

## City of Garden Grove

### INTER-DEPARTMENT MEMORANDUM

To:	Matthew Fertal	From:	Susan Emery
Dept:	City Manager	Dept:	Community Development
Subject:	CONSIDERATION OF CODE AMENDMENT NO. A-134-07 AND CONDITIONAL USE PERMIT NO. CUP-208-07	Date:	December 11, 2007

#### OBJECTIVE

To consider an appeal of Amendment No. A-134-07 and Conditional Use Permit No. CUP-208-07, a proposal to change the zone of a property located at 8610 Garden Grove Boulevard, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial) in conjunction with a Conditional Use Permit request to modify and legalize an existing non-conforming nightclub currently operating with an Alcoholic Beverage Control Type "48" (On-Sale General – Public Premises) license that has been converted into an establishment with private karaoke rooms.

#### BACKGROUND

On August 2, 2007, the Planning Commission considered a request to modify and legalize an existing nonconforming nightclub operating with an Alcoholic Beverage Control Type "48" License that has been converted into a karaoke establishment with private rooms. The request included the Zone Change (Amendment No. A-134-07) and Conditional Use Permit (Conditional Use Permit No. CUP-208-07) applications. The applicant's representative spoke in favor of the project. No one from the public spoke in opposition to the project.

The site is approximately 24,000 square feet in size and is developed with an approximately 6,450 square foot multi-tenant commercial building. The site is zoned C-1. The nightclub under consideration is known as Club Rendezvous and is located within an approximately 2,180 square foot tenant space located on the east side of the multi-tenant building. The site maintains a 20 space parking lot on the north side of the building, that is accessed from Garden Grove Boulevard, and a 10 space parking lot, located on the south side of the building, that is only accessed from the adjacent alleyway that provides access to the commercial establishments on the north side of the alley and the residential properties to the south. The site is located in a high crime district and in an area of over-concentration of on-sale Alcoholic Beverage Control (ABC) licenses.

The properties to the east and west are zoned C-1 and are developed commercially. The properties to the north are zoned C-1 and include a property

that is zoned PUD-112-06, that is slated for a residential development. The C-1 zoned properties are developed commercially. The properties to the south are zoned R-3 (Multiple-Family Residential) and are developed residentially. The property's zoning was changed from C-2 to C-1 in 1992.

The existing nightclub is a nonconforming use in the C-1 zone. Under the current Code, bars/nightclubs are only permitted in the C-2 and C-3 zones with a Conditional Use Permit. The subject nightclub was established in April of 1963 as a drinking establishment.

Since the time of the original approval the establishment changed hands several times and in 1989 a Conditional Use Permit was approved for a Type "48" ABC license with live entertainment. The entertainment included a disc jockey playing recorded music, a non-amplified piano, and a pool table.

In 1992, it was discovered that the establishment was being remodeled without benefit of City approval. Modifications included six booths with ceiling high partitions, conversion of a storage room into an enclosed booth, elimination of the sound control room, relocation of the dance floor area, and construction of a raised stage within the dance floor area. In 1993, a building permit was obtained to demolish the interior partitions. However, during a site visit the City found that the original booths were reconstructed with 4'-0" high partitions, the converted storage room remained, and the raised stage remained in the dance floor area.

In 1994, the City approved a Conditional Use Permit that included prohibiting enclosed booths, limited the height of the partitions between the booths to 36-inches, prohibited pool tables and amusement devices, and limited hours of operation between 8:30 p.m. and 2:00 a.m. seven days a week. All conditions were required to be completed within 90 days from the date of the approval. Due to a failure to comply with the conditions, the Planning Commission approved a suspension of the Conditional Use Permit in the later part of 1994, but it was later overturned by City Council.

Since that time, the establishment changed hands and the current business owner further modified the floor plan to include six enclosed karaoke rooms and removal of the dance floor without benefit of City approval. In addition to the modifications, the establishment in recent history has been subject to police activity. The City's Police Department, in concert with the ABC Board, found evidence of drink solicitation activity and the ABC Board has a pending case against the current operator. However, it should be noted that since February of 2006, the City is not aware of any other violations that have occurred.

In order for the establishment to transition into a bar with private karaoke rooms, the applicant submitted the zone change and Conditional Use Permit request.

## DISCUSSION

In analyzing the request, the project's review was based on the request's consistency with the City's General Plan and Zoning Ordinance as well as its compatibility to the site and surrounding neighborhoods. Staff determined while the proposed zone change is consistent with the City's General Plan Land Use Designation of Light Commercial, the rezoning of the property is not consistent with the zoning of adjacent properties and is not compatible with the adjacent residential uses. The site is adjacent to C-1 zoned properties that are consistent with the General Plan's Goals of the C-1 zone, which encourages the establishment of businesses at the neighborhood level in small-scale convenience shopping facilities. These shopping facilities are encouraged to be integrated into the surrounding area to maintain the neighborhood image and ensure operational compatibility. Additionally, the project abuts residentially zoned properties that share direct access to the alley that services the site. Due to the shared alley, there is inadequate buffering between uses to fully protect the adjacent residential uses. Furthermore, the proposed C-2 zone would permit a broader range of commercial uses that would include bars/nightclubs, entertainment uses, adult oriented uses, and auto repair uses. These uses typically require substantial buffering to adjacent sensitive residential uses, because they have a greater negative impact to the residential uses. Therefore, maintaining the C-1 zoning is a more appropriate zone classification.

Furthermore, the proposed modifications to the existing nonconforming use is considered an expansion and intensification of use, which has the potential to negatively impact the adjacent properties. Therefore, due to the lack of adequate buffering and the fact that the nonconforming use is already located in a area that has a high crime rate, the intensification of the use will negatively impact the adjacent residential uses by potentially increasing noise, traffic, and crime levels in the general vicinity.

Finally, while the proposed request was not supported, staff determined that a change in the entertainment the establishment offers would be supportable. Currently, the existing Conditional Use Permit allows an electric organ with a microphone speaker along with dancing. In reviewing the Conditions of Approval of the previous Conditional Use Permit, it was indicated that if the applicant returned the rooms back to open booths, the applicant could provide one karaoke machine within the establishment and still be within the limits of the existing land use approval.

## FINANCIAL IMPACTS

None.

## COMMUNITY VISION IMPLEMENTATION

None.

RECOMMENDATION

The City Staff recommends that the City Council:

- Affirm the Planning Commission's denial of Amendment No. A-134-07 and uphold the Planning Commission's denial of Conditional Use Permit No. CUP-208-07 pursuant to the facts and reasons stated in Planning Commission Resolution Nos. 5600 and 5601.

SUSAN EMERY  
Community Development Director

By: Lee Marino  
Senior Planner

Attachment 1: Planning Commission Staff Report dated July 5, 2007  
Attachment 2: Planning Commission Staff Report, with Resolution Nos. 5600 and 5601 dated August 2, 2007  
Attachment 3: Planning Commission Minute Excerpt of July 5, 2007  
Attachment 4: Planning Commission Minute Excerpt of August 2, 2007  
Attachment 5: Draft City Council Resolution