

GARDEN GROVE CITY COUNCIL

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING THE APPEAL, IN PART, OVERTURNING THE PLANNING COMMISSION'S DECISION TO DENY CONDITIONAL USE PERMIT NO. CUP-120-2018, AND THEREBY APPROVING CONDITIONAL USE PERMIT NO. CUP-120-2018

WHEREAS, the case was initiated by Quan Hoa An LLC c/o Kimberly B. Le ("Applicant"), owner/operator of Pho Hoa An Restaurant, an existing restaurant located on the west side of Euclid Street, south of Forbes Avenue, at 14291 Euclid St. #D101, Assessor's Parcel No. 099-183-03 (the "Property"), and currently operating with an existing State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) License approved under Conditional Use Permit No. CUP-102-03;

WHEREAS, the Conditions of Approval under Conditional Use Permit No. CUP-102-03 permit the restaurant to operate with, but not limited to: live entertainment limited to a solo paid professional performer; no audience participation; no amplified sound system; no dancing, karaoke or disc-jockey entertainment or sport bar activity; no noise generated from the establishment to be audible outside the establishment; no stage area or dance floor allowed; and

WHEREAS, the property is located in the PUD-104-81/86 REV. 90 (Planned Unit Development) zone, and has a General Plan Land Use Designation of Industrial/Commercial Mixed Use;

WHEREAS, the Applicant's original request was for Conditional Use Permit (CUP) approval to upgrade an existing State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) License to a new ABC Type "47" (On-Sale, General, Public Eating Place) License, and to allow live entertainment, in the form of karaoke, for an existing 1,885 square foot restaurant, Pho Hoa An Restaurant, located at 14291 Euclid Street #D101, which is currently operating under Conditional Use Permit No. CUP-102-03;

WHEREAS, pursuant to Resolution No. 5907-18, the Planning Commission, following a Public Hearing held on April 19, 2018, denied Conditional Use Permit No. CUP-120-2018;

WHEREAS, the applicant had appealed the Planning Commission's denial of Conditional Use Permit No. CUP-120-2018 to the City Council;

WHEREAS, the applicant had submitted a request to modify the Conditional Use Permit proposal to remove the request to upgrade the existing ABC Type "41" (On-Sale, Beer and Wine, Public Eating Place) License to a new ABC Type "47"

(On-Sale, General, Public Eating Place) License, but to maintain the request to allow karaoke live entertainment;

WHEREAS, the Applicant is requesting approval to allow live entertainment, in the form of karaoke, for an existing 1,885 square foot restaurant, Pho Hoa An Restaurant, located at 14291 Euclid Street #D101;

WHEREAS, the City of Garden Grove has determined that this project is exempt pursuant to Article 19, Section 15301, Existing Facilities, of the California Environmental Quality Act;

WHEREAS, pursuant to legal notice, a Public Hearing was held by the City Council on July 10, 2018, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter during its meetings of July 10, 2018, and July 24, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY RESOLVES, DETERMINES, AND FINDS AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. In order to approve Conditional Use Permit No. CUP-120-2018, all of the findings set forth in Garden Grove Municipal Code Section 9.32.030(D)(4) must be made. In this case, based on the totality of information provided, the City Council finds all of the required findings set forth in Section 9.32.030(D)(4) can be made consistent for the following reasons:

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

The subject site has a General Plan Land Use Designation of Industrial/Commercial Mixed Use, and is zoned PUD-104-81/86 REV. 90 (Planned Unit Development). Eating establishments with alcohol sales and live entertainment are conditionally permitted in this zone. The Pho Hoa An Restaurant has been operating under Conditional Use Permit No. CUP-102-03, which allows the existing restaurant to operate with a State Alcoholic Beverage Control Type "41" (On-Sale, Beer and Wine, Public Premises) License, to have live entertainment in the form a solo performer, but with no audience participation, amplified sound system, stage, or dance floor allowed. Approval of Conditional Use Permit No. CUP-120-2018 will allow the existing restaurant to provide karaoke live entertainment. Provided that the conditions of approval are complied with, the use will be consistent with the General Plan.

- B. 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.

The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, as the sale of alcohol will be ancillary to the sale of food, and the live entertainment will be an additional amenity to customers and be incidental to the operation of the full service restaurant. Food is required to be served during all hours of operation, and the sale of alcohol must be incidental to the sale of food. Conditions of approval will minimize potential impacts, especially those related to noise, to the adjoining area. 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. The use will not unreasonably interfere with the use, enjoyment or valuation of the property of other persons located within the vicinity of the site, provided the conditions of approval are adhered to for the life of the project.

- C. 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.

All site improvements are existing, including parking and loading facilities, landscaping, and perimeter fencing. The site, with the existing site improvements, is of adequate size to accommodate the existing restaurant use, with the addition of karaoke live entertainment, within the surrounding area, provided the conditions of approval are adhered to for the life of the project.

- D. 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.

The site is adequately served by existing public streets. The site is also adequately served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities.

Section 3. Based upon the foregoing findings, the Applicant's appeal, in part, is hereby approved, overturning the Planning Commission's decision to deny Conditional Use Permit No. CUP-120-2018, and thereby approving Conditional Use

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Permit No. CUP-120-2018, to allow the existing restaurant to provide karaoke live entertainment.

BE IT FURTHER RESOLVED that the City Council 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. In order to fulfill the purpose and intent of the Municipal Code, and, thereby, promote the health, safety, and general welfare, the following Conditions of Approval, attached as "Exhibit A", shall apply to Conditional Use Permit No. CUP-120-2018.