

June 3, 2004

Mr. William J. Mueller,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 04-16; 929 S. Main Street

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. 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.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on May 17, 2004.

Vince Hill, 216 W. Campus Drive, Suite 201, Arlington Heights, IL, building manager for the property presented the petition. He discussed the history of the massage tenants that are located in the building. Pamela Myers, a masseuse in the building for the past thirteen years, was seeking a larger office space within the building for her practice. When Ms. Meyers applied for the requisite Village licensing, they were informed that her license could only be approved if the zoning issues were addressed – either through a text amendment or through a planned development approval with a use exception.

Chairperson Ryan opened the meeting for public comment. No one spoke for or against the petition. He then requested the staff report.

William Heniff, Senior Planner, stated that 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 review, 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 nonconforming massage establishment and 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.

He then referenced and explained the non-conforming provisions in the Village Code. The legal non-conforming status is tied to the Suite103A1 tenant space. When the masseuse moved from the Suite 103A1 tenant space to the Suite 103A2 space that action constitutes a violation of the Zoning Ordinance. A new massage establishment could move into the Suite 103A1 space as a matter of right. 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. Alternatively, staff suggested that the petitioner consider applying for a conditional use for a planned development with a use exception for the massage establishments.

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.

He noted that the massage establishments as a use exception 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.

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. 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. Therefore, staff recommends approval of the petition subject to the conditions noted within the report.

Chairperson Ryan then opened the meeting for discussion among the Commissioners. Commissioner Sweetser asked about the conditions of approval and wondered if the proposed conditions limiting the square footage and number of establishments are necessary and appropriate as written. Mr. Heniff noted that the reason the petitioner find themselves in a position that they have to apply to the Village for zoning actions is because they were unaware of the limitations of nonconforming uses. The proposed language specifically defines both the number and square footage of the establishments so that there is no confusion in the future.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposed conditional use amendment complies with the standards of the Zoning Ordinances. Therefore, the Plan Commission, by a roll call vote of 5 to 0, recommended 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 and 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.

Respectfully,

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

att-

c. Petitioner
Lombard Plan Commission