

## AGENDA MEMO

**CITY COUNCIL MEETING DATE: SEPTEMBER 6, 2006**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: SUP-13882 - APPLICANT: ETHOS THREE ARCHITECTURE -**  
**OWNER: AAMAX ENTERPRISES LLC**

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### **\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL.

#### **Planning and Development**

1. Conformance to all Minimum Requirements under Title 19.04.050 for a Supper Club.
2. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-13880), Variance (VAR-13881), Variance (VAR-14355), and Special Use Permits (SUP-13877 and SUP-13884) shall be required.
3. This approval shall be void two years from the date of final approval, unless a building permit has been issued for the principal building on the site. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

This is a request for a Special Use Permit for a proposed Supper Club on 2.07 acres on the east side of Eastern Avenue, approximately 153 feet north of Mesquite Avenue. SDR-13880, VAR-13881, VAR-14355, SUP-13877, and SUP-13884 were filed as companion items.

**EXECUTIVE SUMMARY**

The applicant proposes that the restaurant in the western most end of the largest building on site, closest to Eastern Avenue be licensed as a Supper Club. The amount of waivers requested for this site is considerable and the development will need the requested Variance for parking. Therefore, it is the position of the Planning Department to not support this application.

**BACKGROUND INFORMATION**

**A) *Related Actions***

- 08/06/52      The subject property was Annexed (Ordinance Number 498) into the City of Las Vegas as part of larger request.
  
- 01/18/67      The City Council approved a Rezoning (Z-0072-66) to C-1 (Limited Commercial) on an adjacent site.
  
- 09/18/02      The City Council approved a request for a Rezoning (Z-0062-02) FROM: R-E (Residence Estates) TO: C-1 (Limited Commercial) on 1.79 acres at 540 North Eastern Avenue. The Planning Commission and staff recommended approval.
  
- 09/18/02      The City Council approved a request for a Site Development Plan Review [Z-0062-02(1)] and a Reduction of the Perimeter Landscaping Requirements to allow a five foot wide landscape planter on the north property line where an eight foot wide landscape planter is required for a proposed 25,200 square foot commercial center on 1.79 acres at 530 and 540 North Eastern Avenue. The Planning Commission recommended approval. Staff recommended denial.
  
- 03/17/04      The City Council approved a request for a Special Use Permit (SUP-3636) for a Liquor Establishment (Off-premise Consumption) in conjunction with a proposed grocery store adjacent to the east side of Eastern Avenue 150 feet north of Mesquite Avenue.

- 03/16/05 The City Council approved a request for a Reinstatement and Extension of Time (EOT-6043) for an approved Rezoning (Z-0062-02) FROM: R-E (Residence Estates) TO: C-1 (Limited Commercial) on 1.79 acres at 540 North Eastern Avenue.
- 08/10/06 The Planning Commission recommended denial of companion items VAR-14355, VAR-13881, SUP-13884 and SDR-13880 concurrently with this application.
- 08/10/06 The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #50/dr).

***B) Pre-Application Meeting***

- 05/10/06 The elements of a complete application for a Special Use Permit were discussed.

***C) Neighborhood Meetings***

A neighborhood meeting is not required as part of this application request, nor was one held.

**DETAILS OF APPLICATION REQUEST**

***A) Site Area***

Net Acres: 2.0

***B) Existing Land Use***

Subject Property: Undeveloped/ Commercial  
North: Commercial/Retail Center  
South: Commercial/Retail and Apartments  
East: Undeveloped and Single Family Residences  
West: Commercial/Retail

***C) Planned Land Use***

Subject Property: SC (Service Commercial)  
North: SC (Service Commercial)  
South: M (Medium Density Residential) and SC (Service Commercial)  
East: M (Medium Density Residential)  
West: SC (Service Commercial)

***D) Existing Zoning***

Subject Property: R-E (Residence Estates) under Resolution of Intent to C-1 (Limited Commercial) and C-1 (Limited Commercial)  
North: C-1 (Limited Commercial)  
South: R-3 (Medium Density Residential) and C-1 (Limited Commercial)  
East: R-3 (Medium Density Residential)  
West: C-1 (Limited Commercial)

**E) General Plan Compliance**

The site is designated as SC (Service Commercial) on the Southeast Sector map of the General Plan. The approved C-1 (Limited Commercial) zoning is in compliance with this land use designation.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>		<b>X</b>
<b>Special Overlay District</b>		<b>X</b>
<b>Trails</b>		<b>X</b>
<b>Rural Preservation Neighborhood</b>		<b>X</b>
<b>County/North Las Vegas/HOA Notification</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

This site is not affected by any special plan areas or districts.

**ANALYSIS**

**A) Zoning Code Compliance**

**A1) Parking and Traffic Standards**

Pursuant to Title 19.10, the following Parking Standards apply to the subject proposal:

<b>Uses</b>	<b>GFA</b>	<b>Ratio</b>	<b>Required Parking</b>		<b>Provided Parking</b>	
			<b>Regular</b>	<b>Handicap</b>	<b>Regular</b>	<b>Handicap</b>
Financial Institution	1,360 SF.	1/200 GFA	7			
Restaurant	2,500S F 846 SF	1/50 GFA	50			
		1/200 GFA	5			
General Retail	26,198 SF	1/250 GFA	105			
<b>TOTALS</b>	<b>30904 SF</b>		<b>167</b>	<b>6 of total</b>	<b>103</b>	<b>5 of total</b>

The proposal needs a Variance (VAR-13881) from the requirements. In addition the applicant will need to provide for one additional handicap space, an if approved condition has been added for this requirement. This request represents a deviation of 38 %.

Metro expressed concerns about how insufficient parking will contribute to onsite congestion and unsafe conditions for pedestrians.

A2) Minimum Distance Separation Requirements

Pursuant to Title 19.04, the following Standards apply to the subject proposal:

<b>Standards</b>	<b>Code Requirement</b>	<b>Provided</b>
Supper Club	400 from any church, synagogue, school, child care facility licensed for more than 12 children, or City Park  *400 feet from any church, synagogue, school, child care facility licensed for more than 12 children, or City Park can request a waiver	<b>City Park</b> - none <b>School</b> -none <b>Church</b> located approximately 365 feet away.  *Waiver requested

**B) General Analysis and Discussion**

•Zoning

A Supper Club is permitted in the C-1 (Limited Commercial) zone with approval of a Special Use Permit.

•Use

Title 19.20.020 defines a Supper Club as a restaurant and bar operation with alcoholic beverage sales: wherein the bar area is separated from the restaurant area by a baffler sufficient to prevent access to the bar by minors; wherein the actual seating available at all times within the restaurant area will accommodate at least one hundred twenty-five persons; wherein alcoholic beverages are served in the restaurant area only in conjunction with the service of food; wherein full-course meals are available during all hours the bar area is open to the public; wherein a cook and food server, other than a bartender, are available at all times the bar area is open to the public; and wherein the restaurant operation is the principal portion of the business.

•Waiver

- (1) No supper club use shall be located within four hundred feet of any church, synagogue, school, child care facility licensed for more than twelve children or City park.
- (2) When considering a Special Use Permit application for a supper club which also requires a waiver of the distance limitation in Subsection (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.

The following protected uses are located within 400 feet of the proposed use:

City Park	None
School	None
Church	2413 Cedar Avenue

The amount of waivers requested for this site is considerable and the development will need the requested Variance for parking. Therefore, it is the position of the Planning Department to not support this application.

•Conditions

Listed are the applicable conditions as listed in Title 19.04.050 for a Supper Club:

- (1) No supper club use shall be located within four hundred feet of any church, synagogue, school, child care facility licensed for more than twelve children or City park.
- (2) Except as otherwise provided in Subsection (3) below, the minimum distances referred to in Subsection (1) shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed supper club 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 supper club. 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 Subsection (1).

- (3) In the case of a supper club proposed to be located on a parcel of at least eighty acres in size, the minimum distances referred to in Subsection (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 supper club will be located, without regard to intervening obstacles; or
  - (b) In the case of a proposed supper club 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 supper club will be located, without regard to intervening obstacles.
- (4) When considering a Special Use Permit application for a supper club which also requires a waiver of the distance limitation in Subsection (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.
- (\*5) In the O District, a supper club is permitted only as an accessory use.
- (\*6) All businesses which sell alcoholic beverages shall conform to the provisions of Chapter 6.50 of the Las Vegas Municipal Code.

## FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 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.**

While the use is permitted the C-1 (Limited Commercial) zoning district as a special use, the proposal cannot be operated in a manner harmonious and compatible with the surrounding area, since it does not meet the 400 foot distance separation from a protected use.

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

The subject site is too small for the proposed development, thus necessitating the companion variance application for parking. Therefore the site is not physically suitable for the proposed 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 subject location is accessible from Eastern Avenue, a 100-foot Primary Arterial as indicated on the Master Plan of Streets and Highways, which is of adequate in size and capacity to accommodate 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.**

Approval of this request would not be consistent with the standards of Title 19. If the request is approved, it would be subject to other Codes to ensure health, safety and public welfare.

**PLANNING COMMISSION ACTION**

The original application for an auto title loan SUP was withdrawn and reference to it shall be eliminated.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 11

**ASSEMBLY DISTRICT** 11

**SENATE DISTRICT** 2

**NOTICES MAILED** 465 by City Clerk

**APPROVALS** 0

**PROTESTS** 0