



A G E N D A

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

JUNE 16, 2016

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE

REGULAR SESSION – 7:00 P.M. COUNCIL CHAMBER

ROLL CALL: CHAIR O'NEILL, VICE CHAIR KANZLER
COMMISSIONERS BARKER, MARGOLIN, NUYGEN, PAREDES,
ZAMORA

Members of the public desiring to speak on any item of public interest, including any item on the agenda except public hearings, must do so during Oral Communications at the beginning of the meeting. Each speaker shall fill out a card stating name and address, to be presented to the Recording Secretary, and shall be limited to five (5) minutes. Members of the public wishing to address public hearing items shall do so at the time of the public hearing.

Any person requiring auxiliary aids and services due to a disability should contact the City Clerk's office at (714) 741-5035 to arrange for special accommodations. (Government Code §5494.3.2).

All revised or additional documents and writings related to any items on the agenda, which are distributed to all or a majority of the Planning Commissioners within 72 hours of a meeting, shall be available for public inspection (1) at the Planning Services Division during normal business hours; and (2) at the City Council Chamber at the time of the meeting.

Agenda item descriptions are intended to give a brief, general description of the item to advise the public of the item's general nature. The Planning Commission may take legislative action it deems appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda.

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

- A. ORAL COMMUNICATIONS - PUBLIC
- B. APPROVAL OF MINUTES: June 2, 2016
- C. CONTINUED PUBLIC HEARING(S) (Authorization for the Chair to execute Resolution shall be included in the motion.)
 - C.1. MITIGATED NEGATIVE DECLARATION
CONDITIONAL USE PERMIT NO. CUP-073-2016

APPLICANT: HEAVEN'S GATE FUNERAL HOME, INC.
LOCATION: SOUTH SIDE OF GARDEN GROVE BOULEVARD,
EAST OF FAIRVIEW STREET AT 13272 GARDEN
GROVE BOUELVARD

REQUEST: Conditional Use Permit approval to operate a new funeral home, within an existing approximately 19,460 square foot office building, which will include a mortuary and crematory.

STAFF RECOMMENDATION: Recommend adoption of Mitigated Negative Declaration to City Council and approval of Conditional Use Permit No. CUP-073-2016, subject to the recommended Conditions of Approval.

D. PUBLIC HEARING(S) (Authorization for the Chair to execute Resolution shall be included in the motion.)

D.1. SITE PLAN NO. SP-025-2016
CONDITIONAL USE PERMIT NO. CUP-079-2016
VARIANCE NO. V-012-2016

APPLICANT: DANNY BOCKTING
LOCATION: SOUTHWEST CORNER OF GARDEN GROVE
BOULEVARD AND EUCLID STREET AT 11162
GARDEN GROVE BOULEVARD

REQUEST: Site Plan approval to construct a 940 square foot pad building for a drive-thru coffeehouse, Starbucks, on an approximately 16,689 square foot vacant lot, along with associated improvements, which include a parking lot and landscaping, and a request for Conditional Use Permit approval to operate the proposed drive-thru coffeehouse. Also, a request for Variance approval to deviate from the minimum lot size requirement for drive-thru facilities in the CC-3 (Civic Center Core) zone. The project is exempt pursuant to CEQA Section 15303 - New Construction or Conversion of Small Structures.

STAFF RECOMMENDATION: Approval of Site Plan No. SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016, subject to the recommended conditions of approval.

E. MATTERS FROM COMMISSIONERS

F. MATTERS FROM STAFF

G. ADJOURNMENT

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

Meeting Minutes
Thursday, June 2, 2016

CALL TO ORDER: 7:05 p.m.

ROLL CALL:

Chair O'Neill
Vice Chair Kanzler
Commissioner Barker
Commissioner Margolin
Commissioner Nuygen
Commissioner Paredes
Commissioner Zamora

Absent: Kanzler

PLEDGE OF ALLEGIANCE: Led by Chair O'Neill. He then mentioned Memorial Day and remembered those who gave their lives so that people could express themselves freely.

ORAL COMMUNICATIONS – PUBLIC – Mr. Hugh Tra asked that some restrictions be removed on Main Street entertainment in order to attract new and local customers; that bands could be allowed on certain nights; and, that fees could be charged for special events.

May 19, 2016 MINUTES:

Action: Received and filed.

Motion: Margolin Second: Zamora

Ayes: (6) Barker, Margolin, Nuygen, O'Neill, Paredes, Zamora

Noes: (0) None

Absent: (1) Kanzler

PUBLIC HEARING – MITIGATED NEGATIVE DECLARATION, CONDITIONAL USE PERMIT NO. CUP-073-2016 FOR PROPERTY LOCATED AT 13272 GARDEN GROVE BOULEVARD, SOUTH SIDE OF GARDEN GROVE BOULEVARD, EAST OF FAIRVIEW STREET.

Applicant: Heaven's Gate Funeral Home, Inc.
Date: June 2, 2016

Request: Conditional Use Permit approval to operate a new funeral home, within an existing approximately 19,460 square foot office building, which will include a mortuary and crematory.

Ms. Binh Minh Tran was available for Vietnamese translation.

Staff noted that a Neighborhood Meeting, open to the public, was held on Wednesday, April 13th, 2016 to review and receive input on the applicant's proposal to operate the proposed funeral home with a mortuary and crematory. The eight (8) attendees expressed opposition to the project with similar concerns related to the creepiness of living next to dead bodies, a general fear of ghosts, and that human remains may be stored for long periods of time.

Subsequent to the April 13, 2016 community meeting, staff received a letter of opposition, along with a petition containing 486 signatures, which was included in the record. Some of the reasons for opposition to the project set forth in the letter included: that there are many schools and churches in the area; that the fear of dead bodies being stored behind neighboring homes and the dangers from air pollution from the crematory has caused stress and anxiety in the community, especially for children, that the crematory emissions, such as vaporized Mercury, and other toxic chemicals, could pose health risks. An updated list included 81 additional signatures.

Staff also received another letter of opposition from www.change.org with identical language to the previously mentioned letter, with the website tallying an additional 376 supporters of the opposition, along with 108 comments, which was also placed into the record.

One letter of support was received from Tuan Nguyen, the owner of the Funeral Home, with 465 signatures of support. This letter was entered into the record.

Two additional opposition letters, received prior to the meeting, cited a concern relating to potential hazards to human health from crematory emissions. These letters were also entered into the record.

Additional handouts provided at the meeting included a Heaven's Gate Funeral Home Frequently Asked Questions sheet by the applicant, a Crematory Emission's Data sheet, a letter of opposition from Chieu, and petitions of 81 and 287 additional signatures opposing the project. All of these were entered into the record.

Commissioner Margolin asked if annual testing of the RPPD (Reduced Pressure Principle Device) backflow device was standard. Staff replied yes, the device was related to fire prevention.

Commissioner Margolin then asked how long the embalming process took. Staff deferred to the applicant.

Regarding Condition No. 24, allowing food on the premises with City approval, Commissioner Margolin asked if the health department addressed the discarded food after a funeral for health standards. Staff replied yes, that food may be brought in as long as there was no cooking on site due to no kitchen facilities, and that a special events permit would be required for any temporary food event in the parking area or yard areas.

Commissioner Zamora asked how long human remains were kept on site and how many bodies would be cremated per day. Staff deferred to the applicant.

Commissioner Zamora asked about the removal of non-bone fragments or foreign materials. Staff replied that any foreign materials would be removed prior to placing the body in the cremation chamber.

Commissioner Zamora then asked staff to confirm that if the applicant did not get approval by the South Coast Air Quality Management District (SCAQMD), they could not open. Staff replied yes.

Commissioner Zamora then asked who inspects the crematory on a weekly basis and was the facility open at night. Staff responded that the owner would inspect the machine, with the State of California and SCAQMD monitoring the business for proper operation and use, and that the business was not open in the evening.

Commissioner Zamora noted that no alcohol was to be sold or consumed on the premises, and asked what happened if alcohol was brought in. Staff replied that the City would be notified as this would be a violation of the Conditional Use Permit; that the applicant would be accountable and could be fined with an administrative citation of up to \$1,000.

Commissioner Zamora asked staff to clarify 'amusement devices' in Condition No. 17. Staff responded that this condition was typical and related to gaming or gambling machines.

Commissioner Paredes asked for the number of crematories operating in Garden Grove and where were they located. Staff replied that there were two funeral homes without crematories; that the applicant's other crematory facility was off-site; and that this facility would have two cremation chambers.

Commissioner Paredes then asked where the embalming process chemicals would be stored, how long bodies would be in cold storage, and if tooth fillings with mercury and amalgams were removed. Staff

deferred to the applicant on the chemicals and length of time, then stated that any foreign metals would be removed prior to cremation and that vaporization would not be a factor.

Commissioner Barker asked if a system would be in place to measure emissions. Staff deferred to the applicant and equipment manufacturer.

Chair O'Neill opened the public hearing.

Mr. Tuan Nguyen, the owner, Ms. Chi Tang, the representative, and Mr. John Raggett, the cremation equipment representative, approached the Commission. A fact sheet on the funeral home was distributed in both English and Vietnamese.

Ms. Tang described the project and stated that the facility could help with lower cost funeral services all over Southern California; that remains could be shipped to Vietnam; that they wished to expand the level of business/service/convenience for all groups; that land was expensive; that the business would benefit the City with revenue; that they have a petition of support with signatures from clients who have supported them through the years; that bodies were kept for 3-5 days with no storage more than a week; that embalming was for burials only; that fluids with poisonous substances were not allowed; that the facility had cameras and all areas were locked; that there were two cremation units; that licensed staff was required; and that the owner was a licensed embalmer.

Mr. John Raggett, the technical manufacturer, stated that the surrounding area had 14 machines; that two were down the street by the Christ Cathedral; that four were around the corner from there; that two were in Westminster, and four in Santa Ana, near the 5 and 22 Freeways, and two at Fairhaven Cemetery in Santa Ana; that the City recommended finding a C-2 or C-3 zone; that a crematory was cleaner than burning a fire in a fireplace or cooking a hamburger in a hamburger facility as these have higher emissions due to lower temperatures of burning; that a crematory burns at 1800 degrees and was regulated by Air Quality, from which they have a permit; that if there was anything unethical near residents they would not look at that zone; that the crematory would be inspected yearly unannounced by Air Quality, sometimes twice yearly by Consumer Affairs; that the machine was to be maintained every six months for proper operation; that a cremation takes one to one and a half hours; that there would be no smoke or odor, only heat flume from the stack like a car; that the machines were quiet and residents would not be able to see it or smell it, no smoke or odor; and that the property had been vacant for years and was chosen for the zone in a commercial/industrial area off the freeway.

Commissioner Paredes asked if the chemicals used in the embalming

and cremation processes were different. Mr. Raggett explained that regardless, an individual was put in 40 degree cold storage for sterility and sanitation; that there was no embalming with cremation; that only after paperwork was completed would a body be cremated; that embalming was for the viewing process or burial; that certain cremation machines could handle larger bodies up to 1,000 pounds; and that for this facility, anyone larger than 200 pounds would be outsourced.

Commissioner Paredes asked if there was a cremation backlog because if there were other crematories available, why build another. Mr. Raggett explained that families like to keep the loved one close; that they sometimes want to witness the cremation and participate in the service; that bodies were in boxes, or caskets, all mandated by the state; and that metals and plastics, such as pacemakers, would cause emissions and were removed.

Chair O'Neill asked the applicant to clarify the cultural issues, and Ms. Chi provided a response and discussed Asian religious traditions and practices.

Commissioner Barker asked if other waste was burned, for example, hazardous waste, medical waste, or trash. Ms. Chi replied no, that was illegal, and that the California Bureau of Cemetery and Funeral Services inspected the facility every six months as it was heavily regulated.

Commissioner Barker asked if there would be a system to measure emissions. Mr. Raggett stated that the machine would be source tested about every three years, mandated by Air Quality, to ensure the machine was operating properly to be smoke, odor, and particulate free; and, that the machine itself was a constant measure, being temperature and air quality controlled.

Commissioner Barker asked for clarification of the mercury and amalgam. Mr. Raggett responded that older people's teeth, such as baby boomers, have small amounts of amalgam and mercury in their teeth. Also, foreign materials in bodies would be removed at the funeral home and recycled to be properly disposed of.

Commissioner Zamora asked who did the weekly inspections. Mr. Raggett stated that the operator would inspect before the machine was run, both daily and weekly, along with inspections by the manufacturer; and, that records were kept for Consumer Affairs and Air Quality.

Commissioner Zamora then asked about alcohol consumption on the premises. Ms. Chi answered that alcohol and food were not allowed; that coffee and water was available; that praying food, such as fruit bowl by outside restaurants, was allowed on the shrine for prayer; and that there were no parties.

Commissioner Paredes asked for confirmation that 34 bodies were allowed to be cremated per month. Ms. Chi said yes. Mr. Raggett stated the hours would be Monday through Friday from 8:00 a.m. to 5:00 p.m. with no activity at night.

Commissioner Barker asked for clarification on the filtration system. Mr. Raggett explained that there was a two-second retention time at 1800 degrees; that the stack sensors work as the filtration system; that when the heat hits the atmosphere at a cooled 900 degrees, this was better than the machines in the 1970-80's; and, that everything was pollution controlled, for example, if there was an upset cremation with smoke, the burner turns off automatically and gives it air.

Commissioner Nuygen asked what process was used to ensure toxins were not released into the air. Mr. Raggett responded that daily, each cremation would be documented with a chart recorder to log in each step of the cremation process and this log would be checked by the state unannounced; and, that the chart recorder on the machine was checked by Air Quality, so the information was kept both manually and electronically, stored up to five years.

Commissioner Paredes asked for the logistics of taking bodies in and out of the facility. Ms. Chi stated that to be respectful, the loading and unloading of bodies would take place inside the facility; that the hearse would enter an area with a roll-up door; that a wall would be built between the warehouse and the cremation machine; and that a short distance, from the door to the coach/hearse for burial, was typical.

Chair O'Neill called for a recess at 8:20 p.m. The session reconvened at 8:30 p.m.

Chair O'Neill opened the public hearing to receive testimony in favor of or in opposition to the request.

The following people opposed the request for the following reasons:

Mr. Saul Quinones: 20 feet from the homes, where his cousin lived; and they do not want to smell the burning fumes of bodies.

Ms. Stacey Hua spoke on behalf of the residents: negative impact on physical and mental health on children and seniors; negatively affects property values with lower re-sale values; fear of deceased, may have to move away; toxic chemicals released and contamination in the air such as mercury dioxin and amalgam poisoning as these metals were not removed prior to cremation; mercury vapors harmful causing health issues such as an effect on young children and fetus's, immune system issues and cancer; process not regulated as safe levels cannot be

measured; would affect future children, who would be leaders; some children stopped going outside; elderly would have issues too; need to protect health; other states have complaints of increased traffic and smells; ten other funeral homes were located in the area and another was not needed in the neighborhood.

Ms. Katie Le: lived next door to the proposed site; concern for how children would be affected with toxic emissions such as mercury, carbon monoxide, nitrogen oxide, carbon dioxide, sulfur oxide, and volatile acids such as hydrogen chloride, hydrogen fluoride, and carbon dioxide, which were listed in the Mitigated Negative Declaration; though fumes were filtered, crematoriums still spill toxins; no statistics on mercury emissions; the number of people opposing the project was large; the signatures for support from the applicant were people not from the community; and Nicole at the Cremation Society of Orange Coast, who had a cremation business at Lewis Street and Lampson Avenue, agreed that the crematory should not be close to the homes.

Mr. David Lee: health risk due to the particulates that could be breathed in and lodged in the lungs, with active children high at risk; emissions rise with aging machine parts; questioned qualification of inspectors and effectiveness of mitigation; filtering fumes has little effect on toxins; weekly inspections were pointless; disputed integrity and questions accuracy of study.

Mr. Dylan Tran, Ms. Brooklyn Tran, and Mr. Peter Hua: affected asthma; could cause diseases such as cancer; children afraid to go outside, scared of dead bodies; they would not be able to sleep and would have nightmares of dead bodies.

Mr. Nu Bui: seniors not eating or playing; the poor want days without worries; listen to our wish; they want to live in peace.

Mr. Richard Rowe: the City has a stewardship for health and quality of life; lived in Garden Grove 40 years; mercury has low vapor pressure so 900 degrees not low enough, which results in mercury going into air.

Ms. Thao Tran: proximity issue as there was not a lot of space around the facility; odors; traffic; loud noises; property value reduction; mercury; burned body releases chemicals.

The following person supported the request for the following reasons:

Mr. Steve Abraham, the real estate broker for the project: the request was based on facts not fears; the property owners have rights; owners have met hurdles; only eight (8) people showed up at neighborhood meeting at which four were former family members who used his services and would have supported the proposal had they known Tuan

Nguyen was the applicant; one other person was a competitor; business would bring in revenue with sales tax; benefit for the neighbors; if the conditions were not met, the Conditional Use Permit could be pulled; the decision to support should be based on fact.

The following persons opposed the request for the following reasons:

Mr. Vincent Nguyen: the children would be a concern, especially at nearby school for eight (8) years; he experienced being near a furnace at 50', it was too hot and his eyes watered; applicant did not know about the Vietnamese culture; dead were celebrated; would have smell every day; afraid of the fear from everywhere.

Mr. Viet Mai: no one knew about the neighborhood meeting; people are afraid; smoke; dead people in cars; suggest Commissioners put themselves in their shoes; no one would want business next to funeral home; lower property values.

Mr. Quan Van Luu: cremations occur already at Lewis Street and Harbor Boulevard, so with others around, another one was not needed here.

Mr. Jessie Arambulo: lived a few blocks from crematory; project was disturbing; need to take seriously; loved neighborhood; not easy to sell house, would have higher property taxes if moved elsewhere; consider another location; consider morally.

Ms. Lynn Hua: do not approve; psychological effects; children want to play outside.

Mr. Joseph Tran: dentists today were moving away from amalgam and instead were using composites; with baby boomers still around, mercury emissions would increase over time in the next two or three decades.

Mr. Stan Wirth: he would be yards away from funeral home; lots of children in the area; increased fumes, noise, and traffic.

Mr. Alex Pantoja: already parking problems across the street at Cedar Grove from church; if there was viewing and church on the same day, 76 parking spaces would not be enough; already had restrictions on water usage; water contamination with embalming; kids walk across area to go home; senior home next door where bus stops.

Mr. Tim Nguyen: he found out about the project through his daughter's friend; was not aware of psychological affects; children would lose self-confidence and be afraid of ghosts; too close to backyard.

Mr. Khai Nguyen: 100 feet from project with two children; report doesn't matter; no guarantee on health; if machine breaks, particles go into

environment; does not want children to be guinea pigs; fears they would have to move; residents lived in the area already; no one would buy their property at market value.

Ms. Hoang Ho: lived one street behind funeral home; Commissioners already heard enough opinion from community; the number of people present were a statement, along with elderly and children, to voice opinions; Tuan Nguyen would have no support from at least a few hundred families of all cultures.

Ms. Auralia Garcia: three-story school within 500 feet of funeral home, which her daughter attends; daughter had cancer, but did not want it to come back; kids scared of dead people.

Ms. Kia Marina: need to cool bones more than 900 degrees; this may affect earth and environment; residents may have to pay more to air condition their homes; lived by freeway with emissions and could be a problem mixed with funeral home emissions.

Mr. Siraj Hussein: he had a different religion, but the proposal was scary, especially near a school; needs to be in a neutral area; he loves his neighborhood, but area would be chaotic; services were already nearby.

Mr. Thuy Nguyen: need to look at sociological perspective; four generations; wondered if the applicant's research and study was factual; people fear death; surprised the Vietnamese owner did not consider the proximity, cultural, ethical, and moral values regarding grief.

Ms. Nicole Nguyen: used to work at Rose Hills Memorial Park; sometimes bodies were kept longer than 3-5 days; usually a crematory was separate and not within a funeral home; would impact other cities, such as Santa Ana.

Mr. Robert Darcy: emissions would be from 8:00 a.m. to 5:00 p.m. every day and it was not clear how people would react; proximity way too close to homes.

Mr. Rick Vu and Tu Vu: agreed that the funeral home would be too close; don't want to see hearses every day; environmental and psychological effects; have to explain to children.

Mr. Carlos: unsightly and ghoulish issue people do not like to think about; area has nice homes and schools; science just coming to understand mercury.

Ms. Madalene Tran: her relatives live right behind; she remembered her experience of living near a cemetery as a child, very sad; put benefit of citizens first.

Mr. Martin: funeral home would affect everyone's peace; something will be in the air that people would breathe; people's feeling were important.

Ms. Gina Nguyen: funeral home would be trauma for children; imagination can create fear and stay with a person; there was life after death; there were many families, but one business.

Mr. Thomas Tran: suddenly everyone was talking; people were scared.

Mr. Keith: proximity concern, especially with our children and their future; let people decide what they want; there were other location options, such as rezoning.

Ms. Phuong Hoang: enough funeral homes around; would not bring in business; in residential area, would only bring fear to residents, children, and seniors; imagination was scary; people would live in fear; put the project somewhere else.

Commissioner Paredes commented that he lived near a funeral home, without a crematory, at Chapman Avenue and Nutwood Street, with a Boys & Girls Club nearby. He asked if the crematory was the real issue or the whole facility.

The applicant was invited back up to respond. Ms. Tang thanked all present and stated that they chose the zone for the opportunity to be a benefit to the community; that they understood the concerns, but would leave the decision up to the Commission based on the facts; and, that they would respect whatever decision was made.

There being no further comments, the public portion of the hearing was closed.

Commissioner Margolin commented that she understood the dedication to the Vietnamese young and old and wished that other ethnicities cared as much; that the fear factor was what bothered her and that children learn from their parents; that a culture believing in ghosts was fine, however, to instill this fear of ghosts in children was not right because there was enough fear already; that the parent's suffering was their own personal experience; and that there was no reason to frighten children with the idea of ghosts.

Commissioner Paredes commented that the public testimony was the funeral home versus the crematory; that the environmental impact was not clear, as the neighborhood was also next to a freeway with pollutants and an industrial area; that he would look at the community area as a whole.

Commissioner Nuygen asked for a raise of hands of people who lived behind the project area. A majority of the people raised their hands. He stated that their voices needed to be heard, as well as the applicant's.

Commissioner Barker commented that his experience of living near a funeral home as a child was creepy, but soon the home became a neighborhood fixture as parents began to pass away.

Commissioner Zamora expressed concern with the children's fears, which may be taught to them; that death was a fact of life and was sad that children were afraid of the dead; that her environmental concern was with the air and that she would like unbiased emission facts from similar situations. She asked if there were there any regulations regarding proximity to neighborhoods.

Commissioner Paredes checked Realtor.com online and stated that the lowering of property values could be based on nearby strip clubs, rental properties, and funeral homes, which may impact a neighborhood.

Staff mentioned that before the Commission was the proposed resolution of approval based on legal findings supported by facts; that four findings must be made, which were included in the resolution, to approve a Conditional Use Permit; that if the Commission decided to deny the Permit, a finding must be made that a finding could not be met.

Chair O'Neill stated that the weight of the concern was proximity rather than the crematory itself, and the environmental.

Commissioner Nuygen agreed with Commissioner Zamora and commented that his concern was the contradiction of facts regarding environmental impacts and asked staff if an independent study could be done to make the decision easier.

Commissioner Margolin moved to approve the request, subject to the recommended conditions of approval, and commented that Commissioners have received the facts, the project had met the requirements regarding emissions and needs, and that as a Commissioner she could not deny a business that had met the Code. She added that her reasoning did not have to do with anything other than a Commissioner's obligation.

Motion No. 1:

Action: Public Hearing held. Speaker(s): Chi Tang (Representative), Tuan Nguyen (Owner present, but did not speak), John Ragget (American Cremation Equipment Company), Mark Blodgett (Blodgett, Baylois

Environmental Planning). 36 people spoke in opposition to the request. In addition to the Applicant and its representatives, one person spoke in favor of the request.

Action: Motion to adopt a Resolution approving the proposed Conditional Use Permit failed for lack of an affirmative vote of a majority of the Commissioner's present.

Motion: Margolin Second: Barker

Ayes: (3) Barker, Margolin, O'Neill,
Noes: (2) Nuygen, Paredes
Abstain: (1) Zamora
Absent: (1) Kanzler

Staff noted that the Mitigated Negative Declaration and Initial Study consultant, Mark Blodgett, of Blodgett Baylosis Environmental Planning, was available to respond to the Commissioner's technical questions if the Public Hearing was re-opened.

Commissioner Zamora moved to continue the case to the Thursday, June 16, 2016 meeting, in order to have a consultant answer questions regarding area emissions as a whole, to address Page 53 of the report, and to address the contradictions and receive further research.

Commissioner Margolin then asked if a Commissioner, who abstained from voting, had the right to ask for another motion when the first motion failed. And, with a continuance, would the audience speak all over again.

Staff pointed out that further public comment at a future meeting could be limited at the discretion of the Commission and that more than two weeks would be required to gather additional information. The suggestion was to continue to a date uncertain and to have the case re-advertised. Additionally, if an independent consultant was hired to check the consultant's work, the applicant would be responsible for the cost.

Motion No. 2:

Action: Motion to continue the item to the June 16, 2016 meeting to receive additional technical information from Staff died for lack of a second.

Motion: Zamora Second: None

Chair O'Neill re-opened the public hearing to receive testimony from the

consultant/expert.

Mr. Mark Blodgett stated that he was retained by the City of Garden Grove to prepare the Initial Study; that the project was unique by occupying an existing building; that the use needed to be scrutinized through CEQA (California Environmental Quality Act); that they looked at air quality as well as 16 other issues that included noise and traffic; that California has the most stringent emissions controls in the United States; that earlier studies occurred before the more stringent standards; that they identified potential contaminants as part of their study; that they asked for the technical specifications and paperwork that the South Coast Air Quality Management district provided; that they went and observed a cremation looking for smoke, visible emissions, particulates, or odors; that their observations concluded there were no noticeable emissions to see, no odors to smell, and noted, however, that they could not get up in the flume to do measurements; that this was a CUP and fugitive dust or odors were not permitted from any business; that visible emissions were a nuisance and not permitted from a crematorium, a Burger King, or any other use; that the CUP could be rescinded with any violation; that the study was open and independent; that the applicant had to agree to the mitigation; and that CEQA would find everything and anything that could or would be wrong.

Commissioner Barker asked if the company was pre-approved. Mr. Blodgett replied yes.

Commissioner Barker asked how the smells would be contained. Mr. Blodgett stated that the two enforcement agencies, the City and South Coast Air Quality Management District, would be monitoring health risks, and that concerns were complaint driven.

Commissioner Zamora asked for clarification of children around the toxins, and the supposed contradictions on Page 53. Mr. Blodgett stated that the citation was a reference to a report they reviewed; that they wanted to look at a new facility, so they did a field survey; that the manufacturer installed a crematorium near his home and he did not know it, which gave him a comfort level; that if there was any type of health risk to anyone, the recommendation would have been denial; that if he could eliminate the risk he would do it; that if the equipment was working properly there would be no odor; that the staff would be well-trained and the equipment maintained; that professionally, the concerns may or may not be fear-based; and, that the residents did not have the opportunity to look at an operating crematorium, experience living in close proximity to one, or conduct extensive research, which took three to four months, as he did.

There being no further comments, the public portion of the hearing was closed.

Commissioner Barker moved to approve the request, subject to the recommended conditions of approval.

Motion No. 3:

Action: Motion to adopt a Resolution approving the proposed Conditional Use Permit failed for lack of an affirmative vote of a majority of the Commissioner's present

Motion: Barker Second: Margolin

Ayes: (3) Barker, Margolin, O'Neill

Noes: (2) Paredes, Zamora

Abstain: (1) Nuygen

Absent: (1) Kanzler

Chair O'Neill moved to re-open the public hearing and continue the case to the the next regular meeting on Thursday, June 16, 2016 in order for a full Commission to vote on the project. Staff was also directed to prepare and have on hand, a resolution of denial, should the request be denied.

Motion No. 4:

Action: The motion to re-open the public hearing and continue the public hearing to the next regular meeting at 7:00 p.m. on Thursday, June 16, 2016, in order for a full Commission to be present to vote on the project, and to direct Staff to prepare an additional alternative Resolution of Denial based on the testimony provided at the public hearing, was approved.

Motion: O'Neill Second: Barker

Ayes: (5) Barker, Margolin, Nuygen, O'Neill, Zamora

Noes: (1) Paredes

Absent: (1) Kanzler

MATTERS FROM COMMISSIONERS: None.

MATTERS FROM STAFF: Staff gave a brief description of the items for the next regular meeting to be held on Thursday, June 16, 2016, which includes a drive-thru Starbucks and the continued case.

ADJOURNMENT: At 11:20 p.m. to the next Regular Meeting of the Garden Grove Planning Commission on Thursday, June 16, 2016, at 7:00 p.m. in the Council Chamber of the Community Meeting Center, 11300 Stanford Avenue, Garden Grove.

Motion: Margolin Second: Zamora

Ayes: (6) Barker, Margolin, Nuygen, O'Neill, Paredes,
Zamora

Noes: (0) None

Absent: (1) Kanzler

Judith Moore
Recording Secretary



CITY OF SANTA ANA

MAYOR

Miguel A. Pulido
mpulido@santa-ana.org

MAYOR PRO TEM

Vicente Sarmiento
Ward 1
vsarmiento@santa-ana.org

COUNCILMEMBERS

Angelica Amezcua
Ward 3
aamezcua@santa-ana.org

P. David Benavides
Ward 4
dbenavides@santa-ana.org

Michele Martinez
Ward 2
mmartinez@santa-ana.org

Roman Reyna
Ward 5
rreyna@santa-ana.org

Sal Tinajero
Ward 6
stinajero@santa-ana.org

June 15, 2016

City of Garden Grove Planning Commission
c/o Judy Moore, Secretary
Via E-mail
judym@ci.garden-grove.ca.us

Re: Heaven's Gate Funeral Home - Conditional Use Permit Number CUP-073-2016

Dear Commissioners:

The purpose of this letter is to express my concerns over the proposed mortuary and crematory planned in the City of Garden Grove (Conditional Use Permit Number CUP-073-2016). Although the project site is located in the City of Garden Grove, many Santa Ana residents are concerned with the proposed use, specifically related to secondary impacts on adjacent residences that are associated with such uses.

Although the current zoning of the property permits mortuaries and crematories through the issuance of a discretionary action known as a conditional use permit (CUP), the CUP gives the Garden Grove Planning Commission and City Council the discretion to approve or deny these types of projects. Several concerns with the project have been identified that include impacts to air quality, specifically related to adverse impacts on the surrounding sensitive receptors such as the surrounding residential uses nearby. In addition, locating assembly uses adjacent to residential neighborhoods may lead to noise and light impacts which can be detrimental towards maintaining the quality of life of the surrounding community. Additional consideration should be made towards minimizing the potential impacts on property values adjacent to the proposed mortuary and crematory use. Finally, Santa Ana's planning staff generally considers crematoriums as industrial uses which are typically separated from residentially zoned or used properties.

For these reasons, I am not in support of the proposed project. Overall, the approval of Conditional Use Permit No. 073-2016 would not be in the best interest of the residents of Santa Ana and Garden Grove who live in the adjacent neighborhoods.

Sincerely,

Michele Martinez
Councilwoman

CITY ATTORNEY
Sonia R. Carvalho

CITY MANAGER
David Cavazos

CLERK OF THE COUNCIL
Maria D. Huizar

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.1.	SITE LOCATION: South side of Garden Grove Boulevard and east of Fairview Street, at 13272 Garden Grove Boulevard
HEARING DATE: June 16, 2016	GENERAL PLAN: Light Commercial
CASE NO.: Conditional Use Permit No. CUP-073-2016	ZONE: C-2 (Community Commercial)
APPLICANT: Heaven's Gate Funeral Home, Inc.	CEQA DETERMINATION: Mitigated Negative Declaration
PROPERTY OWNER(S): Kellogg Family, LLC	APN: 399-011-44 & 46

REQUEST:

The applicant is requesting Conditional Use Permit (CUP) approval to operate a new funeral home, within an existing approximately 19,460 square foot office building, which will include a mortuary and crematory.

DISCUSSION:

On June 2, 2016, the Planning Commission conducted a public hearing and took testimony from the applicant and numerous interested members of the public. Staff provided a report and recommended the Commission adopt a Resolution adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approving Conditional Use Permit No. CUP-073-2016. The applicant, a representative of the manufacturer of the cremation equipment, and a real estate broker testified in favor of the application. The environmental consultant who prepared the initial study also testified and answered questions posed by the Commissioners. Approximately 36 members of the public testified in opposition to the application. Several members of the public testified that, due to its proximity to single family residences and other sensitive uses, the proposed funeral home with a mortuary and crematory would be an inappropriate use at the proposed location. Several residents of the adjacent residential neighborhood testified that the nature of the use makes them and their children uncomfortable, that they are concerned about the potential long-term physical and mental health impacts from residing and/or working in such close proximity to a crematory, that the proximity of the proposed use would interfere with their use and enjoyment of their properties, and that, due to negative public perceptions about living in proximity to a mortuary and crematory, their property values would decrease if the proposed use was established at this location.

There were six (6) Commissioners were present at the meeting, and a motion to adopt the proposed Resolution of Approval failed to garner the affirmative vote of a majority of the Commissioners present. The Commission ultimately voted to continue the public hearing to the June 16, 2016 Planning Commission meeting in an effort to have all seven (7) Planning Commissioners present to consider and vote on the item and directed Staff to prepare alternative draft Resolutions of Approval and Denial for its consideration.

Pursuant to the direction of the Planning Commission, Staff has prepared an alternative draft Resolution of Denial based on facts presented by members of the public at the public hearing on June 2, 2016, for the Commission's consideration along with the original proposed Resolution of Approval. Copies of the June 2, 2016 Staff Report, Initial Study and proposed Mitigated Negative Declaration, and all other documents submitted into the record during the public hearing have previously been provided for the Commission's information.

RECOMMENDATION:

Staff recommends that the Planning Commission either:

1. Adopt the proposed Resolution approving Conditional Use Permit No. CUP-073-2016, and authorize the Chair to execute the Resolution; or
2. Adopt the proposed Resolution denying Conditional Use Permit No. CUP-073-2016, and authorize the Chair to execute the Resolution; or
3. Provide further direction to Staff.



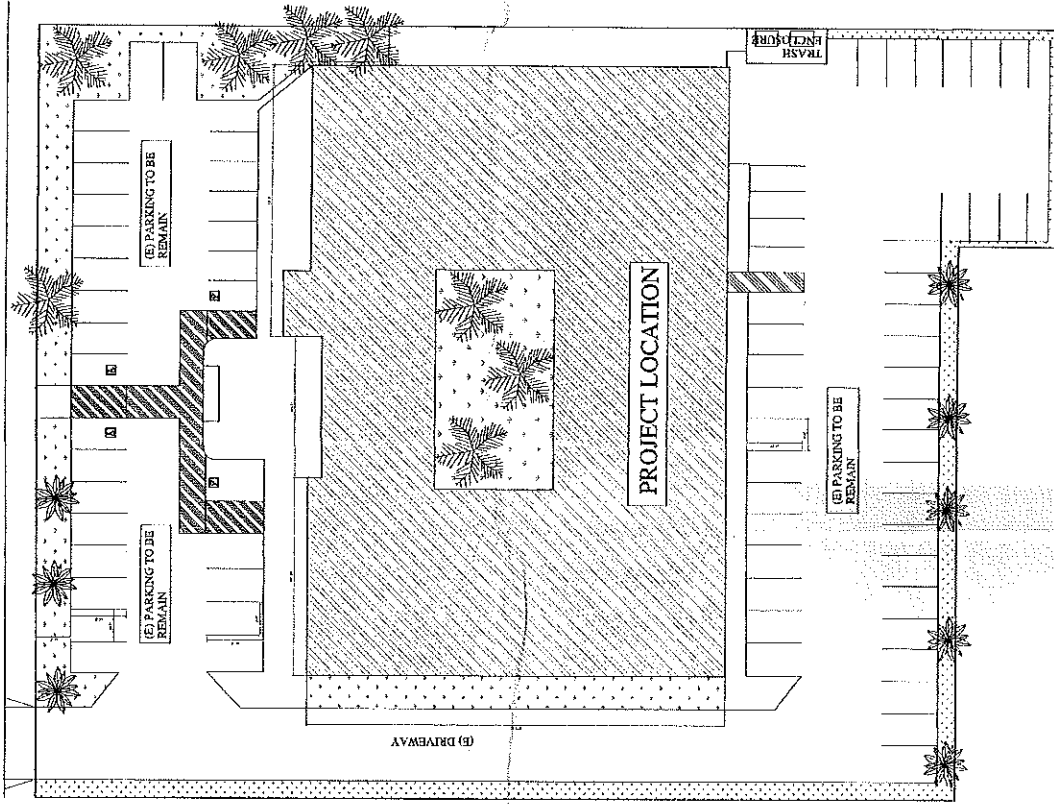
Karl Hill
Planning Services Manager



By: Chris Chung
Associate Planner

HEAVEN'S GATE FUNERAL

GARDEN GROVE BLVD



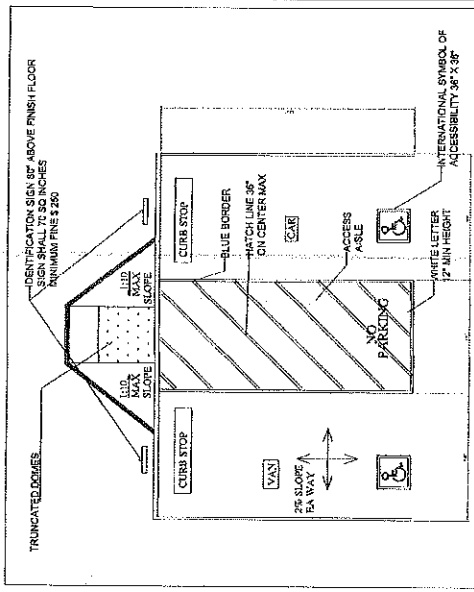
SITE PLAN
1/16" = 1'

GENERAL INFORMATION:
 CONTACT AGENT: CHI TANG
 PHONE: 909-538-0537
 OFFICE AREA = 19460 SF
 OCCUPANCY = B
 TYPE OF CONSTRUCTION: V-B, SPRINKLER
 PAVING SPACE = 76 SPACES
 ADA PARKINGS = 4 SPACES

SHEET INDEX:
 A1. SITE PLAN
 A2. FLOOR PLAN
 P1. PLUMBING PLAN
 P2. WATER PLAN
 M1. MECHANICAL
 E1. ELECTRICAL PLAN
 E2. ELECTRICAL PLAN

THE 2013 CBC CALIFORNIA BUILDING CODE
 THE 2013 CMC CALIFORNIA MECHANICAL CODE
 THE 2013 CEC CALIFORNIA ELECTRICAL CODE
 THE 2013 CPC CALIFORNIA PLUMBING CODE
 THE 2013 CESC CALIFORNIA ENERGY CODE

SCOPE OF WORK:
 TENANT IMPROVEMENT = 19460 SF



ADA PARKING DETAIL
1/4" = 1'

DESIGN BY: LEON TRAN
 REGISTERED ARCHITECT
 10000 UNIVERSITY AVENUE, SUITE 100
 GARDEN GROVE, CA 92646
 (949) 440-1111
 LEONTRANARCHITECTS.COM

TRAN DESIGN
 7332 20TH ST
 WESTMINSTER, CA
 714-418-6604



HEAVEN'S GATE FUNERAL
 13272 GARAGE GROVE BLVD
 GARDEN GROVE, CA
 909-538-0537

LEON TRAN
 SCALE: 1/8" = 1'
 6-15-15
 CUP-073-2016

A1

DESIGN BY: LEON TRAN

TRAN DESIGN
7332 20TH ST
WESTMINSTER, CA
714-419-8604

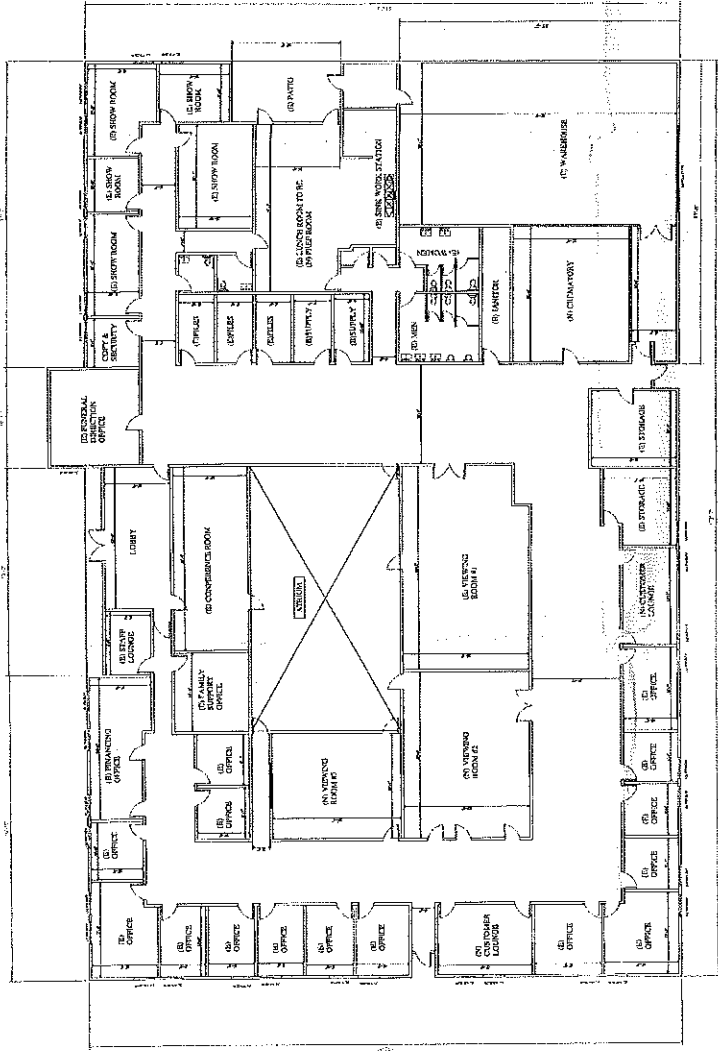
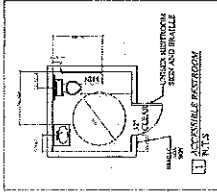


BUILDING OCCUPANCY LOAD ANALYSE
OFFICE AREA: 15616 SF/200 = 77.5 PEOPLE
RECEPTION ROOM: 460 SF/7100 = 4.5 PEOPLE
LOBBY + WAREHOUSE = 2000 SF/1000 = 2.0 PEOPLE
TOTAL GROSS OCCUPANCY: 86 PEOPLE
MIN GROSS WIDE: 88" X 22" = 17.2 SQUARE INCHES
DOOR PROVIDE 2 EXIT 36" WIDE DOOR

GENERAL NOTE

- EXISTING WALL
- NEW WALL
- DEMOLITE WALL
- (E) OUTLET VENT
- (E) INLET VENT
- 2X4 FLUORESCENT LIGHT TUB
- FLUORESCENT LIGHT BULL
- SWITCH LIGHT
- STANDARD OUTLET (typ)

① ACCESSIBLE SEAT THIS AREA

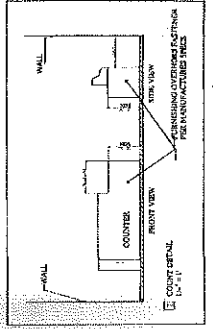
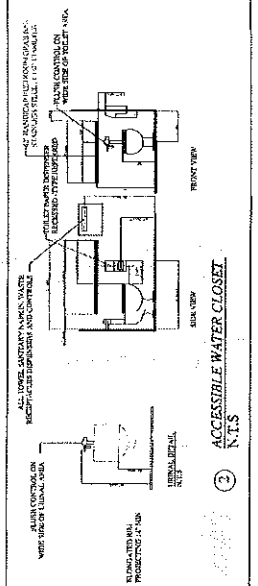
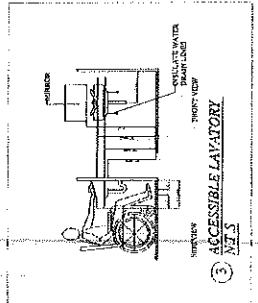


NEW FLOOR PLAN
3/32" = 1"

HEAVEN'S GATE FUNERAL
13272 GARAGE GROVE BLVD
GARDEN GROVE, CA
909-638-0537

FLOOR PLAN
A2

GENERAL NOTE
1. RESTROOM WALLS SMOOTH, HARD, NONABSORBENT SURFACE THAT EXTEND 1 FT AND ON THE WALL AT LEAST 6" ABOVE THE FINISH FLOOR SURFACE. WALLS SHALL HAVE A SMOOTH HARD FINISH SURFACE TO THE CEILING SHALL HAVE AND EXCEPT FOR STRUCTURAL ELEMENTS, THE MATERIALS USED IN SUCH WALL SHALL BE OF A TYPE THAT IS NOT ADVERSELY AFFECTED BY MOISTURE.



① EXISTING DOOR TO BE REMOVED. THE EXISTING DOOR IS TO BE REPLACED BY A NEW DOOR. THE NEW DOOR SHALL BE 36" WIDE BY 80" HIGH. THE DOOR SHALL BE A GLASS DOOR WITH A METAL FRAME. THE DOOR SHALL BE OPERATED BY A PUSH-BUTTON DEVICE. THE DOOR SHALL BE OPERATED BY A PUSH-BUTTON DEVICE. THE DOOR SHALL BE OPERATED BY A PUSH-BUTTON DEVICE. THE DOOR SHALL BE OPERATED BY A PUSH-BUTTON DEVICE.

RESOLUTION NO. 5863-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING CONDITIONAL USE PERMIT NO. CUP-073-2016, FOR PROPERTY LOCATED AT 13272 GARDEN GROVE BOULEVARD, ASSESSOR'S PARCEL NOS. 399-011-44 AND 46.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove does hereby adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approve Conditional Use Permit No. CUP-073-2016, for operation a new funeral home, within an existing approximately 19,460 square foot office building, which will include a mortuary and crematory (the "Project") on a parcel of land located on the south side of Garden Grove Boulevard, east of Fairview Street at 13272 Garden Grove Boulevard, Assessor's Parcel Nos. 399-011-44 & 46.

BE IT FURTHER RESOLVED that the Planning Commission has considered the proposed Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program together with comments received during the public review process. The record of proceedings on which the Planning Commission's decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of record of proceedings is the Director of Community and Economic Development. The Planning Commission finds on the basis of the whole record before it, including the initial study and comments received, that there is no substantial evidence that the Project with the proposed mitigation measures will have a significant effect on the environment. The Planning Commission further finds that the adoption of the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis. Therefore, the Planning Commission hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for this Project.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-073-2016, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Heaven's Gate Funeral Home, Inc.
2. The applicant is requesting Conditional Use Permit (CUP) approval to operate a new funeral home, within an existing approximately 19,460 square foot office building, which will include a mortuary and crematory.
3. Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et. seq., and the CEQA guidelines, 14 California Code of Regulations Sec. 15000 et. seq., an initial study was prepared and it has been determined that the proposed Project qualifies for a Mitigated Negative Declaration because the proposed project with the proposed mitigation measures cannot, or will not, have a significant effect on the environment.

A Mitigation Monitoring and Reporting Program has been prepared and is attached to the Mitigated Negative Declaration listing the mitigation measures to be monitored during project implementation. The Mitigated Negative Declaration was prepared and circulated in accordance with CEQA and CEQA's implementing guidelines.

4. The property has a General Plan Land Use designation of Light Commercial, and is zoned C-2 (Community Commercial). The subject site is 1.4-acres in area and is improved with an existing approximately 19,460 square foot one-story office building located on the south side of Garden Grove Boulevard, east of Fairview Street at 13272 Garden Grove Boulevard (Assessor's Parcel Nos. 399-011-44 & 399-011-46).
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 June 2, 2016, and duly continued to, and held on, June 16, 2016, 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 meetings of June 2, 2016 and June 16, 2016.

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 1.4-acres in area and is improved with an existing approximately 19,460 square foot one-story office building, located on the south side of Garden Grove Boulevard, east of Fairview Street at 13272 Garden Grove Boulevard (Assessor's Parcel Nos. 399-011-44 & 399-011-46).

The property is located in the C-2 (Community Commercial) zone and has a General Plan Land Use Designation of Light Commercial. The subject property is adjacent to C-2 zoned properties to the east and west, R-1 (Single-Family Residential) zoned properties to the south, and C-3 (Heavy Commercial) zoned properties, across Garden Grove Boulevard, to the north.

In March of 1981, the City approved Site Plan No. SP-107-81, which allowed the construction of the 19,460 square foot single-story office building. According to

business license records, the office building has been vacant since 2014, and was previously occupied by general office type businesses.

The applicant has requested to utilize the existing office building to operate a new funeral home, which will include a mortuary and crematory. Mortuaries and crematories are permitted uses in the C-2 zone, subject to the approval of a Conditional Use Permit.

The subject application was originally scheduled for Planning Commission consideration on May 19, 2016; however, the applicant requested a continuance in order to have a representative from the American Crematory Equipment Company present to answer questions related to the cremation process and the cremation unit. The Planning Commission granted the applicant's request and continued the subject application to the June 2, 2016, Planning Commission meeting. Subsequently, due to not having the entire Planning Commission present to consider the subject application, Conditional Use Permit No. CUP-073-2016 was continued to the June 16, 2016 Planning Commission meeting in an effort to have all seven (7) Planning Commissioners present at that meeting to consider the item. The Planning Commission also directed Staff to bring the Draft Resolution of Approval and prepare a Draft Resolution of Denial for their consideration.

The existing 19,460 square foot one-story building is currently comprised of several office rooms, storage rooms, a warehouse room, and an atrium, open to the sky, in the center. There are no proposed major changes to the existing floor plan. The applicant plans to utilize most of the existing rooms as part of the funeral home establishment. All proposed construction work will only consist of interior tenant improvements within the building with no additional floor area to be added.

On a typical business day, Heaven's Gate staff will be comprised of the funeral director and four part-time employees. Heaven's Gate staff members will meet with potential clients on a one-on-one basis to arrange pre-need services, assisting families to choose among the various funeral packages and options that are available. However, in most cases, such meetings will be conducted with clients off-site at their private homes or hospital locations to arrange their funeral service needs. A showroom will be provided for clients displaying available caskets, urn collections, as well as other related products such as markers, and mourning clothing.

After funeral services have been arranged, clients may reserve 2-4 hour time periods, during business hours, to allow friends and family of the departed to attend a viewing to pay their respects. There will be three (3) viewing rooms available. Viewing Room #1 will be 894 square feet in area, Viewing Room #2 will be 737 square feet in area, and Viewing Room #3 will be 477 square feet in area. Viewing periods are scheduled at least one (1) hour apart and will not occur simultaneously.

This ensures there will not be any overlap of viewing appointments, thereby mitigating any potential parking demand issues.

There are 76 parking spaces currently provided on-site. The parking study concludes there will be sufficient parking available to accommodate the proposed project.

Mortuary cold storage will be available on-site in the room called, "Prep Room", as noted on the submitted floor plan. The on-site cold storage will be used for temporarily storing human remains before and after the embalming process as well as during preparation of the deceased before scheduled viewing appointments. The human remains will then be transported to a burial site or be transferred to the on-site cremation facility to be cremated. Human remains are not kept on-site for long periods of time. Human remains are only stored during the embalming process, during preparation for viewing appointments, and when awaiting cremation. The mortuary will not operate similar to a morgue in that human remains may be kept for long periods of time.

The hours of operation for the funeral home establishment will be from 9:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 7:00 p.m., Saturday and Sunday.

FINDINGS AND REASONS:

All findings for approval of the proposed Conditional Use Permit required under Section 9.32.030.D.4 (Conditional Use Permit) of the Garden Grove Municipal Code can be made.

Conditional Use Permit:

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

The property has a General Plan Land Use designation of Light Commercial, and is zoned C-2 (Community Commercial). Mortuaries and crematories are permitted uses in the C-2 zone, subject to the approval of a Conditional Use Permit. The use is consistent with the General Plan provided that the operation of the facility complies with the conditions of approval.

2. That 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 conditions of approval will minimize potential impacts to the adjoining 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.

Additionally, 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.

Finally, the use will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare. An initial study has been prepared for the proposed Mitigated Negative Declaration for this project. The initial study evaluated environmental factors such as, but not limited to: aesthetic impacts, air quality impacts, geology and soils impacts, greenhouse gas emissions impacts, hazards and hazardous materials impacts, hydrology and water quality impacts, noise impacts, transportation and circulation impacts, and land use and planning impacts. As it relates to air quality impacts, to further reduce potential emissions and to ensure there are less than significant impacts, the following mitigation measure is required: "All emissions controls present on the cremator must be inspected on a weekly basis to ensure that the cremator and its ancillary emissions and operational equipment are in perfect working order." As they relate to transportation and circulation impacts, the following three (3) mitigation measures are required: (1) to prevent overlapping parking demands, viewing periods shall be scheduled at least one hour apart and shall not occur simultaneously; (2) the use of the building shall be restricted to funeral home and related activities (e.g., crematory and mortuary) only; and (3) subleasing of unused space shall not be permitted to ensure the sole use of the establishment as a funeral home only. A Mitigation Monitoring and Reporting Program (MMRP) is also required to ensure that the aforementioned mitigation measures are conducted and carried out as required. The conditions of approval, along with the MMRP, will ensure the public health, safety, and welfare. Therefore the project will not create a menace to the public health, safety, or welfare.

3. That 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.

Provided the proposed use operates per the Conditions of Approval under Conditional Use Permit No. CUP-073-2016, then the site, with the existing site improvements, is of adequate size to accommodate the proposed uses within the surrounding area.

4. That 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 with 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 REASONS SET FORTH IN STAFF REPORT

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

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The Conditional Use Permit (CUP-073-2016) does possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 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-073-2016.

EXHIBIT "A"

Conditional Use Permit No. CUP-073-2016

13272 Garden Grove Boulevard

CONDITIONS OF APPROVAL

General Conditions

1. Each owner of the property shall execute, and the applicant shall record against the property, 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. 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, Heaven's Gate Funeral Home, Inc., 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, property owner(s), 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. This Conditional Use Permit only authorizes the operation of a funeral home, with a mortuary and crematory, as identified on the site plan and floor plan attached to these Conditions of Approval. 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 and Economic 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 proposed use or create impacts that have not been previously addressed, and which are determined by the Community and Economic 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. The hours of operation for the funeral home establishment will be from 9:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 7:00 p.m., Saturday and Sunday. 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.
7. There shall be no customers or patrons in or about the premises when the establishment is closed.
8. The sale of alcohol for consumption on or off the premises is prohibited. There shall be no consumption of alcoholic beverages on the premises.
9. 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).

Public Works Water Services Division

10. A Reduced Pressure Principle Device (RPPD) backflow prevention device shall be installed for meter protection. The landscape system shall also have RPPD device. Installation shall be per City Standards and shall be tested by a certified backflow device tester immediately after installation. Cross connection inspector shall be notified for inspection after the installation is completed. The property owner(s) shall have RPPD device tested once a year thereafter by a certified backflow device tester and the test results to be submitted to Public Works, Water Services Division. Property owner(s) must open a water account upon installation of RPPD device.
11. Any new or existing water valve located within new concrete driveway or sidewalk construction shall be reconstructed per City Standard B-753.
12. Existing fire service to be upgraded to an above-ground backflow device with a Double Check Detector Assembly (DCDA) per City Standard B-773. Existing fire service vault and old fire service piping appurtenances to be abandoned. New device shall be tested immediately after installation and once a year thereafter by a certified backflow device tester and the results are to be submitted to the Public Works Water Services Division. Device shall be on private property and is the responsibility of the property owner. The

above-ground assembly shall be screened from public view as required by the Planning Services Division.

13. Location and number of fire hydrants shall be as required by the Public Works Water Services Division and the Fire Department.
14. Chemical discharge shall be permitted and monitored by the Orange County Sanitary District's Source Control.

Community and Economic Development Department

15. The establishment shall be operated as a funeral home with mortuary and crematory. As such, any necessary permits, licenses, or other approvals to operate a mortuary and crematory as required by other governing agencies shall be properly obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the governing agencies.
16. No outside storage or displays shall be permitted at any time.
17. There shall be no amusement devices on the premises at any time.
18. Viewing periods/appointments shall be scheduled at least one (1) hour apart and shall not occur simultaneously. Thus, only one viewing room may be used at a time.
19. The use of the building shall be restricted to funeral home and related activities (e.g., crematory and mortuary) only. Additionally, subleasing of unused space shall not be permitted to ensure the sole use of the establishment as a funeral home only.
20. 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.
21. Amplified music may be permitted, but the sound emitted from the premises shall not be audible outside the boundaries of the establishment.
22. Approval of this Conditional Use Permit is based, in part, on a parking study that concludes sufficient on-site parking exists to accommodate the

anticipated intensity of the use. However, in the event that, at any time, the City's Community and Economic Development Director and/or Traffic Engineer determine, in their reasonable discretion, that the number of on-site parking spaces provided becomes inadequate to accommodate operation of the approved funeral home use, and/or if the operation of the use results in increased traffic or circulation problems or unanticipated impacts to neighboring properties or off-site parking facilities, the applicant and/or property owner shall prepare a plan to mitigate the parking, traffic, and/or circulation issues identified by the City (the "Mitigation Plan"). The Mitigation Plan shall be approved by the City's Traffic Engineer and/or Community and Economic Development Director and shall include such solution or combination of solutions as are needed to adequately mitigate the identified issue(s). Such solutions may include, without limitation: scheduling and/or operational adjustments to limit overlapping activities during peak periods of operation; re-configuring the parking lot to provide additional parking through re-striping; reducing the hours of operation; instituting an off-site parking arrangement; and/or having on-site parking control personnel. Any such Mitigation Plan approved by the City shall be enforceable by the City in the same manner as other Project Conditions of Approval.

23. 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.
24. There shall be no cooking of food within the funeral home establishment without first obtaining necessary approvals from the City.
25. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
26. 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.
27. 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.
28. 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 or application.

29. 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.
30. 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 and Economic Development Department, Planning Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
31. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community and Economic Development Department, Planning Division. No advertising material shall be placed thereon.
32. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
33. 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.
34. Any modifications to existing signs or the installation of new signs shall require approval by the Community and Economic Development Department, Planning Services Division prior to issuance of a building permit.
35. 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-073-2016. 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.

Conditional Use Permit No. CUP-073-2016
Conditions of Approval

36. A copy of the Resolution approving Conditional Use Permit No. CUP-073-2016, including these Conditions of Approval, shall be kept on the premises at all times.
37. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-073-2016, and his/her agreement with all conditions of the approval.
38. Any Conditional Use Permit previously governing the property, on Assessor's Parcel Nos. 399-011-44 & 399-011-46, shall become null and void, and superseded in its entirety, by the approval of Conditional Use Permit No. CUP-073-2016.
39. This is a change in occupancy from "B" to "A-3". Therefore, the applicant shall submit building plans to the City for review and approval to verify building code compliance for the new occupancy. Building plans shall be prepared and signed by a licensed architect.
40. The applicant shall obtain all required permits and licenses from, and comply with all applicable regulations promulgated by, any other federal, state, or local agency with jurisdiction over the operation of the proposed funeral home, mortuary, and crematory uses, including, without limitation, the South Coast Air Quality Management District and the California Department of Consumer Affairs, Cemetery and Funeral Bureau.
41. Pursuant to the Mitigation Measures stated within the Mitigated Negative Declaration and Initial Study for the subject project: (1) all emissions controls present on the cremator must be inspected on a weekly basis to ensure that the cremator and its ancillary emissions and operational equipment are in perfect working order; (2) to prevent overlapping parking demands, viewing periods shall be scheduled at least one hour apart and shall not occur simultaneously; (3) the use of the building shall be restricted to funeral home and related activities (e.g., crematory and mortuary) only; and (4) subleasing of unused space shall not be permitted to ensure the sole use of the establishment as a funeral home only.
42. 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.

RESOLUTION NO. 5863-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE DENYING CONDITIONAL USE PERMIT NO. CUP-073-2016, A REQUEST TO OPERATE A NEW FUNERAL HOME, WITHIN AN EXISTING APPROXIMATELY 19,460 SQUARE FOOT OFFICE BUILDING, WHICH INCLUDES A MORTUARY AND CREMATORY, FOR PROPERTY LOCATED AT 13272 GARDEN GROVE BOULEVARD, ASSESSOR'S PARCEL NOS. 399-011-44 AND 46.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in a regular session assembled on June 16, 2016, does hereby deny Case No. Conditional Use Permit No. CUP-073-2016 for a property located on the South side of Garden Grove Boulevard and east of Fairview Street, at 13272 Garden Grove Boulevard, Assessor's Parcel No. 399-011-44 & 46.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-073-2016, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Heaven's Gate Funeral Home, Inc.
2. The applicant is requesting Conditional Use Permit (CUP) approval to operate a new funeral home, within an existing approximately 19,460 square foot office building, which will include a mortuary and crematory.
3. Because the application is denied, the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270(a).
4. The property has a General Plan Land Use designation of Light Commercial, and is zoned C-2 (Community Commercial). The subject site is 1.4-acres in area and is improved with an existing approximately 19,460 square foot one-story office building located on the south side of Garden Grove Boulevard, east of Fairview Street at 13272 Garden Grove Boulevard (Assessor's Parcel Nos. 399-011-44 & 399-011-46).
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 June 2, 2016, and duly continued to, and further held on, June 16, 2016, 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 meetings of June 2, 2016 and June 16, 2016.

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 1.4-acres in area and is improved with an existing approximately 19,460 square foot one-story office building, located on the south side of Garden Grove Boulevard, east of Fairview Street at 13272 Garden Grove Boulevard (Assessor's Parcel Nos. 399-011-44 & 399-011-46).

The property is located in the C-2 (Community Commercial) zone and has a General Plan Land Use Designation of Light Commercial. The subject property is adjacent to C-2 zoned properties to the east and west, R-1 (Single-Family Residential) zoned properties to the south, and C-3 (Heavy Commercial) zoned properties, across Garden Grove Boulevard, to the north. The property is located on the edge of the C-2 Zone adjacent to a residential neighborhood, and the building in which the proposed funeral home, mortuary, and crematory would be housed is within a few hundred feet of existing single family residences. There is also a school in the immediate vicinity.

In March of 1981, the City approved Site Plan No. SP-107-81, which allowed the construction of the 19,460 square foot single-story office building. According to business license records, the office building has been vacant since 2014, and was previously occupied by general office type businesses.

The applicant has requested to utilize the existing office building to operate a new funeral home, which will include a mortuary and crematory. Mortuaries and crematories are permitted uses in the C-2 zone, subject to the approval of a Conditional Use Permit.

Pursuant to Garden Grove Municipal Code Section 9.32.030.D.4 (Conditional Use Permit), in order for the Planning Commission to approve a Conditional Use Permit, information submitted by the applicant and/or presented at the public hearing shall substantiate each of the following four (4) findings:

1. That the proposed use will be consistent with the City's adopted General Plan.
2. That 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.

3. That 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.
4. That 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.

FINDINGS AND REASONS:

Based on the totality of information provided, the Planning Commission finds that the following required finding for a Conditional Use Permit cannot be made:

2. Required Finding: That 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.

Reason Required Finding Cannot Be Made: Although located within the C-2 Zone, the property on which the proposed funeral home, mortuary and crematory would be located is adjacent to a residential neighborhood, and the building itself is within a few hundred feet of existing single family residences. There is also a school in the immediate vicinity. Several members of the public testified that, due to its proximity to single family residences and other sensitive uses, the proposed new use is inappropriate for this particular location. Several residents of the adjacent residential neighborhood testified that the nature of the use makes them and their children uncomfortable, that they are concerned about the potential long-term physical and mental health impacts from residing and/or working in such close proximity to a crematory, that the proximity of the proposed use would interfere with their use and enjoyment of their properties, and that, due to negative public perceptions about living in proximity to such a use, their property values would decrease if the proposed use was established at this location.

For these reasons, and based on the totality of the information provided, it appears that the requested use at the proposed location will, in fact, adversely affect the health, peace, and comfort of persons residing or working in the surrounding area, and unreasonably interfere with the use, enjoyment, and/or valuation of the property of other persons located in the

vicinity of the site. Therefore, this required finding for approval of a Conditional Use Permit cannot be made.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The Conditional Use Permit (CUP-073-2016) does not possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030 (Conditional Use Permits).
2. The applicant's request for Conditional Use Permit No. CUP-073-2016 is denied in its entirety.

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: D.1.	SITE LOCATION: Southwest corner of Garden Grove Boulevard and Euclid Street, at 11162 Garden Grove Boulevard
HEARING DATE: June 16, 2016	GENERAL PLAN: Civic Center Mixed Use
CASE NO.: Site Plan No. SP-025-2016, Conditional Use Permit No. CUP-079-2016, Variance No. V-012-2016	ZONE: CC-3 (Civic Center Core)
APPLICANT: Danny Bockting	CEQA DETERMINATION: Exempt
PROPERTY OWNER(S): Garden Grove 100, LLC	APN: 099-105-05

REQUEST:

The applicant is requesting Site Plan approval to construct a 940 square foot pad building, for a drive-thru coffeehouse, Starbucks, on an approximately 16,689 square foot vacant lot, along with associated improvements, which include a parking lot and landscaping, and a request for Conditional Use Permit approval to operate the proposed drive-thru coffeehouse. The applicant is also requesting Variance approval to deviate from the minimum lot size requirement for drive-thru facilities in the CC-3 (Civic Center Core) zone.

BACKGROUND:

The subject property is currently an approximately 16,689 square foot vacant lot, located on the southwest corner of Garden Grove Boulevard and Euclid Street. The property has a General Plan Land Use Designation of Civic Center Mixed Use and is zoned CC-3 (Civic Center Core). The subject property is adjacent to CC-3 zoned properties to the west, south, to the north, across Garden Grove Boulevard, and to the east, across Euclid Street.

The lot was previously developed with a Chevron service (gas) station which also included an incidental automotive repair shop. According the business license records, the service station began its operation in 1993. In 2003, the service station ceased operation and was demolished.

Beginning in 1966, there have been several street deeds (in 1966, 1968, 1969, and 2008) recorded on title of the property where easements for road purposes, primarily for street widening purposes along Garden Grove Boulevard and Euclid

Street, have been granted to the City of Garden Grove. The cumulative effect of said easements have reduced the overall developable area of the property from approximately 25,866 square feet down to approximately 16,689 square feet, a difference of 9,177 square feet.

DISCUSSION:

SITE PLAN:

Site Design, Circulation & Floor Plan:

The proposal involves the construction of a new one-story 940 square foot pad building, for a drive-thru coffeehouse, situated close to the intersection of Garden Grove Boulevard and Euclid Street. The development standards of the CC-3 zone specify a minimum setback of 0'-0" and a maximum setback of 5'-0" along Garden Grove Boulevard, and a minimum setback of 15'-0" and a maximum setback of 20'-0" along Euclid Street. The intent of the specified setbacks, along with other development standards of the CC-3 zone, are to encourage the development of uses that create walkable and lively environments that are pedestrian oriented. The placement of the pad building complies with the setbacks of the CC-3 zone by providing a 5'-0" setback to the northerly property line along Garden Grove Boulevard and a 20'-0" setback to the easterly property line along Euclid Street. The CC-3 zone does not require a setback to the westerly and southerly property lines for this site.

The interior of the 940 square foot pad building will consist of an employee back bar, a workroom, a storage and office room, a utility room, a drive-thru pick-up window, an employee unisex restroom, and a customer unisex restroom. At the southeast corner of the pad building will be a walk-up order/pick-up window. There is no proposed interior customer dining area within the building. Adjacent to the south of the building, a 482 square foot outdoor customer dining area, open to the sky, will be provided. Bike racks will be provided adjacent to the outdoor customer dining area available for use by both employees and customers.

A drive-thru lane will run throughout the property in a "U" shape providing an extended queuing lane for vehicles. The Municipal Code requires a minimum distance of 80'-0" between the entrance to the drive-through aisle and the first menu order board, as well another 80'-0" between the menu order board and the pick-up window. The project significantly exceeds said requirements. Drive-thru facilities typically provide a total of 160'-0" of queuing lane, or space for eight (8) vehicles. This project will provide a total of approximately 200'-0" feet of queuing lane, or space for ten (10) vehicles. This extended queuing lane will ensure there be no vehicular circulation issues on-site or off-site.

The subject site is currently improved with two (2) driveway approaches, one (1) off of Garden Grove Boulevard, and the other off of Euclid Street. Currently, there are two (2) driveway approaches located close to each other; one (1) at the northwest corner of the subject property and the other at the northerly property line of the abutting property to the west. The two (2) adjacent driveways create an unsafe environment for pedestrians as they are forced to walk across two (2) driveways at this area. Additionally, having two (2) driveway approaches being so close to each other, creates the potential for safety hazards for motorists entering and exiting each site. As part of this project, the driveway approach off of Garden Grove Boulevard will be removed, providing sole access to the subject site from Euclid Street, which will improve pedestrian and vehicular safety at the northwest corner of the property.

Currently, the subject property owner is voluntarily allowing reciprocal access, for vehicular ingress and egress, at the southeast corner of the subject site, to the adjacent property (APN: 099-105-17) to the south/southwest which is improved with an existing multi-tenant commercial retail shopping center. In order to ensure there is safe vehicular circulation on- and off-site the subject property, reciprocal access to the abutting property will be removed. A review of the existing easements on title show no recorded reciprocal easement agreement(s) requiring reciprocal access to the abutting property.

Parking:

For a coffeehouse establishment that includes an excess of sixteen (16) seats and 299 square feet of customer dining area, the Municipal Code requires a minimum of one (1) parking space per 100 square feet of gross floor area, with a minimum of ten (10) parking spaces. The proposed project includes a 940 square foot building and 482 square feet of outdoor customer dining area. The Municipal Code states that no additional parking shall be required for the first 500 square feet of outdoor customer dining area. Therefore, proposed 482 square feet of outdoor customer dining area is exempt from the parking requirements. Based on Code requirements for parking, the project is required to provide a minimum of ten (10) parking spaces. The project provides a total of twelve (12) parking spaces (10 standard parking spaces and 2 handicap parking spaces), which equals a surplus of two (2) parking spaces.

Building Design:

The applicant has proposed a design for the new building that is architecturally unique, and aesthetically pleasing, providing a pedestrian oriented elevation along Garden Grove Boulevard and Euclid Street that creates an inviting and lively environment. The building is architecturally consistent with Starbucks' current brick and mortar storefront design scheme but also meets the intent of the CC-3 zone design requirements. The building elevations will consist of varying finishes and

colors with materials including smooth stucco, reclaimed wood, and paint and powder coated metal exterior accents.

Landscaping:

Based on the landscaping requirements of the Municipal Code, the site is required to provide a minimum of 1,411.5 square feet of landscaping on-site, excluding any landscaping provided in required setbacks. The proposed site design will provide a total of approximately 2,271 square feet of landscaping, which is a surplus of 859.5 square feet. There will be an additional 819 square feet of landscaping provided in the required setback along Euclid Street, which equals a grand total of 3,090 square feet of landscaping on-site.

Landscaping will be provided along both the Garden Grove Boulevard and Euclid Street frontages, as well as throughout the interior of the property. Landscape planting will include a wide variety plant material such as, but not limited to: crape myrtle trees, pink tabebuia trees, London plane trees, various shrubs, flowering, groundcover, and vines. All planting shall be watered by means of an automatic irrigation system meeting the City's requirements for water conservation. The applicant is required to submit a landscape and irrigation plan to the City that complies with the landscaping requirements of Title 9 of the Municipal Code.

Signage:

All proposed signage shall adhere to Section 9.20, Sign Standards, of Title 9 of the Municipal Code. The applicant has submitted a detailed and comprehensive sign plan for the entire site for review and approval. As part of the sign plan, the applicant proposes wall signs, directional signs, and menu order board signs that are typically found at other Starbucks coffeehouse locations. A separate sign application will be submitted and building permit will be obtained for the proposed on-site signage.

CONDITIONAL USE PERMIT:

For Coffeehouses and Drive-Through Facilities, the Municipal Code requires the approval of a Conditional Use Permit to operate such businesses within the CC-3 zone. Drive-thru facilities are generally prohibited in any civic center zone except on properties zoned CC-3 and fronting on Garden Grove Boulevard and Euclid Street. The subject property is zoned CC-3 and fronts on Garden Grove Boulevard and Euclid Street, and therefore meets this requirement. The project complies with all other development standards for Drive-Thru Facilities, with exception to the minimum lot size requirement of 20,000 square feet.

FINDINGS REQUIRED TO APPROVE VARIANCE:

In order for the proposed project to move forward, the applicant is requesting consideration of a Variance from 9.18.030.130.C of Title 9 of the Municipal Code for a deviation to the minimum lot size requirement for Drive-Thru Facilities in the CC-3 zone, which is 20,000 square feet minimum, in order to allow the proposed development of the site. The subject site is approximately 16,689 square feet in area, which is 3,311 square feet short of the minimum.

Pursuant to State law and Garden Grove Municipal Code Section 9.32.030.D.6, in order to grant a property owner's request for a Variance, the Planning Commission must make each of the following five (5) findings:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood.

Since 1966, there have been several street deeds (in 1966, 1968, 1969, and 2008) recorded on title of the property involving easements for road purposes, primarily for street widening purposes along both Garden Grove Boulevard and Euclid Street, which have been granted to the City of Garden Grove. Other sites in the same vicinity, have not been subjected to the same level of impact from easements and right-of-way dedications to the City as the subject property. The cumulative effect of the aforementioned easements have ultimately reduced the overall developable area of the property from approximately 25,866 square feet down to approximately 16,689 square feet, which is a difference of 9,177 square feet. Without the easements, the subject property would have met the minimum 20,000 square foot lot size for Drive-Thru Facilities. The multiple easements and right-of-way street dedications to the City represent exceptional or extraordinary circumstances or conditions applicable to the property involved and to the intended use or development of the property that do not apply generally to other property in the same vicinity.

2. That such Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but which is denied to the subject property.

There are other similar properties in the immediate vicinity, within the same zone, or other similar zoned properties throughout the City, that do not meet the minimum lot size, per their respective zones, as required by current Municipal Code requirements. Most of these properties were developed prior to current Municipal Code requirements, and were not required to meet the current minimum lot size requirements. Approval of the proposed Variance

will not set a precedent and will allow the applicant to enjoy a substantial property right possessed by other property owners located in other similar properties in the immediate vicinity, within the same zone, and other similarly zoned properties throughout the City. With exception to the requested Variance to deviate from the minimum lot size requirement, the proposed project complies with all other development standards of the zone.

3. That the granting of a Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located.

Approval of this Variance will allow the site to be improved and developed, which has been vacant since 2003, and provide an additional amenity to the community as a pedestrian friendly and oriented coffeehouse establishment. Provided the project complies with the Conditions of Approval, the approval of the Variance will not create an adverse effect on the public welfare or to properties or improvements in such vicinity and zone in which the property is located. The project has been designed to meet all development standards of the zone including design components such as, but not limited to: exceed minimum parking requirements, exceeding minimum landscaping requirements, providing an extended drive-thru queuing lane, meeting all ADA (Americans with Disabilities Act) requirements, and providing on-site bike racks.

4. That the granting of such Variance will not adversely affect the City's General Plan.

The proposed use is consistent with the intent of the General Plan and the zoning classification as Drive-Thru Facilities and Coffeehouses are permitted in the CC-3 (Civic Center Core) zone. The proposed Variance request will not cause an adverse effect on the City's General Plan since the Municipal Code is a tool used to implement the goals of the General Plan. The proposed Starbucks coffeehouse will improve the vacant lot, will complement neighboring uses, and will further Goal LU-6 of the General Plan to develop underutilized properties with a suitable development:

5. That approval of the Variance is subject to such conditions as will assure that it does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

Provided the Conditions of Approval are adhered to for the life of the project, approval of the subject Variance will not grant a special privilege that is inconsistent with the limitations upon other properties located within the vicinity or zone in which the subject property is situated. In addition,

pursuant to Condition of Approval No. 2, the rights granted the applicant pursuant to Variance No. V-012-2016 shall continue in effect for only so long as the nature and character of the use operating on-site remain the same as at the time of approval of the Variance. In the event the nature or character of the use on-site materially changes, Variance No. V-012-2016 shall cease to be effective or to grant the applicant any rights to continue to operate the described use on-site. Any future uses on the Site different from the current described use will be required to comply with all then applicable standards of the Garden Grove Municipal Code, and the applicant may not rely on this Variance as a basis for an approval to deviate from the minimum lot size with such future uses.

Staff believes the record contains sufficient facts to support approval of the applicant's Variance request. Accordingly, Staff has prepared for the Commission's consideration a draft resolution approving the proposed Variance request, subject to the specified Conditions of Approval.

RECOMMENDATION:

Staff recommends that the Planning Commission take the following actions:

1. Approve Site Plan No. SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016, subject to the recommended Conditions of Approval.



KARL HILL
Planning Services Manager



By: Chris Chung
Associate Planner



VICINITY MAP

PROJECT ADDRESS
 1182 GARDEN GROVE BLVD
 GARDEN GROVE, CA 92643

APN: 099-105-05

ARCHITECT
 ARCHITECTS ORANGE
 200 EAST CAVE, SUITE 410
 ORANGE, CA 92667
 PHONE: (714) 852-4400
 FAX: (714) 852-2866

APPLICANT/DEVELOPER
 200 EAST CAVE, SUITE 410
 PHOENIX, AZ 85018
 PHONE: 602-586-5800
 FAX: 602-586-9100

NOTES:
 1. PROPOSED SITE AND BUILDING STORAGE UNDER
 SEPARATE SUBMITTAL

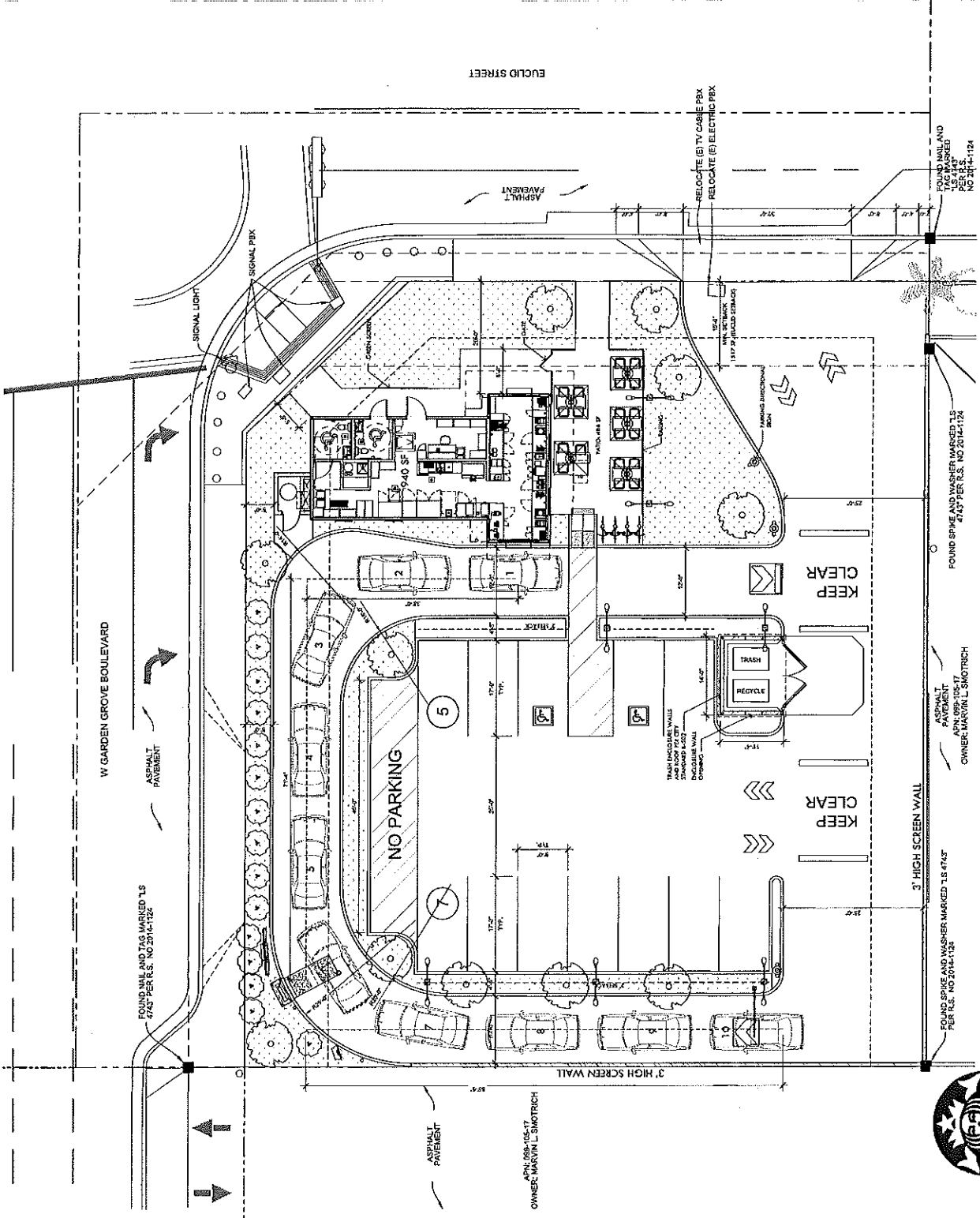
SITE SUMMARY

PROJECT DESCRIPTION:	PROPOSED NEW CONSTRUCTION OF SKELL WITH DRIVE THRU
ZONING:	RESTAURANT COMMERCIAL
EXISTING ZONING:	COMMERCIAL
ADJACENT ZONING:	COMMERCIAL
SITE AREA:	4.0 AC
GROSS SITE AREA:	4.18762 SF
BUILDING DATA:	18,792 SF
EXISTING BUILDING AREA:	1,217 SF
PATIO SEATING:	20 SEATS
NUMBER OF STORES:	ONE
P.A.V.:	0.8
LANDSCAPE CALCULATION:	
GROSS SITE AREA:	18,792 SF
EXISTING BUILDING AREA:	-1,217 SF
NET AREA:	16,248 SF
LANDSCAPE PROVIDED:	16,248 SF
LANDSCAPE REQUIRED:	16,248 SF
LANDSCAPE PROVIDED:	2,048 SF
LANDSCAPE REQUIRED:	14,200 SF
FRONT YARD SETBACK:	5'
SIDE YARD SETBACK:	20'
REAR YARD SETBACK:	NONE
PARKING DATA:	
PARKING REQUIRED:	10 STALLS
FOOD PER 1,000 SF:	12 STALLS
PARKING PROVIDED:	13 STALLS
STANDARD:	13 STALLS
OVERALL PARKING RATIO:	12.8 / 1,000 SF
SITE LANDSCAPE DATA:	
STANDARD PARKING STALL:	9'0" x 18'0"
STANDARD PARKING STALL:	9'0" x 18'0"

SCALE: 1" = 100'



144 N ORANGE ST, ORANGE CA 92666 (714) 852-4400



GARDEN GROVE & EUCLID - Garden Grove, CA SITE PLAN



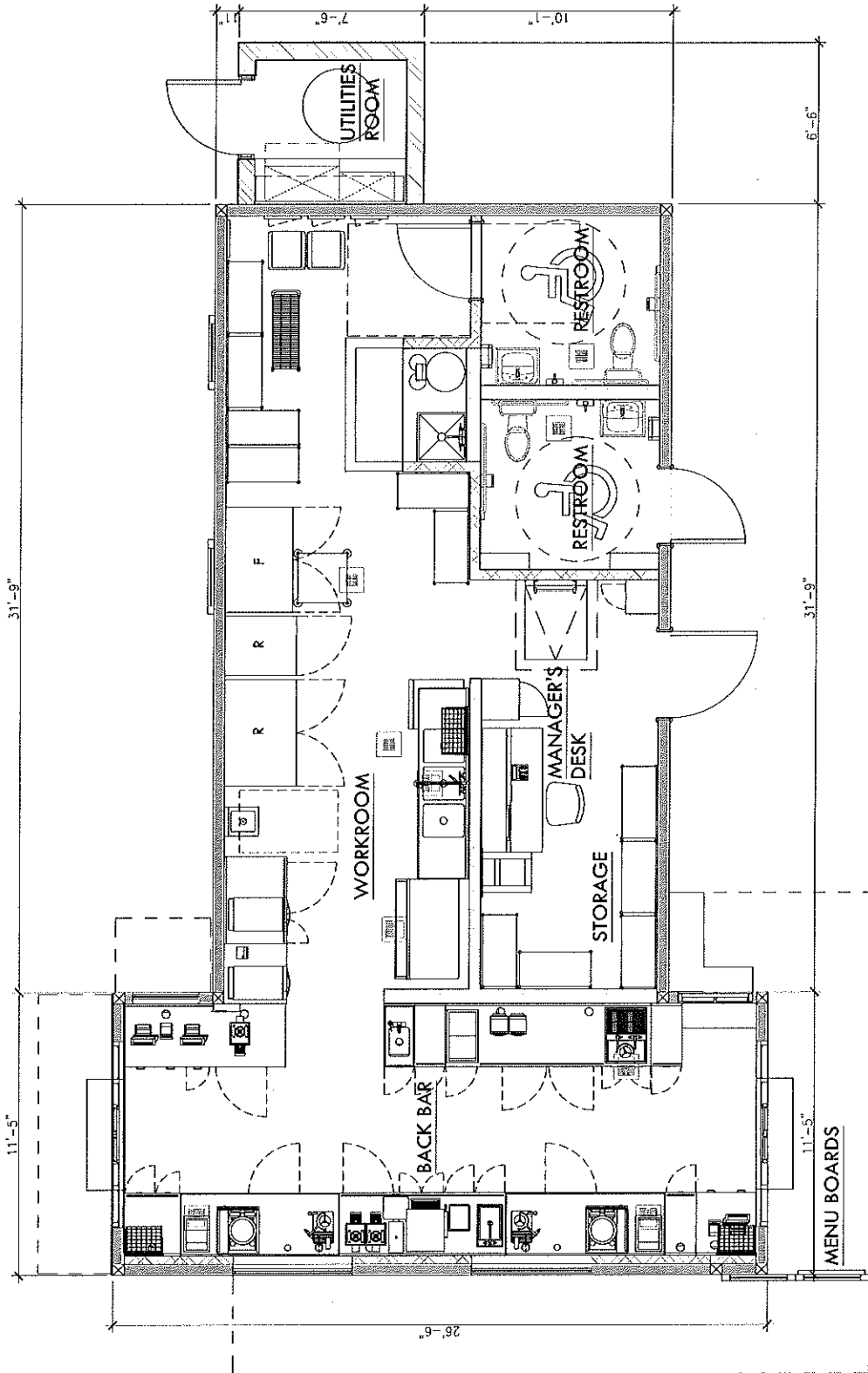
APN: 099-105-11
 OWNER: MARVA L. SINGTRICH

FOUND SPRING AND WASHER MARKED 'S 4745' PER U.C. NO 2014-1124

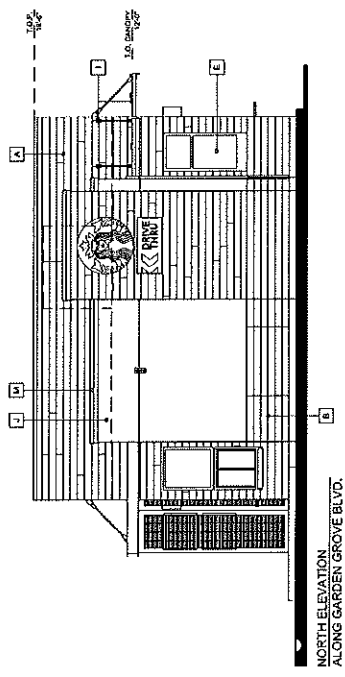
ASPHALT PAVEMENT
 APN: 099-105-11
 OWNER: MARVA L. SINGTRICH

FOUND SPRING AND WASHER MARKED 'S 4745' PER U.C. NO 2014-1124

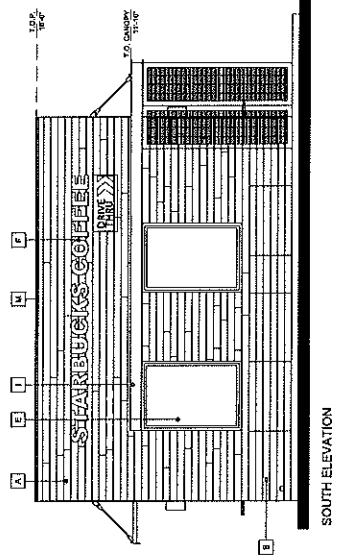
FOUND MAIL AND TAG MARKED 'S 4745' PER U.C. NO 2014-1124



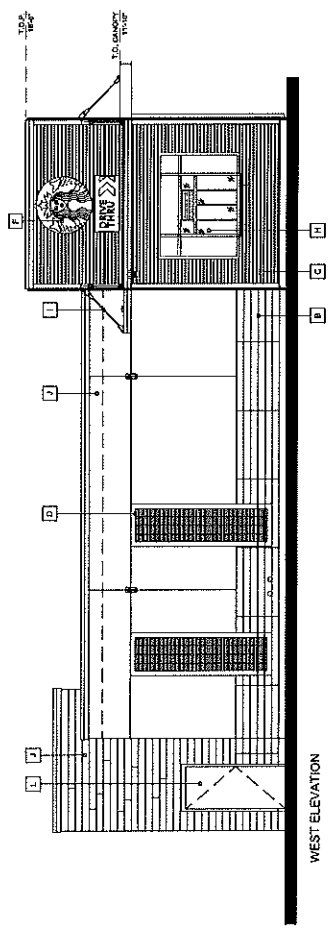
GARDEN GROVE & EUCLID - Garden Grove, CA FLOOR PLAN



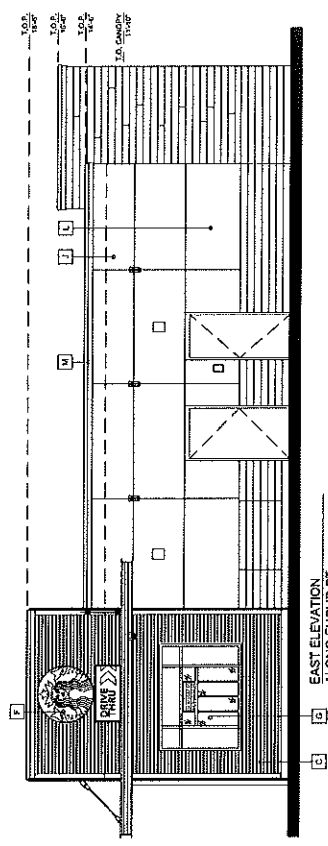
NORTH ELEVATION
ALONG GARDEN GROVE BLVD.



SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION
ALONG EUCLID ST.

EXTERIOR ELEVATION KEYNOTES

A	HARDIE PLANKS CLADDING - PAINTED SW7047 PORPOISE w/20% MIX OF COLOR B
B	HARDIE PLANKS CLADDING - PAINTED SW7048 URBANE BRONZE
C	REPURPOSED EXTERIOR METAL CLADDING POWDER COATED TO MATCH RAL 7021 MATT FINISH
D	POWDER COATED METAL TRELIS ELEMENTS RAL 7021 MATT FINISH
E	EXTERIOR GLAZING
F	SIGNAGE - UNDER SEPARATE SUBMITTAL AND APPROVAL
G	WALK-UP ORDER WINDOW
H	DRIVE-THRU WINDOW
I	EXTERIOR CANOPY
J	SMOOTH STUCCO
K	METAL WALL CAP
L	PAINTED METAL DOOR - COLOR SW 7048 URBANE BRONZE

*ALL SIGNAGE TO BE UNDER SEPARATE PERMIT



GARDEN GROVE & EUCLID - Garden Grove, CA PROPOSED EXT. ELEVATIONS

RESOLUTION NO. 5864-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING SITE PLAN NO. SP-025-2016, CONDITIONAL USE PERMIT NO. CUP-079-2016, AND VARIANCE NO. V-012-2016 FOR A PROPERTY LOCATED ON THE SOUTHWEST CORNER OF GARDEN GROVE BOULEVARD AND EUCLID STREET, AT 11162 GARDEN GROVE BOULEVARD, ASSESSOR'S PARCEL NO. 099-105-05.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove does hereby approve Site Plan No SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016, for construction and operation a 940 square foot pad building, for a drive-thru coffeehouse, Starbucks, on an approximately 16,689 square foot vacant lot, along with associated improvements, which include a parking lot and landscaping (the "Project") for property located on the Southwest Corner of Garden Grove Boulevard and Euclid Street, at 11162 Garden Grove Boulevard, Assessor's Parcel No. 099-105-05.

BE IT FURTHER RESOLVED in the matter of Site Plan No SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Danny Bockting.
2. The applicant is requesting Site Plan approval to construct a 940 square foot pad building, for a drive-thru coffeehouse, Starbucks, on an approximately 16,689 square foot vacant lot, along with associated improvements, which include a parking lot and landscaping, and a request for Conditional Use Permit approval to operate the proposed drive-thru coffeehouse. The applicant is also requesting Variance approval to deviate from the minimum lot size requirement for drive-thru facilities in the CC-3 (Civic Center Core) zone.
3. Pursuant to the California Environmental Quality Act ("CEQA"), the City of Garden Grove has determined that the proposed project is categorically exempt from the CEQA pursuant to Section 15303(c) (New Construction or Conversion of Small Structures) of the CEQA Guidelines (14 Cal. Code Regs., Section 15303).
4. The property has a General Plan Land Use designation of Civic Center Mixed Use, and is zoned CC-3 (Civic Center Core). The subject property is currently an approximately 16,689 square foot vacant lot, located on the southwest corner of Garden Grove Boulevard and Euclid Street.
5. Existing land use, zoning, and General Plan designation of property in 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 June 16, 2016, 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 of June 16, 2016, and

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 currently an approximately 16,689 square foot vacant lot, located on the southwest corner of Garden Grove Boulevard and Euclid Street. The property has a General Plan Land Use Designation of Civic Center Mixed Use and is zoned CC-3 (Civic Center Core). The subject property is adjacent to CC-3 zoned properties to the west, south, to the north, across Garden Grove Boulevard, and to the east, across Euclid Street.

The lot was previously developed with a Chevron service (gas) station which also included an incidental automotive repair shop. According the business license records, the service station began its operation in 1993. In 2003, the service station ceased operation and was demolished.

Beginning in 1966, there have been several street deeds (in 1966, 1968, 1969, and 2008) recorded on title of the property where easements for road purposes, primarily for street widening purposes along Garden Grove Boulevard and Euclid Street, have been granted to the City of Garden Grove. The cumulative effect of said easements have reduced the overall developable area of the property from approximately 25,866 square feet down to approximately 16,689 square feet, a difference of 9,177 square feet

FINDINGS AND REASONS:

SITE PLAN:

1. The Site Plan complies with the spirit and intent of the provisions, conditions and requirements of the Municipal Code and other applicable ordinances.

The project has a General Plan land use designation of Civic Center Mixed Use and is zoned CC-3 (Civic Center Core). The project complies with the land use designation and the zoning requirements for the property. With the exception of the Variance request to deviate from the minimum lot size for

Drive-Thru Facilities, the proposed project has been designed within the parameters of the CC-3 zone and Section 9.18.030.130 (Drive-Thru Facilities, Special Operating Conditions) of Title 9 of the Municipal Code. The placements of the structure, the site design, the parking lot layout, the number of on-site parking spaces, and the landscape areas are consistent with the spirit and intent of the requirements of the Municipal Code.

2. The proposed development does not adversely affect essential on-site facilities such as off-street parking, loading and unloading areas, traffic circulation and points of vehicular and pedestrian access.

The subject site is currently improved with two (2) driveway approaches, one (1) off of Garden Grove Boulevard, and the other off of Euclid Street. Currently, there are two (2) driveway approaches located close to each other; one (1) at the northwest corner of the subject property and the other at the northerly property line of the abutting property to the west. The two (2) adjacent driveways create an unsafe environment for pedestrians as they are forced to walk across two (2) driveways at this area. Additionally, having two (2) driveway approaches, being so close to each other, creates the potential for safety hazards for motorists entering and exiting each site. As part of this project, the driveway approach off of Garden Grove Boulevard will be removed, providing sole access to the subject site from Euclid Street, which will improve pedestrian and vehicular safety at the northwest corner of the property. Furthermore, in order to ensure there is safe vehicular circulation on- and off-site the subject property, the existing voluntarily provided reciprocal access to the abutting property will be removed.

The project has been designed to provide a drive aisle and parking layout that enables customers to maneuver effectively through the site, while also allowing maneuverability for customers to access and exit the drive-thru lane. Sufficient on-site parking is provided to accommodate the coffeehouse establishment.

Furthermore, the City's Traffic Engineering Division and the Fire Department have also reviewed the plans, and all appropriate conditions of approval will eliminate any adverse impacts to surrounding streets.

3. The development, as proposed, will not adversely affect essential public facilities such as streets and alleys, utilities and drainage channels.

The streets in the area will be adequate to accommodate the development once the developer provides the necessary improvements for the project. Utilities and drainage channels in the area are existing and adequate to accommodate the development. The property is not located in a sewer

deficiency area. The Public Works Department has incorporated conditions of approval to mitigate potential impacts to the sewer system.

The proposed development will also provide landscaping and proper grading of the site in order to improve drainage in the area. The Public Works Engineering and Water Services Division have reviewed that plans, and all appropriate conditions of approval will eliminate any adverse impacts to the streets and alleys, utilities and drainage channels.

4. The development does have a reasonable degree of physical, functional, and visual compatibility with neighboring uses and desirable neighborhood characteristics.

The project is located in an area with both commercial and residential uses. The proposed project is consistent with the surrounding area and compatible with the existing uses on the properties. The design of the proposed development will ensure a reasonable degree of compatibility with adjacent developments.

5. Through the planning and design of buildings and building placement, the provision of open space landscaping and other site amenities will attain an attractive environment for the occupants of the property.

The project has been designed to consider building appearance, building placement, landscaping, and other amenities in order to create an attractive and pedestrian oriented environment. All landscaped areas are required to adhere to the landscaping requirements of the Title 9 of the Municipal Code. Through the conditions of approval for the project, the necessary agreements for the protection and maintenance of all landscaping will be achieved.

VARIANCE:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or classes of use in the same vicinity or zone.

Since 1966, there have been several street deeds (in 1966, 1968, 1969, and 2008) recorded on title of the property involving easements for road purposes, primarily for street widening purposes along both Garden Grove Boulevard and Euclid Street, which have been granted to the City of Garden Grove. Other sites in the same vicinity, have not been subjected to the same level of impact from easements and right-of-way dedications to the City as the subject property. The cumulative effect of the aforementioned easements have ultimately reduced the overall developable area of the property from approximately 25,866 square feet down to approximately

16,689 square feet, which is a difference of 9,177 square feet. Without the easements, the subject property would have met the minimum 20,000 square foot lot size for Drive-Thru Facilities. The multiple easements and right-of-way street dedications to the City represent exceptional or extraordinary circumstances or conditions applicable to the property involved and to the intended use or development of the property that do not apply generally to other property in the same vicinity.

2. The Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but which is denied to the property in question.

There are other similar properties in the immediate vicinity, within the same zone, or other similar zoned properties throughout the City, that do not meet the minimum lot size, per their respective zones, as required by current Municipal Code requirements. Most of these properties were developed prior to current Municipal Code requirements, and were not required to meet the current minimum lot size requirements. Approval of the proposed Variance will not set a precedent and will allow the applicant to enjoy a substantial property right possessed by other property owners located in other similar properties in the immediate vicinity, within the same zone, and other similarly zoned properties throughout the City. With exception to the requested Variance to deviate from the minimum lot size requirement, the proposed project complies with all other development standards of the zone.

3. The Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.

The site has been vacant since 2003. Approval of this Variance will allow the site to be improved and developed and provide an additional amenity to the community as a pedestrian friendly and oriented coffeehouse establishment. Provided the project complies with the Conditions of Approval, the approval of the Variance will not create an adverse effect on the public welfare or to properties or improvements in such vicinity and zone in which the property is located. The project has been designed to meet all development standards of the zone including design components such as, but not limited to: exceed minimum parking requirements, exceeding minimum landscaping requirements, providing an extended drive-thru queuing lane, meeting all ADA (Americans with Disabilities Act) requirements, and providing on-site bike racks.

4. The granting of the Variance will not adversely affect the General Plan.

The proposed use is consistent with the intent of the General Plan and the zoning classification as Drive-Thru Facilities and Coffeehouses are permitted in the CC-3 (Civic Center Core) zone. The proposed Variance request will not cause an adverse effect on the City's General Plan since the Municipal Code is a tool used to implement the goals of the General Plan. The proposed Starbucks coffeehouse will improve the vacant lot, will complement neighboring uses, and will further Goal LU-6 of the General Plan to develop underutilized properties with a suitable development.

5. Approval of the Variance is subject to such conditions as will assure that it does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

Provided the Conditions of Approval are adhered to for the life of the project, approval of the subject Variance will not grant a special privilege that is inconsistent with the limitations upon other properties located within the vicinity or zone in which the subject property is situated. In addition, pursuant to Condition of Approval No. 2, the rights granted the applicant pursuant to Variance No. V-012-2016 shall continue in effect for only so long as the nature and character of the use operating on-site remain the same as at the time of approval of the Variance. In the event the nature or character of the use on-site materially changes, Variance No. V-012-2016 shall cease to be effective or to grant the applicant any rights to continue to operate the described use on-site. Any future uses on the Site different from the current described use will be required to comply with all then applicable standards of the Garden Grove Municipal Code, and the applicant may not rely on this Variance as a basis for an approval to deviate from the minimum lot size with such future uses.

CONDITIONAL USE PERMIT:

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

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

The site has a General Plan Land Use Designation of Civic Center Mixed Use and is zoned CC-3 (Civic Center Core). Coffeehouses and Drive-Thru Facilities are conditionally permitted uses in the CC-3 zone. Provided that the conditions of approval are complied with, the use is consistent with the General Plan.

2. That 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 existing use will not change and will continue to be consistent and compatible with the existing uses in the 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.

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. The proposed development will be similar to the existing uses in the vicinity of the site. With exception of the requested Variance regarding the minimum lot size requirement for Drive-Thru Facilities in the CC-3 zone, the project has been designed to comply with the development standards for the zone. Provided that the project adheres to the conditions of approval, the project will not unreasonably interfere with the use, enjoyment or valuation of the property of other persons located within the vicinity of the site.

The use will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare. With exception to the requested Variance regarding the minimum lot size requirement for Drive-Thru Facilities in the CC-3 zone, the project has been designed to comply with the development standards for the zone. The City's Departments have reviewed the plan, and all appropriate conditions of approval have been incorporated. The conditions of approval will ensure the public health, safety, and welfare.

3. That 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 site is adequate in size and shape to accommodate the required yards, walls, loading facilities, landscaping and other development standards required by the Municipal Code.

4. That the proposed site is adequately served: by highways or streets of 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.

Adequate parking and vehicular access are available for the subject site in accordance with the requirements of Title 9. The proposal has been reviewed by City Departments responsible for traffic, water services, environmental services, and safety. These Departments have determined that the site for the proposed coffeehouse/drive-thru facility will be adequately served by existing infrastructure, circulation, and other facilities to allow its operation.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT

In addition to the foregoing, the 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. The Site Plan, Conditional Use Permit, and Variance possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.
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 Site Plan No. SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016.

EXHIBIT "A"

Site Plan No. SP-025-2016
Conditional Use Permit No. CUP-079-2016
Variance No. V-012-2016

11162 Garden Grove Boulevard

CONDITIONS OF APPROVAL

General Conditions

1. The applicant and each owner of the property shall execute, and the applicant shall record a "Notice of Agreement with Conditions of Approval and Discretionary Permit of Approval," as prepared by the City Attorney's Office, on the property. Proof of such recordation is required within 30 days of this approval. 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, Danny Bockting, the developer of the project, the owner(s) and tenants(s) of the property, and each of their respective successors and assigns. 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. Approval of this Site Plan, Variance and 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 and Economic Development Director.
3. Minor modifications to the Site Plan and/or these Conditions of Approval may be approved by the Community and Economic Development Director, in his or her discretion. Proposed modifications to the project and/or these Conditions of Approval determined by the Community and Economic 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
4. The approved site plan, floor plan, and use of the subject property, as represented by the Applicant, are an integral part of the decision approving this Site Plan, Conditional Use Permit, and Variance. If major modifications are made to the approved floor plan, site plan, or other related changes that result in the intensification of the project or create impacts that have not been previously addressed, the proper entitlements shall be obtained reflecting such changes.

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

Public Works Engineering Division

6. The applicant shall be subject to Traffic Mitigation Fees.
7. A separate street permit is required for work performed within the public right-of-way.
8. A grading plan prepared by a registered Civil Engineer is required. The grading plan shall be based on a current survey of the site, including a boundary survey, topography on adjacent properties up to 30' outside the boundary, and designed to preclude cross lot drainage. Minimum grades shall be 0.50% for concrete flow lines and 1.25% for asphalt. The grading plan shall also include water and sewer improvements. The grading plan shall include a coordinated utility plan.
9. A geotechnical study prepared by a registered geotechnical engineer is required. The report shall analyze the liquefaction potential of the site and make recommendations. The report shall analyze sub-surface issues related to the past uses of the site, including sub-surface tanks and basement and septic facilities. Any soil or groundwater contamination shall be remediated prior to the issuance of a building permit in a manner meeting the approval of the City Engineer in concert with the Orange County Health Department. The report shall make recommendations for pavement design of the interior streets and parking spaces. The report shall also test and analyze soil conditions for LID (Low Impact Development) principles and implementations, including potential infiltration alternatives, soil compaction, saturation, permeability and groundwater levels.
10. Prior to issuance of any grading or building permits, the applicant shall submit to the City for review and approval a Water Quality Management Plan that:
 - a. Addresses Site Design BMPs based upon the geotechnical report recommendations and findings such as infiltration minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, and conserving natural areas.
 - b. Incorporates the applicable Routine Source Control BMPs as defined in the DAMP.
 - c. Incorporates structural and Treatment Control BMPs as defined in the DAMP.

- d. Generally describes the long-term operation and maintenance requirements for the Treatment Control BMPs.
 - e. Identifies the entity that will be responsible for long-term operation and maintenance of the Treatment Control BMPs.
 - f. Describes the mechanism for funding the long-term operation and maintenance of the Treatment Control BMPs.
 - g. Provide notice by recordation of the plan with the County Recorder's office to all future owners that said plan is bound in perpetuity to the property.
11. Prior to grading or building permit closeout and/or the issuance of a certificate of use or a certificate of occupancy, the applicant shall:
- a. Demonstrate that all structural best management practices (BMPs) described in the Project WQMP have been constructed and installed in conformance with approved plans and specifications.
 - b. Demonstrate that applicant is prepared to implement all non-structural BMPs described in the Project WQMP.
 - c. Demonstrate that an adequate number of copies of the approved Project WQMP are available onsite.
 - d. Submit for review and approval by the City an Operations and Maintenance (O&M) Plan for all structural BMPs.
 - e. Record the plan with the County Recorder's office and forward the recorded document to the City of Garden Grove Engineering Division.
12. Prior to issuance of a grading permit, the applicant shall provide hydrological analysis with scaled map and calculations and hydraulic calculations to size drainage facilities per Orange County RDMD standards. Parkway culverts shall be designed per Orange County Standard Plan 1309, Type B. BMP's shall be sized per the requirements of the latest Technical Guidance Documents.
13. All trash container areas shall meet the following requirements:
- a. Paved with an impervious surface, designed not to allow run-on from adjoining areas, designed to divert drainage from adjoining roofs and pavements diverted around the area, screened or walled to prevent off-site transport of trash;

- b. Provide solid roof or awning to prevent direct precipitation into the enclosure;
 - c. Provide a drain to a sanitary waste line. Connection of trash area drains to the municipal storm drain system is prohibited;
 - d. Potential conflicts with fire code and garbage hauling activities should be considered in implementing this source control;
 - e. See CASQA Storm Water Handbook Section 3.2.9 and BMP Fact Sheet SD-32 for additional information;
 - f. The trash enclosure(s) shall be located to allow pick-up and maneuvering, including turnarounds, in the areas of the enclosures;
 - g. Trash storage enclosures shall be constructed in accordance with City of Garden Grove Standard Plan B-502.
14. Prior to issuance of a grading permit, the applicant shall design overhead parking lot and pathway lighting within the development in a manner meeting the approval of the City Engineer. Location of lighting poles shall be shown on the grading plan.
 15. The applicant shall construct the entrance to the development per City of Garden Grove Standard Plan B-120 with a conforming ADA landing and pathways where public and private sidewalks intersect. All designs must conform to the latest ADA standards
 16. No parallel curb parking shall be permitted anywhere on-site.
 17. The grading/horizontal control plan shall provide an approximately 80 feet or four vehicle lengths between the service window and order board and additional 80 feet or four vehicle lengths of queuing distance behind the order board in conformance with the queuing requirements of City of Garden Grove Standard Plan B-312.
 18. The applicant shall provide the City with documentation on existing reciprocal access agreement on the southeast corner of the property. Should no agreement exist, the applicant shall enter into an agreement with the adjacent property owner to construct a block wall and close the access to the shopping center south of the property and record said agreement in a manner meeting the approval of the City Engineer prior to the issuance of a grading permit.
 19. Any new or required block walls and/or retaining walls shall be shown on the grading plans with a minimum height of 6 feet from the highest finished grade unless approved for lower height by the Planning Division. Cross

sections shall be provided on the grading plan showing vertical and the horizontal relations of improvements and the property line. Block walls shall be designed in accordance to City standards or designed by a professional registered engineer.

20. The grading plan shall provide an accessibility route(s) from entries on the buildings to the public street for the ADA pathways in conformance with the requirements of the department of justice standards latest edition with a minimum allowable width of 48-inches.
21. Prior to issuance of a building permit, the applicant shall design and construct street frontage improvements as identified below:

Euclid Street

- a. Remove and replace the existing driveway approaches to the site in accordance with City of Garden Grove Standard Plan B-120.
- b. Remove the existing sidewalk on Euclid Street and construct a new 8-foot sidewalk adjacent to the existing street curb, 30-feet from the end of curb return in accordance with City of Garden Grove Standard Plan B-106. Improvements are to meet and match existing public improvements to the immediate north of Euclid Street.
- c. Remove and replace the pavement of the street from the edge of the median to the edge of the gutter fronting the development on Euclid Street per City Standard Plan B-102 and as directed by the City Engineer.

Garden Grove Boulevard

- a. The existing driveway approach fronting the property along Garden Grove Boulevard shall be removed and curb, gutter, and sidewalk shall be constructed in accordance with City Standard.
- b. New 8-inch curb and gutter shall be constructed replacing the existing driveway 52-feet from the center line of Garden Grove Boulevard according to City of Garden Grove Standard Plan B-113 (Type C-8).
- c. Remove the existing driveway apron on Garden Grove Boulevard and construct a new 8-foot sidewalk adjacent to the existing street curb, matching existing sidewalk (riverside buff color) improvements to the immediate east of Garden Grove Boulevard per City Standard Plan B-106.

Public Works Water Services Division

22. New water service installations 2" and smaller, shall be installed by the City of Garden Grove at owner's/developer's expense. Installation shall be scheduled upon payment of applicable fees, unless otherwise noted. Fire services and larger water services 3" and larger, shall be installed by developer/owner's contractor per City Standards.
23. Water meter and service shall be located within the City right-of-way. Fire services and large water services 3" and larger, shall be installed by contractor with class A or C-34 license, per City water standards and inspected by approved Public Works inspection.
24. A Reduced Pressure Principle Device (RPPD) backflow prevention device shall be installed for meter protection. The landscape system shall also have RPPD device. Any carbonation dispensing equipment shall have a RPPD device. Installation shall be per City Standards and shall be tested by a certified backflow device tester immediately after installation. Cross connection inspector shall be notified for inspection after the installation is completed. Owner shall have RPPD device tested once a year thereafter by a certified backflow device tester and the test results to be submitted to Public Works, Water Services Division. Property owner must open a water account upon installation of RPPD device.
25. Any new or existing water valve located within new concrete driveway or sidewalk construction shall be reconstructed per City Standard B-753.
26. City shall determine if existing water services(s) is/are usable and meets current City Standards. Any existing meter and service located within new driveway(s) shall be relocated at owner's expense.
27. Fire service shall have above ground backflow device with a double check valve assembly. Device shall be tested immediately after installation and once a year thereafter by a certified backflow device tester and the results to be submitted to Public Works, Water Services Division. Device shall be on private property and is the responsibility of the property owner. The above ground assembly shall be screened from public view as required by the Planning Division.
28. Location and number of fire hydrants shall be as required by Water Services Division and the Fire Department.
29. Commercial food use of any type shall require the installation of an approved Grease Control Device (GCD) prior to obtaining a business license.
30. A properly sized Grease Control Device (GCD) 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

GCD. All other waste lines shall be drained through the GCD. Owner shall maintain comprehensive GCD maintenance records and shall make them available to the City of Garden Grove upon demand.

31. 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.
32. If needed, the owner shall install new sewer lateral off the 12" sewer main in Garden Grove Blvd. with clean out at right-of-way line. Lateral in public right-of-way shall be 6" min. dia., extra strength VCP with wedgelock joints. If owner wants to use existing lateral they will need to camera the line to verify its size and condition.
33. Contractor shall abandon any existing unused sewer lateral(s) at street right-of-way on the property owner's side. The sewer pipe shall be capped with an expansion sewer plug and encased in concrete

Police Department

34. 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.
35. 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.
36. All pay phones located adjacent to the premises shall be limited to out-going calls only. This condition shall be complied within 30 days following approval of this application.

Community and Economic Development Department

37. The approved site plan and floor plan are an integral part of the decision approving this Site Plan, Conditional Use Permit, and Variance. There shall be no additional changes in the design of the floor plan without the approval of the Community and Economic Development Department, Planning Division. Any additional changes in the approved floor plan, which have the effect of expanding or intensifying the present use, shall require obtaining the proper entitlement(s).
38. Per the approved plans for this Site Plan, Conditional Use Permit and Variance, the outdoor customer dining area: (1) shall be located in the area noted on plan south of and adjacent to the pad building; (2) shall not exceed 482 square feet in area; and (3) shall provide seating available for a maximum of twenty (20) patrons.

39. The sale of alcoholic beverages for on-site or off-site consumption on the premises is prohibited.
40. No outside display of merchandise shall be permitted at any time.
41. 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 store's entrance, and shall also be visible to the public.
42. There shall be no pool tables or incidental amusement devices on the premises at any time.
43. There shall be no uses or activities of an adult-oriented nature permitted as outlined in City Code Section 9.08.070.
44. 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.
45. 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.
46. 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.
47. Any satellite dish antennas installed on the premises shall be screened, subject to approval by the Community and Economic Development Department, Planning Division. No advertising material shall be placed thereon.
48. 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 or on exterior of the building. The overall sign plan shall consider the placement of a directional sign at the Euclid Street entrance indicating "Parking and Drive-Thru Only for Starbucks."
49. Exterior advertisements displays or exterior wall advertisements shall not be allowed.

50. Hours and days of construction and grading shall be as follows as set forth in the City of Garden Grove's Municipal Code Section 8.47.010 referred to as the County Noise Ordinance as adopted:
 - a. Monday through Saturday - not before 7 a.m. and not after 8 p.m. (of the same day).
 - b. Sunday and Federal Holidays may work the same hours but subject to noise restrictions as stipulated in Section 8.47.010 of the Municipal Code.
51. Construction activities shall adhere to SCAQMD Rule 403 (Fugitive Dust), which includes dust minimization measures, using electricity from power poles rather than diesel or gasoline powered generators, and using methanol, natural gas, propane or butane vehicles instead of gasoline or diesel powered equipment, where feasible, using solar or low-emission water heaters, and using low-sodium parking lot lights, to ensure compliance with Title 24.
52. The property owner shall comply with the adopted City Noise Ordinance. During permitted hours of operation, noise generated by the operation shall not exceed 55 dBA as measured at the boundaries of the property lines.
53. The building plans, including grading and development plans and all construction activity shall comply with the current editions of the California Building Regulations as found in the California Code of Regulations (CCR), Title 24, Parts 2 through 12 as adopted by the City of Garden Grove.
54. As a part of the finalized working drawings for Planning Division, Engineering Division and Building Plan Check, the developer shall submit a detailed and dimensioned plot plan, floor plans, exterior elevations, and landscape plans that reflect the above conditions of approval. The plans shall indicate landscape materials, wall materials and building materials proposed for the project.
55. All lighting structures shall be placed so as to confine direct rays to the subject property. All exterior lights shall be reviewed and approved by the Planning Services Division. Lighting adjacent to residential properties shall be restricted to low, decorative type, wall-mounted lights, or ground lighting system. Lighting in the common and parking areas shall be directed, positioned or shielded in such manner so as not to unreasonably illuminate the window area of nearby residences. Parking area lighting shall be provided during the hours of darkness the establishment is open at a minimum of two-foot candles of light, and one-foot candle of light during all other hours of darkness.
56. The applicant shall submit detailed plans showing the proposed location of utilities and mechanical equipment to the Community and Economic

Development Department, Planning Division, for review and approval prior to submittal of plans for Building Division, Plan Check. The project shall also be subject to the following:

- a. All above-ground utility equipment (e.g., electrical, gas, telephone) shall not be located in the street setbacks and shall be screened to the satisfaction of the Community Development Department, Planning Division.
 - b. No roof or wall mounted mechanical equipment shall be permitted unless the Planning Division Services approves a method of screening complementary to the architecture of the building, prior to the issuance of building permits. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets, including the surrounding properties.
57. The applicant shall submit a complete landscape plan governing the entire development for review and approval by the Community and Economic Development Department prior to building permit issuance. The landscaping plan shall comply with all the landscaping requirements as specified in Title 9 of the City of Garden Grove Municipal Code as well as recently adopted provisions by the State of California concerning drought tolerant landscape measures. Said plan shall include type, size, location and quality of all plant material. This includes enhanced landscaping for the walkway areas. The plan shall include an irrigation plan, and staking and planting specification. The landscape plan is subject to the following:
- a. A complete, permanent, automatic remote control irrigation system shall be provided for all common area landscaping shown on the plan. The sprinklers shall be of low flow/precipitation sprinkler heads for water conservation.
 - b. All above ground utilities (e.g., water backflow devices, electrical transformers, irrigation equipment, etc.) shall be shown on the landscape plan in order to ensure proper landscape screening and will be provided around each of these equipment/apparatus.
 - c. The applicant shall be responsible for the installation and maintenance of all landscaping on the property during and after the construction period. Said responsibility shall extend to within the public right-of-way.
 - d. The plan shall provide a mixture of a minimum of ten percent (10%) of the trees at 48-inch box, ten percent (10%) of the trees at 36-inch box, fifteen percent (15%) of the trees at 24-inch box and sixty percent (60%) of the trees at 15-gallon, the remaining five percent (5%) may

be of any size. All proposed trees shall be non-fruit bearing, evergreen trees that require minimal maintenance.

- e. No trees shall be planted closer than five feet (5') from the public right-of-way. Trees planted within fifteen feet (15') of any public right-of-way shall be planted in a root barrier shield. All landscaping along street frontages, adjacent to driveways, shall be of the low-height variety to ensure safe sight clearance.
 - f. Canopy trees within the adjacent right-of-ways, along Garden Grove Boulevard and Euclid Street, shall be provided no more than 30'-0" apart on center, or as otherwise required by Public Works standards, and just behind face-of-curb. A minimum of sixteen (16) square feet of planting of shrubs and/or groundcover shall be provided at the base of each required tree.
58. During construction, if paleontological or archaeological resources are found, all attempts will be made to preserve in place or leave in an undisturbed state in compliance with CEQA.
 59. No exterior piping, plumbing, roof top access ladders, or mechanical ductwork shall be permitted on any exterior facade and/or be visible from any public right-of-way or adjoining property.
 60. Any and all correction notice(s) generated through the plan check and/or inspection process is/are hereby incorporated by reference as conditions of approval and shall be fully complied with by the owner, applicant and all agents thereof.
 61. All driveway approaches shall be treated with decorative stamped concrete or interlocking pavers or other enhanced treatment, excluding scored and/or colored concrete. Color, pattern and material shall be approved by the Community and Economic Development Department, Planning Division, and shall be shown on the final site plan and the grading plan.
 62. All on-site curbs, not associated with a parking space, shall be painted red.
 63. The site improvements and subsequent operation of the site/business(es) shall adhere to the following:
 - a. There shall be no business activities, or storage permitted outside of the building. All business related equipment and material shall be kept inside the building except for loading or unloading purposes.
 - b. Property owners, employees, and business operators shall not store vehicles anywhere on the site.

- c. The trash enclosure shall match the color and material type used for the block walls and shall be gated. The trash bins shall be kept inside the trash enclosure, and gates closed at all times except during disposal and pick-up. The property owner shall provide sufficient trash bins and pick-up to accommodate the site. The trash shall be picked up at least once per week.
 - d. All drive aisles on the site are considered to be fire lanes and shall remain clear and free of any materials, and/or vehicles.
64. The proposed development shall comply with all applicable provisions of the Garden Grove Local Implementation Plan (LIP), including but not limited to, providing a Water Quality Management Plan (WQMP) and Section 7 addressing reducing water run-off from the site (e.g. directing roof rain gutter's downspouts to permeable areas such as landscape planters).
 65. The applicant shall work with the Planning Division to ensure that the proposed building colors are appropriate, and not overly bright. The applicant shall submit the actual chip samples of the proposed paint colors to the Planning Division for review and approval.
 66. In the event problems arise where the hours of operation need to be reduced in order to minimize problems, the operator shall change the hours of operation as prescribed by the City.
 67. A copy of the resolution including the conditions approving Site Plan No. SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016 shall be kept on the premises at all times.
 68. The Conditional Use Permit may be called for review by City staff, the City Council, 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.
 69. The permittee shall submit a signed letter acknowledging receipt of the decision approving Site Plan No. SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016, and his/her agreement with all conditions of the approval.
 70. The Conditional Use Permit may be reviewed 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.
 71. The building shall comply with California Building Standards Code.

72. Doors, in any position, shall not reduce the minimum dimension of a ramp landing to less than 42 inches.
73. Handrails shall be required if any ramp slope is greater than five (5) percent.
74. 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 Site Plan No. SP-025-2016, Conditional Use Permit No. CUP-079-2016, and Variance No. V-012-2016. 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.
75. Per Garden Grove Municipal Code Section 5.70.030 of Chapter 70 of Title 5, Restrictions on the operation of coffeehouses, it is unlawful and a public nuisance for any person owning, managing or controlling a coffeehouse to operate, maintain, carry on or assist in the operation, maintaining or carrying on of a coffeehouse so as to:
 - a. Permit any minor to enter or remain in a coffeehouse between normal school hours (that is, 9:00 a.m. to 3:00 p.m.) or after 8:00 p.m. of any day of the week, except that minors may be permitted in the following instances:
 - i. Where the minor is accompanied by a parent or guardian (if the guardian can authenticate guardianship);
 - ii. Where the minor is present on the premises by reason of performing duties in the course and scope of employment.

Notice of the above-stated prohibition shall be posted by the business manager or owner at the entrance in lettering of at least two inches in size.
 - b. Permit any person to indulge in boisterous conduct or use of profanity, or otherwise conduct him or herself in a vulgar or indecent manner while such person is present in a coffeehouse;

- c. Permit an intoxicated person to enter, be or remain in any coffeehouse;
- d. Shut or turn off, or reduce, the intensity of the lighting of the coffeehouse to such a degree to make it difficult or impossible to clearly see or identify individuals inside the business;
- e. Permit entertainment, including, but not limited to, karaoke, to occur at any time on the business premises, except that live music, other than karaoke, consisting of no more than one vocalist and/or one unamplified instrumentalist may be permitted; however, this restriction shall not apply to any business owner who desires to provide entertainment in conjunction with a coffeehouse located within the Main Street Retail Overlay (H-R) zone;
- f. Permit any transmission, whether video or audiovisual, on a television or monitor which promotes or provides karaoke or illegal gambling;
- g. Permit any amusement devices to be in the business at any time;
- h. Operate a coffeehouse between the hours of 2:00 a.m. and 5:00 a.m. during any day of the week;
- i. Operate a coffeehouse without "No loitering" signs posted at the front and rear of the business;
- j. Operate a coffeehouse with alcoholic beverages made available to the business patrons, or otherwise stored on the premises at any time;
- k. Maintain or permit any platform or stage on the premises at any time;
- l. Permit smoking on the premises in violation of Section 6404.5 of the California Labor Code or any other applicable law;
- m. Permit, cause, allow or assist any employee or other person to expose specified anatomical areas to another person. For purposes of this section, the term "specified anatomical areas" shall have the same meaning as defined in Municipal Code Section 9.16.020.070.B.2.
- n. Permit the tinting or placement of any covering or material on or in any windows or glass doors of a coffeehouse, other than lawful window displays authorized pursuant to Chapter 9.20 of this Code, such that the windows or glass portions of the entrances are not left open, clear and unobstructed, so as to allow an unimpaired line of sight by a peace officer into the interior of the business premises during business hours.

76. It shall be the applicant's responsibility to verify that any building or site improvements do not cross over, encroach into, or cause issue with any recorded easements on the subject property or the adjacent properties.