

RESOLUTION NO. 5902-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THE CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVE GENERAL PLAN AMENDMENT NO. GPA-002-2017(B) FOR PROPERTY LOCATED AT 9841 11TH STREET, ASSESSOR'S PARCEL NOS. 098-120-29, 30.

WHEREAS, Faircrest Real Estate, LLC (the "Applicant") submitted an application to develop a parcel, approximately 19,125 square feet in size, located on the north side of 11th Street, between Brookhurst Street and Kerry Street, at 9841 11th Street, Assessor's Parcel Nos. 098-120-29 and 30, with ten (10) units within a three-story apartment building with a 35 percent affordable housing density bonus for low-income households (the "Project"); and

WHEREAS, the Applicant has requested the following land use approvals to implement the Project: (1) General Plan Amendment No. GPA-002-2017(B) to change the land use designation from Civic/Institutional (C/I) to Medium Density Residential (MDR); (2) Site Plan No. SP-038-2017 to allow the construction of ten (10) units within a three-story apartment building with a 35 percent affordable housing density bonus for low-income households; (3) pursuant to the State Law regarding affordable housing projects, approval of three waivers from the Multiple-Family Residential (R-3) development standards: 1) to allow the third-story configuration to be greater than fifty percent of the building footprint; 2) to deviate from the required 10'-0" distance separation between the units and the drive aisle located on the first, second, and third floors; and 3) to deviate from the required 11'-3" third-story side yard setback; and,

WHEREAS, pursuant to the California Environmental Quality Act, California Public Resources Code Section 21000 *et seq.* ("CEQA") and CEQA's implementing guidelines, California Code of Regulations, Title 14, Section 15000 *et seq.*, an initial study was prepared for the proposed Project and it has been determined that the proposed Project qualifies for a Mitigated Negative Declaration as the proposed Project with the proposed mitigation measures cannot, or will not, have a significant effect on the environment; and,

WHEREAS, a Mitigation Monitoring and Reporting Program has been prepared and is attached to the Mitigated Negative Declaration listing the mitigation measures to be monitored during Project implementation, which is also summarized in "Exhibit A" attached hereto; and,

WHEREAS, the Mitigated Negative Declaration with mitigation measures was prepared and circulated in accordance with CEQA and CEQA's implementing guidelines; and,

WHEREAS, concurrent with its adoption of this Resolution, the Planning Commission adopted Resolution No. 5903-17 approving Site Plan No. SP-038-2017,

subject to City Council's approval of a Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Project and General Plan Amendment No. GPA-002-2017(B); and

WHEREAS, the Planning Commission of the City of Garden Grove held a duly noticed public hearing on November 2, 2017, and considered the report submitted by City staff and all oral and written testimony presented regarding the Project, the initial study, and the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

NOW, THEREFORE, BE IT RESOLVED, FOUND, AND DETERMINED as follows:

1. 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 was prepared and it has been determined that the proposed project qualifies for a Mitigated Negative Declaration because the proposed project with implementation of the proposed mitigation measures cannot, or will not, have a significant effect on the environment. The Mitigated Negative Declaration with mitigation measures was prepared and circulated in accordance with CEQA and CEQA's implementing guidelines.
2. The Planning Commission has considered the proposed Mitigated Negative Declaration together with comments received during the public review process.
3. The Planning Commission finds that the Mitigated Negative Declaration reflects the City's independent judgment and analysis.
4. 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, with the proposed mitigation measures, will have a significant effect on the environment.
5. The Planning Commission hereby recommends the City Council (i) adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program and (ii) approve General Plan Amendment No. GPA-002-2017(B).

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 9.08.030, are as follows:

**FACTS:**

The subject property is located on the north side of 11<sup>th</sup> Street, between Brookhurst Street and Kerry Street, at 9841 11<sup>th</sup> Street. The parcel has a General Plan Land Use designation of Civic/Institutional and is zoned R-3 (Multiple-Family Residential). The property is located in an area improved with single-family and multiple-family developments, a rehabilitation care facility, a convalescent center, and the Islamic Society of Orange County. The site consists of a net lot area of 19,125 square feet and is currently developed with two unoccupied and vacant residential dwelling units.

The Civic/Institutional Land Use designation was added for the first time in the current General Plan 2030, adopted in 2008. The designation is intended for educational uses, such as, elementary, middle, and high schools, colleges, universities, hospitals, and governmental facilities. The previous Open Space (OS) Land Use designation combined parks, school uses, golf courses, and other public and private open space land under one designation. In the current General Plan, the City kept the Open Space designation for recreational areas, such as parks, right-of-ways, flood channels and introduced the Civic/Institutional designation for educational uses and government facilities, such as the Merton E. Hill Elementary School to the west, across Kerry Street. However, the properties within the block, including the property under this request, retain an R-3 zoning, which is not consistent with the Civic/Institutional General Plan designation. The previous Land Use designation of the properties, Medium Density Residential, was consistent with the R-3 zoning of the properties, prior to the adoption of the current General Plan 2030.

Planning staff reviewed the history of the General Plan designations and determined that the Civic/Institutional Land Use designation on the properties is the result of a mapping error in the current General Plan. Under a separate request, General Plan Amendment No. GPA-002-2017(A), the City is proposing that the surrounding properties' Land Use designation also be amended to Medium Density Residential. Under this request, the General Plan Amendment will correct the inconsistency between the Land Use designation and zoning of the subject property, return the parcel to its previous Land Use designation, and allow the property to be developed with a multi-family residential development.

The applicant is requesting Site Plan approval to develop a 10-unit, three-story apartment building with a 35 percent affordable housing density bonus for low-income households. The request includes a General Plan Amendment to change the General Plan Land Use designation of the property from Civic/Institutional to Medium Density Residential. In order to facilitate the proposed development, and to ensure that the development site has consistent General Plan Land Use and zoning designations, a General Plan Amendment is required for the parcel.

The proposed site design consists of one three-story building with a total of ten (10) units. One unit, twenty (20) parking spaces within a carport, storage areas, mailboxes, and utility closets will be located on the ground level. The remaining nine (9) units will be located on the two levels above. The project proposes five (5) sets of exterior stairs located along the west side of the site to access the units on the upper two levels. The site will be accessed from a proposed 25'-0" wide driveway from 11<sup>th</sup> Street. The driveway extends from the entrance of the property, and circulates to the rear of the lot. The driveway is used to access the open carports located on the west side of the property, and the trash enclosure located toward the rear of the property.

Pursuant to the State Density Bonus Law, the applicant is requesting three waivers from the R-3 zone development standards to allow the third-story configuration to be greater than fifty percent of the building footprint, to deviate from the required 10'-0" distance separation between the units and the drive aisle located on the first, second, and third floors, and to deviate from the required 11'-3" third-story side yard setback.

#### FINDINGS AND REASONS:

#### GENERAL PLAN AMENDMENT:

1. The General Plan Amendment is internally consistent with the goals, objectives, and elements of the City's General Plan.

The General Plan Amendment is internally consistent with the goals and objectives of all elements of the City's adopted General Plan. The Medium Residential Density land use designation is intended to provide for a mix of multiple-family residences. The property previously had a Land Use designation of Medium Density Residential, but was inadvertently changed when the Civic/Institutional designation was adopted as a result of a mapping error. The proposed amendment will return the Land Use designation to Medium Density Residential. The property is located in an area improved with single-family and multiple-family developments, a rehabilitation care facility, a convalescent center, and the Islamic Society of Orange County. By allowing multi-family residential development on the subject site, the development will be consistent with the surrounding area thereby promoting General Plan Policy LU-2.4 - "Assure that the type and intensity of land use shall be consistent with that of the immediate neighborhood". The proposed new development will further Goal LU.2 to have stable, well-maintained residential neighborhoods in Garden Grove. General Plan Land Use Policy LU-2.1 encourages the protection of residential areas from the effects of potentially incompatible uses, and Policy LU-2.2 promotes the development of a diverse mix of housing types and high standards of residential property maintenance to preserve real estate values and the high quality of life.

2. The General Plan Amendment is deemed to promote the public interest, health, safety, and welfare.

The General Plan Amendment will promote the public interest, health, safety, and welfare by changing the land use from Civic/Institutional to Medium Density Residential, and thereby allowing a multi-family residential development to be built, which is consistent with the surrounding neighborhood. The subject property, which is currently developed with two unoccupied and vacant residential dwelling units, will be replaced with a multi-family residential development that will be an improvement for the area and will provide additional affordable housing opportunities for low income families within the City. The General Plan Amendment will return the site to the Land Use designation it had in the past, repair the inconsistency between the General Plan designation and the R-3 zoning, and allow the site to be developed with a residential project.

3. The subject parcel(s) is physically suitable for the requested land use designation(s), compatible with surrounding land uses, and consistent with the General Plan.

The size and shape of the parcel proposed for the General Plan Amendment is physically suitable for the proposed land use designation of Medium Density Residential. The subject 19,125 square foot lot is served and accessible by a street with curb, gutters, and sidewalks, and is in an area with adequate sewer capacity. The site can accommodate the well-designed project of ten (10) units within a three-story apartment building. The General Plan Amendment will return the Land Use designation from Civic/Institutional to the previous designation of Medium Density Residential, which was done in error during the adoption of the current General Plan in 2008. The property is located in an area improved with single-family and multiple-family developments, a rehabilitation care facility, a convalescent center, and the Islamic Society of Orange County, and will be consistent with the surrounding land uses.

#### INCORPORATION OF FACTS AND FINDINGS SET FORTH IN THE 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 General Plan Amendment possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (General Plan Amendment).

- 2. The overall development and subsequent occupancy and operation of the site shall be subject to those environmental mitigation measures identified in the Mitigated Negative Declaration, which are summarized in the Mitigation Monitoring and Reporting Program (Exhibit "A") attached hereto.

Adopted this 2nd day of November, 2017

ATTEST:

/s/ ANDREW KANZLER  
CHAIR

/s/ JUDITH MOORE  
RECORDING SECRETARY

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

I, JUDITH MOORE, Secretary of the City of Garden Grove Planning Commission, do hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Garden Grove, California, at a meeting held on November 2, 2017, by the following vote:

AYES:	COMMISSIONERS:	(6)	BRIETIGAM, KANZLER, LAZENBY, LEHMAN, NGUYEN, TRUONG
NOES:	COMMISSIONERS:	(0)	NONE
ABSENT:	COMMISSIONERS:	(1)	SALAZAR

/s/ JUDITH MOORE  
RECORDING SECRETARY

Exhibit "A"

MITIGATED NEGATIVE DECLARATION

MITIGATION MONITORING AND REPORTING PROGRAM

GREEN GARDEN APARTMENT PROJECT MITIGATED NEGATIVE DECLARATION MITIGATION MONITORING AND REPORTING PROGRAM				
Mitigation Measure	Monitoring Timing/Frequency	Action Monitoring Agency	Verification of Compliance	
			Initials	Date Remarks
<b>4.1 AESTHETICS</b>				
The proposed project would not result in significant adverse impacts related to aesthetics. No mitigation would be required.				
<b>4.2 AGRICULTURE AND FORESTRY RESOURCES</b>				
The proposed project would not result in significant adverse impacts related to agriculture or forest resources. No mitigation would be required.				
<b>4.3 AIR QUALITY</b>				
The proposed project would not result in significant adverse impacts related to air quality. No mitigation would be required.				
<b>4.4 BIOLOGICAL RESOURCES</b>				
BIO-1	Migratory Bird Treaty Act. In the event that vegetation and tree removal should occur between February 1 and September 15, the Developer (or its contractor) shall retain a qualified biologist (meaning a professional biologist that is familiar with local birds and their nesting behaviors) to conduct a nesting bird survey no more than 3 days prior to commencement of construction activities. The nesting survey shall include the project site and areas immediately adjacent to the site that could potentially be affected by project-related construction activities such as noise, human activity, and dust, etc. If active nesting of birds is observed within 100 feet of the designated construction area prior to construction, the biologist shall establish suitable buffers around the active nests (e.g., as much as 500 feet for raptors and 300 feet for nonraptors) subject to the recommendations of the	3 days prior to commencement of construction activities/prior to commencement of grading activities and issuance of any building permits	City of Garden Grove Community and Economic Development Director, or designee (Community and Economic Development Department)	

Exhibit "A"  
 GPA-002-2017(B)  
 Mitigation Measures

GREEN GARDEN APARTMENT PROJECT MITIGATED NEGATIVE DECLARATION MITIGATION MONITORING AND REPORTING PROGRAM					
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			Initials	Date	Remarks
<p>qualified biologist), and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Prior to commencement of grading activities, the Director of the City of Garden Grove Community and Economic Development Department, or designee, shall verify that all project grading and construction plans are consistent with the requirements stated above, that preconstruction surveys have been completed and the results reviewed by staff, and that the appropriate buffers (if needed) are noted on the plans and established in the field with orange snow fencing.</p>					
<b>4.5 CULTURAL RESOURCES</b>					
CUL-1	<p><u>Unknown Archeological Resources.</u> In the event that archaeological resources are discovered during excavation, grading, or construction activities, work shall cease within 50 feet of the find until a qualified archaeologist from the Orange County List of Qualified Archaeologists has evaluated the find in accordance with federal, State, and local guidelines to determine whether the find constitutes a "unique archaeological resource," as defined in Public Resources Code (PRC) Section 21083.2(g). Personnel of the proposed project shall not collect or move any archaeological materials and associated materials. Construction activity may continue unimpeded on other portions of the project site. The found deposits shall be treated in accordance with Federal, State, and local guidelines, including those set forth in PRC Section 21083.2. Prior to commencement of grading activities, the Director of the City of Garden Grove Community</p>	<p>During site preparation and grading activities</p>	<p>City of Garden Grove Community and Economic Development Director, or designee (Community and Economic Development Department)</p>		



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and Economic Development Department, or designee, shall verify that all project grading and construction plans include specific requirements regarding PRC (Section 21083.2[g]) and the treatment of archaeological resources as specified above.					
CUL-2 Unknown Paleontological Resources. In the event that paleontological resources are discovered during excavation, grading, or construction activities, work shall cease within 50 feet of the find until a qualified paleontologist (i.e., a practicing paleontologist that is recognized in the paleontological community and is proficient in vertebrate paleontology) has evaluated the find in accordance with Federal, State, and local guidelines. Personnel of the project shall not collect or move any paleontological materials and associated materials. Construction activity may continue unimpeded on other portions of the project site. If any fossil remains are discovered in sediments with a Low paleontological sensitivity rating (Young Alluvial Fan Deposits), the paleontologist shall make recommendations as to whether monitoring shall be required in these sediments on a full-time basis. Prior to commencement of grading activities, the Director of the City of Garden Grove Community and Economic Development Department, or designee, shall verify that all project grading and construction plans specify federal, State, and local requirements related to the unanticipated discovery of paleontological resources as stated above.	Prior to the issuance of grading permits and During site preparation and grading activities	City of Garden Grove Community and Economic Development Director, or designee (Community and Economic Development Department)			
CUL-3 Human Remains. In the event that human remains are encountered on the project site, work within 50 feet of the discovery shall be redirected and the County Coroner notified	During site preparation and grading activities	City of Garden Grove Community and Economic			

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Remarks				
<p>immediately consistent with the requirements of California Code of Regulations (CCR) Section 15064.5(e). Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code (PRC) Section 5097.98. If the remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the property owner, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. Consistent with CCR Section 15064.5(d), if the remains are determined to be Native American and an MLD is notified, the City shall consult with the MLD as identified by the NAHC to develop an agreement for treatment and disposition of the remains. Prior to the issuance of grading permits, the City of Garden Grove Community and Economic Development Department, or designee, shall verify that all grading plans specify the requirements of CCR Section 15064.5(e), Health and Safety Code Section 7050.5, and PRC Section 5097.98, as stated above.</p>		<p>Development Director, or designee (Community and Economic Development Department)</p>		

4.6 GEOLOGY AND SOILS

Exhibit "A"  
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 Mitigation Measures

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MITIGATION MONITORING AND REPORTING PROGRAM				
Mitigation Measure	Monitoring Timing/Frequency	Action Monitoring Agency	Verification of Compliance	
			Initials	Date
Remarks				
GEO-1 Prior to issuance of grading permits, the Applicant shall prepare and submit for review and approval by the Public Works Director, a design-phase geotechnical report which shall include or revise as necessary the recommendations in the Applicant's Geotechnical Engineering Investigation (June 25, 2016) for site preparation and construction. The report shall, at a minimum, address remedial and design grading, and building foundations to fully address liquefaction-induced differential settlement and expansive soils. All site grading and construction shall be conducted in conformance with the recommendations included in the design-phase geotechnical report, which include, but are not limited to: <ul style="list-style-type: none"> <li>▪ Liquefaction</li> <li>▪ Foundations on Compacted Fill</li> <li>▪ Lateral Design</li> <li>▪ Expansive Soils</li> <li>▪ Seismic Design Values</li> <li>▪ Settlement</li> <li>▪ Subsidence &amp; Shrinkage</li> <li>▪ Floor Slabs</li> <li>▪ Utility Line Backfills</li> <li>▪ Hardscape &amp; Slabs</li> <li>▪ Chemical Analysis</li> <li>▪ Drainage</li> <li>▪ Engineering Consultation, Testing &amp; Observation</li> </ul>	Prior to issuance of grading permits	City of Garden Grove Public Works Director (Public Works Department)		
<b>4.7 GREENHOUSE GASES</b>				

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Mitigation Measure	Monitoring Timing/Frequency	Action Monitoring Agency	Verification of Compliance	
			Initials	Date
Remarks				
The proposed project would not result in significant adverse impacts related to greenhouse gas emissions. No mitigation would be required.				
<b>4.8 HAZARDS AND HAZARDOUS MATERIALS</b>				
HAZ-1 To comply with South Coast Air Quality Management District Rule 1403, prior to structural demolition/renovation activities, demolition materials containing asbestos-containing materials and/or lead-based paints shall be removed and properly disposed of at an appropriate permitted facility per existing Federal and State regulations.	Prior to commencement of demolition activities	City of Garden Grove Community and Economic Development Director, or designee (Community and Economic Development Department)		
<b>4.9 HYDROLOGY AND WATER QUALITY</b>				
HWQ-1 Prior to issuance of a grading permit, the Applicant shall submit a Final Water Quality Management Plan for approval by the City Engineer that complies with the requirements of the latest Orange County Public Works Drainage Area Management Plan.	Prior to issuance of grading permits and During the construction process	City of Garden Grove Public Works Director (Public Works Department)		
<b>4.10 LAND USE</b>				
The proposed project would not result in significant adverse impacts related to land use/planning. No mitigation would be required.				

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 Mitigation Measures

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Mitigation Measure	Monitoring Timing/Frequency	Action Monitoring Agency	Verification of Compliance		
			Initials	Date	
Remarks					
<b>4.11 MINERAL RESOURCES</b>					
The proposed project would not result in significant adverse impacts related to mineral resources. No mitigation would be required.					
<b>4.12 NOISE</b>					
NOI-1	<p>During construction, the Applicant and/or Construction Contractor shall ensure that the following construction best management practices are implemented:</p> <ul style="list-style-type: none"> <li>▪ Provide advance notification to adjacent property owners and post notices around the boundaries of the project site with information detailing the schedule of construction activities.</li> <li>▪ All construction equipment with a high noise-generating potential, including all equipment powered by internal combustion engines, must be muffled or equipped with other State required noise attenuation devices.</li> <li>▪ Machinery, including motors, must be turned off when not in use.</li> <li>▪ All noise-generating construction equipment and construction staging areas must be placed away from noise-sensitive uses, where feasible.</li> <li>▪ Construction activities shall not take place between the hours of 10:00 PM and 7:00 AM Monday through Saturday, or at any time on Sunday or a federal holiday.</li> <li>▪ Additional noise attenuation measures must be implemented to the extent feasible, which may include, without limitation, additional noise barriers and/or noise blankets.</li> </ul>	<p>Prior to issuance of building permits and during construction and periodic site inspections during grading and construction</p>	<p>City of Garden Grove Community and Economic Development Director, or designee (Community and Economic Development Department)</p>		

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Mitigation Measure	Monitoring Timing/Frequency	Action Monitoring Agency	Verification of Compliance		
			Initials	Date	Remarks
<b>4.13 POPULATION AND HOUSING</b>					
The proposed project would not result in significant adverse impacts related to population or housing. No mitigation would be required.					
<b>4.14 PUBLIC SERVICES 4.15 RECREATION</b>					
PS-1	The Applicant shall pay all applicable Development Impact Fees to the Garden Grove Union High School District (GGUHSD). Proof of fee payment shall be provided to the City of Garden Grove prior to the issuance of building permits.	Prior to issuance of building permits and Proof of payment of development impact fees to GGUHSD	City of Garden Grove Community and Economic Development Director, or designee (Community and Economic Development Department)		
PS-2	The Applicant shall pay applicable In-Lieu Park Fees to the City of Garden Grove prior to the issuance of building permits.	Prior to issuance of building permits	City of Garden Grove Community and Economic Development Director, or designee (Community and Economic Development Department)		

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 Mitigation Measures

<b>GREEN GARDEN APARTMENT PROJECT            MITIGATED NEGATIVE DECLARATION            MITIGATION MONITORING AND REPORTING PROGRAM</b>				
<b>Mitigation Measure</b>	<b>Monitoring            Timing/Frequency</b>	<b>Action            Monitoring            Agency</b>	<b>Verification of Compliance</b>	
			<b>Initials</b>	<b>Date</b>
<b>4.16 TRANSPORTATION/TRAFFIC</b>				
The proposed project would not result in significant adverse impacts related to transportation or traffic. No mitigation would be required.				
<b>4.17 UTILITIES/SERVICE SYSTEMS</b>				
Refer to Mitigation Measure HWQ-1.				