

# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.3.	<b>SITE LOCATION:</b> Southwest corner of Westminster Avenue and Brookhurst Street, at 9856 Westminster Avenue
<b>HEARING DATE:</b> December 5, 2002	<b>GENERAL PLAN:</b> Light Commercial
<b>CASE NO.:</b> CUP-625-02	<b>ZONE:</b> C-1 (Neighborhood Commercial)
<b>APPLICANT:</b> Evergreen World, Inc.	<b>CEQA DETERMINATION:</b> Exempt
<b>PROPERTY OWNER:</b> Southern Fortune	

## REQUEST:

Approval of a Conditional Use Permit in order to operate an Adult Day Facility in an existing 7,500 square foot in-line commercial tenant space with an 800 square foot outdoor patio.

## BACKGROUND:

The site is a retail commercial center (Mall of Fortune) consisting of retail stores and restaurants. The proposed tenant space location is at the west end of the center with parking on the north and south sides of the tenant space.

## DISCUSSION:

The applicant is proposing to occupy the entire tenant space with an adult day care center, including an outdoor patio area. It is anticipated that there will be approximately 100 clients and approximately 5 to 10 staff members on site during business hours. The floor plan consists of a lobby area, offices, kitchen, physical therapy room, restrooms, large multi-purpose room, and an outdoor patio. The tenant space can be accessed from two sides, both of which have parking lot access. However, it is conditioned that the main access to the center be from the south side of the tenant space, and the north side only be allowed for emergency exiting. This is due to the ease of access from the south side of the tenant space, the orientation of the main entry to the facility on the south side, and the ample amount of parking which is provided. Also, the property owner has entitlement approval to construct a new pad building on the north side of this space, thereby limiting visibility, access, and available parking to this tenant space from the north side of the shopping center.

The proposed hours are 7:30 am to 6:00 pm, Monday through Saturday. Clients will come to the site via personal transportation or by a shuttle service offered by the center. The proposal is conditioned to have client pick-up and drop-off, as well as general access to be from the site's south side parking lot. Services to be offered will

include a meal program, volunteer opportunities, information and assistance programs, recreational activities, fitness and rehabilitation, library books and other adult day care related services.

The north side exterior elevation has not been redone to match that of the rest of the façade of the Mall of Fortune. It is a condition that the façade be redone to match the rest of the center or to incorporate this elevation into the future pad building's roofline and façade treatment that is approved to be developed on the north side of the subject tenant space.

**RECOMMENDATION:**

Staff recommends that the Planning Commission:

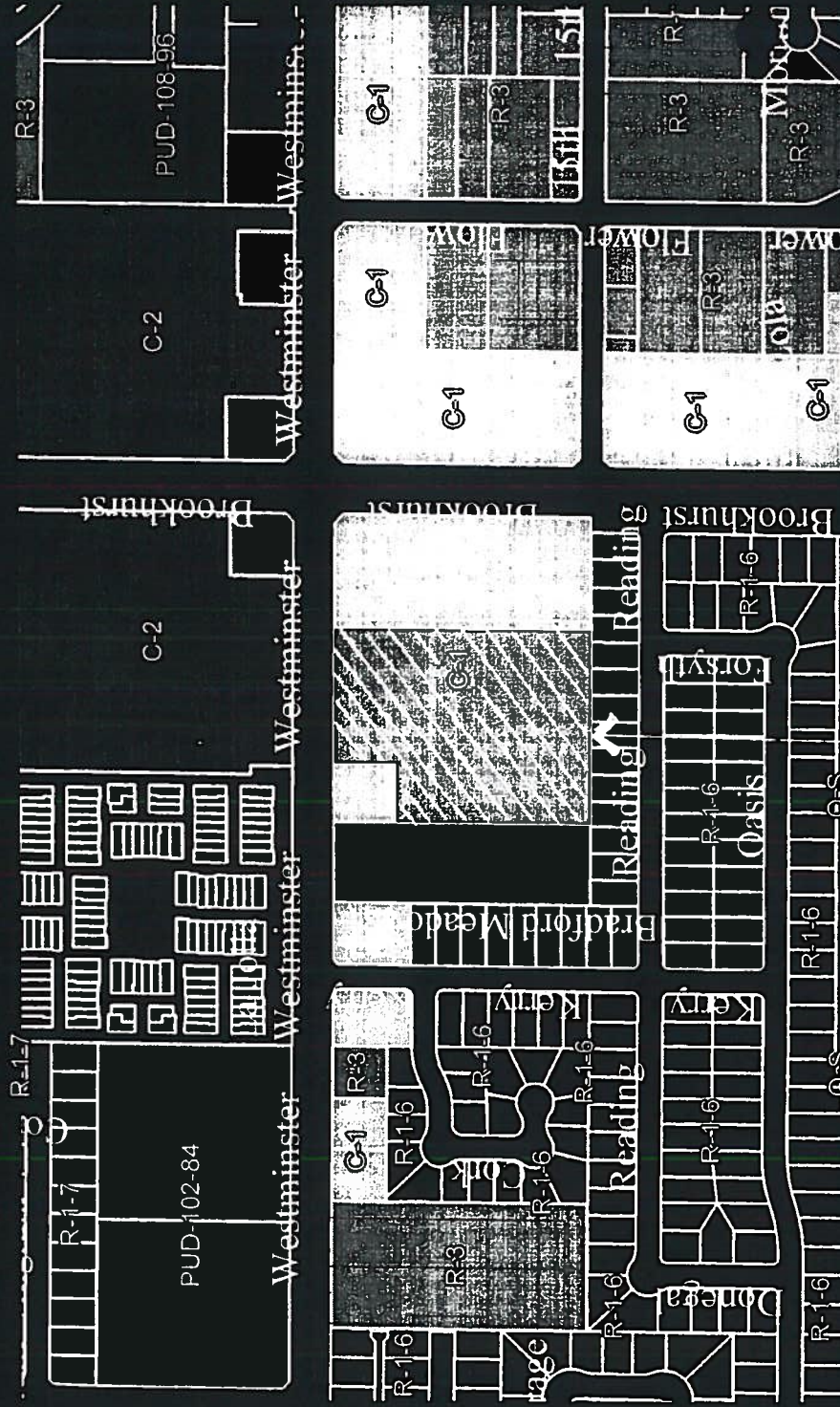
1. Approve Conditional Use Permit No. CUP-625-02, subject to the recommended conditions of approval.

GLEN KRIEGER   
Planning Division Manager

  
By: Karl Hill  
Senior Planner

c62502s

# City of Garden Grove CUP-625-02



SCALE 1 : 5,020



Subject Site



- Street Names
- Parcels
- Residential
  - R-1
  - R-2
  - R-3
- Commercial
  - C-1
  - C-2
  - C-3
- Office
- Open Space
- Industrial
  - M-1
  - M-P
- Planned Unit Development
  - PUD(C)
  - PUD(C-R)
  - PUD(I)
  - PUD(M)
  - PUD(O)
  - PUD(R-1)
  - PUD(R-2)
  - PUD(R-3)
  - PUD(RF)
- Misc. Zoning
  - C-1(T)
  - R-3(T)
  - TC

RESOLUTION NO. 5334

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-625-02, FOR LAND LOCATED AT THE SOUTHWEST CORNER OF BROOKHURST STREET AND WESTMINSTER AVENUE, AT 9856 WESTMINSTER AVENUE, PARCEL NO. 098-361-22.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on December 5, 2002, does hereby approve Conditional Use Permit No. CUP-625-02.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-625-02, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Evergreen World, Incorporated.
2. The applicant is requesting Conditional Use Permit approval in order to operate an adult day care facility in an existing 7,500 square foot in-line commercial tenant space with an 800 square foot outdoor patio.
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 Light Commercial and is zoned C-1 (Neighborhood Commercial). The subject location is a 7,500 square foot tenant space in a retail 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 December 5, 2002, 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 December 5, 2002, 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 9.24.030, are as follows:

FACTS:

The subject site is a tenant space consisting of 7,500 square feet and an 800 square foot patio located in a retail shopping center consisting of a mixture of retail stores and restaurants. The site is adjacent to single-family, and multi-family residential to the south and west respectively. The balance of the retail center to the east and across Westminster Avenue to the north, is also a retail commercial center.

Adult day care centers are a conditionally permitted use in the C-1 (Neighborhood Commercial) zone.

FINDINGS AND REASONS:

1. Provided the recommended conditions of approval are complied with, the use will be consistent with the General Plan. The proposed use is a conditionally permitted use in the C-1 (Neighborhood Commercial) zone and complies with all applicable code provisions, thus making it consistent with the General Plan.
2. The use will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding 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 within the area.
3. The use will not unreasonably interfere with the use, enjoyment, or valuation of 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. The use will be compatible with the surrounding area.
4. The use will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare. The conditions of approval for the use will ensure the public health, safety, and welfare.

INCORPORATION OF FACTS AND REASONS SET FORTH IN STAFF REPORT

In addition to the foregoing the 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:

The Conditional Use Permit does possess characteristics that would indicate justification of the request in accordance with Municipal Code Section No. 9.24.030 (Conditional Use Permits).

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 shall apply to Conditional Use Permit No. CUP-625-02:

CONDITIONS OF APPROVAL:

- A. The applicant shall record a "Notice Of Agreement With Conditions of Approval and Discretionary Permit," as prepared by the City Attorney's Office, on the property. 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 Planning Commission.
- B. 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 Garden Grove Municipal Code shall apply.
- C. All modifications shall be submitted to the Planning Commission. If other than minor changes are proposed, a new Conditional Use Permit, containing all proposed revisions, shall be required.
- D. The approved floor plan is an integral part of the decision approving this Conditional Use Permit. There shall be no change in the design of the floor plan without the approval of the Community Development Department. Any change in the approved floor plan, which has the effect of expanding or intensifying the use, shall require a new Conditional Use Permit.
- E. The establishment shall be operated as an adult day care at all times.
- F. 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. Additionally, there shall be no gambling at any time.
- G. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.08.070.
- H. Should the applicant have billiard/pool tables, there shall be no more than two (2) billiard/pool tables on the premises at any time.
- I. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising.
- J. Hours of operation shall be permitted only between the hours of 7:30 a.m. to 6:00 p.m., Monday through Saturday.

- K. All customer and employee drop-off and pick-up shall occur on-site, at the designated main entrance facing the parking lot on the south side of the shopping center.
- L. There shall be no deliveries to or from the business prior to 8:00 a.m. or after 5:00 p.m., seven (7) days a week.
- M. Any pay phone located within 100 feet of the subject tenant space shall be limited to outgoing calls only. This condition shall be completed within 30 days following approval of this application.
- N. Litter shall be removed daily from the premises, including adjacent public sidewalks and all parking areas under control of the licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.
- O. All provisions of the Community Development Department, Building Services Division shall be complied with. This includes, but is not limited to:
  - 1. The site shall comply with all applicable requirements of the 1998 California Uniform Building Code, as adopted by the City of Garden Grove.
  - 2. The entrance on the north side of the tenant space shall not be utilized as a point of ingress and egress for employees and clients but is to be treated as an emergency exit and is subject to the provisions of the California Uniform Building Code, as adopted by the City of Garden Grove.
  - 3. The trellis for the outside patio shall be a minimum ten feet away from the property line.
  - 4. The wall along the west property line shall be a two hour fire rated wall per the C.B.U. and the wall (east wall) separating the tenant spaces, shall be a minimum of a one-hour fire rated wall per the C.B.U.
- P. All provisions of the Fire Department shall be complied with. This includes, but is not limited to:
  - 1. A fire alarm system in accordance with the California Fire Code, Article 10, Nation Fire Protection Association, Article 72 and the National Electrical Code shall be provided.
  - 2. Fire extinguishers shall be provided, locations and ratings shall be determined by the Fire inspectors

3. Signage requirements for the Emergency Planning and Information Plan as required in C.C.R. Title 19, Section 3.09, shall be complied with prior to granting any occupancy of the tenant space.
  4. Required fire lanes shall be posted and marked in accordance with Garden Grove Fire Department Fire Protection Specifications and Requirements.
  5. The address shall be placed on the north side and south side of the tenant space and shall be visible with a minimum of 8-inch high letters in contrasting colors.
- Q. All provisions of the Public Works Department, Water Services Division shall be complied with. This includes, but is not limited to:
1. New water service installations shall be at owner's/developer's expense. Installation shall be by City forces upon payment of applicable fees, unless otherwise noted. Fire services and larger water services (3" and larger) shall be installed by developer/owner's contractor per City Standards.
  2. Water meters shall be located within the City right-of-way or within dedicated waterline easement. Fire services and large water services (3" and larger) shall be installed by contractor with class A or C-34 license, per City water standards and inspected by a Public Works inspector.
  3. A Reduced Pressure Principle Device (RPPD) backflow prevention device shall be installed for meter protection. Any carbonation dispensing equipment shall have a stainless steel 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 by a certified backflow device tester and the test results shall be submitted to Public Works, Water Services Division.
  4. The City will determine if existing water services(s) is/are usable and meets current City Standards. Any existing meter and service located within new driveway(s) shall be relocated at owner's expense. Developer shall demonstrate the City's Cross Connection Specialist satisfaction that the plumbing for the development is completely separated from all other adjacent units.



5. Development shall have a properly size fire service system. Connection for the fire service shall be off the 12" water main on Westminster Blvd. Fire service to have above ground backflow device with a double check valve assembly. Device shall be tested immediately after installation and once a year a certified backflow device tester and the results shall 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.
  6. 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 is to 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.
  7. Location and number of fire hydrants shall be as required by Water Services Division and the Fire Department.
  8. Owner shall install new sewer lateral with clean out. Lateral in public right-of-way shall be 6" minimum diameter, extra strength VCP with wedgelock joints.
- R. All provisions of the Public Works Department, Engineering Services Division shall be complied with. This includes, but is not limited to:
1. The applicant shall pay all traffic mitigation fees, as prescribed by the city's Traffic Engineer.
- S. The property owner shall be responsible for providing adequate parking area lighting in compliance with the city regulations. Lighting in the parking area shall be directed, positioned, or shielded in such a manner so as not to unreasonably illuminate adjacent properties.
- T. The trash bins shall be kept inside the trash enclosure and gates kept closed at all times, except during disposal and pick-up. Trash shall be picked up at least once per week. However, if additional pick-ups are needed to accommodate the use, the applicant shall increase the number of pick-ups as required.

- U. Signs shall comply with the City of Garden Grove sign requirements. Any installation of new signs shall require approval by the Community Development Department, Planning Services Division, prior to the issuance of building permits.
- V. Graffiti shall be removed from the premises and all parking lots under the control of the licensee within 120 hours of application.
- W. The applicant is advised that the establishment is subject to the provisions of State Labor Code Section No. 6404.5 (AB 13), which prohibits smoking inside the establishment as of January 1, 1995.
- X. The Conditional Use Permit shall be reviewed three (3) years from the date of this Resolution's approval in order to determine if the business is operating in compliance.
- Y. The applicant/property owner shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-625-02, and his/her agreement with all conditions of the approval.
- Z. A copy of this Resolution approving Conditional Use Permit No. CUP-625-02 shall be kept on the premises at all times.
- AA. All landscaping in the patio area shall be trimmed and continually well maintained.
- BB. The patio area shall be accessed only from the interior tenant space and if required, shall provide an emergency exit gate. The patio's perimeter fence shall be constructed of decorative block or wrought iron or combination thereof. Patio area activities shall be limited to quiet, passive use and not be loud, noisy, or disruptive to surrounding properties or adjoining tenant spaces.
- CC. The main entrance located on the south of the tenant space shall have a metal canopy, wall mounted signage and architectural building treatment in order to emphasize this building elevation as the business's main entrance.
- DD. The property owner shall improve the tenant space's north elevation either by incorporating the Mall of Fortune's architectural façade treatment on this elevation, or extending the future pad building's roofline and façade treatment across the subject tenant space north elevation. This improvement shall be completed within twelve months of this approval.
- EE. The property owner shall landscape the area adjacent to the three-bin trash enclosure, located in the parking lot on the south side of the shopping center, with trees, bushes and shrubs, and ground cover. A landscape plan shall be

submitted for this area and shall include an automatic irrigation system. Installation of the landscaping and irrigation system shall be completed within six months from date of this approval.

ADOPTED this 5th day of December 2002.

/s/ LEE BUTTERFIELD  
CHAIR

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove, State of California, held on December 5, 2002, by the following votes:

AYES: COMMISSIONERS: BARRY, BUTTERFIELD, CALLAHAN, FREZE,  
HUTCHINSON, JONES  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NGUYEN

/s/ TERESA POMEROY  
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 January 2, 2003.