AGENDA TITLE: Public hearing and consideration of a Use Review to allow “personal service” and “professional office” uses within an existing, approximately 3,704 square-foot office building at 954 North Street within the RH-5 (Residential – High 5) zoning district. This proposal is to allow personal services uses in addition to the existing professional offices currently in the building and is reviewed under case no. LUR2019-00025.

Applicant: Steven and Sarah Remmert
Owner: Steven and Sarah Remmert

REQUESTING DEPARTMENT:
Planning
Chris Meschuk, Asst. City Manager/Interim Planning Director
Charles Ferro, Development Review Manager
Gabby Hart, Case Manager

OBJECTIVE:
Define the steps for Planning Board consideration of this request:
1. Hear Applicant and Staff presentations
2. Hold Quasi-Judicial Public Hearing
3. Planning Board discussion
4. Planning Board action to approve, approve with conditions or deny

SUMMARY:
Proposal: Public hearing and consideration of a Use Review to use any configuration and number of individual office suites within an existing, approximately 3,704 square-foot office building at 954 North Street, for “personal service” or “professional office” uses within the RH-5 (Residential – High 5) zoning district. The proposed hours of operation are from 8:00 a.m. to 8:00 p.m.. Because the use is a “non-residential use in a residential zoning district” it requires approval through Use Review.

Project Name: REMMERT PROPERTIES
Location: 954 North Street
Size of Property: 7,085 square feet (0.16 acre)
Zoning: Residential – High 5 (RH-5)
Comprehensive Plan: High Density Residential
Case Number: LUR2019-00025

BACKGROUND:
The existing building is located mid-block on North Street between 9th and 10th Streets and is a professional office building with 18 office condominiums. The structure was built in 2002 for “professional offices” at a time when the area was zoned “Community Business” (CB-E). In 2004, it was rezoned to RH-5 by Ordinance 7377. Refer to Figure 1 for the location of the building; and Figure 2 for a front facing view of the building from North Street.
The land use designation of the site under the Boulder Valley Comprehensive Plan is High Density Residential, which is defined in the BVCP as “generally located close to the University of Colorado, in areas planned for transit-oriented redevelopment, and near major corridors and service” and the density is described as “more than 14 units per acre.” The BVCP Land Use for the site and context is provided in Figure 3.

The project site is zoned RH-5, High Density Residential – 5, and section 9-5-2(c)(F), B.R.C. 1981 of the Land Use Code defines an intent for this zoning as “primarily used for a variety of types of attached residential units, including, without limitation, apartment buildings and where complimentary uses may be allowed.” The site is predominately surrounded by areas zoned Residential – Mixed 1 (RMX-1) to the south; and to the north properties are zoned both RH-5 as well as Business Transition – 1 (BT-1). The zoning map for the site and context is provided in Figure 4.

The existing professional office spaces have been used by social workers, therapists, and law offices since the building was constructed. However, because these uses would have been an allowed uses by-right under the previous zoning, there are
no records in the city's data base that indicate a Use Review was approved for previous non-residential uses after the rezoning process.

**Area Plans.** The property is located within the boundaries of the recently adopted Alpine-Balsam Area Plan, which envisions the future of the approximately 70 acre Alpine-Balsam area and guides long-term character and development of the area. Analysis of the vision, goal, and objectives of the plan against the Use Review proposal is not necessary since the development of the property is existing. Further, the land use designation for the property on the Land Use Map of the BVCP has not been changed to reflect the high density residential development envisioned along North Street.

**REVIEW PROCESS:**
Because the proposed healing arts uses including skin care, physical therapy, massage, acupuncture, aromatherapy, yoga, audiology, and homeopathy are defined as “personal service uses” in section 9-16 of the Land Use Code, approval through a Use Review is required per section 9-6-1, B.R.C. 1981. Although the office spaces in the building have been operating as allowed professional office uses since the time the property was zoned CB-E, under current zoning standards professional office uses also require a Use Review in the RH-5 zoning district. Further, a non-residential use may be permitted within a residential zoning district only through a decision by the Planning Board.

**PROPOSAL:**
The applicants are requesting approval of a Use Review to allow them to lease any configuration of office spaces to personal service and professional office uses within an existing non-residential building within a residential zoning district. The proposed office hours of operation are from 8:00 a.m. to 8:00 p.m. Sunday through Saturday. Although most of the existing tenants are professional office uses including therapists and attorneys, the proposal includes the ability to lease the office spaces to healing arts businesses such as skin care, physical therapy, massage, acupuncture, aromatherapy, yoga, audiology, and homeopathy. Refer to Attachment B for the proposed Management Plan.

As shown in the floor plans below, each level of the existing office building includes a reception area and restrooms to serve the nine tenant spaces on each floor (reference Figure 5, below).

![Figure 5: Office Floor Plan](image-url)
The existing office building currently exceeds the minimum vehicle parking requirement, providing 15 spaces where 12 are required. The parking spaces are located in the tuck-under spaces at the ground level and the open lot in the rear of the lot. There are also nine bike parking spaces adjacent to the east side of the building on “u-racks” that exceed the minimum bike parking requirements of four bike spaces. Refer to Attachment C for the full site plan and floor plans of the existing building. No interior or exterior modifications are proposed as a part of this project.

ANALYSIS:
Under the Land Use Code section 9-16-1 “General Definitions,” B.R.C. 1981, “personal service” use is defined as follows:

“personal service use means an establishment that provides personal services for the convenience of the neighborhood, including, without limitation, barber and beauty shops, shoe repair shop, bicycle repair shops, dry cleaners, laundries, self-service laundries, bakeries, travel agencies, newsstands, pharmacies, photographic studios, duplicating services, automatic teller machines, and the healing arts (health treatments or therapy generally not performed by a medical doctor or physician such as physical therapy, massage, acupuncture, aromatherapy.

In addition, “professional office” use is defined as follows:

“Office, professional means offices of firms or organizations providing professional service to individuals and businesses, including, without limitation, accountants, architects, attorneys, insurance brokers, realtors, investment counselors, and therapists, where a majority of client contact occurs at the office, but not including technical, medical, dental, or administrative offices.”

Generally, the operational characteristics of the proposed personal service uses are consistent with those of the existing professional office uses; all appointments are by appointment only, each tenant has a maximum of two employees, and typical visits last one to three hours. As found in Attachment A, Analysis of Proposed Project with Use Review Criteria, the proposal meets the relevant criteria of section 9-2-15, “Use Review,” B.R.C. 1981.

PUBLIC COMMENT:
Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All public notice requirements of section 9-4-3, “Public Notice Requirements,” B.R.C. 1981 have been met. One public comment was received on this application. The neighbor was concerned about a lack of parking to accommodate the current parking demand of the professional office building.

STAFF FINDINGS AND RECOMMENDATION:
Staff recommends that Planning Board adopt the following Motion:

Motion to approve Land Use Review No. LUR2019-00025 incorporating the staff memorandum and the attached analysis of use review criteria as findings of fact and subject to the recommended conditions of approval.

RECOMMENDED CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the development shall be in compliance with all plans prepared by the Applicant on September 26, 2019 and the written statement dated May 3, 2019, all on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:

   a. The Applicant shall operate the business in accordance with the Management Plan dated July 9, 2019, which is attached to this Notice of Disposition.
b. The size of the approved use shall be limited to 3,704 square feet.

c. The approved use shall be closed from 8:00 p.m. until 8:00 a.m. Sunday through Saturday.

d. Trash and bottles shall not be removed to outside trash containers between the hours of 10:00 p.m. and 8:00 a.m.

2. The Applicant shall not expand or modify the approved use, except pursuant to subsection 9-2-15(h), B.R.C. 1981.

Approved By:

Chris Meschuk, Asst. City Manager / Interim Director of Planning
Department of Planning

ATTACHMENTS:
A. Analysis of Use Review Criteria
B. Applicant's Management Plan and Written Statement
C. Final Site and Floor Plans
ANALYSIS OF USE REVIEW CRITERIA

Section 9-2-15, Use Review
LUR2019-00025 – 954 North Street
June 14, 2019

USE REVIEW for “any configuration and number of individual office suites within an existing, approximately 3,704 square-foot office building at 954 North Street, for “personal service” or “professional office” uses within the RH-5 (Residential – High 5) zoning district. The proposed hours of operation are from 8:00 a.m. to 8:00 p.m.

Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

1. Consistency with Zoning and Non-Conformity: The use is consistent with the purpose of the zoning district as set forth in Section 9-5-2(c), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

   The property is located in the Residential - High 5 (RH-5) zone district which is defined as: High density residential areas primarily used for a variety of types of attached residential units, including without limitation, apartment buildings, and where complementary uses may be allowed.

   The building was constructed and granted a Certificate of Occupancy in 2002 for “Professional Office” when the zoning was “CB-E” Community Business – Established. “Professional Office means offices of firms or organizations providing professional service to individuals and businesses, including, without limitation, accountants, architects, attorneys, insurance brokers, realtors, investment counselors, and therapists, where a majority of client contact occurs at the office, but not including technical, medical, dental, or administrative offices.” 9-16-1, B.R.C. 1981. Under current zoning standards, professional office uses are required to go through a Use Review process in the RH-5 zoning district.

   There are 18 office suites within the building on the subject property. The majority of the offices are currently leased to therapists (14) and (1) Attorney, both meeting the definition of professional offices listed above.

   The property owner is proposing to allow the Healing Arts such as skin care, physical therapy, massage, acupuncture, aromatherapy, yoga, audiology, and homeopath type businesses to also operate in the building. These services are considered “Personal Service” uses per the Boulder Land Use Code. “Personal service use means an establishment that provides personal services for the convenience of the neighborhood, including, without limitation, barber and beauty shops, shoe repair shops, bicycle repair shops, dry cleaners, laundries, self-service laundries, bakeries, travel agencies, newsstands, pharmacies, photographic studios, duplicating services, automatic teller machines, and the healing arts (health treatments or therapy generally not performed by a medical doctor or physician such as physical therapy, massage, acupuncture, aromatherapy, yoga, audiology, and homeopathy).” 9-16-1, B.R.C. 1981. These uses may be considered “complementary uses” per the definition of the RH-5 zone district.

2. Rationale: The use either:

   (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses

   The proposed uses are defined under “Personal Service Use” and “Office, Professional” within the Land Use Code, section 9-16-1, B.R.C. 1981. (see Criteria #1 for definition). Inherent in the definition
of Personal Service Uses is the notion that these functions provide a “convenience for the neighborhood.” Additionally, these Personal Service Uses have a similar type of clientele as Professional Offices where client contact occurs at the office in limited numbers. The building owner describes their current tenants as typically having one client at a time and anticipates that the new personal service offices would typically serve one client at a time as well.

Professional office uses provide direct service to the neighborhood by increasing the accessibility of professional office uses including but not limited to therapists, attorneys, and accountants. Direct proximity to the neighborhood may eliminate vehicle trips typically taken to such office uses. The hours of operation are compatible with a residential area (no late night and little weekend activity) and projected traffic impacts are minimal. See the attached Management Plan for additional details and limitations on employees, clients, and office hours.

N/A  (B) Provides a compatible transition between higher intensity and lower intensity uses;
Not applicable.

N/A  (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or
Not applicable.

N/A  (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (f) of this section;
Not applicable.

✓  3) Compatibility: The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

The uses are proposed to occupy any configuration of the existing office spaces within the building at 954 North Street. The physical location, size and design of the uses will have negligible impact as they would be located within the existing building, no additional floor area is proposed.

The applicant has indicated that each of the personal service use tenants would serve one client at a time similar to the therapist and attorney tenants that currently operate within the building and generally meet with only one client at a time.

The on site parking requirement is 1 per 300 square feet of office space for both the existing and proposed uses. The building is 3,704 square feet which equals 12 parking spaces. Currently there are 15 parking spaces on site. Additionally, there is one “u-rack” for nine bikes serving the office building. See photos for reference, below.

✓  (4) Infrastructure: As compared to development permitted under Section 9-6-1, "Schedule of Permitted Uses of Land," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a non-conforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater, and storm drainage utilities and streets;
The use is proposed within an existing building on an existing urban street where infrastructure has been in place for years. There is on-street parking on North Street from 9th to 10th Street within the public right of way. The site currently exceeds on-site parking requirements by providing 15 spaces where 12 are required.

Since the proposed use will not increase infrastructure or parking demand, the existing infrastructure in the area will be adequate to serve the proposed use, and there will be no additional impacts associated with the use.

✓ (5) Character of Area: The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area; and

The use is proposed in an existing professional office within an existing building. No additional floor area or façade modifications are proposed with this application, therefore the proposed use would not change the existing character of the building and surrounding area. Additionally, the operating characteristics of the proposed use are very similar to the characteristics of the existing uses of the site. There currently are no adopted design guidelines or plans for this area. However, the site is within the study area of the Alpine-Balsam Area Plan currently in process.
N/A  

(6) Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in Subsection 9-5-2(c)(1)(a), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.

Not Applicable, there are currently no dwelling units on the subject property, the proposed uses will occupy existing professional office spaces.
We have 18 individually leased offices. The offices range in size from approximately 115sf to 220sf. Our office is currently comprised of office professionals. The vast majority of our tenants are psychologists and social workers. In general, they see one client at a time.

On average only about ½ of the tenants are in the office at the same time/day.

Most tenants only work part time. 3-4 days per week and for 4-6 hour days.

The office is open from 8:00am to 8:00pm depending on the individual business.

Occasional weekend hours by appointment only between 8:00am and 8:00pm.

The proposal for future Personal Services Use is as follows:

The office would allow the healing arts such as skin care, physical therapy, massage, acupuncture, aromatherapy, yoga, audiology, and homeopathy type businesses.

2 employees maximum per business (up to a total of 18 business)

All Clients are by appointment only, no walk-ins.

1 or 2 clients at a time, for approximately 1 hour sessions. Some will book up to 3 consecutive sessions totaling 3 hours of treatment.

25 number of clients per week

40 maximum office hours per week
USE REVIEW WRITTEN STATEMENT

Submit with your application.

For your convenience, this form is also available as an electronic form on the Planning and Development Services website at www.boulderdevelop.net. You may type in your responses in the electronic form, and then print it to attach to your written statement.

KEY INFORMATION

Please provide the following information. Please type or print complete, detailed responses. Please also select use categories from the Boulder Revised Code Land Use Charts (Section 9-6-1(f)).

EXISTING

Use of existing building and land:

Office - Professional Use

18 individually leased units to a variety of professionals including attorneys (1) and therapists (14)

PROPOSED

Proposed use of buildings and land:

Personal Services Use

Would like to have massage included

Hours of operation:

They set own hours.

Evenings, mornings, weekends

Number of employees:

(Please indicate full and part time)

18 leases - 1 employee per lease

* The office never has all 18 tenants working at the same time. It is usually below 50% occupied during normal business hours. Many work evening and weekends due to the nature of their business.
Estimated number of trips to site per day:
(Please indicate mode of transportation used to reach the site.)

<table>
<thead>
<tr>
<th>18 tenants who all work different hours. The lot is rarely full. One client appointment at a time. No groups. The offices are small. Uses on adjacent / surrounding properties:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office and apartment buildings. Lots of medical service in the neighborhood.</td>
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</table>

Estimated number of trips to site per day:
(Please indicate mode of transportation used to reach the site.)

| Driving, walking, biking bus (from Broadway) |

**Narrative**

In the space provided below or in an attached letter, please type or print a narrative describing the proposal in specific detail. Only one written narrative is necessary per development project.

We have owned 954 North since 2017. The office building has been operating since 2001. We have 18 individually leased offices. The vast (now) majority of our tenants are talk therapists. We also have rented to massage and skin care professionals and currently have 3 in the building. This has been the case for the last 18 years.

Please see attached correspondence with your office regarding a business license request that wasturned down because we are not zoned for "personal services". Our request is to have a site review in order for skin care + massage professionals to operate out of our building. Please note we’re not requesting an expansion of what has been occurring for the last 18 years. We will still have one client at a time in each office just as the talk therapists have run their businesses.

Thank you for the consideration.
CRITERIA

In the space provided below, please indicate how the proposal will meet the Use Review criteria.

1. **Consistency with Zoning and Non-conformity.** The use is consistent with the purpose of the zoning district as set forth in Section 9-5-2, "Zoning Districts Established", B.R.C. 1981, except in the case of a non-conforming use;

   Our office is on but currently has a C.O. for professional office. We have 15 talk therapists and want to allow massage and skincare professionals to operate in our building as it has done for last 18 years.

2. **Rationale.** The use either:

   (A) Provides a direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

   Same type of client as talk therapists. One client at a time. Does not change the overall use of the existing space.

   (B) Provides a compatible transition between higher intensity and lower intensity uses;

   (C) Is necessary to foster a specific city policy, as expressed in the BVCP, including without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate location, and group living arrangements for special populations; OR

   (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (a) of this section.
3. **Compatibility.** The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of the nearby properties;

No change to make a significant impact on the neighborhood.

4. **Infrastructure.** As compared to development permitted under Section 9-6-1, "Permitted Uses of Land", B.R.C. 1981, in the zone, or as compared to the existing level of impact of a nonconforming use, the proposed development will not significantly or adversely affect the infrastructure of the surrounding area, including without limitation, water, wastewater, and storm draining utilities and streets.

5. **Character of Area.** The use will not change the predominant character of the surrounding area.

6. **Conversion of Dwelling Units to Non-Residential Uses.** Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in Subsection 9-6-1(d), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.
All information is from sources deemed reliable but is subject to errors & omissions. No representation or guaranty is made as to accuracy of any description. All measurements and square footage are approximate and should be re measured by customer.