

Vacant, Chair
Jeff Ortiz, Vice Chair
Leo Barrera, Commissioner
Emily Lares, Commissioner
Kenneth Tang, Commissioner



Guillermo Arreola,
Executive Director/ Director of
Community Development
Renee Reyes,
Secretary
Alexis Hall,
Assistant City Attorney

**CITY OF SOUTH EL MONTE
REGULAR MEETING OF THE SOUTH EL MONTE PLANNING COMMISSION**

AGENDA

December 17, 2024, 6:00 PM
1415 Santa Anita Avenue, South El Monte, CA 91733

PUBLIC COMMENT

To participate during public comment via teleconference, see below:

Link: <https://us02web.zoom.us/j/87142342038>

Webinar ID: 871 4234 2038

Or Call In: 1 669 444 9171, when prompted, enter 87142342038#

AMERICANS WITH DISABILITIES ACT

In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call the City Clerk's office at (626) 652-3180 or (626) 652-3121 at least 72 hours prior to the meeting.

GENERAL COMMENT

Members of the public wishing to submit a general comment or a comment on an agenda item, can email reyes@soelmonte.org or call (626) 652-3175 to leave a voicemail message. All comments received an hour before the scheduled meeting will be read during public comment and made part of the record.

MEETINGS

The Planning Commission holds regular meetings on the Third Tuesday of every month. Regular meetings start at 6 p.m. in the Council Chambers at City Hall, 1415 Santa Anita Avenue, South El Monte, California.

POSTING LOCATIONS OF AGENDA AND/OR CANCELLATION NOTICES

Regular meeting agendas will be posted at least 72 hours before the meeting
(Government Code Section 54954(a)(1))

Agenda and Cancellation Notices can be viewed online (at the link below) and are also posted at the following three (3) locations: City Hall located at 1415 Santa Anita Avenue, Senior Center located at 1556 Central Avenue and the Community Center located at 1530 Central Avenue, South El Monte, California.

VIEWING OF AGENDA PACKETS

Full agenda packet can be viewed either at <https://www.cityofsouthelmonte.org/373/Agendas-Minutes> or in the Community Development's Office at City Hall during normal business hours Monday through Thursday 7:00 a.m. to 5:30 p.m. Closed on Fridays and major holidays.

ISSUES RELATED TO AGENDA

For issues related to the agenda, including a disability-related accommodation necessary to participate in this meeting, please contact:

Renee Reyes, Commission Secretary
Ph (626) 652-3175

AGENDA BEGINS ON THE FOLLOWING PAGE

1. ROLL CALL

Commissioners: Barrera, Lares, Tang, Vice Chair Ortiz

2. PLEDGE OF ALLEGIANCE

Commissioner Tang

3. PRESENTATIONS - NONE

4. APPROVAL OF AGENDA

By motion of the Planning Commission, this is the time to notify the public of any changes to the agenda, remove items from the consent calendar for individual consideration and/or rearrange the order of the agenda.

5. PUBLIC COMMENT

Speakers may provide public comments on any matter within the subject matter jurisdiction of the Planning Commission, including items on the agenda. Each speaker will be limited to five minutes. Unless a majority of the Commission objects, the Chair may provide speakers more or less time to speak. All comments or queries shall be addressed to the Commission as a body and not to any specific member thereof. Pursuant to Government Code Section 54954.2(a)(2), the Ralph M. Brown Act, no action or discussion by the Planning Commission shall be undertaken on any item not appearing on the posted agenda, except to briefly provide information, ask for clarification, provide direction to staff, or schedule a matter for a future meeting.

6. CONSENT CALENDAR

Items on the consent calendar are considered to be routine and customary and are enacted by a single motion with the exception of items previously pulled by a member of the Planning Commission during "Approval of the Agenda" for individual consideration. Any items pulled shall be individually considered immediately after taking action on the Consent Calendar.

6.a. Approval of the Regular Planning Commission Meeting Minutes for November 19, 2024.

RECOMMENDATION: Staff recommends the Planning Commission approve Minutes for the November 19, 2024, regular Planning Commission meeting.

7. PUBLIC HEARING

7.a. Adoption of Resolution No. 24-10 denying a Conditional Use Permit (No. 24-06) to allow for the Off-Sale of Beer and Wine within an existing convenience store & gas station at 1100 Santa Anita Avenue.

RECOMMENDATION: Staff recommends that the Planning Commission adopt Resolution No. 24-10, denying Conditional Use Permit (No. 24-06).

7.b. Review of Sunny Spa and revocation of Conditional Use Permit No. 22-03.

- **RECOMMENDATION:** Staff recommends that the Planning Commission approve Resolution 24-11 revoking Conditional Use Permit 22-03, allowing the operation of a massage establishment within an existing commercial center located at 1648 Tyler Avenue, Suite A, Zoned C (Commercial).

7.c. Review of Rustic and Chic to consider revocation of Conditional Use Permit No. 23-03

RECOMMENDATION: Staff recommends that the Planning Commission open the public hearing, take public testimony and continue the public hearing to the next regularly scheduled Planning Commission meeting.

8. GENERAL BUSINESS - NONE

9. COMMISSIONERS REPORTS, INCLUDING AB 1234 REPORTS

AB 1234, section 53232.3(d) requires Members of a legislative body to provide brief reports on meetings attended at the expense of the local agency (i.e., Conferences, seminars, training etc.) at the next regular meeting of the legislative body.

10. CORRESPONDENCE – NONE

11. COMMISSIONERS AGENDA - NONE

12. ADJOURNMENT

Tuesday, January 21, 2025 at 6:00 p.m.

I Renee Reyes, hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted not less than 72 hours at the following locations: City of South El Monte City Hall, Senior Center and Community Center and made available at www.cityofsouthelmonte.org on this 12th day of December 2024.



Secretary

CITY OF SOUTH EL MONTE
REGULAR PLANNING COMMISSION MEETING MINUTES

Tuesday, November 19, 2024, 6:00 P.M.

1. **ROLL CALL** – Chair Rodriguez called the meeting to order at 6:00 p.m.

PRESENT: Commissioner(s): Barrera, Lares, Vice Chair Ortiz, Chair Rodriguez.

ABSENT: Commissioner(s): Tang, Lares

STAFF PRESENT: Anthony Taylor, City Attorney; Alexis Hall, Assistant City Attorney; Rene Salas, City Manager; Gerardo Marquez, Planning Manager; Renee Reyes, Secretary and Charlize Hernandez, Planning Assistant.

Zoom was provided for the Public to participate during public comment via teleconference.

2. **PLEDGE OF ALLEGIANCE** – Vice Chair Ortiz led the Pledge of Allegiance.

3. **PRESENTATIONS** – NONE

4. **APPROVAL OF AGENDA**

A motion was made by Commissioner Barrera, seconded by Vice Chair Ortiz, to approve the agenda. Motion passed 3-0-2 by the following vote:

AYES: Commissioner(s): Barrera, Vice Chair Ortiz,
Chair Rodriguez

NAYS: Commissioner(s): NONE

ABSENT: Commissioner(s): Tang, Lares

Commissioner Lares arrived at 6:03 p.m.

5. **PUBLIC COMMENT**

Chair Rodriguez opened Public Comment

1. Richard Angel – Asked if the items on the agenda would be opened for public comment. Anthony Taylor, City Attorney answered yes.

Chair Rodriguez closed Public Comment

6. **CONSENT CALENDAR**

A motion was made by Vice Chair Ortiz, seconded by Commissioner Lares, to approve the agenda. Motion passed 4-0-1, by the following vote:

6.a. Approval of the Regular Planning Commission Meeting Minutes for October 15, 2024

RECOMMENDED ACTION: Staff recommends the Planning Commission approve the Minutes for the October 15, 2024, Regular Planning Commission meeting.

AYES: Commissioner(s): Barrera, Lares, Vice Chair Ortiz, Chair Rodriguez

NAYS: Commissioner(s): NONE

ABSENT: Commissioner(s): Tang

7. PUBLIC HEARING

7.a. Review of Sunny Spa and Conditions of Approval for Conditional Use Permit No. 22-03.

Chair Rodriguez opened Public Comment.

Anthony Taylor, City Attorney noted that a few email comments have been made publicly available and provided to the Commissioners. Gerardo Marquez, Planning Manager states that five (5) emails were sent to the Community Development Department in support of Sunny Spa.

1. Rosalba Medina – Is in support of Sunny Spa.
2. Richard Angel – Stated his belief that when Sunny Spa was caught engaging in illegal activity, their CUP should have been revoked and the business should have been closed. He emphasized that all businesses in the City should be treated fairly and held to the same standards.

Commissioners added that they were not provided with any information or opportunity to discuss the matter as a Commission until the legal process had been completed.

3. Gloria Olmos – Asked if Joe Martinez, Code Enforcement Supervisor can give a briefing on the ongoing investigation.
4. Joe Martinez, Code Enforcement Supervisor – Gave a brief overview of the ongoing investigation at the subject site. He stated that litigation and prosecution are underway regarding possible solicitation of prostitution.

Chair closed Public Comment

RECOMMENDED ACTION: Staff recommends the Commission open the public hearing, take public testimony and continue the public hearing to the next regularly scheduled Planning Commission meeting.

A motion was made by Vice Chair Ortiz, seconded by Commissioner Barrera to continue the public hearing to the next regularly scheduled Planning Commission meeting. Motion passed 4-0-1, by the following vote:

AYES: Commissioner(s): Barrera, Lares, Vice Chair Ortiz, Chair Rodriguez

NAYS: Commissioner(s): NONE

ABSENT: Commissioner(s): Tang

7.b. Consideration of Resolution No. 24-08 approving a Conditional Use Permit (CUP) (No. 24-07) allowing the onsite sale of beer and wine in conjunction with a bona fide eating establishment (Type 41 ABC license) located at 2750 Lashbrook Avenue and operating as Bao Kee Café.

Charlize Hernandez, Planning Assistant provided a summary of the subject site. The existing restaurant space is approximately 980 square feet, with no proposed building changes. The applicant seeks to revise business hours. Recommendations from the Los Angeles Sheriffs Department are to include installation of security cameras inside and outside the building, enhancing security lighting, securing locks for alcohol storage and developing a security plan to address potential alcohol-related issues. Additionally, the City's Code Enforcement Department confirmed that there are no current issues associated with the site.

Commissioners have follow-up questions for staff.

Chair Rodriguez opened Public Comment but no members of the public came forward to speak. Chair closed Public Comment.

RECOMMENDED ACTION: Staff recommends that the Planning Commission adopt Resolution No. 24-08, approving Conditional Use Permit (No. 24-07), subject to the conditions of approval contained therein.

A motion was made by Vice Chair Ortiz, seconded by Commissioner Lares, to adopt Resolution No. 24-08, approving Conditional Use Permit (No. 24-07). Motion passed 3-0-1, by the following vote:

AYES: Commissioner(s): Barrera, Lares, Vice Chair Ortiz

NAYS: Commissioner(s): NONE

ABSTAIN: Commissioner(s): Chair Rodriguez

ABSENT: Commissioner(s): Tang

7.c. Approval of Resolution No. 24-09 adopting a Mitigated Negative Declaration and Mitigation, Monitoring, and Reporting Program (MMRP) prepared in compliance with the California Environmental Quality Act; approving Conditional Use Permit (CUP 21-13) to allow for the development of a new approximately 156,877 square foot warehouse building located at 2222 Rosemead Boulevard.

Gerardo Marquez, Planning Manager gives brief presentation covering the previous use of the site and outlines the projects future developments. Public improvements will include underground utilities, new sidewalks and curb and gutter installations. A retail component fronting Rosemead Boulevard is also proposed alongside the warehouse.

The project underwent the California Environmental Quality (CEQA) process, involving an initial study and a Mitigated Negative Declaration (MND), which were available for public review and comment. Responses to the five (5) comment letters received indicated no significant environmental issues requiring further action.

Commissioners have follow-up questions for staff.

Chair Rodriguez opened Public Comment

1. John Kelin, representing the property owner – Provides an overview with detailed breakdown of the warehouse’s features and functions.
2. Andrew Graff – Raised some important concerns about the environmental review process, pointing out the shortcomings.
3. Ralph Alderon – Emphasized the project will create jobs for the union he represents.
4. Sean Matsler – Disagreed with Andrew Graff’s concerns, arguing that there are no additional issues that would necessitate an EIR.
5. Gloria Olmos – Is enthusiastic about the project, seeing it as a positive development for the City’s economy and overall aesthetics.
6. Jason Bias – Is fully on board with the project, due to his connection with the union.
7. Brenda Campos – Suggests this project can be put to a better use than a warehouse.
8. Juan Delare – Believes that the land can be put to a better, beneficial use than a warehouse.
9. Beto Pasuto – Opposes and is against this project.
10. Jose Redillo – Supports this project and the job opportunities it will bring to himself and the union members.
11. David Hansen – He is a representative from UA Local 398, representing both Local 398 and the Fire Sprinklers, 709, which both have jurisdiction in this area. He stated that there is no project labor agreement that would ensure that the other trades have any sort of equity. It’s important that we develop those pathways to the middle class. Now a days, there’s constant talk about how the middle-class jobs are vanishing from our County. Unfortunately, this project continues to do this trend. This project does not guarantee that all men and women will build this project and receive a living wage and benefits. He does not support this project; the iron workers don’t support it. There isn’t equity for everybody in this. In addition, they are fair jobs that they are providing but they are not those middle or upper middle-class jobs. Those skilled, trained, work force jobs. Requiring community work force agreements and skilled and trained requirements in your community is how you elevate your community. That’s how you bring it up to the levels that you see in the

more prosperous regions like Los Angeles and Pasadena. Those project labor agreements are critical to getting a project like this off the ground. Without community support, you cannot mitigate CEQA. You end up with trouble later on. He pleads to show that the commissioners care about their community and uplifting the community.

12. Jose Pina – Is concerned about the projects MND. His worry is that without specific restrictions, the warehouse could escalate in intensity, leading to truck traffic, higher emissions and cold storage use, which could have an environmental and community impact.
13. Sean Matsler – States that the applicant is willing to agree to a new condition of approval that requires future cold storage to undergo their own Conditional Use Permit process.
14. Richard Angel – States that approving this project, it could bring jobs and beautify the City.
15. John Kelin – Has thoroughly evaluated various options for the property and found that the main limitation is the environmental cleanup required. The presence of a land use covenant further restricts what can be done with the site making it challenging to find viable alternatives.

Chair Rodriguez closed Public Comment.

Commissioners have follow-up questions for staff and applicant.

RECOMMENDED ACTION: Staff recommends that the Planning Commission adopt the attached Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Resolution No. 24-09, approving Conditional Use Permit No. 21-13, as conditioned.

A motion was made by Vice Chair Ortiz, seconded by Commissioner Barrera approving Conditional Use Permit 21-13 including the additional conditions that any future cold storage use shall be subject to a Conditional Use Permit and the operating hours shall be in constant with the City code, unless the use requires a Conditional Use Permit. Motion passed 4-0-1, by the following vote:

AYES: Commissioner(s): Barrera, Lares Vice Chair Ortiz, Chair Rodriguez

NAYS: Commissioner(s): NONE

ABSENT: Commissioner(s): Tang

7.d. Review of Rustic & Chic and Conditions of Approval for Conditional Use Permit No. 23-03.

Commissioner Barrera confirmed for the record that he sits on the Chamber Board, alongside Rustic & Chic.

Gerardo Marquez, Planning Manager provided a brief background of the November Planning Commission meeting. He then updated the Commissioners on citation fees, plan check, building permit fees and Code

Enforcement routes at the subject site. Gerardo Marquez also mentioned that the applicant has shown cooperation by adhering to the requirements set in the last month's meeting.

Commissioners have follow-up questions for staff and applicant.

Chair Rodriguez opened Public Comment

1. Gloria Olmos – Expressed her support, emphasizing the benefits of the business remaining within the community.
2. Richard Angel- He urged the Commissioners to give the business a chance to stay in the City.
3. John and Sandra Mendez, Applicants – They addressed the Commissioners questions and concerns. They stated their case for wanting to remain in the City and provide an update on all the steps they have taken to comply and move forward with their project. Their commitment and efforts to adhere to the requirements from previous meetings were emphasized, showcasing their dedication to the project and the community.

Commissioners voiced their worries and concerns regarding the subject site. They address potential issues, safety concerns and the well-being of clients.

Chair Rodriguez closed Public Comment

RECOMMENDED ACTION: Staff recommends the Planning Commission open the public hearing, take public testimony, and provide staff with direction to leave the conditions of approval unchanged, modify to the existing conditions of approval to address outstanding concerns, or direct staff to provide a resolution revoking Conditional Use Permit 23-03.

A motion was made by Chair Rodriguez, seconded by Commissioner Vice Chair Ortiz, to continue today's Public Hearing to the next regular meeting and directed Staff to bring back a Resolution to revoke Conditional Use Permit 23-03. Motion passed 2-1-1, by the following vote:

AYES: Commissioner(s): Vice Chair Ortiz, Chair Rodriguez

NAYS: Commissioner(s): Lares

ABSTAIN: Commissioner(s): Barrera

ABSENT: Commissioner(s): Tang

Chair Rodriguez called for a recess at 8:30 p.m.

During the recess Anthony Taylor, City Attorney reviewed the City's Code and Roberts Rules of Order regarding the Planning Commission voting procedures.

Meeting resumed at 8:39 p.m.

- 8. **GENERAL BUSINESS - NONE**
- 9. **COMMISSIONERS REPORTS, INCLUDING AB 1234 REPORTS – NONE**
- 10. **CORRESPONDENCE – NONE**
- 11. **COMMISSIONERS' AGENDA**

1. Commissioner Barrera

a. When are traffic studies conducted?

Gerardo Marquez, Planning Manager stated that they are conducted during peak hours. Which are mornings, lunch and in the evening when people are getting off work. Typically, a third-party company conducts these types of studies.

b. Are there any tenants interested in 1225 Durfee Avenue, Cindy's Restaurant?

Guillermo Arreola, Director of Community Development is currently in discussion with multiple tenants. However, due to privacy considerations, specific details cannot be disclosed.

c. Are there any changes to the ordinance to update metallic buildings in the City?

There are no proposed changes currently.

2. Vice Chair Ortiz

a. Who is in control of the video feed and what are they doing with the data received at 10925 Fawcett Avenue? And is the height of tower in compliance with City's code?

Staff has reached out to the City's Code Enforcement to notify the landlord that they need to apply for an electrical permit. The system is connected to a third-party company that collects data from the adjacent freeway with the intention of selling that information to Caltrans. The height of the tower complies to City code.

12. ADJOURNMENT

At 8:48 p.m., there being no more business before the Commission, Chair Rodriguez adjourned the meeting to a regular Planning Commission Meeting on Tuesday, December 17, 2024, at 6:00 p.m.

I Renee Reyes, hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted not less than 72 hours at the following locations: City of South El Monte City Hall, Senior Center and Community Center and made available at www.cityofsouthelmonte.org on this 12th day of December 2024.



Secretary



Planning Commission Agenda Report

**Agenda
Item No.
7.a.**

DATE: December 17, 2024

TO: Honorable Chairman and Members of the Planning Commission

APPROVED BY: Guillermo Arreola, Director of Community Development

PREPARED BY: Charlize Hernandez, Planning Assistant

SUBJECT: Adoption of Resolution No. 24-10 denying a Conditional Use Permit (No. 24-06) to allow for the Off-Sale of Beer and Wine within an existing convenience store & gas station at 1100 Santa Anita Avenue.

PUBLIC NOTICE: Notice of public hearing was posted on December 5, 2024 and published in the San Gabriel Valley Tribune on December 5, 2024.

ENVIRONMENTAL DETERMINATION: Categorical Exemption, Section 15301 Class 1 – Existing Facilities.

PROJECT

LOCATION:

Address:	1100 Santa Anita Avenue
Project Applicant:	Harjot Saini
Property Owner:	Melody Investment LLC
Zone:	“C-M” (Commercial-Manufacturing)
Lot Size:	23,240 square feet

SURROUNDING ZONING AND LAND USE:

	Zone	General Plan	Land Use
North	“C” (Commercial)	Commercial	Chevron
South	“C” (Commercial)	Commercial	Wholesale/Manufacturing
East	“C-R” (Commercial-Residential)	Mixed-Use	Vacant
West	“C” (Commercial)	Commercial	Starbucks

BACKGROUND: The property located at 1100 Santa Anita Avenue South El Monte, CA 91733 (“Property”) is currently developed with five (5) gas pumps covered by two (2) separate canopies and a detached convenience store. The subject site is located on the southwest corner of Santa Anita Avenue and Fawcett Avenue in the City of South El Monte (“City”). The existing Mobil gas station has been in operation since 1968. In 1989, Mobil applied for Conditional Use Permit (“CUP”) (No. 89-388) to allow for the operation of a convenience store with food and alcohol

sales in conjunction with the existing gas station. The Planning Commission determined that the proposed convenience store cannot have a Type 20 License to sell beer and wine sales, since previous CUP's were denied in the past. The previous applicant was not willing to give up approval of the convenience store if it hinged on the Type 20 license. The CUP was thus amended with the condition that only food and non-alcoholic beverages would be sold at the convenience store.

RECOMMENDATION: Staff recommends that the Planning Commission adopt Resolution No. 24-10, denying Conditional Use Permit (No. 24-06).

ANALYSIS:

General Plan/Zoning Consistency

The Property is designated as "Commercial-Manufacturing" in the City's General Plan and is zoned "C-M" (Commercial-Manufacturing) in the City's Zoning Code. The proposed use falls within the scope of the General Plan's "Commercial-Manufacturing" land use designation and is also a conditionally permitted use in the "C" and "M" zones. The proposed Project does not conform to the goals and objectives of the City's General Plan, "to provide for the commercial needs of the surrounding communities and promote a balanced and dynamic economic growth in the City." The reason for this is that there is an undue concentration of off-sale beer and wine licenses within the general vicinity of the property.

Pursuant to South El Monte Municipal Code ("SEMMC") section 17.11.140(C), "[a] conditional use permit for off-sale alcoholic beverages shall not be issued if the proposed property is located in any area of undue concentration as defined in Section 23958.4 of the Business and Professions Code, unless it is determined by the planning commission that the public convenience and necessity as defined in Chapter 17.02 would be served by the issuance of the conditional use permit."

California Business Code section 23958.4(a)(3) provides that "[f]or purposes of Section 23958, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

[a]s to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

This Census Tract 4338.03 allows one (1) off-sale alcohol license and currently there is one (1) existing license. 7-Eleven (1533 Peck Rd) has a Type 20 off-sale beer and wine license and is located one (1) mile away from Mobil. In addition, the Alcohol Beverage Control ("ABC") currently upholds a moratorium on the issuance of off-sale beer and wine licenses in cities and counties where the ratio of Type 20 licenses exceed one for each 2,500 inhabitants. The moratorium can be circumvented by transferring an existing Type 20 license from different counties, which is how Mobil would be able to obtain a new Type 20 license.

Conditional Use Permit (CUP)

In order to grant a CUP, the Commission must make the following finding pursuant to South El Monte Municipal Code (“SEMMC”) Section 17.03.060:

The commission shall find that the proposed use shall not be detrimental to persons or properties in the immediate vicinity nor to the city in general.

The parcels directly adjacent to the Property are developed as manufacturing and commercial uses. Staff believes the approval of the CUP will be detrimental to persons or properties in the immediate vicinity and to the City in general because the approval of the Conditional Use Permit for off-sale beer and wine for a gas station with a convenience store would exacerbate the concentration of off-sale licenses within the census tract. There is an existing business located one (1) mile from Mobil with a Type 20 license that already serves the immediate community, and the Mobil gas station has an existing convenience store that serves the community as well. The finding that the use shall not be detrimental to persons or properties could not be made for this Project because of the listed above reasons, and denial shall be recommended.

Existing ABC Licenses

Under the Alcoholic Beverage Control (ABC), Census Tract 4338.03 allows one (1) off-sale alcohol license and currently there is one (1) existing license. 7-Eleven (1533 Peck Rd) has a Type 20 off-sale beer and wine license and is located one (1) mile away from Mobil. In addition, ABC currently upholds a moratorium on the issuance of off-sale beer and wine licenses in cities and counties where the ratio of Type 20 licenses exceed one (1) for each 2,500 inhabitants. The moratorium can be circumvented by transferring an existing Type 20 license from different counties, which is how Mobil would be able to obtain a new Type 20 license. The establishment of off-sale beer and wine as a secondary use to this location would create an undue concentration of Type 20 Licenses in the area. The only way to increase the number of off-sale licenses in the census tract is for the Planning Commission to make a finding of a public convenience or necessity. The subject business is unable to comply with the findings, as the proposed Type 20 license is unnecessary and does not address the community's needs.

CONCLUSION: Staff has reviewed the Applicant’s request and has determined that the proposed Project complies with all of the development standards as set forth in SEMMC Chapters 17.03 and 17.11. However, approval of the Conditional Use Permit will be detrimental to persons or properties in the immediate vicinity and to the City in general because of the undue concentration of off-sale beer and wine licenses in the vicinity. Staff recommends the Planning Commission deny Resolution 24-10 to approve Conditional Use Permit No. 24-06 for the proposed off-sale of beer and wine.

ATTACHMENTS:

- A – Draft Resolution No. 24-10
- B – Vicinity Map/Aerials
- C – Project Plans

PLANNING COMMISSION

RESOLUTION NO. 24-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SOUTH EL MONTE DENYING CONDITIONAL USE PERMIT NO 24-06, TO ALLOW THE OFF-SALE OF BEER AND WINE WITHIN AN EXISTING CONVENIENCE STORE & GAS STATION, AT 1100 SANTA ANITA AVENUE.

WHEREAS, the Project Applicant, Harjot Saini, proposes to allow the off-sale of beer and wine at an existing convenience store located within the “C-M” (Commercial-Manufacturing zone) at 1100 Santa Anita Avenue (“Project”); and

WHEREAS, the Applicant submitted a Conditional Use Permit application (“CUP No. 24-06”) for the Project; and

WHEREAS, pursuant to Section 15301 Class 1 of the California Environmental Quality Act, the Project is categorically exempt from environmental review and a notice of exemption has been prepared; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 17, 2024, at which time all interested persons were given a full opportunity to be heard and present evidence; and

WHEREAS, prior to taking action, the Planning Commission has heard, been presented with, and/or review all of the information and data which constitutes the administrative record for the above-mentioned approvals, including all oral and written evidence presented to the City during all Project meetings and hearings; and

WHEREAS, now the Planning Commission desires, by this Resolution, to deny CUP No. 24-06.

THE PLANNING COMMISSION OF THE CITY OF SOUTH EL MONTE HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1: Harjot Saini, 1100 Santa Anita Ave, CA 91733 (“Applicant”), filed an application for a Conditional Use Permit (“CUP”) to allow the off-sale of beer and wine within an existing convenience store and gas station, located at 1100 Santa Anita Ave.

Section 2: Pursuant to Section 15301 Class 1 of the California Environmental Quality Act the proposed project is categorically exempt from environmental review and a Notice of Exemption has been prepared.

Section 3: A public hearing was held before the Planning Commission on December 17, 2024, to consider the application. All evidence, both written and oral, presented during the public

hearing was considered by the Planning Commission in making their determination.

Section 4: Based on the evidence the Commission finds:

- a. Pursuant to Municipal Code Section 17.03.060 (Conditional Use Permit) of Chapter 17.11.090 (Off-Sale of Beer and Wine) the use is permitted subject to obtaining a Conditional Use Permit.
- b. The location that is proposed for this license has one (1) location near them with either type 20 or 21 off-sale licenses within 5,280 feet of its property.
- c. Pursuant to Municipal Code Section 17.03.060 (Conditional Use Permit), the Commission can approve the CUP only if it can make the finding that the proposed use shall not be detrimental to persons or properties in the immediate vicinity nor to the City in general.
- d. The granting of the Applicant's Project will be detrimental to persons or properties in the immediate vicinity. The subject site is located in Census Tract 4338.03, which allows for one (1) off-sale alcohol license under the Alcoholic Beverage Control. The establishment of off-sale beer and wine as a secondary use to this location would add to an undue concentration of Type 20 Licenses in the area.

Section 5: Based on the findings set forth above, and all written and oral testimony presented at the public hearing on December 17, 2024, which are all incorporated herein by this reference, the Planning Commission hereby **denies** Conditional Use Permit No. 24-06.

Section 6: The Planning Commission declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

Section 7: Any interested party may appeal this decision to the City Council pursuant to Section 17.03.130 of the South El Monte Municipal Code.

Section 8: The Chairperson shall sign, and the Secretary shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 17th day of December 2024.

Chairperson

ATTEST:

Secretary

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF SOUTH EL MONTE)

I, Renee Reyes, Secretary to the Planning Commission of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 24-10 was duly passed and adopted by the Planning Commission of the City of South El Monte at a regular meeting of said Commission held on the 17th day of December 2024.

AYES:

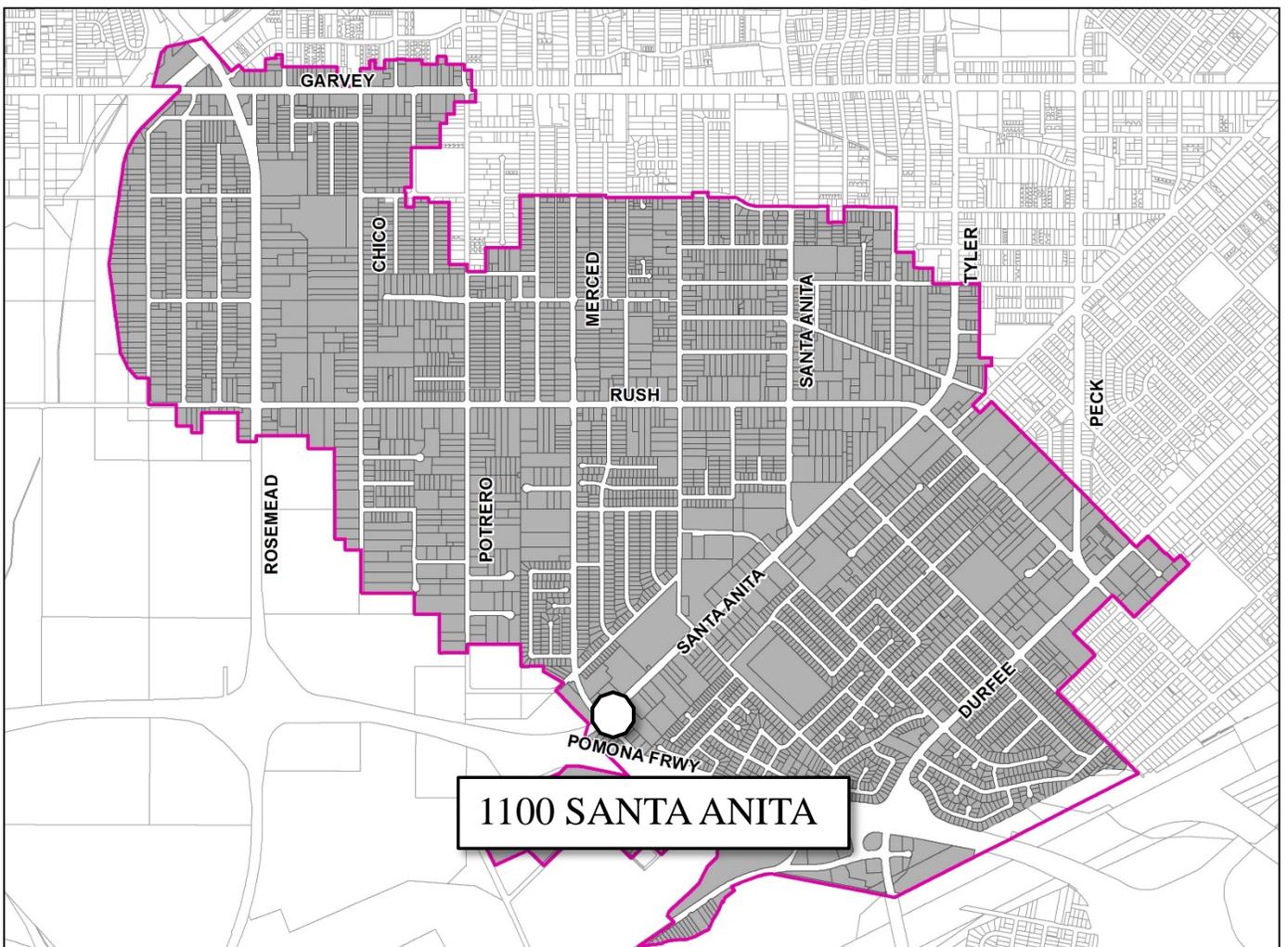
NOES:

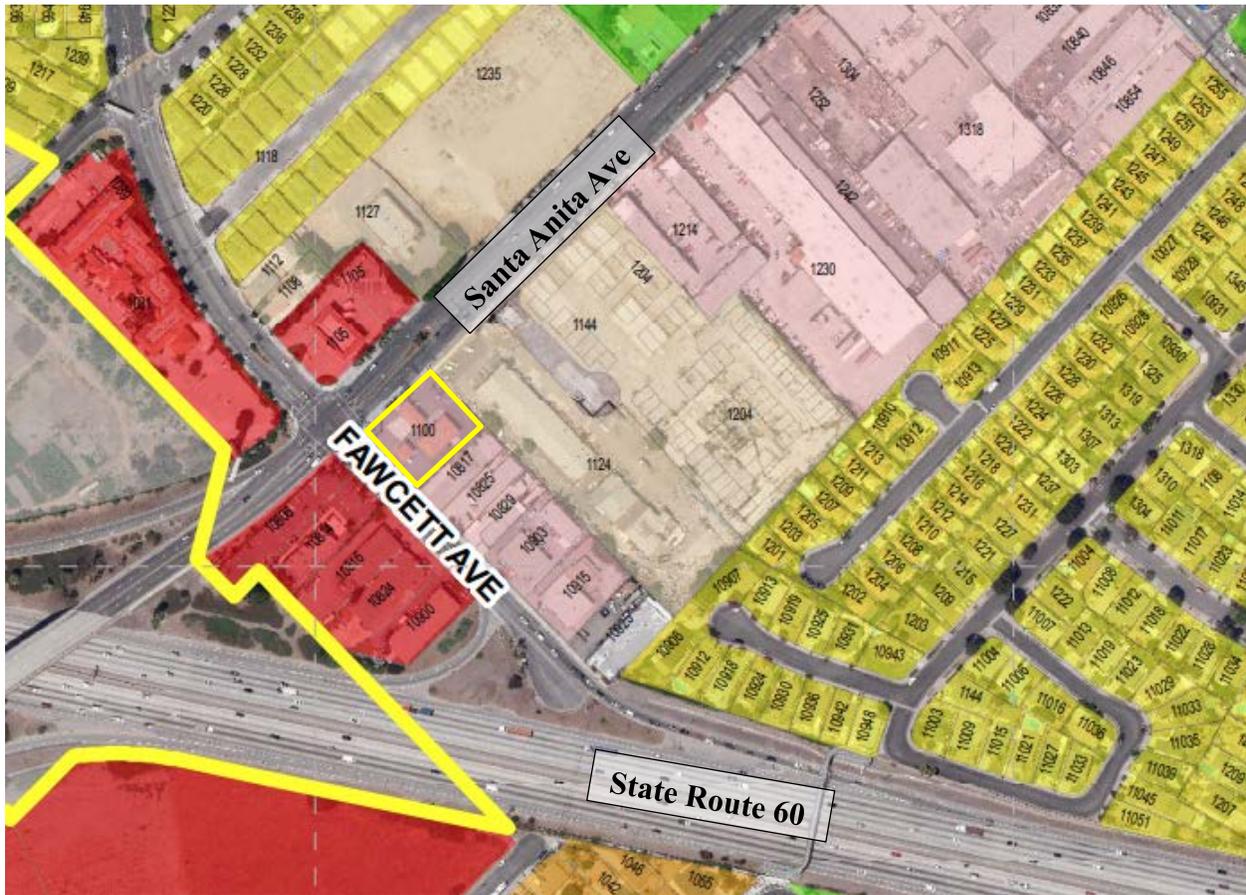
ABSENT:

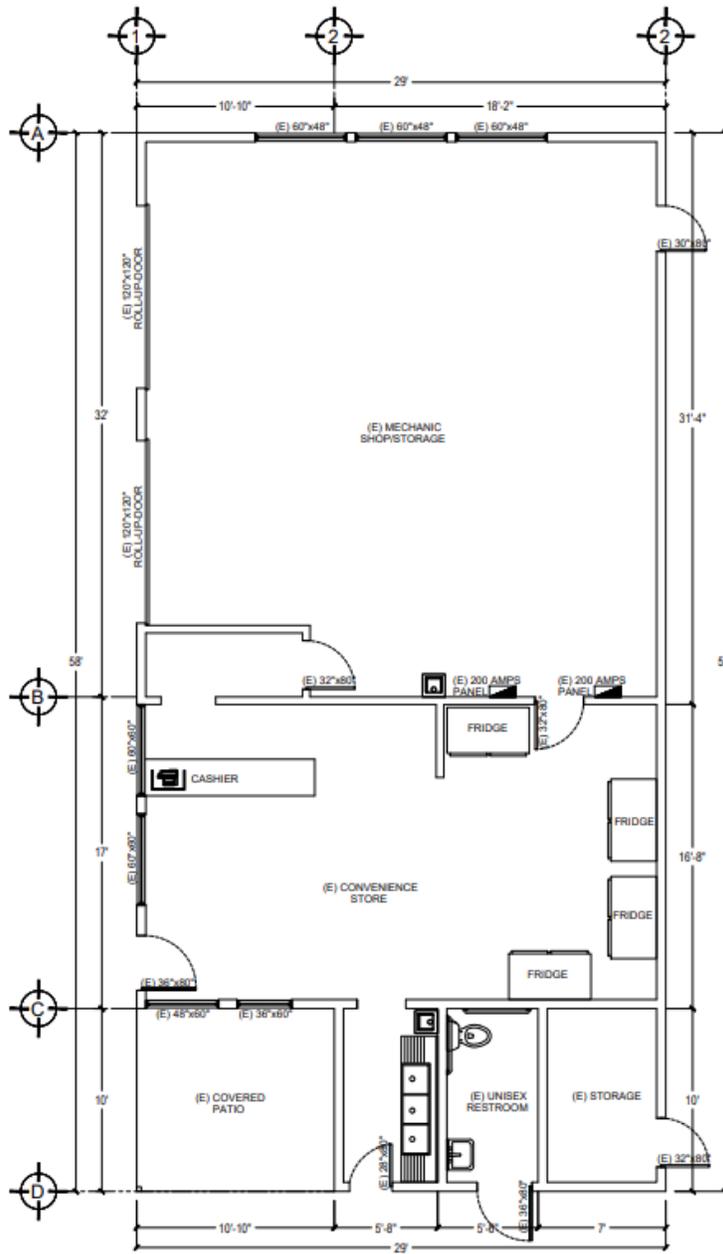
ABSTAIN:

Renee Reyes, Secretary

Attachment B

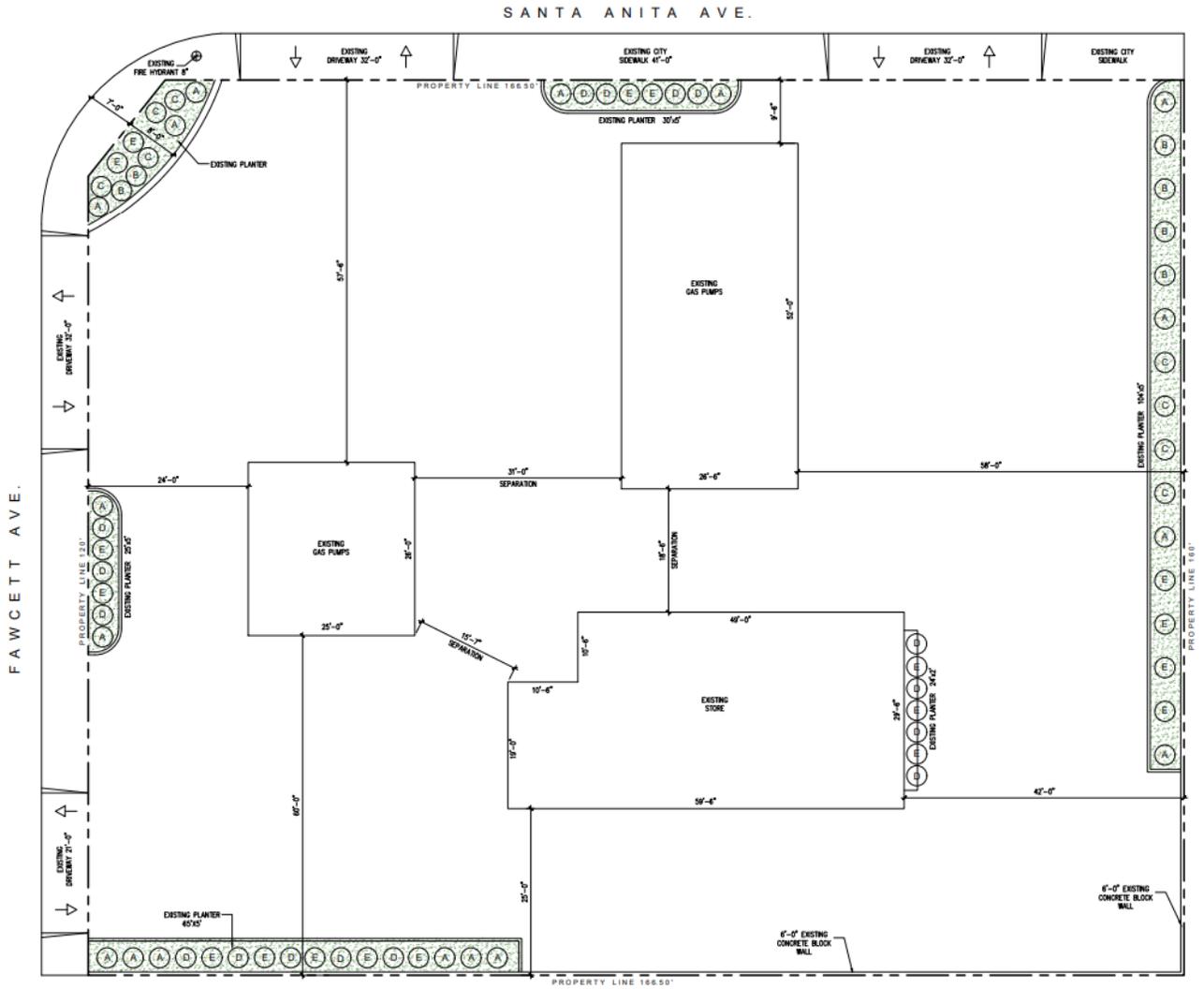






(E) FLOOR PLAN

SCALE: 1/4"=1'-0"





Planning Commission Agenda Report

Agenda
Item No.
7.b

DATE: December 17, 2024

TO: Honorable Chairman and Members of the Planning Commission

APPROVED BY: Guillermo Arreola, Director of Community Development

SUBJECT: Public hearing regarding the review of Sunny Spa and revocation of Conditional Use Permit No. 22-03

RECOMMENDATION:

Staff recommends that the Planning Commission:

- Approve Resolution 24-11 revoking Conditional Use Permit 22-03, allowing the operation of a massage establishment within an existing commercial center located at 1648 Tyler Avenue, Suite A, Zoned C (Commercial).

BACKGROUND: This Project was first presented to the Planning Commission on December 20, 2022, for a proposed massage establishment to be located at 1648 Tyler Avenue, Suite A, South El Monte, CA 91733. The Planning Commission (“Commission”) recommended that the public hearing be continued and directed staff to conduct additional research on other massage establishments that the owner stated she owned. Additionally, the Commission recommended that the hours of operation change from 10:00 am to 10:00 pm, with the last massage starting at 9:00 p.m., to 9:00 a.m. to 9:00 p.m., with the last massage starting at 8:00 p.m., and that the conditional use permit be brought back for Commission review six (6) months after the opening date or issuance of the certificate of occupancy. Lastly, the Commission requested that staff reach out to the Epiphany Church and School located to the east of the subject site informing them of the proposed application.

- Staff contacted the local jurisdictions for information on the two (2) out-of-state massage establishments owned by the applicant. Specifically, staff was able to contact both local police departments, however, they both indicated that they did not have any specific “calls-for-service” for either one of the massage establishments.
- **Condition No. 14** was amended to reflect the recommended hours of operation (9:00 a.m. to 9:00 p.m., with the last massage starting at 8:00 p.m.)
- **Condition No. 37** was added to require the conditional use permit be brought back for Planning Commission review six (6) months after the opening date of the business or issuance of the certificate of occupancy.

On January 11, 2023, staff contacted Epiphany Church, and they did not express any concern over the proposed massage establishment.

At the January 17, 2023, meeting, the Planning Commission adopted Resolution No. 22-03 that allowed for the operation of a massage establishment (“Project”). Conditional Use Permit (“CUP”)

No. 22-03 detailed all conditions applicable to the business, the massage establishment (to be known as Sunny Spa) in Suite A of an existing commercial building at 1648 Tyler Avenue. (“Property”). The requirement for a six (6) month review was established to allow for the Commission to review how the business has operated after the establishment of a use and to evaluate whether the use negatively impacts surrounding uses.

On May 15, 2024, at approximately 11:45 AM Code Enforcement was contacted by Los Angeles County Sheriff’s Deputies along with Detectives from their Human Trafficking bureau regarding an operation at 1648 Tyler Avenue occupied by Sunny Massage/Spa. During the operation, two (2) females were detained and cited by Sheriff’s Deputies for solicitation of prostitution. Code Enforcement along with the City’s Building Inspector were present to conduct an inspection of the premises. During Code Enforcements investigation it was found that the two (2) women detained were unlicensed massage therapists operating out of the massage parlor. There was also a small closet within the building that appeared to be constructed without permits. Once Code Enforcement concluded its investigation and inspection of the location, each woman was issued an administrative citation for not having a business license and solicitation of prostitution.

ANALYSIS: After consideration of the incident that occurred on May 15, 2024, staff was directed by the Planning Commission to provide a resolution revoking CUP 22-03, which is attached as Resolution No. 24-11.

FINDINGS: Staff conducted a review of CUP 22-03 and Resolution No. 22-03 and found that the operator of the massage establishment was in violation of the following conditions:

9. The massage establishment operator or any partner with a 5% or more interest in the business, who are not CAMTC certified, is required to submit an application for a background check. The application must be submitted fully completed by all persons required to pass a background check. Additionally, every background check must be renewed every 2 years.
10. If ownership of the establishment changes, operators of the massage establishment, and any partner with a 5% of more interest in the business, must hold CAMTC certification or are required to submit an application for a background check. This condition must be met prior to new ownership taking control or possession of the establishment.
11. The operator shall provide and continue to maintain an updated list of all massage therapists and copies of their licenses quarterly to the Community Development Department to ensure full compliance.
12. A list of all persons providing massage services at the establishment, including each person’s full true name and other names used, photograph, and certificate from the California Massage Therapy Council must be provided to the Community Development Director prior to issuance of a Business License. Any changes in practitioners must be reported to Community Development Director within two weeks of the change.
13. All employees performing massages shall be certified massage therapists in good standing by the California Massage Therapy Council, pursuant to the Massage Therapy Act (Cal. Bus. & Prof. Code § 4600 et seq.). The massage establishment shall not operate until and shall hold at all times a valid business license and massage establishment permit from the

City, pursuant to South El Monte Municipal Code Title 5 and Chapter 5.22.

16. The massage establishment and all employees performing massages shall comply with all applicable State, Federal and local laws and regulations, including without limitation the Massage Therapy Act (Cal. Bus. and Prof. Code § 4600 et seq.) and South El Monte Municipal Code Title 5 and Chapter 17.41.
18. Any alteration to the interior of the massage establishment must be brought to the City for approval before improvements may take place. If applicable, building permits or the like will be required.
32. Each customer's genitals must be fully covered at all times. No person shall massage the genitals of any customer. No person shall massage any female customer whose breasts are not covered by a sheet or other opaque clothing. No person shall massage any female customer's breasts.
35. The massage establishment must maintain compliance with all provisions of the South El Monte Municipal Code, as it relates to the operation of massage establishments.

The Planning Commission, as noted in Condition No. 8 of Resolution No. 22-03, reserves the right to revoke CUP 22-03.

8. The Planning Commission reserves the right to revoke or modify this approval if the proposed use becomes a public nuisance, finds the permit or business license was obtained by fraud, the approved use is operated in violation of the terms and conditions contained herein, the use is in violation of any law, rule, regulation or policy, or the approved use ceased or for three consecutive months or for six months during any calendar year consistent with SEMMC section 17.68.100.

CONCLUSION: Staff recommends the Planning Commission adopt Resolution No, 24-11 revoking CUP 22-03.

Attachments: 1) Revocation Resolution No. 24-11
 2) CUP Resolution 22-03
 3) January 17, 2023, Planning Commission Staff Report
 4) December 20, 2022, Planning Commission Staff Report

PLANNING COMMISSION

RESOLUTION NO. 24-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SOUTH EL MONTE REVOKING CONDITIONAL USE PERMIT NO. 22-03, TO ALLOW THE OPERATION OF A MASSAGE ESTABLISHMENT WITHIN AN EXISTING COMMERCIAL CENTER LOCATED AT 1648 TYLER AVENUE, SUITE A, ZONED C (COMMERCIAL).

WHEREAS, Xiaoping Chen (Xiaoping Chen LLC), (“Applicant”), filed an application for a Conditional Use Permit (CUP) to allow for the operation of a full-body massage establishment (“Project”) in an existing commercial center located at 1648 Tyler Avenue, Suite A, South El Monte, CA 91733 (“Property” or “project site”); and

WHEREAS, Pursuant to Section 15301 (Class 1) of the California Environmental Quality Act, the Project as categorically exempt from environmental review and a Notice of Exemption was prepared. The Project qualified for a Class 1 Categorical Exemption for the Project to be operated within existing facilities. The criteria is the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The Planning Commission found that the Project was exempt from the provisions of CEQA. The documents and other material, which constitute the record on which this decision is based, are located in the Department of Community Development and are in the custody of the Director of Community Development; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 20, 2022, at which time all interested persons were given full opportunity to be heard and to present evidence, and at which time the Planning Commission continued the Project to January 17, 2023, and directed staff to conduct additional research on other massage establishments that the Applicant stated she owned; and

WHEREAS, the public hearing was continued to the January 17, 2023 Planning Commission meeting to allow staff the opportunity to conduct a background check on two (2) out-of state massage establishments which the Applicant stated she owned. In addition, the Commission recommended that Condition No. 14 be amended to reflect new hours of operation and that a new condition be added to require the conditional use permit be brought back for Planning Commission review six (6) months after the opening date of the business; and

WHEREAS, in May 2024, the Los Angeles County Sheriff’s Department (“LASD”) conducted an operation at the massage establishment and detained and cited two (2) women for solicitation of prostitution; and

WHEREAS, during LASD’s operation, the City’s Code Enforcement was contacted.

During Code Enforcement's investigation, Code Enforcement Officers and the City's Building Inspector found that the two (2) women detained were unlicensed massage therapists operating out of the massage parlor and there was a small closet within the building that was constructed without permits. Accordingly, both women were issued administrative citations for not having a business license and solicitation of prostitution; and

WHEREAS, a public hearing was held before the Planning Commission on November 19, 2024, to consider revoking the Project. The public hearing was opened and the item was then continued to the December 17, 2024 meeting; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 17, 2024, at which time all interested persons were given a full opportunity to be heard and present evidence; and

WHEREAS, prior to taking action, the Planning Commission has heard, been presented with, and/or review all of the information and data which constitutes the administrative record for the above-mentioned approvals, including all oral and written evidence presented to the City during all Project meetings and hearings; and

WHEREAS, now the Planning Commission desires, by this Resolution, to revoke CUP No. 22-03.

THE PLANNING COMMISSION OF THE CITY OF SOUTH EL MONTE HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1: The above recitals are all true and correct and are incorporated herein by this reference.

Section 2: Based on the record of the hearing, including all information presented at the hearing, including the Staff Report dated December 17, 2024, which are hereby incorporated into this Resolution 24-11 by reference, the Planning Commission hereby finds that the Applicant and operator of the business is in violation of the following conditions in Resolution No. 22-03:

9. The massage establishment operator or any partner with a 5% or more interest in the business, who are not CAMTC certified, is required to submit an application for a background check. The application must be submitted fully completed by all persons required to pass a background check. Additionally, every background check must be renewed every 2 years.
10. If ownership of the establishment changes, operators of the massage establishment, and any partner with a 5% of more interest in the business, must hold CAMTC certification or are required to submit an application for a background check. This condition must be met prior to new ownership taking control or possession of the establishment.

11. The operator shall provide and continue to maintain an updated list of all massage therapists and copies of their licenses quarterly to the Community Development Department to ensure full compliance.
12. A list of all persons providing massage services at the establishment, including each person's full true name and other names used, photograph, and certificate from the California Massage Therapy Council must be provided to the Community Development Director prior to issuance of a Business License. Any changes in practitioners must be reported to Community Development Director within two weeks of the change.
13. All employees performing massages shall be certified massage therapists in good standing by the California Massage Therapy Council, pursuant to the Massage Therapy Act (Cal. Bus. & Prof. Code § 4600 et seq.). The massage establishment shall not operate until and shall hold at all times a valid business license and massage establishment permit from the City, pursuant to South El Monte Municipal Code Title 5 and Chapter 5.22.
16. The massage establishment and all employees performing massages shall comply with all applicable State, Federal and local laws and regulations, including without limitation the Massage Therapy Act (Cal. Bus. and Prof. Code § 4600 et seq.) and South El Monte Municipal Code Title 5 and Chapter 17.41.
18. Any alteration to the interior of the massage establishment must be brought to the City for approval before improvements may take place. If applicable, building permits or the like will be required.
32. Each customer's genitals must be fully covered at all times. No person shall massage the genitals of any customer. No person shall massage any female customer whose breasts are not covered by a sheet or other opaque clothing. No person shall massage any female customer's breasts.
35. The massage establishment must maintain compliance with all provisions of the South El Monte Municipal Code, as it relates to the operation of massage establishments.

Section 3: Based on the findings set forth above, and all written and oral testimony presented at the public hearing on December 17, 2024, which are all incorporated herein by this reference, the Planning Commission hereby **revokes** Conditional Use Permit No. 22-03.

Section 4: The Planning Commission declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

Section 5: Any interested party may appeal this decision to the City Council pursuant to Section 17.03.130 of the South El Monte Municipal Code.

Section 6: The Chairperson shall sign, and the Secretary shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 17th day of December 2024.

Chairperson

ATTEST:

Secretary

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF SOUTH EL MONTE)

I, Renee Reyes, Secretary to the Planning Commission of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 24-10 was duly passed and adopted by the Planning Commission of the City of South El Monte at a regular meeting of said Commission held on the 17th day of December 2024.

AYES:
NOES:
ABSENT:
ABSTAIN:

Renee Reyes, Secretary

PLANNING COMMISSION

RESOLUTION NO. 22-03

A RESOLUTION OF THE SOUTH EL MONTE PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT (NO. 22-03) TO ALLOW THE OPERATION OF A MASSAGE ESTABLISHMENT WITHIN AN EXISTING COMMERCIAL CENTER LOCATED AT 1648 TYLER AVENUE, SUITE A, ZONED C (COMMERCIAL).

THE PLANNING COMMISSION OF THE CITY OF SOUTH EL MONTE HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

SECTION 1: Xiaoping Chen (Xiaoping Chen LLC), (“Applicant”), filed an application for a Conditional Use Permit (CUP) to allow for the operation of a full-body massage establishment (“Project” or “proposed Project”) in an existing commercial center located at 1648 Tyler Avenue, Suite A, South El Monte, CA 91733 (“Property” or “project site”).

Pursuant to South El Monte Municipal Code (“SEMMC”) Sections 17.14.040, 17.41.020, and 5.04.055 the Project requires Planning Commission review and approval because the Project consists of operation of a massage establishment.

SECTION 2: Pursuant to Section 15301 (Class 1) of the California Environmental Quality Act, the proposed Project is categorically exempt from environmental review and a Notice of Exemption has been prepared. The proposed Project qualifies for a Class 1 Categorical Exemption for the Project proposes to be operated within existing facilities. The criteria is the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The Planning Commission finds that the Project is exempt from the provisions of CEQA. The documents and other material, which constitute the record on which this decision is based, are located in the Department of Community Development and are in the custody of the Director of Community Development.

SECTION 3: A public hearing was held before the Planning Commission on December 20, 2022, to consider the application. All evidence, both written and oral, presented during the public hearing was considered by the Planning Commission in making their determination. On that date, the Commission voted to continue this matter to January 17, 2023.

SECTION 4: The public hearing was continued to the January 17, 2023 Planning Commission meeting to allow staff the opportunity to conduct a background check on two out-of-state massage establishments which the applicant stated she owned. In addition, the Commission recommended that Condition No. 14 be amended to reflect new hours of operation and that a new condition be added to require the conditional use permit be brought back for Planning Commission review six (6) months after the opening date of the business.

SECTION 5: Based on the record of the hearing, including all information presented at the hearing, including the Staff Reports dated December 20, 2022 and January 17, 2023, which are hereby incorporated into this Resolution 22-03 by reference, the Planning Commission hereby finds:

1. The proposal for a massage establishment as conditioned should not become a nuisance to surrounding properties. Pursuant to SEMMC Section 17.68.040, the approval of the CUP will not be detrimental to persons or properties in the immediate vicinity nor to the City in general. This is so because the Project is mostly surrounded by industrial uses and the operation is herein conditioned and required to operate in a way that does not negatively impact the area.

3. As conditioned, the Project meets the requirements of SEMMC Sections 17.14.040, 17.41.020, and 5.04.055 and will not be detrimental to the public health, safety or welfare, nor will it adversely affect property values or the present or future development of the surrounding areas. This is because the project is compatible with the surrounding uses.

4. As conditioned, the proposed Project is consistent with the City's General Plan. No goal or policy will be impaired. The proposed Project is compatible with the objectives, policies, general land uses, economic development and programs specified in the General Plan which includes, but is not limited to, the following goals:

- Goal 1.0: *Maintain a balanced mix and distribution of land uses throughout South El Monte;*
 - (a) Policy 1.4 seeks to create opportunities for commercial uses that meet the retail and service needs of the local resident and employee population.
- Goal 2.0: *Focus new revenue-generating development in those areas of the City with high visibility;* and
- Goal 3.0: *Attract local-serving retail and service commercial businesses.*

5. A record of the public hearing indicates the following:

A. The proposed use is not detrimental to persons or properties in the immediate vicinity, or to the City in general.

A. The General Plan Land Use designation for the Property is "C" (Commercial). The proposed project is compatible with both the land use designation and zoning uses surrounding the Property.

B. The proposed Project promotes the City's goals and objectives stated in the General Plan. The goals and policies will be promoted as provided in the Section 4 above.

C. The site abuts a street adequate in width and improvements to carry traffic generated by the proposed use. The subject site is located on Tyler Avenue, an arterial highway capable of handling the additional vehicle trips per day that may be generated by the Project. The subject site is near the intersection of Santa Anita Avenue, which is more than adequate in size to accommodate any additional vehicle trips generated by the

proposed use.

D. SEMMC Chapter 17.41 requires massage establishments obtain a conditional use permit to operate in the City. Pursuant to SEMMC Section 17.41.020(G)(10), no massage establishment may be sited within five hundred feet of an existing or otherwise approved massage establishment. The proposed location is not within five hundred feet of any other known massage establishment.

Based on the aforementioned findings, the Planning Commission hereby approves CUP 22-03 (Resolution No. 22-03) to allow the establishment of a massage establishment subject to the following conditions:

General Conditions

1. The Applicant shall indemnify, defend and hold harmless the City, its officers, agents, employees, and volunteers from any and all claims, lawsuits or actions arising from the granting of, or the exercise of, the rights permitted by this approval, and from any and all claims or losses occurring or resulting to any person, firm, corporation or property for damage, injury, or death arising out of, or connected in anyway, with the performance of the use permitted hereby. The Applicant's obligation to indemnify, defend, and save harmless the City shall include, but not be limited to, paying all legal fees and costs incurred by legal counsel of the City's choice in representing the City in connection with any such claims, losses, lawsuits or actions, and any award of damages or attorney's fees in any such lawsuit or action.
2. The Applicant shall execute an Affidavit of Acceptance of these conditions in the presence of a Notary Public and return the Affidavit to the Director of Community Development within ten calendar days of the date of the Planning Commission's approval.
3. The approval shall lapse and become void if the privilege authorized herein is not utilized and/or business operations have not commenced. The applicant may request an extension from the Community Development Director based on specific circumstances.
4. The Project shall be subject to an appeal period of 14 calendar days. A written appeal of a decision of the Planning Commission for City Council review may be filed by the Applicant or any person. or the City Council may call any decision for review by filing a written request consistent with section 17.74.050(B).

Community Development Department/Planning Conditions

5. The approval of Conditional Use Permit (CUP) (No. 22-03) permits the operation of a full body massage establishment at 1648 Tyler Avenue.
6. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning regulations, or any Federal, State, County, and City laws and regulations. Unless otherwise expressly specified, all other requirements of the City of South El Monte Municipal Code shall apply.

7. The Community Development Director or his designee is authorized to make minor modifications to the approved preliminary plans or any of the conditions if such modifications shall achieve substantially the same results as would strict compliance with said plans and conditions.
8. The Planning Commission reserves the right to revoke or modify this approval if the proposed use becomes a public nuisance, finds the permit or business license was obtained by fraud, the approved use is operated in violation of the terms and conditions contained herein, the use is in violation of any law, rule, regulation or policy, or the approved use ceased or for three consecutive months or for six months during any calendar year consistent with SEMMC section 17.68.100.
9. The massage establishment operator or any partner with a 5% or more interest in the business, who are not CAMTC certified, is required to submit an application for a background check. The application must be submitted fully completed by all persons required to pass a background check. Additionally, every background check must be renewed every 2 years.
10. If ownership of the establishment changes, operators of the massage establishment, and any partner with a 5% or more interest in the business, must hold CAMTC certification or are required to submit an application for a background check. This condition must be met prior to new ownership taking control or possession of the establishment.
11. The operator shall provide and continue to maintain an updated list of all massage therapists and copies of their licenses quarterly to the Community Development Department to ensure full compliance.
12. A list of all persons providing massage services at the establishment, including each person's full true name and other names used, photograph, and certificate from the California Massage Therapy Council must be provided to the Community Development Director prior to issuance of a Business License. Any changes in practitioners must be reported to Community Development Director within two weeks of the change.
13. All employees performing massages shall be certified massage therapists in good standing by the California Massage Therapy Council, pursuant to the Massage Therapy Act (Cal. Bus. & Prof. Code § 4600 et seq.). The massage establishment shall not operate until and shall hold at all times a valid business license and massage establishment permit from the City, pursuant to South El Monte Municipal Code Title 5 and Chapter 5.22.
14. The permitted hours of operation of the business are Monday through Sunday from 9:00 a.m. to 9:00 p.m. with the last massages starting at 8:00 p.m. Customers shall not be allowed within the business outside of these business hours.
15. No person shall give, or assist in giving of, any massage to any other person under the age of eighteen (18) years, unless the parent or guardian of such minor person has given consent thereto in writing.
16. The massage establishment and all employees performing massages shall comply with all

applicable State, Federal and local laws and regulations, including without limitation the Massage Therapy Act (Cal. Bus. and Prof. Code § 4600 et seq.) and South El Monte Municipal Code Title 5 and Chapter 17.41.

17. The City must be notified on any change in employment of massage therapists at the property, whether the employment of new therapists or when therapists cease to work at the above-mentioned massage establishment.
18. Any alteration to the interior of the massage establishment must be brought to the City for approval before improvements may take place. If applicable, building permits or the like will be required.
19. The applicant must allow a minimum of two inspections a year by the City and its agents to ensure compliance of all conditions of approval.
20. Remove litter daily from the premises, adjacent sidewalks and parking lots under permittees control and sweep/clean these areas daily.
21. Remove graffiti from Suite A of the property and parking lot in front of Suite A within 48 hours (2 days) of application.
22. There shall be provided in each room, or portion of a room, where massage services are provided, sufficient lighting of a minimum of 40 watts within each room that is providing massage services and ventilation as required by the Massage Therapy Act.
23. There shall be provided and maintained adequate dressing, and toilet facilities for patrons at all times. Physical facilities for the massage establishment shall be maintained in good repair and in a clean and sanitary condition. Showers, if any, and toilets utilized in the operation shall be cleaned each day.
24. Any new signage shall require separate permits and must comply with the Planned Sign Program for this commercial center and any applicable SEMMC.
25. All exterior doors shall remain unlocked during business hours from the interior side; and the exterior side should remain unlocked in the event that any City or any first responders require the doors to remain unlocked from the exterior (said requirement may be by county or state codes or otherwise requested for any City or first responder needs).
26. In accordance with the Zoning Code, no covering of windows shall exceed 25% of the window. 75% of the window shall remain unobscured.
27. Massage tables in each of the four massage rooms must be a table designed and manufactured for medical and massage uses. No mattresses or sleeping beds are allowed.
28. Each employee must be provided individual lockers on the premises of the massage establishment.
29. Operators of massage establishments must obtain a business license from the City of South

El Monte before commencing any commercial activity within the City.

30. Massage Practitioners operating as independent contractors, not employees, within an establishment must obtain a business license from the City of South El Monte before commencing any commercial activity within the City.
31. All employees must be dressed in clean and opaque clothing from neck to knee, excepting hands and arms, at all times while on the premises.
32. Each customer's genitals must be fully covered at all times. No person shall massage the genitals of any customer. No person shall massage any female customer whose breasts are not covered by a sheet or other opaque clothing. No person shall massage any female customer's breasts.
33. Any changes to the services provided or business plan must be submitted to and approved by the Community Development Director prior to any change taking effect. If the proposed change significantly alters the use as described and approved through this CUP, the change may be referred to the Planning Commission for review.
34. No persons other than those receiving a massage, parents or guardians of a minor who is receiving a massage, and those administering a massage shall enter or remain within a room where a massage is being given.
35. The massage establishment must maintain compliance with all provisions of the South El Monte Municipal Code, as it relates to the operation of massage establishments.
36. A copy of this resolution shall be prominently posted on the premises at all times. The applicant shall make available said copies upon request by any Sheriff's Department Deputy or City official charged with the enforcement of the City's laws, ordinances or regulations.
37. This conditional use permit shall be brought back to the Planning Commission for review six months after the issuance of the certificate of occupancy or the opening date of the massage establishment, with such hearing date determined at the discretion of the City. At that time, the Commission may consider amendments or revocation to this conditional use permit consistent with the SEMMC including but not limited to section 17.68.070.

Building

38. All construction shall comply with the most recent adopted City and State building codes: California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Fire Code, and California Green Code.
39. Special Inspections – If applicable, per California Building Code Section 1704, the owner shall employ one or more special inspectors who shall provide special inspections when required by CBC section 1704. Please contact the Building Division at time of plan submittal to obtain application for special inspections.

40. The Title Sheet of the plans shall include Occupancy Group, Occupant Load, Description of Use, Type of Construction, Height of Building, Floor area of building(s) and/or occupancy group(s).
41. The project design will conform with energy conservation measures articulated in Title 24 of the California Code of Regulations and address measures to reduce energy consumption such as flow restrictors for toilets, low consumption light fixtures, and insulation and shall use to the extent feasible draught landscaping.
42. If applicable, a design professional will be required at time of construction drawings, to prepare plans for proposed improvements per the Business and Professions' Code.
43. Public and private site improvements shall be designed in accordance with the Americans with Disabilities Act and Chapter 11 of the California Building Code. As applicable, site plan shall include a site accessibility plan identifying exterior routes of travel and detailing running slope, cross slope, width, pedestrian ramp, curb ramps, handrails, signage and truncated domes. Path of travel shall be provided from the public right of way and accessible parking to building. The design professional shall ensure that the site accessibility plan is compliance with the latest Federal and State regulations.

Fire

44. The proposed occupancy use (e.g. massage services) shall comply with code requirements for building's use as a Business Group B occupancy adhering to requirements for egress, egress sizing, occupant load, egress/emergency illumination, building addressing, Knox box installation, and any other code requirements for the occupancy type and use.

Sheriff (based on comments and suggestions from Sheriff's Department)

45. Security Cameras and Building Lights: Prior to the issuance of a building permit, applicant shall submit a plan for Sheriff's Department review for the installation of security cameras and building lights with motion sensors for the exterior of the massage establishment. In addition, the plan shall identify locations of exterior building security cameras in areas where they can adequately identify vehicle license plates upon entry and exit into the parking lot. Lighting shall be adequate to enhance visibility. The plan shall have installation of low-level site security lighting throughout the site as approved by the Sheriff's Department. The equipment shall be installed and functioning prior to the issuance of a building occupancy permit.
46. Interior Security Cameras/Video Monitoring: Prior to the issuance of a building permit, applicant shall submit a plan for Sheriff's Department review for the installation of security cameras inside the massage establishment at each entry/exit points. The equipment shall be installed and functioning prior to the issuance of a building occupancy permit.

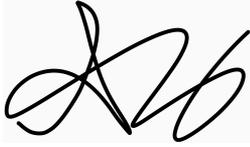
SECTION 6: Any interested party may appeal this decision to the City Council pursuant to Section 17.74.050 and 17.68.090 of the South El Monte Municipal Code.

ADOPTED this 17th day of January, 2023.



Chairman

ATTEST:



Secretary

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF SOUTH EL MONTE)

I, Angie Hernandez, Secretary to the Planning Commission of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 22-03 was duly passed and adopted by the Planning Commission of the City of South El Monte at a regular meeting of said Commission held on the 17th day of January 2023.

AYES: Ortiz, Rodriguez and Tang (Pass 3-1)
NOES: Barrera
ABSENT: None (Vacant Seat: Diaz)
ABSTAIN: None



Secretary



Planning Commission Agenda Report

Agenda
Item No.
6.a.

DATE: January 17, 2023

TO: Honorable Chairman and
Members of the Planning Commission

FROM/PREPARED BY: Guillermo Arreola
Planning Manager

SUBJECT: Adoption of Resolution No. 22-03 approving a Conditional Use Permit (CUP) (No. 22-03), to allow for the operation of a massage establishment (to be known as Sunny Spa) in Suite A of an existing commercial building at 1648 Tyler Avenue.

PUBLIC NOTICE: Notice of Public Hearing was posted on December 8, 2022.

ENVIRONMENTAL DETERMINATION: A Categorical Exemption, Section 15301, Class 1 of the California Environmental Quality Act (CEQA) – Existing Facilities

BACKGROUND/DISCUSSION:

During the December 20, 2022 Planning Commission public hearing for a proposed massage establishment to be located at 1648 Tyler Avenue, Suite A, the Planning Commission recommended that the public hearing be continued to the January 17, 2023 Commission meeting to allow Staff to conduct a background investigation on the two out-of-state massage establishments the owner stated she owned. In addition, the Commission also recommended that the hours of operation change from 10:00 am to 10:00 pm, with the last massage starting at 9:00 p.m., to 9:00 a.m. to 9:00 p.m., with the last massage starting at 8:00 p.m., and that the conditional use permit be brought back for Planning Commission review six (6) months after the opening date or issuance of the certificate of occupancy. Lastly, the Commission requested that staff reach out to the Epiphany Church and School located to the east of the subject site informing them of the proposed application.

Per the Commission's request, staff contacted the local jurisdictions for information on the two out-of-state massage establishments. Specifically, staff was able to contact both local police departments, however, they both indicated that they did not have any specific "calls-for-service" for either one of the massage establishments.

As indicated above, the attached draft Resolution was amended to incorporate the Commission's recommended changes. Condition No. 14 was amended to reflect the recommended hours of operation, and Condition No. 37 was added to require the conditional use permit be brought back for Planning Commission review six (6) months after the opening date of the business or issuance of the certificate of occupancy.

On January 11th, staff contacted Epiphany Church, and they did not express any concern over the proposed massage establishment.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 22-03, approving Conditional Use Permit (No. 22-03), as conditioned.

ATTACHMENTS:

A – Draft Resolution 22-03

B – Planning Commission Packet – December 20, 2022



Planning Commission Agenda Report

Agenda
Item No.
7.b.

DATE: December 20, 2022

TO: Honorable Chairman and Members of the Planning Commission

APPROVED BY: Guillermo Arreola, Planning Manager

PREPARED BY: James Funk, Planning Consultant

SUBJECT: Adoption of Resolution No. 22-03 approving a Conditional Use Permit (CUP) (No. 22-03), to allow for the operation of a massage establishment (to be known as Sunny Spa) in Suite A of an existing commercial building at 1648 Tyler Avenue.

PUBLIC NOTICE: Notice of Public Hearing was posted on December 8, 2022.

ENVIRONMENTAL DETERMINATION: Categorical Exemption, Section 15301 Class 1 – Existing Facilities, California Environmental Quality Act Guidelines.

PROJECT

LOCATION: Address: 1648 Tyler Avenue, Suite A
Project Applicant: Xiaoping Chen, Xiaoping Chen LLC
Property Owner: Stephen Lee and Tracy Hsu Lee
Zone: "C" (Commercial)
Lot Size: Approximately 30,400 square feet (0.7 acres)

SURROUNDING ZONING AND LAND USE:

	Zone	General Plan	Land Use
North	"C" (Commercial)	Commercial	Commercial
South	"C" (Commercial)	Commercial	Commercial
East	P-F (Public Facilities)	Public Facilities	Public Facilities
West	"C" (Commercial)	Commercial	Commercial

BACKGROUND: The applicant, Xiaoping Chen (Xiaoping Chen LLC), ("Applicant"), submitted a conditional use permit request to allow the operation of a full-body massage establishment in an existing commercial center on property located at 1648 Tyler Avenue, Suite A.

The subject site is developed with a single-story multi-tenant commercial center and is located on the east side of Tyler Avenue.

RECOMMENDATION: Staff recommends that the Planning Commission adopt Resolution No. 22-03, approving Conditional Use Permit (No.22-03), as conditioned.

ANALYSIS:

General Plan/Zoning Consistency

The property identified as 1648 Tyler Avenue is currently developed as a commercial retail center. The center is in the “C” (Commercial) Zone. The site is designated as “Commercial” in the City’s General Plan. Therefore, the proposed use is in conformance with zoning and the General Plan, subject to approval of a conditional use permit (“CUP”). Further, the proposed massage establishment satisfies the following City objectives:

Land Use Element

Goal 1.0: Maintain a balanced mix and distribution of land uses throughout South El Monte.

Policy 1.4: Create opportunities for two types of commercial development: (1) commercial uses that meet the retail and service needs of the local resident and employee populations, and (2) regional-serving retail commercial businesses that capture revenues from a broader population base.

Goal 2.0: Focus new revenue-generating development in those area of the City with high visibility.

Economic Development Element

Goal 3.0: Attract local-serving retail and service commercial businesses.

The proposed use will strengthen the existing commercial center and will be a viable commercial asset to the City’s economy. The proposed project will also promote balanced and dynamic economic growth for the area and the City as a whole because this use will address the growing needs of its customers. Considering all of the above, the proposed Project is consistent with both the General Plan and the Zoning Code.

Conditional Use Permit (CUP)

The proposed massage establishment is subject to the requirements for approval of a CUP.

Effective January 1, 2015, the State of California restored the ability of cities to impose local regulations on massage establishments. However, the enabling legislation (“AB 1147”) did include some limitations on cities’ regulation of massage establishments. For example, a city may not define or regulate massage establishments as adult entertainment businesses. Next, a city may not require such establishments to post any notice in an area that may be viewed by clients that contains explicit language describing sexual acts or mentions genitalia or specific contraception devices. Further, a city may not impose more stringent client draping rules than what the statutes require. As it pertains to facilities, a city may not obligate a massage establishment to have internal physical structures, such as windows looking into massage rooms or walls that do not extend from the floor to the ceiling, which interfere with any client’s reasonable expectation of privacy, and a city may not prevent a one (1) person business from locking its external doors.

In early 2015, the City of South El Monte amended the South El Monte Municipal Code (“SEMMC”) with the adoption of Chapter 17.41 (MESSAGE ESTABLISHMENTS), in Title 17 (ZONING), which established the requirements for a CUP for the establishment of any massage establishment. The Zoning Code was amended to ensure that all massage establishments comply with the City’s requirements to ensure the health and safety of the employees and residents of the City. Requirements pursuant to the Zoning Code include, but are not limited to the following:

- “In granting a conditional use permit, the Planning Commission may impose conditions if the Planning Commission determines such conditions are necessary to minimize any adverse effect of the proposed use on properties and uses in the area and the rest of the city.” SEMMC 17.41.020(C)
- “A massage establishment shall not operate under any name or conduct business under any designation not specified in the application for the conditional use permit, which shall be identical as the name listed in the applications for the city business license and massage establishment permit.” SEMMC 17.41.020(D)
- “A description of all physical changes proposed to the property, whether permanent or impermanent, both inside and outside of the building.” SEMMC 17.41.020(G)(5)
- “The separation distance from other existing massage establishments shall be shown on an updated site plan or map.” SEMMC 17.41.020(G)(6)
- “No massage establishment shall be sited within five hundred feet of an existing or otherwise approved massage establishment.” SEMMC 17.41.020(G)(10)
- “No massage establishment shall be sited in a zone where it is not permitted.” SEMMC 17.41.020(G)(11)

To grant a CUP, the Commission must make the following findings pursuant SEMMC Section 17.68.040, 17.41.020 (B) and 17.41.020 (G)(8)-(12) respectively:

- “The commission shall find that the proposed use shall not be detrimental to persons or properties in the immediate vicinity nor to the city in general. If it fails to make these findings, the request shall be denied.”
- “In considering applications for massage establishments, the planning commission shall be guided by the provisions of Chapter 17.68 and this section. However, in the event of any inconsistency in said standards, the provisions of this section shall govern.”
- “In addition to any standards for consideration of conditional use permit applications pursuant to Chapter 17.68 of this Code, the planning commission shall consider the following factors in determining whether to issue a conditional use permit, although the planning commission may waive or reduce the burden on the applicant of one or more of these criteria if the planning commission determines that the goals of this section are better served thereby.
- “No massage establishment shall be sited in a location where the applicant cannot produce proof of legal title or a possessory or leasehold interest in that real property and a certified statement from the real property owner(s) authorizing the proposed use of the premises as a massage establishment.”
- “No massage establishment shall be sited within five hundred feet of an existing or otherwise approved massage establishment.”
- “No massage establishment shall be sited in a zone where it is not permitted.
- “No massage establishment shall violate any provision regarding facility requirements within Chapter 5.22 of this Code.”

The commercial center and the parcels directly surrounding the subject property are developed as commercial uses and/or nonresidential uses. Staff believes the approval of the CUP will not be detrimental to persons or properties in the immediate vicinity nor to the City in general because of the conditions referenced in the resolution, as well as most of the surrounding parcels being utilized for commercial and nonresidential activities.

Proposed Project/Use

As submitted by the Applicant, the proposed use consists of remodeling the interior of Suite A in the commercial center for operations of a massage establishment. The business will eliminate one (1) of the three (3) vacancies and add to the vitality of the commercial center.

The proposed project is a conversion of a suite previously occupied by a rehabilitation center into a massage establishment. The proposed project involves the installation of a 27” unitized electric stack pair washer and dryer unit, modifications to the existing restroom, installation of a partition wall to create a new office, electrical upgrades, and building and site accessibility upgrades (for example, ADA pavement markings, approach ramp improvements, pictorial signs, accessible door operating hardware, smooth surface doors).

The existing commercial center contains approximately 8,317 square feet of floor area in two (2) buildings on a site of approximately 30,400 square feet. Currently, there are eight (8) tenant spaces in the two (2) buildings in the commercial center. Three (3) of the tenant spaces are vacant and have posted “For Rent” signs in the windows of each of the vacant spaces. The remaining five (5) spaces are occupied by the following tenants: Ying’s Chinese Food Café, Modern Pooch Dog Grooming, Los Chilitos Restaurant, Ajos Y Cebollas Restaurant, and Blooming Flowers and Gifts.

The commercial center has 39 parking spaces, including two (2) ADA stalls. Occupancy of the now vacant 1,264 square foot space (Suite A) will not detrimentally impact parking. The previous tenant in Suite A was Treatment Clinic, with a City of South El Monte Business License Designation of Herbal Clinic, Business Type – Retail Registration, Standard Industrial Classification (SIC) – Health Food Store/Retail. The parking requirement for both the former and proposed use is 1 space for each 300 square feet of floor area. The change in tenants will not significantly alter the demand for parking in the commercial center and no additional parking is required by the SEMMC.

Floor Plan

The proposed massage establishment would occupy approximately 1,264 square feet of interior floor area. The floor plans illustrate four (4) massage rooms, a restroom, a storage cabinet accessible from the interior hallway, an office and a waiting room. The waiting room is separated by a wall and door from the hallway leading to the four (4) private massage rooms. The office is exterior from the four (4) private massage rooms and restroom.

Proximity to Sensitive Areas

The proposed massage establishment is required to be located 500 feet away from other massage establishments. As of November 29, 2022, Code Enforcement/Public Safety Supervisor Joe Martinez reported: “There are currently no licensed, legitimate massage establishments within the City. We are currently in the process of investigating three possible illegal massage parlor operations within the City...”

The proposed massage establishment is not located near possible sensitive uses such as parks and areas zoned for residential uses. A religious institution and school, Epiphany Catholic Church and Epiphany Catholic School (though not residentially zoned) could possibly be considered sensitive uses. The church and school are located to the east in the immediate vicinity at 10911 and 10907 Michael Hunt Drive, however there is no direct pedestrian or vehicular access between the subject site and the properties on the other side of the block.

The Facilities Planning Bureau of the Sheriff's Department generally subscribes to the principles of Crime Prevention Thru Environmental Design (CPTED). The goal of CPTED is to reduce opportunities for criminal activities by employing physical design features that discourage anti-social behavior, while encouraging the legitimate use of the site. Staff has incorporated in the proposed conditions of approval for Planning Commission's consideration:

- Installation of security cameras and building lights with motion sensors on the exterior of the massage establishment; and
- Installation of security cameras in areas where the cameras can adequately identify vehicle license plates upon entering and exiting into the parking lot of the proposed project, installation of low-level site security lighting at sites to be approved by the Sheriff's Department; and
- Installation of security cameras inside the massage establishment to cover the entry and waiting area lobby and hallways.

Staff is proposing that the Planning Commission require these features to be reflected in the set of plans to be approved by the Sheriff's Department and installed prior to issuance of building permits.

ENVIRONMENTAL REVIEW: This proposed project (the remodel of the interior of Suite A and massage establishment use) is categorically exempt from environmental review pursuant to Section 15301 Class 1 of the California Environmental Quality Act (CEQA) Guidelines. The proposed project satisfies the criteria for the Class 1 categorical exemption for existing facilities. The criteria is the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This project falls within the criteria of operation of an existing building and is only utilizing interior space of an existing facility/building.

CONCLUSION: Staff has reviewed the applicant's request and has determined that the proposed project meets all of the development standards as set forth in SEMMC. Approval of the CUP, as conditioned, will not be detrimental to persons or properties in the immediate vicinity nor to the City in general. Staff recommends the Planning Commission adopt Resolution No. 22-03 to approve CUP No. 22-03 for the proposed massage establishment.

ATTACHMENTS:

- A - Draft Resolution No. 22-03
- B – Relevant Code Sections
- C - Location Maps and Site Aerials
- D - Project Plans

Attachment A

PLANNING COMMISSION

RESOLUTION NO. 22-03

A RESOLUTION OF THE SOUTH EL MONTE PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT (NO. 22-03) TO ALLOW THE OPERATION OF A MASSAGE ESTABLISHMENT WITHIN AN EXISTING COMMERCIAL CENTER LOCATED AT 1648 TYLER AVENUE, ZONED C (COMMERCIAL).

THE PLANNING COMMISSION OF THE CITY OF SOUTH EL MONTE HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

SECTION 1: Xiaoping Chen (Xiaoping Chen LLC), (“Applicant”), filed an application for a Conditional Use Permit (CUP) to allow for the operation of a full-body massage establishment (“Project” or “proposed Project”) in an existing commercial center located at 1648 Tyler Avenue, Suite A, South El Monte, CA 91733 (“Property” or “project site”).

Pursuant to South El Monte Municipal Code (“SEMMC”) Sections 17.14.040, 17.41.020, and 5.04.055 the Project requires Planning Commission review and approval because the Project consists of operation of a massage establishment.

SECTION 2: Pursuant to Section 15301 (Class 1) of the California Environmental Quality Act, the proposed Project is categorically exempt from environmental review and a Notice of Exemption has been prepared. The proposed Project qualifies for a Class 1 Categorical Exemption for the Project proposes to be operated within existing facilities. The criteria is the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The Planning Commission finds that the Project is exempt from the provisions of CEQA. The documents and other material, which constitute the record on which this decision is based, are located in the Department of Community Development and are in the custody of the Director of Community Development.

A public hearing was held before the Planning Commission on December 20, 2022, to consider the application. All evidence, both written and oral, presented during the public hearing was considered by the Planning Commission in making their determination.

A record of the public hearing indicates the following:

A. The proposed use is not detrimental to persons or properties in the immediate vicinity, or to the City in general.

B. The General Plan Land Use designation for the Property is “C” (Commercial). The proposed project is compatible with both the land use designation and zoning uses surrounding the Property.

C. The proposed Project promotes the City’s goals and objectives stated in the

General Plan. No goal or policy will be impaired.

D. The site abuts a street adequate in width and improvements to carry traffic generated by the proposed use. The subject site is located on Tyler Avenue, an arterial highway capable of handling the additional vehicle trips per day that may be generated by the Project. The subject site is near the intersection of Santa Anita Avenue, which is more than adequate in size to accommodate any additional vehicle trips generated by the proposed use.

E. SEMMC Chapter 17.41 requires massage establishments obtain a conditional use permit to operate in the City. Pursuant to SEMMC Section 17.41.020(G)(10), no massage establishment may be sited within five hundred feet of an existing or otherwise approved massage establishment. The proposed location is not within five hundred feet of any other known massage establishment.

SECTION 3: Based on the record of the hearing, including all information presented at the hearing, including the Staff Report dated December 20, 2022, which is hereby incorporated into this Resolution 22-03 by reference, the Planning Commission hereby finds:

The proposal for a massage establishment as conditioned should not become a nuisance to surrounding properties.

Pursuant to SEMMC Section 17.68.040, the approval of the CUP will not be detrimental to persons or properties in the immediate vicinity nor to the City in general. This is so because the Project is mostly surrounded by industrial uses and the operation is herein conditioned and required to operate in a way that does not negatively impact the area.

As conditioned, the Project meets the requirements of SEMMC Sections 17.14.040, 17.41.020, and 5.04.055 and will not be detrimental to the public health, safety or welfare, nor will it adversely affect property values or the present or future development of the surrounding areas. This is because the project is compatible with the surrounding uses.

As conditioned, the proposed Project is consistent with the City's General Plan. No goal or policy will be impaired. The proposed Project is compatible with the objectives, policies, general land uses, economic development and programs specified in the General Plan which includes, but is not limited to, the following goals:

- Goal 1.0: *Maintain a balanced mix and distribution of land uses throughout South El Monte;*
 - (a) Policy 1.4 seeks to create opportunities for commercial uses that meet the retail and service needs of the local resident and employee population.
- Goal 2.0: *Focus new revenue-generating development in those areas of the City with high visibility;* and
- Goal 3.0: *Attract local-serving retail and service commercial businesses.*

Based on the aforementioned findings, the Planning Commission hereby approves CUP 22-03 (Resolution No. 22-03) to allow the establishment of a massage establishment subject to the following conditions:

General Conditions

1. The Applicant shall indemnify, defend and hold harmless the City, its officers, agents, employees, and volunteers from any and all claims, lawsuits or actions arising from the granting of, or the exercise of, the rights permitted by this approval, and from any and all claims or losses occurring or resulting to any person, firm, corporation or property for damage, injury, or death arising out of, or connected in anyway, with the performance of the use permitted hereby. The Applicant's obligation to indemnify, defend, and save harmless the City shall include, but not be limited to, paying all legal fees and costs incurred by legal counsel of the City's choice in representing the City in connection with any such claims, losses, lawsuits or actions, and any award of damages or attorney's fees in any such lawsuit or action.
2. The Applicant shall execute an Affidavit of Acceptance of these conditions in the presence of a Notary Public and return the Affidavit to the Director of Community Development within ten calendar days of the date of the Planning Commission's approval.
3. The approval shall lapse and become void if the privilege authorized herein is not utilized and/or business operations have not commenced. The applicant may request an extension from the Community Development Director based on specific circumstances.
4. The Project shall be subject to an appeal period of 14 calendar days. A written appeal of a decision of the Planning Commission for City Council review may be filed by the Applicant or any person. or the City Council may call any decision for review by filing a written request consistent with section 17.74.050(B). .

Community Development Department/Planning Conditions

5. The approval of Conditional Use Permit (CUP) (No. 22-03) permits the operation of a full body massage establishment at 1648 Tyler Avenue.
6. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning regulations, or any Federal, State, County, and City laws and regulations. Unless otherwise expressly specified, all other requirements of the City of South El Monte Municipal Code shall apply.
7. The Community Development Director is authorized to make minor modifications to the approved preliminary plans or any of the conditions if such modifications shall achieve substantially the same results as would strict compliance with said plans and conditions.
8. The Planning Commission reserves the right to revoke or modify this approval if the proposed use becomes a public nuisance, finds the permit was obtained by fraud, , the approved use is operated in violation of the terms and conditions contained herein, the use is in violation of any law, rule, regulation or policy, or the approved use ceased or was suspended for one year or more.
9. The massage establishment operator or any partner with a 5% or more interest in the business, who are not CAMTC certified, is required to submit an application for a background check. The application must be submitted fully completed by all persons required to pass a background check. Additionally, every background check must be

renewed every 2 years.

10. If ownership of the establishment changes, operators of the massage establishment, and any partner with a 5% or more interest in the business, must hold CAMTC certification or are required to submit an application for a background check. This condition must be met prior to new ownership taking control or possession of the establishment.
11. The operator shall provide and continue to maintain an updated list of all massage therapists and copies of their licenses quarterly to the Community Development Department to ensure full compliance.
12. A list of all persons providing massage services at the establishment, including each person's full true name and other names used, photograph, and certificate from the California Massage Therapy Council must be provided to the Community Development Director prior to issuance of a Business License. Any changes in practitioners must be reported to Community Development Director within two weeks of the change.
13. All employees performing massages shall be certified massage therapists in good standing by the California Massage Therapy Council, pursuant to the Massage Therapy Act (Cal. Bus. & Prof. Code § 4600 et seq.). The massage establishment shall hold at all times a valid business license and massage establishment permit from the City, pursuant to South El Monte Municipal Code Title 5 and Chapter 5.22.
14. The permitted hours of operation of the business are Monday through Sunday from 10:00 a.m. to 10:00 p.m. with the last massages starting at 9:00 p.m. Customers shall not be allowed within the business outside of these business hours.
15. No person shall give, or assist in giving of, any massage to any other person under the age of eighteen (18) years, unless the parent or guardian of such minor person has given consent thereto in writing.
16. The massage establishment and all employees performing massages shall comply with all applicable State, Federal and local laws and regulations, including without limitation the Massage Therapy Act (Cal. Bus. and Prof. Code § 4600 et seq.) and South El Monte Municipal Code Title 5 and Chapter 17.41.
17. The City must be notified on any change in employment of massage therapists at the property, whether the employment of new therapists or when therapists cease to work at the above mentioned massage establishment.
18. Any alteration to the interior of the massage establishment must be brought to the City for approval before improvements may take place. If applicable, building permits or the like will be required.
19. The applicant must allow a minimum of two inspections a year by the Community Development Department to ensure compliance of all conditions of approval.
20. Remove litter daily from the premises, adjacent sidewalks and parking lots under permittees control and sweep/clean these areas daily.
21. Remove graffiti from Suite A of the property and parking lot within 48 hours (2 days) of

application.

22. There shall be provided in each room, or portion of a room, where massage services are provided, sufficient lighting of a minimum of 40 watts within each room that is providing massage services and ventilation as required by the Massage Therapy Act.
23. There shall be provided and maintained adequate dressing, and toilet facilities for patrons at all times. Physical facilities for the massage establishment shall be maintained in good repair and in a clean and sanitary condition. Showers, if any, and toilets utilized in the operation shall be cleaned each day.
24. Any new signage shall require separate permits and must comply with the Planned Sign Program for this commercial center and any applicable SEMMC.
25. All exterior doors shall remain unlocked during business hours from the interior side.
26. In accordance with the Zoning Code, no covering of windows shall exceed 25% of the window surface.
27. Massage tables in each of the four massage rooms must be a table designed and manufactured for medical and massage uses. No mattresses or sleeping beds are allowed.
28. Each employee must be provided individual lockers on the premises of the massage establishment.
29. Operators of massage establishments must obtain a business license from the City of South El Monte before commencing any commercial activity within the City.
30. Massage Practitioners operating as independent contractors, not employees, within an establishment must obtain a business license from the City of South El Monte before commencing any commercial activity within the City.
31. All employees must be dressed in clean and opaque clothing from neck to knee, excepting hands and arms, at all times while on the premises.
32. Each customer's genitals must be fully covered at all times. No person shall massage the genitals of any customer. No person shall massage any female customer whose breasts are not covered by a sheet or other opaque clothing. No person shall massage any female customer's breasts.
33. Any changes to the services provided or business plan must be submitted to and approved by the Community Development Director prior to any change taking effect. If the proposed change significantly alters the use as described and approved through this CUP, the change may be referred to the Planning Commission for review.
34. No persons other than those receiving a massage, parents or guardians of a minor who is receiving a massage, and those administering a massage shall enter or remain within a room where a massage is being given.
35. The massage establishment must maintain compliance with all provisions of the South El Monte Municipal Code, as it relates to the operation of massage establishments.

36. A copy of this resolution shall be prominently posted on the premises at all times. The applicant shall make available said copies upon request by any Sheriff's Department Deputy or City official charged with the enforcement of the City's laws, ordinances or regulations.

Building

37. All construction shall comply with the most recent adopted City and State building codes: California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Fire Code, and California Green Code.
38. Special Inspections – If applicable, per California Building Code Section 1704, the owner shall employ one or more special inspectors who shall provide special inspections when required by CBC section 1704. Please contact the Building Division at time of plan submittal to obtain application for special inspections.
39. The Title Sheet of the plans shall include Occupancy Group, Occupant Load, Description of Use, Type of Construction, Height of Building, Floor area of building(s) and/or occupancy group(s).
40. The project design will conform with energy conservation measures articulated in Title 24 of the California Code of Regulations and address measures to reduce energy consumption such as flow restrictors for toilets, low consumption light fixtures, and insulation and shall use to the extent feasible draught landscaping.
41. If applicable, a design professional will be required at time of construction drawings, to prepare plans for proposed improvements per the Business and Professions' Code.
42. Public and private site improvements shall be designed in accordance with the Americans with Disabilities Act and Chapter 11 of the California Building Code.. As applicable, site plan shall include a site accessibility plan identifying exterior routes of travel and detailing running slope, cross slope, width, pedestrian ramp, curb ramps, handrails, signage and truncated domes. Path of travel shall be provided from the public right of way and accessible parking to building. The design professional shall ensure that the site accessibility plan is compliance with the latest Federal and State regulations.

Fire

43. The proposed occupancy use (e.g. massage services) shall comply with code requirements for building's use as a Business Group B occupancy adhering to requirements for egress, egress sizing, occupant load, egress/emergency illumination, building addressing, Knox box installation, and any other code requirements for the occupancy type and use.

Sheriff (based on comments and suggestions from Sheriff's Department)

44. Security Cameras and Building Lights: Prior to the issuance of a building permit, applicant shall submit a plan for Sheriff's Department review for the installation of security cameras and building lights with motion sensors for the exterior of the massage establishment. In addition, the plan shall identify locations of exterior building security cameras in areas where they can adequately identify vehicle license plates upon entry and exit into the

parking lot. Lighting shall be adequate to enhance visibility. The plan shall have installation of low-level site security lighting throughout the site as approved by the Sheriff's Department. The equipment shall be installed and functioning prior to the issuance of a building occupancy permit.

45. Interior Security Cameras/Video Monitoring: Prior to the issuance of a building permit, applicant shall submit a plan for Sheriff's Department review for the installation of security cameras inside the massage establishment at each entry/exit points. The equipment shall be installed and functioning prior to the issuance of a building occupancy permit.

46.

SECTION 4: Any interested party may appeal this decision to the City Council pursuant to Section 17.74.050 and 17.68.090 of the South El Monte Municipal Code.

ADOPTED this 20th day of December, 2022.

Chairman

ATTEST:

Secretary

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF SOUTH EL MONTE)

I, Angie Hernandez, Secretary to the Planning Commission of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 22-03 was duly passed and adopted by the Planning Commission of the City of South El Monte at a regular meeting of said Commission held on the 20th day of December 2022.

AYES:

NOES:

ABSENT:

ABSTAIN:

Secretary

Attachment B

Chapter 17.41 MASSAGE ESTABLISHMENTS

- [17.41.010 Location criteria.](#)
- [17.41.020 Conditional use permit required.](#)
- [17.41.030 Amortization and regulation of nonconforming massage establishments.](#)
- [17.41.040 Extension of time for termination of nonconforming use.](#)

17.41.010 Location criteria.

A massage establishment may be located in any zone district which permits that particular use subject to the following exceptions and qualifications:

A. A massage establishment shall not be established or located within five hundred feet of any existing massage establishment. The distance between any two massage establishments shall be measured in a straight line, without regard to the boundaries of the city and to intervening structures, from the closest point of each establishment.

B. A massage establishment may not open or operate in a location where that establishment or a prior massage establishment was closed due to criminal activity, had its conditional use permit revoked, or had a massage establishment permit revoked any time within the past three years. (Ord. 1195 §14, 2015)

17.41.020 Conditional use permit required.

A conditional use permit shall be required for the establishment of any massage establishment. The following provisions shall govern the issuance of conditional use permits for massage establishments:

A. Applications for conditional use permits under this section shall be subject to the procedures and requirements of Chapter [17.68](#) of this Code.

B. In considering applications for massage establishments, the planning commission shall be guided by the provisions of Chapter [17.68](#) and this section. However, in the event of any inconsistency in said standards, the provisions of this section shall govern.

C. In granting a conditional use permit, the planning commission may impose conditions if the planning commission determines such conditions are necessary to minimize any adverse effect of the proposed use on properties and uses in the area and the rest of the city.

D. A massage establishment shall not operate under any name or conduct business under any designation not specified in the application for the conditional use permit, which shall be identical as the name listed in the applications for the city business license and massage establishment permit.

E. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

F. An applicant for a conditional use permit shall submit the information described in this section and a non-refundable fee as established in the city's schedule of fees by resolution of the city council to reimburse the city for the costs of reviewing the application.

G. In addition to any information required for applications for a city business license pursuant to Title 5 of this Code, a massage establishment permit pursuant to Chapter [5.22](#) of this Code, and conditional use permits pursuant Chapter [17.68](#) of this Code, an applicant for a conditional use permit for a massage establishment shall submit the following information:

1. A legal description of the parcel.
2. Proof of legal title or a possessory or leasehold interest in the real property upon which the proposed massage establishment will be operated.
3. If the massage establishment has a leasehold interest in the real property, a certified statement from the real property owner(s) authorizing the proposed use of the premises as a massage establishment.
4. A scaled site plan.
5. A description of all physical changes proposed to the property, whether permanent or impermanent, both inside and outside of the building.
6. The separation distance from other existing massage establishments shall be shown on an updated site plan or map.
7. A description of compliance with all facility requirements in Chapter [5.22](#) of this Code.
8. In addition to any standards for consideration of conditional use permit applications pursuant to Chapter [17.68](#) of this Code, the planning commission shall consider the following factors in determining whether to issue a conditional use permit, although the planning commission may waive or reduce the burden on the applicant of one or more of these criteria if the planning commission determines that the goals of this section are better served thereby.
9. No massage establishment shall be sited in a location where the applicant cannot produce proof of legal title or a possessory or leasehold interest in that real property and a certified statement from the real property owner(s) authorizing the proposed use of the premises as a massage establishment.
10. No massage establishment shall be sited within five hundred feet of an existing or otherwise approved massage establishment.
11. No massage establishment shall be sited in a zone where it is not permitted.
12. No massage establishment shall violate any provision regarding facility requirements within Chapter [5.22](#) of this Code. (Ord. 1195 §14, 2015)

17.41.030 Amortization and regulation of nonconforming massage establishments.

A. Any use of real property existing on April 1, 2015, which does not conform to the provisions of this chapter, but which was constructed, operated and maintained in compliance with all previous regulations prior to March 11, 2014, shall be regarded as a nonconforming use.

B. Any nonconforming use pursuant to this chapter may continue in operation until June 30, 2017, provided that use and its facility is in compliance with all other laws,

except the use restrictions in the zoning ordinance; the use is not extended, enlarged, moved or altered so as to occupy land outside the current structure(s); and the use is not discontinued or abandoned for a continuous period of one hundred eighty days or more.

C. Any nonconforming use pursuant to this chapter may apply for a conditional use permit pursuant to Section [17.41.020](#). In the event the city grants the conditional use permit, such use shall be considered to be a conforming use.

D. The city manager may approve an extension of time until termination pursuant to Section [17.41.040](#) of this chapter. (Ord. 1195 §14, 2015)

17.41.040 Extension of time for termination of nonconforming use.

The owner or operator of a nonconforming use as described in Section [17.41.030](#) may apply under the provisions of this section to the city manager for an extension of time within which to terminate the nonconforming use, as follows:

A. The owner of the real property upon which such use operated or the operator of the use may file an application for an extension of time within which to terminate a use made nonconforming by the provisions of this chapter. Such application must be filed with the city manager at least sixty days but no more than ninety days prior to the expiration of the time established in Section [17.41.030](#) for termination of such use.

B. The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be the same as that for a variance as is set forth in the city's schedule of fees established by resolution from time to time by the city council. An application which fails to state a basis upon which an extension may be granted, as set forth in subsection D of this section, shall be returned to the applicant as nonresponsive, together with the application fee less any administrative costs of processing the application.

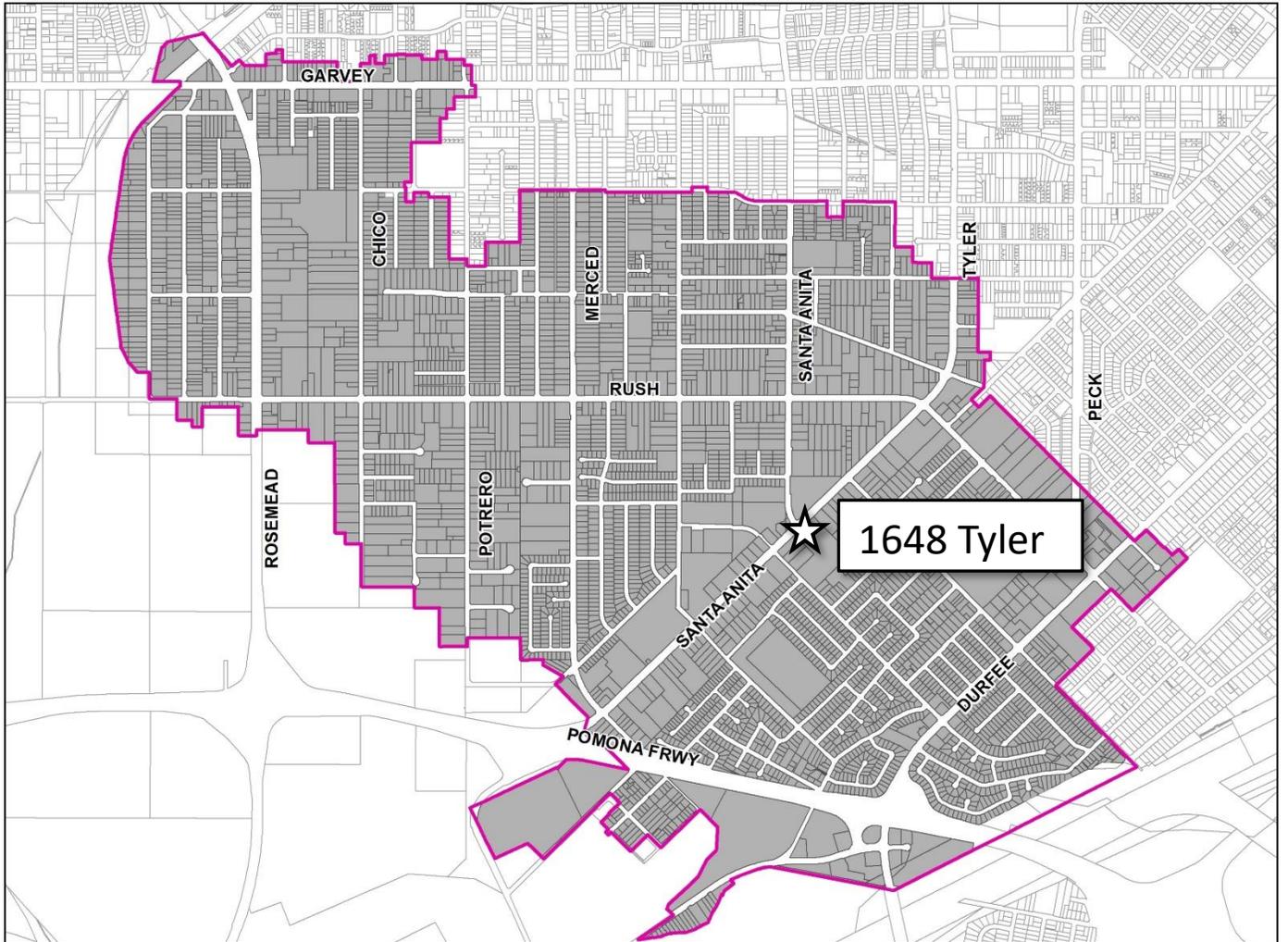
C. The city manager shall appoint a hearing officer to hear the application. The hearing officer shall set the matter for hearing within twenty days of receipt of the application. All parties involved: shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The decision of the hearing officer shall be final and subject to judicial review pursuant to [Code of Civil Procedure](#) Section 1094.6.

D. An extension under the provisions of this section shall be for a reasonable period of time commensurate with the investment involved, and shall be approved only if the hearing officer makes all of the following findings or such other findings as are required by law:

1. The applicant has made a substantial investment (including, but not limited to, lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made before April 1, 2015;
2. The applicant will be unable to recoup said investment as of the date established for termination of the use; and

3. The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with Section [17.41.030](#). (Ord. 1195 §14, 2015)

Attachment C



Attachment D



Planning Commission Agenda Report

Agenda
Item No.
7.c

DATE: December 17, 2024

TO: Honorable Chairman and Members of the Planning Commission

APPROVED BY: Guillermo Arreola, Director of Community Development

SUBJECT: Public hearing regarding the review of Rustic and Chic to consider revocation of Conditional Use Permit No. 23-03

RECOMMENDATION: Staff recommends the Planning Commission open the public hearing, take public testimony and continue the public hearing to the next regularly scheduled Planning Commission meeting.