

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

DEPARTMENT: PLANNING & DEVELOPMENT

DIRECTOR: M. MARGO WHEELER

Consent Discussion

SUBJECT:

**ABEYANCE - 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 10:00 P.M.; A
WAIVER OF THE 400-FOOT MINIMUM DISTANCE SEPARATION REQUIREMENTS TO
ALLOW A 67-FOOT DISTANCE SEPARATION FROM A PARCEL 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 130-FOOT DISTANCE SEPARATION FROM ANOTHER MASSAGE
ESTABLISHMENT at 6475 North Decatur Boulevard, Suite #s 160 and 165 (APN 125-24-811-
003), C-1 (Limited Commercial) Zone, Ward 6 (R)

IF APPROVED C.C. 10/17/07

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

PROTESTS RECEIVED BEFORE: APPROVALS RECEIVED BEFORE:

Planning Commission Mtg. Planning Commission Mtg. **1**

City Council Meeting City Council Meeting **0**

**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 at meeting Support letter by Kevin A. Marsh

Motion made by SAM DUNNAM to Approve subject to conditions and adding the following conditions as read for the record:

- A. The requested waiver of business hours is not approved.

B. There shall be a one year review of the hours of operation at a public hearing of the Planning Commission, from the date of issuance of business license.

Passed For: 5; Against: 0; Abstain: 1; Did Not Vote: 0; Excused: 1

GLENN TROWBRIDGE, DAVID STEINMAN, [NAME NOT FOUND], LEO DAVENPORT, SAM DUNNAM; (Against-None); (Abstain-RICHARD TRUESDELL); (Did Not Vote-None); (Excused-BYRON GOYNES)

NOTE: COMMISSIONER TRUESDELL abstained as he has an open contract with regards to one of the pad deals at this location.

Minutes:

CHAIRMAN DAVENPORT declared the Public Hearing open.

ANDY REED, Planning and Development Department, stated a waiver of the separation standard could not be supported and recommended denial.

JENNIFER LAZOVICH, 3800 Howard Hughes Parkway, appeared on behalf of the applicant and described the business' location. She explained the setbacks were needed because the Code measure distance from property line to property line and the business' actual location exceeded the separation requirements from the part of the residential area. With regards to the requested waiver of business hours, MS. LAZOVICH requested an extension of one hour be permitted to allow the business to take appointments until 9 p.m., noting the shopping center's other uses would not be taking place at that time. She added that several neighbors had attended the neighborhood meeting which had appeared to yield positive results.

KEVIN MARS, 1401 Sunblush Lane, co-owner of Shadow Mountain Market Place, submitted a letter of support from his partner and expressed his support.

HAROLD HAMMOND, 6484 Mimosa Valley Street, appeared in support.

COMMISSIONER DUNNAM observed that several opposition letters had been received and stated he could only support this application without the waiver of business hours. He suggested the applicant return in a year to review that condition and explore the option of extending the hours at that time. MARGO WHEELER, Director of Planning and Development Department, assisted COMMISSIONER DUNNAM in crafting the additional conditions. MS. LAZOVICH agreed to all conditions.

COMMISSIONER TROWBRIDGE expressed his support and observed that the addresses of the protesting property owners did not correspond to the map of the notification area.

CHAIRMAN DAVENPORT declared the Public Hearing closed.