



AGENDA MEMO

CITY COUNCIL MEETING DATE: OCTOBER 1, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-28835 - APPLICANT: Z'TEJAS LP, LLC - OWNER:
CONTINENTAL PROPERTIES, LLC

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.050 for Supper Club use.
2. Conformance to the conditions for Rezoning (Z-0139-88) and Site Development Plan Review (SDR-4639), if approved.
3. 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.
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 ****

PROJECT DESCRIPTION

This application is a request for a Special Use Permit for a proposed Supper Club with a Waiver to allow a zero-foot distance separation from a Church/House of Worship where 400 feet is required at 9560 West Sahara Avenue. The subject site is located within an existing 458,053 square-foot Shopping Center. Previously, a Supper Club resided in proposed location, but is no longer in operation. While the former Supper Club was in operation a Church/House of Worship located within this Shopping Center. This request does not satisfy all of the minimum use requirements for a Supper Club use; therefore staff recommends denial of this request.

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, Multifamily 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.
11/09/98	The City Council approved a Special Use Permit (U-0115-98) and 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 conjunction with a proposed 8,802 square foot restaurant. 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 3 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.
08/28/08	The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #33/ed).
<i>Related Building Permits/Business Licenses</i>	
02/06/02	A business license (R09-00924) was issued for a Restaurant Seating 45 or more at 9560 West Sahara Avenue. This business license was marked out on 11/07/07, due to the business ceasing operations.
02/06/02	A business license (L21-00014) was issued for a Supper Club at 9560 West Sahara Avenue. This business license is no longer active as of 02/06/08, due to the business ceasing operations as of 11/07/08.
<i>Pre-Application Meeting</i>	
06/12/08	A pre-application meeting was held to discuss the requirements for submitting a Special Use Permit for a Supper Club at 9560 West Sahara Avenue.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	

<i>Field Check</i>	
07/10/08	A field check was conducted at the subject site and found the subject site is currently a vacant commercial building.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	1.28 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Apartments	M (Medium Density Residential)	R-PD21 (Residential Planned Development 21 Units Per Acre) R-3 (Medium Density Residential)
South	Bank, Apartments	SC (Service Commercial) M (Medium Density Residential)	C-1 (Limited Commercial) R-PD20 (Residential Planned Development 20 Units Per Acre)

East	Commercial Shopping Center	M (Medium Density Residential) SC (Service Commercial)	C-1 (Limited Commercial) R-PD18 (Residential Planned Development 18 Units Per Acre)
West	Library Church Apartments	PF (Public Facilities), SC (Service Commercial), M (Medium Density Residential)	C-V (Civic) C-1 (Limited Commercial) R-3 (Medium Density Residential)

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

* The subject site is located within the Peccole Ranch Master Planned Area and satisfies the minimum requirements for this community.

DEVELOPMENT STANDARDS

Pursuant to Title 19.04 and 19.10, 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	
Regional Mall *	458,053 SF	1 Space / 250 SF GFA	1,804 Spaces	29 Spaces	2,478 Spaces	44 Spaces	Y
TOTAL (including handicap)			1,833 Spaces		2,522 Spaces		Y
Loading Spaces	458,053 SF	3 + 1 for ea 100,000 SF over 50,000 SF	7 Spaces		11 Spaces (Plus trailer delivery areas at major retail spaces)		Y

- * This commercial center does not meet the definition of a regional mall and is not entitled to any consideration for waivers or other development standards applicable to that use.

However, because the development is similar in terms of the proposed amount of commercial square footage, parking has been calculated for the overall development not each individual use at the same ratio.

Waivers		
Request	Requirement	Staff Recommendation
To allow a distance separation of zero feet to a Church/House of Worship use.	The use may not be located within 400 feet of any church, synagogue, school, child care facility or City park.	Denial

ANALYSIS

This application is a request for a Special Use Permit for a proposed Supper Club with a Waiver to allow a zero-foot distance separation from a Church/House of Worship where 400 feet is required at 9560 West Sahara Avenue. The subject site is located within a 458,053 square-foot Shopping Center. Previously, a Supper Club resided in proposed location, but is no longer in operation. While this previous Supper Club was in operation a Church/House of Worship located within this Shopping Center. This request does not satisfy all of the minimum requirements for a Supper Club use; therefore staff recommends denial of this request.

- **Zoning**

This project is located within the 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 intersections of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) district is consistent with the SC (Service Commercial) and NS (Neighborhood Services) categories of the General Plan. This site is located within the SC (Service Commercial) General Plan designation. The subject site is consistent with the C-1 (Limited Commercial) zoning district and the SC (Service Commercial) General Plan designation.

- **Use**

A Supper Club Use is defined by Title 19 as a restaurant and bar with alcoholic beverages which the following descriptive characteristics;

1. The bar area is separated from the restaurant area by a barrier sufficient to prevent access to the bar by minors;
2. The actual seating available at all times within the restaurant area will accommodate at least 125 persons;
3. Alcoholic beverages are served in the restaurant area only in conjunction with the service of food;
4. Full-course meals are available during all hours the bar is open to the public;
5. The cook and food server, other than a bartender, are available at all times the bar area is open to the public, and;
6. The restaurant operation is the principle portion of the business.

- **Floor Plan**

The proposed floor plan depicts a 6,990 square-foot Supper Club. A total of 200 seats are shown for the use of restaurant patrons with 50 of these seats outside on the patio. The bar area is separated from the restaurant use and has a total of 32 seats for bar patrons. Access to the bar is achieved through the lobby, with the bar being separated from the restaurant by a zigzag seating partition. This floor plan adequately satisfies the requirements for a Supper Club use, as the restaurant operation is the principal use of the business.

- **Conditions**

Minimum Special Use Permit Requirements:

1. No supper club use shall be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.
2. Except as otherwise provided in Requirement 3 below, the minimum 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 supper club which is closest to the existing use to which the measurement pertains, and the other being the property line of the 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 as to avoid the distance limitation described in Requirement 1.
3. In the case of a supper club 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 supper club will be located, without regard to intervening obstacles,
 - 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 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. 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 LVMC Chapter 6.50.

Any condition with an asterisk cannot be waived.

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.**

The proposed Supper Club is located in a Shopping Center that contains variety of uses including a Church/House of Worship use. This request does not satisfy the minimum 400-foot distance separation from a protected use and can not be conducted in a manner that is harmonious and compatible with the surrounding land uses.

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

This location is within an existing shopping center that was designed to accommodate a variety of uses, including a Supper Club use. This location is physically suitable, including adequate access 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 proposed location is adequately served by Sahara Avenue and Fort Apache Road, both 100-foot primary arterials, as designated by the Master Plan of Streets and Highways. These streets provide adequate access to meet the requirements 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 site in question is located in the SC (Service Commercial) Master Plan land use category. This category is intended to provide low to medium intensity retail, office or other commercial uses intended to serve local area patrons. The proposed Supper Club location fulfills the intent of the SC (Service Commercial) category and will primarily serve local area patrons. This use will also be subject to licensing requirements and therefore will not compromise the public health, welfare or safety.

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

The proposed use does not satisfy all of the requirements Title 19.04 requirements for a Supper Club use and requires a Waiver from a Church/House of Worship use.

NOTICES MAILED 1,578 by City Clerk

APPROVALS 11

PROTESTS 19