

*City of Albany*  
**Planning and Zoning Commission**  
**Staff Report**

**Meeting Date:** July 8, 2008

**Prepared by:** \_\_\_\_\_

**Agenda Item:** 4b

**Reviewed by:** \_\_\_\_\_

**Subject:** 1532 Solano. Planning Application 08-039. Conditional Use Permit.  
Request for a Conditional Use Permit approval to allow a massage business to operate in an existing office building.

**Applicant/  
Owner:** Lynne Anne Miles

**Recommendation**

Staff recommends that the Planning and Zoning Commission approve the Conditional Use Permit request to allow a massage therapist (somatic therapy) to operate.

**Previous Action**

The property manager received approval of a parking exception to allow medical office uses where there was formerly general office uses at the site.

**Project Description**

The subject property has an existing two-story commercial/office building with two separate commercial space, located at 1532 Solano Avenue. The first floor space has a total area of 1,560 square feet, while the ground floor space has a total area of 800 square feet. The applicant is requesting a conditional use permit to allow a massage (somatic therapy) business to operate in one of the office spaces on the first-floor.

**Background on Application**

The application was first received on May 30, 2008 and deemed complete on June 20, 2008.

**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.

## **Identification of Key Issues**

### **Conditional Use Permit**

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."

There are multiple office spaces in the building, only one of which is proposed to be used for massage. As previously stated the property manager received approval of a parking exception to allow medical office uses where there was formerly general office uses at the site. The parking requirement for the proposed medical office uses increase from 6 to 12 off-street parking spaces; therefore, the parking exception was granted for 6 spaces.

The applicant will be required to receive clearance from the police department for the massage business, which is required of all massage related or type of businesses. This also means that if the conditional use permit is granted there are two departments that monitor the business.

Staff believes that the proposed business is appropriate in size, nature and location. There are other similar businesses in the city, which typically have a small 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.

Staff would like to note that the applicant has distinguished the difference between a massage therapist and a somatic therapist. Attachment 5 includes a brief discussion/description about somatic therapy, referenced from various information sources.

### **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
5. Descriptions of Somatic Therapy

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

20.12 Zoning Districts And Permitted Uses

General Plan: General Commercial  
Zoning: SC (Solano Commercial )

20.16 Land Use Classifications

Single family residential

Surrounding	North - Commercial	East - Commercial
Property Use	South - Residential	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 June 27, 2008 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><i>Necessity, Desirability, Compatibility.</i></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 General Plan designates this area for commercial development. Additionally, the project meets City zoning standards for location, intensity and type of development. The project is located on a commercial street that has similar types of businesses. The business is small in size exemplified by the fact that there is only one room that will be used for massage. The office units were previously approved for a parking exception, which is not affected by the approval for a massage use. Clearance from the Police Department is required. The Community Development and Police Departments will continuously monitor the massage business.</p>
<p>2. <b><i>Adverse Impacts.</i></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> <p>a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i></p> <p>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></p> <p>c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i></p> <p>d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and</i></p>	<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> <p>a. The commercial business is existing and will have a change in use but will not change in size or aesthetics.</p> <p>b. The commercial building is located on Solano Avenue with parking on site and shared parking on the street, which is a common situation for many commercial properties along Solano Avenue. The accessibility and traffic patterns will not changes with the approval of a massage use.</p> <p>c. No noxious or offensive emissions should result from approval from of the business.</p> <p>d. The site is an existing commercial building; therefore, landscaping,</p>

<p><i>loading areas, service areas, lighting and signs;</i></p>	<p>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.</p>
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**ATTACHMENT 3 - CONDITIONS OF APPROVAL**

1. This Conditional Use Permit approval is to allow a massage and acupuncture business to be operated at 1532 Solano, except as may be modified by conditions herein. Plans include a floor plans, business description and documentation of Police Department approval submitted by Lynne Anne Miles, dated received by the Community Development Department on May 30, 2008, and presented to the Planning and Zoning Commission at its meeting of July 8, 2008.
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.