



**CITY OF DUARTE
PLANNING COMMISSION
MINUTES
February 18, 2020**

**Planning Commission
Commissioners**
Paula Watson-Gardner, Chair
Sara Vasquez, Vice-Chair
George K. Farra
Tina Heany
Wally Wolff

1. CALL TO ORDER AND NOTATION OF ANY ABSENCES:

Chairperson Watson-Gardner called the meeting to order at 7:01 p.m. The following were in attendance:

PRESENT: Watson-Gardner, Vasquez, Heany, Farra and Wolff
ABSENT: None
STAFF: Hensley, Golding, Galeazzi, Baldwin, Hernandez
CITY ATTORNEY: Thai Phan

2. PLEDGE OF ALLEGIANCE:

Wolff led the Pledge of Allegiance.

3. APPROVAL OF MINUTES: [January 21, 2020](#)

Heany moved to approve the minutes of January 21, 2020. Seconded by Farra. The motion was approved 5-0-0-0.

4. ORAL COMMUNICATIONS ITEMS NOT ON THE AGENDA:

Chairperson Watson-Gardner opened Oral Communications for items not on the Agenda. Seeing none the item was closed.

5. PUBLIC HEARINGS:

A. [Conditional Use Permit No. 2019-05: \(Continued from January 21, 2020\). A request for the review and approval to operate a new massage establishment within an existing tenant suite located at 2241 Huntington Drive.](#)

Attachments: [Staff Report CUP 2019-05](#) and [PC Resolution 2020-02](#)

Ivan Galeazzi, Associate Planner presented a staff report on the continued item from January's meeting, addressing previous concerns from the Commission and modification to the conditions of approval.

Chairperson Watson-Gardner opened the Public Hearing.

The applicant Mr. Yongfeng Du, brought his friend Ms. Jing Gu for representation. Ms. Gu was present to assist the applicant in translating from English to Chinese (Mandarin) and to aid in understanding the Commissions questions. Ms. Gu spoke about the proposed massage business location, that she and the applicant had conducted research for the proposed business, research on the demand for massage services in the area, and for commercial leasing.

Chairperson Watson-Gardner closed the Public Hearing.

Hensley reiterated the added conditions that were discussed at the January's Planning Commission meeting and that were included in the resolution by Staff.

Heany commented in favor for the required posting of City and State inspections at the establishment.

Vasquez reiterated her concern on the proximity of similar establishments.

Heany asked if the City of Duarte Development Code currently contains an ordinance for a distance requirement between existing and proposed massage establishments.

Vasquez commented on other cities' issues related to massage establishments.

Farra reiterated his concern from previous meeting regarding the location of the propose business.

Chairperson Watson-Gardner called for a motion on the approval of item. Heany moved to approve, seconded by Watson-Gardner. Chairperson Watson-Gardner roll call the motion. The motion did not pass 2-3-0-0. (Yes: Watson-Gardner, Heany; No: Vasquez, Farra, Wolff; Abstain: None; Absent: None).

Thai Phan, Deputy City Attorney stated the facts of the continuation of the Conditional Use Permit denial for the next month meeting.

Chairperson Watson-Gardner reopened the item to continue to the next month's meeting, and direct staff to bring back a resolution of denial listing the findings discussed by the Planning Commission.

B. Conditional Use Permit 2019-07: (Continued from January 21, 2020). A request to operate a retail secondhand use within an existing tenant suite located at 2215 Huntington Drive.

Attachments: [Staff Report CUP 2019-07](#) and [PC Resolution 2020-01](#)

Nick Baldwin, Associate Planner presented a staff report addressing concerns from the January's continued meeting. He indicated that letters of support and the applicant's presentation were placed on the dais for their review and answered Commissioners' questions.

Vasquez asked Baldwin if there were any letters received against the project and commented on the received letters of support. Baldwin responded that no letters were received opposing the project and discussed letters of support.

[Chairperson Watson-Gardner opened the Public Hearing.](#)

The following people spoke in support of the project:

[Steve Hernandez, Duarte Resident; Alejandra Reyes, Habitat Homeowner from San Gabriel Valley and Pasadena; Gilberto Reyes, Pasadena Resident and Stacy Bowman, Azusa Resident and Store Volunteer.](#)

David McKechnie, Director of Operations Habitat for Humanity in the San Gabriel Valley, provided a Power-Point presentation, discussed background history of the store, model vision for Duarte store, items selling at the store, intake donations, and addressed Commissioners' comments and concerns from previous meeting.

Farra asked for clarification about the Conditional Use Permit versus the Permit as a matter of right. Baldwin responded explaining the criteria for the CUP and nature of the propose business.

Farra asked McKechnie for clarification on the rebuttal of his presentation, based upon Staff's determination for a secondhand store. McKechnie explained his initial application request to be a by-rights retail store, however due do to the percentage of donated items that are not new and stipulations in the municipal code, the store had to be categorized as a secondhand store.

Vasquez asked McKechnie for confirmation on the percentage of items being used. McKechnie confirmed that a small percentage of items donated may not be new.

Farra asked if consideration was given for no secondhand used materials to be accepted and to accept cash donations instead to avoid the Conditional Use Permit. McKechnie explained the process for being selective when accepting used donated items and how that helps them provide more net profit to the affiliate. He also explained the receipt of cash and product donations from corporations and the high quality of materials that are sold in the store.

Chairperson Watson-Gardner and Vasquez asked for clarification on the interpretation of used items. McKechnie defined what is considered a used item by law and provided categories of the intake donations from organizations and households.

Heany commented on her niece's donation of new appliances when she bought a house because she wanted updated appliances. She also asked for confirmation of sales taxes would be paid to the city. McKechnie confirmed that sales tax would be paid to the city.

[Chairperson Watson-Gardner closed the Public Comments.](#)

Hensley addressed a concern brought out from the previous meeting and asked for confirmation on the condition of the shopping center parking lot. Baldwin confirmed that the Shopping Center Property Owners completed the restriping of parking stalls.

Chairperson Watson-Gardner opened Commissioners discussion.

Farra indicated he has not heard anything that has changed his mind. He acknowledged that Habitat for Humanity offers a lot of good things to people and that is a regional asset; however, the ReStore may not be the best fit for the Duarte residents and fit in as part of Duarte's commercial developments along Huntington Drive. He stated that the materials sold at the store are not common to be purchased by the residents on a weekly/monthly basis and therefore may not be beneficial to the residents. He also indicated that with small minor adjustments, perhaps this permit could be by-right versus having to be presented to the commission.

Heany congratulated McKechnie on the Four-Star Charity Navigator rating that is not that common these days. She commented on Duarte residents that shop at the Azusa ReStore store; that antique stores don't sell new things, that new things are not what people are always looking for; and the attention needed for that shopping center, which has had a vacancy for many years.

Chairperson Watson-Gardner stated she loves Habitat for Humanity and ReStore, she commented that the business is there for people that need help and have hardships on buying a house and furnishing it. She stated there will be positive impact related to homeless issues that are associated with the vacant tenant suite. She noted the proposed upgrade of new model store and the proposed good neighbor practices that ReStore has agreed to. She also noted the sales tax benefits.

Vasquez stated she has not heard anything that has changed her mind from the last meeting. She commented on Habitat for Humanity being a wonderful organization, but also how the city is a small town and needs to develop accordingly. Remodel upgrades are needed for the shopping center and there may be another suitable location for the type of business within the City.

Wolff stated he volunteered for Habitat for Humanity has helped build homes and that it is a noble cause. He commented on the prominence of the location which demands a higher quality of use. He encourages a different and more suitable location within the City for the business.

Chairperson Watson-Gardner roll called to approve or deny the CUP 2019-07. Heany moved to approve and seconded by Chairperson Watson-Gardner. The motion did not pass. 2-3-0-0 (Vote: Yes: Watson-Gardner, Heany; No: Farra, Vasquez, Wolff; Abstain: None; Absent: None)

Henley presented a denial resolution and read the findings for the record. Thai Phan, City Attorney clarified what is necessary to approve the denial resolution. Copies of the denial resolutions were given to the commissioners for review.

Farra called for a short break to review the findings of the denial resolution. Hensley stated a short break is appropriate.

Vasquez asked if the pre-draft resolution included comments from the previous meeting. Hensley stated if needed, comments can be added, and that there was no new information necessary to add from previous meeting. Phan reiterated the early preparedness of the draft was done to reflect the previous hearing and if needed new comments, findings, and additional evidence can be made to add to the final denial resolution.

Chairperson Watson-Gardner called for a short break at 8:13 p.m. and reconvened the meeting at 8:22 p.m.

Hensley read the comments on the proposed resolution for denial with Commissioner comments as follows: 1) Page 2; finding #4, at the end of paragraph insert "Although the proposed use may meet regional needs it does not meet the needs of the community of Duarte" 2) Page 3; section 3 and 4 CUP 2019-05 should be corrected to 2019-07.

Chairperson Watson-Gardner called for a motion to adopt the changes submitted to Director Hensley.

Phan and Chairperson Watson-Gardner reinstated the resolution, which denies CUP 2019-07 for the use and operation of a secondhand store located at 2215

Huntington Drive including the changes submitted orally. Chairperson Watson-Gardner called for a motion to approve the denial. Farra moved to approve the denial with the changes and seconded by Wolff. The denial motion passed with changes 3-2-0-0. (Vote: Yes: Farra, Vasquez, Wolff; No: Watson-Gardner, Heany; Abstain: None; Absent: None)

Hensley explained the City Council appeal process to the Applicant and interested parties.

Phan clarified the denial resolutions for the Commission. Vasquez asked why the denial resolution for ReStore was presented tonight and the denial resolution will be presented at the next meeting for the massage item. Hensley responded that it was a specific request from the applicant.

6. ITEMS FROM DIRECTOR:

There were no items from the Director Hensley.

7. ITEMS FROM COMMISSIONERS:

There were no items from the Commissioners.

8. ADJOURNMENT: Monday, March 16, 2020

Chairperson Watson-Gardner adjourned the meeting at 8:28 p.m. The next meeting is scheduled for March 16, 2020

Craig Hensley, Secretary



MEMORANDUM

TO: Planning Commission

FROM: Ivan Galeazzi, Associate Planner

DATE: March 16, 2020

SUBJECT: Continued Public Hearing for CUP 2019-05; Health Massage at 2241 Huntington Drive.

At the January 21, 2020 Planning Commission meeting, staff presented Conditional Use Permit (CUP) 2019-05, a request to operate a new massage business located at 2241 Huntington Drive within the former Fresh & Easy shopping center. After receiving public comment, the Planning Commission vote resulted in a split decision of two (2) Commissioners for approval and two (2) Commissioners for denial. The Commission directed Staff to continue the hearing until the February 18 meeting to allow for all five (5) commissioners to be present on this item.

At the February 18, 2020, public hearing, staff presented Conditional Use Permit (CUP) 2019-05 along with additional information requested by the Commission. After applicant and public testimony, the Commission voted 3-2 in opposition of the CUP. The Commissioners voted to continue the item to the next Planning Commission meeting to allow Staff to prepare and provide a denial resolution.

Staff has prepared a denial resolution for the Planning Commission's consideration tonight.

Attachments:

PC Resolution 2020-02

CUP 2019-05 Staff Report

Continuation Memorandum to Planning Commission - February 18, 2020

RESOLUTION NO. PC 2020-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE DENYING CONDITIONAL USE PERMIT 2019-05 FOR THE OPERATION OF A MASSAGE BUSINESS (HEALTH MESSAGE) LOCATED AT 2241 HUNTINGTON DRIVE

WHEREAS, the applicant, Yongfeng Du, is requesting approval of a conditional use permit to operate a massage business at 2241 Huntington Drive; and

WHEREAS, a massage business located in the Commercial-General (C-G) zone is a conditionally permitted use pursuant to Duarte Development Code Section 19.16.020.A(1); and

WHEREAS, the proposed massage business complies with the regulations and requirements of Duarte Development Code Section 19.60.112 which regulates locational and developmental matters related to massage establishments; and

WHEREAS, the proposed massage business complies with the prerequisite requirements for the consideration of a massage establishment of Duarte Municipal Code Chapter 5.56 which regulates operational, licensure and health matters related to massage establishments; and

WHEREAS, the Planning Commission has considered the analysis and recommendation provided in the staff report for Conditional Use Permit application 2019-05 and all of the information, evidence and public testimony received at the public meeting held on January 21, 2020 at 7:00 p.m. in the City Council Chambers; and

WHEREAS, the Planning Commission, during their January 21, 2020 meeting, approved a motion to continue the public hearing to the next Planning Commission meeting on February 18, 2020; and

WHEREAS, the Planning Commission has considered the analysis and recommendation provided in the staff report for Conditional Use Permit application 2019-05 and all of the information, evidence and public testimony received at the public meeting held on February 18, 2020 at 7:00 p.m. in the City Council Chambers.

NOW THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. RECITALS

All of the facts set forth in the Recitals of this Resolution are true and correct and incorporated herein by this reference.

SECTION 2. FINDINGS FOR CONDITIONAL USE PERMITS

The Planning Commission finds and determines as follows, findings for Conditional Use Permits, as set forth in DDC Section 19.114.040(B), as:

1. The proposed use is consistent with the General Plan;

Based on the information currently available to the Planning Commission, the massage business appears to be generally consistent with the property's General Commercial land use designation, which is intended to provide for sites which will meet the shopping needs of the entire community," (Land Use Element, p.15). However, because the massage business is

located within 600 feet of an existing of an existing massage business and under ¾ mile of two other massage businesses, it is not consistent with Land Use Goals 1 and 2, which aim to “[m]aintain a balanced community consisting of various ... commercial activities” and “[d]evelop compatible and harmonious land uses by providing a mix of uses,” (Land Use Element p.2-3). Allowing two such businesses within approximately 600 feet from each other will not maintain a “balance” or “mix” of various commercial uses such that the commercial area “meets the shopping needs of the entire community.”

2. The proposed use is allowed within the subject zone and complies with all other applicable provisions of this Development Code and the Municipal Code;

The use complies with all regulations of the Duarte Development Code pursuant to Section 19.60.112, which stipulates requirements to locate a massage establishment. In addition, the proposed use complies with all the pre-requisite regulations of the Duarte Municipal Code pursuant to Section 5.56, which provides requirements for business licenses and operational regulations.

3. The design, location, size and operating characteristics of the proposed use are compatible with the allowed uses in the vicinity;

The proposed massage business plans on occupying one of the tenant spaces within an existing multi-tenant building of the strip commercial shopping center on the north side of Huntington Drive, west of Mount Olive Drive. The proposed business is not compatible with allowed uses in the vicinity, which include office, dining and retail uses within the commercial center, residential properties directly north and south of the subject property, and an elementary and continuation high school less than ¼ of a mile to the southeast. Furthermore, an existing massage business is located on the north side of Huntington Drive approximately 600 feet west of the tenant space. The proposed location sits approximately 200 feet north of Huntington Drive, behind a stand-alone service station, and 100 feet from Mt. Olive Drive. This location lacks visibility and will make it more difficult to monitor the business and also helps create an environment that tends to support loitering behavior and other nuisances. Lastly, the proximity of two massage businesses (again, approximately 600 feet apart) creates an overconcentration of this business type at a major intersection in the community.

4. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

Massage parlors/businesses are required to comply with the State of California regulations which have been created to ensure safe operating procedures are practiced. Failure to comply with the State regulations and City’s ordinances can create a number of public health and safety concerns, illicit activities, and human trafficking. The City’s massage regulations and ordinances were aimed to promote legitimate massage businesses that will enhance and compliment the City’s commercial centers, while addressing health and safety concerns and creating enforcement mechanisms for controlling illicit operators. Similarly, the ordinances cover many of the issues inherent with massage establishments; leaving conditional use permits to address site specific concerns about individual business operations and their locations.

The applicant is proposing to be both owner and operator of the proposed business. The applicant has stated he has over ten years as a massage therapist, but has not provided

evidence to suggest experience operating and managing a massage business. In addition, the stringent regulations required to operate a massage business can be difficult to navigate, especially for a first-time business owner. In a preliminary meeting held with the prospective massage business owner, the City described the complex and varied City regulations and requirements related to massage businesses, and the uncertainty of the entitlement process before the Planning Commission. In these meetings, although the owner indicated that he understood the City's regulations, it was unclear that he was proficient in the English language and a competent translator was not present at the meeting. At the January Planning Commission meeting, a competent translator was not present. Yet, for the duration of the hearing, the applicant consistently asked his landlord to translate the sentiment of the Commission, even though the landlord was not fluent in the applicant's language and was not a certified translator. As such, it is unclear that the applicant has an adequate understanding of the complex City and state regulations regarding massage businesses.

5. The subject site is:
 - a. Physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities; and
 - b. Served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate.

The site consists of several parcels that collectively form the commercial shopping center. The center is accessible from Huntington Drive and Mount Olive Drive. Onsite circulation will not be altered and is suitable for the existing uses, the massage business, and emergency vehicle access. The multi-tenant building in the shopping center is divided into several tenant spaces. The proposed massage business will occupy one of the remaining tenant spaces, which is approximately 1,400 square feet in area.

SECTION 3. CEQA DETERMINATION

The denial of Conditional Use Permit 2019-05 by the Planning Commission is exempt from the California Environmental Quality Act (CEQA) pursuant to exemption in Section 15270, of Title 14 of the California Code of Regulations. Therefore, no further environmental review is necessary.

SECTION 4. RECOMMENDATION

Based upon the substantial evidence and testimony received at public hearing and the findings and conclusions set forth hereinabove, the Planning Commission hereby adopts this Resolution and denies Conditional Use Permit 2019-05 based on the findings listed in Section 2.

APPROVED AND ADOPTED by the Planning Commission of the City of Duarte at a regular meeting held on the 16th day of March, 2020.

Paula Watson-Gardner, Chairperson
City of Duarte Planning Commission

ATTEST:

Craig Hensley, Community Development Director

CITY OF DUARTE
COUNTY OF LOS ANGELES } ss.
STATE OF CALIFORNIA

I, Craig Hensley, Secretary of the Planning Commission of the City of Duarte, do hereby certify that the foregoing Resolution was denied at a regular meeting of the Planning Commission of the City of Duarte held on March 16, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Craig Hensley, Community Development Director



PLANNING COMMISSION STAFF REPORT

Date: January 21, 2020

Project: Conditional Use Permit 2019-05
New Massage Business (Health Massage)

Location: 2241 Huntington Drive

Applicant: Yongfeng Du, Business Owner

SUMMARY

The applicant, Yongfeng Du, is requesting approval of a Conditional Use Permit to operate a massage establishment at 2241 Huntington Drive. A massage establishment is a conditionally permitted use within the C-G (Commercial General) zone. The business will be located within an existing vacant tenant space that is part of a commercial shopping center on the north side of Huntington Drive, and west of Mount Olive Drive. The massage establishment will provide full body massage and foot massage by licensed masseurs. The applicant is proposing the operational hours of 10 a.m. to 9 p.m. seven days a week.

PROPERTY DESCRIPTION

The project site is located within the commercial center on the north side of Huntington Drive, west of Mount Olive Drive (formerly anchored by Fresh and Easy). The property is zoned Commercial-General (C-G) and contains a variety of retail and service uses. The tenant space is located on the east side of the shopping center near Mount Olive Drive.

PROJECT DESCRIPTION

The proposed massage business will be operated by Mr. Yongfeng Du, who has 10 years of massage experience. The establishment will consist of four (4) individual body massage rooms, three (3) foot massage chairs in one (1) room for men only, and three (3) foot massage chairs in one (1) room for women only. The applicant is currently proposing for three (3) employees to work at the massage establishment that will be licensed by the State of California. In addition, the proposed hours of operation will be 10 a.m. - 9 p.m. seven days a week. The tenant space is 1,400 square feet in area and the floor plan is shown as part of Exhibit B.



BACKGROUND

Laws regulating massage businesses have changed significantly over the past decade. In 2008, State law (SB 731), placed severe limitations to how and what cities can regulate related to the massage industry. After several years working under SB 731, the City experienced a series of problems dealing with massage businesses, including frequent turnover of massage technician staff and management, unapproved floor plan modifications, recordkeeping issues and on one occasion, an arrest for prostitution.

In January 2015, AB 1147 came into effect, which revised State law to allow cities additional authority in adopting land uses regulations, operational requirements, amongst other regulations pertaining to massage businesses.

In April 2015, the City Council adopted two ordinances to bring our regulations into compliance with State laws and to provide clear locational, developmental and operational standards for new massage businesses. Ordinance 857 added Chapter 19.60.112 of the Duarte Development Code (DDC) which were designed to accommodate massage businesses but with regulations to address the minimum size of the lease/building area these business can operate in; requiring increased transparency and visibility into the frontages of these lease areas; implementing lighting requirements; creating and expanding the definition of massage establishments; and categorizing massage businesses into a more restrictive land use category. Ordinance 858 modified Chapter 5.56 of the Duarte Municipal Code (DMC) which established and adjusted a large number of regulations pertaining to regulation of massage technician licenses, operational standards, recordkeeping, violations and pre-existing/ non-conforming massage businesses.

These ordinances were aimed to promote legitimate massage businesses that will enhance and compliment the City's commercial centers, while addressing health and safety concerns and creating enforcement mechanisms for controlling illicit operators. Similarly, the ordinances cover many of the issues inherent with massage establishments; leaving conditional use permits to address site specific concerns about individual business operations and their locations.

ANALYSIS

Staff has analyzed the project proposal and business description with both Chapter 19.60.112 of the Duarte Development Code and Chapter 5.56 of the Duarte Municipal Code related to Massage Establishments. Furthermore, Staff has examined site specific and operational topics related specifically to this proposed use, and provided a list and map of other massage establishments in the area.

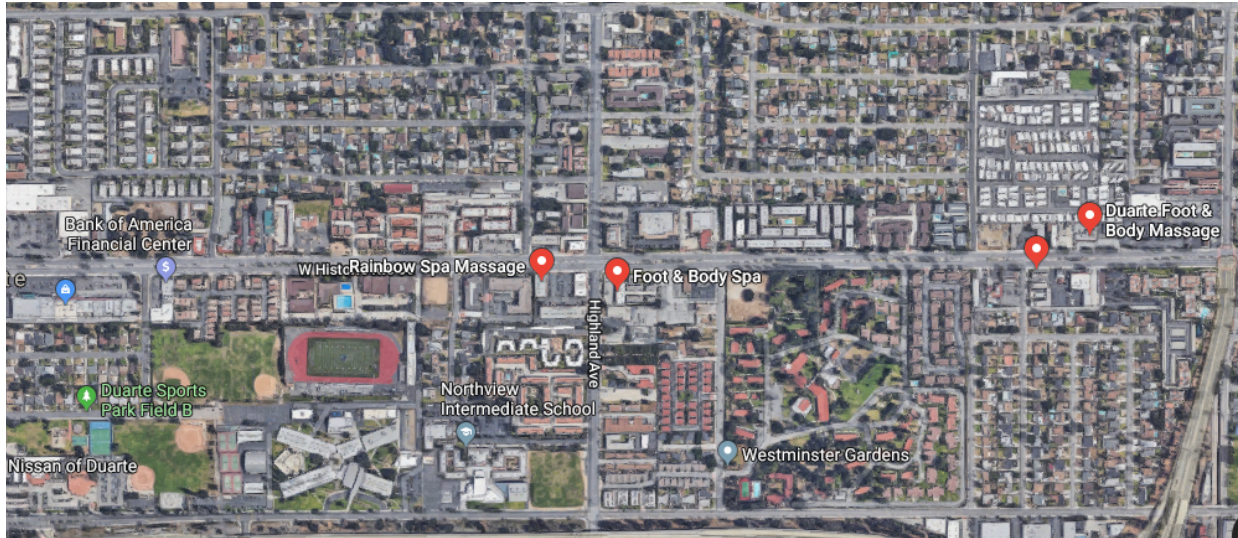
The proposed use meets the requirements listed in the DDC pursuant to Chapter 19.60.112. This proposal complies with the requirements of this section in that the minimum tenant suite required is 1,200 square feet and the proposed tenant suite is approximately 1,400 square feet. A reception desk and waiting area are required and to be accessed from the front of the suite with a minimum of 200 square feet, this proposals reception area is approximately 210 square feet and accessed only from the front entrance. In addition, the required storefront shall be 75 percent windows and the current existing storefront exceeds this requirement. This proposed massage establishment has been conditioned with the attached Conditions of Approval in the Resolution, which include requirements from Chapter 19.60.112. These conditions will help to ensure operational conformance to the DDC.

As is standard for all massage applications, Staff hosted a meeting with the applicant and the Code Enforcement and Planning Divisions. The purpose of the meeting is to ensure that the applicant understands the rigorous requirements of Chapter 5.56 and to clarify any questions before submittal of fees and a conditional use permit application. Staff has determined that the proposed use meets the requirements listed in Chapter 5.56 of the DMC, related to business license regulations and the

prerequisite requirements for the creation of a massage establishment, such as providing the appropriate number of wash basins, restrooms and a security system. The operational and site requirements of Chapter 5.56 have been included in the conditions of approval attached to the Resolution.

A review of data from the internet shows the following businesses offering massage in the area:

- Duarte Foot & Body Massage, 2163 Huntington Dr.
- Lucky Star Massage, 2138 Huntington Dr.
- Rainbow Spa Massage, 1740 Huntington Dr. Unit 310
- Foot & Body Spa, 1802 Huntington Dr.



Related to site specific issues, Staff has analyzed lighting and parking. The shopping center lighting for the proposed business must be upgraded to meet the intent of Section 19.60.112.C.3 of the DDC. More specifically, the lighting installed at the rear of the building stops west of the proposed business location and does not extend to the northeast corner of the building. Additional lighting can be added above the rear exit of the building to provide increased illumination at the door and this area of the shopping center. Furthermore, a condition has been added for Staff to conduct a nighttime inspection to ensure lighting levels along the front of the building are adequate to meet the Code. If additional lighting is needed, the condition requires the applicant repair or install lighting. Concerning parking, a previous parking analysis was conducted for the anytime fitness use in 2015. According to that study, the shopping center provides 133 parking spaces on a 34,853 square foot shopping center, which the analysis deems as sufficient parking for all tenant spaces. The study found that although the site is deficient by six (6) parking spaces, there are enough parking spaces for the existing tenants based upon operational characteristics. The study determined that at full tenant capacity there remains sufficient and excess parking available. The proposed use has a parking requirement of 1 space per 250 square feet, which is the same ratio used in the parking study and is consistent with the shopping center parking requirement within the DDC. Since retail and service uses within a shopping center have the same parking requirement, and there is no additional parking impact associated with massage establishments, no increase in parking is required with the approval of this use.

The operation of the massage business is suitable for the location and size of the vacant tenant space as the use is consistent with the commercial General zoning district, Section 19.60.112 of the Duarte

Development Code, and Chapter 5.56 of the Duarte Municipal Code. The service use is compatible with the existing services and retail uses within the shopping center and will operate with similar hours as those uses currently established in the shopping center.

RECOMMENDATION

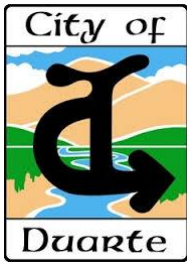
Based on the information provided in the Staff report, Staff recommends that Planning Commission review the information and adopt PC Resolution 2020-02 approving Conditional Use Permit 2019-05 to allow the operation of a massage establishment, subject to conditions of approval.

Respectfully Submitted,

Ivan Galeazzi
Associate Planner

ATTACHMENTS

Exhibit A:	Project Description
Exhibit B:	Project Plans
Exhibit C:	General Project Info
Exhibit D:	PC Resolution 2020-02
Exhibit E:	DMC Chapter 5.56



**CITY OF DUARTE
PLANNING COMMISSION
MINUTES
January 21, 2020**

Planning Commission
Commissioners
Paula Watson-Gardner, Chair
Sara Vasquez, Vice-Chair
George K. Farra
Tina Heany
Wally Wolff

1. CALL TO ORDER AND NOTATION OF ANY ABSENCES:

Chairperson Watson-Gardner called the meeting to order at 7:05 p.m. The following were in attendance:

PRESENT: Watson-Gardner, Heany, Farra and Vasquez
ABSENT: Wolff
STAFF: Hensley, Golding, Galeazzi, Baldwin, Hernandez
CITY ATTORNEY: None

2. PLEDGE OF ALLEGIANCE:

Vasquez led the Pledge of Allegiance.

3. SWEARING-IN OF COMMISSIONERS:

Hensley sworn in reappointed Commissioners Watson-Gardner and Heany.

4. COMMISSION REORGANIZATION:

Director Hensley opened nominations for Chairperson. Heany nominated Watson-Gardner. Seconded by Vasquez. Director Hensley called for other nominations and there were none.

Ayes: Watson-Gardner, Farra, Heany, Vasquez

The vote carried unanimously for Commissioner Watson-Gardner to be Chairperson, 4-0-0-1 (Absent: Wolff).

Chairperson Watson-Gardner opened nominations for Vice-Chair. Watson-Gardner nominated Vasquez for Vice-Chair. Heany seconded the nomination.

Ayes: Watson-Gardner, Heany, Farra, Vasquez

The vote carried unanimously for Commissioner Vasquez to be Vice-Chair, 4-0-0-1 (Absent: Wolff).

5. APPROVAL OF MINUTES: [November 18, 2019](#)

Vasquez moved to approve the minutes of November 18, 2019. Seconded by Heany. The motion was approved 4-0-0-1 (Absent: Wolff)

6. ORAL COMMUNICATIONS ITEMS NOT ON THE AGENDA:

Chairperson Watson-Gardner opened Oral Communications for items not on the Agenda. Seeing none the item was closed.

7. PUBLIC HEARINGS:

A. Conditional Use Permit No. 2019-05; A request for the review and approval to operate a new Massage Establishment within an existing tenant suite located at 2241 Huntington Drive.

Attachments: [Staff Report CUP 2019-05](#) and [PC Resolution 2020-02](#)

Ivan Galeazzi, Associate Planner presented a staff report and answered Commissioners' questions.

Vasquez, Heany and Farra asked additional questions on various aspects of the business establishment regarding lighting, maintenance, code enforcement, similar business proximity, total number of related businesses, washer/dryer and transparency requirements.

Chairperson Watson-Gardner opened the Public Hearing

Yongfeng Du, applicant answered Commissioners' questions regarding owning a previous business, understanding the conditions and requirements, business plan, concerns related to similar businesses, and plan to prevent illegal activities. The applicant brought his designer and representative of his landlord for translation assistance.

Dondie Hewes, Duarte resident a licensed massage therapist, and esthetician, has been in the industry for twenty years. She thanked the commission for addressing concerns that were stated in Nextdoor and commended staff for thorough Municipal Code regulations. She asked questions to the Commission regarding the limit of massage establishments that are allowed in the city, limitation on the number of employees for massage establishments, frequency of onsite inspections and the availability of code enforcement reports to the public.

Jason Golding, Planning Manager answered Ms. Hewes questions and provided detailed information on the process, regulations, and requirements. Director Hensley provided additional information on the process of a Conditional Use Permit regarding the type of business.

Golding answered questions from Vasquez regarding grandfather regulations from existing and new establishments.

Lino Paras spoke about his concerns regarding businesses rental expenses, signed lease agreements, business licenses, English communication barrier with the applicant, and the interior activity of the business.

Chairperson Watson-Gardner closed the Public Hearing.

Golding added two existing conditions that staff recommended for the Conditions of Approval regarding the reception front desk area being unobscured from view, and utilizing a minimum of two employees, or at the Commission's discretion to three employees, during all business hours.

Heany stated concerns on the language barrier and the applicant being unable to follow requirements. She commented that adding a condition for several inspections during the initial six months to ensure compliance of regulations would be helpful.

Farra and Vasquez expressed concern on the location of the business, type of business, business owner language barrier and the proximity of similar establishments.

Chairperson Watson-Gardner provided options on voting for the item. Hensley provided additional information for the Commission's consideration regarding voting.

Chairperson Watson-Gardner called for a motion on the item. Farra moved to approve, seconded by Heany. Hensley clarified if the motion included the recommended added conditions. Farra and Heany amended their motion to add recommended conditions and adding two initial inspections during the first six months of operation.

Golding asked if that also included the minimum of 2 or 3 employees at any one time. Commissioners deliberated about the suitable number of employees at the location.

Chairperson Watson-Gardner reinstated the motion with the additional conditions of an inspection during the first six months, a rehearing in six months after the beginning of the business, and if the item is approved, adding the municipal code requirement of two employees always being present. Chairperson Watson-Gardner asked Farra if his motion still stands.

Chairperson Watson-Gardner roll called the motion. The motion did not carry due to a lack of a majority of votes 2-2-0-1. (Vote: Yes: Watson-Gardner, Heany; No: Farra, Vasquez; Abstain: None; Absent: Wolff)

Hensley asked for the Commission to verbalize their concerns about the item, made upon the findings required by the Development Code, so Staff could prepare a denial resolution. Farra moved to deny the item. Seconded by Vasquez. Farra withdrew his motion to deny the item and proposed to table to continue the item. Seconded by Heany.

Heany and Farra commented on the various concerns regarding the location of the establishment, proximity to other massage businesses, and the applicant's language barrier.

Farra motioned to continue the item so the entire Commission could consider the item. Seconded by Heany. The motion was approved to continue the Public Hearing on the item to the next month's meeting. 3-1-0-1. (Vote: Yes: Watson-Gardner, Farra, Heany; No: Vasquez; Abstain: None; Absent: Wolff)

B. Conditional Use Permit 2019-07: A request to operate a retail secondhand use within an existing tenant suite located at 2215 Huntington Drive

Attachments: [Staff Report CUP 2019-07](#) and [PC Resolution 2020-01](#)

The Commission took a recess at 8:22 p.m. and reconvened the meeting at 8:27 p.m.

Nick Baldwin, Associate Planner presented a staff report and answered Commissioners' questions. Vasquez, Heany and Farra asked questions regarding the business maintenance, owner's responsibility on the renovation of the building, if the type of business, donations, secondhand products, home furnishings or clothing items to be sold in the store. There were concerns how the City will enforce the illegal dumping of donations or items at the location. There was additional discussion pertaining to the Azusa store over items left in front of the store and asked for reassurance that it will not be the same for Duarte's location.

Chairperson Watson-Gardner opened the Public Hearing.

Mark Van Lue, Executive Director representing the San Gabriel Valley Habitat for Humanity Restore provided background information about the store. He expressed excitement on relocating the store into a better location and operate under a new model that is not like Azusa. He indicated that the city staff made it clear that there are issues with and there will be conditions relating to outside storage, littering, and donations. He answered Commissioners' questions regarding, deliveries, the process of drop-offs & pick-ups, no intake donations in the store, closure of Azusa store, mitigation of nuisances for noise activity of trucks, day laborers congregations, percentage of donated items, frequency of dumped items at the store.

Chairperson Watson-Gardner closed the Public Hearing.

Chairperson Watson-Gardner called for a motion on the item. Farra moved to approve, seconded by Heany. The motion did not carry due to a lack of a majority of votes 2-2-0-1. (Vote: Yes: Watson-Gardner & Heany; No: Farra & Vasquez; Abstain: None; Absent: Wolff). Farra expressed concerns and recommended to continue the item so the entire Commission can vote.

Farra moved to table the item to the next meeting and seconded by Vasquez. The motion was approved 4-0-0-1 (Absent: Wolff).

Hensley asked the Commission's assistance to provide better service on understanding the reason and concerns on not approving or denying and continuing the item.

Commissioners expressed concerns and comments on location, maintenance, improvements, and type of business.

Hensley discussed market analysis previously done for the shopping center, outcome and concerns. He also indicated that staff will be bringing back the item with additional conditions.

Golding elaborated on multiple business proposals for the Fresh & Easy location, staff's concerns with many of these, and the review process before items are presented to the Commission.

Vasquez inquired about the property owner's requirement to maintain the shopping center. Golding explained that Code Enforcement is tasked with those items, and nuisance codes are the tools used to require proper maintenance.

8. ITEMS FROM DIRECTOR:

Hensley informed the Commission on current development.

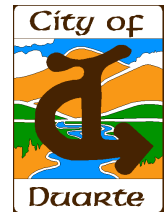
9. ITEMS FROM COMMISSIONERS:

Farra commented on his motion to continue the item.

10. ADJOURNMENT: Monday, March 16, 2020

Chairperson Watson-Gardner reopened Public Hearing to continue to the next meeting of February 18, 2020, and adjourned the meeting at 9:20 p.m.

Craig Hensley, Secretary



MEMORANDUM

TO: Planning Commission

FROM: Ivan Galeazzi, Associate Planner

DATE: February 18, 2020

SUBJECT: Continued Public Hearing for CUP 2019-05; Health Massage at 2241 Huntington Drive.

At the regularly scheduled Planning Commission meeting of January 21, 2020, staff presented Conditional Use Permit 2019-05, a request to operate a new massage business located at 2241 Huntington Drive within an existing commercial shopping center.

At the public hearing, Staff presented a staff report and PC Resolution 2020-02. After much discussion and public comment, the Planning Commission voted 2-2, resulting in a split decision of two Commissioners voting for approval and two Commissioners for denial. Because of the split vote, the Commission unanimously approved continuing the item to the February 18, 2020 meeting to allow for all five (5) commissioners to be present to take action on this item.

In response to the Commission's concerns about the use and applicant, Staff contacted the Planning Division, Business Licensing Department, and Police Department of San Gabriel to inquire of any potential issues or violations regarding Mr. Yongfeng Du and his former employer, Valley A Massage. There were no issues or violations reported to the City of San Gabriel and there were no reports with the San Gabriel Police Department. A background of the applicant was also conducted by our Public Safety Department, which indicated no criminal history or suspensions/ violations from CAMTC. In response to the public availability of massage inspection records, Staff contacted the Public Safety Department. They relayed that access to massage inspection records is public unless there's an active investigation or there are other legal restrictions providing public access (e.g. HIPA).

Staff has revised Resolution 2020-02 to include added conditions of approval to help with the regulation of the business and to ensure compliance with Duarte Municipal Code 5.56 and Duarte Development Code 19.60.112. Added conditions include: an inspection during the first six months of operation to ensure compliance with Duarte codes, the CUP shall have an automatic progress hearing from six (6) months after the approval of the business license to allow the Planning Commission to extend, deny, or modified the Conditional Use Permit, min employees, locational requirements based upon DDC.

RESOLUTION NO. PC 2020-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DUARTE DENYING CONDITIONAL USE PERMIT 2019-05 FOR THE OPERATION OF A MASSAGE BUSINESS (HEALTH MASSAGE) LOCATED AT 2241 HUNTINGTON DRIVE

WHEREAS, the applicant, Yongfeng Du, is requesting approval of a conditional use permit to operate a massage business at 2241 Huntington Drive; and

WHEREAS, a massage business located in the Commercial-General (C-G) zone is a conditionally permitted use pursuant to Duarte Development Code Section 19.16.020.A(1); and

WHEREAS, the proposed massage business complies with the regulations and requirements of Duarte Development Code Section 19.60.112 which regulates locational and developmental matters related to massage establishments; and

WHEREAS, the proposed massage business complies with the prerequisite requirements for the consideration of a massage establishment of Duarte Municipal Code Chapter 5.56 which regulates operational, licensure and health matters related to massage establishments; and

WHEREAS, the Planning Commission has considered the analysis and recommendation provided in the staff report for Conditional Use Permit application 2019-05 and all of the information, evidence and public testimony received at the public meeting held on January 21, 2020 at 7:00 p.m. in the City Council Chambers; and

WHEREAS, the Planning Commission, during their January 21, 2020 meeting, approved a motion to continue the public hearing to the next Planning Commission meeting on February 18, 2020; and

WHEREAS, the Planning Commission has considered the analysis and recommendation provided in the staff report for Conditional Use Permit application 2019-05 and all of the information, evidence and public testimony received at the public meeting held on February 18, 2020 at 7:00 p.m. in the City Council Chambers.

NOW THEREFORE, the Planning Commission of the City of Duarte resolves as follows:

SECTION 1. RECITALS

All of the facts set forth in the Recitals of this Resolution are true and correct and incorporated herein by this reference.

SECTION 2. FINDINGS FOR CONDITIONAL USE PERMITS

The Planning Commission finds and determines as follows, findings for Conditional Use Permits, as set forth in DDC Section 19.114.040(B), as:

1. The proposed use is consistent with the General Plan;

Based on the information currently available to the Planning Commission, the massage business appears to be generally consistent with the property's General Commercial land use designation, which is intended to provide for sites which will meet the shopping needs of the entire community," (Land Use Element, p.15). However, because the massage business is

located within 600 feet of an existing of an existing massage business and under ¾ mile of two other massage businesses, it is not consistent with Land Use Goals 1 and 2, which aim to “[m]aintain a balanced community consisting of various ... commercial activities” and “[d]evelop compatible and harmonious land uses by providing a mix of uses,” (Land Use Element p.2-3). Allowing two such businesses within approximately 600 feet from each other will not maintain a “balance” or “mix” of various commercial uses such that the commercial area “meets the shopping needs of the entire community.”

2. The proposed use is allowed within the subject zone and complies with all other applicable provisions of this Development Code and the Municipal Code;

The use complies with all regulations of the Duarte Development Code pursuant to Section 19.60.112, which stipulates requirements to locate a massage establishment. In addition, the proposed use complies with all the pre-requisite regulations of the Duarte Municipal Code pursuant to Section 5.56, which provides requirements for business licenses and operational regulations.

3. The design, location, size and operating characteristics of the proposed use are compatible with the allowed uses in the vicinity;

The proposed massage business plans on occupying one of the tenant spaces within an existing multi-tenant building of the strip commercial shopping center on the north side of Huntington Drive, west of Mount Olive Drive. The proposed business is not compatible with allowed uses in the vicinity, which include office, dining and retail uses within the commercial center, residential properties directly north and south of the subject property, and an elementary and continuation high school less than ¼ of a mile to the southeast. Furthermore, an existing massage business is located on the north side of Huntington Drive approximately 600 feet west of the tenant space. The proposed location sits approximately 200 feet north of Huntington Drive, behind a stand-alone service station, and 100 feet from Mt. Olive Drive. This location lacks visibility and will make it more difficult to monitor the business and also helps create an environment that tends to support loitering behavior and other nuisances. Lastly, the proximity of two massage businesses (again, approximately 600 feet apart) creates an overconcentration of this business type at a major intersection in the community.

4. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

Massage parlors/businesses are required to comply with the State of California regulations which have been created to ensure safe operating procedures are practiced. Failure to comply with the State regulations and City’s ordinances can create a number of public health and safety concerns, illicit activities, and human trafficking. The City’s massage regulations and ordinances were aimed to promote legitimate massage businesses that will enhance and compliment the City’s commercial centers, while addressing health and safety concerns and creating enforcement mechanisms for controlling illicit operators. Similarly, the ordinances cover many of the issues inherent with massage establishments; leaving conditional use permits to address site specific concerns about individual business operations and their locations.

The applicant is proposing to be both owner and operator of the proposed business. The applicant has stated he has over ten years as a massage therapist, but has not provided

evidence to suggest experience operating and managing a massage business. In addition, the stringent regulations required to operate a massage business can be difficult to navigate, especially for a first-time business owner. In a preliminary meeting held with the prospective massage business owner, the City described the complex and varied City regulations and requirements related to massage businesses, and the uncertainty of the entitlement process before the Planning Commission. In these meetings, although the owner indicated that he understood the City's regulations, it was unclear that he was proficient in the English language and a competent translator was not present at the meeting. At the January Planning Commission meeting, a competent translator was not present. Yet, for the duration of the hearing, the applicant consistently asked his landlord to translate the sentiment of the Commission, even though the landlord was not fluent in the applicant's language and was not a certified translator. As such, it is unclear that the applicant has an adequate understanding of the complex City and state regulations regarding massage businesses.

5. The subject site is:
 - a. Physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities; and
 - b. Served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate.

The site consists of several parcels that collectively form the commercial shopping center. The center is accessible from Huntington Drive and Mount Olive Drive. Onsite circulation will not be altered and is suitable for the existing uses, the massage business, and emergency vehicle access. The multi-tenant building in the shopping center is divided into several tenant spaces. The proposed massage business will occupy one of the remaining tenant spaces, which is approximately 1,400 square feet in area.

SECTION 3. CEQA DETERMINATION

The denial of Conditional Use Permit 2019-05 by the Planning Commission is exempt from the California Environmental Quality Act (CEQA) pursuant to exemption in Section 15270, of Title 14 of the California Code of Regulations. Therefore, no further environmental review is necessary.

SECTION 4. RECOMMENDATION

Based upon the substantial evidence and testimony received at public hearing and the findings and conclusions set forth hereinabove, the Planning Commission hereby adopts this Resolution and denies Conditional Use Permit 2019-05 based on the findings listed in Section 2.

APPROVED AND ADOPTED by the Planning Commission of the City of Duarte at a regular meeting held on the 16th day of March, 2020.

Paula Watson-Gardner, Chairperson
City of Duarte Planning Commission

ATTEST:

Craig Hensley, Community Development Director

CITY OF DUARTE
COUNTY OF LOS ANGELES } ss.
STATE OF CALIFORNIA

I, Craig Hensley, Secretary of the Planning Commission of the City of Duarte, do hereby certify that the foregoing Resolution was denied at a regular meeting of the Planning Commission of the City of Duarte held on March 16, 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Craig Hensley, Community Development Director