any additional parking beyond what has been provided for the existing gaming establishment and the proposed general retail 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 property is located on the northeast corner of Main Street and Fremont Street, a central tourist area that are adequate to serve the needs of the proposed use. In addition, the site is located adjacent to the pedestrian mall.

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 use is subject to licensing and inspections by the City of Las Vegas in an effort to protect the public's health, safety and welfare. However, the proposal does not meet the intent of Ordinance #6320, in which Package Liquor Off-Sale Establishments would not be permitted adjacent to the pedestrian mall. Therefore, 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 the adjacent properties.

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

The proposed Package Liquor Off-Sale Establishment meets the applicable conditions per Title 19.12.

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NOTICES MAILED 144

APPROVALS 0

PROTESTS 0