

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


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

**TO :** PRESIDENT AND BOARD OF TRUSTEES

**FROM:** Scott R. Niehaus, Village Manager

**DATE :** February 11, 2020                      **(BOT) Date:** February 20, 2020

**SUBJECT:** **PC 20-05; 1196 S. Main Street – Conditional Use for a Massage Establishment**

**SUBMITTED BY:** William J. Heniff, AICP, Director of Community Development 

**BACKGROUND/POLICY IMPLICATIONS:**

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner, Tony Zeng, requests that the Village grant a conditional use, pursuant to Section 155.415(G)(2)(b)(xi) of the Zoning Ordinance, to allow for a therapeutic massage establishment in the B4APD Roosevelt Road Corridor District.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the February 20, 2020 Board of Trustees agenda for separate action.

**Fiscal Impact/Funding Source:**

Review (as necessary):

Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager \_\_\_\_\_ 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*

**MEETING DATE:** February 20, 2020

**SUBJECT:** **PC 20-05; 1196 S. Main Street**

Please find the following items for Village Board consideration as part of the February 20, 2020 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 20-05; and
3. An Ordinance granting approval of a conditional use pursuant to Section 155.417(G)(2)(b)(xi) of the Lombard Zoning Ordinance for a massage establishment.

The Plan Commission recommended approval of this petition by a vote of 6-0. Please place this petition on the February 20, 2020 Board of Trustees agenda for separate action.





## VILLAGE OF LOMBARD

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

February 20, 2020

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

**Trustees**  
Dan Whittington, Dist. 1  
Anthony Puccio, Dist. 2  
Reid Foltyniewicz, Dist. 3  
Andrew Honig, Dist. 4  
Daniel Militello, 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 20-05; 1196 S. Main Street – Conditional Use for a Massage Establishment**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner, Tony Zeng, requests that the Village grant a conditional use, pursuant to Section 155.415(G)(2)(b)(xi) of the Zoning Ordinance, to allow for a therapeutic massage establishment in the B4APD Roosevelt Road Corridor District.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on January 27, 2020. Sworn in to present the petition were Tony Zeng of Oki Spa and Fred Bernacchi, the petitioners, and Jennifer Ganser, Assistant Director.

Mr. Bernacchi introduced himself as a real estate agent from Oak Park that has helped out Mr. Zeng, the business owner, with other business ventures in the past. Mr. Zeng stated that he owns other spas in Chicago and Addison. Mr. Zeng stated that he signed a lease at 1196 S. Main Street a few months ago and is awaiting approval of the conditional use to open his business.

Chairperson Olbrysh asked for public comment.

Michelle Johnson asked the petitioner about details regarding the types of massage. Mr. Zeng responded that full body massage would be available. Ms. Johnson asked how many employees he would have at the location. Mr. Zeng responded that there would be one or two employees.

Chairperson Olbrysh asked for the staff report.

Ms. Ganser presented the staff report, which was submitted to the public record in its entirety. The petitioner is proposing full body massage at 1196 S. Main Street. There are no exterior site improvements proposed at this time and no utility improvements are necessary for the operation. Concept floor plans have been attached. The petitioner is proposing to occupy approximately 1,400 square feet of the lower level of the building. The building division met with the petitioner at the space and notes in the report a list of items that will need to be met. Massage establishments are further regulated by Title 11, Chapter 122, of the Code of Ordinances. These regulations have been attached to the staff report.

Chairperson Olbrysh opened the meeting for comments among the Commissioners.

On a motion by Commissioner Giuliano, and a second by Commissioner Johnson, the Plan Commission voted 6-0 to recommend that the Village Board approve the petition associated with PC 20-05, subject to the following five (5) conditions:

1. That this relief is limited to the operation of an establishment at 1196 S. Main Street, Suite F. Any expansion, physical site improvement or alterations require approval through the Village;
2. That the operator of the massage establishment apply for and receive a massage establishment license, per the provisions of Chapter 122 of the Village Code, with said license and operation remaining in good standing;
3. That the petitioner shall develop the site in accordance with plans submitted as part of this request;
4. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.
5. This relief shall be valid for a period of one year from the date of approval of the ordinance. If the massage establishment is not established by said date, this relief shall be deemed null and void.

Respectfully,

**VILLAGE OF LOMBARD**

Ronald Olbrysh, Chairperson  
Lombard Plan Commission



# PLAN COMMISSION

## INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

### CONDITIONAL USE FOR A MESSAGE ESTABLISHMENT – 1196 S. MAIN STREET

**JANUARY 27, 2020**

**Title**

PC 20-05

**Petitioner**

Tony Zeng  
1131 Bartholdi Court  
Carol Stream, IL 60188

**Property Owner**

Westmere LLC  
11952 Harlem Ave  
Palos Heights IL 60463

**Property Location**

1196 S. Main Street  
06-18-421-045 / -013  
Trustee District #2

**Zoning**

B4APD

**Existing Land Use**

Strip Retail

**Comprehensive Plan**

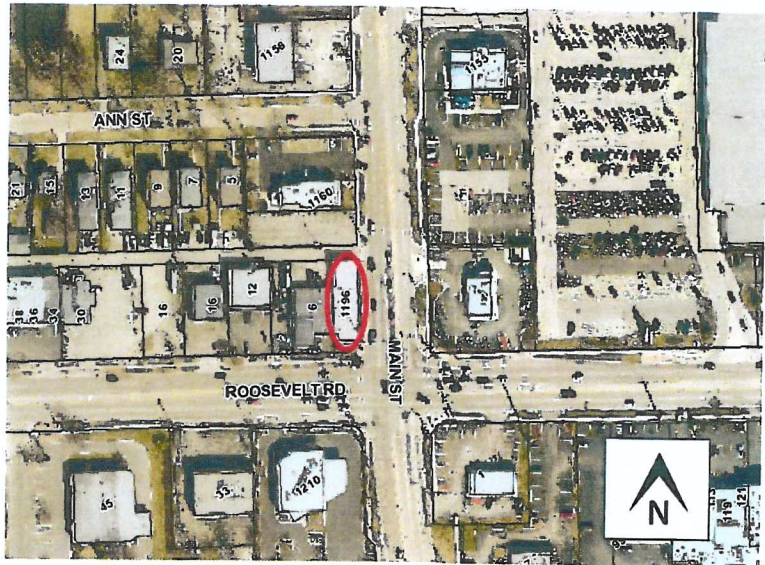
Community Commercial

**Approval Sought**

Conditional use to allow for a message establishment (as defined and regulated by Title 11, Chapter 122 of Lombard Village Code) within the B4A Community Shopping District.

**Prepared By**

Tami Urish  
Planner I



**LOCATION MAP**

**PROJECT DESCRIPTION**

The petitioner is proposing full body massage at 1196 S. Main Street. There are no exterior site improvements proposed at this time and no utility improvements are necessary for the operation. Concept floor plans have been attached.

Massage establishments are further regulated by Title 11, Chapter 122, of the Code of Ordinances. These regulations have been attached.

**APPROVAL(S) REQUIRED**

The petitioner requests that the Village grant approval of a conditional use, pursuant to Section 155.415(G)(2)(b)(xi) of Lombard Village Code, to allow for a message establishment (as defined and regulated by Title 11, Chapter 122 of Lombard Village Code) within the B4A Roosevelt Road Corridor District.

**EXISTING CONDITIONS**

The subject property is currently improved with a one-story strip center. The petitioner is proposing to occupy approximately 1,400 square feet of the lower level of the building (see Exhibit B attached).



**PROJECT STATS**

**Lot & Bulk**

Lot Size: 4,683 sq. ft.  
w/building  
7650 sq. ft.  
parking lot

Tenant Area: 1,400 sq. ft.

Building Area: App. 3,900 sq ft

**Parking Spaces**

Demand: 32 spaces (2 ADA)

Supply: 31

**Submittals**

1. Petition for a public hearing, submitted;
2. Response to Standards for a Conditional Use (Exhibit A);
3. Plat of Survey, prepared by Gentile and Associates, Inc. on March 25, 1999 (Exhibit B); and
4. Concept Floor Plan, prepared by petitioner, submitted October 25, 2019 (Exhibit C).
5. Title 11, Section 122 Massage Establishments (Exhibit D).

**INTER-DEPARTMENTAL REVIEW**

**Building Division:**

The Building Division inspected the space and noted a list of eight specific items summarized below that will need attention to successfully pass the Building and Fire Life Safety inspection for occupancy:

1. Install non-absorbent floors (hard surface, washable floors), Chapter 122 requirement;
2. Wash basins available (sink or vessel that is emptied and refilled after each customer) in each room, Chapter 122 requirement;
3. Repair/replace exit signs and emergency lights;
4. Repair electrical junction box;
5. Structural support for window a/c units;
6. Install required fire extinguishers;
7. One lock (not two locks) on exit door;
8. Accessible bathroom upgrades.

Should the petition be approved, additional comments may be forthcoming during permit review.

**Fire Department:**

The Fire Department concurs with the Building Division's above concerns relative to the Building and Fire Life Safety inspection for occupancy.

**Private Engineering Services:**

Private Engineering Services (PES) has no issues or concerns regarding the project.

**Public Works:**

The Department of Public Works has no issues or concerns regarding the project.

**Planning Services Division:**

The Planning Services Division (PSD) notes the following:

**1. Surrounding Zoning & Land Use Compatibility**

	<b>Zoning Districts</b>	<b>Land Use</b>
<b>North</b>	B3	Restaurant/coffee shop
<b>South</b>	B4A	Commercial/bank
<b>East</b>	B4A	Restaurant/fast food
<b>West</b>	B4A	Mixed Retail

In consideration that the B4A Roosevelt Road Shopping District is



intended to provide for the needs of a much larger consumer population than is served by the B1 or B2 Districts and thus allowing for a wider range of uses and structure, staff finds that the project is consistent with the zoning and land use of the surrounding properties

2. ***Comprehensive Plan Compatibility***

The proposed site location and use as a massage establishment is consistent with the Comprehensive Plan's recommendation of mixed-use community commercial.

3. ***Zoning & Sign Ordinance Compatibility***

The petitioner has not yet proposed any signage for the business. Any future signage applications will be reviewed by staff for their consistency with the Village's Sign Ordinance. If any future signage is determined to be non-compliant the petitioner will have the option to request a variation from the Plan Commission and Village Board of Trustees.

4. ***Site Plan: Access & Circulation***

The existing access point and parking lot design has proven sufficient for the subject property. The parking lot to the north is shared among the tenants of the strip center.

5. ***Elevations***

The petitioner is not proposing any changes to the exterior elevations at this time.

**FINDINGS & RECOMMENDATIONS**

Staff finds that the proposed massage establishment is consistent with its surrounding context, the Village of Lombard Comprehensive Plan, and Zoning Ordinance. Staff has reviewed the response to standards for a conditional use included as part of the petition and concurs that the petition meets the standards set forth in the Zoning Ordinance.

The Inter-Departmental Review Committee has reviewed the standards for the requested conditional use for a massage establishment and finds that the proposed use **complies** with the standards established by the Village of Lombard Zoning Ordinance, subject to conditions of approval based on the above considerations. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion for **approval** of PC 20-05:

Based on the submitted petition and the testimony presented, the proposed conditional use does comply with the standards required by the Lombard Village Code and that granting the conditional use permit is in the public interest and, therefore, I move that the Plan Commission accept the findings of the Inter-Departmental Review Committee Report as the findings of the Plan Commission, and recommend to the Village Board **approval** of PC 20-05, subject to the following conditions:

1. That this relief is limited to the operation of an establishment at 1196 S. Main Street, Suite F. Any expansion, physical site improvement or alterations require approval through the Village;
2. That the operator of the massage establishment apply for and receive a massage establishment license, per the provisions of Chapter 122 of the Village Code, with said license and operation remaining in good standing;
3. That the petitioner shall develop the site in accordance with plans submitted as part of this request; and

4. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report.
5. This relief shall be valid for a period of one year from the date of approval of the ordinance. If the massage establishment is not established by said date, this relief shall be deemed null and void.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

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**EXHIBIT A: STANDARDS FOR CONDITIONAL USES**

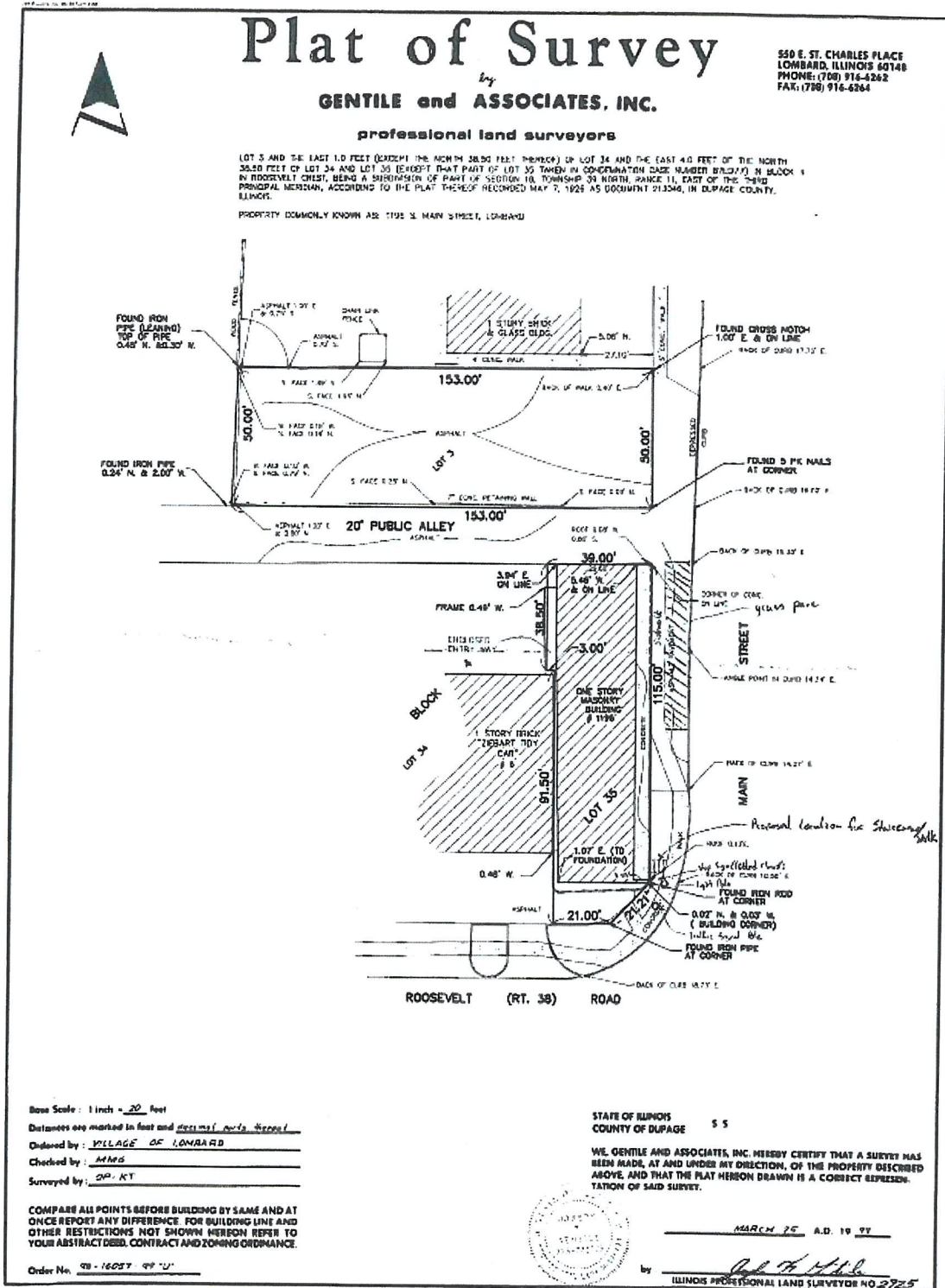
**To: Village Of Lombard**

1. We assure the Village of Lombard that our establishment(s) have, do, and will continue to strictly follow the State of Illinois standards, as well as local laws and ordinances related to the operation and management of a massage spa.
2. Our business will be located in the basement of this building, in a manner to coexist and enjoy the privacy that other tenants in the building already have.
3. Our spa will enhance other businesses by attracting more clients to an already thriving commercial zone.
4. We do and will continue to comply with VOL and its inspectors to assure the uninterrupted commercial zone's success.
5. Free off-street on-site parking is available. The lot will be maintained by the building's management.
6. We will cooperate with all VOL requirements, as well as local and state laws and regulations to smoothly integrate into this business corridor.
7. We are flexible, and certain that our business plan will be able to amend or adjust to any future VOL modifications.

Respectfully,

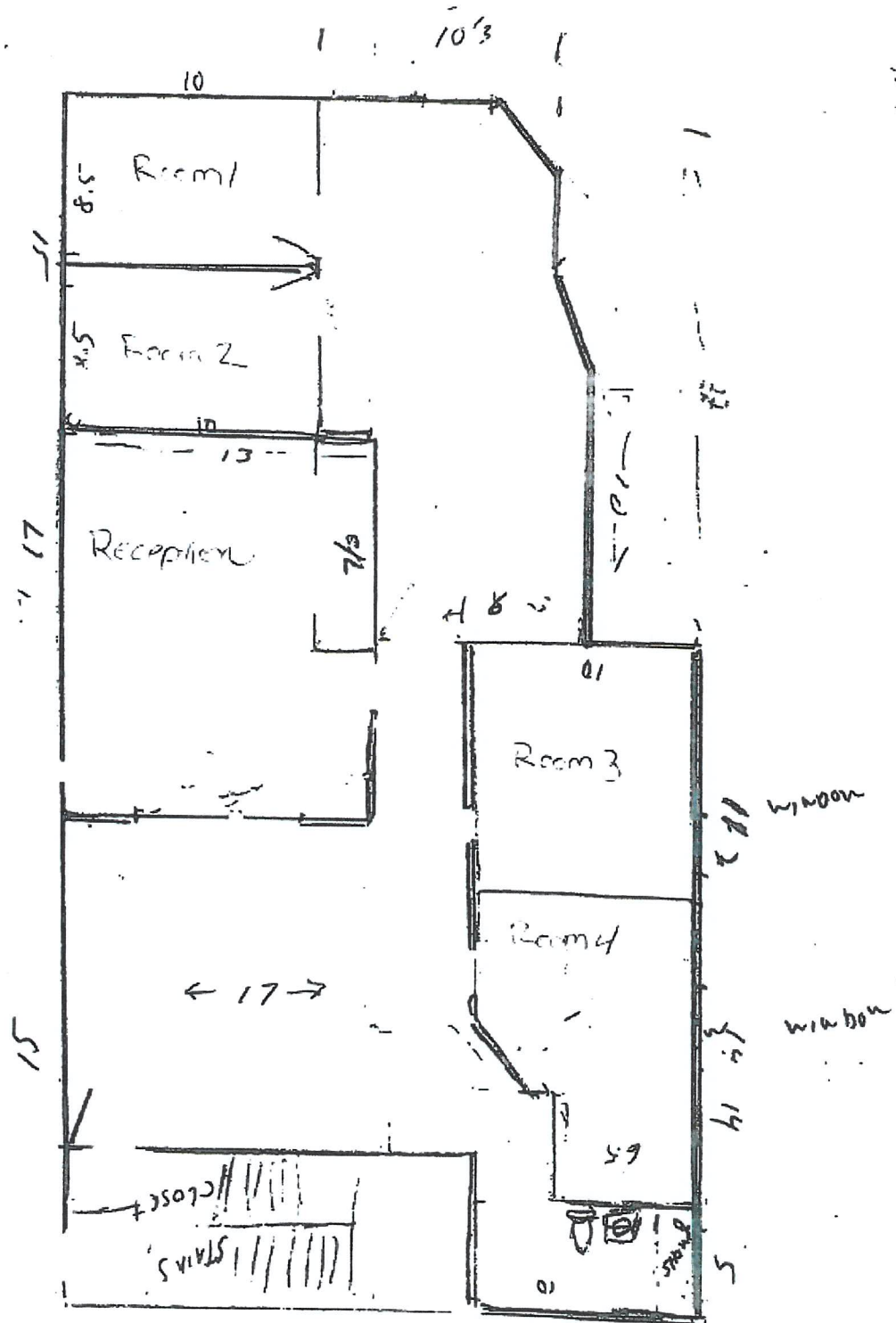
Tony Zeng

**EXHIBIT B: PLAT OF SURVEY**





**EXHIBIT C: FLOOR PLAN OF TENANT SPACE**



**EXHIBIT D: TITLE 11, CHAPTER 122**

**SEE ATTACHED**

## CHAPTER 122: - MASSAGE ESTABLISHMENTS

*Footnotes:*

--- (1) ---

**Editor's note**— Ord. No. 7009, § 1, passed October 16, 2014, amended chapter 122 in its entirety to read as herein set out. The former chapter 122, §§ 122.01, 122.02, 122.04, 122.10—122.12, 122.30—122.38, 122.99, pertained to similar subject matter. See Code Comparative Table for complete derivation.

## ARTICLE I. - GENERAL PROVISIONS

## § 122.01 - Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any references to specific village employees within chapter 122 shall also include said employees' designees.

*Employee.* Any person other than a masseur or masseuse who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.

*Licensed massage therapist.* An individual who holds a valid, current, State of Illinois license as a massage therapist to practice massage/massage therapy as defined herein and who is thereby entitled to exclusive use of the terms "massage," "massage therapy," and "massage therapist" in advertising and printed promotional material.

*Massage establishment.* Any establishment having a fixed place of business within the village where any person, firm, association, or corporation engages in, or carries on, or permits to be engaged in or carried on, massage or massage therapy as defined herein by one or more persons licensed by the State of Illinois as massage therapists.

*Massage/massage therapy.* A system of structured palpitation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands.

*Masseur or masseuse.* Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.

*Out-call massage service.* Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.



*Permittee.* The operator of a massage establishment.

*Person.* Any individual, copartnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

*Sexual or genital area.* Genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.02 - Permit required.

It shall be unlawful for any person to engage in, conduct, carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises in the village, the operating of a massage establishment as herein defined, without first having obtained a permit from the village.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.03 - Filing and fee.

- (A) Every applicant for a permit to maintain, operate, or conduct a massage establishment shall file an application with the Village Manager's office upon a form provided by the village, and pay a nonrefundable filing fee of \$250.00 plus the actual cost of processing the fingerprints as required by subsection 122.10(B)(8) below, to the Village Treasurer, who shall issue a receipt which shall be attached to the application filed with the Village Manager's office. The renewal fee shall be \$100.00, plus the actual cost of processing any additional fingerprints not previously processed by the police department.
- (B) The Village Manager's office shall within five days of the receipt of an application for a massage establishment license, forward copies of such application to the Community Development Department, the Fire Department, and the Police Department. These departments shall, within 30 days after receipt of a copy of the application shall review and process the application information, as is appropriate relative to each respective department, and make written recommendations to the Village Manager's office concerning compliance with the codes, laws and ordinances that said departments administer.
- (C) Within 30 days of receipt of the recommendations of the aforesaid departments, the Village Manager's office shall notify the applicant that the application is granted, denied, or being held for further investigation. The period of such additional investigation shall not exceed an additional 30 days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, if any, the Village Manager's office shall advise the applicant in writing whether the application is granted or denied.
- (D) Whenever an application is denied, or held for further investigation, the head of the

department requesting said denial or further investigation shall advise the applicant in writing of the reasons for such action. An application may be denied if it is found:

- (1) That the operation, as proposed by the applicant, if permitted, would not have complied with all applicable laws, including but not limited to the building, health, planning, housing, zoning and fire codes of the village; or
- (2) That the applicant and/or any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of:
  - (a) A felony;
  - (b) An offense involving sexual misconduct with children;
  - (c) Prostitution, soliciting for a prostitute, pimping or other offense opposed to decency and morality.

The Police Chief, at his/her discretion, may authorize the issuance of a permit to any person convicted of any of the crimes in subsections (A)(2)(a), (b) and (c) above, if he finds that such conviction occurred at least five years prior to the date of application, the applicant has had no subsequent convictions and the applicant has shown evidence of rehabilitation sufficient to warrant the public trust.

- (E) The failure or refusal of the applicant to promptly give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding the said application, or his or her refusal to submit to or cooperate with any inspection required by this chapter shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the village.
- (F) Every massage establishment permit issued pursuant to this chapter shall terminate one year from the last day of the month in which it is issued, unless sooner suspended or revoked. Thereafter, renewals of said permit shall be for a period of one year, unless sooner suspended or revoked. Notwithstanding the foregoing, a temporary permit may be issued, for less than a one-year period, pending the results of the processing of the fingerprints, at which time said non-temporary permit shall expire and a non-temporary permit shall either be issued or denied.

(Ord. No. 7009, § 1, passed 10-16-14)

#### § 122.04 - Review by Village Manager.

The decision of any department head with regard to the denial, of any permit under this chapter shall be reviewable by the Village Manager, upon the written request of the applicant filed with the Village Manager within ten (10) days of such denial. The Village Manager, shall review evidence previously



submitted to the village, the reports of the various department heads, and any additional evidence presented with the written request for review. The decision of the Village Manager, upon such review shall be a final appealable order.

(Ord. No. 7009, § 1, passed 10-16-14)

§§ 122.05—122.09 - Reserved.

## ARTICLE II. - ESTABLISHMENT LICENSE

### § 122.10 - Application.

- (A) The application for a permit to operate a massage establishment shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefore.
- (B) In addition to the foregoing, any applicant for a permit, including any partner or limited partner of a partnership applicant, and any officer or director of a corporate applicant and any stockholder holding more than ten percent of the stock of a corporate applicant, shall furnish the following information:
  - (1) Name and address.
  - (2) Written proof that the individual is at least 18 years of age.
  - (3) All residential addresses for the past three years.
  - (4) The applicant's height, weight, color of eyes and hair.
  - (5) The business, occupation, or employment of the applicant for the three years immediately preceding the date of application.
  - (6) The massage or similar business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or relocation.
  - (7) All criminal or village ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
  - (8) The fingerprints and photograph of the applicant.
  - (9) If the applicant is a corporation or limited liability company, or if a partner of a partnership applicant is a corporation or limited liability company, the name of the corporation or limited liability company shall be set forth exactly as shown in its articles of incorporation/establishing documents, and said corporation or limited liability company must be in good standing with the State of Illinois.



- (10) The applicant's tax identification number.
  - (11) A statement as to whether the funding source for opening the establishment is the applicant, a state or federally regulated financial institution or some other person or entity. If the funding source is other than the applicant or a state or federally regulated financial institution, the name and address of the funding source shall be supplied.
  - (12) A certificate of insurance evidencing professional (malpractice) liability insurance, covering all masseurs and masseuses that will be working for the massage establishment, in an amount of not less than \$500,000.00 per occurrence.
- (C) The application for a permit to operate a massage establishment shall state the name of all of the licensed massage therapists who are employed to provide massage or massage therapy at the massage establishment. Said application shall be accompanied by copies of the licenses issued to said massage therapists.

(Ord. No. 7009, § 1, passed 10-16-14)

#### § 122.11 - Issuance.

Upon receipt of favorable recommendations from all departments reviewing a massage establishment application, the Village Manager's office shall issue a permit to maintain a massage establishment.

(Ord. No. 7009, § 1, passed 10-16-14)

#### § 122.12 - Revocation or suspension.

- (A) Any permit issued for a massage establishment may be revoked or suspended by the Village Manager after a hearing for good cause or in any case where any of the provisions of this chapter are violated or any employee of the permittee, including a masseur or masseuse, is engaged in any conduct at permittee's place of business which violates any of the provisions of this chapter or any state law which provides for imprisonment, and permittee has actual or constructive knowledge of such violations or the permittee should have actual or constructive knowledge by due diligence, or where any applicant has made a false statement on an application for a permit under this chapter or in any case where the permittee or licensee refuses to permit any duly authorized police officer or inspector of the village and/or the county to inspect the premises or the operations therein. Such permit may also be revoked or suspended by the Village Manager, after hearing upon the recommendations of the Community Development Director and/or Fire Chief that such business is being managed, conducted, or maintained without regard for the public health or health of patrons or customers or without due regard to proper sanitation or hygiene.
- (B) Any violation of this chapter by any employee of the permittee including a masseur or masseuse shall be cause for suspension of the permit for not more than 30 days in the first

instance. Any subsequent violation of this chapter by any employee of the permittee, including the masseur or masseuse, shall be cause for suspension or revocation of the permit.

- (C) The Village Manager, before revoking or suspending any permit, shall give the permittee at least ten days' written notice of the charges against the permittee and the opportunity for a hearing before the Village Manager, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(Ord. No. 7009, § 1, passed 10-16-14)

§§ 122.13—122.29 - Reserved.

### ARTICLE III. - FACILITIES AND OPERATIONS

§ 122.30 - Necessary facilities.

- (A) No massage establishment shall be issued a permit, nor be operated, established, or maintained in the village unless an inspection by the Community Development Department and/or Fire Department reveals that the establishment complies with each of the following minimum requirements:
- (1) Construction of rooms used for toilets, tubs, steam baths, and showers shall be made waterproof with approved waterproof materials and shall be installed in accordance with the building code of the village;
  - (2) All massage tables, bathtubs, shower stalls, steam or bath areas, and floors shall have surfaces which may be readily disinfected;
  - (3) Adequate bathing, dressing, and locker facilities shall be provided for the patrons to be served at any given time. In the event male and female patrons are to be served simultaneously, separate bathing, dressing, locker, and massage room facilities shall be provided;
  - (4) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron;
  - (5) Closed cabinets shall be provided and used for the storage of clean linen, towels, and other materials used in connection with administering massages. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas;
  - (6) Toilet facilities shall be provided in convenient locations. When employees and patrons of different sexes are on the premises at the same time separate toilet facilities shall be



provided for each sex. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein;

- (7) Lavatories or washbasins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap and a dispenser and with sanitary towels;
  - (8) The premises shall be equipped with a service sink for custodial services;
  - (9) A hand wash basin shall be provided in each room designated for massages;
  - (10) A separate dressing room for each sex must be available on the premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.
- (B) The Community Development Director and/or Fire Chief shall certify that the proposed massage establishment complies with all the requirements of this § 122.30, and that the premises meets all applicable codes and ordinances of the village relating to building, zoning, and fire safety. Said certification shall be filed with the Village Manager.

(Ord. No. 7009, § 1, passed 10-16-14)

#### § 122.31 - Operating requirements.

All individuals in the village who are employed as a masseur or masseuse by a massage establishment or who otherwise administer massages or massage therapy as defined in this chapter, except where exempt under state law, shall, at all times, have a current, valid massage therapist license from the State of Illinois, and all massage establishments within the village shall, comply with the following requirements:

- (A) Every portion of the massage establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
- (B) Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.
- (C) All employees, including masseurs and masseuses, shall be clean and wear clean, nontransparent outer garments, covering the sexual and genital areas, whose use is restricted to the massage establishment.
- (D) All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (E) The sexual or genital area of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur, or masseuse.
- (F) It shall be unlawful for any person, knowingly, in a massage establishment, to place his

or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any other person.

- (G) No masseur or masseuse, employee, or operator shall perform, offer, or agree to perform any act which would require the touching of the patron's genital area.
- (H) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.
- (I) Oils, creams, lotions, or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
- (J) Eating in the massage work areas shall not be permitted. Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.
- (K) No masseur or masseuse shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption; unless a physician duly licensed by the state certifies in writing that such person may be safely massaged, prescribing the conditions thereof.
- (L) Each masseur and masseuse shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each patron.
- (M) Within 30 days of employment, massage establishments shall, for as long as they continue in business within the village provide the Village Manager's Office with copies of the licenses of all massage therapists employed subsequent to the date on which application was made for the massage establishment's first issued permit.  
  
Every massage establishment shall be required to have a certified massage therapist on the licensed premises at all times while massages are being performed.
- (N) The hours of operation for massage establishments shall be limited to between 6:00 a.m. and 9:00 p.m.

(Ord. No. 7009, § 1, passed 10-16-14)

#### § 122.32 - Out-call registration and service.

Any masseuse or masseur who provides any of the services listed in § 122.01 of this chapter at any hotel or motel must first register his or her name and permit number with the owner, manager, or person in charge of the hotel or motel. No "out-call massage service" may be operated other than by a licensed masseur or masseuse. All massages performed by an "out-call massage service" must be performed in the manner prescribed in § 122.31 of this chapter where applicable.



(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.33 - Inspection.

The Police Department, Community Development Department and/or Fire Department shall from time to time, and at least annually, make an inspection of each massage establishment granted a permit under the provisions of this chapter for the purposes of determining that the provisions of this chapter are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.34 - Employment age restrictions.

It shall be unlawful for any owner, proprietor, manager, or other person in charge of any massage establishment to employ any person who is not at least 18 years of age.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.35 - Reserved.

**Editor's note**— Ord. No. 5551, adopted September 16, 2004, repealed § 122.35, which pertained to identification cards.

§ 122.36 - Display and transfer of permit.

Every permittee shall display a valid permit in a conspicuous place within the massage establishment so that the same may be readily seen by patrons entering the premises. No permit for the operation of a massage establishment shall be transferable.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.37 - Exemptions.

A massage establishment license shall not be required of establishments where persons engage in massage, massage therapy or similar practices but are not required to obtain a massage therapist license under Illinois law.

(Ord. No. 7009, § 1, passed 10-16-14)

§ 122.38 - Public nuisance.

Any building used as a massage establishment in violation of this chapter with the intentional knowing, reckless, or negligent permission of the owner thereof, or the agent of the owner managing the building, together with all fixtures and other property used in violation of this chapter are hereby declared to be a nuisance.

(Ord. No. 7009, § 1, passed 10-16-14)

§§ 122.39—122.98 - Reserved.

§ 122.99 - Penalty.

Any person who conducts a massage establishment without first obtaining a permit and paying a license fee to do so from the village, or who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine of not to exceed \$750.00. Anyone who knowingly aids and abets one or more persons not authorized to use the professional term "massage therapist" or employs persons not authorized to use the title "massage therapist" in the course of employment or who uses the term "massage," "massage therapy" or "massage therapist" in advertising or printed promotional material without authorization to do so under Illinois law shall be prosecuted for violation of the Massage Licensing Act (225 ILCS 57/1 et seq.) for which the first offense is a Class "A" misdemeanor and a second and any subsequent offense is a Class 4 felony.

(Ord. No. 7009, § 1, passed 10-16-14)

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GRANTING APPROVAL OF CONDITIONAL USE  
PURSUANT TO SECTION 155.415(G)(2)(b) OF THE LOMBARD ZONING  
ORDINANCE TO ALLOW FOR A THERAPEUTIC MASSAGE  
ESTABLISHMENT LOCATED IN THE B4APD ZONING DISTRICT**

**PC 20-05: 1196 S. Main Street**

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;

WHEREAS, the Subject Property as defined below is zoned B4APD; and,

WHEREAS, an application requests approval for a conditional use for a therapeutic massage establishment; and,

WHEREAS, a public hearing on such application has been conducted by the Village of Lombard Plan Commission on January 27, 2020 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 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 Subject Property, as described in Section 2 below, pursuant to Title 15, Chapter 155, Section 155.417(G)(2)(b) of the Zoning Ordinance for a therapeutic massage establishment;

SECTION 2: This ordinance is limited and restricted to the property generally located at 1196 S. Main Street, Lombard, Illinois, and legally described as follows:



LOT 3 AND THE EAST 1.0 FEET (EXCEPT OF THE NORTH 38.50 FEET THEREOF) OF LOT 34 AND THE EAST 4.0 FEET OF THE NORTH 38.50 OF LOT 34 AND LOT 35 (EXCEPT THAT PART OF LOT 35 TAKEN IN CONDEMNATION CASE NUMBER 87ED77) IN BLOCK 4 IN ROOSEVELT CREST, BEING A SUBDIVISION OF PART OF SECTION 18, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 7, 1926 AS DOCUMENT 213046, IN DUPAGE COUNTY, ILLINOIS.

PIN Number: 06-18-421-045; 06-18-421-013

SECTION 3: The approvals set forth in SECTION 1 above shall be granted subject to compliance with the following conditions:

1. That this relief is limited to the operation of a therapeutic massage establishment at 1196 S. Main Street, Lower Level, Suite F. Any expansion, physical site improvement or alterations require approval through the Village;
2. That the operator of the therapeutic massage establishment apply for and receive a therapeutic massage establishment permit, per the provisions of Section 122 of the Village Code, with said permit and operation remaining in good standing;
3. That the petitioner shall develop the site in accordance with plans submitted as part of this request;
4. That the petitioner shall satisfactorily address all comments noted within the Inter-Departmental Review Committee Report; and
5. This relief shall be valid for a period of one year from the date of approval of the ordinance. If the therapeutic massage establishment is not established by said date, this relief shall be deemed null and void.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Ordinance No. \_\_\_\_\_

Re: PC 20-05

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Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Keith Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published in pamphlet from this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Sharon Kuderna, Village Clerk