



Staff Report

TO: Planning Commissioners
FROM: Carole Kendrick, Senior Planner
DATE: November 10, 2020
SUBJECT: **Public Hearing for Conditional Use Permit CUP2020-0053 – A Request for Planning Commission Consideration of the Operation of Massage Establishment Located at 1384 E. Sixth Street, with Consideration of an Environmental Exemption Pursuant to CEQA Guidelines Section 15301 (Existing Facilities)**

APPLICANT: Molchanok Cruz

Background:

Senate Bill 731 (SB 731) (2008) authorized the creation of the California Massage Therapy Council (a nonprofit public benefit corporation), which shifted the regulation of massage therapists from local jurisdictions to statewide voluntary certification, and significantly limited local land use control of massage uses. Assembly Bill 1147 (AB 1147), The Massage Therapy Act of 2014, amended SB 731 to give local government greater authority to regulate massage establishments and create a more robust regulatory system for massage professionals and establishments.

On May 7, 2019, the City Council adopted Ordinance No. 1106 which amended Table 17.03-3 'Permitted Uses in Base Zone District' and Table 17.03-4 'Permitted Uses in Overlay Zone Districts' within Chapter 17, 'Zoning' of the Beaumont Municipal Code" allowing massage establishments in certain commercial zones subject to Conditional Use Permit approval by the Planning Commission.

The City of Beaumont currently has nine (9) active massage therapy business licenses at seven (7) locations.

- Massage by Lori, 737 Beaumont Ave., Ste. A (Shear Wonders Salon)
- Beaumont Massage Therapy, 795 E. 6th Street, Ste. K (Blade Designs)
- Sole So Happy/Tony @ Sole So Happy, 1676 E. 6th Street, Ste. B
- Golden Massage, 890 W. Oak Valley Pkwy., Ste. C

- Tikva Krindle Massage Therapy, 1648 Midnight Sun Drive
- The Royal Massage, 795 E. 6th Street, Suite M
- Patti Styles Massage Therapist, 701 Highland Springs Avenue, Suite 9
- Kaelyn Baldivid, 701 Highland Springs Avenue, Suite 8

The Commercial General/Sixth Street Overlay zone use table (17.03-4) allows massage establishments subject to the approval of a Conditional Use Permit. The Beaumont Municipal Code Section 17.02.100. requires the approval of a Conditional Use Permit by the Planning Commission for certain uses, due to the nature of the use, intensity, or size require special review to determine if the use proposed, or the location of that use, is compatible with surrounding uses, or through the imposition of development and use conditions, can be made compatible with surrounding uses. The purpose of this requirement is to establish a formal review of such proposals, which involves conducting a public hearing and giving written notice to property owners within a 300-foot radius of the site.

The Planning Commission can either approve, conditionally approve or deny the conditional use permit proposals and may establish conditions of approval for the business' operations to ensure that it will not be a detriment to the community.

Description:

The applicant is requesting approval of a Conditional Use Permit for the operation of a massage establishment located on the north side of Sixth Street and west of American Avenue. The subject site is approximately 0.66 acres and contains two (2) existing single-story buildings that County records show was constructed in 1952 and annexed into the City limits in 1970. The main structure was originally a single-family residence that was converted to a commercial use. Staff has been able to locate records on second building but based on historical photographs was constructed prior to 1996. Previous uses include an antique store and several massage operations. The site is currently improved with curb and an asphalt parking lot.

The project setting can also be seen in the following materials attached to this staff report:

- General Plan Land Use Map (Attachment C)
- Zoning Map (Attachment D)
- Aerial Photograph (Attachment E)

The land uses, zoning, and General Plan land use designations of the project site and surrounding area are shown in the following Table.

	LAND USE	GENERAL PLAN	ZONING
PROJECT SITE	Single Story Converted Residence	General Commercial (GC)	Commercial General (CG) in the 6 th Street Overlay
NORTH	Extra Space Storage	Multiple Family Residential (MFR)	Residential Multiple Family (RMF)
SOUTH	Carson Trailers	General Commercial (GC)	Commercial General (CG) in the 6 th Street Overlay
EAST	American Town Center (various commercial) & Multiple Family Residential	General Commercial (GC) and Multiple Family Residential (MFR)	Commercial General (CG) in the 6 th Street Overlay and Residential Multiple Family (RMF)
WEST	Vacant Land	General Commercial (GC) and Multiple Family Residential (MFR)	Commercial General (CG) in the 6 th Street Overlay and Residential Multiple Family (RMF)

Analysis:

The applicant is proposing to operate a massage establishment within an existing building that provides three (3) private massage rooms, a lobby area, kitchen, bathroom and laundry/storage area. The project will utilize the front building and the square footage is currently unknown and not provided on the County Assessor’s information. Based on previous applications, it is estimated that the building is approximately 1,600 square feet.

The applicant currently has no employees and initially be the only operator at the subject site. Typical appointments are between 30 minutes to one (1) hour and the services available include Thai, Thai combination, hot stone or deep tissue massages.

The proposed site plan does not include the secondary building located behind the primary building and is not considered part of the proposed application.

The attached Development Plan (Attachment B) include the site layout and floor plan.

The Police Department and Code Enforcement Division have indicated that the location has not had any code violations or calls for service related to previous massage operations. The massage business is required to renew their license annually with the City and demonstrate that it continues to operate in accordance with all of the facility and operational requirements outlined in Beaumont Municipal Code Chapter 5.44

Circulation and Parking:

Commercial parking requirements are broken down into 13 categories. The Community Development has the authority under Section 17.05.040.B. to make a determination that an unspecified land use not specifically listed in the parking table is similar to another. The proposed use is considered similar to a medical or dental office use and requires one (1) space per 250 square feet, per Table 17.05-1.

The site is currently developed and provides six (6) parking spaces that are located to the north of the primary building that are accessible by a 35-foot-wide driveway from Sixth Street. Based on the approximate square footage, the project would require six (6) parking spaces using the medical/dental office category.

Hours of Operation:

The applicant is proposing a massage establishment with operating hours from 9:00 am to 10:00 pm, seven (7) days a week, however the Municipal Code restricts the hours of operation for massage operations to occur between 9:00 am and 8:00 pm. The project has been conditioned to operate within the hours established by Beaumont Municipal Code, Section 5.44.090.A.2 (see Condition No. 16)

Massage Requirements:

In order to begin operation, the establishment will be required to follow the approval process for compliance with the Beaumont Municipal Code Chapter 5.44 in addition to obtaining a Conditional Use Permit. Many of the items addressed in BMC Ch. 5.44 relate to operational issues that either must be vetted under the separate review process described in the municipal code or followed in the day-to-day operations of the business. The most significant of these include CAMTC licensing requirements for technicians, recordkeeping requirements, health and hygiene provisions, video surveillance requirements and prohibited conduct, procedures and equipment.

The proposed location is suitable for the use. The Conditional Use Permit requirements and many of the BMC Ch. 5.44 requirements can be addressed prior to opening the business. Additionally, if the business operation begins to create adverse impacts or becomes detrimental to the community, enforcement actions under BMC 5.44 or the potential modification and/or revocation of the conditional use permit through a public hearing before the Planning Commission can be used to achieve compliance.

Multi-Species Habitat Conservation Plan (MSHCP):

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

Development Review Committee (DRC):

The Development Review Committee reviewed the project on October 29, 2020. Staff from the various City departments provided written comments that have been incorporated into the proposed conditions of approval.

CEQA Review:

This project is exempt from review under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 in that information contained in the project file and documents incorporated herein by reference demonstrates that: Conditional Use Permit No. CUP2020-0053 is consistent with the General Commercial (GC) General Plan designation and all applicable General Plan policies as well as the applicable zoning designation of Commercial General (CG) base zone and the Sixth Street Overlay; the proposed project site is located within the boundaries of the City of Beaumont; CUP2020-0053 has no value as habitat for endangered, rare or threatened species; there is no substantial evidence in the record that CUP2020-0053 will result in significant effects related to traffic, noise, air quality or water quality in that the proposed design incorporates and otherwise is subject to air and water quality resource agency design requirements to avoid harmful effects; and the site is or can be adequately served by all required utilities and public services. As such, the project meets the criteria for application of a Class 01 (Existing Facilities) Categorical Exemption under the CEQA Guidelines. Additionally, none of the exceptions provided in CEQA Guidelines Section 15300.2 apply to this project.

Public Communications Received:

Property owners located within a 300-foot radius of the project site were notified of the public hearing on October 30, 2020, with a 10-day hearing notice in addition to a public notice in the Press Enterprise. At the time of report preparation, the Planning Department has not received any letters of comment from the public in favor or opposition to the project. Any comments received prior to the time of the scheduled Planning Commission meeting will be provided to the Commission at the time of the public hearing.

Conditional Use Permit Findings:

The Planning Commission may approve and/or modify a Conditional Use Permit in whole or in part, with or without conditions, provided that all of the following findings of fact are made:

1. The proposed uses conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this Zoning Ordinance.

The site is currently developed with two existing single-story structures and is generally consistent Development Standards for the Commercial General (CG) zone and the 6th Street Overlay. The zoning allows massage operations subject to a Conditional Use Permit.

2. The proposed uses would not impair the integrity and character of the zone in which it is to be located.

The subject property is zoned General Commercial (GC) within the 6th Street Overlay which allows massage operations subject to a Conditional Use Permit. The site is located in an area that includes Commercial General (CG) properties to the east, west and south, and Residential Multiple Family (RNF) to the north, east and west. The proposed use is consistent with the character of the Commercial General (CG) zone and the 6th Street Overlay.

3. The subject site is physically suitable for the type of land use being proposed.

The site is currently developed with two existing single-story buildings, curb and asphalt parking that was previously utilized as a massage operation from 2018 to 2020 and an antique store in 2006. The proposed project is in a predominately commercially and multiple family zoned area that is developed with existing

commercial developments or multiple family units. The applicant is not proposing any changes and is requesting to continue to utilize the building for a massage operation which is physically suitable for the use.

4. The proposed uses are compatible with the land uses presently on the subject property.

The site is currently developed and was previously utilized with a similar use, as a massage establishment, and is zoned Commercial General within the 6th Street Overlay and the proposed use are allowed subject to approval of a Conditional Use Permit.

5. The proposed uses would be compatible with existing and future land uses within the zone and the general area in which the proposed use is to be located.

The zoning and land use designation for the project site is Commercial General (CG) within the 6th Street Overlay. The proposed project is surrounded by property that is Commercial General and Residential Multiple Family within the 6th Street Overlay and designated as General Commercial and Multiple Family Residential by the General Plan. The site is surrounded by developed land to the north, south and east with existing commercial structures or multiple-family residences. Vacant land is located to the west of the site. The proposed use is compatible with the surrounding commercial and multiple family residential zoned properties as it will massage services in a semi-residential environment.

6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.

The site is served by the Beaumont-Cherry Valley Water District for water services and the City of Beaumont for sewer disposal system. Electricity will be provided by Southern California Edison and natural gas will be provided by the Southern California Gas Company. Solid waste and refuse services are provided by Waste Management, Inc. on behalf of the City of Beaumont. The site can be adequately served and will not be detrimental to public health and safety.

7. There would be adequate provisions for public access to serve the subject proposal.

There is adequate access to the site as determined by the City's public safety departments. The site has frontage and access from 6th Street.

8. The proposed use is consistent with the objectives, policies, general land uses, and programs of the City of Beaumont General Plan.

The proposed project is in conformance with the General Plan for the City of Beaumont. The land use designation for the project site is General Commercial (GC). The proposed development is consistent with the General Plan policies.

9. The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

The proposed project is located within an existing building that generally meets the development standards under the Commercial General zoning and 6th Street Overlay, which is intended to protect the public interest, health, safety, convenience, or welfare. The massage operation will provide services from 9:00am to 10pm, 7 days a week in a semi-residential environment that will not be detrimental to public health, safety or welfare.

10. The proposed design and elevations preserve and maximize the image, character, and visual quality of the neighborhood.

The project as proposed will utilize an existing single-story building that was constructed in 1952 when the property was located in the County of Riverside and was annexed into the City of Beaumont on January 26, 1970. The applicant is not proposing any modifications to the existing design or elevations and is requesting to operate a massage business consistent with previous uses on the site.

11. The Planning Commission shall find that the proposed use does not have a disproportionately high and adverse human health or environmental effect on minority and low-income populations.

This use will not have an adverse effect on humans or the environment for any population. The proposed project will provide massage services in a semi-residential environment to serve the Beaumont population.

Recommended Action:

Hold a Public Hearing; and
Approve Conditional Use Permit No. CUP2020-0053, subject to the proposed conditions of approval; and
Direct staff to prepare a Notice of Exemption for the applicant to record with the County Clerk.

Attachments:

- A. Draft Conditions of Approval
- B. Development Plan
- C. General Plan Land Use Designation
- D. Zoning Map
- E. Aerial Photograph
- F. Proof of Publication

Incorporated herein by Reference:

City of Beaumont General Plan
City of Beaumont Zoning Ordinance
Project Site's Riverside Conservation Authority Multi-Species Habitat Conservation Plan Informational Map
Contents of City of Beaumont Planning Department Project File PP2018-0143, PP2020-0313 and CUP2020-0053