

GARDEN GROVE CITY COUNCIL

RESOLUTION NO. 9152-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
GRANTING THE APPEAL AND APPROVING CONDITIONAL USE PERMIT
NO. CUP-347-12, SUBJECT TO THE MODIFIED CONDITIONS OF APPROVAL

WHEREAS, the case, initiated by Jared Hardin, requested Conditional Use Permit approval to install a 59-foot high freeway-oriented electronic readerboard sign for an existing automobile dealership (Garden Grove Hyundai) located on the southwest corner of Trask Avenue and Brookhurst Street at 9898 Trask Avenue, Garden Grove, Parcel Nos. 098-090-57 and 58;

WHEREAS, pursuant to Resolution No. 5763-12, the Planning Commission of the City of Garden Grove, following a Public Hearing on March 1, 2012, approved Conditional Use Permit No. CUP-347-12, subject to effectiveness of an Ordinance adopted by the Garden Grove City Council amending Planned Unit Development No. PUD-110-96 to permit the proposed sign subject to Conditional Use Permit approval;

WHEREAS, the case was appealed to the City Council, and City Staff has proposed the addition and/or modification of certain Conditions of Approval to which the Conditional Use Permit would be subject;

WHEREAS, the City Council gave due and careful consideration to the matter during its meeting of November 13, 2012;

WHEREAS, following a Public Hearing on November 13, 2012, the City Council introduced and conducted the first reading of an Ordinance approving Planned Unit Development No. PUD-110-96 (Rev. 12), amending Planned Unit Development No. PUD-110-96 to allow a 59-foot high freeway-oriented electronic readerboard sign for an auto dealership, subject to Conditional Use Permit approval;

WHEREAS, the City Council has determined that this project is exempt from the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et seq.*) pursuant to Article 19, Section 15311, Accessory Structures, and Article 5, Section 15061, Review for Exemption, of the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*); and

WHEREAS, pursuant to legal notice, a Public Hearing was held by the City Council on November 13, 2012, and all interested persons were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, FOUND AND DETERMINED by the City Council of the City of Garden Grove that the facts and reasons supporting the

conclusion of the City Council, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The subject site is an approximately 2.5-acre property located at the southwest corner of Trask Avenue and Brookhurst Street and is developed with the Garden Grove Hyundai automobile dealership. The subject site has a General Plan Land Use Designation of Heavy Commercial and is currently zoned Planned Unit Development No. PUD-110-96.

The Applicant has requested to modify the Sign and Graphics Standards section of the Planned Unit Development No. PUD-110-96 zone to allow a 59-foot high freeway oriented electronic readerboard sign for an automobile dealership located on a minimum two (2) acre site, subject to Conditional Use Permit approval. In conjunction with the proposed Planned Unit Development Modification (PUD-110-96 (Rev. 12)), the Applicant is requesting approval of a Conditional Use Permit for the installation of a 59-foot high freeway-oriented electronic readerboard sign for an existing automobile dealership (Garden Grove Hyundai) located at 9898 Trask Avenue, Garden Grove.

Following a Public Hearing on November 13, 2012, the City Council introduced and conducted the first reading of an Ordinance approving Planned Unit Development No. PUD-110-96 (Rev. 12) amending Planned Unit Development No. PUD-110-96 to allow a 59-foot high freeway-oriented electronic readerboard sign for an auto dealership, subject to Conditional Use Permit approval.

FINDINGS AND REASONS:

Conditional Use Permit:

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

Auto dealerships and associated signs are consistent with the Heavy Commercial General Plan Land Use Designation, which is intended to provide a variety of more intensive commercial uses, including automotive sales uses. The proposed sign is also consistent with Goal LU-5 of the General Plan's Land Use Element, which encourages economically viable, vital and attractive commercial centers throughout the city, in that it will help enable the existing automobile dealership on the site to remain commercially viable through the use of a more visible and effective mode of signage. Permitting the installation of the proposed freeway-oriented electronic readerboard sign within the subject Planned Unit Development is also consistent with Policy LU-6.6 of the Land Use Element, which seeks to ensure that appropriate and compatible signage is provided within commercial centers. In conjunction with the associated proposed modification to Planned Unit Development No. PUD-110-96, the proposed sign will be consistent with the zoning and General Plan

Land Use Designation of the property, and will be compatible with surrounding land uses, provided that the project complies with all Conditions of Approval.

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.

The installation of a proposed sign will not adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding area. The Conditions of Approval applicable to the sign will minimize potential impacts to the adjoining area. Applicable Conditions of Approval include, without limitation, the following:

- The sign illumination must be dimmed at dusk and shall not cause light and glare on adjacent residential properties, streets, or the freeway right-of-way;
- Maximum output of light from the sign during nighttime hours is limited to between 5 and 15 percent;
- The sign must maintain a single readerboard image between the hours of 10:00 p.m. to 7:00 a.m. in order to reduce light and annoyance impacts to the adjacent residential neighborhoods. During all other times, the images on the readerboard shall be maintained at minimum 8 second intervals and shall not change more frequently;
- The face of the readerboard sign must be angled away from the adjacent residents located to the northeast of the site so that the face of the sign is directed more in-line with the Garden Grove Freeway right-of-way and away from Trask Avenue; and
- The sign must comply with applicable CalTrans standards for lighted and readerboard signs that are adjacent to the freeway right-of-way.

Provided the conditions of approval for the project are adhered to for the life of the project, the use will be harmonious with persons who work and live in the area.

3. The proposed use will not interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site.

The proposed sign will not unreasonably interfere with the use, enjoyment or valuation of the property of other persons located within the vicinity of the site, provided that the conditions of approval are adhered to for the life of the project.

The sign has been designed to be consistent in design with the other automobile dealership freeway-oriented signs and, as described above, is conditioned not to cause light and/or glare on adjacent streets and properties.

4. The proposed use will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare.

Provided that the sign is constructed as proposed and adheres to the conditions of approval for the life of the project, the proposed sign will not jeopardize, endanger, or otherwise constitute a menace to public health, safety or general welfare. Conditions of Approval require the sign to be installed per requirements of CalTrans for lighted signs adjacent to freeways, that the image on the readerboard not change more frequently than every 8 seconds and remain static between the hours of 10:00 p.m. and 7:00 a.m., and that the sign lighting be directed and shielded so as not to cause light and glare on adjacent properties.

5. 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 proposed project only proposes the installation of a 59-foot high electronic readerboard sign within 10 feet of the freeway right-of-way. The sign can be easily accommodated on-site without negatively impacting on and off-site circulation and has been designed to be consistent in design with other freeway-oriented signs with the automobile dealership area.

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

The proposed project only proposes the installation of an electronic readerboard sign that is located west of the Hyundai dealership building, adjacent to the Garden Grove Freeway. The site is adequately served by highways and streets, and the location of the sign will not impede access to and from the site, nor will it require any site or street modifications to accommodate the sign.

7. The City Council further finds and determines that (1) the issue of alternative readerboard sign locations and all other readerboard sign matters were considered by the Planning Commission; (2) there is no substantial new evidence or testimony on the subject of the readerboard sign location and other readerboard sign matters; and (3) due process would not be better served by remanding the matter back to the Planning Commission for further hearing.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARDEN GROVE:

Section 1. The City Council grants the appeal and approves Conditional Use Permit No. CUP-347-12, subject to the modified attached Conditions of Approval.

Section 2. 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-347-12.

Section 3. Conditional Use Permit No. CUP-347-12 shall not become effective until and unless an Ordinance adopted by the Garden Grove City Council approving Planned Unit Development No. PUD-110-96 (Rev. 12) becomes effective.

Adopted this 13th day of November 2012.

ATTEST:

/s/ WILLIAM J. DALTON
MAYOR

/s/ KATHLEEN BAILOR, CMC
CITY CLERK

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

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Garden Grove, California, at a meeting held on the 13th day of November 2012, by the following vote:

AYES: COUNCIL MEMBERS: (5) BEARD, BROADWATER, JONES, NGUYEN, DALTON
NOES: COUNCIL MEMBERS: (0) NONE
ABSENT: COUNCIL MEMBERS: (0) NONE

/s/ KATHLEEN BAILOR, CMC
CITY CLERK

EXHIBIT "A"

Conditional Use Permit No. CUP-347-12
9898 Trask Avenue

CONDITIONS OF APPROVAL

GENERAL CONDITIONS

1. The property owner shall record a "Notice of Agreement with Conditions of Approval and Discretionary Permit," as prepared by the City Attorney's Office. Proof of such recordation is required prior to the issuance of building permits. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval of the Hearing Body.
2. Conditional Use Permit No. CUP-347-12 shall not become effective until and unless an Ordinance adopted by the City of Garden Grove City Council approving an amendment to Planned Unit Development No. PUD-110-96 in substantially the same form as recommended by the Planning Commission becomes effective. Approval of this Conditional Use Permit shall be contingent upon approval of Planned Unit Development No. PUD-110-96 (Rev. 12) and shall not be construed to mean any waiver of applicable and appropriate zoning regulations or any Federal, State, County and City laws and regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply.
3. All modifications shall be approved by the Community Development Department. If other than minor changes are proposed, the appropriate entitlements shall be submitted, such as a new application, containing all proposed revisions, shall be required.
4. Any and all correction notice(s) generated through the plan check and/or inspection process is/are hereby incorporated by reference as conditions of approval and shall be fully complied with by the owner, applicant, and all agents thereof.

Community Development Department

5. This approval shall be for the installation of a 59-foot high freeway-oriented electronic readerboard sign in substantial compliance with the approved set of plans submitted with the subject Conditional Use Permit request and the requirements of PUD-110-96 (Rev. 12), except as modified herein.
6. The maximum height of the readerboard sign shall be 59 feet, measured from grade to top of sign.
7. The design of the sign shall be consistent with other Auto Center signs along Trask Avenue and shall include an arched top with "Garden Grove" copy and a grouping of strawberries on a lattice background graphic under the "Garden Grove" copy. The top feature shall be a minimum of eight (8) feet in height.

Exhibit "A"
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Conditions of Approval

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The entire sign structure, including supports shall be painted blue to match the blue accents on the building. Color samples shall be submitted along with plans submitted for Building permits.

8. The sign illumination, including the LED screen, shall be dimmed at dusk and shall not cause light and glare on adjacent residential properties, streets, and freeway right-of-way. Maximum output of light during nighttime hours shall be at a level between 5 and 15 percent, subject to approval of the City Manager or his designee. In no case shall the nighttime light level of the sign exceed 15 percent. The readerboard shall maintain one image between the hours of 10:00 p.m. to 7:00 a.m. in order to reduce light and annoyance impacts to the adjacent residential neighborhoods. During all other times, the images on the readerboard shall be maintained at minimum 8 second intervals and shall not change more frequently. The face of the readerboard sign shall be angled away from the adjacent residents located to the northeast of the site so that the face of the sign is directed more in-line with the Garden Grove Freeway right-of-way and away from Trask Avenue.
9. The proposed freeway-oriented electronic readerboard sign shall comply with the CalTrans standards for lighted and readerboard signs that are adjacent to the freeway right-of-way.
10. The applicant shall allow the advertising of community events, as approved by the City Manager. Said advertising shall not exceed ten (10) percent of the overall advertising time the readerboard is changing copy.
11. Hours and days of construction shall be as set forth in the City of Garden Grove's Municipal Code Section 8.47.010, referred to as the Noise Control Ordinance.
12. The applicant and the property owner shall submit signed letters acknowledging receipt of the decision approving Conditional Use Permit No. CUP-347-12, and their agreement with all Conditions of the Approval.
13. 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 Conditional Use Permit No. CUP-347-12 or Planned Unit Development No. PUD 110-96 (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.

Exhibit "A"
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Conditions of Approval

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Fire Department

14. The proposed sign shall not encroach into any required fire lane. Adequate emergency vehicle access shall be maintained at all times. All access gates shall be equipped with a Knox rapid entry keyed access system subject to approval of the Garden Grove Fire Department. Manual gates shall have Knox padlocks.