

AGENDA ITEM NO. 5.a.

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To:	Matthew J. Fertal	From:	Kathy Bailor
Dept:	City Manager	Dept:	City Clerk
Subject:	CONSIDERATION OF AMENDMENT NO. A-168-12 TO CHANGE THE ZONING DESIGNATION OF PROPERTY LOCATED AT 12332 BROOKHURST STREET, GARDEN GROVE FROM C-1 TO C-2	Date:	September 11, 2012

Attached is the report provided to the City Council at the August 28, 2012, meeting, at which time the matter was continued to the September 11, 2012, City Council meeting.

Approved for Agenda Listing


Matthew Fertal
City Manager

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To:	Matthew Fertal	From:	Susan Emery
Dept:	City Manager	Dept:	Community Development
Subject:	CONSIDERATION OF AMENDMENT NO. A-168-12 TO CHANGE THE ZONING DESIGNATION OF PROPERTY LOCATED AT 12332 BROOKHURST STREET, GARDEN GROVE FROM C-1 TO C-2		
		Date:	August 28, 2012

OBJECTIVE

To transmit a recommendation from the Planning Commission to approve Amendment No. A-168-12, changing the zoning designation of the subject properties located at 12332 Brookhurst Street and identified as Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial).

BACKGROUND

The subject site is approximately 21,600 square feet in area and is located on the east side of Brookhurst Street and north of Lampson Avenue. The site is currently zoned C-1 (Neighborhood Commercial) and has a General Plan Land Use Designation of Light Commercial. The site abuts a C-1 zoned property to the south, O-S (Open Space) and R-1 (Single-Family Residential) zoned properties across Brookhurst Street to the west, and an O-S zoned property to the east. The site is developed with an existing freestanding 4,627 square foot restaurant, Chyll Oyster Bar and Grill Restaurant, which operates with an existing State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License in accordance with Conditional Use Permit No. CUP-575-01, approved by the Planning Commission in 2001. The subject site is part of an integrated multi-tenant commercial development where reciprocal easements for parking and vehicular access exist. According to business tax license records, the existing restaurant, Chyll Oyster Bar and Grill Restaurant, has been in operation since June of 2009.

On July 5, 2012, the Planning Commission held a Public Hearing to consider the requested Zone Change (delineated as Amendment No. A-168-12) from C-1 to C-2, as well as a requested modification to the Conditions of Approval to the existing Conditional Use Permit to permit live entertainment in the form of karaoke/one-man band with amplified sound and a stage in conjunction with operation of the restaurant and to extend the permitted hours of operation. Two members of the public came forward to speak in regard to the request, citing concerns with noise

and late operating hours during the week. One of the speakers also submitted a letter prior to the Public Hearing citing the same concerns. No other members of the public came forward to speak in favor of or in opposition to either request. Following the Public Hearing, the Planning Commission voted 4 yes- 0 noes - 3 absent to adopt (i) Resolution No. 5771-12 recommending approval of Amendment No. A-168-12 to City Council and (ii) Resolution No. 5772-12 approving Conditional Use Permit No. CUP-575-01 (REV. 12), subject to City Council's approval of the Zone Change Amendment. In the event Amendment No. A-168-12 is approved by the City Council, Conditional Use Permit No. CUP-575-01 (REV. 12) would permit the restaurant operating on the site to operate from 10:00 a.m. to 11:00 p.m., Sunday through Thursday, and 10:00 a.m. to 2:00 a.m. Friday and Saturday, and would authorize live entertainment at the restaurant in the form of a one-man band with amplified sound and a stage, seven days per week, and karaoke on Fridays and Saturdays.

DISCUSSION

Currently, live entertainment in the form of karaoke, amplified sound and/or a raised platform or stage is not permitted in eating establishments/restaurants in the C-1 Zone (GGMC Section 9.16.020.040(V)), but is permitted in the C-2 Zone, subject to approval of a Conditional Use Permit. Thus, in order to allow the proposed forms of live entertainment, including the stage, the subject properties will need to be rezoned to C-2.

In recommending approval of the proposed Amendment, the Planning Commission found that:

- The proposed Zone Change is consistent with the General Plan and the Light Commercial (LC) General Plan Land Use Designation, which includes a variety of retail service establishments, including restaurants, and which is implemented by the C-1 and C-2 zoning districts.
- The subject property is physically suitable for the C-2 zoning designation and such designation will be compatible with surrounding properties (for example, the location of the subject site provides a minimum buffer of at least 100 feet in all directions to any residentially zoned property or any property containing a residential use).
- The subject property has sufficient land area for the uses permitted in the C-2 Zone, and the application of the appropriate Title 9 provisions applicable to conditionally permitted uses (such as live entertainment), site landscaping, parking areas, vehicular access, noise, and other matters will ensure that the re-zoned property will be reasonably compatible with the surrounding uses and will not adversely affect the public health, safety, and welfare.

In addition, in conjunction with its approval of the revised Conditional Use Permit (which is subject to City Council approval of the proposed Zone Change), the Planning Commission expressly addressed the concerns voiced by nearby residents by limiting the restaurant's permitted hours of operation to 10:00 a.m. to 11:00 p.m., Sunday through Thursday, and 10:00 a.m. to 2:00 a.m. Friday and Saturday, and limiting karaoke at the establishment to Fridays and Saturdays only. These limitations are consistent with those imposed on other ABC Type "47" establishments through recent Planning Commission approvals and were expressly agreed to at the meeting by the applicant.

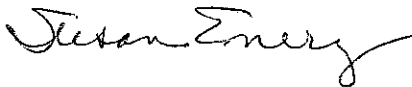
FISCAL IMPACT

There is no fiscal impact to the City associated with this proposed Amendment.

RECOMMENDATION

The Planning Commission recommends that the City Council:

- Hold a Public Hearing for consideration of Amendment No. A-168-12 to change the zoning designation of the subject properties, located at 12332 Brookhurst Street and identified as Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial); and
- Introduce and conduct the first reading of the attached ordinance approving Amendment No. A-168-12.

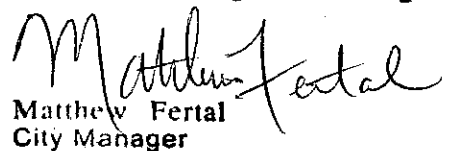


SUSAN EMERY
Community Development Director



By: Chris Chung
Associate Planner

Approved for Agenda Listing



Matthew Feral
City Manager

- Attachment 1: Planning Commission Staff Report dated July 5, 2012
Attachment 2: Planning Commission Resolution No. 5771-12
Attachment 3: Planning Commission Resolution No. 5772-12 with Conditions of Approval
Attachment 4: Initial Study Environmental Checklist Form and Proposed Negative Declaration
Attachment 5: Planning Commission Minute Excerpt from July 5, 2012 Meeting
Attachment 6: Proposed Ordinance

COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.2.	SITE LOCATION: East side of Brookhurst Street, north of Lampson Avenue, at 12332 Brookhurst Street
HEARING DATE: July 5, 2012	GENERAL PLAN: Light Commercial
CASE NOS: Amendment No. A-168-12 Conditional Use Permit No. CUP-575-01 (REV. 12)	ZONE: C-1 (Neighborhood Commercial)
APPLICANT: Trong That Ton	APN: 089-362-01 & 02
PROPERTY OWNER: Huang Chao Shih	CEQA DETERMINATION: Negative Declaration

REQUEST:

A request for a Zone Change Amendment approval to rezone the subject properties, located at 12332 Brookhurst Street, with Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial) to operate an existing restaurant with live entertainment in the form of karaoke/one-man band with amplified sound and a stage. Also, a request to modify the Conditions of Approval for an existing 4,627 square foot restaurant, Chyll Oyster Bar and Grill Restaurant, currently operating with an existing State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License approved under Conditional Use Permit No. CUP-575-01, to extend the business hours of operation to be from 10:00 a.m. to 12:30 a.m., Monday through Wednesday, and from 10:00 a.m. to 2:00 a.m., Thursday through Sunday; and, to allow live entertainment in the form of karaoke/one-man band with amplified sound and a stage.

BACKGROUND:

The subject site is approximately 21,600 square feet in area and is developed with an existing freestanding 4,627 square foot restaurant, Chyll Oyster Bar and Grill Restaurant. The subject site is part of an integrated multi-tenant commercial development where reciprocal easements for parking and vehicular access exist. The site is located on the east side of Brookhurst Street and north of Lampson Avenue. The site is zoned C-1 (Neighborhood Commercial) and has a General Plan Land Use Designation of Light Commercial. The site abuts a C-1 zoned property to the south, O-S (Open Space) and R-1 (Single-Family Residential) zoned properties across Brookhurst Street to the west, and an O-S zoned property to the east. According to business tax license records, the existing restaurant, Chyll Oyster Bar and Grill Restaurant, has been in operation since June of 2009.

CASE NUMBER NOS.: A-168-12 & CUP-575-01 (REV. 12)

On November 1, 2001, the City of Garden Grove approved Conditional Use Permit No. CUP-575-01 to allow the existing restaurant, My House Tropical Paradise, to operate under a California State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License. The subject building was previously occupied by a Coco's restaurant, which operated under an ABC Type "41" (On-Sale, Beer and Wine, Public Eating Place) License. Coco's restaurant closed business on May 3, 2001.

DISCUSSION:

AMENDMENT:

The applicant is requesting an Amendment approval to rezone the subject properties (Assessor's Parcel Nos.: 089-362-01 and 02) from C-1 (Neighborhood Commercial) to C-2 (Community Commercial) to operate the existing restaurant, Chyll Oyster Bar and Grill Restaurant, with live entertainment in the form of karaoke/one-man band with amplified sound and a stage. Currently, permitted live entertainment in the C-1 zone does not allow karaoke, amplified sound or a raised platform or stage. Thus, in order to allow the proposed forms of live entertainment, including the stage, the subject properties will need to be rezoned to C-2. The C-2 zone allows the requested forms of live entertainment, karaoke/one-man band with amplified sound and a stage, subject to Conditional Use Permit approval.

The location of the subject site provides a minimum buffer of at least 100 feet in all directions to any residential property, or any property containing a residential use. Any such establishment, on the subject site, that operates with live entertainment will be subject to the approval of a Conditional Use Permit to avoid any adverse effects to the health, peace, comfort or welfare of persons residing or working in the surrounding area. The Conditional Use Permit process will ensure that each application for a proposed eating establishment with live entertainment is reviewed and conditioned to comply with all City code requirements and the appropriate Conditions of Approval.

The General Plan Land Use Designation of the subject properties is Light Commercial, which is consistent with the proposed zoning of C-2 (Community Commercial). Should the Planning Commission recommend approval of the rezone request, the matter will be forwarded to the City Council for their consideration and final action.

CONDITIONAL USE PERMIT:

The existing 4,627 square foot restaurant, Chyll Oyster Bar and Grill, is currently operating with an existing State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License approved under Conditional Use

Permit No. CUP-575-01. The applicant is requesting to modify the Conditions of Approval to extend the business hours of operation and to allow live entertainment.

Condition "Y", under CUP-575-01, currently states that the hours of operation shall be permitted only between the hours of 10:00 a.m. to 11:00 p.m., Sunday through Thursday, and 10:00 a.m. to 12:00 a.m., Friday and Saturday. The applicant is requesting to extend the hours of operation to be permitted between the hours of 10:00 a.m. to 12:30 a.m., Monday through Wednesday, and 10:00 a.m. to 2:00 a.m., Thursday through Sunday. In the event that problems arise concerning the operation of the subject business, a condition of approval includes a caveat by which the City reserves the right to reduce the hours of operation, by order of the Chief of the Police Department.

Condition "P", under CUP-575-01, currently states that no live entertainment, dancing, karaoke, or disc-jockey entertainment shall be permitted at any time. Additionally, Condition "Q" currently states that no stage area or dance floor is allowed at any time. The applicant is requesting to modify these conditions to allow live entertainment in the form of karaoke/one-man band with amplified sound and to install a stage.

There are no proposed significant changes to the existing floor plan of the restaurant. The only minor change pertains to the location of the stage and the area for the live entertainment. The proposed location of the live entertainment, along with the raised stage area, will be centrally located within the establishment as shown on the submitted floor plan for CUP-575-01 (REV. 12).

As part of this application, the Conditions of Approval for CUP-575-01 (REV. 12) will be updated to include new standard Conditions of Approval including, but not limited, to the following:

- 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).
- 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.
- The City reserves the right to reduce the hours of operation, by order of the Chief of the Police Department, in the event problems arise concerning the operation of this business.
- The sale of alcohol shall cease thirty (30) minutes prior to closing.

CASE NUMBER NOS.: A-168-12 & CUP-575-01 (REV. 12)


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. 5772-12 for Conditional Use Permit No. CUP-575-01 (REV. 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 adoption of a Negative Declaration and approval of Code Amendment No. A-168-12, to rezone the subject properties, located at 12332 Brookhurst Street, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial) to operate an existing restaurant with live entertainment in the form of karaoke/one-man band with amplified sound and a stage, to City Council; and
2. Adopt a Negative Declaration and approve Conditional Use Permit No. CUP-575-01 (REV. 12) subject to the recommended Conditions of Approval as well as subject to the City Council approval of Code Amendment No. A-168-12.



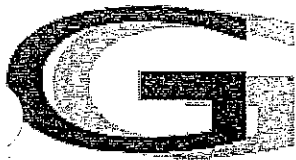
Karl Hill

Planning Services Manager



By: Chris Chung
Associate Planner

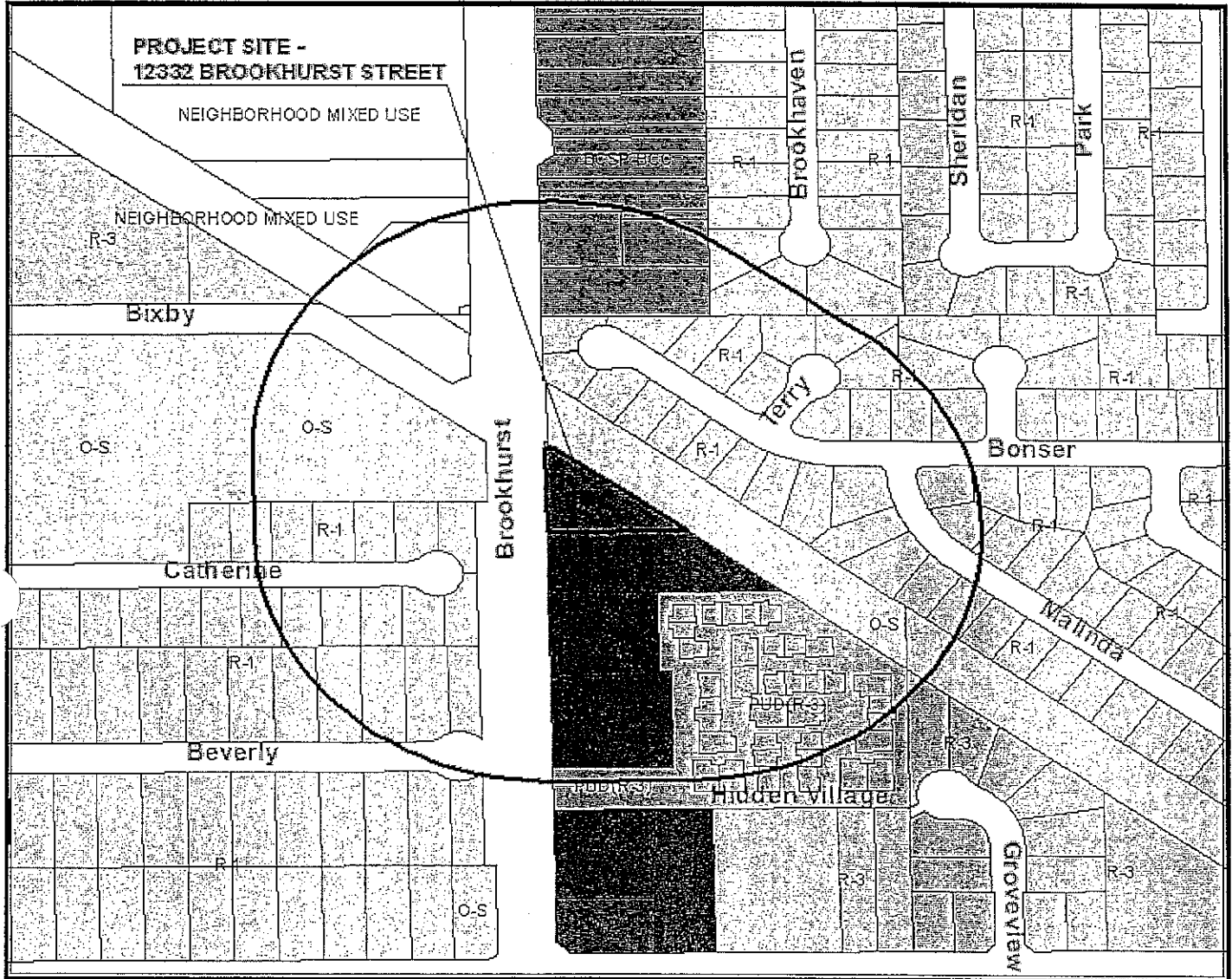
Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Floor Plan




GARDEN GROVE

AMENDMENT NO. A-168-12

CONDITIONAL USE PERMIT NO. CUP-575-01 (REV.12)



LEGEND

 PROJECT SITE - 12332 BROOKHURST STREET

 500 FEET RADIUS

NOTES

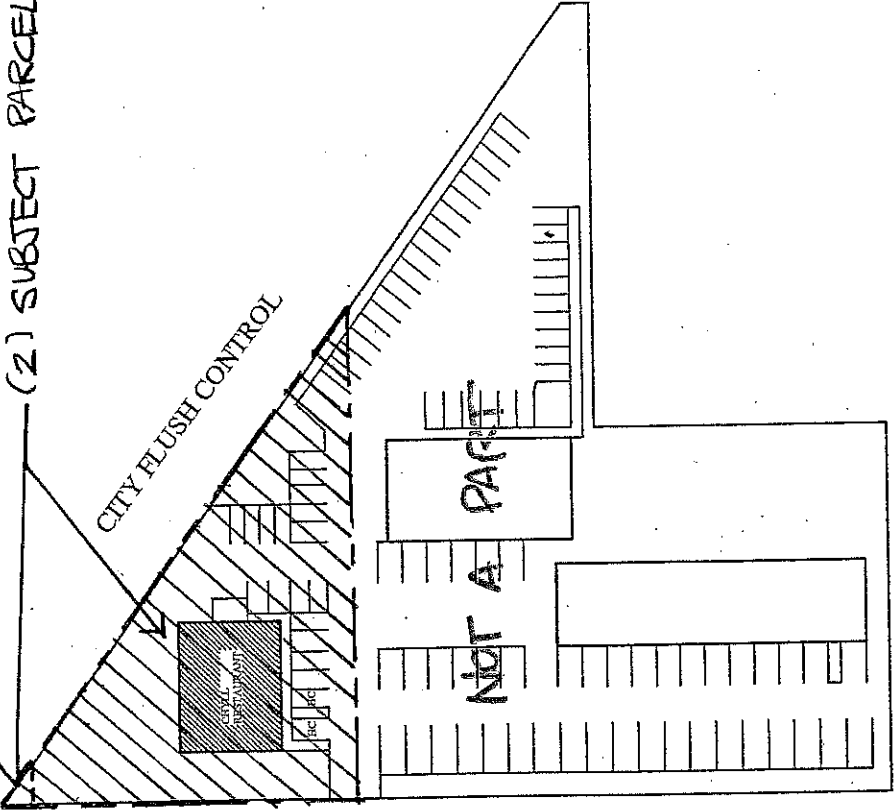
GENERAL PLAN: LIGHT COMMERCIAL
ZONE: C-1 (NEIGHBORHOOD COMMERCIAL)



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

**CHYLL RESTAURANT
OYTER BAR & GRILL**

(2) SUBJECT PARCELS



BROOKHURST ST

SITE PLAN
N.T.S.



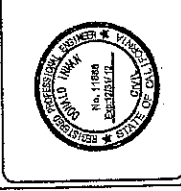
- SHEET INDEX**
- A1. SITE PLAN
 - A2. FLOOR PLAN
 - A3. MECHANICAL PLAN
 - A4. PLUMBING PLAN
 - A6. TITLE 24
 - B1. ELECTRICAL PLAN
 - E2. ELECTRICAL PLAN

THE 2010 CBC CALIFORNIA BUILDING CODE
 THE 2010 CMC CALIFORNIA MECHANICAL CODE
 THE 2010 CEC CALIFORNIA ELECTRICAL CODE
 THE 2010 CPC CALIFORNIA PLUMBING CODE
 THE 2010 CBC CALIFORNIA ENERGY CODE

GENERAL INFORMATION:
 OWNER: TON THAT TRONG
 PHONE: 818-808-8888
 RESTAURANT = 4700 SF
 OCCUPANCY = A-2
 TYPE OF CONSTRUCTION: V-B, SPRINKLER

DESIGN BY: LEON TRAN
 REGISTERED ARCHITECT & INTERIOR DESIGNER
 15400 WILSON AVENUE, SUITE 100
 WESTMINSTER, CA 92683
 (714) 835-1111
 LEONTRANARCHITECTS.COM

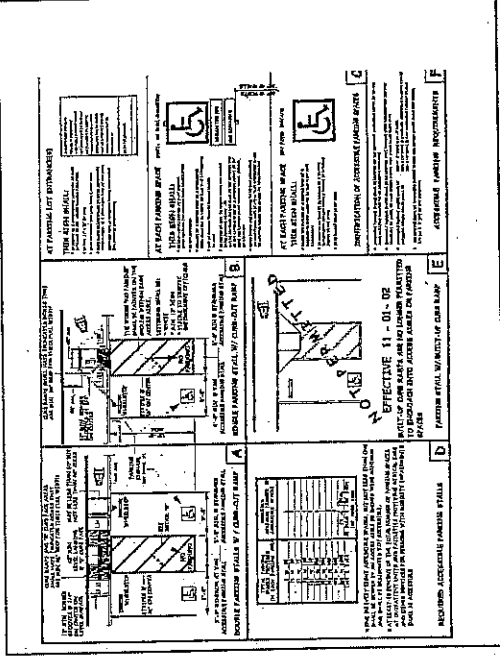
TRAN DESIGN
 7332 20TH ST.
 WESTMINSTER, CA
 714-418-6604



CHYLL RESTAURANT
 12332 BROOKHURST ST
 GARDEN GROVE, CA 92841
 818-808-8888

LEON TRAN
 SCALE: 1/8" = 1'
 DATE: 12-7-11

A1



CHYL RESTAURANT
12332 BROOKHURST ST
GARDEN GROVE, CA 92841



TRAN DESIGN
7332 20TH ST
WESTMINSTER, CA
714-418-6604

DESIGN BY: LEON TRAN

NOTES:
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CALIFORNIA BUILDING CODES AND ALL APPLICABLE REGULATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AGENCIES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AGENCIES.

- GENERAL NOTE**
- 1) ALL FINISHES TO BE IN ACCORDANCE WITH THE CALIFORNIA BUILDING CODES AND ALL APPLICABLE REGULATIONS.
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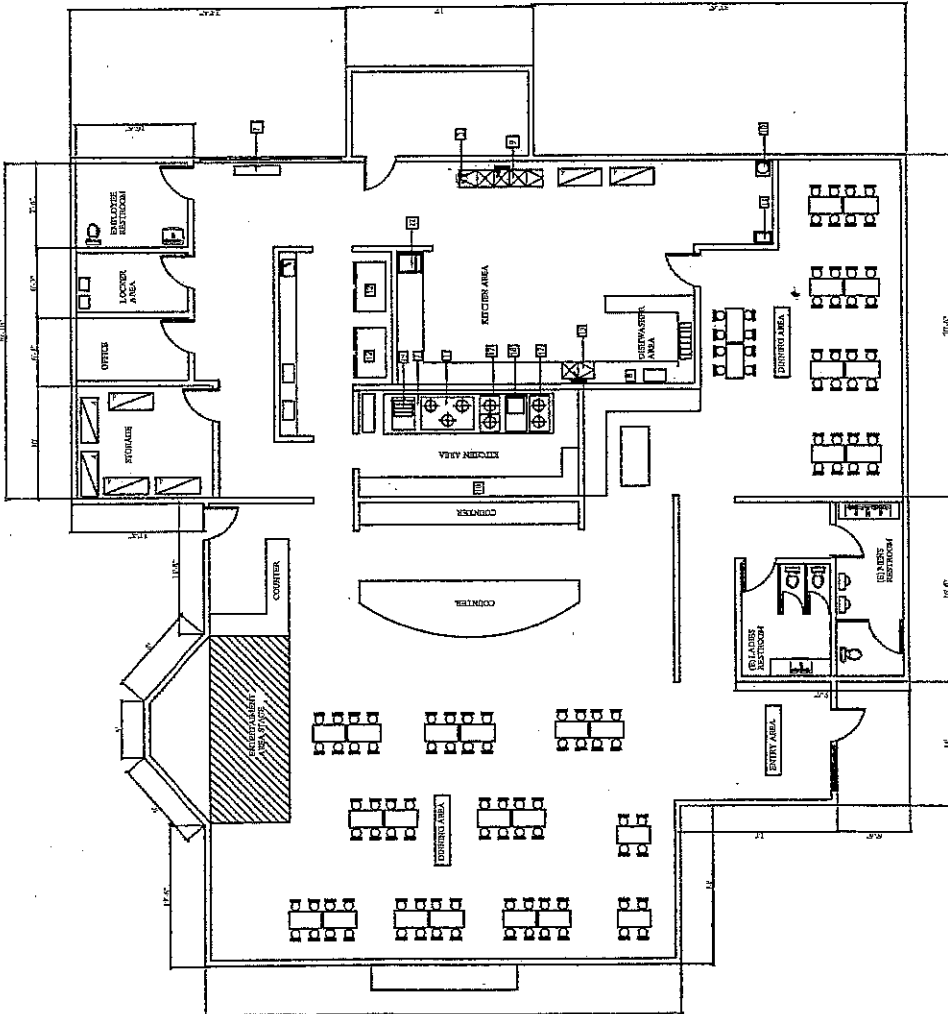
BUILDING OCCUPANCY LOAD ANALYSIS

CUSTOMER AREA: 2386 SQ FT = 48.2 PEOPLE
 KITCHEN AREA: 1587 SQ FT = 7.7 PEOPLE
 RESTROOM: 500 SQ FT = 3.2 PEOPLE
 TOTAL GROSS OCCUPANCY: 48 PEOPLE
 MIN GROSS WIDE: 106 X 12 = 1272 SQUARE INCHES
 DOOR PROVIDE 2 EXIT 36" WIDE DOOR

GENERAL NOTE

EXISTING WALL
 NEW WALL
 DEMOLITE WALL

(A) OUTLET VENT
 (B) INLET VENT
 2X4 FLUORESCENT LIGHT TUB
 FLUORESCENT LIGHT BULL
 SWITCH LIGHT
 STANDARD OUTLET (60V)

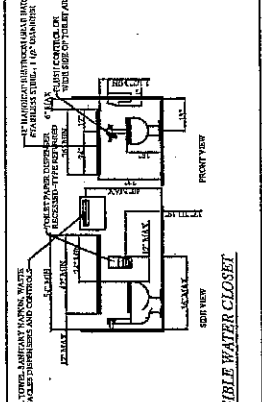
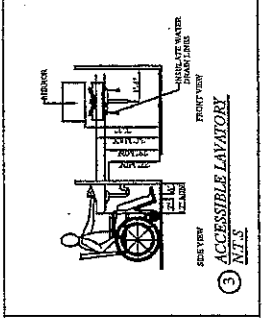


FINISH SCHEDULE

AREA	FLOOR	CEILING	WALL	NOTES	WALK
KITCHEN	CONCRETE TILE	CEILING TILE	CEILING TILE	SELF STORAGE CABINETS	CERAMIC TILE
RESTROOM	CONCRETE TILE	CONCRETE TILE	CONCRETE TILE	SELF STORAGE CABINETS	CERAMIC TILE
FRONT AREA	CONCRETE TILE	CONCRETE TILE	CONCRETE TILE	SELF STORAGE CABINETS	CERAMIC TILE

1) FINISHES ON DOOR AND CEILING SHALL BE IN ACCORDANCE WITH THE CALIFORNIA BUILDING CODES AND ALL APPLICABLE REGULATIONS.

2) FINISHES ON DOOR AND CEILING SHALL BE IN ACCORDANCE WITH THE CALIFORNIA BUILDING CODES AND ALL APPLICABLE REGULATIONS.



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NOTES:
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FLOOR PLAN
1/4" = 1'

RESOLUTION NO. 5771-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THAT THE CITY COUNCIL ADOPT A NEGATIVE DECLARATION AND APPROVE AMENDMENT NO. A-168-12, A ZONE CHANGE AMENDMENT TO REZONE THE SUBJECT PROPERTIES LOCATED AT 12332 BROOKHURST STREET, WITH ASSESSOR'S PARCEL NOS. 089-362-01 AND 02, FROM C-1 (NEIGHBORHOOD COMMERCIAL) TO C-2 (COMMUNITY COMMERCIAL).

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on July 5, 2012, does hereby recommend adoption of the Negative Declaration and approval of Amendment No. A-168-12, to rezone the subject properties, located at 12332 Brookhurst Street, with Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial) in conjunction with a request for a Conditional Use Permit to operate an existing restaurant with live entertainment in the form of karaoke/one-man band with amplified sound and a stage, to City Council.

BE IT FURTHER RESOLVED that the Planning Commission has considered the proposed Negative Declaration together with comments received during the public review process. The record of proceedings on which the Planning Commission's decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of record of proceedings is the Director of Community Development. The Planning Commission finds on the basis of the record before it, including the initial study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment. Therefore, the Planning Commission recommends that the City Council adopt a Negative Declaration for this project.

BE IT FURTHER RESOLVED in the matter of Amendment No. A-168-12, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Trong That Ton.
2. The applicant requests Zone Change Amendment approval to rezone the subject properties, located at 12332 Brookhurst Street, with Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial), in conjunction with a request for a Conditional Use Permit to operate an existing restaurant with live entertainment in the form of karaoke/one-man band with amplified sound and a stage.
3. The subject site has a General Plan Land Use Designation of Light Commercial and is currently zoned C-1 (Neighborhood Commercial).
4. Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et. seq.*, and the CEQA guidelines, 14 California Code of Regulations Sec. 15000 *et. seq.*, the Community

Development Department has prepared an initial study for the project and it has been determined that the proposed project qualifies for a Negative Declaration because the proposed project can not, or will not have a significant adverse effect on the environment; the Negative Declaration was prepared and circulated in accordance with applicable law, including the CEQA guidelines and

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 July 5, 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 July 5, 2012 and considered all oral and written testimony presented regarding the project, the initial study, and the Negative Declaration; 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 is approximately 21,600 square feet in area and is developed with an existing freestanding 4,627 square foot restaurant, Chyll Oyster Bar and Grill Restaurant. The subject site is part of an integrated multi-tenant commercial development where reciprocal easements for parking and vehicular access exist. The site is located on the east side of Brookhurst Street and north of Lampson Avenue. The site is currently zoned C-1 (Neighborhood Commercial) and has a General Plan Land Use Designation of Light Commercial. The site abuts a C-1 zoned property to the south, O-S (Open Space) and R-1 (Single-Family Residential) zoned properties across Brookhurst Street to the west, and an O-S zoned property to the east. According to business tax license records, the existing restaurant, Chyll Oyster Bar and Grill Restaurant, has been in operation since June of 2009.

FINDINGS AND REASONS:

1. The proposed Zone Change Amendment is internally consistent with the goals, policies, and elements of the General Plan. The subject site has a General Plan Land Use Designation of Light Commercial (LC). The LC land use designation includes a variety of retail service establishments, including restaurants, and is implemented through both the C-1 (Neighborhood Commercial) and C-2

(Community Commercial) zoning districts. An "Eating Establishment/Restaurant with Entertainment" use is permitted in the C-2 (Community Commercial) zone, subject to Conditional Use Permit approval. Accordingly, rezoning the subject site from C-1 to C-2 would be consistent with the Light Commercial General Plan Land Use Designation and the associated goals and policies of the General Plan.

2. The subject parcels are physically suitable for the requested land use designation and the proposed Zone Change Amendment will ensure a degree of compatibility with surrounding properties and land uses and will maintain and promote the public interest, health, safety, and welfare,. The subject property has sufficient land area for the uses permitted under the C-2 (Community Commercial) zone, and the application of the appropriate Title 9 provisions for site landscaping, parking areas, vehicular access, noise, and other requirements applicable to those uses permitted in the C-2 zone will ensure that the proposed rezone will have a reasonable degree of compatibility with surrounding uses and will not adversely affect the public health, safety, and welfare.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT

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

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The Amendment possesses characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030.D.1 (Code Amendment) and 9.32.030.D.2 (Zone Change). The proposed Zone Change Amendment would rezone the subject properties, located at 12332 Brookhurst Street, with Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial).

ADOPTED this 5th day of July, 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 July 5, 2012, by the following votes:

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

/s/ JUDITH MOORE
SECRETARY

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

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is July 26, 2012.

RESOLUTION NO. 5772-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE ADOPTING A NEGATIVE DECLARATION AND APPROVING CONDITIONAL USE PERMIT NO. CUP-575-01 (REV. 12) TO MODIFY THE CONDITIONS OF APPROVAL FOR AN EXISTING 4,627 SQUARE FOOT RESTAURANT, CHYLL OYSTER BAR AND GRILL RESTAURANT, CURRENTLY OPERATING WITH AN EXISTING STATE ALCOHOLIC BEVERAGE CONTROL (ABC) TYPE "47" (ON-SALE, GENERAL, PUBLIC EATING PLACE) LICENSE APPROVED UNDER CONDITIONAL USE PERMIT NO. CUP-575-01, TO EXTEND THE BUSINESS HOURS OF OPERATION TO BE FROM 10:00 A.M. TO 11:00 P.M., SUNDAY THROUGH THURSDAY, AND FROM 10:00 A.M. TO 2:00 A.M., FRIDAY AND SATURDAY; AND, TO ALLOW LIVE ENTERTAINMENT IN THE FORM OF A ONE-MAN BAND WITH AMPLIFIED SOUND AND A STAGE, SEVEN DAYS PER WEEK, AND KARAOKE, ON FRIDAYS AND SATURDAYS.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on July 5, 2012, adopted the Negative Declaration and approved Conditional Use Permit No. CUP-575-01 (REV. 12), for the properties located on the east side of Brookhurst Street, north of Lampson Avenue, at 12332 Brookhurst Street, Parcel Nos. 089-362-01 and 02, subject to the adoption and effectiveness of an Ordinance by the Garden Grove City Council approving Zone Change Amendment No. A-168-12 rezoning the properties from C-1 (Neighborhood Commercial) to C-2 (Community Commercial).

BE IT FURTHER RESOLVED that the Planning Commission has considered the proposed Negative Declaration together with comments received during the public review process. The record of the proceedings on which the Planning Commission's decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of record of the proceedings is the Director of Community Development. The Planning Commission finds on the basis of the whole record before it, including the initial study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment. Therefore, the Planning Commission adopts a Negative Declaration for this project.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-575-01 (REV. 12), the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Trong That Ton.
2. In conjunction with a request for a Zone Change Amendment to rezone the subject properties, located at 12332 Brookhurst Street, with Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial), the applicant has requested to modify the

Conditions of Approval for an existing 4,627 square foot restaurant, Chyll Oyster Bar and Grill Restaurant, currently operating on the site with an existing State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License approved under Conditional Use Permit No. CUP-575-01, to extend the business hours of operation to be from 10:00 a.m. to 12:30 a.m., Monday through Wednesday, and from 10:00 a.m. to 2:00 a.m., Thursday through Sunday; and, to allow live entertainment in the form of karaoke/one-man band with amplified sound and a stage.

3. Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et. seq.*, and the CEQA guidelines, 14 California Code of Regulations Sec. 15000 *et. seq.*, the Community Development Department has prepared an initial study for the project and it has been determined that the proposed project can not, or will not, have a significant adverse effect on the environment; the Negative Declaration was prepared and circulated in accordance with applicable law, including the CEQA guidelines.
4. The subject site is approximately 21,600 square feet in area and is developed with an existing freestanding 4,627 square foot restaurant, Chyll Oyster Bar and Grill Restaurant. The subject site is part of an integrated multi-tenant commercial development where reciprocal easements for parking and vehicular access exist. The site is located on the east side of Brookhurst Street and north of Lampson Avenue. The site is currently zoned C-1 (Neighborhood Commercial) and has a General Plan Land Use Designation of Light Commercial. The site abuts a C-1 zoned property to the south, O-S (Open Space) and R-1 (Single-Family Residential) zoned properties across Brookhurst Street to the west, and an O-S zoned property to the east.
5. On July 5, 2012, the Planning Commission adopted Resolution No. 5771-12 recommending the City Council adopt Amendment No. A-168-12, to rezone the subject properties from C-1 (Neighborhood Commercial) to C-2 (Community Commercial).
6. 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.
7. Report submitted by City staff was reviewed.
8. Pursuant to a legal notice, a public hearing was held on July 5, 2012, and all interested persons were given an opportunity to be heard.
9. The Planning Commission gave due and careful consideration to the matter during its meeting of July 5, 2012 and considered all oral and written

testimony presented regarding the project, the initial study, and the Negative Declaration; 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:

The subject site is part of an integrated multi-tenant commercial development where reciprocal easements for parking and vehicular access exist. The site is located on the east side of Brookhurst Street and north of Lampson Avenue. The site is currently zoned C-1 (Neighborhood Commercial) and has a General Plan Land Use Designation of Light Commercial.

In conjunction with proposed request to approve Conditional Use Permit No. CUP-575-01 (REV. 12), the applicant is requesting to rezone the subject properties, located at 12332 Brookhurst Street, with Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial). Pursuant to Resolution No. No. A 168 12, the Planning Commission has recommended that the City Council approve the requested zone change. If the property is rezoned to C-2, operation of the existing restaurant with live entertainment in the form of karaoke/one-man band with amplified sound and a stage will be permissible if authorized by an approved Conditional Use Permit.

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 is as follows:

- The subject site is located in Crime Reporting District No. 103.
- The crime count for the District is 83.
- Average crime count per district in the City is 90.
- A District is considered high when it exceeds the Citywide average by 20%.
- The subject District has a crime count of 8% below the Citywide average; therefore, it is considered a low-crime area.
- The subject site is located in Alcoholic Beverage Control (ABC) Census Report District No. 882.03.

ABC Census Reporting District No. 882.03 allows for five (5) on-sale licenses within the District. Currently, there are eleven (11) on-sale licenses in the District. The approval of this CUP will not increase the number of ABC Licenses in this district since the existing restaurant is only requesting to rezone the subject property and modify the Conditions of Approval. Therefore, the number of on-sale licenses will remain at eleven (11).

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 Light Commercial and with the approval of the Zone Change Amendment, will be zoned C-2 (Community Commercial). The Light Commercial land use designation includes a variety of retail service establishments, including restaurants, and is implemented through both the C-1 (Neighborhood Commercial) and C-2 (Community Commercial) zoning districts. Eating establishments with alcohol sales, and live entertainment, are conditionally permitted in the C-2 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 existing 100-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 subject properties, 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, Chyll Oyster Bar and Grill Restaurant, currently occupies the lone existing freestanding building on the subject site. The 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:

1. The Conditional Use Permit possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.
2. Conditional Use Permit No. CUP-575-01 (REV. 12) shall not become effective until and unless an Ordinance adopted by the Garden Grove City Council approving Zone Change Amendment No. A 168 12 in substantially the same form as recommended by the Planning Commission becomes effective.
3. 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-575-01 (REV. 12).

ADOPTED this 5th day of July, 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 July 5, 2012, by the following votes:

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

/s/ JUDITH MOORE
SECRETARY

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

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is July 26, 2012.

EXHIBIT "A"
Conditional Use Permit No. CUP-575-01 (REV. 12)

12332 Brookhurst Street

REVISED 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 Sewer Division

6. 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

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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.

7. 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

8. 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.
9. The applicant shall comply with the 2007 California Fire Code for all Life Safety Issues.

Building Department

10. The building shall comply with current California Building Code, especially in regards to egress.
11. The raised stage shall be accessible to the physically disabled.

Police Department

12. 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.
13. Hours of operation shall be permitted only between the hours of 10:00 a.m. to 11:00 p.m., Sunday through Thursday, and 10:00 a.m. to 2:00 a.m., Friday and Saturday. 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.
14. There shall be no customers or patrons in or about the premises when the establishment is closed.

Conditional Use Permit No. CUP-575-01 (REV. 12)
Conditions of Approval

15. 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.
16. 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.
17. The sale of alcoholic beverages for consumption off the premises is prohibited.
18. 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.
19. No alcoholic beverages shall be consumed in the waiting area. All alcohol shall be served incidental to food sales.
20. No alcohol shall be served/consumed outside of the premises.
21. No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the establishment, nor shall the business provide or permit, or make available, either gratuitous or for compensation, male or female persons who act as escorts, companions, or guests of and for the customers.
22. There shall be no pool tables, arcade and/or coin-operated games on the premises at any time.
23. The business, prior to operating under CUP-575-01 (REV. 12), 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.
24. The sale of alcohol shall cease thirty (30) minutes prior to closing.

Conditional Use Permit No. CUP-575-01 (REV. 12)
Conditions of Approval

25. 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

26. 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.
27. 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.
28. 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.
29. 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.
30. There shall be no separate bar or lounge area to provide direct service of alcoholic beverages to customers.
31. The service counter denoted on the plans shall not be used for the direct service of customers. There shall be no chairs for customers provided at the counter.
32. No outdoor eating or drinking area shall be allowed.
33. At all times when the establishment is open for business, the sale of alcoholic beverages shall be incidental to the sale of food.
34. The quarterly gross sales of alcoholic beverages shall not exceed 35% of the sales of food.

Conditional Use Permit No. CUP-575-01 (REV. 12)
Conditions of Approval

35. 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.
36. No outside storage or displays shall be permitted at any time.
37. The outdoor walk-in cooler and accessory storage building, located on the east side of the restaurant, shall be painted to match the building.
38. There shall be no banquet facility use for events including, but not limited to, banquets and/or wedding receptions allowed at any time.
39. 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.
40. Live entertainment shall be subject to the following conditions:
 - a. Live entertainment shall be limited to karaoke/one-man band with amplified sound. Karaoke shall only be allowed on Fridays and Saturdays.
 - b. Karaoke shall be conducted in an open setting and not in private enclosed rooms.
 - c. A raised stage is permitted and shall be located as shown on the submitted floor plan for Conditional Use Permit No. CUP-575-01 (REV. 12). There shall be no dance floor permitted on the premises at any time.
 - d. The location of the live entertainment area shall be centrally located within the restaurant.
 - e. No dancing and no nightclub activity/use shall be permitted.
 - f. 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.
 - g. No amplified music shall be permitted outside of the fully enclosed building.
 - h. All entertainment shall be conducted within the wholly enclosed restaurant building.
 - i. 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.

- j. Food service shall be provided during all hours the restaurant is open, including when the live entertainment is occurring.
 - k. No cover charge or other type of entrance fees shall be required for entrance into the restaurant.
 - l. Conditional Use Permit No. CUP-575-01 (REV. 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.
41. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.08.070.
42. There shall be no deliveries to or from the premises before 8:00 a.m. and after 10:00 p.m., seven days a week.
43. 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.
44. 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 at least three (3) times a week.
45. The property owner shall be responsible for providing adequate parking area lighting in compliance with the City regulations. Lighting in the parking area shall be directed, positioned, or shielded in such manner so as not to unreasonably illuminate adjacent properties.
46. 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.
47. 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.
48. 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.

49. 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.
50. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
51. 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.
52. 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.
53. Any Conditional Use Permit previously governing this tenant space shall become null and void, and superseded in its entirety, by approval of CUP-575-01 (REV. 12).
54. A copy of the decision and the conditions of approval for Conditional Use Permit No. CUP-575-01 (REV. 12) shall be kept on the premises at all times.
55. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-575-01 (REV. 12), and his/her agreement with all conditions of the approval.
56. 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.
57. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Amendment No. A-168-12 or Conditional Use Permit No. CUP-575-01 (REV. 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.

ENVIRONMENTAL CHECKLIST FORM

1. PROJECT TITLE:

Amendment No. A-168-12 & Conditional Use Permit No. CUP-575-01 (REV. 12)

2. LEAD AGENCY:

City of Garden Grove
11222 Acacia Parkway
P.O. Box 3070
Garden Grove, CA 92840

3. CONTACT PERSON:

Chris Chung, Associate Planner, City of Garden Grove

4. PROJECT LOCATION: East side of Brookhurst Street, north of Lampson Avenue, at 12332 Brookhurst Street, Assessor's Parcel Numbers: 089-362-01 & 02, in the City of Garden Grove.

5. PROJECT SPONSOR:

Trong That Ton
12332 Brookhurst Street
Garden Grove, CA 92840

6. ENVIRONMENTAL SETTING:

The subject site is approximately 21,600 square feet in area and is developed with an existing freestanding 4,627 square foot restaurant, Chyll Oyster Bar and Grill Restaurant. The subject site is part of an integrated multi-tenant commercial development where reciprocal easements for parking and vehicular access exist. The site is located on the east side of Brookhurst Street and north of Lampson Avenue. The site is zoned C-1 (Neighborhood Commercial) and has a General Plan Land Use Designation of Light Commercial. The site abuts a C-1 zoned property to the south, O-S (Open Space) and R-1 (Single-Family Residential) zoned properties across Brookhurst Street to the west, and an O-S zoned property to the east.

7. GENERAL PLAN DESIGNATION:

Light Commercial

8. ZONING:

C-1 (Neighborhood Commercial)

9. DESCRIPTION OF PROJECT:

A request for a Zone Change Amendment approval to rezone the subject properties, located at 12332 Brookhurst Street, with Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial) to operate an existing restaurant with live entertainment in the form of karaoke/one-man band with amplified sound and a stage. Also, a request to modify the Conditions of Approval for an existing 4,627

square foot restaurant, Chyll Oyster Bar and Grill Restaurant, currently operating with an existing State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License approved under Conditional Use Permit No. CUP-575-01, to extend the business hours of operation to be from 10:00 a.m. to 12:30 a.m., Monday through Wednesday, and from 10:00 a.m. to 2:00 a.m., Thursday through Sunday; and, to allow live entertainment in the form of karaoke/one-man band with amplified sound and a stage.

10. OTHER AGENCIES WHOSE APPROVAL (AND PERMITS) IS REQUIRED:

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

<input type="checkbox"/> Land Use/Planning	<input type="checkbox"/> Transportation/Traffic	<input type="checkbox"/> Public Services/Service Systems
<input type="checkbox"/> Population/Housing	<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Utilities and Services
<input type="checkbox"/> Geology/Soils	<input type="checkbox"/> Recreation	<input type="checkbox"/> Aesthetics
<input type="checkbox"/> Hydrology/Water Quality	<input type="checkbox"/> Hazards & Hazardous Materials	<input type="checkbox"/> Cultural Resources
<input type="checkbox"/> Air Quality	<input type="checkbox"/> Noise	<input type="checkbox"/> Greenhouse Gas Emissions
<input type="checkbox"/> Mineral Resources	<input type="checkbox"/> Mandatory Findings of Significance	<input type="checkbox"/> Agricultural and Forestry Resources

DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project COULD have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature



Date

6/5/12

Chris Chung
Printed Name

For:
City of Garden Grove

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cited in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis.)
2. All answers must take into account the whole of the action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analysis," as described in (5) below, may be cross-referenced.
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such efforts were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigating measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is elected.
9. The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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I. AESTHETICS*

Would the project:

- a. Have a substantial adverse effect on a scenic vista?
- b. Substantially damage scenic resources, including but not limited to trees, rock, outcroppings, and historic buildings within a state scenic highway?

Response (a-b): The project site is not located adjacent to any officially designated scenic vistas or highways. The project site is located in a commercial area of Garden Grove that is characterized by typical existing commercial developments and businesses. The applicant proposes to rezone the subject properties. The site and building will remain unchanged aesthetically.

- c. Substantially degrade the existing visual character or quality of the site and its surroundings?

Response: The subject tenant space is currently occupied by an existing restaurant. There will be no exterior modifications to the building. There are no proposed changes that would cause degradation of the existing visual character or quality of the existing building, the existing site, and the surroundings.

- d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?

Response: The project site is located in an existing commercial development with existing lighting provided by pole-mounted lighting both on the site and in the immediate vicinity of the project site.

II. AGRICULTURE AND FOREST RESOURCES*

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

- a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland); as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of California Resources Agency, to non-agricultural use?
- b. Conflict with existing zoning for agricultural use,

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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or a Williamson Act contract?

- c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as Defined by Government Code Section 51104(g))?
- d. Result in the loss of forest land or conversion of forest land to non-forest use?
- e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Response (a-e): According to the California Department of Conservation Farmland Mapping and Monitoring Program, the site has not been mapped as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The project is not zoned for farmland or forestland and is not located within an area that is used or zoned for farming or forest uses. The project is not subject to a Williamson Act contract, and thus will not conflict with a Williamson Act contract, as the properties are not zoned or used for agricultural purposes.

The project is located in an urbanized area that is developed for commercial uses. The property is located in the C-1 (Neighborhood Commercial) zone and has a General Plan Land Use designation of Light Commercial. The General Plan designation will remain the same, while the zoning will be changed to C-2 (Community Commercial).

There are no forestlands within this area, therefore, no loss of forestland or conversion of forestland to non-forest use will occur.

The project site is not located in close proximity to forestland or farmland designated by the California Department of Conservation. Therefore, the project does not involve other changes that, due to their location or nature, would result in conversion of farmland to non-agricultural use or conversion of forestland to non-forest use.

III. AIR QUALITY*

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- a. Conflict with or obstruct implementation of the applicable air quality plan?
- b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

- | | Potentially Significant Impact | Potentially Significant Unless Mitigated | Less than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Expose sensitive receptors to substantial pollutant concentrations? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (a-d): The project will not conflict with adopted air quality plan. The project site is located within the South Coast Air Quality Management District (SCAQMD). SCAQMD has adopted both regional and localized air quality significance thresholds. A project's air quality impacts can be separated into short-term impacts from construction, and long-term permanent impacts from project operations. The proposed rezoning of the subject property will not involve any exterior construction. The only construction involved will be minor interior tenant improvements to build the proposed raised stage for the live entertainment. As a result, the project will not generate short-term impacts. While the project's operation could contribute some additional vehicle trips traveling in and out of the project site, those emissions are nominal.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e. Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Response: No objectionable odors would be created by the proposed rezoning of the subject properties. Temporary odors may occur during the construction of limited interior tenant improvements based on the construction material used, such as paint, coatings, and solvents. Most of the construction will be indoors and the limited emissions will dissipate rapidly.

IV. BIOLOGICAL RESOURCES*

Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- | | Potentially Significant Impact | Potentially Significant Unless Mitigated | Less than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-------------------------------------|
| d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. Conflict with the provisions of an adopted Habitat Conservation Plan, or other approved local, regional or state habitat conservation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (a-f): The project is located within a highly urbanized area that is improved with existing commercial development and is devoid of native vegetation. There are no identified species or habitats on the site. The project site is improved with existing commercial buildings, paved parking and loading areas, and landscaped setbacks. The proposal only involves the rezoning of the subject properties. Therefore, there will be no physical changes to the site. Endangered species are not expected to occur in the area due to the lack of suitable habitat and heavy disturbance of the existing environment.

The project site does not contain any standing surface water. Therefore, there would be no potential impact on riparian habitats or other sensitive riparian natural communities. Additionally, there would not be any potential impacts on federally protected wetlands, marsh, or vernal pools.

The project does not conflict with any local policies or ordinances protecting biological resources.

V. CULTURAL RESOURCES*

Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Disturb any human remains, including those interred outside of formal cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (a-d): The site is located in an urbanized area, and is currently developed with existing commercial buildings, paved parking and loading areas. There will be no new exterior construction (only minor interior tenant improvements) and therefore, the proposal will not affect any archeological site, paleontological resource, geologic feature, or human remains. If unanticipated archeological resources, paleontological resources, or human remains are discovered during construction, all attempts will be

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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made to preserve in place or leave in an undisturbed state in compliance with California Health & Safety Code § 7050.5 and Public Resources Code § 20183.2. No cultural resources impacts are anticipated.

VI. GEOLOGY AND SOILS*

Would the project:

- | | | | | |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ii. Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| iii. Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| iv. Landslide? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (i-iv): According to the General Plan EIR, the nearest major active fault along which a rupture or a major seismic event could occur is the Newport-Inglewood Fault. This fault is located just west of Dana Point Harbor and continues north through Newport Beach into south Los Angeles County. The seismic parameters of the site are similar to those of other areas in Orange County during the maximum credible event along the Newport-Inglewood Fault Zone that is estimated to be of 7.5 magnitude. No fault rupture is expected in the immediate vicinity of the project. Liquefaction could potentially occur during a maximum intensity event along the Newport-Inglewood fault due to the possibly saturated nature of the sandy soils in the area. The project site is not located within an area of high or moderate dynamic settlement potential per the Safety Element of the General Plan 2030.

Some exposure to seismic-related hazards, therefore, is expected. All construction, however, shall comply with applicable building codes including, but not limited to, the California Building Code, Fire Code, and other related City requirements. In general, seismic issues are common for most of California, and adherence to project design features, the California Building Code, Fire Code, and City requirements would ensure that the impacts due to seismic ground shaking or failure would be less than significant. As a result, the risk of loss, injury, or death involving seismic rupture or shaking would be considered less than significant and no mitigation measures would be necessary.

Additionally, the project area is relatively flat and therefore would not normally be subject to landslides or mudslides. There will be no new construction on the site and the tenant improvement to the interior of the existing building will not involve excavations. No impacts are anticipated.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b. Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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Response: The proposal is to rezone the subject properties from C-1 (Neighborhood Commercial) to C-2 (Community Commercial). This part of the City is developed with existing commercial buildings, large areas of impermeable surfaces for parking and loading and limited landscape setbacks along street frontages. Given that the area is fully developed with commercial buildings and parking/loading areas there will be no soil erosion or loss of top soil.

- c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?
- d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building code (1994), creating substantial risks of life or property?

Response (c-d): The site is not located on an identified landslide hazard area where local topographical, geological, geotechnical and subsurface conditions signify landslide potential. Vertical displacement or subsidence of the land surface can be caused by several factors, including the withdrawal of oil, gas, or water from underlying formations, decomposition of buried organic material, and construction of heavy manmade structures above underlying poorly consolidated materials. None of these or any other conditions typically contributing to subsidence are expected in the project area. There will be no new construction on the site and therefore, none of these or any other conditions typically contributing to subsidence, are expected on the project site.

- e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Response: The subject site and the existing restaurant will be served by the City's sewers system and therefore no alternative wastewater disposal system is needed to support the project. No impacts are anticipated.

VII. GREEN HOUSE GAS EMISSIONS*

Would the project:

- a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?
- b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Response (a-b): Given the complexity of the overall interactions between various global and regional scale emissions, it is very unlikely that any individual project would have Green House Gas (GHG) emissions of a magnitude sufficient to directly or significantly impact global climate change. Even a very large project does not

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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generate enough greenhouse gases to significantly influence global climate change. Global climate change impacts, therefore, must be evaluated cumulatively. In California, AB 32 and SB 375, will address GHGs on a statewide, cumulative basis. Since the adoption of AB 32 and SB 375, however, there has been little regulatory guidance regarding the quantification of potential GHG impacts. Instead, the CEQA Guidelines specify that a lead agency may, in its discretion, rely on a quantitative or qualitative analysis for these purposes.

Generally, GHG emissions are generated during the construction and/or operational phases of any given project. Here, the proposed project does not call for any construction activities. As a result, the proposed project will not generate any temporary GHG emissions that would otherwise occur during construction. While the project's operational component could contribute some additional GHG emissions above those emissions in the existing environmental setting, those emissions are nominal. Because the net increase in GHG emissions associated with the project would be negligible, the project would not cumulatively contribute to GHG emissions impacts. The proposed project would not have the potential to interfere with implementation of AB 32's GHG reduction targets.

VIII. HAZARDS AND HAZARDOUS MATERIALS*

Would the project:

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (a-c): The existing restaurant will not include in its operation, the routine transport, use, or disposal of hazardous materials. Some incidental hazardous materials, including paints, solvents, and other materials, may be stored on-site and utilized in daily operations or maintenance of the property. All proposed use of such materials must comply with applicable federal, state, and local regulations pertaining to the transport, storage, use and/or disposal of hazardous materials on the site. There will be no health hazards or potential for health hazards created by the existing restaurant use.

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Response: The project is not located on a site that has been included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Since the site is not located on a hazardous materials site, no impact is anticipated.

- | | Potentially Significant Impact | Potentially Significant Unless Mitigated | Less than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-------------------------------------|
| e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (e-f): The project site is not located within an airport land use plan, within two-miles of a public airport or public use airport, or within the vicinity of private airstrip. Therefore, the project would not result in a safety hazard for people residing or working in the project area. No impacts are anticipated.

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|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Response: The existing restaurant is within an existing building, and the site provides adequate parking, and can be accessed by the existing street infrastructure. The use is consistent with the development in the zone and surrounding area and would not create any physical interference that would impair implementation of an adopted emergency response or evacuation plan.

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Response: The project is within a highly urbanized area and is not located adjacent to any wildlands or an area where residences are intermixed with wildlands. Therefore, based on the location of the project, no exposure of people or structures to a risk of loss, injury, or death involving a wildfire is anticipated.

IX. HYDROLOGY AND WATER QUALITY*

Would the project:

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|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted?) | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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would result in substantial erosion or siltation on or off-site?

- d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface run-off in a manner which would result in flooding on- or off-site?
- e. Create or contribute run-off water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted run-off?
- f. Otherwise substantially degrade water quality?

Response (a-f): The project site is located within an urbanized area with existing commercial uses. Both the site and the surrounding commercial areas are largely covered with impermeable surfaces. The existing restaurant use is within an existing building and will not alter the existing site. The proposed use will not affect aquifers' recharge capability or alter the direction of groundwater flow beyond existing conditions. Project construction will be limited to interior tenant improvement work within the existing building and will require no excavation or other related below-grade work, nor use of large quantities of water.

There are no surface waters within the project area. All run-off from the area is, and will continue to be, collected in local and regional storm drain facilities. The City and County NPDES programs are in place to regulate the transport of these waters with other urban run-off into City and County drainage facilities.

There will be less than significant change in absorption rates, drainage patterns and in the rate or amount of surface run-off as of the land is presently developed.

- g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?
- h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?
- i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Response (g-i): The project area is located within the Regular Flood Hazard Zone "X", as determined by the Federal Emergency Management Agency Flood Insurance Rate Map No. 06059C0141J (Community No. 060220, Panel No. 0119J), issued on December 3, 2009. Flood Zone "X" includes areas of 500-year flood; with average depths of less than one foot, or with drainage areas less than one square mile; and areas protected by levees from 100-year floods. Flood Zone "X" is not subject to the Flood Hazard Overlay Zone.

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

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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Response: Seiches, tsunamis, and mudflows are not anticipated to occur in the vicinity of this project due to its distance from the coast, absence of large bodies of water, or hilly or mountainous areas that potentially could cause mudflows.

X. LAND USE AND PLANNING*

Would the project:

- a. Physically divide an established community?

Response: The existing restaurant use will not physically divide an established community. The existing restaurant will operate within the existing commercial development. The site and surrounding area will continue to operate as a commercial area.

- b. Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Response: The proposed rezoning of the subject properties will not conflict with the the General Plan Land Use Designation of Light Commercial. The proposal will be consistent with the goals of the General Plan Light Commercial designation. As set forth in this initial study, the project does not conflict with any other applicable land use plan, policy, or regulation adopted by an agency with jurisdiction over the project.

- c. Conflict with any applicable habitat conservation plan or natural community conservation plan?

Response: The proposed project is located within a highly urbanized area of Orange County and is in conformance with applicable federal, state and City of Garden Grove environmental requirements and plans. The proposed use will be in a developed commercial area that is not subject to any habitat conservation plan or natural community conservation plan.

XI. MINERAL RESOURCES*

Would the project:

- a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

- b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

Response (a-b): The existing restaurant is located in a zone in the City that is not known to have mineral resources as identified in the City's General Plan.

XII. NOISE*

Would the project result in:

- | | Potentially
Significant
Impact | Potentially
Significant
Unless
Mitigated | Less than
Significant
Impact | No
Impact |
|---|--------------------------------------|---|------------------------------------|-------------------------------------|
| a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (a-d): There are no physical changes on the project site that would likely increase noise levels beyond those existing.

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport, or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Response (e-f): The project site is not located within an airport land use plan, within two-miles of a public airport or public use airport, or within the vicinity of private airstrip. No impacts are anticipated.

XIII. POPULATION AND HOUSING*

Would the project:

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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XIV. PUBLIC SERVICES*

a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

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

Police protection?

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

Schools?

Response: The existing restaurant or the proposed rezoning of the subject properties, will not increase the number of housing units and therefore, the number of children will not increase within the Garden Grove Unified School District. No impact to area schools is anticipated.

Parks?

Response: The existing restaurant is located in an area developed with commercial buildings. The C-2 (Community Commercial) zone is not an area that has developed parks or is designated for parkland. The use of the existing restaurant will not require the creation of additional parkland.

Other public facilities?

Response: It is not likely that the project will increase demands on other governmental services.

XV. RECREATION*

a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that the substantial physical deterioration of the facility would occur or be accelerated?

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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Response: The proposed rezoning of the subject properties will not have an impact on the demand on existing public facilities for the same sports amenities.

- b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response: The scope of work related to Conditional Use Permit No. CUP-575-01 (REV. 12) will be limited to minor interior tenant improvement construction within the existing building with no appreciable changes to the site, therefore the code amendment will not create adverse physical effects on the environment.

XVI. TRANSPORTATION*

Would the project:

- a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit, and non-motorized travel and relevant components of the circulation system, including, but not limited to, intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?
- b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?
- c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?
- d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Response (a-d): The proposed rezoning of the subject properties is not likely to increase traffic congestion in the area. Peak hours for the establishment are after regular business hours and during the day on weekends. Construction for existing restaurant will be tenant improvements within the existing building but if there is construction in the public right-of-way the applicant will be required to submit a traffic safety plan to minimize traffic congestion.

- e. Result in inadequate emergency access?

Response: The proposed rezoning of the subject properties, or the continued use of the existing restaurant, will not alter the emergency access.

- f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities,

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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or otherwise decrease the performance or safety of such facilities?

Response: The existing restaurant occupies space within the existing commercial development and rely on existing street infrastructure will not conflict with modes of alternative transportation nor decrease the performance of safety of such facilities.

XVII. UTILITIES AND SERVICE SYSTEMS*

Would the project:

- a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

Response: As explained above, the project is required to implement the requirements of the Regional Water Quality Control Board.

- b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Response: See (e) below.

- c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Response: The code amendment is to rezone the subject properties which are located in a highly urbanized area where storm water drainage facilities are in place and adequate to meet the needs for the area.

- d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

Response: The specific project details for any additional fixtures in a proposed remodel and the water sufficiency will be reviewed by Public Works through the conditional use permit.

- e. Result in determination by the wastewater treatment provider, which serves or may service the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Response (b, e): The Public Works, Water Services Division, has reviewed the request for the proposed rezoning of the subject properties and has determined that there is adequate sewer capacity to serve the existing restaurant.

- f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less than Significant Impact	No Impact
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- g. Comply with federal, state, and local statutes and regulations related to solid waste?

Response (f-g): The Garden Grove Sanitary District administers solid waste disposal services in the City of Garden Grove. Collection services are provided via a contract with a private trash collection contractor. The existing restaurant is located within an existing commercial development which is responsible for coordinating with the Garden Grove Sanitary District and their contractor for specific matters such as trash pick-up times, number and types of trash receptacles, and the locations of such trash receptacles.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

- a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?
- b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?
- c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

XIX. EARLIER ANALYSIS

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

a. EARLIER ANALYSIS:

1. The City of Garden Grove General Plan Update.
2. The City of Garden Grove Existing Conditions Report.
3. The City of Garden Grove Final Environmental Impact Report for the General Plan Update, State Clearinghouse No. 2008041079, August 2008.
4. Title 9 of the Garden Grove Municipal Code.
5. The City of Garden Grove Sanitary District Sewer Deficiency Analysis and Sewer Improvement Master Plan.

b. IMPACTS ADEQUATELY ADDRESSED:

1. Geology & Soils
2. Green House Gas Emissions

c. **MITIGATION MEASURES:**

The project is consistent with the analysis that was done within The City of Garden Grove Final Environmental Impact Report for the General Plan 2030 Update State Clearinghouse No. 2008041079. All conditions of approval shall be adhered to. Therefore, no mitigation measures are required to mitigate any potential negative impacts on the property or surrounding area.

MINUTE EXCERPT

GARDEN GROVE PLANNING COMMISSION

PUBLIC HEARING: NEGATIVE DECLARATION
AMENDMENT NO. A-168-12
CONDITIONAL USE PERMIT NO. CUP-575-01 (REV. 12)
APPLICANT: TRONG THAT TON
LOCATION: EAST SIDE OF BROOKHURST STREET, NORTH OF LAMPSON AVENUE AT 12332
BROOKHURST STREET
DATE: JULY 5, 2012

REQUEST: A Zone Change Amendment to rezone the subject property, located at 12332 Brookhurst Street, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial) to operate an existing restaurant with live entertainment in the form of karaoke. Also, to modify the Conditions of Approval for an existing 4,627 square foot restaurant, Chyll, operating under an existing State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Public Eating Place) License approved under Conditional Use Permit No. CUP-575-01, to extend its business hours and operate from 10:00 a.m. to 12:30 a.m., Monday through Wednesday, and from 10:00 a.m. to 2:00 a.m., Thursday through Sunday; and, to allow live entertainment in the form of karaoke. The site is in the C-1 (Neighborhood Commercial) zone.

Staff report was read and recommended approval with amendments to the Resolutions. One letter was written by Judy Rippe regarding noise concerns.

Commissioner Silva asked staff if the existing Conditional Use Permits (CUP) on the site include the \$1,000 Administrative Citation. Staff responded that the old CUP did not include the condition, however, the condition would be included in the new conditions and was already included within the Municipal Code, therefore the City would currently have the authority to levee a \$1,000 Administrative Citation for violations of the conditions now; and, that the current CUP has the provision that the Chief of Police could reduce the hours of operation.

Commissioner Silva asked staff to confirm that this request for live entertainment included the option of karaoke seven days a week. Staff replied yes, that the entertainment hours were the same as the business hours.

Vice Chair Cabral asked for the current hours of operation. Staff replied the business was permitted to close at 11:00 p.m. Sunday through Thursday and at 12:00 a.m. Friday and Saturday; that so far, there have not been noise complaints, however, Police have been on the site four times since May 2011 for self-initiated business checks and one dispatch for assault.

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

Mr. Trang That Ton, the applicant, approached the Commission and stated that he would like to do good in the City.

Chair Bui asked the applicant if he had read and agreed with the Conditions of Approval. He replied yes.

Commissioner Silva reiterated that there were no boundaries on the entertainer and questioned if the applicant needed the ability seven days a week. Mr. Ton replied that seven days was not necessary, however, he would like karaoke on the weekends when his business was open later on Friday, Saturday, and Sunday.

Chair Bui noted the letter of concern regarding noise issues especially from honking cars and slamming car doors in the parking lot. Mr. Ton was aware of the problems and would likely increase security, however, he did not feel the noise level was significant.

Commissioner Lazenby asked how late the food was served. Mr. Ton replied that service ended 30 minutes prior to closing and that the practice would continue with the extended hours.

Ms. Judy Rippe, a nearby resident, approached the Commission and stated that the noise level was significant with yelling and honking horns especially during the week; that her bedroom was right over the parking lot; that Royal Seafood turns down their music, however, Chyll and Royal Seafood have their back doors open and there were no trees to buffer the noise; that the weekday hours were radical, especially for those that get up early for work; that there was not much time for restful sleep as she was awakened when the patrons would leave the restaurant.

Ms. Robin Ireland, a teacher, approached the Commission and stated that the weekend noise was all right, however, during the week was a concern as she rises early to be at school at 7:30 a.m.

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

Commissioner Silva asked if the Planning Commission had discretion over the hours of operation and karaoke. Staff replied that the discretion was absolute and that the language of the CUP could be modified.

Commissioner Silva then suggested that the hours of operation to be 10:00 a.m. to 11:00 p.m. Sunday through Thursday and from 10:00 a.m. to 2:00 p.m. Friday through Saturday; that live entertainment and karaoke be allowed on Friday and Saturday only; and, that the open rear door was already a violation that needed to be enforced.

Commissioner Lazenby asked for requirements to keep the business noise level down and for the distance between the residents and the railroad right-of-way. Staff responded that the right-of-way was approximately 100 feet wide with the houses sitting further back; that the distance from the restaurant to the right-of-way was a few feet; and, that the noise could be limited by reducing the hours of operation.

Commissioner Lazenby asked if the live music included karaoke, a one-man band, or a keyboardist with a singer. Staff replied yes.

Vice Chair Cabral asked how the conditions for various restaurants could be enforced when the businesses have different hours of operation and live entertainment on different days of the week.

Staff responded that the Alcoholic Beverage Control Type "41" license establishments that serve beer and wine have consistent closing times at 10:00

11:00 p.m.; that with Type "47" businesses serving beer, wine and hard liquor, other factors, such as zoning, are considered; that this restaurant has a 100 foot buffer with no residents next door; that if problems arise, there are tools such as the Chief of Police having the authority to reduce hours; that the inconsistencies with hours makes patrol more difficult; that the goal was to make the Type "41" hours consistent, however, the Type "47" hours vary on a case by case basis; and, that the businesses should have a copy of the conditions of approval on site at all times.

Commissioner Lazenby asked if there was a closing time standard for all of the ABC businesses. Staff replied no, however, hours could be modified.

Chair Bui asked that if the hours were 10:00 a.m. to 12:30 a.m. Monday through Friday and 10:00 a.m. to 2:00 a.m. on weekends and the noise level bothered residents, how many noise occurrences would warrant a reduction of hours? Staff responded that Condition No. 40-f states that amplified noise and vibrations shall not be audible from the outside and if officers were called and heard the music, a citation could be issued.

Chair Bui then asked about the parking lot noise, that when the officers arrive, the incidents may be over. Staff commented that the goal would be for the officers to develop a relationship with the applicant; and, that the incidents could be difficult to enforce.

Commissioner Silva stated that he wants the business to be successful and the neighbors to be able to sleep; and, that there should be a rational reason for the business to stay open late during the week.

Staff responded that the applicant believed later hours would help the business to be more successful, with food, alcohol, and entertainment; that the Planning Commission could limit the hours and entertainment; and, that the police department could restrict the hours whether the issues were inside or outside.

Vice Chair Cabral asked for the On the Rocks Bar and Grill restaurant restrictions on entertainment. Staff responded that karaoke was Friday and Saturday with a 2:00 a.m. closing time, and the two-piece band was permitted throughout the business hours, with weekday closing times at 11:00 p.m.

Staff added that with three administrative citations issued for decent violations, a case could be brought back for revocation of the CUP; and, that the information should be documented to compile a record for consequences.

Chair Bui expressed that he was more concerned about the parking lot issues as these were a nuisance to the residents.

Commissioner Silva then suggested that if the applicant was a good operator, he could come back for later hours during the week. Staff agreed and stated that the hearing body would likely be the Zoning Administrator.

Staff also clarified that the case had two recommendations; that the first resolution would make a recommendation to the City Council to change the zoning from C-1 to C-2; that the second action would approve a conditional use permit, which changes the hours of operation and entertainment contingent upon the City Council approval of the zone change; and, that if the applicant did not agree with the Commission's action, the applicant would have to separately appeal the second CUP action.

Commissioner Lazenby asked if the zone change was necessary. Staff replied yes that the action was a prerequisite for the applicant to ask for live entertainment. Live entertainment was not allowed in C-1.

Commissioner Lazenby then asked if karaoke could be limited to Friday and Saturday nights. Commissioner Silva agreed, adding that live entertainment could occur on the other nights, with background music similar to On the Rocks Bar and Grill as live entertainment would be a part of the dinner process, versus karaoke, which was an attraction.

Chair Bui commented that the live entertainment during the week did not bother the residents as much as the parking lot noise; and, that limiting the hours to 11:00 p.m. would help.

Chair Bui commented that Asians like to eat, drink, and have a little entertainment and re-opened the public hearing. He asked the applicant if closing at 11:00 p.m. Sunday through Thursday, and at 2:00 a.m. Friday through Saturday was acceptable. The applicant replied yes and added that people liked to eat, drink, and sing with karaoke and a one-man band.

Commissioner Silva clarified that live music would be seven days a week with an option for karaoke or a one-man band on Friday and Saturday nights.

The applicant added that the one-man band would be one man with his instrument; and, that karaoke would require two people.

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

Staff reiterated the proposed changes for Resolution No. 5772-12 to be that the business hours would be extended from 10:00 a.m. to 11:00 p.m. Sunday through Thursday, and from 10:00 a.m. to 2:00 a.m. Friday through Saturday; and, that live entertainment would be allowed in the form of a one-man band with amplified sound and a stage seven days a week, with karaoke on Friday and Saturday only. In addition, the proposed conditions of approval would be partly modified as follows:

Condition No. 13 – Hours of operation shall be permitted only between the hours of 10:00 a.m. and 11:00 p.m. Sunday through Thursday, and 10:00 a.m. to 2:00 a.m. Friday and Saturday. 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 the business.

Condition No. 40 – Subsection a. – Live entertainment shall be limited to karaoke/one-man band with amplified sound. Karaoke shall only be allowed on Fridays and Saturdays.

Commissioner Silva moved to recommend adoption of the Negative Declaration and Amendment No. A-168-12 to City Council, and approve Conditional Use Permit No. CUP-575-01 (REV. 12), with amendments, seconded by Commissioner Lazenby, pursuant to the facts and reasons contained in Resolution Nos. 5771-12 (A) and 5772-12 (CUP). The motion received the following vote:

AYES:	COMMISSIONERS:	BUI, CABRAL, LAZENBY, SILVA
NOES:	COMMISSIONERS:	NONE

Minute Excerpt - July 5, 2012
A-168-12

ABSENT: COMMISSIONERS: BRIETIGAM, DOVINH, PAK

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A NEGATIVE DECLARATION AND APPROVING AMENDMENT NO. A-168-12, CHANGING THE ZONING DESIGNATION OF THE SUBJECT PROPERTY LOCATED AT 12332 BROOKHURST STREET AND IDENTIFIED AS ASSESSOR'S PARCEL NOS. 089-362-01 AND 02, FROM C-1 (NEIGHBORHOOD COMMERCIAL TO C-2 (COMMUNITY COMMERCIAL)

City Attorney Summary

This Ordinance approves a zone change and corresponding amendment to the City's Zone Map with respect to property located at 12332 Brookhurst Street and identified as Assessor's Parcel Nos. 089-362-01 and 02, to change the zoning designation from C-1 (Neighborhood Commercial) to C-2 (Community Commercial), in order to facilitate the permitting of live entertainment in the form of karaoke/one-man band with amplified sound and a stage in conjunction with operation of an existing restaurant on the property.

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

WHEREAS, the subject case, initiated by Trong That Ton, requests approval of a Zone Change for property located at 12332 Brookhurst Street and identified as Assessor's Parcel Nos. 089-362-01 and 02, from C-1 (Neighborhood Commercial) to C-2 (Community Commercial), in conjunction with a request to modify the Conditions of Approval of an existing Conditional Use Permit to permit live entertainment in the form of karaoke/one-man band with amplified sound and a stage in conjunction with operation of an existing restaurant on the subject site;

WHEREAS, the subject site has a General Plan Land Use Designation of Light Commercial and is currently zoned C-1 (Neighborhood Commercial);

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et. seq.*, and the CEQA guidelines, 14 California Code of Regulations Sec. 15000 *et. seq.*, an initial study has been prepared for the project, and it has been determined that the proposed project qualifies for a Negative Declaration because the proposed project cannot, or will not, have a significant effect on the environment;

WHEREAS, the Negative Declaration was prepared and circulated in accordance with applicable law, including the CEQA guidelines;

WHEREAS, the Planning Commission of the City of Garden Grove held a duly noticed Public Hearing on July 5, 2012, and considered all oral and written testimony presented regarding the initial study, the Negative Declaration, and the project;

WHEREAS, following a Public Hearing held on July 5, 2012, the Planning Commission (i) adopted Resolution No. 5771-12 recommending City Council adoption of the Negative Declaration and approval of Amendment No. A-168-12, and (ii) adopted Resolution No. 5772-12, approving Conditional Use Permit No. CUP-575-01 (Rev. 12), subject to City Council approval of Amendment No. A-168-12;

WHEREAS, pursuant to a legal notice, a Public Hearing was held by the City Council on August 28, 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 Amendment No. A-168-12:

A. The amendment is internally consistent with the goals, policies, and elements of the General Plan. The subject site has a General Plan Land Use Designation of Light Commercial (LC). The LC land use designation includes a variety of retail service establishments, including restaurants, and is implemented through both the C-1 (Neighborhood Commercial) and C-2 (Community Commercial) zoning districts. An "Eating Establishment/Restaurant with Entertainment" use is permitted in the C-2 (Community Commercial) zone, subject to Conditional Use Permit approval. Accordingly, rezoning the subject site from C-1 to C-2 would be consistent with the Light Commercial General Plan Land Use Designation and the associated goals and policies of the General Plan.

B. The subject parcels are physically suitable for the requested land use designation and the proposed Zone Change will ensure a degree of compatibility with surrounding properties and land uses and will maintain and promote the public interest, health, safety, and welfare. The subject property has sufficient land area for the uses permitted under the C-2 (Community Commercial) zone, and the application of the appropriate Title 9 provisions for site landscaping, parking areas, vehicular access, and noise, along with other requirements applicable to those uses permitted in the C 2 zone, will ensure that the proposed Zone Change will have a reasonable degree of compatibility with surrounding uses and will not adversely affect the public 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. The City Council has considered the proposed Negative Declaration together with comments received during the Public Hearing process.

The record of proceedings on which the City Council's decision is based is located at the Community Meeting Center, 11300 Stanford Avenue, Garden Grove, California. The custodian of record of proceedings is the City Clerk. The City Council finds on the basis of the record before it, including the initial study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment. The City Council further finds that the adoption of the Negative Declaration reflects the City Council's independent judgment and analysis. Therefore, the City Council of the City of Garden Grove adopts the Negative Declaration.

SECTION 3. Amendment No. A-168-12 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5771-12, 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 4. The subject property, located at 12332 Brookhurst Street and identified as Assessor's Parcel Nos. 089-362-01 and 02, and shown on the map attached hereto, are hereby rezoned from C-1 (Neighborhood Commercial) to C-2 (Community Commercial). Zone Map part N10 is amended accordingly.

SECTION 5. 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.

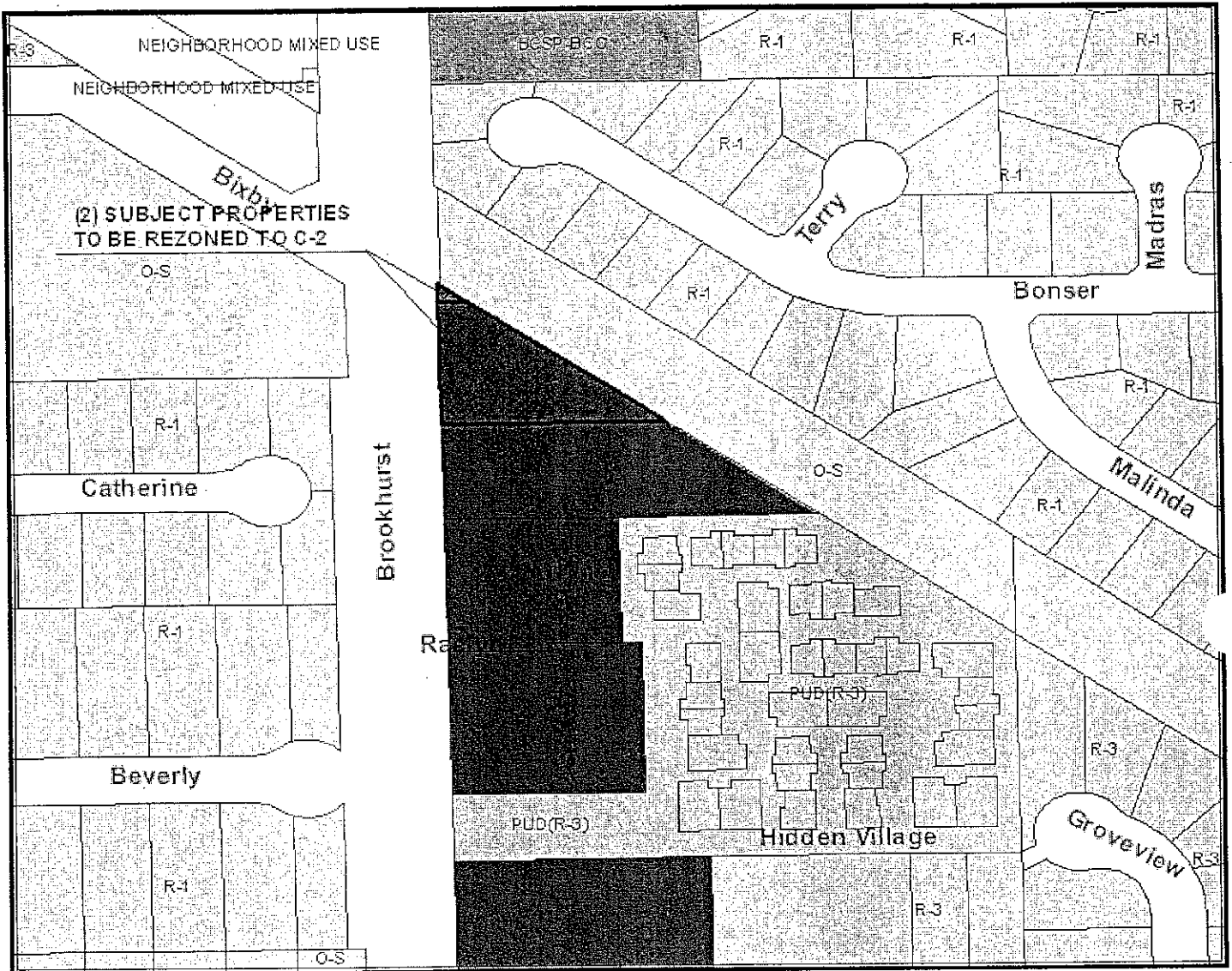
SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.




AMENDMENT NO. A-168-12

GARDEN GROVE

REZONE FROM C-1 TO C-2



LEGEND

 PROJECT SITE - 12332 BROOKHURST STREET

NOTES

1. GENERAL PLAN: LIGHT COMMERCIAL
2. ZONE: C-1 (NEIGHBORHOOD COMMERCIAL)



CITY OF GARDEN GROVE
 COMMUNITY DEVELOPMENT DEPARTMENT
 PLANNING DIVISION
 GIS SYSTEM
 AUGUST 2011