

RESOLUTION NO. 5885-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING INTERPRETATION OF USE NO. IOU-002-2017 AND CONDITIONAL USE PERMIT NO. CUP-103-2017 FOR PROPERTY LOCATED AT 13904 BROOKHURST STREET, ASSESSOR'S PARCEL NO. 099-344-13.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in a regular session assembled on June 1, 2017, hereby approves (1) Interpretation of Use No. IOU-002-2017 determining that a karaoke studio is a conditionally permitted use in the C-2 (Community Commercial) zone, and (2) Conditional Use Permit No. CUP-103-2017 to permit operation of a karaoke studio on property located on the northeast corner of Westminster Avenue and Brookhurst Street, at 13904 Brookhurst Street, Assessor's Parcel No. 099-344-13.

BE IT FURTHER RESOLVED in the matter of Interpretation of Use No. IOU-002-2017 and Conditional Use Permit No. CUP-103-2017, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Tam Truong for Say Entertainment, Inc.
2. The applicant is requesting an Interpretation of Use and Conditional Use Permit approval to operate a 3,800 square foot karaoke studio, Say Karaoke, in a tenant space previously occupied by the Alley of the Far East Restaurant, with seven private karaoke rooms and the existing kitchen to remain.
3. The City of Garden Grove has determined that this project is not subject to the California Environmental Quality Act ("CEQA") (Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3), 15301, and 15303 of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.).
4. The property has a General Plan Land Use Designation of Light Commercial and is zoned C-2 (Community Commercial). The site is improved with a commercial shopping center.
5. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
6. Report submitted by City Staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on June 1, 2017, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter at its meeting on June 1, 2017, 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 9.32.30, are as follows:

FACTS:

The subject site is approximately 11.4 acres in area and is improved with an integrated multi-tenant retail shopping center called Garden Grove Plaza. The site consists of one (1) "L" shaped, multi-tenant building located on the north and east sides of the property, and three (3) pad buildings facing Brookhurst Street. The property is zoned C-2 (Community Commercial) and has a General Plan Land Use designation of Light Commercial. The site has vehicular access from both Westminster Avenue and Brookhurst Street. The specific 3,800 square foot in-line tenant space under application is located on the east side of the shopping center at 13904 Brookhurst Street.

The subject tenant space was previously in operation as a restaurant since 2014, Alley of the Far East Restaurant, according to business license records. The restaurant was in operation with a State Alcoholic Beverage Control (ABC) Type "41" (On-Sale, Beer and Wine, Public Eating Place) License under Conditional Use Permit No. CUP-010-2014. According to California Department of Alcoholic Beverage Control records, the alcohol license was revoked on June 15, 2016, due to lack of payment. Therefore, Conditional Use Permit No. CUP-010-2014 shall be revoked and become null and void as part of the subject application.

Recent observation of the site shows that the restaurant appears to have ceased operation. The same operator, Tam Truong, is proposing the subject karaoke studio, but is not proposing the sale of alcoholic beverages for on-site consumption.

In order to allow the operation of the proposed karaoke studio, the applicant is required to obtain approval of an Interpretation of Use and a Conditional Use Permit. The Interpretation of Use is required since the zoning does not specifically identify a karaoke studio as a permitted or conditionally permitted use, and therefore, the Interpretation of Use is necessary to determine if the proposed karaoke studio is compatible with the existing zone. The Conditional Use Permit is necessary in order to regulate the operation of the business and to minimize potential impacts to surrounding uses.

FINDINGS AND REASONS:

Interpretation of Use:

1. The proposed use is similar in scale and operational characteristics to other uses permitted in the zone.

The intent of the C-2 (Community Commercial) zone is to provide a broad range of commercial retail and service needs for the residents in the City and surrounding communities. The commercial facilities associated with this zone need to be compatible with adjoining uses and public improvements. A wide variety of commercial uses are permitted or conditionally permitted in the C-2 zone, including, but not limited to, radio/TV studios, recording studios, arcades, billiards halls, bowling alleys, and eating establishments with entertainment. Karaoke studios are recreation-amusement type uses that are similar in scale and operational characteristics to these uses, each of which is conditionally permitted in the C-2 zone. The existing uses within the Garden Grove Plaza shopping center include medical offices, various retail stores, coffee and tea shops, restaurants, restaurants with alcoholic beverage sales, and a supermarket. A karaoke studio subject to Conditional Use Permit approval will be compatible with these existing uses. The tenant space that the proposed karaoke studio will occupy was formerly occupied by the Alley of the Far East Restaurant. Subject to approval of a Conditional Use Permit, the proposed karaoke studio will remain similar in scale to the previous restaurant, including the existing kitchen to remain.

2. The proposed use is consistent with the intent of the General Plan and the zone district.

The intent of the Light Commercial General Plan Land Use designation is to provide for a broad range of commercial retail and service needs for the residents of the City and surrounding communities. Policy LU-1.3 of the General Plan Land Use Element seeks to encourage a wide variety of retail and commercial services, restaurant and cultural arts/entertainment, in the appropriate locations. Also, the C-2 (Community Commercial) zone allows for commercial and recreation-amusement uses. The commercial and recreation-amusement uses allowed include, but are not limited to, restaurants, and restaurants with live entertainment, arcades, billiards/pool halls, bowling alleys, and cybercafés, subject to Conditional Use Permit approval to minimize any potential negative impacts to surrounding uses.

The proposed karaoke studio is a recreation-amusement type activity that is similar to other existing commercial, entertainment, and service uses in the zone. Commercial and entertainment uses are encouraged by the land use designation, and the C-2 (Community Commercial) zone also allows live entertainment in conjunction with restaurants. The proposed karaoke studio will be subject to a Conditional Use Permit to provide consistency with the CUP requirement for other entertainment uses located in other zones, and also to minimize any potential negative impacts to surrounding uses. Therefore, conditionally permitting a karaoke studio is consistent with the existing land use designation and the existing zone classification of the property.

3. The proposed use is compatible with other permitted uses.

The existing uses within the shopping center include medical offices, various retail stores, coffee and tea shops, restaurants, restaurants with alcoholic beverage sales, and a supermarket. The tenant space of the proposed karaoke studio was previously occupied by a restaurant named the Alley of the Far East Restaurant. Recent observation of the site shows that the restaurant appears to have ceased operation. The tenant space will be divided into seven (7) private karaoke rooms, and the existing kitchen will remain. The proposed karaoke studio can be classified as a recreation-amusement activity that is similar to other commercial, entertainment, and service activities. Commercial and entertainment uses are encouraged by the land use designation and the C-2 (Community Commercial) zone.

The proposed karaoke studio will be subject to a Conditional Use Permit in order to ensure compatibility and to minimize potential negative impacts with the surrounding uses. As conditioned, the establishment will not be allowed to sell or serve alcohol; and the business will be allowed to operate from 9:00 a.m. to 2:00 a.m., seven days a week, which are typical hours of operation allowed for other establishments in the City with live entertainment in the form of karaoke.

Conditional Use Permit:

1. 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 is zoned C-2 (Community Commercial). The Light Commercial General Plan Land Use designation allows for a range of commercial activities that serve local residential neighborhoods and the larger community. Policy LU-1.3 of the General Plan Land Use Element seeks to encourage a wide variety of retail and commercial services, restaurant and cultural arts/entertainment, in appropriate locations. The karaoke studio is a type of recreation-amusement use that is similar to commercial, entertainment, and service uses common within the Light Commercial Land Use Designation, in which commercial and entertainment uses are encouraged.

2. 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 proposed karaoke studio would be located within a multi-tenant commercial shopping center in the C-2 (Community Commercial) zone, with an alley separating it from residential uses to the north. Currently, the businesses operating at the shopping center include medical offices, various retail stores, coffee and tea shops, restaurants, restaurants with alcoholic beverage sales, and a supermarket. Permitted hours of operation for the proposed karaoke studio will be limited to 9:00 a.m. to 2:00 a.m., seven days a week, which is consistent with the hours of operation of other establishments in the City with live entertainment in the form of karaoke. In addition, no other types of live entertainment will be allowed, such as dancing or a disc jockey, along with no gaming machines or card games. Alcoholic beverages will not be allowed to be brought in, served, or sold on the premises. The conditions of approval will minimize potential impacts to the adjoining area. Provided the conditions of approval are adhered to for the life of the project, the use 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.

3. 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 site is improved with a multi-tenant commercial shopping center with sufficient parking that will serve the proposed business and the existing businesses. The proposed karaoke studio will park at a retail rate, which is calculated at one (1) space per 200 square feet of floor area, per Title 9 of the Municipal Code. The karaoke studio will occupy a former restaurant tenant space that was parked at one (1) parking space per 100 square feet of gross floor area. Since the proposed karaoke studio will occupy a tenant space formerly occupied by a restaurant, which is parked at a higher parking ratio, no additional parking will be required for the proposed karaoke studio. The site is of adequate size to accommodate the proposed uses within the surrounding area, and the site is improved with landscape planters.

4. 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 driveways located on Westminster Avenue and Brookhurst Street. The site is also adequately served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities.

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. Interpretation of Use No. IOU-002-2017 and Conditional Use Permit No. CUP-103-2017 do possess characteristics that would indicate justification of the requests in accordance with Municipal Code Section 9.32.030 (Interpretation of Use and Conditional Use Permits).
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-103-2017.

Adopted this 1st day of June, 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 June 1, 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

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 June 22, 2017.

EXHIBIT "A"

Conditional Use Permit No. CUP-103-2017

13904 Brookhurst Street
Assessor's Parcel No. 099-344-13

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. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to the project applicant, Tam Truong for Say Entertainment, Inc., the current owner of the property, Garden Grove Plaza, Inc., the future owner(s) and tenant(s) of the property, and each of their respective successors and assigns, including all subsequent purchasers and/or tenants. 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 Planning Commission, except as otherwise provided herein.
3. This Conditional Use Permit only authorizes the operation of a 3,800 square foot karaoke studio as identified on the floor plan attached to these Conditions of Approval. 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.
4. Minor modifications to the approved site plan, floor plan, and/or these Conditions of Approval may be approved by the Community and Economic Development Director, in his or her discretion. Proposed modifications to the approved floor plan, site plan, or Conditions of Approval that would result in the intensification of the project or create impacts that have not been previously addressed, and which are determined by the Community and Economic Development Director not to be minor in nature shall be subject to approval of new and/or amended land use entitlements by the applicable City hearing body.

FINAL

5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

Police Department

6. Live entertainment shall be permitted in the form of karaoke only.
7. There shall be no pool tables or amusement devices other than karaoke equipment maintained upon the premises at any time.
8. 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.
9. The hours of operation of the business shall be permitted only between 9:00 a.m. and 2:00 a.m., seven (7) days a week. The City of Garden Grove 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.
10. There shall be no customers in or about the facility between the hours of 2:00 a.m. and 9:00 a.m., seven days a week.
11. In the event security problems occur, and at the request of the Police Department, the applicant, 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.
12. Prior to opening the business, a central camera monitoring system shall be installed within the karaoke facility, and each individual karaoke studio room shall be equipped with an operational monitoring camera.
13. The applicant shall maintain the central camera monitoring system within the establishment, including the monitoring cameras within each individual karaoke studio room.
14. Interior walls higher than 36" from the floor shall be transparent, colorless, non-reflective glass or similar material, and must remain unobstructed at all times.

Interpretation of Use No. IOU-002-2017 and
Conditional Use Permit No. CUP-103-2017
Conditions of Approval

15. Each individual karaoke studio room shall maintain at least an 18"x32" un-obscured glass window fitted into the top half of the doors. All doors and windows of the individual karaoke rooms shall remain clear and unobstructed, and shall provide complete visibility into the rooms at all times.
16. No items, including plants, curtains, stickers, blinds or shades, shall be placed in the area of the doors and windows of the studio rooms. The doors of the rooms shall not be equipped with locks.
17. The interior of each individual karaoke studio room, all hallways, and all common areas within the karaoke facility, shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons within the rooms, hallways, and common areas.
18. Illumination shall meet the approval of the Garden Grove Police Department. All lighting controls shall not be equipped with dimmer switches.
19. Alcoholic beverages shall not be brought into, stored, served, or sold at the premises by the patrons, business operators, or employees of the business at any time. The sale or distribution of alcoholic beverages for consumption on or off the premises is prohibited. In the event the applicant wishes to sell alcohol for on-site consumption in the future, the applicant shall submit a new conditional use permit application for consideration by the Planning Commission.
20. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the business.
21. 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.
22. No employees, or contracted employees, or contracted companies for dance purposes, are permitted to perform at any time.
23. 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, 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.

24. The business operator shall not permit "Taxi Dancing" to occur at the business wherein partners are provided for dancing or social purposes.
25. There shall be a designated staff person on-site during all hours the business is in operation.
26. There shall be no enclosed booths on the premises at any time.
27. The business shall not engage in any act that would alert patrons or employees that police or investigators are on the premises.
28. No outdoor activities of any kind shall be allowed.
29. No areas of the establishment shall be used for adult entertainment business activity, as defined in Garden Grove Municipal Code section 9.04.060, at any time. Any dancing in the establishment that is of an adult entertainment business nature is strictly prohibited.

Building Services Division

30. The tenant improvements shall comply with the requirements of the 2016 edition of the California Building Code (CBC).
31. The project shall be fire sprinklered per the 2016 edition of the California Fire Code (CFC).

Public Works Environmental Compliance

32. Commercial food use of any type shall require the installation of an approved grease control device prior to obtaining a business license.

Fire Department

33. The applicant shall provide emergency lighting, illuminated exit signs, and shall indicate the occupancy type and occupancy load per room per the 2016 edition of the California Fire Code (CFC). The establishment shall not exceed the maximum occupancy load allowed for each karaoke room at any given time.
34. Any changes to appliances are subject to Fire Department approval and must be compliant with UL 300 system fire testing standards.

Community and Economic Development Department

35. No outside storage or displays shall be permitted at any time.
36. 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 business entrance, and shall also be visible to the public.
37. 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.
38. The trash bin 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.
39. Litter shall be removed daily from the premises, including from adjacent public sidewalks, and 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.
40. Any property maintenance deficiencies subject to section 9.32.190 of Title 9 of the Municipal Code, shall be corrected by the property owner to the satisfaction of the Community and Economic Development Department prior to the final City clearance for this Conditional Use Permit.
41. 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 of notification or application.
42. 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.
43. No roof-mounted mechanical equipment, including exhaust vents, shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community and Economic Development Department, Planning Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.

44. No satellite dish antennas shall be installed on said premises unless, and until, plans have been submitted to and approved by the Community and Economic Development Department, Planning Division. No advertising materials shall be placed thereon.
45. All rear doors shall be alarmed, and must be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
46. All signs shall comply with the City of Garden Grove sign requirements. Any modification to existing signs or the installation of new signs shall require approval by the Community and Economic Development Department, Planning Services Division prior to issuance of a building permit.
47. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
48. No window signage shall be allowed at any time.
49. The exterior of the premises, including adjacent public sidewalks and all parking lots under the control of the applicant, operator, or property owner, shall be illuminated during the hours of darkness the establishment is open at a minimum of two-foot candles on the parking lot surface, and with a minimum of one-foot candles of light during all other hours of darkness. Lighting in the parking area shall be directed, positioned, or shielded in such a manner so as not to unreasonably illuminate the window area of nearby residences.
50. The applicant shall receive approval of a building permit prior to commencing any construction within the tenant space.
51. A copy of the decision approving Interpretation of Use No. IOU-002-2017 and Conditional Use Permit No. CUP-103-2017 shall be kept on the premises at all times.
52. The permittee shall submit a signed letter acknowledging receipt of the decision approving Interpretation of Use No. IOU-002-2017 and Conditional Use Permit No. CUP-103-2017, and his/her agreement with all conditions of the approval.
53. There shall be no additional changes in the design of the floor plan without the approval of the Community and Economic Development Department,

Interpretation of Use No. IOU-002-2017 and
Conditional Use Permit No. CUP-103-2017
Conditions of Approval

- 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.
54. Conditional Use Permit No. CUP-010-2014 shall become null and void, and superseded in its entirety, by approval of CUP-103-2017.
 55. 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.
 56. 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 Interpretation of Use No. IOU-002-2017 and Conditional Use Permit No. CUP-103-2017. 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.
 57. Unless a time extension is granted pursuant to Section 9.32.030.D.9 of Title 9 of the Municipal Code, the use authorized by this approval of Conditional Use Permit No. CUP-103-2017 shall become null and void if the subject use or construction necessary and incidental thereto is not commenced within one (1) year of the expiration of the appeal period and thereafter diligently advanced until completion of the project.