

**AGENDA SUMMARY PAGE - PLANNING & DEVELOPMENT
PLANNING COMMISSION MEETING OF: AUGUST 23, 2007**

DEPARTMENT: PLANNING & DEVELOPMENT

DIRECTOR: M. MARGO WHEELER

Consent Discussion

SUBJECT:

SUP-23093 - SPECIAL USE PERMIT - PUBLIC HEARING - APPLICANT: SHADOW MOUNTAIN MASSAGE NV, LLC - OWNER: SHADOW MOUNTAIN MARKETPLACE, LLC - Request for a Special Use Permit FOR A PROPOSED 3,270 SQUARE-FOOT MASSAGE ESTABLISHMENT WITH A WAIVER OF THE HOURS OF OPERATION LIMITATION TO ALLOW BUSINESS HOURS FROM 8:00 A.M. TO 10:00 P.M. WHERE BUSINESS HOURS ARE RESTRICTED TO 8:00 A.M. TO 9:00 P.M.; A WAIVER OF THE 400-FOOT MINIMUM DISTANCE SEPARATION REQUIREMENTS TO ALLOW A 67-FOOT DISTANCE SEPARATION FROM A PARCELED ZONED FOR RESIDENTIAL USE AND A 30-FOOT DISTANCE SEPARATION FROM A CITY PARK, AND A WAIVER OF THE 1,000-FOOT DISTANCE SEPARATION REQUIREMENT TO ALLOW A 150-FOOT DISTANCE SEPARATION FROM ANOTHER MASSAGE ESTABLISHMENT at 6475 North Decatur Boulevard, Suite #'s 140 and 165 (APN: 25-24-811-003) (City Limited Commercial) Zone, Ward 6 (Ross)

IF APPROVED C.C. 9/19/07

IF DENIED P.C.: FINAL ACTION (Unless Appealed Within 10 Days)

PROTESTS RECEIVED BEFORE: APPROVALS RECEIVED BEFORE:

Planning Commission Mtg. Planning Commission Mtg.

City Council Meeting City Council Meeting

**RECOMMENDATION:
DENIAL**

BACKUP DOCUMENTATION:

1. Location, Aerial and Special Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photos
5. Justification Letter
6. Protest postcards
7. Submitted after final agenda Protest postcards

Motion made by GLENN TROWBRIDGE to Hold in Abeyance 9/13/2007

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Passed For: 6; Against: 0; Abstain: 1; Did Not Vote: 0; Excused: 0

GLENN TROWBRIDGE, DAVID STEINMAN, STEPHEN EVANS, LEO DAVENPORT, BYRON GOYNES, SAM DUNNAM; (Against-None); (Abstain-RICHARD TRUESDELL); (Did Not Vote-None); (Excused-None)

NOTE: COMMISSIONER TRUESDELL abstained as he has outstanding invoices with this developer.

NOTE: An initial motion by GOYNES to HOLD IN ABEYANCE to 9/27/2007 was RESCINDED by GOYNES. Both motions carried UNANIMOUSLY.

Minutes:

CHAIRMAN DAVENPORT declared the Public Hearing open.

During the housekeeping portion of the agenda, ATTORNEY EABITHA KEETCH, 3800 Howard Hughes Parkway, indicated that her company was representing the applicant and had requested an abeyance for 30 days. DEPUTY CITY ATTORNEY JAMES B. LEWIS subsequently informed the Commissioners that this application was represented by ATTORNEY KEETCH for her firm and requested the item be heard.

COMMISSIONER EVANS suggested holding this item until after the application was renoticed, but DEPUTY CITY ATTORNEY LEWIS stated that would unfairly punish the applicant for another law firm's mistake.

DOUG RANKIN, Planning and Development Department, stated staff could not support the numerous requested waivers and recommended denial.

DEPUTY CITY ATTORNEY LEWIS stated the application should be renoticed in order to ensure that all concerned parties received adequate notification, but he also warned the applicant that there was a risk that an aggrieved party could make a complaint, despite the City's best efforts to keep the public informed.

STEVEN COOK, 7175 West Lake Mead Boulevard, appeared on behalf of the applicant and accepted the risk that there may be some problems related to the earlier abeyance request. He explained the business would be part of the Shadow Mountain Marketplace and while he acknowledged the property line did violate the City's distance separation requirements, he pointed out the physical location of the site exceeded those requirements. He also requested permission to extend the hours of operation to 10 pm. to accommodate 9 o'clock appointments.

Pointing out the submitted protest postcards, COMMISSIONER DUNNAM stated he could not support this application, noting the distance separation requirements were intended to prevent an oversaturation of a particular business in one area. He also stated that he had hoped the false

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abeyance request had been intended to allow the applicant to meet with City Councilmembers and himself regarding this application.

MR. COOK requested copies of the protest postcards and COMMISSIONER EVANS noted they were part of the public record.

TODD FARLOW, 245 North 19th Street requested clarification of the park's location and MR. COOK pointed out the future park's location.

MR. COOK stated his willingness to meet with COUNCILMAN ROSS and expressed his understanding that COUNCILMAN ROSS supported this project.

COMMISSIONER EVANS informed MR. COOK that the Commission will judge each application based on its own merits, using the applicant's and staff's assessments.

Noting the protests to this project, COMMISSIONER TROWBRIDGE encouraged MR. COOK to hold this item in order to meet with the neighborhood for concerns and COMMISSIONER EVANS concurred. MR. COOK agreed to submit the application.

In response to MR. COOK'S request for clarification, CHAIRMAN DAVENPORT explained the Commissioners were each appointed by a City Councilmember, but they did not represent specific areas within the City.

CHAIRMAN DAVENPORT declared the Public Hearing closed.

