



Agenda Report

19-1674

Agenda Date: 2/27/2019

REPORT TO PLANNING COMMISSION

SUBJECT

Public Hearing: Action on a Use Permit for a Proposed Massage Establishment at 2529 Scott Boulevard

BACKGROUND

The applicant is requesting a Use Permit to allow conversion of an existing acupuncture office into a massage establishment. The existing acupuncture office is located in a 1,242 square foot tenant space within a 6,600 square foot retail shopping center on a 25,720 square foot site.

Surrounding Land Uses

The project tenant space is located within a retail shopping center bounded by Scott Boulevard and Martin Avenue. The site is surrounded by existing office and industrial buildings.

On November 27, 2018, the City Council directed staff to return to Council with possible amendments to Chapter 18.104, Massage Establishments, of the Santa Clara City Code (SCCC) to include different criteria from the existing regulations. As the new regulations have not yet been adopted, the proposed establishment at 2529 Scott Boulevard would be subject to existing regulations.

DISCUSSION

The plan is to remodel the existing 1,242 square foot tenant space to accommodate one cashier and waiting room, one office, one consulting room, and four treatment rooms. The proposed business hours of operation are Monday to Friday from 9 a.m. to 6 p.m. The primary issues for the project are consistency with the City's General Plan and Zoning Code.

Consistency with the General Plan

The subject property has a General Plan designation of Low Intensity Office (R&D). This classification is intended for campus like office development that includes office and R&D, as well as medical facilities and free standing data centers, with manufacturing uses limited to a maximum of 20 percent of the building area. It is typically located in areas that provide a transition between light industrial and higher intensity office and R&D uses.

- Policy 5.3.3-P1, Provide a mix of retail and commercial uses to meet the needs of local customers and draw patrons from the greater region.

Zoning Conformance

The zoning designation for the subject property is Light Industrial (ML). The existing retail shopping center was approved for this site in 1990 under a Use Permit (U.1751). The approved Use Permit allows and supports commercial uses in this location.

Per Santa Clara City Code (SCCC) section 18.104.020, massage establishments may not be operated within 500 feet of any of the specified uses in the Massage Establishments chapter. These uses include schools, hotels, motels, state-licensed child care centers, family day care facilities, bowling alleys, ping pong centers, electric-game centers, pool and billiard halls, and any lot or parcel zoned single-family residential. The subject property is not located within 500 feet of any of these uses.

Per SCCC section 5.40.030, it is unlawful for any person to engage in, upon any premises within the City, the business of providing massage without being in possession of a valid CAMTC certificate. The applicant at this time is proposing to hire approximately two massage therapists, with valid California Massage Therapy Council (CAMTC) certificates for the business.

Pursuant SCCC section 18.104.030, Massage Establishments may be established only by first securing a use permit from the Planning Commission. SCCC Section 18.110.040 specifies the findings required in order for the Planning Commission to grant a use permit. Here, the proposed use contributes to the diversity of services and commercial spaces available for the surrounding neighborhood. No detrimental effects or adverse impacts of the proposed use are anticipated in the existing retail shopping center or in the nearby area. The massage use is complementary to the existing businesses within the neighborhood.

The proposed massage use is in keeping with the purposes and intent of the City of Santa Clara Zoning Ordinance in that retail business establishments and shops providing services for residents of the surrounding community are permitted in this zoning district subject to approval of a Use Permit approval.

Use Permit Findings

The proposed massage establishment is essential or desirable to the public convenience or welfare since it will provide an additional service for a segment of the population in a convenient location.

It is not detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use for the following reasons:

- The foot and body massage establishment use is limited to the hours of 9:00 a.m. to 6:00 p.m. Monday to Friday;
- The massage establishment will provide additional services to the employment sector and surrounding neighborhoods;
- The massage use is located in the center of the retail center and is oriented away from residential uses; and
- The massage therapists hired are required to have valid California Massage Therapy Council certificates to work at the business.

The proposed use will not be detrimental to property or improvements in the neighborhood of such proposed use in that no exterior improvements are proposed; and there is enough parking on site for the existing uses in the retail center.

The use will not be detrimental to the general welfare of the City in that the applicant is required to obtain clearance from the Santa Clara Police Department; and there was no opposition received regarding this request. It will not impair the integrity and character of the zoning district because the

foot and body massage use is a complementary use to the existing businesses in the neighborhood.

At a study session conducted on November 27, 2018, the City Council directed City staff to return to Council with possible amendments to SCCC Chapter 18.104. As recommended by staff at the November 27 meeting, the restrictions for locating massage establishments within 500 feet of other massage establishments or other described incompatible uses (schools, motels, childcare facilities, bowling alleys, single-family residences, etc.) would be removed. Instead, massage establishments would need to be located in a Commercial district, mixed-use district or Planned Development (PD) district that allows for commercial uses, and the location would also need to meet one of the following criteria:

- The massage establishment would need to be located on a large, contiguously functioning mixed use or commercial site with shared parking and circulation. Staff recommended that the minimum site size be as high as 20 acres, with a minimum of 20,000 square feet of retail space; or
- The massage establishment would need to be located in a wellness center of an employment center. Staff recommended this would apply only to businesses with 500 employees or more, and that the services would be available only to employees.

These potential regulations have not yet gone through the public hearing process and have not yet been adopted by the City. If adopted, and if the Planning Commission approves the proposed project, this project (and other massage establishments) would be considered legal non-conforming uses and “grandfathered” in at their existing locations.

Circulation and Parking

Section 18.74.020 of the Santa Clara City Code provides parking requirements for the restaurant, retail, and service uses currently existing in the shopping center. The existing shopping center currently provides 39 parking spaces, where 34 spaces are required based on the gross building square footage. Currently, 5 parking spaces are provided for the acupuncture office. Conversion of the existing 1,242 square foot acupuncture office to a massage establishment would change the parking requirement to 6 parking spaces based on the tenant square footage.

Conclusion

The proposal is consistent with the General Plan and zoning designations for the subject property.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301 of the CEQA Guidelines - Existing Facilities, in that the proposed remodel of the existing structure will not result in an increase of more than 10,000 square feet, and will have substantially the same purpose and capacity as the current facility.

FISCAL IMPACT

There is no cost to the City other than administrative staff time and expense which are offset by permit application fees.

COORDINATION

This report has been coordinated with the City Attorney’s Office.

PUBLIC CONTACT

Public notice was posted within 300 feet of the project site and mailed to property owners within 300 feet of the project site.

ALTERNATIVES

1. Adopt a Resolution approving a Use Permit to allow conversion of an existing acupuncture office to provide a massage establishment located at 2529 Scott Boulevard, subject to conditions of approval.
2. Disapprove a Use Permit to allow conversion of an existing acupuncture office to provide a massage establishment located at 2529 Scott Boulevard and direct staff to bring back a resolution of denial.

RECOMMENDATION

1. Adopt a Resolution approving a Use Permit to allow conversion of an existing acupuncture office to provide a massage establishment located at 2529 Scott Boulevard, subject to conditions of approval.

Prepared by: Ela Kerachian, Associate Planner, Community Development

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Reena Brilliot, Planning Manager

ATTACHMENTS

1. Resolution Approving the Use Permit
2. Conditions of Approval
3. Statement of Justification
4. Development Plans