

**CITY OF TWIN FALLS
PLANNING & ZONING COMMISSION**

Public Hearing Procedures for Zoning Requests

1. Prior to opening the public meeting, the Chairman shall review the public hearing procedures, confirm a quorum is present and introduce staff present.
2. Individuals wishing to testify or speak before the Commission shall wait to be recognized by the Chairman, approach the microphone/podium, state their name and address, then commence with their comments. Following their statements, they shall write their name and address on the Sign-In record sheet(s) located on a separate table near the entrance of the chambers. The administrative assistant shall make an audio recording of each public meeting.
3. **The Applicant, or the spokesperson for the Applicant, shall make a presentation** on the application/request. No changes to the request may be made by the applicant after the publication of the Notice of Public Hearing – WHICH IS A MINIMUM OF 15 DAYS PRIOR TO PUBLIC HEARING. **The applicant's presentation should include the following:**
 - **A complete explanation and description of the request.**
 - **Why the request is being made.**
 - **Location of the Property.**
 - **Impacts on the surrounding properties and efforts to mitigate those impacts.**

The Applicant is limited to 15 minutes, unless a written request for additional time is received and granted by the Chairman prior to commencement of the public meeting.

4. Upon completion of the applicant's presentation City Staff will present a staff report which shall summarize the application/request, history of the property, if any, staff analysis of the request and any recommendations.
 - **The Commission may ask questions of staff or the applicant pertaining to the request at this time.**
5. The public will then be given the opportunity to provide public testimony/input/comments regarding the request.
 - **The Chairman may limit public testimony to no more than two (2) minutes per person.**
 - **Five (5) or more individuals, having received personal public notice of the application under consideration, may select a spokesperson by written petition. The spokesperson shall be limited to 15 minutes.**
 - **No written comments, including e-mail, received after 12:00 o'clock noon on the date of the hearing will be accepted for consideration by the hearing body. Written comments, including e-mail, received by 12:00 o'clock noon or before the date of the hearing shall be either read into the record or displayed on the overhead projector either during or upon the completion of public comment.**
 - **Following the Public Testimony, the applicant is permitted a maximum five (5) minutes rebuttal to respond to Public Testimony.**
6. Following the Public Testimony and Applicant's response, the Public Input portion of the public hearing shall be closed-**No further public testimony is permitted.** Commission Members, as recognized by the Chairman, shall be allowed to request clarification of any public testimony received of the Applicant, Staff or any person who has testified. The Chairman may again establish time limits.
7. The Chairman shall then close the Public Hearing. The Commission shall deliberate on the request. Deliberations and decisions shall be based upon the information and testimony provided during the Public Hearing. **Once the Public Hearing is closed, additional testimony from the staff, applicant or public is not allowed.** Legal or procedural questions may be directed to the City Attorney.

Any person not conforming to the above rules may be prohibited from speaking. Persons refusing to comply with such prohibitions may be asked to leave the hearing and thereafter removed from the room by order of the Chairman.



Public Hearing: **TUESDAY, August 26, 2014**

To: Planning & Zoning Commission

From: Rene'e V. Carraway, Community Development Department

AGENDA ITEM V-2

Request: Request for a Special Use Permit to replace a legal non-conforming use with another legal non-conforming use of an alternative therapy office and including associated retail, on property located at 276 Eastland Drive North. c/o J. Dee May on behalf of Andrew and Lisa Mix (app 2665)

Time Estimate: The applicant's presentation may take up to fifteen (15) minutes. Staff presentation will be approximately ten (10) minutes.

Background:

Applicant:	Status: Purchase and Sale Agreement	Size: 0.46 (+/-) acres (20,000 +/- sf) 3100 sf building
Andrew & Lisa Mix 593 Monte Vista Drive Twin Falls ID 83301 208-735-9173 andrew@lifestyletherapy.com	Current Zoning: R-2; Residential	Requested Zoning: SUP
	Comprehensive Plan: Medium Density Residential	Lot Count: 1 Lot
	Existing Land Use: Alternative therapies office and associated retail	Proposed Land Use: Physical Therapy Office and Associated Retail
Representative:	Zoning Designations & Surrounding Land Use(s)	
J. Dee May PO Box 1846 Twin Falls ID 83301 jdmay@maybrowning.com	North: R-2; Residential/Longbow Dr	East: R-2; Residential
	South: R-2; Residential (Hillcrest Dr)	West: R-2; Eastland Drive N /Residential
	Applicable Regulations: 10-1-4, 10-1-5, 10-3-4(A)1e, 10-4-4, 10-10-3, 11-1 & 6 through 9, 10-13-2.2	

Approval Process:

A legal nonconforming use involving a building may be resumed or replaced by another nonconforming use by special use permit if said legal nonconforming use has not been discontinued for more than five (5) years.

The Special Use Permit process requires a public hearing to be held in which interested persons have the opportunity to be heard with regards to the application.

Within thirty (30) days after the public hearing, the Commission shall approve, conditionally approve, or disapprove the application as presented during the hearing. If conditions are placed on the permit, the Administrator shall issue a special use permit listing the specific conditions specified by the Commission for approval.

If an applicant or interested party appeals the decision of the Commission, the City Council shall set a hearing date to consider all information, testimony and minutes of the previous hearing to reach a decision on the appeal.

Budget Impact:

Approval of this request will have negligible impact on the City budget.

Regulatory Impact:

Approval of this request will allow the applicant to operate a professional insurance office and a medical office/chiropractic office at this location.

A special use permit is for zoning purposes only. Other permits such as sign, building, electrical or plumbing permits, etc. may be required. All facilities must comply with all Building and Fire Code Regulations.

History:

The Planning and Zoning Commission approved Special Use Permit #0559 on July 28, 1998, for constructing and operating a commercial daycare facility at this location with the condition that drainage plan be provided. A building permit for the facility was issued in fall of 1998 and was finalized and a Certificate of Occupancy was issued in April of 1999. The property operated as a commercial daycare facility until the daycare closed in May of 2009.

At the time the day care facility was constructed in 1998, the City Code did not distinguish between commercial day care facilities and residential/in-home day care facilities. The code allowed for "daycare facilities" in residential zones by special use permit. A Zoning Title Amendment to the City Code was subsequently approved that now lists commercial day care facilities and in-home day care facilities as separate land uses. The Zoning Title Amendment that changed the land use is what established the subject property as a legal non-conforming use. A professional use or a retail use were not permitted in the R-2 zone in 1998 nor are they permitted under the current code.

On September 9, 2009, the Planning and Zoning Commission issued Special Use Permit #1160 to Marcella Blass and Amanda Dastrup to replace a legal non-conforming use (the commercial day care facility) with another non-conforming use on the property. One of the conditions of approval was that the special use permit shall expire one (1) year from the date of approval - September 9, 2010. A Certificate of Occupancy was issued on October 23, 2009, for the change of use from a daycare facility to professional offices. In December of 2010, the Planning and Zoning Department contacted Ms. Blass about the expiration of the Special Use Permit and a new application was submitted.

On February 8, 2011, the Planning and Zoning Commission approved Special Use Permit #1214 to Marcella (Blass) Sligar and Amanda Dastrup for the purpose of operating an alternative therapy business as a legal non-conforming use. There were **six (6) conditions** placed on this special use permit; **1)** The business to be limited to alternative therapies only and associated retail, as presented, **2)** The special use permit is restricted to Amanda Dastrup and Marcella (Blass) Sligar, property owners, at this location. A change of ownership or tenants shall require a new special use permit, **3)** Subject to a minimum of 3 parking spaces per professional operating at the facility at any one time, **4)** Operation of the facility to be limited from 6:00 am to 8:00 pm, seven days a week, **5)** Site plan amendments as required by Building, Fire, Engineering, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards, and **6)** Subject to lighting issues being resolved with the neighbor.

On April 12, 2011, the Planning and Zoning Commission approved Special Use Permit #1227 to the Mail Room c/o Labron Burton for the purpose of replacing a non-conforming use with another non-conforming use. There were **four (4) conditions** placed on this special use permit; **1)** The business to be limited to small delivery van traffic only, no semi-truck deliveries as presented, **2)** The special Use Permit is restricted to Labron and Jinger Burton, property owners at this location. A change of ownership or tenant shall require a new Special Use Permit, **3)** Operation of the facility to be limited from 7:30 am to 6:30 pm Monday through Saturday, and **4)** Site plan amendments as required by Building, Fire, Engineering and Zoning Officials to ensure compliance with all applicable City Code requirements and standards. **This use was never established.**

Analysis:

The purpose of this request is to replace a current non-conforming use with a different non-conforming use through the Special Use Permit process. If granted, it would allow the operation of a Physical Therapy Office and associated Retail Business to operate at the described location. We do not have a description by the applicant of what the types of retail merchandise will be sold or the percentage of the business/building will operate as the retail vs the physical therapy office.

This property is zoned R-2, a residential single-family or duplex zoning district. The property operated a legal non-conforming commercial daycare facility from 1998 to May 2009. In Sept 2009 a request to allow a professional therapy business to operate at this location was submitted for consideration. As the property was operating a legal nonconforming use, City Code 10-3-4(A)1e allows for consideration of replacement of the legal nonconforming use of

a commercial daycare use with another legal non-conforming use by special use permit **IF** said legal nonconforming use has not been discontinued for more than five (5) years **AND** if it can be shown that the building cannot *reasonably* be converted to a conforming use. The request was to allow the property to be used to operate a professional office for alternative therapies. The use was determined by the Commission to cause very little traffic as appointments were staggered to not overlap. The request was approved subject to eight (8) conditions. One of those conditions was the permit would expire in one (1) year. On Feb 8, 2011 the Commission granted another special use permit to allow the same applicants to operate their alternative therapy business in the same manner. The office has operated for approximately two (2) years and there have not been any complaints or concerns that the City is aware of. The professional office for alternative therapies continued to operate at this location until recently.

The property is screened from surrounding properties which is surrounded by residences to the north, east and south. Eastland Drive North is to the west separating the facility from another residential neighborhood. Within 500' of this property there are two (2) non-residential uses, the Church of the Ascension across Eastland to the west and the Eastside Southern Baptist Church to the south.

The property is a developed 20,000 +/- sq ft lot with an existing 3100 sq ft building. The potential new owner intends to operate a Physical Therapy office, and associated retail business within the entire building. The narrative indicates there will only be a single practitioner, Andrew Mix, the applicant operating at this location at any one time. Hours are anticipated to be 8-5 M thru Thurs and 8-12 Fri. serving 8-12 customers a day.

It is undetermined at this point if a complete review by the Engineering, Planning & Zoning and Building Inspection Departments will be required. If a building permit is required for the prospective owner to operate in the manner they desire, staff will ensure compliance with City Codes such as landscaping, storm water retention, lighting, parking, etc. at the time of building permit submittal.

The Comprehensive Plan - Future Land Use Map designates the Eastland Drive corridor -- from the Eastside Southern Baptist Church to the corner of Falls Avenue East -- as a residential corridor. The potential impacts of this type of use may be minimal to the immediate area. However, the continued use of a commercial/retail business in this area could be intrusive to the character of the existing residential neighborhoods in the vicinity.

Conclusion:

Should the Commission grant this request, as presented, staff recommends approval be subject to the following conditions:

- 1) Site plan amendments as required by Building, Fire, Engineering, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
- 2) The Special Use Permit to be limited to a Physical Therapy Office and associated retail business, as presented.
- 3) The Special Use Permit is restricted to Andrew and Lisa Mix, Property Owners, at this location. A change of ownership or tenants shall require a new Special Use Permit.

Attachments:

- | | |
|--|--|
| 1. Letter of Request | 6. Special Use Permit #1214 & portion of the P&Z minutes |
| 2. Zoning Vicinity and Aerial Map | 7. Special Use Permit #1227 & portion of the P&Z minutes |
| 3. Future Land Use Map | 8. Site Photo (2) |
| 4. Applicant Submitted Site Plan | |
| 5. Special Use Permit #1160 & portion of the P&Z minutes | |

(Insert to Page Two of Special Use Permit of Andrew & Lisa Mix – Application No. _____)

C. PRIOR TO ACCEPTANCE/SCHEDULING OF THE APPLICATION THE APPLICANT MUST PROVIDE THE FOLLOWING:

1. The applicant must prove control of the property for which the request is being made by providing ONE of the following:
 - a. Copy of Warranty Deed, or
 - b. Copy of Earnest Money Agreement or Contract of Sale, duly acknowledged by **BOTH Buyer and Seller, or**
 - c. Copy of Lease Agreement AND Owner's Written Consent.

A copy of the Earnest Money Agreement signed by the Buyer and Seller is attached hereto as **Exhibit "A"**.

The sale to the Applicants is specifically referenced in the Earnest Money Agreement and the Sale is made specifically contingent on the granting of Mr. and Mrs. Mix's presently applied for Special Use Permit.

2. The applicant must provide a CONSOLIDATED LIST of names and addresses of all LEGAL property owners within three hundred feet (300') of the perimeter of the subject property and any additional area that may be impacted by the proposed change as determined by the Zoning Administrator.

- a. From the County Assessor's Office or
- b. From a Title Company

The consolidated list of names and addresses for all legal property owners within 300 feet of the perimeter of the subject property is attached hereto as **Exhibit "B."** The list was provided to the Applicants by the Twin Falls County Assessor's Office.

3. A site plan, drawn to SCALE on an 8 ½" x 11" paper, which shall meet or exceed the required information as shown on the attached site drawing(s). NOTE: If new buildings are proposed, color evaluations are required.

The site plan is attached hereto as **Exhibit "C."** The legal description is attached to the site plan as **Exhibit "C-1;"** a copy of the plat layout is attached as **Exhibit "C-2"** and an aerial photograph is attached to the site plan as **Exhibit "C-3."**

4. Provide a Detailed Written Statement On A Separate Sheet Of Paper Containing:

- a. The reason for the request.

The reason for the present request for a Special Use Permit by Andrew and Lisa Mix is to relocate Andrew Mix's physical therapy office, LifeStyles Therapy and Wellness Center, from its current location at 812 Shoshone Street East, Twin Falls. The professional services that Andrew Mix provides involve one on one interaction with clients to help them overcome musculoskeletal and neurological problems, including pain, weakness, decreased balance, and loss of function. Interventions include education about the client's condition/prognosis and treatment such as therapeutic exercises, manual (hands on) therapy, and other

Special Use Permit – Andrew and Lisa Mix

modalities (such as ultra sound or electrical stimulation). The current use of the building by Alternative Therapies will primarily be a change in ownership and will now only involve a single practitioner, Andrew Mix, instead of several practitioners.

b. An explanation of the project, including:

i. Hours of operation;

The proposed physical therapy office will be open Monday through Thursday from 8:00 a.m. to 5:00 p.m. and Friday from 8:00 a.m. until 12:00 p.m.

ii. Traffic anticipated;

The anticipated traffic typically involves Andrew Mix seeing approximately 8 to 12 clients per day for approximately one hour sessions, scheduled on the half hour which equates to two to three vehicles parked at the facility at any one time. There are also a few clients that use the gym equipment to be housed in the building on their own, resulting in an additional approximate one to two vehicles periodically throughout the day parked on the premises. Therefore, there are usually a total of three or four client vehicles at any given time throughout the hours of operation and three vehicles at any given time throughout the hours of operation for owner/employees, for a total of anticipated 15 to 20 vehicles driving onto the property throughout the course of each day of operation on Monday through Thursday and half that amount on Friday. The total vehicles at any one time on the premises would be approximately 8 vehicles. There are 15 spaces of off-street parking presently available and 10.5 spaces required under Title 10, Chapter 10 of the Twin Falls City Code.

iii. Number of employees, etc.

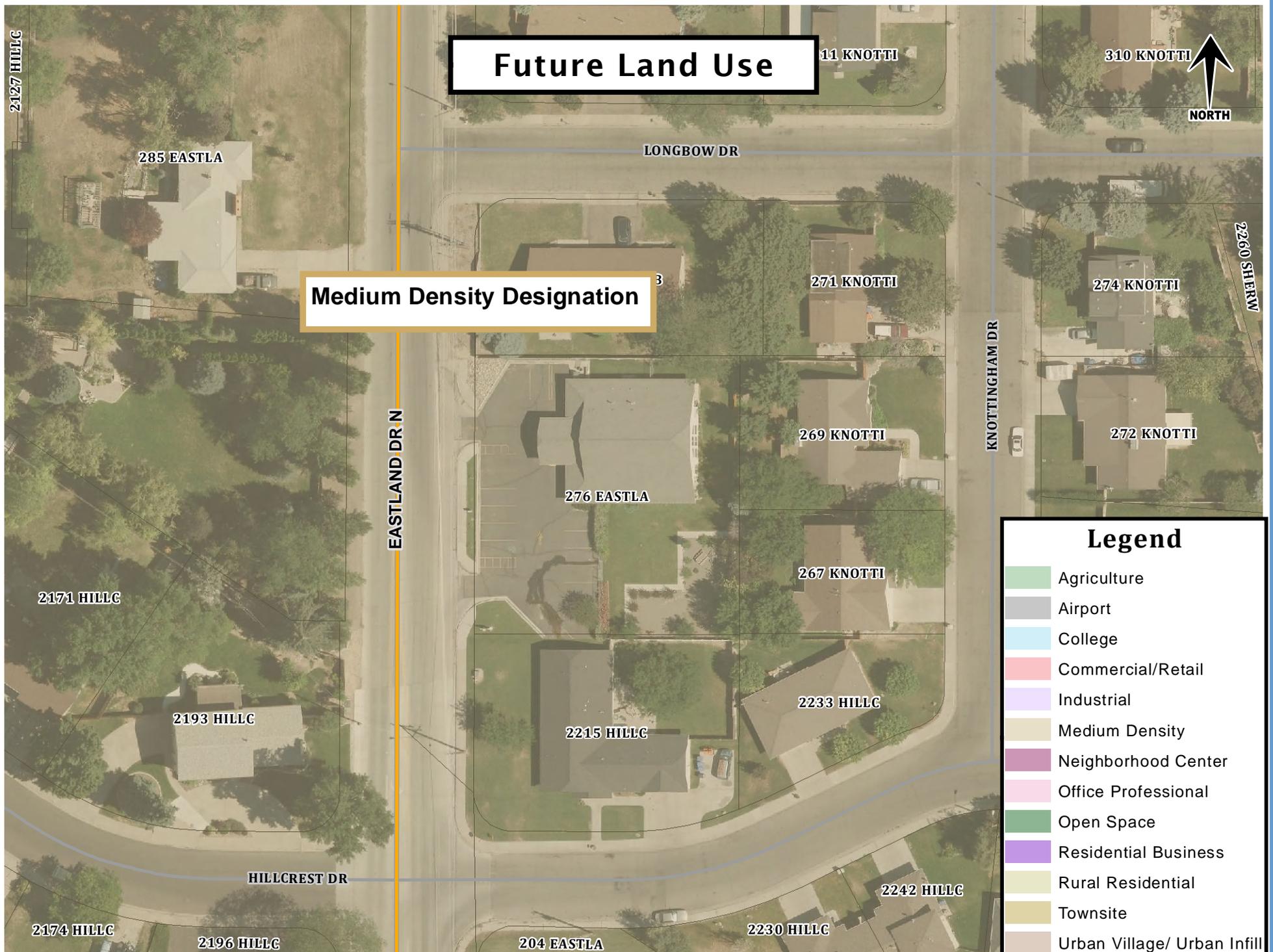
There is one full time employee and three part time employees that share a second full time position.

c. An evaluation of the effects on adjoining property including the effect of such elements as:

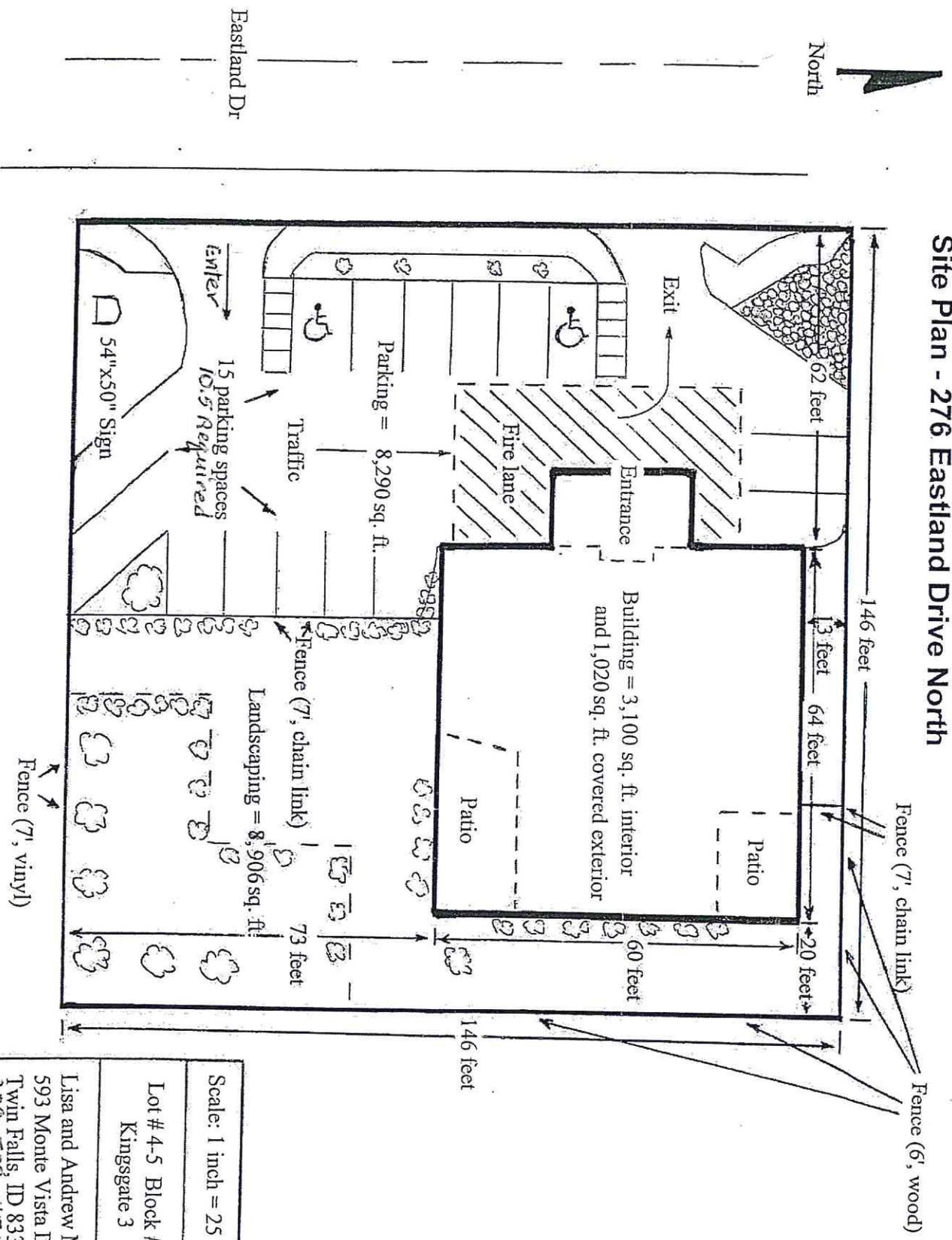
- i. Noise;
- ii. Glare;
- iii. Odor;
- iv. Fume and vibration on adjoining property; with

Future Land Use

Medium Density Designation



Site Plan - 276 Eastland Drive North



Scale: 1 inch = 25 feet
Lot # 4-5 Block # 1 Kingsgate 3
Lisa and Andrew Mix 593 Monte Vista Dr Twin Falls, ID 83301 208-539-4713



**CITY OF TWIN FALLS
PLANNING AND ZONING DEPARTMENT**

324 Hansen Street East
P.O. Box 1907
Twin Falls, Idaho 83303-1907

SPECIAL USE PERMIT

Permit No. 1160

Granted by the Twin Falls City Planning and Zoning Commission on September 9, 2009 to Amanda Dastrup whose address is 2486 Ironwood Avenue Twin Falls, ID 83301 for the purpose of replacing a legal non-conforming use with another non-conforming use on property located at 276 Eastland Drive North and legally described as Twin Falls Kingsgate Subd #3 Lot 4, EXC S 15'; Lot 5 Block 1 (11-10-17 SW)

The Commission has attached the following conditions which must be fully implemented to avoid permit revocation (City Code Section 10-13-2.3):

This permit corresponds to Zoning Application No. 2332

1. The business to be limited to alternative therapies only, as presented.
2. The special use permit is restricted to Amanda Dastrup & Marcella Blass, property owners, at this location. A change of ownership shall require a new special use permit.
3. Subject to a minimum of 3 parking spaces per each professional operating at the facility at any one time.
4. Operation of the facility be limited from 6:00 am to 8:00 pm, seven days a week.
5. Subject to removal of the compact car parking spaces and assure compliance with parking requirements, as per 10-10-1 thru 3.
6. Subject to issuance of a certificate of occupancy from the building inspection department for a change of use prior to operation of the business.
7. The special use permit shall expire in 1 year. (September 9, 2010)
8. Subject to site plan amendments as required by Building, Fire, Engineering, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.



Chairman

This permit is for zoning purposes only. Other permits such as sign, building, electrical or plumbing permits, etc. may be required. All facilities must comply with all Building and Fire Code Regulations.

Please contact the Building Department at 735-7238 for further information.

cc: Building Inspection

- Lee Heider, 1631 Richmond Drive, stated that he can't leave his home without passing the applicants house and there has never been any disruptions in the area, there has never been an issue with cars blocking the street and to his knowledge the applicant has operated in compliance with the special use permit conditions.

APPROVED TO CONTINUE WITH NO FURTHER ACTION NEEDED

I. PUBLIC HEARINGS:

1. Request for a Special Use Permit to replace a legal non-conforming use by another non-conforming use on property located at 276 Eastland Drive North c/o Amanda Dastrup (app. 2332)

APPLICANTS PRESENTATION:

Marcy Blass, applicant, stated this request is for a special use permit to replace the daycare use located at 276 Eastland Drive North. They would like to use the building for professional offices. The offices will be available for rent for alternative therapies such as reflexology, acupressure and reiki. The focus of the center is to provide complimentary therapies to promote healing for patients undergoing traditional medical care for illnesses such as cancer. The goal is to offer this community a center with therapeutic modalities in a calm and relaxing environment. This center would afford the City a model of care that is not available at the present time. The hours of operation would be offered from 6:00 am to 9:00 pm, and is totally driven by patient needs. Such as her clients that have cancer the cancer does not have time limits and the difficulties that need to be addressed such as side effects from the chemo and radiation therapies require her to be flexible and available and to operate on and on-call basis. She has yet to go in at 6:00am but has had appointments as early as 7:00am with a client that was very ill prior to their radiation treatment. On numerous occasions she has had 5:00pm clients due to their work schedule. Occasionally there would be weekend use but it should have no impact to the surrounding neighbors. The appointments are scheduled on an hour basis and any practitioners that will come in to the other offices will be required to meet these standards and criteria so that the patients are scheduled on an hourly basis with no overlapping and there is usually to her knowledge there has never been more than one person at a time in the waiting room waiting for the other practitioner. The feasibility and success of this center requires the other 5 offices be rented in addition to the one office that she currently occupies. With these types of therapies it is estimated that 3-4 offices will be used at once, the message therapy and reflexology therapies are very flexible. In addition to promoting the healing environment they would like to offer tea and a pre-mixed healthy cup of coffee would be available to the clients, the families and to the public to promote this model of care in the community; this will not be an espresso coffee house. The site does have 14 marked parking spaces 3 which are painted for compact car use; extending the striping of two of these spaces would still maintain a compliant drive isle. In addition there is practitioner parking on the north side of the lot, it is not marked at this time however it has been measured off at 30' across and meets 24' drive isle requirement. This building has a current fire inspection on record and so in conclusion she would request that a permit be approved so that a permanent use that would allow uninterrupted patient care on a long term basis.

P&Z QUESTIONS/COMMENTS:

- Commissioner Younkin asked if they are requesting to have five offices or six offices. Does an office space constitute one room, and is there a receptionist area.
- Ms. Blass stated that they are requesting to have 6 office spaces and there is not a receptionist area. The appointments are made over the phone the patient arrives and they are taken into the treatment room which is also the office. A normal appointment last 45-50 minutes with an hour blocked out on the schedule, so that the patient is gone prior to the next patients arrival. The practitioners that occupy this office will have to meet the criteria that is complementary to the traditional care they are currently receiving for their illness. This type of use will have minimal impact to the area compared to the daycare that was licensed for 63 children and the traffic that use generated.

STAFF PRESENTATION:

Zoning & Development Manager Carraway stated the Planning and Zoning Commission granted Special Use Permit #0559 on July 28, 1998, to allow the construction and operation of a daycare facility at this location with the condition that a drainage plan be provided. The property was zoned R-2. A Certificate of Occupancy was issued in April of 1999. This property is still zoned R-2, which is a residential single family or duplex zoning district. This site has been operating as a commercial daycare under a Special Use Permit since 1998. The building is approximately 3100 sq. ft. in size on approximately a 20,000 (+/-) sq. ft. lot. At the time the facility was constructed in 1998 the City Code did not distinguish between a commercial day care facility vs. an in-home day care facility. The code allowed for "daycare facilities" in residential zones by special use permit. A Zoning Title Amendment to the City Code was subsequently approved that now lists commercial day care facilities and in-home day care facilities as separate land uses. The Zoning Title Amendment that changed the land use is what established the subject property as a legal non-conforming use. A retail use was not permitted in the R-2 zone in 1998 nor is it permitted under the current code. The commercial daycare facility ceased operations within this past year and the building is currently vacant.

City Code 10-3-4(A)1e allows for replacement of a legal non-conforming use with another non-conforming use by special use permit if said legal nonconforming use has not been discontinued for more than five (5) years and if it can be shown that the building cannot reasonably be converted to a conforming use. The applicant is requesting that the legal nonconforming use of a commercial day care facility at this site be replaced with another nonconforming use – professional offices and a retail tea & coffee shop; more specifically – "alternative therapies" such as "reflexology" and "reiki".

The existing building has a total of six (6) rooms that potentially could be rented out as individual offices. The property owners, Amanda Dastrop & Marcy Blass, intend to occupy one (1) of the offices for "alternative therapies" with the other five (5) rooms that could potentially be leased to five (5) other professionals. The narrative states the facility would be managed as a "center for complementary therapies" to promote healing for patients undergoing other traditional medical care.

In addition to professional services –the applicant is proposing that part of the facility be used as a retail tea & coffee room that would offer herbal teas and healthy coffee to clients as well as to the general public.

The property is screened/fenced from surrounding properties which includes residences to the north, east and south. Eastland Drive North is to the west separating the facility from a church and another residential neighborhood. Within 500' of this property there are only two (2) other non-residential uses, the Church of The Ascension directly to the west and the Eastside Southern Baptist Church further south on the east side of Eastland Drive.

Professional/medical office uses generally have hours of operation that are typical to business hours of 8:00 am to 5:00 pm, Monday through Friday - which also helps mitigate possible negative impacts to residences. As you have just heard the proposed hours of operation are to be 6:00 am to 9:00 pm with no mention of which days of the week the facility is proposed to be open. These hours are outside of typical office hours - to lessen the impacts to the surrounding residential neighborhoods the Commission may wish to limit operation of the facility to typical to business hours of 8:00 am to 5:00 pm, Monday through Friday.

The operation of the facility, as proposed, may have relatively minor impacts to the surrounding residential area & may even produce less impacts; such as noise- than the previous commercial day care facility. Both professional & small medical offices are often considered good buffers between a high traffic roadway like Eastland Drive; which is considered a major collector or arterial, and a residential area. It is not generally desirable to have a residence fronting a collector or arterial roadway.

Staff does have a concern regarding the addition of retail uses to this property. The tea and coffee shop component of the request would be adding a more intensive and commercial land use to the site and to the existing residential area. The Comprehensive Plan Future Land Use Map designates the Eastland Drive corridor - from the Eastside Southern Baptist Church to the corner of Falls Avenue East - as a residential corridor. The addition of a commercial/retail use may not be in character with the existing residential neighborhoods in the area.

In addition to the land use concerns staff also believes there are issues with parking on the site. The site has eleven (11) standard parking spaces- 9' x 20' - and three (3) "compact" parking spaces - 7' x 15' - which cannot be counted as they do not comply with minimum parking standards today. The City Code used to allow for "compact" spaces but the code has since been amended to delete this standard. As measured from the submitted site plan, if the parking stall length was extended to the current standard of 20' then the drive aisle behind the space would not be in compliance. The striping of these stalls need to be removed. a single parallel parking space could be provided instead - which would provide a total of twelve (12) spaces onsite. The minimum parking requirement for the 3100 sq ft building -as an office - would be one (1) space per 300 sq ft of building or eleven (11) spaces. If this facility has a therapy professional renting each office space then staff would potentially be taking up 50% or more of the available on-site parking. The coffee and tea shop would require additional parking based on the amount of seating provided -which is unknown at this time.

The therapy use - as proposed for this facility - is actually more closely related to the parking requirement standard for a business such as a beauty salon or medical offices where the minimum parking requirement is three (3) spaces per station or physician. When an individual is providing a service to another individual then generally three (3) parking spaces are required

– 1-to accommodate the professional, 2-their current client and 3-a waiting client. At this standard the subject property would be able to accommodate a maximum of four (4) offices or individual professionals, which would be staff's recommendation.

The Comprehensive Plan designates this property as appropriate for medium density residential uses; staff recommends that a retail use is not appropriate for this location.

Zoning & Development Manager Carraway stated if the Commission finds that the existing building cannot reasonably be converted to a conforming use and finds that a professional office specific to "alternative therapies", as presented, to be an appropriate use for this site, staff recommends the following conditions:

- 1) The business to be limited to alternative therapies only, as presented.
- 2) The special use permit is restricted to Amanda Dastrup & Marcella Blass, property owners, at this location. a change of ownership shall require a new special use permit.
- 3) Subject to a maximum of four (4) individual professionals operating at the facility at any one time.
- 4) Operation of the facility to be limited from 8:00 am to 5:00 pm, Monday through Friday.
- 5) Subject to removal of the compact car parking spaces and assure compliance with parking requirements, as per 10-10-1 thru 3.
- 6) Subject to issuance of a Certificate Of Occupancy from the building inspection department for a change of use prior to operation of the business.
- 7) The special use permit shall expire in 1 year. (September 9, 2010)
- 8) Site plan amendments as required by building, fire, engineering, and zoning officials to ensure compliance with all applicable city code requirements and standards.

P&Z QUESTIONS/COMMENTS:

- Commissioner Mikesell asked for clarification that specific therapeutic services provided only, and if that means no retail allowed.
- Zoning & Development Manager Carraway stated retail would not be conducive to what is currently in the area and it would be restricted to alternative therapy only.
- Commissioner Munoz asked if the change of use would require more landscaping.
- Zoning & Development Manager Carraway stated this is a residentially zoned piece of property therefore gateway arterial landscaping is not a requirement.
- Commissioner Bohm asked if there was a Professional Office Overlay zoning for this property require the arterial landscaping.
- Zoning & Development Manager Carraway stated the building is in compliance with the 10% requirement as per City Code for a professional office.
- Commissioner Younkin asked if the retail business would take up an office space.
- Ms. Blass stated the building has a full kitchen with a counter that separates the kitchen from the main open area where people would wait and this would be the retail space – it would not take up any of the office spaces. The purpose of this service is to provide hot tea or coffee to the clients and their families; however if there are people that stop by and want to consider the center for services they would be able to purchase a cup of hot coffee or tea. Its designated as retail because the families and the visitor from the public are not her clients.

PUBLIC HEARING: OPENED

Jack Bishop, 2214 Longbow Drive, stated he owns the property just north of this location. This area is part of the Kingsgate Subdivision and most of the lots located along this area have the same configurations 150' deep and 80' wide. The way this area has developed would make this a transition type area and he agrees with staff that a special use process is practical in this case. He is concerned with allowing another non-conforming use replacing another non-conforming use, to him it seems like a spot zone. He would prefer that since the property is R-2 zoned that a Professional Office Overlay be placed on this property and the other properties along this location extending from Hillcrest to Kingsgate, so that it would be clearer as to when a special use permit would be required. He stated he is sympathetic to the use that the applicant is presenting however as a neighbor to this property he would prefer that the permit be issued to the owner of the business rather than the property owner; because as a license holder for medical treatment from the State of Idaho she would have more at stake for operating the business according to the conditions. As for the other professionals the uses and plans for their operation have not been included in writing so it is difficult to understand what is going to be done at this facility, and that should be part of the considerations. He is also concerned about the parking area to the north with a retaining wall located on the property line. He has a fence 6 inches from the retaining wall and the 6 inches belong to him and if they are going to put parking in this location parking bumpers will be needed to keep the cars from bumping and destroying the fence.

CLOSING STATEMENTS:

- Ms. Blass stated that she understands the neighbor does not want his fence destroyed. She would request that the hours and days of operation be considered because of the type of clientele for which she will be providing service. If the permit expires in one year she would need to understand what the steps would be to continue to operating without having a lapse in patient care.
- Commissioner Younkin asked what that yard and playground area left from the daycare will be use for.
- Ms. Blass stated that the playground area will be used for a labyrinth and the back area they plan to plant a flower garden making the area much more attractive.

PUBLIC HEARING: CLOSED

DELIBERATIONS FOLLOWED:

- Commissioner Mikesell stated that he is familiar with cancer and that it doesn't run on a Monday through Friday 9-5 so he would like to see this condition changed.
- Commissioner Shouten stated time before and after work would allow people that can't take time during work hours to receive care.
- Commissioner Bohm stated he thinks that it has been established that conversion of the building to a use that is approved in this zone such as a duplex would be unreasonable; so in his understanding of the code he could see the professional use being approved, however, he would not be able to allow for the retail use because if we allow retail in a professional zone it will open a can a worms we will never be able to close.
- Commissioner Munoz stated he understands the public portion making it retail but if it is similar to a beauty salon they also sell products to the public. The way the applicant has presented the request he sees it as more of a service offered to their client not a

retail business like a coffee shop. He understands the volume is different but to allow the use with restrictions would be difficult to enforce. As for the hours of operation he thinks these hours are too restrictive and the daycare probably operated outside of these hours. With the recommendation that the permit expire in a year if the extended hours becomes a problem then it could be that the permit is not renewed. He does feel the one year expiration is appropriate because it is not clear what the exact uses of each office are going to be and this give the City an opportunity to monitor and track any issues that may arise from this type of use.

- Commissioner Bohrn stated that it could become a destination place to purchase the specialty teas and coffee making it retail. If they provide the tea and coffee on a donation basis then that would be different.
- Commissioner Munoz stated that he understands that it would be an exception to a rule.
- Commissioner Bohrn stated that the hours are too restrictive and the type of treatment she is offering will have such a small impact on the area he would not be opposed to 8am to 9pm.
- Commissioner Munoz stated he would recommend 7am to 8pm.
- Commissioner Younkin asked the Commission to review the conditions and asked if there is any need for discussion on the number of professionals in the building.
- Commissioner Bohrn stated that staff had this condition because of parking availability.
- Zoning & Development Manager Carraway stated the concern with the number of individuals with their spaces was based upon a site plan staff had available to review. The applicant has indicated that they have measured and perhaps the site plan from 1998 is not accurate. If there can be more than 12 parking spaces, then the condition could be worded to allow for more offices with a minimum of 3 parking spaces provided for each office.

MOTION:

Commissioner Borhn made a motion to approve the request with staff recommendations to be amended; 1- to allow for a minimum number of parking spaces required for each office be 3 spaces and 2-that the hours of operation to be 8am to 8pm seven days a week. Commissioner Warren seconded the motion.

DISCUSSION ON THE MOTION:

- Commissioner Munoz stated he still has an issue with the 8am opening time because a lot of the doctor visits will be scheduled at 8am and there will be patients that need assistance prior to seeing their physician.
- Commissioner Mikesell stated he would recommend 6am as appropriate because it would allow for the patient to get therapy prior to their chemo appointment.
- Commissioner DeVore stated the applicant requested 6am to 9pm.

MOTION AMENDED:

Commissioner Borhn amended his motion to approve the request with staff recommendations and as amended - Condition #3 be amended; to allow for a minimum of 3 parking spaced per each professional operating at the facility at any one time, and Condition #4 be amended; to allow the hours of operation to be 6am to 8pm seven days a week. Commissioner Warren seconded the motion. All members present voted in favor of the motion.

APPROVED AS PRESENTED WITH STAFF RECOMMENDATIONS

1. The business to be limited to alternative therapies only, as presented.
2. The special use permit is restricted to Amanda Dastrup & Marcella Blass, property owners, at this location. A change of ownership shall require a new special use permit.
3. Subject to a minimum of 3 parking spaces per each professional operating at the facility at any one time.
4. Operation of the facility be limited from 6:00 am to 8:00 pm, seven days a week.
5. Subject to removal of the compact car parking spaces and assure compliance with parking requirements, as per 10-10-1 thru 3.
6. Subject to issuance of a certificate of occupancy from the building inspection department for a change of use prior to operation of the business.
7. The special use permit shall expire in 1 year. (September 9, 2010)
8. Subject to site plan amendments as required by Building, Fire, Engineering, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.

II. PUBLIC INPUT AND/OR ITEMS FROM THE ZONING DEVELOPMENT MANAGER AND/OR THE PLANNING & ZONING COMMISSION:

Pastor Lynn Schaal made a presentation to the Commission.



**CITY OF TWIN FALLS
PLANNING AND ZONING DEPARTMENT**

324 Hansen Street East
P.O. Box 1907
Twin Falls, Idaho 83303-1907

SPECIAL USE PERMIT

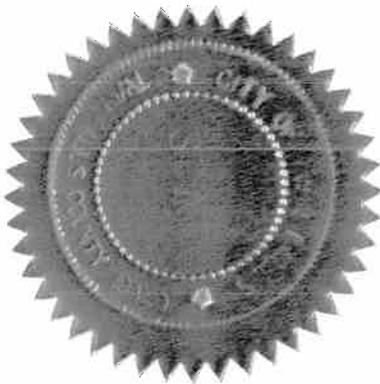
Permit No. 1214

Granted by the Twin Falls City Planning and Zoning Commission on February 8, 2011 to Marcella (Blass) Sligar & Amanda Dastrup whose address is 534 Meadowlark Way Twin Falls, ID 83301 for the purpose of operating an alternative therapy business on property located at 276 Eastland Drive North and legally described as Twin Falls Kingsgate Subd #3 Lot 4, Exc 15'; Lot 5 Block 1 (11-10-17 SW)

The Commission has attached the following conditions which must be fully implemented to avoid permit revocation (City Code Section 10-13-2.3):

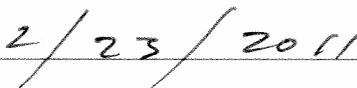
This permit corresponds to Zoning Application No.2422

1. The business to be limited to alternative therapies only and associated retail, as presented.
2. The special use permit is restricted to Amanda Dastrup & Marcella (Blass) Sligar, property owners, at this location. A change of ownership or tenants shall require a new special use permit.
3. Subject to a minimum of 3 parking spaces per professional operating at the facility at any one time.
4. Operation of the facility to be limited from 6:00 am to 8:00 pm, seven days a week.
5. Site plan amendments as required by Building, Fire, Engineering, And Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
6. Subject to lighting issues being resolved with the neighbor.





CHAIRMAN - TWIN FALLS CITY PLANNING & ZONING COMMISSION



DATE

This permit is for zoning purposes only. Other permits such as sign, building, electrical or plumbing permits, etc. may be required. All facilities must comply with all Building and Fire Code Regulations.

Please contact the Building Department at 735-7238 for further information.

cc: Building Inspection

P&Z QUESTIONS /COMMENTS:

- Commissioner Munoz asked if the garages are two car will the driveways allow for two additional cars and how will the maintenance be handled, will the equipment be stored on site.
- Mr. Edmunds explained that the goal is for the residence to use their private driveway for parking and to avoid parking on the driveway that run between the buildings. The CCR's will have strict guidelines for parking, they passageways between the buildings are designed to be 18' wide which would allow an emergency vehicle to pass a parked vehicle, but they will encourage people to park in their own driveways. There will be some limited visitor parking at the club house and the streets will also be available for parking. The maintenance will be contracted out and none of the equipment will be stored on site.

PUBLIC COMMENT: OPENED AND CLOSED WITHOUT ANY PUBLIC COMMENT

**PLANNING & ZONING COMMISSION PUBLIC HEARING
SCHEDULED FOR WEDNESDAY FEBRUARY 23, 2011**

IV. PUBLIC HEARINGS:

1. Request for a Special Use Permit to replace a legal non-conforming use by another non-conforming use on property located at 276 Eastland Drive North, c/o Marcella (Blass) Sligar & Amanda Dastrup. (app. 2422)

APPLICANT PRESENTATION:

Marcella Sligar, the applicant stated this is a request to reapply for a special use permit for a non-conforming use that was approved in 2009 for property located at 276 Eastland Drive North. This permit would allow for the continued use a professional office and alternative therapies. The focus of this center is to maintain an complimentary therapy to promote healing for patients undergoing traditional medical care for illnesses such as cancer. The goal is to continue to offer this community a center with therapeutic treatment in a calm and relaxing environment. This affords the city to provide alternative care that is otherwise not available and most have to travel out of town to receive. The hours of operation would be 6:00am to 8:00pm seven days a week and is driven by patient need and appointments. The care includes occasional weekends and has minimal impact to the surrounding area. Typically the services require 1-3 offices to operate at a time, and in addition to promote the healing environment and the viability of the center she is requesting to provide products for retail that are specific to the care provided at the center. These items include things such as self improvement products, educational materials, supplements and local artisan healing products to promote healing. There have not been any complaints or impacts to the surrounding area. She asked that the Commission approve her request.

STAFF PRESENTATION:

Zoning & Development Manager Carraway reviewed the exhibits on the overhead and stated this is a request for a Special Use Permit to replace a legal non-conforming use with another non-conforming use. In 1998 this building was constructed for use as a commercial daycare; at that time the R-2 zoning allowed for a commercial daycare. Since that time the zoning code has changed and this is no longer a permitted use in the R-2 zone making the commercial daycare a legal non-conforming use. The daycare facility closed in May of 2009. In September of 2009 the Intrinsic Health business came through and asked to use this building for their services. The code does recognize a legal non-conforming use can be replaced by another non-conforming use through the special use permit process; if the Commission determines that the new non-conforming use is not incompatible with the surrounding area.

A special use permit was granted for the alternative therapy professional office. One of the conditions of approval was that the permit would expire within one (1) year; mostly due to the fact that this was a non-conforming use and it was not clear what the impacts would be to the surrounding area. To staff knowledge there have not been any complaints and the applicant would like to reestablish the same

February 8, 2011

use. Staff has reviewed the request the site has received a Certificate of Occupancy and received the required inspections. The site is in compliance and all of the conditions of the previously approved special use permit have been met.

Zoning & Development Manager Carraway stated upon conclusion should the Commission approve the request as presented staff recommends approval be subject to the following conditions:

1. The business to be limited to alternative therapies only and associated retail, as presented.
2. The special use permit is restricted to Amanda Dastrup & Marcella (Blass) Sligar, property owners, at this location. A change of ownership or tenants shall require a new special use permit.
3. Subject to a minimum of 3 parking spaces per professional operating at the facility at any one time.
4. Operation of the facility to be limited from 6:00 am to 8:00 pm, seven days a week.
5. Site plan amendments as required by Building, Fire, Engineering, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.

P&Z QUESTIONS/COMMENTS:

- Commissioner Munoz asked if the Zen Garden plan was implemented and if the retail would operate within the same hours listed.
- Ms. Sligar stated that a Zen Garden has been put into place and the retail hours would be consistent with the therapy business when open, they would not be open for retail only.

PUBLIC HEARING: OPENED

- Curtis Eaton, 2155 Hillcrest Drive, stated these are good neighbors and have done a good job in conforming to the conditions. They have a light on the building and he would like to request that the lighting be reduced so that it doesn't shine into his yard.

PUBLIC HEARING: CLOSED

CLOSING STATEMENT:

- Ms. Sligar stated she was not aware of any issues however she would be willing to work with the neighbor on the lighting.

DELIBERATIONS FOLLOWED:

- Commissioner Munoz stated he would ask that the lighting be addressed.

MOTION:

Commissioner Munoz made a motion to approve the request as presented and to add the lighting be addressed with the neighbors. Commissioner Schouten seconded the motion. All members present voted in favor of the motion.

APPROVED, AS PRESENTED, SUBJECT TO THE FOLLOWING CONDITIONS

1. The business to be limited to alternative therapies only and associated retail, as presented.
2. The special use permit is restricted to Amanda Dastrup & Marcella (Blass) Sligar, property owners, at this location. A change of ownership or tenants shall require a new special use permit.
3. Subject to a minimum of 3 parking spaces per professional operating at the facility at any one time.
4. Operation of the facility to be limited from 6:00 am to 8:00 pm, seven days a week.
5. Site plan amendments as required by Building, Fire, Engineering, and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.

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6. Subject to working with the neighbor to resolve the lighting issue.



**CITY OF TWIN FALLS
PLANNING AND ZONING DEPARTMENT**

324 Hansen Street East
P.O. Box 1907
Twin Falls, Idaho 83303-1907

SPECIAL USE PERMIT

Permit No.1227

Granted by the Twin Falls City Planning and Zoning Commission on April 12, 2011 to The Mail Room c/o Labron Burton whose address is 255 Blue Lakes Boulevard North Twin Falls, ID 83301 for the purpose of replacing a legal non-conforming use with another non-conforming use on property located at 276 Eastland Drive North and legally described as Twin Falls Kingsgate Subd #3 Lot 4, Exc 15'; Lot 5 Block 1 (11-10-17 SW)

The Commission has attached the following conditions which must be fully implemented to avoid permit revocation (City Code Section 10-13-2.3):

This permit corresponds to Zoning Application No.2443

1. The business to be limited to small delivery van traffic only, no semi-truck deliveries as presented
2. The Special Use Permit is restricted to Labron and Jinger Burton, property owners at this location. A change of ownership or tenant shall require a new Special Use Permit
3. Operation of the facility to be limited from 7:30 am to 6:30 pm Monday through Saturday
4. Site plan amendments as required by Building, Fire, Engineering and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.





CHAIRMAN - TWIN FALLS CITY PLANNING & ZONING COMMISSION



DATE

This permit is for zoning purposes only. Other permits such as sign, building, electrical or plumbing permits, etc. may be required. All facilities must comply with all Building and Fire Code Regulations.

Please contact the Building Department at 735-7238 for further information.

cc: Building Inspection

Planning & Zoning Commission Minutes

April 12, 2011

- Mr. Petroysan stated he wants to be able sell drinks at this location to prevent people from bringing in their own drinks that could have alcohol. They also would like to be able to sell tobacco. They have been working with the previous people that operated the Hookah Lounge and explained they want to do things correctly to prevent problems. Extended retail hours would allow them to serve the customers. They have been operating from 8:00pm to 10:00pm and haven't had any problems.

PUBLIC HEARING: OPENED & CLOSED WITHOUT CONCERNS

DELIBERATIONS FOLLOWED:

- Commissioner Mikesell stated there is another business that operates late in this area and there have not been any real issues, the downtown area needs business.
- Commissioner Ihler stated he doesn't understand the late hours if it was a bar it would be closed at 1:00am.
- Commissioner Cope stated he doesn't understand the late hours just to smoke tobacco.
- Commissioner Schouten stated he is concerned for people living close by and the late hours during the week and would like for the Fire Department to inspect the site because of the type of activity.

MOTION:

Commissioner Ihler made a motion to recommend approval of this request, with the permit expiring in 6 months and the hours of operation to not exceed 1:00am, with amended staff recommendations. Commissioner Cope seconded the motion. Commissioners Mikesell, Ihler, Bohrn, Sharp & Schouten voted in favor of the motion and Commissioners Derricott, Cope & DeVore voted against the motion.

APPROVED 5-3, WITH AMENDED STAFF RECOMMENDATIONS

1. Subject to hours of operation being no earlier than 7:00 am and no later than 1:00 am.
 2. Subject to site plan amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable City Code requirements and Standards.
 3. Subject to permit expiring in six(6) months (**October 12, 2011**)
 4. Subject to a trash clean-up plan being approved by Planning and Zoning Department staff.
 5. Noise level not to exceed 78 decibels at any point ten feet (10') from the exterior walls of the building.
 6. Subject to the applicant contacting the City of Twin Falls Police Department to review security and ID procedures.
-
1. Request for Special Use Permit to replace a legal non-conforming use with another non-conforming use on property located at 276 Eastland Drive North c/o Labron Burton dba The Mailroom (app. 2443)

APPLICANT PRESENTATION:

LaBron Burton, stated they would like to move their business to the east side of the Twin Falls. The mailroom has been servicing magic valley for approximately 20 years. They are a neighborhood postal center, 74% is packaging and shipping, 9% selling stamps, 9% service, 8% is retail novelty gift items. They are a professional service business with retail items. This property is ideal because it is close to

the neighborhoods that are approximately 2 miles from a local postal service. The business will bring a new and needed service to the area. They do not believe they will be adding additional traffic to the neighborhood streets and see approximately 30-40 customers per day that are in and out within about 5 minutes and spread out through the day. There are 4 to 5 other spaces in the building that they would like to rent to other professionals (i.e. CPA, Insurance Agent, Financial Advisor). They will have a shared entryway and the offices would accommodate a single occupant. They plan to work to eliminate any contention with the neighbors the services are quiet and the traffic would be limited. The Mail Room offers freight services and in anticipation of approval of this request they have made other arrangements for larger trucks to deliver at another location. They feel The Mail Room would be a good fit for the property and blend in with the neighborhood.

STAFF PRESENTATION:

Zoning & Development Manager Carraway reviewed the exhibits on the overhead and stated the Planning & Zoning Commissioner granted Special Use Permit #0559 on July 28, 1998, for constructing and operating a commercial daycare facility at this location with the condition that a drainage plan be provided. A building permit for the facility was issued in fall of 1998 and was issued a Certificate of Occupancy April of 1999. The property operated as a commercial daycare facility until the daycare closed in May of 2009.

At the time the facility was constructed in 1998 the City Code did not distinguish between a commercial daycare facility vs. an in-home daycare facility. The code allowed for "daycare facilities" in residential zones by special use permit. A Zoning Title Amendment to the City Code was subsequently approved that now lists commercial daycare facilities and in-home daycare facilities as separate land uses. The Zoning Title Amendment that changed the land use is what established the subject property as a legal non-conforming use. A professional use or a retail use were not permitted in the R-2 zone in 1998 nor are they permitted under the current code.

This property is zoned R-2, a residential single-family or duplex zoning district. The property operated a legal non-conforming commercial daycare facility from 1998 to May 2009. In September 1999 a request to allow a professional business to operate at this location was submitted for consideration.

As the property was operating a legal nonconforming use, City Code 10-3-4(a)1e allows for consideration of replacement of the legal non-conforming use of a commercial daycare use with another legal non-conforming use by special use permit if said legal nonconforming use:

- has not been discontinued for more than five (5) years, and
- if it can be shown that the building cannot reasonably be converted to a conforming use

The request was to allow the property to be used to operate a professional office for alternative therapies. The use was determined by the Commission to cause very little traffic as appointments were staggered to not overlapping. The request was approved subject to eight (8) conditions. One of those conditions was the permit would expire in one (1) year. On February 8, 2011 the Commission granted another special use permit to allow the same applicants to operate their alternative therapy business in the same manner. The office has operated for approximately two (2) years and there have not been any complaints staff is aware of regarding the operation of this office.

On September 9, 2009, the Planning & Zoning Commission granted Special Use Permit #1160 to Marcella Blass and Amanda Dastrup to replace the commercial daycare facility classified as a legal non-conforming use with another non-conforming use on the property. One of the conditions of approval was that the permit expires one (1) year from the date of approval.

A Certificate of Occupancy was issued on October 23, 2009, for the change of use from a commercial daycare facility to professional offices. The special use permit expired in September 2010 and on February 8, 2011, the Planning & Zoning Commission granted Special Use Permit #1214 to Marcella (Blass) Sligar and Amanda Dastrup for the purpose of continuing to operate an alternative therapy business as a legal non-conforming use subject to compliance with six (6) conditions.

1. The business to be limited to alternative therapies only and associated retail, as presented.
2. The special use permit is restricted to Amanda Dastrup & Marcella (Blass) Sligar, property owners, at this location. A change of ownership or tenants shall require a new special use permit.
3. Subject to a minimum of 3 parking spaces per professional operating at the facility at any one time.
4. Operation of the facility to be limited from 6:00 am to 8:00 pm, seven days a week.
5. Site plan amendments as required by Building, Fire, Engineering, And Zoning Officials to ensure compliance with all applicable City Code requirements and standards.
6. Subject to lighting issues being resolved with the neighbor.

The property is now for sale and this applicant is requesting a special use permit to replace the legal non-conforming use of operating an alternative therapies business with another non-conforming use which is a commercial postal service and retail business.

The applicant currently operates a mail and parcel service business called The Mail Room their narrative indicates they would like to move from their current location, 255 Blue Lakes Boulevard North, to this location. The Mail Room provides services to the general public as well as small businesses. They offer shipping and mailing via fed ex, ups, and the postal service. They provide packaging materials and services as well as private mail boxes, copying, faxing, notary and shredding services. They also offer for sale specialty gift and decor items, such as candles, warmers, greeting cards, jewelry, treats and bottled water.

The property is surrounded by residences to the north, east and south. Eastland Drive North is to the west separating the facility from another residential neighborhood. Within 500' of this property there are two (2) non-residential uses, the Church of The Ascension to the west and the Eastside Southern Baptist Church to the south.

The hours of operation for this business are proposed to be 7:30am to 6:30pm Monday through Saturday. The Mail Room currently serves approximately 35 customers per day. In addition they have daily small delivery van traffic of one (1) morning delivery and one (1) afternoon pick up from each of their three (3) carriers; for a minimum of six (6) carriers per day. They employ two (2) full time people (owners) and a part time person. They anticipate adding one more full time employee by the end of 2012.

The property is a developed 20,000 +/- sq ft lot with an existing 3100 sq ft building. The site plan shows a 500 sq ft remodel/addition which would bring the total square footage of the building to 3600 sq. ft. The building has six (6) rooms, some of which are or have been rented out as individual offices

in the alternative therapy field. The applicant states they plan to continue the current sub-leasing of the four (4) front offices which may be to the current alternative therapy businesses or it may include other retail professional services

The applicant is proposing to remove the outside park area and some of the grass area on the southeast side of the property to increase parking. The required parking for a business of this type is one space per 250 square feet of floor space. The applicant is required to provide 15 parking spaces.

If this request is granted this evening there could be a potential of five (5) separate businesses operating from this property. On-site staff from these five (5) separate businesses would potentially be taking up 50% or more of the available on-site parking.

If the Commission approves this request a complete review by the Building, Engineering, and Planning & Zoning Department will be required to ensure compliance with City Codes such as landscaping, storm water retention, lighting, parking, etc.

Staff does have a concern regarding the addition of retail uses to this property. The tea and coffee shop component of the previous request was not a separate business but was limited to hours of operation consistent to when there were clients being treated. Approval of this request, as presented, will be adding a more intensive and commercial land use to the site and to the existing residential area.

The Comprehensive Plan Future Land Use Map designates the Eastland Drive corridor from the Eastside Southern Baptist Church to the corner of Falls Avenue East as a residential corridor. The addition of a commercial/retail use may not be in character with the existing residential neighborhoods in the area.

Zoning & Development Manager Carraway stated upon conclusion should the Commission grant this request, as presented, staff recommends approval be subject to the following conditions:

1. The Business To Be Limited To Small Delivery Van Traffic Only, No Semi-Truck Deliveries, as presented.
2. The Special Use Permit Is Restricted To Labron and Jinger Burton, Property Owners, At This Location. A Change Of Ownership or Tenants Shall Require A New Special Use Permit.
3. Operation Of The Facility To Be Limited From 7:30 Am To 6:30 Pm, Monday Through Saturday.
4. Site Plan Amendments As Required By Building, Fire, Engineering, And Zoning Officials To Ensure Compliance With All Applicable City Code Requirements And Standards.

PUBLIC HEARING: OPENED

- Curtis Eaton, 2155 Hillcrest Drive, stated that coming to a public meeting like this reminds him how small the town is, and that he is not completely in objections of the request but would like to have some restrictions. He stated he lives across the street from this property. The current special use designation is for professional office and has had limited traffic impact because the appointments were scheduled and staggered. The lighting was to be addressed but is still a concern and the third issue was the addition of postal services and retail businesses. The applicants wants to expand the

business and to be successful they would need to grow. Approval of the request would add a more intensive land use to the sight. This is a residential area that has had a professional use approved with minimal impact to the area. Traffic is a very large concern with Eastland being a major artery for traffic. This would add traffic to the nearby intersection traffic already bottlenecks in this area causing traffic to back-up beyond the entrance to this property. There is a significant rebuild for this area along Eastland Drive that should be considered. He would ask that the Commission consider the traffic impact and whether or not it fits the area. They would request that there be a right turn into and right turn out of the property for a more controlled access. They would like for the Commission to consider the retail impact this business will have on the area.

- Amanda Dastrup stated that this property has been used as a daycare which had up to sixty cars traveling to and from the property with screaming kids. The lighting has been adjusted and she feels the neighbors will not be impacted.

PUBLIC HEARING: CLOSED

CLOSING STATEMENTS:

Mr. Burton stated that he would work with the neighbor that has the lighting issue and is not against the traffic control recommendation of a right turn in and out of the property.

DELIBERATIONS FOLLOWED:

- Commissioner Sharp stated he was concerned about the traffic but it would be a benefit to have this business on this side of town.
- Commissioner Ihler agreed that it would be nice to have this business on this side of town his only concern is that if they do expand the business for tenants then the employees would take up most of the available parking.
- Commissioner Schouten stated it would be good for this location.
- Commissioner Bohrn stated the type of delivery traffic that will be coming to the business will be small vans shouldn't be an issue.
- Commissioner Ihler asked when and if there are plans to widen Eastland Drive at this location.
- Assistant City Engineer Vitek explained there are plans to widen south of Hillcrest Drive but no plans at this location currently. The right in right out is truly only effective if there is a median in the center of the road but it can still be part of the conditions.

MOTION:

Commissioner Schouten made a motion to recommend approval of this request to the City Council. Commissioner Cope seconded the motion. All members present voted in favor of the motion.

APPROVED, AS PRESENTED, WITH STAFF RECOMMENDATIONS

1. The business to be limited to small delivery van traffic only, no semi-truck deliveries as presented
2. The Special Use Permit is restricted to Labron and Jinger Burton, property owners at this location. A change of ownership or tenant shall require a new Special Use Permit
3. Operation of the facility to be limited from 7:30 am to 6:30 pm Monday through Saturday
4. Site plan amendments as required by Building, Fire, Engineering and Zoning Officials to ensure compliance with all applicable City Code requirements and standards.



Frontage along Eastland Dr N

05/06/2014 09:12 AM



Frontage along Eastland Dr N

05/06/2014 09:11 AM



View from Across Eastland Dr N

05/06/2014 09:14 AM



08/19/2014 02:31 PM