



**Land Use Petition:** SLUP-19-0003

**Date of Staff Recommendation Preparation:** March 20, 2019

**Community Council:** February 13, 2019

**Planning Commission:** March 28, 2019

**Mayor and City Council, 1<sup>st</sup> Read:** April 22, 2019

**Mayor and City Council, 2<sup>nd</sup> Read:** May 28, 2019

---

<b>PROJECT LOCATION:</b>	1505 Lilburn Stone Mountain Road
<b>DISTRICT//LANDLOT(S):</b>	Land District 18, Land Lot 135
<b>ACREAGE:</b>	±1 acre
<b>EXISTING ZONING</b>	OI (Office Institutional)
<b>EXISTING LAND USE</b>	Multi-tenant office building
<b>FUTURE LAND USE MAP DESIGNATION:</b>	Neighborhood Center (NC)
<b>OVERLAY DISTRICT:</b>	None
<b>APPLICANT:</b>	Audrey DeWitt, Nava Massage Therapy
<b>OWNER:</b>	RCB, Hugh LLC.
<b>PROPOSED DEVELOPMENT:</b>	Applicant requests approval of a Special Land Use Permit for a massage establishment/health spa.
<b>STAFF RECOMMENDATION:</b>	<b>Approval of SLUP-19-0002 (Massage Establishment)</b>

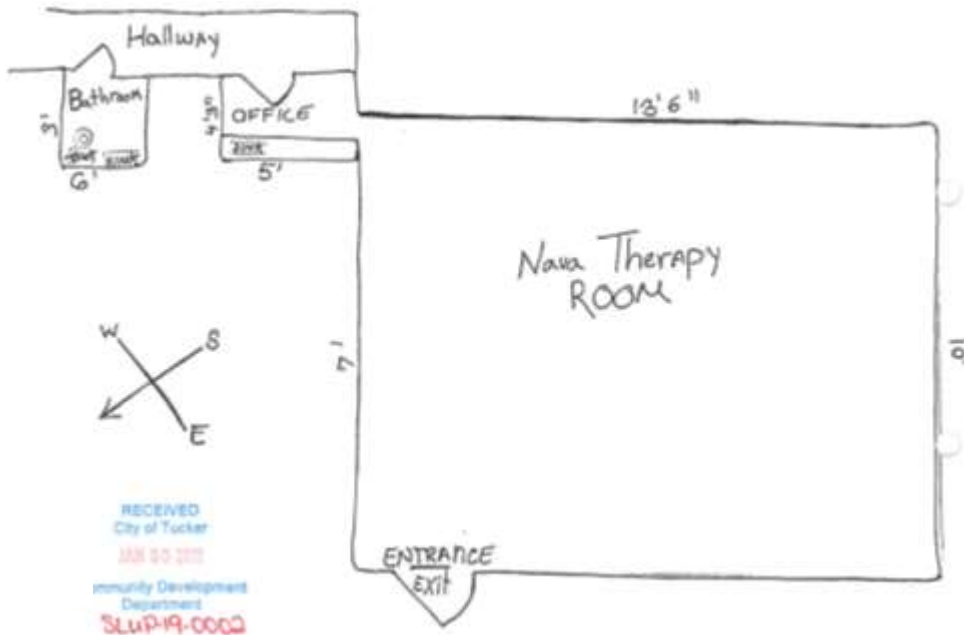
**PROJECT DATA**

The applicant has submitted a request for a Special Land Use Permit (SLUP) for Unit No. 100i, located inside an office building at 1505 Lilburn Stone Mountain Road. The application (SLUP-19-0002) is to allow a massage establishment/health spa in the OI (Office Institutional) zoning district. The ±1-acre site is currently developed with a small office complex known as Hugh Howell Corporate Center. As shown in the aerial below, the shopping center is located within the City of Tucker at the intersection of Liburn Stone Mountain Road and Hugh Howell Road, less than 400 feet from the onramp to the Stone Mountain Freeway.



Occupants consist of a variety of tenants including counseling services, healthcare services, a dentist office, and a financial investment firm. The request is to allow a massage establishment/health spa. It should be noted that the request is for a use in an existing building and does not include exterior renovations.

The applicant submitted a floorplan (stamped January 30, 2019) illustrating the existing ±170-square-foot suite consisting of an office alcove and a treatment room. The bathroom is located just outside the suite and is shared with other tenants of the complex.



The SLUP application includes one (1) Georgia Board of Massage Therapy licenses at the proposed location, which is the applicant. There are no other massage establishments operating within this office complex. Akello Life (massage) used to operate at 5950 Hugh Howell Road, but they have moved to a new location outside the City of Tucker (1324 Rockbridge Road).

The business opened before obtaining a business license. Once Zoning received the business license application, the applicant was notified of the SLUP process. Staff then worked with the applicant to get a complete SLUP application submitted.

### **USE ANALYSIS AND DEVELOPMENT PERMISSIONS**

The subject property is not located within an Overlay District. The subject property is zoned OI (Office Institutional). The purpose and intent section of the OI zoning district (Article 2.25.1) indicates in part that the OI district is established to “provide convenient areas within the city for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the city; and to provide locations for the development of cultural, recreational, educational and health service facilities for the city”.

The OI zoning district allows for “massage establishments” and “health spas” only per a Special Land Use Permit (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, and proliferation of uses. In the City of Tucker all massage establishments and health spas require a SLUP and must meet the supplemental regulations listed in Section 4.2.58 for these uses.

The proposed use meets the intent of the Neighborhood Center Character Area by providing service commercial, which is a primary land use for this character area.

### **COMMUNITY COUNCIL REVIEW**

The Community Council reviewed the proposed application on February 13, 2019. Community Council discussion included the interior layout of the treatment room, the square footage of the interior and if there was only one treatment room. As is standard, the Community Council did not make a recommendation of approval or denial.

### **NEARBY/SURROUNDING LAND ANALYSIS**

<b>Adjacent &amp; Surrounding Properties</b>	<b>Zoning (Petition Number)</b>	<b>Overlay District</b>	<b>Existing Land Use</b>
Adjacent: Northwest	Park	N/A	Stone Mountain Memorial Association Land
Adjacent: Southwest	Park	N/A	Stone Mountain Memorial Association Land
Adjacent: East across Hugh Howell Road	C-1 (Local Commercial)	N/A	Gas Station; Commercial
Adjacent: Catercorner North	C-1 (Local Commercial)	N/A	Gas Station
Adjacent: South/Southeast	NA	N/A	Access Ramp



*Aerial Exhibit showing surrounding land uses.*



*Zoning Exhibit showing surrounding land uses.*

## SLUP-19-0002 MESSAGE ESTABLISHMENT

### 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 unit size is approximately ±170-square-foot located within a ±1-acre professional office complex (total property acreage). 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 compatible with the land uses and development of adjacent properties as it is surrounded on two sides by vacant properties owned by the Stone Mountain Memorial Association. Across Hugh Howell Road are C-1 (Local Commercial) zoned properties, which include a gas station on each corner, a liquor store (the Bottle Shop) and other retail. To the immediate east is right of way for the access ramp onto Stone Mountain Freeway.

- 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.** No comments.

**Water and sewer.** No comments.

- 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. No new curb cuts are proposed nor would be allowed per the City of Tucker Land Development Regulations. The business location has one independent contractor (the applicant/business owner) proposed to be employed at the location, with one treatment room.

- 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.

- 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 Hugh Howell Corporate Center is an existing business complex. The applicant proposes no revisions to the exterior.

- 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 massage establishment. Other businesses in the complex include a mix of services including counseling services, healthcare services, a dentist office, and a financial investment firm. No adverse impacts by reason of noise, smoke, odor, dust, or vibration are anticipated.

- 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.**

Staff recommends a condition, should the application be approved, limiting the hours of operation. The business may open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Any massage must be completed by 8:00 p.m.

- 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 nearby at the Hugh Howell Road and Lilburn Stone Mountain Road intersection will not be adversely affected by the manner or operation of the development.

- 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 development is otherwise consistent with the requirements of the OI zoning district classification.

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

The subject property is designated as Neighborhood Center on the Future Land Use Map. Properties to the near west and south are designated Conservation and Open Space on the Future Land Use. The proposed development is 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 for the proposed use. The property abuts the access ramp to Stone Mountain Freeway to the immediate east, and commercial further east. To the immediate west is park property.

**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.

**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. 4.2.58 (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 4.2.58.

There are additional criteria that must be considered when massage establishments are proposed, as enumerated below:

- A. 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.

- B. 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.

- C. All massage establishments must display the following documents at all times in a clearly visible place:**
- 1. State Licenses**
  - 2. Local Business License**

Applicant states they shall be in compliance. The local business license application process requires several items, including a background check and sworn affidavits of at least three bona fide residents of the City of Tucker that the applicant is personally known to them and they believe the person to be of good moral character.

- D. 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.**

Applicant's proposed hours of operation are in compliance per proposed staff condition.

- E. 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% 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.

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

There is not a proliferation of this use in this area.

**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.**

**Neighborhood Shopping Center Character Area.** The proposal is not in conflict with the intent of the Neighborhood Shopping Center Character Area. Primary land uses include service commercial uses.

**CONCLUSION**

The proposed use would not create a proliferation of similar uses and the proposed Special Land Use Permit application is consistent with the comprehensive plan character area, and the zoning ordinance. 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-19-0002**.

1. The business may open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Any massage must be completed by 8:00 p.m.
2. Any lighting outside the suite shall be energy efficient LED lighting with downward facing cut-off light fixtures to reduce glare.
3. A complete business license application that addresses all of the requirements listed in Section 16 of the Licenses, Permits, and Business Regulations shall be submitted to the City of Tucker.
4. Any infractions with the police department must be immediately reported to city staff.
5. 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.

**DEPARTMENT COMMENTS**

**ARBORIST**

No new development occurring on the site.

**DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT**

No comments.

**DEKALB COUNTY FIRE MARSHAL OFFICE**

No comment.

**DEKALB COUNTY SCHOOL SYSTEM**

Not applicable; no comments.

**LAND DEVELOPMENT**

No comments.