



DATE: November 19, 2007

TO: Chairman and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A CONDITIONAL USE PERMIT (C-23-07) TO PERMIT A REGULATED USE (MASSAGE ESTABLISHMENT) AND A WAIVER OF LOCATIONAL REQUIREMENTS FOR THE SUBJECT REGULATED USE AT 560 GREENBRIER DRIVE WITHIN THE LOMA ALTA NEIGHBORHOOD. – HOLISTIC TOUCH SPA – APPLICANT: SUNCHA GRAHAM**

**RECOMMENDATION**

Staff recommends that the Planning Commission, by motion:

- (1) Recommend that City Council deny Conditional Use Permit (C-23-07); and,
- (2) Recommend that City Council deny the waiver of locational requirements; and,
- (3) Recommend that City Council confirm the issuance of a Class 1, Categorical Exemption "Existing Facilities"; and,
- (4) Adopt Planning Commission Resolution No. 2007-P59 with findings attached herein.

**PROJECT DESCRIPTION AND BACKGROUND**

**Site Review:** The zoning designation for the site is CL (Limited Commercial) and the General Plan Land Use Category is General Commercial. Surrounding land uses include medium and high-density residential properties to the north and a wide array of commercial uses to the east, south and west.

The site is located at 560 Greenbrier Drive and is within the Loma Alta Neighborhood. The Holistic Touch Spa is within a 937-square foot unit located in an existing 17,500-square foot mixed-use building. The building has gone through numerous tenant improvements

including the conversion of second story office space into apartment units in 1984 (Planning Commission Resolution 84-P121).

**Project Description:** The massage facility consists of an entryway, an office, three (3) rooms for conducting massage services, a restroom, a shower facility, and space for a washer and dryer. The building shares parking with other tenants, including five residential apartments. Public parking is off-street, behind the building.

The Holistic Touch Spa is proposed to be open seven days a week, between the hours of 10:00 a.m. and 8:00 p.m. No other services aside from massage services are proposed with this project.

The project application is comprised of two components; a Conditional Use Permit and a waiver of the locational requirements for a regulated use as follows:

Conditional Use Permit No. C-23-07 represents a request for the following:

- (a) To permit a massage establishment (regulated use) pursuant to Article 36 of the Oceanside Zoning Ordinance (OZO).

Waiver of locational requirements represents a request for the following:

- (a) To permit a waiver of the locational requirements provided in Section 3604 for a regulated use.

The project is subject to the following Ordinances and City policies:

1. General Plan Land Use Element
2. Zoning Ordinance

## **ANALYSIS**

### **1. General Plan Compliance**

The General Plan Land Use Map designation on the subject property is General Commercial. The proposed project is not consistent with this designation or the goals and objectives of the City's General Plan as follows:

#### **A. Land Use Element**

##### **Goal 2.2: Commercial Development**

**Objective:** To promote and preserve a balance of successful markets and services in aesthetic, people-oriented associations that are compatible and organized to surrounding land uses.

Policy: The City shall preserve and enhance viable, positive commercial developments through the proper allocation of the following commercial land use designations: ...3) General Commercial...

**2. Zoning Compliance**

Article 11, Commercial Districts

PROPOSED USE	ADDITIONAL REGULATIONS
Personal Improvement Service (Massage Establishment)	(K) All "regulated uses", as defined in Article 36, shall be subject to a use permit as well as other requirements as may be imposed by that Article.

Section 3602 classifies a massage establishment as a regulated use. Chapter 15 of the City Code defines massage establishments as: "Any establishment wherein a massage is given, engaged in, carried on, or permitted to be given, engaged in, or carried on, whether for fee or gratuitously" (Article 2, Section 1519). The City Code also requires the screening and licensing of persons who practice the art of massage. Approval of a conditional use permit by the City Council must be obtained prior to operating a massage establishment.

Article 31, Off-street Parking and Loading Regulations

USE	BUILDING AREA	PARKING CODE PROVISION	REQUIRED PARKING	EXISTING PARKING
Holistic Touch Spa (Massage Establishment)	937 sq. ft.	1/200 sq. ft.	5	44 (shared)

Based upon Section 3102(B), no existing use of land or structure shall be deemed to be nonconforming solely because of the lack of off-street parking or loading facilities, provided that facilities being used for off-street parking and loading as of the date of adoption of the article shall not be reduced in number to less than that required by the provisions of the article. The proposed day spa/ massage service use would occupy an existing building suite. The use would not result in the reduction of existing parking spaces and the addition of massage services would not increase the existing requirements for parking.

Article 36, Separation of Regulated Uses

Article 36, Separation of Regulated Uses, states that adult-oriented uses create conditions harmful to the public health, welfare and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods, family-oriented uses or sites commonly used by

neighborhoods, family-oriented uses or sites commonly used by minors. Therefore special regulations separating such uses from each other and from nearby residential areas, family-oriented uses, or sites commonly used by minors, are necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, as well as interference with activities oriented toward families or minors.

Section 3604 requires that a massage establishment be located a minimum of 1,000 feet from any other regulated use; residential districts; any public or private school; park, playground, or public beach; church or other similar religious facility; and/or childcare or pre-school facility. Any person proposing a permitted regulated use may apply for a waiver of the locational requirements.

**DISCUSSION**

*Issue: Project compatibility with existing surrounding development.*

*Recommendation:*

Although the application materials do not assert, or otherwise suggest, an intention to conduct any illicit or vice activities of a sexual nature, staff finds that the proposed massage services would not promote positive commercial development in the immediate area and would not be compatible with the surrounding neighborhood.

There are nine (9) regulated uses within 1,000 feet of the proposed project. A bar is located next door to the proposed project, at 560 Greenbrier Drive Units 105 and 106. Another massage establishment is located to the west at 1906 Oceanside Boulevard. There are also two more bars within 1,000 feet of the proposed project, one located at 1919 Oceanside Boulevard and one at 1985 Oceanside Boulevard. There are also two (2) check cashing businesses, two (2) liquor stores, and a tattoo parlor. The approval of this project would place 10 regulated uses within 1,000 feet of each other. In regards to sensitive land uses, there are three (3) religious assembly land uses, a day care/preschool, residential units, and community resource centers within 1,000 feet of the project site.

The following table lists the land uses within 1,000 feet of the proposed project site. The single starred items (\*) represent other regulated uses and the double starred items (\*\*) represent sensitive land uses:

LOCATION	GENERAL PLAN	ZONING	SPECIFIC LAND USE
Subject Property:	GC	CL	Holistic Touch Spa
Other tenants w/in the building	GC	CL	*Hooligan's (bar) **Upstairs apartment units Job Option, Inc.

LOCATION	GENERAL PLAN	ZONING	SPECIFIC LAND USE
			The Dojo (karate studio)
North:	MDC-R	RM-C	**Apartment buildings
East:	GC, LI	CL, CG, IL	*Giant K Liquor and Wine **Women's Resource Center **Apartment buildings Future medical offices Meat market Misc. auto repair shops Gas station w/ convenience store
South:	GC, CC	CG, CC	*Fire Mountain Market *Red Rooster Bar and Grill *Check Cashing *Frontline – tattoo & body piercing Vehicle Repair Services Food and Beverage Sales Eating & Drinking Establishments Personal Services Car Wash Office, Business and Professional
West:	GC, SC	CL, CG, CS-HO	*Liquor Store (1910 Oceanside Blvd) *Check N' Go *Body Wise Massage **Christian Fellowship Center **Inglesia de Jesucristo **Hope Christian Fellowship ** Little Bears daycare **Red Cross WIC program Retail shops Bread of Life California Highway Patrol Personal Services Office, Business and Professional Office, Medical Office, Medical – Pediatrics Thrift Store Coin Laundry Personal Improvement Service Food and Beverage Sales

**Issue:** *Land Use Consistency with Findings for Granting Locational Requirement Waiver.*

**Recommendation:** In reviewing the application for a waiver of locational requirements, the Planning Commission must make all of the following findings for this regulated use:

- (1) It will not be contrary to the public interest.
- (2) It will not be contrary to the spirit or intent of Article 36 of the Zoning Ordinance.
- (3) It will not impair nearby property or the integrity of the underlying district.
- (4) It will not encourage the development of an adult entertainment area or otherwise promote community blight.
- (5) It will not negatively impact any governmental programs of redevelopment, revitalization, or neighborhood preservation.

Staff finds that the business operations would pose negative impacts to public welfare, private properties, or sensitive land uses. Nine (9) other regulated uses (a massage establishment, three bars, two liquor stores, two check cashing businesses, and a tattoo parlor) are located within 1,000 feet of the proposed use. By allowing this tenth regulated use into the area, the potential for adult activity and associated blight, depreciated property values, and law enforcement problems increases. According to the City of Oceanside Police Department, there have been numerous accounts of criminal activity within the subject mixed-use center over the last two years, including one incident at the proposed business.

The project is also located within 1,000 feet of sensitive land uses, including apartments within the same building and in the surrounding neighborhood, community resource centers, and three churches and a day care/preschool. In addition, the project site will negatively impact governmental programs of redevelopment, revitalization, or neighborhood preservation, particularly in regards to the revitalization efforts along Oceanside Boulevard. Based on the pre-existing conditions of the surrounding land uses and the known future revitalization plans for the area, staff does not support the issuance of a waiver of locational requirements.

## **ENVIRONMENTAL DETERMINATION**

The proposed project is categorically exempt pursuant to Article 19 Categorical Exemptions, Section 15301 Existing Facilities, of the California Environmental Quality Act.

## **PUBLIC NOTIFICATION**

Legal notice was published in the North County Times and notices were sent to property owners of record within a 1000-foot radius of the subject property, individuals and or organizations requesting notification, applicant and other interested parties. As of November 13, 2007, no communication supporting or opposing the request has been received.

**SUMMARY**

The proposed Conditional Use Permit is not consistent with the requirements of the Oceanside Zoning Ordinance and the land use policies of the General Plan. The applicant has requested a waiver from the applicable locational requirements. Staff does not believe that the project meets the findings for the waiver. Therefore, staff recommends that the Planning Commission:

- Move to recommend that City Council deny Conditional Use Permit (C-23-07) and deny the waiver of the locational requirements and adopt Resolution No. 2007-P59.

PREPARED BY:

  
Sally Schifman  
Planner II

SUBMITTED BY:

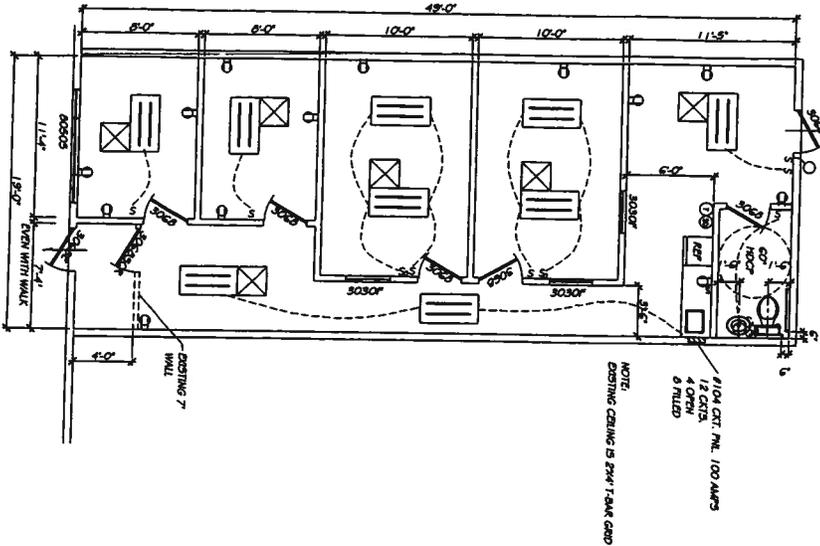
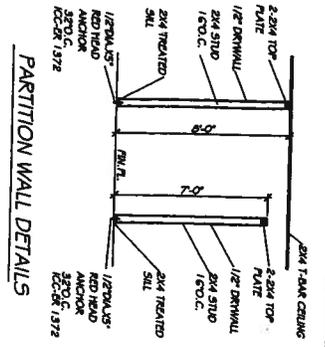
  
Jerry Hittleman  
City Planner

JH/SS/fil

Attachments:

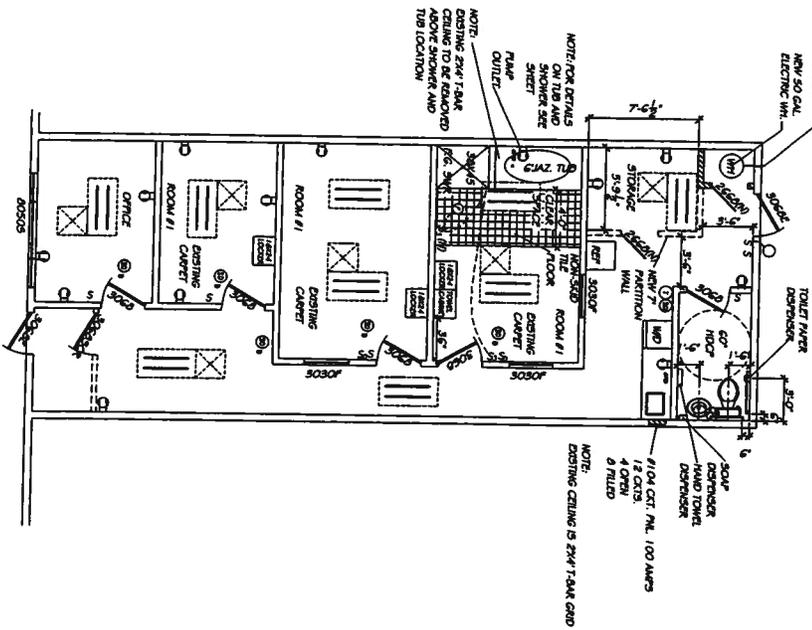
1. Tenant Improvement Plans
2. Planning Commission Resolution No. 2007-P59





EXISTING FLOOR PLAN  
1/4" = 1'-0" 331 302, 77

RECEIVED  
JUN 13 2007  
City Department



REMODEL FLOOR PLAN  
1/4" = 1'-0" 331 302, 77

**WALL LEGEND**

[Symbol]	EXISTING WALLS
[Symbol]	7'-0" HIGH WALLS
[Symbol]	NEW 6'-0" WALLS

**ELECTRICAL SCHEDULE**

SYM	DESCRIPTION
1	NEW 60 AMP 250' FEET 120/240V 3PH 4W
2	NEW 60 AMP 250' FEET 120/240V 3PH 4W
3	NEW 60 AMP 250' FEET 120/240V 3PH 4W
4	NEW 60 AMP 250' FEET 120/240V 3PH 4W
5	NEW 60 AMP 250' FEET 120/240V 3PH 4W
6	NEW 60 AMP 250' FEET 120/240V 3PH 4W
7	NEW 60 AMP 250' FEET 120/240V 3PH 4W
8	NEW 60 AMP 250' FEET 120/240V 3PH 4W
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**DOOR SCHEDULE**

SYM	TYPE	NO.	MAT'L	VENT	QZ	HDR	REMARKS
3050 F	FRITZ	2	ST				EXISTING
3050 G	FRITZ	2	ST				EXISTING
3050 H	FRITZ	2	ST				EXISTING
3050 I	FRITZ	2	ST				EXISTING
3050 J	FRITZ	2	ST				EXISTING
3050 K	FRITZ	2	ST				EXISTING
3050 L	FRITZ	2	ST				EXISTING
3050 M	FRITZ	2	ST				EXISTING
3050 N	FRITZ	2	ST				EXISTING
3050 O	FRITZ	2	ST				EXISTING
3050 P	FRITZ	2	ST				EXISTING
3050 Q	FRITZ	2	ST				EXISTING
3050 R	FRITZ	2	ST				EXISTING
3050 S	FRITZ	2	ST				EXISTING
3050 T	FRITZ	2	ST				EXISTING
3050 U	FRITZ	2	ST				EXISTING
3050 V	FRITZ	2	ST				EXISTING
3050 W	FRITZ	2	ST				EXISTING
3050 X	FRITZ	2	ST				EXISTING
3050 Y	FRITZ	2	ST				EXISTING
3050 Z	FRITZ	2	ST				EXISTING

**WINDOW SCHEDULE**

SYM	TYPE	NO.	MAT'L	VENT	QZ	HDR	REMARKS
3050 F	FRITZ	2	ST				EXISTING
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3050 I	FRITZ	2	ST				EXISTING
3050 J	FRITZ	2	ST				EXISTING
3050 K	FRITZ	2	ST				EXISTING
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- SHEET NOTES:**
1. ALL BEDROOM BRANCH CIRCUITS SHALL BE ABC PALL T PROTECTED AS PER NEC ARTICLE 280-10(b).
  2. BATH GFI RECEPTACLES SHALL BE SUPPLIED BY (1) 20A GFI CIRCUIT AS PER NEC ARTICLE 280-10(c). THE GFI TRIP UNIT SHALL BE LOCATED IN HALLBATH BATH.
  3. RECEPTACLE OUTLET LOCATIONS SHALL COMPLY WITH NEC ARTICLE 210-52(d).
  4. INTERCONNECT SHOCK DETECTORS TO ALLOW ALL DETECTORS ENTER INTO ALARM WHEN TRIPPED.
  5. ELECTRICAL CONTRACTOR TO PROVIDE OWNER WITH CUT SHEETS FOR ALL NEWLY INSTALLED FIXTURES AND TRIM SHALL BE APPROVED BY OWNER PRIOR TO INSTALLATION.
  6. OWNER SHALL PROVIDE SURFACE MOUNTED FIXTURES AND LAMP TO ELECTRICAL CONTRACTOR TO INSTALL AT FINISH.
  7. ELECTRICAL CONTRACTOR TO PROVIDE (1) 1" PVC SCH 40 CONDUIT FOR TELEVISION AND (1) 1" PVC SCH 40 CONDUIT FOR CABLE TV AT SERVICE LOCATION.
  8. ELECTRICAL CONTRACTOR TO PROVIDE 80% COPPER-CLAD GROUND ROD AND 8" AWG BOLD F. ORIGINAL GROUND OR IFER F NOT EXISTING.
  9. ELECTRICAL CONTRACTOR TO PROVIDE 3/4" ANCHOR BOLT TO BOND TABLE 350-34 IF NOT EXISTING.
  10. IN BATHROOMS, GARAGES, LAUNDRY ROOMS AND UTILITY ROOMS ALL OUTLETS SHALL BE HIGH EFFICIENCY STYLE OR BE CONTROLLED BY A MANUALLY-OPERATED SWITCH. ALL OTHER ROOMS SHALL BE HIGH EFFICIENCY OR CONTROLLED BY A MANUALLY-OPERATED SWITCH OR DIFFER EXCEPT:
  11. OUTDOOR LIGHTING FIXTURES ARE REQUIRED TO BE HIGH EFFICIENCY OR CONTROLLED BY A MANUALLY-OPERATED SWITCH OR DIFFER EXCEPT:
  12. GENERAL ILLUMINATION FIXTURES IN HALLWAYS, BATHROOMS, ELECTRONIC BALLASTS, HALLWAYS, HALLWAYS, GYMNASIUMS AND HALLWAYS SHALL DO NOT COMPLY.

**RETURNS**  
E-306

**W. HETSEL CONSULTANTS**  
1222 ROBERTS ROAD  
HOUSTON, TX 77056  
713.546.8210

EXISTING FLOOR PLAN  
REMODEL FLOOR PLAN

Holistic  
Touch  
Spa

DATE: 06-02  
SCALE: AS SHOWN  
SHEET NO. A-1

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PLANNING COMMISSION  
RESOLUTION NO. 2007-P59

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING DENIAL OF A CONDITIONAL USE PERMIT AND A WAIVER OF LOCATIONAL REQUIREMENTS FOR A REGULATED USE ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

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APPLICATION NO: C-23-07  
APPLICANT: Suncha Graham  
LOCATION: 560 Greenbrier Drive Unit 104

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THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Conditional Use Permit for a regulated use and a waiver of locational requirements for said regulated use under the provisions of Articles 36 and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

a day spa/massage establishment and a waiver of locational requirements for the subject regulated land use;  
on certain real property described in the project description;

WHEREAS, the Planning Commission, after giving the required notice, did on the 19th day of November 2007 conduct a duly advertised public hearing as prescribed by law to consider said application;

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project has been found to be categorically exempt from environmental review per Article 19 Categorical Exemptions, Section 15301 Existing Facilities;

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

1 FINDINGS:

2 For the Conditional Use Permit:

- 3 1. The proposed location of the regulated use is not in accord with the objectives of the  
4 Ordinance and the purposes of the district in which the site is located. The proposed  
5 massage services are contrary to the Zoning Ordinance objective for the CL (Limited  
6 Commercial) zoning district and to the intent of Article 36 of the Zoning Ordinance. The  
7 proposed operation is not consistent with the General Plan Land Use Element objective for  
8 the underlying General Commercial land use designation affecting the property. The  
9 proposed massage services use will adversely affect existing and future development in  
10 the immediate area.
- 11 2. The proposed location of the conditional use will not be consistent with the General  
12 Plan; will be detrimental to the public health, safety or welfare of persons residing or  
13 working in or adjacent to the neighborhood of such use; and will be detrimental to  
14 properties or improvements in the vicinity and to the general welfare of the city. The  
15 location of the proposed massage establishment is within the vicinity of the  
16 revitalization efforts along Oceanside Boulevard. In addition, there are multiple homes  
17 surrounding the location, including apartment units located on the second floor of the  
18 same commercial building.
- 19 3. The proposed conditional use will not comply with the regulated use locational  
20 requirements of the Ordinance. A massage establishment must be located a minimum of  
21 1,000 feet from any other regulated use; residential districts; any public or private  
22 school; park, playground, or public beach; church or other similar religious facility;  
23 and/or childcare or pre-school facility. The proposed project does not comply with this  
24 regulation.

23 For the Locational Waiver:

- 24 1. The proposed regulated use will be contrary to the public interest.
- 25 2. The proposed regulated use will result in the concentration of regulated uses and will be  
26 contrary to the spirit or intent of Article 36. Approval of this use would result in a  
27 mixed-use commercial center that includes two adult-oriented services.
- 28 3. The proposed project will impair nearby property or the integrity of the underlying  
29 district. There are numerous residential districts, including apartments above the

1 commercial units in this building, three religious assembly uses, multiple community  
2 resource centers and a daycare facility within 1,000 feet of the proposed project site.

3 4. The proposed project may promote community blight. There are nine known regulated  
4 uses with 1,000 feet of the proposed project site including three bars, two liquor stores,  
5 two check cashing businesses, a tattoo parlor and another massage establishment. The  
6 addition of massage services at this location would add to the potential for community  
7 blight.

8 5. The proposed project will negatively impact governmental programs of redevelopment,  
9 revitalization, or neighborhood preservation, particularly in regards to the revitalization  
10 efforts along Oceanside Boulevard. Allowing 10 regulated use within 1,000 feet of each  
11 other would not be conducive to the efforts of the City to enhance the neighborhood.

12 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
13 recommend denial of Conditional Use Permit (C-23-06) and waiver of applicable locational  
14 requirements.

15 PASSED AND ADOPTED Resolution No. 2007-P59 on November 19, 2007 by the  
16 following vote, to wit:

17 AYES:

18 NAYS:

19 ABSENT:

20 ABSTAIN:

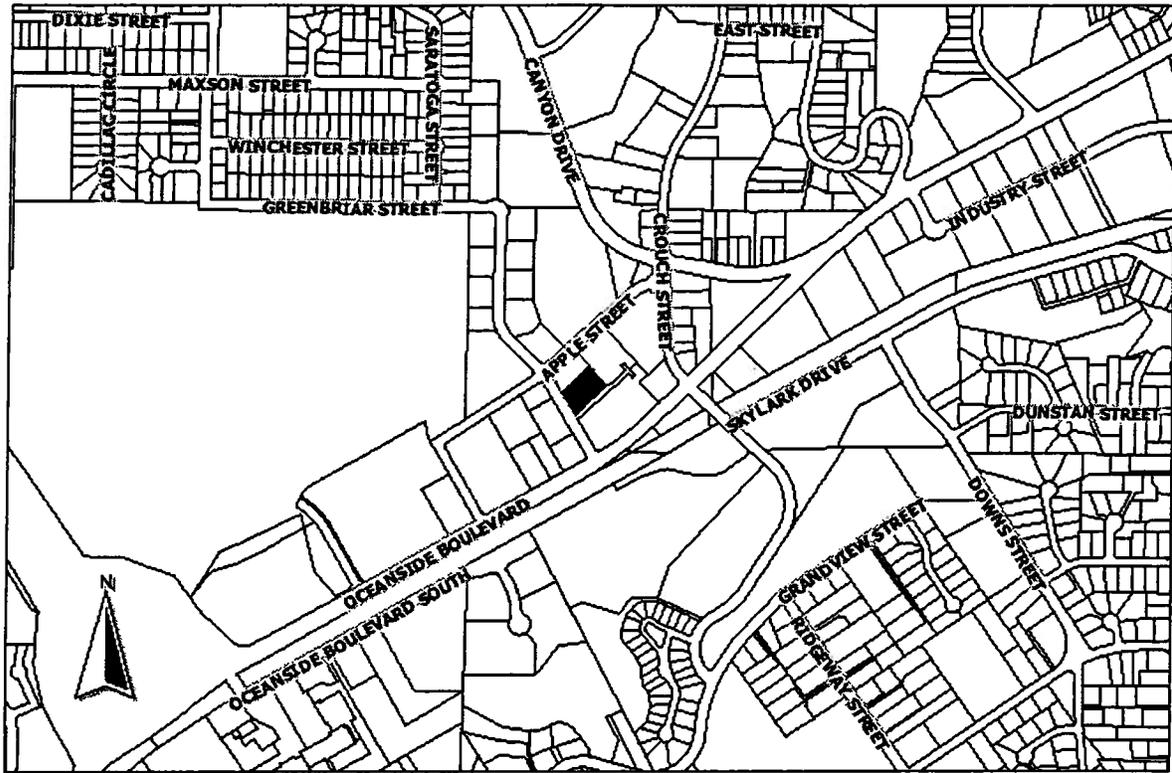
21 \_\_\_\_\_  
22 Dennis Martinek, Chairman  
23 Oceanside Planning Commission

24 ATTEST:

25 \_\_\_\_\_  
26 Jerry Hittleman, Secretary

27 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
28 this is a true and correct copy of Resolution No. 2007-P59.

29 Dated: November 19, 2007



**File Number:** C-23-07 and Waiver Of Locational Requirements

**Applicant:** Suncha Graham

**Description:**

CONDITIONAL USE PERMIT (C-23-07) to permit a regulated use (massage establishment) and a Waiver of Locational Requirements for the proposed regulated use located at 560 Greenbrier Drive, Unit 104. The project site is zoned CL (Limited Commercial) and is situated within the Loma Alta Neighborhood. – **HOLISTIC TOUCH SPA**

**Environmental Determination:**

The project is exempt from the California Environmental Quality Act.

City of Oceanside, Planning Division  
300 N. Coast Highway  
Oceanside, CA 92054 (760) 435-3520

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JUN 13 2007

Application For Planning Commission Hearing

Planning Department (760) 435-3520
Oceanside Civic Center
300 N. Coast Highway
Oceanside, California 92054-2885

RECEIVED JUN 13 2007 Planning Department

STAFF USE ONLY

ACCEPTED BY [Signature]
6/13/07

Please print or type all information

HEARING

PART I - APPLICANT INFORMATION

1. APPLICANT: Suncha Graham
2. STATUS: business owner
3. ADDRESS: 2343 Douglaston Glen, Escondido, CA
4. PHONE/FAX: 760-231-8134
5. APPLICANT'S REPRESENTATIVE: Elizabeth J. Graff, AICP
6. ADDRESS: 3528 Sea Ridge Road, Oceanside, CA 92054
7. PHONE/FAX: 760-231-7459

PART II - PROPERTY DESCRIPTION

8. LOCATION: 560 Greenbrier Drive Unit # 104 Oceanside, CA 92054
9. SIZE: 931 sq. ft. (space)
10. GENERAL PLAN: General Commercial
11. ZONING: CL
12. LAND USE: Mixed office, residential, commercial
13. ASSESSOR'S PARCEL NUMBER: 149-330-26

PART III - PROJECT DESCRIPTION

14. GENERAL PROJECT DESCRIPTION: Use Permit and a waiver of regulated use restrictions to continue the operation of an existing, small massage establishment, the Holistic Touch Spa, located at 560 Greenbrier Drive in a mixed-use center.

15. PROPOSED GENERAL PLAN: n/a
16. PROPOSED ZONING: n/a
17. PROPOSED LAND USE: n/a
18. NO. UNITS: n/a
19. DENSITY: n/a
20. BUILDING SIZE: 931 sq. ft. (space)
21. PARKING SPACES: exists
22. % LANDSCAPE: exists
23. % LOT COVERAGE: exists

PART IV - ATTACHMENTS

ALL APPLICATIONS: 24. DESCRIPTION/JUSTIFICATION, 25. LEGAL DESCRIPTION, 26. 300-FOOT RADIUS MAP, 27. PROPERTY OWNER'S LIST, 28. ENVIRONMENTAL ASSESSMENT, 29. PLOT PLANS
DEV. PLANS, C.U.P.S & TENT. MAPS: 30. FLOOR PLANS AND ELEVATIONS - Photo, 31. CONSTRUCTION SCHEDULE, 32. OTHER

PART V - SIGNATURES

THE APPLICANT OR HIS/HER REPRESENTATIVE MUST BE PRESENT AT THE HEARING. FAILURE TO BE PRESENT MAY RESULT IN DENIAL OF THE APPLICATION.
33. APPLICANT OR REPRESENTATIVE (Print): Elizabeth J. Graff AICP
34. DATE:
35. APPLICANT (Print): Suncha Graham
36. DATE: 6-11-07
37. OWNER (Print): Beverly M. Holtz
38. DATE: 6/12/07
39. OWNER (Print):
40. DATE:

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RECEIVED

SEP - 6 2007

Planning Department

<b>Application For Planning Commission Hearing</b> Planning Department (760) 435-3520 Oceanside Civic Center 300 N. Coast Highway Oceanside, California 92054-2885				STAFF USE ONLY	
				ACCEPTED	BY
Please print or type all information				HEARING	
<b>PART I – APPLICANT INFORMATION</b>				GPA	
1. APPLICANT Suncha Graham		2. STATUS business owner		MASTER/SP PLAN	
3. ADDRESS: 2343 Douglaston Glen Escondido, CA		4. PHONE/FAX 760-231-8134		ZONE CH.	
5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing) Elizabeth J. Graff, AICP				TENT. MAP	
6. ADDRESS 3528 Sea Ridge Road, Oceanside, CA 92054		7. PHONE/FAX 760-231-7459		PAR. MAP	
				DEV. PL.	
				C.U.P.	
				VARIANCE	
				COASTAL	
				O.H.P.A.C.	
<b>PART II – PROPERTY DESCRIPTION</b>					
8. LOCATION 560 Greenbrier Drive Unit # 104 Oceanside, CA 92054				9. SIZE 931 sq. ft. (space)	
10. GENERAL PLAN General Commercial	11. ZONING CL	12. LAND USE Mixed office, residential, commercial		13. ASSESSOR'S PARCEL NUMBER 149-330-26	
<b>PART III - PROJECT DESCRIPTION</b>					
14. GENERAL PROJECT DESCRIPTION Use Permit and a waiver of regulated use restrictions to continue the operation of an existing, small massage establishment, the Holistic Touch Spa, located at 560 Greenbrier Drive in a mixed-use center.					
15. PROPOSED GENERAL PLAN n/a	16. PROPOSED ZONING n/a	17. PROPOSED LAND USE n/a	18. NO. UNITS n/a	19. DENSITY n/a	
20. BUILDING SIZE 931 sq. ft. (space)	21. PARKING SPACES exists	22. % LANDSCAPE exists	23. % LOT COVERAGE exists		
<b>PART IV – ATTACHMENTS</b>					
ALL APPLICATIONS			DEV. PLANS, C.U.P.S & TENT. MAPS		
24. DESCRIPTION/JUSTIFICATION		25. LEGAL DESCRIPTION		30. FLOOR PLANS AND ELEVATIONS	
26. 300-FOOT RADIUS MAP		27. PROPERTY OWNER'S LIST		31. CONSTRUCTION SCHEDULE	
28. ENVIRONMENTAL ASSESSMENT		29. PLOT PLANS		32. OTHER	
<b>PART V – SIGNATURES</b>					
THE APPLICANT OR HIS/HER REPRESENTATIVE MUST BE PRESENT AT THE HEARING. FAILURE TO BE PRESENT MAY RESULT IN DENIAL OF THE APPLICATION.			SIGNATURES OF ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGES AS NECESSARY).		
33. APPLICANT OR REPRESENTATIVE (Print): <i>Elizabeth J. Graff, AICP</i>		34. DATE 09/06/07		37. OWNER (Print): Richard I & Karen S. Salkin	
Sign: <i>Elizabeth J. Graff</i>				38. DATE 8/28/07	
I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.			Sign: <i>Karen Salkin</i>		
35. APPLICANT (Print):		36. DATE		39. OWNER (Print): Louis C. & Beverly M Holtz	
				40. DATE 8/28/07	
Sign:		Sign: <i>Beverly Holtz</i>			

DESCRIPTION AND JUSTIFICATION  
HOLISTIC TOUCH SPA  
560 Greenbrier  
Revised, September, 2007

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The applicant, Suncha Graham, has her business, Holistic Touch Spa, an existing small health spa with massage services at 560 Greenbrier in an existing, mixed use shopping center.

The spa had received a business license approximately 18 months ago, but a renewal was denied by the City pending an approval of a Use Permit for what is now being defined as a "Massage Establishment." Ms. Graham is also planning to do some new tenant improvements inside the spa once the CUP is obtained.

According to the new interpretation of the City Code and the Zoning Ordinance, this small spa is being defined as a Message Establishment and is subject to the provisions of Article 3602 -- Regulated Uses and requires a Conditional Use Permit. This use is also subject to the Locational Requirements (Article 3604) which require defined Regulated Uses to be 1,000 feet from several other types of uses including other Regulated Uses.

This application is for the Conditional Use Permit and for the Waiver of Locational Requirements of the Regulated Use Section of the Zoning Ordinance (Article 36).

The Holistic Touch Spa is in a 937 square foot space in an existing mixed use shopping Center on Greenbrier Drive just north of Oceanside Boulevard. The Center has a two story component facing Greenbrier with apartments above several existing businesses including a small neighborhood bar, some offices and the spa. Behind the front building are a large parking area and some office space which is mostly vacant. There is also a store-front social service agency.

The site is in the CL (Limited Commercial Zone) which would allow the use as a small personal service business without a Use Permit.

As mentioned above this is a very small business. There is usually only one massage therapist on duty at a time; however there will occasionally be two. The owner or one employee provides massage services to the clients. When the owner's remodeling is done, there will be three tiny massage rooms and a separate space for a shower. The business is open from 10 a.m. to 8 p.m. daily.

#### Waiver of Locational Requirements

The waiver is needed because with residential units upstairs and to the north along Apple Street, it is within 500 feet of residential property and it is within 1000 feet of some of the other uses mentioned in the Zoning Ordinance as needing to be defined for the distance.

These are the bar adjacent to the spa, what appear to be two small store front churches in the 1900 block of Apple, another bar in the 1900 block of Oceanside Boulevard and a day car center adjacent to Saratoga Street (near Boney's) two blocks to the East. Additionally, there is another church next to small scale spa-type facility advertising massage located in the center facing Oceanside Boulevard just east of Saratoga.

Whether or not any of these uses are properly licensed or have Conditional Use Permits is not clear at this time.

The current zoning ordinance section for "Regulated Uses" was written a number of years ago when massage services were lumped into "adult uses," and the City was regulating against concentrations of adult uses. There have been varying interpretations of massage services as being defined as personal services or part of a holistic health business over the last few years. For a time it appears that massage businesses were being routinely licensed as holistic health care facilities without discretionary approval. The Holistic Touch Spa was caught in this change of interpretation.

Here are the findings that the Planning Commission must make to the City Council for the approval of the Waiver of Locational Requirements and the reasons the applicant believes the waiver is justified:

1. It will not be contrary to the public interest.

This is a tiny, inconspicuous business in the health care and stress reduction field. It operates quietly and is not disturbing to the neighborhood.

2. It will not be contrary to the spirit or intent of this Article. It will not impair nearby property or the integrity of the underlying district.

This is a commercial project representing the massage and health care industry which is appropriate to the Commercial District.

3. It will not encourage the development of an adult entertainment area or otherwise promote community blight.

This use, a massage establishment, is a common commercial and health care use in these stressful times. Neither this nor any other uses in the area could be defined as adult entertainment.

4. It will not negatively impact any governmental programs of redevelopment, revitalization or neighborhood preservation.

This small store-front business does not impact any potential revitalization efforts in the neighborhood.

In summary, this use is very small and is tucked inconspicuously into this mixed use neighborhood. With only one or two people working its impact is extremely low, lower than

that of most other businesses. There is no room for an adult entertainment area to be developed in the vicinity, and it will not impact revitalization and neighborhood preservation.

Development Standards

The Zoning at the site is: CL (Commercial Limited)

It is unknown what standards were used to develop this existing mixed use Center or even whether or not the zoning was CL when it was developed. It appears that more traditional commercial setbacks of having the store fronts close to the street were used than those That would ordinarily be required of new development in that zone.

Staff had requested a discussion of parking on the site. Overall parking appears to have been calculated for a mix of office and regular commercial uses. There are 44 spaces. If one and a half spaces are subtracted for each of the five residential units the ratio is about one space for each 278 square feet of office and/or retail area. The requirement for retail uses is one per 300 square feet; and for office it is one per 200.

With such a small space as the Spa encompasses and the fact that there will usually be only one or two clients at a time, the businesses' use of parking will not create a demand on the existing situation any greater than there is at this time.

Development Standards Chart

<b>CL Zone</b>	Standard	Existing
Front	15	2 to 10 (entire building frontage)
Side	0	9 - 0
Rear	0	9
Height	50	22
Parking	per approval	44
Landscaping	10%	14.3

Zoning Approvals Needed

The Oceanside Zoning Ordinance Section 450-U (definitions for Commercial Use Classifications) defines this type of business as a Small Scale Personal Improvement Service. The definition reads as follows:

Provision of instructional services or facilities including; photography, fine arts, crafts, dance or music studios; driving, business or trade schools; diet centers, or reducing salons; and health/fitness studios, spas or clubs.

1. Health/Fitness Studios, Spas or Clubs. Establishments with equipment for exercise and physical conditioning.

2. Massage Establishments. Establishments providing massage service.
3. Small Scale. Establishments occupying no more than 5,000 square feet.

Article 36 refers to the City Code for the definition of a "Massage Establishment" as: " Any establishment wherein a massage is given engaged in, carried on, or permitted to be given, engaged in, or carried on, whether for fee or gratuitously." (Article 2 Section 1519). The City Code also goes on to carefully require the screening and licensing of persons who practice the art of massage.

Article 36 defines this use as a Regulated Use and Requires a Conditional Use Permit. Here are the findings for this approval:

Supporting findings for the Conditional Use Permit approval for Massage Services:

- (a) That the proposed location of the use is in accord with the objectives of this ordinance and the purposes of the district in which the site is located. This Commercial Zone was designed to provide a range of retail and service opportunities to the Community at large. This business small-scale personal improvement service business will do that.
- (b) That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such uses and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City. This is a very small business which will not impact the neighborhood.
- (c) That the proposed conditional use will comply with the provisions of this ordinance including any specific condition required for the proposed conditional use in the district in which it would be located. The applicant will be required to abide by any of the conditions placed on her by this action as well as all of the requirements of the City Code for this type of use.

## LEGAL DESCRIPTION

### HOLISTIC TOUCH SPA

Parcel No. 2, in the City of Oceanside, County of San Diego, State of California, as shown at page 891 of Parcel Maps filed in the Office of the County Recorder of San Diego County, July 11, 1972.

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## NOTICE OF EXEMPTION

City of Oceanside, California

Post Date: 11/20/2007  
Removal: 05/20/2008  
(180 days)

1. **APPLICANT:** Suncha Graham.
2. **ADDRESS:** 2343 Douglaston Glen, Escondido, CA 92026
3. **PHONE NUMBER:** (760) 231-8134
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Sally Schifman
6. **PROJECT TITLE:** Holistic Touch Spa (C-23-07)
7. **DESCRIPTION:** To obtain a Conditional Use Permit to operate a massage establishment located at 560 Greenbrier Drive, Unit 104, Oceanside CA 92054.

**ADMINISTRATIVE DETERMINATION:** Planning Division staff has completed a preliminary review of this project in accordance with the City of Oceanside's Environmental Review Guidelines and the California Environmental Quality Act (CEQA), 1970. Therefore, the Environmental Coordinator has determined that further environmental evaluation is not required because:

- The project is categorically exempt, Class 1, Existing Facilities (Section 15301); or,
- "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (Section 15061(b)(3)); or,
- The project is statutorily exempt, Section , <name> ( Sections 15260-15277); or,
- The project does not constitute a "project" as defined by CEQA (Section 15378).

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Sally Schifman, Planner II

Date: November 20, 2007

cc:  Project file  Counter file  Library  
Posting:  County Clerk \$50.00 Admin. Fee