

09/21/22 BCC AGENDA SHEET

RECREATIONAL FACILITY  
(TITLE 30)

HARMON AVE/KOVAL LN

PUBLIC HEARING

APP. NUMBER/OWNER/DESCRIPTION OF REQUEST

**AR-22-400094 (WC-0174-16 (UC-0849-14))-MGM GRAND PROPCO LLC:**

**WAIVER OF CONDITIONS FIFTH APPLICATION FOR REVIEW** of a use permit for live entertainment limited to daytime hours (6:00 a.m. to 10:00 p.m.) for a recreational facility (golf driving range) with accessory retail, eating and drinking facilities, live entertainment, and other accessory uses, and structures in conjunction with a resort hotel (MGM Grand) on a portion of 102.7 acres in an H-1 (Limited Resort and Apartment) (AE-60) Zone.

Generally located on the southwest corner of Harmon Avenue and Koval Lane within Paradise. JG/jud/syp (For possible action)

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RELATED INFORMATION:

**APN:**

162-21-414-001 ptn

**LAND USE PLAN:**

WINCHESTER/PARADISE - ENTERTAINMENT MIXED-USE

**BACKGROUND:**

**Project Description**

General Summary

- Site Address: 3799 Las Vegas Boulevard South
- Site Acreage: 102.7 (total resort hotel site)/8.5 (recreational facility)
- Project Type: Review of live entertainment

Site History

UC-0849-14 for a recreational facility (golf driving range) was approved with the condition limiting live entertainment to daytime hours (6:00 a.m. to 10:00 p.m.). A request to waive a condition of approval for UC-0849-14 limiting the hours allowed for live entertainment was approved in December 2016. The request was approved for a maximum of 3 nights per month for live entertainment events permitted including legal holidays (Memorial Day, New Years, Labor Day, 4<sup>th</sup> of July, and Presidents Day) with events ending at 12:00 a.m., for all remaining days, live entertainment events permitted only until 10:00 p.m.; and no live entertainment before 8:00 a.m.

### Site Plan

The originally approved recreational facility is on the northeast corner of the MGM Grand Resort Hotel site adjacent to the corner of Koval Lane and Harmon Avenue. Existing access is provided to the resort hotel and the recreational facility site from Las Vegas Boulevard South, Tropicana Avenue, Koval Lane, and Harmon Avenue. The recreational facility occupies the northeastern 8.5 acres of the resort hotel site. The facility consists of a single building located on the southern portion of the site. The northern approximately 640 feet, is an open field for the golf driving range. At various distances within the open field are targets for golfers. A 180 foot high mesh safety fence is located along the north, east, and west sides of the driving range to prevent golf balls from going into abutting properties or within the adjacent rights-of-way.

### Previous Conditions of Approval

Listed below are the approved conditions for AR-20-400089 (UC-0849-14):

#### Current Planning

- Until July 30, 2021 to review as a public hearing;
- Maximum of 3 nights per month for live entertainment events permitted including legal holidays (Memorial Day, New Years, Labor Day, 4th of July, and Presidents Day) with events ending at 12:00 a.m., for all remaining days, live entertainment events permitted only until 10:00 p.m.;
- No live entertainment before 8:00 a.m.;
- Applicant to continue to analyze the height and design of safety mesh to determine if it is adequate;
- Point of contact for complaints to be provided to adjacent residential property owners;
- Applicant to continue to coordinate with residents of Marie Antoinette Condominiums;
- Applicant to continue to review emerging technologies for sound mitigation opportunities;
- Applicant to monitor decibel measurements for Marie Antoinette Condominium units during events;
- Residents of the abutting residential developments and County staff to be notified a minimum of 30 days prior to each event planned to end past 10:00 p.m.
- Applicant is advised that a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time and application for review; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

Listed below are the approved conditions for AR-19-400066 (UC-0849-14):

#### Current Planning

- Until July 30, 2020 to review as a public hearing;
- Maximum of 3 nights per month for live entertainment events permitted including legal holidays (Memorial Day, New Years, Labor Day, 4th of July, and Presidents Day) with events ending at 12:00 a.m., for all remaining days, live entertainment events permitted only until 10:00 p.m.;
- No live entertainment before 8:00 a.m.;

- Applicant to continue to analyze the height and design of safety mesh to determine if it is adequate;
- Point of contact for complaints to be provided to adjacent residential property owners;
- Applicant to continue to coordinate with residents of Marie Antoinette Condominiums;
- Applicant to continue to review emerging technologies for sound mitigation opportunities;
- Applicant to monitor decibel measurements for Marie Antoinette Condominium units during events;
- Residents of the abutting residential developments and County staff to be notified a minimum of 30 days prior to each event planned to end past 10:00 p.m.
- Applicant is advised that a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time and application for review; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

Listed below are the approved conditions for AR-18-400135 (UC-0849-14):

#### Current Planning

- Until May 25, 2019 to review as a public hearing;
- Maximum of 3 nights per month for live entertainment events permitted including legal holidays (Memorial Day, New Years, Labor Day, 4<sup>th</sup> of July, and Presidents Day) with events ending at 12:00 a.m., for all remaining days, live entertainment events permitted only until 10:00 p.m.;
- No live entertainment before 8:00 a.m.;
- Applicant to continue to analyze the height and design of safety mesh to determine if it is adequate;
- Point of contact for complaints to be provided to adjacent residential property owners;
- Applicant to continue to coordinate with residents of Marie Antoinette Condominiums;
- Applicant to continue to review emerging technologies for sound mitigation opportunities;
- Applicant to monitor decibel measurements for Marie Antoinette units during events;
- Residents of the abutting residential developments and County staff to be notified a minimum of 30 days prior to each event planned to end past 10:00 p.m.
- Applicant is advised that a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time and application for review; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

Listed below are the approved conditions for UC-0849-14 (AR-0023-17):

#### Current Planning

- 1 year for review;
- Maximum of 3 nights per month for events permitted including legal holidays (Memorial Day, New Years, Labor Day, 4<sup>th</sup> of July, and Presidents Day) with events ending at 12:00

a.m., for all remaining days, events permitted only during daylight hours (to end at 10:00 p.m.);

- Applicant to analyze the height of safety mesh to determine if it is adequate;
- Point of contact for complaints to be provided to adjacent residential property owners;
- Applicant to continue to coordinate with residents of Marie Antoinette Condominiums;
- Applicant to continue to review emerging technologies for sound mitigation opportunities;
- Applicant to monitor decibel measurements for Marie Antoinette units during events;
- Temporary Commercial Event applications to be submitted for each event;
- Residents of the abutting residential developments to be notified a minimum of 30 days prior to each event with documentation of the notification to be submitted to staff with the Temporary Commercial Event application.
- Applicant is advised that a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time and application for review; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

Listed below are the approved conditions for UC-0849-14 (WC-0174-16):

#### Current Planning

- 2 months to review;
- Live entertainment limited to 12:00 a.m. on Friday, December 30, 2016 and until 1:00 a.m. for New Year's Eve 2016.
- Applicant is advised that a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time and application to review; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.

Listed below are the approved conditions for UC-0849-14:

#### Current Planning

- Raise mesh fence height to 180 feet;
- Parking lot and driving range area not to be used for outdoor live entertainment;
- Design review as a public hearing on lighting and signage;
- Live entertainment limited to daytime hours (6:00 a.m. to 10:00 p.m.);
- Mesh safety fence to be constructed of a non-transparent material;
- Certificate of Occupancy and/or business license shall not be issued without final zoning inspection.
- Applicant is advised that any change in circumstances or regulations may be justification for the denial of an extension of time; approval of this application does not constitute or imply approval of a liquor or gaming license or any other County issued permit, license, or approval; and that this application must commence within 2 years of approval date or it will expire.

#### Public Works – Development Review

- Drainage study and compliance;

- Traffic study and compliance.

#### Department of Aviation

- Applicant is required to file a valid FAA Form 7460-1, "Notice of Proposed Construction or Alteration" with the FAA, in accordance with 14 CFR Part 77, or submit to the Director of Aviation a "Property Owner's Shielding Determination Statement" and request written concurrence from the Department of Aviation;
- If applicant does not obtain written concurrence to a "Property Owner's Shielding Determination Statement," then applicant must also receive either a Permit from the Director of Aviation or a Variance from the Airport Hazard Areas Board of Adjustment (AHABA) prior to construction as required by Section 30.48 Part B of the Clark County Unified Development Code.
- Applicant is advised that the FAA's determination is advisory in nature and does not guarantee that a Director's Permit or an AHABA Variance will be approved; FAA's airspace determinations (the outcome of filing the FAA Form 7460-1) are dependent on petitions by any interested party and the height that will not present a hazard as determined by the FAA may change based on these comments; the FAA's airspace determinations include expiration dates; and that the separate airspace determinations will be needed for construction cranes or other temporary equipment.

#### Building/Fire Prevention

- Applicant is advised that fire/emergency access must comply with the Fire Code as amended; permits may be required for this facility; and to please contact Fire Prevention for further information at (702) 455-7316.

#### Clark County Water Reclamation District (CCWRD)

- Applicant is advised that property is already connected to the CCWRD sewer system; additional capacity and connection fees will need to be addressed; and that at the time of construction, submit civil improvement plans for review and approval along with wastewater flows to determine sewer point of connection.

#### Las Vegas Valley Water District (LVVWD)

- Applicant is advised that water and fire flow review are needed; and to please submit plans to LVVWD.

#### Signage

Signage is not a part of this request.

#### Applicant's Justification

This request has had 4 previous reviews since 2016. The applicant states this business continues to run without incident and works very hard to maintain a good working relationship with its neighbors, particularly Marie Antoinette Condominiums. Therefore, the applicant respectfully requests to forego the year review process and is requesting the application reviews to continue on a 3 year basis.

### Prior Land Use Requests

| <b>Application Number</b>    | <b>Request</b>                                                                                                                                                                                                                                                | <b>Action</b>   | <b>Date</b>   |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| AR-20-400089<br>(UC-0849-14) | Fourth application for review for waiver of condition limiting the hours for live entertainment to daytime hours for an interactive golf with driving range, club and pool (Topgolf)                                                                          | Approved by BCC | October 2020  |
| AR-19-400066<br>(UC-0849-14) | Third application for review for waiver of condition limiting the hours for live entertainment to daytime hours for an interactive golf with driving range, club and pool (Topgolf)                                                                           | Approved by BCC | July 2019     |
| DR-18-0649                   | Façade change                                                                                                                                                                                                                                                 | Approved by BCC | October 2018  |
| AR-18-400135<br>(UC-0849-14) | Second application for review for waiver of condition limiting the hours for live entertainment to daytime hours for an interactive golf with driving range, club and pool (Topgolf)                                                                          | Approved by BCC | July 2018     |
| DR-18-0081                   | Monorail Extension                                                                                                                                                                                                                                            | Approved by BCC | March 2018    |
| UC-0849-14<br>(AR-0023-17)   | First application for review for waiver of condition limiting the hours for live entertainment to daytime hours for an interactive golf with driving range, club and pool (Topgolf)                                                                           | Approved by BCC | May 2017      |
| DR-0695-17                   | Sign Modification                                                                                                                                                                                                                                             | Approved by BCC | November 2017 |
| UC-0285-17                   | Outdoor Sales Booth                                                                                                                                                                                                                                           | Approved by BCC | June 2017     |
| DR-0168-17                   | Convention center expansion                                                                                                                                                                                                                                   | Approved by BCC | April 2017    |
| UC-0849-14<br>(WC-0174-16)   | Waived conditions of a use permit to allow extended hours of operation for live entertainment in conjunction with a recreational facility (golf driving range)                                                                                                | Approved by BCC | December 2016 |
| UC-0373-10<br>(AR-0135-16)   | Second application for review to allow a temporary event for more than 10 days per event and allow membrane structures (tents)                                                                                                                                | Approved by BCC | December 2016 |
| DR-0347-15<br>(AR-0088-16)   | First application for review for lighting, animated signage (video display units), and mesh safety fence for a recreational facility (golf driving range) - approved with no further reviews required                                                         | Approved by BCC | August 2016   |
| DR-0347-15                   | Lighting and an amendment to a comprehensive sign package to permit additional freestanding signs, wall signs, animated signs, and directional signs for a recreational facility (golf driving range) with waivers of conditions of a use permit (UC-0849-14) | Approved by BCC | July 2015     |

**Prior Land Use Requests**

| <b>Application Number</b> | <b>Request</b>                                                                                | <b>Action</b>   | <b>Date</b>   |
|---------------------------|-----------------------------------------------------------------------------------------------|-----------------|---------------|
| UC-0849-14                | Interactive golf with driving range, club and pool (Topgolf)                                  | Approved by BCC | December 2014 |
| UC-0848-14                | Use Permit for a recreational facility                                                        | Denied by BCC   | December 2014 |
| VS-0530-14                | Vacated a pedestrian easement along Tropicana Avenue                                          | Approved by PC  | April 2014    |
| UC-0103-14                | VIP drop off area in conjunction with the MGM Grand Resort Hotel                              | Approved by BCC | April 2014    |
| DR-0103-12                | Expansion & interior modification to the MGM Grand Resort Hotel                               | Approved by BCC | April 2012    |
| DR-0165-11                | Six, 28,980 square foot wall signs                                                            | Approved by BCC | June 2011     |
| UC-0373-10                | Allow a temporary event for more than 10 days per event and allow membrane structures (tents) | Approved by BCC | October 2010  |
| UC-0103-08                | Manmade decorative water features                                                             | Approved by BCC | March 2008    |
| DR-0447-04                | Relocate a freestanding sign                                                                  | Approved by BCC | April 2004    |

**Surrounding Land Use**

|       | <b>Planned Land Use Category</b> | <b>Zoning District</b>    | <b>Existing Land Use</b>                                                                                                                                                                                     |
|-------|----------------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| North | Entertainment Mixed-Use          | H-1                       | Portions of Showcase Mall, commercial businesses, & undeveloped                                                                                                                                              |
| South | Entertainment Mixed-Use          | H-1, R-T, & C-2           | Tropicana & OYO Resort Hotels, commercial businesses, motels, & undeveloped                                                                                                                                  |
| East  | Entertainment Mixed-Use          | H-1, R-T, R-4, R-5, & C-2 | Marie Antoinette Condominiums, Wyndham Resort condominiums, apartments, commercial uses, & undeveloped                                                                                                       |
| West  | Entertainment Mixed-Use          | H-1 & R-5                 | The Grand Chateau Time Share Hotel, The Carriage House, MGM Signature Towers, portions of the Showcase Mall, Polo Towers, retail shops, restaurants, New York-New York Resort Hotel, & Park MGM Resort Hotel |

**STANDARDS FOR APPROVAL:**

The applicant shall demonstrate that the proposed request meets the goals and purposes of Title 30.

## **Analysis**

### **Current Planning**

Title 30 standards of approval for an application for review state that such an application may be denied or have additional conditions imposed if it is found that circumstances have substantially changed. A substantial change may include, without limitation, a change to the subject property, a change in the areas surrounding the subject property, or a change in the laws or policies affecting the subject property. Using the criteria set forth in Title 30, changes have occurred since the original approval and are identified during each application review. Since the approval of the original application and subsequent reviews there has been no changes to the condition of the subject property and surrounding area. Staff finds the current use of the property will continue to need periodic reviews due to the proximity of the residential use to evaluate neighborhood compatibility. Therefore, staff can support an additional 2 year review to assess if additional or modified conditions are necessary due to a change of circumstance in the future.

### **Staff Recommendation**

Approval.

If this request is approved, the Board and/or Commission finds that the application is consistent with the standards and purpose enumerated in the Master Plan, Title 30, and/or the Nevada Revised Statutes.

## **PRELIMINARY STAFF CONDITIONS:**

### **Current Planning**

- Until July 30, 2024 to review as a public hearing;
- Maximum of 3 nights per month for live entertainment events permitted including legal holidays (Memorial Day, New Years, Labor Day, 4th of July, and Presidents Day) with events ending at 12:00 a.m., for all remaining days, live entertainment events permitted only until 10:00 p.m.;
- No live entertainment before 8:00 a.m.;
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- Applicant is advised that a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time and application for review; and that the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified.



**Public Works - Development Review**

- Right-of-way dedication to include between 8.5 feet and 22 feet for Koval Lane;
- 30 days to coordinate with Public Works - Design Division to dedicate right-of -way and easements for the Koval Lane improvement project.

**Fire Prevention Bureau**

- No comment.

**Clark County Water Reclamation District (CCWRD)**

- No comment.

**TAB/CAC:** Paradise - approval.

**APPROVALS:**

**PROTEST:**

**APPLICANT:** TOPGOLF USA LAS VEGAS, LLC

**CONTACT:** LINDSAY KAEMPFER, KAEMPFER CROWELL, 1980 FESTIVAL PLAZA DRIVE, SUITE 650, LAS VEGAS, NV 89135