

**CITY OF ALBANY  
PLANNING AND ZONING AGENDA  
STAFF REPORT**

Agenda date: 1/12/2010

Prepared by: JB

**ITEM/** 4c  
**SUBJECT:** Planning Application 09-059. Conditional Use Permit. Request for a Conditional Use Permit approval to allow a massage business to operate in an existing commercial space.

**SITE:** 835 San Pablo

**APPLICANT/  
OWNER:** C Huan Hong

**ZONING:** SPC (San Pablo Commercial)

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**STAFF RECOMMENDATION**

Approve the request for Conditional Use Permit, subject to the draft findings and conditions.

**BACKGROUND/PROJECT DESCRIPTION**

The subject property is existing commercial building that is currently vacant. The subject property is an existing 2,300 square foot commercial building on San Pablo Avenue. The applicant is requesting a conditional use permit to allow massage services to be provided seven days a week between 10:00 am and 10:00 pm. A maximum of eight employees would be on-site at any one time.

**ENVIRONMENTAL ANALYSIS**

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15301 of the CEQA Guidelines, which exempts existing facilities.

**DISCUSSION**

Municipal Code Section 20.20.050, Massage Facilities, states "Establishments providing massage services may be permitted in commercial districts with a major use permit. In addition, such establishments are subject to the investigation, licensing, and operating requirements set forth in Section 5-13 of the Albany Municipal Code."

The applicant can receive clearance from the police department for the massage business, which is required of all massage related or type of businesses, pending approval of the requested Conditional Use Permit. This two-tiered approval process means that if there is two departments that monitor the business.

Staff believes that the proposed business is appropriate in size, nature and location. It is located within an existing business and operates part-time. There are other similar businesses in the city, which typically have a nominal impact on surrounding areas. Clearance with the Police Department also means that the Department has the ability to investigate any complaints or concerns if they should arise. Staff recommends approval of the conditional use permit approval with three project-specific conditions of approval; 1) All new signage requires design review approval; 2) The Planning and Zoning Commission may reconsider the conditional use permit approval should any complaints or illegal actions occur at the site; 3) Police Department clearance is required prior to issuance of a business license.

**Appeals:**

The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council if such appeal is filed within 14 days of the date of action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee.

**Attachments:**

1. Analysis of Zoning Requirements
2. Findings
3. Conditions of Approval
4. Application and Supplemental Information

**ATTACHMENT 1 - ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS**

20.12 Zoning Districts And Permitted Uses

General Plan:           General Commercial  
Zoning:                 SPC (San Pablo Commercial )

20.16 Land Use Classifications

Commercial

Surrounding	North - Commercial	East - Commercial
Property Use	South - Commercial	West - Commercial

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table Of Site Regulations By District.

Not applicable.

20.24.030 Overlay District Regulations.

Not applicable.

20.24.040 Hillside Residential Regulations.

Not applicable.

20.24.050 Floor-Area-Ratio.

Not applicable.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances Between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.

Not applicable.

20.24.130 Accessory Buildings.

Not applicable.

20.28 Off-Street Parking Requirement.

Not applicable.

20.40 Housing Provisions

Not applicable.

20.44 Non-conforming Uses, Structures and Lot

Not applicable.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

Not applicable.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was provided on December 31, 2009 in the form of mailed notice to property owners and occupants within a 300-foot radius, and posted in three locations.

20.100.050 Design Review.

Not applicable.

ATTACHMENT 2 - FINDINGS

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

Required Finding	Explanation
<p>1. <b>Necessity, Desirability, Compatibility.</b> <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The project is located on a commercial street that has similar types of businesses. The business is small in size and located within an already service-focused business. Clearance from the Police Department is required prior to the issuance of a business license. The Community Development and Police Departments will continuously monitor the massage business.</p>
<p>2. <b>Adverse Impacts.</b> <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <ul style="list-style-type: none"> <li>a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i></li> <li>b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i></li> <li>c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i></li> <li>d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i></li> </ul>	<p>The proposal is in scale and harmony with existing development in the vicinity of the site. It is an existing building that has previously been used for office and received a parking exception for required parking.</p> <ul style="list-style-type: none"> <li>a. The existing commercial building will not change in size or aesthetics.</li> <li>b. The commercial building is located on San Pablo Avenue with shared parking on the street, which is a common situation for many commercial properties along Solano Avenue. The accessibility and traffic patterns will not change with the approval of a massage use.</li> <li>c. No noxious or offensive emissions should result from approval from of the business.</li> <li>d. The site is an existing commercial building; therefore, landscaping, parking areas and lighting are handled by the property owner and will not change with the approval of a massage use at the site. Design review is required of any new signage for the commercial space.</li> </ul>
<p>3. <b>Consistency with Zoning Ordinance, General Plan, and Specific Plan</b></p>	<p>The General Plan designates this area for commercial development. Additionally, the project meets City zoning standards for location, intensity and type of development.</p>

### ATTACHMENT 3 - CONDITIONS OF APPROVAL

1. This Conditional Use Permit approval is to allow a massage and acupuncture business to be operated at 835 San Pablo Avenue, except as may be modified by conditions herein. Per the application received by the Community Development Department on October 16, 2009 and presented to the Planning and Zoning Commission at its meeting of January 12, 2010.
2. The applicants shall pay any and all City and other related fees applicable to the property. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid prior to issuance of said permit or prior to any City Council final action approval. Notice shall be taken specifically of Plan Check and Inspection Fees.
3. Pursuant to Government Code Section 66474.9, the applicants (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicants of any such claim action or proceeding and cooperate fully in the defense.
4. All new signage requires design review approval.
5. The Planning and Zoning Commission may reconsider the conditional use permit approval should any complaints or illegal occur at the site.
6. Police Department clearance is required prior to issuance of a business license.

Date Received: 10/16/09  
 Planning Application No.: 09-059  
 Fee Paid: \$1784  
 \$60113 (\$684); \$60114 (\$1,100)



# City of Albany



## PLANNING APPLICATION FORM (GENERAL PROJECTS)

<p>For <b>PLANNING &amp; ZONING COMMISSION</b> action:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Conditional Use Permit*</li> <li><input type="checkbox"/> Design Review (residential, residential additions, commercial, office and multi-family*, )</li> <li><input type="checkbox"/> General Plan Amendment from _____ to _____</li> <li><input type="checkbox"/> Parcel Map/ Tentative Map/ Vesting Tentative Map, Lot Line Relocation</li> <li><input type="checkbox"/> Parking Exceptions/Reductions</li> <li><input type="checkbox"/> Precise Development Plan</li> <li><input type="checkbox"/> Second Unit Use Permit *</li> <li><input type="checkbox"/> Variance *</li> <li><input type="checkbox"/> Zone Change from _____ to _____</li> <li><input type="checkbox"/> Other:</li> </ul>	<p>For <b>ADMINISTRATIVE</b> action:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Admin. Lot Line Relocation</li> <li><input type="checkbox"/> Home Occupations</li> <li><input type="checkbox"/> Sign Review</li> <li><input type="checkbox"/> Other:</li> </ul> <p style="text-align: center;"><u>\$1,100</u></p>
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\* Please complete the appropriate Supplemental Questionnaire.

The City of Albany Municipal Code has certain requirements for Planning Applications. Your answering the following questions will help staff assess how to process your application. Thus, we may have additional questions based on your responses below. Additionally, after your application is accepted for processing, staff and Planning and Zoning Commissioners will likely make at least one field visit to your house and neighborhood.

Job Site Address: <u>835 San Pablo Ave. Albany</u>		Zone: <u>SPC</u>
Property Owner(s) Name: <u>Faramarz Pakzad</u>	Phone: <u>510-524-1782</u> Fax: <u>510-524-9710</u>	Email:
Mailing Address: <u>915 Oxford Street</u>	City: <u>Berkeley</u>	State/Zip: <u>CA 94707</u>
Applicant(s) Name (contact person): <u>Chuan Hong Din</u>	Phone: <u>415-760-7189</u> Fax: <u>415-661-1666</u>	Email:
Mailing Address: <u>2036 Sloat Blvd.</u>	City: <u>San Francisco</u>	State/Zip: <u>CA 94116</u>

**PROJECT DESCRIPTION** (Please use back of sheet or attach extra sheets, if necessary):

Foot Massage, Body massage Release pain etc.

**GENERAL INFORMATION** (Please fill out this section if you are asking for approval of a project that will require construction):

Item	Existing	Proposed
Lot size (square feet)		
Size of structure(s) or commercial space (square feet)	2300, SF.	2300, - SF.
Height and No. of stories		
Lot coverage <sup>1</sup>		
Floor Area Ratio (FAR) <sup>2</sup>		
Impervious Area <sup>3</sup>		
Slope Density <sup>4</sup>		
No. of dwelling units		
Parking <sup>5</sup> Number of off-street spaces	No.	
Number of spaces in garage		
Size of spaces		

<sup>1</sup> Lot Coverage applies to all zoning districts. It is defined as the land area covered by all the structures on a site, including all projections, except portions of uncovered decks, porches or landings, balconies, or stairways that are less than six feet above grade and are not enclosed by walls on more than two sides; eaves, trellises and similar structures that do not have solid roofs.

<sup>2</sup> Floor Area Ratio (FAR) is defined as the proportion of building floor area per area of the parcel of land upon which the building rests. See the informational handout "How to Calculate Floor Area Ratio" for details on what is included and excluded.

<sup>3</sup> Impervious Area includes the total square footage of building footprint(s), driveway(s), patio(s), parking lots, walkway(s), and any other impervious surfaces.

<sup>4</sup> Slope Density requirements apply in the HD Zoning District pursuant to Measure K. See handout on how to measure slope density in this area.

<sup>5</sup> Minimum parking requirements were enacted under Measure D. This Measure requires that all residential development must have a minimum of two off-street parking spaces. Some exceptions may apply to your project, see residential development handout.

**Restrictions:** Are there any deed restrictions, easements, etc. that affect the property, and, if so, what are they? In some instances, you may be required to provide a title report.

\_\_\_\_\_  
Signature of Property Owner

Chantroy  
Signature of Applicant

\_\_\_\_\_  
Date

10/15/09  
Date

Community Development Department staff is available between 8:30 a.m. and 7:00 p.m. on Mondays, 8:30 a.m. through 5:00 p.m. on Tuesdays through Thursdays, and 8:30 a.m. to 12:30 p.m. on Fridays at 979 San Pablo Avenue, 2<sup>nd</sup> Floor, Albany, CA 94706; TEL: (510) 528-5760.





# City of Albany



## SUPPLEMENTAL QUESTIONNAIRE

### CONDITIONAL USE PERMIT

(e.g., commercial, institutional, assembly uses  
& non-administrative home occupations)

The City of Albany Municipal Code has certain requirements for approving Conditional Use Permits. Your answers to these questions will help staff assess how to process your application. Please understand that this supplemental questionnaire will help staff to further work with you. Thus, we may have additional questions based on your responses below. Additionally, after your application is accepted for processing, staff and Planning and Zoning Commissions (if applicable) will likely make at least one field visit to the Site and neighborhood.

1. What is (was) the use in this building/tenant space prior to your proposal?  
Foot & Body Massage Therapy
2. What are you proposing? For Massage permit
3. Proposed hours/days of operation? 7 days 10:00 a.m. - 10:00 p.m.
4. Maximum number of employees expected on site at any one time? 2 person  
(include owners/partners)
5. For instructional uses/assemblies of people/classes, etc. what is the maximum number of participants expected on site at any one time? \_\_\_\_\_
6. For restaurants and cafes, will beer/wine/liquor be served? \_\_\_\_\_

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Lot coverage <sup>1</sup>		
Floor Area Ratio (FAR) <sup>2</sup>		
Impervious Area <sup>3</sup>		
Slope Density <sup>4</sup>		
No. of dwelling units		
Parking <sup>5</sup> Number of off-street spaces	N/A	
Number of spaces in garage		
Size of spaces		

<sup>1</sup> Lot Coverage applies to all zoning districts. It is defined as the land area covered by all the structures on a site, including all projections, except portions of uncovered decks, porches or landings, balconies, or stairways that are less than six feet above grade and are not enclosed by walls on more than two sides; eaves, trellises and similar structures that do not have solid roofs.

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10-16-09

Signature of Applicant

Date  
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