



**AGENDA MEMO - PLANNING**

**PLANNING COMMISSION MEETING DATE: MAY 14, 2013**

**DEPARTMENT: PLANNING**

**ITEM DESCRIPTION: APPLICANT - IVY GRILL, LLC - OWNER: WFT NV, LLC**

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**\*\* STAFF RECOMMENDATION(S) \*\***

| <i>CASE NUMBER</i> | <i>RECOMMENDATION</i>                                       | <i>REQUIRED FOR APPROVAL</i> |
|--------------------|---|------------------------------|
| <b>SUP-48184</b>   | Staff recommends DENIAL, if approved subject to conditions: | SDR-48185                    |
| <b>SDR-48185</b>   | Staff recommends APPROVAL, subject to conditions:           |                              |

**\*\* CONDITIONS \*\***

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**SUP-48184 CONDITIONS**

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**Planning**

- 1.Special Use Permit (SUP-17307) shall be expunged with this approval.
- 2.A Waiver from Title 19.12 is hereby approved, to allow a zero-foot distance separation from a protected synagogue use, where 400 feet is required.
- 3.Conformance with the floor plan, date stamped 02/28/13, except as amended by conditions herein.
- 4.Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-48185) shall be required.
- 5.Conformance to all Minimum Requirements under LVMC Title 19.12 for a Supper Club use.
- 6.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.

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**Conditions Page Two**  
**May 14, 2013 - Planning Commission Meeting**

7. 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.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
9. Approval of this Special Use Permit does not constitute approval of a liquor license.
10. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
11. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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## **SDR-48185 CONDITIONS**

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### **Planning**

1. 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.
2. All development shall be in conformance with the site plan, landscape plan, date stamped 02/28/13, and building elevations date stamped 03/21/13, except as amended by conditions herein.
3. 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 within 60 days of final approval.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. Prior to the submittal of a building permit application, the applicant shall meet with Department of Planning staff to develop a comprehensive address plan for the subject site. A copy of the approved address plan shall be submitted with any future building permit applications related to the site.
6. All City Code requirements and design standards of all City Departments must be satisfied, except as modified herein.

**Conditions Page Three**  
**May 14, 2013 - Planning Commission Meeting**

**Public Works**

7. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage paths for this site prior to submittal of construction plans, the issuance of any building or grading permits or the submittal of a map for this site, whichever may occur first. Provide and improve all drainage ways as recommended.
  
8. Comply with all previous conditions of approval for Z-121-87 and all other subsequent site development review actions.

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

**PROJECT DESCRIPTION**

The applicant is requesting to replace an existing Restaurant with Service Bar use with a Supper Club use and to expand the shopping center by 2,607 square feet, with 1,499 square feet of the expansion going towards the 10,086 square-foot total of the Supper Club at 2620 Regatta Drive, Suite 118. The proposed expansion has already been completed without obtaining the proper building permits. This included enclosing three different patio areas on the north, west and south sides of the building, all pertaining to Suite 118. The expansions are within all code required setbacks and once proper building permits are secured will be to current code standards. For this reason, staff recommends approval of the Site Development Plan Review. However, staff recommends denial for the Special Use Permit due to the required Waiver of the distance separation between a Supper Club and a protected use.

**ISSUES**

- A Special Use Permit is required for a Supper Club in a C-1 (Limited Commercial) district. Staff does not support this request.
- A Waiver is required to allow a Supper Club to have a zero-foot distance separation from a Synagogue, where a minimum of 400 feet is required. Staff does not support this request.
- There are several outstanding building permit issues associated with this location.

**BACKGROUND INFORMATION**

| <i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i> |   |
|---|---|
| 01/06/88  | The City Council approved a Reclassification of Property (Z-0121-87) on the subject site as part of a larger request for a proposed residential and commercial development.                       |
| 01/26/89  | The Board of Zoning Adjustment approved a Variance (V-0154-88) to allow 315 parking spaces where 394 are required in conjunction with a proposed commercial shopping center.                      |
| 02/19/92  | The City Council approved a Special Use Permit (U-0311-91) for the sale of packaged liquor in conjunction with a market on the subject site. The Board of Zoning Adjustment recommended approval. |
| 12/06/00  | The City Council approved a Special Use Permit (U-0169-00) for a restaurant service bar in conjunction with a market/deli on the subject site. The Planning Commission recommended approval.      |

Staff Report Page Two  
 May 14, 2013 - Planning Commission Meeting

| <b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</b> |   |
|---|---|
| 12/19/01  | The City Council approved a Site Development Plan Review [Z-0121-87(1)] for a proposed 8,325 square-foot synagogue and a Variance (V-0073-01) to allow 315 parking spaces where 405 are required on the subject site. The Planning Commission recommended approval of both applications.                            |
| 01/03/07  | The City Council approved a Special Use Permit (SUP-17307) for a Restaurant with Service Bar Use at 2620 Regatta Drive, Suite 118. The Planning Commission recommended approval and staff recommended denial.   |
| 02/06/08  | The City Council approved an Extension of Time (EOT-26119) of an approved Special Use Permit (SUP-17307) for a proposed restaurant service bar and a waiver of the 400-foot distance separation requirement from an existing religious establishment at 2620 Regatta Drive, Suite #118. Staff recommended approval. |
| 01/07/09  | The City Council approved an Extension of Time (EOT-31990) of an approved Special Use Permit (SUP-17307) for a proposed restaurant service bar and a waiver of the 400-foot distance separation requirement from an existing religious establishment at 2620 Regatta Drive, Suite #118. Staff recommended approval. |

| <b>Most Recent Change of Ownership</b> |  |
|--|--|
| 03/15/04                               | A deed was recorded for a change in ownership. |

| <b>Related Building Permits/Business Licenses</b> |   |
|---|---|
| 09/19/91  | A Building Permit (#91120333) was issued for a Tenant Improvement at 2620 Regatta Drive, Suite 119.   |
| 10/30/91  | A Building Permit (#9112481) was issued for Shell Improvements at 2620 Regatta Drive, Suite 118.  |
| 11/06/91  | A Building Permit (#91125627) was issued for Electrical at 2620 Regatta Drive, Suite 118.   |
| 02/25/08  | A Building Permit (#109087) was issued to enclose a patio and covered walkway at 2620 Regatta Drive, Suite 118. The permit was finalized on 04/02/10. |
| 11/18/08  | A Building Permit (#128545) was issued for an outdoor banquet bar at 2620 Regatta Drive, Suite 118. The permit was finalized on 05/24/10.             |
| 03/02/09  | A Building Permit (#134591) for exterior façade improvements at 2620 Regatta Drive, Suite 118. The permit has not been finalized.                     |
| 06/26/09  | A Business License (#L18-00042) for a Liquor Caterer was issued for 2620 Regatta Drive, Suite 118. The license is active.                             |
|   | A Business License (#L19-00013) for a Restaurant with Service Bar was issued for 2620 Regatta Drive, Suite 118. The License is active.                |
|   | A Business License (#R09-01514) for a Restaurant was issued for 2620 Regatta Drive, Suite 118. The license is active.                                 |

**Staff Report Page Three**  
**May 14, 2013 - Planning Commission Meeting**

| <b><i>Pre-Application Meeting</i></b> |   |
|---------------------------------------|---|
| 01/08/13                              | Staff met with the applicant and discussed the ongoing building permit and business licensing issues at 2620 Regatta Drive, Suite 118. The applicant would like to add a Supper Club use to the location. Staff met at length with the applicant to explain all the issues that needed to be resolved with the property. In addition, staff reviewed the requirements for a Special Use Permit and Site Development Plan Review applications for a Supper Club use and expansion of an existing restaurant. |
| 02/19/13                              | Staff had a follow-up meeting with the project architect and representative regarding the ongoing issues with the project and provided direction on how to resolve them.  |

| <b><i>Neighborhood Meeting</i></b> |  |
|------------------------------------|--|
| 04/29/13                           | <p>Location: 2620 Regatta Drive, Suite #111    Time: 6:00 to 7:00 PM<br/> Attendance: Public – 11    Applicants – 3    City Staff –2<br/> Public Comments/Questions:</p> <ol style="list-style-type: none"> <li>1. Will this increase traffic in the area?</li> <li>2. Will this increase the parking demand in the center?</li> <li>3. Is this the first time this item has been on a Planning Commission agenda?</li> <li>4. What is the recommendation for denial on the SUP based on?</li> <li>5. The ivory Grill was before the Chabad. (FALSE - The Chabad established in 2001 and the Ivory Grill established in 2007)</li> <li>6. Will the hours of operation change as people stay longer to drink?</li> </ol> <p>Representatives took the attendees on a tour of the restaurant to show them the areas in question that were improved without permits.</p> |

| <b><i>Field Check</i></b> |  |
|---------------------------|--|
| 01/31/13                  | Staff visited the site and found an open restaurant (Garfield's) in Suite 118. It appears as if several of the proposed improvements and expansions have been completed. The property was well maintained.                               |
| 02/28/13                  | Staff visited the site and found a fire safety hazard in the form of three propane heaters being used inside fully enclosed, non-ventilated rooms. Staff notified City Fire Inspectors who inspected the site and addressed the concern. |

| <b><i>Details of Application Request</i></b> |      |
|--|------|
| <b><i>Site Area</i></b>                      |      |
| Net Acres                                    | 4.36 |

Staff Report Page Four  
 May 14, 2013 - Planning Commission Meeting

| <i>Surrounding Property</i> | <i>Existing Land Use Per Title 19.12</i> | <i>Planned or Special Land Use Designation</i> | <i>Existing Zoning District</i>                            |
|-----------------------------|--|--|--|
| Subject Property            | Shopping Center                          | SC (Service Commercial)                        | C-1 (Limited Commercial)                                   |
| North                       | Residential                              | L (Low Density Residential)                    | R-PD5 (Residential Planned Development – 5 Units Per Acre) |
| South                       | Residential                              | PR-OS (Parks Recreation/Open Space)            | R-PD5 (Residential Planned Development – 5 Units Per Acre) |
| East                        | Residential                              | PR-OS (Parks Recreation/Open Space)            | R-PD5 (Residential Planned Development – 5 Units Per Acre) |
| West                        | Residential                              | L (Low Density Residential)                    | R-PD5 (Residential Planned Development – 5 Units Per Acre) |

| <i>Master Plan Areas</i>   | <i>Compliance</i> |
|--|-------------------|
| No Applicable Master Plan Area   | N/A               |
| <i>Special Purpose and Overlay Districts</i>                               | <i>Compliance</i> |
| A-O (Airport Overlay) District   | Y                 |
| <i>Other Plans or Special Requirements</i>                                 | <i>Compliance</i> |
| 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               |

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08, the following standards apply:*

| <i>Standard</i>   | <i>Required/Allowed</i>                  | <i>Provided</i>                  | <i>Compliance</i> |
|-------------------|--|----------------------------------|-------------------|
| Min. Lot Width    | 100 Feet                                 | 275 Feet                         | Y                 |
| Min. Setbacks     |  |                                  |                   |
| • Front           | 10 Feet                                  | 10 Feet                          | Y                 |
| • Side            | 10 Feet                                  | 10 Feet                          | Y                 |
| • Corner          | 10 Feet                                  | 147 Feet                         | Y                 |
| • Rear            | 20 Feet                                  | 5 Feet                           | N*                |
| Max. Lot Coverage | 50 %                                     | 28.4 %                           | Y                 |
| Trash Enclosure   | Screened, Gated, w/<br>a Roof or Trellis | Screened,<br>Gated, w/<br>a Roof | Y                 |
| Mech. Equipment   | Screened                                 | Screened                         | Y                 |

\*Approved prior to current code standards.

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Staff Report Page Five  
 May 14, 2013 - Planning Commission Meeting

| <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> |
|--------------------|---|---------------------------|-----------------------------------|---------------------------------------|
| Regatta Drive      | N/A   | N/A                       | 55                                | N/A                                   |
| Breakwater Drive   | N/A   | N/A                       | 55                                | N/A                                   |

*Pursuant to Title 19.08 and 19.12, the following parking standards apply:*

| <i>Parking Requirement</i>                  |  |   |                         |              |                         |              |                   |
|---|--|---|-------------------------|--------------|-------------------------|--------------|-------------------|
| <i>Use</i>                                  | <i>Gross Floor Area or Number of Units</i> | <i>Required Parking Ratio</i>                                 | <i>Required Parking</i> |              | <i>Provided Parking</i> |              | <i>Compliance</i> |
|   |  |   | Regular                 | Handi-capped | Regular                 | Handi-capped |                   |
|   |  |   | Shopping Center         | 69,904 SF    | 1/250 SF                | 280          |                   |
| <b>TOTAL SPACES REQUIRED</b>                |  |   | 280                     |              | 315                     |              | Y                 |
| <b>Regular and Handicap Spaces Required</b> |  |   | 273                     | 7            | 307                     | 8            | Y                 |
| Loading Spaces                              | 69,904 SF                                  | 3/50,000 SF plus 1 for every 50,000 or fraction of thereafter | 4                       |              | 4                       |              | Y                 |

| <i>Waivers</i>  |   |                             |
|---|---|-----------------------------|
| <i>Requirement</i>  | <i>Request</i>  | <i>Staff Recommendation</i> |
| To maintain a minimum 400-foot distance separation between a Supper Club and a Synagogue. | To allow a zero-foot distance separation between a Supper Club and a Synagogue. | Denial                      |

**ANALYSIS**

The applicant has expanded the square-footage of an existing shopping center without obtaining the proper building permits. In addition, the applicant is requesting to change the entitlement of an existing Restaurant with Service Bar use to a Supper Club use. The Site Development Plan Review and the Special Use Permit applications address these two requests. The 2,607 square-foot addition has all taken place within the existing building footprint and thus meets all setback requirements. City staff has been working with the applicant for several years to bring this shopping center up to code standards. The only outstanding issue regarding the expanded square footage of the shopping center is for the applicant to obtain the proper building permits. This concern is addressed as a condition of approval and with it staff recommends approval of the Site Development Plan Review.

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**Staff Report Page Six**  
**May 14, 2013 - Planning Commission Meeting**

The Supper Club use is defined as “A restaurant and bar operation with alcoholic beverage sales in which: 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 dining area will accommodate at least 125 persons. For purposes of this requirement, the “dining area” does not include bar stool seating at the bar or lounge seating, but may include table or booth seating within the bar area and table seating within a patio area; 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 area is open to the public; 5. A 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 principal portion of the business.” The proposed use meets the definition; since the establishment will have more than 125 seats separated from the bar area and meals will be served during all open hours.

The Minimum Special Use Permit Requirements for this use include:

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. *The applicant has applied for a Waiver to allow a supper club to be zero-feet from a synagogue.*
2. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50. *The applicant will be required to obtain and maintain a City business license, which will ensure compliance.*

Although the applicant has operated a Restaurant with Service Bar for several years at this location, the Supper Club use would intensify the overall liquor use at the site. The distance separation of 400 feet was established to protect the synagogue use located in the same shopping center. Staff does not support this request due to the Waiver required. If denied, the applicant would need to file a Major Amendment to SUP-17307 in order to utilize the expanded square-footage of the Restaurant with Service Bar use.

**FINDINGS (SUP-48184)**

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.**

The Supper Club use cannot be conducted in a manner that is compatible with the existing surrounding land uses and with future surrounding land uses as projected by the General Plan due to the required distance separation Waiver.

**Staff Report Page Seven**  
**May 14, 2013 - Planning Commission Meeting**

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

The subject site is physically suitable for the proposed use within the existing shopping center, only if permits are obtained for the improvements made.

**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 site is accessed from Regatta and Breakwater Drives, both are 55-foot streets. The site access and circulation do not impact the adjacent roadways or neighborhood traffic and it is part of the existing shopping center.

**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 the Special Use Permit at this location for a Supper Club use as indicated on the site plan will not compromise the public health, safety, or general welfare of the public, if permits are obtained for the improvements made. However, the overall objectives of the General Plan will not be met, due to the required distance separation Waiver.

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

The proposed use does not meet Title 19.12, Minimum Special Use Permit Requirement 1 for a Supper Club use to be located a minimum 400 feet away from a synagogue.

**FINDINGS (SDR-48185)**

In order to approve a Site Development Plan application, per Title 19.16.100(E) the Planning Commission and/or City Council must affirm the following:

**1. The proposed development is compatible with adjacent development and development in the area;**

The expanded square-footage of the existing shopping center is compatible with adjacent development and development in the area as conditioned.

**2. The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;**

Once proper building permits are secured, the shopping center will be consistent with all codes and city policies and standards.

Staff Report Page Eight  
May 14, 2013 - Planning Commission Meeting

**3.Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;**

The site is accessed from Regatta and Breakwater Drives, both 55-foot streets. The site access and circulation do not impact the adjacent roadways or neighborhood traffic.

**4.Building and landscape materials are appropriate for the area and for the City;**

The existing building material is appropriate for the area and for the City.

**5.Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable, or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;**

The existing building elevations are not unsightly or obnoxious, and are compatible with the rest of the shopping center and other development in the area.

**6.Appropriate measures are taken to secure and protect the public health, safety and general welfare.**

The expansion is subject to permit review and inspection; therefore, appropriate measures will be taken to protect the health, safety, and general welfare.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 32

**NOTICES MAILED** 807

**APPROVALS** 9

**PROTESTS** 26

**CONCERNS** 1