



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-29237 APPLICANT: MARCO TENCANERA OWNER:
FAEC HOLDINGS WIRRULLA, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: APPROVAL, subject to:

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Liquor Establishment (Tavern) use.
2. This approval shall be void one year 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.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
5. 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 a request for a Special Use Permit for a proposed 6,002 square-foot Liquor Establishment (Tavern) located on 2.75 acres at 450 Fremont Street, Suite # 101 and a Waiver of the distance separation requirement. The distance separation requirement may be waived in accordance with the provisions of Paragraph 19.04.050(A)(4), but only in connection with a proposed Liquor Establishment (Tavern) that will be located on a parcel within the C-V District or the Downtown Casino Overlay District.

The proposed Liquor Establishment (Tavern) meets the minimum Downtown Centennial Plan and Title 19 standards for this use. Staff recommends approval, as the proposed facility is located in a designated entertainment venue and will not negatively impact neighboring uses.

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 bounded 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 approved Reclassification of this property.
03/09/98	The City Council accepted the applicants withdrawal for a Special Use Permit (U-129-97) to sell Packaged Liquor in an existing 7,400 square-foot Gift Shop. The Planning Commission recommended approval.
03/23/98	The City Council approved a Site Development Plan (SD-0003-98) on property bounded by Fremont Street, 4th Street, Ogden Avenue, and Las Vegas Boulevard South for a proposed 264,210 square-foot Retail / Entertainment Complex (Neonopolis). The Planning Commission recommended approval.
03/23/98	The City Council approved a Vacation (VAC-0002-98) to vacate Public Alleys generally located south of Ogden Avenue, between 4th Street and Las Vegas Boulevard. The Planning Commission recommended approval.
10/08/98	The Planning Commission approved a Tentative Map (TM-0052-98) on property located within the block bounded by Fremont Street, Ogden Avenue, 4th Street and Las Vegas Boulevard.

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10/08/98	The Planning Commission approved a Final Map (FM-0088-98) for a commercial subdivision on property located between Fremont Street and Ogden Avenue, and between 4th Street and 5th Street.
10/08/98	The Planning Commission approved a Reversionary Map (RM-0005-98) on property located between Fremont Street and Ogden Avenue, and between 4th Street and 5th Street.
10/08/98	The Planning Commission approved a Tentative Map for Property (TM-0052-98) located between Fremont Street, Ogden Avenue, 4th Street, and 5th Street.
08/15/01	The City Council approved an Encroachment Agreement (L-ENCR-20891) for two Grease Interceptors at Fourth Street and Fremont Street (NEC) and also Ogden Avenue and Las Vegas Boulevard (SWC)
10/03/01	The City Council approved a Special Use Permit (U-0117-01) for a proposed 2, 162 square-foot Liquor Establishment (Tavern) (La Salsa) in conjunction with Neonopolis on the northwest corner of Fremont Street and Las Vegas Boulevard. The Planning Commission recommended approval.
01/16/02	The City Council approved a Master Sign Plan (MSP-0014-01) for Neonopolis at 450 Fremont Street. The Planning Commission recommended approval.
05/01/02	The City Council approved a Special Use Permit (U-0024-02) for a Liquor Establishment (Tavern) at 450 Fremont Street (Neonopolis) with a Waiver of the minimum 1,500-foot separation requirement from religious facilities, Liquor Establishment (Taverns) and a school. The Planning Commission recommended approval.
08/07/02	The City Council approved a Special Use Permit (U-0063-02) for a Liquor Establishment (Tavern) with a Waiver of the minimum 1,500-foot separation requirement from religious facilities, Liquor Establishment (Taverns) and a school at 450 Fremont Street. The Planning Commission recommended approval.
11/20/02	The City Council approved a Special Use Permit (U-0124-02) for a Liquor Establishment (Tavern) (The In The Groove Lounge) at 450 Fremont Street; and for a Waiver of the minimum 1,500-foot distance separation requirement from religious facilities, Liquor Establishment (Tavern) and a school. The Planning Commission recommended approval.
01/22/03	The City Council approved a Special Use Permit (SUP-1207) for a Psychic Arts Business within Neonopolis at 450 Fremont Street. The Planning Commission recommended approval.
<i>Related Building Permits/Business Licenses</i>	
06/27/02	A Business license (R09-01139) was issued for the restaurant at 450 Fremont Street Suite # 101. The business was marked out 07/06/06.
10/13/03	A Building permit (L-5406-03) was issued for a tenant improvement for a certificate of occupancy at a restaurant. The permit was finalized on 11/10/03.

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<i>Pre-Application Meeting</i>	
07/29/08	A pre-application meeting was held and elements of this application were discussed. In addition to this application a Waiver of the minimum distance separation requirements were discussed and the applicant was given information on the Waiver, as well as submittal requirements.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required nor was one held.	
<i>Field Check</i>	
08/11/08	A field check was conducted and there were some exterior painting taking place at the site. I also, noticed numerous businesses operating on the same parcel site.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	2.75

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Retail	C (Commercial)	C-2 (General Commercial)
North	Hotel	C (Commercial)	C-2 (General Commercial)
South	Parking/Restaurant Taverns	C (Commercial)	C-2 (General Commercial)
East	Parking, Retail	C (Commercial)	C-2 (General Commercial)
West	Retail	C (Commercial)	C-2 (General Commercial)

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

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Downtown Centennial Plan - The parcel is within the Las Vegas Downtown Centennial Plan boundary, and is located in the Las Vegas Boulevard District. The proposed project is consistent with the goals and objectives of the Downtown Centennial Plan.

Downtown Casino Overlay District- The subject property is located within the Downtown Casino Overlay District. This area provides sign standards that only apply within this District to help ensure future sign development is consistent with the appearance of established signage themes and that generate excitement and positive visual interest. The proposed project has not submitted a signage proposal at this time.

A-O Airport Overlay District (200-Feet) -The subject property is located within the North Las Vegas Airport Overlay within the 200-foot height limitation contour. There are no structures or buildings on site, which will encroach within this height limitation.

Live/Work Overlay District - This site is within the Live/Work Overlay district. The proposed development will not offer any housing options and therefore the project is not impacted by the Live/Work standards as outlined in Title 19.06.130.

Las Vegas Boulevard Scenic Byway Overlay District- This project is adjacent to the Las Vegas Boulevard Scenic Byway, which governs sign standards for signage on Las Vegas Boulevard. All future signage will be required to comply with the Downtown Casino Overlay District and the Las Vegas Boulevard Scenic Byway Sign Standards.

DEVELOPMENT STANDARDS

<i>Parking Requirement - Downtown</i>							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Base Parking Requirement</i>			<i>Provided</i>		<i>Compliance</i>
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Tavern (Public seating and Waiting area)	3,612 SF	1/50	72				
Tavern (Gross Floor Area)	2,390 SF	1/200	12				
TOTAL	6,002 SF		84	4	0	0	N*

* Title 19.06.060 exempts properties within the Downtown Centennial Plan area from the automatic application of standard parking requirements. The parking needs for the proposed Liquor Establishment (Tavern) will be met by the Neonopolis Parking Garage, which is located underground of the subject site and The Fremont Street Public Parking Garage located directly across the street; both facilities provide more than 2,000 parking spaces combined.

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ANALYSIS

- Zoning

The property is zoned C-2 (General Commercial) and within the Redevelopment Plan Area. Liquor Establishments (Tavern) are permitted with the approval of a Special Use Permit. The proposed Liquor Establishment (Tavern) will be part of the Neonopolis project and is within the Las Vegas Boulevard District of the Downtown Centennial Plan.

- Use

A Liquor Establishment (Tavern) as defined by Title 19.04.010, is a facility which sells beverages for consumption on the premises where the same are sold and authorizes the sale, to consumers only and not for resale, of alcoholic beverages in original sealed or corked containers, for consumption off the premises where the same are sold. The proposed 6,002 square-foot restaurant will sell alcohol as an amenity in conjunction with their restaurant. The floor plan submitted by the applicant calls for a dining area consisting of 1,487 square-feet, a lounge area of 369 square-feet and a bar area of 469 square-feet. The applicant has also proposed an outdoor dining area with a full service portable bar that will be use as the weather permits adjacent to the Fremont Street Pedestrian Mall.

Staff finds that the proposed Liquor Establishment (Tavern) use within Neonopolis is an appropriate use for the high-intensity retail and entertainment center and can be conducted in a manner that is compatible with the surroundings land uses and those projected by the General Plan.

- Minimum Special Use Permit Requirements:

- (1) Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety, and general welfare of the City are best promoted and protected by generally requiring both a minimum separation between liquor establishments (taverns), and a minimum separation between liquor establishment (tavern) and certain other uses that should be protected from the impacts associated with a liquor establishment (tavern). Therefore, except as otherwise provided below, no liquor establishment (tavern) may be located within 1500 feet of any other liquor establishment (tavern), church, synagogue, school, child care facility licensed for more than 12 children, or City park.

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- (2) The distance separation referred to in Requirement 1 shall be measured with reference to the shortest distance between two property lines, one being the property line of the proposed liquor establishment (tavern) 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 liquor establishment (tavern). The distance shall be measured in a straight line without regard to intervening obstacles.
- (3) For the purpose of Requirement 2, and for that purpose only:
- a. The property line of a protected use refers to the property line of a fee interest parcel that has been created by an approved and recorded parcel map or subdivision map, and does not include the property line of a leasehold parcel; and
 - b. The property line of a liquor establishment (tavern) refers to:
 1. The property line of a parcel that has been created by an approved and recorded parcel map or commercial subdivision map; or
 2. The property line of a parcel that is located within an approved and recorded commercial subdivision and that has been created by a record of survey or legal description, if:
 - A. Using the property line of that parcel for the purpose of measuring the distance separation referred to in Requirement 1 would qualify the parcel under the distance separation requirement;
 - B. The proposed liquor establishment (tavern) will have direct access (both ingress and egress) from a street having a minimum right-of-way width of 100 feet. The required access may be shared with a larger development but must be located within the property lines of the parcel on which the proposed liquor establishment (tavern) will be located;
 - C. All parking spaces required by this Table 2 and LVMC Chapter 19.10 for the liquor establishment (tavern) use will be located on the same parcel as the use; and

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- D. The owners of all parcels within the commercial subdivision, including the owner of the parcel on which the liquor establishment (tavern) will be located, execute and record an agreement, satisfactory to the City Attorney, that provides for perpetual, reciprocal cross-access, ingress and egress throughout the commercial subdivision.
- (4) The distance separation requirement set forth in Requirement 1 does not apply to an establishment which has a non-restricted 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.
- (5) The distance separation requirement set forth in Requirement 1 may be waived in accordance with the provisions of Paragraph 19.04.050(A)(4), but only in connection with a proposed liquor establishment (tavern) that:
- a. Will be located on a parcel within the C-V District or the Downtown Casino Overlay District;
 - b. Will be located on a parcel or within a building that, pursuant to State law or City ordinance, has been designated as an historic property, historic building, or landmark;
 - c. Will be located within a regional mall; or
 - d. Will be separated from the existing use by a street or highway with a minimum right-of-way width of 100 feet.
- (6) The use shall conform to, and is subject to, the provisions of LMVC Chapter 6.40 and 6.50.

The proposed 6,002 square-foot Liquor Establishment (Tavern) does not meet the minimum Special Use Permit requirement set forth in # 1. The applicant does however meet the requirement set forth in # 5 (a), which allows the 1,500-foot distance separation from any church, synagogue, school, child care facility licensed for more than 12 children, or City park be waived based on the condition that the proposed Liquor Establishment (Tavern) is located on a parcel within a C-V zoning district or within the Downtown Casino Overlay District. As the subject site is located within the Downtown Casino Overlay District, the applicant is requesting a Waiver of the 1,500-foot distance separation from a Liquor Establishment (Tavern), Religious Facilities and a School.

FINDINGS

The following findings must be made for a Special Use Permit:

- 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 subject site is the former location of The Saloon restaurant that was previously approved as a Liquor Establishment (Tavern) with Waivers of the minimum 1,500-foot distance separation requirement from religious facilities, Liquor Establishment (tavern), and a school via Special Use Permit (U-0024-02). As such, the use can be conducted in a manner that is harmonious and compatible with the existing surrounding land uses as previously demonstrated.

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

The existing building is physically suitable for the type and intensity of land use proposed by the Liquor Establishment (Tavern). It will be located within Neonopolis, which is an intense retail/entertainment venue in the Downtown Casino Overlay District.

- 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.**

Staff finds vehicular traffic will utilize the Fremont Street Experience parking garage, which is accessed from Carson Avenue and 4th Street, both of which are 80-foot Secondary Collectors and the underground parking garage of Neonopolis, which is accessed from 4th Street, and will be adequate for traffic generated by the proposed Liquor Establishment (Tavern).

- 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.**

A Liquor Establishment (Tavern) within a Retail /Entertainment Complex will be subject to regular City and County inspections for licensing; therefore, public health, safety, and welfare will not be compromised.

- 5. The use meets all of the applicable conditions per Title 19.04.**

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The use does not meet all of the applicable conditions per Title 19.04.010; due to the proximity of a Liquor Establishment (Tavern), religious facilities and a school. A Waiver to allow a 1,500-foot distance separation from Liquor Establishment (Tavern), a religious facility and a school has been requested by the applicant.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

ASSEMBLY DISTRICT 9

SENATE DISTRICT 3

NOTICES MAILED 240

APPROVALS 0

PROTESTS 0