



# STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: November 17, 2022

**PLANNER:** David Carrillo, Assistant Planner

**SUBJECT:** **Minor Conditional Use Permit 22-064, Rekinect Wellness LLC Accessory Massage**, a request to allow accessory massage services in conjunction with primary beauty salon services.

**LOCATION:** 99 Via Pico Plaza

**ZONING/GENERAL PLAN:** Community Commercial 2 Zone and Professional Business Overlay Zone within the West Pico Corridor Specific Plan (CC-WPCSP)

**PROJECT SUMMARY:**

- In 2012, Eyeland Lash, a beauty salon, commenced operations and provides beauty services consisting of eyelash extensions, eyelash lifts, face and body waxing, and facial and nail treatments. Current hours of operation are between 9:30 a.m. and 5:00 p.m., Monday through Friday.
- The business is located in Pico Plaza, an approximately 10-acre site consisting of retail shops, restaurants, and personal services. The business operates in a 1,160 square-foot suite on the ground-level at the northwest end of the shopping center, directly across from Del Taco and adjacent to shared parking spaces. Figure 1 below is an aerial image of the site.

**Figure 1 – Site Aerial Image**



- The applicant proposes to add massage services as an accessory use to the existing beauty salon, Monday through Friday, between 10:00 a.m. and 5:00 p.m. Zoning Ordinance Section 17.28.185 allows massage services to be conducted between the hours of 7:00 a.m. and 9:00 p.m. Although the beauty salon currently operates until 5:00 p.m., the operator has the ability to extend the business hours in the future and provide massage services until 9:00 p.m., in compliance with the Zoning Code, without amending this Minor Conditional Use Permit.
- Zoning Ordinance Section 17.40.030 requires Zoning Administrator approval of a Minor Conditional Use Permit (MCUP) to allow accessory massage services.
- The Orange County Sheriff's Department (OCSD) completed a review of the proposed use and determined it supports the approval of accessory massage services. Additionally, the Code Compliance Division has no concerns given the location's visibility from common areas of the shopping center. Both OCSD and the Code Compliance Division support the request, subject to the conditions of approval contained in the proposed Resolution, Exhibit A (Attachment 1).
- The project satisfies required findings for approval based on the following:
  - The beauty salon with accessory massage services contributes to the mix of local-serving commercial uses that help meet the needs of nearby residents
  - Parking requirements established by the Zoning Ordinance are met. The addition of accessory massage services does not intensify parking.
  - Eyeland Lash's primary services will continue to consist of eyelash extensions, eyelash lifts, face and body waxing, and facial and nail treatments. The space devoted to accessory massage services is 63 square feet, or five (5) percent of the suite's total floor area of 1,160square feet.
  - The request involves the use of existing commercial space and maintains the floor area intact while accommodating the beauty salon with accessory massage services.
  - The massage technician for the business holds an active license from the California Massage Therapy Council (CAMTC).
- The project is Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) the request consists of the operation of an accessory massage use in conjunction with primary beauty salon services within existing commercial space.
- Public comments have not been received on this item at the time this report was published.

[Report continued on next page]

**RECOMMENDATION**

Staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities); and
2. Adopt Resolution ZA 22-022, approving Minor Conditional Use Permit 22-064, Rekinect Wellness LLC Accessory Massage, subject to attached conditions of approval.

***Attachments:***

1. Resolution ZA 22-022  
Exhibit A - Conditions of Approval
2. Location Map
3. Photos
4. Floor Plan

# ATTACHMENT 1

## RESOLUTION NO. ZA 22-022

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT 22-064, REKINECT WELLNESS LLC ACCESSORY MASSAGE, TO ALLOW ACCESSORY MASSAGE SERVICES IN CONJUNCTION WITH PRIMARY BEAUTY SALON SERVICES AT 99 VIA PICO PLAZA

WHEREAS, on February, 28 2022, an application was submitted by Vanessa Macias, 99 Via Pico Plaza, San Clemente, CA 92672 for Minor Conditional Use Permit (MCUP) 22-064, and deemed complete on October 24, 2022; a request to allow accessory massage services at an existing beauty salon, Eyeland Lash, Monday through Saturday between 10am and 7pm within an existing shopping center. The subject suite is located in the Community Commercial 2 Zone and Professional Business Overlay Zone within the West Pico Corridor Specific Plan (CC2-PB-WPCSP). The site's legal description is P BK 122 PG 36 PAR 3 PM 122-36 PAR 3 POR OF PAR (=LLA 03-1204058 PAR), and Assessor's Parcel Number 692-351-09; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends the Zoning Administrator determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). This is recommended because the request consists of the operation of an accessory massage use in conjunction with primary beauty salon services within existing commercial space; and

WHEREAS, on March 17, 2022, July 7, 2022, and October 19, 2022, the City's Development Management Team (DMT) reviewed the proposed project and determined it complies with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on November 17, 2022, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Zoning Administrator of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

## Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This exemption covers interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. Here, the request consists of the operation of an accessory massage use in conjunction with primary beauty salon services within existing commercial space. Additionally, the request meets parking requirements. Thus, the project qualifies for the Class 1 exemption.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment. There are no sensitive resources on the project site or in the vicinity. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project does not include any hazardous waste sites, and the project will not cause a substantial adverse change in the significance of a historical resource. Thus, the Class 1 exemption applies, and no further environmental review is required.

## Section 2. Minor Conditional Use Permit Findings

With respect to Minor Conditional Use Permit (MCUP) 22-064, the Zoning Administrator finds as follows:

- A. The proposed use is permitted within the subject zone and complies with all the applicable provisions of the Zoning Ordinance, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed, in that:
  1. The beauty salon with accessory massage services contributes to the mix of local-serving commercial uses that help meet the needs of nearby residents, consistent with Primary Goal No. 8 of the Centennial General Plan Land Use Element, which states: *"Provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use"*;
  2. The Orange County Sheriff's Department (OCSD) supports the approval of MCUP 22-064 for accessory massage services, consistent with Urban Design Element Policy 3.06, which states: *"We require Police Department review of uses that may be characterized by or historically associated with*

*high levels of noise, nighttime activities, and/or rates of crime; and impose appropriate conditions or land use and design controls to prevent adverse impacts on adjacent uses.”*

3. The proposed use is located in a zone that allows massage uses as a conditionally permitted use that must comply with special zoning, operation, facility, and licensing requirements in the Municipal Code to ensure the proposed use is compatible with the neighborhood and consistent with the intent of the zone; and
  4. Primary business services of the beauty salon will continue to consist of eyelash extensions, eyelash lifts, face and body waxing, and facial and nail treatments. The space devoted to accessory massage services is 63 square feet, or five (5) percent of the suite's total floor area of 1,160 square feet.
- B. The site is suitable for the type and intensity of use that is proposed, in that:
1. Parking requirements are satisfied. The addition of accessory massage services does not intensify parking;
  2. No major exterior building or site changes are proposed as part of this request;
  3. The request involves the use of existing commercial space and maintains the floor area intact while accommodating the beauty salon with accessory massage services; and
  4. The suite is located on the first floor and visible from common pedestrian areas such as the parking lot and walkways on the property.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that:
1. Parking requirements are satisfied. The addition of accessory massage services does not intensify parking;
  2. No major exterior building or site changes are proposed as part of this request;
  3. The request involves the use of existing commercial space and maintains the floor area intact while accommodating the beauty salon with accessory massage services;
  4. The Code Compliance Division reviewed the application and has no concerns given the location's visibility from common areas and conditions of approval;
  5. The Orange County Sheriff's Department (OCSD) completed a review of the proposed use and determined it supports the approval accessory massage services;

6. The massage technician for the business holds an active license from the California Massage Therapy Council (CAMTC); and
  7. The proposed use must comply with special operational, facility, attire, sanitation, and licensing requirements in the Municipal Code for massage establishments (17.28.185) and must meet Conditions of Approval (attached as Exhibit A). These requirements and conditions apply to ensure the proposed use is compatible with surrounding uses and properties. This includes but is not limited to requiring massage technicians be certified with the California Massage Therapy Council (CAMTC) to get a City business technician license, limiting hours of operation, requiring information to be posted in a visible location on various items, such as services provided, staffing, and more.
- D. The proposed use will not negatively impact surrounding land uses, in that:
1. Parking requirements are satisfied. The addition of accessory massage services does not intensify parking;
  2. No major exterior building or site changes are proposed as part of this request;
  3. The request involves the use of existing commercial space and maintains the floor area intact while accommodating the beauty salon with accessory massage services;
  4. The Code Compliance Division reviewed the application and has no concerns given the location's visibility from common areas and conditions of approval;
  5. The Orange County Sheriff's Department (OCSD) completed a review of the proposed use and determined it supports the approval of MCUP 22-064 for accessory massage services;
  6. The massage technician for the business holds an active license from the California Massage Therapy Council (CAMTC); and
  7. The proposed use must comply with special operational, facility, attire, sanitation, and licensing requirements in the Municipal Code for massage establishments (17.28.185) and must meet Conditions of Approval (attached as Exhibit A). These requirements and conditions apply to ensure the proposed use is compatible with surrounding uses and properties. This includes but is not limited to requiring massage technicians be certified with the California Massage Therapy Council (CAMTC) to get a City business technician license, limiting hours of operation, requiring information to be posted in a visible location on various items, such as services provided, staffing, and more.

Section 4. Zoning Administrator Approval

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Conditional Use Permit 22-064, Rekinect Wellness OC Accessory Massage, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on November 17, 2022.

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Cecilia Gallardo-Daly, Zoning Administrator



CONDITIONS OF APPROVAL  
MINOR CONDITIONAL USE PERMIT 22-064  
REKINECT WELLNESS LLC ACCESSORY MASSAGE

**1.0 GENERAL CONDITIONS OF APPROVAL**

- |     |   |               |
|-----|---|---------------|
| 1.1 | Within 30 days of receipt of the signed conditions of approval, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City, unless an extension is granted by the City Planner.  | Planning      |
| 1.2 | The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs, The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. | Planning      |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. Any modifications to the project shall be reviewed by the City Planner in accordance with Zoning Ordinance Section 17.12.180.  | Planning      |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws.  | All           |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations.   | Code<br>Comp  |
| 1.6 | Minor Conditional Use Permit 22-064 shall be deemed to have expired if within one year of approval the project is not commenced, or the project permitted by the approved application has lapsed, as defined by Zoning Ordinance Section 17.12.150.   | Planning<br>* |

- 1.8 The Applicant (including any property owners and managers, and their designees) understands and agrees that no window, banner, or temporary signage is part of this review, nor is any such signage approved or permitted by this permit. Window, banner, and temporary signage shall comply with Zoning Ordinance Table 17.84.030A & Section 17.84.030(H), and any applicable Master Sign Programs. Applicant understands and agrees that as a condition of approval of this permit that Applicant is aware of the City's window, banner, and temporary sign regulations and that compliance with those regulations is a term of the subject permit's approval by the City. As such, any violation of the City's regulations related to window, banner, or temporary signs shall constitute a violation of SCMC Section 8.52.030(Y), as discussed in accompanying conditions of approval. [Citation - Section 17.16.240.D of the SCMC] Code Comp \*\*
- 1.9 If for any reason City Staff determines the massage use is not in compliance with the conditions of approval or intent of the Zoning Code related to the Minor Conditional Use Permit, the permit may be revoked and/or sent to the decision making body for modification. Any request for expansion of the use must be approved by the decision making body as an amendment to Minor Conditional Use Permit 22-064. Planning \*\*
- 1.10 The Applicant (including any property owners and managers, and their designees) understands and acknowledges that banners and any temporary signage must meet the City's standards as to placement and time frame displayed according to the City's Municipal Code 17.84.010. No human, moving, or event-related signs placed off-site are permitted. Code Comp \*\*
- 1.11 These conditions of approval shall be posted in a conspicuous location clearly visible to employees to ensure they are informed of and adhere to requirements and policies for all operations of the business. Code Comp \*\*
- 4.0 PRIOR TO ISSUANCE OF BUILDING PERMITS**
- 4.1 In the event a building permit is required to operate the accessory massage service, the working drawings shall include within the first four pages a list of all conditions of approval included in this resolution. Planning
- 7.0 OPERATIONAL CONDITIONS OF APPROVAL**
- 7.17 The Applicant (including any property owners and managers, and their designees) shall use her/his best judgment and best Code Comp

- management practices to ensure commercial activities on the premises will be conducted in a manner that will not be disruptive to other tenants. The business owner/property owner shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states, "It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval," and any subsequent revision of this section of the code. [Citation - Section 8.52.030(Y) of the SCMC] \*\*
- 7.18 The Applicant (including any property owners and managers, and their designees) shall be responsible for ensuring that no noise-generating maintenance activities on the subject property are conducted between the hours of ten (10:00) p.m. and seven (7:00) a.m. Such prohibited activities include, but are not limited to, dumping trash into outside trash bins, the use of parking lot sweepers, and the use of high-pressure washers. [Citation - Section 8.48.070(P) of the SCMC] Code Comp \*\*
- 7.19 The Applicant (including any property owners and managers, and their designees) shall be responsible for ensuring that no loud and excessive noise-generating activities on the subject property in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers are conducted between the hours of ten (10:00) p.m. and seven (7:00) a.m. [Citation - Section 8.48.070(O) of the SCMC] Code Comp \*\*
- 7.21 The applicant, or designee, shall provide a recognizable and readable window sign at the main entrance identifying the establishment as a massage establishment, in accordance with Zoning Ordinance Sections 17.84.030. Planning \*\*
- 7.26 The Applicant (including any property owners and managers, and their designees) shall abide by all applicable laws, including Orange County Health Department laws. Code Comp \*\*
- 7.27 The Applicant (including any property owners and managers, and their designees) shall ensure that discharge of washwater and other pollutants is prohibited from entering the storm drain system. Applicant must prevent pollutants (e.g. sediment, trash, food waste Code Comp \*\*

etc.) and any washwater used during cleanup from entering the storm drain system.

- 7.28 A manager of the business shall be on the premises at all times, and available to respond to issues raised by representatives from the Orange County Sheriff's Department, Orange County Fire Authority, or City of San Clemente Code Compliance, during the hours of operation.

Code  
Comp  
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\* Denotes a modified Standard Condition of Approval

\*\* Denotes a project-specific Condition of Approval



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MCUP 22-064, REKINECT WELLNESS LLC ACCESSORY MASSAGE  
99 VIA PICO PLAZA

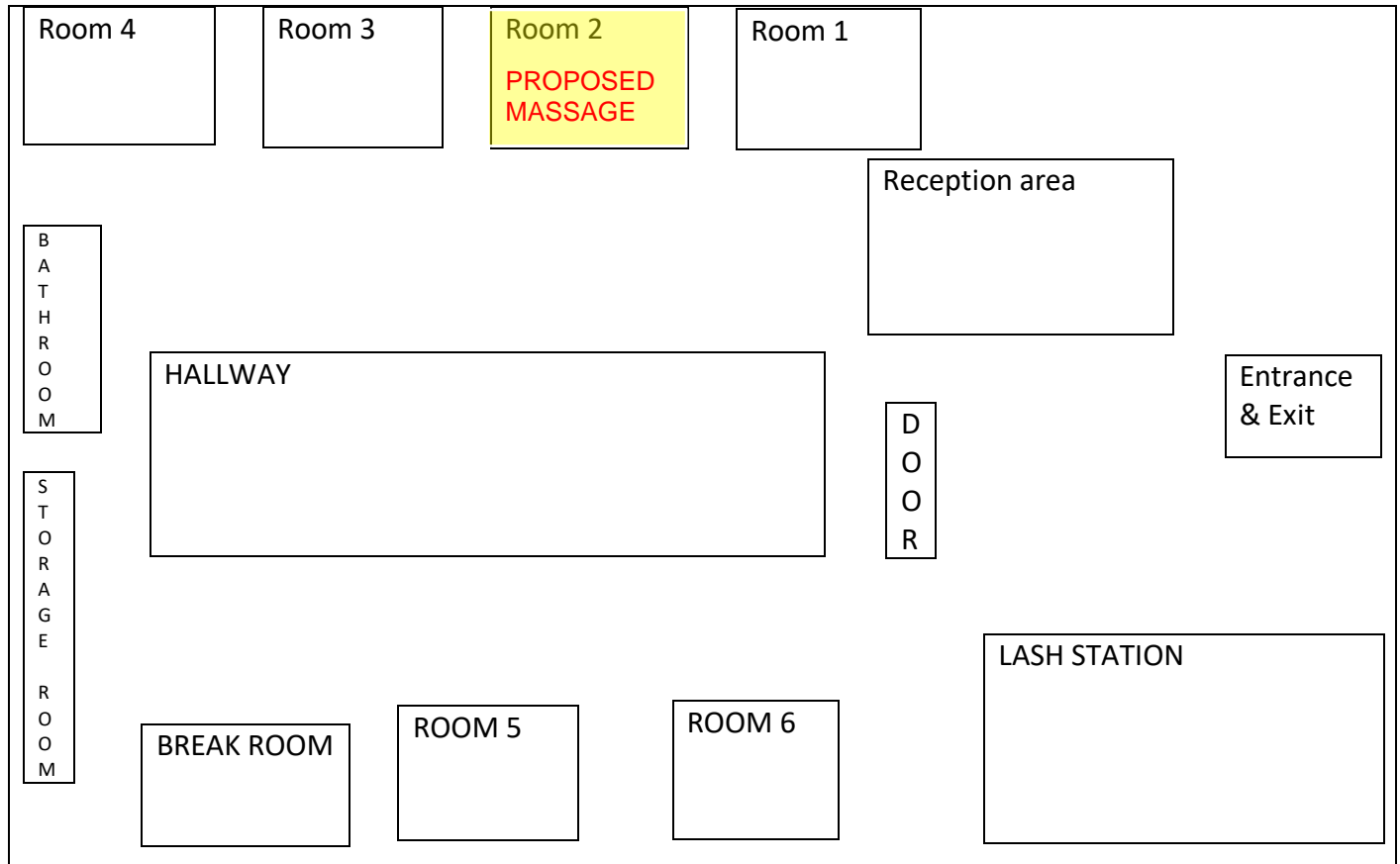
SITE PHOTOGRAPHS



**FLOOR PLAN**

TOTAL SUITE SIZE: 1,160 SQUARE FEET

BUILDING FLOOR PLAN



**Room 2- 9x7**

**No changes or add ons to room or building.  
No windows**

