



City of Las Vegas

Agenda Item No.: 72.

**AGENDA SUMMARY PAGE - PLANNING
PLANNING COMMISSION MEETING OF: JUNE 13, 2017**

DEPARTMENT: PLANNING
DIRECTOR: TOM PERRIGO

Consent Discussion

SUBJECT: SUP-69672 - SPECIAL USE PERMIT - PUBLIC HEARING - APPLICANT: FREMONT FOOD EMPORIUM - OWNER: HSE FARMY - *Request for possible action on a request for a Special Use Permit FOR PROPOSED 3,015 SQ FT TOWN FOOT TAVERN-LIMITED USE at 310 Fremont Street (APN 10-001-16-024), C-27 (General Commercial) Zone, Ward 5 (Barlow) [PRJ-69516].*
Staff recommends **APPROVAL**.

C.C.: 7/19/2017

PROTESTS RECEIVED BEFORE:

APPROVALS RECEIVED BEFORE:

Planning Commission Mtg.	2	Planning Commission Mtg.	4
City Council Meeting	0	City Council Meeting	0

RECOMMENDATION:

Staff recommends APPROVAL, subject to conditions:

BACKUP DOCUMENTATION:

1. Location and Aerial Maps - SUP-69672, SUP-69674 and SDR-69675 [PRJ-69516]
2. Special Map
3. Conditions and Staff Report - SUP-69672, SUP-69674 and SDR-69675 [PRJ-69516]
4. Supporting Documentation - SUP-69672, SUP-69674 and SDR-69675 [PRJ-69516]
5. Photo(s) - SUP-69672, SUP-69674 and SDR-69675 [PRJ-69516]
6. Justification Letter - SUP-69672, SUP-69674 and SDR-69675 [PRJ-69516]
7. Submitted after Final Agenda - Protest/Support Postcards for SUP-69672 and SUP-69674 [PRJ-69516]

Motion made by CEDRIC CREAR to Approve subject to conditions and adding the following condition as read for the record:

A. All alcoholic beverages shall be consumed on the premises, and no patron shall remove alcoholic beverages from the premises.

Passed For: 6; Against: 0; Abstain: 1; Did Not Vote: 0; Excused: 0
TODD L. MOODY, VICKI QUINN, TRINITY HAVEN SCHLOTTMAN, GLENN TROWBRIDGE, CEDRIC CREAR, DONNA TOUSSAINT; (Against-None); (Abstain-SAM CHERRY); (Did Not Vote-None); (Excused-None)

NOTE: COMMISSIONER CHERRY abstained from voting, as his company has an ongoing business relationship with the applicants architect.

PLANNING COMMISSION MEETING OF: JUNE 13, 2017

Minutes:

CHAIR SCHLOTTMAN declared the Public Hearing open for Items 72-74.

STEVE SWANTON, Senior Planner, reported this project is located in the Downtown Casino Overlay District within the Fremont Street Experience (FSE). The applicant has proposed to construct a second story rooftop deck addition to an existing 7,488 square-foot building. The ground floor would be operated as a restaurant and tavern-limited establishment, while the rooftop deck would be operated as a tavern.

At the time of submittal, the FSE had issued an approval letter to the applicant for all proposed exterior signage and aesthetic modifications; however, FSE subsequently rescinded its approval. The Site Development Plan Review, therefore, acts as an appeal of FSE's determination under Title 11.

Waivers may be requested for a reduction in the required separation distance from similar uses for properties located within the Downtown Casino Overlay District. In this case, the use will be located in close proximity to similar land uses within the pedestrian mall and can be conducted in a manner that is harmonious with these uses. As such, staff recommended approval of all requests. If approved, condition will require the applicant to create and record a reciprocal easement agreement for the shared water line between this property and the one to the west, as an above-ground RPDA (Reduced Pressure Detector Assembly) cannot be installed within the existing alley. Additionally, if approved, staff wishes to add a condition to Item 72 stating, All alcoholic beverages shall be consumed on the premises, and no patron shall remove alcoholic beverages from the premises. MR. SWANTON noted additional approvals and protests were received after publication.

ATTORNEY STEPHANIE ALLEN appeared on behalf of the applicant. She explained this property is currently the El Portal Souvenir and Gift shop and is located on Fremont Street, just west of 4th Street. In February 2017, prior to submitting this application, her client obtained an approval of the exterior aesthetic review from FSE. That approval letter was submitted along with the application and use permits now before the Commission. Subsequent to that, the applicant received a revocation letter indicating some concerns with what she believes are the proposed uses.

With respect to the application, ATTORNEY ALLEN displayed photos of the proposed exterior, which should be a nice, new addition to the overall FSE. The concept is a food emporium with four food and beverage tenants on the bottom level and a restaurant/tavern tenant on the top level with outdoor dining so patrons can watch the pedestrian mall show. Additionally, there is an exterior LED sign that could, in theory, be coordinated with the pedestrian mall show if allowed. Evening Call, a daiquiri bar with several locations on The Strip, is the one tavern-limited establishment proposed on the bottom floor. This would be the first Evening Call located in the city of Las Vegas. MIKE VIELLION is an owner of that business, is present and is very excited to be a part of the city of Las Vegas and FSE. The tavern on the top floor has not yet been determined, but BARRY MOORE, a tavern owner, may be the end user.

PLANNING COMMISSION MEETING OF: JUNE 13, 2017

ATTORNEY ALLEN noted the El Portal has changed several times over the years. She displayed some of the original pictures of the façade which she stated was similar to what is being proposed. The sign then changed to a neon sign. The applicant understands there is a historic sentimental value associated with this property. Because of this, the property owner is happy to donate the sign that is currently on the property to a historic society or the Neon Museum. The applicant is also willing to incorporate the current historical plaque into the plans so that the memory of the El Portal Hotel remains. As far as compatibility, she displayed a map marking the tavern and tavern-licensed locations in the surrounding area. Fremont Street is known for taverns and tavern-licensed establishments, so the uses are appropriate and compatible.

RYAN ARNOLD, representing the FSE, stated he does not like opposing applicants. When there is a good project that all of the members of the FSE can get behind, they will support it. The two uses being proposed with this project, however, are challenging. The FSE has a long history under the canopy of not supporting additional taverns unless they are part of a hotel resort. He pointed out that all the FSE members pay significant dues to support the maintenance, parking structure, promoting the destination, live activities, and most importantly security. The FSE is concerned that if the Commission starts down this path of approving a tavern, it will produce a domino effect. He stated the concern is all the applicants are good people. He asked that the Commission deny the tavern use.

ERIN MCMULLEN, Bally Gaming Corporation, stated she is a member of the FSE, so will not repeat what MR. ARNOLD said, but she wished to highlight they have a long history of opposing this type of special use relating to taverns. The City Council and Planning Commission have been over this numerous times before with the proliferation of packaged liquor. The staff report stated in this use, however, this is the type of use that is encouraged in the Downtown Overlay District. She believed prior to this, they have seen a different history coming from the City Council and the Planning Commission as it relates to taverns and the use of packaged liquor, so she wished to put their position on the record.

HEIDI SWANK, Executive Director of the Nevada Preservation Foundation, spoke in opposition not so much with regard to the SUP, but the Foundation would like to see a more thoughtful redesign of the facade. The El Portal was built in 1927 by architect CHARLES ALEXANDER MacNEILLEDGE, the same architect who designed Scotty's Castle in Death Valley. Contrary to what the applicant says, the design being proposed is not in keeping with what the design of the building was at one point. There have been a lot of changes to the building, but they have been in keeping with the hacienda, Spanish-style architecture, and the new design erases all the history and the story of the El Portal as an important building in Las Vegas history. They would like to see a more compatible design that invokes the history of the site and somehow incorporates the El Portal name and marquee elements back into the design.

MICHELLE LARIME, Nevada Preservation Foundation and downtown resident, spoke both professionally and personally in opposition of the application because of the design that has been presented. She agreed with MS. SWANK that it will actively destroy the history and character of the El Portal building and with it, a part of historic Fremont Street. Losing historic properties

PLANNING COMMISSION MEETING OF: JUNE 13, 2017

is becoming a problem downtown. The new Vision 2045 Plan, which was adopted within the last year, emphasizes downtowns history as an important resource for the community. The staff report states the project meets the requirement of the Centennial Plan, but it does not acknowledge the Vision 2045 Plan, and she believes the proposed project conflicts with the goals and recommendations put forth in that Plan. One of three key fundamentals driving the growth downtown mentioned in that Plan is the funky charm of downtowns historic building stock and gaming legacy; the proposed design destroys some of that historic charm. Additionally, one of the ideas driving the Vision Plan is the need for economic diversity; it lists cultural tourism as one of the key industries in a successful, diverse economy. Preserving old buildings directly supports cultural tourism. The Plan also focuses on creating vital places downtown and specifically calls out historic preservation and adaptive reuse of historic structures as points of emphasis in helping to build some of these vital places moving forward. It mentions downtowns legendary history and numerous historic assets, which are part of telling the story of Las Vegas history and specifically attracts tourists and helps establish locals pride in the community. She pointed out Goal 3, which focuses on tourism, arts and culture; the plan specifically says the changes in downtowns environment is refreshing; however, these changes also put downtown at risk of losing connections to some of the colorful characters and places that make up its history. Promotion of historic preservation and expansion of existing historic districts with creative reuse of old buildings could help strengthen downtowns historic character. LARIME asked that the Commission keep this in mind, oppose the application and ask that a new design be put forth prior to any approvals.

ROSALIE WARD, resident of downtown East, appeared in opposition. She stated this issue is important to her both personally and professionally. Two years ago, she moved from Philadelphia to downtown specifically because of her work in heritage tourism. She was inspired by the growing success of Las Vegas heritage tourism, specifically in the way of the Neon Museum and the Mob Museum. Since relocating, she has earned her certification as a Las Vegas tour guide. As a tour guide, she often brings tour groups to the spot of the El Portal so they can learn about the El Portal as Las Vegas first public building with air conditioning. Even though the building is no longer a theater, tour guests appreciate the façade with its Spanish features, and many have remarked they are happy this unique structure has survived amidst a city of implosions. She is concerned that her neighborhoods character is quickly disappearing. She asked that the design of the project be revisited in order to save the El Portal façade.

MIKE GANSON spoke in support of the project. He likes the architecture. The people that own the property have the right to do what they wish. While the historic preservationists have a right to speak, he thought a dangerous precedent was being set by caving in to them. The Mob Museum pays no property tax and is now selling alcohol and is competing with other businesses. The preservation mentality is at the taxpayer expense. These buildings should be cared for by the private sector and not the public.

ATTORNEY ALLEN stated the applicant has met with the FSE throughout the process, and they will continue to do so. The applicant wants to be a good neighbor, a contributing member to the FSE and has offered to pay the dues the other business owners pay to be a part of that overall

PLANNING COMMISSION MEETING OF: JUNE 13, 2017

group. She pointed out that the applicant will not have packaged liquor. As far as the Nevada Preservation Foundation, the applicant just found out the day before that they had concerns. The applicant is sensitive to their concerns and is willing to discuss ideas to incorporate some of the history of the property. From a zoning standpoint, competition is not something that this Commission or City Council usually considers, and some of the undertone seemed to be that there would be competition. If the other businesses marked on the map are allowed to operate on Fremont Street, she does not understand why her client would not have the same opportunity.

CHAIR SCHLOTTMAN asked ATTORNEY ALLEN to meet with MR. SWANK and MS. LARIME to discuss the façade and the donation of the historical sign. As far as having a bar on Fremont Street, he has a different opinion than when the packaged liquor was voted on. He did not believe this stand-alone bar would take away from Fremont Street.

After ATTORNEY ALLEN confirmed for COMMISSIONER QUINN the proposed establishment had an elevator, the Commissioner stated she would support this project.

ATTORNEY ALLEN reiterated for COMMISSIONER CREAR there was a mix of taverns and tavern-limited establishments on Fremont Street. He stated it was his understanding that the Commission had an issue with this being a tavern and not a tavern-limited. MR. ARNOLD responded that the FSE's issue is the taverns with the canopy area in resort hotels. The establishments on East Fremont are tavern-limited, they were asking the Commission to follow the same model. COMMISSIONER CREAR asked if the applicant would be agreeable to a tavern-limited versus a full tavern. ATTORNEY ALLEN stated the preference would be for the upstairs to remain a full tavern. She was open to what the Commission directed. With the tavern being upstairs, she did not see patrons would take their drinks outside. COMMISSIONER CREAR commented that if it was a tavern-limited it would not affect the business operations upstairs. ATTORNEY ALLEN stated the gaming component would be the difference because one cannot have gaming with a tavern-limited license. COMMISSIONER CREAR was under the impression there was not going to be gaming. ATTORNEY ALLEN stated gaming was proposed, but that could be taken under consideration. The Commissioner stated that personally, he would not support gaming in that facility because it would be in competition with the main industry; he could, however, support a tavern-limited establishment.

COMMISSIONER TROWBRIDGE asked if the other properties along east Fremont with a tavern-limited license had gaming. ATTORNEY ALLEN reiterated that tavern-limited establishments do not have gaming. The Commissioner indicated he would support a tavern-limited license with the understanding there would be no gaming allowed and individuals could not take their drinks off the property. He stated he was happy the applicant was willing to pay dues into FSE, which he thought should be a trend that all businesses on East Fremont do.

CHAIR SCHLOTTMAN wanted to be sure the Commissioners understood the subject site was not located in the Fremont East Entertainment District which is where the tavern-limited establishments are located. The subject site is located in the FSE, and almost everything in the FSE is a tavern. As such, CHAIR SCHLOTTMAN stated he would support this as a tavern.

PLANNING COMMISSION MEETING OF: JUNE 13, 2017

COMMISSIONER MOODY has no problem with the tavern-limited or the SDR, but he is persuaded by the saturation of tavern uses argument. He could support everything but the tavern use.

TOM PERRIGO, Planning Director, stated Item 73 was noticed as a tavern but with the Commission considering amending the approval to a tavern-limited, this may cause a dilemma. ATTORNEY ALLEN suggested potentially conditioning the tavern to have no gaming or off-premise consumption of alcohol, which would bring about the same result. COMMISSIONER CREAR asked if that would be a temporary or a full condition. PETER LOWENSTEIN, Planning Section Manager, responded it would be a full condition. The license applied for would still be a tavern license which has the associated costs built in for the value of having accessory gaming. The applicant would be paying a higher license origination fee, but would not be able to have the gaming or packaged liquor components unless they was a review in the future to have those conditions removed. COMMISSIONER CREAR was concerned with the Commission approving this as a tavern and the possibility of the conditions later being removed. MR. LOWENSTEIN acknowledged that could occur. He pointed out approving this as a tavern-limited has direct policy consequences for staff that have not been considered, which is why staff needs to deliberate about amending the application for a new application.

MR. PERRIGO indicated he spoke with CITY ATTORNEY ERIC JERBIC, and if the Commission wishes to move forward with a motion on Item 73 as a tavern-limited instead of a tavern, staff can determine what is needed prior to the item being heard at the July 19th City Council meeting to ensure this is done properly. Since the Commission has not previously approved an item as such, MR. PERRIGO further clarified that the question is whether a tavern-limited use is a less intense use than a tavern, staff believes it is, but wants to be sure. The City Attorneys Office and staff believe the use could be reduced from a tavern to a tavern-limited, and they will have time between now and the July 19th City Council to confirm that. MR. LOWENSTEIN read the added condition of approval into the record relating to Item 73. ATTORNEY ALLEN agreed to this condition. COMMISSIONER CREAR commented that was a condition, not the use. MR. LOWENSTEIN explained the condition would limit the approval of the use permit only to a tavern-limited.

COMMISSIONER TROWBRIDGE did not wish for the applicant to have to buy and maintain a more expensive license, and at the same time, deny them the use of that license. CHAIR SCHLOTTMAN stated that was not being done.

CHAIR SCHLOTTMAN declared the Public Hearing closed for Items 72-74.