

**AGENDA MEMO**

PLANNING COMMISSION MEETING DATE: SEPTEMBER 13, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: ABEYANCE - SUP-23093 - APPLICANT: SHADOW
MOUNTAIN MASSAGE NV, LLC - OWNER: SHADOW MOUNTAIN MARKETPLACE,
LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.050 for a Massage Establishment use, except as amended herein.
2. Conformance to the conditions for Rezoning (ZON-3976) and Site Development Plan Review (SDR-5050) if approved.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. A Waiver to allow the business to be open from 8:00 a.m. to 10:00 p.m. where 8:00 a.m. to 9:00 p.m. are the hours allowed is hereby approved.
5. 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 is hereby approved.
6. A Waiver of the 1,000-foot minimum distance separation requirements to allow a 130-foot distance separation from another Massage Establishment use is hereby approved.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a Massage Establishment use with waivers of the 400-foot distance separation requirement from an existing park and residential parcel, a waiver of the 1,000-foot distance separation from an existing Massage Establishment use located at 6482 North Decatur Boulevard, and a waiver from the hours of operation restriction. The use is proposed to occupy 3,270 square feet of an approved commercial center located at 6475 North Decatur Boulevard, Suites 160 and 165.

The subject proposal does not meet several of the conditions that are automatically applicable to Massage Establishment uses per Title 19.04. Specifically, the use will be located too close to a city park, residential parcel, and another Massage Establishment use. Additionally, the proposed hours of operation exceed those allowed by Title 19.04. For these reasons, staff recommends denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
08/25/97	The City Council approved a General Plan Amendment (GPA-0027-97) application to amend the Centennial Hills Sector Plan of the General Plan on a 30-acre portion property located on the northwest corner of Centennial Parkway and Decatur Boulevard from DR (Desert Rural) to SC (Service Commercial). The Planning Commission and Staff both recommended approval.
08/25/97	The City Council approved a Rezoning and Site Development Plan Review (Z0062-97) application for the reclassification of property located on the northwest corner of Centennial Parkway and Decatur Boulevard from R-E (Residence Estates) to C-1 (Limited Commercial) for a proposed 330,500 square foot commercial center. The Planning Commission and Staff both recommended approval.
01/17/01	The City Council approved a Rezoning and Site Development Plan Review (Z0107-00) application for the reclassification of a five-acre portion of property located on the southeast corner of Thom Boulevard and Rome Boulevard from R-E (Residence Estates) to C-1 (Limited Commercial) for a proposed commercial center. The Planning Commission and Staff both recommended approval.
06/20/01	The City Council approved a Rezoning (Z-0019-01) application for the reclassification 31.7 acres of property located on the northwest corner of Centennial Parkway and Decatur Boulevard from R-E (Residence Estates) and R-E (Residence Estates) under Resolution of Intent to C-1 (Limited Commercial) to C-1 (Limited Commercial). The Resolution of Intent was set to expire on 06/20/03. The prior Rezoning approvals Z-0062-97 and Z-0107-00 were expunged. The Planning Commission and Staff both recommended approval.

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07/16/03	The City Council approved an Extension of Time (EOT-2267) application for a Reinstatement and Extension of Time of an approved Rezoning (Z-0019-01) application for the reclassification 31.7 acres of property located on the northwest corner of Centennial Parkway and Decatur Boulevard from R-E (Residence Estates) and R-E (Residence Estates) under Resolution of Intent to C-1 (Limited Commercial) to C-1 (Limited Commercial). The Planning Commission and Staff both recommended approval
05/05/04	The City Council approved a Rezoning (ZON-3976) application for the reclassification 3.88 acres of property adjacent to the southeast corner of Thom Boulevard and Rome Boulevard from R-E (Residence Estates) to C-1 (Limited Commercial). The previous Resolution of Intent based upon Rezoning (Z-0107-00) application expired on 06/20/03. The Planning Commission recommended denial. Staff recommended approval
05/05/04	The City Council accepted the Withdrawal Without Prejudice for a Special Use Permit (SUP-3980) application for a proposed mini-warehouse facility adjacent to the southeast corner of Thom Boulevard and Rome Boulevard. The Planning Commission recommended denial. Staff recommended approval.
05/05/04	The City Council accepted the Withdrawal Without Prejudice for a Site Development Plan Review (SDR-3979) application for a proposed mini-warehouse facility adjacent to the southeast corner of Thom Boulevard and Rome Boulevard. The Planning Commission recommended denial. Staff recommended approval
10/07/04	The Planning Commission approved a Site Development Plan Review (SDR-5050) and Waivers of Building Placement and Foundation Landscaping Standards for a proposed 365,700 square foot shopping center (Shadow Mountains Marketplace) on 35.0 acres adjacent to the northwest corner of Decatur Boulevard and the Las Vegas Beltway. Staff recommended approval.
05/18/05	The City Council approved a Special Use Permit (SUP-6204) for a proposed Liquor Establishment (Off-Premise Consumption) use at 6555 North Decatur Boulevard. Planning Commission and staff recommended approval.
09/08/05	The Planning Commission approved a Master Sign Plan (MSP-8346) for an approved 365,700 square-foot shopping center (Shadow Mountains Marketplace) on 65.01 acres at 6555 North Decatur Boulevard. Staff recommended approval.
02/23/06	Staff administratively approved a Site Development Plan Review (SDR-11169) for two additional drive-through lanes for an approved Financial Institution, General use on a portion of 65.01 acres at 6555 North Decatur Boulevard.
03/15/06	The City Council approved a Special Use Permit (SUP-11170) for a proposed Supper Club use at 6555 North Decatur Boulevard. Planning Commission and staff recommended approval.
10/19/06	Staff administratively approved a Site Development Plan Review (SDR-16383) for a proposed 4,456 square-foot Restaurant 2,000 sq. ft. or more (Drive-Through) use on an approved pad site (Pad D) on a portion of 65.01 acres at 6475 North Decatur Boulevard
08/23/07	The Planning Commission held this item in abeyance.

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<i>Related Building Permits/Business Licenses</i>	
12/22/05	A building permit application, plan check C-0078-05, was submitted. This permit (06003724) issued on 05/30/06 for the shell building of Shop 1 on the site. This was for a plan check review to construct a shell retail building at 6475 North Decatur Boulevard. This permit expired on 11/26/06.
05/11/07	A building permit application, plan check L-1546-07, was submitted. This permit (07002222) issued on 07/11/07 for the spec suite C of C. This was for a plan check review for a suite 160 at 6475 North Decatur Boulevard.
06/25/07	A business license, B08-94123, for a Beauty/Cosmetics Sales category license was processed in by the Department of Finance and Business Services. This license has not been sent to the Planning and Development Department for review nor has this license been issued as of 08/09/07.
06/25/07	A business license, M03-94122, for a Massage Establishment category license was processed in by the Department of Finance and Business Services. This license has not been sent to the Planning and Development Department for review nor has this license been issued as of 08/09/07.
06/25/07	A business license, M14-95133, for a Membership Service Club or Membership Use Club category license was processed in by the Department of Finance and Business Services. This license has not been sent to the Planning and Development Department for review nor has this license been issued as of 08/09/07.
<i>Pre-Application Meeting</i>	
06/22/07	A pre-application meeting was held and elements of this application were discussed. It was noted that proof of ability to sign would be needed with the application and statement of financial interest. Submittal requirements were discussed.
<i>Neighborhood Meeting</i>	
09/10/07	A neighborhood meeting has been scheduled to be held at the Cimarron Rose Community Center, 5591 N. Cimarron Rd, at 6:30 p.m.

<i>Field Check</i>	
07/16/07	The Department of Planning and Development conducted a site visit that found that this site is actively under construction.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	20.95

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	SC (Service Commercial)	C-1 (Limited Commercial)
North	Undeveloped	ML (Medium-Low Density Residential)	R-E (Residence Estates)
South	ROW (CC 215)	ROW (CC 215)	ROW (CC 215)
East	Shopping Center	Commercial, City of North Las Vegas	C-2 (General Commercial) - City of North Las Vegas
West	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
	Single-Family, Detached	ML (Medium-Low Density Residential)	R-1 (Single Family Residential)
	Undeveloped	ML (Medium-Low Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	n/a
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	n/a
Trails	X		Y *
Rural Preservation Overlay District		X	n/a
Development Impact Notification Assessment		X	n/a
Project of Regional Significance	X		Y **

* There is a trail designated at the southern portion of this site. All trail related conditions were addressed as a part of the Site Development Plan Review (SDR-5050) and are not impacted by this special use permit.

** This review outlines a project that meets the threshold that defines a Project of Regional Significance as outlined in the ordinance for a Special Use Permit application concerning property within 500 feet of the City boundary with North Las Vegas. The applicant has prepared an impact report as required by the Ordinance for referral to the City of North Las Vegas and other affected agencies. As of the current date, no response has been received from North Las Vegas.

DEVELOPMENT STANDARDS

Pursuant to Title 19.04 and 19.10, the following parking standards apply:

Parking Requirement							
<i>Use</i>	<i>Gross Floor Area or Number of Units</i>	<i>Parking Ratio</i>	<i>Required</i>		<i>Provided</i>		<i>Compliance</i>
			<i>Parking</i>		<i>Parking</i>		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center (25,000 SF 350,000 SF GFA) *	350,152 SF	1 Space / 250 SF GFA	1,372 Spaces	29 Spaces	1,910 Spaces	59 Spaces	Y
TOTAL (including handicap)			1,401 Spaces		1,969 Spaces		Y

* Under Title 19.04, a shopping center use is defined as Any structure or group of structures that: (1) House any assemblage of various commercial tenants, including without limitation, retail uses, personal service uses, food service uses, and other ancillary uses; (2) Have a minimum combined gross floor area of 25,000 square feet and a maximum combined gross floor area of 350,000 square feet; (3) Are located upon a single parcel of land or upon contiguous parcels of land; and (4) Have common vehicular access and parking facilities. This development is deemed a shopping center use and parking is calculated for the overall development, not each individual use.

Waivers		
Request	Requirement	Staff Recommendation
To allow a distance separation of 67 feet to a parcel zoned for residential use	The use may not be located within 400 feet of any church, synagogue, school, city park, child care facility or any parcel zoned for residential use	Denial
To allow a distance separation of 30 feet to a city park	The use may not be located within 400 feet of any church, synagogue, school, city park, child care facility or any parcel zoned for residential use	Denial
To allow a distance separation of 130 feet to another Massage Establishment use	The use may not be located within 1,000 feet of any other massage establishment	Denial
To allow hours of operation from 8:00 a.m. to 10:00 p.m.	The hours of operation shall be limited to the period between 8:00 a.m. and 9:00 p.m.	Denial

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ANALYSIS

The subject site is designated SC (Service Commercial) on the Centennial Hills Sector Map of the General Plan. This land use category allows low to medium intensity retail, office, or other commercial uses that serve primarily local area patrons and do not include more intense general commercial characteristics. The existing C-1 (Limited Commercial) zoning district is consistent with the General Plan, and the proposed Massage Establishment is a permitted use with the approval of a Special Use Permit.

The proposed Massage Establishment use is to allow a 3,270 square-foot operation to locate within an approved shopping center at 6475 North Decatur Boulevard. The plans indicate that there will be 12 standard therapy rooms and one couples therapy room in addition to a reception area with an office, restrooms, break room / laundry and multiple storage closets.

Pursuant to Title 19.04 the Minimum Requirements of Approval for a Massage Establishment use in a C-1 (Limited Commercial) district are:

1. The use shall comply with all applicable requirements of LVMC Title 6.
2. The use must be located on a secondary thoroughfare or larger.
3. The use may not be located within 400 hundred feet of any church, synagogue, school, city park, child care facility, or any parcel zoned for residential use.
4. The use may not be located within 1,000 feet of any other massage establishment.
5. The hours of operation shall be limited to the period between 8:00 a.m. and 9:00 p.m., unless further limited by the City Council on a case-by-case basis.

The applicant is requesting waivers of these distance separation requirements to allow 67 feet to a parcel zoned for residential use, 30 feet to a city park, and 130 feet to another Massage Establishment use. Further, the applicant is asking for relief from the hours of operation restriction to allow operating hours of 8:00 a.m. to 10:00 p.m. where 8:00 a.m. to 9:00 p.m. is allowed.

The proposed use is not well-suited with the surrounding area based on standards set forth in Title 19.04 for Massage Establishments as referenced above. The proposal is located in close proximity to a city park, residential parcels and to another similar use. Additionally, the applicant is looking to exceed the hours of operation prescribed by the code. As such, this use cannot be conducted in a manner that is harmonious and compatible with the surrounding development and staff is recommending denial of this Special Use Permit.

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FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 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 use is not harmonious with this particular area as Title 19.04 sets forth distance requirements and hours of operation to protect uses from this type of business. This proposal does not meet those distance standards.

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

The subject site is physically suitable for the 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.**

The site is served by North Decatur Boulevard (a 100-foot primary arterial). This thoroughfare is capable of accommodating the traffic flow created by the site and the 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 use will not support the public health, safety, and general welfare as it would violate the protections adopted by Title 19.04 for Massage Establishment uses.

- 5. The use meets all of the applicable conditions per Title 19.04.**

The use does not meet all applicable conditions of Title 19.04 for Massage Establishment uses. The location of this use requires waivers of the distance separations to a residential use, a city park and another such use. Additionally, a waiver has been requested to exceed the hours of operation established for this type of use.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 2

ASSEMBLY DISTRICT 13

SENATE DISTRICT 9

NOTICES MAILED 465

APPROVALS 0

PROTESTS 13