

SUBJECT: CONDITIONAL USE PERMIT 07-13

LOCATION: 1200 PACIFIC COAST HIGHWAY
 SUITE NO. 105

APPLICANT: ROGERIO BELO DASILVA AND ALINE MENEZES
 25921 OAK STREET, NO. 202
 LOMITA, CA 90717

REQUEST: TO ALLOW A MASSAGE THERAPY BUSINESS

Recommendation

To approve the request and adopt the attached resolution.

Background

PROJECT INFORMATION:

ZONING:	C-3 General Commercial
GENERAL PLAN:	GC General Commercial
LOT AREA:	22,040 Square Feet
GROSS FLOOR AREA:	14,150 Square Feet
FLOOR AREA:	1,590 square feet
OFF-STREET PARKING:	Common Parking Facilities 14-Lower Level 30-Upper Level

ENVIRONMENTAL DETERMINATION: Categorically Exempt

The subject site contains a 2-story multi-tenant commercial building built in 1983. The commercial building currently contains a restaurant, general offices, medical offices, and retail businesses. The previous tenant of the subject unit was a Pilates studio.

There are currently 44 parking spaces available on the property as shown on the site plan and confirmed by a site visit. The commercial building was developed when parking standards were 1 space per 300 square feet thus the building is nonconforming to current parking requirements. The parking is located in two levels with signage directing customers to the upper level parking area should the lower level parking is full.

The proposed business will be located in a 1,590-square foot unit located on the first floor. The applicant has proposed four (4) massage rooms, an ADA compliant restroom, and a small employee lounge. The applicant is also proposing a small 92-square foot Pilates studio for private individual classes as a secondary use to the massage therapy business. 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.

Analysis

The applicant is proposing to offer massage therapy as the primary function of the business. The location appears to be suitable for this type of use, as it is within an existing commercial building and in a visible location along Pacific Coast Highway. The proposed use is not considered any more intensive than prior commercial use, as the parking requirement for a massage studio is the same as the previous Pilates studio².

Chapter 5.74 of the Municipal Code regulates massage therapy under business licensing regulations with respect to hygiene and the potential for criminal activity. 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 AM and 10:00 PM³. Staff is including these conditions in the attached resolution.

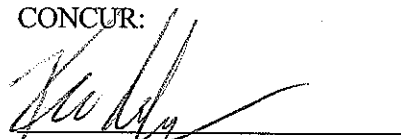
If the Conditional Use Permit is approved, the following additional steps are necessary prior to opening the proposed massage therapy business:

- 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.



Richard Denniston
Associate Planner

CONCUR:



Ken Robertson, Director
Community Development Department

Attachments

1. Resolution
2. Municipal Code Chapter 5.74
3. Location and Radius Map
4. Poster Verification
5. Business Plan

¹The 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.

² Off-Street parking requirements for gymnasiums/health and fitness centers less than or equal to three thousand (3,000) square feet, and with less than or equal to twenty (20) students at one time if classes are offered: one space per two hundred fifty (250) square feet of gross floor area.

³ 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 07-

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 1200 PACIFIC COAST HIGHWAY LEGALLY DESCRIBED AS LOTS 2, 3 & 6, TRACY TRACT AND VACATED STREET ADJACENT ON SOUTHWEST AND LOTS 1 & 2 SCOLES TRACT

Section 1. An application was filed by Rogerio Belo DaSilva and Aline Menezes 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 16, 2007, 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 for a Conditional Use Permit:

1. The proposed use is not considered any more intensive than prior commercial use, as the parking requirement for a massage studio is the same as the previous Pilates studio.
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.

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 16, 2007. Any minor modifications to the floor plan may be approved by the Community Development Director.**
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 AM and 10:00 PM.**

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. 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. 07- 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 16, 2007.

L. Kersenboom, Chairman

Ken Robertson, Secretary

October 16, 2007

Date

Chapter 5.74

MASSAGE THERAPY BUSINESS

Sections:

- 5.74.010 Definitions
- 5.74.020 Massage therapy business location -- conditional use permit required.
- 5.74.030 Massage therapy business -- massage therapist license required.
- 5.74.040 Massage therapist -- training and education required.
- 5.74.050 License application.
- 5.74.060 Facilities necessary.
- 5.74.070 Conduct of business.
- 5.74.080 Investigation.
- 5.74.090 Conditions for issuance of license.

5.74.010 Definitions
Massage Therapy Business. An establishment offering massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state as part of a medical clinic. This definition excludes a gymnasium/health and fitness center, school, barber/beauty shop, or similar establishment where massage or similar manipulation of the human body is offered by an individual as an incidental or accessory service and does not occupy more than 25% of the area of the establishment. This definition also specifically excludes Adult Massage as defined in Section 17.04.060. (Ord. 97-1173, Added, 08/12/97)

5.74.020 Massage therapy business location -- conditional use permit required.

Before any location and building may be used for the purposes of massage therapy a Conditional Use Permit shall be obtained pursuant to Chapter 17.40 of the Zoning Ordinance. (Ord. 97-1173, Added, 08/12/97)

5.74.030 Massage therapy business -- massage therapist license required.

The business shall be owned and/or operated by an on-premises City licensed Massage Therapist who meets the minimum qualifications as set forth in this Chapter. Every person conducting, managing, owning, or operating a massage therapy business in the City, as defined in this section, shall procure a license in the manner prescribed in this section. (Ord. 97-1173, Added, 08/12/97)

5.74.040 Massage therapist -- training and education required.

A massage therapy business shall at all times be conducted, managed, and/or supervised by an on-premises Massage Therapist. The following are the minimum education and training requirements for a Massage Therapist:

A. Completion of a minimum of five hundred (500) hours of training in the theory, method, profession, and work of massage therapy from a recognized school, evidenced by a diploma or certificate of graduation from a recognized school;

B. Training and maintenance of certification to practice CPR and First Aid from the American Heart Association, Red Cross, or the State of California. (Ord. 97-1173, Added, 08/12/97)

5.74.050 License application.

Every person desiring to obtain a license shall make an application to the City Finance Department. The applicant shall provide the following:

A. The full name, residence address, business address, and telephone numbers of the applicant, and the name under which the proposed business is to be conducted;

B. The full name, business address, residence address, and telephone numbers of any co-partners, excluding limited partners, of the applicant;

C. The full name, residence address, business address, and telephone numbers of the owner of the property, in which the business is to be located, and the written consent of said owner to the operation of the business or a copy of the lease for the premises executed by the owner evidencing such consent;

D. Applicant's height, weight, color of eyes and hair, age, and date and place of birth;

E. The nature, name and place of applicant's business or employment during the five years immediately preceding the date of the filing of the application;

F. A two-inch square photograph of the applicant taken within sixty days immediately prior to the date the application is filed;

G. Such other identification and information as the Police Chief may require in order to discover the truth of the matters set forth in the application, including the right to take fingerprints, any additional photographs or to confirm the height and weight of the applicant;

H. Record of any conviction of violation of law, excluding minor traffic violations;

I. An annual certificate from a medical doctor stating that the applicant and any other massage therapist or massage technician employed or permitted to work by the applicant has, within sixty days prior thereto, been examined and found to be free of any contagious or communicable disease;

J. A statement in writing by the applicant that he or she certifies, under penalty of perjury, that all information contained in the application is true and correct. (Ord. 97-1173, Added, 08/12/97)

5.74.060 Facilities necessary.

A license shall not be issued pursuant to this Chapter unless an inspection by the City shows the business establishment complies with each of the following requirements:

A. Minimum lighting shall be provided in accordance with the Uniform Building Code;

B. All instruments used in massage shall be cleaned and disinfected;

C. Hot and cold running water, soap or detergent, and sanitary towels or air dryer shall be available on the premises;

D. Dressing and toilet facilities shall be provided for patrons;

E. Enclosed cabinets or containers shall be provided for the separate storage of clean and soiled towels and linen. (Ord. 97-1173, Added, 08/12/97)

5.74.070 Conduct of business.

A. The massage therapy business shall have at least one person who has a valid Massage Therapist

license pursuant to this chapter on the premises during all operating hours.

B. Clean and sanitary towels and linens (washed in hot water a minimum of 140 degrees Fahrenheit) shall be provided for each patron of the business.

C. Standard or portable massage tables or a mat suitable for shiatsu or accupressure shall be used. Foam pads more than four inches thick or with a width of more than four feet may not be used. Beds, mattresses, and water beds may not be used nor be present anywhere on the premises. (Ord. 97-1173, Added, 08/12/97)

5.74.080 Investigation.

Upon receipt of a complete application, it shall be forwarded to the Police Chief who shall conduct an appropriate investigation to determine whether said permit shall be issued in accordance with this chapter. (Ord. 97-1173, Added, 08/12/97)

5.74.090 Conditions for issuance of license.

After investigation, and report by the Chief of Police, the City shall issue or renew the license only when all of following conditions are met:

A. A completed written application form has been filed;

B. The required application fee has been paid;

C. The applicant has complied with all provisions of this Chapter and of the Municipal Code;

D. The building and facilities comply with all of the health, zoning, fire, building and safety requirements and standards of the State of California and of the City;

E. A determination that the applicant and any employee, agent, partner, director, officer, shareholder, associate, manager or any other person connected with the business for which the applicant is requesting a permit hereunder:

1. Has not been convicted in a court of competent jurisdiction of:

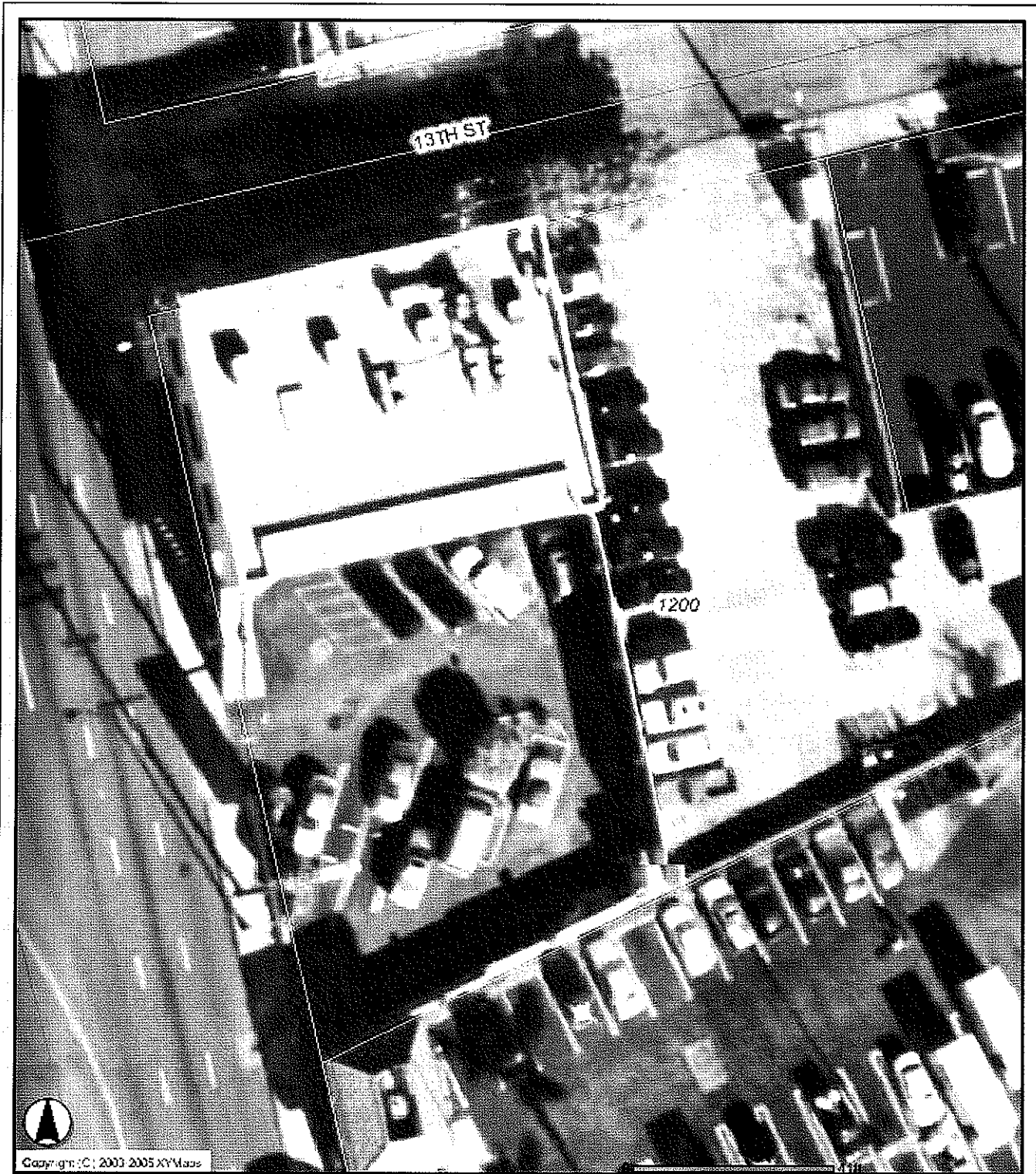
a. A violation of Health and Safety Code Section 1155; or,

b. A violation of Penal Code Sections 266I, 315, 316, 318, or 647(b); and,

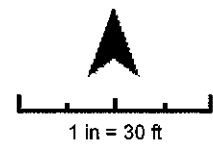
2. Has not been convicted in any other State of any offense which, if committed or

attempted in this State, would have been punished as one or more of the above mentioned offenses; and,

3. Is not required to register under the provisions of Penal Code Section 290; and,
 4. Has not made any false, misleading or fraudulent statement in the application or in any report or record filed with the Chief of Police; and,
 5. Has not had a permit or license for a similar type business revoked by the City or any other jurisdiction within the past three years.
- (Ord. 97-1173, Added, 08/12/97)



1200 Pacific Coast
Highway
City of Hermosa Beach



Date Printed: 10/2/2007

**POSTER VERIFICATION
1200 PACIFIC COAST HIGHWAY**

