



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: APRIL 9, 2013

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT: VEGAS MART #3 - OWNER: EYW OF NEVADA, LLC, ET AL

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-48455	Staff recommends APPROVAL, subject to conditions:	

** CONDITIONS **

SUP-48455 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 Rezoning (Z-0035-81), Special Use Permit (U-0131-97) and Plot Plan Review (Z-0035-81).
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. 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.
6. Approval of this Special Use Permit does not constitute approval of a liquor license.

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7. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
8. All beer and wine coolers shall remain in the original manufacturer's configuration intended for off-sale resale.
9. 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 proposing to add the display and retail sale of package liquor at an existing 2,400 square-foot Convenience Store at 6711 West Alexander Road, Suite #103. The store has sold only beer and wine since 1998. Approximately 91 square feet of the 1,750 square-foot retail area would be dedicated to the display and merchandising of package liquor. The proposed use meets Title 19.12 minimum requirements and can be conducted in a manner that is harmonious and compatible with the adjacent commercial and residential land uses. Therefore, staff recommends approval with conditions. If denied, a business license for the sale of package liquor at this location could not be approved, but the sale of beer and wine for off-premise consumption may continue.

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.
- No waivers of minimum Special Use Permit requirements are necessary, and a Metro report shows there have been no significant incidents on the site in the past two years that can be linked to the operation of the current business.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
06/03/81	The City Council approved a Rezoning (Z-0035-81) from N-U (Non-Urban) to C-1 (Limited Commercial) on 2.3 acres at the southwest corner of Lorenzi (Rainbow) Boulevard and Alexander Road as part of a larger request. The Planning Commission recommended denial of this portion of the request; staff recommended approval.
12/26/89	The Planning Commission approved a request for a Plot Plan Review (Z-0035-81) for a proposed 21,600 square-foot retail center consisting of two single-story buildings and gasoline pumps on 2.3 acres at the southwest corner of Lorenzi (Rainbow) Boulevard and Alexander Road. Staff recommended approval.
02/23/90	A three-lot Parcel Map (PM-0007-90) on property located at the southwest corner of Lorenzi (Rainbow) Boulevard and Alexander Road was recorded in the Office of the Clark County Recorder.

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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
02/19/92	The City Council approved a Special Use Permit (U-0320-91) for sales of beer, wine and gasoline at a proposed Convenience Store at the southwest corner of Alexander Road and Rainbow Boulevard.
01/26/98	The City Council approved a Special Use Permit (U-0131-97) for the Off-Premise Sale of Beer, Wine and Wine Coolers at 6731 West Alexander Road, Suites #103 and #104. The Planning Commission and staff recommended approval. As a condition of approval, the City Council amended the request from Package Liquor Sales to sales of beer, wine and coolers only.

<i>Most Recent Change of Ownership</i>	
10/20/09	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
12/05/96	A building permit (#96023860) was issued for a shell building (Building 1) at 6711 West Alexander Road. A final inspection was approved 05/21/97.
02/04/98	A building permit (#98002352) was issued for a tenant improvement for a retail store at 6711 West Alexander Road, Suites #103 and #104. A final inspection was approved 03/12/98.
03/12/98	A business license (L10-00175) was issued for the off-premise sale of beer, wine and wine coolers at 6711 West Alexander Road, Suites #103 & #104. The license was marked out 03/30/10.
03/29/10	A business license (L10-00310) was issued for the off-premise sale of beer, wine and wine coolers at 6711 West Alexander Road, Suites #103 & #104. The license is still active.

<i>Pre-Application Meeting</i>	
01/22/13	A pre-application meeting was held with the applicant to discuss submittal requirements for a Special Use Permit application. It was noted that no Building and Safety records could be found certifying the occupancy change to a church at 6741 W. Alexander Rd., which is within 400 feet of the subject property; therefore, the applicant can legally request a Special Use Permit at this location.

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

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Field Check	
02/28/13	The subject suite, which contains an existing Convenience Store that sells beer and wine only, is located within an in-line retail building. The vacant suite to the east has signs posted announcing the coming of a church in that tenant space. A church is already established in an office building on the lot to the west, but is not legally permitted as such.

Details of Application Request	
Site Area	
Net Acres	1.35

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	General Retail	SC (Service Commercial)	C-1 (Limited Commercial)
	Restaurant		
	General Personal Service		
	Office		
North	Single Family, Detached	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
	Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
South	Single Family, Detached	ML (Medium Low Density Residential)	R-PD6 (Residential Planned Development – 6 Units Per Acre)
East	Single Family, Detached	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
	Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
West	Church/House of Worship	ML (Medium Low Density Residential)	C-1 (Limited Commercial)

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

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DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

<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>
Rainbow Boulevard	Major Collector	Master Plan of Streets and Highways Map	80	Y
Alexander Road	Primary Arterial	Master Plan of Streets and Highways Map	96	N

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	
General Retail	16,800 SF	N/A	61				
Restaurant							
General Personal Service							
Office							
TOTAL SPACES REQUIRED			61		61		Y*
Regular and Handicap Spaces Required			58	3	57	4	Y

*Parking impaired site. See analysis for details.

ANALYSIS

The 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.

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.”

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The proposed use meets this definition, as the place of business is applying for a license to sell alcoholic beverages in sealed containers in conjunction with the existing sale of other retail goods. The area proposed to be devoted to the display and sale of package liquor is 91 square feet, or 5.2 percent of the total retail floor area in the tenant space. This use is permitted in the C-1 (Limited Commercial) zoning district with approval of a Special Use Permit. If the requested Special Use Permit is approved, alcoholic beverages may only be sold in conformance with Title 6.50 requirements in addition to the Title 19.12 use requirements listed below.

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. (Nonwaivable)

The proposed use meets this requirement, as there are no protected uses located within 400 feet of the property line of the subject property.

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. (Nonwaivable)

The proposed use meets this requirement, as the subject fee simple parcel has direct access to both Alexander Road and Rainbow Boulevard, and measurement is taken from the existing property line of Lot 2 as mapped by File 63 Page 79 of Parcel Maps.

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. (Nonwaivable)

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This requirement does not apply to the proposed use, as the property on which it is proposed 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 does not apply to the proposed use, as no distance separation waiver is necessary.

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.

Neither condition applies to the proposed use.

6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50. (Nonwaivable)

The proposed use will meet this requirement, as it is a condition of approval of the Special Use Permit.

7. The minimum distance requirements set forth in Requirement 1, which are otherwise nonwaivable 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 T-C (Town Center) Zoning District and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan;
 - 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 of 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 a right-of-way with a width of at least 100 feet.

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This requirement does not apply to the proposed use, as no distance separation waiver is necessary.

The proposed use would be located within an established in-line retail development that serves as neighborhood commercial center for the surrounding residential area. Other than the minimum use requirements in Title 19.12, there are no special development requirements pertaining to this site.

The site is parking impaired. It was approved for 61 spaces in 1996; however, retail uses alone require 68 spaces under the UDC. No additional parking is required for this use, as it is ancillary to the primary retail use of the Convenience Store.

The proposed Accessory Package Liquor Off-Sale use meets all of the applicable Title 19.12 requirements for this use. An office building on the parcel to the west (at 6741 West Alexander Road) has been used as a church for several years; however, the use has not been considered a Church/House of Worship pursuant to Title 19, as no building permit was issued to change the occupancy of the building for assembly, and no inspections were requested to ensure the building was safe for assembly uses. The suite to the east of the subject tenant space had previously been issued a Certificate of Occupancy for a church, but was vacant at the time the applicant submitted for a Special Use Permit, and thus is also not considered a church. This is of note, as under the minimum requirements of Title 19.12, distance separation requirements for a Retail Establishment with Accessory Package Liquor Off-Sale use cannot be waived at this location, and therefore no Special Use Permit for this use could otherwise have been approved if protected uses were within 400 feet of the subject property.

According to Las Vegas Metropolitan Police reports, no significant incidents related to the purveying of alcoholic beverages have been noted at this location within the last two years.

As the existing use has been shown to be compatible with the surrounding residential properties with little incident, the proposed use, which meets Title 19.12 requirements, can also be conducted in a manner that is harmonious with the adjacent commercial and residential land uses. Staff therefore recommends approval with conditions.

FINDINGS (SUP-48455)

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 use would be located within an established retail store among other commercial uses.
 The applicant will display package liquor behind the cashier and near the cashier counter.
 The current business has sold beer and wine at this location since 1998 compatibly with other nearby uses, which includes another convenience store that also sells beer and wine.
 This is not a 24-hour use.

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

The subject site is suitable for the proposed Accessory Package Liquor Off-Sale use. No additional parking demand will be placed on the subject site, as the proposed package liquor use will be accessory to the primary 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.

Rainbow Boulevard, classified as a Major Collector, and Alexander Road, classified as a Primary Arterial by the Master Plan of Streets and Highways Map, provide access points to the property and are adequate in size to meet the needs 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.

The proposed alcohol use at this site will be subject to licensing and regular inspection, thereby protecting the public health, safety and welfare.

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

The proposed use conforms to Conditions 1, 2 and 6 for the Retail Establishment with Accessory Package Liquor Off-Sale use in Title 19.12. The remaining conditions are not applicable to the proposal.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

26

NOTICES MAILED 1025

APPROVALS 0

PROTESTS 1