



## A G E N D A

### GARDEN GROVE PLANNING COMMISSION

#### REGULAR MEETING

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JULY 6, 2017

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE

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

ROLL CALL: CHAIR KANZLER, VICE CHAIR BRIETIGAM  
COMMISSIONERS LAZENBY, LEHMAN, NGUYEN, SALAZAR,  
TRUONG

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 Community Meeting Center 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 15, 2017
- C. PUBLIC HEARING(S) (Authorization for the Chair to execute Resolution shall be included in the motion.)
  - C.1. CONDITIONAL USE PERMIT NO. CUP-104-2017

APPLICANT: JMJ GOURMET, LLC.

LOCATION: NORTHWEST CORNER OF WESTMINSTER AVENUE  
AND DAWSON STREET AT 10195 WESTMINSTER  
AVENUE

REQUEST: To expand an existing 4,500 square foot restaurant, which currently operates with an existing State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) License, into an adjacent 1,500 square foot tenant space, for a total of 6,000 square feet. Upon approval and exercise of the subject request, the Conditional Use Permit previously governing the tenant space, CUP-620-02, shall be revoked and become null and void. The site is in the PUD-108-96 (Planned Unit Development) zone. The project is exempt pursuant to CEQA Section No. 15301 - Existing Facilities.

STAFF RECOMMENDATION: Approval of Conditional Use Permit No. CUP-104-2017, subject to the recommended conditions of approval.

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

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

Meeting Minutes  
Thursday, June 15, 2017

CALL TO ORDER: 7:01 p.m.

ROLL CALL:

Chair Kanzler  
Vice Chair Brietigam  
Commissioner Lazenbyhn  
Commissioner Lehman  
Commissioner Nguyen  
Commissioner Salazar  
Commissioner Truong

Absent: Kanzler, Lehman

PLEDGE OF ALLEGIANCE: Led by Commissioner Nguyen.

ORAL COMMUNICATIONS – PUBLIC – On behalf of west Garden Grove residents, Mr. Tony Flores noted that an Olson Company housing plan was proposed at a neighborhood meeting the night before. He said that additional housing was not needed due to overcrowding, to a strained infrastructure, to a lack of public safety personnel, and to traffic concerns. He added that neighbors off of Buaro Street and Hampton Avenue now lack privacy due to the hotels. He then distributed his 2016 Study in regard to the Fleet Management Fund (FMF), which appeared to increase every year and gave the appearance of potential misappropriation of public funds. He then suggested that a portion of the funds could be used to secure more police officers. Lastly, he commented that people were being overcharged for water.

June 1, 2017 MINUTES:

Action: Received and filed.

Motion: Lazenby Second: Truong

Ayes: (5) Brietigam, Lazenby, Nguyen, Salazar, Truong

Noes: (0) None

Absent: (2) Kanzler, Lehman

PUBLIC HEARING – SITE PLAN NO. SP-035-2017. FOR PROPERTY LOCATED AT 8882 LAMPSON AVENUE, SOUTH SIDE OF LAMPSON AVENUE, WEST OF THE INTERSECTION OF MAGNOLIA STREET AND LAMPSON AVENUE.

Applicant: TONY LAM AND JENNIE DO  
Date: June 15, 2017

Request: Site Plan approval to construct nine (9) two-story residential rental units divided into (2) buildings on an approximately 24,600 square foot site. Building 'A' will be a total of 5,150 square feet and Building 'B' will be a total of 4,112 square feet. The site is in the R-3 (Multiple Family Residential) zone. The project is exempt pursuant to CEQA Section No. 15332 – Infill Development Projects and Common Sense.

Action: Public Hearing held. Speaker(s): Joe Dovich

Action: Resolution No. 5884-17 was approved.

Motion: Lazenby Second: Salazar

Ayes: (5) Brietigam, Lazenby, Nguyen, Salazar, Truong  
Noes: (0) None  
Absent: (2) Kanzler, Lehman

ITEM FOR CONSIDERATION - ACKNOWLEDGEMENT OF THE 2016 ANNUAL REPORT ON THE STATUS OF THE GENERAL PLAN:

Action: Received and filed. Discussion explained the Southern California Association of Governments (SCAG) state law formula for determining the required number of 747 housing units for the seven year period. Criteria included population growth, income level, and current housing.

Motion: Lazenby Second: Truong

Ayes: (5) Brietigam, Lazenby, Nguyen, Salazar, Truong  
Noes: (0) None  
Absent: (2) Kanzler, Lehman

MATTERS FROM COMMISSIONERS: Vice Chair Brietigam stated that the Garden Grove Police and Fire Departments were short staffed. He noted that the traditional need was 1 officer per 1000 people, however now, the current range was 1 officer per 700. He challenged the City to increase the police force to 200 sworn and to add five firefighters by the year 2020. He then disclosed that he attended the Olson Company meeting the night before.

Commissioner Lazenby asked staff to explain the Fleet Management Fund. Staff responded that the FMF was a budget account for the purpose of replacing the City's fleet vehicles as they age out, and that any questions should be directed to the City Council, City Manager, or Finance Director as the matter was not under the Planning Commission's jurisdiction.

MATTERS FROM STAFF: Staff gave a brief description of the items for the July 6<sup>th</sup> meeting and noted that the July 20<sup>th</sup> meeting would be cancelled.

ADJOURNMENT: At 7:45 p.m. to the next Regular Meeting of the Garden Grove Planning Commission on Thursday, July 6, 2017, at 7:00 p.m. in the Council Chamber of the Community Meeting Center, 11300 Stanford Avenue, Garden Grove.

Motion: Lazenby Second: Truong

Ayes: (5) Brietigam, Lazenby, Nguyen, Salazar, Truong

Noes: (0) None

Absent: (2) Kanzler, Lehman

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Judith Moore  
Recording Secretary

# COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.1.	<b>SITE LOCATION:</b> Northwest corner of Westminster Avenue and Dawson Street, located at 10195 Westminster Avenue
<b>HEARING DATE:</b> July 6, 2017	<b>GENERAL PLAN:</b> Light Commercial
<b>CASE NO.:</b> Conditional Use Permit No. CUP-104-2017	<b>ZONE:</b> PUD-108-96 (Planned Unit Development)
<b>APPLICANT:</b> JMJ Gourmet, LLC	<b>CEQA DETERMINATION:</b> Exempt
<b>PROPERTY OWNER:</b> Tinnia Zitter	<b>APN:</b> 099-585-13

**REQUEST:**

The applicant is requesting a Conditional Use Permit (CUP) approval to expand an existing 4,500 square foot restaurant, operating with an existing State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) license, into an adjacent 1,500 square foot tenant space, for a total of 6,000 square feet. Upon approval and exercise of the subject request, the Conditional Use Permit previously governing the tenant space, CUP-620-02, shall be revoked and become null and void.

**BACKGROUND:**

The subject site is approximately eight acres in size and is improved with a multi-tenant shopping center called Westbrook Plaza. The shopping center consists of five lots owned by three different owners. The specific tenant spaces under application are located in a pad building on the northwest corner of Westminster Avenue and Dawson Street. The shopping center includes a supermarket, retail uses, eating establishments, medical offices, professional offices, and a beauty school. The property is zoned Planned Unit Development No. PUD-108-96 and has a General Plan Land Use Designation of Light Commercial. The subject shopping center abuts an R-3 (Multiple-Family Residential) zoned property to the north, C-2 (Community Commercial) zoned properties to the west, C-1 (Neighborhood Commercial) zoned properties to the south across Westminster Avenue, and Planned Unit Development No. PUD-110-72 zoned properties to the east, across Dawson Street.

The shopping center was developed in 1972 by Westbrook Development as a Planned Unit Development with two pad buildings, which were subsequently sold to other owners. A subdivision map was approved and reciprocal access and parking agreements were established between the properties. In 1990, the building that is

currently occupied by the beauty school, added 325 square feet to the 5,375 square foot pad building. In 1996, the same building received approval for a 3,664 square foot two-story addition. A parking study was submitted and accepted by the Traffic Engineer and it was determined there was adequate parking for the addition. In 1997, the building now housing the supermarket and in-door multi-tenant mall, obtained approvals to add 1,600 square feet to the building. A revised parking study was submitted, and indicated a 17% surplus in the number of spaces based upon the peak demand calculation. In 1999, a 720 square foot addition to the indoor multi-tenant mall was approved along with a revised parking study which showed a minimum 10% surplus based on peak demand calculations. In 1999, a Conditional Use Permit was approved for the operation of the beauty school in a portion of the pad building located on the southwest corner of the shopping center. In 2001, a movie theatre was demolished and approval was granted for a new two-story commercial building. A new parking study was submitted to indicate a surplus in parking per peak demand counts. In 2007 a CUP was approved for the expansion of the beauty school into the remaining 3,675 portion of the pad building. A revised parking study was submitted showing a minimum 10% surplus based on peak demand calculations.

As part of the request to expand the subject restaurant, the applicant has been required to submit a new parking study to forecast peak-parking demand and to show the adequate number of parking spaces to allow for the existing uses, as well as the proposed expansion.

The existing full-service restaurant, Anh Hong Restaurant, has been operating since 1989, with a State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) license, under Conditional Use Permit No. CUP-122-89. The existing restaurant consists of a kitchen, dining area, walk-in cooler, two storage areas, and separate men's and women's restrooms.

On November of 2002, the Planning Commission approved Conditional Use Permit No. CUP-620-02 to reduce the floor area of the restaurant in order to create a separate 1,500 square foot retail space for the purpose of operating a retail office supply and copy center, Bluetech, on the south portion of the building closest to Westminster Avenue. The existing tenant space consists of an open retail area, a bathroom, and a storage room.

Business Tax records show that the business licenses for both establishments expired on June 30, 2016. Prior to operating the proposed restaurant, the applicant will be required to apply for a business license.

The applicant is requesting to expand and modify the existing full-service restaurant within the adjacent 1,500 square foot tenant space, 10221 Westminster Avenue, and operate the combined area as a full-service restaurant with the existing ABC Type "41" license. Under the approved CUP-620-02, the Conditions of Approval require that any modifications or intensification of the existing use requires the approval of a new Conditional Use Permit for the combined tenant space.

Therefore, the applicant has submitted revisions to the approved floor plan that include the adjacent vacant retail tenant space for the Planning Commission to consider.

**DISCUSSION:**

The applicant is proposing to substantially modify the floor area of the existing 4,500 square foot tenant space. The existing full-service restaurant will expand into the adjacent vacant tenant space to operate a larger full-service sit down restaurant with take-out. The new full-service restaurant floor plan will total 6,000 square feet and consist of the following areas: expanded dining areas, kitchen, prep area, take-out counter, a sushi bar, storage tanks for various types of live seafood, two service counters, a cashier counter, storage, walk-in freezer and cooler, and separate men's and women's restrooms. Exterior dining is not being proposed as part of the application. The expansion will allow the restaurant to accommodate 195 occupants. The restaurant has three (3) customer entrance/exits, located on the original restaurant's north and west elevations. Two existing secondary exits are located on the east elevation of the restaurant, which will serve as emergency exits during business hours.

The original request by the applicant for the hours of operation for the restaurant was from 10:00 a.m. to 2:00 a.m., seven days a week. However, the original approved business hours of operation under CUP-620-02 were from 11:00 a.m. to 10:00 p.m., seven days a week. Conditions of Approval will maintain the previously approved hours of operation. The hours of operation shall be applicable to the entire premises. 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. The applicant may request an extension in the hours of operation for consideration after a probationary period of six months to a year.

A parking study has been submitted in order to determine if there is adequate parking to support the subject expanded restaurant and all other on-site uses. The study has been reviewed and accepted by the Traffic Engineer. The parking study analyzed all five on-site parking areas, and was performed during regular business hours while all businesses were open, including the beauty school. Per Section 9.16.040.18, Joint Use/Parking Management, of Title 9 of the Municipal Code, a parking management plan is required when the number of parking spaces required is proposed to be reduced, but not more than 25%. A peak-demand calculation must also be included and must demonstrate a 10% increase in the minimum number of spaces above the peak demand calculation to allow for future changes in the types of uses proposed in the original development plan. The existing parking supply in the shopping center consists of 477 parking spaces. The total number of parking spaces required by Municipal Code Section 9.16.040.150, is 559. The shortage of parking demonstrates a 14.6% deficiency. The parking analysis performed indicates that there is a peak demand of 346 spaces at noon on weekdays, and 374 spaces at 1:00 p.m. on weekends. Given the peak demand of 374 spaces, there will be a surplus of 103 parking spaces. The parking management plan submitted shows a peak demand of



474 parking spaces per the Urban Land Institute shared parking calculation methodology. The study demonstrates a 10% increase, 474 parking spaces, which indicates a surplus of three parking spaces. Therefore, the parking study concludes there is sufficient parking to allow for the expansion of the subject restaurant.

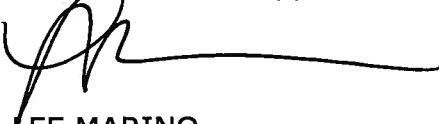
The applicant's proposal, under CUP-620-02, does not have any affect on the existing ABC Type "41" (On-Sale, Beer and Wine, Public Eating Place) License, that is, adding a new original ABC license, upgrading or downgrading the existing license, and therefore, there is no requirement for the City to make a finding for public convenience or necessity. The applicant is only applying to modify the approved floor plan, and to expand the existing restaurant by combining it with the adjacent tenant space. The applicant will continue to operate the newly expanded restaurant with the existing ABC Type "41" (On-Sale, Beer and Wine, Eating Place) License.

The Community and Economic Development Department and the Police Department have reviewed the request and are supporting the proposal. All existing Conditions of Approval under CUP-620-02, including any conditions which were modified, or any new conditions added, shall apply as approved under CUP-104-2017.

**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following action:

1. Approve Conditional Use Permit No. CUP-104-2017, subject to the recommended conditions of approval.



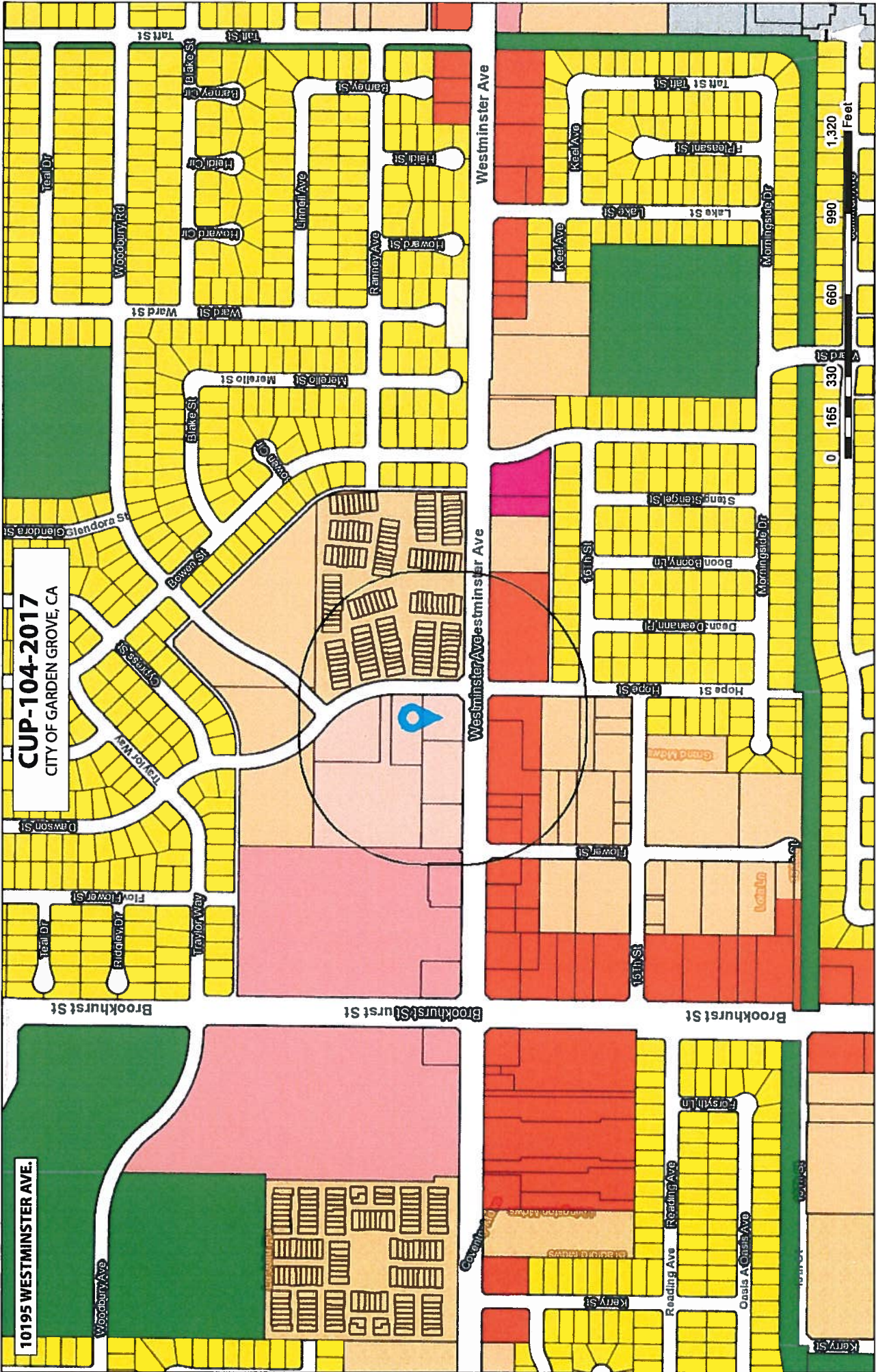
LEE MARINO  
Planning Services Manager



By: Mary Medrano  
Assistant Planner

**CUP-104-2017**  
CITY OF GARDEN GROVE, CA

**10195 WESTMINSTER AVE.**





Sheet	1
Date	
Scale	
Author	
Checker	
Appr.	
Rev.	

**ABC**  
 DESIGN  
 ARCHITECTURE  
 GROUP

1815 1022 WESTMINSTER BLVD  
 GARDEN GROVE, CA 92643  
 TEL: 714 261-1111  
 FAX: 714 261-1112  
 WWW.ABCDESIGNARCHITECTURE.COM

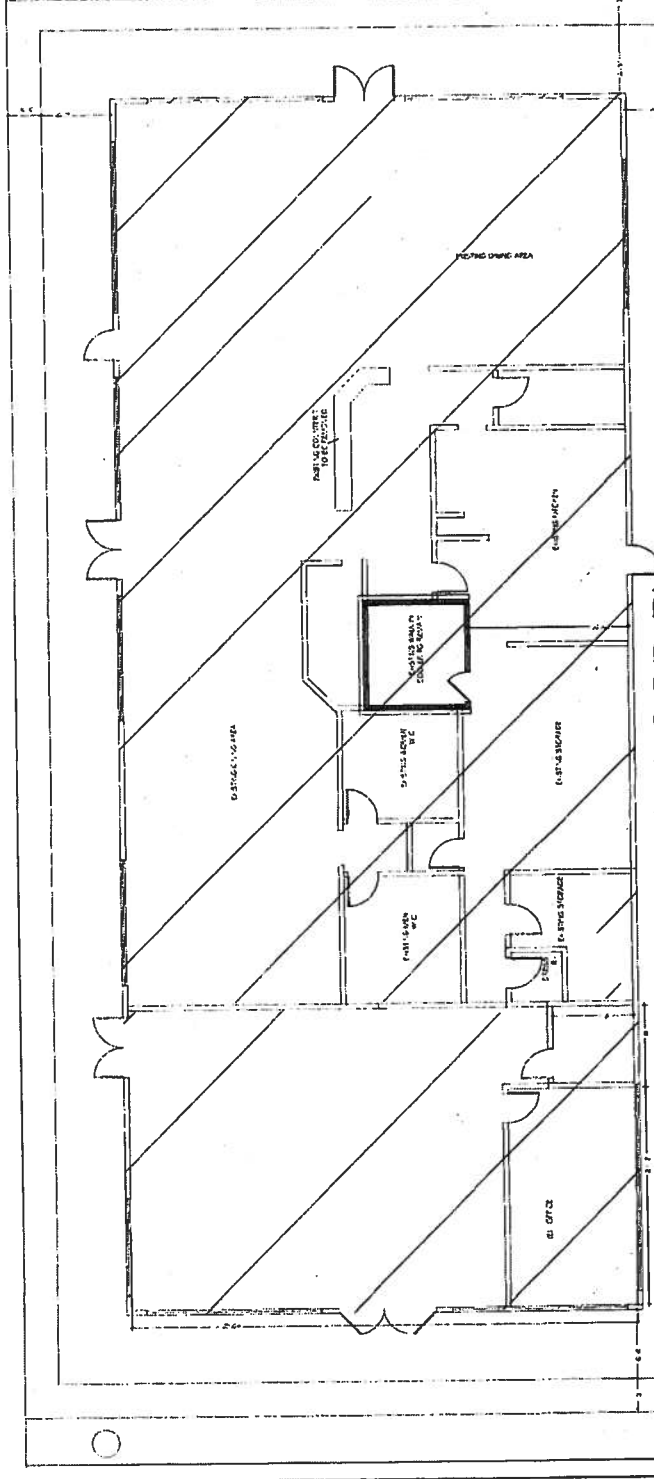
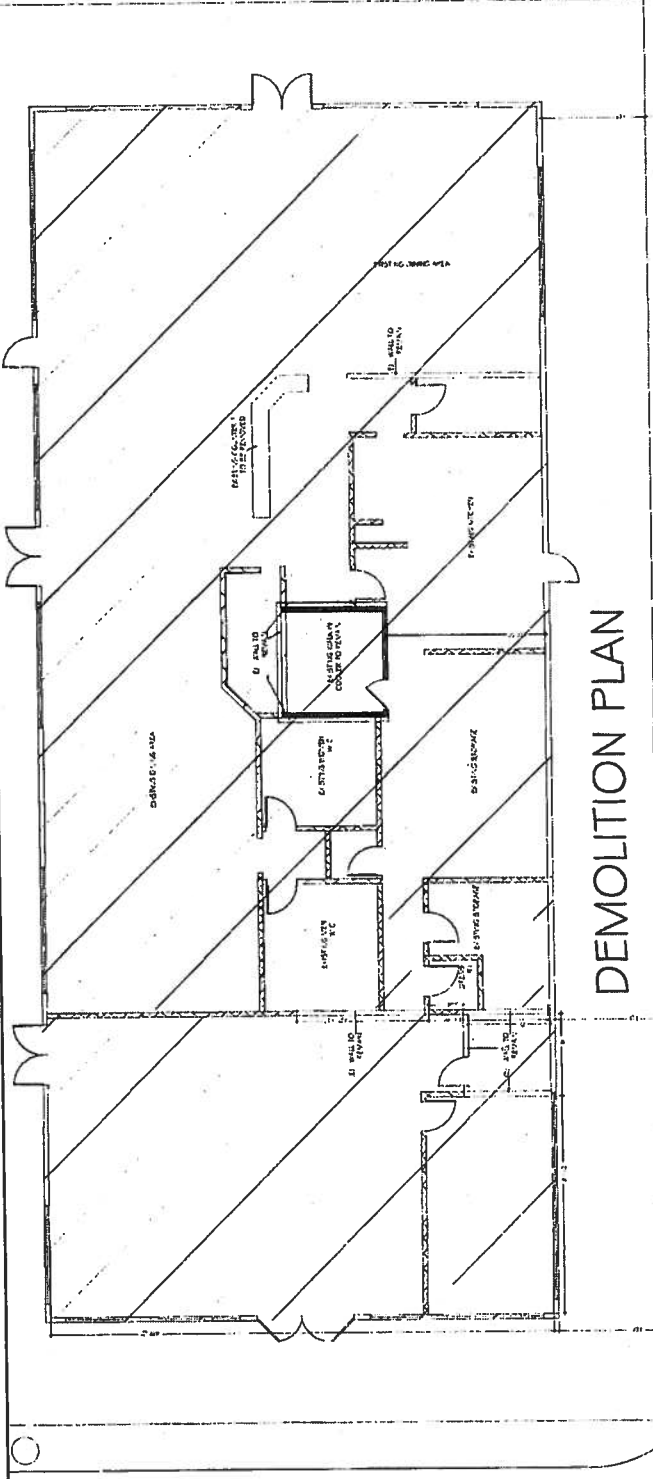


**T1 FOR**  
**FRESH SEAFOOD AND GRILL RESTAURANT**  
 1815 1022 WESTMINSTER BLVD  
 GARDEN GROVE, CA 92643

Project No.	
Sheet No.	
Date	
Author	
Checker	
Appr.	

A-1.1

- WALL LEGEND**
- (E) NON BEARING WALL TO REMAIN
  - (C) NON BEARING WALL TO BE REMOVED DEMO
  - (I) INSULATION COOLER WALL TO REMAIN



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

EXISTING FLOOR PL

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



RESOLUTION NO. 5887-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-104-2017 FOR PROPERTY LOCATED AT 10195 WESTMINSTER AVENUE, ASSESSOR'S PARCEL NO. 099-585-13.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in a regular session assembled on July 6, 2017, hereby approves Conditional Use Permit No. CUP-104-2017 to expand an existing restaurant on property located on the northwest corner of Westminster Avenue and Dawson Street, at 10195 Westminster Avenue, Assessor's Parcel No. 099-585-13.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-104-2017, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by JMJ Gourmet, LLC.
2. The applicant is requesting Conditional Use Permit approval to expand an existing 4,500 square foot restaurant, operating with an existing State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) license, into an adjacent 1,500 square foot tenant space, for a total of 6,000 square feet.
3. The City of Garden Grove has determined that this project is exempt pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act.
4. The property has a General Plan Land Use Designation of Light Commercial and is zoned Planned Unit Development No. PUD-108-96. The site is improved with a commercial shopping center.
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 July 6, 2017, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter at its meeting on July 6, 2017, 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 9.32.30, are as follows:

**FACTS:**

The subject site is approximately eight acres in size and is improved with a multi-tenant shopping center called Westbrook Plaza. The shopping center consists of five lots owned by three different owners. The specific tenant spaces under application are located in a pad building on the northwest corner of Westminster Avenue and Dawson Street. The shopping center includes a supermarket, retail uses, eating establishments, medical offices, professional offices, and a beauty school. The property is zoned Planned Unit Development No. PUD-108-96 and has a General Plan Land Use Designation of Light Commercial.

As part of the request to expand the subject restaurant, the applicant has been required to submit a new parking study to forecast peak-parking demand and to show the adequate number of parking spaces to allow for the existing uses, as well as the proposed expansion.

The existing full-service restaurant, Anh Hong Restaurant, has been operating since 1989, with a State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) license, under Conditional Use Permit No. CUP-122-89.

On November of 2002, the Planning Commission approved Conditional Use Permit No. CUP-620-02 to reduce the floor area of the restaurant in order to create a separate 1,500 square foot retail space for the purpose of operating a retail office supply and copy center, Bluetech, on the south portion of the building closest to Westminster Avenue.

The applicant is requesting to expand and modify the existing full-service restaurant within the adjacent 1,500 square foot tenant space, 10221 Westminster Avenue, and operate the combined area as a full-service restaurant with the existing ABC Type "41" license. Under the approved CUP-620-02, the Conditions of Approval require that any modifications or intensification of the existing use requires the approval of a new Conditional Use Permit for the combined tenant space. Therefore, the applicant has submitted revisions to the approved floor plan that includes the adjacent vacant retail tenant space for the Planning Commission to consider.

The applicant's proposal, under CUP-620-02, does not have any affect on the existing ABC Type "41" (On-Sale, Beer and Wine, Public Eating Place) License, that is, adding a new original ABC license, upgrading or downgrading the existing license, and therefore, there is no requirement for the City to make a finding for public convenience or necessity. The applicant is only applying to modify the approved floor plan, and to expand the existing restaurant by combining it with the adjacent tenant space. The applicant will continue to operate the newly expanded restaurant with the existing ABC Type "41" (On-Sale, Beer and Wine, Eating Place) License.

**FINDINGS AND REASONS:**

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

The subject site has a General Plan Land Use Designation of Light Commercial and is zoned Planned Unit Development No. PUD-108-96. Policy LU-1.3 of the General Plan Land Use Element seeks to encourage a wide variety of retail and commercial services, restaurant and cultural arts/entertainment, in appropriate locations. Planned Unit Development No. PUD-108-96 allows any use permitted in the C-1 (Neighborhood Commercial) zone, including eating establishments with alcohol sales subject to approval of a conditional use permit. This approval will allow the existing restaurant to continue to operate with the existing State ABC Type "41" (On-Sale, Beer and Wine, Eating Place) License to sell beer and wine. Provided that the conditions of approval are complied with, the use will be consistent with the General Plan.

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

The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, as the sale of alcohol will be ancillary to the sale of food. The restaurant will continue to operate as a family-style restaurant during standard hours of operation that are applied to State ABC Type "41" licensed establishments. Food is required to be served during all hours of operation, and the sale of beer and wine will be incidental to the sale of food. 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.

The use 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, provided the Conditions Of Approval are adhered to for the life of the project. By operating as a restaurant with ancillary alcohol sales for on-site consumption only, the use will be compatible with the surrounding uses.



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

The site is improved with a multi-tenant commercial shopping center. A parking study has been submitted by the applicant to forecast peak-parking demand and to show adequate number of parking spaces to allow for the existing uses, as well as the proposed expansion. Per Section 9.16.040.18, Joint Use/Parking Management, of Title 9 of the Municipal Code, a parking management plan is required when the number of parking spaces required is proposed to be reduced, but not more than 25%. A peak-demand calculation must also be included and it must demonstrate a 10% increase in the minimum number of spaces above the peak demand calculation to allow for future changes in the types of uses proposed in the original development plan. The parking analysis performed indicates that there is a peak demand of 346 spaces on weekdays, and 374 spaces at 1:00 p.m. on weekends. Given the peak demand of 374 spaces, there will be a surplus of 103 parking spaces. The parking management plan submitted shows a peak demand of 474 parking spaces per the Urban Land Institute shared parking calculation methodology. The study demonstrates a 10% increase, 474 parking spaces, which indicates a surplus of three parking spaces. Therefore, the parking study concludes there is sufficient parking to allow for the expansion of the subject restaurant. Additionally, the site is of adequate size to accommodate the proposed uses within the surrounding area, and the site is improved with landscape planters.

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

The site is adequately served by four (4) main driveways, two (2) located on Westminster Avenue and two (2) located on Dawson Street. 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. Conditional Use Permit No. CUP-104-2017 does possess characteristics that would indicate justification of the requests 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-104-2017.

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-104-2017**

10195 Westminster Avenue

### **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, JMJ Gourmet, LLC, the current owner of the property, Tinnia Zitter, the future owner(s) and tenant(s) of the property, and each of their respective successors and assigns, including all subsequent purchasers and/or tenants. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Planning Commission, except as otherwise provided herein.
3. This Conditional Use Permit only authorizes the operation of a 6,000 square foot full-service restaurant with ancillary alcoholic beverage as identified on the floor plan attached to this 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 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.

**Public Works Water Services Division**

6. 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.

**Public Works Sewer Services Division**

7. Commercial food use of any type shall require the installation of an approved grease interceptor prior to obtaining a business license.
8. A properly sized grease interceptor shall be installed on the sewer lateral and maintained by the property owner. There shall be a separate sanitary waste line that will connect to the sewer lateral downstream of the grease interceptor. All other waste lines shall be drained through the grease interceptor. Grease interceptor shall be located outside of the building and accessible for routine maintenance. Owner shall maintain comprehensive grease interceptor maintenance records and shall make them available to the City of Garden Grove upon demand.
9. 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.

**Public Works Environmental Compliance**

10. Commercial food use of any type shall require the installation of an approved grease control device prior to obtaining a business license.

**Public Works Engineering Division**

11. The applicant shall be subject to Traffic Mitigation Fees.

**Fire Department**

12. The applicant shall provide emergency lighting, illuminated exit signs, and shall indicate the occupancy type and occupancy load per room per the 2016 edition of the California Fire Code (CFC).
13. Any changes to appliances are subject to Fire Department approval and must be compliant with UL 300 system fire testing standards.

**Police Department**

14. 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.
15. Hours of operation shall be permitted only between the hours of 11:00 a.m. to 10:00 p.m., seven days a week. The hours of operation shall be applicable to the entire premises. The City of Garden Grove reserves the right to reduce hours of operation, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business. The applicant may request an extension in the hours of operation for consideration after a probationary period of six months to a year. A request for an extension in the hours of operation that does not exceed the standard hours for an eating establishment with a State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine Public Eating Place) License, 11:00 p.m. Sunday - Thursday and 12:30 a.m. Friday-Saturday, may be considered by the Community and Economic Development Director as a minor modification to the approved Conditional Use Permit. Any request to modify the permissible hours of operation that exceeds these standard hours shall require Planning Commission approval of an amendment to these Conditions of Approval.
16. There shall be no customers or patrons in or about the premises when the establishment is closed.
17. In the event security problems occur, and at the request of the Police Department, the permittee, at his own expense, shall provide a California licensed, uniformed security guard(s) on the premises during such hours as requested by the Police Department.
18. The sale of alcoholic beverages for consumption off the premises is prohibited.

19. There shall be no enclosed booths on the premises at any time. Walls and/or partitions exceeding thirty-six (36) inches in height, which partially enclose or separate booths, shall be of a clear and transparent material. No item shall be placed in the area of the booths that would limit or decrease the visibility of the interior of the business from any location within the business.
20. The business shall show proof to the Police Department that all members of the business staff have completed the LEAD training (Licensee Education on Alcohol and Drugs) through Alcoholic Beverage Control (ABC) or an ABC approved "Responsible Beverage Service (RBS) Training" program.
21. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation of up to \$1,000 pursuant to GGMC 1.22.010(a).
22. In the event that an Alcoholic Beverage Control (ABC) License is suspended for any period of time and/or fined for any ABC violation as a result of disciplinary action, the Conditional Use Permit shall be presented to the Hearing Body for review or further consideration.
23. The sale and service of alcohol shall cease thirty (30) minutes prior to the required closing time.

**Building Services Division**

24. The tenant improvements shall comply with the requirements of the 2016 edition of the California Building Code (CBC).
25. The tenant improvements shall comply with accessibility requirements of the 2016 edition of the California Building Code (CBC), including conforming accessible parking spaces, path of travel, and accessible restrooms.
26. Fire sprinklers are required for the tenant improvements based on the occupant load greater than 300 per Section 1103.5.1 of the 2016 edition of the California Fire Code (CFC).

**Community and Economic Development Department**

27. The approval of Conditional Use Permit No. CUP-104-2017 will allow the eating establishment located at 10195 Westminster Avenue, to continue operation with a State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) license, to modify the approved floor

plan, approved under CUP-620-02, and to expand to an approximately 6,000 square foot restaurant, by combining the existing space with the adjacent 1,500 square foot retail tenant space, located at 10221 Westminster Avenue. 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 has the effect of expanding or intensifying the present use, shall require a new Conditional Use Permit.

28. The establishment shall be operated as a "Bona Fide Public Eating Place" as defined by Alcoholic Beverage Control License. The restaurant shall contain sufficient space and equipment to accommodate a full restaurant kitchen, and the kitchen shall be open and preparing food during all hours the establishment is open. The establishment shall provide an assortment of foods normally offered in restaurants. The service of only appetizers, sandwiches and/or salads shall not be deemed in compliance with this requirement.
29. At all times when the establishment is open for business, the sale of alcoholic beverages shall be incidental to the sale of food. The quarterly gross sales of alcoholic beverages shall not exceed 35% of the sales of food.
30. Food service shall be provided during all hours the restaurant is open, and shall also be available at all times when alcoholic beverages are being served.
31. Food shall accompany any sales and service of alcoholic beverages in the restaurant area.
32. The owner of the establishment shall, upon request, provide the City of Garden Grove with an audited report of sales ratio of food to alcoholic beverages.
33. The sale of alcoholic beverages for consumption off the premises is prohibited.
34. No outside storage or displays shall be permitted at any time.
35. A prominent, permanent sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THE PREMISES" shall be posted in a place that is clearly visible to patrons of the licensee. The sign lettering shall be four (4) to six (6) inches high with black letters on a white background. The sign shall be displayed near or at the restaurant's entrance, and shall also be visible to the public.

36. There shall be no live entertainment, dancing, karaoke, sports bar, or disc jockey entertainment permitted on the premises at any time. Amplified music may be permitted, but the sound emitted from the premises shall not be audible outside of the establishment. In the event that live entertainment is proposed in the future, the applicant shall submit plans for review and approval via the conditional use permit process.
37. There shall be no raised platform, stage or dance floor allowed on the premises at any time.
38. There shall be no bar or lounge area upon the licensed premises.
39. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the licensed premises.
40. There shall be no outdoor patio dining area available for customers.
41. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.16.020.070.
42. 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.
43. In the event that an ABC License is suspended for any period of time and/or fined for any ABC violation as a result of disciplinary action, the Conditional Use Permit shall be presented to the Planning Commission for review or further consideration.
44. All rear doors shall be kept closed at all times during the operation of the licensed premises, except to permit employee ingress and egress, deliveries, and in emergencies.
45. Panic hardware shall be provided on the two secondary exit doors located on the east elevation.
46. All customers or patrons shall use the restaurant's front main entrance/door as the means to ingress and egress the restaurant.
47. All parking lot areas of the licensed premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lots. The



applicant/property owner shall be sure that all parking lot lighting is in proper working order including the rear parking area.

48. Lighting in the parking area of the licensed premises shall be directed, positioned, or shielded in such a manner so as not to unreasonably illuminate the window areas of nearby residences.
49. 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.
50. The trash bin 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.
51. Graffiti shall be removed from the premises, and all parking lots under the control of the licensee and/or the property owner, within 120 hours upon notification or application.
52. The applicant is advised that the establishment is subject to the provisions of State Labor Code Section 6404.5 (ref: State Law AB 13), which prohibits smoking inside the establishment as of January 1, 1995.
53. 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.
54. 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.
55. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
56. Signs shall comply with the City of Garden Grove sign requirements. No more than 15% of the total window area and clear doors shall bear advertising or signs of any sort. No signs advertising alcoholic beverages

shall be placed on the windows. Any opaque material applied to the store front, such as window shall count toward the maximum window coverage area.

57. Currently, each separate tenant space is improved with two (2) separate signs – one for Anh Hong Restaurant (10195 Westminster Avenue) and one for Bluetech (10221 Westminster Avenue). The newly combined restaurant/eating establishment, shall have one (1) sign for the newly combined tenant space. The restaurant shall not have two (2) separate signs. The unused sign shall be removed. All holes and discolored paint areas shall be patched and repaired to match the existing wall color.
58. 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.
59. A copy of Resolution No. 5887-17 approving Conditional Use Permit No. CUP-104-2017 shall be kept on the licensed premises at all times.
60. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-104-2017, and his/her agreement with all conditions of the approval.
61. The Conditional Use Permit shall be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.
62. Any Conditional Use Permit previously governing this tenant space, including Conditional Use Permit No. CUP-620-02 shall become null and void, and superseded in its entirety, by the approval of CUP-104-2017 and be made available upon request by City Staff and/or Police Department.
63. The applicant is advised that if the use of the establishment ceases to operate for more than 90 days, then the existing Conditional Use Permit will become null and void and the new applicant shall be required to apply for a new Conditional Use Permit subject to the approval by the Community and Economic Development Department, Planning Services Division.
64. In the event the site cannot accommodate the parking demand for the eating establishment/restaurant, at any given time, which causes a nuisance, hindrance, and/or problem with both on-site and/or off-site parking and circulation, the business owner/property owner shall devise and implement a

plan to relieve the situation. The business owner/property owner shall submit a plan to manage parking issues for review and approval by the Community and Economic Development Department. The plan may include, but not be limited to: reducing the hours of operation, limiting the number of customers within the establishment, limiting the number of seats and customer dining area within the establishment, instituting an off-site parking arrangement; having on-site parking control personnel; and/or other alternatives that may be deemed applicable to the situation. If the City deems such action is necessary to address parking and circulation problems, such action shall be required within thirty (30) days of written notice. Failure to take appropriate action may result in the City restricting the overall use of the facility or revoking Conditional Use Permit No. CUP-104-2017.

65. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning CUP-104-2017. 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.
66. Unless a time extension is granted pursuant to Section 9.32.030.D.9 of Title 9 of the Municipal Code, the use authorized by this approval of Conditional Use Permit No. CUP-104-2017 shall become null and void if the subject use or construction necessary and incidental thereto is not commenced within one (1) year of the expiration of the appeal period and thereafter diligently advanced until completion of the project.