

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) X *Waiver of First Requested*
 X Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: August 26, 2014 (B of T) Date: September 4, 2014

TITLE: PC 14-23; Text Amendment to the Zoning Code

SUBMITTED BY: Department of Community Development *WJA*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner, requests the following text amendment to the Lombard Zoning Ordinance: an amendment to Section 155.418 (C) of the Lombard Zoning Ordinance to allow "physical culture and massage establishments" to be listed as a conditional use within the B5 Zoning District. (DISTRICTS #1 AND #4)

The Plan Commission recommended approval of this petition by a voted 6 to 0 vote.

The petitioner requests a waiver of first reading of the Ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development *WJH*

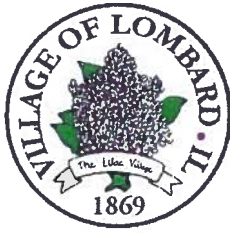
DATE: September 4, 2014

SUBJECT: PC 14-23: Text Amendment to the Zoning Ordinance – Physical Culture and Massage Establishments

Please find the following items for Village Board consideration as part of the September 4, 2014 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 14-23;
3. An Ordinance granting approval of a text amendment to Section 155.418 (C), of the Village of Lombard Zoning Ordinance to allow physical culture and massage establishment (as defined by and regulated by Title 11, Chapter 122 of the Code of Ordinances) to be listed as a conditional use within the B5 Zoning District.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the September 4, 2014 Board of Trustees agenda with a waiver of first reading, as requested by the petitioner (attached).



VILLAGE OF LOMBARD

255 E. Wilson Ave.
Lombard, Illinois 60148-3926
(630) 620-5700 Fax (630) 620-8222
www.villageoflombard.org

September 4, 2014

Village President
Keith T. Giagnorio

Village Clerk
Sharon Kuderna

Trustees

Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

Village Manager
Scott R. Niehaus

"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."

"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Mr. Keith T. Giagnorio,
Village President, and
Board of Trustees
Village of Lombard

Subject: PC 14-23; Text Amendment to the Zoning Code

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner, requests the following text amendment to the Lombard Zoning Ordinance: an amendment to Section 155.418 (C) of the Lombard Zoning Ordinance to allow "physical culture and massage establishments" to be listed as a conditional use within the B5 Zoning District

Chairperson Ryan asked if any person would like to speak in favor or against this petition, or for public comment. Sworn in to present the petition was Jennifer Ganser, Assistant Director of Community Development, and the petitioner Davonia Dirr, Lombard, IL.

Ms. Dirr said she was representing her business and proposing a text amendment for physical culture and massage establishments as a conditional use in the B5 zoning district. She stated that this is a conditional use in the B3 and B4A zoning districts. Ms. Dirr said she believes there will not be any non-conformity issues. There are numerous day spas and salons that already do massage therapy as an ancillary use. She stated this text amendment would be consistent with businesses in the district.

Chairperson Ryan asked if any person would like to speak in favor or against this petition, or for public comment. Hearing none, he asked for the staff report.


Ms. Ganser presented the staff report, which was submitted to the public record in its entirety. She stated the petitioner has submitted this request for a text amendment in the B5 zoning district. Physical culture and massage establishments are a conditional use in the B3, B4 and B4A districts. A text amendment was established in 1994 for the conditional use in the B3 and B4. The petitioner provided the responses for standards for a text amendment and staff offers additional information. The proposed text amendment will not benefit a specific property as it would benefit the district as a whole. This text amendment would allow for a business focused on massage therapy, as opposed to an ancillary use. Staff finds the proposed conditional use would be similar in a land use perspective to other uses such as hair salons and medical offices. The text amendment is additive in nature and a public hearing would be required for future petitions.

Chairperson Ryan asked for public comment, and, hearing none, opened the meeting for comments among the Commissioners.

On a motion by Commissioner Sweetser, and a second by Commissioner Burke, the Plan Commission voted 6-0 that the Village Board approve the petition associated with PC 14-23.

Respectfully,

VILLAGE OF LOMBARD


Donald Ryan, Chairperson
Lombard Plan Commission

c. Lombard Plan Commission

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August 18, 2014

Title

PC 14-23

Petitioner

Davonia Carol Ann Dirr
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)

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.

Nowakowski, Tamara

From: Ganser, Jennifer
Sent: Tuesday, August 19, 2014 9:51 AM
To: Urish, Tami; Nowakowski, Tamara
Subject: FW: PC 14-23 and PC 14-24

From: Von Dirr [<mailto:vonniepooo@yahoo.com>]
Sent: Tuesday, August 19, 2014 9:49 AM
To: Ganser, Jennifer
Subject: Re: PC 14-23 and PC 14-24

I would like to submit a request for a waiver to allow them to both be read on September 4th as Socorro can only hold the units for me until september 6th. Please call or email me if I need to do anything else on my part. Thank you so much for all of your help.

Sent from my iPhone

On Aug 19, 2014, at 9:13 AM, "Ganser, Jennifer" <GanserJ@villageoflombard.org> wrote:

Davonia,

Petitions need to read twice by the Board of Trustees (September 4 and September 18) unless you request a waiver of first reading. That would allow both readings to be on September 4. Please email me if you would like to request waiver of first. Please call me with any questions.

Jennifer

Jennifer Ganser
Assistant Director of Community Development
Village of Lombard
255 E. Wilson Avenue
Lombard, IL 60148
tel: (630) 620-5717
fax: (630) 629-2374
ganserj@villageoflombard.org

ORDINANCE _____

**AN ORDINANCE APPROVING A TEXT AMENDMENT
TO THE LOMBARD ZONING ORDINANCE
TITLE 15, CHAPTER 155, SECTION 155.418(C)
OF THE LOMBARD VILLAGE CODE**

PC 14-23: Physical Culture and Massage Establishments Regulations

WHEREAS, the Village of Lombard maintains a Zoning Ordinance which is found in Title 15, Chapter 155 of the Lombard Code; and,

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Zoning Ordinance and make necessary changes; and,

WHEREAS, a public hearing to consider text amendments to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on August 18, 2014 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the text amendments described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That Title 15, Chapter 155, Section 155.418(C) of the Lombard Village Code is hereby amended as follows:

- A. Subsections (16) through (21), inclusive, are hereby renumbered as subsections (17) through (22), respectively.
- B. A new subsection (16) shall be added thereto, to read in its entirety as follows:

“(16) Physical culture and massage establishments (as defined and regulated by Title 11, Chapter 122, of the Code of Ordinances)”

Ordinance No. _____

Re: PC 14-23

Page 2

SECTION 2: That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2014.

First reading waived by action of the Board of Trustees this ____ day of _____, 2014.

Passed on second reading this ____ day of _____, 2014.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2014.

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published in pamphlet from this ____ day of _____, 2014.

Sharon Kuderna, Village Clerk