



**AGENDA MEMO**

**CITY COUNCIL MEETING DATE:        SEPTEMBER 17, 2008**  
**DEPARTMENT:    PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: SUP-28826 - APPLICANT: KATHRINE VON ARX, LLC -**  
**OWNER: DOUGLAS B KAYS**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (4-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1.     Conformance to all Minimum Requirements under LVMC Title 19.04.050 for a Massage Establishment use.
2.     Conformance to the conditions for Rezoning (Z-0018-67), 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.     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 proposed 100 square-foot Massage Establishment use within an existing Swap Meet with Waivers to allow a zero-foot distance separation, where 400 feet is required from a residential parcel and to allow a 312-foot distance separation, where a 1,000-foot distance separation from another Massage Establishment is required at 1717 South Decatur Boulevard. The proposed use is will occupy one booth of approximately 100 square feet within an existing Swap Meet.

The subject proposal fails to meet several of the minimum Special Use Permit requirements for a Massage Establishment uses per Title 19.04. Specifically, the use will be located too close to a residential parcel, and another Massage Establishment use; therefore staff recommends denial of this request.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
12/06/67	The City Commission approved a Rezoning (Z-0018-67) from R-1 (Single Family Residential and R-3 (Medium Density Residential) to C-1 (Limited Commercial) for a Shopping Center at 1717 South Decatur Boulevard.
01/14/86	The Planning Commission approved a Plot Plan Review (Z-0018-67) of an Off -Premise Advertising Sign at 1717 South Decatur Boulevard.
12/17/96	The Board of Zoning Adjustment approved a Special Use Permit (U-0143-96) for the Storage of Automobiles at 1717 South Decatur Boulevard.
05/16/01	The City Council approved a Special Use Permit (U-0036-01) for Psychic Arts at 1717 South Decatur Boulevard. The Planning Commission and staff recommended approval of this request.
08/15/01	The City Council approved a Special Use Permit (U-0085-01) for a 60-foot tall wireless communications monopole on the southeast corner of Oakey Boulevard and Decatur boulevard. The Planning Commission and staff recommended approval of this request.
12/17/03	The City Council approved a Special Use Permit (SUP-2859) for Auto Deal Inventory Storage at 1717 South Decatur Boulevard. The Planning Commission recommended approval, whereas staff recommended denial of this request.
01/19/05	The City Council approved a Required One Year Review (RQR-5544) of an approved Special Use Permit (SUP-2859) for an Auto Dealer Inventory Storage at 1717 South Decatur Boulevard. The Planning Commission recommended approval, whereas staff recommended denial of this request.

04/19/06	The City Council approved a Required One Year Review (RQR-11657) of an approved Special Use Permit (SUP-2859) for an Auto Dealer Inventory Storage at 1717 South Decatur Boulevard. The Planning Commission and staff recommended approval of this request.
02/07/07	The City Council approved a Review of Condition (ROC-18775) number 6 of an approved Special Use Permit (SUP-2859) to allow the existing use to continue for an additional three years subject to a required review within three years at 1717 South Decatur Boulevard. Staff recommended denial of this request.
08/14/08	The Planning Commission voted 4-0 to recommend APPROVAL (PC Agenda Item #50/ed).
<b><i>Related Building Permits/Business Licenses</i></b>	
10/11/00	A business license (M06-01608) was issued for Swap Meet/Retail Sales at 1717 South Decatur Boulevard.
10/14/05	A business license (A39-00351) was issued for Auto Accessories at 1717 South Decatur Boulevard.
07/13/06	A business license (M15-03322) was issued for Computer Sales and Service at 1717 South Decatur Boulevard.
09/07/06	A business license (L03-00163) was issued for Leather Goods at 1717 South Decatur Boulevard.
01/23/07	A business license (T01-00376) was issued for a Tailor at 1717 South Decatur Boulevard.
02/27/07	A business license (M02-00130) was issued for Car Care Products at 1717 South Decatur Boulevard.
04/17/07	A business license (G04-06244) was issued for Costume Jewelry at 1717 South Decatur Boulevard.
04/17/07	A business license (H10-00250) was issued for Health Food/Vitamin Store at 1717 South Decatur Boulevard.
05/21/07	A business license (A08-01617) was issued for Appliance Sales and Service at 1717 South Decatur Boulevard.
06/14/07	A business license (R07-00221) was issued for a Restaurant Seating Under 45 at 1717 South Decatur Boulevard.
06/23/07	A business license (V07-00214) was issued for Video/DVD Rental and Sales at 1717 South Decatur Boulevard.
07/06/07	A business license (S07-00483) was issued for Shoe Sales at 1717 South Decatur Boulevard.
09/12/07	A business license (T07-00865) was issued for a Travel Agency at 1717 South Decatur Boulevard.
09/21/07	A business license (T11-00917) was issued for Television and Audio Sales/Service at 1717 South Decatur Boulevard.
11/30/07	A business license (M17-00236) was issued for Music Store Sales, Service, and Rental at 1717 South Decatur Boulevard.
12/07/07	

	A business license (E14-00108) was issued for Sunglass Sales at 1717 South Decatur Boulevard.
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01/17/08	A business license (C03-00046) was issued for Clothing/Jewelry at 1717 South Decatur Boulevard.
01/18/08	A business license (P06-00971) was issued for Photography business at 1717 South Decatur Boulevard.
01/31/08	A business license (M21-01078) was issued for Merchandise Broker at 1717 South Decatur Boulevard.
02/04/08	A business license (J01-02028) was issued for Jewelry Sales and Repairs at 1717 South Decatur Boulevard.
02/15/08	A business license (I04-03515) was issued for Insurance Producer at 1717 South Decatur Boulevard.
02/25/08	A business license (M18-04281) was issued for Management or Market Service at 1717 South Decatur Boulevard.
03/26/08	A business license (B20-01428) was issued for Business Services at 1717 South Decatur Boulevard.
03/28/08	A business license (E07-01996) was issued for Furniture Sales at 1717 South Decatur Boulevard.
04/18/08	A business license (G09-00018) was issued for a Small Arcade at 1717 South Decatur Boulevard.
04/18/08	A business license (A48-00177) was issued for Miscellaneous Art Gallery at 1717 South Decatur Boulevard.
05/01/08	A business license (B08-01274) was issued for Teeth Whitening at 1717 South Decatur Boulevard.
05/14/08	A business license (P05-00441) was issued for Pet Shop/Supplies at 1717 South Decatur Boulevard.
05/28/08	A business license (A47-00080) was issued for Artist/Caricatures at 1717 South Decatur Boulevard.
06/26/08	A business license (M12-91965) was denied for a Massage Therapist at 1717 South Decatur Boulevard.
07/10/08	A business license (P27-00530) was issued for Personal Services at 1717 South Decatur Boulevard.
<b><i>Pre-Application Meeting</i></b>	
06/16/08	A pre-application meeting was held in order to discuss locating a Massage Establishment within an existing Swap Meet at 1717 South Decatur Boulevard. This use requires a Special Use Permit in a C-1 (Limited Commercial) zoning district. It was determined that this request would require a Waiver from residentially protected property and a Waiver from an existing Massage Establishment. The submittal requirements for this Special Use Permit were discussed at length.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held for this request.	

<b>Field Check</b>	
07/10/08	A field check was conducted at the subject site and found that this Swap Meet facility is only open during the weekends.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	15.17

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Swap Meet	SC (Service Commercial)	C-1 (Limited Commercial)
North	Commercial Center	SC (Service Commercial)	C-1 (Limited Commercial)
	Apartments	M (Medium Density Residential)	R-3 (Medium Density Residential)
South	Post Office	PF (Public Facilities)	C-1 (Limited Commercial)
	Commercial Center	GC (General Commercial)	C-2 (General Commercial)
	Condominiums	M (Medium Density Residential)	R-3 (Medium Density Residential)
East	Single-Family Residences	ML (Medium Low Density Residential)	R-PD8 (Residential Planned Development 8 Units Per Acre)
West	Commercial Center	SC (Service Commercial)	C-1 (Limited Commercial)
	Tavern	GC (General Commercial)	C-2 (General Commercial)

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

\* A Pedestrian Trail is located on at the northern portion of this site. This existing pedestrian trail conforms to the requirements of this trail.

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.10, the following parking standards apply:*

<b>Parking Requirement</b>							
<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	
Swap Meet	134,881 SF	1 space / 175 SF	755	16	963	43	Y
<b>TOTAL</b>			771		1006		Y

<b>Waivers</b>		
<b>Request</b>	<b>Requirement</b>	<b>Staff Recommendation</b>
To allow a distance separation of zero 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 312 feet to another Massage Establishment use	The use may not be located within 1,000 feet of any other massage establishment	Denial

**ANALYSIS**

- **Zoning**

This project is located within the C-1 (Limited Commercial) zoning district. This district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This district should be located on the periphery of residential neighborhoods and should be confined to the intersections of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) zoning district is consistent with the SC (Service Commercial) and NS (Neighborhood Services) categories of the General Plan. The subject site is in conformance with the current General Plan designation. A Massage Establishment use is permitted in the C-1 (Limited Commercial) zoning district with approval of a Special Use Permit.

- **Use**

A Massage Establishment is defined in Title 19.04: as A facility which is occupied and used for the purpose of practicing massage therapy as defined in LVMC chapter 6.52. This proposed Massage Establishment is located within an existing Swap Meet located at 1717 South Decatur Boulevard in a 100 square-foot booth. The plans indicate that there will be a total of one massage chair located within the middle of this booth. In addition to this chair, three customer waiting chairs are located on the northerly portion of this booth.

- **Minimum Special Use Permit Requirements**

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 a zero-foot distance separation to a parcel zoned for residential use, and a 312-foot distance separation to another Massage Establishment use.

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 residential parcels and to another similar use. 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.

## **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 proposed use, including adequate parking for the proposed use and access.

**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 Decatur Boulevard, a 100-foot Primary Arterial and Oakey Boulevard, an 80-foot Secondary Collector as depicted in the Master Plan of Streets and Highways. These thoroughfares are capable of accommodating the traffic flow created by the site and this 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, and another Massage Establishment use.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

**ASSEMBLY DISTRICT** 42

**SENATE DISTRICT** 11

**NOTICES MAILED** 483 by City Clerk

**APPROVALS** 1

**PROTESTS** 1