

# STAFF REPORT



ITEM NO. 17  
CITY OF OCEANSIDE

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DATE: December 10, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Development Services Department/Planning Division

SUBJECT: **ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE REJECTING PLANNING COMMISSION RESOLUTION NO. 2008-P45 AND DENYING CONDITIONAL USE PERMIT (C-21-08) FOR A MASSAGE ESTABLISHMENT AND DENYING A WAIVER OF LOCATIONAL REQUIREMENTS FOR THE REGULATED USE LOCATED AT 1727-A OCEANSIDE BOULEVARD – OCEANSIDE HEALTH CLINIC – APPLICANT: YAO YU WANG**

## **SYNOPSIS**

This item is for adoption of a resolution rejecting Planning Commission Resolution No. 2008-P45 and denying Conditional Use Permit (C-21-08) for a massage establishment and denying a waiver of locational requirements for the regulated use located at 1727-A Oceanside Boulevard, to confirm the City Council's action of November 12, 2008.

## **BACKGROUND**

On August 25, 2008, the Planning Commission approved on a 4-to-2 vote, with 1 Commissioner absent, Resolution 2008-P45 to recommend approval of Conditional Use Permit (C-21-08) and waiver of locational requirements for a massage establishment located at 1727-A Oceanside Boulevard.

On November 12, 2008, the City Council rejected Planning Commission's recommendation, with a 5-to-0 vote.

## **ANALYSIS**

The City Council determined that the proposed regulated use would not be in accord with the Zoning Ordinance objectives for the CS-HO (Special Commercial – Highway Oriented) zoning district and to the intent of Article 36 of the Zoning Ordinance for numerous reasons.

The proposed use would not meet the locational requirements for regulated uses. A massage establishment must be located a minimum of 500 feet from any 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. The proposed project cannot comply with this regulation as it would be within 500 feet of two residential districts.

In addition, the proposed massage establishment would adversely affect existing and future development in the immediate area. The location of the massage establishment is within the vicinity of the revitalization efforts along Oceanside Boulevard. Regulated uses, such as massage establishments, were not envisioned by the Oceanside Boulevard Visioning Task Force, which was made up of members of the community, to be a part of Oceanside Boulevard. Additionally, allowing a massage establishment in the area would create the potential for increased adult activity and associated blight, depreciated property values, and law enforcement problems. There have been two police incidents at this location within the last three years. The Oceanside Town and County Shopping Center is a family-friendly center with numerous retail shops, a Longs Drug Store, and, soon, a Smart and Final grocery store. A massage establishment would not be compatible with the other family-oriented businesses in the shopping center.

**FISCAL IMPACT**

Not applicable.

**CITY ATTORNEY'S ANALYSIS**

The referenced resolution has been reviewed by the City Attorney and approved as to form.

**RECOMMENDATION**

This item is for adoption of a resolution rejecting Planning Commission Resolution No. 2008-P45 and denying Conditional Use Permit (C-21-08) for a massage establishment and denying a waiver of locational requirements for the regulated use located at 1727-A Oceanside Boulevard, to confirm the City Council's action of November 12, 2008.

PREPARED BY

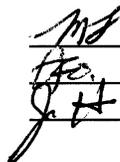
  
Sally Schifman  
Planner II

SUBMITTED BY

  
Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager  
George Buell, Development Services Director  
Jerry Hittleman, City Planner



ATTACHMENT:

- 1. City Council Resolution



1 Findings for Denying the Conditional Use Permit:

2 1. The proposed regulated use would not be in accord with the objectives of the Ordinance  
3 and the purposes of the CS-HO (Special Commercial – Highway Oriented) zoning district and would  
4 be contrary to the intent of Article 36 of the Zoning Ordinance because the proposed use does meet the  
5 requirements for a separation of regulated uses as it would be located within 500 feet of two residential  
6 districts. The proposed operation would not be consistent with the General Plan Land Use Element  
7 objective for the underlying Special Commercial land use designation affecting the property because it  
8 does not promote or preserve a balance of successful markets and services. The proposed massage  
9 establishment would adversely affect existing and future development in the immediate area. The  
10 Oceanside Town and County Shopping Center is a family-friendly center with numerous retail shops, a  
11 Longs Drug Store, and, soon, a Smart and Final grocery store. A massage establishment would not be  
12 compatible with the other family-oriented businesses in the shopping center.

13 2. The proposed massage establishment would not be consistent with the General Plan  
14 Policy 2.2; it would be detrimental to the public health, safety or welfare of persons residing or working  
15 in or adjacent to the neighborhood of the use; and it would be detrimental to properties or  
16 improvements in the vicinity and to the general welfare of the city, because the massage establishment  
17 would be within the vicinity of the revitalization efforts along Oceanside Boulevard. There have been  
18 two police incidents at the business in the last 3 years. The massage establishment would not be  
19 compatible with the family-oriented nature of the Oceanside Town and Country Shopping Center.

20 3. The proposed conditional use would not comply with the regulated use locational  
21 requirements of the Ordinance. A massage establishment must be located a minimum of 500 feet from  
22 any residential districts; any public or private school; park, playground, or public beach; church or  
23 other similar religious facility; and/or childcare or pre-school facility. The proposed project cannot  
24 comply with this regulation as it would be located within 500 feet of two residential districts.

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1 Findings for Denying the Waiver of Locational Requirements:

2 1. The massage establishment would be contrary to the public interest. The massage  
3 establishment would be within the vicinity of the revitalization efforts along Oceanside Boulevard.  
4 Regulated uses, such as massage establishments, were not envisioned by the Oceanside Boulevard  
5 Visioning Task Force, which was made up of member of the community, to be a part of Oceanside  
6 Boulevard. Permitting the massage establishment would not be compatible with the future vision for  
7 Oceanside Boulevard.

8 2. The proposed project would impair nearby property or the integrity of the underlying  
9 district. Allowing a massage establishment in the area would create the potential for increased adult  
10 activity and associated blight, depreciated property values, and law enforcement problems. There have  
11 been two police incidents at this location within the last three years. The massage establishment would not  
12 be compatible with the family-friendly nature of the Oceanside Town and Country Shopping Center.

13 3. The proposed project would negatively impact governmental programs of redevelopment,  
14 revitalization, or neighborhood preservation, particularly in regards to the revitalization efforts along  
15 Oceanside Boulevard. Allowing a regulated use in the Oceanside Town and County Shopping Center  
16 would not be conducive to the efforts of the City to enhance the neighborhood. The shopping center is a  
17 family-friendly center with numerous retail shops, a Longs Drug Store, and, soon, a Smart and Final  
18 grocery store. A massage establishment would not be compatible with the other family-oriented  
19 businesses in this shopping center or the surrounding commercial centers.

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1 4. NOTICE IS HEREBY GIVEN that the time within which judicial review must be sought  
2 on this decision is governed by CCP Section 1094.6.

3 PASSED by the City Council of the City of Oceanside, California this 12<sup>th</sup> day of November,  
4 2008 by the following vote:

- 5 AYES:
- 6 NAYS:
- 7 ABSENT:
- 8 ABSTAIN:

9 AND ADOPTED by the City Council of the City of Oceanside, California this 10<sup>th</sup> day of  
10 December, 2008 by the following vote:

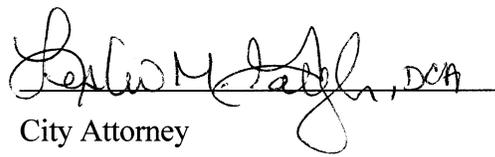
- 11 AYES:
- 12 NAYS:
- 13 ABSENT:
- 14 ABSTAIN:

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16 Mayor of the City of Oceanside

18 ATTEST:

19 APPROVED AS TO FORM:  
20 OFFICE OF THE CITY ATTORNEY

21 \_\_\_\_\_  
22 City Clerk

23   
24 City Attorney

25 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE REJECTING**  
26 **PLANNING COMMISSION RESOLUTION NO. 2008-P45 AND DENYING CONDITIONAL USE**  
27 **PERMIT (C-21-08) FOR A REGULATED USE (MESSAGE ESTABLISHMENT) AND DENYING**  
28 **A WAIVER OF LOCATIONAL REQUIREMENTS FOR THE PROPOSED REGULATED USE**  
**LOCATED AT 1727-A OCEANSIDE BOULEVARD**