



## AGENDA

### GARDEN GROVE PLANNING COMMISSION

#### REGULAR MEETING

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MARCH 7, 2019

COMMUNITY MEETING CENTER  
11300 STANFORD AVENUE

#### REGULAR SESSION – 7:00 P.M. – COUNCIL CHAMBER

ROLL CALL: CHAIR LEHMAN, VICE CHAIR KANZLER  
COMMISSIONERS LE, NGUYEN, PEREZ, RAMIREZ, SOEFFNER

Members of the public desiring to speak on any item of public interest, including any item on the agenda except public hearings, must do so during Oral Communications at the beginning of the meeting. Each speaker shall fill out a card stating name and address, to be presented to the Recording Secretary, and shall be limited to five (5) minutes. Members of the public wishing to address public hearing items shall do so at the time of the public hearing.

Any person requiring auxiliary aids and services due to a disability should contact the City Clerk's office at (714) 741-5035 to arrange for special accommodations. (Government Code §5494.3.2).

All revised or additional documents and writings related to any items on the agenda, which are distributed to all or a majority of the Planning Commissioners within 72 hours of a meeting, shall be available for public inspection (1) at the Planning Services Division during normal business hours; and (2) at the City Community Meeting Center Council Chamber at the time of the meeting.

Agenda item descriptions are intended to give a brief, general description of the item to advise the public of the item's general nature. The Planning Commission may take legislative action it deems appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda.

#### PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

- A. ORAL COMMUNICATIONS - PUBLIC
- B. APPROVAL OF MINUTES: February 21, 2019
- C. CONTINUED PUBLIC HEARING(S) (Authorization for the Chair to execute Resolution shall be included in the motion.)
  - C.1. CONDITIONAL USE PERMIT NO. CUP-149-2019

APPLICANT: THU PHAM ANH NGUYEN  
LOCATION: SOUTH SIDE OF GARDEN GROVE BOULEVARD,  
BETWEEN MAGNOLIA STREET AND CANNERY  
STREET, AT 9106 GARDEN GROVE BOULEVARD

REQUEST: Conditional Use Permit approval to operate a new body massage establishment within a 900 square foot tenant space within an existing multi-tenant shopping center. The site is in the GGMU-3 (Garden Grove Boulevard Mixed Use 3) zone.

STAFF RECOMMENDATION: Approve Conditional Use Permit No. CUP-149-2019, subject to the recommended conditions of approval. In conjunction with the request, the Planning Commission will consider a determination that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 – Existing Facilities.

D. STUDY SESSION

D.1. PLANNING COMMISSION ORIENTATION

General discussion of the role and jurisdiction of the Planning Commission and laws generally applicable to Planning Commission meetings and decisions, including the Brown Act, Political Reform Act, and City Code of Ethics.

D.2. REVIEW OF CONDITIONAL USE PERMITS AND ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSED ESTABLISHMENTS

E. MATTERS FROM COMMISSIONERS

F. MATTERS FROM STAFF

G. ADJOURNMENT

GARDEN GROVE PLANNING COMMISSION  
Council Chamber, Community Meeting Center  
11300 Stanford Avenue, Garden Grove, CA 92840

Meeting Minutes  
Thursday, February 21, 2019

Oath of Office administered to Planning Commissioners by the City Clerk.

CALL TO ORDER: 7:00 p.m.

ROLL CALL:

Commissioner Kanzler  
Commissioner Le  
Commissioner Lehman  
Commissioner Nguyen  
Commissioner Perez  
Commissioner Ramirez  
Commissioner Soeffner

Absent: None.

Introduction of Planning Commissioners and Staff.

SELECTION OF CHAIR:

Action: Commissioner Kanzler nominated Commissioner Lehman for Chair, seconded by Commissioner Ramirez.

Action: Motion approved with a 7-0 vote as follows:

Ayes: (7) Kanzler, Le, Lehman, Nguyen, Perez, Ramirez, Soeffner

Noes: (0) None

SELECTION OF VICE CHAIR:

Action: Chair Lehman nominated Commissioner Kanzler for Vice Chair, seconded by Commissioner Perez.

Action: Motion approved with a 7-0 vote as follows:

Ayes: (7) Kanzler, Le, Lehman, Nguyen, Perez, Ramirez, Soeffner

Noes: (0) None

Commissioner Lehman assumed the duties of Chair.

PLEDGE OF ALLEGIANCE: Led by Chair Lehman.

ORAL COMMUNICATIONS – PUBLIC – Council Member John O’Neill welcomed and congratulated the newly appointed Commissioners and reinforced that their work was important to the City.

February 7, 2019 MINUTES:

Action: Received and filed.  
Motion: Le Second: Kanzler  
Ayes: (7) Kanzler, Le, Lehman, Nguyen, Perez, Ramirez, Soeffner  
Noes: (0) None

PUBLIC HEARING – CONDITIONAL USE PERMIT NO. CUP-149-2019 FOR PROPERTY LOCATED AT 9106 GARDEN GROVE BOULEVARD, SOUTH SIDE OF GARDEN GROVE BOULEVARD, BETWEEN MAGNOLIA STREET AND CANNERY STREET.

Applicant: THU PHAM ANH NGUYEN  
Date: February 21, 2019

Request: Conditional Use Permit approval to operate a new body massage establishment within a 900 square foot tenant space within an existing multi-tenant shopping center. The site is in the GGMU-3 (Garden Grove Boulevard Mixed Use 3) zone. In conjunction with the request, the Planning Commission will consider a determination that the project is categorically exempt from the California Environmental Quality act (CEQA) pursuant to Section 15301 – Existing Facilities.

Action: Public Hearing held. Speaker(s): Thu Nguyen  
Action: Commissioner Soeffner moved to re-open the public hearing and continue Conditional Use Permit No. CUP-149-2019 to the next regularly scheduled Planning Commission meeting on March 7, 2019, in order for the applicant to meet with staff, and through verbal translation, gain full understanding of both the Conditions of Approval and Title 5 of the Garden Grove Municipal Code - Chapter 5.12 Massage Regulations.  
Motion: Soeffner Second: Ramirez  
Ayes: (7) Kanzler, Le, Lehman, Nguyen, Perez, Ramirez, Soeffner  
Noes: (0) None

PUBLIC HEARING – SITE PLAN NO. SP-066-2019 FOR PROPERTY LOCATED AT 10150 TRASK AVENUE, SOUTH SIDE OF TRASK AVENUE, EAST OF BROOKHURST STREET.

Applicant: SIMPSON GARDEN GROVE, INC.  
Date: February 21, 2019

Request: Site Plan approval to construct a 3,567 square foot one-story auto repair building attached to an existing one-story 846 square foot car wash building, on a lot improved with an existing Chevrolet auto dealership. The site is in the PUD-110-96 (Planned Unit Development) zone. In conjunction with the request, the Planning Commission will consider a determination that the project is categorically exempt from the California Environmental Quality act (CEQA) pursuant to Section 15303 – New Construction or Conversion of Small Structures.

Action: Public Hearing held. Speaker(s): Jonathan Menge

Action: Resolution No. 5951-19 was approved.

Motion: Ramirez Second: Perez

Ayes: (7) Kanzler, Le, Lehman, Nguyen, Perez, Ramirez, Soeffner

Noes: (0) None

ITEM FOR CONSIDERATION - ACKNOWLEDGEMENT OF THE 2018 ANNUAL PROGRESS REPORT ON THE STATUS OF THE GENERAL PLAN AND HOUSING ELEMENT.

Action: Received and filed. Staff report explained the Southern California Association of Governments (SCAG) state law formula for determining the required number of 747 housing units for the seven year period. Criteria included population growth, income level, and current housing.

Motion: Le Second: Perez

Ayes: (7) Kanzler, Le, Lehman, Nguyen, Perez, Ramirez, Soeffner

Noes: (0) None

MATTERS FROM COMMISSIONERS: Commissioner Ramirez commented that in order to save paper, he was fine with using the emailed version of the staff report packet. Staff responded that due to larger developments, the paper versions of plans were best suited for review purposes.

MATTERS FROM STAFF: Staff congratulated the Commissioners and gave a brief description of the agenda items for the March 7<sup>th</sup> meeting, which would include the continued item, a review of the Brown Act, the role of the Planning Commissioner,

and the Conditional Use Permit process. A staff hand-out included a brief introduction in regard to public officials and Conflict of Interest Laws.

Chair Lehman stated he would be absent from the March 7<sup>th</sup> meeting.

ADJOURNMENT: At 8:08 p.m. to the next Meeting of the Garden Grove Planning Commission on Thursday, March 7, 2019, at 7:00 p.m. in the Council Chamber of the Community Meeting Center, 11300 Stanford Avenue, Garden Grove.

Motion:       Kanzler       Second:       Le

Ayes:           (7)   Kanzler, Le, Lehman, Nguyen, Perez, Ramirez,  
  Soeffner

Noes:           (0)   None

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Judith Moore  
Recording Secretary

# COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> C.1.	<b>SITE LOCATION:</b> South side of Garden Grove Boulevard, between Magnolia Street and Cannery Street, at 9106 Garden Grove Boulevard
<b>HEARING DATE:</b> February 21, 2019	<b>GENERAL PLAN:</b> Residential/ Commercial Mixed Use 1
<b>CASE NO.:</b> Conditional Use Permit No. CUP-149-2019	<b>ZONE:</b> GGMU3 (Garden Grove Boulevard Mixed Use 3)
<b>APPLICANT:</b> Thu Pham Anh Nguyen	<b>CEQA DETERMINATION:</b> Exempt
<b>PROPERTY OWNER:</b> Mia Kim Park	<b>APN:</b> 097-364-04 (Portion)

**REQUEST:**

The applicant is requesting Conditional Use Permit (CUP) approval to operate a new 900 square foot body massage establishment, Healthy Spa Massage, located at 9106 Garden Grove Boulevard, within an existing multi-tenant commercial center.

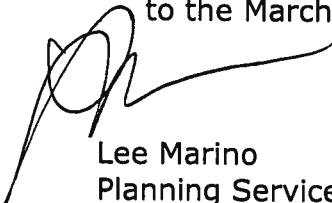
**DISCUSSION:**

The Planning Commission requested to continue Conditional Use Permit No. CUP-149-2019 to the March 7, 2019, Planning Commission meeting, in order to provide translation of Chapter 5.12 of the Garden Grove Municipal Code (Massage Regulations) to the applicant, Thu Pham Anh Nguyen, to ensure full understanding of the regulations pertaining to massage establishments. An in-office meeting with Vietnamese speaking Planning Staff and the applicant was held on February 25, 2019. During the meeting, the applicant acknowledged full understanding of the regulations.

**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following action:

1. Open the public hearing and continue Conditional Use Permit No. CUP-149-2019 to the March 7, 2019, Planning Commission meeting.



Lee Marino  
Planning Services Manager



By: Mary Medrano  
Associate Planner

# COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> <b>C.1.</b>	<b>SITE LOCATION:</b> South side of Garden Grove Boulevard, between Magnolia Street and Cannery Street, at 9106 Garden Grove Boulevard
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<b>APPLICANT:</b> Thu Pham Anh Nguyen	<b>CEQA DETERMINATION:</b> Exempt
<b>PROPERTY OWNER:</b> Mia Kim Park	<b>APN:</b> 097-364-04 (Portion)

**REQUEST:**

The applicant is requesting Conditional Use Permit (CUP) approval to operate a new 900 square foot body massage establishment, Healthy Spa Massage, located at 9106 Garden Grove Boulevard, within an existing multi-tenant commercial center.

**BACKGROUND:**

The subject site is improved with an existing multi-tenant commercial center, located on the south side of Garden Grove Boulevard, between Magnolia Street and Cannery Street. The center includes seven (7) tenant spaces and includes several retail uses, a bakery, and other commercial related uses. The tenant space under application is a 900 square foot space and was previously occupied by Sejong Copy & Printing, a printing shop and equipment repair business, which closed its business in 2012, according to Business Tax records. The tenant space has remained vacant ever since.

The subject property is zoned GGMU-3 (Garden Grove Boulevard Mixed Use 3) with a General Plan Land Use Designation of Residential/Commercial Mixed Use 1. The property is adjacent to GGMU-3 zoned properties to the east, west and south, and GGMU-2 (Garden Grove Boulevard Mixed Use 2) zoned properties to the north, across Garden Grove Boulevard.

The applicant previously submitted an application to the Business Tax and License Division and the Police Department for a massage establishment operator permit. The applicant has cleared the Police Department's background check and the application process. A massage establishment operator permit (Permit #M126) has been issued, and is contingent upon the approval and effectiveness of Conditional Use Permit No. CUP-149-2019.



**DISCUSSION:**

Healthy Spa Massage will operate as a "massage establishment" providing "massage" and/or "massage services" to patrons requesting feet and/or body massage. These terms are defined in Chapter 5.12 of the Garden Grove Municipal Code, which contains an extensive set for regulations governing massage and massage establishments. Pursuant to Chapter 5.12, all massage establishment operators are subject to background checks and must obtain an operator's permit from the Police Department, which must be renewed annually. In addition, all employees providing massage services must be certified by the State. Chapter 5.12 also contains detailed requirements governing massage establishment facilities and operations, as well as a list of prohibited types of conduct. A copy of Chapter 5.12 is attached for the Planning Commission's reference.

The subject tenant space will consist of a front receptionist and waiting area, three (3) single-person enclosed massage rooms, a "husband and wife" two-person enclosed massage room, an open foot massage area, a unisex restroom, a shower room, and laundry facilities (washer and dryer) at the rear.

In November of 2015, the City of Garden Grove adopted Ordinance No. 2861 and approved Amendment No. A-014-2015, which was a zoning text amendment to portions of Title 9 pertaining to massage establishments and other uses at which massage services are provided. In part, A-014-2015 permitted massage establishments, subject to a Conditional Use Permit, in the following zones: C-2 (Community Commercial), GGMU-1 (Garden Grove Mixed Use 1), GGMU-2 (Garden Grove Mixed Use 2), GGMU-3 (Garden Grove Boulevard Mixed Use 3), and NMU (Neighborhood Mixed Use).

Pursuant to Municipal Code Section 9.18.030.245, all massage establishment uses are subject to the following conditions:

1. No massage establishment shall be located closer than 1,000 feet from any other massage establishment.
2. Unless infeasible due to existing structural or physical constraints and otherwise authorized in conjunction with approval of a Conditional Use Permit, the entrance to a massage establishment shall be oriented, accessed, and visible from a principal, major, or primary arterial street, as defined in the General Plan Circulation Element. In no case shall the entrance to a massage establishment be oriented toward a residential street or toward residential uses.
3. The massage establishment, each owner, operator and manager thereof, and each person providing massage services on the premises shall comply with all provisions of Chapter 5.12 (Massage Regulations) of this Code at all times.
4. Each person engaged in the business of massage on the premises shall obtain and maintain an Operator's Permit from the Police Chief pursuant to

Chapter 5.12. No massage services may be provided on the premises without a current and valid Operator's Permit for the premises.

5. Permitted hours of operation may not exceed those set forth in Chapter 5.12.

The subject property is zoned GGMU-3, and the tenant space under application is not located within 1,000 feet from any other existing massage establishment. The entrance of the proposed massage establishment is oriented to, and directly faces, a primary arterial street, Garden Grove Boulevard. As previously mentioned, the applicant has applied for and obtained a massage establishment operator permit from the Police Department. The proposed massage establishment will be required to operate in compliance with all provisions as prescribed in Municipal Code Chapter 5.12 (Massage Regulations).

The applicant is proposing to operate the massage establishment between the hours of 10:00 a.m. to 8:00 p.m., seven (7) days a week. However, the proposed Conditions of Approval would limit the massage establishment's hours of operation to 7:00 a.m. to 10:00 p.m., seven (7) days a week, to be consistent with Municipal Code Section 5.12. In the event problems arise concerning the operation of the business, the Police Department is authorized to reduce the hours of operation.

The subject tenant space was previously occupied by Sejong Copy & Printing, a printing shop and equipment repair business. For a massage establishment, the Municipal Code requires one (1) parking space per 200 square feet of gross floor area, which is identical to the parking requirements for a printing use, which is also one (1) parking space per 200 square feet of gross floor area. Considering that the prior use and proposed use have identical parking requirements, parking demand is not expected to change.

However, out of an abundance of caution, the proposed Conditions of Approval provide that if the shopping strip center development cannot accommodate the parking demand generated by the massage establishment, resulting in a nuisance, hindrance, and/or problem with either on-site and off-site parking and circulation, the applicant will be required to devise and implement a plan approved by the City to relieve the situation.

The Community and Economic Development Department and the Police Department have reviewed the request and are supporting the proposal.

**RECOMMENDATION:**

Staff recommends that the Planning Commission take the following action:

1. Adopt Resolution No. 5950-19 approving Conditional Use Permit No. CUP-149-2019, subject to the recommended conditions of approval.



Lee Marino  
Planning Services Manager

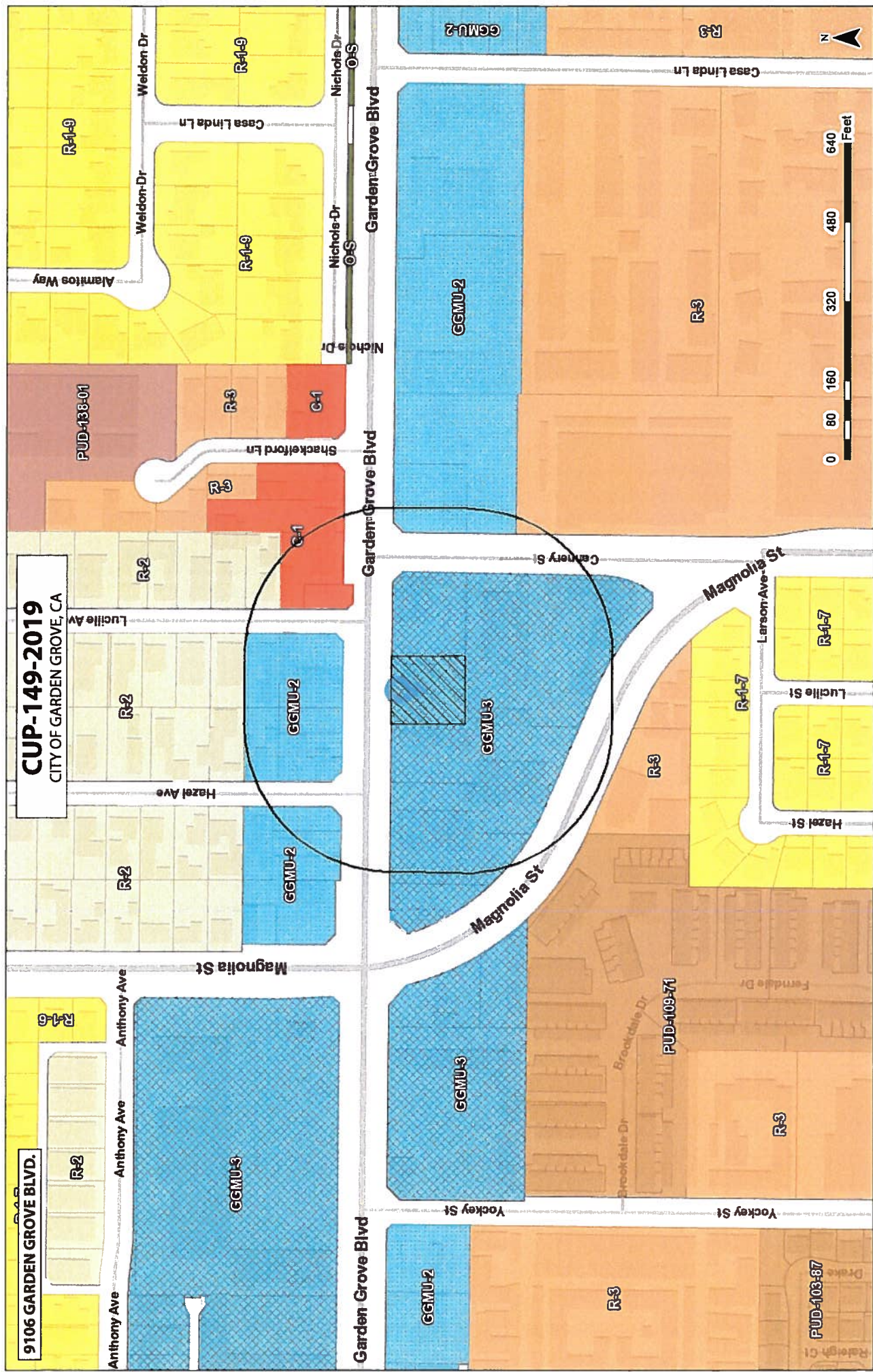


By: Mary Medrano  
Associate Planner

Attachment: Chapter 5.12 of the Garden Grove Municipal Code (Massage  
Regulations)

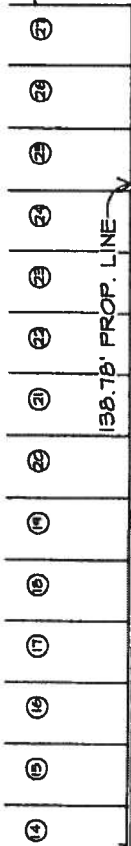
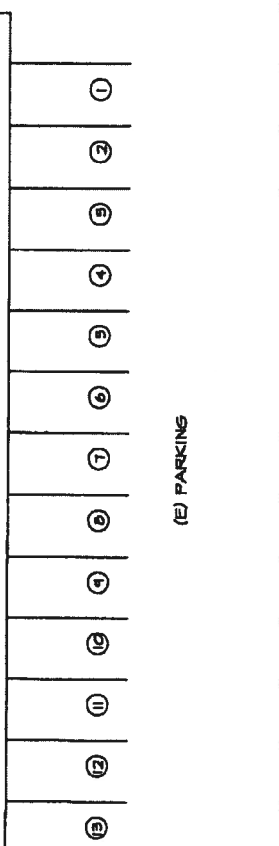
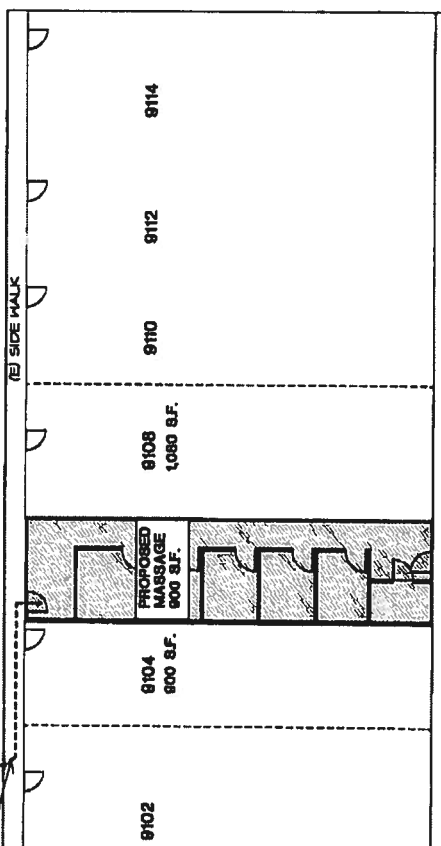
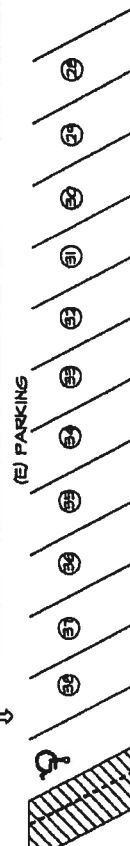
**CUP-149-2019**  
CITY OF GARDEN GROVE, CA

**9106 GARDEN GROVE BLVD.**



W GARDEN GROVE BLVD

(E) DRIVE WAY APPROACH  
 (E) PUBLIC SIDE WALKS  
 138.78' PROP. LINE  
 (E) PARKING

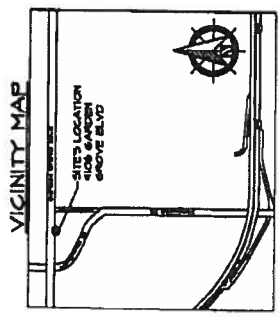


150.00' PROP. LINE  
 BLOCK WALL

EXISTING SITE PLAN - UNCHANGED  
 SCALE: 1/4"=1'-0"



ACCESSIBLE PATH OF TRAVEL, NO SIDEWALK BRUSH OR TRASH. THE SIDEWALK SHALL BE PAVED WITH CURB CUTS TO FACILITATE THE SLOPE ALONG THE PATH OF TRAVEL. THE SIDEWALK SHALL BE PAVED WITH INTERLOCKING CURB CUTS TO FACILITATE THE SLOPE ALONG THE PATH OF TRAVEL. THE SIDEWALK SHALL BE PAVED WITH INTERLOCKING CURB CUTS TO FACILITATE THE SLOPE ALONG THE PATH OF TRAVEL. THE SIDEWALK SHALL BE PAVED WITH INTERLOCKING CURB CUTS TO FACILITATE THE SLOPE ALONG THE PATH OF TRAVEL.



CUP-149-2019

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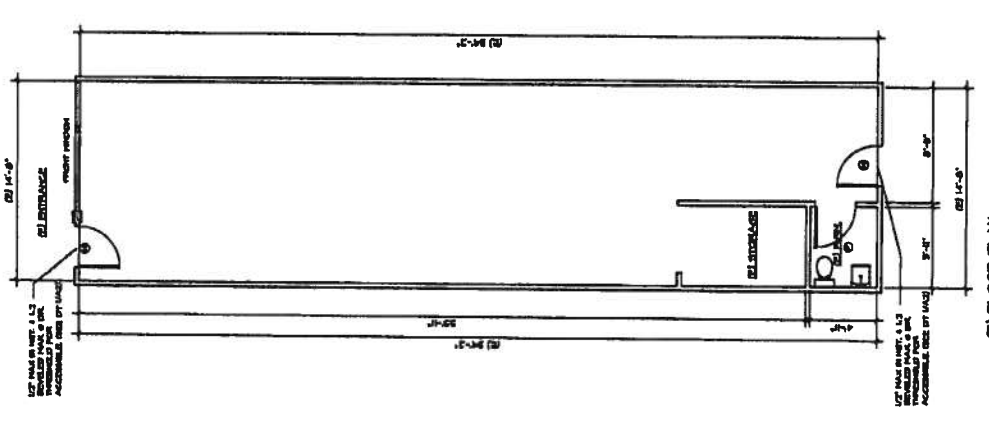
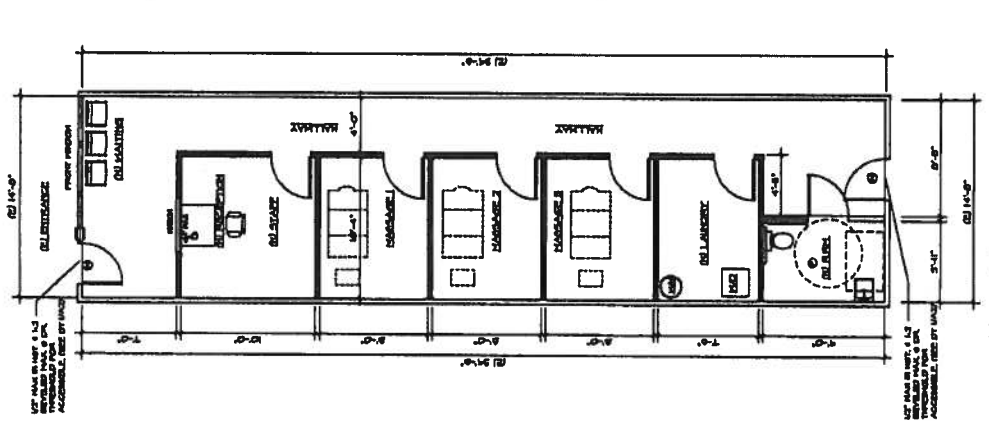
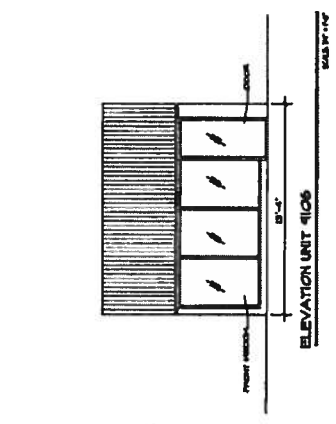
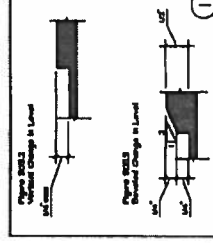
**CENTRAL PACIFIC**  
 ARCHITECTURAL & ENGINEERING  
 4106 GARDEN GROVE BLVD  
 GARDEN GROVE, CA 92644  
 PHONE: 714-718-1888

4106 GARDEN GROVE BLVD  
 GARDEN GROVE, CA 92644

DEC-11-15

ELEVATION  
 (B) FLOOR PLAN - NEW FLOOR PLAN

**A-2**  
 SHEET #



REVISIONS

CENTRAL PACIFIC  
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 PHONE: 714-718-1888

4106 GARDEN GROVE BLVD  
 GARDEN GROVE, CA 92644

DEC-11-15

ELEVATION  
 (B) FLOOR PLAN - NEW FLOOR PLAN

**A-2**  
 SHEET #

**Garden Grove Municipal Code**

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[Title 5 BUSINESS OPERATION TAXES, PERMITS AND REGULATIONS](#)

**Chapter 5.12 MESSAGE REGULATIONS****Note**

- \* **Prior ordinance history:** Ord. Nos. 674, 714, 1307, 1995, 2290, 2464, 2611, 2667 and 2808.  
**Prior code history:** §§ 4191, 4192, 4193, 4193.1, 4194, 4195, 4196, 4196.1, 4196.2 and 4198.

**5.12.010 Findings and Purpose**

The City Council finds and declares as follows:

- A. The permit requirements and restrictions imposed by this chapter are reasonably necessary to protect the health, safety, and welfare of the citizens of the City.
- B. The City is authorized to regulate massage establishments pursuant to California Business and Professions Code Sections 460(c), 4612(b) and 16000, California Government Code Section 51030 et seq., and Section 7 of Article XI of the California Constitution.
- C. There is a significant risk of injury to massage clients by improperly trained and/or educated massage practitioners and this chapter provides reasonable safeguards against injury and economic loss.
- D. There is opportunity for acts of prostitution and other unlawful sexual activity to occur in massage establishments. Courts have long recognized massage as a pervasively regulated activity and that some massage establishments are brothels in disguise. The establishment of reasonable standards and restrictions on operations will serve to reduce the risk of illegal activity.
- E. The City Council recognizes that massage establishments may have a serious deleterious effect upon adjacent areas, as well as the areas in which they are located, when illegal activities such as pandering or prostitution occur thereat.
- F. The City Council understands that illegal activities occurring in massage establishments often incorporate the exploitation of women and new immigrants to this country.
- G. The regulations and restrictions contained in this chapter tend to discourage massage establishments from degenerating into houses of prostitution and the means utilized in this chapter bear a reasonable and rational relationship to the goals sought to be achieved. (Ord. 2856 § 1, 2015)

**5.12.020 Definitions**

The following definitions of words shall apply to this chapter:

- “Acupressure” means the act of applying manual pressure to parts of the body with the intention of treating illness and/or disease or relieving pain.
- “Applicant” means an applicant for an operator’s permit.
- “CAMTC” means the California Massage Therapy Council, a non-profit organization formed pursuant to California Business and Professions Code Section 4600 et seq.
- “Certified massage practitioner” means any individual certified by CAMTC as a certified massage practitioner or as a certified massage therapist pursuant to California Business and Professions Code Section 4600 et seq.
- “City” means the City of Garden Grove.
- “City Manager” means the City Manager of the City or designee.
- “Employee” includes every owner, partner, operator, manager, supervisor, person and worker, whether paid or not, full-time or part-time, who renders personal services of any nature or is otherwise employed in support of the operation

of a massage establishment. For purposes of this chapter, the term “employee” shall also include certified massage practitioners who provide massage services, whether as independent contractors or otherwise, in or for a massage establishment.

“Manager” means a person or persons designated or permitted by the owner or operator of the massage establishment to act as the agent of the owner or operator in managing day-to-day operations. Evidence of management may include, but is not limited to, evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy or rules, or purchase supplies. A massage establishment may have more than one manager.

“Massage” or “massage services” means any method of applying pressure on, causing friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, acupuncture, stimulating, compression on or movement of the external parts of the human body of another, either directly via the use of hands or some other body part, with or without the aid of or by means of any mechanical or electrical apparatus, or other appliance or device, for money or any form of consideration. Massage may incorporate supplementary aids such as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations commonly used in this practice.

“Massage establishment” means any business or establishment with a fixed location where any individual, firm, association, partnership, limited liability company, corporation, or combination of individuals, offers, engages in, conducts, carries on or permits to be engaged in, conducted or carried on, massage services within the City, including the residence or business office of a sole provider who provides massage services at such residence or business office. Any type of business or establishment at which massage services are provided shall be considered a massage establishment for purposes of this chapter, regardless if the business holds itself out as something other than a massage establishment and/or also offers or provides other types of products or services. Any business or establishment that offers any combination of massage services and bath facilities, including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs, shall be deemed a massage establishment under this chapter. The residence or business office of a sole provider who only engages in out-call massage and does not provide massage services at such residence or business office shall not be considered a massage establishment.

“Operator’s permit” means a permit issued to any person desiring to operate a massage establishment by the City upon submission of satisfactory information and satisfaction of the requirements pursuant to the provisions of this chapter.

“Out-call massage” shall mean the provision of massage services at a location other than at a massage establishment. Such locations may include, but are not limited to, hotel rooms, offices, or patron residences.

“Owner” or “operator” means any and all persons who have an ownership interest in a massage establishment and/or responsibility, in whole or in part, for its ongoing operations including, but not limited to, any of the following persons: the sole proprietor of a sole proprietorship, any general or limited partner of a general or limited partnership, any shareholder of a corporation, any member or manager of a limited liability company, or any person who has an ownership interest in a massage establishment, whether as an individual, corporation, limited liability company, general partner, limited partner, shareholder, member or otherwise.

“Person” means any individual or combination of individuals, sole proprietor, firm, association, partnership, corporation, limited liability company, joint venture, or other entity.

“Police Chief” means the City’s Police Chief, or designee, who is responsible for promulgating rules, regulations, and requirements consistent with the provisions of this chapter and all other laws in connection with the issuance of an operator’s permit.

“Sole provider” means any legal form of business organization where the business owner owns 100% of the business, is the only person who provides massage services for compensation for that business pursuant to a valid and active State Certificate, and has no other employees or independent contractors.

“State Certification” or “State Certificate” means a valid and current certificate issued by CAMTC pursuant to California Business and Professions Code Section 4600 et seq., as may be amended from time to time. (Ord. 2856 § 1, 2015)



### **5.12.030 State Certification and Operator's Permit Required**

A. Except as otherwise provided in Section 5.12.110, no individual shall engage in, conduct, carry on, practice or perform massage services within the City without first obtaining and thereafter maintaining State Certification and presenting proof of such State Certification, in accordance with the provisions of this chapter.

B. Except as otherwise provided in Section 5.12.110, no person shall engage in, conduct or carry on, or permit to be engaged, conducted, or carried on in or upon any premises within the City, the operation of a massage establishment without first obtaining and thereafter maintaining an operator's permit pursuant to this chapter, and without otherwise complying with the provisions of this chapter.

C. No owner, operator or manager shall employ or retain any individual to conduct, carry on, practice or perform massage services within the City unless such individual has a State Certificate. For purposes of this chapter, an owner, operator or manager employs or retains a person if: (1) that individual is a directly paid employee of the massage establishment; (2) that individual's association with the massage establishment is that of an independent contractor who receives compensation for massage services provided to patrons of the massage establishment; or (3) that individual receives a patron referral(s) from the massage establishment for massage services and arranges in any way for compensation relating to such services to flow to such owner, operator, manager or massage establishment. (Ord. 2856 § 1, 2015)

### **5.12.040 Application for Operator's Permit**

A. An application for an operator's permit shall be filed on forms provided by the Police Chief, and submitted under penalty of perjury. The application shall include, without limitation, the following information, documents, and fees:

1. The type of legal entity or entities owning the proposed massage establishment, i.e., whether a sole proprietorship, partnership, limited liability company, corporation, or otherwise. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each shareholder or other person who has an ownership interest in the corporation. If the applicant is a limited liability company, the name of the limited liability company shall be set forth exactly as shown in its articles or organization or other organizational document together with the state and date of organization and the names and residence addresses of each of its current officers and directors, and of each member or other person who has an ownership interest in the limited liability company. If the applicant is a partnership, the application shall set forth the name and residence addresses of each of the partners, including limited partners. If it is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Secretary of State. If one or more of the partners is a corporation or limited liability company, the provisions of this subsection pertaining to corporations and limited liability companies shall apply. An applicant that is a corporation, limited liability company or partnership shall designate one of its officers, members, managers, or general partners to act as its responsible managing officer. Such designated individual shall complete and sign all application forms required for an individual applicant under this chapter, but only one application fee shall be charged.

2. The precise name under which the massage establishment is to be conducted.

3. The present or proposed address and telephone numbers of the massage establishment.

4. The tax identification number used for income tax reporting for the massage establishment.

5. A complete description of all services to be provided at the proposed massage establishment.

6. A complete current list of the names and residence addresses of all current or proposed employees of the massage establishment and the name and residence address of each current or proposed manager(s) proposed to be principally in charge of the operation of the massage establishment.

7. True and correct copies of the current State Certificate and CAMTC-issued identification card for each employee who will be providing massage services at the massage establishment.

8. A description of any other business to be operated on the same premises as the massage establishment.

9. The name, address, and description of any other business within the City or the State which is owned, wholly or in part, or operated by the applicant.

10. A statement signed by the applicant authorizing the City, its officers, agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and to ensure continual compliance with the applicable provisions of law.

11. A statement signed by the applicant confirming that the massage establishment shall employ and only permit certified massage practitioners to provide massage services at the massage establishment.

12. A statement signed by the applicant confirming that the massage establishment shall ensure that all independent contractors who provide massage services at the massage establishment shall be in possession of a valid and current City business tax certificate at all times when massage services are provided.

13. A statement signed by the applicant acknowledging that the applicant, owner(s), operator(s) and manager(s) shall each be responsible for the conduct of all employees on the premises of the massage establishment and that failure to comply with this chapter, or any local, state or federal law, including California Business and Professions Code Section 4600 et seq., may result in the revocation of the operator's permit and civil, administrative, or criminal penalties.

14. The following personal information concerning the applicant and each owner, operator, and manager of the massage establishment:

- a. Full complete name and all aliases or fictitious names used within the last 10 years.
- b. A valid and current driver's license and/or identification card issued by a state or federal government agency or other photographic identification bearing a bona fide seal by a foreign government.
- c. Current and all previous residential addresses for the last eight years.
- d. Date of birth.
- e. Height, weight, color of hair, eyes, and sex.
- f. Two front-faced portrait photographs at least two inches by two inches in size taken within 30 days of submission of the application.
- g. The complete business, occupation, and employment history for eight years preceding the date of application, including, but not limited to, the massage or similar business history and experience of the applicant and each owner, operator, and manager.
- h. The complete massage permit history of the applicant and each owner, operator, and manager; whether such person has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance of each such a permit or license; whether any such permit or license was ever denied, revoked, suspended or refused to be renewed, and the reasons therefor.
- i. All criminal convictions, including pleas of nolo contendere, within the last 10 years including those dismissed or expunged pursuant to California Penal Code Section 1203.4, but excluding minor traffic violations, and the date and place of each such conviction and reason therefor.
- j. A complete set of fingerprints taken by the Police Department, subject to a fee to cover actual costs.

15. The name and address of the owner and lessor of the real property upon or in which the massage establishment is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a massage establishment will be located on his or her property, and that the massage establishment shall be subject to this chapter.

16. Such other identification and information as the Police Chief may reasonably require in order to discover the truth of the matters herein specified and as required to be set forth in the application.

17. A written statement signed and dated by the applicant that he or she certifies under penalty of perjury that all information contained in the application is true and correct.

B. An application for an operator's permit shall be accompanied by a non-refundable application fee in an amount established by resolution of the City Council.

C. If, at any time during the application process or during the term of an operator's permit, any of the information

provided in the application for an operator's permit on file with the City changes, for example by a change in employees or manager(s), the owner or operator shall notify the Police Chief in writing of such change within 10 business days after such change. (Ord. 2856 § 1, 2015)

### **5.12.050 Issuance or Denial of Operator's Permit**

A. Upon receipt of a complete application for an operator's permit, the Police Chief shall conduct an investigation to ascertain whether such permit should be issued as requested. The Police Chief shall, within 60 days of receipt of a complete application, approve, conditionally approve, or deny the application. The 60-day period may be extended by the Police Chief for up to 30 additional days to complete the investigation. The Police Chief shall issue such permit unless he or she makes any of the following findings:

1. Any owner, operator, manager or employee of the massage establishment has been convicted of a violation of Section 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code, or has been convicted in any other state of any offense that, if committed or attempted in the State of California, would have been punishable as one or more of the above-mentioned offenses.

2. Any owner, operator, manager or employee of the massage establishment has been convicted of any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or has been convicted in any other state of any offense that, if committed or attempted in the State of California, would have been punishable as one or more of the above-mentioned offenses.

3. Any owner, operator, manager or employee of the massage establishment is required to register under the provisions of Section 290 of the California Penal Code.

4. Any owner, operator, or manager of the massage establishment has within eight years preceding the date of the application:

a. Engaged in conduct in another jurisdiction which, if it had occurred within the City, would have been a violation of law and/or would constitute grounds for denial, suspension, or revocation of an operator's permit under this chapter.

b. Been subjected to a permanent injunction against the conducting or maintaining of nuisance pursuant to Sections 11225 through 11235 of the California Penal Code, or any similar provisions of law in a jurisdiction outside the state.

c. Engaged in conduct which would constitute an offense as described in subsection (A)(1) of this section.

d. Been convicted of an act involving dishonesty, fraud, deceit or moral turpitude or an act of violence, which act or acts are related to the qualifications, functions, or duties of the owner, operator, or manager.

e. Had a massage operator or massage technician permit or other similar license or permit denied, suspended, revoked, or refused to be renewed for cause by a licensing authority or by any city, county, or state.

5. The applicant has made a false, misleading, or fraudulent statement or omission of fact to the City in the permit application process.

6. The application does not contain all of the information required by Section 5.12.040 of this chapter.

7. The massage establishment as proposed by the applicant does not comply with all requirements of this chapter and all other applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards.

8. Within a 24-month period prior to the submittal of the application, the location of the proposed massage establishment: (i) has been the site of a violation of this chapter, or any similar criminal or civil ordinance, law, rule, or regulation of the State of California or any other public agency related to the operation of massage establishments; or (ii) has been the site of a massage establishment that was closed due to criminal activity. For purposes of this subsection, closure due to criminal activity includes voluntary closure of a massage establishment after there have been arrests at the location or other notices relating to criminal activity.

B. Prior to commencing operations pursuant to an operator's permit issued by the Police Chief pursuant to this chapter, applicants shall obtain a business tax certificate pursuant to Title 5 of the Garden Grove Municipal Code and any and all appropriate zoning or land use approvals required pursuant to Title 9 of the Garden Grove Municipal Code,

including any amendments thereto.

C. An operator's permit issued pursuant to this chapter does not authorize the owner or operator to operate a massage establishment until the owner or operator has complied with all applicable business licensing or tax requirements, zoning requirements, building requirements, and all other applicable federal, state, and City laws and regulations. (Ord. 2856 § 1, 2015)

### **5.12.060 Requirements of Operation**

Each owner, operator and manager of a massage establishment shall be responsible for ensuring compliance with each of the requirements of operation, which shall apply to all massage establishments.

#### **A. Facilities.**

1. Subject to applicable provisions of the City's codes, a recognizable and legible sign shall be posted at the main entrance identifying the business as a massage establishment.
2. No massage establishment located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area, shall, during business hours, block visibility into the interior reception and waiting area through the use of curtains, closed blinds, or any other material that obstructs, blurs or darkens the view into the premises.
3. The hours of operation shall be displayed in a conspicuous place in the reception area and in any front window clearly visible from outside of the massage establishment. Patrons and visitors shall be permitted in the massage establishment only during the posted hours of operation.
4. Front doors used for patron access shall remain unlocked during business hours unless the massage establishment is a business entity owned by one individual with one or no employees or independent contractors.
5. Minimum lighting shall be provided in accordance with the City's electrical code and, in addition, at least one artificial light of not less than 40 watts shall be provided in each room or enclosure where massage services are performed and shall be activated at all times while a patron is in such room or enclosure.
6. Closed cabinets or other covered space shall be provided and utilized for the storage of clean linens, and receptacles acceptable to the City shall be provided for the deposit of soiled linen.
7. The walls in all rooms where water or steam baths are given shall have a washable, mold-resistant surface.
8. A minimum of one toilet and one separate wash basin shall be provided for patrons in each massage establishment, which basin shall provide soap or detergent and hot running water at all times. A permanently installed soap dispenser, filled with soap, and a single service towel dispenser shall be provided at the restroom handwash sink. A trash receptacle shall be provided in each toilet room. Showers may be provided at the operator's option.
9. All massage establishments shall have clean and sanitary towels, sheets and linens in sufficient quantity to meet the requirements of this chapter. Reuse of towels, sheets and linens is prohibited unless the same have first been laundered. Heavy white paper may be substituted for sheets, provided that such paper is used only once and then discarded into a sanitary receptacle.
10. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities including appliances and apparatuses for the massage establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs shall be thoroughly cleaned and disinfected after each use.
11. Disinfecting agents and sterilizing equipment shall be provided for any instruments used in performing acts of massage and the instruments shall be disinfected and sterilized after each use.
12. A massage table shall be provided in each massage room or enclosure and the massage shall be performed on this massage table. The tables must have a minimum height of 18 inches. Two-inch thick foam pads with a maximum width of four feet may be used on a massage table and must be covered with durable, washable plastic or other waterproof material. Beds, mattresses, waterbeds, futons, sofa beds, or any type of portable or convertible beds are not

permitted on the premises.

13. No part of the massage establishment shall be used for residential or sleeping purposes.

B. Operations.

1. No massage establishment shall be open for business or operated between the hours of 10:00 p.m. and 7:00 a.m.

2. a. A register of all certified massage practitioners who are currently providing, or who have previously provided, massage services on the premises, showing the names, nicknames, and aliases used by such employees, along with the dates of their employment and termination, if applicable; and

b. Copies of each certified massage practitioner's current State Certificate and CAMTC-issued identification card, shall be maintained on file on the premises of each massage establishment, and shall be made available upon request to any individual, including, but not limited to, any duly authorized official of the City.

3. Within 10 business days of a massage establishment hiring or contracting with a new certified massage practitioner to provide massage services, written notice of the name and residential address of the new employee and copies of his or her current State Certificate and CAMTC identification card shall be filed with the Police Chief.

4. Written notice shall be provided to the Police Chief within five days of the expiration, revocation, suspension, or surrender of an employee's State Certification, and no employee whose State Certification is expired, revoked, suspended, or surrendered shall be permitted to provide massage services at the massage establishment until and unless valid State Certification have been reestablished and notice and copies of such employee's current State Certificate and CAMTC identification card have been provided to the Police Chief.

5. All documents or information pertaining to a certified massage practitioner that is required to be maintained or provided pursuant to this subsection B shall be maintained at the massage establishment for a minimum of two years following the date that the certified massage practitioner ceases providing massage services at the massage establishment.

6. A manager shall be present on the premises at all times the massage establishment is open. A written statement designating the person or persons with power to act as a manager shall be filed with the Police Chief prior to commencement of operation of the massage establishment and within 10 days of any managerial change.

7. The name of each on-duty manager and each on-duty certified massage practitioner shall be posted in a conspicuous public place in the lobby of the massage establishment on a daily basis.

8. No massage establishment shall be open for business without having at least one certified massage practitioner on the premises and on-duty.

9. Any and all employees providing massage services shall carry and have on their persons, visible for the patron to see, a current and valid CAMTC-issued identification card that was issued to them.

10. Any and all changes of address or ownership of a massage establishment shall be reported immediately to the Police Chief. Operator's permits are issued to specific owners and for specific locations only. A new operator's permit shall be obtained prior to the proposed relocation of a massage establishment, the opening of another location, or a change in ownership of the massage establishment.

11. No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage.

12. Each service offered, the price thereof, and the minimum length of time such service shall be performed shall be posted in an open and conspicuous public location in each massage establishment. All letters and numbers shall be capitals, and not less than one inch in height. No services shall be performed and no sums shall be charged for such services other than those posted. Nothing herein prohibits a voluntary tip from being paid by the patron. All arrangements for services to be performed shall be made in a room in the massage establishment which is not used for administration of massages, baths or health treatments, unless no other room exists in the massage establishment.

13. Any posted signs which are in a language other than English shall also be posted in English.

14. The operator's permit issued to the massage establishment shall at all times be displayed in an accessible and

conspicuous place, visible from the entrance and/or reception and waiting area of the massage establishment.

15. Copies of the current State Certificates held by the employees providing massage services at the massage establishment shall at all times be displayed in an accessible and conspicuous place in clear view of the public.

16. No alcoholic beverages or controlled substances shall be sold, served, furnished, kept, consumed, or possessed on the premises of any massage establishment.

17. A notice substantially similar to the notice required by Section 52.6 of the California Civil Code shall be posted in a conspicuous place near the public entrance of each massage establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted.

### C. Prohibited Conduct.

1. Each owner, operator and manager shall be responsible for the conduct of all employees providing massage services while such employees are on the premises of the massage establishment. Any act or omission of any employee constituting a violation of this chapter shall be deemed the act or omission of each of the owners, operators, and manager(s) for purposes of determining: (a) compliance with this chapter; and (b) whether the operator's permit, business tax certificate, and/or any other permit required by the City shall be revoked, suspended, denied or renewed.

2. No owner, operator or manager shall hire, employ or allow an individual to perform massage services unless such individual possesses a valid and current State Certificate. Each owner, operator and manager of a massage establishment shall have a continuing obligation to verify that all employees providing massage services hold the State Certification required by this chapter.

3. No electrical, mechanical or artificial device shall be used by any massage establishment staff for audio and/or video recording or for monitoring the performance of a massage, of the conversation or of other sounds in the massage rooms or enclosures, without the prior written consent of the patron.

4. No employee shall violate the provisions of Section 647(b) of the California Penal Code, or any other state law involving a crime of moral turpitude.

5. No employee shall engage in any form of unprofessional conduct as defined by Section 4609(a)(1) of the California Business and Professions Code, as may be amended from time to time, including, without limitation:

a. Engaging in any form of sexual activity on the premises of a massage establishment.

b. Engaging in sexual activity while providing massage services for compensation.

c. Providing massage of the genitals or anal region.

d. Providing massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California health care provider for such massage.

6. No employee shall dress, while engaged in the practice of massage, or while visible to patrons in the massage establishment, in any of the following:

a. Attire that is transparent, see-through, or substantially exposes the person's undergarments.

b. Swim attire, if not providing a water-based massage modality approved by CAMTC.

c. A manner that exposes the employee's breast, buttocks, or genitals.

d. A manner that constitutes indecent exposure in violation of Section 314 of the California Penal Code.

7. No employee shall expose their genitals, pubic region, buttocks, anus, or in the case of a female, her breasts below a point immediately above the top of the aureole, to the view of a massage establishment patron.

8. A massage establishment patron's genitals, anus, and in the case of a female, her breasts, must be fully covered at all times while a certified massage practitioner or other employee is present in the same room as the patron. (Ord. 2856 § 1, 2015)

#### **5.12.070 Inspection by City Officials**

Any duly authorized official of the City, including, but not limited to, the City police, designated representatives, code enforcement officers, health officials and building and fire inspectors, shall have the right to enter any massage

establishment premises from time to time during regular business hours prior to the issuance of an operator's permit and subsequently thereafter for the purposes of making reasonable inspections to ensure compliance with this chapter and other applicable laws, including building, fire, electrical, plumbing or health and safety regulations. (Ord. 2856 § 1, 2015)

#### **5.12.080 Issuance of Notice of Violation**

Whenever a City official makes an inspection of a massage establishment and finds that any provision of this chapter or any other applicable provision of this Code has been violated, the City official may give notice of such violation by means of an inspection report or other written notice, including, but not limited to, issuing a citation for each and every violation of this chapter or other applicable provision of this Code. In any such notification, the investigating official shall:

- A. Set forth the specific violation or violations found;
- B. If appropriate, establish a specific and reasonable period of time for the correction of the violation or violations. If the investigating official determines that the violation or violations are minor in nature, the investigating official may issue a warning to the massage establishment owner and/or operator that any further violation of this chapter or other applicable provision of this Code may result in revocation or suspension of the operator's permit. No time to correct need be given in the event of health and safety violations or violation of criminal law; and
- C. State that failure to comply with any notice issued in accordance with the provisions of this chapter or other applicable provision of this Code may result in revocation or suspension of the operator's permit.

Nothing in this section shall preclude the investigating official from initiating suspension, revocation or other legal proceedings, or issuing a criminal or administrative citation, if he or she deems it appropriate based on the violation(s) found to exist, rather than first issuing a warning or a notice of violation. (Ord. 2856 § 1, 2015)

#### **5.12.090 Duration of Operator's Permits and Transfers**

A. No operator's permit issued hereunder shall be transferable to any other person, owner, location, or massage establishment. A new and/or separate operator's permit shall be obtained for each separate massage establishment and/or location and in the event of any change in ownership of a massage establishment. Any attempt to transfer an operator's permit to another person or location is hereby declared invalid and the operator's permit shall automatically become void effective the date of such attempted transfer.

B. An operator's permit shall be good for and expire in 12 months from the date of issuance, unless suspended or revoked.

C. Renewal applications with required application fee shall be filed with the Police Chief no later than 30 days prior to the expiration of the 12-month permit term.

D. Each applicant for renewal shall file such information as may be reasonably required by the Police Chief. (Ord. 2856 § 1, 2015)

#### **5.12.100 Out-Call Massage**

A. No person shall perform an out-call massage in the City without possessing a valid and current State Certificate.

B. Notwithstanding any other provision of this chapter, an operator's permit shall be required for any massage establishment with a fixed place of business providing out-call massage. (Ord. 2856 § 1, 2015)

#### **5.12.110 Exemptions**

The provisions of this chapter shall not apply to the following:

- A. Treatment or services administered or provided in good faith by healing arts professionals who are duly

licensed pursuant to the California Business and Professions Code or any other law of the State of California, including, but not limited to, physicians, surgeons, dentists, chiropractors, osteopaths, podiatrists, acupuncturists, physical therapists, physician assistants, or nurses, or by cosmetologists, barbers, estheticians, or manicurists who are duly licensed pursuant to California Barbering and Cosmetology Act, California Business and Professions Code Section 7300 et seq., while in the course of engaging in practices within the scope of their respective professional licenses. This exemption shall not be construed to apply or extend to treatments or services constituting “massage,” as defined in this chapter, that are administered or provided by any person acting as an independent contractor to one of the foregoing types of licensed professionals, if such person is engaged in, or is purported to be engaged in, the business of massage.

B. Chair massages administered by fully clothed individuals to fully clothed patrons in office or public locations.

C. Hospitals, nursing homes, sanatoriums, or other health facilities duly licensed by the State of California, or activities engaged in by employees of such facilities in the course of their employment while working on the premises of such state-licensed facilities.

D. The activities of coaches or trainers employed by accredited junior high schools, high schools, junior colleges, colleges, or universities, while acting within the scope of such employment.

E. Massage therapy or health treatment involving massage provided by trainers of amateur, semi-professional, or professional athletes or athletic teams, or at athletic facilities or events, while acting within the scope of their employment, so long as such persons do not provide massage services as their primary occupation at any location where they provide such services within the City.

F. Schools of cosmetology or barbering which comply with the requirements of California Business and Professions Code Section 7362 et seq., when instructors are acting within the scope of their employment or when students are working as unpaid externs pursuant to the requirements of California Business and Professions Code Section 7395.1. (Ord. 2856 § 1, 2015)

#### **5.12.120 Operator’s Permit Suspension or Revocation**

After an investigation, notice and opportunity to respond, an operator’s permit may be revoked or suspended by the Police Chief where any of the following is found:

A. The business conducted is not substantially the same as that which was permitted under the operator’s permit.

B. The massage establishment is being operated in violation of any provision of this chapter, Business and Professions Code Section 4600 et seq., or any other laws which would have been grounds for denial of the operator’s permit.

C. The applicant, owner, operator or manager has engaged in fraud, or made a material omission or misrepresentation in obtaining or maintaining an operator’s permit.

D. The massage establishment has continued to operate after the applicable operator’s permit has been suspended.

E. The applicant, owner, operator, or manager of the massage establishment has acted in a manner detrimental to the public health, safety or welfare with regard to massage services. (Ord. 2856 § 1, 2015)

#### **5.12.130 Administrative Hearings**

A. All administrative hearings regarding a denial, nonrenewal, suspension, or revocation of a massage establishment operator’s permit shall occur in accordance with this section.

B. Upon determining that grounds for denial, nonrenewal, revocation, or suspension of an operator’s permit exists, the Police Chief shall furnish written notice of a denial, nonrenewal, or proposed revocation or suspension of an operator’s permit to the affected applicant or owner (hereinafter the “appellant”). Such notice shall state the reasons for the denial, nonrenewal or proposed revocation or suspension and shall state that a written request for an administrative hearing may be filed within 15 calendar days of the date of the notice. The notice shall be personally served, or sent by certified mail, postage prepaid, to the address provided by the appellant and shall be mailed by the City within 24 hours of the date of the notice. In the case of a proposed suspension or revocation of an operator’s permit, the notice shall also



be delivered by posting the notice at the location of the massage establishment. Any request for an administrative hearing shall be filed with the City Clerk along with a filing fee, in an amount set by resolution of the City Council, to defray the cost of such hearing. The request along with the filing fee must be received by the City Clerk within 15 calendar days of the date of the City's notice or, if required, the posting of the notice, whichever date is later. The written request for an administrative hearing shall state in detail each basis on which the request is made and include copies of all documents in support of the appeal. If the request for a hearing is received by the City Clerk within 15 calendar days of the later of the date of the notice or, if required, the posting of the notice referred to herein, the City Clerk shall transmit the request to the City Manager, and a hearing shall be provided. If a written request is not received by the City Clerk within such period, the Police Chief's action shall be deemed to be the final decision.

C. Upon timely receipt of a written request for an administrative hearing, the City Manager shall conduct a hearing. Absent a timely request by the appellant for a continuance, which request is granted, the City Manager shall conduct the hearing within 30 calendar days of the City's receipt of the request for the hearing. Notice of time and place of the hearing shall be given by personal service or via certified mail, postage prepaid, at least 15 calendar days in advance of the date set for the hearing. At the hearing, the appellant and the City shall be entitled to present relevant evidence and call witnesses who shall testify under oath and be subject to cross-examination. The scope of the hearing pursuant to this section shall be limited to those issues raised in writing by the appellant, as submitted pursuant to subsection B of this section. The City Manager shall not be bound by the statutory rules of evidence in the conduct of the hearing. Technical rules relating to evidence and witnesses shall not apply to hearings provided for in this chapter. Any relevant evidence may be admitted if it is material and of a type that is customarily relied upon by responsible persons in the conduct of their affairs regardless of the existence of any common law or statutory rule which might make admission of such evidence improper over objection in civil actions. Hearsay testimony may be admissible and used for the purpose of supplementing or explaining any evidence given in direct examination, but shall not be sufficient in itself to support a finding unless such testimony would be admissible over objection in civil actions. The rules of privilege shall be applicable to the extent permitted in civil actions. Irrelevant, collateral, undue, and repetitious testimony shall be excluded.

D. At the conclusion of the hearing, the City Manager shall decide whether grounds for denial, nonrenewal, revocation or suspension exist and shall uphold, modify or overturn the decision of the Police Chief, stating factual findings, and his or her conclusion. The decision of the City Manager shall be final.

E. In the event that an operator's permit is suspended, revoked or expires, the massage establishment shall surrender the operator's permit to the Police Chief no later than the end of the third business day after the suspension or revocation decision becomes final or the expiration occurs. (Ord. 2856 § 1, 2015)

#### **5.12.140 Burden of Proof at Hearings**

Unless otherwise specifically provided by law, the burden of proof shall be on the City in any administrative hearing under this chapter to establish by a preponderance of the evidence that: (a) an application for an operator's permit shall be denied; or (b) an operator's permit shall be suspended, revoked, or not renewed. (Ord. 2856 § 1, 2015)

#### **5.12.150 Resubmission after Denial or Revocation**

In the event an operator's permit for a proposed or existing massage establishment is denied or revoked pursuant to this chapter, the owner or operator of such massage establishment may not resubmit an application for an operator's permit for a period of one year from the effective date of such denial or revocation, unless accompanied by sufficient evidence that the grounds for denial or revocation of the operator's permit no longer exist. For purposes of this section, the effective date of a denial or revocation of an operator's permit shall be the later of: (a) the date written notice of denial or revocation of the operator's permit by the Police Chief pursuant to Section 5.12.130(B) is deposited in the United States mail; or (b) the date of the decision of the City Manager following an administrative hearing pursuant to Section 5.12.130(D) becomes final. (Ord. 2856 § 1, 2015)

#### **5.12.160 Judicial Review**

Judicial review of any decision of the City Manager may be made pursuant to Section 1094.5 of the California Code of Civil Procedure only if the petition for writ of mandate is filed no later than the 90th day following the date on which the decision becomes final. If the date is not otherwise specified, the decision is final on the date it is made. In issuing a final decision, the City Manager shall provide notice to the appellant (as defined in Section 5.12.130) that the time within which judicial review must be sought is governed by Section 1094.6 of the California Code of Civil Procedure. (Ord. 2856 § 1, 2015)

### **5.12.170 No Refund of Business Licenses Taxes**

No refund or rebate of business licenses taxes shall be allowed by reason of the fact that the massage establishment discontinues an activity for which a business license tax is required, or because the operator's permit is suspended or revoked. (Ord. 2856 § 1, 2015)

### **5.12.180 Violations, Penalties, and Enforcement Remedies**

A. Violations of this chapter shall be a misdemeanor. Any person violating any provision of this chapter shall be subject to criminal and/or administrative citations or civil actions, pursuant to Chapters 1.04 and 1.22 of the Garden Grove Municipal Code.

B. Injunctive relief may be instituted by the City Attorney, in addition to or separate from, criminal and/or administrative sanctions, pursuant to Garden Grove Municipal Code Section 1.04.090.

C. In addition to the above-described remedies, the City Council hereby authorizes the following administrative abatement process with respect to massage establishments conducted in violation of this chapter.

1. The City Council hereby finds and declares that the conducting of a massage establishment in violation of any provision of this chapter to be detrimental to the public health, safety, and general welfare of the community, and therefore a public nuisance as defined by Civil Code Section 3480.

2. Whenever the Police Chief determines that any massage establishment, premises or property is operated in violation of any provision of this chapter, the Police Chief may give notice to the responsible party stating the violation of this chapter and the conditions that constitute a public nuisance. The notice shall set a reasonable date, not less than 10 business days from date of service, for a public hearing to be held by the City Council as to why the business should not be closed, or otherwise subjected to special conditions regarding further operation of the business. The notice shall be personally served or mailed by certified mail to the responsible party.

3. After the conduct of the hearing by the City Council, the City Council shall make a determination as to whether a public nuisance exists. The City Council may adopt an abatement order with written findings in support of its determination. If a public nuisance finding is made, the City Council shall issue an abatement order to close the business or otherwise impose operating conditions on the business so as to bring the business in compliance with this chapter. The order shall then be served by first-class mail on the responsible party.

4. If such nuisance is not abated as directed in the abatement order, then the City Attorney may file a civil action to enjoin further operation of the business.

D. Nothing in this section shall preclude the City from pursuing any other legally available enforcement remedies. (Ord. 2856 § 1, 2015)

### **5.12.190 Authority**

A. The Police Chief shall have the power and authority to promulgate rules, regulations, and requirements consistent with the provisions of this chapter and other law in connection with the issuance of an operator's permit. The Police Chief may designate an employee of his or her department to make decisions, investigate, or take any other action permitted or required under this chapter.

B. Pursuant to California Business and Professions Code Section 4614(b), as it may be amended from time to time, the Police Chief is authorized to transmit to CAMTC copies of any final action of denial of an operator's permit

application, or revocation or suspension of an operator's permit occurring pursuant to this chapter. The Police Chief is also authorized to transmit information to CAMTC concerning: (1) any information related to criminal activity or unprofessional conduct allegedly engaged in by any certified massage practitioner or any other person providing massage services in the City, including, but not limited to, police reports and declarations of conduct. (Ord. 2856 § 1, 2015)

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RESOLUTION NO. 5950-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-149-2019 TO ALLOW THE OPERATION OF AN APPROXIMATELY 900 SQUARE FOOT MASSAGE ESTABLISHMENT WITHIN THE TENANT SPACE IDENTIFIED BY THE ADDRESS 9106 GARDEN GROVE BOULEVARD WITHIN AN EXISTING MULTI-TENANT STRIP SHOPPING CENTER LOCATED ON PROPERTY LOCATED ON THE SOUTH SIDE OF GARDEN GROVE BOULEVARD, BETWEEN MAGNOLIA STREET AND CANNERY STREET, AND IDENTIFIED AS ASSESSOR'S PARCEL NO. 097-364-04.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on February 21, 2019, does hereby approve Conditional Use Permit No. CUP-149-2019 for a portion of a parcel of land located on the south side of Garden Grove Boulevard, between Magnolia Street and Cannery Street, at 9106 Garden Grove Boulevard, Assessor's Parcel No. 097-364-04, subject to the Conditions of Approval attached hereto as "Exhibit A".

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-149-2019, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Thu Pham Anh Nguyen, with authorization of the owner of the subject property, Mia Kim Park.
2. The applicant is requesting Conditional Use Permit (CUP) approval to operate a new 900 square foot massage establishment, Healthy Spa Massage, located at 9106 Garden Grove Boulevard, within an existing multi-tenant commercial center on a parcel of property identified as Assessor's Parcel No. 097-364-04.
3. The Planning Commission has determined that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities, and Section 15303, New Construction or Conversion of Small Structures, of the CEQA Guidelines (14 Cal. Code Regs., Sections 15301 and 15303).
4. The property has a General Plan Land Use Designation of Residential/ Commercial Mixed Use 1, and is zoned GGMU-3 (Garden Grove Boulevard Mixed Use 3). A massage establishment is a conditionally permitted use in the GGMU-3 zone, subject to satisfaction of the conditions set forth in Garden Grove Municipal Code Section 9.18.030.245. The subject site is improved with an existing multi-tenant commercial 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 February 21, 2019, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting on February 21, 2019, and considered all oral and written testimony presented regarding the project.

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 9.32.030, are as follows:

FACTS:

The subject site is improved with an existing multi-tenant commercial center, located on the south side of Garden Grove Boulevard, between Magnolia Street and Cannery Street. The center includes seven (7) tenant spaces and includes several retail uses, a bakery, and other commercial related uses. The tenant space under application is a 900 square foot space and was previously occupied by Sejong Copy & Printing, a printing shop and equipment repair business, which closed its business in 2012, according to Business Tax records. The tenant space has remained vacant ever since.

The subject property is zoned GGMU3 (Garden Grove Boulevard Mixed Use 3) with a General Plan Land Use Designation of Residential/Commercial Mixed Use 1. The property is adjacent to GGMU3 zoned properties to the east, west and south, and GGMU2 (Garden Grove Boulevard Mixed Use 2) zoned properties to the north, across Garden Grove Boulevard.

The subject tenant space is not located closer than 1,000 feet from any other existing massage establishment, and the entrance of the proposed massage establishment is oriented to and directly faces a primary arterial street, Garden Grove Boulevard. The Conditions of Approval limit the hours of operation to between 10:00 a.m. to 8:00 p.m. Operation of the proposed massage establishment will be subject to all provisions of Chapter 5.12 of the Garden Grove Municipal Code. The applicant previously submitted an application to the Business Tax and License Division and the Police Department for a massage establishment operator permit. The applicant has cleared the Police Department's background check and the application process. A massage establishment operator permit (Permit #M126) has been issued, and is contingent on the approval and effectiveness of Conditional Use Permit No. CUP-149-2019. As conditioned, the proposed massage establishment will satisfy the requirements for massage establishments set forth in Garden Grove Municipal Code Section 9.18.030.245.

FINDINGS AND REASONS:

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 Residential/Commercial Mixed Use 1 and is zoned GGMU-3 (Garden Grove Boulevard Mixed Use 3). The City expressly created the GGMU-3 zoning district to implement the Residential/Commercial Mixed Use 1 General Plan Land Use Designation. A "massage establishment" use is conditionally permitted in the GGMU-3 zone. Therefore, provided that the conditions of approval are complied with, the use will be consistent with the General Plan.

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 massage establishment use is compatible with the existing retail uses in the integrated commercial shopping center. Additionally, operation of the proposed massage establishment use is not anticipated to impact parking that is available to the existing tenants located within the integrated shopping center since there is ample on-site parking to support the proposed use and the existing uses on-site. The proposed massage establishment will be subject to all provisions of Chapter 5.12 of the Garden Grove Municipal Code and the conditions of approval, which will minimize potential impacts to property and 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 in the area.

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 proposed massage establishment will be located within a 900 square foot tenant space within an existing multi-tenant commercial center. No additional yards, walls, fences, parking or loading facilities, or landscaping are required. The site, with the existing site improvements and modifications, is of adequate size to accommodate the proposed use and to ensure it is integrated with the other uses in the surrounding area. The Public Works Department has reviewed the plans and all appropriate conditions of approval to minimize adverse impacts to surrounding areas have been incorporated.

The subject tenant space was previously occupied by a printing shop and equipment repair business. For a massage establishment, the Municipal Code requires one (1) parking space per 200 square feet of gross floor area, which is identical to the parking requirements for a printing use, which is also one (1) parking space per 200 square feet of gross floor area. Considering that the prior use and proposed use have identical parking requirements, parking demand is not expected to change.

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 Garden Grove Boulevard and has accessible driveways providing both ingress and egress. 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 FINDINGS SET FORTH IN THE STAFF REPORT

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Conditional Use Permit No. CUP-149-2019 does possess characteristics that would indicate justification of the request in accordance with Municipal Code Sections 9.32.030 (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-149-2019.

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-149-2019**

9106 Garden Grove Boulevard

#### **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, 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 Planning Commission, except as otherwise provided herein.
3. Conditional Use Permit No. CUP-149-2019 only authorizes the operation of a 900 square foot massage establishment within that certain tenant space identified as 9106 Garden Grove Boulevard and depicted on the plans submitted by the applicant and made part of the record of the February 21, 2019 Planning Commission proceedings. 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 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 use, floor plan, site plan and/or these Conditions of Approval 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.
5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.



**Police Department**

6. The permitted hours of operation shall be between 7:00 a.m. to 10:00 p.m., seven (7) days a week. In the event that problems arise concerning the operation of this business, the hours of operation may be reduced by order of the Chief of the Police Department.
7. There shall be no customers or patrons in or about the premises when the establishment is closed.
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. In the event security problems occur, and at the request of the Police Department, the permittee, at his/her own expense, shall provide a California licensed, uniformed security guard(s) on the premises during such hours as requested by the Police Department.
10. The sale of alcohol for consumption on or off the premises is prohibited. There shall be no consumption of alcoholic beverages on the premises.
11. Any violations or noncompliance with the conditions of approval may result in the issuance of an Administrative Citation up to \$1,000 pursuant to GGMC 1.22.010(a).
12. A sign shall be posted on the exterior of the building noticing that there shall be no illegal dumping around the premises of the establishment.

**Fire Department**

13. The occupant load shall be determined by the Fire Department, and shall be posted in the tenant space in a location approved by the Fire Department.
14. If the building is fire sprinklered, the applicant shall provide fire sprinkler plans for review and approval by the Fire Department.

**Public Works Water Services Division**

15. Should a new water meter or meter upgrade be proposed, installations 2" and smaller, shall be installed by the City of Garden Grove at owner's/developer's expense. Installation shall be scheduled 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.

16. If needed, 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 approved Public Works inspection.
17. If not already installed, 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.
18. Any new or existing water valve located within new concrete driveway or sidewalk construction shall be reconstructed per City Standard B-753.
19. If required, fire service 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. Contact Water Engineering for additional requirements for plan submittal at (714) 741-5346.
20. If needed, owner shall install new sewer lateral with clean out at right-of-way line. Lateral in public right-of-way shall be 6" min. dia., extra strength VCP with wedgelock joints.
21. Contractor shall abandon any existing unused sewer lateral(s) at street right-of-way on the property owner's side. The sewer pipe shall be capped with an expansion sewer plug and encased in concrete.

### **Public Works Engineering Division**

22. The applicant shall be subject to Traffic Mitigation Fees, and other applicable mitigation fees identified in Chapter 9.44 of the Garden Grove Municipal Code, along with all other applicable fees duly adopted by the City. The

amount of said fees shall be calculated based on the City's current fee schedule at the time of permit issuance.

**Community and Economic Development Department**

23. The establishment shall only be operated as a "massage establishment" use as defined in the Municipal Code. The massage establishment, each owner, operator and manager thereof, and each person providing massage services on the premises shall comply with all provisions of Chapter 5.12 of the Garden Grove Municipal Code (Massage Regulations) at all times. Further, each person engaged in the business of massage on the premises shall obtain and maintain an operator's permit from the Police Chief pursuant to Chapter 5.12. No massage services may be provided on the premises without a current and valid operator's permit for the premises. The failure to maintain a valid operator's permit and/or to comply with said permit and all provisions of Chapter 5.12 shall be grounds for revocation of Conditional Use Permit No. CUP-149-2019.
24. All activities associated with the massage establishment shall be conducted within a fully enclosed permanent building.
25. No area of the premises may be rented out or used for private parties at any time.
26. No outside storage or displays shall be permitted at any time.
27. 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 entrance, and shall also be visible to the public.
28. No live entertainment, i.e., dancing, karaoke, live music, sport bar or disc-jockey entertainment, etc., shall be permitted on the premises. Amplified music may be permitted, but the sound emitted from the premises shall not be audible outside the boundaries of the establishment. No intercom or music is permitted in any outdoor areas of the premises.
29. Parking for the massage establishment is provided in a shared lot within the shopping center. If, at any time, the shopping center cannot accommodate the parking demand generated by the massage establishment resulting in a nuisance, hindrance, and/or problem with either on-site and off-site parking

and circulation, the applicant shall devise and implement a plan, prepared by a licensed traffic engineer and approved by the City, to relieve the situation.

Upon written request by the City, the applicant shall submit a plan to manage the parking issues for review and approval by the Community and Economic Development Department. The plan may include, but is not be limited to: reducing the hours of operation, instituting an off-site parking arrangement; having on-site parking control personnel; and/or other actions that may be deemed applicable to the situation.

If the City's Community and Economic Development Director deems such action is necessary to address parking and circulation problems, such action shall be implemented within 30 days of written notice. Failure to take appropriate action shall be deemed a violation of these Conditions of Approval and may result in the City restricting the overall use of the facility and/or revocation of Conditional Use Permit No. CUP-149-2019.

30. There shall be no uses or activities permitted of an adult-oriented nature as outlined in City Code Section 9.16.020.070.
31. There shall be no deliveries to or from the premises before 10:00 a.m. and after 8:00 p.m., seven (7) days a week.
32. All rear doors shall be kept closed at all times, except to permit employee ingress and egress, and in emergencies.
33. 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.
34. All trash bins shall be kept inside the trash enclosure(s), and gates closed at all times, except during disposal and pick-up. The applicant shall provide sufficient trash bins and pick-up to accommodate the site. Trash pick-up shall be at least once per week.
35. The applicant shall abate all graffiti vandalism within the premises. The applicant shall implement best management practices to prevent and abate graffiti vandalism within the premises throughout the life of the project, including, but not limited to, timely removal of all graffiti, the use of graffiti resistant coatings and surfaces, the installation of vegetation screening of frequent graffiti sites, and the installation of signage, lighting, and/or security cameras, as necessary. Graffiti shall be removed/eliminated by the applicant

as soon as reasonably possible after it is discovered, but not later than 72 hours after discovery.

36. 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.
37. 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.
38. 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 material shall be placed thereon.
39. Permits from the City of Garden Grove shall be obtained prior to displaying any temporary advertising (i.e., banners).
40. 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. Any opaque material applied to the store front, such as a window shall count toward the maximum window coverage area.
41. Any modifications 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.
42. 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-149-2019. 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.
43. A copy of the decision approving Conditional Use Permit No. CUP-149-2019 shall be kept on the premises at all times.
  44. The permittee shall submit a signed letter acknowledging receipt of the decision approving Conditional Use Permit No. CUP-149-2019, and his/her agreement with all conditions of the approval.
  45. Any Conditional Use Permit previously governing the subject tenant space shall become null and void, and superseded in its entirety, by the approval of Conditional Use Permit No. CUP-149-2019.
  46. The tenant space shall fully comply with the applicable 2016 California Building Code Standards, including Chapter 11B for accessibilities.
  47. If deemed necessary by the Community and Economic Development Director, this Conditional Use Permit may be reviewed periodically by the City in order to determine if the business is operating in compliance with all Conditions of Approval. On a yearly basis, as determined by Staff, the business operator shall meet with members of the Planning Department and Police Department to discuss operating conditions of the business and to determine if the business is operating in compliance with the Conditions of Approval.
  48. 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-149-2019 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.