



Planning Commission Staff Report

July 9, 2014
Item 5.a.

- SUBJECT:** P14-0845
- APPLICANT:** Hand and Stone Massage and Facial Spa (Leo Scrivner)
- PROPERTY OWNER:** Pleasanton Retail Owner, Inc.
- PURPOSE:** Application for a Conditional Use Permit to operate a massage establishment
- GENERAL PLAN:** Retail, Highway, and Service Commercial; Business and Professional Offices and Bernal Property Specific Plan
- ZONING:** PUD-C (Planned Unit Development – Commercial) District
- LOCATION:** 6786 Bernal Avenue, Suite 830
- EXHIBIT:**
- A. [Draft Conditions of Approval, dated July 9, 2014.](#)
 - B. [Site Plan, Proposed Floor Plan, Narrative and Details of Operation, dated "Received, May 16, 2014."](#)
 - C. [Approval letter for PUD-02-12M, dated June 13, 2014.](#)
 - D. [Chapter 6.24, Massage, of the Pleasanton Municipal Code.](#)
 - E. [Ordinance 2014 \(PUD-02-07M\), dated November 16, 2010, and PUD-02-08M, dated April 10, 2012, for the Pleasanton Gateway shopping center](#)
 - F. [Location and Notification Area Map.](#)
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I. BACKGROUND

Proposal

Leo Scrivner proposes to lease and occupy Suite 830, an approximately 2,549-square-foot tenant space, in the Pleasanton Gateway shopping center to operate a massage establishment. The massage establishment would operate as the "Hand and Stone Massage and Facial Spa" and would provide massage treatments as the primary business activity, with incidental facial treatments and sale of skin care products.

Pleasanton Gateway Shopping Center

On November 16, 2010, the City Council adopted Ordinance 2014 for PUD-02-07M (Exhibit E) for the entire 39.22-acre Pleasanton Gateway retail and office development. Ordinance 2014 addressed the design, construction, and operations of the entire development including the permitted and conditionally permitted uses.

Ordinance 2014 addressed massage establishments¹ as follows: Permitted, if conducted incidental to a barbershop or beauty shop and with three or fewer massage technicians according to Section 18.44.090 of the Pleasanton Municipal Code, or Conditionally Permitted, if conducted incidental to a beauty shop and with four or more massage technicians according to Section 18.44.090 of the Pleasanton Municipal Code. The condition reflected the shopping center applicant's request to staff regarding the permitted and conditional uses for the Pleasanton Gateway development.

PUD-02-12M, PUD Minor Modification

On June 13, 2014, the Zoning Administrator approved a Minor Modification (Exhibit C) of the Pleasanton Gateway PUD Development permitting massage establishments only within the building located at 6786 Bernal Avenue as a conditional use requiring Planning Commission review with an application for a Conditional Use Permit. The applicant applied for the modification because the proposed business was primarily massage.

Staff supported the proposed PUD Minor Modification for a massage establishment because of its relatively low parking demand, when compared to higher parking demand uses such as sit-down restaurants. During the public notice period of the minor modification, two parties called staff with concerns regarding the nature and operations of the massage establishment for this location. Staff explained that the use would be subject to review by the Planning Commission under a Conditional Use Permit at a public hearing; that the public notice list for the PUD Minor Modification would be used for the Conditional Use Permit public hearing; and that the Conditional Use Permit would include conditions addressing the operations and use of the massage establishment that any owner/operator of the massage establishment would have to follow. After discussing the issues with staff, the callers did not request a public hearing.

¹ Ordinance No. 2014, p. 12 and p. 14.

II. SITE DESCRIPTION AND SURROUNDING USES

Figure 1, below, is the site/location map showing the location of the proposed massage establishment in the Pleasanton Gateway shopping center.

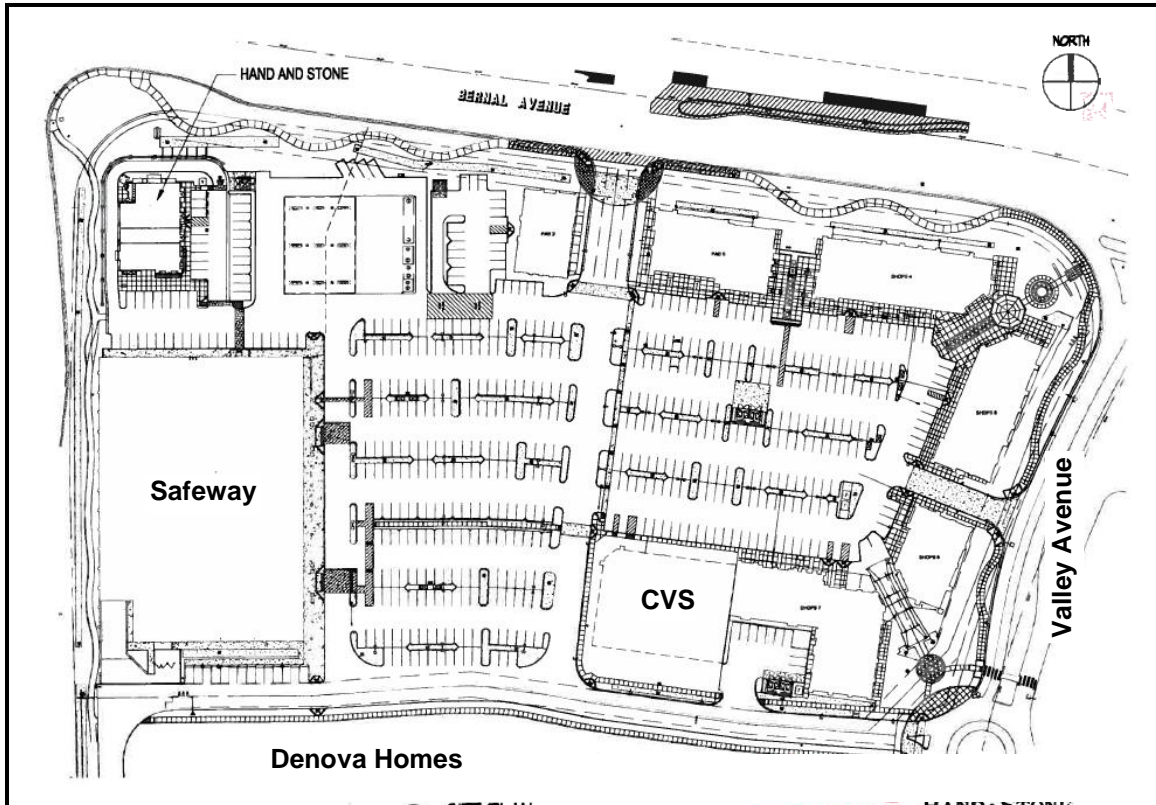


Figure 1: Shopping Center Site Plan with Hand and Stone

The PUD Development Plan for the Pleasanton Gateway shopping center allowed approximately 129,370 square feet of building area on approximately 12.5 acres, currently developed with a Safeway grocery store, CVS pharmacy with a drive-through, one commercial building with a drive-through (Starbucks), and six commercial buildings including a Wells Fargo bank. On September 17, 2013, the City Council adopted Ordinance 2078 allowing for the development of 307 high- and medium-density residential units south of the shopping center. This project is now under construction by Denova Homes.

Public street access to the Pleasanton Gateway shopping center is provided by one driveway entrance from Bernal Avenue, one dedicated and one shared driveway entrance (with Denova Homes) from Valley Avenue, and one direct driveway connection to Denova Homes to the south. All tenant suites are accessed from their respective parking areas. Surrounding roadways and uses include Bernal Avenue and Bernal Corporate Park to the north, Safeway service station to the east, Safeway grocery store to the south, and the I-680 freeway and the northbound I-680/Bernal Avenue exit ramp to the west.

III. PROPOSED PROJECT

The proposed massage establishment would occupy an approximately 2,549-square-foot tenant space, Suite 830, in the building located at 6786 Bernal Avenue. Exhibit B, attached, includes the applicant's narrative regarding the operations of the proposed massage establishment with a site plan and preliminary floor plans. The proposed establishment would provide complete massage services, facial treatments, and the incidental sale of facial products.

Figure 2, below, is a photograph of the front elevation of the proposed tenant suite.



Figure 2: Front Elevation of the Hand and Stone Tenant Suite

The proposed operating hours for massage and facial services would be Monday through Friday from 9:00 a.m. to 10:00² p.m. and Saturday and Sunday from 9:00 a.m. to 8:00 p.m. The applicant would also prepare the establishment for business one hour before it opens – from 8:00 a.m. to 9:00 a.m. on weekdays and weekends and would then clean and re-stock the establishment one hour after it closes – from 10:00 p.m. to 11:00 p.m. on weekdays and from 8:00 p.m. to 9:00 p.m. on weekends.

According to the applicant, the proposed operating hours and staffing accommodate weekend and after-hour weekday appointments and walk-ins, and are intended to avoid the morning commute traffic to the Starbucks drive-through lane. Proposed staffing of the massage establishment would vary from three to six staff on weekdays and from five to seven staff on weekends. (The total number of staff would vary according to the time-of-day and based on the demand for services.) Customers are estimated to vary from three to four customers per hour on weekdays and weekends.

² Based on the hours of operation stated in the "Potential Traffic Flow" table in Exhibit B.

Figure 3, below, is the proposed floor plan for the massage establishment.

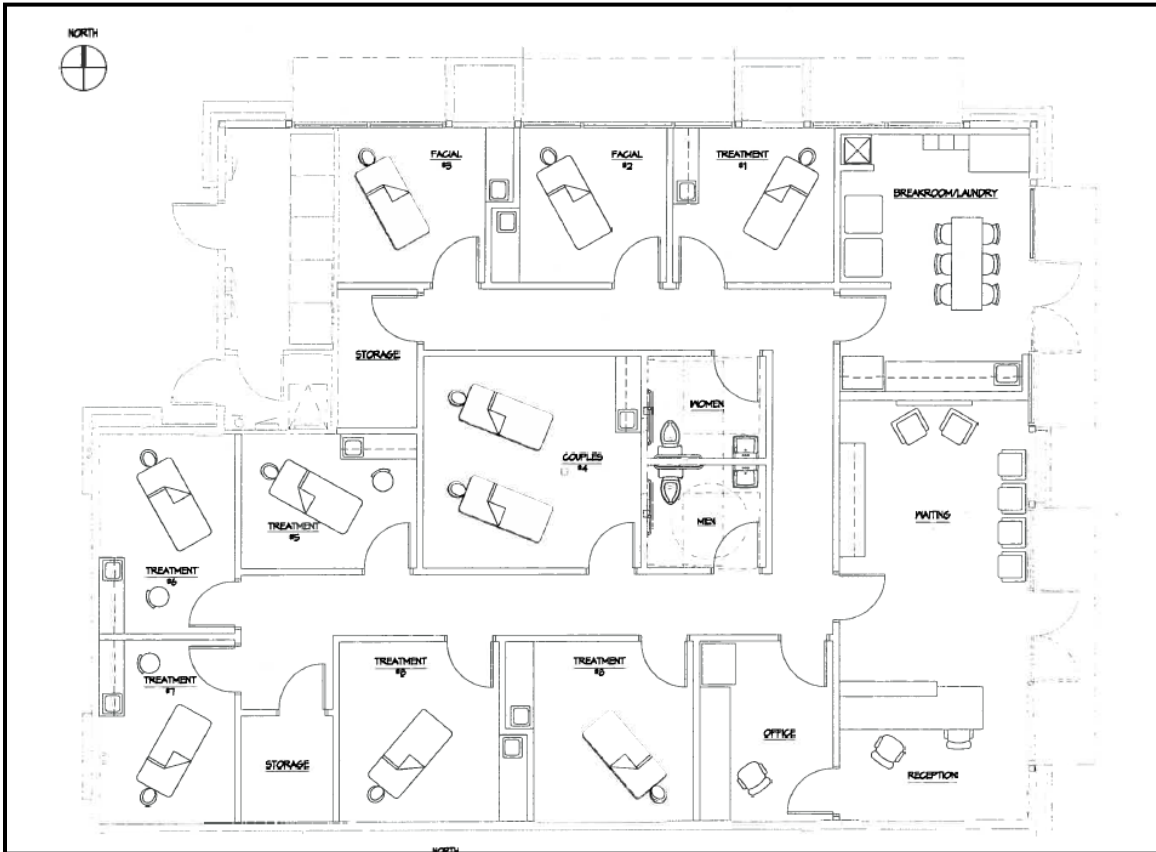


Figure 3: Proposed Floor Plan

Based on the floor plan, the massage establishment would be designed with eight treatment rooms for single clients, one treatment room for couples, a lobby/reception area, break room, offices, and restrooms and storage rooms. No changes are proposed to the building's exterior.

No tenant identification signs are proposed with this application. The master sign program for the Pleasanton Gateway shopping center would allow (for this tenant space) one wall-mounted sign on the building's north elevation facing Bernal Avenue and one wall-mounted sign on the east elevation facing the parking area. The sign program also sets forth design criteria for the signs' area, placement on the building facades, and illumination. The applicant would submit a sign proposal to the City for review and approval prior to sign installation.

IV. ANALYSIS

Conditional uses are those uses which by their nature require special consideration so that they may be located properly with respect to the objectives of the Pleasanton Municipal Code and their effects on surrounding properties. Conditional use permits may be subject to appropriate conditions to ensure that any potential adverse impacts

associated with the use will be mitigated. The Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits.

Land Use

The Land Use Element of the Pleasanton General Plan designates the Pleasanton Gateway shopping center for Retail, Highway, and Service Commercial; Business and Professional Offices land uses. The shopping center property is also part of the Bernal Property Specific Plan, which designated the site for freeway- and pedestrian-oriented businesses.

Staff considers the proposed massage establishment, including its hours of operation, to be compatible with the present and future uses in the shopping center. As developed, the shopping center includes a combination of neighborhood- and community-serving retail/service uses such as grocery store, service station, pharmacy, restaurants, retail uses, and medical and personal services. The shopping center's existing buildings and uses are connected to each other and to the surrounding residential and commercial developments by sidewalks, plazas, and street crossings, thereby facilitating pedestrian use and implementing the goals of the Bernal Property Specific Plan.

The proposed massage establishment is within walking distance of the businesses in the shopping center and the surrounding commercial and residential uses. Staff also believes that a customer to the massage establishment may visit other uses at the shopping center, potentially reducing vehicle trips (and traffic) in the area, and contributing to the vitality of the shopping center.

Operation

Massage facilities and their staff are required to comply with Chapter 6.24, Massage, of the Pleasanton Municipal Code. The owner/operator and the individual massage technicians of this establishment are required to be certified by the State of California and to undergo a complete background check by the Pleasanton Police Department before the owner or technician can submit their applications to the City for Zoning Approval and a Business License.

The applicant proposed to provide massage and facial services beginning at 9:00 a.m. on weekdays and weekends and ending at 10:00 p.m. on weekdays and 8:00 p.m. on weekends with janitorial and restocking activity conducted one hour before the business opens – from 8:00 a.m. to 9:00 a.m. on weekdays and weekends – and one hour after the business closes – from 8:00 p.m. to 9:00 p.m. on weekdays and from 10:00 p.m. to 11:00 p.m. on weekends. As conditioned, the applicant is required to comply with Chapter 6.24 (Exhibit C) of the Pleasanton Municipal Code which limits the operating hours for massage establishments from 7:00 a.m. to 10:00 p.m.,³ and that requires the applicant to close the business from 10:00 p.m. to 7:00 a.m. on weekdays and weekends. Staff also added a condition that requires the applicant to maintain unlocked doors on the

³ Section 6.24.190.A., Prohibited Conduct – Massage shall be provided only between the hours of 7:00 a.m. and 10:00 p.m. No massage establishment shall be open and client shall be in the establishment between 10:00 p.m. and 7:00 p.m.

treatment rooms at all times to ensure security for clients and massage staff. The applicant concurs with these requirements.

As conditioned, if the operation of this use results in conflicts pertaining to parking, noise, traffic/circulation, or other factors, at the discretion of the Director of Community Development, this Conditional Use Permit may be submitted to the Planning Commission for its review at a public hearing.

Parking

For massage establishments, the Pleasanton Municipal Code⁴ requires two parking spaces for each massage technician. The applicants stated in their narrative and to staff that there would be a maximum of five to seven total staff at the establishment on weekends (their busiest time) including one store manager, one receptionist, and three to five massage technicians. Based on the Pleasanton Municipal Code, the proposed use would require (for the weekend) six to ten parking spaces for three to five massage technicians. Parking demand is expected to be lower on weekdays.

Build-out of the Pleasanton Gateway development created 573 parking spaces for the entire shopping center with 29 parking spaces directly accessible to the building from the parking area on the building's south and east sides, with an additional 14 parking spaces on the north side of the Safeway grocery store west of the crosswalk from Safeway to this building.

The Pleasanton Gateway shopping center is designed to reduce motor vehicle trips and to improve access for bicycle and pedestrian traffic. Staff believes that there is adequate parking to meet the variable parking demand of the proposed use for the following reasons:

- The design of the Pleasanton Gateway shopping center includes pedestrian connections to the Bernal Business Park on the north side of Bernal Avenue, the residential neighborhoods on the east side of Valley Avenue, and the planned residential neighborhoods on the south side of the property. Staff has observed a relatively large number of pedestrians walking to/from the Pleasanton Gateway development on weekdays and weekends, which significantly exceed the staff expectation and assumptions for the number of pedestrians walking to/from the Pleasanton Gateway development.
- Parking in the central parking areas of the shopping center for the grocery store and the other retail buildings would not be affected or reduced by the proposed project.
- The drive-thru lanes for the CVS pharmacy and Starbucks help to reduce the parking demand for these uses and to increase the amount of available parking.

⁴ Section 18.88.030C.3., Massage Establishments – two spaces for each massage technician, plus the requirements for supplementary uses.

- The PUD Development Plan for the Pleasanton Gateway development prohibits shopping center events, specialty sales, and seasonal sales from taking place in the parking areas to ensure the availability of parking throughout the year and to maintain the unobstructed flow of traffic to/from Bernal Avenue and Valley Avenue.

Based on staff observations, these improvements have resulted in a lower parking demand during the peak weekday and weekend hours than a previous parking analysis⁵ proposed for the shopping center development had predicted. As a result, staff believes that there is an adequate parking supply for the proposed establishment.

Figure 4, below, is a photograph of the parking area in front of the proposed tenant suite.



Figure 4: Parking Area in Front of Tenant Suite

Noise

Staff anticipates that the proposed massage establishment would generate interior noise levels comparable to and no different from that of an office or retail use. Therefore, staff believes that the operation of the massage establishment would not generate noise audible beyond the boundaries of the tenant suite and that no special noise mitigation measures would be necessary.

⁵ "Transportation Impact Study, Pleasanton Gateway Retail/Office Plaza", dated April 2009, prepared by Fehr & Peers Transportation Consultants.

City Departments and Divisions

The proposed use has been reviewed by the Planning and Building Divisions of the Department of Community Development and by representatives of the Pleasanton Police Department and the Livermore-Pleasanton Fire Department. The consensus is that the applicant's proposal would not be a problem for this location. However, if problems regarding land use, noise, parking, etc., verified by the City's Code Enforcement staff were to arise, the Director of Community Development can bring the application back to the Planning Commission for additional conditions to mitigate and/or prevent any nuisances that were identified or revoke the use permit, if necessary.

V. PUBLIC NOTICE

Public notices regarding the proposed Conditional Use Permit application and related public hearing were mailed to property owners and businesses within 1,000 feet of the subject property and to residents in the Laguna Oaks development and the Bernal Specific Plan area. At the time that the Planning Commission staff report was written, staff had not received any comments. Staff will forward to the Planning Commission any public comment received after publication of the staff report

VI. FINDINGS

A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinances and the purpose of the district in which the site is located.

The objectives of the Zoning Ordinance include fostering a harmonious, convenient, workable relationship among land uses, protecting land uses from inharmonious influences and harmful intrusions, promoting a safe, effective traffic circulation system, and ensuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. Staff believes the proposed use, as conditioned, would be consistent with these objectives. The proposed business would be conducted in compliance with the requirements of the Pleasanton Municipal Code pertaining to massage establishments and would not impact or interfere with the surrounding uses. Staff also believes that the anticipated number of customers to this use will not generate any unusual demand on existing parking for the building or generate a large number of vehicle trips.

The site of the subject use is located within the PUD-C (Planned Unit Development – Commercial) District. One of the purposes of the City's Commercial districts is to provide appropriately located areas for retail stores and service establishments offering commodities and services required by residents of the City and its surrounding area. Another purpose is to concentrate retail stores and service establishments for the convenience of the public and in mutually beneficial relationship to each other. Staff believes that the massage establishment in this shopping center would be in accordance with the purposes of the Commercial zoning district to provide locations to offer commodities and

services to the residents of Pleasanton and surrounding areas. In addition, the massage establishment's location at the shopping center would be convenient to shoppers, and the massage establishment's clients and employees would most likely utilize the other businesses in the shopping center, contributing to their economic vitality. The proposed conditions of approval for the project give the City the appropriate controls to ensure that the use does not have any negative impacts on the surrounding businesses and properties. The use permit for the massage establishment is, in staff's opinion, in accordance with the purposes of the zoning district.

B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The proposed business as described in the applicant's narrative is compatible with the other uses within this building on the subject site. The proposed use would not exceed the shopping center's overall parking demand. Given the proposed activities and hours of operation as proposed and conditioned, staff believes the proposed massage establishment is not anticipated to generate adverse impacts on any of the surrounding uses due to the conditions of approval that will ensure that the safety and general welfare of the surrounding area is maintained.

C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.

The site's PUD – C zoning district conditionally permits massage establishments within this building. The proposed use as conditioned would not detrimentally affect surrounding properties. In staff's opinion, granting the Conditional Use Permit to the applicant to operate the proposed massage establishment at the Pleasanton Gateway shopping center is consistent with the City's ability to regulate zoning as listed in the Municipal Code Chapter 18.124 "Conditional Uses."

VII. CONCLUSION

The proposed massage establishment is appropriate for the Pleasanton Gateway shopping center. Staff believes that it would not produce any adverse impacts on the adjacent tenants due to noise, parking, traffic, or other objectionable influences. The proposed conditions of approval will ensure that the safety and general welfare of the development and surrounding area is maintained. Staff believes the proposal merits favorable action by the Planning Commission.

VIII. ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt (Section 15303, New Construction or Conversion of Small Structures, Class 3) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

IX. STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve Case P14-0845 by taking the following actions:

1. Make the Conditional Use Permit findings as listed in the staff report; and
2. Approve Case P14-0845, subject to the conditions listed in Exhibit A.

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