

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew Fertal
From: Susan Emery
Dept: City Manager
Dept: Community Development
Subject: AN APPEAL OF CONDITIONAL USE PERMIT NO. CUP-269-09
Date: July 14, 2009

OBJECTIVE

To consider the appeal of three specific conditions of approval approved under Conditional Use Permit No. CUP-269-09. Conditional Use Permit No. CUP-269-09 approved to allow the operation of a 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi, subject to approval of Amendment No. A-149-09. The subject establishment is located on the east side of Brookhurst Street, south of Chapman Avenue, at 12196 Brookhurst Street.

BACKGROUND

Proposed Project CUP-269-09:

The subject property is located on the east side of Brookhurst Street, south of Chapman Avenue. The site has a General Plan Land Use designation of Light Commercial and is zoned BCSP-BCC (Brookhurst Chapman Specific Plan - Brookhurst Chapman Commercial). The subject property is 11,464 square feet in area and is part of an existing commercial shopping center.

The subject tenant space will consist of three (3) total classrooms for students to occupy. As required by the Fire and Building Departments, each classroom will be required to have a posted maximum occupancy of students (twenty [20] square feet of classroom area per student) specific to each classroom and the classroom size. The Planning Department has provided a condition, which will limit the maximum number of students in the establishment to a maximum occupancy of 88 persons at any one time.

The applicant is proposing to have hours of operation from 7:00 a.m.- 10:00 p.m., seven days a week. The applicant has stated that, typically, students will be at the establishment for no more than two (2) hours per day. The proposed Children's Learning Center will cover school grades 1st through 12th grade.

The site has sufficient amount of available parking spaces for the proposed use, and there is reciprocal access to the adjacent lots within the shopping center.

History of the Project:

May 21, 2009: The Planning Commission considered Amendment No. A-149-09 amending the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone, to add a use, Children’s Learning Center, subject to the approval of Conditional Use Permit No. CUP-269-09. Along with the Amendment request, the Planning Commission considered and approved a Conditional Use Permit request from the operator of Trung Tam Giao Duc & Luyen Thi to operate an existing 2,018 square foot Children’s Learning Center, subject to City Council’s approval of Amendment No. A-149-09. The Planning Commission adopted Resolution No. 5683 recommending approval of Amendment No. A-149-09. Two (2) members of the public came forward and spoke in favor of the project.

A letter was submitted by the adjacent business, Brookhurst Hobbies, speaking in opposition to the project. The letter expressed three (3) concerns:

1. The rear of the establishment is used as the main entrance. The front door of the establishment was found locked during business hours. A sign was posted on the locked front door and redirected persons to the rear of the establishment.
2. A play area was created at the rear of the establishment with cones, tape, and trashcans. No supervision was provided and the children did not stay in the designated play area, often spilling over into the fenced parking area owned by the adjacent business, Golden Tile and Marble.
3. There is no designated drop-off and pick-up area for the students of the establishment. Parents dropping off or picking up their children park in all directions impeding flow of vehicular circulation on site.

During the public hearing portion of the meeting, the applicant requested removal of Condition No. 36, regarding two additional plumbing fixtures. After staff clarified the condition, the applicant stated he was in agreement with the conditions of approval. The project was approved with six (6) commissioners voting to approve the project, with one commissioner absent.

DISCUSSION

Appeal of the Proposed Project:

Davis Alexander, the applicant, has appealed three specific conditions of approval under the Conditional Use Permit. In Mr. Alexander’s appeal, he has requested Condition Nos. 32, 36, and 39 be removed from the list of conditions of approval approved under Conditional Use Permit No. CUP-269-09. The appellant did not state the basis for the appeal as required by Garden Grove Municipal Code Section 9.24.130. Mr. Alexander is requesting that the City Council review the appeal and take the appropriate action.

The following are the three (3) conditions of approval Mr. Alexander is appealing to the City Council:

Condition No. 32: *In the event there are any parking or traffic circulation issues at 12196 Brookhurst Street that impact the existing shopping center, the applicant shall prepare a parking/traffic mitigation plan to the satisfaction of the City.*

For this type of use, this is a standard condition of approval. Staff finds that the designated drop-off and pick-up area will prevent any potential traffic and circulation issues from the proposed use or from the establishment of the outside waiting and drop off area that has been conditioned under Condition No. 39.. From the building to the rear property line, there is eighty (80) to one hundred (100) feet of setback, which provides ample room for circulation and flow of vehicular traffic. Again, this condition is typically applied to assembly types of uses where the potential for high traffic volume could occur.

Condition No. 36: *The existing plumbing fixture count (2) is acceptable. If the number of students in the establishment increase above sixty (60) students, additional plumbing fixtures shall be provided per the California Building Code (CBC) and the California Plumbing Code (CPC).*

Under the provisions of Table 4-1 of the California Plumbing Code, the Building Services Division determined that the existing plumbing fixture count of two (2) is acceptable for up to sixty (60) students. The maximum number of students, as determined by the Fire Department, is eighty-eight (88) for the establishment. If the number of students in the establishment increase above sixty (60) students, the applicant will be required to provide additional plumbing fixtures (i.e. water closets) per the California Plumbing Code (CPC). This condition is in place so as to sufficiently accommodate the maximum number of students with the required plumbing fixture count at this establishment.

Condition No. 39: *The applicant shall designate a waiting area for drop-off and pick-up of students, at the rear of the establishment. The waiting area (drop-off and pick-up designated area) shall be limited to 300 square feet and limited to the following dimensions: ten (10) feet in depth, measured from the building wall, and thirty (30) feet in length, provided that the waiting area/fence location is at least ten (10) feet away from the south property line/south building wall, for a maximum of 300 square feet of waiting area. The design/configuration shall be approved by both the Community Development Department and the Fire Department, prior to installation. Gate location and exit path of travel shall be shown as part of the approved plan, inclusive of having the proper emergency exit panic hardware on the gate, minimum 3'-0" wide, and the fence height does not exceed four (4) feet.*

As discussed at the Planning Commission meeting on May 21, 2009, a waiting area for drop-off and pick-up of students shall be constructed at the rear of the establishment.

Condition No. 37 states: At no time shall there be any outside play area. An area within the tenant space may be used for play activities associated with the

establishment's curriculum, but only to be incidental to the children's learning center so as not to create a children's day care operation. As shown on the submitted floor plan for the application for Conditional Use Permit No. CUP-269-09, there is plenty of space available to create an interior play area within the establishment. The subject use directly abuts residential properties to the east, thereby creating the potential for noise issues if an outdoor play were constructed. Therefore, staff finds that the designated waiting-area, 300 square feet in size, is sufficient for the purposes of drop-off and pick-up of students. The waiting area is strictly for drop-off and pick-up of students and not for an outdoor play area.

FISCAL IMPACT

There is no fiscal impact to the City regarding denial or approval of this appeal.

COMMUNITY VISION IMPLEMENTATION

The Community Vision Statement seeks to ensure the compatibility between new and existing uses. The proposed children's learning center, in design and use, will be compatible with the surrounding area, provided the existing conditions of approval are adhered to.

RECOMMENDATION

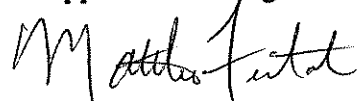
It is recommended that the City Council:

- Uphold the Planning Commission decision approving Conditional Use Permit No. CUP-269-09 in full and thereby deny the Appeal of the three specific conditions of approval under Conditional Use Permit No. CUP-269-09, as indicated on the attached City Council Resolution.

SUSAN EMERY
Community Development Director



Approved for Agenda Listing



Matthew Fertal
City Manager

By: Chris Chung
Assistant Planner



- Attachment 1: Planning Commission Staff Report dated May 21, 2009
- Attachment 2: Planning Commission Resolution No. 5683
- Attachment 3: Planning Commission Resolution No. 5684 with Conditions of Approval
- Attachment 4: Planning Commission Minute Excerpt of May 21, 2009
- Attachment 5: Initial Study Environmental Checklist Form
- Attachment 6: Draft City Council Resolution denying the Appeal of Conditional Use Permit No. CUP-269-09
- Attachment 7: Applicant's Appeal Letter dated June 6, 2009

COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.1.	SITE LOCATION: East side of Brookhurst Street, south of Chapman Avenue, at 12196 Brookhurst Street
HEARING DATE: May 21, 2009	GENERAL PLAN: Light Commercial
CASE NOS: Amendment No. A-149-09 & Conditional Use Permit No. CUP-269-09	ZONE: BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial)
APPLICANT: Davis Alexander	APN: 089-453-42
PROPERTY OWNER: Chuc Nguyen	CEQA DETERMINATION: Negative Declaration

REQUEST:

A proposed Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone to allow a Children's Learning Center with Conditional Use Permit approval, in conjunction with a request for Conditional Use Permit approval to operate a 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi.

PROJECT STATISTICS:

<u>LOT SIZE (TOTAL):</u>	11,464 sq.ft.
<u>TENANT SPACE:</u>	
Proposed Children's Learning Center:	2,018 sq.ft.
<u>BUILDING HEIGHT:</u>	Approx. 15'-0" (one-story commercial building)
<u>PARKING (On the lot):</u>	161 Total spaces

BACKGROUND:

The subject site is part of an existing commercial shopping center located on the east side of Brookhurst Street south of Chapman Avenue. The subject property is 11,464 square feet in area. The site has a General Plan Land Use designation of Light Commercial and is zoned BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial).

The specific tenant space under application is a 2,018 square foot space at 12196 Brookhurst Street. The business is currently occupied by Trung Tam Giao Duc & Luyen Thi, which operates as an after-school tutoring center, limited to 15 students. The subject lot has a total of 161 parking spaces available. Currently, demand at the

site allows for many available parking spaces, and there is reciprocal access to the adjacent lots within the shopping center.

DISCUSSION:

AMENDMENT:

The applicant is requesting approval of an Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone to allow a tutoring business, "Children's Learning Center" (A-149-09), subject to the approval of a Conditional Use Permit. Currently, the BCSP-BCC zone does not permit this type of use.

The Community Development Department has seen an increase in the number of requests to operate tutoring businesses in commercial zones. Educational institutions and private schools offering full-time education to children are only allowed in residential zones with approval of a Conditional Use Permit. Small tutoring businesses, for fifteen (15) or less students, have been approved in commercial zones within retail/office multi-tenant buildings. Small tutoring businesses have characteristics of an office use and provide supplemental education to 12 to 15 students for a limited number of hours; 3 to 4 hours maximum per day. The Building Department requires a change of occupancy to type "E", if students attend more than 12 hours a week. Examples of this type of business are "Kumon" and "Sylvan Learning Center".

The proposed business, Trung Tam Giao Duc & Luyen Thi, is a larger tutoring operation with an anticipated 80 or more students. Staff has given this type of large tutoring facility the name "Children's Learning Center." This type of center would provide the same services of supplemental education to students first grade through high school during limited hours of the day. The existing shopping center can accommodate the proposed use with adequate parking available.

In order to allow the establishment of a large tutoring facility within the Brookhurst Chapman Specific Plan area, the proposed Amendment would consist of the following:

The BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone establishes uses that are allowed in Section 9383. Amendment No. A-149-09 will add an additional use as follows:

9383. Permitted Uses – Brookhurst Chapman Commercial (BCC) Zone. Uses permitted in the Brookhurst/Chapman Commercial are:

(Change shown in bolded text)

All uses permitted in the OF and OE Zones

Art Galleries, Automobile accessory stores (Installation permitted with CUP), Bakeries, Bakeries retail, Barber shops, Book or stationary stores, Boutiques, Camera Shops, **Children's learning centers (subject to the approval of a Conditional Use Permit)**, Christmas tree sales lot, Clothing stores, Confectionaries, Decorator and home accessory shops, Delicatessens (off-sale beer and wine only), Dress making or millinery shops, Drug stores, Dry cleaners, Dry goods or notion stores, Electronic goods, Florist shops, Furniture stores (retail), Gift and novelty shops, Grocery or fruit stores, Hardware stores, Hobby stores, Ice cream parlors, Import and art objects stores, Jewelry stores, Laundry agencies and clothes cleaning agencies, Leather goods stores, Limited print shops, Liquor stores, Meat markets or delicatessen stores, Music stores, Nurseries, Open air cafes (subject to the approval of a Conditional Use Permit), Outdoor Food Vendors (subject to the approval of a Conditional Use Permit), Paint stores, Pet stores, Restaurants, Service stations (subject to the approval of a Conditional Use Permit), Shoe repair shops, Shoe stores, Sporting goods stores, Stationers and card shops, Tailors, Television and radio sales, Theaters (subject to the approval of a Conditional Use Permit), Tobacco shops, Travel bureau.

CONDITIONAL USE PERMIT:

In conjunction with the proposed Amendment, the applicant is requesting approval of a Conditional Use Permit (CUP) for the proposed Children's Learning Center. CUP-269-09 is a request to operate a new 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi. Planning Staff has determined that because of the number of students and the possible impacts from drop-off and pick-up of students, a Children's Learning Center is best reviewed under the Conditional Use Permit process. This process ensures that the proposed use will not be detrimental to the children enrolled in a children's learning center as well as the public health, safety, and general welfare and will not impair the integrity and character of the area. Additionally, a Conditional Use Permit for each use is reviewed individually, based on location and compatibility with the surrounding areas.

The subject tenant space will consist of three (3) total classrooms for students to occupy. As required by the Fire and Building Departments, each classroom will be required to have a posted maximum occupancy of students (twenty [20] square feet of classroom area per student) specific to each classroom and the classroom size. The Planning Department has provided a condition, which will limit the maximum number of students in the establishment to a maximum of 88 students at any one time. In addition to the classrooms, the interior consists of an office supply room, a men's restroom, and a women's restroom.

The applicant is proposing to have hours of operation from 7:00 a.m.- 10:00 p.m., seven days a week. The applicant has stated that, typically, students will be at the establishment for no more than two (2) hours per day. The proposed Children's Learning Center will cover school grades 1st through to 12th grade.

As previously mentioned, current demand at the site allows for many available parking spaces. By applying the City Code parking requirements for private schools, elementary through high school, fifteen (15) parking spaces would be required for the proposed Children's Learning Center. Staff found that a review of the site shows that actual demand for parking from the existing businesses is less than the required amount.

The applicant has stated that the majority of students will be dropped off by their parents, rather than driving themselves. Because most parents do not park and go into the establishment with their child, the applicant will provide a drop-off and pick-up area at the rear of the establishment. Staff feels that this designated drop-off and pick-up area will prevent any potential traffic and circulation issues from the proposed use.

A condition of approval for CUP-269-09 states that in the event there are any parking or traffic circulation issues at 12196 Brookhurst Street, or any issues that impact the existing shopping center, the applicant shall prepare a parking/traffic mitigation plan to the satisfaction of the City.

Upon inspection of the premises, Staff found that the prospective space for the Children's Learning Center and the overall site were properly maintained, and complied with the requirements of Title 9 of the Municipal Code.

RECOMMENDATION:

Staff recommends that the Planning Commission take the following actions:

1. Recommend adoption of a Negative Declaration and approval of Code Amendment No. A-149-09, amending the BCSP-BCC zone, to City Council; and
2. Approve Conditional Use Permit No. CUP-269-09 subject to the recommended Conditions of Approval as well as subject to the City Council approval of Code Amendment No. A-149-09.

Karl Hill
Planning Services Manager

By: Chris Chung
Assistant Planner

RESOLUTION NO. 5683

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING ADOPTION OF A NEGATIVE DECLARATION, AND RECOMMENDING APPROVAL OF AMENDMENT NO. A-149-09, AN AMENDMENT TO THE BCSP-BCC (BROOKHURST CHAPMAN SPECIFIC PLAN - BROOKHURST CHAPMAN COMMERCIAL) ZONE, TO ALLOW A CHILDREN'S LEARNING CENTER, SUBJECT TO THE APPROVAL OF A CONDITIONAL USE PERMIT (CUP-269-09).

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on May 21, 2009, does hereby recommend approval of Amendment No. A-149-09, for the property located on the east side of Brookhurst Street, south of Chapman Avenue, at 12196 Brookhurst Street, Parcel No. 089-453-42.

BE IT FURTHER RESOLVED that the Planning Commission has considered the proposed Negative Declaration 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 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 will have a significant effect on the environment. Therefore, the Planning Commission recommends adoption of the Negative Declaration.

BE IT FURTHER RESOLVED in the matter of Amendment No. A-149-09, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Davis Alexander.
2. The applicant is requesting approval of an Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan - Brookhurst Chapman Commercial) zone to allow a Children's Learning Center with Conditional Use Permit approval.
3. The Community Development Department has prepared a Negative Declaration for the project that concludes that the proposed project can not, or will not, have a significant adverse effect on the environment; was prepared and circulated in accordance with applicable law, including the California Environmental Quality Act (CEQA), Public Resources Code of Regulations section 21000 et. Seq., and the CEQA guidelines, 14 California Code of Regulation Sec. 15000 et. Seq., and includes mitigation measures. Furthermore, the Planning Commission finds a de minimis impact in relation to fish and game.
4. Report submitted by City staff was reviewed.

5. Pursuant to a legal notice, a public hearing was held on May 21, 2009, and all interested persons were given an opportunity to be heard.
6. The Planning Commission gave due and careful consideration to the matter during its meeting of May 21, 2009; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

The BCSP-BCC (Brookhurst Chapman Specific Plan - Brookhurst Chapman Commercial) zone currently does not list Children's Learning Centers as a permitted use. The proposed Amendment would add Children's Learning Centers, as a permitted use in the BCSP-BCC zone, subject to the approval of a Conditional Use Permit.

The applicant is also proposing, in conjunction with this request, to operate a 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi. (Conditional Use Permit No. CUP-269-09).

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, policies, and elements of the General Plan, which encourages compatibility between land uses. The requirement that Children's Learning Centers be subject to a Conditional Use Permit, will ensure that there is a reasonable degree of compatibility between the proposed use and surrounding properties.
2. The Amendment will promote the public interest, health, safety, and welfare through the Conditional Use Permit required by the amendment, thus ensuring the public interest, health, safety, and welfare.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT

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

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The Amendment possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9-162.17. The Planning Commission recommends approval of Amendment No. A-149-09 as follows:

The proposed Amendment would consist of the following:

The BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone establishes uses that are allowed in Section 9383. Amendment No. A-149-09 will add an additional use as follows:

9383. Permitted Uses – Brookhurst Chapman Commercial (BCC) Zone. Uses permitted in the Brookhurst/Chapman Commercial are:

(Change shown in bolded text)

All uses permitted in the OF and OE Zones

Art Galleries, Automobile accessory stores (Installation permitted with CUP), Bakeries, Bakeries retail, Barber shops, Book or stationary stores, Boutiques, Camera Shops, **Children's learning centers (subject to the approval of a Conditional Use Permit)**, Christmas tree sales lot, Clothing stores, Confectionaries, Decorator and home accessory shops, Delicatessens (off-sale beer and wine only), Dress making or millinery shops, Drug stores, Dry cleaners, Dry goods or notion stores, Electronic goods, Florist shops, Furniture stores (retail), Gift and novelty shops, Grocery or fruit stores, Hardware stores, Hobby stores, Ice cream parlors, Import and art objects stores, Jewelry stores, Laundry agencies and clothes cleaning agencies, Leather goods stores, Limited print shops, Liquor stores, Meat markets or delicatessen stores, Music stores, Nurseries, Open air cafes (subject to the approval of a Conditional Use Permit), Outdoor Food Vendors (subject to the approval of a Conditional Use Permit), Paint stores, Pet stores, Restaurants, Service stations (subject to the approval of a Conditional Use Permit), Shoe repair shops, Shoe stores, Sporting goods stores, Stationers and card shops, Tailors, Television and radio sales, Theaters (subject to the approval of a Conditional Use Permit), Tobacco shops, Travel bureau.

ADOPTED this 21st day of May, 2009

/s/ KRIS BEARD
CHAIR

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove, State of California, held on May 21, 2009, by the following votes:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, ELLSWORTH, KIRKHAM, TRAN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	CABRAL

/s/ JUDITH MOORE
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is June 11, 2009.

RESOLUTION NO. 5684

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-269-09.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on May 21, 2009, approved Conditional Use Permit No. CUP-269-09 for the property located on the east side of Brookhurst Street south of Chapman Avenue, at 12196 Brookhurst Street, Parcel No. 089-453-42.

BE IT FURTHER RESOLVED that the Planning Commission has considered the proposed Negative Declaration 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 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 will have a significant effect on the environment. Therefore, the Planning Commission recommends adoption of the Negative Declaration.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-269-09, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Davis Alexander.
2. The applicant is requesting approval of an Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan - Brookhurst Chapman Commercial) zone to allow a Children's Learning Center with Conditional Use Permit approval, in conjunction with a request for Conditional Use Permit approval to operate a 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi. (Conditional Use Permit No. CUP-269-09).
3. The Community Development Department has prepared a Negative Declaration for the project that concludes that the proposed project can not, or will not, have significant adverse effect on the environment; was prepared and circulated in accordance with applicable law, including the California Environmental Quality Act (CEQA), Public Resources Code of Regulations section 21000 et. Seq., and the CEQA guidelines, 14 California Code of Regulation Sec. 15000 et. Seq., and includes mitigation measures. Furthermore, the Planning Commission finds a de minimis impact in relation to fish and game.
4. The property at 12916 Brookhurst Street has a General Plan Designation of Light Commercial and is within the BCSP-BCC (Brookhurst Chapman Specific Plan - Brookhurst Chapman Commercial) zone. Existing land use, zoning,

and General Plan designation of property in the vicinity of the subject property have been reviewed.

5. Report submitted by City Staff was reviewed.
6. Pursuant to a legal notice, a public hearing was held on May 21, 2009, and all interested persons were given an opportunity to be heard.
7. The Planning Commission gave due and careful consideration to the matter at its meeting on May 21, 2009, 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 9.24.030, are as follows:

FACTS:

The subject site is part of an existing commercial shopping center located on the east side of Brookhurst Street south of Chapman Avenue. The subject property is 11,464 square feet in area. The site has a General Plan Land Use designation of Light Commercial and is zoned BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial).

The specific tenant space under application is a 2,018 square foot space at 12196 Brookhurst Street. The business is currently occupied by Trung Tam Giao Duc & Luyen Thi, which operates as an after-school tutoring center, limited to 15 students. The subject lot has a total of 161 parking spaces available. Currently, demand at the site allows for many available parking spaces, and there is reciprocal access to the adjacent lots within the shopping center.

In conjunction with the subject request, the applicant/owner is proposing an Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone to allow a Children's Learning Center, subject to the approval of a Conditional Use Permit.

FINDINGS AND REASONS:

Conditional Use Permit:

1. In conjunction with the associated Code Amendment for the proposed development, the proposed Children's Learning Center, Trung Tam Giao Duc & Luyen Thi, will be consistent with the City's General Plan and Redevelopment Plan. The proposed use, as conditioned, will be compatible with the surrounding uses as the proposed improvements and use comply with all applicable code provisions.
2. The proposed Children's Learning Center, Trung Tam Giao Duc & Luyen Thi, as conditioned, will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area.

3. The proposed Children's Learning Center, Trung Tam Giao Duc & Luyen Thi, as conditioned, will not unreasonably interfere with the use, enjoyment, or valuation of property of other persons located within the vicinity of the site. The proposed use can be accommodated on-site without negatively impacting the subject or surrounding properties.
4. The establishment of the proposed Children's Learning Center, Trung Tam Giao Duc & Luyen Thi, will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare. Conditions of approval will ensure the public, health, safety, and welfare.
5. The approval to allow the operation of a Children's Learning Center, Trung Tam Giao Duc & Luyen Thi, will not adversely affect the use and enjoyment of adjacent properties. If the applicant operates this use in compliance with the conditions of approval, there should be no impact on the adjoining properties.
6. Adequate parking and vehicular access are available for the new facility in accordance with the requirements of Title 9. The proposed project meets City Code requirements for parking as well as vehicular and pedestrian access.

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:

The Conditional Use Permit possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.24.030.

In order to fulfill the purpose and intent of the Municipal Code and thereby promote the health, safety, and general welfare, the attached Conditions of Approval (Exhibit "A") shall apply to Conditional Use Permit No. CUP-269-09.

ADOPTED this 21st day of May, 2009

/s/ KRIS BEARD
CHAIR

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove, State of California, held on May 21, 2009, by the following votes:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, ELLSWORTH, KIRKHAM, TRAN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	CABRAL

/s/ JUDITH MOORE
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is June 11, 2009.

EXHIBIT "A"
Conditional Use Permit No. CUP-269-09

12196 Brookhurst Street

REVISED CONDITIONS OF APPROVAL

General Conditions

1. The applicant shall record a "Notice of Agreement with Conditions of Approval and Discretionary Permit Approval," as prepared by the City Attorney's Office, on the property. 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 Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications which do not change the intent of the project may be approved by the Community Development Director.
3. If major modifications are made to the approved floor plan that result in the intensification of the project or create impacts that have been previously addressed, a new Conditional Use Permit application shall be filed which reflects the revisions made.

Fire Department

4. The applicant shall post maximum occupancy of students [twenty (20) square feet of classroom area per student] specific to each classroom and the classroom size.
5. The applicant shall post a maximum occupancy of 88 persons maximum in the building.
6. The applicant shall comply with the 2007 California Fire Code and California Building Code for all Life Safety Issues. This includes, but is not limited to, ensuring proper exiting is provided and maintained at all times.
7. The applicant shall provide fire extinguishers 2A10BC every 75'-0" in the building.
8. The applicant shall submit Tenant Improvement plans for plan check to the City, and shall use CA Fire Code and CA Building Code 2007.

Police Department

9. Hours of operation shall be permitted only between the hours of 7:00 a.m. to 10:00 p.m., seven days a week. The City reserves the right to reduce hours of operation in the event problems arise concerning the operation of this business.
10. There shall be no uses or activities permitted of an adult-oriented nature as outlined in the City Code, Section 9.04.060.
11. There shall be no smoking permitted inside the business at any time.
12. 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.

Community Development Department

13. Approval of this Conditional Use Permit is contingent upon City Council approval of Amendment No. A-149-09 which will allow the establishment to operate a Children's Learning Center, Trung Tam Giao Duc & Luyen Thi. There shall be no additional changes in the design of the floor plan without the approval of the Community 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.
14. No outside storage or displays shall be permitted at any time.
15. 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 of the establishment, and shall also be visible to the public.
16. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.

17. An enrolled student/child may stay at the establishment for no more than four (4) hours per day.
18. All lighting structures shall be placed and maintained so as to confine direct rays to the subject property. Lighting levels shall be maintained at a minimum of two foot-candles during hours of operation and a minimum of one foot-candle all other hours of darkness.
19. 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.
20. All trash bins shall be kept inside the trash enclosure, and gates closed at all times, except during disposal and pick-up. Trash pick-up shall be based on the existing schedule provided by the commercial center.
21. Graffiti shall be removed from the premises, and all parking lots under the control of the licensee and/or the property owner, within 120 hours upon notification/application.
22. 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.
23. No roof-mounted mechanical equipment shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community Development Department, Planning Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
24. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community Development Department, Planning Division. No advertising material shall be placed thereon.
25. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
26. 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. Signing for the development shall be

Conditional Use Permit No. CUP-269-09
Conditions of Approval

consistent with that for the developments in the O-P (Office Professional) zone as stated in the City of Garden Grove Municipal Code.

27. Any modifications to existing signs or the installation of new signs shall require approval by the Community Development Department, Planning Services Division prior to issuance of a building permit.
28. Any Conditional Use Permit previously governing this tenant space shall become null and void, and superseded in its entirety, by approval of CUP-269-09.
29. A copy of the Resolution and the Conditions of Approval for Conditional Use Permit No. CUP-269-09 shall be kept on the premises at all times.
30. The permittee shall submit a signed letter acknowledging receipt of the resolution approving Conditional Use Permit No. CUP-269-09, and his/her agreement with all conditions of the approval.
31. Conditional Use Permit No. CUP-269-09 shall be reviewed annually on or before the date of this approval. However, in the first year, CUP-269-09 shall be reviewed by the City six (6) months from the effective date of this approval. Findings, thereof, shall be presented to the Planning Commission and they shall review the business operation for compliance with all conditions of approval and shall determine if CUP-269-09 shall remain in effect on the subject property.
32. In the event there are any parking or traffic circulation issues, at 12196 Brookhurst Street, that impacts the existing shopping center, the applicant shall prepare a parking/traffic mitigation plan to the satisfaction of the City.
33. The applicant shall submit plans, prepared by a licensed Architect, to the Building Department for plan check for "Change in Occupancy".
34. The building shall be made to comply with the requirements of the California Building Codes (Building, Plumbing, Electrical, and Mechanical) for the new occupancy Educational Group "E".
35. The new Occupancy shall comply with the current California Building code, including, but not limited to, the maximum number of persons, per occupancy codes, allowed in the facility at any given time.
36. The existing plumbing fixture count (2) is acceptable. Shall the number of students in the establishment increase above sixty (60) students, additional

plumbing fixtures shall be provided per the California Building Code (CBC) and the California Plumbing Code (CPC).

37. At no time shall there be any outside play area. An area within the tenant space may be used for play activities associated with the establishment's curriculum, but only to be incidental to the children's learning center so as not to create a children's day care operation.
38. 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 Amendment No. A-149-09 and Conditional Use Permit No. CUP-269-09. 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.
39. The applicant shall designate a waiting area for drop-off and pick-up of students, at the rear of the establishment. The waiting area (drop-off and pick-up designated area) shall be limited to 300 square feet and limited to the following dimensions: ten (10) feet in depth, measured from the building wall, and thirty (30) feet in length, provided that the waiting area/fence location is at least ten (10) feet away from the south property line/south building wall, for a maximum of 300 square feet of waiting area. The design/configuration shall be approved by both the Community Development Department and the Fire Department, prior to installation. Gate location and exit path of travel shall be shown as part of the approved plan, inclusive of having the proper emergency exit panic hardware on the gate, minimum 3'-0" wide, and the fence height does not exceed four (4) feet.

MINUTE EXCERPT

GARDEN GROVE PLANNING COMMISSION

PUBLIC HEARING: NEGATIVE DECLARATION
 AMENDMENT NO. A-149-09
 CONDITIONAL USE PERMIT NO. CUP-269-09

APPLICANT: DAVIS ALEXANDER

LOCATION: EAST SIDE OF BROOKHURST STREET, BETWEEN CHAPMAN AVENUE AND LAMPSON AVENUE AT 12196 BROOKHURST STREET

DATE: MAY 21, 2009

REQUEST: To amend the BCSP-BCC (Brookhurst Chapman Specific Plan-Brookhurst Chapman Commercial) zone to allow a Children's Learning Center with Conditional Use Permit approval, in conjunction with a request for Conditional Use Permit approval to operate a new 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi. The site is in the BCSP-BCC (Brookhurst Chapman Specific Plan-Brookhurst Chapman Commercial) zone.

Staff report was read and recommended approval with modifications to Condition Nos. 31, 36, and 38. One letter of opposition was written by Mr. Henry M. Tremblay, owner of Brookhurst Hobbies.

Commissioner Bui asked Staff to clarify the crime statistics in the area.

Staff replied that there is an over-concentration of alcohol licenses, especially with Conditional Use Permit (CUP) violations; that four out of five businesses in the strip mall are operating in violation of their CUP, relating to hours of operation and entertainment.

Chair Beard asked Staff if the rear area is used for a student drop-off/pick-up area. Staff replied yes, that there is not much parking that occurs in the rear; that the parking stripes have faded over time; and that there is not a designated path of travel, however, traffic flows in both directions in the two narrow alley's serving the rear of the site.

Chair Beard asked if the front door is to be unlocked when the business is open as the door was locked when he made an inspection. Staff replied yes, per the fire code, and that the door must have panic hardware and swing outward.

Chair Beard asked Staff if the open area inside the building could be used as a waiting area. Staff replied that the space is a type of waiting/play area.

Chair Beard asked Staff to clarify the occupancy number in the building. Staff responded that the occupancy is 88 persons total whether students, teachers or others.

Commissioner Ellsworth asked Staff if there were police calls for service on record. Staff replied that an officer was contacted by the rear residents regarding students playing in the alley as they were throwing rocks and paper into the resident's yards; the officer investigated and cited safety concerns with the children; that there were no calls for service for this address, however, it is unknown if there were calls from

Brookhaven residents; and, that at an office meeting with the applicants these issues were pointed out and acknowledged.

Commissioner Tran asked Staff if the City has any responsibility toward any future accidents at this business. Staff replied no, that the responsibility is that of the applicant and owner.

Commissioner Tran asked if a fence could be built in the rear to contain the children as they wait for pick up. Staff expressed that State Licensing would impose conditions if the rear space became a play area; and that parking would be decreased.

Commissioner Bonikowski asked Staff to clarify Condition No. 36 regarding additional bathrooms. Staff replied that the Condition revision stated that two plumbing fixtures are acceptable, however, if the number of students exceeds 60, additional plumbing fixtures shall be provided.

Chair Beard asked Staff why there would be six months reviews. Staff responded that there are several concerns regarding complying with the plumbing code, with the children outside, and the building occupancy.

Commissioner Bui asked if the City has measures for making sure the applicant complies. Staff replied that the City would rely on the applicant and periodic visits would be made.

Chair Beard opened the public hearing to receive testimony in favor of or in opposition to the request.

Mr. Davis Alexander, the applicant, approached the Commission.

Chair Beard asked the applicant if he had read and agreed with the Conditions of Approval. Mr. Alexander replied yes. He added comments from the owner regarding the tutoring of math and English, and asked that Condition No. 36 be removed regarding additional plumbing fixtures as two restrooms were sufficient.

Vice Chair Kirkham expressed that the item could not be approved without Condition No. 36.

Staff clarified that Condition No. 36 had been modified to state that the existing fixture count is acceptable, however, if the student population would increase to above 60, two additional fixtures would be required.

The applicant stated that he was in agreement with the Conditions of Approval.

Vice Chair Kirkham asked the applicant if children play in the rear. Mr. Alexander replied yes and asked if a fence could be built.

Staff clarified that the request would be a different application.

Commissioner Ellsworth cited the child safety issues with playing outside, especially at night and with cars going by. Also, that the tenants are separate and a fence could be a concern.

Mr. Alexander stated that the parents do not listen to his requests. Also, the owner would allow him to build a fence.

Staff added that a small exterior holding area might be sufficient for children to wait for parents.

Commissioner Bui asked if the interior space could be a holding area for children.

Mr. Alexander responded no, that the space is for studying only, and the outside is for waiting.

Commissioner Tran stated that parents do not always pick up their children on time and that they need a safe place while waiting.

The applicant stated that he would accept an outside waiting area.

Staff responded that they would work with the applicant on a fenced waiting area that would comply with code, and not be a play area.

Mr. Khon Huynh approached the Commission and stated that his children used to attend the Learning Center, however, due to the limited number of students they cannot attend; that the study time is two hours from 4:00 to 6:00 p.m.; that the children wait in the back area; and that parents come at different times.

Rev. Dr. David Huynh, a volunteer tutor at the learning center, approached the Commission and stated that he supports the Learning Center for the benefit of the community.

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

The Commissioners agreed that these projects are needed and good for the community especially with language barriers; and that a fence would address the resident's concerns and would need to be up to fire code for the safety of the children.

Commissioner Tran moved to recommend adoption of the Negative Declaration and approval of Amendment No. A149-09 to City Council, and approve Conditional Use Permit No. CUP-269-09, with amendments to Condition Nos. 31, 36, and 38, with the inclusion that fencing in the rear area must comply with fire code and all other requirements, seconded by Commissioner Bui, pursuant to the facts and reasons contained in Resolution Nos. 5683(A) and 5684(CUP). The motion received the following vote:

AYES:	COMMISSIONERS:	BEARD, BONIKOWSKI, BUI, ELLSWORTH, KIRKHAM, TRAN
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	CABRAL

ENVIRONMENTAL CHECKLIST FORM

1. **PROJECT TITLE:**
Code Amendment No. A-149-09 and Conditional Use Permit No. CUP-269-09
2. **LEAD AGENCY:**
City of Garden Grove
11222 Acacia Parkway
Garden Grove, CA 92640
3. **CONTACT PERSON:**
Chris Chung, Assistant Planner
4. **PROJECT LOCATION:**
12196 Brookhurst Street, pertaining to Code Amendment No. A-149-09
5. **PROJECT SPONSOR:**
Davis Alexander
12196 Brookhurst Street
Garden Grove, CA 92840
6. **GENERAL PLAN DESIGNATION:**
Light Commercial
7. **ZONING:**
BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial)
8. **DESCRIPTION OF PROJECT:**
A proposed Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone to allow a Children's Learning Center with Conditional Use Permit approval, in conjunction with a request for Conditional Use Permit approval to operate a 2,018 square foot Children's Learning Center, Trung Tam Giao Duc & Luyen Thi.
9. **OTHER AGENCIES WHOSE APPROVAL (AND PERMITS) IS REQUIRED:**
None.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or "Potentially Significant Unless Mitigated," as indicated by the checklist on the following pages.

<input type="checkbox"/> Land Use	<input type="checkbox"/> Transportation/Circulation	<input type="checkbox"/> Public Services
<input type="checkbox"/> Housing	<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Utilities and Services
<input type="checkbox"/> Geophysical	<input type="checkbox"/> Energy Resources	<input type="checkbox"/> Aesthetics
<input type="checkbox"/> Hazards	<input type="checkbox"/> Water Quality	<input type="checkbox"/> Cultural Resources
<input type="checkbox"/> Air Quality	<input type="checkbox"/> Noise	<input type="checkbox"/> Recreation
	<input type="checkbox"/> Mandatory Findings of Significance	

DETERMINATION:

On the basis of this initial evaluation:

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

Signature

May 21, 2009
Date

Chris Chung
Printed Name

For:
City of Garden Grove

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cited in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take into account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level indirect as well as direct, and construction as well as operational impacts.
3. "Potentially Significant Impact" is appropriate if an effect is significant or potentially significant, or if the lead agency lacks information to make a finding of significance. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Potentially Significant Unless Mitigated" applies when the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analysis," may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). Earlier analyses are discussed in Section XVII at the end of the checklist.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

Potentially Significant Impact	Significant Unless Mitigated	Less than Significant Impact	No Impact
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I. LAND USE AND PLANNING

- a. Conflict with General Plan designation or zoning.
- b. Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project.

Response (a-b): A proposed Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone to allow a Children’s Learning Center with Conditional Use Permit approval, in conjunction with a request for Conditional Use Permit approval to operate a 2,018 square foot Children’s Learning Center, Trung Tam Giao Duc & Luyen Thi.

The subject site is part of an existing commercial shopping center located on the east side of Brookhurst Street south of Chapman Avenue. The subject property is 11,464 square feet in area. The site has a General Plan Land Use designation of Light Commercial and is zoned BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial).

The specific tenant space under application is a 2,018 square foot space at 12196 Brookhurst Street. The business is currently occupied by Trung Tam Giao Duc & Luyen Thi, which operates as an after-school tutoring center, limited to 15 students. The center has approximately 161 parking spaces. Observation of the overall center finds ample parking available, and there is reciprocal access to the adjacent lots within the shopping center.

Currently, development standards do not list Children’s Learning Centers as a permitted use in the BCSP-BCC zone.

While Children’s Learning Centers is not currently a permitted use within the BCSP-BCC zone, it is felt that the use, when approved conditionally and performed within a building, would be consistent with the General Plan for compatibility with other uses and the BCSP-BCC zoning designation.

- c. Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible uses).

Response (c): There are no lands dedicated to agricultural uses within the project area. Therefore, there will be no impacts to agricultural resources or operations.

- d. Disrupt or divide the physical arrangement of an established community (including a low-income or minority community).

Response (d): The project will not disrupt the physical arrangement of the existing site and existing shopping center, since the proposed Children’s Learning Center, will be wholly within the existing tenant space.

II. POPULATION AND HOUSING

- a. Cumulatively exceed official regional or local population projections.
- b. Induce substantial growth in an area either directly

	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
Significant Impact			

or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure).

- c. Displace existing housing, especially affordable housing.

Response (a-c): There will be no impact to the existing population and housing, as the proposed project and code amendment does not affect any residential developments within the community

III. GEOPHYSICAL

- a. Seismicity: Fault rupture.

Response: According to the seismic and safety element of the General Plan, the Shady Canyon fault is the only fault line known to exist within the Garden Grove city limits. The fault has no history of seismic activity and is not considered to be active. The city lies in proximity to the Newport/Inglewood fault, as well as larger fault lines, which may affect buildings within Garden Grove.

Some exposure to seismic-related hazards is expected. This impact is not considered significant because the exposure is no different than the exposure of virtually all new and existing development in Orange County and the proposed project does not alter the existing exposure. To mitigate any potential impacts all construction is required to adhere to the California Building Code as it pertains to seismic safety.

- b. Seismicity: Ground shaking or liquefaction.

Response: The project area, like all of Southern California, is subject to ground-shaking and other secondary impacts from seismic activity, such as liquefaction. Liquefaction could potentially occur during a maximum intensity event along the Newport-Inglewood fault due to the saturated nature of the sandy soils in the area. To mitigate any potential impacts, all construction is required to adhere to the California Building Code, as it pertains to seismic safety.

- c. Seismicity: Seiche or tsunami.

Response: Seiches and tsunamis are not anticipated to occur in the vicinity of this project due to its distance from the coast and absence of large water bodies in the project area.

- d. Landslides or mudslides.

Response: The project area is relatively flat and would not normally be subject to landslides or mudslides. The construction of the proposed project will not involve excavations of any type.

- e. Erosion, changes in topography or unstable soil conditions from excavation, grading or fill.

Response: No changes in topography will result from the establishment of the proposed use. Other than interior building modifications, no improvements to the

	Potentially		
	Significant	Less than	
Significant	Unless	Significant	No
Impact	Mitigated	Impact	Impact

site will be constructed that would have a negative impact. All improvements are required to adhere to applicable codes including the California Building Code, and State and Federal Occupational Safety Requirements.

f. Subsidence of the land.

Response: Differential settlement or subsidence of the land surface can be caused by several factors, including the withdrawal of oil, gas, or water from underlying formations, decomposition of buried organic material, and construction of heavy manmade structures above underlying poorly consolidated materials. None of these or any other conditions typically contributing to subsidence are expected in the project area. Any new construction will be within the building. All improvements are required to adhere to applicable codes including the California Building Code, and State and Federal Occupational Safety requirements.

g. Expansive soils.

Response: All improvements are required to adhere to applicable codes including the Uniform Building Code, and California Occupational Safety requirements.

h. Unique geologic or physical features.

Response: There are no known unique geologic or physical features in the project area. The subject site is flat and is currently developed with a one-story commercial building.

IV. HYDROLOGY AND WATER QUALITY

a. Violate any water quality standards or waste discharge requirements?

Response: The project will not involve operations that could affect water quality standards. The project site is located within an urbanized area. The use of the proposed development will not generate the types of activities that would effect water quality standards or waste discharge requirements.

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

Response: The project will not involve operations that could affect aquifers' recharge capability or alter the direction of flow of groundwater. The area is urbanized with existing residential and commercial uses. The construction would not require substantial excavations, other extensive below-grade work, or the use of large quantities of water.

c. Substantially alter the existing drainage pattern of the site or area, including through the alteration

Negative Declaration for A-149-09 & CUP-269-09

	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
Significant Impact			

of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?

- d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface run-off in a manner which would result in flooding on- or off-site?

Response (c-d): There are no surface waters within the project area. All run-off from the area is, and will continue to be, collected in local and regional storm drain facilities. These waters will be transported with other urban run-off into City and County drainage facilities. Therefore, the project will not directly affect surface waters.

- e. Create or contribute run-off water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted water?

Response: The project does not propose any site improvements that would change absorption rates, drainage patterns and the rate or amount of surface run-off as the land is presently urbanized. Proper drainage currently is provided. Grading and drainage plans are not required for this project.

- f. Otherwise substantially degrade water quality?

Response: The project does not propose any site improvements that would change absorption rates, drainage patterns or the rate or amount of surface run-off as the site is presently developed. Proper drainage is currently provided. Grading and drainage plans are not required for this project.

- g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

- h. Place structures within a 100-year flood hazard area which would impede or redirect flood flows?

- i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Response (g, h, i): The project area is located within the Flood Hazard Zone "X", as determined by the Federal Emergency Management Agency Flood Insurance Rate Map No. 06059C0138H (Community No. 060220, Panel No. 0138H), issued on February 18, 2004. 100-year flood zone. Flood Zone "X" is not subject to the flood hazard ordinance.

- j. Inundation by seiche, tsunami, or mudflow?

Negative Declaration for A-149-09 & CUP-269-09

	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
Significant Impact			

Response: Seiches, tsunamis and mudflows are not anticipated to occur in the vicinity of this project due to its distance from the coast, the absence of large bodies of water, and the absence of hilly or mountainous terrain that could potentially cause mudflows.

- k. Result in an increase in pollutant discharges to receiving waters? Consider water quality parameters such as temperature, dissolved oxygen, turbidity and other typical stormwater pollutants (e.g., heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?

Response: Project run-off will be directed into the existing storm drain system adjacent to the site. The local storm drain system has adequate capacity to handle the incremental increase in storm and urban water run-off generated by this project.

- l. Result in significant alteration of receiving water quality during or following construction?

Response: There are no surface waters within the area in which the project is to be located. All run-off from the area is, and will continue to be, collected in local and regional storm drain facilities. These waters will be transported with other urban run-off into City and County drainage facilities. Therefore, the project will not significantly affect receiving water quality.

- m. Could the project result in increased erosion downstream?
- n. Result in increased impervious surfaces and associated increased run-off?
- o. Create a significant adverse environmental impact to drainage patterns due to changes in run-off flow rates or volumes?

Response (m, n, o): There will be a less than significant change in absorption rates, drainage patterns, and in the rate or amount of surface run-off, as the land is presently urbanized. Proper drainage is currently provided. Grading and drainage plans are not required for this project.

- p. Tributary to other environmentally sensitive areas? If so, can it exacerbate already existing sensitive conditions?
- q. Tributary to an already impaired water body, as listed on the Clean Water Act Section 303(d) list?

If so, can it result in an increase in any pollutant for which the water body is already impaired?

Negative Declaration for A-149-09 & CUP-269-09

	Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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- r. Have a potentially significant environmental impact on surface water quality to either marine, fresh or wetland waters?

Response (p, q, r): All run-off from the area is, and will continue to be, collected in local and regional storm drain facilities. These waters will be transported with other urban run-off into City and County drainage facilities. Therefore, the project will not affect existing environmentally sensitive areas or surface water quality.

- s. Have a potentially significant adverse impact on ground water quality?

- t. Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial uses?

Response (s, t): No impact is anticipated to occur to groundwater, as the project will not involve operations that could affect aquifers' recharge capability or alter the direction of flow of groundwater. The area is urbanized with existing residential and commercial uses. No exterior construction is being proposed.

- u. Impact aquatic, wetland, or riparian habitat?

Response: The project will not impact aquatic, wetland or riparian habitats as no such environments are located within the project area or in the immediate area. All run-off from the area is, and will continue to be, collected in local and regional storm drain facilities. These waters will be transported with other urban run-off into City and County drainage facilities. Therefore, the project will not directly affect any aquatic, wetland or riparian habitat.

V. AIR QUALITY

- a. Violate any air quality standard or contribute to an existing or projected air quality violation?

Response: The project area, like all of the South Coast Air Quality Management District, is located in an extreme non-attainment area, with regard to Federal air quality standards. There is no exterior construction being proposed. Any construction will be in the interior of the building and will not have any impacts to air quality. The permitted uses and operations anticipated in the project will not create the potential for significant amounts of air pollutants since all operations will take place within a building and all operations will be required to meet all AQMD and Fire Department requirements for painting and repair of vehicles. There will be no long-term impacts to air quality.

- b. Expose sensitive receptors to pollutants?

Response: Temporary impacts (e.g., increased dust and odor levels) to sensitive receptors may occur during the construction phase of the project. This type of impact is considered insignificant due to its temporary nature, and due to the fact that any construction will be performed indoors. Construction will be required to adhere to all mitigation measures, as addressed in the General Plan EIR, to

Negative Declaration for A-149-09 & CUP-269-09

	Potentially		
	Significant	Unless	Less than
Significant	Significant	Significant	Significant
Impact	Mitigated	Impact	No
			Impact

minimize the impacts from increased odors and dust. There will be no long-term impacts to air quality since the project will comply with all AQMD and Fire Department requirements.

- c. Alter air movement, moisture, or temperature, or cause any change in climate?

Response: The proposed project is not large enough in scale to alter air movement, moisture or temperature, or cause a change in the climate.

- d. Create objectionable odors.

Response: No objectionable odors will be created by the project. During construction, odors may occur within the immediate area of the tenant space. This impact is not considered significant due to its temporary nature. The General Plan EIR addressed odors that would result of new construction. Construction will be required to adhere to all mitigation measures, as addressed in the General Plan EIR, to minimize the impacts from increased odors. No post-construction odors are anticipated from the commercial development of this site since the proposed use will be required to adhere to AQMD and Fire Department requirements. No exterior construction is proposed. All construction will be in the interior of the wholly-enclosed building.

VI. TRANSPORTATION

- a. Increased vehicle trips or traffic congestion?

Response: The project will not result in additional traffic generation. No increase in daily trips is anticipated. Adjacent public right-of-ways are fully developed and have sufficient carrying capacity to accommodate any traffic that may be generated by the project. The circulation system is designed to accommodate future growth, as envisioned by the General Plan, and associated EIR.

- b. Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Response: As part of the project review, City staff evaluated vehicles and pedestrian safety, including review of access to the site, and on-site internal circulation to minimize pedestrian/vehicular conflicts both on-site and in the vicinity. The project's potential to result in adverse traffic or safety impacts is considered less-than-significant.

- c. Inadequate emergency access to nearby uses?

Response: The project does not propose elements or aspects that would obstruct or restrict emergency access to or through the area. In conjunction with the review and approval of building permits, the City of Garden Grove will review all plans to assure compliance with all applicable emergency access and safety requirements.

- d. Insufficient parking capacity on-site or off-site?

	Potentially			
	Significant	Less than		
	Unless	Significant	No	
Significant	Mitigated	Impact	Impact	
Impact				

Response: The project has been designed to comply with the minimum number of parking spaces required by the Municipal Code. The existing subject property provides shared parking for a total of 161 parking spaces, and no additional parking is required for the subject use.

- e. Hazards or barriers for pedestrians or bicyclists?

Response: No construction is proposed that could create hazards or barriers for pedestrians and/or bicyclists.

- f. Conflicts with adopted policies supporting alternative transportation?

Response: The project does not propose elements or aspects that would typically interfere with, or otherwise affect alternative transportation modes. Potential impacts in this regard, if any, are considered less-than-significant.

- g. Rail, waterborne or air traffic impacts?

Response: There are no air or waterborne traffic corridors in the immediate area. The site is not located within a flight path for any airport.

VII. BIOLOGICAL RESOURCES

- a. Endangered, threatened species, or their habitats (including but not limited to plants, fish, insects, animals, and birds)?

Response: The project site is located in a highly urbanized area. Therefore, endangered species are not expected to live in the area due to lack of suitable habitat.

- b. Locally designated species (e.g., heritage trees)?

- c. Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)?

Response (b, c): The site is devoid of native vegetation and there are no locally designated species and natural communities on the project site.

- d. Wetland habitat (e.g., marsh, riparian and vernal pool)?

Response: There are no wetland habitats in the area of the project site.

- e. Wildlife dispersal or migration corridors?

Response: The project area does not serve as a dispersal and/or migration corridor as the area is within a highly urbanized area.

	Potentially			
	Significant	Unless	Less than	No
	Impact	Mitigated	Significant	Impact

VIII. ENERGY AND MINERAL RESOURCES

- a. Conflict with adopted energy conservation plans.

Response: The proposed Amendment and subsequent entitlements for the proposed establishment of Children’s Learning Center on this site is not in conflict with adopted energy conservation plans. The proposed facility will be required to utilize energy conservation measures as part of the project construction.

- b. Use non-renewable resources in a wasteful and inefficient manner?

Response: All development on the project site is required to adhere to all State and City energy-conservation regulations, including energy efficient lighting, ventilation, and heating systems.

IX. HAZARDS

- a. A risk of accidental explosion or release of hazardous substances (e.g., oil, pesticides, chemicals, and radiation)?

- b. Possible interference with an emergency response plan or emergency evacuation plan?

- c. The creation of any health hazard or potential health hazard?

- d. Exposure of people to existing sources of potential health hazards?

Response (a, b, c, d): The use of paint and other potential hazardous substances will not be used, therefore, no potential health hazards, created by the proposed development or use is anticipated. No exterior construction is proposed. Due to the City’s requirements for storage of hazardous materials (i.e., paint, oil, etc.), the project will not increase the risk of accidental explosion, release of hazardous substances, or create an interference with existing emergency response or evacuation plans.

- e. Increased fire hazard in area with flammable brush, grass, or trees?

Response: There are no anticipated physical changes that would increase fire hazards within the project area. All landscaping on the site is required to be permanently maintained.

- f. Would the project include new, or retrofitted, storm water Treatment Control BMPs (e.g., water quality treatment basin, constructed treatment wetlands), the operation of which could result in significant environmental effects (e.g., increase vectors and odors)?

	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
Significant Impact			

Response: The project will not use new treatment BMPs that could create an increase in odors or vectors.

X. NOISE

a. Increases in existing noise levels?

Response: Construction activities associated with the interior improvements may temporarily increase noise levels, at noise-sensitive receptors, adjacent to the project site. However, with the temporary nature of the construction-related activities, and requirements for contractor compliance with County and City noise ordinances, noise impacts will be mitigated to a level of insignificance.

There are no physical changes on the project site that would likely increase noise levels beyond those existing.

b. Exposure of people to extreme noise levels?

Response: Construction noise may occur within the project area, but only from interior construction activities. Although construction noise could cause an annoyance for surrounding uses, due to the temporary nature of any construction activities and the fact that construction activities and future development would be required to adhere to the County and City noise Ordinances, the impact of extreme noise levels from any potential construction activities is considered to not be significant. Noise from the proposed use will not be extreme, as the activities are limited and regulated by the Garden Grove Municipal Code.

XI. PUBLIC SERVICES

a. Fire protection?

Response: The City of Garden Grove Fire Department currently provides emergency response service to the project area. The project is not likely to induce significant growth or result in substantial new demand for fire protection services.

However, new limited interior construction will occur and due to the nature of the proposed use, there will be a slight increase in the demand for fire protection services. In order to mitigate impacts, the development shall comply with the conditions of approval of the Fire Department, which include operational provisions required by the Fire Department that address proper storage of hazardous liquids as well as restrictions on exposure to and handling of flammable liquids. Compliance to the Fire Department conditions will further assist in reducing potential impacts.

b. Police protection?

Response: The Garden Grove Police Department currently provides police protection in the area. The project is not likely to induce growth and or result in substantial new demand for police protection services. There are no anticipated physical changes within the area that would significantly increase demands for police protection.

c. Schools?

	Potentially		
	Significant	Less than	
Significant	Unless	Significant	No
Impact	Mitigated	Impact	Impact

Response: The proposed development and associated Amendment will not increase the number of housing units within the Garden Grove Unified School District and will not induce significant growth. Therefore, no impact to area schools is anticipated.

- d. Maintenance of public facilities, including roads?

Response: The Public Works Department has reviewed the project and will not require public facility improvements. Therefore, no impact on public facilities, including roads, is anticipated.

- e. Other governmental services?

Response: No additional governmental services will be required for this project.

XII. UTILITIES AND SERVICE SYSTEMS

- a. Power or natural gas?

Response: There are no significant impacts to power or natural gas caused by this project. The existing infrastructure is adequate to meet the demands of the area including those generated by this project.

- b. Communication systems?

Response: There are no impacts to the communication system caused by this project. The existing infrastructure is adequate to meet the demands of the area including those generated by this project.

- c. Local or regional water treatment or distribution facilities?

Response: There are no impacts to water treatment or distribution facilities caused by this project. The infrastructure is existing and adequate to meet the demands of the area including those generated by the project.

- d. Sewer or septic tanks?

Response: The Water Services Division has reviewed the project, and has determined that the area is not located in a sewer deficiency area. The existing sewer system is sufficient to accommodate the proposed development and therefore the potential impact is considered less than significant.

- e. Storm water drainage?

Response: There are less than significant impacts to the existing utilities and services systems caused by this project. The existing systems are adequate to meet the demands of the area including those generated by this project.

- f. Solid waste disposal?

Response: Solid waste disposal services are administered by the Garden Grove Sanitary District. Collection services are provided via a contract with a private trash

	Potentially		
	Significant	Less than	
Significant	Unless	Significant	No
Impact	Mitigated	Impact	Impact

collection contract. The project will not require additional trash bins. The existing trash bins are sufficient to accommodate the project.

XIII. AESTHETICS

- a. Affect on a scenic vista or scenic highway?

Response: The project area is not adjacent to any scenic vistas or highways. The physical improvements for this site will be compatible with the surrounding commercial neighborhood.

- b. Have a demonstrable negative aesthetic effect?

Response: The project is considered visually and aesthetically appropriate for its context and does not represent a detrimental alteration of the existing visual attributes of the site or vicinity. As such, the potential for the project to have a demonstrable negative aesthetic effect is considered less-than-significant.

- c. Create light or glare?

Response: The project is required to place lighting structures in a manner that will have minimal impacts to the abutting properties. All lighting is required to be directed, positioned, or shielded in such a manner to minimize any unreasonable illumination on to adjacent properties and roadways. The project is required to adhere to all Municipal Code requirements pertaining to minimum lighting levels.

XIV. CULTURAL RESOURCES

- a. Disturb paleontological resources?

- b. Disturb archaeological resources?

Response (a, b): There are no known paleontological and archaeological resources in the area. If unanticipated paleontological resources are discovered during construction, all attempts will be made to preserve in place or leave in an undisturbed state in compliance with CEQA Section 21083.2.

- c. Affect historical resources?

Response: There are no known historical resources in the area. The Garden Grove General Plan Update notes 13 historically significant or potentially significant sites within the City limits. None of these sites is located in the project area.

- d. Have the potential to cause physical change, which would affect structures of unique cultural or ethnic value?

Response: There are no structures or activities that have unique cultural or ethnic value. The project, therefore, will not have the potential to affect unique ethnic or cultural values.

- e. Restrict existing religious or sacred uses within the potential impact area?

	Potentially			
	Significant	Unless	Less than	
Significant	Impact	Mitigated	Significant	No
			Impact	Impact

Response: The proposed project is not in proximity to any known religious facilities or other sacred places. Therefore, there is no potential to restrict existing religious or sacred uses within the area of the project.

XV. RECREATION

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Increase the demand for neighborhood or regional parks or other recreational facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Affect existing recreation facilities. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (a-b): The proposed project will not impact existing recreational facilities. Since the project is a new use within an existing commercial development there will be no increase in demand or need for additional neighborhood or regional parks or other recreational facilities.

XVI. MANDATORY FINDINGS OF SIGNIFICANCE

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. The project does not have the potential to achieve short-term, to the disadvantage of long-term environmental goals. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. The project does not have impacts that are individually but cumulatively considerable ("Cumulatively considerable" means the incremental effects of a project are considerable, when viewed in connection with the effects of past projects, the effects of current projects and the effects of probable future projects). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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- d. The project does not have environmental effects which
- will cause substantial adverse effects on human beings,
either directly or indirectly.

XVII. EARLIER ANALYSIS

Earlier analyses may have been used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D).

a. **EARLIER ANALYSIS:**

1. The City of Garden Grove General Plan Update
2. The City of Garden Grove Existing Condition Report
3. The City of Garden Grove Final Environmental Impact Report for the General Plan Update, State Clearinghouse No. 93051015
4. Title 9 of the Garden Grove Municipal Code

b. **IMPACTS ADEQUATELY ADDRESSED:**

1. Geophysical
2. Hydrology and Water Quality
3. Transportation
4. Noise
5. Public Services

c. **MITIGATION MEASURES:**

All conditions of approval for Conditional Use Permit No. CUP-269-09 shall be adhered to, in order to mitigate negative impacts on the property or surrounding area.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DECISION
TO APPROVE CONDITIONAL USE PERMIT NO. CUP-269-09

WHEREAS, the case, initiated by Davis Alexander, requesting approval of an Amendment to the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone to allow a Children's Learning Center with Conditional Use Permit approval, for property located on the east side of Brookhurst Street, south of Chapman Avenue, at 12196 Brookhurst Street, Parcel No. 089-453-42; and

WHEREAS, the applicant, Davis Alexander, has requested through this appeal, the removal of there specific conditions of approval, specifically Condition Nos. 32, 36, and 39, under Conditional Use Permit No. CUP-269-09; and

WHEREAS, the project will not have a significant adverse effect on the environment; therefore, the City of Garden Grove City Council does hereby adopt a Negative Declaration of Environmental Impact pursuant to the California Environmental Quality Act for land located on the east side of Brookhurst Street, south of Chapman Avenue, at 12196 Brookhurst Street, Parcel No. 089-453-42; and

WHEREAS, pursuant to Resolution No. 5684, the Planning Commission, at a public hearing on May 21, 2009, approved Conditional Use Permit No. CUP-269-09; and

WHEREAS, pursuant to legal notice, a public hearing was held by the City Council on July 14, 2009, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter during its meeting of July 14, 2009.

NOW, THEREFORE, BE IT FURTHER RESOLVED:

1. The City Council denies the appeal and upholds the Planning Commission's decision to approve Conditional Use Permit No. CUP-269-09, based upon the facts, findings and reasons set forth in Planning Commission Resolution No. 5684 and the following findings and reasons;
2. The City Council finds and determines that, pursuant to Condition No. 32 of Planning Commission Resolution No. 5684, a parking/traffic mitigation plan shall be prepared, in event that there are any parking or traffic circulation issues due to the creation of a waiting area and drop off area that is required by Condition No. 39 of Planning Commission Resolution No. 5684;

3. The City Council finds and determines, pursuant to Table 4-1 of the 2007 California Plumbing Code, that while the existing restrooms is adequate to serve 60 students, any increase in students above 60 will require additional fixtures. The requirement for additional plumbing fixtures (i.e. water closets) is conditioned under Condition No. 36 of Planning Commission Resolution No. 5684;

4. The City Council finds and determines, that the waiting and drop off area that is conditioned under Condition No. 39 of Planning Commission Resolution No. 39 is needed in order have a designated area to safely drop children off to the subject learning center as well as to mitigate any potential conflict between the operation of the subject use and the parking and circulation patterns of the other uses located within the multi-tenant shopping center that the proposed use will be located.

5. The City Council finds and determines, that the appellant failed to state the basis for the appeal as required by Garden Grove Municipal Code Section 9.24.130, which constitutes a separate and independent basis for denial of this appeal.

A copy of Planning Commission Resolution No. 5684 is on file in the office of the City Clerk, concurrently submitted in the agenda materials for Amendment No. A-149-09, and incorporated herein by reference with the same force and effect as set forth in full.

APPEAL

Request for City Council or Planning Commission
Public Hearing

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CITY CLERK'S OFFICE
2009 JUN 11 A 11:49

TO: CITY CLERK
CITY OF GARDEN GROVE

Pursuant to Section 9.24.110 of the Municipal Code (see reverse), I hereby appeal the decision of the CIRCLE ONE (Planning Commission) / Zoning Administrator) in Case No. CUP-269-09, and petition the CIRCLE ONE (City Council) Planning Commission) for a public hearing to consider CIRCLE ONE (approving / denying / modifying) the subject application for the following reasons: .

I would like to appeal number 32, 36 and 39 in CUP-269-09.

(Use additional sheets if necessary)

Date: 06/11/09 Appeal Fee (see reverse): \$100 pd KB

Appellant: DAVIS ALEXANDER

Address: 12196 BROOKHURST ST.

City & ZIP: CA 92840 Daytime Phone No.: (714) 229-8951