



Planning Commission Staff Report

Date: June 24, 2009
Item 5.c.

SUBJECT: PRZ-43

APPLICANT: City of Pleasanton

PURPOSE: Review and consider amendments to Sections 18.40 and 18.44 and various related sections of the Pleasanton Municipal Code regarding massage establishments.

GENERAL PLAN: Retail/Highway/Service Commercial, Business and Professional Offices

ZONING: Citywide O (Office) District and C (Commercial) District

ATTACHMENTS: Exhibit A, Revised language for Chapters 18.40 and 18.44
Exhibit B, Existing language for Chapters 6.24, 18.40 and 18.44 of the Pleasanton Municipal Code
Exhibit C, City Council Staff Report dated February 5, 2008
Exhibit D, City Council Ordinance Amending Chapter 6.24

BACKGROUND

On February 5, 2008, the City Council approved amendments to Chapter 6.24 (Regulation of Massage Services and Massage Establishments) of the Pleasanton Municipal Code (PMC) in order to reflect current State legislation (Government Code Sections 51030-51034). The purpose of this code amendment is to establish consistency between Titles 6 and 18 of the PMC.

PROJECT DESCRIPTION

Currently, operation of massage establishments is regulated by Chapter 6.24 of the PMC (please refer to Exhibit B). Massage establishments are referenced in Title 18 to ensure that the location of a proposed massage establishment is consistent with the zoning and land use regulations. Two sections of Title 18 are proposed for revision: PMC Chapter 18.40 (Office District) and PMC Chapter 18.44 (Commercial District).

The following text is proposed to be amended. Text in standard format remains unchanged. Text to be removed is shown in strikethrough (i.e., ~~strikethrough~~). Proposed text is shown in bold and double underline (i.e., **bold and double underline**).

PMC Chapter 18.40: Office District

18.40.030 Permitted Uses.

The following uses shall be permitted in the O District:

A. Offices of the following types:

9. ~~Massage establishments, not in conjunction with medical uses that of three (3) or fewer massage technicians at any one time, for which the applicant has obtained a massage technician permit from the Police Department, provides massages only between eight o'clock (8:00) A.M. and nine o'clock (9:00) P.M., and can meet the parking requirements as established in Chapter 18.88 of this Title. If operation of the use results in conflicts pertaining to parking noise, traffic, or other factors, the Planning Commission may modify or add conditions to mitigate such impacts, or may revoke the zoning certificate for the use.~~ **Massage establishments shall meet requirements of Chapter 6.24.**

18.40.040 Conditional Uses.

The following conditional uses shall be permitted in the O district upon the granting of a use permit in accord with the provisions of Chapter 18.124 of this title:

- G. ~~Massage establishments, not in conjunction with medical uses, which cannot meet the criteria for massage establishments in Section 18.40.030 of this chapter.~~ **where four (4) or more massage technicians provide massage services at any one time. Massage establishments shall meet requirements of Chapter 6.24.**

PMC Chapter 18.44: Commercial District

Table 18.44.090 (Permitted and Conditional Uses), revise as follows:

Beauty shops or beauty shops including massage services **of four or more massage technicians at any one time. Massage establishments within a beauty shop shall meet requirements of Chapter 6.24.** ~~which cannot meet the criteria for beauty shops including massage services as written in the use category below~~

Beauty shops or beauty shops including massage services of three or fewer massage technicians at any one time, **Massage establishments within a beauty shop shall meet requirements of Chapter 6.24.** ~~for which the applicant has obtained a massage technician permit from the police department, provides massages only between 8:00 a.m. and 9:00 p.m., and can meet the parking requirements as established in Chapter 18.88 of this title. If operation of the use results in conflicts pertaining to parking noise, traffic, or other factors, the planning commission may modify or add conditions to mitigate such impacts, or may revoke the zoning certificate for said use~~

Gymnasiums and health clubs or ~~gymnasiums and health clubs including massage services~~ **of four or more massage technicians at any one time. Massage establishments within gymnasiums and health clubs shall meet requirements of Chapter 6.24.** ~~which cannot meet the criteria for gymnasiums and health clubs with massage services as written in the use category below~~

Gymnasiums and health clubs or ~~gymnasiums and health clubs including massage services of three or fewer massage technicians at any one time,~~ **Massage establishments within gymnasiums and health clubs shall meet requirements of Chapter 6.24.** ~~for which the applicant has obtained a massage technician permit from the police department, provides massages only between 8:00 a.m. and 9:00 p.m., and can meet the parking requirements as established in Chapter 18.88 of this title. If operation of the use results in conflicts pertaining to parking noise, traffic, or other factors, the planning commission may modify or add conditions to mitigate such impacts, or may revoke the zoning certificate for said use~~

Massage establishments, ~~where four or more massage technicians provide massage services at any one time.~~ **Massage establishments shall meet requirements of Chapter 6.24.** ~~not in conjunction with medical uses, which cannot meet the criteria for massage establishments as written in the use category below~~

Massage establishments, ~~not in conjunction with medical uses,~~ **where three or fewer massage technicians provide massage services at any one time. Massage establishments shall meet requirements of Chapter 6.24.** ~~for which the applicant has obtained a massage technician permit from the police department, provides massages only between 8:00 a.m. and 9:00 p.m., and can meet the parking requirements as established in Chapter 18.88 of this title. If operation of the use results in conflicts pertaining to parking noise, traffic, or other factors, the planning commission may modify or add conditions to mitigate such impacts or may revoke the zoning certificate for said use~~

Recreation and sport facilities, indoor, ~~which cannot meet the recreation and sport facility criteria as written in the use category below~~

Recreation and sport facilities, indoor, **with more than 20 students in the facility at any one time, or recreation and sports facilities, indoor,** including massage services **of four or more massage technicians at any one time. Massage establishments within recreation and sports facilities shall meet requirements of Chapter 6.24.** ~~which cannot meet the criteria for recreation and sport facilities, indoor, with massage services as written in the use category below~~ [Staff Comment—This use category is addressed in the use category above and the use category below]

Recreation and sport facilities, indoor, with no more than 20 students in the facility at any one time, and with no massage services or with massage services of three or fewer massage technicians at any one time, ~~for which the applicant has obtained a massage technician permit from the police department, provides massages only between 8:00 a.m. and 9:00 p.m., and can meet the parking requirements as established in Chapter 18.88 of this title, are permitted uses subject to the following conditions:~~

- ~~1. The facility shall adhere to all occupancy, ADA, California Building Code, and exiting requirements;~~
- ~~2. The zoning administrator finds that adequate parking is available for the said use. The standard city noise ordinance applies.~~

ANALYSIS

This amendment is intended to:

- (1) provide language that references Chapter 6.24 for purposes of regulating the operation of massage establishments; and
- (2) clarify existing code language.

Operation of Massage Establishments

Language proposed to be removed from Title 18 includes that which makes reference to the overall operation of massage establishments. Chapter 6.24 has been amended to reflect current massage establishment practices and is the result of collaboration between the massage community and various City departments. Since Title 18 dictates the land use designations where massage establishments are permitted, language referring to the operation of massage establishments (i.e. business hours) is proposed to be removed and a reference to Chapter 6.24 has been provided instead.

Clarify Existing Code Language

The language proposed above does not change the intent of current code requirements but instead simplifies it. For example, the number of technicians that may provide massage services is currently limited to three at any one time. If a business operator would like to provide services of four or more massage technicians at any one time, then a Conditional Use Permit is required. With this update, this number of massage technicians permitted at one time without approval of a Conditional Use Permit does not change. Thus that limitation will still be three; however the language describing this limitation has been simplified.

Additionally, language regarding compliance with parking, noise, and traffic is proposed to be deleted. Deletion of this language does not signify that compliance with these items is no longer required, but these requirements are referenced in other sections of the PMC and thus the language pertinent to the subject code sections is clearer.

PUBLIC NOTICE

Notice of this application was published in *The Valley Times* newspaper. At the time this report was drafted, no public comments have been received.

ENVIRONMENTAL ASSESSMENT

This project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), and it has been determined that the ordinance will not cause a significant negative effect on the environment.

CONCLUSION

This proposed code amendment is a technical update of language in Title 18 that is currently inconsistent with Chapter 6.24. Proposed language for Title 18 has been limited to reflect existing permitted land use designations for massage establishments and provides a reference to Chapter 6.24 for operational requirements for massage establishments. The proposed language also simplifies the existing language without altering its intended meaning.

STAFF RECOMMENDATION

Staff recommends that the Commission take the following actions:

- (1) Find that the adoption of the proposed amendments to the Municipal Code is statutorily exempt from CEQA; and
- (2) Adopt a resolution recommending PRZ-43 to the City Council as shown on Exhibit A.

Staff Planners:

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