

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: July 25, 2007 (BOT) Date: August 9, 2007

TITLE: PC 07-24: 330 E. North Avenue

SUBMITTED BY: Department of Community Development *del*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests conditional use approval to allow for a day spa (i.e., massage establishment, as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), in the B4 Corridor Commercial District. (DISTRICT #4)

The Plan Commission recommended approval of this petition with amended conditions.

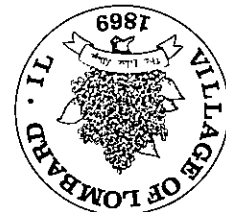
The petitioner is requesting a waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X
Finance Director X
Village Manager X *Wanda H. Davis*
Date _____
Date _____
Date *7/31/07*

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: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Assistant Village Manager/Director of Community Development *dal*

DATE: August 9, 2007

SUBJECT: PC 07-24: 330 E. North Avenue

Attached are the following items for Village Board consideration as part of the August 9, 2007 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 07-24;
3. An Ordinance granting approval of a conditional use for a massage establishment, subject to conditions.
4. Plans associated with the petition.

The petitioner has request a waiver of first reading of the Ordinance in order to allow him to commence construction on the proposed interior build-out of the tenant space.

Please let me know if you have any questions on the aforementioned materials.



VILLAGE OF LOMBARD
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 Lombard, IL 60148-3931
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August 9, 2007

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

Subject: PC 07-24; 330 E. North Avenue

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests a conditional use approval to allow for a day spa (i.e., massage establishment, as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), in the B4 Corridor Commercial District.

Peter Dagrzikos, business owner of the establishment, Heavenly Massage & Spa, presented the petition. He noted their conditional use request and described his business. Heavenly Massage & Spa is a day spa that provides manicures, pedicures, massages, waxing and facials. They have been in business for twelve years and they have multiple locations around the Chicago area. They are proposing to expand into Lombard with a new establishment and they have submitted plans to the Village for approval.

Vice-Chairperson Flint then opened the meeting for public comment. No one spoke in favor of or in opposition to the petition. He then requested the staff report.

William Heniff, Senior Planner, presented the staff report and submitted it to the public record in its entirety. He noted that the day spa use is considered to be a type of massage establishment, which is classified as a conditional use in the B4 District. The proposed use will occupy a currently vacant 6,053 square foot space within the Overlook on North, a 17,500 square foot multi-tenant building. Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Massage Establishment Business License with the Village.

Village President
 William J. Mueller

Village Clerk
 Brigitte O'Brien

Trustees

Greg Alan Gron, Dist. 1
 Richard J. Tross, Dist. 2
 John "Jack" T. O'Brien, Dist. 3
 Dana L. Moreau, Dist. 4
 Laura A. Fitzpatrick, Dist. 5
 Rick Soderstrom, Dist. 6

Village Manager
 William T. Lichter

"Our shared *Vision* for Lombard is a community of excellence exemplified by its government working together with residents and business 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."

Regarding the Inter-departmental Review Comments, the Building Division has been reviewing their build-out plans and they have provided comments directly to the petitioner on the submitted plan set.

With respect to Planning Services division, the Zoning Ordinance lists "Physical culture and massage establishments" as conditional uses within the B4 District. While the petitioner denotes that they are a day spa, staff has made the land use interpretation that the day spa use is most closely akin to a massage establishment, based upon the representations made by the petitioner as well as the review of the submitted interior build out plans.

Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Village Massage Establishment Business License. Individual masseurs/masseuses are licensed through the State of Illinois and are required to provide a copy of their license as part of the overall business license application.

The concept floor plan, proposes to have eighteen massage rooms, four restroom/shower rooms, two restrooms, a manicure/pedicure area, a hair cutting area, and a front counter/waiting area. No external improvements are proposed as part of the business operation and the business use will be entirely within the enclosed building.

He noted that the use would be compatible with the Comprehensive Plan and would be compatible with the adjacent land uses.

Vice-Chairperson Flint then opened the meeting for discussion among the Plan Commissioners.

Commissioner Sweetser inquired about the operations of the establishment. Mr. Dagrizikos stated that he proposed the business to be open from 9 a.m. to 10 p.m. Monday through Saturday and 9 a.m. to 8 p.m. on Sunday.

Village Counsel George Wagner noted that condition 2 should be amended to reflect that the required license from the Village is a business license.

After due consideration of the petition and the testimony presented, the Plan Commission found that the petition complies with the standards required by the Lombard Zoning Ordinance. It was moved by Commissioner Sweetser, seconded by Commissioner Burke, that the petition be forwarded to the Village Board with a recommendation of approval of PC 07-24, subject to the following conditions noted in the staff report, as amended:

1. The conditional use for the physical culture and massage establishment is exclusively for the tenant space at 338 East North Avenue. Any expansion of the establishment within the existing shopping center beyond what was submitted as part of PC 07-24, shall require an amendment to the conditional use approval.
2. Any massage establishments to be located on the premises shall apply for and receive a business license from the Village of Lombard. Said establishments shall meet all

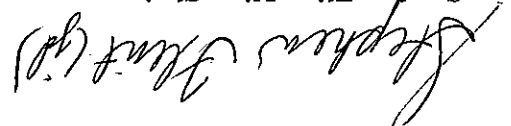
provisions of Chapter 12, Section 122 of the Village Code and shall keep their license in good standing. Moreover, all massage therapists employed on the premises must have a current license from the State of Illinois for the conditional use to apply.

3. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space prior to starting and build-out of the tenant space. Moreover, the petitioner shall apply for and receive approval of a Certificate of Occupancy/Zoning Certificate prior to opening the business establishment.

The petition was recommended for approval by a 4-0 vote.

Respectfully,

VILLAGE OF LOMBARD



Stephen Flint, Vice-Chairperson
Lombard Plan Commission

c. Petitioner
Lombard Plan Commission

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Lombard Plan Commission
FROM: Department of Community Development
PREPARED BY: William Heniff, AICP Senior Planner

HEARING DATE: July 16, 2007

TITLE

PC 07-24; 330 East North Avenue (Overlook on North): The petitioner requests conditional use approval to allow for a day spa (i.e., massage establishment, as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances), in the B4 Corridor Commercial District.

GENERAL INFORMATION

Petitioner:

Heavenly Massage & Spa
1 North Washington Street
Park Ridge, IL 60068

Status of Petitioner:

Proposed tenant in center

Property Owner:

The Overlook on North LLC
351 W. Hubbard St., Suite 305
Chicago, IL 60610

PROPERTY INFORMATION

Existing Zoning:

B4 Corridor Commercial District

Existing Land Use:

Multi-Tenant Retail Center

Size of Property:

Approximately 3.22 acres

Comprehensive Plan:

Recommends Community Commercial Development

Surrounding Zoning and Land Use:

North:

C/R Conservation/Recreation District; undeveloped property

South:

R2 Single Family Residential District; developed as single family residences

East:

B4 Corridor Commercial District; developed as a CVS Pharmacy

West:

B4 Corridor Commercial District; developed as a CVS Pharmacy

ANALYSIS

SUBMITTALS

This report is based on the following documents which were filed with the Department of Community Development on May 28, 2007:

1. Petition for Public Hearing with the Standards for Conditional Uses.
2. Site Plan, updated March 30, 2005, prepared by Arc Design Resources Inc.; annotated to reflect proposed day spa location within center.
3. Proposed Interior Layout Plan, prepared by Styczynski Walker & Associates, dated January 3, 2006.

DESCRIPTION

This petition requests conditional use approval for a day spa within the Overlook on North Shopping Center. One of the principal functions of the day spa is massage activities. As such, the day spa use is considered to be a type of massage establishment, which is classified as a conditional use in the B4 District. The proposed use will occupy a currently vacant 6,053 square foot space within the Overlook on North, a 17,500 square foot multi-tenant building.

Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Massage Establishment Business License with the Village.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The Department of Community Development, Private Engineering Services Division, has no comments on the petition.

Public Works

The Department of Public Works has no comments on the petition.

FIRE AND BUILDING

The Bureau of Inspectional Services notes that the petitioner has submitted their building permit plans for review. The Building Division is in the process of reviewing the plans and will be offering comments and corrections on the building permit plan set accordingly.

PLANNING

Compliance with the Zoning Ordinance

The Zoning Ordinance lists "Physical culture and massage establishments (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances)", as conditional uses within the B3 Community Shopping District. Staff notes that the 1994 text amendments to the Zoning Ordinance further regulating therapeutic massage establishments was intended to better differentiate the massage activity from adult uses. While the petitioner denotes that they are a day spa, staff has made the land use interpretation that the day spa use is most closely akin to a massage establishment, based upon the representations made by the petitioner as well as the review of the submitted interior build out plans.

Prior to commencing the proposed massage establishment, the applicant is required to submit an application and receive approval for a Village Massage Establishment Business License. Individual masseurs/masseuses are licensed through the State of Illinois and are required to provide a copy of their license as part of the overall business license application. The business 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.

The concept floor plan, proposes to have eighteen massage rooms, four restroom/shower rooms, two restrooms, a manicure/pedicure area (9 seats), a hair cutting area (6 seats), and a front counter/waiting area. No external improvements are proposed as part of the business operation and the business use will be entirely within the enclosed building. The petitioner does not know the staffing level that will be associated with the establishment at this time. Additional masseurs/masseuses may be added based upon business conditions.

Compatibility with the Comprehensive Plan

The Comprehensive Plan recommends community commercial uses for the subject property and the surrounding area. The proposed use would be compatible with the Comprehensive Plan due to the commercial and service nature of the proposed business.

Compatibility with Surrounding Land Uses

The subject property is bounded on the west by vacant property within B4 District zoning. To the north is vacant land zoned C/R Conservation/Recreation District. The use will have no impact on future development for these sites. To the east, the property is developed with a commercial use (CVS Pharmacy). To the south are single-family residences which are located more than 200 feet from the establishment. Many of these residences are screened by the North Avenue noise barrier wall. Within the shopping center itself, the only tenant that currently occupies space is a Starbuck's at the far west end of the center. The physical culture and message establishment, operated in conformance with Village Code, would be compatible with the adjacent land uses.

FINDINGS AND RECOMMENDATIONS

Staff has reviewed the response to standards included as part of the petition and concurs that the petition meets the standards set forth in the Zoning Ordinance. Staff believes that the proposed use is appropriate at the subject location and is compatible with surrounding uses, provided that it is operated in compliance with Village Code.

Based on the above findings, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of this petition subject to the conditions as outlined:

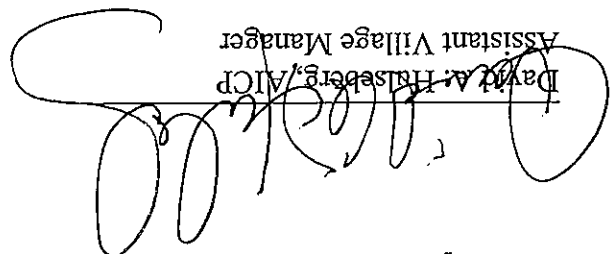
Based on the submitted petition and the testimony presented, the proposal does comply with the standards required by the Lombard Zoning Ordinance, and, therefore, I move that the Plan Commission accept the findings and responses to the standards for conditional uses included within the Inter-departmental Review Report as the findings of the Lombard Plan Commission and therefore, recommends to the Corporate Authorities **approval** of PC 07-24, subject to the following conditions:

1. The conditional use for the physical culture and massage establishment is exclusively for the tenant space at 338 East North Avenue. Any expansion of the establishment within the existing shopping center beyond what was submitted as part of PC 07-24, shall require an amendment to the conditional use approval.

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. Moreover, all massage therapists employed on the premises must have a current license from the State of Illinois for the conditional use to apply.

3. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space prior to starting and build-out of the tenant space. Moreover, the petitioner shall apply for and receive approval of a Certificate of Occupancy/Zoning Certificate prior to opening the business establishment.

Inter-Departmental Review Group Report Approved By:



David A. Hilsberg, AICP
Assistant Village Manager

c. Petitioner

The following are the answers to the questions for the conditional uses for the Lombard Zoning Ordinance:

1. Heavenly Massage and Spa has been in business for over nine years in several communities. We have locations in Morton Grove, Buffalo Grove, Schaumburg, Mount Prospect, and Gurnee, Illinois. All the establishments are properly licensed for all services offered. Heavenly Massage and Spa is a place of relaxation and stress relief. The equipment used is minimal and all services are done hands-on by licensed and trained technicians. We try to create a comfortable atmosphere that is family-friendly. Mother-daughter spa days are very popular as well as group spa days for special occasions.

2. Heavenly Massage and Spa will be part of a strip mall. This development was already existing and was approved according to the building and zoning codes. The strip mall is not close to a residential area and the HMS establishment does not create excess noise nor traffic, unlike the industrial zone just north of the strip center. Heavenly Massage and Spa's purpose is to create a haven for individuals to come relax.

3. Heavenly Massage and Spa's five other locations have only enhanced the existing surroundings. As mentioned before HMS is a place of quiet and the interior projects a soothing effect to the environment. Also the spaced out appointment times help keep traffic in a low and orderly manner.

4. The site which Heavenly Massage and Spa will occupy was already existing and approved. Heavenly Massage and Spa did not add anything to the drainage and utilities.

5. The development of this property was already approved. The ingress and egress was already established.

6. The current Comprehensive Plan for the Village of Lombard calls for community commercial in this area. Heavenly Massage and Spa is a commercial retail establishment.

7. Heavenly Massage and Spa plans to follow all proper applicable codes thru the entire building permit process. HMS has built out the existing 5 locations in the various communities and is familiar with conforming to the regulations of the Plan Commission.

AN ORDINANCE GRANTING A CONDITIONAL USE PURSUANT TO
TITLE 15, CHAPTER 155, SECTION 414 OF THE
LOMBARD ZONING ORDINANCE

(PC 07-24: 330 E. North Avenue)

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore adopted the Lombard Zoning Ordinance, otherwise known as Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, the subject property is zoned B4 Corridor Commercial District; and,

WHEREAS, an application has been filed requesting approval of a conditional use to provide for a massage establishment on the property described in Section 2 below; and,

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on July 16, 2007 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendation with the President and Board of Trustees recommending approval of the conditional use 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 a Conditional Use is hereby granted for the property described in Section 2 below and pursuant to Title 15, Chapter 155, Section 414 (C) 17 of

the Village of Lombard Zoning Ordinance to provide a massage establishment to be located on the Subject Property legally described in Section 2 below.

SECTION 2: That this ordinance is limited and restricted to the property generally located at 330 E. North Avenue, Lombard, Illinois and legally described as follows:

The east 292.58 feet of the West 877.74 feet, both as measured on the North and South lines thereof, of the South 595.92 feet, as measured on the East and West lines thereof, of the Southeast ¼ of the Southwest ¼ of Section 32, Township 40 North, Range 11 East of the Third Principal Meridian, excepting therefrom that part taken for highway purposes, to wit:

Beginning at the Southwest corner of the East 292.58 feet of the West 877.74 feet (as measured on the north and south lines thereof) of the south 595.52 feet as measured on the East and West lines thereof, of the Southeast ¼ of the Southwest ¼ of Section 32; thence on an assumed bearing of North 2 degrees 13 minutes 23 seconds West along the West line of said East 292.58 feet, 116.43 feet; thence North 88 degrees 14 minutes 32 seconds East, 292.58 feet to the East line of said East 292.58 feet, also being the grantor's East property line, 116.42 feet to the South line of Section 32; thence South 88 degrees 14 minutes 24 seconds West along the South line of Section 32, 292.58 feet to the point of beginning, in DuPage County, Illinois.

Parcel Number: 03-32-301-037

SECTION 3: This ordinance shall be granted subject to compliance with the following conditions:

1. The conditional use for the physical culture and massage establishment is exclusively for the tenant space at 338 East North Avenue. Any expansion of the establishment within the existing shopping center beyond what was submitted as part of PC 07-24, shall require an amendment to the conditional use approval.

2. Any massage establishments to be located on the premises shall apply for and receive a business 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. Moreover, all massage therapists employed on the premises must have a current license from the State of Illinois for the conditional use to apply.

3. The petitioner shall apply for and receive a building permit for any improvements to the interior of the tenant space prior to starting and build-out of the tenant space. Moreover, the petitioner shall apply for and receive approval of a Certificate of Occupancy/Zoning Certificate prior to opening the business establishment.

SECTION 4: 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 _____, 2007.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2007.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2007.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published in pamphlet form this _____ day of _____, 2007.

Brigitte O'Brien, Village Clerk