

August 18, 2014

#### Title

PC 14-23

#### Petitioner

Davonia Carol Ann Durr  
21W551 North Ave.  
Lombard, IL 60148

#### Property Location

B5 Central Business District

#### Approval Sought

Text amendment to Section 155.418 (C) of the Village of Lombard Zoning Ordinance to allow “physical culture and massage establishment” to be listed as a conditional use within the B5 Zoning Districts.

#### Submittals

1. Petition for a public hearing, submitted July 17, 2014; and
2. Response to Standards for a Text Amendment.

#### Prepared By

Tami Urish  
Planner I

#### DESCRIPTION

The petitioner has submitted this request along with a companion request for a conditional use for a physical culture and massage establishment (if PC 14-23 is approved) at 9 N. Main Street (Case No. PC 14-24).

Over the past few years, staff has been contacted by parties interested in opening a physical culture and massage establishment in Downtown Lombard. As the Zoning Ordinance does not list physical culture and massage establishments as a permitted or conditional use in the B5 zoning district, a text amendment would be required. Physical culture and massage establishments are listed as a conditional use in the B3, B4 and B4A.

Until 1994, massage establishments were not specifically listed in the Zoning Ordinance but were classified as “physical culture and health services, gymnasiums, and weight reduction services” and was permitted in B4 and a conditional use in B3. A text amendment in 1994 established a separate listing for massage establishments and classified all massage establishments as conditional uses in the B3 and B4 Districts.

#### INTER-DEPARTMENTAL REVIEW

##### **Building Division:**

The Building Division has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

##### **Fire Department:**

The Fire Department has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

##### **Private Engineering Services:**

Private Engineering Services has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

##### **Public Works:**

The Department of Public Works has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

## **EXISTING & PROPOSED REGULATIONS**

**Added text** ~~Deleted text~~

### §155.418 B5 Central Business District Requirements

#### (C) Conditional Uses

Subject to the provisions of Section 155.103 (F) of this Ordinance, the following conditional uses may be allowed:

1. Amusement establishments indoor only, including bowling alleys, pool halls, swimming pools and skating rinks
2. Animal hospitals and kennels
3. Catering businesses on the first floor as a primary use but only if, as an accessory use, either a restaurant, excluding entertainment and dancing, or a related, permitted retail use, designed to generate walk-in trade, is located in the storefront.
4. Convention and Exhibit Halls
5. Day Care Centers
6. Farmer's Market
7. Funeral homes
8. Gasoline sales (or any expansion of a principal, secondary or ancillary use on the same lot as a gasoline sales establishment)
9. Learning Centers, with outdoor component
10. Motor vehicle service
11. Off-site parking, in conformance with Section 155.602 (A) (3) (b) of this Ordinance
12. Outside display and sales of products the sale of which is a permitted or conditional use in this district
13. Outside service areas for other permitted or conditional uses in this district
14. Parking garages or structures, as the principal use of the property
15. Parking lots, open, as the principal use of the property
16. **Physical culture and massage establishments (as defined and regulated by Title 11, Chapter 122, of the Code of Ordinances)**

~~16-17.~~ Planned developments in conformance with Section 155.500 of this Ordinance

~~17-18.~~ Public recreational and social facilities, as defined in the R1 District

~~18-19.~~ Public utility and governmental service uses

~~19-20.~~ Religious institutions

~~20-21.~~ Transportation depots

~~21-22.~~ Accessory uses and buildings, incidental to and on the same zoning lot as the conditional use, which are constructed and operated in conformance with Section 155.210 of this Ordinance

(Ord. 4576, passed 12/3/98, Ord. 4590 Passed 1/21/99; Ord. 4692, passed 9/2/99; Ord. 5642, passed 5/5/05; Ord. 6643, passed 9/6/11)

### **STANDARDS FOR TEXT AMENDMENTS**

The petitioner has provided responses to the standards for a text amendment which are attached to this document. Staff offers the following:

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*

Staff supports amending the Zoning Ordinance to allow for physical culture and massage establishments within the B5 zoning district. This would benefit Village properties in those zoning districts, and not a specific property. Other businesses in the B5 district currently do massage as an ancillary use. This text amendment would allow a petitioner to apply for a conditional use permit to have a business focused on massage.

2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*

The B5 Central Business district constitutes the “downtown” core area of the Village of Lombard. It is intended to accommodate all retail, service and specialty shops and necessary civic services characteristic of the traditional central area. In addition, the Central Area of Lombard has been designated as an “area of critical concern” due to heavy traffic movement, intensity of development, and its essential role in the future development of the Village.

From a land use perspective, staff finds the proposed use is suitable for the B5 district. Staff finds the use similar in nature to other permitted and conditional uses such as hair salons, tanning salons and outpatient medical offices. Due to changing perceptions of massage establishments, staff recommends amending the Zoning Ordinance to allow for physical culture and massage establishments as a conditional use. Staff finds the B5 district could be suited for this service business due to the larger area of shoppers the district aspires to draw from and location on a commercial corridor. This district also calls for a wider range of uses than the B1 and B2.

3. *The degree to which the proposed amendment would create nonconformity;*

As the proposed text amendment is additive in nature and does not remove any existing permitted or conditional uses from the above mentioned zoning districts. Other businesses in the B5 district currently do massage as an ancillary use. This text amendment would allow a petitioner to apply for a conditional use permit to have a business focused on massage.

4. *The degree to which the proposed amendment would make this ordinance more permissive;*

The proposed amendment is more permissive to the extent that it is intended for a new business type, but the terms of the amendment are tailored close to said business type and create a very specific application. Since physical culture and massage establishments would be added as a conditional use a public hearing process would still be required.

5. *The consistency of the proposed amendment with the Comprehensive Plan; and*

The Comprehensive Plan and the Downtown Lombard Revitalization Guidebook, a component of the Comprehensive Plan, do not specifically mention massage establishments. The community's vision includes the need that Lombard establishes a downtown niche that can compete with retail centers and nearby downtowns. The opportunity to build on previous Village redevelopment efforts by continuing to improve and expand the Downtown with its market potential is critical.

6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*

The Plan Commission has previously approved physical culture and massage establishments as a conditional use in the B3, B4 and B4A zoning districts. Adding this use as a conditional use would require future petitions to go before the Plan Commission for a public hearing process.

## **FINDINGS & RECOMMENDATIONS**

Staff finds the proposed amendments to be consistent with the objectives of the Zoning Ordinance. The proposed amendments are also consistent with the intent of the Comprehensive Plan in general.

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards required by the Zoning Ordinance. As such, 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 text amendment **complies** with the standards required by the Village of 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 14-23.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

## Response to "Standards for Text Amendment"

1. The text amendment is generally applicable to all of the potential massage establishments and is not specific in any way. The proposed amendment intends to serve the entire village of Lombard. Actively increasing the permitted uses in zoning district B5 to accommodate therapeutic massage establishments will provide substantial future economic growth.
2. The B5 district is designed to accommodate "all retail, service and specialty shops and necessary civic services characteristic of the traditional area." The proposed use is consistent with the intent of the B5 district.
3. To my knowledge it is not creating nonconformity because it is consistent with similar business establishments of the district. The immediate area contains a variety of salons, day spas and nail spas that offer therapeutic massage as a contributory service.
4. The proposed amendment would make the ordinance more permissive by providing a market that caters to the needs of the public, stimulates and retains economic growth, and expands Lombard as a destination from neighboring communities. Massage therapy has well over 100 types of massage services for medical, recreational and alternative health markets. According to the IBIS world industry report (a global business specializing in market research) on massage services, the industry generated 12 billion dollars in revenue over the past five years to 2014.  
(<http://www.ibisworld.com/industry/massage-services.html>)

According to the 2013 American Massage Therapy Association (AMTA) consumer survey, "an average of 16% of adult Americans received at least one massage between July 2012 and July 2013, and an average of 26% of adult Americans received a massage in the previous five years."  
([http://www.amtamassage.org/infocenter/economic\\_industry-fact-sheet.html#StateReg](http://www.amtamassage.org/infocenter/economic_industry-fact-sheet.html#StateReg))

5. The proposed conditional use compliments the nature of the comprehensive plan. It supports the village's objective to develop a diverse, prosperous and strong economic base by promoting wide-ranging economic development and business growth. The therapeutic massage establishment creates an opportunity to bring in new businesses to the community emphasizing the compatible land use in the central business district. This amendment would also provide an expanded range of activities available to the village in addition to catering to changing lifestyle trends of the public resulting in the retention of economic growth within the immediate community.
6. To my knowledge there are no previous rulings on petitions involving similar circumstance. There is existing therapeutic massage establishments in the village and neighboring zoning districts including but not limited to: Heavenly Massage, Elite Massage and Dynamic Massage that are categorized as a "therapeutic massage establishment." There are also a number of existing operations that include various salons, nail spas, day spas, and a yoga studio in the immediate area and surrounding districts that offer massage as a contributory service. These established businesses help provide example of appropriateness along with success of "therapeutic massage" in Lombard. The proposed use in relation to these other business is very similar in most aspects.