



**REGULAR MEETING OF THE
CITY OF CONCORD
PLANNING COMMISSION**

**Wednesday, January 3, 2018
6:30 p.m. – Council Chamber
1950 Parkside Drive, Concord**

Planning Commission Members:

Jason Laub, Chair

Ray Barbour, Vice Chair

Dominic Aliano, Commissioner

John Mercurio, Commissioner

Mark Weinmann, Commissioner

**REGULAR MEETING
6:30 p.m. – Council Chamber**

I. ROLL CALL

II. PLEDGE TO THE FLAG

III. PUBLIC COMMENT PERIOD

IV. ADDITIONS / CONTINUANCES / WITHDRAWALS

V. CONSENT CALENDAR – None

VI. PUBLIC HEARING

1. **Massage Envy at the Willows Shopping Center (PL17494 – UP)** – Application for a Use Permit to operate a restricted personal service use of a massage parlor, known as Massage Envy, within two existing tenant spaces at the Willows Shopping Center located at 1975 Diamond Boulevard, Suite D-010 & D-151. The General Plan designation is West Concord Mixed Use; Zoning classification is WMX (West Concord Mixed Use); APN 126-440-005. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to Section 15301 “Existing Facilities,” and Section 15332 “In-Fill Development Projects,” the project is classified as a Class 1 and Class 32 Categorical Exemption and therefore, no further environmental review is required. **Project Planner: Sarah Yuwiler @ (925) 671-3465**

VII. COMMISSION CONSIDERATIONS

VIII. STAFF REPORTS / ANNOUNCEMENTS

IX. COMMISSION REPORTS / ANNOUNCEMENTS

X. FUTURE PUBLIC HEARING ITEMS**XI. ADJOURNMENT**

NOTICE TO PUBLIC

ADA ACCOMMODATION

In accordance with the Americans With Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3021, at least five (5) days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

APPEALS

Decisions of the Planning Commission on use permits, variances, major subdivisions, appeals taken from decisions of the Zoning Administrator or staff interpretations of the Zoning Code may be appealed to the City Council. Appeals and the required filing fee must be filed with the City Clerk within ten (10) days of the decision.

If you challenge any of the foregoing described actions in court, an appeal first of said actions to the Zoning Administrator, Planning Commission, and/or City Council (as applicable) in the manner and within the time period established in Development Code Chapter 18.510 (Appeals and Calls for Review) is required, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Administrator and/or Planning Commission (as applicable) at, or prior to, said public hearing.

APPLICANT'S SUBMITTAL OF INFORMATION

Submittal of information by a project applicant subsequent to the distribution of the agenda packet but prior to the public hearing may result in a continuance of the subject agenda item to the next regularly scheduled Planning Commission meeting, if the Commission determines that such late submittal compromises its ability to fully consider and evaluate the project at the time of the public hearing.

CONSENT CALENDAR

Adoption of the Consent Calendar may be made by one motion of the Planning Commission, provided that any Commissioner, individual, or organization may request removal of an item from the Consent Calendar for separate consideration. If a request for removal of an item from the Consent Calendar has been received, the Chair may defer action on the particular item and place the same on the regular agenda for consideration in any order s/he deems appropriate.

CORRESPONDENCE

Correspondence and writings received within 72 hours of the scheduled Planning Commission meeting that constitute a public record under the Public Records Act concerning any matter on the agenda is available for inspection during normal business hours at the Permit Center located at 1950 Parkside Drive, Concord. For additional information contact the Planning Division at (925) 671-3152.

HEARINGS

Persons who wish to speak on hearings listed on the agenda will be heard when the hearing is opened, except on hearing items previously heard and closed to public comment. Each public speaker should limit their comments to three (3) minutes or less. The Chair may grant additional time. The project applicant normally shall be the first person to make a presentation when a hearing is opened for public comment. The project applicant's presentation should not exceed ten (10) minutes unless the Chair grants permission for a longer presentation. After the public has commented, the item is closed to further public comment and brought to the Planning Commission level for discussion and action. Further comment from the audience will not be received unless requested by the Commission. No public hearing or hearing shall commence after 11:00 p.m. unless this rule is waived by majority vote of the Commission.

MEETING RECORDS

Planning Commission meetings are available for viewing on the City's website, www.cityofconcord.org and at the Concord Public Library. Copies of DVDs of the Planning Commission Meeting are available for purchase. Contact the Planning Division at (925) 671-3152 for further information.

NOTICE TO THE HEARING IMPAIRED

The Council Chamber is equipped with Easy Listener Sound Amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the Easy Listener Phonic Ear Personal Sound Amplifier from the staff for personal use during Commission meetings.

ROUTINE AGENDA ITEMS AND CONTINUED ITEMS

All routine and continued items will be considered by the Planning Commission at the beginning of the meeting. There will not be separate discussions of these items unless a request is made prior to the time the Planning Commission considers the motions.

SPEAKER'S CARD

Members of the audience who wish to address the Planning Commission should complete a speaker's card available in the lobby or at the front bench. Submit the completed card to staff before the item is called, preferably before the meeting begins.

TELEVISED MEETINGS

All Planning Commission meetings are broadcast live on Astound Broadband channel 29 and Comcast channel 28. The meeting is replayed on the Thursday following the meeting at 8:00 a.m., 2:00 p.m. and 8:00 p.m. Replays are also broadcast on Fridays and Saturdays. Please check the City website, <http://www.cityofconcord.org/about/citynews/tvlistings.pdf> or check the channels for broadcast times.

NEXT PLANNING COMMISSION MEETINGS:

January 17, 2018: 6:30 pm – Regular Meeting
February 7, 2018: 6:30 pm – Regular Meeting



REPORT TO PLANNING COMMISSION

DATE: January 3, 2018

SUBJECT: MESSAGE ENVY (PL17494 - UP)

Recommendation: Adopt Resolution No. 18-01PC, approving Use Permit (PL17494 - UP) for Massage Envy.

CEQA: This project is classified as a Class 1 Categorical Exemption under CEQA Regulations Section 15301 "Existing Facilities."

This project is also classified as a Class 32 Categorical Exemption under CEQA Regulations Section 15332 "In-Fill Development Projects."

I. Introduction

A. Application Request

Application for a Use Permit to operate a restricted personal service use of a massage parlor, known as Massage Envy, within two existing tenant spaces at the Willows Shopping Center located at 1975 Diamond Boulevard, Suite D-010 & D-151.

B. Location

The project site is located at The Willows Shopping Center at 1975 Diamond Boulevard, Units D-010 & D-151 (the former Rick's Rather Rich Ice Cream and the adjacent unit), APN 126-440-005.



C. Applicant
Braum & Turner LLC
228 Montura St.
Novato, CA 94949
(925) 689-3689

Owner
Magngas
2550 Appina Way, #201
Pinole, CA 94564
(510) 222-1421

II. Background

On October 27, 2017, the applicant submitted the subject application to operate a massage parlor, known as Massage Envy, in an existing tenant space at the Willows Shopping Center.

Public notices were sent to all residents, tenants, and property owners within 300-feet of the project site stating that a public hearing would be held before the Planning Commission on January 3, 2018 where a decision will be rendered.

III. General Information

A. General Plan

The General Plan designation is WMX (West Concord Mixed-Use).

B. Zoning

The site is zoned WMX (West Concord Mixed-Use).

C. CEQA Status

Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to Section 15301 "Existing Facilities," the project is classified as a Class 1 Categorical Exemption and therefore, no further environmental review is required.

Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to Section 15332 "In-Fill Development Projects," the project is classified as a Class 32 Categorical Exemption and therefore, no further environmental review is required.

D. Site Description

Lot Size and Dimensions	25,120 sq. ft.	160 ft. x 157 ft. (approx.)
Existing Improvements	Retail building with twenty-six tenant spaces, parking lot, and landscaping.	
Topography	The parcel is flat and sits at the same level as the adjacent properties.	
Existing Vegetation	Trees along the perimeter of the site and in the parking lot.	

E. Surrounding Land Use

The site is surrounded by the following uses:

	Land Use	General Plan Designation	Zoning
North	Shopping Center	West Concord Mixed Use	WMX

East	Hotel	West Concord Mixed Use	WMX
South	Restaurant	West Concord Mixed Use	WMX
West	Shopping Center	Regional Commercial	RC

IV. Detailed Project Description

A. Description of Business

The proposed project would consist of a massage parlor serving approximately 1,600 members and an additional 400+ non-members. The applicant’s requested hours of operation are from 9:00 a.m. to 10:00 p.m. Monday through Friday, Saturday from 9:00 a.m. to 9:00 p.m. and Sundays from 9:00 a.m. to 7:00 p.m. This business was formerly located in downtown Pleasant Hill where they employed 24 massage therapists, 4 estheticians and 11 front desk and management staff. Massage Envy is a national brand with approximately 1,200 locations and has existed for about 14 years. No food or beverages would be served, including no alcoholic beverages. No signage or exterior improvements are proposed as part of the use permit proposal.

V. Analysis/Discussion

A. General Plan Consistency

The proposed use is consistent with the General Plan as the WMX zoning district implements the West Concord mixed-use (WCMU) land use designation of the general plan. The WMX district is applied to the area west of downtown, along Concord Avenue and the Walnut Creek Channel, and adjoining areas of the city. Examples include neighborhood shopping centers, supermarkets, dry cleaners, video stores, and small restaurants. Massage parlors are classified as Restricted Personal Services in the City of Concord Municipal Code. Restricted Personal Services are further defined as establishments that provide personal services that tend to have a negative economic impact upon surrounding areas and may need to be dispersed to minimize their adverse impacts. Examples of ‘Restricted’ uses are bail bonds, fortune tellers, palm readers pawn shops tattoo and body piercing services and massage parlors. These uses are allowed in the WMX district with the approval of a use permit.

Discussion

General Plan Policy LU-2.1.1 states that the City shall maintain attractive and viable neighborhood serving centers. In addition, General Plan Policy LU-2.1.2 encourages existing neighborhood centers to expand or adapt to market changes through reuse, rehabilitation, and infill development. The proposed massage parlor would aid in maintaining the viability of the existing shopping center by occupying and upgrading an existing vacant tenant space while providing a new service to the area’s residents which is not currently available within the project vicinity. Lastly, the proposed use is permitted within the West Concord Mixed Use zoning district with an approved Use Permit. For these reasons, staff finds the proposed

project consistent with West Concord Mixed Use land use designation and the applicable policies within the General Plan.

B. Parking

The project includes the operation of a massage parlor within an existing 3,345 square foot space at the Willows Shopping Center. The project will not result in additional floor area and parking needs in excess of what is currently provided and shared with other tenants of the Willows Shopping Center.

C. Zoning Consistency

As noted above, the zoning classification for the project site is WMX. Massage Parlors are classified as a restricted personal service within the Development Code use classifications. Pursuant to the Development Code, a use permit is required for restricted personal services within the WMX zone district. In order for a use permit to be approved, the findings contained within Section 18.435.060 of the Development Code must be made by the review authority. An analysis of the proposal relative to the required use permit findings is provided below.

The Review Authority may approve a use permit application only after first making the following findings:

1. The proposed use is allowed within the applicable Zoning District and complies with all other applicable provisions of the Development Code and Concord Municipal Code.

The proposed massage parlor is allowed within the WMX zoning district with an approved Use Permit and complies with all other applicable provisions of the Development Code, including those discussed above, and the Concord Municipal Code.

2. The proposed use is consistent with the General Plan and any applicable Specific Plan.

As noted above, General Plan Policy LU-2.1.1 states that the City shall maintain attractive and viable neighborhood serving centers. In addition, General Plan Policy LU-2.1.2 encourages existing neighborhood centers to expand or adapt to market changes through reuse, rehabilitation, and infill development. The proposed massage parlor would assist in promoting the viability of an existing retail center by occupying and upgrading two existing vacant tenant spaces while providing a new service that is not currently available in the area. Therefore, the proposed use is consistent with the site's West Concord Mixed Use General Plan land use designation and other applicable policies regarding land use compatibility. There is no Specific Plan applicable to the project site.

3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.

The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity because, as discussed above, adequate on-site parking is provided to avoid potential traffic, circulation, and pedestrian safety impacts. The proposed hours of operation are consistent with other uses in The Willows Shopping Center. Operational measures are included in the Conditions of Approval to minimize potential safety, lighting, and noise impacts to the surrounding tenants in addition to a thorough review by the Police Department regarding the use.

4. The site is physically suitable for the type, density, and intensity of the proposed use, including access, utilities, and the absence of physical constraints.

The site is physically suitable for the type, density, and intensity of the proposed use, including access, utilities, and the absence of physical constraints because, as discussed above, sufficient on-site area is available for parking. Further, the site is already served by an adequate access point to the shopping center.

5. Granting the permit would not be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood or materially detrimental or injurious to property or improvements in the vicinity and Zoning District where the property is located.

Granting the use permit for the proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the subject neighborhood or materially injurious to property or improvements in the vicinity and the Zoning District where the property is located because the project has been designed in a manner to maintain land use compatibility with the surrounding commercial land uses. Moreover, the Police Department has conducted a thorough review of the subject application and has recommended the conditions of approval within Attachment A of Exhibit A to address a variety of security concerns including safety, lighting, customer identification, noise, and business operations.

VI. Fiscal Impact

The proposed project would have a negligible fiscal impact on the City.

VII. Public Contact

Notification was mailed to all owners and occupants of property within three-hundred (300) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code. This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

VIII. **Summary and Recommendations**

The proposed massage parlor project will occupy and upgrade an existing tenant space within an existing shopping center helping to maintain the economic life of the neighborhood center while providing an additional service not currently available within the project vicinity. Furthermore, the project will not be detrimental to the health, safety and general welfare of persons residing or working in the neighborhood of such project as conditioned.

Staff recommends the Planning Commission open the public hearing, consider the staff report and presentation by the applicant, the public testimony, and close the hearing upon completion of public testimony. Staff recommends the Commission adopt Resolution No. 18-01PC approving a Use Permit for Massage Envy.

IX. **Motion**

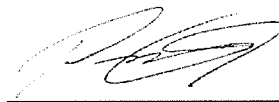
Project Approvals

I (Comm. _____) hereby move that the Planning Commission adopt Resolution 18-01PC approving Massage Envy Use Permit (PL17494 – UP), subject to the Conditions of Approval set forth in Attachment A to Resolution 18-01PC. (Seconded by Comm. _____.)

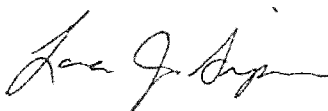
Prepared by:


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Prepared by:


 Pedro Garcia
 Economic Development Specialist
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Reviewed by:


 Laura Simpson, AICP
 Planning & Housing Manager
 (925) 671-3369
laura.simpson@cityofconcord.org

Exhibits:

- A - PC Resolution No. 18-01PC, Conditions of Approval (Attachment A)
- B - Applicant's written statement date stamp received October 27, 2017
- C - Project plans date stamp received October 27, 2017 & December 20, 2017

BEFORE THE PLANNING COMMISSION
OF THE CITY OF CONCORD,
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

A RESOLUTION APPROVING A USE PERMIT
FOR MASSAGE ENVY AT THE WILLOWS
SHOPPING CENTER (PL17494-UP)

Resolution No. 18-01 PC

WHEREAS, on October 27, Braum & Turner LLC submitted a use permit to operate a
massage parlor known as Massage Envy at 1975 Diamond Boulevard Units D-010 & D-151, APN
126-440-005; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA)
of 1970, as amended, the project is classified as Categorically Exempt pursuant to Section 15301
(Class 1 – Existing Facilities) and Section 15332 (Class 32-In-Fill Development Projects), therefore
no further environmental review is required; and **WHEREAS**, on November 26, 2017, the application
was deemed complete; and

WHEREAS, the Planning Commission, after giving all public notices required by State law
and the Concord Municipal Code, held a duly noticed public hearing on January 3, 2018, on the
subject proposal; and

WHEREAS, the Planning Commission considered testimony and information received at the
public hearing and the oral and written reports from City staff dated January 3, 2018, as well as other
documents contained in the record of proceedings relating to the proposed project, which are
maintained at the offices of the City of Concord Planning Division (“Project Information”); and

WHEREAS, on January 3, 2018, the Planning Commission, after consideration of all
pertinent plans, documents and testimony, declared their intent to approve the subject proposal subject
to the Conditions of Approval contained herein as Attachment A.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS: that the Planning Commission
does hereby approve the Use Permit application (PL17494 – UP) to operate a massage parlor known
as Massage Envy at the Willows Shopping Center, subject to the Conditions of Approval and further

1 makes the following findings:

2 RECITALS

3 The recitals above are true and correct and incorporated herein by reference. The recitals
4 constitute findings in this matter, and together with the Project Information, serve as an adequate and
5 appropriate evidentiary basis for the findings and actions set forth in this Resolution.

6 CEQA

7 Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970 (and
8 as amended); the project is classified as Categorical Exempt under Section 15301 "Existing
9 Facilities," as the project involves the operation and minor interior and exterior alteration of an
10 existing private structure, involving negligible expansion of the use which does not extend beyond the
11 existing building footprint. Further, the project is also classified as Categorical Exempt pursuant to
12 Section 15332 "In-Fill Development Projects," because 1) the project is consistent with the General
13 Plan, and applicable zoning designation and regulations; 2) the proposed development occurs within
14 city limits on a site of no more than five acres substantially surrounded by urban uses; 3) the project
15 has no value as habitat for endangered, rare or threatened species; 4) approval of the project would not
16 result in any significant effects related to traffic, noise, air quality or water quality; and 5) the site can
17 be adequately served by all required utilities and public services. Additionally, pursuant to Section
18 15300.2(c), there are no exceptions to the Section 15301 "Existing Facilities" or Section 15332 "In-
19 Fill Development Projects" exemptions because: 1) the subject property is not located in a sensitive
20 environment; 2) the project will not cause a cumulative impact due to successive projects of the same
21 type in the same area; 3) the project will not have a significant effect on the environment due to a
22 cumulative impact of other projects or unusual circumstances; 4) the project will not result in
23 damage to scenic resources; 5) the project is not located on a site which is included on any list
24 compiled pursuant to Section 65962.5 of the Government Code; and, 6) the project will not cause a
25 substantial adverse change in the significance of a historical resource.

1 USE PERMIT

2 1. The proposed massage parlor is allowed within the WMX zoning district with an
3 approved use permit and complies with all other applicable provisions of the Development Code and
4 Concord Municipal Code.

5 2. The proposed massage parlor is consistent with the General Plan Policy LU-2.1.1,
6 which states that the City shall maintain attractive and viable neighborhood serving centers. The
7 proposed massage parlor is also consistent with the General Plan Policy LU-2.1.2, which encourages
8 existing neighborhood centers to expand or adapt to market changes through reuse, rehabilitation and
9 infill development. The proposed massage parlor would assist in promoting the viability of an
10 existing neighborhood center by occupying and upgrading two existing vacant tenant spaces while
11 providing a new service to the residents of the area which is not currently available within the project
12 vicinity. Therefore, the proposed use is consistent with the site's West Concord Mixed Use General
13 Plan and land use designation.

14 3. The design, location, size, and operating characteristics of the proposed use are
15 compatible with the existing and future land uses in the vicinity because adequate on-site parking is
16 provided to avoid potential traffic, circulation, and pedestrian safety impacts. The proposed hours of
17 operation are consistent with other uses in The Willows Shopping Center. Operational measures have
18 been implemented by the applicant and are being imposed by the Conditions of Approval to minimize
19 potential safety, lighting and noise impacts to the surrounding tenants in addition to a thorough review
20 by the Police Department regarding the use.

21 4. The site is physically suitable for the type, density, and intensity of the proposed use,
22 including access, utilities, and the absence of physical constraints because sufficient on-site parking is
23 available and the site is already served by an adequate access point to the shopping center

24 5. Granting the use permit for the proposed massage parlor will not be detrimental to the
25 health, safety, and general welfare of the persons residing or working in the subject neighborhood or
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1 materially injurious to property or improvements in the vicinity and the Zoning District where the
2 property is located because the project has been designed in a manner to maintain land use
3 compatibility with the surrounding commercial uses. Moreover, the Police Department has conducted
4 a thorough review of the subject application and has recommended the conditions of approval within
5 Attachment A to address a variety of security concerns including safety, lighting, customer
6 identification, noise, and business operations.

7 6. This resolution shall become effective immediately upon its passage and adoption.

8 **PASSED AND ADOPTED** this January 3, 2018, by the following vote:

- 9 **AYES:** Commissioner -
- 10 **NOES:** Commissioner -
- 11 **ABSTAIN:** Commissioner -
- 12 **ABSENT:** Commissioner -

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Laura Simpson, AICP
Secretary to the Planning Commission

17 Attachments:
18 A – Draft Conditions of Approval

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ATTACHMENT A

**DRAFT CONDITIONS OF APPROVAL
MESSAGE ENVY USE PERMIT
PL17494- UP
THE WILLOWS SHOPPING CENTER
1975 DIAMOND BOULEVARD UNITS D-010 & D-151
APN: 126-440-005**

NOTE: Changes and additions to Standard Conditions are highlighted in bold.

PERMIT DESCRIPTION

1. These Conditions apply to and constitute the approval of a **Use Permit (PL17494-UP)** application to allow a **Message Envy, massage parlor**, at **The Willows Shopping Center** and shall conform to the applicant's written statement and floor plan, dated October 27, 2017, on file at the Planning Division. *(PLNG)*
2. All massage therapists shall be certified per State and Concord Municipal Code requirements, with licenses displayed as required. *(PLNG, PD)*
3. The hours of operation for **Message Envy** shall be as follows:
Monday through Friday 9:00Am to 10:00PM
Saturday 9:00AM to 9:00PM
Sunday 9:00AM to 7:00PM

GENERAL CONDITIONS

4. The conditions are the responsibility of the applicant and all contractors. Compliance shall occur as specified in the conditions. If timing for compliance is not specified, it shall be determined by the Divisions listed after the Condition. *(PLNG, BLDG, ENGR, TRANS, PD)*
5. Where a plan or further information is required, it is subject to review and approval by the applicable City Department/Division, as noted at the end of the Condition. The Division listed first shall be the primary contact for implementation of that Condition. *(PLNG, BLDG, ENGR, TRANS, PD)*
6. The project shall comply with all applicable Federal and State laws and Concord Municipal Code (CMC) requirements **including Chapter 5.75 of the Concord Municipal Code, Massage Establishments.** *(PLNG, BLDG, ENGR)*
7. Minor modifications that are found to be in substantial conformance with the approved project/plans may be approved administratively. Major modifications shall be approved by the applicable decision making body. *(PLNG)*

- 1 8. Two annotated copies of the Conditions of Approval specifying how each applicable condition
2 has been satisfied shall be submitted prior to the issuance of a building permit. *(PLNG)*
- 3 9. The Conditions of Approval shall be listed on a plan sheet that is included in the construction
4 plan set (Grading, Utility, Landscaping and Building Plans.) *(PLNG)*
- 5 10. No outdoor storage, display or work is permitted at any time. *(PLNG)*
- 6 11. The City shall maintain the ability to revoke this Minor Use Permit and set a new public
7 hearing date in order to impose additional conditions to correct problems that may arise such
8 as public nuisances and related Municipal Code violations, and excessive nuisance related
9 responses from Code Enforcement. Additional conditions, to correct problems, may include
10 but are not limited to modifications of hours of operation, odor control measures, and noise
11 control measures. *(PLNG)*
- 12 12. All exterior improvements for the area adjacent to the tenant space out to the street curb shall
13 be maintained in good condition and kept clean and clear of debris. When the tenant space is
14 not adjacent to a street, sidewalk, or parking lot, the tenant shall be responsible for
15 maintenance of the area immediately in front of their space. Exterior improvements include
16 but are not limited to landscaping, street trees, sidewalks, parking areas, street furniture, trash
17 receptacles and enclosures, signs, and building facades, except for areas which are maintained
18 by the City. *(PLNG)*
- 19 13. A Building Permit is required for all signs and shall include a signed statement from the
20 property owner or management group verifying that the sign has been reviewed for
21 consistency with the Master Sign Program. *(PLNG, BLDG)*

22 **NOISE**

- 23 14. Noise producing site preparation and construction activities shall be limited to the days and
24 hours as set forth below:

25 **Monday through Friday7:30 a.m. to 6:00 p.m.**

26 Construction on Saturdays may be allowed only upon prior approval by the Building,
27 Engineering, and Planning Divisions. No changes to these construction hours shall be allowed
28 without the prior written consent of the City. A contact person shall be available during all
construction activities in the evening and on weekends to respond to complaints and take
actions necessary to reduce noise. *(BLDG, ENGR, PLNG)*

UTILITIES

15. The facility and any tenant improvements are subject to the Central Contra County Sanitary
District (CCCSO) Source Control Ordinance. The applicant shall be responsible for
obtaining the necessary permits for sewer service. *(CCCSO)*

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2 **AGREEMENTS, FEES, BONDS**

- 3 16. Pay a Document Imaging fee to reimburse the City for implementation of the Document
4 Imaging and File Retention programs, prior to issuance of Grading or Building Permits.
5 *(PLNG)*

6 **OTHER**

- 7 17. Comply with the requirements of the Contra Costa County Fire Protection District. Submit
8 complete sets of plans and specifications for the Fire District for review and approval at:

9 Contra Costa County Fire Protection District
10 2010 Geary Road
11 Pleasant Hill CA 94523

12 Plan review fees are assessed bat that time. The City is not responsible for the
13 collection of fees or enforcement of requirements imposed by the Fire District.
14 *(CCCFPD)*

- 15 18. The applicant shall defend (with counsel approved by City), indemnify and hold harmless the
16 City, any agency or instrumentality thereof, and its/their respective agents, officers, officials,
17 volunteers, and employees from and against any and all administrative and/or legal claims,
18 actions or proceedings to attack, set aside, void, or annul approval of the project, including
19 without limitation, any related application, permit, certification, condition, environmental
20 determination, other approval, compliance or failure to comply with applicable laws and
21 regulations, and/or processing methods (“Challenge”), with the exception of a Challenge
22 arising out of the City’s sole negligence or willful misconduct. The City shall have the right
23 to pre-approve any material decision involved in defending any such Challenge, including
24 settlement, and may (but is not obligated to) participate in the defense of any Challenge. If
25 applicant does not promptly defend any Challenge, City may (but is not obligated to) defend
26 such Challenge as City, in its sole discretion, determines appropriate, all at applicant’s sole
27 cost and expense. The applicant shall bear any and all losses, damages, injuries, liabilities,
28 costs, and expenses (including, without limitation, staff time and in-house attorney's fees on a
fully-loaded basis, attorney’s fees for outside legal counsel, expert witness fees, court costs,
and other litigation expenses) arising out of or related to any Challenge (“Costs”), whether
incurred by Developer, City, or awarded to any third party, and shall pay to the City upon
demand any Costs incurred by the City. No modification of the project, any application,
permit, certification, condition, environmental determination, other approval, change in
applicable laws and regulations, or change in processing methods shall alter the applicant’s
indemnity obligation. Pursuant to Government Code Section 66474.9, the applicant’s
indemnification obligation with respect to any claim, action or proceeding to attack, set aside,
void, or annul an approval of City concerning a subdivision (tentative, parcel, or final map
application or approval) shall be limited to actions brought within the time period provided

1 for in Government Code Section 66499.37, unless such time period is extended for any
2 reason. The City shall promptly notify applicant of any Challenge, and shall cooperate fully
3 in the defense. **(CA)**

4 19. The City of Concord Municipal Code requires that each business within the City apply for
5 and obtain approval of a business license. Please contact the Finance Department at
6 (925) 671-3307 for license information. **(FIN)**

7 20. The permit and approval shall expire in *one year* from the date on which they became effective
8 unless construction permits are obtained and work has begun. All permits approved
9 concurrently with a Tentative Map shall be valid for the life of the map. The effective date of
10 the permit and approval is *January 15, 2018*. **(PLNG)**

11 21. A request for a time extension from the expiration date of *January 15, 2018* can be considered
12 if an application with required fee is filed at least 45 days before the original expiration date,
13 otherwise a new application is required. A public hearing will be required for all extension
14 applications, except those involving only Design Review. Extensions are not automatically
15 approved. Changes in conditions, City policies, surrounding neighborhood, and other factors
16 permitted to be considered under the law, may require, or permit denial. **(PLNG)**

Business Description

My business partner and I have owned a Massage Envy since April of 2007. The current location is in downtown Pleasant Hill. We are set to close at the end of October since we lost our lease. Both my business partner and I are Electrical Engineers and our wives are Nurses. We got involved in this business because we all felt that massage is a path towards better health. The “feel good” aspect drew us in. We are single unit operators so this is our only location.

Massage Envy as a brand has been around for about 14 years. It is a national brand with about 1200 locations. Initially massage was the only service offered, but now the brand has branched out to include facials as well as stretch services. For more information please visit www.massageenvy.com . While someone does not have to be a member to come use our services the business model relies on having a large base of members.

Our hours of operation will be M - F from 9 am to 10 PM. Saturday from 9 AM to 9PM and Sundays from 9AM to 7PM. We currently employ 24 Massage Therapists and 4 Estheticians. Our front desk and management staff are currently at 11 total. These numbers will be lower as we ramp up in the new location. At our business peak we had as many as 2800 customers a month. Lately that number has dropped down to about 2000. Our membership currently stands at almost 1600.

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EXHIBIT B

**PART 1 - SITE PLAN OF THE SHOPPING CENTER
(DESIGNATING THE "LANDLORD'S BUILDING")**

The site plan is presented solely for the purpose of identifying the approximate location and size of the improvements in the Shopping Center. Subject to the terms and conditions of this Lease, building sizes, dimensions, access and parking area, existing tenant locations and identities are subject to change without notice and at Landlord's discretion. Unit numbers as indicated are not necessarily the actual suite numbers and are intended for use as a reference only. Without limiting any other specific designations set forth on the site plan as of the date of this Lease, those buildings depicted below which are either designated with the letters "NAP" (i.e., not a part) or are not shaded shall not be considered a part of Landlord's Building.

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