



SAN FRANCISCO PLANNING DEPARTMENT

September 25, 2007

Tim Veitzer
5900 Hollis Street, Suite Q
Emeryville, California 94608-2008
(510) 547-6442

RE: REQUEST FOR WRITTEN DETERMINATION
STREET ADDRESS: 1665 MARKET STREET
ASSESSOR'S INFORMATION: BLOCK 3504; LOT 004
ZONING DISTRICT: C--M (HEAVY COMMERCIAL) DISTRICT

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

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Dear Mr. Veitzer:

This letter is in response to your letter dated September 6, 2007 requesting a written determination for the above-referenced property. At present, the National Holistic Institute is requesting to establish a teaching clinic for its students during its normal class times where students gain first hand experience giving massage to clients. Your letter requests that Institutional Uses, particularly *The National Holistic Institute*, a nationally accredited massage school, be included in the current list of primary uses to allow "massage establishment as an accessory use". Currently an accessory massage use cannot be operated independently without an established principal medical or personal service use.

BACKGROUND

Section 204 of the Planning Code states that certain uses can be allowed as an accessory use to another use when they would not otherwise be allowed. A massage establishment as a principal permitted use is either a conditional use or not allowed in a number of Zoning Districts or has distance requirements when allowed in some districts. The Board of Appeals has ruled that a massage establishment can be considered accessory to a barbershop even when located on a different floor, when access to the massage establishment was only through areas controlled by the barber shop. This ruling has been generalized to allow any massage establishment as an accessory to a medical or personal service use if accessed only through space controlled by such medical or personal service business and where the massage does not exceed 300 square feet nor employ more than two massage therapists. The 300 square feet is the maximum permitted accessory massage use area. The actual permitted accessory use area may vary based on the size of a medical or personal service establishment.

COMPLIANCE

Your letter with accompanying plans proposes a teaching clinic at a size of approximately 1,450 square feet and further requests approval for approximately 1,600 square feet. Pursuant to Planning Code Section 204.3, Accessory uses in C and M Districts, no use shall be permitted as an accessory use to a lawful principal or conditional use that requires the use of more than 1/4 of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking or loading. In the case of NHI's proposal, the

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total floor area of the Institutional use is approximately 5,000 square feet thereby limiting the accessory massage use (teaching clinic) to a square footage of no greater than 1,250 square feet. A massage use proposed at a larger size than 1,250 square feet would no longer be considered an accessory use. Planning Code Section 218.1(b) does not allow a new massage establishment (principal use) within 1,000 feet of an already existing legal massage establishment. The subject property is located approximately 600 feet from an existing legal massage establishment at 12 Valencia Street; therefore a new massage establishment is not permitted.

DETERMINATION

It is hereby determined that the National Holistic Institute located at 1665 Market Street being a Nationally Accredited Massage School that is in good standing with the Cities of Emeryville, San Jose, Petaluma and Los Angeles shall be permitted to operate its proposed teaching clinic as an accessory massage use to the Institutional Use. The size of the existing Institutional use is approximately 5,000 square feet. The proposed massage accessory shall be reduced in floor area from 1,450 to 1,250 square feet pursuant to Section 204.3(4). The project sponsor shall provide the Planning Department with 11 X 17 photo reduced copies of the existing floor plan with the area of the proposed teaching clinic clearly labeled. Said clinic shall fully comply with Section 204.3 of the Planning Code.

This Determination Letter is not intended to expand the current list of primary uses which permit massage as an accessory use. Any future Institutional Use request for determination regarding massage shall be thoroughly reviewed on its own merits by the Zoning Administrator, prior to final determination.

If anyone has substantial reason to believe that there is an error in the interpretation of the Planning Code, or abuse of discretion on the part of the Zoning Administrator, this determination may be appealed to the Board of Appeals within fifteen (15) days from the date of this letter. For further information regarding the appeals process, please contact the Board of Appeals, 1660 Mission Street, Room 3036, San Francisco, or by telephone at (415) 575.6880.

Please direct any questions regarding this letter to Edgar Oropeza of my staff at (415) 558-6381.

Sincerely,

Lawrence B. Badiner
Zoning Administrator

Cc: Edgar Oropeza

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