

JULY 28, 2014

Title

PC 14-21

Petitioner

James E. Harms
Asian Paradise Spa
1310 S. Milwaukee Ave.
Vernon Hills, IL 60061

Property Owner

Anthony R. Shaker
1100 Lake St., 3rd Floor
Oak Park, IL 60301

Property Location

801 E. Butterfield Rd.
Trustee District #3

Zoning

B3 Community Shopping
District

Existing Land Use

Strip Retail

Comprehensive Plan

Mixed Use Commercial &
Office

Approval Sought

Conditional use to allow for a physical culture and massage establishment (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances) within the B3 Community Shopping District.

Prepared By

Matt Panfil, AICP
Senior Planner



LOCATION MAP

PROJECT DESCRIPTION

The petitioner is proposing a spa that will include physical culture and massage facilities at 801 E. Butterfield Road. The proposed spa will also offer acupuncture, herbal healing, facials, body scrubs, body wraps, waxing, and Thai yoga.

There are no proposed exterior site improvements proposed at this time and no utility improvements are necessary for the operation. Concept floor plans have been attached as Exhibit A.

Physical culture and massages establishments are further regulated by Chapter 12, Section 122 of the Code of Ordinances. These regulations have been attached as Exhibit B.

APPROVAL(S) REQUIRED

Per Section 155.415 (C)(23) of the Zoning Ordinance, Physical culture and massage establishments (as defined and regulated by Chapter 12, Section 122 of the Code of Ordinances) require a conditional use permit within the B3 Community Shopping District.

EXISTING CONDITIONS

The subject property is currently improved with a one-story brick and prefabricated panel and approximately 18,095 square foot multi-tenant strip retail center. The petitioner is proposing to occupy approximately 1,745 square feet of the structure.

PROJECT STATS

Lot & Bulk

Parcel Size:	1.3 acres
Building Area:	18,095 sq. ft.
Tenant Area:	1,745 sq. ft.
Lot Coverage:	approx. 89%

Reqd Setbacks & Lot Dimensions – Existing (Proposed)

Front:	30' (118.46')
Interior Side: (West)	10' (23.69')
Interior Side: (East)	10' (51.93')
Rear:	30' (25')
Lot Width:	150' (224.97')

Parking Spaces

Demand:	73 spaces (3 ADA)
Supply:	64 on-site spaces (3 ADA) and 53 spaces in the ComEd property to the south

Submittals

1. Petition for a public hearing, submitted June 25, 2014;
2. Response to Standards for a Conditional Use;
3. Plat of Survey, prepared by James, Schaeffer & Schimming, Inc., April 4, 1989 and submitted June 25, 2014; and
4. Concept Floor Plan, dated May 22, 2014 and submitted June 25, 2014.

Other tenants of the strip retail center include FedEx Kinko's, Penn Station East Coast Subs, and Masala Indian & Fusion Cuisine.

The existing site has sixty-four parking spaces, three (3) of which are accessible, on-site. There are another fifty-three parking spaces in the ComEd right-of-way immediately south of the subject property available for use by the strip retail center.

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	O	Multi-Tenant Office
South	OPD	ComEd Right-of-Way / Surgical Center of DuPage Medical Group
East	ORA-1 (Oak Brook)	ComEd Station
West	O	Vacant (Formerly Trademark Tavern)

In consideration that the B3 Community Shopping District is intended to provide for the needs of a much larger consumer population than is served by the B1 or B2 District 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 spa with physical culture and massage establishment is consistent with the Comprehensive Plan's recommendation of mixed-use commercial and office. Within the 2014 Comprehensive Plan Update, the subject property is designated as part of Area of Concern #11. The proposed use is consistent with the recommended action that in addition to offices this area could accommodate a variety of commercial uses.

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

Except for the rear yard setback, which is an existing legal nonconformity, the subject property meets all lot, bulk, and setback standards for the B3 Community Shopping District.

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 ComEd right-of-way 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 in 1986 and annexed into the Village in 2000.

PC 00-25

The approval of the annexation and rezoning (from the R-1 Single-Family Residence District to the O Office District and then from the O Office District to the B-3 Community Shopping District) of the subject property. Site improvements to the parking lot, including the adjacent property to the south, were required.

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 included as part of the petition and concurs that the petition meets the standards set forth in the Zoning Ordinance.

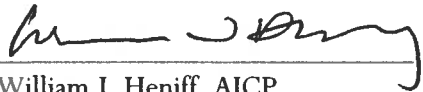
The Inter-Departmental Review Committee has reviewed the standards for the requested conditional use for a physical culture and massage establishment and finds that the proposed use **complies** with the standards established by the Village of Lombard Zoning Ordinance, subject to conditions of approval 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 14-21:

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 14-21, subject to the following conditions:

1. That this relief is limited to the operation of a physical culture and massage establishment as part of a spa only and any 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

H:\CD\WORDUSER\PCCASES\2014\PC 14-21\PC 14-21_IDRC Report.docx

STANDARDS FOR CONDITIONAL USES

Standards for Conditional Uses

- 1.) This is why we exist in the first place. As a health spa it is our goal to help people with their health and general welfare. We demonstrate moral character in the delivery of our services. We keep our space neat and clean and use high end equipment and highly trained employees. It is our mission to offer the highest level of spa services that usually surprise most guests the first time they come. We offer Acupuncture, Herbal healing, Facials, Body Scrubs, Body Wraps, Waxing, Thai Yoga and Massage. There is a stigma that Chinese massage always means hanky-panky and that is not true. We stand for very high quality massage with high moral integrity. We build a high end open waiting area that lets everyone know right away this is not the red light district but a place to get high quality professional services for the betterment of your health. I personally serve as the Governing Board President of SEDOL (The Special Education District of Lake County) and the School Board President of Fox Lake Grade School District #114. I truly believe in the betterment of the entire human population starting with children and demonstrate my beliefs in the way I live and do business on a daily basis. I look forward to demonstrating those qualities right here in Lombard.

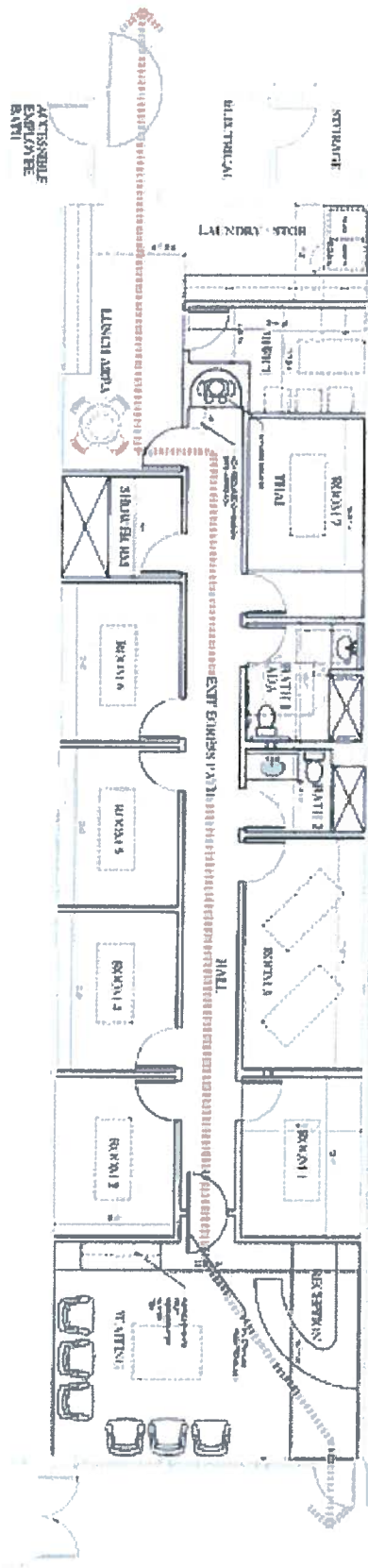
- 2.) We always do our best to fit in in the area we are opening. Our first location is in Vernon Hills/Lincolnshire (On the border) which is very up scale. The actual mall we chose was older but we built our space within to be nice and open. When you walk in you see upper level finishes and a large wall mural creating a warm and inviting space. We are a great addition to the mall we entered in Vernon Hills and most of our neighbors enjoy having us there. We are planning an even nicer space in Lombard as the surrounding area is also very nice. We are a great fit to this area with the hotels surrounding us. We offer travelers a place to go to get rid of their traveling stress. Business men and women that are out of town and away from loved ones are within walking distance to a great spa getaway. We are also a great addition to the surrounding businesses offering spa services on the way home or even on lunch to help unwind after a difficult day.

- 3.) Our use will be confined to our interior space and we don't require much parking for our use so other uses would easily fit in around us. I can't see impeding development, and would support further development to increase the value of the whole area.

- 4.) We are entering a space that was used as a restaurant before. We will be using less electric, less gas, less water, and less parking than the previous tenant so there is no danger of stretching the public utilities already provided for the current space and mall.

- 5.) Again our use is much less taxing than the previous use as a restaurant. We require less parking spaces meaning ingress and egress will be sufficient for the use of a Spa.
- 6.) Our use only strengthens the current plan bringing a health oriented spa to the area. A spa such as ours is a growing industry across the country. We are very glad to be able to be a part of the Village of Lombard's Comprehensive Plan.
- 7.) I was told that because we offer many services we were just barely required to go for a conditional use to allow Massage. All of our spa services are permitted use with the exception of massage. We offer many different services but to be fair quite a few people choose to do massage as it is something we truly excel at. Asian style massage is different because our masseuses know a lot about traditional Chinese Therapy. Chinese Therapy is based on thousands of years of ancient knowledge and our therapists incorporate that knowledge into their delivery making an experience that is quite unique.

EXHIBIT A: CONCEPT FLOOR PLANS



ROOM PLAN SCHEME 1

EXHIBIT B: CHAPTER 12, SECTION 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)