



## A G E N D A

### GARDEN GROVE PLANNING COMMISSION

September 21, 2023 - 7:00 PM

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE

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**Meeting Assistance:** Any person requiring auxiliary aids and services, due to a disability, to address the Planning Commission, should contact the Department of Community & Economic Development at (714) 741-5312 or email [planning@ggcity.org](mailto:planning@ggcity.org) 72 hours prior to the meeting to arrange for special accommodations. (Government Code §5494.3.2).

**Agenda Item Descriptions:** Are intended to give a brief, general description of the item. The Planning Commission may take legislative action deemed appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda.

**Documents/Writings:** Any revised or additional documents/writings related to an item on the agenda distributed to all or a majority of the Planning Commission within 72 hours of a meeting, are made available for public inspection at the same time (1) in the Planning Services Division Office at 11222 Acacia Parkway, Garden Grove, CA 92840, during normal business hours; and (1) at the Community Meeting Center at the time of the meeting.

**Public Comments:** Members of the public who attend the meeting in-person and would like to address the Planning Commission are requested to complete a yellow speaker card indicating their name and address, and identifying the subject matter they wish to address. This card should be given to the Recording Secretary before the meeting begins. General comments are made during "Oral Communications" and are limited to three (3) minutes and to matters the Planning Commission has jurisdiction over. Persons wishing to address the Planning Commission regarding a Public Hearing matter will be called to the podium at the time the matter is being considered. Members of the public who wish to comment on matters before the Commission, in lieu of doing so in person, may submit comments by emailing [public-comment@ggcity.org](mailto:public-comment@ggcity.org) no later than 3:00 p.m. the day of the meeting. The comments will be provided to the Commission as part of the meeting record.

**PLEASE SILENCE YOUR CELL PHONES DURING THE MEETING.**

### REGULAR MEETING AGENDA

ROLL CALL: CHAIR LINDSAY, VICE CHAIR CUNNINGHAM  
COMMISSIONERS ARBGAST, CUEVA, LARICCHIA, PAREDES,  
RAMIREZ

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

- A. ORAL COMMUNICATIONS - PUBLIC
- B. [APPROVAL OF MINUTES – August 17, 2023](#)
- C. PUBLIC HEARING(S) (Authorization for the Chair to execute Resolution shall be included in the motion.)

[C.1. CONDITIONAL USE PERMIT NO. CUP-243-2023](#)

APPLICANT: BE HO

LOCATION: SOUTH OF GARDEN GROVE BOULEVARD, BETWEEN TAFT STREET AND CENTURY BOULEVARD, AT 10868 GARDEN GROVE BOULEVARD

REQUEST: A request for Conditional Use Permit approval to allow the operation of a new massage establishment, 128 Luxury Spa, within an existing multi-tenant office building. The site is in the GGMU-1 (Garden Grove Boulevard Mixed Use 1) zone. In conjunction with the request, the Planning Commission will also consider a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 – Existing Facilities – of the State CEQA Guidelines.

STAFF RECOMMENDATION: Approval of Conditional Use Permit No. CUP-243-2023, subject to the recommended conditions of approval.

[C.2. CONDITIONAL USE PERMIT NO. CUP-245-2023](#)

APPLICANT: MICHELLE NG

LOCATION: SOUTHEAST CORNER OF GARDEN GROVE BOULEVARD AND WILSON STREET AT 8550 GARDEN GROVE BOULEVARD

REQUEST: A request for Conditional Use Permit approval to allow a new, approximately 795 square foot tattoo parlor, White Lotus Society, to operate within an existing tenant space of a multi-tenant commercial plaza. The site is in the GGMU-2 (Garden Grove Boulevard Mixed Use 2) zone. In conjunction with the request, the Planning Commission will also consider a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 – Existing Facilities – of the State CEQA Guidelines.

STAFF RECOMMENDATION: Approval of Conditional Use Permit No. CUP-245-2023, subject to the recommended conditions of approval.

[C.3. CONDITIONAL USE PERMIT NO. CUP-284-09 \(REV. 23\)](#)

APPLICANT: HTB, INC.

LOCATION: WEST SIDE OF MAIN STREET, BETWEEN GARDEN GROVE BOULEVARD AND ACACIA PARKWAY, AT 12941 MAIN STREET

REQUEST: A request to modify Conditional Use Permit No. CUP-284-09 (REV. 10), which governs alcohol sales and limited live entertainment at an existing restaurant, The Wharf, located within the Historic Main Street, to include (i) a modification to the approved floor plan and conditions of approval to add two (2) new pool tables in the dining area as incidental amusement devices, and (ii), a modification to the conditions of approval to extend the operational hours from 11:00 p.m. to 2:00 a.m., seven (7) days a week. The site is in the CC-2 (Civic Center Main Street) zone. In conjunction with the request, the Planning Commission will also consider a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 – Existing Facilities – of the State CEQA Guidelines.

STAFF RECOMMENDATION: Approval of Conditional Use Permit No. CUP-284-09 (REV. 23), subject to the recommended conditions of approval.

C.4. [GENERAL PLAN AMENDMENT NO. GPA-002-2023](#)  
[AMENDMENT NO. A-037-2023](#)

APPLICANT: CITY OF GARDEN GROVE

LOCATION: CITYWIDE

REQUEST: The Garden Grove Planning Commission will hold a public hearing and consider a recommendation that the City Council: (i) adopt a General Plan Amendment (GPA-002-2023), which includes updates to the adopted 2021-2029 Housing Element and to amend the General Plan Land Use Designation of a property located at 13621 Harbor Boulevard (Assessor's Parcel No. 100-123-01), from Industrial (I) to International West Mixed Use (IW); and (ii) adopt a Zoning Map amendment (A-037-2023) to revise the Zoning Map to implement the updates to the Housing Element and to clarify the sites intended to be included in the International West Mixed Use Overlay and the Industrial/Residential Mixed Use 1 Overlay, pursuant to Ordinance No. 2925. The focus of the General Plan and Zoning Map Amendments is to comply with State law provisions and resolve comments received from the California Department of Housing and Community Development (HCD) on the adopted 2021-2029 Housing Element, in order to obtain HCD certification of the City's Housing Element.

In conjunction with this request, the City of Garden Grove will consider a determination that no further review under the California Environmental Quality Act ("CEQA") is required pursuant to Public Resources Code

Section 21166 and CEQA Guidelines Section 15162 because the proposed General Plan and zoning amendments implement the General Plan update analyzed in the City of Garden Grove Focused General Plan Update and Zoning Amendments Environmental Impact Report, State Clearinghouse No. 2021060714 ("Garden Grove General Plan Update and Focused Zoning Amendments"), potential impacts of the General Plan and zoning amendments fall within the scope of the General Plan Update EIR, and the General Plan and zoning amendments will not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts. The Planning Commission will make a recommendation to the Garden Grove City Council.

The draft of the proposed Revised Adopted 2021-2029 Housing Element (June 2023) is available for public review on the City's website at [ggcity.org/housing-element](http://ggcity.org/housing-element).

The proposed Zoning Map Amendment will apply and/or clarify that the mixed use overlays adopted pursuant to Ordinance No. 2925 apply to the parcels listed below. These parcels are generally located along Harbor Boulevard between Trask Avenue and Westminster Avenue, and along Western Avenue between Chapman Avenue and Garden Grove Boulevard.

The following parcels will be included in the International West Mixed Use Overlay:

13621 HARBOR BLVD (APN: 10012301)	13631 HARBOR BLVD (APN: 10012302)
12382 GARDEN GROVE BLVD (APN: 10161101)	13851 & 13861 HARBOR BLVD (APN: 10013079)
12532 GARDEN GROVE BLVD (APN: 10134366)	13862 SEABOARD CIR (APN: 10013058)
12562 GARDEN GROVE BLVD (APN: 10101104)	13962 SEABOARD CIR (APN: 10013068)
12640 GARDEN GROVE BLVD (APN: 10101101)	11901 WESTMINSTER AVE (APN: 10013069)
13518 HARBOR BLVD (APN: 10108075)	(APN: 23132320)
13591 HARBOR BLVD (APN: 10012232)	

The following parcels will be included in the Industrial/Residential Mixed Used 1 Overlay:

7571 CHAPMAN AVE (APN: 13160115)	12906 WESTERN AVE (APN: 21514111)
7541 CHAPMAN AVE (APN: 13160125)	7561 GARDEN GROVE BLVD (APN: 21514112)
12700 WESTERN AVE (APN: 21503301)	7601 GARDEN GROVE BLVD (APN: 21514113)
12712 WESTERN AVE (APN: 21503303)	7500 CHAPMAN AVE (APN: 13167112)
7532 ANTHONY AVE (APN: 21514110)	(APN: 13167107)
7572 ANTHONY AVE (APN: 21514109)	7571 LAMPSON AVE (APN: 13167106)
7602 ANTHONY AVE (APN: 21514108)	



STAFF RECOMMENDATION: Recommend approval of General Plan Amendment No. GPA-002-2023 and Amendment No. A-037-2023 to City Council.

- D. MATTERS FROM COMMISSIONERS
- E. MATTERS FROM STAFF
- F. ADJOURNMENT

GARDEN GROVE PLANNING COMMISSION  
Community Meeting Center  
11300 Stanford Avenue, Garden Grove, CA 92840

Meeting Minutes  
Thursday, August 17, 2023

CALL TO ORDER: 7:05 p.m.

ROLL CALL:

Commissioner Arbgast  
Commissioner Cueva  
Commissioner Cunningham  
Commissioner Laricchia  
Commissioner Lindsay  
Commissioner Paredes  
Commissioner Ramirez

Absent: Lindsay, Ramirez

Chair Lindsay joined the meeting at 7:07 p.m.

PLEDGE OF ALLEGIANCE: Led by Commissioner Paredes

ORAL COMMUNICATIONS – PUBLIC – None

July 6, 2023 MINUTES:

Action: Received and filed.  
Motion: Arbgast Second: Laricchia  
Ayes: (6) Arbgast, Cueva, Cunningham, Laricchia Lindsay, Paredes  
Noes: (0) None  
Absent: (1) Ramirez

Staff introduced the City's new Community Development Director, Niki Wetzel. Ms. Wetzel looked forward to serving the needs of the community and also mentioned that David Dent, the City's Chief Building Official, was appointed as Deputy Community Development Director.

STUDY SESSION – HOUSING ELEMENT UPDATE

Staff, along with MIG (Moore, Iacofano, Goltsman, Inc.) consultant, Jose Rodriguez, presented an overview of the Housing Element Update, which focuses on programs to facilitate housing, identifying constraints to housing development, creating an inventory of housing sites and resources, and the progress of meeting the goals of

the previous Housing Element. The review included discussion on the RHNA (Regional Housing Needs Assessment), along with methods of community engagement, the timeline for submissions, of which there were three total, the proposed revisions to the Adopted Housing Element, and the current status of the Housing Element, which per an HCD (Department of Housing and Community Development) letter submitted to the City, dated August 14<sup>th</sup>, the revised draft of the adopted Housing Element 2021-2029 is 'substantially compliant'. The next steps to complete the process will be a Planning Commission Public Hearing, followed by City Council approval and adoption of the amendments. The final HCD certification letter will be obtained in October/November.

Ms. Leslie Kerr was concerned that non-profit properties, such as the Assistance League and Elks Lodge, which were labeled as 'underutilized' in the Housing Element, were targeted and may be lost through eminent domain. Staff responded there will be no eminent domain. Properties would be sold only if the owners choose to sell.

MATTERS FROM COMMISSIONERS: Several Commissioners noted code enforcement issues in the Garden Grove area. Staff suggested that complaints be directed to the Code Enforcement portal on the City's website and the phone application.

MATTERS FROM STAFF: Staff stated the September 7th meeting would be cancelled and gave a brief description of the agenda items for the September 21<sup>st</sup> meeting, which would include the Housing Element public hearing. Staff also gave project updates on the Cottage Industries, the Brookhurst Triangle, Site C, and Nickelodeon.

ADJOURNMENT: At 8:07 p.m.

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Judith Moore  
Recording Secretary

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b>  <b>C.1.</b>	<b>SITE LOCATION:</b> South side of Garden Grove Boulevard, between Taft Street and Century Boulevard, at 10868 Garden Grove Boulevard
<b>HEARING DATE:</b> September 21, 2023	<b>GENERAL PLAN:</b> Residential/Commercial Mixed Use 1 (RC1)
<b>CASE NO.:</b> Conditional Use Permit No. CUP-243-2023	<b>ZONE:</b> GGMU-1 (Garden Grove Boulevard Mixed Use 1)
<b>APPLICANT:</b> Be Ngo	<b>CEQA DETERMINATION:</b> Exempt
<b>PROPERTY OWNER:</b> Tiffany Nguyen	<b>APN:</b> 099-091-05, 099-091-04 and 099-091-37

## **REQUEST:**

The applicant is requesting Conditional Use Permit No. CUP-243-2023 approval to allow a new, approximately 4,000 square foot massage establishment, 128 Luxury Health Spa, to operate within an existing multi-tenant office building.

## **BACKGROUND:**

The subject property is a 0.53-acre site located on the south side of Garden Grove Boulevard, between Taft Street and Century Boulevard. The site has a General Plan Land Use Designation of Residential/Commercial Mixed Use 1 (RC1) and is zoned Garden Grove Boulevard Mixed Use 1 (GGMU-1). The property abuts a Community Center Specific Plan – District Commercial 30 (CCSP-DC30) zoned property to the north, across Garden Grove Boulevard, GGMU-1 zoned properties to the east and west, and a Planned Unit Development No. PUD-125-10 zoned property to the south, across Sonoma Lane. Surrounding uses include home improvement supply store, to the east; Home Depot, across Garden Grove Boulevard to the north; an animal hotel to the west; and a multiple-family residential development, across Sonoma Lane, to the south.

In 2019, the City approved Site Plan No. SP-061-2019 to allow construction of a new 9,229 square foot two-story building, as known as the Tiffany Building, for professional and medical offices, along with associated site improvements. Per City building permit records, the construction of the building was completed in December 2022. As of August 2023, the first floor of the building had been vacant, and one of the tenant spaces on the second floor is occupied by an insurance services company.

CASE NO. CUP-243-2023

According to the approved plans under SP-061-2019, the first floor of the building, which consists of three (3) separate tenant spaces, was originally planned for a dental office and two (2) professional offices. The applicant is proposing to combine the three (3) tenant spaces into one (1) tenant space and to operate a new health spa, 128 Luxury Health Spa that will provide beauty and personal care services. Besides the proposed interior tenant improvements, no additional square footage to the building is included in the project scope. The applicant, Be Ngo, is experienced in providing beauty and personal care services. The applicant is currently operating two (2) similar businesses in the cities of Newport Beach and Anaheim both named Jolie Nails & Spa, located at 701 E. Balboa Boulevard, Newport Beach, CA 92661 and 410 S. Euclid St. #2 & #3, Anaheim CA 92802.

Pursuant to Section 9.04.060 of the Municipal Code<sup>1</sup>, any establishment that provides "massage" or "massage services" is considered a massage establishment, which, pursuant to Section 9.18.020.030, requires Conditional Use Permit (CUP) approval. As part of the preliminary application process, the applicant was required to submit an application for a massage establishment operator permit with the Business Tax and License Division and the Police Department for a background check. The applicant has cleared the Police Department's background check, and a massage establishment operator permit has been issued, and is contingent upon the approval and effectiveness of Conditional Use Permit No. CUP-243-2023.

## **DISCUSSION:**

### FLOOR PLAN DESIGN

128 Luxury Health Spa will occupy the entire first floor of the Tiffany Building, which is approximately 4,000 square feet. The floor plan of the business consists of an entrance lobby area, a service transitional space, a service lounge area, a hair salon, a professional consulting room, three (3) massage therapy rooms, a hot stone area, a wet massage room, a steam room, a facial/general service room, a women's locker room, a men's locker room, and two (2) unisex restrooms. The women's and men's lockers will each consist of a shower area and a private bathroom.

128 Luxury Health Spa will employ approximately 5-10 staff members including massage therapists, nail and hair technicians, and maintenance staff. The establishment will provide comprehensive care that includes hairdressing, make up,

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<sup>1</sup> Section 9.04.060 of the Code refers back to Chapter 5.12 for the definition of "massage" and "massage services". Chapter 5.12 provides extensive description of all activities that will be considered a "massage" or "massage services". It states that any method of applying pressure on, causing friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, acupressure, stimulating, compression on or movement of the external parts of the human body of another, either directly via the use of hands or some other body part, with or without the aid of or by means of any mechanical or electrical apparatus, or other appliance or device, for money or any form of consideration will be considered as "massage" or "massage services." Massage may incorporate supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations commonly used in this practice.

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facial tattoo, manicure, pedicure, waxing, skin care, sauna, and full body massage. No appointment will be required to utilize services at 128 Health Luxury Spa. Upon check in with staff, each patron will be given a robe to wear while receiving services. Due to the nature of the business, all of the windows and storefronts facing the street, the parking lot, and the driveway, with the exception of the lobby area, will be required to be tinted or covered with opaque materials, such that visibility from the public right-of-way will be fully obstructed.

The service lounge area, as labeled on the proposed plan, is approximately 516 square feet, and will be reserved for nail care services including manicure and pedicure, and make up services. The hair salon room, that is 150 square feet, will be reserved for haircut, hair dressing, and bridal hair styling. The facial services room, that is 82 square feet, will be used for skin care, facial services, waxing and eyebrow tattoo.

Full body massage services will be conducted inside the three (3) massage therapy rooms that include two (2) approximately 121 square foot massage therapy rooms that can accommodate one (1) massage bed, each; and one (1) approximately 300 square foot massage therapy room that can accommodate two (2) massage beds. While the two single massage rooms will be used for individual patrons, the larger massage room will be used for couples.

Sauna services will be provided in the hot stone area, wet massage room, and steam room. The hot stone area is approximately 112 square feet, and can be used by multiple patrons at one time. The wet massage room, which is 35 square feet, and the steam room, which is 50 square feet, can only be occupied by one patron at a time. Each session of the wet massage and the steam room can last from 15 minutes to 60 minutes.

#### MASSAGE ESTABLISHMENT

128 Luxury Health Spa will operate as a "massage establishment" providing "massage" and/or "massage services" to patrons requesting feet and/or body massage along with other beauty services such as hairdressing, facial, manicure and pedicure. These terms are defined in Chapter 5.12 of the Garden Grove Municipal Code, which contains an extensive set of regulations governing massage and massage establishments. Pursuant to Chapter 5.12, all massage establishment operators are subject to background checks and must obtain an operator's permit from the Police Department, which must be renewed annually. In addition, all employees providing massage services must be certified by the California Massage Therapy Council (CAMTC). Chapter 5.12 also contains detailed requirements governing massage establishment facilities and operations, as well as a list of prohibited types of conduct. A copy of Chapter 5.12 was provided to the applicant for their reference and review.

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In addition to Chapter 5.12, pursuant to Section 9.18.030.245 of the Code, all massage establishments in the GGMU zone are subject to the following conditions:

- No massage establishment shall be located closer than 1,000 feet from any other massage establishment.
- Unless infeasible due to existing structural or physical constraints and otherwise authorized in conjunction with approval of a conditional use permit, the entrance to a massage establishment shall be oriented, accessed, and visible from a principal, major, or primary arterial street, as defined in the General Plan Circulation Element. In no case shall the entrance to a massage establishment be oriented toward a residential street or toward residential uses.
- The massage establishment, each owner, operator, and manager thereof, and each person providing massage services on the premises shall comply with all provisions of Chapter 5.12 (Massage Regulations) of this code at all times.
- Each person engaged in the business of massage on the premises shall obtain and maintain an operator's permit from the Police Chief pursuant to Chapter 5.12. No massage services may be provided on the premises without a current and valid operator's permit for the premises.
- Permitted hours of operation may not exceed those set forth in Chapter 5.12.

The proposed location for the 128 Luxury Health Spa is not within the 1,000 feet distance from the closest existing massage establishment, P&C Massage Spa, located at 10566 Garden Grove Boulevard (Permit Number #315148). A map showing the location of massage establishments near the proposed site is included in the staff report as Attachment 4. In addition, the main entrance of 128 Luxury Health Spa will be located on the northeast corner of the building and will be oriented toward Garden Grove Boulevard. The Circulation Element of the General Plan identifies Garden Grove Boulevard as a primary arterial. Thus, the proposed location and design are consistent with the entrance orientation requirement of the Code.

Chapter 5.12 prohibits massage establishments from operating between the hours of 10:00 p.m. and 7:00 a.m. The applicant is proposing to operate the massage establishment between the hours of 9:00 a.m. to 9:00 p.m., seven (7) days a week, which is consistent with permissible hours under Municipal Code Section 5.12. In the event problems arise concerning the operation of the business, the Police Department is authorized to reduce the hours of operation.

Condition of approval No. 16 requires all individuals, who provide massage services on the premise, to obtain and maintain an operator's permit from the Police Chief pursuant to Chapter 5.12. A copy of Chapter 5.12 was provided to the applicant for their reference and review.

Parking

While the Tiffany building was originally designed for general office and medical use, the introduction of the massage establishment to the site will continue to comply with the parking requirements. For massage establishments, the Municipal Code requires a minimum of one (1) parking space per 200 square feet of gross floor area. Based on the proposed size of 4,000 square feet, the massage establishment requires a minimum of twenty (20) parking spaces. The second floor of the building<sup>2</sup> consists of a 3,994 square foot existing insurance services company (general office) and an 804 square foot vacant tenant space. The following table reflects the parking calculations for the project site:

<b>Business</b>	<b>Proposed Use</b>	<b>Gross Floor Area (Square Feet)</b>	<b>Parking Ratio (1 space per sq. ft. of gross floor area)</b>	<b>Parking Spaces Required (Min.)</b>
128 Luxury Health Spa	Massage Establishment	4,000	200	20
Insurance company	General Office	3,994	250	16
Vacant tenant space	General Office	804	250	3.2
Total # of Parking Spaces Required (Minimum) =				40
Total # of Parking Spaces Provided On-Site =				41

**Table A:** Breakdown of the parking calculation that includes the proposed massage establishment on the first floor of the Tiffany Building.

As shown in Table A above, with the inclusion of the proposed massage establishment, Code requires a minimum of forty (40) parking spaces for the development. The site provides a total of forty-one (41) parking spaces on-site. This results in a surplus of one (1) parking space. Therefore, the project complies with minimum parking requirements of the Municipal Code.

The Community Development Department and the Police Department have reviewed the request and are supporting the proposal.

**California Environmental Quality Act (CEQA):**

CEQA's Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, and minor alterations of existing facilities, with negligible or no

<sup>2</sup> Since the proposed plan does not include the floor plan of the second floor, a copy of the Floor Plan (first and second floors), approved under SP-061-2019, is attached for reference as Attachment 5. The new massage will occupy the entire first floor, which include Suite Nos. A, B, C, and D. On the second floor, the insurance services company (general office) occupies Suite Nos. E, F, G, and H, while Suite I is currently vacant.



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expansion of use (CEQA Guidelines §15301). The subject request is to allow a new approximately 4,000 square foot massage establishment, 128 Luxury Health Spa, to operate within an existing multi-tenant office building. No additional square footage will be added to the existing structure. Therefore, the proposed project is exempt from CEQA.

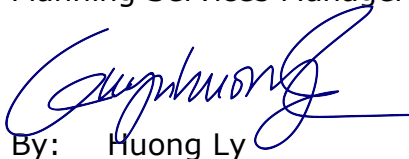
**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following action:

1. Adopt Resolution No. 6064-23 approving Conditional Use Permit No. CUP-243-2023, subject to the recommended conditions of approval.



Maria Parra  
Planning Services Manager

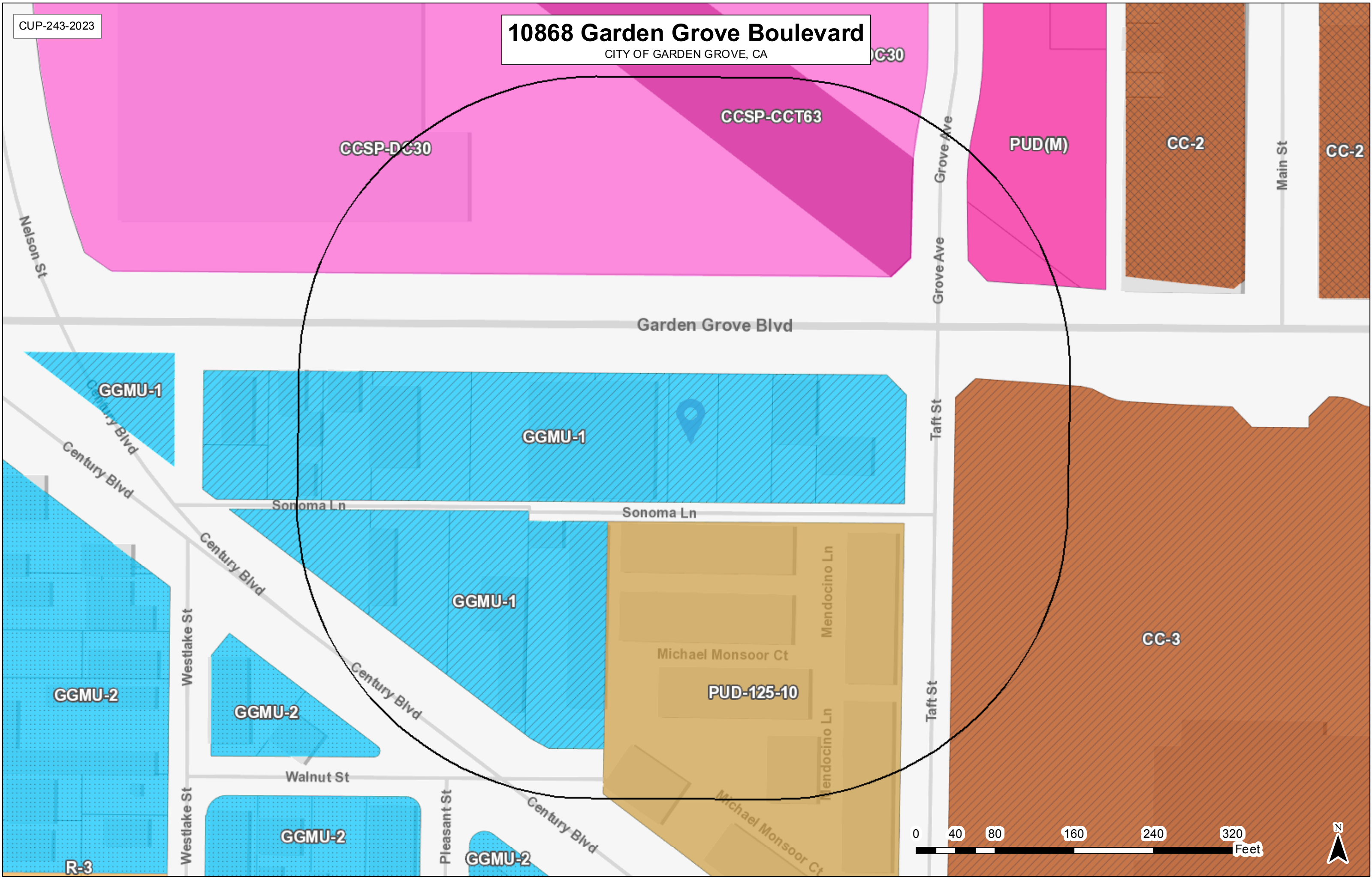


By: Huong Ly  
Associate Planner

- Attachment 1: Vicinity Map  
Attachment 2: Site Plan and Floor Plan  
Attachment 3: Chapter 5.12 – Massage Regulations  
Attachment 4: Location of massage establishments near to the proposed site  
Attachment 5: SP-061-2019 Approved Site Plan

# 10868 Garden Grove Boulevard

CITY OF GARDEN GROVE, CA









**GENERAL BUILDING NOTES**

- REFER TO T24 SHEETS FOR ALL ENERGY RELATED REQUIREMENTS FOR THE BUILDING, WHICH INCLUDE BUT NOT LIMITED TO MEP'S & BUILDING ENVELOPE'S DESIGN CRITERIA.
- WHEN APPLICABLE, ALL MODIFICATION TO THE EXTERIOR FEATURES SUCH AS, BUT NOT LIMITED TO DOORS, FINISHES, LIGHTING, AND STOREFRONT SYSTEM SHALL MATCH OR COMPLEMENT WITH THE EXISTING DESIGN, AND SHALL BE REVIEWED/APPROVED BY THE ARCHITECT.
- CONTRACTOR TO LOCATE & PROVIDE NEW PLUMBING/ELECTRICAL CONNECTION TO EXISTING UNDERGROUND PIPINGS/CONDUITS PER LOCAL CODE REQUIREMENTS.
- CONTRACTOR TO INSTALL SMOKE & CARBON MONOXIDE DETECTOR AS REQUIRED PER CURRENT CODE REQMT
- IF ALLOW BY THE LOCAL AHJ, THE CONTRACTOR SHALL ASSIST THE OWNER TO APPLY FOR A SEPARATE UTILITIES METERS/CONNECTIONS.
- BATHROOM WALL OR ALL INT. WALL SUBJECT TO WET AREA SHALL BE CEMENT PLASTER, TILE OR APPROVED EQUAL TO 72 INCHES ABOVE DRAIN AT SHOWERS OR TUB WITH SHOWERS. MATERIALS OTHER THAN STRUCTURAL ELEMENTS ARE TO BE MOISTURE RESISTANT. PROVIDE SUBSTRATE PER LOCAL CODE REQMT

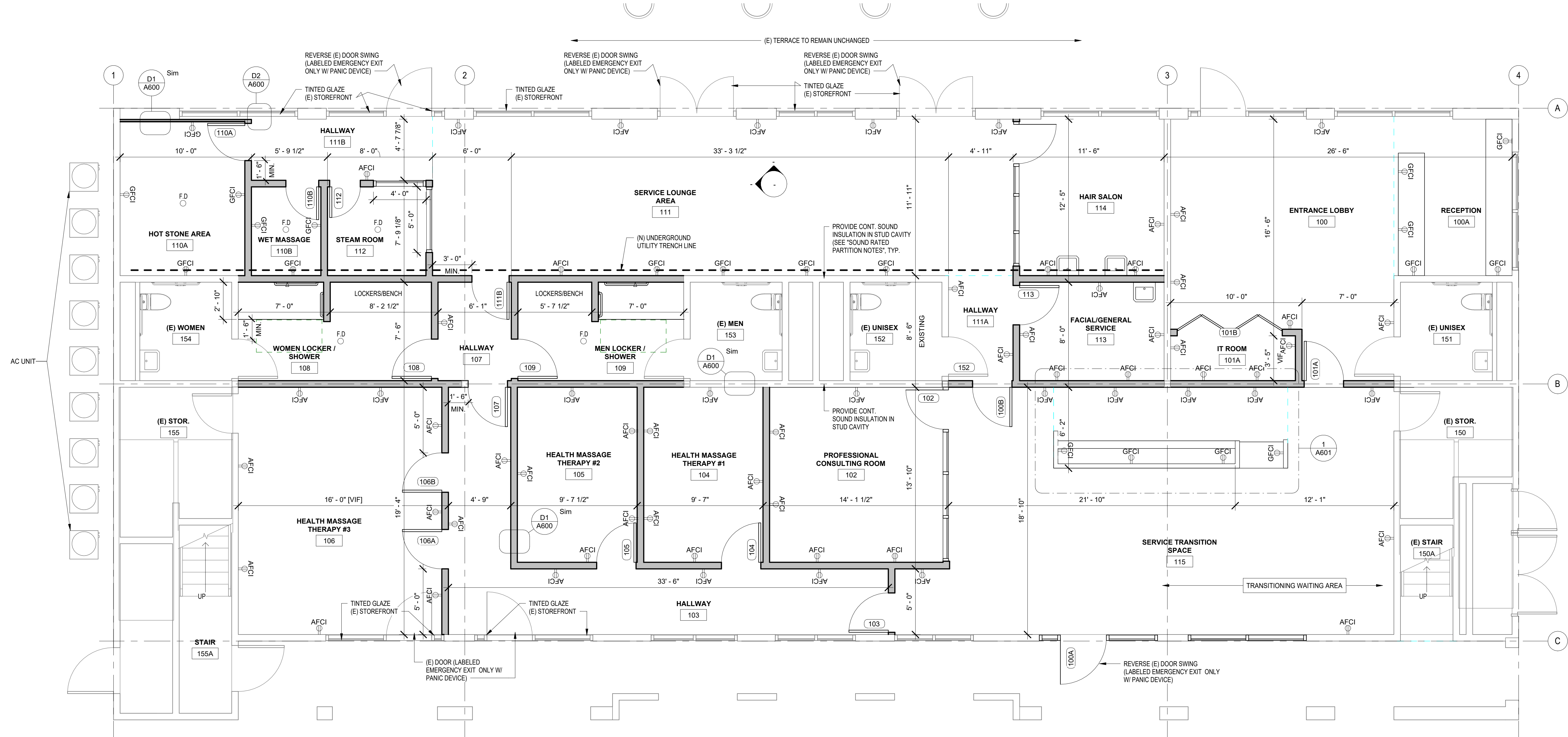
**KEY NOTES - FLOOR PLAN**

KEY #	NOTE

**DOOR & FRAME SCHEDULE**

NOTE:  
UON, ALL NEW DOOR FIN. & HARDWARE TO MATCH EXISTING

DOOR #	HEIGHT	WIDTH	DOOR TYPE	DOOR FIN.	FRAME TYPE	FRAME FIN.	FIRE RATING	COMMENTS
100A	8'-0"	3'-6"						INSULATED TEMPERED GLASS
100B	8'-0"	3'-0"	WD-1					
101A	8'-0"	3'-0"	WD-1					
101B	7'-0"	8'-0"	WD-1					
102	8'-0"	3'-0"	WG-1					TEMPERED GLASS
103	8'-0"	3'-0"	WD-1					
104	8'-0"	3'-0"	WD-1					
105	8'-0"	3'-0"	WD-1					
106A	8'-0"	3'-0"	WD-1					
106B	8'-0"	3'-0"	WD-1					
107	8'-0"	3'-0"	WD-1					
108	8'-0"	3'-0"	WD-1					
109	8'-0"	3'-0"	WD-1					
110A	8'-0"	2'-10"	WD-1					
110B	8'-0"	2'-6"	WD-1					
110E	8'-0"	3'-0"	WG-1					TEMPERED GLASS
111B	8'-0"	2'-10"	WD-1					
112	8'-0"	2'-4"						SAUNA DOOR PER MANUFACTURE
113	8'-0"	3'-0"	WD-1					



**LEVEL 1 - FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

NO	DATE	DESCRIPTION	NO.	DATE	DESCRIPTION

CONSULTANT INFORMATION	

**STAMP**  
PRELIMINARY  
NOT FOR  
CONSTRUCTION

**Hu? architecture**  
DESIGN LIKE YOU CARE!  
15551 Eden Street  
Westminster, CA 92683  
duchuy@huarchitecture.com  
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CLIENT INFORMATION	
<b>BNTD HOLDING CORP</b>	BE HO
10868 GARDEN GROVE BLVD.	GARDEN GROVE, CA 92843

PROJECT TITLE	
<b>10868 GARDEN GROVE BLVD-108 LUXURY HEALTH SPA TENANT IMPROVEMENT</b>	
LOCATION:	10868 GARDEN GROVE BLVD. GARDEN GROVE, CA 92843
SHEET NAME	<b>LEVEL 1 - FLOOR PLAN</b>

DATE	DRAWN	CHECKED
Issue Date	DWG	DHH
SCALE	AS NOTED	
PROJECT NUMBER	2022.113	
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10868 GARDEN GROVE BLVD-108 LUXURY HEALTH SPA TENANT IMPROVEMENT

Garden Grove, California Municipal Code

Title 5 BUSINESS OPERATION TAXES, PERMITS AND REGULATIONS

## **Chapter 5.12 MESSAGE REGULATIONS**

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\* **Prior ordinance history:** Ord. Nos. 674, 714, 1307, 1995, 2290, 2464, 2611, 2667 and 2808.

**Prior code history:** §§ 4191, 4192, 4193, 4193.1, 4194, 4195, 4196, 4196.1, 4196.2 and 4198.

## 5.12.010 Findings and Purpose

The City Council finds and declares as follows:

A. The permit requirements and restrictions imposed by this chapter are reasonably necessary to protect the health, safety, and welfare of the citizens of the City.

B. The City is authorized to regulate massage establishments pursuant to California [Business and Professions Code](#) Sections 460(c), 4612(b) and 16000, California [Government Code](#) Section 51030 et seq., and Section 7 of Article XI of the California Constitution.

C. There is a significant risk of injury to massage clients by improperly trained and/or educated massage practitioners and this chapter provides reasonable safeguards against injury and economic loss.

D. There is opportunity for acts of prostitution and other unlawful sexual activity to occur in massage establishments. Courts have long recognized massage as a pervasively regulated activity and that some massage establishments are brothels in disguise. The establishment of reasonable standards and restrictions on operations will serve to reduce the risk of illegal activity.

E. The City Council recognizes that massage establishments may have a serious deleterious effect upon adjacent areas, as well as the areas in which they are located, when illegal activities such as pandering or prostitution occur thereat.

F. The City Council understands that illegal activities occurring in massage establishments often incorporate the exploitation of women and new immigrants to this country.

G. The regulations and restrictions contained in this chapter tend to discourage massage establishments from degenerating into houses of prostitution and the means utilized in this chapter bear a reasonable and rational relationship to the goals sought to be achieved. (Ord. 2856 § 1, 2015)

## 5.12.020 Definitions

The following definitions of words shall apply to this chapter:

“Acupressure” means the act of applying manual pressure to parts of the body with the intention of treating illness and/or disease or relieving pain.

“Applicant” means an applicant for an operator’s permit.

“CAMTC” means the California Massage Therapy Council, a non-profit organization formed pursuant to California [Business and Professions Code](#) Section 4600 et seq.

“Certified massage practitioner” means any individual certified by CAMTC as a certified massage practitioner or as a certified massage therapist pursuant to California [Business and Professions Code](#) Section 4600 et seq.

“City” means the City of Garden Grove.

“City Manager” means the City Manager of the City or designee.

“Employee” includes every owner, partner, operator, manager, supervisor, person and worker, whether paid or not, full-time or part-time, who renders personal services of any nature or is otherwise employed in support of the operation of a massage establishment. For purposes of this chapter, the term “employee” shall also include certified massage practitioners who provide massage services, whether as independent contractors or otherwise, in or for a massage establishment.

“Manager” means a person or persons designated or permitted by the owner or operator of the massage establishment to act as the agent of the owner or operator in managing day-to-day operations. Evidence of management may include, but is not limited to, evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy or rules, or purchase supplies. A massage establishment may have more than one manager.

“Massage” or “massage services” means any method of applying pressure on, causing friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, acupressure, stimulating, compression on or movement of the external parts of the human body of another, either directly via the use of hands or some other body part, with or without the aid of or by means of any mechanical or electrical apparatus, or other appliance or device, for money or any form of consideration. Massage may incorporate supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations commonly used in this practice.

“Massage establishment” means any business or establishment with a fixed location where any individual, firm, association, partnership, limited liability company, corporation, or combination of individuals, offers, engages in, conducts, carries on or permits to be engaged in, conducted or carried on, massage services within the City, including the residence or business office of a sole provider who provides massage services at such residence or business office. Any type of business or establishment at which massage services are provided shall be considered a massage establishment for purposes of this chapter, regardless if the business holds itself out as something other than a massage establishment and/or also offers or provides other types of products or services. Any business or establishment that offers any combination of massage services and bath facilities, including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs, shall be deemed a massage establishment under this chapter. The residence or business office of a sole provider who only engages in out-call massage and does not provide massage services at such residence or business office shall not be considered a massage establishment.

“Operator’s permit” means a permit issued to any person desiring to operate a massage establishment by the City upon submission of satisfactory information and satisfaction of the requirements pursuant to the provisions of this chapter.

“Out-call massage” shall mean the provision of massage services at a location other than at a massage establishment. Such locations may include, but are not limited to, hotel rooms, offices, or patron residences.

“Owner” or “operator” means any and all persons who have an ownership interest in a massage establishment and/or responsibility, in whole or in part, for its ongoing operations including, but not limited to, any of the following persons: the sole proprietor of a sole proprietorship, any general or limited partner of a general or limited partnership, any shareholder of a corporation, any member or manager of a limited liability company, or any person who has an ownership interest in a massage establishment, whether as an individual, corporation, limited liability company, general partner, limited partner, shareholder, member or otherwise.

“Person” means any individual or combination of individuals, sole proprietor, firm, association, partnership, corporation, limited liability company, joint venture, or other entity.

“Police Chief” means the City’s Police Chief, or designee, who is responsible for promulgating rules, regulations, and requirements consistent with the provisions of this chapter and all other laws in connection with the issuance of an operator’s permit.

“Sole provider” means any legal form of business organization where the business owner owns 100% of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active State Certificate, and has no other employees or independent contractors.

“State Certification” or “State Certificate” means a valid and current certificate issued by CAMTC pursuant to California [Business and Professions Code](#) Section 4600 et seq., as may be amended from time to time. (Ord. 2856 § 1, 2015)

### **5.12.030 State Certification and Operator’s Permit Required**

A. Except as otherwise provided in Section [5.12.110](#), no individual shall engage in, conduct, carry on, practice or perform massage services within the City without first obtaining and thereafter maintaining State Certification and presenting proof of such State Certification, in accordance with the provisions of this chapter.

B. Except as otherwise provided in Section [5.12.110](#), no person shall engage in, conduct or carry on, or permit to be engaged, conducted, or carried on in or upon any premises within the City, the operation of a massage establishment without first obtaining and thereafter maintaining an operator’s permit pursuant to this chapter, and without otherwise complying with the provisions of this chapter.



C. No owner, operator or manager shall employ or retain any individual to conduct, carry on, practice or perform massage services within the City unless such individual has a State Certificate. For purposes of this chapter, an owner, operator or manager employs or retains a person if: (1) that individual is a directly paid employee of the massage establishment; (2) that individual's association with the massage establishment is that of an independent contractor who receives compensation for massage services provided to patrons of the massage establishment; or (3) that individual receives a patron referral(s) from the massage establishment for massage services and arranges in any way for compensation relating to such services to flow to such owner, operator, manager or massage establishment. (Ord. 2856 § 1, 2015)

### **5.12.040 Application for Operator's Permit**

A. An application for an operator's permit shall be filed on forms provided by the Police Chief, and submitted under penalty of perjury. The application shall include, without limitation, the following information, documents, and fees:

1. The type of legal entity or entities owning the proposed massage establishment, i.e., whether a sole proprietorship, partnership, limited liability company, corporation, or otherwise. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each shareholder or other person who has an ownership interest in the corporation. If the applicant is a limited liability company, the name of the limited liability company shall be set forth exactly as shown in its articles or organization or other organizational document together with the state and date of organization and the names and residence addresses of each of its current officers and directors, and of each member or other person who has an ownership interest in the limited liability company. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If it is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Secretary of State. If one or more of the partners is a corporation or limited liability company, the provisions of this subsection pertaining to corporations and limited liability companies shall apply. An applicant that is a corporation, limited liability company or partnership shall designate one of its officers, members, managers, or general partners to act as its responsible managing officer. Such designated individual shall complete and sign all application forms required for an individual applicant under this chapter, but only one application fee shall be charged.

2. The precise name under which the massage establishment is to be conducted.
3. The present or proposed address and telephone numbers of the massage establishment.
4. The tax identification number used for income tax reporting for the massage establishment.
5. A complete description of all services to be provided at the proposed massage establishment.

6. A complete current list of the names and residence addresses of all current or proposed employees of the massage establishment and the name and residence address of each current or proposed manager(s) proposed to be principally in charge of the operation of the massage establishment.

7. True and correct copies of the current State Certificate and CAMTC-issued identification card for each employee who will be providing massage services at the massage establishment.
8. A description of any other business to be operated on the same premises as the massage establishment.
9. The name, address, and description of any other business within the City or the State which is owned, wholly or in part, or operated by the applicant.
10. A statement signed by the applicant authorizing the City, its officers, agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and to ensure continual compliance with the applicable provisions of law.
11. A statement signed by the applicant confirming that the massage establishment shall employ and only permit certified massage practitioners to provide massage services at the massage establishment.
12. A statement signed by the applicant confirming that the massage establishment shall ensure that all independent contractors who provide massage services at the massage establishment shall be in possession of a valid and current City business tax certificate at all times when massage services are provided.
13. A statement signed by the applicant acknowledging that the applicant, owner(s), operator(s) and manager(s) shall each be responsible for the conduct of all employees on the premises of the massage establishment and that failure to comply with this chapter, or any local, state or federal law, including California [Business and Professions Code](#) Section 4600 et seq., may result in the revocation of the operator's permit and civil, administrative, or criminal penalties.
14. The following personal information concerning the applicant and each owner, operator, and manager of the massage establishment:
  - a. Full complete name and all aliases or fictitious names used within the last 10 years.
  - b. A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government.
  - c. Current and all previous residential addresses for the last eight years.
  - d. Date of birth.
  - e. Height, weight, color of hair, eyes, and sex.
  - f. Two front-faced portrait photographs at least two inches by two inches in size taken within 30 days of submission of the application.

g. The complete business, occupation, and employment history for eight years preceding the date of application, including, but not limited to, the massage or similar business history and experience of the applicant and each owner, operator, and manager.

h. The complete massage permit history of the applicant and each owner, operator, and manager; whether such person has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance of each such a permit or license; whether any such permit or license was ever denied, revoked, suspended or refused to be renewed, and the reasons therefor.

i. All criminal convictions, including pleas of nolo contendere, within the last 10 years including those dismissed or expunged pursuant to California Penal Code Section 1203.4, but excluding minor traffic violations, and the date and place of each such conviction and reason therefor.

j. A complete set of fingerprints taken by the Police Department, subject to a fee to cover actual costs.

15. The name and address of the owner and lessor of the real property upon or in which the massage establishment is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a massage establishment will be located on his or her property, and that the massage establishment shall be subject to this chapter.

16. Such other identification and information as the Police Chief may reasonably require in order to discover the truth of the matters herein specified and as required to be set forth in the application.

17. A written statement signed and dated by the applicant that he or she certifies under penalty of perjury that all information contained in the application is true and correct.

B. An application for an operator's permit shall be accompanied by a non-refundable application fee in an amount established by resolution of the City Council.

C. If, at any time during the application process or during the term of an operator's permit, any of the information provided in the application for an operator's permit on file with the City changes, for example by a change in employees or manager(s), the owner or operator shall notify the Police Chief in writing of such change within 10 business days after such change. (Ord. 2856 § 1, 2015)

### **5.12.050 Issuance or Denial of Operator's Permit**

A. Upon receipt of a complete application for an operator's permit, the Police Chief shall conduct an investigation to ascertain whether such permit should be issued as requested. The Police Chief shall, within 60 days of receipt of a complete application, approve, conditionally approve, or deny the application. The 60-day period may be extended by the Police Chief for up to 30 additional days to complete the investigation. The Police Chief shall issue such permit unless he or she makes any of the following findings:

1. Any owner, operator, manager or employee of the massage establishment has been convicted of a violation of Section 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California [Penal Code](#), or has been convicted in any other state of any offense that, if committed or attempted in the State of California, would have been punishable as one or more of the above-mentioned offenses.
2. Any owner, operator, manager or employee of the massage establishment has been convicted of any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the California [Health and Safety Code](#), or has been convicted in any other state of any offense that, if committed or attempted in the State of California, would have been punishable as one or more of the above-mentioned offenses.
3. Any owner, operator, manager or employee of the massage establishment is required to register under the provisions of Section 290 of the California [Penal Code](#).
4. Any owner, operator, or manager of the massage establishment has within eight years preceding the date of the application:
  - a. Engaged in conduct in another jurisdiction which, if it had occurred within the City, would have been a violation of law and/or would constitute grounds for denial, suspension, or revocation of an operator's permit under this chapter.
  - b. Been subjected to a permanent injunction against the conducting or maintaining of nuisance pursuant to Sections 11225 through 11235 of the California [Penal Code](#), or any similar provisions of law in a jurisdiction outside the state.
  - c. Engaged in conduct which would constitute an offense as described in subsection (A)(1) of this section.
  - d. Been convicted of an act involving dishonesty, fraud, deceit or moral turpitude or an act of violence, which act or acts are related to the qualifications, functions, or duties of the owner, operator, or manager.
  - e. Had a massage operator or massage technician permit or other similar license or permit denied, suspended, revoked, or refused to be renewed for cause by a licensing authority or by any city, county, or state.
5. The applicant has made a false, misleading, or fraudulent statement or omission of fact to the City in the permit application process.
6. The application does not contain all of the information required by Section [5.12.040](#) of this chapter.
7. The massage establishment as proposed by the applicant does not comply with all requirements of this chapter and all other applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.

8. Within a 24-month period prior to the submittal of the application, the location of the proposed massage establishment: (i) has been the site of a violation of this chapter, or any similar criminal or civil ordinance, law, rule, or regulation of the State of California or any other public agency related to the operation of massage establishments; or (ii) has been the site of a massage establishment that was closed due to criminal activity. For purposes of this subsection, closure due to criminal activity includes voluntary closure of a massage establishment after there have been arrests at the location or other notices relating to criminal activity.

B. Prior to commencing operations pursuant to an operator's permit issued by the Police Chief pursuant to this chapter, applicants shall obtain a business tax certificate pursuant to Title 5 of the Garden Grove Municipal Code and any and all appropriate zoning or land use approvals required pursuant to Title 9 of the Garden Grove Municipal Code, including any amendments thereto.

C. An operator's permit issued pursuant to this chapter does not authorize the owner or operator to operate a massage establishment until the owner or operator has complied with all applicable business licensing or tax requirements, zoning requirements, building requirements, and all other applicable federal, state, and City laws and regulations. (Ord. 2856 § 1, 2015)

## **5.12.060 Requirements of Operation**

Each owner, operator and manager of a massage establishment shall be responsible for ensuring compliance with each of the requirements of operation, which shall apply to all massage establishments.

### **A. Facilities.**

1. Subject to applicable provisions of the City's codes, a recognizable and legible sign shall be posted at the main entrance identifying the business as a massage establishment.

2. No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area, shall, during business hours, block visibility into the interior reception and waiting area through the use of curtains, closed blinds, or any other material that obstructs, blurs or darkens the view into the premises.

3. The hours of operation shall be displayed in a conspicuous place in the reception area and in any front window clearly visible from outside of the massage establishment. Patrons and visitors shall be permitted in the massage establishment only during the posted hours of operation.

4. Front doors used for patron access shall remain unlocked during business hours unless the massage establishment is a business entity owned by one individual with one or no employees or independent contractors.

5. Minimum lighting shall be provided in accordance with the City's electrical code and, in addition, at least one artificial light of not less than 40 watts shall be provided in each room or enclosure where massage services are performed and shall be activated at all times while a patron is in such room or enclosure.

6. Closed cabinets or other covered space shall be provided and utilized for the storage of clean linens, and receptacles acceptable to the City shall be provided for the deposit of soiled linen.

7. The walls in all rooms where water or steam baths are given shall have a washable, mold-resistant surface.

8. A minimum of one toilet and one separate wash basin shall be provided for patrons in each massage establishment, which basin shall provide soap or detergent and hot running water at all times. A permanently installed soap dispenser, filled with soap, and a single service towel dispenser shall be provided at the restroom handwash sink. A trash receptacle shall be provided in each toilet room. Showers may be provided at the operator's option.

9. All massage establishments shall have clean and sanitary towels, sheets and linens in sufficient quantity to meet the requirements of this chapter. Reuse of towels, sheets and linens is prohibited unless the same have first been laundered. Heavy white paper may be substituted for sheets, provided that such paper is used only once and then discarded into a sanitary receptacle.

10. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities including appliances and apparatuses for the massage establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs shall be thoroughly cleaned and disinfected after each use.

11. Disinfecting agents and sterilizing equipment shall be provided for any instruments used in performing acts of massage and the instruments shall be disinfected and sterilized after each use.

12. A massage table shall be provided in each massage room or enclosure and the massage shall be performed on this massage table. The tables must have a minimum height of 18 inches. Two-inch thick foam pads with a maximum width of four feet may be used on a massage table and must be covered with durable, washable plastic or other waterproof material. Beds, mattresses, waterbeds, futons, sofa beds, or any type of portable or convertible beds are not permitted on the premises.

13. No part of the massage establishment shall be used for residential or sleeping purposes.

#### B. Operations.

1. No massage establishment shall be open for business or operated between the hours of 10:00 p.m. and 7:00 a.m.

2. a. A register of all certified massage practitioners who are currently providing, or who have previously provided, massage services on the premises, showing the names, nicknames, and aliases used by such employees, along with the dates of their employment and termination, if applicable; and

b. Copies of each certified massage practitioner's current State Certificate and CAMTC-issued identification card, shall be maintained on file on the premises of each massage establishment, and shall be made available upon request to any individual, including, but not limited to, any duly authorized official of the City.

3. Within 10 business days of a massage establishment hiring or contracting with a new certified massage practitioner to provide massage services, written notice of the name and residential address of the new employee and copies of his or her current State Certificate and CAMTC identification card shall be filed with the Police Chief.

4. Written notice shall be provided to the Police Chief within five days of the expiration, revocation, suspension, or surrender of an employee's State Certification, and no employee whose State Certification is expired, revoked, suspended, or surrendered shall be permitted to provide massage services at the massage establishment until and unless valid State Certification have been reestablished and notice and copies of such employee's current State Certificate and CAMTC identification card have been provided to the Police Chief.

5. All documents or information pertaining to a certified massage practitioner that is required to be maintained or provided pursuant to this subsection B shall be maintained at the massage establishment for a minimum of two years following the date that the certified massage practitioner ceases providing massage services at the massage establishment.

6. A manager shall be present on the premises at all times the massage establishment is open. A written statement designating the person or persons with power to act as a manager shall be filed with the Police Chief prior to commencement of operation of the massage establishment and within 10 days of any managerial change.

7. The name of each on-duty manager and each on-duty certified massage practitioner shall be posted in a conspicuous public place in the lobby of the massage establishment on a daily basis.

8. No massage establishment shall be open for business without having at least one certified massage practitioner on the premises and on-duty.

9. Any and all employees providing massage services shall carry and have on their persons, visible for the patron to see, a current and valid CAMTC-issued identification card that was issued to them.

10. Any and all changes of address or ownership of a massage establishment shall be reported immediately to the Police Chief. Operator's permits are issued to specific owners and for specific locations only. A new operator's permit shall be obtained prior to the proposed relocation of a massage establishment, the opening of another location, or a change in ownership of the massage establishment.

11. No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage.

12. Each service offered, the price thereof, and the minimum length of time such service shall be performed shall be posted in an open and conspicuous public location in each massage establishment. All letters and numbers shall be capitals, and not less than one inch in height. No services shall be performed and no sums shall be charged for such services other than those posted. Nothing herein prohibits a voluntary tip from being paid by the patron. All arrangements for services to be performed shall be made in a room in the massage establishment which is not used for administration of massages, baths or health treatments, unless no other room exists in the massage establishment.

13. Any posted signs which are in a language other than English shall also be posted in English.

14. The operator's permit issued to the massage establishment shall at all times be displayed in an accessible and conspicuous place, visible from the entrance and/or reception and waiting area of the massage establishment.

15. Copies of the current State Certificates held by the employees providing massage services at the massage establishment shall at all times be displayed in an accessible and conspicuous place in clear view of the public.

16. No alcoholic beverages or controlled substances shall be sold, served, furnished, kept, consumed, or possessed on the premises of any massage establishment.

17. A notice substantially similar to the notice required by Section 52.6 of the California [Civil Code](#) shall be posted in a conspicuous place near the public entrance of each massage establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted.

### C. Prohibited Conduct.

1. Each owner, operator and manager shall be responsible for the conduct of all employees providing massage services while such employees are on the premises of the massage establishment. Any act or omission of any employee constituting a violation of this chapter shall be deemed the act or omission of each of the owners, operators, and manager(s) for purposes of determining: (a) compliance with this chapter; and (b) whether the operator's permit, business tax certificate, and/or any other permit required by the City shall be revoked, suspended, denied or renewed.

2. No owner, operator or manager shall hire, employ or allow an individual to perform massage services unless such individual possesses a valid and current State Certificate. Each owner, operator and manager of a massage establishment shall have a continuing obligation to verify that all employees providing massage services hold the State Certification required by this chapter.

3. No electrical, mechanical or artificial device shall be used by any massage establishment staff for audio and/or video recording or for monitoring the performance of a massage, of the conversation or of other sounds in the massage rooms or enclosures, without the prior written consent of the patron.

4. No employee shall violate the provisions of Section 647(b) of the California [Penal Code](#), or any other state law involving a crime of moral turpitude.

5. No employee shall engage in any form of unprofessional conduct as defined by Section 4609(a)(1) of the California [Business and Professions Code](#), as may be amended from time to time, including, without limitation:

- a. Engaging in any form of sexual activity on the premises of a massage establishment.
- b. Engaging in sexual activity while providing massage services for compensation.
- c. Providing massage of the genitals or anal region.



- d. Providing massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider for such massage.
6. No employee shall dress, while engaged in the practice of massage, or while visible to patrons in the massage establishment, in any of the following:
  - a. Attire that is transparent, see-through, or substantially exposes the person's undergarments.
  - b. Swim attire, if not providing a water-based massage modality approved by CAMTC.
  - c. A manner that exposes the employee's breast, buttocks, or genitals.
  - d. A manner that constitutes indecent exposure in violation of Section 314 of the California [Penal Code](#).
7. No employee shall expose their genitals, pubic region, buttocks, anus, or in the case of a female, her breasts below a point immediately above the top of the aureole, to the view of a massage establishment patron.
8. A massage establishment patron's genitals, anus, and in the case of a female, her breasts, must be fully covered at all times while a certified massage practitioner or other employee is present in the same room as the patron. (Ord. 2856 § 1, 2015)

### **5.12.070 Inspection by City Officials**

Any duly authorized official of the City, including, but not limited to, the City police, designated representatives, code enforcement officers, health officials and building and fire inspectors, shall have the right to enter any massage establishment premises from time to time during regular business hours prior to the issuance of an operator's permit and subsequently thereafter for the purposes of making reasonable inspections to ensure compliance with this chapter and other applicable laws, including building, fire, electrical, plumbing or health and safety regulations. (Ord. 2856 § 1, 2015)

### **5.12.080 Issuance of Notice of Violation**

Whenever a City official makes an inspection of a massage establishment and finds that any provision of this chapter or any other applicable provision of this Code has been violated, the City official may give notice of such violation by means of an inspection report or other written notice, including, but not limited to, issuing a citation for each and every violation of this chapter or other applicable provision of this Code. In any such notification, the investigating official shall:

- A. Set forth the specific violation or violations found;
- B. If appropriate, establish a specific and reasonable period of time for the correction of the violation or violations. If the investigating official determines that the violation or violations are minor in nature, the investigating official may issue a warning to the massage establishment owner and/or operator that any further violation of this chapter or other applicable provision of this Code may result in revocation or suspension of the operator's permit. No time to correct need be given in the event of health and safety violations or violation of criminal law; and

C. State that failure to comply with any notice issued in accordance with the provisions of this chapter or other applicable provision of this Code may result in revocation or suspension of the operator's permit.

Nothing in this section shall preclude the investigating official from initiating suspension, revocation or other legal proceedings, or issuing a criminal or administrative citation, if he or she deems it appropriate based on the violation(s) found to exist, rather than first issuing a warning or a notice of violation. (Ord. 2856 § 1, 2015)

### **5.12.090 Duration of Operator's Permits and Transfers**

A. No operator's permit issued hereunder shall be transferable to any other person, owner, location, or massage establishment. A new and/or separate operator's permit shall be obtained for each separate massage establishment and/or location and in the event of any change in ownership of a massage establishment. Any attempt to transfer an operator's permit to another person or location is hereby declared invalid and the operator's permit shall automatically become void effective the date of such attempted transfer.

B. An operator's permit shall be good for and expire in 12 months from the date of issuance, unless suspended or revoked.

C. Renewal applications with required application fee shall be filed with the Police Chief no later than 30 days prior to the expiration of the 12-month permit term.

D. Each applicant for renewal shall file such information as may be reasonably required by the Police Chief. (Ord. 2856 § 1, 2015)

### **5.12.100 Out-Call Massage**

A. No person shall perform an out-call massage in the City without possessing a valid and current State Certificate.

B. Notwithstanding any other provision of this chapter, an operator's permit shall be required for any massage establishment with a fixed place of business providing out-call massage. (Ord. 2856 § 1, 2015)

### **5.12.110 Exemptions**

The provisions of this chapter shall not apply to the following:

A. Treatment or services administered or provided in good faith by healing arts professionals who are duly licensed pursuant to the California [Business and Professions Code](#) or any other law of the State of California, including, but not limited to, physicians, surgeons, dentists, chiropractors, osteopaths, podiatrists, acupuncturists, physical therapists, physician assistants, or nurses, or by cosmetologists, barbers, estheticians, or manicurists who are duly licensed pursuant to California Barbering and Cosmetology Act, California [Business and Professions Code](#) Section 7300 et seq., while in the course of engaging in practices within the scope of their respective professional licenses. This exemption shall not be construed to apply or extend to treatments or services constituting “massage,” as defined in this chapter, that are administered or provided by any person acting as an independent contractor to one of the foregoing types of licensed professionals, if such person is engaged in, or is purported to be engaged in, the business of massage.

B. Chair massages administered by fully clothed individuals to fully clothed patrons in office or public locations.

C. Hospitals, nursing homes, sanatoriums, or other health facilities duly licensed by the State of California, or activities engaged in by employees of such facilities in the course of their employment while working on the premises of such state-licensed facilities.

D. The activities of coaches or trainers employed by accredited junior high schools, high schools, junior colleges, colleges, or universities, while acting within the scope of such employment.

E. Massage therapy or health treatment involving massage provided by trainers of amateur, semi-professional, or professional athletes or athletic teams, or at athletic facilities or events, while acting within the scope of their employment, so long as such persons do not provide massage services as their primary occupation at any location where they provide such services within the City.

F. Schools of cosmetology or barbering which comply with the requirements of California [Business and Professions Code](#) Section 7362 et seq., when instructors are acting within the scope of their employment or when students are working as unpaid externs pursuant to the requirements of California [Business and Professions Code](#) Section 7395.1. (Ord. 2856 § 1, 2015)

## **5.12.120 Operator’s Permit Suspension or Revocation**

After an investigation, notice and opportunity to respond, an operator’s permit may be revoked or suspended by the Police Chief where any of the following is found:

A. The business conducted is not substantially the same as that which was permitted under the operator’s permit.

B. The massage establishment is being operated in violation of any provision of this chapter, [Business and Professions Code](#) Section 4600 et seq., or any other laws which would have been grounds for denial of the operator’s permit.

C. The applicant, owner, operator or manager has engaged in fraud, or made a material omission or misrepresentation in obtaining or maintaining an operator’s permit.

D. The massage establishment has continued to operate after the applicable operator's permit has been suspended.

E. The applicant, owner, operator, or manager of the massage establishment has acted in a manner detrimental to the public health, safety or welfare with regard to massage services. (Ord. 2856 § 1, 2015)

### **5.12.130 Administrative Hearings**

A. All administrative hearings regarding a denial, nonrenewal, suspension, or revocation of a massage establishment operator's permit shall occur in accordance with this section.

B. Upon determining that grounds for denial, nonrenewal, revocation, or suspension of an operator's permit exists, the Police Chief shall furnish written notice of a denial, nonrenewal, or proposed revocation or suspension of an operator's permit to the affected applicant or owner (hereinafter the "appellant"). Such notice shall state the reasons for the denial, nonrenewal or proposed revocation or suspension and shall state that a written request for an administrative hearing may be filed within 15 calendar days of the date of the notice. The notice shall be personally served, or sent by certified mail, postage prepaid, to the address provided by the appellant and shall be mailed by the City within 24 hours of the date of the notice. In the case of a proposed suspension or revocation of an operator's permit, the notice shall also be delivered by posting the notice at the location of the massage establishment. Any request for an administrative hearing shall be filed with the City Clerk along with a filing fee, in an amount set by resolution of the City Council, to defray the cost of such hearing. The request along with the filing fee must be received by the City Clerk within 15 calendar days of the date of the City's notice or, if required, the posting of the notice, whichever date is later. The written request for an administrative hearing shall state in detail each basis on which the request is made and include copies of all documents in support of the appeal. If the request for a hearing is received by the City Clerk within 15 calendar days of the later of the date of the notice or, if required, the posting of the notice referred to herein, the City Clerk shall transmit the request to the City Manager, and a hearing shall be provided. If a written request is not received by the City Clerk within such period, the Police Chief's action shall be deemed to be the final decision.

C. Upon timely receipt of a written request for an administrative hearing, the City Manager shall conduct a hearing. Absent a timely request by the appellant for a continuance, which request is granted, the City Manager shall conduct the hearing within 30 calendar days of the City's receipt of the request for the hearing. Notice of time and place of the hearing shall be given by personal service or via certified mail, postage prepaid, at least 15 calendar days in advance of the date set for the hearing. At the hearing, the appellant and the City shall be entitled to present relevant evidence and call witnesses who shall testify under oath and be subject to cross-examination. The scope of the hearing pursuant to this section shall be limited to those issues raised in writing by the appellant, as submitted pursuant to subsection B of this section. The City Manager shall not be bound by the statutory rules of evidence in the conduct of the hearing. Technical rules relating to evidence and witnesses shall not apply to hearings provided for in this chapter. Any relevant evidence may be admitted if it is material and of a type that is customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory rule which might make admission of such evidence improper over objection in civil actions. Hearsay testimony may be admissible and used for the purpose of supplementing or explaining any evidence given in direct examination, but shall not be sufficient in itself to support a finding unless such testimony would be admissible over objection in civil actions. The rules of privilege shall be applicable to the extent permitted in civil actions. Irrelevant, collateral, undue, and repetitious testimony shall be excluded.

D. At the conclusion of the hearing, the City Manager shall decide whether grounds for denial, nonrenewal, revocation or suspension exist and shall uphold, modify or overturn the decision of the Police Chief, stating factual findings, and his or her conclusion. The decision of the City Manager shall be final.

E. In the event that an operator's permit is suspended, revoked or expires, the massage establishment shall surrender the operator's permit to the Police Chief no later than the end of the third business day after the suspension or revocation decision becomes final or the expiration occurs. (Ord. 2856 § 1, 2015)

### **5.12.140 Burden of Proof at Hearings**

Unless otherwise specifically provided by law, the burden of proof shall be on the City in any administrative hearing under this chapter to establish by a preponderance of the evidence that: (a) an application for an operator's permit shall be denied; or (b) an operator's permit shall be suspended, revoked, or not renewed. (Ord. 2856 § 1, 2015)

### **5.12.150 Resubmission after Denial or Revocation**

In the event an operator's permit for a proposed or existing massage establishment is denied or revoked pursuant to this chapter, the owner or operator of such massage establishment may not resubmit an application for an operator's permit for a period of one year from the effective date of such denial or revocation, unless accompanied by sufficient evidence that the grounds for denial or revocation of the operator's permit no longer exist. For purposes of this section, the effective date of a denial or revocation of an operator's permit shall be the later of: (a) the date written notice of denial or revocation of the operator's permit by the Police Chief pursuant to Section 5.12.130(B) is deposited in the United States mail; or (b) the date of the decision of the City Manager following an administrative hearing pursuant to Section 5.12.130(D) becomes final. (Ord. 2856 § 1, 2015)

### **5.12.160 Judicial Review**

Judicial review of any decision of the City Manager may be made pursuant to Section 1094.5 of the California [Code of Civil Procedure](#) only if the petition for writ of mandate is filed no later than the 90th day following the date on which the decision becomes final. If the date is not otherwise specified, the decision is final on the date it is made. In issuing a final decision, the City Manager shall provide notice to the appellant (as defined in Section 5.12.130) that the time within which judicial review must be sought is governed by Section 1094.6 of the California [Code of Civil Procedure](#). (Ord. 2856 § 1, 2015)

### **5.12.170 No Refund of Business Licenses Taxes**

No refund or rebate of business licenses taxes shall be allowed by reason of the fact that the massage establishment discontinues an activity for which a business license tax is required, or because the operator's permit is suspended or revoked. (Ord. 2856 § 1, 2015)

### **5.12.180 Violations, Penalties, and Enforcement Remedies**

A. Violations of this chapter shall be a misdemeanor. Any person violating any provision of this chapter shall be subject to criminal and/or administrative citations or civil actions, pursuant to Chapters 1.04 and 1.22 of the Garden Grove Municipal Code.

B. Injunctive relief may be instituted by the City Attorney, in addition to or separate from, criminal and/or administrative sanctions, pursuant to Garden Grove Municipal Code Section 1.04.090.

C. In addition to the above-described remedies, the City Council hereby authorizes the following administrative abatement process with respect to massage establishments conducted in violation of this chapter.

1. The City Council hereby finds and declares that the conducting of a massage establishment in violation of any provision of this chapter to be detrimental to the public health, safety, and general welfare of the community, and therefore a public nuisance as defined by [Civil Code](#) Section 3480.

2. Whenever the Police Chief determines that any massage establishment, premises or property is operated in violation of any provision of this chapter, the Police Chief may give notice to the responsible party stating the violation of this chapter and the conditions that constitute a public nuisance. The notice shall set a reasonable date, not less than 10 business days from date of service, for a public hearing to be held by the City Council as to why the business should not be closed, or otherwise subjected to special conditions regarding further operation of the business. The notice shall be personally served or mailed by certified mail to the responsible party.

3. After the conduct of the hearing by the City Council, the City Council shall make a determination as to whether a public nuisance exists. The City Council may adopt an abatement order with written findings in support of its determination. If a public nuisance finding is made, the City Council shall issue an abatement order to close the business or otherwise impose operating conditions on the business so as to bring the business in compliance with this chapter. The order shall then be served by first-class mail on the responsible party.

4. If such nuisance is not abated as directed in the abatement order, then the City Attorney may file a civil action to enjoin further operation of the business.

D. Nothing in this section shall preclude the City from pursuing any other legally available enforcement remedies. (Ord. 2856 § 1, 2015)

## **5.12.190 Authority**

A. The Police Chief shall have the power and authority to promulgate rules, regulations, and requirements consistent with the provisions of this chapter and other law in connection with the issuance of an operator's permit. The Police Chief may designate an employee of his or her department to make decisions, investigate, or take any other action permitted or required under this chapter.

B. Pursuant to California [Business and Professions Code](#) Section 4614(b), as it may be amended from time to time, the Police Chief is authorized to transmit to CAMTC copies of any final action of denial of an operator's permit application, or revocation or suspension of an operator's permit occurring pursuant to this chapter. The Police Chief is also authorized to transmit information to CAMTC concerning: (1) any information related to criminal activity or unprofessional conduct allegedly engaged in by any certified massage practitioner or any other person providing massage services in the City, including, but not limited to, police reports and declarations of conduct. (Ord. 2856 § 1, 2015)

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## **Contact:**

City Clerk: 714-741-5040

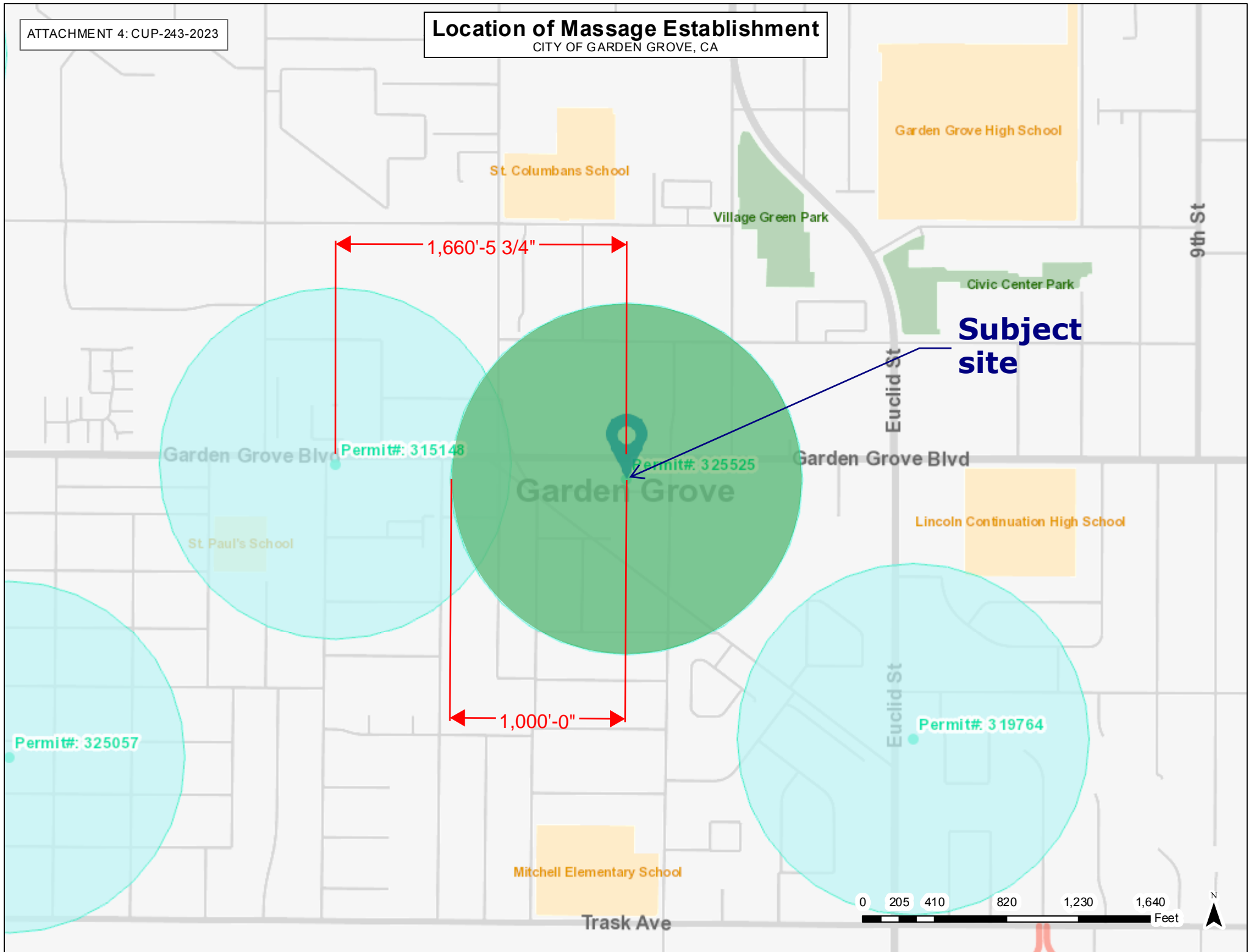
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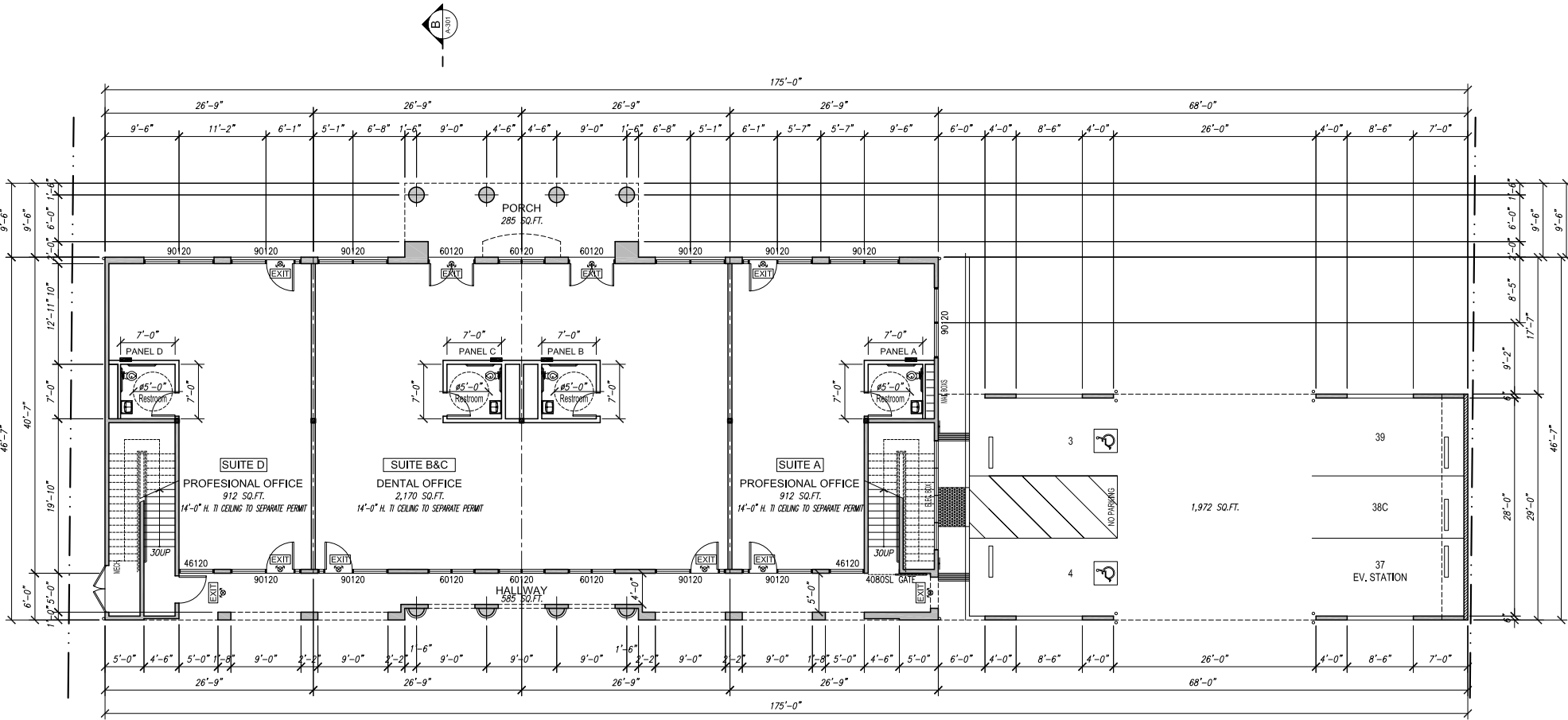


# Location of Massage Establishment

CITY OF GARDEN GROVE, CA



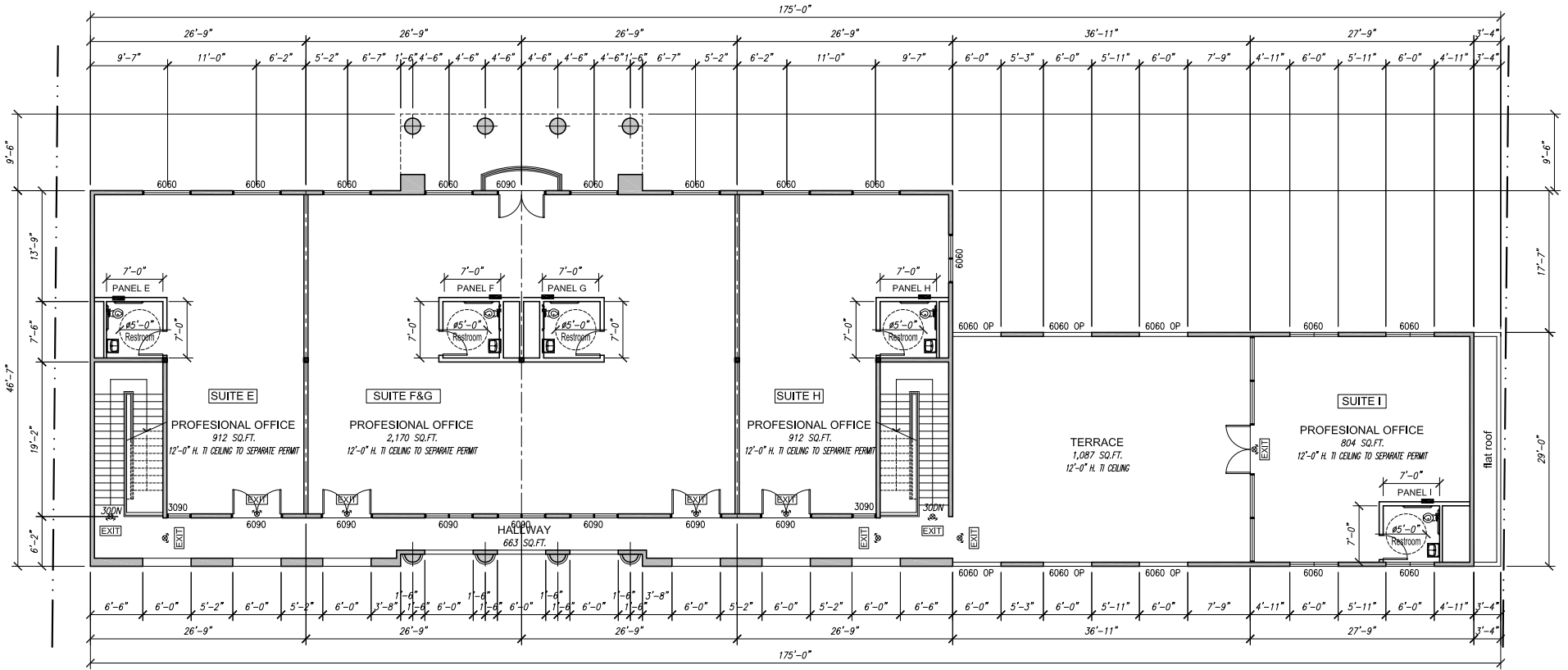
EXCERPT FROM THE APPROVED PLAN  
OF THE SITE PLAN NO. SP-061-2019



**PROPOSED 1ST FLOOR PLAN**  
Scale: 1/8" = 1'-0"

1ST FLOOR TENANT SQUARE FOOTAGE TABLE		
TENANT	SUITE #	TENANT SQUARE FOOTAGE
PROFESSIONAL OFFICE	A	912 SQ.FT.
DENTAL OFFICE	B&C	2,170 SQ.FT.
PROFESSIONAL OFFICE	D	912 SQ.FT.
STAIRWAY		437 SQ.FT.
<b>TOTAL</b>		<b>4,431 SQ.FT.</b>

WALL FRAMING LEGEND	
2X6 STUD NEW WALL	
2X6 STUD NEW WALL NON-BEARING WALL	
CMU WALL	



**PROPOSED 2ND FLOOR PLAN**

Scale: 1/8" = 1'-0"

2ND FLOOR TENANT SQUARE FOOTAGE TABLE		
TENANT	SUITE #	TENANT SQUARE FOOTAGE
PROFESSIONAL OFFICE	E	912 SQ.FT.
PROFESSIONAL OFFICE	F&G	2,170 SQ.FT.
PROFESSIONAL OFFICE	H	912 SQ.FT.
PROFESSIONAL OFFICE	I	804 SQ.FT.
TOTAL		4,798 SQ.FT.

**WALL FRAMING LEGEND**

2X6 STUD NEW WALL	
2X6 STUD NEW WALL NON-BEARING WALL	
CMU WALL	

RESOLUTION NO. 6064-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-243-2023 TO ALLOW THE OPERATION OF A NEW APPROXIMATELY 4,000 SQUARE FOOT MASSAGE ESTABLISHMENT TO OPERATE WITHIN AN EXISTING MULTI-TENANT OFFICE BUILDING, LOCATED ON THE SOUTH SIDE OF GARDEN GROVE BOULEVARD, BETWEEN TAFT STREET AND CENTURY BOULEVARD, AT 10868 GARDEN GROVE BOULEVARD, ASSESSOR'S PARCEL NOS. 099-091-05, 099-091-04 and 099-091-37.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on September 21, 2023, does hereby approve Conditional Use Permit No. CUP-243-2023 for the property located on the south side of Garden Grove Boulevard, between Taft Street and Century Boulevard, at 10868 Garden Grove Boulevard, Assessor's Parcel Nos. 099-091-05, 099-091-04 and 099-091-37, subject to the Conditions of Approval attached hereto as "Exhibit A".

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-243-2023, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Be Ngo, with the authorization of the property owner, Tiffany Nguyen.
2. The applicant is requesting Conditional Use Permit CUP-243-2023 approval to allow a new approximately 4,000 square foot massage establishment, 128 Luxury Health Spa, to operate within an existing multi-tenant office building.
3. The Planning Commission hereby determines that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities of the CEQA Guidelines (14 Cal. Code Regs., Sections 15301).
4. The property has a General Plan Land Use Designation of Residential/Commercial Mixed Use 1 (RC1) and is zoned Garden Grove Boulevard Mixed Use 1 (GGMU-1). The subject site is improved with an existing multi-tenant office building.
5. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
6. Report submitted by City Staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on September 21, 2023, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting on September 21, 2023, and considered all oral and written testimony presented regarding the project.

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The subject property is a 0.53-acre site located on the south side of Garden Grove Boulevard, between Taft Street and Century Boulevard. The site has a General Plan Land Use Designation of Residential/Commercial Mixed Use 1 (RC1) and is zoned Garden Grove Boulevard Mixed Use 1 (GGMU-1). The property abuts a Community Center Specific Plan – District Commercial 30 (CCSP-DC30) zoned property to the north, across Garden Grove Boulevard, GGMU-1 zoned properties to the east and west, and a Planned Unit Development No. PUD-125-10 zoned property to the south, across Sonoma Lane. Surrounding uses include home improvement supply store, to the east; Home Depot, across Garden Grove Boulevard to the north; an animal hotel to the west; and a multiple-family residential development, across Sonoma Lane, to the south.

In 2019, the City approved Site Plan No. SP-061-2019 to allow construction of a new 9,229 square foot two story building, as known as the Tiffany Building, for professional and medical offices, along with associated site improvements. Per City building permit records, the construction of the building was completed in December 2022. As of August 2023, the first floor of the building had been vacant, and one of the tenant spaces on the second floor is occupied by an insurance services company.

According to the approved plans under SP 061 2019, the first floor of the building, which consists of three (3) separate tenant spaces, was originally planned for a dental office and two (2) professional offices. The applicant is proposing to combine the three (3) tenant spaces into one (1) tenant space and to operate a new health spa, 128 Luxury Health Spa, that will provide beauty and personal care services. Besides the proposed interior tenant improvements, no additional square footage to the building is included in the project scope. The applicant, Be Ngo, is experienced in providing beauty and personal care services. The applicant is currently operating two (2) similar businesses in the cities of Newport Beach and Anaheim, both named Jolie Nails & Spa, located at 701 E. Balboa Boulevard, Newport Beach, CA 92661 and 410 S. Euclid St. #2 & #3, Anaheim CA 92802.

Pursuant to Section 9.04.060 of the Municipal Code, any establishment that provides “massage” or “massage services” is considered a massage establishment, which, pursuant to Section 9.18.020.030, requires Conditional Use Permit (CUP) approval. As part of the preliminary application process, the applicant was required to submit an application for a massage establishment operator permit with the Business Tax and License Division and the Police Department for a background check. The applicant has cleared the Police Department’s background check, and a massage establishment

operator permit has been issued, and is contingent upon the approval and effectiveness of Conditional Use Permit No. CUP-243-2023.

FINDINGS AND REASONS:

1. The proposed use will be consistent with the City's adopted General Plan and redevelopment plan.

The subject property has a General Plan Land Use designation of Residential/Commercial Mixed Use 1 (RC1), and is zoned GGMU-1 (Garden Grove Boulevard Mixed Use 1). The RC1 Land Use designation is intended to provide for a mix of higher density residential and commercial uses. The GGMU-1 includes use regulations and development and design standards that encourage vibrant, urban-scale districts that attract visitors. In particular, the subject proposal is consistent with the following General Plan Goals, Policies, and Implementation Measures:

*Policy LU-1.4 Encourage a wide variety of retail and commercial services, such as restaurants and cultural arts / entertainment, in appropriate locations.* The subject site is located within an area with abundant commercial services. Allowing a new massage establishment will add an additional amenity to the area and a business serving the local community.

*Goal LU-4 Uses compatible with one another.* The proposed massage establishment is located within a new office building. Although 128 Luxury Health Spa is considered a massage establishment, the business also provides other beauty and personal services such as hairdressing, facials, manicures and pedicures, which is compatible with other professional office uses. Furthermore, provided the Conditions of Approval are adhered to for the life of the project, the use will be compatible with other adjacent uses, and will be harmonious with the persons who work and live in the area.

*Policy LU-6.2 Encourage a mix of retail shops and services along the major corridors and in centers that better meet the community's needs.* The subject request for a Conditional Use Permit allowing the operation of a new massage establishment would add a new use to Garden Grove Boulevard, a major commercial corridor. The area surrounding the site already features a wide variety of commercial uses. With the subject request, the proposed use will further augment the variety of uses in the area including retail sales, eating establishments, financial institutions, and professional offices. By providing a vast variety of commercial uses, the area surrounding the Garden Grove Boulevard commercial corridor can become more resilient to any future community needs.

2. The requested use at the location proposed will not: adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding

area, or unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site, or jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare.

The proposed massage establishment use is compatible with the surrounding area that is improved with various commercial services. The proposed massage establishment is located within a new office building. Although 128 Luxury Health Spa is considered a massage establishment, the business also provides other beauty and personal services such as hairdressing, facials, manicures and pedicures, which is compatible with other professional office uses. In addition, the proposed massage establishment will be operating from 9:00 a.m. to 9:00 p.m., seven (7) days a week, which is consistent with permissible hours under Municipal Code Section 5.12. The Garden Grove Police Department has reviewed all relevant data pertaining to the proposed Conditional Use Permit. No concerns were raised related to the proposal. The Police Department has reviewed the request and is supportive of the proposal. The use will not unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located within the vicinity of the site.

Additionally, adequate parking will be available for the existing development, inclusive of the proposed massage establishment. The proposed massage establishment will be subject to all provisions of Chapter 5.12 of the Garden Grove Municipal Code and the conditions of approval, which will minimize potential impacts to property and persons residing or working in the surrounding area. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title or as is otherwise required in order to integrate such use with the uses in the surrounding area.

The proposed massage establishment will be located within an approximately 4,000 square foot tenant space located on the first floor of an office building. All site improvements are existing and no additional yards, walls, fences, parking or loading facilities, or landscaping are required to accommodate the proposed massage establishment. For massage establishments, the Municipal Code requires a minimum of one (1) parking space per 200 square feet of gross floor area. Based on the proposed size of 4,000 square feet, the massage establishment requires a minimum of twenty (20) parking spaces. The Code requires a minimum of forty (40) parking spaces for the development. The site provides a total of forty-one (41) parking spaces on-site. This results in a surplus of one (1) parking space. Therefore, the project complies with minimum parking requirements of the Municipal Code.

The site, with the existing site improvements, is of adequate size to accommodate the proposed use and to ensure it is integrated with the other uses in the surrounding area. The Public Works Department has reviewed the plans and all appropriate conditions of approval to minimize adverse impacts to surrounding areas have been incorporated.

4. The proposed site is adequately served: by highways or streets or sufficient width and improved as necessary to carry the kind and quantity of traffic such as to be generated, and by other public or private service facilities as required.

The site is adequately served by Garden Grove Boulevard and Sonoma Lane, and has an accessible driveway providing both ingress and egress. The site is also adequately served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities.

#### INCORPORATION OF FACTS AND FINDINGS SET FORTH IN THE STAFF REPORT

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Conditional Use Permit No. CUP-243-2023 does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030 (Conditional Use Permits).
2. In order to fulfill the purpose and intent of the Municipal Code, and thereby promote the health, safety, and general welfare, the following conditions of approval, attached as Exhibit "A", shall apply to Conditional Use Permit No. CUP-243-2023.



## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-243-2023**

10868 Garden Grove Boulevard

Assessor's Parcel Nos. 099-091-05, 099-091-04 and 099-091-37

### **CONDITIONS OF APPROVAL**

#### **General Conditions**

1. Each owner of the property shall execute, and the applicant shall record, a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, on the property within 30 days of approval. This Conditional Use Permit runs with the land and is binding upon the property owner, his/her/its heirs, assigns, and successors in interest.
2. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to the project applicant, the owner(s) and tenant(s) of the property, and each of their respective successors and assigns, including all subsequent purchasers and/or tenants. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Planning Commission, except as otherwise provided herein.
3. Conditional Use Permit No. CUP-243-2023 only authorizes the operation of a 4,000 square foot massage establishment within that certain tenant space identified as 10868 Garden Grove Boulevard and depicted on the plans submitted by the applicant and made part of the record of the September 21, 2023 Planning Commission proceedings. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply.
4. Minor modifications to the site plan, floor plan, and/or these Conditions of Approval may be approved by the Community Development Department Director, in his or her discretion. Proposed modifications to the approved use, floor plan, site plan and/or these Conditions of Approval determined by the Community Development Department Director, not to be minor in nature, shall be subject to approval of new and/or amended land use entitlements by the applicable City hearing body.
5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

**Police Department**

6. The permitted hours of operation shall be between 9:00 a.m. to 9:00 p.m., seven (7) days a week. In the event that problems arise concerning the operation of this business, the hours of operation may be reduced by order of the Chief of the Police Department.
7. There shall be no customers or patrons in or about the premises when the establishment is closed.
8. There shall be no gaming tables or gaming machines as outlined in City Code Sections 8.20.010 and 8.20.050 on the premises at any time.
9. In the event security problems occur, and at the request of the Police Department, the permittee, at his/her own expense, shall provide a California licensed, uniformed security guard(s) on the premises during such hours as requested by the Police Department.
10. The sale of alcohol for consumption on or off the premises is prohibited. There shall be no consumption of alcoholic beverages on the premises.
11. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation up to \$1,000 pursuant to GGMC 1.22.010(a).
12. A sign shall be posted on the exterior of the building noticing that there shall be no illegal dumping around the premises of the establishment.

**Orange County Fire Authority**

13. The occupant load shall be determined by the Orange County Fire Authority, and shall be posted in the tenant space in a location approved by the Orange County Fire Authority.
14. The applicant shall comply with the OCFA's Fire Master Plan.

**Community Development Department**

15. The establishment shall be operated as a "massage establishment" use as defined in the Municipal Code. The massage establishment, each owner, operator and manager thereof, and each person providing massage services on the premises shall comply with all provisions of Chapter 5.12 of the Garden Grove Municipal Code (Massage Regulations) at all times. Further, each person engaged in the business of massage on the premises shall obtain and maintain an operator's permit from the Police Chief pursuant to Chapter 5.12. No massage services may be provided on the premises without a current and valid operator's permit for the premises. The failure to maintain a valid operator's

- permit and/or to comply with said permit and all provisions of Chapter 5.12 shall be grounds for revocation of Conditional Use Permit No. CUP-243-2023.
16. All activities associated with the massage establishment shall be conducted within a fully enclosed permanent building.
  17. No area of the premises may be rented out or used for private parties at any time.
  18. No outside storage or displays shall be permitted at any time.
  19. A prominent, permanent sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THE PREMISES" shall be posted in a place that is clearly visible to patrons of the licensee. The sign lettering shall be four (4) to six (6) inches high with black letters on a white background. The sign shall be displayed near or at the entrance, and shall also be visible to the public.
  20. No live entertainment, i.e., dancing, karaoke, live music, sport bar or disc jockey entertainment, etc., shall be permitted on the premises. Amplified music may be permitted, but the sound emitted from the premises shall not be audible outside the boundaries of the establishment. No intercom or music is permitted in any outdoor areas of the premises.
  21. There shall be no uses or activities permitted of an adult oriented nature as outlined in City Code Section 9.18.030.245.
  22. There shall be no deliveries to or from the premises before 10:00 a.m. and after 8:00 p.m., seven (7) days a week.
  23. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
  24. Litter shall be removed daily from the premises, including adjacent public sidewalks, and from all parking areas under the control of the licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.
  25. All trash bins shall be kept inside the trash enclosure(s), and gates closed at all times, except during disposal and pick-up. The applicant shall provide sufficient trash bins and pick-up to accommodate the site. Trash pick-up shall be at least once per week.
  26. The applicant shall abate all graffiti vandalism within the premises. The applicant shall implement best management practices to prevent and abate graffiti vandalism within the premises throughout the life of the project, including, but not limited to, timely removal of all graffiti, the use of graffiti resistant coatings and surfaces, the installation of vegetation screening of

- frequent graffiti sites, and the installation of signage, lighting, and/or security cameras, as necessary. Graffiti shall be removed/eliminated by the applicant as soon as reasonably possible after it is discovered, but not later than 72 hours after discovery.
27. The applicant is advised that the establishment is subject to the provisions of State Labor Code Section 6404.5 (ref: State Law AB 13), which prohibits smoking inside the establishment as of January 1, 1995.
  28. No roof-mounted mechanical equipment, including exhaust vents, shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department, Planning Services Division. Said screening shall block visibility of any roof mounted mechanical equipment from view of public streets and surrounding properties.
  29. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community Development Department, Planning Services Division. No advertising material shall be placed thereon.
  30. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
  31. The main entrance facing the Garden Grove Boulevard shall remain visible from the street, and accessible for patrons during business hours. All other doors or storefront, including entrance oriented toward the parking lot, shall remain closed at all times, and shall only be labeled as and be accessible for "Emergency Exit Only".
  32. The storefront facing Garden Grove Boulevard, including service lounge area, steam room, wet massage, and hot stone area, as shown on the approved plan, shall be tinted or covered with opaque material, such that visibility from the public right-of-way shall be fully obstructed.
  33. No more than 15% of the total window area and clear doors in the main "entrance lobby" area, as labeled on the approved plan, shall bear advertising or signs of any sort. Any opaque material applied to the store front of the "entrance lobby" area shall count toward the maximum window coverage area.
  34. Signs shall comply with the City of Garden Grove sign requirements.
  35. Any modifications to existing signs or the installation of new signs shall require approval by the Community Development Department, Planning Services Division prior to issuance of a building permit.

36. The applicant shall ensure the subject tenant space and improvements, including restrooms and parking, comply with all applicable requirements of the 2019 California Building Standards Code, as determined by the Building and Safety Division.
37. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Conditional Use Permit No. CUP-243-2023. The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City, including, but not limited to, any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein. A copy of the decision approving Conditional Use Permit No. CUP 243-2023 shall be kept on the premises at all times.
38. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP 243-2023, and his/her agreement with all conditions of the approval.
39. Any Conditional Use Permit previously governing the subject tenant space shall become null and void, and superseded in its entirety, by the approval of Conditional Use Permit No. CUP 243-2023.
40. The tenant space shall fully comply with the applicable 2019 California Building Code Standards, including Chapter 11B for accessibilities.
41. If deemed necessary by the Community Development Director, this Conditional Use Permit may be reviewed periodically by the City in order to determine if the business is operating in compliance with all Conditions of Approval. On a yearly basis, as determined by Staff, the business operator shall meet with members of the Planning Services Division and Police Department to discuss operating conditions of the business and to determine if the business is operating in compliance with the Conditions of Approval.
42. Unless a time extension is granted pursuant to Section 9.32.030.D.9 of Title 9 of the Municipal Code, the use authorized by this approval of Conditional Use Permit No. CUP 243-2023 shall become null and void if the subject use or construction necessary and incidental thereto is not commenced within one (1)

year of the expiration of the appeal period and thereafter diligently advanced until completion of the project.

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> <p style="text-align: center;"><b>C.2.</b></p>	<b>SITE LOCATION:</b> Southeast corner of Garden Grove Boulevard and Wilson Street, at 8550 Garden Grove Boulevard Suite 104
<b>HEARING DATE:</b> September 21, 2023	<b>GENERAL PLAN:</b> Residential/Commercial Mixed Use 2 (RC2)
<b>CASE NO.:</b> Conditional Use Permit No. CUP-245-2023	<b>ZONE:</b> GGMU-2 (Garden Grove Boulevard Mixed Use 2)
<b>APPLICANT:</b> Michelle Ng	<b>CEQA DETERMINATION:</b> Exempt
<b>PROPERTY OWNER:</b> TTTran LLC	<b>APN:</b> 097-213-37

**REQUEST:**

The applicant is requesting Conditional Use Permit approval to allow a new, approximately 795 square foot tattoo parlor, White Lotus Society, to operate within an existing tenant space of a multi-tenant commercial building.

**BACKGROUND:**

The subject site is improved with an existing two-story multi-tenant commercial building, located on the southeast corner of Garden Grove Boulevard and Wilson Street. The subject property is zoned GGMU-2 (Garden Grove Boulevard Mixed Use 2) and has a General Plan Land Use Designation of Residential/Commercial Mixed Use 2 (RC2). The subject property is adjacent to GGMU-2 zoned properties to the east and, across Garden Grove Boulevard, to the north, R-3 (Multiple-Family Residential) zoned properties across a public alley, to the south and ,, R-3(T) (Multiple-Family Residential Transition Zone) and C-1(T) (Neighborhood Commercial Transition Zone) zoned properties across Wilson Street, to the west. Surrounding uses of the site include restaurants, retail uses, an auto dealership, and residential developments.

The subject two-story commercial building includes a mix of existing retail and office uses, which, according to business license records, includes professional offices, retail shops, an optometry, a pet grooming business, a barber, and a beauty shop. The first floor consists of six (6) tenant spaces ranging from 736 square feet to 911 square feet in gross floor area. The second floor consists of twelve (12) tenant spaces ranging from 267 square feet to 399 square feet in gross floor area.

The specific tenant space under application is an approximately 795 square foot space centrally located on the first floor of the building. The subject tenant space was formerly occupied by a general office. The applicant is now proposing to operate a

CASE NO. CUP-245-2023

new tattoo parlor, White Lotus Society, within the subject tenant space. Garden Grove Municipal Code Section 9.18.020.030 requires approval of a Conditional Use Permit to allow the operation of a new tattoo parlor in the GGMU-2 zone.

### **DISCUSSION:**

The proposed tattoo establishment, White Lotus Society, will operate solely as a "Tattoo, General" use, with services that include body and facial tattoos. No other incidental business activities such as an art gallery or retail sales are proposed or required for this business operation. The floor plan will consist of a waiting area, a tattooing area that can accommodate four (4) tattooing tables, an artist drawing room that will be used as a sketching area for tattoo artist, and a unisex restroom.

Additional regulations, as required under Municipal Code Section 9.18.020.030 (Uses Restricted to Indoor), applicable to "Tattoo, General" uses, require the following:

- In all GGMU zones, no tattoo parlor shall be located closer than 1,000 feet from any other tattoo parlor; and
- The entrance shall be oriented only toward a principal, major, or primary arterial street, as defined in the General Plan Circulation Element.

The proposed tattoo establishment is not located within 1,000 from any other existing tattoo parlor. Additionally, as shown on the proposed plans for CUP-245-2023, the main entrance of the proposed tattoo establishment will be oriented directly toward Garden Grove Boulevard, which is a primary arterial street as identified in the General Plan Circulation Element. Thus, the proposed business meets the additional regulations, under Section 9.18.020.030, applicable to new tattoo establishments.

Tattoo establishments are also subject to all applicable operation regulations as stipulated under Title 6 of the Municipal Code, Chapter 38 (Tattooing Establishment and Operation Regulations). A copy of said regulations have been provided to the applicant.

The business will operate between the hours of 8:00 a.m. to 10:00 p.m., seven (7) days a week. In the event problems arise concerning the operation of this business, the hours of operation may be reduced by order of the Chief of the Police Department.

### **Parking**

Per Business License's records, a sporting goods retail store, Orange Sports Center, occupied a tenant space that comprised Unit 103 and 104 from 1983 to 2013. After ceased the operation ceased, the tenant space was subdivided into two (2) separate units. In 2019, LD & Associates, an insurance and tax service company, occupied the Unit 104 space, changing the use of the unit from retail to office. With the approval of the proposed Conditional Use Permit, the subject tenant space will be converted from an office use to a tattoo parlor. For tattoo parlors, the Municipal Code requires



a minimum of one (1) parking space for every 200 square feet of gross floor area, which is similar to the parking ratio for retail uses. In addition, City's records have shown that the mix of uses within the building remains virtually the same since the closure of the OC Sports Center. With the parking requirement of the tattoo parlor being the same as a retail use, the parking demand of the building is not anticipated to be increased. Therefore, no additional parking spaces will be required to accommodate the proposed tattoo parlor.

The Community Development Department and the Police Department have reviewed the request and are supporting the proposal.

### **California Environmental Quality Act (CEQA)**

CEQA's Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, and minor alterations of existing facilities, with negligible or no expansion of use (CEQA Guidelines §15301). The subject request is to allow the operation of a new, approximately 795 square foot tattoo parlor, White Lotus Society, to operate within an existing tenant space of a multi-tenant commercial building. No additional square footage will be added to the existing structure. Therefore, the proposed project is exempt from CEQA.

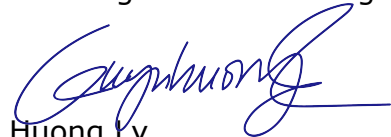
### **RECOMMENDATION:**

Staff recommends that the Planning Commission take the following action:

1. Adopt Resolution No. 6065-23 approving the Conditional Use Permit No. CUP-245-2023, subject to the recommended conditions of approval.



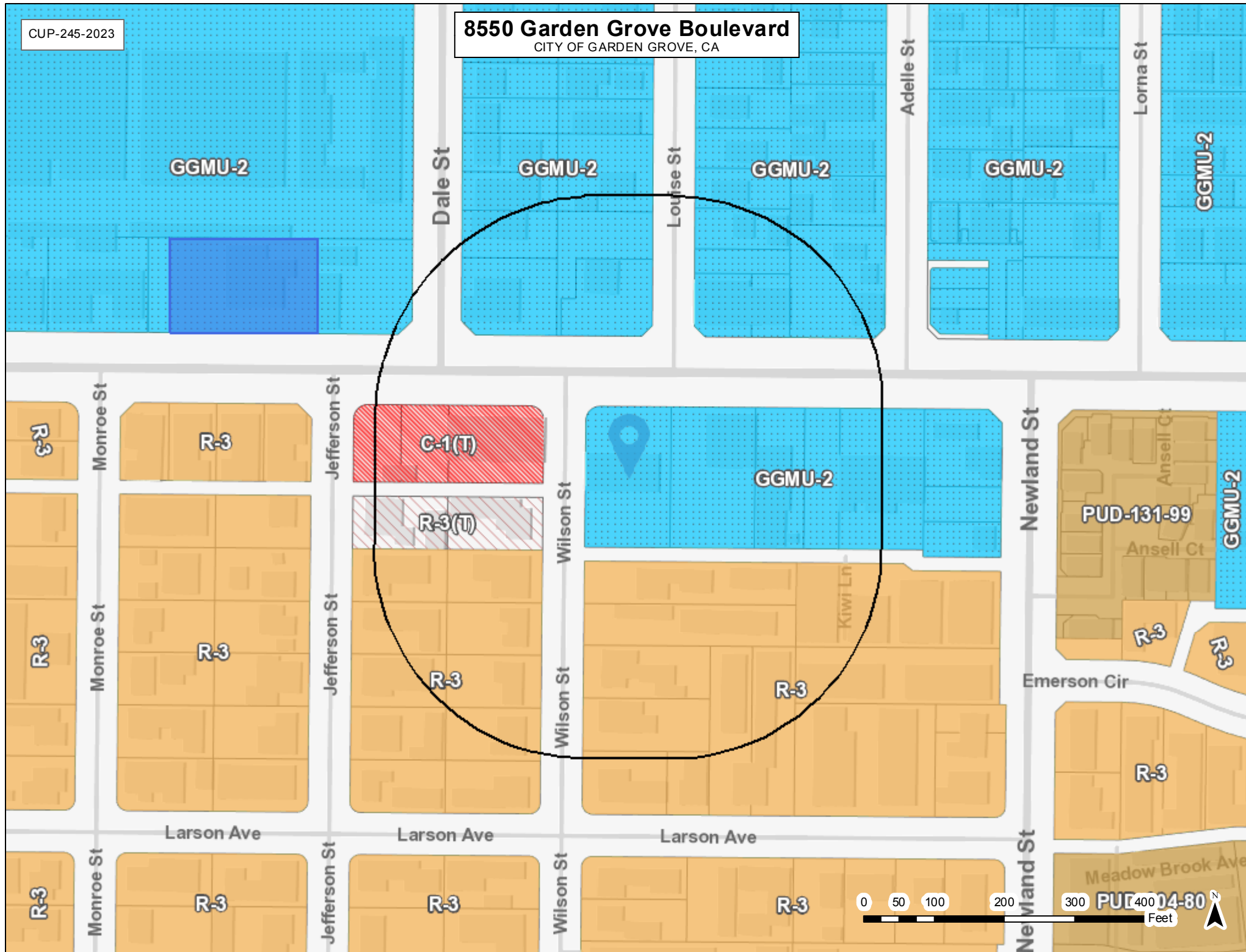
Maria Parra  
Planning Services Manager



Huong Ly  
Associate Planner

[Attachment 1: Vicinity Map](#)  
[Attachment 2: Floor Plan](#)

**8550 Garden Grove Boulevard**  
CITY OF GARDEN GROVE, CA

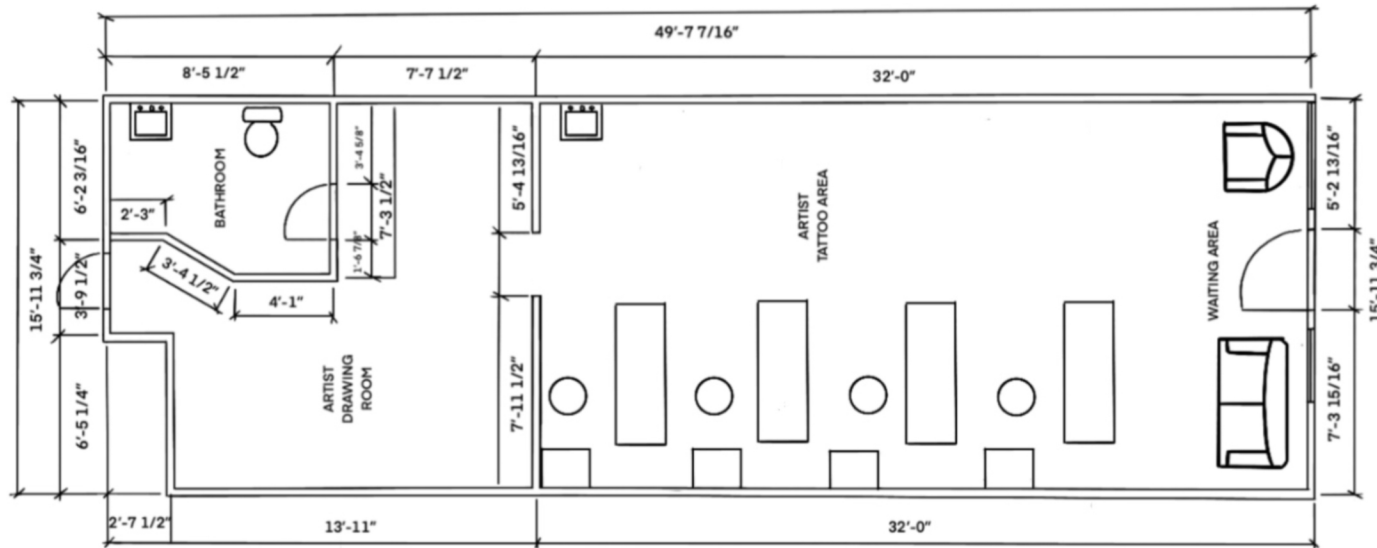


TOTAL AREA: 820 sq f



**WALL LEGEND**

	EXISTING WALL/PARTITION
	STANDARD FIXED WINDOW



**Michelle Ng**  
858-449-9257

**PROJECT LOCATION**  
8550 Garden Grove Blvd Ste 104  
Garden Grove, CA 92844

**PROPOSED TATTOO SHOP**  
WHITE LOTUS SOCIETY  
8550 Garden Grove Blvd Ste 104  
Garden Grove CA 92844

DRAWN  
**MICHELLE NG**

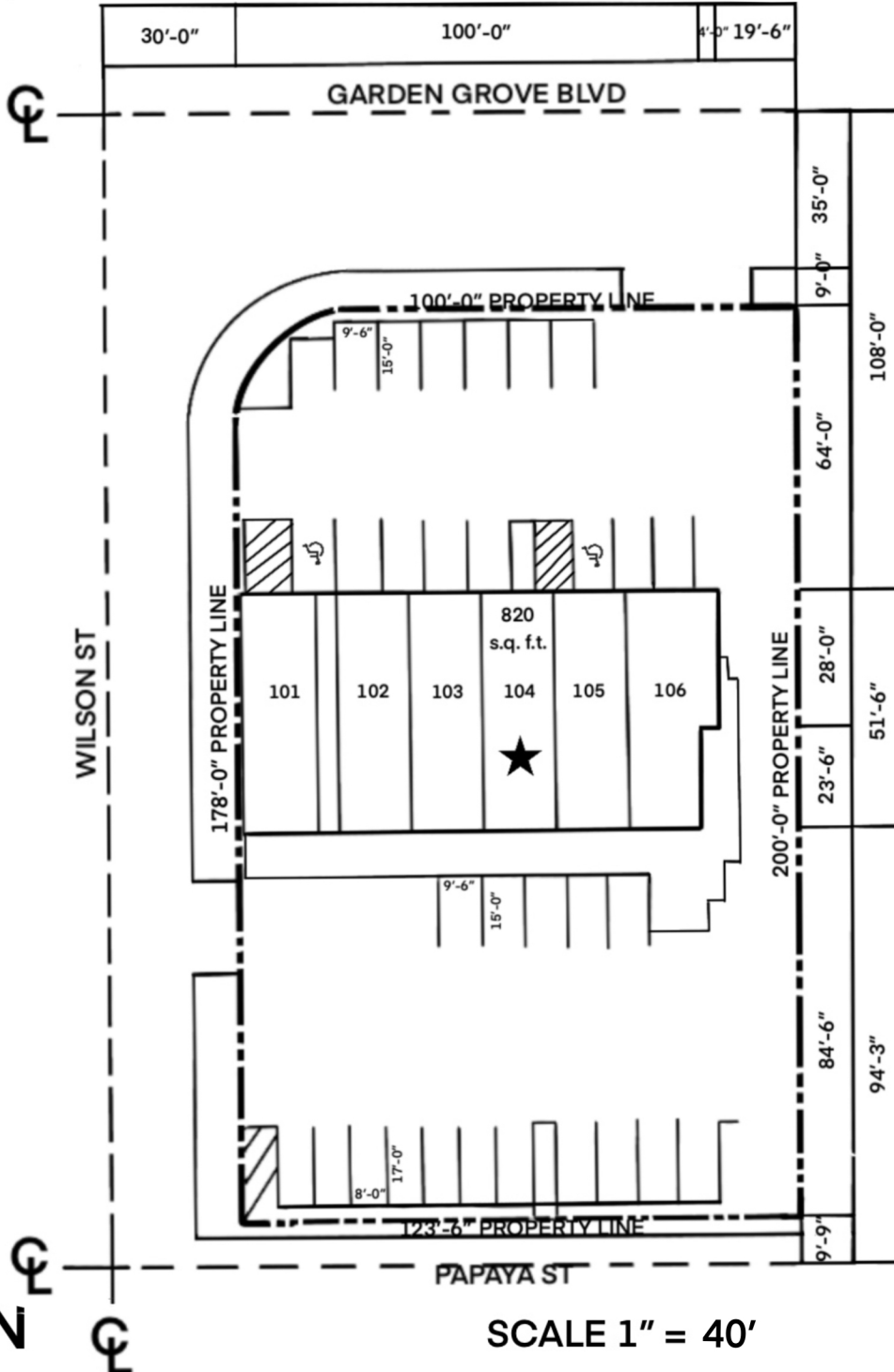
DATE  
**6-4-23**

SCALE  
**SCALE 1" = 8'**

DRAWING NO.  
**A01**

# FLOOR PLAN

SCALE 1" = 8'



# SITE PLAN

SCALE 1" = 40'

1. ZONE  
GARDEN GROVE

2. LEGAL DESCRIPTION  
N TR 1072 BLK LOT 1  
APN: 097-213-37  
PARCEL NET SIZE: 0.554 Acres

LANDORD/OWNER  
TTTRAN INC  
8550 GARDEN GROVE BLVD  
GARDEN GROVE CA 92844

4. PROJECT  
LAND USE CLASSIFICATION: GGMU-2  
AREA: GARDEN GROVE COUNTY ORANGE  
STATE: CALIFORNIA  
NON SPRINKLERED

5. BUILDING ANALYSIS  
BUILDING AREA 10,224 sq ft  
BUILDING COVERAGE: 42%  
BUILDING HEIGHT: 23' 6"

SUITE 104  
TOTAL AREA: 820 SF  
TATTOO AREA: 398 SF  
BATHROOM: 52 SQ  
DRAWING AREA: 279 SF  
WAITING AREA: 91 SF

6. PARKING ANALYSIS  
NUMBER OF COMPACT SPACES: 11 (35.5%)  
NUMBER OF HANDICAP SPACES: 2 (6.5%)  
TOTAL PARKING SPACES: 31

7. LANDSCAPE ANALYSIS  
TOTAL AREA: 0 SF

**Michelle Ng**  
**858-449-9257**

PROJECT LOCATION  
8550 Garden Grove Blvd Ste 104  
Garden Grove, CA 92844

PROPOSED TATTOO SHOP  
WHITE LOTUS SOCIETY  
8550 Garden Grove Blvd Ste 104  
Garden Grove CA 92844

DRAWN  
**MICHELLE NG**

DATE  
**6-4-23**

SCALE  
**1" = 40'**

DRAWING NO.  
**A00**

RESOLUTION NO. 6065-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-245-2023 FOR A PROPERTY LOCATED ON THE SOUTHEAST CORNER OF GARDEN GROVE BOULEVARD AND WILSON STREET, AT 8550 GARDEN GROVE BOULEVARD, SUITE 104, ASSESSOR'S PARCEL 097-213-37.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on September 21, 2023, does hereby approve Conditional Use Permit No. CUP-245-2023 for the property located on the southeast corner of Garden Grove Boulevard and Wilson Street, at 8550 Garden Grove Boulevard, Suite 104, Assessor's Parcel No. 097-213-37, subject to the Conditions of Approval attached hereto as "Exhibit A".

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-245-2023, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Michelle Ng, with the authorization of the property owner, TTTran LLC.
2. The applicant is requesting Conditional Use Permit (CUP) approval to allow a new approximately 795 square foot tattoo parlor, White Lotus Society, to operate within an existing tenant space of a multi-tenant commercial building located at 8550 Garden Grove Boulevard, Suite 104.
3. The Planning Commission hereby determines that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities of the CEQA Guidelines (14 Cal. Code Regs., Section 15301).
4. The property has a General Plan Land Use Designation of Residential/Commercial Mixed Use 2 (RC2) and is zoned Garden Grove Boulevard Mixed Use 2 (GGMU-2). The subject site is improved with an existing two-story commercial building.
5. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
6. Report submitted by City Staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on September 21, 2023, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting on September 21, 2023, and considered all oral and written testimony presented regarding the project.

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The subject site is improved with an existing two-story multi-tenant commercial building, located on the southeast corner of Garden Grove Boulevard and Wilson Street. The subject property is zoned GGMU-2 (Garden Grove Boulevard Mixed Use 2) and has a General Plan Land Use Designation of Residential/Commercial Mixed Use 2 (RC2). The subject property is adjacent to GGMU-2 zoned properties to the east and, across Garden Grove Boulevard, to the north, R-3 (Multiple-Family Residential) zoned properties across a public alley, to the south and ,R-3(T) (Multiple-Family Residential Transition Zone) and C-1(T) (Neighborhood Commercial Transition Zone) zoned properties across Wilson Street, to the west. Surrounding uses of the site include restaurants, retail uses, an auto dealership, and residential developments.

The subject two-story commercial building includes a mix of existing retail and office uses, which, according to business license records, includes professional offices, retail shops, an optometry, a pet grooming business, a barber, and a beauty shop. The first floor consists of six (6) tenant spaces ranging between 736 square feet to 911 square feet in gross floor area. The second floor consists of twelve (12) tenant spaces ranging between 267 square feet to 399 square feet in gross floor area.

The specific tenant space under application is an approximately 795 square foot space centrally located on the first floor of the building. The subject tenant space was formerly occupied by general office. The applicant is now proposing to operate a new tattoo parlor, White Lotus Society, within the subject tenant space. Garden Grove Municipal Code Section 9.18.020.030 requires approval of a Conditional Use Permit to allow the operation of a new tattoo parlor in the GGMU-2 zone.

The proposed tattoo parlor, White Lotus Society, will operate solely as a "Tattoo, General" use, providing body and facial tattoo services. The floor plan will consist of a waiting area, a tattooing area that can accommodate four (4) tattooing tables, an artist drawing room, and a unisex restroom. The project complies with the additional regulations, as required under Municipal Code Section 9.18.020.030 (Uses Restricted to Indoor), applicable to "Tattoo, General" uses. The proposed tattoo establishment is not located within 1,000 feet from any other existing tattoo parlor. Additionally, as shown on the proposed plans for CUP-245-2023, the main entrance of the proposed tattoo establishment will be oriented directly toward Garden Grove Boulevard, which is a primary arterial street as identified in the General Plan Circulation Element. Therefore, the proposed business meets the additional regulations, under Section 9.18.020.030 of the Municipal Code, applicable to new tattoo establishments. The proposed tattoo establishment will also be subject to, and will operate, in compliance with all applicable operation regulations as stipulated under Title 6 of the Municipal

Code, Chapter 38 (Tattooing Establishment and Operation Regulations). The business will operate between the hours of 8:00 a.m. to 10:00 p.m., seven (7) days a week.

#### FINDINGS AND REASONS:

1. The proposed use will be consistent with the City's adopted General Plan and redevelopment plan.

The subject property has a General Plan Land Use designation of Residential/Commercial Mixed Use 2 (RC2) and is zoned GGMU-2 (Garden Grove Boulevard Mixed Use 2). The RC2 Land Use designation is intended to provide for a mix of higher-density residential and commercial uses. The GGMU-2 zone encourages commercial uses that provide goods and services for adjacent residential units. In particular, the subject proposal is consistent with the following General Plan Goals, Policies, and Implementation Measures:

*Policy LU-1.4 Encourage a wide variety of retail and commercial services, such as restaurants and cultural arts / entertainment, in appropriate locations.* The subject site is located within an area with abundant commercial services. Allowing a new tattoo parlor at the proposed location will add an additional amenity to the area and that will serve the local community.

*Goal LU-4 Uses compatible with one another.* Tattoo parlors ("General, Tattoo") are conditionally permitted uses in the GGMU-2 zone. The proposed tattoo parlor is located within an existing commercial building. The parlor will have an open floor plan that can accommodate four (4) tattoo tables, an artist drawing room, and a restroom. The establishment will operate from 8:00 a.m. to 8:00 p.m., similar to the hours of operation of the nearby businesses, which include restaurants, retail sales, and offices. In addition, the proposed tattoo parlor is more than 1,000 feet away from another existing tattoo parlor. Provided the Conditions of Approval are adhered to for the life of the project, the use will be compatible with other adjacent uses and will be harmonious with the persons who work and live in the area.

*Policy LU-6.2 Encourage a mix of retail shops and services along the major corridors and in centers that better meet the community's needs.* The subject request for a Conditional Use Permit allowing the operation of a new tattoo parlor would add a new use to the adjacent neighborhood. The area surrounding the site already features a wide variety of commercial uses. With the subject request, the proposed use will further augment the variety of uses in the area. By providing a vast variety of commercial uses, the area surrounding the Garden Grove Boulevard commercial corridor can become more resilient to any future community needs.

*Policy SAF-1.2 Provide regular opportunities for communications between the Police Department and community members.* The Garden Grove Police Department has reviewed all relevant data pertaining to the proposed Conditional Use Permit. The intent of their review is to reduce the potential

crime-related activities and to promote the safe operation of the new tattoo parlor. No concerns were raised by the Police Department regarding the proposed business. The Police Department has reviewed the request and is supportive of the proposal.

2. The requested use at the location proposed will not: adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding area, or unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site, or jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare.

The use will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area. The proposed tattoo will be operated between 8:00 a.m. to 8:00 p.m. The hours of operation is within the City's standard hours. In addition, the proposed tattoo parlor is not located within 1,000 feet of any existing general tattoo parlor. The conditions of approval will minimize potential impacts to the adjoining area. The Garden Grove Police Department has reviewed all relevant data pertaining to the proposed Conditional Use Permit, and is supportive of the proposal. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

The use will not unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located within the vicinity of the site, provided the conditions of approval are adhered to for the life of the project. By operating as a tattoo parlor, the use will be compatible with the surrounding uses.

3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title or as is otherwise required in order to integrate such use with the uses in the surrounding area.

The proposed tattoo parlor will be centrally located on the first floor of an existing two-story commercial building. No modifications are proposed to the existing site improvement including the yards, walls, fences, parking or loading facilities, or landscaping. For tattoo parlors, the Municipal Code requires a minimum of one (1) parking space for every 200 square feet of gross floor area, which is the same as the parking ratio for retail uses. The building has a mix of commercial uses that remained the same over time. The subject tenant space was periodically occupied by office and retail uses. The establishment of the proposed tattoo parlor, White Lotus Society, will not increase the parking demand of the building. Therefore, no additional parking space will be required to accommodate the proposed tattoo parlor. Therefore, no additional parking space will be required to accommodate the proposed tattoo parlor.

The site, with the existing site improvements and modifications, is of adequate size to accommodate the proposed use and to ensure it is integrated with the



other uses in the surrounding area. The Public Works Department has reviewed the plans and all appropriate conditions of approval to minimize adverse impacts to surrounding areas have been incorporated.

4. The proposed site is adequately served: by highways or streets or sufficient width and improved as necessary to carry the kind and quantity of traffic such as to be generated, and by other public or private service facilities as required.

The site is adequately served by Garden Grove Boulevard, Wilson Street, and an alley. The site has accessible driveways providing both ingress and egress. The site is also adequately served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities.

#### INCORPORATION OF FACTS AND FINDINGS SET FORTH IN THE STAFF REPORT

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Conditional Use Permit No. CUP-245-2023 does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030 (Conditional Use Permits).
2. In order to fulfill the purpose and intent of the Municipal Code, and thereby promote the health, safety, and general welfare, the following conditions of approval, attached as Exhibit "A", shall apply to Conditional Use Permit No. CUP-245-2023.

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-245-2023**

8550 Garden Grove Boulevard Suite 104

#### **CONDITIONS OF APPROVAL**

##### **General Conditions**

1. Each owner of the property shall execute, and the applicant shall record, a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, on the property within 30 days of approval. This Conditional Use Permit runs with the land and is binding upon the property owner, his/her/its heirs, assigns, and successors in interest.
2. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to the project applicant, Michelle Ng, the owner(s) and tenant(s) of the property, and each of their respective successors and assigns, including all subsequent purchasers and/or tenants. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Planning Commission, except as otherwise provided herein.
3. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply.
4. Minor modifications to the approved site plan, floor plan, and/or these Conditions of Approval may be approved by the Community Development Director, in his or her discretion. Proposed modifications to the approved floor plan, site plan, or Conditions of Approval that would result in the intensification of the project or create impacts that have not been previously addressed, and which are determined by the Community Development Director not to be minor in nature shall be subject to approval of new and/or amended land use entitlements by the applicable City hearing body.
5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

##### **Police Department**

6. There shall be no gaming tables or gaming machines, as outlined in City Code Sections 8.20.010 and 8.20.050, on the premises at any time.

7. Hours of operation shall be permitted from 8:00 a.m. to 10:00 p.m., seven (7) days a week. In the event a particular tattoo design is taking longer to apply after the business closes to the public at 10:00 p.m., the tattoo artist, the customer, and a single guest may remain in the business until 12:00 a.m. The City of Garden Grove reserves the right to reduce hours of operation, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business.
8. In the event security problems occur, and at the request of the Police Department, the permittee, at its own expense, shall provide a California licensed, uniformed security guard(s) on the premises during such hours as requested by the Police Department.
9. No alcoholic beverages shall be consumed on the premises with the exception of a closed, special event that has written approval by the Chief of the Police Department or his designee.
10. There shall be no enclosed booths on the premises at any time. Walls and/or partitions exceeding thirty-six (36) inches in height, which partially enclose or separate booths, with the exception of the artist drawing room as shown on the approved floor plan, shall be of a clear and transparent material. No item shall be placed in the area of the booths that would limit or decrease the visibility of the interior of the business from any location within the business.
11. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation up to \$1,000 pursuant to GGMC 1.22.010(a).

### **Community Development Department**

12. As a result of the open nature of the proposed floor plan, persons present in the tattoo station area of the business will generally be able to observe the application of tattoos to customers of the tattoo station area. Accordingly, in those instances where the application of a tattoo requires or results in the exposure of body parts that would normally be considered private in nature, such as the female breast, the pubic area, or the buttocks, the applicant shall ensure that the customer to whom the tattoo is being applied is screened from view of other non-employees present in the establishment.
13. There shall be no body piercing performed in the establishment.
14. The tattoo establishment is subject to, and will operate in compliance with, all applicable operation regulations as stipulated under Title 6 of the Municipal Code, Chapter 38 (Tattooing Establishment and Operation Regulations).

15. No outside storage or displays shall be permitted at any time.
16. A prominent, permanent sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THE PREMISES" shall be posted in a place that is clearly visible to patrons of the licensee. The sign lettering shall be four (4) to six (6) inches high with black letters on a white background. The sign shall be displayed near or at the entrance, and shall also be visible to the public.
17. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
18. No live entertainment, i.e., dancing, karaoke, live music, sport bar or disc-jockey entertainment, etc., including amplified music, shall be permitted on the premises. There shall be no raised platform, stage or dance floor allowed on the premises at any time.
19. There shall be no amusement devices permitted on the premises at any time.
20. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.16.020.070.
21. There shall be no deliveries to or from the premises before 7:00 a.m. and after 10:00 p.m., seven days a week.
22. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
23. Litter shall be removed daily from the premises, including adjacent public sidewalks, and from all parking areas under the control of the licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.
24. All trash bins shall be kept inside the trash enclosure, and gates closed at all times, except during disposal and pick-up. Trash pick-up shall be at least three (3) times a week.
25. The applicant/property owner shall abate all graffiti vandalism within the premises. The applicant/property owner shall implement best management practices to prevent and abate graffiti vandalism within the premises throughout the life of the project, including, but not limited to, timely removal of all graffiti, the use of graffiti resistant coatings and surfaces, the installation of vegetation screening of frequent graffiti sites, and the installation of signage, lighting, and/or security cameras, as necessary. Graffiti shall be removed/eliminated by the applicant/property owner as soon as reasonably possible after it is discovered, but not later than 72 hours after discovery.

26. The applicant is advised that the establishment is subject to the provisions of State Labor Code Section 6404.5 (ref: State Law AB 13), which prohibits smoking inside the establishment as of January 1, 1995.
27. No roof-mounted mechanical equipment, including exhaust vents, shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department, Planning Services Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
28. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community Development Department, Planning Services Division. No advertising material shall be placed thereon.
29. There shall be no outdoor activities conducted on the premises without approval of a Special Event Permit or Community Event Permit.
30. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
31. Signs shall comply with the City of Garden Grove sign requirements. No more than 15% of the total window area and clear doors shall bear advertising or signs of any sort. Any opaque material applied to the store front, such as window shall count toward the maximum window coverage area.
32. Any modifications to existing signs or the installation of new signs shall require approval by the Community Development Department, Planning Services Division prior to issuance of a building permit.
33. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning CUP-245-2023. The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City, including, but not limited to, any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein.

34. A copy of the resolution approving Conditional Use Permit No. CUP-245-2023 shall be kept on the premises at all times.
35. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-245-2023, and his/her agreement with all conditions of the approval.
36. The Conditional Use Permit may be called for review by City staff, the City Council, or Planning Commission, if noise or other complaints are filed and verified as valid by the Code Enforcement office or other City department concerning the violation of approved conditions, the Garden Grove Municipal Code, or any other applicable provisions of law.
37. If deemed necessary by the Community Development Director, the Conditional Use Permit may be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.3.	<b>SITE LOCATION:</b> West side of Main Street, between Garden Grove Boulevard and Acacia Parkway, at 12941 Main Street
<b>HEARING DATE:</b> September 21, 2023	<b>GENERAL PLAN:</b> Civic Center Mixed Use (CC)
<b>CASE NO.:</b> Conditional Use Permit No. CUP-284-09 (REV. 23)	<b>ZONE:</b> CC-2 (Civic Center Main Street)
<b>APPLICANT:</b> HTB, INC.	<b>CEQA DETERMINATION:</b> Exempt
<b>PROPERTY OWNER:</b> Andrew Nguyen	<b>APN:</b> 089-213-12

## **REQUEST:**

The applicant is requesting to modify Conditional Use Permit No. CUP-284-09 (REV. 10), which governs alcohol sales and limited live entertainment at an existing restaurant, The Wharf, located within Historic Main Street to allow (i) modifications to the approved floor plan and conditions of approval to add two (2) new pool tables in the dining area as incidental amusement devices, and (ii) modification to the conditions of approval to extend the hours of operation to be from 11:00 a.m. to 2:00 a.m., seven (7) days a week. City Staff is recommending that the Conditions of Approval also be updated to reflect existing standard conditions of approval currently applied to new conditional use permits for establishments operating with a State Alcoholic Beverage Control (ABC) Type "47" License.

## **BACKGROUND:**

The subject site is improved with an existing 6,000 square foot one-story restaurant located on the west side of Main Street between Acacia Parkway and Garden Grove Boulevard. The property is zoned CC-2 (Civic Center Main Street), and has a General Plan land use designation of Civic Center Mixed Use (CC). The building is located within Historic Main Street, which consists of a mix of residential, restaurants, tea shops, retail, personal services, and office uses.

On June 12, 2008, the City of Garden Grove approved Conditional Use Permit No. CUP-233-08, which allowed the subject restaurant, which was under the name of 7 Seas Restaurant at the time, to operate with a new original State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Eating Place) License. On November 12, 2009, the City approved Conditional Use Permit No. CUP-284-09, which allowed the restaurant to operate with an ABC Type "47" (On-Sale, General, Eating Place) License. On June 17, 2010, the City approved CUP-284-09 (REV. 10) to allow the modification of the existing floor plan of the restaurant to include a new

sushi bar and new rear dining/lounge area; to extend the hours of operation to be from 11:00 a.m. to 11:00 p.m., Sunday through Thursday, and 11:00 a.m. to 2:00 a.m., Friday and Saturday; and to allow limited live entertainment in the form of one vocalist and one amplified instrumentalist. In 2009, the restaurant changed the ownership and the name of the restaurant was changed to The Wharf.

The applicant, HTB, Inc., acquired the Wharf in July 2023. The applicant is experienced in the restaurant and billiard industry. Currently, the applicant is partnering with other businesses to operate Danny K's Billiards & Sports Bar, located at 1096 N. Main Street, Orange, CA 92867, and Aloha Family Billiards, located at 7311 Orangethorpe Avenue, Buena Park, CA 90621. In addition, the applicant is associated with several billiards and pool leagues, including the American Poolplayers Association (APA), the Billiard Congress of America (BCA), and the United States Professional Poolplayers Association (UPA). Wishing to keep a similar business model that includes the element of pool playing at the Wharf, the applicant is requesting to install two (2) new pool tables as incidental amusement devices within the existing dining area; and to extend the hours of operation of the restaurant from 11:00 a.m. to 2:00 a.m., seven (7) days a week.

In the CC-2 Zone, the Municipal Code permits up to two (2) pool tables as incidental amusement devices within a use authorized by a conditional use permit if the pool tables are expressly authorized pursuant to the terms of the conditional use permit for the primary use. The two (2) pool tables will be incidental to the primary restaurant operation, and the establishment will continue to be classified as, and will operate primarily as, a full-service restaurant. Approval of a modification to Conditional Use Permit No. CUP-284-09 (REV. 10), which currently governs the existing restaurant operation, is required to facilitate the proposed modifications to the floor plan, for the inclusion of two (2) pool tables, and the conditions of approval, to extend the hours of operation.

The Conditions of Approval to CUP-284-09 (REV. 10) are not current and do not reflect all existing standard conditions of approval currently applied to new conditional use permits for establishments operating with a State Alcoholic Beverage Control (ABC) Type "47" License. Therefore, City Staff is recommending that the Conditions of Approval for the use also be updated to reflect current standard conditions imposed on similar uses.

**DISCUSSION:**

The Wharf is a 6,000 square foot full-service restaurant that specializes in seafood. The restaurant consists of dining areas throughout the establishment, a bar area with counter seating, a lounge area at the rear, a kitchen, and two (2) restrooms. The restaurant is accessible from Main Street (front), and from the westerly public parking lot (rear).



MODIFICATION TO THE EXISTING FLOOR PLAN AND CONDITIONS OF APPROVAL  
TO ALLOW INCIDENTAL POOL TABLES

The applicant is proposing to modify the existing customer dining area, located at the northeast corner of the restaurant, by removing and/or modifying dining tables and booths to provide two (2) pool tables that are 3'-6" by 7'-0" in size, each. The seating arrangements of other customer dining areas of the restaurant will continue to remain largely the same. Besides the modifications to the customer dining area to install the two (2) pool tables, no additional significant interior modifications or expansions to the floor area are included in the proposal. The restaurant will continue to provide an open floor plan with clear and unobstructed views from the front entrance (facing Main Street) and the rear entrance (facing the westerly parking lot area) into the restaurant, including the area for the pool tables.

Cue sticks and billiard balls will be stored behind the service counter. In order to play, customers will be required to check in with the host at the service counter to receive cue sticks and racks of billiard balls. Pool tables will be used for open play (i.e., no appointments will be required) in conjunction with the services of food and beverage at the subject eating establishment. No tournaments or special events will take place. The Wharf will remain a "bona fide eating place", and continues to serve food and alcoholic beverages per the requirements of the California State Alcoholic Beverage Control Department.

In order to approve the request, new requirements addressing the business activities related to the use of the pool tables have been added to the conditions of approval. In addition, as part of the approval, a building permit for tenant improvements will be required to ensure that the entire eating establishment complies with the latest applicable requirements of the California Building Standard Code (CBC) and the American Disability Act (ADA).

MODIFICATION TO THE OPERATIONAL HOURS

Under CUP-284-09 (REV. 10), the permitted hours of operation are from 11:00 a.m. to 11:00 p.m., Sunday through Thursday, and 11:00 a.m. to 2:00 a.m., Friday and Saturday. The applicant proposes to modify the hours of operation to be from 11:00 a.m. to 2:00 a.m., seven (7) days a week. The proposed modification to the hours of operation will be consistent with existing uses within Historic Main Street, where a variety of restaurants that open late at night currently operate. For example, Azteca Restaurant & Lounge, located to the north of the Wharf at 12911 Main Street, has been operating to 2:00 a.m., seven (7) days a week, since 1980. Louie's on Main, located at 12942 Main Street, operates until to 2:00 a.m., Friday and Saturday. The Aum Beer House, located at 12900 Main Street, operates until to 1:30 a.m., Friday and Saturday. The Police Department has reviewed the proposed modification of the hours of operation at the Wharf. No issue was raised, and the Police Department is supportive of the proposal. The Conditions of approval require the restaurant to comply with the City's Noise Ordinance. In the event problems arise concerning the operation of this business, the hours of operation may be reduced by order of the Police Department.

MODIFICATION TO THE STANDARD CONDITIONS OF APPROVAL

Since its approval, language of conditions of approval under CUP-284-09 (REV. 10) has been outdated, and is not consistent to the latest standard conditions of approval for ABC Type "47" Licensed establishments. Therefore, City Staff is recommending that the Conditions of Approval for the sale of alcoholic beverages at the Wharf also be updated to reflect current standard conditions imposed on similar uses. The proposed modifications to the conditions of approval are provided in a redlined and strike-through format and attached to this staff report. The Community Development Department and the Police Department have reviewed the request and are in support of the proposal. All standard conditions of approval for a Type "47" (On-Sale, General, Eating Place) License with limited live entertainment will apply.

**California Environmental Quality Act (CEQA):**

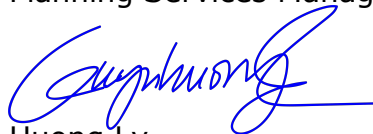
CEQA's Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, and minor alterations of existing facilities, with negligible or no expansion of use (CEQA Guidelines §15301). The subject request is to modify Conditional Use Permit No. CUP-284-09 (REV. 10) to allow the modification of the existing floor plan to accommodate the addition of two (2) pool tables and the extension of the hours of operation from 11:00 a.m. to 2:00 a.m., seven (7) days a week. No additional square footage will be added to the existing structure. Therefore, the proposed project is exempt from CEQA.

**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following action:

1. Adopt Resolution No. 6068-23 approving Conditional Use Permit No. CUP-284-09 (REV. 23), subject to the recommended conditions of approval.

Maria Parra  
Planning Services Manager

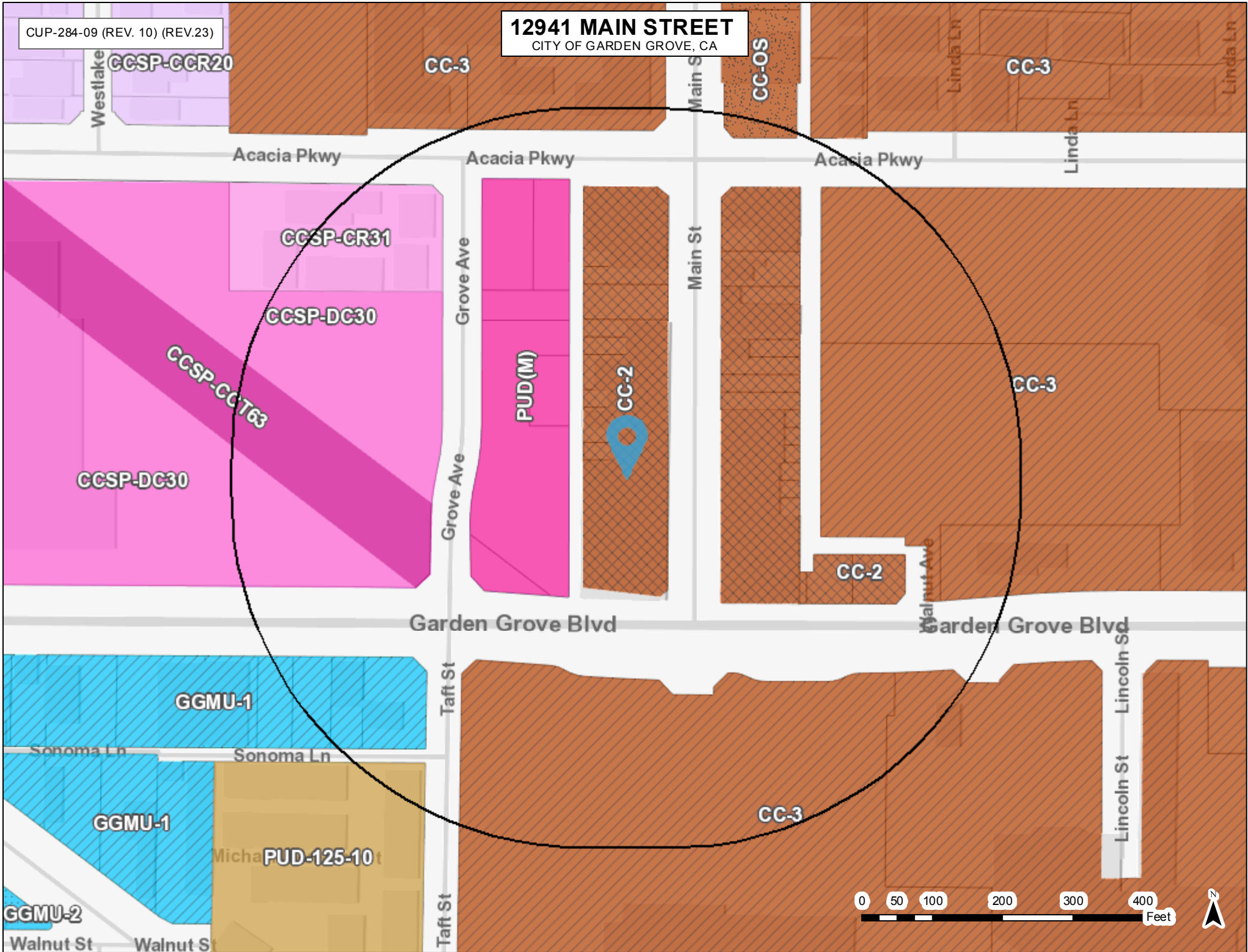


Huong Ly  
Associate Planner

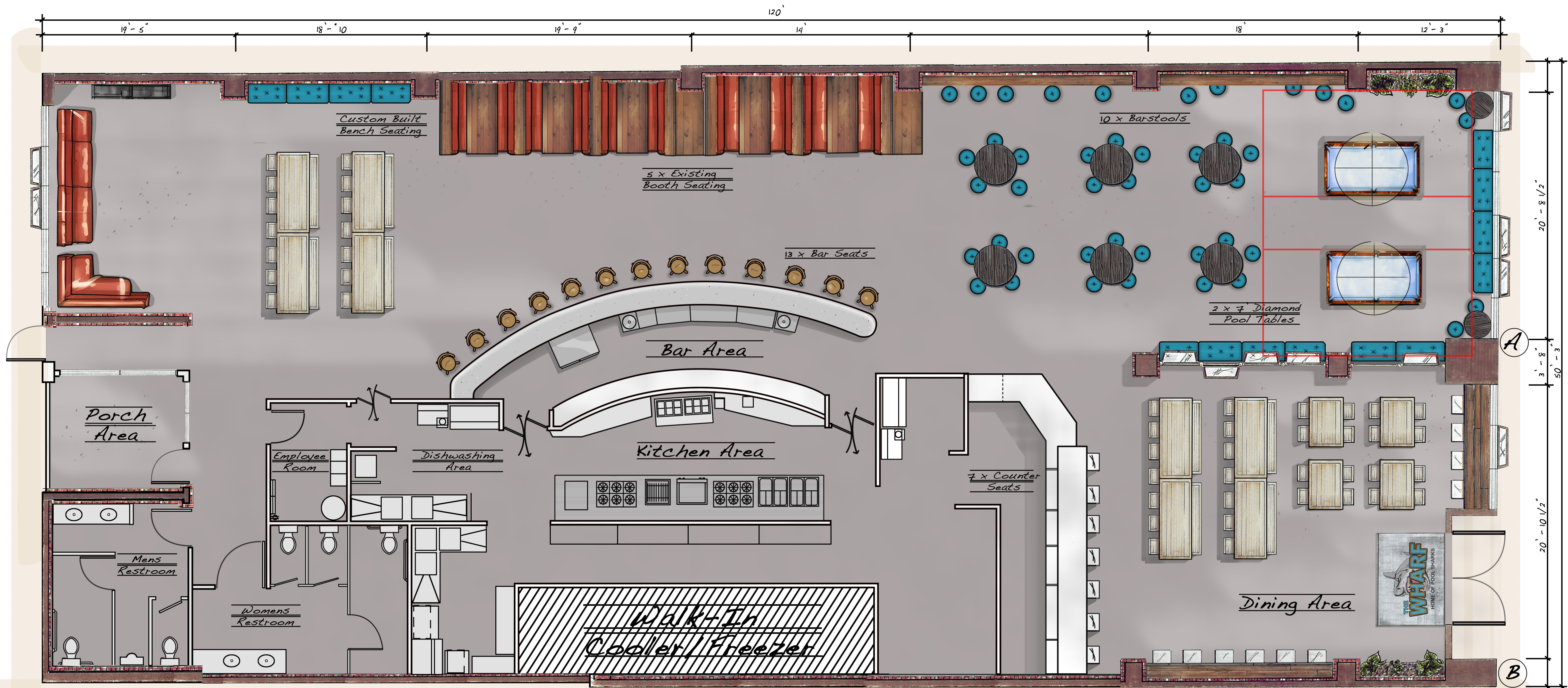
Attachment 1:  
Attachment 2:  
Attachment 3:

Vicinity Map  
Proposed Plans  
Redlined Conditions of Approval.

**12941 MAIN STREET**  
CITY OF GARDEN GROVE, CA

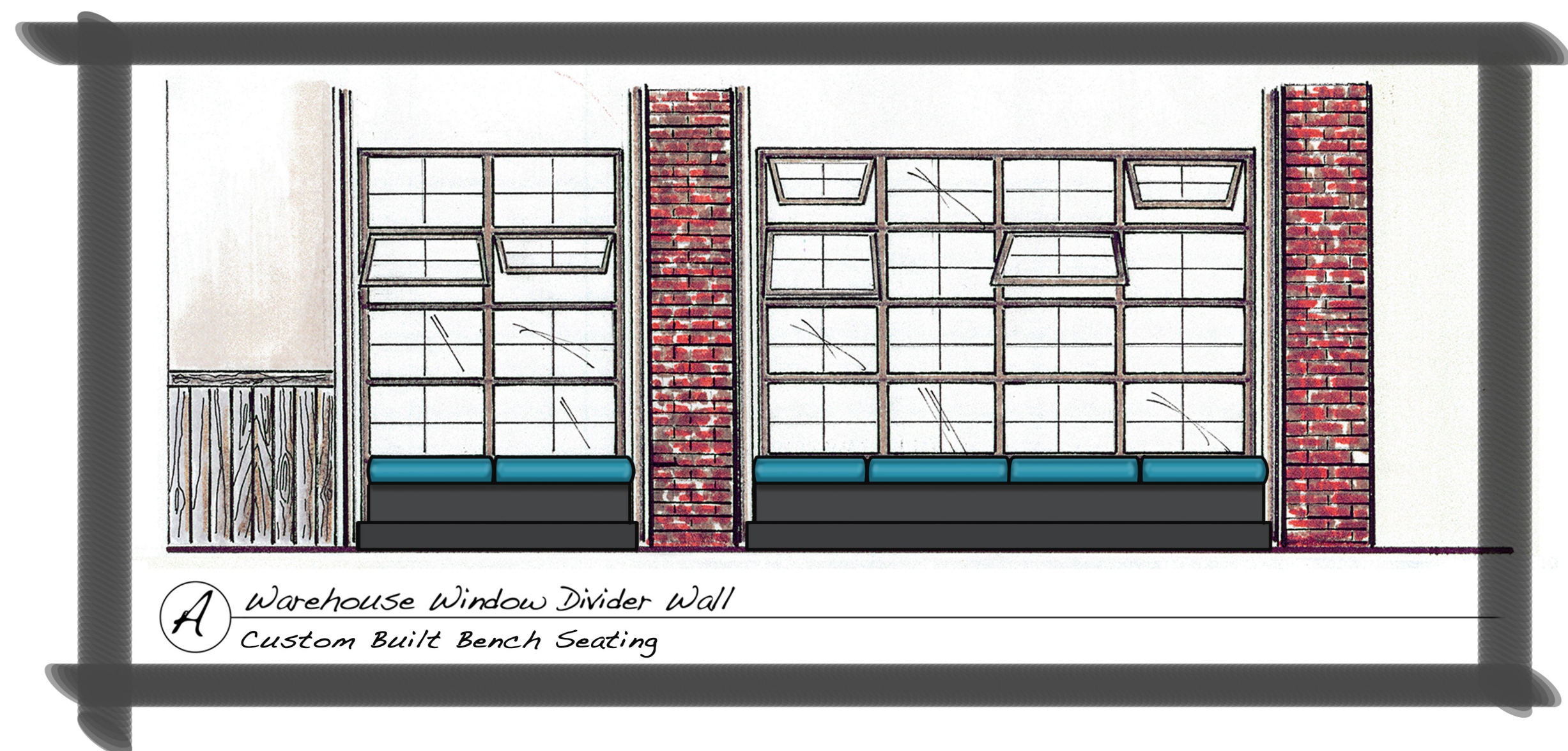




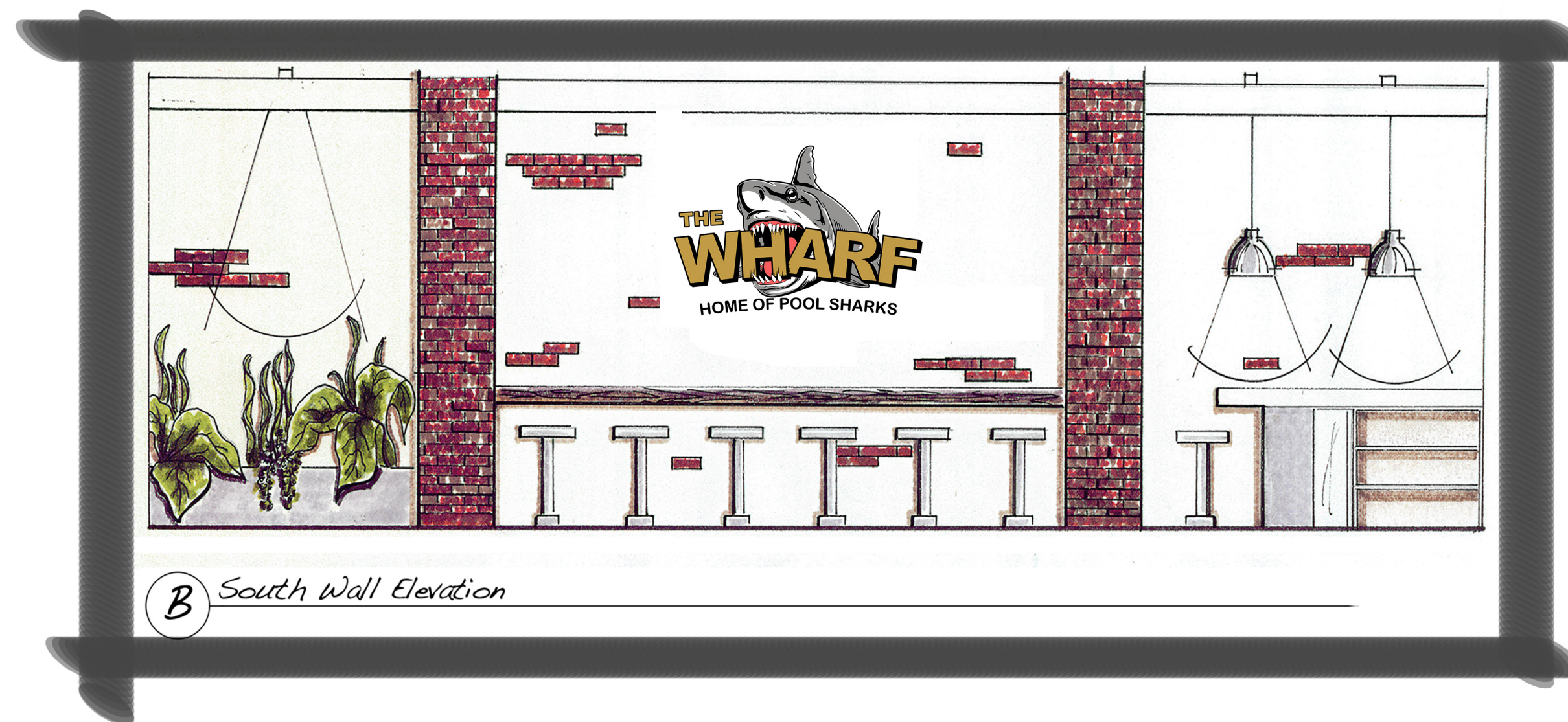


Proposed Floor Plan - The Wharf

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



A Warehouse Window Divider Wall  
Custom Built Bench Seating



B South Wall Elevation

Date: \_\_\_\_\_  
Revisions: \_\_\_\_\_

SHEET TITLE  
**Floor Plan,  
Elevation**

Preliminary Use Review  
*The Wharf*  
12941 Main St. Garden Grove, CA 92840

Scale As Noted

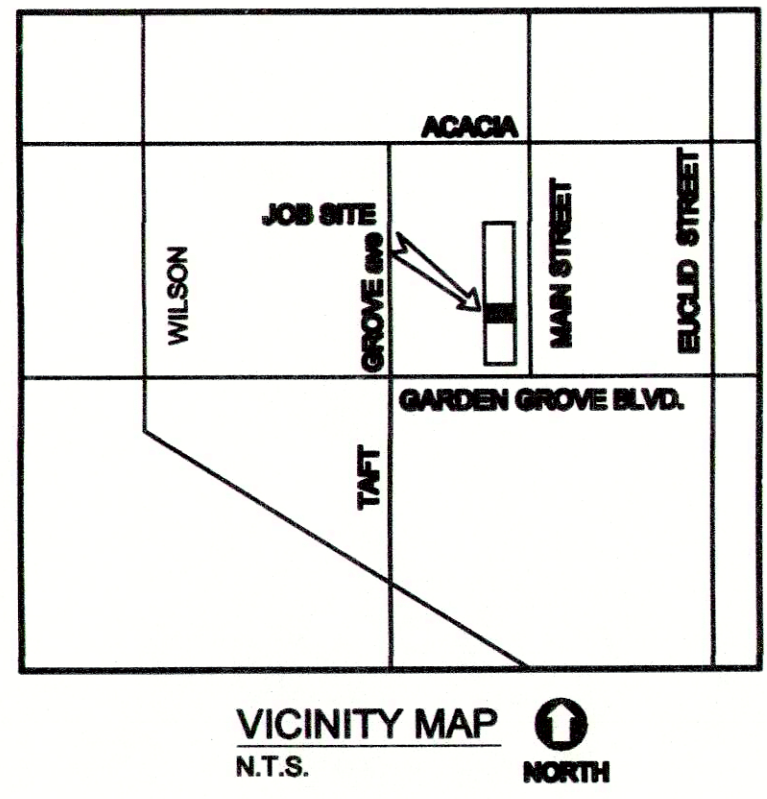
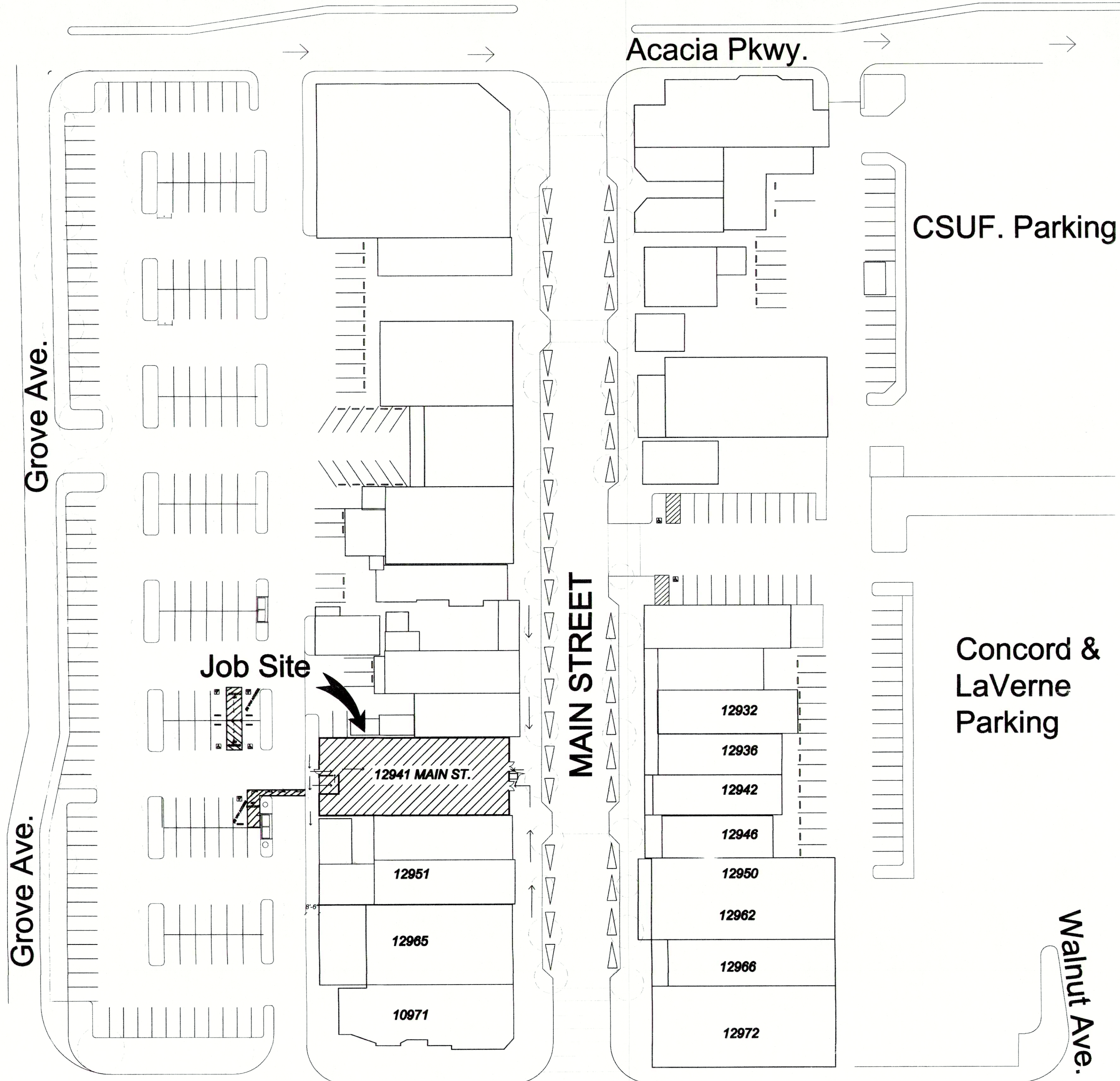
Plan Date 05/24/2023

**A-1**

Sheet No. 2 of 2



**Tenant Improvement:**  
**7Seas Seafood & Steak House**  
 12941 MAIN ST. GARDEN GROVE, CA. 92842



**SHEET INDEX**

T-S	SITE PLAN, VICINITY MAP, SHEET INDEX, HANDICAP DETAILS, LEGEND, SCOPE OF WORK
A1	NEW FLOOR PLAN, ELEVATION SECTION C-C, DETAILS.

**SCOPE OF WORK**

T.I. for: 7 SEAS SEAFOOD & STEAK HOUSE  
 Address: 12941 MAIN St. Garden Grove, CA. 92842

Proposal: - New partition metal stud wall w/ :  
 - (N) 6'x8' Opening  
 - (N) 4'x8' Fixed Temp. Glass Window  
 - (N) 7'x8' Fixed Temp. Glass Window

Property Owner: Bruce Hoang Nguyen  
 Tenant Owner: Bruce Hoang Nguyen  
 11752 Garden Grove Blvd. Suite 201  
 Garden Grove, Ca. 92843  
 Contact: BEN PHAN  
 (714) 251 4537

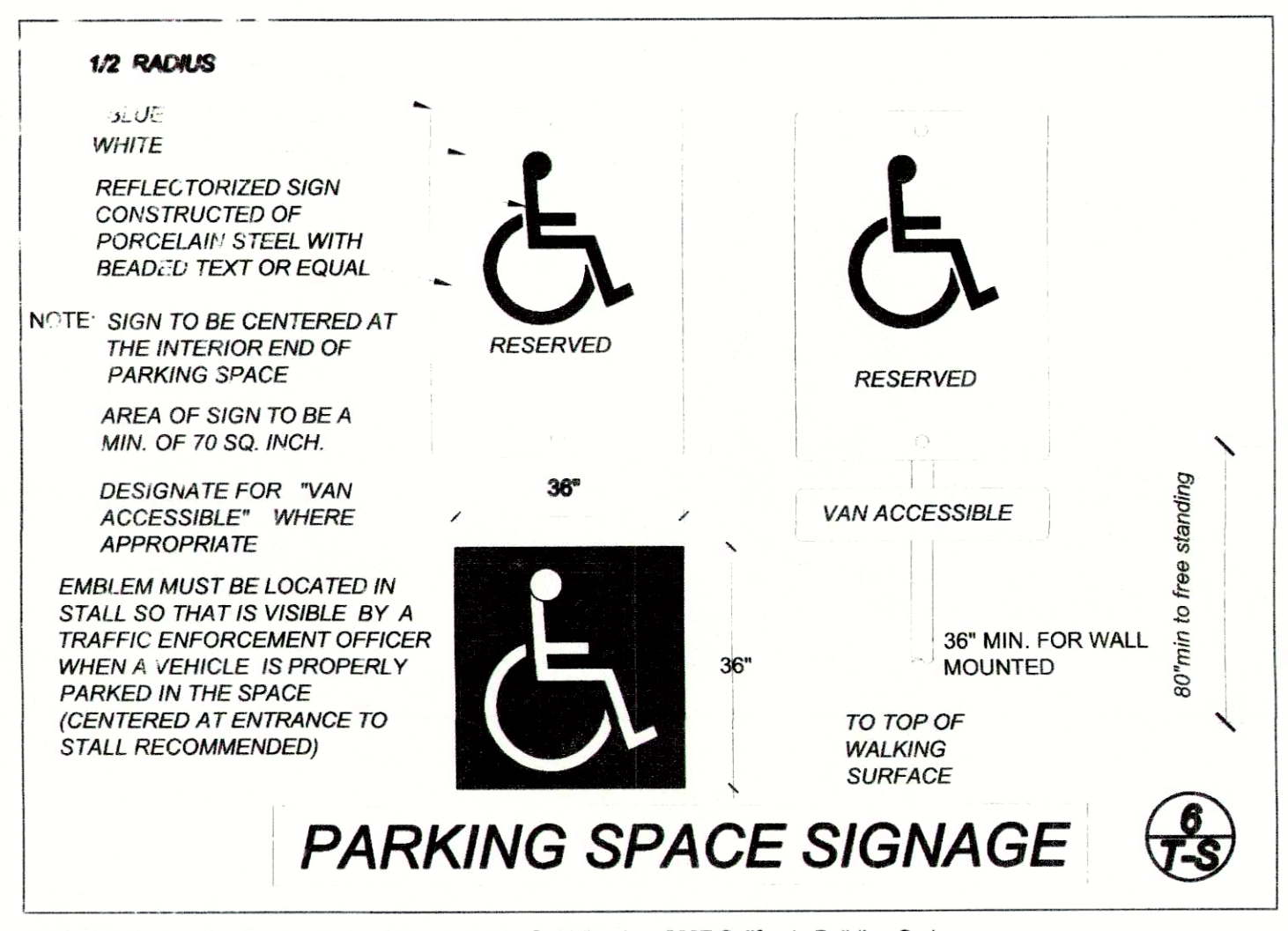
**JURISDICTIONAL INFORMATION:**

COMMUNITY PLAN AREA: CITY Garden Grove, State of California.  
 Building Size: 6,000 sq. ft.  
 Occupancy Group: A2  
 Construction Type: B, w/ (E) Unsprinklered  
 Occupant Load: 260  
 Story Ceiling Height: 13' H

**HANDICAP ACCESSIBILITY:**

- NO ABRUPT CHANGES IN ELEVATION ALONG THE PATH OF TRAVEL SHOWN. THE SLOPE ALONG THE PATH OF TRAVEL SHALL NOT EXCEED 5%. (INSPECTOR TO VERIFY)

THE ENTRANCE DOORS, STAIRWAYS, AND ELEVATORS LEADING TO THE PROPOSED AREA OF REMODEL COMPLY WITH THE HANDICAP ACCESS REQUIREMENTS. INSPECTOR TO VERIFY.



- Notes:**
- No over night storage of vehicles within the building.
  - When the building is provided with a sprinkler system, to obtain Fire Department approval prior to permits issued.
  - The proposed work is to create two tenant spaces only and occupancy will not be allowed until tenant improvement plans have been submitted under separate permits.
  - The Occupant Load Shall Be Posted In The Assembly Room.
  - The Hazardous materials stored and/or used within the building, will not exceed the quantities listed in CBC Tables 307.1(1) and 307.2(2)

**General Requirements:**

Proposed tenant improvements/Governing Codes/  
 Current Editions:  
 2007 California Building Code  
 2007 California Plumbing Code  
 2007 California Mechanical Code  
 2007 California Electrical Code  
 2005 California Energy Code (Title 24, Part 6)  
 All new Work shall comply with the above listed editions of these models. This information shall appear prominently on the plans.

REVISIONS	DATE
1	11/05/2010
2	11/05/2010
3	11/05/2010
4	11/05/2010
5	11/05/2010

**SHEET TITLE:**  
 Site Plan, Sheet index, Scope of Work & Details

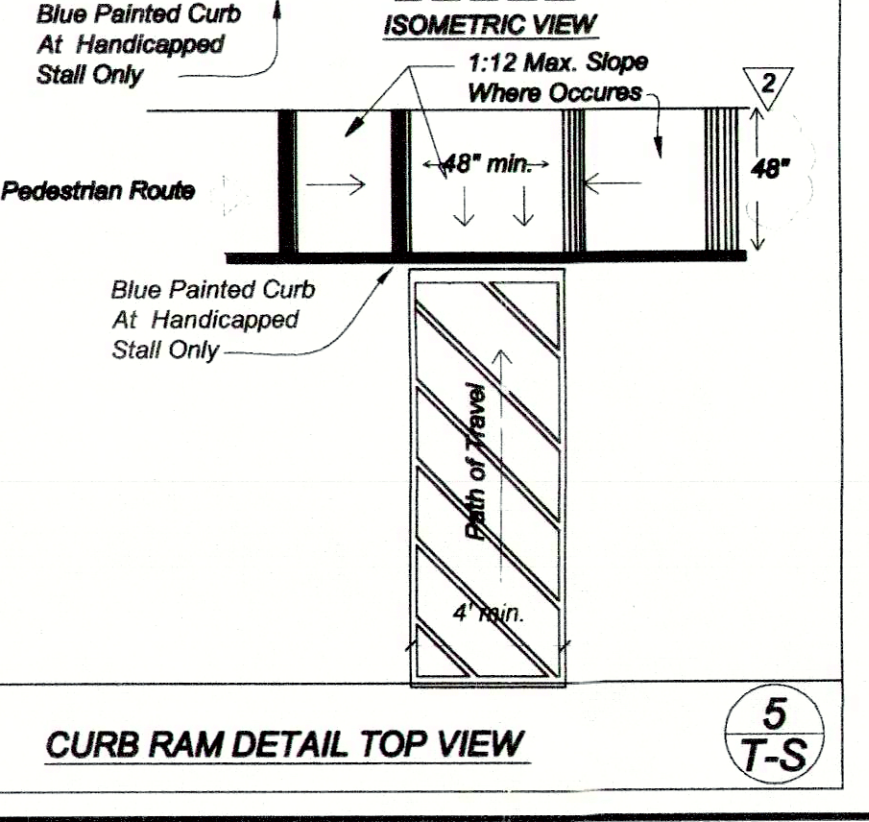
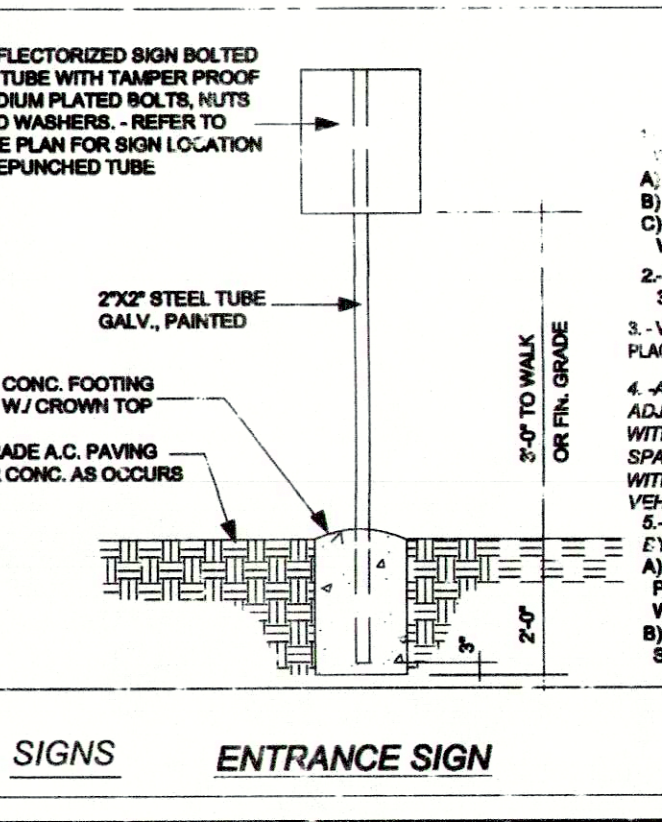
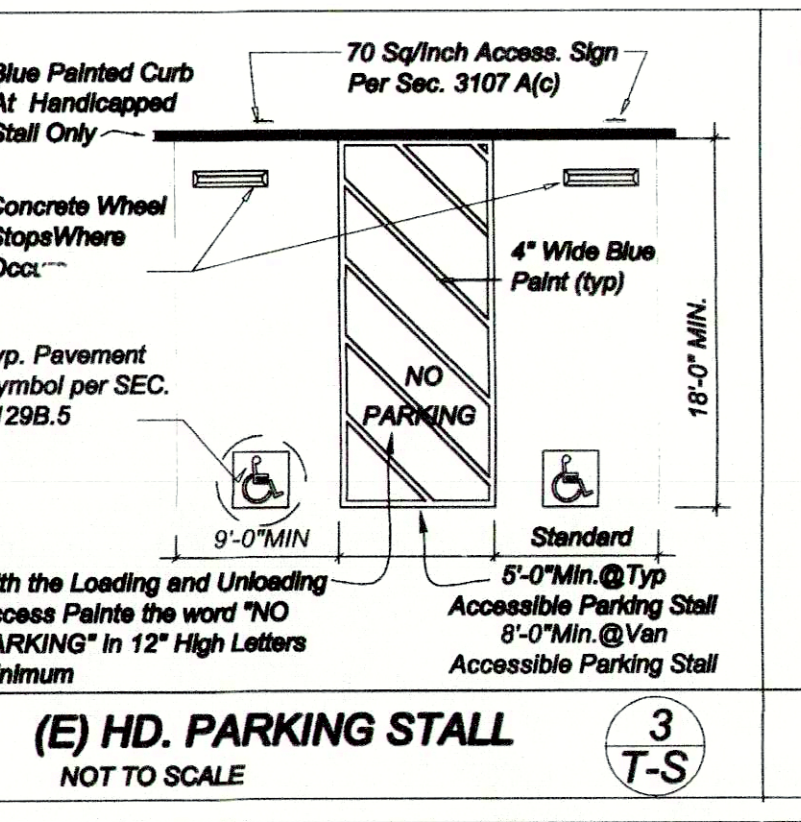
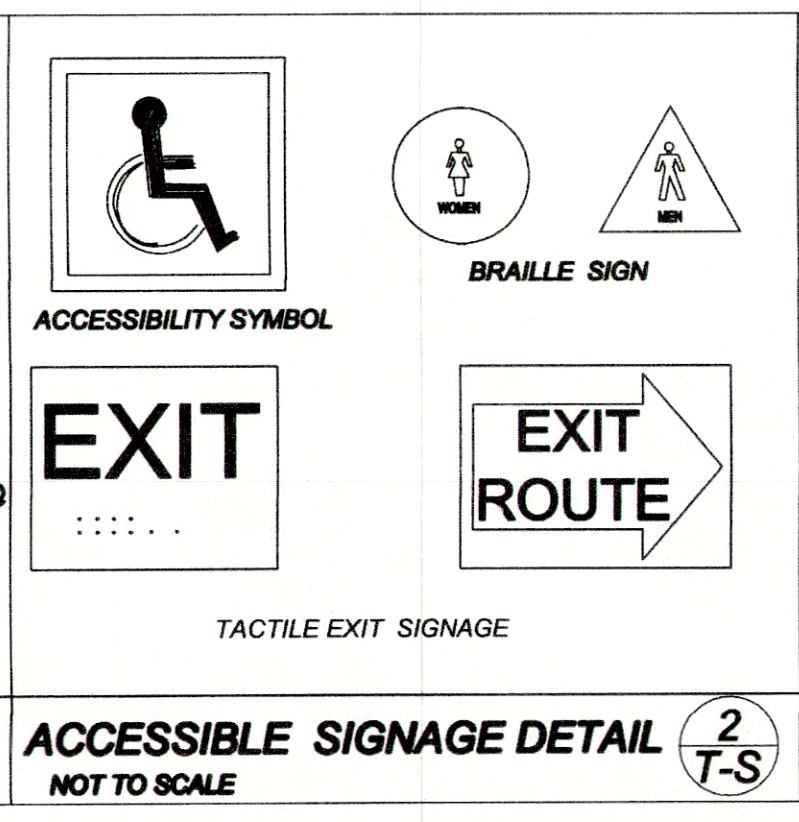
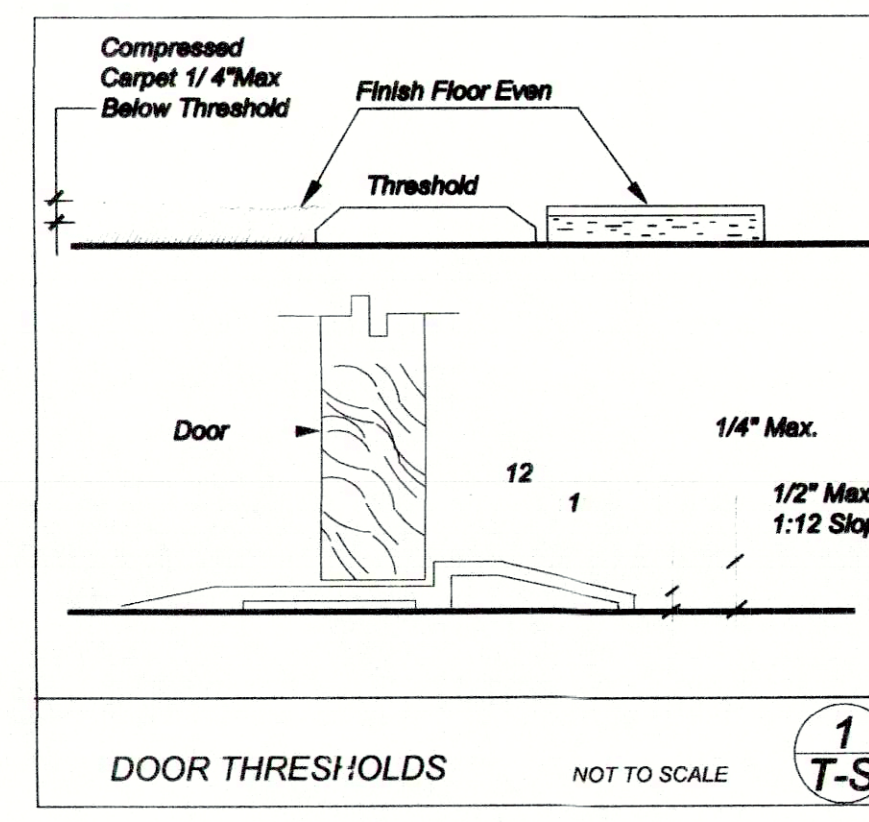
**Tenant Improvement**  
 7 SEAS SEAFOOD & STEAK HOUSE  
 AT: 12941 MAIN ST. GARDEN GROVE, CA. 92842

PERSON TO CONTACT:  
 BEN PHAN  
 TEL: (714) 251 4537

SCALE: AS NOTED  
 DRAWN BY: TL

PLAN DATE: 11/04/2010  
**T-S**  
 SHEET NO. 1 OF 2  
 FROM THE: PL 10408-4

**GARDEN GROVE BLVD.**  
**SITE PLAN**  
 N.T.S. NORTH





**EXHIBIT "A"**  
**Conditional Use Permit No. CUP-284-09 (REV. 1023)**

12941 Main Street

**CONDITIONS OF APPROVAL**

**General Conditions**

1. ~~Each owner of the property shall execute, and t~~The applicant shall record a "Notice of ~~Agreement with Conditions of Approval and~~ Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, within 30 days of approval. on the property. Proof of such recordation is required prior to issuance of an ABC license. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Planning Commission.
2. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to each of the following: the project applicant, HTB INC, the developer of the project, the owner(s), Andrew Nguyen, and tenants(s) of the property, and each of their respective successors and assigns. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the applicable City hearing body, except as otherwise provided herein.~~Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications which do not change the intent of the project may be approved by the Community Development Director.~~
3. This Conditional Use Permit only authorizes the operation of a 6,000 square foot restaurant with an Alcoholic Beverage Control Type "47" (On Sale, General, Eating Place) License with limited live entertainment in the form of one vocalist and one amplified instrumentalist and two (2) pool tables as incidental amusement devices. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications which do not change the intent of the project may be approved by the Community Development Director in his or her discretion.

4. Minor modifications to the approved site plan, floor plan, and/or these Conditions of Approval may be approved by the Community Development Director, in his or her discretion. Proposed modifications to the approved floor plan, site plan, or Conditions of Approval that would result in the intensification of the project or create impacts that have not been previously addressed, and which are determined by the Community Development Director not to be minor in nature shall be subject to approval of new and/or amended land use entitlements by the applicable City hearing body.
5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.
- ~~3. If major modifications are made to the approved floor plan that result in the intensification of the project or create impacts that have been previously addressed, a new Conditional Use Permit application shall be filed which reflects the revisions made.~~

#### **Public Works Water Services Division**

4. During cleaning of kitchen hoods, all generated waste must be captured and discharged to sewer.
5. No permanent structures, trees, or deep-rooted plants shall be placed over sewer main or water main.
6. Location and number of fire hydrants shall be as required by Water Services Division and Orange County Fire Authority (OCFA)~~the Fire Department~~.

#### **Public Works Sewer Division**

7. Commercial food use of any type requires the installation of an approved grease interceptor, according to Garden Grove Sanitary District's Ordinance No. 6 (Fats, Oil and Grease Control Regulations Applicable to Food Service Establishments). In the event that an approved grease interceptor is not already installed, a properly sized grease interceptor shall be installed on the sewer lateral and maintained by the property owner. There shall be a separate sanitary waste line that will connect to the sewer lateral downstream of the grease interceptor. All other waste lines shall be drained through the grease interceptor. Grease interceptor shall be located outside of the building and accessible for routine maintenance. Owner shall maintain comprehensive grease interceptor maintenance records and shall make them available to the City of Garden Grove upon demand.

8. Food grinders (garbage disposal devices) are prohibited per Ordinance 6 of the Garden Grove Sanitary District Code of Regulations. Existing units are to be removed.

### **Fire Department**

9. The applicant and subsequent operator(s) shall post the occupancy load, as determined by ~~the Fire Department~~ OCFA. At no time shall the restaurant exceed the posted occupancy load.

10. The applicant shall comply with the OCFA's Fire Master Plan.

~~10. The applicant shall comply with the 2007 California Fire Code for all Life Safety Issues.~~

### **Building Department**

11. The applicant shall comply with the ~~2007~~ latest California Building Code.

12. The new raised dining/lounge area, at the eastern end of the restaurant shall be made accessible by providing a ramp.

13. A wheelchair accessible seating space shall be provided at the sushi bar.

~~13.~~14. Prior to the installation of the proposed pool tables, and prior to approval of a business license renewal due to the change of ownership at the subject location, the applicant shall obtain all necessary permits, including, but not be limited to, a building permit for a change in occupancy, including any proposed tenant improvements. The applicant shall verify the proposed business complies with all applicable requirements of the California Building Standards Code for matters relating to, but not be limited to: Ensuring the existing building can accommodate the new occupancy; verifying the allowable floor area; verifying occupancy separation; and other code requirements in accordance with the applicable occupancy type.

### **Police Department**

15. There shall be no gaming tables or gaming machines, as outlined in City Code Sections 8.20.010 and 8.20.050, on the premises at any time.

~~14.~~16. Pool tables shall be limited to two (2) tables as approved on the approved plan.



~~15-17.~~ Hours of operation shall be permitted only between the hours of ~~11:00 a.m. to 11:00 p.m., Sunday through Thursday, and~~ 11:00 a.m. to 2:00 a.m., ~~Friday and Saturday seven (7) days a week.~~ The City reserves the right to reduce hours of operation, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business.

18. No person under eighteen (18) years of age shall be permitted to use the two (2) pool tables, except when such person is accompanied by his or her parent or legal guardian.

19. All pool cues shall be located within a secure place, under the control of the owner/employees, and available to patrons through a checkout system.

20. There shall be one primary service counter area from which customers may checkout cue sticks and balls and pay for services.

21. There shall be no customers or patrons in or about the premises when the establishment is closed.

~~16.~~

~~17-22.~~ In the event security problems occur, and at the request of the Police Department, the permittee, at his own expense, shall provide a California licensed, uniformed security guard(s) on the premises during such hours as requested by the Police Department.

~~18-23.~~ All pay phones located on the property, adjacent to the premises, shall be limited to out-going calls only. This condition shall be complied with within 30 days following approval of this application.

24. The sale of alcoholic beverages for consumption off the premises is prohibited. Consumption of alcoholic beverages shall not occur anywhere outside of the establishment at any time.

~~19.~~

~~20-25.~~ There shall be no enclosed booths on the premises at any time. Walls and/or partitions exceeding thirty-six (36) inches in height, which partially enclose or separate booths, shall be of a clear and transparent material. No item shall be placed in the area of the booths that would limit or decrease the visibility of the interior of the business from any location within the business.

~~21-26.~~ No alcoholic beverages shall be consumed in the waiting area. All alcohol shall be served incidental to food sales.

~~22.27.~~ No alcohol shall be served/consumed outside of the premises.

28. The tenant space store front, including windows and doors, shall be kept clear, transparent, and unobstructed, so that all parts of the dining area are visible at all times.

~~23.29.~~ The business, prior to opening, shall show proof to the Police Department that all members of the business staff have completed the LEAD training (Licensee Education on Alcohol and Drugs) through the Alcohol Beverage Control Department or an ABC approved "Responsible Beverage Service (RBS) Training" program.

30. The sale of alcohol shall cease thirty (30) minutes prior to closing.

31. Applicant shall maintain a level of lighting in the establishment sufficient to ensure that individuals inside the restaurant can be clearly seen and identified by an observer at all times. Low level lighting that does not enable an observer to clearly see and identify individuals inside the restaurant is prohibited.

32. No payment (entrance fee/cover charge) shall be charged to gain access to the business at any time.

33. No "B-girl" or "hostess" activity (as defined in Penal Code Section 303) shall occur within the establishment at any time.

34. No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the establishment, nor shall the business provide or permit, or make available either gratuitous or for compensation, male or female persons who act as escorts, companions, or guests of and for the customers.

35. No employee or agent shall solicit or accept any alcoholic or nonalcoholic beverage from any customer while in the business.

~~24.36.~~ Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation of up to \$1,000 pursuant to GGMC 1.22.010(a).

**Community Development Department**

Conditional Use Permit No. CUP-284-09 (REV. 23)  
Conditions of Approval

25.37. There shall be no additional changes in the design of the floor plan without the approval of the Community Development Department, Planning Services Division. Any additional changes in the approved floor plan, which has the effect of expanding or intensifying the present use, shall require a new Conditional Use Permit.

26.38. The establishment shall be operated as a "Bona Fide Public Eating Place" as defined by Alcoholic Beverage Control (ABC). The restaurant shall contain sufficient space and equipment to accommodate a full restaurant kitchen, and the kitchen shall be open and preparing food during all hours the establishment is open. The establishment shall provide an assortment of foods normally offered in restaurants.

27.39. In the event that an Alcoholic Beverage Control (ABC) License is suspended for any period of time and/or the licensee is fined for any ABC violation as a result of disciplinary action, the Conditional Use Permit shall be presented to the Planning Commission for review or further consideration.

28.40. At all times when the establishment is open for business, the sale of alcoholic beverages shall be incidental to the sale of food.

29.41. The quarterly gross sales of alcoholic beverages shall not exceed 35% of the sales of food.

30.42. The owner of the establishment shall, upon request, provide the City of Garden Grove with an audited report of sales ratio of food to alcoholic beverages.

31.43. No outside storage or displays shall be permitted at any time.

32.44. A prominent, permanent sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THE PREMISES" shall be posted in a place that is clearly visible to patrons of the licensee. The sign lettering shall be four (4) to six (6) inches high with black letters on a white background. The sign shall be displayed near or at the restaurant's entrance, and shall also be visible to the public.

33.45. Limited live entertainment shall be subject to the following:

- a. Entertainment shall be limited to include up to two performers in the form of one amplified instrumentalist and one vocalist.
- b. No dancing and no nightclub shall be permitted.

Conditional Use Permit No. CUP-284-09 (REV. 23)  
Conditions of Approval

- c. There shall be no raised platform, stage or dance floor permitted on the premises at any time. The location of the entertainment area shall be centrally located within the restaurant.
  - d. Amplified sound or vibration emitted from the premises shall not be audible from outside the boundaries (walls) of the establishment. The property owner shall provide sound attenuation where necessary to limit noise and vibrations to neighboring properties.
  - e. No amplified music shall be permitted outside of the fully enclosed building.
  - f. All entertainment shall be conducted within the wholly enclosed restaurant building.
  - g. Entertainment shall be incidental to the restaurant. At no time shall the entertainment be utilized as a primary use or as an attraction to draw customers to the establishment.
  - h. Food service shall be provided during all hours the restaurant is open, including when the entertainment is occurring.
  - i. No cover charge or other type of entrance fees shall be required for entrance into the restaurant.
  - j. Conditional Use Permit No. CUP-284-09 (REV. ~~1023~~) may be revoked if it is determined that the proposed and/or subsequent operation jeopardizes the health, safety, and welfare of those living, working, shopping, dining, visiting, in the area of the subject establishment.
- 34.46. At no time shall the customer dining/bar be used as a regular drinking bar for primarily alcoholic consumption.
- 35.47. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Municipal Code Section 9.08.07018.050 (Adult Entertainment Uses)
- 36.48. There shall be no deliveries to or from the premises before 8:00 a.m. and after 9:00 p.m., seven days a week.
- 37.49. Litter shall be removed daily from the premises, including adjacent public sidewalks, and from all parking areas under the control of the licensee.

Conditional Use Permit No. CUP-284-09 (REV. 23)  
Conditions of Approval

These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.

~~38-50.~~ All trash bins shall be kept inside the trash enclosure, and gates closed at all times, except during disposal and pick-up. Trash pick-up shall be based on the existing schedule provided by the applicant.

~~39-51.~~ Graffiti shall be removed from the premises, and all parking lots under the control of the licensee and/or the property owner, within 120 hours upon notification/application.

~~40-52.~~ The applicant is advised that the establishment is subject to the provisions of State Labor Code Section 6404.5 (ref: State Law AB 13), which prohibits smoking inside the establishment as of January 1, 1995.

~~41-53.~~ No roof-mounted mechanical equipment shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department, Planning Services Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.

~~42-54.~~ No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community Development Department, Planning Services Division. No advertising material shall be placed thereon.

~~43-55.~~ Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).

~~44-56.~~ Signs shall comply with the City of Garden Grove sign requirements. No more than 15% of the total window area and clear doors shall bear advertising or signs of any sort. No signs advertising alcoholic beverages shall be placed on the windows. Any opaque material applied to the store front, such as window tint, shall count toward the maximum window coverage area.

57. The Conditional Use Permit may be called for review by City staff, the City Council, or Planning Commission, if noise or other complaints are filed and verified as valid by the Code Enforcement office or other City department concerning the violation of approved conditions, the Garden Grove Municipal Code, or any other applicable provisions of law.

Conditional Use Permit No. CUP-284-09 (REV. 23)  
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~~45.58.~~ Any modifications to existing signs or the installation of new signs shall require approval by the Community Development Department, Planning Services Division prior to issuance of a building permit.

59. If deemed necessary by the Community and Economic Development Director, the Conditional Use Permit may be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.

~~46.60.~~ ~~Any~~ ~~The~~ Conditional Use Permit CUP 284-09 (REV.10) previously governing this tenant space shall become null and void, and superseded in its entirety, by approval of CUP-284-09 (REV. ~~1023~~).

~~47.61.~~ A copy of the decision and the conditions of approval for Conditional Use Permit No. CUP-284-09 (REV. ~~1023~~) shall be kept on the premises at all times.

48. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-284-09 (REV. ~~1023~~), and his/her agreement with all conditions of the approval.

49. The Conditional Use Permit shall be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.

50. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Conditional Use Permit No. CUP-284-09 (REV. 10). The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City including but not limited to any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein.

RESOLUTION NO. 6068-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-284-09 (REV. 23), MODIFYING CONDITIONAL USE PERMIT NO. CUP-284-09 (REV. 10) AND AUTHORIZING THE OPERATION OF A 6,000 SQUARE FOOT RESTAURANT WITH AN ALCOHOLIC BEVERAGE CONTROL TYPE "47" (ON-SALE, GENERAL, EATING PLACE) LICENSE, LIMITED LIVE ENTERTAINMENT IN THE FORM OF ONE VOCALIST AND ONE AMPLIFIED INSTRUMENTALIST, AND TWO (2) POOL TABLES AS INCIDENTAL AMUSEMENT DEVICES, FOR PROPERTY LOCATED ON THE WEST SIDE OF MAIN STREET, BETWEEN GARDEN GROVE BOULEVARD AND ACACIA PARKWAY, AT 12941 MAIN STREET, ASSESSOR'S PARCEL 089-213-12.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on September 21, 2023, does hereby approve a modification to Conditional Use Permit No. CUP-284-09 (REV. 10), subject to the amended Conditions of Approval attached hereto as "Exhibit A", modifying Conditional Use Permit No. CUP-284-09 (REV. 10), for an existing restaurant, The Wharf, located on the west side of Main Street, between Garden Grove Boulevard and Acacia Parkway, at 12941 Main Street, Assessor's Parcel 089-213-12, (i) to allow two (2) pool tables in the dining area as incidental amusement devices and to make related modifications to the approved floor plan, (ii) to extend the permitted hours of operation to be from 11:00 a.m. to 2:00 a.m., seven (7) days a week, and (iii) to update the Conditions of Approval generally to reflect existing standard conditions of approval currently applied to new conditional use permits for establishments operating with a State Alcoholic Beverage Control (ABC) Type "47" License.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-284-09 (REV. 23), the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by HTB, INC., with authorization of the property owner, Andrew Nguyen.
2. The applicant is requesting to modify Conditional Use Permit No. CUP-284-09 (REV. 10), which governs alcohol sales and limited live entertainment at an existing restaurant, The Wharf, located within Historic Main Street to allow (i) modifications to the approved floor plan and conditions of approval to add two (2) new pool tables in the dining area as incidental amusement devices, and (ii) modification to the conditions of approval to extend the hours of operation to be from 11:00 p.m. to 2:00 a.m., seven (7) days a week.
3. City Staff is recommending that the Conditions of Approval also be updated to reflect existing standard conditions of approval currently applied to new

conditional use permits for establishments operating with a State Alcoholic Beverage Control (ABC) Type "47" License.

4. The Planning Commission hereby determines that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities, of the CEQA Guidelines (14 Cal. Code Regs., Sections 15301).
5. The property has a General Plan Land Use Designation of Civic Center Mixed Use (CC) and is zoned CC-2 (Civic Center Main Street). The subject site is improved with an existing 6,000 square foot restaurant.
6. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
7. Report submitted by City Staff was reviewed.
8. Pursuant to a legal notice, a public hearing was held on September 21, 2023, and all interested persons were given an opportunity to be heard.
9. The Planning Commission gave due and careful consideration to the matter during its meeting on September 21, 2023, and considered all oral and written testimony presented regarding the project.

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The subject site is improved with an existing 6,000 square foot one-story restaurant located on the west side of Main Street between Acacia Parkway and Garden Grove Boulevard. The property is zoned CC-2 (Civic Center Main Street), and has a General Plan land use designation of Civic Center Mixed Use (CC). The building is located within Historic Main Street, which consists of a mix of residential, restaurants, tea shops, retail, personal services, and office uses.

On June 12, 2008, the City of Garden Grove approved Conditional Use Permit No. CUP-233-08, which allowed the subject restaurant, which was under the name of 7 Seas Restaurant at the time, to operate with a new original State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Eating Place) License. On November 12, 2009, the City approved Conditional Use Permit No. CUP-284-09, which allowed the restaurant to operate with an ABC Type "47" (On-Sale, General, Eating Place) License. On June 17, 2010, the City approved CUP-284-09 (REV. 10) to allow the modification of the existing floor plan of the restaurant to include a new sushi bar and new rear dining/lounge area; to extend the hours of operation to be



from 11:00 a.m. to 11:00 p.m., Sunday through Thursday, and 11:00 a.m. to 2:00 a.m., Friday and Saturday; and to allow limited live entertainment in the form of one vocalist and one amplified instrumentalist. In 2009, the restaurant changed ownership and the name of the restaurant was changed to The Wharf.

The applicant, HTB, Inc., acquired the Wharf in July 2023. The applicant is experienced in the restaurant and billiard industry. Currently, the applicant is partnering with other businesses to operate Danny K's Billiards & Sports Bar, located at 1096 N Main Street, Orange, CA 92867, and Aloha Family Billiards, located at 7311 Orangethorpe Ave, Buena Park, CA 90621. In addition, the applicant is associated with several billiards and pool leagues, including the American Poolplayers Association (APA), the Billiard Congress of America (BCA), and the United States Professional Poolplayers Association (UPA). Wishing to keep a similar business model that includes the element of pool playing at the Wharf, the applicant is requesting to install two (2) new pool tables as incidental amusement devices within the existing dining area; and to extend the hours of operation of the restaurant from 11:00 a.m. to 2:00 a.m., seven (7) days a week.

In the CC-2 Zone, the Municipal Code permits up to two (2) pool tables as incidental amusement devices within a use authorized by a conditional use permit if the pool tables are expressly authorized pursuant to the terms of the conditional use permit for the primary use. The two (2) pool tables will be incidental to the primary restaurant operation, and the establishment will continue to be classified as, and will operate primarily as, a full-service restaurant. Approval of a modification to Conditional Use Permit No. CUP-284-09 (REV. 10), which currently governs the existing restaurant operation, is required to facilitate the proposed modifications to the floor plan, for the inclusion of two (2) pool tables, and the conditions of approval, to extend the hours of operation.

The Conditions of Approval to CUP-284-09 (REV. 10) are not current and do not reflect all existing standard conditions of approval currently applied to new conditional use permits for establishments operating with a State Alcoholic Beverage Control (ABC) Type "47" License. Therefore, City Staff is recommending that the Conditions of Approval for the use also be updated to reflect current standard conditions imposed on similar uses.

#### FINDINGS AND REASONS:

1. The proposed use will be consistent with the City's adopted General Plan and redevelopment plan.

The subject property has a General Plan Land Use designation of Civic Center Mixed Use (CC), and is zoned Civic Center Main Street (CC-2). The CC designation is intended to provide for a mix of civic, institutional, commercial, higher density residential, and open space uses. The Civic Center Main Street zone is established to preserve and enhance buildings and structures of

historic and cultural significance, and incidental uses that advance and preserve the Main Street character and charm. In particular, the subject proposal is consistent with the following General Plan Goals, Policies, and Implementation Measures:

*Policy LU-1.4 Encourage a wide variety of retail and commercial services, such as restaurants and cultural arts / entertainment, in appropriate locations.* The subject restaurant is located within Historic Main Street, in an area already developed with restaurant, retail, and other commercial services. The proposed modification to the conditional use permit to allow the two (2) pool tables and extend the hours of operation will improve the amenities and service offered at the subject restaurant, which can further enhance the commercial district.

*Goal LU-4 Uses compatible with one another.* The proposed subject restaurant is located within Historic Main Street, which consists of a variety of uses, including retail, restaurant, and personal service uses. The existing restaurant, with pool tables as incidental amusement devices and extended hours of operation will continue to be compatible with these uses, and other lighter, commercial uses. Furthermore, provided the modified conditions of approval are adhered to for the life of the project, the use will continue to be compatible with other commercial uses.

*Goal LU-5 Economically viable, vital, and attractive commercial centers throughout the City that serve the needs of the community.* The proposed Conditional Use Permit would allow two (2) pool tables inside an existing restaurant, which is a type of amenity that has not existed on Main Street. The two (2) pool tables as incidental amusement devices are intended to enhance the dining experience at the restaurant and will provide another unique dining experience on Historic Main Street. The proposed modifications to the Conditional Use Permit to allow two (2) pool tables and extended hours of operation will make the restaurant more economically viable and vital and allow the restaurant to better serve the needs of the community.

*Goal ED-2 The City must attract new businesses, while supporting and assisting those already located within Garden Grove.* The proposed modification to the existing Conditional Use Permit is intended to further enhance the dining experience at the Wharf and make the business more economically viable. By approving the Conditional Use Permit modification, the City is providing the business the resources it needs to be successful.

2. The requested use at the location proposed will not: adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding area, or unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site, or jeopardize, endanger, or otherwise constitute a menace to public health,

safety, or general welfare.

The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. The proposed pool tables as incidental amusement devices and the extension of the hours of operation will not change the nature of the restaurant. The Wharf will remain a "bona fide eating place" (full service restaurant) serving food and alcohol beverages for on-site consumption. The restaurant with additional services will not unreasonably interfere with the use, enjoyment, or valuation of other properties located within the vicinity of the site, provided the conditions of approval are adhered to for the life of the project.

In addition, the proposed modification to the hours of operation will be consistent with existing uses within Historic Main Street, where a variety of bars and restaurants that open late at night currently operate. For example, Azteca Restaurant & Lounge, located to the north of the Wharf at 12911 Main Street, has been operating to 2:00 a.m., seven (7) days a week, since 1980. Louie's on Main, located at 12942 Main Street, opens to 2:00 a.m., Friday and Saturday. The Aum Beer House, located at 12900 Main Street, opens to 1:30 a.m., Friday and Saturday. Conditions of approval require the restaurant to comply with the City's Noise Ordinance. In the event problems arise concerning the operation of this business, the hours of operation may be reduced by order of the Police Department. By operating as a full service restaurant, with ancillary alcohol sales for on-site consumption, limited live entertainment, and incidental pool tables as amusement devices, the business will be compatible with the surrounding uses.

3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title or as is otherwise required in order to integrate such use with the uses in the surrounding area.

The site, with the existing site improvements, is of adequate size to accommodate the proposed pool tables and the extension of the operational hours of the restaurant, The Wharf. As a part of this request, no changes are proposed to the exterior of the building, including site design features such as yards, walls, fences, parking, loading facilities, and landscaping. The Wharf will remain as a "bona fide eating place", and continues to serve food and alcoholic beverages per guidelines of the Alcoholic Beverage Control Department. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

4. The proposed site is adequately served: by highways or streets or sufficient width and improved as necessary to carry the kind and quantity of traffic such as to be generated, and by other public or private service facilities as required.

The site is centrally located on Main Street. The site is sufficiently served by the public service facilities required, such as public utilities: gas, electric, water, and sewer facilities. As a part of this request, no changes are proposed to the exterior of the building, or the overall function of the building. All proposed work resulting from the subject request will be limited to interior tenant improvements. Therefore, the site will continue to be adequately served by all existing highways, streets, and other public and private service facilities.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN THE STAFF REPORT

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Conditional Use Permit No. CUP-284-09 (REV. 23) does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030 (Conditional Use Permits).
2. In order to fulfill the purpose and intent of the Municipal Code, and thereby promote the health, safety, and general welfare, the following conditions of approval, attached as Exhibit "A", shall apply to Conditional Use Permit No. CUP-284-09 (REV. 23).

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-284-09 (REV. 23)**

12941 Main Street

#### **CONDITIONS OF APPROVAL**

##### **General Conditions**

1. Each owner of the property shall execute, and the applicant shall record a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, within 30 days of approval. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Planning Commission.
2. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to each of the following: the project applicant, HTB, INC., the developer of the project, the owner(s), Andrew Nguyen, and tenants(s) of the property, and each of their respective successors and assigns. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the applicable City hearing body, except as otherwise provided herein.
3. This Conditional Use Permit only authorizes the operation of a 6,000 square foot restaurant with an Alcoholic Beverage Control Type "47" (On Sale, General, Eating Place) License with limited live entertainment in the form of one vocalist and one amplified instrumentalist and two (2) pool tables as incidental amusement devices. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications which do not change the intent of the project may be approved by the Community Development Director in his or her discretion.
4. Minor modifications to the approved site plan, floor plan, and/or these Conditions of Approval may be approved by the Community Development Director, in his or her discretion. Proposed modifications to the approved floor plan, site plan, or Conditions of Approval that would result in the intensification of the project or create impacts that have not been previously addressed, and which are determined by the Community Development Director not to be minor in nature shall be subject to approval of new and/or amended land use entitlements by the applicable City hearing body.

5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

**Public Works Water Services Division**

6. During cleaning of kitchen hoods, all generated waste must be captured and discharged to sewer.
7. No permanent structures, trees, or deep-rooted plants shall be placed over sewer main or water main.
8. Location and number of fire hydrants shall be as required by Water Services Division and Orange County Fire Authority (OCFA).

**Public Works Sewer Division**

9. Commercial food use of any type requires the installation of an approved grease interceptor, according to Garden Grove Sanitary District's Ordinance No. 6 (Fats, Oil and Grease Control Regulations Applicable to Food Service Establishments). In the event that an approved grease interceptor is not already installed, a properly sized grease interceptor shall be installed on the sewer lateral and maintained by the property owner. There shall be a separate sanitary waste line that will connect to the sewer lateral downstream of the grease interceptor. All other waste lines shall be drained through the grease interceptor. Grease interceptor shall be located outside of the building and accessible for routine maintenance. Owner shall maintain comprehensive grease interceptor maintenance records and shall make them available to the City of Garden Grove upon demand.
10. Food grinders (garbage disposal devices) are prohibited per Ordinance 6 of the Garden Grove Sanitary District Code of Regulations. Existing units are to be removed.

**Fire Department**

11. The applicant and subsequent operator(s) shall post the occupancy load, as determined by OCFA. At no time shall the restaurant exceed the posted occupancy load.
12. The applicant shall comply with the OCFA's Fire Master Plan.

**Building Department**

13. The applicant shall comply with the latest California Building Code.

14. The new raised dining/lounge area, at the eastern end of the restaurant shall be made accessible by providing a ramp.
15. A wheelchair accessible seating space shall be provided at the sushi bar.
16. Prior to the installation of the proposed pool tables, and prior to approval of a business license renewal due to the change of ownership at the subject location, the applicant shall obtain all necessary permits, including, but not be limited to, a building permit for a change in occupancy, including any proposed tenant improvements. The applicant shall verify the proposed business complies with all applicable requirements of the California Building Standards Code for matters relating to, but not be limited to: Ensuring the existing building can accommodate the new occupancy; verifying the allowable floor area; verifying occupancy separation; and other code requirements in accordance with the applicable occupancy type.

**Police Department**

17. There shall be no gaming tables or gaming machines, as outlined in City Code Sections 8.20.010 and 8.20.050, on the premises at any time.
18. Pool tables shall be limited to two (2) tables as approved on the approved plan.
19. Hours of operation shall be permitted only between the hours of 11:00 a.m. to 2:00 a.m., seven (7) days a week. The City reserves the right to reduce hours of operation, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business.
20. No person under eighteen (18) years of age shall be permitted to use the two (2) pool tables, except when such person is accompanied by his or her parent or legal guardian.
21. All pool cues shall be located within a secure place, under the control of the owner/employees, and available to patrons through a checkout system.
22. There shall be one primary service counter area from which customers may checkout cue sticks and balls and pay for services.
23. There shall be no customers or patrons in or about the premises when the establishment is closed.
24. In the event security problems occur, and at the request of the Police Department, the permittee, at his own expense, shall provide a California

- licensed, uniformed security guard(s) on the premises during such hours as requested by the Police Department.
25. All pay phones located on the property, adjacent to the premises, shall be limited to out-going calls only. This condition shall be complied with within 30 days following approval of this application.
  26. The sale of alcoholic beverages for consumption off the premises is prohibited. Consumption of alcoholic beverages shall not occur anywhere outside of the establishment at any time.
  27. There shall be no enclosed booths on the premises at any time. Walls and/or partitions exceeding thirty-six (36) inches in height, which partially enclose or separate booths, shall be of a clear and transparent material. No item shall be placed in the area of the booths that would limit or decrease the visibility of the interior of the business from any location within the business.
  28. No alcoholic beverages shall be consumed in the waiting area. All alcohol shall be served incidental to food sales.
  29. No alcohol shall be served/consumed outside of the premises.
  30. The tenant space store front, including windows and doors, shall be kept clear, transparent, and unobstructed, so that all parts of the dining area are visible at all times.
  31. The business, prior to opening, shall show proof to the Police Department that all members of the business staff have completed the LEAD training (Licensee Education on Alcohol and Drugs) through the Alcohol Beverage Control Department or an ABC approved "Responsible Beverage Service (RBS) Training" program.
  32. The sale of alcohol shall cease thirty (30) minutes prior to closing.
  33. Applicant shall maintain a level of lighting in the establishment sufficient to ensure that individuals inside the restaurant can be clearly seen and identified by an observer at all times. Low level lighting that does not enable an observer to clearly see and identify individuals inside the restaurant is prohibited.
  34. No payment (entrance fee/cover charge) shall be charged to gain access to the business at any time.



35. No "B-girl" or "hostess" activity (as defined in Penal Code Section 303) shall occur within the establishment at any time.
36. No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the establishment, nor shall the business provide or permit, or make available either gratuitous or for compensation, male or female persons who act as escorts, companions, or guests of and for the customers.
37. No employee or agent shall solicit or accept any alcoholic or nonalcoholic beverage from any customer while in the business.
38. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation of up to \$1,000 pursuant to GGMC 1.22.010(a).

**Community Development Department**

39. There shall be no additional changes in the design of the floor plan without the approval of the Community Development Department, Planning Services Division. Any additional changes in the approved floor plan, which has the effect of expanding or intensifying the present use, shall require a new Conditional Use Permit.
40. The establishment shall be operated as a "Bona Fide Public Eating Place" as defined by Alcoholic Beverage Control (ABC). The restaurant shall contain sufficient space and equipment to accommodate a full restaurant kitchen, and the kitchen shall be open and preparing food during all hours the establishment is open. The establishment shall provide an assortment of foods normally offered in restaurants.
41. In the event that an Alcoholic Beverage Control (ABC) License is suspended for any period of time and/or the licensee is fined for any ABC violation as a result of disciplinary action, the Conditional Use Permit shall be presented to the Planning Commission for review or further consideration.
42. At all times when the establishment is open for business, the sale of alcoholic beverages shall be incidental to the sale of food.
43. The quarterly gross sales of alcoholic beverages shall not exceed 35% of the sales of food.

44. The owner of the establishment shall, upon request, provide the City of Garden Grove with an audited report of sales ratio of food to alcoholic beverages.
45. No outside storage or displays shall be permitted at any time.
46. A prominent, permanent sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THE PREMISES" shall be posted in a place that is clearly visible to patrons of the licensee. The sign lettering shall be four (4) to six (6) inches high with black letters on a white background. The sign shall be displayed near or at the restaurant's entrance, and shall also be visible to the public.
47. Limited live entertainment shall be subject to the following:
  - a. Entertainment shall be limited to include up to two performers in the form of one amplified instrumentalist and one vocalist.
  - b. No dancing and no nightclub shall be permitted.
  - c. There shall be no raised platform, stage or dance floor permitted on the premises at any time. The location of the entertainment area shall be centrally located within the restaurant.
  - d. Amplified sound or vibration emitted from the premises shall not be audible from outside the boundaries (walls) of the establishment. The property owner shall provide sound attenuation where necessary to limit noise and vibrations to neighboring properties.
  - e. No amplified music shall be permitted outside of the fully enclosed building.
  - f. All entertainment shall be conducted within the wholly enclosed restaurant building.
  - g. Entertainment shall be incidental to the restaurant. At no time shall the entertainment be utilized as a primary use or as an attraction to draw customers to the establishment.
  - h. Food service shall be provided during all hours the restaurant is open, including when the entertainment is occurring.
  - i. No cover charge or other type of entrance fees shall be required for entrance into the restaurant.

- j. Conditional Use Permit No. CUP-284-09 (REV. 23) may be revoked if it is determined that the proposed and/or subsequent operation jeopardizes the health, safety, and welfare of those living, working, shopping, dining, visiting, in the area of the subject establishment.
48. At no time shall the customer dining/bar be used as a regular drinking bar for primarily alcoholic consumption.
49. There shall be no uses or activities permitted of an adult-oriented nature as outlined in Municipal Code Section 9.18.050 (Adult Entertainment Uses)
50. There shall be no deliveries to or from the premises before 8:00 a.m. and after 9:00 p.m., seven days a week.
51. Litter shall be removed daily from the premises, including adjacent public sidewalks, and from all parking areas under the control of the licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.
52. All trash bins shall be kept inside the trash enclosure, and gates closed at all times, except during disposal and pick-up. Trash pick-up shall be based on the existing schedule provided by the applicant.
53. Graffiti shall be removed from the premises, and all parking lots under the control of the licensee and/or the property owner, within 120 hours upon notification/application.
54. The applicant is advised that the establishment is subject to the provisions of State Labor Code Section 6404.5 (ref: State Law AB 13), which prohibits smoking inside the establishment as of January 1, 1995.
55. No roof-mounted mechanical equipment shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department, Planning Services Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
56. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community Development Department, Planning Services Division. No advertising material shall be placed thereon.
57. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).

58. Signs shall comply with the City of Garden Grove sign requirements. No more than 15% of the total window area and clear doors shall bear advertising or signs of any sort. No signs advertising alcoholic beverages shall be placed on the windows. Any opaque material applied to the store front, such as window tint, shall count toward the maximum window coverage area.
59. The Conditional Use Permit may be called for review by City staff, the City Council, or Planning Commission, if noise or other complaints are filed and verified as valid by the Code Enforcement office or other City department concerning the violation of approved conditions, the Garden Grove Municipal Code, or any other applicable provisions of law.
60. Any modifications to existing signs or the installation of new signs shall require approval by the Community Development Department, Planning Services Division prior to issuance of a building permit.
61. If deemed necessary by the Community Development Director, the Conditional Use Permit may be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.
62. The Conditional Use Permit CUP 284-09 (REV.10) previously governing this tenant space shall become null and void, and superseded in its entirety, by approval of CUP-284-09 (REV. 23).
63. A copy of the decision and the conditions of approval for Conditional Use Permit No. CUP 284-09 (REV. 23) shall be kept on the premises at all times.
64. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP 284-09 (REV. 23), and his/her agreement with all conditions of the approval.
65. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Conditional Use Permit No. CUP-284-09 (REV. 23). The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs,

which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City, including but not limited to, any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein.

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.4.	<b>SITE LOCATION:</b> Citywide
<b>HEARING DATE:</b> September 21, 2023	<b>GENERAL PLAN:</b> N/A
<b>CASE NO.:</b> General Plan Amendment No. GPA-002-2023 and Amendment No. A-037-2023	<b>ZONE:</b> N/A
<b>APPLICANT:</b> City of Garden Grove	<b>CEQA DETERMINATION:</b> FGPUZA EIR

**REQUEST:**

A request for the Garden Grove Planning Commission to hold a public hearing and consider recommending that the City Council: (i) adopt a General Plan Amendment (GPA-002-2023), which includes updates to the Adopted 2021-2029 Housing Element and an amendment to the Land Use Element to change the Land Use Designation of a property located at 13621 Harbor Boulevard (Assessor’s Parcel No. 100-123-01), from Industrial (I) to International West Mixed Use (IW); and (ii) adopt a Zoning Map Amendment (A-037-2023) to revise the Zoning Map to implement the updates to the Housing Element and to clarify the sites intended to be included in the International West Mixed Use Overlay and the Industrial/Residential Mixed Use 1 Overlay pursuant to Ordinance No. 2925. The focus of the General Plan and Zoning Map Amendments is to comply with State law provisions and resolve comments received from the California Department of Housing and Community Development (“HCD”) on the adopted 2021-2029 Housing Element, in order to obtain HCD certification of the City’s Housing Element.

In conjunction with this request, the City of Garden Grove will consider a determination that no further review under the California Environmental Quality Act (“CEQA”) is required pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15168 and 15162 because the proposed General Plan and zoning amendments implement the General Plan update analyzed in the City of Garden Grove Focused General Plan Update and Zoning Amendments Environmental Impact Report, State Clearinghouse No. 2021060714 (“Garden Grove General Plan Update and Focused Zoning Amendments”), potential impacts of the General Plan and zoning amendments fall within the scope of the General Plan Update EIR, and the General Plan and zoning amendments will not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts.

**BACKGROUND:**

The Housing Element, a State-required chapter of the City's General Plan, identifies programs and policies to further the goal of meeting the housing needs of existing and future residents for the production of safe, decent, and affordable housing for all persons in the community. This plan is required by State Housing Law and must be updated every eight years. Furthermore, the Housing Element must be certified by HCD.

The Regional Housing Needs Assessment ("RHNA") is mandated by State Housing Law as part of the periodic process of updating local Housing Elements of General Plans. The RHNA quantifies the housing need, for all income levels, within each jurisdiction. The City is currently in the 2021-2029 planning period, also known as the 6<sup>th</sup> cycle RHNA. HCD determines the RHNA for each region of California. The RHNA for the Southern California region is 1.3 million housing units. The Southern California Association of Governments ("SCAG") established a methodology that quantified the RHNA for each jurisdiction. Garden Grove's RHNA allocation for the 2021-2029 planning period was determined to be 19,168 housing units. Throughout the process, leading up to SCAG's adoption of the final RHNA methodology, Garden Grove submitted multiple letters to HCD and SCAG voicing concerns with the RHNA methodology being considered. Copies of the City's protest letters to HCD and SCAG are available online on the City's Housing Element website (<https://ggcity.org/housing-element>).

The State of California required the City of Garden Grove to plan for 19,168 future homes to accommodate population, employment, and household growth in the region. State Housing Law also requires cities to specify exact locations where new housing can feasibly be added – this is called Sites Inventory. In October of 2020, the City officially submitted two (2) applications to SCAG to appeal its RHNA allocation. Both appeals were subsequently denied by SCAG. Copies of the City's appeal letters to SCAG are available online on the City's Housing Element website (<https://ggcity.org/housing-element>).

In August of 2020, the City launched a comprehensive public outreach and community engagement plan to educate and inform the public on matters related to the Housing Element and RHNA. The City identified key audiences and engagement methods to encourage participation from a broad cross-section of the Garden Grove community, representative of the City's diverse cultural groups, income levels, ages, and interests, with a particular focus on reaching out to Disadvantaged Community ("DAC") areas of the city. The City used a wide variety of public engagement tools and methods, which included:

- City Council, stakeholder, and focus group interviews
- Community forums and workshops
- Written surveys
- Online mapping surveys
- Study sessions, open to the public, with the Planning Commission, City Council, and Neighborhood Improvement and Conservation Commission

- Dedicated Housing Element Update website
- Social media
- Press releases
- Housing Element 101 video
- Email blasts
- Online and hard copy flyers
- Newsletters

#### Submission of the Initial Draft of the 2021-2029 Housing Element to HCD

On July 14, 2021, the City of Garden Grove submitted its initial Draft Housing Element to HCD for review. The City received informal comments from HCD Staff on September 8, 2021, and also received a report of findings on September 10, 2021 (see Attachment 1).

#### City Council Adoption of the Revised Draft 2021-2029 Housing Element

The Garden Grove City Council conducted a public hearing and deliberated upon the Revised Draft Housing Element at its November 9, 2021 meeting, where a public comment period was made available. After Council deliberation, the Council unanimously voted to adopt the Revised Draft 2021-2029 Housing Element, which had been revised in response to previous comments (from the HCD Comment Letter dated September 10, 2021) received from HCD. In addition to adopting the Housing Element, the City Council also concurrently adopted amendments to the Safety Element; adopted a new Environmental Justice Element; adopted revisions to the Land Use Element; adopted zoning text and map changes to address the changes to the Housing Element and Land Use Element; and certified the Program Environmental Impact Report.

The Adopted 2021-2029 Housing Element (the "Adopted Housing Element") is available online on the City's Website (<https://ggcity.org/planning/general-plan>).

#### 1<sup>st</sup> Submittal - Formal Submission of Adopted Housing Element to HCD

Subsequent to the City Council's adoption of the 2021-2029 Housing Element, the City formally submitted the Adopted Housing Element to HCD for its review on November 12, 2021.

#### 2<sup>nd</sup> Submittal - Formal Submission of Draft Revised Adopted 2021-2029 Housing Element to HCD

Following HCD's formal review of the Adopted Housing Element submitted on November 12, 2021, the City received a formal response letter from HCD dated February 10, 2022 (see Attachment 2). On November 18, 2022, the City formally submitted its Draft Revised Adopted 2021-2029 Housing Element to HCD for its review and to receive a report of findings. During HCD Staff's review of the submitted Draft Revised Adopted 2021-2029 Housing Element, informal comments were provided to City Staff in January 2023, which were related to Program 4



(Affordable Housing Construction) and Program 18 (Affirmatively Furthering Fair Housing). The City submitted a letter to HCD, dated May 4, 2023 (see Attachment 3), responding to HCD's informal comments regarding Programs 4 and 18.

### 3<sup>rd</sup> Submittal – Formal Submission of Draft Revised Adopted 2021-2029 Housing Element to HCD

On June 20, 2023, the City of Garden Grove formally submitted an updated version of the Draft Revised Adopted 2021-2029 Housing Element, which included revisions and additions made in response to the informal comments received from HCD Staff as part of its review of the November 2022 version of Draft Revised Adopted 2021-2029 Housing Element.

The June 2023 version of the Draft Revised Adopted 2021-2029 Housing Element is available online on the City's Website (<https://ggcity.org/housing-element>).

### HCD Letter of Substantial Compliance - August 14, 2023

On August 14, 2023, the City received a formal response letter (see Attachment 4) from HCD reporting the results of its review of the City's June 2023 Draft Revised Adopted 2021-2029 Housing Element submission. The letter, in part, states that HCD had found the City's submitted Draft Housing Element to "substantially comply with State Housing Element Law" and that it "meets statutory requirements". The letter further indicates that the City must make specific findings related to non-vacant sites as part of the resolution adopting the Housing Element.

On August 17, 2023 and August 22, 2023, City Staff presented an update to the Planning Commission and City Council, respectively, during their meetings, which are open to the public, and provided the following: An overview of the Housing Element and RHNA; highlighted community engagement conducted related to the Housing Element and RHNA; overview of the proposed revisions to the Adopted Housing Element; and discussed the current status of the Housing Element and the next steps in the process. Prior to the September 21, 2023, Planning Commission meeting, a link to the digital copy of the June 2023 version of the Draft Revised Adopted 2021-2029 Housing Element was provided to the Planning Commission and also made available on the City's Housing Element website (<https://ggcity.org/housing-element>).

## **DISCUSSION:**

### General Plan Amendment:

The Adopted 2021-2029 Housing Element ("Adopted Housing Element"), which is Chapter 12 of the City's General Plan, consists of the following sections:

- 12.1 - Introduction
- 12.2 - Community Profile/Housing Needs Assessment
- 12.3 - Constraints on Housing Development

- 12.4 - Housing Resources
- 12.5 - Housing Plan
- 12.6 - 2014-2021 Housing Element Program Accomplishments

The proposed General Plan Amendment will make updates to the Adopted Housing Element, as reflected in the redlined changes shown in the June 2023 version of the Draft Revised Adopted 2021-2029 Housing Element, which was formally submitted for review to HCD in June 2023. Said changes/updates were made to resolve comments received from HCD in its formal response letter dated February 10, 2022, including additional informal comments received in January 2023. As mentioned prior, in HCD's August 14, 2023, letter of substantial compliance to the City, the June 2023 version of the Draft Revised Adopted 2021-2029 Housing Element, inclusive of the redlined changes and updates, was deemed by HCD to "substantially comply with State Housing Element Law" and that the Housing Element "meets statutory requirements."

Proposed updates to Sections 12.2 through 12.6 of the Adopted Housing Element, which were made in response to HCD's comments, generally consist of the following:

- Provided updated homelessness data points in various sections;
- Updated Section 12.3 (Constraints on Housing Development), to specify that focused zoning amendments were adopted by the City in 2022;
- Provided additional information and data to Section 12.3.4 (Fair Housing Assessment) relating to National and Regional Fair Housing Trends, Affirmatively Furthering Fair Housing ("AFFH") community outreach, historic patterns of segregation in Orange County, and government actions;
- Provided additional data and maps/exhibits to Section 12.3.4 (Fair Housing Assessment) relating to Education, Environmental Justice, Transportation, Employment/Economic, and new TCAC (Tax Credit Allocation Committee) opportunity maps;
- Provided additional information and data to Section 12.3.4 (Fair Housing Assessment) relating to cost burden (overpayment), overcrowding, substandard housing, homelessness, displacement risk, and disproportionate housing needs;
- Provided additional information and data to Section 12.4 (Housing Resources) relating to updated housing development capacity assumptions, provided local and regional housing trends data, provided regional mixed-use and affordable housing trends;
- Provided additional information to Section 12.4 (Housing Resources), relating to a comprehensive analysis of industrial sites identified for lower income RHNA;
- Updated Section 12.4 (Housing Resources) to include a comprehensive criteria for sites to meet the lower income RHNA;
- Updated Section 12.4 (Housing Resources) to discuss the Housing Sites Inventory consistency with AFFH;
- Updated Section 12.5 (Housing Plan) to include new policies to address AFFH;

- Updated Section 12.5 (Housing Plan) to include revisions to Program 4 (Affordable Housing Construction), Program 17 (Zoning Code Amendment Program), Program 18 (AFFH), Program 19 (Homeless Housing Needs), and Program 24 (SB 9); and
- Updated Section 12.6 (2014-2021 Housing Element Program Accomplishments) to identify the City's accomplishments in the prior 2014-2021 Housing Element planning period for its progress in addressing special needs housing.

Detailed summaries of the proposed updates to Sections 12.2 through 12.6 of the Adopted Housing Element are provided in the attached Table A "Responses to HCD Comments Matrix" (see Attachment 5).

#### Revision to the Housing Element Sites Inventory

The Housing Element's Sites Inventory identifies opportunity areas, or sites, that demonstrate feasibility to be redeveloped with residential units during the planning period. Because Garden Grove is an entirely built out city with very limited vacant land available, a large majority of the properties identified in the Sites Inventory are underutilized nonvacant sites. In HCD's formal comment letter dated February 10, 2022, HCD Staff requested additional analysis, specifically for lower-income sites, demonstrating that existing uses on nonvacant sites would not be an impediment to additional residential development and are likely to discontinue during the planning period.

To demonstrate the suitability of nonvacant sites for the lower-income RHNA, a robust set of criteria called, "Criteria for Selecting Sites to Meet the Lower-Income RHNA", was created and then applied to the lower-income sites in the Adopted Housing Element. The suitability criteria considers several qualifying factors such as, but not limited to: Developer interest to redevelop the site with housing; vacant lots; building/land value with property improvement value that is less than half of the land value; the year the structure was built; low existing floor area ratio ("FAR"); no existing tenants or existing leases to expire early within the planning period; and deteriorating building condition and/or high tenant vacancy. After applying the new criteria to the existing list of properties in the Sites Inventory of the Adopted Housing Element, the full list of sites inventory properties (approximately 2,000 properties) in the Detailed Sites Inventory (Appendix B) was re-reviewed to determine necessary revisions/updates to the Sites Inventory, which consisted of: the addition of fifteen (15) properties to the Sites Inventory; the removal of four (4) properties from the Sites Inventory to address typographical issues and to reflect current development conditions; the correction of typographical errors related to lot acreage, maximum density, and realistic capacity; and the re-designation of the RHNA income category of a number of existing sites. The revisions/updates to the Sites Inventory address HCD's request for additional analysis of nonvacant sites for lower-income households and also ensures the City's total RHNA accommodates the housing needs for all income levels. A copy of the full Detailed Sites Inventory, which includes redlines showing

the proposed updates, is available in Appendix B of the Draft Revised Adopted 2021-2029 Housing Element.

In conjunction with the updates to the Sites Inventory, an amendment to the City's General Plan Land Use Map is proposed to modify the General Plan Land Use Designation of a Sites Inventory property, located at 13621 Harbor Boulevard (Assessor's Parcel No. 100-123-01), from Industrial (I) to International West Mixed Use (IW). The IW designation is intended to provide for a mix of uses including higher density residential, and allows residential densities of up to 70 dwelling units per acre. The abutting property to the east, located at 13631 Harbor Boulevard (Assessor's Parcel No. 100-123-02), is already included in the Sites Inventory of the Adopted Housing Element. Both properties, while separate, are connected and function as a single integrated development with reciprocal access. Both properties are also under the same ownership. When the Adopted Housing Element was approved in 2021, the rear portion of this development (13621 Harbor Boulevard) was mistakenly not included in the Sites Inventory – although it should have been, given that both properties comprise of a single integrated development. Therefore, the intent of the proposed General Plan Amendment is to rectify this error by facilitating the property's inclusion into the Sites Inventory, and to establish the IW designation to allow residential development.

#### Zoning Map Amendment:

The proposed Zoning Map Amendment will revise the City's Official Zoning Map to implement the updates to the Housing Element. Eleven (11) properties that are to be added to the Sites Inventory will have (through the proposed General Plan Amendment) or already have an underlying General Plan Land Use Designation that allows residential development, such as the International West Mixed Use or Industrial/Residential Mixed Use 1 General Plan Land Use Designations. However, the zoning of said properties does not allow residential development. Therefore, the proposed Zoning Map Amendment will revise the City's Official Zoning Map to cover one (1) property with the International West Mixed Use Overlay and cover ten (10) properties with the Industrial/Residential Mixed Use 1 Overlay. The purpose of the Mixed Use Overlay zone is to allow for residential and mixed-use development to be allowed in addition to those uses regulated by the respective underlying zoning.

The proposed Zoning Map Amendment will also clarify sites intended to be included in the International West Mixed Use Overlay and the Industrial/Residential Mixed Use 1 Overlay, pursuant to Ordinance No. 2925.

On December 14, 2021, the City Council adopted Ordinance No. 2925 (see Attachment 6) approving Zoning Amendment No. A-031-2021 to implement the General Plan Housing Element and Land Use Element updates adopted by the City Council on November 9, 2021. Pursuant to Ordinance No. 2925, the City Council added Section 9.18.190 to the Garden Grove Municipal Code creating the Mixed Use Overlay (MU) Zone, which includes the International West Mixed Use Overlay, the Industrial/Residential Mixed Use 1 Overlay, and the Residential/Commercial Mixed

Use 2 Residential Overlay. Maps attached as Exhibits A-D and a list of parcels attached as Exhibit E to Ordinance No. 2925 purport to show the properties included in the Mixed Use Overlay Zone and each of the three separate Overlays. Upon further review, Staff discovered a clerical discrepancy involving fifteen (15) properties that were shown on the Exhibit A and C maps as being included in the International West Mixed Use Overlay and the Industrial/Residential Mixed Use 1 Overlay, but which were inadvertently not listed in Exhibit E. The proposed Zoning amendment will correct this clerical discrepancy by including these properties in Exhibit E listing all of the parcels to which the Mixed Use Overlay (MU) Zone is intended to apply.

The ordinance approving the proposed Zoning Map Amendment (A-037-2023) will include updated exhibits (Exhibits A, C, and E) to reflect the proposed updates to the Housing Element and to fix the clerical errors discovered (See Exhibit A to proposed Resolution No. 6069-23).

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Pursuant to CEQA, subsequent discretionary actions within the scope of a program environmental impact report may be approved without further environmental review if they would not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts. (Public Resources Code Section 21166; CEQA Guidelines Sections 15168, 15162.) Whether a later activity is within the scope of a Program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the Program EIR. CEQA does not mandate any specific procedure that a lead agency must use to determine whether later activities are within the scope of the prior Program EIR or whether any subsequent environmental review is required.

On November 9, 2021, the City Council certified a comprehensive programmatic Environmental Impact Report for the Focused General Plan Update and Zoning Amendments ("GPEIR"). The GPEIR analyzed the potential programmatic environmental impacts of adding 19,251 potential housing units. The proposed revised Housing Element, which HCD indicates meets the requirements of State law, calls for the addition of 19,239 units. This constitutes 12 fewer units than previously analyzed in the GPEIR. In other words, the current Housing Element is consistent with the types of allowable land uses and the overall density previously analyzed in the GPEIR. Thus, the proposed revised Housing Element is within the scope of the GPEIR and its potential environmental impacts would either be equivalent to, or slightly decreased from, those identified in the GPEIR. Further, adding the new site located at 13621 Harbor Boulevard to the Sites Inventory will not increase the overall unit yield since minor adjustments have been made on other sites. The proposed Zoning Map Amendments implement the proposed updates to the Housing Element. On this basis, the proposed Housing Element and

Zoning Map amendments would not result in any new significant impacts or a substantial increase in the severity of any previously identified significant impacts. Accordingly, City staff believes no further CEQA analysis is required. (See Attachment 7 for a detailed analysis supporting this conclusion.)

**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following actions:

1. Conduct a public hearing;
2. Adopt Resolution No. 6069-23 recommending that the City Council Adopt General Plan Amendment No. GPA-002-2023 (i) to revise and update the Adopted 2021-2029 Housing Element consistent with the changes reflected in the June 2023 draft approved by HCD and to make additional non-substantive typographical corrections; and (ii) to amend the General Plan Land Use Designation of a property located at 13621 Harbor Boulevard (Assessor's Parcel No. 100-123-01), from Industrial (I) to International West Mixed Use (IW); and
3. Adopt Resolution No. 6070-23 recommending that the City Council approve Zoning Map Amendment No. A-037-2023 to revise the Zoning Map to implement the updates to the Housing Element and to clarify the sites intended to be included in the International West Mixed-Use Overlay or the Industrial/Residential Mixed Use 1 Overlay pursuant to Ordinance No. 2925.



Maria Parra  
Planning Services Manager



Chris Chung  
Senior Planner

- Attachment 1: [HCD Comment Letter dated September 10, 2021](#)
- Attachment 2: [HCD Comment Letter dated February 10, 2022](#)
- Attachment 3: [Garden Grove Response Letter to HCD dated May 4, 2023](#)
- Attachment 4: [HCD Substantial Compliance Letter dated August 14, 2023](#)
- Attachment 5: [Table A Responses to Comments Matrix](#)
- Attachment 6: [Ordinance No. 2925](#)
- Attachment 7: [CEQA Consistency Analysis Memo](#)

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
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September 10, 2021

Lisa Kim, Community and Economic Development Director  
Planning Services Division  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840

Dear Lisa Kim:

**RE: Review of the City of Garden Grove's 6<sup>th</sup> Cycle (2019-2021) Draft Housing Element**

Thank you for submitting the City of Garden Grove's (City) 6<sup>th</sup> cycle draft housing element received for review on July 14, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a telephone conversation on September 8, 2021 with you; Chris Chung, Urban Planner; Lee Marino, Planning Services Division Manager; and Maria Parra, Senior Planner. In addition, HCD considered comments from the Kennedy Commission and Roy English pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes these, and other revisions needed to comply with State Housing Element Law.

To remain on an eight-year planning cycle, the City must adopt its housing element within 120 calendar days from the statutory due date of October 15, 2021 for Southern California Association of Governments (SCAG) localities. If adopted after this date, Government Code section 65588, subdivision (e)(4), requires the housing element be revised every four years until adopting at least two consecutive revisions by the statutory deadline. For more information on housing element adoption requirements, please visit HCD's website at: [http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375\\_final100413.pdf](http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb375_final100413.pdf).

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the County to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at:

[http://opr.ca.gov/docs/OPR\\_Appendix\\_C\\_final.pdf](http://opr.ca.gov/docs/OPR_Appendix_C_final.pdf) and  
[http://opr.ca.gov/docs/Final\\_6.26.15.pdf](http://opr.ca.gov/docs/Final_6.26.15.pdf).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate.

Pursuant to Government Code section 65583.3, subdivision (b), the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance. Upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov).

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Mashal Ayobi, of our staff, at [Mashal.Ayobi@hcd.ca.gov](mailto:Mashal.Ayobi@hcd.ca.gov) or (916) 776-7421.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West  
Land Use & Planning Unit Chief

Enclosure



## APPENDIX CITY OF GARDEN GROVE

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

### **A. Review and Revision**

*Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)*

As part of the evaluation of programs in the past cycle, the element must provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers and persons experiencing homelessness). For example, quantify how many people the shelter served or how many referrals were made to Regional Center of Orange County pursuant to Program 10.

### **B. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing (AFFH) in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A)).*

The element has some basic information racial segregation, racial and ethnically concentrated areas of poverty, and include maps of the TCAC opportunity areas at a local level. However, the element generally does not address this requirement. The element, among other things, must include outreach, an assessment of fair housing, identification, and prioritization of contributing factors to fair housing issues and goals and actions sufficient to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity. This information must be provided both at the local level compared at the regional level and be informed by regional and local data and knowledge from stakeholders within the City. For more information, please contact HCD and visit <https://www.hcd.ca.gov/community-development/affh/index.shtml>.

2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment*

*during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

The City has a regional housing needs allocation (RHNA) of 19,168 housing units, of which 6,967 are for lower-income households. To address this need, the element relies on a mix of vacant and significantly underutilized sites. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses:

Progress in Meeting the RHNA: The element must clarify conflicting data on Tables 12-31 and 12-32. For example, Table 12-32 states 896 units approved to extremely- and very low-income and 38 units to low-income categories, but Table 12-31 shows 41 units to very low-, 359 units to lo-w, 124 units to moderate-, and 436 units to above moderate-income categories.

Sites Inventory: Appendix B (Sites Inventory) states that there is no infrastructure capacity on these sites. HCD understands that this is an error. The sites inventory must clarify whether infrastructure including dry utilities is available for these parcels.

Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For sites in zones that allow nonresidential uses, the element needs to analyze the likelihood that the identified units will be developed as noted in the inventory. This analysis should consider the likelihood of nonresidential development, performance standards, and development trends supporting residential development.

Suitability of Nonvacant Sites: The element must include an analysis demonstrating the potential for redevelopment of nonvacant sites. To address this requirement, the element describes in general the existing use of each nonvacant site for example "commercial" or "shopping center". This alone is not adequate to demonstrate the potential for redevelopment in the planning period. The description of existing uses should be sufficiently detailed to facilitate an analysis demonstrating the potential for additional development in the planning period. In addition, the element needs to also analyze the extent that existing uses may impede additional residential development. For example, the element includes sites identified as single-family residents, religious institutions, a culinary school, an adult daycare and senior center, but no analysis was provided to demonstrate whether these existing uses would impede development of these sites within the planning period. The element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified. The element could also consider indicators such as age and condition of the existing structure expressed developer interest, low improvement to land value ratio, and other factors. In addition, some of the sites are identified as civic facilities. There must be discussion and analysis on whether the City has plans to redevelop these sites or plans to sell the property if owned by the

City, and how the jurisdiction will comply with the Surplus Land Act (Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5).

In addition, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2).). This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period (Gov. Code, § 65583.2, subd. (g)(2).

Accessory Dwelling Units (ADU): The element assumes an average of 436 ADUs per year will be constructed during the planning period, for a total of 3,618 ADUs. The element's analysis and programs do not support this assumption. Specifically, in addition to other methods, HCD accepts the use of trends in ADU construction since January 2018 to estimate new production. Based on past production between 2018 to 2020, the City is averaging about 144 ADUs per year. To support assumptions for ADUs in the planning period, the element could reduce the number of ADUs assumed per year or reconcile trends with HCD records, including additional information such as more recent permitted units and inquiries, resources and incentives, other relevant factors and modify policies and programs as appropriate. The element should support its ADU assumptions based on the number of ADU permits issued, not the number of ADU applications. The element must also commit to monitor ADU production throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. In addition to monitoring production, this program should also monitor affordability. Additional actions, if necessary, should be taken in a timely manner (e.g., within 6 months). Finally, if necessary, the degree of additional actions should be in stride with the degree of the gap in production and affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Environmental Constraints: Per third party comments, some of the sites are currently and have been used for decades for metal recycling and auto repairs, so the soil is probably very polluted with lead and other heavy metals. The element must describe and analyze environmental constraints that may impede the development of housing within the planning period on these sites, specifically the provision of housing affordable to lower-income housing.

Sites with Zoning for a Variety of Housing Types:

*Emergency Shelters:* While the element notes emergency shelters are allowed in the M-1 zone, it must demonstrate the City still has sufficient capacity to accommodate the identified housing need for emergency shelters and evaluate the available acreage for characteristics like parcel size or potential redevelopment or reuse opportunities, proximity to services and describe development standards.

*Transitional & Supportive Housing:* The element does not adequately address requirements for transitional housing and supportive housing. Pursuant to Senate Bill 2 (Chapter 633, Statutes of 2007), transitional and supportive housing must be permitted as a residential use in all zones and only subject to those restrictions that apply to other residential dwellings of the same type in the same zone. The element must demonstrate consistency with these statutory requirements and include a program as appropriate.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Government Code section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. (Gov. Code, § 65583, subd. (a)(5).)*

Development Standards: The element must identify and analyze all relevant land-use controls impacts as potential constraints on a variety of housing types (e.g., multifamily rental housing, mobile homes, transitional housing). The analysis must also evaluate the cumulative impacts of land-use controls on the cost and supply of housing, including the ability to achieve maximum densities and the capacity assumed in the housing element sites inventory. In particular, the element should analyze the limitation that only 50 percent of the building area in a multifamily development may be three stories and the one-story requirement within 20 feet of a R-1 zone property and requirements for the provision of outdoor recreational and leisure area. The analysis should describe past or current efforts to remove identified governmental constraints, and the element should include programs to address or remove the identified constraints.

Local Processing and Permit Procedures: The element generally describes the discretionary permitting process for multifamily development (p. 12-41). The element must analyze the process as a potential constraint on housing supply and affordability. The analysis should identify findings of approval and their potential impact on development approval certainty, timing, and cost. In particular, the element must evaluate the following review criteria:

- complying with the spirit and intent of applicable provisions, conditions, and requirements
- compatibility with the physical, functional, and visual quality of the neighboring uses
- desirable neighborhood characteristics and planning and design
- attain an attractive environment for the occupants of the property

The element must demonstrate this process is not a constraint, or it must include a program to address and remove or mitigate constraints to the approval of multifamily development related to these requirements.

Constraints on Housing for Persons with Disabilities: While the element makes reference to reasonable accommodation for persons with disabilities, it does not provide any information on the City's reasonable accommodation procedure. The element should describe the City's reasonable accommodation procedure, including how requests are made and processed, and any approval findings. In addition, the element details that residential care facilities serving six or fewer persons are permitted in all residential zones. However, residential care facilities serving seven or more persons require a Conditional Use Permit (CUP). The element should analyze the process as a potential constraint on housing for persons with disabilities and add or modify programs as appropriate to ensure zoning permits group homes objectively with approval certainty.

4. *An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, the cost of construction, the requests to develop housing at densities below those anticipated in the analysis required by subdivision (c) of Government Code section 65583.2, and the length of time between receiving approval for a housing development and submittal of an application for building permits for that housing development that hinder the construction of a locality's share of the regional housing need in accordance with Government Code section 65584. The analysis shall also demonstrate local efforts to remove nongovernmental constraints that create a gap between the locality's planning for the development of housing for all income levels and the construction of that housing. (Gov. Code, § 65583, subd. (a)(6).)*

The element must be revised to include analysis of requests to develop housing at densities below those anticipated, and the length of time between receiving approval for a housing development and submittal of an application for building permits that potentially hinder the construction of a locality's share of the regional housing need. Page 12-34 lists the requirement but does not provide analysis.

5. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

While the element quantifies the City's special needs populations, it must also analyze their special housing needs. For a complete analysis of each population group, the element should discuss challenges faced by the population, the existing resources to meet those needs (e.g., availability of senior housing units, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps. Additionally, the

element must include an estimate of the number of persons experiencing homelessness based upon the most recent from Point in Time (PIT) data.

### **C. Housing Programs**

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. The program shall include an identification of the agencies and officials responsible for the implementation of the various actions. (Gov. Code, § 65583, subd. (c).)*

To address the program requirements of Government Code section 65583, subdivision (c)(1-6), and to facilitate implementation, programs should include: (1) a description of the City's specific role in implementation; (2) definitive implementation timelines; (3) objectives, quantified where appropriate; and (4) identification of responsible agencies and officials. Programs to be revised include the following:

*Program 9 (Accessory Dwelling Units):* The program must include specific timeframes for the preparation of pre-approved plans, the development of promotional materials, and when the city will consider the establishment of the ADU amnesty program.

*Program 10 (Density Bonus):* Provide a specific timeline for review and evaluation with specific actions.

*Program 11 (Inclusionary Housing Ordinance):* Provide a specific timeframe for the consideration and evaluation of the development of inclusionary housing ordinance.

*Program 22 (Affordable Housing Overlay):* Provide a specific timeframe for the consideration and adoption of an affordable housing overlay.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy (SRO) units, emergency shelters, and transitional housing. (Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding B2, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. The element indicates that sites will require rezoning and general plan amendments which is expected to occur prior to the start of the planning period (October 15, 2021) (page 12-78). Please be aware, if rezonings are not completed by that date, the element must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. (Gov. Code, § 65583.2, subd. (h) and (i).)

*Program 8 (Residential Sites Inventory and Monitoring of No Net Loss):* The program should be amended to commit to amending the City's sites inventory if a shortfall is identified pursuant to Government Code section 65863.

Nonvacant Sites Reliance to Accommodate RHNA: As the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, it should include a program(s) to promote residential development affordable to lower-income housing on these sites. The program could commit to provide financial assistance, regulatory concessions such as a streamlined permit processing, or incentives including the adoption of an affordable housing overlay pursuant to Program 22 to encourage and facilitate new, or more intense, residential development on the sites. In addition, the element could amend Program 12 to monitor development on sites in the mixed-use zone as it relates to the provision of housing affordable to lower-income households and commit provision of additional actions as necessary to facilitate development.

- 3. The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable extremely low-income (ELI) households. Programs must be revised or added to the element to assist in the development of housing for ELI households. For example, Program 13 in the element could describe what the City will do to encourage developers to include ELI units with wraparound services. In addition, the element states that the City is working with the owners of the Tamerlane Dr. property (p.12-63) to preserve at-risk units. Program 7 could be updated to reflect these efforts.

- 4. Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Findings B3 and B4, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

*Program 14 (Parking Standards):* The element identified the City's parking standards as a potential constraint to development. The element must include specific commitments to mitigate or remove constraints with specific timelines.

5. *Promote AFFH opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis as noted in Finding B1. Goals and actions must specifically respond to the analysis and to the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have metrics and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For example, Program 1 (Housing Rehabilitation) can target or prioritize grants in lower or moderate-resourced neighborhoods, or Program 17 (Zoning Code Update) could be amended to include relocation and protections for those long-term tenants in SRO or motels which could be displaced if converted to permanent housing.

#### **D. Public Participation**

*Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(8).)*

While the element includes a general summary of the public participation process (p. 12-6 to 12-10, Appendix C), it must also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, solicitation efforts for survey responses, and participation in community workshops. HCD reviewed third-party comments as part of this review. These should be considered as part of the revised element. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element. For additional information, see the Building Blocks at <http://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.



In addition, HCD understands the City made the element available to the public only two weeks prior to its submittal to HCD. By not providing an opportunity for the public to review and comment on a draft of the element in advance of submission, the City has not yet complied with statutory mandates to make a diligent effort to encourage the public participation in the development of the element and it reduces HCD's ability to consider public comments in the course of its review. The availability of the document to the public and opportunity for public comment prior to submittal to HCD is essential to the public process and HCD's review. The City must proactively make future revisions available to the public, including any commenters, prior to submitting any revisions to HCD and diligently consider and address comments, including making revisions to the document where appropriate. HCD's future review will consider the extent to which the revised element documents how the City solicited, considered, and addressed public comments in the element. The City's consideration of public comments must not be limited by HCD's findings in this review letter.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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Scott Stiles, City Manager  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840

Dear Scott Stiles:

**RE: City of Garden Grove's 6<sup>th</sup> Cycle (2021-2029) Adopted Housing Element**

Thank you for submitting the City of Garden Grove's (City) housing element adopted on November 9, 2021 and received for review on November 12, 2021. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. In addition, HCD considered comments from the Kennedy Commission pursuant to Government Code section 65585, subdivision (c).

The adopted housing element addresses many statutory requirements described in HCD's September 10, 2021 review; however, revisions will be necessary to fully comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

As a reminder, the City's 6th cycle housing element was due October 15, 2021. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element as described above, adopt, and submit to HCD to regain housing element compliance.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (October 15, 2021), then any rezoning to accommodate the regional housing needs allocation, including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may

revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i).

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Mashal Ayobi, of our staff, at [Mashal.Ayobi@hcd.ca.gov](mailto:Mashal.Ayobi@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy  
Senior Accountability Manager

Enclosure

## APPENDIX CITY OF GARDEN GROVE

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at <http://www.hcd.ca.gov/community-development/housing-element/housing-element-memos.shtml>. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks)*, available at <http://www.hcd.ca.gov/community-development/building-blocks/index.shtml> and includes the Government Code addressing State Housing Element Law and other resources.

### **A. Housing Needs, Resources, and Constraints**

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2...shall include an assessment of fair housing in the jurisdiction (Gov. Code, § 65583, subd. (c)(10)(A))*

Fair Housing Enforcement and Outreach: While the element was revised to incorporate information on fair housing complaints, it did not address the ability to provide enforcement and outreach capacity which can consist of actions such as ability to investigate complaints, obtain remedies, or the ability to engage in fair housing testing. The analysis must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity. Furthermore, the element should address outreach related to affirmatively further fair housing (AFFH).

Regional Analysis: While the element generally describes local patterns and trends, it must also analyze Garden Grove relative to the rest of the region regarding Racially and Racially/Ethnically Concentrated Areas of Poverty (R/ECAP) and Affluence, disparities in access to opportunity, and disproportionate housing needs and displacement risks.

Local Data and Knowledge, and Other Relevant Factors: The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. This can include, but is not limited to, changes and barriers in zoning and land use rules, information about redlining/greenlining, restrictive covenants and other discriminatory practices, presence and history of place-based investment, and mobility option patterns.

Access to Opportunity: The element provides information on the access to opportunity through the TCAC opportunity maps but must also provide a complete local and regional

analysis of patterns and trends for all components. A comprehensive analysis should include the local and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data. It should also analyze persons with disabilities as well as access to transit. Please refer to page 35 of the AFFH guidebook (link: <https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Garden Grove.

Disproportionate Housing Needs: The element is revised to include some information about cost burden, substandard housing, and overcrowding in the locality but the analysis is incomplete. A full analysis should identify local patterns and trends throughout the community. In addition, the element must include regional information and analysis for these categories. The element must also address homelessness and displacement risk. Currently, the draft includes maps of sensitive communities and describes various types of displacement risk, but does not describe or contextualize them, or analyze any findings specific to Garden Grove.

Contributing Factors: The element provides a general list of contributing factors (p. 83); however, the contributing factors identified are generally not responsive to the analysis presented in the AFFH analysis. The City's composition and location in the region presents unique fair housing challenges largely not captured by the contributing factors. As a result, the City should revise the AFFH section as noted above, re-evaluate contributing factors, and prioritize the contributing factors. As a reminder, the contributing factors should be foundational pieces for the AFFH programs.

Site Inventory and AFFH: The element was revised to provide some general analysis and generally states that the sites improve fair housing and equal opportunities conditions in Garden Grove (pp. 12-83). However, this is not sufficient to demonstrate whether sites identified to meet the regional housing needs allocation (RHNA) are distributed throughout the community in a manner that AFFH. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). In addition, as noted in the element sites are located in the moderate resourced areas followed by low resourced areas. The element should address this and discuss whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to overcome patterns of segregation and promote inclusive communities, including actions beyond the RHNA. Depending on the results of a complete analysis, the element should add programs as appropriate.

Goals, Priorities, Metrics, and Milestones: The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Currently the element relies solely on programs which are not transformative, meaningful, or specific. Many of these actions simply involve coming into compliance with state law. Goals and actions must specifically respond to the analysis and the identified and prioritized contributing factors to

fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends. Actions must have specific commitment, metrics, and milestones as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For example, as identified in third party comments, the AFFH analysis shows patterns of racial and economic segregation but does not include programs to adequately address these patterns nor address potential displacement risk.

2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

Electronic Sites Inventory: Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov). HCD has not received a copy of the electronic inventory. Please note, the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Realistic Capacity: The element now lists recent developments to support capacity assumptions and trends related to residential development in mixed-use zone; however, the analysis of realistic capacity should account for the likelihood of 100 percent nonresidential uses. Please see prior review.

Suitability of Nonvacant Sites: Specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. The housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2).) While the element contains some information relating to underutilization, age of structure, and building-to-land value ratio, it does not provide analysis demonstrating the uses are likely to discontinue in the planning period. For example, only a few sites include information related to existing leases and owner interest, but no information was provided related to whether the uses on other sites would impede residential development. For example, the element could describe if uses are operating or marginalized, information on interest in redevelopment and relate redevelopment and market trends to the identified sites. In particular, the element. In addition, the adopted resolution did not include necessary findings based on substantial evidence that the uses will likely discontinue in the planning period. Please see HCD's prior review for additional information.

Senate Bill 9 (Statutes of 2021) Projections: The element is now projecting 1,459 units that will be developed based on the passage of SB 9 (Statutes of 2021) to accommodate a

portion of its above moderate income RHNA. To utilize projections based on SB 9 legislation, the element must; 1) include a site-specific inventory of sites where SB 9 projections are being applied; 2) include a nonvacant sites analysis demonstrating the potential for redevelopment and that the existing use will not constitute as an impediment for additional residential use and; 3) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should also support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9.

Accessory Dwelling Units (ADU): The ADU numbers have been reassessed in this element and the City acknowledges that the ADU counts in their annual progress reports (APRs) are undercounted and includes Program 9 to update the City's APR data. However, it is still unclear from both the element and the documentation provided with the review how many units have been permitted since 2018. The element states that an average of 242 units have been permitted per year and therefore 2,009 units are likely to be built in the planning period. However, this calculation seems to be inaccurate as five years of data was provided resulting in an average of 193 per year which equate to an eight-year projection of 1,544 units. Accompanying documentation shows an average of 237 which would equate to an eight-year projection of 1,896. The element must reconcile the factors used to project the number of ADU's expected to be built in the planning period and adjust the projection accordingly.

Zoning for a Variety of Housing Types:

*Transitional and Supportive Housing:* While the element was revised to include additional information related to how transitional housing is allowed, it does not provide information related to supportive housing. In addition, the information provided on pages 12-59 seems to distinguish between number of occupants living together. This is inconsistent with state law which states "Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone." (Gov. Code, § 65583, subd. (c)(3), emphasis added.) This means if transitional or supportive housing is located in a single-family home, for instance, the city cannot require a use permit for the transitional or supportive housing unless it also generally requires a use permit for all other single-family homes in the same zone. This rule applies regardless of the number of occupants. The City cannot, for instance, require a use permit for transitional and supportive housing with six or more occupants unless it requires such a use permit for single-family homes in the same zone generally. The element must include a program to update the zoning ordinance consistent with these standards.

- 3. An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.*

Processing and Permitting Procedures: While the element indicates that no multi-family projects have been denied based on the approval finding and that the City must follow state law, it does not analyze the permit or the process as a potential constraint. A full analysis should assess the process impact on approval certainty, supply, affordability, timing, and other relevant factors and in particular analyze the subjective design standards noted in HCD's prior review.

Housing for Persons with Disabilities: While the element was revised to identify a reasonable accommodation procedure through the housing authority, it did not include the findings for approval of reasonable accommodation requests. In addition, the element did not address HCD's previous finding to analyze the conditional use process requirement for group homes of seven or more. Zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.

## **B. Housing Programs**

1. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.  
(Gov. Code, § 65583, subd. (c)(1).)*

As noted in Finding A1, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

Sites Inventory: As stated in our prior review, if rezoning is not completed by October 15, 2021, the element must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need within the planning period. (Gov. Code, § 65583.2, subd. (h) and (i).) The element should clarify when and if rezoning has occurred and amend zoning to be consistent with Government Code section 65583.2(h) and (i) as needed.

Nonvacant Sites Reliance to Accommodate RHNA: HCD's prior review found that the element relies upon nonvacant sites to accommodate the regional housing need for



lower-income households, so it should include a program(s) to promote residential development affordable to lower-income housing on these sites. The program could commit to provide financial assistance, regulatory concessions such as a streamlined permit processing, or incentives including the adoption of an affordable housing overlay pursuant to Program 22 to encourage and facilitate new, or more intense, residential development on the sites. In addition, the element could amend Program 12 to monitor development on sites in the mixed-use zone as it relates to the provision of housing affordable to lower-income households and commit provision of additional actions as necessary to facilitate development.

Program 4 (Affordable Housing Construction): HCD's prior review found the element must describe and analyze environmental constraints that may impede the development of housing within the planning period on these sites, specifically the provision of housing affordable to lower-income housing. The City added more information on environmental constraints related to industrial contamination in starting on pages 12-122 and program 4 has been revised to include City assistance, both technical and funding, where available, to sites that have been determined to be contaminated based on environmental site assessments. However, the City does not specify when these assessments will be complete. The element should add a program to ensure environmental constraints are addressed and include a timeline for conducting such assessments within a year of housing element adoption.

2. *The Housing Element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households. (Gov. Code, § 65583, subd. (c)(2).)*

While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable extremely low-income (ELI) households. Programs must be revised or added to the element to assist in the development of housing for ELI households. For example, Program 13 in the element could describe what the City will do to encourage developers to include ELI units with wraparound services. In addition, the element states that the City is working with the owners of the Tamerlane Drive property (pp.12-63) to preserve at-risk units. Program 7 could be updated to reflect these efforts.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

As noted in Finding A2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law. (Gov. Code, § 65583, subd. (c)(5).)*

As noted in Finding A1, the element requires a complete analysis of AFFH. Depending upon the results of that analysis, the City may need to revise or add programs to AFFH.

**Steve Jones**  
Mayor  
**George S. Brietigam**  
Mayor Pro Tem - District 1  
**John R. O'Neill**  
Council Member - District 2  
**Cindy Ngoc Tran**  
Council Member - District 3  
**Joe DoVinh**  
Council Member - District 4  
**Stephanie Klopfenstein**  
Council Member - District 5  
**Kim Bernice Nguyen**  
Council Member - District 6

May 4, 2023

State Department of Housing and Community Development  
C/O Land Use and Planning Unit

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**RE: Follow-up Response to Informal HCD Comments on City of Garden Grove  
DRAFT REVISED ADOPTED 2021-2029 Housing Element Submitted to HCD in  
November 2022**

Dear Mr. McDougall,

On November 18, 2022, the City of Garden Grove formally submitted its Draft Revised Adopted 2021-2029 Housing Element to the State of California Department of Housing and Community Development (HCD) for its review and to receive a report of findings. During HCD Staff's review of the submitted Draft Revised Adopted 2021-2029 Housing Element, informal comments were provided to City Staff, which were, in part, related to Program 4 (Affordable Housing Construction). The City of Garden Grove is pleased to submit a response to the informal comments received from HCD Staff regarding a specific objective listed under Program 4. The following contents of this letter will also provide a background of events related to the City's 2021-2029 Housing Element, highlighting feedback received from HCD, both formally and informally, regarding its reviews of the element, as well as information on the actions taken by the City to respond to and address said feedback. The City appreciates your and your Staff's consideration of the information provided herein.

For your reference, the following documents are attached hereto:

- Adopted 2021-2029 Housing Element (November 2021) and HCD Comment Response Matrix
- Draft Revised Adopted 2021-2029 Housing Element (November 2022) and HCD Comment Response Matrix

## BACKGROUND

### Submission of Draft 2021-2029 Housing Element to HCD

On July 14, 2021, the City of Garden Grove submitted its initial (1<sup>st</sup>) Draft Housing Element to HCD for review. The City received comments from HCD Staff discussed in a telephone conversation held on September 8, 2021, and also received a report of findings via a comment letter received from HCD dated September 10, 2021.

### City Council Adoption of the Revised Draft 2021-2029 Housing Element

The City of Garden Grove City Council conducted a public hearing and deliberated upon the Revised Draft Housing Element at its November 9, 2021 meeting, where a public comment period was made available. After Council deliberation, the Council unanimously voted to adopt the Revised Draft 2021-2029 Housing Element (the “Adopted Housing Element”), which had been revised in response to previous comments received from HCD (per HCD’s comments via the telephone conversation on September 8, 2021 and the comment letter dated September 10, 2021). In addition to adopting the Housing Element, the City Council also concurrently adopted amendments to the Safety Element to reflect climate adaptation; adopted a new Environmental Justice Element; adopted revisions to the Land Use Element; adopted zoning text and map changes to address the changes to the Housing Element and Land Use Element; and certified the Environmental Impact Report.

### Formal Submission of Adopted Housing Element to HCD

Subsequent to the City Council’s adoption of the 2021-2029 Housing Element (the “Adopted Housing Element”), the City formally submitted the Adopted Housing Element to HCD for its review on November 12, 2021. The Adopted Housing Element was provided to HCD in a redline version so that revisions were easily identifiable and comparable to the previous draft version of the Housing Element that was submitted to HCD on July 14, 2021. The redline version of the Adopted Housing Element addressed HCD comments identified in the telephone meeting between HCD Staff and City Staff on September 8, 2021, and the comment letter received from HCD dated September 10, 2021. To also assist in tracking changes made to the Adopted Housing Element, an HCD Comment Response Matrix was included along with the Adopted Housing Element. This Matrix catalogued all of HCD’s latest comments, received up to that point, and provided a direct response on how the Adopted Housing Element was updated to address each comment.

### Formal Submission of Draft Revised Adopted 2021-2029 Housing Element to HCD

Following HCD’s formal review of the Adopted Housing Element submitted on November 12, 2021, the City received a formal response/comment letter from HCD dated February 10, 2022. On November 18, 2022, the City of Garden Grove formally submitted its Draft Revised Adopted 2021-2029 Housing Element to HCD for its review and to receive a report of findings. The Draft Revised Adopted 2021-2029 Housing Element was provided in a redline version so that revisions were easily identifiable and comparable to the previous Adopted

Housing Element. The redline version addressed HCD comments identified in its February 10, 2022 response letter, as well as informal comments received from HCD on September 29, 2022 during a virtual meeting (Zoom) with HCD Staff and via an email from HCD Staff on September 29, 2022. To also assist in tracking changes made to the Adopted Housing Element, an HCD Comment Response Matrix was included along with the Draft Revised Adopted 2021-2029 Housing Element. The Matrix catalogued all of HCD's latest comments received up to that point, and provided a provided a direct response on how the Adopted Housing Element was updated to address each comment. In compliance with AB 215 requirements for the 7-day posting period, on November 10, 2022, the City posted the Draft Revised Adopted 2021-2029 Housing Element on its website (<https://ggcity.org/housing-element>) and emailed a link of said document to all individuals and organizations that previously requested notices related to Garden Grove's Housing Element.

#### HCD Informal Comments on the Draft Revised Adopted 2021-2029 Housing Element

On January 10, 2023, HCD Staff provided informal comments, by phone and email, to City Staff related to its review of the Draft Revised Adopted 2021-2029 Housing Element that was submitted on November 18, 2022. Said informal comments related to minor revisions requested to address language in portions of specific objectives under Program 4 (Affordable Housing Construction) and Program 18 (Affirmatively Furthering Fair Housing). With exception to the minor revisions requested to Program 4 (Affordable Housing Construction) and Program 18 (Affirmatively Furthering Fair Housing), HCD Staff conveyed orally over the phone to the City that all other comments received from prior HCD correspondence had been addressed in full.

#### Comments Related to Program 18 (Affirmatively Furthering Fair Housing)

Relating to Program 18 (Affirmatively Furthering Fair Housing), informal comments from HCD Staff specifically requested that certain meaningful actions be strengthened along with the inclusion of quantifiable metrics.

City Staff prepared revisions and additions to Program 18 (Affirmatively Furthering Fair Housing), which included **revised** and **new** meaningful actions with the inclusion of specific metrics, as requested by HCD. Said meaningful actions included the following (New text in [blue-underline](#). Deleted text in ~~strikethrough~~):

#### **Revised Meaningful Actions Added to Program 18: Affirmatively Furthering Fair Housing**

Direct homebuyers and property owners with property deeds, covenants, and other real estate property documents that contain restrictions intended to limit where certain people could live or buy property, based on race, religion, or other characteristics, to the Orange County Clerk-Recorder's Office to have such discriminatory language removed at no charge.

**2021-2029 Metrics:** Publish available [Orange County Clerk-Recorder's Office services at least twice a year, and as inquiries are received, the City will respond](#)

within seven business days to direct homebuyers and property owners to the Orange County Clerk-Recorder's Office. To the extent requests or inquiries are received, City to direct a minimum of 10 property documents per year to the County, as requested.

Annually monitor building and home sales activities in historically under-market neighborhoods to identify any adverse trends. If trends indicate substantial displacement, investigate effective means to address the issue. Consult with the Fair Housing Council of Orange County and Fair Housing Foundation to provide multi-lingual tenant legal counseling within these impacted areas.

**2021-2029 Metrics:** Reduce displacement

**New Program 18 Meaningful Action #1:**

In concert with Program 2 (Code Enforcement), develop a proactive and cooperative code compliance program that targets areas of concentrated rehabilitation needs resulting in repairs and improvements, and mitigates potential cost, displacement, and relocation impacts on residents.

**Timeframe:** Ongoing

**Geographic Targeting:** Citywide

**2021-2029 Metrics:** Resolve a minimum of 75 complaints in the concentrated rehabilitation needs areas.

**New Program 18 Meaningful Action #2:**

Implement Program 4 (Affordable Housing Construction), Program 9 (Accessory Dwelling Units), Program 13 (Special Needs Housing), and Program 24 (SB 9 Unit Housing Development) to increase housing choices and affordability (e.g., duplex, triplex, multifamily, accessory dwelling units, SB 9 housing developments, transitional and supportive housing, and group homes), with a particular focus in High Opportunity Areas. Establish a protocol to annually monitor development progress towards housing creation that increases housing choices and affordability in High Opportunity Areas. Should monitoring reveal a shortfall in development progress towards housing creation of increased housing choices and affordability, the City will commit to developing additional actions, as necessary, including, but not limited to incentives, waivers, concessions, expedited processing, and other regulatory approaches (including examination of development standards) to ensure the City satisfies its identified housing need (RHNA).

**Timeframe:** Ongoing

**Geographic Targeting:** High Opportunity Areas

**2021-2029 Metrics:** A minimum of 50 low income or special needs housing units to be built in High Opportunity Areas.

Following its review of the proposed revisions and additions to Program 18 (Affirmatively Furthering Fair Housing), HCD Staff conveyed orally over the phone to the City that its comments related to Program 18 had been addressed in full.

#### Comments Related to Program 4 (Affordable Housing Construction)

The goal of Program 4 of the Housing Element is to leverage City funds and available tools to increase the supply of affordable housing in Garden Grove. Program 4 highlights affordable senior housing as a particular focus, given the growing need and recent demands seen in the community for this type of housing. Program 4 lists several objectives that are intended to facilitate the increase in supply of affordable housing through various means and methods, which include the following:

- Affordable Housing Assistance. Provide technical and financial (as available) assistance for the construction of 10 affordable units annually (80 units total) using a combination of federal, State, and local funds to provide land cost write-downs and other construction assistance. Offer expedited processing for projects that include affordable housing units.
- Senior Housing. Encourage the implementation of Community Residential General Plan Land Use Designation, which is intended exclusively for the new construction of senior housing, convalescent homes, congregate housing, and institutional quarters, and allows higher densities and development standards reflective of the senior population.
- Density Bonus. Encourage the utilization of allowances under Density Bonus law, which supports one of the main sources of newly constructed affordable housing units in the city.
- Marketing. Continue to inform non-profit and for-profit developers of assistance available for the construction of affordable housing, including density bonuses.
- Energy Conservation. Encourage residential developments that lower housing costs through reduced energy consumption. Maximizing energy efficiency and the incorporation of energy conservation and green building features can reduce housing costs for homeowners and renters.
- Industrial Property Contamination. If industrial properties have been determined to be contaminated by previous activities as identified in technical studies prepared by the applicant during the entitlement process, the City will assist affordable housing developers, subject to available resources, via technical assistance to direct the applicant to available resources facilitating the site for residential development. Technical assistance can include referral to responsible agencies for site assessment requirements, participating in consultation with responsible agencies, and directing applicants to information of available grants (e.g.,

Department of Toxic Substances Control Brownfields Revolving Loan Fund program) and other potential financial resources to fund cleanup.

Relating to Program 4 (Affordable Housing Construction), informal comments from HCD Staff pertained to the last objective under Program 4, titled "Industrial Property Contamination". Initially, HCD Staff generally expressed the following informal comments regarding this objective:

- That an industrial property identified in the sites inventory may not be viable for the construction of new/future housing due to potential contamination;
- That for all industrial sites that are identified in the sites inventory, the City should complete technical studies (e.g., Phase I and/or Phase II Environmental Site Assessments) to determine if a site is contaminated. That if contamination was discovered, it could introduce a constraint, potentially making it a nonviable site for the construction of new/future housing;
- That the City, and not the applicant, should bear the cost of completing the technical studies (e.g., Phase I and/or Phase II Environmental Site Assessments); and
- That said technical studies shall be completed within one (1) year of adoption of the final certified Housing Element.

A Phase I Environmental Site Assessment ("ESA") involves a review of past operating records, an inspection of the property and adjoining properties, and interviews with owners, occupants, neighbors and local government officials. The scope of a Phase I ESA is not complete enough to determine if actual contamination is present. In order to obtain definitive proof of contamination, a Phase II ESA must be conducted.

If a Phase I ESA identifies potential contamination of the site by hazardous materials, a Phase II ESA may be conducted. The Phase II ESA includes sampling and laboratory analysis to confirm the presence of hazardous materials. Tests that may be performed include:

- Surficial soil and water samples
- Subsurface soil borings
- Groundwater monitoring well installation, sampling, and analysis
- Drum sampling
- Sampling of dry wells, floor drains, and catch basins
- Transformer/capacitor sampling for Polychlorinated Biphenyls (PCBs)
- Geophysical testing for buried tanks and drums
- Testing of underground storage tanks

Depending on the results of the samples, the Phase II ESA typically outlines additional site investigation needs, and potential remedial actions that may be required to clean up the



property to acceptable levels (e.g., residential or commercial/industrial screening levels) based on the type of current or future use.

As an initial matter, the City notes that the purpose of including this objective in Program 4 is to assist affordable housing developers to identify available resources to navigate the regulatory environment and help facilitate residential development in the event contamination is found. The inclusion of this objective was not intended to suggest or imply that sites zoned for industrial uses in the City are necessarily contaminated, or even likely to contain contamination, to a degree that would serve as a barrier to redevelopment of such sites with housing. Further, the proposed commitments initially suggested by HCD staff are neither feasible nor necessary for the reasons discussed below.

In order for the City to conduct either Phase I or Phase II ESAs on potential housing sites, it would require the City to access private property in order to conduct visual interior and exterior inspections, collect physical samples from the property (i.e., soil and water), prepare subsurface soil borings, install monitoring equipment, and/or conduct other necessary analyses or testing. Without a property owner's consent and cooperation, the City does not have legal authority to enter private properties and conduct the necessary activities required as part of Phase I and Phase II ESAs. As a general proposition, many private property owners would have legitimate objections to voluntarily permitting a city government to conduct exploratory inspections and testing of their property, absent extenuating circumstances. Therefore, it would be practically and legally infeasible for the City to unilaterally conduct such technical studies for all industrial sites included in the Sites Inventory. Imposing such an obligation on the City would effectively preclude the City from identifying any industrial sites in its Housing Element for redevelopment into housing.

Requiring the City to conduct Phase I and/or Phase II ESAs on Sites Inventory sites prior to their proposed redevelopment is also unnecessary because such assessments are likely to be conducted independently in conjunction with any potential redevelopment of the properties. Typically, when a property owner, or prospective property owner (i.e., a developer looking to acquire the property), engages with a lender to finance or refinance a property, the lender **requires** the applicant to complete a Phase I and/or Phase II ESA. The undertaking of this process is a private matter between the applicant and lender. Even in cases where a lender is not involved, the prospective property owner/developer would still typically require a Phase I and/or Phase II ESA be completed as part of its environmental due diligence. This is likely to occur regardless of whether the City has conducted its own ESA previously.

In subsequent discussions between HCD Staff and City Staff, the City expressed significant concern that HCD's initial suggestion that the City bear the cost of and conduct said technical studies (e.g., Phase I and/or Phase II Environmental Site Assessments) would be infeasible and was unnecessary. However, to address HCD's comments regarding the language under the Program 4 (Affordable Housing Construction) objective, "Industrial Property Contamination", additional actionable language was added to commit the City to actively monitoring industrial properties designated for affordable housing on the City's sites inventory as follows (New text in [blue-underline](#). Deleted text in ~~strikethrough~~):

Industrial Property Contamination. The City will actively monitor industrial properties designated for affordable housing on the City's sites inventory by conducting an environmental desktop review to search available relevant state and federal records and databases to determine if there is reported contamination that might affect the subject site. If industrial properties designated for affordable housing on the City's sites inventory are determined to be contaminated, based on reasonably available information, the City will evaluate whether the contamination renders the site nonviable for affordable housing. In the event the City determines a site is no longer viable, in accordance with Program 8 (Residential Sites Inventory and Monitoring of No Net Loss), the City will identify one or more additional sites within 180 days if necessary in order to accommodate the City's RHNA by income level, in accordance with No Net Loss law.

In addition, # if industrial properties have been determined to be contaminated by previous activities as identified in technical studies prepared by the applicant during the entitlement process, the City will assist affordable housing developers, subject to available resources, via technical assistance to direct the applicant to available resources facilitating the site for residential development. Technical assistance can include referral to responsible agencies for site assessment requirements, participating in consultation with responsible agencies, and directing applicants to information of available grants (e.g., Department of Toxic Substances Control Brownfields Revolving Loan Fund program) and other potential financial resources to fund cleanup.

In a follow-up discussion, HCD inquired about the level the City was relying on industrial sites to accommodate its lower-income RHNA. As shown in Table A below, industrial lower-income sites only make up fifteen-percent (15%) of all lower-income units. And when compared to all income categories combined, such units only make up five-and-a-half percent (5.5%). The data demonstrates that the City's lower-income RHNA does not rely heavily on industrial sites.

	<b>Lower Income</b>	<b>All Income Categories</b>
All Sites	5,616 units	15,732 units
Industrial Sites	869 units	869 units
	15%	5.5%

**Table A**

As noted above, on January 10, 2023, HCD Staff provided informal comments, by phone and email, to City Staff related to its review of the Draft Revised Adopted 2021-2029 Housing Element that was submitted on November 18, 2022. For subsequent reviews of revised draft/adopted housing elements, HCD has sixty (60) days to complete its review and report its findings back to the jurisdiction. According to this timeline, a formal response letter from HCD was due to the City on or before January 17, 2023. Due to time constraints, and following productive discussions related to ongoing resolution of the informal comments provided, HCD Staff provided various options for the City to consider, which included an

advisable option for the City to rescind its formal submission of the November 18, 2022, Draft Revised Adopted 2021-2029 Housing Element.

On January 17, 2023, the City submitted a formal request to HCD to rescind its November 18, 2022 submission of the Draft Revised Adopted 2021-2029 Housing Element, with an understanding that HCD and the City would have continued discussions in working together to address HCD's remaining comment regarding the Program 4 (Affordable Housing Construction) objective, "Industrial Property Contamination", and that upon future submittal of another formal submission of a Draft Revised 2021-2029 Housing Element, that HCD Staff would be able to accommodate an expedited review given that the remaining review required would be limited to the focused comments related to Program 4 (Affordable Housing Construction).

On January 23, 2023, HCD Staff provided an update to City Staff regarding its remaining comment related to the Program 4 (Affordable Housing Construction) objective, "Industrial Property Contamination". HCD Staff acknowledged that most of the lower-income industrial sites identified in the sites inventory were "light industrial" in zoning/use, which based on the City's Municipal Code definition means it is "intended to provide for small- and medium-size industrial uses that are generally compatible with one another and are not generally adverse to adjacent residential and commercial uses, provided proper screening measures are utilized". According to HCD Staff, this reduced its concern for the viability of industrial sites identified in the City's sites inventory. Additionally, HCD requested the City provide supplemental information regarding its experience and history with sites/projects that previously experienced contamination and what the implications were in regards to the level of contamination, costs associated with discovering and/or remediating the contamination, and the timing involved in the process. The intent of HCD's inquiry was for its staff to get a better understanding of the potential impacts that contamination may have on the viability of a site for future housing construction, and if the City of Garden Grove, in its experience, has seen contamination pose as a significant site constraint that has prevented development/redevelopment of a property.

To address HCD's inquiry, City Community Development Staff consulted with other City departments, local housing developers, and local developers of industrially zoned property in the City. The following discussions will provide a rundown of comments and information received from these groups.

#### Housing Developer

City Staff consulted with a housing developer, who has developed many residential projects all across Southern California, to inquire on their experience and knowledge in working with "Brownfield sites" – sites that were found to be contaminated. A "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. The following discussion will highlight two (2) examples where the housing developer had worked with a Brownfield site as part of a new residential housing development project. The

takeaway from these examples is that even where significant contamination requiring remediation is found on a site, it does not necessarily preclude residential development.

**Example 1.** In 2020, within the City of Stanton, which is in close proximity to Garden Grove, a new 10-acre shopping center, Rodeo 39, was constructed, which also included a 14-acre residential component. During the environmental due diligence phase for the project, it was discovered that the northerly half of the property was contaminated from a prior dry cleaning commercial operation. On the northerly half of the property, which was impacted by the contamination, a new multi-unit residential townhome development was constructed. Soil vapor extraction units currently exist on the property today and are actively remediating on-site contamination. The residential units were designed to include vapor barriers, called “liquid boots”, which creates an impermeable membrane to prevent vapor intrusions into the residential units. “Liquid boot” is a cold, spray-applied, water-based membrane, which provides a seamless, impermeable barrier against vapor intrusion, where it is spray-applied to penetrations, footings, grade beams, and pile caps, providing a fully-adhered gas vapor barrier system. This project represents a case where the property was deemed safe for residential occupancy, while there is active remediation and annual monitoring of the on-site contamination. Upon acquisition of the site, the housing developer was required to conduct an environmental site assessment by its lender. As part of their due diligence, the housing developer determined the estimated costs and anticipated timing required to remediate the site. The remediation cost was then built into the housing developer’s acquisition cost and negotiated with the property owner. Typically, the cost to acquire the property (land value) is drawn down (discounted) by the remediation cost. In other words, remediation of prior contamination does not necessarily add significantly to redevelopment cost; rather, remediation costs reduce the land value and are effectively borne by the seller of the property.

**Example 2.** In the City of Pomona, a prior commercial dry-cleaning facility had operated on a portion of the property since 1988. The subject property was to be redeveloped as a multi-unit housing project. During the environmental due diligence phase for the project, it was discovered that a portion of the property had been contaminated by a prior commercial dry-cleaning facility. The contamination was in a very localized area of the property. The housing developer designed the housing project to place the common recreation space, which was open to the sky, directly on top of the contaminated area. The housing developer expressed that there are ways to narrowly define the contamination area and, as an example, require that contaminated portion of the site be part of the project’s open space. This housing project included the installation of active soil vapor extraction units throughout the property. The housing developer’s total cost of remediation was \$500,000 and the process took 12 months to clear with the Los Angeles County Fire Department. Similar to Example 1 above, prior to property acquisition, and during the environmental due diligence phase, the housing developer determined the estimated costs and anticipated timing required to remediate the site. This remediation cost ultimately discounted the land cost that was agreed upon between the housing developer and the former property owner.

### Industrial Developer

City Staff consulted with an industrial developer, who has developed many industrial projects across California, as well as in Garden Grove, to inquire on their experience and knowledge in working with “Brownfield sites” - sites that were found to be contaminated. The industrial developer provided many examples of industrial projects that involved various levels and types of contamination across the cities of Rancho Dominguez, La Palma, Torrance, Camarillo, and Garden Grove.

One of the industrial developer’s recent projects in Garden Grove included minor contamination, which required the installation of an active soil vapor extraction unit on-site. The project included a vapor barrier for the building and the concentrations of contamination detected were low and considered to be safe for the occupancy of the building. The industrial building recently completed its construction and a Certificate of Occupancy was issued.

The industrial developer provided the following comments:

- That property acquisition by the industrial developer is typically the trigger that requires environmental site assessment to determine if contamination exists on the property;
- That the industrial developer conducts a thorough investigation in its environmental due diligence to determine an estimation on the anticipated cost and timing required for remediation;
- That the cost for remediation is built into the industrial developer’s cost to acquire the land;
- That, if a property is contaminated, and if applicable, the industrial developer will design the plans for the project to include a vapor barrier, which would allow the building to be safe to occupy and operate;
- That many projects involve minimal soil contamination, which may only require replacement of the impacted soil near the surface, which is not costly and can be completed in a short amount of time;
- That many projects involve buildings that are cleared for occupancy and continue operating while active remediation is occurring and being monitored on-site; and
- That in their experience, contamination has never limited or prevented development of a property, but rather, only introduces additional cost to the project, which is built into the land acquisition cost.

Key Takeaways from the City’s Research:

- Historically, contamination has not been a chronic nor significant issue for properties, including industrial properties, in the City of Garden Grove.
- There has been no evidence found, to date, that the discovery and presence of contamination has been a significant site constraint to the point that it has precluded development/redevelopment of a property, nor required the cessation of any business in areas of Garden Grove or in similar nearby urban cities.

- Typically, when a property owner, or prospective property owner (i.e., a developer looking to acquire a property), engages with a lender to finance or refinance a property, the lender requires the applicant to complete a Phase I and/or Phase II ESA. The undertaking of this process is a private matter between the applicant and lender, and does not involve the City as a primary participant.
- Upon acquisition of a site, a developer is required to conduct an environmental site assessment by its lender. As part of their environmental due diligence, the developer determines the estimated costs and anticipated timing required to remediate a site. The remediation cost is then built into the developer's acquisition cost and negotiated with the property owner. Typically, the cost to acquire the property (land value) is drawn down (discounted) by the remediation cost.

### Garden Grove Public Works Yard

City Staff consulted with the staff of the City of Garden Grove Public Works Department to inquire on their experience and knowledge in working with sites that were previously found to be contaminated. One of the examples given was the City's own Municipal Yard (the "Public Works Yard"), specifically the vehicle service bay ("City Yard vehicle bay"). The City Yard vehicle bay is used for repair and maintenance of City vehicles.

On an off-site property, in close proximity to the Public Works Yard, an industrial laundry facility had operated from 1969 through the mid-1980s. Historical industrial laundry activities reportedly used the cleaning solvent tetrachloroethane (PCE). Several years following the cessation of dry-cleaning activities, equipment was removed and soil and groundwater samples were collected in 2006. Based on the results of historical sampling, remediation was conducted in 2008 and 2009, which involved soil vapor extraction, air sparging, and chemical oxidation.

In 2013, the Regional Water Quality Control Board (RWQCB) issued a clean-up and abatement order to the owners of the former industrial laundry facility operator, and a sequential phased environmental assessment of the groundwater and soil vapor at the former industrial laundry site and surrounding off-site properties was conducted. The scope of the assessment involved multiple groundwater monitoring wells and soil vapor sampling, which included samples being drawn from the Public Works Yard. Historical releases of PCE from the former industrial laundry facility migrated into the soil and groundwater beneath the building. Over time, PCE was found to have impacted the groundwater, flowing towards and under the Public Works Yard forming a plume. Soil vapor probes were installed inside and outside of the City Yard vehicle bay in the Public Works Yard.

In 2018 and 2019, multiple air sampling events were conducted to test the levels of contamination, and it was concluded that the concentrations of PCE and TCE (Trichloroethylene) detected in indoor air at the City Yard vehicle bay did not pose unacceptable risks to the workers when compared to typical commercial/industrial risk thresholds and CAL/OSHA standards. Based on these conclusions, it was determined that no further evaluation of the indoor air conditions at the Public Works Yard were warranted.

The main takeaways of this example are:

- That the Public Works Yard had been in operation during the entirety of the remediation and monitoring process;
- That at no time was the Public Works Yard deemed unsafe for staff/employees to occupy, nor was the Yard ever required to cease operations for any period of time;
- That staff of the Public Works Yard found through its research of records that a contamination case such as this is very infrequent and not a chronic issue that is experienced in Garden Grove, including in industrially developed areas; and
- That this case of contamination involving an industrial laundry operation did not require a cessation of business and operations on either the originating contaminated site, nor on any affected off-site properties, such as the Public Works Yard.

#### Low-Barrier Navigation Center in the City of Garden Grove

The City of Garden Grove is currently working to develop a year-round low-barrier navigation center in partnership with the Cities of Fountain Valley and Westminster. The navigation center will provide emergency housing and wrap-around services to individuals experiencing homelessness. In September of 2022, the City of Garden Grove acquired a property located in its M-1 (Light Industrial) zone with intent to redevelop the site with an 11,363 square foot navigation center, to support 80-100 individuals experiencing homelessness within the participating cities. The site was previously used as an auto body repair and body shop for more than thirty (30) years. During the property acquisition process, Phase I and Phase II ESAs were conducted, as required by the lender involved, in order to provide an assessment concerning environmental conditions as they exist at the subject property. This assessment concluded that the detected concentrations of chemicals of concern in the soil did not represent an unacceptable risk to human health, and that there is not an elevated risk to residential users of the property due to vapor intrusion from the subsurface. At the time of the writing of this letter, architectural plans were in process to be approved by the City, and building permits ready to be issued, with commencement of construction to occur shortly thereafter.

The takeaway from this example is that although the property in the City's industrial zone had long been used for auto repair industrial uses and some chemicals of concerns were found to be present in the soil as a result of the Phase II ESA, a threat to occupants of the building via vapor intrusion was not identified, and the concentrations detected were considered to be *de minimis*, allowing for safe occupancy of the building/site for residential use. This example may be typical of other former industrial sites in the City.

#### Conclusion

The City of Garden Grove remains committed to facilitating the increase in supply of affordable housing, by leveraging City funds and available tools, as outlined in Program 4 (Affordable Housing Construction) of the Housing Element. This is further evidenced by the additional actionable language that was added to the Program 4 objective, "Industrial Property Contamination", which commits the City to actively monitoring industrial properties

designated for affordable housing on the City's sites inventory, through available records and databases such as, but not limited to, the State Water Board's GeoTracker, DTSC's EnviroStor, and the Orange County Health Care Agency's Industrial Cleanup Program Case Log. If industrial properties designated for affordable housing on the City's sites inventory are determined to be contaminated, based on reasonably available information, the City will evaluate whether the contamination renders the site nonviable for affordable housing. In the event the City determines a site is no longer viable, in accordance with Program 8 (Residential Sites Inventory and Monitoring of No Net Loss), the City will identify one or more additional sites within 180 days, if necessary, in order to accommodate the City's RHNA by income level, in accordance with No Net Loss law. Furthermore, when identifying additional sites, the City will ensure such sites meet the Housing Element's robust suitability criteria requirements to confirm viability for future housing. Such criteria includes various factors such as: developer/property owner interest to redevelop the site to housing; vacant land with minimal improvements; city-owned properties; existing uses that are similar to those that have been previously recycled in surrounding communities; property improvement value being less than half of the land value (ratio is less than 1.00); structure was built prior to 1985 (and therefore over 36 years of age); low existing floor-area ratio (FAR) under 0.50; no existing tenant lease(s) or lease(s) expires early within the 6<sup>th</sup> Cycle planning period; and deteriorating building and/or many tenant vacancies.

The City appreciates your time and consideration of the information provided, and looks forward to continuing to work closely with HCD to address all remaining matters to ultimately receive certification of its Housing Element. Should you have any questions or would like to discuss further, please contact Chris Chung at 714.741.5314 or at [chrisc@ggcity.org](mailto:chrisc@ggcity.org).

Sincerely,



Chris Chung  
Senior Planner

- Enclosures:
- 1) Adopted 2021-2029 Housing Element (November 2021) and HCD Comment Response Matrix
  - 2) Draft Revised Adopted 2021-2029 Housing Element (November 2022) and HCD Comment Response Matrix



**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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August 14, 2023

Chris Chung, Senior Planner  
Planning Service Division  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840

Dear Chris Chung:

**RE: City of Garden Grove's 6<sup>th</sup> Cycle (2013-2029) Draft Housing Element (Update)**

Thank you for submitting the City of Garden Grove's (City) revised draft housing element update received for review on June 20, 2023. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The revised draft element meets the statutory requirements described in HCD's February 9, 2022 review. The housing element will substantially comply with State Housing Element Law (Gov. Code, § 65580 et seq) when it is adopted, submitted to and approved by HCD, in accordance with Government Code section 65585, subdivision (g). HCD applauds the City in its successful implementation of Program 17 to adopt a number of zoning code updates necessary to reduce governmental constraints and overcome development barriers.

For your information, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the regional housing needs allocation (RHNA) for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2)). This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period (Gov. Code, § 65583.2, subd. (g)(2)). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA. The City must make these findings as part of its adoption resolution. Please see HCD's Guidance memo (p. 27) for additional information: [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf).

In addition, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Affordable Housing and Sustainable Communities programs, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

HCD appreciates your hard work and dedication provided in preparation of the City's housing element and looks forward to receiving the City's adopted housing element. If you have any questions or need additional technical assistance, please contact me at [Melinda.Coy@hcd.ca.gov](mailto:Melinda.Coy@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy  
Proactive Housing Accountability Chief

**Table A**  
Responses to HCD Comments Matrix

HCD Review Comments	How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element
<b>A: Housing Needs, Resources, and Constraints</b>	
<b>1. Affirmatively Furthering Fair Housing (AFFH)</b>	<b>Responses</b>
<p><b>Fair Housing Enforcement and Outreach:</b></p> <ol style="list-style-type: none"> <li>1. While the element was revised to incorporate information on fair housing complaints, it did not address the ability to provide enforcement and outreach capacity which can consist of actions such as ability to investigate complaints, obtain remedies, or the ability to engage in fair housing testing.</li> <li>2. The analysis must also describe compliance with existing fair housing laws and regulations and include information on fair housing outreach capacity.</li> <li>3. Furthermore, the element should address outreach related to affirmatively further fair housing (AFFH).</li> </ol>	<p>Additional text has been added to address Fair Housing Enforcement and Outreach:</p> <ol style="list-style-type: none"> <li>1. The City of Garden Grove’s Office of Economic Development is in contract with the Fair Housing Foundation to provide a range of services that affirmatively furthers fair housing in Garden Grove. The services include landlord and tenant counseling, discrimination services, and education and outreach. Fair Housing Foundation is projected to assist approximately 210 unduplicated Garden Grove residents with fair housing related services annually. (See page 12-72)</li> <li>2. The City of Garden Grove was party to the regional Orange County Analysis of Impediments to Fair Housing Choice (OCAI). The OCAI was required as part of the City’s 5-Year Consolidated Plan and lays out the specific steps that need to occur to ensure jurisdictions are furthering fair housing practices and laws. The OCAI was approved by HUD and is adopted as part of the City’s 2020-2025 Consolidated Plan. (See page 12-71)</li> <li>3. Additional text related to AFFH Outreach requirements, including Garden Grove staff’s engagement activities, community centers visited, survey and flyers passed out in multiple languages, staff speaking to residents in multiple languages, etc. were added. (See page 12-74)</li> </ol>
<p><b>Regional Analysis:</b></p> <ol style="list-style-type: none"> <li>1. While the element generally describes local patterns and trends, it must also analyze Garden Grove relative to the rest of the region regarding Racially and Racially/Ethnically Concentrated Areas of Poverty (R/ECAP) and Affluence, disparities in access to opportunity, and disproportionate housing needs and displacement risks.</li> </ol>	<ol style="list-style-type: none"> <li>1. Additional discussion on surrounding cities regarding Racially and Racially/Ethnically Concentrated Areas of Poverty (R/ECAP) and Affluence, disparities in access to opportunity, and disproportionate housing needs and displacement risks were added. Also revised the maps to include the data outside of Garden Grove for TCAC Opportunity Areas (Figure H-13). Indicated there are no R/ECAP in Garden Grove but are in surroundings cities (page 12-80).</li> </ol>
<p><b>Local Data and Knowledge, and Other Relevant Factors:</b></p> <ol style="list-style-type: none"> <li>1. The element must include local data, knowledge, and other relevant factors to discuss and analyze any unique attributes about the City related to fair housing issues.</li> </ol>	<ol style="list-style-type: none"> <li>1. Reference Orange County Analysis of Impediments to Fair Housing Choice (OCAI) document (12-99).</li> <li>2. National and Regional fair housing trends were added, specifically U.S. and Orange County trends (page 12-73).</li> </ol>

<b>HCD Review Comments</b>	<b>How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element</b>
<p>2. The element should complement federal, state, and regional data with local data and knowledge where appropriate to capture emerging trends and issues, including utilizing knowledge from local and regional advocates and service providers.</p> <p>3. Also, the element must include other relevant factors that contribute to fair housing issues in the jurisdiction. This can include, but is not limited to, changes and barriers in zoning and land use rules, information about redlining/greenlining, restrictive covenants and other discriminatory practices, presence and history of place-based investment, and mobility option patterns.</p>	<p>3. Included information regarding historical patterns of segregation in Orange County and Garden Grove (<i>Mendez vs. Westminster and Korean Sammy Lee</i>). Identified one Governmental Action (OC) to remove—for free—discriminatory language in property documents. Language was added to require a new statute to streamline the removal of racial language from restrictive covenants and to work with the City Clerk to facilitate access the property records and direct the County to do so (add to AFFH program) (see page 12-75 to 12-76).</p>
<p><b>Access to Opportunity</b></p> <p>1. The element provides information on the access to opportunity through the TCAC opportunity maps but must also provide a complete local and regional analysis of patterns and trends for all components.</p> <p>2. A comprehensive analysis should include the local and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data.</p> <p>3. It should also analyze persons with disabilities as well as access to transit.</p> <p>4. Please refer to page 35 of the AFFH guidebook (link: <a href="https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance">https://www.hcd.ca.gov/community-development/affh/index.shtml#guidance</a>) for specific factors that should be considered when analyzing access to opportunities as it pertains to educational, employment, environmental, transportation, and any factors that are unique to Garden Grove.</p>	<p>1. Revised the TCAC map to include resource data outside of Garden Grove for TCAC Opportunity Areas (Figure H-13).</p> <p>1. Created separate TCAC Opportunity Area Maps for Education Score, Economic Score, and Environmental Score (Figure H-10 to H-12) with align text discussions on pages 12-81 to 12-87.</p> <p>2. Added HUD AFFH data that include indices for environmental health, low poverty, school proficiency, job proximity, labor market, transit, and low transportation cost (see pages 12-81 to 12-87) and identified in Table 12-35 on page 12-82).</p> <p>3. Exhibit H-5 shows the population of persons with a disability by census tract. The new indices identified above describe transit access.</p> <p>4. Expanded analysis was included to show opportunity access by indices related to environmental, low poverty, school proficiency, job proximity, labor market, transit, and low transportation cost on how each are related to Garden Grove population, poverty, and race/ethnicity (see Table 12-35 on page 12-82).</p>
<p><b>Disproportionate Housing Needs:</b></p> <p>1. The element is revised to include some information about cost burden, substandard housing, and overcrowding in the locality but the analysis is incomplete. A full analysis should identify local patterns and trends throughout the community.</p> <p>2. In addition, the element must include regional information and analysis for these categories.</p> <p>3. The element must also address homelessness and displacement risk. Currently, the draft includes maps of sensitive communities and describes various types of displacement risk, but does not describe or</p>	<p>1. Specific geographic neighborhoods (local patterns) were identified that had the highest percentage of households with overcrowding, overpayment (renter and owner) showing the highest percentages of Hispanic and Asian populations, and how these areas tend to be geographically relational. Asian concentration areas with housing problems border Westminster and southern portions of the City, and Hispanic concentration areas with housing problems border Santa Ana or the eastern areas of the City (trends)(see pages 12-87 to 12-</p>

HCD Review Comments	How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element
<p>contextualize them, or analyze any findings specific to Garden Grove.</p>	<p>98). Additionally, a set of summary issues (findings) were added to summarize key disproportionate housing needs (page 12-92) and displacement risk (page 12-95).</p> <p>2. Under the Disproportionate Need section under AFFH (Constraints Chapter), additional text was added to describe the regional context and analysis comparing households with four severe housing problems. Garden Grove is compared to Stanton, Anaheim, Seal Beach, Cypress, Sana Ana, Orange, and Los Alamitos (page 12-87).</p> <p>3. Homeless statistics were added, including a list of homeless programs, facilities, and resources. This discussion also identifies the preparation of the Comprehensive Strategic Plan to Address Homelessness (pages 12-91 to 12-92). Displacement was further expanded to include the Urban Displacement Project analysis under the HCD AFFH dataset. It identified that most neighborhoods, except on the west side, are vulnerable to displacement. A summary of Displacement Findings was added to this section (page 12-95).</p>
<p><b>Contributing Factors:</b></p> <ol style="list-style-type: none"> <li>1. The element provides a general list of contributing factors (p. 83); however, the contributing factors identified are generally not responsive to the analysis presented in the AFFH analysis.</li> <li>2. The City’s composition and location in the region presents unique fair housing challenges largely not captured by the contributing factors. As a result, the City should revise the AFFH section as noted above, re-evaluate contributing factors, and prioritize the contributing factors.</li> <li>3. As a reminder, the contributing factors should be foundational pieces for the AFFH programs.</li> </ol>	<ol style="list-style-type: none"> <li>1. Contributing factors were added and responsive to the AFFH analysis (page 12-97 and page 12-168).</li> <li>2. and 3. Contributing factors were reevaluated. Contributing factors and housing issues identified by AFFH are prioritized in Housing Plan (under AFFH program) (page 12-168).</li> </ol>
<p><b>Site Inventory and AFFH:</b></p> <ol style="list-style-type: none"> <li>1. The element was revised to provide some general analysis and generally states that the sites improve fair housing and equal opportunities conditions in Garden Grove (pp. 12-83). However, this is not sufficient to demonstrate whether sites identified to meet the regional housing needs allocation (RHNA) are distributed throughout the community in a manner that AFFH. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity).</li> </ol>	<ol style="list-style-type: none"> <li>1. and 2. A complete analysis was added to address the income categories of identified sites with respect to location, the number of sites and units by all income groups, and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, access to opportunity). Discussion was added about how the sites inventory exacerbates or improves existing conditions (pages 12-136 to 12-139).</li> <li>3. and 4. Based on the analysis, Program 18 (pages 12-168 to 12-172) includes</li> </ol>

<b>HCD Review Comments</b>	<b>How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element</b>
<p>2. In addition, as noted in the element sites are located in the moderate resourced areas followed by low resourced areas. The element should address this and discuss whether the distribution of sites improves or exacerbates conditions.</p> <p>3. If sites exacerbate conditions, the element should identify further program actions that will be taken to overcome patterns of segregation and promote inclusive communities, including actions beyond the RHNA.</p> <p>4. Depending on the results of a complete analysis, the element should add programs as appropriate.</p>	<p>meaningful actions to address any exacerbation of conditions.</p>
<p><b>Goals, Priorities, Metrics, and Milestones</b></p> <p>1. The element must be revised to add or modify goals and actions based on the outcomes of a complete analysis. Currently the element relies solely on programs which are not transformative, meaningful, or specific. Many of these actions simply involve coming into compliance with state law.</p> <p>2. Goals and actions must specifically respond to the analysis and the identified and prioritized contributing factors to fair housing issues and must be significant and meaningful enough to overcome identified patterns and trends.</p> <p>3. Actions must have <b>specific commitment, metrics, and milestones</b> as appropriate and must address housing mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for community preservation and revitalization and displacement protection. For example, as identified in third party comments, the AFFH analysis shows patterns of racial and economic segregation but does not include programs to adequately address these patterns nor address potential displacement risk.</p>	<p>1. and 2. AFFH goals and policies were revised to be more transformative, meaningful, and specific. See Program 18 on pages 12-168 to 12-172.</p> <p>2. and 3. New actions were added to address analysis identified in the AFFH section. See Program 18 on pages 12-168 to 12-172.</p>
<p><b>2. Sites Inventory</b></p>	
<p><b>Electronic Sites Inventory:</b></p> <p>Pursuant to Government Code section 65583.3, subdivision (b), upon adoption of the housing element, the City must submit an electronic version of the sites inventory with its adopted housing element to sitesinventory@hcd.ca.gov. HCD has not received a copy of the electronic inventory. Please note, the City must utilize standards, forms, and definitions adopted by HCD when preparing the sites inventory. Please see HCD's housing element webpage at <a href="https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element">https://www.hcd.ca.gov/community-development/housing-element/index.shtml#element</a> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.</p>	<p>The electronic sites inventory excel file was sent to HCD on February 10, 2022. A revised sites inventory table will be sent to HCD following adoption of the Draft Revised Adopted 2021-2029 Housing Element.</p>
<p><b>Realistic Capacity</b></p> <p>1. The element now lists recent developments to support capacity assumptions and trends related to residential development in mixed-use zone; however,</p>	<p>Additional analysis was added to recognize the likelihood of 100 percent nonresidential uses reflecting developer interest and regional trends. Opportunities exist for</p>

<b>HCD Review Comments</b>	<b>How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element</b>
<p>the analysis of realistic capacity should account for the likelihood of 100 percent nonresidential uses.</p>	<p>residential development in other parts of the City, but the sites inventory focuses in areas where development of residential uses is most likely given the development standards allowing very high densities, developer interest in residential developments, site size and location (along major corridors), and the immediate area's development track record. The new section includes a list of development projects near the identified sites that allow similar uses and shows that the development demand in these areas is for residential development (also includes Harbor Boulevard within Santa Ana). As such, the likelihood that the identified units will be developed as noted in the inventory in zones that allow nonresidential uses is very high. See pages 12-110 to 12-113, specifically update of Table 12-45, Table 12-46, and Table 12-47.</p>
<p><b>Suitability of Nonvacant Sites</b></p> <p>1. Specific analysis and actions are necessary if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. The housing element must demonstrate <b>existing uses</b> are not an impediment to additional residential development and will likely discontinue in the planning period (Gov. Code, § 65583.2, subd. (g)(2).)</p> <p>2. While the element contains some information relating to underutilization, age of structure, and building-to-land value ratio, it does not provide analysis demonstrating the uses are likely to discontinue in the planning period. For example, only a few sites include information related to existing leases and owner interest, but no information was provided related to whether the uses on other sites would impede residential development. For example, the element could describe if uses are operating or marginalized, information on interest in redevelopment and relate redevelopment and market trends to the identified sites. In particular, the element.</p> <p>3. In addition, the adopted resolution did not include necessary findings based on substantial evidence that the uses will likely discontinue in the planning period. Please see HCD's prior review for additional information.</p>	<p>1. The City has identified 16 recently constructed mixed-use and affordable housing projects in neighboring cities to identify the properties' existing uses and building age prior to the construction of the new housing project (see Table 12-46). This table helps identify existing land use and building age trends.</p> <p>2. To demonstrate the suitability of non-vacant sites, a set of criteria was identified using region trends identified in Table 12-46, as well as other relevant property conditions, market trends, and information. The criteria identified includes property owner interest, vacant/ minimal property improvements, City ownership, existing use (based on trends), building/land value ratio, year building built (based on trends), building intensity (FAR), lease expiration, building conditions, and tenant vacancy. Tables 12-48 (pages 12-122 to 12-131), which list sites in the lower income categories, indicate which criteria they meet to show suitability of the site. The criteria are identified on pages 12-120 to 12-121</p> <p>3. The City plans to readopt the Housing Element and will include the necessary findings language on substantial evidence that the uses will likely discontinue in the planning period.</p>
<p><b>Senate Bill 9 (Statutes of 2021) Projections:</b> The element is now projecting 1,459 units that will be developed based on the passage of SB 9 (Statutes of 2021) to accommodate a portion of its above moderate</p>	<p>1. and 2. Included the site-specific inventory. Expanded the analysis of eligible sites. Appendix B identified all of the 1,400 + SB9 unit sites and they are mapped on Figure H-19.</p>

<b>HCD Review Comments</b>	<b>How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element</b>
<p>income RHNA. To utilize projections based on SB 9 legislation, the element must;</p> <p>1) include a site-specific inventory of sites where SB 9 projections are being applied;</p> <p>2) include a nonvacant sites analysis demonstrating the potential for redevelopment and that the existing use will not constitute as an impediment for additional residential use and;</p> <p>3) include programs and policies that establish zoning and development standards early in the planning period and implement incentives to encourage and facilitate development. The element should also support this analysis with local information such as local developer or owner interest to utilize zoning and incentives established through SB 9.</p>	<p>3. Created a program (Program 9 on pages 12-157 to 12-158) to prepare an ordinance and establish incentives to encourage the creation of duplexes or subdivision of existing lots. The City has already adopted an SB9 ordinance. Objective standards have been adopted by the City Council.</p>
<p><b>Accessory Dwelling Units (ADU):</b></p> <p>The ADU numbers have been reassessed in this element and the City acknowledges that the ADU counts in their annual progress reports (APRs) are undercounted and includes Program 9 to update the City’s APR data.</p> <p>1. However, it is still unclear from both the element and the documentation provided with the review how many units have been permitted since 2018. The element states that an average of 242 units have been permitted per year and therefore 2,009 units are likely to be built in the planning period. However, this calculation seems to be inaccurate as five years of data was provided resulting in an average of 193 per year which equate to an eight-year projection of 1,544 units. Accompanying documentation shows an average of 237 which would equate to an eight-year projection of 1,896. The element must reconcile the factors used to project the number of ADU’s expected to be built in the planning period and adjust the projection accordingly.</p>	<p>1. The ADU section was revised to include final building permit data between 2019 and 2021 (see pages 12-109 to 12-110). The City conducted extensive and comprehensive review of building permit reports and information to confirm the ADU permitting numbers and to ensure accuracy. An eight-year planning period was used to project out the potential number of ADUs that could be counted against the RHNA.</p> <p>Number 2019 to 2021:  2019 = 218  2020 = 268  2021 = 283  Average: <math>769/3 = 256</math> (<math>256 \times 8 = 2,048</math>)</p>
<p><b>Zoning for a Variety of Housing Types:</b></p> <p><b>Transitional and Supportive Housing:</b></p> <p>1. While the element was revised to include additional information related to how transitional housing is allowed, it does not provide information related to supportive housing.</p> <p>2. In addition, the information provided on pages 12-59 seems to distinguish between number of occupants living together. This is inconsistent with state law which states “Transitional housing and supportive housing shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.” (Gov. Code, § 65583, subd. (c)(3), emphasis added.) This means if transitional or supportive housing is located in a single-family home, for instance, the city cannot require a use permit for the transitional or supportive housing unless it also generally requires a use permit for all other single-family homes in the same zone. This rule applies regardless of the number of occupants. The City cannot, for instance, require a use</p>	<p>1., 2., and 3. Added language to Program 17 (Zoning Code Update) on pages 12-163 to 12-168 to amend the Zoning Code so that transitional and supportive housing, including residential group home living, shall be considered a residential use of property and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone, and remove any restrictions on the number of occupants. The code amendments implementing this program have been adopted by the City Council.</p>



<b>HCD Review Comments</b>	<b>How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element</b>
<p>permit for transitional and supportive housing with six or more occupants unless it requires such a use permit for single-family homes in the same zone generally.</p> <p>3. The element must include a program to update the zoning ordinance consistent with these standards.</p>	
<p><b>3. Governmental Constraints</b></p>	
<p><b>Processing and Permitting Procedures</b></p> <p>1. While the element indicates that no multi-family projects have been denied based on the approval finding and that the City must follow state law, it does not analyze the permit or the process as a potential constraint. A full analysis should assess the process impact on approval certainty, supply, affordability, timing, and other relevant factors and in particular analyze the subjective design standards noted in HCD’s prior review.</p>	<p>1. The City Council has adopted targeted amendments to the Zoning Code to eliminate subjective development and design standards. This action removed uncertainties in the development review process. See Program 17 (Zoning Code Update) on pages 12-163 to 12-168.</p>
<p><b>Housing for Persons with Disabilities:</b></p> <p>1. While the element was revised to identify a reasonable accommodation procedure through the housing authority, it did not include the findings for approval of reasonable accommodation requests.</p> <p>2. In addition, the element did not address HCD’s previous finding to analyze the conditional use process requirement for group homes of seven or more. Zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, population types and licenses.</p> <p>3. The element should specifically analyze these constraints for impacts on housing supply and choices and approval certainty and objectivity for housing for persons with disabilities and include programs as appropriate.</p>	<p>1. The City has a reasonable accommodation procedure to facilitate adaptation of homes for people with disabilities and will codify updated procedures for reviewing and granting Reasonable Accommodation requests (as outlined in Program 23 on page 12-177). City adopted a resolution 10 years ago.</p> <p>2. and 3. The City Council has adopted targeted amendments to the Zoning Code that state that transitional and supportive housing, including residential group home living, are considered a residential use of property subject only to those restrictions that apply to other residential dwellings of the same type in the same zone. The amendments remove restrictions on the number of occupants and provide for group homes for 7+ clients to be treated objectively. See Program 17 (Zoning Code Update) on pages 12-163 to 12-168.</p>
<p><b>B. Housing Programs</b></p>	
<p>1. As noted in Finding A1, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:</p>	<p>The Land Use Element and Zoning Code were amended in November of 2021 to increase capacity to meet the RHNA.</p>
<p><b>Sites Inventory (Program)</b></p> <p>1. As stated in our prior review, if rezoning is not completed by October 15, 2021, the element must include a program(s) to identify sites with appropriate zoning to accommodate the regional housing need</p>	<p>Program 17 has been revised to clarify that the Land Use Element and Zoning Code were amended to increase housing capacity</p>

HCD Review Comments	How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element
<p>within the planning period. (Gov. Code, § 65583.2, subd. (h) and (i).) The element should clarify when and if rezoning has occurred and amend zoning to be consistent with Government Code section 65583.2(h) and (i) as needed.</p>	<p>to meet RHNA. See Program 17 (Zoning Code Update on pages 12-163 to 12-168).</p>
<p><b>Nonvacant Sites Reliance to Accommodate RHNA (Program)</b></p> <p>1. HCD’s prior review found that the element relies upon nonvacant sites to accommodate the regional housing need for lower-income households, so it should include a program(s) to promote residential development affordable to lower-income housing on these sites.</p> <p>The program could commit to provide financial assistance, regulatory concessions such as a streamlined permit processing, or incentives including the adoption of an affordable housing overlay pursuant to Program 22 to encourage and facilitate new, or more intense, residential development on the sites.</p> <p>2. In addition, the element could amend Program 12 to monitor development on sites in the mixed-use zone as it relates to the provision of housing affordable to lower-income households and commit provision of additional actions as necessary to facilitate development.</p>	<p>1. Program 12 (pages 12-159 to 12-160) includes the following text: “Technical Support. Facilitate the development of residential units in mixed-use areas by providing technical support to facilitate lot consolidation, financial assistance (where feasible), and streamlined permit processing. The City will establish specific and objective criteria for mixed-use site plan reviews and will target development densities as estimated in the Housing Element.” Program 22 considers establishing an Affordable Housing Overlay, see page 12-176.</p> <p>2. Text was added “Relating to the Provision of Housing Affordable to Lower-Income Households” to Annual Monitor Development. Additionally, the text was revised: “the City will commit to developing additional actions as necessary, including, but not limited to incentives, waivers, concessions, expedited processing, and other regulatory approaches (including examination of development standards) to ensure the City satisfies its identified housing need (RHNA).” See pages 12-159 to 12-160.</p>
<p><b>Program 4 (Affordable Housing Construction):</b></p> <p>HCD’s prior review found the element must describe and analyze environmental constraints that may impede the development of housing within the planning period on these sites, specifically the provision of housing affordable to lower-income housing. The City added more information on environmental constraints related to industrial contamination in starting on pages 12-122 and program 4 has been revised to include City assistance, both technical and funding, where available, to sites that have been determined to be contaminated based on environmental site assessments.</p> <p>1. However, the City does not specify when these assessments will be complete. The element should add a program to ensure environmental constraints are addressed and include a timeline for conducting such assessments within a year of housing element adoption.</p>	<p>Text was added to identify when technical studies will be conducted to identify contamination issues with properties. Studies are the responsibilities of an applicant and are to be conducted prior to or during the entitlement process. See Program 4 on page 12-154.</p> <p>Additionally, under the 12.4 Housing Resources chapter, analysis was added to understand how industrial properties or contaminated sites are constructed with new housing. The analysis was based on conversations with the development community and other Garden Grove departments with direct experience in developing industrial properties or contaminated sites. Examples of various projects were introduced to show how remediation approaches allow for residential development and how remediation costs are then built into the housing developer’s acquisition costs. The analysis shows how industrial or</p>

HCD Review Comments	How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element
	contaminated sites are not an impediment to building new housing on those sites.
<p><b>Extremely Low- Very Low-, Low- and Moderate-Income Households (Program)</b></p> <p>1. While the element includes programs to assist in the development of very low-, low-, and moderate-income households, it must also include a program(s) to assist in the development of housing affordable extremely low-income (ELI) households. Programs must be revised or added to the element to assist in the development of housing for ELI households. For example, Program 13 in the element could describe what the City will do to encourage developers to include ELI units with wraparound services.</p> <p>2. In addition, the element states that the City is working with the owners of the Tamerlane Drive property (pp.12-63) to preserve at-risk units. Program 7 could be updated to reflect these efforts.</p>	<p>Program 13 has been updated to identify existing programs that will continue.</p> <p>1. Garden Grove has a Permanent Supportive Housing Program in place to increase and preserve the supply of supportive housing for extremely low-income households. This program produces affordable housing through the acquisition and rehabilitation of existing housing units, as well as the construction of new units. In the past, the City has partnered with nonprofit organizations and housing developers to accomplish this goal. Currently, the City is developing the Stuart Drive Permanent Supportive Housing Project, which is anticipated to open by July 1, 2022.</p> <p>The City implemented the Homeless Emergency Assistance and Rental Transition (HEART) Program and the Mainstream and Emergency Housing Voucher Programs, which provide tenant-based rental assistance and supportive services to extremely low-income individuals. These programs provide rental assistance and wrap around supportive services for Garden Grove households experiencing homelessness. This program effectively turns market rate rental units into affordable units for extremely low-income households, and the supportive services work to help the household maintain that housing once the assistance lapses.</p> <p>2. Program 7 (see page 12-156) was updated to reflect City efforts to preserve at-risk units.</p>
<p><b>Governmental Constraints (Program)</b></p> <p>1. As noted in Finding A2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.</p>	<p>Program 17 (Zoning Code Update) was updated to reflect zoning amendments to implement various policies and programs set forth in the General Plan Housing Element and Land Use Element and to ensure compliance with applicable State housing laws. These amendments have been adopted. This includes focused zoning text amendments to Chapters 9.04 (General Provisions), 9.08 (Single-Family Residential Development Standards), 9.12 (Multifamily Residential Development Standards), 9.18 (Mixed Use Regulations and Development Standards), and 9.32 (Procedures and Hearings) of Title 9 of the Municipal Code to update the definitions, development standards, and land use action</p>

HCD Review Comments	How HCD Comments Have Been Addressed in the Draft Revised Adopted 2021-2029 Housing Element
	<p>procedures pertaining to single-family residential development, multiple family residential development, mixed use development, landscaping standards, transitional and supportive housing, and single room occupancy housing. The City is also added a new Chapter in Title 9 of the Municipal Code containing and consolidating special regulations pertaining specifically to housing development projects. See Program 17 (Zoning Code Update) on pages 12-163 to 12-168.</p>
<p><b>Affirmatively Further Fair Housing Opportunities (Program)</b>  1. As noted in Finding A1, the element requires a complete analysis of AFFH. Depending upon the results of that analysis, the City may need to revise or add programs to AFFH.</p>	<p>Program 18 (Affirmative Furthering Fair Housing on pages 12-169 to 12-171) has been expanded and reorganized as a table. Issues and contributing factors have been added. Meaningful actions have been revised and added to address housing issues. A timeframe has added to each meaningful action. Each action is specific. With the latest AFFH revisions, additional metrics language was added to Action 3. Action 8 was further expanded by adding consultation with Fair Housing Council to assist in providing multi-lingual tenant legal counseling. Revisions to Action 10 and Action 11 were added to clearly identify reasonable metrics.</p>

## ORDINANCE NO. 2925

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING ZONING AMENDMENT NO. A-031-2021 MAKING FOCUSED AMENDMENTS TO TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE AND THE ZONING MAP TO IMPLEMENT THE GENERAL PLAN HOUSING ELEMENT AND LAND USE ELEMENT UPDATES BY INCREASING THE MAXIMUM PERMITTED RESIDENTIAL DENSITY IN MIXED USE ZONES, IMPLEMENTING A MIXED-USE OVERLAY ZONE ALLOWING RESIDENTIAL AND MIXED-USE DEVELOPMENT ON SPECIFIED PARCELS, AND REZONING SPECIFIED PARCELS TO ALLOW MULTIPLE-FAMILY RESIDENTIAL USES

**City Attorney Summary**

***This Ordinance makes focused amendments to Title 9 of the Garden Grove Municipal Code (Land Use Code) and the Zoning Map consistent with the General Plan Housing Element and Land Use Element Updates to implement and comply with the 6<sup>th</sup> Cycle (2021-29) of the Regional Housing Needs Assessment (RHNA). Specifically, this Ordinance (1) revises the Development Standards tables in Sections 9.18.090.020, 9.18.090.030, 9.18.090.070, and 9.18.090.080 of the Land Use Code to increase the maximum permitted residential densities in the Garden Grove Boulevard Mixed Use Zones, the Civic Center Mixed Use Zones, the Neighborhood Mixed Use Zone, and the Adaptive Reuse Zone by an average of 25 percent; (2) amends the Zoning Map to change the zoning designation of specified parcels identified in the General Plan Housing Element Sites Inventory to allow for multiple-family uses on these parcels; and (3) adds new Section 9.18.190 to the Land Use Code to establish a Mixed Use Overlay Zone allowing the development of residential and mixed-use projects on identified properties within the International West Mixed Use, the Industrial/Residential Mixed Use 1, and the Residential/Commercial Mixed Use 2 Land Use designations of the General Plan Land Use Element; and (4) amends the Zoning Map to apply the Mixed Use Overlay Zone to specified parcels identified in the General Plan Housing Element Sites Inventory.***

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, Government Code 65584 requires local jurisdictions to encourage, promote, and facilitate the development of housing to accommodate its regional housing need; and

WHEREAS, the State-mandated 6<sup>th</sup> Cycle of the Regional Housing Needs Assessment (RHNA) requires the City of Garden Grove to plan for 19,168 dwelling units for all income level during the 2021-2029 planning period; and

WHEREAS, the City of Garden Grove has initiated a Focused General Plan Update and Zoning Amendments project (collectively, the "FGPUZA" or "Project"). The FGPUZA includes (1) General Plan Amendment No. GPA-003-2021, consisting of updates to the General Plan Housing Element, Land Use Element, and the Safety Element, and adoption of a new General Plan Environmental Justice Element to

comply with State law provisions, including complying with the 6<sup>th</sup> Cycle (2021-2029) of the Regional Housing Needs Assessment (RHNA) that requires the City to plan for 19,168 residential dwelling units for all income levels during the 2021-2029 planning period; and (2) Zoning Amendment No. A-031-2021, consisting of text/map amendments to Title 9 of the Municipal Code and to the Zoning Map to implement the Housing Element and Land Use Element Updates; and

WHEREAS, in compliance with the California Environmental Quality Act, California Public Resources Code Section 21000 *et seq.* ("CEQA") and CEQA's implementing Guidelines, California Code of Regulations, Title 14, Section 15000 *et seq.* (CEQA Guidelines), a Program Environmental Impact Report (Program EIR) has been prepared for the FGPUZA that analyzes its potential environmental impacts and recommends mitigation measures to reduce impacts to a less than significant level, where feasible; and

WHEREAS, the Planning Commission of the City of Garden Grove held a duly noticed public hearing on October 21, 2021 and considered all oral and written testimony presented regarding the proposed Project; and,

WHEREAS, on October 21, 2021, following the public hearing, the Planning Commission adopted (i) Resolution No. 6031-21 recommending that the City Council certify the EIR for the FGPUZA and approve General Plan Amendment No. GPA-003-2021, and (ii) Resolution No. 6032-21 recommending that the City Council approve Zoning Amendment No. A-031-2021; and

WHEREAS, on November 9, 2021, the City Council adopted Resolution No. 9714-21 (i) adopting a Mitigation Monitoring and Reporting Program, (ii) adopting a Statement of Overriding Considerations, and (ii) certifying the Program EIR for the FGPUZA; and

WHEREAS, on November 9, 2021, the City Council adopted Resolution No. 9713-21, approving General Plan Amendment No. GPA-003-2021; and,

WHEREAS, a duly noticed public hearing regarding Amendment No. A-031-2021 was held by the City Council on November 9, 2021, and all interested persons were given an opportunity to be heard; and,

WHEREAS, the City Council gave due and careful consideration to the matter; and

WHEREAS, the City Council hereby makes the following findings regarding Amendment No. A-031-2021:

A. The proposed zoning text and map amendments are internally consistent with the goals, policies, and elements of the General Plan. Pursuant to General Plan Amendment No. GPA-003-2021, the City Council has adopted updates to the Housing Element and the Land Use Element to comply with the state law's 6<sup>th</sup> Cycle (2021-2029) of the Regional Housing Needs Assessment (RHNA) that requires the

City to plan for 19,168 additional residential dwelling units for all incomes levels during the planning period. Zoning Amendment No. A-031-2021 implements the Housing Element and Land Use Element Updates by increasing the maximum permitted residential densities within the City's Mixed Use Zones to be consistent with the mixed-use land use densities identified in the updated Land Use Element; creating a Mixed-Use Overlay Zone for properties located in the International West Mixed Use, the Industrial/Residential Mixed Use 1, and the Residential/Commercial Mixed Use 2 General Plan land use designations to promote housing production on selected parcels identified in the updated Housing Element Sites Inventory; and rezoning selected parcels identified in the updated Housing Element Sites Inventory to permit the development of multiple-family residential uses.

B. The proposed text and map amendments will promote the public interest, health, safety, and welfare of the surrounding community. Zoning Amendment No. A-031-2021 will implement the goals and policies of the Housing Element and Land Use Element Updates to promote housing production for all income levels in conformance with state law's 6<sup>th</sup> Cycle (2021-2029) of the Regional Housing Needs Assessment (RHNA) that requires the City to plan for 19,168 residential dwelling units during the 2021-2029 planning period.

C. The parcels subject to the proposed Zoning Map amendments are physically suitable for the requested land use designations, compatible with surrounding land uses, and consistent with the General Plan. The parcels proposed to be rezoned and the parcels to which the new Mixed Use Overlay Zone is proposed to be applied were evaluated in conjunction with the FGPUZA project and determined to be suitable for the development of housing and identified in the Housing Element Sites Inventory. In addition, the proposed zoning designation of each subject parcel is consistent with the land use designation of each parcel under the Land Use Element.

D. The change of zoning classification of the subject parcels identified in the proposed amendments to the Zoning Map is consistent with the City's General Plan and will ensure a degree of compatibility with surrounding properties and uses. The zone change amendments will rezone properties to be internally consistent with the goals and policies of the Land Use Element Update for promoting housing production for all income levels in conformance with State law and the 6<sup>th</sup> Cycle (2021-2029) Regional Housing Needs Assessment and will apply the new Mixed-Use Overlay Zone to specific properties located in the International West Mixed Use, the Industrial/Residential Mixed Use 1, and the Residential/Commercial Mixed Use 2 land use designations to promote housing production on selected parcels identified in the updated Housing Element Sites Inventory. The subject rezoned parcels will have a similar zoning designation as surrounding parcels, which will ensure that the parcels are developed to a similar density as the surrounding parcels with the same zoning designation.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that the above recitals are true and correct.

SECTION 2. Zoning Amendment No. A-031-2021 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 6032-21, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 3. Table 9.18-2 (Development Standards for the Garden Grove Boulevard Mixed Use Zone) of Section 9.18.090.020 (Garden Grove Boulevard Mixed Use Zone (GGMU) Development Standards) of Section 9.18.090 (Development Standards Specific to Individual Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) is hereby amended as follows to increase the maximum permitted residential density in the GGMU-1, GGMU-2, and GGMU-3 Zones (additions shown in ***bold/italics***; deletions shown in ~~strikethrough~~):

Development Standards	<b>Garden Grove Boulevard Mixed Use Zones</b>		
	GGMU-1	GGMU-2	GGMU-3
Maximum Residential Density (units/acre)	<del>42</del> <b><i>60</i></b> units/acre	<del>21</del> <b><i>24</i></b> units/acre	<del>32</del> <b><i>48</i></b> units/acre

SECTION 4. Table 9.18-4 (Development Standards for the Civic Center Mixed Use Zones) of Section 9.18.090.030 (Civic Center Zone Development Standards) of Section 9.18.090 (Development Standards Specific to Individual Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) is hereby amended as follows to increase the maximum permitted residential density in the CC-1, CC-2, and CC-3 Zones (additions shown in ***bold/italics***; deletions shown in ~~strikethrough~~):

Development Standards	<b>Civic Center Mixed Use Zones</b>			
	<b>CC-1</b>	<b>CC-2</b>	<b>CC-3</b>	<b>CC-OS</b>
Maximum Residential Density (units/acre)	<del>21</del> <b><i>24</i></b> units/acre	<del>32</del> <b><i>48</i></b> units/acre	<del>42</del> <b><i>60</i></b> units/acre	Development standards per site plan review process.

SECTION 5. Table 9.18-5 (Development Standards for the Neighborhood Mixed Use Zone) of Section 9.18.090.070 (Neighborhood Mixed Use Zone (NMU) Development Standards) of Section 9.18.090 (Development Standards Specific to Individual Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) is hereby amended as follows to increase the maximum permitted residential density in the Neighborhood Mixed Use Zone (additions shown in ***bold/italics***; deletions shown in ~~strikethrough~~):



Development Standards	<b>Neighborhood Mixed Use Zone</b>
Maximum Residential Density (units/acre)	<del>21</del> <b>24</b> units/acre

SECTION 6. Table 9.18-7 (Development Standards for the Adaptive Reuse Zone) of Section 9.18.090.080 (Adaptive Reuse Zone (AR) Development Standards) of Section 9.18.090 (Development Standards Specific to Individual Mixed Use Zones) of Chapter 9.18 (Mixed Use Regulations and Development Standards) is hereby amended as follows to increase the maximum permitted residential density in the Adaptive Reuse (AR) Zone (additions shown in ***bold/italics***; deletions shown in ~~strikethrough~~):

Development Standards	<b>Adaptive Reuse Zone (AR)</b>
Maximum Residential Density (units/acre)	<del>32</del> <b>48</b> units/acre

SECTION 7. Section 9.18.190 is added to Title 9 of the Municipal Code to read:

**Section 9.18.190. Mixed Use Overlay Zone (MU)**

**9.18.190.010. Intent**

The Mixed Use Overlay zone is established to implement the General Plan Land Use Element and the Community Design Element directives applicable to the International West Mixed Use, Industrial/Residential Mixed Use 1, and Residential/Commercial Mixed Use 2 General Plan land use designations, where the overlay zone has been applied on the Zoning Map. The purpose of the Mixed Use Overlay Zone is to allow for residential and mixed-use developments as set forth in this section in addition to those uses regulated by the underlying zone. The use regulations and development and design standards set forth in this section establish minimum standards for the use and development of land within the Mixed Use Overlay Zone. Where the standards may conflict with those of the underlying zone, the standards in this section shall prevail. Where this section is silent with regard to a particular development standard or standards, the standards of the underlying zone shall apply.

**9.18.190.020. International West Mixed Use Overlay**

- A. **Applicability.** This subsection shall apply to properties within the International West Mixed Use General Plan land use designation to which the Mixed Use Overlay zone has been applied as shown on the Zoning Map.
- B. **Intent.** The International West Mixed Use Overlay is intended to create a transit-oriented development district around the OC Transit line station at Harbor Boulevard and Westminster Avenue. It is intended that new developments will

consist of a complementary mix of uses that benefit from ready access to rail transit, anchored by multi-family residential with commercial services and retail uses along pedestrian-friendly street frontages.

- C. **Allowed Uses.** For projects utilizing the International West Mixed Use Overlay, allowed uses shall be the same as those allowed in the Garden Grove Boulevard Mixed Use 1 (GGMU-1) zone pursuant to Table 9.18-1 of Section 9.18.020.030, subject to the conditions and standards set forth in Section 9.18.030 (Specific Uses- Special Operating Conditions and Development Standards), with exception that Adult Entertainment uses shall not be permitted.
- D. **Development Standards.** For projects utilizing the International West Mixed Use Overlay, the development standards shall be the same as those applicable to the GGMU-1 zone as set forth in Chapter 9.18, except as otherwise expressly provided herein. The following exceptions shall apply:
1. **Residential Density.** A maximum of 70 dwelling units per acre is permitted.
  2. **Stand-alone Residential.** Stand-alone residential projects are permitted with no commercial component or minimum floor area ratio required.
  3. **Landscaping and Streetscape.**
    - a. For sites north of the SR-22 Freeway, and located along a major arterial, all landscape and hardscape treatments (i.e., street trees and sidewalk improvements) within the front and side street setback areas, including the public right-of-way, shall conform with the landscape treatment of the Harbor Boulevard Resort Area, with exception that sites not located along a major arterial shall comply with the landscape requirements of Chapter 9.18. For projects located on a major arterial, the landscape treatment shall include two rows of Date Palm Trees (minimum brown trunk height of 25 feet), canopy trees (minimum 24-inch box), shrubs, and ground cover. Landscape materials shall match the landscape materials used within the existing project located on the southwest corner of Harbor Boulevard and Chapman Avenue, as well as match the existing public right-of-way landscape improvements located along Harbor Boulevard between Chapman Avenue and Garden Grove Boulevard. The landscape area shall include up-lighting on the trees. The sidewalk pattern shall be consistent with the Harbor Boulevard Decorative Sidewalk Improvements standard of the Public Works Department.
    - b. For sites located south of the SR-22 Freeway, all landscaping shall comply with the landscape requirements of Chapter 9.18.
  4. **Signage.** Signage shall comply with Chapter 9.20 as applicable to the GGMU-1 zone, with exception that projects located north of the SR-22 Freeway shall comply with the sign requirements of Section 9.20.045 (Overlay Design

Standards for the International West Report Area) if the project site is located within the boundary area of said sign overlay.

5. **Mixed Use Projects.** For mixed-use projects, the public plaza requirements of Section 9.18.090.020.F shall apply to projects abutting a major arterial, including Harbor Boulevard, Garden Grove Boulevard, Trask Avenue, and Westminster Avenue.

#### **9.18.190.020. Industrial/Residential Mixed Use 1 Overlay**

- A. **Purpose.** This subsection shall apply to properties within the Industrial/Residential Mixed Use 1 General Plan land use designation where the overlay zone has been applied as shown on the Zoning Map.
- B. **Intent.** The Industrial/Residential Mixed Use 1 Overlay is intended to accommodate residential development on properties located within the existing Industrial/Residential Mixed Use 1 land use designation..
- C. **Allowed Uses.** For projects utilizing the Industrial/Residential Mixed Use 1 Overlay, allowed uses shall be the same as those allowed in the Garden Grove Boulevard Mixed Use 1 (GGMU-1) zone pursuant to Table 9.18-1 of Section 9.18.020.030, subject to the conditions and standards set forth in Section 9.18.030 (Specific Uses - Special Operating Conditions and Development Standards), with exception that Adult Entertainment uses shall not be permitted. In addition, Live-Work and Work-Live uses are allowed subject to Conditional Use Permit approval.
- D. **Development Standards.** For projects utilizing the Industrial/Residential Mixed Use 1 Overlay, the development standards shall be the same as those applicable to the GGMU-1 zone set forth in Chapter 9.18, except as otherwise expressly provided herein. The following exceptions shall apply:
  1. **Residential Density.** A maximum of 60 dwelling units per acre is permitted.
  2. **Stand-alone Residential.** Stand-alone residential projects are permitted with no commercial component or minimum floor area ratio required.
  3. **Plaza Requirements.** There shall be no plaza requirement for mixed-use or stand-alone residential projects.
  4. **Signage.** Signage shall comply with Chapter 9.20 as applicable to the GGMU-1 zone.
  5. **Landscaping.** All landscaping shall comply with the landscape requirements of Chapter 9.18.

#### **9.18.190.030. Residential/Commercial Mixed Use 2 Residential Overlay**

- E. **Purpose.** This subsection shall apply to properties within the Residential/Commercial Mixed Use 2 General Plan land use designation located along Westminster Avenue where the overlay zone has been applied as shown on the Zoning Map.
- F. **Intent.** The intent of the Residential/Commercial Mixed Use 2 Residential Overlay is to facilitate the development of stand-alone residential development along Westminster Avenue.
- G. **Allowed Uses.** For projects utilizing the Residential/Commercial Mixed Use 2 Residential Overlay, only residential uses shall be permitted, and shall be the same residential uses as those allowed in the Garden Grove Boulevard Mixed Use 2 (GGMU-2) zone pursuant to Table 9.18-1 of Section 9.18.020.030, subject to the conditions and standards set forth in Section 9.18.030 (Specific Uses - Special Operating Conditions and Development Standards). No commercial uses or Residential/Commercial Mixed Use Development shall be permitted with implementation of this residential overlay.
- H. **Development Standards.** For projects utilizing the Residential/Commercial Mixed Use 2 Residential Overlay, the R-3 (Multiple-Family Residential) zone development standards of Chapter 9.12 shall apply except as otherwise expressly provided herein. The following exceptions shall apply:
1. **Residential Density.** A maximum of 24 dwelling units per acre is permitted.
  2. **Signage.** Signage shall comply with Chapter 9.20 as applicable to the R-3 zone.
  3. **Landscaping.** All landscaping shall comply with the landscape requirements of Chapter 9.12.

SECTION 8. The properties shown on the attached Exhibit A, Exhibit B, Exhibit C, and Exhibit D maps, and accompanying Exhibit E with corresponding Assessor's Parcel Numbers, shall be included in the Mixed-Use Overlay Zone, as specified on Exhibits A, B, C, D, and E. The Zoning Map shall be amended accordingly.

SECTION 9. The properties shown on the attached Exhibit F map, and the accompanying Exhibit G with corresponding addresses and Assessor's Parcel Numbers are hereby rezoned to Multiple-Family Residential (R-3), Neighborhood Mixed Use (NMU), Garden Grove Boulevard Mixed Use 2 (GGMU-2), Garden Grove Mixed Use 3 (GGMU-3) and Civic Center Core (CC-3), as specified on Exhibits F and G. The Zoning Map shall be amended accordingly.

SECTION 10: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision

shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 11: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 14th day of December, 2021.

/s/ STEVE JONES  
MAYOR

ATTEST:

/s/ TERESA POMEROY, CMC  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF GARDEN GROVE )

I, TERESA POMEROY, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on November 9, 2021, with a vote as follows:

AYES: COUNCIL MEMBERS: (6) BRIETIGAM, O'NEILL, NGUYEN D.,  
KLOPFENSTEIN, NGUYEN K., JONES  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (1) BUI

and was passed on December 14, 2021, by the following vote:

AYES: COUNCIL MEMBERS: (7) BRIETIGAM, O'NEILL, NGUYEN D., BUI,  
KLOPFENSTEIN, NGUYEN K., JONES  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (0) NONE

/s/ TERESA POMEROY, CMC  
CITY CLERK



**EXHIBIT A**  
**MIXED USE OVERLAY ZONE**  
**INTERNATIONAL WEST MIXED USE OVERLAY**  
**SITE AREA MAP 1**

ATTACHMENT 7



**LEGEND**

 SUBJECT PROPERTIES – MIXED USE OVERLAY ZONE – INTERNATIONAL WEST MIXED USE OVERLAY

**NOTES**

1. LAND USE DESIGNATION – INTERNATIONAL WEST MIXED USE
2. ZONING: C-1, C-2, C-3, M-1, HCSP-TS, HCSP-SDS, HCSP-OP



**EXHIBIT B**  
**MIXED USE OVERLAY ZONE**  
**INTERNATIONAL WEST MIXED USE OVERLAY**  
**SITE AREA MAP 2**



**LEGEND**

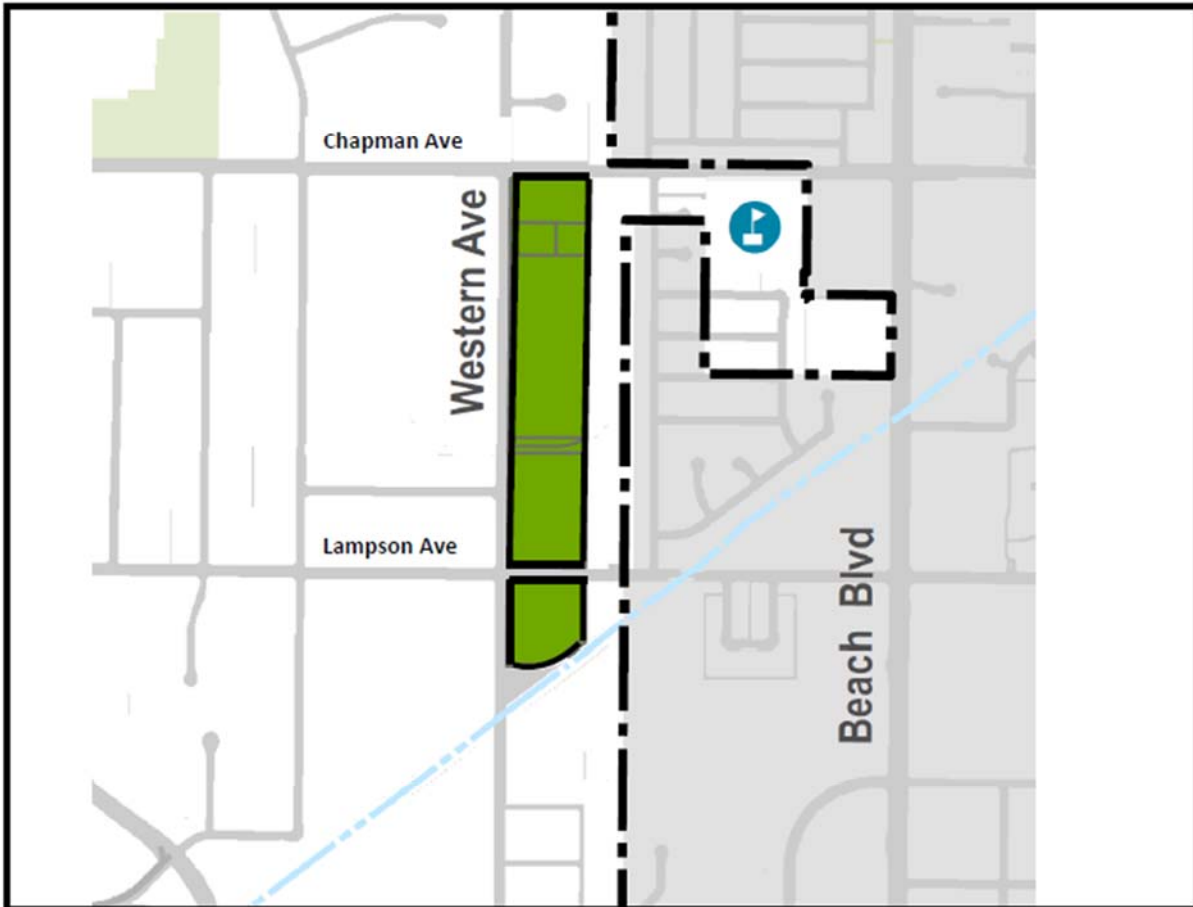
-  SUBJECT PROPERTIES – MIXED USE OVERLAY ZONE - INTERNATIONAL WEST MIXED USE OVERLAY

**NOTES**


1. LAND USE DESIGNATION – INTERNATIONAL WEST MIXED USE
2. ZONING: HCSP-TS, HCSP-SDS, PUD-103-72, PUD-121-98, PUD-128-12



**EXHIBIT C**  
**MIXED USE OVERLAY ZONE**  
**INDUSTRIAL/RESIDENTIAL MIXED USE 1 OVERLAY**



**LEGEND**

-  SUBJECT PROPERTIES – MIXED USE OVERLAY ZONE - INDUSTRIAL/RESIDENTIAL MIXED USE 1 OVERLAY

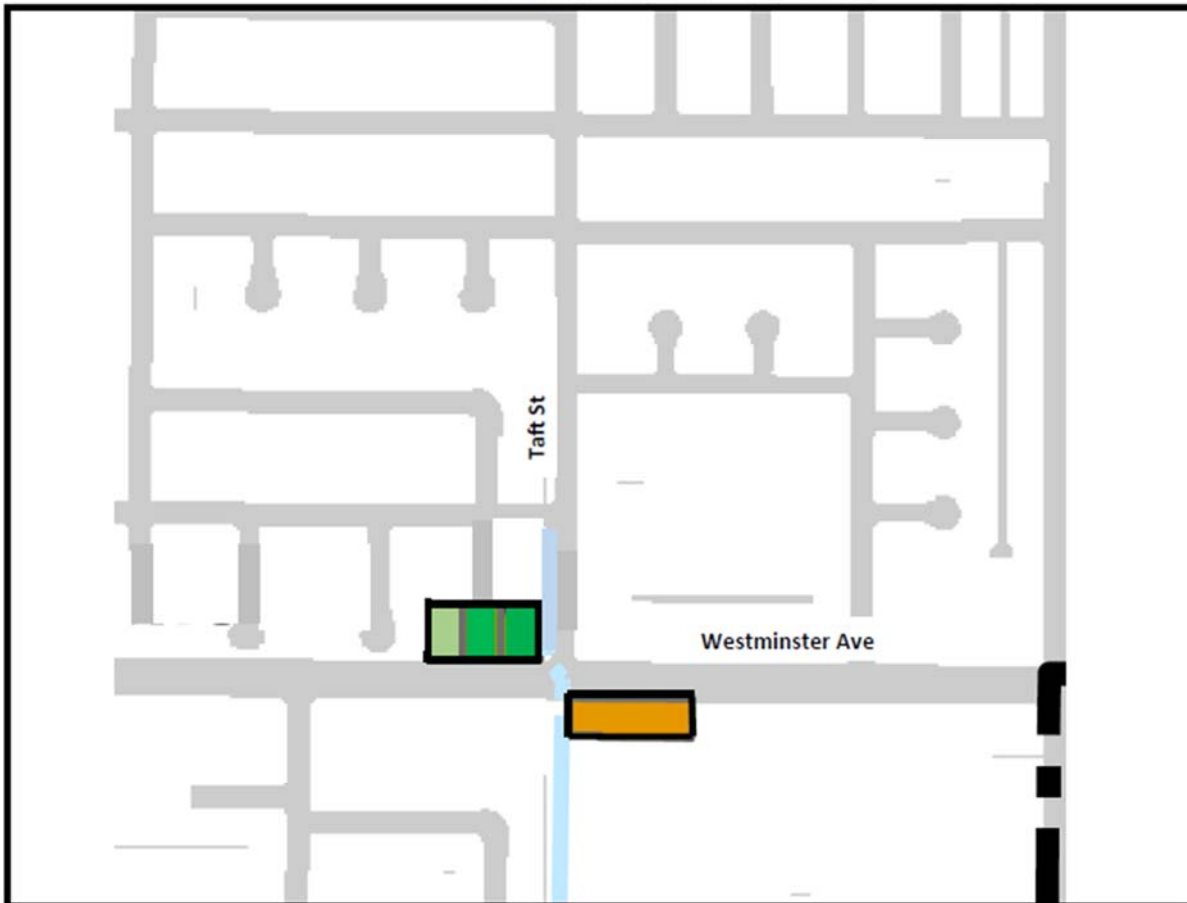
**NOTES**

1. LAND USE DESIGNATION – INDUSTRIAL/RESIDENTIAL MIXED USE 1
2. ZONING: M-P (INDUSTRIAL PARK)





**EXHIBIT D**  
**MIXED USE OVERLAY ZONE**  
**RESIDENTIAL/COMMERCIAL MIXED USE 2**  
**RESIDENTIAL OVERLAY**



**LEGEND**

-  SUBJECT PROPERTIES – MIXED USE OVERLAY ZONE – RESIDENTIAL/COMMERCIAL MIXED USE 2  
RESIDENTIAL OVERLAY

**NOTES**

1. LAND USE DESIGNATION – RESIDENTIAL/COMMERCIAL MIXED USE 2
2. ZONING: C-1 (NEIGHBORHOOD COMMERCIAL)

**EXHIBIT E**

**MIXED USE OVERLAY SITES**

**THE FOLLOWING PARCELS WILL BE INCLUDED IN THE INTERNATIONAL WEST MIXED USE OVERLAY:**

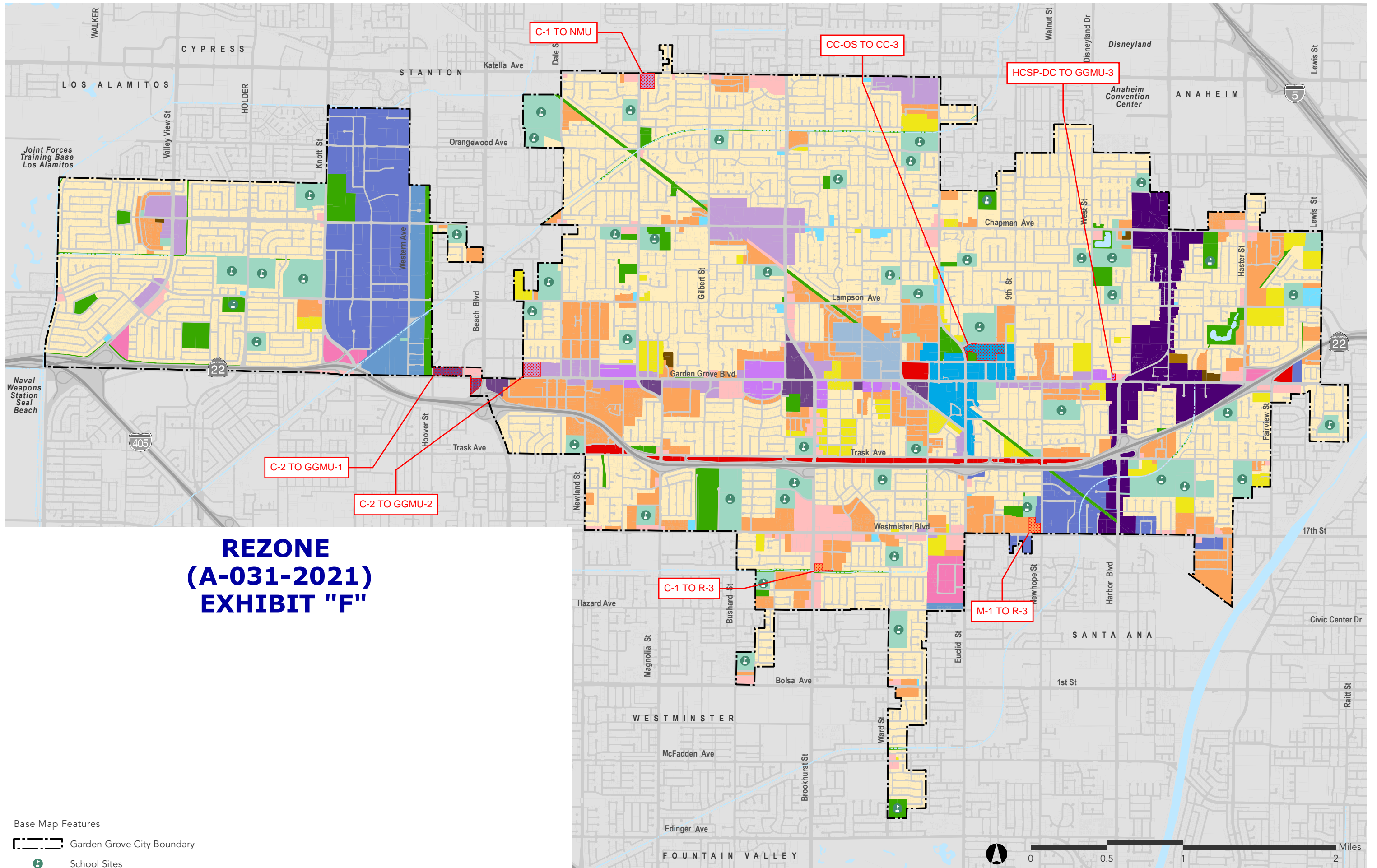
APN # 101-011-06	APN# 231-561-14	APN# 101-080-63	APN# 100-352-20
APN# 101-080-68	APN# 101-080-64	APN# 100-130-67	APN# 100-130-66
APN# 231-491-12	APN# 231-491-13	APN# 231-491-14	APN# 231-491-15
APN# 231-451-40	APN# 231-451-38	APN# 231-451-37	APN# 231-451-36
APN# 100-130-56	APN# 101-611-78	APN# 100-130-71	APN# 100-345-23
APN# 101-681-22	APN# 101-642-02	APN# 101-452-02	APN# 100-335-25
APN# 101-611-02	APN# 100-335-34	APN# 100-335-37	APN# 100-130-72
APN# 100-335-30	APN# 100-130-74	APN# 100-130-73	APN# 101-642-01
APN# 101-080-71	APN# 101-080-73	APN# 101-080-74	APN# 231-441-36
APN# 100-347-15	APN# 231-405-01	APN# 100-122-33	APN# 101-080-76
APN# 100-345-21	APN# 101-311-25	APN# 101-343-65	APN# 231-441-35
APN# 101-011-02	APN# 101-315-33	APN# 231-422-14	APN# 231-422-07
APN# 231-422-12	APN# 231-422-15	APN# 231-423-09	APN# 231-422-09
APN# 231-423-08	APN# 231-422-08	APN# 231-422-22	APN# 231-422-21
APN# 231-422-20	APN# 231-422-19	APN# 231-422-18	APN# 231-422-17
APN# 231-422-16	APN# 231-422-11	APN# 231-423-15	APN# 231-423-16
APN# 231-423-14	APN# 231-423-13	APN# 231-423-12	APN# 231-423-11
APN# 231-423-10	APN# 231-422-10	APN# 231-423-02	APN# 231-423-01
APN# 231-423-03	APN# 231-423-04	APN# 231-423-05	APN# 231-423-06
APN# 231-423-07	APN# 101-311-17	APN# 101-011-03	APN# 101-311-19
APN# 101-311-24	APN# 101-311-21	APN# 101-311-20	

**THE FOLLOWING PARCELS WILL BE INCLUDED IN THE INDUSTRIAL/RESIDENTIAL 1 MIXED USE OVERLAY:**

APN# 131-671-11	APN# 131-671-09	APN# 131-671-10	APN# 131-671-08
APN# 215-032-01			



**THE FOLLOWING PARCELS WILL BE INCLUDED IN THE RESIDENTIAL/COMMERCIAL MIXED 2 RESIDENTIAL OVERLAY:**

10721 WESTMINSTER AVE APN# 099-504-47	10711 WESTMINSTER AVE APN# 099-504-45
10691 WESTMINSTER AVE APN# 099-504-44	10742 WESTMINSTER AVE APN# 099-181-12



**REZONE  
(A-031-2021)  
EXHIBIT "F"**

Base Map Features

-  Garden Grove City Boundary
-  School Sites



**EXHIBIT G**

**ZONE CHANGE**

**ZONE CHANGE FROM C-1 (NEIGHBORHOOD COMMERCIAL) TO R-3 (MULTIPLE FAMILY RESIDENTIAL):**

10081 13<sup>TH</sup> ST APN# 099-173-20

14202 BROOKHURST ST APN# 099-173-08

14212 BROOKHURST ST APN# 099-173-10,  
APN# 099-173-45

**ZONE CHANGE FROM C-1 (NEIGHBORHOOD COMMERCIAL) TO NMU (NEIGHBORHOOD MIXED USE):**

11092 MAGNOLIA ST APN# 132-06-132

11072 MAGNOLIA ST APN# 132-061-31

11052 MAGNOLIA ST APN# 132-061-28

11012 MAGNOLIA ST APN# 132-061-29

11002 MAGNOLIA ST APN# 132-061-18

**ZONE CHANGE FROM C-2 (COMMUNITY COMMERCIAL) TO GGMU-1 (GARDEN GROVE BOULEVARD MIXED USE 1):**

7861 GARDEN GROVE BLVD APN# 131-682-62

7761 GARDEN GROVE BLVD APN # 131-682-61

7701 GARDEN GROVE BLVD APN# 131-682-05

7900 GARDEN GROVE BLVD APN # 096-281-09

7942 GARDEN GROVE BLVD APN# 096-281-14

7942 GARDEN GROVE BLVD APN # 096-281-14

7912 GARDEN GROVE BLVD APN# 096-281-11,  
APN# 096-281-13

**ZONE CHANGE FROM C-2 (COMMUNITY COMMERCIAL) TO GGMU-2 (GARDEN GROVE BOULEVARD MIXED USE 2):**

8301 GARDEN GROVE BLVD APN# 131-541-20

**ZONE CHANGE FROM M-1 (LIMITED INDUSTRIAL) TO R-3 (MULTIPLE-FAMILY RESIDENTIAL):**

11461 WESTMINSTER AVE APN# 100-141-10

13931 NEWHOPE ST APN# 100-141-09

11431 WESTMINSTER AVE APN# 100-141-11

**ZONE CHANGE FROM HCSP-DC (HARBOR CORRIDOR SPECIFIC PLAN-DISTRICT COMMERCIAL) TO GGMU-3 (GARDEN GROVE MIXED USE 3):**

12141 GARDEN GROVE BLVD APN# 231-404-13

**ZONE CHANGE FROM CC-OS (CIVIC CENTER- OPEN SPACE) TO CC-3 (CIVIC CENTER CORE):**

11390 AND 11400 STANDARD AVE APN# 090-154-57

11261 ACACIA PKWY APN# 090-154-58

11200 STANDARD AVE APN# 090-143-27

12772 5<sup>TH</sup> ST APN# 090-154-49

APN# 090-154-56

## CEQA Consistency Analysis Memo

General Plan Amendment No. GPA-002-2023 and Amendment No. A-037-2023

### 1.0 Background

On November 19, 2021, the City of Garden Grove ("City") updated its General Plan by adopting amendments to the Housing Element, Safety Element, and Land Use Element; adopted a new Environmental Justice Element; adopted zoning text and map changes to address the changes to the Housing Element and Land Use Element; and certified the Garden Grove General Plan Update and Focused Zoning Amendments Environmental Impact Report<sup>1</sup> ("GPEIR").

The Housing Element, a State-required chapter of the City's General Plan, identifies programs and policies to meet the housing needs of existing and future residents. This plan is required by State of California ("State") housing law and must be updated every eight years. Furthermore, the Housing Element must be certified by the State Department of Housing and Community Development ("HCD").

The Regional Housing Needs Assessment ("RHNA") is mandated by State housing law as part of the periodic process of updating local Housing Elements. The RHNA quantifies the housing need for all household income levels within each jurisdiction. The City is currently in the 2021-2029 planning period, also known as the sixth cycle RHNA. HCD determines the RHNA for each region of California. The RHNA for the region overseen by the Southern California Association of Governments ("SCAG") is 1.3 million units. SCAG assigned Garden Grove a RHNA allocation of 19,168 housing units for the 2021-2029.

On July 14, 2021, the City submitted its initial Draft Housing Element to HCD for review (during the GPEIR process). City received comments from HCD on September 8, 2021. The version of the Housing Element that was evaluated in the GPEIR was the version that had been submitted to HCD. In response to HCD's comments, City staff revised the Housing Element and conducted public hearings for adoption. The revised Draft 2021-2029 Housing Element adopted at the November 9, 2021 City Council meeting incorporated those responses to HCD comments. The City then resubmitted the Housing Element to HCD on November 12, 2021 to provide HCD with the adopted version for certification, which the City believed fully responded to the initial comments. However, HCD issued findings that the revised Housing Element did not fully comply with housing law.

Between January and July 2023, the City engaged in conversations with HCD staff to identify the further revisions required to achieve compliance, including reallocation of RHNA income categories among housing sites and the addition of one new site adjacent to previously identified sites. Following this review period and modifications made by the City in response, the HCD issued a formal substantial compliance letter on August 14, 2023, stating that HCD had found the City's Housing Element to "substantially comply with State Housing Element Law" and that it "meets statutory requirements".

The version of the Housing Element evaluated in the GPEIR identified a credit of 960 units (pipeline and proposed) and sites providing a capacity for 18,291 units, for a total of 19,251 units (above the RHNA of 19,168). The current version of the Housing Element approved by HCD identifies a capacity for 19,239 units. Notably, the growth projected in the General Plan, and evaluated in the GPEIR, was 20,242 new housing units. Thus, both the original Housing Element that the City adopted and the revised version certified by HCD provide housing capacity within the build-out assumption analyzed in the GPEIR.

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<sup>1</sup> State Clearinghouse No. 2021060714

## **2.0 Housing Element Modifications**

Key changes to the Housing Element that have made to achieve certification include:

- Updated analysis of the unhoused population using 2022 point-in-count data.
- Identified Zoning Code amendments completed in 2022, including permit streamlining, density bonus, affordable housing regulatory agreements, transitional and supportive housing and single-room occupancy revisions, objective design standards for multi-family housing units, increased R-3 district maximum density requirements, and provisions for low-barrier navigation centers.
- Revised Affirmative Furthering Fair Housing (AFFH) discussion and analysis, including new national and regional trends, community outreach consistency with AFFH requirements, historic patterns of segregation in Orange County, and government actions to address discrimination.
- Updated AFFH Tax Credit Allocation Committee/Housing and Community Development (TCAC/HCD) Opportunity Access data and maps, including revision education, environmental justice, transportation, and employment and economic opportunity access.
- Expanded discussion under AFFH for housing cost burden and overpayment, overcrowding and substandard housing, homelessness, and displacement risks.
- Updated sites inventory capacity assumptions.
- Added a site at 13621 Harbor Boulevard consisting of a land-locked parking lot.
- Updated local and regional housing trends.
- Added extensive analysis on developing housing sites on industrial properties designated for housing.
- Identified criteria to demonstrate all lower-income sites are available for redevelopment.
- Ensured the housing sites inventory is consistent with AFFH TCAC/HCD Opportunity Access areas.
- Added new policies to address AFFH, address housing sites on industrial properties, 2022 Zoning Code Amendment, address homeless housing needs, and address SB9 (duplex) requirements in single-unit zoned properties.
- Identified special needs housing accomplishments between 2014 and 2021.
- Adjusted the sites inventory: (1) moving some sites from various income categories, (2) added several new housing sites and 71 new housing units to the sites inventory.

## **3.0 Required Actions and Approvals**

The City proposes General Plan Amendment (GPA-002-2023) to include:

- (a) Readoption of the 2021-2029 Housing Element to include revisions directed by HCD to achieve compliance with State law;
- (b) Amend the General Plan land use designation of a property located at 13621 Harbor Boulevard (Assessor's Parcel No. 100-123-01) from Industrial (I) to International West Mixed Use (IW); and
- (c) Adopt a Zoning Map Amendment (A-037-2023) to revise the Zoning Map to implement the change in General Plan land use designation at 13621 Harbor Boulevard, and to clarify the sites intended to be included in the International West Mixed Use Overlay and the Industrial/Residential Mixed Use 1 Overlay, pursuant to Ordinance No. 2925.



The focus of the General Plan and Zoning Map Amendments is to comply with State law and resolve comments received from HCD on the adopted 2021-2029 Housing Element. These two approvals related to the amendments are hereafter referred to as the “proposed GPA and ZMA”.

#### **4.0 CEQA Requirements**

The City Council certified the comprehensive programmatic GPEIR on November 9, 2021, for the General Plan Update and Focused Zoning Amendments. The issue for CEQA purposes is whether the proposed GPA and ZMA are subsequent discretionary actions within the scope of the GPEIR and, if so, whether those amendments would result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts. (Public Resources Code Section 21166; CEQA Guidelines Sections 15168, 15162.)

Specifically, the CEQA Guidelines state as follows:

**Section 15168(c)(2)** - *If the agency finds that pursuant to Section 15162, no subsequent EIR will be required, the agency can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document will be required. Whether a later activity is within the scope of a Program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the Program EIR.*

CEQA does not mandate any specific procedure that a lead agency must use to determine whether later activities are within the scope of the prior Program EIR or whether any subsequent environmental review is required.

#### **5.0 CEQA Analysis**

The GPEIR analyzed the potential programmatic environmental impacts of adding 19,251 potential housing units. This was comprised by 960 pipeline units and housing sites that could accommodate 18,291 new units. The current, revised Housing Element, which HCD indicates meets the requirements of State law, calls for the addition of 19,239 units. This constitutes 12 fewer units than previously analyzed in the GPEIR. In other words, the current Housing Element is consistent with the types of allowable land uses and the overall density previously analyzed in the GPEIR. (CEQA Guidelines Section 15168(c)(2).) Thus, the current Housing Element is within the scope of the GPEIR. As the number of anticipated units has decreased from the GPEIR, the current Housing Element’s potential environmental impacts would either be equivalent to, or slightly decreased from, those identified in the GPEIR. A new site was identified at 13621 Harbor Boulevard. This site consists of a land-locked parking lot associated with a use fronting Harbor Boulevard. Adding it to the sites inventory has not increased the overall unit yield since minor adjustments have been made on other sites. The proposed Zoning Map amendments merely implement the proposed updates to the Housing Element. On this basis, the current Housing Element and Zoning Map amendments would not result in any new significant impacts or a substantial increase in the severity of any previously identified significant impacts. No further CEQA analysis is required. (Public Resources Code Section 21166; CEQA Guidelines Section 15168, 15162.)

## **6.0 Conclusion**

The City finds that no further review under CEQA is required pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15168 and 15162 because the proposed General Plan and Zoning Map amendments associated with the revised Housing Element are within the scope of the GPEIR . The revised Housing Element and the associated General Plan and Zoning Map amendments will not result in any new significant impacts or a substantial increase in the severity of previously identified significant impacts.

Based on Public Resources Code Section 21166 and CEQA Guidelines Sections 15168 and 15162, the City has determined that no further CEQA analysis is required.