

**MINUTES OF THE PLANNING COMMISSION OF THE CITY OF STANTON  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 19, 2018**

**1. CALL TO ORDER**

The members of the Planning Commission of the City of Stanton met in regular session in the City Council Chambers at 6:30 p.m., Vice Chairman Moua presiding.

**2. PLEDGE OF ALLEGIANCE**

Led by Commissioner Taylor.

**3. ROLL CALL**

Present: Commissioner Ash, Commissioner Grand, Commissioner Taylor and Vice Chairman Moua

Absent: None.

Excused: None.

Also Present: Community & Economic Development Director Kelly Hart, Associate Planner Rose Rivera and City Attorney HongDao Nguyen

**4. SWEARING IN/SEATING NEW PLANNING COMMISSIONER**

The City Clerk administered the Oath of Office to Thomas Frazier.

**5. PLANNING COMMISSION REORGANIZATION**

The Community and Economic Development Director accepted nominations for Chair. Vice Chairman Moua was selected as Chairman.

The Chairperson accepted nominations for Vice Chair. Commissioner Taylor was selected as Vice Chairman.

**6. SPECIAL PRESENTATION**

None.

**7. APPROVAL OF MINUTES**

The Planning Commission approved minutes of the Regular Meeting held on May 2, 2018.

Motion/Second: Ash/Grand

Motion carried (4 - 1) by the following vote:

AYES: Ash, Grand, Taylor, Moua,  
NOES: None  
ABSTAIN: Frazier  
ABSENT: None

**8. PUBLIC COMMENTS**

None.

**9. NEW BUSINESS**

**9A. REQUEST FOR EXTENSION OF AMORTIZATION PERIOD FOR CUTIES SPA & MASSAGE, TO ALLOW FOR THE TEMPORARY, CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT IN THE CN (COMMERCIAL NEIGHBORHOOD) ZONE AT 7604 KATELLA AVENUE.**

Community & Economic Development Director Kelly Hart introduced the item as a request for an extension of amortization period for Cuties Spa and Massage to allow for the temporary, continued operation of a massage establishment. She introduced Associate Planner Rose Rivera to further discuss the item.

Associate Planner Rose Rivera presented the staff report. She provided background information and noted that in 2015, the City Council adopted Ordinance No. 1032; which amended portions of the Stanton Municipal Code related to massage establishments. It established new permitting and licensing regulations, and operational, sanitation and attire requirements. She noted the new regulations required massage establishments within the CG (Commercial General) zone to obtain both a conditional use permit for massage services and a massage establishment license within two years of the ordinance effective date. Massage establishments within the Commercial Neighborhood or CN zone were given two years to operate as a legal, nonconforming business to allow an appropriate amount of time to recoup costs associated with the establishment.

Associate Planner Rivera noted existing establishments in the CN zone were also given the ability to apply for an extension of the amortization period if they could demonstrate certain hardships including a long-term lease or an extraordinary financial investment in the business. She stated that massage establishment owners in Stanton were notified by mail of the newly adopted City ordinance and how the regulations would affect their business. It notified massage establishment owners' located in the CN zone that the establishment would need to cease operations or change operations to a permitted use by May 30, 2017. The letter also notified owners of the option to apply for an extension of the 2-year amortization period in compliance with Ordinance No. 1032. The Ordinance specified that the burden of proof would be on the applicant to prove that the extension is reasonable and that the applicant shall submit documentation that supports their request.

Associate Planner Rivera explained that on November 29, 2016, the business owner of Cuties Spa and Massage submitted an application for the extension of the amortization period until October 31, 2019, for his business located at 7604 Katella Avenue. On December 22, 2016, staff notified the applicant via letter that the application was incomplete for processing and provided a list of items needed to deem the application complete. After receiving no response from the applicant, staff notified the applicant via letter in August 2017 and again in March 2018, that the applicant needed to submit the required items, or the application would be considered withdrawn. On May 2, 2018, the applicant submitted additional documentation in response to staff's requests. After considering the additional evidence supplied by the applicant, staff determined that the information provided was sufficient to process the application. The applicant has provided a narrative outlining estimated costs of business investments and proof of building permit issuance for the tenant improvements for the massage establishment, and a lease indicating a term through October 31, 2019.

Associate Planner Rivera explained that according to the applicant's narrative, there is no opportunity to relocate to a legally permissible site or change the use to a conforming use as it would put a financial strain on the business owner. The narrative also indicated that the present actual value of the business improvements has not depreciated and still maintain their actual value. The applicant also states that the useful life of the business improvements is approximately ten years since the business was brought up to current building codes and additional monies were expended to keep the business competitive.

Associate Planner Rivera explained the applicant has asked to continue operation of the business until the end of the lease term. The City does not want to create a financial burden on the applicant if the lease must be broken and therefore finds that the request to continue to operate until the end of the lease term of October 31, 2019, is reasonable. The applicant provided sufficient information to demonstrate a financial burden that would justify an extension of the amortization period to recoup expenses. The time period request is reasonable as is the timing for the Planning Commission to consider the request for the extension.

As such, Associate Planner Rivera explained that based on the evidence provided and the reasonable extension request, staff recommends that the Planning Commission approve the amortization request and identify the business closure date as October 31, 2019.

Commissioner Ash asked for a total of what the applicant was asking for.

Associate Planner Rivera noted that she itemized the items that they are requesting but provided a quick total.

Commissioner Frazier offered some observations and noted that after driving by and visiting the site, he noted some code enforcement issues. A condition on page three of the Resolution is that all the conditions of the Planning Division be met and item 12 requires that the windows of the establishment be transparent but they are blacked out. He stressed that this is a code enforcement issue and directed staff to initiate code enforcement.

Director Hart noted that the item for consideration before the Commission this evening is the amortization request, but the code enforcement issues would be noted and followed up with the applicant to ensure that their operations are in compliance.

Commissioner Grand noted some further concerns with approving the application.

Director Hart noted that the sole consideration of the Commission this evening is the amortization request. However, there are conditions of approval placed on the continued operation. Code Enforcement Division acts on received complaint and this can be taken as a request to investigate/observation. Director Hart stressed they will work with code enforcement and the applicant to ensure compliance.

Commissioner Ash noted that the resolution states it is just the amortization period for the temporary continued operation of the massage establishment. They have gone through all the steps for massage parlors required by the Code.

This is not a public hearing, but the applicant's representative was present.

Terrance Shannon, the applicant's representative, noted he had an opportunity to work with City representatives on this project and asked that the Planning Commission approve the request for an extension of the amortization period. The applicant is aware and understands the Code issues involving massage parlors.

Commissioner Frazier noted the numbers are between \$87,400 and \$93,400 and he has 13 months to recuperate that money and if the applicant understands it, there are no questions.

Mr. Shannon stated they understand exactly what amortization is all about.

[SOME PORTIONS WERE UNINTELLIGIBLE]

Motion/Second: Frazier/Ash

Motion unanimously carried (5 - 0) by the following vote:

AYES:	Ash, Taylor, Moua, Grand, Frazier
NOES:	None
ABSTAIN:	None
ABSENT:	None

**ACTION TAKEN:**

The Planning Commission declared that the project is categorically exempt per California Environmental Quality Act, under Section 15301 (Existing Facilities); and adopted Resolution No. 2488 approving the request for an extension of the amortization period for the temporary, continued operation of an existing massage establishment until October 31, 2019.

**9B. REQUEST FOR EXTENSION OF AMORTIZATION PERIOD FOR PETITE MASSAGE, TO ALLOW FOR THE TEMPORARY, CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT IN THE CN (COMMERCIAL NEIGHBORHOOD) ZONE AT 6901 CERRITOS AVENUE.**

Community & Economic Development Director Kelly Hart introduced the item as a request for an extension of amortization period for Petite Massage to allow for the temporary, continued operation of a massage establishment. She introduced Associate Planner Rose Rivera to further discuss the item.

Associate Planner Rose Rivera presented the staff report. She provided background and noted that in 2015, the City Council adopted Ordinance No. 1032 which amended portions of the Stanton Municipal Code related to massage establishments, which required massage establishments within the CG zone to obtain both a conditional use permit for massage services and a massage establishment license within two years of the Ordinance effective date. Massage establishments within the Commercial Neighborhood or CN zone were given two years to operate as a legal nonconforming business to allow an appropriate amount of time to recoup costs associated with the establishment and gave the businesses in the CN zone the ability to apply for an extension of the amortization period if they could establish certain hardships.

Associate Planner Rivera confirmed business owners were notified by staff of the newly adopted Ordinance through a letter and the letter notified the owners they needed to cease operations or change operations to a permitted use by May 31, 2017, or ask for an extension for the amortization period. On December 14, 2016, the owners of Petite Massage submitted an application for an extension of the amortization period for their establishment until December 31, 2018. On December 22, 2016, staff notified the applicant the application was incomplete for processing and provided a list of required items. Staff received no response from the applicant and in August 2017, notified the applicant that the requested items needed to be submitted or the application would be deemed withdrawn. On December 5, 2017, the applicant submitted additional documentation in response to staff's requests. After reviewing the additional information, staff found the information provided was sufficient to process the application.

Associate Planner Rivera noted the applicant's narrative outlines estimated costs of business investments as well as building permit issuance for the tenant improvements for the massage establishment and lease information. The lease provided by the applicant was not an executed lease so staff received clarification from the property owner that the business is operating on a month-to-month basis. According to the applicant, the owner is seeking to continue operations through December 31, 2018, in order to help recover expenses associated with required tenant improvements meant to bring the establishment up to the building code in 2015. During the tenant improvement process which took approximately eight months to complete according to the applicant, the business owner was required to maintain rental payments even though the business was not operating. Additionally, there is no opportunity to relocate to a legally permissible site or change the use to a conforming use as it would put a strain on the business owner and there is no remaining valuable in the business due to the change in zoning requirements which caused the business to be nonconforming. She noted the applicant stated that the actual useful life of the business was indefinite since the business was brought up to

current building code with the tenant improvements in 2015. The applicant has provided sufficient information to demonstrate a financial burden that would justify an extension of the amortization period to recoup expenses, and the time request is reasonable as it is within the two-year period that the Commission might consider the extension.

As such, Associate Planner Rivera explained that based on the evidence provided and the reasonable extension request, staff recommends that the Planning Commission approve the amortization extension for Petite Massage and identify the business closure date as December 31, 2018.

Commissioner Frazier noted he has driven by the location and noticed the windows are blacked out, which is a code violation.

Planning Director Hart stated the violation was received, noted, and will be followed up.

[SOME PORTIONS WERE UNINTELLIGIBLE]

Director Hart noted an addendum to the original narrative, which was submitted a year later. In the addendum, it states the lease would expire December 31, 2018, but the property owners did confirm the lease is month-to-month.

Mr. Shannon, applicant's representative, noted it was confusing to understand what was being requested at the beginning, but he was educated by City staff to make it possible to understand. The representative noted they are requesting the Commission approve the Resolution with certain additional conditions. Mr. Shannon clarified the confusion caused by the lease because of a misunderstanding of requirements but emails between the property owner, the business owner and City staff indicated the applicant was seeking an extension be allowed to the maximum time allowed. He noted a lot of time, money and effort were put into the location to bring it to ADA standards and with all the requirements the City has had, they request for an extension of time until December 31, 2018. Mr. Shannon asked if the Commission will allow for a further extension of time beyond December 31, 2018 because it is fair for the applicant given all the time and effort that was spent to improve the location.

Director Hart asked Mr. Shannon to identify a specific date.

Mr. Shannon asked for October 31, 2019.

Director Hart confirmed staff from the Planning Division spoke with Mr. Shannon the previous day regarding the application and the process and provided him the necessary information. She noted the application has been ongoing for two years with an inability to understand the application process even though staff provided many letters and emails to explain the process. The applicant was unable to understand the application. She stressed it is fully laid out in the Code and they have had several years and it is in writing multiple times. She asked if the Commission will approve the extension, to approve it to the exact extension date that is requested because it is unlike Cutie, which is based on a verifiable and executed lease agreement.

Vice Chairman Taylor asked Mr. Shannon for numbers (pertaining to business investments).

Mr. Shannon stated the figures were sent with the original application. He stated he is familiar with the numbers of other similar businesses and the cost is anywhere from \$10,000 to \$25,000.

Director Hart noted Cuties Spa & Massage provided the information for approximately \$83,000 worth of improvement costs. For Petite Massage, the cost was approximately \$47,000.

Mr. Shannon continued to explain the confusion regarding the lease.

Commissioner Ash asked if he agreed that the lease is on a month-to-month basis.

Mr. Shannon stated that based on his understanding of the emails, although it is a month-to-month, the landlord is willing to sign or execute any additional documentation to let the City know the lease is on a term lease.

Director Hart noted that the fact that it is a month-to-month versus a term lease it makes no bearing at this stage because in contrast with the case for Cutie, the term lease is identified in the document that was provided with a term limit and that was a factor in the consideration of the extension of the amortization because there was a true and verifiable document. At this point for Petite, the term of the lease has no bearing. It is based on the costs and the requests. The true issue is whether the amended request of October 31, 2019 is a reasonable request.

Vice Chairman Taylor asked if the Commission could make a modified request for May or a middle date.

Director Hart stated the Commission could with a justification.

Commissioner Frazier noted ADA requirements are not mandated by the City, but rather by the Federal Government. He noted ADA requirements are not business burdens, but rather, costs of doing business.

Commissioner Frazier asked the City Attorney, if a modification for the resolution would have to read into the record.

City Attorney Nguyen responded in the affirmative, she stated the Commission could take action today, if they chose to amend the resolution, staff could take the amended resolution to the next meeting.

Commissioner Frazier asked if it would be staff's recommendation today to amend the resolution or to approve it as it stands.

Director Hart noted that ultimately it is a policy call of the Planning Commission whether or not there is a reasonable extension request.

Commissioner Ash noted they should consider whether the request is reasonable and she feels it is reasonable.

Vice Chairman Taylor agreed with Commissioner Ash's finding.

Director Hart clarified that staff's recommendation the Commission is to approve the original request date of December 31, 2018; the applicant is requesting the extension through October 31, 2019. If the Commission is considering a date in the middle of the two proposed dates, there needs to be a provided justification for the modification.

Commissioner Frazier noted staff did their due diligence and brought this action based on the property owner's information and staff is asking for December 31, 2018. The applicant could come back at a later date to ask for more time.

Director Hart clarified this is the only opportunity the applicant will have to request an extension but the decision can be appealed.

Vice Chairman Taylor indicated that City Attorney Nguyen noted there could be an amendment to the resolution to take under consideration at the next meeting.

Director Hart outlined the options. Option one is to approve the request; option two is to deny the request and option three is to modify the resolution tonight with the requested date of October 31, 2019 or a different date, and option four is to vote to continue the item to a date certain which would be the October 3<sup>rd</sup> meeting so the applicant can provide information to justify their request.

Vice Chairman Taylor moved to declare the project is categorically exempt from CEQA and adopt Resolution No. 2487 to approve the extension of the amortization period with the modification to allow for the operation until October 31, 2019.

Motion/Second: Taylor/Ash

Motion unanimously carried (5 - 0) by the following vote:

AYES:	Ash, Taylor, Moua, Grand, Frazier
NOES:	None
ABSTAIN:	None
ABSENT:	None

**ACTION TAKEN:**

The Planning Commission declared that the project is categorically exempt per California Environmental Quality Act, under Section 15301 (Existing Facilities); and adopted Resolution No. 2487, with the modification to approve the request for an extension of the amortization period for the temporary, continued operation of an existing massage establishment through October 31, 2019.



**10. OLD BUSINESS**

None.

Commissioner Grand recused herself from the Council Chambers because she is within 500 feet of the proposed project for the Public Hearing.

**11. PUBLIC HEARINGS**

**11A. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT C17-11 FOR THE OPERATION OF A MASSAGE ESTABLISHMENT LOCATED AT 10450 BEACH BOULEVARD, SUITE 105.**

Community & Economic Development Director Kelly Hart introduced the project as a public hearing to consider a conditional use permit for the operation of a massage establishment located at 10450 Beach Boulevard, Suite 105. She introduced Associate Planner Rose Rivera to further discuss the item.

Associate Planner Rivera presented the staff report. She noted the applicant is requesting approval of a conditional use permit to allow for the operation of a new massage establishment in an existing 855 square foot suite with four (4) private massage suites with operation hours of 9:00 a.m. to 10:00 p.m. . The proposal requires arrival of a CUP and a massage establishment license. This property is located at 10450 Beach Boulevard, Suite 105, on a 1.5-acre parcel located on the corner of Beach Boulevard and Cerritos Avenue within the General Commercial Zone.

Associate Planner Rivera indicated the surrounding uses include a U.S. Post Office and retail and restaurant uses to the north, a convenience store and various restaurants to the south, the Continental Garden Apartments to the east, and the Stanton Swap Meet to the west.

Associate Planner Rivera shared photos of the proposed site. The subject site is known as C&S Plaza and is home to a number of restaurants, service, and retail businesses. She noted there were four (4) massage establishments previously located in the shopping center but they all closed in 2017 because those establishments have violated multiple municipal code requirements and others were found to allow sexual activity to occur.

Associate Planner Rivera provided some information regarding site characteristics. She noted the shopping center has two access points off of Beach Boulevard and access to the property from the rear along an alleyway which can be access off of Cerritos Avenue and allows entrance without being seen from the main street. She noted visibility from Beach Boulevard is blocked by a large two-story structure.

Associate Planner Rivera stated the subject unit is set far back which also makes for low visibility from the main thoroughfare. These site access characteristics have created opportunities for criminal and illicit activity to occur demonstrated by the significant calls for service received by the sheriff's department. In the last year, the sheriff's department received over 200 calls for service for the subject shopping center. .

Associate Planner Rivera explained the Stanton Municipal Code section requires specific findings be made prior to approval of a Conditional Use Permit. These findings require that a use be consistent with the Goals and Policies of the City's General Plan and be a conditionally permitted use within the district the use is proposed to be located in. The findings also address the suitability of the use's location, compatibility with surrounding uses, how the use would be operated, and whether the use would be detrimental to neighboring properties and people. She noted in order to approve a CUP, all of the required findings must be met. However, in order to deny the CUP, the Planning Commission would need to determine that only one of the findings could not be met.

Associate Planner Rivera indicated upon evaluation of the proposed business, the location of the business, surrounding uses, and the history of the site, it has been determined that several of the required findings could not be made. Specifically, there is a history of Stanton Municipal Code violations of the four (4) previous massage establishments within the shopping center as every establishment has had significant history of violations of the municipal code including the observance of sexual paraphernalia onsite. Additionally, Associate Planner Rivera noted the physical characteristics of the site provide for a lack of visibility which provides greater opportunities for criminal or illicit activity to occur, or lack of compliance with the municipal code, as demonstrated by multiple massage establishments receiving multiple citations.

Further, Associate Planner Rivera noted the establishment is not suitable for the location due to the notoriety of former massage establishments as a place for illicit activity to take place. She explained that with this history of activities occurring at former massage establishments, it may attract patrons seeking out illicit acts to this location..

Associate Planner Rivera stated approval of the proposed CUP would be inconsistent with General Plan goals and strategies because one strategy of the General Plan is ensure adjacent land uses are compatible with surrounding establishments and the proposed massage establishment would be located in an existing store front unit with surrounding establishments which include multifamily housing units and various commercial uses. The subject shopping center, including the proposed unit, has previously been home to former massage establishments that have demonstrated patterns of violating provisions of the Stanton Municipal Code. Those violations have contributed to the shopping center being known for illicit activity, particularly relating to massage businesses, which affects surrounding property uses. Associate Planner Rivera indicated that allowing an additional massage establishment at the subject site would be inconsistent with the General Plan because of the possible perception that this proposed massage establishment would also allow illicit activities, like the former massage establishments in the center, which would negatively affect surrounding property uses.

Associate Planner Rivera noted since the previous massage establishments have been closed, the City has endeavored to help create an environment at the center so that it is not known for illegal activity. The surrounding businesses nearby appear to be legal uses and operations, and there is a likelihood that locating a new massage business in the center would revive an environment or appearance that the center is reverting to illegal activity. As such, because of the poor operation of the former massage establishments, the subject site is not compatible with the legally operated and established surrounding businesses and residential neighborhood.

Associate Planner Rivera stated another goal of the City's General Plan is to ensure compliance with the City's land use code to improve the overall character of the City; and the Sheriff's Department and Code Enforcement Division are not in support of the proposed massage establishment. The number of violations that occurred at the former establishments have shown a lack of oversight and because there is a demonstrated practice and pattern of violations, it negatively affects the residential neighborhoods around. The lack of visibility also creates opportunities for criminal and illicit activities to occur.

Associate Planner Rivera continued, and noted in regards to finding number two, the proposed use is allowed in the applicable zone within the CG zone, subject to approval with a conditional use permit. In regards to the third finding, the operating characteristics of the proposed activity would be in compliance with the existing and future land uses in the vicinity. As stated previously, based on City inspections of massage establishments within the shopping center, previous massage establishments have a demonstrated history of violations of the Code, which were intended to protect the health, safety and welfare of the community. As such, the previous massage establishments in the shopping center that were not operating in compliance with State and Municipal Codes created an environment for illicit activity at this center. She indicated that allowing a new massage establishment at this location would be counter to the City's efforts to clean up this center and the perception that unlawful activity is allowed at massage establishments in this center.

Associate Planner Rivera also noted the applicant who has operated previously six establishments in the City has a demonstrated history of operating massage establishments in violation of the Stanton Municipal Code and state licensing requirements. Because the operator has a pattern and practice in violation of the Code, there is a likelihood the proposed establishment will be operated in the same manner. Finally, the site characteristics previously discussed provide opportunities for a lack of compliance with the Municipal Code.

Associate Planner Rivera discussed the fourth finding, and noted the site is physically unsuitable in terms of design, location, shape, size, and operating characteristics of the proposed used. It is physically unsuitable based on the environmental design of the sight because of low visibility from Beach Boulevard providing for a greater opportunity for criminal element. As stated previously, the shopping center has one of the highest number of calls for service in the city based on Sheriff's Department information. The shopping center is also bound by an alleyway on the east which can provide a place of concealment and escape routes for those seeking to flee enforcement, and enter and exit the site with little visibility from the main thoroughfare. With these site design factors, the site is not suitable for this use.

Associate Planner Rivera indicated previous massage establishments located in the subject shopping center have demonstrated patterns of violating provisions of the Code. A former massage establishment had its conditional use permit revoked due to various violations of the Stanton Municipal Code, which included evidence the massage establishment facilitated illicit sexual activity to occur on the premises. Allowing a new massage establishment would carry forth the perception that illicit activity will occur at the site.

Associate Planner Rivera discussed the fifth and final finding, she stated the site is unfit for the use as operated because the site provides opportunities for criminal and illicit activity to occur and lack of compliance of the municipal code as demonstrated by noncompliance by previous establishment and the significant level of calls for service from the Sheriff's Department. It is not suitable due to the notoriety instituted by former massage establishments. The history of illicit activity occurring at former massage establishments could attract patrons seeking illicit acts at this location. She concluded locating a new massage establishment at the center is likely to be perceived as allowing unlawful massage operations, particularly for clients who have sought out this center in the past for illicit activity at former massage establishments. As such, the site is unsuitable for a new massage establishment.

Associate Planner Rivera noted staff recommends the Planning Commission consider denial of the conditional use permit. She noted the action before the Commission this evening are to conduct a public hearing, declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and adopt Resolution No. 2464 denying Conditional Use Permit C17-11.

Director Hart added an addendum to the report. She noted that since the State gave authority to cities to regulate massage establishments, the City has made it a priority to regulate massage establishments; and dozens of establishments have had issues of human trafficking and prostitution and other violations found on those sites. The City has a great interest in ensuring compliance with the Municipal Code and as such, Code Enforcement and the Sheriff's Department monitor these establishments and require the establishments to be located in open shopping centers with appropriate lighting.

Vice Chairman Taylor asked whether any one of the findings is sufficient to deny the application.

Associate Planner Rivera clarified if the Commission cannot affirm any one of the findings, they can deny the conditional use permit application.

Chairman Moua opened the floor for a public hearing.

Terrence Shannon, applicant representative, addressed the Commission [SOME PORTIONS WERE UNINTELLIGIBLE]. He noted he understand the location is of concern and noted they would monitor the establishment to make sure the establishment would not be unlawfully operated. He noted the staff report referred to former massage establishments but his client has not had an opportunity to run an establishment at this location but is being judged by previous owners' actions. Mr. Shannon noted City staff informed him the focus is on the location and not on the owner. He asked the Commission if they applied for a conditional use permit, and if Massage Envy would apply for a conditional use permit, if they would have the same findings. He suggested the City would not have the same findings and the analysis by staff is unfair. Mr. Shannon noted he is not aware of any objections by surrounding businesses and he is not aware of any wrongdoing by his client. He continued to speak about how it is unfair for his client to not be able to run her business and explained it would be a financial burden because the City took money to allow her to apply for the conditional use permit knowing it would not be approved because of the location. He asked that a list should be published listing

the locations where the establishments would not be allowed based on previous owners. Mr. Shannon again stressed he is not aware of any complaints by neighboring businesses about allowing the establishment.

Mr. Shannon asked that his client be judged on her actions. He recommended the conditional use permit could be approved on a probation basis because she should not be judged on what she had no control over. She should only be judged on her future conduct. He suggested if the shopping center is so bad, then no business should be allowed there. He urged the Commission to not approve the denial of the conditional use permit but rather, to give his client an opportunity to operate.

Director Hart responded and noted the conditional use permit is a discretionary permit, and paying to process the application does not guaranteed the permit will be approved. She noted a massage establishment is generally permissible within a general commercial zone subject to the approval of the conditional use permit, after review of the information provided. Staff reviews all the information and evaluates the findings based on the location; there is never a guarantee that is provided to the applicant that the cost of going through the process will result in approval.

Director Hart continued that the former massage establishments and the reputation of the entire center for massage establishments is an issue based on the overall reputation. She also noted the location is not appropriate for a massage establishment, not for the applicant themselves. The location is also not appropriate based on the history and advertisement of previous sites for illicit activity. The evaluation presented this evening is based on site characteristics, not based on the applicant.

Director Hart noted not all businesses are treated equally because the City has a demonstrated history of illicit activity with massage establishments and they are not comparable with restaurants because the interactions are different. She stated that although staff has not received direct comments regarding neighbors, there have been a large amount of calls for service, showing the establishment has an issue. In previous conversations, the Planning Commission expressed a concern with regards to the lack of visibility. The site characteristics themselves are also a concern.

Mr. Shannon stated he respects the work that City staff does, and especially the Planning Commission. He discussed regarding advertisement of the business and he spoke about the appropriateness of the site for conducting massage. Mr. Shannon stated the applicant should be judged based on her operations and not other businesses. He noted there is no valuable evidence that the applicant will not operate under the Stanton Municipal Code. The prior owners knew about this and his client should not be judged based on proper operations. He urged the Commission to allow the applicant to show she will operate under full compliance of the Stanton Municipal Code.

Director Hart noted the operation of a massage establishment in a General Commercial zone is generally allowed subject to a review and evaluation of the site. Staff does not have the authority to determine whether the site is suitable; that authority falls under the discretion of the Planning Commission. She explained the staff has to review the site, and the information provided and make a recommendation based on the findings. It would be a complete denial of due process if Planning staff denied the application without

submitting it for review. It is a discretionary process; staff reviews the application and all available information to provide a recommendation.

Chairman Moua closed public comments and the public hearing.

Commissioner Ash stated she could not make the assumption the present establishment would have the same problems as the previous establishments. She also noted some restaurants at certain sites will fit in and they will make it work no matter what, for example, Starbucks; but other establishments just don't fit at a site. She noted she does however, give a lot of deference to police opinion that this site just does not work in general for massage establishments.

Vice Chairman Taylor commented that he can't remember the last time he had a recommendation against a business.

Commissioner Ash continued noting if a massage parlor is not appropriate for this site, then she will respect that.

Vice Chairman Taylor affirmed the visibility issues existing on the site.

Commissioner Ash gave the example of signage Code Enforcement issues. She has to follow the fact that some sites are not good for certain types of establishments.

Vice Chairman Taylor stated he is not primarily concerned with the perception that the previous establishments will yield the perception that there will be further illicit activity allowed, but rather, he is more concerned with the establishments of the area and the effects on the adjacent residential area and surrounding businesses.

Commissioner Ash noted a lot of times they don't hear from the surrounding stakeholders.

Commissioner Frazier stressed that 200 calls within a year is a cost incurred by the City and as good stewards of the City, they need to be concerned with that cost and the fact the site is not laid out and functional for some of the businesses in there. He noted a massage parlor cannot be compared to a dress shop or to a restaurant because each business carries certain requirements. He commented the actual illicit activities are probably greater than the actual reported calls.

Chairman Moua expressed his concern over the previous history of the site and noted that he would favor any recommendation by law enforcement regarding the City's safety.

A motion was made by the Planning Commission to declare the project exempt from CEQA and to adopt Resolution No. 2464 denying conditional use permit C17-11.

Motion/Second: Ash/Frazier

Motion carried (4 - 1) by the following vote:

AYES: Ash, Taylor, Moua, Frazier  
NOES: None  
ABSTAIN: Grand  
ABSENT: None

**ACTION TAKEN:**

The Planning Commission conduct a public hearing; declared that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and adopted Resolution No. 2464 denying Conditional Use Permit C17-11.

Director Hart announced the 10-day period during which the Planning Commission's decision on this matter may be appealed to the City Council via written appeal submitted at the City Clerk's Office.

Commissioner Grand returned to the Chamber and resumed her seat at the dais for the remainder of the meeting.

**12. PLANNING COMMISSION COMMENTS**

Commissioner Ash stated she hoped they all received the news of the Village Center Redevelopment Project groundbreaking and was hoping to see everyone there tomorrow. She welcomed her colleague Commissioner Frazier.

Vice Chairman Taylor stated he met with Mr. and Mrs. Greer yesterday, who wish everyone well.

**13. DIRECTOR'S REPORT**

Planning Director Hart congratulated the new Chair and Vice Chair. She also welcomed Commissioner Frazier.

Director Hart announced there is a new interim City Manager, Robert W. Hall, also known as Bob. She stated the recruitment process for a full-time City Manager is underway. Director Hart stated there will be a Planning Commission meeting on October 3, 2018.

**14. ADJOURNMENT**

Commission adjourned at 8:25 p.m.



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Kelly Hart  
Community & Economic Development Director