



AGENDA
CITY COUNCIL/SUCCESSOR AGENCY/STANTON HOUSING AUTHORITY
JOINT REGULAR MEETING
STANTON CITY HALL, 7800 KATELLA AVENUE, STANTON, CA
TUESDAY, JULY 11, 2017 - 6:30 P.M.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (714) 890-4245. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

The City Council agenda and supporting documentation is made available for public review and inspection during normal business hours in the Office of the City Clerk, 7800 Katella Avenue, Stanton California 90680 immediately following distribution of the agenda packet to a majority of the City Council. Packet delivery typically takes place on Thursday afternoons prior to the regularly scheduled meeting on Tuesday. The agenda packet is also available for review and inspection on the city's website at www.ci.stanton.ca.us, at the public counter at City Hall in the public access binder, and at the Stanton Library (information desk) 7850 Katella Avenue, Stanton, California 90680.

- 1. CLOSED SESSION (6:00 PM)**
- 2. ROLL CALL**
 - Council Member Donahue
 - Council Member Ethans
 - Council Member Ramirez
 - Mayor Pro Tem Shawver
 - Mayor Warren
- 3. PUBLIC COMMENT ON CLOSED SESSION ITEMS**

Closed Session may convene to consider matters of purchase / sale of real property (G.C. §54956.8), pending litigation (G.C. §54956.9(a)), potential litigation (G.C. §54956.9(b)) or personnel items (G.C. §54957.6). Records not available for public inspection.

4. CLOSED SESSION

4A. CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d) (2)

Number of Potential Cases: 5

4B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Existing litigation pursuant to Government Code section 54956.9(d)(1)

Number of cases: 1

City of Stanton vs. Green Tree Remedy et al, Orange County Superior Court Case Number: 30-2015-00813225-CU-JR-CJC

5. CALL TO ORDER / SUCCESSOR AGENCY / STANTON HOUSING AUTHORITY MEETING

- 6. ROLL CALL** Agency/Authority Member Donahue
Agency/Authority Member Ethans
Agency/Authority Member Ramirez
Vice Chairman Shawver
Chairperson Warren

7. PLEDGE OF ALLEGIANCE

8. SPECIAL PRESENTATIONS AND AWARDS

8A. Presentation by Orange County District Attorney Tony Rackauckas sharing their mission with the City Council and providing information on their current efforts to combat human exploitation and trafficking in Orange County.

8B. Presentation by the Orange County Local Agency Formation Commission (LAFCO); sharing their mission with the City Council and providing information on their current operations.

8C. Monthly Spotlight – Parks and Recreation Month.

9. CONSENT CALENDAR

All items on the Consent Calendar may be acted on simultaneously, unless a Council/Board Member requests separate discussion and/or action.

CONSENT CALENDAR

9A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED

RECOMMENDED ACTION:

City Council/Agency Board/Authority Board waive reading of Ordinances and Resolutions.

9B. APPROVAL OF WARRANTS

City Council approve demand warrants dated June 22, 2017 and June 29, 2017, in the amount of \$395,152.40.

9C. AWARD OF CONSTRUCTION CONTRACT FOR THE THUNDERBIRD LANE SEWER AND STREET IMPROVEMENTS PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

The seven bids for the Thunderbird Lane Sewer and Street Improvements Project was opened on June 15, 2017. Based on the post-bid analysis of the bids received, staff recommends the bid submitted by Beador Construction Company Inc. to be responsible and responsive.

The construction cost for the Thunderbird Lane Sewer and Street Improvements Project is estimated at \$621,300.00, which includes a 10-percent contingency and 10-percent for construction management services.

RECOMMENDED ACTION:

1. City Council approve the plans and specifications for the Thunderbird Lane Sewer and Street Improvements Project; and
2. Approve Budget Adjustment No. 2018-01 to appropriate \$200,000 to the Sewer Improvements account of the Sewer Maintenance Fund for this project; and

3. Award a construction contract for the Thunderbird Lane Sewer and Street Improvements Project to the lowest responsible bidder, Beador Construction Company Inc., for the amount of \$517,700.00; and
4. Authorize the City Manager to bind the City of Stanton and Beador Construction Company Inc. in a contract for the construction of the Thunderbird Lane Sewer and Street Improvements Project; and
5. Declare this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
6. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

END OF CONSENT CALENDAR

10. PUBLIC HEARINGS

10A. APPEAL OF TO THE CITY COUNCIL TO MODIFY A CERTAIN CONDITION IN RESOLUTION NO. 2430 FOR CONDITIONAL USE PERMIT C17-02 ADOPTED BY THE PLANNING COMMISSION, TO ALLOW FOR THE SALE OF SINGLE SERVE BEER CONTAINERS IN CONJUNCTION WITH THE OPERATION OF A MINI-MART WITH THE SALE OF BEER, WINE AND SPIRITS FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD. IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY AVTAR SINGH

This is an appeal of the Planning Commission decision to the City Council to modify a certain condition of approval for Conditional Use Permit C17-02 to allow for the sale of single serve beer containers in conjunction with the operation of a mini-mart with the sale of beer, wine and spirits for the property located at 10480 Beach Boulevard.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and
2. Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
3. Either uphold the Planning Commission decision to not allow the sale of single serve beer containers and deny the appeal; or reverse the Planning Commission decision and allow the sale of single serve beer containers and grant the appeal; and
4. Direct staff to draft a Resolution memorializing the City Council decision.

10B. APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-03 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 7013 KATELLA AVENUE, #B IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY VAN VAN LE

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. City Council hold a public hearing; and
2. Find that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use; and
3. Consider Resolution No. 2017-29 upholding the Planning Commission's denial of Conditional Use Permit C16-03 and denying the Applicant's appeal, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-03, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 7013 KATELLA AVE. #B IN THE CG (COMMERCIAL GENERAL) ZONE AND DENYING THE APPLICANT'S APPEAL" .

10C. APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-13 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 11855 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY VAN HO

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. City Council hold a public hearing; and
2. Find that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use; and
3. Consider Resolution No. 2017-30 upholding the Planning Commission's denial of Conditional Use Permit C16-13 and denying the Applicant's appeal, entitled:

“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-13, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 11855 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE”.

10D. APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-16 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 12108-12110 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY ANH THU HUYNH PHU

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. City Council hold a public hearing; and
2. Find that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use; and
3. Consider Resolution No. 2017-28 upholding the Planning Commission's denial of Conditional Use Permit C16-16 and deny the Applicant's appeal, entitled:

“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-16 AND DENYING THE APPEAL, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 12108-12110 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE”.

10E. APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-22 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 10450 BEACH BOULEVARD #115 IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY TRUC SU

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. City Council hold a public hearing; and
2. Find that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use; and
3. Consider Resolution No. 2017-31 upholding the Planning Commission's denial of Conditional Use Permit C16-22 and deny the Applicant's appeal, entitled:

“A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-22, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 10450 BEACH BOULEVARD #115 IN THE CG (COMMERCIAL GENERAL) ZONE”.

11. UNFINISHED BUSINESS None.

12. NEW BUSINESS

12A. RESOLUTION TO TRANSITION TO DISTRICT ELECTIONS

The City is considering transitioning to by-district elections. The first step in transitioning to district-based elections is adoption of a resolution of intention. Staff has prepared a resolution of intention to transition from at-large to district-based elections pursuant to Government Code Section 34871 and Election Code Section 10010 for the 2018 general municipal election. The purpose of this report is to present the resolution for Council consideration.

RECOMMENDED ACTION:

1. Discussion on the proposed Resolution to Transition to District Elections, Resolution No. 2017-32; and
2. Declare that the project is not subject to the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Moreover, this Ordinance is statutorily exempt from further CEQA review under Section 15262 (feasibility and planning studies); and
3. That the City Council adopt Resolution No. 2017-32, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS PURSUANT TO CALIFORNIA ELECTION CODE SECTION 10010(e)(3)(A)".

13. ORAL COMMUNICATIONS - PUBLIC

At this time members of the public may address the City Council/Successor Agency/Stanton Housing Authority regarding any items within the subject matter jurisdiction of the City Council/Successor Agency/Stanton Housing Authority, provided that NO action may be taken on non-agenda items.

- Members of the public wishing to address the Council/Agency/Authority during Oral Communications-Public or on a particular item are requested to fill out a REQUEST TO SPEAK form and submit it to the City Clerk. Request to speak forms must be turned in prior to Oral Communications-Public.
- When the Mayor/Chairman calls you to the microphone, please state your Name, slowly and clearly, for the record. A speaker's comments shall be limited to a three (3) minute aggregate time period on Oral Communications and Agenda Items. Speakers are then to return to their seats and no further comments will be permitted.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council/Agency/Authority and Staff need to be recognized by the Mayor/Chairman before speaking.

14. WRITTEN COMMUNICATIONS None.

15. MAYOR/CHAIRMAN COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS

15A. COMMITTEE REPORTS/ COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS

At this time Council/Agency/Authority Members may report on items not specifically described on the agenda which are of interest to the community provided no discussion or action may be taken except to provide staff direction to report back or to place the item on a future agenda.

15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE MEETING

At this time Council/Agency/Authority Members may place an item on a future agenda.

15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION

At this time Council/Agency/Authority Members may place an item on a future study session agenda.

Currently Scheduled:

- None.

15D. LAFCO COUNTY ISLAND REPORT

This is a report on the three remaining County unincorporated islands located within the City's Sphere of Influence. The report details the anticipated revenues from property and sales tax, costs for maintenance and services, open code enforcement cases, and road conditions.

RECOMMENDED ACTION:

1. City Council declare that the project is not subject to the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. Receive and file report, and provide staff with direction.

15E. CITY COUNCIL INITIATED ITEM — DISCUSSION REGARDING THE POSSIBILITY OF UTILIZING A GRAFFITI REPORTING APP

At the March 28, 2017 City Council meeting, the City Council directed staff to proceed with researching implementation of a Graffiti App, provide a cost analysis, and to report staff's findings to the City Council at a future meeting.

RECOMMENDED ACTION:

Receive and file report, and provide staff with direction.

15F. CITY COUNCIL INITIATED ITEM — DISCUSSION REGARDING THE POSSIBILITY OF MODELING THE NEIGHBORHOOD LEADERSHIP PROGRAM FOR A STANTON BUSINESS LEADERSHIP PROGRAM TO INCORPORATE THE CITY'S BUSINESSES AND OBTAIN A STRONG LOCAL BUSINESS REPRESENTATION

At the June 13, 2017 City Council meeting, Mayor Pro Tem Shawver requested that this item be agendaized for discussion.

RECOMMENDED ACTION:

City Council provide direction to staff.

15G. CITY COUNCIL INITIATED ITEM — DISCUSSION REGARDING CREATING A PROGRAM TO PROVIDE LOCAL BIDDERS, LOCAL PREFERENCE WHEN THE CITY GOES OUT TO BID FOR PROJECTS

At the June 13, 2017 City Council meeting, Mayor Pro Tem Shawver requested that this item be agendaized for discussion.

RECOMMENDED ACTION:

City Council provide direction to staff.

16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

17A. ORANGE COUNTY FIRE AUTHORITY

At this time the Orange County Fire Authority will provide the City Council with an update on their current operations.

18. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, the foregoing agenda was posted at the Post Office, Stanton Community Services Center and City Hall, not less than 72 hours prior to the meeting. Dated this 6th day of July, 2017.

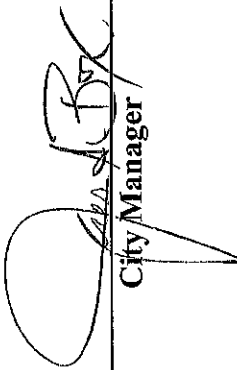
s/ Patricia A. Vazquez, City Clerk/Secretary

CITY OF STANTON ACCOUNTS PAYABLE REGISTER


June 22, 2019	\$163,050.55
June 29, 2017	\$232,101.85

\$395,152.40

Demands listed on the attached registers conform to the City of Stanton Annual Budget as approved by the City Council.


City Manager

Demands listed on the attached registers are accurate and funds are available for payment thereof.


Administrative Services Director

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: July 11, 2017

SUBJECT: AWARD OF CONSTRUCTION CONTRACT FOR THE THUNDERBIRD LANE SEWER AND STREET IMPROVEMENTS PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

REPORT IN BRIEF:

The seven bids for the Thunderbird Lane Sewer and Street Improvements Project was opened on June 15, 2017. Based on the post-bid analysis of the bids received, staff recommends the bid submitted by Beador Construction Company Inc. to be responsible and responsive.

The construction cost for the Thunderbird Lane Sewer and Street Improvements Project is estimated at \$621,300.00, which includes a 10-percent contingency and 10-percent for construction management services.

RECOMMENDED ACTION:

1. Approve the plans and specifications for the Thunderbird Lane Sewer and Street Improvements Project; and
2. Approve Budget Adjustment No. 2018-01 to appropriate \$200,000 to the Sewer Improvements account of the Sewer Maintenance Fund for this project.
3. Award a construction contract for the Thunderbird Lane Sewer and Street Improvements Project to the lowest responsible bidder, Beador Construction Company Inc., for the amount of \$517,700.00; and
4. Authorize the City Manager to bind the City of Stanton and Beador Construction Company Inc. in a contract for the construction of the Thunderbird Lane Sewer and Street Improvements Project; and
5. Declare this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
6. Authorize the City Manager to approve contract changes, not to exceed 10-percent.

BACKGROUND:

The area within the project limits has experienced numerous sewer issues in the past several years and the City's recently completed Sewer Master Plan recommends this project as high priority for the capacity improvement projects. This project will include the installation of a new 8" sewer line parallel to the existing 8" sewer line and the paving of the street along the line installation.

The estimated project cost of \$621,300.00 is as follows:

Base Bid (Beador Construction Company Inc.)	\$ 517,700.00
Construction Contingency (10%)	\$ 51,770.00
Construction Management Cost (10%)	\$ 51,770.00
Total Estimated Project Cost (rounded up to nearest hundred)	\$ 621,300.00

This project will require construction management services which are expected to cost approximately 10-percent of the contract cost which has been included in the table above. The contract for construction management services will be brought back before City Council when a pre-qualified firm has been selected to perform the services.

ANALYSIS/JUSTIFICATION:

The project was advertised for bids on May 25, 2017. Notices announcing the solicitation of bids for this project were posted local on F.W. Dodge publication known as the "Green Sheets" and on Bid America. Staff also sent the notice inviting bids to local contracting companies familiar with the City that have bid on similar projects locally.

The bids were publicly opened on June 15th, 2017 at 2:00 p.m. Seven (7) bids were received:

Rank	Company	Bid
1	Beador Construction Company Inc.	\$ 517,700.00
2	GRFCO, INC.	\$ 564,404.25
3	Palp Inc. DBA Excel Paving Company	\$ 582,498.50
4	Sully-Miller Contracting Company	\$ 602,500.00
5	KANA Pipeline, Inc.	\$ 883,567.75
6	Vasilj Inc.	\$ 920,520.00
7	Harry H. Jon Construction	\$ 1,402,026.70

Staff has reviewed the submitted bid documents and found Beador Construction Company Inc. in compliance with the contract documents. A check of the references submitted indicates that the bidder has successfully completed similar projects within Southern California. Upon successful execution of the contract documents, the project is expected to begin construction in August. The contractor will have approximately ten (10) weeks to complete the project.

FISCAL IMPACT:

This project was budgeted for the FY 17/18 Capital Improvement Program. With the approval of Budget Adjustment No. 2018-01, funds for the project are available in the Sewer Maintenance Fund account number 501-3700-730105. This project will not have any impact on the General Fund.

ENVIRONMENTAL IMPACT:

This project is categorically exempt under the California Environmental Quality Act, Class 1, and Section 15301c as replacement of existing facilities.

LEGAL REVIEW:

None.


PUBLIC NOTIFICATION:

Notifications and advertisement were performed as prescribed by law.


STRATEGIC PLAN OBJECTIVE ADDRESSED:

3 - Provide a quality infrastructure.

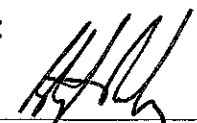
Prepared by:


Guillermo Perez
Engineering Assistant

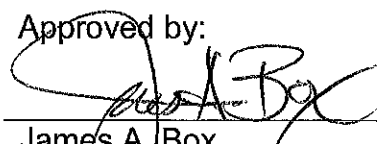
Reviewed by:


Allan Rigg, P.E. AICP
Director of Public Works

Concur:


Stephen Parker, CPA
Administrative Services Director

Approved by:


James A. Box
City Manager

Attachments:

- 1) Thunderbird Sewer and Street Improvements Project Contract
- 2) Copy of Bid
- 3) Budget Adjustment No. 2018-01

**CITY OF STANTON
CONTRACT**

Thunderbird Lane Sewer and Street Improvement Project

I.

This Contract is made and entered into on the 11th Day of July, 2017 by and between the City of **Stanton**, a California General Law Municipal Corporation ("City") and Bador Construction Company, Inc. ("Contractor"). City and Contractor, based upon their mutual promises contained herein and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

The complete Contract includes all of the Contract Documents, to wit:

- A. Advertisement for Bids
- B. Information for Bidders
- C. Bid, dated
- D. Payment Bond
- E. Contract Performance Bond
- F. Certificates of Insurance, Certified Copies of Insurance Policies, and Endorsements
- G. Certified Copy of the record of action of the City Council of City of Stanton, Stanton, California.
- H. Latest Edition, Standard Specifications for Public Works Construction.

Each of such documents in their entirety are incorporated herein by this reference as if set forth in full.

II. BID AMOUNTS

The Contractor agrees to perform the work set forth and particularly described in the aforementioned documents, incorporated herein by reference, in consideration of the amount of the BASE BID, to wit: \$ 517,700.00.

III. BONDS

Contractor shall furnish a Labor and Material Bond in an amount equal to one-hundred percent (100%) of the Contract Price, and a Faithful Performance Bond in an amount equal to one-hundred percent (100%) of the Contract Price, said bonds to be secured from a surety company admitted and authorized to do business in California as such.

IV. INDEMNITY

Contractor and City agree that City, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys fees, litigation costs, defense costs, court costs, or any other cost arising out of or in any way related to the performance of this agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City. Contractor acknowledges that City would not enter into this agreement in the absence of the commitment of Contractor to indemnify and protect City as set forth here.

To the full extent permitted by law, Contractor shall defend, indemnify and hold harmless City, its employees, agents, and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, whether actual, alleged or threaten, actual attorney fees incurred by City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way attributable actually or impliedly, in whole or in part to the performance of this agreement. All obligations under this provision are to be paid by Contractor as they are incurred by the City.

Without affecting the rights of City under any provision of this agreement or this section, Contractor shall not be required to indemnify and hold harmless City as set forth above for liability attributable to the sole fault of City, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault and not in instances where Contractor is solely or partially at fault or in instances where City's fault accounts for only a percentage of the liability involved. In those instances, the obligation of Contractor will be all-inclusive and City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to conduct of the City.

Contractor acknowledges that its obligation pursuant to this section extends to liability attributable to City, if that liability is less than the sole fault of City. Contractor has no obligation under this agreement for liability proven in a court of competent jurisdiction or by written agreement between the parties to be the sole fault of City.

The obligations of Contractor under this or any other provision of this agreement will not be limited by the provisions of any workers compensation act or similar act. Contractor expressly waives its statutory immunity under such statues or laws as to City, its employees and officials.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, subtier contractor

or any other person or entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.

Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this agreement or this section.

V. INSURANCE

The Contractor shall secure and maintain throughout the term of the Contract the following types of insurance with limits as shown:

Workers Compensation - A program of Workers Compensation Insurance or a State-approved self Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with One-Million Dollars (\$1,000,000.00) limits, covering all persons providing services on behalf of the Contractor and all risks to such persons under this Contract.

General Liability - Such general liability insurance shall be written with a limit of liability of not less than Two-Million Dollars (\$2,000,000.00) combined single limits for damages arising out of bodily-injury, including sickness and death, injury to or destruction of property of others, arising directly or indirectly out of or in connection with the performance of the Work under the Contract Documents including explosion, collapse, and underground exposure.

Vehicle Liability - Such vehicle liability insurance shall be written with a limit of liability of not less than One-Million Dollars (\$1,000,000.00) combined single limits for all bodily injury, including sickness and death or injury to or destruction of property of others, arising directly or indirectly out of or in connection with the performance of the Work under the Contract Documents including explosion, collapse, and underground exposure.

If the City determines to require the Contractor to procure such insurance, such insurance shall cover as insureds under all policies excepting workers compensation the City, its officers, employees, and agents. The policy or policies for such insurance may provide for a deductible amount not to exceed five percent (5%) of the Contract Price. As provided in Section 7105 of the California Public Contract Code, the Contractor is responsible for the cost of repairing or restoring work up to five percent (5%) of the contract amount.

All insurers shall be admitted and authorized to do business in California as insurance carriers.

Contractor shall immediately furnish certificates of insurance and the Contractor shall provide certified copies of all policies and endorsements to the City evidencing the insurance coverage above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the City, and shall maintain such insurance from the time Contractor commences performances of services hereunder until the completion of such services. Within thirty (30) days of award of the contract, Contractor shall provide City with certified copies of all insurance policies required hereunder.

All policies, with respect to the insurance coverage above required, except for the Workers' Compensation Insurance coverage and liability coverage, if applicable, shall obtain additional endorsements covering the City and its officers, employees, and agents, as insureds with respect to liabilities arising out of the performance of services hereunder.

The Contractor shall require the carriers of the above required coverage's to waive all rights of subrogation against the City, its officers, employees, contractors, agents, and subcontractors.

All policies required above are to be primary and noncontributing with any insurance or self-insurance programs carried or administered by the City.

VI. CONTRACT PRICE

The City agrees to pay, and the Contractor agrees to accept in full payment for the work outlined, in the Contract Documents, the sum of five hundred and seventeen thousand, seven hundred dollars and zero cents (\$517,700.00) subject to additions and deductions, if any, in accordance with said documents. Payment shall not be made more often than once each thirty (30) days, nor shall amount paid be in excess of ninety percent (90%) of the Contract at time of completion. Final payment to be made thirty-five (35) days subsequent to filing of Notice of Completion. Contractor may, upon Contractor's written request, and approved by the City Council, at Contractor's expense, deposit eligible substitute securities, as described in Government Code Section 16430, and as authorized by Public Contract Code, Section 22300, in lieu of retention monies withheld to insure performance.

VII. COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence the work required by this Contract within ten (10) days of the date specified in the Notice to Proceed and shall complete the Work within Sixty (60) working days. City and Contractor have discussed the provisions of Government Code Section 53069.85 and the damages which may be incurred by City if the Work is

not completed within the time specified in this Contract. The City and Contractor hereby represent that at the time of signing this Contract, it is impracticable and extremely difficult to fix the actual damage which will be incurred by City if the Work is not completed within the number of calendar days allowed. Accordingly, City and Contractor agree that the sum of One Thousand Dollars (\$1,000.00) per day is a reasonable sum to assess as damages to City by reason of the failure of Contractor to complete the Work within the time specified.

VIII. MISCELLANEOUS

The Contractor acknowledges that, in accordance with Section 1777.5 of the State Labor Code, he/she will be held responsible for compliance with the provisions of this Section for all apprenticeable occupations.

The Contractor hereby waives for himself/herself and for Contractor's Subcontractors any right Contractor may now or in the future possess in relation to this Contract and these Contract Documents and the work thereunder, to utilize the provisions of Civil Code Section 47(b) in any action, proceeding, or prosecution pursuant to California False Claims Act, Government Code Section 12650 et seq.

IX.

Contractor acknowledges and agrees that Contractor must have all appropriate contractor's licenses. Contractor further warrants and represents that he/she/they has/have the appropriate contractor's license to perform the work hereunder. Contractor's failure to have or maintain all appropriate licenses during the entire term of this contract, or any period thereof, shall be cause for the immediate and summary termination of this Contract by City. Contractor shall be liable for all City's costs to complete the work and this Contract.

X.

The person or persons executing this Contract on behalf of Contractor warrants and represents he/she/they has/have the authority to execute this Contract on behalf of his/her/their corporation, partnership, or business entity and warrant and represents that he/she/they has/have the authority to bind Contractor to the performance of its obligations hereunder.

XI.

This Contract contains the completely final, entire, and exclusive agreement between the parties with respect to the subject matter hereof, and no waiver, alteration, or modification of any of the provisions hereof or rights to act hereunder shall be binding unless in writing. Any attempted modification, amendment, or alteration in violation hereof shall be void.

IN WITNESS WHEREOF, each of the parties hereto has caused the Contract to be executed in its name on its behalf by a duly authorized officer as of this day and year first above written.

CITY OF STANTON:

[CONTRACTOR]:

By: _____
CITY MANAGER

By: _____
(Corporate Officer)

Title: _____

ATTEST:

Print Name: _____

By: _____
CITY CLERK

By: _____
(Corporate Officer)

APPROVED AS TO FORM:

Title: _____

Print Name: _____

By: _____
CITY ATTORNEY

NOTARY REQUIRED

Bond No. _____ Bond Premium _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

THAT WHEREAS, the City of Stanton (sometimes referred to hereinafter as "Obligee") has awarded Beador Construction Company, Inc. (hereinafter designated as the "Contractor"), a Contract for the work described as follows:

The work to be constructed hereunder is located in the **City of Stanton**. The work to be done consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the Plans, Specifications and Contract Documents for the above stated project. The general items of work to be done shall consist of the re-painting of concrete medians, and other items of work required to complete the scope of work detailed in the plans and specifications complete and in place.

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for the said Public Work dated April 25, 2017 (hereinafter referred to as the "Public Work Contract"), which Public Work Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Public Work Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, _____, the undersigned Contractor, as Principal, and _____, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the City of Stanton in the sum of _____ Dollars (\$_____) said sum being not less than one-hundred percent (100%) of the total amount payable by the said obligee under the terms of the said Public Work's Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the said Principal, his/her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the said Public Work Contract and any alteration thereof made as therein provided, on his/her or its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill the one-year guarantee of all materials and workmanship; and indemnify and save harmless the Obligee, its officers and agents, as stipulated in said Public Work Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect. In case suit is brought upon this bond, the said Surety will pay to Obligee a reasonable attorneys fee to be fixed by the Court.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Public Work Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on this bond and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the Specifications.

No final settlement between the Obligee and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this day _____ of _____ 20 ____ .

PRINCIPAL:

By: _____

SURETY:

By: _____

Attorney-in-Fact

The rate of premium on this bond is \$ _____ per thousand.

The total amount of premium charged, \$ _____. (The above must be filled in by corporate surety.)

IMPORTANT: Surety companies executing Bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in Section 105 of the California Insurance Code, and if the work or project is financed, in whole or in part, with federal grant or loan funds, must also appear on the Treasury Departments most current list (Circular 570 as amended). **THIS IS A REQUIRED FORM.**

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On this _____ day of _____, in the year 20_____, before me, _____, a Notary Public in and for said State, personally appeared _____, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument as the Attorney-in-Fact _____ of the _____ (Surety) and acknowledged to me that he/she subscribed the name of the _____ (Surety) thereto and his/her own name as Attorney-in-Fact.

Notary Public in and for said State

(SEAL)

Commission expires: _____

NOTE: A copy of the power of attorney to local representatives of the bonding company must be attached hereto.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the secretary of the corporation named as Principal to the within bond; that _____ who signed the said bond on behalf of the principal was then of said corporation; that I know his/her signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing bond.

Signature

(CORPORATE SEAL)

Bond No. _____ Bond Premium _____

PAYMENT BOND
(LABOR AND MATERIALS)

KNOW ALL PERSONS BY THESE PRESENTS that:

THAT WHEREAS, the City of Stanton (referred to hereinafter as "Obligee") has Beador Construction Company, Inc. (hereinafter designated as the "Contractor"), a contract dated April 25, 2017, for work described as follows:

The work to be constructed hereunder is located in the **City of Stanton**. The work to be done consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the Plans, Specifications and Contract Documents for the above stated project. The general items of work to be done shall consist of the re-painting of concrete medians, and other items of work required to complete the scope of work detailed in the plans and specifications complete and in place.

WHEREAS said Contractor is required to furnish a bond in connection with said Public Works Contract, and pursuant to Section 3247 of the California Civil Code;

NOW, THEREFORE, we, _____, the undersigned Contractor, as Principal and, a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the _____ to any and all persons, companies or corporations entitled to file stop notices under Section 3181 of the California Civil Code in the sum of _____ Dollars (\$ _____), said sum being not less than one-hundred percent (100%) of the total amount payable by the said Obligee under the terms of the said Public Work Contract, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if said Contractor, his/her or its heirs, executors, administrators, successors or assigns, or Subcontractors, shall fail to pay for any materials, provisions, provender or other supplies or teams, implements or machinery used in, upon, for or about the performance of the Public Work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of said Contractor and his/her Subcontractors pursuant to Section 18806 of the Revenue and Taxation Code with respect to such work and labor as required by the provisions of Section 3247 through 3252 of the Civil Code, the Surety or Sureties hereon will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the said Surety or Sureties will pay a reasonable attorneys fee to be fixed by the Court. In addition to the provisions hereinabove, it is agreed that this bond will inure to the benefit of any and all persons, companies and corporations entitled to serve stop notices under Section 3181 of the Code, so as to give a right of action to them or their assigns any suit brought upon this bond.

The Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or additions to the terms of the said Public Work Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the Specifications.

No final settlement between the Obligee and the Contractor hereunder shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

PRINCIPAL:

By: _____

SURETY: _____

By: _____

Attorney-in-Fact

IMPORTANT: Surety companies executing Bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in Section 105 of the California Insurance Code, and if the work or project is financed, in whole or in part, with federal grant or loan funds, must also appear on the Treasury Department's most current list (Circular 570 as amended). **THIS IS A REQUIRED FORM.**

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On this _____ day of _____, in the year 20_____, before me, _____
_____, a Notary Public in and for said State, personally appeared _____
_____, known to me (or proved to me on the basis of satisfactory evidence) to be the person
whose name is subscribed to the within instrument as the Attorney-in-Fact of the _____
(Surety) and acknowledged to me that he/she subscribed the name of the _____
(Surety) thereto and his/her own name as Attorney-in-Fact.

Notary Public in and for said State
(SEAL)

Commission expires: _____

NOTE: A copy of the power of attorney to local representatives of the bonding company must be attached hereto.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the secretary of the corporation named as
Principal to the within bond; that _____ who signed the said bond on
behalf of the principal was then of said corporation; that I know his/her signature, and his/her
signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in
behalf of said Corporation by authority of its governing bond.

Signature
(CORPORATE SEAL)

AGREEMENT TO COMPLY WITH CALIFORNIA LABOR LAW REQUIREMENTS

[Labor Code §§ 1720, 1773.8, 1775, 1776, 1777.5, 1813, 1860, 1861, 3700]

The undersigned Contractor certifies that it is aware of and hereby agrees to fully comply with the following provisions of California law:

1. Contractor acknowledges that this contract is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works and the awarding public agency ("Agency") and agrees to be bound by all the provisions thereof as though set forth in full herein.
2. Contractor agrees to comply with the provisions of California Labor Code Section 1773.8 which requires the payment of travel and subsistence payments to each worker needed to execute the work to the extent required by law.
3. Contractor agrees to comply with the provisions of California Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the Agency, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the contract by Contractor or by any subcontractor.
4. Contractor agrees to comply with the provisions of California Labor Code Section 1776 which require Contractor and each subcontractor to (1) keep accurate payroll records, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the Agency of the location of the records. The Contractor is responsible for compliance with Section 1776 by itself and all of its subcontractors.
5. Contractor agrees to comply with the provisions of California Labor Code Section 1777.5 concerning the employment of apprentices on public works projects, and further agrees that Contractor is responsible for compliance with Section 1777.5 by itself and all of its subcontractors.
6. Contractor agrees to comply with the provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the Agency, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code.
7. California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date _____

Signature _____

**STATEMENT ACKNOWLEDGING PENAL AND CIVIL PENALTIES
CONCERNING THE CONTRACTORS' LICENSING LAWS**

[Business & Professions Code § 7028.15]

[Public Contract Code § 20103.5]

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below (required at time of award):

Business & Professions Code § 7028.15:

(a) It is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefor, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20104 [now § 20103.5] of the Public Contract Code.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.

(d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.

(e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered non-responsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.

(f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

(g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of

verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

Public Contract Code § 20103.5:

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The agency shall include a statement to that effect in the standard form of pre-qualification questionnaire and financial statement.

Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.

License no.: _____ Class: _____ Expiration date: _____

Date _____ Signature _____

INSURANCE REQUIREMENTS

The Contractor shall at all times during the terms of the Contract carry, maintain, and keep in full force and effect a policy or policies of comprehensive general liability insurance in which the City, along with its City Council and each member thereof, and every officer, official, agent, attorney, employee or volunteer of the City, is the named insured or is named as an additional insured with the Contractor in accordance with the General Provisions. The insurance company issuing such policy(ies) must be acceptable to, and approved by, the City Engineer and City Attorney. Contractor shall maintain limits of no less than Two Million Dollars (\$2,000,000) combined single limit coverage per occurrence for personal injury or death or property loss or damage which may arise from or relate directly or indirectly to the acts, operations or omissions of the performance of the Contractor and/or its subcontractors and/or the employees, agents, officers, officials or volunteers of either, in the performance of this Public Works Contract. Such insurance shall include coverage of no less than One Million Dollars (\$1,000,000) for all automobiles utilized by Contractor's or any subcontractor's employees or agents in the performance of the Contract. Contractor shall also provide an endorsement in the forms included in Book II.

WORKER'S COMPENSATION CERTIFICATE OF INSURANCE

WHEREAS, the CITY OF STANTON has required certain insurance to be provided by

NOW THEREFORE, the undersigned insurance company does hereby certify that it has issued the policy or policies described below to the following named insureds and that the same are in force at this time.

1. This certificate is issued to: CITY OF STANTON, City Hall, 7800 Katella Avenue, STANTON, CA 90680-3162.

2. The insureds under such policy or policies are: _____

3. Worker's Compensation Policy or Policies in a form approved by the Insurance Commissioner of California covering all operations of the named insureds, as follows:

POLICY NUMBER

EFFECTIVE DATE

EXPIRATION DATE

4. Said policy or policies shall not be canceled, voided or reduced in coverage or limits of liability, unless and until thirty days' advance written notice thereof has been served upon the City Clerk of the CITY OF STANTON.

By: _____
Its Authorized Representative

ADDITIONAL INSURED ENDORSEMENT COMPREHENSIVE GENERAL LIABILITY

Name and address of named insured ("Named Insured");

Name and address of Insurance Company ("Company");

OFFICIAL TITLE OF PROJECT: _____

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached (the "Policy") or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The City of Stanton, its elected officials, officers, attorneys, agents, employees, and volunteers are additional insureds (the above named additional insureds are hereafter referred to as the "Additional Insureds") under the Policy in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured. The Additional Insureds have no liability for the payment of any premiums or assessments under the Policy.
2. The insurance coverages afforded the Additional Insureds under the Policy shall be primary insurance, and no other insurance maintained by the Additional Insureds shall be called upon to contribute with the insurance coverages provided by the Policy.
3. Each insurance coverage under the Policy shall apply separately to each Additional Insured against whom claim is made or suit is brought except with respect to the limits of the Company's liability.
4. Nothing in this contract of insurance shall be construed to preclude coverage of a claim by one insured under the policy against another insured under the policy. All such claims shall be covered as third-party claims, i.e., in the same manner as if separate policies had been issued to each insured. Nothing contained in this provision shall operate to increase or replicate the Company's limits of liability as provided under the policy.
5. The insurance afforded by the Policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) includes liability assumed by the Named Insured under the indemnification and/or hold harmless provision(s) contained in or executed in conjunction with the written agreement(s) or permit(s) designated above, between the Named Insured and the Additional Insureds.
6. The policy to which this endorsement is attached shall not be subject to cancellation, change in coverage, reduction of limits (except as the result of the payment of claims), or non-renewal except after written notice to Public Agency, by certified mail, return receipt requested, not less than thirty (30) days prior to the effective date thereof. In the event of Company's failure to comply with this notice provision, the policy as initially drafted will continue in full force and effect until compliance with this notice requirement.
7. Company hereby waives all rights of subrogation and contribution against the Additional Insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured regardless of any prior, concurrent, or subsequent active or passive negligence by the Additional Insureds.
8. It is hereby agreed that the laws of the State of California shall apply to and govern the validity, construction, interpretation, and enforcement of this contract of insurance.

9. This endorsement and all notices given hereunder shall be sent to Public Agency at:

Director of Public Works
City of Stanton
7800 Katella Avenue
Stanton CA 90680-3162

10. Except as stated above and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements, or exclusions of the policy to which this endorsement is attached.

TYPE OF COVERAGES TO WHICH THIS ENDORSEMENT ATTACHES	POLICY PERIOD FROM/TO	LIMITS OF LIABILITY
---	--------------------------	------------------------

11. Scheduled items or locations are to be identified on an attached sheet. The following inclusions relate to the above coverages. Includes:

- | | |
|--|--|
| <input type="checkbox"/> Contractual Liability | <input type="checkbox"/> Explosion Hazard |
| <input type="checkbox"/> Owners/Landlords/Tenants | <input type="checkbox"/> Collapse Hazard |
| <input type="checkbox"/> Manufacturers/Contractors | <input type="checkbox"/> Underground Property Damage |
| <input type="checkbox"/> Products/Completed Operations | <input type="checkbox"/> Pollution Liability |
| <input type="checkbox"/> Broad Form Property Damage | <input type="checkbox"/> Liquor Liability |
| <input type="checkbox"/> Extended Bodily Injury | <input type="checkbox"/> |
| <input type="checkbox"/> Broad Form Comprehensive | <input type="checkbox"/> |
| <input type="checkbox"/> General Liability Endorsement | |

12. A ☐ deductible or ☐ self-insured retention (check one) of \$ _____ applies to all coverage(s) except: _____ (if none, so state). The deductible is applicable ☐ per claim or ☐ per occurrence (check one).

13. This is an ☐ occurrence or ☐ claims made policy (check one).

14. This endorsement is effective on _____ at 12:01 A.M. and forms a part of Policy Number _____.

I, _____ (print name), hereby declare under penalty of perjury under the laws of the State of California, that I have the authority to bind the Company to this endorsement and that by my execution hereof, I do so bind the Company.

Executed _____, 20____

Signature of Authorized Representative

(Original signature only; no facsimile signature or initialed signature accepted)

Phone No.: () _____

ADDITIONAL INSURED ENDORSEMENT AUTOMOBILE LIABILITY

Name and address of named insured ("Named Insured"):

Name and address of Insurance Company ("Company"):

OFFICIAL TITLE OF PROJECT: _____

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached (the "Policy") or in any endorsement now or hereafter attached thereto, it is agreed as follows:

The City of Stanton, its elected officials, officers, attorneys, agents, employees, and volunteers are additional insureds (the above named additional insureds are hereafter referred to as the "Additional Insureds") under the Policy in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured. The Additional Insureds have no liability for the payment of any premiums or assessments under the Policy.

1. The insurance coverages afforded the Additional Insureds under the Policy shall be primary insurance, and no other insurance maintained by the Additional Insureds shall be called upon to contribute with the insurance coverages provided by the Policy.
2. Each insurance coverage under the Policy shall apply separately to each Additional Insured against whom claim is made or suit is brought except with respect to the limits of the Company's liability.
3. Nothing in this contract of insurance shall be construed to preclude coverage of a claim by one insured under the policy against another insured under the policy. All such claims shall be covered as third-party claims, i.e., in the same manner as if separate policies had been issued to each insured. Nothing contained in this provision shall operate to increase or replicate the Company's limits of liability as provided under the policy.
4. The insurance afforded by the Policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) includes liability assumed by the Named Insured under the indemnification and/or hold harmless provision(s) contained or executed in conjunction with the written agreement(s) or permit(s) designated above, between the Named Insured and the Additional Insureds.
5. The policy to which this endorsement is attached shall not be subject to cancellation, change in coverage, reduction of limits (except as the result of the payment of claims), or non-renewal except after written notice to Public Agency, by certified mail, return receipt requested, not less than thirty (30) days prior to the effective date thereto. In the event of Company's failure to comply with this notice provision, the policy as initially drafted will continue in full force and effect until compliance with this notice requirement.
6. Company hereby waives all rights of subrogation and contribution against the Additional Insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured regardless of any prior, concurrent, or subsequent active or passive negligence by the Additional Insureds.

It is hereby agreed that the laws of the State of California shall apply to and govern the validity, construction, interpretation, and enforcement of this contract of insurance.

This endorsement and all notices given hereunder shall be sent to Public Agency at:

Director of Public Works
City of Stanton
7800 Katella Avenue
Stanton, CA 90680-3162

7. Except as stated above and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements, or exclusions of the policy to which this endorsement is attached.

TYPE OF COVERAGES TO WHICH
LIMITS OF
THIS ENDORSEMENT ATTACHES
LIABILITY

POLICY PERIOD
FROM/ TO

Scheduled items or locations are to be identified on an attached sheet. The following inclusions relate to the above coverages. Includes:

- | | |
|--|--|
| <input type="checkbox"/> Any Automobiles | <input type="checkbox"/> Truckers Coverage |
| <input type="checkbox"/> All Owned Automobiles | <input type="checkbox"/> Motor Carrier Act |
| <input type="checkbox"/> Non-owned Automobiles | <input type="checkbox"/> Bus Regulatory Reform Act |
| <input type="checkbox"/> Hired Automobiles | <input type="checkbox"/> Public Livery Coverage |
| <input type="checkbox"/> Scheduled Automobiles | <input type="checkbox"/> |
| <input type="checkbox"/> Garage Coverage | <input type="checkbox"/> |

11. A ☐ deductible or ☐ self-insured retention (check one) of \$ _____ applies to all coverage(s) except: _____
(if none, so state). The deductible is applicable ☐ per claim or ☐ per occurrence (check one).

12. This is an ☐ occurrence or ☐ claims made policy (check one).

13. This endorsement is effective on _____ at 12:01 A.M. and forms a part of Policy Number _____.

I, _____ (print name),
hereby declare under penalty of perjury under the laws of the State of California, that I have the authority to bind the Company to this endorsement and that by my execution hereof, I do so bind the Company.

Executed _____, 20_____

Signature of Authorized Representative

(Original signature only; no facsimile signature or initialed signature accepted)

Phone No.: () _____

ADDITIONAL INSURED ENDORSEMENT EXCESS LIABILITY

Name and address of named insured ("Named Insured"):

Name and address of Insurance Company ("Company"):

OFFICIAL TITLE OF PROJECT: _____

Notwithstanding any inconsistent statement in the policy to which this endorsement is attached (the "Policy") or in any endorsement now or hereafter attached thereto, it is agreed as follows:

1. The City of Stanton, its elected officials, officers, attorneys, agents, employees, and volunteers are additional insureds (the above named additional insureds are hereafter referred to as the "Additional Insureds") under the Policy in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured. The Additional Insureds have no liability for the payment of any premiums or assessments under the Policy.

2. The insurance coverages afforded the Additional Insureds under the Policy shall be primary insurance, and no other insurance maintained by the Additional Insureds shall be called upon to contribute with the insurance coverages provided by the Policy.

3. Each insurance coverage under the Policy shall apply separately to each Additional Insured against whom claim is made or suit is brought except with respect to the limits of the Company's liability.

4. Nothing in this contract of insurance shall be construed to preclude coverage of a claim by one insured under the policy against another insured under the policy. All such claims shall covered as third-party claims, i.e., in the same manner as if separate policies had been issued to each insured. Nothing contained in this provision shall operate to increase or replicate the Company's limits of liability as provided under the policy.

5. The insurance afforded by the Policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) includes liability assumed by the Named Insured under the indemnification and/or hold harmless provision(s) contained in or executed in conjunction with the written agreement(s) or permit(s) designated above, between the Named Insured and the Additional Insureds.

6. The policy to which this endorsement is attached shall not be subject to cancellation, change in coverage, reduction of limits (except as the result of the payment of claims), or non-renewal except after written notice to Public Agency, by certified mail, return receipt requested, not less than thirty (30) days prior to the effective date thereto. In the event of Company's failure to comply with this notice provision, the policy as initially drafted will continue in full force and effect until compliance with this notice requirement.

7. Company hereby waives all rights of subrogation and contribution against the Additional Insureds, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to the perils insured against in relation to those activities described generally above with regard to operations performed by or on behalf of the Named Insured regardless of any prior, concurrent, or subsequent active or passive negligence by the Additional Insureds.

8. It is hereby agreed that the laws of the State of California shall apply to and govern the validity, construction, interpretation, and enforcement of this contract of insurance.

9. This endorsement and all notices given hereunder shall be sent to Public Agency at:

Director of Public Works
City of Stanton
7800 Katella Avenue
Stanton, CA 90680-3162

10. Except as stated above and not in conflict with this endorsement, nothing contained herein shall be held to waive, alter or extend any of the limits, agreements, or exclusions of the policy to which this endorsement is attached.

TYPE OF COVERAGES TO WHICH
LIMITS OF
THIS ENDORSEMENT ATTACHES
LIABILITY

POLICY PERIOD
FROM/TO

- ☐ Following Form
☐ Umbrella Liability
☐

10. Applicable underlying coverages:
INSURANCE COMPANY
AMOUNT

POLICY NO.

11. The following inclusions, exclusions, extensions or specific provisions relate to the above coverages:

12. A ☐ deductible or ☐ self-insured retention (check one) of \$ _____
applies to all coverage(s) except: _____
(if none, so state). The deductible is applicable ☐ per claim or ☐ per occurrence (check one).

13. This is an ☐ occurrence or ☐ claims made policy (check one).

14. This endorsement is effective on _____ at 12:01 A.M. and forms a part of Policy Number _____.

I, _____ (print name), hereby declare under penalty of perjury under the laws of the State of California, that I have the authority to bind the Company to this endorsement and that by my execution hereof, I do so bind the Company.

Executed _____, 20_____

Signature of Authorized Representative

(Original signature only; no facsimile signature or initialed signature accepted)

Phone No.: () _____

PREVAILING WAGES

NOTICE IS FURTHER GIVEN that the City Council has obtained the general prevailing rate of per diem wages in accordance with law to be paid for the construction of the above Work and Improvements. The schedule has been obtained from the Director of the Department of Industrial Relations, pursuant to the provisions of Section 1773 of the Labor Code of the State of California, and reference is hereby made to copies thereof on file in the City's Office, which said copies are available to any interested party upon request. Further, a copy shall be posted at each job site during the course of construction. If prevailing wages change within 10 days of the bid opening date, new prevailing wages will be used.

WAGE RATES AND LABOR CODE REQUIREMENTS

Apprentices

Section 1777.5 requires the Contractor or Subcontractor employing tradesmen in any apprenticeable occupation to apply to the Joint Apprenticeship Committee nearest the site of the public works project which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen to be used in the performance of the contract.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeship trade and if other contractors on the public works site are making such contributions.

Information relative to apprenticeship standards, contributions, wage schedules and other requirements may be obtained from the State Director of Industrial Relations or from the Division of Apprenticeship Standards.

LEGAL RELATIONS AND RESPONSIBILITY

The Contractor shall keep himself/herself fully informed of all existing and future State and Federal laws and all county and city ordinances and regulations which in any manner affect the conduct of the Work, and all of such orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency is discovered in the Contract Documents or the Contract for the Work in relation to any such law, ordinance, regulation, order, or decree, he/she shall forthwith report the same to the Engineer in writing. He/she shall at all times observe and comply with and shall cause all his/her agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall indemnify, protect, defend, and hold harmless the City, the Engineer, and all of their officers, employees, and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself/herself or his/her employees, agents, or representatives.

The Contractor's attention is directed to Division 2, Part 7, Chapter 1 of the Labor Code of California and especially to Article 2 (Wages); and Article 3 (Working Hours).

- a. The Director of the Department of Industrial Relations has found and determined the general prevailing rates of wages in the locality in which the public work is to be performed, copies of which are maintained at the City's principal office, and are available to any interested party on request. Contractor shall post a copy of said document at each job site. The Contractor shall forfeit to the City a penalty of twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing rate, and shall in addition pay to each worker for each such day the difference between the prevailing rate and the actual wage paid.
- b. In accordance with Sections 1173.1 and 1773.8 of the Labor Code, the Contractor shall pay travel and subsistence payments to each worker needed to execute the Work as such travel and subsistence payments are defined in the applicable collective bargaining assurances filed with the Department of Industrial Relations.
- c. Pursuant to Labor Code Section 1810 et seq., it is stipulated hereby that eight (8) hours labor constitutes a legal day's work hereunder.
- d. Pursuant to Labor Code Section 1813, it is stipulated hereby that the Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor or by any Subcontractor hereunder for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, unless such worker receives compensation for all hours worked in excess of eight (8) hours at not less than one and one-half (1 1/2) times the base rate of pay, in violation of the provisions of Article 3 (commencing with Section 1810), Chapter 1, Part 7, Division 2, of the Labor Code.
- e. The Contractor is aware of and will comply with the provisions of Labor Code Sections 1777.5 and 1777.6, as amended effective January 1, 1977, with respect to the employment of apprentices. Pursuant to Section 1777.5, it is hereby stipulated that the

Contractor will be responsible for obtaining compliance therewith on the part of any and all Subcontractors employed by him/her in connection with this Contract.

In accordance with Section 1777.3 of said Labor Code, the City will file with the Department of Industrial Relations, Division of Apprenticeship Standards, on "Extract of Public Works Contract Award" upon issuing the Notice of Award in the form appended hereto and made a part hereof as page 1-9.3.

- f. Attention is directed to the provisions in Section 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor under him/her.

The Contractor and any Subcontractor under him/her shall comply with the requirements of Section 1777.5 and 1777.6 of the Labor Code in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch office .

Willful violations of Section 1777.5 will result in a forfeiture of fifty dollars (\$50.00) for each calendar day of noncompliance which shall be withheld from progress payments by City upon notice from the Department of Industrial Relations. (Labor Code 1777.7).

WAGE RATES AND LABOR CODE REQUIREMENTS

Wage Rates:

This is a Federally assisted project and Davis-Bacon will be enforced. Federal and State wage rates are applicable to both the prime Contractor and subcontractors. The higher wage rate between the Federal and State wage determinations will be enforced. The Federal Labor Standards Provisions (Form HUD-4010) and the Federal Wage Determination are incorporated into these Provisions. They are considered a physical part of the Contract Agreement and full compliance will be enforced. The same Federal language and wage determinations will be included in an Agreement resulting for the original Agreement.

Apprentices

Section 1777.5 requires the Contractor or Subcontractor employing tradesmen in any apprenticeable occupation to apply to the Joint Apprenticeship Committee nearest the site of the public works project which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen to be used in the performance of the contract.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeship trade and if other contractors on the public works site are making such contributions.

Information relative to apprenticeship standards, contributions, wage schedules and other requirements may be obtained from the State Director of Industrial Relations or from the Division of Apprenticeship Standards.

**City Business License Forms and
Vendor Data Sheet**

BID PROPOSAL

Bidders Name BEADIE CONSTRUCTION COMPANY INC.

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF STANTON:

The undersigned, as bidder, declares that: (1)-this proposal is made without collusion with any other person, firm or corporation, and that the only persons or parties interested as principals are those named herein as sworn in the attached Non-Collusion Affidavit; (2)-bidder has carefully examined the project Plans, Specifications, Instructions To Bidders, Proposal, Notice Inviting Sealed Bids and all other contract documents and information furnished therefore and the site of the proposed work; and (3)-bidder has investigated and is satisfied as to the conditions to be encountered, the character, quality and quantities of work to be performed and materials to be furnished. Furthermore, bidder agrees that submission of this proposal shall be conclusive evidence that such examination and investigation have been made and agrees, in the event this contract be awarded to bidder, to enter into a contract with the City Council of the CITY OF STANTON, to perform said proposed work in accordance with the Plans, if any, and the terms of the Specifications, in the time and manner therein prescribed, and to furnish or provide all materials, labor, tools, equipment, apparatus and other means necessary so to do, except such thereof as may otherwise be furnished or provided under the terms of said Specifications, for the following stated unit prices or lump sum price as submitted on the Bid Sheet herein.

The bidder shall submit as part of this proposal a completed copy of the Contractor's Industrial Safety Record. This Safety Record must include all construction work undertaken in the State of California by the bidder and any partnership, joint venture or corporation that any principal of the bidder participated in as a principal or owner for the last five calendar years and the current calendar year prior to the date of bid submittal. Separate information shall be submitted for each such partnership, joint venture, or corporate or individual bidder. The bidder may attach any additional information or explanation of data which he would like to be taken into consideration in evaluating the safety record. An explanation of the circumstances surrounding any and all fatalities must be attached.

Accompanying this proposal is \$103,605 ^{BOND} (Insert "cash", "a Cashier's Check", "a certified check", or "a Bidder's Bond in the form furnished by the City", as the case may be) in the amount of \$ 103,605, an amount equal to at least ten percent (10%) of the total aggregate bid price based on the quantities shown and the unit prices quoted. The undersigned bidder agrees that should bidder be awarded the Contract on the basis hereof and thereafter fail or refuse to enter into a Contract and provide the required evidence of insurance and bonds within fourteen (14) calendar days after written notice of the award, the cash, check or bond shall be forfeited to the city in accordance with Public Contract Code section -20172, except as otherwise provided in Public Contract Code section -20174. The undersigned agrees that in the event of such failure, the actual amount of damages to the City would be impractical and extremely difficult to determine.

In compliance with the Notice Inviting Sealed Bids, the undersigned hereby agrees to enter into a contract to furnish all labor, materials and supplies for this project in accordance with the Specifications, Plans other Contract Documents which are on file in the office of the City Engineer of the CITY OF STANTON, to the satisfaction and under the direction of the Director of Public Works, at the following prices:

BID SHEET

Thunderbird Lane Sewer and Street Improvement Project

BIDDERS NAME: Beaumont Construction Company Inc.

#	DESCRIPTION	ESTIMATED QUANTITY	UNIT QTY	UNIT PRICE (Numbers)	ITEM COST (Numbers)
1	Mobilization, Demobilization, and Cleanup	1	LS	\$ 50,000 -	\$ 50,000 -
2	Survey Work During Construction	1	LS	\$ 10,000 -	\$ 10,000 -
3	Traffic Control Per CA MUTCD and WATCH Manual, latest editions	1	LS	\$ 30,119 -	\$ 30,119 -
4	Construct Drop Manhole Connection to Standard Manhole	2	EA	\$ 5000 -	\$ 10,000 -
5	Construct New 8" VCP Sewer	1,190	LF	\$ 180 -	\$ 214,200 -
6	Cut & Plug All Open Ends of Existing Sewer Line with Concrete	31	LS	\$ 5500 -	\$ 5500 -
7	Modify Existing Sewer Manhole Channel and Shelf	1	EA	\$ 5500 -	\$ 5500 -
8	Construct New 48" Precast Concrete Sewer Manhole	5	EA	\$ 12,100 -	\$ 60,500 -
9	Construct New 60" Precast Concrete Sewer Manhole	1	EA	\$ 20,000 -	\$ 20,000 -
10	Furnish and Install Interior Lining to Sewer Manhole Walls and Shelf	1	EA	\$ 7700 -	\$ 7700 -
11	Cold Mill Existing Pavement	11,005	SF	\$ 0.60	\$ 6603 -
12	Furnish and Install 2" ARHM Gap Graded Pavement (39,711 SF)	465	TONS	\$ 110 -	\$ 51,150 -
13	Adjust Existing Sewer Manholes To Finish Grade	4	EA	\$ 2200 -	\$ 8800 -
14	Water Pollution Control	1	LS	\$ 12,500 -	\$ 12,500 -
15	Replace Existing Striping	1	LS	\$ 500 -	\$ 500 -
16	Removal and Replace Concrete Cross Gutter (Protect Spandrels in Place)	281	SF	\$ 28 -	\$ 7868 -
17	12 Inch Over-Excavation of Unsuitable Trench Subgrade Materials	72	CY	\$ 80 -	\$ 5760 -

Total Base Bid in NUMBERS:	\$ 506,700
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Total Base Bid in WORDS:	Five hundred six thousand seven hundred and Cents
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NOTE. The City reserves the right to award a contract in parts or in its entirety or for various alternates and reserves the right to reject all bids and re-advertise, as appears to be in the best interests of the City. A bid is required for this entire work, the estimated quantities set forth in this Bid Sheet being solely for the purpose of comparing bids, and final compensation under the Contract will be based upon the actual quantities of work satisfactorily completed. The unit and/or lump sum prices bid shall include all appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, unit prices shall govern over extended amounts, and words shall govern over figures. The City reserves the right to increase or decrease the amount of any quantity shown and to delete any item from the Contract.

The undersigned bidder agrees that, if awarded the Contract, bidder will complete all work according to the contract documents.

The undersigned bidder is licensed in accordance with the requirements of the Business and Professions Code, California Contractor's License No. 720483, Class A (REQUIRED AT TIME OF AWARD).

Legal Business Name of Bidder	Bentley Chesnut Company Inc.
Business Address	26320 LESMER CIRCLE CORONA CA 92623
Business Tel. No.	951-674-7352

Signature	Date	Title
	6-15-17	President
Signature	Date	Title
	6-15-17	Secretary
Signature	Date	Title
	6-15-17	Treasurer/Manager

If bidder is an individual, name and signature of individual must be provided, and, if he is doing business under a fictitious name, the fictitious name must be set forth. If bidder is a partnership or joint venture, legal name of partnership/joint venture must be provided, followed by signatures of all of the partners/joint ventures or of fewer than all of the partners/joint ventures if submitted with evidence of authority to act on behalf of the partnership/joint venture. If bidder is a corporation, legal name of corporation must be provided, followed by signatures of the corporation President or Vice President and Secretary or Assistant Secretary, and the corporate seal. Signatures of partners, joint ventures, or corporation officers must be acknowledged before a Notary Public, who must certify that such partners, joint ventures, or officers are known to him or her to be such, and, in the case of a corporation, that such corporation executed the instrument pursuant to its bylaws or a resolution of its Board of Directors.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange } ss.

On June 13, 2017 before me, R. Quezada, Notary Public
Date Name and Title of Officer

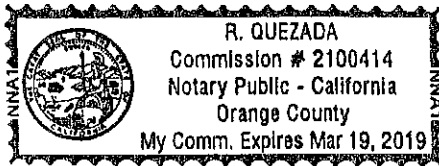
Personally appeared David A. Beador
Name(s) of Signer(s)

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or, the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

R. Quezada
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Signer's Name: _____
_ Individual
_ Corporate Officer Title(s): _____
_ Partner- _ Limited _ General
_ Attorney-in-Fact
_ Trustee
_ Guardian or Conservator
_ Other: _____

Signer is Representing: _____

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Signer's Name: _____
_ Individual
_ Corporate Officer Title(s): _____
_ Partner- _ Limited _ General
_ Attorney-in-Fact
_ Trustee
_ Guardian or Conservator
_ Other: _____

Signer is Representing: _____

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INFORMATION REQUIRED OF BIDDER

Bidder certifies under penalty of perjury under the laws of the State of California that the following information is true and correct:

Name of individual Contractor, Company or Corporation:

Business Address: 26320 LESLIE CIRCLE, CORONA, CA 92623
Telephone and Fax Number: 957-674-7352 / 957-674-7415

California State Contractor's License No. and Class: 720423 - "A"

(REQUIRED AT TIME OF AWARD)

Original Date Issued: 3/96 Expiration Date: 7/31/18

List the name and title/position of the person(s) who inspected for your firm the site of the work proposed in these contract documents:

DAVID BENTON - President

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and company or corporate officers having a principal interest in this proposal:

Name	Title	Address	Telephone
DAVID A. BENTON	PRESIDENT, SECRETARY	CORONA, CA	957-674-7352
	Treasurer & Manager		

Corporation organized under the laws of the State of CA

The dates of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows:

Not

All current and prior D.B.A.'s, aliases, and fictitious business names for any principal having interest in this proposal are as follows:

NA

For all arbitrations, lawsuits, settlements or the like (in or out of court) you have been involved in with project owners (public agencies, private companies, etc...) in the past five years (Attach additional Sheets if necessary) provide:

Provide the names, addresses and telephone numbers of the parties;

SEE ATTACHED?

Briefly summarize the parties' claims and defenses;

State the tribunal (i.e., Superior Court, American Arbitration Association, etc.) the matter number and outcome.

Superior Court

Have you ever had a contract terminated by the owner/agency? If so, explain.

No

Have you ever failed to complete a project? If so, explain.

No

Have you ever been terminated for cause and then had it converted to a "termination of convenience"? If so, explain.

No

For any projects you have been involved with in the last 5 years did you have any claims or actions?

Circle One

1. By you against the owner?
☒ Yes / ☐ No
2. By the owner against you?
Yes ☒ No
3. By any outside agency or individual for labor compliance (i.e. failure to pay prevailing wage, falsifying certified payrolls, etc..)
Yes / ☒ No
4. By Subcontractors (Stop Notices, etc.)
☒ Yes / ☐ No

**Beador Construction Company Inc.
Civil Court Actions**

Dated: 6/1/2017

Company Claims Against Owner

Project Name Date of Claim Name of Claimant
Antonio Parkway Widening 5/1/2014 Beador Construction Company, Inc.
No other claims in last 18 years

Claims Against Beador Construction Company, Inc.

Project Name Date of Claim Name of Claimant
CalTrans Contract 08-QJ8004 11/18/2013 REPIPE LLC
CalTrans Contract 12-OF0314 7/1/2014 Flatiron Electric Group
CalTrans Contract 12-OF0314 11/21/2014 RJ Noble
Antonio Parkway 8/5/2014 Sterndahl Enterprises

Name of Entity Description Court Case Number Status
County of Orange Breach of Contract Orange 30-2014-00720190-CU-BC-CJC Settled

Name of Entity Description Court Case Number Status
Beador Breach of Contract Riverside RIC 1312886 Resolved & Dismissed
Beador Breach of Contract Orange 30-2014-00731909-CU-CO-CJC Resolved & Dismissed
Beador Breach of Contract Orange 30-2014-00757877-CU-BC-CJC Resolved & Dismissed
Beador Breach of Contract Riverside RIC 1407616 Resolved & Dismissed

5. Are any claims or actions unresolved or outstanding? Yes / No

If yes to any of the above, explain. (Attach additional sheets, if necessary)

Failure of the bidder to provide ALL requested information in a complete and accurate manner may be considered non-responsive.

Subscribed and sworn to before me by
This 13th day of June, 20 17

R. Quezada
(Signature of Notary Republic)

(SEAL)



(print name of Owner or
President of Corporation/Company)

[Signature]
(Signature)

President
(Title)

6-15-17
(Date)

[Signature]
(Signature of Secretary of Corporation)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange } ss.

On June 13, 2017 before me, R. Quezada, Notary Public
Date Name and Title of Officer

Personally appeared David A. Beador
Name(s) of Signer(s)

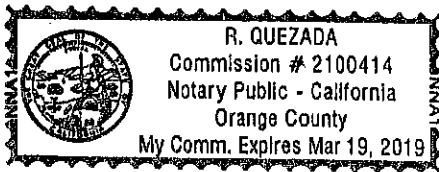
Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or, the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

R. Quezada

Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Signer's Name: _____

☐ Individual
☐ Corporate Officer Title(s): _____
☐ Partner- ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____

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Signer's Name: _____

☐ Individual
☐ Corporate Officer Title(s): _____
☐ Partner- ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: _____

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REFERENCES

(Contractor must use this form!!! Please print or type).

Bidders Name Bertone Construction Company Inc.

FAILURE OF THE BIDDER TO PROVIDE ALL REQUIRED INFORMATION IN A COMPLETE AND ACCURATE MANNER MAY BE CONSIDERED NON-RESPONSIVE.

For all public agency projects you have worked on (or are currently working on) in the past 2 years in excess of \$15,000, provide the following information:

1.
Project Name/Number WIDE TAMPA OFF-RAMP - 07-204114
Project Description WIDE OFF-RAMP
Approximate Construction Dates From to 6/16 - 6/17
Agency Name CITY OF TAMPA
Contact Person ALT Telephone (941) 364-2760 EXT. 233
Original Contract Amount \$ 1.4M Final Contract Amount \$ 1.5M
If final amount is different from original, please explain (change orders, extra work, etc.)
CHANGE ORDERS / EXTRA WORK

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

NA

2.
Project Name/Number BLUE DRIVE SPUR RAMP
Project Description TUSNICK SPUR RAMP
Approximate Construction Dates From 4/17 to 5/17
Agency Name CITY OF TAMPA
Contact Person ANNE LONG Telephone (813) 618-3079
Original Contract Amount \$ 26,300 Final Contract Amount \$ 20,300

If final amount is different from original, please explain (change orders, extra work, etc.)

CHANGE ORDERS

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

NIT

3.

Project Name/Number PLH SAFETY IMPROVEMENTS

Project Description SAFETY IMPROVEMENTS / MARI

Approximate Construction Dates From 9/16 to 3/17

Agency Name CITY OF TORRANCE

Contact Person ELIZABETH DUNSMITH Telephone (310) 618-3074

Original Contract Amount \$ 768,300 Final Contract Amount \$ 786,400

If final amount is different from original, please explain (change orders, extra work, etc.)

EXTRA WORK / CHANGE ORDERS

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

NIT

4.

Project Name/Number EXCHANGE CROSS RIVER

Project Description STREET WIDENING / PARKING LOT CONSTRUCTION

Approximate Construction Dates From 6/16 to 9/16

Agency Name CITY OF RIVERSIDE

Contact Person TAMI NGUYEN Telephone (951) 961-5363

Original Contract Amount \$ 986,300 Final Contract Amount \$ 960,000

If final amount is different from original, please explain (change orders, extra work, etc.)

COMPLETE ORDERS / EXCEL WORK

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

NA

5.

Project Name/Number RESALE BIOFILM UNIT 13

Project Description RESALE BIOFILM UNIT 13

Approximate Construction Dates

From 8/15 to 3/16

Agency Name CITY OF TUSCON

Contact Person JOHN DEUTSCH Telephone (714) 573-3164

Original Contract Amount \$ 1,513,305 Final Contract Amount \$ 1,537,205

If final amount is different from original, please explain (change orders, extra work, etc.)

COMPLETE ORDERS / EXCEL WORK

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

NA

6.

Project Name/Number CARLSBAD BRIDGE ON RAILROAD IMPROVEMENTS

Project Description BRIDGE IMPROVEMENTS

Approximate Construction Dates

From 11/15 to 8/15

Agency Name CITY OF CARLSBAD

Contact Person ALBERT ARNDT Telephone (760) 602-2700 ext. 320

Original Contract Amount \$ 660,000 Final Contract Amount \$ 660,000

If final amount is different from original, please explain (change orders, extra work, etc.)

change orders / extra work

Did you file any claims against the Agency? Did the Agency file any claims against you/Contractor? If yes, briefly explain and indicate outcome of claims.

no

Attach additional sheets if necessary.

Upon request, the Contractor may be required to attach a financial statement and other information sufficiently comprehensive to permit an appraisal of the Contractor's current financial conditions.

Attach to this Bid the experience resume of the person who will be designated as General Construction Superintendent or on-site Construction Manager for the Contractor.

David A. Beador, P. E.

26320 Lester Circle
Corona, CA 92883

EDUCATION:

Masters, Business Administration, University of Southern California, 1994
Emphasis: Finance, Entrepreneurial Studies, and Marketing
B.S., Civil Engineering, Michigan State University, 1988

PERSONAL/PROFESSIONAL DATA:

Professional Engineer, State of California (RCE #047054)
California General Engineering (A) License (720483-A)

EMPLOYMENT HISTORY:

Beador Construction Company, Inc./MD Construction Group, Corona, CA. 92883

1996 – Present

- President/Owner – Specializing in Bridge Modifications/Pipeline Construction and General Engineering Construction
- Lead Scheduler – PRIMavera Sure Trak Project Management

PKB Construction, Arcadia, CA. 1994 - 1996

- Site Manager – SR22 (Newhope Ave. – Garden Grove Blvd.) Seismic Retrofit, California Department of Transportation, \$600,000 – Construction Cost
- Site Manager – San Diego Creek Seismic Retrofit, California Department of Transportation, \$500,000 – Construction Cost
- Project Manager – Puente Hills Composite Liner Project, County of Los Angeles, \$3.3M – Construction Cost
- Assistant Project Manager – Kellogg Interchange Seismic Retrofit, California Department of Transportation, \$10M – Construction Cost
- Project Engineer – I-10 at Central Seismic Retrofit, California Department of Transportation, \$10M – Construction Cost

Nationwide Construction Company, Paramount, CA., April 1992 – October 1994

- Assistant Superintendent (Oct. 1993 – Pres.) – City of Fresno/Clovis Wastewater Plant Modernization, \$85M – Construction Cost
- Superintendent (April 1992 – Oct. 1993) – Power Restart Facility; Hyperion Treatment Plant, City of Los Angeles, \$3M – Construction Cost
- Project Engineer – CalTrans I-710 & I-60 Seismic Retrofit Project (Sept. 1993 – Oct. 1993), \$10M – Construction Cost
- Project Engineer – CalTrans I-5 Seismic Retrofit Project (May 1993 – Sept. 1993), \$2.5M – Construction Cost

IWA Engineers, Fountain Valley, CA., April 1988 – April 1992

Project Manager/Engineer involved in all phases of engineering design, accounting, marketing, proposal writing and financial analysis of projects ranging in construction costs from \$100,000 to \$50M.

List of representative projects include:

- Project Manager/Engineer for MacArthur Place Development. Project involved infrastructure improvements for commercial development.
- Project Manager/Engineer for Universal Studios, Hollywood. Projects involved infrastructure improvements for industrial developments, retail and theme park attractions.
- Project Manager/Engineer for numerous freeway and street improvement projects including Kimball Road Bridge and Interchange Improvements, Victoria/Telephone Intersection Widening and Sierra Ave. Bridge and Interchange Improvements.
- Project Engineer for California Sea Breeze Residential Development. Kaufman and Broad project involved new residential community in Costa Mesa, CA.

Ramiro Acevedo

26320 Lester Circle
Corona, CA 92883

Current Position: Superintendent-field operations
Beador Construction Company, Inc.

Work Experience:	2001 – Present	Superintendent	Beador Construction
	1999 – 2001	Foreman	Beador Construction
	1998 – 1999	Carpenter/Layout	PKB Construction
	1989 – 1998	Carpenter	Bomel Construction
	Supervised:	3 to 10 man crews	
	Job sizes:	1 to 10 Million Dollars	

Ramiro is familiar with all phases of public works, including traffic control, safety, asphalt paving, concrete work, bridge building and all phases of restoration. Ramiro has responsibility for crews across multiple disciplines with a keen focus on completing projects on time and within budget.

Training: Southwest Carpenters Local 803

Licensed Contractor: License # 759907

Job References:	ACTA	Alameda Corridor Bridge Widening
	CalTrans	Century Blvd Bridge Repair
	CalTrans	710 Collector Road & Bridge
	City of Santa Ana	Bristol Street Bridge Widening
	Orange County	Tustin Avenue Bridge Widening
	See attached list	

DESIGNATION OF SURETIES

Bidder's name Burns Construction Company Inc.

Provide the names, addresses, and phone numbers for all brokers and sureties from whom Bidder intends to procure insurance and bonds (list by insurance/bond type):

Bond JENNIFER AUSTIN - PERFORMANCE BONDING - HOOKER CREDIT INSURANCE
15901 Ran Hill Avenue, Tustin, CA 92780
949-702-3926

Sure. DANN CULLEN - WORKING - HOOKER - INSURANCE
ONE PARK PLAZA - TAINING CA 92614
949-553-7810 Ext. 523

ACKNOWLEDGEMENT OF ADDENDA

Bidders name Bentley Design Company LLC

The bidder shall signify receipt of all Addenda here, if any:

[illegible]

CONTRACTOR'S INDUSTRIAL SAFETY RECORD

Bidders Name Bentley Construction Company Inc.





Record Last Five (5) Full Years
Current Year of Record

	Current Year of Record	2016	2015	2014	2013	2012	Total	Year
No. of contracts	5	5	2	7	24 7	7	33	
Total dollar Amount of Contracts (in Thousands of \$)	\$11,005	\$5,520	2100	4763	2046	3420		
No. of fatalities	0	0	0	0	0	0	0	
No. of lost Workday Cases	0	0	0	1	0	0	1	
No. of lost workday cases involving permanent transfer to another job or termination of employment	0	0	0	0	0	0	0	

The information required for these items is the same as required for columns 3 to 6, Code 10, Occupational Injuries, Summary--Occupational Injuries and Illnesses, OSHA No. 102.

Legal Business Name of Bidder Bentley Construction Company Inc.
Business Address: 26370 Gessner Circle, Houston, TX 77060
Business Tel. No.: 281-674-7352
State Contractor's License No. and Classification: 720423-A
Title President

The above information was compiled from the records that are available to me at this time and I declare under penalty of perjury that the information is true and accurate within the limitations of those records.

Signature of bidder	
Date	6-15-17
Title	President
Signature of bidder	
Date	6-15-17
Title	Secretary
Signature of bidder	
Date	6-15-17
Title	President
Signature of bidder	
Date	6-15-17
Title	President

If bidder is an individual, name and signature of individual must be provided, and, if he is doing business under a fictitious name, the fictitious name must be set forth. If bidder is a partnership or joint venture, legal name of partnership/joint venture must be provided, followed by signatures of all of the partners/joint ventures or of fewer than all of the partners/joint ventures if submitted with evidence of authority to act on behalf of the partnership/joint venture. If bidder is a corporation, legal name of corporation must be provided, followed by notarized signatures of the corporation President or Vice President or President and Secretary or Assistant Secretary, and the corporate seal. Signatures of partners, joint ventures, or corporation officers must be acknowledged before a Notary Public, who must certify that such partners/joint ventures, or officers are known to him or her to be such, and, in the case of a corporation, that such corporation executed the instrument pursuant to its bylaws or a resolution of its Board of Directors.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange } ss.

On June 13, 2017 before me, R. Quezada, Notary Public
Date Name and Title of Officer

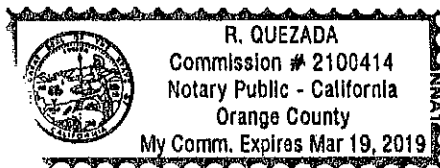
Personally appeared David A. Beador
Name(s) of Signer(s)

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or, the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

R. Quezada
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Signer's Name: _____
_ Individual
_ Corporate Officer Title(s): _____
_ Partner- _ Limited _ General
_ Attorney-in-Fact
_ Trustee
_ Guardian or Conservator
_ Other: _____

Signer is Representing: _____

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Signer's Name: _____
_ Individual
_ Corporate Officer Title(s): _____
_ Partner- _ Limited _ General
_ Attorney-in-Fact
_ Trustee
_ Guardian or Conservator
_ Other: _____

Signer is Representing: _____

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NON-COLLUSION AFFIDAVIT
(TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID)

State of California

)SS.

County of Orange

David A. Bender, being first duly sworn, deposes and says that he or she is President of Bender Construction, the party making the foregoing bid, in accordance with Public Contracts Code Section 7106, declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

THUNDERBOLT LAKE SEWER AND STREET IMPROVEMENTS

Project Name:

BENDER CONSTRUCTION COMPANY INC

Legal Business Name of Bidder

26320 LESLAR CIRCLE COLUMBIA, CA 92227

Business Address

951-679-7352

Business Tel. No.

Signature of bidder

Title

Date:

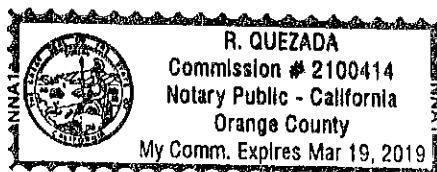
Signature of bidder

Title

Date:

Subscribed and Sworn to before me on

(Notary Seal)



Signature

Notary Public

LIST OF SUBCONTRACTORS TO ACCOMPANY PROPOSAL

In compliance with the provisions of Public Contract Code Section-4104, the undersigned bidder submitting this bid proposal sets forth the name, place of business and the portion of the work to be performed by: (1)-each subcontractor who will perform work or labor or render service to the bidder (as general contractor) in or about the construction of the work or improvement; and (2)-each subcontractor licensed by the State of California who, under subcontract to the bidder, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent of the bidder's total bid or, in the case of bids or offers for the construction of streets, highways or bridges, in excess of one-half of one percent of the bidder's total bid.

Subcontractor's Name, Address, Telephone #	Bid Item Number	Percent Of Total Bid	Description of Work	Percent of Total Bid
ALL AMERICAN ASPHALT CORONA, CA 957-736-7600	11, 12	10%	COLD PLANE + AC PAVING	10%
UNION GRADING MANHOLES SAR BAZZARZADEH, CA 909-633-2570	8, 9	4%	MANHOLES	4%
National Coating & Lining Company MORRISTOWN, CA. 951-471-3788	7-10 partial	3%	Lining manholes	3%

Bond No. Bid Bond Bond Premium -0-

BID BOND
TO ACCOMPANY PROPOSAL

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Stanton, has issued an invitation for bids for the work described as follows:
Thunderbird Lane Sewer and Street Improvements

WHEREAS Beador Construction Company, Inc.
26320 Lester Circle
Corona, CA 92883

(Name and address of Bidder)

("Principal"), desires to submit a bid to Public Agency for the work.

WHEREAS, bidders are required under the provisions of the California Public Contract Code to furnish a form of bidder's security with their bid.

NOW, THEREFORE, we, the undersigned Principal, and
Great American Insurance Company
301 E. 4th Street
Cincinnati, OH 45202

(Name and address of Surety)

("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the City of Stanton in the penal sum of Ten Percent of the Total Amount
of Bid

Dollars (\$ ---10%---), being not less than ten percent (10%) of the total bid price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal is awarded a contract for the work by the Public Agency and, within the time and in the manner required by the bidding specifications, enters into the written form of contract included with bidding specifications, furnishes the required bonds, one to guarantee faithful performance and the other to guarantee payment for labor and materials, and furnishes the required insurance coverage, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

In case suit is brought upon this bond, Surety further agrees to pay all court costs incurred by the Public Agency in the suit and reasonable attorneys' fees in an amount fixed by the court. Surety hereby waives the provisions of California Civil Code § 2845.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each corporate party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: June 9, 2017

"Principal"

Surety"

Beador Construction Company, Inc.

Great American Insurance Company

By: [Signature]
Its President
By: [Signature]
Its Secretary

By: [Signature]
Its
By: Ellen Bell, Attorney-in-Fact
Its

(Seal)

(Seal)

Note: This bond must be dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached.

PREBID SITE INSPECTION CERTIFICATION

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of ORANGE

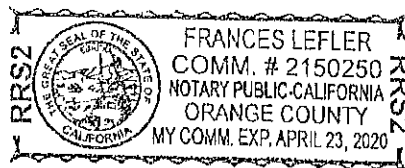
On JUN 09 2017, before me, Frances Lefler Notary Public,
personally appeared
Ellen Bell

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal

Frances Lefler



(Seal)

OPTIONAL

Description of attached document:

Document Title: _____

Date of Document: _____ Number of Pages: _____

Additional Signers Not Named Above: _____

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by
this power of attorney is not more than FIVE

No. 0 15055

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
ERIK JOHANSSON	ALL OF	ALL
JENNIFER ANAYA	TUSTIN,	\$100,000,000.00
MELISSA LOPEZ	CALIFORNIA	

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 25TH day of JANUARY 2017
GREAT AMERICAN INSURANCE COMPANY



Atty L C. B.
Assistant Secretary

David C. Kitchen
Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

DAVID C. KITCHIN (877-377-2405)

On this 25TH day of JANUARY, 2017, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



Susan A. Kohorst
Notary Public, State of Ohio
My Commission Expires 05-18-2020

Susan A. Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this JUN 09 2017 day of



Atty L C. B.
Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

ss.

On June 13, 2017 before me, R. Quezada, Notary Public
Date Name and Title of Officer

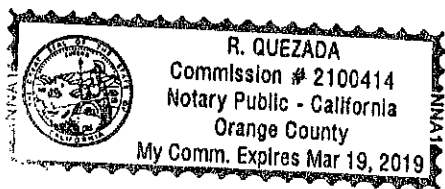
Personally appeared David A. Beador
Name(s) of Signer(s)

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or, the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

R. Quezada
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Signer's Name: _____
_Individual
_Corporate Officer Title(s): _____
_Partner- _Limited _General
_Attorney-in-Fact
_Trustee
_Guardian or Conservator
_Other: _____

Signer is Representing: _____

Top of thumb
here

Signer's Name: _____
_Individual
_Corporate Officer Title(s): _____
_Partner- _Limited _General
_Attorney-in-Fact
_Trustee
_Guardian or Conservator
_Other: _____

Signer is Representing: _____

Top of thumb
here

The bidder hereby certifies that he/she and his/her subcontractors have inspected the site and related specifications of work and fully acquainted themselves with all conditions and matters which might in any way affect the work, time of completion or the cost thereof, including, but not limited to scheduling and disclosed outside Contracts involving this work.

The bidder also certifies he/she has observed the designated Contractor work areas and access routes, if disclosed or shown, as part of work in this Contract.

BIDDER:

Begum Pressur Control Inc
WV Pressur
Date: 6-15-17

Persons who inspected site of the proposed work for your firm:

Name DAVID BEANE
Title President

Date of Inspection 6-14-17

Name _____
Title _____

Date of Inspection _____

CITY OF STANTON BUDGET ADJUSTMENT AUTHORIZATION

BA # 2018-01

Date: July 5, 2017

Title: Public Works Director

Date: July 11, 2017

Title: Administrative Services Director

Administrative Services Department

[illegible]

JUSTIFICATION:

To provide appropriation for the Thunderbird Lane Sewer and Street Improvement Project.

Budget Adjustment Request Approved:

7-7-17
Date

City Manager

Date _____

	Budget Adjustment Processed:
--	------------------------------

Entered by

Date posted

Entered by

*** PRINT ON BLUE PAPER ONLY ***

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: July 11, 2017

SUBJECT: APPEAL OF TO THE CITY COUNCIL TO MODIFY A CERTAIN CONDITION IN RESOLUTION NO. 2430 FOR CONDITIONAL USE PERMIT C17-02 ADOPTED BY THE PLANNING COMMISSION, TO ALLOW FOR THE SALE OF SINGLE SERVE BEER CONTAINERS IN CONJUNCTION WITH THE OPERATION OF A MINI-MART WITH THE SALE OF BEER, WINE AND SPIRITS FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD. IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY AVTAR SINGH

REPORT IN BRIEF:

This is an appeal of the Planning Commission decision to the City Council to modify a certain condition of approval for Conditional Use Permit C17-02 to allow for the sale of single serve beer containers in conjunction with the operation of a mini-mart with the sale of beer, wine and spirits for the property located at 10480 Beach Boulevard.

RECOMMENDED ACTION:

1. Conduct a public hearing;
2. Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities);
3. Either uphold the Planning Commission decision to not allow the sale of single serve beer containers and deny the appeal; or reverse the Planning Commission decision and allow the sale of single serve beer containers and grant the appeal; and
4. Direct staff to draft a Resolution memorializing the City Council decision.

BACKGROUND:

In 1991, the Planning Commission approved Conditional Use Permit C91-1 which allowed for the sale of beer and wine for off-site consumption at an existing mini mart located at 10480 Beach Blvd.

On June 21, 2017, the Planning Commission approved Conditional Use Permit C17-02, which allowed for the upgrade of the existing Type 20 Alcoholic Beverage Control (ABC) license for the sale of beer and wine for off-site consumption to a Type 21 license to authorize the sale of beer, wine and distilled spirits for off-site consumption. During the hearing, the applicant requested modification to Condition No. 13 in Resolution No. 2430, which states, "The sale of single serve beer or hard liquor containers is prohibited." The applicant requested that the Planning Commission modify the condition to only prohibit the sale of single serve hard liquor

containers. The Planning Commission considered the applicant's request as a separate motion from consideration of the Conditional Use Permit request as a whole. Commissioner Grand abstained from the voting process as her residence is within 500 feet of the subject property. The motion to approve the applicant's request to modify the condition to be able to continue selling single serve beer containers failed with a 2-2 vote. The motion to approve the Conditional Use Permit as originally proposed in the agenda packet was passed with a 3-1 vote.

Within the ten-day appeal period, the operator of La Pico Mini Mart, Avtar Singh filed an appeal to remove Condition No. 13 in Resolution No. 2430 for Conditional Use Permit C17-02 adopted by the Planning Commission.

The City Council consideration is limited to whether the sale of single serve beer containers shall be permitted or not. The Conditional Use Permit to allow for the off-site sale of beer, wine and spirits was approved by the Planning Commission, and the sale of hard liquor is permitted, subject to approval of the conditions set forth in Resolution No. 2430.

ANALYSIS/JUSTIFICATION:

PROJECT LOCATION/DESCRIPTION – The subject site consists of a half-acre parcel with an approximately 9,000 square foot multi-tenant building which currently houses the La Pico Mini Mart, restaurants, a dental office, and a bakery/market.

The subject site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding the site is commercial uses in the CG (Commercial General) zone to the north, east and west which include uses such as a strip commercial center, a Laundromat, and a convenience store. Located south of the site is a tax preparation business within the CN (Commercial Neighborhood) zone and automotive repair uses within the Industrial General Zone.

OPERATIONS – The existing convenience store, La Pico Mini Mart, is a 2,730 square foot unit in an approximately 9,000 square foot shopping center. The business has been operated by the applicants since 2006 according to business license records. The convenience store currently sells grocery items, household items, tobacco products, beer and wine. The hours of operation are 6:00 a.m. to 2:00 a.m. daily.

The existing beer and wine display is located in the rear of the mini mart. The beer is displayed in an eight-door cooler which is approximately 54 square feet. The wine bottles are stored on shelves directly across from the beer cooler and displayed on approximately 30 square feet of shelving. The applicant will be keeping the distilled spirits behind the sales counter. Customers will not be able to access these items without the assistance of the sales clerk.

APPEAL – On June 22, 2017, Avtar Singh ("Appellant") filed an appeal of the Planning Commission's decision to prohibit the sale of single serve beer containers as stipulated in Condition No. 13 of Resolution No. 2430 approving Conditional Use Permit C17-02 to the City

Council. The basis of the appeal stated by Mr. Singh and provided in Attachment B, can be summarized by the Appellant's claim that not allowing the sale of single serve beer would cause financial harm to the business as it currently sells single serve beer and wine. The revenue generated from the sale of single serve beer containers (12 fl. oz to 42 fl. oz.) equates to approximately 30-35% of all beer sales as indicated by the Appellant.

Planning Condition No. 13 prohibits the sale of single serve beer or single serve hard liquor containers. This has been a standard condition included in applications for off-sale alcohol requests for a number of years. The condition is also standard in a number of cities including Lake Forest and Fullerton.

The intent of this condition is to prevent the purchase of alcohol for immediate consumption and to mitigate public nuisance activities such as loitering and drinking in public. Although it has been a standard condition for conditional use permit applications for alcohol sales, the Planning Commission has taken individual consideration for each permit and request by the applicant. Below is the record of the past ten years of the Planning Commission's decisions regarding authorizing the sale of beer and wine as single serve containers associated with off-site alcohol sales:

1. 10502 Magnolia Ave. (2013) – approved Conditional Use Permit C13-02 for the off-site sale of beer and wine, with the prohibition of single serve containers.
2. 8472 Katella Ave. (2013) – approved Conditional Use Permit C13-04 for the off-site sale of beer and wine, with approval of the sale of single serve containers.
3. 7470 Cerritos Ave. (2012) – approved Conditional Use Permit C12-06 for the off-site sale of beer and wine, with approval of the sale of single serve containers.
4. 12493 Beach Blvd. (2011) – approved Amendment to Conditional Use Permit C05-12 removing the condition prohibiting the off-sale of single serve beer containers, and authorizing the sale of the single serve containers.
5. 8971 Katella Ave. (2009) – approved Conditional Use Permit C09-07 for the off-site sale of beer and wine, and the resolution was silent on the matter of single serve containers.

In consideration of the request of this application, two Planning Commissioners voted to not authorize the sale of single serve containers at the subject location, while two voted to allow for the sale of single serve beer containers. As there was no majority, the motion failed, and the prohibition remained.

For the Commissioner's that voted to not permit the sale of single serve beer containers, the justification included: there is concern that the City would appear to promote the issue of alcohol related injuries, illnesses and deaths by approving the request to modify the condition to authorize the sale of single serve containers.

For the Commissioner's that voted to permit the sale of single serve beer containers, the justifications included: the subject business was already selling single serve beer containers, and the Sheriff's Department indicated no concern over the increased sale of liquor from the

establishment.

As part of the business narrative, the applicant did not indicate that the sale of single serve containers was already occurring on-site. This information was presented to the City during the public hearing. The Applicant's representative, Mr. Dick Evitt, indicated that the business had been selling single serve beer containers since the original ABC license was issued, and the sales of single-serve containers equated to approximately 30-35% of all alcohol sales for the establishment.

In response to the stated purpose of the condition, Mr. Evitt indicated that it does not discourage the immediate consumption or mitigate public nuisance activities such as loitering and drinking in public. He stated that if someone had the intent of drinking in public or to immediately consume the alcoholic beverage, they would simply purchase a four- or six-pack of beer and consume as intended, with more alcohol in hand than if they were to purchase a single serve container.

In response to Mr. Evitt's statement that the prohibition of individual containers does not discourage nuisance activities, one Commissioner agreed that the prohibition does not make sense since consumers will have multiple containers rather than just one for their immediate consumption. However, the single serve beer containers are generally less expensive than purchasing a four- or six-pack of alcohol, which could provide for a greater ease of access to alcohol and an increased opportunity to consume upon purchase.

Mr. Evitt also stated that single container beer sales make up approximately 30% of all alcohol sales and since hard liquor sales are estimated to be only 10% of alcohol sales, it would not make sense for the business to give up the ability to sell single served beer containers in order to upgrade their ABC license.

The Sheriff's Department was informed of the proposed application and indicated that there were no objections to the upgrade in ABC license to include distilled spirits sales for off-site consumption. There have also been no calls for service associated with public drinking or intoxication associated with the business in the last five years based on Sheriff's Department records.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the California Environmental Quality Act (CEQA) this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION:

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the agenda-

posting process.

STRATEGIC PLAN:

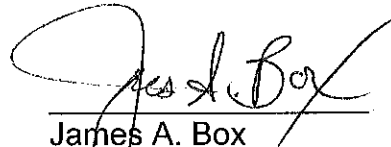
- 2 – Promote a Strong Local Economy
- 5 – Provide a High Quality of Life

Prepared by,



Kelly Hart
Community & Economic
Development Director

Approved by,



James A. Box
City Manager

ATTACHMENTS

- A. Appeal Form from Applicant (dated June 22, 2017)
- B. Planning Commission staff report and attachments (dated June 21, 2017)



CITY OF STANTON

APPEAL FORM AND HANDOUT JUN 22 2017

City Clerk's Office
7800 Katella Avenue, Stanton, CA 90680
Phone: (714) 379-9222 Fax: (714) 890-1443

CITY OF STANTON
PAID

CITY OF STANTON

JUN 22 2017

CITY CLERK'S OFFICE

An appeal shall be filed within ten (10) calendar days after the final action of the Planning Commission.

APPEAL OF: ☒ Planning Commission Decision (\$1,235 fee)

Type of Permit (example: Conditional Use Permit): CUP Permit Number: C17-02

Address of Project: 10480 BEACH BLVD STANTON, CA 90680 Decision Date: 6/21/17

APPELLANT INFORMATION

Name of Applicant (Appellant): AVTAR SINGH

Mailing Address: 10480 BEACH BLVD STANTON, CA 90680

Telephone Number: [REDACTED] Email: [REDACTED]

In what capacity is the appellant filing? ☐ Recorded Property Owner ☐ Interested Party ☐ Effected Party

PROPERTY OWNER INFORMATION (IF KNOWN)

Name of Property Owner: GOLDENDLAND PROPERTIES LLC

Mailing Address: [REDACTED]

Telephone Number: [REDACTED] Email: [REDACTED]

Describe what portion(s) of the decision you are appealing: CONDITIONAL USER PERMIT ITEM #13

RESPECTFULLY REQUEST THAT ITEM BE REMOVED FROM THE CONDITIONS
PLACED ON THIS CUP. ALL OTHER STAFF REMAIN UNCHANGED.

Describe the Purpose for Your Appeal (be specific): THE MARKET NOW SELL SINGLE CANS
OF BEER & WINE. ALL SIZES. (30 TO 35% OF BEER SALES) IF NO SINGLE
SIZES ARE TO BE REMOVED THIS WILL CAUSE HARM TO THIS PRESENT
BUSINESS.

APPLICANT CERTIFICATION:

I hereby certify that all information contained in this application is, to the best of my knowledge, true and correct. FALSE OR MISLEADING INFORMATION GIVEN IN THIS APPLICATION SHALL BE GROUNDS FOR DENYING APPLICATION. I hereby grant the City authority to post required public notices.

Signature: [REDACTED]

Date: 06/22/17

Star (Agent) For Avtar Singh

(Contact Person)
April 2017

Office use only: Account Number: 101.0000.433205

★ ★
ALL STAR REALTY

★
July 5, 23017

★
City of Stanton
City Clerk's Office
7800 Katella Avenue
Stanton, CA. 90680

To Whom It May Concern:

Reference: Permit Number C17-02 & Resolution No. 2430

The Planning Commission meeting was held on June 21, 2017 at 6:30 pm.

Resolution No. was approved by the Planning Commission.

The applicant was at the meeting and discussed the conditions which were approved by the Planning Council, but the applicant appealed their decision For one item only, Item # 13 which reads as follows:

"The sale of single serve beer or hard liquor containers is prohibited.

It is respectfully requested that the conditions should read as follows:

"The sale of hard liquor containers is prohibited. (Single shots)

The store now sells single sales of beer & wine which comprises 30 to 25% of alcoholic beverage sales. This includes 12 oz and up to 40 oz containers. Please take this under consideration and revise item 13 on the conditions. All other stores in the area are allowed to sell single sale items.

Sincerely


Dick Evitt (Broker - Agent)

Member Society of Certified Business Opportunity Appraisers (A Nationwide Organization)
5905 Winncliff Dr.— Riverside, CA 92509 — (909) 821-6426 (CELL), (951) 681-1912 (FAX)



CITY OF STANTON REPORT TO THE PLANNING COMMISSION

TO: Chairperson and Members of the Planning Commission

DATE: June 21, 2017

SUBJECT: A PUBLIC HEARING TO CONSIDER CONDITIONAL USE PERMIT C17-02 TO ALLOW FOR THE UPGRADE FROM A TYPE 20 LICENSE FOR THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION TO A TYPE 21 LICENSE TO AUTHORIZE THE SALE OF BEER, WINE AND DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION. ALSO UNDER CONSIDERATION IS THE REVOCATION OF CONDITIONAL USE PERMIT C91-1 WHICH APPROVED THE CONTINUED OPERATION OF AN EXISTING CONVENIENCE STORE WITH OFF-SALE BEER AND WINE AT 10480 BEACH BOULEVARD WITHIN THE CG (COMMERCIAL GENERAL) ZONE.

RECOMMENDED ACTION

That the Planning Commission:

- Conduct a public hearing;
- Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
- Adopt Resolution No. 2430 approving Conditional Use Permit C17-02 and revoking Conditional Use Permit C91-1.

BACKGROUND

In 1991, the Planning Commission approved Conditional Use Permit C91-1 which allowed for the sale of beer and wine for off-site consumption at an existing mini mart located at 10480 Beach Blvd. The applicants, Jaspal Kaur and Avtar Singh, owners of La Pico Mini Mart, are now requesting to upgrade the existing Type 20 Alcoholic

Beverage Control (ABC) license for the sale of beer and wine for off-site consumption to a Type 21 license to authorize the sale of beer, wine and distilled spirits for off-site consumption.

Section 20.400.030.B.6 of the Stanton Municipal Code indicates that any change in the type of existing ABC license shall be subject to a Conditional Use Permit. As such, the applicant is requesting approval of a Conditional Use Permit to allow for the upgrade from a Type 20 off-site beer and wine license to a Type 21 license for the sale beer, wine and distilled spirits for off-site consumption.

ANALYSIS/JUSTIFICATION

PROJECT LOCATION/DESCRIPTION – The subject site consists of a half-acre parcel with an approximately 9,000 square foot multi-tenant building which currently houses the La Pico Mini Mart, restaurants, a dental office, and a bakery/market.

The subject site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding the site is a Commercial General zone to the north, east and west which include uses such as a strip commercial center, a Laundromat, and a convenience store. Located south of the site is a tax preparation business within the Commercial Neighborhood Zone and automotive repair uses within the Industrial General Zone.

OPERATIONS – The existing convenience store, La Pico Mini Mart, is a 2,730 square foot unit in an approximately 9,000 square foot shopping center. The business has been operated by the applicants since 2006 according to business license records. The convenience store sells grocery items, household items, tobacco products, beer and wine and is now proposing to sell distilled spirits. The hours of operation are currently 6:00 a.m. to 2:00 a.m. daily which are proposed to remain the same.

The existing beer and wine display is located in the rear of the mini mart. The beer is displayed in an eight-door cooler which is approximately 12.5 square feet. The wine bottles are stored on shelves directly across from the beer cooler and displayed on approximately 50 square feet of shelving. The applicant is proposing to keep the distilled spirits behind the sales counter. Customers will not be able to access these items without the assistance of the sales clerk. According to the applicant, the maximum bottle size that ABC will allow them to sell with a Type 21 license is 1.7 liters.

CIRCULATION/PARKING – The project site is accessible from one driveway on Beach Boulevard and one on Cerritos Avenue. In regards to parking, there are a total of 23 parking spaces available on site, two of which are handicap accessible. The proposal for the sale of distilled spirits for off-site consumption will not affect the current parking demand and therefore will not require an increase in the number of parking spaces allocated on the property.

ABC LICENSING REQUIREMENTS – The California State Department of Alcohol Beverage Control (ABC) establishes the number of new on-sale and off-sale licenses within a given census tract. If the number of licenses exceeds the amount set by ABC, the

Planning Commission would be required to make a finding of public convenience and necessity. In this case, the applicant has an existing Type 20 beer and wine license and is simply requesting to exchange the license for a Type 21 which would allow the sales of distilled spirits for off-site consumption. Since the number of licenses in this census tract is not increasing, a finding of public convenience and necessity is not required.

The Sheriff's Department was informed of the proposed application and indicated that there were no objections to the upgrade in ABC license to include distilled spirits sales for off-site consumption. Staff is recommending Planning Condition No. 11, which would allow the Community Development Director or the Chief of Police to require additional security measures if deemed necessary based on increased public safety concerns or neighborhood complaints.

ENVIRONMENTAL IMPACT

In accordance with the requirements of the CEQA this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the regular agenda-posting process.

Prepared by,



Rose Rivera
Associate Planner

Approved by,



Kelly Hart
Community & Economic
Development Director

ATTACHMENTS

- A. Planning Commission Resolution No. 2430
- B. Vicinity Map
- C. Photos
- D. Project Narrative from Applicant
- E. Site Plan
- F. Floor Plan

RESOLUTION NO. 2430

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STANTON APPROVING CONDITIONAL USE PERMIT C17-02 TO ALLOW FOR THE UPGRADE FROM A TYPE 20 LICENSE FOR THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION TO A TYPE 21 LICENSE TO INCLUDE THE SALE OF DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION AND THE REVOCATION OF CONDITIONAL USE PERMIT 91-1 FOR THE PROPERTY LOCATED AT 10480 BEACH BLVD IN THE CG (COMMERCIAL GENERAL) ZONE

THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, in 1991, the Planning Commission approved Conditional Use Permit C91-1 which allowed for the sale of beer and wine for off-site consumption at an existing mini-mart located at 10480 Beach Boulevard; and

WHEREAS, on June 21, 2017, the Planning Commission of the City of Stanton conducted a duly noticed public hearing concerning the request to upgrade the existing Type 20 Alcoholic Beverage Control (ABC) license for the sale of beer and wine for off-site consumption to a Type 21 license to include the sale of distilled spirits for off-site consumption located at 10480 Beach Boulevard in the CG (Commercial General) zone; and

WHEREAS, on June 21, 2017, the Planning Commission of the City of Stanton conducted a duly noticed public hearing to revoke Conditional Use Permit C91-1 which approved the continued operation of an existing convenience store with off-sale beer and wine located at 10480 Beach Boulevard in the CG (Commercial General) zone; and

WHEREAS, the Commission has carefully considered all pertinent testimony and information contained in the Staff report prepared for this application as presented at the public hearing; and

WHEREAS, Staff has reviewed the environmental form submitted by the Applicant in accordance with the City's procedures. Based upon the information received and Staff's assessment of the information, the Project has been determined to be categorically exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301, Class 1(a) (Existing Facilities) and;

WHEREAS, all legal prerequisites have occurred prior to adoption of this resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: The Planning Commission hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: Based upon the Initial Study, the Planning Commission exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities).

SECTION 3: That in accordance with the findings as set forth in Sections 20.550.060 and 20.400.030 of the Stanton Municipal Code:

- A. The proposed application is consistent with the General Plan and any applicable specific plan. Strategy ED-4.1.1 of the General Plan is to assist existing businesses by facilitating the permitting process for those looking to expand their facilities. The approval of the conditional use permit will allow the existing mini mart to expand their business while providing the convenience to customers wanting to purchase a variety of merchandise, including food, beverages and household products.
- B. The proposed use is allowed within the applicable zone and complies with all other applicable provisions of the zoning code and the municipal code. The proposal to allow for the sale of distilled spirits is permitted per the City of Stanton Municipal Code contingent upon receiving a conditional use permit for the ABC license upgrade which would allow for the sale of distilled spirits for off-site consumption.
- C. The design, location, size and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity. The proposal to allow for the upgrade in the existing ABC license to include the sale of distilled spirits shall have no adverse affect upon abutting properties. The proposed use is commercial in nature which is in compliance with the zoning and general plan designation of the site. In addition, staff has included conditions of approval to ensure that appropriate measures to ensure the use remains compatible with the surrounding area. In addition, the Sheriff's Department has reviewed the proposal and did not state a concern about the impact to the surrounding neighborhood with the addition of distilled spirits.
- D. The site is physically suitable in terms of its design, location, shape, size and operating characteristics of the proposed use; the provision of public and emergency vehicle access; public protection services; the provision of utilities; and served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate. The proposed use has access from Beach Boulevard and Cerritos Avenue and would not affect the streets and public rights-of-way utilized by emergency service vehicles. Moreover, the subject property is already served by utilities and public protection services. The inclusion of the sale of distilled spirits for the existing mini mart would not be considered an intensification of use in terms of parking, occupancy of the building, or anticipated vehicle trips to and from the site. The use would be conducted within an existing building, would not increase the square footage or use of the building, or modify the ingress or egress on the site.

- E. The site's suitability ensures that the type, density, and intensity of use being proposed will not adversely affect the public convenience, health, interest, safety or general welfare, constitute a nuisance, or be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located. The existing use of the property is the operation of a mini mart. With the approval of the conditional use permit, the business would be permitted to sell distilled spirits for off-site consumption. The site is suitable for the proposed use and would serve the surrounding commercial and residential properties by providing the convenience to patrons to allow the ability to purchase distilled spirits in conjunction with a variety of merchandise. Conditions of approval are included in order to avoid the potential of an attractive nuisance being established.
- F. Section 20.630.050 of the Stanton Municipal Code provides that a Conditional Use Permit may be revoked by the Planning Commission if it finds that circumstances under which the permit was granted have been changed by the applicant to an extent that one or more of the findings that justified the original approval can no longer be made, and the public health, safety, and welfare require the revocation. In this case, the owners are proposing to include the sales of distilled spirits for off-site consumption at an existing mini mart. The addition of distilled spirits constitutes a change in circumstances under which the existing conditional use permit C91-1 was approved, and as such, Conditional Use Permit C91-1 shall be revoked.
- G. The subject application does not need to make a finding of public convenience and necessity since the number of licenses in the census tract is not increasing. The California State Department of Alcohol Beverage Control (ABC) established the number of on-sale and off-sale licenses within a given census tract and if the number of licenses exceeds the amount set by ABC, the Planning Commission would be required to make a finding of public convenience and necessity. In this case, the applicant has an existing Type 20 beer and wine license and is simply requesting to exchange the license for a Type 21 which would allow the sales of distilled spirits for off-site consumption.

SECTION 4: That based upon the above findings, the Planning Commission hereby approves Conditional Use Permit C17-02 to allow the upgrade of the existing Alcoholic Beverage Control (ABC) license to include the sale of distilled spirits for off-site consumption on the property located at 10480 Beach Boulevard in the CG (Commercial General) zone and revokes Conditional Use Permit C91-1, subject to the following conditions:

- A. **That all conditions of the Planning Division be met, including but not limited to the following:**
1. The subject use will be used, operated and permanently maintained in accordance with the terms of the application, plans, drawings submitted and conditions imposed in the Resolution of Approval.

2. All requirements of the City of Stanton Municipal Code as it pertains to this application shall be complied with and such requirements shall be made a condition of permit approval.
3. The applicant(s) and owner(s) shall acknowledge in writing within 30 days to the Conditions of Approval as adopted by the Planning Commission. In addition, the applicant shall record the Conditions of Approval in the Office of the County Recorders.
4. Approval for any form of modification of the subject use shall be obtained from the Planning Commission subject to a modification of the Conditional Use Permit.
5. The display of distilled spirits shall be limited to the area behind the sales counter as designated on the approved floor plan.
6. The distilled spirit containers with a volume of 750 ml or more shall be secured with a bottle cap anti-theft device that is removed upon sale of the product.
7. The Commission may set this permit for public hearing at any time to consider modification of any condition or revocation of the permit if non-compliance with the conditions of approval is found.
8. Alcoholic beverages shall not be sold between the hours of 2:00 a.m. and 6:00 a.m.
9. Hours of operation shall be limited to 6:00 a.m. to 2:00 a.m. daily.
10. Based on increased service calls or input from the surrounding commercial and residential tenants, the Community Development Director or the Chief of Police may require the provision of a security guard at the subject business during certain business hours at their discretion, at the sole cost of the business owner, or a modification to the business hours of operation, or the hours available for the sale of alcoholic beverages.
11. Alcohol shall not be consumed anywhere on the subject property. The sale of alcoholic beverages is allowed only upon approval by the Department of Alcoholic Beverage Control (ABC) and shall be subject to ABC requirements. The applicant is responsible for supervising and controlling the activities of their customers within the subject property. The applicant shall ensure that no disorderly behavior occurs in these areas and that alcoholic drinks are not opened or consumed on-site. The inability of the applicants to perform in this manner shall be cause for review and revocation of this use permit as it pertains to the sale of alcoholic beverages.
12. A Type 21 Liquor License to include the sale of distilled spirits for consumption off the premises shall be obtained from the State Department of Alcoholic Beverage Control (ABC) and shall be permanently maintained. Sales of distilled spirits from the subject property may not commence until such time as the ABC license is obtained.
13. The sale of single serve beer or hard liquor containers is prohibited.
14. The permit may be presented to the Planning Commission for review six months after the initiation of the sale of alcoholic beverages. Upon review of the permit, the Planning Commission reserves the right to modify or add additional

conditions of approval, or revoke the permit.

15. A height marker shall be placed at each exit to enable witnesses to a crime to estimate the height of the perpetrator.
16. A minimum of two signs shall be posted in prominent locations to inform patrons that no alcoholic beverages shall be consumed on the premises of any business that is subject to the regulations of this section.
17. Alcoholic beverage containers shall not be placed in opaque bags or boxes at or after the time of sale except where the volume of alcohol purchased is in excess of three liters.
18. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs that are clearly visible to the exterior shall constitute a violation of this condition.
19. Graffiti on the property shall be removed at the property owner's expense within 24 hours.
20. In accordance with policies adopted by the City, the Applicant/Owner shall be responsible for any cost incurred as a result of local law enforcement or code enforcement investigation/inspections that result in a finding of violation of any applicable laws and/or conditions of approval.
21. A City of Stanton business license shall be obtained and permanently maintained on a continuous basis by the proposed use.
22. A security surveillance camera system shall be installed for the interior of the mini mart. The surveillance tapes shall be maintained for a period not less than one month. The surveillance tapes shall be made available to the Sheriff's Department upon request.
23. Existing security lighting shall be reviewed. Additional security lighting may be required if it determined to be inadequate to the satisfaction of the Community Development Director or Chief of Police.
24. The applicant shall meet all the restrictions and regulations of the Department of Alcohol Beverage Control (ABC).
24. Termination: Upon approval and after commencement of the use, the permit shall become null and void 180 days after such time as the use at the approved location ceases to be operated as noted by lapse of City business license, lapse of State Board of Equalization permit, or date noted by city official with proper site verification of abandonment or discontinuance. This permit shall be deemed immediately terminated should the approved location be occupied by a use not in accord with this approval.
25. The applicant shall maintain **AT ALL TIMES** a copy of the Conditions of Approval set forth in Resolution No. 2430 at the place of business. Said Resolution shall be available for review by the City or any applicable agency when conducting routine inspections at the site.

26. As a condition of issuance of this approval, the applicant shall agree, at its sole cost and expense, to defend, indemnify, and hold harmless the City, its officers, employees, agents, and consultants, from any claim, action, or proceeding brought by a third-party against the City, its officers, agents, and employees, which seeks to attack, set aside, challenge, void, or annul an approval of the City Council, Planning Agency, or other decision-making body, or staff action concerning this project. The City agrees to promptly notify the applicant of any such claim filed against the City and fully co-operate in the defense of any such action. The City may, at its sole cost and expense, elect to participate in the defense of any such action under this condition.

B. That all conditions of the Building Division be met.

C. That all requirements of the Orange County Fire Authority be met.

SECTION 5: Conditional Use Permit C91-1 is hereby revoked and shall be null and void.

SECTION 6: That based upon the above findings, the Planning Commission hereby APPROVES Conditional Use Permit C17-02.

ADOPTED, SIGNED AND APPROVED by the Planning Commission of the City of Stanton at a regular meeting held on June 21, 2017 by the following vote, to wit:

AYES: COMMISSIONERS: _____

NOES: COMMISSIONERS: _____

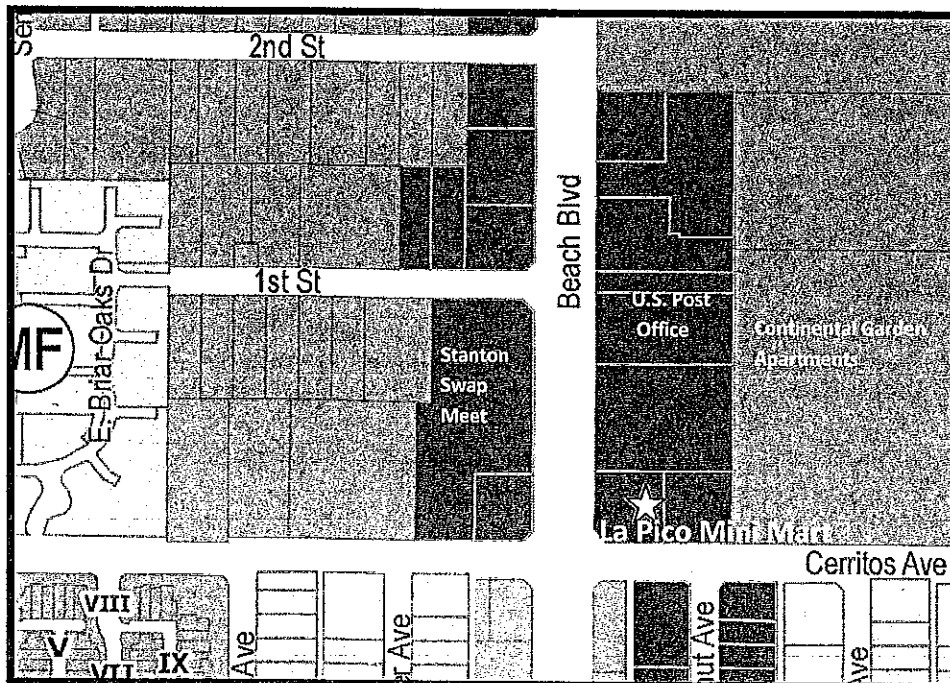
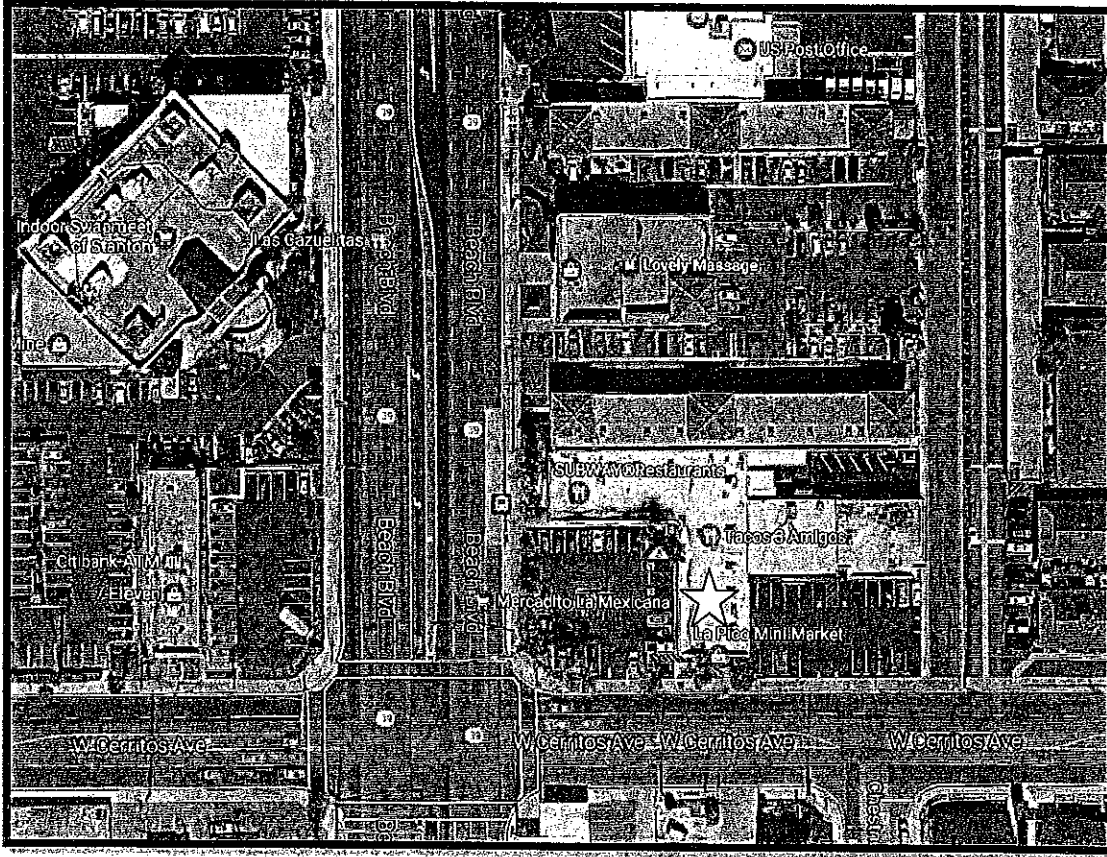
ABSENT: COMMISSIONERS: _____

ABSTAIN: COMMISSIONERS: _____

Elizabeth Ash, Chairperson
Stanton Planning Commission

Kelly Hart
Planning Commission Secretary

VICINITY MAP
10480 Beach Blvd.
La Pico Mini Mart



LA PICO PLAZA
10462 - 10480

SUBWAY

DENTIST
714-995-5995

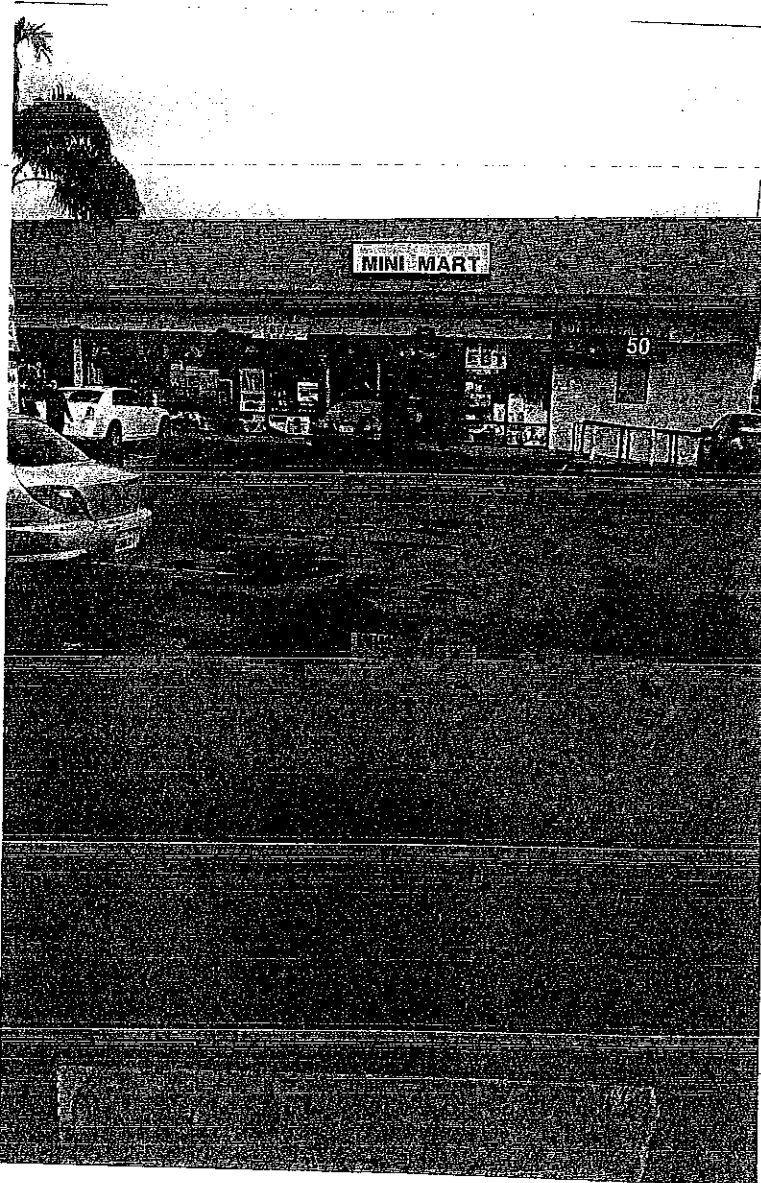
TACOS 3 AMIGOS #2
MEXICAN FOOD

Stanton
BAKERY & PIZZA

PANADERIA

La Pico
MINI MART
open 7 days

MERCADITO

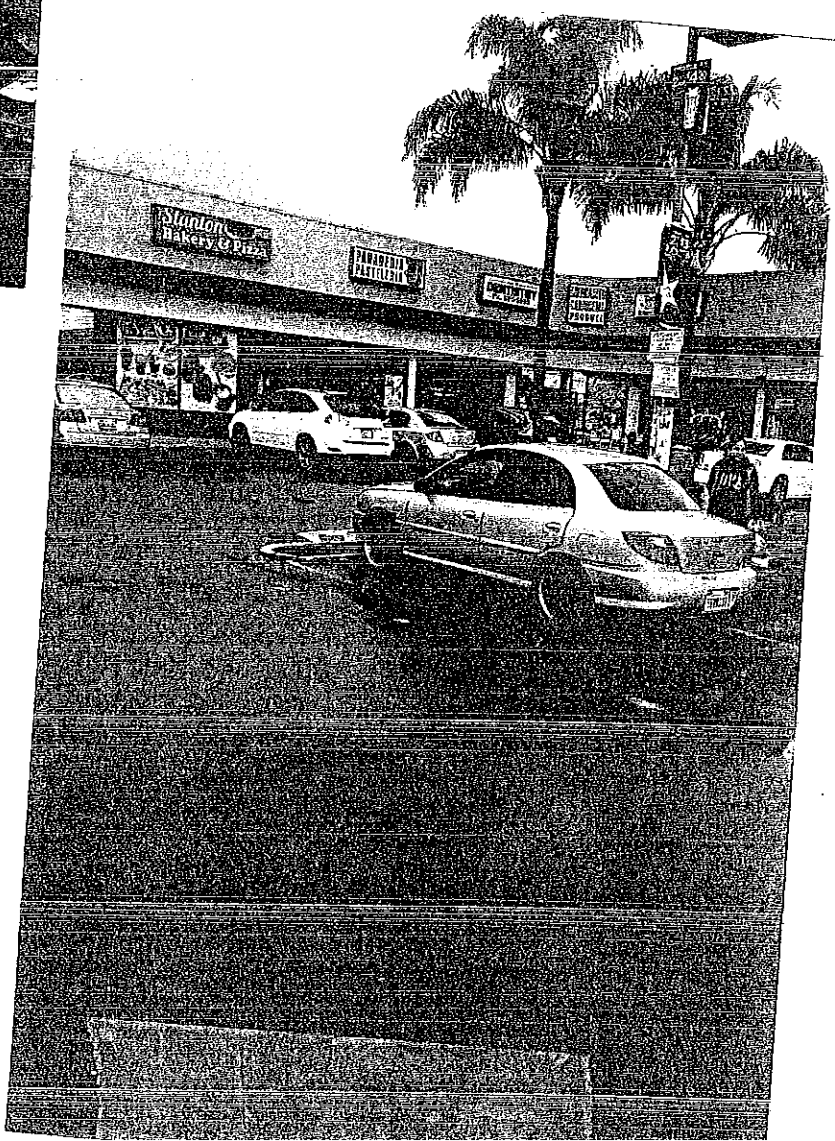


RECEIVED

JAN 19 2017

COMMUNITY DEVELOPMENT

ATTACHMENT C





La Pico Mini Mart
10480 Beach Boulevard
Stanton, CA. 90680.

RECEIVED

JAN 19 2017

COMMUNITY DEVELOPMENT

(714) 821-3273

January 17, 2017

To Whom It May Concern:

Proposed Operations and/or Development Plan

The La Pico Mini Market has been in operation for many years. As the present owner of the market the plans for operation will continue to operate the from 6:00 am to 2:00 am.

The store sells grocery items, house hold items, soft drinks, beer & wine, tobacco products, etc. We provide the local customers with items necessary for daily living.

Customers have requested that the business be allowed to sell distilled sprits (Hard Liquor products) as they will be able to one stop shop for these items.

The liquor items will be kept behind the sales counter and will be sold only to qualified buyers. Customers will not be able to obtain these items without the sales clerk on duty as they cannot reach these items.

The owners have never had any violations of the city or state laws and will continue to operate in the same manner.

Sincerely,

AVTAR Singh

ATTACHMENT D

Reach Blvd

NOT A PART of
the Commercial Market

Not part of the
Project

La Pico Mini Market

IN & OUT DRIVE WAY

LANDSCAPING

LANDSCAPING

12' SIDEWALK

LANDSCAPING

LANDSCAPING

IN & OUT DRIVEWAY

LANDSCAPING

8' SIDEWALK

Cerritos Ave.

Purpose:

CUP required to Upgrade Current
ABC liquor license type 20, Off Sale
Beer & Wine to a type 21 Off Sale
General License.

Applicant:

Ayaz Singh
DBA La Pico Mini Market
10980 Beach Boulevard
Stanton, CA 90680

PROPERTY OWNER:

GOLDENLAND PROPERTIES LLC
P.O. BOX 2274
PALOS VERDES PENINSULA
CA. 90274

CONSULTANT:

DICK EVITT
ALL STAR REALTY
5905 WINNCLIFF DR.
JURUPA VALLEY, CA. 92509
(909) 821-6426 (Cell)
dickevitt@earthlink.net

Parking:

21 - 9 X 19
2 - Handicap

ATTACHMENT E

SCALE: 1" = 2'		APPROVED BY:		DRAWING BY: DICK EVITT	
DATE: 06/27/2027				REVISION	
				DRAWING NUMBER	

Purpose:

CUP required to Upgrade current
ABC liquor license Type 20 Off Sale
Beer Wine to Type 21 Off Sale
General.

Applicant:

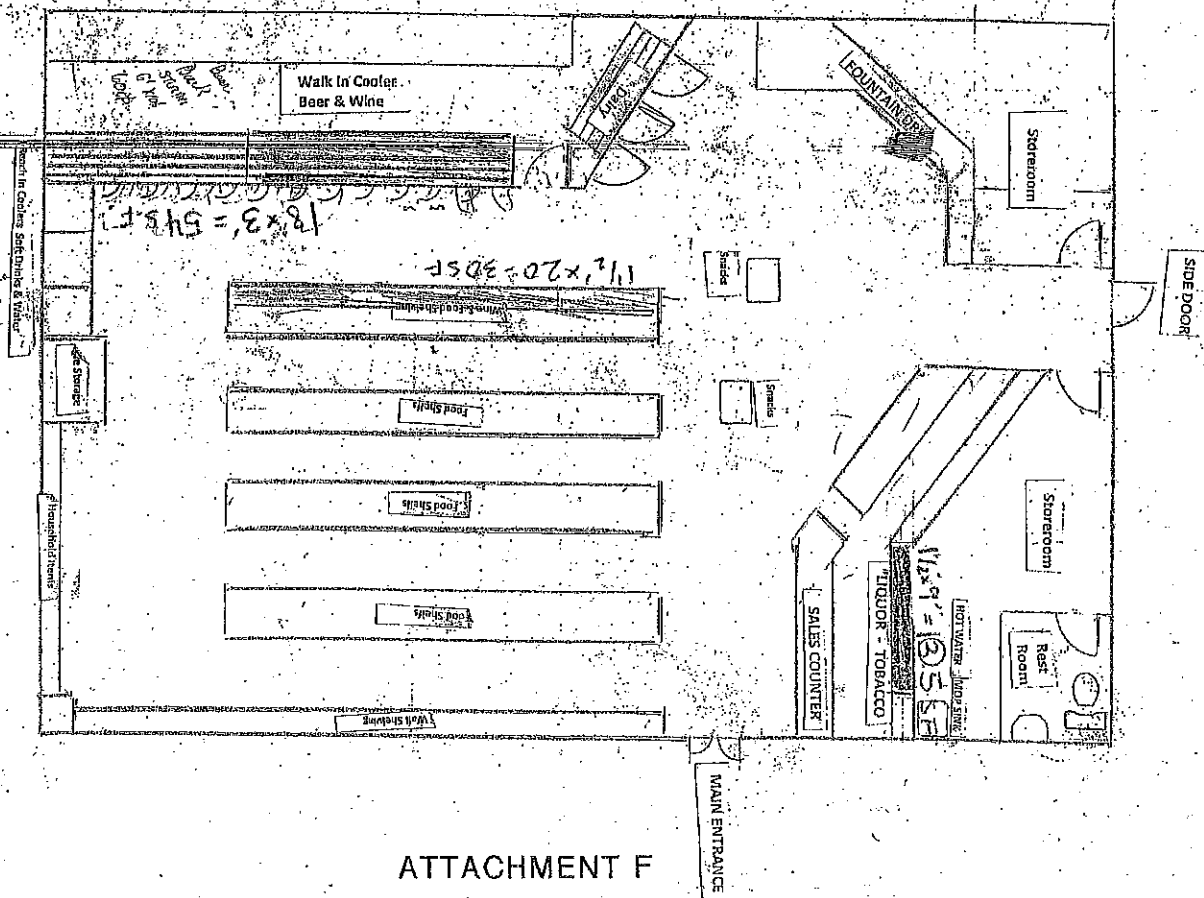
Ayres Singh
DBA La Pico Mini Market
10480 Beach Blvd.,
Sanon, CA. 90680
(714) 821-3273

Consultant:

Dick Eitt
All Star Realty
5905 Wrentham Drive
Jurupa Valley, CA. 92509
(909) 821-6426 (Cell)
dickewitt@earthlink.net

Goldendland
Properties, LLC
2274 Palos Verdes
Peninsula, CA. 90274

APN - 126-421-14
Zoning CG
Total Lot Sq. 21,875 sqpx



ATTACHMENT F

SCALE: 1" = 8'		DRAWN BY: [Signature]	
DATE: 02/27/2009		CHECKED BY: [Signature]	
PROJECT: [Blank]		DRAWING NUMBER: [Blank]	

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: July 11, 2017

SUBJECT: **APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-03 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 7013 KATELLA AVENUE, #B IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY VAN VAN LE**

REPORT IN BRIEF:

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. City Council hold a public hearing; and
2. Consider Resolution No. 2017-29 upholding the Planning Commission's denial of Conditional Use Permit C16-03 and denying the Applicant's appeal.

BACKGROUND:

In 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections. The Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate.

On April 5, 2017, the Planning Commission held a public hearing to consider Conditional Use Permit C16-03 to allow for the continued use of a massage establishment at 7013 Katella Ave. #B, Lucky Massage. At the conclusion of the public hearing, the Planning Commission, with a unanimous vote, determined that the application could not meet all the necessary findings to approve the conditional use permit. As such, the Planning Commission denied Conditional Use Permit C16-03. Within the ten-day appeal period, the operator of Lucky Massage, Mr. Van Van Le filed an appeal of the Planning Commission's action to deny CUP No. C16-03.

ANALYSIS/JUSTIFICATION:

The subject property is located in the shopping center on the northeast corner of Katella Ave. and Knott Ave. within the CG (Commercial General) zone. Lucky Massage is part of the Katella Knott Shopping Center which includes a dental office, Daiso, Shoe City, a smoke shop

and a variety of commercial and restaurant uses.

OPERATIONS – Lucky Massage opened in December 2014 according to City records. However, the applicant in the appeal letter indicates the business has been in operation since July 2013. According to the applicant, the massage establishment has two licensed massage therapists, each working four days per week, and one receptionist. On-site manager duties are divided between one massage technician and the receptionist. The business includes four private massage rooms, an office, breakroom, unisex restroom and laundry/storage room. The business operated from 10 am to 10 pm, with massages by appointment, only.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on five occasions between 2014 and 2016 and noted the following violations of State or Local Codes:

First Inspection (2014) – Staff observed no violations. Inspections in 2014 occurred prior to adoption of standards for massage establishments.

Second Inspection (February 18, 2015) – Staff observed a receptionist retained as an independent contractor working without a City business license in violation of SMC 5.04.010 *Business Licenses and Regulations, License Required*). Citations for this violation were issued to the receptionist, business owner and property owner. The citations were not disputed by of the parties and the fines were paid to the City.

Third Inspection (May 5, 2015) - When staff arrived, there was one woman on-site. She refused to provide identification to City staff and denied working at the business, even though she was in the office/reception area behind the counter. Staff asked if there was anyone else on-site, and she said no. When asked if the massage rooms could be opened she said yes. In one massage room, staff observed a naked, male customer laying on the table, face up. Two additional men were found in two other rooms. One male left the establishment quickly; the other two asked the woman on-site for a refund. The woman on-site said she knew nothing about the money and refused to assist them. In the back room, stacks of cash had been placed on a shelf in open view. One male took one of the stacks of money, the other male left without taking any money.

Before they departed, two of the three men said they had been assisted at the establishment by a woman in a fur coat. Eventually, a woman matching this description arrived (wearing a fur coat) and identified herself as the receptionist for Lucky Massage. Upon staff's questioning of the receptionist, she was unable to answer simple questions regarding the business operations or which massage therapist was supposed to provide massage services to the three male customers.

The first woman continued to refuse to provide identification, and the Sheriff's Department was called. While waiting for the Sheriff, she agreed to provide her identification. An administrative citation for operating a business without a business license (SMC 5.04.010) was issued to the woman. Additional citations were issued to the business owner, and the property owner as responsible parties for the same violation. None of the citations were disputed by the parties, and all of the fines were paid to the City.

This inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: failure to have either the business owner or a designated manager supervise the premises at all times the business is open; failure to have at least one person who has a valid, State-issued California Massage Therapy Council ("CAMTC") certification present at all times while the establishment is open; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City.

Fourth Inspection (April 4, 2016) – The fourth inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a bed and personal items indicating someone living in the massage establishment; failure to provide functioning lockers for the storage of employees' personal belongings; failure to have employees store all personal belongings in a locker while at the establishment; and, tinted glass used in the front windows, obscuring visibility into the unit.

Fifth Inspection (August 4, 2016) – The fifth inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: failure to have either the business owner or a designated manager supervise the premises at all times the business is open; failure to have at least one person who has a CAMTC certification present at all times while the establishment is open; a massage therapist providing massage services with expired CAMTC certification in violation of State requirements; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; and the presence of a condom wrapper in the trash can of the restroom indicating that sexual activity had taken place at the massage establishment.

APPEAL – On April 17, 2017, Mr. Le ("Appellant") filed an appeal of the Planning Commission's decision to deny Conditional Use Permit C16-03 to the City Council. The basis of the appeal stated by Mr. Le and provided in Attachment B, can be summarized with the Appellant's assertion that the violations were insufficient to provide grounds for denial of the requested conditional use permit.

City Staff's Response to Appeal

1. Appellant asserted that in October 2016, the Appellant signed a three (3) year lease extension for the subject location, and denial of the conditional use permit would cause great financial harm.

City Response: The Appellant's application for the conditional use permit was submitted to the City on March 29, 2016. At that time, the applicant was informed that a conditional use permit is a discretionary permit and, that there was no guarantee that the permit would be approved by the Planning Commission. The applicant was verbally informed that the Planning Commission would consider the entire record of the business operation in determining whether to approve or deny the application. Here, the Appellant renewed the property lease at their own risk before the Planning Commission rendered its discretionary

decision on the application. The applicant is responsible for all actions regarding the signing of the lease. Additionally, the findings for approval of a conditional use permit, as provided in Section 20.550.060 of the Stanton Municipal Code, do not consider the financial obligation of the applicant as a cause for approval of the application.

2. Appellant asserted that the initial inspection in 2014 showed that there were no violations, and for an entire year thereafter, there were numerous inspections but no violations of any city ordinance or laws of the State of California found by staff.

City Response: In 2014, the City was still operating under SB 731 which restricted land use rights and permitting of massage establishments at the State level. The inspection conducted in 2014 was to verify that all persons on-site had a valid California Massage Therapy Council (CAMTC) license, as required per the State law. At the time of the 2014 inspection, all persons were able to provide proof of licensure.

The Appellant makes the statement that after this inspection, numerous inspections were conducted before the next cited inspection in 2015, and no violations were found. In the staff report provided to the Planning Commission, staff provided an account of each inspection conducted by City staff. Therefore, the statement that numerous other inspections were conducted is erroneous. Other inspections may have been conducted by outside county or state agencies, but the City does not have any record that any additional inspections were conducted by these other agencies, and if the inspections were conducted, they were not to verify compliance with the City's ordinances and regulations.

3. Appellant asserted that for the inspection conducted in February 2015, the Appellant indicates the "independent contractor" that was observed on-site without proper licensure had "only been at the location for approximately one (1) day, and a decision to allow her to operate had not been made, and thus the individual had not yet obtained her license to work as a receptionist." After this statement, the Appellant makes a statement indicating that the licenses are expensive, which appears to be the justification for allowing the individual to work on the premises for a period of time before obtaining the license.

City Response: Section 5.04.010 of the Stanton Municipal Code states,

"It is unlawful for any person, either for him or herself or for any other person, to commence, conduct, carry on, or engage in any business ... in the city without first having procured a license from the city so to do, or without complying with any and all regulations of such business ... and the carrying on of any business without first having procured a license from the city so to do, or without complying with any and all regulations ... constitutes a separate violation of this chapter for each and every day that such business is carried on or conducted."

The Stanton Municipal Code explicitly states that a person must first obtain a license prior to engaging in business. As such, a trial period is not permitted, and regardless of the cost of the license, the Appellant is responsible to ensure that all individuals contracted to work

at the establishment are fully licensed before the initiation of work.

4. Appellant asserted that after the second inspection in 2015, that there were numerous inspections after the reported inspection where no violations were found.

City Response: Again, in the staff report provided to the Planning Commission, staff provided an account of each inspection conducted by City staff. Therefore, the statement that numerous other City inspections were conducted is erroneous. Other inspections may have been conducted by outside county or state agencies, but the City does not have any record whether any additional inspections were conducted by these other agencies, and if the inspections were conducted, they were not to ensure compliance with City regulations and ordinances.

5. Appellant contends that for the third inspection conducted on May 5, 2015, although the City staff indicates that they observed an "independent contractor" at the site and issued a citation to the individual, the citation was voided by the City. In addition, in response to the fact that three patrons were at the facility without a licensed massage technician, the Appellant indicated that the massage therapist that was scheduled to work had a family emergency and was a few minutes late. The Appellant asserted that the receptionist assisted the patrons to the individual massage rooms in preparation of the massage technician's anticipated arrival. In response to the receptionist indicating she does not work at the establishment, the Appellant indicates that she was confused as she was only a receptionist and not a massage therapist and thus responded that she did not work there as a therapist when asked.

City Response: In regard to the administrative citation that was voided, the Appellant has indicated that it was associated with the May 5, 2015 inspection. However, based on the voided citation that was attached to the appeal letter, the citation was related to the April 4, 2016 inspection. The citation issued to the individual on the May 5, 2015 inspection was a valid citation and was not voided. In regards to the April 4, 2016 citation, the citation was issued in error. During the week of April 4, 2016, the City was migrating its business license computer software to a new system. At this time, business license entries were intended to be logged in both the old and new system. However, in the case of Ms. Tuyet Thi Tran, her business license was not logged into the new system so it appeared she did not have a business license. The citation was issued and Ms. Tran indicated she had business license. Staff reviewed the record, identified the error, and voided the ticket.

In regard to the patrons being in the establishment without a certified massage technician on-site, there were three patrons on-site at a time when there were no certified massage technicians on-site. The Appellant states that the massage therapist that was scheduled to work had an emergency and was late to her shift at the establishment. Allegedly, the unlicensed receptionist, believing that a massage therapist would be at the location shortly, on her own placed the patrons in the respective rooms. Section 20.400.190.D2 of the Stanton Municipal Code specifically provides, "Each massage establishment shall have at least one person who has a valid CAMTC certification on the premises at all times while the establishment is open for business." Regardless of emergencies, it is the business owner's

responsibility to ensure that there is a certified massage technician on-site when the business is open to provide massage services. The business owner is also responsible to train the employees on how to proceed in instances when circumstances occur and there are no massage technicians on-site. An individual who was admittedly employed by the business owner in the appeal letter was not only unlicensed but also not adequately trained ensure that the State and municipal code requirements were met. Although the Appellant allegedly terminated the individual from her position, this does not negate the fact that the violations occurred.

Moreover, the first woman staff encountered during the inspection refused to provide identification and indicated that she did not work at the establishment. However, the Appellant indicates that occurred because the first woman had only been employee for a very short period of time at the establishment and was only a receptionist. Therefore, she misunderstood what was being asked of her as she was not there as a massage therapist.

When City staff conducted the inspection, staff asked the general question of whether the individual worked at the business location or not. The individual consistently answered—on more than one occasion—that she did not work at the establishment. City staff also asked the first woman whether there was anyone else in the establishment. The individual responded again that she did not work there and did not know. City staff then entered the facility and asked the individual whether there was anyone in the first massage room on the right hand side of the hallway. She again answered that she did not know. When City staff opened the door to the massage room, a nude patron was found face up with a towel over his midsection, covering his private areas. The Appellant indicates in the letter that the individual receptionist that was onsite placed the patrons into the individual rooms. If this statement is accurate, then the first woman's responses to City staff during the inspection were misstatements that directly contradict the Appellant's assertions. The first woman then went to the back room, which is a designated employee-only area room and sat at a table in the left hand side of the room where her laptop and bag were located. She began to utilize the computer and ignore City staff's attempt to ask additional questions. This encounter continued for a period of approximately 10 minutes. City staff then indicated that the Sheriff's Department would be contacted to assist in the situation; the individual produced her driver's license to City staff and was issued an administrative citation for working in the establishment without a business license. The questions asked by City staff were clear and simple. Regardless of the answers that were provided by the first woman, she was the only other person in the establishment aside from the patrons in the massage room, and her personal belongings were in the employee-only area of the establishment. This was sufficient evidence to indicate that the individual was an employee of the establishment and subject to a citation.

6. For the fourth inspection, on April 4, 2016, the City identified a number of issues that violated the municipal code, including the existence of a bed in the employee break room. The Appellant indicates that there are times when an employee has to wait hours for customers to come to the establishment and the business owner wanted to provide a comfortable place for the individuals to provide a positive work environment. In addition, the Appellant indicates that there was not a citation issued during this inspection, so therefore

the violations were insufficient to result in a citation.

City Response: Section 20.400.190.D.6 provides, "...There shall be no beds located in areas not designated specifically as massage rooms." The SMC does not dictate whether a bed may be provided in the establishment for employee comfort, or residency purposes, just simply that a bed cannot exist in areas not designated for massage purposes, and thus the establishment was found to be in violation of the SMC. In regard to the lack of citation, the City observed the violation and documented the observation. The fact that City staff did not issue a citation does not mean the violation did not occur or that the City condones the violation.

7. The fifth inspection conducted on August 4, 2016 resulted in the observation of a massage therapist on-site with an expired CAMTC license, and a condom wrapper found in the restroom trash can. The Appellant indicates that the technician was in the process of recertifying through the State, but the processing of the recertification was back-logged, and the technician did not perform massage services during this time. In regard to the condom wrapper, the Appellant asserts, "certainly finding a condom wrapper at the location, without a citation, and that alone could not possibly lead to any conclusions that sexual activity takes place at the location."

City Response: In regards to the lacking CAMTC license, the individual in question was issued a business license to operate as a massage therapist. It is the responsibility of the massage therapist to recertify in a timely manner to ensure that the certification remains active. At the time of the inspection, the certification was expired and the individual did not provide any evidence that she had filed any paperwork with the CAMTC board, receipt of payment of the recertification, or any documentation identifying that recertification was pending. However, even if the paperwork was filed, CAMTC did not provide authorization for the individual to continue working while the paperwork was being processed, therefore, the license was expired, and the individual and business owner were in violation of State and the municipal code.

In regard to the condom wrapper, Section 20.400.190.D.9 of the Stanton Municipal Code provides, "there shall be no display, storage, or use of any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, including, but not limited to, vibrators, dildos, or condoms ..." A condom wrapper is utilized for the storage of a condom. When a condom is purchased, it is purchased with the wrapper intact; therefore presence of a condom wrapper is indicative of the presence of an actual condom, and falls under the general definition of sexual paraphernalia, which is strictly prohibited by the municipal code.

Finally, the Appellant indicates that a citation was not issued during this inspection, which inaccurate. A citation was issued to Tran Stacy Que for lack of appropriate CAMTC licensing. Again, it is important to note, that simply because a citation may or may not be issued, does not negate the fact that a violation exists and was observed by staff.

8. Inspection on May 17, 2017 (post Planning Commission hearing). After the appeal was

filed, City staff conducted an additional inspection of the massage establishment. At the inspection, City staff identified a portion of a condom wrapper on the premises in one of the massage rooms. Pictures were taken of the portion of the condom wrapper in the facility, documenting both sides of the wrapper. Based on staff's observations, the wrapper appeared to be that of a Trojan brand. City staff purchased a Trojan-brand condom to compare to the photos of the portion of condom wrapper found at the establishment. Based on the pictures of the wrapper found in the massage establishment, there is a portion of the letter "N" followed by a trademark symbol in the same font and style as the Trojan brand on one side of the wrapper. On the back side of the wrapper found in the establishment, key words can be identified. In the first line on the back portion of the wrapper are the words "Before Using", on the second line, "One Lubricated", on the third line, "Distributed by Church". There are also numerical product identification markers running in a vertical position next to the identified writing.

City staff compared photos of the condom wrapper found at the massage establishment to an actual Trojan condom. The photos of the condom wrapper and actual condom have identical features (see attached photographs). In the photograph depicting the front of the wrapper, the word "Trojan," which is partially cut off at the bottom, with the "N" and the trademark symbol is in the same orientation and font as the wrapper piece found in the massage establishment. In addition, the writing on the back of the condom wrapper, as identified in the attached picture is the same as that found in the massage establishment.

The evidence gathered was sufficient to be identified as a condom wrapper and the establishment was cited for having sexual paraphernalia on site. The citation has been contested and will be heard before a third party independent hearing officer in July 2017.

The Appellant has not provided any evidence to dispute the City's inspection records as part of the appeal letter. In the letter, the Appellant does not dispute the fact that, among other things, a condom wrapper was found on the premises and uncertified massage therapists were identified on-site during the identified inspections. Although the Appellant worked to correct some of the violations, their actions post-inspections do not negate the fact that the violations occurred.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the California Environmental Quality Act (CEQA) this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION:

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the agenda-posting process.

STRATEGIC PLAN:

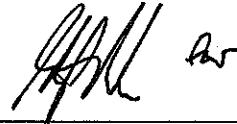
- 1 – Provide a Safe Community
- 2 – Provide a Strong Local Economy

Prepared by,



Kelly Hart
Community & Economic
Development Director

Approved by,



James A. Box
City Manager

ATTACHMENTS

- A. City Council Resolution No. 2017-29 for the approval of the appeal
- B. Letter of Appeal from Business Owner (dated May 11, 2017)
- C. Planning Commission staff report and attachments (dated May 3, 2017)
- D. Letter from City Regarding New Ordinance Regulations (dated January 14, 2015)
- E. Letter from City Regarding Amortization Period (dated September 27, 2017)
- F. Inspection notes and pictures from inspections

RESOLUTION NO. 2017-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-03, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 7013 KATELLA AVE. #B IN THE CG (COMMERCIAL GENERAL) ZONE AND DENYING THE APPLICANT'S APPEAL

WHEREAS, in 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections; and

WHEREAS, the Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate; and

WHEREAS, on April 5, 2017, the Planning Commission of the City of Stanton held a public hearing to consider Conditional Use Permit C16-13 to allow for the continued use of a massage establishment known as Lucky Massage, located at 7013 Katella Ave. #B; and

WHEREAS, said Commission, after due consideration of all reports and testimony at said hearing, adopted Planning Commission Resolution No. 2394 denying Conditional Use Permit C16-03; and

WHEREAS, on April 17, 2017, Van Van Le, owner of Lucky Massage, submitted an appeal of the Planning Commission decision to the City Council, asking for consideration for approval of C16-03; and

WHEREAS, on June 27, 2017, the City Council held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the appeal; and.

WHEREAS, the Council has carefully considered all pertinent testimony and information contained in the staff report prepared for this appeal as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: Recitals. The City Council hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: CEQA. Based upon the environmental form the City Council exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: Findings. That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed Conditional Use Permit would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." Lucky Massage has been in business for a little over two years and already has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. For example, there is substantial evidence that Lucky Massage has allowed or has facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in the trash receptacle in the restroom, and the presence of three male patrons, one observed to be nude, on the premises when no massage therapist (CAMTC certified or otherwise) was present to provide massage services to the customer. Lucky Massage has allowed therapists with expired CAMTC certificates to provide services, which means those therapists are not in good standing with the California Massage Therapy Council and as a result, threatens the health, safety, and welfare of the community. Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by not having the required supervisor and CAMTC-certified employees on-site at all times, and this lack of oversight harms customers and the surrounding community and encourages criminal activity.

Denial of the requested conditional use permit would require the closure of this massage establishment, thereby eliminating a source of likely criminal activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments and has also likely allowed or facilitated illicit sexual activity on the premises. The latter is evidenced by a condom wrapper found on the premises and the presence of three male patrons, one observed to

be nude, on the premises when no massage therapist (CAMTC certified or otherwise) was at the premises to provide him massage services. Moreover, the establishment appears to allow therapists with expired CAMTC certificates to provide services to customers, which means those therapists are not in good standing with the California Massage Therapy Council, and as a result, harms the health, safety, and welfare of the community. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by not having the required supervisor and CAMTC-certified employees on-site. The lack of transparent business operations coupled with a lack of oversight harms customers and the surrounding community.

Lucky Massage is directly adjacent to single family homes to the north, and commercial uses including quick service and full service restaurants, general retail stores and personal service businesses. The illicit activity associated with this business is incompatible with businesses catering to the needs of the community at large and the adjacent single family homes. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these harmful activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code, including provisions of the code regulating the operation of Massage Establishments, as well as illicit and illegal activity, the continuation of which would be detrimental to the overall character of the neighborhood in which it is located. Since Lucky Massage opened, it has continually failed to comply with all of the City's massage regulations. Moreover, Lucky Massage representatives have obstructed the City's investigations into the establishment (e.g., failure to provide a register of employees), which leaves the potential that even more violations have been undiscovered. Denial of the requested CUP would require closure of the existing massage establishment, thus eliminating a business that has continuously violated the City's Code.

- B. The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the zoning code and the municipal code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a conditional use permit; however, the existing business has a demonstrated pattern of violations of Section 20.400.190 *Massage Establishments* including failure to have either the business owner or a designated manager supervise the premises at all times the business is open; failure to have at least one person who has a valid CAMTC certification present

at all times while the establishment is open; a massage technician providing massage services with expired CAMTC certification; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; the presence of a condom wrapper in the trash can of a massage room indicating that sexual activity had taken place at the massage establishment; and the presence of a bed and personal belongings, indicating that someone was living inside the establishment.

- C. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located at the north east corner of Knott and Katella Avenues. Existing adjacent uses including single family homes to the north, and commercial uses including restaurants, retail shops and personal and professional services. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illegal and illicit activity. For example, Lucky Massage has likely allowed or facilitated illicit sexual activity on the premises, as evidenced by a condom wrapper found on the premises and the presence of three male patrons, one observed to be nude, on the premises when no massage therapist (CAMTC certified or otherwise) was there to massage the customer. Moreover, the establishment appears to allow therapists with expired CAMTC certificates, which means the therapists are not in good standing with the California Massage Therapy Council, which regulates massage therapists. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employees on-site. The lack of transparent business operations coupled with a lack of oversight harms customers and the surrounding community. As such, continuation of the existing use at this location would be incompatible with adjacent uses because Lucky Massage would likely be a public nuisance to the existing and future land uses in the vicinity.
- D. The project site is located at the northeast corner of Katella and Knott Avenues, and is served by three driveways along Katella Avenue and two driveways along Knott Avenue. On-site circulation features include drive aisles which comply with current development standards. The continued operation of the existing massage establishment would not be expected to negatively impact pedestrian or vehicular safety on or near the site, impede emergency vehicle access to the site or properties near the site, negatively impact fire safety service levels in the community, cause the capacity of public infrastructure, such as water, storm and/or sanitary sewer or roadways and/or highways to be exceeded, or create additional demand for public amenities or schools.

However, Lucky massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity. For example, Lucky Massage has likely allowed or facilitated illicit sexual activity on the premises, as evidenced by a condom wrapper found on the premises and the presence of three male patrons, one observed to be nude, on the premises when no massage therapist (CAMTC certified or otherwise) was at the establishment to provide massage services. Moreover, the establishment appears to allow therapists with expired CAMTC certificates to provide services to customers, which directly harms the health, safety, and welfare of the community. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employees on-site, which also harms its clients and the surrounding community. Due to the facilitation of illicit activity and inadequate supervision over its own independent contractors and their activities, continuation of this use has required a disproportionate draw on police and code enforcement resources, and therefore, this site is not an appropriate location for this use as operated.

- E. The site is unsuitable for the use as operated. The subject property is located at the northeast corner of Katella and Knott Avenues, in a shopping center located on a 2.7 acre parcel. In addition to this massage establishment the shopping center is also home to numerous restaurants including Rubio's, and retail shops including Shoe City and Daiso. The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include single family homes located in the Single-Family Residential zone north of the site, retail and restaurant uses located in the CG Zone east and south of the site and retail and restaurant uses located in the City of Cypress' Planned Community Zone east of the site. Lucky massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity, including prostitution. For example, Lucky Massage has likely allowed or facilitated illicit sexual activity on the premises, as evidenced by a condom wrapper found on the premises and the presence of three male patrons, one observed to be nude, on the premises when no massage therapist (CAMTC certified or otherwise) was at the establishment to provide massage services. Moreover, the establishment appears to allow therapists who have expired CAMTC certificates to provide services to customers, which directly harms the health, safety, and welfare of the community. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the

business by having the required supervisor and CAMTC-certified employees on-site, which also harms its clients and the surrounding community.

Furthermore, Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...". Because Lucky Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore, the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

SECTION 4: That based upon the above findings and on the entirety of the record including the staff report, written and oral testimony, and this Resolution, the City Council hereby upholds the Planning Commission's denial of Conditional Use Permit C16-13 to allow for the operation of a massage establishment at 118555 Beach Boulevard, in the CG (Commercial General) and the General Mixed Use Overlay and denies Appellant's appeal.

SECTION 5: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 6: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 7: Custodian and Location of Records. The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 8: Certification. The City Clerk shall certify to the adoption of this Resolution and cause a copy to be transmitted to the City Clerk.

ADOPTED, SIGNED AND APPROVED by the City Council of the City of Stanton at a regular meeting held on June 27, 2017 by the following vote, to wit:

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY
ATTEST:

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2017-29 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on June 27, 2017, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK



CITY OF STANTON

APPEAL FORM AND HANDOUT

City Clerk's Office
7800 Katella Avenue, Stanton, CA 90680
Phone: (714) 379-9222 Fax: (714) 890-1443

CITY OF STANTON

CITY OF STANTON

FOR OFFICE USE ONLY

APR 17 2017
(DATE STAMP)

CITY CLERK'S OFFICE

APR 17 2017

APPEAL # 2145
\$ 1,235.00

An appeal shall be filed within ten (10) calendar days after the final action of the Planning Commission.

APPEAL OF: ☒ Planning Commission Decision (\$1,235 fee)

Type of Permit (example: Conditional Use Permit): CONDITIONAL USE Permit Number: C16-03

Address of Project: 7013 KATELLA, #B, STANTON Decision Date: 4/5/17

APPELLANT INFORMATION

Name of Applicant (Appellant): VAN VAN LE

Mailing Address: 11909 W. OAKFIELD AVE, SANTA ANA, CA

Telephone Number: [REDACTED] Email: [REDACTED] 92703

In what capacity is the appellant filing? ☐ Recorded Property Owner ☒ Interested Party ☒ Effected Party

PROPERTY OWNER INFORMATION (IF KNOWN)

Name of Property Owner: Leedy Ying

Mailing Address: [REDACTED]

Telephone Number: [REDACTED] Email: [REDACTED]

Describe what portion(s) of the decision you are appealing: THE DECISION TO DENY APPLICATION FOR A CONDITIONAL USE PERMIT (SEE ATTACHED)

Describe the Purpose for Your Appeal (be specific): SEE ATTACHED TO REVERSE THE DECISION ON 4/5/17 TO DENY MY APPLICATION FOR A CONDITIONAL USE PERMIT

APPLICANT CERTIFICATION:

I hereby certify that all information contained in this application is, to the best of my knowledge, true and correct. FALSE OR MISLEADING INFORMATION GIVEN IN THIS APPLICATION SHALL BE GROUNDS FOR DENYING APPLICATION. I hereby grant the City authority to post required public notices.

Signature: [Signature]

Date: 4/12/2017

Stanton April 11th, 2017

To whom it may concern,

I am the owner of Double Bamboo Restaurant, next door to Lucky Massage at 7013 Katella Ave. # B in Stanton, CA. Since they opened in 2014, I have never seen any problems nor had any problems affecting our businesses. -

If there are any concern regarding this matter, please contact me at [REDACTED] Thank you.

Sincerely yours,



PHUONG LE
DOUBLE BAMBOO RESTAURANT
7013 KATELLA AVE # A
STANTON, CA . 90680
(714) 886-2627

ATTACHMENT TO THE APPEAL OF THE PLANNING
COMMISSION DECISION ON 4/5/17

April 14, 2017

City of Stanton
City Clerk's Office
7800 Katella Ave
Stanton, CA 90680

RE: Appeal of Planning Commission Decision Dated 4/5/2017
Lucky Massage & Spa located at 7013 Katella Ave., Suite B, Stanton, CA

Dear City Clerk:

I am hereby appealing by this letter the decision of the City of Stanton Planning Commission dated April 5, 2017 in which they denied my application for a use permit to operate a massage and spa under the name of Lucky Massage & Spa located at 17013 Katella Ave., Suite B, Stanton, CA (referred to herein as the "Spa")

I am the owner of the business known as Lucky Massage ("Spa") and have operated the business since on or about the July, 2013. My business provides therapeutic massage and other spa services for almost four (4) years. I have operated as a massage business as an owner without any problems and have always tried to be in compliance within all of the rules and ordinances of the City of Stanton. I have always been in compliance with the laws of the State of California.

I am proud to be a law abiding citizen and I am thankful for the opportunity to continue operating a massage and spa establishment in the City of Stanton. I am hopeful you will allow me to continue to operate my massage and spa business within the City of Stanton and be a contributing member of the business community. I am enclosing herein a letter from the owner of the restaurant known as "Double Bamboo Restaurant" located next to my business who has known me for over three years and was kind enough to prepare a letter showing that I have operated properly and without any problems.

I must say that I never thought that I could possibly be denied a conditional use permit to continue to operate my business and as a result in October, 2016, I signed a three (3) year extension of my lease at the location. A denial of my conditional use permit would cause me to suffer a great financial harm because I could not operate my business but would still be required to pay the lease payments for the next three (3) years. I hope that you will allow me to continue to operate my business.

I must apologize for not completely understanding the proceedings that took place before the Planning Commission on April 5, 2017. I did not understand why you would hold against me the few items involving a few individuals who are not associated with my business to prevent me from continuing a business that has always tried to work with the City of Stanton and their

representatives. The purpose of this letter is to address the few items that were listed in the report prepared by the City of Stanton Staff Members.

The initial inspection in 2014 showed that there were no violations. So for an entire year thereafter, there were numerous inspections but no violations of any city ordinances or laws of State of California were found by Staff.

The second inspection took place in February, 2015 in which Staff purportedly observed a receptionist who was an "independent contractor" did not have a license. However, it should be pointed out that the individual had only been at the location for approximately one (1) day, and a decision to allow her to operate there had not been made, and thus the individual had not yet obtained her license to operate at the location as a receptionist because she had not yet decided that she wanted to work at that location. As you are aware, the cost of such a license is expensive. In an effort to get along with the City of Stanton staff, no appeal was taken of the administrative citations.

Another year goes by and there were numerous inspections but no violations of any city ordinances or laws of the State of California were found by Staff

The third inspection took place in May, 2016(?), in which Staff purportedly observed a receptionist who was an "independent contractor" did not have a license. However, it should be pointed out that according to my recollection the individual who had been cited for not having a business license had her citation voided by the City of Stanton. A copy of the administrative citation voided out is included in this appeal. The inspection also notes that there were customers in facility waiting for the services to be performed. The individual who was the duly massage therapist who was working that day had a family emergency and was a few minutes late. The receptionist, believing that the massage therapist would be at the location shortly, apparently on her own placed the individuals in the respective rooms. The individual, who had only been a receptionist for a very short period of time, clearly must have misunderstood what was being asked of her, because she was only a receptionist and did not work at the location as a licensed massage therapist and thus was not working as such when asked if she was working at the business. This receptionist was told to always cooperate with the authorities and was let go due to her conduct in refusing to give her identification to the inspectors. At no time was there anything inappropriate and there was no illegal activity whatsoever by any individual. Certainly the City of Stanton has to take into consideration that emergencies do occur and the fact the licensed massage therapist who suffered one, but did show up before any massage was performed, should be a mitigating factor in deciding this appeal.

The fourth inspection took place in April, 2016, however the Staff report fails to state that any administrative citations were issued. The existence of a futon, where the massage therapists have their break room, along with certain personal items, was clearly not sufficient to result in

any administrative citations. There are times in this business where an individual has to wait hours for customers to come into the business and having a comfortable place for the individuals to wait is part of providing a good work environment. However, I have complied with the items noted and there have not been any citations regarding these since.

The fifth inspection took place in August, 2016, however the Staff report fails to state that any administrative citations were issued. The primary issue here is the fact that the individual at the location was waiting for her recertification of her massage therapy license from the CAMTC. The CAMTC is overwhelmed with applications from massage therapists and have been taking many months and sometimes years to recertify individuals who have made timely requests for recertification. It is important to note that no massages were conducted by any unlicensed massage therapists. It is also important to note that the business had been operating for over three (3) years and yet none of the alleged violations that were purportedly observed in August, 2016, were ever observed on any of the prior inspections. Again, the failure to issue any administrative citations speaks loudly as to the quality of the business being operated. Certainly finding a condom wrapper at the location, without any citation, and that alone could not possibly lead to any conclusion that sexual activity takes place at the location. In fact, there is no mention of any sexual activity or suspicion of such activity anywhere in the Staff report.

I am aware the requirements issued by the CAMTC and the ordinances of the City of Stanton, although there have been significant changes over the last few years, regarding the operation of a massage business and I have always tried to work with the City of Stanton Staff members to make sure that I am in compliance with all of the rules and regulations.

I have hired the services of consultant who is very familiar with the CAMTC compliance and procedures and the City of Stanton ordinances who will continue to guide me in the operation of my massage business should you grant my appeal and allow me to continue to operate in your city. He will be present to speak on my behalf before the City Council when they hear this appeal. He has also reviewed with me the massage ordinances issued by the City of Stanton so that I can continue to operate as a law abiding member of the business community.

In addition to the hiring of the business consultant, I welcome regular input from the City of Stanton Staff should they require additional documentation from myself or my employees so that I can operate in full compliance of all rules and regulations of the City of Stanton and the laws of the State of California. I intend to keep in touch with the City of Stanton Planning Dept. on a regular basis to make sure that I am in compliance with the rules and regulations.

I am hoping the City Council will look at the fact that each time I have been notified of issues regarding the operation of my massage and spa business that I have fully complied and made the necessary corrections so that there is no repeat of the alleged violations. I am asking you to note that I run a legitimate business and there is no evidence of any illegal conduct or any sexual activity at my business. My business neighbors recognize that I run a good and legitimate business and that they note no problems with my business or their business by allowing me to operate at the location.

My massage and spa business has for the last four years provided a tremendous benefit to the citizens of the City of Stanton as well as the financial well being of the other members of the business community and will continue to do so in the future. I am enclosing herein an article from Men's Health Magazine one of the largest and most respected magazines published with a circulation that is in the millions and distributed worldwide. In that article entitled "The Benefits of Massage" it goes on to state all of the benefits that an individual can achieve through the receipt of regular massage therapy. It also goes on to cite highly credible studies of the benefits of massage therapy as set forth in professional journals such as "The Clinical Journal of Pain", "Journal of Conditioning and Strength Research", "Journal of Clinical Psychiatry", and the "Journal of Alternative and Complementary Medicine".

My business and the individual massage therapists that will work at the location will provide all of these benefits that include, but are not limited to, relief of upper, middle and lower back pain, neck pain, constipation, depression, high blood pressure and improved athletic performance. Furthermore, the success of my business allows other businesses in the area to benefit because the customers are quality individuals who will frequent other businesses in the same shopping center and the area that will help those businesses be successful and will add jobs and reduce the unemployment within the city limits and ultimately add to the economy and sales taxes that the City of Stanton will receive.

Therefore, I am asking you to grant my Application For a Use Permit to allow me to continue to operate my business because it will allow me to make money to support my family. I have suffered through the bad economy over the last few years but I have still worked hard to support my family and provided a quality place for other individuals to work and provide for their families. Now that the economy is getting better, although it is still a financial struggle, I would like to be able to operate my massage therapy business and be an upstanding and productive member of the business community here in the City of Stanton. I would be devastated financially if I am not allowed to continue to operate my business due to the lease extension and other factors I have mentioned herein.

I am hopeful that you will approve my Application For A Use Permit and grant my appeal. Thank you for your courtesy and consideration in this matter.

Men's Health

THE BENEFITS OF MASSAGE

Fix It with Massage

Massages are more than just indulgences. They're proven health and mood treatments. Find out how they can benefit you

Neck Pain massages over 10 weeks. Sound good? People with **Ten neck** chronic neck pain reported a 55 percent improvement after this regimen, according to a 2009 study in the *Clinical Journal of Pain*. They even scored 39 percent better on the worst-sounding test ever, the Neck Disability Index. (It assesses the pain's impact.)

Athletic Performance

"Musculotendinous" massages target muscle-tendon junctions, and a 2010 study in the *Journal of Strength and Conditioning Research* found that even a 30-second round improved hip-flexor range of motion. Try it: Find where muscle meets tendon just behind and above your knee, and rub the spot in small circles with your thumb.

Stress

You don't need a full-body rubdown to feel good. In a 2010 study from Sweden, one 80-minute hand-and-foot massage significantly lowered people's heart rates, cortisol levels, and insulin levels—all of which help lower stress.

Depression

Take your pick: Swedish, shiatsu, and other massage types may ease depression, a 2010 meta-analysis in the *Journal of Clinical Psychiatry* found. How? Massages reduce stress hormone levels, heart rate, and blood pressure, and boost mood and relaxation by triggering the release of oxytocin and serotonin.

High Blood Pressure

A study in the *Journal of Alternative and Complementary Medicine* found that after people with normal blood pressure had deep-tissue massage for 45 to 60 minutes, their BPs fell—specifically, by an average of 10.4 millimeters of mercury (mm/Hg) systolic, and 5.3 mm/Hg diastolic.

Lower-Back Pain

Back problems can be complex. One solution is simple: Common massage techniques can help you relax, and trigger an endorphin release that raises your threshold for pain. And that might help people with all sorts of lower-back pain, notes a 2009 meta-analysis in the journal *Spine*.

Constipation

Would you like an abdominal massage with that laxative? Yes, you would: A 2009 Swedish study found that people who received a massage along with traditional constipation treatment felt significantly better than those who stuck with just laxatives.

<http://www.menshealth.com/health/massage-benefits>



CITY OF STANTON REPORT TO THE PLANNING COMMISSION

TO: Chairperson and Members of the Planning Commission

DATE: April 5, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT C16-03 TO ALLOW FOR THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT LOCATED AT 7013 KATELLA AVENUE, SUITE B.

RECOMMENDED ACTION

That the Planning Commission:

- Conduct a public hearing;
- Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
- Adopt Resolution No. 2494 denying Conditional Use Permit C16-03.

BACKGROUND

In 2008, the State Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California. Senate Bill (SB) 731 also limited the City's regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations. Accordingly, the City amended the Stanton Municipal Code ("SMC") to comply with the regulations set forth in SB 731.

Senate Bill 731 was set to sunset or be reconfirmed by the end of 2014. The State Legislature analyzed the effects of SB 731 and how it impacted local jurisdictions and

law enforcement activities. Specifically, the legislative author of Bill 1147, which reversed portions of SB 731, stated:

"Unfortunately, the current massage therapy law [SB 731] had serious unintended consequences; with bad actors masquerading as legitimate massage professionals exploiting loopholes in current law to insulate themselves against the ability of local governments and law enforcement to shut them down. This bill [AB 1147] will give that power back to the cities and counties, which will go a long way towards eliminating the brothel owners and human traffickers who are hurting women, hurting neighborhoods, hurting the profession, and hurting California." (AB 1147, Assem. Analysis, Aug. 29, 2014.)

In response to the results of the analysis and input from cities, the State Legislature adopted, and Governor Jerry Brown signed AB 1147. AB 1147, which went into effect on January 1, 2015, allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments, while the regulations for permitting technicians was maintained at the state level.

To establish new land use and licensing regulations consistent with AB 1147, and to address issues and violations that have been documented in local massage establishments based on City inspections, the City Council adopted Ordinance Nos. 1031 (urgency) and 1032 (non-urgency) in 2015 to amend portions of the municipal code related to massage establishments. Among other things, the Ordinances established new permitting and licensing regulations, and operational, sanitation, and attire requirements. The City's operation, sanitation, and attire regulations, as set forth in Stanton Municipal Code Section 20.400.190, became effective when Ordinance Nos. 1031 and 1032 became effective on January 13, 2015, and February 26, 2015, respectively.

Ordinance Nos. 1031 and 1032 also require that both existing and new massage establishments within the CG (Commercial General) Zone obtain both a conditional use permit for massage services and a massage establishment license within two years of the ordinances' effective date. As such, existing massage establishments in the Commercial General Zone are required to have a CUP by May 31, 2017. New businesses would need to obtain both approvals prior to operating.

A Conditional Use Permit allows the Planning Commission to consider specific characteristics and the proposed location of an individual use when deciding whether to approve or deny establishment of the proposed use. A conditional use permit also allows the Commission to attach conditions of approval to a permit that would limit adverse impacts to surrounding uses and properties.

The Applicant, Le Van Van, owner of Lucky Massage, is requesting approval of a conditional use permit to allow continued operation of an existing massage business.

The existing massage establishment is located at 7013 Katella Avenue, Suite B, at the northeast corner of Knott and Katella Avenues. The proposal requires approval of the following:

- Conditional Use Permit (C16-12) – The reference to massage establishments per Ordinance No. 1032, Table 2-5 in Section 20.215.020 of the SMC requires a conditional use permit for the use within the CG (Commercial General) zone as well as a massage establishment license per the requirements of Section 5.16 *Business Licenses and Regulations; Massage Establishments* of the SMC.

ANALYSIS/JUSTIFICATION

PROJECT LOCATION/DESCRIPTION – The subject property is located at 7013 Katella Avenue, Suite B; a 2.7 acre parcel located at the northeast corner of Katella and Knott Avenues. In addition to this massage establishment the shopping center is home to numerous restaurants including Rubio's, and retails shops including Shoe City and Dalso.

The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include single family homes located in the Single-Family Residential zone north of the site, retail and restaurant uses located in the CG Zone east and south of the site and retail and restaurant uses located in the City of Cypress' Planned Community Zone east of the site.

OPERATIONS – Lucky Massage opened in December 2014. According to City business license information, Lucky Massage has two massage technicians, each of which work four days per week, and one receptionist. On-site manager duties are divided between one massage technician and the receptionist. No change to the existing facility is proposed at this time. The business has four private massage rooms, office, break room, unisex restroom and laundry/storage room. Lucky Massage is open daily from 10 am to 10 pm, with massage by appointment only.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on five occasions between 2014 and 2016 and noted the following violations of State or Local Codes:

First Inspection (2014) – Staff observed no violations. Inspections in 2014 occurred prior to adoption of standards for massage establishments.

Second Inspection (February 18, 2015) – Staff observed a receptionist retained as an independent contractor working without a City business license in violation of SMC 5.04.010 *Business Licenses and Regulations, License Required*). Citations for this violation were issued to the receptionist, business owner and property owner. The citations were not disputed by of the parties and the fines were paid to the City.

Third Inspection (May 5, 2015) - Staff inspected Lucky Massage on May 5, 2015. When staff arrived, there was one woman on-site. She refused to provide identification to City staff and denied working at the business, even though she was in the

office/reception area behind the counter. Staff asked if there was anyone else on-site, and she said no. When asked if the massage rooms could be opened she said yes. In one massage room, staff observed a naked, male customer laying on the table, face up. Two additional men were found in two other rooms. One male left the establishment quickly; the other two asked the woman on-site for a refund. The woman on-site said she knew nothing about the money and refused to assist them. In the back room, stacks of cash had been placed on a shelf in open view. One male took one of the stacks of money, the other male left without a refund.

Before they had departed, two of the three men said they had been assisted at the establishment by a woman in a fur coat. Eventually, a woman matching this description arrived and identified herself as the receptionist for Lucky Massage. Upon staff's questioning of the receptionist, she was unable to answer simple questions regarding the business operations or which massage therapist was supposed to provide massage services to the three male customers.

The first woman continued to refuse to provide identification, and the Sheriff's Department was called. While waiting for the Sheriff she agreed to provide her identification. An administrative citation for operating a business without a business license (SMC 5.04.010) was issued to the woman. Additional citations were issued to the business owner, and the property owner. These citations were not disputed by the parties, and the fines were paid to the City.

This inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: failure to have either the business owner or a designated manager supervise the premises at all times the business is open; failure to have at least one person who has a valid, State-issued California Massage Therapy Council ("CAMTC") certification present at all times while the establishment is open; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City.

Fourth Inspection (April 4, 2016) – The fourth inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a bed and personal items indicating someone living in the massage establishment; failure to provide functioning lockers for the storage of employees personal belongings; failure to have employees store all personal belongings in a locker while at the establishment; and, tinted glass used in the front windows, obscuring visibility into the unit.

Fifth Inspection (August 4, 2016) – The fifth inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: failure to have either the business owner or a designated manager supervise the premises at all times the business is open; failure to have at least one person who has a CAMTC certification present at all times while the establishment is open; a massage therapist providing massage services with expired CAMTC certification in violation of State requirements; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; and

the presence of a condom wrapper in the trash can of the restroom indicating that sexual activity had taken place at the massage establishment

Staff performs dozens of massage establishment inspections citywide each year, and seldom finds conclusive evidence of sexual activity. Indeed, most businesses have demonstrated improvements in their compliance with State and City licensing requirements and adherence to the City's Massage Establishment Ordinances adopted in January 2015. Staff inspections of Lucky Massage, however, show a decline in business practices, as noted above.

Stanton Municipal Code Section 20.550.060 (B) requires that six findings be made prior to approval of a Conditional Use Permit. These findings require that a use be consistent with the Goals and Policies of the General Plan and be a conditionally permitted use within the district the use is proposed to be located. The findings also address the suitability of the use's location, compatibility with surrounding uses, how the use would be operated, and whether the use would be detrimental to neighboring properties and people. Several of these findings cannot be made because of the establishment's SMC violations.

The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments and has also likely allowed or facilitated illicit sexual activity on the premises, as evidenced by a condom wrapper found on the premises and the presence of a nude, male customer on the premises when no massage therapist (CAMTC certified or otherwise) was at the premises to provide the customer with massage services. Moreover, the establishment has allowed therapists with expired State CAMTC certificates to provide services to customers, which directly harms the health, safety, and welfare of the community. Therapists with expired certificates may not be in good standing with the CAMTC, the primary body that oversees massage therapists. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. In the same vein, the establishment operator has unlawfully tinted the windows of the business, obscuring visibility into the unit. Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employee on-site at all times, and the lack of oversight is harming customers and the surrounding community.

Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...." Because Lucky Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

The attached draft resolution includes the required findings and reasons why they cannot be made for this proposed use. For these reasons, staff recommends the Planning Commission adopt the attached draft resolution denying the requested Conditional Use Permit.


ENVIRONMENTAL IMPACT

In accordance with the requirements of the CEQA this project has been determined to be categorically exempt under Section 15301(Existing Facilities).


PUBLIC NOTIFICATION

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the regular agenda-posting process.

Prepared by,


CJ Amstrup
Contract Planner

Approved by,


Kelly Hart
Community Development Director

ATTACHMENTS

- A. Planning Commission Resolution No. 2394
- B. Vicinity Map
- C. Narrative
- D. Site and Floor Plans
- E. Site and Interior Pictures

RESOLUTION NO. 2394

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STANTON, CALIFORNIA, DENYING CONDITIONAL USE PERMIT C16-03; A REQUEST TO ALLOW THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 7013 KATELLA AVENUE, SUITE B, IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY LE VAN VAN (LUCKY MASSAGE)

WHEREAS, pursuant to Cal. Const. Art. XI, Sec. 7 and under the City's general police powers, the City of Stanton ("City") is empowered and charged with responsibility for the health, safety, and welfare of its citizens; and

WHEREAS, the City is authorized by State law, including, without limitation, Government Code Section 51030 *et seq.* and Business & Professions Code Section 16000 *et seq.* to regulate massage establishments; and

WHEREAS, in 2014, Governor Jerry Brown signed Assembly Bill 1147 (AB 1147), which restored local agencies' ability to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments; and

WHEREAS, among other things, AB 1147 set forth the Legislature's intent that "broad control over land use in regulation of massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community"; and

WHEREAS, in response to AB 1147, the City enacted a comprehensive and reasonable permitting scheme to regulate massage establishments in the City, as codified in Stanton Municipal Code Chapter 5.16 and Section 20.400.190. The City's regulatory scheme requires a massage establishment to obtain a conditional use permit in order to locate a massage establishment in the City's Commercial General zone and requires an operator to obtain a massage establishment permit in order to operate a massage establishment. Additionally, the City's regulatory scheme allows the City to impose conditions of approval upon a massage establishment to protect residents' health, safety, and welfare; and

WHEREAS, the City enacted its massage establishment regulatory scheme because of the increase in police and code enforcement calls for service to many massage establishments that had opened in the City following the passage of Senate Bill 731 ("SB 731") (2008). SB 731 had removed the City's power to regulate massage establishments; and

WHEREAS, following the passage of SB 731, dozens of massage establishments located in the City, and City inspectors found violations at many of those establishments including illegal tenant improvements to create massage rooms, unauthorized massage technicians and personnel, violations of employment and labor laws, unsanitary facility conditions, including evidence of used contraceptive devices, massage technicians dressed inappropriately, including the exposure of specified anatomical areas, establishments operating beyond approved hours of operation, persons using the

establishments as a residence, installation of illegal signage, and employees refusing to allow City inspections of the establishments; and

WHEREAS, when the City updated its massage regulations in 2015, it afforded existing massage establishments in the Commercial General with a period of two years to conform to the City's new zoning and permitting requirements. That two-year period expires on May 31, 2017; and

WHEREAS, the City's operation, sanitation, and attire regulations for massage establishments, as set forth in Stanton Municipal Code section 20.400.190, became effective when Ordinance Nos. 1031 and 1032 became effective on January 13, 2015 and February 26, 2015, respectively; and

WHEREAS, on March 29, 2016, Applicant Le Van Van (Lucky Massage) submitted an application for a conditional use permit to operate a massage establishment in the City of Stanton; and

WHEREAS, on April 5, 2017, the Planning Commission of the City of Stanton, after giving notice thereof as required by law, held a public hearing concerning the requested conditional use permit to allow for the operation of a massage establishment within a 960 square foot unit located in a commercial shopping center at 7013 Katella Avenue, Suite B, in the CG (Commercial General) zone; and

WHEREAS, staff has reviewed the environmental form submitted by the Applicant in accordance with the City's procedures. Based upon the information received and Staff's assessment of the information, the project has been determined to be categorically exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301 (Existing Facilities); and

WHEREAS, staff has inspected the business on five separate occasions and noted numerous violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments* including: failure to have either the business owner or a designated manager supervise the premises at all times the business is open; failure to have at least one person who has a valid, State-issued California Massage Therapy Council ("CAMTC") certification present at all times while the establishment is open; a massage therapist providing massage services with expired CAMTC certification in violation of State requirements; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; the presence of a condom wrapper in the trash can of the restroom indicating that sexual activity had taken place at the massage establishment; the presence of a bed and personal belongings indicating that someone was living inside the establishment; and

WHEREAS, the Commission has carefully considered all pertinent testimony and information contained in the staff report prepared for this application as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: The Planning Commission hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct. The Planning Commission's decision is based on the entire record before it, including the associated staff report, this Resolution, and oral and written testimony provided before or at the public hearing on this matter.

SECTION 2: Based upon the environmental form the Planning Commission exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed Conditional Use Permit would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." Lucky Massage has been in business for a little over two years and already has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. For example, there is substantial evidence that Lucky Massage has allowed or has facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in the trash receptacle in the restroom, and the presence of a nude, male customer on the premises when no massage therapist (CAMTC certified or otherwise) was present to provide massage services to the customer. Lucky Massage has allowed therapists with expired CAMTC certificates to provide services, which means those therapists are not in good standing with the California Massage Therapy Council and as a result, threatens the health, safety, and welfare of the community. Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employees on-site at all times, and the lack of oversight harms customers and the surrounding community and encourages criminal activity.

Denial of the requested conditional use permit would require the closure of this massage establishment, thereby eliminating a source of likely criminal activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments and has also likely allowed or facilitated illicit sexual activity on the premises. The latter is evidenced by a condom wrapper found on the premises and the presence of a nude, male customer at the establishment when no massage therapist (CAMTC certified or otherwise) was at the premises to provide him massage services. Moreover, the establishment appears to allow therapists with expired CAMTC certificates to provide services to customers, which means those therapists are not in good standing with the California Massage Therapy Council, and as a result, harms the health, safety, and welfare of the community. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employees on-site. The lack of transparent business operations coupled with a lack of oversight harms customers and the surrounding community.

Lucky Massage is directly adjacent to single family homes to the north, and commercial uses including quick service and full service restaurants, general retail stores and personal service businesses. The illicit activity associated with this business is incompatible with businesses catering to the needs of the community at large and the adjacent single family homes. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these harmful activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code, including provisions of the code regulating the operation of Massage Establishments, as well as illicit and illegal activity, the continuation of which would be detrimental to the overall character of the neighborhood in which it is located. Since Lucky Massage opened, it has continually failed to comply with all of the City's massage regulations. Moreover, Lucky Massage representatives have obstructed the City's investigations into the establishment (e.g., failure to provide a register of employees), which leaves the potential that even more violations have been undiscovered. Denial of the requested CUP would require closure of the existing massage establishment, thus eliminating a business that has continuously violated the City's Code.

- B. The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the zoning code and the municipal code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a conditional use permit; however, the existing

business has a demonstrated pattern of violations of Section 20.400.190 *Massage Establishments* including failure to have either the business owner or a designated manager supervise the premises at all times the business is open; failure to have at least one person who has a valid CAMTC certification present at all times while the establishment is open; a massage technician providing massage services with expired CAMTC certification; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; the presence of a condom wrapper in the trash can of a massage room indicating that sexual activity had taken place at the massage establishment; and the presence of a bed and personal belongings, indicating that someone was living inside the establishment.

- C. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located at the north east corner of Knott and Katella Avenues. Existing adjacent uses including single family homes to the north, and commercial uses including restaurants, retail shops and personal and professional services. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illegal and illicit activity. For example, Lucky Massage has likely allowed or facilitated illicit sexual activity on the premises, as evidenced by a condom wrapper found on the premises and the presence of a nude, male customer at the establishment when no massage therapist (CAMTC certified or otherwise) was there to massage the customer. Moreover, the establishment appears to allow therapists with expired CAMTC certificates, which means the therapists are not in good standing with the California Massage Therapy Council, which regulates massage therapists. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employees on-site. The lack of transparent business operations coupled with a lack of oversight harms customers and the surrounding community. As such, continuation of the existing use at this location would be incompatible with adjacent uses because Lucky Massage would likely be a public nuisance to the existing and future land uses in the vicinity.
- D. The project site is located at the northeast corner of Katella and Knott Avenues, and is served by three driveways along Katella Avenue and two driveways along Knott Avenue. On-site circulation features include drive aisles which comply with current development standards. The continued operation of the existing massage establishment would not be expected to negatively impact pedestrian or vehicular safety on or near the site, impede emergency vehicle access to the site or properties near the site, negatively impact fire safety service levels in the community, cause the capacity of public infrastructure, such as water, storm

and/or sanitary sewer or roadways and/or highways to be exceeded, or create additional demand for public amenities or schools.

However, Lucky massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity. For example, Lucky Massage has likely allowed or facilitated illicit sexual activity on the premises, as evidenced by a condom wrapper found on the premises and the presence of a nude, male customer on the premises when no massage therapist (CAMTC certified or otherwise) was at the establishment to provide massage services. Moreover, the establishment appears to allow therapists with expired CAMTC certificates to provide services to customers, which directly harms the health, safety, and welfare of the community. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations. Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employees on-site, which also harms its clients and the surrounding community. Due to the facilitation of illicit activity and inadequate supervision over its own independent contractors and their activities, continuation of this use has required a disproportionate draw on police and code enforcement resources, and therefore, this site is not an appropriate location for this use as operated.

- E. The site is unsuitable for the use as operated. The subject property is located at the northeast corner of Katella and Knott Avenues, in a shopping center located on a 2.7 acre parcel. In addition to this massage establishment the shopping center is also home to numerous restaurants including Rubio's, and retails shops including Shoe City and Daiso. The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include single family homes located in the Single-Family Residential zone north of the site, retail and restaurant uses located in the CG Zone east and south of the site and retail and restaurant uses located in the City of Cypress' Planned Community Zone east of the site. Lucky massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity, including prostitution. For example, Lucky Massage has likely allowed or facilitated illicit sexual activity on the premises, as evidenced by a condom wrapper found on the premises and the presence of a nude, male customer on the premises when no massage therapist (CAMTC certified or otherwise) was at the establishment to provide massage services. Moreover, the establishment appears to allow therapists who have expired CAMTC certificates to provide services to customers, which directly harms the health, safety, and welfare of the community. Further, Lucky Massage has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations.

Finally, Lucky Massage has failed to provide adequate supervision of the business by having the required supervisor and CAMTC-certified employees on-site, which also harms its clients and the surrounding community.

Furthermore, Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...". Because Lucky Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore, the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

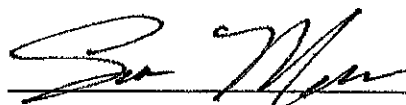
SECTION 4: That based upon the above findings, the Planning Commission hereby denies Conditional Use Permit C16-03 to allow for the continued operation of an existing massage establishment at 7013 Katella Avenue Suite B, in the CG (Commercial General), commonly known as "Lucky Massage".

SECTION 5: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 6: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

ADOPTED, SIGNED AND APPROVED by the Planning Commission of the City of Stanton at a regular meeting held on April 5, 2017 by the following vote, to wit:

AYES:	COMMISSIONERS:	<u>Grand, Greer, Moua, Taylor</u>
NOES:	COMMISSIONERS:	<u>None</u>
ABSENT:	COMMISSIONERS:	<u>None</u>
ABSTAIN:	COMMISSIONERS:	<u>Ash</u>



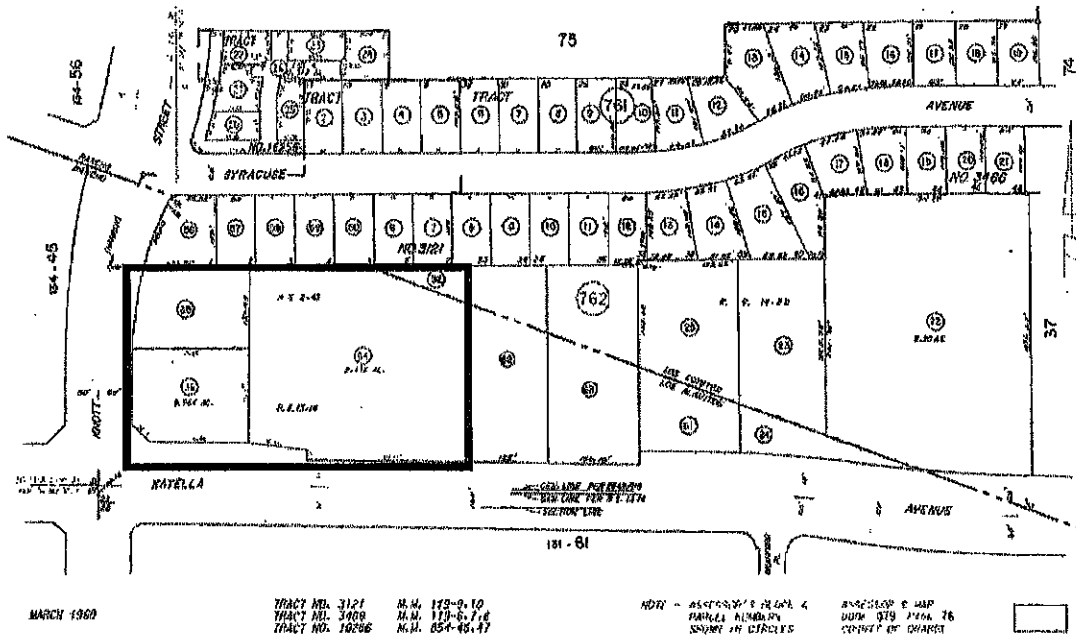
Sou Moua, Vice Chairman
Stanton Planning Commission



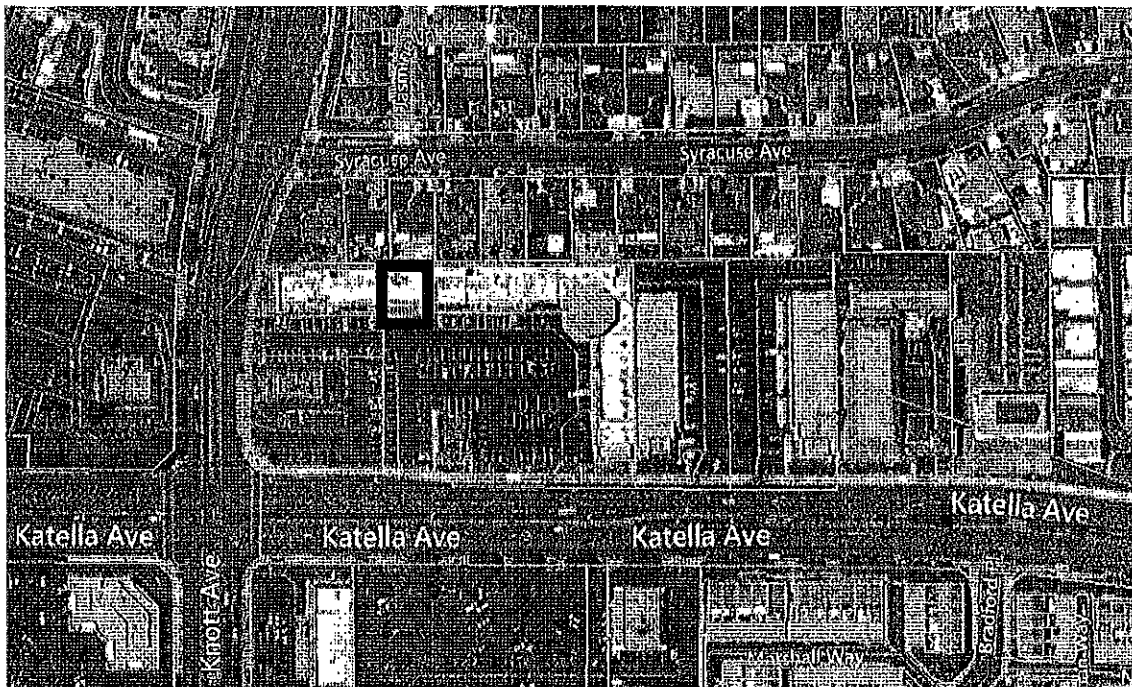
Kelly Hart
Community Development Director

Vicinity Map

7013 Katella Ave. #B



Aerial Map



LUCKY MASSAGE: 7013 Katella Avenue suite B, Stanton, CA 90680, phone # (714) 983-1254

May 16, 2016

CITY OF STANTON
Attn: Planning Division
7800 Katella Avenue
Stanton, California 90680

Dear Sir or Madam:

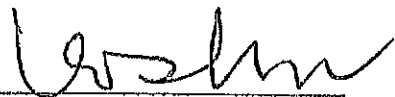
To respond to your letter dated May 04, 2016 regarding to the above Business name. I am submitting:

- 1/ Total number of massage technicians, License #, working days and working times
- 2/ Appointment of Managing Officer
- 3/ Statement from the appointed managing officer in charge, acknowledging the appointment
- 4/ List of Service, the cost and length of each services.

I certify under the laws of the United States of America that I DO NOT have any similar business, and that the above information and submitting documents are true and correct.

Thank you and best wish to you, your family and your staff.

Sincerely



LE, VAN VAN, Owner

ATTACHMENT C

LUCKY MASSAGE: 7013 Katella Avenue suite B, Stanton, CA 90680, phone # (714) 983-1254

**TOTAL NUMBER OF MASSAGE TECHNICIANS
&**

May 16, 2016

TO WHOM IT MAY CONCERN:

FULL NAME	: LICENSE #	: WORKING DAY	: WORKING TIME
HONG TUYET NGUYEN	:15950	:Tues. Wed. Sat.& Sun.	: Appointment only
STACY TRAN	: 35424	: Mon. Wed. Thurs. Fri.	: Appointment only

- TOTAL NUMBER OF MASSAGE TECHNICIANS IS : 02

I certify under the laws of the United States of America that the above information is true and correct.



LE, VAN VAN, Owner

LUCKY MASSAGE: 7013 Katella Avenue suite B, Stanton, CA 90680, phone # (714) 983-1254

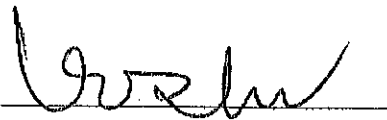
APPOINTMENT OF MANAGING OFFICER

&

May 16, 2016

TO WHOM IT MAY CONCERN:

I, the undersigned LE, VAN VAN, owner of the above said Business hereby Appointed Ms. STACY QUE TRAN as Managing Officer in Charge of the above said Business.

A handwritten signature in black ink, appearing to read 'Le Van Van', is written over a horizontal line.

LE, VAN-VAN, Owner

LUCKY MASSAGE: 7013 Katella Avenue suite B, Stanton, CA 90680, phone # (714) 983-1254

ACKNOWLEDGING THE APPOINTMENT

&

May 16, 2016

TO WHOM IT MAY CONCERN:

I, the undersigned STACY TRAN, acknowledge that I was appointed as Managing Officer of the above said Business.


STACY TRAN, Managing Officer

LUCKY MASSAGE: 7013 Katella Avenue suite B, Stanton, CA 90680, phone # (714) 983-1254

LIST OF SERVICES, COST & LENGTH OF EACH SERVICE
&

May 16, 2016

TO WHOM IT MAY CONCERN:

SERVICES	: COST	: LENGTH OF EACH SERVICE	: REMARK
Massage Therapy	: \$35.00	: ½ Hours	:
Massage therapy	: \$55.00	: 01 Hour	:

=====



LE, VAN VAN, owner

June 30,2016

TO: CITY OF STANTON
Attn: Cynthia Burgos
7800 Katella Ave. Stanton, CA 90680

LUCKY MASSAGE
7013 Katella Ave. Suite B
Stanton, CA 90680
Phone (714) 983-1254

Dear CYNTHIA BURGOS:

To respond to your E-mail dated 06/27/2016.Regarding to Lucky Massage. I respectfully report to you that:

1/ Beds, Food, locker and front room tinted glass have been removed or corrected.

2/ When Stacy Tran is not working, the Receptionist is acting as Managing Officer.

3/ MASSAGE SERVICES, COST and LENGTH OF EACH SERVICE:

SERVICES	: COST	: LENGTH OF EACH SERVICE	: REMARK
Massage Therapy	: \$35.00	: ½ Hours	:
Massage therapy	: \$55.00	: 01 Hour	:

4/ I, DO NOT HAVE any similar Business anywhere.

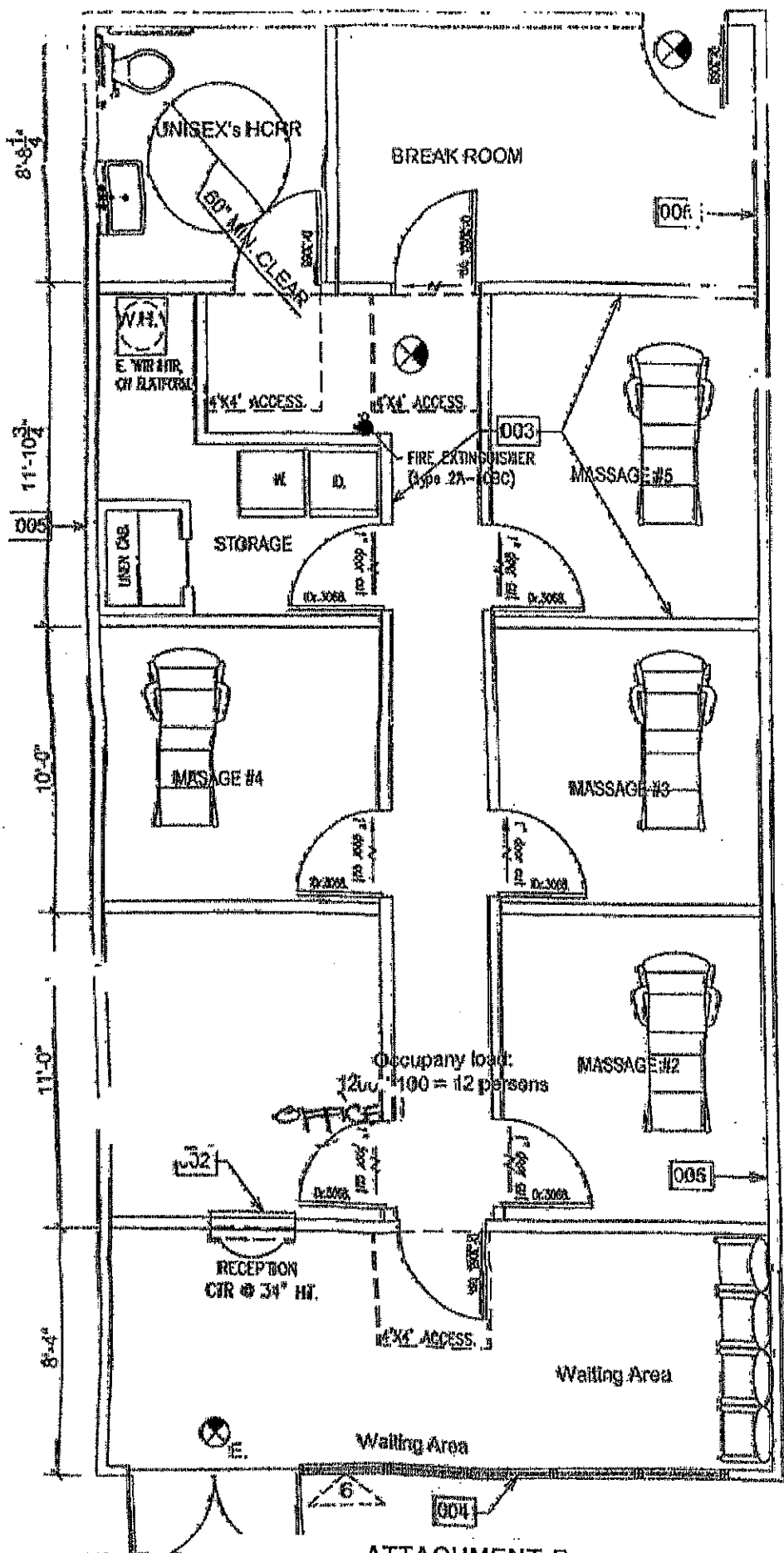
5/ For your convenience, I am enclosing 01 copy of your letter dated 06/27/2016

6/ I certify under the laws of the United States of America that the above information is true and correct to the best of my knowledge and belief. Your favorable consideration and assistance in this matter is greatly appreciated.

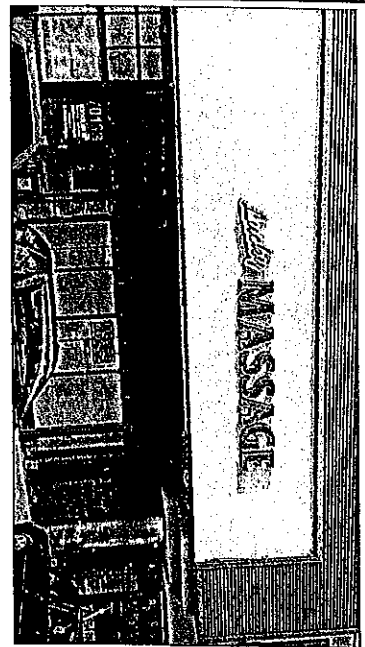
Sincerely



Le, Van Van, owner

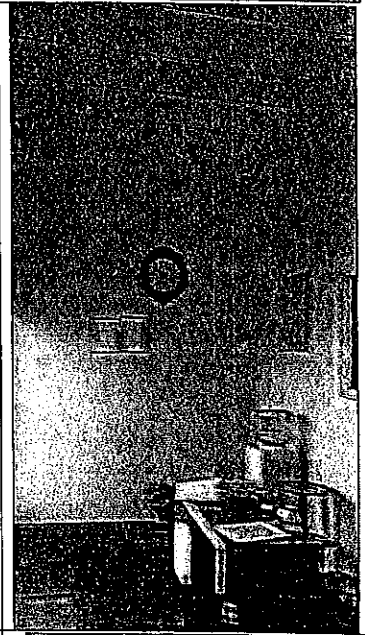


ATTACHMENT D



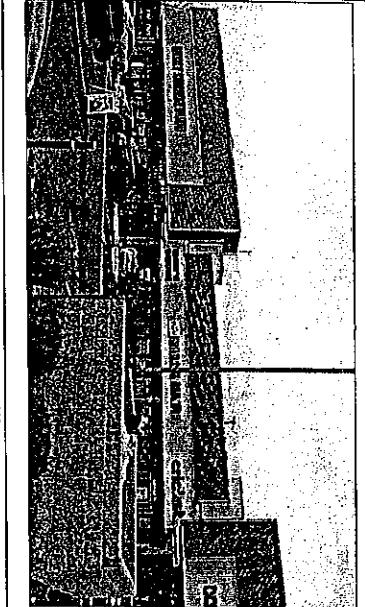
PICTURE 1

SCALE: NTS.



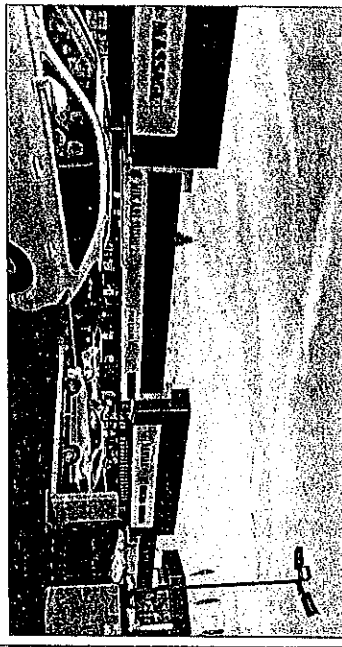
PICTURE 2

SCALE: NTS.



PICTURE 3

SCALE: NTS.



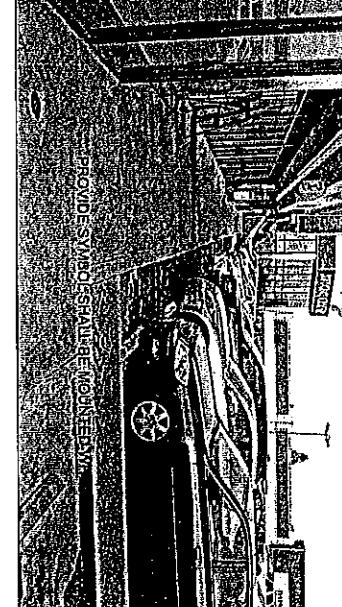
PICTURE 4

SCALE: NTS.



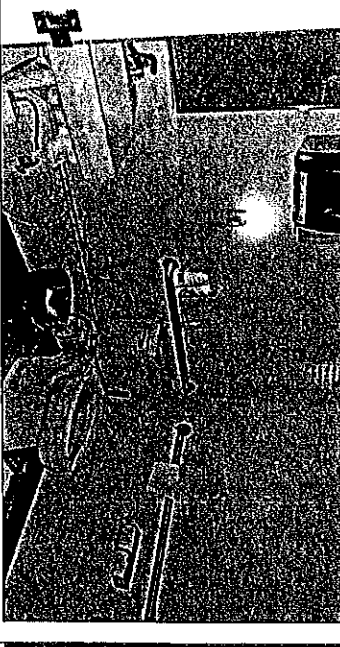
PICTURE 5

SCALE: NTS.



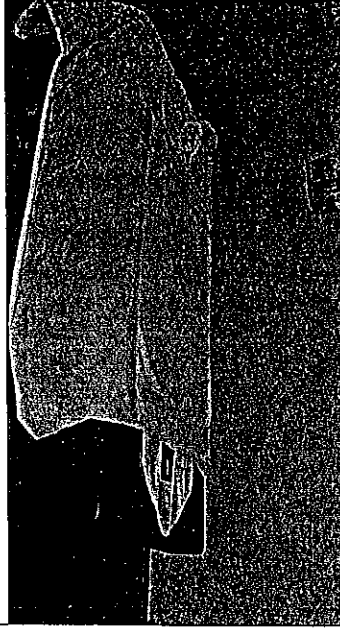
PICTURE 6

SCALE: NTS.



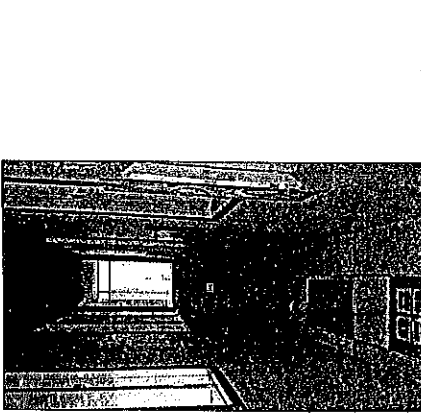
PICTURE 7

SCALE: NTS.



PICTURE 8

SCALE: NTS.



PICTURE 9

SCALE: NTS.

Rev/Date	By
1-22-15	A
8-15-15	A
	A
	A

ABC
ART BUILDER
CONST.
4831 WESTHARTER BLVD
STE. 200
DENVER, CO 80212
TEL: 303.733.1111

ABC DESIGN
HIGHER PURPOSE
DESIGN
1000 14TH AVE, SUITE 1000
DENVER, CO 80202
TEL: 303.733.1111
WWW.ABCDESIGN.COM

**TENANT IMPROVEMENT FOR
LUCKY MASSAGE**
Address:
7013 KA*
STANTC
AVE, SUITE # 3
0680

Owner:	DRYER LIVING
Design:	DRYER LIVING
Architect:	DRYER LIVING
Interior Designer:	DRYER LIVING
General Contractor:	DRYER LIVING
Construction Manager:	DRYER LIVING
Construction Superintendent:	DRYER LIVING
Construction Inspector:	DRYER LIVING
Construction Photographer:	DRYER LIVING
Construction Videographer:	DRYER LIVING
Construction Writer:	DRYER LIVING
Construction Artist:	DRYER LIVING

A-3



January 14, 2015

Alexander A. Ethans
Mayor

Brian Donahue
Mayor Pro Tem

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

Carol Warren
Council Member

James A. Box
City Manager

Lucky Massage
Thuy Ho Thu Lam
7013 Katella Ave. #B
Stanton, CA 90680

RE: New Massage Establishment Regulations – May affect your business operations

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1031 which sets forth new regulations for the permitting, and operations of new and existing massage establishments. This ordinance became effective immediately upon adoption on January 13, 2015. **You are receiving this letter to inform you that your business is subject to the regulations of this new Ordinance.**

The adoption of Ordinance No. 1031 created new zoning, permitting, and operating requirements for new and existing massage establishments in the City of Stanton. Below is a brief overview of the new regulations. For a complete list of new regulations and requirements, please refer to the attached Ordinance.

Zoning Regulations: The adopted Ordinance indicates that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits, while Massage Establishments would be prohibited in the CN (Commercial Neighborhood) zone. Please contact the Planning Division to identify which zone your existing business is located in. If your business is located in the CN (Commercial Neighborhood) zone, it would be subject to a two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). At the conclusion of the amortization period, the business would need to cease operations. An extension to the amortization period may be possible, if you are able to meet the burden of proof as stipulated in the Ordinance.

Permitting: If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply, and be approved for a Conditional Use Permit, and a Massage Establishment License. This process must be completed within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). If you fail to apply for the necessary applications, or your applications are denied, business operations would be required to cease after the two year amortization period. You may also apply to extend the amortization period if you are able to meet the burden of proof as stipulated in the Ordinance.

Regulations for Establishment Operations: In addition to zoning and permitting requirements, the City has established a list of regulations that new and existing businesses must abide by. For the complete list of requirements, please refer to

7800 Katella Avenue
Stanton, CA 90680
Phone (714) 379-9222
Fax (714) 890-1443
www.ci.stanton.ca.us

Exhibit B of the Ordinance. In regards to the effective date of the regulations, Section 20.400.190.C in the Ordinance establishes new facility requirements for massage establishments. These regulations may require additional construction or modifications to the establishment. As such, existing establishments would need to make the required modifications within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). For the other regulations identified in Section 20.400.190.D-F in the Ordinance, they become effective upon the adoption of the Ordinance, and all existing massage establishments must immediately comply with the regulations.

The information listed above provides a brief overview of the new regulations for Massage Establishments. For a complete list of the regulations, the Ordinance has been attached for your review.

If you have any questions regarding the requirements of the ordinance, please contact Kelly Hart of my staff at (714) 890-4228.

Sincerely,

A handwritten signature in black ink, appearing to read "Omar Dadabhoy", with a long horizontal flourish extending to the right.

Omar Dadabhoy
Community and Economic Development Director



September 27, 2016

Brian Donahue
Mayor

Carol Warren
Mayor Pro Tem

Alexander A. Ethans
Council Member

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

James A. Box
City Manager

Lucky Massage
Van Van Le
7013 Katella Ave. #B
Stanton, CA 90680

RE: Expiration of Amortization Period for Massage Establishments

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1032 ("Ordinance"), which sets forth new regulations for the permitting and operations of new and existing massage establishments. This Ordinance became effective on January 13, 2015, and provided existing businesses a two-year period—an "amortization period"—to continue operating under previous City regulations. **You are receiving this letter as a reminder that your business must come into compliance with the Ordinance by May 31, 2017.** Below is a brief overview of the regulations. For a complete list of regulations and requirements, please refer to the attached Ordinance.

Massage Establishments located in the CG Zone: The adopted Ordinance provides that that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits. **If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply and be approved for a Conditional Use Permit and a Massage Establishment License. This process must be completed by May 31, 2017.** If you fail to apply for the necessary applications, or your applications are denied, the massage operations will be required to cease.

Massage Establishments located in the CN Zone: If your business is located in the CN (Commercial Neighborhood) zone, the massage establishment will need to cease operations or operations must be changed into a permitted use by May 31, 2017.

You may also apply for an extension of the two-year amortization period, as described above. The deadline to submit an application for an extension of a massage establishment amortization period is **November 30, 2016**. Applications are available at City Hall and an applicable fee will be required when the application is submitted.

If you have any questions regarding this letter, the City's massage regulations or have questions about which zone your existing business is located in, please contact the Planning Division at (714) 379-9222.

Sincerely,

Kelly Hart
Community Development Director

7800 Katella Avenue
Stanton, CA 90680
Phone (714) 379-9222
Fax (714) 890-1443
www.ci.stanton.ca.us

Lucky Spa Inspection

Connor Duckworth, Business License Specialist

May 17, 2017

On the night of May 17, 2017, Sr. Accounting Technician, Tom Nguyen and I inspected Stanton businesses to assure for business license and municipal code compliance. The businesses inspected that night were: Lucky Massage, Angel Spa, Lavender Spa, Silky Spa, and The Patio.

Night inspections are conducted once or twice a month to verify that businesses are complying with the Stanton Municipal Code outside of the normal City Hall hours of operation. Some businesses such as bars, lounges, or nightclubs only operate at night, and night visits are the only way of completing the inspection process.

I arrived at Lucky Massage, 7013 Katella Ave, Ste B, at approximately 5:45pm.

As soon as I opened the front door, I said, "Hello, City of Stanton." I was greeted by Stacy Que Tran who came from the locked door in the hallway separating the lobby from the rest of the establishment.

I asked her if there were any other workers or customers in the rooms. She said that in room #1, there was a customer. No other workers were there at the location.

I asked for her California Driver's License and California Massage Therapy Council (CAMTC) card. After presenting me with the items, I verified that both Ms. Tran had a business license for a massage technician and license to practice in California.

I asked Ms. Tran if I could perform my inspection, and she gave approval.

During the inspection, I verify if a location meets the Stanton Municipal Code requirements for massage establishments. As in every inspection, one of the requirements that I ask of each worker assisting in the inspection process is if they have locations for clean and dirty towels/linens. I asked Ms. Tran if I could open those drawers and to clarify what items would be inside. No unusual items were found in those drawers.

Starting with the employee area, Tom Nguyen and I inspected for any violations. Tom speaks Vietnamese and often translates for me if English is a second language for some workers. After the employee area was clear, I made my way to each room to inspect.

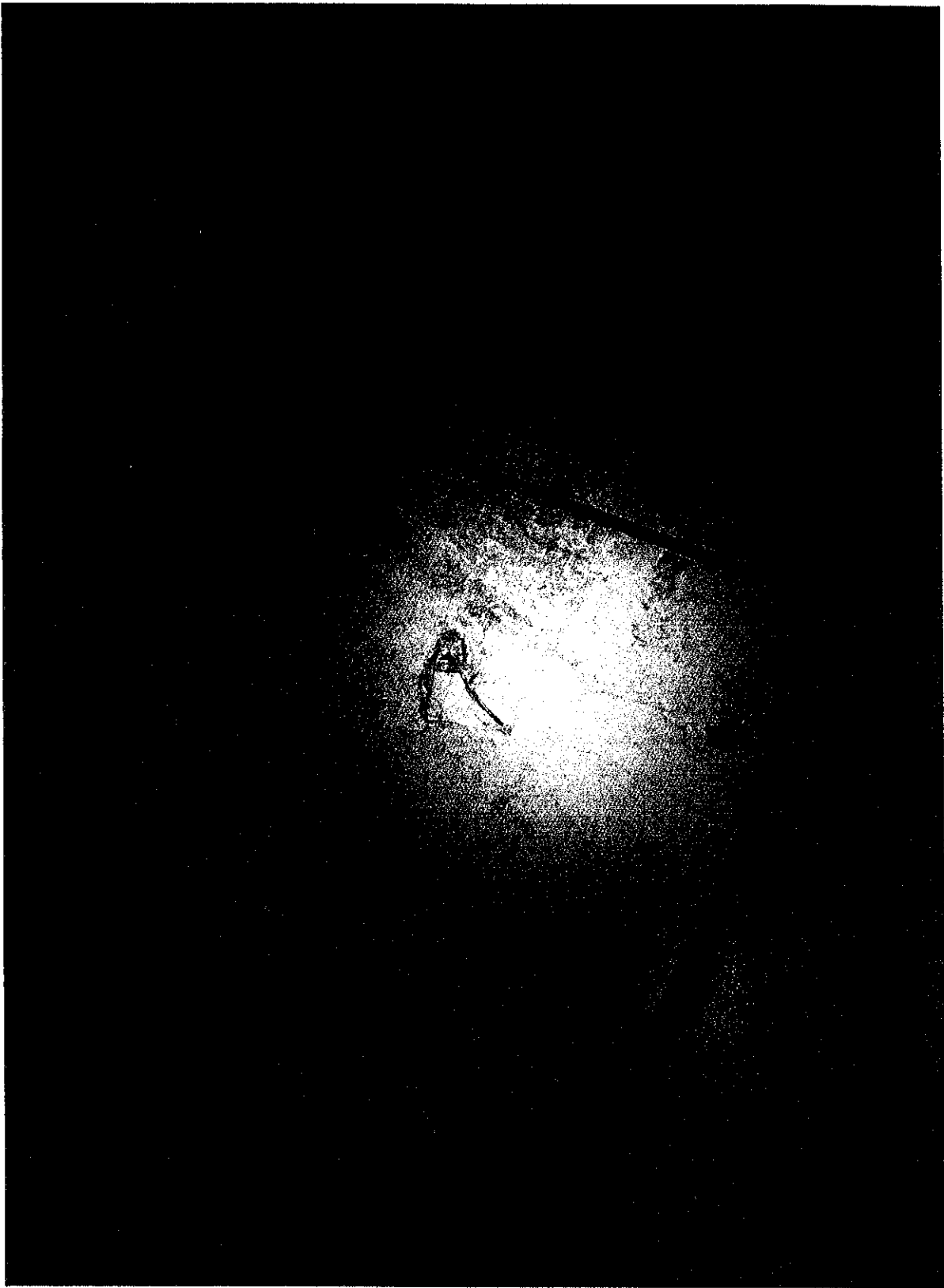
While inspecting room #4, I bent down on the floor to look under the massage table in the room and found a Trojan condom wrapper. The wrapper had some dust and hair particles on it, so may have been there for a longer period of time other than that day. I asked Sr. Accounting Technician, Tom Nguyen, to verify that it is a condom wrapper and the location of where it was found. Next, I asked Ms. Tran why

the wrapper was there. She denied that it is a condom wrapper. After showing her the wording on the wrapper, she did not have any further comments.

Tom Nguyen and I left the location at approximately 6:00pm to perform inspections at other locations and did not find any further sexual paraphernalia.

Business Owner Van Van Le was cited for a violation of 20.400.190(D9) of the Stanton Municipal Code.











9011

TJEL-92540-02

9011094

TJEL-92540-02

Latex condoms are intended to prevent pregnancy,
HIV/AIDS, and other sexually transmitted infections.

Caution: This Product Contains Natural Rubber Latex
Which May Cause Allergic Reactions.

BEFORE USING, SEE DIRECTIONS FOR USE ON INSIDE OF CARTON

ONE LUBRICATED LATEX CONDOM

Manufactured by Church & Dwight Co., Inc. Princeton, NJ 08540

TROJAN®
BRAND LATEX CONDOMS

ULTRA THIN LUBRICATED

Latex condoms are intended to prevent pregnancy,
HIV/AIDS, and other sexually transmitted infections.

Caution: This Product Contains Natural Rubber Latex
Which May Cause Allergic Reactions.

BEFORE USING, SEE DIRECTIONS FOR USE ON INSIDE OF CARTON

ONE LUBRICATED LATEX CONDOM

Manufactured by Church & Dwight Co., Inc. Princeton, NJ

TROJAN®

TEAR HERE

TEAR HERE

EXPOSED

TEAR HERE

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: July 11, 2017

SUBJECT: **APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-13 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 11855 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY VAN HO**

REPORT IN BRIEF:

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. City Council hold a public hearing; and,
2. City Council consider Resolution No. 2017-30 upholding the Planning Commission's denial of Conditional Use Permit C16-13 and denying the Applicant's appeal.

BACKGROUND:

In 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections. The Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate.

On April 5, 2017, the Planning Commission held a public hearing to consider Conditional Use Permit C16-13 to allow for the continued use of a massage establishment at 11855 Beach Blvd. and known as Temptation Massage. At the conclusion of the public hearing, the Planning Commission, with a unanimous vote, determined that the application could not meet all the necessary findings to approve the conditional use permit. As such, the Planning Commission denied Conditional Use Permit C16-13. Within the ten-day appeal period, the operator of Temptation Massage, Mr. Van Ho filed an appeal of the Planning Commission's action to deny CUP No. C16-13.

ANALYSIS/JUSTIFICATION:

The subject property is located in the shopping center on the west side of Beach Blvd., north of Lampson Ave. within the CG (Commercial General) zone. Temptation Massage is part of a small strip center which includes a bakery, tobacco shop, and a casket sales store.

Council
Agenda Item #

10C

Temptation Massage opened in October 2013. According to City business license information, Temptation Massage has two massage technicians, and three receptionists. Information provided by the applicant states that one receptionist and one technician are on-site at all times the business is open. The receptionist duties include greeting customer and showing them to their room, making sure supplies are stocked, doing laundry and performing basic cleaning throughout the establishment. In addition to performing massages, massage technicians are responsible for cleaning rooms after each massage. Massage appointments are available in 30, 45 and 60 minute increments. Massage types offered include Swedish, Deep Tissue and Full Body. Temptation Massage is open from 9:00 am until 10:00 pm, seven days a week. The establishment has two massage rooms and two table shower rooms.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on five occasions between 2014 and 2016 and noted the following violations of State or Local Codes:

First Inspection (2014) – During the first inspection, staff noted the following violations of the Stanton Municipal Code: Exterior Wall Sign installed with no permits (SMC 20.325.040 (A) *Sign Permit, Permit Required*); tenant improvements installed with no building permits (SMC 16.04.010 *Californian Building Code Adopted – California Building Code 105.1 Permit Required*); and, a massage technician and receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*).

Second Inspection (December 18, 2014) –During the second inspection, staff noted the following violations of the SMC: Receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). In addition, a massage technician ran out the back door of the business during the inspection. However, code enforcement staff was able to cite her before she was able to leave for not having a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The massage technician did not contest the citation and paid the fine.

Third Inspection (April 7, 2015) –On the third inspection, staff noted the following violation of Stanton Municipal Code Section 20.400.190 *Massage Establishments*; tinted glass used in the front windows, obscuring visibility into the unit.

Also, as happened during the second inspection, a massage technician attempted to flee through the rear door of the business. The technician, who was working as an independent contractor, did not have a business license. The massage technician, business owner and property owner were all cited under SMC Sections 5.04.010 *Business Licenses and Regulations, License Required*. None of the parties contested the citation and paid the required fines.

Fourth Inspection (February 17, 2016) – The fourth inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a used condom wrapped in tissue and located on a shelf, along with massage oils and other supplies, in a massage room, indicating that sexual activity had taken place at the massage establishment; use of paraphernalia, such as condoms, which are designed for use in

connection with specified sexual activities; a bed and person belongings indicating that a person was living in the establishment; failure to post a list of services, service duration and service cost; failure to post the hours of operation in the front window, clearly visible from outside; no washer or dryer or signed laundry contract; and, clean and used towels stored together.

APPEAL – On April 10, 2017, Mr. Ho filed an appeal of the Planning Commission's decision to deny Conditional Use Permit C16-13 to the City Council. In the appeal documentation, Mr. Ho indicates the purpose of the appeal is that, "the vote/decision which was based on erroneous information provided by [the] staff report mischaracterizing the nature of our business and recklessly misrepresenting facts which prejudiced [the] hearing."

The statement provided in the appeal form does not identify specific instances where staff mischaracterized the nature of the business or misrepresented facts. However, during the Planning Commission meeting, Mr. Joe Dovich, a representative for the business read a speech in response to the staff report, and provided a copy of the speech to City staff on April 6, 2017. As such, the speech provided to staff, although not formally submitted as part of the appeal, will be included as part of the appeal record.

City Staff's Response to Appeal

1. The Appellant asserts that the name of the business "Temptation Massage" was chosen for its catchiness and the owners have considered changing the name of the business to better reflect its services of providing Swedish and Deep Tissue massages.

City Response: The name of the business is not under City scrutiny, and nothing in the record indicates that the City took the business's name into consideration when the Planning Commission acted. The Planning Commission's determination was based on the Commission's inability to make the findings for approval of a Conditional Use Permit, as provided in Section 20.550.060 of the Stanton Municipal Code. The name of a business is not included as consideration as identified in the required findings.

2. The Appellant asserts that he first inspection in 2014 resulted in the business owner correcting building code violations pertaining to exterior signage which was subsequently permitted and approved.

City Response: City staff does not contest the fact that the violation was corrected. The staff report was simply reporting the fact that on the date of the inspection, it was observed that a sign was installed without permits, which is a violation of Section 20.325.040.A of the Stanton Municipal Code.

3. The Appellant asserts that for the second inspection conducted on December 18, 2014, a receptionist was cited for lack of a business license. In the staff report to the Planning Commission, it was stated that during this inspection, a massage technician ran out the back door of the business. The Appellant contends that the massage technician did not flee from citation; rather, that door is utilized for the employees to go to the back area to

smoke or get something out of their cars that are parked on the back street.

City Response: During the subject inspection, City staff entered the establishment from the front door. Once inside, Staff was allowed into the back entry to the back area of the massage establishment and observed a female running out the back door. A City staff member pursued the female out of the back door of the establishment. Upon exiting the establishment, the City staff member did not immediately see the female. The City staff member walked northbound along the curbing of the street of Santa Paula Ave., where a number of vehicles were parked. After passing by a number of vehicles, the City staff member found the female in question that ran out the back door squatting behind a vehicle bumper. The City staff member identified himself as a City representative and the female stood up. She was wearing a low cut, spaghetti string tank top and shorts. On the exposed skin of her chest area, the staff member observed significant bruising. The staff member asked whether the female needed assistance. She declined and walked back into the establishment. The female was cited for not having a business license as she was identified as a massage establishment employee.

4. The third inspection on April 7, 2015 resulted in violations noted regarding tinted windows, and again individuals running out the rear door and operating without a business license. The Appellant indicates that they had no prior knowledge of the requirement regarding the window tinting, and the technician that was discovered without the business license was due to her recent hiring and the paperwork had not yet been secured.

City Response: In January 2015, the City passed Urgency Ordinance No. 1031 and regular Ordinance No. 1032 establishing new regulations for massage establishments, including, but not limited to the requirement that the front windows could not be obscured or tinted. Notification of the new regulations, including copies of the regulations were sent on January 14, 2015 via regular mail and certified mail to all massage establishment business owners and to property owners.

In regard to the unlicensed individual that was cited, Section 5.04.010 of the Stanton Municipal Code states,

"It is unlawful for any person, either for him or herself or for any other person, to commence, conduct, carry on, or engage in any business ... in the city without first having procured a license from the city so to do, or without complying with any and all regulations of such business ... and the carrying on of any business without first having procured a license from the city so to do, or without complying with any and all regulations ... constitutes a separate violation of this chapter for each and every day that such business is carried on or conducted."

The Stanton Municipal Code explicitly provides that a person must first obtain a license prior to engaging in business. As such, an employee "trial period" is not permitted, and regardless of the cost of the license, the Appellant is responsible to ensure that all individuals contracted to work at the establishment are fully licensed before the initiation of

work.

5. The fourth inspection conducted on February 17, 2016 resulted in noted violations including the presence of a used condom wrapped in tissue and located on a shelf among massage oils and other supplies. The Appellant asserted, "It is our business principle and practice to strictly prohibit sex services and we have never been cited for any such illegal activities, nor do we condone or are complicit in such act. Frequent inspections have never revealed any violations."

City Response: The Appellant does not dispute that the used condom was found at the establishment, only that the establishment has never been cited for the observation of sexual activities occurring on the premises. Although City staff has not directly observed sexual acts occurring on the site, the presence of a used condom provides evidence that sexual activity had occurred on the premises at some point prior to the inspection. Section 20.400.190.D.9 of the Stanton Municipal Code provides, "there shall be no display, storage, or use of any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, including, but not limited to, vibrators, dildos, or condoms ...". The fact that City staff has not directly observed a sexual act occur on site, does not diminish the fact that sexual paraphernalia was found on the premises, which is strictly prohibited.

6. An inspection was also conducted on November 5, 2014. This inspection was conducted in the late evening hours to determine compliance with the City's regulations restricting operating hours to 10:00pm. The Appellant indicates that the business was closed and the owner was cleaning the establishment, no customers were present and none were accepted past 10:00pm.

City Response: When City staff approached the establishment after 10:00pm on the evening of November 5, 2014, City staff observed the "Open" sign hanging in the front window, which was illuminated. The front door was held in the open position, and all the lights in the front waiting area were on. City staff was able to enter the establishment without any issue. Although staff observed Mr. Ho with a bag of trash and he appeared to be cleaning the facility, the fact that the "Open" sign was still on and any member of the public would have been able to enter the waiting room of the establishment with no barrier, the facility appeared to still be open for business. Per Ordinance No. 1027, which became effective July 10, 2014 (almost 4 months prior to the inspection and not 5 days as indicated by the Appellant in the appeal letter), massage establishments are not permitted to be operated beyond 10:00pm without first obtaining a Conditional Use Permit. The Appellant did not obtain a Conditional Use Permit to operate beyond 10:00pm, and was therefore found in violation of the Stanton Municipal Code.

7. The Appellant asserts, "If we thought it was the intent of the City of Stanton to shut down all massage businesses, even the legitimately operated ones like ours, we would not go through such efforts and costs to advance a CUP application."

City Response: The City does not have an intent to "shut down all massage businesses,"

nor as the City demonstrated such intent. Massage establishments in the Commercial General zone are required to obtain a Conditional Use Permit to continue operating. The City considers the record of operation of the establishment, its fit with surrounding land uses, and whether the findings established in Section 20.550.060 of the Stanton Municipal Code can be met. To date, the City has approved 13 Conditional Use Permits for massage establishments in the Commercial General zone. The subject establishment was denied by the Planning Commission, in part, due to the fact that there was a record of sexual paraphernalia being found on-site, and the multiple instances of employees attempting to thwart City staff inspections by running out the back door of the establishment. The fact that the Planning Commission has approved the majority of Conditional Use Permits for massage establishments is substantial evidence that the City's intent is not to shut down all massage establishments in the Commercial General zone.

8. The Appellant asserts the operator has signed a lease extension with the landlord until November 2019, and if the appeal is denied, the Appellant will lose most of the \$50,000 investment in the business as well as loss of income.

City Response: The application for the conditional use permit was submitted on August 23, 2016. At that time, the applicant was informed that a conditional use permit is a discretionary permit and, that there was no guarantee that the permit would be approved by the Planning Commission. The entire record of the business operation would be considered as part of the determination of whether to approve or deny the application. The applicant's decision to renew the lease until November 2019, without approval of the conditional use permit was made independently by the applicant, and the applicant executed the lease renewal as the appellant's own risk. Additionally, the findings for approval of a conditional use permit as provided in Section 20.550.060 of the Stanton Municipal Code do not consider the financial obligation of the applicant as a cause for approval of the application.

The Appellant has not provided any evidence to dispute the City's inspection records as part of the appeal letter. In the letter, the Appellant does not dispute the fact that, among other things, a used condom was found on the premises and unlicensed massage therapists were identified on-site during the identified inspections. Although the Appellant worked to correct some of the violations, their actions after the fact do not negate the fact that the violations occurred.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the California Environmental Quality Act (CEQA) this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION:

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of

the subject property, posted at three public places, and made public through the agenda-posting process.

STRATEGIC PLAN:

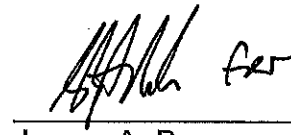
- 1 – Provide a Safe Community
- 2 – Provide a Strong Local Economy

Prepared by,



Kelly Hart
Community & Economic
Development Director

Approved by,



James A. Box
City Manager

ATTACHMENTS

- A. City Council Resolution No. 2017-29 for the approval of the appeal
- B. Letter of Appeal from Business Owner (dated April 10, 2017)
- C. Email from Appellant with the Planning Commission Speech (dated April 6, 2017)
- D. Planning Commission staff report and attachments (dated April 5, 2017)
- E. Letter from City Regarding New Ordinance Regulations (dated January 14, 2015)
- F. Letter from City Regarding Amortization Period (dated September 27, 2017)

RESOLUTION NO. 2017-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-13, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 11855 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE

WHEREAS, in 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections; and

WHEREAS, the Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate; and

WHEREAS, on April 5, 2017, the Planning Commission of the City of Stanton held a public hearing to consider Conditional Use Permit C16-13 to allow for the continued use of a massage establishment known as Temptation Massage located at 11855 Beach Boulevard; and

WHEREAS, said Commission, after due consideration of all reports and testimony at said hearing, adopted Planning Commission Resolution No. 2413 denying Conditional Use Permit C16-13; and

WHEREAS, on April 10, 2017, Van Ho, owner of Temptation Massage, submitted an appeal of the Planning Commission decision to the City Council, asking for consideration for approval of C16-13; and

WHEREAS, on June 27, 2017, the City Council held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the appeal; and.

WHEREAS, the Council has carefully considered all pertinent testimony and information contained in the staff report prepared for this appeal as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: Recitals. The City Council hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: CEQA. Based upon the environmental form the City Council exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: Findings. That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed Conditional Use Permit would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." In the three years that Temptation Massage has been in business, it has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and, the business has been cited once for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes. Denial of the requested conditional use permit would require the closure of this massage establishment, thereby eliminating a source of likely criminal activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited once for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes; and,

Temptation Massage is directly adjacent to single family homes located in the Single-Family Residential zone west of the site, automotive repair and rental businesses and the Tahiti and Riviera Motels within the General Commercial zone to the south and east of the site and the Stanton Community Services Center, located in the Public and Institutional zone north of the site. The Stanton Community Services Center provides services to assist families reach their full potential including after-school nutrition, recreation and homework programs, parenting classes, family counseling and numerous other family oriented programs.

The illicit activity associated with this business is incompatible with businesses catering to the needs of the community at large, the adjacent single family homes, and the children and families visiting the Stanton Community Services Center to the north of the site. Denial of the requested CUP would require closure of the existing massage establishment, thus eliminating these nuisance activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited once for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes; and, Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these illicit and likely criminal activities.

The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the zoning code and the municipal code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a conditional use permit. However, the existing business has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illegal and illicit activity. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the

premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited once for being open past the permitted hour of 10:00 p.m.

Furthermore, the business has not continuously maintained a washer and dryer on site, nor contracted with a laundry service, nor are clean and used towels stored separately, resulting in unsanitary conditions for its patrons.

- B. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located at the north east corner of Knott and Katella Avenues. Existing adjacent uses including single family homes to the north, and commercial uses including restaurants, retail shops and personal and professional services. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illegal and illicit activity. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited once for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes. As such, continuation of the existing use at this location would be incompatible with adjacent uses because Temptation Massage would serve as a public nuisance to the existing and future land uses in the vicinity.
- C. The project site is located on the west side of Beach Boulevard and is served by a single driveway. On-site circulation features include drive aisles which comply with current development standards. The continued operation of the existing massage establishment would not be expected to negatively impact pedestrian or vehicular safety on or near the site, impede emergency vehicle access to the site or properties near the site, negatively impact fire safety service levels in the community, cause the capacity of public infrastructure, such as water, storm and/or sanitary sewer or roadways and/or highways to be exceeded, or create additional demand for public amenities or schools.

However, Temptation massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors

working at Temptation Massage have obstructed in City investigations by fleeing the premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited on once for being open past the permitted hour of 10:00 p.m., directly impacting the adjacent residents' peaceful enjoyment of their homes. Due to the facilitation of illicit activity and inadequate supervision over its own independent contractors and there activities, continuation of this use may require a disproportionate draw on police resources, and therefore, this site is not an appropriate location for this use as operated.

- D. The site is unsuitable for the use as operated. The subject property is located at 11855 Beach Boulevard; a 14,500 square foot (0.34 acre) parcel located on the west side of Beach Boulevard, approximately 700 feet north of Chapman Avenue. Other businesses located in the shopping center include a butcher shop, salon, smoke shop, casket sales and bakery. The site is located in the CG (Commercial General) zone with a General Mixed Use Overlay, and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include single family homes located in the Single-Family Residential zone west of the site, automotive repair and rental businesses and the Tahiti and Riviera Motels within the General Commercial zone to the south and east of the site and the Stanton Community Services Center, located in the Public and Institutional zone north of the site. The Stanton Community Services Center provides services to assist families reach their full potential including after-school nutrition, recreation and homework programs, parenting classes, family counseling and numerous other family oriented programs.

There is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited on once for being open past the permitted hour of 10:00 p.m., directly impacting the adjacent residents peaceful enjoyment of their homes. Furthermore, Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...". Because Temptation Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

SECTION 4: That based upon the above findings and on the entirety of the record including the staff report, written and oral testimony, and this Resolution, the City Council hereby upholds the Planning Commission's denial of Conditional Use Permit C16-13 to allow for the operation of a massage establishment at 11855 Beach Boulevard, in the CG (Commercial General) and the General Mixed Use Overlay and denies Appellant's appeal.

SECTION 5: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 6: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 7: Custodian and Location of Records. The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 8: Certification. The City Clerk shall certify to the adoption of this Resolution and cause a copy to be transmitted to the City Clerk.

ADOPTED, SIGNED AND APPROVED by the City Council of the City of Stanton at a regular meeting held on June 27, 2017 by the following vote, to wit:

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY
ATTEST:

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2017-30 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on June 27, 2017, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK



CITY OF STANTON APPEAL FORM AND HANDOUT

City Clerk's Office
7800 Katella Avenue, Stanton, CA 90680
Phone: (714) 379-9222 Fax: (714) 890-1443

CITY OF STANTON

APR 10 2017

CITY CLERK'S OFFICE

FOR OFFICE USE
ONLY

(DATE STAMP)

An appeal shall be filed within ten (10) calendar days after the final action of the Planning Commission.

APPEAL OF: ☒ Planning Commission Decision (\$1,235 fee)

Type of Permit (example: Conditional Use Permit): CUP Permit Number: C16-13

Address of Project: 11855 Beach Blvd. Decision Date: 4/5/2017

APPELLANT INFORMATION

Name of Applicant (Appellant): VAN HO (spokesperson = JOE DOVINH)

Mailing Address: 11855 Beach Blvd. Stanton, CA 90680

Telephone Number: [REDACTED] Email: [REDACTED]

In what capacity is the appellant filing? ☐ Recorded Property Owner ☒ Interested Party ☒ Effected Party

PROPERTY OWNER INFORMATION (IF KNOWN)

Tenant & Business Owner/Operator

Name of Property Owner: SCOTT LEE c/o DAVE RUECHE

Mailing Address: [REDACTED]

Telephone Number: [REDACTED] Email: [REDACTED]

Describe what portion(s) of the decision you are appealing: Planning Commission voted "Aye" in Favor of Staff Recommendation to DENY Applicant's CUP application C 16-13. All Decisions.

Describe the Purpose for Your Appeal (be specific): We strongly disagree with Planning Commission Vote/Decision which was based on Erroneous information provided by Staff Report Mischaracterizing the nature of our business and Regrettably misrepresenting facts which prejudiced hearing.

APPLICANT CERTIFICATION:

I hereby certify that all information contained in this application is, to the best of my knowledge, true and correct. FALSE OR MISLEADING INFORMATION GIVEN IN THIS APPLICATION SHALL BE GROUNDS FOR DENYING APPLICATION. I hereby grant the City authority to post required public notices.

Signature: [Signature] Date: 4/10/17

CHAPTER 20.615
FILING AND PROCESSING OF APPEALS
(Excerpted from the Stanton Municipal Code)

20.615.040 Filing and Processing of Appeals

A. Eligibility.

1. An appeal in compliance with this Chapter may be filed by any aggrieved person, except that in the case of a decision on a Conditional Use Permit, Variance, and/or other decision that followed a public hearing, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing.
2. Any action or decision by the Commission, Director, or Department staff in compliance with this Zoning Code may be appealed by a Council member acting as an individual.

B. Timing and form of appeal.

An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.

1. The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the previous review authority (e.g., Commission, Director, or other City official) in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record. Appeals filed by a City official, a Commissioner, or a Councilmember shall be exempt from the requirements of this Subparagraph.
2. The appeal shall be filed with the Department or City Clerk, as applicable, within 10 calendar days following the actual date the decision was rendered. If the 10th calendar day falls upon a day in which City Hall is closed, the appeal must be received by the end of following regular business day.
 - a. Appeals addressed to the Commission shall be filed with the Department; and
 - b. Appeals addressed to the Council shall be filed with the City Clerk.
3. The appeal shall be accompanied by the filing fee identified in the Planning Fee Schedule.
4. Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the applicable review authority.

C. Scope of planning permit appeals.

An appeal of a decision on a planning permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed.

D. Report and scheduling of hearing.

1. When an appeal has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority, identified in Section 20.615.020 (Appeal Subjects and Jurisdiction), above.
2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.625 (Public Hearings).
3. Any interested party may appear and be heard regarding the appeal.

E. Withdrawal of appeal.

An appeal may be withdrawn at any time prior to or during the public hearing. The withdrawal of an appeal shall cause the action or decision appealed from to become immediately effective and final.



4/10/17

F. Decision.

1. In deciding an appeal the review authority considering the appeal shall not hear or consider any evidence of any kind other than the evidence received from the previous review authority, or any argument on the merits of the case other than that contained in the notice of appeal, unless it sets the matter for hearing before itself, as provided in this Chapter, and gives the same notice of hearing as is required in compliance with Chapter 20.625 (Public Hearings).
2. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the Director or Commission, as applicable, for further consideration.
3. In the event of a tie vote by the review authority on an appeal, the decision being appealed shall stand.
4. Provision of notice of decision.
 - a. Following the final decision on an application for a permit or other approval required by this Zoning Code, the City shall provide notice of its final decision to the appellant, applicant (if not the appellant), and to any person who specifically requested notice of the City's final action.
 - b. The notice of the final decision shall contain applicable findings, conditions of approval, and the reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the public convenience, health, interest, safety, or general welfare of the City.

G. Effective date of appeal decisions.

1. Commission's decision.

A decision of the Commission is final and effective after 5:00 p.m. on the 10th calendar day following the actual date the decision is rendered, when no appeal to the decision has been filed in compliance with this Chapter.

2. Council's decision.

- a. **Adoption of ordinance.** Council's action to adopt or amend a Development Agreement, a Specific Plan (adopted by ordinance), this Zoning Code, or the Zoning Map shall become effective on the 30th day following the date the ordinance is actually adopted by the Council.
- b. **Adoption of resolution.** Council's action to grant a permit or other approval or adopt or amend the General Plan or a Specific Plan (adopted by resolution) is final and shall become effective on the actual date the decision is rendered by the Council. (Ord. 1017, 2013)



4/10/17

Hart, Kelly

From: Joe Dovinh [REDACTED]
Sent: Thursday, April 06, 2017 10:03 AM
To: Hart, Kelly
Subject: Temptation Massage

Good morning Kelly and CJ:

(Please also forward this email to CJ since I don't have his email address...)

Thanks for allowing me to present our side of the story last time, and for remaining neutral as much as possible. However, the written recommendation of staff report for DENIAL really prejudiced our case and having the hearing at the same time with Lucky Massage didn't help either. Anyways, that's all water under the bridge now, going forward we would like to put in for an appeal with the full City Council but that would only be productive if staff recommendation is neutral or positive. Hence, this follow-up email to see if the explanations as we've presented last night (and copied here) have at all persuaded staff to change their recommendation. Please let me know soon so we can file an appeal in a timely manner, thanks again, Joe.

cc: shop owners / tenants

BRIEF given April 5, 2016, Hearing

Dear Honorable Planning Chair and Commissioners,

My name is Joseph DoVinh, I am a licensed general contractor that has provided consultancy and construction services to Temptation Massage and I am here in front of you as their spokesman and advocate to plead our case for a favorable ruling regarding our Conditional Use Permit application under consideration tonight. I am also a community member of neighboring Garden Grove that has served on Garden Grove Planning Commission and like yourselves, I have had to make difficult decisions as to granting or denial of CUP applications. In this case, I assure you, with my familiarity and firsthand knowledge of this business, I would vote yes to grant Temptation a CUP. Please allow me five minutes to present our evidence for your review and decision.

First, while the name of the business "Temptation Massage" may sound alluring, it was only chosen for its catchiness and the owners have considered changing the name of the business to something like "Relaxation Massage" or "Therapeutic Massage" to better reflect its services of providing Swedish and Deep Tissue massages.

Second, we would like to take this opportunity to present our side of the matter with respects to the staff report to prove that the owners are good business operators that have taken every precaution and corrective measures to be in full compliance of all SMC (Stanton Municipal Code) requirements.

If you wish, please follow along item by item the inspection records.

First Inspection (2014) resulted in business owners and operators correcting a building code violation pertaining to an exterior sign which was subsequently permitted and approved.

Second Inspection (December 18, 2014) resulted in a Receptionist obtaining a business license after having been cited for no Business License. Up to that point in time, as far as we knew, we were only required to have

one business license of one receptionist and did not know that all receptionists had to have their own business license. There was no attempt to flee from the citation. There is indeed a back exit door that opens to a street where Receptionists and other employees park their cars and they do go back there during the day to catch a breath of fresh air or to smoke and have lunch on the curb.

Third Inspection (April 7, 2015) resulted in correction of a building code enforcement issue of window un-tinting which our business had no prior knowledge of this requirement. The SMC are subject to change at different times and business owners don't always get timely notification since such changes are usually noticed to the landlord who don't always pass on the information to their tenants right away. Also, on this occasion, a citation was paid by a new Technician that was discovered without a business license because she had only started working recently and had not secured the documentation.

Fourth Inspection (February 17, 2016) addresses housekeeping issues of cleanliness and the discovery of a condom that should not have been there. As to the condom, it is our business principle and practice to strictly prohibit any sex services and we have never been cited for any such illegal activities, nor do we condone or are complicit of any such acts. Frequent inspections have never revealed any violations.

As for cleanliness, we offer as evidence that we do have washer and dryer built with approved plans and Receptionists when they are not managing and providing customer service are responsible for keeping the place safe and sanitary, including doing the laundry and adhering to all sanitation requirements.

Lastly, as to the ONE citation issued by Officer De La Torre to Lessee of Business Mr. Van Ho that occurred on November 5, 2014, 10:16pm (for opening after hours allowed), it happened within 4 days of the new business hours becoming effective and enforceable, the business owners having no notice of its date of effect. Although the business was closed at 10pm, Mr. Van Ho (present here today) was cleaning up and told the Officer this, no customers were present and none were accepted after 10pm. However, this failed to convince the Officer who came in at 10:10pm and wrote on his ticket the time of citation as 10:16pm. The same incident triggered a second citation issued to the Landlord dated November 6, 2014, 2:10pm. This is multiple citations issued for the same incident, not multiple incidents.

Thus, we believe that we have acted reasonably and responsibly in the operations of our business and have always strive to comply with any and all State, local and City of Stanton Municipal Code requirements. We were one of the first applicants to put in for this Conditional Use Permit when it became available to businesses such as ours.

We had believed in good faith that the City of Stanton encourages good operators to stay in compliance and stay in business. If we thought that the intent of the City of Stanton is to shut down all massage businesses, even the legitimately operated ones like ours, we would not go through such efforts and costs to advance a CUP application.

While we understand that the City wishes to weed out the bad operators, we simply do not fit that category and strongly defend our rights to operate legitimately in the City of Stanton which have had a good reputation for being business friendly and welcoming diversity.

We have signed a Lease Extension with our Landlord (Mr. Scott Lee), until November of 2019. If we are forced to shut down, we would lose most of our \$50,000 investment in the business as well as loss of income as a result of termination of Lease which may come with penalties. As a good operator, we pay rent to our landlord in an otherwise undesirable/unrentable space that would expose the City of Stanton to urban blight if businesses such as ours are forcefully shuttered.

We also provide employment to local residents and pay taxes in the form of Business License and other fees to the City of Stanton. In short, denying our business of a CUP would have a chilling effect and send the wrong signal that Stanton does not welcome small businesses. We plead with you to grant approval of our CUP application so that we can continue to contribute to the economics of the City of Stanton and provide valuable services to our community as a good business operator. Thank you.



CITY OF STANTON REPORT TO THE PLANNING COMMISSION

TO: Chairperson and Members of the Planning Commission

DATE: April 5, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT C16-13 TO ALLOW FOR THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT LOCATED AT 11855 BEACH BOULEVARD, WITHIN THE GENERAL COMMERCIAL DISTRICT AND GENERAL MIXED USE OVERLAY.

RECOMMENDED ACTION

That the Planning Commission:

- Conduct a public hearing;
- Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
- Adopt Resolution No. 2413 denying Conditional Use Permit C16-13.

BACKGROUND

In 2008, the State Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California. Senate Bill (SB) 731 also limited the City's regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations. Accordingly, the City amended the Stanton Municipal Code ("SMC") to comply with the regulations set forth in SB 731.

Senate Bill 731 was set to sunset or be reconfirmed by the end of 2014. Specifically, the legislative author of Assembly Bill 1147 ("AB 1147"), which reversed portions of SB 731, stated:

"Unfortunately, the current massage therapy law [SB 731] had serious unintended consequences; with bad actors masquerading as legitimate massage professionals exploiting loopholes in current law to insulate themselves against the ability of local governments and law enforcement to shut them down. This bill [AB 1147] will give that power back to the cities and counties, which will go a long way towards eliminating the brothel owners and human traffickers who are hurting women, hurting neighborhoods, hurting the profession, and hurting California." (AB 1147, Assem. Analysis, Aug. 29, 2014.)

The State Legislature analyzed the effects of SB 731 and how it impacted local jurisdictions and law enforcement activities. In response to the results of the analysis and input from cities, the State Legislature adopted, and Governor Jerry Brown signed AB 1147. AB 1147, which went into effect on January 1, 2015, allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments, while the regulations for permitting technicians was maintained at the state level.

To establish new land use and licensing regulations consistent with AB 1147, and to address issues and violations that have been documented in local massage establishments based on City inspections, the City Council adopted Ordinance Nos. 1031 (urgency) and 1032 (non-urgency) in 2015 to amend portions of the municipal code related to massage establishments. Among other things, the Ordinances established new permitting and licensing regulations, and operational, sanitation, and attire requirements. The City's operation, sanitation, and attire regulations, as set forth in Stanton Municipal Code section 20.400.190 became effective when Ordinance Nos. 1031 and 1032 became effective on January 13, 2015 and February 26, 2015, respectively.

Ordinance Nos. 1031 and 1032 also require that both new and existing massage establishments within the CG (Commercial General) Zone obtain both a conditional use permit for massage services and a massage establishment license within two years of the ordinances' effective date. As such, existing massage establishments in the Commercial General Zone are required to have a CUP by May 31, 2017. New businesses would need to obtain both approvals prior to operating.

A Conditional Use Permit allows the Planning Commission to consider specific characteristics and the proposed location of an individual use when deciding whether to approve or deny establishment of the proposed use. A conditional use permit also allows the Commission to attach conditions of approval to a permit that would limit adverse impacts to surrounding uses and properties.

The Applicant, Hung Duc Nguyen, owner of Temptation Massage, is requesting approval of a conditional use permit to allow continued operation of an existing massage business, located at 11855 Beach Boulevard. The proposal requires approval of the following:

- Conditional Use Permit (C16-13) – The reference to massage establishments per Ordinance No. 1032, Table 2-5 in Section 20.215.020 of the SMC requires a conditional use permit for the use within the CG (Commercial General) zone as well as a massage establishment license per the requirements of Section 5.16 *Business Licenses and Regulations; Massage Establishments* of the SMC.

ANALYSIS/JUSTIFICATION

PROJECT LOCATION/DESCRIPTION – The subject property is located at 11855 Beach Boulevard; a 14,500 square foot (0.34 acre) parcel located on the west side of Beach Boulevard, approximately 700 feet north of Chapman Avenue. Other businesses located in the shopping center include a butcher shop, salon, smoke shop, casket sales and bakery.

The site is located in the CG (Commercial General) zone with a General Mixed Use Overlay, and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include single family homes located in the Single-Family Residential zone west of the site, automotive repair and rental businesses and the Tahiti and Riviera Motels within the General Commercial zone to the south and east of the site and the Stanton Community Services Center, located in the Public and Institutional zone north of the site. The Stanton Community Services Center provides services to assist families reach their full potential including after-school nutrition, recreation and homework programs, parenting classes, family counseling and numerous other family oriented programs.

OPERATIONS – Temptation Massage opened in October 2013. According to City business license information, Temptation Massage has two massage technicians, and three receptionists. Information provided by the applicant states that one receptionist and one technician are on-site at all times the business is open. The receptionist duties include greeting customer and showing them to their room, making sure supplies are stocked, doing laundry and performing basic cleaning throughout the establishment. In addition to performing massages, massage technicians are responsible for cleaning rooms after each massage. Massage appointments are available in 30, 45 and 60 minute increments. Massage types offered include Swedish, Deep Tissue and Full Body. Temptation Massage is open from 9:00 am until 10:00 pm, seven days a week. The establishment has two massage rooms and two table shower rooms.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on five occasions between 2014 and 2016 and noted the following violations of State or Local Codes:

First Inspection (2014) – During the first inspection, staff noted the following violations of the Stanton Municipal Code: Exterior Wall Sign installed with no permits (SMC

20.325.040 (A) *Sign Permit, Permit Required*); tenant improvements installed with no building permits (SMC 16.04.010 *Californian Building Code Adopted – California Building Code 105.1 Permit Required*); and, a massage technician and receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*).

Second Inspection (December 18, 2014) –During the second inspection, staff noted the following violations of the SMC: Receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). In addition, a massage technician ran out the back door of the business during the inspection. However, code enforcement staff was able to cite her before she was able to leave for not having a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The massage technician did not contest the citation and paid the fine.

Third Inspection (April 7, 2015) –On the third inspection, staff noted the following violation of Stanton Municipal Code Section 20.400.190 *Massage Establishments*; tinted glass used in the front windows, obscuring visibility into the unit.

Also, as happened during the second inspection, a massage technician attempted to flee through the rear door of the business. The technician, who was working as an independent contractor, did not have a business license. The massage technician, business owner and property owner were all cited under SMC Sections 5.04.010 *Business Licenses and Regulations, License Required*. None of the parties contested the citation and paid the required fines.

Fourth Inspection (February 17, 2016) – The fourth inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a used condom wrapped in tissue and located on a shelf, along with massage oils and other supplies, in a massage room, indicating that sexual activity had taken place at the massage establishment; use of paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities; a bed and person belongings indicating that a person was living in the establishment; failure to post a list of services, service duration and service cost; failure to post the hours of operation in the front window, clearly visible from outside; no washer or dryer or signed laundry contract; and, clean and used towels stored together.

Staff performs dozens of massage establishment inspections citywide each year, and seldom finds conclusive evidence of sexual activity. Indeed, most businesses have demonstrated improvements in their compliance with State and City licensing requirements and adherence to the City's Massage Establishment Ordinances adopted in January 2015. Staff inspections of Temptation Massage, however, show a decline in business practices, as noted above.

Stanton Municipal Code Section 20.550.060 (B) requires that six findings be made prior to approval of a Conditional Use Permit. These findings require that a use be consistent with the Goals and Policies of the General Plan and be a conditionally permitted use within the district the use is proposed to be located. The findings also address the

suitability of the use's location, compatibility with surrounding uses, how the use would be operated, and whether the use would be detrimental to neighboring properties and people. Several of these findings cannot be made because of the establishment's SMC violations.

There is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue on a massage room on a shelf, along with massage oils and massage supplies; independent contractors working as massage technicians at Temptation Massage have obstructed in City investigations by fleeing the premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code; and the business has been cited on three separate occasions for being open past the permitted hour of 10:00 p.m., impacting the adjacent residents' peaceful enjoyment of their homes. Furthermore, Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...". Because Temptation Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

ENVIRONMENTAL IMPACT

In accordance with the requirements of the CEQA this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the regular agenda-posting process.

Prepared by,


CJ Amstrup
Contract Planner

Approved by,


Kelly Hart
Community Development Director

ATTACHMENTS

- A. Planning Commission Resolution No. 2413
- B. Vicinity Map
- C. Narrative
- D. Site and Floor Plans
- E. Site and Interior Pictures

RESOLUTION NO. 2413

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STANTON, CALIFORNIA, DENYING CONDITIONAL USE PERMIT C16-13; A REQUEST TO ALLOW THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 11855 BEACH BOULEVARD, IN THE CG (COMMERCIAL GENERAL) ZONE, GENERAL MIXED USE OVERLAY; SUBMITTED BY HUNG DUC NGUYEN (TEMPTATION MASSAGE)

WHEREAS, pursuant to Cal. Const. Art. XI, Sec. 7 and under the City's general police powers, the City of Stanton ("City") is empowered and charged with responsibility for the health, safety, and welfare of its citizens; and

WHEREAS, the City is authorized by State law, including, without limitation, Government Code Section 51030 *et seq.* and Business & Professions Code Section 16000 *et seq.* to regulate massage establishments; and

WHEREAS, in 2014, Governor Jerry Brown signed Assembly Bill 1147 (AB 1147), which restored local agencies' ability to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments; and

WHEREAS, among other things, AB 1147 set forth the Legislature's intent that "broad control over land use in regulation of massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community"; and

WHEREAS, in response to AB 1147, the City enacted a comprehensive and reasonable permitting scheme to regulate massage establishments in the City, as codified in Stanton Municipal Code Chapter 5.16 and Section 20.400.190. The City's regulatory scheme requires a massage establishment to obtain a conditional use permit in order to locate a massage establishment in the City's Commercial General zone and requires an operator to obtain a massage establishment permit in order to operate a massage establishment. Additionally, the City's regulatory scheme allows the City to impose conditions of approval upon a massage establishment to protect residents' health, safety, and welfare; and

WHEREAS, the City enacted its massage establishment regulatory scheme because of the increase in police and code enforcement calls for service to many massage establishments that had opened in the City following the passage of Senate Bill 731 ("SB 731") (2008). SB 731 had removed the City's power to regulate massage establishments; and

WHEREAS, following the passage of SB 731, dozens of massage establishments located in the City, and City inspectors found violations at many of those establishments including illegal tenant improvements to create massage rooms, unauthorized massage technicians and personnel, violations of employment and labor laws, unsanitary facility conditions, including evidence of used contraceptive devices, massage technicians dressed inappropriately, including the exposure of specified anatomical areas,

establishments operating beyond approved hours of operation, persons using the establishments as a residence, installation of illegal signage, and employees refusing to allow City inspections of the establishments; and

WHEREAS, when the City updated its massage regulations in 2015, it afforded existing massage establishments in the Commercial General with a period of two years to conform to the City's new zoning and permitting requirements. That two-year period expires on May 31, 2017; and

WHEREAS, the City's operation, sanitation, and attire regulations for massage establishments, as set forth in Stanton Municipal Code section 20.400.190, became effective when Ordinance Nos. 1031 and 1032 became effective on January 13, 2015 and February 26, 2015, respectively; and

WHEREAS, on August 23, 2016, Applicant Hung Duc Nguyen (Temptation Massage) submitted an application for a conditional use permit to operate a massage establishment in the City of Stanton; and

WHEREAS, on April 5, 2017, the Planning Commission of the City of Stanton, after giving notice thereof as required by law, held a public hearing concerning the requested conditional use permit to allow for the operation of a massage establishment within a 1053 square foot unit located in a commercial shopping center at 11855 Beach Boulevard, in the CG (Commercial General) zone, General Mixed Use Overlay Zone; and

WHEREAS, staff has reviewed the environmental form submitted by the Applicant in accordance with the City's procedures. Based upon the information received and Staff's assessment of the information, the project has been determined to be categorically exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301 (Existing Facilities); and

WHEREAS, staff has inspected the business on four separate occasions and noted numerous violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments* including: presence of a used condom wrapped in tissue and located on a shelf, along with massage oils and other supplies in a massage room, indicating that sexual activity had taken place at the massage establishment; use of paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities; the presence of a bed and personal belongings indicating that someone was living inside the establishment; failure to post a list of services, service duration and service cost; failure to post the hours of operation in the front window, clearly visible from outside; no washer or dryer or signed laundry contract; clean and used towels stored together; and use of tinted glass used in the front windows, obscuring visibility into the unit. Staff also noted other violations of the Municipal Code, including an exterior wall sign installed with no permits (SMC 20.325.040 (A) *Sign Permit, Permit Required*); Tenant improvements installed with no building permits (SMC 16.04.010 *California Building Code Adopted – California Building Code 105.1 Permit Required*); and massage technicians and/or receptionists working without a business license (SMC

5.04.010 *Business Licenses and Regulations, License Required*). The business owner and/or independent contractors of Temptation Massage were cited for working without the required business license on December 18, 2014, December 22, 2014, and April 7, 2015. None of the citations were disputed, and associated fines were paid to the City.

WHEREAS, on February 10, 2013, November 5, 2014 and November 6, 2014 the business owner was issued a citation for having the massage establishment open after 10:00 p.m.; and,

WHEREAS, the Commission has carefully considered all pertinent testimony and information contained in the staff report prepared for this application as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: The Planning Commission hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct. The Planning Commission's decision is based on the entire record before it, including the associated staff report, this Resolution, and oral and written testimony provided before or at the public hearing on this matter.

SECTION 2: Based upon the environmental form the Planning Commission exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed Conditional Use Permit would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." In the three years that Temptation Massage has been in business, it has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and, the business has been cited on three

separate occasions for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes. Denial of the requested conditional use permit would require the closure of this massage establishment, thereby eliminating a source of likely criminal activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited on three separate occasions for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes; and,

Temptation Massage is directly adjacent to single family homes located in the Single-Family Residential zone west of the site, automotive repair and rental businesses and the Tahiti and Riviera Motels within the General Commercial zone to the south and east of the site and the Stanton Community Services Center, located in the Public and Institutional zone north of the site. The Stanton Community Services Center provides services to assist families reach their full potential including after-school nutrition, recreation and homework programs, parenting classes, family counseling and numerous other family oriented programs.

The illicit activity associated with this business is incompatible with businesses catering to the needs of the community at large, the adjacent single family homes, and the children and families visiting the Stanton Community Services Center to the north of the site. Denial of the requested CUP would require closure of the existing massage establishment, thus eliminating these nuisance activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City inspections on two separate occasions, which results in the City being unable to fully

evaluate the establishment's business operations; and the business has been cited on three separate occasions for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes; and, Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these illicit and likely criminal activities.

The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the zoning code and the municipal code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a conditional use permit. However, the existing business has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illegal and illicit activity. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City Investigations by fleeing the premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited on three separate occasions for being open past the permitted hour of 10:00 p.m.

Furthermore, the business has not continuously maintained a washer and dryer on site, nor contracted with a laundry service, nor are clean and used towels stored separately, resulting in unsanitary conditions for its patrons.

- B. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located at the north east corner of Knott and Katella Avenues. Existing adjacent uses including single family homes to the north, and commercial uses including restaurants, retail shops and personal and professional services. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illegal and illicit activity. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City Investigations by fleeing the premises during City Inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited on three separate occasions for being open past the permitted hour of 10:00 p.m., which impacts the adjacent residents' peaceful enjoyment of their homes. As such, continuation of the existing use at this location would be incompatible with adjacent uses because Temptation Massage

would serve as a public nuisance to the existing and future land uses in the vicinity.

- C. The project site is located on the west side of Beach Boulevard and is served by a single driveway. On-site circulation features include drive aisles which comply with current development standards. The continued operation of the existing massage establishment would not be expected to negatively impact pedestrian or vehicular safety on or near the site, impede emergency vehicle access to the site or properties near the site, negatively impact fire safety service levels in the community, cause the capacity of public infrastructure, such as water, storm and/or sanitary sewer or roadways and/or highways to be exceeded, or create additional demand for public amenities or schools.

However, Temptation massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity. For example, there is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited on three separate occasions for being open past the permitted hour of 10:00 p.m., directly impacting the adjacent residents' peaceful enjoyment of their homes. Due to the facilitation of illicit activity and inadequate supervision over its own independent contractors and their activities, continuation of this use may require a disproportionate draw on police resources, and therefore, this site is not an appropriate location for this use as operated.

- D. The site is unsuitable for the use as operated. The subject property is located at 11855 Beach Boulevard; a 14,500 square foot (0.34 acre) parcel located on the west side of Beach Boulevard, approximately 700 feet north of Chapman Avenue. Other businesses located in the shopping center include a butcher shop, salon, smoke shop, casket sales and bakery. The site is located in the CG (Commercial General) zone with a General Mixed Use Overlay, and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include single family homes located in the Single-Family Residential zone west of the site, automotive repair and rental businesses and the Tahiti and Riviera Motels within the General Commercial zone to the south and east of the site and the Stanton Community Services Center, located in the Public and Institutional zone north of the site. The Stanton Community Services Center provides services to assist families reach their full potential including after-school nutrition, recreation and homework programs, parenting classes, family counseling and numerous other family oriented programs.

There is substantial evidence that Temptation Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a used condom found wrapped in tissue in a massage room on a shelf, along with massage oils and massage supplies; independent contractors working at Temptation Massage have obstructed in City investigations by fleeing the premises during City inspections on two separate occasions, which results in the City being unable to fully evaluate the establishment's business operations; and the business has been cited on three separate occasions for being open past the permitted hour of 10:00 p.m., directly impacting the adjacent residents peaceful enjoyment of their homes. Furthermore, Stanton Municipal Code Section 20.400.190 (l) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...". Because Temptation Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

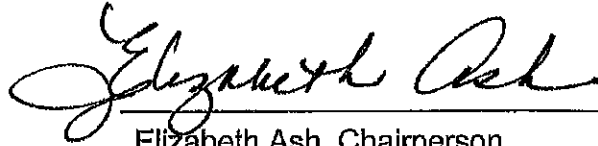
SECTION 4: That based upon the above findings, the Planning Commission hereby denies Conditional Use Permit C16-13 to allow for the continued operation of an existing massage establishment at 11855 Beach Boulevard, in the CG (Commercial General), commonly known as "Temptation Massage".

SECTION 5: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 6: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

ADOPTED, SIGNED AND APPROVED by the Planning Commission of the City of Stanton at a regular meeting held on April 5, 2017 by the following vote, to wit:

AYES:	COMMISSIONERS:	<u>Ash, Grand, Greer, Moua, Taylor</u>
NOES:	COMMISSIONERS:	<u>None</u>
ABSENT:	COMMISSIONERS:	<u>None</u>
ABSTAIN:	COMMISSIONERS:	<u>None</u>



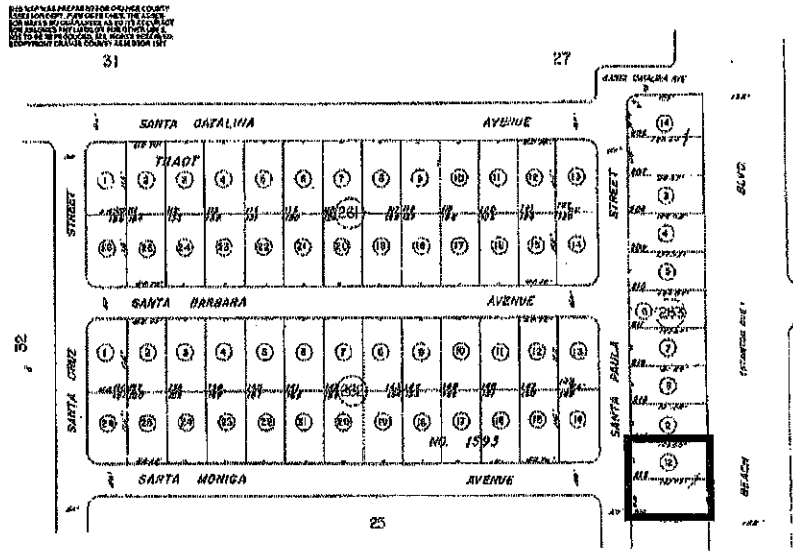
Elizabeth Ash, Chairperson
Stanton Planning Commission



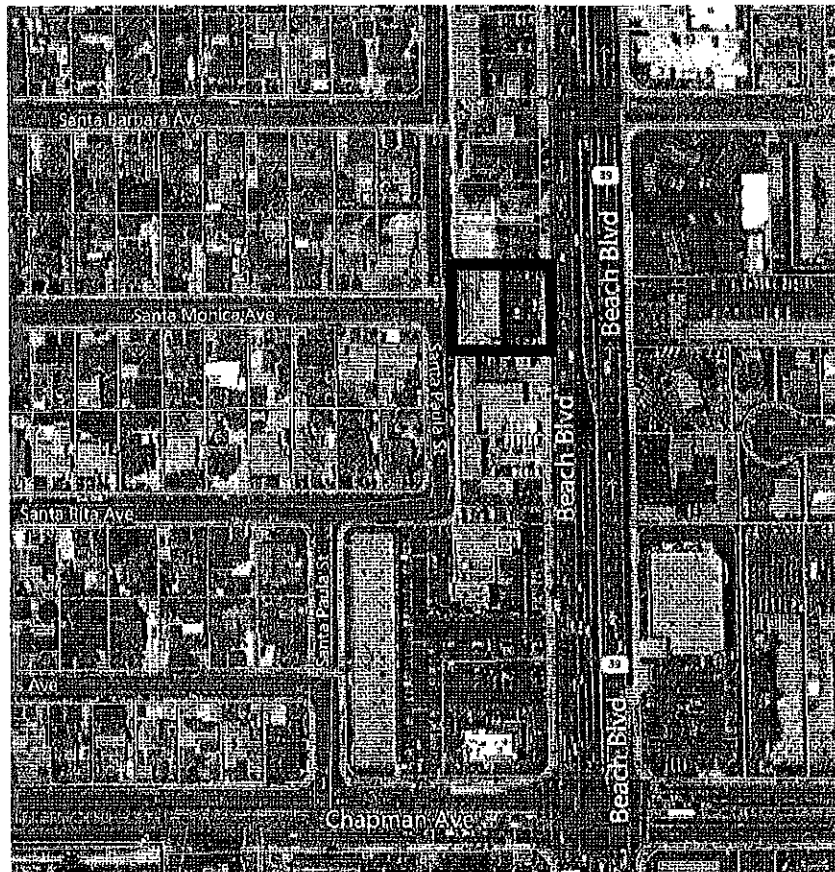
Kelly Hart
Community Development Director

Vicinity Map

11855 Beach Blvd.



Aerial Map



Temptation Massage

11855 BEACH BLVD

STANTON, CA 90680

RECEIVED

AUG 23 2015

COMMUNITY DEVELOPMENT

RE: Planning/ Saftey dept.

Owner Business Background:

I am the owner of Temptation Massage (Hung Nguyen) We have been in business for well over 2years. Since the beginning we act in accordance with Code & City Regulations and also provide the necessary permits to operate our massage establishment. I am very well versed on how to operate a massage business and carefully manage my indepedant therapists. Within our organization we also have a strict process on how services should be performed. Since I became a business owner this has been my dream to provide excellent services to our clients.

Facilities:

1. We operate under an 1100 sq ft building space and is divided into the following
 - a. 2 Massage rooms
 - b. 2 Tableshower Rooms
 - d. 1 Storage room
 - c. 1 Laundry room
 - e. 1 employee room

Massage Rooms Description: Our massage rooms are equipped with a state of the art massage table. Which should be covered with a white clean sheet. 1 white color body towel and 2 white color small towels. In addition there is also colthing hangers so customers can hang their clothing. Each massage room is equipped with a storage shelf to keep 70% Alcohol bottle,

ATTACHMENT C

Non-scented Lotion, Non scented Massage oil. Our lighting is a standard switch light.

Tableshower Rooms Description: Our two tableshower rooms are equipped with a waterproof massage table. Which should be maintained with 1 clean sheet, 1 white color body towel and 2 white color small towels. 1 of the tableshower is very standard with switch lighting. The second tableshower accessible compliant. Which we have installed a grab bar and accessible chair for safety measures.

Storage Room Description: Our storage room is housing daily supplies such as oil containers, alcohol containers, massage oil containers, cleaning supplies. which are neatly kept and maintained. We also have a storage shelf which we keep hot towels and clean towels.

Laundry Room Description: Its very important that we maintain all of our towels clean. Therefore our laundry room is set up with 1 washer and 1 dryer. Housing only washer and dry only.

Employee Room Description: We understand and do our best to provide a comfortable work environment for our Independent Therapist. Our employee rooms takes care of that. Providing comfortable seating, a lunch table, Microwave, small refrigerator for food storage. You will also find Internet routers and phone lines.

Operations:

Our operations are very simple.

1. Customers are greeted in the front lobby.
2. They must sign-in in order to track of their time and make sure our therapist don't cut time from massage.
3. We accept both male and female
4. They are now allowed to choose therapist as we have a turn policy.

Management Operations:

- 1 Our therapist must have their nails short and well maintained
2. They must wear leggings and have their hair tied, NO DRESSES ALLOWED.
3. They must complete 15mins back massage and 15mins front massage.
4. No Perfume allowed as some customers may be allergic to strong smell.

Operations hours:

We operate 7 days a week 9am-10pm

Cleaning and Sanitation:

After each massage is completed. It's the therapist responsibility to sanitize the room. using the following steps.

1. strip the massage table of all towels used
2. spray lysol and clean massage table for spilled oil
3. use new sheets and towels and neatly arrange the massage table
4. put back all bottles used in their respective place
5. vacuum the room if needed.

Massage types available:

Swedish Massage:

Swedish massage technique is to relax the entire body. This is accomplished by rubbing the muscles with long gliding strokes in the direction of blood returning to the heart. But Swedish massage therapy goes beyond relaxation. Swedish massage is exceptionally beneficial for increasing the level of oxygen in the blood, decreasing muscle toxins, improving circulation and flexibility while easing tension.

Deep Tissue:

Deep tissue therapy is similar to Swedish massage, but the deeper pressure is beneficial in releasing chronic muscle tension. The focus is on the deepest layers of muscle tissue, tendons and fascia (the protective layer surrounding muscle, bones and joints)

Full Body Massage:

A typical full body massage will include work on your back arms, legs, feet, hands, head, neck, and shoulders. Different techniques are used depending on the clients request, which include light touch, medium pressure, hard pressure.

Massage Rates:

\$35= 30min

\$50= 45min

\$60= 60min

Organization Chart/Employee List

We consistently have 2 employees working. Receptionist and Therapist.

Receptionist job:

1. Greet Clients at the front desk
2. Walk in client to available massage room
3. Wash Towels and consistently keep hot towels fresh and prevent bad odor
4. Inspect each massage room and make sure it clean
5. Fill up all oil, alcohol, and lotion bottle
6. Vacuum workspace, clean restroom, empty all trash bins.

Employees Names and Title

Tram Ngo- Therapist

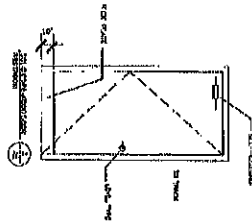
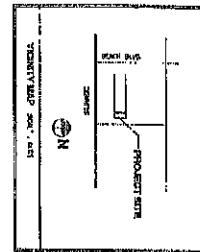
Thuong Do- Therapist

Kimberly Ngo- Receptionist

Tran Do - Receptionist

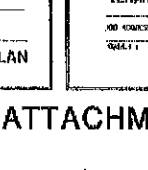
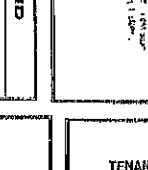
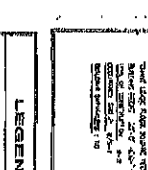
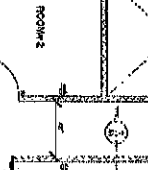
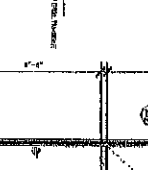
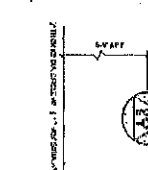
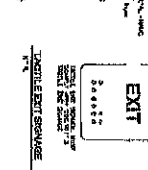
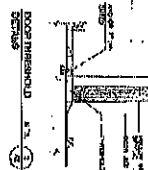
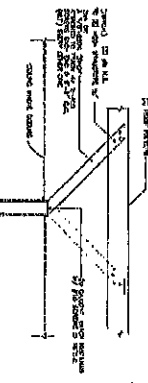
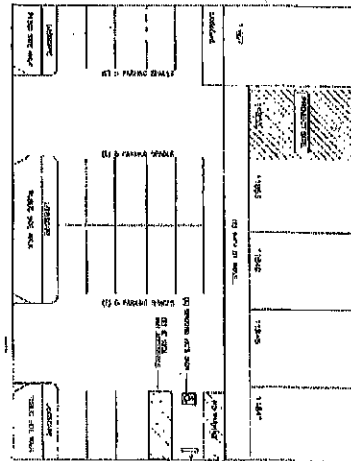
Conclusion statement:

We would like to stay in business and continue offering our services to the community. We believe by offering our different type of massages we can help residents escape from stress and relax from daily life stress. We are dedicated in providing the best massage service to male and female. We are hopeful that the city of Stanton will grant us access to continue operating. Also this is my only source of income and have worked tirelessly to maintain a good standing with the city but also the community of Stanton. We also employ workers who depend on our business to keep running so they in turn can provide for their family.

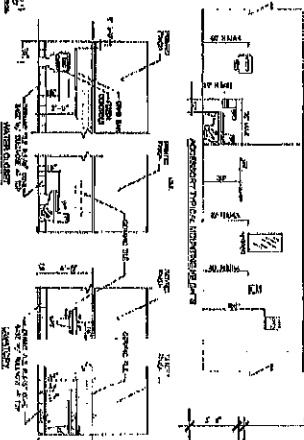


SITE PLAN

BEACH

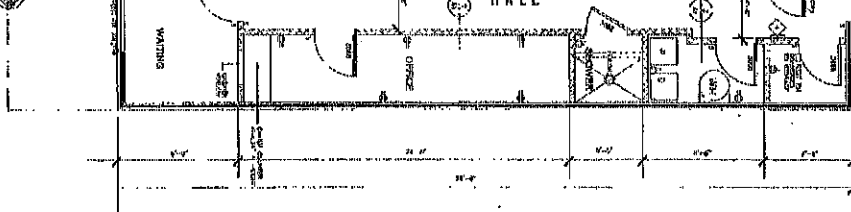


RESTROOM ACCESSIBILITY DETAILS



FLOOR PLAN

PATH OF TRAVEL



TENANT IMPROVEMENT PROJECT

FOR TEMPTATION MASSAGE 17855 BEACH BLVD., STANTON, CA 95008

FLOOR PLAN KEY NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE (CBC) AND THE CALIFORNIA MECHANICAL CODE (CMC).
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA ELECTRICAL CODE (CEC) AND THE CALIFORNIA PLUMBING CODE (CPC).
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA FIRE CODE (CFC) AND THE CALIFORNIA SAFETY CODE (CSC).
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA ENVIRONMENTAL CODE (CEC) AND THE CALIFORNIA WASTE CODE (CWC).
5. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA LAND USE CODE (CLUC) AND THE CALIFORNIA ZONING CODE (CZC).
6. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA HISTORIC PRESERVATION CODE (CHPC) AND THE CALIFORNIA MONUMENTS CODE (CMC).
7. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA ANTI-CORRUPTION CODE (CAC) AND THE CALIFORNIA CAMPAIGN FINANCE CODE (CCFC).
8. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA GOVERNMENT ETHICS CODE (CGEC) AND THE CALIFORNIA PUBLIC EMPLOYEES' GATEWAY ACT (PEGA).
9. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA OPEN PUBLIC RECORDS ACT (OPRA) AND THE CALIFORNIA INFORMATION PRACTICES ACT (CIPA).
10. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA FREEDOM OF INFORMATION ACT (FOIA) AND THE CALIFORNIA PUBLIC ACCESS TO INFORMATION ACT (CPA).

SHEET INDEX

1. FLOOR PLAN KEY NOTES
2. PROJECT SUMMARY
3. LEGEND
4. SITE PLAN
5. FLOOR PLAN
6. REFLECTED CEILING PLAN

PROJECT SUMMARY

The project consists of the tenant improvement work for the Temptation Massage located at 17855 Beach Blvd., Stanton, CA 95008. The work includes the construction of a new building, the renovation of existing building, and the installation of new equipment and fixtures.

LEGEND

- 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE (CBC) AND THE CALIFORNIA MECHANICAL CODE (CMC).
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SITE PLAN

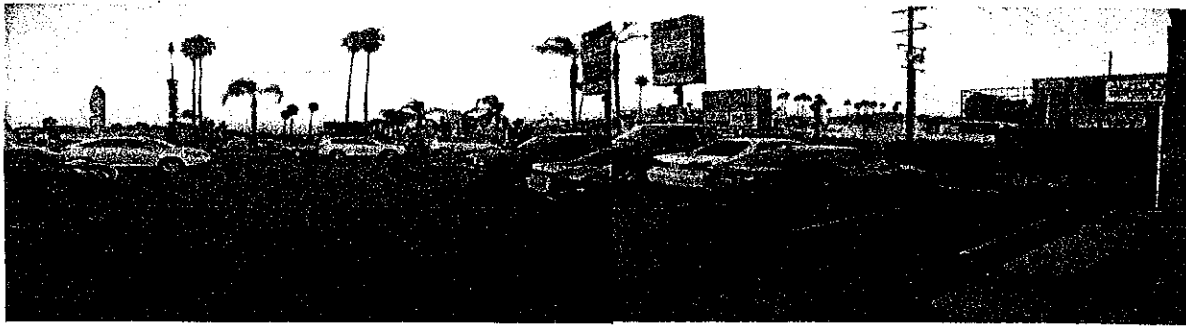
FLOOR PLAN

REFLECTED CEILING PLAN

TENANT IMPROVEMENT FOR TEMPTATION MASSAGE

17855 BEACH BLVD., STANTON, CA 95008

DATE: 1/1/2011



Facing the Parking Lot

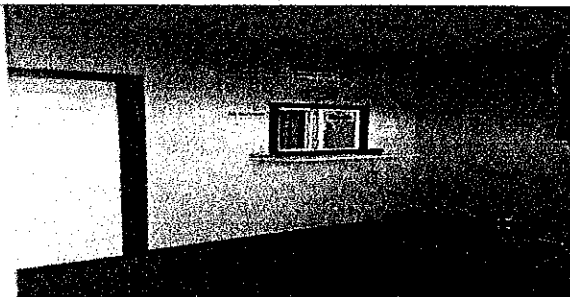
Right Side of the Parking Lot



Left Side of the Parking Lot



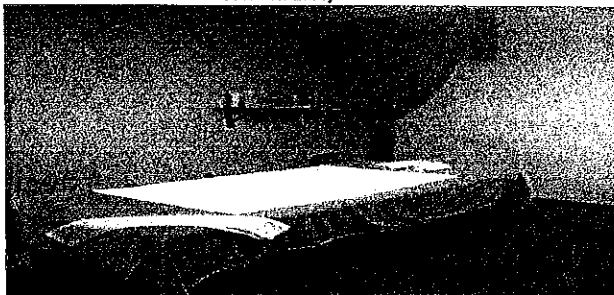
Facing the Building of the Business



Customer Lobby



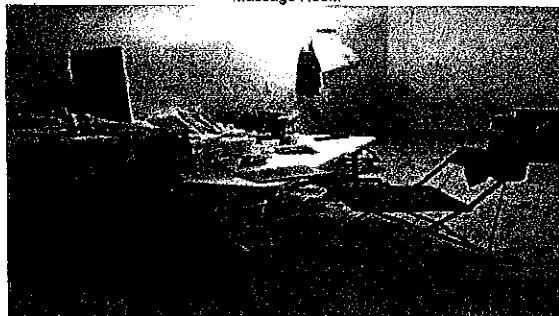
Entry Hall Way



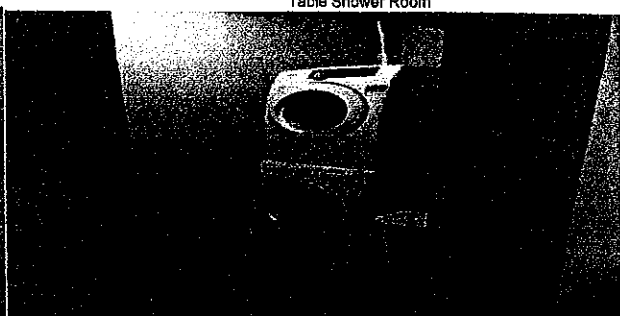
Massage Room



Table Shower Room



Employee Break Room



Laundry Room



January 14, 2015

Alexander A. Ethans
Mayor

Brian Donahue
Mayor Pro Tem

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

Carol Warren
Council Member

James A. Box
City Manager

Temptation Massage
Hung Duc Nguyen
11855 Beach Blvd.
Stanton, CA 90680

RE: New Massage Establishment Regulations – May affect your business operations

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1031 which sets forth new regulations for the permitting, and operations of new and existing massage establishments. This ordinance became effective immediately upon adoption on January 13, 2015. **You are receiving this letter to inform you that your business is subject to the regulations of this new Ordinance.**

The adoption of Ordinance No. 1031 created new zoning, permitting, and operating requirements for new and existing massage establishments in the City of Stanton. Below is a brief overview of the new regulations. For a complete list of new regulations and requirements, please refer to the attached Ordinance.

Zoning Regulations: The adopted Ordinance indicates that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits, while Massage Establishments would be prohibited in the CN (Commercial Neighborhood) zone. Please contact the Planning Division to identify which zone your existing business is located in. If your business is located in the CN (Commercial Neighborhood) zone, it would be subject to a two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). At the conclusion of the amortization period, the business would need to cease operations. An extension to the amortization period may be possible, if you are able to meet the burden of proof as stipulated in the Ordinance.

Permitting: If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply, and be approved for a Conditional Use Permit, and a Massage Establishment License. This process must be completed within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). If you fail to apply for the necessary applications, or your applications are denied, business operations would be required to cease after the two year amortization period. You may also apply to extend the amortization period if you are able to meet the burden of proof as stipulated in the Ordinance.

Regulations for Establishment Operations: In addition to zoning and permitting requirements, the City has established a list of regulations that new and existing businesses must abide by. For the complete list of requirements, please refer to

7800 Katella Avenue
Stanton, CA 90680
Phone (714) 379-9222
Fax (714) 890-1443
www.ci.stanton.ca.us

Exhibit B of the Ordinance. In regards to the effective date of the regulations, Section 20.400.190.C in the Ordinance establishes new facility requirements for massage establishments. These regulations may require additional construction or modifications to the establishment. As such, existing establishments would need to make the required modifications within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). For the other regulations identified in Section 20.400.190.D-F in the Ordinance, they become effective upon the adoption of the Ordinance, and all existing massage establishments must immediately comply with the regulations.

The information listed above provides a brief overview of the new regulations for Massage Establishments. For a complete list of the regulations, the Ordinance has been attached for your review.

If you have any questions regarding the requirements of the ordinance, please contact Kelly Hart of my staff at (714) 890-4228.

Sincerely,

A handwritten signature in black ink, appearing to read "Omar Dadabhoy", with a long horizontal flourish extending to the right.

Omar Dadabhoy
Community and Economic Development Director



September 27, 2016

Brian Donahue
Mayor

Carol Warren
Mayor Pro Tem

Alexander A. Ethans
Council Member

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

James A. Box
City Manager

Temptation Massage
Hung Duc Nguyen
11855 Beach Blvd.
Stanton, CA 90680

RE: **Expiration of Amortization Period for Massage Establishments**

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1032 ("Ordinance"), which sets forth new regulations for the permitting and operations of new and existing massage establishments. This Ordinance became effective on January 13, 2015, and provided existing businesses a two-year period—an "amortization period"—to continue operating under previous City regulations. **You are receiving this letter as a reminder that your business must come into compliance with the Ordinance by May 31, 2017.** Below is a brief overview of the regulations. For a complete list of regulations and requirements, please refer to the attached Ordinance.

Massage Establishments located in the CG Zone: The adopted Ordinance provides that that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits. **If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply and be approved for a Conditional Use Permit and a Massage Establishment License. This process must be completed by May 31, 2017.** If you fail to apply for the necessary applications, or your applications are denied, the massage operations will be required to cease.

Massage Establishments located in the CN Zone: If your business is located in the CN (Commercial Neighborhood) zone, the massage establishment will need to cease operations or operations must be changed into a permitted use by May 31, 2017.

You may also apply for an extension of the two-year amortization period, as described above. The deadline to submit an application for an extension of a massage establishment amortization period is **November 30, 2016**. Applications are available at City Hall and an applicable fee will be required when the application is submitted.

If you have any questions regarding this letter, the City's massage regulations or have questions about which zone your existing business is located in, please contact the Planning Division at (714) 379-9222.

Sincerely,

Kelly Hart
Community Development Director

7800 Katella Avenue
Stanton, CA 90680
Phone (714) 379-9222
Fax (714) 890-1443
www.ci.stanton.ca.us

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: July 11, 2017

SUBJECT: **APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-16 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 12108-12110 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY ANH THU HUYNH PHU**

REPORT IN BRIEF:

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. The City Council hold a public hearing; and,
2. The City Council consider Resolution No. 2017-28 upholding the Planning Commission's denial of Conditional Use Permit C16-16 and deny the Applicant's appeal.

BACKGROUND:

In 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections. The Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate.

On May 3, 2017, the Planning Commission held a public hearing to consider Conditional Use Permit C16-16 to allow for the continued use of a massage establishment commonly known as Eden Therapy Day Spa, located at 12108-12110 Beach Boulevard. At the conclusion of the public hearing, the Planning Commission, with a unanimous vote, determined that the application could not meet all the necessary findings to approve the conditional use permit. As such, the Planning Commission denied Conditional Use Permit C16-16. Within the 10-day appeal period, the operator of Eden Therapy Day Spa, Ms. Anh Thu Huynh Phu (Appellant) filed an appeal of the Planning Commission's action to deny CUP No. C16-16.

ANALYSIS/JUSTIFICATION:

The subject property is located on the east side of Beach Boulevard, approximately 500 feet south of Chapman Avenue within the C-2 (General Commercial) zone with a General Mixed

Use Overlay. Eden Therapy Day Spa is part of the Park Plaza Commercial Center which includes a medical health care clinic, a laundromat, a smoke shop and a variety of commercial and restaurant uses including China Feast Restaurant.

OPERATIONS – Eden Therapy Day Spa opened in August 2012. According to the applicant, the massage establishment has four licensed massage therapists. Massage types offered include Swedish, Deep Tissue and Shiatsu. Eden Therapy Day Spa is open from 10:00 am until 10:00 pm, seven days a week. The establishment has two massage rooms and two table shower rooms.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on four occasions between 2014 and 2017 and noted the following violations of State or Local Codes:

First Inspection (2014) – During the first inspection, staff noted the following violations of the Stanton Municipal Code: Exterior Wall Sign installed with no permits (SMC 20.325.040 (A) *Sign Permit, Permit Required*); tenant improvements installed with no building permits (SMC 16.04.010 *Californian Building Code Adopted – California Building Code 105.1 Permit Required*); and, a massage technician and receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*).

Second Inspection (February 11, 2015) – During the second inspection, staff noted the following violation of the SMC: A massage technician who was on site did not have a valid CAMTC license or a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The City cited the uncertified and unlicensed massage technician, who did not contest the citation and paid the fine.

Third Inspection (February 24, 2016) – The third inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a condom wrapper located on the floor of a massage room, indicating that sexual activity likely took place at the massage establishment. When the establishment's manager was questioned about it, she stated that she did not know about the condom wrapper. The use of paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities are prohibited by the SMC related to Massage Establishments. Further, the manager failed to provide a list of all persons employed for staff to review, which is a violation of SMC Section 20.400.190. Also, Staff noted that a massage technician did not have a business license. The massage technician and business owner were cited under SMC Sections 5.04.010 *Business Licenses and Regulations, License Required*. None of the cited individuals contested the citation and each of the citees paid their respective fines.

Fourth Inspection (April 19, 2017) – During the fourth inspection, staff noted the following violation of the SMC Section 20.400.190 *Massage Establishments*: Beds were found in the employee's area. The SMC provides, "no person or persons shall be allowed to live inside the massage establishment at any time." Beds are an indication that someone may be living within the establishment, which is a violation of the SMC. Moreover, the City has concerns that having beds in rooms other than massage rooms may facilitate illicit activity such as prostitution and human trafficking.

APPEAL – On May 15, 2017, Ms. Phu filed an appeal of the Planning Commission's decision to deny Conditional Use Permit C16-16 to the City Council. The basis of the appeal, stated by Ms. Phu and provided in Attachment B, can be summarized that the Appellant asserts that the violations observed by staff are insufficient to serve as grounds for denial of the requested conditional use permit.

City Staff's Response to Appeal

Initial Inspection in 2014 – In the appeal letter, the appellant addressed the issue of unpermitted signage and tenant improvements which were done by the previous owner of the massage establishment. Staff confirms that the Appellant submitted for the appropriate permits to bring the signage and tenant improvements into compliance with City and State codes, and the building permits were finalized in 2015.

The Appellant also addressed the violation of City business license requirements that were found during this inspection. The Appellant states that she was not aware of the requirement for her massage technician and receptionist to have City business licenses since she had recently opened up the business. According to business license records and information provided in the appellant's letter, the appellant has owned the business since 2012 and has been aware of the licensing requirements. As part of the requirements for obtaining business licenses for massage establishments, the business owner must provide an "Independent Contractor Listing" form that specifies that each independent contractor must obtain his or her own business license. The Appellant has provided this form to the City on several occasions since 2012 which refutes the Appellant's statement that she was unaware of this regulation. Further, City staff informs all business owners of the requirement that all independent contractors must obtain their own business license when they initially submit business license applications for the massage establishment. The Appellant also stated in her letter that it was important to note that no citations were issued and that she immediately cooperated and complied with the rules and regulations of the City of Stanton. City staff did not issue any citations for this violation since it is standard procedure for the Code Enforcement Officer to first issue a warning to the business owner to give them a chance to come into compliance. Additionally, the massage establishment may not violate or continue to violate the City's Code merely because the City chooses not to cite a violation.

Second Inspection on February 11, 2015 - The Appellant claimed that the person who was cited during the second inspection by City staff for not having a business license or CAMTC license was on-site to drop off food for the workers at the massage establishment. The subject individual who the City cited was found to be in the employee-only area of the establishment.

Through the course of inspections of massage establishments throughout the City, City staff have various explanations as to why an unlicensed individual (who is not a customer) is on the premises in employee areas. One explanation that City staff commonly receives is that the subject individual is dropping off food for establishment employees. The City's massage inspections occur during different time periods, some during non-traditional dining hours, and this is an explanation provided to City staff regardless of the time of day. Here, the cited

individual was in an employee-only designated area. Individuals in these areas should only be licensed employees, and therefore, City staff considered the subject individual to be an employee or independent contractor of the massage establishment subject to a citation. The appellant also states that during this inspection, no violations of City Ordinances or State laws were found. City staff can confirm that no additional violations were found during this inspection.

Third Inspection on February 24, 2016 - The appellant stated that numerous inspections were conducted by City staff between the second inspection (February 11, 2015) and the third inspection (February 24, 2016) and no violations were found. According to City records, no additional inspections were conducted during this time frame.

The appellant also addressed in the appeal letter the discovery a condom wrapper on the floor of a massage room by City staff during this inspection. The appellant clarified that it was a portion of a wrapper that was found. Photos taken by City staff of the condom wrapper confirm that it was a portion of a condom wrapper which shows the logo of the Trojan brand (Attachment D). The appellant also reiterated that the employee was unaware of how the condom wrapper got there and speculated that it may have fallen out of a customer's pocket. The appellant also stated that the existence of a condom wrapper alone is not a violation of city ordinances. Contrary to that assertion, Stanton Municipal Code Section 20.400.190(D)(9), *Massage Establishments*, provides, "there shall be no display, storage, or use of any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, including, but not limited to, vibrators, dildos, or *condoms*, or any goods or items which are replicas of, or which simulate, specified anatomical areas, or pornographic magazines, videos, or other material." The presence of the condom wrapper falls within the definition of prohibited paraphernalia and is a violation of the Stanton Municipal Code.

The appellant further expressed that the fact that no citation was issued for the condom wrapper can be credited to the "excellent business environment." As mentioned above, The Code does not require the City to issue citations for each and every violation. Moreover, Code violations are not allowed to persist at an establishment merely because a violation was not cited.

The Appellant also addressed the violation regarding the requirement for massage establishments to maintain a list of individuals to be made available to City representatives during inspections. The Appellant stated that she was not aware that such a list was required. On the contrary, City staff had informed the Appellant about the requirement. When the City Council adopted the ordinance related to Massage Establishments, City staff provided notices by mail to Eden Therapy Day Spa and all massage establishments to notify the business operators of the updated regulations (Attachment E). In addition, City staff regularly communicates to business operators and independent contractors during counter visits and site inspections that there are certain operational standards to which they are required to adhere. Notwithstanding the City's notices, the business owner is responsible for understanding the massage establishment operation regulations and requirements as identified in the Municipal Code.

Also in the appeal letter, the Appellant indicated that during the third inspection the massage technician, who was cited for not having a business license had just started working at the establishment. Since the parties allegedly had not decided whether the technician would continue to work at the establishment, the Appellant asserts that no business license was required. The City's Code does not allow individuals who work on a "trial basis" to avoid business licensing requirements. Further, Stanton Municipal Code Section 5.04.010.A *License Required* provides that it is unlawful for any person to "commence, conduct, carry on, or engage in any business in the city" without first having procured a license from the city so to do. The Appellant also asserted that the citations issued to the massage technician and the Appellant were paid in an effort to get along with City staff. The City allows any person receiving a citation the right to file an appeal and request an administrative hearing if the citee believes the citation was not justified. The Appellant chose not to dispute the citation.

Fourth Inspection on April 17, 2017 – The Appellant again stated that numerous inspections were conducted by City staff between the third inspection (February 24, 2016) and the fourth inspection (April 17, 2017) and no violations were found. Again, City records indicate that no additional inspections were conducted during this time frame.

The Appellant claimed that during this inspection, staff notified the employees that the beds found in the employee break room were a violation of Stanton Municipal Code. The Appellant further stated that the issue was not addressed by City staff in previous inspections. Based on photos taken by City staff at the inspection, the beds are massage tables with bed sheets and pillows and staff may not have noted the violation in previous inspections if the bedding was not on the massage tables. The Appellant also stated that no additional violations were found during this inspection which staff can confirm based on inspection reports.

The Appellant has not provided any evidence to dispute the City's inspection records as part of the appeal letter. In the letter, the Appellant does not dispute the fact that, among other things, a condom wrapper was found on the premises and unlicensed massage therapists were identified on-site in the first inspection. Although the Appellant worked to correct some of the violations (*i.e.*, illegal construction and signage), their actions after the fact do not negate the fact that the violations occurred.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the California Environmental Quality Act (CEQA) this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION:

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the agenda-posting process.

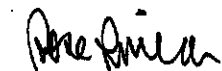
STRATEGIC PLAN:

- 1 – Provide a Safe Community
- 2 – Provide a Strong Local Economy

Prepared by,

Reviewed by,

Approved by,



Rose Rivera
Associate Planner



Kelly Hart
Community & Economic
Development Director



James A. Box
City Manager

ATTACHMENTS

- A. City Council Resolution No. 2017-28 for upholding denial of C16-16
- B. Letter of Appeal from Business Owner (dated May 11, 2017)
- C. Planning Commission staff report and attachments (dated May 3, 2017)
- D. Photos of condom wrapper (taken on February 24, 2016)
- E. Letter from City Regarding New Ordinance Regulations (dated January 14, 2015)

RESOLUTION NO. 2017-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-16 AND DENYING THE APPEAL, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 12108-12110 BEACH BOULEVARD IN THE CG (COMMERCIAL GENERAL) ZONE

WHEREAS, in 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections; and

WHEREAS, the Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate; and

WHEREAS, on May 3, 2017, the Planning Commission of the City of Stanton held a public hearing to consider Conditional Use Permit C16-16 to allow for the continued use of a massage establishment known as Eden Therapy Day Spa located at 12108-12110 Beach Boulevard; and

WHEREAS, said Commission, after due consideration of all reports and testimony at said hearing, adopted Planning Commission Resolution No. 2427 denying Conditional Use Permit C16-16; and

WHEREAS, on May 15, 2017, Anh Thu Huynh Phu, owner of Eden Therapy Day Spa, submitted an appeal of the Planning Commission decision to the City Council, asking for consideration for approval of C16-16; and

WHEREAS, on June 27, 2017, the City Council held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the appeal; and.

WHEREAS, the Council has carefully considered all pertinent testimony and information contained in the staff report prepared for this appeal as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: Recitals. The City Council hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: CEQA. Based upon the environmental form the City Council exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: Findings. That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed conditional use permit (CUP) would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." Eden Therapy Day Spa has been in business for over four years and has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. There is substantial evidence that the establishment has allowed illicit activities, such as illicit sexual activities, to occur on the premises. Such evidence includes the observation of a used condom wrapper inside of a massage room. Although the Appellant stated that the existence of a condom wrapper alone is not a violation of city ordinances, the presence of the condom wrapper falls within the definition of sexual paraphernalia and is a violation of Stanton Municipal Code Section 20.400.190(D)(9). Denial of the requested conditional use permit would require the closure of this massage establishment thereby eliminating one source of nuisance activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments, such as evidence of the use of sexually-related paraphernalia at the establishment and the presence of individuals working at the massage establishment without first obtaining business licenses from the City. The business is directly adjacent to multifamily housing units to the east and west, a church and school to the north and commercial uses including restaurants, retail stores, a community health care clinic and personal service businesses to the north, south and west. The violations and likely illicit sexual activity associated with this business are incompatible with businesses catering to the needs of the community at large and the adjacent residential units. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these nuisance activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." Moreover, Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity...." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code, including provisions of the Code regulating the operation of Massage Establishments, as well as evidence of illicit sexual activity. The continuation of these nuisances would be detrimental to the overall character of the neighborhood in which it is located. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these illicit activities.

- B. The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the zoning code and the municipal code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a Conditional Use Permit; however, the existing business has a demonstrated pattern of violations of Section 20.400.190 *Massage Establishments*. Additionally, SMC 5.04.010 *Business Licenses and Regulations, License Required*) provides that it is unlawful for any person to "commence, conduct, carry on, or engage in any business in the city" without first having procured a license from the city. Eden Therapy Day Spa has on multiple occasions been found to have individuals working at the establishment without business licenses, which is a violation of Stanton Municipal Code. Further, the existing massage establishment has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. In addition, there is substantial evidence that Eden Therapy Day Spa has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in a massage room. Finally, the presence of a bed and personal belongings indicating that someone was living inside the establishment which is prohibited by the SMC.
- C. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located on the east side of Beach Boulevard, approximately 500 feet south of Chapman Avenue. Existing adjacent uses including multifamily dwelling units to the east and west, a school and church to the north, commercial uses including restaurants, retail shops, a community health care clinic and personal and professional services to the north, west and south. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illicit activity, including illicit sexual activity. There is substantial evidence that Eden Therapy Day Spa has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in a massage room. Further, Eden Therapy Day Spa has obstructed in City investigations by refusing to provide information about its

employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. As such, continuation of the existing use at this location would be incompatible with adjacent uses.

- D. The site is unsuitable for the use as operated. The subject property is located on the east side of Beach Boulevard, approximately 500 feet south of Chapman Avenue, in a two acre shopping center. In addition to this massage establishment the shopping center is also home to various restaurants, a community health care clinic, laundromat, tobacco sales shop and a convenience store. The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include Park Plaza Apartments located in the High Density Residential zone east of the site, a vacant parcel and U.S. Bank located in the Commercial General zone and St. Polycarp Church and School located in the Public Institutional zone to the north of the site, an RV rental business and automotive smog shop in the Commercial General zone to the south of the site, and the Playa Galleria Shopping Center in the General Commercial zone and Beach Creek Apartments located within the City of Garden Grove to the west of the site. Eden Therapy Day Spa has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity, including illicit sexual activity. There is substantial evidence that Eden Therapy Day Spa has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in a massage room. Further, Eden Spa has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code.

Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further states that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance..." Because Eden Therapy Day Spa has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is deemed to be a Public Nuisance. Therefore, as historically operated, the proposed use is deemed to be a Public Nuisance and continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

SECTION 4: That based upon the above findings and on the entirety of the record including the staff report, written and oral testimony, and this Resolution, the City Council hereby upholds the Planning Commission's denial of Conditional Use Permit C16-16 to allow for the operation of a massage establishment at 12108-12110 Beach

Boulevard, in the CG (Commercial General) and the General Mixed Use Overlay and denies Appellant's appeal.

SECTION 5: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 6: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 7: Custodian and Location of Records. The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 8: Certification. The City Clerk shall certify to the adoption of this Resolution and cause a copy to be transmitted to the City Clerk.

ADOPTED, SIGNED AND APPROVED by the City Council of the City of Stanton at a regular meeting held on June 27, 2017 by the following vote, to wit:

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

ATTEST:

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2017-28 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on June 27, 2017, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK



CITY OF STANTON APPEAL FORM AND HANDOUT

City Clerk's Office
7800 Katella Avenue, Stanton, CA 90680
Phone: (714) 379-9222 Fax: (714) 890-1443

CITY OF STANTON

FOR OFFICE USE
MAY 05 2017 AMP)

CITY CLERK'S OFFICE

An appeal shall be filed within ten (10) calendar days after the final action of the Planning Commission.

APPEAL OF: ☒ Planning Commission Decision (\$1,235 fee)

Type of Permit (example: Conditional Use Permit): CONDITIONAL USE Permit Number: C16-16

Address of Project: 12108-12110 BEACH BLVD Decision Date: 5/3/17

APPELLANT INFORMATION

Name of Applicant (Appellant): ANH THU HUYNH PHU

Mailing Address: 12108 BEACH BLVD, STANTON, CA 90680

Telephone Number: [REDACTED] Email: [REDACTED]

In what capacity is the appellant filing? ☐ Recorded Property Owner ☐ Interested Party ☒ Affected Party

PROPERTY OWNER INFORMATION (IF KNOWN)

Name of Property Owner: HAMID BAAD

Mailing Address: [REDACTED]

Telephone Number: [REDACTED] Email: [REDACTED]

Describe what portion(s) of the decision you are appealing: APPEAL OF PLANNING COMMISSION DECISION OF 5/3/17 TO DENY A CONDITIONAL USE PERMIT.

Describe the Purpose for Your Appeal (be specific): SEE ATTACHED

APPLICANT CERTIFICATION:

I hereby certify that all information contained in this application is, to the best of my knowledge, true and correct. FALSE OR MISLEADING INFORMATION GIVEN IN THIS APPLICATION SHALL BE GROUNDS FOR DENYING APPLICATION. I hereby grant the City authority to post required public notices.

Signature: [Signature] Date: 5/11/2017

ATTACHMENT TO THE APPEAL OF THE PLANNING
COMMISSION DECISION ON 5/3/17

May 11, 2017

City of Stanton
City Clerk's Office
7800 Katella Ave
Stanton, CA 90680

RE: Appeal of Planning Commission Decision Dated 5/3/2017
Eden Therapy Day Spa located at 12108 Beach Blvd, Stanton, CA

Dear City Clerk:

I am hereby appealing by this letter the decision of the City of Stanton Planning Commission dated May 3, 2017 in which they denied my application for a use permit to operate a massage and spa under the name of Eden Therapy Day Spa located at 12108 Beach Blvd, Stanton, CA (referred to herein as the "Spa")

I am the owner of the business known as Eden Therapy Day Spa ("Spa") and have operated the business since on or about the August, 2012. My business provides therapeutic massage and other spa services for almost five (5) years. I have operated as a massage business as an owner without any problems and have always tried to be in compliance within all of the rules and ordinances of the City of Stanton. I have always been in compliance with the laws of the State of California.

I am proud to be a law abiding citizen and I am thankful for the opportunity to continue operating a massage and spa establishment in the City of Stanton. I am hopeful you will allow me to continue to operate my massage and spa business within the City of Stanton and be a contributing member of the business community. I am enclosing herein a letter from the owner of the restaurant known as "China Feast Restaurant" located next to my business who has known me for over five (5) years and was kind enough to prepare a letter showing that I have operated properly and without any problems.

I must say that I never thought that I could possibly be denied a conditional use permit to continue to operate my business. I have operated a law abiding business at my location without incident of any of my massage therapist having any criminal complaint filed against them or myself and I have built an excellent reputation in the business community as an honest business owner who provides excellent services consistent with the laws of the City of Stanton, County of Orange, and the State of California. A denial of my conditional use permit would cause me to suffer a great financial harm because I could not operate my law abiding business and I would lose the loyalty of the customers whom I have worked very hard to provide an excellent service. I hope that you will allow me to continue to operate my business.

I must apologize for not completely understanding the proceedings that took place before the Planning Commission on May 3, 2017. I did not understand why you would hold against me the few items that appear to be taken out of context. I believe that once these items are put into perspective that you will realize that I have always tried to work with the City of Stanton and their representatives. The purpose of this letter is to address the few items that were listed in the report prepared by the City of Stanton Staff Members.

The initial inspection in 2014 showed that there were an issue regarding certain items that were not in compliance with the California Building Code regarding an outside sign and improvements made in an address located at 12110 Beach Blvd., Stanton, Ca. When I took over the business in August, 2012, I was told by the previous owner that the business I was purchasing complied with all rules, regulations and codes of the City of Stanton. I was never told that the previous owner had knocked out a wall between 12108 and 12110 Beach Blvd., and made tenant improvements without obtaining permits to do so from the City of Stanton. Once I was informed by the City of Stanton of the permit issues I immediately hired a contractor, whom obtained the necessary permits, and I fully complied with what the City of Stanton asked me to correct. As to the business license issue, I had just opened the business and not knowing the requirement at the time, I immediately had the massage technician and the receptionist obtain their business license, even though when notified that was the first day for both of the individuals. However, it is important to note that NO citations were issued and I immediately cooperated and complied with the rules and regulations of the City of Stanton.

The second inspection took place on February 11, 2015 in which Staff purportedly observed a massage technician onsite that did not have a CAMTC license or a business license. However, the Staff report fails to show that the individual who they cited was NOT even employed nor working at the Spa. She had dropped off food ONLY and was in the process of leaving when the City Staff showed up. It should be important to note that my business was not cited by the City of Stanton and only the individual whom was cited. It is also important to note that after an extensive inspection there were no violations of any city ordinances or laws of the State of California by my business or my employees.

The third inspection took place on February 24, 2016. So for an entire year thereafter, there were numerous inspections but no violations of any city ordinances or laws of State of California were found by Staff. However, on February 24, 2016, the Staff reports that they purportedly found a condom wrapper located on the floor of a massage room. In reality when it was brought to the attention of my employee, it was shown to be a small portion of a wrapper. The report notes that my manager honestly and forthrightly stated to the city staff member inspecting the spa that she did not know about the condom wrapper. She further informed the city staff member that it was not used at the spa because no such things are allowed at the Spa and that I run an excellent and legitimate spa business. It should be noted that the neither the manager nor the spa were issued a citation for the existence of the wrapper portion. Clearly this

alone is not a violation of the city ordinances and the fact that no citation was issued is credit to the excellent business environment that goes on at the spa and it could have fallen out of the pocket of a customer. Sexual activities are expressly prohibited by my business and the fact that none of the massage technicians who have worked there have ever been cited or arrested for doing any illegal activities of a sexual nature at my spa, is clear evidence that I do not tolerate such conduct.

As to the list of employees, I was not aware that I needed to have such a list and thought that having the licenses of all of the individuals who worked at the Spa on the wall was all that was necessary. This issue never came up in any prior inspection by the City of Stanton. However, in my continued effort to be in compliance with the rules and regulations of the City of Stanton, I immediately went to the City of Stanton and got their form, filled it out and have posted it at my spa. The one individual who did have a valid CAMTC license, but purportedly did not have a business license on the date of the inspection was an "independent contractor" did not have a license. However, it should be pointed out that the individual had only been at the location for approximately one (1) day, and a decision to allow her to operate there had not been made, and thus the individual had not yet obtained her license to operate at the location as a receptionist because she had not yet decided that she wanted to work at that location. As you are aware, the cost of such a license is expensive. In an effort to get along with the City of Stanton staff, no appeal was taken of the administrative citations.

Another year goes by and there were numerous inspections but no violations of any city ordinances or laws of the State of California were found by Staff.

The fourth inspection took place in April 17, 2017, however the Staff report fails to state that any administrative citations were issued. The existence of a massage bed, where the massage therapists have their break room, along with certain personal items, was clearly not sufficient to result in any administrative citations. There are times in this business where an individual has to wait hours for customers to come into the business and having a comfortable place for the individuals to wait is part of providing a good work environment. However, I immediately removed the item from the break room even though NO citation was issued. This issue never came up in any prior inspection by the City of Stanton when the same condition existed during prior inspections. No one lives at my spa and no one has ever been allowed to do so. It should be noted that there were no other alleged violations noted in the Staff report.

I am aware the requirements issued by the CAMTC and the ordinances of the City of Stanton, although there have been significant changes over the last few years, regarding the operation of a massage business and I have always tried to work with the City of Stanton Staff members to make sure that I am in compliance with all of the rules and regulations.

I have hired the services of consultant who is very familiar with the CAMTC compliance and procedures and the City of Stanton ordinances who will continue to guide me in the operation of my massage business should you grant my appeal and allow me to continue to operate in your city. He will be present to speak on my behalf before the City Council when they hear this appeal. He has also reviewed with me the massage ordinances issued by the City of Stanton so that I can continue to operate as a law abiding member of the business community.

In addition to the hiring of the business consultant, I welcome regular input from the City of Stanton Staff should they require additional documentation from myself or my employees so that I can operate in full compliance of all rules and regulations of the City of Stanton and the laws of the State of California. I intend to keep in touch with the City of Stanton Planning Dept. on a regular basis to make sure that I am in compliance with the rules and regulations.

I am hoping the City Council will look at the fact that each time I have been notified of issues regarding the operation of my massage and spa business that I have fully complied and made the necessary corrections so that there is no repeat of the alleged violations. I am asking you to note that I run a legitimate business and there is no evidence of any illegal conduct or any sexual activity at my business. My business neighbors recognize that I run a good and legitimate business and that they note no problems with my business or their business by allowing me to operate at the location.

My massage and spa business has for the last five years have provided a tremendous benefit to the citizens of the City of Stanton as well as the financial well being of the other members of the business community and will continue to do so in the future. I am enclosing herein an article from Men's Health Magazine one of the largest and most respected magazines published with a circulation that is in the millions and distributed worldwide. In that article entitled "The Benefits of Massage" it goes on to state all of the benefits that an individual can achieve through the receipt of regular massage therapy. It also goes on to cite highly credible studies of the benefits of massage therapy as set forth in professional journals such as "The Clinical Journal of Pain", "Journal of Conditioning and Strength Research", "Journal of Clinical Psychiatry", and the "Journal of Alternative and Complementary Medicine".

My business and the individual massage therapists that work at the location will continue to provide all of these benefits that include, but are not limited to, relief of upper, middle and lower back pain, neck pain, constipation, depression, high blood pressure and improved athletic performance. Furthermore, the success of my business allows other businesses in the area to benefit because the customers are quality individuals who will frequent other businesses in the same shopping center and the area that will help those businesses be successful and will add jobs and reduce the unemployment within the city limits and ultimately add to the economy and sales taxes that the City of Stanton will receive.

May 11, 2017
City of Stanton
Page 5

Therefore, I am asking you to grant my Application For a Use Permit to allow me to continue to operate my business because it will allow me to make money to support my family. I have suffered through the bad economy over the last few years but I have still worked hard to support my family and provided a quality place for other individuals to work and provide for their families. Now that the economy is getting better, although it is still a financial struggle, I would like to be able to operate my massage therapy business and be an upstanding and productive member of the business community here in the City of Stanton. I would be devastated financially if I am not allowed to continue to operate my business.

I am hopeful that you will approve my Application For A Use Permit and grant my appeal. Thank you for your courtesy and consideration in this matter.

Men's Health

THE BENEFITS OF MASSAGE

Fix It with Massage

Massages are more than just indulgences. They're proven health and mood treatments. Find out how they can benefit you

Neck Pain massages over 10 weeks. Sound good? People with **Ten neck** chronic neck pain reported a 55 percent improvement after this regimen, according to a 2009 study in the *Clinical Journal of Pain*. They even scored 39 percent better on the worst-sounding test ever, the Neck Disability Index. (It assesses the pain's impact.)

Athletic Performance

"Musculotendinous" massages target muscle-tendon junctions, and a 2010 study in the *Journal of Strength and Conditioning Research* found that even a 30-second round improved hip-flexor range of motion. Try it: Find where muscle meets tendon just behind and above your knee, and rub the spot in small circles with your thumb.

Stress

You don't need a full-body rubdown to feel good. In a 2010 study from Sweden, one 80-minute hand-and-foot massage significantly lowered people's heart rates, cortisol levels, and insulin levels—all of which help lower stress.

Depression

Take your pick: Swedish, shiatsu, and other massage types may ease depression, a 2010 meta-analysis in the *Journal of Clinical Psychiatry* found. How? Massages reduce stress hormone levels, heart rate, and blood pressure, and boost mood and relaxation by triggering the release of oxytocin and serotonin.

High Blood Pressure

A study in the *Journal of Alternative and Complementary Medicine* found that after people with normal blood pressure had deep-tissue massage for 45 to 60 minutes, their BPs fell—specifically, by an average of 10.4 millimeters of mercury (mm/Hg) systolic, and 5.3 mm/Hg diastolic.

Lower-Back Pain

Back problems can be complex. One solution is simple: Common massage techniques can help you relax, and trigger an endorphin release that raises your threshold for pain. And that might help people with all sorts of lower-back pain, notes a 2009 meta-analysis in the journal *Spine*.

Constipation

Would you like an abdominal massage with that laxative? Yes, you would: A 2009 Swedish study found that people who received a massage along with traditional constipation treatment felt significantly better than those who stuck with just laxatives.

<http://www.menshealth.com/health/massage-benefits>

Stanton, May 11 - 2017

To whom it may concern :

My name is : Christopher Hugh

owner of : China Feast Restaurant, located at 12100
Beach Blvd, Stanton, CA 90680 .

I hereby verify that : Eden Therapy Day Spa,
my 5 years neighbor are very friendly and doesn't
bother or cause any trouble around this area .
They are a good neighbor .

Sincerely

A handwritten signature in cursive script, appearing to read "Christopher Hugh", with a long horizontal flourish extending to the right.



**CITY OF STANTON
REPORT TO THE
PLANNING COMMISSION**

TO: Chairperson and Members of the Planning Commission

DATE: May 3, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT C16-16 TO ALLOW FOR THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT LOCATED AT 12108-12110 BEACH BOULEVARD, WITHIN THE GENERAL COMMERCIAL DISTRICT AND GENERAL MIXED USE OVERLAY.

RECOMMENDED ACTION

That the Planning Commission:

- Conduct a public hearing;
- Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
- Adopt Resolution No. 2421 denying Conditional Use Permit C16-16.

BACKGROUND

In 2008, the State Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California. Senate Bill (SB) 731 also limited the City's regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations. Accordingly, the City amended the Stanton Municipal Code ("SMC") to comply with the regulations set forth in SB 731.

Senate Bill 731 was set to sunset or be reconfirmed by the end of 2014. Specifically, the legislative author of Assembly Bill 1147 ("AB 1147"), which reversed portions of SB 731, stated:

"Unfortunately, the current massage therapy law [SB 731] had serious unintended consequences; with bad actors masquerading as legitimate massage professionals exploiting loopholes in current law to insulate themselves against the ability of local governments and law enforcement to shut them down. This bill [AB 1147] will give that power back to the cities and counties, which will go a long way towards eliminating the brothel owners and human traffickers who are hurting women, hurting neighborhoods, hurting the profession, and hurting California." (AB 1147, Assem. Analysis, Aug. 29, 2014.)

The State Legislature analyzed the effects of SB 731 and how it impacted local jurisdictions and law enforcement activities. In response to the results of the analysis and input from cities, the State Legislature adopted, and Governor Jerry Brown signed AB 1147. AB 1147, which went into effect on January 1, 2015, allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments, while the regulations for permitting technicians was maintained at the state level.

To establish new land use and licensing regulations consistent with AB 1147, and to address issues and violations that have been documented in local massage establishments based on City inspections, the City Council adopted Ordinance Nos. 1031 (urgency) and 1032 (non-urgency) in 2015 to amend portions of the municipal code related to massage establishments. Among other things, the Ordinances established new permitting and licensing regulations, and operational, sanitation, and attire requirements. The City's operation, sanitation, and attire regulations, as set forth in Stanton Municipal Code section 20.400.190 became effective when Ordinance Nos. 1031 and 1032 became effective on January 13, 2015 and February 26, 2015, respectively.

Ordinance Nos. 1031 and 1032 also require that both new and existing massage establishments within the CG (Commercial General) Zone obtain both a conditional use permit for massage services and a massage establishment license within two years of the ordinances' effective date. As such, existing massage establishments in the Commercial General Zone are required to have a CUP by May 31, 2017. New businesses would need to obtain both approvals prior to operating.

A Conditional Use Permit allows the Planning Commission to consider specific characteristics and the proposed location of an individual use when deciding whether to approve or deny establishment of the proposed use. A Conditional Use Permit also allows the Commission to attach conditions of approval to a permit that would limit adverse impacts to surrounding uses and properties.

The Applicant, Gilbert Nguyen, representing Eden Spa, is requesting approval of a Conditional Use Permit to allow continued operation of an existing massage business, located at 12108-12110 Beach Boulevard. The proposal requires approval of the following:

- Conditional Use Permit (C16-16) – The reference to massage establishments per Ordinance No. 1032, Table 2-5 in Section 20.215.020 of the SMC requires a Conditional Use Permit for the use within the CG (Commercial General) zone as well as a Massage Establishment License per the requirements of Section 5.16 *Business Licenses and Regulations; Massage Establishments* of the SMC.

ANALYSIS/JUSTIFICATION

PROJECT LOCATION/DESCRIPTION – The subject property is located at 12108-12110 Beach Boulevard; a one acre parcel located on the east side of Beach Boulevard and approximately 500 feet from the intersection of Beach Boulevard and Chapman Avenue. Other businesses located in the shopping center include a medical health care clinic, tobacco sales shop, laundromat and convenience store and various restaurants.

The site is located in the CG (Commercial General) zone with a General Mixed Use Overlay, and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include a vacant parcel and U.S. Bank located in the CG zone and St. Polycarp Church and School located in the Public Institutional zone to the north, Park Plaza Apartments within the High Density Residential zone to the east, an RV rental business and automotive smog shop in the CG zone to the south and the Playa Galleria Shopping Center in the CG zone and Beach Creek Apartments located within the City of Garden Grove to the west of the site.

OPERATIONS – Eden Therapy Day Spa opened in August 2012. According to the applicant, the massage establishment has four licensed massage therapists. Massage types offered include Swedish, Deep Tissue and Shiatsu. Eden Therapy Day Spa is open from 10:00 am until 10:00 pm, seven days a week. The establishment has two massage rooms and two table shower rooms.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on four occasions between 2014 and 2017 and noted the following violations of State or Local Codes:

First Inspection (2014) – During the first inspection, staff noted the following violations of the Stanton Municipal Code: Exterior Wall Sign installed with no permits (SMC 20.325.040 (A) *Sign Permit, Permit Required*); tenant improvements installed with no building permits (SMC 16.04.010 *Californian Building Code Adopted – California Building Code 105.1 Permit Required*); and, a massage technician and receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*).

Second Inspection (February 11, 2015) – During the second inspection, staff noted the following violation of the SMC: A massage technician who was on site did not have a

valid CAMTC license or a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The City cited the uncertified and unlicensed massage technician, who did not contest the citation and paid the fine.

Third Inspection (February 24, 2016) – The third inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a condom wrapper located on the floor of a massage room, indicating that sexual activity likely took place at the massage establishment. When the establishment's manager was questioned about it, she stated that she did not know about the condom wrapper. The use of paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities are prohibited by the SMC related to Massage Establishments. Further, the manager failed to provide a list of all persons employed for staff to review, which is a violation of SMC Section 20.400.190. Also, Staff noted that a massage technician did not have a business license. The massage technician and business owner were cited under SMC Sections 5.04.010 *Business Licenses and Regulations, License Required*. None of the cited individuals contested the citation and each of the citees paid their respective fines.

Fourth Inspection (April 19, 2017) – During the fourth inspection, staff noted the following violation of the SMC Section 20.400.190 *Massage Establishments*: A bed were found in the employee's area. The SMC provides, "no person or persons shall be allowed to live inside the massage establishment at any time." Beds are an indication that someone may be living within the establishment, which is a violation of the SMC. Moreover, the City has concerns that having beds in rooms other than massage rooms may facilitate illicit activity such as prostitution and human trafficking.

Staff performs dozens of massage establishment inspections citywide each year, and seldom finds conclusive evidence of sexual activity. Indeed, most businesses have demonstrated improvements in their compliance with State and City licensing requirements and adherence to the City's Massage Establishment Ordinances adopted in January 2015. Staff inspections of Eden Therapy Day Spa, however, show a decline in business practices, as noted above, and evidence that illicit sexual activity is occurring on the site.

Stanton Municipal Code Section 20.550.060 (B) requires that six findings be made prior to approval of a Conditional Use Permit. These findings require that a use be consistent with the Goals and Policies of the General Plan and be a conditionally permitted use within the district the use is proposed to be located. The findings also address the suitability of the use's location, compatibility with surrounding uses, how the use would be operated, and whether the use would be detrimental to neighboring properties and people. Several of these findings cannot be made because of the establishment's SMC violations.

There is substantial evidence that Eden Therapy Day Spa has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced, among other things, by a condom wrapper found in a massage room. Sexually-related paraphernalia within a massage establishment is strictly prohibited by the City and its Code. Moreover, there is evidence that the establishment allows uncertified therapists to provide services to

customers, as evidenced by staff's observation of a non-CAMTC certified massage technician at the site who acknowledged the violation by accepting and paying for an administrative citation. Operating without a valid CAMTC license directly harms the health, safety, and welfare of the community because the State only certifies massage technicians who have the requisite education and training to provide massages. Certified technicians have paid the appropriate fees to the State and are in "good standing" with the State, which investigates massage technicians, as necessary. Massage technicians may not legally provide massage services to customers without a valid State-certification.

Further, Eden Spa has obstructed in City investigations by refusing to provide the City with an employee register, as required by the SMC. This violation results in the City being unable to fully evaluate the establishment's business operations, and demonstrates that business establishment is not operating cooperatively with the City or transparently.

Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...". Because Eden Therapy Day Spa has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

The attached draft resolution includes the required findings and reasons why they cannot be made for this proposed use. For these reasons staff recommends the Planning Commission adopt the attached draft resolution denying the requested Conditional Use Permit.

ENVIRONMENTAL IMPACT

In accordance with the requirements of the CEQA this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the regular agenda-posting process.

Prepared by,



Rose Rivera
Associate Planner

Approved by,



Kelly Hart
Community Development Director

ATTACHMENTS

- A. Planning Commission Resolution No. 2421
- B. Vicinity Map
- C. Narrative
- D. Site and Floor Plans
- E. Site and Interior Pictures

RESOLUTION NO. 2421

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STANTON, CALIFORNIA, DENYING CONDITIONAL USE PERMIT C16-16; A REQUEST TO ALLOW THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 12108-12110 BEACH BOULEVARD, IN THE CG (COMMERCIAL GENERAL) ZONE AND THE GENERAL MIXED USE OVERLAY; SUBMITTED BY GILBERT NGUYEN (EDEN THERAPY DAY SPA)

WHEREAS, pursuant to Cal. Const. Art. XI, Sec. 7 and under the City's general police powers, the City of Stanton ("City") is empowered and charged with responsibility for the health, safety, and welfare of its citizens; and

WHEREAS, the City is authorized by State law, including, without limitation, Government Code Section 51030 *et seq.* and Business & Professions Code Section 16000 *et seq.* to regulate massage establishments; and

WHEREAS, in 2014, Governor Jerry Brown signed Assembly Bill 1147 (AB 1147), which restored local agencies' ability to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments; and

WHEREAS, among other things, AB 1147 set forth the Legislature's intent that "broad control over land use in regulation of massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community"; and

WHEREAS, in response to AB 1147, the City enacted a comprehensive and reasonable permitting scheme to regulate massage establishments in the City, as codified in Stanton Municipal Code Chapter 5.16 and Section 20.400.190. The City's regulatory scheme requires a massage establishment to obtain a Conditional Use Permit in order to locate a massage establishment in the City's Commercial General Zone and requires an operator to obtain a massage establishment permit in order to operate a massage establishment. Additionally, the City's regulatory scheme allows the City to impose conditions of approval upon a massage establishment to protect residents' health, safety, and welfare; and

WHEREAS, the City enacted its massage establishment regulatory scheme because of the increase in police and code enforcement calls for service to many massage establishments that had opened in the City following the passage of Senate Bill 731 ("SB 731") (2008). SB 731 had removed the City's power to regulate massage establishments; and

WHEREAS, following the passage of SB 731, dozens of massage establishments located in the City, and City inspectors found violations at many of those establishments including illegal tenant improvements to create massage rooms, unauthorized massage technicians and personnel, violations of employment and labor laws, unsanitary facility conditions, including evidence of used contraceptive devices, massage technicians dressed inappropriately, including the exposure of specified anatomical areas,

establishments operating beyond approved hours of operation, persons using the establishments as a residence, installation of illegal signage, and employees refusing to allow City inspections of the establishments; and

WHEREAS, when the City updated its massage regulations in 2015, it afforded existing massage establishments in the Commercial General with a period of two years to conform to the City's new zoning and permitting requirements. That two-year period expires on May 31, 2017; and

WHEREAS, on September 21, 2016, Applicant Gilbert Nguyen (Eden Therapy Day Spa) submitted an application for a Conditional Use Permit to operate a massage establishment in the City of Stanton; and

WHEREAS, on May 3, 2017, the Planning Commission of the City of Stanton, after giving notice thereof as required by law, held a public hearing concerning the requested conditional use permit to allow for the operation of a massage establishment within a 1,894 square foot unit located in a commercial shopping center at 12108-12110 Beach Boulevard in the CG (Commercial General) zone and a General Mixed Use Overlay; and

WHEREAS, staff has reviewed the environmental form submitted by the Applicant in accordance with the City's procedures. Based upon the information received and Staff's assessment of the information, the project has been determined to be categorically exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301 (Existing Facilities); and

WHEREAS, staff has inspected the business on four separate occasions and noted numerous violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments* including: a massage technician working without CAMTC certification; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; the presence of a condom wrapper in a massage room indicating that sexual activity had taken place at the massage establishment; the use of paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities; the presence of a bed and personal belongings indicating that someone was living inside the establishment; and

WHEREAS, the Commission has carefully considered all pertinent testimony and information contained in the staff report prepared for this application as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: The Planning Commission hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: Based upon the environmental form the Planning Commission exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed Conditional Use Permit would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." Eden Therapy Day Spa has been in business for over four years and has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. There is substantial evidence that the establishment has allowed illicit activities, such as illicit sexual activities, to occur on the premises. Such evidence includes the observation of a used condom wrapper inside of a massage room. Denial of the requested conditional use permit would require the closure of this massage establishment thereby eliminating one source of nuisance activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments, such as evidence of the use of sexually-related paraphernalia at the establishment and the use of massage therapists who do not have proper certification from the State. The business is directly adjacent to multifamily housing units to the east and west, a church and school to the north and commercial uses including restaurants, retail stores, a community health care clinic and personal service businesses to the north, south and west. The violations and likely illicit sexual activity associated with this business are incompatible with businesses catering to the needs of the community at large and the adjacent residential units. Sexual activity is prohibited at the site, and the use of massage technicians who do not have valid State-certification directly and negatively impacts the health, safety, and welfare of the community and residents who use the business' services. Without a State-certification, it is unknown whether the massage therapist has the proper education to provide massage services to customers or are otherwise in good standing with the State, which is the investigatory arm for massage technicians. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these nuisance activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." Moreover, Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity...." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code, including provisions of the Code regulating the operation of Massage Establishments, as well as evidence of illicit sexual activity. The continuation of these nuisance would be detrimental to the overall character of the neighborhood in which it is located. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these illicit activities.

- B. The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the zoning code and the municipal code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a Conditional Use Permit; however, the existing business has a demonstrated pattern of violations of Section 20.400.190 *Massage Establishments* and SMC 5.04.010 *Business Licenses and Regulations, License Required*). The establishment appears to allow uncertified massage therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do *not* have valid certification from the State may not provide massage services to customers. Further, Eden Therapy Day Spa has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. In addition, there is substantial evidence that Eden Therapy Day Spa has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in a massage room. Finally, the presence of a bed and personal belongings indicating that someone was living inside the establishment which is prohibited by the SMC.
- C. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located on the east side of Beach Boulevard, approximately 500 feet south of Chapman Avenue. Existing adjacent uses including multifamily dwelling units to the east and west, a school and church to the north, commercial uses including restaurants, retail shops, a community health care clinic and personal and professional services to the north, west and south. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illicit activity, including illicit sexual activity. There is substantial evidence that Eden Therapy Day Spa has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in a massage room. Moreover, the establishment

appears to allow uncertified therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do *not* have valid certification from the State may *not* provide massage services to customers. Further, Eden Therapy Day Spa has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. As such, continuation of the existing use at this location would be incompatible with adjacent uses.

- D. The site is unsuitable for the use as operated. The subject property is located on the east side of Beach Boulevard, approximately 500 feet south of Chapman Avenue, in a two acre shopping center. In addition to this massage establishment the shopping center is also home to various restaurants, a community health care clinic, laundromat, tobacco sales shop and a convenience store. The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include Park Plaza Apartments located in the High Density Residential zone east of the site, a vacant parcel and U.S. Bank located in the Commercial General zone and St. Polycarp Church and School located in the Public Institutional zone to the north of the site, an RV rental business and automotive smog shop in the Commercial General zone to the south of the site, and the Playa Galleria Shopping Center in the General Commercial zone and Beach Creek Apartments located within the City of Garden Grove to the west of the site. Eden Therapy Day Spa has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity, including illicit sexual activity. There is substantial evidence that Eden Therapy Day Spa has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom wrapper found in a massage room. Moreover, the establishment appears to allow uncertified therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do not have valid certification from the State may not provide massage services to customers. Further, Eden Spa has obstructed in City investigations by refusing to provide information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code.

Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further states that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance..." Because Eden Therapy Day Spa has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage

Establishments, it is deemed to be a Public Nuisance. Therefore, as historically operated, the proposed use is deemed to be a Public Nuisance and continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

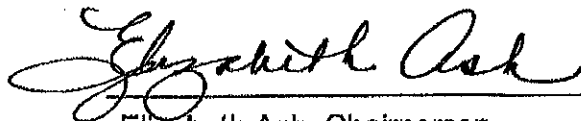
SECTION 4: That based upon the above findings and on the entirety of the record including the staff report, written and oral testimony, and this Resolution, the Planning Commission hereby denies Conditional Use Permit C16-16 to allow for the operation of a massage establishment at 12108-12110 Beach Boulevard, in the CG (Commercial General) and the General Mixed Use Overlay.

SECTION 6: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 7: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

ADOPTED, SIGNED AND APPROVED by the Planning Commission of the City of Stanton at a regular meeting held on May 3, 2017 by the following vote, to wit:

AYES:	COMMISSIONERS:	<u>Ash, Grand, Greer, Moua, Taylor</u>
NOES:	COMMISSIONERS:	<u>None</u>
ABSENT:	COMMISSIONERS:	<u>None</u>
ABSTAIN:	COMMISSIONERS:	<u>None</u>



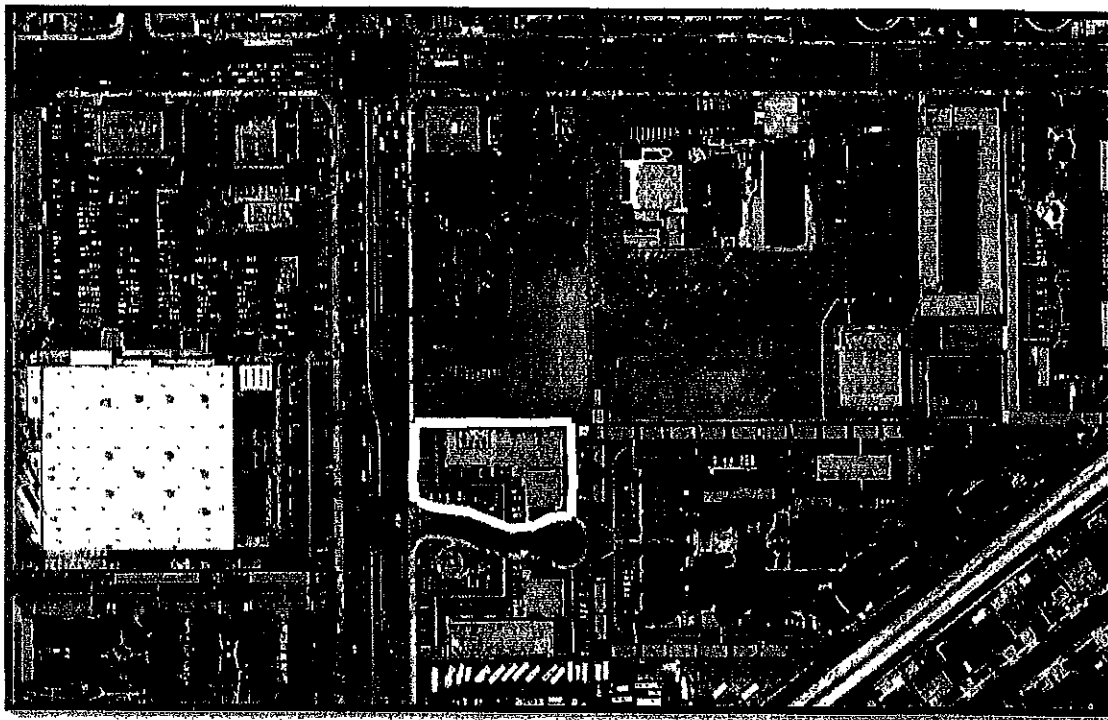
Elizabeth Ash, Chairperson
Stanton Planning Commission



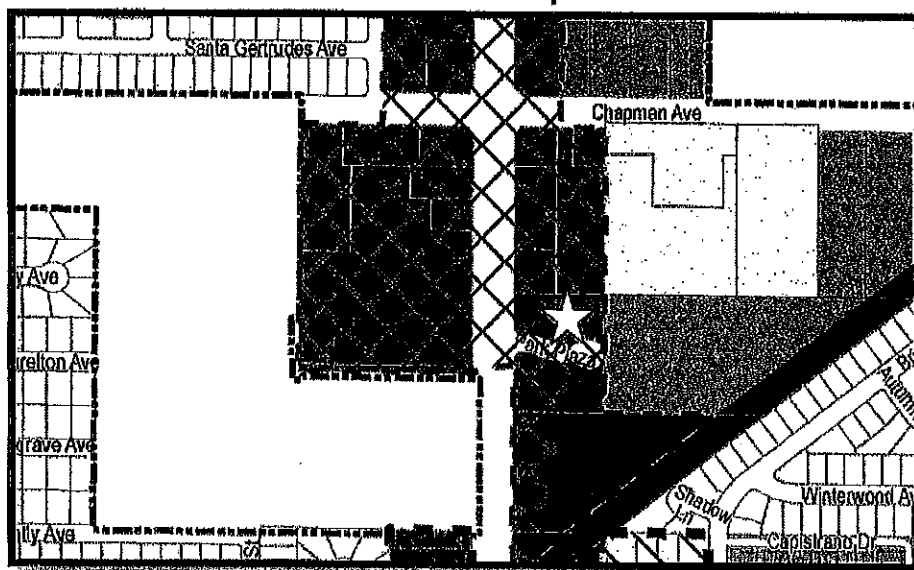
Kelly Hart
Community Development Director

12108-12110 Beach Blvd.

Aerial Map



Location Map



September 9/2016

To whom it may concern :

RECEIVED

SEP 21 2016

COMMUNITY DEVELOPMENT

My name is ANH THU HUYNH PHU , owner of
EDEN Therapy Day Spa since August 2012 and
this is my only business which located at 12108-12110
Beach Blvd , city of Stanton and I also complied
to meet the requirement from the city .

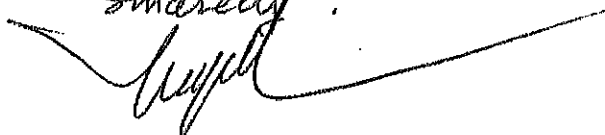
My business hours from 10.00 AM to 10.00 P.M
Monday To Sunday . The Services is body massage for
Men and Women which include Deep Tissue and hot stones
for faster reduce pain for customers.

we have 4 Licensed Therapist name below :

1. LAN PHAM
2. DA NHIEU NGOC NGUYEN
3. JILL Bui
4. HONG THI HONG .

In the past I received 2 violation tickets for 2
Therapists without permit in the facility and have been resolved
by paid the fees and applied for the permit.

Sincerely .



ANH THU HUYNH PHU .

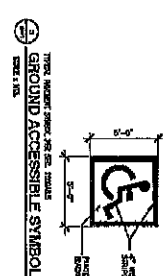
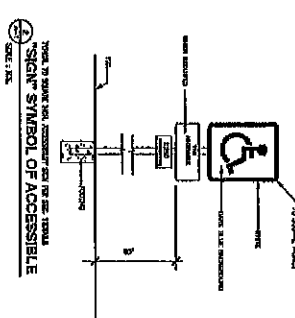
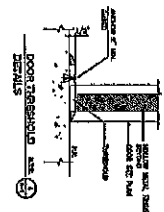
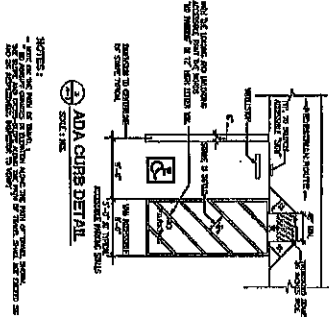
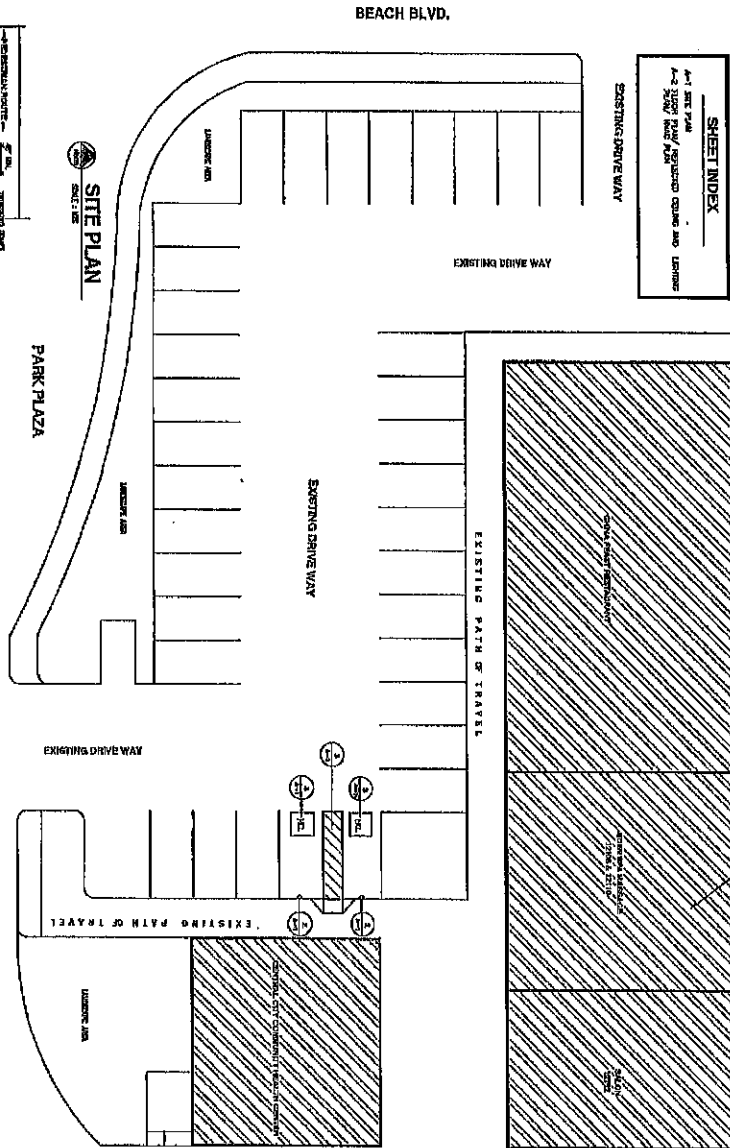
ATTACHMENT C

APPLICATION "CUP" FOR PLANNING COMMISSION HEARING FOR EDEN DAY SPA MASSAGE

12108 & 12110 BEACH BLVD., STANTON

SHEET INDEX

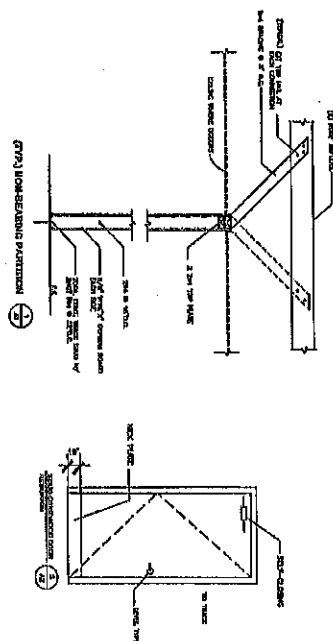
A-1 SITE PLAN
A-2 SIGN SYMBOL OF ACCESSIBLE



NOTES:
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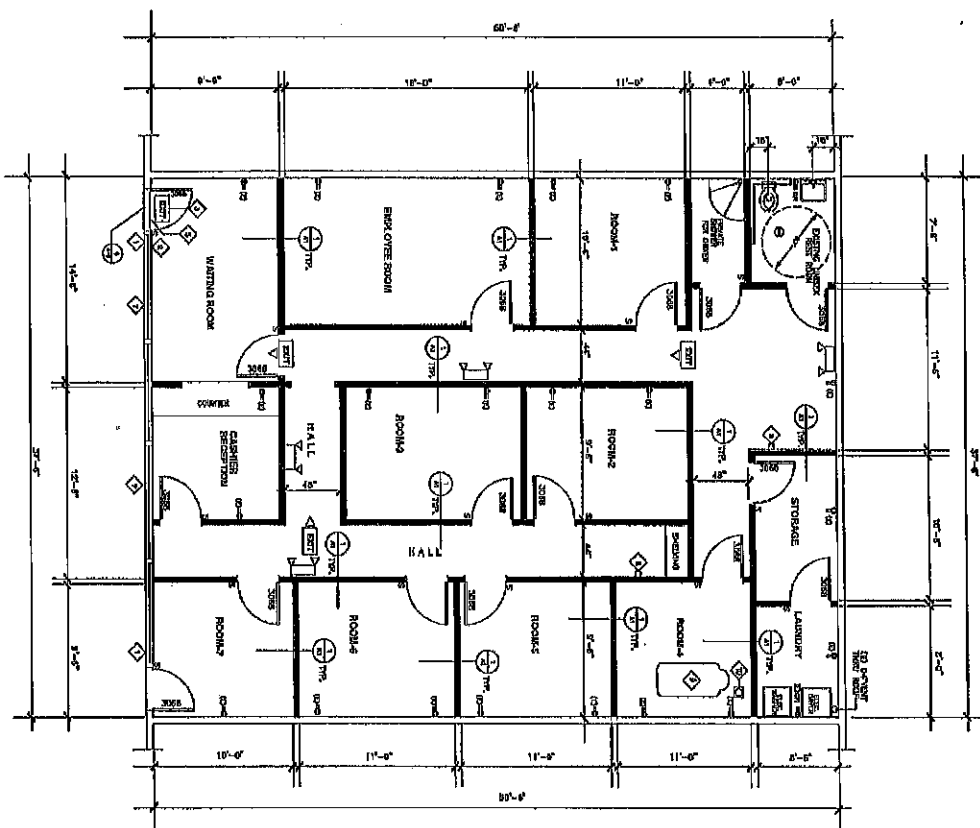
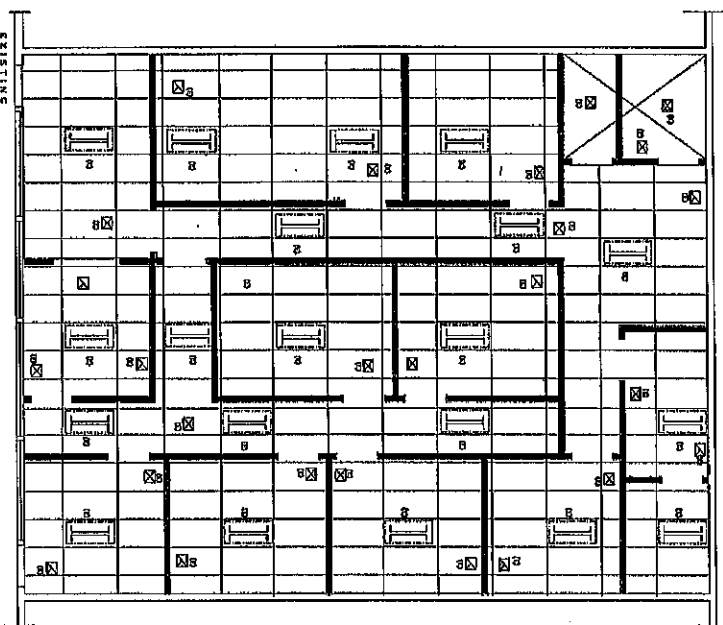
<p>REVISION</p> <p>DATE</p> <p>BY</p>		<p>APPLICATION "CUP" FOR PLANNING COMMISSION HEARING</p> <p>FOR EDEN DAY SPA MASSAGE</p> <p>JOB ADDRESS : 12108 & 12110 BEACH BLVD., STANTON</p> <p>OWNER : 1620011 AMI (214) 983-7100</p>	<p>SITE PLAN</p>	<p>DATE: 02/01</p> <p>SCALE: 1/8" = 1'-0"</p> <p>DESIGNER: [Signature]</p> <p>CHECKED: [Signature]</p> <p>PROJECT: 12108 & 12110</p>
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12108 & 12110 BEACH BLVD., STANTON



NOTE:

- 1. IF THE STUDENT HAS COLLECTED THE RECORDS AND FINANCIAL STATEMENTS, INFORMATION, AND MATERIALS FROM THE COMPANY, THE STUDENT SHOULD BE ALLOWED TO REVIEW THE RECORDS AND FINANCIAL STATEMENTS, INFORMATION, AND MATERIALS FROM THE COMPANY.
- 2. IF THE STUDENT HAS NOT COLLECTED THE RECORDS AND FINANCIAL STATEMENTS, INFORMATION, AND MATERIALS FROM THE COMPANY, THE STUDENT SHOULD BE ALLOWED TO REVIEW THE RECORDS AND FINANCIAL STATEMENTS, INFORMATION, AND MATERIALS FROM THE COMPANY.



FLOOR PLAN

ADDITIONAL NOTES:
PROPERTY LINE:
EXISTING DOOR/DOOR OR INTERIOR WALLS

PROJECT NUMBER: 10105 10 12110 85030N ECU
STATION, OK, 00260
BUILDING NAME: DODG THESPA DRY SWA
TEL.: (714) 562-7700
APPROVED: ATR01 AM
THANKS THANKS FLOOD INSURANCE FIGHT:
BRIAN LEACH: 204-77 8307 (1-800)
TYPE OF CONTRACT: YES
CONTRACT NUMBER: 5
BUILDING SPECIFICATIONS: NO

FLOOR PLAN KEY NOTES

7. **INTERVIEW, RECONSTRUCT STORY**
8. **WRITE STORY (DRAFT)**
9. **AND GET LOTS AND LOTS OF FEEDBACK FROM READING, REVISION, REWRITE, AND REPEAT**
10. **WRITE THE FIRST DRAFT TO REVEAL UNDISCOVERED THINGS ABOUT THE STORY**
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FLOOR PLAN

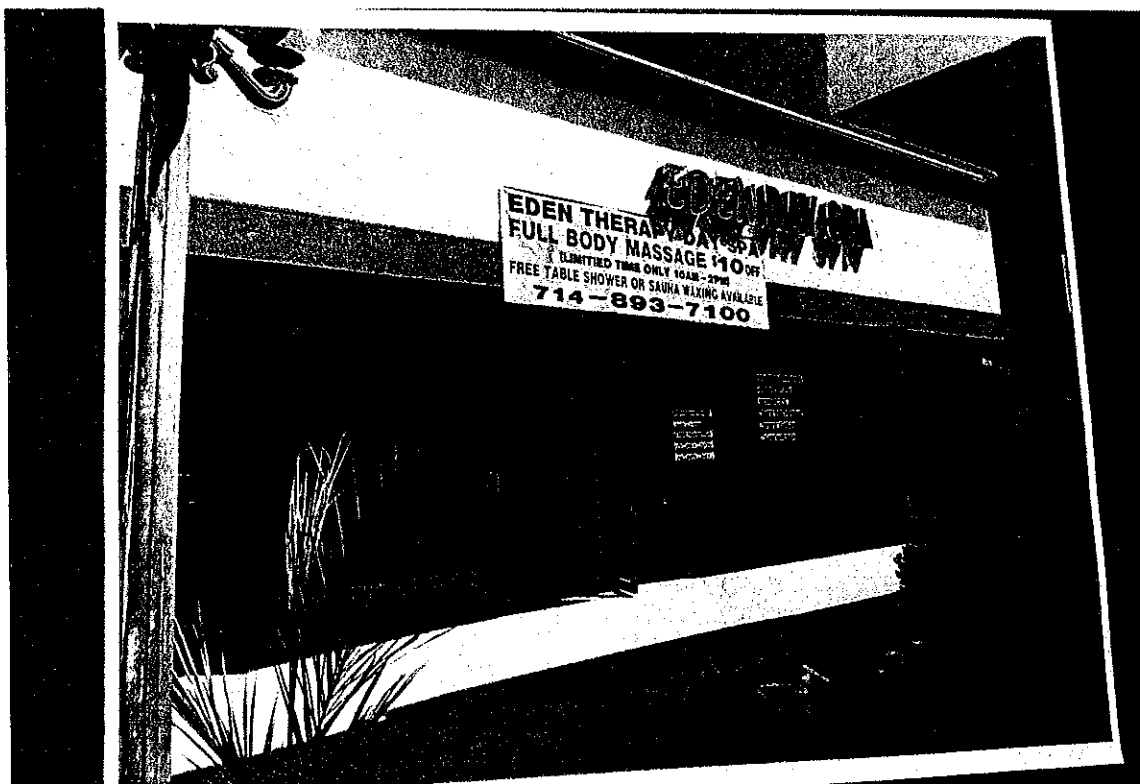
REFLECTED CEILING AND LIGHTING REFLECTED AND LUMINOUS PLANE

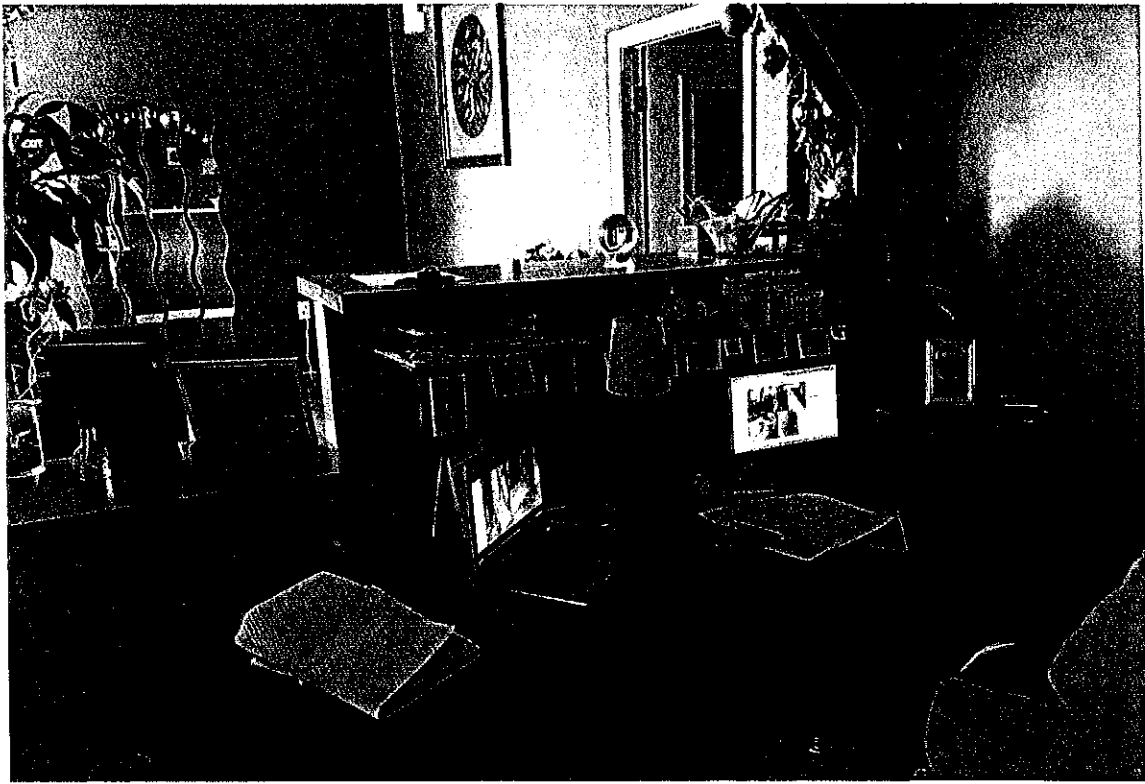
**APPLICATION "CUP" FOR PLANNING COMMISSION HEARING
FOR EDEN DAY SPA MASSAGE**

APR ADDRESS : 12108 & 12110 OCAPI BLVD., EMMETT

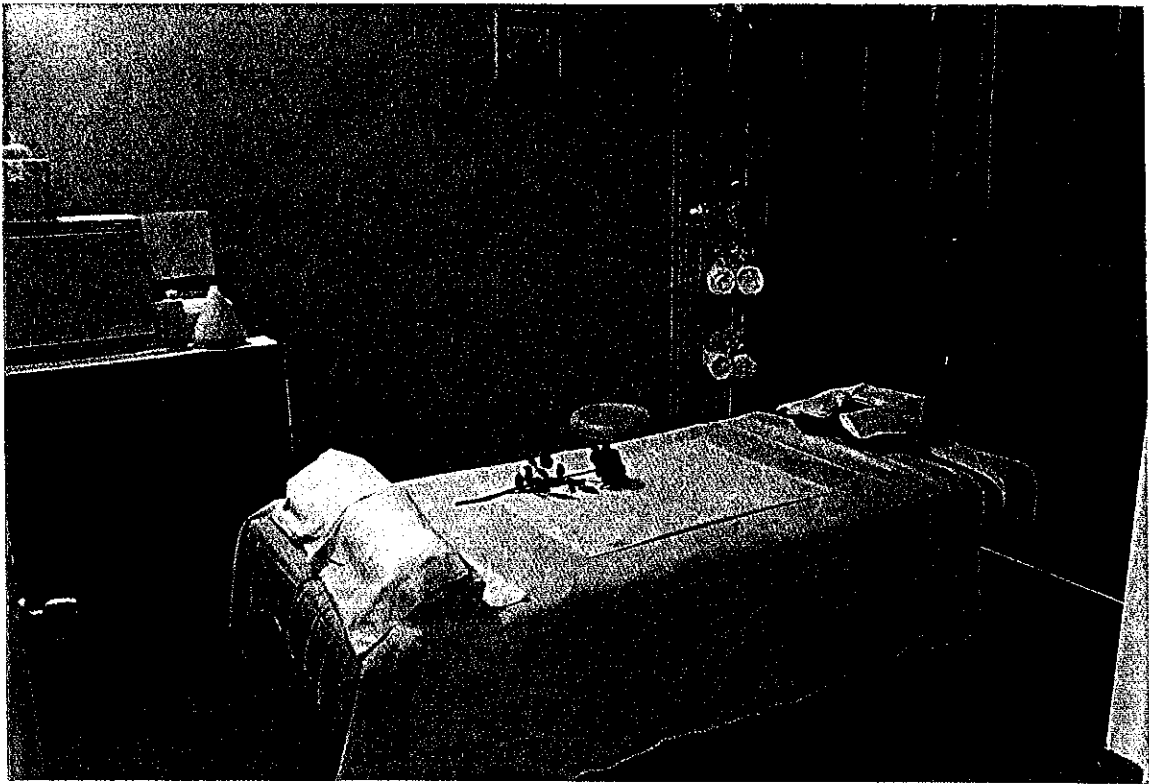
DATA: HUNTER ASST, (714) 893-7100

DATE: 5/1/18









**February 24, 2016 Inspection
Photos of Condom Wrapper**



ATTACHMENT D



January 14, 2015

Alexander A. Ethans
Mayor

Brian Donahue
Mayor Pro Tem

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

Carol Warren
Council Member

James A. Box
City Manager

Eden Therapy Day Spa
Anh Thuy Huynh Phu
12110 Beach Blvd.
Stanton, CA 90680

RE: New Massage Establishment Regulations – May affect your business operations

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1031 which sets forth new regulations for the permitting, and operations of new and existing massage establishments. This ordinance became effective immediately upon adoption on January 13, 2015. **You are receiving this letter to inform you that your business is subject to the regulations of this new Ordinance.**

The adoption of Ordinance No. 1031 created new zoning, permitting, and operating requirements for new and existing massage establishments in the City of Stanton. Below is a brief overview of the new regulations. For a complete list of new regulations and requirements, please refer to the attached Ordinance.

Zoning Regulations: The adopted Ordinance indicates that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits, while Massage Establishments would be prohibited in the CN (Commercial Neighborhood) zone. Please contact the Planning Division to identify which zone your existing business is located in. If your business is located in the CN (Commercial Neighborhood) zone, it would be subject to a two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). At the conclusion of the amortization period, the business would need to cease operations. An extension to the amortization period may be possible, if you are able to meet the burden of proof as stipulated in the Ordinance.

Permitting: If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply, and be approved for a Conditional Use Permit, and a Massage Establishment License. This process must be completed within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). If you fail to apply for the necessary applications, or your applications are denied, business operations would be required to cease after the two year amortization period. You may also apply to extend the amortization period if you are able to meet the burden of proof as stipulated in the Ordinance.

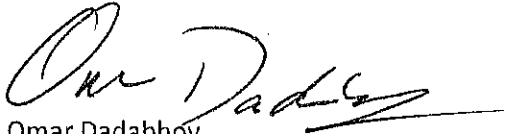
Regulations for Establishment Operations: In addition to zoning and permitting requirements, the City has established a list of regulations that new and existing businesses must abide by. For the complete list of requirements, please refer to

Exhibit B of the Ordinance. In regards to the effective date of the regulations, Section 20.400.190.C in the Ordinance establishes new facility requirements for massage establishments. These regulations may require additional construction or modifications to the establishment. As such, existing establishments would need to make the required modifications within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). For the other regulations identified in Section 20.400.190.D-F in the Ordinance, they become effective upon the adoption of the Ordinance, and all existing massage establishments must immediately comply with the regulations.

The information listed above provides a brief overview of the new regulations for Massage Establishments. For a complete list of the regulations, the Ordinance has been attached for your review.

If you have any questions regarding the requirements of the ordinance, please contact Kelly Hart of my staff at (714) 890-4228.

Sincerely,

A handwritten signature in black ink, appearing to read "Omar Dadabhoy", with a stylized flourish at the end.

Omar Dadabhoy
Community and Economic Development Director



September 27, 2016

Brian Donahue
Mayor

Carol Warren
Mayor Pro Tem

Alexander A. Ethans
Council Member

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

James A. Box
City Manager

Eden Therapy Day Spa
Anh Thu Huynh Phu
12108 Beach Blvd.
Stanton, CA 90680

RE: Expiration of Amortization Period for Massage Establishments

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1032 ("Ordinance"), which sets forth new regulations for the permitting and operations of new and existing massage establishments. This Ordinance became effective on January 13, 2015, and provided existing businesses a two-year period—an "amortization period"—to continue operating under previous City regulations. **You are receiving this letter as a reminder that your business must come into compliance with the Ordinance by May 31, 2017.** Below is a brief overview of the regulations. For a complete list of regulations and requirements, please refer to the attached Ordinance.

Massage Establishments located in the CG Zone: The adopted Ordinance provides that that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits. **If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply and be approved for a Conditional Use Permit and a Massage Establishment License. This process must be completed by May 31, 2017.** If you fail to apply for the necessary applications, or your applications are denied, the massage operations will be required to cease.

Massage Establishments located in the CN Zone: If your business is located in the CN (Commercial Neighborhood) zone, the massage establishment will need to cease operations or operations must be changed into a permitted use by May 31, 2017.

You may also apply for an extension of the two-year amortization period, as described above. The deadline to submit an application for an extension of a massage establishment amortization period is **November 30, 2016**. Applications are available at City Hall and an applicable fee will be required when the application is submitted.

If you have any questions regarding this letter, the City's massage regulations or have questions about which zone your existing business is located in, please contact the Planning Division at (714) 379-9222.

Sincerely,

Kelly Hart
Community Development Director

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: July 11, 2017

SUBJECT: **APPEAL OF PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-22 TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 10450 BEACH BOULEVARD #115 IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY TRUC SU**

REPORT IN BRIEF:

This is an appeal of the Planning Commission's decision to deny the continued operation of a massage establishment from the subject property due to violations of Stanton Municipal Code Section 20.400.190 related to Massage Establishments.

RECOMMENDED ACTION:

1. The City Council hold a public hearing; and,
2. The City Council consider Resolution No. 2017-31 upholding the Planning Commission's denial of Conditional Use Permit C16-22 and deny the Applicant's appeal.

BACKGROUND:

In 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections. The Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate.

On May 17, 2017, the Planning Commission held a public hearing to consider Conditional Use Permit C16-22 to allow for the continued use of a massage establishment known as Eden Therapy Day Spa, located at 10450 Beach Boulevard #115. At the conclusion of the public hearing, the Planning Commission, with a unanimous vote, determined that the application could not meet all the necessary findings to approve the conditional use permit. As such, the Planning Commission denied Conditional Use Permit C16-22. Within the 10-day appeal period, the operator of Lovely Massage, Ms. Truc Su (Appellant) filed an appeal of the Planning Commission's action to deny CUP No. C16-22.

ANALYSIS/JUSTIFICATION:

The subject property is located at 10450 Beach Boulevard, Suite 115, a 1.5 acre parcel located near the northeast corner of Beach Boulevard and Cerritos Avenue. In addition to this

massage establishment, the shopping center, C & S Plaza, is home to a number of businesses including several massage establishments, a nail salon, a restaurant, and various retail uses.

The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include a U.S. Post Office and retail and restaurant uses in the CG (Commercial General) zone to the north, a convenience store and various restaurants in the CG Zone to the south, Continental Garden Apartments in the RH (High Density Residential) zone to the east and the Indoor Swap Meet in the CG zone to the west.

OPERATIONS – Lovely Massage opened in September 2011, according to City business license information. According to the applicant's narrative, Lovely Massage has four employees. The business operates in an 800 square foot unit and has three private massage rooms, a table shower room, a waiting area, an office/employee lounge, unisex restroom and a storage room. Lovely Massage is open daily from 10 am to 10 pm.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on nine occasions between 2014 and 2017 and noted the following violations of State or Local Codes:

First Inspection (2014) – During the first inspection, staff noted the following violations of the Stanton Municipal Code: Exterior Wall Sign installed with no permits (SMC 20.325.040 (A) *Sign Permit, Permit Required*); tenant improvements installed with no building permits (SMC 16.04.010 *Californian Building Code Adopted – California Building Code 105.1 Permit Required*); and, a massage technician and receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*).

Second Inspection (December 2, 2014) – Staff observed receptionists and massage technicians working without business licenses (SMC 5.04.010 *Business Licenses and Regulations, License Required*). Citations for this violation were issued to the receptionist, business owner, and property owner. The citations were not disputed by any of the parties and the fines were paid to the City.

Third Inspection (February 11, 2015) – During the third inspection, staff noted the following violation of the SMC: A massage technician who was on-site did not have a valid CAMTC license or a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). Staff also noted the following violation of SMC 20.400.190.E *Sanitation Requirements*: The table shower room was found to be in an unsanitary condition, smelled of stale, sitting water, and dirty towels were found on the floor. The City cited the massage technician for not having a CAMTC and business license, and the business owner was cited for unsanitary conditions. The citees did not contest the citations and paid the fines. The property owner, who was cited for allowing a massage technician to operate at the business without a CAMTC and City business license, appealed and paid for the citation. At the appeal hearing, the Administrative Hearing Officer found that the citation was validly issued to the property owner and upheld it. The property owner did not further appeal.

Fourth Inspection (March 22, 2016) – The fourth inspection yielded the following violations of

Stanton Municipal Code Section 20.400.190 *Massage Establishments*: failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; failure to display massage business licenses in a public area; failure to display massage technicians' CAMTC licenses in a public area; and failure to provide functioning lockers for the storage of employees personal belongings. Also, a massage technician who was on site did not have a valid CAMTC license or a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The massage technician was cited for not having a valid CAMTC license or a business license. The citee did not contest the citation and paid the fine.

Fifth Inspection (May 12, 2016) – During the fifth inspection, staff noted the following violations of the SMC: failure to have at least one massage technician with a valid CAMTC license on the premises while the establishment is open for business (SMC 20.400.190.D *Massage Establishments*); and employees working without business licenses (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The City cited the employees and the business owner for not having business licenses. The citations were not disputed by the parties, and the fines were paid to the City.

Sixth Inspection (September 19, 2016) – Staff inspected Lovely Massage on September 19, 2016. When staff arrived, they were greeted by the owner who came out of the employee office area. Two other workers were observed in the employee area and coming out of a room with a customer. While performing the inspection, staff observed a customer coming out of a massage room where a pair of ladies' underwear was found on the massage table along with stains on the sheets. Another customer was observed coming out of another room with his pants' zipper still open, and when staff entered the room, they found a used condom on the massage table, indicating that sexual activity likely took place at the massage establishment. When City staff asked an employee about the used condom, the employee gestured that she did not know about it and proceeded to throw it away. The use of sexual paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities are prohibited by the SMC related to Massage Establishments. An administrative citation for operating a business without a business license (SMC 5.04.010) was issued to the business owner. Additional citations were issued to the two employees for not having business licenses. The City cited the unlicensed employees and the business owner, and the citees, with the exception of one employee who has not yet paid the fine, did not contest the citation and paid the fines.

Seventh Inspection (January 24, 2017) - The seventh inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a condom located on the floor of a massage room, indicating that sexual activity likely took place at the massage establishment. The use of sexual paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities are prohibited by the SMC related to Massage Establishments. After City staff witnessed the presence of the condom, one of the employees disposed of it.

Further, staff noted the following violation of the SMC Section 20.400.190 *Massage Establishments*: A bed was found in the employee's area. The SMC provides, "no person or

persons shall be allowed to live inside the massage establishment at any time.” Beds are an indication that someone may be living within the establishment, which is a violation of the SMC. Moreover, the City has concerns that having beds in rooms other than massage rooms may facilitate illicit activity such as prostitution and human trafficking. Staff informed the employees to remove the bed.

The business owner, who was cited for having sexual paraphernalia (a condom) at the premises, did not contest the citation and paid the respective fine.

Eighth Inspection (March 9, 2017) – Staff again observed a bed in the employee's area and again informed the employees to remove it from the premises.

Ninth Inspection (May 9, 2017) – Staff noted the following violation of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: a bed was found in the employee's only area, the store front windows were covered, a list of all persons employed was not provided and no valid CAMTC certified massage technicians were onsite.

APPEAL – On May 30, 2017, Ms. Su filed an appeal of the Planning Commission's decision to deny Conditional Use Permit C16-22 to the City Council. The basis of the appeal, stated by Ms. Su and provided in Attachment B, can be summarized that the Appellant asserts that the violations observed by staff are insufficient to serve as grounds for denial of the requested conditional use permit.

City Staff's Response to Appeal

Inspections Conducted Prior to Ownership – In the appeal letter, the Appellant states that she took ownership of the existing massage establishment in October 2016 and did not believe that the Planning Commission should have taken into consideration the inspections prior to October of 2016 when making the decision to deny the requested conditional use permit. When reviewing requests for conditional use permits, City staff and Planning Commission reviews the use at the property as a whole. As such, even though there may have been a change in ownership, the City considers the entire inspection history, not only the inspections that have occurred after the owner took over the business. The act of a change of ownership does not eliminate the fact that the violations existed. Change of ownership of a business could include, but is not limited to a change from one business partner to the other, one family member to another, a change in status from a limited liability company to a corporation, or other similar actions. These changes in ownership occur frequently, for any number of reasons, and could include a complete change in ownership where there are no existing members of the previous organization still involved. As such, the act of changing the ownership of the business is insufficient grounds to negate the previous history of the business operations on the site. In addition, even if the City considered the Appellant's assertions that the previous inspections should not be taken into consideration, during inspections under the current ownership, a condom was found on the premises, the company was found to be in operation without a CAMTC licensed individual on the site, a bed was located in the establishment that was not within a designated massage room, and other violations of the Stanton Municipal Code were also identified.

Inspection on January 24, 2017 – The Appellant addressed in the appeal letter the presence of a condom on the floor of a massage room by City staff during this inspection. It is the Appellant's assertion that the unrolled condom had been left behind by the previous business and was only discovered after moving a heavy book shelf. The appellant also stated that the existence of a condom was not a violation of the Stanton Municipal Code Section 20.400.190(D)(9), *Massage Establishments*, which reads: "There shall be no display, storage, or use of any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, including, but not limited to, vibrators, dildos, or condoms, or any goods or items which are replicas of, or which simulate, specified anatomical areas, or pornographic magazines, videos, or other material." The Appellant asserts that the unused condom was neither stored, displayed or used and that the condition of the condom, which was unrolled and covered in dirt and cobb webs, which indicated that the condom had been there for a very long time, prior to her taking ownership. Regardless of the condition of the condom and how it was found, its mere presence at the establishment in a massage room falls within the definition of prohibited sexual paraphernalia and is a violation of the Stanton Municipal Code. The Appellant states that the condom found at the establishment was not in violation of the SMC because it was neither displayed, stored, or used at the facility. Although the condom found at the establishment was not found in a drawer, closet or location which would generally fall under the definition of "storage", the condom was out of its wrapper and had apparently been used. As such, there was evidence of prohibited sexual paraphernalia at the premises.

The Appellant also addressed the presence of a bed found in the employee break room at this inspection. In the staff report to the Planning Commission, the presence of the bed was tied to the code reference in Section 20.400.190.D.6 which states, "No person or persons shall be allowed to live inside the massage establishment at any time. The Appellant stated that the bed found inside the employee area was a futon which was provided to the employees so that they may relax between customers. Based on photos taken by City staff at the inspection, the "futon" was in a flat position and covered with blankets and a pillow, giving the appearance of a bed. Aside from the code reference regarding the prohibition of living within the facility, further in the same code section, the code explicitly prohibits the use of beds, "there shall be no beds located in areas not designated specifically as massage rooms." A futon, although able to be folded up to be in a vertical couch position, has the ability to be folding down into a horizontal bed position. As noted above, the futon at time of inspection was folded down in the bed position. As a futon can be placed into a horizontal bed position, it is categorized as a bed, and therefore a violation of the municipal code. The Appellant also stated that no additional violations were found during this inspection which staff can confirm based on inspection reports.

Inspection on March 9, 2017 - The Appellant noted that the futon that was present in the employee area at the time of this inspection has or will be removed. City staff has not conducted a follow up inspection to verify if the bed (futon) has been removed.

Inspection on May 9, 2017 – In the appeal letter, the Appellant addressed the violation of not having a State certified massage technician on site. The Appellant explained that she and the

certified massage technician went to City Hall that morning to obtain a business license for the massage technician but were told that business licenses were only issued after 1:00 p.m. While returning to City Hall that same afternoon to obtain a business license for the massage technician, City staff arrived at the massage establishment to conduct the inspection only to find that no certified massage technicians were on site. The Appellant further stated that if the City had issued the license in the morning, this would not be an issue and that by obtaining the business license, it is clear evidence of her intentions to comply with all City regulations. Regardless of the fact that the massage technician was at City Hall obtaining a business license, it is the business owner's responsibility to ensure that there is a certified massage technician on site when the business is open to provide massage services. Additionally, the business owner is responsible for complying with all of the regulations of the Stanton Municipal Code. Section 20.400.190.D.2 of the Stanton Municipal Code specifically states, "Each massage establishment shall have at least one person who has a valid CAMTC certification on the premises at all times while the establishment is open for business."

In regard to the issue of the window coverings, the Appellant stated that the window coverings were to prevent outsiders from looking into the employee break area. She further stated in her letter that photos of the window coverings were provided to the City of Stanton in November of 2016 and that City staff members did not find an issue with them in prior inspections. The windows to the employee break room are part of the storefront and staff was enforcing Section 20.400.190.C.4 of the Stanton Municipal Code which provides, "the storefront windows of the massage establishment shall be transparent to provide clear visibility into the unit. The windows shall not be obscured by curtains, blinds, or other temporary devices during operating hours." The Appellant again addressed the issue of the violation of a bed found in the employee area and that steps have been taken to have it removed or replaced. City staff has not conducted a follow up inspection to verify if the bed (futon) has been removed. The Appellant also addressed the violation regarding the requirement for massage establishments to maintain a list of individuals to be made available to City representatives during inspections. The Appellant stated that she was not aware that such a list was required. On the contrary, City staff had informed the Appellant of the operational requirements of the Stanton Municipal Code. When the Appellant applied for a business license in September 2016, Planning staff informed her of the Ordinance related to Massage Establishments and also gave her a copy of said Ordinance. The Appellant further noted that there were no citations issued at the time of this inspection. Stanton Municipal Code does not require the City to issue citations for each and every violation. Moreover, Code violations are not allowed to persist at an establishment merely because a violation was not cited.

Planning Commission's Decision on May 17, 2017 – The Appellant addressed her confusion regarding the Planning Commission's decision to deny her application since four other massage establishments were granted their conditional use permits at the same meeting. The businesses and violations that the Appellant referred to in the appeal letter are:

1. 7010 Katella Avenue - Four inspections resulting in violations including: State Building Code (wall sign and tenant improvements installed without permits), massage therapist with no CAMTC license, window coverings, and no employee list.

2. 10450 Beach Boulevard #104 – Nine inspections resulting in violations including: State Building Code (wall sign and tenant improvements installed without permits), massage therapist with no CAMTC license, employee refusing to cooperate by providing identification resulting in a call to the Orange County Sheriff's Department, beds in employee break area, failure to post hours, individuals without business licenses, window coverings, and no employee list. In addition, citations were issued by the City inspector.
3. 11951 Beach Boulevard – Seven inspections resulting in violations including: Stanton Building Code (wall sign and tenant improvements installed without permits), beds in employee break area, failure to post hours, individuals without business licenses, and window coverings. In addition, citations issued by the City inspector.
4. 12067 Beach Boulevard – Nine inspections resulting in violations including: Stanton Building Code (wall sign and tenant improvements installed without permits), failure to have an individual with a CAMTC license, bed in employee break area, failure to post hours, individuals without business licenses, window coverings, and presence of a wine bottle. In addition, citations were issued by the City inspector.

In the appeal letter, the Appellant questioned how these four massage establishments were granted conditional use permits despite their numerous violations. When evaluating the requests for conditional use permits to allow for a massage establishment to continue operation, City staff evaluates the severity of the violations found during inspections conducted during the history of the business. In addition to the numerous violations including wall sign and tenant improvements installed without building permits, massage therapists on site without CAMTC license, unsanitary conditions, and failure to provide an employee list, Lovely Massage also has a history of sexual paraphernalia being found on the premises during inspections conducted on September 19, 2016 and January 24, 2017, as well as the full historical inspection record dating back to 2014. Staff performs dozens of massage establishment inspections citywide each year, and seldom finds conclusive evidence of sexual paraphernalia. Although most businesses have demonstrated improvements in their compliance with State and City licensing requirements and adherence to the City's Massage Establishment Ordinances adopted in January 2015, staff inspections of Lovely Massage, have shown a decline in business practices, as noted in its inspection history. As stated previously, City staff and Planning Commission review the use at the property as a whole and take into consideration the entire inspection history, not just the inspections that have occurred after the owner took over the business.

The Appellant further states that although she is aware of the City of Stanton ordinance related to massage establishments, there have been significant changes over the last few years. It is important to reiterate that the Appellant applied for the business license when she purchased the business in September 2016 and was informed of, and given a copy of the Ordinance which was adopted in 2015. In addition, the regulations have not been changed, updated, or modified in any way since the new owner took over operations. Notwithstanding the City's notices, the business owner is responsible for understanding the massage establishment

operation regulations and requirements as identified in the Municipal Code. The Appellant has not provided any evidence to dispute the City's inspection records as part of the appeal letter. In the letter, the Appellant does not dispute the fact that, among other things, a condom was found on the premises and unlicensed massage therapists were identified on-site. Although the Appellant worked to correct some of the violations (*i.e.*, maintaining an employee list and taking steps to remove bed in employee break room), the Appellant's actions after the fact do not negate the fact that the violations occurred.

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the California Environmental Quality Act (CEQA) this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION:

Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the agenda-posting process.

STRATEGIC PLAN:

- 1 – Provide a Safe Community
- 2 – Provide a Strong Local Economy

Prepared by,

Reviewed by,


Approved by,



Rose Rivera
Associate Planner



Kelly Hart
Community & Economic
Development Director



James A. Box
City Manager

ATTACHMENTS

- A. City Council Resolution No. 2017-31 upholding denial of C16-22
- B. Letter of Appeal from Business Owner (dated May 30, 2017)
- C. Planning Commission staff report and attachments (dated May 17, 2017)
- D. Letter from City Regarding New Ordinance Regulations (dated January 14, 2015)
- E. Photos from the inspections, including the condoms

RESOLUTION NO. 2017-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT C16-22, A REQUEST TO ALLOW FOR CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 10450 BEACH BOULEVARD #115 IN THE CG (COMMERCIAL GENERAL) ZONE

WHEREAS, in 2015, the City Council adopted Ordinance Nos. 1031 and 1032 to establish new land use and licensing regulations in order to address issues and violations that have been documented in local massage establishments based on City inspections; and

WHEREAS, the Ordinances established new permitting and licensing regulations, operational, sanitation, and attire requirements, as well as established an amortization period of two (2) years for existing massage businesses to come into compliance with the new regulations. The Ordinances also specify that massage establishments can only be located in the Commercial General (CG) zone and must obtain a conditional use permit and massage establishment license in order to operate; and

WHEREAS, on May 17, 2017, the Planning Commission of the City of Stanton held a public hearing to consider Conditional Use Permit C16-22 to allow for the continued use of a massage establishment known as Lovely Massage located at 10450 Beach Boulevard #115; and

WHEREAS, said Commission, after due consideration of all reports and testimony at said hearing, adopted Planning Commission Resolution No. 2427 denying Conditional Use Permit C16-22; and

WHEREAS, on May 30, 2017, Truc Su, owner of Lovely Massage, submitted an appeal of the Planning Commission decision to the City Council, asking for consideration for approval of C16-22; and

WHEREAS, on June 27, 2017, the City Council held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the appeal; and

WHEREAS, the Council has carefully considered all pertinent testimony and information contained in the staff report prepared for this appeal as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: Recitals. The City Council hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: CEQA. Based upon the environmental form the City Council exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: Findings. That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed Conditional Use Permit (CUP) would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." Lovely Massage has been in business for several years and has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. There is substantial evidence that the establishment has allowed illicit activities, such as illicit sexual activities, to occur on the premises. Such evidence includes the observation of condoms inside of massage rooms on two separate inspections. During one of the two inspections, staff observed a pair of ladies' underwear on a massage table in one massage room and a used condom in another room on the massage table.

Although the Appellant stated that violations that occurred before October 2016 when she took ownership of the massage establishment (which include one inspection where a condom was found by City inspectors), City staff takes into account the history of violations in its entirety when making recommendations for conditional use permit requests. Additionally, the Appellant contended that the presence of a condom on the floor of a massage room found by City staff during an inspection conducted after the Appellant took ownership was left behind by the previous owner and only discovered after the Appellant moved a heavy bookshelf. The Appellant asserted that the unused condom was neither stored, displayed or used and that the condition of the condom, which was unrolled and covered in dirt and cob webs, indicated that the condom had been there for a very long time, prior to her taking ownership. Regardless of the condition of the condom and how it was found, its presence at the establishment in a massage room falls within the definition of prohibited paraphernalia and is a violation of the Stanton Municipal Code Section 20.400.190(D)(9), *Massage Establishments*, which reads: "There shall be no display, storage, or use of any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, including, but not limited to, vibrators, dildos, or *condoms*, or any goods or items which are replicas of, or which simulate, specified anatomical areas, or pornographic magazines, videos, or other material." The condom in question was out of its wrapper and appeared to have been used.

Denial of the requested Conditional Use Permit would require the closure of this massage establishment thereby eliminating one source of illicit sexual and nuisance activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments, such as evidence of the use of sexually-related paraphernalia, the occurrence of illicit sexual activity at the establishment, and the use of massage therapists who do not have proper certification from the State. The business is directly adjacent to multifamily housing units to the east and commercial uses including restaurants, retail stores, and personal service businesses to the north, south and west. The violations and likely illicit sexual activity associated with this business are incompatible with businesses catering to the needs of the community at large and the adjacent residential units. Sexual activity is prohibited at the site, and the use of massage technicians who do not have valid State-certification directly and negatively impacts the health, safety, and welfare of the community and residents who use the business' services. Without a State-certification, it is unknown whether the massage therapist has the proper education to provide massage services to customers or are otherwise in good standing with the State, which is the investigatory arm for massage technicians. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these nuisance activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." Moreover, Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity...." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code, including provisions of the Code regulating the operation of Massage Establishments, as well as evidence of illicit sexual activity. The continuation of these nuisances would be detrimental to the overall character of the neighborhood in which it is located. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these illicit activities.

- B. The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the Zoning Code and the Municipal Code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a Conditional Use Permit; however, the existing business has a demonstrated pattern of violations of Section 20.400.190 *Massage Establishments* and SMC 5.04.010 *Business Licenses and Regulations, License Required*. The establishment appears to allow uncertified massage therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of

massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do *not* have valid certification from the State may not provide massage services to customers. Further, Lovely Massage has obstructed in City investigations by not providing information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. In addition, there is substantial evidence that Lovely Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by condoms found in a massage room on two separate inspections. During one of those inspections, a pair of women's underwear was found in a massage room where a male customer was leaving, and in another room where another male customer was leaving, a used condom was found lying on a massage table. Finally, the presence of a bed indicating that someone was living inside the establishment is prohibited by the SMC.

- C. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located on the east side of Beach Boulevard, approximately 150 feet north of Cerritos Avenue. Existing adjacent uses including multifamily dwelling units to the east, a commercial uses including restaurants, retail shops, and personal and professional services to the north, west and south. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illicit activity, including illicit sexual activity. There is substantial evidence that Lovely Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom found in a massage room. During one inspection, a pair of women's underwear was found in a massage room where a male customer was leaving, and in another room where another male customer was leaving, a used condom was found lying on a massage table. Moreover, the establishment appears to allow uncertified therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do *not* have valid certification from the State may not provide massage services to customers. Further, Lovely Massage has obstructed in City investigations by not providing information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. As such, continuation of the existing use at this location would be incompatible with adjacent uses.
- D. The site is unsuitable for the use as operated. The subject property is located on the east side of Beach Boulevard, approximately 150 feet north of Cerritos Avenue, in a 1.5 acre shopping center. In addition to this massage establishment, the shopping center is also home to multiple massage establishments, a restaurant, a nail salon and various retail uses. The site is

located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include include a U.S. Post Office and retail and restaurant uses in the CG (Commercial General) zone to the north, a convenience store and various restaurants in the CG Zone to the south, Continental Garden Apartments in the RH (High Density Residential) zone to the east and the Indoor Swap Meet in the CG zone to the west. Lovely Massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity, including illicit sexual activity. There is substantial evidence that Lovely Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by condoms found in massage rooms on two separate inspections. During one inspection, a pair of women's underwear was found in a massage room where a male customer was leaving, and in another room where another male customer was leaving, a used condom was found lying on a massage table. Moreover, the establishment appears to allow uncertified therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do not have valid certification from the State may not provide massage services to customers. Further, Lovely Massage has obstructed in City investigations by not providing information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code.

Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further states that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance..." Because Lovely Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is deemed to be a Public Nuisance. Therefore, as historically operated, the proposed use is deemed to be a Public Nuisance and continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

SECTION 4: That based upon the above findings and on the entirety of the record including the staff report, written and oral testimony, and this Resolution, the City Council hereby upholds the Planning Commission's denial of Conditional Use Permit C16-22 to allow for the operation of a massage establishment at 10450 Beach Boulevard #115, in the CG (Commercial General) and the General Mixed Use Overlay and denies Appellant's appeal.

SECTION 5: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at

Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 6: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 7: Custodian and Location of Records. The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave., Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 8: Certification. The City Clerk shall certify to the adoption of this Resolution and cause a copy to be transmitted to the City Clerk.

ADOPTED, SIGNED AND APPROVED by the City Council of the City of Stanton at a regular meeting held on June 27, 2017 by the following vote, to wit:

CAROL WARREN, MAYOR

ATTEST:

PATRICIA A. VAZQUEZ, CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

ATTEST:

I, PATRICIA A. VAZQUEZ, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2017-31 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on June 27, 2017, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK



CITY OF STANTON
APPEAL FORM AND HANDOUT

City Clerk's Office
7800 Katella Avenue, Stanton, CA 90680
Phone: (714) 379-9222 Fax: (714) 890-1443

CITY OF STANTON

MAY 30 2017

CITY CLERK'S OFFICE

FOR OFFICE USE ONLY
(DATE STAMP)
CITY OF STANTON
PAID
MAY 30 2017
1057

An appeal shall be filed within ten (10) calendar days after the final action of the Planning Commission.

APPEAL OF: ☒ Planning Commission Decision (\$1,235 fee)

Type of Permit (example: Conditional Use Permit): CONDITIONAL USE Permit Number: C16 22

Address of Project: 10450 BEACH BLVD #115 Decision Date: 5/17/17

APPELLANT INFORMATION

Name of Applicant (Appellant): TRUC SU

Mailing Address: 10450 BEACH BLVD #115 STANTON, CA 90680

Telephone Number: [REDACTED] Email: [REDACTED]

In what capacity is the appellant filing? ☐ Recorded Property Owner ☐ Interested Party ☒ Affected Party

PROPERTY OWNER INFORMATION (IF KNOWN)

Name of Property Owner: STEPHEN ZUKOTYNSKI

Mailing Address: [REDACTED]

Telephone Number: [REDACTED] Email: [REDACTED]

Describe what portion(s) of the decision you are appealing: PLANNING COMMISSION
DENIAL OF CONDITIONAL USE PERMIT ON 5/17/17

Describe the Purpose for Your Appeal (be specific): SEE ATTACHED

APPLICANT CERTIFICATION:

I hereby certify that all information contained in this application is, to the best of my knowledge, true and correct. FALSE OR MISLEADING INFORMATION GIVEN IN THIS APPLICATION SHALL BE GROUNDS FOR DENYING APPLICATION. I hereby grant the City authority to post required public notices.

Signature: [Signature] Date: 05/30/17

Office Use Only: Account Number: 101.0000 433255

ATTACHMENT TO THE APPEAL OF THE PLANNING
COMMISSION DECISION ON 5/17/17

May 26, 2017

City of Stanton
City Clerk's Office
7800 Katella Ave
Stanton, CA 90680

RE: Appeal of Planning Commission Decision Dated 5/17/2017
Lovely Massage & Spa located at 10450 Beach Blvd, Suite 115, Stanton, CA

Dear City Clerk:

I am hereby appealing by this letter the decision of the City of Stanton Planning Commission dated May 17, 2017 in which they denied my application for a use permit to operate a massage and spa under the name of Lovely Massage & Spa located at 10450 Beach Blvd, Suite 115, Stanton, CA (referred to herein as the "Spa")

I am the owner of the business known as Lovely Massage & Spa ("Spa") and have operated the business since on or about the October 1, 2016. My business provides therapeutic massage and other spa services. I have operated as a massage business as an owner without any problems and have always tried to be in compliance within all of the rules and ordinances of the City of Stanton. I have always been in compliance with the laws of the State of California.

I am proud to be a law abiding citizen and I am thankful for the opportunity to continue operating a massage and spa establishment in the City of Stanton. I am hopeful you will allow me to continue to operate my massage and spa business within the City of Stanton and be a contributing member of the business community. I am enclosing herein a letter from the owner of the shopping plaza and a letter from the Fabric Store located next to my business who has known me and both of them were kind enough to prepare a letter showing that I have operated my business properly and without any problems.

I must say that I never thought that I could possibly be denied a conditional use permit to continue to operate my business. I have operated a law abiding business at my location without incident of any of my massage therapist having any criminal complaint filed against them or myself and I have built an excellent reputation in the business community as an honest business owner who provides excellent services consistent with the laws of the City of Stanton, County of Orange, and the State of California. A denial of my conditional use permit would cause me to suffer a great financial harm because I could not operate my law abiding business and I would lose the loyalty of the customers whom I have worked very hard to provide an excellent service. I hope that you will allow me to continue to operate my business.

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City of Stanton
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I must apologize for not completely understanding the proceedings that took place before the Planning Commission on May 17, 2017. I did not understand why the Planning Commission would include violations of the city code that took place before I started my business in October, 2016. The application for a conditional use permit was submitted in November, 2016 according to the documents attached to the report prepared by the Staff at the City of Stanton. They City Staff knew that I could not possibly be responsible for any violations of the Stanton Municipal Code that took place before I took over. Therefore, the Planning Commission should not have considered the first six inspections against me.

Only three (3) inspections that took place after October, 2016 should be considered and those few items that are contained in the City of Stanton Staff Report appear to be taken out of context. I believe that once these items are put into perspective that you will realize that I have always tried to work with the City of Stanton and their representatives. The purpose of this letter is to address the few items that were listed in the Staff Report.

The initial inspection involving my ownership took place on January 24, 2017. The Staff report indicates that they found the presence of a condom on the floor in the massage room. However the Staff report fails to state where they found the condom and in what condition it was in when they found it. First and foremost, I as the owner and any of my staff, very honest and straightforward with the City Inspector in saying that they had absolutely no knowledge of the existence of the condom. The massage room where they found the contains a book shelf that weighs over fifty (50) pounds that was in the same position as when I took over the abandoned business in October, 2016. The City Inspector found the unused condom [unrolled with no apparent fluid inside] that was covered in dirt and cow webs after moving the heavy book shelf. The picture taken by the City Inspector shows the condom covered in dirt and cow webs indicating that it had been there for a long time and I submit was present before I even took over the business in October, 2016, just three months before the inspection. When I took over the business I never thought to move all of the heavy objects that I inherited when I took over the business in October, 2016. However, since this matter was brought to my attention I had all heavy objects moved and had a thorough cleaning of the entire business. I also inspect the massage rooms on a daily basis and have them cleaned every day so that I can make sure that nothing like this happens again.

Furthermore, I have signs in all of the massage rooms that state that sexual activities are expressly prohibited at my business and the fact that none of the massage technicians who have worked there have ever been cited or arrested for doing any illegal activities of a sexual nature at my spa, is clear evidence that I do not tolerate such conduct. I am enclosing with this appeal a copy of the signs that are posted.

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Although I am new to the City of Stanton as of October, 2016, I have read the Stanton Municipal Code, although it is not cited in the Staff Report submitted to the Planning Commission. The Code provides that: There shall be no display, storage or use of any instruments, devices or paraphernalia which are designed for use in any connection with specified sexual activities including, but not limited to, vibrators, dildos, or condoms or any goods or items which are replicas of, or which simulate specified anatomical areas, or pornographic magazines, videos, or other material. Stanton Municipal Code Section 20.400.190 (D)(9).

I believe the Staff Members report is mistaken in that the existence of an unused condom, covered with cow webs and dirt, found only after moving a very heavy object, of which neither myself or nor my massage technicians ever had any knowledge of does not constitute a violation of the Stanton Municipal Code nor does it show that any illegal activity ever took place, and certainly not while I have operated the business. The item found, according to the picture provided by the City Inspector, shows that it was not stored, displayed or used and certainly the fact that it was found after moving such a very heavy book shelf and covered with cow webs, and dirt is clear evidence that it was not done by myself or my staff. In an effort to get along with the City of Stanton staff, no appeal was taken of the administrative citation.

As to the issue of the bed, it is NOT a bed, but a futon that is placed in the employee area to allow the employees and staff to sit and relax between customers. A picture of the employee area, that included the futon, was provided to the City of Stanton, at the time I submitted my application to conduct business back in November, 2016 along with other pictures including a picture of the massage room containing the heavy book shelves. At no time was I ever told that the futon was improper or that I was required to move all heavy objects in my business. There are times in this business where an individual has to wait hours for customers to come into the business and having a comfortable place for the employee to wait is part of providing a good work environment. This issue never came up in any prior inspection by the City of Stanton when the same condition existed during prior inspections. No one lives at my spa and no one has ever been allowed to do so. It should be noted that there were no other alleged violations noted in the Staff report and that an Administrative Citation was not issued for the existence of futon.

The second inspection took place on March 9, 2017, and there were no citations issued and the report notes that the futon, was present. I have now taken steps to have it removed and replaced.

The third inspection took place on May 9, 2017 and noted, in which Staff purportedly observed no massage technician on site that did not have a CAMTC technician on site. However, on the morning of May 9, 2017, I along with a certified massage therapist went to the City of Stanton to obtain her business license. We were told that any business license issued by

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Page 4

the city of Stanton could not be issued until after 1:00 p.m. We went back after 1:00 p.m. to the City of Stanton and obtained the business license for the certified CAMTC license holder so that she could properly work. In between the time we first went that morning and when the City of Stanton finally issued the license the City Inspector showed up. Had the City of Stanton issued the license in the morning this would not have been an issue. However, the fact that I took all steps necessary to comply should be clear evidence of my intention to comply with all of the rules and regulations by the City of Stanton. I am enclosing a copy of the receipt from the City of Stanton on May 9, 2017.

As to the issue of the window coverings, I am enclosing photos of the business and the only portion of the window coverings is to prevent outsiders from looking into the employees break room. Again photos of the condition of the window coverings were provided to the City of Stanton when I applied back in November, 2016 and were not an issue in any of the prior inspections by the City of Stanton Staff Members. As to the issue of the list of all employees, I was never advised that I had to keep a separate list. I have posted each of the business licenses for all individuals who work at the business and I was told by the City of Stanton Staff Members that is all that I had to do. Again, this item was never an issue in any of the prior inspection conducted by the City of Stanton since I took over the business in October, 2016. Finally, as to the futon issue, I have taken steps to have it removed and replaced. It is important to note that there were no citations issued on this date.

I would also like to point out that I am confused by the Planning Commission's decision on May 17, 2017 to deny my application yet they approved the conditional use permits for four other massage establishments who had many more violations than those listed against my business.

Those included the business at 7010 Katella Ave., Stanton, CA, that had four (4) inspections, with no inspections done between the initial inspection in 2014 and a two year gap between 2015 and 2017 and still found violations of the Stanton Building Code, Massage Therapist with no CAMTC License, Tinted Windows and covered windows along with employee roster issues but no citations were ever issued. How is it they were allowed to be approved?

The next business the Planning Commission approved of was 10450 Beach Blvd., Suite 104, Stanton, CA that had nine (9) inspections. However, the Staff Report shows that they also had many more violations, that included violations of the Stanton Building Code, failure to have an individual with a valid CAMTC license, an employee who refused to cooperate and provide ID that resulted in calling the Orange County Sheriff's Office, violations as to having a bed, failing to post hours, window coverings, individuals not having the appropriate business licenses and citations were issued by the City of Stanton Inspectors. How is it they were allowed to be approved?

The next business the Planning Commission approved of was 11191 Beach Blvd., Stanton, CA that had seven (7) inspections. However, the Staff Report shows that also had many more violations, that included violations of the Stanton Building Code, violations as to having a bed, failing to post hours, window coverings, individuals not having the appropriate business licenses and citations were issued by the City of Stanton Inspectors. How is it they were allowed to be approved?

The next business the Planning Commission approved of was 12067 Beach Blvd., Stanton, CA that had nine (9) inspections. However, the Staff Report shows that they also had many more violations, that included violations of the Stanton Building Code, failure to have an individual with a valid CAMTC license, violations as to having a bed, failing to post hours, window coverings, individuals not having the appropriate business licenses, and finding the presence of a wine bottle and citations were issued by the City of Stanton Inspectors. How is it they were allowed to be approved?

I am aware the requirements issued by the CAMTC and the ordinances of the City of Stanton, although there have been significant changes over the last few years, regarding the operation of a massage business and I have always tried to work with the City of Stanton Staff members to make sure that I am in compliance with all of the rules and regulations.

I have hired the services of a consultant who is very familiar with the CAMTC compliance and procedures and the City of Stanton ordinances who will continue to guide me in the operation of my massage business should you grant my appeal and allow me to continue to operate in your city. He will be present to speak on my behalf before the City Council when they hear this appeal. He has also reviewed with me the massage ordinances issued by the City of Stanton so that I can continue to operate as a law abiding member of the business community.

In addition to the hiring of the business consultant, I welcome regular input from the City of Stanton Staff should they require additional documentation from myself or my employees so that I can operate in full compliance of all rules and regulations of the City of Stanton and the laws of the State of California. I intend to keep in touch with the City of Stanton Planning Dept. on a regular basis to make sure that I am in compliance with the rules and regulations.

I am hoping the City Council will look at the fact that each time I have been notified of issues regarding the operation of my massage and spa business that I have fully complied and made the necessary corrections so that there is no repeat of the alleged violations. I am asking you to note that I run a legitimate business and there is no evidence of any illegal conduct or any sexual activity at my business. My business neighbors recognize that I run a good and legitimate business and that they note no problems with my business or their business by allowing me to operate at the location.

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My massage and spa business provides a tremendous benefit to the citizens of the City of Stanton as well as the financial well being of the other members of the business community and will continue to do so in the future. I am enclosing herewith an article from Men's Health Magazine one of the largest and most respected magazines published with a circulation that is in the millions and distributed worldwide. In that article entitled "The Benefits of Massage" it goes on to state all of the benefits that an individual can achieve through the receipt of regular massage therapy. It also goes on to cite highly credible studies of the benefits of massage therapy as set forth in professional journals such as "The Clinical Journal of Pain", "Journal of Conditioning and Strength Research", "Journal of Clinical Psychiatry", and the "Journal of Alternative and Complementary Medicine".

My business and the individual massage therapists that work at the location will continue to provide all of these benefits that include, but are not limited to, relief of upper, middle and lower back pain, neck pain, constipation, depression, high blood pressure and improved athletic performance. Furthermore, the success of my business allows other businesses in the area to benefit because the customers are quality individuals who will frequent other businesses in the same shopping center and the area that will help those businesses be successful and will add jobs and reduce the unemployment within the city limits and ultimately add to the economy and sales taxes that the City of Stanton will receive.

Therefore, I am asking you to grant my Application For a Use Permit to allow me to continue to operate my business because it will allow me to make money to support my family. I have suffered through the bad economy over the last few years but I have still worked hard to support my family and provided a quality place for other individuals to work and provide for their families. Now that the economy is getting better, although it is still a financial struggle, I would like to be able to operate my massage therapy business and be an upstanding and productive member of the business community here in the City of Stanton. I would be devastated financially if I am not allowed to continue to operate my business.

I am hopeful that you will approve my Application For A Use Permit and grant my appeal. Thank you for your courtesy and consideration in this matter.

Stephen Zukotynski

May 25, 2017

City of Stanton
7800 Katella Ave
Stanton, CA 90680

Dear Sir/Madam

I am the landlord for Lovely Massage located at 10450 Beach Blvd., Unit 115. The current tenant Ms. Su has been leasing the premises since October 1st, 2016.

Ms. Su has always paid the rent on time and kept the area clean. Since Ms. Su has been leasing the unit, I do not know of any violations committed by her business nor had the city contacted me about any violations. They are very respectful of the other tenants and I have not received any complaints against Lovely Massage by other tenants. The police were never called for any disturbance at her business.

Sincerely,



Stephen Zukotynski

Chi Tran
Fabric Outlet and Crafts
10450 Breach Blvd
Unit 116
Stanton, CA 90680

May 25, 2017

City of Stanton
7800 Katella Ave
Stanton, CA 90680

Dear Sir or Madam:

I am the owner of the fabric store and my business neighbors
Lovely Massage which is located in unit 115. I have no complaints
about the tenants who own Lovely Massage. They keep the area
around them nice and clean, they do not cause any disturbance and
I have not seen the police get called to their business. I find the
tenants to be respectful and have no issues about being their
neighbor.

Sincerely,

A handwritten signature in black ink, appearing to be 'Chi Tran', written in a cursive style.

Chi Tran

**DEAR LOVELYMASSAGE
CUSTOMER,**

**DUE TO THE LAW CODE CITY OF
STANTON STATE OF CALIFORNIA AND
LOVELYMASSAGE THAT YOU ARE NOT
ALLOW TO PERFORM ANY SEXUAL
ACTIVITY IN THIS PLACE. IF YOU AND
THE MASSAGE THERAPIST DECIDE TO
BREAK THE RULE (LAW) WHICH YOU
ARE TAKING THE RISK IN YOUR OWN
HAND AND FULLY RESPONSIBLE FOR IT.**

**THANK YOU FOR YOUR
UNDERSTANDING.**

Massage Tech



CITY OF STANTON APPLICATION FOR A BUSINESS CERTIFICATE

7800 Katella Ave., Stanton, CA 90680

(714) 890-4230 • Fax (714) 890-1443 • Website www.ci.stanton.ca.us

Business Name Kim Anh Thi Bui
 Business Owner Kim Anh Thi Bui
 Business Address 10450 Beach Blvd. #110 Stanton, CA 90680
 (R, Street, City, State, Zip Code)
 Mailing Address [REDACTED]
 (If different from Business Address)
 Business Phone [REDACTED] Home Phone [REDACTED]
 Fax [REDACTED] Email [REDACTED]
 Home Address [REDACTED]
 (R, Street, City, State, Zip Code)

Type of Business (Provide a fully detailed description, attach additional sheets if necessary)

Massage Technician

CITY OF STANTON

PAID me

MAY 09 2017

Ownership Type ☐ Corporation ☐ Partnership ☒ Sole Proprietor ☐ Other

If Corporation, List Officers and Titles

AUTHORIZATION #

\$296

Federal/State Employer ID No. [REDACTED] State Sales Tax No. [REDACTED]
 State License No. [REDACTED] Class [REDACTED]
 Owner's Drivers License No. [REDACTED] Social Security No. [REDACTED]
 Opening Date at This Location [REDACTED] Social Security No. (Partnership) [REDACTED]
☐ New Business ☐ New Owner (List Previous Owner) [REDACTED]
☐ Business Name Change (List Previous Name) [REDACTED]
☐ Address Change (List Previous Address) [REDACTED]
☐ Legal Status Change [REDACTED] ☐ Other [REDACTED]

I declare under the penalties of perjury that this application and any attachments thereto, have been examined by me and to the best of my knowledge and belief represent a true, correct and complete statement of facts.

☐ Under penalty of perjury, I declare that this business entity or ownership has not been convicted of any criminal offense which directly relates to the operation of the same type of business as desired in Stanton. I understand any violation in the last three years shall be grounds for denial or revocation.

Applicant's Signature [Signature]

Date 05/09/2017

FOR OFFICE USE ONLY

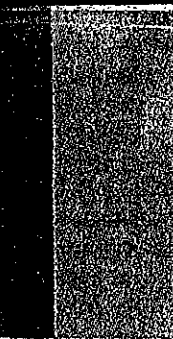
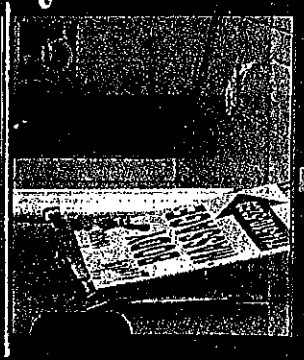
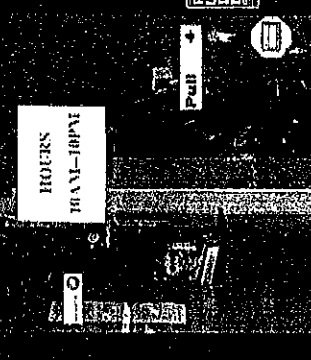
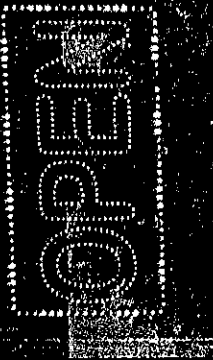
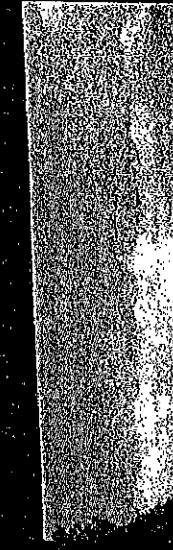
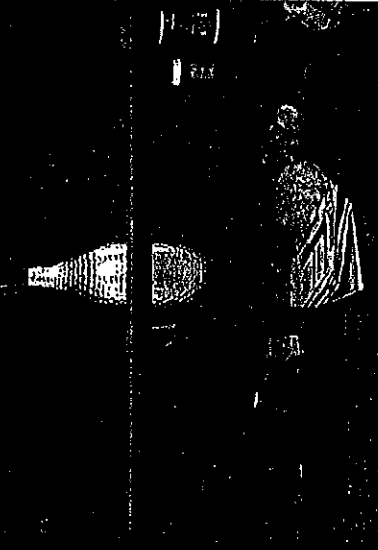
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Lic. Type		Bus. Type		SB-1186	\$1	NFC Fee	\$45
Additional Approval by		Home Occ.		Other		App. Review	\$100
Remarks	Sublease @ Lovely Massage (30499)				Total:	296	

Copy of
☐ Fict. Business Statement (DBA)
☐ Sellers Permit
☐ Articles of
☐ Statement of Info
☐ Medical License
☐ Authorization Letter (Notarized)
☐ Other

INVESTIGATION FOR COMPLIANCE

CUP? [REDACTED] Zoning C6 Comments "Approval for Massage technician at stated location only" (10450 Beach Blvd)

Planning Approval [Signature] Date 5/9/17 ☐ FOG Approval (if applicable) [REDACTED] Date [REDACTED]
☐ Hold for Tenant Improvements ☐ Building Approval (if applicable) [REDACTED] Date [REDACTED]



115

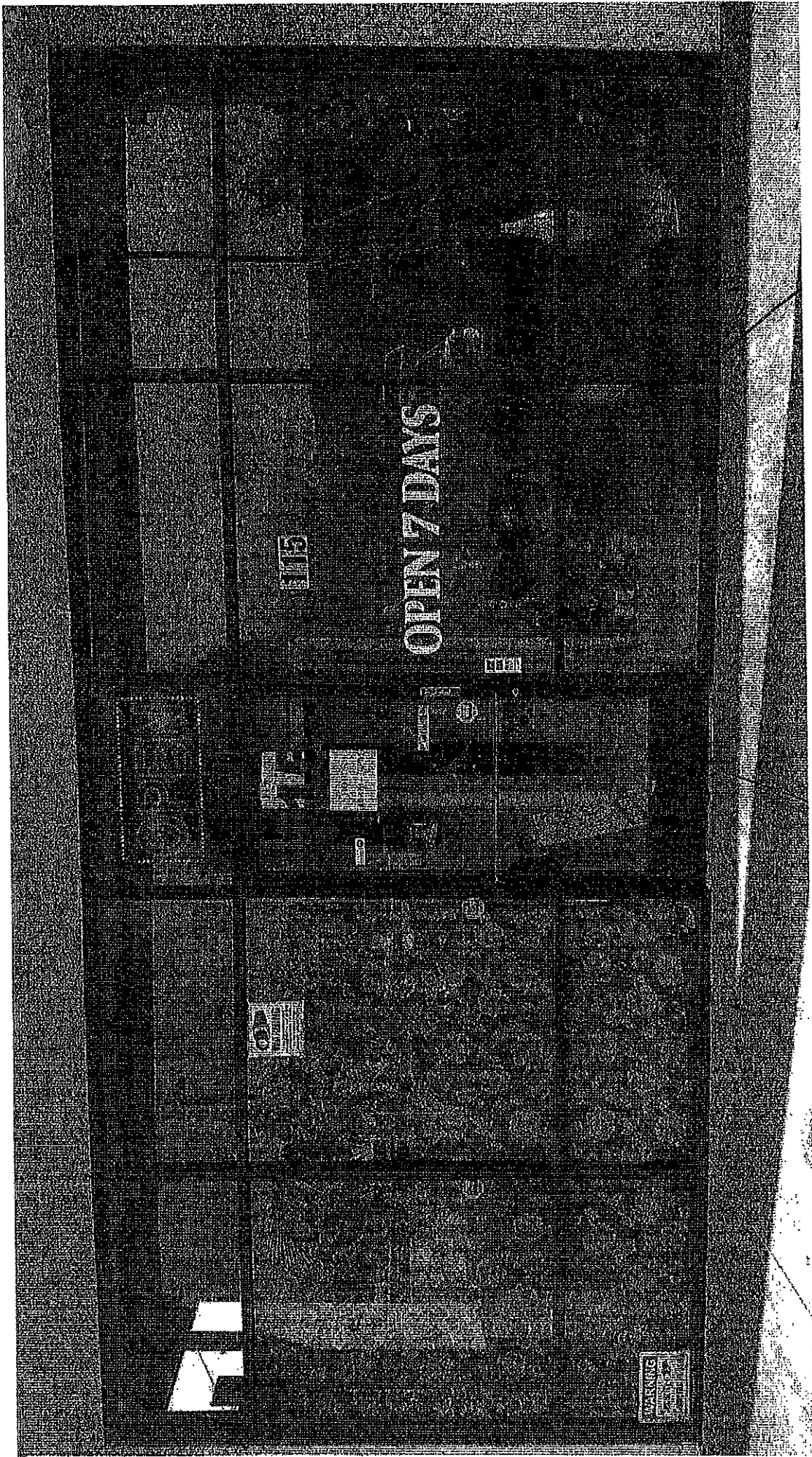
OPEN 7 DAYS

115

HOURS
10AM-10PM

PUB





Men's Health

THE BENEFITS OF MASSAGE

Fix It with Massage

Massages are more than just indulgences. They're proven health and mood treatments. Find out how they can benefit you

Neck Pain massages over 10 weeks. Sound good? People with **Ten neck** chronic neck pain reported a 55 percent improvement after this regimen, according to a 2009 study in the *Clinical Journal of Pain*. They even scored 39 percent better on the worst-sounding test ever, the Neck Disability Index. (It assesses the pain's impact.)

Athletic Performance

"Musculotendinous" massages target muscle-tendon junctions, and a 2010 study in the *Journal of Strength and Conditioning Research* found that even a 30-second round improved hip-flexor range of motion. Try it: Find where muscle meets tendon just behind and above your knee, and rub the spot in small circles with your thumb.

Stress

You don't need a full-body rubdown to feel good. In a 2010 study from Sweden, one 80-minute hand-and-foot massage significantly lowered people's heart rates, cortisol levels, and insulin levels—all of which help lower stress.

Depression

Take your pick: Swedish, shiatsu, and other massage types may ease depression, a 2010 meta-analysis in the *Journal of Clinical Psychiatry* found. How? Massages reduce stress hormone levels, heart rate, and blood pressure, and boost mood and relaxation by triggering the release of oxytocin and serotonin.

High Blood Pressure

A study in the *Journal of Alternative and Complementary Medicine* found that after people with normal blood pressure had deep-tissue massage for 45 to 60 minutes, their BPs fell—specifically, by an average of 10.4 millimeters of mercury (mm/Hg) systolic, and 5.3 mm/Hg diastolic.

Lower-Back Pain

Back problems can be complex. One solution is simple: Common massage techniques can help you relax, and trigger an endorphin release that raises your threshold for pain. And that might help people with all sorts of lower-back pain, notes a 2009 meta-analysis in the journal *Spine*.

Constipation

Would you like an abdominal massage with that laxative? Yes, you would: A 2009 Swedish study found that people who received a massage along with traditional constipation treatment felt significantly better than those who stuck with just laxatives.

<http://www.menshealth.com/health/massage-benefits>

0450 BEACHE BLVD 115
STANTON, CA 90680

Wendell



CITY OF STANTON REPORT TO THE PLANNING COMMISSION

TO: Chairperson and Members of the Planning Commission

DATE: May 17, 2017

SUBJECT: PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT C16-22 TO ALLOW FOR THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT LOCATED AT 10450 BEACH BOULEVARD, SUITE 115.

RECOMMENDED ACTION

That the Planning Commission:

- Conduct a public hearing;
- Declare that the project is categorically exempt per the California Environmental Quality Act (CEQA), under Section 15301 (Existing Facilities); and
- Adopt Resolution No. 2427 denying Conditional Use Permit C16-22.

BACKGROUND

In 2008, the State Legislature adopted Senate Bill 731, which created the California Massage Therapy Council, a state-organized nonprofit organization with regulatory authority over the certification of massage practitioners throughout the State of California. Senate Bill (SB) 731 also limited the City's regulatory authority over massage establishments that exclusively hire State-certified massage technicians, preempting most local licensure and permitting requirements and land use regulations. Accordingly, the City amended the Stanton Municipal Code ("SMC") to comply with the regulations set forth in SB 731.

Senate Bill 731 was set to sunset or be reconfirmed by the end of 2014. The State Legislature analyzed the effects of SB 731 and how it impacted local jurisdictions and

law enforcement activities. Specifically, the legislative author of Bill 1147, which reversed portions of SB 731, stated:

"Unfortunately, the current massage therapy law [SB 731] had serious unintended consequences; with bad actors masquerading as legitimate massage professionals exploiting loopholes in current law to insulate themselves against the ability of local governments and law enforcement to shut them down. This bill [AB 1147] will give that power back to the cities and counties, which will go a long way towards eliminating the brothel owners and human traffickers who are hurting women, hurting neighborhoods, hurting the profession, and hurting California." (AB 1147, Assem. Analysis, Aug. 29, 2014.)

In response to the results of the analysis and input from cities, the State Legislature adopted, and Governor Jerry Brown signed AB 1147. AB 1147, which went into effect on January 1, 2015, allows local agencies to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments, while the regulations for permitting technicians was maintained at the state level.

To establish new land use and licensing regulations consistent with AB 1147, and to address issues and violations that have been documented in local massage establishments based on City inspections, the City Council adopted Ordinance Nos. 1031 (urgency) and 1032 (non-urgency) in 2015 to amend portions of the municipal code related to massage establishments. Among other things, the Ordinances established new permitting and licensing regulations, and operational, sanitation, and attire requirements. The City's operation, sanitation, and attire regulations, as set forth in Stanton Municipal Code Section 20.400.190, became effective when Ordinance Nos. 1031 and 1032 became effective on January 13, 2015, and February 26, 2015, respectively.

Ordinance Nos. 1031 and 1032 also require that both existing and new massage establishments within the CG (Commercial General) Zone obtain both a Conditional Use Permit (CUP) for massage services and a Massage Establishment License within two years of the ordinances' effective date. As such, existing massage establishments in the Commercial General Zone are required to have a CUP by May 31, 2017. New businesses would need to obtain both approvals prior to operating.

A Conditional Use Permit allows the Planning Commission to consider specific characteristics and the proposed location of an individual use when deciding whether to approve or deny establishment of the proposed use. A Conditional Use Permit also allows the Commission to attach conditions of approval to a permit that would limit adverse impacts to surrounding uses and properties.

The Applicant, Truc Su, owner of Lovely Massage, is requesting approval of a Conditional Use Permit to allow continued operation of an existing massage business.

The existing massage establishment is located at 10450 Beach Boulevard, Suite 115, near the northeast corner of Beach Boulevard and Cerritos Avenue. The proposal requires approval of the following:

- Conditional Use Permit (C16-22) – The reference to massage establishments per Ordinance No. 1032, Table 2-5 in Section 20.215.020 of the SMC requires a Conditional Use Permit for the use within the CG (Commercial General) zone as well as a Massage Establishment License per the requirements of Section 5.16 *Business Licenses and Regulations; Massage Establishments* of the SMC.

ANALYSIS/JUSTIFICATION

PROJECT LOCATION/DESCRIPTION – The subject property is located at 10450 Beach Boulevard, Suite 115, a 1.5 acre parcel located near the northeast corner of Beach Boulevard and Cerritos Avenue. In addition to this massage establishment, the shopping center, C & S Plaza, is home to a number of businesses including several massage establishments, a nail salon, a restaurant, and various retail uses.

The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include a U.S. Post Office and retail and restaurant uses in the CG (Commercial General) zone to the north, a convenience store and various restaurants in the CG Zone to the south, Continental Garden Apartments in the RH (High Density Residential) zone to the east and the Indoor Swap Meet in the CG zone to the west.

OPERATIONS – Lovely Massage opened in September 2011, according to City business license information. According to the applicant's narrative, Lovely Massage has four employees. The business operates in an 800 square foot unit and has three private massage rooms, a table shower room, a waiting area, an office/employee lounge, unisex restroom and a storage room. Lovely Massage is open daily from 10 am to 10 pm.

CITY INSPECTIONS AND CITATIONS - Staff has inspected the site on nine occasions between 2014 and 2017 and noted the following violations of State or Local Codes:

First Inspection (2014) – During the first inspection, staff noted the following violations of the Stanton Municipal Code: Exterior Wall Sign installed with no permits (SMC 20.325.040 (A) *Sign Permit, Permit Required*); tenant improvements installed with no building permits (SMC 16.04.010 *Californian Building Code Adopted – California Building Code 105.1 Permit Required*); and, a massage technician and receptionist working without a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*).

Second Inspection (December 2, 2014) – Staff observed receptionists and massage technicians working without business licenses (SMC 5.04.010 *Business Licenses and Regulations, License Required*). Citations for this violation were issued to the receptionist, business owner, and property owner. The citations were not disputed by any of the parties and the fines were paid to the City.

Third Inspection (February 11, 2015) – During the third inspection, staff noted the following violation of the SMC: A massage technician who was on-site did not have a valid CAMTC license or a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). Staff also noted the following violation of SMC 20.400.190.E *Sanitation Requirements*: The table shower room was found to be in an unsanitary condition, smelled of stale, sitting water, and dirty towels were found on the floor. The City cited the massage technician for not having a CAMTC and business license, and the business owner was cited for unsanitary conditions. The citees did not contest the citations and paid the fines. The property owner, who was cited for allowing a massage technician to operate at the business without a CAMTC and City business license, appealed and paid for the citation. At the appeal hearing, the Administrative Hearing Officer found that the citation was validly issued to the property owner and upheld it. The property owner did not further appeal.

Fourth Inspection (March 22, 2016) – The fourth inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; failure to display massage business licenses in a public area; failure to display massage technicians' CAMTC licenses in a public area; and failure to provide functioning lockers for the storage of employees personal belongings. Also, a massage technician who was on site did not have a valid CAMTC license or a business license (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The massage technician was cited for not having a valid CAMTC license or a business license. The citee did not contest the citation and paid the fine.

Fifth Inspection (May 12, 2016) – During the fifth inspection, staff noted the following violations of the SMC: failure to have at least one massage technician with a valid CAMTC license on the premises while the establishment is open for business (SMC 20.400.190.D *Massage Establishments*); and employees working without business licenses (SMC 5.04.010 *Business Licenses and Regulations, License Required*). The City cited the employees and the business owner for not having business licenses. The citations were not disputed by the parties, and the fines were paid to the City.

Sixth Inspection (September 19, 2016) – Staff inspected Lovely Massage on September 19, 2016. When staff arrived, they were greeted by the owner who came out of the employee office area. Two other workers were observed in the employee area and coming out of a room with a customer. While performing the inspection, staff observed a customer coming out of a massage room where a pair of ladies' underwear was found on the massage table along with stains on the sheets. Another customer was observed coming out of another room with his pants' zipper still open, and when staff entered the room, they found a used condom on the massage table, indicating that sexual activity likely took place at the massage establishment. When City staff asked an employee about the used condom, the employee gestured that she did not know about it and proceeded to throw it away. The use of sexual paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities are

prohibited by the SMC related to Massage Establishments. An administrative citation for operating a business without a business license (SMC 5.04.010) was issued to the business owner. Additional citations were issued to the two employees for not having business licenses. The City cited the unlicensed employees and the business owner, and the citees, with the exception of one employee who has not yet paid the fine, did not contest the citation and paid the fines.

Seventh Inspection (January 24, 2017) - The seventh inspection yielded the following violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: the presence of a condom located on the floor of a massage room, indicating that sexual activity likely took place at the massage establishment. The use of sexual paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities are prohibited by the SMC related to Massage Establishments. After City staff witnessed the presence of the condom, one of the employees disposed of it.

Further, staff noted the following violation of the SMC Section 20.400.190 *Massage Establishments*: A bed was found in the employee's area. The SMC provides, "no person or persons shall be allowed to live inside the massage establishment at any time." Beds are an indication that someone may be living within the establishment, which is a violation of the SMC. Moreover, the City has concerns that having beds in rooms other than massage rooms may facilitate illicit activity such as prostitution and human trafficking. Staff informed the employees to remove the bed.

The business owner, who was cited for having sexual paraphernalia (a condom) at the premises, did not contest the citation and paid the respective fine.

Eighth Inspection (March 9, 2017) – Staff again observed a bed in the employee's area and again informed the employees to remove it from the premises.

Ninth Inspection (May 9, 2017) – Staff noted the following violation of Stanton Municipal Code Section 20.400.190 *Massage Establishments*: a bed was found in the employee's only area, the store front windows were covered, a list of all persons employed was not provided and no valid CAMTC certified massage technicians were onsite.

Staff performs dozens of massage establishment inspections citywide each year, and seldom finds conclusive evidence of sexual activity. Indeed, most businesses have demonstrated improvements in their compliance with State and City licensing requirements and adherence to the City's Massage Establishment Ordinances adopted in January 2015. Staff inspections of Lovely Massage, however, show a decline in business practices, as noted above.

Stanton Municipal Code Section 20.550.060 (B) requires that six findings be made prior to approval of a Conditional Use Permit. These findings require that a use be consistent with the Goals and Policies of the General Plan and be a conditionally permitted use within the district the use is proposed to be located. The findings also address the

suitability of the use's location, compatibility with surrounding uses, how the use would be operated, and whether the use would be detrimental to neighboring properties and people. Several of these findings cannot be made because of the establishment's SMC violations.

There is substantial evidence that Lovely Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by condoms found in massage rooms on two separate City inspections. Sexually-related paraphernalia within a massage establishment is strictly prohibited by the City and its Code. Further evidence that sexually-related activity has or is occurring at Lovely Massage includes a City inspection in which City staff observed a pair of women's underwear on a massage table in a massage room and a used condom lying on a massage table in another room. Sexually-oriented activity within a massage establishment is strictly prohibited by the City and its Code. Taken as a whole, it is highly likely that illicit sexual activity has or is occurring on the premises.

Moreover, there is evidence that the establishment allows uncertified therapists to provide services to customers, as evidenced by staff's observation of a non-CAMTC certified massage technician at the site who acknowledged the violation by accepting and paying for an administrative citation. Operating without a valid CAMTC license directly harms the health, safety, and welfare of the community because the State only certifies massage technicians who have the requisite education and training to provide massages. Certified technicians have paid the appropriate fees to the State and are in "good standing" with the State, which investigates massage technicians, as necessary. Massage technicians may not legally provide massage services to customers without a valid State-certification.

Further, Lovely Massage has obstructed in City investigations by not providing the City with an employee register, as required by the SMC. This violation results in the City being unable to fully evaluate the establishment's business operations, and demonstrates that business establishment is not operating cooperatively with the City or transparently.

Stanton Municipal Code Section 20.400.190 (I) *Massage Establishments, Nuisances* further provides that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance...". Because Lovely Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is a public nuisance. Therefore the continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

The attached draft resolution includes the required findings and reasons why they cannot be made for this proposed use. For these reasons staff recommends the Planning Commission adopt the attached draft resolution denying the requested Conditional Use Permit.

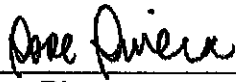
ENVIRONMENTAL IMPACT

In accordance with the requirements of the CEQA this project has been determined to be categorically exempt under Section 15301(Existing Facilities).

PUBLIC NOTIFICATION

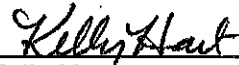
Notice of Public Hearing was mailed to all property owners within a five hundred-foot radius of the subject property, posted at three public places, and made public through the regular agenda-posting process.

Prepared by,



Rose Rivera
Associate Planner

Approved by,



Kelly Hart
Community Development Director

ATTACHMENTS

- A. Planning Commission Resolution No. 2427
- B. Vicinity Map
- C. Narrative
- D. Site and Floor Plans
- E. Site and Inspection Photos

RESOLUTION NO. 2427

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF STANTON, CALIFORNIA, DENYING CONDITIONAL USE PERMIT C16-22; A REQUEST TO ALLOW THE CONTINUED OPERATION OF A MASSAGE ESTABLISHMENT FOR THE PROPERTY LOCATED AT 10450 BEACH BOULEVARD, SUITE 115 IN THE CG (COMMERCIAL GENERAL) ZONE; SUBMITTED BY TRUC SU (LOVELY MASSAGE)

WHEREAS, pursuant to Cal. Const. Art. XI, Sec. 7 and under the City's general police powers, the City of Stanton ("City") is empowered and charged with responsibility for the health, safety, and welfare of its citizens; and

WHEREAS, the City is authorized by State law, including, without limitation, Government Code Section 51030 *et seq.* and Business & Professions Code Section 16000 *et seq.* to regulate massage establishments; and

WHEREAS, in 2014, Governor Jerry Brown signed Assembly Bill 1147 (AB 1147), which restored local agencies' ability to impose reasonable zoning, business licensing, and health and safety requirements on massage establishments; and

WHEREAS, among other things, AB 1147 set forth the Legislature's intent that "broad control over land use in regulation of massage establishments be vested in local governments so that they may manage those establishments in the best interests of the individual community"; and

WHEREAS, in response to AB 1147, the City enacted a comprehensive and reasonable permitting scheme to regulate massage establishments in the City, as codified in Stanton Municipal Code Chapter 5.16 and Section 20.400.190. The City's regulatory scheme requires a massage establishment to obtain a Conditional Use Permit in order to locate a massage establishment in the City's Commercial General Zone and requires an operator to obtain a massage establishment permit in order to operate a massage establishment. Additionally, the City's regulatory scheme allows the City to impose conditions of approval upon a massage establishment to protect residents' health, safety, and welfare; and

WHEREAS, the City enacted its massage establishment regulatory scheme because of the increase in police and code enforcement calls for service to many massage establishments that had opened in the City following the passage of Senate Bill 731 ("SB 731") (2008). SB 731 had removed the City's power to regulate massage establishments; and

WHEREAS, following the passage of SB 731, dozens of massage establishments located in the City, and City inspectors found violations at many of those establishments including illegal tenant improvements to create massage rooms, unauthorized massage technicians and personnel, violations of employment and labor laws, unsanitary facility conditions, including evidence of used contraceptive devices, massage technicians dressed inappropriately, including the exposure of specified anatomical areas, establishments operating beyond approved hours of operation, persons using the

establishments as a residence, installation of illegal signage, and employees refusing to allow City inspections of the establishments; and

WHEREAS, when the City updated its massage regulations in 2015, it afforded existing massage establishments in the Commercial General with a period of two years to conform to the City's new zoning and permitting requirements. That two-year period expires on May 31, 2017; and

WHEREAS, on November 17, 2016, Applicant Truc Su (Lovely Massage) submitted an application for a Conditional Use Permit to operate a massage establishment in the City of Stanton; and

WHEREAS, on May 17, 2017, the Planning Commission of the City of Stanton, after giving notice thereof as required by law, held a public hearing concerning the requested conditional use permit to allow for the operation of a massage establishment within an 800 square foot unit located in a commercial shopping center at 10450 Beach Boulevard, Suite 115 in the CG (Commercial General) zone; and

WHEREAS, staff has reviewed the environmental form submitted by the Applicant in accordance with the City's procedures. Based upon the information received and Staff's assessment of the information, the project has been determined to be categorically exempt pursuant to the California Environmental Quality Act (CEQA), Section 15301 (Existing Facilities); and

WHEREAS, staff has inspected the business on eight separate occasions and noted numerous violations of Stanton Municipal Code Section 20.400.190 *Massage Establishments* including: a massage technician working without a CAMTC certification; failure to maintain a register of all employees and independent contractors working at the establishment and failure to provide such a register upon request of the City; the presence of a condoms in massage rooms indicating that sexual activity had taken place at the massage establishment ; the use of paraphernalia, such as condoms, which are designed for use in connection with specified sexual activities; the presence of a bed indicating that someone was living inside the establishment; and

WHEREAS, the Commission has carefully considered all pertinent testimony and information contained in the staff report prepared for this application as presented at the public hearing; and

WHEREAS, all legal prerequisites have occurred prior to the adoption of this resolution.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF STANTON DOES HEREBY FIND:

SECTION 1: The Planning Commission hereby finds that all of the facts, findings and conclusions set forth above in this resolution are true and correct.

SECTION 2: Based upon the environmental form the Planning Commission exercises its independent judgment and finds that the project, as conditioned hereby, is categorically exempt from environmental review under the California Environmental Quality Act, Section 15301 (Existing Facilities) because the project involves an existing massage establishment with negligible or no expansion of the existing use.

SECTION 3: That in accordance with the findings as set forth in Section 20.550.060 of the Stanton Municipal Code:

- A. Approval of the proposed Conditional Use Permit (CUP) would be inconsistent with the following General Plan goals and strategies:

Goal CHS-4.4 is to "provide safe communities by discouraging criminal activity." Lovely Massage has been in business for several years and has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments. There is substantial evidence that the establishment has allowed illicit activities, such as illicit sexual activities, to occur on the premises. Such evidence includes the observation of condoms inside of massage rooms on two separate inspections. During one of the two inspections, staff observed a pair of ladies' underwear on a massage table in one massage room and a used condom in another room on the massage table. Denial of the requested Conditional Use Permit would require the closure of this massage establishment thereby eliminating one source of illicit sexual and nuisance activity in this neighborhood.

Strategy LU-1.1.2 of the General Plan is to "ensure adjacent land uses are compatible with one another." The existing massage establishment has a demonstrated pattern of violating provisions of the Stanton Municipal Code governing massage establishments, such as evidence of the use of sexually-related paraphernalia, the occurrence of illicit sexual activity at the establishment, and the use of massage therapists who do not have proper certification from the State. The business is directly adjacent to multifamily housing units to the east and commercial uses including restaurants, retail stores, and personal service businesses to the north, south and west. The violations and likely illicit sexual activity associated with this business are incompatible with businesses catering to the needs of the community at large and the adjacent residential units. Sexual activity is prohibited at the site, and the use of massage technicians who do not have valid State-certification directly and negatively impacts the health, safety, and welfare of the community and residents who use the business' services. Without a State-certification, it is unknown whether the massage therapist has the proper education to provide massage services to customers or are otherwise in good standing with the State, which is the investigatory arm for massage technicians. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these nuisance activities.

Goal LU-6-1 is to "ensure compliance with the city's land use code to improve the overall character of Stanton's neighborhoods." Moreover, Goal CHS-4.4 is to

"provide safe communities by discouraging criminal activity...." The requested CUP would allow the continued operation of a massage establishment with a demonstrated history of violations of the Stanton Municipal Code, including provisions of the Code regulating the operation of Massage Establishments, as well as evidence of illicit sexual activity. The continuation of these nuisances would be detrimental to the overall character of the neighborhood in which it is located. Denial of the requested CUP would require closure of the existing massage establishment thus eliminating these illicit activities.

- B. The proposed use is allowed within the applicable zone; however, as operated does not comply with applicable provisions of the Zoning Code and the Municipal Code. The subject property is located within the CG (Commercial General) zone. Per Ordinance No. 1032, under Section 20.215.020(C), Table 2-5 of the Stanton Municipal Code (SMC), massage establishments are a permitted use in the CG zone subject to approval of a Conditional Use Permit; however, the existing business has a demonstrated pattern of violations of Section 20.400.190 *Massage Establishments* and SMC 5.04.010 *Business Licenses and Regulations, License Required*. The establishment appears to allow uncertified massage therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do *not* have valid certification from the State may not provide massage services to customers. Further, Lovely Massage has obstructed in City investigations by not providing information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. In addition, there is substantial evidence that Lovely Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by condoms found in a massage room on two separate inspections. During one of those inspections, a pair of women's underwear was found in a massage room where a male customer was leaving, and in another room where another male customer was leaving, a used condom was found lying on a massage table. Finally, the presence of a bed indicating that someone was living inside the establishment is prohibited by the SMC.
- C. The operating characteristics of the proposed activity would be incompatible with the existing and future land uses in the vicinity. The subject property is located on the east side of Beach Boulevard, approximately 150 feet north of Cerritos Avenue. Existing adjacent uses including multifamily dwelling units to the east, a commercial uses including restaurants, retail shops, and personal and professional services to the north, west and south. The existing massage establishment has a demonstrated history of operating in violation of Stanton Municipal Code provisions intended to prevent illicit activity, including illicit sexual activity. There is substantial evidence that Lovely Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by a condom found in a massage room. During one inspection, a pair of women's

underwear was found in a massage room where a male customer was leaving, and in another room where another male customer was leaving, a used condom was found lying on a massage table. Moreover, the establishment appears to allow uncertified therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do *not* have valid certification from the State may not provide massage services to customers. Further, Lovely Massage has obstructed in City investigations by not providing information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code. As such, continuation of the existing use at this location would be incompatible with adjacent uses.

- D. The site is unsuitable for the use as operated. The subject property is located on the east side of Beach Boulevard, approximately 150 feet north of Cerritos Avenue, in a 1.5 acre shopping center. In addition to this massage establishment, the shopping center is also home to multiple massage establishments, a restaurant, a nail salon and various retail uses. The site is located in the CG (Commercial General) zone and carries a General Plan land use designation of General Commercial. Surrounding zoning and uses include include a U.S. Post Office and retail and restaurant uses in the CG (Commercial General) zone to the north, a convenience store and various restaurants in the CG Zone to the south, Continental Garden Apartments in the RH (High Density Residential) zone to the east and the Indoor Swap Meet in the CG zone to the west. Lovely Massage has a demonstrated pattern of violating applicable provisions of the Municipal Code, including the provisions of Section 20.400.190 *Massage Establishments*, which are intended to prevent illegal and illicit activity, including illicit sexual activity. There is substantial evidence that Lovely Massage has allowed or facilitated illicit sexual activity to occur on the premises, as evidenced by condoms found in massage rooms on two separate inspections. During one inspection, a pair of women's underwear was found in a massage room where a male customer was leaving, and in another room where another male customer was leaving, a used condom was found lying on a massage table. Moreover, the establishment appears to allow uncertified therapists to provide services to customers, which directly harms the health, safety, and welfare of the community. The State's certification of massage therapists ensures that the therapist has the required training to provide services, have paid their fees, and are in good standing. Massage therapists who do not have valid certification from the State may not provide massage services to customers. Further, Lovely Massage has obstructed in City investigations by not providing information about its employee register, which results in the City being unable to fully evaluate the establishment's business operations, as required by the Stanton Municipal Code.

Stanton Municipal Code Section 20.400.190 (l) *Massage Establishments, Nuisances* further states that "any massage establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a

public nuisance..." Because Lovely Massage has a demonstrated pattern of violating the SMC provisions applicable to the operation and Massage Establishments, it is deemed to be a Public Nuisance. Therefore, as historically operated, the proposed use is deemed to be a Public Nuisance and continuation of this use at this location would adversely affect the public convenience, health, interest, safety and general welfare, constitute a nuisance, and be materially detrimental to the improvements, persons, property, or uses in the vicinity and zone in which the property is located.

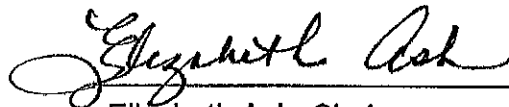
SECTION 4: That based upon the above findings and on the entirety of the record including the staff report, written and oral testimony, and this Resolution, the Planning Commission hereby denies Conditional Use Permit C16-22 to allow for the operation of a massage establishment at 10450 Beach Boulevard, Suite 115, in the CG (Commercial General) zone.

SECTION 5: The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at Stanton City Hall, 7800 Katella Ave. Stanton, California 90680. The Community Development Director is the custodian of the record of proceedings.

SECTION 6: If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

ADOPTED, SIGNED AND APPROVED by the Planning Commission of the City of Stanton at a regular meeting held on May 17, 2017 by the following vote, to wit:

AYES:	COMMISSIONERS:	<u>Ash, Greer, Moua, Taylor</u>
NOES:	COMMISSIONERS:	<u>None</u>
ABSENT:	COMMISSIONERS:	<u>None</u>
ABSTAIN:	COMMISSIONERS:	<u>Grand</u>

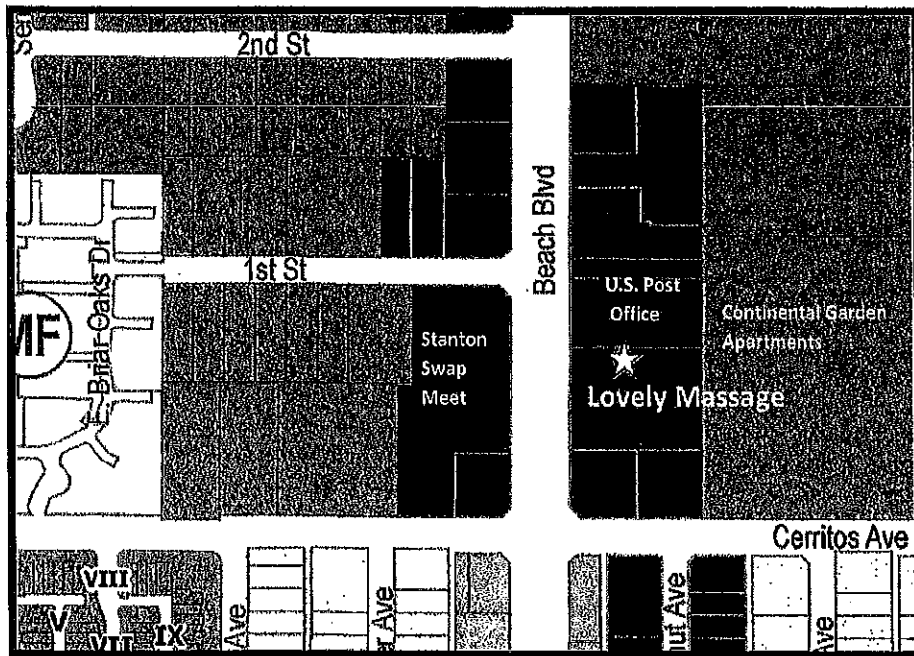
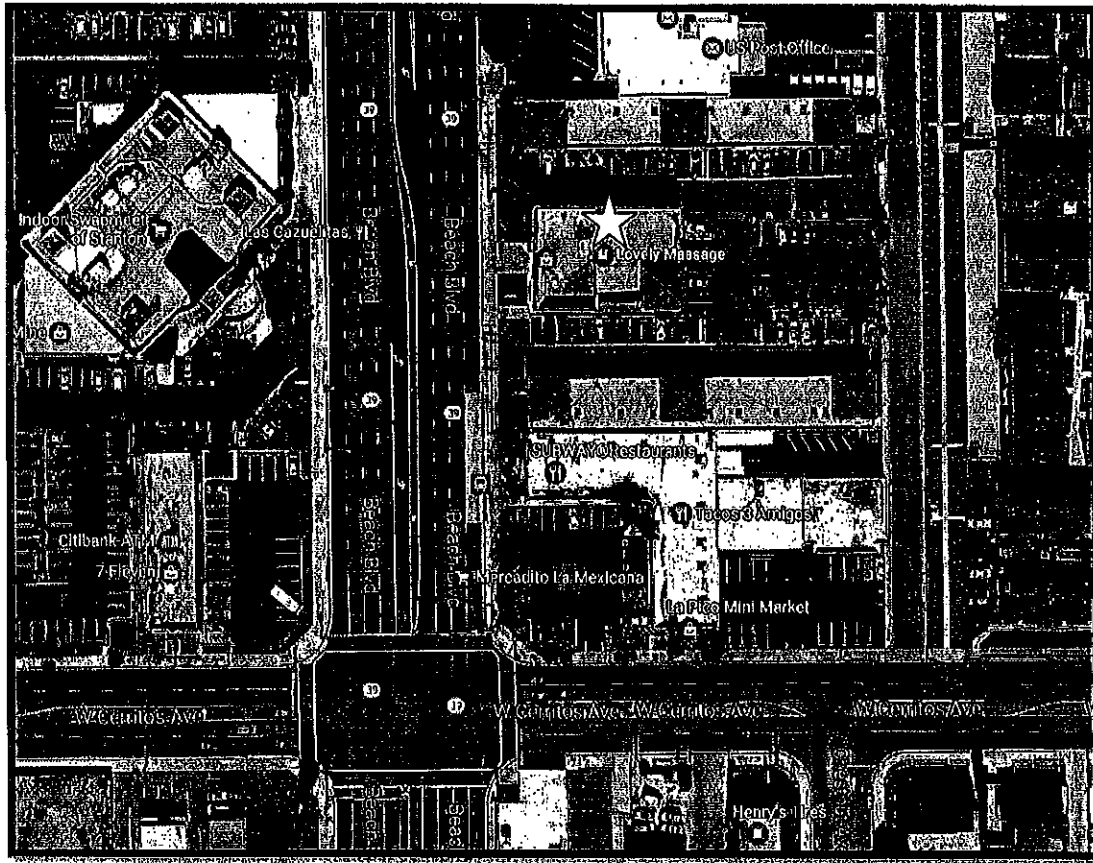


Elizabeth Ash, Chairperson
Stanton Planning Commission



Kelly Hart
Community Development Director

VICINITY MAP
10450 Beach Blvd. #115



**LOVELY MASSAGE
TRUC T. SU
10450 BEACH BLVD., #115
STANTON, CA 90680**

**RECEIVED
NOV 17 2016
COMMUNITY DEVELOPMENT**

NARRATIVE EXPLAINING PROPOSED OPERATIONS

Dear City of Stanton Planning Division/Commission,

Lovely Massage has been a tax paying business, in the city of Stanton since 2011.

On September 28, 2016, Ms. Su, a sole proprietor, bought the business for \$34,000 from Minh Thao Tran. Ms. Tran **did not** inform Ms. Su regarding the nonconforming status of the massage establishment business and the amortization requirements. (City Ordinance #1032.) Ms. Tran and Ms. Su traveled together to the County, and Stanton City Hall that same day. Ms. Tran abandoned the business, and Ms. Su was approved for change of ownership for the business license. Ms. Su was "made aware of CUP¹ app and given copy of ordinan."

On September 30, 2016, Ms. Su signed a three-year lease with Stephen Zukotynski, the owner of the shopping center. Mr. Zukotynski **did not** know about Ordinance #1032, either. This lease will expire on September 31, 2019, and encompasses \$51,000 worth of fees. Also, Mr. Zukotynski required the lease to be guaranteed.

The amount of investment in the business at this point is \$85,000, depending on how you view the lease. This business has a remaining useful life of forever in this community. The opportunity of relocation in the City of Stanton is far less than granting a CUP at this location. The cost for relocation would be equal to, or greater than, the original price paid for this business, \$34,000.

On October 5, 2016, Ms. Su received notice by mail from the City of Stanton regarding the "Expiration of Amortization Period for Massage Establishments", dated September 27, 2016. The full impact of City Ordinance #1032 was finally understood by the undersigned. **In short, Ms. Su could be forced to close her business by May 31, 2017.**

In 2014, Lovely Massage made one improvement at the establishment; i.e., a shower/table shower room for the patrons. Ms. Tran applied for the permit, submitted a site plan, floor plan and water plan for the improvement. All plans

¹ Conditional Use Permit.

LOVELY MASSAGE
TRUC T. SU
10450 BEACH BLVD., #115
STANTON, CA 90680

were approved by the city of Stanton as reflected in the plans attached herein.

Currently, Lovely Massage has generated four jobs, with three more jobs expected in the future, and is open for business from 10AM-10PM, seven days a week. This establishment is approximately 800 square feet in size and encompasses six rooms. The six rooms consist of one employee lounge, three massage therapy rooms, one shower/table shower area, and one restroom. This business complies with ADA (Americans with Disability Act) requirements. It is facilitated with electric, gas, water, two mini refrigerators—one for water and one for employee's food, a washer and dryer for sanitation purposes, central air conditioning and heating, security cameras, three massage tables, one shower table and numerous other furniture. There are no persons using this establishment as a residence. It does not promote sexual activity and has signs posted in each room admonishing this behavior.

Lovely Massage provides therapeutic services for the surrounding residents and has many benefits. Benefits of massage therapy include stress relief. Stress has a lot to do with the tension you feel in your shoulders; it can also affect your heart and your blood pressure. Working out muscle tension during a massage makes chronic pain, as well as acute or short-term stress, much easier to overcome. It also improves posture. Bad posture can quickly become a bad habit – massage loosens muscles and joints to reinforce the body's natural movements. A weekly massage also increases circulation. Muscle tension constricts your circulation – massage helps release those chronically tense and tightened muscles to increase blood flow and help flush toxins out of your body. Relaxation of the mind and body are important issues in life. How often and how long are you actually able to disconnect from life? Massage has been shown to help the body enter a relaxing rest-and-recovery mode - an effect that lingers long after the massage is over. Proper breathing is important also. One of the telltale signs of anxiety and stress is constricted breathing. Massage can play an important role in relieving respiratory issues and training the body how to relax. Lovely Massage strives to help reduce stress, improve posture, increase circulation and relaxation for the residents of Orange County.

Lovely Massage also provides therapeutic services to help combat the daily problems in the mind and body. It is a proven fact that massage produces

LOVELY MASSAGE
TRUC T. SU
10450 BEACH BLVD., #115
STANTON, CA 90680

behavioral changes in the *mind* that include, angry outbursts, drug or alcohol abuse, over- or under-eating, social withdrawal, tobacco use, anxiety, irritability, lack of motivation or focus, restlessness, sadness or depression. A professional massage also produces changes in the *body* for chest pain, fatigue, headache, sinus, muscle tension, pain, sleep and upset stomachs.

Lovely Massage has only incurred minor city violations in the past with no police calls to the undersigns knowledge. These violations included; (1) failing to have a register/list of all persons employed; (2) the massage business/technician licenses were not plainly displayed in a public area; (3) an independent contractor did not have a city business license; (4) employee lockers were not provided; and (5) one employee was not properly clothed. *Since Ms. Su acquired ownership, she has complied with all these violations.* Mr. Su went to city hall and registered all her employees; posted her business/massage technician licenses in a public area; she initiated two new business licenses; purchased an employee locker; redecorated; and instructed her employees to dress properly at all times. In addition, Ms. Su hired a sanitation engineer/janitor, to properly clean the establishment for the health, safety and general welfare of the public. There are no unwashed sheets or trash. (See pictures.)

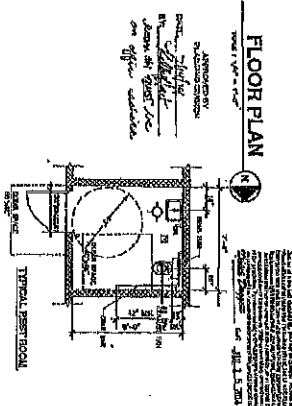
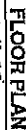
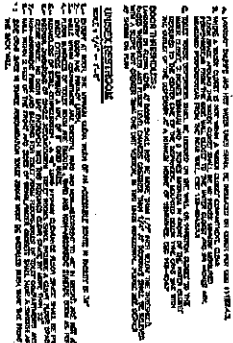
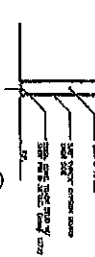
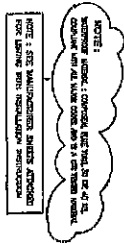
In sum, Lovely Massage is adequate in size, shape, location, and topography to accommodate said use, and all yards, spaces, walls, and fences, parking, loading and landscaping are adequate to properly adjust such use with the land and uses in the vicinity; the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; the proposed use will have no adverse effect upon abutting property from the permitted use thereof, nor will it conflict with the Comprehensive General Plan.

Respectfully submitted *for approval* by:

/s/ 
Gary Beecher, Consultant

/s/ 
Truc Su, Owner

10450 BEACHE BLVD., SUITE 115, STANFON, CA 94388

[illegible]

4-1 THE PLAN / FLOOR PLAN / REST ROOM AREA
4-2 FURNITURE PLAN / SEATING & SERVICE PLAN
FOOTNOTES: CHAIRS & LEMONS & SPONGE PLAYS

[illegible]

ANALYTICAL CHEMISTRY

NEW INDEPENDENT TALKS

(12) The approach

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JAN 10 1964

61	112 West 40th St
62	220 West 107th St

D-67

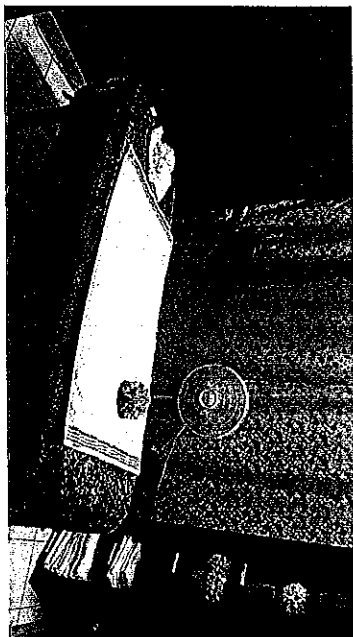
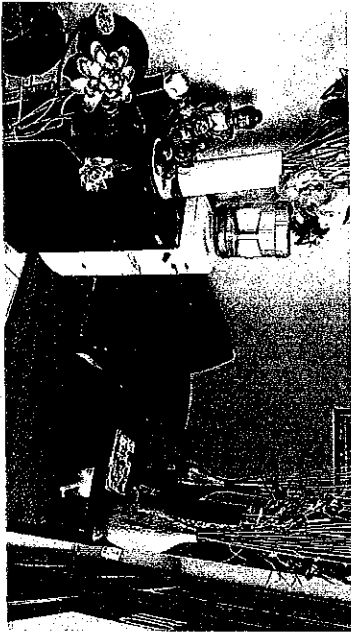
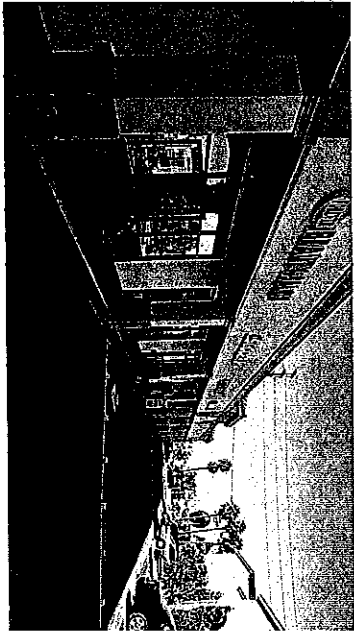
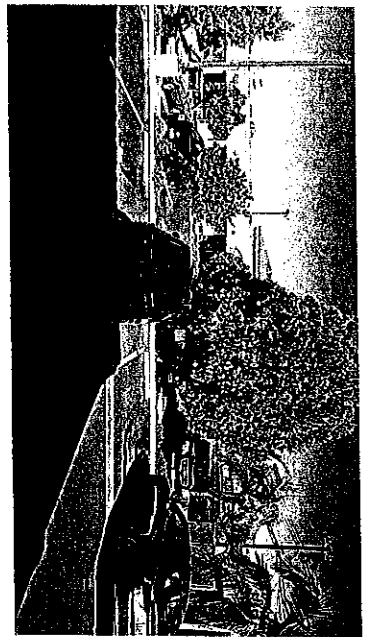
☒ **YES** **NO**

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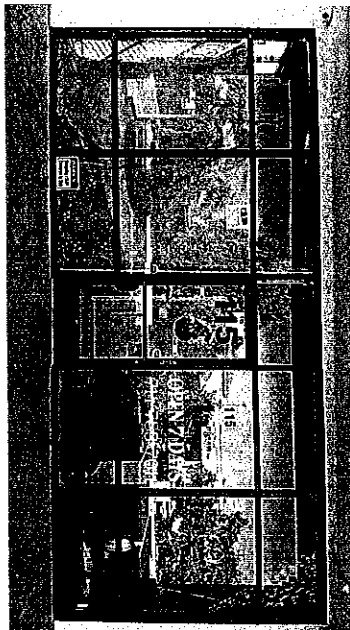
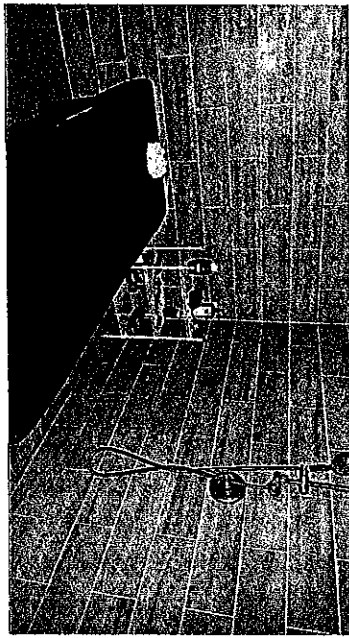
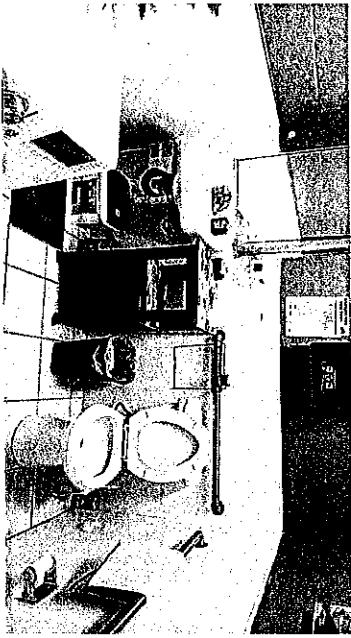
TENANT IMPROVEMENT FOR LOVELY MASSAGE
JOE ANDERSON ; 14140 BEACH BLVD. SUITE 115, SUNTHER, CA 92880
CUBANA

SITE PLAN
FLOOR PLAN
REFLECTED CEILING PLAN

DATE : 20-11	
SHEET : 1/8 - T-1 ^a	
DRAWN BY :	
CHECKED BY :	
DATE OF ISSUE :	
SCALE OF DRAWING :	
TITLE : TRANSPORTATION	
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ATTACHMENT E



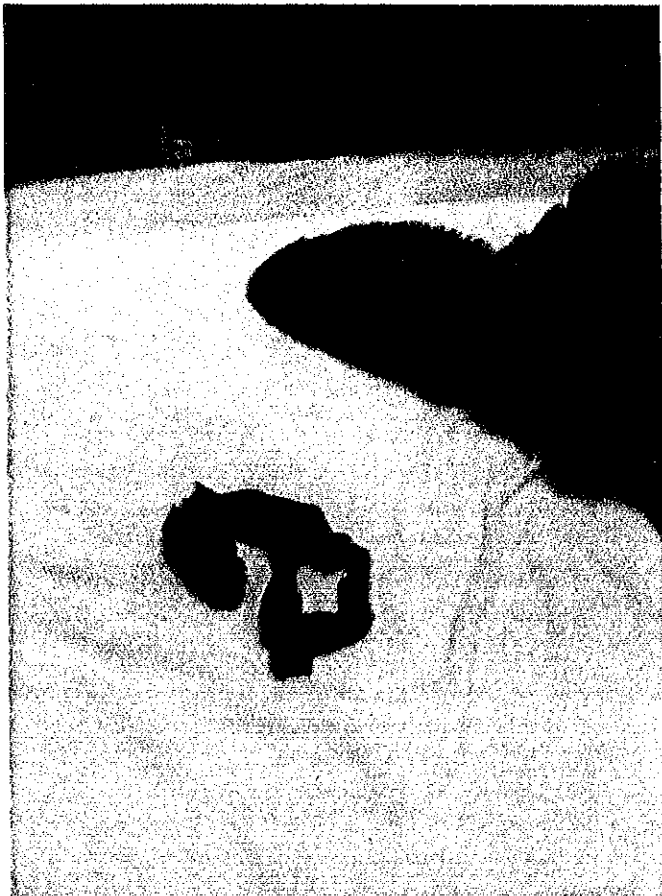
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COMMUNITY DEVELOPMENT

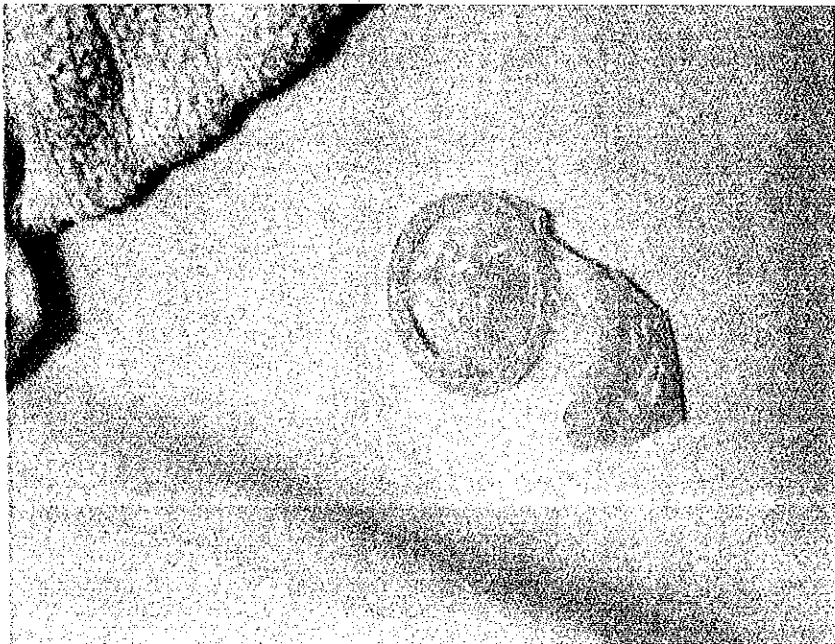
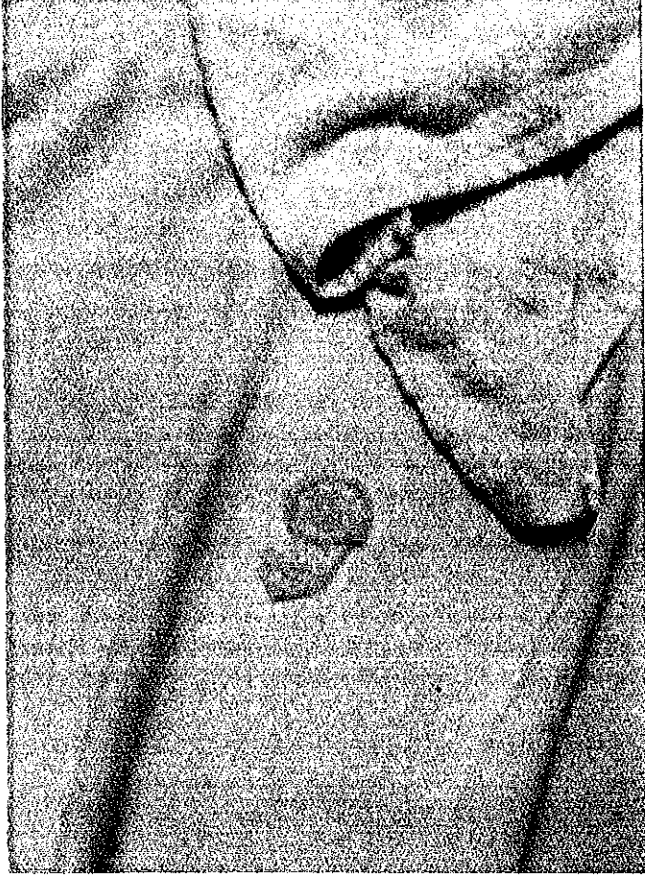
LOVELY MASSAGE - INSPECTION PHOTOS
SEPTEMBER 19, 2016

LADIES' UNDERWEAR FOUND ON MASSAGE TABLE



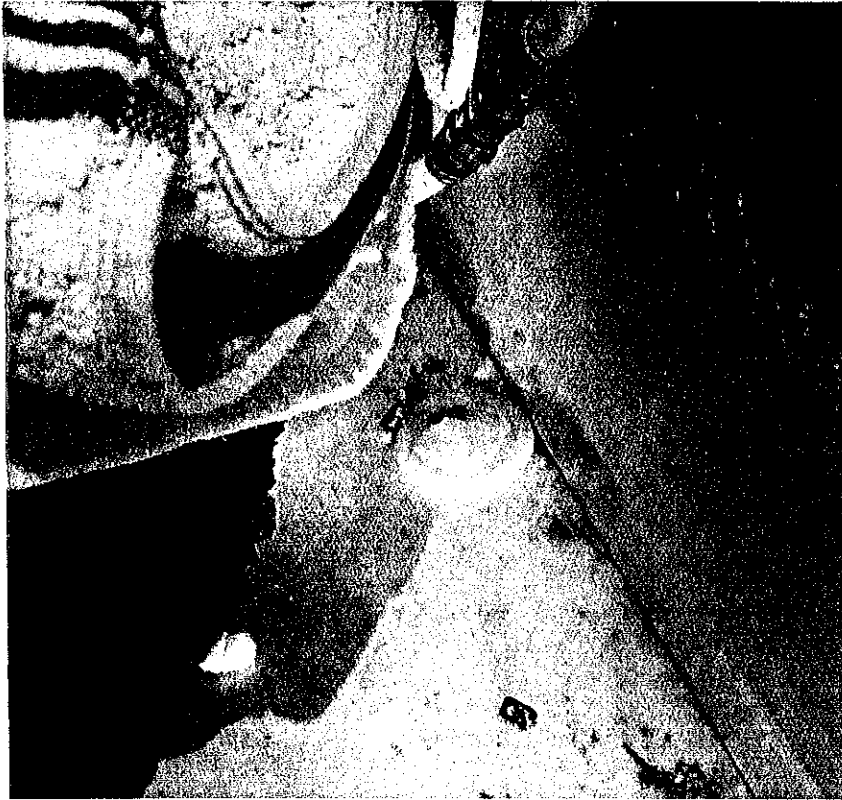
LOVELY MASSAGE - INSPECTION PHOTOS
SEPTEMBER 19, 2016

CONDOM FOUND ON MASSAGE TABLE



LOVELY MASSAGE - INSPECTION PHOTOS
JANUARY 24, 2017

CONDOM FOUND ON FLOOR IN MASSAGE ROOM





September 27, 2016

Brian Donahue
Mayor

Carol Warren
Mayor Pro Tem

Alexander A. Ethans
Council Member

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

James A. Box
City Manager

Lovely Massage
Minh Thao Tran
10450 Beach Blvd. #115
Stanton, CA 90680

RE: Expiration of Amortization Period for Massage Establishments

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1032 ("Ordinance"), which sets forth new regulations for the permitting and operations of new and existing massage establishments. This Ordinance became effective on January 13, 2015, and provided existing businesses a two-year period—an "amortization period"—to continue operating under previous City regulations. **You are receiving this letter as a reminder that your business must come into compliance with the Ordinance by May 31, 2017.** Below is a brief overview of the regulations. For a complete list of regulations and requirements, please refer to the attached Ordinance.

Massage Establishments located in the CG Zone: The adopted Ordinance provides that that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits. **If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply and be approved for a Conditional Use Permit and a Massage Establishment License. This process must be completed by May 31, 2017.** If you fail to apply for the necessary applications, or your applications are denied, the massage operations will be required to cease.

Massage Establishments located in the CN Zone: If your business is located in the CN (Commercial Neighborhood) zone, the massage establishment will need to cease operations or operations must be changed into a permitted use by May 31, 2017.

You may also apply for an extension of the two-year amortization period, as described above. The deadline to submit an application for an extension of a massage establishment amortization period is **November 30, 2016**. Applications are available at City Hall and an applicable fee will be required when the application is submitted.

If you have any questions regarding this letter, the City's massage regulations or have questions about which zone your existing business is located in, please contact the Planning Division at (714) 379-9222.

Sincerely,

Kelly Hart
Community Development Director

7800 Katella Avenue
Stanton, CA 90680
Phone (714) 379-9222
Fax (714) 890-1443
www.ci.stanton.ca.us



January 14, 2015

Alexander A. Ethans
Mayor

Brian Donahue
Mayor Pro Tem

Rigoberto A. Ramirez
Council Member

David J. Shawver
Council Member

Carol Warren
Council Member

James A. Box
City Manager

Lovely Massage
Minh Thao Tran
10450 Beach Blvd. #115
Stanton, CA 90680

RE: New Massage Establishment Regulations – May affect your business operations

On January 13, 2015, the City Council adopted Urgency Ordinance No. 1031 which sets forth new regulations for the permitting, and operations of new and existing massage establishments. This ordinance became effective immediately upon adoption on January 13, 2015. **You are receiving this letter to inform you that your business is subject to the regulations of this new Ordinance.**

The adoption of Ordinance No. 1031 created new zoning, permitting, and operating requirements for new and existing massage establishments in the City of Stanton. Below is a brief overview of the new regulations. For a complete list of new regulations and requirements, please refer to the attached Ordinance.

Zoning Regulations: The adopted Ordinance indicates that Massage Establishments may be permitted in the CG (Commercial General) zone, subject to approval of required permits, while Massage Establishments would be prohibited in the CN (Commercial Neighborhood) zone. Please contact the Planning Division to identify which zone your existing business is located in. If your business is located in the CN (Commercial Neighborhood) zone, it would be subject to a two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). At the conclusion of the amortization period, the business would need to cease operations. An extension to the amortization period may be possible, if you are able to meet the burden of proof as stipulated in the Ordinance.

Permitting: If your existing business is located in the CG (Commercial General) zone, to continue operations, you must apply, and be approved for a Conditional Use Permit, and a Massage Establishment License. This process must be completed within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). If you fail to apply for the necessary applications, or your applications are denied, business operations would be required to cease after the two year amortization period. You may also apply to extend the amortization period if you are able to meet the burden of proof as stipulated in the Ordinance.

Regulations for Establishment Operations: In addition to zoning and permitting requirements, the City has established a list of regulations that new and existing businesses must abide by. For the complete list of requirements, please refer to

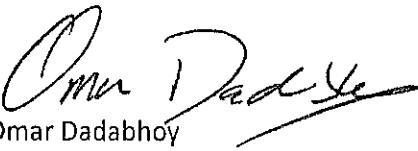
7800 Katella Avenue
Stanton, CA 90680
Phone (714) 379-9222
Fax (714) 890-1443
www.ci.stanton.ca.us

Exhibit B of the Ordinance. In regards to the effective date of the regulations, Section 20.400.190.C in the Ordinance establishes new facility requirements for massage establishments. These regulations may require additional construction or modifications to the establishment. As such, existing establishments would need to make the required modifications within the two year amortization period, initiated from the adoption date of the Ordinance (January 13, 2015). For the other regulations identified in Section 20.400.190.D-F in the Ordinance, they become effective upon the adoption of the Ordinance, and all existing massage establishments must immediately comply with the regulations.

The information listed above provides a brief overview of the new regulations for Massage Establishments. For a complete list of the regulations, the Ordinance has been attached for your review.

If you have any questions regarding the requirements of the ordinance, please contact Kelly Hart of my staff at (714) 890-4228.

Sincerely,

A handwritten signature in black ink, appearing to read "Omar Dadabhoy", with a stylized flourish at the end.

Omar Dadabhoy
Community and Economic Development Director

Lovely Massage Inspection Photos



Underwear found on massage table –
September 19, 2016



Condom found on massage table –
September 19, 2016



Condom found on massage room floor –
January 24, 2107

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: July 11, 2017

SUBJECT: RESOLUTION TO TRANSITION TO DISTRICT ELECTIONS

REPORT IN BRIEF:

The City is considering transitioning to by-district elections. The first step in transitioning to district-based elections is adoption of a resolution of intention. Staff has prepared a resolution of intention to transition from at-large to district-based elections pursuant to Government Code Section 34871 and Election Code Section 10010 for the 2018 general municipal election. The purpose of this report is to present the resolution for Council consideration.

RECOMMENDED ACTION:

1. Discussion on the proposed Resolution to Transition to District Elections, Resolution No. 2017-32; and
2. Declare that the project is not subject to the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Moreover, this Ordinance is statutorily exempt from further CEQA review under Section 15262 (feasibility and planning studies); and
3. That the City Council adopt Resolution No. 2017-32, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS PURSUANT TO CALIFORNIA ELECTION CODE SECTION 10010(e)(3)(A)".

BACKGROUND:

Effective January 1, 2017, Election Code section 10010 was amended to provide a process for the City to transition from at-large to district-based elections, which, if followed, limits the City's exposure to legal fees and costs owed to a potential plaintiff alleging a violation under the California Voting Rights Act (Government Code Section 14025 *et seq.* [the "CVRA"]). The resolution presented to the City Council for consideration is consistent with this process. Transitioning to district-based elections utilizing this process will limit the City's exposure to potential litigation expenses and will also serve the purposes underlying the CVRA.

ANALYSIS/JUSTIFICATION:

Summary of Law Authorizing the Adoption of a Resolution of Intention to Transition to District-Based Elections.

As a result of legislative amendments which took effect January 1, 2017, the City has the ability to enact an ordinance transitioning to by-district elections, pursuant to Government Code section 34886. To do so, the City must first hold a number of public hearings to determine district boundaries. This option, if selected, will enable the City to cap attorney's fees and costs owed to a potential plaintiff at \$30,000.

Elections Code section 10010(e), added by AB 350, requires a prospective plaintiff under the CVRA to first send a demand letter to the political subdivision before filing an action in court, and prohibits filing an action within 45 days of the city's receipt of the letter. Upon receipt of the written demand, the city has 45 days to pass a resolution outlining its intention to transition from at-large to by-district elections, the specific steps it will take to facilitate this transition, and the estimated time frame for doing so. If this resolution is passed, a prospective CVRA plaintiff shall not file an action within 90 days of the passage of the resolution.

If an ordinance transitioning to by-district elections is adopted, Elections Code section 10010(f), provides that the prospective plaintiff who sent the letter may make a demand upon the city for reasonable costs incurred to send the letter within 30 days of the adoption of the ordinance. The agency shall reimburse the prospective plaintiff who sent the demand letter the reasonable costs claimed, or an amount to which the parties agree, within 45 days, but that cost is capped at \$30,000.00, adjusted annually to the CPI.

There are two general steps for transitioning to by-district elections: (1) adopting an ordinance transitioning to by-district elections, and (2) engaging in the public hearing process required to set district boundaries. The process for transitioning to by-district elections was simplified by recent legislation that became effective on January 1 of this year.

Adopting an Ordinance Transitioning to By-District Elections

Transitioning to by-district elections may be done by the City Council enacting an ordinance pursuant to Government Code section 34886, provided that the ordinance includes a declaration that it is being adopted to further the purposes of the CVRA. Under this method, the City Council will need to determine whether it wants to have a mayor elected at-large, with the remaining seats chosen through a by-district election process (with either four, six, or eight voting districts). If the City Council chooses not to have an elected mayor, it has the option of establishing five, seven, or nine voting districts.¹

Setting District Boundaries

Prior to adopting an ordinance to transition to by-district elections, the City Council is required to establish district boundaries and the sequencing of district elections. Elections Code section 10010 sets forth the City Council public hearing process for establishing district boundaries and the sequencing of district elections. This process requires a series of noticed public hearings during which the public has a right to provide input on proposed district boundaries. Specifically, the City must hold at least two “clean slate” hearings at which the public can provide input on district boundaries before any maps are prepared. Thereafter, the City must hold at least two public hearings to consider draft maps. Finally, the City must hold a public hearing at which the map is adopted and sequencing of district elections is established. The map and sequencing must be approved by ordinance.

The creation and approval of voting district maps is intended to be a transparent public process. Voting district maps must be prepared in compliance with certain State and federal requirements, including consideration of communities of interest, natural geographic boundaries, and, perhaps most importantly, the “one-person, one vote” standard, which requires all voting districts be as nearly equal in population as possible.

The Proposed Resolution of Intention

The attached resolution of intention to transition to district-based elections declares the City's intention to transition to district-based elections for the 2018 general municipal election, and provides the following timeline for the adoption of an ordinance approving district based elections:

- a. Within 14 days of the adoption of the resolution, the City shall retain a demographer qualified and experienced demographer to assist the City with the transition to district-based elections.
- b. Within 30 days of the adoption of this resolution, City staff and the demographer will develop a schedule of the steps necessary to transition to district-based elections by ordinance, as provided by Elections Code Section 10010(a), including conducting public outreach and all necessary public hearings.

¹ Govt. Code §34871.

c. The City Council shall adopt an ordinance transitioning to district-based elections no later than March 31, 2018.

FISCAL IMPACT:

Transitioning to district elections will require the City to retain the services of a demographer. The cost of such services can range from \$20,000 - \$40,000. The City could also receive an invoice from the law firm of Shenkman & Hughes, which sent the City a letter alleging that the City's at-large method of electing its council members violates the CVRA. Shenkman & Hughes may request its costs associated with sending the letter alleging a CVRA violation. The invoice will be required to be supported by documentation justifying the amount requested, but cannot exceed \$30,000.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of CEQA, the adoption of this Ordinance has been determined to not be subject to CEQA pursuant to Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Moreover, this Ordinance is statutorily exempt from further CEQA review under Section 15262 (feasibility and planning studies).

PUBLIC NOTIFICATION:

Public notice for this item was made through the regular agenda process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

6 – Maintain and Promote a Responsive, High Quality and Transparent Government

Prepared by:

Matthew E. Richardson
City Attorney

Approved by:



James A. Box
City Manager

Attachments:

A. Resolution of Intention

RESOLUTION NO. 2017-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS PURSUANT TO CALIFORNIA ELECTION CODE SECTION 10010(e)(3)(A)

WHEREAS, the City Council has determined that it is in the best interests of the City and in furtherance of the purposes of the California Voting Rights Act ("CVRA") to transition from at-large to district-based elections; and

WHEREAS, the City Council desires to declare its intention to adopt an ordinance pursuant to Government Code section 34886 transitioning from at-large to district-based elections for the 2018 general municipal election, establish specific steps it will undertake to facilitate this transition, and establish an estimated time frame for doing so.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that this project is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15062(c)(2) and 15060(c)(3).

SECTION 2. The City Council intends to adopt an ordinance, pursuant to Government Code section 34886 to transition the election of its city council members from an at-large electoral system to a district-based system, with five (5) council members elected by district as provided by Government Code Section 34871(a).

SECTION 3. Within fourteen (14) days of the effective date of this resolution, the City Manager shall, pursuant to the provisions of Stanton Municipal Code Section 2.56.110, retain the services of a demographer experienced and qualified to assist the City in drafting a district map consistent with the CVRA and the Federal Voting Rights Act.

SECTION 4. Within thirty (30) days of the selection and retention of a demographer, City staff and the demographer will develop and bring back to the City Council for approval a schedule for the following actions in accordance with Election Code Section 10010(a):

(i) Conduct public outreach, including to non-English-speaking communities, to explain the districting process and to encourage public participation.

(ii) Before drawing a draft map or maps of the proposed district boundaries, hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries as provided in Election Code Section 10010.

(iii) After drawing a draft map or maps, publish the draft map(s) and the potential sequence of the district elections, and hold at least two public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections.

(iv) Hold a public hearing at which the City Council will consider and adopt an ordinance establishing district elections, including the adoption of a district boundary map and the sequence of the district elections.

SECTION 5. The City Council shall approve a schedule to take all of the actions necessary to adopt an ordinance approving district-based elections no later than March 31, 2018.

SECTION 6 The City Clerk shall certify as to the adoption of this Resolution.

ADOPTED, SIGNED AND APPROVED this 11th day of July, 2017.

CAROL WARREN, MAYOR

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON, CITY ATTORNEY

ATTEST:

I, Patricia A. Vazquez, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2017-32 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on July 11, 2017, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and City Council

DATE: July 11, 2017

SUBJECT: LAFCO COUNTY ISLAND REPORT

REPORT IN BRIEF:

This is a report on the three remaining County unincorporated islands located within the City's Sphere of Influence. The report details the anticipated revenues from property and sales tax, costs for maintenance and services, open code enforcement cases, and road conditions.

RECOMMENDED ACTION:

1. Declare that the project is not subject to the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. City Council receive and file report, and provide staff with direction.

BACKGROUND:

At the request of Mayor Warren, staff has compiled information on the three remaining County unincorporated islands for review and consideration. Originally, there were five unincorporated islands within the City's sphere of influence, including: Dale/Augusta, Rustic, Mac/Syracuse, Carmel/Lampson and Kermore Lane. In 2013, the City incorporated Kermore Lane Island; and in 2016, the City of Garden Grove incorporated the Carmel/Lampson Island.

ANALYSIS/JUSTIFICATION:

The three Unincorporated Islands within the City's Sphere of Influence total of approximately 137.52 acres of unincorporated territory adjacent to the City of Stanton. The islands are generally located along the northern and eastern borders of the City (see attached maps). The following table includes the name of each island, its general location, and size.

Island Name	Location	Acreage
Dale/Augusta	Approximately located west of Dale Ave. and between Chapman Ave. and Orangewood Ave.	98.78
Katella/Rustic	Located north of Katella Ave. and intersecting Rustic Lane, east of Magnolia Ave.	11.46
Mac/Syracuse	Approximately located north of Katella Ave. between Christy Street and Magnolia Ave.	27.28

The islands consist of residential properties including approximately 527 single-family detached units and 64 other dwelling units (i.e., accessory dwelling units), and 2,877 residents. The islands consist of built-out residential neighborhoods and a small commercial area in the Katella/Rustic Island, which has limited opportunity for additional revenues from sales tax.

Costs/Revenues – According to the LAFCO documents provided, the three islands currently result in a negative impact to the County General Fund of approximately \$568,000 (excluding capital project expenditures). Primary service expenses include animal control, law enforcement, solid waste collection, and public works road and infrastructure maintenance. There is a revenue benefit with the allocation of property taxes to the County General Fund in the amount of approximately \$107,000. The overall net negative impact to the County General Fund is \$461,000.

Island Data – LAFCO has provided records on property tax revenues (from FY 2014-2015), condition of the streets, open code enforcement cases, and information about anticipated yearly expenditures (from FY 2014-2015). Below is a summary of the information provided for each County Island.

Dale/Augusta Island –

Property Tax Revenue	Sales Tax Revenue	Open Code Cases	Expenditures	Average Road Condition Score
\$300,000/yr	\$0/yr	13	\$493,860/yr	74.9

According to the City Engineer, the following is the road score scale utilized to determine the condition of a street:

Score	Condition
86-100	Very Good
75-85	Good
60-74	Fair
41-59	Poor
0-40	Very Poor

For the Dale/Augusta Island, the table below provides the road score of each street

segment within the island:

Road Name	Beginning Location	End Location	Score
ARTHUR DRIVE	FILLMORE DR	CUL DE SAC	71
AUGUSTA DRIVE	NEARING DR	DALE ST	70
BUCHANAN DRIVE	NEARING DR	POES ST	76
DALE STREET	OCFC CHANNEL	ORANGEWOOD AVE	94
DALE STREET	ORANGEWOOD AVE	OCFC CHANNEL	94
FILLMORE DRIVE	NEARING DR	139'W/ARTHUR DR	68
FORTNEY DRIVE	MOEN ST N/	CUL DE SAC	72
HOPI ROAD	POES ST	DALE ST	67
MOEN STREET	NEARING DR	AUGUSTA DR	88
MOEN STREET	YORKSHIRE AVE	ORANGEWOOD AVE	82
MOSSLER STREET	YORKSHIRE AVE	ORANGEWOOD AVE	80
NEARING DRIVE	YORKSHIRE AVE	ORANGEWOOD AVE	76
NEARING DRIVE	CHAPMAN AVE	YORKSHIRE AVE	62
ORANGEWOOD AVENUE	150' W/ NEARING DR	DALE ST	66
POES STREET	BUCHANAN DR	AUGUSTA DR	80
POES STREET	YORKSHIRE AVE	ORANGEWOOD AVE	79
ROCKVIEW DRIVE	FILLMORE DR S/	CUL DE SAC	68
SANDY DRIVE	FILLMORE DR S/	CUL DE SAC	67
SOMERS DRIVE	NEARING DR W/	CUL DE SAC	64
YORKSHIRE AVENUE	NEARING DR	POES ST	74

In regards to code enforcement cases, there are 13 active cases, 10 cases reference unpermitted construction or illegal garage conversions. The remaining three reference operation of a business without permits, unkempt property, and commercial storage or equipment on a residential property.

Mac/Syracuse Island –

Property Tax Revenue	Sales Tax Revenue	Open Code Cases	Expenditures	Average Road Condition Score
\$9,415/yr	\$0/yr	1	\$96,903/yr	76.75

For the Mac/Syracuse Island, the table below provides the road score of each street segment within the island:

RoadName	Beginning Location	End Location	PCI
ANNAPOLIS AVENUE	MAC ST E/	CUL DE SAC	75
KATELLA AVENUE	264'W/MAGNOLIA	528'W/MAGNOLIA	89
MAC STREET	197'N/KATELLA AVE	ANNAPOLIS AVE	82

MAC STREET (W1/2)	165'N/KATELLA AVE	197'N/KATELLA AVE	82
MACMURRAY STREET	REGAL AVE	SYRACUSE AVE	67
MACNAB STREET	REGAL AVE N/	CUL DE SAC	69
REGAL AVENUE	MAC ST	MAC MURRAY ST	77
SYRACUSE AVENUE	MAGNOLIA AVE W/	CUL DE SAC	73

There is one active code enforcement case in this island. The case references unpermitted construction, unkempt property and an unpermitted fence built too tall per the county code.

Katella/Rustic Island –

Property Tax Revenue	Sales Tax Revenue	Open Code Cases	Expenditures	Average Road Condition Score
\$13,678/yr	\$7,345/yr	1	\$17,123/yr	75.2

For the Katella/Rustic Island, the table below provides the road score of each street segment within the island:

Road Name	Beginning Location	End Location	PCI
KATELLA AVENUE	792'E/	MAGNOLIA ST	89
KATELLA AVENUE	MAGNOLIA ST	792'E/	72
MARKEV STREET	158'S/REGAL AVE	REGAL AVE	59
REGAL AVENUE	RUSTIC LN	MARKEV ST	69
RUSTIC LANE	KATELLA AVE	CUL DE SAC	87

There is one active code enforcement case in this island. The case references storage of inoperable vehicles and parking in the required setbacks.

In addition, within the three islands, there are 386 street lights. These have not been included in the street light purchase program with Southern California Edison (SCE), and SCE has since closed the program to allow for cities to purchase the street lights. If the City were to move forward with the annexation of the islands, staff would approach SCE to request the island street lights be included in the purchase process.

FISCAL IMPACT:

None at this time.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the CEQA, this report has been determined to be not a project under Section 15061(b)(3).

PUBLIC NOTIFICATION:

Public notice for this item was made through the regular agenda process.

STRATEGIC PLAN:

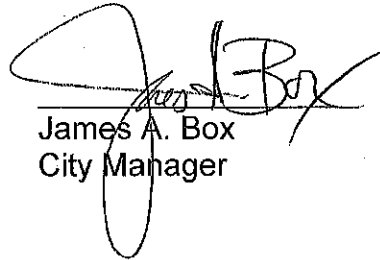
3 – Promote a Quality Infrastructure

Prepared by,



Kelly Haft
Community & Economic
Development Director

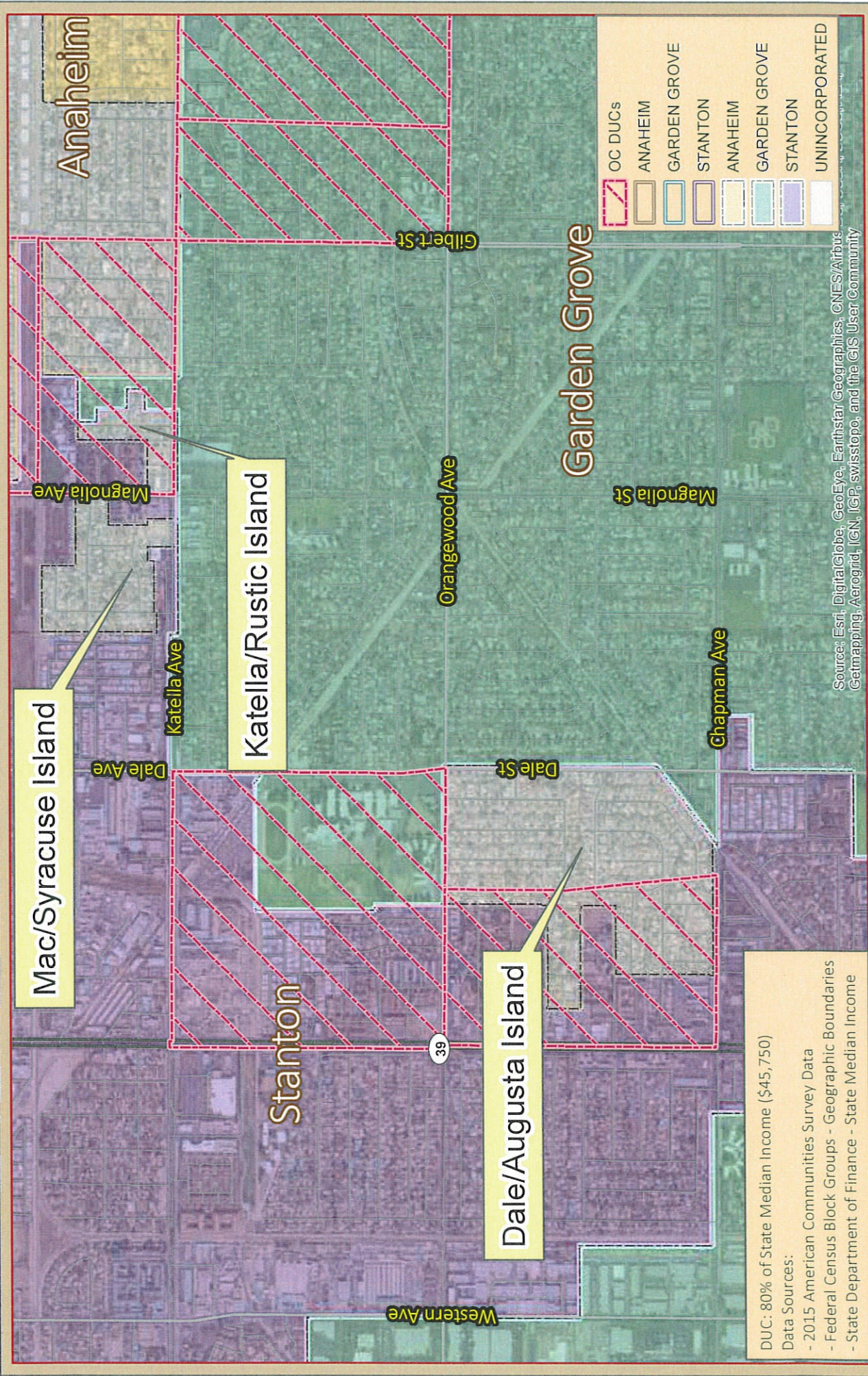
Approved by,



James A. Box
City Manager

Attachment:

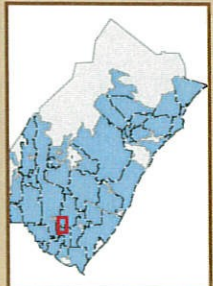
A. LAFCO Maps, Report on Revenues and Expenditures, and Island Fact Sheets



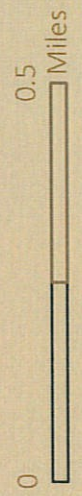
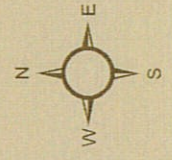
DUC: 80% of State Median Income (\$45,750)

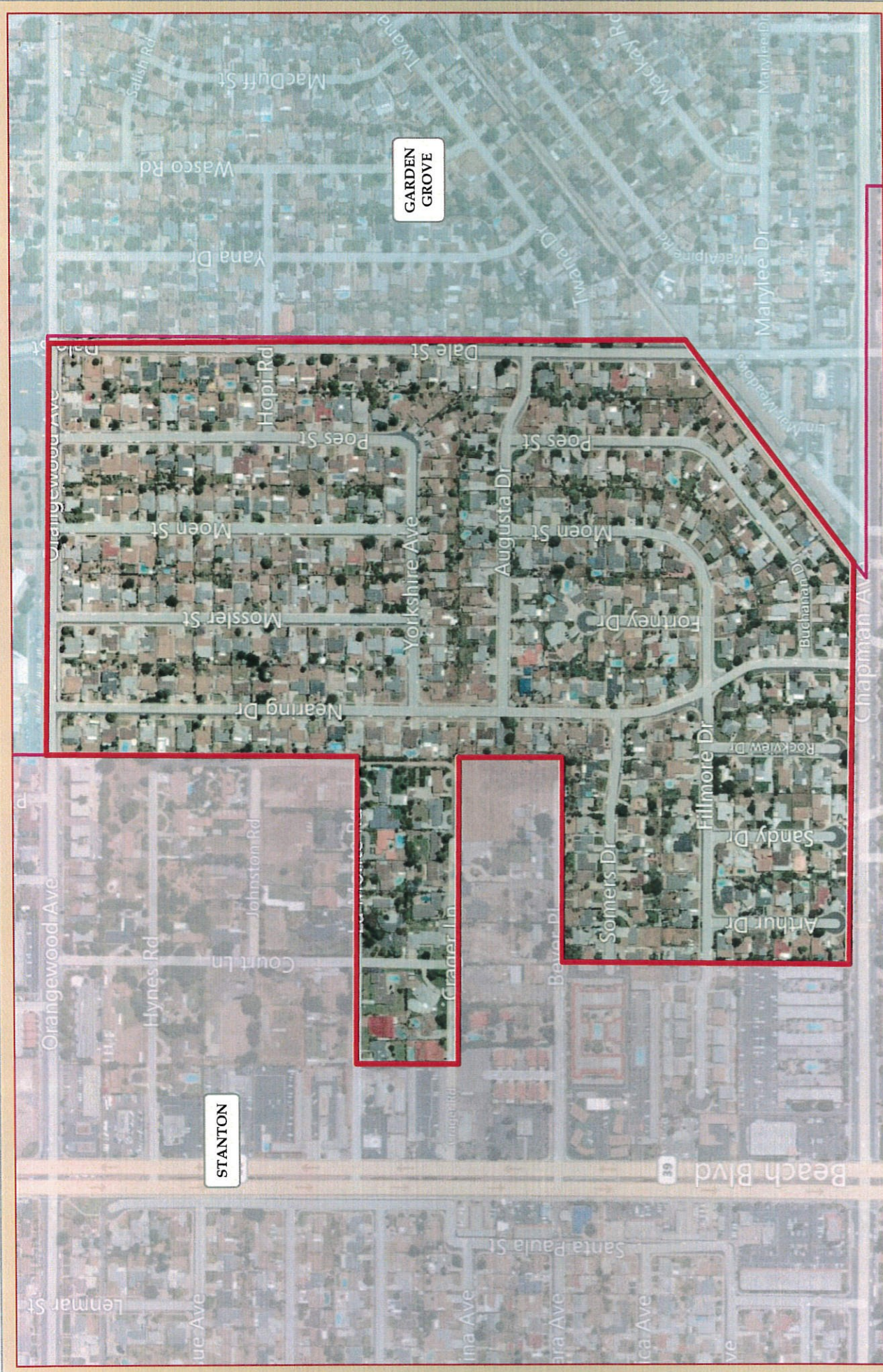
- Data Sources:
- 2015 American Communities Survey Data
 - Federal Census Block Groups - Geographic Boundaries
 - State Department of Finance - State Median Income

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus
 Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



Disadvantaged Unincorporated Communities
 Dale/Augusta Island; Mac/Syracuse Island; Katella/Rustic Island
 City of Stanton

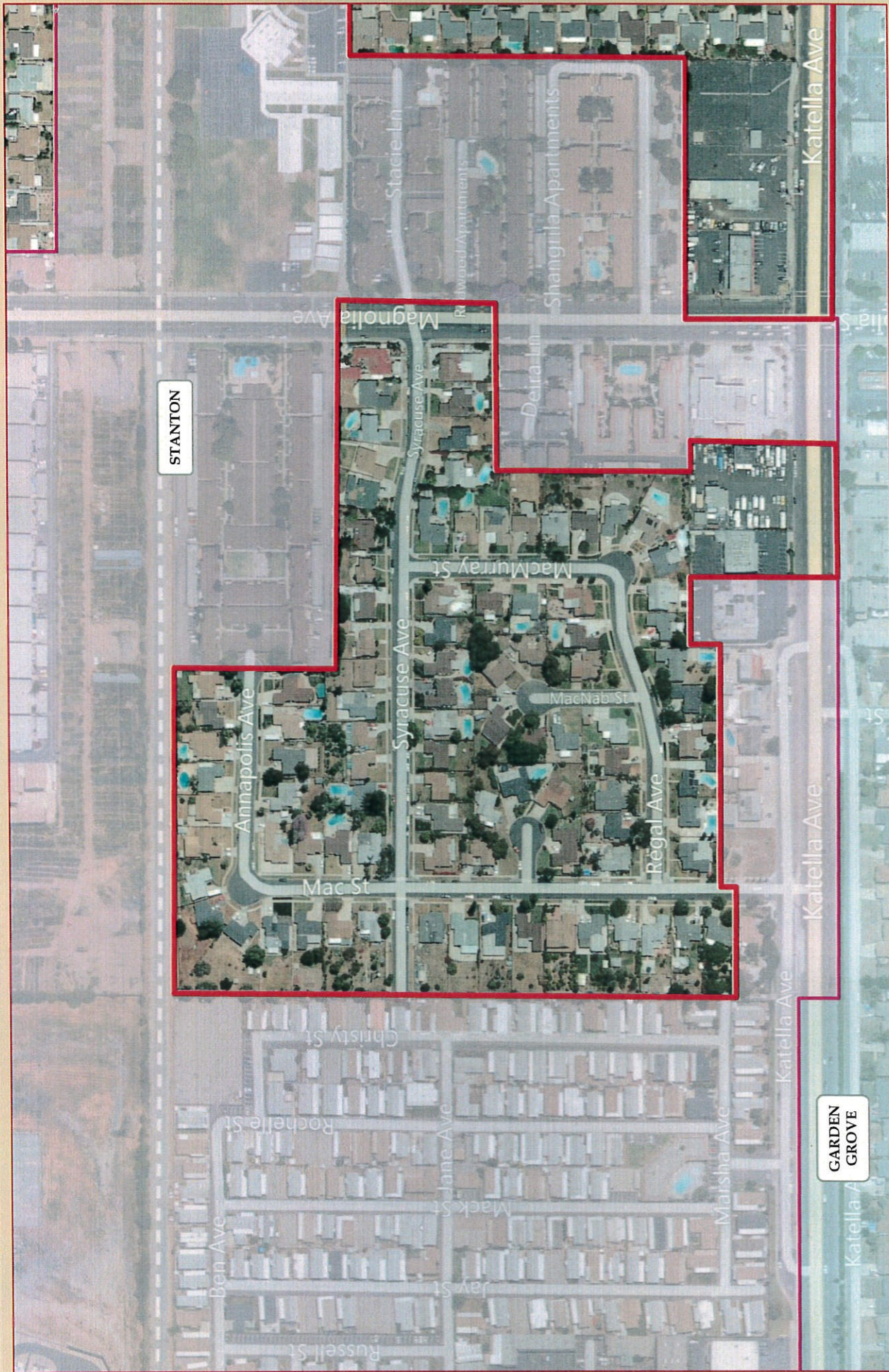






City of Stanton Dale/Augusta Island



- Stanton Island
- Stanton SOI



City of Stanton Mac/Syracuse Island

-  Stanton Island
-  Stanton SOI



5/23/12



OC LAFCO Unincorporated Areas Program

Stanton – Stanton Islands (ID #27, #28, #30)

Sphere of Influence – City of Stanton

Strategic Opportunities for County Unincorporated Areas

Since 2000, OC LAFCO has successfully collaborated with the County and 14 cities to transition several unincorporated county areas to cities. Continuing the success of the Unincorporated Islands Program, OC LAFCO has recently discussed strategic opportunities and developed a plan to continue the collaboration. The remaining 33 unincorporated areas, each with a combination of challenges (e.g., historical resident and agency opposition, lack of infrastructure financing, differences in city/county development standards) require a strategic partnership involving LAFCO, the County of Orange, and cities with adjacent unincorporated areas. Current demographic and fiscal data are critical to ongoing discussions and better understanding of issues related to municipal service delivery to unincorporated communities.

The information below provides an overview of current service related costs and revenues as well as potential opportunities for the Stanton Islands located adjacent to the City of Stanton.

Overview of the Stanton Islands (ID#27, #28, #30)

The Stanton Islands include three individual islands consisting a total of approximately 137.52 acres of unincorporated territory adjacent to the City of Stanton. The Islands are generally located along the northern and southern borders of the City of Stanton. The table below includes the name of each island and its general location.

Island Name	Island ID #	Location	Acreage
Dale/Augusta	ID#27 (Stanton-4)	Approximately located west of Dale Street and north of Chapman Avenue.	98.78
Katella/Rustic	ID#28 (Stanton-3)	Located north of Katella Avenue and intersecting Rustic Lane.	11.46
Mac/Syracuse	ID#30 (Stanton-2)	Approximately located North of Katella Avenue between Christy Street and Magnolia Street.	27.28

The islands consist of residential properties including approximately 527 single-family detached units and 64 other dwelling units, 2,877 residents, and 1,165 registered voters.¹ The chart below highlights current municipal service provision to the area.

¹ Information provided by the Center for Demographic Research, Cal State Fullerton

The chart below highlights current municipal service provision to the area.

Service Category	Current Service Provider
Retail Water/Local Sewer	City of Garden Grove/Hynes Estates Mutual Water Company/Golden State Water Company/ Garden Grove Sanitary District
Fire Protection & Prevention	Orange County Fire Authority
Law Enforcement	Orange County Sheriff
Solid Waste Collection	Garden Grove Sanitary District
Street Sweeping	County of Orange
Library	County of Orange
Animal Control	County of Orange
Planning	County of Orange
Code Enforcement	County of Orange
Parks & Recreation	OC Parks (Regional)
Education	Garden Grove Unified School district

County Costs/Revenues

The County has worked with various departments to develop an annual accounting of County General Fund municipal service revenues and expenditures for each of the unincorporated areas. Attachment A provides a snapshot of the County's recent 2015 costs to provide municipal services and revenue generated for the Stanton Islands. The Stanton Islands currently result in a negative impact to the County General Fund of approximately \$567,926 (excluding capital project expenditures). Primary service expenses for the island include animal control, law enforcement, solid waste collection, and public works road and infrastructure maintenance. The allocation of property taxes to the County general fund is the major revenue source consisting of approximately \$106,908 for fiscal year 2014-2015. The Stanton Islands consist of built-out residential neighborhoods and a small commercial area with limited opportunity for additional revenues.

Annexation Opportunity

Annexation of the island by the City could result in several benefits to the residents and the commercial area related to City service levels and the proximity of City service providers and emergency responders. Annexation of the Stanton Islands would require LAFCO approval and would result in the transfer of municipal services currently provided by the County to the City. The islands are less than 150 acres each and qualify for the streamlined "small island" provisions of State law under which LAFCO cannot deny an application submitted by the City and protest proceedings are waived.² For several years, OC LAFCO has adopted policies and provided incentives for the annexation of small islands through the waiving the LAFCO application fee and resources that bridge information gaps and align the efforts of local stakeholders. OC LAFCO staff is available to facilitate discussions among stakeholders and participate in community workshops, when requested, to ensure that the residents and landowners are informed on the annexation process. Additionally, the State Board Equalization currently supports the streamlining

² Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Section 56375.3 (a)

of small island annexations through its waiver of the requirement for a map and legal description of the annexation territory.

Attachment A

Orange County Revenue & Expenditure Data

Stanton – Stanton Islands (ID #27, #28, #30)

County Revenue (FY 2014-2015)

Island	City ID#	Sales Tax	Property Tax	Total Taxes
Dale/Augusta	ID #27 (Stanton 4)	\$7,345	\$60,406	
Katella/Rustic	ID #28 (Stanton-2)		\$27,543	
Mac/Syracuse	ID #30 (Stanton-3)		\$18,959	
Total Revenue:		\$7,345	\$106,908	\$114,253

Potential Property Tax Revenue upon annexation (based on the City/County Master Property Tax Exchange Agreement adopted on October 28, 1980):

Island	City ID#	City Tax %	County Tax %	City Revenue	County Revenue
Dale/Augusta	ID #27 (Stanton 4)	~49.7%	~50.3%	\$30,000	\$30,406
Katella/Rustic	ID #28 (Stanton-2)	~49.7%	~50.3%	\$13,678	\$13,864
Mac/Syracuse	ID #30 (Stanton-3)	~49.7%	~50.3%	\$9,415	\$9,543

County Expenditures (FY 2014-2015)

	Operations and Maintenance							Capital	
	OC Waste & Recycling	Animal Care Services	Sheriff	OCPW Road Maint.	OCPW Infra. Maint.	Code Enf.	O&M Totals	Capital Project Exp.	Capital Totals
Dale/Augusta (#27)	\$---	\$7,729	\$485,651	Data Combined		\$480		\$218,182	\$ -
Katella /Rustic (#28)	\$---	\$3,351	\$13,484			\$288		\$ 0.00	\$ -
Mac/Syracuse (#30)	\$---	\$(-206) ³	\$94,613			\$2,496		\$ 0.00	\$ -
Total Expenditures:	\$---	\$10,874	\$593,748	\$18,505	\$55,788	\$3,264	\$682,179	\$218,182	\$-

³ A negative Net Cost estimate indicates that revenues exceed the cost of providing services.

Dale/Augusta Island (ID #27)



General

Sphere of Influence	Stanton
Supervisory District	2nd
Acreage	98.78 (0.15 square miles)
Redevelopment Project Area	Yes
Within City of Stanton's General Plan?	No
Stanton Pre-zoning Designation	None

Demographics

Population	2,181
Registered Voters	922
Housing Units Total	403

Dale/Augusta Island (ID #27)

Service Provision	
Water	
Public	City of Garden Grove
Private	Hynes Estates Mutual Water Company
Sewer/Septic	Garden Grove Sanitary District
Fire Protection & Emergency Response	Orange County Fire Authority
Police	Orange County Sheriff Department
Solid Waste	Garden Grove Sanitary District
Street Sweeping	Orange County
Library	Orange County
Animal Control	Orange County
Planning/Code Enforcement	Orange County
Parks & Recreation	OC Parks (Regional)
School District	Garden Grove Unified School District

Public Facilities	
Fire Stations (within 1 mile radius)	Garden Grove Fire Station #2 OCFA Fire Station #46
Parks (within 1/2 mile radius)	Magnolia (Garden Grove), Premier (Stanton), Stanton Park (Stanton)
Public Roads (miles)	3.32 miles
Flood Control Channels (miles)	0.7948
Private Facilities	
Private Water Facilities	None
Private Roads	La Monte Crager Jane Paper
Private Roads (miles)	0.184
Septic Systems	0

Mac/Syracuse Island (#30)



General

Sphere of Influence	City of Stanton
Supervisory District	2 nd
Acreage	27.28 (0.04 square miles)
Redevelopment Project Area	NDAPP
Within City of Stanton's General Plan?	No
Stanton Pre-zoning Designation	None

Demographics

Population	461
Registered Voters	180
Housing Units	
Total	121

Mac/Syracuse Island (ID #30)

Service Provision	
Water	
Public	
Private	Golden State Water Company
Sewer/Septic	Garden Grove Sanitary District
Fire Protection & Emergency Response	Orange County Fire Authority
Police	Orange County Sheriff
Solid Waste	Garden Grove Sanitary District
Street Sweeping	County of Orange
Library	County of Orange
Animal Control	County of Orange
Planning/Code Enforcement	County of Orange
Parks & Recreation	OC Parks (Regional)
School District	Garden Grove Unified School District

Public Facilities	
Fire Stations (within 1 mile radius)	OCFA Fire Station #46
Parks (within 1/2 mile radius)	Hollenbeck Lane (Stanton) Magnolia Park (Garden Grove)
Public Roads (miles)	0.911
Flood Control Channels (miles)	0
Private Facilities	
Private Water Facilities	Golden State Water Company
Private Roads	0
Private Roads (miles)	0
Septic Systems	0

Katella/Rustic Island Profile (ID #28)



General

Sphere of Influence	City of Stanton
Supervisory District	2nd
Acreage	10.57 (0.02 square miles)
Redevelopment Project Area	NDAPP
Within City of Stanton's General Plan?	No
Stanton Pre-zoning Designation	No

Demographics

Population	235
Registered Voters	63
Housing Units Total	67

Katella/Rustic Island (ID #28)

Service Provision

Water	Public	Golden State Water Company
	Private	Garden Grove Sanitary District
Sewer/Septic		Orange County Fire Authority
Fire Protection & Emergency Response		Orange County Sheriff
Police		Garden Grove Sanitary District
Solid Waste		County of Orange
Street Sweeping		County of Orange
Library		County of Orange
Animal Control		County of Orange
Planning/Code Enforcement		OC Parks (Regional)
Parks & Recreation		Garden Grove Unified School District
School District		

Public Facilities

Fire Stations (within 1 mile radius)	Garden Grove Fire Station #2
Parks (within 1/2 mile radius)	Hollenbeck Lane (Stanton) Magnolia Park (Garden Grove)
Public Roads (miles)	0.431
Flood Control Channels (miles)	0

Private Facilities

Private Water Facilities	Golden State Water Company
Private Roads	0
Private Roads (miles)	0
Septic Systems	0