

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To:	Matthew Fertal	From:	Susan Emery
Dept:	City Manager	Dept:	Community Development
Subject:	PLANNED UNIT DEVELOPMENT NO. PUD-105-76 (REV. 12)	Date:	July 10, 2012

OBJECTIVE

To transmit a recommendation from the Planning Commission to approve Planned Unit Development No. PUD-105-76 (REV. 12) to amend PUD-105-76 to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval.

BACKGROUND

The subject Planned Unit Development (PUD-105-76) is located on the east side of Valley View Street, south of Lampson Avenue, is approximately 9.6 acres in size, and is currently developed with nine (9) one and two story, commercial and industrial buildings in the Bridgecreek Business Park. The site maintains a General Plan land use designation of Industrial/Commercial Mixed Use. The business park is adjacent to PUD-102-76 (a residential Planned Unit Development) zoned properties to the north, east, and across Valley View Street to the west, and the Garden Grove 22 Freeway to the south.

The City Council approved PUD-105-76 on July 13, 1976, pursuant to Ordinance No. 1512. The uses and activities permitted within PUD-105-76 are set forth in condition of approval 3.G. of Planning Commission Resolution No. 2849 recommending approval of PUD-105-76. Condition of approval 3.G. currently includes a list of nineteen (19) permitted "Retail and Commercial Type Uses."

The owner of On the Rocks Bar and Grill, an existing full service restaurant that is located within the PUD at 12752 Valley View Street, Suites V & W, has requested an amendment to PUD-105-76 to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval. In conjunction with this request, the applicant also requested contingent approval of a Conditional Use Permit in order to integrate the existing 3,305 square foot second floor of the building with the

existing restaurant for overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage.

On May 17, 2012, the Planning Commission held a Public Hearing to consider the requested PUD amendment and Conditional Use Permit (delineated as Planned Unit Development No. PUD-105-76 (REV. 12) and Conditional Use Permit No. CUP-353-12, respectively). Other than the applicant, no members of the public came forward to speak in favor of or in opposition to either request. The Planning Commission voted 7-0 and adopted Resolution No. 5773-12 recommending approval of Planned Unit Development No. PUD-105-76 (REV. 12). The Planning Commission also approved Conditional Use Permit No. CUP-353-12, subject to the City Council's approval of the PUD amendment.

DISCUSSION

Live entertainment in conjunction with eating establishments is not presently permitted in PUD-105-76. If approved, the proposed amendment would allow live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval.

Specifically, the existing list of nineteen (19) "Retail Commercial Type Uses" permitted within PUD-105-76 set forth in condition of approval 3.G. of Planning Commission Resolution No. 2849 would be supplemented with an additional 20th permitted use as follows:

RETAIL COMMERCIAL TYPE USES

- 1) Eating establishments
- 2) Book stores
- 3) Stationary stores
- 4) Business supplies
- 5) Dressmaker/alteration shop
- 6) Florist shop
- 7) Gift shop
- 8) Art supplies
- 9) Carpet sales
- 10) Paint sales
- 11) Light Fixtures
- 12) Retail sales – tile, linoleum, formica
- 13) Retail hardware
- 14) Medical and sickroom supplies
- 15) Graphic arts studio
- 16) Photo engraving
- 17) Limited print shops (Speedie)
- 18) Small appliance repair

19) Dental labs

20) Eating establishments with live entertainment, subject to the following regulations:

- a) Subject to Conditional Use Permit approval.**
- b) Subject eating establishment must have a ground floor storefront that faces Valley View Street.**
- c) Minimum gross floor area of 5,000 square feet.**
- d) Minimum distance of 150 feet away from a residential property boundary or any property containing a residential use.**

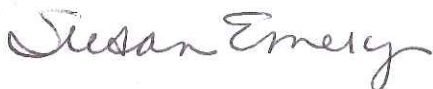
FISCAL IMPACT

There is no fiscal impact to the City regarding this proposed amendment.

RECOMMENDATION

The Planning Commission recommends that the City Council:

- Hold a Public Hearing for consideration of Planned Unit Development No. PUD-105-76 (REV. 12) amending the Planned Unit Development No. PUD-105-76 zone to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval; and
- Introduce and conduct the first reading of the attached ordinance approving Planned Unit Development No. PUD-105-76 (REV. 12).



SUSAN EMERY
Community Development Director



By: Chris Chung
Associate Planner

Approved for Agenda Listing



Matthew Fertal
City Manager

- Attachment 1: Planning Commission Resolution No. 2849, adopted May 27, 1976
- Attachment 2: Ordinance No. 1512, adopted July 13, 1976
- Attachment 3: Planning Commission Staff Report dated May 17, 2012
- Attachment 4: Planning Commission Resolution No. 5773-12
- Attachment 5: Planning Commission Resolution No. 5774-12 with Conditions of Approval
- Attachment 6: Planning Commission Minute Excerpt of May 17, 2012
- Attachment 7: Proposed Ordinance

12752-12882
U.D.

RESOLUTION NO. 2849

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING PLANNED UNIT DEVELOPMENT NO. PUD-105-76

WHEREAS, in the matter of Planned Unit Development No. PUD-105-76, the Planning Commission of the City of Garden Grove does report as follows:

1. The subject case was initiated by Tarnutzer Investment Company, Inc., as applicant.

2. The applicant requests the rezoning of a 9.59 acre parcel from the C-2 (General Commercial) zone to the PUD (Planned Unit Development) zone and approval of a General Development Plan for the construction of nine (9) one and two-story office, commercial, and industrial buildings on property located on the east side of Valley View, south of Lampson Avenue.

3. Included in the request is the consideration of an Environmental Impact Report as required by Article 6, Section 15062 of the California Environmental Quality Act of 1970.

4. The subject property is zoned C-2 and is unimproved.

5. Existing land use and zoning of property in the vicinity of the subject property have been reviewed.

6. Past cases affecting the subject property were considered and report submitted by the City's staff was reviewed.

7. The Environmental Impact Report submitted in conjunction with PUD-102-76, which included the subject property, was considered.

8. Pursuant to legal notice, public hearing was held on May 27, 1976, and all interested persons were given an opportunity to be heard.

9. The Planning Commission gave due and careful consideration to the matter during their meeting of May 27, 1976; and

WHEREAS, facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9220.4, are as follows:

1. The proposed development conforms to the Land Use Element of the General Plan in that it is a carefully conceived concept of integrated commercial and related commercial uses.

2. The proposed project, as designed, will provide commercial and related commercial uses in the area which are in keeping with the environmental and development goals of the City in that the project meets, and in some cases exceeds, Municipal Code requirements for development of commercial and industrial properties.

3. The subject PUD meets those criteria established in Municipal Code Section 9213F.7 for approval of Planned Unit Developments in that the location, design, and approved uses are compatible with the surrounding area; the plan will produce internally a stable and desirable environment, particularly with regard to traffic circulation and access; and there is reasonable assurance that the applicant intends to proceed with the execution of the project without undue delay; and

WHEREAS, the Planning Commission does conclude:

1. The subject planned unit development does possess characteristics that would indicate justification of the request for adoption in accordance with Municipal Code Sections 9213F.7 and 9220.

2. The accompanying Environmental Impact Report is complete.

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3. In order to fulfill the purpose and intent of the Municipal Code and thereby promote the public health, safety, and general welfare, the following conditions of approval shall apply to the subject case:

A. Approval of this PUD shall not be construed to mean any waiver of the applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply.

B. All lighting structures shall be placed so as to confine direct rays to the subject property.

C. No roof-mounted mechanical equipment shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Zoning Administrator prior to issuance of building permits. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets, the freeway, and surrounding properties.

D. All signing shall be uniform and subject to Zoning Administrator approval.

E. A detailed landscaping plan shall be submitted for approval by the Zoning Administrator prior to issuance of building permits. Said landscaping plan shall include a detailed plan for the operation of the fountains, stream, and pond system. Said plan shall also contain types of materials, method of irrigation, location, and plant sizes. All parking spaces shall be a minimum of 9-feet, 6-inch by 19-feet.

F. A minimum of one standard trash enclosure shall be provided for each building and such additional trash enclosures as will ensure containment of all trash generated on the site. All trash containers shall be located along the peripheral drives only.

G. In order to encourage the location of professional offices, retail and commercial services, and industrial uses within the subject development, and to insure compatibility with adjoining commercial and residential developments, the types of uses permitted shall include, but not be limited to, the following:

PROFESSIONAL OFFICE TYPE USES

The following uses and activities are permitted within PUD-105-76:

- | | |
|--|---|
| 1) Insurance | 8) Real estate |
| 2) Engineering, architects, developers | 9) Data centers |
| 3) Planners | 10) Accountants |
| 4) Attorneys | 11) Computer software |
| 5) Banks, financial institutions | 12) Doctors and dentists |
| 6) Contractor Office | 13) Studios, such as recording, radio and television. |
| 7) Manufacturer's representative | |

RETAIL COMMERCIAL TYPE USES

- | | |
|-------------------------------|--|
| 1) Eating establishments | 11) Light fixtures |
| 2) Book stores | 12) Retail sales - tile, linoleum, formica |
| 3) Stationery Stores | 13) Retail hardware |
| 4) Business supplies | 14) Medical and sickroom supplies |
| 5) Dressmaker/alteration shop | 15) Graphic arts studio |
| 6) Florist shop | 16) Photo engraving |
| 7) Gift shop | 17) Limited print shops (Speedie) |
| 8) Art supplies | 18) Small appliance repair |
| 9) Carpet sales | 19) Dental labs |
| 10) Paint sales | |

COMMERCIAL SERVICE AND INDUSTRIAL TYPE USES

- 1) Laboratory, including research, testing, experimental or other types.
- 2) Publishing, printing, lithographing, engraving.
- 3) Wholesale and wholesale service businesses (such as, but not limited to, furniture upholstering shops, carpet cleaning, telephone exchanges, cleaning and dyeing, glass shops, parcel delivery services, appliance and business machine repair).
- 4) Contractors, provided that all vehicles, equipment, and other materials must be stored inside the building.
- 5) Warehousing.
- 6) Storage.
- 7) Light manufacturing and assembly uses, such as:
 - a. Assembly of electronic appliances, such as electric instruments and devices, radios and phonographs, including manufacturing of small parts such as coils.
 - b. Assembly of furniture from pre-manufactured frames.
 - c. Assembly and fabrication of calculating, automation, duplicating, printing machines, and similar devices. Scientific instruments, measuring devices, gauges, automatic and manual control devices.

Any uses not classified herein or any ambiguities related to use shall be subject to Zoning Administrator approval in accordance with Municipal Code Section 9215.3.1.

H. The following types of uses and activities shall not be permitted in the subject development in order to insure compatibility with adjoining commercial uses:

- 1) Machine shops or manufacturing operation involving automotive products or services.
- 2) Automobile vehicle and related vehicular equipment storage, salvaging, and dismantling.
- 3) Automotive repair, including auto body work or auto painting.
- 4) Tire recapping, rebuilding and retreading.
- 5) Storage of transportation equipment.
- 6) Sign manufacture and/or assembly.
- 7) Service stations.

I. LIMITATIONS ON PERMITTED USES:

- 1) Fleet vehicles in excess of two per occupancy or per 1,400 square feet of occupancy shall not be permitted.
- 2) All uses must be conducted within a completely enclosed building.
- 3) A Conditional Use Permit shall be required for any business establishment in which all, or any portion, of said business premises are devoted to the sale or display of any book, magazine, newspaper, or other printed or written material, or any picture, drawing, photograph, motion picture or other pictorial representation of any statue or other figure, or any recording, transcription, or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines, or materials, by any means or in any manner, are either (a) in fact forbidden to be sold or otherwise distributed to minors under the age of twenty-one (21) years, or (b) advertised as being forbidden to be sold or otherwise distributed to minors under the age of twenty-one years.

J. PERFORMANCE STANDARDS: No use shall be permitted in the subject PUD which creates or involves any of the following effects:

- 1) Any noise or vibration, other than that related to temporary construction work, which is discernible without instruments at any lot line of the site.

RESOLUTION 2849

- 2) The emission of radio activity in dangerous amounts.
- 3) Any electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- 4) The emission of visible gray smoke of a shade or quality darker than No. 1 on the Ringlemann Chart, as specified in Information Circular 7718 of the U.S. Bureau of Mines, for more than three minutes in any one hour.
- 5) Any direct or reflected glare or heat which is perceptible at any point outside the building site.
- 6) The emission of odorous gases or matter in quantities such as to be perceptible at any lot line of the site.
- 7) The discharge into any sewer or stream or into the ground, except in accordance with standards approved by the State Department of Health, of any materials of such nature as to contaminate any water supply, interfere with bacterial processes and sewage treatment, or in any way cause the emission of dangerous or offensive elements.
- 8) No exterior storage of materials, supplies, equipment, or machinery shall be permitted whether open or in tanks, bins, or other container devices.

K. Minor modifications shall be approved by the Zoning Administrator. If other than minor changes are made in the proposed development, a new Planned Unit Development application shall be filed which reflects the revisions made.

L. The subject development shall be constructed in one phase.

M. Adequate access for fire vehicles shall be provided to on-site fire hydrants during construction. Said on-site fire hydrants and connecting main shall be installed at start of combustible construction.

N. A 7-foot high, 6-inch thick decorative masonry wall shall be constructed along the common property line with the proposed single family subdivision to the east. No separate wall need be constructed to the rear of building #9.

O. Those portions of the existing 6-foot high masonry wall adjacent to the south property line shall be replaced or restored to their original condition.

P. Prior to the issuance of building permits, the Traffic Commission shall study and make recommendations regarding the placement and the responsible party for payment of traffic signals in the immediate area.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Garden Grove does hereby recommend approval of Planned Unit Development No. PUD-105-76, subject to the conditions stated above, and does further recommend to the City Council rezoning to the PUD zone as indicated on the maps attached hereto and made a part hereof.

ADOPTED this 27th day of May, 1976.

/s/ HOWARD E. WHITTAKER
CHAIRMAN

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove held on May 27, 1976, and carried by the following vote, to wit:

AYES: COMMISSIONERS: BALLIET, FINCH, PETROSINE, SLIMMER, WHITTAKER
NOES: COMMISSIONERS: NONE
ABSENT: COMMISSIONERS: JENNINGS
ABSTAIN: COMMISSIONERS: HOLLAND

/s/ FLORENCE T. DAVIS
SECRETARY OF THE PLANNING COMMISSION

ORDINANCE NO. 1512

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING THE GARDEN GROVE MUNICIPAL CODE AND PARTICULARLY ARTICLE IX THEREOF ENTITLED "LAND USE": THE REZONING OF A PARCEL OF LAND LOCATED ON THE EAST SIDE OF VALLEY VIEW, SOUTH OF LAMPSON AVENUE, PARCEL NO. 217-051-03

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1:

Section 9203.20.240 is added to Article IX of the Garden Grove Municipal Code to read as follows:

SECTION 9203.20.240

Planned Unit Development No. PUD-105-76 is hereby adopted and the property shown on the map attached hereto is rezoned to the PUD. Zone Map Part C-4 is amended accordingly.

The amendment as provided by this Section shall be subject to all the conditions and provisions as set forth in Planning Commission Resolution No. 2849 approving PUD-105-76.

SECTION 2:

This ordinance shall take effect thirty (30) days after adoption and shall within fifteen (15) days of adoption be published with the names of the Councilmen voting for and against the same in the Orange County Evening News, a newspaper of general circulation, published and circulated in the City of Garden Grove.

The foregoing ordinance was passed by the City Council of the City of Garden Grove on the 13th day of July, 1976.


MAYOR

ATTEST:


CITY CLERK

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

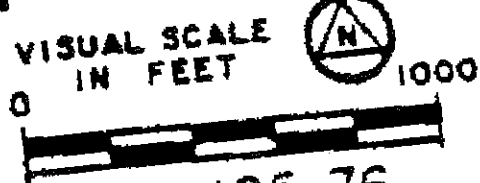
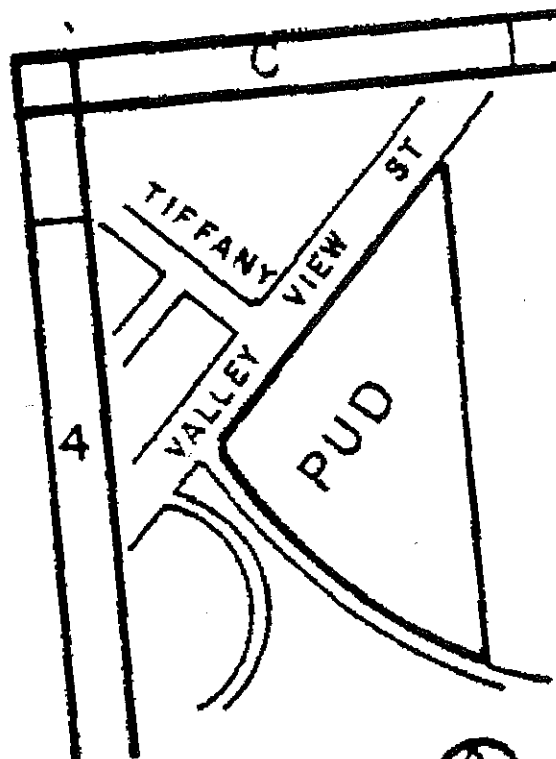
I, JERI LOUISE WILSON, City Clerk of the City of Garden Grove do hereby certify that the foregoing Ordinance was introduced and presented on July 6, 1976, with vote as follows:

AYES: COUNCILMEMBERS: (5) BARR, ERICKSON, DONOVAN, KRIEGER, WILLIAMS
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (0) NONE

and was passed on July 13, 1976, by the following vote:

AYES: COUNCILMEMBERS: (4) BARR, DONOVAN, KRIEGER, WILLIAMS
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (1) ERICKSON


CITY CLERK



PUD-105-76
ZONE MAP
PART C-4

COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.1.	SITE LOCATION: East side of Valley View Street, south of Lampson Avenue at 12752 Valley View Street, Suites V & W
HEARING DATE: May 17, 2012	GENERAL PLAN: Industrial/Commercial Mixed Use
CASE NO.: Planned Unit Development No. PUD-105-76 (REV. 12) & Conditional Use Permit No. CUP-353-12	ZONE: PUD-105-76 (Planned Unit Development)
APPLICANT: On the Rocks Bar and Grill	CEQA DETERMINATION: Exempt
PROPERTY OWNER: Bridgecreek Garden Grove, LLC	APN: 217-052-01

REQUEST:

The applicant is requesting to amend the PUD-105-76 (Planned Unit Development) zone to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval, in conjunction with a request to modify the floor plan and Conditions of Approval for an existing approximately 5,795 square foot restaurant, On the Rocks Bar and Grill, located at 12752 Valley View Street, Suites V & W, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant for overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage. The business currently operates with an existing State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Bona Fide Public Eating Place) License approved under Conditional Use Permit No. CUP-301-10 and is located in the Planned Unit Development No. PUD-105-76 zone.

BACKGROUND:

The subject site, which is located on the east side of Valley View Street, south of Lampson Avenue, is approximately 9.6 acres in size and is currently developed with nine (9) one and two-story, commercial and industrial buildings in the Bridgecreek Business Park. The subject property is zoned PUD-105-76 (Planned Unit Development) and has a land use designation of Industrial/Commercial Mixed Use. The business park is adjacent to PUD-102-76 (a residential Planned Unit Development) zoned properties to the north, east, and across Valley View Street to the west, and the Garden Grove 22 Freeway to the south. The specific tenant space under application is a 9,100 square foot space, which includes both 1st and 2nd gross floor areas, and is located on the north corner of the business park. The tenant space is currently occupied by On the Rocks Bar and Grill, a full service restaurant.

The subject tenant space has been used as a restaurant since its original construction in 1977. The space was originally occupied by Delaney's Restaurant. In 1991, Conditional Use Permit No. CUP-131-90 was approved allowing a change in ownership for the restaurant. In 1996, the establishment was renamed Maxwell's Restaurant Bar and Grill.

On May 16, 2002, the Planning Commission approved Conditional Use Permit No. CUP-596-02, to allow a 5,200 square foot restaurant, Jak's Bistro Bar and Grill, to operate under an ABC Type "47" (On-Sale, General, Bona Fide Public Eating Place) License.

On November 7, 2002, the Planning Commission approved Conditional Use Permit No. CUP-618-02, to allow the existing restaurant, Jak's Bistro Bar and Grill, which was operating under an ABC Type "47" (On-Sale, General, Bona Fide Public Eating Place) License, to add approximately 700 square feet of outdoor dining area.

On September 9, 2010, the Zoning Administrator approved Conditional Use Permit No. CUP-301-10, to allow the operation of a new restaurant, On the Rocks Bar and Grill, with a new original State Alcoholic Beverage Control Type "47" (On-Sale, General, Bona Fide Public Eating Place) License.

DISCUSSION:

AMENDMENT:

The applicant is requesting approval of an Amendment to the PUD-105-76 (Planned Unit Development) zone to allow live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval. Currently, the PUD-105-76 zone does not permit live entertainment for eating establishments.

Staff's review of the applicant's request finds that "eating establishments with live entertainment" would be an appropriate use in the PUD-105-76 zone, provided that the establishment meets the regulations (i.e., ground floor storefront facing Valley View Street and minimum distance away from residential properties or uses), and with the requirement that each individual proposal be processed under a Conditional Use Permit (CUP). The CUP process is a discretionary action that allows the City to review each proposal individually and place conditions on a proposed use to ensure it is compatible with the surrounding neighborhood.

Staff has determined that the 150 foot buffer from any residential property boundary, or any property containing a residential use, will ensure that any approved eating establishments with live entertainment, located within the PUD-105-76 zone, will not adversely affect the health, peace, comfort or welfare of persons residing in the immediate residential areas.

The proposed Amendment would consist of the following:

PUD-105-76 establishes uses that are allowed through the existing Condition "G". The Amendment to the PUD-105-76 zone will add an additional use through number "20" as follows:

(changes shown in bold and italics)

RETAIL COMMERCIAL TYPE USES

- 1) Eating establishments
- 2) Book stores
- 3) Stationary stores
- 4) Business supplies
- 5) Dressmaker/alteration shop
- 6) Florist shop
- 7) Gift shop
- 8) Art supplies
- 9) Carpet sales
- 10) Paint sales
- 11) Light Fixtures
- 12) Retail sales – tile, linoleum, formica
- 13) Retail hardware
- 14) Medical and sickroom supplies
- 15) Graphic arts studio
- 16) Photo engraving
- 17) Limited print shops (Speedie)
- 18) Small appliance repair
- 19) Dental labs

20) Eating establishments with live entertainment, subject to the following regulations:

- a) Subject to Conditional Use Permit approval.***
- b) Subject eating establishment must have a ground floor storefront that faces Valley View Street.***
- c) Minimum gross floor area of 5,000 square feet.***
- d) Minimum distance of 150 feet away from a residential property boundary or any property containing a residential use.***

CONDITIONAL USE PERMIT:

In conjunction with the proposed Amendment, the applicant is requesting to modify the floor plan and the Conditions of Approval for the existing approximately 5,795 square foot restaurant, On the Rocks Bar and Grill, located at 12752 Valley View Street, Suites V & W, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant for overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage.

There are no proposed significant changes to the first floor as it will consist of thirteen (13) tables and forty-eight (48) seats, four (4) booths, and four (4) lounge tables. The outdoor patio dining area has eight (8) tables and thirty-two (32) seats. The interior and exterior of the first floor of the restaurant seats approximately 134 persons. Additionally, a waiting area, located near the front entrance, seats approximately fourteen (14) persons.

The rest of the interior of the first floor consists of a game room, a waitress station, men's and women's restrooms, an office, a main bar area with twenty (20) bar stools, kitchen and food prep areas, an office storage room, two (2) employee lockers rooms, men's and women's employee restrooms, a shipping and receiving area, a dry liquor storage room, a liquor storage room, dish and pot washing areas, a walk-in freezer and refrigerator, and a dry storage room.

The business operator for the previous restaurant, Jak's Bistro Bar and Grill, had illegally constructed a dining area, including a full bar, on the second floor of the establishment. A staircase provided access from the interior of the restaurant on the first floor. As part of the approval of Conditional Use Permit No. CUP-301-10, the access to the second floor through the staircase was blocked and walled off completely as the applicant did not propose to legalize and integrate the second floor into the existing restaurant. The second floor has remained separate from the restaurant and has only been used for storage purposes. The only access available to the second floor is from the staircase on the outside of the building.

The applicant's first request is to modify the approved floor plan by integrating the 3,305 square foot second floor of the building with the existing restaurant. The new total gross floor area of the restaurant, including both the first and second floors, will be 9,100 square feet. The second floor will be use solely as overflow seating for the restaurant and not as a banquet room or banquet hall. The second floor consists of a dining area with thirteen (13) tables and seventy-three (73) seats, a bar area in the center of the second floor, men's and women's restrooms, and a storage room. Access is provided from within the restaurant through the use of the existing staircase. There is also an exit leading to the outside of the establishment. This exit shall remain locked at all times during business hours, except for employee ingress and egress or for deliveries.

The applicant's second request is to modify the Conditions of Approval to allow live entertainment for the subject eating establishment. Currently, Condition No. 40, approved under CUP-301-10, prohibits any type of live entertainment. The approval of CUP-353-12 would allow live entertainment in the form of a two-piece band, with amplified sound, and karaoke, along with a raised stage. Karaoke, in an open-setting, shall only be permitted on Friday and Saturday. The proposed location of the live entertainment, along with the raised stage area, will be centrally located within the establishment on the first floor as shown on the submitted floor plan for CUP-353-12.

The restaurant will continue to operate with business hours that are from 11:00 a.m. to 11:00 p.m., Monday through Thursday, 11:00 a.m. to 2:00 a.m., Friday,

CASE NUMBER PUD-105-76 (REV. 12) & CUP-353-12

9:00 a.m. to 2:00 a.m., Saturday, and 9:00 a.m. to 11:00 p.m., on Sunday. The applicant did not propose to modify the hours of operation.

The restaurant is located in a low-crime district, and in an area with an over-concentration of Alcoholic Beverage Control Licenses. A summary of the district can be found in Resolution No. 5774-12 for Conditional Use Permit No. CUP-353-12.

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

RECOMMENDATION:

Staff recommends that the Planning Commission take the following actions:

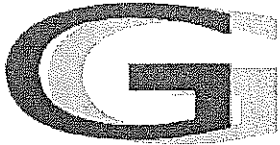
1. Recommend approval of PUD-105-76 (REV. 12), to allow live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property or any property containing a residential use, subject to Conditional Use Permit approval, to City Council; and
2. Approve Conditional Use Permit No. CUP-353-12, subject to the recommended Conditions of Approval, as well as subject to the City Council approval of PUD-105-76 (REV. 12).



Karl Hill
Planning Services Manager



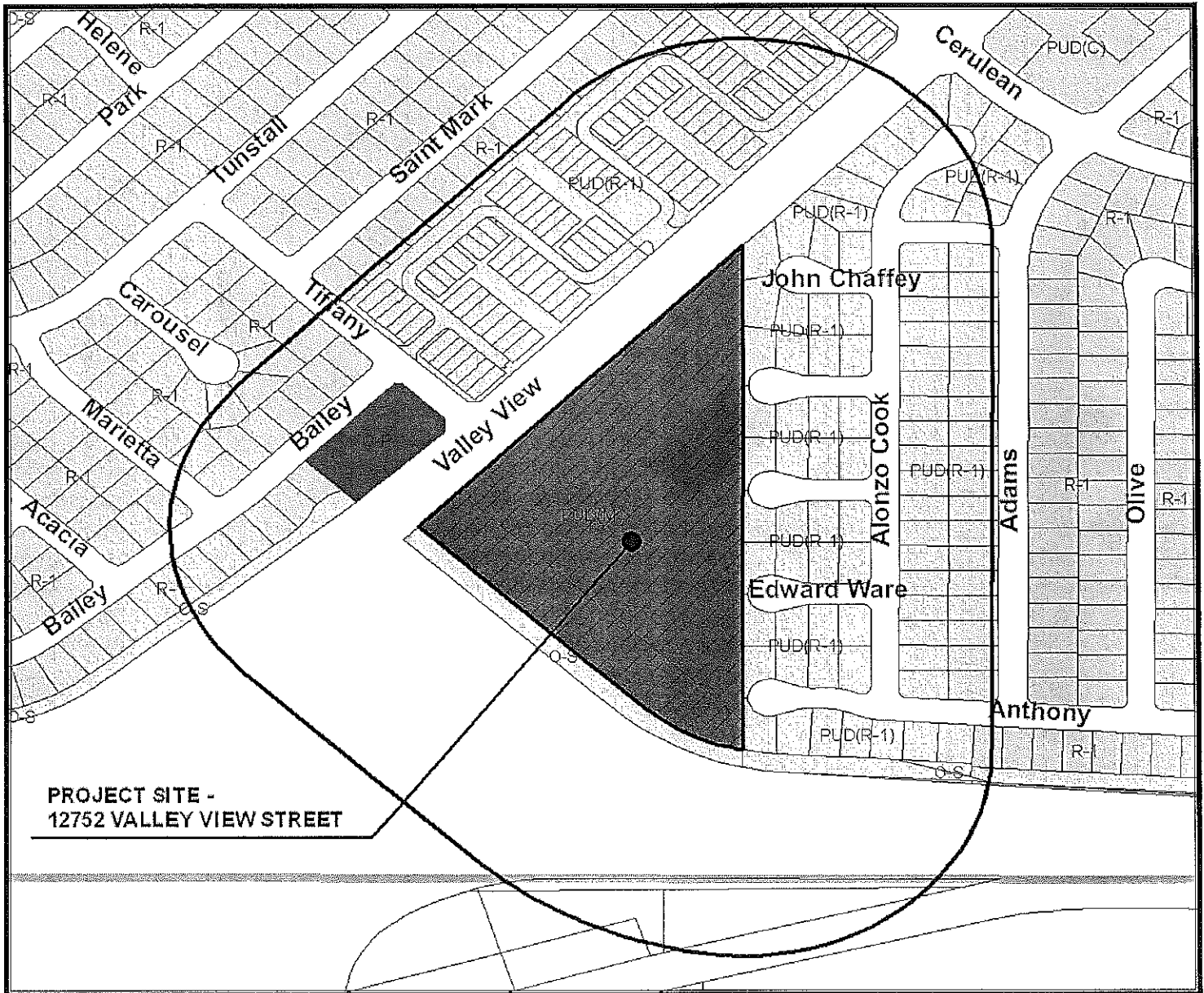
Chris Chung
Associate Planner



GARDEN GROVE


PLANNED UNIT DEVELOPMENT PUD-105-76 (REV. 12)

RELATED CASES: CONDITIONAL USE PERMIT
NO. CUP-353-12



PROJECT SITE -
12752 VALLEY VIEW STREET

LEGEND

 PROJECT SITE - 12752 VALLEY VIEW STREET

 500 FEET RADIUS

NOTES

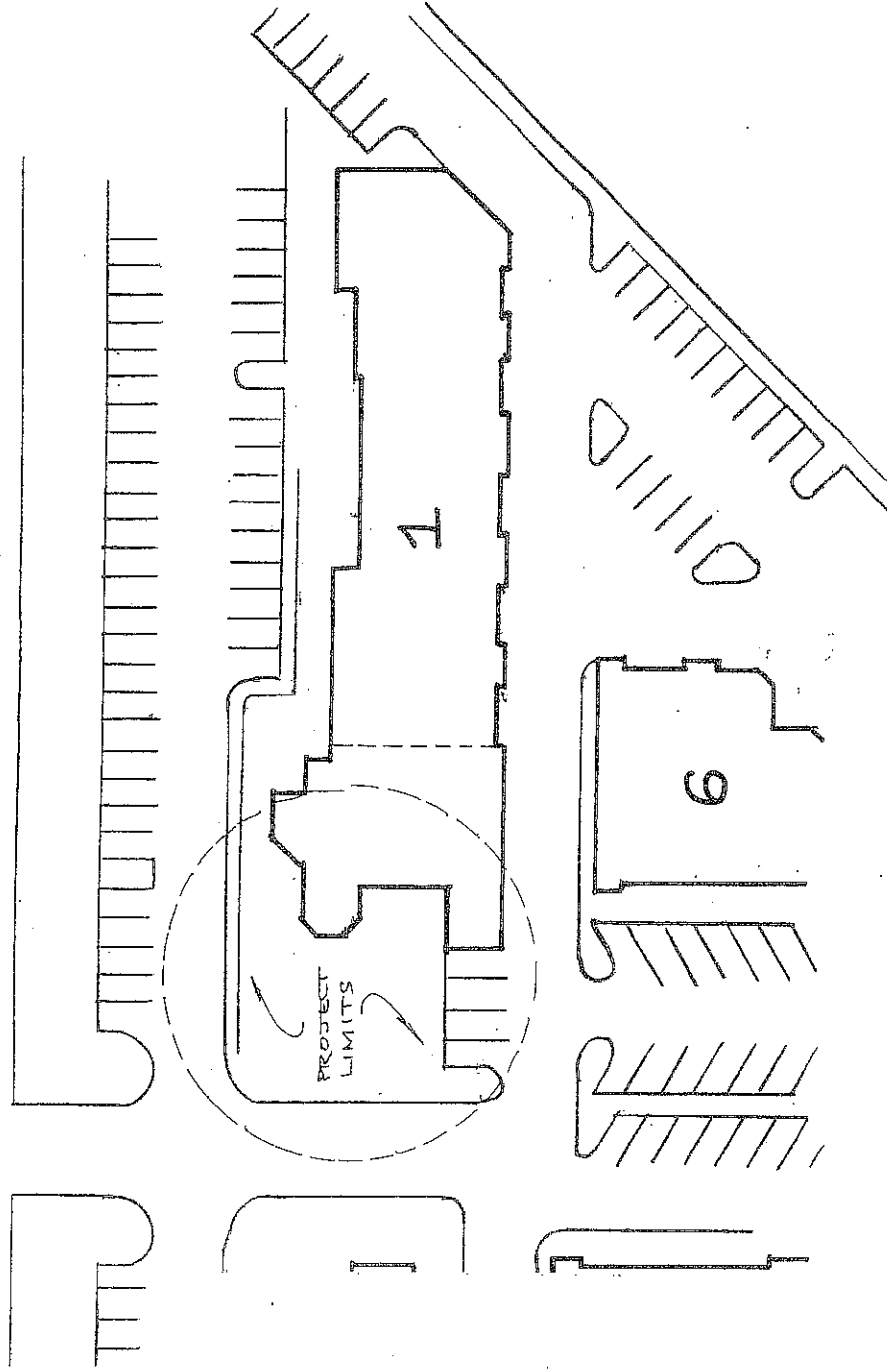
1. GENERAL PLAN: INDUSTRIAL / COMMERCIAL MIXED USE
2. ZONE: PUD-105-76 (PLANNED UNIT DEVELOPMENT)



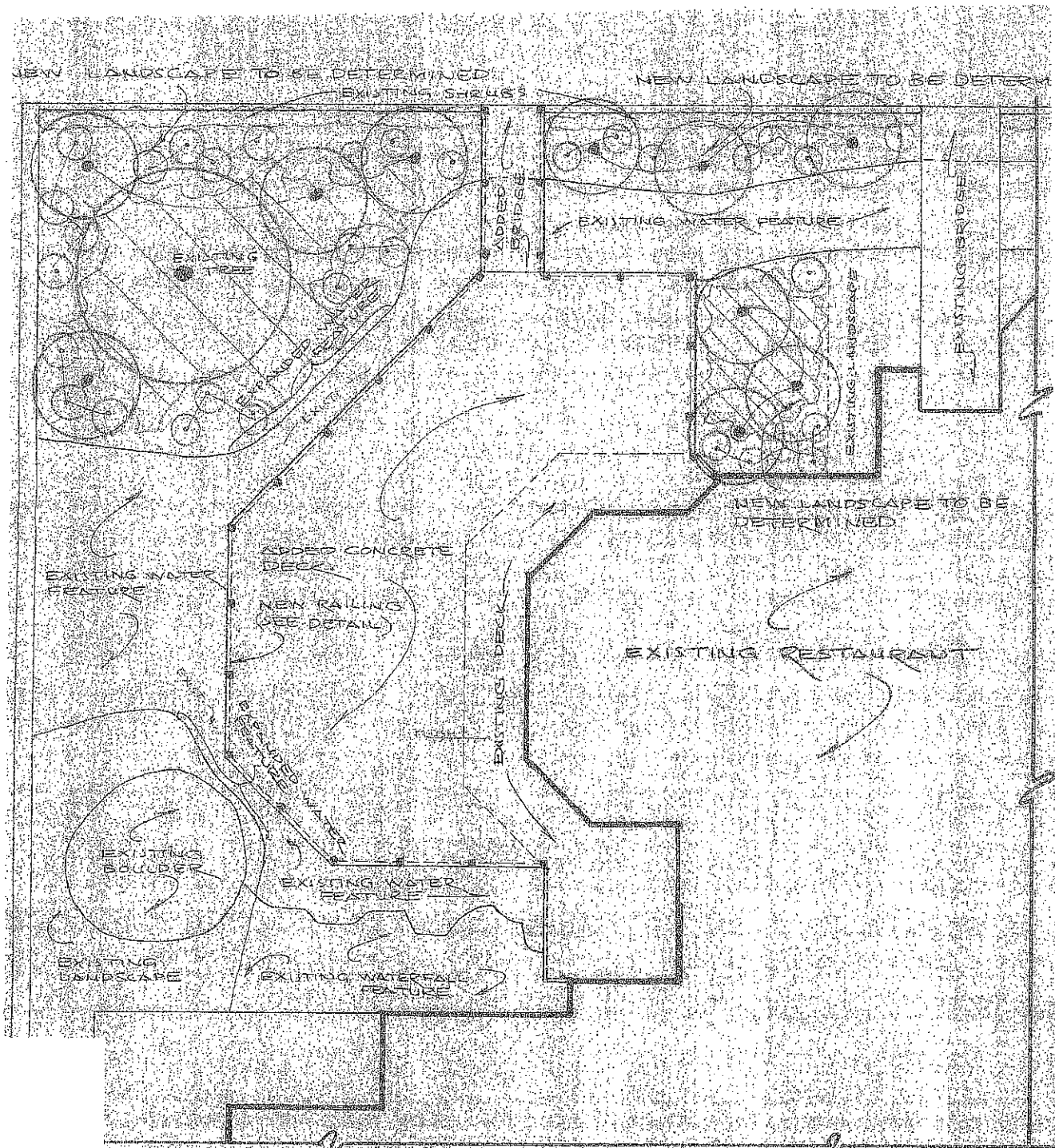
0 125 250 500 750
Feet

CITY OF GARDEN GROVE
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
GIS SYSTEM
APRIL 2012

VALLEY VIEW STREET

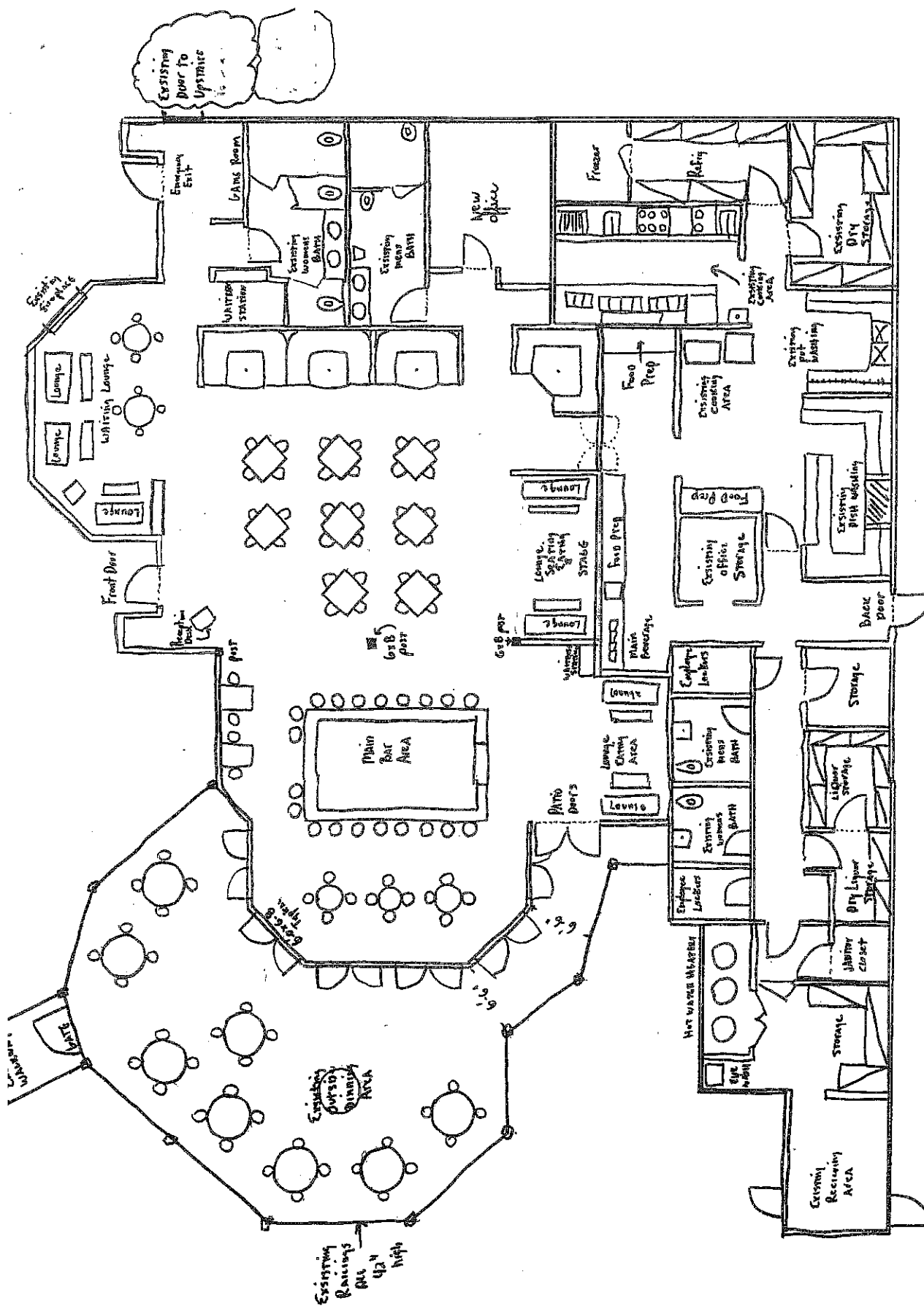


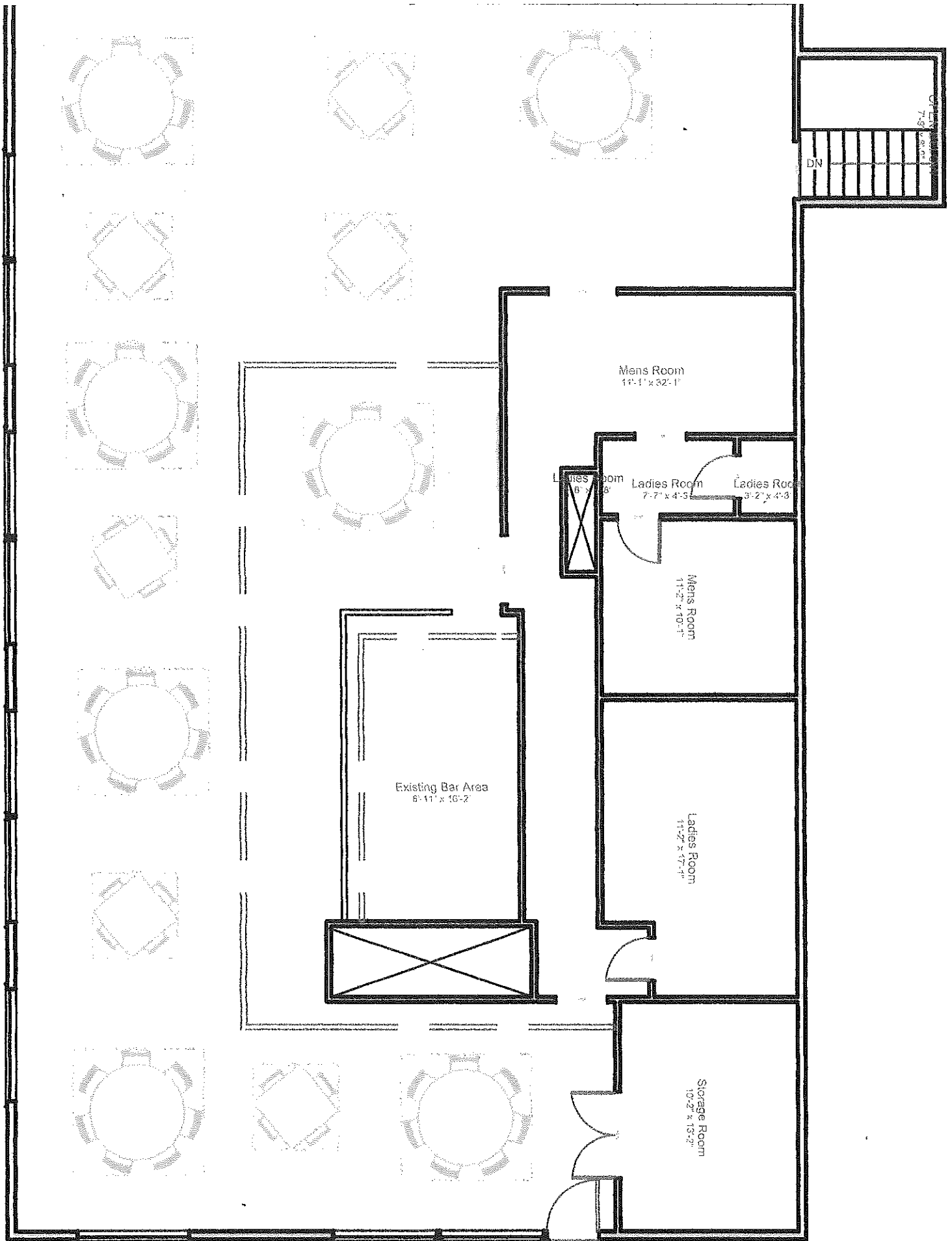
VINCINITY PLAN
NO SCALE



SITE PLAN

SCALE 1/8" = 1'-0"





RESOLUTION NO. 5773-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL APPROVE PLANNED UNIT DEVELOPMENT NO. PUD-105-76 (REV. 12), AN AMENDMENT TO THE PUD-105-76 (PLANNED UNIT DEVELOPMENT) ZONE TO ALLOW LIMITED LIVE ENTERTAINMENT FOR EATING ESTABLISHMENTS THAT HAVE GROUND FLOOR STOREFRONTS FACING VALLEY VIEW STREET, WITH A MINIMUM FLOOR AREA OF 5,000 SQUARE FEET AND A MINIMUM DISTANCE OF 150 FEET AWAY FROM A RESIDENTIAL PROPERTY BOUNDARY OR ANY PROPERTY CONTAINING A RESIDENTIAL USE, SUBJECT TO CONDITIONAL USE PERMIT APPROVAL.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on May 17, 2012, does hereby recommend approval of Planned Unit Development No. PUD-105-76 (REV. 12), to amend the PUD-105-76 (Planned Unit Development) zone to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval, to City Council.

BE IT FURTHER RESOLVED that the City of Garden Grove has determined that the proposed Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, Title 14, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project is also exempt based upon a Class 1 exemption applicable to the operation, permitting, leasing, and licensing of existing private or public facilities and structures involving negligible or no expansion of an existing use. (Cal. Code Regs., tit. 14, section 15301.)

BE IT FURTHER RESOLVED in the matter of Planned Unit Development No. PUD-105-76 (REV. 12), the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by On the Rocks Bar and Grill.
2. A request to amend the PUD-105-76 (Planned Unit Development) zone to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval.
3. The subject site has a General Plan Land Use Designation of Industrial/Commercial Mixed Use and is zoned PUD-105-76 (Planned Unit Development).

4. The City of Garden Grove has determined that the proposed Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, Title 14, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project is also exempt based upon a Class 1 exemption applicable to the operation, permitting, leasing, and licensing of existing private or public facilities and structures involving negligible or no expansion of an existing use. (Cal. Code Regs., tit. 14, section 15301.)
5. Existing land use, zoning, and General Plan Land Use designation of the areas included in this Code Amendment and in their vicinity have been reviewed.
6. Report submitted by City staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on May 17, 2012, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting of May 17, 2012; and

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

FACTS:

The subject site, which is located on the east side of Valley View Street, south of Lampson Avenue, is approximately 9.6 acres in size and is currently developed with nine (9) one and two-story, commercial and industrial buildings in the Bridgecreek Business Park. The subject property is zoned PUD-105-76 (Planned Unit Development) and has a land use designation of Industrial/Commercial Mixed Use. The business park is adjacent to PUD-102-76 (a residential Planned Unit Development) zoned properties to the north, east, and across Valley View Street to the west, and the Garden Grove 22 Freeway to the south. The specific tenant space under application is a 9,100 square foot space, which includes both 1st and 2nd gross floor areas, and is located on the north corner of the business park. The tenant space is currently occupied by On the Rocks Bar and Grill, a full service restaurant.

In conjunction with the proposed amendment to the PUD-105-76 (REV. 12) zone, the applicant is requesting approval of a Conditional Use Permit (CUP) to modify the floor plan and Conditions of Approval for an existing approximately 5,795 square foot restaurant, On the Rocks Bar and Grill, located at 12752 Valley View Street, Suites V & W, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant for overflow seating, and to allow live

entertainment in the form of a two-piece band, and karaoke, along with a raised stage. The business currently operates with an existing State Alcoholic Beverage Control Type "47" (On-Sale, General, Bona Fide Public Eating Place) License approved under Conditional Use Permit No. CUP-301-10 and is located in the Planned Unit Development No. PUD-105-76 zone.

FINDINGS AND REASONS:

1. The amendment to the PUD-105-76 (REV. 12) zone is internally consistent with the goals, policies, and elements of the General Plan, which encourages compatibility between land uses. "Eating establishments with live entertainment" would be an appropriate use in the PUD-105-76 zone, provided that the establishment meets the regulations (i.e., ground floor storefront facing Valley View Street and minimum distance away from residential properties or uses), and with the requirement that each individual proposal be processed under a Conditional Use Permit (CUP). The CUP process is a discretionary action that allows the City to review each proposal individually and place conditions on a proposed use to ensure it is compatible with the surrounding neighborhood.
2. "Eating establishments with live entertainment" will not disrupt the operation of the surrounding commercial and industrial uses. Individual proposals for "Eating establishments with live entertainment" will be reviewed through a conditional use permit. The Conditional Use Permit process allows for review of a business' operation plan and tailors the conditions of approval to each unique site. Adherence to the conditions of approval will ensure 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. Planned Unit Development No. PUD-105-76 (REV. 12) possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment). The Planning Commission recommends approval of Planned Unit Development No. PUD-105-76 (REV. 12) as follows:

The proposed Amendment would consist of the following:

PUD-105-76 establishes uses that are allowed through the existing Condition "G". The Amendment to the PUD-105-76 zone will an additional use through number "20" as follows:

(changes shown in bold and italics)

RETAIL COMMERCIAL TYPE USES

- 1) Eating establishments
- 2) Book stores
- 3) Stationary stores
- 4) Business supplies
- 5) Dressmaker/alteration shop
- 6) Florist shop
- 7) Gift shop
- 8) Art supplies
- 9) Carpet sales
- 10) Paint sales
- 11) Light Fixtures
- 12) Retail sales – tile, linoleum, formica
- 13) Retail hardware
- 14) Medical and sickroom supplies
- 15) Graphic arts studio
- 16) Photo engraving
- 17) Limited print shops (Speedie)
- 18) Small appliance repair
- 19) Dental labs

20) Eating establishments with live entertainment, subject to the following regulations:

- a) Subject to Conditional Use Permit approval.***
- b) Subject eating establishment must have a ground floor storefront that faces Valley View Street.***
- c) Minimum gross floor area of 5,000 square feet.***
- d) Minimum distance of 150 feet away from a residential property boundary or any property containing a residential use.***

ADOPTED this 17th day of May, 2012

/s/ PHAT BUI
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 17, 2012, by the following votes:

AYES:	COMMISSIONERS:	BRIETIGAM, BUI, CABRAL, DOVINH, LAZENBY, PAK, SILVA
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

/s/ ROSEMARIE JACOT
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 7, 2012.

RESOLUTION NO. 5774-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-353-12.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on May 17, 2012, approved Conditional Use Permit No. CUP-353-12 for the property located on the east side of Valley View Street, south of Lampson Avenue at 12752 Valley View Street, Suites V & W, Assessor Parcel No. 217-052-01.

BE IT FURTHER RESOLVED that the City of Garden Grove has determined that the proposed Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, Title 14, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project is also exempt based upon a Class 1 exemption applicable to the operation, permitting, leasing, and licensing of existing private or public facilities and structures involving negligible or no expansion of an existing use. (Cal. Code Regs., tit. 14, section 15301.)

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-353-12, the Planning Commission of the City of Garden Grove does hereby report as follows:

The subject case was initiated by On the Rocks Bar and Grill.

1. A request to amend the PUD-105-76 (Planned Unit Development) zone to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval, in conjunction with a request to modify the floor plan and Conditions of Approval for an existing approximately 5,795 square foot restaurant, On the Rocks Bar and Grill, located at 12752 Valley View Street, Suites V & W, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant for overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage. The business currently operates with an existing State Alcoholic Beverage Control Type "47" (On-Sale, General, Bona Fide Public Eating Place) License approved under Conditional Use Permit No. CUP-301-10 and is located in the Planned Unit Development No. PUD-105-76 zone.
2. The City of Garden Grove has determined that the proposed Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, Title 14, Section 15061(b)(3) because it can

be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The project is also exempt based upon a Class 1 exemption applicable to the operation, permitting, leasing, and licensing of existing private or public facilities and structures involving negligible or no expansion of an existing use. (Cal. Code Regs., tit. 14, section 15301.)

3. The property at 12752 Valley View Street, Suites V & W, has a General Plan Designation of Industrial/Commercial Mixed Use and is within the PUD-105-76 (Planned Unit Development) zone. The subject site, which is located on the east side of Valley View Street, south of Lampson Avenue, is approximately 9.6 acres in size and is currently developed with nine (9) one and two-story, commercial and industrial buildings in the Bridgecreek Business Park.
4. Existing land use, zoning, and General Plan Land Use designation of the areas included in this Code Amendment and in their vicinity have been reviewed.
5. Report submitted by City staff was reviewed.
6. Pursuant to a legal notice, a public hearing was held on May 17, 2012, and all interested persons were given an opportunity to be heard.
7. The Planning Commission gave due and careful consideration to the matter during its meeting of May 17, 2012; and

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

FACTS:

In conjunction with the application to approve PUD-105-76 (REV. 12), the applicant is requesting approval of a Conditional Use Permit (CUP) to modify the floor plan and Conditions of Approval for an existing approximately 5,795 square foot restaurant, On the Rocks Bar and Grill, located at 12752 Valley View Street, Suites V & W, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant for overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage. The business currently operates with an existing State Alcoholic Beverage Control Type "47" (On-Sale, General, Bona Fide Public Eating Place) License approved under Conditional Use Permit No. CUP-301-10 and is located in the Planned Unit Development No. PUD-105-76 zone.

The subject site, which is located on the east side of Valley View Street, south of Lampson Avenue, is approximately 9.6 acres in size and is currently developed with nine (9) one and two-story, commercial and industrial buildings in the

Bridgecreek Business Park. The subject property is zoned PUD-105-76 (Planned Unit Development) and has a land use designation of Industrial/Commercial Mixed Use. The business park is adjacent to PUD-102-76 (a residential Planned Unit Development) zoned properties to the north, east, and across Valley View Street to the west, and the Garden Grove 22 Freeway to the south. The specific tenant space under application is a 9,100 square foot space, which includes both 1st and 2nd gross floor areas, and is located on the north corner of the business park. The tenant space is currently occupied by On the Rocks Bar and Grill, a full service restaurant.

FINDINGS AND REASONS:

Conditional Use Permit:

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

The subject site has a General Plan Land Use Designation of Industrial/Commercial Mixed Use and is PUD-105-76 (Planned Unit Development). Eating establishments with alcohol sales are conditionally permitted in this zone. Provided that the conditions of approval are complied with, the use will be consistent with the General Plan.

2. That the requested use at the location proposed will not: adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding area, or unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site, or jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare.
 - a. The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. The conditions of approval will minimize potential impacts to the adjoining area. The restaurant will continue to operate with a Type "47" (On-Sale, General, Bona Fide Public Eating Place) License. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.
 - b. The 150 foot buffer from any residential property boundary, or any property containing a residential use, will ensure that any approved eating establishments with live entertainment, located within the PUD-105-76 zone, will not adversely affect the health, peace, comfort or welfare of persons residing in the immediate residential areas.
 - c. City Departments responsible for traffic, water services, environmental services, safety, etc., have reviewed the proposal and have determined that the proposed eating establishment operating with live entertainment 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.

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

The eating establishment, On the Rocks Bar and Grill, currently occupies the existing tenant space on an existing site. The existing site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, and landscaping.

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

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

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 9.32.030.

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-353-12.

ADOPTED this 17th day of May, 2012

/s/ PHAT BUI
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 17, 2012, by the following votes:

AYES:	COMMISSIONERS:	BRIETIGAM, BUI, CABRAL, DOVINH, LAZENBY, PAK, SILVA
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

/s/ ROSEMARIE JACOT
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 7, 2012.

EXHIBIT "A"
Conditional Use Permit No. CUP-353-12

12752 Valley View Street, Suites V & W

CONDITIONS OF APPROVAL

General Conditions

1. Each owner of the property shall execute, and the applicant shall record, a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, on the property within 30 days of approval. This Conditional Use Permit runs with the land and is binding upon the property owner, his/her/its heirs, assigns, and successors in interest.
2. The term "applicant," as referenced in the conditions of approval, shall refer to both the tenant/business operator and the property owner, including subsequent purchasers and/or tenants of the restaurant. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Hearing Body.
3. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications which do not change the intent of the project may be approved by the Community Development Director.
4. If major modifications are made to the approved floor plan, site plan, or other related changes that result in the intensification of the project or create impacts that have not been previously addressed, the proper entitlements shall be obtained reflecting such changes.
5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

Public Works Water Services Division

6. During cleaning of kitchen hoods, all generated waste must be captured and discharged to the sewer.
7. No permanent structures, trees, or deep-rooted plants shall be placed over sewer main or water main.

FINAL

8. Location and number of fire hydrants shall be as required by Water Services Division and the Fire Department.

Public Works Sewer Division

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

Fire Department

11. The applicant and subsequent operator(s) shall post the occupancy load, as determined by the Fire Department. At no time shall the restaurant exceed the posted occupancy load.
12. The applicant shall comply with the 2007 California Fire Code for all Life Safety Issues.
13. The applicant and subsequent operator(s) shall provide a Knox box master key to the building to access the 1st and 2nd floor.

Building Department

14. The building shall comply with current California Building Code.
15. The raised stage shall be accessible to the physically disabled.

Police Department

16. There shall be no gaming tables or gaming machines, as outlined in City Code Sections 8.20.010 and 8.20.050, on the premises at any time.
17. Hours of operation shall be permitted only between the hours of 11:00 a.m. to 11:00 p.m., Monday through Thursday, 11:00 a.m. to 2:00 a.m., Friday, 9:00 a.m. to 2:00 a.m., Saturday, and 9:00 a.m. to 11:00 p.m., Sunday. The City reserves the right to reduce hours of operation, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business.
18. There shall be no customers or patrons in or about the premises when the establishment is closed.
19. 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.
20. All pay phones located on the property, adjacent to the premises, shall be limited to out-going calls only. This condition shall be complied with within 30 days following approval of this application.
21. The sale of alcoholic beverages for consumption off the premises is prohibited.
22. There shall be no enclosed booths on the premises at any time. Walls and/or partitions exceeding thirty-six (36) inches in height, which partially enclose or separate booths, shall be of a clear and transparent material. No item shall be placed in the area of the booths that would limit or decrease the visibility of the interior of the business from any location within the business.
23. No alcoholic beverages shall be consumed in the waiting area. All alcohol shall be served incidental to food sales.
24. No alcohol shall be served/consumed outside of the premises.
25. The business, prior to opening, shall show proof to the Police Department that all members of the business staff have completed the LEAD training (Licensee Education on Alcohol and Drugs) through Alcoholic Beverage Control (ABC) or an ABC approved "Responsible Beverage Service (RBS)

Training" program.

26. The sale of alcohol shall cease thirty (30) minutes prior to closing.
27. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation of up to \$1,000 pursuant to GGMC 1.22.010(a).

Community Development Department

28. 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.
29. The establishment shall be operated as a "Bona Fide Public Eating Place" as defined by ABC. The restaurant shall contain sufficient space and equipment to accommodate a full restaurant kitchen, and the kitchen shall be open and preparing food during all hours the establishment is open. The establishment shall provide an assortment of foods normally offered in restaurants.
30. In the event that an Alcoholic Beverage Control (ABC) License is suspended for any period of time and/or fined for any ABC violation as a result of disciplinary action, the Conditional Use Permit shall be presented to the Planning Commission for review or further consideration.
31. The approval of Conditional Use Permit No. CUP-353-12 shall allow the integration of the 3,305 square foot second floor of the establishment with the existing 5,795 square foot first floor. The new total gross floor area of the restaurant, including both the first and second floors, will be 9,100 square feet. The second floor will be use solely as overflow seating for the restaurant and not as a banquet room or banquet hall. All alcoholic drinks served on the second floor, including at the bar area, shall be accompanied by full meals. Access to the second floor is provided from within the restaurant through the use of the existing staircase. There is also an exit, leading to the outside of the establishment. This exit shall remain locked at all times during business hours, except for employee ingress and egress or for deliveries.
32. The room labeled "game room" on the plans may be used as a trophy memorabilia or similar type room. Pool tables or arcade games are not

permitted on the premises at any time.

33. The open deck area shall be utilized as an outdoor dining area and shall not be used as an expansion of the existing bar area. Regular dining tables and chairs shall be provided in the open deck area. No raised bar style tables and chairs shall be allowed in the open deck area.
34. All alcoholic drinks served on the open deck area shall be accompanied by full meals. This open deck area shall not act as a snack lounge, happy hour setting, or for service of alcoholic drinks with snacks, finger foods, or hors d'oeuvres.
35. Access to the open deck area shall only be through the restaurant. No outside access to the open deck area shall be allowed. Access to the deck area shall be from the existing set of doors situated adjacent to the bar area. The bridge access shall be used only as an emergency access from the open deck area.
36. The exit doors shall be kept closed at all times, except in case of emergency or to permit deliveries. Panic hardware on doors shall comply with all City code requirements.
37. The exit gate from the open deck area shall be equipped with panic hardware as approved by the Fire Department.
38. At all times when the establishment is open for business, the sale of alcoholic beverages shall be incidental to the sale of food.
39. The quarterly gross sales of alcoholic beverages shall not exceed 35% of the sales of food.
40. The owner of the establishment shall, upon request, provide the City of Garden Grove with an audited report of sales ratio of food to alcoholic beverages.
41. No outside storage or displays shall be permitted at any time.
42. A prominent, permanent sign stating "NO LOITERING IS ALLOWED ON OR IN FRONT OF THE PREMISES" shall be posted in a place that is clearly visible to patrons of the licensee. The sign lettering shall be four (4) to six (6) inches high with black letters on a white background. The sign shall be displayed

near or at the restaurant's entrance, and shall also be visible to the public.

43. Live entertainment shall be subject to the following conditions:
- a. Live entertainment shall be limited to karaoke and a two-piece band with amplified sound.
 - b. Karaoke shall be conducted in an open setting and not in private enclosed rooms.
 - c. Karaoke shall only be permitted on Friday and Saturday.
 - d. A raised stage is permitted and shall be located on the first floor as shown on the submitted floor plan for Conditional Use Permit No. CUP-353-12. There shall be no dance floor permitted on the premises at any time.
 - e. The location of the live entertainment area shall be centrally located within the restaurant. At no time shall the live entertainment be conducted in the open patio dining area.
 - f. No dancing and no nightclub activity/use shall be permitted.
 - g. Amplified sound or vibration emitted from the premises shall not be audible from outside the boundaries (walls) of the establishment. The property owner shall provide sound attenuation where necessary to limit noise and vibrations to neighboring properties.
 - h. No amplified music shall be permitted outside of the fully enclosed building.
 - i. All entertainment shall be conducted within the wholly enclosed restaurant building.
 - j. Entertainment shall be incidental to the restaurant. At no time shall the entertainment be utilized as a primary use or as a primary attraction to draw customers to the establishment.
 - k. Food service shall be provided during all hours the restaurant is open, including when the live entertainment is occurring.
 - l. No cover charge or other type of entrance fees shall be required for entrance into the restaurant.
 - m. Conditional Use Permit No. CUP-353-12 may be revoked if it is determined that the proposed and/or subsequent operation jeopardizes the health, safety, and welfare of those living, working, shopping, dining, visiting, in the area of the subject establishment.
44. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.08.070.
45. There shall be no deliveries to or from the premises before 8:00 a.m. and after 9:00 p.m., seven days a week.

Conditional Use Permit No. CUP-353-12

Conditions of Approval

46. 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.
47. All trash bins shall be kept inside the trash enclosure, and gates closed at all times, except during disposal and pick-up. Trash pick-up shall be based on the existing schedule provided by the applicant.
48. 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.
49. 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.
50. 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.
51. 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.
52. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
53. Signs shall comply with the City of Garden Grove sign requirements. No more than 15% of the total window area and clear doors shall bear advertising or signs of any sort. No signs advertising alcoholic beverages shall be placed on the windows.
54. 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.

Conditional Use Permit No. CUP-353-12

Conditions of Approval

55. Any Conditional Use Permit previously governing this tenant space shall become null and void, and superseded in its entirety, by approval of CUP-353-12.
56. A copy of the decision and the conditions of approval for Conditional Use Permit No. CUP-353-12 shall be kept on the premises at all times.
57. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-353-12, and his/her agreement with all conditions of the approval.
58. The Conditional Use Permit shall be reviewed within one year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.
59. 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 Planned Unit Development No. PUD-105-76 (REV. 12) or Conditional Use Permit No. CUP-353-12. 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.

MINUTE EXCERPT

GARDEN GROVE PLANNING COMMISSION

PUBLIC HEARING: PLANNED UNIT DEVELOPMENT NO. PUD-105-76 (REV. 12)
CONDITIONAL USE PERMIT NO. CUP-353-12

APPLICANT: ON THE ROCKS BAR & GRILL

LOCATION: EAST SIDE OF VALLEY VIEW STREET, SOUTH OF LAMPSON AVENUE AT 12752
VALLEY VIEW STREET

DATE: MAY 17, 2012

REQUEST: To amend the PUD-105-76 (Planned Unit Development) zone to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval, in conjunction with a request to modify the floor plan and Conditions of Approval, for an existing approximately 5,795 square foot restaurant, On the Rocks Bar & Grill, located at 12752 Valley View Street, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant as overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage. The business currently operates with an existing State Alcoholic Beverage Control Type "47" (On-Sale, General, Bona Fide Public Eating Place) License approved under Conditional Use Permit No. CUP-301-10 and is located in the Planned Unit Development No. PUD-105-76 zone.

Staff report was read and recommended approval. Five letters of concern regarding noise, increased traffic, outside loitering, and drunkenness were written by Ken Gompert, Steven Bayer, Greg and Kathy Ruhl, P. Minor, and Rose Marie Angiuli.

Chair Bui asked staff to clarify the incident that occurred in the residential area of Alonzo Cook Street. Staff responded that one call for service was for a minor fight between two people at a business.

Commissioner Brietigam asked if the current business was a good operator. Staff remarked that prior ABC issues with the previous restaurant were no longer occurring with the new owner.

Commissioner Pak noted that the interior stage faces the front door as well as the townhomes across Valley View Street and asked staff if double sound doors would mitigate noise when patrons enter and exit as the problem was noted in the submitted letters of concern. Staff responded that a condition requires that noise must not be audible beyond the premises and the responsibility falls on the operator to mitigate the issue should the problem occur.

Commissioner Brietigam asked if the Chief of Police also had the authority to modify the entertainment aspect if problems occur, especially concerning noise. Staff responded that the extent of the authority would be to change or limit the hours of operation.

Commissioner Lazenby asked staff to clarify the hours of operation. Staff stated that the hours would be from 11:00 a.m. to 11:00 p.m. Monday through Thursday, 11:00

a.m. to 2:00 a.m. on Friday, 9:00 a.m. to 2:00 a.m. on Saturday, and 9:00 a.m. to 11:00 p.m. on Sunday.

Chair Bui questioned what the noise level would be outside of the building, as later in the evening, sound travels farther. Staff reiterated that the sound should not be audible beyond the premises; that regardless of the time, noise should not be heard by people outside and the 150 feet requirement was an additional buffer to the residences to the east. Also, that Title 8 has restrictions regarding ambient noise level from the property lines; that if a resident calls the Police regarding any noise, a warning would be issued, a report taken, and the applicant would be asked to lower the noise. If the occurrence happened again, the applicant would be given an administrative citation of \$1,000.

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

Mr. Steve Melillo, the applicant/owner, approached the Commission.

Chair Bui asked the applicant if he had read and agreed with the Conditions of Approval. Mr. Melillo replied yes and stated that he was a contractor and had lived in Garden Grove; that he believed in his business, had great staff, and put a lot of money into the restaurant; that though the Police were called four times, three of those incidents resolved themselves; that entertainment would be a two-piece band consisting of a guitar player and a singer; that the upstairs space would be for patrons who wanted a more quiet area or for larger parties, however, the room would not be a banquet facility.

Commissioner Pak asked the applicant if a double door would help to mitigate sounds emitted from the entry area. The applicant stated that he already has a stereo system that has been operating for a year with no complaints and that he would address noise complaints.

Commissioner Pak asked the applicant for assurance that there would be no loitering after the business was closed. The applicant stated that during the week, the restaurant was not crowded in the later hours; that on the weekend he has a security guard and a sign on the door that states 'do not loiter'; that he calls taxis for patrons; and, that there has not been a problem.

Commissioner Pak questioned why the entertainment was not seven days a week. The applicant stated that staff recommended entertainment only on the weekends with the band one night and karaoke the other night.

Commissioner Brietigam asked the applicant if he would come back for entertainment seven days a week. The applicant replied no, however, he stated that he would happy to have entertainment throughout the week.

Commissioner Lazenby asked the applicant how a change in closing time would affect the business. Mr. Melillo responded that the closing time was valuable and any complaints would be taken care of immediately. Also, that food would be served until 1:00 a.m. and alcohol would be stopped 30 minutes before closing at 1:30 a.m.

Vice Chair Cabral mentioned that the hours would not change and that the request was for the addition of entertainment on Friday and Saturday.

Commissioner Silva then clarified that only the karaoke was limited to Friday and Saturday and that entertainment could occur seven days a week; and, that the letters of concern submitted were not in opposition, but requested the owner to be a good operator.

Commissioner Silva asked if patrons were allowed to sit on the patio until 2:00 a.m. on Fridays and Saturdays. The applicant replied yes.

Commissioner Silva then asked staff if the kitchen had to be open during the service of alcohol. Staff replied yes per the ABC law.

Commissioner Silva asked at what hour the entertainment would stop. The applicant suggested an hour before closing or earlier.

Commissioner Dovinh asked the applicant if he had a security guard. Mr. Melillo replied yes, on Friday and Saturday nights until 2:00 a.m. He added that he had not met with neighbors and was not familiar with the names on the letters of concern, and that he had a ten-year lease.

Ms. Sheila Melillo approached the Commission and stated that their business plan included bringing in income and being a family restaurant that was consistent and safe; and that the band would be an easy band as they do not want trouble.

Commissioner Silva asked staff why karaoke was limited to two nights a week. Staff replied that the concern was the closing hours during the week and that the later closing hour on Friday and Saturday would better suit the activity.

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

Commissioner Pak asked staff if the condition could be changed to allow karaoke seven days a week, and he also needed a clarification of Recommendation No. 1.

Staff explained that Recommendation No. 1 recommends that City Council rezone the property to allow live entertainment, and if Recommendation No. 2 were approved, the revised floor plan area would be included.

Commissioner Brietigam expressed his support, and suggested that karaoke seven days a week should warrant a hearing.

Staff then suggested a six month trial period for the Friday and Saturday karaoke with further discussion to occur at a later date.

Commissioner Lazenby asked if the City had any decibel codes. Staff responded that the Municipal Code noise ordinance establishes a rating at the property line taking into consideration ambient noise and that on occasion, Code Enforcement has taken noise readings.

Commissioner Pak expressed reassurance that resident's concerns were addressed with mitigation measures and conditions in order to protect the residents so that the safety and well being of the residents would not be impacted. He also welcomed the business and would support the project.

Commissioner Dovinh commented that the applicant would do well; that noise was a concern and that noise complaints should be addressed, possibly with the suggested

double doors at the entry; that the applicant should consider meeting his neighbors; and, that he would support the project.

Commissioner Lazenby commented that the property looks good and that he would support the project.

Chair Bui expressed his support and commented that neighbors were supportive of the business, however, they wanted any noise issues remedied.

Commissioner Brietigam moved to recommend adoption of Planned Unit Development No. PUD-105-76 (Rev. 12) to City Council and approve Conditional Use Permit No. CUP-353-12, seconded by Commissioner Pak, pursuant to the facts and reasons contained in Resolution Nos. 5773-12 (PUD) and 5774-12 (CUP). The motion received the following vote:

AYES:	COMMISSIONERS:	BRIETIGAM, BUI, CABRAL, DOVINH LAZENBY, PAK, SILVA
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

AGENDA ITEM NO. 7.a.1

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING PLANNED UNIT DEVELOPMENT NO. PUD-105-76 (REV. 12) AMENDING PLANNED UNIT DEVELOPMENT PUD-105-76 TO ALLOW LIMITED LIVE ENTERTAINMENT FOR EATING ESTABLISHMENTS THAT HAVE GROUND FLOOR STOREFRONTS FACING VALLEY VIEW STREET, WITH A MINIMUM FLOOR AREA OF 5,000 SQUARE FEET AND A MINIMUM DISTANCE OF 150 FEET AWAY FROM A RESIDENTIAL PROPERTY BOUNDARY OR ANY PROPERTY CONTAINING A RESIDENTIAL USE, SUBJECT TO CONDITIONAL USE PERMIT APPROVAL

City Attorney Summary

This Ordinance approves an amendment to Planned Unit Development No. PUD-105-76 to modify the permitted uses on the property located on the east side of Valley View Street, South of Lampson Avenue, at 12752 Valley View Street, to allow live entertainment in conjunction with eating establishments within PUD-105-76 that have ground floor storefronts facing Valley View Street, that are a minimum of 5,000 square feet, and that are located at least 150 feet away from the boundary of any residential property or property containing a residential use, subject to approval of a conditional use permit.

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

WHEREAS, on July 13, 1976, the Garden Grove City Council adopted Ordinance No. 1512, adopting Planned Unit Development No. PUD-105-76 and rezoning an approximately 9.59 acre parcel located on the East side of Valley View Street, south of Lampson Avenue, at 12572 Valley View Street, to PUD-105-76, subject to all of the conditions and provisions as set forth in Planning Commission Resolution No. 2849;

WHEREAS, the uses and activities permitted within PUD-105-76 are set forth in condition of approval 3.G. of Planning Commission Resolution No. 2849;

WHEREAS, condition of approval 3.G. of Planning Commission Resolution No. 2849 lists nineteen (19) "Retail Commercial Type Uses" permitted within PUD-105-76;

WHEREAS, the case, initiated by On the Rocks Bar and Grill, proposes to amend Planned Unit Development No. PUD-105-76 to modify the permitted retail commercial type uses within PUD-105-76 to allow limited live entertainment for eating establishments that have ground floor storefronts facing Valley View Street, with a minimum floor area of 5,000 square feet and a minimum distance of 150 feet away from a residential property boundary or any property containing a residential use, subject to Conditional Use Permit approval;

WHEREAS, the proposed amendment to Planned Unit Development No. PUD-105-76 was made in conjunction with a request to modify the floor plan and Conditions of Approval for an existing approximately 5,795 square foot restaurant, On the Rocks Bar and Grill, located at 12752 Valley View Street, Suites V & W, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant for overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage;

WHEREAS, the City Council finds that the proposed amendment to Planned Unit Development No. PUD-105-76 is exempt from the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et. seq.*) pursuant to Article 5, Section 15061(b)(3) of the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et. seq.*) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and pursuant to Article 19, Section 15301, Existing Facilities, of the CEQA Guidelines, because it relates to the permitting of an existing facility involving no or negligible expansion of an existing use;

WHEREAS, following a Public Hearing held on May 17, 2012, the Planning Commission adopted Resolution No. 5773-12 recommending City Council approval of Planned Unit Development No. PUD-105-76 (REV. 12);

WHEREAS, pursuant to Resolution No. 5774-12, on May 17, 2012, the Planning Commission also approved Conditional Use Permit No. CUP-353-12 authorizing the modification of the floor plan and Conditions of Approval for an existing approximately 5,795 square foot restaurant, On the Rocks Bar and Grill, located at 12752 Valley View Street, Suites V & W, in order to integrate the existing 3,305 square foot second floor of the building with the existing restaurant for overflow seating, and to allow live entertainment in the form of a two-piece band, and karaoke, along with a raised stage, subject to the City Council's approval of Planned Unit Development No. PUD-105-76 (REV. 12);

WHEREAS, pursuant to a legal notice, a Public Hearing was held by the City Council on July 10, 2012, and all interested persons were given an opportunity to be heard; and

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

WHEREAS, the City Council hereby makes the following findings regarding Planned Unit Development No. PUD-105-76 (REV. 12):

A. The amendment is internally consistent with the goals, policies, and elements of the General Plan. Eating establishments with live entertainment are consistent with the Industrial/Commercial Mixed Use land use designation applicable to the property within PUD-105-76. The General Plan encourages compatibility

between land uses, and the requirement of approval of a Conditional Use Permit for such uses will allow the City to review each proposal individually and place conditions on a proposed use to ensure it is compatible with the surrounding neighborhood.

B. The amendment will promote the public interest, health, and welfare. "Eating establishments with live entertainment" would be an appropriate use in the PUD-105-76 zone, provided that the establishment meets the regulations (i.e., ground floor storefront facing Valley View Street and minimum distance away from residential properties or uses), and with the requirement that each individual proposal be processed under a Conditional Use Permit (CUP). The CUP process is a discretionary action that allows the City to review each proposal individually and place conditions on a proposed use to ensure it is compatible with the surrounding neighborhood. "Eating establishments with live entertainment" will not disrupt the operation of the surrounding commercial and industrial uses. Individual proposals for "Eating establishments with live entertainment" will be reviewed through a conditional use permit. The Conditional Use Permit process allows for review of a business' operation plan and tailors the conditions of approval to each unique site. Adherence to the conditions of approval will ensure the public interest, health, safety, and welfare.

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

SECTION 1: The above recitals are true and correct.

SECTION 2: Planned Unit Development No. PUD-105-76 (REV. 12) is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5773-12, a copy of which is on file in the City Clerk's Office, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 3: Planned Unit Development No. PUD-105-76 is hereby amended to modify the list of uses and activities permitted in PUD-105-76, as set forth in Planning Commission Resolution No. 2849, by adding the following additional use to the existing list of nineteen (19) "Retail Commercial Type Uses" set forth in condition of approval 3.G. of Resolution No. 2849:

"20) Eating establishments with live entertainment, subject to the following regulations:

- a) Subject to Conditional Use Permit approval.
- b) Subject eating establishment must have a ground floor storefront that faces Valley View Street.
- c) Minimum gross floor area of 5,000 square feet.
- d) Minimum distance of 150 feet away from a residential property boundary or any property containing a residential use."

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.