

PLAN COMMISSION

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

CONDITIONAL USE FOR A MESSAGE ESTABLISHMENT – 9 N. MAIN STREET

AUGUST 18, 2014

Title

PC 14-24

Petitioner

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

Property Owner

Socorro Jaworski
7861 Founders Lane
Naples, FL 34104

Property Location

9 N. Main Street, Suites 6 and 7
Trustee District #4

Zoning

B5 Central Business District

Existing Land Use

Retail and Office

Comprehensive Plan

Mixed Use Commercial &
Office

Approval Sought

Conditional use to allow for a physical culture and massage establishment (as defined and regulated by Title 11, Chapter 122 of the Code of Ordinances) within the B5 Central Business District.

Prepared By

Tami Urish
Planner I



LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing a massage and bodywork studio that will include physical culture and massage facilities at 9 N. Main Street. The proposed studio will also offer body scrubs, body wraps, facials, aroma therapy, bamboo fusion, dry-room spa treatment and reflexology.

There are no exterior site improvements proposed at this time and no utility improvements are necessary for the operation. The proposed massage establishment will be located within two suites consisting of 437 square feet on the second floor of the building. The floor plan of the existing second floor of the building and the concept floor plan for the proposed massage establishment's space (Suite 6 and 7) have been attached as Exhibit B and C.

Physical culture and massages establishments are further regulated by Title 11, Chapter 122, of the Code of Ordinances. These regulations have been attached as Exhibit D.

APPROVAL(S) REQUIRED

Per Section 155.418 (C)(22) of the Zoning Ordinance, Physical culture and massage establishments (as amended by PC 14-23 and as defined and regulated by Title 11, Chapter 122 of the Code of Ordinances) require a conditional use permit within the B5 Central Business District.

PROJECT STATS

Lot & Bulk

Parcel Size:	0.2 acres (10,000 sq ft)
Building Area:	13,000 sq. ft.
Tenant Area:	app. 437 sq. ft.

Submittals

1. Petition for a public hearing, submitted July 17, 2014;
2. Response to Standards for a Conditional Use;
3. Plat of Survey, prepared by Harry A. Ekdahl & Associates, April 3, 1978 and submitted July 17, 2014; and
4. Concept Floor Plan, submitted July 17, 2014.

EXISTING CONDITIONS

The subject property is currently improved with a two-story glazed tile and brick building with approximately 13,000 square feet of tenant space on both floors. The petitioner is proposing to occupy approximately 437 square feet on the second floor of the building. Other tenants of the building include office use, retail use and a dance studio.

The parking demand for the proposed use would be two (2) parking spaces, one for the sole proprietor of the business and one for the customer that has arranged a service by appointment only. The existing site has seven parking spaces. There is a public parking lot with over fifty parking spaces adjacent to the subject property to the east of the building along with a few public parking spaces available on Main Street in front of the building.

INTER-DEPARTMENTAL REVIEW

Building Division:

The Building Division has no issues or concerns regarding the project at this time. A full review will be conducted during the building permit process.

Fire Department:

The Fire Department has no issues or concerns regarding the project.

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

	Zoning Districts	Land Use
North	B5	Retail (former bank)
South	B5	Retail/Service (hair salon)
East	B5	Public and Institutional (parking lot)
West	O	Office (telephone company)

In consideration that the B5 Central Business District is intended to provide for the needs of the local consumer population in addition to attracting out of town consumers thus allowing for a wider range of uses, 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 spa with physical culture and massage establishment is consistent with the Comprehensive Plan's recommendation of mixed-use commercial and office.

3. *Zoning & Sign Ordinance Compatibility*

The petitioner has not yet proposed any signage for the spa. 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. By including the parking available within the adjacent public parking lot and available street parking the overall parking supply for the subject property exceeds projected demand.

5. *Elevations*

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

SITE HISTORY

The existing multi-tenant building was constructed prior to 1950.

FINDINGS & RECOMMENDATIONS

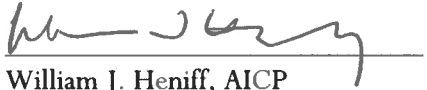
Staff finds that as the proposed physical culture and massage establishment is consistent with its surrounding context, the Village of Lombard Comprehensive Plan, and Zoning Ordinance. Staff has reviewed the response to standards for a conditional use (Exhibit A) included as part of the petition and 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 physical culture and 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 14-24:

Based on the submitted petition and the testimony presented, the proposed conditional use does comply with the standards required by the Village of Lombard Zoning Ordinance 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 14-24, subject to the following conditions:

1. That this relief is limited to the operation of a physical culture and massage establishment at 9 N. Main Street, Suite 6 and 7. Any expansion, physical site improvement or alterations require approval through the Village;
2. That the operator of the physical culture and massage establishment apply for and receive a physical culture and 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. This relief shall be valid for a period of one year from the date of approval of the ordinance. If the physical culture and massage establishment is not established by said date, this relief shall be deemed null and void; and
5. The petitioner shall be required to apply for and receive a building permit for any improvements to the interior of the space prior to starting the build-out of the tenant space.

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

Response to "Standards for Conditional Uses"

1. There is no intention in any way to endanger public health, safety, morals, or general welfare. The business complies with all of the set standards of qualifications in the profession in order to promote a high standard of professional performance. Massage therapy is regulated by the state to which the practitioner holds a license. In the state of Illinois to obtain a licensure to practice you must pass the approved state exam, complete a minimum of 600 registered clock hours of schooling and maintain the required continuing education of 24 units per 2 year licensure renewal. (<http://www.amtamassage.org/regulation/detail/17>)

The establishment complies with the requirements of Chapter 122.31 to operating a massage establishment.

2. The business will not prove harmful or provide nuisance to other property in the immediate and surrounding area but offer compatibility and beneficial relationships to the existing use of the property and surrounding vicinity. To the best of my knowledge no known impairment will be made on the property value within the neighborhood.

3. Over the five years to 2014, the massage industry has generated average revenue of around 12 billion and is projected to increase over the next 5 years. This benefit intends to improve the economic landscape and pose no interference with future development or improvement.

4. The location of the existing building that will accommodate the applicants business provides all the adequate public utilities, access roads, and necessary facilities to operate as a massage establishment in accordance to the municipal code Chapter 122.30

The premise will have adequate equipment for disinfecting non disposable instruments (examples: hot stones, bamboo, Chinese cupping instruments and chakra stones) and materials used in administering massage and shall be disinfected after every use on a patron. The massage table and related treatment equipment have surfaces which may be readily disinfected.

Closed cabinets will 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 will kept in the appropriate properly covered laundering container kept separate from the clean storage areas;

A toilet facility and a service sink for custodial services is available and in a convenient location relative to the business location on the same floor. The facility provides both hot and cold running water, soap, and a dispenser and with sanitary towels.

A hand wash basin is provided in the designated treatment room for massage and adequate dressing and changing are provided in the treatment room. Separate dressing/changing facilities are not required considering the business is available by appointment only and is restricted to serving a single client at any given time.

5. The business will not create a concern regarding high traffic congestion from the public. The applicant will operate the business as a sole proprietorship being the sole owner, operator and only employee. The business will be operated on a much smaller scale with availability limited to appointment only service. The existing location provides easy accessibility, along with ample parking availability along the storefront as well as an attached rear lot.

6. The business aims to compliment the current comprehensive plan. It will encourage economic growth by allowing me to introduce my existing client base from neighboring communities to the village of Lombard. A distinct feature and high priority of my business is to adopt and uphold a "green business" standard. This specific characteristic can serve to educate surrounding business in the area about the sustainability and common practices of a "green" business. My business will create diversity by offering services that are different, unique and unlike the other familiar established business including bodywork* modalities, organic and natural skin and body care retail along with specialty spa services.

* Bodywork is a term used in alternative medicine to describe any therapeutic or personal development technique that involves working with the human body in a form involving manipulative therapy, breath work, or energy medicine

7. The conditional use I am proposing in zoning district B5 conforms to the applicable regulations and district requirements. The zoning district of B5 is intended to accommodate all retail, service and specialty shops, and necessary civic services. The services and characteristics of my business satisfy that intent.

EXHIBIT B: FLOOR PLAN OF SECOND FLOOR TENANT SPACE

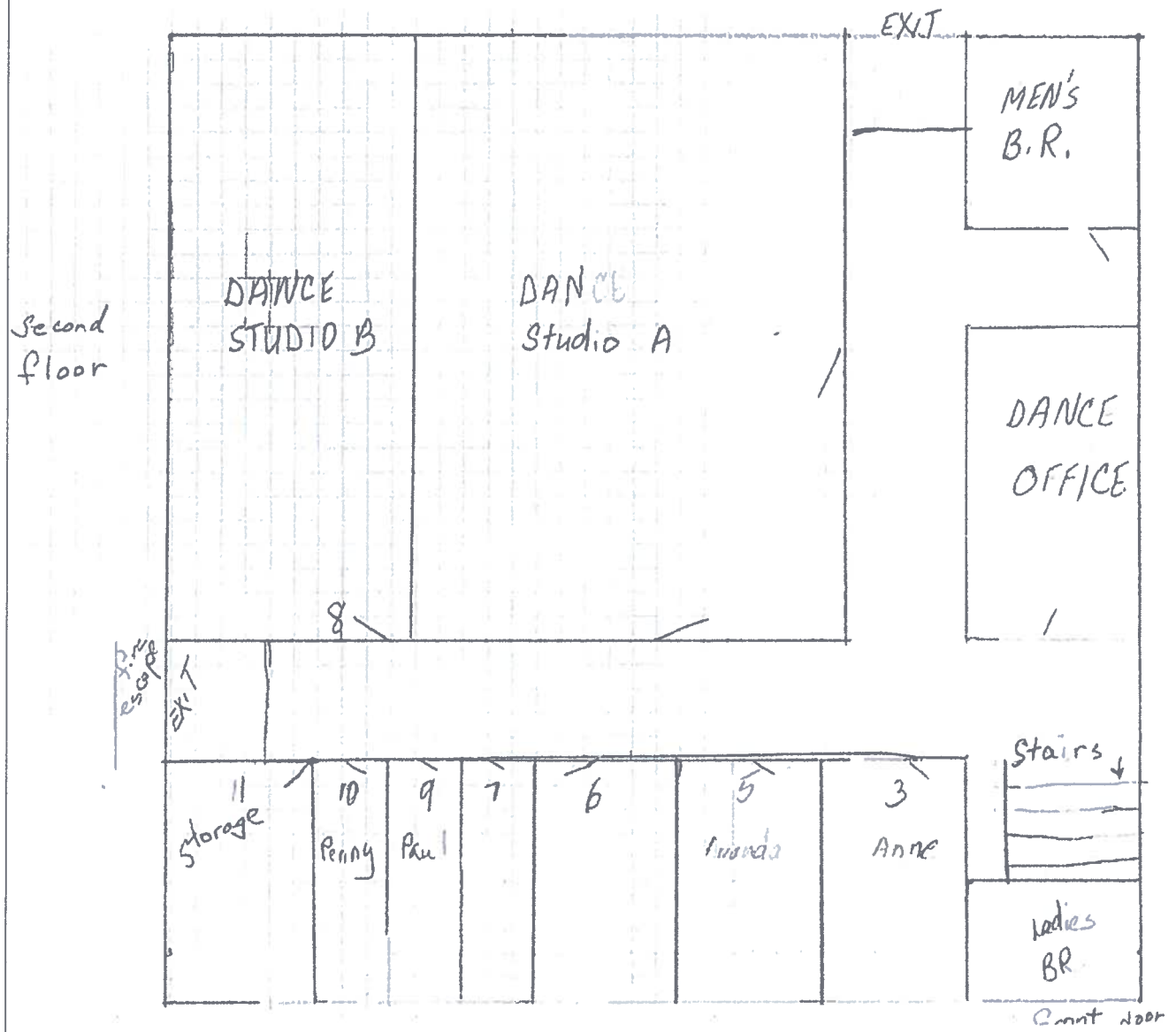


EXHIBIT C: CONCEPT FLOOR PLAN OF SUITES 6 AND 7

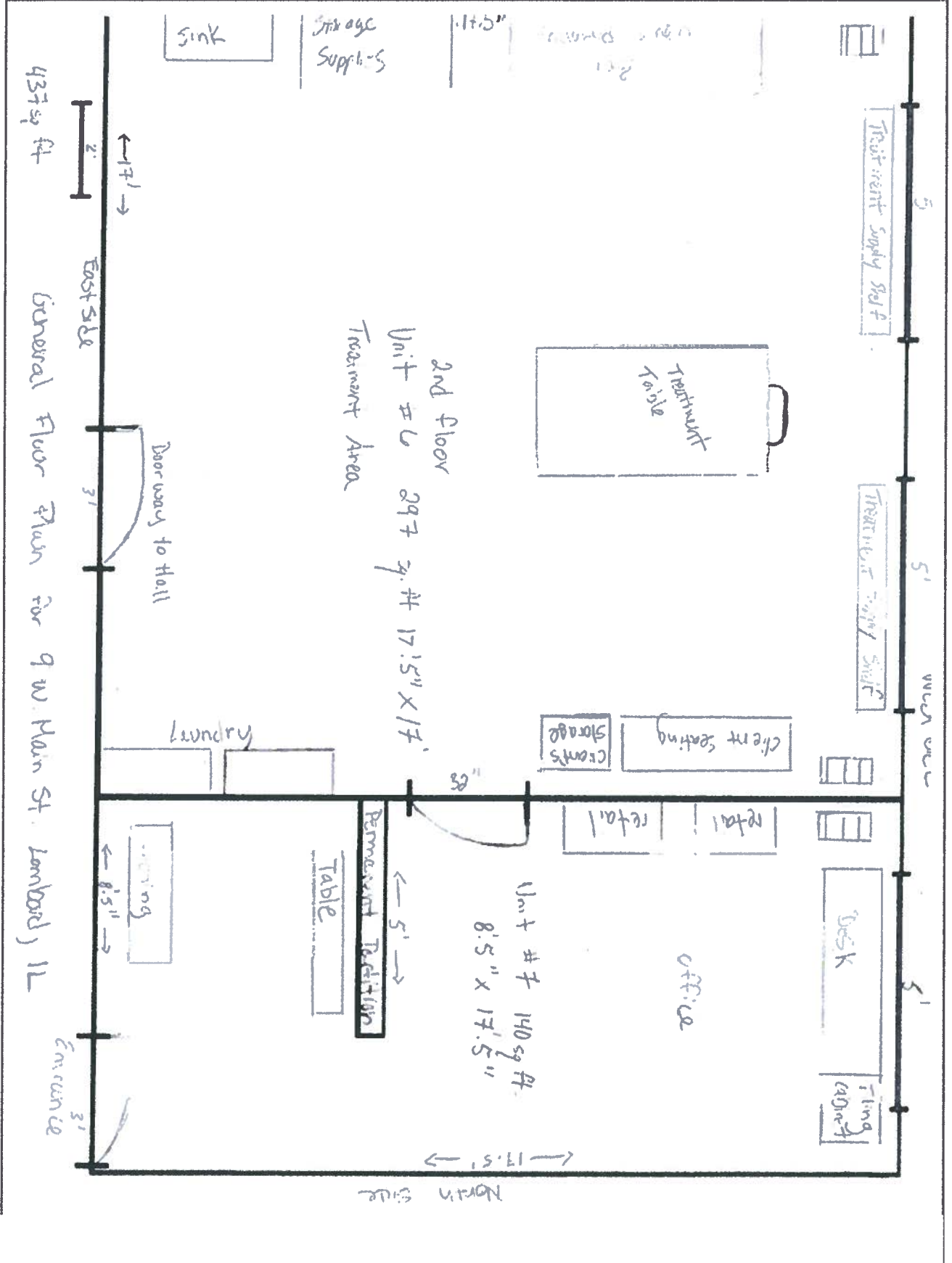


EXHIBIT D: TITLE 11, CHAPTER 122

§ 122.01 Definitions.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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.

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.

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.

Massage establishment. Any establishment having a fixed place of business within the Village of Lombard 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.

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.

(70 Code, § 6.40.010) (Ord. 2358, passed 1-24-80; Ord. 5551, passed 9/16/04)

§ 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.

('70 Code, § 6.40.020) (Ord. 2358, passed 1-24-80)

§ 122.03 Filing and fee.

- (A) Every applicant for a permit to maintain, operate, or conduct a massage establishment shall file an application in duplicate under oath with the Finance Department upon a form provided by said Finance Department 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 Finance Department. The renewal fee shall be \$250.00, plus the actual cost of processing any additional fingerprints not previously processed by the Police Department.
- (B) The Finance Department shall within five days refer copies of such application to the Community Development Department, Fire Department, and Police Department. These departments shall, within 30 days after receipt of a copy of the application from the Finance Department, inspect the premises proposed to be operated as a massage establishment and/or review and process the application information, as is appropriate relative to each respective department, and make written recommendations to the Finance Department concerning compliance with the codes, laws and ordinances that they administer.
- (C) Within 30 days of receipt of the recommendations of the aforesaid departments, the Finance Department shall notify the applicant that his application is granted, denied, or 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 the Finance Department 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 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.

('70 Code, § 6.40.030) (Ord. 2358, passed 1-24-80, Ord. 3799, passed 12/16/93, Ord. 3838, passed 3/17/94; Ord. 4379, passed 10/16/97; Ord. 5628, passed 4/21/05)

§ 122.04 Review by village manager.

The decision of the Finance Director, or any department head with regard to the issuance, suspension, or revocation of any permit under this Chapter shall be reviewable by the Village Manager, or his/her designee, upon the written request of the party filed with the Village Manager within ten days of such refusal, revocation, or suspension. The Village Manager, or his/her designee, shall review evidence previously submitted to the village, the report of the Finance Director and/or the various department heads, and any additional evidence presented with the written request for review. The decision of the Village Manager, or his/her designee, upon such review shall be a final appealable order.

('70 Code, § 6.40.220) (Ord. 2358, passed 1-24-80, Ord. 3838, passed 3/17/94)