ITEM 4C: OPTIONS REGARDING MASSAGE ESTABLISHMENTS

On August 21, 2018, the City Council adopted Urgency Interim Ordinance No. 2183 (Attachment 1 to this memo), which prohibits new massage establishments within the Downtown Specific Plan (DSP) area, and limits expansion of existing establishments, with certain limited exceptions. This ordinance was follow-up to an initial discussion held by the City Council at its July 17, 2018, meeting, when direction was provided to staff to develop the Urgency Ordinance.

The topic of massage establishments, particularly as located downtown, has been discussed by the Task Force in the context of the active ground floor uses overlay and whether “personal services,” defined in the Pleasanton Municipal Code as including massage establishments, should be allowed as ground floor uses. Massage businesses were also discussed during the Task Force “land use discrepancies” conversations, specifically related to the property located at 1056 Division Street. For that property, the fact that the current “Office” land use designation permits personal services, including massage establishments, raised concerns for some surrounding neighbors, a number of whom provided comment to the Task Force and City Council about the compatibility of massage uses with residential uses.

The current definition of active ground floor use in the public review draft of the specific plan is excerpted below. The Task Force direction to-date has been to not include personal services as part of the definition of active ground floor use.

"Active ground floor use" means a use that promotes an active pedestrian environment on the ground floor of a commercial building, and includes retail establishments, restaurants, bars and brew pubs, art and craft studios, and other uses determined by the director of community development to be substantially similar to the foregoing, or to have unique characteristics such that the objectives of the overlay district would be met.

There are 24 massage establishments currently located downtown. This number includes day spas, beauty salons, and chiropractor offices that provide massage services as a component of their services, as well as stand-alone massage establishments. A map showing the locations of the existing establishments is included as part of this memo, with identification numbers on the map itemized in a table. The map shows the physical distribution of existing massage establishments, with the land use designations for each of the locations summarized in the table. Of the 24 existing establishments, the majority are in the C-C district; three are in the new Mixed Use –
Transitional District (one is currently zoned Office District and two are currently zoned C-C District, but with a specific plan designation of Office. Due to the Office specific plan land use designation, staff has deferred to and utilized the PMC’s Office District’s list of permitted uses for properties with this designation). As seen on the map, the massage establishments are dispersed widely throughout downtown, without a notable concentration in any specific subarea.

The following are options for regulating massage establishments downtown:

1. **Concentration thresholds, and/or separation thresholds** (i.e., an overall limit on the total number of massage establishments located downtown, and/or requirement that massage establishments be separated from one another by certain radius or linear distance). There are currently 66 massage establishments Citywide, and as mentioned, 24 are located downtown. For clarification, the 66 establishments include some that provide massages “offsite” (e.g., at Oracle or Workday), and others that provide massage services as part of a chiropractic office. Also as noted above, some of the 24 establishments located downtown are also part of other businesses, such as day spas, beauty salons, and chiropractic offices, whereas others provide only massage services. A concentration threshold (e.g., no more than 25 massage establishments downtown) would limit the total number of massage establishments downtown, meaning that once the maximum is reached, a new massage establishment could not locate downtown until an existing location closed or moved out of the area. Employing this approach would need clarification on whether two establishments in the same location could “count” as a single location, or whether they would be counted as two (e.g., of the 24 that are located downtown, two are in the same location; see Map IDs #3 and #4 at 357 Ray Street, but operate under two different establishment permits). A separation requirement would require that massage establishments be separated by a certain radius or linear distance on a specific street, and could be potentially be combined with a concentration threshold.

2. **Requirement of a Conditional Use Permit (CUP) (or Minor Conditional Use Permit (MCUP)) for all massage establishments downtown** (i.e., any business seeking a permit for a massage establishment would need to secure Planning Commission approval, through which the Planning Commission may evaluate factors such as concentration and separation on a case-by-case basis, as above).

It should be noted that the City has, until now, become more permissive of massage establishments over time. Before 1997, all massage establishments were subject to Planning Commission Conditional Use Permit (CUP) approval. A code amendment approved in 1997 allowed administrative (“over-the-counter”) approval of small massage establishments (defined as having three or fewer technicians at one time) and establishments with greater than three technicians subject to CUP approval. A 2017 code amendment created the Minor Conditional Use Permit (MCUP) process for massage establishments with more than three
technicians at one time\(^1\) and establishments with three or fewer technicians remained as an over-the-counter approval). A less onerous permitting process would be to require all massage establishments obtain a Minor Conditional Use Permit.

A third version of this “CUP” option that also incorporates a separation threshold is to require a CUP if the massage establishment meets certain criteria. This approach is similar to that adopted by City Council in 2012 for financial institutions wherein those that meet certain criteria (i.e., located in a C-C District, located within the Downtown Revitalization District, and have ground floor frontage on Main Street) would be subject to Conditional Use Permit approval by the Planning Commission. The code indicates that the Planning Commission shall discourage more than one financial institution within any block of Main Street (including both sides of the street as defined by address, e.g., 100 block, 200 block, etc.) and encourage retail businesses on corners that add to the vitality and pedestrian interest in downtown.

3. **Prohibition of additional massage establishments from locating downtown** (i.e., no new massage establishments would be allowed downtown, and existing, legal massage establishments would become non-conforming uses). Under this option, the City would not permit new massage establishments downtown, and if an existing establishment lapsed for a period greater than 90 days, it would not be able to retain its non-conforming status, and the tenant space would be required to be replaced with a use that conforms to code requirements. In the long-run, the number of massage establishments downtown could be significantly reduced, or massage establishments could be completely phased out. Of this options identified in this memo, this option is the most restrictive for massage establishments.

4. **Exemption of massage establishments from the Active Ground Floor Overlay area requirement** such that massage establishments can be located on the first floor along Main Street and areas of the Mixed-Use Downtown District. Several of the public comments and public testimony received at the August 21, 2018, City Council meeting indicated that massage is often used in conjunction with medical treatment, and thus people with injuries can find it difficult to access second floor tenant spaces, especially in older buildings located downtown that provide second floor access via stairs and not an elevator. Allowing massage establishments on the first along Main Street would also allow more visibility of the business and the business operation. This option, of the options identified in this memo, would make it more permissive for massage establishments to locate downtown compared to the language currently in the specific plan related to active ground floor uses.

\(^1\) The MCUP process is subject to approval by the Zoning Administrator (instead of the Planning Commission) unless appealed.
Public Comment
At the July 21, 2018, City Council meeting, one of the neighbors to the property at 1056 Division Street spoke and urged the City Council to adopt the ordinance. There were several massage establishment owners present for the August 21, 2018, City Council meeting that provided public testimony. Written communication received in preparation for the August 21, 2018, City Council meeting, as well as comments received after the City Council meeting is attached to this memo as Attachment 2. Massage establishment owners communicated that the Ordinance does not support expansion of small businesses downtown, particularly when many establishment owners and technicians have secured professional training above the minimum requirements, and provide a valuable service to many downtown patrons and visitors. As mentioned in this memo, some also expressed concern about limiting personal services to the second floor on Main Street since those seeking medical treatment may find it challenging to access a second floor suite.

Task Force Input
Staff is soliciting initial Task Force input on the options related to massage establishments downtown, with the understanding that this topic will be presented to other groups such as the Economic Vitality Committee, Pleasanton Downtown Association, and Chamber of Commerce. Upon obtaining feedback from these other groups, staff can return to the Task Force with a summary, and the Task Force will be asked to make a recommendation regarding massage establishments in the Downtown Specific Plan area for incorporation into the specific plan document upon adoption (with additional implementation measures, such as amendments to the Pleasanton Municipal Code, as needed).

Attachments:
1. Ordinance 2183
2. Public Comment Received for the August 21, 2018, City Council meeting, and follow-up comments
### Item 4C: Options Regarding Massage Establishments

<table>
<thead>
<tr>
<th>Map ID</th>
<th>Massage Establishment Name</th>
<th>Massage Establishment Location</th>
<th>General Plan Land Use Designation</th>
<th>Specific Plan Land Use Designation</th>
<th>Zoning Designation</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Vintage Massage</td>
<td>855 Main Street</td>
<td>Commercial</td>
<td>Downtown Commercial</td>
<td>C-C</td>
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<td>Diane L Lovitz, CMT</td>
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<td>Commercial</td>
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<tr>
<td>3</td>
<td>Heavenly Day Spa &amp; Salon</td>
<td>357 Ray ST</td>
<td>Commercial</td>
<td>Downtown Commercial</td>
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<td>4</td>
<td>Take Care Massage Therapy</td>
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<td>Commercial</td>
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<td>5</td>
<td>Body Balance Fitness &amp; Massage</td>
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<td>6</td>
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<td>7</td>
<td>Natural Massage Spa</td>
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<td>8</td>
<td>New Lucky Spa</td>
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<td>Peony Spa</td>
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<td>Lisa Sogo, CMT</td>
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<td>The BRAT House Day Spa</td>
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<td>Wanda L. Schneider, CMT</td>
<td>4725 First ST #205</td>
<td>Commercial</td>
<td>Downtown Commercial</td>
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</tbody>
</table>

2 While Commercial is listed as shorthand, the land use designation in the General Plan is Retail/Highway/Service Commercial/Business and Professional Offices

1 C-C is shorthand for Central-Commercial District

Prepared for the November 13, 2018 Downtown Specific Plan Update Task Force Meeting

Distributed at the November 13, 2018, Downtown Specific Plan Update Task Force Meeting
ORDINANCE NO. 2183

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON
AMENDING AND EXTENDING URGENCY (INTERIM) ORDINANCE NO. 2182
PROHIBITING THE ISSUANCE OF SPECIFIED APPROVALS AND PERMITS FOR
NEW OR EXPANDING MASSAGE ESTABLISHMENTS IN THE DOWNTOWN
SPECIFIC PLAN AREA FOR 22 MONTHS AND 15 DAYS

WHEREAS, on July 17, 2018, the City Council adopted Urgency (Interim) Ordinance No. 2182 prohibiting the issuance of specified approvals and permits for new or expanding massage establishments in the Downtown Specific Plan area ("the Ordinance"); and

WHEREAS, the Ordinance was adopted following notice pursuant to Government Code section 65090 and a public hearing; and

WHEREAS, on August 21, 2018, the City Council issued a report describing the measures taken to alleviate the condition which led to the adoption of the Ordinance; and

WHEREAS, the City Council now wishes to amend and extend the Ordinance for 22 months and 15 days.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The recitals and findings contained in Urgency (Interim) Ordinance No. 2182 remain in effect.

SECTION 2. Section 1 of Urgency (Interim) Ordinance No. 2182 is amended to read as follows:

SECTION 1. During the time this Urgency Ordinance is in effect, no zoning or land use approval shall be granted, no business license, no massage establishment (as defined in the Massage Therapy Act and Pleasanton Municipal Code) permit, or other permit or entitlement shall be issued, for the establishment, operation, or expansion of:

a) a new massage establishment;

b) the expansion of the square footage of any building space within which a Massage establishment is operating; and

c) new tenant improvements for discretionary upgrades (i.e., upgrades not necessary for health and safety reasons) requiring building permits for any building space within which a massage establishment is operating;

in the Downtown Specific Plan area shown in Exhibit A. Notwithstanding the foregoing, any existing massage establishment in the Downtown Specific Plan area shall be allowed to (subject to compliance with the Pleasanton Municipal Code, including but not limited to Ch. 6.24, and the Massage Therapy Act):

1) renew an annual City of Pleasanton business license;
2) apply for a minor conditional use permit for the expansion of an existing permitted massage establishment to increase the number of massage technicians to four or more technicians at any one time;

3) apply for a revised sign permit;

4) apply for a building permit to address any health and safety issues for any building space within which the existing massage establishment is operating;

5) change ownership of the existing massage establishment, subject to Pleasanton Municipal Code Ch. 18.120 Nonconforming Uses.

SECTION 3. Urgency (Interim) Ordinance No. 2182 is extended for a period of 22 months and 15 days from its expiration date. Except as described above, all terms adopted under the Ordinance shall continue with full force and effect as if re-stated here.

SECTION 4. This ordinance is an urgency ordinance enacted under Government Code sections 65858 and 36937 and takes effect immediately upon adoption.

SECTION 5. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to sections 15060(c) (2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c) (3) (the activity is not a project as defined in section 15378) of the CEQA Guidelines (California Code of Regulations, Title 14, Ch. 3).

SECTION 6. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

The foregoing ordinance was adopted at a regular meeting of the City Council of the City of Pleasanton on August 21, 2018 by the following vote:

Ayes: Councilmembers Brown, Narum, Olson, Mayor Thorne
Noes: None
Absent: Councilmember Pentin
Abstain: None

Jerry Thorne, Mayor

ATTEST:
Karen Diaz, City Clerk
Dated: 9/28/18
APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney
From: Upuia Ahkiong  
Sent: Tuesday, July 17, 2018 4:25 PM  
To: Pleasanton City Clerk  
Subject: OPPOSE the ban on new massage businesses downtown

Hello Gerry and Council,

I just left you a voice message after learning today that the Council is going to decide on enforcing a temporary ban on new massage businesses downtown.

Please share this during the Council. My apologies for any typos as I just learned about this ban and in between clients:

__________

Dear Members of the Council and Community of Pleasanton,

My name is Upuia Ahkiong, resident of Pleasanton, certified massage therapist and owner of Kua Body in downtown on Peters Avenue.

I learned today that you plan to vote on banning new massage establishments in the downtown and prohibit massage venues from expanding. I have been practicing massage therapy professionally for 16 years both as a small business owner and spent 10 years helping to grown the world-wide Google Massage Program.

As a small business owner, I wholeheartedly 100% oppose this ban and any suggestion of prohibiting small massage therapy businesses from practicing, expanding and growing their businesses in the downtown area. My colleagues and I have maintained a strong professional / ethical reputation in the City of Pleasanton for years and want to continue fostering this type of opportunity for our future and fellow therapists.

By singling out an industry because of one incident is bordering on prejudice and is unjust. I have been active in helping to support the vitality of the downtown, a member of the PDA, and a frequent patron of the many downtown businesses. The ban does not support small businesses instead it's anti-small business and community. Massage Therapy is a legitimate profession and should be respected like any other health/medical industry.

I would have liked to be there in person to meet you all and share my thoughts and suggestions about a decision you are about to make. I'm currently working with clients and not able to make it. I ask you do not ban any new/current massage therapist or establishment from operating or expanding their business.

I would like the opportunity to share more about this topic if there is another meeting.

Sincerely,

Upuia Ahkiong
From: Beverly Gill  
Sent: Thursday, July 12, 2018 6:20 PM  
To: Shweta Bonn <sbonn@cityofpleasantonca.gov>  
Subject: Re: July 17 City Council | Massage Ordinance

Ms Bonn,  
I am in agreement with the decision regarding massage establishments.  
Beverly Gill

Sent from Yahoo Mail on Android

On Thu, Jul 12, 2018 at 4:22 PM, City of Pleasanton - Planning Division  
<sbonn@cityofpleasantonca.gov> wrote:

Dear Downtown Specific Plan Update Interested Parties,

Please find online the July 17, 2018, City Council agenda. An item on the agenda is an urgency ordinance relevant to massage establishments located within the Downtown Specific Plan area (see Item 16).

~Shweta

Shweta Bonn  
Senior Planner, Community Development Department  
D: 925-931-5611  
F: 925-931-5483  
sbonn@cityofpleasantonca.gov  
City of Pleasanton | P.O. Box 520, Pleasanton, CA 94566
July 29, 2018

Dear Mayor Thorne and Pleasanton City Council Members:

My name is Denise Schuchardt. I was born, raised in and currently reside in Pleasanton. I am a client of Michelle Pena, who owns Healthy Necessity Massage. I am writing this letter in support of the therapeutic massage businesses that operate within Pleasanton. It is my understanding that a new ordinance was passed limiting massage businesses within the city limits. It is also my understanding that the new rules not only apply to new massage businesses, but to existing ones as well.

I am a teacher by profession (I do not work for Pleasanton Unified) and my job can be very stressful depending on the year. About 8 years ago I had a particularly difficult class to the point where my stress was causing health issues including inflamed sciatic nerve on both sides of my body as well as the finger on my left hand seizing up as well. I was miserable. My mother, who is also a client of Michelle’s, recommended I get a massage from Michelle. I’m so glad I did! I felt relief immediately after the massage. I then started to make a regular monthly appointment for a massage with Michelle and continue to see her to this day. Michelle not only provides massages, she also gives advice on how to keep things working well. She understands kinesiology very well. One time I was planning on a long, multi-day car trip across the country and I was worried about my sciatic acting up because of the length of time sitting in a car. Michelle gave me ideas on how to stretch things out and keep things loose so I wasn’t in pain. Her advice worked perfectly. She provides a valuable service that is dearly needed.

I understand that some residents of Pleasanton are concerned about the amount of massage businesses opening up in town. I understand that some residents are concerned that many massage businesses may not on the up and up—referring to them as “Massage Parlors”. A therapeutic massage business, such as Healthy Necessity, is NOT a massage parlor nor is it operating a questionable business. They are legitimate businesses that provide a valuable service to our community.

It is my understanding that the city has deemed that no massage business, including current operating ones, can operate their business on the first floor of a building. If a current massage business wants to move to a ground floor establishment, they would be unable to in town. For a therapeutic massage business, this is detrimental to their business model. Currently, Healthy Necessity Massage operates on the 2nd floor of a
building downtown. The only way to access the 2nd floor is up an outside access long flight of stairs which can be slippery during the rainy season. Many of Michelle’s clients have a difficult time accessing those stairs for various physical reasons. She has been looking for several years to move her business to a 1st floor location somewhere downtown so that all her clients can safely patronize her business. Her business has grown considerably over the years because of her knowledge and the outstanding massages she gives everyone. She won’t be able to grow her business if she is restricted were she can and cannot operate it within the city limits if she needs to move it to a safer location for her clients.

I sympathize with other residents’ concerns about many massage businesses opening up in town. I also sympathize with their concerns that some may be operating under questionable circumstances. For those kinds of issues, the city should check into those complaints and be choosy about issuing business licenses to massage businesses that want to open up in town. The city can also create city ordinances that focus on making sure that all businesses operating within Pleasanton city limits are operating legitimate businesses. Those kinds of ordinances are specifically targeted to the concerns that residents are bringing up. However, to create blanket ordinances that hurt legitimate massage businesses aren’t the answer. It isn’t the fault of Healthy Necessity Massage, and those like it, that there are so many massage businesses in town. It also isn’t their fault that there may be some questionable things going on at other establishments. So why should they have to suffer with these new rules?

I know the city needs to balance the feelings of the residents with the business needs of the community. Michelle Pena at Healthy Necessity Massage, and those businesses like hers, is providing needed and wanted massage services to residents of Pleasanton. Like me, we want them to continue to do this without making their business lives difficult with city ordinances that impede their growth and operation. I implore the City Council to revisit these ordinances. I also implore them to listen to the business owners who do therapeutic massage to understand that they are not some seedy business. They provide business revenue for the city legitimately. They are deeply ingrained in our community. Please change the city ordinance so that these wonderful businesses can continue to operate in Pleasanton.

Sincerely,

Denise Schuchardt
From: Guy Thomsen [mailto:]
Subject: FW: Pleasanton City Council
Date: Jul 22, 2018 at 10:04:45 AM
To: michelle pena

To the Pleasanton City Council:
It has come to my attention that you have put a temporary ban on ALL Massage Therapists in your town and are possibly considering kicking them ALL out of your adorable town.
For myself, I have lived in Pleasanton for 25 years, and have since moved to Brentwood, 10 years ago, but I still come to Pleasanton almost weekly to see my dentist, doctors, beauty salon, nails, and of course my much needed massages that Michelle of Healthy Necessity provides for me. I have been seeing her for over 10 years, and she is truly the ONE person who saves my life and keeps me moving, and restores my ability to function. Her knowledge of anatomy and muscles, the strength of her hands, thumbs, and elbows, and always her ready smile is what keeps me coming back month after month, year after year. Most of my injuries are related to sports and she enables me to get up in the morning and move without pain. At 66, arthritis has kicked in and with her massages she manages to keep it at bay........all of this without any pain pills or other meds, because Michelle is our pain relief. I have had so much success in her restorative therapy that I have recommended her to almost all of my friends and all who have gone to her walk away feeling 10 years younger because we can all WALK out of her office with no pain. Because of her skills and magic hands, and yes Council Members, she does have magic hands, we all just keep coming back for more of her rehabilitation therapy cause seriously, we can’t live without her. Michelle is a “Healthy Necessity” just as her logo reflects. If you need validation, just book an appointment with her and see for yourself. She is the most professional, courteous, and all powerful masseuse I have ever been too, and believe me, when I say I have traveled the world and get massages in most places I go too, but NO ONE and I mean NO ONE can take Michelle’s place. Besides with her sweet personality and beautiful smile, you just want to adopt her!
I do realize that I can only speak on her behalf, as I have not tried any of the other masseuses in the area, but if there are some unsavory things going on in other massage places, punish/fine/close those institutions! Do Not throw out the whole barrel if there is only one rotten apple........any more than you would fire all of the council members if one on the Board was crooked, right!!!!!!
Thank you for attention. Nicole Thomsen, Brentwood, California
July 22, 2018

Henry Romero
Fremont, California 94538

Pleasanton City Council
Mayor Jerry Thorne
Karla Brown
Kathy Narum
Arne Olson
Jerry Pentin

Subject: Proposed Ban on Massage Businesses Downtown

Dear Pleasanton City Council,

I read with some interest in the Pleasanton Weekly on the ban of new massage businesses in Pleasanton. In reading said article it sounds like there was a sound basis for this move. However it would seem that a sound background check of the individual and follow up inspections would have revealed the unlawful business practices.

I must reveal my perspective, in that I’m a retired law enforcement officer, and even patrolled the Dublin, Pleasanton, and Livermore Area for over 12 years. In doing so injured my back. I have run the gamut of medical procedures short of surgery. I do not wish to have the surgery, as the risks are high for an unsuccessful outcome.

My Doctor recommender Chiropractic Therapy which lead the way to Chiropractic Massage, which I have been successful receiving for over 5 years. My massage therapist professional services have enabled me to live a satisfactory life with no discomfort. She is located in Pleasanton and is a respected Professional and has a large client base. She wishes to expand her business in
downtown Pleasanton hoping to obtain a first floor space that would offer better parking and make it easier for her clients to enter her business.

I would ask that you take a good look into this issue and consider all the facts. The professional massage therapist business has some well trained and thoughtful people who wish to make life easier for the client base, they do not wish to take advantage them. I think if you make thorough investigations in new business licenses with the right follow up contacts you can determine those individuals with less than honorable intentions. I ask that you be fair, thorough and stay in contact with those new and old business to determine that they are on the level.

Thank You,
Henry Romero
To whom it may concern,

For the past four years, at least once a month I travel over 50 miles to Pleasanton Main Street for an appointment with Michelle Pena at Healthy Necessity Massage. Around my therapy, I do my banking, pick up a latte, make appointments for haircuts, manicures, pedicures, facials and other medi-spa services, and stroll through the shops on Main Street. I’ve returned with my family and friends for group pedicures and to enjoy the Pleasanton Main Street restaurants and shopping.

My life changed significantly in December 2013, when I was diagnosed with late stage breast cancer. Michelle Pena has been a critical partner on my journey, adjustment my therapies throughout the difficult process and continues to be an essential part of my survival. Healthy Necessity Massage, voted “Best of Massage” in Pleasanton for nine consecutive years, is an oncology service provider for Sandra J. Wing, Healing Therapies Foundation, a member of the Pleasanton Chamber of Commerce. This foundation actively supports complementary cancer therapies that make such a profound difference in quality of life.

Healthy Necessity Massage and Pleasanton Main Street have been a godsend to me during my recovery. My only recommendation would be a 1st floor location for therapeutic services. A 2nd floor location can provide a great view of Pleasanton Main Street but can be a little daunting during chemo.

The City of Pleasanton should be proud and supportive of businesses that directly improve quality of life and facilitate the enjoyment of Pleasanton Main Street. “Strong local economy and extraordinary quality of life happen by design.”
Karen Gunn
Mountain House, CA
(long term local resident – lived and worked in both Pleasanton and Livermore)
July 30, 2018

Dear Pleasanton City Council,

I am writing this letter as I am a California State Certified Massage Therapist here in Downtown Pleasanton and have had a professional practice since 2006 here on Main Street. I have been providing massage therapy for 17 years and specialize in rehabilitation. Massage Therapy is a huge part of my life as I am continuously taking classes to educate myself so I can provide better rehabilitation services to my clients and be able to customize their treatments to their injured needs.

I am very concerned about this ban on massage therapy downtown as I have been in practice in the same location since 2006 and we have never had any issues with growing our practice or being able to hire certified therapists so we can help more clients with their rehabilitation needs. This will be a huge negative impact on my business and will hurt my business in so many ways. With me not being able to grow my practice this puts a limit on how many clients Healthy Necessity can help. We have clients that are scheduled through out the year as they depend on our services to be able to function on a daily basis with their regular routines. I need supported certified therapists for our practice as we are scheduling clients out at times 6-8 weeks and without this extra help so many clients will be affected not only because they will not be able to get the rehabilitation they need but they will need to seek out other help instead of coming to a place where they have been for many years if our schedules become limited. This also impacts our livelihood and our families we have to support: if our clients go elsewhere to receive care.

Healthy Necessity Massage is also connected and joined with a major foundation Sandra J. Wing foundation where we received specific training to provide oncology massage to help those with cancer. Sandra J. Wing provides hospitals with grants for oncology patients to use during their rehabilitation state and during treatment so they can get through this tragic time in their life. Doctors from local hospitals and the foundation depend on certified therapists to be able to get these clients in asap so they can get through a painful time in their life. We help provide education to help them get through their daily needs such as tips and stretches that will help them feel less sore and to keep them strong during this process. We provide therapeutic massage therapy throughout this rough journey so the clients can get through and continue to a healthy path. If I can’t hire more trained therapists we will be limiting how many oncology patients we can see and that would be a horrific thing for us not be be able to help this amazing foundation as they are already limited on how many therapists that are certified in oncology already. Being part of the oncology community is an honor and it would be such a dishonor not to be able to give them the support they need because of this ban.

Being in business for 12 years I have built up networking relationships with many doctors, chiropractors, surgeons, orthopedic offices and more. We all share many clients together so we can help clients with their rehab needs. This will also affect their business’s as well as we have been providing services as a team for 12 years. How are we supposed to continue giving the clients the professional care they need if you are taking our right away to grow and have the supported educated therapists we need to provide more services to help our community? As a massage therapist we can only provide so many hours of therapy already so we don’t injure our selves as well since it is a physically demanding job so we don’t injure our selves as therapists so hiring more therapists is the only way we can help more clients in our community with their rehabilitation needs.

We have been providing therapy at 610 Main Street Suite E in Pleasanton for 12 years and are in a upstairs suite. A concern about the talk of making a decision for massage therapy to be on a second floor is very concerning as we have been looking for space for a while now on a first
floor so our clients that are getting cancer treatment or have knee replacements or broken bones or casts on can have a place they can walk into and not have to climb stairs that make their injuries even worse. We are here for our clients and putting more strain on their bodies by having them climb up stairs is such a risk of reinjuring our clients even more. We would like to provide rehabilitation on a first floor as we have clients that need to be able to walk into my office pain free and leave pain free without have a risk of falling or reinjuring them all over again just by having one more obstacle in their way.

City Council I hope that you will hear us professionals out that the Ban on Massage therapy will effect our community, our lively hoods, families and other business’s and foundations by limiting us on our profession. Have we really come to putting a ban on professionals because there might be some bad apples in the industry you can’t categorize us all in the same category as there are many of us who work very hard and care about our clients and want them to have a healthy life. I would love to work with you and give many suggestions on how to better the permit system and catch these unprofessional people who cause such problems in this industry. I take my job very seriously and I hope you will really reconsider how many people will be effected in the community who depend on us to provide them with rehabilitation needs.

Sincerely,

Michelle Pena, QACMT
Healthy Necessity Massage
Hello Michelle,

I read to the article in the Pleasanton Patch regarding massage therapist and wanted to draft you a letter (email) so you could forward it to the people in charge.

Hello City of Pleasanton,

My name is Paul Wellnitz and I have been going to Healthy Necessity for over 3 years now for massage treatment. I started going there based on a strong recommendation by my physical therapist. She pointed out to me that without regular maintenance my body would continue to experience issues and that with massage I could avoid a lot of the pain and discomfort I have to deal with daily. I have been experiencing chronic pain for the last ten years and with Michelle's help at Healthy Necessity I am able to function a lot better.

My experience has been so positive that when my mom was diagnosed with stage 4 cancer I spoke with Michelle about treatments that could help my mom during her journey with cancer. Thankfully Michelle is trained to work on cancer patients so I was able to start a regular schedule for my mom to see her. Unfortunately, her second floor office limited my mom's ability to see her for treatment at the end. The stairs going up to the second floor became too much for her to handle and we ended up having to cancel many of her final appointments because of them.

I understand that there are massage centers " parlors" in the Pleasanton that may bring concern to the community but I do not think penalizing the ones that run their business properly and provided a service that is needed is the correct way to proceed. I know first hand how much treatment has helped improve my life and my mom's as well. That being said I also know how being on the second floor as Healthy Necessity is currently hindered my mom from being able to be treated and how much of a set back
that was both physically and mentally on her.

All I am asking if for the board, council, .... to take time to think of a better solution.

Thank you for time,

Paul Wellnitz
From: Peggy Wolf
Subject: Letter to Pleasanton City Council
Date: Jul 23, 2018 at 12:35:33 PM

TO: Pleasanton City Council
FROM: Peggy Wolf
SUBJECT: Massage in downtown Pleasanton

I am writing to you to express my extreme concern about your ban on massage locations in downtown Pleasanton. Massage is often a necessity to function in life. It is not something nefarious or underhanded or illegal!

I have been a client of Michelle Pena at Healthy Necessity Massage for many years and the services she offers assist with rehabilitation after having a double knee replacement. This is not a “massage parlor”... it is a legitimate business with amazing health benefits! Healthy Necessity is on the 2nd floor of a building on Main Street and I actually find that a bit of a challenge... I would MUCH rather have them in a first floor location with better accessibility and parking.

I find the Pleasanton City Council actions to be extremely short sighted, without addressing the therapeutic benefits of massage. Please reconsider!

Regards,
Peggy Wolf

Pleasanton, CA 94566
TOPIC: Consideration of the Temporary Moratorium on Massage Establishments and whether to Terminate the Moratorium.

SUBJECT: Adoption of an Urgency Ordinance terminating the temporary Moratorium on the establishment and operation of new massage establishments within the City of San Rafael.

EXECUTIVE SUMMARY:
Since the temporary Moratorium on massage establishments was enacted in January 2015, staff has researched other communities as well as researched potential zoning options to address the proliferation of massage establishments (especially illicit ones). Based on the research, staff recommends that zoning changes would not be an effective tool to significantly address the issue. The issue with massage is related to people who own, work and run a business, not the land use itself. In this case, zoning is not the best tool to regulate those issues. Zoning is meant to regulate land uses, not people or business operations. Zoning is meant to address land use impacts (i.e. light, noise, hours of operation, traffic, parking, land use compatibility). The issue with regulating massage uses is that if you place two massage establishments, a legitimate one next to one that performs illegal activities, zoning would consider them the same. The issues are how the operators run their business and whether they follow sound business practices.

Continued implementation and enforcement of the regulations governing massage establishments in San Rafael Municipal Code Chapter 10.80 ("the Massage Ordinance") is a more effective tool to continue to regulate these businesses and ensure that businesses are operating in a legal and safe manner, consistent with all local and state laws. The City's enforcement efforts for the past 2 years has proven that implementation of the Massage Ordinance, which includes registration, regular inspections and enforcement has addressed many of the issues expressed by the Council, the public and the legitimate massage establishments. In conclusion, staff recommends that based on the study of zoning options, zoning is not an appropriate tool for the city to use for this specific matter and therefore, recommends that the temporary moratorium be terminated.
July 23, 2018

RE: Ban on Massage Therapists in Downtown Pleasanton

To Whom It May Concern,

On behalf of the Sandra J. Wing Healing Therapies Foundation, I ask you to consider the importance and value that massage therapy brings to cancer patients in our community.

Cancer drug treatments cause many side effects some of them are: anxiousness, fatigue, an inability to sleep, and nausea. Therapeutic massage provides relief in many ways, including: reducing stress, relief for those struggling with lymphedema, and help with blood circulation.

On a personal note and as a dual cancer survivor, I found huge relief and benefit from massage therapy. Massage therapy alleviated toxic side effects of my chemotherapy treatments. Acupressure massage reduced my anxiousness and body jitters. Applying acupressure also reduced my nausea and provided a calmness that enabled me to fall asleep.

Our cancer charity is currently looking for more therapists to keep up with our demand. We are fortunate to work with several massage therapists in Pleasanton, and some are located in downtown. We don't want to reduce the number of therapists in our area! Therapists, such as Michele Pena at Healthy Necessity Massage, have been in business serving our community for many years.

I have attached just a few, of the many, testimonials from our cancer patients describing how massage therapy has helped them during their battle against cancer.

We humbly implore you to not place a ban on massage therapists.

Thank you for your consideration.

Best Regards,

Sandra Wing
CEO/President
Sandra J. Wing Healing Therapies Foundation
Testimonials:

- “Thank you so much for all the help you have given me. The massages that I received helped me to relax and find some peace.”

  Norma M.
  Age 60
  Danville

- “I would like to thank you for all the support and services. It was such a blessing to experience therapeutic massage especially during those times after chemotherapy when my body ached. It helped to ease the pain not only physically, but also emotionally.”

  Cynthia N.
  50 Years Old
  San Ramon, CA

- “I am going through hard times these days emotionally and physically. I am still in treatment and it seems it will never end. My life has been upside down since my diagnosis. It has been hard on my family to adjust to this new life with the scare of losing them. Life has turned 360 degrees and we are trying so hard to keep it together. The only thing that keeps me going is the wonderful service you are providing. I do not know how else I could have relieved my body from stress without your healing therapy towards people like me.”

  Suzanne A.
  48 Years Old
  Pleasanton, CA

- “With therapeutic massage, I felt more relaxed mentally and physically and I also felt I recovered sooner than the prior chemos. Thank you for alleviating the discomfort from chemo.”

  Joan C.
  44 Years Old
  Danville, CA
• “The guided imagery, massage, and acupuncture helped during such a stressful time.”
  
  Kelly C. 
  46 Years Old 
  Livermore, CA

• “Thank you for the acupressure I received during my radiation treatment. It definitely improved my quality of life. I was actually surprised how well the acupressure worked. I will be forever grateful.”
  
  Sue B. 
  57 Years Old 
  San Ramon, CA

• “The massages helped with frozen shoulder mobility. My therapist worked on the trigger points which gave significant pain relief. I have been off work ... and would not have considered this on my own.”
  
  CeCe L. 
  46 Years Old 
  Pleasanton, CA

• “I can’t tell you how much helpful the massages have been. Your support is such a blessing.”
  
  Georgia D. 
  37 Years old 
  Dublin, CA

More testimonials are available at: www.healingtherapiesfoundation.org 
Additionally, video testimonials can be viewed at: https://www.youtube.com/user/SJWHTF
Hello Gerry, Shweta and Laura,

Thank you again for your time and meeting with us all last Monday. As promised, please find below supporting documents, links and notes as we seek to appeal the massage ban.

We marked our calendars for Tuesday August 21, 2018 at 7pm to attend the City Council meeting.

Please let us know if we need to prepare anything for the Council meeting or if there's anything we need to know.

SUPPORTING DOCUMENTS / NOTES:

1. San Rafael City Terminates Massage Moratorium (Click Link) [Link: https://www.camtc.org/media/1104/102015-staff-report_urgency_ordinance_terminating_massage_moratorium-2.pdf]

2. CAMTC has developed a good working relationship with the California Police Chiefs' Association. See material starting on page 10 of http://www.camtc.org/media/1474/2018-0531-camtc-board-packet.pdf

3. 4603.1 Local governments shall impose and enforce only reasonable and necessary fees and regulations on massage businesses and massage establishments, in keeping with the requirements of existing law and being mindful of the need to protect legitimate business owners and massage professionals, particularly sole providers.

4. There was a hearing April 30, 2018 before CAMTC's oversight committee, Senate Business and Professions Committee. The Chairman, Senator Jerry Hill, said that he would introduce language this year to require that businesses of certified massage therapists (CAMTC) must be treated the same as other professions regulated under Healing Arts, such as physical therapists, chiropractors, etc.

5. Breakdown of the 24 downtown massage establishments:
   - 7 = certified massage therapists
   - 5 = Non-Massage Therapy (Chiro, Fitness and Physical Therapy)
   - 5 = Spas not "massage establishment" includes estheticians, make-up, hair, nails, etc.
     - 2 are duplicates (Heavenly Day and Take Care Massage)
   - 6 = Not sure of their certification status and they are not PDA list

Regards,
Upuiia

Founder / Owner
Kua Body, Inc.
Massage Specialist
CMT • BCTMB • CAMTC #48049
LinkedIn | www.KuaBody.me | Facebook
Los Altos: [Redacted] Street, Los Altos CA 94022 | 650.[Redacted]
Pleasanton: [Redacted] Peters Avenue, Suite [Redacted], Pleasanton CA 94566 | 925.[Redacted]
From: Shweta Bonn  
Sent: Thursday, August 23, 2018 9:08 AM  
To: Elizabeth Bonser  
Cc: Nelson Fialho; Jerry Thorne; Gerry Beaudin; Walter Bonser; ayurvedanama.org; camtc.org; Ellen Clark; Lisa Tarnow  
Subject: RE: Massage ordinance public hearings in Downtown Pleasanton CA and my input

Good morning Elizabeth,

Sorry you were not able to attend the meeting, but I am happy to clarify what occurred related to the massage ordinance at the August 21, 2018, City Council meeting. If you are interested, the video and audio for the meeting are also available online.

City Council voted (unanimously with four members in attendance) to extend the massage urgency ordinance at its meeting. The ordinance was modified from the July 2018 version, based on feedback from local massage business owners, to allow existing massage establishments to apply for a Minor Conditional Use Permit to increase the number of massage technicians to four or more at any one time; this process is identical to that required today for such expansions. Physical expansion of an existing massage establishment’s space is still prohibited. You probably already have it, but attached in full is the agenda report with attachments (inclusive of the revised ordinance). A signed version of the ordinance will be available once all required parties sign it.

Regarding your interest in a future hearing – the Downtown Specific Plan Task Force is anticipated to review this topic at its next meeting (planned to occur in November/December 2018). If you haven’t done so already, you or others can sign up for email updates so that you receive notification about the next Task Force meeting date.

Lastly, the objective for the massage ordinance is certainly not to eliminate or prohibit massage establishments. The objective is to take the opportunity with the Downtown Specific Plan Update to evaluate the appropriate mix and location of desirable land uses in downtown Pleasanton, including massage establishments.

-Shweta

Web links:
2. https://ptowndtown.org/sign-up-for-updates/

Shweta Bonn  
Senior Planner, Community Development Department  
D: 925-931-5611  
F: 925-931-5483  
sbonn@cityofpleasantonca.gov  
City of Pleasanton | P.O. Box 520, Pleasanton, CA 94566
Hello, Shweta!

Thank you for taking the time to speak with me yesterday via the phone. I was unable to attend the meeting. Has there been any changes made pertaining to the ordinance since the meeting last night? Also has there been granted an extension and another public hearing? I would really like to address some things here.

I have contacted my Ayurvedic admissions counselor regarding my concerns and issues with the decisions made which effect my future business goals and plans.

I have also reached out to the California Massage Council and The NAMA regarding this issue. The NAMA is a national organization which stands for National Ayurvedic Medical Association. They represent the Ayurvedic profession in the United States of America seeking to preserve, protect, promote and advance the consciousness-based philosophy, knowledge, science, and practice of Ayurveda for the benefit of all beings.

Even though some treatments of Ayurveda include therapeutic touch, it is unjust and unfair to pull the plug on being able to grow a practice and have appropriately trained therapists such as massage therapists under my supervision /guidance treating and healing simply because there is claim to have a problem in just downtown Pleasanton with prostitution and therefore are banning ALL therapeutic bodyworkers from being able to grow their established businesses. -Might as well just come right out and say that anything that has to do with touch should be classified as "inappropriate massage". ALL holistic therapists are being reprimanded because of individual businesses running inappropriate establishments causing the problems. Each establishment is to be treated as their OWN entity. Why should we ALL be punished?

That being said, how many arrests have there been on prostitution in downtown Pleasanton? How many of the arrests were at massage establishments? I ask only about downtown Pleasanton only because this ordinance ONLY PERTAINS TO DOWNTOWN PLEASANTON as if it's ONLY downtown Pleasanton that has the problem with prostitution parlors. And let me bring up that there are 22 massage establishments downtown Pleasanton out of 66 within the entire vicinity of Pleasanton. 22. Truly, that is not that many and very simple to investigate all 22 massage establishments. In fact, it wouldn't take NEARLY as much time to investigate those places as it would to investigate all 240 dining establishments of which most serve alcohol- causing intoxicated patrons to cause reckless driving, vehicular accidents, property damage, injuries, and even deaths. 240 dining establishments as stated on your cityofpleasanton.gov - "240 dining establishments in our community - sure to satisfy varying tastes...Something for everyone."
There is a HUGE problem with drunk driving and many DUI's are being handed out left and right. BUT, do you see all 240 dining and drinking establishments being shut down? Or preventing new establishments from opening? Is the City of Pleasanton's Community Development Director, Gerry Beaudin restricting each and every establishment that hold a liquor license to deal with the much larger problem of DUI's? How many arrests have been made for DUI's in Pleasanton? How many of those involved property damage, bodily harm, and death? It seems that DUI's pose much larger concerns compared to a few residential complaints of not wanting a massage business to open up in their residential area. In fact, the place NEVER even opened up according to the Pleasanton Weekly news article, and this is what started this mess.

What this is doing to our holistic line of work, is sabotage to one's career, one's goals, and it is truly unjust to label ALL massage therapists/body workers/holistic healers preventing them from healing the community therapeutically simply because touch is involved. This also affects the integrity of massage/body workers and business owners of holistic establishments/wellness centers in the eyes of the community. You are labeling us as tabu.

How can you single out massage therapists/bodyworkers/holistic healers stating that, "anything that has to do with "touch" is considered massage,and are not permitted to grow your business by adding any additional square footage and only permitted up to 3 therapists working at any given one time. You are making it seem like therapeutic touch is inappropriate ONLY if you are a massage therapist. You cannot single out massage therapists. Chiropractors touch and massage their patients. Physical therapists touch and massage their patients, Doctors do too. -And may I point out gynecologists touch there patients in an even more personal way than most. There is lack of understanding the scope of practice here.

We are healers just like chiropractors, and other doctors, including Ayurvedic doctors and therapists performing Ayurvedic treatments. I feel there is just a little bit of ignorance of not fully understanding what it is that we do. As therapeutic massage therapists/body workers and even as what I am becoming..An Ayurvedic Doctor, with the intent to grow our practices, it is unjust to be restricted from being able to obtain appropriate staffing and and restricted from being able to obtain appropriate square footage which is necessary to properly expand and provide appropriate space for treatment rooms in compliance with OSHA's guidelines pertaining to code of conduct and patient privacy rights.

Personally, I intend to grow my practice into a Center of Holistic Wellness that incorporates much more than just therapeutic touch. My facility is currently JUST under 300 square feet. I have ONE treatment room, approximately 12ft by 10 ft, with ONE, small relaxation lounge area. It is absolutely IMPOSSIBLE for me, an existing establishment, to be able to utilize the permittance as stated in the ordinance. 3 therapists working at any given one time in that small space, would cause me to be in violation of OSHA's code of conduct and patient privacy rights. Your ordinance permits existing establishments up to 3 therapists working at any given one time, with the notation that 4 or more may be permitted upon approval. You CANNOT restrict me from expanding in square footage or obtaining an appropriate location in order to be able to provide proper treatment rooms and adequate space to provide quality services in compliance with OSHA guidelines. By the ordinance permitting multiple therapists to existing establishments, as stated, you cannot put a restriction to expand in square footage to one's facility beyond the space that it is currently operating at. Adequate and appropriate space is necessary for the growth of the business as well as fulfilling OSHA compliances.
Instead of penalizing everyone, create more thorough background checks and applications with references, strict operation policy regulations on businesses such as permitted hours of operation and an appropriate menu of services, regular inspections, sting operations...etc. There are numerous ways to work through this without reprimanding all establishment entities as a whole.

Hopefully, we can resolve this without hurting businesses with good intent such as mine and many others.

Sincerely,
Elizabeth Bonser CMT and future doctor of Ayurveda
From: Shweta Bonn  
Sent: Thursday, August 23, 2018 12:30 PM  
To: Patricia Recupero  
Cc: Nelson Fialho; Gerry Beaudin; Ellen Clark  
Subject: RE: Last night’s vote- Clarification on Massage Moratorium

Patty,

Glad to hear you were able to make it to part of the August 21, 2018, City Council meeting, and I am happy to clarify what occurred related to the massage ordinance. Please note that Gerry is currently out of the office.

City Council voted (unanimously with four members in attendance) to extend the massage urgency ordinance at its meeting. The ordinance was modified from the July 2018 version, based on feedback from local massage business owners, to allow existing massage establishments to apply for a Minor Conditional Use Permit to increase the number of massage technicians to four or more at any one time; this process is identical to that required today for such expansions. Physical expansion of an existing massage establishment’s space is still prohibited. You probably already have it, but attached in full is the agenda report with attachments (inclusive of the revised ordinance). A signed version of the ordinance will be available once all required parties sign it.

The Planning Division and the Business License Division do not have any approvals on file for 1056 Division Street since the massage establishment operator relinquished her permit. The property owner (Ms. Penny Pickens) at the June 2018 Downtown Specific Plan Update Task Force meeting communicated she was aware of the neighborhood concerns regarding uses at the subject property, and would be working with potential tenants that would be compatible with the surrounding residential uses in terms of parking, operating hours, and noise impacts. Staff is checking in with Ms. Pickens to inquire about her near-term plans to lease the property.

-Shweta

Shweta Bonn  
Senior Planner, Community Development Department  
D: 925-931-5611  
F: 925-931-5483  
sbonn@cityofpleasantonca.gov  
City of Pleasanton | P.O. Box 520, Pleasanton, CA 94566

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From: Patty Recupero  
Date: August 22, 2018 at 12:26:23 PDT  
To: Gerry Beaudin

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Hi Gerry -

I stayed for some of the meeting last night and heard most of the discussion surrounding the Chabad Temple. I was unable to stay for the whole meeting.

I went ahead and pulled up the video from the meeting this morning. It was hard to hear the audio portion and see the council’s final vote. It was briefly shown. Can you clarify what the outcome was regarding approving the extension of the moratorium? Was it approved to allow massage parlor businesses to increase their number of technicians?

On a separate note, last night when I was leaving my home to attend the meeting I saw someone looking at 1056 Division Street. Has there been any new permits issued for 1056 Division? As you recall 1056 Division Street’s zoning currently falls under the office/personal use category. I am a curious what happens if a nail salon or a chiropractor or a medical clinic goes in there? Some sort of business that has extended hours and has clients coming and going on a consistent basis. These types of businesses all fall under the personal use category.

How is parking and business hours going to be outlined in any future permit(s) for 1056 Division by the city’s current municipal code for this property? I realize that the proposed DSP is expected to be finalized in mid 2019. How is the city going to handle issuing permits for any DSP marked transitional commercially zoned properties in the interim? For example, if a nail salon obtains a permit from the city under the personal use category of office use and signs a two year lease how will any new municipal code/permit guidelines regarding transitional commercially zoned properties be held enforceable and/or accountable to adhere to the DSP when it is finalized in 2019? I cannot stress enough that parking will be a major issue if a business leases this property and street parking is permitted. This past Saturday, a party was held on Division Street and there was no parking on Fair Street because once again Fair Street is the overflow parking area for Division Street. There are some Division Street residents parking everyday on Fair Street. I realize it is a public street but we do not need to have more vehicle congestion by not enforcing a business as part of the permit process to provide onsite parking for their employees and customers.

Going forward how will the city plan for noise restrictions on businesses near the DSP transitional commercial properties? 1056 Division Street is in a residential neighborhood. In the future will the city be faced with similar issues surrounding the Masons/Chabad Temple location? Again it is another commercial property surrounded by a residential neighborhood.

I have cc’d Nelson on this email. I would be interested in hearing his thoughts on this as well.

Kind regards,

Patty Recupero