



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: NOVEMBER 12, 2024
DEPARTMENT: COMMUNITY DEVELOPMENT
ITEM DESCRIPTION: APPLICANT: OSCAR CHAVIRA - OWNER: JOSE AND ALEJANDRA ROBLEDO LIVING TRUST

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0456-VAR1	Staff recommends DENIAL, if approved subject to conditions:	24-0456-SUP1
24-0456-SUP1	Staff recommends DENIAL, if approved subject to conditions:	24-0456-VAR1

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 16

NOTICES MAILED 430

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

24-0456-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved, to allow zero additional parking spaces where four additional parking spaces are required for a parking impaired development.
2. Approval of and conformance to the Conditions of Approval for Special Use Permit (24-0456-SUP1) shall be required, if approved.
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.

24-0456-SUP1 CONDITIONS

Planning

1. Conformance to all Minimum Requirements under LVMC Title 19.12 for an Alcohol, On-Premise Full use, except as amended by conditions herein.
2. Approval of and conformance to the Conditions of Approval for Variance (24-0456-VAR1) shall be required, if approved.
3. All signage shall be permitted and meet minimum code requirements within 30 days of final approval.

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4. 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.
5. A Waiver from Title 19.12 is hereby approved, to allow a 104-foot distance separation from a Church/House of Worship where 400 feet is required.
6. A Waiver from Title 19.12 is hereby approved, to allow a 325-foot distance separation from a School where 400 feet is required.
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 Building and Safety Division.
8. 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.
9. Trash enclosures shall be provided in conformance with the provisions of Title 19.08.040.E.
10. Approval of this Special Use Permit does not constitute approval of a liquor license.
11. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
12. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Staff Report Page One**November 12, 2024 - Planning Commission Meeting****** STAFF REPORT ******PROJECT DESCRIPTION**

The applicant is proposing to operate a 1,245 square-foot Alcohol, On-Premise Full use with 169 square feet of outdoor patio area at 2201 South Maryland Parkway.

ISSUES

- 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 is requested, to allow a 104-foot distance separation from a Church/House of Worship where 400 feet is required. Staff does not support this request.
- A Waiver is requested, to allow a 325-foot distance separation from a School where 400 feet is requested. Staff does not support this request.
- A Variance is requested, to allow zero additional parking spaces where four additional parking spaces are required for a parking impaired development. Staff does not support this request.
- Staff conducted a routine field check of the subject property and observed an existing restaurant in a commercial building. Staff also observed a food truck parked on a required accessible aisle and unpermitted signage. A Code Enforcement case (CE23-05579) is open and a condition of approval has been added to address any unpermitted signage.

ANALYSIS

The subject site is zoned C-1 (Limited Commercial) and subject to Title 19 development standards. The applicant currently operates a birrieria restaurant at this location, which has been open since 2019. On January 14, 2020, the Planning Commission approved a Special Use Permit (77942-SUP) for a proposed 1,125 square-foot Beer/Wine/Cooler On-Sale Establishment use. Now, the applicant wishes to serve full alcohol, prompting this Special Use Permit request.

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."

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The Minimum Special Use Permit 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 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.

This requirement is not met. The proposed use requires a Waiver, to allow a 104-foot distance separation from a Church/House of Worship and a 325-foot distance separation from a School where 400 feet is required. While the proposed use is separated by Maryland Parkway, which is a 100-foot Primary Arterial, the proposed use necessitates a Variance of parking requirements, which staff cannot support. Therefore, staff does not support this Waiver request.

1. 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 having in excess of 200 guest rooms after July 1, 1992; or
 - b. Any Alcohol, On-Premise 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. The Special Use Permit approval may include conditions designed to mitigate any impacts related to distance separation.

The distance separation requirements set forth in Requirement 1 still apply, as the establishment does not have a non-restricted gaming license in connection with a hotel or resort, and is not located within the Pedestrian Mall, the Downtown Entertainment Overlay Districted, or the 18b Arts District.

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The subject property is parking impaired pursuant to Title 19.18.030 as there are 10 parking spaces where 14 spaces would be required for the existing restaurant. When there is an expansion of a parking impaired development that requires an increase in the number of required parking spaces, only the increase number of parking spaces shall be required. The submitted floor plan depicts a new 169 square-foot outdoor dining area, which requires an additional four parking spaces. A Variance is required as no additional parking spaces are proposed with this expansion.

Although the requested Waivers of distance separation requirements will not negatively impact the surrounding area, as the protected uses are separated by Maryland Parkway, a 100-foot Primary Arterial, no justification has been provided to warrant relief from Title 19.12 parking requirements. As such, staff finds the hardship to be self-imposed and preferential in nature. Therefore, staff recommends denial of the requested Variance and Special Use Permit. If approved, both will be subject to conditions.

FINDINGS (24-0456-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."

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 a restaurant expansion that would require four additional parking spaces, which cannot be accommodated on-site. 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 (24-0456-SUP1)

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 requested Waivers of distance separation requirements will not negatively impact surrounding and future land uses as they are separated by Maryland Parkway, a 100-foot Primary Arterial. However, a Variance of parking requirements is also required, which staff cannot support. Therefore, staff finds the proposed land use cannot be conducted in a manner that is harmonious and compatible with surrounding, future land uses.

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

The subject site is parking impaired. As a result of the proposed outdoor expansion, the proposed Alcohol On-Premise use requires four additional parking spaces, which the subject site cannot accommodate, prompting a Variance. Therefore, the subject site is not physically suitable for the type and intensity of land use proposed.

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 from Maryland Parkway, a 100-foot Primary Arterial, and 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 the Special Use Permit will be subject to business license review and compliance inspections to ensure that 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 Waivers of distance separation requirements from a Church/House of Worship and School, which staff does not support.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
07/20/66	The Board of City Commissioners approved a request to Rezone (Z-0045-66) property generally located on the southeast corner of Maryland Parkway and Exley Avenue from R-2 (Medium-Low Density Residential) to C-1 (Limited Commercial).
01/14/20	The Planning Commission approved a Special Use Permit (SUP-77942) for a proposed 1,125 square-foot Beer/Wine/Cooler On-Sale Establishment use at 2201 South Maryland Parkway. Staff recommended approval.

<i>Most Recent Change of Ownership</i>	
10/18/95	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
01/27/19	A business license (G67-00373) was issued for a restaurant with no alcohol sales at 2201 South Maryland Parkway. The license is still active.
04/26/21	A business license (P69-00014) was issued for the sale of beer and wine on premises at 2201 South Maryland Parkway. The license has been inactive as of 03/31/22.

<i>Pre-Application Meeting</i>	
09/03/24	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Special Use Permit and Variance.

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

<i>Field Check</i>	
10/03/24	Staff conducted a routine field check of the subject property and observed an existing restaurant in a commercial building. Staff also observed a food truck parked on a required accessible aisle and unpermitted signage. A Code Enforcement case (CE23-05579) is open and a condition of approval has been added to address any unpermitted signage.

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Details of Application Request	
Site Area	
Net Acres	0.16

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Restaurant	TOD-1 (Transit Oriented Development - High)	C-1 (Limited Commercial)
North	Undeveloped	TOC-1 (Transit Oriented Corridor - High)	P-R (Professional Office and Parking)
South	Restaurant	TOD-1 (Transit Oriented Development - High)	C-1 (Limited Commercial)
East	Residential, Duplex	ML (Medium Low Density Residential)	R-2 (Medium-Low Density Residential)
West	Church/House of Worship	TOC-1 (Transit Oriented Corridor - High)	C-1 (Limited Commercial)
	General Retail Store, Other than Listed	TOD-1 (Transit Oriented Development - High)	

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Downtown South	Y
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District (200 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)	N/A
Project of Regional Significance	N/A

DEVELOPMENT STANDARDS

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Maryland Parkway	Primary Arterial	Master Plan of Streets and Highways Map	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	
Alcohol, On-Premise Full	470 SF (Indoor Dining)	1 per 50 SF	10				
	775 SF (Indoor Remaining)	1 per 200 SF	4				
	169 SF (Outdoor Dining)	1 per 50 SF	4				
TOTAL SPACES REQUIRED			18		10		N
Regular and Handicap Spaces Required			17	1	9	1	N
Percent Deviation (for VAR only)			44%				

*A Variance is requested, to allow zero additional parking spaces where four additional parking spaces are required for a parking impaired development.

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<i>Waivers</i>		
<i>Requirement</i>	<i>Request</i>	<i>Staff Recommendation</i>
400-foot distance separation from a Church/House of Worship.	To allow a 104-foot distance separation	Denial
400-foot distance separation from a School.	To allow a 325-foot distance separation	Denial