

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.