



## MEMORANDUM

### City of Beaverton

Community Development Department

**To:** Interested Parties

**From:** City of Beaverton Planning Division

**Date:** November 2, 2020

**Subject:** Notice of Decision for HO2020-0003 Knuckle Sandwich Massage

Please find attached the notice of decision for **HO2020-0003 Knuckle Sandwich Massage**. Pursuant to Section 50.40.11.E of the Beaverton Development Code, the decision for HO2020-0003 Knuckle Sandwich Massage is final, unless appealed within twelve (12) calendar days following the date of the decision. The procedures for appeal of a Type 2 Decision are specified in Section 50.65 of the Beaverton Development Code. The appeal shall include the following in order for it to be accepted by the Director:

- The case file number designated by the City.
- The name and signature of each appellant.
- Reference to the written evidence provided to the decision making authority by the appellant that is contrary to the decision.
- If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
- The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
- The appeal fee of \$250.00, as established by resolution of the City Council.

***The appeal closing date for HO2020-0003 Knuckle Sandwich Massage is 4:30 p.m., November 16, 2020***

The complete case files including findings, conclusions, and conditions of approval, if any, are available for review. For more information or to view the case file, please contact Sierra Peterson, Associate Planner, at (503) 526-2652 or [speterson@beavertonoregon.gov](mailto:speterson@beavertonoregon.gov)



## STAFF REPORT

DATE: November 2, 2020

TO: All Interested Parties

FROM: Sierra Peterson, Associate Planner

PROPOSAL: HO2020-0003 Knuckle Sandwich Massage

LOCATION: 11500 SW Duchess Way  
Beaverton, OR 97008  
Tax Lot 1S122BA of Washington County Map 04100

SUMMARY: The applicant requests Type Two Home Occupation approval for a massage business in a detached single-family residence in a residential zone (R7). There will be one customer at a time by appointment only and there will be no more than 8 clients per day. There will be no employees other than the resident and will operate within the hours of 11:00 a.m. and 9:00 p.m., Friday through Wednesday.

PROPERTY OWNER: Nancy D. Lapka  
16345 NW Charlais Street  
Beaverton, OR 97006

DECISION: **APPROVAL of HO2020-0003 – Knuckle Sandwich Massage Home Occupation**, subject to conditions identified at the end of this report.

## BACKGROUND FACTS

### Key Application Dates

<u>Application</u>	<u>Submittal Date</u>	<u>Deemed Complete</u>	<u>120-Day</u>	<u>365-Day*</u>
HO2020-0003	August 21, 2020	September 17, 2020	January 15, 2020	September 17, 2021

\* Pursuant to Section 50.25.9 of the Development Code this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

### Existing Conditions Table

<b>Zoning</b>	(R7) Residential Urban Standard Density 7,000	
<b>Current Development</b>	Single Family Residential	
<b>Site Size</b>	0.2 acres	
<b>NAC</b>	Vose	
<b>Surrounding Zoning and Uses</b>	<u>Zoning:</u> North: Urban Standard Density (R7) South: Urban Standard Density (R7) East: Urban Standard Density (R7) West: Urban Standard Density (R7)	<u>Uses:</u> North: Single Family Residential South: Single Family Residential East: Single Family Residential West: Single Family Residential

### Public Comment

A public comment was received on October 14, 2020 from Nate Higgins, a property owner who received public notice. The comments were regarding signage on site and if the sign would be lit. Home occupations are allowed one (1) name plate sign not to exceed two (2) square feet in size. The applicant states that one name plate sign will be affixed to the house next to the front door. The sign will not be lit beyond the existing front porch light.

In a follow up question, Nate Higgins asked if approve the home occupation would set a precedent in the neighborhood for other homes to become businesses. The Home Occupation application has specific approval criteria that needs to be met in order for the use to be approved as a home occupation. Knuckle Sandwich Massage meets all the

criteria. Approving the home occupation would not set a precedent for other homes in any neighborhood since all homes are allowed to have a home occupation if they meet the criteria.

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<b><u>Exhibit 1:</u> Applicant Materials (On File at City Hall)</b>	
1.1 Approved Plans	
<b><u>Exhibit 2:</u> Public Comment</b>	
2.1 Nate Higgins	

**ANALYSIS AND FINDINGS FOR  
HOME OCCUPATION TWO APPROVAL  
HO2020-0003 – Knuckle Sandwich Massage Home Occupation**

**Section 40.40.05 Home Occupation: Purpose**

*The purpose of the Home Occupation application is to provide recognition of the needs or desires of many people to engage in small scale business ventures at home. It recognizes the potential advantages for reducing commuter travel when people work at home. It is also recognized that such uses, if not carefully regulated, may be incompatible with the purposes of residential districts. It is the intent of this section that these uses be allowed so long as they are not in violation of the terms of this section and do not alter the residential character of the neighborhood, infringe upon the right of neighboring residents to the peaceful enjoyment of their neighborhood homes, or otherwise be detrimental to the community at large. This Section is carried out by the approval criteria listed herein.*

**Section 40.40.15.2.C lists the criteria in order to approve a Home Occupation application; the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:**

- 1. The proposal satisfies the threshold requirements for a Home Occupation Two application.***

The applicant proposes to operate a massage business in their private residence. Customers will visit the site by appointment.

Threshold 1: A home occupation is proposed where outside customers or employees visit the premises.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.***

The City of Beaverton received the appropriate fee of \$753.00 for a Home Occupation Two application.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 3. The proposed home occupation shall have a maximum of one (1) volunteer or employee who is not a resident on the premises.***

The applicant's proposal doesn't include any outside volunteers or employees. The only employee of the Home Occupation is the resident of the property, Athena Lapka.

**Therefore, staff finds the proposal meets the criterion for approval.**

**4. *The proposed home occupation shall have no more than 8 daily customers or clients on the premises.***

The applicant's proposal states no more than four (4) customers will be scheduled each day by appointment only. The applicant can have up to eight (8) customers visit the site daily by code. To ensure that in the future, the applicant does not exceed the maximum number of customers permitted with this application, staff proposes a condition of approval (Condition No. 12) that all customers will arrive by appointment only, with a maximum of eight (8) customers per day.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

**5. *All customer and client visits to the proposed home occupation shall occur only between the hours of 7:00 a.m. and 10:00 p.m.***

The applicant states that customers will arrive by appointment only, and will only occur only between the hours of 11:00 a.m. and 9:00 p.m. Staff proposes a condition of approval (Condition No. 4) that the home occupation operation shall be limited to the hours of 11:00 a.m. to 9:00 p.m.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

**6. *If on-site parking is provided, a plan for additional parking may be approved if:***

***a. Not more than a total of 4 on-site parking spaces for the combined residential and home occupation uses are proposed.***

***b. The parking spaces, driveway, street access, landscaping, storm water drainage, and screening comply with this Code and other city standards.***

The applicant states, there is an existing driveway leading to the garage, dimensions of which will fit one car (10'x21'). Client and customer parking will utilize the driveway space on site in front of the garage. Clients will receive a text reminder before their appointment to utilize that area for their vehicles so there should be no street parking. Staff proposes a condition of approval (Condition No. 13) that all customer pick-up, drop-off, and parking related to the home occupation will occur on the property using the parking space in the driveway.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

7. ***Excluding regular U. S. Postal Service delivery, the home occupation shall not require more than two (2) trips per day for delivery or pick up to the residence between the hours of 8:00 a.m. and 6:00 p.m. There shall be no deliveries or pick-ups between the hours of 6:00 p.m. and 8:00 a.m.***

The U.S. Postal Service will deliver mail on a daily basis. The applicant states there will be no additional deliveries to the home as a result of the home occupation between the hours of 6:00 p.m. and 8:00 a.m. Staff is satisfied that the proposed business does not exceed the maximum delivery or pick-ups to the residence.

**Therefore, staff finds that the proposal meets the criterion for approval.**

8. ***The proposed home occupation is being undertaken by an occupant of the residence.***

The applicant states that the proposed home occupation is being undertaken by Athena Lapka, occupant of the residence. There will not be any additional employees of the home occupation.

**Therefore, staff finds that the proposal meets the criterion for approval.**

9. ***The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licensing requirements as appropriate to the proposed use.***

The applicant states that Knuckle Sandwich Massage has applied for a Business License. As a condition of approval (Condition No. 3), the applicant will complete the Business License application process and continue to maintain an active City of Beaverton Business License.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

10. ***The on-site operation of the proposed home occupation shall be conducted entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment shall occur on the premises.***

The applicant proposes using an existing 125 square foot (12.5 foot by 10 foot) bedroom within the existing single-family residence. The clients will use the existing driveway, walkway to the front door and front door access. Furthermore, the applicant states that all operations related to the home occupation will occur in the wholly within the existing floor space of the residence, as seen on the approved plans (Exhibit 1.1).

**Therefore, staff finds that the proposal meets the criterion for approval.**

11. ***The proposed home occupation will not change the use classification of the dwelling unit or accessory structures as determined by the City Building Official applying the State Building Code.***

The primary use of the structure will remain residential. The structure is not proposed to have a change in use classification or occupancy rating.

**Therefore, staff finds that the proposal meets the criterion for approval.**

12. ***The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.***

The applicant has stated that the home occupation will occupy internal floor area of approximately 125 square feet. This area is further shown on the applicant's approved plans (Exhibit 1.1). Staff concurs that the area associated with the home occupation is under 700 square feet. Staff proposes a condition of approval (Condition No. 5) limiting any future expansion of the business to 700 square feet.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

13. ***The subject property will continue to be used and maintained as a residence and will conform to all requirements of this and other City Codes as they pertain to residential property.***

The applicant states that the subject property will continue to be used and maintained as a residence.

**Therefore, staff finds that the proposal meets the criterion for approval.**

14. ***The home occupation, including deliveries from other businesses, shall not include the use of tractor-trailers, forklifts, or similar heavy equipment.***

The applicant states that the proposed home occupation does not require deliveries from other businesses using tractor-trailers, fork lifts, or similar heavy equipment. Deliveries for the home occupation occur via regular residential delivery such as USPS, UPS, or FedEx. Staff concurs that the massage service proposed does not require the use of heavy equipment.

**Therefore, staff finds that the proposal meets the criterion for approval.**

15. ***There shall be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.***

The applicant states that the home occupation will create no noise, vibration, smoke, dust, heat or glare beyond the property line as a result of its operation. Staff concurs

with the applicant's statement. Staff proposes a condition of approval (Condition No. 11) that there shall be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

- 16. *There shall be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property, provided such parking complies with applicable parking restrictions.***

The applicant has stated that the proposed home occupation has no commercial vehicles associated with the use. Staff agrees that the scope of activities proposed do not require any commercial vehicles.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 17. *The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.***

The applicant has stated that they will not use or store toxic or flammable materials. Staff proposes a condition of approval (Condition No. 15) that no toxic or flammable materials are allowed on site as part of the home occupation.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

- 18. *There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15 of this Code.***

The applicant has stated that the sign for the business will not exceed the allowable two square foot name plate. Staff proposes a condition of approval (Condition No. 9) that the signage associated with the business shall not exceed two square feet and will not be lit or powered in any way. The sign will be posed next to the front door informing customers that they have arrived at the correct address.

**Therefore, staff finds that the proposal, as conditioned, meets the criterion for approval.**

**19. Exterior remodeling will not alter the residential character of the building.**

The applicant states that there will be not exterior remodeling that will alter the residential character of the building associated with the proposed home occupation. the proposed exterior door will have residential characteristics. Staff agrees, the proposed door on the south elevation will not alter the residential characteristic of the existing single-family residence.

**Therefore, staff finds that the proposal meets the criterion for approval.**

**20. Excluding required residential parking, adequate off-street parking exists to accommodate vehicular traffic for any employee, customer, or both.**

The applicant has provided a site plan demonstrating the presence of a driveway wide and long enough to support one vehicle and a one car garage, demonstrating two (2) off-street parking spaces exist on site. One parking space is required to support the residence; therefore, the additional on-site parking space in the driveway can be support the home occupation use.

**Therefore, staff finds that the proposal meets the criterion for approval.**

**21. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an adjustment, planned unit development, or variance which shall be already approved or considered concurrently with the subject proposal.**

Home Occupations are a permitted use in the R7 zone. The existing dwelling in which the home occupation will take place is consistent with all applicable site development standards for the R7 zone. No adjustments, planned unit developments or variances are proposed or necessary.

**Therefore, staff finds that the proposal meets the criterion for approval.**

**22. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.**

The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements). The residential occupancy of the structure will not change due to the proposed home occupation. Off-street parking standards have been met as per the findings for Criterion 20. The site does not contain any protected trees, significant natural resource areas, or other protected areas. No improvements or dedications are required as part of the Home Occupation approval.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 23. *The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.***

All applicable application submittal requirements have been submitted with the Home Occupation application.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 24. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in proper sequence.***

The applicant has agreed to submit any applications and documents related to the Home Occupation Two permit as required. Staff asserts there is no additional documentation required at this time.

**Therefore, staff finds that the proposal meets the criterion for approval.**

#### **RECOMMENDATION**

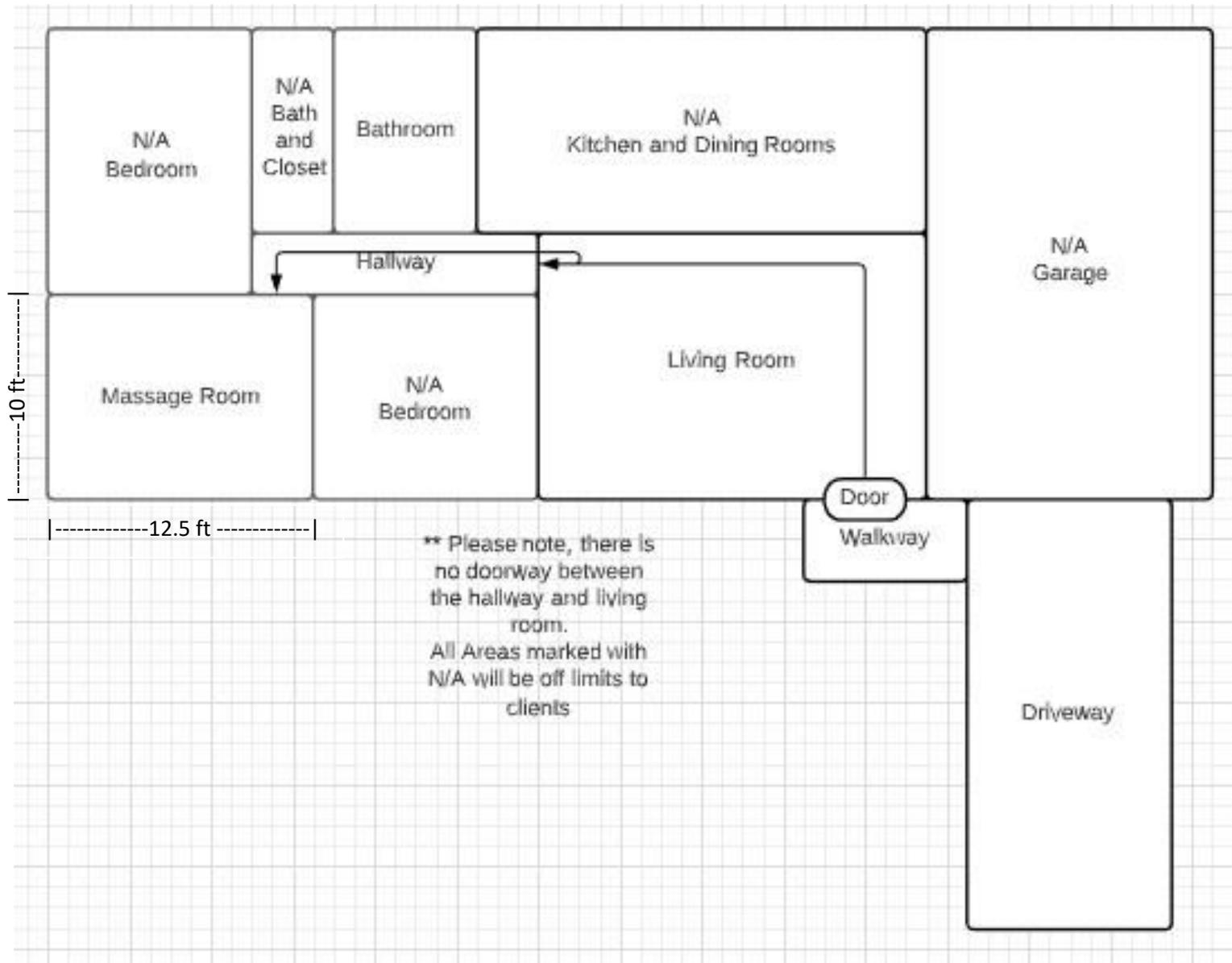
Based on the facts and findings presented, staff recommends **APPROVAL** of **HO2020-0003 Knuckle Sandwich Home Occupation**, subject to the applicable conditions identified in Attachment B.

**CONDITIONS OF APPROVAL FOR HO2020-0002**

1. The home occupation shall be conducted by an occupant of the residence. (Planning Division/SP)
2. The home occupation shall have no more than one employee who is not a resident of the premises. (Planning Division/SP)
3. The proposed home occupation shall participate in and be consistent with the City's Business License Program and other agency licenses as appropriate to the approved use. (Planning Division/SP)
4. The proposed home occupation operation shall be limited to the hours of 7:00 a.m. to 10:00 p.m. (Planning Division/SP)
5. The proposed home occupation shall be operated entirely within the dwelling. The area of the home occupation shall not exceed 700 square feet. (Planning Division/SP)
6. No exterior storage of materials or equipment shall occur on the premises. (Planning Division/SP)
7. The proposed home occupation shall not change the use classification of the dwelling unit or accessory structure, as determined by the City Building Official applying the State Building Code. (Building Division)
8. The subject property shall continue to be used and maintained as a residence and shall conform to all requirements of this and other City Codes as they pertain to residential property. (Planning Division/SP)
9. There shall be no signage associated with the proposed home occupation other than a two square foot name plate as allowed by Section 60.40.15.4 of the Development Code. (Planning Division/SP)
10. The site shall be kept clean at all times and all trash associated with the home occupation shall be stored within the building or within an opaque exterior enclosure. (Planning Division/SP)
11. There shall be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation. (Planning Division/BDC)
12. All customers will arrive by appointment only, with a maximum of eight customers per day. (Planning Division/SP)
13. All customer pick-up, drop-off, and parking related to the home occupation will occur on the property using the parking space in the driveway. This includes idling cars as well as those parked and unoccupied. (Planning Division/SP)
14. No storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities involving toxic or flammable materials shall occur on site. (Planning Division/BDC)

**Received**  
**Planning Division**  
08/21/2020

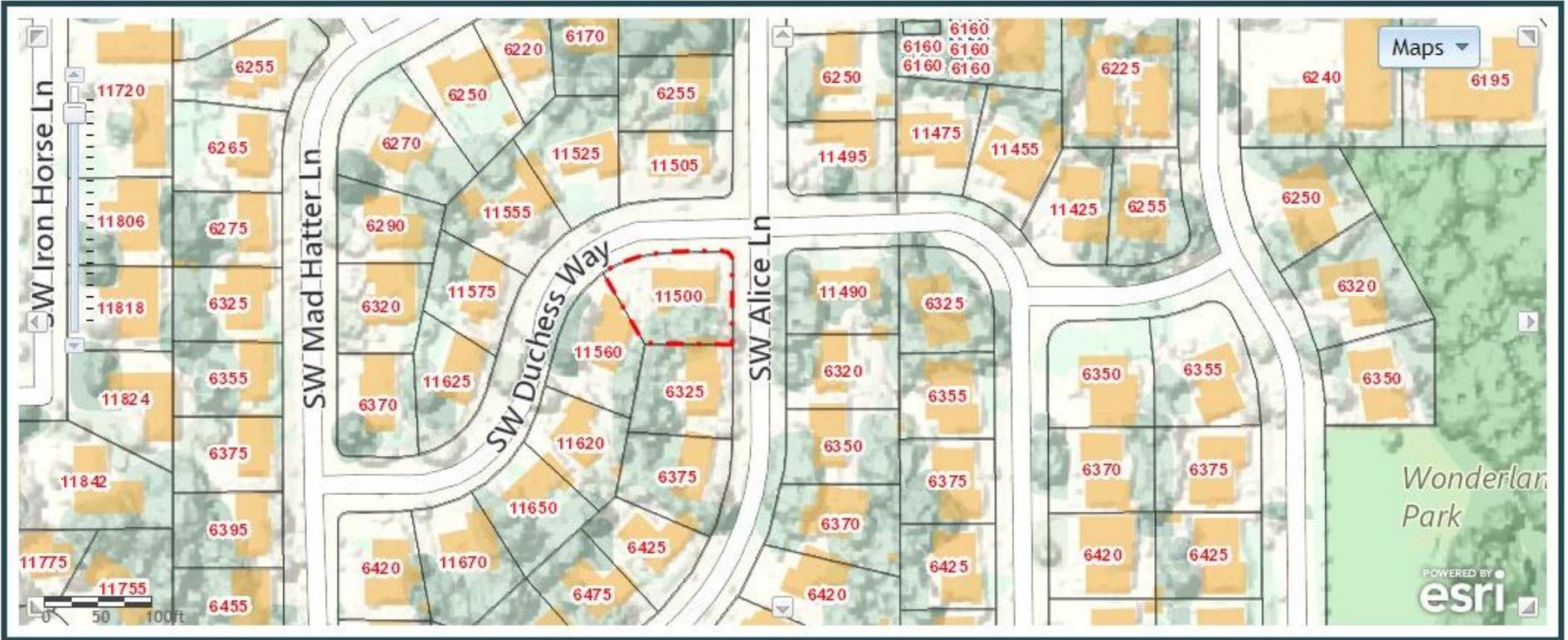
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**Planning Division**  
11/02/2020



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Planning Division**  
08/21/2020

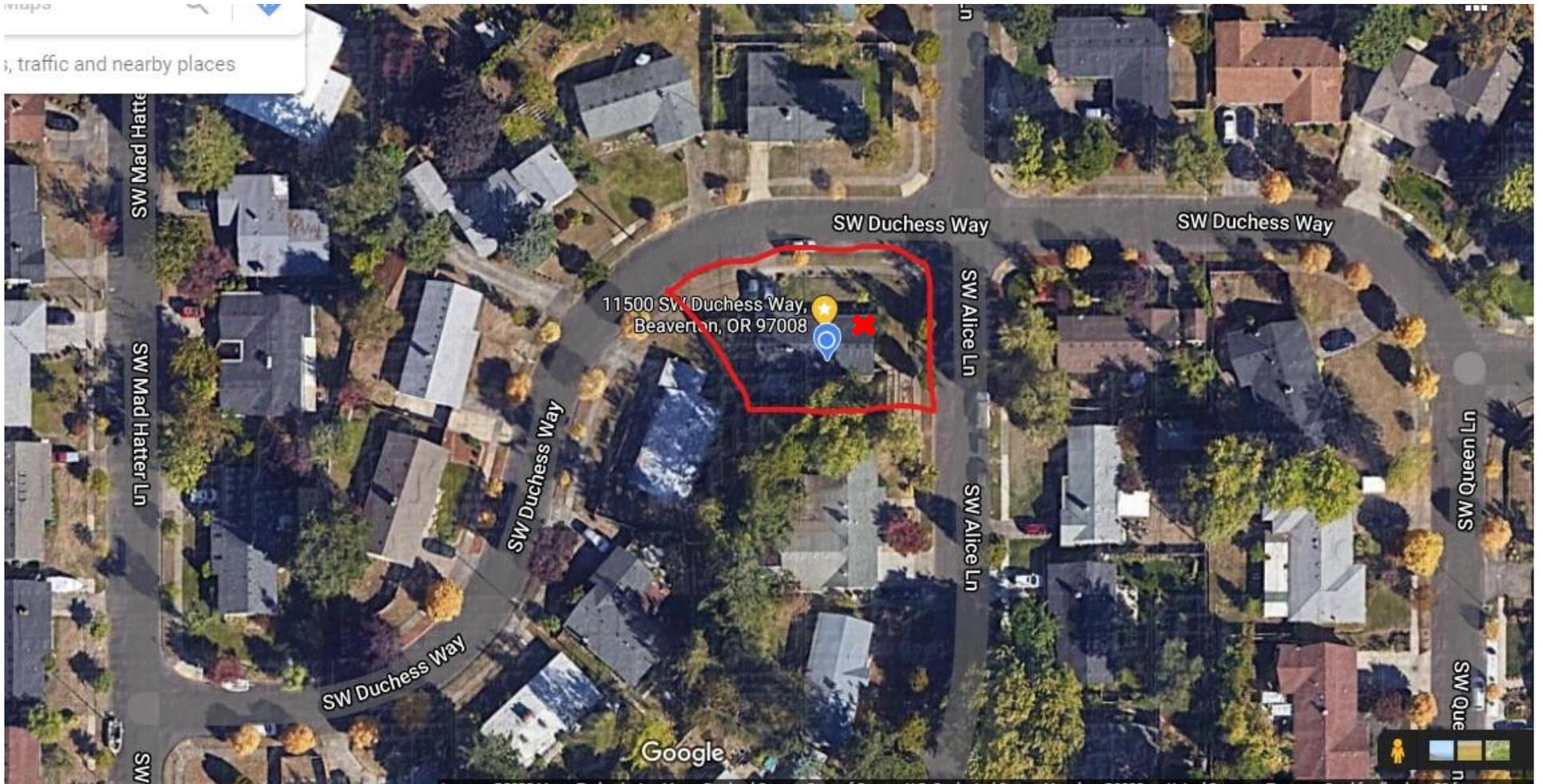
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Planning Division**  
11/02/2020

Select Taxlot Clear Taxlot Zoom In Zoom Out Pan Full Extent Prev Extent



**Knuckle Sandwich Massage**  
**11500 SW Duchess Way**  
**Beaverton, OR 97008**

**Driveway Dimensions**  
**21.5 ft long x 10 ft wide**



**Sierra Peterson**

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**From:** Nate Higgins <nate@kurejuicebar.com>  
**Sent:** Monday, October 26, 2020 1:45 PM  
**To:** Sierra Peterson  
**Subject:** Re: Case File No: HO2020-0003

Can the sign be illuminated? Would approving this permit set a precedent for other homes in our neighborhood to become businesses?

On Mon, Oct 26, 2020 at 1:36 PM Sierra Peterson <[speterson@beavertonoregon.gov](mailto:speterson@beavertonoregon.gov)> wrote:

Good Afternoon,

Thank you for your question for the Home Occupation application for Knuckle Sandwich Massage. One sign is allowed on a residential property for a home occupation not to exceed 2 square feet in size. These signs are limited by size and do not require a sign application or approval. Please find below the Beaverton Development Code section.

60.40.15 - Signs not Subject to Permit but Subject to Regulation for Size, Dimensions, Location, Duration and Aesthetics. No permit is necessary before placing, constructing or erecting the following signs so long as any such signs conform to the following regulations:

9. Name Plate. One (1) name plate associated with an approved Home Occupation, not to exceed two (2) square feet in size.

Please let me know if you have any questions.

Thank you,

*Sierra Peterson*

Associate Planner | Community Development

City of Beaverton

[12725 SW Millikan Way](https://www.beavertonoregon.gov/12725-SW-Millikan-Way) | PO Box 4755 | Beaverton OR 97076-4755

p: (503)526-2652 | [www.beavertonoregon.gov](http://www.beavertonoregon.gov)



**From:** Nate Higgins <[nate@kurejuicebar.com](mailto:nate@kurejuicebar.com)>  
**Sent:** Thursday, October 15, 2020 3:51 PM  
**To:** Sierra Peterson <[speterson@beavertonoregon.gov](mailto:speterson@beavertonoregon.gov)>  
**Subject:** Case File No: HO2020-0003

Is there a sign planned?

I own a home one house down at [6255 SW Alice Ln, Beaverton, OR 97008](#). Our only objection would be if there is any external signage planned, which we are strongly against. We believe it would further cheapen the neighborhood, and potentially affect our home value.

Thank you!

Nate

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**Nate Higgins**

Kure, Inc.

Co-Founder / President

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O: 855-777-KURE ext. 2

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**Nate Higgins**

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