



## AGENDA MEMO - PLANNING

**PLANNING COMMISSION MEETING DATE: APRIL 9, 2013**

**DEPARTMENT: PLANNING**

**ITEM DESCRIPTION: APPLICANT: OHJAH JAPANESE STEAKHOUSE SUSHI AND HIBACHI - OWNER: PK I RAINBOW PROMENADE, LLC**

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

| <i>CASE<br/>NUMBER</i> | <i>RECOMMENDATION</i>                             | <i>REQUIRED FOR<br/>APPROVAL</i> |
|------------------------|---------------------------------------------------|----------------------------------|
| <b>SUP-48146</b>       | Staff recommends APPROVAL, subject to conditions: |                                  |

### \*\* CONDITIONS \*\*

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## SUP-48146 CONDITIONS

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### Planning

1. The previous approval for a Special Use Permit (SUP-47041) for a Supper Club on this site shall be expunged upon final approval of SUP-48146.
2. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Beer/Wine/Cooler On-Sale Establishment use.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
5. Conformance to the approved conditions for Rezoning (Z-0100-87) and Site Development Plan Review [Z-0174-94(1) and Z-0100-87(7)].
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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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. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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

**PROJECT DESCRIPTION**

The applicant is requesting to serve beer, wine and sake only with meals at a proposed 4,992 square-foot restaurant within a Shopping Center. A more intense Supper Club use was approved for this location in December 2012, but the applicant no longer wishes to be restricted by the requirements of the Supper Club use. The proposed use meets all minimum Title 19.12 use requirements and can be conducted in a manner that is harmonious and compatible with surrounding uses. Staff therefore recommends approval with conditions. If denied, the approved Supper Club use will remain valid until 12/19/14 unless a business license is issued.

**ISSUES**

- A Beer/Wine/Cooler On-Sale Establishment is a permitted use in the C-1 (Limited Commercial) District with the approval of a Special Use Permit.
- The existing entitlement for a Supper Club on this site will be expunged upon final approval of the proposed Beer/Wine/Cooler On-Sale Establishment.

**BACKGROUND INFORMATION**

| <i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc</i> |                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/18/87                                                          | The City Council approved a Rezoning (Z-0100-87) of the subject site from N-U (Non-Urban) to C-1 (Limited Commercial) on approximately 22.00 acres located on the west side of Rainbow Boulevard, between Lake Mead Boulevard and Smoke Ranch Road. The Planning Commission and staff recommended approval. |
| 02/15/95                                                          | The City Council approved a Rezoning (Z-0174-94) from N-U (Non-Urban) to C-1 (Limited Commercial) on 7.41 acres located at the southwest corner of Rainbow Boulevard and Smoke Ranch Road. The Planning Commission and staff recommended approval.                                                          |
| 08/10/95                                                          | The Planning Commission approved a request for a Site Development Plan Review [Z-0174-94(1) and Z-0100-87(7)] for a 227,276 square-foot Shopping Center on 20.03 acres at 2051 North Rainbow Boulevard. Staff recommended approval.                                                                         |
| 04/07/04                                                          | The City Council approved a request for a Special Use Permit (SUP-3746) to allow a Restaurant Service Bar at 2051 North Rainbow Boulevard, Suite 102. The Planning Commission and staff recommended approval.                                                                                               |

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|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12/19/12 | The City Council approved a Special Use Permit (SUP-47041) for a 4,992 square-foot Supper Club at 2051 North Rainbow Boulevard, Suite #102. The Planning Commission and staff recommended approval. The entitlement has not been exercised. |
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| <b><i>Most Recent Change of Ownership</i></b> |  |
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| 01/22/07 | A deed was recorded for a change in ownership. |
|----------|------------------------------------------------|

| <b><i>Related Building Permits/Business Licenses</i></b> |  |
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| 11/13/96 | A building permit (#96022677) was issued for a Tenant Improvement at 2051 North Rainbow Boulevard, Suite #102. A final inspection was approved 03/07/97. |
| 02/25/97 | A business license (R09-00772) was issued for a Restaurant at 2051 North Rainbow Boulevard, Suite #102. This license was marked out on 05/09/11.         |

| <b><i>Pre-Application Meeting</i></b> |  |
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| 11/15/12 | A pre-application meeting was held with the applicant to discuss submittal requirements for a Special Use Permit for a Beer/wine/Cooler On-Sale Establishment. Staff was clear that the use had to meet the Title 19 definition, and the floor plans needed to specify the function of the various bars within the restaurant, as alcohol could only be served to patrons with meals. |
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| <b><i>Neighborhood Meeting</i></b> |  |
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| A neighborhood meeting is not required, nor was one held. |  |
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| <b><i>Field Check</i></b> |  |
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| 01/31/13 | The subject suite is located in a multitenant building that is part of a larger shopping center with several restaurant uses. Tables and chairs were located inside, but no business appeared to be in operation. |
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| <b><i>Details of Application Request</i></b> |  |
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| <b><i>Site Area</i></b> |  |
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|           |      |
|-----------|------|
| Net Acres | 7.14 |
|-----------|------|

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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> |
|-----------------------------|------------------------------------------|------------------------------------------------|---------------------------------|
| Subject Property            | Shopping Center                          | SC (Service Commercial)                        | C-1 (Limited Commercial)        |
| North                       | Shopping Center                          | SC (Service Commercial)                        | C-1 (Limited Commercial)        |
| South                       | U.S. 95                                  | ROW (Right-of-Way)                             | ROW (Right-of-Way)              |
| East                        | Shopping Center                          | SC (Service Commercial)                        | C-1 (Limited Commercial)        |
| West                        | U.S. 95                                  | ROW (Right-of-Way)                             | ROW (Right-of-Way)              |

| <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 (140 Feet)                                  | 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 13, the following standards apply:*

| <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> |
|--------------------|-----------------------------------------------|----------------------------------|-----------------------------------|---------------------------------------|
| Rainbow Boulevard  | Major Collector                               | Planned Streets and Highways Map | 90                                | Y                                     |

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

According to Title 14.00 and 14.12, 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 |            |
| Shopping Center                      | 227,276                             | 1 space per 250 SF GFA | 910     |              |          |              |            |
| TOTAL SPACES REQUIRED                |                                     |                        | 910     |              | 1,393    |              | Y          |
| Regular and Handicap Spaces Required |                                     |                        | 891     | 19           | 1,365    | 28           | Y          |

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## **ANALYSIS**

The subject site is located within the Airport Overlay District, with a 140-foot height restriction. All buildings on the site, including the one at the subject address, meet the requirements. The site is not located within any special plan areas and is thus not subject to any additional zoning requirements beyond those contained within Title 19.08 for the C-1 (Limited Commercial) District.

The Beer/Wine/Cooler On-Sale Establishment use is defined as “An establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers for consumption only in connection with a meal on the premises where the same is sold, and is operated in connection with a restaurant in which 30 or more people may be served with meals at any one time at tables or stools.” The proposed use meets the definition, as the restaurant may seat approximately 170 persons and only beer, wine and sake will be served with meals in the restaurant. The floor plan indicates that a juice bar will be located at the center of the suite that will only serve non-alcoholic drinks. Behind the juice bar will be a sushi bar in which sushi will be prepared and served to patrons on stools. If the requested Special Use Permit is approved, alcoholic drinks may only be served in conformance with Title 6.50 requirements in addition to the Title 19.12 use requirements listed below.

The Minimum Special Use Permit Requirements for this use include:

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

The proposed use meets this requirement, as there are no houses of worship, schools, Individual Care Centers or City parks within 400 feet of the subject property.

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.

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The proposed use meets this requirement, as the subject fee simple parcel has direct access to Rainbow Boulevard.

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.

This requirement does not apply to the proposed use, as the existing Shopping Center property in which it is proposed is less than 80 acres in 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.

This requirement does not apply to the proposed use, as no distance separation waiver is necessary.

5. The minimum distance requirements in Requirement 1 do not apply to:
  - a. An establishment which has a nonrestricted 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.

Neither condition applies to the proposed use.

6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50 [Non-Waivable].

The proposed use meets this requirement, as beer, wine and sake would be served to patrons by employees of the establishment only where meals would be served, such as in the restaurant area and at the sushi bar. A standard condition of approval requires conformance to this section of the code.

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The proposed use would be located within a proposed Japanese restaurant that is within an established Shopping Center equipped to handle commercial uses of various intensities. No outdoor seating is proposed. The Shopping Center contains several similar uses that have operated harmoniously with each other and with uses on surrounding properties. The location is ideal, as the U.S. 95 Freeway is situated to the west and south, and other commercial uses are to the north and east of the site. The Shopping Center can easily accommodate the required parking for all onsite uses, including the proposed Beer/Wine/Cooler On-Sale Establishment. The subject tenant suite was recently entitled for a Supper Club use, which is intended for larger restaurants where full alcohol service will be anticipated with meals; although the existing restaurant can accommodate up to 170 persons, the applicant does not intend to obtain a Supper Club license in the future. A condition of approval will expunge the approved entitlement that has not been exercised, upon final approval of the Special Use Permit.

As the use can be conducted in a manner that is harmonious and compatible with surrounding uses and all minimum Title 19 requirements are met by the use, staff recommends approval with conditions.

**FINDINGS (SUP-48146)**

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 proposed Supper Club use is located within a shopping center with similar uses and can be operated in a manner that is harmonious and compatible with existing surrounding commercial uses. The site is also adjacent to the U.S. 95 Freeway right-of-way.

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

No significant changes are proposed to the existing structure or the site with this application. The proposed intensity of the land use is suitable for this location, which contains a large shopping center designed for this and similar uses.

**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 property is accessed by Rainbow Boulevard, a Major Collector as designated by the city's Planned Streets and Highways Map. The roadway facilities are adequate to serve a Supper Club use.



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**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 a Special Use Permit for the Beer/Wine/Cooler On-Sale Establishment use at this location will not compromise the public health, safety and welfare or the primary objectives of the General Plan, as the use will be subject to regular inspections and licensing requirements.

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

The proposed use meets all applicable conditions of Title 19.12 for a Beer/Wine/Cooler On-Sale Establishment.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

44

**NOTICES MAILED**

904

**APPROVALS**

1

**PROTESTS**

3