

DECISION NO. 1734-16

A DECISION OF THE ZONING ADMINISTRATOR OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-059-2016.

BE IT RESOLVED that the Zoning Administrator of the City of Garden Grove does hereby approve Conditional Use Permit No. CUP-059-2016 for a parcel of land located on the south side of Garden Grove Boulevard, west of Magnolia Street at 8562 Garden Grove Boulevard, Assessors Parcel No. 097-213-35.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-059-2016, the Zoning Administrator of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Kyung Sook Lee for Yigah, Korean cuisine restaurant.
2. The applicant is requesting Conditional Use Permit approval to allow Yigah, Korean cuisine restaurant to operate a new 4,500 square foot restaurant with a new State Alcoholic Beverage Control (ABC) Type "47" (On-Sale, General, Eating Place) License.
3. 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.
4. The property has a General Plan Land Use Designation of Residential/Commercial Mixed Use 2. The restaurant occupies a 4,500 square foot stand-alone restaurant pad building located on a 24,000 square foot parcel.
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 February 25, 2016, and all interested persons were given an opportunity to be heard.
8. The Zoning Administrator gave due and careful consideration to the matter at its meeting on February 25, 2016, and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Zoning Administrator, as required under Municipal Code Section 9.32.030, are as follows:

FACTS:

The subject site is improved with a stand-alone restaurant pad building, parking lot and landscaping. The restaurant currently occupies a 4,500 square foot stand-alone restaurant pad building on a 24,000 square foot parcel.

The subject site is located on the south side of Garden Grove Boulevard, west of Magnolia Street in the Garden Grove Mixed Use 2 (GGMU2) zone. The General Plan Land Use Designation is Residential/Commercial Mixed Use 2. The subject site is adjacent to GGMU2 (Garden Grove Mixed Use 2) to the north and east, R-3 (Multiple-Family Residential) to the south, and C-1 (Neighborhood Commercial) and R-3 (Multiple-Family Residential) to the west.

Yigah, Korean cuisine restaurant standard business hours (open-to-close) will be from 10:00 a.m. to 9:30 p.m., seven days a week. The proposed hours of operation are within the City's approved hours of operation for an approved State ABC Type "47" licensed establishment.

The restaurant is located in a high-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. 65.
- The crime count for the District is 251.
- Average crime count per district in the City is 85.
- A District is considered high when it exceeds the Citywide average by 20%.
- The subject District has a crime count of 195% above the citywide average; therefore, it is considered a high-crime area.
- The subject site is located in Alcoholic Beverage Control (ABC) Census Report District No. 888.01.
- ABC Census Reporting District No. 888.01 allows for nine (9) on-sale licenses within the District. Currently, there are eleven (11) on-sale licenses in the District. The approval of this new State ABC on-sale license will increase the number of licenses in the District to twelve (12).

FINDING OF PUBLIC CONVENIENCE OR NECESSITY:

A finding for public convenience or necessity would have to be made in order to approve an establishment that is requesting a new original Alcoholic Beverage Control license that is located within a district with a high crime rate and/or in an area with an over-concentration of ABC licenses. California Business and Professions Code Section 23817.5 prohibits the ABC from issuing new alcoholic licenses in areas of over-concentration. Business and Professions Code Section 23958 states:

The department further shall deny an application for a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4.

Business and Professions Code Section 23958.4 provides the following exception:

(b) Notwithstanding Section 23958, the department may issue a license as follows:

(2) With respect to any other license, if the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. The 90-day period shall commence upon receipt by the local governing body of (A) notification by the department of an application for licensure, or (B) a completed application according to local requirements, if any, whichever is later.

Although the proposed establishment is located in a high-crime area with an over-concentration of on-sale State ABC licenses, Staff is able to support a finding for public convenience or necessity given the potential community benefit through the addition of a beer, wine, and distilled spirits license, which would provide an additional amenity that would enhance the dining experience at Yigah, Korean cuisine restaurant. 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. 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.

Furthermore, the establishment shall provide an assortment of foods normally offered in restaurants, and the kitchen shall be open, and preparing food, during all hours that the establishment is open. At all times the establishment is open, the sale of alcohol shall be incidental to the sale of food; and the quarterly gross sales of alcoholic beverages shall not exceed 35% of the total gross sale of food during the same period. Lastly, no live entertainment, (karaoke, one-man band, solo performer, live music, etc.) including amplified music, shall be permitted on the premises.

The Community Development Department and the Police Department have reviewed the request and are supporting the proposal. All standard conditions of approval for a State ABC Type "47" License will apply.

**FINDINGS AND REASONS:**

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

The subject property has a General Plan Land Use Designation of Residential/Commercial Mixed Use 2. Eating establishments with alcohol sales are conditionally permitted in the Garden Grove Mixed Use 2 (GGMU2) zone. This approval will allow the new restaurant to operate with a new State ABC Type "47" (On-Sale, General, Eating Place) license to sell beer, wine, and distilled spirits for consumption on your licensed premises. 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.

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. The restaurant is required to operate as a family-style restaurant that operates with the standard hours of operation that are applied to State ABC Type "47" licensed establishments. Food is required to be served during all hours of operation, and the sale of beer, wine, and distilled spirits will be incidental to the sale of food. 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 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.

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 site, with the existing site improvements and modifications, is of adequate size to accommodate the proposed uses within the surrounding area.

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.

The site is adequately served by one (1) main driveway located on Garden Grove Boulevard, and two (2) minor driveways located at the rear of the property onto a City alley. 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 Zoning Administrator incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Zoning Administrator does conclude:

1. Conditional Use Permit No. CUP-059-2016 does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030 (Conditional Use Permits) and 9.16.020.080 (Alcoholic Beverage Sales).
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-059-2016.

Dated: February 25, 2016

 2-25-16  
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KARL HILL  
ZONING ADMINISTRATOR

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-059-2016**

8562 Garden Grove Boulevard

#### **CONDITIONS OF APPROVAL**

##### **General Conditions**

1. Each owner of the property shall execute, and the applicant shall record against the property, a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, 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, Kyung Sook Lee for Yigah Restaurant, the 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 Zoning Administrator, except as otherwise provided herein.
3. This Conditional Use Permit only authorizes the operation of a 4,500 square foot restaurant with ancillary alcoholic beverage as identified on the floor plan attached to this 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. 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.

FINAL

**Public Works Environmental Compliance**

6. Pursuant to plan review dated November 6, 2015, the Grease control device installation and final inspection is required prior to restaurant opening.

**Police Department**

7. 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.
8. Hours of operation shall be permitted only between the hours of 10:00 a.m. to 9:30 p.m., seven days a week. The hours of operation shall be applicable to the entire premises. 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.
9. There shall be no customers or patrons in or about the premises when the establishment is closed.
10. 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.
11. The sale of alcoholic beverages for consumption off the premises is prohibited. No consumption of alcoholic beverages shall occur outside of the establishment at any time.
12. There shall be no separate bar or lounge area to provide direct service of alcoholic beverages to customers.
13. 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.
14. The business 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.

15. 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).
16. 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 Hearing Body for review or further consideration.
17. "Last Call" for the sale and service of alcohol will need to be announced thirty (30) minutes prior to the required closing time.

**Community Development Department**

18. The establishment shall be operated as a "Bona Fide Public Eating Place" as defined by Alcoholic Beverage Control License. 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. The service of only appetizers, sandwiches and/or salads shall not be deemed in compliance with this requirement.
19. At all times when the establishment is open for business, the sale of alcoholic beverages shall be incidental to the sale of food. The quarterly gross sales of alcoholic beverages shall not exceed 35% of the sales of food.
20. 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.
21. Food service shall be provided during all hours the restaurant is open, and shall also be available at all times when alcoholic beverages are being served.
22. Food shall accompany any sales and service of alcoholic beverages in the restaurant area.
23. The sale of alcoholic beverages for consumption off the premises is prohibited.
24. No outside storage or displays shall be permitted at any time.



25. 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.
26. There shall be no live entertainment, dancing, karaoke, sports bar, or disc jockey entertainment permitted on the premises at any time. Amplified music may be permitted, but the sound emitted from the premises shall not be audible outside of the establishment.
27. There shall be no raised platform, stage or dance floor allowed on the premises at any time.
28. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.16.020.070.
29. There shall be no deliveries to or from the premises before 7:00 a.m. and after 10:00 p.m., seven days a week.
30. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
31. 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.
32. All trash bin(s) 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.
33. 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 or application.
34. 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.
35. 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 Development Department, Planning Division. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.

36. 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.
37. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
38. 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. Any opaque material applied to the store front, such as window shall count toward the maximum window coverage area.
39. 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.
40. The applicant shall perform and complete the following exterior repairs to the satisfaction of the Community Development Department before the opening of the restaurant:
  - a. Prep and finish paint all stain, peeling, and deteriorated restaurant stucco surfaces and retaining planter wall on the front façade off Garden Grove Boulevard and west façade off the parking lot. Finish color to match existing stucco color.
  - b. Prep and finish paint all peeling and deteriorated restaurant wood surfaces on the front façade off Garden Grove Boulevard and west façade off the parking lot. Includes horizontal wood bands, wood siding, beams, posts, rafters, soffit area, window trim, door, and bulkhead area.
  - c. Prep and finish paint all peeling surfaces on the main pole sign and cabinet and retaining planter wall.

- d. Repair, replace, and ensure that patio lighting operates to illuminate the area for safety and security.
41. A copy of the decision approving Conditional Use Permit No. CUP-059-2016 shall be kept on the premises at all times.
42. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-059-2016, and his/her agreement with all conditions of the approval.
43. The Conditional Use Permit shall be reviewed within one (1) year from the date of this approval, and every three (3) years thereafter, in order to determine if the business is operating in compliance.
44. 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 CUP-059-2016. 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.
45. In the event the site cannot accommodate the parking demand for Yigah Restaurant, or any future eating establishment/restaurant, at any given time, which causes a nuisance, hindrance, and/or problem with both on-site and/or off-site parking and circulation, the business owner/property owner shall devise and implement a plan to relieve the situation. The business owner/property owner shall submit a plan to manage parking issues for review and approval by the Community Development Department. The plan may include, but not be limited to: reducing the hours of operation, limiting the number of customers within the establishment, limiting the number of seats and customer dining area within the establishment, instituting an off-site parking arrangement; having on-site parking control personnel; and/or other alternatives that may be deemed applicable to the situation. If the City deems such action is necessary to address parking and circulation problems,

such action shall be required within thirty (30) days of written notice. Failure to take appropriate action may result in the City restricting the overall use of the facility or revoking Conditional Use Permit No. CUP-059-2016.

**Public Works Utility Services**

46. A Reduced Pressure Principle Device (RPPD) backflow prevention device shall be installed for meter protection. The landscape system shall also have RPPD device. Any carbonation dispensing equipment shall have a RPPD device. Installation shall be per City Standards and shall be tested by a certified backflow device tester immediately after installation. Cross connection inspector shall be notified for inspection after the installation is completed. Owner shall have RPPD device tested once a year thereafter by a certified backflow device tester and the test results to be submitted to Public Works, Water Services Division. Property owner must open a water account upon installation of RPPD device.
47. Fire service, if required, shall have above ground backflow device with a double check valve assembly. Device shall be tested immediately after installation and once a year thereafter by a certified backflow device tester and the results to be submitted to Public Works, Water Services Division. Device shall be on private property and is the responsibility of the property owner. The above ground assembly shall be screened from public view as required by the Planning Division.
48. Commercial food use of any type shall require the installation of an approved grease interceptor prior to obtaining a business license.
49. A properly sized grease interceptor shall be installed on the sewer lateral and maintained by the property owner. There shall be a 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.
50. 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.

**Building Division:**

51. The project shall comply with the California Building Code Standards.