



City of Tucker

Land Use Petition: SLUP-21-0005

Date of Staff Recommendation Preparation: September 14, 2021

Planning Commission: October 21, 2021

Mayor and City Council, 1st Read: November 8, 2021

Mayor and City Council, 2nd Read: December 13, 2021

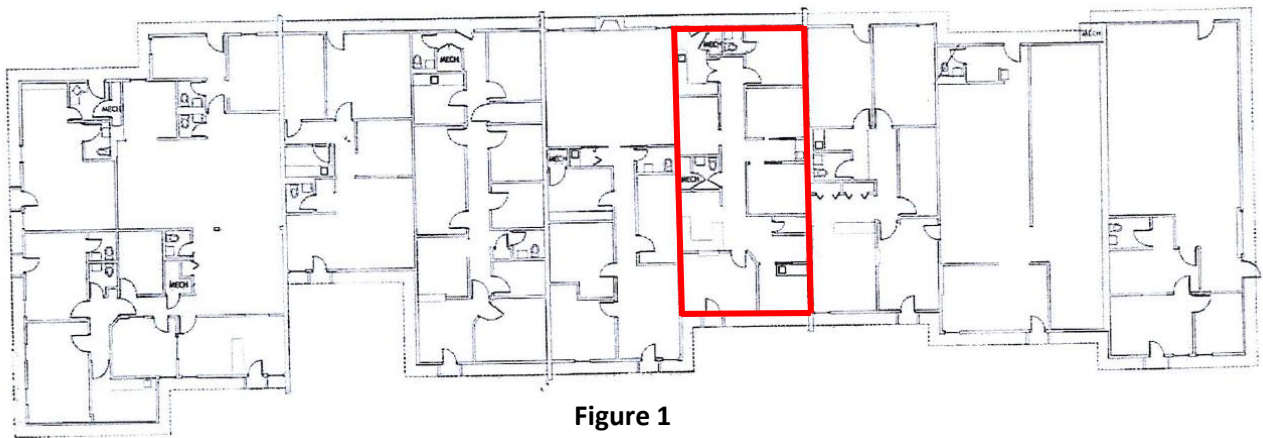
PROJECT LOCATION:	2088 Idlewood Road Suite 6
APPLICATION NUMBER	SLUP-21-0005
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 186
ACREAGE:	1.23 acres
EXISTING ZONING	C-1 (Local Commercial)
EXISTING LAND USE	Office Building
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	Natalie Phoenix
OWNER:	Morning Dew Realty, LLC.
PROPOSED DEVELOPMENT:	Special Land Use Permit to allow a massage establishment/health spa
STAFF RECOMMENDATION:	Denial of SLUP-21-0005

BACKGROUND

The applicant is requesting a Special Land Use Permit (SLUP) for the property located at 2088 Idlewood Road to allow for a massage establishment/health spa. The subject property is 1.23 acres and is zoned C-1 (Local Commercial). Pursuant to Section 46-1125, Table 4.1, Use Table, both *massage establishment and health spa* are only allowed in the C-1 zoning district with approval of a Special Land Use Permit.

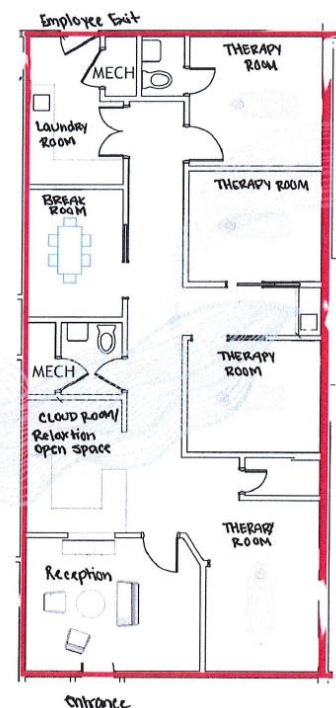
PROJECT DATA

The subject site fronts Idlewood Road and is located south of Tucker Middle School. The property is currently developed with a one-story office building that consists of eight suites. Occupants of the complex consist of a variety of tenants including a hair salon, a canine rehabilitation center, a church, and a few offices. The applicant’s request is only for Suite 6. The suite was previously leased to Serenity Chiropractic and Rehab, a chiropractic office. Figure 1 shows the building’s floor plan and highlights the suite in which Phoenix Wellness Center will occupy if approved.



The applicant submitted a floorplan (Figure 2) illustrating the existing 1,090 square-foot suite consisting of four treatment rooms, a reception area, a cloud room/relaxation space, a break room, two half baths, a break room, and a laundry room. The subject suite provides direct ingress/egress to the parking lot that the building faces. The applicant does not intend to change the exterior of the building or the interior footprint of their suite.

This would be the second location for Phoenix Wellness Center. The applicant stated in their letter of intent that the Tucker location would be a compressed version of the Little Five Points location. The applicant expects to have five licensed massage therapists, including herself, on staff as well as three front desk receptionists that rotate shifts. Phoenix Wellness Center stated in their application that the following services will be offered: massage therapy, facials, and waxing.



USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located in the C-1 (Local Commercial) zoning district. The purpose and intent section of the C-1 zoning district (Section

46-758) is “to provide convenient local retail shopping and service areas within the city for all residents.” The C-1 zoning district allows massage establishments/health spas with the approval of a special land use permit. All supplemental regulations for massage establishments must also be met (Section 46-1202). Additional conditions may be placed on the approval of a special land use permit in order to ensure the proposed business will not be a detriment to the character of the area. The intent of the City of Tucker Zoning Ordinance in requiring a SLUP is that the proposed uses be determined on a case-by-case basis to ensure compatibility with the surrounding area including environmental impacts, aesthetic, and infrastructure impacts.



CHARACTER AREA (Future Land Use)

The subject parcel is located in the Suburban Character Area. Primary Land Uses in the Suburban Character Area include single family residential, townhomes, lower density multi-family uses, and institutional uses such as places of worship and schools. Development strategies include preserving the character of single-family neighborhoods by preventing the encroachment of higher density residential development and non-residential uses within existing neighborhoods and giving special care to managing land use transitions along the periphery of residential neighborhoods to ensure that new development does not diminish the character of existing neighborhoods.

PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted a forty-five-minute-long community meeting on August 30, 2021, after mailing a letter and site plan explaining the proposed project to all property owners within 500 feet of the subject parcel. Seven people were in attendance including the applicant and several community members. The applicant's report stated the meeting was held in a question-and-answer format. The applicant stated that there were several questions asked regarding what impacts there will be to the land and property value, what services will be offered, if there are designated parking spots, the number of treatment rooms, and client demographics.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Existing Land Use
Adjacent: North	OI (Office-Institution)	Tucker Middle School
Adjacent: East	MR-2 (Medium Density Residential – 2)	Stanford Oaks Apartment Homes
Adjacent: South	OI (Office-Institution)	The Phoenix at Tucker Senior Living Community
Adjacent: West	R-75 (Residential Medium Lot – 75)	Single-family homes

SLUP-21-0005: Massage Establishment/Health Spa**CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT**

Criteria (standards and factors) for special land use decisions are provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

- A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.**

The suite is approximately 1,090 square feet located within a 1.23-acre office complex (total property acreage). The applicant stated that the business will not have designated parking spots but will have

the right to eight parking spots in the complex's lot. The applicant is not proposing any structural revisions. The request relates to the proposed use only.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

From a land use standpoint, the proposed massage establishment/health spa is not compatible with the land uses and development of adjacent properties as nearby properties are mainly residential or institutional in nature. The subject parcel is surrounded on two sides by residentially zoned properties. The property located to the immediate south is zoned OI, but it is developed as a senior living facility. To the immediate north is Tucker Middle School, which is also zoned OI.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. Not applicable.

Stormwater management. No comments.

Water and sewer. Change of use for the space will necessitate a sewer capacity request.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

Traffic impacts will be minimal. One curb cut location exists at the front of the subject property along Idlewood Road. Idlewood Road is a local road with two lanes of traffic and a center turn lane. The applicant stated in their letter of intent that they would see a maximum of four clients an hour and approximately 20 clients a day at full capacity.

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

In terms of development impacts, existing land uses would not be adversely affected in terms of the character of the vehicles or the volume of traffic by the proposed massage establishment/health spa. The applicant has stated that the services offered are by appointment only.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

The subject suite is located in an existing building. The subject property has one access point on Idlewood Road that provides ingress and egress for the complex. The applicant proposes no modifications to the exterior. Access in and out of the site could be challenged by the parking spaces

located immediately adjacent to the curb cut. The city code requires a throat length of 50', but this area was previously developed before Tucker incorporated.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

The proposed use will not generate excessive noise, nor will it emit smoke, odor, dust, or vibration.

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

The applicant has stated that the expected hours of operation for the massage establishment/health spa would from 10 a.m. to 8 p.m. Monday through Saturday and 12 p.m. to 6 p.m. on Sundays. No adverse impacts upon adjoining properties by reason of the hours of operation are expected.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

If developed in accordance with the staff recommended conditions, nearby land uses should not be adversely affected by the manner or operation of the proposed massage establishment/health spa. However, staff finds issue with the products that will be sold at the proposed business. The applicant provided staff with a list of products that will be for sale. These products include books, candles, body essential oils, crystals, sage, palo santo, heating and cooling pads, bath bombs, stickers, greeting cards, and Eminence- organic skincare products. According to the business's website, some of these products contain CBD. The zoning ordinance defines CBD shops as "any retail establishment that devotes at least ten percent of the floor area to sale or advertisement of cannabidiol infused products or makes at least ten percent of its revenue from cannabidiol infused products." If the proposed business meets the definition of a CBD shop, they will need to obtain another Special Land Use Permit as CBD shops are only permitted in the C-1 zoning district with a SLUP. The use and sale of certain products would not be appropriate within such close proximity of a middle school.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed massage establishment is consistent with the statement of purpose and intent of the C-1 (Local Commercial) zoning classification. Sec. 46-758 states the C-1 district is established "to provide convenient local retail shopping and service areas within the city for all residents."

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property is designated Suburban on the Future Land Use Map. Primary land uses include single family residential, townhomes, lower density multi-family uses, and institutional uses such as places of worship and schools. The proposed use is inconsistent with the intent of the comprehensive

plan. A SLUP for a massage establishment/health spa, which would increase the intensity of the uses on site, would not be appropriate given its current designation of Suburban.

- L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.**

A 50' transitional buffer zone is required when C-1 zoning abuts residential zoning. The existing building does not comply with this buffer zone. However, since the applicant is not proposing any renovations to the property, this is considered a legal nonconforming use. Any alterations to the property's parking lot would require compliance with the current transitional buffer regulations.

- M. Whether or not there is adequate provision of refuse and service areas.**

The submitted site plan does not show a space for trash; however, the applicant stated in their letter of intent that there is a private dumpster on the property for tenant use.

- N. Whether the length of time for which the special land use permit is granted should be limited in duration.**

No limits on the length of time on the special land use permit are recommended, if granted.

- O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.**

The applicant proposes no changes to the existing building size, mass, and scale.

- P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.**

There are no known historic buildings, sites, districts or archaeological resources on the subject properties. Therefore, no adverse effects are anticipated.

- Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.**

The following supplemental use regulations are applicable: Sec. 46-1202 – Massage establishment (includes health spas that offer massage services). The applicant's letter of intent states that they will comply with the standards for massage establishments in Section 46-1202. See analysis below.

- (1) The presence of any device used as an early warning system to alert the employees of a massage establishment to the presence of law enforcement officers or city authorities on the premises is prohibited in any massage establishment.**

Applicant states they shall be in compliance.

- (2) If a receptionist is present, the public entrance door of the massage establishment and the doors of all massage rooms or cubicles must remain unlocked during any time the establishment is occupied. In the absence of a receptionist, the public entrance may be locked as long as fire safety requirements are met (panic bar, no deadbolt, etc.). Individual massage therapy rooms shall not be locked.**

Applicant states they shall be in compliance.

- (3) All massage establishments must display the following documents at all times in a clearly visible place:**
- a. State licenses.**
 - b. Local business license.**

Applicant states they shall be in compliance.

- (3) Massage businesses may open no earlier than 6:00 a.m. and close no later than 11:00 p.m. Any massage must be completed by 10:00 p.m.**

The applicant's proposed hours of operation are in compliance.

- (4) The exterior windows of the lobby/reception/entrance area may not be covered by curtains, closed blinds, tints or any other material that obstructs the view into the premises. No signs may cover more than 30 percent of any windowpane.**

Applicant states they shall be in compliance.

- R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The proposed use will not produce an adverse shadow effect. No changes are being proposed to the existing structure regarding increasing the footprint of the building.

- S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.**

There are several massage/health spa establishments within a mile of this site. Warrior Body is approximately .73 mile away. Massage Associates of Atlanta is approximately .79 mile away. Balanced Life Massage is approximately .58 mile away. Other businesses which offer similar services are also located nearby. For example, Beauty of Bowers Day Spa is located .54 mile away. Nearby chiropractic offices include Schwartz Chiropractic and Wellness, Complete Spine Solutions, and Family Chiropractic Center are also located nearby.

- T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

Suburban Character Area. Primary land uses include single family residential, townhomes, lower density multi-family uses, and institutional uses such as places of worship and schools. The proposal is inconsistent with the character area, as this type of use would not be in alignment with the development strategy of the Suburban Character Area which focuses on “preserving the character of single-family neighborhoods by preventing the encroachment of higher density residential development and non-residential uses within existing neighborhoods.”

CONCLUSION

The proposed use does not comply with all the Criteria (standards and factors) for special land use decisions. The proposed use is not consistent with the Suburban Character Area, and it would add to a proliferation of similar uses nearby

Staff Recommendation

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of Land Use Petition **SLUP-21-0005**.

Should the governing bodies choose to approve the SLUP request, Staff recommends the request be approved subject to the following conditions:

1. The business may open no earlier than 10:00 a.m. and close no later than 8:00 p.m.
2. Any infractions with the police department must be immediately reported to city staff.
3. If a complaint is filed with the City of Tucker, the business will supply all necessary information immediately as well as permit a site visit from city staff including the Chief Building Official.
4. All state and local licenses shall be clearly displayed in each treatment room.
5. The Special Land Use Permit shall not be transferred to another business.
6. The use of this space is contingent upon the approval of the DeKalb County Department of Watershed Management.

DEPARTMENT COMMENTS

ARBORIST

No new development occurring on the site.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

Change of use for the space will necessitate a sewer capacity request.

DEKALB COUNTY FIRE MARSHAL OFFICE

No comments.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable; no comments.

LAND DEVELOPMENT

No comments.