

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: MARCH 26, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - SUP-32748 - APPLICANT: JULIA LIV - OWNER: NORTSHORE PLAZA, LLC**

**** CONDITIONS ******STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:**Planning and Development**

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Massage Establishment use, including parking requirements.
2. 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.
3. The use shall comply with all applicable requirements of LVMC Title 6.
4. A Waiver from Title 19.04.010 is hereby approved, to allow a zero-foot distance separation between a Massage Establishment and a residential use where 400 feet is required.
5. A Waiver from Title 19.04.010 is hereby approved, to allow hours of operation to be between 8:00 a.m. and 11:00 p.m.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a proposed Massage Establishment at 8370 West Cheyenne Avenue, Suite #101. The subject location is within a 133,930 square-foot Shopping Center. A request has been made by the applicant for a Waiver of the minimum Special Use Permit Requirements regarding the hours of operation limitations for the Massage Establishment use, seeks to allow hours of operation from 8:00 a.m. to 11:00 p.m. The applicant has also requested a zero-foot distance separation from a residentially zoned property where 400 feet is required. Though situated along a 100-foot primary Arterial roadway, the subject Shopping Center is surrounded by residential uses of various types and densities including Apartments, Condominiums and Single-Family Residences. The subject location is not appropriate for the intensity of the proposed use, due to the proximity of the subject site to residential property combined with the request to extend the hours of operation; therefore, staff recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
03/16/94	The City Council approved a request for a General Plan Amendment (GPA-0004-94) to change the land use designation from ML (Medium Low Density Residential) to SC (Service Commercial). The Planning Commission and staff recommended approval.
03/16/94	The City Council approved a Rezoning (Z-0007-94) from N-U (Non-Urban) zone to C1 (Limited Commercial) and R-PD8 (Residential Planned Development - 8 Units per Acre) zone. The Planning Commission and staff recommended approval.
01/04/95	The City of Las Vegas approved a Site Development Plan Review [Z-0027-94(01)] for single-family homes on the subject site. The Planning Commission and staff recommended approval.
09/14/95	The Planning Commission approved a request for a Site Development Plan Review [Z-0007-94(3)] for a 137,674 square-foot Shopping Center on the northwest corner of Cheyenne Avenue and Soaring Gulls Drive. Staff recommended approval.
11/15/95	The City Council approved a request for a Special Use Permit for a proposed Tavern. The Board of Zoning recommended approval.
07/28/97	The City Council approved a request for a Special Use Permit (U-0056-97) for a Beer/Wine/Cooler On-Sale Establishment at 8380 West Cheyenne Avenue. The Planning Commission and staff recommended approval.
08/11/97	The City Council approved a request for a Special Use Permit (U-0059-97) for a Beer/Wine/Cooler On-Sale Establishment at 8410 West Cheyenne Avenue. The Planning Commission and staff recommended approval.

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06/08/98	The City Council approved a request for a Special Use Permit for a Secondhand Dealer for the buying a selling of used jewelry in conjunction with an existing jewelry store. The Planning Commission and staff recommended approval.
06/19/00	The City Council approved a request for a Site Development Plan Review (Z-0007-94(6) for a proposed 8,065 square foot commercial center. The Planning Commission and staff recommended approval.
07/15/02	The City Council approved a request for a Site Development Plan Review (Z-0007-94(8) for a proposed 13,680 square foot Minor Auto Repair Facility. The Planning Commission and staff recommended approval.
01/21/04	The City Council approved a request for a Special Use Permit (SUP-3333) for a Financial Institution, Specified at 8410 West Cheyenne Avenue, Suite #100. The Planning Commission and staff recommended approval.
06/15/05	The City Council approved a request for a Special Use Permit (SUP-6378) for a proposed Auto Title Loan with Waivers of the 200 foot separation from residential zoning and the 1500 foot minimum area requirement between similar uses at 8410 West Cheyenne Avenue, Suite #101. The Planning Commission and staff recommended approval.
03/12/09	The Special Use Permit (SUP-32748) was held in abeyance at the 03/12/09 Planning Commission meeting at the request of the applicant and has been re-scheduled for 03/26/09.

<i>Related Building Permits/Business Licenses</i>	
01/24/06	A business license (#Q07-00331) was issued for a Chiropractor at 8370 West Cheyenne Avenue, Suite #101. The business license was marked out of business on 03/06/08.
12/03/08	A business license (#M03-95843) application was received for a Massage Establishment, and is pending a Metropolitan Police Department Review and the outcome of the subject Special Use Permit application.
12/03/08	A business license (#R03-95844) application for a Reflexology Establishment was received. The license application was routed to the Planning and Development Department on 01/13/09 and planning approved the use on 01/14/09, but it has not been issued yet.
12/03/08	A business license (#R11-95845) application was received for a Reflexology Practitioner, this license has yet to be routed to the Planning and Development Department for review.
<i>Pre-Application Meeting</i>	
12/11/08	The requirements for a Special Use Permit application were discussed with the applicant.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not held, nor was one required.	

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Field Check	
01/08/09	Staff conducted a site visit and found the subject location to be a vacant suite within an existing commercial shopping center.

Details of Application Request	
Site Area	
Gross Acres	13.71

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Apartments	M (Medium Density Residential)	R-3 (Medium Density Residential)
South	Condominiums	M (Medium Density Residential)	R-PD5 (Residential Planned Development 5 Units per Acre)
East	Single-Family Residences	ML (Medium Low Density Residential)	R-PD8 (Residential Planned Development 8 Units per Acre)
West	Golf Course/Recreational Center	PR-OS (Parks/Recreation/Open Space)	C-V (Civic)

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

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Parking Ratio	Required		Provided		Compliance
			Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	133,930 SF	1:250 SF	525	11	584	32	Y*
TOTAL			536		620		

*The subject site is located within a 133,930 square-foot Shopping Center which requires one space per 250 square feet of gross floor area.

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Waivers		
Request	Requirement	Staff Recommendation
To allow a distance separation of zero feet to a parcel zoned for residential use.	Per Title 19.04 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 hours of operation from 8:00 a.m. to 11:00 p.m.	Per Title 19.04 the use is restricted to hours of operation between 8:00 AM and 9:00 PM unless further limited by the City Council on a case-by-case basis.	Denial

ANALYSIS

This is a request for a Special Use Permit for a proposed Massage Establishment at 8370 West Cheyenne Avenue, Suite #101. A request has been made by the applicant for a Waiver of Title 19.04 hours of operation limitations for the Massage Establishment use from 8:00 a.m. to 9:00 p.m. to 8:00 a.m. to 11:00 p.m. The applicant has also requested a zero-foot distance separation from a residentially zoned property where 400 feet is required.

The subject location is within a 133,930 square-foot Shopping Center which accesses Cheyenne Avenue, Soaring Gulls Drive and has indirect access to Durango Drive via an adjacent property. The site has adequate parking provided, with 620 spaces, including 32 handicapped spaces.

- **Zoning**

The subject site is within the Southwest Sector of the General Plan with the land use designation of SC (Service Commercial). The subject site is zoned C-1 (Limited Commercial) zoning district which is in conformance with the General Plan, and the Massage Establishment use is permitted in that district with the approval of a Special Use Permit.

The C-1 (Limited Commercial) district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This proposed site is located along a primary thoroughfare (Cheyenne Avenue) and is part of a major retail corridor.

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- **Floor Plan**

The proposed 1,050 square-foot in-line site consists of a reception area, an employee room/office, four massage rooms ranging in size from approximately 100 square feet to 70 square feet and a restroom area with two shower stalls.

- **Minimum Special Use Permit Requirements**

Title 19.04.010 defines the Massage Establishment use as a facility which is occupied and used for the purpose of practicing massage therapy as defined in LVMC Chapter 6.52.

Title 19.04.010 lists the following conditions for the Massage Establishment use:

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 feet of any church, synagogue, school, City park, child care facility, or any parcel zoned for residential uses.
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 restricted by the City Council on a case-by-case basis.

The proposed use fails to meet the Title 19.04.010 Massage Establishment Special Use Permit requirement #3 and #5. Staff finds that the use is not appropriate within the subject commercial center as it is in close proximity to protected uses. In addition, the request to extend the hours of operation are intense for an area that is surrounded by residential use; therefore, staff recommends denial.

FINDINGS

The following findings must be made for a Special Use Permit:

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 location is inappropriate as it is located within an area that is surrounded by residential property. In addition to proposing the use within close proximity to protected residential use the applicant also proposes to extend the hours of operation beyond that which is required under Title 19.04.010 which restricts hours of operation from 8:00 a.m. to 9:00 p.m. to allow hours to extend to 11:00 p.m. Staff finds that the use is not appropriate within the subject commercial center due to the close proximity to residential

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uses and that combined with the request to extend hours of operation to 11:00 p.m. that this request is not appropriate, and would not be compatible nor harmonious with the surrounding residential area.

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

The subject site is physically suitable for the Massage Establishment use, however the proposed location is not suitable for the intensity of the use as proposed. The applicant proposes to locate within a Shopping Center that directly abuts residential uses. Additionally, the applicant proposes to have hours of operation extending to 11:00 PM. Staff finds the use to be too intense for the proposed location.

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 subject site is accessed via two driveways from Cheyenne Avenue, three driveways from Soaring Gulls Drive and has indirect access to Durango Drive via an adjacent property to the west. According to the Master Plan of Streets and Highways, Cheyenne Avenue and Durango Drive are both designated as 100-foot Primary Arterials. Soaring Gulls Drive is designated a 60-foot Collector by the Master Plan of Streets and Highways. All of these roadways provide more than adequate access and capacity for the proposed 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.

The subject use would be required to undergo periodic inspection by the State of Nevada, Southern Nevada Health District, and City of Las Vegas business and licensing and therefore would not compromise public health, safety or welfare.

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

The use fails to meet two of the minimum Special Use Permit requirements for the Massage Establishment use. Requirement #3 calls for a minimum 400-foot distance between the use and any church, synagogue, school, city park, child care facility, or any parcel zoned for residential uses. There are two separate residential parcels adjacent to the subject Shopping Center. Requirement #5 limits the hours of operation for the use to the period between 8:00 a.m. and 9:00 p.m., unless further restricted by the City Council on a case-by-case basis; the applicant is proposing to extend hours of operation from 8:00 a.m. to 11:00 p.m.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 11

ASSEMBLY DISTRICT 37

SENATE DISTRICT 6

NOTICES MAILED 882

APPROVALS 1

PROTESTS 36