

PC Attachment 1

RESOLUTION NO. PC 2024-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LAKE FOREST, CALIFORNIA APPROVING USE PERMIT 06-24-5718 TO OPERATE A MASSAGE ESTABLISHMENT (TWILIGHT MASSAGE & SPA) IN AN EXISTING TENANT SPACE IN THE LAKE FOREST MARKETPLACE SHOPPING CENTER LOCATED AT 23805 EL TORO ROAD

WHEREAS, on June 2, 2024, Vincent Jiang with ANG Construction and Design filed an application for a Use Permit to operate a massage establishment at 23805 El Toro Road in Lake Forest; and

WHEREAS, the property is zoned Mixed-Use 43 and the City's Zoning Code requires Planning Commission approval of a Use Permit for massage establishments in this zoning district; and

WHEREAS, the Director of Community Development has reviewed the project's potential effects on the environment and has recommended that the project is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, Class 1, involving minor interior alterations to the building; and

WHEREAS, on September 19, 2024, the City gave notice of a public hearing to be held to consider Use Permit 06-24-5718 by advertisement in a newspaper of general circulation, and on September 16, 2024, posted the public notice at City Hall, mailed notices to all tenants in the Lake Forest Marketplace, and mailed notices to all property owners within 300 feet of the project boundary; and

WHEREAS, on October 3, 2024, the Planning Commission conducted a duly-noticed public hearing to consider Use Permit 06-24-5718 for a massage establishment at 23805 El Toro Road, at which interested persons had an opportunity to testify in support of, or opposition to the request, and at which the Planning considered the application; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LAKE FOREST DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1. FINDINGS. The Lake Forest Planning Commission hereby finds, based on consideration of the whole record before it, as follows:

1. General Plan Consistency: The use or project proposed is consistent with the General Plan.

The project site is designated Mixed-Use 43 on the General Plan Land Use Map. This designation provides opportunities for mixtures of commercial, office, and residential uses in the same building, on the same parcel of land, or within the same area. Single-use projects, such as commercial shopping centers are also allowed in this land use designation. The proposed massage establishment is a service use that is typically located in a commercial shopping center. As such, the use is consistent with the Mixed-Use 43 General Plan Land Use designation and is not in conflict with any General Plan goals or policies.

2. Zoning Code: The use, activity, or improvement(s) proposed by the application is consistent with the provisions of the Zoning Code.

The project site is located within the Mixed-Use 43 zoning district. Pursuant to Zoning Code Section 9.73.065, massage establishments in this zoning district require Planning Commission approval of a Use Permit. Lake Forest Marketplace is parked as a shopping center. Pursuant to the City's parking requirements (Zoning Code Section 9.168.070), typical shopping center uses, such as retail, food-related, office and services uses may be parked using the shopping center ratio. The proposed establishment is a service use typically found in a shopping center. As such, the use is in compliance with the City's parking requirements. The proposed project does not include any exterior changes and will not expand the square footage of the existing building. Accordingly, the project is consistent with the provisions of the City's Zoning Code.

3. CEQA: The approval of the permit application is in compliance with the requirements of the California Environmental Quality Act.

The proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article 19, Categorical Exemptions, Sec. 15301, Class 1: Existing Facilities, of the CEQA Guidelines. This exemption applies to the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures involving negligible or no expansion of use. A Notice of

Exemption has been prepared and will be filed in accordance with the provisions of CEQA.

4. Compatibility: The location, size, design and operating characteristics of the proposed use will not create significant noise, traffic, or other conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

Lake Forest Marketplace shopping center is located on the southwest corner of El Toro Road and Rockfield Blvd. The center is adjacent to a single-family residential neighborhood. The proposed massage establishment will be conducted entirely within the tenant space and would not be open late at night. In addition, the project is in compliance with the City's parking requirements. Accordingly, the location, size, design and operating characteristics of the proposed use will not create significant noise, traffic, or other conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

5. General Welfare: The application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

The application, as conditioned, complies with all applicable State, County, and City design, building, and other safety-related laws, codes, and regulations, including, but not limited to, the California Building Code and California Fire Code. In addition, the use, as conditioned, will be subject to the massage establishment facilities and operations requirements stipulated in LFMC Ch. 5.07, which include regulations related to health, safety, and security of the employees and clients. Accordingly, the project will not result in any conditions or circumstances contrary to the public health and safety, or the general welfare.

6. Development Fees for Provision of Public Facilities:

The proposed massage establishment will not provide for development of a project which would contribute to the need for a public facility for which a fee is required. Therefore, no public facilities development fee will be collected in conjunction with the approval of the Use Permit.

7. City Design Guidelines: The project has been reviewed in accordance with the Citywide Design Guidelines and is consistent with the purpose and intent of the Guidelines.

The project does not include any modifications to the site or exterior of the building necessitating review for conformance with the Citywide Design Guidelines.

SECTION 2. PLANNING COMMISSION ACTIONS. The PLANNING COMMISSION hereby takes the following actions:

1. Approves a categorical exemption for the project under CEQA Guidelines Section 15301, Class 1 – Existing Facilities, and directs the Director of Community Development to prepare and file with the Clerk for the County of Orange a Notice of Exemption pursuant to the provisions of Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062. A copy of the exemption shall be kept on file and available for public review at the City of Lake Forest City Hall, 100 Civic Center Drive, Lake Forest, CA 92630.
2. Approves Use Permit 06-24-5718 to operate a massage establishment (Twilight Massage & Spa) at 23805 El Toro Road, subject to the following conditions:

CONDITIONS OF APPROVAL:
Use Permit 06-24-5718

The following Conditions of Approval shall apply to the applicant for the permit and/or owner of the property, whichever is appropriate for the condition.

1. INDEMNIFICATION: The applicant shall indemnify, protect, defend, and hold the City, and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and other such procedures), judgments, orders, and decisions (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any

permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Community Redevelopment Law, Code of Civil Procedure Sections 1085 or 1094.5, or any other federal, state, or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. Expiration: Use Permit 06-24-5718 shall expire 24 months from the date of this approval (October 3, 2026) if the use has not been established and an extension of time has not been approved by the Director of Development Services. (PLNG)

Prior to operation of the massage establishment, the following shall be completed:

3. A building permit shall be obtained from the Community Development Department for all applicable tenant improvements. The tenant space shall be improved in substantial conformance with the plans approved by the Planning Commission on October 3, 2024, and on file with the Community Development Department. The plans submitted to the Building Division shall include complete construction drawings and structural calculations based on requirements of the 2019 California Building Code (CBC), ASCE 7-16 and NDS 2018. The site plan shall also show a clear path of travel from the accessible parking space(s) or from point of drop-off to the existing tenant suite. This project shall comply with CBC 2019 chapter 11-B for accessibility to disabled people; show all accessible parking associated with the project site, and all required accessible signage. (BLDG)
4. The owner(s) of the business shall obtain a Massage Establishment License from the City. (PLNG)

The use shall be operated and maintained in substantial conformance with the following:

- 5. The use shall be operated and maintained in compliance with all standards and requirements stipulated in LPMC Chapter 5.07 – *Massage Establishments*. (PLNG)
- 6. The hours of operation shall be from 10:00 a.m. to 8:30 p.m. daily.
- 7. The number of massage therapists working at one time shall be a maximum of five.
- 8. The massage establishment shall be maintained in substantial conformance with the plans and project description approved by the Planning Commission on October 3, 2024, and on file with the Community Development Department. Minor modifications to the plans and/or project description shall be subject to additional review as determined by the Director of Community Development. (PLNG)

PASSED, APPROVED AND ADOPTED this 3rd day of October, 2024, by the following vote, to wit:

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| AYES: | COMMISSIONERS |
| NOES: | COMMISSIONERS |
| ABSENT: | COMMISSIONERS |
| ABSTAINED: | COMMISSIONERS |

 JORDAN VILLWOCK
 CHAIR
 LAKE FOREST PLANNING COMMISSION

 DATE

ATTEST:

 GAYLE ACKERMAN, AICP
 DIRECTOR OF COMMUNITY DEVELOPMENT

 DATE