



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: SEPTEMBER 5, 2018

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: MOLASKY VENTURES, LLC

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
WVR-74014	Staff recommends DENIAL, if approved subject to conditions:	
SUP-73881	Staff recommends DENIAL, if approved subject to conditions:	WVR-74014

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 28

NOTICES MAILED 414 - WVR-74014 and SUP-73881 (By City Clerk)

PROTESTS 0 - WVR-74014 and SUP-73881

APPROVALS 4 - WVR-74014 and SUP-73881

**** CONDITIONS ****

WVR-74014 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-73881) shall be required.
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. 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.
4. 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.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SUP-73882 CONDITIONS

Planning

1. Approval of and conformance to the Conditions of Approval for Waiver (WVR-74014) shall be required.
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.

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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.
4. 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.
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

The applicant is proposing to convert the space inside an existing 13,851 square-foot building from an Art Gallery to a venue for events such as fashion shows, art exhibits, community gatherings, lectures, banquets, conventions and meetings. The most intense use would be a Nightclub. On-premise sales of alcohol are proposed. The 8,400 square-foot outdoor space in front of the building would also be utilized for events and entertainment.

ISSUES

- A Tavern-Limited Establishment is a permitted use in the M (Industrial) zoning district with approval of a Special Use Permit.
- A Nightclub is a conditional use in the M (Industrial) zoning district; the proposed use meets all Conditional Use Regulations.
- Onsite parking can only be provided during times when no outdoor events are taking place. A Waiver is requested to allow no parking spaces where 227 spaces would normally be required through the automatic application of Title 19 standards.

ANALYSIS

The site is located within Area 1 of the Downtown Las Vegas Overlay District (DTLV-O). According to the thresholds document for Area 1, a change of use only requires approval of all necessary Special Use Permits. No additional streetscape, landscape or exterior building changes are required as a result, and none are provided by this project.

The following Title 19 uses cover the range of activities proposed for the site:

- Tavern-Limited Establishment - requires a Special Use Permit
- Nightclub - conditional, meets separation requirements
- Banquet Facility - permitted
- Museum, Art Display or Art Sales (Private) - permitted
- Community Recreational Facility - permitted
- Commercial, Other than Listed - permitted

All of the uses requested are permitted in the M (Industrial) District. A Special Use Permit is required for a Tavern-Limited Establishment use. As a Tavern-Limited Establishment is proposed, the proposed facility cannot house a Teen Dance Center.

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The proposed nightclub location meets the 1,500-foot distance separation from a church, synagogue, school, child care facility licensed for more than 12 children or City park, as well as the 500-foot distance separation from a single-family dwelling. The location is not in an exempt or waiver-eligible area of Downtown Las Vegas.

Within Area 1 of the DTLV-O, Title 19 parking standards are not automatically applied; however, the applicant must justify that the number of spaces provided would be appropriate for the use or that other accommodations can be made to satisfy parking demand. The subject site can provide 15 parking spaces during non-event hours, but cannot provide any parking spaces during outdoor events. Using the worst-case scenario, no onsite parking would be available. The applicant anticipates using on-street parking and a valet service to an offsite unimproved, vacant lot at 1000 South Commerce Street to accommodate vehicles. As the amount of required parking generated by the use is sizable, the applicant has requested a Waiver to allow no onsite spaces where the most intense use (Nightclub) requires 227 spaces.

The interior of the building contains a bar, kitchen and storage area and seating for 680 persons. Space is available for a dance floor, DJ booth and technical production accommodations. The outdoor area would feature an open grassy area in front of a stage along with additional seating. Mobile food service is indicated on the site plan. Staff notes that additional permits and entitlements are necessary to accommodate permanent mobile vendors and that approval of these requests does not directly permit such uses.

Title 19.18 defines a Tavern-Limited Establishment as “an establishment that is licensed with a tavern-limited license in accordance with LVMC Chapter 6.50.” Title 6.50 contains provisions for location, characteristics and operation of such establishments within the city. The proposed use meets the definition, as alcoholic beverages would be sold for consumption on the premises in a themed establishment located within Area 1 of the Downtown Las Vegas Overlay District. The theme of the establishment is a “stage lounge” in which patrons would be able to view stage riggers setting up for events while “promoters and performers” tell its story. Live entertainment is anticipated.

The Tavern-Limited Establishment use is permitted in the M (Industrial) zoning district with the approval of a Special Use Permit. There are no Minimum Special Use Permit Requirements for this use.

Title 19.18 defines a Nightclub as “an indoor or outdoor drinking, dancing, or entertainment establishment that conducts its primary business after dark, has a dance floor or open area free of tables and chairs that would allow dancing or assembly occupancies, and has sound equipment to allow live or recorded music played for the purpose of dancing (whether or not dancing actually occurs). The use may (but is not required to) include any of the following: onsite consumption of alcoholic beverages, a

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bar area, a fee for admittance, a promoter contracted to provide entertainment, and the sale of prepared food. In order to qualify as a nightclub, any sale of prepared food must be accessory to the primary use. The use does not include an erotic dance establishment licensed under LVMC Chapter 6.35 or an establishment that qualifies as a Teen Dance Center. Title 6.50 contains provisions for location, characteristics and operation of such establishments within the city.” The proposed use fulfills this definition, as the proposed establishment will include on-premise alcohol consumption both indoors and outdoors, a bar area, live entertainment, dance floor area, and prepared food sales.

The Nightclub use is a Conditional Use in the M (Industrial) zoning district. The following Conditional Use Regulations are met by the proposal; therefore, no Special Use Permit is required.

- *1. Because the primary operations of a nightclub often include preparing and serving alcoholic beverages for immediate on-premises consumption and the provision of live entertainment, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by generally requiring a minimum separation between a nightclub and other uses that should be protected from the impacts associated with a nightclub. Therefore, except as otherwise provided below, no nightclub may be located within 1500 feet of a church, synagogue, school, child care facility licensed for more than 12 children or City park.

The nearest protected use under this Regulation 1 is a Church/House of Worship that is approximately 2,730 feet from the subject property.

- *2. A person that desires to operate a nightclub shall obtain both a nightclub land use entitlement as well as any necessary land use entitlement for the service of alcohol for on-premises consumption. A person lawfully operating a nightclub as defined by this section and LVMC 6.39, prior to December 1, 2014, is not required to obtain a special use permit for the continued operation of such nightclub use. Real property entitled for a nightclub pursuant to this Code shall have no specific spacing requirements between other nightclubs. However, as the nightclub entitlement is a separate and distinct from any land use entitlement permitting the service of alcohol for on-premises consumption, this provision shall not act to waive or otherwise diminish the specific spacing requirements between uses entitled for the service of alcohol for on-premise consumption.

The applicant is requesting a separate Special Use Permit for a Tavern-Limited Establishment on this site. There are no distance separation requirements between such uses.

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- *3. The distance separation referred to in Requirement 1 above and Requirement 8 below shall be measured with reference to the shortest distance between two property lines, one being the property line of the proposed nightclub 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 nightclub. The distance shall be measured in a straight line without regard to intervening obstacles.

The distance separation is measured from the property line of APN 139-33-801-003 that is closest to the property line of the nearest protected use.

- *4. For the purpose of Requirement 3, 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 nightclub refers to:
 - i. The property line of a parcel that has been created by an approved and recorded parcel map or commercial subdivision map; or
 - ii. 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 nightclub 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 nightclub will be located;
 - C. All parking spaces required by this Section 19.12.070 for the nightclub will be located on the same parcel as the use; and
 - D. The owners of all parcels within the commercial subdivision, including the owner of the nightclub parcel, sign an agreement, satisfactory to the City Attorney, that provides for perpetual, reciprocal cross-access, ingress and egress throughout the commercial subdivision.

The property line of the protected use was created by a recorded parcel map. The property line of the proposed Nightclub use was created by legal description.

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5. 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.

This condition does not apply to this request.

6. The distance separation requirement set forth in Requirement 1 may be waived in accordance with the provisions of LVMC 19.12.050(C) under the following circumstances:
 - a. In connection with a proposed nightclub that will be located on a parcel within the C-V District; the Market District or Symphony Park District as shown in Figure 3 of the Development Standards adopted in LVMC 19.10.110(B); the Gaming Enterprise Overlay District; the Fremont East Entertainment District; the 18b Arts District or the Downtown Casino Overlay District;
 - b. In connection with a proposed nightclub to be located on a parcel within that certain area formerly identified as the Office Core District, described as the area bounded on the north by the centerline of Bridger Avenue, on the east by the centerline of 6th Street, on the south by the centerline of Garces Avenue, and on the west by the eastern edge of the Union Pacific Railroad right-of-way line; or
 - c. In connection with a proposed nightclub that will be located within an establishment which has a non-restricted gaming license and is not exempted pursuant to Paragraph 5.

A Waiver of the distance separation requirement is not needed for the proposed use, nor would this use qualify for a waiver.

7. The use shall conform to, and is subject to, the provisions of LVMC Chapter 6.50.

A condition of approval addresses this regulation.

- *8. Except as otherwise provided in Requirement 9 below, no nightclub may be located within 500 feet of any single-family dwelling.

There are no single-family dwellings within 500 feet of the proposed Nightclub. The nearest single-family dwelling is located approximately 745 feet east of the subject property.

9. The distance separation requirement set forth in Requirement 8 does not apply to:

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- 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.
- b. A nightclub located within the boundaries of the Downtown Entertainment Overlay District or within the boundaries of the Pedestrian Mall as defined by LVMC Chapter 11.68.
- c. A nightclub that meets all the following criteria:
 - i. Is located on a parcel that is adjacent to Las Vegas Boulevard between Charleston Boulevard and Fremont Street;
 - ii. Is located on a parcel with a minimum net site area of 0.25 acres; and
 - iii. Is located within a building that has a minimum of 5000 square feet of gross floor area dedicated to the nightclub use.

The proposed establishment does not meet any of the criteria in Regulation 9; therefore, it is subject to the 500-foot distance separation requirement.

- *10. Alcohol service, if any, is permitted only in conjunction with the following Title 6 alcoholic beverage licenses: Beer and Wine Room, Tavern, Tavern-Limited, General On-Sale and Urban Lounge.

The applicant proposes to operate a Tavern-Limited License as described in Title 6.50.

The M (Industrial) zoning district and location in the Downtown area are favorable for the Tavern-Limited Establishment and Nightclub uses; however, the lack of onsite parking to support the intensity of these uses indicates this particular site is not suitable. Staff therefore recommends denial of the Waiver and Special Use Permit, subject to conditions if approved.

If approved, the proposed offsite parking lot would require paving and striping if it is to be used permanently; otherwise, the applicant must acquire a Temporary Commercial Permit according to the requirements of Title 19.16.160.

FINDINGS (WVR-74014)

The land uses proposed require a large number of parking spaces that cannot be provided onsite or on adjacent lots on a permanent basis. The preferred alternative would be for the applicant to acquire one or more adjacent lots to provide permanent parking prior to obtaining entitlements for the proposed uses. Staff therefore recommends denial of the Waiver request.

FINDINGS (SUP-73882)

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.

As proposed, the Tavern-Limited Establishment cannot be conducted in such a way as to be harmonious and compatible with the adjacent land uses due to the lack of onsite parking.

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

The lack of any onsite parking to support the intensity of the proposed uses indicates this particular site is not suitable.

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.

Commerce Street is a fully improved 45-foot wide one-way right-of-way that can provide adequate access to accommodate the proposed uses.

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 proposed uses are consistent with the Vision 2045 Downtown Las Vegas Plan, which endeavors to provide an “energetic urban lifestyle and a high-quality physical environment” to its patrons. However, the lack of parking resources in this area may compromise the general welfare of the public. Uses would be subject to licensing review and regular inspection to ensure safety and well-being.

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

There are no land use conditions applicable to the Tavern-Limited Establishment use. The use must conform to all licensing restrictions of Title 6.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
03/01/18	Department of Planning staff approved a Conditional Use Verification (CUV-72845) for a proposed Beer/Wine/Cooler On-Sale Establishment Use at an existing art gallery at 920 South Commerce Street.

<i>Most Recent Change of Ownership</i>	
11/28/16	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
05/25/07	A business license (A02-02255) was issued for advertising services at 920 South Commerce Street. The license was marked out of business 04/29/14.
08/04/08	A business license (M18-04470) was issued for a consultant service for live and theatrical productions at 920 South Commerce Street. The license was marked out of business 04/29/14.
08/22/08	A business license (T07-00893) was issued for a ticket broker at 920 South Commerce Street. The license was marked out of business 02/04/14.
08/22/08	A business license (T07-00894) was issued for a ticket broker at 920 South Commerce Street. The license was marked out of business 02/04/14.
06/06/11	A business license (T07-00954) was issued for show ticket sales at 920 South Commerce Street. The license was marked out of business 03/28/13.
01/26/12	A business license (A04-00112) was issued for a mobile advertising business at 920 South Commerce Street. The license was marked out of business 06/27/16.
05/01/17	An alcohol beverage catering permit (PMT17-01387) was issued for an art exhibit on 05/12/17 at 920 South Commerce Street. The permit expired 05/12/17.
09/21/17	A business license (G65-06588) was issued for a nonprofit art education establishment at 920 South Commerce Street. The license is still active.
05/10/18	An alcohol beverage catering permit (PMT18-01509) was issued for a DJ showcase event on 05/12/18 and 05/13/18 at 920 South Commerce Street. The permit expired 05/13/18.

Related Building Permits/Business Licenses	
08/14/18	<p>The Planning Commission (6-0-1 vote) recommends APPROVAL on the following requests:</p> <ul style="list-style-type: none"> • Waiver (WVR-74014) TO ALLOW ZERO PARKING SPACES WHERE 227 SPACES ARE REQUIRED • Special Use Permit (SUP-73881) FOR A PROPOSED 13,851 SQUARE-FOOT TAVERN-LIMITED USE WITH 8,400 SQUARE FEET OF OUTDOOR AREA at 920 South Commerce Street (APN 139-33-801-003), M (Industrial) Zone, Ward 3 (Coffin) [PRJ-73660].

Pre-Application Meeting	
06/11/18	<p>A pre-application meeting was held with the applicant to discuss submittal requirements for a Tavern Limited Establishment and Nightclub. Business Licensing stated that the applicant must be able to control minors during restricted hours and specify times when alcohol would be served on the premises.</p>

Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

Field Check	
07/03/18	<p>The site contains a single-story building in good condition with three roll up doors facing Commerce Street. The front yard area is enclosed by a wrought iron fence with an automatic rolling vehicle gate.</p>

Details of Application Request	
Site Area	
Net Acres	0.57

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Museum, Art Display or Art Sales (Private)	LI/R (Light Industry/Research)	M (Industrial)
North	Office, Other Than Listed	LI/R (Light Industry/Research)	M (Industrial)
			C-M (Commercial/Industrial)

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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>
South	Warehouse/ Distribution Center	LI/R (Light Industry/Research)	M (Industrial)
East	General Retail Store, Other Than Listed	C (Commercial)	C-M (Commercial/Industrial)
West	Union Pacific Railroad	Right-of-Way	Right-of-Way

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (200 Feet)	Y
DTLV-O (Downtown Las Vegas Overlay) District (Area 1)	Y
LW-O (Live/Work Overlay) District	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

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>
Commerce Street	Minor Street	Title 19.13	45	Y

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

Parking Requirement - Downtown							
Use	Gross Floor Area or Number of Units	Base Parking Requirement		Provided		Compliance	
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular		Handi-capped
Nightclub	680 persons maximum capacity	One space for every 3 persons at maximum capacity	227				
TOTAL SPACES REQUIRED			227		0		N
Regular and Handicap Spaces Required			220	7	0	0	N

Projects located within the Downtown Las Vegas Overlay - Area 1 are not subject to the automatic application of parking requirements. However, the above table should be used to illustrate the requirements of an analogous project in another location in the City.

Waivers		
Requirement	Request	Staff Recommendation
Nightclub use requires one parking space for every 3 persons at maximum capacity, or 227 spaces	Zero spaces provided during events that use the outdoor space	Denial