



**AGENDA MEMO - PLANNING**

**CITY COUNCIL MEETING DATE: JANUARY 21, 2015**  
**DEPARTMENT: PLANNING**  
**ITEM DESCRIPTION: APPLICANT: YESENIA FELIX RODRIGUEZ – OWNER:**  
**MOJAVE DEVELOPMENT GROUP**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
SUP-56641	Staff recommends DENIAL, if approved subject to conditions:	

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

**SUP-56641 CONDITIONS**

***Planning***

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Beer/Wine/Cooler On-Sale use.
2. 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.
3. A Waiver from Title 19.12 is hereby approved, to allow a zero foot distance separation from a Church/House of Worship use where 400 feet is the minimum required.
4. All signage shall be permitted and meet minimum code requirements within 30 days of final approval.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit, as well as submitted as part of any business license application.
6. Approval of this Special Use Permit does not constitute approval of a liquor license.
7. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
8. 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 to add a Beer/Wine/Cooler On-Sale Establishment to an existing 2,062 square-foot restaurant use located at 23 North Mojave Road, Suite D. The subject site consists of an existing 5,644 square-foot commercial building. The Beer/Wine/Cooler On-Sale use would be ancillary to the existing restaurant. The proposed Beer/Wine/Cooler On-Sale use does not meet all minimum requirements as outlined by Title 19.12. The applicant is requesting a Waiver to allow a zero-foot distance separation from a Church/House of Worship use where a minimum distance of 400 feet is required. The request for a distance separation Waiver illustrates the unsuitability of the proposed use at this location. As this request cannot be conducted in a compatible and harmonious manner with the existing surrounding uses, staff recommends denial. If denied, the restaurant would remain in operation but no alcohol could be served on the premises.

**ISSUES**

- The Beer/Wine/Cooler On-Sale use is permitted in the M (Industrial) zoning district with the approval of a Special Use Permit.
- A distance separation Waiver is required to allow the Beer/Wine/Cooler On-Sale use to be zero feet from a Church/House of Worship where 400 feet is the minimum required.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i>	
06/07/67	The Board of City Commissioners approved a Rezoning (Z-66-64) from C-1 (Limited Commercial) to M (Industrial) on property generally located on East Charleston Boulevard bounded by Mojave Road on the east and Stewart Avenue on the north. Staff recommended approval.
12/28/82	The Planning Commission approved a Plot Plan Review [Z-66-64 (32)] for an existing 13,319 square-foot commercial building to exercise the Resolution of Intent to the M (Industrial) zoning district. Staff recommended approval.
12/09/14	The Planning Commission vote resulted in a TIE (3-3) moving the item on to City Council with NO RECOMMENDATION.

<i>Most Recent Change of Ownership</i>	
11/05/79	A deed was recorded for a change in ownership.

GK

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<b><i>Related Building Permits/Business Licenses</i></b>	
c.1978	The existing 5,644 square-foot commercial building was constructed.
02/18/97	A building permit (#97003359) was issued for a wall sign at 23 North Mojave Road. The permit received a final inspection on 03/21/97.
08/21/14	A business license (G62-05852) was issued for a restaurant use at 23 North Mojave Road, Suite D. The license remains active.

<b><i>Pre-Application Meeting</i></b>	
10/01/14	Staff conducted a pre-application meeting with the applicant to discuss the proposal to serve beer and wine in conjunction with an existing restaurant use. Staff determined that a Special Use Permit would be required and discussed the submittal requirements for a Beer/Wine/Cooler On-Sale use.

<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	

<b><i>Field Check</i></b>	
10/30/14	Staff conducted a routine field check and noted illegal temporary banner signs on the subject site.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	0.49

<b><i>Surrounding Property</i></b>	<b><i>Existing Land Use Per Title 19.12</i></b>	<b><i>Planned or Special Land Use Designation</i></b>	<b><i>Existing Zoning District</i></b>
Subject Property	Restaurant	LI/R (Light Industry/Research)	M (Industrial)
	Office, Other than Listed		
	Auto Repair, Minor		
North	General Retail	LI/R (Light Industry/Research)	M (Industrial)
	Church/House of Worship		
South	General Retail	LI/R (Light Industry/Research)	M (Industrial)
	Bailbond Service		
	Restaurant		

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<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>
East	Office, Other Than Listed	LI/R (Light Industry/Research)	M (Industrial)
West	Auto Repair, Major	LI/R (Light Industry/Research)	M (Industrial)

<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>
No Applicable Special Purpose or Overlay Districts	N/A
<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	Y

**DEVELOPMENT STANDARDS**

<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>
Mojave Road	Primary Arterial	Master Plan of Streets and Highways	100 Feet	Y

*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>Parking Ratio</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>
			<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Restaurant	780 SF of Seating Area	1:50 SF	16				
	1,282 Remaining GFA	1:200 SF	7				

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<b>Parking Requirement</b>							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Required</i>			<i>Provided</i>		<i>Compliance</i>
		<i>Parking Ratio</i>	<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Office, Other than Listed	1,200 SF	1:300 SF	4				
Auto Repair Garage, Minor	2,382 SF	1:200 SF plus 5 spaces	17				
<b>TOTAL SPACES REQUIRED</b>			44		33		N*
<b>Regular and Handicap Spaces Required</b>			42	2	32	1	N*

\*The subject site is parking impaired. The proposed Beer/Wine/Cooler On-Sale use does not require any additional parking beyond the primary restaurant use.

<b>Waivers</b>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
A 400-foot minimum distance separation is required from any Church/House of Worship.	To allow a zero-foot distance separation from a Church/House of Worship	Denial

**ANALYSIS**

The applicant is proposing to establish a Beer/Wine/Cooler On-Sale use within an existing restaurant at 23 North Mojave Road, Suite D. The subject site is located within the M (Industrial) zoning district. The proposed establishment is 2,062 square feet in size with seating for 67 people. The Beer/Wine/Cooler On-Sale use will be ancillary to the existing restaurant use.

A Beer/Wine/Cooler On-Sale use is described in Title 19.12 as: “An establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers only for consumption on the premises where the same is sold.”

**Minimum Special Use Permit Requirements:**

1. Except as otherwise provided, no beer/wine/cooler on-sale establishment (hereinafter “establishment”) shall be located within 400 feet of any church/house of worship, school, individual care center licensed for more than 12 children, or City park.

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*The proposed use does not meet this requirement, as the proposed site is located zero feet away from a church/house of worship land use, which is located to the north of the subject restaurant location. The applicant has requested a Waiver to this distance separation requirement.*

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 on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.

*Distances have been measured from East Park Industrial Unit 1 Plat Book 10 Page 69 and East Park Industrial Unit 2 Plat Book 13 Page 49*

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 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 establishment will be located, without regard to intervening obstacles.

*Not applicable, the subject site is not located on a parcel of at least 80 acres of size.*

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.

*The proposed site is located zero feet away from a church/house of worship use where 400 feet is the minimum required, which represents a 100% reduction from code requirements.*

5. The minimum distance requirements in Requirement 1 do not apply to:
- a. 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; or
  - b. A proposed establishment having more than 50,000 square feet of retail floor space.

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*This condition is not applicable as the subject site is not located within an establishment that has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms or 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.

*The proposed use will be subject to all business licensing requirements outlined in LVMC Chapter 6.50 if approved.*

This is a request for a Special Use Permit to add a Beer/Wine/Cooler On-Sale Establishment to an existing 2,062 square-foot restaurant. The subject site is parking impaired, however the proposed Beer/Wine/Cooler On-Sale use does not require any additional parking spaces beyond those required for the principal restaurant use. The proposed location of this use fails to comply with the minimum distance separation requirements for a Special Use Permit. The proposed use is located zero feet from a Church/House of Worship located to the north, where a 400-foot minimum distance separation is required. The requested Waiver to allow a zero-foot distance separation from a Church/House of Worship use represents a 100% reduction from the required 400-foot distance separation mandated by Title 19. The zero-foot distance separation is not a sufficient distance between a Church/House of Worship use and an alcohol use. Although the proposed Beer/Wine/Cooler On-Sale use would be ancillary to an existing restaurant use, the use cannot be conducted in a harmonious and compatible manner with the surrounding uses of the area. As a result, staff recommends denial.

**FINDINGS (SUP-56641)**

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 subject site consists of a 5,644 square-foot commercial building. The proposed Beer/Wine/Cooler On-Sale use would locate within an existing restaurant use. The requested Waiver of the minimum distance separation requirements from a Church/House of Worship reinforces the unsuitability of the proposed use.

**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 Beer/Wine/Cooler On-Sale 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 site is accessed from Mojave Road, a 100-foot wide Primary Arterial as classified by the Master Plan of Streets and Highways. The proposed use will not increase the intensity of the existing commercial uses on the subject site; therefore the existing access is adequate.

**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 would not be inconsistent with the General Plan. However, the requested distance separation waiver from a Church/House of Worship use could compromise the public’s health, safety and general welfare. The applicant has not proposed any mitigations that could potentially assist in resolving any future general welfare issues.

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

The proposed use does not meet all of conditions per Title 19.12. Specifically, the applicant is requesting a waiver to allow a 107-foot distance separation from the nearest religious facility where a 400-foot separation is required.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED 33**

**NOTICES MAILED 113 (By City Clerk)**

**APPROVALS 0**

**PROTESTS 0**