



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: JANUARY 14, 2025
DEPARTMENT: COMMUNITY DEVELOPMENT
ITEM DESCRIPTION: APPLICANT: TEMPO ULTRA LOUNGE, LLC - OWNER: JG SAHARA, LLC

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
24-0529-VAR1	Staff recommends DENIAL, if approved subject to conditions:	
24-0529-SUP2	Staff recommends DENIAL, if approved subject to conditions:	24-0529-VAR1

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

NOTICES MAILED 592

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

24-0529-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved, to allow zero additional parking spaces where 139 additional parking spaces are required for a parking impaired development.
2. Conformance to the approved conditions for Site Development Plan Review (22-0296-SDR1), except as modified by conditions herein.
3. 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.
4. 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 Building and Safety Division.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

24-0529-SUP2 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for a Alcohol, On-Premise Full use, except as modified by conditions herein.
2. All signage shall be permitted and meet minimum code requirements within 30 days of final approval.

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3. Approval of and conformance to the Conditions of Approval for Variance (24-0529-VAR1) shall be required, if approved.
4. Conformance to the approved conditions for Site Development Plan Review (22-0296-SDR1), except as modified by conditions herein.
5. 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.
6. A Waiver from Title 19.12 is hereby approved, to allow a zero-foot distance separation from a School where 400 feet is required.
7. A Waiver from Title 19.12 is hereby approved, to allow a zero-foot distance separation from a Church/House of Worship where 400 feet is required.
8. 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 Building and Safety Division.
9. 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.
10. Trash enclosures shall be provided in conformance with the provisions of Title 19.08.040.E.
11. Approval of this Special Use Permit does not constitute approval of a liquor license.
12. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
13. 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 proposing to expand an existing legal, non-conforming tavern/nightclub establishment at 1000 East Sahara Avenue.

ISSUES

- The Nightclub use is permitted conditionally in the C-1 (Limited Commercial) zoning district. The proposed expansions brings the total gross floor area to 4,993 square feet, qualifying the proposed expansion of a Nightclub use for conditional treatment.
- An Alcohol, On-Premise Full use is permitted in the C-1 (Limited Commercial) zoning district with the approval of a Special Use Permit. Staff does not support this request.
- A Waiver of Title 19.12 is requested, to allow a zero-foot distance separation from a Church/House of Worship where 400 feet is required. Staff does not support this request.
- A Waiver of Title 19.12 is requested, to allow a zero-foot distance separation from a School where 400 feet is required. Staff does not support this request.
- The subject site was established as a legal, nonconforming tavern and nightclub through issued business licenses (P62-00105) and (G62-08765). Pursuant to Title 19.14.030, nonconforming uses may not be expanded or relocated on the same parcel if the proposed expansion requires a Variance or Waiver of any other provision of Title 19. As a Variance of parking is required, the proposed expansions will need to conform to current requirements of Title 19, prompting these requests.
- A Variance is requested, to allow zero additional parking spaces where 138 additional parking spaces are required for a parking impaired development. Staff does not support this request.

ANALYSIS

The subject site is currently zoned C-1 (Limited Commercial) and is subject to Title 19 development standards. The subject site is developed as a one-story commercial building consisting of vacant tenant space, a social service provider and a nightclub establishment. Established as a legal, nonconforming tavern and nightclub, the applicant is now proposing to expand the existing establishment into an adjacent tenant space previously occupied by a general retail establishment. This expansion would accommodate additional nightclub space and space for the on-premise service of full alcohol.

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The Nightclub use is defined as, “An entertainment establishment, whether indoor, outdoor, or both, with an occupancy load of 100 or more people that:

1. Provides any combination of live music, recorded music, or other entertainment for the primary purpose of encouraging social interaction amongst the patrons of the establishment;
2. Contains one or more delineated dance floor areas; and
3. May or not provide food service. If the establishment provides food service, the food service must be both limited and incidental to the operation of the establishment.

The Nightclub use includes the use “Dayclub”, which possesses the same characteristics as a Nightclub, but operated primarily during daytime hours. This use does not include a General Entertainment Establishment, Sexually Oriented Business or an establishment that qualifies as a Teen Dance Center. The use shall also not be deemed to include an establishment merely because it includes entertainment if the entertainment is primarily intended to be viewed by an audience. The use shall also not be deemed to include an establishment that provides entertainment if that entertainment is incidental to the primary activity of the establishment and consists merely of ambient or background music intended to create or enhance a mood or atmosphere, or karaoke singing and interaction, or a combination thereof.”

The Minimum Conditional Use Regulations for this use include:

1. A Nightclub use that is located within the Downtown Entertainment Overlay District as defined by LVMC Title 19.10.120, within the boundaries of the Pedestrian Mall as defined by LVMC 11.68, or within the boundaries of the 18b Las Vegas Arts District, as shown in Figure 3 of the Development Standards adopted in LVMC 19.10.110(B), and as amended from time to time, is exempt from the application of Regulations 2 through 5. Except as otherwise limited by the final sentence of this Regulation 1 and Regulations 6 and 7, such a use shall be deemed to be a use permitted by right. Any outdoor activity areas must first be approved by means of a Site Development Plan Review pursuant to LVMC 19.16.100.

The proposed Nightclub use is not located in the Downtown Entertainment Overlay District, the Pedestrian Mall, or the 18b Las Vegas Arts District. Therefore, the regulations set forth by Regulations 2 through 5 still apply, which the proposed use meets. The proposed Nightclub use has a previously approved outdoor activity area via Site Development Plan Review (22-0296-SDR1).

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2. In the C-1 District, the Nightclub activity use shall be limited to a maximum of 5,000 gross square feet in area.

The proposed Nightclub use has a cumulative floor area of 4,993 square feet. Therefore, this requirement is met.

3. All Nightclub activities, including customer queueing and waiting areas (but excluding valet services and the checking of patron's identification), must be conducted within a completely enclosed building. In the C-M and M Zoning Districts, outdoor activity areas must first be approved by means of a Site Development Plan Review pursuant to LVMC 19.16.100.

Per the submitted site plan and floor plan, no queueing or waiting areas are showing outside of the existing commercial building. Therefore, this requirement is met.

4. Except as otherwise provided in Regulation 5, no Nightclub may be located within 500 feet of any parcel that contains a single-family dwelling.

This requirement is met, as the closest parcel that contains a single-family dwelling is 582 feet away from the proposed Nightclub use.

5. The distance separation requirement set forth in Regulation 4 does 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.
- b. A hotel having 200 or more guest rooms.
- c. A Nightclub that meets all of 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 5,000 square feet of gross floor area dedicated to the Nightclub use.

The proposed Nightclub use is not associated with an establishment with a non-restricted gaming license and a hotel/resort. Additionally, the subject site is located on Sahara Avenue, where the minimum net site area is 0.80 acres and the gross floor area dedicated to the Nightclub use is less than 5,000 square feet. Therefore, the distance separation requirement set forth in Requirement 4 still applies, which the proposed use meets

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6. Nightclubs shall conform to all applicable requirements of LVMC Title 6.

Title 6 governs business taxes, licenses and other regulations. If approved, the expanded Nightclub establishment will need to obtain a business license, thereby ensuring the Nightclub will conform to all requirements of LVMC Title 6.

7. Unless otherwise exempted by that Chapter, Nightclubs shall conform to all noise requirements and limitations of LVMC Chapter 9.16.

Upon receiving a business license, the Nightclub will be subject to continuous compliance inspections, thereby ensuring the nightclub will conform to all noise requirements and limitations of LVMC Chapter 9.16.

The Alcohol, On-Premise Full use is defined as, “An establishment licensed to sell alcoholic beverages, not limited to the sale of beer, wine and coolers, for consumption on the premises where the same are sold.”

The Special Use Requirements for this use include:

1. Pursuant to its general authority to regulate the sale of alcoholic beverages, 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 distance separation between an Alcohol, On-Premise Full establishment and certain other uses that should be protected from the impacts associated with that establishment. Therefore, except as otherwise provided in these Requirements, no Alcohol, On-Premise Full establishment may be located within 400 feet of any of the following uses:

- a. Church/house of worship;
- b. School;
- c. Individual care center licensed for more than 12 children; or
- d. City Park

The proposed use requires a Waiver to allow a zero-foot distance separation from a Church/House of Worship and a School. The applicant cites differing hours of operation between the existing nightclub establishment and the protected uses. However, staff finds the lack of a buffer between the uses may further exacerbate the impacts associated with the proposed use. Therefore, staff cannot support this Waiver request.

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2. The distance separation requirement set forth in Requirement 1 does not apply to the following:
 - 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. Any Alcohol, On-Premise Full use located on property within the Pedestrian Mall, as defined in LVMC Chapter 11.68; the Downtown Entertainment Overlay District, as described in LVMC 19.10.120; or the 18b Arts District, as described in Appendix F to this Title. This Special Use Permit approval may include conditions designed to mitigate any impacts relate to distance separation.

The proposed use is not associated with an establishment with a non-restricted gaming license or a hotel/resort. The proposed use is also not located on property within the Pedestrian Mall, the Downtown Entertainment Overlay District, or the 18b Arts District. Therefore, the distance separation requirements set forth in Requirement 1 still apply, from which the proposed use requires a Waiver.

The subject site is parking impaired pursuant to Title 19.18.030. There are 58 total parking spaces, where a total of 220 parking spaces would be required to accommodate the intensity of the proposed nightclub expansion. No additional parking spaces are proposed. However, the applicant justifies this deficiency in parking requirements by citing differing hours of operation for the adjacent social service provider. Staff finds no justification relating to the physical characteristics of the property have been provided to warrant the requested Variance. Further, staff finds this request as an attempt to over-utilize as a site as evidence by requested Waivers of distance separation and a lack of required parking. Therefore, staff recommends denial of all requested entitlements. If approved, the Special Use Permit and Variance will be subject to conditions.

FINDINGS (24-0529-VAR1)

In accordance with the provisions of Title 19.16.140(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

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Additionally, Title 19.16.140(L) states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to expand a nightclub establishment in a commercial development that cannot accommodate the number of required parking spaces. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (24-0529-SUP2)

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 Alcohol, On-Premise Full use requires a Waiver to allow a zero-foot distance separation from a School and Church/House of Worship. Staff finds the lack of a buffer between the uses may further exacerbate the impacts associated with the proposed use. Therefore, the proposed use cannot be conducted in a manner that is harmonious and compatible with the existing and surrounding land uses.

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

The subject site is not physically suitable for the type and intensity of land use proposed. This is demonstrated by the requested Waivers of distance separation requirements and Variance of parking requirements, which staff cannot support.

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.**

Site access is provided by Sahara Avenue, a 100-foot Primary Arterial as defined by the Master Plan of Streets and Highways. This street is adequate in size to meet the requirements of the proposed use.

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 this Special Use Permit is subject to business license review and compliance inspections thereby ensuring the public health, safety, welfare, and the overall objectives of the General Plan are not compromised.

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

The proposed Alcohol, On-Premise Full use requires a Waiver of distance separation requirements from a Church/House of Worship and a School. Staff finds the lack of a buffer between the proposed use and protected use may exacerbate the impacts associated with the Alcohol, On-Premise Full use. Therefore, staff does not support this Waiver request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
10/11/22	The Planning Commission approved a Variance (22-0296-VAR1) to allow zero additional parking spaces where 11 additional parking spaces are required for an existing parking impaired development. Staff recommended denial.
	The Planning Commission approved a Site Development Plan Review (22-0296-SDR1) for a proposed 546 square-foot outdoor patio associated with nightclub and tavern uses with a Waiver of perimeter landscape buffer standards at 1000 East Sahara Avenue. Staff recommended denial.
12/10/24	The Planning Commission approved the first Extension of Time (24-0530-EOT1) of a Site Development Plan Review (22-0296-SDR1) for an approved 546 square-foot outdoor patio associated with nightclub and tavern uses with a Waiver of perimeter landscape standards at 1000 East Sahara Avenue. Staff recommended approval.

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Most Recent Change of Ownership	
10/02/03	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
c.1970	The subject building was constructed.
07/14/14	A business license (P62-00105) was issued for a legal, non-conforming tavern establishment at 1000 East Sahara Avenue, Suite #105. The license expired on 06/27/16.
02/04/15	A business license (G6-08765) was issued for a Nightclub at 1000 East Sahara Avenue, Suite #105. The license expired on 05/31/16.
03/31/22	A building permit (C22-01351) was processed for an outdoor patio at 1000 East Sahara Avenue. The permit application was returned for information.
06/02/22	A business license (G70-02953) was issued for a Nightclub/General Retail Sales establishment at 1000 East Sahara Avenue, Suite #105. The license is still active.
	A Business License (P70-00102) was issued for Full Alcohol On-Premise establishment at 1000 East Sahara Avenue, Suite #105. The license expired on 09/07/23.
08/31/22	A business license (G70-03336) was issued for Tobacco Sales at 1000 East Sahara Avenue, Suite #104. The license is active as of 09/27/22.
09/07/23	A business license (P71-00228) was issued for an Alcohol, On-Premise Full establishment at 1000 East Sahara Avenue, Suite #105. The license is still active.

Pre-Application Meeting	
10/08/24	A pre-application meeting was held with the applicant to discuss the submittal requirements of a Special Use Permit and Variance.

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

Field Check	
12/03/24	Staff conducted a routine field check of the property and observed an existing commercial building. Staff had also observed unpermitted signage, an unpermitted outdoor patio area, and an unpermitted patio cover in the rear of the property. A code enforcement case (CE24-09096) was opened on 11/19/24 and remains open.

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Details of Application Request	
Site Area	
Net Acres	0.80

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Nightclub	TOD-1 (Transit Oriented Development – High)	C-1 (Limited Commercial)
North	Office, Other than Listed		
South	General Retail Store, Other than Listed	CM (Corridor Mixed Use – Clark County)	C-2 (General Commercial District – Clark County)
East	Office, Other than Listed	TOD-1 (Transit Oriented Development – High)	C-1 (Limited Commercial)
West	Church/House of Worship	Transit Oriented Development – Low)	
	School, Primary/Secondary		

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Downtown South	Y
Special Area and Overlay Districts	Compliance
Airport Overlay District (175 Feet)	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area – Area 1	Y
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	Y
Project of Regional Significance	Y

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DEVELOPMENT STANDARDS

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Sahara Avenue	Primary Arterial	Master Plan of Streets and Highways	100 Feet	Y

Pursuant to Title 19.08 and 19.12, 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	
Nightclub	4,993 SF (634 persons max. capacity)	1: 3 persons at maximum capacity	212				
Social Service Provider	2,500 SF	1:300 SF	9				
TOTAL SPACES REQUIRED			221			55	
Regular and Handicap Spaces Required			214	7	55	0	N*

*This site is parking impaired pursuant to Title 19.18.030. A Variance is requested to allow zero additional parking spaces where 139 additional parking spaces are required for parking impaired development.