

VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission HEARING DATE: May 17, 2004

FROM: Department of PREPARED BY: William J. Heniff, AICP
Community Development Senior Planner

TITLE

PC 04-16; 929 S. Main Street: The petitioner requests approval of a conditional use for a planned development with a use exception per Section 155.508 (B)(3) of the Zoning Ordinance (Standards for Planned Developments with Use Exceptions) to allow for massage establishment(s) (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), located within the B1 Limited Neighborhood Commercial District.

GENERAL INFORMATION

Petitioner: Vincent Hill
216 W. Campus Drive, Suite 201
Arlington Heights, IL 60004

Property Owner: Jill Hill
25605 Arrowhead Drive
Mundelein, IL 60060

PROPERTY INFORMATION

Existing Zoning: B1 Limited Neighborhood Commercial District

Existing Land Use: Office building

Size of Property: Approximately 38,412 square feet (0.88 acres)

Comprehensive Plan: Recommends office use

Surrounding Zoning and Land Use:

North: B1 Limited Neighborhood Commercial District; developed as offices
South: B1 Limited Neighborhood Commercial District; developed as a strip center
East: R2 Single-Family Residence District; developed as Single-Family Residences
West: R2 Single-Family Residence District; developed as Single-Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents:

1. Public Hearing Application, dated April 12, 2004
2. Response to the Standards for Conditional Uses for Planned Developments with Use Exceptions
3. Plat of Survey, prepared by Glen D. Krisch Land Surveyor, Inc. dated March 26, 2004.
4. Building Floor Plans, prepared by petitioner, submitted April 30, 2004

DESCRIPTION

Earlier this year as part of our routine business licensing process, staff noted that a new masseuse was applying for approval to occupy a tenant space within the 929 S. Main Street building. As massage establishments are not listed as permitted or conditional uses within the B1 District, staff informed the applicant accordingly. Upon further exploration of this issue with the masseuse, staff found out she was seeking to occupy a 200 square foot tenant space within Suite 103A1 of the building. Until this past year that space was used as a legal-non-conforming massage establishment, who in previous applications noted the tenant space as Suite 103A. However, last year she relocated her massage practice into the office next door in Suite 103A2, a 300 square foot space. The Suite 103A2 space was previously occupied by a permitted office use.

As the massage establishment is a legal non-conforming use, it cannot be expanded or relocated. Therefore, the property owner/building manager is now seeking approval of actions that would allow both masseuses to operate their individual practices within the building.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The Private Engineering Services Division has reviewed the petition and does not have any comments.

PUBLIC WORKS

Public Works has reviewed the petition and does not have any comments.

BUILDING AND FIRE

The Bureau of Inspectional Services has reviewed the petition and does not have any comments.

PLANNING

Compliance with the Zoning Ordinance

Massage establishments are listed as conditional uses within the B3 and B4 Districts. Staff notes that the 1994 text amendments to the Zoning Ordinance further regulating massage establishments was intended to better differentiate the massage activity from adult uses. Moreover, they are subject to licensing provisions included within the Village Code. The licensing provisions ensure that the business activity is being operated consistent with Village Code – if an establishment does not meet the code provisions, their license application would not be extended or could be revoked.

Non-Conforming Provisions

Section 155.302 A through C: Nonconforming Uses reads as follows (underline added for emphasis):

A use located within a building or structure, or on open land, which is not authorized in the list of permitted uses in the zoning district in which such use is located shall be subject to the provisions of Section 155.302 (A) through (H), below.

A. Authority to Continue

Any lawfully nonconforming use of part or all of a building or structure, or any lawfully existing nonconforming use of land not involving a building or structure or involving a building or structure which is accessory to such use of land, may be continued, so long as it remains otherwise lawful, subject to the provisions of Section 155.302 (B) through (H) . The existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

B. Repair and Maintenance

Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any building or structure that is devoted in whole or in part to a nonconforming use, provided however, that this subsection shall not be deemed to authorize any violation of Sections 155.302 (C) through (G) hereunder.

C. Expansion

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activity shall include, without being limited to:

1. Expansion of such use to any building, structure or land area other than that occupied by such nonconforming use at the time such use became nonconforming.
2. Expansion of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use at the time such use became nonconforming.
3. Operation of such nonconforming use in such a manner which conflicts with, or further conflicts with any requirement or standard established for the district in which such use is located.

In review of these provisions, the legal non-conforming status is tied to the Suite 103A1 tenant space. When the masseuse moved from the Suite 103A1 tenant space to the Suite 103A2 space that action constitutes a violation of Section 155.302 C 2 of the Zoning Ordinance. A new massage establishment could move into the Suite 103A1 space as a matter of right (the space has not been vacant for more than one year). However, in order for the previous massage establishment to continue its operation in Suite 103A2, zoning actions would be required.

Staff noted two options with the property manager to address the massage establishment. The first option would be to create an amendment to the Zoning Ordinance to provide for such uses by right or as part of a conditional use application. Staff was hesitant to have the petitioner pursue this option as such an amendment would have much greater applicability throughout the Village than what is really attempting to be addressed within the office building on the subject property.

As an alternate, staff suggested that the petitioner consider applying for a conditional use for a planned development with a use exception for the massage establishments. The petitioner is now bringing an application forward in this manner.

Conditional Use for a Planned Development

The subject property meets the minimum width and area requirement for a planned development. Staff believes that by creating planned development for the property, the proposed uses can be considered in the context for the standards for planned development.

Use Exceptions

Section 155.508 B provides for the establishment of uses within a planned development that are not permitted by the underlying Zoning Ordinance.

Staff notes that the massage establishments can supported based upon the following considerations:

1. The petitioner notes that the two massage establishment would occupy 500 square feet of 12,000 square feet of office space (4.2%) in the building.

2. No external modifications will be needed to the exterior of the building that would negatively affect the subject property or the properties abutting the subject property.
3. The business activity would be operated consistent with operations of other business in the building (e.g., medical and dental practices).
4. One establishment has occupied space within the building for over thirteen years without any negative impacts on the development or neighboring properties.

Compatibility with Surrounding Uses

The principal use of the site will still be an office building. As the massage establishment will operate similar to other users in the building, negative impacts on surrounding uses are not anticipated.

Compliance with the Comprehensive Plan

The Long-Range Plan Map of the Comprehensive Plan recommends that the property be used as office use. The massage establishment use will still be an ancillary activity within the office building.

FINDINGS AND RECOMMENDATIONS

The proposed conditional uses are compatible with the surrounding land uses and zoning. Based on the above, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending approval of this petition:

Based on the submitted petition and the testimony presented, the requested conditional use for a planned development with a use exception for a massage establishment complies with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 04-16, subject to the following conditions:

1. That no more than two massage establishment businesses shall operate within the existing office building – one establishment within Suite 103A1 and one in Suite 103A2, as depicted in the petitioner's submitted building plan made a part of this petition. The total permitted square footage for all massage establishments within the office building shall not exceed 500 square feet of office area.
2. Any massage establishments to be located on the premises shall apply for a receive a license from the Village of Lombard. Said establishments shall meet all provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing.

Plan Commission
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Report Approved By:

David A. Hulseberg, AICP
Director of Community Development

DAH/WJH:
att-

c. Petitioner

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