

EXHIBIT NO. 1

3
1-25-03

Docket Item # 2
SPECIAL USE PERMIT #2002-0108

Planning Commission Meeting
January 7, 2003

ISSUE: Consideration of a request for a special use permit to operate a massage establishment.

APPLICANT: Erica M. Gutheil

LOCATION: 801 North Pitt Street

ZONE: RC/High Density Apartment Zone

PLANNING COMMISSION ACTION, JANUARY 7, 2003: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z)
2. Only City licensed therapists may provide massage services at the facility. (P&Z)
3. The applicant shall require that all employees who drive to work use off-street parking. (P&Z)
4. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey of the business and robbery awareness program for employees. (Police)

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

DISCUSSION:

1. The applicant, Erica M. Gutheil, by Duncan Blair, attorney, requests special use permit approval for the operation of a massage establishment located at 801 North Pitt Street.
2. The subject property is one lot of record with 355 feet of frontage on North Pitt Street, 256 feet of depth and a total lot area of approximately 90,000 square feet. The property is bounded by Montgomery, North Royal, Madison, and North Pitt Streets. The site is developed with a 15-story residential condominium building, with commercial uses on the first floor, known as Port Royal Condominiums. The subject business is proposed to occupy a commercial tenant space of 773 square feet on the first floor. The property is surrounded by a mix of residential, office, and commercial uses. The Alexandria House condominiums are located directly to the south across Madison Street.
3. The applicant requests special use permit approval for the operation of a massage establishment offering massage therapy for relaxation, stress reduction, and pain management. The applicant anticipates between five and ten clients per day and will have scheduled appointments between the hours of 8:30 a.m. and 7:30 p.m., Monday through Saturday. Initially, the applicant will be the only massage therapist. It is possible that the applicant may engage the services of one or two additional massage therapists, as independent contractors, to assist in the delivery of services to clients. Access to the building is controlled by the front desk attendant.
4. For calculating the parking requirement, the wellness center is considered an office use, operating much like a doctor's or dentist's office. Under Section 8-200 (A) (18) of the zoning ordinance, an office use at this location requires one space for every 500 feet of floor area. In this case, the subject space has 773 square feet of floor area which results in the requirement of two parking spaces. Parking for the commercial spaces in the building is managed by allotting parking passes to individual tenants. In this case, the applicant has two parking passes to use at the surface parking lot. Visitors sign in at the desk and can park in unused spaces. Therefore, the applicant meets the parking requirement for the use.
5. The applicant does not anticipate excessive noise or odors from the business.
6. No more than one residential sized trash bag per day consisting of paper products will be generated by the business. Trash will be deposited daily into the Port Royal Condominium trash facility. The business is not anticipated to generate litter.

7. Zoning: The subject property is located in the RC/Residential high density apartment zone. Section 3-903 of the zoning ordinance allows a massage establishment in the RC zone only with a special use permit.
8. Master Plan: The proposed use is consistent with the Old Town North chapter of the Master Plan which designates the property for uses consistent with the RC zoning.

STAFF ANALYSIS:

Staff has no objection to the proposed massage establishment located at 801 North Pitt Street. The proposed use is compatible with existing businesses in the area. It is small, with a low number of clients and employees per day, and will not have any adverse impact on the area. The business meets the required off-street parking and can utilize the surface parking lot on North Pitt Street if needed. Staff recommends a condition requiring employees to park off the street.

Staff recommends approval of the request for special use permit subject to recommended conditions.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.

Code Enforcement:

- F-1 Tenant space is vacant.
- F-2 No plumbing equipment currently exists in space for sink room.
- F-3 Interconnecting doorway between proposed tenant space and adjacent tenant space is present but not noted on submitted drawing. Applicant shall identify if door is to remain or will be removed. Modifications or removal of existing door way will require a construction permit.
- C-1 A construction permit will be required for all plumbing work.
- C-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. Permits are non-transferable.
- C-2 This facility must meet current Alexandria City Code requirements for massage establishments.

- C-3 Permits must be obtained prior to operation.
- C-4 Five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 4.2, Massage Regulations.
- C-5 All massage therapists must possess a current massage therapist certification issued by the Commonwealth of Virginia in accordance with the Code of Virginia Chapter 599, 54.1-3029 and must possess a current massage therapist permit issued in accordance with Alexandria City Code Title 11, Chapter 4.2 prior to engaging in any massage activity.

Police Department:

- R-1 Security survey and robbery awareness program for business.

VP

APPLICATION for SPECIAL USE PERMIT # 2002-0108

PROPERTY LOCATION: 801 North Pitt Street, Commercial Unit 102 Port Royal Condominium

TAX MAP REFERENCE: 55.03 0B 0102 ZONE: RC/High Density Apartment Zone

APPLICANT Name: Erica M. Gutheil, trading as Luna Massage Therapy

Address: 1200 Braddock Place #506, Alexandria, VA 22314

PROPERTY OWNER Name: Lois L. Walker

Address: Walker Real Estate, 115 S. Payne St. Alexandria, VA 22314


PROPOSED USE: Special Use Permit to operate a massage establishment, as defined in Section 11-4.2-1 (4) of the Alexandria City Code, pursuant to Section 3-903 (k)(8) of the Alexandria Zoning Ordinance, 1992, as amended ("Ordinance").

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Land, Clark, Carroll, Mendelson & Blair, P.C.
Duncan W. Blair, Esquire
Print Name of Applicant or Agent


Signature

524 King Street
Mailing/Street Address

(703) 836-1000 **(703) 549-3335**
Telephone # *Fax #*
dblair@landclark.com

Alexandria, Virginia 22314
City and State *Zip Code*

October 25, 2002
Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____ Date & Fee Paid: _____ \$

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

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All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (check one) the Owner Contract Purchaser
 Lessee or Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

Luna Massage Therapy is a sole proprietorship owned by Erica M. Gutheil.

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

Yes. Provide proof of current City business license

No. The agent shall obtain a business license prior to filing application, if required by the City Code.

2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.

Floor plans are attached.

NARRATIVE DESCRIPTION

3. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

Erica M. Gutheil, certified as a massage therapist and in good standing with the Virginia Board of Nursing, trading as Luna Massage Therapy (the "Applicant") is requesting a special use permit to operate a massage establishment in Commercial Unit 102 Port Royal Condominium offering massage therapy for relaxation, stress reduction, and pain management. Luna Massage Therapy will operate in strict compliance with the regulations of Chapter 4.2 of the Alexandria City Code. The use of the property as a massage establishment is included in the larger zoning category of Health and Athletic Clubs.

Attached is a copy of a letter dated October 17, 2002 from Alan Perichino, the Property Manager for Port Royal Condominium, stating that the Unit Owners Association has no objection to the use of Unit 102 as a massage therapist office.

USE CHARACTERISTICS

4. The proposed special use permit request is for: *(check one)*

a new use requiring a special use permit,

a development special use permit,

an expansion or change to an existing use without a special use permit,

expansion or change to an existing use with a special use permit,

other. Please describe: _____

5. Please describe the capacity of the proposed use:

- A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

It is estimated that between five (5) and ten (10) clients per day will have scheduled appointments between the hours of 8:30 a.m. and 7:30 p.m, Monday through Saturday.

- B. How many employees, staff and other personnel do you expect? Specify time period (i.e., day, hour, or shift).

Initially, Applicant will be the only massage therapist staffing Luna Massage Therapy. It is possible that Applicant may engage the services of one or two massage therapists, as independent contractors, to assist in the delivery of services to clients.

6. Please describe the proposed hours and days of operation of the proposed use:

Day:

Hours:

Monday-Saturday

8:30 a.m. - 7:30 p.m.

7. Please describe any potential noise emanating from the proposed use:

- A. Describe the noise levels anticipated from all mechanical equipment and patrons.

It is not anticipated that noise levels will exceed permitted levels under the Alexandria City Code.

- B. How will the noise from patrons be controlled?

It is not anticipated that noise from clients will be a source of complaints, as such, no control measures are warranted.

8. Describe any potential odors emanating from the proposed use and plans to control them:

It is not anticipated that offensive odors will emanate from the use of the property as Luna Massage Therapy.

9. Please provide information regarding trash and litter generated by the use:

- A. What type of trash and garbage will be generated by the use?

A small amount of trash, consisting of paper products, will be generated by Luna Massage Therapy.

- B. How much trash and garbage will be generated by the use?

The small amount of trash generated will not exceed one residential sized disposable trash bag per day.

C. How often will trash be collected?
Trash will be deposited daily into the Port Royal Condominium trash facility.

D. How will you prevent littering on the property, streets and nearby properties?
It is not anticipated that littering will be a problem, as such, no special measures are anticipated.

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

Small quantities of cleaning solvents, generally recognized to be appropriate for use in the operation of the business, will be stored, used as solvents, and disposed of in accordance with applicable regulations.

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of residents, employees and patrons?

It is not anticipated that extraordinary security measures will be required. The entrance of Luna Massage Therapy is in the interior of the condominium and access to the building is controlled by the front desk.

ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes. No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

PARKING AND ACCESS REQUIREMENTS

14. Please provide information regarding the availability of off-street parking:

A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

Two (2) parking spaces are required pursuant to Section 8-200(A)(17) of the Ordinance based on the ratio of one (1) space for each four hundred (400) square feet of floor area.

B. How many parking spaces of each type are provided for the proposed use:

2 Standard spaces

Compact spaces

Handicapped accessible spaces.

* Other.

*** Additional shared commercial parking is available on the surface parking facility serving Port Royal Condominium.**

C. Where is required parking located? on-site off-site (check one)

If the required parking will be located off-site, where will it be located:

Not applicable

Pursuant to section 8-200 (C) of the zoning ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

D. If a reduction in the required parking is requested, pursuant to section 8-100 (A) (4) or (5) of the zoning ordinance, complete the **PARKING REDUCTION SUPPLEMENTAL APPLICATION**.

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are required for the use, per section 8-200 (B) of the zoning ordinance? **NONE**

B. How many loading spaces are available for the use? **Not Applicable**

C. Where are off-street loading facilities located? **Not Applicable**

D. During what hours of the day do you expect loading/unloading operations to occur?
Deliveries will occur during the business hours maintained by Luna Massage Therapy.

E. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?
It is not anticipated that Luna Massage Therapy will receive more than one (1) delivery per week.

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?
Street access to the subject property is adequate and no new street improvements are required.

SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building? Yes No

Do you propose to construct an addition to the building? Yes No

How large will the addition be? _____ square feet.

18. What will the total area occupied by the proposed use be?

773 sq. ft. (existing) + _____ sq. ft. (addition if any) = 773 sq. ft. (total)

19. The proposed use is located in: (*check one*)

a stand alone building a house located in a residential zone a warehouse

a shopping center. Please provide name of the center: _____

an office building. Please provide name of the building: _____

other, please describe: **Port Royal Condominium with first floor commercial units.**

SUP 2002-0108



Port Royal Condominium

October 17, 2002

John Ross
McEneaney Commercial
510 King St S. 505
Alexandria, VA 22314

Re: Erica M. Gutheil
1200 Braddock PI # 506
Alexandria, VA 22314

VIA Fax 703-683-7545

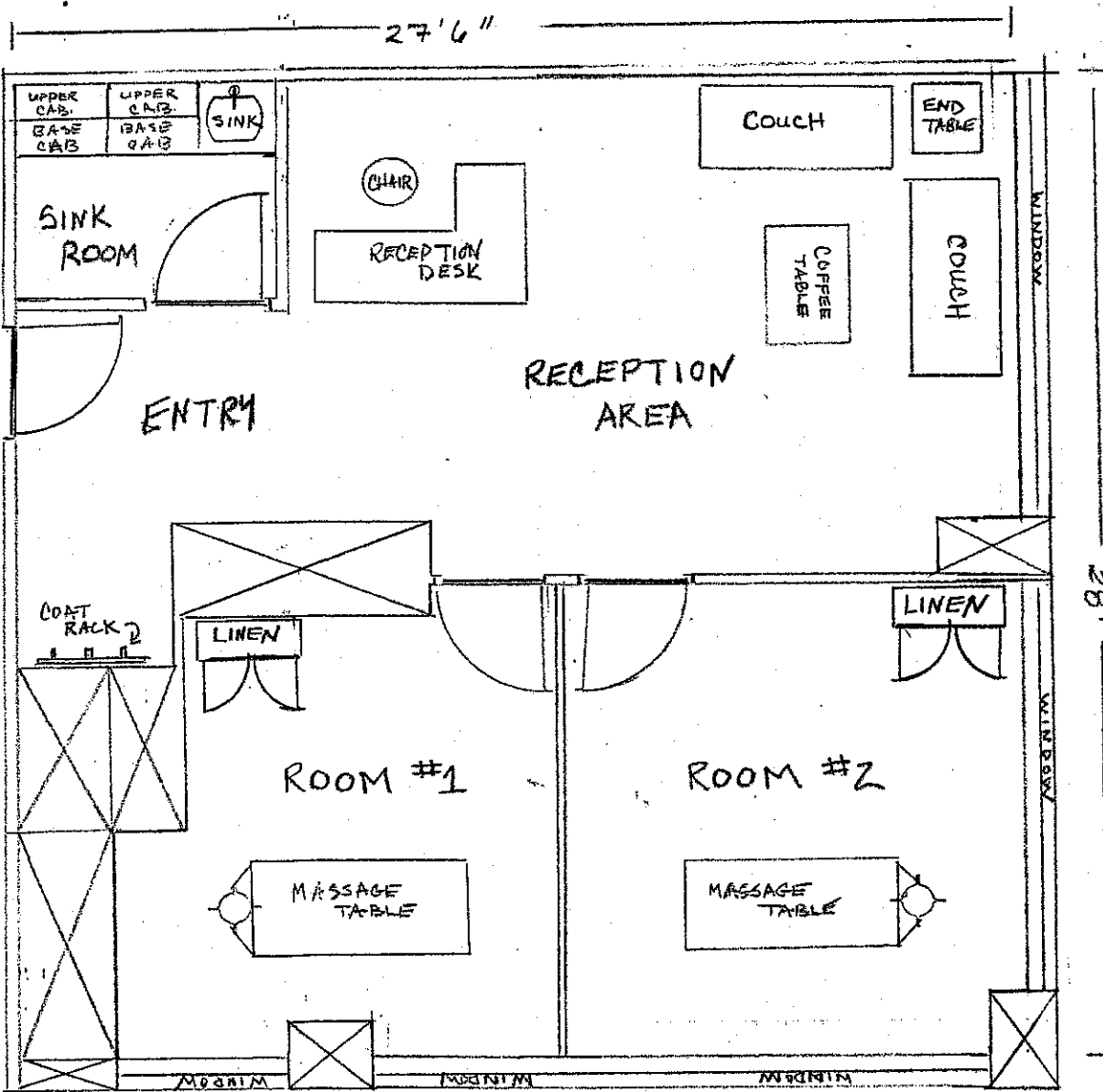
Dear John:

The Port Royal Board of Directors and the condominium documents have no objection for Unit # 102 being used as a Massage Therapist office.

If you have any questions please call.

Best regards

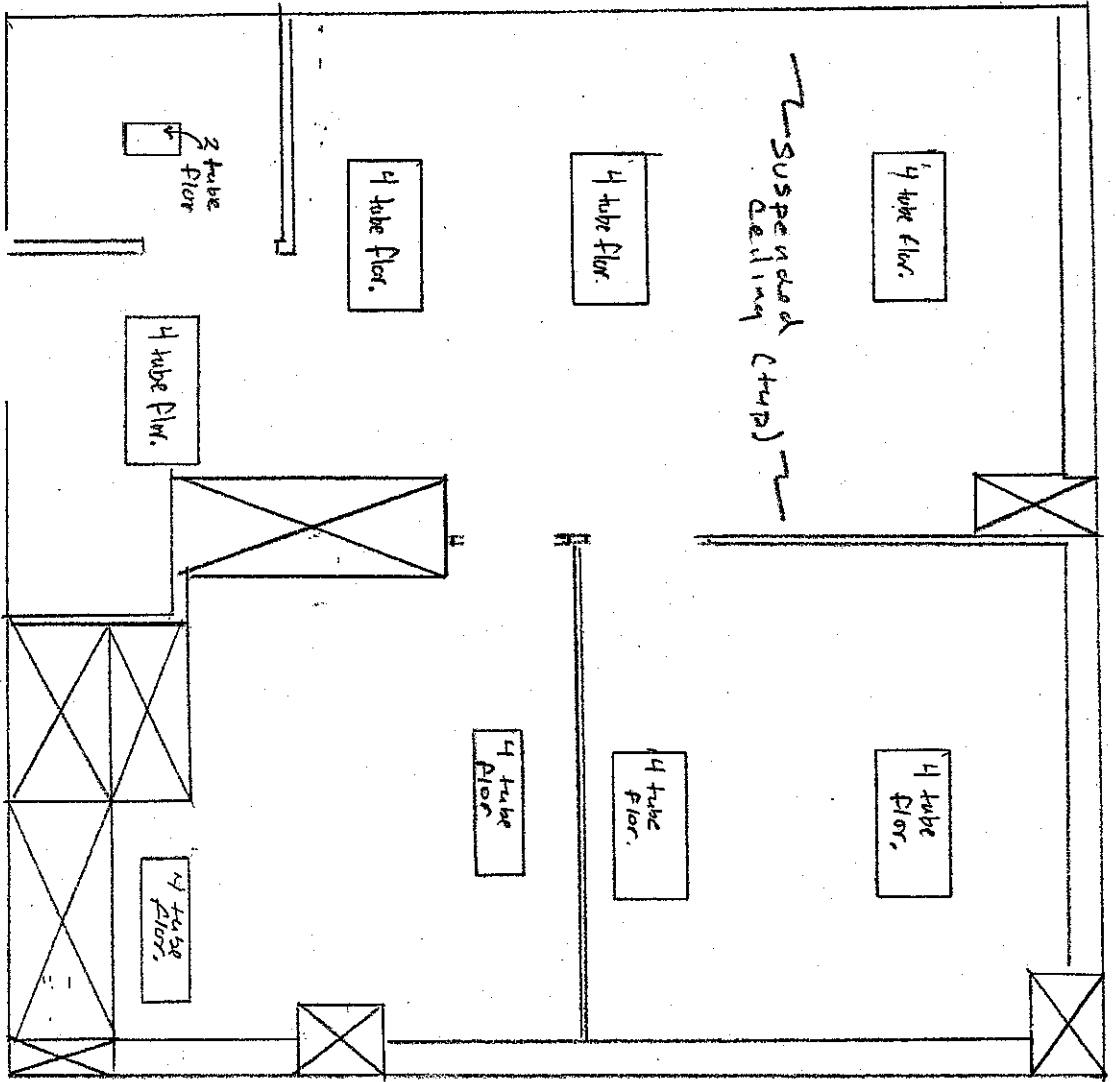

Alan Perichino
Property Manager



FIXTURE SCHEDULE

- Sink Room
 - 1 Sink
 - 1 24" Sink base
 - 2 30" wall cabinets
 - 2 30" base cabinets
- Reception Area
 - 1 reception desk
 - 2 benches
 - 1 reception chair
 - 1 roller table
 - 1 end table
- Room #1
 - 1 massage table
 - 1 linen closet
- Room #2
 - 1 massage table
 - 1 linen closet

801 North P4 Street Suite 102
 Alexandria VA
 Scale 1/4" = 1'



REFLECTED CEILING PLAN

801 North Pitt Street Suite 102
 Alexandria VA
 Scale: 1/4" = 1'

SUP #2002-0108

801 N Pitt St

Port Royal Condo - Luna Massage

vmp

APPLICATION for SPECIAL USE PERMIT # 2002-0108

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Land, Clark, Carroll, Mendelson & Blair, P.C.
Duncan W. Blair, Esquire
Print Name of Applicant or Agent


Signature

524 King Street
Mailing/Street Address

(703) 836-1000 (703) 549-3335
Telephone # Fax #
dblair@landclark.com

Alexandria, Virginia 22314
City and State Zip Code

October 25, 2002
Date

=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

Application Received: _____ Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: 01/01/03 RECOMMENDED APPROVAL UC

ACTION - CITY COUNCIL: 01/25/03PH--CC approved the Planning Commission recommendation.