



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Conditional Use

HEARING DATE: OCTOBER 14, 2010

*Date:* October 7, 2010  
*Case No.:* **2010.0507C**  
*Project Address:* **2443 LOMBARD STREET**  
*Zoning:* NC-3 (Moderate-Scale) Neighborhood Commercial District  
40-X Height and Bulk District  
*Block/Lot:* 0937/026  
*Project Sponsors:* Brian Hofer / Chijeh Hu (agents)  
Law Office of Chijeh Hu  
456 - 8<sup>th</sup> Street  
Oakland, CA 94607  
Huan Zhi Jiang (massage operator)  
2319 - 18<sup>th</sup> Street  
San Francisco, CA 94116  
*Staff Contact:* Sharon M. Young – (415) 558-6346  
sharon.m.young@sfgov.org  
*Recommendation:* **Approval with Conditions**

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### PROJECT DESCRIPTION

The proposal is a request for Conditional Use Authorization under Sections 712.54 and 303 of the Planning Code to modify the conditions of approval under Motion No. 17955 (Case No. 2009.0580C) to convert 2/3 of the foot massage treatment room into three treatment rooms for shoulder, neck, and back massage within an existing massage establishment with approximately 1,000 square feet of floor area dba Perfect Health Center within the NC-3 (Moderate-Scale) Neighborhood Commercial Zoning District and a 40-X Height and Bulk District.

The existing massage establishment consists of one room with 365 square feet of floor area for providing foot massage treatments, two rooms with 156 square feet of floor area for providing shoulder, head, neck, and back massage treatments, a reception area, restrooms, employee rest area, and storage area. The current proposal will involve tenant improvements to the existing ground floor commercial space with the addition of new wall partitions. There will be no expansion to the existing building envelope. Currently, the permitted hours of operation of the existing massage establishment are from 10 a.m. to 10 p.m. seven days week and this is proposed to remain the same.

### SITE DESCRIPTION AND PRESENT USE

The Project Site is on the south side of Lombard Street between Divisadero and Scott Streets; Assessor's Block 0937; Lots 026. It is located within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District. The subject lot is approximately 8,293 square-feet (77.5 feet wide by 107 feet) in size and is occupied by a three-story commercial and residential building built circa 1926.

The existing building is not listed in the Planning Department's 1976 Architectural Survey or the National or California Registers as having architectural significance. The subject property at 2443 Lombard Street is one of three commercial tenant spaces located on the ground floor of the commercial and residential building. The other commercial tenant space at 2439 Lombard Street is a beauty salon (dba Neva's Beauty) and at 2453 Lombard Street is a vacant commercial space. Currently, twelve residential units exist on the second and third floors of the building.

## **SURROUNDING PROPERTIES & NEIGHBORHOOD**

The surrounding development consists of a variety of residential, commercial, and mixed-use buildings featuring residential uses above ground-floor commercial establishments. The scale of development in the area consists primarily of one- to three-story structures. Generally, the commercial establishments characterizing this portion of Lombard Street include a mixture of a few restaurants, specialty stores, personal service establishments, motels, a fitness center, a bank, and a gas station. Some of the commercial establishments on the subject block include Edward II Inn Bed & Breakfast, Café Maritime, Action Fitness, Neva's Beauty, Mike & Maaike, London Lass Beauty Salon, and New Yorkers Buffalo Wings. Some of the commercial establishments on the opposite block include Union 76 gas station, Bank of America, Super 8 Motel, United States of Self Defense Martial Arts, Shangrila Café & Grill, and Tom Yum Thai Cuisine. There do not appear to be any commercial establishments on the subject and opposite blockfaces that would qualify as formula retail uses as defined in the Planning Code. On Divisadero and Scott Streets running east and west of the project site, there are predominantly a mix of residential and mixed-use buildings within an RH-2 (Residential House, Two-Family) Zoning District and RM-2 (Residential, Mixed Districts, Moderate-Density) Zoning District. The Chestnut Street NC-2 District is located approximately one block from the project site.

## **ENVIRONMENTAL REVIEW**

The proposed project was determined by the San Francisco Planning Department to be categorically exempt from environmental review, under Class 1(a) of the State CEQA Guidelines, Section 15301, pursuant to Title 14 of the California Administrative Code.

## **HEARING NOTIFICATION**

<b>TYPE</b>	<b>REQUIRED PERIOD</b>	<b>REQUIRED NOTICE DATE</b>	<b>ACTUAL NOTICE DATE</b>	<b>ACTUAL PERIOD</b>
Classified News Ad	20 days	September 17, 2010	September 17, 2010	22 days
Posted Notice	20 days	September 17, 2010	September 17, 2010	20 days
Mailed Notice	20 days	September 15, 2010	September 17, 2010	22 days

## **PUBLIC COMMENT**

- As of October 7, 2010, the Department has not received any letters or phone calls in opposition to the proposed project. The Department has received one phone call requesting for information on the project and two letters in support of the project since it would allow for additional treatment rooms and privacy when receiving massage services.

## ISSUES AND OTHER CONSIDERATIONS

- The existing massage establishment dba Perfect Health Center is independently owned and is not considered a formula retail use under Section 703.3 of the Planning Code. The existing massage establishment has been in operation since January 11, 2010. The project sponsor (Huan Zhi Jiang) also operates a massage establishment at 514 - 27<sup>th</sup> Avenue (aka 6255 Geary Boulevard) dba Wonderfoot Health Center located which was granted conditional use authorization by the Planning Commission on January 8, 2009 under Case No. 2008.0648C.
- The existing massage establishment was granted conditional use authorization by the Planning Commission on September 24, 2009 under Case No. 2009.0580C (Motion No. 17955). Pursuant to Condition of Approval #2, the massage establishment would consist of one room with 365 square feet of floor area utilized for providing foot massage treatments (as amended by the Planning Commission to remove an interior wall separating the two proposed foot massage treatment rooms), two rooms with 156 square feet of floor area utilized for providing shoulder, head, neck, and back massage treatments, a reception area, restrooms, employee rest area, and storage area. Pursuant to Condition of Approval #3, the permitted hours of operation of the massage establishment are from 10 a.m. 10 p.m. seven days week for a period of one year from the effective date of this Motion No. 17955, after which date the permitted hours of operation of the massage establishment will change to 10 a.m. to 7 p.m. Monday through Friday and 10 a.m. to 6 p.m. Saturday and Sunday unless determined by the Zoning Administrator to allow the extended hours of operation to continue following an informational presentation to the Planning Commission regarding the operation of the massage establishment during the one-year period following the effective date of the Motion No. 17955. The Planning Department's Code Enforcement Division and the San Francisco Police Department – Northern Station (Officer John Gallagher) confirmed that there has not been any indication of problems associated with the applicant in relation to the operation of the existing massage establishment while it has been in operation since January 2010. The project sponsors have submitted to the Planning Department an analysis of how the massage establishment currently meets the physical criteria pursuant to the provisions under Planning Code Section 790.60, customer service information of the daily customer log data for body vs. foot massage appointments between June – August 2010 with an analysis of post-6 p.m. vs. pre-6 p.m. appointments which provide justification for the applicant's current request for Conditional Use authorization by the Planning Commission to convert a portion of the existing foot massage treatment room into additional body massage rooms and their request for the Zoning Administrator to allow the extended hours of operation to continue indefinitely from 10 a.m. to 10 p.m., seven days a week.
- Under the current Conditional Use application, the project sponsors are requesting to modify the conditions of approval under Motion No. 17955 to convert 2/3 of the foot massage treatment room into three treatment rooms for shoulder, neck, and back massage within an existing massage establishment to meet customer needs by reapportioning the existing foot massage room which is underutilized, and converting some of the existing foot massage chairs to convertible chair-beds that will allow for both foot and body massage without having to rigidly predetermine the split between foot and body massage customers.
- The project sponsors have also indicated that the proposed design commercial tenant space with the addition of three new treatment rooms for shoulder, neck, and back massage is the product of considering the functionality of the floor plan, codes and regulations, cost of the alterations, including physical construction cost and the interruption of the existing business, and a desire to showcase the professional services they have to offer. Based on these considerations, the project

sponsors indicated that additional tenant improvements to the ground floor commercial space is limited to the existing foot massage room rather other areas of the existing commercial tenant that would need to remain the same in the front and back door access, hallways, mechanical closet areas to comply with the various Building Code requirements (i.e. electrical wiring). The project sponsor has indicated that with the additional tenant improvements, the majority of the front facade will remain transparent and open to the public's view (showcasing two body massage rooms) from the street.

- The project sponsors have also indicated that with the continued operation of the massage establishment with the current foot massage space configuration has lead to financial hardship and jeopardizes her ability to maintain current staffing levels to keep the business afloat. With the current proposal, the hours of operation of the massage establishment are proposed to remain the same. The project sponsors have also indicated that proposed reconfiguration of the existing massage establishment would be similar to other existing San Francisco massage establishments (such as the Red Door Spa by Elizabeth Arden, Kabuki, or Spa Services with the Marriott San Francisco) offering similar services with enclosed rooms and many even without windows.

### **REQUIRED COMMISSION ACTION**

This proposal requires **Conditional Use** authorization pursuant to Sections 712.54, 790.60, and 303(c) of the Planning Code to modify the conditions of approval under Motion No. 17955 (Case No. 2009.0580C) to convert 2/3 of the foot massage treatment room into three treatment rooms for shoulder, neck, and back massage within an existing massage establishment dba Perfect Health Center on the ground floor of a three-story commercial and residential building within the NC-3 (Moderate-Scale) Neighborhood Commercial Zoning District and a 40-X Height and Bulk District.

### **BASIS FOR RECOMMENDATION**

- The proposed project meets all applicable requirements of the Planning Code.
- The proposed project will continue to ensure the viability and continuation of a retail-driven commercial corridor by occupying a commercial space on the subject block. It will also continue to provide job opportunities to the City.
- The massage establishment will continue to provide a wide variety of neighborhood-serving retail uses in an area with a few restaurants, specialty stores, and personal service establishments. There is no indication that the applicant is involved in any illegal enterprises related to operating the existing massage establishment.
- The Department believes that this project is necessary and/or desirable for the following reasons:
  - a) The proposed project will enhance the economic diversity of the neighborhood encouraging an existing business to remain in the area.
  - b) The majority of the front facade will remain transparent and open to the public.
  - c) The proposed project is a neighborhood-serving use which residents can access by walking or taking public transit.
  - d) The proposed project would be consistent with the mixed commercial-residential character of this portion of Lombard Street within the NC-3 Zoning District.

<b>RECOMMENDATION:</b> <b>Approval with Conditions</b>
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**Attachments:**

Zoning District Map  
Parcel Map  
Sanborn Map  
Aerial Photographs  
Site and Context Photographs  
Reduced Plans  
Attachment Checklist

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Executive Summary                                | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion                                     | Drawings: <u>Existing Conditions</u>                          |
| <input type="checkbox"/> Environmental Determination                                 | <input checked="" type="checkbox"/> Check for legibility      |
| <input checked="" type="checkbox"/> Zoning District Map                              | Drawings: <u>Proposed Project</u>                             |
| <input type="checkbox"/> Height & Bulk Map   | <input checked="" type="checkbox"/> Check for legibility      |
| <input checked="" type="checkbox"/> Parcel Map                                       | <input type="checkbox"/>                                      |
| <input checked="" type="checkbox"/> Sanborn Map                                      | <input type="checkbox"/>                                      |
| <input checked="" type="checkbox"/> Aerial Photo                                     | <input type="checkbox"/>                                      |
| <input checked="" type="checkbox"/> Context Photos (submitted by<br>Project sponsor) | <input type="checkbox"/>                                      |
| <input checked="" type="checkbox"/> Site Photos                                      | <input type="checkbox"/>                                      |

SMY

Exhibits above marked with an "X" are included in this packet

\_\_\_\_\_  
Planner's Initials

*SMY: C:\2443 Lombard St - summary-smy.doc*



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
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## Planning Commission Motion No.

HEARING DATE: OCTOBER 14, 2010

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 456 - 8<sup>th</sup> Street  
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 2319 - 18<sup>th</sup> Avenue  
 San Francisco, CA 94116  
*Staff Contact:* Sharon M. Young – (415) 558-6346  
[sharon.m.young@sfgov.org](mailto:sharon.m.young@sfgov.org)

**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 712.54, 790.60, AND 303(C) OF THE PLANNING CODE TO MODIFY THE CONDITIONS OF APPROVAL UNDER MOTION NO. 17955 (CASE NO. 2009.0580C) TO CONVERT 2/3 OF THE FOOT MASSAGE TREATMENT ROOM INTO THREE TREATMENT ROOMS FOR SHOULDER, NECK, AND BACK MASSAGE WITHIN AN EXISTING MASSAGE ESTABLISHMENT (DBA PERFECT HEALTH CENTER) AT THE GROUND FLOOR COMMERCIAL SPACE LOCATED AT 2443 LOMBARD STREET, ON ASSESSOR’S BLOCK 0937, LOT 026 WITHIN THE NC-3 (MODERATE-SCALE) NEIGHBORHOOD COMMERCIAL ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On June 29, 2010, Brian Hofer and Chijeh Hu, acting agents on behalf of Huan Zhi Jiang (hereinafter “Project Sponsors”) made an application for Conditional Use authorization on the property at **2443 Lombard Street, Lot 026 in Assessor’s Block 0937** (hereinafter “Property”), to modify the conditions of approval under Motion No. 17955 (Case No. 2009.0580C) to convert 2/3 of the foot massage treatment room into three treatment rooms for shoulder, neck, and back massage within an existing massage establishment dba Perfect Health Center located in a three-story commercial and residential building

within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformity with plans dated May 2010 and labeled "Exhibit B" (hereinafter "Project").

On **October 14, 2010**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2010.0507C**. Under Sections 712.54, 790.60, and 303(c) of the Planning Code, Conditional Use authorization is required to modify the conditions of approval under Motion No. 17955 (Case No. 2009.0580C) to convert 2/3 of the foot massage treatment room into three treatment rooms for shoulder, neck, and back massage within an existing massage establishment dba Perfect Health Center located in a three-story commercial and residential building within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (hereinafter "CEQA"), the Planning Department of the City and County of San Francisco (hereinafter "Department") determined that the proposed Conditional Use Application was categorically exempt from the environmental review process under Class 1(a) of the State CEQA Guidelines, Section 15301, pursuant to Title 14 of the California Administrative Code. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2010.0507C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is on the south side of Lombard Street between Divisadero and Scott Streets; Assessor's Block 0937; Lots 026. It is located within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District. The subject lot is approximately 8,293 square-feet (77.5 feet wide by 107 feet) in size and is occupied by a three-story commercial and residential building built circa 1926. The existing building is not listed in the Planning Department's 1976 Architectural Survey or the National or California Registers as having architectural significance. The subject property at 2443 Lombard Street is one of three commercial tenant spaces located on the ground floor of the commercial and residential building. The other commercial tenant space at 2439 Lombard Street is a beauty salon

(dba Neva's Beauty) and at 2453 Lombard Street is a vacant commercial space. Currently, twelve residential units exist on the second and third floors of the building.

3. **Surrounding Properties and Neighborhood.** The surrounding development consists of a variety of residential, commercial, and mixed-use buildings featuring residential uses above ground-floor commercial establishments. The scale of development in the area consists primarily of one- to three-story structures. Generally, the commercial establishments characterizing this portion of Lombard Street include a mixture of a few restaurants, specialty stores, personal service establishments, motels, a fitness center, a bank, and a gas station. Some of the commercial establishments on the subject block include Edward II Inn Bed & Breakfast, Café Maritime, Action Fitness, Neva's Beauty, Mike & Maaike, London Lass Beauty Salon, and New Yorkers Buffalo Wings. Some of the commercial establishments on the opposite block include Union 76 gas station, Bank of America, Super 8 Motel, United States of Self Defense Martial Arts, Shangrila Café & Grill, and Tom Yum Thai Cuisine. There do not appear to be any commercial establishments on the subject and opposite blockfaces that would qualify as formula retail uses as defined in the Planning Code. On Divisadero and Scott Streets running east and west of the project site, there are predominantly a mix of residential and mixed-use buildings within an RH-2 (Residential House, Two-Family) Zoning District and RM-2 (Residential, Mixed Districts, Moderate-Density) Zoning District. The Chestnut Street NC-2 District is located approximately one block from the project site.
4. **Project Description.** The proposal is a request for Conditional Use Authorization under Sections 712.54 and 303 of the Planning Code to modify the conditions of approval under Motion No. 17955 (Case No. 2009.0580C) to convert 2/3 of the foot massage treatment room into three treatment rooms for shoulder, neck, and back massage within an existing massage establishment with approximately 1,000 square feet of floor area dba Perfect Health Center within the NC-3 (Moderate-Scale) Neighborhood Commercial Zoning District and a 40-X Height and Bulk District.

The existing massage establishment consists of one room with 365 square feet of floor area for providing foot massage treatments, two rooms with 156 square feet of floor area for providing shoulder, head, neck, and back massage treatments, a reception area, restrooms, employee rest area, and storage area. The current proposal will involve tenant improvements to the existing ground floor commercial space with the addition of new wall partitions. There will be no expansion to the existing building envelope. Currently, the permitted hours of operation of the existing massage establishment are from 10 a.m. to 10 p.m. seven days week and this is proposed to remain the same.

5. **Issues and Other Considerations.**

- The existing massage establishment dba Perfect Health Center is independently owned and is not considered a formula retail use under Section 703.3 of the Planning Code. The existing massage establishment has been in operation since January 11, 2010. The project sponsor (Huan Zhi Jiang) also operates a massage establishment at 514 - 27<sup>th</sup> Avenue



(aka 6255 Geary Boulevard) dba Wonderfoot Health Center located which was granted conditional use authorization by the Planning Commission on January 8, 2009 under Case No. 2008.0648C.

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- The project sponsors have also indicated that the proposed design commercial tenant space with the addition of three new treatment rooms for shoulder, neck, and back massage is the product of considering the functionality of the floor plan, codes and regulations, cost of the alterations, including physical construction cost and the interruption of the existing business, and a desire to showcase the professional services they have to offer. Based on these considerations, the project sponsors indicated that additional tenant improvements to the ground floor commercial space is limited to the existing foot massage room rather other areas of the existing commercial tenant that would need to remain the same in the front and back door access, hallways, mechanical closet areas to comply with the various Building Code requirements (i.e. electrical wiring). The project sponsor has indicated that with the additional tenant improvements, the majority of the front facade will remain transparent and open to the public's view (showcasing two body massage rooms) from the street.
  - The project sponsors have also indicated that with the continued operation of the massage establishment with the current foot massage space configuration has lead to financial hardship and jeopardizes her ability to maintain current staffing levels to keep the business afloat. With the current proposal, the hours of operation of the massage establishment are proposed to remain the same. The project sponsors have also indicated that proposed reconfiguration of the existing massage establishment would be similar to other existing San Francisco massage establishments (such as the Red Door Spa by Elizabeth Arden, Kabuki, or Spa Services with the Marriott San Francisco) offering similar services with enclosed rooms and many even without windows.
6. **Public Comment.** As of October 7, 2010, the Department has not received any letters or phone calls in opposition to the proposed project. The Department has received one phone call requesting for information on the project and two letters in support of the project since it would allow for additional treatment rooms and privacy when receiving massage services.
7. **Use District.** For the purposes of this action, the project site is within the NC-3 (Neighborhood, Moderate-Scale) District. The NC-3 District controls are intended to provide the opportunity for a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods. NC-3 Districts are linear districts located along heavily trafficked thoroughfares which also serve as major transit routes.

NC-3 Districts include some of the longest linear commercial streets in the City, some of which have continuous retail development for many blocks. Large-scale lots and buildings and wide streets distinguish the districts from smaller-scaled commercial streets, although the districts may include small as well as moderately scaled lots. Buildings typically range in height from two to four stories with occasional taller structures. NC-3 building standards permit moderately large commercial uses and buildings. Rear yards are protected at residential levels. Housing development in new buildings is encouraged above the second story. Existing residential units are protected by limitations on demolitions and upper-story conversions.

8. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use for consistency with said policies:

- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

*The Project will preserve and enhance existing neighborhood-serving retail uses by continuing to occupy a space which was vacated by another commercial use and diversifying the type of commercial establishments within the immediate neighborhood. The Project will continue to provide job opportunities to the City.*

- (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The Project will preserve and enhance the cultural and economic diversity of the neighborhood by retaining an existing business in the area. Existing housing will not be affected by the Project.*

- (3) That the City's supply of affordable housing be preserved and enhanced.

*The proposed Project will not displace any affordable housing.*

- (4) That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*Public transit that is in close proximity to the existing mass transit establishment includes Muni Lines 28, 43, 76, and 91 located on the corner of Divisadero and Lombard Streets and Muni Lines 30 and 30X located on the corner of Chestnut and Scott Streets. There is on-street parking in front of the subject property and in the surrounding neighborhood.*

- (5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*There is no commercial office development associated with the proposed Project and there would be no displacement of any existing industrial or service businesses in the area.*

- (6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The proposed Project will continue to comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.*

- (7) That landmark and historic buildings be preserved.

*The proposed Project will not significantly affect any landmarks or historic buildings.*

- (8) That our parks and open space and their access to sunlight and vistas be protected from development.

*The proposed Project will not affect any city-owned park or open space.*

**B. Section 303(c)** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- (1) The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*There will be tenant improvements made to the existing massage establishment commercial space. No changes will be made to the existing building envelope.*

- (2) The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- (A) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The size and shape of the site and the size, and the arrangement of the structures on the site are adequate for the proposed Project. There will be no physical expansion of the existing building.*

- (B) 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;

*Existing traffic patterns will not be significantly affected by the proposed Project. Public transit that is in close proximity to the proposed massage establishment includes Muni Lines 28, 43, 76, and 91 located on the corner of Divisadero and Lombard Streets and Muni Lines 30 and 30X located on the corner of Chestnut and Scott Streets within walking distance of the project site. There is on-street parking in front of the subject property and in the surrounding neighborhood.*

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*No noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the proposed Project.*

- (D) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The proposed Project does not propose any exterior tenant improvements. There will be no addition of parking spaces, loading facilities, open space or service areas. All Project signage and projections will be consistent with the controls of the Planning Code.*

- (3) That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The proposed Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.*

- (4) That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The proposed Project is consistent with the stated purpose of the NC-3 Zoning District in that the existing use is a neighborhood-serving business.*

C. **Section 712.1** sets forth provisions applicable in the NC-3 Neighborhood Commercial District. A diversified commercial environment is encouraged for the NC-3 Neighborhood Commercial District, and a wide variety of uses are permitted with special emphasis on neighborhood-serving businesses. Eating and drinking, entertainment, financial service and certain auto uses generally are permitted with certain limitations at the first and second stories. Other retail businesses, personal services and offices are permitted at all stories of new buildings. Limited storage and administrative service activities are permitted with some restrictions.

D. **Section 712.21** establishes size limits on non-residential use sizes in the NC-3 Zoning District. Within the District, Conditional Use authorization is required for any non-residential use that meets or exceeds 6,000 square feet.

*The existing massage establishment, with approximately 1,000 square feet of floor area is within the principally permitted use size limitations.*

E. **Sections 712.22 and 151** of the Planning Code requires off-street parking for every 300 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

*The existing massage establishment occupies approximately 1,000 square feet of floor area and thus does not require any off-street parking.*

- F. **Section 712.27** allows no limit on the hours of operation.

*Currently, the permitted hours of operation of the massage establishment are 10 a.m. to 10 p.m., seven days a week and this is proposed to remain the same.*

- G. **Section 712.54** of the Planning Code allows massage establishments on the 1<sup>st</sup> and 2<sup>nd</sup> floors in the NC-3 (Moderate-Scale) Neighborhood Commercial District with Conditional Use authorization.

*The existing massage establishment is located on the 1<sup>st</sup> (ground) floor.*

- H. **Section 790.60** of the Planning Code provides provisions for allowing a massage establishment. On August 3, 2009, the Board of Supervisors passed new legislation on massage controls under Board File No. 09-0402 (0139-09 adopted Ordinance) in which the Planning Commission would consider the standard Conditional Use criteria of “necessary or desirable and compatible with” plus the additional physical criteria below:

- Whether the applicant has obtained and maintains a permit for a massage establishment from the Department of Public Health;
- Whether the facade is transparent and open to the public, with a preference for transparency; and
- Whether the use includes pedestrian-oriented lighting, encouraging lighting during the post-sunset hours of operation.
- Whether the use is reasonably oriented to facilitate public access. Barriers that make entrance to the use more difficult than to average service provider in the area to be strongly discouraged. These include (but are limited to) foyers equipped with double doors that can be opened only from the inside and security cameras.

*The Project Sponsor currently has a permit for a massage establishment from the Department of Public Health. The majority of the front facade will be transparent and remain open to public view with the proposed tenant improvements to the existing massage establishment. The existing massage establishment use includes pedestrian-oriented lighting in the entryway and has storefront windows framed with interior lighting to view the interior of the commercial space at the street level. The configuration of two of the three additional treatment rooms for shoulder, neck, and back massage (with massage chairs convertible to chair-beds for either foot or body massage) will be oriented to facilitate public access.*

9. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

**COMMERCE AND INDUSTRY ELEMENT**

**GENERAL/CITYWIDE**

**Objectives and Policies**

**OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

**Policy 1.1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development, which has substantial undesirable consequences that cannot be mitigated.

**Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

**Policy 1.3:**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The existing massage establishment will continue to be compatible with and complimentary to the type of uses characterizing this portion of the NC-3 Zoning District, which include a mixture of restaurants, specialty stores, and personal service establishments (i.e. nail and hair salons). The proposed use would be consistent with the commercial land use plan.*

**OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

**Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract such new activity to the City.

**Policy 2.3:**

Seek to retain existing commercial and industrial activity and to attract such new activity to the City.

*The proposed Project will retain an existing commercial space and will enhance the diverse economic base of the City.*

**OBJECTIVE 3:**

PROVIDE EXPANDED EMPLOYMENT OPPORTNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

**Policy 3.1:**

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

**Policy 3.2:**

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

*The proposed Project would continue to provide enhanced opportunities for employment of neighborhood residents.*

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 6:**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### **Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed Project includes interior modifications to the existing commercial space. The existing massage establishment would continue to diversify the type of neighborhood-serving uses within the immediate area.*

#### **Policy 6.2:**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

*The existing massage establishment is neighborhood-serving and an independent entrepreneur is sponsoring the proposal.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.



**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2010.0507C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. \_\_\_\_\_ The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on October 14, 2010.

Linda Avery  
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

## Exhibit A

# Conditions of Approval

1. Pursuant to Sections 712.54, 790.60, and 303(c) of the Planning Code, this Conditional Use approval is to modify the conditions of approval under Motion No. 17955 (Case No. 2009.0580C) to convert 2/3 of the foot massage treatment room into three treatment rooms for shoulder, neck, and back massage within an existing massage establishment (dba Perfect Health Center) on the ground floor of an existing three-story commercial and residential building, within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformity with Plans on file with the Department in the docket for **Case No. 2010.0507C** (labeled EXHIBIT B), reviewed and approved by the Commission on October 14, 2010 under Motion No.\_\_\_\_\_.
2. The proposed massage establishment will consist of one room with 140 square feet of floor area utilized for providing foot massage treatments and five rooms with approximately 373 square feet of floor area utilized for providing shoulder, head, neck, and back massage treatments, a reception area, restrooms, employee rest area, and storage area.
3. The permitted hours of operation of the massage establishment are from 10 a.m. to 10 p.m. seven days week.
4. The entry to the massage shall be directly visible from the street and not through a subordinate corridor shared by adjacent tenants or any vestibule area with two set of doors. The entrance shall be a single set of door(s) that open directly into the reception area. If any additional doors are required by the Building Code for emergency egress purposes, such door shall be labeled "for emergency use only" and shall have an audible alarm that will sound when the door is open.
5. No locks shall be allowed on any interior door of the business except that a lock for privacy may be permitted on the bathroom door.
6. All employees engaged in performing massage shall be licensed for that purpose by the State of California and the licenses shall be prominently displayed on walls of the business.
7. The property owner shall maintain the main entrance to the building and all sidewalks abutting the Subject Property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
8. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.

### STANDARD CONDITIONS

#### 9. VALIDITY, EXPIRATION, AND EXTENSION

This Conditional Use approval is **valid for three years** from the effective date of Motion No.\_\_\_\_\_ authorizing the massage establishment use and shall automatically expire on \_\_\_\_\_.

This authorization is just an approval of the proposed use and is NOT a permit to implement the approved use. This authorization and right vested by virtue of this action shall be deemed void and cancelled if a Building Permit from the Department of Building Inspection to implement the approved use has not been obtained prior to the expiration of this Conditional Use approval. The validity of this Conditional Use approval may be extended at the discretion of the Zoning Administrator only if the failure to issue a Building Permit by the Department of Building Inspection is delayed by the city, state, or federal agency or by appeal of the issuance of such Building Permit. However, the extension must be requested prior to the expiration of this Conditional Use approval.

**10. MAJOR AND MINOR CHANGES AND MODIFICATIONS OF CONDITIONS**

Minor changes to the approved plans may be approved administratively by the Zoning Administrator. Major changes and modifications of conditions shall be subject to review and approval by the Planning Commission requiring a new Conditional Use approval or amendment to this Conditional Use approval as determined by the Zoning Administrator. Such changes must be requested prior to the expiration of this Conditional Use approval.

**11. RECORDING OF CONDITIONS OF APPROVAL**

Prior to the issuance of a Building Permit Application for the proposed massage establishment use, the project sponsor or the responsible party shall record a Notice of Special Restrictions as approved by the Zoning Administrator in the Official Records of the Recorder of City and County of San Francisco for the premises (Assessor's 0937, Lot 026), which notice shall state that the proposed use has been authorized by Motion No. \_\_\_\_\_ and is subject to the conditions of approval of this Motion.

**12. BUILDING PERMIT TO IMPLEMENT THE APPROVED PROJECT**

A Building Permit from the Department of Building Inspection must be obtained to implement the approved use within three years from the effective date of Motion No. \_\_\_\_\_ approving the massage establishment use. The Building Permit Application shall include plans in conformance with the plans on file with the Department in the docket for **2010.0507C** (labeled EXHIBIT B), reviewed and approved by the Planning Commission on October 14, 2010 under the **Motion No. \_\_\_\_\_**. The plans are required to record the approved use of the premises even if there is no new construction or minor interior changes. The conditions of approval shall be reproduced on the Index Sheet of the plans submitted with the Building Permit Application. The Index Sheet of the plans shall reference to this Conditional Use Authorization and any subsequent amendments or modifications.

The project shall also comply with all other applicable city codes as required by other city departments. Additionally, no change in the character of occupancy or change to a different group of occupancy as described under the Building Code shall be made without first obtaining a Certificate of Occupancy from the Department of Building Inspection and approval from Planning and other city departments as necessary.

13. COMPLETION OF BUILDING PERMIT

The completion of Building Permit with a final inspection and/or issuance of a Certificate of Final Completion and Certificate of Occupancy from the Department of Building Inspection for the approved use under this project shall be deemed acceptance and agreement to fully comply with all of the conditions of approval of this Conditional Use approval. The project sponsor or the responsible party must ensure that the Building Permit Application has attained a 'complete' stage within the time frame required by the Department of Building Inspection. If the Building Permit is allowed to expire for more than one year, the renewal of such Building Permit thereafter will be subject to review by the Planning Department. Prior to filing of a renewal of the expired permit, the project sponsor or the responsible party shall notify the Planning Department.

14. REPORTING

The Project Sponsor or the subsequent responsible party for the project shall submit to the Zoning Administrator two copies of a written report describing the status of compliance with the conditions of approval contained within the Motion No. \_\_\_\_\_ within six months from the date of implementation of the proposed use. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.

15. REVOCATION

During the Building Permit Application process phase of the project, the Zoning Administrator may place an order to stop work, suspend, or revoke a Building Permit if the proposal carried out on the site is not in conformance with the plans approved under this Conditional Use approval and subsequent Building Permit. The Zoning Administrator may also recommend the Planning Commission to consider revocation of this Conditional Use approval in a public hearing for non-compliance with any of the conditions of approval.

16. ENFORCEMENT

After commencement of the approved use, violation of any of the planning conditions of approval contained in Motion No. \_\_\_\_\_ or of any other provisions of Planning Code applicable to this project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1, whichever applicable for each day a violation continues or is allowed to continue. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

17. MONITORING

If the project requires monitoring of the conditions of approval contained in Exhibit A of Motion No. \_\_\_\_\_, the project sponsor or the subsequent responsible parties for the project shall pay fees as established under Planning Code Section 351(e)(1) and work with the Planning Department to ensure compliance.

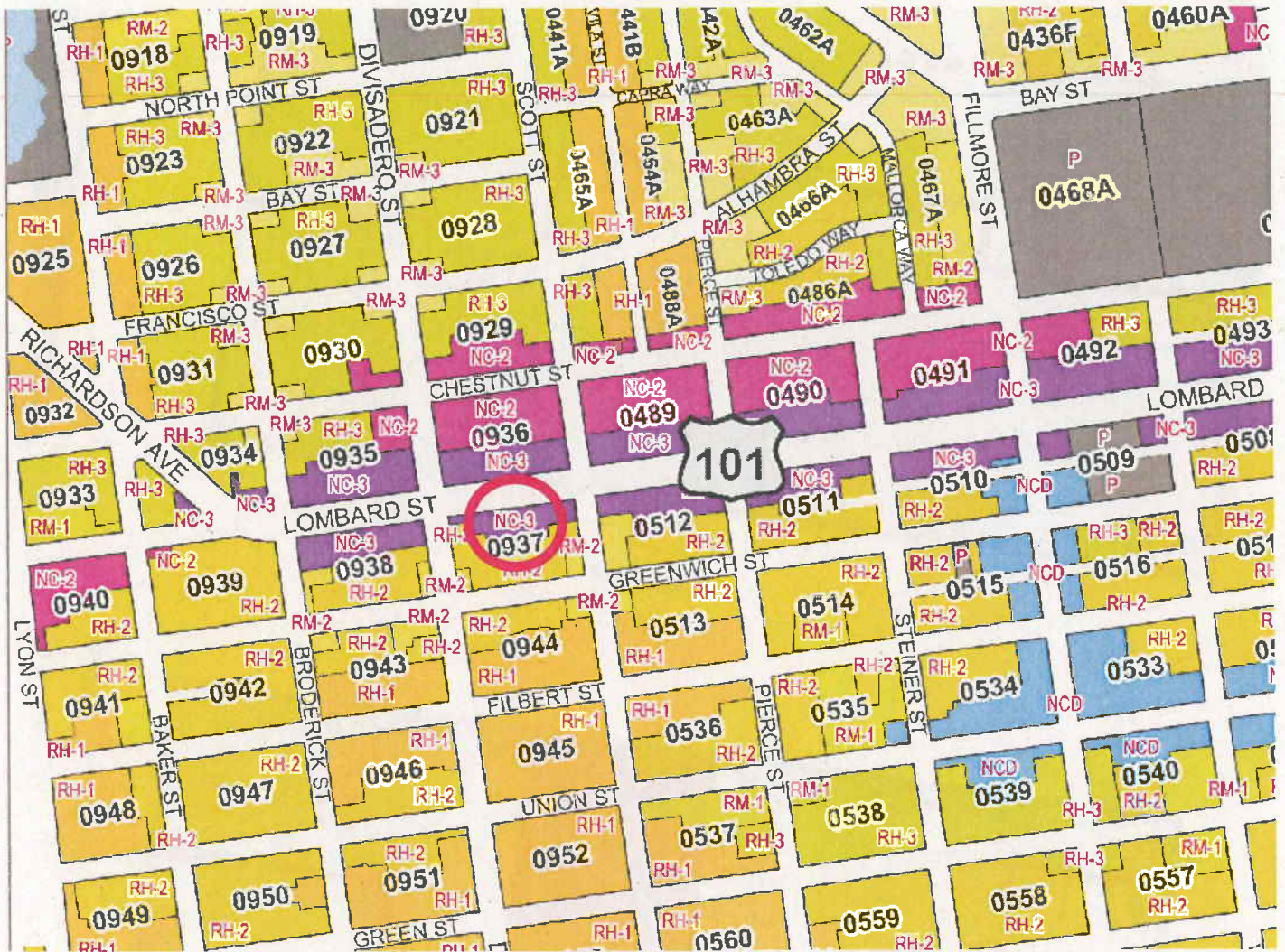
18. **NEIGHBORHOOD CONCERNS**

The Project Sponsor shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Project Sponsor shall keep the above parties apprised should a different staff liaison be designated.

19. **SEVERABILITY**

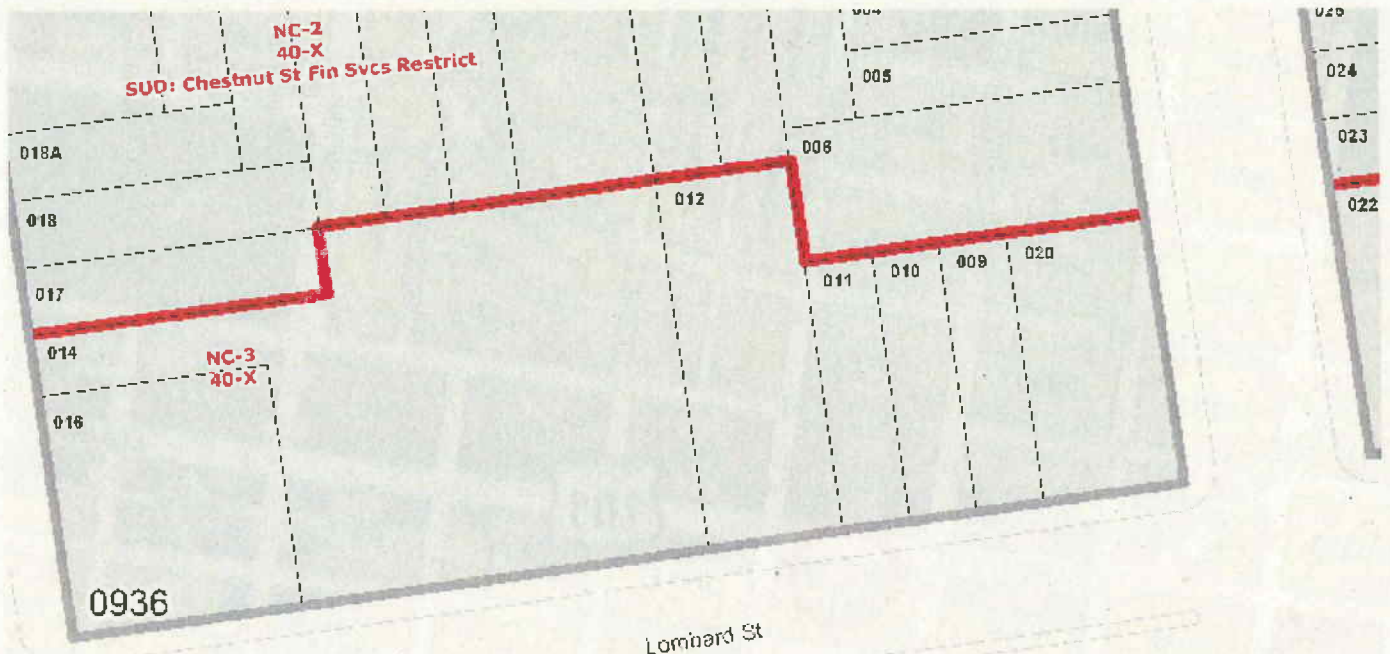
If any clause, sentence, section, or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Planning Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.

# Zoning Map



Conditional Use Hearing  
 Case Number 2010.0507C  
 2443 Lombard Street  
 Massage Establishment  
 DBA Perfect Health Center

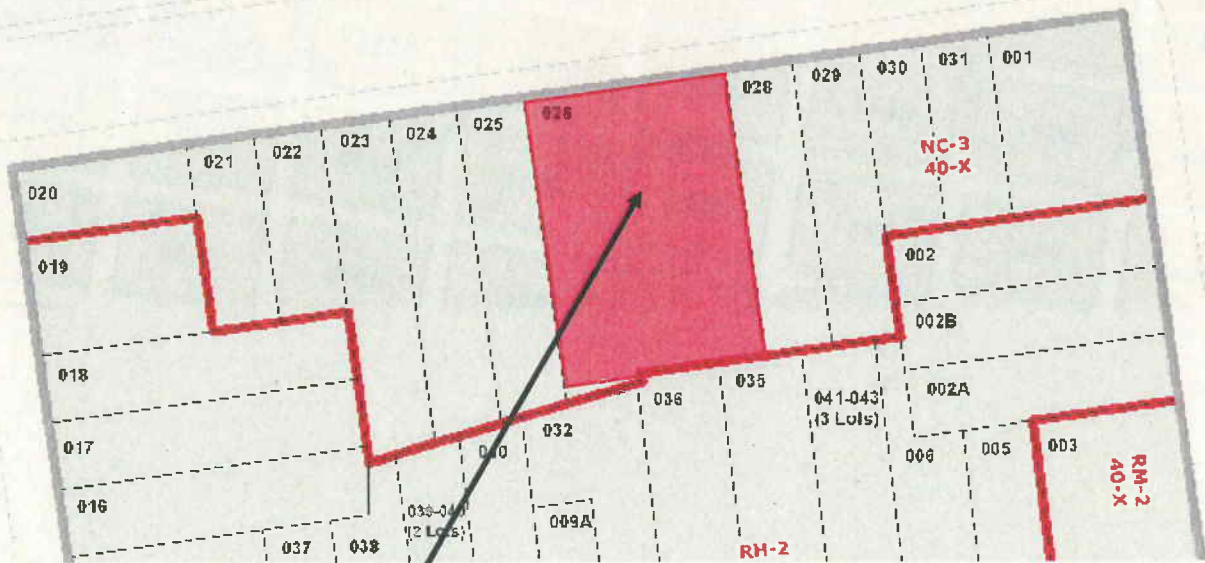
# Parcel Map



Lombard St

Scott St

Divisadero St



**SUBJECT PROPERTY**



Conditional Use Hearing  
Case Number 2010.0507C  
2443 Lombard Street  
Massage Establishment  
DBA Perfect Health Center

# Sanborn Map\*

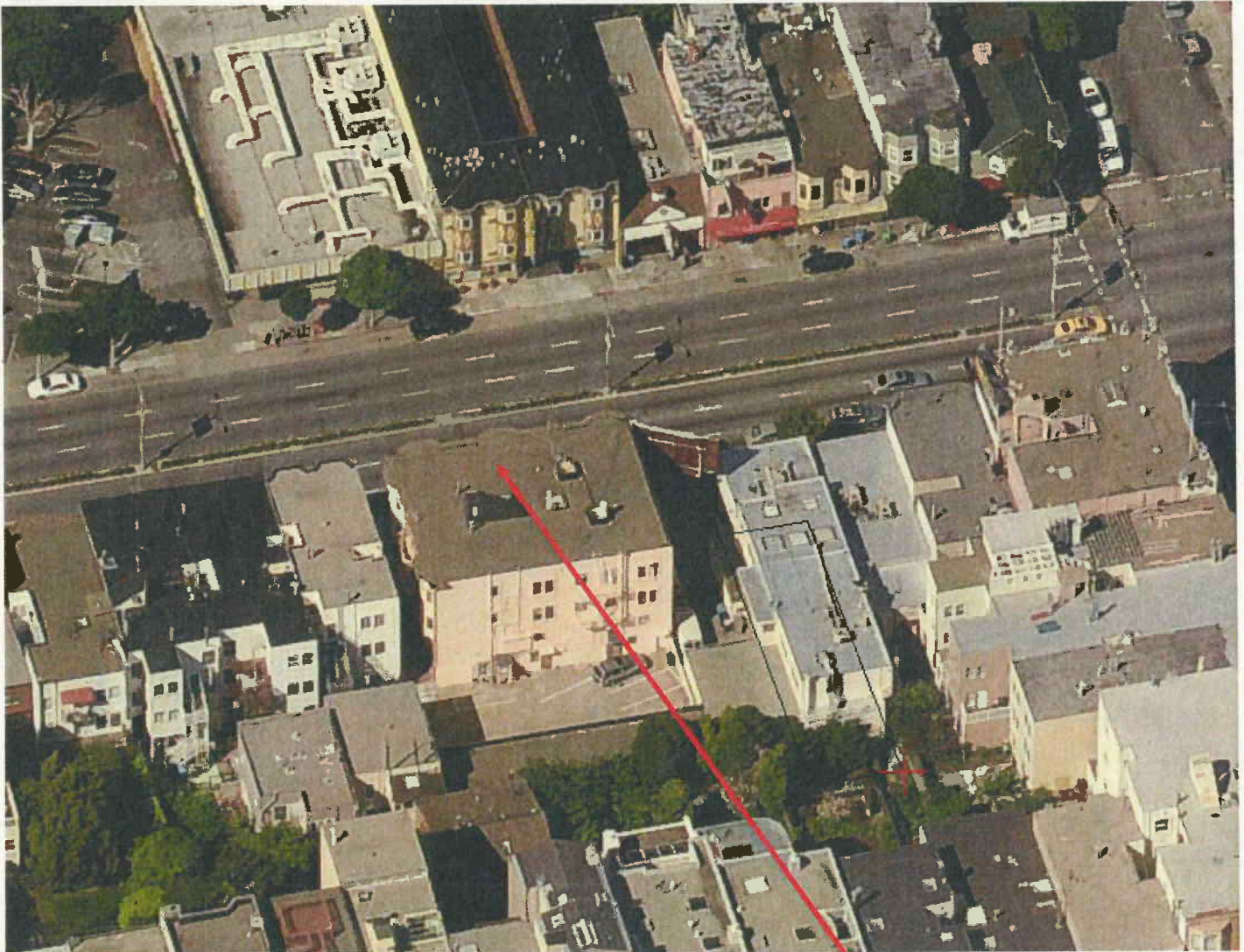


\*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.





# Aerial Photo\*



**SUBJECT PROPERTY**

*\*The Aerial Maps reflect existing conditions in March 2009.*



# Aerial Photo\*



*\*The Aerial Maps reflect existing conditions in March 2009.*

**SUBJECT PROPERTY**



# Site Photo

SUBJECT PROPERTY



SUBJECT PROPERTY

Conditional Use Hearing  
Case Number 2010.0507C  
2443 Lombard Street  
Massage Establishment  
DBA Perfect Health Center

# Site Photo

SUBJECT BLOCK



# Site Photo

SUBJECT BLOCK



**SUBJECT PROPERTY**

Conditional Use Hearing  
Case Number 2010.0507C  
2443 Lombard Street  
Massage Establishment  
DBA Perfect Health Center

# Site Photo

SUBJECT BLOCK



# Site Photo

SUBJECT BLOCK



# Site Photo

OPPOSITE BLOCK





# Site Photo

OPPOSITE BLOCK



Conditional Use Hearing  
Case Number 2010.0507C  
2443 Lombard Street  
Massage Establishment  
DBA Perfect Health Center

# Site Photo

OPPOSITE BLOCK



# Site Photo

OPPOSITE BLOCK



Conditional Use Hearing  
Case Number 2010.0507C  
2443 Lombard Street  
Massage Establishment  
DBA Perfect Health Center

# Site Photo

SUBJECT PROPERTY



ENTRANCE OF MASSAGE ESTABLISHMENT  
DURING POST SUNSET HOURS OF OPERATION



October 5, 2010

Sharon M. Young  
San Francisco Planning Dept.  
1650 Mission St., Suite 400  
San Francisco, CA 94103

Re 2443 Lombard Street, Conditional Use Authorization application

Dear Ms. Young,

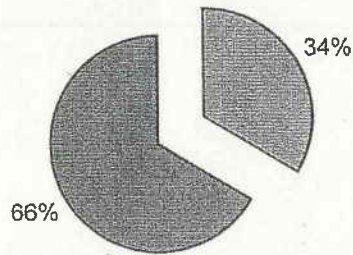
The Department of Public Health issued the applicant a Permit to Operate (M-02475) on January 11, 2010, following an approval of a conditional use authorization by the Planning Commission under Motion No. 17955, which remains in good standing.

The subject building's frontage, divided between three businesses on the ground floor, is comprised of clear windows and doors that span the length of the building. Active street frontage of the premises is 75' and 84% of the length is devoted to entrances and windows at the pedestrian eye-level, well above the recommended levels. (See Pic #1) There are no decorative railings or grillwork placed in front of or behind such windows of the applicant's establishment.

There are multiple lights attached to the front of the building, including a bright sign of the establishment. (See Pic #2) The front windows will also allow light to pass through from within the establishment. Multiple lights are placed above the doorway, (See Pic #3) public rights-of-way adjacent to the building giving access to a parking lot for the upstairs residents (See Pic #4), and also placed higher up on the building front above the store next to the applicant's (See Pic #5), all providing pedestrian friendly lighting that lights up the whole block after dark. In addition, there is overhead street lighting on the median strip at this particular block of Lombard Street. (See Pic #6) In discussions with the applicant, they have indicated they would be willing to install additional lighting the Commission deems necessary on the building exterior to accommodate operation after 6pm when it is dark out.

The use is reasonably oriented to facilitate public access because there are no barriers that make entrance any more difficult than any other average service provider in the area. The entrance to the use is a single glass door with clear unobstructed views, which leads directly to the foyer of the establishment. (See Pic #7) There is multiple pedestrian oriented lighting above the door and on the building front, and there are no security cameras. (See Pic #8)

### Body vs. Foot Customers



Based on the most recent operations data from the last three months: June 2010 – August 2010, 649 customers (66%) received body massage type services, 329 customers (34%) received foot massage services. (See Attached Daily Customer Log) The numbers suggest that the floor plan has not been complimenting the specific customer breakdown. The applicant's main reason behind this Conditional Use Authorization application is to modify the existing floor plan to better utilize the space dedicated solely to foot massage, thereby better meeting obvious customer demand for body massage services. The Applicant believes that the demand for foot massage will eventually materialize, but the untimely economic downturn has made it extremely hard for them to tough it out. They state that they are currently operating with negative cash flow and cannot sustain much longer if they continue to lose customers that cannot wait for the limited rooms available with the existing floor plan.

### Daily Customer Log Data for Body vs. Foot appointments

Date	Foot	Body	Date	Foot	Body
1-Jun	4	7	19-Jul	4	8
2-Jun	3	6	20-Jul	3	5
3-Jun	2	6	21-Jul	3	8
4-Jun	3	7	22-Jul	2	6
5-Jun	5	10	23-Jul	3	8
6-Jun	4	6	24-Jul	4	8
7-Jun	3	6	25-Jul	5	7
8-Jun	4	7	26-Jul	2	6
9-Jun	3	6	27-Jul	4	5
10-Jun	3	6	28-Jul	3	8
11-Jun	5	7	29-Jul	3	8
12-Jun	6	8	30-Jul	2	6
13-Jun	4	9	31-Jul	5	7
14-Jun	3	6	1-Aug	2	9
15-Jun	3	7	2-Aug	3	8
16-Jun	3	8	3-Aug	3	6
17-Jun	3	6	4-Aug	3	8
18-Jun	5	10	5-Aug	3	8
19-Jun	3	9	6-Aug	3	6
20-Jun	5	9	7-Aug	3	8
21-Jun	2	6	8-Aug	5	7
22-Jun	4	7	9-Aug	3	7
23-Jun	3	6	10-Aug	3	5
24-Jun	4	8	11-Aug	3	7
25-Jun	3	9	12-Aug	2	5
26-Jun	5	7	13-Aug	6	8
27-Jun	4	8	14-Aug	5	8
28-Jun	3	7	15-Aug	5	7
29-Jun	4	6	16-Aug	3	6
30-Jun	3	7	17-Aug	3	7
1-Jul	4	7	18-Aug	2	8
2-Jul	4	7	19-Aug	3	5
3-Jul	3	7	20-Aug	4	8
4-Jul	6	7	21-Aug	5	8
5-Jul	3	7	22-Aug	5	7
6-Jul	1	7	23-Aug	4	7
7-Jul	3	6	24-Aug	3	5
8-Jul	2	7	25-Aug	3	7
9-Jul	3	6	26-Aug	3	5
10-Jul	5	9	27-Aug	4	7
11-Jul	5	8	28-Aug	6	8
12-Jul	3	5	29-Aug	5	7
13-Jul	3	6	30-Aug	4	6
14-Jul	3	5	31-Aug	2	8
15-Jul	3	7	<b>Totals</b>	<b>329</b>	<b>649</b>
16-Jul	4	8		34%	66%
17-Jul	5	9			
18-Jul	6	8			

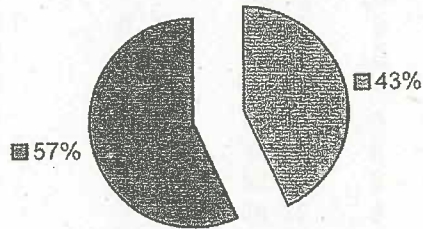


## **Hours of Operation**

Independent from the Application to Reapportion Existing Space and pursuant to the current standing Motion the Applicant operates under, the Applicant also requests that their hours of operation be set permanently at 10am to 10pm daily, as provided by the Motion. Under Motion No. 17955, at public hearing on September 24, 2009, the applicant was granted Conditional Use Authorization and allowed to operate from 10am to 10pm, seven days a week – but only on a trial basis. Upon one year expiring from the effective date of the motion, the Zoning Administrator is tasked with making an informational presentation to alert the Commission about any problems caused by the establishment during the year. If no problems were reported, the hours of operation would remain at 10am to 10pm. If there were problems, the hours would be restricted to 10am to 7pm Monday through Friday, and 10am to 6pm on Saturday and Sunday. Referrals sent to relevant departments, such as Health and Police, have returned no such issues associated with the Applicant's establishment. Therefore, the Applicant's hours should be set at 10am to 10pm.

While it is not required under Motion No. 17955 or the September 24, 2009 hearing, the applicant has produced customer data that show approximately 57% of their customers use their services after 6pm (See Attachment #1). According to the records, there is a large portion of their customer base that makes appointments after work. The percentage of customers using their services after 6pm represents a significant portion of the Applicant's revenues and therefore is something they cannot afford to jeopardize by eliminating operation hours after 6pm. According to the Applicant, shortened hours of operation would bankrupt their establishment, causing current employees to lose their jobs, and current customers to lose a facility they enjoy.

### Post-6pm vs. Pre-6pm Appointments



#### Attachment 1

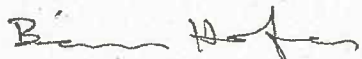
The most recent three full month's operations data show that 57% of all customers came in after 6pm. The percentage is financially significant and would, according to the applicant, effectively bankrupt the operation if the hours after 6pm were eliminated. Specifically, 557 customers made an appointment after 6pm, while 421 customers made an appointment prior to 6pm. During the discussion in the previous hearing approving the Conditional Use Authorization under Motion No. 17955, the hours of operation were set at 10am to 10pm daily to leave the Commission the flexibility to restrict the hours to 6pm and 7pm if there were problems reported during the one year trial period. If no problems were reported, then following an informational presentation by the Zoning Administrator, the Planning Commission would direct the Zoning Administrator to allow the extended hours to continue. The information Planning staff gathered from relevant City departments has returned no problems related to the operation. The staff therefore recommends that the hours of operation be permanently set between 10am to 10pm daily pursuant to the Commission decision.

### Daily Customer Log data for Post-6pm vs. Pre-6pm appointments

Date	Pre-6pm	Post-6pm	Date	Pre-6pm	Post-6pm
1-Jun	5	6	20-Jul	3	5
2-Jun	4	5	21-Jul	5	6
3-Jun	3	5	22-Jul	3	5
4-Jun	3	7	23-Jul	5	6
5-Jun	7	8	24-Jul	4	8
6-Jun	4	6	25-Jul	4	8
7-Jun	4	5	26-Jul	4	4
8-Jun	5	6	27-Jul	4	5
9-Jun	4	5	28-Jul	5	6
10-Jun	4	5	29-Jul	5	6
11-Jun	5	7	30-Jul	3	5
12-Jun	6	8	31-Jul	5	7
13-Jun	7	6	1-Aug	4	7
14-Jun	4	5	2-Aug	4	7
15-Jun	4	6	3-Aug	4	5
16-Jun	6	5	4-Aug	6	5
17-Jun	4	5	5-Aug	5	6
18-Jun	7	8	6-Aug	4	5
19-Jun	6	6	7-Aug	4	7
20-Jun	6	8	8-Aug	5	7
21-Jun	3	5	9-Aug	4	6
22-Jun	5	6	10-Aug	3	5
23-Jun	4	5	11-Aug	5	5
24-Jun	5	7	12-Aug	3	4
25-Jun	5	7	13-Aug	6	8
26-Jun	5	7	14-Aug	6	7
27-Jun	5	7	15-Aug	4	8
28-Jun	4	6	16-Aug	4	5
29-Jun	3	7	17-Aug	4	6
30-Jun	4	6	18-Aug	5	5
1-Jul	4	7	19-Aug	4	4
2-Jul	4	7	20-Aug	6	6
3-Jul	3	7	21-Aug	5	8
4-Jul	6	7	22-Aug	6	6
5-Jul	4	6	23-Aug	6	5
6-Jul	3	5	24-Aug	3	5
7-Jul	4	5	25-Aug	5	5
8-Jul	4	5	26-Aug	3	5
9-Jul	3	6	27-Aug	5	6
10-Jul	7	7	28-Aug	8	6
11-Jul	5	8	29-Aug	5	7
12-Jul	3	5	30-Aug	5	5
13-Jul	4	5	31-Aug	5	5
14-Jul	4	4	<b>Totals</b>	<b>421</b>	<b>557</b>
15-Jul	5	5		43%	57%
16-Jul	4	8			
17-Jul	6	8			
18-Jul	6	8			
19-Jul	5	7			

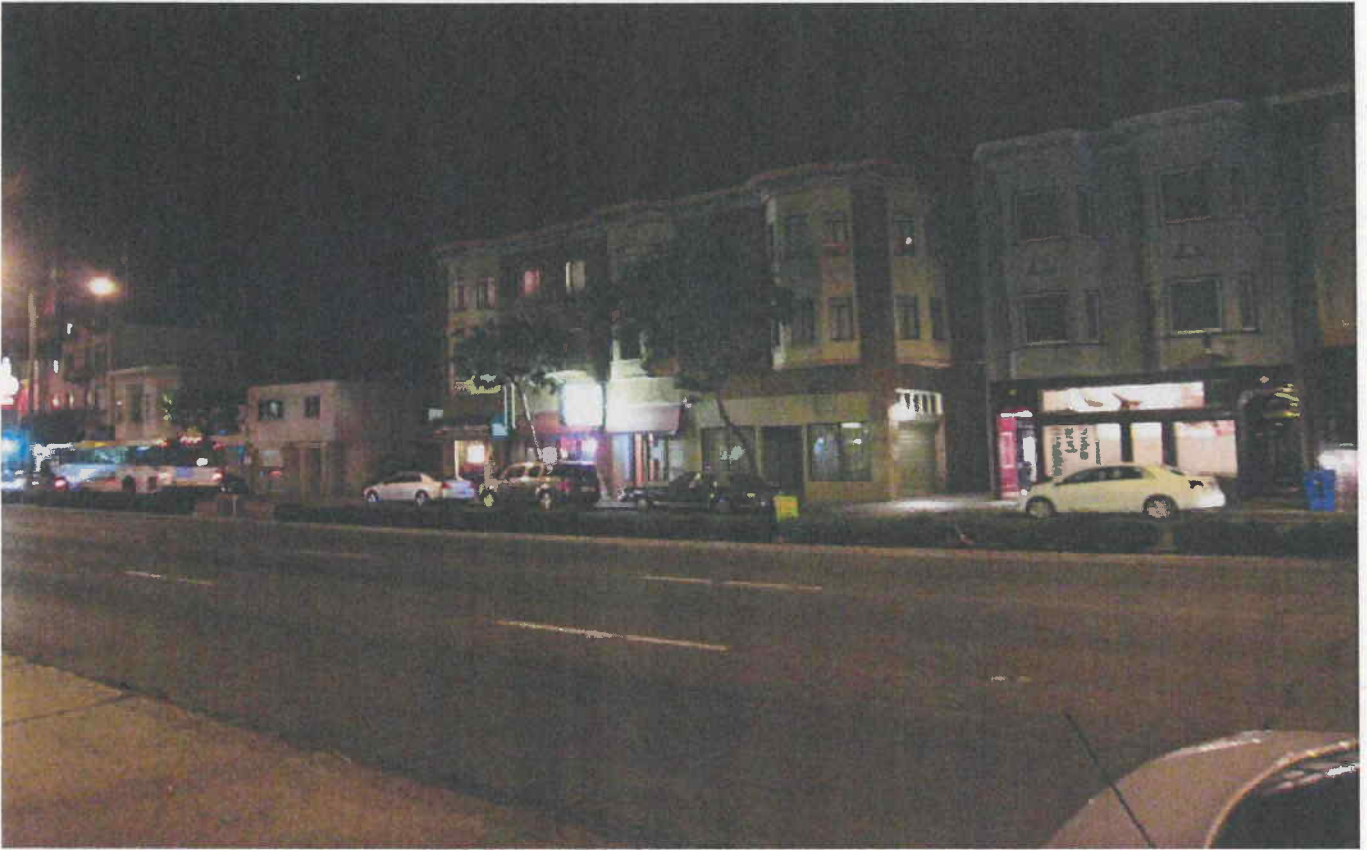
Thank you Ms. Young for allowing us to present the customer data and supporting information to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Hofer". The signature is written in a cursive style with a prominent initial "B" and a long horizontal stroke.

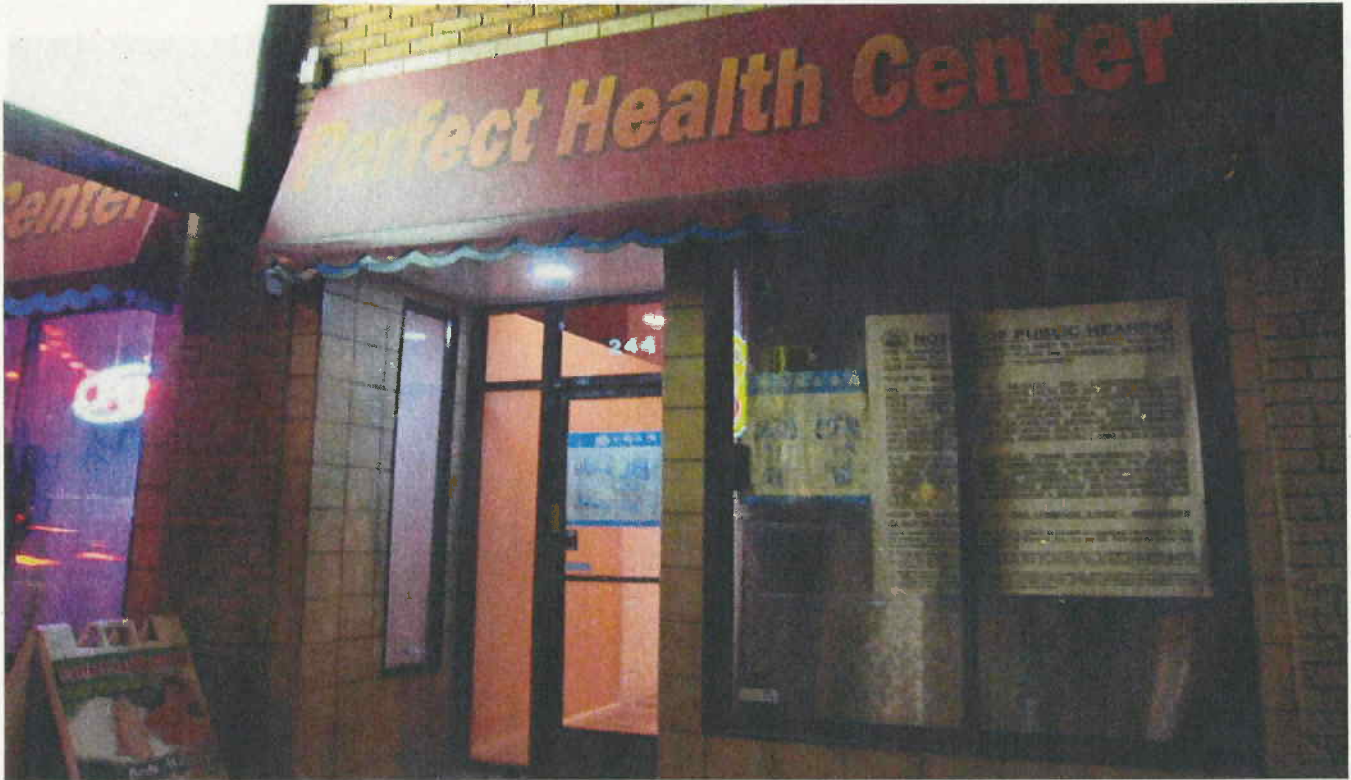
Brian Hofer

Picture 1



Picture 2

Picture 3



Picture 4



Picture 5



Picture 6





# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- |  |  |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315)         | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139)            | <input type="checkbox"/> Other                             |

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Planning Commission Motion No. 17955

HEARING DATE: SEPTEMBER 24, 2009

*Date:* September 30, 2009  
*Case No.:* **2009.0580C**  
*Project Address:* **2443 LOMBARD STREET**  
*Zoning:* NC-3 (Moderate-Scale) Neighborhood Commercial District  
40-X Height and Bulk District  
*Block/Lot:* 0937/026  
*Project Sponsors:* Tony K. Fong for Huan Zhi Jiang  
2618 - 26<sup>th</sup> Avenue  
San Francisco, CA 94112  
*Staff Contact:* Sharon M. Young – (415) 558-6346  
[sharon.m.young@sfgov.org](mailto:sharon.m.young@sfgov.org)

**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 712.54, 790.60, AND 303(C) OF THE PLANNING CODE TO ALLOW A NEW MASSAGE ESTABLISHMENT (DBA PERFECT HEALTH CENTER) AT THE GROUND FLOOR COMMERCIAL SPACE LOCATED AT 2443 LOMBARD STREET, ON ASSESSOR'S BLOCK 0937, LOT 026 WITHIN THE NC-3 (MODERATE-SCALE) NEIGHBORHOOD COMMERCIAL ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On June 30, 2009, Tony K. Fong, acting agent on behalf of Huan Zhi Jiang (hereinafter "Project Sponsors") made an application for Conditional Use authorization on the property at **2443 Lombard Street, Lot 026 in Assessor's Block 0937** (hereinafter "Property"), to convert ground floor vacant commercial tenant space into a massage establishment in a three-story commercial and residential building within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformity with plans dated April 2009 and labeled "Exhibit B" (hereinafter "Project").

On **September 24, 2009**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2009.0580C**. Under Sections 712.54, 790.60, and 303(c) of the Planning Code, Conditional Use authorization is required to convert vacant commercial space with approximately 1,000 square feet of floor area into a massage establishment on the ground floor of a three-story commercial and residential



building within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (hereinafter "CEQA"), the Planning Department of the City and County of San Francisco (hereinafter "Department") determined that the proposed Conditional Use Application was categorically exempt from the environmental review process under Class 1(a) of the State CEQA Guidelines, Section 15301, pursuant to Title 14 of the California Administrative Code. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.0580C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is on the south side of Lombard Street between Divisadero and Scott Streets; Assessor's Block 0937; Lots 026. It is located within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District. The subject lot is approximately 8,293 square-feet (77.5 feet wide by 107 feet) in size and is occupied by a three-story commercial and residential building built circa 1926. The existing building is not listed in the Planning Department's 1976 Architectural Survey or the National or California Registers as having architectural significance. The subject property at 2443 Lombard Street is one of three commercial tenant spaces located on the ground floor of the commercial and residential building. The other commercial tenant space at 2439 Lombard Street is a beauty salon (dba iZla) and at 2453 Lombard Street is a vacant commercial space. Currently, twelve residential units exist on the second and third floors of the building.
3. **Surrounding Properties and Neighborhood.** The surrounding development consists of a variety of residential, commercial, and mixed-use buildings featuring residential uses above ground-floor commercial establishments. The scale of development in the area consists primarily of one- to three-story structures. Generally, the commercial establishments characterizing this portion of Lombard Street include a mixture of a few restaurants, specialty stores, personal service establishments, motels, a fitness center, a bank, and a gas station. Some of the commercial establishments on the subject block include Edward II Inn Bed & Breakfast, Café Maritime,

Action Fitness, Neva's Beauty, Mike & Maaike, London Lass Beauty Salon, and New Yorkers Buffalo Wings. Some of the commercial establishments on the opposite block include Union 76 gas station, Bank of America, Super 8 Motel, United States of Self Defense Martial Arts, Shangrila Café & Grill, and Tom Yum Thai Cuisine. There do not appear to be any commercial establishments on the subject and opposite blockfaces that would qualify as formula retail uses as defined in the Planning Code. On Divisadero and Scott Streets running east and west of the project site, there are predominantly a mix of residential and mixed-use buildings within an RH-2 (Residential House, Two-Family) Zoning District and RM-2 (Residential, Mixed Districts, Moderate-Density) Zoning District. The Chestnut Street NC-2 District is located approximately one block from the project site.

4. **Project Description.** The proposed project is to convert a vacant commercial tenant space (formerly dba Fish Fish & More Fish, a retail aquarium store) with approximately 1,000 square feet of floor area into a massage establishment (dba Perfect Health Center) on the ground floor of the subject building. The proposed massage establishment will consist of two rooms with 365 square feet of floor area utilized for providing foot massage treatments, two rooms with 156 square feet of floor area utilized for providing shoulder, head, neck, and back massage treatments, a reception area, restrooms, employee rest area, and storage area. The proposal will involve tenant improvements to the existing ground floor commercial space. There will be no expansion to the existing building envelope. The proposed hours of operation for massage services are 10 a.m. to 10 p.m., seven days a week. The proposed business will employ approximately five employees. All employees engaged in performing massage will be licensed by a State-sanctioned Board.
  
5. **Issues and Other Considerations.**
  - The proposed massage establishment will be independently owned and is not considered a formula retail use under Section 703.3 of the Planning Code.
  - The Project Sponsors have submitted five diplomas from the proposed massage therapists providing certification that they have completed the clinical examination for courses in massage from the Acupuncture and Massage Institute of America and Yunique Wellness Center located in the cities of El Montes, Arcadia, and Hacienda Heights in California. In addition, the Project Sponsors have indicated that the proposed massage establishment will be operated similarly to Wonderfoot Health Center located at 514 - 27<sup>th</sup> Avenue (aka 6255 Geary Boulevard) which was granted conditional use authorization by the Planning Commission on January 8, 2009 under Case No. 2008.0648C.
  - Public transit that is in close proximity to the proposed massage establishment includes Muni Lines 28, 43, 76, and 91 located on the corner of Divisadero and Lombard Streets and Muni Lines 30 and 30X located on the corner of Chestnut and Scott Streets. There is on-street parking in front of the subject property and in the surrounding neighborhood.
  
6. **Public Comment.** As of September 16, 2009, the Department has received three phone calls from the public requesting additional information about this project regarding the proposed massage establishment's layout in the commercial space and its mode of operation and one letter in

opposition to the proposal. The letter in opposition was from a resident who indicated that the proposed massage establishment use would not be compatible use within the surrounding neighborhood because of concerns regarding the room layout of the commercial space would invite inappropriate behavior, would not keep with the retail nature of the street in which the retail space maintains an open layout, off-street parking would be accessible to the rear of the building, and the proposed location on Lombard Street also has very high vehicle traffic but low pedestrian traffic.

As of the September 24 Planning Commission hearing, the Planning Department received one letter in opposition, two e-mails, and phone calls from interested parties (member of the Cow Hollow Association, resident, member of the public) concerned that the proposed massage establishment would not be a compatible use in the neighborhood. Generally, these interested parties expressed that there is a high rate of criminal activity in the area with nearby motels on Lombard Street, and suggested that the hours of operation of the establishment be closed by 7 p.m. on weekdays and 6 p.m. on weekends. The Planning Department has also been contacted by the permit officer (Officer John Gallagher) from Northern Police Station who indicated that the District Captain recommended that the proposed massage establishment close at 6 p.m. since other businesses in the area had similar closing hours after the Northern Police Station received phone calls from the public concerned about the proposal. In response to these concerns, the project sponsor indicated that they would still prefer that the proposed massage establishment be allowed to open until 10 p.m. since patrons typically want a massage after they get off from work, that the project sponsor currently owns an existing massage establishment dba Wonderfoot Health Center located at 514 - 27<sup>th</sup> Avenue (aka 6255 Geary Boulevard) in the Richmond neighborhood which is allowed to operate between the hours of 10 a.m. to 10 p.m. and has not had any associated problems operating this massage establishment, and that the existing parking lot at the rear of the subject property is only accessible to the residents of the building. The Planning Department's Code Enforcement Division and the San Francisco Police Department confirmed that there does not appear to be any indication of problems associated with the applicant in relation to operating a massage establishment.

7. **Use District.** For the purposes of this action, the project site is within the NC-3 (Neighborhood, Moderate-Scale) District. The NC-3 District controls are intended to provide the opportunity for a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods. NC-3 Districts are linear districts located along heavily trafficked thoroughfares which also serve as major transit routes.

NC-3 Districts include some of the longest linear commercial streets in the City, some of which have continuous retail development for many blocks. Large-scale lots and buildings and wide streets distinguish the districts from smaller-scaled commercial streets, although the districts may include small as well as moderately scaled lots. Buildings typically range in height from two to four stories with occasional taller structures. NC-3 building standards permit moderately large commercial uses and buildings. Rear yards are protected at residential levels. Housing development in new buildings is encouraged above the second story. Existing residential units are protected by limitations on demolitions and upper-story conversions.

8. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use for consistency with said policies:

- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

*The Project will preserve and enhance existing neighborhood-serving retail uses by occupying a space vacated by another commercial use and diversifying the type of commercial establishments within the immediate neighborhood. The Project will provide new job opportunities to the City by employing approximately five people.*

- (2) That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The Project will preserve and enhance the cultural and economic diversity of the neighborhood by bringing a new business to the area. Existing housing will not be affected by the Project.*

- (3) That the City's supply of affordable housing be preserved and enhanced.

*The proposed Project will not displace any affordable housing.*

- (4) That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The proposed Project would not significantly increase the automobile traffic congestion and parking problems in the neighborhood. The proposal is a neighborhood-serving use to which residents can access by walking or taking public transit.*

- (5) That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*There is no commercial office development associated with the Project and there would be no displacement of any existing industrial or service businesses in the area.*

- (6) That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The proposed Project will comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.*

- (7) That landmark and historic buildings be preserved.

*The proposed Project will not significantly affect any landmarks or historic buildings.*

- (8) That our parks and open space and their access to sunlight and vistas be protected from development.

*The proposed Project will not affect any city-owned park or open space.*

- B. **Section 303(c)** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- (1) The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The proposed Project is to establish a massage establishment on the ground floor of the three-story commercial and residential building. There will be tenant improvements made to the existing commercial space. No changes will be made to the existing building envelope.*

- (2) The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- (A) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The size and shape of the site and the size, and the arrangement of the structures on the site are adequate for the proposed Project. There will be no physical expansion of the existing building.*

- (B) 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;

*Existing traffic patterns will not be significantly affected by the proposed Project. Public transit that is in close proximity to the proposed massage establishment includes Muni Lines 28, 43, 76, and 91 located on the corner of Divisadero and Lombard Streets and Muni Lines 30 and 30X located on the corner of Chestnut and Scott Streets within walking distance of the project site. There is on-street parking in front of the subject property and in the surrounding neighborhood.*

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*No noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the Project. No noxious or offensive emissions will be associated with the Project.*

- (D) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The proposed massage establishment does not propose any exterior tenant improvements. There will be no addition of parking spaces, loading facilities, open space or service areas. All Project signage and projections will be consistent with the controls of the Planning Code.*

- (3) That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The proposed Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.*

- (4) That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The proposed Project is consistent with the stated purpose of the NC-3 Zoning District in that the intended use is a neighborhood-serving business.*

C. **Section 712.1** sets forth provisions applicable in the NC-3 Neighborhood Commercial District. A diversified commercial environment is encouraged for the NC-3 Neighborhood Commercial District, and a wide variety of uses are permitted with special emphasis on neighborhood-serving businesses. Eating and drinking, entertainment, financial service and certain auto uses generally are permitted with certain limitations at the first and second stories. Other retail businesses, personal services and offices are permitted at all stories of new buildings. Limited storage and administrative service activities are permitted with some restrictions.

D. **Section 712.21** establishes size limits on non-residential use sizes in the NC-3 Zoning District. Within the District, Conditional Use authorization is required for any non-residential use that meets or exceeds 6,000 square feet.

*The proposed massage establishment, with approximately 1,000 square feet of floor area is within the principally permitted use size limitations.*

E. **Sections 712.22 and 151** of the Planning Code requires off-street parking for every 300 square-foot of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

*The proposed massage establishment will occupy approximately 1,000 square feet of floor area and thus does not require any off-street parking.*

- F. **Section 712.27** allows no limit on the hours of operation.

*The proposed hours of operation of the massage establishment are 10 a.m. to 10 p.m., seven days a week.*

- G. **Section 712.54** of the Planning Code allows massage establishments on the 1<sup>st</sup> and 2<sup>nd</sup> floors in the NC-3 (Moderate-Scale) Neighborhood Commercial District with Conditional Use authorization.

*The proposed massage establishment is located on the 1<sup>st</sup> (ground) floor.*

- H. **Section 790.60** of the Planning Code provides provisions for allowing a massage establishment. On August 3, 2009, the Board of Supervisors passed new legislation on massage controls under Board File No. 09-0402 (0139-09 adopted Ordinance) in which the Planning Commission would consider the standard Conditional Use criteria of “necessary or desirable and compatible with” plus the additional physical criteria below:

- Whether the applicant has obtained and maintains a permit for a massage establishment from the Department of Public Health;
- Whether the facade is transparent and open to the public, with a preference for transparency; and
- Whether the use includes pedestrian-oriented lighting, encouraging lighting during the post-sunset hours of operation.
- Whether the use is reasonably oriented to facilitate public access. Barriers that make entrance to the use more difficult than to average service provider in the area to be strongly discouraged. These include (but are limited to) foyers equipped with double doors that can be opened only from the inside and security cameras.

*The Project Sponsor has applied for a permit for a massage establishment from the Department of Public Health. The majority of the front facade will be transparent and open to the public and the services offered at the proposed establishment will be primarily for foot massage. As a condition of approval, exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed. The configuration of most of the massage treatment rooms in the proposed establishment is oriented to facilitate public access.*

9. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

**COMMERCE AND INDUSTRY ELEMENT**

## GENERAL/CITYWIDE

### Objectives and Policies

#### **OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

##### **Policy 1.1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development, which has substantial undesirable consequences that cannot be mitigated.

##### **Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

##### **Policy 1.3:**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed massage establishment would be compatible with and complimentary to the type of uses characterizing this portion of the NC-3 Zoning District, which include a mixture of restaurants, specialty stores, and personal service establishments (i.e. nail and hair salons). The proposed use would be consistent with the commercial land use plan.*

#### **OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

##### **Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract such new activity to the City.

##### **Policy 2.3:**

Seek to retain existing commercial and industrial activity and to attract such new activity to the City.

*The proposed Project will retain and reactivate an existing commercial space and will enhance the diverse economic base of the City.*



**OBJECTIVE 3:**

PROVIDE EXPANDED EMPLOYMENT OPPORTNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

**Policy 3.1:**

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

**Policy 3.2:**

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

*The proposed Project would provide enhanced opportunities for employment of neighborhood residents.*

**NEIGHBORHOOD COMMERCE**

**Objectives and Policies**

**OBJECTIVE 6:**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The proposed Project includes interior modifications and would therefore upgrade an existing commercial space for another commercial use that would diversify the type of neighborhood-serving uses within the immediate area.*

**Policy 6.2:**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

*An independent entrepreneur is sponsoring the proposal. The proposed use is neighborhood-serving, to replace an existing vacant storefront, thereby encouraging the vitality of the commercial corridor.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

### DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2009.0580C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17955. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 24, 2009.

Linda Avery  
Commission Secretary

AYES: Miguel, Olague, Borden, Lee, Moore, & Sugaya

NAYS: Antonini

ABSENT: None

ADOPTED: September 24, 2009

# Exhibit A

## Conditions of Approval

### APPROVED USE CONDITIONS

1. This Conditional Use approval is to convert vacant commercial space with approximately 1,000 square feet of floor area for occupancy by a massage establishment (dba Perfect Health Center) on the ground floor of an existing three-story commercial and residential building, within the NC-3 (Moderate-Scale) Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformity with Plans on file with the Department in the docket for **Case No. 2009.0580C** (labeled EXHIBIT B), reviewed and approved by the Commission on September 24, 2009 under Motion No. 17955.
2. This Conditional Use approval is to allow a massage establishment pursuant to Sections 712.54, 790.60, and 303(c) of the Planning Code. The proposed massage establishment will consist of one room with 365 square feet of floor area utilized for providing foot massage treatments (as amended by the Planning Commission to remove an interior wall separating the two proposed foot massage treatment rooms), two rooms with 156 square feet of floor area utilized for providing shoulder, head, neck, and back massage treatments, a reception area, restrooms, employee rest area, and storage area.
3. The permitted hours of operation of the proposed massage establishment are from 10 a.m. to 10 p.m. seven days week for a period of one year from the effective date of this Motion No. 17955, after which date the permitted hours of operation of the massage establishment will change to 10 a.m. to 7 p.m. Monday through Friday and 10 a.m. to 6 p.m. Saturday and Sunday unless determined by the Zoning Administrator to allow the extended hours of operation to continue following an informational presentation to the Planning Commission regarding the operation of the massage establishment during the one-year period following the effective date of this Motion No. 17955.
4. The entry to the massage shall be directly visible from the street and not through a subordinate corridor shared by adjacent tenants or any vestibule area with two set of doors. The entrance shall be a single set of door(s) that open directly into the reception area. If any additional doors are required by the Building Code for emergency egress purposes, such door shall be labeled "for emergency use only" and shall have an audible alarm that will sound when the door is open.
5. No locks shall be allowed on any interior door of the business except that a lock for privacy may be permitted on the bathroom door.
6. All employees engaged in performing massage shall be licensed for that purpose by the State of California and the licenses shall be prominently displayed on walls of the business.
7. The property owner shall maintain the main entrance to the building and all sidewalks abutting the Subject Property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

8. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.

### **STANDARD CONDITIONS**

#### 9. **VALIDITY, EXPIRATION, AND EXTENSION**

This Conditional Use approval is **valid for three years** from the effective date of Motion No. 17955 authorizing the proposed massage establishment use and shall automatically expire on September 24, 2012. This authorization is just an approval of the proposed use and is NOT a permit to implement the approved use. This authorization and right vested by virtue of this action shall be deemed void and cancelled if a Building Permit from the Department of Building Inspection to implement the approved use has not been obtained prior to the expiration of this Conditional Use approval. The validity of this Conditional Use approval may be extended at the discretion of the Zoning Administrator only if the failure to issue a Building Permit by the Department of Building Inspection is delayed by the city, state, or federal agency or by appeal of the issuance of such Building Permit. However, the extension must be requested prior to the expiration of this Conditional Use approval.

#### 10. **MAJOR AND MINOR CHANGES AND MODIFICATIONS OF CONDITIONS**

Minor changes to the approved plans may be approved administratively by the Zoning Administrator. Major changes and modifications of conditions shall be subject to review and approval by the Planning Commission requiring a new Conditional Use approval or amendment to this Conditional Use approval as determined by the Zoning Administrator. Such changes must be requested prior to the expiration of this Conditional Use approval.

#### 11. **RECORDING OF CONDITIONS OF APPROVAL**

Prior to the issuance of a Building Permit Application for the proposed massage establishment use, the project sponsor or the responsible party shall record a Notice of Special Restrictions as approved by the Zoning Administrator in the Official Records of the Recorder of City and County of San Francisco for the premises (Assessor's 0937, Lot 026), which notice shall state that the proposed use has been authorized by Motion No. 17955 and is subject to the conditions of approval of this Motion.

#### 12. **BUILDING PERMIT TO IMPLEMENT THE APPROVED PROJECT**

A Building Permit from the Department of Building Inspection must be obtained to implement the approved use within three years from the effective date of Motion No. 17955 approving the proposed massage establishment use. The building Permit Application shall include plans in conformance with the plans on file with the Department in the docket for **2009.0580C** (labeled EXHIBIT B), reviewed and approved by the Planning Commission on September 24, 2009 under the **Motion No. 17955**. The plans are required to record the approved use of the premises even if there is no new construction or minor interior changes. The conditions of approval shall be reproduced on the Index Sheet of the plans submitted with the Building Permit Application. The Index Sheet of the plans shall reference to this Conditional Use Authorization and any subsequent amendments or modifications.

The project shall also comply with all other applicable city codes as required by other city departments. Additionally, no change in the character of occupancy or change to a different group of occupancy as described under the Building Code shall be made without first obtaining a Certificate of Occupancy from the Department of Building Inspection and approval from Planning and other city departments as necessary.

**13. COMPLETION OF BUILDING PERMIT**

The completion of Building Permit with a final inspection and/or issuance of a Certificate of Final Completion and Certificate of Occupancy from the Department of Building Inspection for the approved use under this project shall be deemed acceptance and agreement to fully comply with all of the conditions of approval of this Conditional Use approval. The project sponsor or the responsible party must ensure that the Building Permit Application has attained a 'complete' stage within the time frame required by the Department of Building Inspection. If the Building Permit is allowed to expire for more than one year, the renewal of such Building Permit thereafter will be subject to review by the Planning Department. Prior to filing of a renewal of the expired permit, the project sponsor or the responsible party shall notify the Planning Department.

**14. REPORTING**

The Project Sponsor or the subsequent responsible party for the project shall submit to the Zoning Administrator two copies of a written report describing the status of compliance with the conditions of approval contained within the Motion No. 17955 within six months from the date of implementation of the proposed use. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.

**15. REVOCATION**

During the Building Permit Application process phase of the project, the Zoning Administrator may place an order to stop work, suspend, or revoke a Building Permit if the proposal carried out on the site is not in conformance with the plans approved under this Conditional Use approval and subsequent Building Permit. The Zoning Administrator may also recommend the Planning Commission to consider revocation of this Conditional Use approval in a public hearing for non-compliance with any of the conditions of approval.

**16. ENFORCEMENT**

After commencement of the approved use, violation of any of the planning conditions of approval contained in Motion No. 17955 or of any other provisions of Planning Code applicable to this project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1, whichever applicable for each day a violation continues or is allowed to continue. The Planning Department may also refer the violation

complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

17. **MONITORING**

If the project requires monitoring of the conditions of approval contained in Exhibit A of Motion No. 17955, the project sponsor or the subsequent responsible parties for the project shall pay fees as established under Planning Code Section 351(e)(1) and work with the Planning Department to ensure compliance.

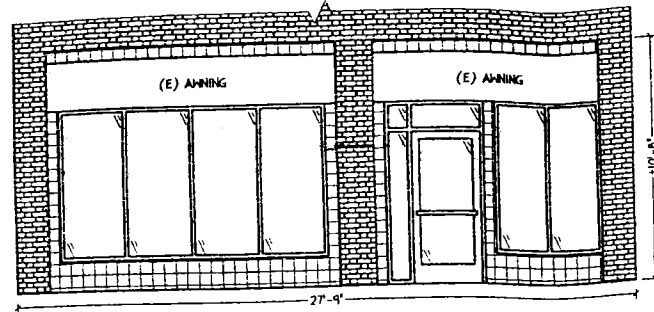
18. **NEIGHBORHOOD CONCERNS**

The Project Sponsor shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Project Sponsor shall keep the above parties apprised should a different staff liaison be designated.

19. **SEVERABILITY**

If any clause, sentence, section, or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Planning Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.





(E) FRONT ELEVATION  
SCALE: 1/4" = 1'-0"

**LEGEND:**

- (N) NEW
- (E) EXISTING
- FLUORESCENT LIGHT WITH VENT AND BACKDRAFT DAMPER
- EXIT ILLUMINATED EXIT SIGN
- HEAT REGISTER
- F5\* FIRE SPRINKLER
- 2'-4" FLUORESCENT LIGHT 64W
- 1'-4" FLUORESCENT LIGHT 32W
- NEW PARTITION WALL
- WALL WITH R-13 INSULATION
- EXISTING WALL TO REMAIN
- EXISTING WALL TO BE REMOVED

**MESSAGE ESTABLISHMENT NOTE:**

- TOTAL SQUARE FOOTAGE: 26,502.4 (102.4 x 6.5000 x 311.80) = 1008.50 FT
- 8 FOOT MESSAGE ROOMS: 8.5 x 23.5 = 364.50 FT
- 2 SHOULDER, HEAD, NECK AND BACK MESSAGE ROOMS: 6.5 x 14.6 x 5.000 = 164.50 FT
- H.C. TOILET: 7x7.5 = 52.50 FT
- EMPLOYEE'S LOUNGE: 7x7.5 = 52.50 FT
- FRONT RECEPTION: 10.5 x 9.5 = 99.750 FT
- STORAGE: 3x11 = 33.00 FT
- EMPLOYEE'S REST AREA: 10x9 = 99.00 FT

OPERATION HOURS: 10:00AM TO 10:00PM, 7 DAYS A WEEK  
 TYPES OF SERVICES: FOOT, NECK, HEAD, SHOULDER + BACK MESSAGE

**APPLICABLE CURRENT CODES AND REGULATIONS:**

- 2007 CALIFORNIA BUILDING CODE (CBC)
- 2007 CALIFORNIA PLUMBING CODE (CPC)
- 2007 CALIFORNIA MECHANICAL CODE (CMC)
- 2007 CALIFORNIA ELECTRICAL CODE (CEC)
- 2007 CALIFORNIA ENERGY CODE (CEC)

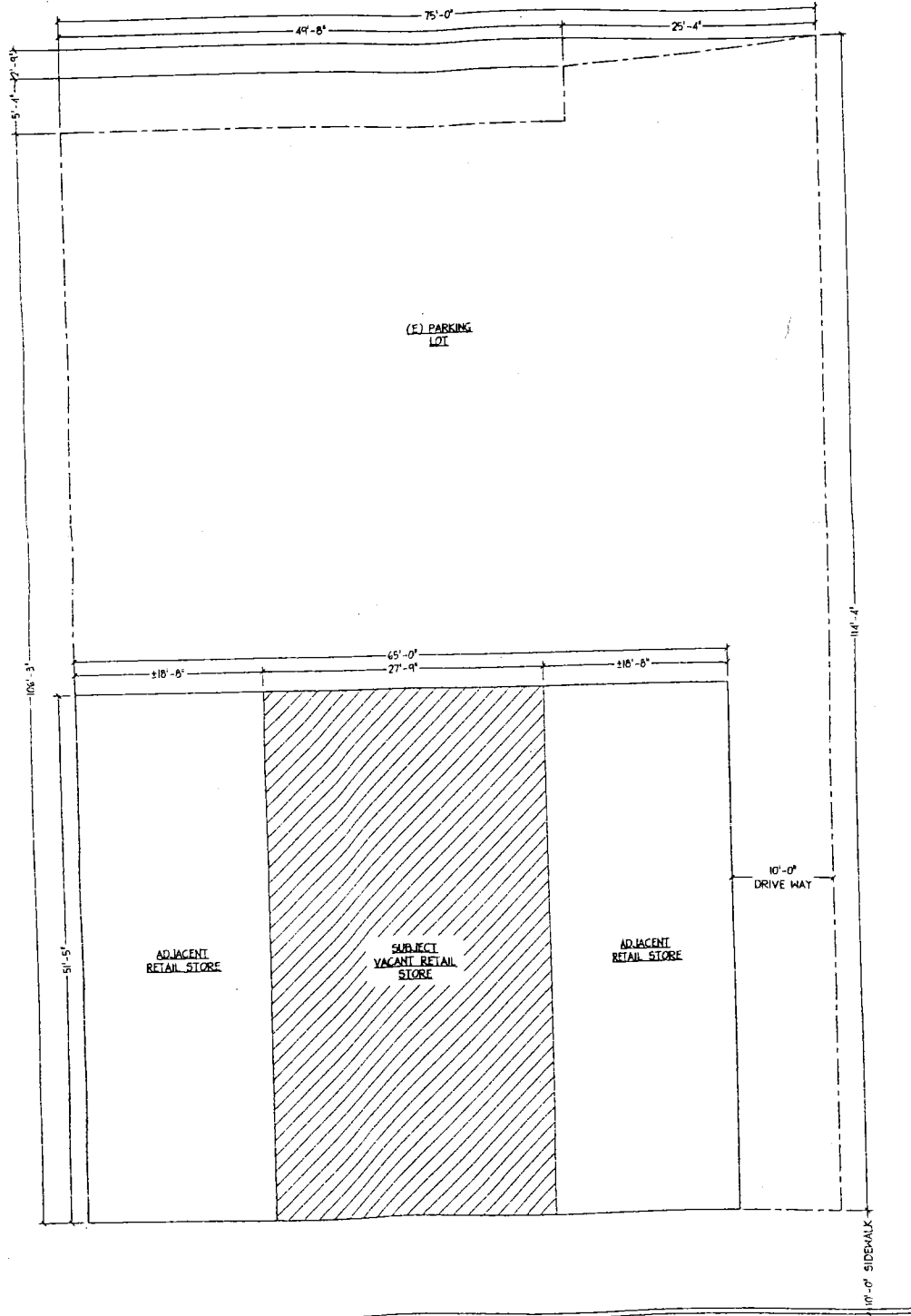
ADDRESS: 2443 LOMBARD STREET, SAN FRANCISCO, CA 94123  
 BLOCK: 0937 LOT: 026

SCOPE OF WORK:  
 CONVERT EXISTING VACANT RETAIL STORE INTO A FOOT, NECK, SHOULDER AND BACK MESSAGE ESTABLISHMENT BY BUILDING PARTITION, ADD DOORS, STEAM ROOM AND NEW FLOORING.

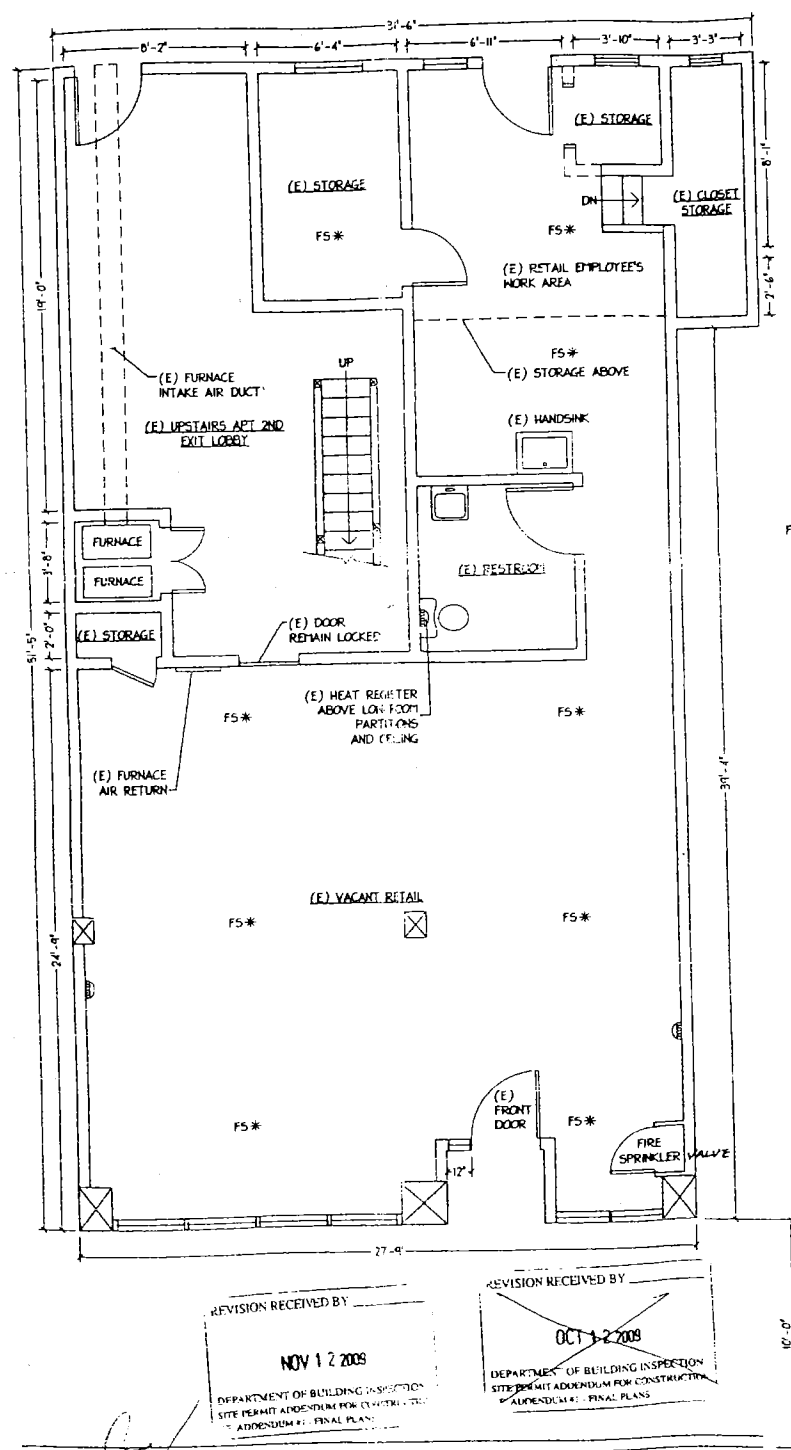
**DRAWING INDEX:**

- SHEET 1 - (E) PLOT PLAN, EXISTING AND NEW FLOOR PLAN, FLOOR FINISH SCHEDULE
- SHEET 2 - LIGHTING PLAN
- SHEET 3 - PARTITION DETAILS, AND H.C. TOILET, STEAM ROOM AND ENTRANCE DETAILS

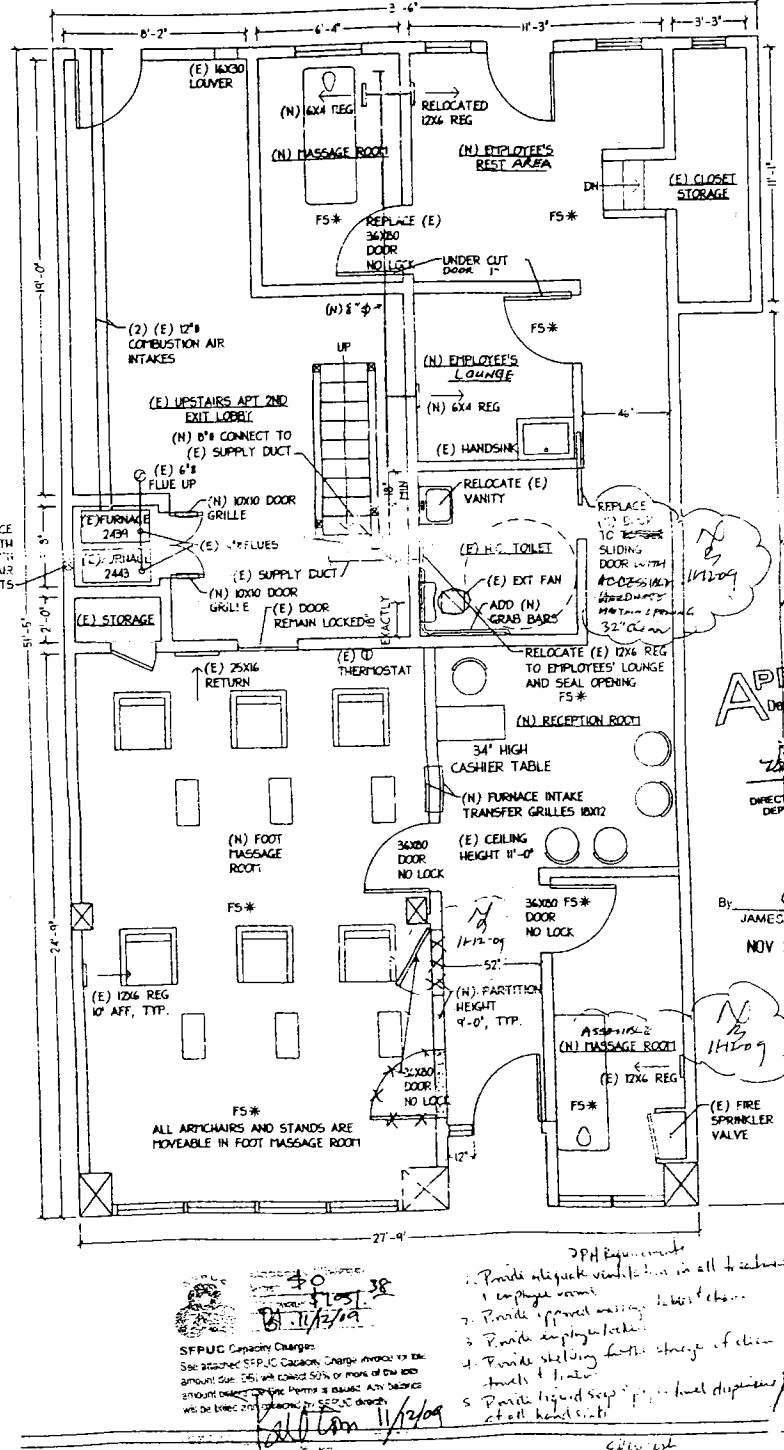
ROOM FINISH SCHEDULE					
ROOM NAME	WALL	CEILING	FLOOR	BASE	REMARK
MESSAGE ROOM, HALL WAY AND RECEPTION AREA	PAINTED ON SMOOTH DRYWALL	PAINTED ON SMOOTH DRYWALL	VINYL FLOOR	6" CER. 1/4" R COVERED TILE BASE	
H.C. TOILET	PAINTED ON SMOOTH DRYWALL	PAINTED ON SMOOTH DRYWALL	(E) CERAMIC TILE	6" CER. 1/4" R COVERED TILE BASE	NO CHANGE
EMPLOYEE'S LOUNGE	PAINTED ON SMOOTH DRYWALL	PAINTED ON SMOOTH DRYWALL	CERAMIC TILE	6" CER. 1/4" R COVERED TILE BASE	



LOMBARD STREET  
 (E) PLOT PLAN  
 SCALE: 1/8" = 1'-0"



(E) HEATING, VENTILATION AND SPRINKLER SYSTEM TO REMAIN  
 (E) GROUND FLOOR PLAN  
 SCALE: 1/4" = 1'-0"



(E) HEATING, VENTILATION AND SPRINKLER SYSTEM TO REMAIN  
 (N) GROUND FLOOR PLAN  
 SCALE: 1/4" = 1'-0"

REVISIONS	DATE	DESCRIPTION

PREPARED BY	TOP FLANGE DESIGNS TONY K. FONG, P.E. 2618 26th AVENUE SAN FRANCISCO, CA 94116 TEL: 415-810-4583
LESSOR	HUAN ZHI JIANG 5005 STAR MINE WAY ANTIOCH, CA 415-240-8088
LOCATION	2443 LOMBARD STREET SAN FRANCISCO CA 94108 BLOCK 0937 LOT 026
SHEET TITLE	(E) PLOT PLAN (E) AND (N) FLOOR PLANS AND FLOOR FINISH SCHEDULE
DATE	APR. 2009
SCALE	AS SHOWN
DRAWN	LOK
JOB	
SHEET	1
OF 2 SHEETS	

APPROVE  
 Dept. of Building Insp.  
 NOV 13 2008  
 VIVIAN L. DAY  
 DIRECTOR/CHIEF BUILDING OFFICIAL  
 DEPT. OF BUILDING INSPECTION

By: JAMES ZHAN, DBI  
 NOV 11 2008

2009.04.20.6609-R2  
 ED Walsh  
 752-3835  
 Health Dept.