



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: MAY 27, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT: RIVI SALON - OWNER: RECEIVERSHIP
ESTATE OF VILLAGE SQUARE SHOPPING CENTER, LLC

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-38096	Staff recommends DENIAL, if approved subject to conditions:	
SUP-37665	Staff recommends DENIAL, if approved subject to conditions:	VAR-38096

** CONDITIONS **

VAR-38096 CONDITIONS

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-37665) shall be required, if approved.
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. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

SUP-37665 CONDITIONS

Planning and Development

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for a Massage Establishment use.
2. Approval of and conformance to the Conditions of Approval for Variance (VAR-38096) shall be required.
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. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. These Conditions of Approval shall be affixed to the cover sheet of the plan set submitted for building permit.
5. 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 to add a 608 square-foot Massage Establishment use within an existing 2,450 square-foot Beauty Salon and a Variance to allow no additional parking where 10 additional spaces are required at 9410 West Sahara Avenue, Suite #140. The proposed use will be located within the Village Square Shopping Center. The applicant is seeking waivers to allow a zero-foot distance separation from a synagogue and parcel zoned for residential use where 400 feet is required and a parking variance; therefore, the use cannot be conducted in a manner that is harmonious and compatible with surrounding uses, and staff recommends denial. If this application is denied, the proposed Massage Establishment use cannot be located within the subject tenant space, nor can a business license be obtained for the use at this location.

ISSUES

- Approval of the parking Variance (VAR-37295) to allow no additional parking spaces where 10 parking spaces are required is necessary for the Special Use Permit to be approved.
- The applicant is requesting waivers of Title 19.04.010, minimum Special Use Permit requirements, to allow a zero-foot distance separation from a synagogue and parcel zoned for residential use where 400 feet is required.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
12/22/80	The City Council approved a request for Annexation (A-0018-80) of a parcel of land generally bounded by Sahara Avenue on the south, Hualapai Way on the west, Ducharme Avenue on the north and Durango Drive on the east, containing approximately 2,246 acres of land. Planning Commission and staff recommended approval.
02/15/89	The City Council approved a Rezoning (Z-0139-88) application for the reclassification of property from N-U (Non-Urban) under Resolution of Intent to R-PD4 (Residential Planned Development – 4 Unit Per Acre), P-R (Professional Office and Parking), C-1 (Limited Commercial), and C-V (Civic), to R-PD7 (Residential Planned Development – 7 Unit Per Acre), R-3 (Medium Density Residence), and C-1 (Limited Commercial) for property generally located on the west side of Fort Apache Road, between Sahara Avenue and Charleston Boulevard. 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 (U-0038-98) for a proposed Supper Club in conjunction with a proposed 6,648 square-foot restaurant on property located on the north side of Sahara Avenue, west of Fort Apache Road. Planning Commission recommended approval.
	The City Council approved a request for a Site Development Plan Review [Z-0139-88(24)] for a proposed 27,418 square-foot two-story retail and office building and a 33,207 square-foot two-story retail and office building located on the north side of Sahara Avenue, west of Fort Apache Road. The Planning Commission recommended approval of the request.
11/09/98	The City Council approved a Variance (VAR-12102) to allow 2,404 parking where 2,440 is the minimum number of spaces required in conjunction with the addition of a 1,200 square-foot restaurant within the existing shopping center. The Planning Commission recommended approval and staff recommended denial.
04/07/10	The City Council approved a Variance (VAR-37295) to allow no additional parking spaces where 36 additional spaces are required at the northwest corner of Fort Apache Road and Sahara Avenue. The Planning Commission recommended approval and staff recommended denial.
	The City Council approved a Special Use Permit (SUP-36961) for a Major Amendment to an approved Special Use Permit (U-0038-98) to add 2,820 square feet of building area and outside seating area to an existing 7,265 square-foot Supper Club use at 9500 West Sahara Avenue. The Planning Commission recommended approval and staff recommended denial.
	The City Council approved a Site Development Plan Review (SDR-36962) for a Major Amendment to a previously approved Rezoning and Plot Plan Review (Z-0139-88) for a proposed 2,036 square-foot addition to an existing 6,648 square-foot commercial building at 9500 West Sahara Avenue. The Planning Commission recommended approval and staff recommended denial.

Most Recent Change of Ownership

12/15/06	A deed was recorded for a change in ownership.
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Related Building Permits/Business Licenses

02/26/98	A building permit (#98004011) was issued for a Tenant Improvement for a Beauty Salon at 9410 West Sahara Avenue, Suite #140. The project was completed on 06/26/98.
05/14/98	A business license (B05-02681) was issued for a Beauty Salon at 9410 West Sahara Avenue, Suite #140. The license is inactive as of 07/09/08.
	A business license (B08-00575) was issued for a Beauty Supply Sales at 9410 West Sahara Avenue, Suite #140. The license is inactive as of 07/09/08.
	A business license (M03-00037) was issued for a Massage Establishment at 9410 West Sahara Avenue, Suite #140. The license is inactive as of 07/09/08.

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10/14/09	A business license (B05-03152) was issued for a Beauty Salon at 9410 West Sahara Avenue, Suite #140. The license is currently active.
	A business license (B08-01383) was issued for a Beauty Supply Sales at 9410 West Sahara, Avenue Suite #140. The license is currently active.
03/18/10	A business license (M03-94677) was denied by Planning and Development Department for a Massage Establishment at 9410 West Sahara Avenue, Suite #140. Prior to the approval of this license a Special Use Permit for a Massage Establishment uses is required.

Pre-Application Meeting

02/22/10	A pre application meeting was held with the applicant where the submittal requirements for a Special Use Permit for a Massage Establishment and Variance for parking were discussed. Topics included:
	• A request for waivers for the Massage Establishment to be within 400 feet of synagogue and parcel zoned for residential use. • The justification letter needs to indicate the current hours of operation of the Beauty Salon. • A Variance application is needed for parking at Village Square, due to the previously approved variance to allow 2,112 parking spaces where 2,476 spaces are required. Massage Establishment parking requirement is two spaces for each massage room, which requires an additional 10 parking spaces.

Neighborhood Meeting

A neighborhood meeting is not required, nor was one held.

Field Check

04/22/10	Staff conducted a site visit and noted a banner sign tied to the metal mesh structure over Suite #140.
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Details of Application Request

Site Area

Net Acres	1.79
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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.04</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Apartments	M (Medium Density Residential)	R-PD21 (Residential Planned Development – 21 Units Per Acre)
South	Bank, Apartments	SC (Service Commercial), M (Medium Density Residential)	C-1 (Limited Commercial), R-PD20 (Residential Planned Development – 20 Units Per Acre)
East	Commercial Shopping Center	M (Medium Density Residential), SC (Service Commercial)	C-1 (Limited Commercial), R-PD18 (Residential Planned Development – 18 Units Per Acre)
West	Library, Church, Apartments	PF (Public Facilities), SC (Service Commercial), M (Medium Density Residential)	C-V (Civic) C-1 (Limited Commercial), R-3 (Medium Density Residential)

<i>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Master Plan Area		X	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Las Vegas Redevelopment Plan Area		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Commercial Center (Existing)	425,720 S.F.		2,476				
Massage Establishment (Proposed)	2,450 S.F.	Two spaces for each massage room	10				
TOTAL SPACES REQUIRED			2,486				
TOTAL (With Handicapped)			2451	35	2,112*		
Percent Deviation			14%				

*As approved by Variance (VAR-37295)

Waivers		
Requirement	Request	Staff Recommendation
Title 19.04.010 A Massage Establishment within 400-foot distance separation from synagogue and parcel zoned for residential use.	Zero Feet	Denial

ANALYSIS

The applicant is requesting a Special Use Permit for a Massage Establishment use with waivers to be located within an existing Beauty Salon. The waivers are requested to allow the Massage Establishment use to have a zero-foot distance separation from a synagogue and a parcel zoned for residential use, where 400 feet is the minimum distance requirement. The proposed use will occupy 608 square feet within an existing 2,450 square-foot Beauty Salon.

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The applicant is requesting a Variance to allow no additional parking spaces where 10 additional parking spaces are required for a proposed Massage Establishment use. The submitted floor plan indicates five massage rooms within the Beauty Salon. The Massage Establishment parking requirement is two spaces for each massage room. A companion Variance (VAR-38096) has been submitted to address the proposed use parking requirements.

The subject site is located within a commercial subdivision with a reciprocal parking and access throughout. A previous Variance (VAR-37295) was approved in 2010 to allow 2,112 parking spaces where 2,476 spaces were required. The Massage Establishment use would increase the parking requirement of the site to 2,486 spaces. Currently, Title 19.04 allows parking for either a Shopping Center or a Regional Mall to be calculated at the rate of one space per 250 square feet of gross floor area, regardless of the individual uses, resulting in a requirement for 1,703 spaces and a Variance would not be necessary as there are 2,112 spaces provided. However, per Title 19.04, a Shopping Center is limited from 25,000 to 350,000 square feet of gross floor area and a Regional Mall is defined as an enclosed structure with a minimum of 350,000 square feet of gross floor area, with typical means of access to the various uses from inside the mall structure. The subject site does not meet either of these requirements, as the gross floor area exceeds the maximum 350,000 square feet allowed for a Shopping Center, and consists of numerous pad sites containing buildings with less than 350,000 square feet of gross floor area each, and with separate outside access from one another. Therefore, the parking requirement for the overall commercial subdivision must be calculated based on the individual uses.

The request for a Special Use Permit for a Massage Establishment fails to meet the minimum use requirements of Title 19.04 for distance separation. The additional required parking spaces result in an increase in the parking deficiency of the overall commercial subdivision, and the applicant has provided no evidence of a unique or extraordinary circumstance that would substantiate the Variance and Waiver requests; therefore, staff is recommending denial of the request, as the applicant has created a self-imposed hardship by proposing to add the Massage Establishment use.

FINDINGS (VAR-38096)

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

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Additionally, Title 19.18.070(L) states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by adding the Massage Establishment use, which has a parking requirement that is too intense for the site to accommodate. Proposing an Accessory Massage use with a maximum of 150 square feet of space will conform to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

FINDINGS (SUP-37665)

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 Massage Establishment use is permitted in the C-1 (Limited Commercial) zoning district and is located within an existing commercial subdivision. However, the proposed use within an existing Beauty Salon results in additional required parking spaces that cannot be accommodated on-site. The applicant has requested Waivers of Title 19.04.010 standards, minimum distance separation requirements to allow a zero-foot distance separation from 400 feet of a synagogue and a parcel zoned for residential use. Thus, the proposed Massage Establishment use cannot be conducted in a manner that is harmonious and compatible with the surrounding uses.

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

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The existing Beauty Salon use is located within a commercial subdivision that was designed to accommodate a variety of uses; however, with the proposed Massage Establishment use, the site cannot accommodate the additional required parking spaces. The proposed use is within 400 feet from a synagogue and the commercial subdivision directly abuts a parcel zoned for residential use, making the subject site unsuitable for the intensity of the proposed use.

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 accessed by Sahara Avenue and Fort Apache Road, which are both designated as 100-Foot Primary Arterials by the Master Plan of Streets and Highways. These streets provide adequate access to and from the subject property.

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 proposed Special Use Permit will not compromise the public health, safety or welfare, as a Massage Establishment use is subject to licensing and inspection by the City of Las Vegas. The Massage Establishment use is consistent with the existing SC (Service Commercial) General Plan designation.

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

The Massage Establishment use fails to meet both Title 19.04 distance separation requirements and Title 19.10 on-site parking standards.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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NOTICES MAILED 882

APPROVALS 2

PROTESTS 2