



CITY OF
HAYWARD
HEART OF THE BAY

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DATE: March 13, 2008
TO: Planning Commission
FROM: Arlynne J. Camire, AICP, Associate Planner
SUBJECT: Use Permit Application No. PL-2007-0606 – Wei Hua Tang (Applicant) / Dr. Clelen Tanner (Owner) – Request to Operate a Massage Establishment in an Existing Medical Building

The property is Located at 21915 Foothill Boulevard at the Southwest Corner of Oakview Avenue and Foothill Boulevard, in the Neighborhood Commercial (CN) Zoning District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the project is Categorical Exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1: Existing Facilities; and
2. Approve the Use Permit application, subject to the attached findings and conditions of approval.

SUMMARY

The Zoning Ordinance requires a conditional use permit for a massage establishment, regardless of size, to ensure the establishment would meet a community need and would be in harmony with adjacent uses.

Ms. Wei Hua Tang requests to operate Hayward Massage Therapy Center, a massage establishment to be located in a two-tenant medical building shared with a dental office. Hayward Massage Therapy Center would offer various types of massage therapies. The proposed hours of operation would be 10:00 am to 10:00 pm, seven days a week. In addition to the required approval of a conditional use permit, a Massage Establishment Permit is required to be issued by the Hayward Police Department and each massage therapist is required to obtain a Massage Therapy Technician Permit.

The parking lot used by the two businesses was built in 1962 when the building was constructed and is nonconforming in that it can accommodate three pairs of tandem parking spaces, where

outside spaces would currently be required. It has been the practice of customers to generally park on adjacent streets and the employees park in the rear parking lot.

BACKGROUND

Project Description

The proposed Hayward Massage Therapy Center would be located in a 1,119-square-foot tenant space in a building shared with a dental office. The tenant space was used as a medical office prior to the current request. The establishment would have four massage rooms, an employee break room, a unisex handicap accessible restroom and shower room, and a laundry/utility room. A waiting area would be separated from the massage rooms.

Adjacent uses to the medical building include Tommy's Donuts on the north side of Oakview Avenue, and the Horizons Real Estate and Investments office and Golden Mountain Chinese Restaurant to the south along Foothill Boulevard. A residential duplex is located to the west, adjacent to the nonconforming parking lot for the subject building.

Permits

The City's Massage Permit Ordinance requires that Ms. Tang apply for a Massage Establishment Permit from the Chief of Police. The applicant has complied with this requirement and has passed the background check to the satisfaction of the Police Department. All massage therapists are required to obtain a separate Massage Therapy Technician Permit. To obtain a permit, a therapist must provide valid identification, proof of adequate training and employment with a massage establishment, and undergo a Police Department background check. As a recommended condition of approval (see Condition No.3), the applicant and all massage therapy technicians are required to obtain Massage Therapy Technician Permits from the Police Department prior to offering massage therapy services. All permits must be renewed every two years. According to the applicant, the business would initially have two technicians, and an additional technician would be employed when needed.

DISCUSSION

Hayward Massage Therapy Center would offer therapeutic, deep tissue massage and Chinese Qi Gong massage, acupressure, foot reflexology and hot stone therapy to customers on an appointment and walk-in basis. Initially, the business would operate with two massage therapists and a third massage therapist would be employed to accommodate an anticipated increase in business. The business would introduce massage services that currently are not available in this area of Hayward. The new business would serve adjacent residential neighborhoods and employees and the Hayward community.

The applicant chose this location because it was a medical office with separate exam rooms, providing an opportunity to establish her business in a tenant space that did not need tenant improvements, other than the installation of equipment.

The building was built in 1962, and the approximate 2,000-square-foot rear parking area was designed without parking stalls and without adequate on-site vehicle circulation that would allow a vehicle to turn-around to exit onto Oakview Avenue in a forward motion. To ensure safer parking and safer exiting from the parking lot, staff recommends six parking spaces in three double-tandem sets to serve both employees and visitors. The parking stalls located near the rear of the lot along the south wall would be designated as employee parking and the three stalls adjacent to the driveway near Oakview Avenue would be designated as visitor parking. Staff has met with the owner who has agreed to provide the six tandem striped parking spaces.

Conditional Use Permit Findings

In order for the Conditional Use Permit to be approved, the following findings must be made.

a. The proposed use is desirable for the public convenience or welfare.

Hayward Massage Therapy Center would provide massage services of therapeutic and deep tissue massage, acupressure, and foot reflexology. Massage services would be offered that are not currently available in North Hayward.

b. The proposed use will not impair the character and integrity of the zoning district and surrounding area.

The site of the proposed facility is an existing medical building shared with a dental office owned and operated by the property owner, Dr. Clenen Turner. The conditions imposed will mitigate any unforeseen adverse impacts, such as, screening lighting from adjacent homes, requiring a Massage Establishment Permit that imposes conditions requiring the business to operate in safe and legal manner, and requiring striped parking stalls to promote safer driving practices by those who use the rear parking lot.

c. The proposed use will not be detrimental to the public health, safety, or general welfare

Each massage therapist and the establishment owner are required to meet all the requirements of the Municipal Code, which regulates massage establishments. Each massage therapist is required to obtain a Massage Therapy Technician Permits issued by the Police Department. The applicant, who is the business owner, is required to obtain a Massage Establishment Permit issued by the Police Department. She has passed the Police Department background check and has obtained the required Massage Establishment Permit. In addition, each massage therapist is required to be a graduate from a massage school or certified by the National Certification Board for therapeutic Massage and Bodywork.

d. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

The proposed use, Hayward Massage Therapy Center, would be in harmony with applicable City policies of the North Hayward Neighborhood Plan in that new offices are

sales and repair are discouraged. In addition, the intent and purpose of the Neighborhood Commercial Zoning District is met in that the massage establishment would offer a convenience service to the adjacent residents and the community.

ENVIRONMENTAL REVIEW:

The proposed project is categorically exempt from environmental review pursuant to Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines.

PUBLIC NOTICE:

On December 18, 2007, a Referral Notice was mailed to every property owner and occupant as noted on the latest assessor's records within 300 feet of the property and was mailed to the North Hayward Neighborhood Taskforce. Staff received one phone call in support from a resident who lives on Rockford Road located east of Foothill Boulevard. On February 29, 2008, a notice of public hearing was mailed the same properties and the North Hayward Taskforce. No additional comments have been received.

Prepared by:



Arlyne J. Camire, AICP
Associate Planner

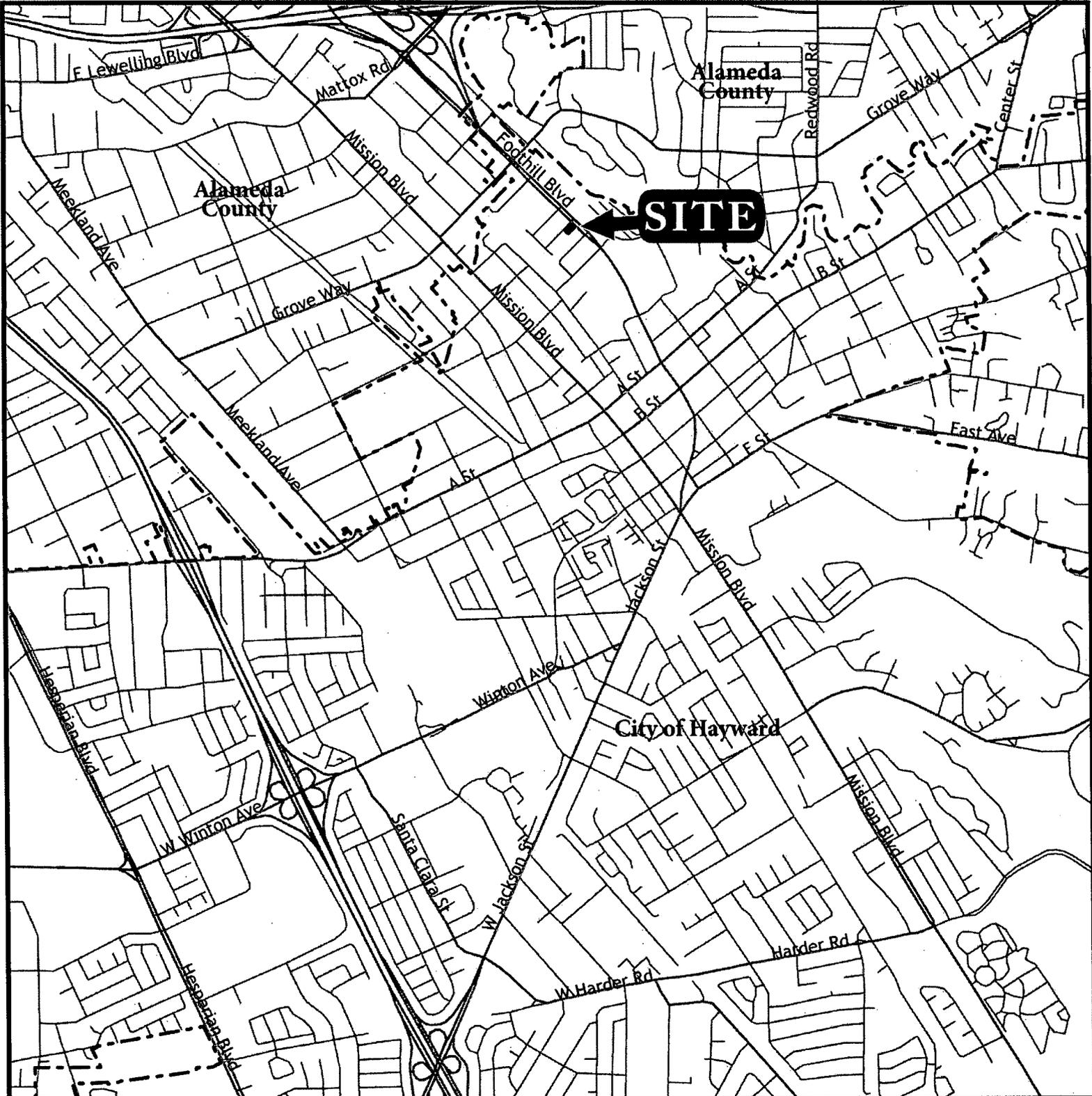
Recommended by:



David Rizk, AICP
Planning Manager

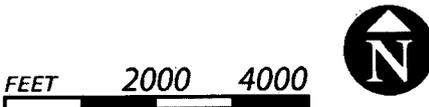
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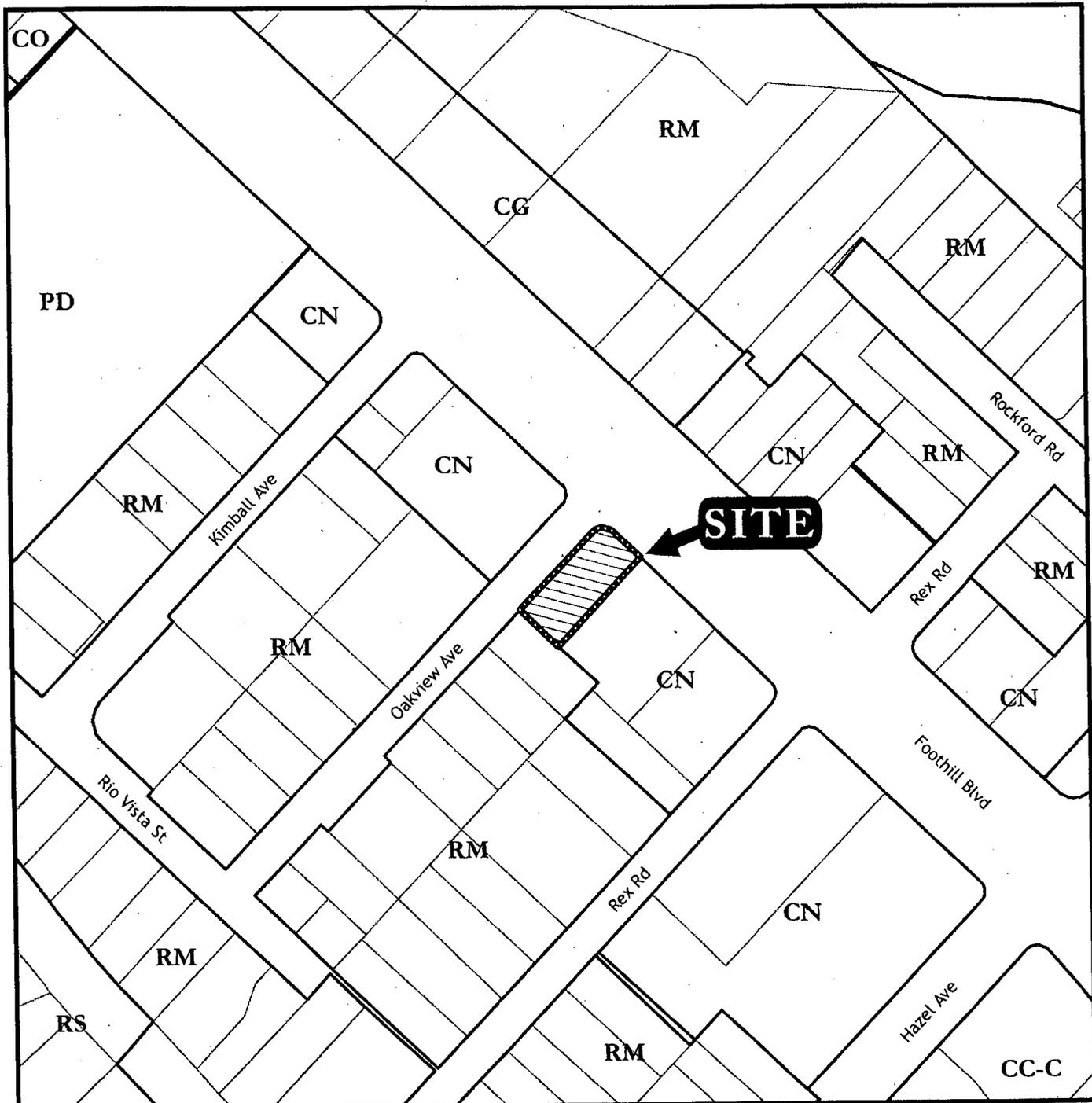
- A. Vicinity Map
 - B. Zoning and Area Map
 - C. Findings of Approval
 - D. Conditions of Approval
- Site Plan
Floor Plan



Vicinity Map

PL-2007-0606 UP
21915 Foothill Blvd





Area & Zoning Map

PL-2007-0606 UP

Address: 21915 Foothill Blvd

Applicant: Hayward Massage
Therapy Center

Owner: Clelen Tanner

Zoning Classifications

RESIDENTIAL

- RM Medium Density Residential
- RS Single Family Residential

COMMERCIAL

- CN Neighborhood Commercial
- CO Commercial Office

CENTRAL CITY

- CC-C Central City - Commercial

OTHER

- PD Planned Development



FEET 200 400

FINDINGS FOR APPROVAL
USE PERMIT APPLICATION NO. PL-2007-0606
Hayward Massage Therapy Center (Applicant)
Celen Tanner (Owner)
21915 Foothill Boulevard

Based on the staff report and the public record:

FINDINGS FOR APPROVAL

- A. Approval of Use Permit Application No. PL-2007-0606 to allow the operation of a massage establishment in the Neighborhood Commercial Zoning District is exempt from the provisions of California Environmental Quality Act guidelines pursuant to Section 15301, *Existing Facilities*.
- B. The proposed massage establishment is desirable for the public convenience or welfare in that Hayward Massage Therapy Center would provide massage services of therapeutic and deep tissue massage, acupressure, and foot reflexology which are not currently available in North Hayward.
- C. The proposed massage establishment will not impair the character and integrity of the zoning district and surrounding area in that the site of the proposed facility is an existing medical building shared with a dental office owned and operated by the property owner, Dr. Clenen Turner. The conditions imposed will mitigate any unforeseen adverse impacts, such as, screening lighting from adjacent homes, requiring a Massage Establishment Permit that imposes conditions requiring the business to operate in safe and legal manner, and requiring striped parking stalls to promote safer driving practices by those who use the rear parking lot.
- D. The proposed massage establishment will not be detrimental to the public health, safety, or general welfare in that each massage therapist and the establishment owner are required to meet all the requirements of the Municipal Code, which regulates massage establishments. Each massage therapist is required to obtain a Massage Therapy Technician Permits issued by the Police Department. The applicant, who is the business owner, is required to obtain a Massage Establishment Permit issued by the Police Department. She has passed the Police Department background check and has obtained the required Massage Establishment Permit. In addition, each massage therapist is required to be a graduate from a massage school or certified by the National Certification Board for therapeutic Massage and Bodywork.
- E. The proposed massage establishment is in harmony with applicable City policies and the intent and purpose of the zoning district involved. Hayward Massage Therapy Center, would be in harmony with applicable City policies of the North Hayward Neighborhood Plan in that new offices are encouraged while car sales and repair are discouraged. In addition, the intent and purpose of the Neighborhood Commercial Zoning District is met in that the massage establishment would offer a convenience service to the adjacent residents and the community.

CONDITIONS OF APPROVAL
USE PERMIT APPLICATION NO. PL-2007-0606
Hayward Massage Therapy Center (Applicant)
Clelen Tanner (Owner)
21915 Foothill Boulevard

Use Permit Application No. PL-2007-0606 to allow the operation of a massage establishment in the Neighborhood Commercial District, is approved subject to the plans labeled "Exhibit A", and the conditions listed below.

CONDITIONS OF APPROVAL

1. This permit becomes void one year after the effective dated of approval, unless prior to that time and a Massage Establishment Permit has been approved and operation of the establishment has commenced. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to March 13, 2009.
2. Any modification to the approved plans or conditions shall require review and approval by the Planning Director.
3. Prior to the commencement of massage services, the following must be completed by the business owner:
 - a. A Massage Establishment Permit shall be obtained and shall be maintained as long as massage services are offered. Operations are not permitted to begin prior to obtaining approval of a Massage Establishment Permit from the Hayward Police Department. The business owner or operator shall display the Massage Establishment Permit issued.
 - b. The Massage Establishment Permit shall be renewed with the Hayward Police Department every two years.
 - c. All massage technicians shall have a Massage Therapy Technician Permit. The permit shall be renewed with the Hayward Police Department every two years.
4. The massage establishment permit and a copy of the permit of each and every massage therapy technician employed in the establishment shall be displayed in an open and conspicuous place on the premises. The business owner or operator shall maintain a register of all persons employed as massage technicians and their permit numbers. Such register shall be available for inspection at all times during regular business hours.
5. The business owner/operator shall permit the City officials the right to enter the premises used by the massage technicians from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with building, fire, electrical, plumbing, or health codes, the California Penal Code and the Hayward Municipal Code.

6. The massage establishment and every massage therapy technician shall comply with standards established by the Alameda County Public Health Department for such businesses and practitioners and the following facilities and operation requirements:
 - a. The massage establishments premises and facilities shall meet and be maintained in a condition to comply with all applicable code requirements of the city, county, and state, including, but not limited to, those related to the safety of structures, adequacy of the plumbing, lighting, heating, ventilation, waterproofing of rooms in which showers, water or steam baths are used, and the health and leanness of the facility.
 - b. The massage establishments and massage therapy technicians shall at all times have an adequate supply of clean sanitary towels, covering, and linens. Towels, non-disposable coverings, and linens shall not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and disposable coverings shall not be used on more than one client. Soiled linens and paper towels shall be disposed in separate receptacles.
 - c. In the massage establishment the restroom and basin shall be thoroughly cleaned and disinfected as needed, and at least once a day when the premises are opened, with a disinfected. All walls, ceilings, floors, and other fiscal facilities for the establishment shall be in good repair, and maintained in a clean and sanitary condition.
 - d. All equipment used in the massage therapy operation shall be maintained in a clean and sanitary condition. Instruments utilized in performing massage therapy shall not be used on more than one client unless they have been sterilized, using standard sterilization methods.
 - e. Toilet facilities shall be provided in a convenient location within the massage establishment and shall consist of at least one unisex toilet with laboratories or wash basins provided with soap and both hot and cold running water either in the toilet room or vestibule.
 - f. A minimum of one wash basin for employees shall be provided at all times. The basin shall be located within or as close as possible to the area devoted to performing of massage therapy services. Soap and sanitary towels shall also be provided at each basin.
 - g. Massage therapy shall be provided or given only between the hours of 10:00 am to 10:00 pm. The massage establishment shall not be opened and no client shall be in the establishment between 10:00 pm and 10:00 am.
 - h. No alcoholic beverages shall be sold, served, furnished, kept, consumed, or possessed on the premises.
 - i. Controlled substances shall not be consumed in the massage establishment unless the person has a prescription for the substance.
 - j. No permittee or employee of the massage establishment shall place, publish or distribute or cause to be placed, published or distributed by any advertising matter that depicts any portion of the human body that would reasonably suggest to

prospective customers that a service is available that is prohibited under the provisions of the Massage Ordinance, nor shall any massage establishment employ language in any advertising text or business name that would reasonably suggest to a prospective client that any service is available that is prohibited by the provisions of the Massage Ordinance.

- k. The use or possession of adult oriented merchandise in any part of the massage establishment is prohibited.
 - l. Condoms shall not be kept on the premises or used for any purpose in the massage establishment.
 - m. No electrical, mechanical or artificial device shall be used by the operator and or manager, massage therapy technician and any employee of the massage establishment for audio and/or recording for monitoring the performance of the massage therapy, or the conversation or other sounds in the massage room without the knowledge and written consent of the patron.
 - n. Surveillance cameras may not be installed on the interior of the massage establishment. Other surveillance cameras must be maintained or operated so as to provide surveillance of the exterior of the massage establishment or the surrounding area.
 - o. No massage therapy shall be conducted within any space on the premises of the massage therapy business which is fitted with a lock.
 - p. All entrance and exit doors on the premises of the massage therapy business shall remain unlocked during business hours.
 - q. All massage services shall be paid for in the reception area. The massage establishment may utilize a system where tip envelopes are provided in the in the massage area and at each massage station, to be utilized and deposited by the client in the reception area.
 - r. The massage establishment shall not be used for residential or sleeping purposes.
 - s. Massage establishment personnel or any massage technician may not inquire as to whether any client is a police officer.
7. The regulations of the sign ordinance are to be followed. A cabinet sign is not permitted. A sign permit is required to be approved prior to the installation of a sign.
8. The legal non-conforming rear parking lot shall be striped for six tandem parking spaces that allow backing into the street, meet Off-Street Parking Regulations and meet City Standard Details. Employee parking shall be indicated on the three parking stalls adjacent to the wall. The three parking stalls adjacent to the driveway are to be reserved and marked as visitor parking.
9. Prior to the striping of the rear parking lot, a parking plan is required to be submitted to the Planning Director for approval.
10. Employees of the massage establishment shall park in the employee parking stalls located in the parking lot to the rear of the medical building. Landscaping located in the planters at the

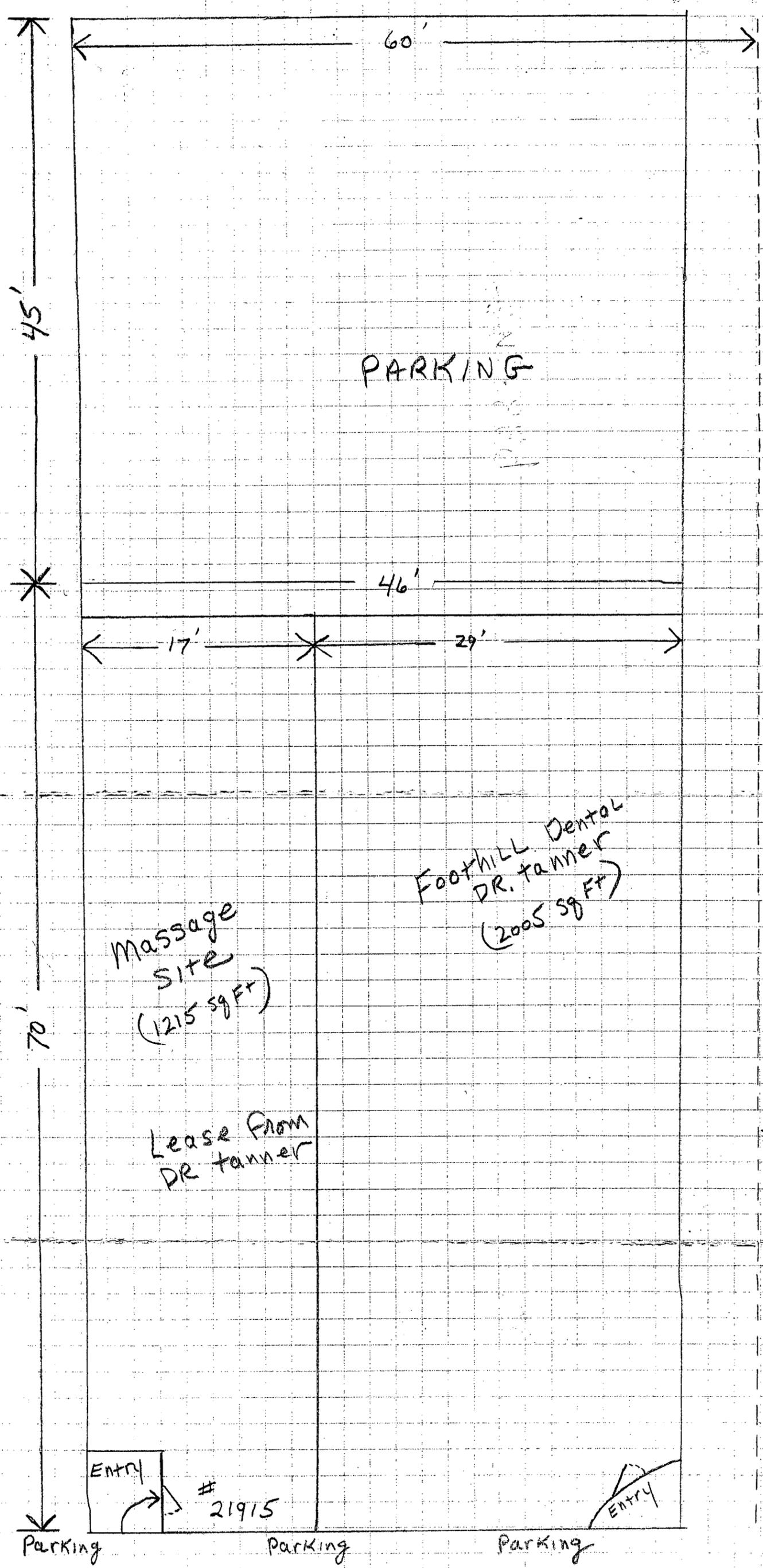
front and north side of the building shall be maintained in a healthy, weed-free condition at all times with replacement plants provided where necessary. The dead and dying landscaping located in the front planter shall be replaced by the property owner prior to the commencement of business of the massage establishment.

11. The owner shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, driveway and parking area. The premises shall be kept clean. All existing graffiti shall be removed. Any graffiti painted on the property shall be painted out or removed within 72 hours of occurrence.
12. The trash receptacles shall be kept within the two tenant spaces. Trash receptacles shall be outside of the building only on designated garbage pick-up days.
13. Adequate exterior lighting shall be provided at both the front customer and rear employee entrances to assure the safety of customers and the employees. The lighting shall comply with the City of Hayward's Security Ordinance. The lighting fixture shall shield light from the adjacent residential property. The design of the lighting fixtures shall be approved by the Planning Director prior to installation.
14. If it comes to the attention of the Planning Director that the conditions of approval have been violated, the Planning Director may call the use permit application up to the Planning Commission for consideration of imposing additional conditions or revocation.

Fire Department

15. The building shall be properly addressed with a minimum six-inch high address numbers installed facing the street and on a contrasting background.
16. Maintain all exit doors and exit signage. Please contact Fire Department Administration at the City Hall Permit Center for more information.
17. Provide portable fire extinguishers with a minimum rating of 2A:10BC in locations that are clearly unobstructed and easy to access.
18. Use of extension cords in lieu of permanent wiring is not allowed.
19. Use of portable space heaters or any other gas-fueled appliance is not allowed within the treatment areas or any other areas of the tenant space.

PLOT PLAN - 21915 FOOTHILL BLVD. HAYWARD, CA.



Tommy Donuts

← Foothill Blvd South
Foothill Blvd North →

1/8" Equals 1 Foot