



# City of Tucker

**Land Use Petition:** SLUP-18-003

**Date of Staff Recommendation Preparation:** May 17, 2018

**Community Council:** April 11, 2018

**Planning Commission:** May 24, 2018

**Mayor and City Council, 1<sup>st</sup> Read:** June 11, 2018

**Mayor and City Council, 2<sup>nd</sup> Read:** June 27, 2018

<b>PROJECT LOCATION:</b>	4076 Morgan Road, Tucker, GA
<b>DISTRICT/LANDLOT(S):</b>	Land District 18, Land Lot 226
<b>ACREAGE:</b>	0.34 acre
<b>EXISTING ZONING</b>	R-85 (Residential Medium)
<b>EXISTING LAND USE</b>	Single family home
<b>FUTURE LAND USE MAP DESIGNATION:</b>	Suburban (SUB)
<b>OVERLAY DISTRICT:</b>	NA
<b>APPLICANT:</b>	Frolic & Flow, LLC.
<b>OWNER:</b>	Heather Hale
<b>PROPOSED DEVELOPMENT:</b>	Applicant requests approval of a Special Land Use Permit for a home-based business with customer contact.
<b>STAFF RECOMMENDATION:</b>	<b>Approval with conditions of SLUP-18-003 (Home based business with customer contact)</b>

**PROJECT DATA**

The applicant has submitted an application for a Special Land Use Permit (SLUP) for the ±0.34-acre subject property located at 4076 Morgan Road. The application, SLUP-18-003, is to allow a home-based business with customer contact in the R-85 (Residential Medium) zoning district. Pursuant to Section 4.2.31, supplemental regulations for Home Occupations, the proposed business is considered a Type II home occupation because it includes customer contact. All Type II home occupations are only permitted with the approval of a Special Land Use Permit to ensure the home occupation will not be a detriment to the character of the residential neighborhood.

Total Square Footage = 1998 feet<sup>2</sup>  
Home-based business = 388 feet<sup>2</sup> (< 20%)

A home-based business is an occupation carried on by an occupant of a dwelling unit as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes and is operated in accordance with the provisions of this chapter. Per Sec. 4.2.31.C, no more than twenty-five (25) percent of the dwelling unit and or five hundred (500) square feet, whichever is less, may be used for the operation of the home occupation. The total of the home-based business treatment room for health coach and the treatment room for massage therapy is 19% of the total structure.



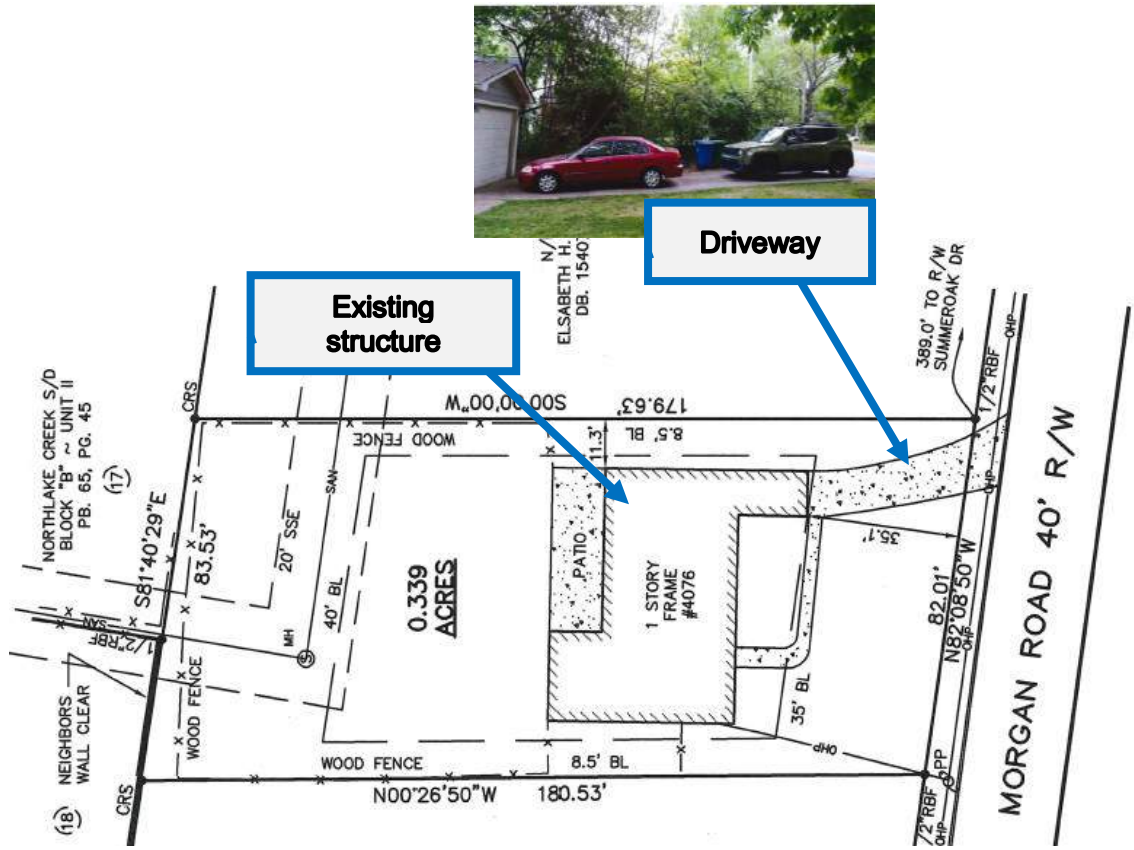
The applicant has an existing home-based massage therapy business called *Heather Hale Massage Therapy*, which was initially issued a license by DeKalb County in 2011. The applicant seeks to rebrand the home-based business by adding integrative health coaching to the massage therapy and changing the name to *Frolic & Flow, LLC*. While the applicant has previously had customer contact at her home based business, she contacted the City of Tucker as soon as she realized a Special Land Use Permit was required and is working to bring the business into compliance. The applicant estimates one home-based client per day for the Frolic & Flow, LLC home-based business.

The applicant is certified through the National Certification Board of Therapeutic Massage and Bodywork since 2004. The applicant received a license (issued June 6, 2007) from the Georgia Board of Massage Therapy as a Massage Therapist. The proposed Massage Room is ±144 square feet (7% of the home). The applicant has been certified as an Integrative Health Coach and completed requirements for graduation from the Integrative Health Coach Professional Training Program Course. The applicant has also passed the Health and Wellness Coach Certifying Examination and fulfilled all the requirements of the National Board for Health and Wellness Coaching. The existing Health Coaching Room is ±240 square feet (12% of the home).

Massage establishments are not permitted in residential zoning districts. The SLUP and supplemental regulations for massage establishments / health spa only apply to OI, C-1, C-2, and M zoning districts. The supplemental regulations for massage establishments do not apply to this home-based business. However, staff is proposing additional conditions to mimic the supplemental regulations. The home-

based business with customer contact for massage establishment is also required to comply with Chapter 16, Article VIII, Sec. 16-270, Minimum Standards which includes provisions regarding artificial light of not less than forty (40) watts shall be provided in the treatment room, minimum ventilation requirements, and the like.

The ±0.34-acre site is developed with one structure, a one-story, single-family home with a driveway. The applicant intends no exterior change to the footprint of the existing building on the site. The applicant proposes one customer at a time. However, the driveway may only accommodate two vehicles at a time, parked back-to-back, as shown in the inset below. As the proposed home-based business is for a two-car household, additional parking is required to ensure adequate off-street customer parking is available. Staff is proposing a condition of approval for widening the driveway. The applicant shall be required to demonstrate compliance with **Sec. 6.1.3.B.6**, which states, *Parking shall not be permitted within the front yard of any property used for single-family residential purposes, except within a driveway, or in a roofed carport or enclosed garage. Within any single-family residential district, not more than thirty-five percent (35%) of the total area between the street right-of-way line and the front of the principal building shall be paved.* Lot coverage for the property will also need to be calculated.



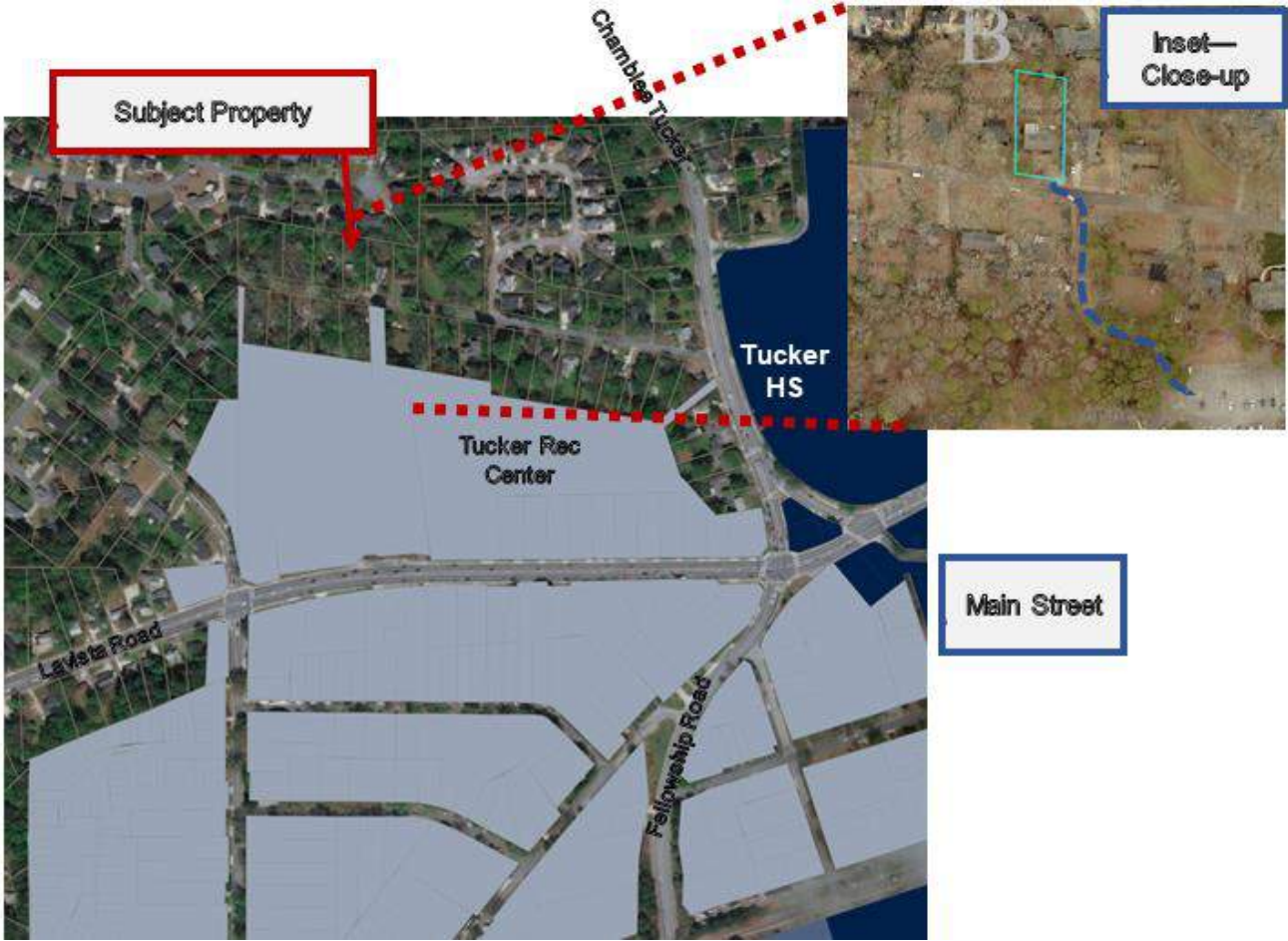
The proposed use meets the intent of the Suburban Character Area by providing alternative health services to the community. The proposal is consistent with general policies of the comprehensive plan

including opportunities to enhance and expand supportive services for all age cohorts; and developing innovative policies and programs to improve residents’ health.

**USE ANALYSIS AND DEVELOPMENT PERMISSIONS**

The subject property is located in the R-85 zoning district. The purpose and intent section of the R-85 zoning district (Article 2.6.1) indicates in part that the R-85 district is established to “assure that the uses and structures authorized in the R-85 (Residential Medium Lot–85) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood”.

The R-85 zoning district allows for “home-based occupations with customer contact” only as a special use (Table 4-1 zoning ordinance). The intent of the City of Tucker Zoning Ordinance 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. In the City of Tucker all home-based businesses with customer contact require a SLUP and must meet supplemental use regulations. The applicant states that the proposed home-based business will meet all supplemental standards for home occupations found in Section 4.2.31 of the Zoning Ordinance. This is detailed later in the report.



The subject property is located approximately 50 feet north of the Downtown Tucker Overlay District. There is a paved access directly southeast from the subject property across Morgan Street to the Tucker

Recreation Center, located in the Downtown Tucker Overlay. It should be noted, that while cater-corner to the overlay, the subject property is not located within the Downtown Tucker Overlay.

**COMMUNITY COUNCIL REVIEW**

The Community Council reviewed the proposed application on April 11, 2018. Community Council discussion included whether this business was appropriate in a residential neighborhood, the impact of additional cars on the street and parking on the street if adequate off-street parking is not available. As is standard, the Community Council did not make a recommendation of approval or denial.

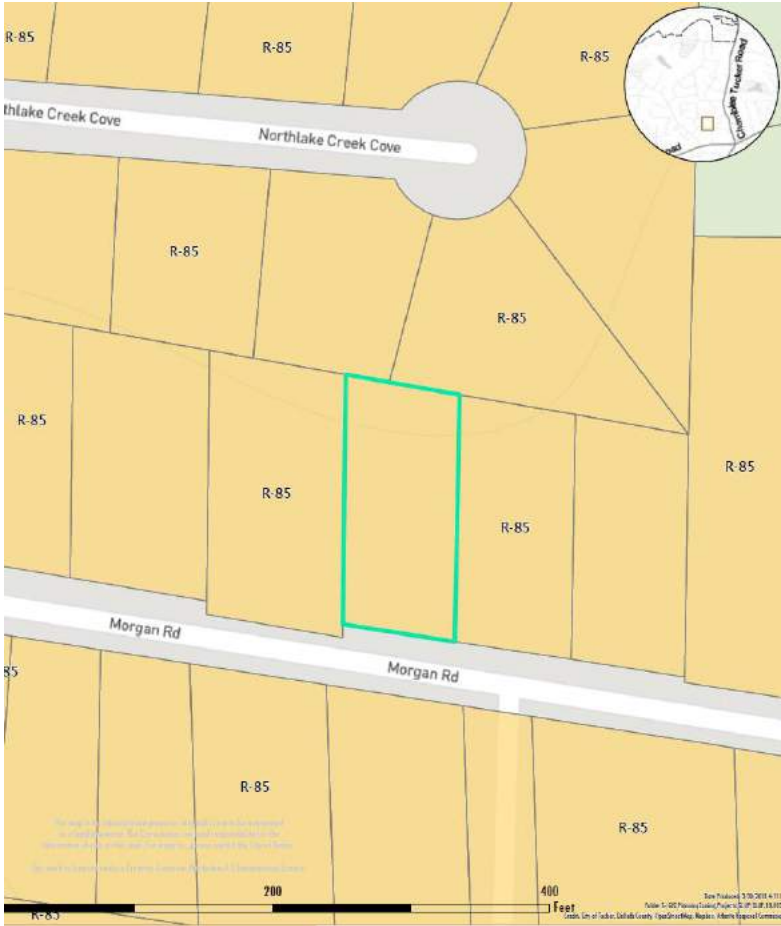
**NEARBY/SURROUNDING LAND ANALYSIS**

Adjacent & Surrounding Properties	Zoning (Petition Number)	Overlay District	Existing Land Use
Adjacent: North	R-85	NA	Single-family homes
Adjacent: East	R-85	NA	Single-family homes
Adjacent: South	R-85	NA	Single-family homes
Adjacent: West	R-85	NA	Single-family homes
Adjacent: Further South & East	R-85	Downtown Tucker Overlay	Single-family homes, and Tucker Recreation Center



*Aerial Exhibit*

Zoning Exhibit



## SLUP-18-001 HOME-BASED OCCUPATION WITH CUSTOMER CONTACT

### CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 7.4.6 of the City of Tucker Zoning Ordinance. Supplemental use regulations are outlined in Article 4, Division 2 of the 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 site size is approximately 0.34 acre. The site is relatively small; however, the lot is already developed with a single-family home and the applicant is not proposing to expand the existing structure's footprint. As part of the application, the applicant shows space for off-street parking for two vehicles, and states that there will be no parking on the street. As the proposed home-based business is for a two-car household, additional parking is required to ensure adequate off-street customer parking is available. Staff is proposing to condition an approval on widening the driveway.

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 home-based occupation would allow a non-intensive use in a residential neighborhood. The land use and development of adjacent properties consist of single-family homes, and the property is surrounded on all sides by R-85 (Residential Medium) zoned properties. However, the home-based occupation will be wholly inside the house. The applicant proposes that the daily vehicular trips on the street will be minimal considering she only averages 7 clients a week. Conditions should be placed on the application to ensure the business remains compatible.

The edge of the Downtown Tucker Overlay District is located approximately 50 feet southeast, and catercorner to the property. This is the location of an access point to the Tucker Recreation Center.

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

**Schools.** There will be no impact on public school facilities.

**Stormwater management.** The applicant does not propose any alterations to the property, which would trigger review of a stormwater management system.

**Water and sewer.** Water and sewer approval is not required as it is an existing single-family residence and the home based business is not proposing any increase in water or sewer capacity.

**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, which is for the driveway. The house has a one-car garage, and the driveway can accommodate two cars.

**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.**

If developed in accordance with recommended conditions, land uses along Morgan Road will not be adversely affected by the character of vehicles or the volume of traffic generated by the proposed home-based occupation.

**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.**

DeKalb Fire Department has no comments for the home-based business with customer contact.

**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 development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. The proposed use includes a home-based business with customer contact inside the home.

**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 property is surrounded by single-family homes on all sides. Staff recommends limiting the hours to minimize any potential impacts.



**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 recommended conditions, land uses along Morgan Road will not be adversely affected by the manner or operation of the home-based business with customer contact.

**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 home-based business does not further the intent of the zoning district classification to be a residential area. However, a home-based occupation with customer is an allowable use to be considered through a Special Land Use Permit.

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

The subject property and the immediate area is designated Suburban on the Future Land Use. Primary Suburban land uses include health and wellness services provided to the community. The proposed home-based business with customer contact may be consistent with the intent of the adopted comprehensive plan.

**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.**

No transitional buffer zones are required. There are no alterations to the structure.

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

The site plan does not show a space for a trash; however, the proposed use should not generate much refuse. The applicant has a residential sanitation account with DeKalb County Sanitation which should accommodate any additional refuse generated by the home based business.

**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. 4.2.31. Home occupation and private educational uses. The applicant's letter of intent states that they will comply with the standards for home-based businesses with customer contact in Section 4.2.31.

There are additional criteria that must be considered when home-based occupations are proposed, as enumerated below:

**1. There shall be no exterior evidence of the home occupation.**

The proposed home-based business shall be wholly indoors.

**2. No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.**

The proposed use will not create dust, noise, vibration, odor, smoke, or glare.

**3. The use shall be conducted entirely within the dwelling unit, and only persons living in the dwelling unit shall be employed at the location of the home occupation.**

The applicant will be the only person employed at the location of the home occupation.

**4. No more than twenty-five (25) percent of the dwelling unit and or five hundred (500) square feet, whichever is less, may be used for the operation of the home occupation.**

Less than 20% of the house shall be used for the home-based business.

**5. No more than one (1) business vehicle per home occupation is allowed.**

There will be no more than 1 vehicle used for the proposed use.

**6. No home occupation shall be operated so as to create or cause a nuisance.**

The proposed home-based business will not create a nuisance.

**7. Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, or car wash.**

The proposed use does not involve automobile repair or car wash.

**8. Occupations that are mobile or dispatch-only may be allowed, provided that any business vehicle used for the home occupation complies with Article 6.1.3, and is limited to one (1) business vehicle per occupation.**

The proposed home-based business with customer contact is not mobile or dispatch-only.

**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.

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

There have been no applications for home-based business with customer contact since the city incorporated.

**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.** The proposal is not in conflict with the intent of the Suburban Character Area. Primary land uses include residential and health & wellness centers. The proposed development may be found to be consistent with the intent of the adopted comprehensive plan.

**CONCLUSION**

The proposed Special Land Use Permit application is consistent with the comprehensive plan character area. The R-85 zoning district allows uses to serve the recreational and educational needs of the neighborhood, and is an allowable use in the R-85 zoning district with the approval for a Special Land Use Permit; therefore, Staff recommends approval with conditions.



## STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-18-003**.

1. The hours of operation shall be limited to 8:00 a.m. to 7:00 p.m.
2. All customer contact must be conducted inside the premises and limited to the two treatment rooms shown on the submitted floor plan dated March 26, 2018.
3. The applicant shall submit a parking improvement plan to accommodate the off-street parking of three vehicles. The plan shall be subject to the review and approval of the Community Development Director and must meet all zoning ordinance requirements. The additional parking space shall be paved within 90 days of approval of the special land use permit.
4. Any infractions with the police department must be immediately reported to city staff.
5. All state and local licenses shall be clearly displayed in each treatment room.
6. 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.

**DEPARTMENT COMMENTS**

**ARBORIST**

No new development occurring on the site.

**DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT**

No comments.

**DEKALB COUNTY FIRE MARSHAL OFFICE**

No comments.

**DEKALB COUNTY SCHOOL SYSTEM**

No comments.

**LAND DEVELOPMENT**

No comments.