



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: SEPTEMBER 11, 2008

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: SUP-29208 - APPLICANT: ARICHAJ SILPASUVUN - OWNER:
VILLAGE SQUARE SHOPPING CENTER, LLC**

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL, subject to:

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Beer/Wine/Cooler On-Sale Establishment use, including parking requirements.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. 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.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a proposed Beer/Wine/Cooler On-Sale Establishment within an existing restaurant at 9350 West Sahara Avenue, Suite #110. The restaurant is located within a 452,220 square-foot commercial retail center. The applicant has requested a Waiver to allow a zero-foot distance separation from a House of Worship where 400 feet is required. Due to the request for a Waiver staff is recommending denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/15/89	The City Council approved a Rezoning (Z-0139-88) application for the reclassification of property located on the west side of Fort Apache Road, between Sahara Avenue and Charleston Boulevard, from N-U (Non Urban) under Resolution of Intent to R-PD4 (Residential Planned Development- 4 Units per Acre), P-R (Professional Office and Parking), C-1 (Limited Commercial), and C-V (Civic), to R-PD7 (Residential Planned Development- 7 Units per Acre), R-3 (Medium Density Residence), and C-1 (Limited Commercial) for the proposed use of Single-Family Residential, Multi-family Residential, Commercial and Mixed Use Commercial, which consists of Retail/Service Commercial, Office and Multifamily (multi-story) Residential. The Planning Commission and staff recommended approval.
04/14/97	The City Council approved a request is for a Site Development Plan Review [Z -139-88(16)] for a proposed 71,000 square-foot, 18 screen movie theater with ancillary retail uses within the subject commercial center on the northwest corner of Sahara Avenue and Fort Apache Road. The Planning Commission and staff recommended approval.
03/23/98	The City Council approved a request for a Site Development Plan Review [(U-0146-97)] 73-room, 41,604 square-foot three story, Non-Gaming Hotel within the subject commercial center. The Planning Commission and staff recommended approval.
11/09/98	The City Council approved a Special Use Permit (U-0115-98) and a Site Development Plan Review (U-0115-98) on property located north of Sahara Avenue, west of Fort Apache Road to allow a Supper Club in conjuncture with a proposed 8,802 square-foot restaurant. The Planning Commission and staff recommended approval.

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09/01/99	The City Council approved a request for a Site Development Plan Review [(Z-0139-88(33))] for a 7,600 square-foot Religious Facility within the subject commercial center. The Planning Commission and staff recommended approval.
08/18/04	The City Council approved a Site Development Plan Review (SDR-4639) for a 57,092 square-foot retail/commercial building (Pad P) and a Waiver of commercial standards for three feet of foundation landscaping where 6 feet is required. The Planning Commission and Staff recommended approval.
02/15/06	The City Council approved a Special Use Permit (SUP-10406) for a restaurant service bar. The Planning Commission and Staff recommended approval.
04/19/06	The City Council approved a Review of Condition (ROC-12097) Number 2 and 4 of an approved Site Development Plan Review (SDR-4639) to allow a zero-foot foundation landscape buffer where three feet was allowed and shown on approved plans for a 57,092 square foot retail/commercial building.
07/12/06	The City Council approved a Variance (VAR-12102) to allow 2,404 parking spaces where 2,440 is the minimum number of spaces required in conjunction with the addition of a 1,200 square-foot restaurant within the existing shopping center. The Planning Commission recommended approval and staff recommended denial.
03/22/07	The Planning Commission approved a request for a Site Development Plan Review (SDR-19658) for an 8,500 square-foot retail building and an 18,000 square foot retail building in an existing shopping center 9400 West Sahara Avenue. Staff recommended approval.
<i>Related Building Permits/Business Licenses</i>	
09/10/97	A building permit (#97018392) was issued for shell building R3 at 9350 West Sahara Avenue. This building received its certificate of completion in 06/15/08.
05/11/98	A building permit (#98011651) was issued for Tenant Improvements for a Restaurant at 9350 West Sahara Avenue, Suite #110. This project was completed in 11/30/98.
07/02/01	A business license (R09-00892) was issued for a Restaurant Seating 45 or more at 9350 West Sahara Avenue, Suite #170.
10/31/02	A business license (C08-01621) was issued for Amusement Machines at 9350 West Sahara Avenue, Suite #170.
02/04/05	Business licenses (L09-00205, R09-01209) were issued for Beer/Wine/Cooler On-Sale Establishment and a Restaurant Seating 45 or More at 9410 West Sahara Avenue, Suite #150.
11/21/05	A business license (I02-00152) was issued for an Ice Cream Parlor at 9350 West Sahara Avenue, Suite #140.
05/16/06	A business license (C05-02510) was issued for a Cigarette Machine at 9410 West Sahara Avenue, Suite #150A.

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05/18/06	Business licenses (C08-01707, C20-01961, M06-02498, G01-01972) were issued for Amusement Machines, Convention Hall Tax, Miscellaneous Sales and Restricted Gaming at 9410 West Sahara Avenue, Suite #150A.
06/16/06	Business licenses (S02-01074, B08-00825) were issued for a Cosmetology School and Retail Beauty Supply at 9340 West Sahara, Suite #205.
07/09/06	A business license (L09-00150) was issued for Beer/Wine/Cooler On-Sale at 9350 West Sahara Avenue, Suite #170.
02/12/08	A business license (L16-00203) was issued for a Tavern at 9410 West Sahara Avenue, Suite #150A.
02/28/08	A business license (T03-00050) was issued for a Movie Theatre at 9400 West Sahara Avenue.
06/19/08	A business license (T01-00372) was issued for a Tailor at 9340 West Sahara Avenue, Suite #110.
07/30/08	A business license (L09-93331) was submitted for Beer/Wine/Cooler On-Sale Establishment at 9350 West Sahara Avenue, Suite #110.
08/04/08	A business license (C07-3697) was issued for a Clothing Store at 9420 West Sahara, Suite #102.
08/20/08	A business license (R09-01465) was issued for a Restaurant Seating 45 or More at 9350 West Sahara Avenue, Suite #110.
<i>Pre-Application Meeting</i>	
07/11/08	The requirements for a Special Use Permit for a Beer/Wine/Cooler On-Sale Establishment were discussed with the applicant.
<i>Neighborhood Meeting</i>	
A meeting is not required, nor was one held.	
<i>Field Check</i>	
08/05/08	Staff conducted a field check and found the subject to be open to the public and in operation as a restaurant.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	36.8

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Condominium Complex	M (Medium Density Residential)	R-PD 21 (Residential Planned Development 21-Units per Acre)

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South	Apartment Complex Bank and Convenience Store	M (Medium Density Residential) and SC (Service Commercial)	R-PD 21 (Residential Planned Development 21-Units per Acre) and C-1 (Limited Commercial)
East	Shopping Center Apartment Complex	SC (Service Commercial) and M (Medium Density Residential)	C-1 (Limited Commercial) and R-PD 18 (Residential Planned Development 18-Units per Acre)
West	Condominium Complex Public Library	M (Medium Density Residential) and PF (Public Facilities)	R-3 (Medium Density Residential) and C-V (Civic)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
Peccole Ranch	Y		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
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

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Parking Ratio</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>
			<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	452,220 Square Feet	1:250	1,780	29	2,164	73	Y
TOTAL (including handicap)			1,809		2,237		Y

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ANALYSIS

This is a request for a Special Use Permit for a proposed Beer/Wine/Cooler On-Sale Establishment within an existing restaurant at 9350 West Sahara Avenue, Suite #110. The restaurant is located within a 452,220 square-foot commercial retail center. The applicant has requested a Waiver to allow a zero-foot distance separation from a House of Worship where 400 feet is required. Due to the request for a Waiver staff is recommending denial.

- **Floor Plan**

The existing 3,200 square-foot restaurant has a 1,260 square-foot dining room with 56 seats. There is a 1,324 square foot kitchen and food preparation area with an additional 144 square feet of storage. There are also two public restrooms and office space.

- **Zoning**

This project is located within a C-1 (Limited Commercial) zoning district. This district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This district should be located on the periphery of residential neighborhoods and should be confined to the intersection of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) District is consistent with the SC (Service Commercial) category of the General Plan.

- **Use**

Title 19.04 defines the Beer/Wine/Cooler On-Sale Establishment Use as follows:

An establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers for consumption only in connection with a meal on the premise where the same is sold, and is operated in connection with a restaurant in which 45 or more people maybe be served with meals at any one time at tables or stools.

Minimum Requirements of Approval for a Beer/Wine/Cooler On-Sale Establishment use in a C-1 (Limited Commercial) zoning district are:

- *1. Except as otherwise provided, no beer/wine/cooler 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.

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- *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 onsite parking and which has been created so as to avoid the distance limitation described in Requirement 1.
- *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 multi-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.
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.
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

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- b. A proposed establishment having more than 50,000 square feet of retail floor space.
- *6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.

This proposed Beer/Wine/Cooler On-Sale Establishment is within a commercial center which also contains a House of Worship. The applicant has requested a zero-foot waiver where 400 feet is required between the proposed use and the House of Worship. The proposal fails to comply with condition number 1 of the Title 19.04 Special Use Permit requirements for that use; therefore staff recommends denial.

FINDINGS (SUP)

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.**

Title 19.04 has the following requirement for the proposed use: No Beer/Wine/Cooler Off-Sale 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 applicant has requested a Waiver of the Title 19.04 standard to allow a zero-foot distance separation where 400 feet are required. Staff finds that the proposed use is too intense for the subject location.

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

The subject site is physically suitable for the type of land use proposed, however it is not suitable for the intensity of the land use being proposed.

- 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 site is located within a commercial shopping center on the northwest corner of Sahara Avenue and Fort Apache Road. Both roadways are 100-foot wide Primary Arterials according to the Master Plan of Streets and Highways. Both roadways are adequate to meet the traffic needs of this use.

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- 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 subject establishment is subject to State of Nevada and City of Las Vegas inspections and would not compromise public health or safety.

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

The proposed location does not comply with the Title 19.04 400-foot distance separation requirement between a Beer/Wine/Cooler On-Sale Establishment and a House of Worship. The subject location is zero feet from an existing House of Worship.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 8

ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 1504

APPROVALS 2

PROTESTS 2