

**Honorable Chairman and Members of the
Hermosa Beach Planning Commission**

**Regular Meeting of
October 18, 2005**

SUBJECT: CONDITIONAL USE PERMIT 05-10

LOCATION: 407 PACIFIC COAST HIGHWAY

APPLICANT: ANA VIETTA – JUST MASSAGE STUDIO
 8110 LINCOLN BLVD
 WESTCHESTER, CA 90045

REQUEST: TO ALLOW A MASSAGE THERAPY BUSINESS

Recommendation

To approve the request subject to the conditions contained in the attached resolution.

Background

PROJECT INFORMATION:

ZONING:	S.P.A. 7 Commercial
GENERAL PLAN:	Commercial Corridor
FLOOR AREA:	1300 square feet
PARKING:	24 Spaces Shared With Adjacent Hardware Store
ENVIRONMENTAL DETERMINATION:	Categorically Exempt

The applicant proposes to operate massage therapy business, “Just Massage Studio,” within a two tenant commercial building that contains 5600 square feet. The commercial building is located on the northwest corner of P.C.H. and 4th Street, and includes a hardware store, and an associated parking lot with 24 parking spaces.

The subject business is considered a “massage therapy business” pursuant to the definitions of the Zoning Ordinance. The City adopted an ordinance to allow massage therapy businesses, subject to a Conditional Use Permit in 1997, and adopted fairly restrictive regulations for obtaining a business license to conduct massage therapy¹ (as set forth in Chapter 5.74) and standard CUP conditions. This is only the second application for a C.U.P. under these new provisions, as other massage businesses in this City are secondary uses to a health club, spa, beauty salon, or medical related uses. The other massage therapy business, approved by the Commission in 2003, was never opened.

Analysis

The applicant is proposing to offer massage therapy treatment as the primary function of the business. The plan shows five proposed workrooms, a small waiting area, two bathrooms, and a storage/linen closet. The location would appear to be suitable for this type of business, as it is within an existing commercial building with adequate parking, and in a visible location along P.C.H. The proposed use of the building is not considered any more intense than prior commercial uses, as the parking requirement for a massage studio is the same as a retail use.

Chapter 5.74 of the Municipal code regulates massage therapy business with respect to hygiene and the potential for criminal activity, which are not land use or planning concerns. Section 17.40.160 of the Zoning Ordinance provides standard conditions for operation of a massage therapy business, requiring that a licensed massage therapist be on the premises at all times the business is open, that management inform patrons and employees of all rules of Chapter 5.74, and that hours are limited

to between 7:00 A.M. and 10:00 P.M.ⁱⁱ Staff is including these conditions in the attached resolution, as well as a condition requiring a more detailed floor plan prior to permit issuance, identifying a separate closet or storage area for soiled and sanitary towels and linens, and specifying the types of massage tables and seats used in the workrooms.

According the applicant, “Just Massage Studio” is a corporation in California, operating massage studios since 2003. They currently have three studios in the South Bay area, and employ 40 therapists.

If the CUP is approved, the following additional steps are necessary prior to opening the proposed massage therapy business:

- ❑ Submit detailed floor plans to the Community Development Department for plan check, and when approved, obtain a building permit for the proposed alterations to the interior.
- ❑ Submit an application pursuant to Chapter 5.74 to the Finance Department for a business license.
- ❑ The City Police Chief will review the application and conduct appropriate investigations of the applicant’s submittal and record to determine if the business license can be issued in accordance with Chapter 5.74. If the applicant does not comply with these conditions the Police Chief may deny the application.
- ❑ The City will have to inspect the premises to ensure compliance with Chapter 5.74 with respect lighting, sanitary conditions, proper storage for towels and linens etc. prior to issuing a business license.

A preliminary background check is being conducted by the Police Department on the business and applicant in connection with the operation of massage therapy businesses in other cities, and this information will be reported to the Commission at the hearing.

CONCUR:

Ken Robertson
Senior Planner

Sol Blumenfeld, Director
Community Development Department

Attachments

1. Proposed Resolution
2. Location Map
3. Application w/ attachments
4. Chapter 5.74 of the HBMC
5. Correspondence

ⁱThe requirements in Chapter 5.74, among other things, requires 500 hours of massage therapy training; CPR certification; Police Chief approval based on the applicant’s record; dressing room and wash room facilities; sanitary towel service, etc. A copy of Chapter 5.74 is attached for reference.

ⁱⁱ **Section 17.40. 160 Massage Therapy Business**

The following conditions and standards of operation, in addition to any other deemed necessary or appropriate to ensure compatibility with existing or permitted uses in the vicinity, shall be required: A. A licensed Massage Therapist, pursuant to **Chapter 5.74** of the Hermosa Beach Municipal Code, shall be on the premises at all times when the business is open. The business may employ technicians or aides only if supervised by a licensed Massage Therapist. B. Management shall adopt, inform patrons and employees of, and strictly enforce all requirements of the Conditional Use Permit and all regulations as set forth in **Chapter 5.74**.

C. Hours of operation shall be limited to between 7:00 A.M. and 10:00 P.M. or other hours as established by the Planning Commission if deemed necessary because of proximity to residential uses.

P.C. RESOLUTION 05-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW A MASSAGE THERAPY BUSINESS AT 407 PACIFIC COAST HIGHWAY

Section 1. An application was filed by Ana Vietta to allow a massage therapy business pursuant to Sections 17.26.030, and 17.40.160, and Chapter 5.74 of the Municipal Code.

Section 2. The Planning Commission conducted a duly noticed public hearing to consider the application for the Conditional Use Permit on October 18, 2005, at which testimony and evidence, both written and oral, was presented to and considered by the Planning Commission

Section 3. Based on evidence received at the public hearing, the Planning Commission makes the following factual findings:

1. The site is zoned C-3 allowing the proposed massage therapy business with a Conditional Use Permit.
2. Standard conditions of a Conditional Use Permit for conducting a massage therapy business are contained in Section 17.40.160 of the Zoning Ordinance,
3. Licensing, application, training and education, facilities requirements, conduct of business and conditions for issuance of a business license are all contained in Chapter 5.74 to regulate the operations of the massage therapy business.

Section 4. Based on the foregoing factual findings, the Planning Commission makes the following findings pertaining to the application to amend the Conditional Use Permit:

1. The site is zoned C-3, and the location within a commercial building along the P.C.H. Commercial Corridor is suitable for the proposed business.
2. The imposition of conditions as contained in this resolution as required by the Municipal Code to address and prevent inappropriate behavior and to require proper hygiene will mitigate any concerns associated with this type of business.
3. This project is Categorically Exempt pursuant to 15301, Class 1 of the California Environmental Quality Act Guidelines alterations to existing facilities.

Section 5. Based on the foregoing, the Planning Commission hereby approves the Conditional Use Permit subject to the following **Conditions of Approval:**

- 1. Interior alterations to the building shall be consistent with the plans reviewed by the Planning Commission at their meeting of October 18, 2005, and revised to clearly indicate, separate cabinets for storage of soiled and sanitary towel and linens, and specifying the types of tables and chairs used in the massage rooms.**

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- 2. A licensed Massage Therapist, pursuant to Chapter 5.74 of the Hermosa Beach Municipal Code, shall be on the premises at all times when the business is open. The business may employ technicians or aides only if supervised by a licensed Massage Therapist.**
 - 3. Management shall adopt, inform patrons and employees of, and strictly enforce all requirements of the Conditional Use Permit and all regulations as set forth in Chapter 5.74.**
 - 4. Hours of operation shall be limited to between 7:00 A.M. and 10:00 P.M.**
 - 5. The establishment shall not adversely affect the welfare of the residents, and/or commercial establishments nearby.**
 - 6. Any changes to the interior layout that would alter the primary function of the business shall be subject to review and approval by the Planning Commission.**
 - 7. The project and operation of the business shall comply with all applicable requirements of the Municipal Code.**

Section 6. This grant shall not be effective for any purposes until the permittee and the owners of the property involved have filed a the office of the Planning Division of the Community Development Department their affidavits stating that they are aware of, and agree to accept, all of the conditions of this grant.

The Conditional Use Permit shall be recorded, and proof of recordation shall be submitted to the Community Development Department.

Each of the above conditions is separately enforced, and if one of the conditions of approval is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.

Permittee shall defend, indemnify and hold harmless the City, it agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employee to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of the State Government Code. The City shall promptly notify the permittee of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the permittee of any claim, action or proceeding, or if the City fails to cooperate fully in the defense, the permittee shall no thereafter be responsible to defend, indemnify, or hold harmless the City.

The permittee shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of this grant. Although the permittee is the real party in interest in an action, the City may, at its sole discretion, participate at its own expense in the defense of the action, but such participation shall not relieve the permittee of any obligation under this condition.

The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.

The Planning Commission may review this Conditional Use Permit and may amend the subject conditions or impose any new conditions if deemed necessary to mitigate detrimental effects on the neighborhood resulting from the subject use.

Section 7. Pursuant to the Code of Civil Procedure Section 1094.6, any legal challenge to the decision of the Planning Commission, after a formal appeal to the City Council, must be made within 90 days after the final decision by the City Council.

VOTE: AYES:
 NOES:
 ABSENT:
 ABSTAIN:

CERTIFICATION

I hereby certify the foregoing Resolution P.C. 05- is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California, at their regular meeting of October 18, 2005.

Peter Hoffman, Chairman

Sol Blumenfeld, Secretary

Date October 18, 2005



